



Byron Shire Council



Agenda

Ordinary Meeting

Thursday, 28 March 2019

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

***Public Access** relating to items on this Agenda can be made between 9.00am and 10.30am on the day of the Meeting. Requests for public access should be made to the General Manager or Mayor no later than 12.00 midday on the day prior to the Meeting.*

Mark Arnold
General Manager

CONFLICT OF INTERESTS

What is a "Conflict of Interests" - A conflict of interests can be of two types:

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

Non-pecuniary – a private or personal interest that a Council official has that does not amount to a pecuniary interest as defined in the Local Government Act (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 Section 448 of the Local Government Act.

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.

Participation in Meetings Despite Pecuniary Interest (S 452 Act)

A Councillor is not prevented from taking part in the consideration or discussion of, or from voting on, any of the matters/questions detailed in Section 452 of the Local Government Act.

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 if the provisions in S451 of the Local Government Act apply (particularly if you have a significant non-pecuniary interest)

RECORDING OF VOTING ON PLANNING MATTERS

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

- (1) In this section, **planning decision** means a decision made in the exercise of a function of a council under the Environmental Planning and Assessment Act 1979:
 - (a) including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but
 - (b) not including the making of an order under Division 2A of Part 6 of that Act.
- (2) The general manager is required to keep a register containing, for each planning decision made at a meeting of the council or a council committee, the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.
- (3) For the purpose of maintaining the register, a division is required to be called whenever a motion for a planning decision is put at a meeting of the council or a council committee.
- (4) Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document, and is to include the information required by the regulations.
- (5) This section extends to a meeting that is closed to the public.

BYRON SHIRE COUNCIL

ORDINARY MEETING

BUSINESS OF ORDINARY MEETING

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2. APOLOGIES

3. REQUESTS FOR LEAVE OF ABSENCE

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5. TABLING OF PECUNIARY INTEREST RETURNS (S450A LOCAL GOVERNMENT ACT 1993)

6. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

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15. QUESTIONS WITH NOTICE

Responses to Questions on Notice are now available on www.byron.nsw.gov.au/Council/Council-meetings/Questions-on-Notice

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.

between cost versus flexibility; it meant that although most configuration requirements can be met, there will always be some limitations with what and how things can be displayed on the website.

Community feedback received to date

Whilst there were some minor problems when the new website went live in 2018 there was nothing that was not expected when an organisation like Byron Shire Council makes the transition from an old website to a new one. Since February 2018 Council has received 38 feedback posts via the website. Twenty-eight comments related to *Find a DA*, with 26 comments being negative.

Problems identified by staff and website users (the public) after the launch of the new website included:

- *Broken links*
These links were progressively fixed as they were discovered. Staff also contacted some of our regular website users and asked them to let Council know when they discovered broken links so they could be fixed.
- *Lack of information on the new website/ information that was on the old website did not transfer to the new website*
There was a lot of information on the old website that was not transferred to the new platform and this was (and still is) viewed as a problem by some members of the community. The old website housed approximately 2,500 PDF documents and contemporary and best website management practice does not support the storing of many PDFs on websites. Some of the reasons for this are that many of the documents are out-of-date and not relevant or current, or recent Council matters and the PDFs are often not responsive to different devices (tablet, mobile phone etc.), nor are they compliant with Web Content Accessibility Guidelines (WCAG) for people with disabilities.
- It should be noted that a large number of these documents were development consent notices, and although not initially transferred to the new platform, most of these were successfully integrated into our eServices portal in late 2018 and are now accessible using DA Tracker.
- *Difficult to find information on development applications*
This is the area that the public have complained about the most and while there were some improvements in 2018 to make it easier to search and find information on development applications, it was clunky. Staff acknowledged this and on 15 March 2019 Council launched a new DA tracker function on the website and it is expected this will make getting information about DAs much easier for members of the public.
- The DA search functionality, which is administered by staff in the Sustainable Environment and Economy Directorate, is not supplied by Open Cities – it is part of the Civica platform, which is a stand-alone system surfaced via council's website and is essentially our Local Government customer portal.
- *Information is difficult to find*
It has become evident that staff have not included search words or meta-tags for some website pages and this means the information is not being picked up by search engines. This problem is being rectified as problems are discovered.

Improvements

Recognising the feedback and complaints about getting access to information about DAs the following improvements are being made:

- Track a DA and make a submission (15 March 2019). This DA Tracker tools are used by neighbouring Councils.
- Lodge DA electronically – Council is participating in an online DA lodgement pilot program with the Department of Planning. The intention is that once we are satisfied with the program and process, all applications will be lodged electronically.
- 3D Byron (Smart Cities and Suburbs) – allows people to view significant developments in 3D in relation to the surrounding area including height, shade, scale. It will be a requirement to submit a 3D model of the proposal to be viewed alongside plans and reports of development on exhibition.

Council also engaged a Website and Digital Content Officer in September 2018 to ensure the website remains current and responsive to customers needs. One of the roles of this position is to work with IT to refine the way some of the third party services work with the website with the aim of creating a seamless integration where possible.

Byron Model

Council is currently undertaking a deliberative democracy process (the Byron Model) to develop a model as to how decisions should be made in Byron Shire. As part of this process feedback has been received about how and when Council seeks involvement and shares information with the community. The project will conclude in May 2019 and Council has committed to a two-year trial of the recommendations. It is anticipated that the recommendations may include reference to Council's website and access to information.

Conclusion

While getting feedback from the public will provide information to Council, including some valuable ideas, the configuration limitations of any CMS and third party services may mean that some improvement recommendations may not be deliverable.

Based on feedback from other councils already using the improved DA tracking functionality, it is expected this problematic area of the website will be much easier for people to use and thus eliminate the majority of complaints that we currently receive.

Financial/Resource/Legal Implications:

Staff time would be required to seek submissions. Depending on the outcome, there would also be financial implications to implement any recommendations.

Is the proposal consistent with any Delivery Program tasks?

Yes. Council's 2017/2021(revised) Delivery Program includes:

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 5: We have community led decision making which is open and inclusive	5.1	Engage and involve community in decision making	5.1.3	Enhance community access through digital technologies which broaden participation and support inclusion	5.1.3.3	Provide additional ways to conduct business online
					5.1.3.4	Promote online opportunities for community access

Notice of Motion No. 9.2 Leg Rope Campaign
File No: I2019/367

I move:

That Council, through the Safe Beaches committee and its stakeholder groups, instigate a public safety awareness campaign focusing on inexperienced surfers and surfers that are not using leg ropes.

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Signed: Cr Cate Coorey

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Councillor's supporting information:

Personal experience at The Pass has shown me that this is a disaster waiting to happen. I have witnessed some hits and some near misses. There has been a level of media interest in this issue since the placing of an advertisement in the local papers by a local legal firm. This has been followed up on the ABS nationally and in the [Sydney Morning Herald](#).

15

Whilst what happens on the beaches is below the water line and thus not technically our responsibility, the perception is that Council has a role in making beaches safe and we already have a Safe Beaches committee which contains the relevant stakeholders that can help us enact any initiatives to reduce injury in the surf.

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Staff comments by Michael Matthews, Manager Open Space and Resource Recovery, Infrastructure Services:

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

25

Surfing without appropriate use of leg ropes creates a significant hazard to other bathers who are in the vicinity of surfers that choose this practice. Our oceans are subject to a variety of hazards that range from rips, submerged and floating objects, shark interactions, stingers and boat traffic to name a few. Incidents from the collision between water users and boards can and have been severe.

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If you consider the hazard of board and bather interaction and apply the hierarchy of hazard control, the use of leg ropes would be considered as an engineering control, being the third most effective hazard control behind elimination and substitution.

35

Council is not exposed to any liability due to not having any jurisdictional responsibility below the low water mark. Any efforts that result in improved public safety is clearly beneficial to our community and visitors. A public safety awareness campaign that achieves a reduction in this practice will improve water safety through reducing the risk of board impact.

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Financial/Resource/Legal Implications:

Council has no jurisdiction past the Low Water Mark on any beach that it is a Crown Land Manager within the shire.

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Council is not exposed to any liability because it simply has no jurisdictional responsibility.

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Is the proposal consistent with any Delivery Program tasks?

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



Notice of Motion No. 9.3 **West Byron - Alternate Zoning Plan**
File No: I2019/384

I move:

That Council proceed with the preparation of a planning proposal to rezone the West Byron Urban Release Area as per the Alternate Zoning Map in Attachment 1 (#E2019/19623) for submission to the Department of Planning for gateway determination.

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Attachments:

- 1 Alternate Zoning Map, E2019/19623 
- 2 Constraint Map, E2019/19635 

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Signed: Cr Michael Lyon

Councillor's supporting information:

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At the meeting of 22 November 2018, it was resolved (18-764) that Council:

1. *Notes the report on the West Byron Release Area zone application review*
2. *Considers the alternate West Byron Release Area zone application plan (Attachment #E2018/88447) for the purpose of preparing a formal planning proposal for the West Byron Release Area.*
3. *Embeds where appropriate the design parameters as shared during public access in the planning proposal mapping.*
4. *Through the Mayor, request an urgent meeting with the Minister for the Planning, the Hon Anthony Roberts and the NSW State Premier, Gladys Berejiklian to discuss the importance of the West Byron area zone application review and the need to expedite a planning proposal for the West Byron Release Area.*

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Based on this resolution, the West Byron Release Area alternate zone plan was updated based on further review of:

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- the material provided in Public Access; and
- work undertaken by a local consulting firm in 2015 for the Byron Residents Group.

This update resulted in a significantly smaller footprint for residentially zoned land, and a subsequent increase in the area of land proposed for environmental protection.

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The updated plan was tabled at a meeting in Sydney with senior officials of the Department of Planning and Environment, including advisors to the Minister for Planning.

40

The Departmental staff provided no objection to Council proceeding with a Planning Proposal to rezone the land based on the updated plan, and indicated that it would be assessed on its merits.

Subsequent to this meeting the map has been further refined and additional constraints and limitations recognised (Attachment 2 #E2019/19635), resulting in this final version ready for approval. These additions include the aligning of the southern boundary with the property boundary, acknowledgement of the 20 metre riparian buffer around the stream and a 50 metre buffer to the neighbouring property to the south.

Staff comments by Rob Van Iersel, Major Projects Planner, Sustainable Environment and Economy:

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

There are five steps in the Planning Proposal process which staff will observe:

The Planning Proposal – the planning proposal authority prepares the planning proposal. The planning proposal authority is usually the local council; however the Minister can appoint the Secretary of the Department of Planning and Environment, a regional planning panel or a Sydney planning panel to be the planning proposal authority.

Gateway – the Minister (or delegate) decides whether the planning proposal can proceed (with or without variation) and subject to other matters including further studies being undertaken, public consultation, public hearings, agency consultation and time frames. A planning proposal does usually not proceed without conditions of this nature. The conditions are then complied with and if necessary, the proposal is changed. A decision on whether the relevant council is able to finalise particular types of LEPs is also determined at this stage.

Community Consultation – the proposal is publicly exhibited as required by the Minister. A person making a submission may also request a public hearing be held.

Assessment – the planning proposal authority reviews public submissions. Parliamentary Counsel then prepares a draft local environmental plan.

The Making of the LEP – with the Minister's (or delegate's) approval the local environmental plan is published on the NSW legislation website and becomes law.

Financial/Resource/Legal Implications:

Task to be managed within existing financial / legal and resource allocations.

Is the proposal consistent with any Delivery Program tasks?

CSP Objective	L2	CSP Strategy
Community Objective 4: We manage growth and change responsibly	4.1	Support the visions and aspirations of local communities through place-based planning and management

Notice of Motion No. 9.4 Security Cameras on Council Road Reserve in Grays Lane
File No: I2019/396

I move that:

1. Council install surveillance cameras in the Council managed road reserve along Grays Lane in order to record traffic movements and vehicle registrations to assist in the overall management of the inappropriate behaviour in and around the Tyagarah beach and reserve
2. That Council proceed installing cameras and associated signage on Crown land where needed and appropriate
3. Council not install surveillance cameras on or in the Tyagarah Nature Reserve until such time as council receives owners consent for such action

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Signed: Cr Alan Hunter

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Councillor's supporting information:

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At the Council Ordinary Meeting on the 13 December 2018 Council resolved to fund and install cameras at the Grays Lane carpark and surrounding area but Council staff attend a meeting with the Byron Coast Area Joint Management Committee and Police seeking feedback on the effectiveness or otherwise of cameras located at the beach as a crime prevention measure.

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As a result of that meeting Council received letter from Crown Lands consenting to the cameras and signage on the beach.

A second letter on 5 March 2019 NPWS advising Council as follows:

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1. *the Committee does not support the installation of surveillance cameras and signage in the Tyagarah Nature Reserve for the purposes as discussed at the meeting on 18/2/2019*
2. *to reconsider the placement of cameras and signage and suggest that the objectives of the program to capture vehicle registrations can be satisfied by placing cameras on Council's road reserve at the western entrance to the Tyagarah Nature Reserve*

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Staff comments by Michael Matthews, Manager Open Spaces and Resource Recovery, Infrastructure Services:

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

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A range of battery operated 1080p IP security cameras have been identified as suitable for registration plate capture and recognition at a relatively low cost.

40

To resource the management of the cameras, a routine inspection program shall be implemented that includes a weekly visual inspection for identification and rectification of theft or vandalism of equipment and signage. A monthly inspection to confirm functionality will also be required. This will require a working at heights safety procedure to be implemented.

Physical retrieval of footage on request from authorities would be undertaken by field staff and provided to Legal Services for processing and actioning of the request.

Financial/Resource/Legal Implications:

- 5 Sufficient funds have been allocated via Resolution **18-698**. As a result of the non-support for cameras within NPWS estate, the scope of camera installation from this NOM is reduced. A reduction in budget would be recognised through the March 2019 quarterly budget review.

- 10 Council has the legal ability to place, operate and maintain the proposed optical surveillance devices (subject to consents) as Council is exempt from the provisions of sections 11 (*filming a public place*) and 18 (*disclosure to the NSW Police Force*) of the *Privacy and Personal Information Protection Regulation 2005*. Council must still comply with the provisions of section 10 by installing signage sufficient to inform a majority of individuals that optical surveillance devices (over fixed cameras) are in operation and, by implication, that personal information is being collected.

- 15 Signage must also inform individuals of the purposes for which the information was being collected. It will also be necessary for the signage to clearly identify that the footage is to be disclosed to the NSW Police Force.

As stated above cameras of the type proposed are an optical surveillance device. Their operation is governed by the Surveillance Devices Act 2007.

- 20 Is the proposal consistent with any Delivery Program tasks?

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community	2.3	Provide accessible, local community spaces and facilities	2.3.5	Maintain Public Open space in a safe and efficient way that provides for both active and passive recreation (SP)	2.3.5.2	Enhance beach safety at Tyagarah Reserve through a number of initiatives including the installation of cameras

Notice of Motion No. 9.5 **Climate Emergency Guidance Group changes**
File No: I2019/397

I move:

1. **That the Climate Emergency Guidance Group, be renamed the Climate Emergency Working Group;**
2. **That Council endorse the Climate Emergency Working Group as an adjunct group of the Sustainable Emissions Reduction Committee, subject to the approval of the SERAC.**

Signed: Cr Cate Coorey

Councillor's supporting information:

At Council meeting of 18 Oct 2018 Council passed **Resolution 18-680 - Climate Emergency Declaration**, Parts 2 and 3 of the resolution are as follows:

2. *That the recommendation be added to the Agenda of the upcoming Sustainable Emissions Reduction Advisory Committee meeting for their input to convene a community-led Climate Emergency Guidance Group that provides a report as to how Council may assist;*
3. *That the Guidance Group develops a Shire-wide Community Climate Emergency Plan to further enhance resilience and reduce climate impacts in a timeframe that is as fast as practicably possible;*

In the intervening months, it has become apparent that the best way forward for the Climate Emergency Guidance Group to achieve (3) is to operate as an adjunct to the Sustainable Emission Reduction Advisory Committee and to be a working group of that committee. This enables capacity under the auspices of that Committee.

This NoM seeks to rename the group as a working group under SERAC and to call for Council endorsement of this. The minutes of the SERAC from 13 March will not come to Council until the April meeting. In order to enable the Working Group to get started sooner, and because by the time of this Council meeting I anticipate that the SERAC will have voted to support the Climate Emergency Working Group, I am moving the NoM to give the Group certainty and assure them they have the support of Council.

Links:

[Strong support for climate emergency](#)
[Dire warning from IPCC report](#)

Staff comments by Sharyn French, Manager Environmental & Economic Planning, Sustainable Environment and Economy:

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

The Sustainability and Emissions Reduction Advisory Committee is the most appropriate Council committee for the Climate Emergency Working Group. Under SERACs Constitution project reference groups can be established:

Project Reference Groups may be established by Council at the recommendation of the committee to address issues clearly identified by the committee. Project Reference Groups operate in accordance with Council's adopted Constitution template for Project Reference Groups.

- 5 If Council supports the Climate Emergency Working Group then a constitution for the group would need to be prepared.

Financial/Resource/Legal Implications:

- 10 If Council were to support the Climate Emergency Working Group as an adjunct to SERAC it does not carry with it the presumption that Council resources are available to the working group. Council would need to consider an allocation if required by the working group.

- 15 Is the proposal consistent with any Delivery Program tasks?

CSP Objective	L2	CSP Strategy	L3	DP Action
Community Objective 5: We have community led decision making which is open and inclusive	5.1	Engage and involve community in decision making	5.1.1	Facilitate inclusive community consultation and stakeholder engagement to inform Council decision making (SP)

Notice of Motion No. 9.6 **Draft Charter of Human Rights and Responsibilities**
File No: I2019/402

I move:

That Council support the *Charter of Human Rights and Responsibilities - Byron Shire* and implement its principles consistently with Council's powers and responsibilities and with current laws.

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Attachments:

1 Charter of Human Rights and Responsibilities - Byron Shire, E2019/18860 

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Signed: Cr Michael Lyon

Councillor's supporting information:

15 On 30 June 2018 former Human Rights Commissioner Professor Gillian Triggs spoke at the Ngarra Institute's annual lecture in Mullumbimby. The title of her lecture was "It's time for an Australian Bill of Rights".

20 Professor Triggs said "We now need, as a matter of urgency, some form of legislated charter of rights to protect fundamental common law freedoms in Australia and ensure we meet our international human rights obligations that we as a nation have committed to by treaty over the last 70 years or so."

25 She encouraged everyone to come together and create a charter at a local level which then could be used to pressure the State Governments (Victoria currently has a charter of human rights that is supported by an Act but no other state has) and eventually the Federal Government.

30 Professor Triggs also said that a federally legislated Charter of Rights would better protect the rights of citizens, minorities and non-citizens, and ensure a culture of respect for the rights that underpin our democracy – freedom of speech, the right to vote, and equality.

Since that lecture a group of around 20-30 people led by prominent local lawyers have produced a draft document.

35 Council's Legal Services team was asked to advise whether there is any cause for concern with Council either:

- a. indicating support for the Charter of Human Rights and Responsibilities; or
- b. adopting the Charter of Human Rights and Responsibilities.

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Staff comments by Ralph James, Legal Counsel:

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

Council's functions and responsibilities

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The *Local Government Act 1993* (LG Act) sets out Council's responsibilities and powers (see section 7). Council has service functions, regulatory functions and ancillary functions under the LG Act.

Section 223 of the LG Act provides the role of the governing body of Council is as follows:

- (a) to direct and control the affairs of the council in accordance with this Act,
- 5 (b) to provide effective civic leadership to the local community,
- (c) to ensure as far as possible the financial sustainability of the council,
- (d) to ensure as far as possible that the council acts in accordance with the principles set out in Chapter 3 and the plans, programs, strategies and policies of the council,
- 10 (e) to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council,
- (f) to determine and adopt a rating and revenue policy and operational plans that support the optimal allocation of the council's resources to implement the strategic plans (including the community strategic plan) of the council and for the benefit of the local area,
- (g) to keep under review the performance of the council, including service delivery,
- 15 (h) to make decisions necessary for the proper exercise of the council's regulatory functions,
- (i) to determine the process for appointment of the general manager by the council and to monitor the general manager's performance,
- (j) to determine the senior staff positions within the organisation structure of the council,
- (k) to consult regularly with community organisations and other key stakeholders and keep them informed of the council's decisions and activities,
- 20 (l) to be responsible for ensuring that the council acts honestly, efficiently and appropriately.

Council is unable to exceed the role provided for it pursuant to the LG Act.

- 25 Section 223 (1)(d) requires Council to act as far as possible, in accordance with the principles in Chapter 3 of the LG Act. Section 8A is relevant in that regard and states:

- (1) *Exercise of functions generally*
The following general principles apply to the exercise of functions by councils:
- 30 (a) Councils should provide strong and effective representation, leadership, planning and decision-making.
- (b) Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.
- 35 (c) Councils should plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- (d) Councils should apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
- 40 (e) Councils should work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
- (f) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.
- (g) Councils should work with others to secure appropriate services for local community needs.
- 45 (h) Councils should act fairly, ethically and without bias in the interests of the local community.
- (i) Councils should be responsible employers and provide a consultative and supportive working environment for staff.
- 50 (2) *Decision-making*
The following principles apply to decision-making by councils (subject to any other applicable law):
- (a) Councils should recognise diverse local community needs and interests.
- 55 (b) Councils should consider social justice principles.

