



Byron Shire Council



Agenda Ordinary Meeting

Thursday, 22 April 2021

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

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

Mark Arnold
General Manager

CONFLICT OF INTERESTS

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

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

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

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

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

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

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

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

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

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

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

Disclosure and participation in meetings

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

Committee, or

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

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

Non-pecuniary Interests - Must be disclosed in meetings.

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

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

RECORDING OF VOTING ON PLANNING MATTERS

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

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

BYRON SHIRE COUNCIL
BUSINESS OF ORDINARY MEETING

- 1. PUBLIC ACCESS**
- 2. APOLOGIES**
- 3. REQUESTS FOR LEAVE OF ABSENCE**
- 4. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY**
- 5. TABLING OF PECUNIARY INTEREST RETURNS (CL 4.9 CODE OF CONDUCT FOR COUNCILLORS)**
- 6. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS**
 - 6.1 Ordinary Meeting held on 25 March 2021
- 7. RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS**
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15. QUESTIONS WITH NOTICE

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

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 Car Free Sundays

File No: I2021/581

5

I move:

1. That Council introduces one car-free Sunday per month to occur in Byron Bay's town centre as soon as practicably possible;
- 10 2. That certain streets be closed to traffic to effect a pedestrianisation of a portion of the town centre similar to as has been done on New Year's eve;
3. That the first car-free Sunday be a celebration of walking, cycling and non-car transport and businesses are encouraged to participate in the celebratory atmosphere;
- 15 4. That Council staff liaise with local businesses, local transport providers, Destination Byron, TfNSW, Local Traffic Committee, and any other entities necessary to enable the success of a car free day as a recurring event.

Signed: Cr Cate Coorey

20 **Councillor's supporting information:**

In December 2017 I put up a version of this motion but it was not supported at the time.

Well, the time is definitely now. We have, as a Council, delivered the means by which a car-free town centre is possible. A road that bypasses the town centre and new and improved cycleways.

- 25 There should be no need here to explain why this is a good idea – we have been working towards getting cars out and people in for years and it is a main tenet of the Byron Town Centre Masterplan.

- 30 I am not going to pre-empt any ideas that our staff will provide. It is best that this activity is done by the experts. I have identified that SEE, IS and CCS directorates will need all to be a part of this because different functions of council will need to help make it happen.

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NOTICES OF MOTION

9.1

I envisage the first day to be a day of car-free celebration. We have all experienced Soul Street, the New Year's Eve festival where we marvelled at being able to walk the streets. Events could include a themed bike ride, an 'unplugged' wheeled event – wheelchairs, billycarts skate-boards etc or even just old-fashioned foot races. Maybe long dining tables
5 for feasts in the street.

We should encourage businesses on the closed streets to engage with the idea and get involved; restaurants could be allowed to have footpath dining.

I feel that a car-free Sunday is a good way to get people acculturated to a town centre that is walkable. A Sunday does not interfere with people's commute and will have less of an
10 impact on people's daily lives.



London street on World Car Free Day 2019.

Staff comments

by Claire McGarry, Place Manager

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

Byron Bay Master Plan

A key goal of the adopted Byron Bay Master Plan is a cars out / people in, pedestrian-prioritised CBD. This aligns well with the Notice of Motion and aims to embed the goals of this NoM within the DNA of the town.

- 5 In particular the Master Plan has specifically identified the following principle: *Create a pedestrian prioritised Byron Bay that supports and integrates alternate modes of transport.*

To achieve this, a number of strategic projects have been identified within the Master Plan and are being implemented within the town centre.

1. Construction of the Byron Bay bypass – 100% complete
- 10 2. Construction of the Byron Bay bus interchange – 95% complete
3. Reconstruction of the Lawson St South and Rails carparks – 100% complete
4. Reconstruction of the rail corridor to facilitate east-west pedestrian and cycle connections – construction to be completed by June 2021
- 15 5. De-commissioning of Jonson St bus shelter and repurposing the space – construction to be completed by June 2021
6. Rehabilitation of Butler Street Reserve to provide peripheral town centre parking, a farmers market space and passive recreation – awaiting site contamination investigation outcomes
- 20 7. Access and movement modelling – awaiting Council resolution (see separate report in this meeting agenda)

Byron Community Market

Over and above these projects, Council has engaged PlanIt consulting to submit a development application to permanently relocate the Byron Community Market into the centre of town, including the partial closure of Jonson St.

- 25 This market occurs on the first Sunday of each month. It has historically been held on Butler Street Reserve and was temporarily relocated to the foreshore during the construction of the bypass. Ongoing investigations on Butler Street Reserve have delayed the market's return to the Reserve, but the now operational bypass and upgrades to Railway Park, the rail corridor and the surrounding carparks, have presented an
- 30 opportunity for the permanent relocation of the market in to the centre of town. This is the first opportunity to truly test the 'cars out, people in' principle of the Masterplan.

The Development Application process will include:

- Baseline project development including concept market layout for analysis and stakeholder discussions

- Operational requirements and logistics
- Stakeholder workshops for relevant and directly affected stakeholders
- Traffic Impact Assessment
- Waste Management Plan
- 5 • Site analysis, potential impacts, heritage considerations, suitability of development, public interest
- Services strategy (power and water)

10 This comprehensive assessment will also identify any permanent infrastructure (such as electronic bollards) to be installed on Jonson St to facilitate its partial closure on an as-needs basis.

15 It is important to note that PlanIt consulting have only just been engaged (April 2021) and therefore no community consultation / stakeholder engagement has begun. It is noted that there are likely to be significant impacts of the proposal and associated community / business concerns that will need to be worked through with the relevant stakeholders and reported back to Council. This is the key first step in PlanIt's engagement.

Conclusion

Significant community consultation, planning and budget allocation will be required to implement any car-free option in the town centre.

Consideration needs to be given to:

- 20 • Business impacts
- Parking availability for displaced cars
- Impact on paid parking revenue (note average Sunday pay parking revenue is approximately \$14,300)
- 25 • Infrastructure required for traffic management – water filled barriers, traffic controllers, wayfinding signage, VMS boards
- Appropriate and widespread advertising
- Significant community engagement

30 It is recommended that the current process for the community market relocation be seen through to its conclusion to ensure all stakeholder feedback and community impacts are comprehensively and holistically addressed.

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.1

If there is community support for the relocation and development consent is granted, there would be a partial closure of Jonson St one Sunday per month – which achieves, in part, the objective of this NoM.

- 5 Staff having commenced the investigation and Development Application preparation process, recommend that Council give this process priority, and not commence any conflicting projects seeking to achieve similar outcomes at this time.

Financial/Resource/Legal Implications:

Development Application costs

- 10 As part of the March quarterly review, Council will consider a proposal to fund the cost of the engagement of PlanIT consulting (\$29,600) via a reallocation of budget previously assigned for 'Farmers Market Electrical Connection'.

- 15 The intention of this budget item was to facilitate relocation of the markets off Butler Street Reserve. Given that this budget was not required in the relocation of the farmers market to the Cavanbah Centre, it is proposed that an appropriate use for this money would be to fund the permanent relocation of the community market in to the town centre.

Infrastructure costs

The Development Application process will identify the infrastructure required to facilitate the partial closure of Jonson St, and the most cost effective way to do this.

- 20 Costs required to manage road closures for the 2019/20 New Years Eve are considered an approximate guide to manage road closures for each monthly car free Sunday.

2019/20 NYE cost approximately \$30,000 for traffic controllers and physical devices (i.e. barrier boards and detour signage). An additional \$60,000 was required for administration and planning of the NYE event.

Is the proposal consistent with any Delivery Program tasks?

- 25 Activities proposed within the NoM are not identified within the Operational Plan.

Notice of Motion No. 9.2 Memorial seat for Judy Macdonald

File No: I2021/590

5 I move:

1. That Council recognises the contribution Judy Macdonald made to our community and gives permission to her friends and family to install a seat in her name in Heritage Park, Mullumbimby.
- 10 2. That Council staff liaise with those wishing to install the seat to ensure that the site is suitable and that the seat meets approved standards of safety and any other requirement.
3. That any costs associated with the seat be borne by the proponents in (1).

Signed: Cr Cate Coorey

15 Councillor's supporting information:

Judy Macdonald was a much loved and active member of the Byron community who gave so much of her time to Byron Shire. She was a founding member of Brunswick Valley Landcare; she was instrumental in setting up the Mullum Farmers' Market, sat on the boards of ACE, Envite, Santos, Mullumbimby Show Ground Trust, Mullum Creative and
20 CABS, was President of the Main Arm Residents Association, and spent many many hours doing regen work with locality groups such as Heritage Park, Jingati, Upper Marshall's creek and others.

As extensive a contribution as this deserves recognition and her friends have already collected some funds for the seat.

25 Staff comments

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

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

30 Staff acknowledge the contributions of Judy MacDonald and support the proposal to install a seat in her memory. To select the most appropriate location staff are able to liaise with the Heritage Park Landcare Group and proponents and can also assist in the preparation of an appropriate concrete slab and installation of the seat to ensure its ongoing safe use.

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NOTICES OF MOTION

9.2

Due to the high number of requests from the general community for placement of memorials, Open Space has had to insist that the person being commemorated had a significant connection to the area before staff would further considering such requests.

- 5 As provided in the Councillors supporting information within this NOM, from an Open Space perspective, Judy MacDonald has certainly satisfied this criterion.

Financial/Resource/Legal Implications:

Some in kind support from staff in providing advice and installation support in order for its safe installation and ongoing community use.

Is the proposal consistent with any Delivery Program tasks?

- 10 N/A

PETITIONS

Petition No. 10.1 Reduce Speed limit at intersection of Rifle Range and Lismore Road

Directorate: Infrastructure Services

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

File No: I2021/418

Council is in receipt of a petition containing 222 signatures which seeks:

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

10 **Comments from Director Infrastructure Services:**

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

15 A previous petition has been received for the same request. Council staff requested TfNSW undertake a speed zone review at the location. The speed zone review was undertaken by TfNSW on Wednesday 3 February 2021. At the time of writing this report the results of the speed zone review have not yet been received but are expected soon.

Following receipt of the first petition at the February meeting Council resolved the following:

20 *Res 21-038*

1. *That the petition regarding Reduce speed limit at intersection of Rifle Range and Lismore Road be noted.*

2. *That the petition be referred to the Director Infrastructure Services.*

3. *That Council report the outcome of the speed review to LTC.*

25 4. *That Council receive a report to provide a process so that all speed reviews can be referred to the LTC.*

5. *That Council note the policy on reducing speed on Rural roads and ensure that Council provide submissions in support of the policy for all community and Council initiated requests for speed reviews.*

30 6. *That staff look into any temporary measures that can be implemented to improve safety whilst consultation and planning matters are addressed.*

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PETITIONS

10.1

Item 4 has been addressed separately in the April Council Report: *Speed Zone Reviews - LTC Process* (I2021/475).

The remainder of this report will address items 3 and 6.

5 In relation to item 3, the results of the speed zone review will be reported to LTC for comment, once the recommendation has been received from TfNSW.

10 In relation to item 6, TfNSW and Council staff have requested that the west bound bus changes its stop location from Lismore Road to Rifle Range Road, which will eliminate the current hazard of school children crossing Lismore Road. Responses from the bus company have been positive and the application to TfNSW to change the route has been made, with the outcome expected in April. Once the outcome is known, Council staff in consultation with the bus company will undertake communications with affected residents in advance of the route change.

15 Council staff are also continuing discussions with TfNSW with regard to design options for a sheltered right hand turn into Rifle Range Road, drainage upgrade, new bus bay construction, and reconstruction of Rifle Range Road.

RECOMMENDATION:

- 20 1. **That the petition regarding Reduce Speed limit at intersection of Rifle Range and Lismore Road be noted.**
2. **That the petition be referred to TfNSW for its consideration.**

Attachments:

- 25 1 Confidential - Petition from Rebecca Sargeant with 222 signatures requesting to reduce the speed limit of Rifle Range Road, E2021/44527

STAFF REPORTS - GENERAL MANAGER

Report No. 13.1 Lease to Byron Bay Preschool Incorporated

Directorate: General Manager

Report Author: Paula Telford, Leasing and Licensing Coordinator

5 **File No:** I2021/371

Summary:

10 The Byron Bay Preschool Incorporated (Coogera Centre) is required to enter into a new lease for occupation of a new stand alone building constructed within the Suffolk Park Integrated Children's Centre in accordance with terms provided in this Report.

