



Byron Shire Council



Agenda

Ordinary Meeting

Thursday, 23 May 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

1. PUBLIC ACCESS
2. APOLOGIES
3. REQUESTS FOR LEAVE OF ABSENCE
4. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY
5. TABLING OF PECUNIARY INTEREST RETURNS (S450A LOCAL GOVERNMENT ACT 1993)
6. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS
 - 6.1 Ordinary Meeting held on 18 April 2019
 - 6.2 Extraordinary Meeting held on 9 May 2019
7. RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS
8. MAYORAL MINUTE
9. NOTICES OF MOTION
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ORDINARY MEETING

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14. QUESTIONS WITH NOTICE

Questions with Notice: A response to Questions with Notice will be provided at the meeting if possible, that response will be included in the meeting minutes. If a response is unable to be provided the question will be taken on notice, with an answer to be provided to the person/organisation prior to the next Ordinary Meeting and placed on Councils website www.byron.nsw.gov.au/Council/Council-meetings/Questions-on-Notice

15. CONFIDENTIAL REPORTS

Infrastructure Services

15.1	CONFIDENTIAL - Tender 2018-0062 Construction of the Byron Bay Bypass	157
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Councillors are encouraged to ask questions regarding any item on the business paper to the appropriate Director prior to the meeting. Any suggested amendments to the recommendations should be provided to Councillor Support prior to the meeting to allow the changes to be typed and presented on the overhead projector at the meeting.

NOTICES OF MOTION

Notice of Motion No. 9.1 Audit of development approved under the State Environmental Planning Policy - Affordable Rental Housing 2009
File No: I2019/544

I move:

That staff prepare a report for Council consideration on the following:

- a) the number and type of developments approved under the State Environmental Planning Policy (Affordable Rental Housing) 2009 since this Policy came into effect; and
- b) where able, the status of compliance these developments have with post approval requirements for affordable housing imposed by Council on development consents including current rental costs.

Signed: Cr Sarah Ndiaye

Councillor's supporting information:

The State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP) was introduced on 31 July 2009.

The policy's intent is to facilitate the increased supply and diversity of affordable rental and social housing in NSW.

The ARHSEPP covers housing types including in-fill affordable housing, along with secondary dwellings (granny flats), boarding houses, group homes, social housing and supportive accommodation.

Council and or an accredited certifier can issue approvals for a secondary dwelling development as complying development if it meets specific criteria. The development standards for complying development are in schedule 1 of the ARHSEPP.

All other development under the ARHSEPP, unless indicated under the policy, needs approval from the relevant consent authority (Council).

One of the objectives of the *Environmental Planning and Assessment Act 1979* is the delivery and maintenance of affordable housing.

In recent times, it has become questionable as to whether this objective of the Act is being met by the types of development being approved under it in terms of that development being maintained for affordable housing. As has been reported to Council previously, and from what the community has told us, many if not all of the secondary dwellings approved under the ARHSEPP in recent years are being rented out through online platforms like Airbnb, Stayz, booking.com and or Gumtree as short term holiday lets. This is contrary to the ARHSEPP.

With regard to other forms of infill affordable housing that can be approved under the ARHSEPP, there are examples around the Shire. Each of these developments had specific conditions

imposed to ensure that the affordable housing units provided remained so for at least 10 years. What this means in terms of supply and cost to rent is unknown at this time.

5 To address the above concerns, an audit is required on the number and type of affordable housing development approved and constructed under the ARHSEPP in the Shire and whether these developments meet their respective conditions of consent. This audit will assist inform Council's affordable housing policy and planning control review being undertaken as part of the Residential Strategy project work.

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

The recommendation results in two separate actions for staff.

15 Firstly, an audit on the number and type of affordable housing development approved and constructed under the ARHSEPP. This is a relatively easy task for staff to undertake from the development consent register.

20 Secondly, a report on how the development meets conditions of consent for affordable rental housing. This is not a straightforward action.

25 With respect to any condition of consent requiring a property to be maintained as a rental property as defined by the ARHSEPP as affordable housing, this can be determined by contacting the relevant property manager.

30 With respect to any other conditions of consent of relevance; Council may not have this information on file and staff may need to undertake further checks with land owners and building certifiers to ascertain compliance or not. This may impact on the timeframe for reporting back to Council on the recommendation.

Financial/Resource/Legal Implications:

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

35 Is the proposal consistent with any Delivery Program tasks?

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 4: We manage growth and change responsibly	4.2	Support housing diversity in appropriate locations across the Shire	4.2.1	Establish planning mechanisms to support housing that meets the needs of our community	4.2.1.1	Investigate and implement planning controls to encourage an increase in the supply of affordable and inclusive housing stock


SUBMISSIONS AND GRANTS**Report No. 11.1 Byron Shire Council Submissions and Grants as at 1 May 2019****Directorate:** Corporate and Community Services**Report Author:** Alexandra Keen, Grants Coordinator**File No:** I2019/658**Summary:**

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

RECOMMENDATION:

That Council notes the report and Attachment (#E2019/29454) for the Byron Shire Council Submissions and Grants as at 1 May 2019.

Attachments:

1 Attachment 1 - Submissions and Grants Report as at 1 May 2019, E2019/29454 

REPORT

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

5 Successful applications

- Capacity building for new and lifestyle land managers, National Landcare Program – Smart Farms Small Grants (round 2), Commonwealth Department of Agriculture and Water Resources.
- 10 • Byron Creek bridge replacement, Bangalow, Bridges Renewal Program, Commonwealth Department of Infrastructure, Regional Development and Cities.
- South Arm bridge replacement, Brunswick Heads, Bridges Renewal Program, Commonwealth Department of Infrastructure, Regional Development and Cities.

15 Unsuccessful Applications

Nil.

Submitted

- 20 • Nil.
Due to the New South Wales State Government being in caretaker for most of March 2019, and then the Commonwealth Government commencing caretaker on 11 April 2019, there have been limited grant opportunities available.

25 Additional information on grant submissions is provided in Attachment 1 – Submissions and Grants Report as at 1 May 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

35 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

40 If Council is successful in obtaining the identified grants, more than \$4.7 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	\$4,734,771
Council cash contribution	\$694,271
Council in-kind contribution	\$135,035
Other contributions	\$665,755
Funding applications submitted and awaiting notification (total project value)	\$6,229,832

Consultation and Engagement

- 5 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 Re-establishment of Alcohol Free Zones

Directorate: General Manager

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

File No: I2019/563

10 **Summary:**

Previously established Alcohol Free Zones throughout the Shire lapsed on 29 December 2018. Accordingly, it was felt that it was appropriate to bring the matter to the next available Ordinary meeting seeking a resolution to re-establish alcohol free zones in Byron Bay, Suffolk Park, Ocean Shores/New Brighton, Mullumbimby and Brunswick Heads.

15 The establishment of Alcohol-Free Zones have previously been an important measure used to curtail irresponsible behaviour by individuals on the streets, not only during New Year's Eve and other festive occasions, but throughout the year.



20 This report seeks to obtain Council authorisation to undertake the re-establishment process as outlined in *Sections 642 – 644C of the Local Government Act 1993*.

RECOMMENDATION:

1. **That Council authorise the General Manager to undertake the process as outlined in Sections 642 – 644C of the Local Government Act 1993, to re-establish the existing alcohol free zones in Byron Bay, Suffolk Park, Ocean Shores/New Brighton, Mullumbimby and Brunswick Heads for a period of four years commencing 1 July 2019.**

2. **That any proposed alcohol-free zone be suspended for approved footway restaurants (both present and future), where the operator requests suspension of the Alcohol-Free Zone to allow alcohol to be consumed with the footway restaurant, whilst the restaurant is in operation.**

Attachments:

- 25 1 Map Alcohol Free Zones - Byron Bay, Mullumbimby, Brunswick Heads, Ocean Shores & New Brighton, Suffolk Park, E2019/28146 
- 2 2 Letter received from NSW Police Force - Tweed Byron Police District - requesting Better Signage for Alcohol Free Zones - BYRON BAY (cc E Elford), S2018/12557 

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REPORT

Byron Bay had its first Alcohol-Free Zone (AFZ) adopted in 1991 and it has been continued in subsequent years following requests by Police and concerned community groups. Mullumbimby and Brunswick Heads had their first alcohol-Free Zones adopted in 1999 and these zones have been continued in subsequent years. In 2007, Council received community requests for additional AFZs in Ocean Shores / New Brighton and Suffolk Park.

All the previously established Alcohol-Free Zones throughout the Shire lapsed on 29 December 2018 however Council is in receipt of a request from the NSW Police Service (Tweed Byron Local Area Command), seeking to re-establish these existing Alcohol Free Zones with minor amendments.

The establishment of Alcohol Free Zones have been an important measure used to curtail irresponsible behaviour by individuals on the streets, not only during New Year's Eve and Easter, but throughout the year. Due to the transient nature of many of the visitors to our Shire, education alone is not considered to be an acceptable public safety alternative. The main aim of the Alcohol Free Zones is to deter the consumption of alcoholic substances in public places (other than parks and reserves) whilst ensuring that the right of members of the public to carry alcoholic substances. Alcohol-Free Zones affect streets, roads and footpaths identified as problem areas by an applicant, then following the notification and advertising period, a resolution of council sanctions the zone for a particular time period.

Alcohol-Free Zones do not operate in parks and reserves. Council owned and managed parks and reserves are regulated separately under Section 632A of the Local Government Act 1993 (Alcohol Prohibition Area) which allows for the installation of notices which can prohibit the taking in or consumption of alcohol and is supported by a severe fixed penalty for offenders.

The following table sets out the nature of and requirements for Alcohol Free Zones and Alcohol Prohibition Areas.

	Alcohol Prohibition Area (LG Act s 632A)	Alcohol Free Zone (LG Act ss 642-646)
Preparation of proposal	N/A	<ul style="list-style-type: none"> • Council can prepare AFZ proposal on its own motion (LGA s 644(1)). • Proposal must comply with OLG guidelines (LGA s 644(3)).
Jurisdiction	Applies to a public place that is not: <ul style="list-style-type: none"> • A public road; or • A public car park (LGA s 632A(4)). 	Applies to a: <ul style="list-style-type: none"> • A public road; or • A public car park (LGA s 644(4)).
Public consultation	N/A	<ul style="list-style-type: none"> • Council must give public notice of AFZ proposal, including: <ul style="list-style-type: none"> ○ Declaration of proposal, indicating location of proposed AFZ (LGA s 644(1)(a)); ○ Where and when AFZ proposal can be inspected (LGA s 644(1)(b)); and ○ Invite submissions on proposal from persons and groups within the area, to be made within two weeks of public notice (LGA s 644(1)(c)). • Council must give a copy of AFZ proposal

BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

13.1

		<p>to:</p> <ul style="list-style-type: none"> o Head of nearest NSW Police station (LGA s 644A(2)(a)); and o A licence holder under the Liquor Act adjoining the proposed AFZ (LGA s 644(2)(b)). o Above parties to be given 30 days to make a representation or objection (LGA s 644(2)).
Consideration of submissions	N/A	<ul style="list-style-type: none"> • Council must consider any submission made during public notification (LGA s 644A(4)).
Establishment	<ul style="list-style-type: none"> • Council does not need to establish APA by Council resolution (LGA s 632A(4)) • Declaration function can be delegated to General Manager (LGA s 377(1)). • APA cannot be declared without approval of NSW Police Local Area Commander (LGA s 632A(8)). 	<ul style="list-style-type: none"> • AFZ only established by Council resolution (LGA s 644B(1)); • AFZ must be notified to public and specify the period AFZ operates for (LGA s 644B(3)).
Commencement		<ul style="list-style-type: none"> • APZ cannot commence less than 7 days prior to public notice of Council resolution (LGA s 644C(2))
Time limits		<ul style="list-style-type: none"> • Maximum of four years (LGA s 644B(4)).
Signage	<ul style="list-style-type: none"> • APA only operates provided there is signage: <ul style="list-style-type: none"> o At the APA's outer limits; and o At suitable intervals within the area (LGA s 632A(7)) 	<ul style="list-style-type: none"> • APZ only operates provided there is signage: <ul style="list-style-type: none"> o At the APA's outer limits; o At suitable intervals within the area (LGA s 632A(7)); and o In accordance with OLG guidelines (LGA s 644C(6)).
Enforcement	<ul style="list-style-type: none"> • Council 'enforcement officer' must be granted power to seize alcohol by NSW Police Commissioner in writing (LGA s 632A(12)). 	<ul style="list-style-type: none"> • Council 'enforcement officer' can only seize alcohol under LGA s 642(1) if authorised in writing by NSW Police Commissioner (LGA s 642(4)).

Council may, at the request of any person or body or of its own motion, suspend the operation of an alcohol free zone. Council has previously suspended the AFZ for approved footway restaurants, which is again recommended. As such the advertisement of the Alcohol-Free Zone should also include information to allow for the automatic suspension of the Alcohol-Free Zone in approved footway restaurants areas, whilst footway dining activities are taking place.

It is recommended that Council re-establish the Alcohol Free Zones by proceeding to advertise these areas in accordance with the *Local Government Act 1993*. Should there be no objections to the Alcohol Free Areas then it is proposed to publicly exhibit the commencement of the zones,

without further delay. Where necessary an additional report to consider any objections to the Alcohol Free Zones will be provided to Council.

Consequent upon a letter received from Police (attachment 2), on December 2018 staff met and did a tour with Police. The tour focussed on perceived inadequacies of the signage in Byron Bay.

5 Police commented as follows:

- More signs (they appeared to be few and far between). There appeared to be none in Jonson St or Middleton St Byron Bay and they suggested removing some of the CCTV signs and putting up alcohol free zone signs. Signs were wanted on the corner of Marvell and Jonson Sts and Marvell and Fletcher Sts.
- Larger and clearer signage. Prefer signs at least the size of 'Keep Left' signage and they need to be elevated (ie not ground level). Also wanted them to be placed near night lights and be treated with anti-graffiti coating.
- There appeared to be no signs in Railway Park.
- The hotspots mentioned were Lawson, Bay and Jonson Sts and in the parks.
- Would like to review the alcohol free area to increase the area in Byron Bay down to Browning St (near Green Garage) and including from Apex Park right through to Clarks Beach carpark.
- Police also suggested wherever there is a no camping sign, add a no alcohol sign.

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Other areas that should be included if they are not already:

- Ocean Shores Community Centre car park
- Brunswick Valley Community Centre area – perhaps even the whole of South Beach Rd in Brunswick Heads
- Butler St Carpark and perhaps even the new Bypass area
- Railway Park following upgrade and Byron Visitor Centre area (new signs recently placed in this location)

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30 **Areas within the previous Alcohol Free Zone and areas recommended to be added (consistent with Police requests) (see attachment 1).**

BYRON BAY

- Jonson Street from Bay Street to Browning Street including Main Beach car park
- Browning Street from Jonson Street to Tennyson Street
- Bangalow Road from the intersection of Browning Street and Tennyson Street to the southern property boundary of Byron Tourist Park on Bangalow Road
- Kingsley Street and Carlyle Street from Jonson Street to Cowper Street
- Marvell Street from Jonson to Massinger St
- Byron Street and Bay Lane from Jonson Street to Middleton Street.
- Middleton Street from Bay Street to Kingsley Street
- Bay Street from First Sun Caravan Park boundary fence to Middleton Street
- Fletcher Street from Bay Street to Kingsley St
- Lawson Street from Butler Street to Massinger Street
- Lighthouse Road from Massinger Street to Captain Cook Lookout eastern boundary
- Jonson Street north carpark between Bay Street and Lawson Street
- Jonson Street south carpark between Lawson Street and Railway Park
- Tennyson Street between the Sandhill's Estate and Browning St
- Cowper Street between Carlyle Street and the Sandhill's Estate
- Butler Street from Shirley Street to cover whole of new Bypass area through to Browning St
- Somerset Street from Butler Street to Wordsworth Street
- Burns Street from Butler Street to Wordsworth Street

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- Wordsworth Street from Somerset Street to Gordon Street
- Gordon Street from Wordsworth Street to Milton Street
- Milton Street from Gordon Street to Wentworth Street
- Wentworth Street from Milton Street to Skinners Shoot Road
- 5 • Shirley Street from Butler Street to Kendall Street
- Ewingsdale Road from Kendall Street to Banksia Drive at the Byron Bay Industrial Estate.
- Kendall Street from Shirley Street to Border Street
- Border Street from Kendall Street to Childe Street
- Childe Street from Border Street to Manfred Street
- 10 • Manfred Street from Childe Street to the frontal dune at Belongil Beach
- Giaour Street from Childe Street to Belongil Creek
- Don Street from Border Street to the frontal dune at Belongil Beach

MULLUMBIMBY

- 15 • Station Street from the unnamed lane (Lane 9) opposite the Council Chambers to Tincogan St;
- McGougan's Lane from the unnamed lane (Lane 9) behind the southern property boundary of the commercial premises on Burringbar Street to the intersection of Tincogan Street;
- 20 • Stuart Street from Whian Street intersection to Tincogan Street intersection;
- Stuart Lane from Whian Street intersection to Tincogan St intersection;
- Dalley Street from Whian Street intersection to Tincogan Street intersection;
- Gordon Street from Burringbar Street intersection to Tincogan Street intersection;
- Burringbar Street from Gordon Street intersection to Station Street intersection;
- 25 • River Terrace from Burringbar Street intersection to Whian Street intersection;
- Tincogan Street from Gordon Street intersection to Station Street intersection;
- Whian Street from River Terrace intersection to Stuart Street intersection.
- Brunswick Terrace from Burringbar St to Mill St, and Mill St from Gordon St to Station St

BRUNSWICK HEADS

- Fawcett Street from Tweed Street to Park Street,
- Park Street from Fawcett Street to Fingal St
- Mullumbimbi Street from Tweed Street to the Terrace
- 35 • The Terrace from Mullumbimbi Street to Fingal Street
- Fingal Street from the Terrace to Tweed Street
- Tweed Street from Fingal Street to Fawcett Street
- South Beach Road (including the traffic bridge) between the Terrace and the end of South Beach Road including the Surf Club area

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OCEAN SHORES AND NEW BRIGHTON

- Rajah Road between northern boundary of Lot 1 DP 626518 (approx 50 metres south of Bindaree Way intersection) and southern boundary of Lot 1114 DP241074 No. 43 Rajah Road (approx 60 metres north east from Durroon Court);
- 45 • Ocean Shores Community Centre carpark (Lots 1154 and 1156 DP 116000);
- The Esplanade south from the intersection with The Strand to the southern boundary of Lot 5 Sec 3 DP 5318 (approx 200 metres south from the intersection);
- 'North Head Road Carpark' located on unnamed road New Brighton;

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SUFFOLK PARK

- Clifford Street between Broken Head Road and Alcorn Street;

- Armstrong Street between Clifford Street and Wareham Street;
- Brandon Street between Clifford Street and Wareham Street;
- Alcorn Street between Clifford Street and southern boundary of the community titled property at No. 2 Alcorn Street;
- 5 • Broken Head Road from Clifford Street to the northern boundary of the Serviceman's Home property;
- Beech Drive (south) from Broken Head Road to the northern property boundary of Lot 60 DP 817888 being the Council Reserve on Beech Drive;

10 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	2.4.3	Enhance public safety, health and liveability through the use of council's regulatory controls and services	2.4.3.1	Monitor, investigate and resolve complaints in relation to community safety, land use and the environment

Legal/Statutory/Policy Considerations

- 15 The re-establishment of the Alcohol Free Zones allows the NSW Police and Council Enforcement Officers to continue to regulate street drinking within the declared roads and public car parks.

Local Government Act

20 **642 Confiscation of alcohol in alcohol-free zones**

(1) A police officer or an enforcement officer may seize any alcohol (and the bottle, can, receptacle or package in which it is contained) that is in the immediate possession of a person in an alcohol-free zone if:

- 25 (a) the person is drinking alcohol in the alcohol-free zone, or
 (b) the officer has reasonable cause to believe that the person is about to drink, or has recently been drinking, alcohol in the alcohol-free zone.

(2) Any alcohol or thing seized under this section is, by virtue of the seizure, forfeited:

- 30 (a) if seized by a police officer--to the State, or
 (b) if seized by an enforcement officer--to the council that employs the officer.

(3) Any alcohol seized under this section may:

- 35 (a) be disposed of immediately by tipping it out of the bottle, can, receptacle or package in which it is contained, or
 (b) be otherwise disposed of in accordance with directions given by the Commissioner of Police or the council (as the case requires).

(4) In this section:

"**enforcement officer**" means an employee of a council authorised in writing by the Commissioner of Police to be an enforcement officer for the purposes of this section.

40 **644 Proposal for establishment of alcohol-free zone**

(1) A council may prepare a proposal for the establishment of an alcohol-free zone, either on its own motion or on the application of one or more of the following people:

- 45 (a) a person who the council is satisfied is a representative of a bona fide community group active in the area,
 (b) a police officer,
 (c) a person who the council is satisfied lives or works in the area.

(2) The application must be in the form set out in the guidelines in force under section 646 or, if there are no such guidelines, in the approved form.

(3) The proposal must comply with the guidelines (if any) in force under section 646.

(4) The proposed alcohol-free zone may comprise either or both of the following:

- 5 (a) a public road or part of a public road,
- (b) a public place that is a car park or part of a car park.

(5) The proposal may provide for an alcohol-free zone to be established for a period not exceeding 4 years and for the zone to operate for the whole of that period or just for days on which particular special events occur.

644A Public consultation on proposal to establish alcohol-free zone

(1) After preparing a proposal under section 644, the council may, by notice published in a manner that the council is satisfied is likely to bring the notice to the attention of members of the public in the area as a whole or in a part of the area that includes the zone concerned:

- 15 (a) declare that it proposes to establish an alcohol-free zone, indicating the location of the zone and the proposed period or special events for which it will operate, and
- (b) state the place at which, the dates on which and the times during which a copy of the proposal may be inspected, and
- 20 (c) invite representations and objections from persons and groups within the area, indicating that any representations or objections by them must be made within 14 days after the date on which the notice is published.

(2) The council must give a copy of its proposal to each of the following persons, indicating that any representations or objections by the person must be made within 30 days after the date on which the copy is given:

- 25 (a) the officer in charge of the police station within or nearest to the proposed alcohol-free zone,
- (b) each holder of a licence in force under the *Liquor Act 2007* for premises that border on, or adjoin or are adjacent to, the proposed alcohol-free zone.

(3) If required to do so by the guidelines in force under section 646, the council must also give a copy of its proposal to the Anti-Discrimination Board, indicating that any representations or

- 30 objections by the Board must be made within 40 days after the date on which the copy is given.
- (4) The council must consider all representations and submissions that are duly made to it under this section.

644B Establishment of alcohol-free zones

- 35 (1) After complying with the procedures set out in sections 644 and 644A, the council may, by resolution, adopt a proposal (with or without modifications) to establish an alcohol-free zone.

(2) The resolution has the effect of establishing the alcohol-free zone in accordance with the terms of the resolution.

- 40 (3) After making the resolution, the council must, by notice published in a manner that the council is satisfied is likely to bring the notice to the attention of members of the public in the area as a whole or in a part of the area that includes the zone concerned:

- (a) declare that an alcohol-free zone has been established, and
- (b) specify the period (or, in the case of a zone established for one or more special events, the day or days) for which the alcohol-free zone is to operate.

- 45 (4) An alcohol-free zone may be re-established from time to time, in accordance with this Part, for further periods each not exceeding 4 years.

644C Operation of alcohol-free zones

- 50 (1) An alcohol-free zone operates, in accordance with the terms of the resolution establishing the zone, for the whole of the period specified in the resolution or just for specified days on which particular special events occur.

(2) However, an alcohol-free zone cannot operate earlier than 7 days after the first publication of the relevant notice under section 644B.

- 55 (3) An alcohol-free zone operates only so long as there are erected at the outer limits of the zone, and at suitable intervals within the zone, conspicuous signs:

(a) stating that the drinking of alcohol is prohibited in the zone, and
(b) specifying the period (or, in the case of a zone established for one or more special events, the day or days) for which the alcohol-free zone is to operate, as specified in the resolution by which it was established.

- 5 (4) The signs must comply with the requirements of the guidelines (if any) in force under section 646.

645 Suspension or cancellation

- 10 (1) The council may, at the request of any person or body or of its own motion, suspend the operation of an alcohol-free zone by publishing notice of the suspension in a manner that the council is satisfied is likely to bring the notice to the attention of members of the public in the area as a whole or in a part of the area that includes the zone concerned.
- (2) During the period indicated in such a notice as the period of suspension, the zone does not operate as an alcohol-free zone.
- 15 (3) In like manner the council may at any time cancel the operation of an alcohol-free zone.

Financial Implications

- 20 Signs for the existing alcohol-free areas already exist. More, and some larger signs, will be required.



ALCOHOL FREE ZONE



ALCOHOL PROHIBITION ZONE

However the signage will require amendment. The cost for the amendment of the signage and necessary repairs and/or replacement of signage will be met from within allocated budgets.

Consultation and Engagement

Notification and public consultation of the proposed alcohol free zones will be undertaken in accordance with s644A of the Act, as detailed previously.

Report No. 13.2 **Byron Shire Council purchase from Health Administration of Lot 1 in Deposited Plan 847910 the former Byron District Hospital site. Classification of Lot 1 in Deposited Plan 847910 as operational.**

Directorate: General Manager
Report Author: Ralph James, Legal Counsel
File No: I2019/581

Summary:

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.

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.

On 28 March 2019 Council resolved:

1. *That Council supports the purchase of the Old Byron Bay Hospital and continued negotiations around this contract.*
2. *That Council note the report.*
3. *That Council invite members of the Old Byron Bay Hospital site steering committee to attend a workshop with Councillors at the April Strategic Planning Workshop to discuss:*
The financial modelling for the project;
The governance model options for the project; and
Answer any Councillor questions.

One matter arising at the workshop was the contribution Health Administration Corporation may to the remediation costs. Correspondence has now passed between Health Administration Corporation and Council on that matter.

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.”

Attachments:

- 1 Confidential - Letter from Health Administration to Council, E2019/32412
- 5 2 Confidential - Letter from Council to Health Administration Corporation, E2019/26707
- 3 Confidential - Further letter from Health Administration Corporation, E2019/32405

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 has previously been provided to Councillors.

On 28 March 2019 Council resolved:

1. *That Council supports the purchase of the Old Byron Bay Hospital and continued negotiations around this contract.*
2. *That Council note the report.*
3. *That Council invite members of the Old Byron Bay Hospital site steering committee to attend a workshop with Councillors at the April Strategic Planning Workshop to discuss:
The financial modelling for the project;
The governance model options for the project; and
Answer any Councillor questions.*

The Strategic Planning Workshop was conducted on 4 April 2019. One matter arising at the workshop was the contribution Health Administration Corporation may to the remediation costs. Correspondence has now passed between Health Administration Corporation and Council on that matter – see confidential attachments 1,2 and 3 and the “Contamination” section of this report.

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;
- 5 • 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.
- 10 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.
- 15 11. Hazmat Report.

Exchange of Contracts

20 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

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

Allowed Purpose

30 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;
- 35 • 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

40 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:

45 **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.

50 **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
- 55 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.

5 **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:

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

15 **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,
- 20 (c) not relevant,
- (d) not relevant.

25 **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.

30 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.

40 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.

45 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.

50 This is standard procedure in most conveyancing contracts.

Contamination

55 Special condition 13 of the Contract is headed 'Contamination'.

BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

13.2

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

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

10 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.

- 15 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.

20 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.

- 25 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
Clearances for use certificates	\$ 25,000.00
Total	<u>\$ 199,660.00</u>

- 30 By letter dated 9 April 2019 Health Administration Corporation advised Council that as well as the transfer of the land to Council it would provide funding to Council to assist with the remediation costs of the land and buildings. The letter sought the agreement of Council regarding the purpose of the funding and how and when the funding will be paid. The letter is confidential attachment 1.

- 35 Relevant Council staff considered the content of the letter, and on 11 April 2019, Council responded to Health Administration Corporation. The response is confidential attachment 2. On 23 April 2019 Health Administration Corporation responded to Councils letter. That response is confidential attachment 3.

40

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
 - 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.

10 • *Address of property*

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.

15 • *Improvements*

The property is a former hospital.

20 • *Inclusions*

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

25 • *Exclusions*

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

- *Purchaser details*

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

- *Purchase price*

- 35 The purchase price is \$ 1.10 plus GST.

- *Deposit*

The Vendor is calling for a nil deposit.

40 • *Goods and Services Tax*

The Contract provides that the sale is a taxable supply.

45 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.

5 • *Covenants*

The following covenants exist on the property:

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

10 • *Right of Carriageway*

The following Rights of Carriageway exist on the property:

- Right of Carriageway 3.5 metres wide affecting the land.

15 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.

20 Access to Property

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

25 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.

30 Bushfire Prone Area

The property is in a bushfire prone area.

35 Flood Prone Area

The property is within a flood prone area.

Sewerage Disposal

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

Surveyor's report

45 There is no survey report attached to the Contract.

Staff will consider the need for a Survey Report.

50 Hazmat Report

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.

55

Stamp Duty

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

5 Purchaser Declarations – the foreign buyers surcharge

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.

10 **Executive Team**

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

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

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

20 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.

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.

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

30 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.

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).

35 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.

40 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).

45 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).

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

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

Options

55 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.'

5 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.

5 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.

10 (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.

15 35 What governs the use and management of community land?

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

- 20 • 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

25 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.

30 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
35 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.

40 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

45 Councillors
Executive Team
Manager Finance
Project Officer IS
Place Manager
Old Byron Bay Hospital site steering committee

Report No. 13.3**Code of Conduct****Directorate:**

General Manager

Report Author:

Ralph James, Legal Counsel

File No:

I2019/536

Summary:

At its Ordinary Meeting on 28 March 2019 Council resolved to place the Codes of Conduct for

1. Councillors

2. Staff

3. Committee Members, Delegates of Council and Council Advisers




on public exhibition for a period of 28 days.

Public exhibition was undertaken via newspaper notices on 11 and 25 April 2019 and by exhibition on Council's website. The period for submissions closed on 9 May 2019.

RECOMMENDATION:

1. That Council note that the Codes of Conduct (E2019/857, E2019/858 and E2019/859) have been exhibited for a period of 28 days.
2. That Council, having considered the submission made, adopts each Code of Conduct, as amended.

Attachments:

- 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 

REPORT

At its Ordinary Meeting on 28 March 2019 Council resolved to place the Codes of Conduct for

- 5 1. Councillors
 2. Staff
 3. Committee Members, Delegates of Council and Council Advisers

on public exhibition for a period of 28 days.

- 10 Public exhibition was undertaken via newspaper notices on 11 and 25 April 2019 and by exhibition on Council's website. The period for submissions closed on 9 May 2019.

- 15 Council received 1 submission in respect of the Code of Conduct for Council Committee Members, Delegates of Council and Council Advisers.

That part of the submission which related to formatting is relevant to all three codes and was treated as a submission on all.

- 20 The balance of the submission, whilst directed at the Code of Conduct for Council Committee Members, Delegates of Council and Council Advisers, has relevance to identical portions of the Code of Conduct for Councillors and was treated as a submission on each.