- (c) Councils should consider the long term and cumulative effects of actions on future generations.
- (d) Councils should consider the principles of ecologically sustainable development.
- (e) Council decision-making should be transparent and decision makers are to be accountable for decisions and omissions. *[emphasis added]*

(3) Community participation
Councils should actively engage with their local communities, through the use of the integrated planning and reporting framework and other measures.

In particular, please note principles 2(b) and (e) above, that councils should consider social justice principles and Council decision making should be transparent, with Councils decision makers being accountable for decisions and omissions.

'Support' of the Charter

The draft Charter of Human Rights and Responsibilities (Charter) would be able to be 'supported' by Council. The 'supporting' of the Charter is able to be characterised as consistent with Council's functions and powers under the LG Act.

Some of the principles included in the Charter are already embodied in law and the relevant law would operate in any event to afford the protection which is sought to be achieved through the Charter.

The principle may be expressed differently in law however, and it should be understood that the general law will prevail. For example, the "right to privacy" is expressed in a variety of legislation in NSW and at the Commonwealth level. The "right" is expressed in more detail in that legislation and includes obligations of agencies and government to protect and afford privacy.

Similarly, the right to public life is expressed in a broad sense in the Charter, but specific rights relating to hearing of persons objections (for example) are expressed in legislation including the *Environmental Planning and Assessment Act 1979* and related Regulations.

It is important to appreciate that "rights" expressed in the Charter are subject to existing laws. Council should be aware of this and acknowledge such in its 'support' of the Charter.

Adopting or implementing the Charter

If Council sought to 'implement' the Charter, it would be important for Council to note that the Charter was subject to existing laws and could not derogate from existing laws. Where any inconsistency between the Charter and existing laws arose, the existing law would prevail.

This appears to be what the 'Statement of Compatibility' at the conclusion of the Charter seeks to achieve. Council may wish to express 'implementation' of the Charter as an expression of how it considers social justice principles in its decision making, pursuant to section 8A(2)(b) of the LG Act (subject to existing laws and functions and powers as noted below).

In each exercise of 'implementing' the Charter, Council would need to ensure that the implementation was consistent with the role, powers and functions of a Council, provided in the LG Act (principle 2(e) as provided in Section 8A of the LG Act is relevant in this regard).

Council is unable to perform functions or exercise powers not specified in the LG Act.

There are a number of matters referred to in the Charter that extend beyond Council's functions and powers, such as the right of assembly, strike and protest. Potential conflicts with powers under

the LG Act may arise, such as a Development Control Order which (after being properly considered) causes a person to become homeless, whereas the Charter provides for a right to shelter. Existing laws must prevail.

- 5 In summary, it is possible for Council to seek to 'implement' the Charter however there will be potential conflicts with existing laws, and a consideration of compatibility with functions and powers would need to be considered with every 'implementation' of the Charter.

Financial/Resource/Legal Implications:

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Staff time only

Is the proposal consistent with any Delivery Program tasks?

15

CSP Objective	L2	CSP Strategy
Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community	2.1	Support and encourage our vibrant culture and creativity


SUBMISSIONS AND GRANTS**Report No. 11.1 Byron Shire Council Submissions and Grants as at 28 February 2019****Directorate:** Corporate and Community Services**Report Author:** Alexandra Keen, Grant Coordinator**File No:** I2019/254**Theme:** Corporate Management
Corporate Services**Summary:**

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

RECOMMENDATION:

That Council notes the report and attachment (#E2019/17068) for the Byron Shire Council Submissions and Grants as at 28 February 2019.

Attachments:

1 Grants Register as at 28 February 2019, E2019/17068 

Report

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

5 Successful Applications

- Main Arm Road Curve Improvement, Main Arm, Safer Roads Program, NSW Roads and Maritime Services.
- Coolamon Scenic Drive, Coorabell, Safer Roads Program, NSW Roads and Maritime Services.
- Bangalow Road, Byron Bay, Safer Roads Program, NSW Roads and Maritime Services.
- Main Arm and Settlement Road intersection safety treatments, Black Spot Program, Commonwealth Department of Industry, Innovation and Science.
- Lone Goat Gallery Refurbishment and Equipment, Stronger Country Communities Fund, Round 2, NSW Department of Premier and Cabinet.
- Contaminated Land Officer, Council Regional Capacity Building Program, NSW Environment Protection Agency (application made by the Northern Rivers Joint Organisation of Councils – Ballina is the lead council).

20 Unsuccessful Applications

- No unsuccessful notifications received during February 2019.

Submitted

- Heritage Advisory Service, Byron Shire Heritage Conservation Area Review, and Byron Shire Local Heritage Grants, Community Heritage, NSW Office of Environment and Heritage.
- Byron Creek Bridge, Bridges Renewal Program, Commonwealth Department of Infrastructure, Regional Development and Cities.
- South Arm Bridge, Bridges Renewal Program, Commonwealth Department of Infrastructure, Regional Development and Cities.

Additional information on the grant submissions is provided in Attachment 1 – Submissions and Grants report as at 28 February 2019.

STRATEGIC CONSIDERATIONS

Community Strategic Plan and Operational Plan

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

40 *Legal/Statutory/Policy Considerations*

Under Section 409 3(c) of the *Local Government Act 1993* Council is required to ensure that 'money that has been received from the Government or from a public authority by way of a specific purpose advance or grant, may not, except with the consent of the Government or public authority,

be used otherwise than for that specific purpose'. This legislative requirement governs Council's administration of grants.

Financial Considerations

If Council is successful in obtaining the identified grants, more than \$9 million would be achieved which would provide significant funding for Council projects. Some of the grants require a contribution from Council (either cash or in-kind) and others do not. Council's contribution is funded. The potential funding and allocation is noted below:

Requested funds from funding bodies	9,860,000
Council cash contribution	6,945,817
Council in-kind contribution	42,750
Other contributions	19,373,150
Funding applications submitted and awaiting notification (total project value)	36,221,717

Consultation and Engagement

In relation to the Stronger Country Community Grants, Council has been actively engaging with the Community Groups that were successful in obtaining grants, to ensure delivery of the projects.

Cross-organisational consultation has occurred in relation to the submission of grants, and the communication of successful and unsuccessful grants.

STAFF REPORTS - GENERAL MANAGER

Report No. 13.1 Adoption of a Code of Meeting Practice**Directorate:** General Manager**Report Author:** Ralph James, Legal Counsel**File No:** I2019/23**Summary:**

On 14 December 2018 the Model Code of Meeting Practice (Model Meeting Code) was prescribed. This Model Meeting Code is made under section 360 of the *Local Government Act 1993* (the Act) and the *Local Government (General) Regulation 2005* (the Regulation).

Council has six months from the date of prescription (ie to 14 June 2019) to adopt a Code of Meeting Practice. If Council fails to adopt a Code of Meeting Practice by then, the mandatory provisions of the Model Meeting Code will automatically override any provisions of Council's adopted Code that are inconsistent with those contained in the Model Meeting Code.

The Code of Meeting Practice will apply to all meetings of Council and committees of Council of which all the members are Councillors. Council committees whose members include persons other than Councillors may adopt their own rules for meetings unless Council determines otherwise.

Council must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code.

Council's adopted code of meeting practice may also incorporate the non-mandatory provisions of the Model Meeting Code and other supplementary provisions. However, a code of meeting practice adopted by Council must not contain provisions that are inconsistent with the mandatory provisions of this Model Meeting Code.

Both the mandatory and non-mandatory provisions of the Model Meeting Code were extensively discussed at a workshop on 7 March 2019. The provisions of the Code of Meeting Practice reflects the outcome of those discussions.

RECOMMENDATION:

1. That Council note that the Code of Meeting Practice (E2019/2001) incorporates the mandatory (as well as some of the non-mandatory provisions) of the Model Code of Meeting Practice for Local Councils in NSW prescribed on 14 December 2018
2. That Council endorse the Code of Meeting Practice and place it on public exhibition for a period of 28 days and invite submissions for a period of 42 days (those periods running concurrently) and that;
 - 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 at its 27 June 2019 Ordinary Meeting.

Attachments:

- 1 Code of Meeting Practice for Byron Shire Council, E2019/2001 

REPORT

On 14 December 2018 the Model Code of Meeting Practice for Local Councils in NSW (Model Meeting Code) was prescribed.

Section 360 of the Local Government Act was amended to provide that councils must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code, not later than 12 months after an ordinary election of councillors.

However, although the amended s360 of the Local Government Act provides 12 months from an ordinary election of councillors for a code of meeting practice to be adopted that incorporates the mandatory provisions of the Model Meeting Code, if a council has not adopted such a code of meeting practice by 14 June 2019, s117(2) of Schedule 8 to the Local Government Act will operate and make any existing code of no effect to the extent that it is inconsistent with the mandatory provisions of the Model Meeting Code.

Put simply, Council's previous Code is saved until 14 June 2019. After then, it will be of no effect to the extent it is inconsistent with the Model Meeting Code.

Given the required exhibition and submission period (42 days) and assuming that there will be submissions, Council will not be in a position to adopt the Code of Meeting Practice until its 27 June 2019 Ordinary Meeting.

The Model Meeting Code comprises of mandatory and non-mandatory provisions.

On 7 March 2019 a Strategic Planning Workshop was conducted with Councillors. At the workshop the mandatory and non-mandatory provisions of the Model Meeting Code were discussed. So too were provisions of Council's current Code of Meeting Practice which were considered worthy of inclusion in the Code of Meeting Practice proposed to be adopted.

Councillors at the workshop gave a clear indication as to which non-mandatory provisions of the Model Meeting Code ought be included in the Code of Meeting Practice proposed to be adopted.

Council's Code of Meeting Practice is attachment 1. It contains all of the mandatory provisions of the Model Meeting Code together with those of the non-mandatory provisions and those parts of Council's current Code of Meeting Practice favoured by Councillors at the workshop.

STRATEGIC CONSIDERATIONS

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 5: We have community led decision making which is open and inclusive	5.2	Create a culture of trust with the community by being open, genuine and transparent	5.2.4	Support Councillors to carry out their civic duties	5.2.4.3	Deliver Council meeting secretariat – including agenda preparation, minutes and council resolutions monitoring

Legal/Statutory/Policy Considerations

As outlined in the report.

Financial Considerations

- 5 There will be a cost associated with the training of current and future Councillors in the application of the Code of Meeting Practice. It is envisaged that this training will be conducted by staff from the General Managers Directorate and Councillor Support team.

Consultation and Engagement

- 10 The Code of Meeting Practice is to be placed on public exhibition for a period of 28 days and submissions invited for a period of 42 days (those periods running concurrently)

Report No. 13.2 Adoption of a Code of Conduct

Directorate: General Manager

Report Author: Ralph James, Legal Counsel

File No: I2018/2336

5 **Theme:** General Manager
 General Manager

Summary:

10 On 14 December 2018 the Model Code of Conduct and the Procedures for the Administration of the Model Code of Conduct were prescribed.

15 Council has six months from the date of prescription (to 14 June 2019) to adopt a Code of Conduct and Procedures based on the Model Code and Procedures.

It is permissible (and practical) for Council to adopt separate codes of conduct for:

- 20 1. Councillors,
 2. Staff, and
 3. Delegates and Committee Members

25 As Councillors at the 7 March 2019 workshop favoured this approach, separate Codes have been prepared and are attachments 1, 2 and 3.

RECOMMENDATION:





1. **That Council note that the Codes of Conduct (E2019/857, E2019/858 and E2019/859) incorporate the provisions of the Model Code of Conduct for Local Councils in NSW prescribed on 14 December 2018**

2. **That Council endorse each Code of Conduct and place each Code of Conduct on public exhibition for a period of 28 days; and**
 - a) **That should no submissions be received, each Code of Conduct be adopted.**

 - b) **That should any submissions be received those submissions be reported to Council.**

3. **That Council endorse the Procedures for the Administration of the Codes of Conduct.**

Attachments:

- 30 1 Code of Conduct for Councillors, E2019/857 
- 2 Code of Conduct for Council Staff, E2019/858 
- 3 Code of Conduct for Council Committee Members, Delegates of Council and Council Advisers, E2019/859 
- 35 4 Procedures for the Administration of the Code of Conduct, E2019/856 

Report

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

Councillors, administrators and Council staff, independent conduct reviewers, members of Council committees, including a conduct review committee, and delegates of the Council must comply with the applicable provisions of Council's Code of Conduct in carrying out their functions as Council officials. It is the personal responsibility of council officials to comply with the standards in the Code and regularly review their personal circumstances with this in mind.

Failure by a Councillor to comply with the standards of conduct prescribed under the Code of Conduct constitutes misconduct for the purposes of the Act. Failure by a member of staff to comply with Council's Code of Conduct may give rise to disciplinary action.

The *Local Government (General) Regulation 2005* was amended on 14 December 2018, and inserted a new Part 8, which prescribes the Model Code and the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW (the Procedures).

Additionally, sections of the *Local Government Amendment (Governance and Planning) Act 2016* commenced on 12 December 2018, and amended the *Local Government Act 1993* to provide for amendments to Chapter 14 (Honesty and Disclosure of Interests) primarily directed at moving the pecuniary interest provisions in the LG Act into the Model Code.

Council has six months from the date of prescription, ie to 14 June 2019, to adopt a Code of Conduct and procedures based on the Model Code and the Procedures.

If Council fails to adopt a Code of Conduct and Procedures based on the Model Code and the Procedures within six months of their prescription, the provisions of the Model Code and the Procedures will automatically override any provisions of Council's adopted Code of Conduct and procedures that are inconsistent with those contained in the Model Code and the Procedures.

Code of conduct complaints must be assessed against the standards prescribed under the version of Council's Code of Conduct that was in force at the time the conduct the subject of the complaint is alleged to have occurred. Code of conduct complaints must be dealt with in accordance with the version of Council's procedures that were in force at the time the complaint was made.

In adopting a new Code of Conduct and Procedures, Council may include provisions that are supplementary to those contained in the Model Code and the Procedures. Council may also impose more onerous requirements under its adopted Code of Conduct than those prescribed under the Model Code. However, council must not dilute the standards prescribed under the Model in its adopted Code of Conduct.

The Office of Local Government have made it clear that instead of a single code of conduct that applies to all council officials, Councils may adopt separate codes of conduct for:

1. Councillors,
2. Staff, and
3. Delegates and committee members

At a workshop held on 7 March 2019 those Councillors present indicated that the separate code approach should be taken.

The Model Code

One of the major changes is the removal from the Act and *Local Government (General) Regulation 2005* of provisions dealing with pecuniary interests.

The media release by the OLG states that this will mean that the reforms will, “*consolidate the prescription of ethical standards for council officials into a single statutory instrument*” and will mean that “*breaches of the pecuniary interests obligations by councillors are treated as misconduct ... and will be subject to the “three strikes” misconduct rules.*”

Pecuniary interest provisions are now incorporated into Part 4 of the Model Code. There are schedules to the Model Code dealing with disclosures of pecuniary interests.

One notable addition to disclosure obligations is that designated persons (defined in the Code but excludes Councillors) are required to declare whether they are a property developer or a close associate of a corporation which is a property developer in official returns of interest.

The NSW Electoral Commission defines a 'property developer' as an individual or corporation that:

- carries on a business mainly concerned with the residential or commercial development of land, with the ultimate purpose of its sale or lease of the land for profit, and
- in the course of that business:
 - one relevant planning application has been made by or on behalf of the individual or corporation that is pending
 - three or more relevant planning applications have been made by or on behalf of the individual or corporation and determined within the preceding seven years.

In addition to the provisions regarding pecuniary interests, among the notable changes proposed in the Model Code are:

- clarification that conduct in good faith, whether or not it involves error, will not constitute a breach of fairness and equity obligations.
- there are new bullying provisions, but it is made clear that reasonable management action carried out in a reasonable manner does not constitute bullying behaviour.
- new standards requiring compliance with work health and safety obligations under the *Work Health and Safety Act 2011*.
- new provisions regarding behaviour of councillors at meetings.
- that designated persons, and members of staff of council, must disclose pecuniary interests ‘*as soon as practicable after becoming aware of the interest*’.
- clarification of the types of relationships that might give rise to non-pecuniary conflicts, and reinforcement of the importance of perception.
- a person must disclose a non-pecuniary conflict of interest in relation to a matter as soon as practicable ‘*after becoming aware of the non-pecuniary conflict*’.
- if the general manager has a non-pecuniary conflict of interest, a decision on how it should be dealt with must now be made in consultation and at the direction of the mayor .

- 5 ▪ council committee members are not required to declare and manage non-pecuniary conflicts of interest under Part 5 of the Model Code, if they arise from an interest they have '*as a person chosen to represent the community, or as a member of a nonprofit organisation or other community or special interest group, if they have been appointed to represent the organisation or group on the council committee*'.
- 10 ▪ non-pecuniary conflicts of interest arising from reportable political donations must be recorded in the minutes of a council meeting.
- 15 ▪ where council has a loss of quorum as a result of compliance with Part 5 of the Model Code (Non-Pecuniary Conflicts of Interest), the Minister (rather than the Chief Executive of the Office of Local Government) may allow a councillor or council committee member to take part in a matter they would otherwise be precluded from participating in.
- 20 ▪ a requirement that council officials do not participate in competitions for prizes where eligibility is based on the council being in a customer-supplier relationship with the competition organiser and a prohibition against personally benefiting from reward point programs when purchasing on behalf of council.
- 25 ▪ banning gifts or benefits greater than \$50 from being accepted and introducing mandatory reporting of all gifts or benefits regardless of value. This is briefly referred to later.
- 30 ▪ clarification that in relation to inappropriate interactions, a public forum includes social media.
- 35 ▪ there is a new '*inappropriate interaction*', that prohibits councillors and administrators from approaching members of local planning panels and discussing applications that are before the panel, or that will come before the panel, unless that application forms part of the agenda of a panel meeting and the Councillor has a right to be heard by the panel at that meeting.
- 40 ▪ banning access to council information when councillors have a pecuniary or a significant non-pecuniary conflict of interest unless the information is otherwise available to members of the public, or the council has determined to make the information available under the GIPA Act.
- 45 ▪ council record keeping must comply with the *State Records Act 1998*.

Gifts and benefits

The Model Code brings into force what is claimed to be a crack down on gifts and benefits and requirements for formal training for Councillors and Mayors.

The Model Code has introduced a requirement for the mandatory reporting of all gifts regardless of value in Council's Gifts Register. There is also a provision introduced providing that gifts or benefits that exceed \$50 in value, aggregated over a 12 month period, are not regarded as being of token value.

The Model Code Procedures

The draft Procedures have been amended to reflect that pecuniary interest matters are now dealt with under the Code. Other noteworthy provisions are:

- 50 ▪ clarification on when complaints are not considered "Model Code complaints".
- clarification that complaints about the General Manager may be made to external agencies

- a discretion for a General Manager or Mayor to delegate functions under Part 5 of the Procedures to a member of staff or persons external to council.
- 5 ▪ clarification on when the Mayor or General Manager may decline to deal with a complaint at the outset.
- a new provision providing a procedure for dealing with a complaint about both the General Manager and Mayor.
- 10 ▪ establishing additional complaints assessment criteria to be considered by a conduct reviewer in the preliminary assessment of a complaint.
- establishing additional sanctions which an investigator may recommend be imposed by council if it is determined that conduct investigated constitutes a breach of the Model Code.
- 15 ▪ a prohibition against council inviting submissions from persons other than the person the subject of an investigation when considering a final investigation report and the sanctions to be imposed on that person.
- 20 ▪ a requirement for a report to OLG to be given if Council does not adopt the sanctions in the investigation report.
- a discretion for the General Manager to refuse to provide further information about a Model Code complaint (with the consent of the OLG) if a complainant has publicly disclosed information about a Model Code complaint that they have made or purported to make.
- 25

Training

- 30 New Councillor Induction and Professional Development Guidelines introduce mandatory training for all councillors and mayors.

35 Council will be required to deliver induction training to councillors within six months after an election and an ongoing professional development program over the term to help councillors acquire and maintain the knowledge and skills necessary to perform their roles.

The training programs must be designed to ensure mayors and councillors understand their responsibilities and are supported to perform their roles effectively.

40 Information about councillor participation in induction and professional development activities must be published in council annual reports.

Financial Implications

45 There will be a cost associated with the Councillor induction training and the ongoing professional development programme. It is envisaged that this training can be conducted by staff in the General Manager's Directorate or by/or in conjunction with members of Council's Code of Conduct Review Panel or Council's external lawyers.

50 The cost of investigating Code of conduct complaints in the most recent reporting period (1 September 2017 to 31 August 2018) was \$1,469 including a costing of staff time.

Statutory and Policy Compliance Implications

As set out in the Report.

Report No. 13.3 **Lease to AFL Queensland**
Directorate: General Manager
Report Author: Paula Telford, Leasing and Licensing Coordinator
File No: I2019/175

5

Summary:

10 AFL Queensland holds a lease, under holding over provisions, for office and storage space at the Multi-Purpose Facility at the Cavanbah Centre 349 Ewingsdale Road Byron Bay. AFL Queensland has requested a new lease to allow for continuation of their regional AFL office in Byron Bay.

15 Council is proposing a new five (5) year lease to AFL Queensland, with rent commencing at \$14,700 (excl GST) per annum. The new lease will be negotiated on the same terms as the current lease with one exception that AFL is provided with free use of a meeting room, when available, for two hours per month instead of fifteen occurrences per year.