RECOMMENDATION:

- 15 1. That Council notes that no submissions were received on the proposed grant of a lease to the Byron Bay Preschool Incorporated over part Lot 126 DP1121466 known as the Suffolk Park Integrated Children's Centre, 49 Bottlebrush Crescent Suffolk Park.
- 20 2. That Council authorises the General Manager, under delegations, to enter into a lease with Byron Bay Preschool Incorporated over part Lot 126 DP1121466 known as the Suffolk Park Integrated Children's Centre 49 Bottlebrush Crescent Suffolk Park on the following terms:
- 25 a) term 10 years and 22 days to commence 1 June 2021 and expiring on 22 August 2031,
- 30 b) for the purpose of early childhood education and care services,
- 35 c) the Lessee to pay initial rent of \$490 (exclusive GST) with annual rent increase thereafter by Consumer Price Index All Groups Sydney,
- 30 d) The Lessee to pay 4.2% of joint outgoings payable at the Suffolk Park Integrated Children's Centre,
- 35 e) The Lessee to provide, at its cost, public liability insurance and contents insurance for full replacement value,
- 35 f) The Lessor to subsidise fixed rates and charges, building insurance cover, pest inspections and controls, annual fire safety requirements and building structural repairs where the structural damage was not caused by the Lessee's use of the building, and
- 35 g) Council to subsidise licence preparation costs of \$536 (inclusive of GST).

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STAFF REPORTS - GENERAL MANAGER

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Attachments:

- 1 Confidential - Confidential Attachment 1: Submission by Byron Bay Preschool Inc (I2021/371), E2021/42939
- 5 2 Confidential - Confidential Attachment 2: Submission by Tweed Valley Early Intervention Centre (I2021/371), E2021/42607

Report

The Byron Bay Preschool Incorporated ('the Preschool') holds an existing lease to occupy part Lot 126 DP 1121466 known as the Suffolk Park Integrated Children's Centre ('the Centre') located at 49 Bottlebrush Crescent Suffolk Park. The existing lease commenced on 23 August 2010.

A second tenant resides at the Centre being the Tweed Valley Early Intervention Centre Inc ('Early Intervention Centre'). The Early Intervention Centre holds a twenty one year lease that also commenced 23 August 2010.

In 2019 the Preschool received funding from the Federal Government Start Stronger Capital Works Grant for building alterations at the Centre. The grant required the Preschool to match funding that in turn necessitated the Preschool to mortgage its 2010 lease. Council supported the Preschool mortgaging its 2010 lease on condition that the Preschool notify Council of any default under terms of the mortgage.

Development consent 10.2019.149.1 was subsequently granted by resolution (19-509) permitting alterations and additions to the Centre. The resulting development is a stand alone building located on Bottlebrush Crescent and designed to accommodate up to fifty children.

The Preschool is required to enter into a new lease for the newly constructed standalone building.

Subsidies:

Council's Children's Services Policy provides that Council will continue to support community pre-schools in the Shire by providing land and/or buildings for delivery of services to children aged 3 – 5 years. That Policy states that Council will provide community land at nominal cost to the organisations including the Preschool.

This report recommends that initial rent payable by the Preschool under the new lease is subsidised to \$490 (exclusive of GST) and thereafter increased annually by Consumer Price Index All Groups Sydney with a rent review every five years. That Council subsidise the value of market rent less the Preschool rent to the value of \$33,110.

That Council in accordance with its Policy 12/008 Section 356 Donations, Rates, Water and Sewerage Charges will also fully subsidise annual land rates and fixed charges on the land for the lease term.

Proposed new lease:

Staff are proposing the new lease is provided on similar terms as the existing 2010 lease and to include:

- a) Term of the new lease to mirror the remaining term of the Preschool's existing 2010 lease being 10 years and 22 days to expire on 22 August 2031;

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STAFF REPORTS - GENERAL MANAGER

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- 5 b) Initial rent set at \$490 (excluding GST) per annum and increased thereafter by Consumer Price Index All Groups Sydney for the previous quarter with a rent review every five years;
- c) The Lessee to be responsible, at its cost, for all interior non-structural maintenance, repairs and renewals during the term;
- 10 d) The Lessee to provide, at its cost, public liability insurance and contents insurance for full replacement value; and
- e) That Council fully subsidise annual land rate and fixed charges, building insurance, pest inspections and controls, annual fire safety requirements and all structural repairs where the structural damage is not the result of the Lessee's use of the premises.

Outgoings payable under the lease:

- 15 Terms of the Preschool's 2010 lease requires the Preschool to pay 48.9% of joint outgoings at the Centre with the Early Intervention Centre paying 46.9% of joint outgoings. Joint outgoings include, amongst other costs, waste management user costs and water usage charges.

Following the Preschool's expansion of the Centre, Council consulted with both the Preschool and the Early Intervention Centre to review the percentage of joint outgoings payable by both tenants.

- 20 1. Submission from the Preschool (see Confidential attachment 1) requested:

That the percentage of joint outgoings payable be based on the space occupied by the Preschool at the Centre as opposed to a calculation based on the number of children accommodated by the Preschool because attendance numbers fluctuate widely.

- 25 2. Submission from the Early Intervention Centre (see Confidential attachment 2) requested:

That the percentage payable remains the same only if the cost of joint services at the Centre remains relatively unchanged.

- 30 In view of the responses received from both tenants, staff recommend that the percentage of outgoings under existing lease agreements remains unchanged being based on space occupied at the Centre. Under existing leases the Preschool must pay 48.9% and the Early Intervention Centre must pay 46.9% of joint outgoings payable at the Centre.

- 35 Staff further recommend that the 4.2% shortfall in joint outgoings at the Centre that was previously paid by Council is now passed onto the Preschool under the proposed new lease. The Preschool will be required to pay an additional 4.2% percentage of joint outgoings payable at the Centre.

Mandatory public notification:

Council publically advertised the proposed new lease for 28 days between 8 March and 5 April 2021 as well as individually notified all surrounding residents. Council received no submissions.

- 5 This report recommends that Council grants the new lease in accordance with the proposed lease terms discussed in this report.

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

Recent Resolutions

- 10 • Resolution (19-509)

Legal/Statutory/Policy Considerations

Local Government Act 1993 (NSW)

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

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

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STAFF REPORTS - GENERAL MANAGER

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- (d) *give notice of the proposal to any other person, appearing to the council to be the owner or occupier of land in the vicinity of the community land, if in the opinion of the council the land the subject of the proposal is likely to form the primary focus of the person's enjoyment of community land.*

5 (2) *A notice of the proposal must include:*

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

10 (3) *Any person may make a submission in writing to the council during the period specified for the purpose in the notice.*

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

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

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

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

(a) *the proposal must be notified and exhibited in the manner prescribed by section 47, and*

(b) *the provisions of section 47 (3) and (4) apply to the proposal, and*

30 (c) *on receipt by the council of a written request from the Minister, the proposal is to be referred to the Minister, who is to determine whether or not the provisions of section 47 (5)–(9) are to apply to the proposal.*

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

35 (a) *the council, the Minister and the Director of Planning are to deal with the proposal in accordance with the provisions of section 47 (1)–(8), and*

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

Financial Considerations

This report recommends that Council provides subsidised rent to the Preschool in accordance with its Children's Services Policy.

- 5 The Preschool to pay rent starting at \$490 per annum (exclusive GST) and increased thereafter by Consumer Price Index All Groups Sydney with a five yearly rent review.

Council to annually account for the subsidised market rent less rent payable by the Preschool totalling \$33,110 as a S356 Contribution.

Councils Children's Services Policy requires Council to subsidise annual land rates and fixed charges currently \$8,249.

10 Consultation and Engagement

Council publically advertised the proposed lease for 28 days between 8 March and 5 April 2021 and individually notified surrounding residences. Council received no submissions.

Report No. 13.2 Licence to Durrumbul Community Preschool Incorporated

Directorate: General Manager

Report Author: Paula Telford, Leasing and Licensing Coordinator

5 **File No:** I2021/564

Summary:

The Durrumbul Community Preschool Incorporated ('the Preschool') has been awarded grant funding from the from The State of New South Wales by its Department of Education under an agreed Funding Agreement.

10 Terms of the Funding Agreement requires that the Preschool holds tenure over the Durrumbul preschool building for a term not less than ten years from the date of commencement of the Funding Agreement. As a result the Preschool requires a new ten
15 year licence to comply with terms of the Funding Agreement.

RECOMMENDATION:

- 20 1. **That Council, as the Crown Land Manager for Reservation 55796, delegates to the General Manager the authority to negotiate and enter into a new licence with the Durrumbul Community Preschool Incorporated over part Lot 5 DP 832186 as follows:**
 - 25 a) **for a term of ten (10) years with no holding over, commencing on a date that aligns with the 10-year funding period under the Funding Agreement with The State of New South Wales by its Department of Education;**
 - b) **for the purpose of early childhood education and care;**
 - c) **annual rent set by the value of minimum Crown in accordance with clause 38 of the Crown Land Management Regulations 2018 (NSW);**
 - d) **the Licensee to pay all outgoings other than annual fixed rates and charges;**
 - 30 e) **all non-structural maintenance to be carried out by the Licensee at the Licensee's cost; and**
 - f) **the Licence to subsidise rates and fixed charges, building insurance, annual pest inspections and controls, annual fire safety statements and building structural repairs and maintenance where the damage was not**
35 **the result of the Licensee's use of the premises.**
2. **That Council notifies any Applicants for Native Title over Lot 5 DP 832186 of the grant of the proposed licence to Durrumbul Community Preschool Incorporated as detailed in one above.**

Report

Following a request from the Pre-school for a new licence to support a grant application, Council resolved (**20-378**) at its 27 August 2020 meeting that:

- 5 *Council, as the Crown Land Manager for Reservation 55796, delegate to the General Manager the authority to negotiate and enter into a new licence with the Durrumbul Community Preschool Incorporated over part Lot 5 DP 832186 as follows:*
- 10 a) *for a term of ten (10) years;*
- b) *for the purpose of early childhood education and care;*
- c) *annual rent set by the value of minimum Crown and thereafter increased by CPI all groups Sydney;*
- d) *the Licensee to pay all outgoings other than annual fixed rates and charges;*
- e) *all non-structural maintenance to be carried out by the Licensee at the Licensee's cost; and*
- 15 f) *the Licensor to provide subsidised rent to the value of market rent as calculated at 6% of the land Unimproved Capital Value less rent payable by the Licensee set at minimum Crown rent.*

A licence was subsequently entered into in accordance with the above resolution to expire on 31 August 2030.

Since entering into the licence:

- 20 a) The Preschool have been awarded grant funding from the NSW Department of Education to carry out renovations to the Durrumbul Preschool Building ('the Premises'). However, a condition of the grant Funding Agreement requires that the Preschool hold licence tenure over Premises for the ten year term of the Funding Agreement, which has not yet commenced. So the Preschool now requires a new
- 25 licence for a term that aligns with the term of the Funding Agreement.
- b) Crown Lands have issued a new template Licence, so the recommended further licence will need to be in the new template form.

Proposed licence:

- 30 The proposed new ten year licence is over Council managed Crown Reserve R55796 being folio 5/832186 reserved for community purposes. The land may be subject to a Native Title Claim that is yet to be determined.

Council staff propose a new licence on the following:

- a) term of ten years no holding over to commence on the day that will align with the ten year term of the Funding Agreement;

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- b) for the purpose of early childhood education and care services;
- c) annual rent to be set at the value of Statutory Crown rent in accordance with clause 38 of the *Crown Land Management Regulations 2018* (NSW);
- d) Licensee outgoings at its cost:
 - 5 i. all usage charges for all services connected to the land,
 - ii. requisite public risk insurance and contents insurance for full replacement value
 - iii. onsite sewerage system repairs, maintenance and pump outs; and
 - iv. all non-structural repairs, maintenance and renewals to the Premises, all
 - 10 grounds maintenance, boundary fencing repairs, maintenance and renews to Australian Standards for preschools and other requirements as detailed in a building audit of the Premises.
- e) Licensor outgoings at its cost:
 - i. building insurance, annual pest inspection and controls and annual fire safety statements; and
 - 15 ii. structural building maintenance repairs and maintenance where the damage was caused by the Licensee's use of the premises.

Legislative authority to grant the proposed licence:

20 Council as the Crown Land Manager for reservation R55796 may grant a new licence prior to adopting a Plan of Management over the reserve under clause 70(2)(c) *Crown Land Management Regulations 2018* (NSW) if:

- a) a licence was in place immediately before 1 July 2018; and
- b) no additional permitted uses of the land.

25 The Preschool held a Crown licence on 1 July 2018 for the purpose of community pre-school. The proposed new licence will not provide for any additional permitted uses of the land.

Direct negotiation:

30 Council is permitted to directly negotiate when the value of the licence is very low relative to the cost of conducting a competitive offer. Rent payable under the proposed is the value of minimum Crown rent currently \$490 per annum exclusive GST being a value relatively low compared to the cost of awarding a licence via a tender process.

Native title:

The proposed licence is validated as a future act under s24JA of the *Native Title Act* because the historical reservation of the land from sale took place prior to 23 December

1996. As the proposed licence does not permit the construction of a new public work on the land, Council will voluntarily notify any Applicants to a Native Title claim over the land.

