

# Agenda Ordinary Meeting

Thursday, 24 March 2022



**BYRON**  
SHIRE  
COUNCIL

# Agenda Extraordinary Meeting

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

Public access relating to items on this agenda can be made between 9:00 and 10:30 am 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, appearing to read "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

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### 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 24 February 2022
- 7. RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS**
- 8. MAYORAL MINUTE**
- 9. NOTICES OF MOTION**
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## Infrastructure Services

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## 14. REPORTS OF COMMITTEES

### Infrastructure Services

- 14.1 Report of the Local Traffic Committee Meeting held on 15 February 2022..... 81

## 15. QUESTIONS WITH NOTICE

Nil

## 16. CONFIDENTIAL REPORTS

### Infrastructure Services

- 16.1 CONFIDENTIAL - Former Mullumbimby Hospital Site Soil Contamination  
Cap and Soil Removal 2021-1218 ..... 92

***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 Fine for lilac colour of dwelling in Mullumbimby**

5 **File No:** I2022/198

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10 I move that Council lift the \$3,000 fine levied on the then owner of the dwelling on the corner of Stuart and Tincogan Streets in Mullumbimby, against her for having the house painted lilac.

**Signed: Cr Duncan Dey**

**Councillor's supporting information:**

15 Last year or possibly a year earlier, this fairly dower 'Queenslander' on what is now a major thoroughfare through Mullumbimby got a facelift and was painted a lilac colour. As can happen with many things in the limelight, someone was upset by the addition of colour to the streetscape.

20 There may be a heritage aspect to the matter. Personally, I think we could let go on 'recent' heritage and focus on preserving and enhancing First Nations heritage instead.

Also personally, I welcome the splash of colour to my town.

25 That aside, the owner was pursued to repaint back to a sombre shade but decided instead to sell the property and seek a more peaceful life away from such controversies. I presume the sale price would have been impacted by the circumstance of the obligation to repaint. Even after selling (presumably, at a reduced price) the now ex-owner is still obliged to pay a fine of I think \$3,000.

This motion requires no change to any outcome other than the waiving of that fine. How about we cut everybody's losses and focus on things that matter?

30 I understand that the process of the fine may have left Council's control. I do not believe that there is no clause in any legislation or regulation to prohibit the lifting of a fine as sought by this motion. If there is no such process, I will amend the motion to read "That Council ask state MP Tamara Smith and federal candidates including Mandy Nolan to look into creating a pathway for the revue and amendment of fines levied by Councils, even if the fine is being enforced by a central agency".

## Staff comments by Legal Counsel

### Power

Council retains the power to cancel a Penalty Infringement Notice which it has issued.

### History

- 5
- A complaint was received on 25 June 2020 alleging that the subject dwelling at 1/46 Stuart Street has been painted a “bright lilac colour” which is an unsympathetic heritage colour. This complaint was logged as CRM 5764/2020 and assigned to staff to investigate.
- 10
- Staff undertook a drive by inspection and confirmed that the subject dwelling had been painted a lilac / purple colour.
- 15
- The land is mapped as being located within the Mullumbimby heritage conservation area in accordance with Byron Local Environmental Plan 2014. Clause 5.10(2)(a) of Byron Local Environmental Plan 2014 provides that development consent is required to alter the exterior of a building, including making changes to the finish or appearance of a building, within a heritage conservation area. Such development consent had not been granted therefore a “show cause” letter 7 was issued on 30 June 2020.
- 20
- Staff received a phone call from the landowner on 3 July 2020 and sent a follow up email confirming the issues that had been discussed. The landowner was advised that consent may be sought to retain the existing colour by lodging a Development Application.
- 25
- The “show cause” letter required a response by 14 July 2020 however no response was received.
- 30
- On 15 July a follow up email was sent to the landowner advising that no response has been received and Council will commence formal enforcement action without further notice if a response is not received by 17 July 2020.
- 35
- An emailed response was received by the landowner on 15 July 2020 advising that they have been too busy to address the matter. The landowner was advised that a 6 week extension has been granted to 28 August 2020 for a Development Application to be lodged to seek to retain the existing colour and if an application has not been received by this date Council will commence formal compliance action without further notice.
- No further response was received from the landowner therefore a Notice of Proposed Order No. 10 – Restore Works was issued dated 2 September 2020. The Notice required the landowner to “Restore the colour of external surfaces of the dwelling to heritage colours in accordance with Chapter C1 of DCP 2014”. The Notice provided the landowner with 14 days to make representations as to why the Order should not be issued.



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## NOTICES OF MOTION

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- On 12 September 2020 the landowner notified Council that they had appointed a legal representative and that “we will be looking to arrange a meeting towards the end of October sometime”. The person appointed was not a lawyer.
- 5 • An emailed reply was sent to the landowner on 14 September 2020 as a reminder that representations must be made by 16 September and advising that the request for a meeting is not a compelling reason why the Order should not be issued.
- No further representations were made and an Order No. 10 was issued on 21 September 2020. Compliance with the Order was required within 30 days of the date of the Order E2020/75685.
- 10 • Staff were contacted by phone on 23 September 2020 to request a meeting between 20 October and November 2020 and specifically requested that a legal representative of Council be present.
- A meeting was held at Council’s Mullumbimby office on at 10am on 23 October 2020 and was attended by Council staff Dylan Johnstone and Ralph James, the  
15 landowner, her representative and another gentlemen supporting as a support person. At this meeting the landowner’s representative did not address the Order or any means of addressing it, instead, the approach taken was that Council has no authority as Local Government is not recognised by the Constitution. Council staff advised that this view is incorrect and has been proven so by the Courts and if that  
20 the extent of the matters to be put the meeting should be concluded. The meeting concluded shortly after.
- Staff emailed the landowner on 9 November 2020 granting one last opportunity to comply with the Order prior to Council commencing legal proceedings to enforce the Order. The landowner was further advised the “Council may be able to assist funding  
25 repainting of your dwelling via the Local Heritage Places Funding 2020/2021 program”. This email concluded “If you do not provide advice indicating that you intend to comply with the Restore Works Order by close of business on 16 November 2020 Council will commence legal proceedings without further notice.”
- On 11 November the landowner’s “legal representative” phoned Council requesting  
30 another meeting. Staff had a phone discussion with the representative, who was steadfast in his views that Council has no authority and threatened to take Council to Court at a Federal level if further enforcement action is taken. Given his views hadn’t changed staff advised that there was no utility in a further meeting.
- No formal response was received by Council in relation to the 16 November deadline  
35 and a \$3000 Penalty Infringement Notice was issued on 23 November 2020 for non-compliance with a Development Control Order. To date the PIN hasn’t been paid and it is noted that Council administration fees associated with the Notice and Order totalling \$910 also remain outstanding.
- While investigating this matter it became apparent that a dwelling in close proximity  
40 to 1/46 Stuart Street (56 Stuart Street) had been painted a “fire engine red” without consent. For consistency, a “show cause” letter dated 20 November 2020 was issued

# BYRON SHIRE COUNCIL

## NOTICES OF MOTION

9.1

to the landowner of this property. The landowner promptly demonstrated to Council that the “show cause” letter would be addressed and within 2-3 weeks the dwelling was repainted in appropriate heritage colours.

5 Can/should the elected Council intervene in the operational aspects of the exercise of Council’s regulatory functions?

The answer is found in Council’s Enforcement Policy.

### **4.23 Requirements for internal review under the Fines Act**

10 Council has the power to internally review the decision to issue a PIN. If the elected Council makes a decision that Council will not pursue an enforcement matter, then the General Manager is bound to implement that decision.

In the implementation of this Policy it is recognised that the governance framework is generally inconsistent with ad hoc intervention of the elected Council in enforcement matters and that it should not intervene in operational aspects of the exercise of Council’s regulatory functions.

15 In the implementation of this Policy it is also recognised that the LGA envisages that the elected Council will primarily be involved in the *creation and review of the council’s (as defined in the (LGA) Dictionary) policies and objectives relating to the exercise of the council’s regulatory functions.*

The above clause has been part of Council’s Enforcement Policy since at least 2011.

20 The harm caused by the landowner’s actions

In decisions made by the Land and Environment Court, the “harm” caused by conduct that breaches environmental planning laws has been described variously as:

- thwarting the attainment of the objects of the *EPA Act*
- the undermining of the regulatory system of development control
- 25 • the risk of unregulated and environmentally “unfriendly” development
- adverse amenity impacts, including the effects on “residential” amenity and adjoining andneighbouring land.

### Precedent

30 If Council resolves to withdraw the PIN it would set an undesirable precedent. If Council is of the view that the heritage conservation area has no merit then Council may request that staff formally remove it from LEP 2014 as there is no point in having development controls that are not enforced.

# BYRON SHIRE COUNCIL

## NOTICES OF MOTION

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

Nil beyond those referred to in the comments above.

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

| <b>CSP Objective</b>  | <b>CSP Strategy</b>  | <b>DP Action</b>   |
|---|--|--|
| <b>Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community</b> | 2.5: Encourage community appreciation of cultural vitality and diversity | 2.5.2: Recognise and support the heritage of Byron Shire |

5

**SUBMISSIONS AND GRANTS**

**Report No. 11.1 Grants February 2022**

**Directorate:** Corporate and Community Services

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

**File No:** I2022/204

**Summary:**


10 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 grant applications.

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**RECOMMENDATION:**

15 **That Council notes the report and Attachment 1 (#E2022/20597) for Byron Shire Council's grant submissions as of 28 February 2022.**

**Attachments:**

20 1 Grants Report February 2022, E2022/20597 

# BYRON SHIRE COUNCIL

## SUBMISSIONS AND GRANTS

11.1

### Report

Currently Council has 23 grant submissions awaiting determination; refer Grants Report February 2022 attachment.

#### Successful applications

- 5 Council was advised in February of the following successful applications:

| Funding body                                    | Funding scheme               | Project name                       | Total project value \$ | Amount requested \$ |
|---|------------------------------|------------------------------------|------------------------|---------------------|
| Australia Government                            | Bushfire Resilience Recovery | Byron Community Hub                | \$5,200,000            | \$1,500,000         |
| NSW Department Planning, Industry & Environment | Floodplain Management Grants | Federation Bridge Debris Deflector | \$300,000              | \$200,000           |

#### Unsuccessful applications

Council has been advised of the following unsuccessful applications.

| Funding body                                    | Funding scheme               | Project name   | Total project value \$ | Amount requested \$ |
|---|------------------------------|--|------------------------|---------------------|
| NSW Department Planning, Industry & Environment | Floodplain Management Grants | North Byron Overland Flow Path Study                 | \$150,000              | \$100,000           |
| NSW Department Planning, Industry & Environment | Floodplain Management Grants | Preferred Byron Drainage Strategy (Phase 1 – design) | \$1,000,000            | \$666,667           |

#### Applications submitted in February 2022

| Funding body                                       | Funding scheme                  | Project name                         | Total project value \$ | Amount requested \$ |
|--|---------------------------------|--------------------------------------|------------------------|---------------------|
| Department of Planning, Industry and Environment # | Streets as Shared Spaces R 2    | People not cars - Car free Sunday    | \$304,255              | \$123,685           |
| Australian Government                              | Building Better Regions Round 6 | Byron Bioenergy                      | \$23,897,045           | \$8,900,000         |
| Transport for NSW                                  | Walking and Cycling 2022        | Lighthouse Road shared path - design | \$80,000               | \$80,000            |

# BYRON SHIRE COUNCIL

## SUBMISSIONS AND GRANTS

11.1

| Funding body      | Funding scheme           | Project name                                     | Total project value \$ | Amount requested \$ |
|-------------------|--------------------------|--|------------------------|---------------------|
| Transport for NSW | Walking and Cycling 2022 | Orana Road shared path - construction            | <b>\$690,000</b>       | \$690,000           |
| Transport for NSW | Walking and Cycling 2022 | Raftons Road Bangalow shared path - design       | <b>\$53,800</b>        | \$53,800            |
| Transport for NSW | Walking and Cycling 2022 | Byron Street Bangalow shared path - construction | <b>\$848,145</b>       | \$ 848,145          |
| Transport for NSW | Walking and Cycling 2022 | Rifle Range shared path - design                 |                        |                     |
| Transport for NSW |                          |  | <b>\$97,900</b>        | \$97,900            |

### Upcoming grant opportunities

[Floodplain management grants | NSW Environment, Energy and Science](#) – 2022-23

Closes 7 April. Four streams are available and include:

1. Flood Study (including data collection).
- 5 2. Prepare or review a floodplain risk management study and plan.
3. Investigate, design and/or feasibility study (where required) for works and new flood warning systems identified in a floodplain risk management plan.
4. Implementing actions identified in a floodplain risk management plan.

Generally, the highest priority will be given to the following projects:

- 10 • flood studies or floodplain risk management studies and plans (or reviews) where existing communities are exposed to flood risk, but this risk is not fully understood or managed, or with significant development pressures
- the next stage of a mitigation work that is integral to a stage in progress; for example, the next stage of a levee project or works to offset the impacts from a levee project
- 15 being constructed
- mitigation works that are identified as a high priority in floodplain risk management plans adopted by councils.

20 Applications require co-contribution of \$1 for every \$2 requested (except where special consideration is provided).

# BYRON SHIRE COUNCIL

## SUBMISSIONS AND GRANTS

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- 5 Under the 2021 round (announced in February 2022), Council was awarded funding for Federation Bridge debris deflector. The two unsuccessful applications will be reconsidered for submission (Preferred Byron Drainage Strategy and North Byron Overland Flow Path Study). Staff are currently conducting post flood event evaluation and there are likely to be additional projects identified.

[Office of Responsible Gambling grants and funding | NSW Government](#) - closes 31 March 2022

- 10 Four streams available:
1. [Infrastructure Grants: community infrastructure | NSW Government](#)
  2. [Infrastructure Grants: arts and culture | NSW Government](#)
  3. [Infrastructure Grants: disaster readiness | NSW Government](#)
  4. [Infrastructure Grants: sport and recreation | NSW Government](#)

- 15 Funding ranges from \$10,000 to \$300,000. Council matching funding is required.

[Creative Capital - Create NSW](#) – opens 11 July 2022

- 20 The Creative Capital fund has been established to meet the demands for facilities to support the creative economy and improve access to and participation in quality cultural experiences across NSW. Minor Works and Equipment Projects – grants of \$5,000 to \$250,000.

## Strategic Considerations

### Community Strategic Plan and Operational Plan

| CSP Objective   | CSP Strategy                                | DP Action   | Code            | 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) | <b>5.6.12.2</b> | Provide sound governance for grants management |

## Legal/Statutory/Policy Considerations

- 25 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

# BYRON SHIRE COUNCIL

## SUBMISSIONS AND GRANTS

11.1

Government or public authority, be used otherwise than for that specific purpose'. This legislative requirement governs Council's administration of grants.

### **Financial Considerations**

5 If Council is successful in obtaining the identified grants, this would bring funding sought to approximately \$30 million 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. Please note that the Bioenergy Byron Facility has been submitted under two different funding programs; both are included in the total value below.

10 The potential funding is detailed below:

|    |   |                     |
|----|---|---------------------|
|    | Requested funds from funding bodies   | \$30,480,212        |
|    | Council Contribution Cash   | \$32,480,212        |
|    | Council Contribution In-Kind  | \$36,000            |
|    | Other contributions   | \$62,140            |
| 15 | <b>Funding applications submitted and awaiting notification (total value)</b> | <b>\$66,827,665</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 Adoption of Code of Meeting Practice**

**Directorate:** General Manager

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

**File No:** I2022/122

**Summary:**

10 The Model Code of Meeting Practice for Local Councils in NSW (Model Meeting Code) is made under section 360 of the *Local Government Act 1993* and clause 232 of the *Local Government (General) Regulation 2021*.