20

RECOMMENDATION:

1. That Council, authorise the General Manager, to negotiate a lease to AFL Queensland for 40m² of office and storage space at the Multi-Purpose Facility at the Cavanbah Centre 349 Ewingsdale Road Byron Bay on the following terms:
 - a)Term five (5) years;
 - b)Annual rent to commence at \$14,700 and thereafter increased at each anniversary by CPI all groups Sydney for the term of the lease;
 - c)All lease preparation costs to be met by the Lessee;
 - d)Rent to include the cost of utility outgoings including rates, electricity and water;
 - e)Rent to include free use of a meeting room, when available, up to two hours per month otherwise the standard free for use of indoor facilities must be paid;
 - f)Security call-outs caused by the Lessee to be paid by the Lessee;
 - g)Lessee to have ancillary use of change rooms, toilets and shared office kitchen; and
 - h)Wet weather and urgent indoor access by the Lessee will be dependent on availability of existing bookings.
2. That Council authorise the publication of the proposed grant of a five (5) year lease to AFL Queensland for a period of 28 days seeking public comment.
3. That in the event no submissions are received, that Council delegate to the General Manager the authority to enter into the lease referred to in 1 above.
4. That if submissions are received that a new report be brought back to Council.

25

REPORT

AFL Queensland currently holds a lease, under holding over provisions, for the use and occupation of office and storage space at the Multi-Purpose Facility ('the Facility') at the Cavanbah Centre.

5 AFL Queensland has requested a new lease to continue their regional office in Byron Bay.

A failure by Council to appoint a Facility manager following a competitive tender process and expression of interest with PCYC NSW lead to Council engaging SGL Consultants for advice on the future operations of the Facility. The Consultants recommended that Council setup a direct management model whereby Council retained control of the facility and determine its use.

10

The model permits Council to lease specific sites in the Facility for sporting, cultural and commercial uses. As a result Council directly negotiated a lease with AFL Queensland for office and storage space to start-up a regional AFL office in Byron Bay in 2013.

15

Community land and Plan of Management:

The Byron Regional Sports and Cultural Complex known as the Cavanbah Centre is located on Lot 3 DP 706286, 349 Ewingsdale Road Byron Bay, being Council owned land classified as community land.

20

The Plan of Management Community Land – Cavanbah Centre categorises the Multi-Purpose Facility for general community use and expressly provides for the granting of a lease. Core objectives of general community use to promote, encourage and provide use of the land and facilities is compatible with use of part of the Facility for the purpose of a regional AFL Queensland office to support the development of community football networks, leagues and clubs in the region.

25

Proposed Lease:

Council is proposing to grant a five (5) year lease to AFL Queensland for permitted use of 40m² of office space and storage space in the Facility.

30

Terms of the lease to provide for:

- a) Term five (5) years;
- b) Annual rent to commence at \$14,700 and thereafter increased at each anniversary by CPI all groups Sydney for the term of the lease;
- c) All lease preparation costs to be met by the Lessee;
- d) Rent to include the cost of utility outgoings including rates, electricity and water;
- e) Rent to include free use of a meeting room, when available, up to two hours per month otherwise the standard free for use of indoor facilities must be paid;
- f) Security call-outs caused by the Lessee to be paid by the Lessee;
- g) Lessee to have ancillary use of change rooms, toilets and shared office kitchen; and
- h) Wet weather and urgent indoor access by the Lessee will be dependent on availability of existing bookings.

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In accordance with the Plan of Management, the above terms reflect the interest of Council and the public ensuring proper management and access to the facility.

Direct negotiation:

Council is permitted to directly negotiate following an assessment of an applicant and its business plan, a quantification of economic benefits and an assessment of the market value of the rent that results in an equal or better outcome to Council than running a competitive process.

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55

Council considers that advantages to the Byron community in having the North Coast regional AFL Queensland office located at the Cavanbah Centre provides sufficient economic and social benefits to the community that leads to an equal or better outcome to Council then running a competitive process.

Asset management:

The PoM requires that any lease let over the Facility ensures proper maintenance of the Facility. Terms of the proposed lease will require the Lessee to be responsible, at its cost, for pest control, cleaning, all approved additions and alterations and to return the premises, on termination of the lease, to the state it was in prior to the lease. The Lessee is also responsible for the cost of security callouts caused by the Lessee, the cost of replacing keys and attend induction sessions for Facility access.

STRATEGIC CONSIDERATIONS

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 1: We have infrastructure, transport and services which meet our expectations	1.2	Provide essential services and reliable infrastructure which meet an acceptable community standard	1.2.9	Develop capital upgrades, renewal and enhancements works program for buildings-including community buildings, public toilets, emergency services, sports club facilities and Council operations buildings (SP)	1.2.9.3	Consult with user groups to establish user agreements, leases, licenses and Plans of Management

Legal/Statutory/Policy Considerations

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

(1) If a council proposes to grant a lease, licence or other estate in respect of community land for a period (including any period for which the lease, licence or other estate could be renewed by the exercise of an option) exceeding 5 years, it must:

- (a) give public notice of the proposal (including on the council's website), and
- (b) exhibit notice of the proposal on the land to which the proposal relates, and
- (c) give notice of the proposal to such persons as appear to it to own or occupy the land adjoining the community land, and
- (d) give notice of the proposal to any other person, appearing to the council to be the owner or occupier of land in the vicinity of the community land, if in the opinion of the council the land the subject of the proposal is likely to form the primary focus of the person's enjoyment of community land.

(2) A notice of the proposal must include:

- information sufficient to identify the community land concerned
- the purpose for which the land will be used under the proposed lease, licence or other estate
- the term of the proposed lease, licence or other estate (including particulars of any options for renewal)
- the name of the person to whom it is proposed to grant the lease, licence or other estate (if known)
- a statement that submissions in writing may be made to the council concerning the proposal within a period, not less than 28 days, specified in the notice.

- (3) Any person may make a submission in writing to the council during the period specified for the purpose in the notice.
- (4) Before granting the lease, licence or other estate, the council must consider all submissions duly made to it.
- 5 (5) The council must not grant the lease, licence or other estate except with the Minister's consent, if:
 - (a) a person makes a submission by way of objection to the proposal, or
 - (b) in the case of a lease or licence, the period (including any period for which the lease or licence could be renewed by the exercise of an option) of the lease or licence exceeds 21 years.
- 10 (6) If the council applies for the Minister's consent, it must forward with its application:
 - a copy of the plan of management for the land
 - details of all objections received and a statement setting out, for each objection, the council's decision and the reasons for its decision
 - a statement setting out all the facts concerning the proposal to grant the lease, licence or other estate
 - 15 • a copy of the public notice of the proposal
 - a statement setting out the terms, conditions, restrictions and covenants proposed to be included in the lease, licence or other estate
 - if the application relates to a lease or licence for a period (including any period for which the lease or licence could be renewed by the exercise of an option) exceeding 21 years, a statement outlining the
 - 20 special circumstances that justify the period of the lease or licence exceeding 21 years
 - a statement setting out the manner in which and the extent to which the public interest would, in the council's opinion, be affected by the granting of the proposed lease, licence or other estate, including the manner in which and the extent to which the needs of the area with respect to community land would, in the council's opinion, be adversely affected by the granting of the proposed lease, licence or other estate.
 - 25 (7) On receipt of the application, the Minister must request the Director of Planning to furnish a report concerning the application within such period as the Minister specifies.
 - (8) After considering the application and any report of the Director of Planning, the Minister, if satisfied that:
 - 30 (a) subsections (1), (2) and (6) have been complied with, and
 - (b) such consent would not contravene section 46, and
 - (c) in all the circumstances, it is desirable to grant consent,may consent to the granting of a lease, licence or other estate in respect of the whole or part of the land to which the application relates, subject to such terms and conditions as the Minister
 - 35 specifies.
 - (8AA) The Minister may consent to a lease or licence referred to in subsection (5) (b) only if the Minister is satisfied that there are special circumstances that justify the period of the lease or licence exceeding 21 years.
 - (8A) On request by any person, the Minister must provide that person, within 14 days of that request, with a written statement of reasons for consenting to, or refusing to consent to, the granting of a
 - 40 lease, licence or other estate in accordance with subsection (8).
 - (9) The Minister's consent is conclusive evidence that the council has complied with subsections (1), (2) and (6).
 - (10) For the purposes of this section, any provision made by a lease or licence, or by an instrument
 - 45 granting any other estate, in respect of community land, according to which the council:

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

- (1) This section applies to a lease, licence or other estate in respect of community land granted for a period that (including any period for which the lease, licence or other estate could be renewed by the exercise of an option) does not exceed 5 years, other than a lease, licence or other estate exempted by the regulations.
- (2) If a council proposes to grant a lease, licence or other estate to which this section applies:
 - (a) the proposal must be notified and exhibited in the manner prescribed by section 47, and
 - (b) the provisions of section 47 (3) and (4) apply to the proposal, and
 - 55 (c) on receipt by the council of a written request from the Minister, the proposal is to be referred to the Minister, who is to determine whether or not the provisions of section 47 (5)–(9) are to apply to the proposal.
- (3) If the Minister, under subsection (2) (c), determines that the provisions of section 47 (5)–(9) are to apply to the proposal:
 - 60 (a) the council, the Minister and the Director of Planning are to deal with the proposal in accordance with the provisions of section 47 (1)–(8), and

(b) section 47 (9) has effect with respect to the Minister's consent.

Financial Considerations

- 5 An independent market valuation report provided by Valuers Australia sets the initial rent on commencement of the lease at \$14,700 (excl GST) per annum and increased thereafter at the start of each year by CPI all groups Sydney. Over the term of the lease Council will collect \$73,500 (excl GST) plus CPI increases.
- 10 The lease will provide for the cost of utility outgoings including rates, electricity and water to be included in the lease rent as well as the free use for two hours per month of an available meeting room, otherwise the Lessee must pay to use all indoor facilities as per Council's fees and charges.

Reviewed by Manager Finance: ☐

15

Consultation and Engagement

- 20 A lease over community land for a term of five years will require Council to publically advertise the proposed lease for at least 28 days and give notice to adjoining neighbours and other interested parties in accordance with s47(2)(a) of the *Local Government Act*. Should any submissions be received than Council must consider all submissions prior to granting the lease. Should Council recommend the propose lease be granted, Staff will advertise in the lease in the local newspaper and conduct a letter box drop.

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Report No. 13.4 **Lease to the Bangalow Community Children's Centre Inc**
Directorate: General Manager
Report Author: Paula Telford, Leasing and Licensing Coordinator
File No: I2019/188

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Summary:

10 The lease held by the Bangalow Community Children's Centre Incorporated (the Children's Centre) expires on 30 April 2019. Resolution **18-781** authorised Council staff to commence negotiations with the Children's Centre for two successive five (5) year leases.

15 As a result, Council publically advertised the proposed two successive leases and received two submissions. This report requests that Council consider both submissions received before determining whether to grant two successive five (5) year leases to the Children's Centre.

RECOMMENDATION:

1. That Council, delegate to the General Manager the authority to enter into two (2) successive five (5) year leases with the Bangalow Community Children's Centre Inc for the purpose of early childhood education and care under the following terms:
 - a) annual rent payable by the Lessee commence at the value of minimum Crown rent as determined by clause 38 of the *Crown Land Management Regulations 2018* (NSW) excluding GST;
 - b) the Lessor provide subsidised rent to the value of market rent as calculated at 6% of the land Unimproved Capital Value less rent payable by the Lessee set at \$20,570 per annum excluding GST;
 - c) all lease preparation and registration costs to be met by the Lessee;
 - d) the Lessee to pay all outgoings other than annual general land rates; and
 - e) the Lessee carry out all maintenance, except structural building maintenance, at the Lessee's cost.
2. That, on granting the lease, Council provide for a section 356 of the *Local Government Act 1993* (NSW) financial assistance donation to the value of \$20,570 and provide details of the donation in Council's Operational Plan, Budget and that the donation is provided to the Bangalow Community Children's Centre Inc for subsidised rent.
3. That, on granting the lease, Council authorise the General Manager to affix the Council Seal on the Lease in accordance with clause 400 of the *Local Government (General) Regulations 2005* (NSW).

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REPORT

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Council resolved (**18-781**) at its 18 December 2018:
That Council authorise the General Manager, to negotiate two new successive leases with the Bangalow Community Children's Centre as follows:

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STAFF REPORTS - GENERAL MANAGER

13.4

- 5 a) For a term of five (5) years each lease;
 b) Annual rent be initially set at the value of minimum Crown and thereafter increased by CPI all groups Sydney for the term of each lease;
 5 c) All preparation costs and registration costs to the met by the Lessee;
 d) The Lessee pay all outgoings other than annual general land rates;
 e) All maintenance to be carried out by the Lessee at the Lessee's cost; and
 10 f) The Lessor provide subsidised rent to the value of market rent as calculated at 6% of the land Unimproved Capital Value less rent payable by the Pre-School set a the value of minimum Crown rent.

15 In accordance with s47A(2) of the *Local Government Act 1993* (NSW), Council advertised the proposed two successive leases to the Bangalow Community Children's Centre Incorporated ('the Children's Centre') from 10 January to 7 February 2019.

Council received two submissions to the proposed leases and are summarised in the below table:

Issue	Council response
Concerned that public amenity to the laneway behind properties on Palm Tree Crescent Bangalow would be affected by the proposed lease. (E2019/7187)	Council reviewed the proposed lease area and confirmed that the public access way behind properties 3 to 5 Palm Tree Crescent Bangalow is excluded from the proposed leased area.
Requested confirmation as to why a five year lease, the current value of Crown minimum rent and the unimproved capital value of the land used to determine the market value rent. (E2019/9488)	The report to Council's 13 December 2018 meeting set out: <ul style="list-style-type: none"> • A five year lease provides the Pre-School with the security to be eligible for applicable State and Federal grant funding. • Minimum Crown rent is set by legislation in clause 38 of the <i>Crown Lands Management Regulations 2018</i>. The current value is set at \$490 per annum exclusive of GST. • The Unimproved Capital Value ('UCV') of the land as provided by the Valuer General is \$351,000. Council determined the value of market rent at 6% of the UVC being \$21,060. Council to provide subsidised rent to the value of \$21,060 less \$490 totalling \$20,570.
Requested advice on whether parents of children attending the Centre benefit from reduced fees. (E2019/9488)	Council's Children's Services Policy (2017) acknowledges the strong evidence indicating significant social and economic benefits that accrue to individuals, families and communities from inclusive access to quality Early Childhood Education and Care (ECEC) and other services that support children. The Objective of Council's Children's Services Policy are: <ul style="list-style-type: none"> • To enable Council to promote, plan and provide for the needs of children in an effective manner. • To outline Council's commitment to support and partner with the community in response to identified needs for inclusive, quality Children's Services in the Byron Shire. • To highlight considerations relevant to the planning of Children's Services in the Byron

Issue	Council response
	<p>Shire.</p> <ul style="list-style-type: none"> To specify considerations relevant to the planning of Early Childhood Education and Care services in the Byron Shire. <p>As at 2017, Council supports 10 not for profit Early Childhood providers within the Shire through the provision of land, buildings, management and support. This enables 263 licensed places to be provided to the local community and over 500 individual children to access education and care.</p> <p>The fee structure is the responsibility of each service provider and Council is not able to comment on the individual service fee structure or budget processes.</p>

Council must consider both submissions received in deciding whether or not to grant the Children's Centre two successive five (5) year leases for the purpose of early childhood education and care.

- 5 The requirement of two successive five year leases, instead of one ten year lease, overcomes constraints imposed by the NSW Land Registry Services. A lease for a term greater than five years requires a subdivision of the land so that the leased area is within its own lot and deposited plan. A lease for a term of no more than five years only requires a compiled plan to enable the lease to be registered on the land parcel.

- 10 Council may only grant successive leased terms to a maximum term of 21 years. The proposal to grant two successive five (5) year leases is expressly authorised by the POM.

STRATEGIC CONSIDERATIONS

- 15 ***Community Strategic Plan and Operational Plan***

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community	2.2	Support access to a wide range of services and activities that contribute to the wellbeing of all members of the Byron Shire community	2.2.2	Support and facilitate accessible, high quality early childhood education and activities	2.2.2.1	Improve direct service provision and sector development to provide quality accredited early childhood education

Legal/Statutory/Policy Considerations

- 20 ***s47 Leases, licences and other estates in respect of community land—terms greater than 5 years***
- (1) *If a council proposes to grant a lease, licence or other estate in respect of community land for a period (including any period for which the lease, licence or other estate could be renewed by the exercise of an option) exceeding 5 years, it must:*
- 25 (a) *give public notice of the proposal (including on the council's website), and*
 (b) *exhibit notice of the proposal on the land to which the proposal relates, and*
 (c) *give notice of the proposal to such persons as appear to it to own or occupy the land adjoining the community land, and*

- (d) *give notice of the proposal to any other person, appearing to the council to be the owner or occupier of land in the vicinity of the community land, if in the opinion of the council the land the subject of the proposal is likely to form the primary focus of the person's enjoyment of community land.*
- 5 (2) *A notice of the proposal must include:*
- information sufficient to identify the community land concerned*
 - the purpose for which the land will be used under the proposed lease, licence or other estate*
 - the term of the proposed lease, licence or other estate (including particulars of any options for renewal)*
- 10 *• the name of the person to whom it is proposed to grant the lease, licence or other estate (if known)*
- a statement that submissions in writing may be made to the council concerning the proposal within a period, not less than 28 days, specified in the notice.*
- 15 (3) *Any person may make a submission in writing to the council during the period specified for the purpose in the notice.*
- (4) *Before granting the lease, licence or other estate, the council must consider all submissions duly made to it.*
- (5) *The council must not grant the lease, licence or other estate except with the Minister's consent, if:*
- 20 (a) *a person makes a submission by way of objection to the proposal, or*
- (b) *in the case of a lease or licence, the period (including any period for which the lease or licence could be renewed by the exercise of an option) of the lease or licence exceeds 21 years.*
- 25 (6) *If the council applies for the Minister's consent, it must forward with its application:*
- a copy of the plan of management for the land*
 - details of all objections received and a statement setting out, for each objection, the council's decision and the reasons for its decision*
 - a statement setting out all the facts concerning the proposal to grant the lease, licence or other estate*
- 30 *• a copy of the public notice of the proposal*
- a statement setting out the terms, conditions, restrictions and covenants proposed to be included in the lease, licence or other estate*
- 35 *• if the application relates to a lease or licence for a period (including any period for which the lease or licence could be renewed by the exercise of an option) exceeding 21 years, a statement outlining the special circumstances that justify the period of the lease or licence exceeding 21 years*
- a statement setting out the manner in which and the extent to which the public interest would, in the council's opinion, be affected by the granting of the proposed lease, licence or other estate, including the manner in which and the extent to which the needs of the area with respect to community land would, in the council's opinion, be adversely affected by the granting of the proposed lease, licence or other estate.*
- 40 (7) *On receipt of the application, the Minister must request the Director of Planning to furnish a report concerning the application within such period as the Minister specifies.*
- 45 (8) *After considering the application and any report of the Director of Planning, the Minister, if satisfied that:*
- (a) subsections (1), (2) and (6) have been complied with, and*
 - (b) such consent would not contravene section 46, and*
 - (c) in all the circumstances, it is desirable to grant consent,*
- 50 *may consent to the granting of a lease, licence or other estate in respect of the whole or part of the land to which the application relates, subject to such terms and conditions as the Minister specifies.*
- (8AA) *The Minister may consent to a lease or licence referred to in subsection (5) (b) only if the Minister is satisfied that there are special circumstances that justify the period of the lease or licence exceeding 21 years.*
- 55 (8A) *On request by any person, the Minister must provide that person, within 14 days of that request, with a written statement of reasons for consenting to, or refusing to consent to, the granting of a lease, licence or other estate in accordance with subsection (8).*
- (9) *The Minister's consent is conclusive evidence that the council has complied with subsections (1), (2) and (6).*
- 60 (10) *For the purposes of this section, any provision made by a lease or licence, or by an instrument granting any other estate, in respect of community land, according to which the council:*

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

- (1) This section applies to a lease, licence or other estate in respect of community land granted for a period that (including any period for which the lease, licence or other estate could be renewed by the exercise of an option) does not exceed 5 years, other than a lease, licence or other estate exempted by the regulations.
- (2) If a council proposes to grant a lease, licence or other estate to which this section applies:
 - (a) the proposal must be notified and exhibited in the manner prescribed by section 47, and
 - (b) the provisions of section 47 (3) and (4) apply to the proposal, and
 - (c) on receipt by the council of a written request from the Minister, the proposal is to be referred to the Minister, who is to determine whether or not the provisions of section 47 (5)–(9) are to apply to the proposal.
- (3) If the Minister, under subsection (2) (c), determines that the provisions of section 47 (5)–(9) are to apply to the proposal:
 - (a) the council, the Minister and the Director of Planning are to deal with the proposal in accordance with the provisions of section 47 (1)–(8), and
 - (b) section 47 (9) has effect with respect to the Minister's consent.

Financial Considerations

In accordance with Council's Children's Services Policy (2017), Council to provide subsidise rent and the value of annual land rates through a section 356 donation under the *Local Government Act*. That Council subsidise rent to the value of \$21,570 per annum excluding GST. That the Children's Centre be required to pay annual rent to the value of minimum Crown rent as provided by clause 38 of the *Crown Lands Management Regulations* 2018.

Consultation and Engagement

Nil consultation required.