- 5 Should Native Title be awarded by the Federal Court over the land, Council may be liable for compensation under the provisions of the *Native Title Act 1993* (Cth) and *Crown Land Management Act 2016* (NSW) for the impact on native title rights and interests by the proposed licence.

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	2.2.2	Support and facilitate accessible, high quality early childhood education and activities	2.2.2.1	Improve direct service provision and sector development to provide quality accredited early childhood education

Recent Resolutions

- 10 • Resolution (20-378).

Legal/Statutory/Policy Considerations

Clause 70 Exemption from operation of section 3.22 of Act for granting licences and leases during initial period

- 15 (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:*
- (a) *the council adopts its first plan of management for the land for the purposes of section 3.23 of the Act,*
- 20 (b) *the land is classified as operational land with Minister's consent under section 3.22 of the Act.*
- (2) *The council manager is exempt from the operation of section 3.22 of the Act in respect of the following:*

(c) the granting of a new lease or licence over pre-POM Crown land for a term not exceeding the maximum term if:

(i) there was a lease or licence in force over the land immediately before 1 July 2018, and

5 (ii) there are no additional permitted uses of the land,

(3) In this clause:

existing lease or licence means a lease or licence in force immediately before 1 July 2018.

10 **maximum term** of a lease or licence means a term (including any option for the grant of a further term) of:

(a) 21 years in the case of the following:

(i) the renewal of an existing lease as referred to in subclause (2) (b),

(ii) the granting of a new lease as referred to in subclause (2) (c),

15 (iii) the granting of a new lease or licence as referred to in subclause (2) (f), or

(b) 5 years in any other case.

Financial Considerations

Annual rent payable by the Preschool under the licence must be set the value of Statutory Crown rent as established by clause 38 of the *Crown Land Management Regulations 2018* (NSW). Annual rent will commence at \$490 (excluding GST) per annum.

Consultation and Engagement.

Nil.

Report No. 13.3 Grant 5-year Market Licences for Preferred Proposals

Directorate: General Manager

Report Author: Paula Telford, Leasing and Licensing Coordinator

5 **File No:** I2021/63

Summary:

In accordance with Councils Sustainable Community Markets Policy 2020, a Request for Proposal for 5-year Market Licences was run between 27 January and 24 February 2021.

10 Proposals received were assessed by an independent evaluation panel between 1 and 29 March 2021 in accordance with the Evaluation Plan. This report recommends that the panel's preferred proposal are granted 5-year Market Licences.

RECOMMENDATION:

That Council authorises the General Manager to enter into Market Licences (subject to the execution of an Agreement to Licence where development consent is required) to the successful bidders to the Request for Proposal set out in Confidential Attachment 1 for a term of five years.

Attachments:

- 15 1 Confidential - Confidential Attachment 1: Recommendations Report, E2021/52282
2 Confidential - Confidential Attachment 2: Submission on proposed 5-year Market Licences, E2021/40715
3 Confidential - Confidential Attachment 3: Submission on proposed 5-year Market Licences (MarketsRFP-2020), E2021/37097
20 4 Confidential - Confidential Attachment 4: Evaluation Plan Markets Request for Proposal (MarketsRFP-2020), E2021/50850
5 Confidential - Confidential Attachment 5: Probity Report Markets Request for Proposal (MarketsRFP-2020), E2021/51459

25

Report

In accordance with Councils Sustainable Community Markets Policy 2020, market licences must be awarded by an open and competitive process.

- 5 A Request for Proposal for 5-year Market Licences for community, artisan and farmers markets was publically advertised from 27 January 2021 to 2pm on 24 February 2021.

Twenty one Proposals were received and are listed below:

1. Goodwill Projects Pty Ltd – Denning Park Byron Bay for a farmers market.
2. Goodwill Projects Pty Ltd – Denning Park Byron Bay for an artisan market.
3. Goodwill Projects Pty Ltd - Butler Street Reserve Byron Bay for a farmers market.
- 10 4. Goodwill Projects Pty Ltd – Railway Park Byron Bay for an artisan market.
5. Foragers Market Pty Ltd – Denning Park Byron Bay for an artisan market.
6. Nomad Productions and Events Pty Ltd - Denning Park Byron Bay for an artisan market.
7. Foragers Market Pty Ltd - Butler Street Reserve Byron Bay for a community market.
- 15 8. Nomad Productions and Events Pty Ltd - Memorial Park Brunswick Heads for a community market.
9. Markets and Event Management Australia Pty Ltd- Butler Street Reserve Byron Bay for a farmers market.
- 20 10. Markets and Event Management Australia Pty Ltd– New Brighton Oval for a farmers market.
11. Byron Farmers Market Incorporated – Butler Street Reserve Byron Bay for a farmers market.
12. Star Dust Events Pty Ltd trading as Boho Luxe Markets – Denning Park Byron Bay for an artisan market.
- 25 13. Byron Bay Community Association Incorporated - Denning Park Byron Bay for an artisan market.
14. Byron Bay Community Association Incorporated – Butler Street Reserve Byron Bay for a community market.
- 30 15. Byron Bay Community Association Incorporated - Railway Park Byron Bay for an artisan market.

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16. Brunswick Valley Woodchop and Entertainment Committee Incorporated – Memorial Park Brunswick Heads for a community market.
17. Brunswick Valley Historical Society Incorporated – Summers Park for a community market.
- 5 18. North Byron Farmers Market trading as New Brighton Farmers Market - New Brighton Oval for a farmers market.
19. Russell John Vitale.
20. Star Dust Events Pty Ltd trading as Boho Luxe Markets – Denning Park Byron Bay for an artisan market.
- 10 21. On Dusk Events – Butler Street Reserve Byron Bay for a community market.

This report recommends that the Evaluation Panel's preferred proposals are granted 5-year Market Licences. Where a preferred proposal requires the submitter to obtain development consent, no licence will be issued until development consent is granted in accordance with terms and conditions of the Request for Proposal.

15 **Evaluation Panel**

The Evaluation Panel comprised an Independent Chairperson, Independent Probity Officer, Team Leader Open Space, Business Enterprise Officer, Project Officer (Aboriginal) and Resource Recovery Contracts Management Officer.

- 20 The Evaluation Panel were charged with determining one preferred Proposal for each Market Location including:

- a) Butler Street Reserve, Byron Bay (small market),
- b) Butler Street Reserve, Byron Bay (larger market),
- c) Memorial Park, Brunswick Heads,
- d) Summers Park, Mullumbimby,
- 25 e) Denning Park, Main Beach Byron Bay, and
- f) New Brighton Oval, New Brighton.

Proposals were evaluated against weighted Qualitative Assessment Criteria as provided in Councils Sustainable Community Market Policy 2020.

Criteria	Weighting
1. Ability to develop, implement and monitor a Market Management Plan in accordance with Council's Sustainable Markets Regulation Code	20%
2. Experience in Market Management and meeting market licence conditions	5%
3. Knowledge of Byron Shire's Market culture,	5%
4. Experience with, and commitment to, environmental and sustainable operations and initiatives,	10%
5. The benefits to the local community, for example enabling social	30%

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Criteria	Weighting
interactions, promoting food security and healthy diets, preserving cultural heritage.	
6. The benefits to the local economy for: a) Local employment and small business, b) Local industries, for example sustainable agriculture, arts, crafts, and tourism, and Local charities and not-for-profit organisations	30%

The evaluation panel's full evaluation report is contained in Confidential Attachment 4.

The independent probity officer report is contained in Confidential Attachment 5.

Public Notice of proposed licences

- 5 In accordance with the *Local Government Act 1993*, Council must call for public comment prior to granting a licence to occupy community land.

Council publically advertised its proposal to grant 5-year market licences at the following locations from 18 January to 15 February 2021.

- 10
- a) Butler Street Reserve, Byron Bay (small market),
 - b) Butler Street Reserve, Byron Bay (larger market),
 - c) Memorial Park, Brunswick Heads,
 - d) Summers Park, Mullumbimby,
 - e) Denning Park, Main Beach Byron Bay, and
 - f) New Brighton Oval, New Brighton.

Council received one submission (Confidential attachment 2) with the following comment:

Submission	Response
<ul style="list-style-type: none">Supported the community benefit, however commercial arrangements of the licence should be granted under an expression of interest because of direct cash subsidies and rent abeyance to the licensees.	<ul style="list-style-type: none">A request for proposal processed will be run to grant five year market licences. Licence rent is based on market rent and established in Councils Fees and Charges.

- 15 Council also consulted with NTS Corp and the Bundjalung of Byron Bay Aboriginal Corporation RNTBC (Arakwal) ('BOBBAC') in relation to licencing land subject to non-exclusive Native Title rights and interests. Council received the following submission from Arakwal (Confidential attachment 3) that requested:

- 20
- a) The requirement to broker positive relationships with community stakeholder to ensure Arakwal people through BOBBAC, can participate in these events;
 - b) That BOBBAC is notified of the tender outcome;

- c) That Council note a known Aboriginal Site and should the licence allow for land disturbance/excavation in the area an Aboriginal Cultural Heritage consultation and assessment is required.

5 Council staff will provide Arakwal with requested information subsequent to Council making a resolution on this Report.

This report recommends that Council grant 5-year market licences to preferred proposals in accordance the Evaluation Panel report.

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

10 Related Resolutions

Nil.

Legal/Statutory/Policy Considerations

Local Government Act 1993 (NSW)

15 **s 47A Leases, licences and other estates in respect of community land—terms of 5 years or less**

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

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

(a) *the proposal must be notified and exhibited in the manner prescribed by section 47, and*

25 (b) *the provisions of section 47 (3) and (4) apply to the proposal, and*

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(c) on receipt by the council of a written request from the Minister, the proposal is to be referred to the Minister, who is to determine whether or not the provisions of section 47 (5)–(9) are to apply to the proposal.

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

(a) the council, the Minister and the Director of Planning are to deal with the proposal in

accordance with the provisions of section 47 (1)–(8), and

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

10 **Financial Considerations**

Rent payable on market licences is published in Councils annual Fees and Charges and calculated on the number of market stalls.

For the 2021-2022 year expected income generated from each of the following market licences is:

- 15 1. Butler Street Reserve Byron Bay, community market, \$6,348
2. Summers Park Mullumbimby, community market \$2,376
3. Memorial Park Brunswick Heads, community market \$3,972
4. Butler Street Reserve Byron Bay, farmers market \$10,296
5. New Brighton Oval New Brighton, farmers market \$6,812
- 20 6. Denning Park Byron Bay, artisan market \$2,116
7. Railway Park Byron Bay, artisan market \$6,812

Consultation and Engagement

25 Council advertised for public comment on the grant of the proposed five year licences from 18 January to 15 February 2021. Council received one submission as detailed in this report.

Council directly consulted with both NTS Corp and Bundjalung of Byron Bay Aboriginal Corporation RNTBC (Arakwal) ('BOBBAC'). Council received one submission as detailed in this report.

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Report No. 13.4 Reopening Lone Goat Gallery

Directorate: Corporate and Community Services

5 **Report Author:** Melitta Firth, Arts & Culture Office
Deborah Stafford, Manager Social & Cultural Planning

File No: I2021/394

Summary:

10 Lone Goat Gallery has been closed since mid-2020. This report recommends options for reopening the Gallery and clarifies an approach to delivery of the wider Arts and Culture portfolio.

15 **RECOMMENDATION:**

That Council reopens Lone Goat Gallery under a direct delivery partnership gallery model.

Report

Background

Lone Goat Gallery

- Between 2015 and 2020, Council engaged a professional Gallerist to operate the Lone Goat Gallery as part of its overall investment in arts and culture. Professional gallery operation did not achieve the goal it was set of becoming cost neutral but achieved other significant outcomes: including higher quality and more diverse exhibitions and programs; professional presentation, promotions and branding; high levels of artwork sales; strong visitation and audience engagement; and significant grant funding.
- During this period, Lone Goat Gallery (LGG) operated with a 3 day per week Gallerist supported by Council, with an additional day resourced by Gallery revenue.
- LGG is a service provided by Byron Shire Council to support and foster a diverse and engaged creative community. LGG delivers a locally focused, accessible and diverse range of exhibitions, public programs and events. The gallery functions as a catalytic art space nurturing the development of Northern Rivers' artists by providing access to an exhibition space otherwise unaffordable or unviable in a commercial setting and connecting struggling creatives with 2 million visitors and potential art buyers per year.
- It contributes to contemporary visual culture by curating, staging and developing exhibitions and providing residents, visitors and students with high quality visual arts, ideas and collaborations. The LGG works with artists and community to explore local stories, support the growth of the creative industries, and activate arts and cultural activity.
- With the redevelopment of Sandhills nearby there are opportunities to increase youth and Indigenous collaborations, and design arts programming to engage with the Library.
- With the commencement of an Arts and Culture Officer, it was the intention that this role should support Gallery operations and deliver on the arts and culture functions of Council. While *supporting* the gallery is possible within the scope of this role, the proposed two--days per week allocated to the Gallery are not sufficient to *operate* the Gallery.