15 Council must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code within 12 months of the local government elections. Council's adopted meeting code must not contain provisions that are inconsistent with the mandatory provisions. Council's adopted meeting code may also incorporate the non-mandatory provisions of the Model Meeting Code and any other supplementary provisions adopted by the council.

20 Under section 361 of the Local Government Act 1993, before adopting a new code of meeting practice, councils must first exhibit a draft of the code of meeting practice for at least 28 days and provide members of the community at least 42 days in which to comment on the Draft Code.

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25 **RECOMMENDATION:**

**That Council place the Code of Meeting Practice (E2022/12245) on public exhibition for a period of 28 days and invite submissions for a period of 42 days (those periods running partly concurrently) and that:**

- 30 a) **should no submissions be received the Code of Meeting Practice be adopted, or**
- b) **should any submissions be received those submissions be reported to Council prior to adoption.**

**Attachments:**

35 1 Exhibition draft Code of Meeting Practice, E2022/12245 

**Report**

The Model Code of Meeting Practice for Local Councils in NSW is made under section 360 of the *Local Government Act 1993* and clause 232 of the *Local Government (General) Regulation 2021*.

- 5 Council must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code within 12 months of the local government elections. Council's adopted meeting code must not contain provisions that are inconsistent with the mandatory provisions. Council's adopted meeting code may also incorporate the non-mandatory provisions of the Model Meeting Code and any other supplementary provisions adopted by the council.

15 Under section 361 of the Local Government Act 1993, before adopting a new code of meeting practice, councils must first exhibit a draft of the code of meeting practice for at least 28 days and provide members of the community at least 42 days in which to comment on the Draft Cde.

20 The Model Meeting Code contains new provisions that allow councils to permit individual councillors to attend meetings by audio-visual link and to hold meetings by audio-visual link in the event of natural disasters or public health emergencies.

Amendments have also been made to the provisions governing the webcasting of meetings and disorder at meetings to reflect amendments to the Regulation since the previous iteration of the Model Meeting Code was prescribed.

- 25 An amendment has also been made to the Model Meeting Code implementing recommendation 6 in ICAC's report in relation to its investigation of the former Canterbury City Council (Operation Dasha). ICAC recommended that the Model Meeting Code be amended to require that council business papers include a reminder to councillors of their oath or affirmation of office, and their conflict of interest disclosure obligations.

- 30 On 3 February 2022 Council received and considered a report concerning the "Adoption of a Code of Meeting Practice". Council resolved to defer the matter until after a workshop had been held.

That workshop took place on 10 February 2022.

- 35 Arising out of that workshop certain amendments to the Code of Meeting Practice were discussed and a general consensus was reached in respect of matters to be included in the Code of Meeting Practice to be further reported to Council.

Arising from the workshop discussion the following provisions of the Model Meeting Code have been incorporated into Council's exhibition draft Code of Meeting Practice, a copy of which is Attachment 1:

- 40
- 3.22(a) *Statement of Ethical obligation*
  - 3.28 *urgency motions in extra ordinary meetings*
  - 4.7, 4.17 and 14.9 *limiting the number of speeches per person to two*

# BYRON SHIRE COUNCIL

## STAFF REPORTS - GENERAL MANAGER

13.1

- 4.10 a speaker's response to a Councillor question is limited to 1 minute
- 4.11 and 4.12 clarifying, in respect of submissions and Questions, the provisions of "current issue before Council" and providing for the rejection of submissions or questions which do not meet this criteria
- 5 • 5.2 participation in meetings by audio-visual link
- 5.15 to 5.17 meetings held by audio-visual links
- 5.18 to 5.29 attendance by Councillors at meetings by audio-visual link
- 5.33 to 5.38 webcasting of meetings
- 14.18 audio-visual link in closed meetings
- 10 • 15.17 and 15.18 adding to "disorder at a meeting" the words of warning issued by the Chairperson at the commencement of the meeting.
- 15.21 and 15.22 disorder in a meeting attended by audio visual link
- 16.2 conflict-of-interest declaration in meetings attended by audio-visual link
- 19.2 recording of names of Councillors attending by audio-visual link
- 15 • 20.22(a) recording of names of councillors in committee meeting minutes and whether they attended the meeting in person or by audio-visual link.
- 21.2 the General manager (or delegate) added as a member of the Planning Review Committee.

## 20 Strategic Considerations

### Community Strategic Plan and Operational Plan

| CSP Objective   | CSP Strategy   | DP Action  | Code           | 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 | <b>5.2.4.3</b> | Deliver Council meeting secretariat – including agenda preparation, minutes and council resolutions monitoring |

### Recent Resolutions

Current Code of Meeting Practice adopted following exhibition per resolution **20-610**

**22-016** Council deferred consideration of the Code of Meeting Practice.

## 25 Legal/Statutory/Policy Considerations

As set out in the body of the Report.

**Financial Considerations**

Nil.

**Consultation and Engagement**

5 Consultation between Legal Counsel and the Corporate Planning and Improvement, and Governance Coordinators developed the Draft Code.

The Director Corporate and Community Services and the Manager Corporate Services were consulted as the Draft Code was developed.

The Executive Team was briefed on the current version of the Draft Code on 1 December 2021.

10 The Draft Code was reported to Council on 3 February 2022.

The Draft Code was discussed at a Strategic Planning Workshop on 10 February 2022.

**Report No. 13.2 National General Assembly of Local Government 2022**

5 **Directorate:** Corporate and Community Services  
**Report Author:** Esmeralda Davis, Manager Corporate Services  
**File No:** I2022/53

10 **Summary:**

The National General Assembly of Local Government will be held from 19 to 22 June 2022 in Canberra. The Call for Motions Discussion Paper requires that motions from Councillors are to be lodged by 25 March 2022.

15 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 2022 National General Assembly of Local Government to be held at the National Convention Centre in Canberra from 19 to 22 June 2022 and nominates Cr \_\_\_\_\_ as the voting delegate.
2. That Council considers endorsement of any motions for submission to the National General Assembly by the lodgement deadline with ALGA of Friday, 25 March 2022.

## 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 19 to 22 June 2022. The theme for the 2022 NGA is ‘Partners in Progress’, aiming to focus on how partnerships, particularly between the Australian Government and Local Governments, can tackle immediate challenges facing communities, as well as confidently facing the future.

10 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”.

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

## Conference Motions

15 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.”

Motions to the NGA are to be received by the Australia Local Government Association (ALGA) no later than 11:59pm on 25 March 2022 and must first be endorsed by Council prior to submission. A memo was provided to Councillors on 4 February 2022 with this information.

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

## Call for Motions

The NGA Call for Motions Discussion Paper outlines the challenges as Australia emerges from the crisis management phase of the COVID-19 global pandemic, turning attention now to rebuilding and to the future.

25 Key points discussed throughout the paper include:

- Jobs, workforce shortages and businesses – unemployment and underemployment rates, the impact of the pandemic on labour shortages in particular sectors, workplace flexibility and ‘the great resignation’ and the unprecedented disruption to local businesses and communities
- 30 • Opening Australia’s borders – the impact of border closures on the economy and tourism
- Climate Change and Natural Disasters - adaptation to climate change and disaster preparedness
- 35 • Environmental Management – the goals of ‘Australia’s Strategy for Nature 2019 – 2030

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- The Circular Economy – applying these principles to waste management to support better and repeated use of our resources
- Affordable Housing – the social and economic impacts of the shortage and costs of rental properties and affordable home ownership, and the impacts on local governments and communities

The full discussion paper is available from the following link: [Discussion-Paper-2022.pdf \(alga.com.au\)](https://www.alga.com.au/Document/Download/Attachment/1147).

### Conference Details

Where: National Convention Centre, Canberra, ACT

10 Dates: Sunday 19 June to Wednesday 23 June 2022

Costs: *(per delegate)*

|  |            |
|--|------------|
| Registration Fee (early bird received by 6 May 2022) | \$ 989.00  |
| Accommodation ( <i>approx.</i> ) (4 nights)          | \$1,000.00 |
| Travel ( <i>approx.</i> )                            | \$ 800.00  |
| 15 Total:  | \$2,789.00 |

Virtual attendance has also been offered for 2022 at a cost of \$689.00. This option is available to all delegates, voting or non-voting.

### Next steps

20 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:

- 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
- 25 • be consistent with the themes of the NGA
- 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
- 30 • propose a clear action and outcome i.e. call on the Australian Government to do something

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- 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.

5 Motions should commence as follows - *This National General Assembly calls on the Australian Government to ...*

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 25 March 2022.

## 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

15 N/A

### 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**

Council has an allocation for conferences of \$31,500 within the 2021/22 budget (2145.004). There is sufficient funding remaining to cover the cost of sending two delegates to the NGA.

**5 Consultation and Engagement**

N/A

**Report No. 13.3 Appointment of Community Members to Section 355 Committees and Boards**

**Directorate:** Corporate and Community Services

**Report Author:** Isabelle Wood, Project Officer (Generalist)

5 **File No:** I2022/199

**Summary:**

Council received a report on 3 February 2022 to allow for advertising to take place for community representatives to its Section 355 Committees and Boards of Management for the term of Council.

10 Interested members of the community and existing members were invited to submit an Expression of Interest for inclusion on these committees by completing an online nomination form. This report provides information about the nominations received and recommends appointment to the various Committees.

15

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**RECOMMENDATION:**

1. That the community representatives, as recommended in confidential attachment 1 (E2022/19767), be appointed to each respective Section 355 Management Committee or Board of Management for the 2022-2024 term ending December 2024.
2. That all appointed community representatives be:
  - a) advised of their appointment to this Committee;
  - b) provided with a copy of the adopted Halls and Venues Guidelines for Section 355 Management Committees and Boards and the adopted Section 377 delegations;
  - c) advised that under Work Health and Safety Act, as a volunteer on a Council Committee established and delegated with the management of a community facility, of the requirement to attend an induction session.
3. That Council readvertises Section 355 Committee opportunities for Suffolk Park Hall, South Golden Beach Community Centre and Ocean Shores Community Centre.

**Attachments:**

- 35 1 Confidential - Representatives Section 355 Committees and Boards, E2022/19767

## Report

Council resolved (**22-029**) on 3 February 2022 to establish the following 355 committees and boards:

- 5 2. *That Council confirms the establishment of the following eight Committees under Section 355(b) of the Local Government Act 1993*
- a) *Bangalow Parks (Bangalow Showground) Section 355 Management Committee*
  - b) *Brunswick Heads Memorial Hall Section 355 Management Committee*
  - c) *Brunswick Valley Community Centre Section 355 Management Committee*
  - 10 d) *Durrumbul Community Hall Section 355 Management Committee*
  - e) *Ocean Shores Community Centre Section 355 Management Committee*
  - f) *South Golden Beach Community Centre Section 355 Management Committee*
  - g) *Suffolk Park Community Hall Section 355 Management Committee*
  - 15 h) *Marvel Hall Section 355 Management Committee*
3. *That Council confirms the establishment of the following two Boards of Management under Section 355(b) of the Local Government Act 1993:*
- a) *Bangalow A&I Hall*
  - b) *Mullumbimby Civic Memorial Hall*

20 Nominations were subsequently called for each committee. Thirty-four (34) nominations were received. The confidential Attachment 1 contains all nominations. The attachment provides staff recommendations for each committee based on the adopted 'Halls and venues guidelines for Section 355 Committees and Boards', specifically:

### **“3.2 Appointment**

- 25 a) *To hold office and be responsible for the management of a Council facility, all Committee members are to be appointed by Council.*
- 30 b) *Nominations will be open to all members of the community and will be assessed against selection criteria.*
- c) *The selection criteria are:*
- 35 i) *Have established ties to the Byron Shire community, and*
  - ii) *Experience (professional, amateur, volunteer) working in accounting, managing people or business, community services, fundraising, venue management, event management, promotion, theatre production, design, marketing or other related areas*
- 40 d) *Initial appointments will be made by Council resolution following an open nomination process.*
- 45 e) *Any vacancies that arise during the term of the committee will filled through a nomination process assessed by Council staff.*

f) Council may dissolve a Committee at any time.

5 g) The term of office for Committees will be the same term as the current Council, with the addition of an extra three months after the General Election of Councillors, or as otherwise directed.

### 3.3 Committee Membership

10 A commitment to Committee activities 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.

15 Committee members are expected to have access to a computer and able to use email as the major form of communication.

Committee membership will number not less than four and not more than nine. The exception will be the Bangalow Parks (Showground) Committee which can number up to twelve.

## 20 Appointment

A summary of the nominations received is provided:

- Bangalow A&I Hall – 4 nominations + Venue Coordinator
- Bangalow Showground – 10 nominations
- 25 • Brunswick Heads Memorial Hall – 4 nominations
- Durrumbul Community Hall – 4 nominations
- Mullumbimby Civic Memorial Hall – 4 nominations + Venue Coordinator
- Marvell Hall – 3 nominations
- South Golden Beach – 2 nominations
- 30 • Suffolk Park – 2 nominations
- Ocean Shores Community Centre – 1 nomination

Each committee needs a minimum of four people who are willing to occupy key office bearer positions to operate, as stated in the Halls and Venues Guidelines. Ideally, it is  
35 beneficial for committees to have approximately five to seven members in order to continue operations when members take time off or resign mid-term.

Most of the nominations received were from existing members, indicating the challenges of  
40 recruiting new community members to volunteer in this capacity for Council.

According to Volunteering Australia, the rate of people volunteering has declined over time. The Covid-19 pandemic has also had a profound impact on volunteering rates, with the number of people volunteering over a 12-month period dropping from 1 in 3 (36%) in  
45 late 2019, to close to 1 in 4 (24%) in April 2021.

The insufficient number of committee nominations and the changing nature of volunteering indicates a need to explore alternate models of community hall management.

- 5 Considering the current circumstances, it is recommended that the recruitment process is extended to allow for more nominations to be received for Marvell Hall, South Golden Beach Community Centre and Ocean Shores Community Centre. Where the required number of nominations are not achieved, a combined committee model or alternate governance structure will be explored.

**Next steps**

- 10 All appointed community representatives are required to attend an induction session under the WH&S Act.

**Strategic Considerations**

**Community Strategic Plan and Operational Plan**

| CSP Objective   | CSP Strategy  | DP Action  | Code           | OP Activity   |
|---|---|--|----------------|---|
| <b>Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community</b> | 2.1: Support and encourage our vibrant culture and creativity | 2.1.2: Provide meaningful and inclusive opportunities for volunteering | <b>2.1.2.2</b> | Support Council volunteers with the delivery and management of community facilities |

**Recent Resolutions**

- 15 **22-029** – Establishment and Delegation to 355 Committees – 3 February 2022

**Legal/Statutory/Policy Considerations**

[Section 355](#) of the *Local Government Act 1993* provides that a Council may appoint a committee and delegate under [Section 377](#) certain functions to a committee including the authority for the care, control and management of community buildings.

20 **Financial Considerations**

Community representatives appointed to a Section 355 Committees are volunteer positions. Some community representatives receive honorarium payments or allowances to enable them to carry out certain positions on the Committees.

- 25 The Committee Member receiving payments must provide a tax file number, an Australian Business Number (ABN) or complete an ATO Form “*Statement by a Supplier*” (stating reason why withholding tax does not need to be deducted) prior to receiving any payment.