Report No. 13.5 **Licence to Byron Bay Community Association for occupation of the Byron Community Cabin.**

Directorate: General Manager

Report Author: Paula Telford, Leasing and Licensing Coordinator

File No: I2019/202

Summary:

The licence held by the Byron Bay Community Association Inc (BBCA) for use and occupation of the Byron Community Cabin located in the Byron Recreation Grounds, Lot 444 Section 28 DP 758207; Carlyle Street Byron Bay will expire on 31 May 2019. The BBCA has requested a new licence.

This report recommends that Council grant a new one-year licence to the BBCA for the purpose of using the Community Cabin as a community hall and associated use of showering facilities for homeless persons subject to a strict booking system.

RECOMMENDATION:

1. That Council, authorise the General Manager, to negotiate licence with the Byron Bay Community Association Incorporated over the Byron Community Cabin located on part of folio 444/28/758207 on the following terms:
 - a) Term one (1) year;
 - b) Purpose of a community hall and associated homeless shower access subject to a strict booking system;
 - c) Annual rent set at the value of minimum Crown rent as determined by clause 38 of the *Crown Land Management Regulations 2017* (NSW);
 - d) All licence preparation costs be met by the Licensee;
 - e) The Licensee to pay outgoings including electricity, phone, water and contents insurance costs;
 - f) No alcohol or illicit drugs to be taken on or consumed within the licensed and surrounding areas; and
 - g) The Licensor to pay outgoings including, but not limited to, the value of general land rates (if payable), building insurance, security, pest inspections and fire safety compliance costs.
2. That Council authorise the publication of the proposed grant of a one (1) year licence to the Byron Bay Community Association Incorporated for a period of 28 days seeking public comment.
3. That in the event no submissions are received, that Council delegate to the General Manager the authority to enter into a licence referred to in 1 above.
4. That if submissions are received that a new report be brought back to Council at its April 2019 meeting.

REPORT

5 The Byron Bay Community Association Inc (BBCA) licence to use and occupy the Byron Community Cabin (the premises) located in the Byron Recreation Grounds, Lot 444 Section 28 DP 758207; Carlyle Street Byron Bay will expire on 31 May 2019. The BBCA has requested a new licence.

10 The land:

15 Lot 444 Section 28 DP 758207 is Council owned land classified as community with use of the land categorised under Plan of Management for the Byron Recreation Grounds ('the PoM') for a sportsground and for general community use. The PoM permits a licence to be granted over the Premises for purposes prescribed in s46(4) of the *Local Government Act 1993* (NSW) ('LGA') and for a term of less than 21 years.

The licence:

20 The BBCA has held a series of one year licences to occupy the premises since 1 June 2016 for the purpose of a community hall. The Licensee is required to offer the premises for public hire for low impact community activities any day between the hours of 9:00am and 5:00pm.

25 The Licensee may also provide public access to the shower amenities within the premises by homeless persons on a strict booking scheme between the hours of 10:00am and 2:00pm weekdays. The Licensee must consider use and occupation of surrounding recreation grounds by schools and organised sporting groups in determining when bookings may be made. In offering the current licence, Council received no objections during the public notification period.

30 It is recommended that a new one year licence is granted to the BBCA for the period 1 June 2019 to 31 May 2020 under the following terms:

- purpose of the licence is use of the premises as a community hall and associated homeless shower access subject to a strict booking system;
- 35 • annual rent set at the value of minimum Crown rent as determined by clause 38 of the *Crown Land Management Regulations 2017* (NSW);
- all licence preparation costs be met by the Licensee;
- the Licensee to pay outgoings including electricity, phone, water and contents insurance costs;
- 40 • no alcohol or illicit drugs to be taken on or consumed within the licensed and surrounding areas; and
- the Licensor to pay outgoings including, but not limited to, the value of general land rates (if payable), building insurance, security, pest inspections and fire safety compliance costs.

45 Direct negotiation:

Council is permitted to directly negotiate when the value of the licence is low relative to the cost of conducting a competitive process.

50 Council has directly negotiated with the BBCA for a one year licence because the cost to Council to run a public tender process for a one year licence far outweighs any benefit to Council in running that process. This is because the PoM over the land restricts the purpose of the licence to a community purpose. In order to maximise social benefit from the community purpose, Council will assist through subsidised rent. Council will received \$490 in rent which equates to less than a 1% return to Council on the expected costs to run a tender process.

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STRATEGIC CONSIDERATIONS

Community Strategic Plan and Operational Plan

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

5 Legal/Statutory/Policy Considerations

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

- 10 (1) If a council proposes to grant a lease, licence or other estate in respect of community land for a period (including any period for which the lease, licence or other estate could be renewed by the exercise of an option) exceeding 5 years, it must:
- 15 (a) give public notice of the proposal (including on the council's website), and
- (b) exhibit notice of the proposal on the land to which the proposal relates, and
- (c) give notice of the proposal to such persons as appear to it to own or occupy the land adjoining the community land, and
- 20 (d) give notice of the proposal to any other person, appearing to the council to be the owner or occupier of land in the vicinity of the community land, if in the opinion of the council the land the subject of the proposal is likely to form the primary focus of the person's enjoyment of community land.
- 25 (2) A notice of the proposal must include:
- information sufficient to identify the community land concerned
 - the purpose for which the land will be used under the proposed lease, licence or other estate
 - the term of the proposed lease, licence or other estate (including particulars of any options for renewal)
 - the name of the person to whom it is proposed to grant the lease, licence or other estate (if known)
 - a statement that submissions in writing may be made to the council concerning the proposal within a period, not less than 28 days, specified in the notice.
- 30 (3) Any person may make a submission in writing to the council during the period specified for the purpose in the notice.
- (4) Before granting the lease, licence or other estate, the council must consider all submissions duly made to it.
- 35 (5) The council must not grant the lease, licence or other estate except with the Minister's consent, if:
- (a) a person makes a submission by way of objection to the proposal, or
- (b) in the case of a lease or licence, the period (including any period for which the lease or licence could be renewed by the exercise of an option) of the lease or licence exceeds 21 years.
- 40 (6) If the council applies for the Minister's consent, it must forward with its application:
- a copy of the plan of management for the land
 - details of all objections received and a statement setting out, for each objection, the council's decision and the reasons for its decision
 - a statement setting out all the facts concerning the proposal to grant the lease, licence or other estate
 - a copy of the public notice of the proposal
 - a statement setting out the terms, conditions, restrictions and covenants proposed to be included in the lease, licence or other estate
 - if the application relates to a lease or licence for a period (including any period for which the lease or licence could be renewed by the exercise of an option) exceeding 21 years, a
- 45

statement outlining the special circumstances that justify the period of the lease or licence exceeding 21 years

- a statement setting out the manner in which and the extent to which the public interest would, in the council's opinion, be affected by the granting of the proposed lease, licence or other estate, including the manner in which and the extent to which the needs of the area with respect to community land would, in the council's opinion, be adversely affected by the granting of the proposed lease, licence or other estate.

(7) On receipt of the application, the Minister must request the Director of Planning to furnish a report concerning the application within such period as the Minister specifies.

(8) After considering the application and any report of the Director of Planning, the Minister, if satisfied that:

- (a) subsections (1), (2) and (6) have been complied with, and
- (b) such consent would not contravene section 46, and
- (c) in all the circumstances, it is desirable to grant consent,

may consent to the granting of a lease, licence or other estate in respect of the whole or part of the land to which the application relates, subject to such terms and conditions as the Minister specifies.

(8AA) The Minister may consent to a lease or licence referred to in subsection (5) (b) only if the Minister is satisfied that there are special circumstances that justify the period of the lease or licence exceeding 21 years.

(8A) On request by any person, the Minister must provide that person, within 14 days of that request, with a written statement of reasons for consenting to, or refusing to consent to, the granting of a lease, licence or other estate in accordance with subsection (8).

(9) The Minister's consent is conclusive evidence that the council has complied with subsections (1), (2) and (6).

(10) For the purposes of this section, any provision made by a lease or licence, or by an instrument granting any other estate, in respect of community land, according to which the council:

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

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

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

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

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

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

Financial Considerations

The BBCA is required to pay annual rent to the value of minimum Crown rent as provided by clause 38 of the *Crown Lands Management Regulations* 2018 for the term of the Licence. The Licensee to pay outgoings of electricity, phone, water and contents insurance costs. The Licensor to pay outgoings including, but not limited to, the value of general land rates (if payable), building insurance, security, pest inspections and fire safety compliance costs.

Consultation and Engagement

In accordance with s47A(2)(a) of the Act, Council call for public comment on the proposed one year licence for a period of at least 28 days. Council will advertise in the local news paper and notify all surrounding residences.

Report No. 13.6 **Byron Shire Council purchase from Health Administration Corporation of Lot 1 in Deposited Plan 847910 former Byron District Hospital site.**

5 **Classification of Lot 1 in Deposited Plan 847910 former Byron District Hospital site.**

Directorate: General Manager
Report Author: Ralph James, Legal Counsel
File No: I2019/243

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Summary:

15 In June 2018, Byron Shire Council, on behalf of the community, submitted a proposal to the NSW Department of Premier and Cabinet to return the Byron hospital to the local community to “*provide vital and currently lacking welfare, social, cultural and educational services*” for the Byron community.

20 In November 2018, Ben Franklin MLC and Minister for Health Brad Hazzard announced that the proposal had been accepted and that Council could purchase the site from the State Government for \$1.

25 A draft of the contract for the sale and purchase of land was received from the Crown Solicitors Office on 12 February 2019. It has been reviewed by Council’s Legal Services team. It is now provided to Council with a recommendation that Council resolve to purchase the site.

30 Should Council resolve to purchase the site is recommended that the process to classify the land as operational land be commenced. Reclassification is a two step process – a proposed resolution and notice followed by a formal resolution.

RECOMMENDATION:

1. **That Council purchase Lot 1 in Deposited Plan 847910 the former Byron District Hospital site from Health Administration Corporation on the terms and conditions set out in the contract submitted by the Health Administration Corporation.**
2. **That Council authorise the General Manager to take all steps necessary to enter into the contract, as amended, and to sign and counter-sign all documents associated with the purchase of the site.**
3. **That subject to Council resolving as per 1 above, Council give notice for not less than 28 days of the following proposed resolution pursuant to Section 34 of the Local Government Act 1993:**

“That Lot 1 in Deposited Plan 847910, being the former Byron District Hospital site, be classified “operational” under the Local Government Act 1993.”

35 **Attachments:**

- 1 Confidential - Byron Shire Council purchase from Health Administration Corporation of Lot 1 in Deposited Plan 847910 former Byron District Hospital site., E2019/14367

REPORT

Byron Shire Council purchase from Health Administration Corporation of Lot 1 in Deposited Plan 847910 former Byron District Hospital site.

The decision to purchase land cannot be delegated.

Section 377(1)(h) of the Local Government Act 1993 provides that Council cannot delegate to the General Manager the purchase of any land.

Background

In June 2018, Byron Shire Council, on behalf of the community, submitted a proposal to the NSW Department of Premier and Cabinet to return the Byron hospital to the local community to “*provide vital and currently lacking welfare, social, cultural and educational services*” for the Byron community.

In November 2018, Ben Franklin MLC and Minister for Health Brad Hazzard announced that the proposal had been accepted and that Council could purchase the site from the State Government for \$1 (plus GST).

A draft the contract for the sale and purchase of land was received from the Crown Solicitors Office on 12 February 2019. It has been reviewed by Council’s Legal Services team. The draft contract is confidential attachment 1.

The Contract

The contract is some 128 pages long.

1. Page 1 sets out all parties’ details, it makes reference to Special Condition 8 in relation to the date of completion (settlement) (referred to later);

2. Page 2 sets out Land Tax and GST implications;

It lists documents attached to the Contract as follows;

- Property certificate for the land;
- Plan of the land;
- Section 10.7(2) planning certificate under Environmental Planning and Assessment Act 1979;
- Additional information included in that certificate under section 10.7(5);
- Sewerage infrastructure location diagram (service location diagram);
- Sewer lines location diagram (sewerage service diagram);
- Document that created or may have created an easement, profit a prendre, restriction on use or positive covenant disclosed in this contract;
- Clearance certificate;

- Land tax certificate;
- Hazmat Report dated October 2016.

3. Pages 3 – 20 Law Society Clauses.

4. Additional Clauses – referred to later.

5. Title Search 1/847910.

6. Deposited Plan 847910.

7. Section 88B Instrument 847910.

8. Planning Certificate (formerly Section 149 Certificate).

9. Sewer Location Plan/Access to Proposed Reservoir.

10. Draft Restriction on the Use of Land.

11. Hazmat Report.

Exchange of Contracts

Exchange of Contracts will take place when Council is satisfied with the condition of the property and has signed the Contract. From this time on Council is totally committed to the Contract.

Cooling Off Period

As this is not residential land, the cooling off legislation does not apply.

Allowed Purpose

The contract provides that the purchaser agrees it will not use the property for any purpose other than an Allowed Purpose.

Allowed Purpose is defined to mean any of the following purposes:

- community facility;
- educational establishment;
- information and education facility;
- health services facility;
- food and drink premises;
- office premises; or
- any other use which, in the Purchaser's reasonable opinion, has similar characteristics and/or is ancillary to the above uses

Each Allowed Purpose has the meaning given in the Byron Local Environmental Plan 2014, as amended from time to time. Present LEP definitions, relevant to the Allowed Purpose, are:

community facility means a building or place:

(a) owned or controlled by a public authority or non-profit community organisation, and
(b) used for the physical, social, cultural or intellectual development or welfare of the community, but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

educational establishment means a building or place used for education (including teaching), being:

- (a) a school, or
- (b) a tertiary institution, including a university or a TAFE establishment, that provides formal education and is constituted by or under an Act.

information and education facility means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.

health services facility means a building or place used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes any of the following:

- (a) a medical centre,
- (b) community health service facilities,
- (c) health consulting rooms,
- (d) patient transport facilities, including helipads and ambulance facilities,
- (e) hospital.

food and drink premises means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) not relevant,
- (d) not relevant.

office premises means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

Some of these purposes will require an LEP amendment as they are not presently permissible under the 'low density residential' zoning of the site.

Relevant LEP amendments will be considered and progressed separate to the contract.

The contract provides that in using the property for an Allowed Purpose Council may, subject to Council's obligations regarding financial management under the Local Government Act 1993, earn income from the property, provided that this income is reinvested into the property or in to delivering community services directly connected to the proposed uses for the site.

As an example, Council could reinvest income generated from the site into funding off-site services for the homeless – delivering on the community / welfare element of the project proposal. This is a key driver for the project both from the community and from State Government.

After completion, Council is required to execute the Restriction on the Use of land by a Prescribed Authority and promptly lodge the transfer for the Land, and the Restriction on the Use of Land by a Prescribed Authority, for registration at NSW Land Registry Services.

Risk Passes to Purchaser

Special Condition 11 provides that the risk of damage to the property will pass to Council at the date of completion.

This is standard procedure in most conveyancing contracts.

Contamination

- 5 Special condition 13 of the Contract is headed 'Contamination'.

Council is aware of the site requiring remediation and is in possession of the October 2016 Hazmat and the June 2018 Environmental Assessment Reports.

- 10 Reports received from NSW Health have noted the various contaminants on the site and remediation requirements.

- 15 Sheet asbestos to the eaves of the original building and in the original switchboard has been identified. Lead based paint to several windows is noted in the ENV report. The gas used in all the air conditioning is identified as R22 which requires to be removed. In a separate report by EPIC on ground contaminants above recommended safe levels of radiated sand has been identified in the court yard. Mould to areas of the internal walls and ceiling has also been identified during council staff inspections, this was not noted in the NSW Health reports.

- 20 It is recommended to remediate contaminants identified above with removal of all building contaminants. Radiated sands are required to be capped in the courtyard with other minor levels of radiation not requiring any action.

- 25 Repairs to the roof are required to prevent further mould in the building.

A final hazardous contamination inspection is required after the remediation to ensure the site is safe for all future use.

- 30 The cost of this decontamination, remediation and report is estimated as per the below spreadsheet. Opening up the building may discover more latent defects which has contingency against for this.

None of this work covers the new use of the building requirements.

Removal of asbestos, Cap radiated sands, remove lead paint windows and mould to the ceiling and walls.	\$ 40,680.00
Make safe electrical	\$ 1,930.00
Switchboard replacements	\$ 8,350.00
Roof repairs	\$ 45,000.00
Eaves, windows and floors replacement	\$ 12,700.00
Clearance certificate for contaminants	\$ 7,000.00
Engineering for Wall bracing and trusses span	\$ 2,500.00
Contingency	\$ 55,000.00
Termite baiting	\$ 1,500.00
Contingency	\$ 25,000.00
Total	<u>\$ 199,660.00</u>

Details of Contract

- *Completion date*

5

The Contract (special condition 8) sets a completion date of the later of:

- 42 days from the date of the Contract (exchange); or

10

- 14 days after the date on which the Vendor notifies the Purchaser in writing that 'Health Administration Corporation' is the registered proprietor of the land.

- *Address of property*

15

The Contract states that the property is known as Former Byron Hospital, 10-12 Shirley Street, Byron Bay, being all of the land contained in Certificate of Title Folio Identifier 1/847910.

- *Improvements*

20

The property is a former hospital.

- *Inclusions*

25

There are no inclusions marked on the front page of the Contract.

- *Exclusions*

30

There are no exclusions marked on the front page of the Contract.

- *Purchaser details*

35

Council is described in the Contract as Byron Shire Council with its address being 70-90 Station Street, MULLUMBIMBY NSW 2482.

- *Purchase price*

The purchase price is \$ 1.10 plus GST.

40

- *Deposit*

The Vendor is calling for a nil deposit.

- *Goods and Services Tax*

45

The Contract provides that the sale is a taxable supply.

Land Title

- *Good Title to the property*

50

The property is Torrens title land meaning the name of the owner is registered on a certificate of title that proves ownership. The title is presently in the name of Richmond Health Service. This needs to be changed to Health Administration Corporation. See comment above in respect of date for completion.

55

- *Easement*

The following easements exist on the property :

- Easement for Services 6.095 wide affecting the land; and
- Easement for Underground Power Reticulation 6.095 metres wide affecting the land.

- *Covenants*

The following covenants exist on the property:

- Reservations and Conditions in favour of the Crown; and
- Land Excludes minerals.

- *Right of Carriageway*

The following Rights of Carriageway exist on the property:

- Right of Carriageway 3.5 metres wide affecting the land.

Plan of Subdivision

The plan shows the area of the property as approximately 5,307 square metres, as well as the dimensions of the boundaries.

Access to Property

The legal access to the property is off Shirley Street Byron Bay.

Section 149 Zoning Certificate

The Contract contains a Section 149 Zoning Certificate (the "Zoning Certificate") under the Environmental Planning and Assessment Act ("EPA") from Council.

Bushfire Prone Area

The property is in a bushfire prone area.

Flood Prone Area

The property is within a flood prone area.

Sewerage Disposal

The Contract contains a Sewer Mains diagram which shows where the sewer main lies in relation to the property.

Surveyor's report

There is no survey report attached to the Contract.

Staff will consider the need for a Survey Report.

Hazmat Report

5 Council is in receipt of the October 2016 Hazmat Report and will satisfy itself via peer assessment as to how that report will affect Council and the subject site going forward.

Stamp Duty

10 Council is Stamp Duty exempt. The contract will need to be stamped to that effect.

Purchaser Declarations – the foreign buyers surcharge

15 From 18 July 2016, the purchaser declaration must be completed by any person entering into a transaction on or after 21 June 2016, that results in the acquisition of an interest in land in NSW.

Executive Team

20 A report explaining the contract was provided to the Executive Team meeting on 20 February 2019. The Executive Team noted the report.

Classification of Lot 1 in Deposited Plan 847910 former Byron District Hospital site

25 The Local Government Act provides that all Council land be classified and that there are two classifications: operational and community.

The Act provides that before council acquires land, or within 3 months after it acquires land, council may resolve that the land be classified as community land or operational land.

30 Any land acquired by council that is not classified is, at the end of the period of 3 months after it acquires land, taken to have been classified under a local environmental plan as community land.

Reclassification is a two step process – a proposed resolution and notice followed by a formal resolution.

35 It is proposed that the site will provide services to the community on behalf of Council (see Allowed Purposes earlier). Operational is therefore an appropriate classification.

40 The purpose of classification is to identify clearly that land made available for use by the general public (community) and that land which need not (operational).

How public land is classified determines the ease or difficulty a Council can have dealing in public land, including its sale, leasing or licensing. It also provides for transparency in Council's strategic asset management or disposal of public land.

45 The general position is that there are no special restrictions on councils' powers to manage, develop or dispose of operational land, subject to the provisions of relevant environmental planning instruments (i.e. Local Environmental Plans).

50 Community land on the other hand cannot be sold or otherwise disposed of by council. There are also restrictions on the use of community land (through Plans of Management), on the grant of leases and licences (not more than 21 years and only more than 5 years if public notice is given) and disposal (cannot be sold).

55 Community land would ordinarily comprise land such as a public park.

Operational land can later be reclassified as community land by council resolution, after public submissions have been considered.

Options

1. Adopt the recommendation to classify the land “operational”.
2. Defer the matter for a decision to be made within 3 months of Council acquiring the land.
3. Make no resolution, acknowledging that if Council does not classify the land by resolution within 3 months of Council acquiring the land, it will be automatically classified ‘community.’

The staff recommendation has been formulated on the basis of practical operational considerations.