<u>Submission</u>	<u>Response</u>
<p>All pages should be tested for the amount of blank space and various factors changed to accommodate the same wording on less pages. These adjustments would include:</p> <p>1. no margins bigger than 20mm;</p> <p>2. no page breaks higher than 100mm from the bottom of a page;</p> <p>3. closer (but not zero) space between paragraphs.</p>	<p>The Codes were exhibited in their present format for ease of reading. They have now been reformatted taking into account the submission made. In respect of the <i>Code of Conduct for Council Committee Members, Delegates of Council and Council Advisers</i> a numbering error has been corrected.</p> <p>Typographical errors which were not the subject of the submission have also been corrected.</p>
<p>Page 5 Introduction, Paragraph 4: is a Committee member a "Council official"? If so, change that wording to "Your personal responsibility is comply". See https://plainlanguage.gov/guidelines/audience/address-the-user/;</p> <p>Whole of all three documents: likewise, adjust all language into Plain Language: https://plainlanguage.gov/resources/checklists/hecklist/;</p>	<p>The title of the document is "<i>Code of Conduct for Council Committee Members, Delegates of Council and Council Advisers</i>". That gives a clear indication as to whom the document relates. The words "council officials" appear in the penultimate paragraph on page 5. Council official is defined on page 6.</p> <p>As to the plain English submission, under the Local Government Act 1993, Councils must adopt a code of conduct that incorporates the provisions of the Model Code of Conduct for Local Councils in NSW. The wording proposed in Council's Codes replicates the provisions of the Model Code and conforms to what is a state wide template.</p>

BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

13.3

<p>Page 6 or 7: add a note that "further definitions appear in Part 1 of Schedule 1 below".</p>	<p>The definitions which appear on page 6 and 7 are definitions relevant to the Code in general.</p> <p>The definitions which appear in schedule 1 are, as the opening words of the Schedule suggest, "for the purposes of the schedules to this code".</p> <p>The definitions are appropriately located and should not be cross referenced.</p>
<p>Page 8, 4.1 c): the words unethical need definition. If Council has a Code of Ethics, use that. If not, use this "morally wrong". Definition may also be needed for improper but think about dropping it out, to give "unethical" more emphasis.</p>	<p>It is not appropriate to define "unethical" as conduct may or may not rise to that level depending upon the facts and circumstances of the individual matter.</p> <p>"Improper" may be constituted by different conduct to that which is "unethical".</p> <p>Councils must adopt a code of conduct that incorporates the provisions of the Model Code of Conduct for Local Councils in NSW. To depart from the words of the Model Code would defeat the proposed purpose of the Model Code i.e. a state wide template.</p>
<p>Page 11, 5.1: the link to "clause 4.3" fails. I suspect the clause number should be 5.3. This also happens in sections 5.4, 5.5, etc.</p> <p>Page 11, 5.2: the link to "clause 4.6" fails. I suspect the clause number should be 5.6. Please cross-check all such references.</p> <p>Page 11, 5.5: the link to "clause 4.3" fails. I suspect the clause number should be 5.3.</p> <p>Page 12, 5.7: the link to "clause 4.6" and "4.4" should be 5.6 and 5.4, I suspect. I'll leave it to you to fix all these.</p> <p>Page 16: again references to clauses like 5.2 and 5.6 need correction (most likely to 6.2 and 6.6 etc).</p>	<p>All amendments made.</p>
<p>Page 11, 5.4 (b): add at the end "which currently defines de facto partner as". It is silly to make the reader go and look this up, then write it into their copy of this document. Come on!</p>	<p>Whilst the suggestion has merit, to do it would prove cumbersome and would not solve the problem.</p> <p>The definition of de facto partner in the Interpretation Act includes a reference to other definitions such as "de facto relationship", "relationship as a couple" and "related by family". To include all of those definitions will be problematic.</p>

	<p>Further, if a definition was included in the Code of Conduct and the definition in the Interpretation Act were to change that would necessitate an amendment to the Code of Conduct. To refer simply to the Interpretation Act definition would allow the interpretation of the Code of Conduct to be read in accordance with any change to the Interpretation Act.</p>
<p>Page 13, 5.8: this is unreadable. Put this definition of a Designated person into definitions. "Designated person includes" even implies there may be other things that make one a Designated person. This is truly rubbish-speak. Smarter would be to specify how one gets designated, by whom and under what circumstances we could expect that.</p> <p>Page 14, 5.15 to 5.21: move this to one unique section about Designated Persons and do not intersperse their obligations throughout those of the rest of us (eg clause 5.14, 5.22, etc). If Council Committee Members, Delegates of Council and Council Advisers cannot be Designated, scrap this stuff. If only one of those three types of persons can be Designated, say so!</p> <p>Page 14, 5.22: I suggest "... as soon as they become aware of it, for example by email on seeing the matter in an Agenda".</p> <p>Page 14, 5.23: I suggest "... in sight or earshot of ...". There are committee meetings where one could disappear around a corner and still listen.</p> <p>Page 14, 5.23: I suggest merging (a) and (b) to say "... committee at any time during which the matter is being considered or discussed or voted on by the committee".</p> <p>Page 15, 5.25: Council committees often meet for a month or two after the end of the Council term. I suggest saying "... until the end of the last year in that term of the council ...".</p> <p>Page 21, 7.14 and 7.15: these two clauses are on a completely new topic and go to the meaning of "improper" cited in the Introduction. They should not be secreted at the end of Part 7. They deserve their own Part with a heading "Improper and Undue Influence". This new section could also detail the meaning of Unethical Behaviour.</p>	<p>Under the Local Government Act 1993, Councils must adopt a code of conduct that incorporates the provisions of the Model Code of Conduct for Local Councils in NSW. The wording proposed in Council's Codes replicates the provisions of the Model Code.</p> <p>The numbering error in 5.26 and 5.27 has been corrected.</p>

<p>Page 23, 8.13: this task needs fleshing out for Council committees. I agree that Agendas, Minutes, Invoices, Financial Reports need storing. But please delete the word "All" - it is a finger waver.</p> <p>Page 23, 8.12 and 8.13: these are almost the same. Please merge them.</p> <p>Page 25, 9.1: this is a shocking way to greet the reader into this Part of the Code. The first message needs to encourage complaints with say "Persons seeing actions or behaviour that looks like a breach of the Code should discuss it with colleagues and or Council staff and, if satisfactory explanations are not available, lodge a formal complaint".</p>	
<p>Page 15, 5.28: this is despicable. Please remove it! There is no place for a government Minister to waive the fact of pecuniary interest. Such a clause endorses corruption.</p> <p>Page 15, 5.29: if the only method of this taking place is the Minister's (corrupt) exemption, this clause should also go. If it stays, the wording should parallel clause 6.14 and say "Where the Minister exempts a committee member from complying with a requirement under clause 5.28 ...". Also, the member must table the Minister's exemption as proof that they have it.</p> <p>Page 17, 6.13: this is despicable. Please remove it! There is no place for a government Minister to exempt the fact of non-pecuniary interest.</p> <p>Page 15, 6.14: as the only method of this taking place is the Minister's exemption, this clause should also go. If it stays, the member must table the Minister's exemption as proof that they have it.</p>	<p>The Local Government Act 1993 requires every council to adopt a code of conduct that incorporates the provisions of The Model Code of Conduct for Local Councils in NSW.</p> <p>The provisions cited are mandatory provisions in the Model Code of Conduct.</p> <p>Council must adopt the Model Code of Conduct and Procedures. Council must not dilute the standards prescribed in the Model Code of Conduct.</p> <p>The corresponding clauses in the Councillor Code of Conduct are 4.26, 4.27, 5.19 and 5.20</p> <p>This part of the submission was referred (not by Council) to the Office of Local Government (OLG) which has responded as follows (extracted from the response published in the <i>Byron Shire Echo</i> on 1 May 2019).</p> <p><i>The new model Code of Conduct for NSW councils, aims to consolidate 'all ethical standards into one statutory instrument for the first time to improve understanding, compliance, and enforcement.</i></p> <p><i>Clause 5.28 of Byron Shire Council's draft code of conduct for committee members and delegates is based on clause 4.38 of the Model Code of Conduct.</i></p> <p><i>Clause 4.38 was previously contained in section</i></p>

	<p><i>458 of the Local Government Act 1993. It allows the minister for Local Government to exempt a person from the requirement to remove themselves from a meeting where they have a pecuniary interest if the meeting faces a loss of quorum or where it is otherwise in the community's interest for the person to participate in consideration of the matter. Where exempted, the person is still required to disclose the interest for transparency.</i></p> <p><i>The Minister for Local Government's powers under section 458 of the Local Government Act 1993 are subject to a rigorous application process and are not commonly used.</i></p> <p><i>Since 2011, just 11 applications have been approved – ten of which related to a loss of quorum and one was determined to be in the community's interest'</i></p>
<p>Page 23, 8.12: it is silly to make the reader go and look this up. I suggest "You must comply with council's records management policy (copy appended) and with the requirements of the State Records Act 1998 which currently states". Append Council's records management policy.</p>	<p>Appending the Policy would increase the bulk of the Code of Conduct substantially. Appending the Policy would necessitate amendment of the Code of Conduct each time the Policy was amended.</p>

STRATEGIC CONSIDERATIONS

5 **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	5.6.13	Manage the delivery of high quality cost effective legal services	5.6.13.3	Manage code of conduct matters

Legal/Statutory/Policy Considerations

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

15 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.

5 ***Financial Considerations***

Nil

Reviewed by Manager Finance: N/A

10

Consultation and Engagement

Public exhibition for 28 days

15

Report No. 13.4 **Sub-licences Zephyr Horses and Cape Byron Seahorses Riding Centre**
Directorate: General Manager
Report Author: Paula Telford, Leasing and Licensing Coordinator
File No: I2019/548

Summary:

The current sub-licences held by Zephyr Horses and Cape Byron Seahorses Riding Centre for the purpose operating a commercial horse riding business on Tyagarah beach authorised by a Cape Byron Marine Park will expire on 30 June 2019. Both businesses have requested new sub-licences. In accordance with resolution **19-144**, Council may only consider the granting new sub-licences for a term of six (6) months.

RECOMMENDATION:

1. That Council authorise the General Manager to grant a sub-licence to Cape Byron Seahorses Riding Centre for a term of six (6) months for the purpose of access though part of Lot 428 DP 729272 being Reserve R81980 on condition that:
 - a) Cape Byron Seahorses Riding Centre holds a permit with Cape Byron Marine Park for the term of the sub-licence; and
 - b) Cape Byron Seahorses Riding Centre takes all steps necessary to ensure all horse droppings are removed from the sub-licensed area during and at the end of each access session.
2. That Council authorise the General Manager to grant a sub-licence to Zephyr Horses for a term of six (6) months for the purpose of access though part of Lot 409 DP 729057 being part of Reserve R755695 on condition that:
 - a) Zephyr Horses holds a permit with Cape Byron Marine Park for the term of the Sub-licence; and
 - b) Zephyr Horses takes all steps necessary to ensure all horse droppings are removed from the sub-licensed area during and at the end of each access session.

REPORT

On 28 March 2019 Council as a Crown Land Manager resolved **19-144**:

- 5 2. As Crown Land Manager, investigate the options for handling of horses, parking and associated issued as part of development of a precinct plan for the South Beach area.
- 10 3. That in order to avoid prejudice to the sub-licensees while the matter raised in this report to be investigated and reported to Council, Council as the Crown Land Manager, recommend that Council issue each sub-licensee, on expiry of their current sub-licence, a six (6) month sub-licence for access through Crown land for commercial equestrian activities.

15 Current sub-licenses held by Cape Byron Seahorses Riding Centre for access though Crown land Lot 428 DP 729272 and Zephyr Horses for access through Crown land Lot 407 DP 729057 will expire on 30 June 2019.

20 In implementing resolution 19-144, Council may only enter into a six (6) month sub-licence with both sub-licensees.

Sub-Licensed land

25 Lot 428 DP 729272 in Reserve R82780 (Cape Byron Seahorses Riding Centre) and Lot 407 DP 729057 in Reserve R755695 (Zephyr Horses) are Crown lands not managed by Council. Council has authority under Crown licence RI 564194 to grant sub-licenses for low impact commercial recreational activities on areas which that includes both Reserve R82780 and Reserve R755695.

30 In accordance with Policy 5.52 Commercial Activities on Coastal and Riparian Crown Reserves, ('the Policy'), a resolution of Council is required to grant a sub-licence for access through Lot 428 DP 729272 and Lot 407 DP 729057.

Sub-Licensed area

- 35 a) Lot 428 DP 729272 (Cape Byron Seahorses Riding Centre) is accessed via a Council managed Crown Road approximately 300 metres south of the end of bitumen on South Beach Road as shown in orange below. In accessing this land, Council will require that the sub-licensee takes all steps necessary to prevent and remove all horse droppings in the sub-licensed area.



- b) Lot 407 DP 729057 (Zephyr Horses) is accessed through private land and shown in orange below. In accessing this land, Council will require that the sub-licensee takes all steps necessary to prevent and remove all horse droppings in the sub-licensed area.

5



Parking and handling of horses

- 10 In accordance with resolution 19-144 Council must investigate the handing of horses and parking as part of a precinct plan for the South Beach area of Brunswick Heads. Until the investigation is completed, Cape Byron Seahorses Riding Centre will be required to legally park its horse float and truck on South Beach Road and to handle all horses in public areas in a safe manner.

15 Essential Sub-Licence terms:

- The term of the sub-licence is for maximum of 6 months. Rent will be set by Council fees and charges and for the term of the sub-licence will be \$815 including GST. The sub-licensee will be required to concurrently hold a valid permit issued by the Cape Byron Marine Park to ride horses in the inter-tidal zone of Tyagarah Beach.

20

Land zoning:

- 25 Lot 428 DP 729272 in Reserve R82780 (Cape Byron Seahorses Riding Centre) and Lot 407 DP 729057 in Reserve R755695 (Zephyr Horses) are zoned No 7 (1f) (Coastal Land Zone) in the Byron 1988 Local Environmental Plan. The zoning prohibits all activities except:

- 30 *Agriculture (other than animal establishments); beach and coastal restoration works; building of levees, drains or clearing of land; bushfire hazard reduction; clearing of land; community buildings; drainage; environmental facilities; forestry; home industries; markets; roads; primitive camping grounds; surf lifesaving facilities; utility installations.*

- Essentially, all commercial recreational type activities for example equestrian activities or commercial water based activities are prohibited in the zone 7 (f1) (Coastal Land Zone).
35 Clause 48(1) of the Byron 1988 LEP does permit temporary use of land zoned 4(f1) for development not being designated development, for a maximum period of 7 days on any one occasion up to a maximum of 60 days in a calendar year only if:

- a) such land is vested in the Crown, a Minister of the Crown or the Council, and

- b) the development does not involve the erection of permanent structures ancillary to the use of that land.

5 Lot 428 DP 729272 and Lot 407 DP 729057 are lands vested in the Crown or a Minister of the Crown and access through both lots does not require the construction of any permanent structures.

In summary, although equestrian activities is a prohibited activity in zone 7 (f1), clause 48(1) of the LEP 1988 allows temporary use of the land for equestrian activities.

10 STRATEGIC CONSIDERATIONS

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 1: We have infrastructure, transport and services which meet our expectations	1.2	Provide essential services and reliable infrastructure which meet an acceptable community standard	1.2.5	Provide active and passive recreational Community space that is accessible and inclusive for all (SP)	1.2.5.1	Delivery of beach accessibility program

Legal/Statutory/Policy Considerations

Zone No 7 (f1) (Coastal Land Zone)

1 Objectives of zone

The objectives of the zone are:

- 20 (a) *to identify and protect environmentally sensitive coastal land,*
 (b) *to enable development for certain purposes where such development does not have a detrimental effect on the habitat, landscape or scenic quality of the locality,*
 (c) *to prevent development which would adversely affect, or be adversely affected by, coastal processes, and*
 25 (d) *to enable the careful control of noxious plants and weeds by means not likely to be significantly detrimental to the native ecosystem.*

2 Without development consent

Nil.

3 Only with development consent

Agriculture (other than animal establishments); beach and coastal restoration works; building of levees, drains or clearing of land; bushfire hazard reduction; clearing of land; community buildings; drainage; environmental facilities; forestry; home industries; markets; roads; primitive camping grounds; surf lifesaving facilities; utility installations.

48 Temporary use of certain land

- 40 (1) *Despite any provision of this plan, a person may, without the consent of the Council, carry out development on land for any purpose (not being designated development) within Zone No 6 (a) or 7 (f1) for a maximum period of 7 days on any one occasion up to a maximum of 60 days in a calendar year if:*
 (a) *such land is vested in the Crown, a Minister of the Crown or the Council, and*
 (b) *the development does not involve the erection of permanent structures ancillary to the use of that land.*
 45 (2) *Despite any other provision of this plan, a person may, but only with the consent of the Council, carry out development on the following land for any purpose (not being*

designated development) for a maximum period of 7 days on any one occasion up to a maximum of 60 days in a calendar year if the development does not involve the erection of permanent structures ancillary to the use of that land:

Lot 1, DP 201626 and Lot 2, DP 542178, Ewingsdale Road, Ewingsdale

Lot 358, DP 704247, Bangalow Road, Byron Bay.

5

Financial Considerations

Rent for both sub-licence is established by Council's fees and charges. Rent for the term of the sub-licenses is \$815 inclusive of GST.

10

Consultation and Engagement

Nil.

15

Report No. 13.5 Byron Community Market temporary relocation

Directorate: General Manager
Report Author: Claire McGarry, Place Manager - Byron Bay
File No: I2019/648

Summary:

On 28 February 2019, Council resolved to temporarily close Butler Street Reserve for a period of 6 months while the northern section of the Byron Bay Bypass is constructed. The closure will require the temporary relocation of the weekly Byron Farmers Market and monthly Community Market to an alternative site.

This report addresses a proposal from Byron Community Market managers to temporarily relocate the market to the Byron foreshore from July 2019 – January 2020 to enable the bypass construction.

It is acknowledged that:

- a) the Community Market provides significant economic and social benefit to the local community and should not be cancelled during the closure period;
- b) a range of relocation options have been explored and there are no perfect locations to hold a market of this size within Byron Bay;
- c) the foreshore is not an ideal location due to the inevitable and significant impact on the local community and the Reserve itself;
- d) the foreshore is the most suitable location within the town centre, despite the inevitable impacts; and
- e) Mitigation measures should be put in place to minimise impacts as much as possible.

The report addresses the proposal from the community market and details:

- Potential relocation options
- Key issues for the foreshore
- Impacts of the market and suggested mitigation measures
- Request for financial support from Byron Community Market

RECOMMENDATION:

1. That Council acknowledge that construction of the Byron Bay Bypass requires the temporary suspension of the Byron Community Market's existing licence for Butler Street Reserve and rent shall abate under that licence for a period of six months.
2. That Council endorse the temporary relocation of the Byron Community Market to the foreshore at a reduced scale of 290 stalls.
3. That the conditions detailed in Table 3 be included in the market sub-licence to minimise environmental and community impacts.
4. That Council allocate \$60,000 from the Property Reserve to:
 - a) Provide financial support to market managers to assist with relocation;
 - b) Develop a Review of Environmental Factors, Traffic Impact Study, Traffic

- Management Plan and Traffic Control Plan required for temporary relocation**
- c) Install required infrastructure on the Reserve to facilitate temporary relocation.**
- 5. That Council allocate up to \$50,000 from the Property Reserve for implementation of traffic management plans and environmental controls and that any costs over and above this amount be borne by the Byron Community Markets.**
- 6. That Council work with market managers to ensure comprehensive communications strategy outlining upcoming changes and potential impacts of temporary relocation.**

Attachments:

- 1 Market Relocation Report - Planit Engineering, E2019/34002 
- 5 2 Byron Community Market Temporary Relocation Proposal 2019.pdf, E2019/34001 

REPORT

On 28 February 2019, Council resolved:

- 5 1. *That Butler Street Reserve be closed to the public after the 7 July Community Market for a period of 6 months while the section of the Byron Bay Bypass (including the Somerset Street Roundabout and its western and southern legs and the area of works within Butler Street north of the roundabout) is constructed.*
- 10 2. *That lockable steel gates be installed at the entry points to the Reserve to restrict vehicle access during the closure period and during the 'no parking' periods overnight.*
- 15 3. *That staff provide market managers with any information available regarding viability of other potential relocation sites identified by the markets, including planning approvals required.*
- 20 4. *That staff ensure The Cav has all relevant approvals in place to host markets during the closure period, should that be required, and provide details to market managers regarding power and water access, amenities and traffic management plans for the site.*
- 25 5. *That the Butler Street Reserve be made available as a site compound for the Contractor for the duration of the closure and one (1) week after this section is constructed and open to traffic, to allow relocation of the site compound.*
- 30 6. *That staff continue to liaise with market managers to facilitate the return of markets to Butler Street Reserve once relocation of the site compound has occurred.*
- 35 Council and the Community Market managers have both undertaken assessments of potential relocation options and have identified the Byron foreshore as the most viable option for the temporary relocation during the construction of the Byron Bay bypass. It is acknowledged that this is an imperfect location and the community impacts are likely to be significant, but it is the most suitable of all the alternative sites identified.
- 40 Staff have been working with the Byron Community Market managers to detail the approvals, services and amenities required for the foreshore to host the market during this closure period, as well as the constraints / considerations for the site.
- 45 It is important to note that while market managers are supportive of the relocation, there may be a number of stallholders who do not want to relocate and/or are concerned that they will not be able to return to the Reserve post-construction. The foreshore is not viable as a permanent location for the Community Market, and the intention is for the markets to return to the Reserve as soon as possible.
- 50 This report details the considerations for Council in considering the request from the Byron Community Markets, and commentary on impacts and process.

Identification of relocation options

- 45 In 2018, Council commissioned Planit Engineering to undertake Stage 1 of the Byron Market Relocation Plan - a preliminary assessment of potential sites around Byron Bay to hold markets (Attachment 1). It is important to note that this assessment looked at both temporary and permanent relocation options due to the Transport for NSW plans at the time to build the bus interchange on Butler Street Reserve. This location is no longer an option for the interchange, so permanent relocation of markets is not being considered – relocations will be temporary, with both the Farmers and Community Markets returning to Butler Street Reserve as soon as possible post-construction.
- 55

Council identified nine potential sites to be assessed for relocations including:

1. Byron Rail Corridor
2. Railway Square
3. South Lawson Street Carpark
4. Byron foreshore and Sandhills
5. The Cavanbah Centre
6. Byron Recreation Grounds
7. Residual Butler Street Reserve
8. Jonson Street (Lawson to Marvel)
9. Railway Park

The potential sites were assessed based on market requirements including the following:

- Available area and access (vehicular and pedestrian movement)
- Availability of services
- Parking availability
- Traffic impact
- Environmental impact
- Potential stormwater issues
- Impact on local residents / businesses
- Aesthetic appeal
- Unique issues associated with individual sites
- Existing users and events

Subsequent to the assessment done by Planit Engineering, the Byron Bay Community Association, who manage the community market, have undertaken their own assessment of relocation options, including:

- Ewingsdale Hall
- The Farm
- The Cavanbah Centre
- Elements
- Belongil Fields
- Byron foreshore
- Byron Recreation Grounds
- Red Devil Park
- Bangalow Showground
- Byron Bay Public School
- Byron Bay High School

The assessments by both Planit Engineering and Byron Bay Community Association determined that the Byron foreshore was the most suitable location for the temporary relocation of the Community Market.

As such, on 26 April 2019 Council received a formal request from the Byron Bay Community Association for temporary relocation to the foreshore and financial assistance towards relocation costs (attachment 1).

Details of proposal

The proposal from the community markets follows consultation with a stallholder relocation group and the Byron Green and Clean Dunecare Group who are volunteers undertaking restoration work in the dunes adjacent to the Reserve.

- 5 The Community Markets manager propose relocation to the foreshore at a reduced scale of 290 stalls (from 360). The market manager acknowledges the inevitable impacts the market will have on the Reserve and suggests that market management charge stallholders an environmental levy, which would be used to enhance the foreshore and undertake environmental restoration work alongside the Green and Clean Dunecare Group.

Benefits of Byron Community Market

The Byron Community Market has been operating in the Byron town centre since 1976 and makes a significant economic and social contribution to the local community.

It is acknowledged that while the community, traffic/parking and environmental impacts of this relocation are significant, they are temporary and are offset by the economic benefit gained from the local community by holding the monthly market. The Byron Bay Community Market has been a monthly fixture for over 40 years and it can be argued that it is a tourist attraction in its own right. But more importantly, in the context of the temporary relocation of the market, it needs to be acknowledged that each market stall is a business that provides a regular income for individuals and families and for this reason relocating the market to a site that has constraints (i.e. the beachfront) is preferable to cancelling the market for six months.

The Byron Community Market managers have provided the below information regarding stallholder criteria, which demonstrates the priority given to stallholders and products from the local area (from www.byroncentre.com.au/markets/community-market-casual-stallholder/).

- *Priority catchment area includes Byron, Ballina, Lismore and Tweed Shires*
- *Byron Shire Council requires that priority is given to residents of the Byron Shire who make 100% of the products they sell.*

Additionally, Byron Community Market managers have provided the below table which demonstrates the decision-making hierarchy for stallholders at the market.

Priority	Resident Location (Shire)	Overall stall product content
1A	Byron	100% craft made by you, NOT clothes or jewellery
2A	Ballina, Lismore or Tweed	
1B	Byron	100% craft made by you, clothes or jewellery
2B	Ballina, Lismore or Tweed	
1C	Byron	70-99% craft made by you
2C	Ballina, Lismore or Tweed	
1D	Byron	30-69% craft made by you
2D	Ballina, Lismore or Tweed	
1E	Byron	value-added and/or second-hand
2E	Ballina, Lismore or Tweed	
1F	Byron	imports
2F	Ballina, Lismore or Tweed	
3	Out of area	all products

The above demonstrates that selection criteria for the Byron Community Market is intentionally skewed towards maximising economic benefit for local business owners and stallholders over those from outside the region. The reduction in scale of the market will most heavily impact casual stallholders and those whose businesses and/or products come from outside the region.

Key issues

Site availability

The foreshore is available to host the market during this period and tentative bookings have been put into the calendar for these dates. The Byron Bay Boardriders hold their monthly surfing events on the same day as the Byron Community Market but they utilise beach areas and move between Belongil, Main Beach, Clarke's Beach and Suffolk depending on the conditions. There would not be a conflict in the park area however there may be an increase pedestrian and vehicle traffic to the general area if the competition is held along the foreshore at the same time as the market.

Approval process

i. Approvals:

The Subject Land is Zoned 7(f1) under Byron LEP 1988.

Pursuant to Clause 48 Temporary Use of Land development consent is not required for the use of the land on a temporary basis for markets. The Clause states:

48 Temporary use of certain land

(1) *Despite any provision of this plan, a person may, without the consent of the Council, carry out development on land for any purpose (not being designated development) within Zone No 6 (a) or 7 (f1) for a maximum period of 7 days on any one occasion up to a maximum of 60 days in a calendar year if:*

(a) *such land is vested in the Crown, a Minister of the Crown or the Council, and*

(b) *the development does not involve the erection of permanent structures ancillary to the use of that land.*

Having regard to the clause the erection of temporary structures such as marquees and tents for the market will not need development consent. However it is pertinent that any lease of license issued for the use of the land for markets includes a requirement that temporary structure are installed in accordance with the manufacturers specification and are to be securely fixed by way of tent pegs and ropes to accommodate adverse weather conditions (eg wind).

The proposed licence conditions in Table 3 of this report address the requirements related to temporary structures.

ii. Licence

Lot 10 DP 1167806 is included in Crown licence managed by Council as a Crown Land Manager. The land is not impacted by Native Title being identified in the Indigenous Land Use Agreement (ILUA 2) as surrendered land pursuant to ss24EF(1)(d), 24CG(2) of the *Native Title Act 1993* (Cth).

Section 2.20 of the *Crown Land Management Act 2016* (NSW) authorised Council as the Crown Land Manager for the land to grant a short-term licence for the prescribed purpose of a market prior to having an adopted Plan of Management over the land.

The licence will permit a community market to be held on the first Sunday of each calendar month and the third Sunday in December and January during the hours of 8am to 11am with setup time not to commence before 7am.

- 5 Continuation of the community markets will require that rent payable under the sub-licence is adjusted to reduced stall numbers and payable in accordance with Council's fees and chargers for community markets on Crown Land.

- 10 Impacts to the sea-kayak operators is discussed in the report to the Reserve Trust 23 May 2019 meeting.

Impacts on the Reserve and environment

- 15 Any market on the Reserve which is larger in scale than the existing quarterly Beachside Market (220 stalls) will have considerable impacts on the Reserve.

- 20 The Byron Community Market acknowledge the impacts the relocation will have on the Reserve and have suggested a reduction in stall numbers from 350 to 290 in order to minimise this impact, as well as an environmental levy charged to stallholders by the market manager is to be used for restoration of the Reserve once the market has returned to Butler Street.

The Byron Community Market managers will be required to provide a full Market Management Plan detailing how they will minimise impacts on the Reserve and surrounding areas.

- 25 Council will commission a Review of Environmental Factors (REF) as part of the approval process.

- 30 In addition, it is recommended that specific conditions be included in the licence for use of the Reserve to minimise impacts to the Reserve itself and surrounding environment. These conditions are detailed in Table 3 below.

Traffic Impacts

The most significant impacts as a result of market relocation to the foreshore are likely to be the impacts of traffic and parking.

- 35 Byron Community Markets propose to host 290 stalls within Denning Park along the main beach foreshore. Based on the RMS Guide to Traffic Generating Developments, 290 stalls are estimated to generate 5220 Daily Vehicle Traffic and 1160 Peak Hour Traffic. In accordance with DCP 2014 Chapter B4 this equates to a High Impact Development that requires a Traffic Impact Study.

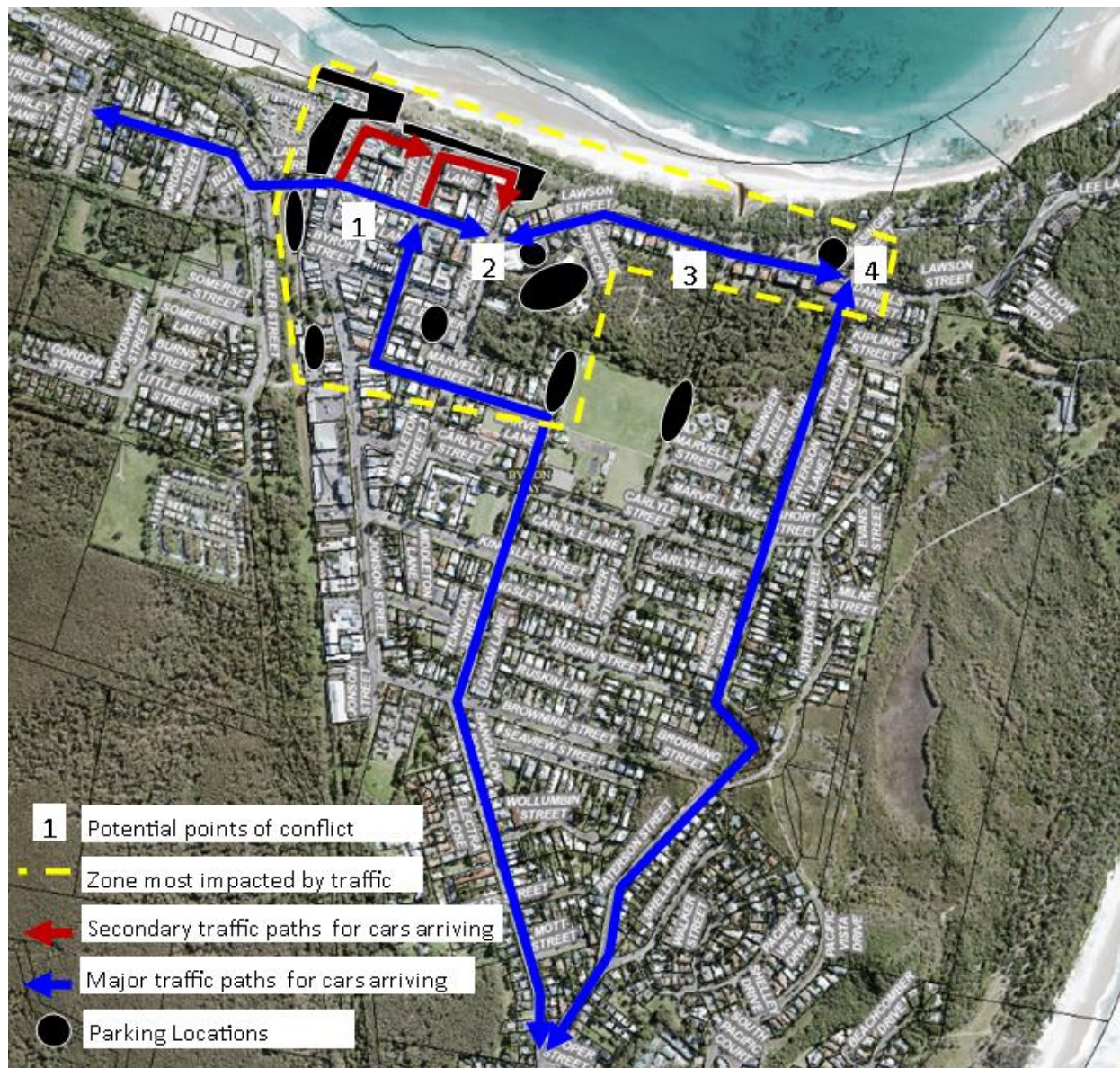
- 40 Note, the average daily traffic volume across Lawson St railway crossing in 2016 was approximately 23,600 vehicles per day. On Lawson St, between Jonson St and Fletcher St, the average daily traffic volume in 2013 was approximately 11,000 vehicles per day.

The existing Community Market at Butler Street Reserve hosts 360 stalls and while it undoubtedly generates additional traffic within Byron Bay, the town centre currently accommodates these traffic volumes.

- 45 Similarly, the quarterly Beachside Market hosts 220 stalls on the Byron foreshore and has measures in place to minimise traffic congestion and accommodate parking within the town centre. Again, the town centre / beachfront area currently accommodates these volumes.