The adopted 'Halls and venues guidelines for Section 355 Committees and Boards' state:

**“5.5 Honorarium Payments to Committee Members**

1. Committees may vote to pay an honorarium (allowance) to Committee members or agents for duties undertaken in their role on the Committee as follows:

- 5           i) Up to \$100 (excl. GST) maximum per week for Booking Officers or other roles determined by the Committee (eg Maintenance Officer, Volunteer co-ordinator).
- ii) Up to \$100 (excl. GST) maximum per month for other Administration positions such as Treasurer, Secretary, etc

10           *These payments must firstly be recommended by the Committee and recorded in their Meeting Minutes. **Approval by Council’s Finance Manager is required to ensure the income generated from the facility is sufficient to sustain these costs.***

15   The Section 355 Committees are required to provide financial information in accordance with the Halls and Venues Guidelines for Section 355 Management Committees and Boards and operate within Section 377 delegations.

Fees charged for these community facilities are set for each centre/hall by Council at the beginning of each financial year.

20   **Consultation and Engagement**

Nominations were open for a period of 20 days during which two advertisements were placed in the local newspaper, in addition to regular advertising on Council’s website and social media.

25   Existing committee members were also notified of the nomination process and were encouraged to apply if they were interested in joining the committees in the new term.

The nomination form was an online form available on Council’s website.

**Report No. 13.4 Appointment of Community Representatives to Advisory Committees**

**Directorate:** Corporate and Community Services

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

**File No:** I2022/200

**Summary:**

Council received a report on 3 February 2022 to allow for advertising to take place for community representatives to its Advisory Committees for the term of Council.

10 Interested members of the community and existing members were invited to submit an Expression of Interest for inclusion on these committees by completing an online nomination form. This report provides information about the nominations received and recommends appointment to the various Advisory Committees.

15

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**RECOMMENDATION:**

- 20 1. That community representatives, as recommended in confidential attachment 1 (E2022/19768), be appointed to each respective Advisory Committee for the 2022-2024 term ending September 2024.
2. That, where no recommendation is made in confidential attachment 1 (E2022/19768), Council select the community representatives from the options provided, and they be appointed for the respective Advisory Committee for the 2022-2024 term ending September 2024.
- 25 3. That all appointed Advisory Committee members:
- a) be notified of their appointment to the committee; and
  - b) complete induction, Code of Conduct, and confidentiality requirements.
4. That any unsuccessful nominees be notified.

**Attachments:**

- 30 1 Confidential - Advisory Committees - Nominations and Recommendations for Appointment - 2022, E2022/19768

## Report

Council received a report on 3 February 2022 to determine the committee structure for the term of Council and to invite nominations from community representatives to its Advisory Committees.

- 5 Nominations were subsequently called for each of the committees. A summary of the number of nominations received is also provided:
- Arts and Creative Industries Advisory Committee – 18 nominations
  - Audit, Risk, and Improvement Committee – 2 nominations
  - Biodiversity Advisory – 10 nominations
  - 10 • Climate Change and Resource Recovery Advisory Committee – 8 nominations
  - Coastal and ICOLL Advisory Committee – 15 nominations
  - Floodplain Management Advisory Committee – 4 nominations
  - Heritage Advisory – 5 nominations
  - Infrastructure Advisory Committee – 6 nominations
  - 15 • Moving Byron Advisory Committee – 10 nominations
  - Water and Sewer Advisory – 5 nominations

\*Note the Housing and Affordability Committee is subject to a separate expression of interest process.

- 20 The majority of committees received more nominations than available positions, in accordance with the structure and membership as determined by Council on 3 February 2022. Council is therefore asked to consider the nominations, as provided in confidential attachment 1, and determine the appointment of community representatives to each of the committees.

## Strategic Considerations

### 25 Community Strategic Plan and Operational Plan

| CSP Objective                                       | CSP Strategy   | DP Action  | Code           | OP Activity  |
|---|--|--|----------------|--|
| <b>Community Objective 5: We have community led</b> | 5.2: Create a culture of trust with the community by | 5.2.4: Support Councillors to carry out their civic duties | <b>5.2.4.5</b> | Implement and manage Code of Conduct training programs for Councillors, staff, and |



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|  |                                     |  |  |                   |
|--|-------------------------------------|--|--|-------------------|
| <b>decision making which is open and inclusive</b> | being open, genuine and transparent |  |  | committee members |
|--|-------------------------------------|--|--|-------------------|

### Recent Resolutions

- **22-026** – Advisory Committee Structure and Determination of Councillor Representatives – 3 February 2022

### Legal/Statutory/Policy Considerations

- 5 Each Advisory Committee operates under an adopted Constitution and Council's Code of Meeting Practice.

There is a requirement under s428A of the *Local Government Act 1993* (NSW) for Council to have an Audit, Risk and Improvement Committee.

### 10 Financial Considerations

The community representatives on most of these advisory committees are volunteer representatives except for the Audit, Risk and Improvement Committee (ARIC).

- 15 In 2008, Council resolved to pay fees for the services of the relevantly qualified external members on the ARIC. It is recommended that external members continue to be remunerated given the increased breadth of the ARIC's responsibilities as a result of a legislative amendment in 2016. Furthermore, proposed guidelines being drafted by the Office of Local Government will, once adopted, further expand the responsibilities of the ARIC members.

### 20 Consultation and Engagement

Nominations were open for a period of 20 days during which time two advertisements were placed in the local newspaper, in addition to regular advertising on Council's website and social media.

- 25 Existing committee members were also notified of the nomination process and were encouraged to reapply.

The nomination form was an online form available on Council's website.

**Report No. 13.5 Council Investments - 1 February 2022 to 28 February 2022**

**Directorate:** Corporate and Community Services

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

5 **File No:** I2022/202

**Summary:**

This report includes a list of investments and identifies Council's overall cash position for the period 1 February 2022 to 28 February 2022 for information.

10 This report is prepared to comply with Section 212 of the *Local Government (General) Regulation 2021*.

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**RECOMMENDATION:**

15 **That Council notes the report listing Council's investments and overall cash position as at 28 February 2022.**

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### Report

5 Council has continued to maintain a diversified portfolio of investments. As of 28 February 2022, the average 90-day bank bill rate (BBSW) for the month of February 2022 was 0.07%. Council's performance to February 2022 was 0.50%. 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 28 February 2022

### 10 Schedule of Investments held as at 28 February 2022

| Purch Date | Principal (\$) | Description                                       | CP* | Rating | Maturity Date | No Fossil Fuel | Type | Int. Rate | Current Value |
|------------|----------------|---|-----|--------|---------------|----------------|------|-----------|---------------|
| 24/03/17   | 1,000,000.00   | NAB Social Bond (Gender Equality)                 | P   | AA-    | 24/03/22      | N              | B    | 3.25%     | 1,001,840.00  |
| 15/11/18   | 1,000,000.00   | NSW Treasury Corp (Green Bond)                    | N   | AAA    | 15/11/28      | Y              | B    | 3.00%     | 1,072,990.00  |
| 20/11/18   | 1,000,000.00   | QLD Treasury Corp (Green Bond)                    | N   | AA+    | 22/03/24      | Y              | B    | 3.00%     | 1,055,490.00  |
| 28/03/19   | 1,000,000.00   | National Housing Finance & Investment Corporation | Y   | AAA    | 28/03/31      | Y              | B    | 2.38%     | 1,031,940.00  |
| 21/11/19   | 1,000,000.00   | NSW Treasury Corp (Sustainability Bond)           | N   | AAA    | 20/03/25      | Y              | B    | 1.25%     | 1,000,230.00  |
| 27/11/19   | 500,000.00     | National Housing Finance & Investment Social Bond | Y   | AAA    | 27/05/30      | Y              | B    | 1.52%     | 480,585.00    |
| 06/09/21   | 1,000,000.00   | Northern Territory TCorp                          | N   | Aa3    | 15/12/26      | Y              | B    | 1.40%     | 1,000,000.00  |
| 16/09/21   | 1,000,000.00   | QLD Treasury                                      | N   | AA+    | 02/03/32      | Y              | B    | 1.50%     | 928,180.00    |

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| Purch Date | Principal (\$) | Description                                       | CP* | Rating | Maturity Date | No Fossil Fuel | Type | Int. Rate | Current Value |
|------------|----------------|---|-----|--------|---------------|----------------|------|-----------|---------------|
|            |                | Corp (Green Bond)                                 |     |        |               |                |      |           |               |
| 31/03/17   | 1,000,000.00   | CBA Climate Bond                                  | P   | AA-    | 31/03/22      | N              | FRN  | 0.95%     | 1,000,720.00  |
| 15/06/21   | 500,000.00     | National Housing Finance & Investment Social Bond | Y   | AAA    | 01/07/31      | Y              | FRN  | 0.21%     | 501,489.98    |
| 06/07/21   | 1,000,000.00   | Judo Bank   | P   | BBB-   | 04/04/22      | Y              | TD   | 0.70%     | 1,000,000.00  |
| 30/07/21   | 1,000,000.00   | AMP Bank  | P   | BBB    | 28/06/22      | Y              | TD   | 0.75%     | 1,000,000.00  |
| 01/09/21   | 1,000,000.00   | Bank of Queensland                                | P   | BBB+   | 02/03/22      | N              | TD   | 0.33%     | 1,000,000.00  |
| 10/09/21   | 1,000,000.00   | The Mutual Bank                                   | P   | NR     | 10/03/22      | Y              | TD   | 0.45%     | 1,000,000.00  |
| 03/09/21   | 2,000,000.00   | Suncorp   | P   | A+     | 02/03/22      | Y              | TD   | 0.30%     | 2,000,000.00  |
| 01/10/21   | 1,000,000.00   | AMP Bank  | N   | BBB    | 01/04/22      | N              | TD   | 0.65%     | 1,000,000.00  |
| 04/11/21   | 2,000,000.00   | NAB   | N   | AA-    | 04/11/22      | N              | TD   | 0.45%     | 2,000,000.00  |
| 30/11/21   | 2,000,000.00   | NAB   | N   | AA-    | 29/04/22      | N              | TD   | 0.38%     | 2,000,000.00  |
| 09/12/21   | 2,000,000.00   | NAB   | N   | AA-    | 07/06/22      | N              | TD   | 0.50%     | 2,000,000.00  |
| 17/12/21   | 2,000,000.00   | NAB   | N   | AA-    | 19/12/22      | N              | TD   | 0.50%     | 2,000,000.00  |
| 1/5/2022   | 2,000,000.00   | NAB   | N   | AA-    | 4/7/2022      | N              | TD   | 0.52%     | 2,000,000.00  |
| 20/01/22   | 1,000,000.00   | Westpac (Tailored)                                | P   | AA-    | 20/01/23      | N              | TD   | 0.79%     | 1,000,000.00  |
| 31/1/2022  | 1,000,000.00   | NAB   | N   | AA-    | 31/5/2022     | N              | TD   | 0.43%     | 1,000,000.00  |
| 22/2/2022  | 1,000,000.00   | Macquarie Bank Ltd                                | P   | A      | 23/8/2022     | N              | TD   | 0.65%     | 1,000,000.00  |
| 25/2/2022  | 1,000,000.00   | Macquarie Bank Ltd                                | N   | A      | 25/8/2022     | N              | TD   | 0.65%     | 1,000,000.00  |
| N/A        | 20,794,220.12  | CBA Business                                      | N   | AA-    | N/A           | N              | CALL | 0.20%     | 20,794,220.12 |

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| Purch Date   | Principal (\$)       | Description                                       | CP* | Rating | Maturity Date | No Fossil Fuel | Type       | Int. Rate    | Current Value        |
|--------------|----------------------|---|-----|--------|---------------|----------------|------------|--------------|----------------------|
|              |                      | Saver   |     |        |               |                |            |              |                      |
| N/A          | 5,938,851.91         | CBA Business Saver – Tourism Infrastructure Grant | N   | AA-    | N/A           | N              | CALL       | 0.20%        | 5,938,851.91         |
| N/A          | 2,113,668.65         | NSW Treasury Corp                                 | N   | AAA    | N/A           | Y              | CALL       | 0.02%        | 2,113,668.65         |
| N/A          | 18,030,119.07        | Macquarie Accelerator Call                        | N   | A      | N/A           | N              | CALL       | 0.35%        | 18,030,119.07        |
| <b>Total</b> | <b>76,876,859.75</b> |   |     |        |               |                | <b>AVG</b> | <b>0.50%</b> | <b>76,950,324.73</b> |

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

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

**Note 3.**

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

### Environmental and Socially Responsible Investing (ESRI)

An additional column has been added to the schedule of Investments to identify if the financial institution holding the Council investment has been assessed as a 'No Fossil Fuel' investing institution. This information has been sourced through

5 [www.marketforces.org.au](http://www.marketforces.org.au) and identifies financial institutions that either invest in fossil fuel

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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.

5 The notion of Environmental and Socially Responsible Investing is much broader than whether a financial institution as rated by 'marketforces.org.au' invests in fossil fuels or not. Council's current Investment Policy defines Environmental and Socially Responsible Investing at Section 4.1 of the Policy which can be found on Council's [website](#).

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

- 10
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. \$1,000,000 investment with Westpac Bank maturing on 20 January 2023 is a tailored term deposit and certified green investment.
- 15



| Investment policy compliance<br>% should not exceed the following |       |      | ACTUAL |              |
|---|-------|------|--------|--------------|
| AAA to AA   | A1+   | 100% | 68%    | Meets policy |
| A+ to A-  | A1    | 60%  | 26%    | Meets policy |
| BBB to NR   | A2,NR | 40%  | 6%     | Meets policy |

## 20 Investment Policy Compliance

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

25

# BYRON SHIRE COUNCIL

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).

## NSW Treasury Corporation Compliance – Loan Borrowing Conditions

5 Council has borrowed loans through NSW Treasury Corporation under the Local Government Low Cost Loans Initiative. As part of these loan borrowings, NSW Treasury Corporation has placed restrictions on Council's investments in terms of where Council can invest based on the credit rating of the financial institution, the term of the investment and counterparty limit. NSW Treasury Corporation has reviewed Council's Investment Portfolio and has reminded Council it needs to remain within the investment parameters 10 outlined in the accepted loan agreements. Council currently does not comply as is indicated in the table below:

| Tcorp compliance                  |      | Counterparty Limit | Tenor | ACTUAL | Variance             |
|-----------------------------------|------|--------------------|-------|--------|----------------------|
| % should not exceed the following |      |                    |       |        |                      |
| Tcorp                             | 100% | 100%               | N/A   | 3%     | Meets policy         |
| AAA                               | 100% | 100%               | N/A   | 7%     | Meets policy         |
| AA+ to AA-                        | 100% | 100%               | 5Y    | 56%    | Does not meet policy |
| A+ to A                           | 100% | 100%               | 3Y    | 29%    | Meets policy         |
| A-                                | 40%  | 40%                | 3Y    | 0%     | Meets policy         |
| BBB+                              | 30%  | 10% 3 Years        | 3Y    | 1%     | Meets policy         |
| BBB                               |      | 5% 12 Months       | 1Y    | 2%     | Meets policy         |
| BBB- and below (local ADI'S)      |      | 5% 12 Months       | 1Y    | 1%     | Meets policy         |
| BBB- and below (other)            | 5%   | 250,000            | 1Y    | 1%     | Does not meet policy |

15 Council has had discussions with NSW Treasury Corporation and indicated it would start reporting the compliance in the monthly investment report to Council. Council is able to hold existing investments not in compliance until maturity but must ensure new investments meet the compliance requirements.