It will be the Council who ultimately determine whether to classify the land as operational and must take into consideration the submissions received during the public exhibition period, prior to finally determining the issue.

STRATEGIC CONSIDERATIONS

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 1: We have infrastructure, transport and services which meet our expectations	1.2	Provide essential services and reliable infrastructure which meet an acceptable community standard	1.2.7	Optimise Council's property portfolio (SP)	1.2.7.3	Investigate Byron Bay Hospital development options

Legal/Statutory/Policy Considerations

Local Government Act

25 All public land must be classified

All public land must be classified in accordance with this Part.

26 What are the classifications?

There are 2 classifications for public land—“community” and “operational”.

27 How are the classifications made?

- (1) The classification or reclassification of public land may be made by a local environmental plan.
- (2) The classification or reclassification of public land may also be made by a resolution of the council under section 31, 32 or 33.

31 Classification of land acquired after 1 July 1993

- (1) This section applies to land that is acquired by a council after the commencement of this Division, other than:
 - (a) land to which the *Crown Lands Act 1989* applied before the acquisition and continues to apply after the acquisition, and

(b) land that is acquired for the purpose of a road.

(2) Before a council acquires land, or within 3 months after it acquires land, a council may resolve (in accordance with this Part) that the land be classified as community land or operational land.

(2A) Any land acquired by a council that is not classified under subsection (2) is, at the end of the period of 3 months referred to in that subsection, taken to have been classified under a local environmental plan as community land.

34 Public notice to be given of classification or reclassification by council resolution

(1) A council must give public notice of a proposed resolution to classify or reclassify public land.

(2) The public notice must include the terms of the proposed resolution and a description of the public land concerned.

(3) The public notice must specify a period of not less than 28 days during which submissions may be made to the council.

35 What governs the use and management of community land?

Community land is required to be used and managed in accordance with the following:

- the plan of management applying to the land
- any law permitting the use of the land for a specified purpose or otherwise regulating the use of the land
- this Division.

Financial Considerations

Outlined earlier in the report is a schedule identifying costs for remediation at approximately \$200,000. It is understood as part of the sale, NSW Health Administration Corporation will fund these costs.

Drafting of the 2019/2020 Budget is underway but is yet to be considered by Council. Preliminary estimates to cover holding costs of the site for the 2019/2020 financial year are estimated at \$400,000 in addition to an estimate of \$50,000 to fund the administrative establishment of the site (Governance Models) and legal documents (Leases). A suggested approach for any costs invested by Council will require their return at a later stage as is the proposal for the former Mullumbimby Hospital. In the interim, it will be necessary for Council to fund these costs should the purchase proceed. With this in mind, an interim funding source can be from the Holiday Park Reserve via an internal loan that will need to be reimbursed at a future time.

In the lead up to the adoption of the 2019/2020 Budget in June 2019, Council will have time to consider this further along with any potential to refine with a view to reduce the estimated holding and establishment costs.

Consultation and Engagement

Executive Team
Manager Finance
Project Officer IS
Place Manager

Report No. 13.7 **Crown Lands Transition - Additional Information Various Reserves**
Directorate: General Manager
Report Author: Shannon McKelvey, Executive Officer
File No: I2019/290

5

Summary:

10 This is the third report on matters relating to the transition of certain Crown Land Reserves in the Shire, to management under the *Local Government Act 1993*. It provides additional information in three parts, with the first two seeking further Council resolutions for a small number of specific reserves.

15

RECOMMENDATION:

For the following Crown Reserves, Council resolve to apply to the Minister administering the Crown Lands Management Act for:

- a) **Sportsfield category for Reserve R78676;**
- b) **General Community Use category for Reserves R97139 and R73711;**
- c) **Natural Area category for Reserve R97604;**
- d) **Operational Land classification for part of Reserve R97066 (small part on which the Suffolk Park Caravan Park operates) and Community Land classification for the balance of the reserve.**

Attachments:

20 1 Specific Crown Reserves - recommended categories and classifications, E2019/17756 

REPORT

The Crown Lands Transition is a 3-year project involving administratively moving certain Crown Land Reserves in the Shire to management under the 'Public Land' provisions of the *Local Government Act 1993*. Reports so far have included:

Date	Res	Key Aspects	Status
22/11/18	18-757	In part - <i>That Council resolve to apply to the Minister administering the Crown Lands Management Act for initial classifications and categorisations set out in Attachments ...</i>	Nearly complete. Applications for Council managed reserves were lodged on 5/3/2019 except for Reserves referred to in this report.
28/02/19	19-18	Clarified classification and categorisation and authorised applications for a particular reserve at Keyes Bridge Federal.	Complete. Application lodged 5/3/2019

This report seeks clarification by resolution for a small number of reserves to finalise all the classification notifications and categorisation applications.

Part 1 – Confirmation of Assigned Category for a number of Community Land Reserves

The need for review of the assigned category for a small number of reserves arises from a combination of a “one purpose = one category” rule that Department of Industry – Crown Lands (DOI-CL) is imposing on councils and wildlife corridor mapping staff use.

The DOI-CL rule is that where there is only one gazetted purpose for a reserve, Council can only assign one Community Land category to it.

For Council-owned Community Land, there is no equivalent rule. Council can, and does, assign multiple categories to its land. For example, the [Bangalow Sports Fields](#) are categorised as a mix of Sportsground, General Community Use and Natural area. This is practical because many public spaces are used for multiple purposes and assigning multiple categorisations allows a quadruple bottom-line approach for managing the values and uses of public spaces.

It is likely that Plans of Management for Crown-owned Community Land will eventually similarly allow multiple categories, reflecting that many reserves are used for multiple purposes. However, for this first step in the administrative transition process, Council is being asked to adhere to Crown Land’s “one purpose = one category” rule.

The below reserves have both high environmental and community use values. Council is being required to assign a single category, even though the spaces are currently used for both purposes.

An assignment of a ‘community-use’ category (eg sportsfield, park or general community use) will allow existing community and commercial uses as well as existing environmental conservation to continue, as conservation goals are compatible with the core objectives of the community-use categories.

However, the reverse is not true. An assignment of Natural Area category can render existing community and commercial uses incompatible and unable to be permitted under a Plan of Management due to the core objectives of a Natural Area categorisation which are to conserve, restore and maintain in a natural state and “to provide for community use and access to the land in such a manner as will minimise and mitigate any disturbance caused by human intrusion”. So for example, continued use of an area for a sportsfields, surf club or tennis courts would be inconsistent with the statutory requirements of the core objective to ‘minimise human disturbance’.

The reserve-specific research that has been carried out since the initial report has identified that these reserves:

- 5 a) are currently or, in the case of R73711 were historically, used for community or commercial uses; and
- b) have areas on the reserve that retain environmental value that are identified in the mapping staff use as being in or near wildlife corridors.

10 For these reserves, if Council resolves that the wildlife corridor identification should prevail, then the whole reserve will have to be categorised as Natural Area due to the “one purpose = one category rule”. However, a Natural Area categorisation would not allow existing community uses to continue, at least not without future re-categorisation processes (which are long and expensive processes).

15 So for these reserves, in light of the site-specific investigations and the ‘one purpose = one category’ rule, staff are recommending:

- 20 a) where there are no current community or commercial uses of any part of the reserve, Council resolve to assign a Natural Area categorisation; and
- b) where there are current community or commercial uses of part of the reserve, Council resolve to assign the community-use categorisation listed in Attachment 1, to allow for both
- 25 the existing community or commercial uses and the existing conservation of the high environmental values to continue alongside each other.

30 New processes can generate uncertainty and there may be some concern that assignments of community use categories could diminish the environmental protections afforded to the vegetation on the reserves but that is not the case.

35 The transition categorisation process is an administrative exercise. Assigning a community use category will not change anything ‘on the ground’ for these reserves, with their environmental values able to be protected through the Plans of Management, as well of course as under the various legislation that applies. The categorisation assignment is just a starting point that will dictate which of two processes Council may have to follow, with one process being more cost effective and quicker than the other. There is, of course, a possibility that DOI-CL could impose different categories to those assigned by Council, resulting in the more expensive process-path anyway but that is not within Council’s control.

40 Attachment 1 contains details of the reserves, the categories that Council resolved to assign in November 2018 and the revised staff recommended categories following the reserve-specific reviews and applying the ‘one purpose = one category’ rule.

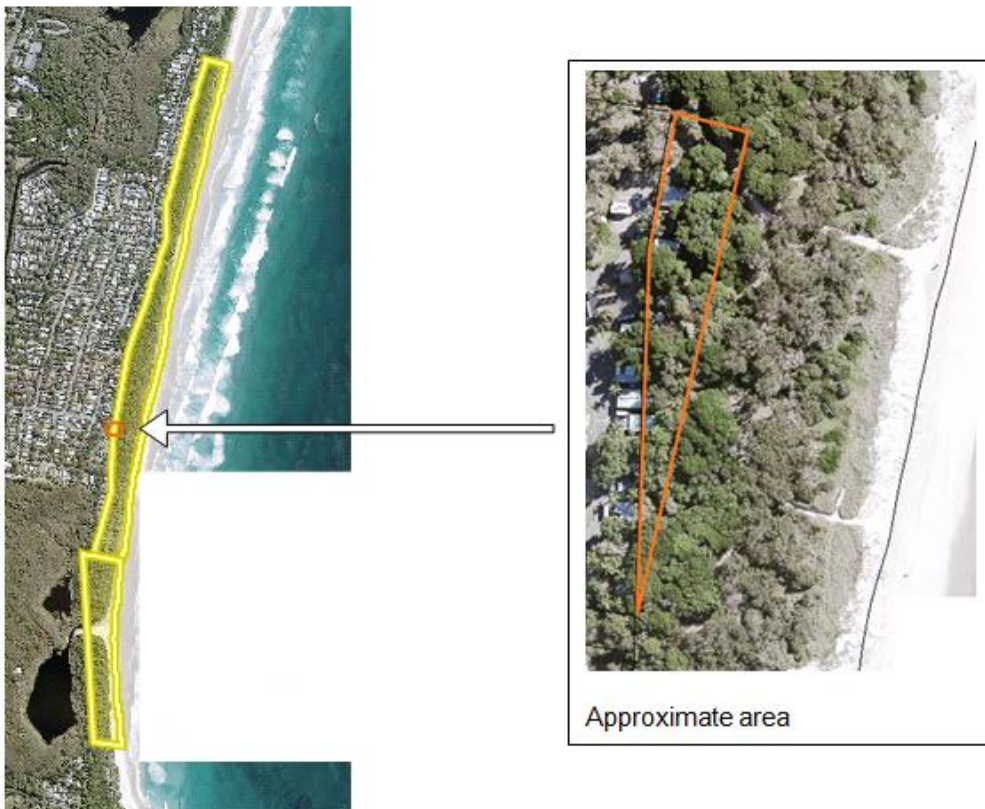
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Part 2– Revised recommended classification of Reserve 97066 Suffolk Park

The site specific review has identified that a small part of Reserve R97066 is used by the Council-owned Suffolk Park Caravan Park. The caravan park use has been in place for many decades and arose from a misaligned boundary fence. The area used is minor, estimated to be less than 1% of the reserve. Council had been working with DOI-CL to regularise the use. The new Crown Lands Management Act regime will allow the continuation of the current uses, with an Operational Land classification for that small part of the reserve and a Community Land classification for the balance.

- 10 Reserve R97066 is currently a single lot – Lot 7004 in DP 1065640. Information had been made available via the Crown Lands portal that separate classifications can be applied to separate lots within a reserve, akin to a ‘one lot = one classification’ approach. Advice has been sought whether this is a rule, or if dual classification of a single lot is possible (like it is for Council-owned public land). If dual-classification of a single lot is not possible, there is a Crown Lands process that can
- 15 create multiple lots within the reserve that would then allow each lot to be classified separately.

- In anticipation of agreement from DOI-CL to allow two classifications to apply to R97066, staff recommend that Reserve 97066 be classified as part Operational Land (that small part on which the caravan park currently operates) and part Community Land (balance of the reserve) as
- 20 indicated below. NB Categorisation as community land of that part of R97066 that is covered by the Ti Tree Lake (Taylor’s Lake) ILUA 3 would remain unchanged.



Part 3 – Additional Information - Brunswick Heads Recreation Grounds (Reserves R48640, R73709, R73711 and R78676)

As noted in the first report, there is potential for parts of these Reserves to retain residual contamination if they were historically used as a rubbish tip.

The further desktop enquiries, conducted since the first report, have provided more information that suggests that parts of the reserve could have been historically used for disposal of rubbish and/or waste.

The information does suggest that the southern sportsfield has always been as a sportsfield, which is why staff now recommend assignment of Sportsfield categorisation to the main reserve. However, for the balance of the main reserve and the adjoining reserves, the location or extent of potential historical uses, particular night soil and rubbish disposal, remains uncertain. This means that site investigations and, potentially, physical testing may need to be carried when funding becomes available. This will now have to become a separate body of work to the Crown Lands Transition project.

STRATEGIC CONSIDERATIONS

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community	2.3	Provide accessible, local community spaces and facilities	2.3.8	Meet requirements for the transition of management of Crown Land to Council under the Crown Lands Management Act 2018	2.3.8.1	Complete required applications to Minister for initial classification and categorisation of applicable reserves and one-off applications

Legal/Statutory/Policy Considerations

Part 2 of Chapter 6 of the [Local Government Act 1993](#) now applies to Crown Reserves that Council manages. Parts 1 and 2 of this report seek further Council resolutions, consistent with those requirements.

Financial Considerations

DOI-CL will provide the base amount of \$30,000 to Council to assist with preparation of Plans of Management. This amount is insufficient to cover the costs of Plans let alone the costs of the preparatory work in notifying/applying to the Minister for classifications and categorisations, the vesting application or the future work that will arise once the program for discussing the balance of the reserves starts.

The work involved in the transition will be resourced from within existing staff resources which means that other projects, like reviewing plans of management for some Council-owned land may need to be delayed.

Consultation and Engagement

- 5 Consultation has been occurring on an 'as required' basis at this stage. Staff are available to speak with any Crown Reserve user groups who have questions and, for example, recently met with Bangalow Show Ground s355 Committee to discuss how the transition will apply to that Crown Reserve. Levels of consultation during development of the different Plans of Management will depend on DOI-CL's responses to Council's applications and conditions, if any, they impose.

Report No. 13.8
Directorate:
Report Author:
File No:

Emergency Dashboard
General Manager
Annie Lewis, Media and Communications Coordinator
I2019/387

5

Summary:

- 10 Council has resolved to develop and test a prototype of an Emergency Dashboard (website) (Resolution **18-783**) and this report provides an update on progress with the project.

RECOMMENDATION:

That Council note that the development of an Emergency Dashboard website be placed on hold pending a decision from Open Cities as to whether it will offer this service to Council as part of its existing contract.

15

REPORT

On 18 October 2018 Council resolved to receive a report on options and costs for the implementation of a disaster dashboard website (**Res 18-693**). Council considered the report on 18 December 2018 and resolved (**Res 18-783**):

- “1. That Council develops and tests a prototype of an Emergency Dashboard using the Open Cities CMS platform that currently hosts the Council website.
2. That the prototype be demonstrated to Councillors at a Strategic Planning Workshop in March 2019.”

This report provides an update on progress with developing the Emergency Dashboard.

Information

Staff have been liaising with Council’s website provider, Open Cities, and there is a possibility it will offer this service to its clients later in 2019. This is expected to come at limited cost to Council.

Given there is the possibility of Open Cities providing an Emergency Dashboard as part of its suite of services, it is recommended that Council wait before undertaking any further work. Therefore at this time staff are unable to demonstrate an Emergency Dashboard prototype.

In the meantime, Council’s response to ex-tropical cyclone Oma demonstrated that our preparation and communication with the community and ability to provide regular updates and information from emergency services such as the SES was responsive, timely and informative.

Background

In October 2018 staff contacted Tweed Shire Council’s Media and Communications team to discuss the development of their Emergency Dashboard (which is modelled on Lismore City and Logan City Council’s) and to get ideas and information about the process.

Staff also contacted Open Cities, Council’s website provider, to ascertain if an Emergency Dashboard could be built using its content management system. Council’s Website and Digital Content Officer started building this prototype and Open Cities was impressed by the concept and asked other clients (nation and international) if this was something that would be of value. The initial feedback was good with some councils saying it would also be good for bushfires, and organisations in the United States indicating they would use something for natural disasters such as tornadoes.

Open Cities then developed a more comprehensive survey for clients. This closed on 8 March, and the results are currently being compiled. If there is sufficient support for an Emergency Dashboard, Open Cities has indicated it will offer this as part of its suite of services to clients in the mid-late part of 2019. This would come at limited cost to Byron Shire Council.

The benefits of this are:

- Fixed cost
- Lower cost, based on development costs shared across customer base

- Development support
- The dashboard will complement Council's existing website
- Confidence that the dashboard will not crash or go offline

- 5 Should Open Cities decide not to provide this service, then Council will progress the development of an in-house emergency dashboard. Based on lessons learnt to date and estimated an hourly rate of \$200 for skilled external developers, the indicative costs to proceed may include:

Indicative Costs (+ 75% / -50%)	Year 1	Years 2 - n
Development		
<ul style="list-style-type: none"> • 5.0 weeks effort <ul style="list-style-type: none"> ○ Gather requirements ○ Build Prototype ○ Iterative improvements • 1.5 weeks effort <ul style="list-style-type: none"> ○ Improvement cycle 	\$35,000	\$10,500
Support		
<ul style="list-style-type: none"> • 1.5 weeks effort <ul style="list-style-type: none"> ○ Custom module upgrades following standard product CMS upgrades 		\$10,500
Totals		
<ul style="list-style-type: none"> • Minimum 	\$17,500	\$10,500
<ul style="list-style-type: none"> • Indicative 	\$35,000	\$21,000
<ul style="list-style-type: none"> • Maximum 	\$61,250	\$36,750

- 10 Should the OpenCities project not proceed, Council would need to:
1. Identify budget, up to a maximum of \$61,250
 2. Develop functional, technical and vendor requirements
 3. Prepare and issue detailed Request for Quotation
 4. Select preferred vendor
- 15 5. Develop prototype

It should be noted that this option is not being progressed at this stage.

STRATEGIC CONSIDERATIONS

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community	2.4	Enhance community safety and amenity while respecting our shared values	2.4.1	Provide and facilitate local emergency management	2.4.1.8	Develop and test a prototype of an Emergency Dashboard using the Open Cities CMS platform

Legal/Statutory/Policy Considerations

- 25 Nil.

Financial Considerations

5 At this stage there are no financial considerations, however should the OpenCities project not proceed, there may be financial implications of up to \$61,000 which has not been funded.

Consultation and Engagement

10 Officers have liaised with Tweed Shire Council and OpenCities regarding the development of the dashboard. Lismore and Logan City Council's dashboard were also reviewed.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.9 Investments - 1 February to 28 February 2019

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

File No: I2019/294

Summary:

This report includes a list of investments and identifies Council's overall cash position for the period 1 February to 28 February 2019 for Council's information.

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

RECOMMENDATION:

That the report listing Council's investments and overall cash position as at 28 February 2019 be noted.

REPORT

Council has continued to maintain a diversified portfolio of investments. At 28 February 2019, the average 90 day bank bill rate (BBSW) for the month of February 2019 was 1.96%. Council's performance to 28 February 2019 is 2.80%. 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.