Arts and Cultural Policy

- The *Arts and Cultural Policy 2020* outlines three ways in which Council supports the arts. Examples are below, with the Lone Goat Gallery noted as a direct delivery service model.

1. Direct Delivery

- Lone Goat Gallery: Exhibitions, programs and subsidised creative space

- Public Art: Investment in public art

2. Partnering

- Council financial support of Regional Arts Board
- Festivals and events: co-delivering and partnering

5 3. Enabling

- Grants and in-kind support: artistic projects, events, programs, activations and temporary public art.
- Infrastructure/Spaces: Providing subsidised spaces and opportunities for creatives to develop and present their work.

10 **Key Issues**

In response to the challenges that have emerged from combining a services delivery role (Gallerist) and strategic coordination role (A&C Officer), the following options have been developed with the first option preferred.

Options for Gallery reopening

15 Options for the Gallery are based on direct delivery/partnering **or** partnering/enabling which will achieve different levels of service to the community:

1. Dedicated staffing for the Gallery (direct delivery/partnering)

- a) 4 day per week Gallerist role.

20 This would enable professional, high quality Gallery services and could be achieved within existing resources on the basis that:

- The Arts and Culture Officer role is decoupled, with 2 days reallocated to a Gallerist role (in alignment with original intent) and 3 days retained for the Arts and Culture Officer role.
- Council would seek partnership with a local organisation to achieve another 2 days' resourcing e.g. via an arts organisation, the library, etc.
- If grown over time to a full-time role (leveraging additional Gallery revenue), the Gallerist would have capacity to manage and deliver grant projects and public programs.

30 Option 1, involving a 4 day per week dedicated Gallerist, would maintain high levels of quality and service, while ensuring strong sales, visitation, engagement, promotions, programming, volunteer management and operations.

Under this model the gallery would be managed by Council, the volunteer management board dissolved at or before the end of its term, and a new mechanism for community input would be established such as an advisory panel, or regular consultation. Volunteers would support LGG operations e.g. launch events and other tasks.

5 2. Gallery becomes a short-term rental space for artists (partnering/enabling)

10 This would reduce the level of service delivered through the Gallery. Council provides the Gallery space. Artists are responsible for marketing, launch, install/uninstall, didactics, signage, promotion, sales and client liaison and sitting the space. A volunteer operational board would be responsible for artist liaison, programming, artists call outs, selection and inductions.

15 Although this model has been thoroughly discussed, significant issues with this model include: reliance on unrealistic level of volunteerism for daily operations, lack of professional staffing likely to impact on A & C Officer role by requiring high level of oversight, reduced quality of exhibitions, brand and promotions (impacted by artists doing own promotion, didactics, wall signage), lower visitation, no revenue from artwork sales (rental space only), and risk to people and property (including specialist equipment). Therefore this model is not preferred.

20 Willoughby Council operates under a similar 'rental' style model but with two staff members. Without additional staffing dedicated to the Gallery operations, this model would require a new operational board of volunteers be established, as the existing Board of Management is not in a position to take on these tasks.

Comparison with other Gallery spaces

25 For the purpose of comparison, Byron School of Art operates a small gallery space exhibiting non-consecutive exhibitions and employs 1 FTE staff member. Kyogle Council employs 1 FTE Gallery Services Officer to run 12 annual exhibitions at the Roxy Gallery. Waverly Council operates a gallery in partnership with the Library and employs visual arts specialist staff to manage and program exhibitions and activities.

Risks

30 A partnership approach may not meet community expectations for a dedicated Gallery space and may impact programming.

A different model may impact Council's ability to apply for funding into the future.

A partnership model may also preclude certain exhibitions including audio-visual exhibitions, installations and the display of 3 –D works (for example if the space is being utilised for library activities).

35 **Wider Arts and Culture Portfolio**

Priorities for the wider portfolio will be refined in line with resourcing at 3 days per week and currently include:

- Public art processes and responsibilities (triggered through PAP, DA, Council initiated projects, master planning, community-led).
- Broad policy and planning responsibilities, responding to arts and cultural requests for support, working internally across departmental teams, and providing internal and external advice, improving internal systems and capacity building.
- Reviewing and improving Council's overall approach to Arts and Culture to ensure cost effective, evidenced-based investment in arts and culture, including initiation of an Arts and Culture Strategy.

As part of the anticipated development of an Arts and Cultural strategy, effective mechanisms to support arts and culture can be reviewed and prioritised. Key considerations include the level of future resourcing Council allocates to arts and culture, the most effective spend to enable and support transparent and equitable investment in arts and cultural activity, and accessible opportunities for participation across the Shire.

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	2.1	Support and encourage our vibrant culture and creativity	2.1.3	Enhance opportunities for interaction with art in public spaces	2.1.3.2	Adopt and implement Arts and Culture Policy
					2.1.3.3	Support the ongoing operations of the Lone Goat Gallery

The *Local Strategic Planning Statement* March 2020 states: "We value culture as an expression of the history, heritage, customs, arts, recreation and values of the community.

Consultation for the *Community Strategic Plan 2028* revealed a strong desire for "greater support and promotion of the arts and cultural programs across the Shire". The *Community Strategic Plan 2028, Our Vision* states: "We foster the arts and cultural activities, respect and acknowledge our first peoples and celebrate and embrace diverse thinking and being. Our community is empowered to be creative, innovative and listened to as we shape the future way of living that we want."

Recent Resolutions

Council resolved (Res **18-256**) for a report to be presented to Council outlining the process and associated costs to develop an Arts and Cultural strategy. The report costed this project at \$60,000 – \$100,000k in 2018 (report to Council I2018/1066).

5 Legal/Statutory/Policy Considerations

A reduced level of service at the Gallery or change to a joint model could have implications on eligibility for future funding.

Financial Considerations

- 10 Option 1: It is anticipated that seeking an appropriate partner organisation would take up to 6 months. For the duration of this time, additional staff resourcing at 2 days per week would be sourced from the existing Community and Cultural Development budget.

*Investment in Arts and Culture (*starred figures based on 2019 expenditure)*

What	Description	\$ Contribution
Direct delivery of services		
Arts Northern Rivers	Annual contribution which provides expert advice, access to research and assistance to develop the arts and cultural sector in the Shire.	\$18,400
Lone Goat Gallery	Strategic, operational and in-kind.	\$57,200 (Gallerist salary) * \$120,000 (in-kind venue space)
Public Art	Public Art Panel <ul style="list-style-type: none"> Council have accumulated (mostly via donations) 27 active or proposed public art pieces and 12 murals Public Art projects (Council initiated, Masterplan projects, DA initiated) Staff also resource policy development, strategy, support for Advisory Panel, etc.	\$16,900 annual operational budget \$5.12 contributions Arts and Culture Officer role and other Council Staff
Safe Summer in the Bay	New Year's Eve and related events and activity	\$125,000 including Council operational expenses*
Community Facilities	10 Community Halls, The Cavanbah Centre, Byron Visitor Centre.	Approx. \$245,000 (from revenue - bookings & activities)*
Enabling Community Arts & Cultural Activities		
Revised Public Art Development	Improved outcomes for public art in new developments	Council In-kind

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Control Plan Chapter D8		
Events	Council's staff provide advice, support and assistance for approximately 34 events in the arts and culture space	Council In-kind
Markets	Council licences monthly community markets	Council In-kind
Placemaking	Masterplanning and grant funded Placemaking projects	Various project funds Council in-kind
Support for arts & cultural events	16 Events supported* Staffing also supports event approvals, waste, technical advice, etc.	\$10,000 Events & Festivals Sponsorship Fund* \$10,000 other events*
Community Initiatives Program (S356)	Support for arts and cultural projects as well as environmental/other projects.	\$44,000 (total amount)
Section 356 support through rental and rates subsidies	23 venues across the shire	Rental subsidies \$30,000* Rates subsidies \$119,488*

Consultation and Engagement

At the March 2021 Lone Goat Gallery Board Meeting, the Board advised that:

- It strongly supports a dedicated Gallery staff member
- It wishes to collaborate with external partners on programming, including with the library, while remaining an independent, dedicated Gallery space.

The Board also noted the significant achievements to date and the benefits professional staffing has brought to the operations and profile of the gallery, now a respected and integral part of the community.

The Board requested interim resourcing for the Gallery to be opened immediately following the proposed May event (hosted by Arts Northern Rivers).

The Board also highlighted community dissatisfaction regarding the extended closure and associated risk for Council if the gallery remains closed.

Significant community consultation occurred during the development of Council's Arts and Culture Policy 2020. Overall, there is strong support for Council supporting arts and culture and acknowledging arts and creativity as both intrinsic to the distinctive identity of Byron and a major asset to the Northern Rivers in terms of wellbeing and economy.

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13.4

A survey conducted for the Arts and Culture Policy demonstrated support for the following statements. Between 78% and 97% of respondents agree or strongly agree that:

- Arts and culture should be integrated across Council's activities
 - Council should support the thriving arts and cultural activity already happening in the Shire
 - Council should work with the community/arts sector to achieve community goals.
 - Council should provide a touch point for community members and the arts sector
 - Council should play a key role in providing infrastructure to support arts and cultural activity such as the community halls, The Cavanbah Centre for example.
- 10 Recommendations from the Arts and Cultural Policy consultation by Arts Northern Rivers included “greater support and promotion of arts and cultural programs across the shire” and, more specifically, “better use of existing facilities” and “a new multipurpose art gallery, museum, performing arts space and cultural centre”.
- 15 Specific consultation on community support for Council investment in the LGG, as opposed to other forms of support for the arts, has not yet been conducted and can occur as part of a broader consultation for the arts and cultural strategy.

Report No. 13.5 Disaster Resilience Projects: procuring community capacity building components

Directorate: Corporate and Community Services

Report Author: Troy Nicholls, Disaster Resilience Officer

5 **File No:** I2021/365

Summary:

10 Council's Disaster Resilience projects (2021-22) include the delivery of community capacity building initiatives. Council is seeking to utilise the evidence-based, *all hazards* approach to building local resilience. Using this approach ensures communities are aware of various natural hazards in Byron Shire and can respond to future emergencies.

15 The budget for delivery of relevant project components is \$235,000 ex GST (\$258,500 inc GST) which triggers a tender process for procurement, as specified in the Local Government Act (1993). However, Australian Red Cross is the only provider with capacity to deliver a local, all hazards approach to disaster risk and preparedness and also deliver across the breadth of outcomes required.

Therefore it is proposed that a tender process would not achieve a satisfactory result and Australian Red Cross could be directly engaged.

20 A resolution is required to this effect in order to align with procurement requirements.

RECOMMENDATION:

25 That pursuant to Section 55(3)(i) of the Local Government Act, 1993, Council enters into a Contract with Australian Red Cross to provide required disaster resilience outcomes.

That the reasons why a satisfactory result would not be achieved by inviting tenders are noted and include:

- 30 a) There is an unavailability of competitive tenderers; and
- b) No other entity can deliver the requirements using all hazards approach to disaster resilience in the Byron Shire.

Report

Council has received combined state and federal funding for resilience initiatives through the Bushfire Community Recovery and Resilience funding phase 1.

Contractual deliverables include, but are not limited to:

- 5 1. Delivery of Strengthening Community Workshops in communities identified as at risk of extreme weather events
2. Delivery of Street Meets in collaboration with community and emergency services targeting communities identified as at risk of extreme weather events
- 10 3. Identification of knowledge gaps and support with delivery of professional development activities for Byron Community Resilience Network members
4. Review of Aboriginal custodianship and caring for country workshops
5. Review of extreme weather protocol for people experiencing homelessness
- 15 6. Additional community capacity building initiatives in local priority communities (i.e. communities impacted by state disaster declarations and/or COVID 19 community recovery initiatives).

In order to deliver these initiatives, Council is required to engage a number of providers.

Key issues

- 20 The budget for delivery of the above project components 1-6 is \$235,000 ex GST (\$258,500 inc GST) which triggers a tender process for procurement, as specified in the Local Government Act (1993). Funds allocated include project and workshop design, delivery, and project management as well as consultation across funded projects.

Pursuant to Section 55(3)(i) of the Local Government Act (1993), staff seek to engage Red Cross directly rather than initiate a tender process to identify a suitable provider.

- 25 Council staff intend to use the evidence-based, *all hazards* approach to building local resilience. Australian Red Cross is the only local provider with capacity to deliver an all hazards approach to disaster risk and preparedness via the Community Resilience Teams (CRT) model to communities at risk of extreme weather.