- 50 Map 1 below demonstrates potential traffic flow paths associated with market traffic. As no information is available to confidently identify which direction patrons currently come from it is assumed that 50% of the traffic may come east from Ewingsdale Rd and 50% north from Broken

Head Rd. This amounts to approximately 580 peak hour trips from Ewingsdale Rd and 580 from Bangalow Rd.



5 **Map 1: Potential traffic flow paths**

Traffic Arriving From the West

Given the markets will extend along Lawson St traffic is likely to follow the flow of the markets resulting in lots of U-turns at the Lawson St / Massinger roundabout.

10

Traffic Arriving From the South

In regards to traffic entering from the south it is difficult to estimate which road network they will follow. The path they ultimately adopt will depend on where they feel their best chance of a park is. The assumption has been made that most will still head towards Fletcher St as most car parks are located within the CBD. However, a reasonable amount of locals are likely to use the "Rat Run" along Massinger St to get to the beach and will probably follow this route on market day.

15

From Map 1 four points of conflict are anticipated.

1. Lawson St

- Significant additional traffic arriving along Lawson St is expected to result in traffic jams and pedestrian / vehicle conflicts.

- Need to consider signage to promote alternate route for cars accessing the lighthouse. This may help to reduce the amount of cars in conflict further along at point 2.

2. Lawson St between Fletcher St and Bay St

- The majority of traffic arriving will converge on point 2 creating a pinch point requiring consideration as cars circulate throughout the CBD looking for a park.

3. Lawson St between Bay St and Massinger St

- There will be an increase in traffic circulating along Lawson St looking for a free space. As they travel east along Lawson St they will do a U-turn at the Massinger St roundabout and the head west. Few cars looking for a car park will head down Massinger St unless they are leaving to go home to the south.

4. Lawson St / Massinger St Round about

- Same concerns as per point 3.

Recommendations (summarised in table 3 of this report):

- Council, on behalf of the applicant, undertakes a Traffic Impact Study along with a traffic management plan and traffic control plans to ensure congestion is minimised. Estimated cost of this work is \$3,000. Implementation of the plans will be subject to cost estimates and further discussion with the applicant.

- The applicant is to provide contingency plans detailing measures that will be put in place for future markets if traffic in town is adversely and significantly impacted, as determined by Council. An example of 'significant impact' would be queueing along Ewingsdale Rd beyond Kendall St. Such contingencies are to include the option of reducing the scale of the Community Market to equal to or less than the Beachside Market (220 stalls) and associated traffic management controls to be put in place.

- Byron Community Market managers, in conjunction with Council staff, run an extensive communications campaign to highlight potential congestion issues for the town centre, to encourage patrons to walk / ride / carpool to the market and to highlight alternate car park locations away from the foreshore.

Parking impacts

In accordance with Council's DCP 2014 Chapter B4 design requirements Markets attract a car park rate of 2.5 spaces per stall. The existing Butler St location currently accommodates 363 stalls which attract a total parking requirement of 908 spaces. The existing Butler St site accommodates this requirement through on street parking which has been a consistent issue for streets adjacent to the Butler St markets. Informal parking counts conducted by the Byron Community Market managers estimate 100 on-street carparks are used by market patrons. Stallholder and patron parking is generally on a small section of the Reserve itself and within the surrounding streets.

The proposed Denning Park location now proposes 290 stalls which equates to 725 car spaces under Council's DCP.

Map 2 shows the location of key potential car parking areas. Within the immediate vicinity of Denning Park there are three existing street parking areas (Bay St, Lawson St and Clarks Beach car park) and a fourth potential area associated with Sandhills Estate.

Additional potential parking areas, slightly further away, include:

- 5 • Byron library
- Main Beach car park
- Lawson St North car park
- Lawson St South car park
- Byron St car park
- 10 • Tennyson St car park
- Cowper St car park



Map 2 – Location of existing and potential parking areas

- 15 The proposal from the Byron Community Markets includes temporary use of part Lot 457 DP1087879 known as the ‘Sandhill’s Estate’ (area surrounding the YAC) as overflow / stallholder parking for the markets. There is an existing Traffic Management Plan used for the Beachside Markets that could be applied to the Byron Community Market. Based on a desktop assessment of the Sandhills Estate area it is estimated that grassed area has capacity for 60-70 car spaces (approx.) with another 30 within the bitumen sealed car park area (approx.) adjacent to Sandhills.
- 20 This equates to a total of 100 spaces (approx.). Refer to Map 3 below for a desktop assessment of a possible car park layout within the Sandhills Estate area.

Council is proposing to grant the Byron Community Association Inc a second temporary sub-licence for the purpose of car parking for each monthly community market. In accordance with the head licence RN 593318, Council is obligated to repair all damaged to the land. As a result Council

will require a bond of \$1,000 to be paid by the Byron Community Association Inc prior to the grant of the sub-licence authorising use of the land for car parking.

- 5 Native title is not impacted by the grant of the sub-licence because Lot 10 DP 1049827 is recognised in Schedule G of the Indigenous Land Use Agreement (Area Agreement) known as ILUA 2. Lot 10 DP 1049827 is surrendered land pursuant to ss24EF(1)(d), 24CG(2) NTA with an accompanying statement that all Native Title rights and interests are extinguished in respect of Lot 10 DP 1049827.



Map 3 – Possible Sandhills Estate carpark layout

- 10 Table 1 summarises the number of car spaces that could potentially be provided in the immediate and surrounding locations. If no changes are made to the existing parking arrangements and if Sandhills Estate is utilised (additional 100 parks) then a total of 1,117 spaces may be provided (approx.). Given a total of 725 spaces are required for 290 stalls the parking requirements can be absorbed within the town centre, as they currently are with the market on Butler Street Reserve.

- 15 **Table 1 – Existing and potential parking capacity including Sandhills Estate.**

AREA	EXISTING SPACES	COMMENTS
Bay St	125	<ul style="list-style-type: none"> One Way Pay parking – mixed 4P and 2P
Lawson St	166	<ul style="list-style-type: none"> Parallel paid parking
Clarkes Beach Car Park	88	<ul style="list-style-type: none"> Existing Car Park Pay Parking – 4P 3 spaces are allocated as disabled parking
Library	18	<ul style="list-style-type: none"> 2 spaces are allocated disabled parking Library is not open on Sunday's
Main Beach Car Park	95	<ul style="list-style-type: none"> Expected to be a popular area due to close proximity to markets adding to traffic along foreshore.

		<ul style="list-style-type: none"> • Pay Park – 4P
Lawson St Nth Carpark	125	<ul style="list-style-type: none"> • Expected to be a popular area due to close proximity to markets adding to traffic along foreshore. • Pay Parking – 4P
Lawson St Sth Carpark	115	<ul style="list-style-type: none"> • The southern end of the carpark is not line marked so subject to how orderly cars park • Mix of Pay Parking (4P) and non line marked spaces.
Byron St Car Park	40	<ul style="list-style-type: none"> • Not line marked so subject to how orderly cars park • Pay Parking – 4P
Tennyson St	70	<ul style="list-style-type: none"> • Not line marked so subject to how orderly cars park • Pedestrian access to markets via bushland • Pay Parking – 4P
Cowper St	75	<ul style="list-style-type: none"> • Not line marked so subject to how orderly cars park • Pedestrian access to markets via bushland • Within Tennyson / Massinger Precinct – 4P
Sandhills Estate	100	<ul style="list-style-type: none"> • Free parking • No time limit
Total	1,117	<ul style="list-style-type: none"> • Maximum number of spaces

Given the town centre already accommodates the Byron Community Market once a month on Butler Street Reserve and the Beachside Market quarterly on the foreshore, it is anticipated that parking requirements for the temporary relocation can be absorbed within the town centre. The risk, however, is in the additional traffic generated by cars ‘circling’ for a park within the CBD.

As such, it is recommended that the below conditions be included in the licence conditions for the market (summarised in Table 3 of this report):

- Byron Community Market managers, in conjunction with Council staff, run an extensive communications campaign to highlight potential congestion issues for the town centre, to encourage patrons to walk / ride / carpool to the market and to highlight alternate car park locations away from the foreshore.
- Markets must operate within the Traffic Management Plan and Traffic Control Plan developed for the event.
- Applicant Undertake consultation with houses fronting Lawson St to notify them of impacts
- Applicant be granted a sub-licence for use of the Sandhills Estate for overflow parking.

Community Response

It is anticipated that there will be members of the community who are unsupportive of the temporary relocation due to the impacts in the town centre (traffic, parking, access, amenities).

While staff acknowledge that there is no location within the Byron town centre that could easily accommodate the temporary relocation of the Byron Community Market, the market provides significant economic and social benefit and should not be cancelled during the closure period of Butler Street Reserve. Multiple site assessments have determined the foreshore to be the most suitable option, despite the inevitable impacts.

Staff will work with the market managers to mitigate environmental and community impacts of the relocation, and will develop a collaborative communications and engagement plan that ensures the community is well informed of likely impacts and timeframe (one day per month for six months).

Request for additional services and financial support

The Byron Community Market proposal requests additional infrastructure and services to facilitate their relocation. These requests are detailed below, alongside staff comments.

5

Table 2 – Request for Council assistance

Request	Cost	Staff comment
Financial assistance for loss of income	\$20,700	It is recommended \$20,000 in total be offered to the Community Markets to support relocation. The Community Market managers can determine how this money is best spent.
Financial assistance for advertising, signage, operational, equipment and materials costs	\$33,725	As above.
Environmental impact assessment and management plan	Cost of REF unknown at this stage	Markets will be required to submit a Market Management Plan detailing how they will minimise environmental impacts. Licence conditions will include environmental management requirements. Council staff will commission a Review of Environmental Factors (REF) for the markets, which will determine any necessary environmental controls to be in place in order to minimise / mitigate potential or actual environmental impacts. The total costs of these controls are unknown at this time and are subject to further discussion with the applicant.
Additional power boxes	\$2,000 + staff time	The existing power on site exceeds the requirements of the Community Market, but the layout is not ideal. To meet the Community Market's best case scenario, an additional connection would be installed on the eastern end of the Reserve. This request has been made to Essential Energy but they will not allow it because of a technicality. Staff will continue to pursue Essential Energy for the additional connection, but the Community Markets should plan for the existing power access. Market managers have advised they can make this work if necessary. Council will provide additional portable distribution boards at a cost of \$2000 to assist.
Additional water tap in easterly area of proposed market space	\$800	Council, recently installed a Water bubbler and bottle fill in the area to be used for the most easterly market stalls.

BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

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		Council will also provide an additional potable water tap as may be required at an estimated cost of \$800
Waiving of monthly market fees on the hire of the foreshore and any licence or administration fees incurred from BSC	Total fees for 8 markets at 290 stalls - \$3,600	Rent is abated under the market licence for the Butler Street Reserve until occupation can be resumed at that site. Rent payable under the proposed sub-licence is set by Council's fees and charges and determined by number of stalls. Rent payable totals \$3,600 for the relocation period.
Assistance identifying and implementing enhancement projects to be undertaken funded through the environmental levy charged to stallholders by the market manager. On completion of the last market on the foreshore, Council will invoice the market manager for the full amount of the environmental levy for private works.	Staff time	Works will be required to aerate and fertilise parklands to mitigate the compaction and turf wear from additional high impact usage. High use may also force the requirement for additional turf rehabilitation, including returfing and area. Staff will also work alongside Green and Clean Dunecare to identify dune rehabilitation works that could be funded through the environmental levy.
Approval for shipping container to be allowed on the reserve for storage	n/a	A shipping container will not be permitted on the Reserve.

In addition to the above requests for assistance and support from the Byron Community Market managers, the scale of the market triggers the need for a Traffic Impact Study, Traffic Management Plans and Traffic Control Plans. It is estimated that the cost for these plans will be approximately \$3,000. Council can cover this cost from the Property Reserve. Implementation costs for traffic management are unknown at this stage, and will be negotiated with the Byron Community Market managers once cost estimates are received.

The value of proposed financial assistance and support for the community market relocation totals:

• Infrastructure on Reserve	\$2,800
• Traffic Impact Study and Plans	\$3,000
• REF	\$20,000
• Market fees	\$3,600
• Financial support to markets	\$20,000
• Contingency for additional clean ups etc	\$10,000
TOTAL	\$59,400

Unknown additional costs at this stage are:

- Implementation of Traffic Management / Control Plans
- Implementation of environmental controls (from REF)
- Project management

Summary

In summary, it is recommended that the Byron Community Market be temporarily relocated to the foreshore for 6 months from 7th July 2019.

5

Given the site constraints, it is recommended that in addition to existing licence conditions for the Beachside Market, the licence conditions for the Byron Community Market include the items detailed in Table 3 below:

10 **Table 3: Recommended licence conditions**

Condition number	Details	Staff comment
1	The number of stalls be limited to 290	To minimise impacts on local community, Reserve and surrounding areas
2	Market Management Plan to be provided by Byron Community Market Managers detailing how they will manage: <ul style="list-style-type: none"> - Waste - Impact on Reserve and surrounding areas (including dunes) - Traffic and parking (including for Sandhills car parking area) - Amenities 	To be provided to Council no later than 23 June 2019. The Market Management Plan to include contingencies for future markets if traffic in town is adversely and significantly impacted, as determined by Council. An example of 'significant impact' would be queueing along Ewingsdale Rd beyond Kendall St. Such contingencies are to include the option of reducing the scale of the Community Market to equal to or less than the Beachside Market (220 stalls) and associated traffic controls to be put in place.
3	Managers of the Byron Community Market are required to implement certified Traffic Management Plan and Traffic Control Plan each market	Funding source to be confirmed once cost estimates are received.
4	\$1,000 bond per market for any maintenance required on the Reserve as a result of market impacts. Additional \$1,000 bond per market for any maintenance required on Sandhills Estate as a result of market car parking.	
5	Environmental protection measures to be established including: <ul style="list-style-type: none"> - Establishment of root protection zones around trees - Shade cloth to be secured to the fencing that runs between dune vegetation and the Reserve to catch airborne litter before reaching the beach - No shade structures or market 	For protection of the Reserve

BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

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	<p>materials to be tied to or displayed in trees</p> <ul style="list-style-type: none">- Oils and hot liquids to be contained and not allowed to spill on to grass- Feedback on impacts sought from the Green and Clean dunecare group																																											
6	No pegging on the Reserve to protect irrigation infrastructure	No pegging on identified areas of reserve. Where marquees are unable to be pegged they must be weighted down with sandbags or similar.																																										
7	Vehicles as much as possible need to utilise hardened pathways for access. Any vehicles that need to access the Reserve must be light vehicles travelling at up to 5km/hr only.																																											
8	An environmental levy be charged to stallholders by the market manager as contribution towards restoration of the Reserve and surrounding areas. Council to invoice the market manager for the full amount of the environmental levy for private works.	Works will be required to aerate and fertilise parklands to mitigate the compaction and turf wear from additional high impact usage. High use may also force the requirement for additional turf rehabilitation, including returfing and area.																																										
9	5 additional portaloos to be provided by market management for each market	<p>Existing toilets at Apex Park and Clarks Beach are outside markets, 1000m apart. Current capacity; Apex = 6 unisex / accessible units. Clarks = 2 WC male, 1 Urinal Female = 3 WC</p> <p>NCPP Guidelines; Toilet facilities for public events where alcohol is not available ;</p> <table><tr><td></td><td colspan="3">Males</td><td colspan="2">Females</td></tr><tr><td>Patrons</td><td>WC</td><td>Urinals</td><td>Hand Basins</td><td>WC</td><td>Hand Basins</td></tr><tr><td><500</td><td>1</td><td>2</td><td>2</td><td>6</td><td>2</td></tr><tr><td><1000</td><td>2</td><td>4</td><td>4</td><td>9</td><td>4</td></tr><tr><td><2000</td><td>4</td><td>8</td><td>6</td><td>12</td><td>6</td></tr><tr><td><3000</td><td>6</td><td>15</td><td>10</td><td>18</td><td>10</td></tr><tr><td><5000</td><td>8</td><td>25</td><td>17</td><td>30</td><td>17</td></tr></table> <p>Addition of 5 portaloos will allow capacity reflecting event with 1000 attendees. Market numbers will at times exceed 1000 pax, but attendees are transient so demand is lower. These portaloos need to be positioned centrally.</p>		Males			Females		Patrons	WC	Urinals	Hand Basins	WC	Hand Basins	<500	1	2	2	6	2	<1000	2	4	4	9	4	<2000	4	8	6	12	6	<3000	6	15	10	18	10	<5000	8	25	17	30	17
	Males			Females																																								
Patrons	WC	Urinals	Hand Basins	WC	Hand Basins																																							
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<3000	6	15	10	18	10																																							
<5000	8	25	17	30	17																																							
10	Managers of the Byron Community Market are required to work with Byron Shire																																											

	Council communications team to develop a comprehensive communications plan that notifies residents and visitors of upcoming markets and impacts, including recommendations for parking.	
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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

Crown Land Management Act 2016

- 10 *Section 2.20 Short-term licences over dedicated or reserved Crown land*
- (1) *The regulations may make provision for or with respect to the following concerning short-term licences over dedicated or reserved Crown land:*
- 15 (a) *any purposes for which the licences may be granted (prescribed purpose),*
 (b) *any conditions to which the licences are subject (prescribed condition),*
 (c) *the maximum term for which licences may be granted (prescribed maximum term).*
- (2) *The Minister may grant a short-term licence over dedicated or reserved Crown land for any prescribed purpose.*
- (3) *A short-term licence may be granted even if the purpose for which it is granted is inconsistent with the purposes for which the Crown land is dedicated or reserved.*
- 20 (4) *A short-term licence may be granted subject to conditions specified by the Minister and is also subject to any prescribed conditions.*
- (5) *A short-term licence may not be granted for any purpose for which an authority, permit, lease or licence may be granted under the Fisheries Management Act 1994.*
- 25 (6) *A short-term licence ceases to have effect when the prescribed maximum term after it is granted expires, unless it is revoked sooner by the Minister or is granted for a shorter term.*
- (7) *Sections 2.18 and 2.19 do not limit the circumstances in which short-term licences can be granted under this section.*

Crown Land Management Regulations 2018

- 30 *Clause 70 Exemption from operation of section 3.22 of Act for granting licences and leases during initial period*
- (1) *This clause applies to a council manager of dedicated or reserved Crown land during the initial period referred to in section 3.23 of the Act (the pre-POM Crown land) until whichever of the following occurs first:*
- 35 (a) *the council adopts its first plan of management for the land for the purposes of section 3.23 of the Act,*
 (b) *the land is classified as operational land with Minister's consent under section 3.22 of the Act.*
- 40 (2) *The council manager is exempt from the operation of section 3.22 of the Act in respect of the following:*

- (a) *the granting of a short-term licence over pre-POM Crown land of a kind that can be granted by a Crown land manager under section 2.20 of the Act,*

Sustainable Community Markets – Regulatory

5

Regulatory Code shall be read in conjunction with the adopted Sustainable Community Markets Policy, and all definitions used in this document are defined with the Policy.

10 In circumstances where development consent is required, any conflict between this regulating code and the development consent, the development consent will prevail.

1. Market Manager Responsibility

15 The Market Manager will be responsible for the entire management of the Market, adherence to the requirements of relevant legislation, development consent, licence conditions and this regulating code.

The Market Manager shall be present at the Market at all times.

20 The Market Manager and personnel must be properly identifiable as Market Manager and recognisable as the Market Manager by members of the public at all times a Market is in progress.

All Markets shall be conducted in accordance with the Market Management Plan required by clause 2 of this regulatory code.

25 Market Managers, of Community Markets, are to ensure their market activities are meeting the requirement to be of primary benefit to the Local Area.

Financial Considerations

30 The costs indicated in recommendation four and five to this report totalling up to \$110,000 can be funded from the Property Reserve should the recommendations be adopted by Council. Council had previously set aside funds at the conclusion of the 2014/2015 and 2017/2018 financial years relating to relocation of the markets in the Property Reserve. Whilst Council is about to consider the Draft 2019/2020 Budget Estimates for public exhibition at the time of writing this report, funding is available as indicated and not being called upon for any other purpose at this time.

Consultation and Engagement

40 Staff have been working closely with Byron Community Market managers to identify potential relocation sites and detail the approvals and constraints for the preferred site (Byron foreshore).

The Byron Community Market managers have been working with the Green and Clean Dunecare group to address environmental impact concerns.

45 The Byron Masterplan Guidance Group discussed the need for temporary relocation of the Community Market at their 1 May meeting, but specific location was not discussed. Concerns were raised regarding the origin of stallholders at the market, which have been addressed in this report. Group feedback was that irrespective of the relocation site, impacts of the relocation would be significant.

50

Staff will work with the Byron Community Market managers to develop a comprehensive communications plan that notifies residents and visitors of upcoming markets and impacts, including recommendations for parking. Key messaging will include:

- 55
- Disruption and inconvenience during this period is unavoidable
 - This solution is not perfect but is the best option to allow the markets to keep operating

- Market is valued by the community, Council and visitors – to many people it's a great day out, to others it is their livelihood.
 - We will get the markets back to Butler St Reserve ASAP.
 - A key consideration in the construction of the bypass is to minimise the impact on the markets as much as we can.
- 5

Report No. 13.6 **Lease for Massenger Street treehouse**
Directorate: General Manager
Report Author: Paula Telford, Leasing and Licensing Coordinator
File No: I2019/703

5

Summary:

10 Council has previously granted Ms Mell Coppin a one year licence over an unused portion of road reserve adjoining 77 Massinger Street Byron Bay in accordance with resolution (**18-271**). That licence will expire on 30 September 2019 and Ms Coppin has requested a new licence.



15 Requisite public liability insurance together with an engineering certificate attesting to the structural integrity of the treehouse structure and an arborist report have been provided by Ms Coppin.

20 This report recommends that Council authorise that a new licence for a maximum term of one year at annual rent of \$1 is advertised in accordance with s154 of the *Roads Act 1993* (NSW) for a period of 28 days and that if submissions are received that another report be reported to Council to duly consider all submissions before granting a new licence.

RECOMMENDATION:

1. **That Council authorise the General Manager to negotiate a licence with Ms Mell Coppin over an unused portion of road reserve adjoining 77 Massinger Street Byron Bay on the following terms:**
 - a) term one (1) year;
 - b) for the purpose of a children's treehouse; and
 - c) annual rent \$1.00 if requested.
2. **That Council authorise the publication of the proposed one year licence to Ms Mell Coppin for a period of 28 days in accordance with s154(2)(c) of the *Roads Act 1993*.**
3. **That in the event no submissions are received, Council delegate to the General Manager the authority to enter into the licence referred to in 1 above.**
4. **That if submissions are received that a new report be reported to Council at its August ordinary meeting.**

25 **Attachments:**

- 1 Confidential - Updated public liability insurance (Mell Coppin) for 2019-2020 year., E2019/32129
- 2 Structural Engineers Certificate: Lease treehouse to Mell Coppin 77 Massinger St, E2018/72554 
- 3 Arborist report: Lease treehouse to Mell Coppin 77 Massinger St, E2018/72557 

30

REPORT

Council resolved (18-271) to grant Ms Mell Coppin a one year licence over an unused portion of road reserve adjoining 77 Massinger Street Byron Bay. That licence will expire on 30 September 2019 and Ms Coppin has requested a new licence.

In accordance with resolution 18-271, Ms Coppin has provided Council with:

- a) public liability insurance current to 31 March 2019 for \$20 million Confidential attachment 1 (E2019/32129);
- b) structural engineers certificate validating the structural building integrity of the structure for a period of two years Attachment 2 (E2018/72554); and
- c) an arborist report confirming appeared health of both trees and recommended ongoing inspection every 12-24 months Attachment 3 (E2018/72557).

Both the structural engineers' certificate and arborist reports remain valid for the term of the proposed new licence.

Legislative requirements to grant proposed licence:

Council as the road authority for Massinger Street Byron Bay may only grant a licence of an unused portion of the road reserve to an adjoining owner to the public road when Council holds the opinion that the road is not being used as a public road. Ms Coppin is the adjoining landowner to the portion of road reserve on which the treehouse is constructed and that portion of the road reserve is not being used by the public.

Section 154 (1) of the *Roads Act 1993* (NSW) requires Council to publically advertise the proposed lease was advertised for a period of 28 days. Should any submissions be received a second report will be brought to Council to duly consider all submissions before granting the proposed lease.

Terms of proposed licence:

Although Council is permitted to grant a licence a licence for a maximum term of five years, Council resolved (18-271) to limit the term of any licence to a maximum of one year.

Council also resolved (18-271) that rent be set at \$1 per annum.

This report recommends that the new licence is granted for a term of one year with rent set at \$1 is required.

STRATEGIC CONSIDERATIONS

Community Strategic Plan and Operational Plan

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

Legal/Statutory/Policy Considerations**153 Short-term leases of unused public roads**

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

154 Public notice to be given of proposed lease

- (1) Before granting a lease under this Division, the roads authority must cause notice of the proposed lease:
 - (a) to be published in a local newspaper, and
 - (b) to be served on the owner of each parcel of land adjoining the length of public road concerned.
- (2) The notice:
 - (a) must identify the public road concerned, and
 - (b) must state that any person is entitled to make submissions to the roads authority with respect to the proposed lease, and
 - (c) must indicate the manner in which, and the period (being at least 28 days) within which, any such submission should be made.

156 Decision on proposed lease

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

157 Special provisions with respect to short-term leases

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

Financial Considerations

In accordance with resolution **18-271** the twelve month lease is provided at \$1 per annum rent.

Consultation and Engagement

Nil.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.7 Tyagarah Hall - results of community consultation**Directorate:** Corporate and Community Services**Report Author:** Joanne McMurtry, Community Project Officer**File No:** I2019/477**Summary:**


Through resolution 18-825, Council resolved to *undertake community consultation with a view to establishing a S355 committee for the ongoing management of the Tyagarah Hall and receive a report in relation thereto.*

This report provides an overview of consultation results and seeks a decision on the preferred ongoing management option for the Hall.

RECOMMENDATION:**That Council:**

1. **Notes the consultation results summarised in the report.**
2. **Determines the preferred option for the ongoing management of Tyagarah Hall:**
 - a) **Option 1 – seek to establish a Section 355 Management Committee until the end of the current term of Council; or.**
 - b) **Option 2 – call for expressions of interest for community groups to manage the hall under lease, with the terms of the lease to be negotiated under delegation of the General Manager and brought back to Council for adoption; or.**
 - c) **Option 3 – undertake a new tender process for commercial lease for office space.**

Attachments:

- 1 Map of Tyagarah Hall with estimate of size, E2019/22532 

REPORT

In 2018, Council conducted a tender process to lease the Tyagarah Hall for office space. However, received tenders were declined and Council resolved (**18-825**) to consult the community with a view to establishing a Section 355 Committee for the ongoing management of the Hall.

5 Background research and a consultation plan were completed. A range of stakeholders were contacted including:

- Approximately 40 community groups that may have had an interest in using the hall
- Key organisations such as Bundjalung of Byron Bay Aboriginal Corporation (Arakwal), National Parks and Wildlife, Tyagarah Community Association (90 members), Tyagarah Airstrip lessees (11).
- 10 • A mail-out to over 400 residents in the Tyagarah–Myocum area.

People were encouraged to complete an online survey, provide written submissions or provide feedback over the phone or in person.

15 Historical information was provided to stakeholders as part of the consultation process.

Tyagarah Hall was built by the community of Tyagarah-Myocum in the early 1900s and relocated to its current position on Council operational land, zoned RU2 – Rural Landscape, in 1982.

20 The Hall was managed by the Myocum-Tyagarah Hall Committee under lease with Byron Shire Council to 1988. There is no record of a lease after this until the Tyagarah Hall Committee and Progress Association Inc., which was managing the hall, voted to hand the building back to Council in October 2005.

25 The hall was closed in 2006, following a series of parties and related property damage (including surrounding buildings), theft, anti-social behaviour and assault.

30 The Council of the day called for expressions of interest to occupy the hall in order to limit inappropriate use and awarded a lease to a business, raising \$7,000 per year. Between 2007 and 2018, the hall was unoccupied for some of the time and leased for approximately four years. One lessee spent considerable money in upgrading the hall and installing an accessible ramp.

35 A satellite map image of the hall is provided in attachment 1.

Consultation outcomes

- A limited number of survey responses were received (7 organisations and 16 individuals), with approximately half of the individuals residing in Tyagarah.
- 40 • Respondents largely supported the proposal that the Hall be available for community use and believed that this would strengthen the local sense of community.
- Organisational respondents indicated that they would utilise the hall for a range of workshops, activities, meetings and neighbourhood connection opportunities.
- 45 • Individual respondents indicated that they would likely attend neighbourhood connection opportunities, activities and meetings/workshops on an infrequent basis.
- The majority of respondents indicated that they would be prepared to pay \$10/hour for hall hire, while the remainder indicated willingness to pay between \$15-\$20/hour.
- No respondents indicated that they were interested in nominating for a position on a proposed Section 355 Management Committee.
- 50 • Some respondents showed concern regarding inappropriate use of the hall and highlighted strategies that could contribute to managing this issue.

Given the limited number of responses received, it is difficult to determine whether the survey results are representative of broader community views.

A small number of written and verbal consultation submissions were also received.

- 5 The idea of an environment centre/ wildlife hospital was raised by several individuals and organisations. Verbal advice received from Bangalow Koalas and Friends of the Koalas is that a wildlife hospital in this location would be unlikely to be approved or attract funding, given that:
- 10 1. Whilst the area around Tyagarah Hall is a known Koala habitat area, it is not considered an ideal location for a recovery centre due to the proximity of the BluesFest site and aircraft noise.
- 15 2. Most of the need for a koala recovery centre is centred around Lismore, followed by Ballina area and then the Tweed area. The need for a recovery centre in Byron Shire is lower in the list of priority areas. Currumbin Wildlife Sanctuary is within close range of Byron Shire for this purpose.
- 20 3. Currently a licence is required to establish a rescue or rehabilitation centre for wildlife/ koalas. It is understood the Office of Environment and Heritage is moving towards an accreditation process for such centres but this is still being developed.
- 25 4. Establishing and running a wildlife hospital/ koala recovery centre requires expert knowledge of wildlife/ koalas, experienced people involved, a significant number of well-trained volunteers and would require significant fundraising to establish and maintain.

In addition to these points, the zoning for the area is RU2 – Rural Landscape and a not-for-profit wildlife rehabilitation centre would likely need to be considered as ancillary use of other activities.

- 30 Three separate local groups, in various stages of proposal development, expressed interest in negotiating a lease for use of the Hall.
- 35 1. Byron Gem and Lapidary Club expressed a wish to manage the hall to establish display space for collections (i.e. a Museum and Educational Centre) in addition to hiring the space out for activities such as meetings, workshops and educational days.
2. An informal group of community members is interested in having use of the hall for approximately 9 months to undertake a community project to build a wooden boat.
- 40 3. The College of Marine Studies is also interested in use of the hall. The College could undertake any restoration or works required to the hall.

Additional consideration: future proposal to rezone the area for Industrial Land

- 45 At the Council meeting of 19 April 2018, Council resolved (**18-262**), in part, to:
1. *Agree to initiate a Planning Proposal over the area within the Council-owned land located immediately north of the airstrip, currently zoned RU2 Rural Landscape, to amend the Byron Local Environmental Plan 2014 to apply a zoning of IN1 General Industry to that area.*
- 50 Subsequent to this resolution, staff commenced work on a draft Employment Lands Strategy, which was publically exhibited in November 2018. The draft Strategy nominates the Council-owned land adjacent to the airstrip as having potential for development as industrial land.

- 55 In conceptual planning, consideration was given to maintaining the Tyagarah Hall within a 'community lot', which could provide local amenity for any future development of the land. It is

possible, therefore, to continue community occupation of the Hall in a manner that does not impact on the future potential of the wider land.

Key issues

There are several key issues for consideration.

1. *Demonstrated community interest in establishing and maintaining an active, volunteer Management Committee*

Establishing and maintaining volunteer Management Committees is an existing challenge across the Shire. Results from the consultation did not demonstrate community capacity to establish membership of a new Section 355 Management Committee for the Tyagarah Hall.

2. *Demonstrated interest from organisations to generate bookings revenue to cover hall maintenance costs*

Consultation results indicated that proposed activity would not be likely to generate sufficient revenue from bookings to cover maintenance costs of the hall. There is a high expectation among the consultation participants that Council will cover the costs of running the hall. In comparison, throughout the Byron Shire, all but one hall managed by a Section 355 Management Committee or Board raises enough revenue to pay for maintenance and small improvements. A somewhat comparable hall, although bigger and located in a highly accessible location, raises approximately \$5,000 per year to cover Hall maintenance.

3. *Location suitability*

In terms of community safety, the hall is in an isolated location with many of the surrounding businesses closed at night and limited passive surveillance. Transport to the hall is limited to private transport. There is parking for up to 20 cars and additional patronage may become a problem for surrounding lessees. Proximity to Tyagarah Airstrip may create constraints on noise-sensitive activities. Conversely, noise issues for neighbours are unlikely.