The table below identifies the investments held by Council as at 28 February 2019:

Schedule of Investments held as at 28 February 2019

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Interest Rate Per Annum	Current Value
24/03/17	1,000,000	NAB Social Bond (Gender Equality)	Y	AA-	24/03/22	N	B	3.25%	1,014,155.00
15/11/18	980,060	NSW Treasury Corp (Green Bond)	N	AAA	15/11/28	Y	B	3.00%	1,019,374.00
20/11/18	1,018,290	QLD Treasury Corp (Green Bond)	N	AA+	22/11/24	Y	B	3.00%	1,030,440.00
28/10/16	650,000	Teachers Mutual Bank	Y	BBB+	28/10/19	Y	FRN	3.17%	651,492.40
31/03/17	1,000,000	CBA Climate Bond	Y	AA-	31/03/22	N	FRN	3.25%	1,000,597.00
16/11/17	750,000	Bank of Queensland	Y	BBB+	16/11/21	N	FRN	2.63%	748,512.75
30/08/18	500,000	Bank Australia Ltd (Sustainability Bond)	Y	BBB+	30/08/21	N	FRN	3.20%	500,573.50
04/09/18	1,000,000	Suncorp	Y	A+	01/03/19	Y	TD	2.70%	1,000,000.00
06/09/18	1,000,000	Bananacoast Credit Union	Y	NR	06/03/19	Y	TD	2.70%	1,000,000.00
06/09/18	1,000,000	Suncorp	N	A+	05/03/19	Y	TD	2.70%	1,000,000.00
03/10/18	1,000,000	NAB	N	AA-	01/04/19	N	TD	2.70%	1,000,000.00
03/10/18	1,000,000	Hunter United Employees Credit Union	Y	NR	01/04/19	Y	TD	2.80%	1,000,000.00
04/10/18	1,000,000	NAB	N	AA-	04/04/19	N	TD	2.70%	1,000,000.00
04/10/18	1,000,000	Australian Military Bank	Y	NR	03/04/19	Y	TD	2.80%	1,000,000.00
15/10/18	1,000,000	Suncorp	N	A	15/04/19	Y	TD	2.65%	1,000,000.00
29/10/18	2,000,000	NAB	N	AA-	29/03/19	N	TD	2.69%	2,000,000.00
30/10/18	1,000,000	Australian Military Bank	N	NR	30/04/19	Y	TD	2.90%	1,000,000.00
31/10/18	1,000,000	B & E Ltd (Bank of Us)	Y	NR	29/04/19	Y	TD	2.90%	1,000,000.00
31/10/18	2,000,000	NAB	N	AA-	29/03/19	N	TD	2.70%	2,000,000.00
02/11/18	1,000,000	B & E Ltd (Bank of Us)	N	NR	01/05/19	Y	TD	2.85%	1,000,000.00
02/11/18	1,000,000	NAB	N	AA-	04/03/19	N	TD	2.66%	1,000,000.00
15/11/18	1,000,000	Police Credit Union Limited (SA)	Y	NR	14/05/19	Y	TD	2.70%	1,000,000.00
19/11/18	1,000,000	Summerland Credit Union	Y	NR	20/05/19	Y	TD	2.90%	1,000,000.00

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.9

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Interest Rate Per Annum	Current Value
26/11/18	1,000,000	Suncorp	N	A	27/05/19	Y	TD	2.70%	1,000,000.00
28/11/18	1,000,000	Maitland Mutual Building Society	Y	NR	27/03/19	Y	TD	2.92%	1,000,000.00
28/11/18	1,000,000	B & E Ltd (Bank of Us)	N	NR	27/03/19	Y	TD	2.95%	1,000,000.00
28/11/18	1,000,000	Suncorp	N	A+	28/05/19	Y	TD	2.65%	1,000,000.00
29/11/18	2,000,000	NAB	N	AA-	29/04/19	N	TD	2.75%	2,000,000.00
03/12/18	1,000,000	Illawarra Credit Union	Y	NR	08/03/19	Y	TD	2.85%	1,000,000.00
07/12/18	2,000,000	Credit Union Australia	Y	BBB	07/12/20	Y	TD	3.02%	2,000,000.00
13/12/18	1,000,000	Summerland Credit Union	N	NR	13/12/19	Y	TD	3.01%	1,000,000.00
18/12/18	2,000,000	Beyond Bank Australia	Y	BBB	18/06/19	Y	TD	2.80%	2,000,000.00
02/01/19	1,000,000	Police Credit Union Limited (SA)	N	NR	01/07/19	Y	TD	3.05%	1,000,000.00
03/01/19	1,000,000	Police Credit Union Limited (SA)	N	NR	13/03/19	Y	TD	2.94%	1,000,000.00
04/01/19	2,000,000	Police Credit Union Limited (SA)	N	NR	20/03/19	Y	TD	2.94%	2,000,000.00
05/01/19	2,000,000	NAB	N	AA-	06/01/20	N	TD	2.75%	2,000,000.00
07/01/19	1,000,000	Bank Vic	Y	NR	07/04/19	Y	TD	2.76%	1,000,000.00
10/01/19	1,000,000	Bankwest	Y	AA-	10/04/19	N	TD	2.60%	1,000,000.00
16/01/19	2,000,000	Suncorp	N	A	16/04/19	Y	TD	2.75%	2,000,000.00
18/01/19	1,000,000	Westpac	Y	AA-	16/01/20	N	TD	2.73%	1,000,000.00
21/01/19	1,000,000	Police Credit Union Limited (SA)	N	NR	22/07/19	Y	TD	2.95%	1,000,000.00
23/01/19	1,000,000	Bank Vic	N	NR	24/07/19	Y	TD	2.76%	1,000,000.00
23/01/19	2,000,000	NAB	N	AA-	06/01/20	N	TD	2.75%	2,000,000.00
25/01/19	1,000,000	Suncorp	N	A	24/05/19	Y	TD	2.70%	1,000,000.00
30/01/19	1,000,000	Defence Bank	Y	BBB	30/01/20	Y	TD	2.85%	1,000,000.00
30/01/19	2,000,000	AMP Bank	Y	A-	30/07/19	N	TD	2.85%	2,000,000.00
04/02/19	1,000,000	Summerland Credit Union	N	NR	04/02/20	Y	TD	2.95%	1,000,000.00
05/02/19	2,000,000	MyState Bank	Y	NR	06/08/19	Y	TD	2.85%	2,000,000.00
05/02/19	1,000,000	Credit Union SA	Y	NR	07/05/19	Y	TD	2.80%	1,000,000.00
07/02/19	1,000,000	NAB	N	AA-	08/05/19	N	TD	2.65%	1,000,000.00
08/02/19	2,000,000	Suncorp	N	A	08/11/19	Y	TD	2.75%	2,000,000.00
08/02/19	1,000,001	AMP Bank	N	A-	07/08/19	N	TD	2.80%	1,000,001.00
11/02/19	1,000,000	B & E Ltd (Bank of Us)	N	NR	12/08/19	Y	TD	2.88%	1,000,000.00
13/02/19	1,000,000	B & E Ltd (Bank of Us)	N	NR	15/05/19	Y	TD	2.82%	1,000,000.00
14/02/19	1,000,000	Police Credit Union Limited (SA)	N	NR	21/05/19	Y	TD	2.80%	1,000,000.00
14/02/19	1,000,000	Maitland Mutual	N	NR	15/05/19	Y	TD	2.82%	1,000,000.00

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.9

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Interest Rate Per Annum	Current Value
		Building Society							
25/02/19	1,000,000	AMP Bank	N	A	26/08/19	N	TD	2.80%	1,000,000.00
28/02/19	2,000,000	Australian Military Bank	N	NR	01/06/19	Y	TD	2.78%	2,000,000.00
28/02/19	1,000,000	AMP Bank	N	A-	29/08/19	N	TD	2.80%	1,000,000.00
28/02/19	1,000,000	ME Bank	Y	BBB	27/06/19	Y	TD	2.68%	1,000,000.00
N/A	1,394,881.14	CBA Business Online Saver	N	AA-	N/A	N	CALL	1.40%	1,394,881.14
12/01/18	1,527,227.78	NSW Treasury Corp	N	AAA	N/A	Y	CALL	2.40%	1,527,227.78
Total	74,820,459.92						AVG	2.80%	74,887,254.57

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

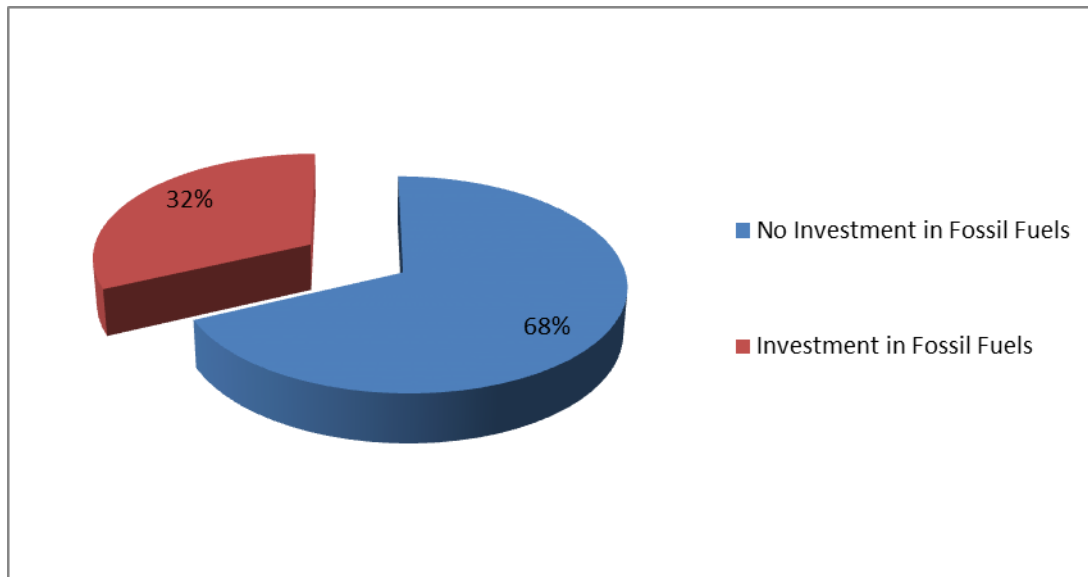
5

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

10

15

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



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

1. \$1,000,000 investment with the National Australia Bank maturing on 24 March 2022 known as a Social Bond that promotes Gender Equity.
2. \$1,000,000 investment with Commonwealth Bank maturing on 31 March 2022 known as a Climate Bond.

Investment Policy Compliance

Investment policy compliance			ACTUAL	Variance
% per institution should not exceed the following				
AAA to AA	A1+	100%	44%	Meets policy
A+ to A-	A1	60%	7%	Meets policy
BBB to NR	A2,NR	40%	49%	Does not meet policy

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

Associated Risk

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

Currently Council is exceeding its policy benchmark for the proportion of the investment portfolio invested in financial institutions with low credit ratings or no credit rating (9% above tolerance). This means a greater proportion of Council's investments have a higher level of exposure to credit risk than Council has determined via policy. To redress this risk, Council would need to invest more of the portfolio with institutions with higher credit ratings but this will reduce the percentage of the

investment portfolio invested ethically. Over time it is likely that institutions with higher credit ratings will move more into the ethical investment space and this will continue to be monitored closely.

The investment portfolio is outlined in the table below by investment type for the period 1 February to 28 February 2019:

Dissection of Council Investment Portfolio as at 28 February 2019

Principal Value (\$)	Investment Linked to:	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
66,000,001.00	Term Deposits	66,000,001.00	0.00
2,900,000.00	Floating Rate Note	2,901,175.65	1,175.65
1,394,881.14	Business On-Line Saver (At Call)	1,394,881.14	0.00
1,527,227.78	NSW Treasury Corp (T Corp)	1,527,227.78	0.00
2,998,350.00	Bonds	3,063,969.00	65,619.00
74,820,459.92		74,887,254.57	66,794.65

- 10 The current value of an investment compared to the principal value (face value or original purchase price) provides an indication of the performance of the investment without reference to the coupon (interest) rate. The current value represents the value received if an investment was sold or traded in the current market, in addition to the interest received.
- 15 The table below provides a reconciliation of investment purchases and maturities for the period of 1 February to 28 February on a current market value basis.

Movement in Investment Portfolio – 28 February 2019

Item	Current Market Value (at end of month) \$
Opening Balance at 1 February 2019	72,881,960.85
Add: New Investments Purchased	17,000,001.00
Add: Call Account Additions	0.00
Add: Interest from Call Account	1,496.46
Less: Investments Matured	15,000,000.00
Add: T Corp Additions	0.00
Add: Interest from T Corp	3,796.26
Less: Call Account Redemption	0.00
Less: T Corp Redemption	0.00
Add: Fair Value Movement for period	0.00
Closing Balance at 28 February 2019	74,887,254.57

Investments Maturities and Returns – 1 February to 28 February 2019

Principal Value (\$)	Description	Type	Maturity Date	Number of Days Invested	Interest Rate Per Annum	Interest Paid on Maturity \$
2,000,000.00	ME Bank	TD	04/02/2019	181	2.70%	26,778.08
1,000,000.00	ME Bank	TD	05/02/2019	137	2.67%	10,021.64
1,000,000.00	NAB	TD	07/02/2019	120	2.66%	8,745.21
2,000,000.00	Suncorp	TD	08/02/2019	149	2.70%	22,043.84
1,000,000.00	AMP Bank	TD	08/02/2019	184	2.80%	14,115.07
1,000,000.00	Bank of Us (B&E)	TD	11/02/2019	91	2.84%	7,080.55
1,000,000.00	Police Credit Union	TD	14/02/2019	120	2.85%	9,369.86
1,000,000.00	Maitland Mutual Building Society	TD	14/02/2019	108	2.80%	8,284.93
1,000,000.00	Australian Military Bank	TD	15/02/2019	123	2.77%	9,334.52
1,000,000.00	NAB	TD	22/02/2019	120	2.67%	8,778.08
2,000,000.00	Australian Military Bank	TD	28/02/2019	121	2.87%	19,028.49
1,000,000.00	AMP Bank	TD	25/02/2019	271	2.80%	20,789.04
15,000,000.00						164,377.23

5 Council's overall 'cash position' is not only measured by what funds Council has invested but also by what funds Council has retained in its consolidated fund or bank account for operational purposes. In this regard, for the month of February 2019 the table below identifies the overall cash position of Council as follows:

Dissection of Council Cash Position as at 28 February 2019

10

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Investments Portfolio			
Term Deposits	66,000,001.00	66,000,001.00	0.00
Floating Rate Note	2,900,000.00	2,901,175.65	1,175.65
Business On-Line Saver (At Call)	1,394,881.14	1,394,881.14	0.00
NSW Treasury Corp (T Corp)	1,527,227.78	1,527,227.78	0.00
Bonds	2,998,350.00	3,063,969.00	65,619.00
Total Investment Portfolio	74,820,459.92	74,887,254.57	66,794.65
Cash at Bank			
Consolidated Fund	3,356,381.37	3,356,381.37	0.00
Total Cash at Bank	3,356,381.37	3,356,381.37	0.00
Total Cash Position	78,176,841.29	78,243,635.94	66,794.85

STRATEGIC CONSIDERATIONS

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

Legal/Statutory/Policy Considerations

- 5 In accordance with Regulation 212 of the *Local Government (General) Regulation 2005*, the Responsible Accounting Officer of Council must provide Council with a monthly report detailing all monies Council has invested under section 625 of the *Local Government Act 1993*.
- 10 The Report must be presented at the next Ordinary Meeting of Council after the end of the month being reported. The current Council Meeting cycle does not always allow this to occur, especially as investment valuations required for the preparation of the report are often received after the deadline for the submission of reports. Endeavours are being made to achieve a better alignment and for some months this will require reporting for one or more months.
- 15 Council's investments are made in accordance with section 625(2) of the *Local Government Act 1993* and Council's Investment Policy. The *Local Government Act 1993* allows Council to invest money as per the Minister's Order – Forms of Investment, last published in the Government Gazette on 11 February 2011.
- 20 Council's Investment Policy includes the objective of maximising earnings from authorised investments and ensuring the security of Council Funds.

Financial Considerations

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

Report No. 13.10 **Items from the Audit, Risk and Improvement Committee scheduled for 14 February 2019**

Directorate: Corporate and Community Services

Report Author: Jessica Orr, Strategic Risk and Improvement Coordinator

File No: I2019/269

Summary:

The Audit, Risk and Improvement Committee met on 14 February 2019, however quorum was not achieved. Those committee members present informally discussed the items as outlined in this report. The full agenda for the meeting is attached.

References below are made to 'Council Recommendations', rather than 'Committee Recommendations' to reflect that a quorum was not achieved and therefore no formal meeting took place.

As the next meeting of the Audit, Risk and Improvement Committee is not scheduled until 30 May, the reports are presented directly to Council for consideration.

RECOMMENDATION:

1. That Council notes that a quorum was not achieved for the Audit, Risk and Improvement Committee meeting on 14 February and therefore reports are presented directly to Council for consideration.
2. That with respect to Report No. 4.12018 Community Survey, Council notes the 2018 Community Survey Report.
3. That with respect to Report No. 4.2 Credit Card audit, Council:
 - a) Notes the status of the Credit Card reforms as announced by the NSW Government in November 2018
 - b) Notes that the NSW Auditor General will undertake an audit of Council's Credit Card processes (as outlined in its external audit plan)
 - c) Receives further updates as the audit progresses
4. That with respect to Report No. 5.1 Update on IT actions, Council resolves:
 - a) That pursuant to Section 10A(2)(f) of the Local Government Act, 1993 resolves to move into Confidential Session to discuss the report Update on IT actions.
 - b) That the reasons for closing the meeting to the public to consider this item be that the report contains: details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property
 - c) that on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as: it exposes information security risks and vulnerabilities that could assist threats in the environment to expose Council data and systems to those without authorisation
5. That with respect to Report No 5.1 Update on IT actions, Council:
 - a) Notes the update provided in the report on IT risk related activities

- b) **Records actions as 'closed' where management has addressed the issue.**
- 6. **That with respect to Report No. 5.2 2018 End of Year Audit Management Letter, Council resolves:**
 - a) **That pursuant to Section 10A(2)(f) of the Local Government Act, 1993, Council resolve to move into Confidential Session to discuss the report 2018 End of Year Audit Management Letter.**
 - b) **That the reasons for closing the meeting to the public to consider this item be that the report contains: details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property**
 - c) **That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as: the report contains details of systems and/or arrangements that have been implemented to protect Council, Councillors, Staff and Council Property**
- 7. **That with respect to Report No. 5.2 2018 End of Year Audit Management Letter, Council notes the comments provided by Management in response to matters raised in the 2018 End of Year Audit Management Letter.**
- 8. **That with respect to Report No. 5.3 Audit progress report - January 2019, Council resolves:**
 - a) **That pursuant to Section 10A(2)(f) of the Local Government Act, 1993, Council resolves to move into Confidential Session to discuss the report Internal Activity & Progress Report - November 2018.**
 - b) **That the reasons for closing the meeting to the public to consider this item be that the report contains: details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property**
 - c) **That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as: it would expose details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property.**
- 9. **That with respect to Report No. 5.3 Audit progress report - January 2019, Council:**
 - a) **Notes the Internal Audit Activity Report – February 2019**
 - b) **Endorses the completion of recommendations as per Table 1 and Table 2**
- 10. **That with respect to Report No. 5.4 2018/2019 External Audit Engagement Plan, Council resolves:**
 - a) **That pursuant to Section 10A(2)(d)i of the Local Government Act, 1993, Council resolves to move into Confidential Session to discuss the report 2018/2019 External Audit Engagement Plan.**
 - b) **That the reasons for closing the meeting to the public to consider this item be that the report contains: commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it**
 - c) **That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as: it has the potential to prejudice the commercial position of the contracted auditor Thomas Noble and Russell, undertaking the audit on behalf of the Audit Office of New South Wales and disclosure request by the Audit Office of New South Wales**

- 11. That with respect to Report No. 5.4 2018/2019 External Audit Engagement Plan, Council:**
- a) Notes the External Audit Engagement Plan prepared by the Audit Office of New South Wales for the year ended 30 June 2019 as outlined in Attachment 1 (#E2019/9292).**
 - b) That the report and Attachment 1 of the closed part of the meeting remain confidential.**
- 12. That with respect to Report No. 5.5 Internal Audit Plan update - Cash Management Audit, Council resolves:**
- a) That pursuant to Section 10A(2)(f) of the Local Government Act, 1993, Council resolves to move into Confidential Session to discuss the report Internal Audit Plan update - Cash Management Audit.**
 - b) That the reasons for closing the meeting to the public to consider this item be that the report contains: details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property**
 - c) That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as: It contains details of systems and/or arrangements that have been implemented to protect council, councillors, staff and council property.**
- 13. That with respect to Report No. 5.5 Internal Audit Plan update - Cash Management Audit, Council notes the report and attached Terms of Reference (E2019/8478).**

5 Attachments:

- 1 Confidential - Agenda for Audit, Risk and Improvement Committee - 14 February, I2019/165**

Report

The attachment to this report provides the agenda presented to the 14 February Audit, Risk and Improvement Committee for determination by Council. The agenda for this meeting can also be located on [Council's website](#)

Report No. 4.1 2018 Community Survey

This report presented the results of the 2019 Community Survey Report. Every two years Council contracts an independent expert consultant to conduct a community survey, to get a snapshot from a representative, statistically valid, sample of Byron Shire residents of their views on importance and satisfaction with various services Council provides, how they engage with Council and levels of satisfaction with contact with Council.

The results were workshopped with Councillors on 7 February 2019 and will be used by staff to develop 2019/2020 and beyond Operational Plan activities. Information on the Community Survey published on Council's website will be updated consistent with the outcomes of the Councillor Workshop.

Report No. 4.2 Credit Card Audit

This report outlined Council's credit card processes and noted that Council will participate in the NSW Auditor General's performance audit.

Report No. 5.1 CONFIDENTIAL – Update on IT actions

This provided an update on the status of IT risk related activities.

Report No. 5.2 CONFIDENTIAL – 2018 End of Year Audit Management Letter

This report presented the 2018 End of Year Audit Management Letter from the External Auditor, the Audit Office of NSW, relating to the 2017/2018 financial year audit. The End of Year Audit Management Letter details ten items for management to consider and provides recommendations to improve internal controls and financial reporting processes.

Report No. 5.3 CONFIDENTIAL – Audit Progress Report – January 2019

This report provided an overview of the overall status of audit recommendations, combining the Internal Audit Activity Report – January 2019 prepared by the Internal Auditor, O'Connor Marsden and Associates (OCM) and the External Audit recommendations prepared by the NSW Audit Office.

Report No. 5.4 CONFIDENTIAL – 2018/2019 External Audit Engagement Plan

This report presented the 2018/2019 External Audit Engagement Plan for Council to the Audit, Risk and Improvement Committee.

Report No. 5.5 CONFIDENTIAL – Internal Audit Plan update – Cash Management Audit

This report provided an update on the Internal Audit Plan following revisions at its 15 November 2018 meeting and outlines the Terms of Reference and a brief status of the cash management audit currently underway

Financial Implications

As per the Reports listed within the Meeting of 14 February 2019.