- 30 The Red Cross CRT model allows for a co-ordinated approach and raises awareness of extreme weather risk, drawing on the expertise of emergency services such as RFS and SES after a community has identified local risks. It is this model, with a tailored, place-based approach, that will support project deliverables and achieve a satisfactory result.

Further, Australian Red Cross also has an established role in all phases of disaster management. Their community preparedness and engagement approach will enhance

community trust and support community uptake of the CRT model. Trust is another determining factor for uptake and success of resilience building activities across Byron Shire. The Red Cross is neutral, known and trusted internationally and is an impartial organisation which will support capacity building initiatives between community, Council and local emergency services.

This recommendation acknowledges that Australian Red Cross is the only organisation able to achieve all project deliverables with a satisfactory result, ensuring that local communities develop an increased awareness across all natural hazards in the Byron Shire and feel confident to take action during future emergencies.

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	2.1	Support and encourage our vibrant culture and creativity	2.1.2	Provide meaningful and inclusive opportunities for volunteering	2.1.2.1	Partner with community organisations to develop coordinated spontaneous volunteering processes
	2.4	Enhance community safety and amenity while respecting our shared values	2.4.1	Provide and facilitate local emergency management	2.4.1.6	Development and delivery of 'Strengthening Community' workshops
					2.4.1.7	Development and delivery Street Meets Workshops
					2.4.1.8	Develop an Extreme Weather Protocol and deliver workshops for people experiencing homelessness

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					2.4.1.10	Develop and deliver Aboriginal Custodianship and Caring for Country workshop
					2.4.1.17	Partner with non-government organisations and other levels of government to respond to issues arising from COVID-19

Legal/Statutory/Policy Considerations

Section 55(3)(i) of the Local Government Act (1993) states that requirements for tendering do not apply to the following contracts:

- 5 (i) a contract where, because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenderers, a council decides by resolution (which states the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders.

Byron Shire Council Procurement Policy (2020) notes key procurement sustainability goals including Section 6.3, Community Economic and Social Wellbeing:

- 10 a) Council's will strive to make purchasing and procurement decisions wherever possible that:
- i) Promote and support the local community and the local economy;
 - ii) Promote positive cultural, economic and/or social outcomes for the community;
 - iii) Promote use of goods or service which demonstrate social responsibility;
- 15 iv) Encourage employment or training opportunities in the local area.

Items 6.3.a) i, ii, iii and v further support Red Cross Emergency Services division being contracted to deliver and provide support across the above deliverables.

Financial Considerations

N/A

20 Consultation and Engagement

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5 Byron Community Resilience Network members noted that COVID 19 and associated restrictions have impacted the capacity of local emergency and community services to deliver community resilience activities. Organisations have experienced a downturn in volunteers and staff stretched across multiple LGAs, e.g. geographic regions from Port Macquarie to Tweed.

The Australian Red Cross has staffing and volunteer capacity to work with the Byron Shire LGA and provide a satisfactory result across all deliverables.

Report No. 13.6 Richmond Tweed Regional Library Services

Directorate: Corporate and Community Services

Report Author: Vanessa Adams, Director Corporate and Community Services

File No: I2021/436

5 Summary:

The Richmond Tweed Regional Library (RTRL) provides library and information services to the Ballina, Byron, Lismore and Tweed local government areas. The services provided are highly valued by the communities.

10 The existing Deed of Agreement, which sets out how the services will operate, comes to an end on 27 November 2021 and needs to be extended to support the investigation of a proposed shift to a cooperative service delivery model.

15 To allow adequate time for consultation and implementation of a new model, it is recommended that all current terms and conditions of the existing DOA be extended to 30 June 2022, plus an option for a further one year to 30 June 2023 in case of need.

20 RECOMMENDATION:

That Council:

1. **Supports an agreement that extends the terms and conditions of the existing Richmond Tweed Regional Library Deed of Agreement to 30 June 2022 with an option to extend to 30 June 2023.**
- 25 2. **Supports the investigation of a cooperative model to deliver agreed regional library services.**
3. **Supports the principle that the Executive Council of a future agreement should not be out of pocket, meaning that all administration and support costs incurred as Executive Council should be recovered from Member Councils via**
30 **their annual contribution.**

Report

The Richmond Tweed Regional Library (RTRL) was created in the 1970s and delivers regional library and information services to the Ballina, Byron, Lismore and Tweed local government areas. There are approximately 115,900 library members and services are delivered from 11 branches, a mobile library that visits villages and rural communities, and via a headquarters facility. The services employ 82 permanent staff who are currently directly employed by Lismore City Council as Executive Council.

RTRL services are highly regarded by the community. Over 40% of the collective community are members with over 1,060,200 people visiting our libraries each year and borrowing in excess of 1,736,700 items.

An independent demographically representative survey conducted when developing the RTRL Strategic Plan showed that 75% of all residents were 'satisfied' or 'very satisfied' with the service.

Executive Council

Lismore City Council is currently the RTRL's Executive Council and has significant responsibilities associated with provision and management of the service in all four local government areas. Undertaking this role has led to it shouldering a greater proportion of cost than has been recovered from partner Councils. While this is being addressed for 21/22 as outlined below, Member Council representatives support the principle that all future administration and support costs incurred by an Executive Council should be reimbursed.

For 2021/22, the indicative shortfall is \$183,567, subject to final figures from Lismore. Acknowledging collective financial pressures and limited ability for Member Councils to absorb this increase, one-off funding has been identified from within RTRL operations and reserves in the draft 2021/22 Budget being prepared for the RTRL Committee.

Deed of Agreement

The operation of the RTRL and the rights and obligations of the Member Councils are detailed in a Deed of Agreement (DOA) between Ballina, Byron, Lismore and Tweed Councils.

The DOA term is four years and this expires on 27 November 2021. The work to establish a co-operative model of service delivery will benefit from consultation, engagement and well planned implementation. This will allow terms and conditions to be reviewed, and all options to deliver agreed regional library services to be explored.

All partner Councils therefore recommend an extension of current terms and conditions to 30 June 2022, plus a further 1-year option to 30 June 2023. Lismore Council has already resolved accordingly and similar reports are being considered by Ballina and Tweed Councils.

Future RTRL Operating Model

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At its 13 November 2020 meeting, the RTRL Committee considered a report on future operating models. In summary, the report recommended that branch staff be employed by Member Councils in a cooperative model. The RTRL Committee resolved to delegate to Member Councils and RTRL staff the further work required to understand the potential implications and feasibility.

If adopted, this model would include service level agreements, which clearly state the services to be provided to each Member Council, along with costs and which would act to ensure that the Executive Council is not disadvantaged.

Member Council representatives have met to progress the Committee's resolution. The cooperative model is being actively investigated and progress will be reported regularly to the RTRL Committee and Member Councils as decision milestones are reached.

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	2.3.3	Provide high quality library services (SP)	2.3.3.1	Complete RTRL Staffing Review and Long Term Financial Plan

Financial Considerations

There are no financial implications associated with this report.

Consultation and Engagement

RTRL Committee, General Managers of all partner Councils

**Report No. 13.7 Section 355 Management Committees -
resignations and appointments update**

Directorate: Corporate and Community Services

Report Author: Lisa Brennan, EA Corporate and Community Services

5 **File No:** I2021/472

Summary:

This report updates Council on recent resignations, proposed appointments and advertising for new membership on several Committees.

RECOMMENDATION:

1. **That the nominee in Confidential Attachment 1 (E2021/51242) be appointed to the Bangalow Parks Trust Management Committee.**
2. **That Council acknowledges the passing of Jan Hulbert and her valued years of service to the Bangalow community.**
3. **That the nominee in Confidential Attachment 2 (E2021/52858) be appointed to the South Golden Beach Hall Management Committee.**
4. **That the resignation of Philip Channells from the Brunswick Heads Memorial Hall Management Committee be accepted and that a letter of thanks be provided.**
5. **That Council advertises for additional membership on the Ocean Shores Community Centre, South Golden Beach Hall and Suffolk Park Community Hall Management Committees.**
6. **That the resignation from Michelle Chapman from the Suffolk Park Community Hall be accepted and that a letter of thanks be provided.**

10 **.Attachments:**

- 1 Confidential - Committee Nomination Form Bangalow Parks Trust, E2021/51242
- 2 Confidential - Committee Nomination Form South Golden Beach Hall, E2021/52858

15

Report

This report updates Council on recent resignations, proposed appointments and advertising for new membership on several Committees, as follows.

Bangalow Parks Trust

- 5 In March 2020 the Bookings Officer for the Bangalow Parks Trust resigned and was replaced. At the time a nomination form was not completed by the new Bookings Officer. The Committee is requesting that he remain as Bookings Officer and be officially appointed to the Committee.
- 10 Jan Hulbert, a long serving member (and President) of this Committee, representing both the Bangalow Show Society and the Bangalow Sports Association, passed away in March 2021. Jan was a very well-known and respected member of the Bangalow community and as a volunteer had given many valuable years of service to her community, representing a variety of community issues.

Management Recommendation

- 15 That the applicant as listed in Attachment 1 be officially appointed to the Bangalow Parks Trust Management Committee.

That Council acknowledges the passing of Jan Hulbert and her valued years of service to the Bangalow community.

Brunswick Heads Memorial Hall

- 20 A resignation has been received from Philip Channells from the Brunswick Heads Management Committee.

- The current membership on this Management Committee is nine, which is the recommended number as per the "Section 355 Management Committees and Boards – Guidelines". The Committee has indicated that current numbers are sufficient and that it
- 25 does not wish to advertise for additional members.

Management Recommendation

That the resignation of Philip Channells from the Brunswick Heads Memorial Hall Management Committee be accepted and that a letter of thanks be provided.

Ocean Shores Community Centre

- 30 Following the reopening of the refurbished Ocean Shores Community Centre the Committee would welcome new members to generate renewed interest in the Centre.

Management Recommendation:

That Council advertises for additional membership on the Ocean Shores Community Centre Management Committee.

South Golden Beach Hall

- 5 In February 2021 Council appointed two new members to this Committee. Regardless of this, membership numbers remain low and the Committee has requested that Council advertises for new members. The Committee has been active in seeking new members, and a nomination form has been received at Council for membership of this committee.

Management Recommendation:

- 10 That the applicant as listed in Attachment 2 be appointed, and that Council advertises for additional membership on the South Golden Beach Hall Management Committee.

Suffolk Park Community Hall

The Treasurer of the Suffolk Park Community Hall has resigned, and the Management Committee has requested that Council advertises for new members, in particular a Secretary and a Treasurer.

- 15 *Management Recommendation:*

That Council advertises for additional members, including a Secretary and Treasurer, on the Suffolk Park Community Hall Management Committee.

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	Building assets managed to support the provision of services to the community.
Community Objective 2: We cultivate and celebrate our	2.3	Provide accessible, local community	2.3.2	Support effective management of community	2.3.2.2	Review community building management

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
diverse cultures, lifestyle and sense of community		spaces and facilities		buildings (SP)		models to maximise effective operation

Legal/Statutory/Policy Considerations

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

3.2 Committee Membership

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

- 15 *Whilst no particular qualifications are necessary (not withstanding 3.1.a), a commitment to the activities of the Committee and a willingness to be actively involved in Committee issues is essential. Committees work best when the workload is shared amongst committee members and there is evident goodwill and cooperation amongst members.*

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

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

Financial Considerations

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

Consultation and Engagement

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

Report No. 13.8 Grants and Submissions April 2021

Directorate: Corporate and Community Services

Report Author: Donna Johnston, Grants Coordinator

File No: I2021/543

5 **Summary:**

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

10

RECOMMENDATION:

That Council notes the report and Attachment 1 (E2021/50937) for Byron Shire Council's Submissions and Grants as at 29 March 2021.

15 **Attachments:**

1 Grant submissions - March 2021, E2021/50937 

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Report

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

Successful applications

- 5 Since the last report Council was successful in obtaining a combined \$356,725 as a result of the following successful applications:

Funding body	Funding scheme	Project name	Total project value \$	Amount requested \$
Department of Planning, Industry and Environment	Everyone Can Play	Gaggin Park Accessibility Modifications	\$210,000	\$75,000
NSW Department Planning, Industry & Environment	Coastal and Estuary Grants Program	New Brighton Sand Dune Protection Project	\$18,000	\$9,000
NSW Department Planning, Industry & Environment	Cleanup & Prevention Program	Combating Illegal Dumping	\$250,500	\$119,000
Create NSW	Showground Stimulus Funding - Phase 2	Stage 2 Rotunda Redevelopment	\$153,725	\$153,725

Unsuccessful applications

None advised.