20 Meeting the NSW Treasury Corporation compliance means Council will be limited in taking up investments that may be for purposes associated with Environmental and Socially Responsible outcomes where investments do not comply with NSW Treasury Corporation requirements, and investments with financial institutions that do not support fossil fuels will have to be decreased due to their credit rating status or lack of credit rating.

The investment portfolio is outlined in the table below by investment type for the period 1 February 2022 to 28 February 2022:

### Dissection of Council Investment Portfolio as at 28 February 2022

| Principal Value (\$) | Investment Linked to: | Current Market Value (\$) | Cumulative Unrealised Gain/(Loss) (\$) |
|----------------------|-----------------------|---------------------------|--|
| 21,000,000.00        | Term Deposits         | 21,000,000.00             | 0.00                                   |
| 2,500,000.00         | Floating Rate Note    | 2,557,699.98              | 57,699.98                              |

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|                      |   |                      |                  |
|----------------------|---|----------------------|------------------|
| 20,794,220.12        | CBA Business Saver                                | 20,794,220.12        | 0.00             |
| 5,938,851.91         | CBA Business Saver – Tourism Infrastructure Grant | 5,938,851.91         | 0.00             |
| 2,113,668.65         | NSW Treasury Corp                                 | 2,113,668.65         | 0.00             |
| 18,030,119.07        | Macquarie Accelerator                             | 18,030,119.07        | 0.00             |
| 6,500,000.00         | Bonds   | 6,515,765.00         | 15,765.00        |
| <b>76,876,859.75</b> |   | <b>76,950,324.73</b> | <b>73,464.98</b> |

Council's overall 'cash position' is not only measured by funds invested but also by the funds retained in its consolidated fund or bank account for operational purposes. In this regard, for the month of February 2022 the table below identifies Council's overall cash position as follows:

#### 5 Dissection of Council's Cash Position as at 28 February 2022

| Item  | Principal Value (\$) | Current Market Value (\$) | Cumulative Unrealised Gain/(Loss) (\$) |
|---|----------------------|---------------------------|--|
| <b>Investments Portfolio</b>                      |                      |                           |  |
| Term Deposits                                     | 21,000,000.00        | 21,000,000.00             | 0.00                                   |
| Floating Rate Note                                | 2,500,000.00         | 2,557,699.98              | 57,699.98                              |
| CBA Business Saver                                | 20,794,220.12        | 20,794,220.12             | 0.00                                   |
| CBA Business Saver – Tourism Infrastructure Grant | 5,938,851.91         | 5,938,851.91              | 0.00                                   |
| NSW Treasury Corp                                 | 2,113,668.65         | 2,113,668.65              | 0.00                                   |
| Macquarie Accelerator                             | 18,030,119.07        | 18,030,119.07             | 0.00                                   |
| Bonds   | 6,500,000.00         | 6,515,765.00              | 15,765.00                              |
| <b>Total Investment Portfolio</b>                 | <b>76,876,859.75</b> | <b>76,950,324.73</b>      | <b>73,464.98</b>                       |
| <b>Cash at Bank</b>                               |                      |                           |  |
| Consolidated Fund                                 | 3,883,575.26         | 3,883,575.26              | 0.00                                   |
| <b>Total Cash at Bank</b>                         | <b>3,883,575.26</b>  | <b>3,883,575.26</b>       | <b>0.00</b>                            |



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| Item                | Principal Value (\$) | Current Market Value (\$) | Cumulative Unrealised Gain/(Loss) (\$) |
|---------------------|----------------------|---------------------------|--|
| Total Cash Position | 80,760,435.01        | 80,833,899.99             | 73,464.98                              |

## STRATEGIC CONSIDERATIONS

### Community Strategic Plan and Operational Plan

| CSP Objective   | CSP Strategy                               | DP Action   | Code           | 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) | <b>5.5.2.5</b> | Manage treasury functions of Council to maintain cash flow and maximise return on invested funds    |
| <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) | <b>5.5.2.6</b> | Identification of ethical investment opportunities with environmental and social inclusion outcomes |

### Legal/Statutory/Policy Considerations

5 In accordance with Section 212 of the *Local Government (General) Regulation 2021*, 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.

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*

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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.

### 5 **Financial Considerations**

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

**Report No. 13.6 Financial Assistance - Feb/March 2022  
Flood Event**

**Directorate:** Corporate and Community Services

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

5 **File No:** I2022/210

**Summary:**

10 Council has over the last two years provided varying degrees of financial assistance to ratepayers and the community due to the COVID-19 Pandemic. The last measures that Council had in place for that purpose expired on 28 February 2022 but ratepayers and the community have now been impacted from the very recent devastating floods.

This report is presented to Council for consideration of whether it may want to provide some further financial assistance measures to ratepayers within its limited capacity, similar to some aspects of the assistance provided during the COVID-19 Pandemic.

15

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**RECOMMENDATION:**

1. **That Council provide financial assistance to ratepayers and the community for the period 1 March 2022 to 30 June 2022 for the following:**

- 20 a) **Suspension of interest charges on overdue rates and charges by continuing to set the interest rate to 0%.**
- b) **Suspension of any debt recovery activity for all debts due to Council except for issuing a reminder notice.**
- 25 c) **Not charging the fee for dishonoured direct debits (currently \$23.00 per dishonour).**
- d) **Continuing to work with ratepayers in the establishment of payment arrangements upon application.**

2. **That Council consider any extension of the measures in recommendation 1(a), 1(b), and 1(c) as part of adopting the 2022/2023 Revenue Policy.**

30 **Attachments:**

- 1 Schedule of COVID-19 related resolutions, E2021/112913 

## Report

Council at its Ordinary Meeting held on 24 September 2021 resolved by resolution **21-408** in part 3 the following:

- 5 *Sets the interest rate applicable to outstanding rates and charges arrears for all ratepayers to 0% for the period 1 October 2021 to 28 February 2022.*

The above resolution was in further response to the COVID-19 Pandemic. Provided at Attachment 1 is a series of resolutions that Council has passed over the last two years to provide, within its capacity, forms of financial assistance to ratepayers and the community at various times.

- 10 The last of the financial assistance measures expired on 28 February 2022 following the relaxation of public health orders and restrictions associated with the COVID-19 Pandemic. It is certainly now so unfortunate that Council's ratepayers and community, and many other communities have been impacted by such a devastating flooding event on such a scale.

- 15 As of 1 March 2022, Council was due to recommence the following activities:

- Charging of interest on overdue rates and charges at the statutory rate for 2021/2022 of 6.0% per annum.
- Recommencement of debt recovery action to recover outstanding rates and charges plus other debts owed to Council.

- 20 Given the impact of the flooding event and the devastation caused in parts of the Byron Shire Council area, Council may wish to reconsider offering financial assistance measures again to ratepayers and the community.

- 25 Provided as recommendations for Council to consider are proposed actions to assist primarily ratepayers but also other community members that may owe debts to Council the following:

- Suspension of interest charges on overdue rates and charges by continuing to set the interest rate to 0%.
  - Suspension of any debt recovery activity for all debts due to Council except for issuing a reminder notice.
- 30
- Not charging the fee for dishonoured direct debits (currently \$23.00 per dishonour).
  - Continuing to work with ratepayers in the establishment of payment arrangements upon application.

- 35 The above items provide more flexibility to ratepayers in the payment of rates and charges to Council in addition to what is available in Council Debt Management and Financial Hardship Assistance Policy 2019 given there are ratepayers or community members that may now be adversely financially impacted from the flood event.

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Whilst ratepayers are encouraged to keep paying their rates and charges, there needs to be an acknowledgement that the recent flood event on the back of COVID-19 has certainly caused financial distress and that these measures by Council may provide some form of assistance in dealing with debts owed to Council.

- 5 Council provides a direct debit facility for ratepayers but charges a \$23.00 dishonour fee if the scheduled direct debit transaction cannot be processed due to insufficient funds being available on the scheduled date. Given what has happened and the suddenness of the flood event, should any direct debit transaction not be honoured with available funds, that Council not charge the dishonour fee.
- 10 Under Section 377 of the Local Government Act 1993, the setting of a fee or charge or its application has to be set by a Council resolution as it is a function of Council that cannot be delegated. It is also for this reason why this report is presented to Council for consideration.
- 15 This report also recommends that the proposed measures apply from 1 March 2022 to 30 June 2022 and that should Council wish to extend these measures beyond 30 June 2022, that be a consideration as part of adopting the 2022/2023 Revenue Policy on or before 30 June 2022.

## Strategic Considerations

### Community Strategic Plan and Operational Plan

| CSP Objective   | CSP Strategy                               | DP Action   | Code           | 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 | <b>5.5.1.1</b> | Financial reporting as required provided to Council and Management |

## 20 Recent Resolutions

Council has passed a series of resolutions regarding addressing the impacts of COVID-19 on Council and the community. Attachment 1 details the following Council resolutions applicable since the Pandemic commenced and up to the 26 August 2021 Council Meeting:

- 25
- **20-124**
  - **20-160**
  - **20-171**

- 20-262
- 20-257
- 20-330
- 20-360
- 5 • 20-478
- 20-512
- 21-077
- 21-336

10 The subsequent resolution from the 23 September 2021 Ordinary Meeting (Resolution **21-408**) referenced earlier in this report was a further resolution regarding financial assistance. Whilst all of these resolutions have been COVID-19 related and no longer relevant post 28 February 2022, this report is proposing further assistance for Council's consideration albeit not associated with COVID-19 but the very recent devastating flood event. However, the prior resolutions are provided on the basis that new Councillors may not be aware of the prior resolutions passed before the December 2021 Council elections where Council has provided financial assistance for significant event(s).

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

Relevant Council policy or legislation has been referenced in the report above.

### **Financial Considerations**

- 20 Should Council adopt the recommendations outlined in this report, there will be a financial impact. It is difficult to identify the exact amount as this will depend upon the following variable factors:
- The extent of arrears of rates and charges as the basis of interest calculation and interest forgone.
- 25
- The number of future direct debit dishonours that may occur.
  - Cashflow implications as the cancellation of interest charges may deter payment of outstanding rates and charges that would have otherwise been possibly made.
  - Cashflow implications on turning outstanding debts into cash from not pursuing debt recovery activity.
- 30 Council has offered these measures over the last couple of years and so far has been able to absorb the impacts. The extension of these measures for another three months at this stage should be able to be managed should Council adopt the proposed recommendation.

**Report No. 13.7 Community Initiatives Program - Policy Update**

**Directorate:** Corporate and Community Services

**Report Author:** Claire Baker, Project Officer (Collaboration Lead)

5 **File No:** I2022/206

**Summary:**

10 The Community Initiatives Program (CIP) awards grants for projects that address a specific need, build a sense of community and align with Council priorities. Incorporated not-for-profit organisations and community groups auspiced by an incorporated organisation are eligible to apply for grants of up to \$5,000.

The Community Initiatives Program is governed by the Community Initiatives Program Policy (Policy). The Policy has been reviewed in accordance with the policy review schedule. This report recommends amendments to the draft Policy to remove duplication and improve program delivery.

15 The report seeks Council’s endorsement of the draft Community Initiatives Program Policy for public exhibition.

---

20 **RECOMMENDATION:**

1. **That Council endorses the proposed changes to the Community Initiatives Program policy, namely that:**
  - 25 a) **the ‘Reimbursement of Council Fees’ category from the Community Initiatives Program funding categories be removed**
  - b) **the ‘Educational Institution Award Presentations’ category from the Community Initiatives Program funding categories be removed**
  - 30 c) **the assessment criteria be consolidated from ten into four, as per Program Guidelines 2021**
  - d) **the condition of 25% matching contribution be removed**
2. **That the draft Community Initiatives Program policy be placed on public exhibition for a period of 28 days.**
- 35 3. **That any submissions received on the draft Community Initiatives Program policy be reported to Council for consideration, prior to the adoption of the draft Policy; and if no submissions are received, Council adopts the policy.**

**Attachments:**

- 1 DRAFT Policy: Community Initiatives Program (Section 356) 2022, E2022/11789 

## Report

The Community Initiatives Program policy (Policy) has been reviewed and amendments to the Policy to remove duplication and improve program delivery are recommended for Council's consideration.

- 5 The Community Initiatives Program (CIP) awards grants of up to \$5,000 for projects that address a specific need, build a sense of community and align with Council priorities. Incorporated not-for-profit organisations and community groups auspiced by an incorporated organisation are eligible to apply.

Currently there are three categories:

- 10
- **Community Projects** - up to \$5,000 for community projects that address a specific need, build a sense of community and align with Council priorities. Applications under this category must include a community contribution to the project's budget, known as a 25% matching contribution. Applicants must provide a budget.
  - **Reimbursement of Council Fees** - up to \$1,000 for the reimbursement of Council fees is available to assist with community activities. Applications will be considered retrospectively for fees paid within the previous 12 months
  - **Educational Institution Award Presentations** - up to \$100 is available for educational institutions to support their award presentations.
- 15

## Community Donations

- 20 The extent of community donations under s356 are provided in more detail in the 'Financial Considerations' section of this report. It should be noted that s356 donations are distributed via a number of programs, as outlined below. These multiple funding programs have significant overlap with CIP in terms of funding categories. The following recommendations serve to reduce this overlap by ensuring the focus of the CIP is solely upon community projects. Changes also improve the delivery to community.
- 25

- **CIP**

As provided by the Community Initiatives Program Policy, subject of this report.

- **Section 356 Donations - Rates and Charges**

- 30 Under *s356 Donations – Rates and Charges* and *s356 Donations – Rental Subsidies*, not-for-profit and/or providers of a charitable service are able to apply for exemption from annual rates, water and sewerage charges and rental subsidies, which means that this category of the CIP is a duplication of this same funding category. This double-up creates unnecessary confusion and duplication of process, including the need for cross-checks during the assessment process. Removing this category would improve process and outcome.
- 35

- **Rental subsidies**



- **Mayor’s Discretionary Fund**

5 Allocations under the *Mayor’s Discretionary Fund* are almost exclusively awarded for educational institution award presentations. According to Council reports, no applications have been received under this category of the CIP in the last five years. This creates unnecessary confusion and duplication of process, including the need for cross-checks during the assessment process. Removing this category would improve process and outcome.

- **Events and Festivals Sponsorship Fund**

10 **Assessment Criteria**

There is also a need to simplify assessment criteria as listed in the policy. Currently, there are ten criteria listed, which have proven difficult to administer. Last year, the guidelines were refined to simplify and consolidate the criteria into four. This worked much more effectively. This change will align policy and practice.

15 **Community Contribution**

20 Currently, the terms of the grant require community organisations to provide a matching contribution of 25%. Given the impacts of COVID over recent years and ongoing community need, the requirement of a 25% matching contribution may preclude a number of small community organisations that are under significant stress. In order to deliver the project, groups will necessarily be making an in-kind contribution in terms of volunteer time. It is therefore recommended that this requirement be removed, and co-contributions or matched funding be highly regarded.