4. *Hall size*

The hall is small and it is estimated to seat approximately 35 people or hold 70 people standing. The hall's lack of toilet amenities may further restrict the number of people allowed in the hall at any one time. There are no toilets at the hall, with public toilets nearby.

Options

Option 1 - Establish a Section 355 Management Committee

If Council decides to pursue a Section 355 Management Committee notwithstanding the above advice, it is recommended that this be trialled until the end of the current term of Council. This timeframe would align with other S355 committees that are in place until December 2020. Additionally, it would allow for a period in which to understand whether an active, effective committee can be established and maintained.

Option 2 - Negotiate a lease with a community organisation

If this option is chosen, a broader Expression of Interest process could be undertaken. An appropriate process would assess potential lessees' suitability and capacity to meet requirements.

Option 3 - Re-Tender to lease the hall for office space

This option would re-call for Tenders to lease the hall as office space. Leasing the hall for consistent use would ensure that the hall is occupied and that the building and surrounds are maintained through revenue generated.

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)	1.2.1.1	Implement planned maintenance program for building assets
Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community	2.1	Support and encourage our vibrant culture and creativity	2.1.2	Provide meaningful and inclusive opportunities for volunteering	2.1.2.1	Provide accessible training, support and capacity building to s355 committee volunteers
	2.3	Provide accessible, local community spaces and facilities	2.3.2	Support effective management of community buildings (SP)	2.3.2.1	Develop and implement building maintenance and major work schedule for community buildings that is informed by access requirements

5 *Legal/Statutory/Policy Considerations*

Section 355 Committees are established by resolution of Council where Council provides delegated authority for their operations via Section 377 of the Local Government Act.

10 *Financial Considerations*

If Council decides to establish a Section 355 Management Committee for Tyagarah Hall, a bank float of \$5,000 would need to be provided for committee operations.

- 15 Tyagarah Hall maintenance and other expenses will move within the budget to 'community buildings' where any expenses for hall upkeep will be budgeted from the funds outlined below. Council currently manages 26 community buildings within these funds and related cost pressures.

Financial Year 2018/19 Budget	
\$354,500	Special Rate Variation for capital works in community buildings
\$57,900	Planned maintenance
\$110,000	Unplanned

20 *Consultation and Engagement*

As outlined in the report.

Report No. 13.8 **Investments - 1 April 2019 to 30 April 2019**
Directorate: Corporate and Community Services
Report Author: James Brickley, Manager Finance
File No: I2019/592

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Summary:

10 This report includes a list of investments and identifies Council's overall cash position for the period 1 April 2019 to 30 April 2019 for Council's information.

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

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RECOMMENDATION:

That the report listing Council's investments and overall cash position as at 30 April 2019 be noted.

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REPORT

Council has continued to maintain a diversified portfolio of investments. At 30 April 2019, the average 90 day bank bill rate (BBSW) for the month of April 2019 was 1.69%. Council's performance to 30 April 2019 is 2.72%. 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 30 April 2019:

Schedule of Investments held as at 30 April 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	Y	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	Y	FRN	3.25%	1,010,710.00
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	Y	FRN	3.20%	500,573.50
28/03/19	1,000,000	National Housing Finance & Investment Corporation	Y	AAA	28/03/29	Y	B	2.38%	1,000,000.00
02/11/18	1,000,000	B & E Ltd (Bank of Us)	Y	NR	01/05/19	Y	TD	2.85%	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
26/11/18	1,000,000	Suncorp	Y	A	27/05/19	Y	TD	2.70%	1,000,000.00
28/11/18	1,000,000	Suncorp	N	A+	28/05/19	Y	TD	2.65%	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
05/01/19	2,000,000	NAB	N	AA-	06/01/20	N	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

BYRON SHIRE COUNCIL

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Interest Rate Per Annum	Current Value
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 Building Society	Y	NR	15/05/19	Y	TD	2.82%	1,000,000.00
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	Y	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
01/03/19	1,000,000	Suncorp	N	A+	29/07/19	Y	TD	2.60%	1,000,000.00
04/03/19	1,000,000	Maitland Mutual Building Society	N	NR	03/06/19	Y	TD	2.77%	1,000,000.00
05/03/19	1,000,000	Australian Military Bank	N	NR	04/09/19	Y	TD	2.77%	1,000,000.00
05/03/19	1,000,000	Suncorp	N	A+	05/06/19	Y	TD	2.55%	1,000,000.00
06/03/19	1,000,000	Bananacoast Credit Union	Y	NR	04/03/20	Y	TD	2.90%	1,000,000.00
06/03/19	1,000,000	AMP Bank	N	A-	04/06/19	N	TD	2.65%	1,000,000.00
12/03/19	1,000,000	Summerland Credit Union	N	NR	01/06/19	Y	TD	2.75%	1,000,000.00
27/03/19	1,000,000	Maitland Mutual Building Society	N	NR	21/06/19	Y	TD	2.70%	1,000,000.00
29/03/19	2,000,000	NAB	N	AA-	27/06/19	N	TD	2.45%	2,000,000.00
29/03/19	2,000,000	NAB	N	AA-	12/06/19	N	TD	2.43%	2,000,000.00
01/04/19	1,000,000	NAB	N	AA-	01/07/19	N	TD	2.46%	1,000,000.00
03/04/19	1,000,000	Australian Military Bank	N	NR	03/07/19	Y	TD	2.77%	1,000,000.00
04/04/19	1,000,000	NAB	N	AA-	04/07/19	N	TD	2.46%	1,000,000.00
09/04/19	1,000,000	NAB	N	AA-	09/07/19	N	TD	2.44%	1,000,000.00
10/04/19	1,000,000	Bankwest	Y	AA-	09/07/19	N	TD	2.30%	1,000,000.00
23/04/19	2,000,000	NAB	N	AA-	22/07/19	N	TD	2.75%	2,000,000.00

BYRON SHIRE COUNCIL

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Interest Rate Per Annum	Current Value
29/04/19	1,000,000	ME Bank	N	BBB	16/08/19	Y	TD	2.43%	1,000,000.00
29/04/19	2,000,000	NAB	N	AA-	27/07/19	N	TD	2.40%	2,000,000.00
30/04/19	1,000,000	Australian Military Bank	N	NR	12/07/19	Y	TD	2.40%	1,000,000.00
30/04/19	1,000,000	ME Bank	N	BBB	29/10/19	Y	TD	2.43%	1,000,000.00
N/A	1,497,824.41	CBA Business Online Saver	N	AA-	N/A	N	CALL	1.40%	1,497,824.41
12/01/18	3,538,242.75	NSW Treasury Corp	N	AAA	N/A	Y	CALL	2.40%	3,538,242.75
Total	72,934,418.16						AVG	2.72%	73,011,325.81

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

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

Note 3.

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

Environmental and Socially Responsible Investing (ESRI)

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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

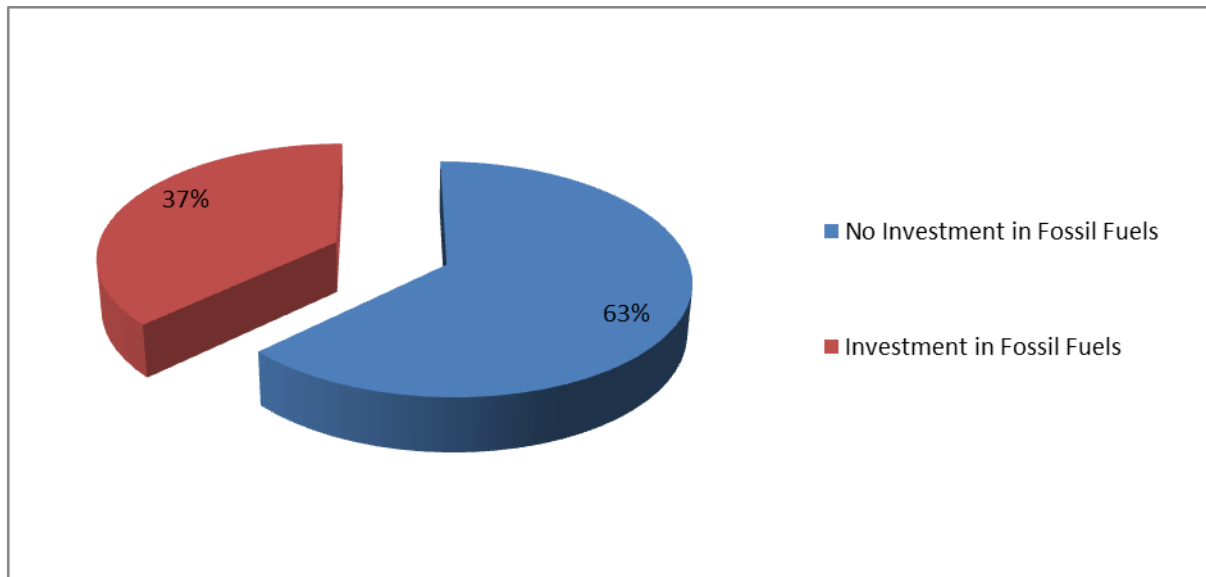
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highlights the percentage of each classification across Council's total investment portfolio in respect of fossil fuels only.

The notion of Environmental and Socially Responsible Investing is much broader than whether a financial institution as rated by 'marketforces.org.au' invests in fossil fuels or not. Council's current

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Investment Policy defines Environmental and Socially Responsible Investing at Section 4.1 of the Policy which can be found on Council's [website](#)



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

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

Investment Policy Compliance

Investment policy compliance			ACTUAL	Variance
% per institution should not exceed the following				
AAA to AA	A1+	100%	45%	Meets policy
A+ to A-	A1	60%	8%	Meets policy
BBB to NR	A2,NR	40%	46%	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. Although this has reduced, it is still 6% 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 for suitable investment opportunities.

The investment portfolio is outlined in the table below by investment type for the period 1 April to 30 April 2019:

Dissection of Council Investment Portfolio as at 30 April 2019

Principal Value (\$)	Investment Linked to:	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
61,000,001.00	Term Deposits	61,000,001.00	0.00
2,900,000.00	Floating Rate Note	2,911,288.65	11,288.65
1,497,824.41	Business On-Line Saver (At Call)	1,497,824.41	0.00
3,538,242.75	NSW Treasury Corp (T Corp)	3,538,242.75	0.00
3,998,350.00	Bonds	4,063,969.00	65,619.00
72,934,418.16		73,011,325.81	76,907.65

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

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

Movement in Investment Portfolio – 30 April 2019

Item	Current Market Value (at end of month) \$
Opening Balance at 1 April 2019	75,302,277.59
Add: New Investments Purchased	12,000,000.00
Add: Call Account Additions	1,700,000.00
Add: Interest from Call Account	1,353.74
Less: Investments Matured	15,000,000.00
Add: T Corp Additions	0.00
Add: Interest from T Corp	7,694.48
Less: Call Account Redemption	1,000,000.00
Less: T Corp Redemption	0.00
Add: Fair Value Movement for period	0.00
Closing Balance at 30 April 2019	73,011,325.81

Investments Maturities and Returns – 1 April to 30 April 2019

Principal Value (\$)	Description	Type	Maturity Date	Number of Days Invested	Interest Rate Per Annum	Interest Paid on Maturity \$
1,000,000.00	NAB	TD	01/04/19	91	2.46%	13,315.07
1,000,000.00	Hunter United Employee CU	TD	01/04/19	180	2.80%	13,808.22
1,000,000.00	Police Credit Union	TD	03/04/19	181	2.80%	13,884.93
1,000,000.00	NAB	TD	04/04/19	182	2.70%	13,463.01
1,000,000.00	BankVic EFT	TD	08/04/19	91	2.76%	6,881.10
1,000,000.00	Bankwest	TD	10/04/19	90	2.60%	6,410.96
2,000,000.00	Suncorp	TD	15/04/19	182	2.65%	13,213.70
1,000,000.00	Suncorp	TD	16/04/19	90	2.75%	13,561.64
2,000,000.00	NAB	TD	23/04/19	90	2.70%	13,315.07
2,000,000.00	NAB	TD	29/04/19	151	2.75%	22,753.42
1,000,000.00	B & E Ltd (Bank of Us)	TD	29/04/19	180	2.90%	14,301.37
1,000,000.00	Australian Military Bank	TD	30/04/19	182	2.90%	14,460.27
15,000,000.00						159,368.76

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 April 2019 the table below identifies the overall cash position of Council as follows:

Dissection of Council Cash Position as at 30 April 2019

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Investments Portfolio			
Term Deposits	61,000,001.00	61,000,001.00	0.00
Floating Rate Note	2,900,000.00	2,911,288.65	11,288.65
Business On-Line Saver (At Call)	1,497,824.41	1,497,824.41	0.00
NSW Treasury Corp (T Corp)	3,538,242.75	3,538,242.75	0.00
Bonds	3,998,350.00	4,063,969.00	65,619.00
Total Investment Portfolio	72,934,418.16	73,011,325.81	76,907.65
Cash at Bank			
Consolidated Fund	1,408,539.30	1,408,539.30	0.00
Total Cash at Bank	1,408,539.30	1,408,539.30	
Total Cash Position	74,342,957.46	74,419,865.11	76,907.65

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. 13.9 **Budget Review 1 January 2019 to 31 March 2019**
Directorate: Corporate and Community Services
Report Author: James Brickley, Manager Finance
File No: I2019/652

5

Summary:

10 This report is prepared to comply with Regulation 203 of the *Local Government (General) Regulation 2005* and to inform Council and the community of Council's estimated financial position for the 2018/2019 financial year, reviewed as at 31 March 2019.

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




20 Attachment 3 contains the Integrated Planning and Reporting Framework (IP&R) Quarterly Budget Review Statement (QBRs) as outlined by the Office of Local Government in circular 10-32.

RECOMMENDATION:

1. **That Council authorises the itemised budget variations as shown in Attachment 2 (#E2019/31364) which include the following results in the 31 March 2019 Quarterly Review of the 2018/2019 Budget:**
 - a) **General Fund – \$0 change to the Estimated Unrestricted Cash Result**
 - b) **General Fund - \$5,141,900 increase in reserves**
 - c) **Water Fund - \$3,003,000 increase in reserves**
 - d) **Sewerage Fund - \$3,062,200 increase in reserves**

2. **That Council adopts the revised General Fund Estimated Unrestricted Cash Result of \$1,145,200 for the 2018/2019 financial year as at 31 March 2019.**

Attachments:

- 25 1 Budget Variations for General, Water and Sewerage Funds, E2019/31363 
- 2 Itemised Listing of Budget Variations for General, Water and Sewerage Funds, E2019/31364 
- 3 Integrated Planning and Reporting Framework (IP&R) required Quarterly Review Statements, E2019/31365 

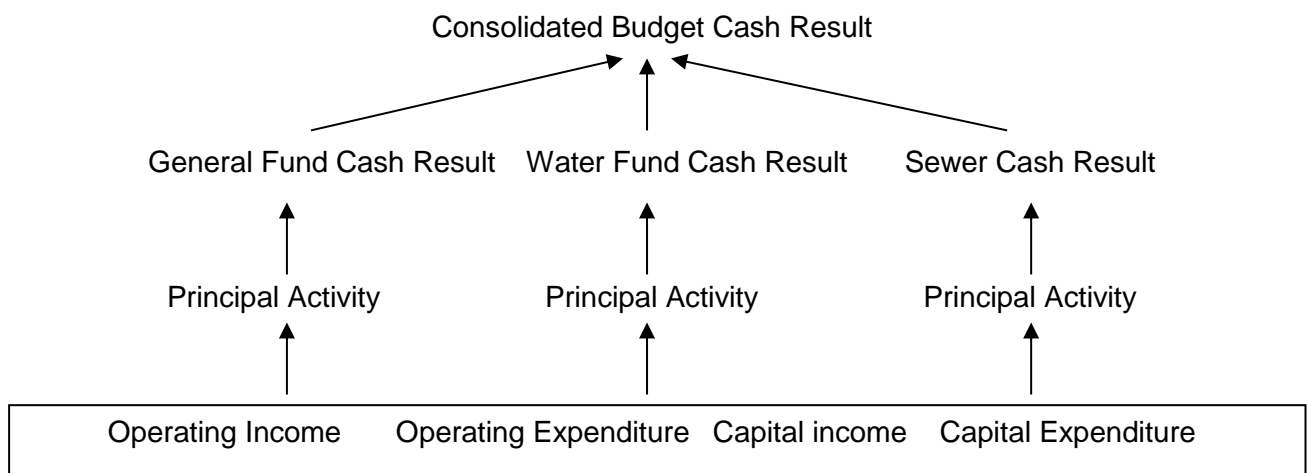
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REPORT

Council adopted the 2018/2019 budget on 28 June 2018 via Resolution **18-429**. It also considered and adopted the budget carryovers from the 2017/2018 financial year, to be incorporated into the 2018/2019 budget at its Ordinary Meeting held on 23 August 2018 via Resolution **18-522**. Since that date Council has reviewed the budget, taking into consideration the 2017/2018 Financial Statement results and progress through the first half of the 2018/2019 financial year. This report considers the March 2019 Quarter Budget Review.

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

Attachment 1 has the following reporting hierarchy:



The pages are presented (from left to right) showing the original budget as adopted by Council on 28 June 2018 plus the adopted carryover budgets from 2017/2018, followed by the resolutions between July and September, the September budget review, resolutions between October and December, the December review, resolutions between January and March, the re-vote (or adjustment for this review) and then the revised position projected for 30 June 2019 as at 31 March 2019.

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

There is also information detailing restricted assets (reserves) to show Council estimated balances as at 30 June 2019 for all Council's reserves.

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

Office of Local Government Budget Review Guidelines:-

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

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

- 5 Since the introduction of the new planning and reporting framework for NSW Local Government, it is now a requirement for Councils to provide the following components when submitting a Quarterly Budget Review Statement (QBRs):-
- 10 • A signed statement by the Responsible Accounting Officer on Council's financial position at the end of the year based on the information in the QBRs
 - Budget review income and expenses statement in one of the following formats:
 - Consolidated
 - By fund (e.g. General, Water, Sewer)
 - 15 ○ By function, activity, program etc. to align with the management plan/operational plan
 - Budget Review Capital Budget
 - Budget Review Cash and Investments Position
 - 20 • Budget Review Key performance indicators
 - Budget Review Contracts and Other Expenses
- 25 The above components are included in Attachment 3:-

Income and Expenditure Budget Review Statement by Type – This shows Council's income and Expenditure by type. This has been split by Fund. Adjustments are shown, looking from left to right. These adjustments are commented on through the last 12 pages of Attachment 1.

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

Cash and Investments Budget Review Statement – This statement reconciles Council's restricted funds (reserves) against available cash and investments. Council has attempted to indicate an actual position as at 31 March 2019 of each reserve to show a total cash position of reserves with any difference between that position and total cash and investments held as available cash and investments. It should be recognised that the figure is at a point in time and may vary greatly in future quarterly reviews pending on cash flow movements.

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

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

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

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

5 CONSOLIDATED RESULT

The following table provides a summary of the overall Council budget on a consolidated basis inclusive of all Funds budget movements for the 2018/2019 financial year projected to 30 June 2019 and revised as at 31 March 2019.

2018/2019 Budget Review Statement as at 31 March 2019	Original Estimate (Including Carryovers) 1/7/2018	Adjustments to 31 Mar 2019 including Resolutions*	Proposed 31 Mar 2019 Review Revotes	Revised Estimate 30/6/2019 at 31/03/2019
Operating Revenue	81,580,000	1,418,700	262,800	83,261,500
Operating Expenditure	86,541,800	5,296,200	312,400	92,150,400
Operating Result – Surplus/Deficit	(4,961,800)	(3,877,500)	(49,600)	(8,888,900)
Add: Capital Revenue	25,396,200	(9,740,100)	(1,189,400)	14,466,700
Change in Net Assets	20,434,400	(13,617,600)	(1,239,000)	5,577,800
Add: Non Cash Expenses	13,678,900	925,700	0	14,604,600
Add: Non-Operating Funds Employed	3,899,000	4,634,000	436,000	8,969,000
Subtract: Funds Deployed for Non-Operating Purposes	(63,028,000)	9,308,600	12,010,100	(41,709,300)
Cash Surplus/(Deficit)	(25,015,700)	1,250,700	11,207,100	(12,557,900)
Restricted Funds – Increase / (Decrease)	(25,031,500)	1,266,500	11,207,100	(12,557,900)
Forecast Result for the Year – Surplus/(Deficit) – Unrestricted Cash Result	15,800	(15,800)	0	0

GENERAL FUND

In terms of the General Fund projected Unrestricted Cash Result, the following table provides a reconciliation of the estimated position as at 31 March 2019:

Opening Balance – 1 July 2018	\$1,145,200
Plus original budget movement and carryovers	15,800
Council Resolutions July – September Quarter	(53,000)
Recommendations September Budget Review – increase/(decrease)	37,200
Council Resolutions October – December Quarter	(\$20,000)
Recommendations December Budget Review – increase/(decrease)	20,000

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.9

Council Resolutions January – March Quarter	0
Recommendations within this Review – increase/(decrease)	0
Forecast Unrestricted Cash Result – Surplus/(Deficit) – 30 June 2019	0
Estimated Unrestricted Cash Result Closing Balance – 30 June 2019	\$1,145,200

Overall the General Fund financial position has remained at a balanced as a result of this budget review, leaving the forecast cash result for 2018/2019 also balanced.

5 Council Resolutions

There were no Council resolutions during the January to March quarter that affected the forecast cash result.

10 Budget Adjustments

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

	Revenue Increase/ (Decrease) \$	Expenditure Increase/ (Decrease) \$	Accumulated Surplus (Working Funds) Increase/ (Decrease) \$
Budget Directorate			
General Manager	126,600	126,600	0
Corporate & Community Services	(186,800)	(265,000)	78,200
Infrastructure Services	(5,361,100)	(5,420,700)	59,600
Sustainable Environment & Economy	(425,200)	(287,400)	(137,800)
Total Budget Movements	(5,846,500)	(5,846,500)	0

15 Budget Adjustment Comments

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

General Manager

- In the General Manager's program, it is proposed to increase the Legal Services budget by \$126,600 to allow for the anticipated increase in legal costs prior to the end of the financial year. This can be funded from the Legal Services reserve and legal fees recovered. This increase in expenditure will fully deplete the legal services reserve. *Council will need to address the funding for the legal services reserve.*

Corporate and Community Services

- In the Information Services program, it is proposed to increase revenue and expenditure by \$55,400 due to the final instalment of the grant for the Smart Cities & Suburbs 3D Modelling Solutions project. It is proposed to decrease operating expenditure for Server Hardware Maintenance (\$15,000), Document Production Costs (\$2,400), and Multi Function Printer rent and maintenance (\$10,000), as actual expenditure will be under the current allocated budgets.

These adjustments against expenditure are offset through support services costs allocated to other budget programs.

- 5 • In the Corporate Services Program, it is proposed to decrease expenditure due to Delegations Management (\$2,000), Grants Management, (\$35,000) and Procurement Expenses (\$6,000) expected to remain unexpended in 2018/19. There are also savings of \$80,500 that can be recognised against salaries due to vacancies that have occurred to different positions during the year. The decrease in the Corporate Services program is offset by a support service cost adjustment of the same amount so no budget change is realised in the program. However, the decrease in support service costs is realised in other Council programs through a decrease in their support service costs.
- 10
- 15 • In the Community Development program, it is proposed to increase operating income by \$10,000 due to the final instalment of the Love Byron Halls project being received and decrease operating expenditure by \$42,900 for Schoolies, approvals being less than the budget (\$3,700) and budgets no longer required for the Social Innovation/Entrepreneurship Projects (\$5,000) and the Youth Small Changes Grants (\$5,500). It is also proposed to remove \$25,500 of the Urgent/Unplanned Community Building maintenance budget and place back in the 2007/08 Special Rate reserve. This can then be used to fund part of the Solar Panel Installation in the Facilities Management program. It is proposed to decrease support service costs by \$3,000.
- 20
- 25 • In the Sandhills program, it is proposed to decrease operating income and expenditure by \$38,000. Sandhills does not currently have any children with special needs so the Special Needs grant will not be received. This is offset by a decrease in inclusion support workers' employee costs for staff that would normally assist any special needs children.
- 30
- 30 • In the Other Children's Service program, it is proposed to decrease operating income by \$35,700 due to grants for special needs that will not be received as none of Council's OOSH services currently have any students with special needs.
- 35
- 35 • In the Public Libraries program, it is proposed to decrease capital expenditure by removing the Brunswick Heads Library Upgrade (\$235,000) (Council funding) from the budget as a grant needed to complete the project has not been approved.

35 **Infrastructure Services**

- 40 • In the Supervision & Administration program, it is proposed to decrease the salaries budget by \$160,000. In the Infrastructure Services directorate, the majority of salaries are costed against the Supervision & Administration program. These costs are then dispersed across the other Infrastructure Services programs dependent on the position's estimated time spent working within that program. These percentages are determined when the budget is created. During the year, some costs that have been budgeted for in this program have been costed against different projects and maintenance, therefore creating savings in these ledger accounts. An increase in the costs associated with uniform issues is also required (\$30,000). The overall decrease expenditure within the Supervision & Administration program is offset by a support service cost adjustment of the same amount so no budget change is realised in the program. However, the decrease in support service costs is realised in other Infrastructure Services programs through a decrease in their support service costs.
- 45
- 50 • In the Projects & Commercial Development program, it is proposed to decrease capital expenditure due to various works that will not be completed in the 2018/2019 financial year.
- 55
- 55 • In the Emergency Services program, it is proposed to decrease operating expenditure by \$4,200 due to actual expenditure for emergency services contributions (RFS, NSW Fire and SES) being less than the budget (\$18,100), a decrease against Tweed RFS mobile charges

(\$7,800), an increase against the North Byron Flood Risk Management Study & Plan to match grant funding to assist a consultant in completing additional work (\$23,000) and a support service cost decrease (\$1,300).

- 5 • In the Local Roads and Drainage program, a number of adjustments are outlined under Note 15 in the Budget Variations explanations section of Attachment 1. Further disclosure is included in the fifth and sixth pages of Attachment 2 under the budget program heading Local Roads and Drainage.
- 10 • In the Roads and Maritime Services program (RMS), it is proposed to increase operating income and expenditure by \$45,900 to reflect the actual amount approved by the RMS for the block grant and decrease the capital budget by \$70,000 for the completed Hinterland Way project.
- 15 • In the Open Space and Recreation program, number of adjustments are outlined under Note 17 in the Budget Variations explanations section of Attachment 1. Further disclosure is included in the eighth and ninth pages of Attachment 2 under the budget program heading Open Space & Recreation.
- 20 • In the Waste & Recycling program, it is proposed to decrease operating revenue due to income for the Collection Contract charge for administration not required (\$150,000), and actual income of Commercial - Annual Charges (\$50,000) and the Annual Waste Operations Charge (\$32,000) being higher than the budget. It is proposed to decrease operating expenditure due to the expenditure associated with the Collection Contract charge for admin (\$150,000) and a support service adjustment of \$5,500. It is proposed to decrease capital expenditure due to the removal of the budget for the Tip Shop Relocation (\$360,000) and the Organics Drop-Off Area (\$250,000) as these projects will not be completed in 2018/19.
- 25 • In the Cavanbah Centre program, it is proposed to decrease operating income by \$25,000 for the Total Complex Hire as this will not be received in 2018/19.
- 30 • In the Holiday Park programs, it is proposed to create a budget of \$10,000 to assist in the upcoming tender for the Holiday Parks, remove the budget for the Amenities Block replacement at Suffolk Park Holiday Park (\$110,600), moving the budget to 2019/20 and creating a budget for the purchase of permanent sites at Suffolk Park Holiday Park (\$250,000) subject to a report to Council on 16 May 2019.
- 35 • In the Facilities Management program, it is proposed to decrease capital expenditure due to removing the budget for Public Toilets (\$216,000) as works are still in the planning stage and the location of toilets is still to be determined, a decrease against the Mullumbimby Pool CCTV project (\$80,000) as the grant will not be received to fund this project, an increase to the budget for the Byron Surf Club Roof Sheetting (\$161,300), a budget created for land acquired at Main Arm (\$6,400) and a budget increase for additional works related to the Solar Panel Installation in the Council car park (\$50,100).

Sustainable Environment and Economy

- 45 • In the Development and Certification program, it is proposed to decrease income by \$373,000 due to a decline in income received for DA Fees (\$180,000), Compliance Certificates – Inspections (\$65,600), Construction Certificates (\$50,000), and Section 68 Approvals & Inspection - Pt B (\$98,100) and an increase against actual income received for the Information & Technology Service Fee. This is largely due to a decrease in the number of Development Applications received and the market share for Construction Certificates dropping with additional providers offering this service. Some of the decrease to income can be offset by a transfer from the Information & Technology Service Fee reserve (\$117,300).
- 50 •
- 55 •

- In the Planning Policy & Natural Environment program, it is proposed to decrease operating expenditure due to the Jonson Street Protection Works Stage 1 (\$149,800) and the Bangalow Village Plan (\$20,700) being moved to the draft 2019/20 budget and the Byron Rural Settlement Strategy (\$10,000), CZMP for Byron Bay Embayment (\$24,600), Estuary CZMP (\$5,000) and Mullumbimby Masterplan Project Plan (\$49,400) being returned to reserves as the budgets are not required in 2018/19.
- In the Environment & Compliance program, it is proposed to transfer \$69,300 from the Environment Enforcement Levy reserve to cover the decrease in income in the Development & Certification program.
- In the Economic Development program, it is proposed to increase operating income and expenditure by \$10,700 due to income received for NR Food Tourism Industry Workshops (\$3,600) and Byron Trails Visitor Map (\$7,100). It is proposed to decrease expenditure budgets for the Incubation Project (\$14,900), Events Communications and Applications (\$10,000) and Project 2 - Priority Sectors/Issues (\$7,100) as these budgets are not required in 2018/19.

WATER FUND

After completion of the 2017/2018 Financial Statements the Water Fund as at 30 June 2018 had a capital works reserve of \$6,923,500 and held \$3,857,800 in section 64 developer contributions.

The estimated Water Fund reserve balances as at 30 June 2019, and forecast in this Quarter Budget Review, are derived as follows:

Capital Works Reserve

Opening Reserve Balance at 1 July 2018	\$6,923,500
Plus original budget reserve movement	(2,627,400)
Less reserve funded carryovers from 2017/2018	(375,700)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	89,900
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	515,600
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	2,561,000
Forecast Reserve Movement for 2018/2019 – Increase / (Decrease)	163,400
Estimated Reserve Balance at 30 June 2019	\$7,086,900

Section 64 Developer Contributions

Opening Reserve Balance at 1 July 2018	\$3,857,800
Plus original budget reserve movement	(746,400)
Less reserve funded carryovers from 2017/2018	(503,800)
Resolutions July - September Quarter – increase / (decrease)	(430,000)
September Quarterly Review Adjustments – increase / (decrease)	74,000
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	0
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	442,000
Forecast Reserve Movement for 2018/2019 – Increase / (Decrease)	(1,164,200)
Estimated Reserve Balance at 30 June 2019	\$2,693,600

Movements for Water Fund can be seen in Attachment 1 with a proposed estimated increase to reserves (including S64 Contributions) overall of \$3,003,000 from the 31 March 2019 Quarter Budget Review.

5 SEWERAGE FUND

After completion of the 2017/2018 Financial Statements the Sewer Fund as at 30 June 2018 had a capital works reserve of \$8,706,800 and plant reserve of \$704,400. It also held \$9,051,600 in section 64 developer contributions.

Capital Works Reserve

Opening Reserve Balance at 1 July 2018	\$8,706,800
Plus original budget reserve movement	(3,480,800)
Less reserve funded carryovers from 2017/2018	(1,454,800)
Resolutions July - September Quarter – increase / (decrease)	(1,330,000)
September Quarterly Review Adjustments – increase / (decrease)	258,600
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	2,099,000
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	2,177,800
Forecast Reserve Movement for 2018/2019 – Increase / (Decrease)	(1,730,200)
Estimated Reserve Balance at 30 June 2019	\$6,976,600

Plant Reserve

Opening Reserve Balance at 1 July 2018	\$704,400
Plus original budget reserve movement	0
Less reserve funded carryovers from 2017/2018	0
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	0
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	0
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	0
Forecast Reserve Movement for 2018/2019 – Increase / (Decrease)	0
Estimated Reserve Balance at 30 June 2019	\$704,400

Section 64 Developer Contributions

Opening Reserve Balance at 1 July 2018	\$9,051,600
Plus original budget reserve movement	(27,900)
Less reserve funded carryovers from 2017/2018	(1,018,700)
Resolutions July - September Quarter – increase / (decrease)	(1,020,000)
September Quarterly Review Adjustments – increase / (decrease)	(50,400)
Resolutions October - December Quarter – increase / (decrease)	(856,000)
December Quarterly Review Adjustments – increase / (decrease)	50,000
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	884,400
Forecast Reserve Movement for 2018/2019 – Increase / (Decrease)	(2,038,600)
Estimated Reserve Balance at 30 June 2019	\$7,013,000

Movements for the Sewerage Fund can be seen in Attachment 1 with a proposed estimated overall increase to reserves (including S64 Contributions) of \$3,062,200 from the 31 March 2019 Quarter Budget Review.