Applications submitted

Six grant applications were submitted in March including:

- 10
1. Building Better Regions – Bioenergy Byron
 2. Building Better Regions – Sandhills Wetlands
 3. NSW Public Spaces Legacy – project nomination – Sandhills Wetlands
 4. Floodplain Management Grant – Federation Bridge Debris Deflector
 5. Floodplain Management Grant – North Byron Overland Flow Study

6. Floodplain Management Grant – Preferred Byron Drainage Strategy (Phase 1 Design)

Upcoming grant opportunities

- 5 Upcoming potential grant programmes includes Stronger Country Communities (open in May) and Fixing Country Roads Round 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	5.6	Manage Council's resources sustainably	5.6.12	Implement strategic grants management systems to deliver priority projects for Byron's community (SP)	5.6.12.2	Provide governance for grants management

Legal/Statutory/Policy Considerations

- 10 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

- 15 If Council is successful in obtaining the identified grants, approximately \$61.5 million would be achieved which would provide significant funding for Council projects. Some of the grants require a contribution from Council (either cash or in-kind) and others do not. Council's contribution is funded.

The potential funding and allocation is detailed below:

20	Requested funds from funding bodies	\$45,533,150
	Council Contribution Cash	\$15,696,920
	Council Contribution In-Kind	\$131,500

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Other contributions	\$228,809
Funding applications submitted and awaiting notification (total project value)	\$61,458,879

Consultation and Engagement

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

Report No. 13.9 Council Investments - 1 March 2021 to 31 March 2021

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

5 **File No:** I2021/563

Summary:

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

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

RECOMMENDATION:

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

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Report

Council has continued to maintain a diversified portfolio of investments. At 31 March 2021, the average 90 day bank bill rate (BBSW) for the month of March 2021 was 0.0334%. Council's performance to 31 March 2021 was 0.74%. This is largely due to the active ongoing management of the investment portfolio, maximising investment returns through secure term deposits, bonds and purchasing floating rate notes with attractive interest rates. It should be noted that as investments mature, Council's investment return may continue to decrease due to the lower rates available in the current market.

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

Schedule of Investments held as at 31 March 2021

Purch Date	Principal (\$)	Description	CP *	Rating	Maturity Date	No Fossil Fuel	Type	Interest Rate Per Annum	Current Value
24/03/17	1,000,000	NAB Social Bond (Gender Equality)	Y	AA-	24/03/22	N	B	3.25%	1,046,700.00
15/11/18	980,060	NSW Treasury Corp (Green Bond)	N	AAA	15/11/28	Y	B	3.00%	1,164,520.00
20/11/18	1,018,290	QLD Treasury Corp (Green Bond)	N	AA+	22/03/24	Y	B	3.00%	1,090,260.00
28/03/19	1,000,000	National Housing Finance & Investment Corporation	Y	AAA	28/03/31	Y	B	2.38%	1,113,250.00
21/11/19	1,000,250	NSW Treasury Corp (Sustainability Bond)	N	AAA	20/03/25	Y	B	1.25%	1,038,420.00
27/11/19	500,000	National Housing Finance & Investment Social Bond	Y	AAA	27/05/30	Y	B	1.57%	560,612.50
31/03/17	1,000,000	CBA Climate Bond	Y	AA-	31/03/22	N	FRN	1.02%	1,010,430.00
16/11/17	750,000	Bank of Queensland	Y	BBB+	16/11/21	N	FRN	1.12%	755,557.50

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Purch Date	Principal (\$)	Description	CP *	Rating	Maturity Date	No Fossil Fuel	Type	Interest Rate Per Annum	Current Value
30/08/18	500,000	Bank Australia Ltd (Sustainability Bond)	Y	BBB+	30/08/21	Y	FRN	1.39%	502,540.00
24/07/20	2,000,000	Bank of Queensland	N	BBB+	19/07/21	N	TD	0.90%	2,000,000.00
30/07/20	1,000,000	Judo Bank	Y	NR	30/07/21	N	TD	1.25%	1,000,000.00
03/08/20	1,000,000	NAB	N	AA-	03/08/21	N	TD	0.85%	1,000,000.00
19/08/20	2,000,000	NAB	N	AA-	19/08/21	N	TD	0.80%	2,000,000.00
26/08/20	1,000,000	AMP Bank	Y	BBB	26/08/21	N	TD	0.80%	1,000,000.00
02/09/20	1,000,000	Bank of Queensland	N	BBB+	01/09/21	N	TD	0.78%	1,000,000.00
02/09/20	1,000,000	NAB	N	AA-	02/09/21	N	TD	0.75%	1,000,000.00
24/09/20	2,000,000	NAB	N	AA-	24/09/21	N	TD	0.65%	2,000,000.00
30/09/20	1,000,000	Bank of Queensland	N	BBB+	30/09/21	N	TD	0.65%	1,000,000.00
30/09/20	2,000,000	CBA Green Deposit	N	AA-	30/09/21	N	TD	0.70%	2,000,000.00
07/10/20	2,000,000	MyState Bank Limited	Y	NR	07/10/21	Y	TD	0.70%	2,000,000.00
13/10/20	1,000,000	The Mutual Bank	Y	NR	13/04/21	Y	TD	0.60%	1,000,000.00
04/11/20	1,000,001	AMP Bank	N	BBB	05/05/21	N	TD	0.55%	1,000,001.00

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Purch Date	Principal (\$)	Description	CP *	Rating	Maturity Date	No Fossil Fuel	Type	Interest Rate Per Annum	Current Value
									0
04/11/20	2,000,000	NAB	N	AA-	04/11/21	N	TD	0.55%	2,000,000.00
09/11/20	1,000,000	Community First Credit Union	Y	NR	09/11/21	Y	TD	0.65%	1,000,000.00
09/11/20	1,000,000	The Mutual Bank	N	NR	09/08/21	Y	TD	0.65%	1,000,000.00
23/11/20	1,000,000	AMP Bank	N	BBB	23/11/21	N	TD	0.75%	1,000,000.00
24/11/20	1,000,000	Judo Bank	N	NR	24/11/21	Y	TD	0.84%	1,000,000.00
25/11/20	2,000,000	AMP Bank	N	BBB	26/05/21	Y	TD	0.70%	2,000,000.00
26/11/20	1,000,000	Community First Credit Union	N	NR	26/11/21	Y	TD	0.65%	1,000,000.00
26/11/20	1,000,000	Macquarie Bank	Y	A	22/10/21	N	TD	0.50%	1,000,000.00
01/12/20	1,000,000	AMP Bank	N	BBB	01/06/21	N	TD	0.70%	1,000,000.00
07/12/20	2,000,000	Credit Union Australia	Y	BBB	07/06/21	Y	TD	0.45%	2,000,000.00
17/12/20	2,000,000	NAB	N	AA-	17/12/21	N	TD	0.50%	2,000,000.00
05/01/21	2,000,000	NAB	N	AA-	05/01/22	N	TD	0.45%	2,000,000.00
05/01/21	1,000,000	Judo Bank	N	NR	06/07/21	Y	TD	0.55%	1,000,000.00

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Purch Date	Principal (\$)	Description	CP *	Rating	Maturity Date	No Fossil Fuel	Type	Interest Rate Per Annum	Current Value
20/01/21	1,000,000	Westpac (Tailored)	Y	AA-	20/01/22	N	TD	0.38%	1,000,000.00
27/01/21	1,000,000	The Mutual Bank	N	NR	27/01/22	Y	TD	0.50%	1,000,000.00
29/01/21	1,000,000	ME Bank	Y	BBB	31/01/22	Y	TD	0.45%	1,000,000.00
01/02/21	2,000,000	Suncorp	Y	A+	03/08/21	Y	TD	0.35%	2,000,000.00
01/02/21	1,000,000	B & E Ltd (Bank of Us)	Y	NR	03/08/21	Y	TD	0.40%	1,000,000.00
03/02/21	1,000,000	NAB	N	AA-	02/08/21	N	TD	0.40%	1,000,000.00
10/03/21	1,000,000	86400	Y	NR	09/06/21	Y	TD	0.65%	1,000,000.00
N/A	14,071,743.13	CBA Business Saver	N	AA-	N/A	N	CALL	0.20%	14,071,743.13
N/A	2,112,161.04	CBA Business Saver – Tourism Infrastructure Grant	N	AA-	N/A	N	CALL	0.20%	2,112,161.04
N/A	2,112,937.81	NSW Treasury Corp	N	AAA	N/A	Y	CALL	0.01%	2,112,937.81
Total	70,045,442.98						AVG	0.74%	70,579,132.98

Note 1. CP = Capital protection on maturity

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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.

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Environmental and Socially Responsible Investing (ESRI)

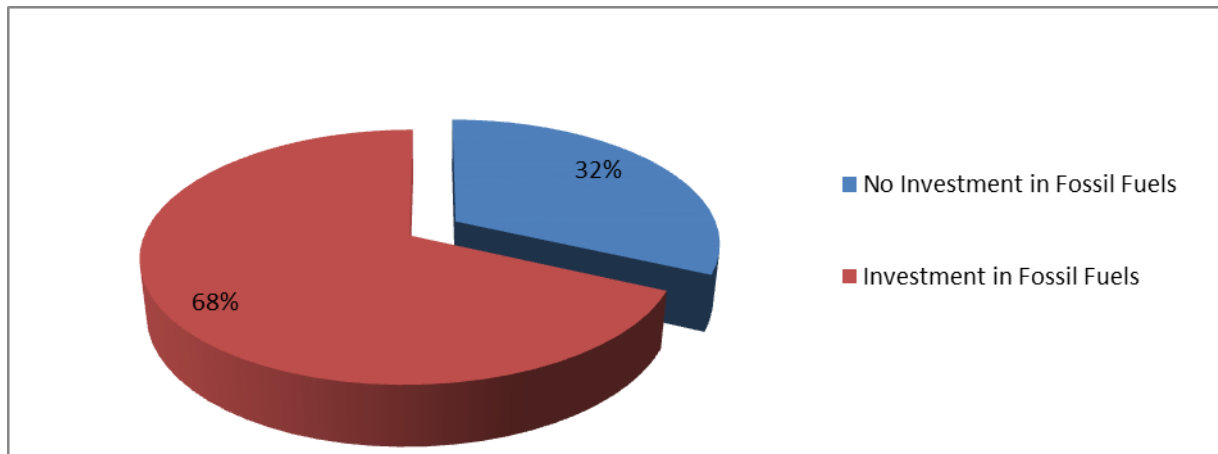
An additional column has been added to the schedule of Investments to identify if the financial institution holding the Council investment has been assessed as a 'No Fossil Fuel' investing institution. This information has been sourced through

- 5 www.marketforces.org.au and identifies financial institutions that either invest in fossil fuel related industries or do not. The graph below highlights the percentage of each classification across Council's total investment portfolio in respect of fossil fuels only.

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

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

- 15 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.
- 20 3. \$2,000,000 investment with Commonwealth Bank maturing on 30 September 2021 known as a Green Deposit.



Investment Policy Compliance

Investment policy compliance					
% per institution should not exceed the following				ACTUAL	Variance
AAA to AA	A1+	100%		61.10%	Meets policy
A+ to A-	A1	60%		1.43%	Meets policy
BBB to NR	A2.NR	40%		37.48%	Meets policy

- 25 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

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designed to support prudent short and long-term management of credit risk and ensure diversification of the investment portfolio. Note that the financial institutions currently offering investments in the 'ethical' area are still mainly those with lower credit ratings (being either BBB or not rated at all i.e. credit unions).

5 Associated Risk

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

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

Dissection of Council Investment Portfolio as at 31 March 2021

Principal Value (\$)	Investment Linked to:	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
44,000,001.00	Term Deposits	44,000,001.00	0.00
2,250,000.00	Floating Rate Note	2,268,527.50	18,527.50
14,071,743.13	CBA Business Saver	14,071,743.13	0.00
2,112,161.04	CBA Business Saver – Tourism Infrastructure Grant	2,112,161.04	0.00
2,112,937.81	NSW Treasury Corp	2,112,937.81	0.00
5,498,600.00	Bonds	6,013,762.50	515,162.50
70,045,442.98		70,579,132.98	533,690.00

- 15 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 March 2021 to 31 March 2021 on a current market value basis.