**Strategic Considerations**

**Community Strategic Plan and Operational Plan**

| <b>CSP Objective</b>  | <b>CSP Strategy</b>  | <b>DP Action</b>  | <b>Code</b>    | <b>OP Activity</b>   |
|---|--|---|----------------|--|
| <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 | <b>5.2.3.2</b> | Review, update and publish Council policies online and report on the status of Council’s policy register |

25 **Recent Resolutions**

- **18-180** – current version of the Policy adopted by Council

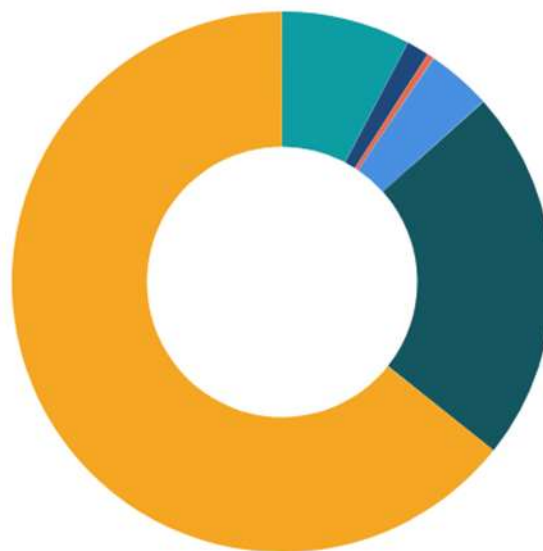
**Legal/Statutory/Policy Considerations**

[Section 356](#) of the Local Government Act 1993 provides that councils can “contribute money or otherwise grant financial assistance to persons for the purpose of exercising its functions”.

- 5 Requirements for publication of information about funds provided under this section are specified in the Local Government (General) Regulation 2021 [cl 217\(1\)\(a5\)](#).

**Financial Considerations**

- 10 In 2020/21 Council funded a wide range of events and projects that benefited local communities. A total of 54 community groups were supported through \$570,000 in donations, assisting them to offer services to Byron Shire residents and visitors. \$38,529.77 of this was distributed under the Community Initiatives program to nine community projects.



Community Initiatives Program (7.71%)    Events and Festivals Sponsorship Fund (1.36%)  
Mayor's Discretionary fund (0.4%)    As adopted in 2019/2020 Budget (3.91%)  
Section 356 Donations - Rates, Water, and Sewerage Charges (22.32%)    Rental subsidies (64.3%)

**Consultation and Engagement**

- 15 The draft Policy will be placed on public exhibition for a period of 28 days.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 13.8 Compliance Priorities Program Report 2021**

**Directorate:** Sustainable Environment and Economy

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

**File No:** I2022/52

**Summary:**

This report details activities undertaken to meet the adopted 2021 Compliance Priorities Program and seeks adoption of a Compliance Priorities Program for 2022.

10 It is recommended that Council focuses 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.

15

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**RECOMMENDATION:**

1. That Council notes the report on the Compliance Priorities Program 2021.

20 2. That Council adopts the proposed Compliance Priorities Program for 2022 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;

25 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;

30 1.6 Asbestos containing material ("ACM") being illegally dumped on public land (waste compliance).

2. High Priorities

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- 5
- 2.1 **Unauthorised events, wedding receptions, parties, 'doof and rave' parties where significant environmental harm or risk to people's lives;**
- 2.2 **Breaches of the NSW Fair Trading's 'Code of Conduct for the Short-Term Rental Accommodation Industry' where the breach falls within the jurisdiction of Council's enforcement powers;**
- 2.3 **Responses to complaints about recurring noise disturbance, public nuisance from premises, maintenance of alcohol free zones;**
- 10
- 2.4 **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;**
- 15
- 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);**
- 20
- 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;**
- 25
- 4.6 **Awareness of current public health requirements.**

## Report

5 Between 1 January 2021 and 31 December 2021 (“the reporting period”), the Animal Enforcement Officers, Community Enforcement Officers, Parking Enforcement Officers and Environmental Health Officers (“the Team”) received **4,117** Customer Request Management (“CRMs”). This is not dissimilar to the 2020 year, during which the team received **4,147**.

The 2021 CRMs are broken down into categorises below:

|  | <b>Received</b><br>(Comparison to<br>2020) | <b>Completed</b><br>(Comparison<br>to 2020) |
|--|--|---|
| <b>Animals</b><br>Sub-categories include:<br><ul style="list-style-type: none"> <li>• Cats – nuisance, stray or removal</li> <li>• Dogs – attack, barking, found, nuisance, restricted</li> <li>• Livestock</li> <li>• Poultry</li> <li>• Rabbits</li> <li>• Unregistered</li> </ul> | <b>773</b><br>(-70)                        | <b>768</b><br>(-93)                         |
| <b>Camping</b>   | <b>522</b><br>(-184)                       | <b>530</b><br>(-163)                        |
| <b>Fire Safety</b>   | <b>4</b><br>(+3)                           | <b>3</b><br>(-1)                            |
| <b>Footpath Usage</b><br>Subcategories include:<br><ul style="list-style-type: none"> <li>• Busking</li> <li>• Footpath dining etc.)</li> </ul>  | <b>11</b><br>(+6)                          | <b>11</b><br>(+5)                           |

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|  | <b>Received</b><br>(Comparison to 2020) | <b>Completed</b><br>(Comparison to 2020) |
|--|---|--|
| <b>Health</b><br>Sub-categories include: <ul style="list-style-type: none"> <li>• Asbestos</li> <li>• Building</li> <li>• Chemical spraying</li> <li>• COVID-19</li> <li>• Food poisoning</li> <li>• Food premises</li> <li>• Mosquitos</li> <li>• Water quality</li> <li>• Other</li> </ul>   | <b>105</b><br>(-34)                     | <b>148</b><br>(+15)                      |
| <b>Illegal Works or Use</b><br>Sub-categories include: <ul style="list-style-type: none"> <li>• Building</li> <li>• Building complete</li> <li>• Business</li> <li>• Land clearing</li> <li>• Development</li> <li>• Earthworks</li> <li>• Landuse</li> <li>• Fire safety</li> <li>• Swimming Pool</li> <li>• Hostel / Backpackers</li> <li>• Short term rental accommodation</li> <li>• Weddings</li> </ul> | <b>871</b><br>(+3)                      | <b>841</b><br>(+31)                      |
| <b>Noise</b>   | <b>195</b><br>(-3)                      | <b>188</b><br>(-20)                      |
| <b>Overgrown Property Reporting</b>  | <b>84</b><br>(+24)                      | <b>76</b><br>(+18)                       |

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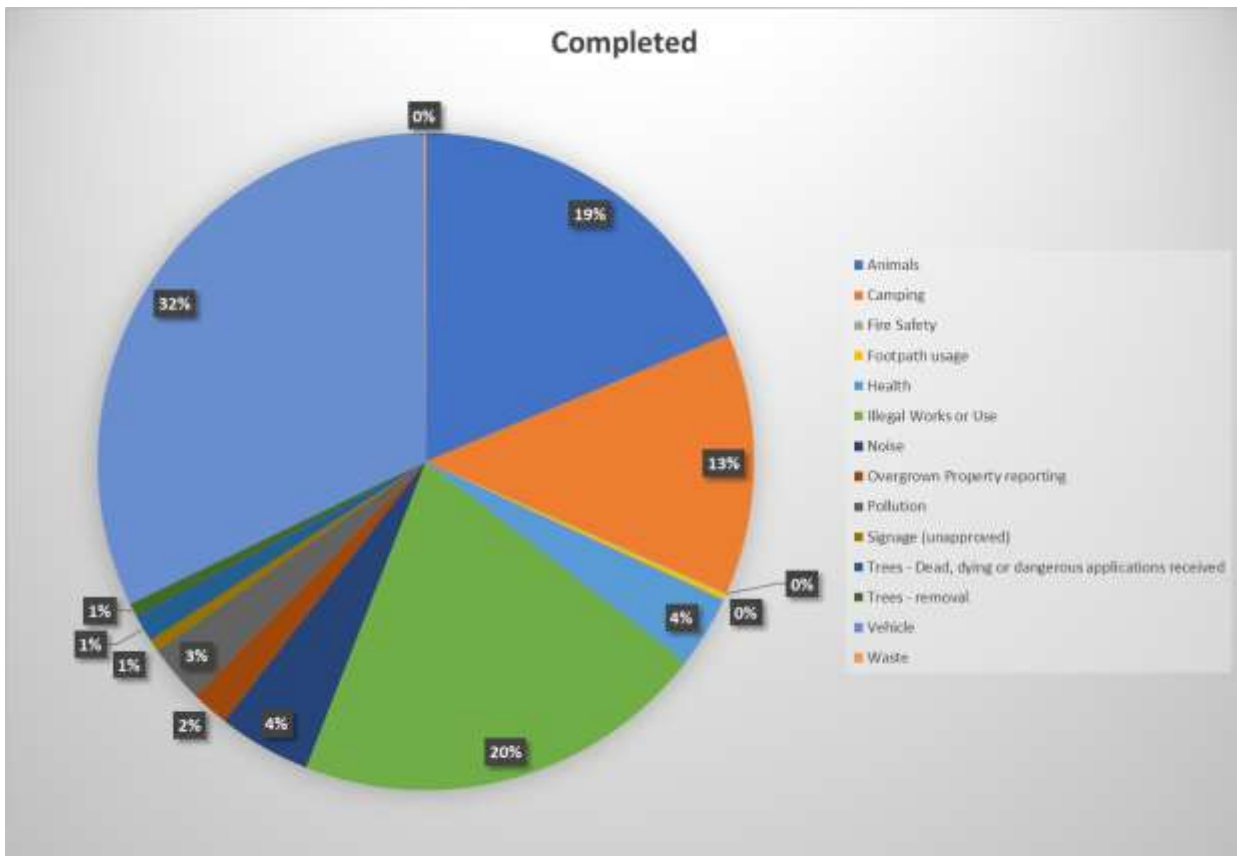
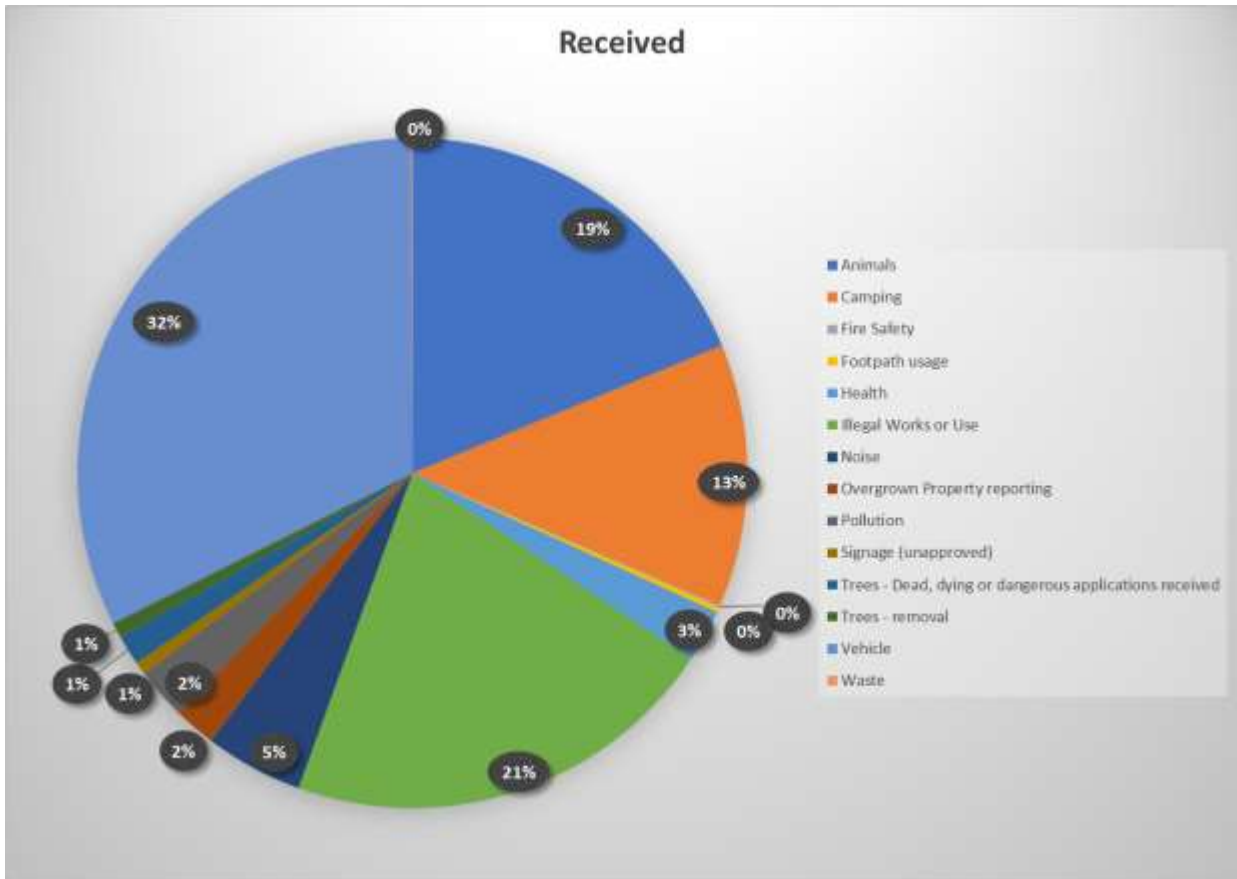
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|  | Received<br>(Comparison to 2020) | Completed<br>(Comparison to 2020) |
|--|----------------------------------|-----------------------------------|
| <b>Pollution</b>   | <b>103</b>                       | <b>119</b>                        |
| Sub-categories include:  | (-29)                            | (-14)                             |
| <ul style="list-style-type: none"> <li>• Air</li> <li>• Land</li> <li>• Light</li> <li>• Odour</li> <li>• Water</li> </ul> |                                  |                                   |
| Note: Noise reported separately  |                                  |                                   |
| <b>Signage - Unapproved</b>  | <b>25</b>                        | <b>24</b>                         |
|  | (+15)                            | (+14)                             |
| <b>Trees - Dead, Dying or Dangerous Applications Received</b>  | <b>59</b>                        | <b>55</b>                         |
|  | (+4)                             | (+3)                              |
| <b>Trees - Removal</b>   | <b>31</b>                        | <b>28</b>                         |
|  | (-5)                             | (-20)                             |
| <b>Vehicles</b>  | <b>1,331</b>                     | <b>1,318</b>                      |
| Sub-categories include:  | (+84)                            | (+14)                             |
| <ul style="list-style-type: none"> <li>• Abandoned</li> <li>• For sale</li> <li>• Parking</li> </ul>                       |                                  |                                   |
| <b>Waste</b>   | <b>3</b>                         | <b>4</b>                          |
|  | (-4)                             | (-3)                              |
| <b>TOTAL</b>   | <b>4,117</b>                     | <b>4,113</b>                      |

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

5 As can be seen in the following graphics, the vast majority of the team's work was dominated by vehicle, illegal works, animals and camping. Complaints received in relation to animals and camping have reduced in the last twelve months. Complaints relating to illegal works are similar to the previous year and vehicle complaints have increased.

# BYRON SHIRE COUNCIL





By way of general comment for the period:

- Unprecedented times continued throughout the period with the effects of a global pandemic impacting council staff, council services and local communities;
- 5 • The team displayed their resilience, adaptability and ability to frequently change their approach and environment due to the everchanging Public Health Orders and amendments to border restrictions;
- Some staff change took place including the advancement of a number of junior staff and the addition of experienced professional staff. This included three local junior staff progressing their careers after completing traineeships within the team;
- 10 • The amended illegal camping fine strategy (commenced in 2019) continued to prove more effective in relation to officer safety (particularly during COVID-19), higher payment of fines and a more effective deterrent of illegal camping in hot spot areas. The team continues to work effectively with Infrastructure Services to identify further areas that will benefit from early morning parking restrictions.
- 15 The enforcement team also continues to make best endeavours to respond to all manner of compliance priority duties across the whole of the Shire. This is undertaken in the context of a rotating roster. The start and finish times on the roster, as well as the days, are continuously varied to accommodate the need to patrol numerous places in towns, villages and the coast and due to time of year. This is balanced against the requirement
- 20 for the roster to also observe State Award and Work Place Health and Safety requirements for officers.