5 Legal Expenses

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

The table that follows indicates the allocated budget and actual legal expenditure within Council on a fund basis as at 31 March 2019.

Total Legal Income & Expenditure as at 31 March 2019

Program	2018/2019 Budget (\$)	Actual (\$)	Percentage To Revised Budget
Income			
Legal Expenses Recovered	4,000	4,000	100%
Total Income	4,000	4,000	100%
Expenditure			
General Legal Expenses	306,600	306,987	100.13%
Total Expenditure General Fund	306,600	306,987	100.13%

Note: The above table does not include costs incurred by Council in proceedings after 31 March 2019 or billed after this date. At the time of writing this report, Council has incurred an additional \$35,804 of expenditure in April 2019 with a further commitment of \$9,124. It is proposed to transfer an additional \$126,600 from the Legal Services Reserve within this review to cover additional legal expenses expected this financial year. This increase in expenditure will fully deplete the legal services reserve. *Council will need to address the funding for the legal services reserve.*

STRATEGIC CONSIDERATIONS

Community Strategic Plan and Operational Plan

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

Legal/Statutory/Policy Considerations

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

- (1) *Not later than 2 months after the end of each quarter (except the June quarter), the responsible accounting officer of a council must prepare and submit to the council a budget review statement that shows, by reference to the estimate of income and expenditure set out*

in the statement of the council's revenue policy included in the operational plan for the relevant year, a revised estimate of the income and expenditure for that year.

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

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

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

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

Financial Considerations

This report indicates that the short term financial position of the Council is still satisfactory for the 2018/2019 financial year, having consideration of the original estimate of income and expenditure at the 31 March 2019 Quarter Budget Review.

This opinion is based on the estimated General Fund Unrestricted Cash Result position and that the current indicative budget position for 2018/2019 outlined in this Budget Review remains for the remainder of the 2018/2019 financial year.

It is also again noted that Council will need to address the current level of the Legal Services Reserve which will be fully depleted if adjustments within this review are actioned.

Report No. 13.10 **Operational Plan 2018/19 Third Quarter Report - Q3 - 1 January to 31 March 2019**

Directorate: Corporate and Community Services

Report Author: Heather Sills, Corporate Governance Officer

File No: I2019/653

Summary:

Council's Operational Plan outlines its projects and activities to achieve the commitments in its four-year Delivery Program.

This report summarises the Council's progress towards achieving the annual activities contained in the 2018-2019 Operational Plan. This report is the third quarterly progress report for the period 1 January to 31 March 2019.

RECOMMENDATION:

1. **That Council notes the 2018/19 Operational Plan Third Quarter Report for the period ending 31 March 2019 (Attachment 1 #E2019/28971).**
2. **That Council adopts the proposed amendments to the Operational Plan 2018/19 outlined in Attachment 2 (#E2019/29009).**

Attachments:

- 1 Operational Plan 2018/19 Quarter Report - Q3 - to 31 March 2019, E2019/28971 
- 2 Quarter 3 Report - Proposed Amendments to Operational Plan, E2019/29009 

Report

The Delivery Program and Operational Plan are two key corporate documents that establish Council's goals and priorities for the term of the Council and the current financial year.

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

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

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

This report details Council's progress towards achieving the activities in the 2018-2019 Operational Plan. It includes a status update on progress and notes any highlights or exceptions where actions may be delayed or reprioritised.

The report (Attachment 1 # E2019/28971) is structured by the five 'Our Byron, Our Future' Community Strategic Plan 2028 objectives:

- Community Objective 1: We have infrastructure, transport and services which meet our expectations
- Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community
- Community Objective 3: We protect and enhance our natural environment
- Community Objective 4: We manage growth and change responsibly
- Community Objective 5: We have community led decision making which is open and inclusive

Each section notes the progress against the activities including:

- Activity
- Responsible directorate
- Measure
- Timeframe
- Comments
- Status
 - On track – Indicates that an activity is currently on track, taking into account the timeframe, measures, and budget
 - Needs attention – Indicates that the scope of the activity may need to be reviewed in line with constraints such as timeframe/budget
 - Not commenced – The activity is not due to have commenced or has not commenced
 - Critical – The activity will not be delivered on time and/or on budget
 - Completed – The activity has been completed in accordance with the prescribed measures

Key issues

It should be noted that this report is at 31 March 2019 and therefore since collation of the report, actions may have progressed.

Each quarter, amendments required to be made to the original Operational Plan are to be endorsed and adopted by Council. These amendments are provided in detail in Attachment 2 (#E2019/29009). The proposed amendments include:

- Changes to due dates

5

STRATEGIC CONSIDERATIONS

Community Strategic Plan and Operational Plan

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

10

Legal/Statutory/Policy Considerations

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

15

Financial issues

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

20

Consultation and Engagement

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

25

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

30

Report No. 13.11 **Council Resolutions Quarterly Review - 1 January to 31 March 2019**
Directorate: Corporate and Community Services
Report Author: Heather Sills, Corporate Governance Officer
File No: I2019/654
5 **Theme:** Corporate Management
 Governance Services

Summary:

10 This report provides an update on the status of Council resolutions.

Council should note that 69 resolutions were completed during the period 1 January to 31 March 2019.



15 There were 59 active resolutions as at 31 March 2019. This is a decrease of 32 resolutions compared with the previous reporting period as at 31 December 2018, on which date there were 91 active resolutions. Resolutions could be active or overdue as a result of budget constraints, staff resourcing, extended negotiations with stakeholders, or other reasons.

20 At the 28 February Ordinary Meeting, Council resolved (**19-080**) to revise the report format for completed and active resolutions to be more condensed, in portrait format, and text searchable. Revised templates have been developed accordingly. The Completed and Active Reports attached to this report are compliant with resolution 19-080.

RECOMMENDATION:

1. That Council notes the information provided in this report on active Council Resolutions in Attachment 1 (#E2019/27193).
2. That Council notes the completed Resolutions in Attachment 2 (#E2019/29342).

Attachments:

- 30
- 1 Active Resolutions as at 31 March 2019, E2019/27193 
 - 2 Completed Resolutions - 1 January to 31 March 2019, E2019/29342 

Report

At the 28 February Ordinary Meeting, Council resolved (**19-080**):

1. That Council notes the information provided in this report on active Council Resolutions in Attachment 1 (#E2019/4388).
2. That Council notes the completed Resolutions in Attachment 2 (#E2019/4390).
3. That future Council Resolutions Quarterly Review be provided with the Council business papers in a revised format that:
 - a) is more condensed
 - b) is in a portrait format
 - c) is text searchable

Revised templates have been developed accordingly. Completed and Active Reports are compliant with resolution 19-080 in that they are presented in a portrait format, are more condensed, and are text searchable.

This report provides a quarterly update on the status of Council Resolutions to 31 March 2019. As at 31 March 2019:

- 236 resolutions were completed since 1 January 2019
- 59 resolutions remained active
- 54 of the active resolutions were overdue

The active Council resolutions per Council terms are provided below:

- 57 active Council Resolutions from current Council (2016-2020)
- 2 active Council Resolutions from previous Council (2012-2016)

Details of completed resolutions for the period are provided at Attachment 2 (E2019/29342).

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	5.6.10	Use business insights and strategic business planning to continuously improve (SP)	5.6.10.2	Support development of performance measures for council services

Legal / Statutory / Policy Considerations

- Council requires a quarterly report be prepared to allow it to consider the quarterly Operational Plan and Quarterly Budget reviews along with a review of Council Resolutions.
- Implementation of Council Resolutions in accordance with the *Local Government Act 1993*.
- This report has been prepared in accordance with Part 3c) of Resolution 14-417.

Financial issues

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

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.12 Bangalow Parking Schemes - Performance Review

Directorate: Infrastructure Services

Report Author: Andrew Pearce, Traffic Engineer

File No: I2019/293

Summary:

Council has undertaken a performance review of the parking schemes at Bangalow, Brunswick Heads and Mullumbimby in accordance with Council resolution 18-626.

The purpose of this report is to advise Council of the observations and recommendations associated with Bangalow parking scheme only.

The observations and recommendations associated with the Brunswick Heads and Mullumbimby parking schemes are presented in separate reports.

RECOMMENDATION:




That Council:

1. **Modify the Bangalow Parking Scheme, as follows:**
 - i) **Replace one 1P space with motorcycle spaces in front of the Bangalow Hotel**
 - ii) **Create a shared Loading Zone / Bus Stop near the Lismore Road / Byron Street intersection.**
2. **Undertake an expanded Automated Number Plate Recognition (ANPR) survey of the Bangalow parking scheme to assess if the above modifications result in a change in demand, duration rates and parking patterns. The ANPR survey area is to be expanded to include:**
 - i) **The existing Bangalow parking scheme area**
 - ii) **The full length of Deacon Street**
 - iii) **Station St between Byron St and Deacon Street.**

The survey is to commence after items 1 and 2 have been implemented and the survey is to be done for a minimum of six months.

3. **Investigate options to help increase compliance within the Bangalow parking scheme through a combination of the following options:**
 - a) **Increase patrolling through increasing the number of enforcement officers and associated patrolling equipment.**
 - b) **Introduce parking technology, such as:**
 - i) **In ground parking sensors**
 - ii) **Parking meters.**
4. **Investigate which combination of the above options is the most cost effective and appropriate for the parking scheme and report recommendations back to Council approximately seven (7) months after ANPR survey commences.**

Attachments:

- 1 Parking Scheme Layout for Bangalow, E2019/28504 
- 5 2 Bangalow Parking Scheme Review.pdf, E2019/24121 
- 3 Byron-Shire-Council-Tourism-scale-and-impact-analysis-November-2018-powerpoint-from-.id,
E2019/13317 

10

REPORT

Council Resolution 18-626

- 5 Council has undertaken a performance review of the Bangalow parking scheme in accordance with item 2 of Council resolution 18-626:
1. *That Council note the status and proposed actions relating to the parking schemes in Bangalow, Brunswick Heads and Mullumbimby.*
 - 10 2. *That Council receive a further report detailing the performance review of the parking schemes at Bangalow, Brunswick Heads and Mullumbimby at the April 2019 Council meeting.*
 3. *That within the current inactive zones associated with current parking layouts and existing kerb blisters, Council undertake a 12 month trial to provide free motorcycle and scooter*
 15 *parking spaces in the following:*
 - *Western edge of the beach front car park at the north end of Jonson St.*
 - *On southern edge of Bay St in front of the Beach Hotel.*
 - *The eastern end of Lateen Lane (aka Lawson Lane in Google maps)*
 - *Council car park at the north end of Middleton St.*
 - 20 4. *That the current parking spaces for motorbike / scooter parking in Wategos be provided free of charge during the trial*

Items 3 and 4 relate to the installation of motorcycle parks within the Byron Bay and Wategos parking scheme and are not considered part of the Bangalow parking scheme. As a result, these
 25 items were not considered as part of this review.

1. Report Structure

To address item 2 of the above resolution Council undertook a sustained Automated Number Plate
 30 Recognition (ANPR) survey of the Bangalow Parking Scheme from April 2018 through to 28 January 2019.

Data collected from this survey and from Council's parking permit system was collated by Staff and provided to our consultant for statistical analysis and recommendations.
 35

Based on the above process the report has, therefore, been structured in the following way:

- i. An overview of the ANPR survey and type of data collected.
- ii. An overview of the surrounding context to better understand the potential impact regionally significant developments may have on parking schemes in the near future.
- 40 iii. An overview of TPS observations and recommendations for the Bangalow Parking Scheme.
- iv. Observations and recommendations for Bangalow are then combined into a succinct summary.
- v. An approximate cost estimate is then provided for three common parking scheme
 45 compliance monitoring methods.
- vi. An estimated timeframe to implement the recommendations presented within this report.

2. Data Collection

2.1 ANPR Survey

Council staff went to each town and counted the total number of car spaces physically available within each parking scheme.

Between 27 April 2018 and 28 January 2019 Council undertook 61 ANPR surveys within Bangalow. Each ANPR survey was able to identify information, such as: a cars number plate, its location, the time of the survey and how many cars were parked within each parking scheme.

Through comparing the ANPR survey data against the number of spaces physically available TPS was able to analyse information such as: demand versus supply, turn over frequency, what percentage of cars are overstaying time limits and develop appropriate recommendations.

2.2 Infringements

Council has two sources of information in relation to infringements. ANPR data assists in estimating the extent to which cars infringe the posted time limits. Councils parking enforcement team also maintain data based on infringements. Based on these two sources of information TPS was able to assess what percentage of cars typically infringe time limits and identify which streets and towns attracted the most time overstay infringements.

2.3 Permits

Through cross checking ANPR data with number plates registered within Councils e-permit system Council was able to assess what percentage of cars parked within a parking scheme were e-permit holders. This information provides Council with a snapshot of how many vehicles within a parking scheme belong to locals versus non-locals. This snapshot was required to help investigate the three different enforcement options common to most local governments.

It is noted a number of locals parked within Bangalow may not own a permit. Therefore, calculating what percentage of cars parked within a parking scheme are e-permit holders provides an approximate lower end estimate only.

3. Surrounding Context

As stated within the TPS reports and summarised in Section 4, the Bangalow parking scheme is at or near capacity and expected to be at or exceed capacity within the next 5 years. To understand the source of current and future demands on parking within Bangalow the surrounding context of Byron Shire must be considered.

As presented within Attachment 3, Byron Shire Council has a population of approximately 33,624 residents with over 2,000,000 international and domestic tourists for 2017/18 financial year. Between 2014 and 2018, total visitation to Byron Shire was estimated to have grown by 49% to the current figure of over 2,000,000, compared to 11% growth for NSW. This is reflected in the significant unpredicted increase in traffic congestion within key places like Ewingsdale Road and Mullumbimby Road.

Given the surrounding economic development occurring close to Byron Shire, the number of tourists coming to Bangalow is expected to increase substantially. As a result, these

developments are expected to contribute to the existing parking schemes reach or exceed capacity within the near future.

3.1 Major Developments within Byron Shire

3.1.1. Brunswick Heads

Within Brunswick Heads the following developments have been approved or are currently under assessment / planning.

- i. Brunswick Heads Marina redevelopment.
- ii. Brunswick Heads Fishermen's Coop redevelopment – designed to attract larger functions and events.
- iii. SLSC redevelopment – this development proposes to substantially expand storage facilities, functions rooms and a training centre to cater for an increased number of events. The types of events that may reasonably be anticipated to occur at the SLC are weddings, parties, nippers training, surf carnivals and general functions.
- iv. Bayside Estate and Mills Estate Subdivision – up to 56 residential lots have currently been approved with another 150 residential lots anticipated.

3.1.2. Mullumbimby

- i. "Lot 22" – Proposed rezoning of land adjacent to Mullumbimby tennis courts with the potential capacity to accommodate over 200 new lots.
- ii. Tallwood Estate – additional stages are planned to accommodate additional low density and medium density residential developments. While the future capacity of these additional stages is not finalised these stages are anticipated to accommodate up to 100-200 new residents.
- iii. Former Mullumbimby Hospital Site.

3.1.3. Byron Bay

- i. Western Byron Urban Release Area (WBURA) – Development applications have recently been submitted to Council to develop the WBURA. While one application has been refused and the under still under review by Council, the WBURA represents a potentially significant population increase within Byron Bay.

3.2 Major Regional Developments

Outside the Shire but within a relatively short distance there are a number of very significant changes underway. It is reasonable to expect these large changes to result in a substantial increase in tourist numbers.

3.2.1 Gold Coast Airport

Gold Coast airport has begun works to expand its capacity from 6.6 million passengers to 16.6 million. Given Byron Shire is 45 minutes from the southern end of the Gold Coast it is reasonable to expect a significant flow on effect in regards to tourist number visiting our Shire.

3.2.2 Ballina Byron Gateway Airport

Ballina Byron Gateway Airport (BBGA) has experienced an 8% per annum growth rate since 2010 taking the total number of passengers per annum from 272,000 in 2010 to 529,000. To better manage the significant increase in passenger numbers the BBGA has commenced work to expand the passenger terminal and carpark. This expansion is designed to

accommodate substantially more passengers and provide improved transport connectivity. Given BBGA airport is a key entry point for Byron Bay visitors these works are expected to have a substantial impact on the number of tourists.

5 **3.2.3 South East Queensland Population**

10 The Gold City Council population is predicted to increase from 577,000 in 2016 to 650,000 in 2021 and 723,342 by 2026. In addition, greater Brisbane and Logan are predicted to increase from 2,288,423 in 2016 to 2,509,872 by 2021 and 2,757,003 by 2026. This represents a predicted population increase of approximately 295,000 by 2021 and 615,000 by 2026.

3.2.4 Tweed Shire

15 Through the future development of areas such as Kings Forest, Pottsville, Cobaki Lakes and Terranora's Altitude Estate Tweed shire is predicted to increase from 93,500 in 2016 to 99,500 by 2021 and 107,500 by 2026. This represents a population increase of approximately 6000 by 2021 and 14,000 by 2026.

20 **4 TPS Parking Scheme Review**

It is important to note that the proper operation and performance of a parking scheme depends on a number of issues, such as:

- i. Adequate supply and distribution of different time zones;
- ii. Supply vs Demand;
- 25 iii. Turnover rates;
- iv. Number and type of infringements;
- v. Adequate number and location of bus zones, loading zones, mobility spaces, EV charging stations, car share spaces and taxi ranks.
- vi. Ability to efficiently monitor and enforce compliance;

30 Traffic and Parking Systems (TPS) were engaged by Council to undertake a parking scheme review of Bangalow. Below is a summary of the Bangalow parking scheme observations and recommendations presented within the TPS report.

In addition to recommendations provided by TPS a number of Council recommendations are also presented in response to above issues and community concerns identified by Council.

35

Bangalow

The figure below illustrates the location of each time zone and time limits within each zone.



Fig. 1 – Existing time limits and parking zones

5

Below is a summary of the number of car spaces within Bangalow parking scheme.

Zone	Time Limits	Number of Car Spaces
Z1	1P MON-SUN 9:00AM 6:00PM	21
Z2	2P MON-SUN 9:00AM 6:00PM	13
Z3	2P MON-SUN 9:00AM 6:00PM	9
Z4	1P MON-SUN 9:00AM 6:00PM	25
Z5	1P MON-SUN 9:00AM 6:00PM	2
Z6	2P MON-SUN 9:00AM 6:00PM	17
Z7	2P MON-SUN 9:00AM 6:00PM	15
Z8	1P MON-SUN 9:00AM 6:00PM	2
Blackwell Alley - 1P		2*
Station St (Southern End) - 2P		3*
TOTAL		109

Note: These spaces were not included in the Bangalow analysis done by TPS as they were not able to be surveyed as part of the ANPR survey.

10

4.1.1 TPS Observations

While the parking scheme is approaching capacity at most times of the year, except for zones 6 and 7 which are not approaching capacity, the parking scheme is considered adequate (capacity is defined as 90% of available spaces). This is because the amount of cars over staying time limits appears to be relatively low and cars appear to stay for relatively shorter periods of time. This indicates the existing time limits are appropriate.

4.1.2 TPS recommendations for Bangalow

- a) No changes to the time limits are required.
- b) It is recommended that the frequency and effectiveness of enforcement be maintained in the Centre in order to continue to encourage motorists to comply with duration limits.

4.1.3 Council recommendations for Bangalow

While TPS state no changes are required to the existing time limits it is recommended to modify the existing parking layout to address community issues identified by Council and to ensure over the next five years the Bangalow parking scheme continues to operate at the most efficient and appropriate manner.

- a) *Modify the parking scheme*

Modification 1: Increase the number of Loading Zones

Currently there is only one loading zone servicing the main street, Byron St. This loading zone is on the south side of Byron Street, near the intersection of Station Street. There is no loading zone to service the top end of Byron Street. As a result, service vehicles park in 1P car spaces along Byron Street to deliver goods to shops.

It is, therefore, recommended to provide a second loading zone at the western end of Byron Street. In particular, there is a Bus Stop near the intersection of Byron Street and Granuaille Road used between 7.30am-8.30am and 3.30-4.30pm. It is recommended combining this Bus Stop as a Loading Zone, outside the Bus Stop hours of operation.

Currently the bus stop doubles as 2 * 1P car spaces outside of Bus Zone hours. Therefore, converting these two 1P car spaces to a Loading Zone would result in the loss of 2 * 1P spaces.

Modification 2: Bangalow Hotel

Concerns were raised by members of the Bangalow community that service vehicles parking adjacent to the Bangalow Hotel were frequently colliding with and damaging the Bangalow Hotel awning.

As a result, it is recommended to convert 1 * 1P car space in front of the Bangalow Hotel into motor cycle parking and install a rubber stop to prevent service vehicles using the space (refer to the photo below). This amendment is due to service vehicles frequently using the space as a loading bay, hitting the hotel awning and damaging it. This will result in the loss of 1 * 1P space.



Fig. 2 – Proposed modifications at Bangalow Hotel

Modification 3: Bangalow Public School Crossing and Bus Zone

- 5 To improve student safety for the Bangalow Public School RMS initiated a Centre for Road Safety 2018/19 Priority Project to install a new school crossing near the intersection of Market St and Byron Street. As a result, a number of 2P car spaces in front of the Bangalow Public School will be removed.
- 10 In addition, the existing bus zone will be relocated slightly to the west as its current location conflicts with the new crossing. This existing bus stop is also currently used as 2P parking outside of the Bus Zone hours of 7.30-8.30am and 2.30-3.30pm. Unfortunately this dual use has lead to significant confusion and frustration in this area with cars often parked in the zone as buses try to pick up students. The relocated Bus Zone will, therefore, be designed as just a Bus Zone and no
- 15 parking will be permitted within the Bus Zone.

The school crossing and relocated bus stop will reduce the number of car spaces in this spot from 13 to 6. It is noted that there is a 'Kiss and Ride' zone located behind the school (access via Market St). While vehicles may not be left unattended in the 'Kiss and Ride' zone there is overflow

20 parking in the vicinity to accommodate school parking.

The sketch below helps identify the general location of the school crossing, proposed bus stop adjacent to the crossing, the Bangalow Hotel motor cycle spaces and the combined loading zone / bus stop near the Byron Street / Granuaille Road intersection.

25



b) Support Compliance

- 5 The following recommendations regarding supporting compliance are the same recommendations presented under Bangalow and Brunswick Heads.

Council staff recommends supporting Council's compliance team in their efforts to maintain the effective performance of all of Council's parking schemes across the shire. This recommendation is based on several factors, namely:-

- i. The Bangalow, Brunswick Heads and Mullumbimby parking schemes are identified as either approaching capacity or expected to exceed capacity in the near future (refer to I2019/597 and I2019/598)
- ii. The demand placed on the existing parking schemes is expected to undergo significant strain due to substantial tourist demand over the near future.
- iii. Council's compliance team are required to respond to a wide range of compliance monitoring and enforcement issues (beyond just enforcing parking scheme time zones) across the entire Shire. As the popularity of the Shire increases and demands grow Council's Compliance Team will require additional support to undertake their wide variety of task as efficiently and effectively as possible. It is recommended to address this support as part of this review and before the team becomes inefficiently overstretched.
- iv. The recommendations presented below are to be seen as part of a Shire wide strategy to enable improved efficient compliance monitoring across the whole shire.

As a result, it is recommended to support them through a possible combination of the following:

Support Compliance 1: Increased parking officer patrols

The first option is to maintain a high level of enforcement through maintaining a high level of parking officer patrols. Associated equipment is required to sustain the officers in the field. However, this option may not be considered sustainable or economical given the growing demands to increase patrolling across all towns and the competing demand to increase additional compliance patrols related to other issues, such as: illegal camping and animal compliance.

Support Compliance 2: Technology Opportunities

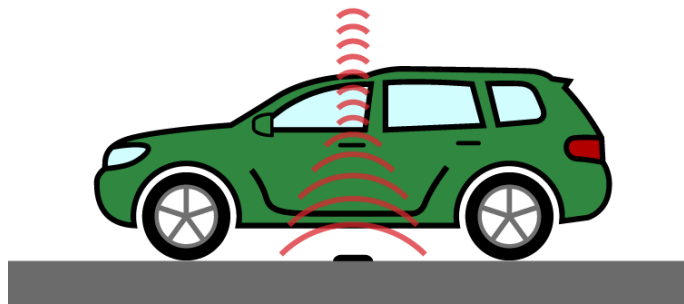
The second option is to adopt is support of Council's compliance team are technology opportunities. The primary purpose of technology solutions is to help free up Council's compliance team, enabling them to undertake additional compliance roles while the aid of technology allows them to be more flexible in their parking patrols. In addition, it is designed to assist the economy of Bangalow through encouraging compliance to time limits and parking turnover.

Discussions with TPS have indicated that parking enforcement officers are frequently deployed at approximately 1 officer per 200-300 car spaces, during business hours. Where parking technology is deployed in support of parking officers the deployment rate may reasonably be expected to become 0.65 officers per 200-300 spaces. This equates to 1 officer per 308-462 spaces.

Two types of technology solutions, commonly adopted within local government environments, are recommended: parking sensors and metered systems.

i) In Ground Parking Sensors

Parking sensors provide 3 principle functions, support for: compliance, parking scheme planning and real time information for potential mobile parking apps. They are small electronic devices inserted into the ground that detect and record the time a vehicle enters and leaves a parking space.



They are wirelessly linked to Council's parking management system to monitor parking in real time. When a car over-stays the time limit, information is relayed to an enforcement officer who then visits the site, confirms the infringement and may issue a fine. This potentially allows parking officers to carry out other duties while the parking sensors are monitoring the parking bays.

With an eye to the future, pods can be linked to Parking Apps that allow travellers to identify where free car spaces are located.

Consultation with product suppliers and with TPS indicates the best location to deploy parking sensors is where turnover is considered most critical. Typically this applies to 1P and 2P time limits. In addition, it considered best to allocate them to locations where regular patrolling is unsustainable.

Examples of other Council's that have rolled out Parking Sensors include: Armidale, Port Macquarie, Yarra City, City of Whitehorse, Penrith, and Canberra.

ii) Metered System

Experience has shown the implementation of meter systems typically reduce infringements to approximately 5%, even without increasing patrol frequencies. This in turns helps increase parking turn over and accordingly helps reduce traffic congestion.

5

Recommendation 3: Further ANPR Surveys

Given that changing the parking scheme in accordance with any of the above options may impact the performance of the scheme, Council staff recommends that, post implementation of changes, a further ANPR survey be undertaken. This survey is designed to assess if these modifications result in a change in demand, duration rates and parking patterns, such as: do they cause negative flow on effects into surrounding streets.

10

This further ANPR survey is also recommended for all parking schemes (including Byron Bay) due to all schemes being generally at or near capacity. Council anticipates the need to expand several parking schemes in the near future given they are at or near capacity and the future demand is expected to grow substantially. To address this expectation the further ANPR survey will enable Council to respond efficiently and respond with accurate current information.

15

4.2 Summary

Council has undertaken a performance review of the parking scheme at Bangalow in accordance with Council resolution 18-626.

20

This review identified the following:

- i. The parking schemes is approaching capacity at most times of the year;

25

Based on this observation and community issues Council and TPS propose the following recommendations:

- i. Modify the parking scheme, as follows:

- a) Create a shared Bus Zone / Loading Bay near the Byron St / Lismore Rd intersection.
- b) Convert one 1P space into motor cycle parking to protect the Bangalow Hotel awning.

30

- ii. Support Council's compliance teams in their effort to maintain the frequency of enforcement in Bangalow, as follows:

- a) Provide additional resources, such as: personnel and equipment.
- b) Adopting technology opportunities:

35

To assist Council's enforcement team, investigate the option of introducing technology, such as, parking sensors and metered system within 1P and 2P time zones

40

- iii. Continue the ANPR study of the Bangalow Parking Scheme to assess if the above modifications result in a change in demand, duration rates and parking patterns. It is further recommended to expand the ANPR survey to include the full length of Deacon St and Deacon Lane and Station St through to Deacon St.

5 Cost Estimates

As discussed in the report above, Council staff and TPS recommend the following three options used either independently or in combination to support compliance with their growing and competing demands:

1. Increasing patrolling through employing two additional parking officers with associated equipment;
2. Installation of in ground parking sensors;
3. Installation of parking meters.

The potential financial impact of each option is shown below through a cost estimate for each option. **These estimates are based on a concept level of information and will require more detailed investigation prior to adoption.**

The cost estimates do not make any allowance for offsets associated with income from infringement notices or metered parking.

This report has not considered the possible sources for funding these options.

Option 1 – Increased Compliance Monitoring

Below is an approximate cost estimate for option 1 estimating the cost after 1 year and after 5 years. This cost estimate is based on 2 people and equipment required to deploy one team unit.

	Set up / 1st Year	5 Years
TOTAL	\$230,000 – 260,000	\$750,000 – 850,000

Option 2 – In Ground Parking Sensors

Below is an approximate cost estimate for option 2 estimating the cost after 1 year and after 5 years.

The estimate is based on information from Database Consultants Australia (DCA) who provided an indicative only estimate to supply sensors and manage data for 100 parking sensors.

The sensors are not integrated with the existing metered parking system used by Council and the assumption has been made that no additional personnel are required as part of this system. If the system is to be integrated with a metered system there may be additional costs associated with integration. Estimated costs associated with Council asset management and maintenance has been added to the DCA estimate.

The estimate is based on installing 109 parking sensors in both the 1P and 2P zones.

	Set up / 1st Year	5 Years
TOTAL	\$70,000 - 80,000	\$90,000 – 100,000

Option 3 – Metered System

Below is a cost estimate for option 3 estimating the cost after 1 year and after 5 years. It is recommended within the TPS reports to deploy such a system within 1P zones.

It is expected approximately 15 meters would be required for the Bangalow parking scheme if deployed across all existing 1P time zones.

It is important to note that in addition to the estimate below Pay Parking Schemes also attracts additional costs when ad hoc changes are made to the scheme from time to time. Such changes may include, but not limited to: changes to the hourly tariff, resupply of paper tickets, vandalism repair and changes to the permit system.

	Set up / 1st Year	5 Years
TOTAL	\$300,000 - 400,000	\$800,000 – 900,000

Parking sensors may also be deployed as a pay parking system and require no meters. If meters are still preferred the number of meters may be significantly reduced if combined with mobile payment system and parking sensors.

6 Time Frames

The following section provides estimated timeframes required to implement and investigate the above recommendations. Additional time for consultation with stakeholders outside of Council has not been factored into the timeframe below.

1. Council Meeting (23 May)

2. Parking Scheme Design

2.1 Bangalow Public School Crossing (June 2019)

2.2 Bangalow Hotel motor cycle parking and Bus Zone / Loading Zone

i. Parking Scheme Design (24th May – 5th July)

i. Draft design (design plans, cost estimates, quotes) - by 14th June

ii. Review draft design (design plans, cost estimates, quotes) – 21th June

iii. Final design (finalise plans, cost estimates, quotes) – by 5th July

ii. Local Traffic Committee (30th July)

iii. Line-Marking

i. Purchase Order approval process (31st July – 6th August)

ii. Lead time (4 weeks)

iii. Install line-marking (2nd – 6th Sept)

iv. Signage & Posts

i. Purchase Order approvals (31st July – 6th August)

ii. Lead time

iii. Construction walk-over & Installation (2nd – 6th Sept)

3. Report on Compliance Options Report to Council

5 3.1 ANPR Survey

i. Plan the survey (June)

ii. Lead time (2 weeks)

iii. Survey – 6 months (Aug – Jan 2020)

iv. Council staff prepare ANPR data for consultant (Feb 2020)

10 v. Data analysed and report (mid March 2020)

vi. Report reviewed by Council staff (late March 2020)

vii. This report to be used to support Report on Compliance Options to Council

3.2 Research Compliance Options (Officers, Sensors & Meters)

15 i. Research scope and issues associated with each option (June – Dec 2019)

ii. Concept Parking Scheme Design for each option (June – Dec 2019)

iii. Cost Estimates of materials & personnel (June – Dec 2019)

iv. Compare the ongoing financial cost / benefit sustainability of each option
(Feb 2020)

20 v. Write Council report - enforcement option recommendations (March – April
2020)

4. Council Meeting (May 2020) – to resolve the adoption of an enforcement option (if required)

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	1.6	Manage traffic and parking in an efficient manner	1.6.2	Ensure future traffic demand and alternative solutions are addressed in major infrastructure plans	1.6.2.2	Review Bangalow parking time limit changes
					1.6.2.3	Review Mullumbimby parking time limit changes
					1.6.2.4	Review Brunswick Heads parking time limit changes

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

As outlined in the report.