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Movement in Investment Portfolio – 31 March 2021

Item	Current Market Value (at end of month) \$
Opening Balance at 1 March 2021	66,748,304.67
Add: New Investments Purchased	1,000,000.00
Add: Call Account Additions	6,000,000.00
Add: Tourism Call Account Additions	0.00
Add: Call Account Interest	2,356.99
Add: Tourism Call Account Interest	394.41
Add: T Corp Additions	0.00
Add: T Corp Interest	22.61
Less: Call Account Redemption	1,000,000.00
Less: Investments Matured	0.00
Less: Tourism Call Account Redemption	2,171,945.70
Less: T Corp Redemption	0.00
Plus: Fair Value Movement for period	0.00
Closing Balance at 31 March 2021	70,579,132.98

- 5 Council's overall 'cash position' is not only measured by funds invested but also by the funds retained in its consolidated fund or bank account for operational purposes. In this regard, for the month of March 2021 the table below identifies Council's overall cash position as follows:

Dissection of Council's Cash Position as at 31 March 2021

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Investments Portfolio			
Term Deposits	44,000,001.00	44,000,001.00	0.00
Floating Rate Note	2,250,000.00	2,268,527.50	18,527.50
CBA Business Saver	14,071,743.13	14,071,743.13	0.00

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Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
CBA Business Saver – Tourism Infrastructure Grant	2,112,161.04	2,112,161.04	0.00
NSW Treasury Corp	2,112,937.81	2,112,937.81	0.00
Bonds	5,498,600.00	6,013,762.50	515,162.50
Total Investment Portfolio	70,045,442.98	70,579,132.98	533,690.00
Cash at Bank			
Consolidated Fund	2,835,035.89	2,835,035.89	0.00
Total Cash at Bank	2,835,035.89	2,835,035.89	0.00
Total Cash Position	72,880,478.87	73,414,168.87	533,690.00

STRATEGIC CONSIDERATIONS

Community Strategic Plan and Operational Plan

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

Legal/Statutory/Policy Considerations

- 5 In accordance with Regulation 212 of the *Local Government (General) Regulation 2005*, the Responsible Accounting Officer of Council must provide Council with a monthly report detailing all monies it has invested under section 625 of the *Local Government Act 1993*.

- 10 The Report must be presented at the next Ordinary Meeting of Council after the end of the month being reported. The current Council Meeting cycle does not always allow this to occur, especially as investment valuations required for the preparation of the report are often received after the deadline for the submission of reports. Endeavours are being made to achieve a better alignment and for some months this will require reporting for one or more months.

- 15 Council's investments are made in accordance with section 625(2) of the *Local Government Act 1993* and Council's Investment Policy. The *Local Government Act 1993* allows Council to invest money as per the Minister's Order – Forms of Investment, last published in the Government Gazette on 11 March 2011.

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

Financial Considerations

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

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Report No. 13.10 Adoption of Byron Shire Council Agriculture Action Plan

Directorate: Sustainable Environment and Economy

5 **Report Author:** Peter Boyd, Project Officer - Environmental Projects

File No: I2021/461

Summary:

10 This report is seeking Council's adoption of the Byron Shire Council Agriculture Action Plan. This revised draft of the plan includes recommended amendments from the 3 September 2020 Strategic Planning Workshop.

The revised plan has been further reviewed by, and has the support of the Agricultural Cluster Group.

15

RECOMMENDATION:

That Council adopts the Byron Shire Council Agriculture Action Plan 2020-2025 (Attachment 1 – E2020/88580).

20 **Attachments:**

1 Byron Shire Council Agriculture Action Plan 2020-2025, E2020/88580 

Report

The first draft of the Agriculture Action Plan was presented to Council in December 2019 [Report No. 13.26 Byron Shire Council Agricultural Action Plan Update](#) which resulted in Resolution 19-693, that staff conduct a workshop to review the Agricultural Action Plan with Councillors for adoption by Council.

The plan was presented to councillors at the 3 September 2020 Strategic Planning Workshop. Councillors recommended a number of amendments which were incorporated into the revised plan.

The Agriculture Cluster Group was consulted on behalf of the farming community, with regard to the revised Agriculture Action Plan at the 27 November 2020 meeting. The Agriculture Cluster Group support the revised plan with no amendments requested.

The revised Agriculture Action Plan is presented to Council for adoption.

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	3.4	Support and secure our farming future	3.4.1	Develop and implement strategies to support agriculture, agri-business and farmers	3.4.1.1	Finalise and commence implementation of the Agriculture Action Plan

Recent Resolutions

- 19-693

Financial Considerations

Not applicable.

Consultation and Engagement

Council was consulted at the 3 September 2020 SPW which resulted in the revision of a number of points in the plan.

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The Agricultural Cluster Group was consulted on behalf of the Byron Shire farming community to review and comment on the revised draft plan. The Agriculture Cluster group made no further amendments to the revised plan and support its adoption.

- 5 See [Notice of Motion No. 9.3 Assistance for Landowners in Rural](#) for further information on the work that Council's Agricultural Extension Officer is currently involved in with rural landowners.

Report No. 13.11 Electricity Procurement Expression of Interest

Directorate: Sustainable Environment and Economy

Report Author: Julia Curry, Sustainability and Emissions Reduction Officer
Fernanda Garcia, Strategic Procurement Coordinator

File No: I2021/535

Summary:

Byron Shire Council has adopted a Net Zero Emissions Target by 2025. Part of Council's Strategy to achieve this goal is to investigate the development of a 5 MW Solar Farm and a 0.5MW Bioenergy Facility. An electricity contract is required to provide the best value for money and the highest reduction in emissions for Council Operations.

Council's retail electricity supply contract (large sites, small sites and street lighting) was due for review and renewal at the end of the 2020 calendar year. This triggered an investigation into whether or not Council could procure a new retail electricity supply contract inclusive of potential energy generation from a solar farm and/or bioenergy facility. As a result, Council extended the current retail electricity supply contract to 31 December 2021 to allow time to conduct this expression of interest (EOI) process.

The EOI was advertised from 17 August 2020 to 11 September 2020 and sought responses from licensed electricity retailers and power plant off-takers to partake in retail services and/or generation offtake of a solar farm and bioenergy facility. The number of EOI respondents for this activity was sufficient, however the content of each response was lacking in detail. They inferred that it would be unlikely for Council to receive quality responses prior to the completion of certain stages of the renewable energy projects, including approval from Essential Energy and developmental application approval.

For this reason, the Tender Evaluation Panel is recommending that all EOI submissions are rejected and an open tender is conducted in the future, once both projects are mature enough to obtain adequate responses from retailers. This report summarises this decision.

The results of this EOI have been incorporated into the updated business case for the Dingo Lane Solar Farm project and will contribute to the feasibility stage of the Bioenergy Facility.

In regards to Council's retail electricity supply contract, it is recommended that this contract be tendered separately from the solar farm and bioenergy projects, for a new term of 24 months (1 January 2022 to 31 December 2023) to achieve best value for money, and provide time for the projects to advance, before reconsidering integration options.

RECOMMENDATION:

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1. That Council notes the report and decline to accept any tenders for the Electricity Expression of Interest under section 178(1)(b) of the Local Government (General) Regulation 2005.
- 5 2. That Council endorses the procurement strategy for the retail electricity supply contract outlined in this report and delegate authority to the General Manager to accept the tenders, as provided for under Section 377 of the Local Government Act 1993.
- 10 3. That Council approves the use of the budget previously allocated for Stage 2 of the EOI (request for selective tender) \$28,000 to fund the procurement activity for the retail electricity open tender.
4. That Council reserves \$28,000 available in the 2020/2021 financial year to the Revolving Energy Fund Reserve to fund recommendation 3 and this be incorporated into the Draft 2021/2022 Budget.
- 15 5. That Council makes public its decision in accordance with Clause 179(b) of the Local Government (General) Regulation 2005.

Attachments:

- 20 1 Confidential - 2019-0012 EOI - Evaluation Report (4 Nov-2020), E2021/28857

Report

Byron Shire Council has adopted a Net Zero Emissions Target by 2025. To help achieve this goal Council is considering developing a 5 MW Solar Farm and a 0.5MW Bioenergy Facility. An electricity contract is required to provide the best value for money for any electricity off-take and highest reduction in emissions to Council from the projects.

On 13 August 2020, the General Manager, under delegated authority, approved the use of the expression of interest (EOI) to call for expressions of interest for Contract 2020-0012 Multistage Procurement Process – Electricity Contract.

Council's three electricity supply contracts (large sites, small sites and street lighting) with its current energy retailer were due to end on 31 December 2020. Council therefore was required to procure new supply contract for the period 1 January 2021 till 31 December 2023.

Under normal circumstances this would have been done through an aggregated tender process run by a procurement provider in partnership with a pool of other Council's. However due to Council's current investigations into a 5 MW solar farm and a 0.5 MW bioenergy facility, an EOI was approved to invite submissions to combine the electricity retailing of one, two or all portions. To allow time for this EOI, the current electricity supply contract was extended to 31 December 2021.

The EOI sought responses from proponents regarding capability and preparedness of licensed electricity retailers and power plant off-takers to partake in retail services of Council's large and small electricity sites and/or generation offtake of a 5 MW Solar Farm at Dingo Lane and a 0.5 MW Bioenergy facility behind the meter at the West Byron Sewage treatment plant.

The EOI is not seeking a contract for the required services at this stage.

EOI was advertised as follows:

TenderLink online platform: 17/08/20 – 11/09/2020

Council website: 17/08/20 – 11/09/2020

An Evaluation Panel comprising of two Council Officers was formed. The contracted Project Manager for Dingo Lane Solar Farm and a Consultant from Savvy Plus Consulting were also members of the panel, and a staff member from Procurement Australasia acted as the panel's Chair (did not evaluate).

The EOI closed on 11 September 2020 and submissions were received from six proponents.

Submissions were evaluated by the Evaluation Panel in accordance with the following evaluation criteria:

- compliance to the EOI requirements,

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- purchase output from large scale solar generation from the Council (PPA/Netting),
- Provide Retail services to the sewage treatment plant and purchase the trading services of the proposed bioenergy plant,
- Retail services for large and small sites/Netting agreement (except for the sewage treatment plant).

Submissions have been assessed in accordance with the provisions of the Local Government (General) Regulations 2005.

For further details please see the Evaluation Report (Attachment 1 - confidential).

The responses were considered limited as only 2 of the 6 respondents included clear financial pricing for the generation offtake of Dingo Lane Solar Farm PPA and the Bioenergy Facility.

Following the evaluation, the Evaluation Panel did not undertake referee and financial checks on the preferred suppliers as the information provided in the EOI responses was considered insufficient, despite a request for additional information.

Options for EOI

In terms of moving forward with the electrical contracts the following options were considered and presented to the Executive Team for decision:

1. Establish a panel from the EOI respondents and when project appropriate undertake a selective tender process,
2. Establish a shortlisted panel from the EOI and when project appropriate undertake a selective tender,
3. Reject all respondents and when project appropriate call for open price tenders,
4. Establish a panel from the EOI respondents and for the General Manager delegate how the panel best be incorporated into any future tender,
5. Council negotiate directly with all respondents.

The Executive Team supported Option 3 – Reject all respondents and when project appropriate call for open price tenders,

Retail Electricity Contract

The current retail electricity supply contract expires 31 December 2021. Since the EOI was unsuccessful in obtaining sufficient information to progress with an incorporated model, it is recommended that this contract be uncoupled from the Solar Farm and Bioenergy projects for now, and progress an open tender to secure a contract from 1 January 2022 to 31 December 2023.

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Council has a number of requirements that any electricity retailer will need to be able to fulfil if they want to secure Council's contract. Most importantly, the retailer will need to fulfil Council's existing business requirements, including:

- Provide continuity of electricity supply for essential community services
- 5 • Support Council's continued use of Planet Footprint for emissions monitoring and reporting
- Provide exceptional customer service and be responsive to Council's needs
- Provide invoices in both electronic and paper format

10 In addition to the mandatory business requirements, the electricity retailer will also need to be able to support Council in moving towards a low carbon/zero emissions future. This will include the ability for Council to purchase Green Power as well as enable local electricity trading. Council will also be expecting the successful retailer to provide only a minimal, or no, penalty for decreased electricity use over the term of the contract.

15 It is proposed that the procurement will be carried out by a third party with the required expertise in both the electricity market and procurement. Outsourcing the procurement to a third party will significantly decrease the probity risks caused by potential or actual conflicts of interest of staff and the elected Council.

The role of the electricity procurement consultant will be to lead and coordinate the procurement process on behalf of Council.

20 **Acceptance of tenders**

Due to the volatility of the electricity market, tender validity periods are generally very short. The tender validity period refers to the time within which a tender must be accepted after tenders close. Once the tender validity period expires, the offer lapses.

25 Electricity tenders typically have a tender validity period of only a few days (often only 72 hours). This means that it is not feasible to have the elected Council consider the tender results at a Council meeting. It is recommended that Council delegate the acceptance of tenders to the General Manager in accordance with Section 377 of the Local Government Act 1993.

Next Steps

30 It is recommended by the evaluation panel that all EOI submissions be rejected, and subsequent, open tenders are undertaken at the appropriate time for the Dingo Lane Solar Farm, Bioenergy Plant and Council's retail contract which currently expires 31 December 2021.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 1: We have infrastructure, transport and services which meet our expectations	1.4	Provide a regular and acceptable waste and recycling service	1.4.4	Ensure facilities and services meet statutory requirements	1.4.4.5	Dingo Lane, Myocum Solar Farm Project
Community Objective 3: We protect and enhance our natural environment	3.2	Strive to become a sustainable community	3.2.1	Work towards Council's zero-emissions target	3.2.1.1	Deliver the Net Zero Emissions Action Plan for Council Operations 2025

Recent Resolutions

- 19-590

5 Legal/Statutory/Policy Considerations

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

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

Local Government (General) Regulation 2005 - Reg 178

Acceptance of tenders

178 Acceptance of tenders

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

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

Financial Considerations

The engagement and management of the Consultant to undertake the EOI on behalf of Council committed Council to an expenditure of approximately of \$39,000.