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

- 25 The following information is provided on the implementation and specific actions taken in relation to the adopted 2021 Compliance Priorities Program.

### Very High Priorities:

- 30 **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.**

In the reporting period Council received **871** CRMs relating to illegal works and has concluded **841** (including other previously received CRMs). This is relatively unchanged from the previous reporting period.

- 35 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.

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Under the terms of the Environmental Planning and Assessment Act, Council served **270** notices of entry to inspect premises in relation to unauthorised building works, activities and uses. This was a similar number to **271** in the previous reporting period.

## 1.2 Significant environmental and public health incidents.

5 In the reporting period Council:

- issued **167** notices and orders under the Local Government Act, Environmental Planning and Assessment Act and Protection of the Environment Operations Act. This was a significant increase from **53** in the previous reporting period.
- 10 • issued **29** penalty infringement notices under the Environmental Planning and Assessment Act with a total value of \$25,750.00. Again, a significant increase from **5** in the previous period.
- issued **5** pollution and littering related penalty infringement notices under the Protection of the Environment Operations Act, with a total value of \$11,000.00. There were **8** issued in the previous reporting period.
- 15 • finalised **5** Environmental Planning and Assessment Act court elected penalty notices in the Local Court for development without consent. Four of these matters were withdrawn. In the remaining matter, fines and costs were imposed totalling \$35,500.00. This is consistent with **4** in the previous reporting period.
- 20 • successfully finalised **14** Land and Environment Court matters. This was a significant increase from **6** in the previous reporting period.

## 1.3 Dangerous and/or menacing dogs.

In the reporting period, there were approximately **649** customer requests made in relation to dogs. A reduction from **675** in the previous period, possibly due to increased daily visible patrols of dog exercise areas and hot spots. These included:

25

| Customer Request Management Received | 2021       |
|--------------------------------------|------------|
| Dogs Attacks                         | <b>101</b> |
| Dogs Barking                         | <b>128</b> |
| Dogs Found                           | <b>123</b> |
| Dogs Nuisance                        | <b>292</b> |
| Dogs Restricted                      | <b>5</b>   |
| <b>TOTAL</b>                         | <b>649</b> |

In the reporting period Council:

- 30 • served **5** Intentions to Declare a Menacing or Dangerous Dog and issued **15** Orders relating to Menacing or Dangerous Dogs under the Companion Animals Act. This was consistent with the previous reporting period.
- 35 • completed daily patrols and issued **57** Companion Animal related penalty infringement notices to the value of \$23,115.00. This was an increase from **32** in the previous reporting period.

- successfully finalised **7** Local Court prosecutions in relation to a dog. Fines and costs were awarded to Council totalling \$3,645.00. This was consistent with the previous reporting period.

5

#### 1.4 Livestock on public roads

In the reporting period Council:

- received **39** customer requests in relation to cattle on public roads. This was approximately 40% less than the previous reporting period.
- issued **2** (one included three parcels of land) orders requiring a cattle owner to fence their property to ensure cattle do not escape onto public roads.

10

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

15

In the reporting period Council:

- issued **332** camping related penalty infringement notices with a total value of \$38,753. This was a significant decrease compared to **959** in the previous reporting period. This may be indicative of the changed type of illegal campers within the Shire from large percentages of tourists/backpackers pre COVID-19 to large percentages of homeless currently.
- issued **10,467** penalty infringement notices in relation to parking with a total value of \$1,760,545.00. This was an increase from **9,247** in the previous reporting period.
- obtained **64** convictions from the Local Court in relation to traffic, parking and unauthorised camping offences. In total Council was awarded fines and costs of \$16,905. This was consistent with the previous reporting period.
- issued **25** penalty infringement notices in relation to abandoned vehicles with a total value of \$13,750.00. A reduction from the previous reporting period.
- 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. This included Brunswick Heads and Seven Mile Beach areas.

20

25

30

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

35

In the reporting period there were no reports of asbestos dumping on public land. There were **10** in the previous reporting period.

#### High Priorities:

#### 2.1 Unauthorised events, wedding receptions, parties, 'doof and rave' parties where significant environmental harm or risk to people's lives.

40

Officers have continued to attend to reports of unauthorised events in conjunction with local Police where necessary. This included two 'doof' parties during COVID-19 restrictions.

5 **2.2 Responses to complaints about recurring noise disturbance, public nuisance from premises, maintenance of alcohol-free zones.**

In the reporting period, **195** noise complaints were received and responded to. This was very similar to the previous reporting period.

10 The team worked closely with local police and Infrastructure Services to increase no-alcohol signage in hot spot areas.

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

15 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 commenced the 'Dogs In Public Spaces Strategy' and are currently in the community feedback stage of that project. The team also commenced their participation in the 'Keeping Cats Safe at Home' project, in conjunction with the RSPCA.

**Medium Priorities:**

20 **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 In the reporting period, non-compliance with consent conditions were routinely responded to during the course of the abovementioned **270** 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 **43** unauthorised banners and signs. This was a significant increase from **10** in the previous reporting period.

30 **Routine Priorities:**

- (a) Companion Animals with a high emphasis on high visibility enforcement and public education (15-465).
- (b) Seasonal public health issues and community preparedness including issuing a minimum of two media releases.
- 35 (c) Tourist and visitor accommodation swimming pool safety, including legislative requirements.
- (d) Onsite sewage management systems (including CERC project).
- (e) Food Safety Inspections.
- 40 (f) Awareness of current public health requirements.

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In the reporting period, Animal Enforcement Officers undertook a proactive and highly visible enforcement and education approach to dog exercise areas within the Shire, on a daily basis. This continued to significantly increase their presence compared to previous reporting periods.

- 5 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.

- 10 During the reporting period **105** swimming pools inspected. **70** were satisfactory and **35** were unsatisfactory, requiring reinspection. This included **76** dwellings with **30** in the categories of short-term-rental-accommodation, tourist facilities or multi-dwelling properties.

- 15 In the reporting period, **353** inspections of fixed food premises (including COVID specific inspections during the lockdown period), **25** inspections of temporary food premises and **39** 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.

- 20 In the reporting period, **3** penalty infringement notices under the Food Act with a total value of \$2,200.00.

- 25 During the reporting period the Public Space Liaison Officers engaged with **999** people, a substantial increase from **572** in the previous reporting period. They made **208** referrals, provided **679** people with information, provided **36** people with material aid, undertook **147** joint patrols with various services, organised **26** clean-ups and made **39** temporary accommodation referrals to the Department of Communities and Justice. The Officers participated in the majority of the local monthly service coordination meetings.

#### **Short Term Rental Accommodation**

- 30 Under the NSW Government rules for short-term rental accommodation ("STRA"), Councils have a limited role, as most houses/apartments are legally able to operate for STRA without specific approval for the accommodation use.

- 35 However, in addition to monitoring the STRA Register, Council will monitor CRM's in relation to recurring issues raised by the operation of STRA including (but not limited to) fire safety, noise, parking, neighbourhood amenity issues and breaches of the State Environmental Planning Policies. Council will continue to respond to compliance issues within the jurisdiction of Council's enforcement powers but will also report formal compliance action to NSW Fair Trading, who enforce the 'Code of Conduct for the Short-Term Rental Accommodation Industry'.

- 40 Monitoring of CRM's and the STRA Register will also enable Council to capture sufficient data and evidence to identify if significant land use conflict is occurring in particular localities. Council can then use this data to inform the appropriate State Government agencies directly responsible with this legislation and hence assist in developing future compliance or educational material and programs.

It is recommended that breaches of the NSW Fair Trading's 'Code of Conduct for the Short-Term Rental Accommodation Industry' (where the breach falls within the jurisdiction of Council's enforcement powers) be added as a High Priority at 2.2 of the 2022 Compliance Priorities Program.

**5 Achievements 2021**

- The team continued to take a leading role in the implementation and changes of COVID-19 restrictions - educating the community, responding to community concerns, supporting other staff, supporting the community and quickly adapting to changes.
- 10 • All officers displayed 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.
- The Public Space Liaison Officers continued to assist and support rough sleepers in keeping up-to-date with COVID-19 restrictions and responses through interpersonal  
15 communications and the community brochure updates.
- The Public Space Liaison Officers helped facilitate the 'Extreme Weather Focus Group' to assist in development of the protocol.
- In February 2021, the Public Space Liaison Officers, with the support of enforcement officers, participated in Department of Communities and Justice's street count.
- 20 • Environmental Health Officers continued to provide 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 and responding to minor customer complaints to NSW Public Health.
- 25 • 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  
30 undertook joint inspections with Local Land Services and NSW Public Health.
- Management of a signage and regulatory infrastructure process between Infrastructure Services and the enforcement team.
- Ongoing engagement between the Parking Enforcement Team and Council's Events  
35 Coordinator to ensure that the highest and best use of parking enforcement resources during the course of events.
- The parking team completed the 'Local Government Road Safety Program' and officers continue to attend and address compliance issues for school zones throughout the Shire all year round.

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- 5 • Officers implemented use of PEMS (Parking Enterprise Management System) for improved overall governance of the parking systems, which translates into a quicker and more robust communication with the customer base when enquiries are made. Additionally, it allows operators to interrogate the system for compliance integrity and the measurement of system performance.
- 10 • The parking team undertook ongoing refinement of the Pay Parking precinct with improved supporting enforcement proficiency via enhanced software and in field equipment. Specifically, the use of 'Hand Held LPR' technology which gives officers a greater ability to test vehicle compliance and system integrity.
- 10 • The parking team continued educating the community and improving parking compliance.
- Parking Officers completed a parking meter identification and location audit.
- The team commenced the community consultation phase of the 'Dogs in Public Spaces Strategy'.
- 15 • The team commenced participation in the RSPCA's 'Keeping Cats Safe at Home' project.
- Media releases issued in relation to responsible dog ownership, illegal camping and joint interagency compliance actions.
- 20 • Staff attendance at training sessions (where able in the current climate) to develop greater collaboration within our area and develop skills and competencies within the team.
- 25 • Progressing reviews of Management of Contaminated Land Policy, On-site Sewage Management Systems in Reticulated Areas Policy, Busking Policy, Commercial Use of Road Reserve Policy, Road Air Space Policy, Footpath Dining Policy and Fundraising Community Organisations Policy.
- Ongoing review of short-term-rental-accommodation legislation and responses.
- Increased proactive companion animal patrols within dog exercise areas, dog prohibited areas and dog on lead compliance within public spaces.
- 30 • Undertook regular compliance inspections of all menacing/dangerous dogs within the Shire.
- Continued participation in State sponsored regional contaminated land program with Northern River Councils.
- Continued to successfully implemented the transition from State to Council, the responsibility for Underground Petroleum Storage Systems management.

- The parking enforcement supervisor negotiated a heavily discounted package for transition to the latest technology which should be completed by March / April 2022. An estimated saving of 100K

5 **Other key observations**

- Officers and administrative staff have continued to identify, respond and manage communications with several recurrent complainants who provide unsubstantiated and repeated complaints on a variety of lower priority matters, or issues outside of Council's control, which continues to greatly impact resources. A procedural approach to manage this, including the implementation of the Unreasonable Customer Conduct policy, has been successfully utilised with the assistance of Governance Services.
- A change in the type and nature of CRMs has occurred due to the impacts of COVID-19 restrictions. However, this has not decreased the number of CRMs being received.
- The enforcement team worked closely with the Public Space Liaison Officers, local police, NPWS, Crown Lands, Reflections Holiday Parks and NSW Public Health to manage COVID-19 impacts across a variety of matter via a cross-agency response. The agencies also worked at introducing changes to cross-agency infrastructure and signage to assist in proactively managing hot spots.
- 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 again postponed. Officers are seeking to progress this when restrictions permit.
- The free RSPCA microchip day was also postponed. Again, officers are seeking to progress this as soon as restrictions allow.

**Draft 2022 Compliance Priorities Program**

The following is proposed as the 2022 Compliance Priorities Program.

35 **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;
- 40 1.3 Dangerous and/or menacing dogs;



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1.4 Livestock on public roads;

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

5 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;

10 2.2 Breaches of the NSW Fair Trading's 'Code of Conduct for the Short-Term Rental Accommodation Industry' where the breach falls within the jurisdiction of Council's enforcement powers;

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

15 2.4 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;

20 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);

25 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;

30 4.6 Awareness of current public health requirements.

## Strategic Considerations

### Community Strategic Plan and Operational Plan

| CSP Objective   | CSP Strategy  | DP Action | Code | OP Activity |
|---|---|-----------|------|-------------|
| <b>CSP Objective - Community Objective 2:</b> We cultivate and celebrate our diverse cultures, lifestyle and sense of community           |   |           |      |             |
| <b>L2 CSP Strategy - 2.4 -</b> Enhance community safety and amenity while respecting our shared values                                    |   |           |      |             |
| <b>L3 DP Action - 2.4.3 -</b> Enhance public safety, health and liveability through the use of council's regulatory controls and services |   |           |      |             |
| <b>L4 Activity</b>  |   |           |      |             |
| <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  |           |      |             |
| <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  |

**Recent Resolutions**

- 2021-8

**Legal/Statutory/Policy Considerations**

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

- 5
- 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
- 5
- Road Transport Act 2013
  - 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 2022 Compliance Priorities Program is managed within the existing operational budget allocation.

### **15 Consultation and Engagement**

No consultation process is required in relation to this report.

STAFF REPORTS - INFRASTRUCTURE SERVICES

**Report No. 13.9 Byron Triathlon - Cycle Leg Route Options**

**Directorate:** Infrastructure Services

5 **Report Author:** James Flockton, Infrastructure Planning Coordinator  
Jess Gilmore, Events & Economy Team Leader  
Kirk Weallans, Project Engineer

**File No:** I2022/155

**Summary:**

10 The purpose of this report is to discuss options for the Byron Triathlon cycle leg route for the 2022 and future events.

In previous years community and business concern has been raised with regard to road closures. The event organiser have investigated an alternate route, however, it also has its down sides for both the community and the events success.

15 Staff are presenting the two options to Council for consideration due to the potential community and event impacts that could arise from the choosing either route for the cycle leg.




---

**RECOMMENDATION:**

20 **That Council:**

1. **Notes the importance of the Byron Triathlon event to the local community and businesses, as well as the Australian sporting community in general.**
2. **Supports the 2022 Byron Triathlon and future events using a similar route to the 2021 event as per attachment 2, and that this route is endorsed by Council, on the basis that the route is supported by the Local Traffic Committee at its April meeting.**
3. **Communicates its position to the local community via media release.**
4. **Requests the community and businesses respect this decision and support the organisers in the delivery of the 2022 Byron Triathlon.**


30 **Attachments:**

- 1 Byron Triathlon 2022 - Proposed alternative cycle route for consideration, E2022/16000 
- 2 Byron Triathlon 2021 cycle route, E2022/16007 
- 3 Byron Triathlon 2021 - post event research, E2022/16028 

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- 4 Byron Triathlon 2021 - legacy information provided, E2022/16029 

## Report

The purpose of this report is to consider options for the Byron Triathlon cycle leg route for the 2022 and future events.