5

Statutory and Policy Compliance Implications

As per the Reports listed within the Meeting of 14 February 2019.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.11 Clarkes Beach Stormwater Gully Remediation and Midden Protection - Update on the Project and Change of Scope

Directorate: Infrastructure Services
Report Author: James Flockton, Drain and Flood Engineer
 Chloe Dowsett, Coastal and Biodiversity Coordinator
File No: I2019/201

Summary:

The gully rehabilitation works and midden protection works are a project led and presently funded by Reflections Holiday Parks (NSW Crown Holiday Parks) with stakeholder involvement and input from Council, National Parks Wildlife Service, the NPWS Byron Coast Area Management Committee and Marine Parks.

Councillors were last updated on the status of this project at the 25 May 2018 meeting where Council resolved **Res (18-322)**:


1. *That a further report be presented to Council regarding the Clarkes Beach Stormwater and Gully Rehabilitation Works once a final design has been agreed to between stakeholders.*
2. *That required funding in future years be considered when the matter is reported to Council to redirect flows from Lighthouse Road away from the Clarkes Beach Holiday Park eastern outlet and to the main Clarkes Beach outlet.*
3. *That within the report, it be reiterated that Byron Shire Council is committed to water sensitive urban design practices and, the Byron Bay Town Centre Masterplan recommendation for a wetland and retention pond between the Byron recreation grounds and Lawson Street should be considered when designing the flow redirection route.*
4. *That Council recognises and acknowledges the ongoing and effective work in the area being considered by the Clean and Green Awareness Team and request they, the Coastal Catchment Panel and Water Places Group, are invited to participate in any further stakeholder discussions and presentations.*
5. *That staff draft plans as soon as possible for diversion from Lighthouse Road of the flow of stormwater and explore potential funding/grant opportunities.*

This report addresses items 1 and 5 of Res **18-322** only and provides a recommendation for Council consideration.

RECOMMENDATION:

That Council request as a priority a workshop with Reflections Holiday Parks and key stakeholders to discuss the change in scope of the project, and re-establish key priorities.




Attachments:

- 1 Reflections Holiday - Ardill Payne engineering design - Clarkes Beach Stormwater Protection Design - including protection of Aboriginal midden (v2-PG-SW01 - 2), E2018/35983 

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.11

- 2 Reflections Holiday - Ardill Payne engineering design - Clarkes Beach Stormwater Protection Design - including protection of Aboriginal midden - cross sections (v2 - PG-SW01), E2018/35982 
- 3 NPWS letter to Reflections Holiday - Clarkes Beach Midden and geotechnical investigation, E2019/15230 
- 5 4 Reflections Holiday - Ardill Payne engineering design - Clarkes Beach Stormwater Protection Design - not including protection of Aboriginal midden (PG-SW01 - 2 - RevE), E2019/11413 

REPORT

Key issues

- 5 At the 20 April 2017 meeting staff first provided a report to Council outlining the issues contributing to the large-scale shoreline erosion of tertiary dunes at Clarkes Beach and localised erosion in the vicinity of the Clarkes Beach Holiday Park eastern stormwater outlet threatening an Aboriginal midden on NPWS land. Informal agreement was reached for Reflections Holiday Parks and Council to immediately implement corrective action at the eastern stormwater outlet to protect the midden currently being exposed. Reflections Holiday Parks are leading the project and commissioning the design/s with the intention that once a final design has been agreed, Council would contribute to the funding of the construction works (amount unknown).

15 Councillors were last updated on the status of this project at the 25 May 2018 meeting where Council resolved **Res (18-322)**:

1. *That a further report be presented to Council regarding the Clarkes Beach Stormwater and Gully Rehabilitation Works once a final design has been agreed to between stakeholders.*
- 20 2. *That required funding in future years be considered when the matter is reported to Council to redirect flows from Lighthouse Road away from the Clarkes Beach Holiday Park eastern outlet and to the main Clarkes Beach outlet.*
- 25 3. *That within the report, it be reiterated that Byron Shire Council is committed to water sensitive urban design practices and, the Byron Bay Town Centre Masterplan recommendation for a wetland and retention pond between the Byron recreation grounds and Lawson Street should be considered when designing the flow redirection route.*
- 30 4. *That Council recognises and acknowledges the ongoing and effective work in the area being considered by the Clean and Green Awareness Team and request they, the Coastal Catchment Panel and Water Places Group, are invited to participate in any further stakeholder discussions and presentations.*
- 35 5. *That staff draft plans as soon as possible for diversion from Lighthouse Road of the flow of stormwater and explore potential funding/grant opportunities.*

40 Numerous concepts have been discussed to mitigate stormwater impacts at the site and Council staff previously provided feedback on preliminary engineering concept design options, with preference for hard engineering works within the stormwater gully to 2m AHD and a soft approach closer to the frontal dunes. However, there are no typical best practice guidelines for resolving issues such as these. Various hard and natural engineering solutions for gully and beach erosion around stormwater outlets can be constructed, and all have good and bad features.

45 This report addresses items 1 and 5 of Res **18-322** only.

1. *That a further report be presented to Council regarding the Clarkes Beach Stormwater and Gully Rehabilitation Works once a final design has been agreed to between stakeholders.*

Engineering Design - Clarkes Beach Stormwater Gully Rehabilitation and Midden Protection

50 Design of the proposed works includes two areas – gully protection works and beachside escarpment protection works. The gully protection works will help alleviate the impact of stormwater velocity and erosion of the dune further landward, while the beach protection works aim to stabilise the stormwater works and mitigate further impact to the Aboriginal midden from coastal processes.

55

The NPWS Byron Coast Area Management Committee (NPWS and Arakwal – the Committee) discussed the various options available for mitigating stormwater impact to the midden as outlined in a report prepared by coastal engineer Angus Gordon (2016). The Committee were supportive of the proposal to construct a cobble berm at the base of the dune supporting the midden, however advocating for the berm to be smaller than proposed in the report (0.5m high and 2m wide).

Cobbles are a natural feature of the dunal area and would hence not look out of place on the beach. However, it is acknowledged that the cobble berm concept design for the beach protection area would be less effective than a higher berm and would most likely fail in any kind of moderate swell event.

The Committee acknowledged their preference for a small berm to protect the midden, however advice of Reflections Holiday Parks consultant engineer proposed a more substantial rock armour/wall protection at the gully entrance and midden, which would not provide long-term coastal protection, but would most likely withstand minor swell events.

The first draft Engineering Designs are provided for consideration in Attachment 1 (E2018/35983). The design incorporates beach protection works along the full extent of the Aboriginal midden to the east of the gully entrance. The design also includes beach protection works to the west of the gully in front of the Holiday Park. In this design the rock armouring of the beach protection works is proposed to be up to 400 mm in diameter, similar to large cobbles that would be found in the area. However, the exact rock size is not specified in the cross section drawings (refer Attachment 2 – E2018/35982).

Such a cobble berm for the beach protection works would likely fail during a swell event or when the beach may be lowered and it was unclear how and who would repair/maintain the berm after failing, and/or who would cover any costs required.

Informally, staff advised Reflections Holiday Parks that usually engineering works are designed to a suitable engineering standard and in most cases financial contribution would be dependent on adoption of a design event not less than the 10 year average recurrence interval (ARI). The gully rehabilitation works are a mix of hard and soft engineering with various rock sizes to dissipate stormwater energy and revegetation of the area.

As such, a second draft Engineering Designs were prepared by Reflections Holiday Parks. Staff comments on the second draft Engineering Designs are provided further into the report.

NPWS Comments

Prior to NPWS providing approval for any designs, it was confirmed that the designs would need to be considered at a meeting of the NPWS Byron Coast Area Management Committee. The Committee includes representatives of the Bundjalung of Byron Bay Aboriginal Corporation (Arakwal) who are joint management partners with NPWS and vitally concerned about improving management of the Aboriginal midden.

In parallel with Reflections Holiday Parks investigating improvements to stormwater management and providing protection to the midden at Clarkes Beach, NPWS commissioned an archaeological investigation of the midden to inform future management decisions.

The study was finalised late last year and was considered at the Committee meeting in December 2018. At this meeting the Committee considered the recommendations and findings of the archaeological study and decided that protection of the Aboriginal midden was no longer required.

Staff have not yet received this study, however, have received informal advice that the midden is not as old as once believed and long-term protection of this cultural site is not warranted. Formal advice to Reflections Holiday Parks in a letter dated 19 December 2018 (Attachment 3 - E2019/15230) outlines this advice and confirms that protection of the midden is no longer required.

It appears that the outcome of this formal correspondence has had implications on the final design for the protection works with the engineering designs amended to reduce the eastern extent of the rock protection in front of the midden. The second draft Engineering Designs are provided for consideration in Attachment 4 (E2019/11413).

Staff have reviewed the second draft engineering designs and provide the following comments outlined below.

- The rock armouring does not extend to protect the full length of the midden.
- The rock armouring extends for 10 m east and west of the gully and is necessary to provide some protection to the foredunes either side of the gully outlet to prevent failure of the gully by outflanking.
- The size of the rock armouring (now 3 tonne) for the beach protection works is based on the works to withstand coastal processes and erosive forces from up to 10 year ARI storms.
- The beach protection works may be considered 'coastal protection works' under the new Coastal Management Act (2016) and associated SEPP and would need to be approved by the JRPP. Or perhaps these works may be considered solely stormwater works under the Infrastructure SEPP.
- There appears to be a conflict occurring as the works fall into a grey area. If we are now only protecting the gully from the impacts of stormwater, is it necessary to construct such beach protection works? Would these stormwater gully works be appropriate at other areas along the coastline where stormwater outlets are eroding dunes?
- On an eroding coast which is recognised as having on-going shoreline recession hard rock armouring is not support in either Council's DCP or previous (and un-certified) coastal Zone Management Plans. The vision of Byron Shire Council's draft Coastal Zone Management Plan (CZMP) for the Eastern Precincts of the Byron Bay Embayment (2018), which includes Clarkes Beach, is *"To manage Main Beach to Wategos Beach in a way that seeks to maintain a natural undisturbed beach and dune system, to minimise impacts to natural coastal processes, and retain a high standard of beach amenity and access"*. Hence major protection works are not in agreement with the draft CZMP.
- Council has recently embarked on Stage One of developing a Coastal Management Program for the coastline between Cape Byron and South Golden Beach. Any coastal protection works should be considered within this new legislative process.
- There would likely be down-drift effects from the beach protection works to the west.
- Various hard and natural engineering solutions for gully and beach erosion around stormwater outlets can be constructed, and all have good and bad features.
- Council staff have previously provided feedback on the preliminary engineering concept design options for managing stormwater at the outlet, with preference for hard engineering works within the stormwater gully to 2m AHD and a soft approach closer to the frontal dunes. However, the softer (smaller cobble) approach is unlikely to withstand coastal processes (to a 10 ARI event), hence the larger rock in the second draft.
- Beach scraping combined with dune revegetation and fencing is a softer approach and should be considered for re-building dunes, outside of the stormwater outlet zone.
- Given the midden protection works are no longer warranted a smaller concrete piped outlet or other smaller footprint options could be considered.

Change of Project Scope

The scope of the project has clearly changed based on the advice that the midden is no longer required to be protected. The recent designs have substantial beach protection works and rock

armouring on the seaward face of the dune. It is staffs view that this substantial rock armour works should be reconsidered given the change of scope. While the rock is likely warranted in order to anchor the stormwater gully works for a 10 year design life, it may not be warranted now the scope has changed.

There are many coastal stormwater outlets along Byron's coastline which are simply concrete stormwater outlets piped to the beach. It would be very hard to justify the extent of these proposed works for simply reducing the impact of stormwater flow to Clarkes Beach. More aesthetic and/or smaller works may be completed to dissipate some of the energy of stormwater flow.

The scope of the project has changed and for reasons outlined above staff do not support or endorse the most recent engineering designs proposed for this project. Staff would advocate that a joint key stakeholder workshop be organised to re-agree on the key objectives of this project in order to progress in a timely manner. In the interim, staff are also investigating other relevant stormwater options that may be feasible at the site.

5. That staff draft plans as soon as possible for diversion from Lighthouse Road of the flow of stormwater and explore potential funding/grant opportunities.

Lighthouse Road Stormwater Redirection

Staff have received a quote from Consultant Burchills to prepare the design of the Lighthouse Road Stormwater Redirection works. Burchills were chosen because they are currently designing the reconstruction of the lower end of Lighthouse Road and this work would just extend the design process. Unfortunately the price for the additional design is \$35,510. The current project has insufficient funds to cover these additional costs. Therefore, the Lighthouse Road Stormwater Redirection works design phase have been submitted for consideration for the 2019/20 budget, however, the draft budget is yet to be finalised.

Council is committed to improvements in Water Sensitive Urban Design practices in Byron Bay and across the shire. Staff are currently in the process of preparing Water Sensitive Urban Design Policy and Strategy for the shire.

The Byron Bay Town Masterplan recommends a wetland and retention pond between the Byron recreation grounds and Lawson's Street. This action was a recommendation from the Belongil Creek Floodplain Management Plan 2014 for flood mitigation purposes and also results in water quality improvements.

Diversion of Lighthouse Roads stormwater away from this area will help protect the midden, but also improve the stormwater quality entering the ocean via the Cowper Street outlet. This will be considered as part of the redirection route design process, additionally staff are currently in discussion with Crown Lands to gain access to the Sandhills Estate for the purpose of building the proposed wetland and retention pond.

Recommendation

Request as a priority a Workshop with key stakeholders to discuss the change in scope of the project, and re-establish key priorities.

Next steps

Stakeholder workshop as noted above.

STRATEGIC CONSIDERATIONS

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 1: We have infrastructure, transport and services which meet our expectations	1.1	Provide a road network which is safe, accessible and maintained to an acceptable level of service	1.1.6	Provide stormwater infrastructure to manage flood mitigation, social and environmental outcomes		This project has no direct link to the Operational Plan.

5 Legal/Statutory/Policy Considerations

The *Coastal Management Act 2016* was enacted on 3 April 2018 and repeals the *Coastal Protection Act 1979*.

10 Council's Development Control Plan (1988)

As per a previous letter from NPWS:-

15 *In terms of direct impacts, discharge of Lighthouse Road stormwater to the upper gully is destabilising the fragile edges in the part of gully within Cape Byron State Conservation Area which is protected under the National Parks & Wildlife Act 1974. This has resulted in trees collapsing into the gully which continues a cycle of destabilisation. The collapsing trees form part of a Littoral Rainforest Endangered Ecological Community (EEC) protected under the Biodiversity Conservation Act 2016. The BCA Act includes offences for knowingly*
 20 *damaging such habitat. The National Parks and Wildlife Regulation 2009 includes offences for damaging or destroying park vegetation.*

25 *Lighthouse Road stormwater is also impacting on the Aboriginal site located closer to the mouth of the gully. Aboriginal sites are protected under the NPW Act 1974. The NPW Act includes the offence of harming Aboriginal sites and a higher order offence, with higher penalties, for knowingly causing harm.*

30 At this time NPWS are 'urging' Council to resolve the issues in the gully. However, they do have the power to apply more direct pressure. It is noted that Council's stormwater flows in this location pre-date the creation of the Cape Byron State Conservation Area, therefore, we do have some existing use rights. This cannot be used as an argument to not proceed with the gully rehabilitation works, but it could be used as an argument to not redirect stormwater flows until such time that Council has the resources and priorities to complete these works.

35 Financial Considerations

40 A detailed estimate for the gully improvement works will be provided, including a proposed funding method, once a design has been agreed upon. Council's 50% share of the costs is likely to be in the region of \$150-200k.

This is considered to be beyond Council's current funding abilities and priorities. The proposed works could be added to the 10 year plan for review against other Council priorities.

45 The design and construction of the Lighthouse Road Stormwater Redirection works is current unfunded in the 2018/19 budget. However, the design phase is recommended for consideration in 2019/20 budget.

5 The cost to divert all of Council's stormwater flows away from the current Clarkes Beach outlet has previously been expected to be in the region of \$530 to \$550k. Construction costs will be further developed as part of the design process once a more detailed design has been prepared. These costs can be added to the proposed 2020/21 budget process.

Consultation and Engagement

10 Consultation to date is noted through the report and is ongoing.

Report No. 13.12 **Byron Bay Township Open Space Service Review 2019**
Directorate: Infrastructure Services
Report Author: Michael Matthews, Manager Open Space and Resource Recovery
File No: I2019/374

5

Summary:

10 Council is committed to continuous improvement and regularly conducts reviews and audits of services across all service areas.

A review of the Byron Bay Township Open Space Services has been conducted by an independent consultant and the results, with recommendations are reported below.

15

Management support all the recommendations in the report and will progressively act on them in conjunction with key stakeholders.

20

RECOMMENDATION:

1. **That Council note the Byron Bay Township Open Space Service Review 2019 (E2019/18505)**
2. **That Staff will arrange a briefing to the Masterplan Guidance Group on the Service Review and outcomes including actions moving forward.**

Attachments:

- 1 FINAL REPORT Byron Bay Township Open Space Service Review - 13 March 2019, E2019/18505

25



REPORT

In June 2018 Council resolved (part **Res 18-429**) that:-

- 5 *“an independent service review that identifies levels of service to be undertaken along with service costs and efficiencies for all maintenance activities within the Byron Bay Township and that a report be provided to Council by February 2019”.*

10 Staff prepared a Request for Quote (RFQ) for this review and distributed it to Councillors in September 2018 for Councillor input into the scope.

15 The competitive process resulted in the appointment of [IOSS](#), a firm specialising in applied research, to undertake the service review, led by Mr David Vial who has over (40) forty years' experience in the parks and recreation industry.

15 The independent service review report was received on 11 March 2019, and is being reported (Attachment 1) at the first opportunity and with relevant contextual information provided below.

20 The scope of this service review:

- 20 a) Was limited to the Byron Bay Township in accordance with Resolution **18-429**, however the beneficial information obtained will be able to be used to review programming of all services across the Shire
- 25 b) Related to maintenance operations for town centre open space and streetscapes assets. All of the operations and assets reviewed with within the Infrastructure Services Directorate, with the Open Space and Resource Recovery Team responsible for most of the operations and assets, with the exception of public toilets (maintenance and cleaning) which are managed by the Utilities Team

30 The review has compared Byron Bay town centre operations with industry standards and levels of service within comparable councils. The gap analysis has identified some opportunities for improvement and the report contains a number of recommendations which will be acted on and programed into the Operational Plan for the Open Space and Resource Recovery (OSRR) team

35 where they can be funded from within existing budgets.

40 The OSRR Team has been continuing with its program of efficiency improvements over the last 12 months, pending receipt of the review report. Some of these are noted on page 31 of the report such as:-

- 45 1. Installing automated irrigation systems into high profile parks including Railway Park, Denning and Apex Parks
- 45 2. Introduction of a turf maintenance program to high profile areas which involves proactive regular aeration, fertilising and top dressing
- 45 3. Improved plant species selection. This is ongoing and needs consideration in the context of the DCP

Current projects in the Byron Bay Town centre that will also contribute to improved open space and streetscapes as well as the efficiencies of programed maintenance include:-

- a) Railway Park upgrade
- 5 b) Rail corridor maintenance
- c) Review of town centre Landscaping Plan (2009)
- d) Public exhibition of an improved Plan of Management for Byron Bay Recreation Grounds

Each of these projects have been or are being designed with future maintenance programing and costs in mind to maximise future efficiencies, for example reuse water reticulation, automated irrigation, water sensitive urban design and plant species selection with future maintenance in mind are all built-in and funded components of the Railway Park upgrade.

There are also other major projects that will be designed and delivered over the next few years that will impact OSRR team operations in the Byron Bay Town centre for example:

- I. Town centre bypass;
- II. Butler Street site investigation outcomes;
- III. Sandhills recreation hub;
- 20 IV. Byron Bay Foreshore upgrade plans;
- V. Byron Bay Hospital redevelopment.

A separate but related project is also the current review of Council toilet cleaning services across the Shire.

The above is a snapshot of the volume of projects that have been completed, are currently underway or will be delivered in the near future. These will continue in addition to the OSRR also acting on the independent Service Review recommendations. Staff agree with the gap analysis and all of the recommendations and provide management comments as follows:

Service Review Recommendation	Management Response
Continue to encourage a culture of innovation and continuous improvement	This is a core staff value and will continue.
Develop agreement on service levels for cleansing, infrastructure maintenance and green space maintenance within the Byron Township.	Council has been progressively developing agreed services levels for all Infrastructure Services when preparing Asset Management Plans. An activity will be included in the 2019/2020 Operational Plan.
Agree and implement a planting theme that characterises and unifies the Byron township.	This is an action for this financial year. Staff will work with the Masterplan Guidance Group to review the town centre Landscaping Plan.