30 ***Financial Considerations***

As outlined in the report.

Consultation and Engagement

- Council engaged the service of Traffic and Parking Solutions to undertake the Parking Scheme reviews.
- 5 • ANPR data and estimates associated with increasing enforcement patrols were obtained from Councils Parking Enforcement Officer.
- Tourist numbers were obtained through consultation with Council's Economy and Sustainability Officer and previous Council studies.
- 10 • Concept only cost estimates for 100 Parking Sensors were obtained from Database Consultants Australia (DCA)

Report No. 13.13 **Part Road Reserve Closure Pandanus Lane**
Directorate: Infrastructure Services
Report Author: Deanna Savage, Roads and Property Officer
File No: I2019/432







Summary:

The purpose of this report is for Council to acknowledge the application for closure of part road reserve adjoining Lot 1 DP 244699, being 17 Marine Parade, Byron Bay (Wategos) as per Figure 1 and resolve to cease the closure process due to an objection by NSW Fire and Rescue.

RECOMMENDATION:

1. That Council acknowledge the application for closure of part road reserve adjoining Lot 1 DP 244699 17 Marine Parade, Byron Bay (Wategos).
2. The Council cease the road closure process and application from proceeding any further in accordance with *Roads Act 1993*, Part 4 Closing of Public Roads, Division 3 Closing of council public roads by councils, Section 38C Public submissions and formal objections, due to an objection by NSW Fire and Rescue, a notifiable authority.
3. That Council, due to the nature and confinements of Pandanus Lane, not accept any further applications for road closure along any section of this lane.

Attachments:

- 1 PDF version of E2019/20453 Purchase of road near 17 Marine Parade Byron Bay, E2019/20454 
- 2 New Cost structure and process for Road Closures September 2018, E2018/77428 
- 3 All letters of submission sent by residents for part road reserve closure pandanus place adjoining 17 Marine Parade Lot 1 DP 244699, E2019/20552 
- 4 All letters of submission sent by Authorities for part road reserve closure pandanus place adjoining 17 Marine Parade Lot 1 DP 244699, E2019/20553 
- 5 Attachment submission of objection to Email sent by Greg Lewis NSW Fire and Rescue D19_20190225032825.pdf, E2019/20567 
- 6 Submission of Objection from J & I Small - Reject Part Pandanus Lane Closure - Request for the Road Reserve be clearly marked and sign posted to provide a turn around area for emergency vehicles (C.C - D. Savage), S2019/2928 

Information/Background:

The purpose of this report is for Council to acknowledge the application for closure of part road reserve adjoining Lot 1 DP 244699, being 17 Marine Parade, Byron Bay (Wategos) as per Figure 1 and resolve to cease the closure process due to an objection by NSW Fire and Rescue.

Council granted development consent no 10.2012.386.1 on 4 October 2012 for a new dwelling house on the land. This included a driveway bridge and pedestrian path to the new dwelling within the subject area.

An application for road closure for the same triangle piece of land was submitted in 2001 and a report was prepared and went to a Council meeting on 28 May 2002.

Council resolved to not allow the closure of the road to move forward due to objections by local residents and that of the adjoining land owner at Lot 4 DP 548315.

Since Council considered this proposal in 2002 the area has been redeveloped it was considered that the objections for the previous closure could now be obsolete. There are also new legislative changes to the process of road closure. The owners of 17 Marine Parade were aware of the new changes and costs involved.

The proposal was required to be advertised and submissions sort from authorities. This process enables adjoining land owners and the public to have an opportunity to submit objections should they so desire and any submissions reported to a subsequent Council meeting before the closure is finalised.

REPORT

An application was received from Chris Pratt Planning Resolutions (*Attachment 1 - E2019/20454*), on behalf of the owners of 17 Marine Parade Byron Bay (Wategos), in October 2018, requesting the closure and purchase of part of Pandanus Place, highlighted in blue, **Figure 1** below.

Staff accepted the application as per the New Process for Road Closures (*Attachment 2 - E2018/77428*) and as per *Roads Act 1993* Part 4 Closing of public roads, Division 3 Closing of council public roads by councils 38A, when council may close council public road.

The closure was advertised in the Byron Echo on 31 January 2019. Letters were sent out to all adjoining land owners, Crown Lands and all Notifiable Authorities as per the *Roads Act 1993*. A 28 day submission period was initially given and was extended by request of some local residents. A request was made from one of the local associations to extend the notification to the SES and Ambulance Service.

Attachments 3 (E2019/20552) and Attachment 4 (E2019/20553) show all submissions received from Residents and from Authorities. As per the *Roads Act 1993* highlighted section under Legal/Statutory/Policy Considerations, NSW Fire and Rescue, who is a Notifiable Authority has put a submission of objection, therefore the application for road closure under the Act cannot move forward unless the objection is withdrawn.

A late submission came in and can be seen at *Attachment 6 S2019/2928*.

It is also noted that NSW Fire and Rescue made some additional comments for Council to consider. These points of recommendation were discussed within Infrastructure Services and due to policy and legal restrictions they would be difficult to implement. (*Attachment 5 - E2019/20567*).

- 5 As the road closure process can no longer move forward the road reserve will remain as existing and with Byron Shire Council as the owner of this area of the road reserve.

It is also recommended that no further road closure applications for any part of Pandanus Lane be accepted due to the nature and confinements of both public traffic and local residential access to properties.

10

Figure 1



15

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	1.1.2	Develop maintenance levels for road network infrastructure in line with Community Solutions Panel values (SP)	1.1.2.7	Undertake detailed road condition assessment and revaluation

5 Legal/Statutory/Policy Considerations

Roads Act 1993, Part 4 Closing of public roads, Division 3 Closing of council public roads by councils, Section 38A When council may close council public road

- 10 A council may propose the closure of a council public road for which it is the roads authority if:
- (a) the road is not reasonably required as a road for public use (whether for present or future needs), and
 - (b) the road is not required to provide continuity for an existing road network, and
 - (c) if the road provides a means of vehicular access to particular land, another public road
- 15 provide lawful and reasonably practicable vehicular access to that land.

38B Notification of proposal to close council public road

- (1) A council that is proposing to close a council public road must cause notice of the proposal:
- (a) to be published in a local newspaper, and
 - (b) to be given to:
 - (i) all owners of land adjoining the road, and
 - (ii) all notifiable authorities, and
 - (iii) any other person (or class of person) prescribed by the regulations.
- 25 (2) The notice:
- (a) must identify the road that is proposed to be closed, and
 - (b) must state that any person is entitled to make submissions to the council with respect to the closing of the road, and
 - (c) must indicate the manner in which, and the period (being at least 28 days) within
- 30 which, any such submission should be made.

38C Public submissions and formal objections

- (1) Any person may make submissions to the council with respect to the closing of the road in the manner and within the period specified in the notice published under section 38B.
- 35 (2) Without limiting subsection (1), a notifiable authority in relation to the road may include a statement in the authority's submission to the effect that the authority formally objects to the closing of the road. The authority may withdraw the objection any time by written notice given to the council.

Note.

If a formal objection is made, section 38D (2) provides that the road may not be closed until the objection is withdrawn by the authority or set aside by the Land and Environment Court under this section.

- 5 (3) *The council may appeal to the Land and Environment Court against a formal objection made by a notifiable authority against the closing of the road.*
- (4) *On any such appeal, the Land and Environment Court may:*
- (a) *affirm the objection, or*
- (b) *set aside the objection.*
- 10 (5) *In deciding whether to affirm or set aside the objection, the Land and Environment Court must have regard to the public interest.*

38D Decision of proposal

- 15 (1) *After considering any submissions that have been duly made with respect to the proposal, the council may, by notice published in the Gazette, close the public road concerned.*
- (2) *However, a council public road may not be closed:*
- (a) *in the case of a classified road—unless RMS consents to the closure of the road, or*
- 20 (b) *in the case where a notifiable authority has formally objected under section 38C to the closing of the road—until the objection is withdrawn by the authority or set aside by the Land and Environment Court under that section.*

38E Effect of notice of closure

- 25 (1) *On publication of the notice closing the council public road concerned:*
- (a) *the road ceases to be a public road, and*
- (b) *the rights of passage and access that previously existed in relation to the road are extinguished.*
- (2) *The land comprising a former road:*
- 30 (a) *in the case of a public road that was previously vested in a council (other than a public road in respect of which no construction has ever taken place)—remains vested in the council, and*
- (b) *in any other case—becomes (or, if previously vested in the Crown, remains) vested in the Crown as Crown land.*

35 **38F Appeals to Land and Environment Court against closure decision**

- (1) *A person referred to in section 38B (1) (b) may appeal to the Land and Environment Court against the closure of a council public road by a council.*
- (2) *On any such appeal, the Land and Environment Court may:*
- 40 (a) *affirm the closure, or*
- (b) *set aside the closure.*
- (3) *Section 38E is taken never to have applied to a closure that is set aside.*
- (4) *To avoid doubt, an appeal under section 38C does not prevent an appeal under this section.*

45 **Financial Considerations**

There are no financial considerations for Council

Consultation and Engagement

An initial report went to the Executive Team.

- 5 Notification of the Closure went out to all adjoining land owners and all notifiable local authorities. Additionally the Ambulance Service and SES were notified.

Report No. 13.14 **Brunswick Heads Parking Schemes - Performance Review**
Directorate: Infrastructure Services
Report Author: Andrew Pearce, Traffic Engineer
File No: I2019/597

5

Summary:

- 10 Council has undertaken a performance review of the parking schemes at Bangalow, Brunswick Heads and Mullumbimby in accordance with Council resolution 18-626.

The purpose of this report is to advise Council of the observations and recommendations associated with Brunswick Heads parking scheme only.

15

The observations and recommendations associated with the Bangalow and Mullumbimby parking schemes are presented in separate reports.





RECOMMENDATION:**That Council:**

1. **Expand the Brunswick Heads parking schemes, as follows:**
 - i) **West along Fawcett St, Mullumbimbi Street and Fingal Street through to Tweed Street**
 - ii) **East across the South Arm Bridge through to the Surf Life Saving Club**
 - iii) **South along Park St from Fingal Street to Booyun Street.**
2. **Modify the Brunswick Heads parking scheme time limits, as follows:**
 - i) **Increase the number of 1P spaces from 81 to 97**
 - ii) **Increase the number of 2P spaces from 151 to 244**
 - iii) **Change all 31 * 3P time limited space to 2P**
3. **Undertake an expanded Automated Number Plate Recognition (ANPR) survey of the Brunswick Heads parking scheme to assess if the above modifications result in a change in demand, duration rates and parking patterns. The expanded ANPR survey area is to include:**
 - i) **The existing Brunswick Heads parking scheme area**
 - ii) **Fawcett St, Mullumbimbi Street and Fingal Street through to Tweed Street**
 - iii) **East across the South Arm Bridge through to the Surf Life Saving Club****South along Park St through to Booyun Street.**

The survey is to commence after items 1 and 2 have been implemented and the survey is to be done for a minimum of six (6) months.
4. **Investigate options to help increase compliance within the Brunswick Heads parking scheme through a combination of the following options:**
 - a) **Increased patrolling through increasing the number of enforcement officers and associated patrolling equipment.**
 - b) **Introduce parking technology, such as:**
 - i) **In ground parking sensors**
 - ii) **Parking meters.**

5. Investigate which combination of the above options is the most cost effective and appropriate for the parking scheme and report recommendations back to Council approximately seven months after ANPR survey commences.
6. Complete an economic assessment into the potential impact of parking technology on Brunswick Heads.

Attachments:

- 1 Existing & Expanded Parking Schemes - Mullumbimby & Brunswick Heads, E2019/26786 
- 5 2 Parking Schemes - Mullumbimby, Bangalow and Brunswick Heads, E2019/24128 
- 3 Brunswick Heads Parking Scheme Review.pdf, E2019/24122 
- 4 Byron-Shire-Council-Tourism-scale-and-impact-analysis-November-2018-powerpoint-from-.id, E2019/13317 

10

REPORT**Council Resolution 18-626**

Council has undertaken a performance review of the parking schemes at Brunswick Heads in accordance with item 2 of Council resolution 18-626:

1. *That Council note the status and proposed actions relating to the parking schemes in Bangalow, Brunswick Heads and Mullumbimby.*
2. *That Council receive a further report detailing the performance review of the parking schemes at Bangalow, Brunswick Heads and Mullumbimby at the April 2019 Council meeting.*
3. *That within the current inactive zones associated with current parking layouts and existing kerb blisters, Council undertake a 12 month trial to provide free motorcycle and scooter parking spaces in the following:*
 - *Western edge of the beach front car park at the north end of Jonson St.*
 - *On southern edge of Bay St in front of the Beach Hotel.*
 - *The eastern end of Lateen Lane (aka Lawson Lane in Google maps)*
 - *Council car park at the north end of Middleton St.*
4. *That the current parking spaces for motorbike / scooter parking in Wategos be provided free of charge during the trial*

Items 3 and 4 relate to the installation of motorcycle parks within the Byron Bay and Wategos parking scheme and are not considered part of the Brunswick Heads parking schemes. As a result, these items were not considered as part of this review.

1. Report Structure

To address item 2 of the above resolution Council undertook a sustained Automated Number Plate Recognition (ANPR) survey of the Brunswick Heads Parking Scheme from April 2018 through to 28 January 2019.

Data collected from this survey and from Council's parking permit system was collated by Staff and provided to our consultant for statistical analysis and recommendations.

Based on the above process the report has, therefore, been structured in the following way:

- i. An overview of the ANPR survey and type of data collected.
- ii. An overview of the surrounding context to better understand the potential impact regionally significant developments may have on parking schemes in the near future.
- iii. An overview of TPS observations and recommendations for the Brunswick Heads parking scheme.
- iv. Observations and recommendations for Brunswick Heads are then combined into a succinct summary.
- v. An approximate cost estimate is then provided for three common parking scheme compliance monitoring methods.
- vi. An estimated timeframe to implement the recommendations presented within this report.

2. Data Collection

2.1. ANPR Survey

Council staff went to each town and counted the total number of car spaces physically available within each parking scheme.

Between 27 April 2018 and 28 January 2019 Council undertook 87 ANPR surveys within Brunswick Heads. Each ANPR survey is able to identify information, such as: a cars number plate, its location, the time of the survey and how many cars were parked within each parking scheme.

Through comparing the ANPR survey data against the number of spaces physically available TPS was able to analyse information such as: demand versus supply, turn over frequency, what percentage of cars are overstaying time limits and develop appropriate recommendations.

2.2. Infringements

Council has two sources of information in relation to infringements. ANPR data assists in estimating the extent to which cars infringe the posted time limits. Councils parking enforcement team also maintain data based on infringements. Based on these two sources of information TPS was able to assess what percentage of cars typically infringe time limits and identify which streets and towns attracted the most time overstay infringements.

2.3. Permits

Through cross checking ANPR data with number plates registered within Councils e-permit system Council was able to assess what percentage of cars parked within a parking scheme were e-permit holders. This information provides Council with a snapshot of how many vehicles within a parking scheme belong to locals versus non-locals. This snapshot was required to help investigate the three different enforcement options common to most local governments.

It is noted a number of locals parked within Brunswick Heads may not own a permit. Therefore, calculating what percentage of cars parked within a parking scheme are e-permit holders provides an approximate lower end estimate only.

3. Surrounding Context

As stated within the TPS reports and summarised in Section 4, the Brunswick Heads parking scheme is approaching capacity and expected to be at or exceed capacity within the next 5 years. To understand the source of current and future demands on parking within Brunswick Heads the surrounding context of Byron Shire must be considered.

As presented within Attachment 6, Byron Shire Council has a population of approximately 33,624 residents with over 2,000,000 international and domestic tourists for 2017/18 financial year. Between 2014 and 2018, total visitation to Byron Shire was estimated to have grown by 49% to the current figure of over 2,000,000, compared to 11% growth for NSW. This is reflected in the significant unpredicted increase in traffic congestion within key places like Ewingsdale Road and Mullumbimby Road.

Given the surrounding economic development occurring close to Byron Shire, the number of tourists coming to Brunswick Heads is expected to increase substantially. As a result, these

developments are expected to contribute to the existing parking schemes reach or exceed capacity within the near future, particularly within Brunswick Heads and Mullumbimby.

3.1. Major Developments within Byron Shire

3.1.1. Brunswick Heads

Within Brunswick Heads the following developments have been approved or are currently under assessment / planning.

- i. Brunswick Heads Marina redevelopment.
- ii. Brunswick Heads Fishermen's Coop redevelopment – designed to attract larger functions and events.
- iii. SLSC redevelopment – this development proposes to substantially expand storage facilities, functions rooms and a training centre to cater for an increased number of events. The types of events that may reasonably be anticipated to occur at the SLC are weddings, parties, nippers training, surf carnivals and general functions.
- iv. Bayside Estate and Mills Estate Subdivision – up to 56 residential lots have currently been approved with another 150 residential lots anticipated.

3.1.2. Mullumbimby

- i. "Lot 22" – Proposed rezoning of land adjacent to Mullumbimby tennis courts with the potential capacity to accommodate over 200 new lots.
- ii. Tallwood Estate – additional stages are planned to accommodate additional low density and medium density residential developments. While the future capacity of these additional stages is not finalised these stages are anticipated to accommodate up to 100-200 new residents.
- iii. Former Mullumbimby Hospital Site.

3.1.3. Byron Bay

- i. Western Byron Urban Release Area (WBURA) – Development applications have recently been submitted to Council to develop the WBURA. While one application has been refused and the under still under review by Council, the WBURA represents a potentially significant population increase within Byron Bay.

3.2. Major Regional Developments

Outside the Shire but within a relatively short distance there are a number of very significant changes underway. It is reasonable to expect these large changes to result in a substantial increase in tourist numbers.

3.2.1. Gold Coast Airport

Gold Coast airport has begun works to expand its capacity from 6.6 million passengers to 16.6 million. Given Byron Shire is 45 minutes from the southern end of the Gold Coast it is reasonable to expect a significant flow on effect in regards to tourist number visiting our Shire.

3.2.2. Ballina Byron Gateway Airport

Ballina Byron Gateway Airport (BBGA) has experienced an 8% per annum growth rate since 2010 taking the total number of passengers per annum from 272,000 in 2010 to 529,000. To better manage the significant increase in passenger numbers the BBGA has commenced work to expand the passenger terminal and carpark. This expansion is designed to

accommodate substantially more passengers and provide improved transport connectivity. Given BBGA airport is a key entry point for Byron Bay visitors these works are expected to have a substantial impact on the number of tourists.

5 **3.2.3. South East Queensland Population**

10 The Gold City Council population is predicted to increase from 577,000 in 2016 to 650,000 in 2021 and 723,342 by 2026. In addition, greater Brisbane and Logan are predicted to increase from 2,288,423 in 2016 to 2,509,872 by 2021 and 2,757,003 by 2026. This represents a predicted population increase of approximately 295,000 by 2021 and 615,000 by 2026.

3.2.4. Tweed Shire

15 Through the future development of areas such as Kings Forest, Pottsville, Cobaki Lakes and Terranora's Altitude Estate Tweed shire is predicted to increase from 93,500 in 2016 to 99,500 by 2021 and 107,500 by 2026. This represents a population increase of approximately 6000 by 2021 and 14,000 by 2026.

4. TPS Parking Scheme Review

20 It is important to note that the proper operation and performance of a parking scheme depends on a number of issues, such as:

- i. Adequate supply and distribution of different time zones;
- ii. Supply vs Demand;
- iii. Turnover rates;

25 iv. Number and type of infringements;

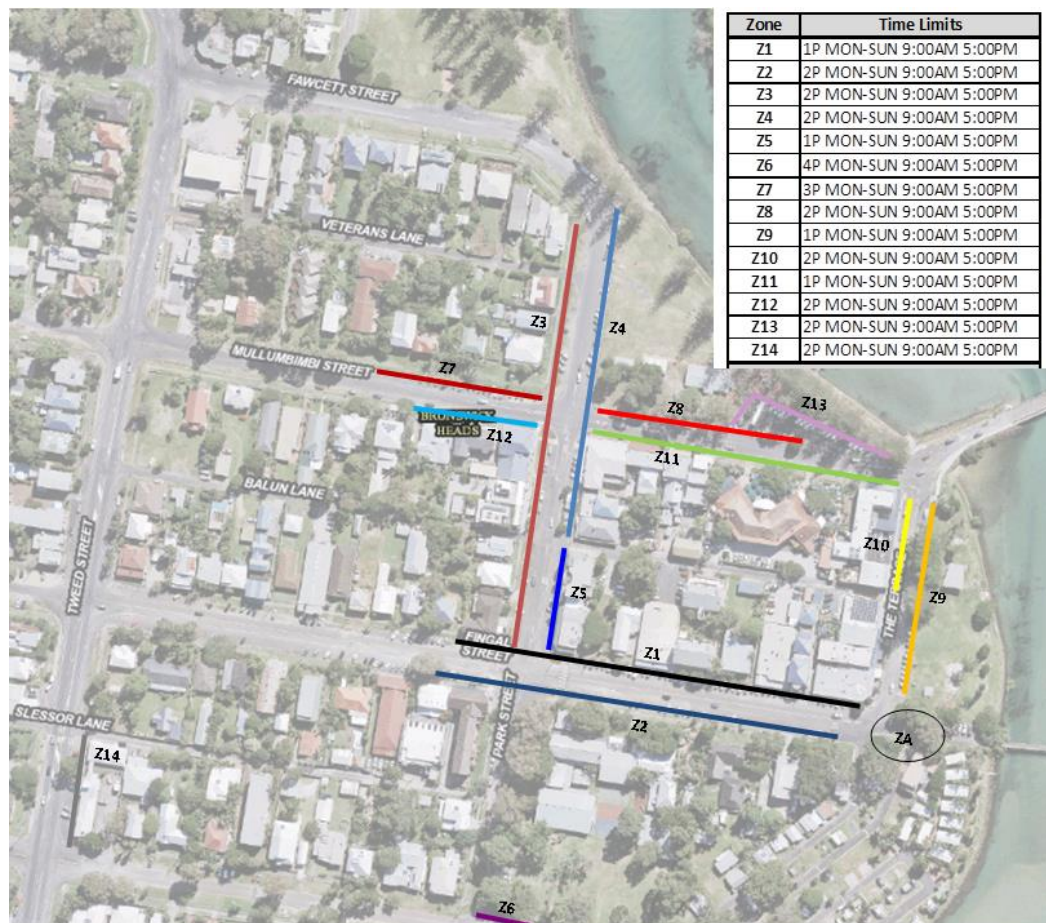
- v. Adequate number and location of bus zones, loading zones, mobility spaces, EV charging stations, car share spaces and taxi ranks.
- vi. Ability to efficiently monitor and enforce compliance;

30 Traffic and Parking Systems (TPS) were engaged by Council to undertake a Parking Scheme Review of Brunswick Heads. Below is a summary of the Brunswick Heads parking scheme observations and recommendations presented within the TPS report.

In addition to recommendations provided by TPS a number of Council recommendations are also presented in response to community issues by Council.

4.1. Brunswick Heads

The figure below illustrates the location of each time zone and time limits within each zone.



5

Figure 1: Existing time limits and parking zones

Below is a summary of the number of car spaces within Brunswick Heads parking scheme.

Zone	Time Limits	Number of Car Spaces
Z1	1P MON-SUN 9:00AM 5:00PM	42
Z2	2P MON-SUN 9:00AM 5:00PM	36
Z3	2P MON-SUN 9:00AM 5:00PM	28
Z4	2P MON-SUN 9:00AM 5:00PM	28
Z5	1P MON-SUN 9:00AM 5:00PM	4
Z6	4P MON-SUN 9:00AM 5:00PM	24
Z7	3P MON-SUN 9:00AM 5:00PM	31
Z8	2P MON-SUN 9:00AM 5:00PM	14
Z9	1P MON-SUN 9:00AM 5:00PM	19
Z10	2P MON-SUN 9:00AM 5:00PM	4
Z11	1P MON-SUN 9:00AM 5:00PM	16
Z12	2P MON-SUN 9:00AM 5:00PM	7
Z13	2P MON-SUN 9:00AM 5:00PM	23
Z14	2P MON-SUN 9:00AM 5:00PM	11
TOTAL		287

Parking supply within Brunswick Heads is currently adequate, though a majority of time zones are operating at or near capacity (capacity is defined as 90% of available spaces). It is expected that all zones will approach capacity in the next 5 years. Based on the expected population growth discussed above in *Surrounding Context* and the observations regarding time infringements (discussed below) this is considered to be an accurate assessment.

TPS observed the following time infringement concerns within the following zones:

- a) Medium to longer time zones 6, 7 and 13 (which have 4hr, 3 hr and 2hr time limits, respectively) had considerable time infringements.
- b) Medium time zone 12 (2 hr on the periphery of the parking scheme) had a high level of time infringement during low demand periods.
- c) Shorter time zone 11 (in the centre of the parking scheme) had a high level of time infringement during high demand periods.
- d) Shorter term zones 1, 3 and 9 (1hr, 2hr and 1 hr, respectively, in the centre of the parking scheme) had a high level of time infringement during both low and high demand periods.

TPS concluded the over stay of time limits within the medium and longer term time zones (located on the periphery of the parking scheme) are probably forcing people to over stay time limits within the central, shorter time zones. This is because people wanting to stay longer may not find available longer term spaces so they resort to parking in short time zones, and over stay the time limits. Given the parking scheme is operating at or near capacity any time infringement has an amplified impact as there is limited to no vacant spots to ensure regular turnover.

In addition to the above TPS observations there are a number of community issues associated with the area east of South Arm Bridge. Of particular consideration is the potential re-categorisation of Crown Land managed by Council, namely: the land on which the Brunswick Heads Surf Club and Tennis Club are located. The categorisation of this land is currently under review with the land potentially becoming classified as Natural Area. If this area is re-categorised as Natural Area the majority of car spaces located adjacent to the surf club and tennis court will be lost

4.1.1. Recommendations for Brunswick Heads

Based on the above observations TPS and Council propose the following three recommendations be considered. To ensure maximum effect of these recommendations it is proposed to adopt recommendation 1 in combination with recommendation 2 and 3.

Recommendation 1: Modify Parking Scheme

To increase the capacity and vehicle turnover of the Parking Scheme it is recommended to modify the parking scheme as follows:

- R1a) Expand the parking scheme:
 - i. Introduce 4P time limits along Fawcett Street, Mullumbimbi Street and Fingal Street, all the way from Park St to Tweed St.
 - ii. Introduce a mix of 2P and 4P to the parking areas east of South Arm Bridge from the bridge through to the Surf Club.
 - iii. Introduce 2P along Park Street adjacent to Brunswick Public School, from Fingal Street through to Booyun Street.

Note: Expanding the parking scheme as described above may require the creation of a Permit system. In accordance with Road Transport (General) Regulation 2013 Council must not issue a permit except in accordance with this Regulation and RMS Permit Parking Guidelines.



Figure 2: Extent of existing and recommended expanded parking scheme

R1b) Modify time limits:

i. Increase the number of 1P spaces:

TPS recommends increasing the number of 1P spaces by approximately 16 spaces (i.e. 20%), taking the total number from 81 to 97 spaces. To achieve this Council recommends converting all 2P spaces along Park St (between Fingal St and Mullumbimbi St) and 2P spaces along The Terrace.

ii. Increase the number of 2P spaces:

Currently there are 151 * 2P spaces. If the above option to increase the number of 1P spaces is adopted this will reduce to 135 spaces. It is, therefore, recommended to introduce 30 * 2P spaces along both sides Park Street, adjacent to the Brunswick Heads Public School and introduce an additional 12 * 2P spaces along both sides of Fingal Street (between Park Street and Tweed Street). This would provide a total of 177 * 2P spaces. This excludes the number of spaces created under point iii) below and the 36 spaces at Torakina Beach car park.

iii. Convert 3P spaces to 2P to simplify the parking scheme.

While not discussed by TPS, it is recommended to modify the existing 3P spaces along Mullumbimbi Street to 2P. The purpose is to simplify the parking scheme and help improve turnover.

- 5 The changes discussed above are presented in the map below with yellow indicating 1P zones, red indicating 2P zones and blue indicating 4P zone.



Figure 3: Recommended layout of modified time limits

- 10 Modifying the parking scheme in accordance with the above recommendations may require some zones to be appropriately constructed and bitumen sealed. These works may add to the cost of any modifications.

Recommendation 2: Increase Compliance Monitoring

- 15 The following recommendations regarding *Increase Enforcement* are the same recommendations presented under Bangalow and Brunswick Heads as each parking scheme can not be reviewed in isolation.

The primary recommendation proposed by TPS is to provide sustained increased compliance monitoring to ensure the parking scheme continues to operate efficiently into the future. Without sustained increased compliance monitoring the parking scheme is not expected to operate effectively in the near future and will experience substantial over-stays and congestion if turnover and time limits are not maintained. Rather than recommended a preferred approach TPS presented two options to consider. It is noted these options are commonly adopted within local government environments.

- 25 Council staff supports this recommendation due to the help it gives to Council's compliance team in their efforts to maintain the effective performance of all of Council's parking schemes across the

shire. Council's compliance team are required to respond to a wide range of compliance monitoring and enforcement issues (beyond just enforcing parking scheme time zones) across the entire Shire. As the popularity of the Shire increases and demands grow Council's Compliance Team will require additional support to undertake their wide variety of task as efficiently and effectively as possible. It is recommended to address this support as part of this review and before the team becomes inefficiently overstretched.

In addition, the recommendations presented below are to be seen as part of a Shire wide strategy to enable improved efficient compliance monitoring across the whole shire. As a result, it is recommended to support them through a possible combination of the following:

R2a) Increased Parking Officer Patrols

The first option presented by TPS is to increase the level of parking officer patrols. However, this option may not be considered sustainable given the need to consistently patrol all towns and the competing demand to patrol additional compliance issues, such as, illegal camping and animal compliance.

R2b) Technology Opportunities

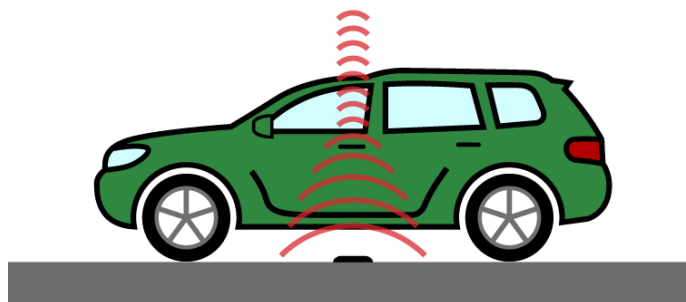
The second option presented by TPS is to adopt technology solutions. The primary purpose of technology solutions is to help free up Council's enforcement team, enabling them to undertake additional compliance roles while the aid of technology allows them to be more flexible in their parking patrols. In addition, it is designed to assist the economy of Brunswick Heads through encouraging compliance to time limits and parking turnover.

Discussions with TPS have indicated that parking enforcement officers are frequently deployed at approximately 1 officer per 200-300 car spaces, during business hours. Where parking technology is deployed in support of parking officers the deployment rate may reasonably be expected to become 0.65 officers per 200-300 spaces. This equates to 1 officer per 308-462 spaces.

Two types of technology solutions, commonly adopted within local government environments, are recommended: parking sensors and metered systems.

i. In Ground Parking Sensors

Parking sensors provide 3 principle functions, support for: compliance, parking scheme planning and real time information for potential mobile parking apps. They are small electronic devices inserted into the ground that detect and record the time a vehicle enters and leaves a parking space.



They are wirelessly linked to Council's parking management system to monitor parking in real time. When a car over-stays the time limit, information is relayed to an enforcement officer who then visits the site, confirms the infringement and may issue a fine. This potentially allows parking officers to carry out other duties while the parking sensors are monitoring the parking bays.

- 5 With an eye to the future, pods can be linked to Parking Apps that allow travellers to identify where free car spaces are located.

Consultation with product suppliers and with TPS indicates the best location to deploy parking sensors is where turnover is considered most critical. Typically this applies to 1P and 2P time limits. In addition, it considered best to allocate them to locations where regular patrolling is
10 unsustainable.

Examples of other Council's that have rolled out Parking Sensors include: Armidale, Port Macquarie, Yarra City, City of Whitehorse, Penrith, and Canberra.

ii. Metered System

- 15 Experience has shown the implementation of meter systems typically reduce infringements to approximately 5%, even without increasing patrol frequencies. This in turns helps increase parking turn over and accordingly helps reduce traffic congestion.