### Information/Background:

- 5 Triathlon in Byron Bay is steeped in history and is now going into its 26th year. It is an Olympic Distance event and attracts around 1,400 competitors from many different countries. 2021 data provided by the organisers (as per attachment 4) shows the following value to the local area:
- 1,640 total participants; 6,724 total participants including spectators
- 10
- Average spend per participant was measured at \$350
  - The average night stay is 2.94 nights, with a total of 15,225 bed nights booked
  - \$2.35M direct visitor expenditure
  - 69% of participants are visitors to Byron Bay; 17% had never visited Byron before
- 15
- 78% of participants said they will return for a holiday experience in Byron Bay in the next 18 months

In addition to this, since inception in Byron Bay it has provided over one thousand work experience opportunities for local volunteers and youth, and raised \$139,300 in fundraising for community clubs. For more information see attachment 4.

- 20 The Byron Triathlon is a local, yet national event that has largely been a success for the town over the years. However, as the town has become busier the traffic impacts of the cycle leg has received complaints from parts of the community and business, but not all.

- 25 Following the complaints received from last year's event the event organisers have prepared an alternate cycle leg route - see attachment 1. Both the organisers and Council Staff feel the new route offers little improvement for the community yet carries considerable risk to the success of the event.

Triathletes like a flat and straight cycle route similar to the 2021 route – see attachment 2. The new route has numerous corners and has some hills. The event organisers are concerned that implementing the new route will create various issues and also impact the success of the event. They carry a concern that this route maybe the end of the event.

- 30 The Byron Triathlon creates a short term impact to the community of maximum 9 hours (4am to 1pm) of road closures per year. Further, the organisers have proposed to shorten the 2022 event by removing the Olympic Distance. Therefore the cycle leg will no longer be 40km, it will be 20km and this will shorten the road closure duration.

- 35 The event brings people to accommodation and restaurants in the area at a usually quiet time of year. Further, it is regional events such as these that create interest in active

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sports like triathlons, it provides a training ground for young, amateur, and professional athletes which may eventually become Olympians and win gold medals for Australia. It is essential for sports like triathlons that towns like Byron Bay continue to hold these events.

5 Given Council's interest in active transport and the idea of cars out, people in for Byron Bay, this event should be used to support those ideals. Therefore it should be Council who decide which cycle route is used for the 2022 and future Byron Triathlon events.

It is proposed that prior to reporting the event road closures to Local Traffic Committee, the route options should be reported to Council to agree upon the route Council wish to support.

### 10 **Key issues**

If the event is discontinued, the risk to visitor economy dependent businesses is significant, particularly on the back of the pandemic and its impact on visitation to the area.

Operational and strategic risks to Council include:

15 Reputation, image and branding - Council does not provide leadership through ethical, accountable and inclusive decision making due to failure in maintaining effective relationships with key stakeholders and appropriately manage its brand, resulting in negative impact on Council's reputation and standing within the community

20 Community services - Council's community services and amenities are not managed appropriately resulting in reduced levels of services and negative impacts on community wellbeing

25 Public space safety - Land owned or managed by Council for public recreation and event hire is not maintained or managed appropriately due to lack of inspection and maintenance programs and/or poor event planning, licensing and approval processes resulting in serious injury or death to a member of the public, potential legal ramifications, financial loss and reputational harm

### **Anticipated Community Impacts**

The following community impacts have been advised by the organisers:

| <b>ELEMENT</b> | <b>PROPOSED 2022 EVENT</b> | <b>RESULT</b>  |
|----------------|----------------------------|--|
| Day            | Saturday                   | Same weekend as past 25 years, back to the same day, Saturday.<br><br>Will not impact Sunday Mother's Day. |



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|   |  |  |
|---|--|--|
| Multi-Day   | Proposed 4 days of activities  | Will increase economic returns from one day to multiple days.  |
| Time  | Morning  | Moving from 12.00pm lunch time to early morning will significantly reduce impact in the key traffic loading period of a day.   |
| Bangalow Road Closure Times                         | Road closure with slip lanes on Bangalow Road  | <p>We would expect the build to commence under Police supervision at 5.30am.</p> <p>The roads would remain operating north and south until 6.45am, and start to close by 7.00am. The road would remain under closed conditions, along with slips lanes to an anticipated time of 9.45am.</p> |
| Course  | Proposed course closure to Suffolk Service Station   | <p>Allows Suffolk Park residents and businesses to travel north and south all day from Clifford Street via southern road network.</p> <p>This includes Baywood Chase, being open also via the southern roundabout.</p>   |
| Shirley Street and Police Station Corner Roundabout | Managed roundabout with 1 police and 2 traffic controllers   | All inbound traffic along Shirley Street to the south, detoured via the Butler St bypass road to Mitre10 and then follows up towards the beach via whichever road such as Jonson St. This will create a circular flow and reduce traffic confusion and blockages especially on roundabouts.  |
| Mitre10 Corner Jonson Street and Browning St        | Police and 3 traffic control to sort traffic into return north, and head south lanes                         | Motorist arriving at Mitre10 can be assisted individually to sort which direction they wish to travel, and explained the options. This will alleviate the traditional bottle neck of traffic getting stuck at Mitre10 and not knowing what to do,  |
| Browning St south onto Bangalow Rd                  | A slip lane managed by 6 traffic controllers from the Browning Street Roundabout to Baywood Chase Roundabout | <p>The slip lane will operate to release traffic build-up at Mitre10 for motorists who are determined to head south towards Suffolk Park.</p> <p>There are two pinch points requiring traffic control assistance.</p> <p>The entire length of the slip lane to be set with traffic</p>       |

# BYRON SHIRE COUNCIL

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|--|--|---|
|  | North  | cones, and monitored by 8 moto marshals and 2 police motos.<br><br>Speed to be reduced to 30kmh.  |
| Resident access from Lighthouse District | Slip lane from Pedersen, Cooper St, Ross St towards the south; or one lane on Lawson Street              | Options are being considered on how to allow local resident access to the lighthouse and surrounding district during the closure until 9.45.<br><br>There are two models being worked upon. |
| From 9.45am                              | Lighthouse district can be accessed continuously via a detour across Messenger Street to Browning Street |   |

## Strategic Considerations

### Community Strategic Plan and Operational Plan

| CSP Objective   | CSP Strategy  | DP Action   | Code    | OP Activity   |
|---|---|---|---------|---|
| <b>Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community</b> | 2.1: Support and encourage our vibrant culture and creativity | 2.1.7: Support range of existing, emerging and major events | 2.1.7.1 | Continue to support event organisers in the delivery of events. |

## Financial Considerations

Nil.

## 5 Consultation and Engagement

The following consultation activities have been undertaken:

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| <b>Who was consulted?</b>  | <b>How did consultation occur? e.g. email, verbal etc</b>       | <b>Comments/Feedback</b>   |
|--|---|--|
| Cr Lyon, John Carey (TfNSW), Siobhan Foley (for Tamara Smith MP) | General discussion at Local Traffic Committee 15 February 2022. | Did not have an opinion for either route. Agreed it should be a Council decision.  |
| Phillip Holloway   | Discussion 15 February 2022.                                    | Supported reporting to ET and Council to support the 2021 route.   |
| Council Executive Team   | Executive Team Meeting 9 March 2022                             | Executive Team supports the Byron Triathlon route options being reported to Council to agree upon which route should be used for the 2022 and future events. |
| Mike Crawley (NX Sports, event organiser)                        | Telephone conversation 15 February 2022.                        | Welcomed the opportunity to try and keep the 2021 route.   |
| Chief Inspector Matt Kehoe (NSW Police)                          | Telephone conversation 16 February 2022.                        | Comfortable with either route. Both have their issues which need to be managed.  |

**Report No. 13.10 Vallances Road & Natural Burial Ground - Update**

**Directorate:** Infrastructure Services

**Report Author:** Joshua Winter, Capital Works Engineer

5 **File No:** I2021/1584

**Summary:**

10 Council resolved **21-250** at the Council meeting of 24 June 2021 to progress with the planning and implementation of a Natural Burial Ground (NBG) at the Vallances Road STP site. This resolution was on the basis that the community-based Natural Burial Committee (the committee) would lead the project, undertaking the planning works and submitting the development application on behalf of Council.

15 Staff have since met with the committee and progressed some items, along the way building a feeling that ultimately the project should be run by Council, being the experienced party in project delivery and with resources to continue its progression. Staff have also determined that the most critical component of developing Vallances Road is the access constraints and are therefore intending to prioritise these works above all as outlined in the report.

20

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**RECOMMENDATION:**

**That Council:**

1. **Acknowledges the access constraints at the Vallances Road site currently being prohibitive to development of the site.**
- 25 2. **Prepares a feasibility of an access upgrade as a priority, including survey, concept design and costing, and that this be presented to Council by Q3 2022 to further clarify the potential development of this site.**
3. **Allocates an additional \$70,000 from the Sewer Capital Works Reserve to undertake these works.**
- 30 4. **Considers progressing with the development of scoping and feasibility of a natural burial ground and/or commercial nursery and/or education facility once the access constraints are known and funded.**
- 35 5. **Acknowledges that this resolution supersedes previous resolutions regarding a natural burial ground and/or commercial nursery and/or education facility at Vallances Road, to clarify the pathway for the site.**

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6. **Staff allocate members from the IS and SEE directorates to participate with Councillors \_\_\_\_\_ and \_\_\_\_\_ and the Natural Burial Committee in bi-monthly Project Reference Group meetings, commencing in April 2022.**
- 5 7. **That the Operational Plan activity 2.3.7.6 be amended to “Undertake the scoping, design and costing of the access upgrade to Vallances Road”.**

## Report

Council resolved 21-250 at the Council meeting of 24 June 2021 as follows;

- 5 1. *Adopts the 2021 Brunswick Valley – Vallances Rd Vision and Roadmap (Attachment 1 – E2021/60116) with an amendment to change the recommendation for the Natural Burial Ground to be a supported use at this location at Area A on map (E2021/84442)*
2. *Declares Area A as Byron Shire’s first natural burial ground.*
3. *Requests staff to collaborate and guide members of the community-based Natural Burial Committee with their onsite investigations and other reports that may be*  
10 *required to support their development application for a natural burial ground on Area A for lodgement with Council.*
4. ***Allocates the \$15,000 in the 2021/22 budget mentioned in the staff report to assist staff with enabling the ongoing governance of the Natural Burial Ground by the current Natural Burial Committee.***
- 15 5. *Proceeds with development of a scope for a plant nursery and environmental education facility at the Vallances Road site.*
6. *Receives a further report on the outcome of items 3,4 and 5 above.*

20 This resolution was on the basis that the community-based Natural Burial Committee (the committee) would lead the project, undertaking the planning works and submitting the development application on behalf of Council.

Staff have since met with the committee in September 2021 and continued engagement and progressing the project in line with the resolution (where possible). It has become apparent that the most suitable pathway for this project is for Council staff to undertake the planning and progression of the projects.

25 The most critical aspect of any development at this site, is the access, with constraints both at the intersection with Coolamon Scenic Drive, and along the access road itself to the site in question, being a single lane gravel road with limited or no passing ability and unsuitable for larger vehicles required for deliveries or construction at the site.

30 Therefore, the next step for this project is to ascertain an amount required to make upgrades to this access, suitable for development of the site as an essential first step before Council funds are spent developing the scope for a project that may not be financially feasible.

35 Once Council has been presented with this project and if Council chooses to fund the upgrade, there would be a lead time to the planning, design and construction of that project, which would allow sufficient time to develop the scope and potentially submit for and obtain DA approval for the subject projects (natural burial ground and/or commercial nursery and/or education facility).

To ensure the ongoing success of this project, a bi-monthly project reference group is proposed, to commence in April 2022 and to continue as required, including staff from Council’s Infrastructure Services and Sustainable Environment and Economy directorates, with Councillors and natural burial committee members.

**5 Strategic Considerations**

**Community Strategic Plan and Operational Plan**

| <b>CSP Objective</b>  | <b>CSP Strategy</b>  | <b>DP Action</b>   | <b>Code</b> | <b>OP Activity</b>   |
|---|--|--|-------------|--|
| <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 | 2.3.7: Deliver Open Space and Recreational services in line with Community Solutions Panel values (SP) | 2.3.7.6     | Coordinate the Natural Burial committee for Vallances Road |

The Community Strategic Plan action listed above, pending Council’s resolution, will require amending in accordance with the resolution.

**Recent Resolutions**

- 10 • Res **19-607**
- Res **20-669**
- Res **21-250**
- Res **22-044**

**Financial Considerations**

15 It is important to note that all costs associated with the project, as currently borne by the Sewer Fund, should be recouped when the developed site is ultimately purchased by the General Fund and the on-going operation of any new facilities can be commenced by General Fund staff.

20 This report is recommending Council allocate a further \$70,000 for the feasibility of the access upgrade required which can be funded from the source identified in proposed recommendation 3.

25 The provision of a cemetery is not a function of the Sewerage Fund and it will need to be a consideration should this proceed how the General Fund will acquire the site, fund any development, repay any costs currently incurred by the Sewerage Fund and future maintenance.

**Consultation and Engagement**

- May 2020 – Vision and Charter Workshop – Councillors and staff
- March 2021 – Internal stakeholder workshop including staff from all directorates.
- April 2021 – Consultation with Arakwal Corporation
- 5 • May 2021 – Councillor Strategic Planning Workshop
- June 2021 – Council Meeting and resolution 21-250
- September 2021 – Meeting with Natural Burial Committee
- October 2021 – Additional meeting with Committee (one member attended)
- November 2021 – Report to ET discussing the project
- 10 • November 2021 – Meeting with Councillors to discuss planning pathway
- December 2021 – Planning advice received from consultant, sent to committee
- January 2022 – Staff workshop to discuss the site and projects
- February 2022 – Council meeting and resolution 22-044
- March 2022 – Council meeting
- 15 • April 2022 – first project reference group meeting



REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

**Report No. 14.1 Report of the Local Traffic Committee Meeting held on 15 February 2022**

- 5 **Directorate:** Infrastructure Services
- Report Author:** Michelle Wilcox, Traffic & Parking Systems Officer
- File No:** I2022/211

**Summary:**

- 10 The attachment to this report provides the minutes of the Local Traffic Committee (LTC) Meeting held on 15 February 2022. The report makes recommendations as to Council's actions based on the LTC advice.