Develop a suite of construction details for road islands and median strips that allow for healthy plant growth and longevity.	This is quite a body of work that will need to be progressively developed. Some work is already underway that can be leveraged, for example in relation to developing water-sensitive urban designs.
As part of the overall theme for the Town Centre Streetscape and Parks, a Picturesque landscape outcome is adopted.	Staff support this outcome-focused approach. However, Council will need to work with the Masterplan Guidance Group and community to confirm their support. This issue can be addressed during development of the review of the town centre Landscaping Plan.
When developing landscape design and construction plans consider factors that will enhance landscape maintenance productivity and sustainability.	Council has been improving the way that it does this, for example this was undertaken with the design of the Railway Park upgrade. The list contained in the Service Review Report will form the basis of Design Criteria Checklist that can now be used for all open space projects throughout the Shire.
Improve the productivity of green space management through trialling the use of large plants in planting programs for improving the resilience of plants in the establishment phase to droughting, accidental damage and vandalism.	Staff agree with the general principle that higher up-front costs can save money in the long term. Using large plants during planting phases typically increases the costs of projects. Where project funds permit, Council can trial this as recommended and conduct cost/benefit analyses. However, there may be some projects where this is not possible due to funding constraints or where adjustments to expectations may be necessary if limited funds are to be spent on a smaller number of larger plants.
Investigate volunteering options for the undertaking of green space management tasks that sit outside existing levels of service, that Council has the resources to manage on an ongoing basis and within their ability to manage the WHS aspects.	Council is currently reviewing its Volunteering Framework, which covers volunteering opportunities across all service areas, including open space. A Councillor workshop on this is scheduled for 4 April 2019. This recommendation can be incorporated into the broader shire-wide volunteering review.
Consider developing partnership agreements with local businesses in the Byron Town Centre to develop and care for the streetscape abutting their business to an agreed design, intent and standard.	Staff support this suggestion. The general town centre standard, intent and designs will need to be developed in conjunction with the Masterplan Guidance Group. Discussions with that Group will be needed to ascertain where this sits within their priority projects.

Apply to source funds to accelerate the implementation of the Byron Bay Town Centre Masterplan and ensure landscape design and construction solutions include consideration of productive landscape maintenance.	Council has been doing this and will continue.
As part of corporate Customer Request Management (CRM) improvement process consider changes that: reduce manual processing; allows for staff absences; public holidays; weekends etc; CRM generation and response; minimise risks of flagging urgent requests as non-urgent; feeds back the remedial action to the originator of the request (where known).	Council has had a progressive improvement program for its Customer Request Management System that commenced with "Report It" e-services. An evidence-based approach was used to prioritise the service categories for review – to ensuring the categories used the most by customers are improved first. The Open Space categories are around the middle of the prioritisation list, with work anticipated to start on them around mid-2019. All of the items listed in the recommendation will be improved as part of the CRM workflow review for the open space categories.

In addition to the above recommendations, the Service Review report contains information about other potential improvement initiatives, for example on pages 79-80. Some of these have budget implications so may not be immediately suitable for Council. However, in addition to acting on the recommendations, staff will review these ideas further.

Finally as noted above, while this Service Review focused on Byron Bay town centre operations, much of the information in the report and lessons learned from the review will be able to be applied to improve open space maintenance operations across the Shire.

STRATEGIC CONSIDERATIONS

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 1: We have infrastructure, transport and services which meet our expectations	1.2	Provide essential services and reliable infrastructure which meet an acceptable community standard	1.2.1	Deliver infrastructure maintenance services in line with Community Solutions Panel values (SP)	1.2.1.3	Implement planned maintenance program for resource and recovery operation assets
Community Objective 1: We have infrastructure, transport and services which meet our expectations	1.2	Provide essential services and reliable infrastructure which meet an acceptable community standard	1.2.2	Develop infrastructure asset renewal and upgrade program in line with Community Solutions Panel values (SP)	1.2.2.2	Prepare an Open Space Asset Management Plan

Legal/Statutory/Policy Considerations

- 5 Nil in respect to the consideration of the Service Review Report. Council must comply with statutory requirements when designing and carrying out works in public spaces for example Work Health Safety Legislation and industrial requirements.

Financial Considerations

- 10 The budget for the independent Service Review was \$30,750 and has been delivered and finalised within budget.

Consultation and Engagement

- 15 The recommendations from the independent Service Review directly affect Byron Bay Town centre Masterplan projects and the Masterplan Guidance Group are instrumental stakeholders.
- 20 Staff will arrange a briefing of the Masterplan Guidance Group on the Service Review and outcomes and will ensure there's agreement with the group on how actions to implement the recommendations. Due to the reporting requirement in Res **18-429**, it was not possible to start this consultation before reporting the Service Review to Council but it will commence shortly.

Report No. 13.13 **Draft Plan of Management Suffolk Park Recreation Grounds**
Directorate: Infrastructure Services
Report Author: Michael Matthews, Manager Open Space and Resource Recovery
File No: I2019/399

5

Summary:

10 A draft Plan of Management for the Suffolk Park Recreation Grounds (PoM) has been prepared in accordance with previous Council resolutions and requirements of the Local Government Act 1993 and associated regulations.




15 This report seeks Council endorsement to undertake the next step to publicly exhibit the PoM in accordance with the requirements of the Act.

RECOMMENDATION:

1. **That Council adopt the Draft Plan of Management Suffolk Park Recreation Grounds (#E2019/18823) for public exhibition, and that the draft Plan of Management be placed on public exhibition, in accordance with the requirements of the *Local Government Act 1993*.**
2. **That a post-exhibition report be brought to Council, including consideration of and recommendations on any submissions received during the exhibition period.**

Attachments:

20

- 1 Suffolk Park Community Park CONCEPT 180313 email.pdf, E2019/18593 
- 2 Draft Plan of Management Suffolk Park Recreation Grounds V1, E2019/18823 
- 3 Survey Responses Suffolk Park Community Park Masterplan1.pdf, E2019/18987 

25

REPORT

Background to Suffolk Park Recreation Grounds

- 5 In 2001, Council undertook a feasibility study to provide much needed sporting fields for the Suffolk Park community. Through this study it became apparent that land available to Council to provide sporting fields within Suffolk Park was inadequate. In order to progress the provision of these much needed facilities, Council approached the Department of Education with a view to investigating whether it would be interested in making part or the whole of its land at Suffolk Park
10 available to Council for the provision of sporting fields.

A Deed of Licence was executed on 1 April 2004 for a term of five years with two (2) options of renewal. This Deed of Licence was due for termination on 31 December 2018, with no more options available under the Deed for extension. The annual licence fees are \$1.00 per year if
15 demanded.

In June 2016, Council was advised by the Department of Education of their intended disposal of Lot 60 DP817888, land of which Council held significant formal and informal interest. Formal interest included licenced tenure over part Lot 60 DP817888 as per Figure 1, with built
20 infrastructure including an access road, sports field, cricket nets, park shelters, car park and associated infrastructure.

Figure 1 - Lot 60 on DP817888



25

Figure 2 - Original licenced area of Council from the Department of Education



- 5 With significant community support, representations from Council were made to the Department of Education to acquire the land for Community use. Council entered into negotiations for the purchase of the land, December 2016 (**Res 16-587**).

Final settlement from the Department of Education occurred 23 June 2017.

- 10 A condition of purchase was that the land be classified as Community Land under Byron the LEP.

- 15 The LGA requires that all public land owned by Council be classified as either community land or operational land. Council must have a plan of management for all community land. This is to ensure that an endorsed framework guides the operation and development of these community resources.

STRATEGIC CONSIDERATIONS

- 20 **Community Strategic Plan and Operational Plan**

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community	2.3	Provide accessible, local community spaces and facilities	2.3.5	Maintain Public Open space in a safe and efficient way that provides for both active and passive recreation (SP)	2.3.5.1	Plan and deliver Open Space works programs based on defined levels of service

Legal/Statutory/Policy Considerations

- 25 The Local Government Act and Regulations prescribe the process, and minimum content, for preparing Plans of Management. Council's Legal Counsel provided advice that the revised template satisfied the statutory requirements for content.

The prescribed process governing development of and consultation on a Plan of Management, including the requirement to hold a public hearing for a change in categorisation, must continue to be followed by Council.

5

Financial Considerations

Not applicable.

10 ***Consultation and Engagement***

A survey on the draft masterplan which has informed the draft Plan of Management was advertised and opened for community feedback from May 30 2018 to August 27 2018. The survey results report is attached. In summary 81.3% of respondents supported the concept plans. 10.9% were undecided and 7.8% were not in support.

15

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES**Report No. 14.1 Report of the Finance Advisory Committee Meeting held on 14 February 2019**

5 **Directorate:** Corporate and Community Services
 Report Author: James Brickley, Manager Finance
 File No: I2019/215

10 **Summary:**

This report provides the minutes and recommendations of the Finance Advisory Committee Meeting held on 14 February 2019 for determination by Council.

15

RECOMMENDATION:

1. **That Council notes the minutes of the Finance Advisory Committee Meeting held on 14 February 2019.**

2. **That Council adopts the following Committee Recommendation:**

Report No. 4.1 Quarterly Update - Implementation of Special Rate Variation
File No: I2019/119

Committee Recommendation 4.1.1

That the Finance Advisory Committee notes the quarterly update on the Special Rate Variation Implementation as at 31 December 2018.

3. **That Council adopts the following Committee Recommendation:**

Report No. 4.2 Long Term Financial Plan 2018-2028 Update
File No: I2019/157

Committee Recommendation 4.2.1

That the Finance Advisory Committee notes the further update provided in respect of the 2018-2028 Long Term Financial Plan.

20

4. **That Council adopts the following Committee and Management Recommendation:**

Report No. 4.3 Budget Review - 1 October 2018 to 31 December 2018
File No: I2019/162

Committee Recommendation 4.3.1

That the Finance Advisory Committee recommends to Council:

1. **That Council notes that the itemised budget variations as shown in Attachment 2**

(#E2019/9717) which include the following results in the 31 December 2018 Quarterly Review of the 2018/2019 Budget:

- a) General Fund – \$20,000 increase to the Estimated Unrestricted Cash Result**
- b) General Fund - \$835,300 increase in reserves**
- c) Water Fund - \$515,600 increase in reserves**
- d) Sewerage Fund - \$2,149,000 increase in reserves**

were adopted by Council at its Ordinary Meeting held on 28 February 2019.

- 2. That Council notes that the revised General Fund Estimated Unrestricted Cash Result of \$1,145,200 for the 2018/2019 financial year as at 31 December 2018 was authorised by Council at its Ordinary Meeting held on 28 February 2019.**

Attachments:

5

- 1 Minutes of the Finance Advisory Committee held 14 February 2019, I2019/173 

Report

The attachment to this report provides the minutes of the Finance Advisory Committee Meeting of 14 February 2019 for determination by Council. The agenda for this meeting can be located on Council's website at: https://byron.infocouncil.biz/Open/2019/02/FAC_14022019_MIN_1010.PDF

The Committee considered the following items:

Report 4.1 – Quarterly Update – Implementation of Special Rate Variation

The Committee considered a report that outlined expenditure in relation to the 2017/2018 Special Rate Variation. The report included a schedule of works with total funding of \$3,918,600 (this includes the \$2,276,400 derived from the second year of the 4 year Special Rate Variation that commenced on 1 July 2017. As at the end of December 2018, Council had expended 49.38% of the overall program.

Report 4.2 – Long Term Financial Plan 2018-2028

The Committee received a further update on the 2018-2028 Long Term Financial Plan following initial reporting to the 16 August 2018 and 15 November 2018 Finance Advisory Committee Meetings. The Committee noted that additional work on the 2018-2028 Long Term Financial Plan continues and will take account of:

- The 2019/2020 Budget Estimates process (which is underway and budget information is still being compiled at the time of preparing this report).
- A trend towards a reduction in development applications needs to be factored in to projections.
- The draft review of the Sewerage Fund Business Plan has been received and we await the definitive final version in order to provide an accurate long-term projection.

Report 4.3 – Budget Review – 1 September 2018 to 31 December 2018

The Committee discussed the 31 December 2018 Quarter Budget Review, noting the proposed amendments to the 2018-2019 Budget and recommended their adoption to Council (this occurred at the 28 February 2019 Ordinary Meeting). Of note in the report were the following major items:

1. Recovery of a balanced projected budget result as at 31 December 2018 following the creation of a \$20,000 deficit via resolutions **18-710** and **18-836**
2. Maintenance of the unrestricted cash balance of \$1,145,200 being greater than Council's \$1,000,000 benchmark.

The Committee Recommendations are supported by management and are provided in the attachment to this report. The recommendation for Report 4.3 has been amended to reflect the consideration and adoption of Budget Review – 1 October 2018 to 31 December 2018 at the 28 February 2019 Ordinary Meeting.

Financial Implications

As per the Reports listed within the Finance Advisory Committee Meeting of 14 February 2019.

Statutory and Policy Compliance Implications

As per the Reports listed within the Finance Advisory Committee Meeting of 14 February 2019.

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY**Report No. 14.2 Report of the Biodiversity Advisory Committee Meeting held on 11 February 2019**

5 **Directorate:** Sustainable Environment and Economy
 Report Author: Michelle Chapman, Project Support Officer
 File No: I2019/217

10 **Summary:**

This report provides the minutes of the Biodiversity Advisory Committee Meeting of 11 February 2019 for determination by Council.

15 Following Committee Recommendation 4.6.1, the draft Pest Animal Management Plan (Attachment 2) is provided for adoption by Council. Submissions received during the exhibition period are provided at Attachment 3.

RECOMMENDATION:

1. **That Council note the minutes of the Biodiversity Advisory Committee Meeting held on 11 February 2019.**

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2. **That Council adopt the following Committee Recommendation**

Report No. 4.2 Flying Fox Project Reference Group
File No: I2019/5

Committee Recommendation 4.2.1

That the Biodiversity Advisory Committee:

1. **Note the outcomes of the two meetings held on 2 October 2018 and 27 November 2018.**
2. **Recommend to Council that the amended Constitution of the Flying Fox Project Reference Group (Attachment 4 - E2018/109946) be adopted.**
3. **Recommend to Council that the Councillor representative not be replaced on the Flying Fox Project Reference Group as it reports to the Biodiversity Advisory Committee on which there are 3 nominated Councillors.**

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3. **That Council adopt the following Committee Recommendation:**

Report No. 4.5 2019 Meeting dates
File No: I2019/42

Committee Recommendation 4.5.1

That the Biodiversity Advisory Committee:

1. Note the 2019 meeting dates, and include two additional field trips in between the scheduled dates.
2. Amend the June meeting date to be Monday 17 June in lieu of Monday 10 June 2019.
3. Extraordinary meetings will be called when required.
4. Future agenda items and field trips to include: fire and biodiversity, wildlife corridors, flying foxes.

4. That Council adopt the following Committee Recommendations:

Report No. 4.6 Submissions Report on the draft Pest Animal Management Plan
File No: I2019/58

Committee Recommendation 4.6.1

That the Biodiversity Advisory Committee recommend that Council:

1. Note the submissions received during the public exhibition period (9 August to 21 September 2018), issues raised and staff comments.
2. Adopt the Pest Animal Management Plan (Attachment 2- E2018/108387) as amended following public exhibition.






5. That Council adopt the following Committee Recommendations:

Committee Recommendation 4.4.1 - Integrated Pest Management Strategy - mapping and revised timeframes for project delivery

That the Biodiversity Committee:

1. Note the report and update on delivery of the project key milestones.
2. Recommend to Council to endorse in principle the IPM Strategy Communications Plan (Attachment 5 – E2018/115375).
3. Review the Draft IPM exclusion and minimisation mapping, Draft Pesticide Use Decision Tree and provide feedback by 12 March 2019.

Attachments:

- 1 Minutes 11/02/2019 Biodiversity Advisory Committee, I2019/187 
- 2 draft Pest Animal Management Plan - Final, E2018/108387 
- 3 Submissions Draft Pest Animal Management Plan, E2018/109031 
- 4 Flying Fox Project Reference Group - CONSTITUTION (Amended) - 29 November 2018, E2018/109946 
- 5 IPM Strategy Communications Plan 2019 E2018/115375, E2018/115375 

Report

Attachment 1 of this report provides the minutes of the Biodiversity Advisory Committee Meeting of 11 February 2019 for determination by Council. The agenda for this meeting can be located on Council's website at:

https://byron.infocouncil.biz/RedirectToDoc.aspx?URL=Open/2019/02/BAC_11022019_AGN_1023_AT.PDF

Committee Recommendation 4.6.1 - Submissions Report on the draft Pest Animal Management Plan

That the Biodiversity Advisory Committee:

1. Note the submissions received during the public exhibition period (9 August to 21 September 2018), issues raised and staff comments.
2. Recommend to Council to adopt the Pest Animal Management Plan (Attachment 2-E2018/108387) as amended following public exhibition and outlined in Table 1 of this report.

Management Comments

In accordance with the Committee Recommendation 4.6.1 (Part 2), Management provide the following additional information:

The draft Pest Animal Management Plan (Attachment 2) is provided for adoption by Council. Submissions received during the exhibition period are provided at Attachment 3.

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

Financial Implications

As per the Reports listed within the Biodiversity Advisory Committee Meeting of 11 February 2019.

Statutory and Policy Compliance Implications

As per the Reports listed within the Biodiversity Advisory Committee Meeting of 11 February 2019.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.3 Report of the Byron Shire Floodplain Risk Management Committee Meeting held on 19 February 2019

Directorate: Infrastructure Services
Report Author: Dominika Tomanek, Executive Assistant Infrastructure Services
File No: I2019/375

Summary:

The attachment to this report provides the minutes of the Byron Shire Floodplain Risk Management Committee Meeting held on 19 February 2019 for determination by Council.

RECOMMENDATION:

1. That Council note the minutes of the Byron Shire Floodplain Risk Management Committee Meeting held on 19 February 2019.

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

Report No. 4.1 North Byron Floodplain Risk Management Study and Plan - Update
 File No: I2019/174

Committee Recommendation 4.1.1

1. That Council approve the calibration results provided in attachment 1 (E2019/10202).
2. That Council ask WMA Water to articulate as best they can within their final report, the anomalies between modelled, recorded, and surveyed flood levels at Federation Bridge for 2012 and 2017
3. That Council deem the North Byron Flood Model as fit for the purpose of preparing the Draft Floodplain Risk Management Study.
4. That Council recognise the likely need for more than 2 further committee meetings as scheduled for 2019.
5. That Council recognise that a grant of \$250,000 was announced on the weekend for a Flood Warning Network and that the project should be completed this year.

Attachments:

- 1 Minutes 19/02/2019 Byron Shire Floodplain Risk Management Committee, I2019/223 

Report

5 The attachment to this report provides the minutes of the Byron Shire Floodplain Risk Management Committee Meeting of 19 February 2019 for determination by Council. The agenda for this meeting can be located on Council's website at:

https://byron.infocouncil.biz/Open/2019/02/BSFRM_19022019_AGN_1020_AT.PDF

Committee Recommendation

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

Financial Implications

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As per the Reports listed within the Byron Shire Floodplain Risk Management Committee Meeting of 19 February 2019.

Statutory and Policy Compliance Implications

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As per the Reports listed within the Byron Shire Floodplain Risk Management Committee Meeting of 19 February 2019.

**Report No. 14.4 Report of the Transport and Infrastructure Advisory Committee
Meeting held on 8 March 2019**

Directorate: Infrastructure Services

Report Author: Dominika Tomanek, Executive Assistant Infrastructure Services

File No: I2019/386

Summary:

The attachment to this report provides the minutes of the Transport and Infrastructure Advisory Committee Meeting held on 8 March 2019 for determination by Council.

RECOMMENDATION:

1. That Council note the minutes of the Transport and Infrastructure Advisory Committee Meeting held on 8 March 2019.

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

Report No. 4.1 RMS Active Transport Grant Applications for 2019/20

File No: I2018/2409

Committee Recommendation 4.1.1

That the grant applications for 2019/20 for the RMS Active Transport grant program be noted.

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

Report No. 4.2 Status Update - Bike Plan and PAMP

File No: I2019/19

Committee Recommendation 4.2.1

1. That the Committee note the status update on the development of the Bike Strategy and Action Plan (Bike Plan) and Pedestrian Access and Mobility Plan (PAMP).
2. That Option 2 is endorsed for the target completion dates for both Plans, as per the Updated Delivery Schedule (Option 2).

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

Report No. 4.3 Roadside Barrier Audit and Condition Assessment

File No: I2019/35

Committee Recommendation 4.3.1

That:-

1. The committee note the report;

2. The committee note the progressive renewal of roadside barriers is currently unfunded and that urgent repairs are funded from the annual road maintenance budget;
3. The Council consider the potential allocation of funding to support a progressive and long term road side barrier renewal program.

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

Report No. 4.4 Buildings Asset Management Plan

File No: I2019/55

Committee Recommendation 4.4.1

That the Committee support the ongoing development of the Buildings Asset Management Plan and the associated community consultation and engagement plan.

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

Report No. 4.5 Development of a Shire-wide Transport Strategy

File No: I2019/80

Committee Recommendation 4.5.1

1. That the Council note the following sections including amendments of a Shire-wide Transport Strategy:-
 - a) Scope and context
 - b) Vision
 - c) Principles
 - d) Issues and challenges
2. That Council note the formation of a Transport Strategy Working group under the guidance of TIAC :-
 - a) To develop a RFQ for the engagement the engagement of a specialist consultant to undertake the preparation of the Shire-wide Transport Strategy
 - b) To consider the method of consultation
 - c) To meet as frequently as required

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Attachments:

- 1 Minutes 08/03/2019 Transport and Infrastructure Advisory Committee, I2019/362 

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Report

The attachment to this report provides the minutes of the Transport and Infrastructure Advisory Committee Meeting of 8 March 2019 for determination by Council. The agenda for this meeting can be located on Council's website at:

https://byron.infocouncil.biz/Open/2019/03/TIAC_08032019_AGN_1066_AT.PDF

Committee Recommendation

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

Financial Implications

As per the Reports listed within the Transport and Infrastructure Advisory Committee Meeting of 8 March 2019.

Statutory and Policy Compliance Implications

As per the Reports listed within the Transport and Infrastructure Advisory Committee Meeting of 8 March 2019.