Recommendation 3: Further ANPR Surveys

- 20 Given that changing the parking scheme in accordance with any of the above options may impact the performance of the scheme, Council staff recommends that, post implementation of changes, a further ANPR survey be undertaken. This survey is designed to assess if these modifications result in a change in demand, duration rates and parking patterns, such as: do they cause negative flow on effects into surrounding streets.

- 25 This further ANPR survey is also recommended for all parking schemes (including Byron Bay) due to all schemes being generally at or near capacity. Council anticipates the need to expand several parking schemes in the near future given they are at or near capacity and the future demand is expected to grow substantially. To address this expectation the further ANPR survey will enable Council to respond efficiently and respond with accurate current information.

30

4.2. Summary

Council has undertaken a performance review of the Brunswick Heads parking scheme in accordance with Council resolution 18-626.

- 35 This review identified the following:

- i. The Brunswick Heads parking schemes is currently operating at or near capacity with an expectation it will exceed capacity within 5 years;
- ii. Within Brunswick Heads motorists are noticeably infringing time limits on the outer medium term zones;
- 40 iii. In Brunswick Heads, there is evidence in the data to suggest that medium and long term parking demands are intruding significantly into 1 and 2 hour zones within the core of the Centres. This is significantly impacting on parking availability in the central core of the

centres, with the effect to accelerate the rate at which the parking demands will be at capacity.

Based on the above observations Council and TPS propose the following recommendations:

i. Modify the parking schemes, as follows:

- 5 a) Expand the Brunswick Heads parking schemes, as recommended within the report.
- b) Modify the Brunswick Heads parking scheme to increase the number of 1P and 2P spaces, as recommended within the report.

ii. Increase enforcement through:

- 10 a) Substantially increase the level of compliance patrols and support the enforcement team in this task through additional resources, such as: personnel and equipment.
- b) Adopting technology opportunities:

To assist Council's enforcement team, investigate the option of introducing technology, such as, parking sensors and metered system within:

- 15 o 1P and 2P zones within Brunswick Heads.
- o Within the carpark adjacent to Torakina Beach, Brunswick Heads.

iii. Continue the ANPR study of the Brunswick Heads Parking Scheme to assess if the above modifications result in a change in demand, duration rates and parking patterns. The study is to include the expanded areas, such as:

- 20 a) Fawcett St, Mullumbimbi St and Fingal St from Park St through to Tweed St.
- b) Park St from Fingal St to Booyun St.
- c) The area to the east of South Arm Bridge and extending through to the Surf Club

To undertake the above recommendations the following tasks are expected to be required:

- 25 1. Undertake an economic assessment of Brunswick Heads to assess the expected impact associated with improving parking technology.

5. Cost Estimates

30 As discussed in the report above, Council staff and TPS recommend the following three options used either independently or in combination to support compliance with their growing and competing demands:-

- 1. Increasing patrolling through employing two additional parking officers with associated equipment;
- 2. Installation of in ground parking sensors;
- 3. Installation of parking meters.

35 The potential financial impact of each option is shown below through a cost estimate for each option. **These estimates are based on a concept level of information and will require more detailed investigation prior to adoption.**

40 The cost estimates do not make any allowance for offsets associated with income from infringement notices or metered parking.

This report has not considered the possible sources for funding these options.

Option 1 – Increased Compliance Monitoring

Below is an approximate cost estimate for option 1 estimating the cost after 1 year and after 5 years. This cost estimate is based on 2 people and equipment required to deploy one team unit.

	Set up / 1st Year	5 Years
TOTAL	\$230,000 - 260,000	\$750,000 – 850,000

Option 2 – In Ground Parking Sensors

Below is an approximate cost estimate for option 2 estimating the cost after 1 year and after 5 years.

The estimate is based on information from Database Consultants Australia (DCA) who provided an indicative only estimate to supply sensors and manage data for 100 parking sensors.

The sensors are not integrated with the existing metered parking system used by Council and the assumption has been made that no additional personnel are required as part of this system. If the system is to be integrated with a metered system there may be additional costs associated with integration. Estimated costs associated with Council asset management and maintenance has been added to the DCA estimate.

The estimate is based on installing 100 parking sensors.

	Set up / 1st Year	5 Years
TOTAL	\$70,000 – 80,000	\$90,000 – 100,000

If parking sensors are installed along Park St, between Fawcett St and Mullumbimbi St, additional costs will be required to formalise and upgrade these spaces from informal gravel to bitumen sealed. These costs are not factored into the above estimates.

Option 3 – Metered System

Below is a cost estimate for option 3 estimating the cost after 1 year and after 5 years. It is recommended within the TPS reports to deploy such a system within 1P zones.

Brunswick Heads is expected to require approximately 15 parking meters each. Therefore, the cost estimate is based on 15 meters.

It is important to note that in addition to the estimate below Pay Parking Schemes also attracts additional costs when ad hoc changes are made to the scheme from time to time. Such changes may include, but not limited to: changes to the hourly tariff, resupply of paper tickets, vandalism repair and changes to the permit system.

	Set up / 1st Year	5 Years
TOTAL	\$300,000 - 400,000	\$800,000 – 900,000

Parking sensors may also be deployed as a pay parking system and require no meters. If meters are still preferred the number of meters may be significantly reduced if combined with mobile payment system and parking sensors.

5 6. Time Frames

The following section provides estimated timeframes required to implement the above recommendations. Additional time for consultation with stakeholders outside of Council has not been factored into the timeframe below.

10

1. Council Meeting (23 May)

2. Establish Parking Scheme

2.1 Parking Scheme Design (24 May – 29 July)

15

- i. Draft design (design plans, cost estimates, quotes) – by 21 June
- ii. Review draft design (design plans, cost estimates, quotes) – by 28 June
- iii. Final design (finalise design plans, cost estimates, quotes) – by 5 July

2.2 Local Traffic Committee (30th July)

2.3 Line-Marking (contract)

20

- i. Purchase Order approval process (31 July – 6 August)
- ii. Lead time (2 weeks)
- iii. Install line-marking (20-23 August)

2.4 Signage & Posts

25

- i. Purchase Order approvals (31 July – 6 August)
- ii. Lead time (between purchase and Council staff mobilisation) (2 weeks)
- iii. Construction walk-over & Installation (20 - 23 August)

3. Compliance Support Options Report to Council

3.1 ANPR Survey

30

- i. Plan the survey (June-July)
- ii. Lead time (2 weeks)
- iii. Survey – 6 months (Aug – Jan 2020)
- iv. Council staff prepare ANPR data for analysis (Feb 2020)
- v. Data analysed and report (mid March 2020)
- vi. Report reviewed by Council staff (late March 2020)
- vii. This report to be used to support Report on Compliance Options to Council

35

3.2 Economic Assessment – Stage 1 (Literature Review & On-line Surveys)

- i. Purchase order approval process (27 – 31 May)
- ii. Liaise between Council & SCU over survey questions (May)
- iii. Undertake & submit Economic Assessment (10 weeks) (27 May – 9 Aug)
- iv. Council review report (12 – 23 Aug)

v. Possible SCU report refinements (26 – 30 Aug)

3.3 Economic Assessment – Stage 2 (Intercept Surveys)

- i. Purchase order approval process (2 – 6 Sept)
- ii. Liaise between Council & SCU over survey questions (Sept 2019)
- iii. Confirm interviewers (Sept 2019)
- iv. Lead Time
- v. Undertake Intercept Surveys (1 week) (Dec or Jan 2020 peak season)
- vi. SCU analyse data & prepare preliminary report for Council (Feb 2020)
- vii. Supply ANPR analysis to SCU for inclusion in Economic Assessment (late March 2020)
- viii. Council review report (early April 2020)
- ix. Possible Assessment refinements (mid April 2020)

3.4 Report on Compliance Options to Council

- i. Research scope and issues associated with each option (June – Dec 2019)
- ii. Concept Parking Scheme Design for each option (June – Dec 2019)
- iii. Cost Estimates of materials & personnel (June – Dec 2019)
- iv. Compare the ongoing financial cost / benefit sustainability of each option (Feb 2020)
- v. Write Council report - enforcement option recommendations (March – April 2020)

4. Council Meeting (May 2020) – to resolve the adoption of an enforcement option (if required)

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	1.6	Manage traffic and parking in an efficient manner	1.6.2	Ensure future traffic demand and alternative solutions are addressed in major infrastructure plans	1.6.2.2	Review Bangalow parking time limit changes
					1.6.2.3	Review Mullumbimby parking time limit changes
					1.6.2.4	Review Brunswick Heads parking time limit changes

Legal/Statutory/Policy Considerations

As outlined in the report.

Financial Considerations

As outlined in the report.

Consultation and Engagement

- Council engaged the service of Traffic and Parking Solutions to undertake the Parking Scheme reviews.
- ANPR data and estimates associated with increasing enforcement patrols were obtained from Councils Parking C Officer.
- Tourist numbers were obtained through consultation with Council's Economy and Sustainability Officer and previous Council studies.
- Concept only cost estimates for 100 Parking Sensors were obtained from Database Consultants Australia (DCA)

Report No. 13.15 **Mullumbimby Parking Schemes - Performance Review**
Directorate: Infrastructure Services
Report Author: Andrew Pearce, Traffic Engineer
File No: I2019/598

5

Summary:

- 10 Council has undertaken a performance review of the parking schemes at Bangalow, Brunswick Heads and Mullumbimby in accordance with Council resolution 18-626.

The purpose of this report is to advise Council of the observations and recommendations associated with Mullumbimby parking scheme only.

15

The observations and recommendations associated with the Bangalow and Brunswick Heads parking schemes are presented in separate reports.

RECOMMENDATION:**That Council:**





1. **Expand the Mullumbimby parking schemes, as follows:**
 - i) **2P zone on Tincogan Street between Dalley Street and Stuart Street.**
2. **Modify the Mullumbimby parking scheme time limits, as follows:**
 - i) **Increase the number of 1P spaces from 72 to 125.**
 - ii) **Increase the number of 2P spaces from 202 to 213.**
3. **Undertake an expanded Automated Number Plate Recognition (ANPR) surveys of the Mullumbimby parking scheme to assess if the above modifications result in a change in demand, duration rates and parking patterns. The expanded ANPR survey area is to include:**
 - i) **The existing parking scheme area.**
 - ii) **Along Tincogan Street between Dalley Street and Stuart Street.**
 - iii) **Along Station Street, both sides, between Burringbar Street through to the first Council car park entrance.**

The survey is to commence after items 1 and 2 have been implemented and the survey is to be done for a minimum of six months. To surveying is to monitor the performance of other ancillary parking zones (such as: loading zones, bus zones, taxi ranks, mobility spaces, car share spaces and EV car charging spaces etc) and provide recommendations to improve the performance and location of these spaces.

4. **Increase enforcement of the Mullumbimby parking schemes through a combination of the following enforcement options:**
 - a) **Increased patrolling through increasing the number of enforcement officers and associated patrolling equipment.**
 - b) **Introduce parking technology, such as:**
 - i) **In ground parking sensors**
 - ii) **Parking meters**
5. **Investigate which combination of the above options is the most cost effective and**

appropriate for the parking scheme and report recommendations back to Council approximately seven (7) months after ANPR survey commences.

Attachments:

- 1 Existing & Expanded Parking Schemes - Mullumbimby & Brunswick Heads, E2019/26786 
- 5 2 Parking Schemes - Mullumbimby, Bangalow and Brunswick Heads, E2019/24128 
- 3 Mullumbimby Parking Scheme Review, E2019/24120 
- 4 Byron-Shire-Council-Tourism-scale-and-impact-analysis-November-2018-powerpoint-from-.id, E2019/13317 

10

REPORT

Council Resolution 18-626

- 5 Council has undertaken a performance review of the parking schemes at Mullumbimby in accordance with item 2 of Council resolution 18-626:
1. *That Council note the status and proposed actions relating to the parking schemes in Bangalow, Brunswick Heads and Mullumbimby.*
 - 10 2. *That Council receive a further report detailing the performance review of the parking schemes at Bangalow, Brunswick Heads and Mullumbimby at the April 2019 Council meeting.*
 3. *That within the current inactive zones associated with current parking layouts and existing kerb blisters, Council undertake a 12 month trial to provide free motorcycle and scooter parking spaces in the following:*
 - *Western edge of the beach front car park at the north end of Jonson St.*
 - *On southern edge of Bay St in front of the Beach Hotel.*
 - *The eastern end of Lateen Lane (aka Lawson Lane in Google maps)*
 - *Council car park at the north end of Middleton St.*
 - 20 4. *That the current parking spaces for motorbike / scooter parking in Wategos be provided free of charge during the trial*

Items 3 and 4 relate to the installation of motorcycle parks within the Byron Bay and Wategos parking scheme and are not considered part of the Bangalow, Brunswick Heads and Mullumbimby parking schemes. As a result, these items were not considered as part of this review.

1. Report Structure

To address item 2 of the above resolution Council undertook a sustained Automated Number Plate Recognition (ANPR) survey of the Mullumbimby Parking Schemes from April 2018 through to 28th January 2019.

Data collected from this survey and from Council's parking permit system was collated by Staff and provided to our consultant for statistical analysis and recommendations.

Based on the above process the report has, therefore, been structured in the following way:

- i. An overview of the ANPR survey and type of data collected.
- ii. An overview of the surrounding context to better understand the potential impact regionally significant developments may have on parking schemes in the near future.
- 40 iii. An overview of TPS observations and recommendations for the Mullumbimby parking scheme.
- iv. Observations and recommendations for Mullumbimby are then combined into a succinct summary.
- v. An approximate cost estimate is then provided for three common parking scheme compliance monitoring methods.
- 45 vi. An estimated timeframe to implement the recommendations presented within this report.

2. Data Collection

2.1. ANPR Survey

Council staff went to each town and counted the total number of car spaces physically available within each parking scheme.

Between 27 April 2018 and 28 January 2019 Council undertook 71 ANPR surveys within Mullumbimby. Each ANPR survey is able to identify information, such as: a cars number plate, its location, the time of the survey and how many cars were parked within each parking scheme.

Through comparing the ANPR survey data against the number of spaces physically available TPS was able to analyse information such as: demand versus supply, turn over frequency, what percentage of cars are overstaying time limits and develop appropriate recommendations.

2.2. Infringements

Council has two sources of information in relation to infringements. ANPR data assists in estimating the extent to which cars infringe the posted time limits. Councils parking enforcement team also maintain data based on infringements. Based on these two sources of information TPS was able to assess what percentage of cars typically infringe time limits and identify which streets and towns attracted the most time overstay infringements.

2.3. Permits

Through cross checking ANPR data with number plates registered within Councils e-permit system Council was able to assess what percentage of cars parked within a parking scheme were e-permit holders. This information provides Council with a snapshot of how many vehicles within a parking scheme belong to locals versus non-locals. This snapshot was required to help investigate the three different enforcement options common to most local governments.

It is noted a number of locals parked within Brunswick Heads, Mullumbimby and Bangalow may not own a permit. Therefore, calculating what percentage of cars parked within a parking scheme are e-permit holders provides an approximate lower end estimate only.

3. Surrounding Context

As stated within the TPS reports (Attachments 3-5) and summarised in Section 5, parking schemes within each town are at or near capacity and expected to be at or exceed capacity within the next 5 years. To understand the source of current and future demands on parking within Mullumbimby, the surrounding context of Byron Shire must be considered.

As presented within Attachment 6, Byron Shire Council has a population of approximately 33,624 residents with over 2,000,000 international and domestic tourists for 2017/18 financial year. Between 2014 and 2018, total visitation to Byron Shire was estimated to have grown by 49% to the current figure of over 2,000,000, compared to 11% growth for NSW. This is reflected in the significant unpredicted increase in traffic congestion within key places like Ewingsdale Road and Mullumbimby Road.

Given the surrounding economic development occurring close to Byron Shire, the number of tourists coming to Mullumbimby is expected to increase substantially. As a result, these

developments are expected to contribute to the existing parking schemes reach or exceed capacity within the near future, particularly within Brunswick Heads and Mullumbimby.

3.1. Major Developments within Byron Shire

3.1.1. Brunswick Heads

Within Brunswick Heads the following developments have been approved or are currently under assessment / planning.

- i. Brunswick Heads Marina redevelopment.
- ii. Brunswick Heads Fishermen's Coop redevelopment – designed to attract larger functions and events.
- iii. SLSC redevelopment – this development proposes to substantially expand storage facilities, functions rooms and a training centre to cater for an increased number of events. The types of events that may reasonably be anticipated to occur at the SLC are weddings, parties, nippers training, surf carnivals and general functions.
- iv. Bayside Estate and Mills Estate Subdivision – up to 56 residential lots have currently been approved with another 150 residential lots anticipated.

3.1.2. Mullumbimby

- i. "Lot 22" – Proposed rezoning of land adjacent to Mullumbimby tennis courts with the potential capacity to accommodate over 200 new lots.
- ii. Tallwood Estate – additional stages are planned to accommodate additional low density and medium density residential developments. While the future capacity of these additional stages is not finalised these stages are anticipated to accommodate up to 100-200 new residents.
- iii. Former Mullumbimby Hospital Site.

3.1.3. Byron Bay

- i. Western Byron Urban Release Area (WBURA) – Development applications have recently been submitted to Council to develop the WBURA. While one application has been refused and the under still under review by Council, the WBURA represents a potentially significant population increase within Byron Bay.

3.2. Major Regional Developments

Outside the Shire but within a relatively short distance there are a number of very significant changes underway. It is reasonable to expect these large changes to result in a substantial increase in tourist numbers.

3.2.1. Gold Coast Airport

Gold Coast airport has begun works to expand its capacity from 6.6 million passengers to 16.6 million. Given Byron Shire is 45 minutes from the southern end of the Gold Coast it is reasonable to expect a significant flow on effect in regards to tourist number visiting our Shire.

3.2.2. Ballina Airport

Ballina Byron Gateway Airport (BBGA) has experienced an 8% per annum growth rate since 2010 taking the total number of passengers per annum from 272,000 in 2010 to 529,000. To better manage the significant increase in passenger numbers the BBGA has commenced work to expand the passenger terminal and carpark. This expansion is designed to

accommodate substantially more passengers and provide improved transport connectivity. Given BBGA airport is a key entry point for Byron Bay visitors these works are expected to have a substantial impact on the number of tourists.

5 3.2.3. *South East Queensland Population*

10 The Gold City Council population is predicted to increase from 577,000 in 2016 to 650,000 in 2021 and 723,342 by 2026. In addition, greater Brisbane and Logan are predicted to increase from 2,288,423 in 2016 to 2,509,872 by 2021 and 2,757,003 by 2026. This represents a predicted population increase of approximately 295,000 by 2021 and 615,000 by 2026.

 3.2.4. *Tweed Shire*

15 Through the future development of areas such as Kings Forest, Pottsville, Cobaki Lakes and Terranora's Altitude Estate Tweed shire is predicted to increase from 93,500 in 2016 to 99,500 by 2021 and 107,500 by 2026. This represents a population increase of approximately 6000 by 2021 and 14,000 by 2026.

4. TPS Parking Scheme Review

20 It is important to note that the proper operation and performance of a parking scheme depends on a number of issues, such as:

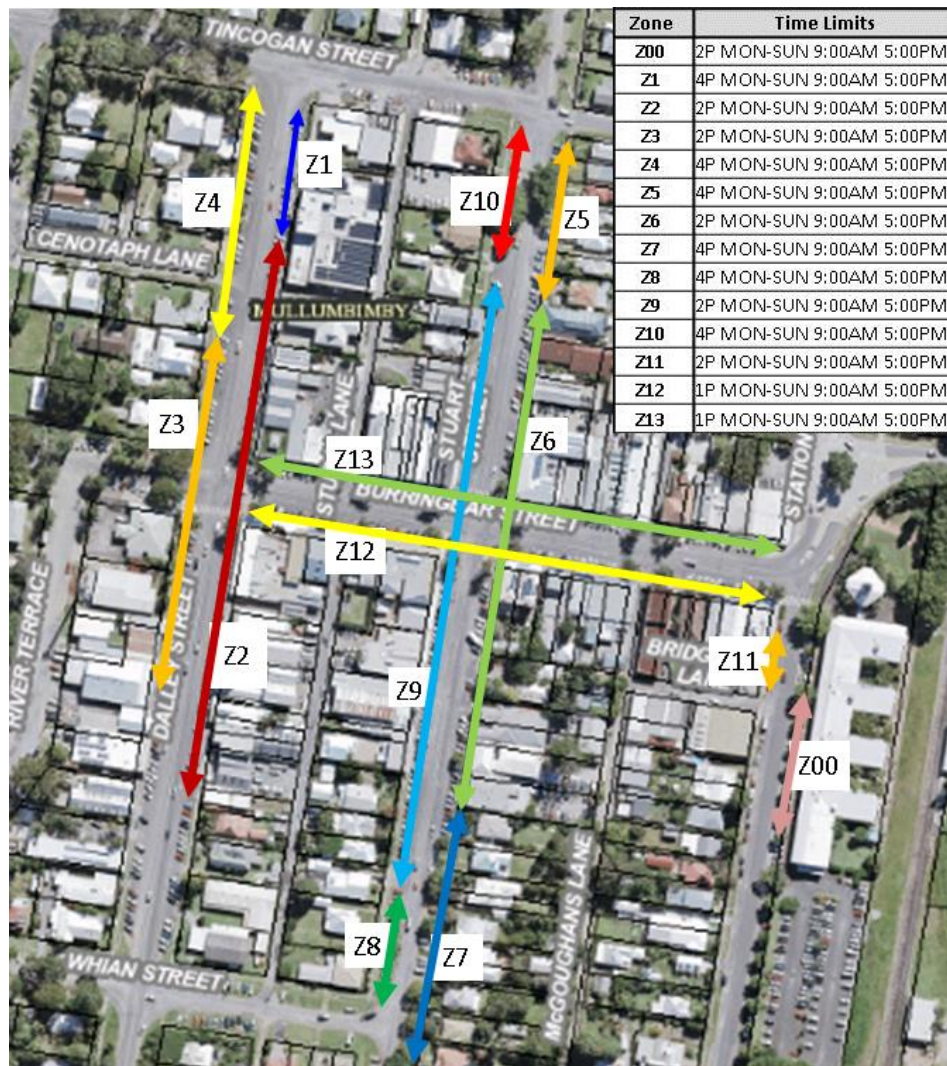
- i. Adequate supply and distribution of different time zones;
- ii. Supply vs Demand;
- iii. Turnover rates;
- 25 iv. Number and type of infringements;
- v. Adequate number and location of bus zones, loading zones, mobility spaces, EV charging stations, car share spaces and taxi ranks.
- vi. Ability to efficiently monitor and enforce compliance;

30 Traffic and Parking Systems (TPS) were engaged by Council to undertake a parking scheme review of Mullumbimby. Below is a summary of the Mullumbimby parking scheme observations and recommendations presented within the TPS report.

In addition to recommendations provided by TPS a number of Council recommendations are also presented in response to above issues and community concerns identified by Council.

4.1 Mullumbimby

The figure below illustrates the location of each time zone and time limits within each zone.



5 Below is a summary of the number of car spaces within Mullumbimby parking scheme.

Zone	Time Limits	Number of Car Spaces
Z00	2P MON-SUN 9:00AM 5:00PM	18
Z1	4P MON-SUN 9:00AM 5:00PM	9
Z2	2P MON-SUN 9:00AM 5:00PM	55
Z3	2P MON-SUN 9:00AM 5:00PM	26
Z4	4P MON-SUN 9:00AM 5:00PM	19
Z5	4P MON-SUN 9:00AM 5:00PM	13
Z6	2P MON-SUN 9:00AM 5:00PM	53
Z7	4P MON-SUN 9:00AM 5:00PM	37
Z8	4P MON-SUN 9:00AM 5:00PM	16
Z9	2P MON-SUN 9:00AM 5:00PM	63
Z10	4P MON-SUN 9:00AM 5:00PM	13
Z11	2P MON-SUN 9:00AM 5:00PM	5
Z12	1P MON-SUN 9:00AM 5:00PM	38
Z13	1P MON-SUN 9:00AM 5:00PM	34
TOTAL		399

The number of car spaces within Mullumbimby is considered adequate. However, a majority of time zones are operating at or near capacity, particularly zones 1, 3, 8, 11, 12 and 13 (capacity is defined as 90% of available spaces). This is considered a significant observation and a potential concern in light of the substantial increase in population within the *Surrounding Region*. Given the parking scheme is already operating at or near capacity poor turnover rates will have a significantly negative impact on the performance of the parking scheme.

Only the zones 2, 7 and 10 on the periphery of the parking scheme offer parking opportunities to any significant degree throughout the year.

The following time infringement concerns were observed:

- a) Outer 4P zones 4, 7, 8 and 10 experience considerable time limit infringements throughout the year.
- b) Inner 1P zones 12 and 13 also experienced a relatively high rate of infringement detection.
- c) Evidence suggests medium and long term parking is intruding significantly into the Town Centre reducing the availability of parking in 1P and 2P zones.

4.1.1. Recommendations for Mullumbimby

Based on the above observations TPS and Council propose the following recommendations be considered:

Recommendation 1: Modify Parking Scheme

a) Modify the time limits

i) Expand 1 hour parking supply.

This can be achieved through converting up to 22 * 2P spaces in Dalley St, 26 * 2P spaces in Stuart St and 5 * 2P spaces in Station Street. This will increase the total number of 1P spaces from 72 to 125 spaces.

ii) Convert several 4P spaces to 2P.

This is designed to divert long term parkers further to the periphery of the parking scheme, increase the supply of medium term 2P spaces in the middle of the scheme and enable greater turnover of the critical central 1P spaces along Burringbar Street where the problem of overstaying is more significant to the community. It is recommended to convert 38 * 4P spaces in Stuart St to 2P.

iii) Alternatively, increase the duration limit in the 1P and 2P Zones.

This option is considered undesirable by Council and TPS as it is expected to result in a significantly reduced level of turnover. Rather than efficiently managing the time limits it concedes to infringements and likely to worsen Mullumbimby's parking congestion.

iv) Alternatively, introduce time durations in Burringbar St less than 1P together with intense enforcement.

This option is not considered realistic to Council or TPS given the resources required to enforce time zones less than 1P.

b) *Expand the parking scheme*

Council as received many requested to improve the parking situation along Tincogan Street, between Dalley Street and Stuart Street. Due to the increased development in this section of Mullumbimby parking has become a concern. It is recommended to assist the situation through introducing time limited 2P parking in this area. This is estimated to provide approximately 26 * 2P spaces.

This will take the total number of 2P spaces from 202 to 223.

The changes discussed above are presented in the map below (subject to detail design) with yellow indicating 1P zones, red indicating 2P zones and blue indicating 4P zone.



Modifying the parking scheme in accordance with the above recommendations may require some zones to be appropriately constructed and bitumen sealed. These works are expected to add to the cost of any modifications.

Recommendation 2: Increase Compliance Monitoring

The following recommendations regarding *Increase Compliance Monitoring* are the same recommendations presented under Bangalow and Brunswick Heads as each parking scheme can not be reviewed in isolation.

- 5 The primary recommendation proposed by TPS is to provide sustained increased compliance monitoring to ensure the parking scheme continues to operate efficiently into the future. Without sustained increased compliance monitoring the parking scheme is not expected to operate effectively in the near future and will experience substantial over-stays and congestion if turnover and time limits are not maintained. Rather than recommended a preferred approach TPS
10 presented two options to consider. It is noted these options are commonly adopted within local government environments.

Council staff supports this recommendation due to the help it gives to Council's compliance team in their efforts to maintain the effective performance of all of Council's parking schemes across the
15 shire. Council's compliance team are required to respond to a wide range of compliance monitoring and enforcement issues (beyond just enforcing parking scheme time zones) across the entire Shire. As the popularity of the Shire increases and demands grow Council's Compliance Team will require additional support to undertake their wide variety of task as efficiently and effectively as possible. It is recommended to address this support as part of this review and before the team
20 becomes inefficiently overstretched.

In addition, the recommendations presented below are to be seen as part of a Shire wide strategy to enable improved efficient compliance monitoring across the whole shire. As a result, it is recommended to support them through a possible combination of the following:
25

a) Increased Parking Officer Patrols

The first option presented by TPS is to increase the level of parking officer patrols. However, this option may not be considered sustainable given the need to consistently patrol all towns and the competing demand to patrol additional compliance issues, such as, illegal camping and animal
30 compliance.

b) Technology Opportunities

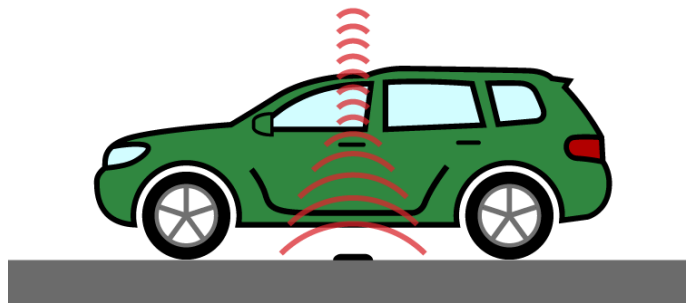
The second option presented by TPS is to adopt technology solutions. The primary purpose of technology solutions is to help free up Council's enforcement team, enabling them to undertake
35 additional compliance roles while the aid of technology allows them to be more flexible in their parking patrols. In addition, it is designed to assist the economy of Brunswick Heads through encouraging compliance to time limits and parking turnover.

Discussions with TPS have indicated that parking enforcement officers are frequently deployed at approximately 1 officer per 200-300 car spaces, during business hours. Where parking technology
40 is deployed in support of parking officers the deployment rate may reasonably be expected to become 0.65 officers per 200-300 spaces. This equates to 1 officer per 308-462 spaces.

Two types of technology solutions, commonly adopted within local government environments, are recommended: parking sensors and metered systems.

i) Parking Sensors

- 5 Parking sensors provide 3 principle functions, support for: compliance, parking scheme planning and real time information for mobile parking apps. They are small electronic devices inserted into the ground that detect and record the time a vehicle enters and leaves a parking space.



- 10 They are wirelessly linked to a parking management system that allows Council to monitor parking in real time. When a car over-stays the time limit, information is relayed to an enforcement officer who then visits the site, confirms the infringement and may issue a fine. This potentially allows parking officers to carry out other duties while the parking sensors are monitoring the parking bays.
- 15 With an eye to the future, sensors can be linked to Parking Apps that allow travellers to identify where free car spaces are located.

Consultation with product suppliers and with TPS indicates the best location to deploy parking sensors is where turnover is considered most critical. Typically this applies to 1P and 2P time limits. In addition, it is considered best to allocate them to locations where regular patrolling is unsustainable.

Examples of other Council's that have rolled out Parking Sensors include: Armidale, Port Macquarie, Yarra City, City of Whitehorse, Penrith, and Canberra.

25

i) Parking Meters

- Experience has shown the implementation of meter systems typically reduce infringements to approximately 5%, even without increasing patrol frequencies. This in turn helps increase parking turn over and accordingly reduce traffic congestion.

30

Recommendation 3: Further ANPR Surveys

- Given that changing the parking scheme in accordance with any of the above options may impact the performance of the scheme, Council staff recommends that, post implementation of changes, a further ANPR survey be undertaken. This survey is designed to assess if these modifications result in a change in demand, duration rates and parking patterns, such as: do they cause negative flow on effects into surrounding streets.

35

This further ANPR survey is also recommended for all parking schemes (including Byron Bay) due to all schemes being generally at or near capacity. Council anticipates the need to expand several parking schemes in the near future given they are at or near capacity and the future demand is expected to grow substantially. To address this expectation the further ANPR survey will enable Council to respond efficiently and respond with accurate current information.

As part of the further ANPR survey it is recommended staff also monitor the performance of other ancillary parking zones (such as: loading zones, bus zones, taxi ranks, mobility spaces, car share spaces and EV car charging spaces etc) and provide recommendations to improve the performance of these spaces. Typical recommendations may be in the order of providing additional loading zones and mobility spaces or move the location of existing taxi ranks and EV charging stations.

4.2. Summary

Council has undertaken a performance review of the Mullumbimby parking scheme in accordance with Council resolution 18-626.

This review identified the following:-

- i. The parking scheme in Mullumbimby is operating at or near capacity with an expectation they may at capacity within 5 years;
- ii. Within Mullumbimby, motorists are noticeably infringing time limits on the outer medium term zones;
- iii. In Mullumbimby, there is evidence in the data to suggest that medium and long term parking demands are intruding significantly into 1 and 2 hour zones within the core of the Centres. This is significantly impacting on parking availability in the central core of the centres, with the effect to accelerate the rate at which the parking demands will be at capacity.