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15 **RECOMMENDATION:**

1. **That Council notes the minutes of the Local Traffic Committee Meeting held on 15 February 2022 (I2022/124) and agrees with and approves the following Committee Recommendations:**

2. **Report No. 6.1 Ewingdale Road Shared Path - Linemarking and Signage**  
File No: I2022/35

**Committee Recommendation 6.1.1**

**That the Local Traffic Committee endorse the attached detailed plans in terms of signage and linemarking for the Ewingdale Road Shared Path (Attachment 1 E2022/8110) including amendments agreed.**

20

3. **Report No. 6.2 Pocket Road Upgrade Stage 2 - Linemarking**  
File No: I2022/40

**Committee Recommendation 6.2.1**

**That the Local Traffic Committee endorse the detailed plans in terms of line marking for the Pocket Road Upgrade Stage 2 as per Attachment 1 (E2022/7060) including amendments agreed.**

**4. Report No. 6.7 2022 Splendour in the Grass Music Festival  
File No: I2022/65**

**Committee Recommendation 6.7.1**

1. That Council note the Traffic Guidance Schemes for the 2022 Splendour in the Grass to be held between 22<sup>nd</sup>-24<sup>th</sup> July, 2022. This includes:
  - a) The installation and enforcement of No Stopping signs every 75m on:-
    - i) Tweed Valley Way through to the shire boundary in the north;
    - ii) Brunswick Valley Way from Shara Blvd intersection in the south through to Tweed Valley Way intersection;
    - iii) Yelgun Road, from Tweed Valley Way and extending for 300m;
    - iv) Billinudgel Rd from Tweed Valley Way and extending for 280m.
  - b) An alternate temporary pick up and drop off Bus Zone (with associated signage and works) on the northern side of Fawcett St, between Mona Lane and the War Memorial, Brunswick Heads.
2. That the event organisers are to undertake the following:
  - a) Separate approvals by NSW Police and TfNSW being obtained, noting that the event is on a state road or may impact the state road network;
  - b) The Traffic Management Plan and Traffic Guidance Schemes be implemented by those with appropriate accreditation;
  - c) That the impact of the event be advertised via a notice in the local weekly paper a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.
  - d) The event be notified on Council's webpage with event details supplied to Council by the event organiser.
3. That the event organiser:
  - a) undertake consultation with community and affected businesses including adequate response/action to any raised concerns.
  - b) undertake consultation with emergency services and address any identified issues/concerns.
  - c) holds \$20m public liability insurance cover which is valid for the event.
  - d) pay Council's Road Event Application Fee prior to the event.
  - e) undertake an event debrief within one month following the festival which includes but is not limited to Council, TfNSW and Police representatives.

5. **Report No. 6.3 Event – Byron Coast Charity Walk – 30 April 2022**

File No: I2022/67

**Committee Recommendation 6.3.1**

1. **That Council support the Westpac Life Saver Rescue Helicopter fundraiser, Byron Coast Charity Walk, to be held Saturday 30 April 2022 from 5.00am – 5.00pm.**
2. **That Council support in Part 1 is subject to:**
  - a) **The development of a Traffic Guidance Scheme (TGS) and Traffic Management Plan(s) for the 2022 event by those with relevant and current TfNSW accreditation. The TGS(s) and Traffic Management Plan is to include, but is not limited to, the following:**
  - b) **Signage, which specifies the date, hours and nature of the event, be positioned at the entrance and exit of Seven Mile Beach Road one week prior to the event;**
  - c) **On the day of the event, at 500m intervals on Seven Mile Beach Road, and facing both directions of travel, signs advising of “ Special Event – Charity Walk Ahead” (or similar) are installed prior, and removed after, the event occurs;**
  - d) **A safety induction for participants advising of hazards be provided.**
  - e) **Implementation of the Traffic Management Plan and Traffic Guidance Scheme/s as designed by those with appropriate accreditation and implemented by people with appropriate accreditation, including traffic controllers.**
  - f) **Any concerns expressed by members of the public to be addressed by council or relevant authority before the event;**
3. **The event organiser at to:**
  - a) **Advertise the impact of the event, via a Variable Message Sign on site (event & date only) and notice in the local weekly paper, a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints;**
  - b) **Arrange for the event to be notified on Council’s webpage a minimum one week prior to the TGS being implemented;**
  - c) **Undertake consultation with affected community and businesses**

including adequate response/action to any raised concerns.

- d) Undertake consultation with emergency services and any identified issues addressed.
- e) Holding \$20m public liability insurance cover which is valid for the event.
- f) Paying Council's Road Event Application Fee prior to the event.
- g) Obtain NSW police approval before the event.

**6. Report No. 6.4 Event - Chincogan Walk and Charge 2022**  
File No: I2022/69

**Committee Recommendation 6.4.1**

- 1. That Council support the Chincogan Walk 2022 to be held on a day (as approved by asset owner) in March / April 2022 and Chincogan Charge 2022 to be held on Saturday 17 September 2022, between 8:00am and 5:30pm.
- 2. That Council support in Part 1 is subject to:
  - a) Traffic Guidance Scheme(s) and a Traffic Management Plan (TMP) being designed by those with the appropriate and relevant NSW (TfNSW) accreditation. The TGS(s) and TMP to include the closure of Dalley Street between Burringbar Street and Tincogan Street between 12.30pm-5.30pm;
  - b) The TGS to be generally in accordance with Attachment 1 (E2020/46680);
  - c) Implementation of the approved Traffic Management Plan and Traffic Guidance Scheme/s by those with appropriate TfNSW accreditation and the holding of current and appropriate levels of insurance and liability cover;
  - d) Separate approvals by NSW Police and TfNSW being obtained;
  - e) The March/April event date when specified is supported by staff prior to proceeding.
  - f) Any concerns expressed by members of the public to be addressed by council or relevant authority before the event;

**3. The event organiser at to:**

- a) **Advertise the impact of the event, via a Variable Message Sign on site and notice in the local weekly paper, a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints;**
- b) **Arrange for the event to be notified on Council's webpage a minimum one week prior to the TGS being implemented;**
- c) **Undertake consultation with affected community and businesses including adequate response/action to any raised concerns.**
- d) **Undertake consultation with emergency services and any identified issues addressed.**
- e) **Holding \$20m public liability insurance cover which is valid for the event.**
- f) **Paying Council's Road Event Application Fee prior to the event.**

**7. Report No. 6.5 Event - Mullum2Bruns Paddle 2022**

File No: I2022/70

**Committee Recommendation 6.5.1**

**That Council endorse the Mullum2Bruns Paddle 2022 to be held Sunday 29 May 2022, subject to:**

1. **The development and implementation of a Traffic Management Plan (TMP) and Traffic Guidance Scheme(s) (TGS) by those with appropriate TfNSW accreditation.**
2. **The TMP and TGS is to include, but not limited to, the following:**
  - a) **One way traffic along Brunswick Terrace, Mullumbimby, between 06:30am and 10:00am on Sunday 29 May 2022. The one way is to be from Tyagarah Street to Tincogan Street;**
  - b) **The right turn off Tincogan Street into Brunswick Terrace to have a "no right turn" sign;**
  - c) **The left turn off Tincogan St into Brunswick Terrace to have a "no left turn";**
  - d) **Relevant detour signs at the approaches to the impacted area;**

e) **No parking signs along the one way part of Brunswick Terrace.**

**3. The event organiser to:**

- a) **Advertise the impact of the event, via a Variable Message Sign on site and notice in the local weekly paper, a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints;**
- b) **Arrange for the event to be notified on Council's webpage a minimum one week prior to the TGS being implemented;**
- c) **undertake consultation with relevant community and affected businesses including adequate response/action to any raised concerns during and after the event;**
- d) **undertake consultation with emergency services and any identified issues addressed;**
- e) **hold \$20m public liability insurance cover which is valid for the event.**
- f) **Any concerns expressed by members of the public to be addressed by council or relevant authority before the event;**
- g) **Separate approvals by NSW Police and TfNSW being obtained**

**8. Report No. 6.6 Events - Bangalow Billycart Derby May 2022**

File No: I2022/95

**Committee Recommendation 6.6.1**

- 1. **That Council endorse the Bangalow Billy Cart Derby to be held on a Sunday in May 2022 (to be confirmed), or a postponed date as agreed with asset owners, that includes the temporary road closure below:**
  - a) **Byron Street, Bangalow between Ashton Street and Granuaille Road, between 6am and 4pm on the event day.**
- 2. **That the approval provided in Part 1 is subject to:-**
  - a) **Separate approvals by NSW Police and TfNSW being obtained, noting that the event is on a state road or may impact the state road network;**

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## REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

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- b) **Traffic Guidance Scheme(s) to be developed by people with the appropriate TfNSW accreditation;**
  - c) **Traffic Guidance Scheme(s) to be implemented by people with appropriate accreditation;**
  - d) **That the impact of the event be advertised via a notice in the local weekly paper a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints; and**
  - e) **The event notified on Council's webpage.**
3. **That the event organiser:-**
- a) **Undertake consultation with community and affected businesses including adequate response/action to any raised concerns;**
  - b) **Undertake consultation with emergency services and any identified issues addressed;**
  - c) **Holding \$20m public liability insurance cover which is valid for the event; and**
  - d) **Pays Council's Road Event Application Fee prior to the event.**

9. **Report No. 6.8 Brunswick Heads - Parking Limit Review**  
File No: I2022/103

**Committee Recommendation 6.8.1**

1. **That the Local Traffic Committee endorse the following parked time amendments to Attachment 1 (E2021/50167) as part of the Brunswick Heads Parking Limit Review:**
- a) **Mullumbimbi Street (Tweed to Park – northern side only); remain all day parking**
  - b) **Fingal Street (Tweed to 25 Fingal); remain all day parking**
  - c) **South Beach Road (full length); all day parking (western side only), 4 hours parking (beach side), Torkina Carpark 4 hours**

# BYRON SHIRE COUNCIL

## REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

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### **10. Report No. 7.1 Speed Zone Reviews**

File No: I2022/39

#### **Committee Recommendation 7.1.1**

**That Council note the speed zone reviews raised with TfNSW as listed in the report.**

#### **Attachments:**

- 1 Minutes 15/02/2022 Local Traffic Committee, I2022/124 

5



## Report

Roads and Maritime Services (RMS) is legislated as the organisation responsible for the control of traffic on all roads in New South Wales.

5 Council has been delegated certain aspects of the control of traffic on regional and local roads in its Local Government Area.

The Delegation requires Council to seek the advice of the NSW Police and RMS prior to exercising its delegated functions. This is usually done via the LTC.

10 The LTC is an external committee auspiced by RMS. The operations and membership of the Traffic Committee are guided by state legislation. The Committee is primarily a technical review committee. It advises Council on traffic control matters that have been referred by council. These matters must be related to prescribed traffic control devices or traffic control facilities for which Council has delegated authority.

Council must refer all traffic related matters to the LTC prior to exercising its delegated functions.

15 The LTC is to be made up of four formal members. The members are as follows:

- one representative of Council
- one representative of the NSW Police
- one representative of the RMS
- the local State Member of Parliament or their nominee.

20 Council's representative may be any Councillor or Council officer.

Council is not bound by the advice of the LTC.

LTC advice to Council must be one of the following:

- a) unanimous support;
- b) majority support;
- 25 c) split vote;
- d) minority support; or
- e) unanimous decline.

Council's action on the LTC advice will be:

- 30 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 RMS or the NSW Police representatives of the decision.
- 35 b) If Council is in agreement with the LTC unanimous support, but no longer wants to proceed, the proposal may still be rejected. There is no need for Council to inform RMS or the NSW Police representatives of the decision not to proceed.

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## REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

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- 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 RMS or the NSW Police representatives of the decision.
- 5 d) If Council decides to proceed with a proposal where the advice of the LTC is not unanimous support, then Council must first advise the RMS and the NSW Police representatives in writing of their intention to approve the proposal. RMS or the NSW Police may then lodge an appeal.
- 10 e) If Council decides to proceed with a proposal where the advice of the LTC is a unanimous decline, then 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.

The attachment to this report provides the minutes of the LTC meeting held on 15 February 2022.

- 15 The agenda for this meeting can be located on Council's website at:

[https://byron.infocouncil.biz/Open/2022/02/LTC\\_15022022\\_AGN\\_1470\\_AT.PDF](https://byron.infocouncil.biz/Open/2022/02/LTC_15022022_AGN_1470_AT.PDF)

### **Committee Recommendation**

#### **As per the Reports listed within the Local Traffic Committee Meeting of 15 February 2022 Management Comments**

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

Two reports sought minor amendment to the construction drawings, some comments were regulatory in nature and others did not relate to regulatory matters. The following amendments have been made to the drawings as agreed at the meeting:

#### 25 Ewingsdale Shared Path:

- Council has amended the regulatory shared path signage to warning signage as requested.
- Council has replaced the stop sign with a Giveaway sign as requested.
- An additional Giveaway sign at the interface of southern roundabout leg and the shared path for notice by eastbound cyclists has been included as requested.
- The LTC recommendation to move the road ahead sign closer to the road is in disagreement with the Austroads guidelines. The standard states that warning signs should be 50-80m before intersection points. We have the sign at 50m. AS1742 does not provide a recommended distance for the location of this sign but states that it is optional. Staff considers that the current sign location provides adequate warning for a cyclist that the path will terminate. Staff are of the view that if the sign was placed closer to the road then the warning distance for a cyclist may be insufficient particularly if the cyclist is moving at speed, therefore Council propose to leave the warning signage in the original location.

## BYRON SHIRE COUNCIL

### REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

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These outcomes have been discussed with the TfNSW, LTC representative.

#### The Pocket Road:

- 5 • Council designed the longitudinal linemarking of the Pocket Road design in accordance with Austroads guidelines. The requested centre linemarking adjustment is as per the RMS Delineation Manual – Section 4. The requested changes have been made.
  
- 10 • The location of the guard rail termination point was questioned by TfNSW, however, this is not a regulatory matter. The termination point of the guardrail at the eastern end of the project is designed to the 'point of need' design criteria. If we extend the guard rail it will require a redesign of deflection points and terminal treatments, therefore, we propose to leave the guardrail location alone. This is covered in our safety in design report for the project and considered to be a suitable outcome for the works.

These outcomes have been discussed with the TfNSW, LTC representative.

### 15 **Financial Implications**

As per the Reports listed within the Local Traffic Committee Meeting of 15 February 2022.

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

As per the Reports listed within the Local Traffic Committee Meeting of 15 February 2022.

**Report No. 16.1**      **CONFIDENTIAL - Former Mullumbimby Hospital Site Soil Contamination Cap and Soil Removal 2021-1218**

5

**Directorate:** Infrastructure Services  
**Report Author:** Michael Crosbie, Project Officer  
**File No:** I2022/97

**Summary:**

10 On 10 November 2021, the General Manager, under delegated authority, approved the use of the open tender method to call for tenders for Contract 2021-1218, Former Mullumbimby Hospital Site Soil Contamination Cap and Soil Removal.

The Request for Tender was advertised from 15 December 2021 to 3 February 2022. Tenders were received from the following organisations:

- 15
- East Coast Aerial Surveys
  - Engineering & Civil Contractors
  - RMA Contracting
  - Rugendyke & Bashforth Contractors
  - Synergy Resource Management
- 20
- TCDE Asbestos & Demolition

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 2021-1218.

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25 **RECOMMENDATION:**

1. **That pursuant to Section 10A(2)(c) and (d)i of the Local Government Act, 1993, Council resolve to move into Confidential Session to discuss the report Former Mullumbimby Hospital Site Soil Contamination Cap and Soil Removal 2021-1218.**

## BYRON SHIRE COUNCIL

### CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES

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2. That the reasons for closing the meeting to the public to consider this item be that the report contains:

- 5
- a) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business
  - b) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it

3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:

10 As noted above

### OR, ALTERNATIVELY WHERE THE MEETING IS NOT PROPOSED TO BE CLOSED:

#### RECOMMENDATION:

15 1. That pursuant to Section 11(3) of the Local Government Act, 1993, resolve that the Annexures to the report, Former Mullumbimby Hospital Site Soil Contamination Cap and Soil Removal 2021-1218 are to be treated as confidential as they relate to matters specified in s10A(2)(c) and s10A(2)(d)i of the Local Government Act 1993.

2. That Council adopt the recommendation set out on the final page of the Report.

#### 20 Attachments:

- 1 Evaluation Report for the capping of soil contamination, E2022/14913