Based on the above observations Council and TPS propose the following recommendations:

- i. Modify the parking schemes, as follows:
 - a) Expand the Mullumbimby parking scheme, as recommended within the report.
 - b) Modify the Mullumbimby parking scheme to increase the number of 1P and 2P spaces, as recommended within the report.
- ii. Increase enforcement through:
 - a) Substantially increase the level of compliance patrols and support the enforcement team in this task through additional resources, such as: personnel and equipment.
 - b) Adopting technology opportunities:

To assist Council's enforcement team, investigate the option of introducing technology, such as, parking sensors and metered system within:

 - 1P and 2P zones within Mullumbimby.
- iii. Continue the ANPR study of Mullumbimby to assess if the above modifications result in a change in demand and duration rates and expand the study to include areas, such as:
 - Tincogan Street, between Dalley Street and Stuart Street.
 - Station Street in front of Council's Chambers.

5. Cost Estimates

As discussed in the report above, Council staff and TPS recommend the following three options used either independently or in combination to support compliance with their growing and competing demands:

1. Increasing patrolling through employing two additional parking officers with associated equipment;
2. Installation of in ground parking sensors;
3. Installation of parking meters.

The potential financial impact of each option is shown below through a cost estimate for each option. **These estimates are based on a concept level of information and will require more detailed investigation prior to adoption.**

The cost estimates do not make any allowance for offsets associated with income from infringement notices or metered parking.

This report has not considered the possible sources for funding these options.

Option 1 – Increased Enforcement

Below is an approximate cost estimate for option 1 estimating the cost after 1 year and after 5 years. This cost estimate is based on 2 people and equipment required to deploy one team unit.

	Set up / 1st Year	5 Years
TOTAL	\$230,000 - 260,000	\$750,000 – 850,000

Option 2 – In Ground Parking Sensors

Below is an approximate cost estimate for option 2 estimating the cost after 1 year and after 5 years.

The estimate is based on information from Database Consultants Australia (DCA) who provided an indicative only estimate to supply sensors and manage data for 100 parking sensors.

The sensors are not integrated with the existing metered parking system used by Council and the assumption has been made that no additional personnel are required as part of this system. If the system is to be integrated with a metered system there may be additional costs associated with integration. Estimated costs associated with Council asset management and maintenance has been added to the DCA estimate.

The estimate is based on installing 100 parking sensors.

	Set up / 1st Year	5 Years
TOTAL	\$70,000 – 80,000	\$90,000 – 100,000

If parking sensors are installed on Tincogan St (assumed to be 2P) additional costs will be required to formalise and upgrade these spaces from informal gravel to bitumen sealed. These costs have not been included in the above estimates. No upgrade works are required within any 1P spaces.

5 Option 3 – Metered System

Below is a cost estimate for option 3 estimating the cost after 1 year and after 5 years. It is recommended within the TPS reports to deploy such a system within 1P zones.

10 Mullumbimby is expected to require approximately 15 parking meters each. Therefore, the cost estimate is based on 15 meters.

15 It is important to note that in addition to the estimate below Pay Parking Schemes also attracts additional costs when ad hoc changes are made to the scheme from time to time. Such changes may include, but not limited to: changes to the hourly tariff, resupply of paper tickets, vandalism repair and changes to the permit system.

	Set up / 1st Year	5 Years
TOTAL	\$300,000 - 400,000	\$800,000 – 900,000

20 Parking sensors may also be deployed as a pay parking system and require no meters. If meters are still preferred the number of meters may be significantly reduced if combined with mobile payment system and parking sensors.

6. Time Frames

25 The following section provides estimated timeframes required to implement the above recommendations. Additional time for consultation with stakeholders outside of Council has not been factored into the timeframe below.

1. Council Meeting (23 May)

30 2. Establish Parking Scheme

2.1 Parking Scheme Design (24 May – 29 July)

- i. Draft design (design plans, cost estimates, quotes) – 21st June
- ii. Review draft design (design plans, cost estimates, quotes) – 28th June
- iii. Final design (finalise design plans, cost estimates, quotes) – by 5th July

35 2.2 Local Traffic Committee (30th July)

2.3 Line-Marking (contract)

- i. Purchase Order approval process (31st July – 6th August)
- ii. Lead time (2 weeks)
- iii. Install line-marking (20-23rd August)

40 2.4 Signage & Posts

- i. Purchase Order approvals (31st July – 6th August)
- ii. Lead time (between purchase and Council staff mobilisation) (2 weeks)
- iii. Construction walk-over & Installation (20th - 23rd August)

3. Report on Compliance Options Report to Council

5 3.1 ANPR Survey

- i. Plan the survey (June)
- ii. Lead time (2 weeks)
- iii. Survey – 6 months (Aug – Jan 2020)
- iv. Council staff prepare ANPR data for analysis (Feb 2020)
- v. Data analysed by consultant and report (mid March 2020)
- vi. Data reviewed by Council staff (late March 2020)
- vii. This report to be used to support Enforcement Options Report

3.2 Research Compliance Options (Officers, Sensors & Meters)

- i. Research scope and issues associated with each option (June – Dec 2019)
- ii. Concept Parking Scheme Design for each option (June – Dec 2019)
- iii. Cost Estimates of materials & personnel (June – Dec 2019)
- iv. Compare the ongoing financial cost / benefit sustainability of each option (Feb 2020)
- v. Write Council report - enforcement option recommendations (March – April 2020)

4. Council Meeting (May 2020) – to resolve the adoption of an enforcement option (if required).

STRATEGIC CONSIDERATIONS

25 ***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	1.6	Manage traffic and parking in an efficient manner	1.6.2	Ensure future traffic demand and alternative solutions are addressed in major infrastructure plans	1.6.2.2	Review Bangalow parking time limit changes
					1.6.2.3	Review Mullumbimby parking time limit changes
					1.6.2.4	Review Brunswick Heads parking time limit changes

Legal/Statutory/Policy Considerations

As outlined in the report.

Financial Considerations

As outlined in the report.

Consultation and Engagement

- Council engaged the service of Traffic and Parking Solutions to undertake the Parking Scheme reviews.
- 5 • ANPR data and estimates associated with increasing enforcement patrols were obtained from Councils Parking Enforcement Officer.
- Tourist numbers were obtained through consultation with Council's Economy and Sustainability Officer and previous Council studies.
- 10 • Concept only cost estimates for 100 Parking Sensors were obtained from Database Consultants Australia (DCA)

Report No. 13.16 **Draft Plan of Management Byron Bay Memorial Recreation Ground**
Directorate: Infrastructure Services
Report Author: Darren McAllister, Acting Open Space and Facilities Coordinator
File No: I2019/665

5

Summary:

10 Council resolved in September 2014 to review the 2002 Plan of Management for the Byron Bay Memorial Recreation Grounds and to develop a new plan (Res **14-455**). Following the consideration of numerous drafts, Council resolved in February 2019 to publicly exhibit the draft Plan of Management (attachment 1), and arrange an independently chaired Public Hearing prior to reporting back to Council (**19-083**).

15 The Statutory process is complete, as the draft has been on public exhibition and a public hearing has been held.

This report provides the submissions received (Attachment 2) during the public exhibition and provides conclusions and recommendations from the Public Hearing. The report of the independent Chair of that hearing; the "Byron Bay Memorial Recreation Ground Public Hearing Report", is attached (Attachment 3).





20 There were six (6) verbal submissions and one (1) written submission made to the Public Hearing. Six written submissions were received during the exhibition period.

25 Based on the assessment of submissions, and the conclusions of the independent report into the Public Hearing, it is recommended that Council adopt the Plan of Management, with minor amendments as described in Byron Bay Memorial Recreation Ground Public Hearing Report.

RECOMMENDATION:

That Council adopt the Plan of Management for the Byron Bay Memorial Recreation Ground as exhibited with amendments as per recommendations proposed in Byron Bay Memorial Recreation Ground Public Hearing Report (#E2019/31479).

Attachments:

- 30
- 1 E2019 6134 Draft Plan of Management Byron Bay Memorial Recreation Grounds V6, E2019/6134 
 - 2 Submissions on Byron Bay Memorial Recreation Grounds Public Exhibition Closed 23 April 2019, E2019/31369 
 - 35 3 Byron Bay Memorial Recreation Ground Public Hearing Report, E2019/31479 
 - 4 I2019 136 Report 28 02 2019 Council Byron Bay Memorial Recreation Grounds Draft Plan of Management, E2019/28685 

40

REPORT

Council considered a report (Attachment 4) on the Draft Plan of Management for the Byron Bay Memorial Recreation Ground at the meeting of 28 February 2019 that described the process and rationale of development of the current draft Plan of Management.

If adopted, this plan would supersede the Plan of Management for Byron Bay Recreation Ground adopted by Byron Shire Council on 20 May 2003.

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	2.3.5	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

Local Government Act 1993

Public notice of draft plans of management

- (1) A council must give public notice of a draft plan of management.
- (2) The period of public exhibition of the draft plan must be not less than 28 days.
- (3) The public notice must also specify a period of not less than 42 days after the date on which the draft plan is placed on public exhibition during which submissions may be made to the council.
- (4) The council must, in accordance with its notice, publicly exhibit the draft plan together with any other matter which it considers appropriate or necessary to better enable the draft plan and its implications to be understood

Adoption of plans of management

- (1) After considering all submissions received by it concerning the draft plan of management, the council may decide to amend the draft plan or to adopt it without amendment as the plan of management for the community land concerned.
- (2) If the council decides to amend the draft plan it must either:
 - (a) publicly exhibit the amended draft plan in accordance with the provisions of this Division relating to the public exhibition of draft plans, or
 - (b) if it is of the opinion that the amendments are not substantial, adopt the amended draft plan without public exhibition as the plan of management for the community land concerned.
- (2A) If a council adopts an amended plan without public exhibition of the amended draft plan, it must give public notice of that adoption, and of the terms of the amended plan of management, as soon as practicable after the adoption.
- (3) The council may not, however, proceed to adopt the plan until any public hearing required under section 40A has been held in accordance with section 40A.

40A Public hearing in relation to proposed plans of management

- (1) The council must hold a public hearing in respect of a proposed plan of management (including a plan of management that amends another plan of management) if the proposed plan would have the effect of categorising, or altering the categorisation of, community land under section 36 (4).
- (2) However, a public hearing is not required if the proposed plan would merely have the effect of altering the categorisation of the land under section 36 (5).
- (3) A council must hold a further public hearing in respect of the proposed plan of management if:
 - (a) the council decides to amend the proposed plan after a public hearing has been held in accordance with this section, and
 - (b) the amendment of the plan would have the effect of altering the categorisation of community land under section 36 (4) from the categorisation of that land in the proposed plan that was considered at the previous public hearing.

41 Amendment of plans of management

A council may amend a plan of management adopted under this Division by means only of a plan of management so adopted.

42 Revocation and cessation of plans of management

- (1) A plan of management for community land may be revoked by a plan of management adopted under this Division by the council.
- (2) A plan of management ceases to apply to land if:
 - (a) the land is reclassified as operational land, or
 - (b) in the case of land that is not owned by the council—the land ceases to be controlled by the council.

Financial Considerations

There are no financial implications from the development and adoption of the Plan of Management.

Proposed actions consistent with an adopted plan of management may generate income and expenditure opportunities that Council will have to consider when they are presented.

Consultation and Engagement

Submissions closed 23 April 2019.

	Draft Plan of Management	Public Hearing
Byron Shire Echo	20/3/19 + 27/3/19	20/3/19 + 27/3/19
Byron Shire News	21/3/19	21/3/19
Byron Shire Council Website/Public Notices	4/3/19 to 24/4/19	12/3/19 to 24/4/19
Public Hearing		Held 24/4/19 at Cavanbah Centre

PoM on exhibition 51 days (minimum required 28), allowing 50 days (42 minimum required) for submissions.

Report No. 13.17 **Dingo Lane Solar Farm - Preliminary Business Case and Project Progression**
Directorate: Infrastructure Services
Report Author: Lloyd Isaacson, Team Leader Resource Recovery and Quarry
File No: I2019/667

Summary:

This report and relevant attachments provides the results of the updated preliminary business case for the establishment of a 5 MW ac Solar Farm on the Byron Resource Recovery Centre (BRRC) buffer land at Lot 15 Dingo Lane, Myocum.

This information is provided to enable Council to make an informed decision on whether to proceed with the allocation of \$465,000 in the 2019/20 FY budget to the progress the project to detailed feasibility (pre-build) and procurement phase.

RECOMMENDATION:

- 1. That \$465,000 is allocated to the draft 2019/20 budget from the non-domestic waste reserve to progress the Dingo Lane Solar project to detailed feasibility (pre-build) and procurement phase.**
- 2. That if the project eventuates, all expenditure that has been allocated from the non-domestic waste reserve will be repaid from the income generated by the Solar Farm at a stage to be determined as future financing options for the project materialise.**

Attachments:

- 1 Confidential - 24.2019.13.1 Dingo Lane Solar Farm Business Case_Final, E2018/73840
- 2 Confidential - 24.2019.13.1 Dingo Lane Solar Farm Business Case Update_Final, E2019/31881
- 3 Confidential - 24.2019.13.1 Dingo Lane Solar Project - Presentation for Sept 2018 SPW, E2019/31892
- 4 Confidential - 24.2019.13.1 Dingo Lane Solar Project Presentation for Sept 2018 SPW_ Resource Analytics, E2019/31891
- 5 Confidential - 24.2019.13.1 Dingo Lane Solar Farm_ Resource Analytics Presentation_April 2019 SPW, E2019/24956
- 6 Confidential - 24.2019.13.1 Dingo Lane Solar Farm_BCA Presentation for April 2019 SPW, E2019/31896

REPORT

Resulting from the Byron Energy Tank meeting and subsequent Council report the below resolution was adopted in December 2017 (**Res 17-386**):

1. That Council note the report.
2. That Council receive a further report once the Council owned land has been assessed for potential to support renewables, and of the implications of this in terms of process, probity and finance, should this land be sought by others for this purpose.
3. That prior to the consideration of a Council report on these issues, that a Strategic Planning Workshop be conducted to enable more detailed discussion of the propositions articulated in the report.

In order to deliver on this resolution a preliminary site feasibility assessment for a large scale solar farm to be located on the Byron Resource Recovery Centre (BRRC) buffer land at Lot 15 Dingo Lane was initially conducted to identify any key critical site constraints that may preclude the establishment of such a farm. The results of this study identified no material physical or planning site constraints that could not be effectively managed.

As such, specialist consultants Resource Analytics were engaged to conduct a preliminary business case assessment (attached) for the development of a solar PV farm ranging from 2-7 MW in size on the site. The key outcomes from this initial business case showed that there was a considerable Net Present Value (NPV) to Council of \$8 million over 25 years from the installation of a 5 MW solar farm at the Dingo Lane site. The initial estimated capital cost of the solar farm was estimated at \$11.6 million.

The detailed results of this preliminary business case were presented at the Council SPW in September 2018 (see attached presentation), including identification of the following two key risks that at the time remained unquantified:

- Lack of formal network connection study from Essential Energy (Distributed Network Service Provider) which could result in significant cost escalation or limited connection capacity.
- Flood risk – no flood modelling had been completed and whilst not a limiting factor, could require additional capital expenditure to mitigate risk.

Prior to progressing the project to implementation stage, further work was conducted with the objective to better quantify the financial and practical implications of the abovementioned risks on the project business case. Essential Energy was commissioned to conduct a Detailed Enquiry Response study which was received in January 2019 and an internal flood modelling exercise was completed by Council's Flood and Drainage Engineer.

The original preliminary business case was updated with the results of this additional work and presented at the April SPW (see attached Business Case Update and SPW presentation).

Preliminary Business Case Results Summary

Incorporating the results from the additional network connection and site flood risk mitigation work, the following summarises the results of the preliminary business case for the establishment of a 5MW scale solar farm on the BRRC buffer land at Lot 15 Dingo Lane:

Financial analysis

To establish the financial value of the project, a comparison was made in Net Present Value (NPV) terms, of the:

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.17

- total cost Council will pay by continuing to receive electricity under an Electricity Supply Agreements (ESAs) from an electricity retailer under Business as Usual (BAU); and
- whole-of-life of the Project costs.

5 The below table shows a summary of the net result of the NPV analysis of BAU against the 5MWac option over the 25 year plant lifespan.

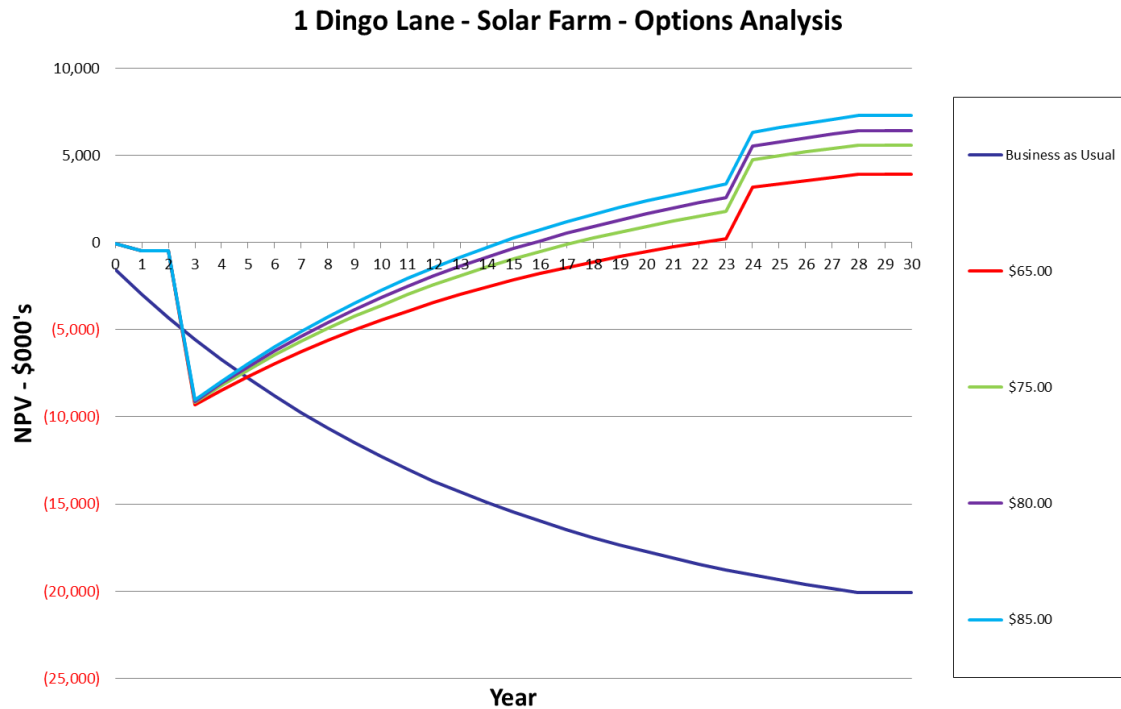
COST CATEGORY	BAU INCOME/(COST)	5MWac SOLAR OPTION INCOME/(COST)	DIFFERENCE BENEFIT/ (DISADVANTAGE)
COST OF ELECTRICITY SUPPLY	\$(13.1)M	\$(7.5)M	\$5.6 M
EXCESS GENERATION EXPORT REVENUE	-	\$11.1 M	\$11.1 M
ELECTRICITY TRADING COST	-	\$(1.1)M	\$(1.1)M
LGC REVENUE	-	\$2.8 M	\$2.8 M
PLANT BUILD AND DEVELOPMENT	-	\$(12.2)M	\$(12.2)M
PLANT OPERATIONS & MAINTENANCE	-	\$(2.1)M	\$(2.1)M
END OF LIFE ASSET VALUE	-	\$2.7 M	\$2.7 M
TOTAL	\$(13.1)M	\$(6.2)M	\$6.9 M

10 The consultants based the financial analysis on a number of assumptions (presented in detail in the attached reports) the most critical being:-

- The completed utility scale solar farm will be connected to the grid;
- Council will match the farm output against its demand during generation hours and will receive the electricity from the farm at virtually zero cost (after upfront capital costs);
- Project can be delivered broadly in-line with the updated capital and operational cost estimates sourced from the market;
- Council can secure necessary financing for up-front costs either through Council reserves in the form of equity, or from NSW Treasury (TCorp) or CEFC in the form of debt;
- starting year of the model is financial year 2018;
- The Project has an assumed useful life of 25 years to coincide with the forecast discount period. It is worth noting that this timeframe is use as a highly conservative estimate as the “actual” lifespan of the solar farm infrastructure should far exceed 25 years and the farm will continue to be operated and produce electricity (albeit at a declining efficiency which is estimated at approximately 80% of their initial generation capacity after 25 years) well past this timeframe; and
- A Weighted Average Cost of Capital (WACC) of 4.5 per cent on a nominal pre-tax basis was applied.

30 As a further project risk mitigation measure, Staff conducted an internal benefit cost analysis (BCA) exercise to test Resource Analytics’ business case findings. A key differential between assumptions used in the internal analysis was a simplified method used to determine the value of electricity generated by the farm. Staff used an average spot price (current and historic values) for the life of the project to determine electricity value, based on the assumption Council would continue to purchase electricity via an Electricity Supply Agreement (ESA) and offset this cost via the sale of the electricity generated by the farm.

40 Regardless of the different assumptions used, the results of the internal BCA exercise delivered a comparable NPV to that of the consultants results, ranging from \$3.9 to \$7.3 million over a 30 year period dependent on the average spot price modelled (which ranged from highly conservative to actual current value – see below figure and attached presentation provided at the April SPW).



Next steps

5

Based on the updated findings of the preliminary business case the recommended options for Council are presented in the attached Business Case Update and are as presented with further Staff comment below:

- 10
- Obtain a Council decision to approve a project budget of \$465,000 in 2019/20 FY to progress the project through detailed feasibility (pre-build) and procurement. The below table indicates the proposed breakdown of the cost to deliver the next stage of the project (with detail of each category outlined in the points below). The allocation of this funding has been included in the draft 2019/20 budget and as an item in the associated operational plan.

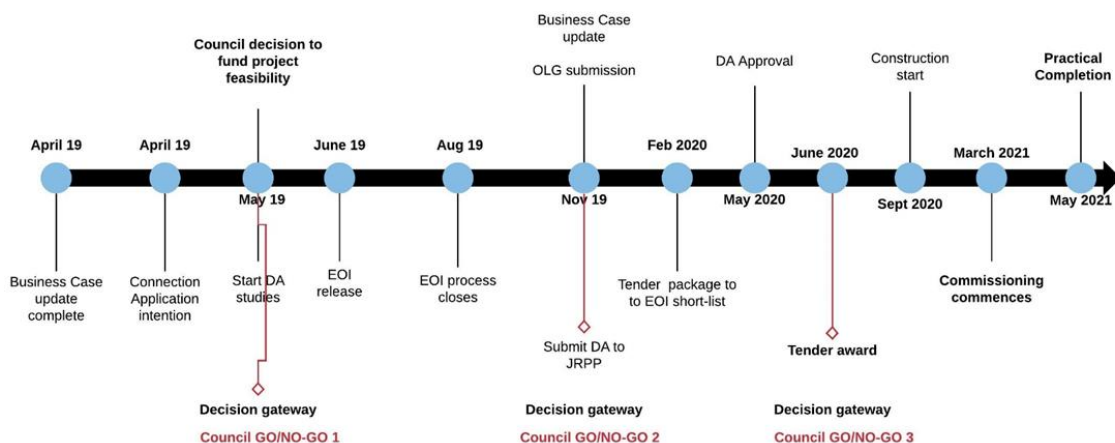
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CATEGORY	COST
Network modelling	\$ 65,000.00
Flood modelling	\$ 30,000.00
Geotechnical Testing	\$ 30,000.00
Development Application Preparation	\$ 50,000.00
E OI preparation and evaluation (includes probity advisor)	\$ 100,000.00
Tender package development and evaluation	\$ 50,000.00
Legal advice	\$ 40,000.00
Project management	\$ 100,000.00
TOTAL	\$ 465,000.00

- Prepare an Expression of Interest (EOI) to test market appetite to undertake the Design & build/ Operation & Maintenance for the Project and confirm:
 - layout options;
 - further detailed capital and operational cost;
 - expected solar performance and electricity output for each option;
 - funding options; and
 - different project delivery and ownership structures – this will enable Council to systematically and transparently assess any/all proposals and varied options against project objectives and delivery complexities.
- Prepare an Expression of Interest (EOI) to test market appetite and the alternative options for retailing of the electricity output and the sale of Large-Scale Generation Certificates associated with the farm.
- Notify Essential Energy in writing with Council's intention to proceed with a connection application by 19 April 2019 - Essential Energy has been notified of Council's intention to connect, which at this stage is a non-binding notification process, however, required to streamline the process if the project does progress.
- Engage a third-party to complete further independent detailed flood risk modelling for the site.
- Undertake preliminary site geotechnical studies.
- Consider the optimum level of equity capital required by the Project and consult with NSW TCorp, CEFC and other preferred lending providers to assess appetite and terms to fund the required capital budget – The project will require full loan funding and as part of the below identified Office of Local Government (OLG) capital expenditure submission will likely be assessed against Council's Long Term Financial Sustainability Plan and in light of current and proposed organisational levels of debt.
- Undertake a pre-lodgement meeting with Council to understand development approval needs and progress the DA process, noting the requirement that the development will require JRPP approval.
- Engage a third-party consultant to prepare a development application and associated studies.
- Prepare the Office of Local Government (OLG) capital expenditure submission – this will need to be completed post EOI process to enable the level of detail required to fulfil the submission; and
- Develop a stakeholder/community engagement plan to keep the community involved.

Project Delivery Timeframes and Risk Management

Based on the updated preliminary business case, the following diagram illustrates an estimated project delivery timeframe.



This timeframe is provided with the following qualifications:-

- The timeframes associate with the assessment of the capital expenditure submission by the OLG are out of the control of Council's project delivery team – as such this may cause delay to the project delivery
- The DA process and JRPP approval once submitted is again out of the control of Council's project delivery team and may cause delay.
- As this project is relatively innovative and a new for a NSW local government organisation (only one similar project has been completed in NSW), project delivery timeframes are always best estimates given the information at the time and will be reviewed and reported as the project progresses.

As indicated in the figure above, there are 3 key decision gateways (including this report recommendation) identified that will enable Council to review the most up-to-date critical information as the project progresses. This will enable Council to make well informed decisions at the key project delivery points, progressively mitigating the risk arising from uncertainty as information is obtained through the various project delivery phases.

STRATEGIC CONSIDERATIONS

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 3: We protect and enhance our natural environment	3.2	Strive to become a sustainable community	3.2.1	Work towards Council's zero-emissions target	3.2.1.4	Implement actions to achieve zero emissions by 2025

Legal/Statutory/Policy Considerations

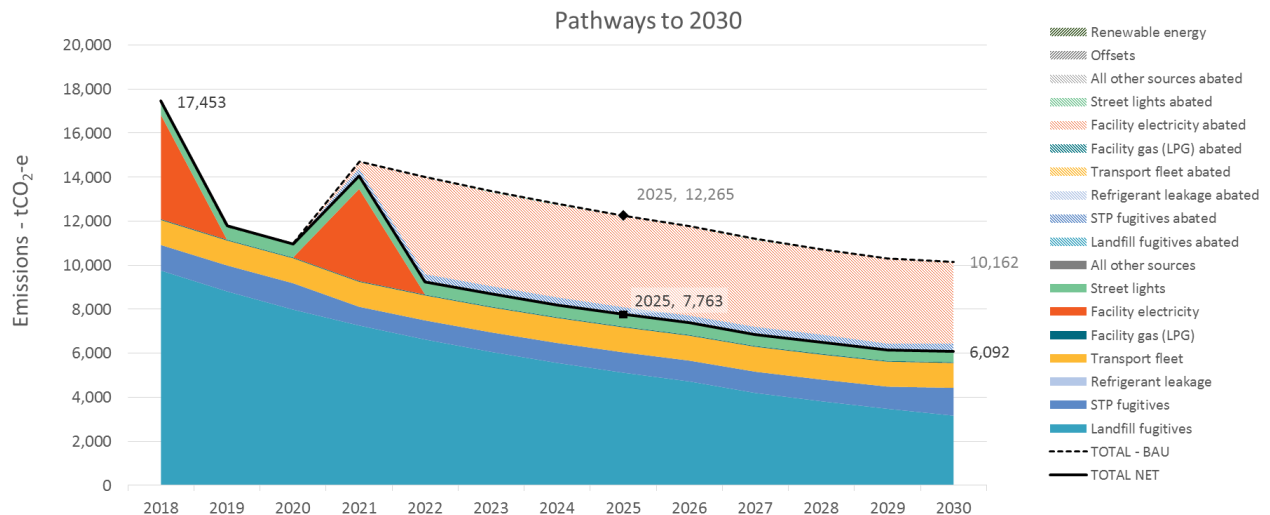
Emission Reduction Strategy

The solar farm is identified as a key project in Council's Emissions Reduction Strategy, titled *Net Zero Emissions for Council Operations 2025* (the final version of which is scheduled to go to the June 2019 Council Meeting), and will assist in achieving some of Council's targets under *resolution 17-386*:

- Part 3 - *That Council commits to achieving a 100% net Zero Emissions by 2025 in collaboration with Zero Emissions Byron (ZEB)*
- Part 5 - *That Council commit itself to source 100% of its energy through renewable energy within 10 years (2027)*

With regard to Part 3, the solar farm will sell its LGCs and therefore surrender its carbon offsets to the Federal Government under the Renewable Energy Target. The selling (as opposed to the voluntarily retiring) of the LGCs means that they cannot be used to offset Council's emissions, however the profit from selling them could be used to purchase offsets and contribute to Council's net zero emissions target.

With regard to Part 5, electricity generated from the farm will displace dirty electricity from the grid with clean renewable generation to meet Council's electricity demand from stationary assets and facilities. There will also be additional clean renewable energy produced from the farm, in excess of Council's operational usage, that will be exported to the grid and sold as a revenue source to Council. The shaded light orange section in the below emissions trajectory model quantifies the modelled volume of dirty electricity displacement projected from the project.



Financial Considerations

- 5 As indicated above, the key decision required from Council as a result of this report (and project decision gateway 1 identified in the above delivery timeframe figure) is the approval of a project budget of \$465,000 in 2019/20 FY to progress the Project through detailed feasibility (pre-build) and procurement.
- 10 The allocation of this funding from the Non-domestic Waste Reserve has been included in the draft 2019/20 budget and as an item in the associated annual operational plan. As such, adoption of the budget and operation plan by Council at 27 June 2019 meeting will enable the progression of the project. It is important to note that if the project eventuates, all expenditure that has been allocated from the non-domestic waste reserve will require reimbursement from the income
- 15 generated by the Solar Farm at a stage to be determined as future financing options for the project materialise.

Consultation and Engagement

- 20 As identified above, the development of a comprehensive community engagement and consultation plan is a critical next step if the project progresses. This will be a requirement of the DA process, however commencing wider consultation and engagement prior to that process will be required. The project has strong potential to be a positive and good news story for Council, thus requiring a strategic consultation process to ensure the positive messages are consistent and
- 25 delivered to the community in the most effective manner.

CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES

Report No. 15.1 CONFIDENTIAL - Tender 2018-0062 Construction of the Byron Bay Bypass

Directorate: Infrastructure Services
Report Author: Joshua Winter, Civil Engineer
File No: I2019/24
Theme: Infrastructure Services
 Local Roads and Drainage

Summary:

On 8 January 2019, the General Manager, under delegated authority, approved the use of the open tender method to invite tenders for Contract 2018-0062 – Byron Bay Bypass Construction Works. The tenders received would then need to be assessed and reported to Council before a Contract can be awarded.

The Request for Tender was advertised from 29 January 2019 to 27 March 2019.

Tenders were received from the following organisations:-

- Bellwether Contractors Pty Ltd
- Georgiou Group Pty Ltd
- Hazell Bros Group Pty Ltd
- SEE Civil Pty Ltd

Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulations 2005.

This report summarises the background and assessment of the tenders and provides a recommendation to award the tender for Contract 2018-0062.

RECOMMENDATION:

1. That pursuant to Section 10A(2)(d)i of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Tender 2018-0062 Construction of the Byron Bay Bypass.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
 - a) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:

Disclosure would reveal commercial information supplied by potential contractors which could prejudice Council entering into a contract.

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

RECOMMENDATION:

1. That pursuant to Section 11(3) of the Local Government Act, 1993, resolve that the Annexures to the report, Tender 2018-0062 Construction of the Byron Bay Bypass are to be treated as confidential as they relate to matters specified in s10A(2)(d)i of the Local Government Act 1993.
2. That Council adopt the recommendation set out on the final page of the Report.

Attachments:

- 1 Confidential - 24.2018.83.1 - Byron Bay Bypass - 2018-0062 - Evaluation Report SIGNED, E2019/32304