- Additional budget was allocated for the second stage of the EOI process, the selective tender, of approximately \$28,000 which will not be required if Council accept the recommendation to reject all EOI submissions. These funds can be re-allocated to the procurement expenses for the retail electricity supply contract which will occur in the new financial year.

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If Council is supportive of the recommendation, it is suggested that Council reserve any unexpended budget from the 2020-2021 financial year in the Revolving Energy Fund Reserve for holding purposes and include the \$28,000 in the Draft 2021-2022 Budget funded from the Revolving Energy Fund Reserve.

Report No. 13.12 Update on the development of Coastal Management Programs (CMPs) for the Byron Shire Coastline

Directorate: Sustainable Environment and Economy

5 **Report Author:** Chloe Dowsett, Coastal and Biodiversity Coordinator
Orla Seccull, Coastal & Estuary Officer

File No: I2021/554

Summary:

10 Council has commenced preparation of Coastal Management Programs (CMPs) for its coastline. The CMPs will set out long-term strategy for the coordinated management of the coastal zone by Council and public authorities and will consolidate the funding and delivery of priority management actions to balance the environmental, cultural, recreational and economic needs of the coastal zone and to adapt to emerging issues such as population growth and climate change. Preparation of CMPs is a five-stage process which can take
15 several years to complete.

The CMP five stage process was created by legislative reforms in 2016, though the legislation was not fully enacted until 2018. At the time it was expected that the new process would enable a Council to work through the five stages in up to 3 years, with certified CZMPs requiring to be transitioned into CMPs by December 2021. Council
20 embarked on the development of a CMP for the Northern Shire in 2018 and Southern Shire in 2020. In this time Council has only progressed through Stage 1 and into Stage 2 for part of the Shire coastline.

Council has so far:

- 25 • Adopted Stage 1 (Scoping Study) for the (Northern Shire) [Cape Byron to South Golden Beach CMP](#) (June 2020). Commenced Stage 2 studies identified in the Scoping Study to confirm current knowledge on key issues and concerns and to fill information gaps including a Coastal Hazard Assessment - review and update and planning for the Main Beach Shoreline Project.
- 30 • Commenced Stage 1 (Scoping Study) for the (Southern Shire) Cape Byron to Seven Mile Beach (including Ti-Tree and Tallow Lakes, Belongil Creek and their catchments). The Scoping Study is approximately 75% complete, expected to be in draft form for public comment by mid-year, 2021.
- Not yet commenced a Stage 1 Scoping Study for the Brunswick River estuary, i.e. the remaining coastal area of the Shire as a future priority.
- 35 Pending the outcome of the current studies, Council will consider whether to prepare a CMP for the entire coastal zone, or whether to prepare two or more CMPs. Byron Shire Council is one of 52 councils preparing CMPs for their coastal zones. In total, there are 47

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CMPs currently being prepared across the NSW coastline with **only three CMPs certified** to date (i.e. Stockton, Lake Illawarra and Lake Ainsworth).

For a small coastal council we have a large coastline with high coastal risks to manage and a CMP is necessary to manage current and emerging issues.

- 5 There are several key issues being encountered which are affecting councils in progressing their CMPs, predominantly on timing and insufficient guidance/information.

10 This report to Council provides an update on the coastal planning process, the status of the development of CMPs for the Byron Shire coastline and the key issues being encountered.

RECOMMENDATION:

That Council:

- 15 1. **Writes to the Department of Planning, Industry and Environment and the Coastal Council to request a meeting to discuss how the Coastal Management Process could be improved, timeframes shortened and the development of a Coastal Management Program (“CMP”) for Byron Shire resourced more effectively.**
- 20 2. **Notes that the draft Scoping Study for the Southern Shire - Cape Byron to Seven Mile Beach including the Belongil Creek estuary will be sent to state agencies for their review as required by the CMP process and a copy placed on the web for public feedback.**

25

Coastal Planning in Byron Shire

Belongil Beach has been designated by the NSW Government as a coastal erosion hot spot. This is where five or more houses and/or a public road are located in a current (or immediate) coastal hazard area, as identified in a coastal hazard study.

- 5 Byron Shire has a long history of coastal planning due to its exposure to complex and dynamic coastal processes and the coastline's geological history. Due to Byron's location, particularly the position of Cape Byron as Australia's most easterly point and our north facing beaches, the processes such as erosion and recession are occurring at a significant rate.
- 10 Our coastline has endured a long history of large coastal storms and coastal erosion that have had a significant impact on our coastline. The 1970s was an intense, stormy period that resulted in the rapid landward movement of the shoreline at key locations and the loss of several houses to coastal erosion. After this intense stormy period a major comprehensive assessment in 1978 advocated the need for a coastal management plan to
- 15 decrease the piecemeal and non-strategic attempts at protection works along the coastline.

- In 1988 Council adopted the Byron LEP DCP which includes Part J that relates to development on coastal lands. This marked the beginning of Council's development control on coastal lands in accordance with a policy of relocation or 'planned retreat' as it is known locally. Despite Council's coastal hazard management planning approach, no long-term coastal management plan has been approved or certified by the Minister, notwithstanding four attempts to be implemented by Council for the Byron Bay Embayment. The most recent attempt was Council's submission of a draft CZMP for the eastern precincts of the Byron Bay Embayment in 2018. Legal conflict has affected the coastal planning process and similarly, legislative change has rendered Councils coastal management planning process at that time redundant.

- Following the commencement of the NSW Government's Coastal Management Framework in 2018, Council commenced preparation of Coastal Management Programs (CMPs) for its coastline under the legislated process including the *Coastal Management Act 2016*, *SEPP (Coastal Management) 2018* and the Coastal Management Manual (OEH, 2018).

Coastal Management Program Overview

- Development of CMPs is partially funded by the NSW Department of Planning, Industry and Environment (DPIE). CMPs set out the long-term strategy for the coordinated management of the coastal zone by council, public authorities, land managers and the community. CMPs will consolidate the funding and delivery of priority management actions to balance the environmental, cultural, recreational and economic needs of the coastal zone and to adapt to emerging issues such as population growth and climate change.

- The development of a CMP is a staged process comprising five stages as per the figure below.

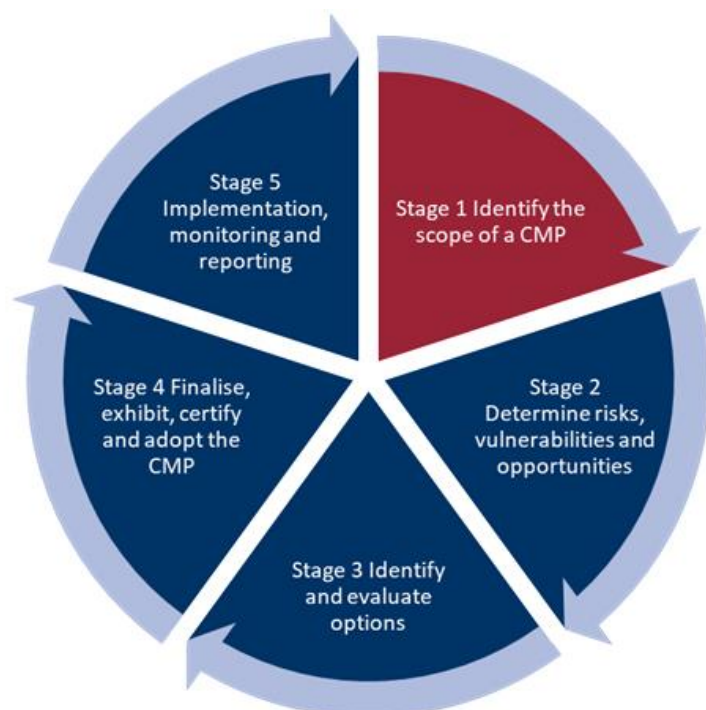


Figure 1: The stages of developing and implementing a Coastal Management Program

Stage 1 Scoping Studies

Stage 1 of the CMP process comprises a Scoping Study to:

- 5 • collate existing information on the study area;
- carry out stakeholder and community engagement;
- understand values and management issues;
- identify any information gaps; and
- 10 • outline studies required to be carried out to inform the later stages of the CMP development.

(Northern Shire) Cape Byron to South Golden Beach

Council has already adopted a Scoping Study for the (Northern Shire) open coast from [Cape Byron to South Golden Beach CMP](#) (June 2020).

15 (Southern Shire) Cape Byron to Seven Mile Beach including the Belongil Creek estuary

Preparation of a Scoping Study for the Southern Byron Shire coastline (refer [Council webpages on coastal planning](#)) is currently underway. The extent spans the coastal areas from Cape Byron to Seven Mile Beach (including Ti-Tree Lake and Tallow Lakes and its catchment). The project will also encompass the Belongil Creek Estuary to the west of
20 Cape Byron as well as the wider catchment.

Council has engaged Rhelm Consulting as the project consultant for the Scoping Study in partnership with other experienced coastal and estuary specialists including Bluecoast (coastal engineers), H2O Consulting Group (ecological specialists) and Coastal Zone Management and Planning (Angus Gordon, a highly experienced coastal manager).

- 5 The Scoping Study is expected for completion in mid-late 2021. Prior to completion a copy of the draft scoping study will be sent to state agencies for their review as required under the CMP process. Whilst public feedback is not a requirement at this stage of the CMP process, a copy will also be placed on council's web for any community feedback.

Brunswick River Estuary

- 10 Council plans to prepare a Stage 1 Scoping Study for the Brunswick River estuary as a future priority. The planning of this process has not yet started.

Stage 2 Risks, Vulnerabilities and Opportunities

- 15 Stage 2 of the CMP process involves additional technical studies to confirm current knowledge on key issues and concerns and to fill information gaps that are critical to the development of management strategies and actions in Stage 3.

- 20 Council recently adopted the Scoping Study for the (Northern Shire) [Cape Byron to South Golden Beach CMP](#) (June 2020) which outlines the proposed way forward for the next stages of CMP development. The Forward Plan identifies the recommended studies, investigation and assessments for Stages 2 to 4 as derived from work completed in Stage 1 (refer Section 6.5 of the Scoping Study).

Main Beach Shoreline Project

- 25 Identified in the Forward Plan is *Item S2.05 - Continue design investigation for the modification of the coastal protection works at Main Beach, Byron Bay*. This design investigation (the [Main Beach Shoreline Project](#)) is co-funded by the State Government through the Coast and Estuary Grants Program.

Coastal Hazard Assessment – Review and Update

- 30 The Scoping Study for the Northern Coastline (Cape Byron to South Golden Beach) recommended and costed a suite of comprehensive coastal hazard studies as a high priority across the entire coastal zone of the local government area from South Golden Beach to Seven Mile Beach and including the Brunswick River, Belongil and Tallow Creek estuaries.

- 35 Council's Coastline Hazard Assessment Update (BMT 2013) is the most recent investigation into coastal hazards undertaken in the Shire, however, there is now another eight years of data available. As such a detailed review of the 2013 Hazard Assessment is required. The intention is to retain and build upon the 'fit for purpose' components of the 2013 study as an opportunity to use this existing work (i.e. cost savings) and to fast-track elements of the study.

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The Coastal Hazard Assessment for the entire Byron Shire coastal zone will look at the hazard from beach erosion and recession, coastal and tidal inundation, dune and cliff stability, and entrance instability. A detailed risk assessment is also undertaken during Stage 2 to analyse and evaluate current and future risks to coastal values.

- 5 The recommended Coastal Hazard Study Update was proposed to commence in May 2021 however is still pending approval of the funding application to the State Government Coast and Estuary Grants Program.

Other Stage 2 studies

- 10 Several medium and low priority studies were also recommended in the Scoping Study for the Northern Coastline (Cape Byron to South Golden Beach) which are less essential to the development of the CMP and pending funding availability. These low priority studies may be undertaken as actions during implementation of the CMP (Stage 5) rather than during Stage 2.

- 15 The Scoping Study for the southern coastline (seven Mile Beach LGA boundary to Cape Byron) and the Belongil estuary is under preparation. Rhelm is currently developing a business case and Forward Plan for the remaining stages of a CMP(s) for this study area. Identification of information gaps are presently being assessed with potential Stage 2 recommendations being considered include (but are not limited to):

- 20
 - further recommendations/modifications regarding the proposed coastal hazard assessment;
 - an update of the inventory of public recreation assets in the coastal zone;
 - water pollution source tracking program for Tallow and Belongil Creek catchments;
 - investigation of possible groundwater connection and impacts of ex-South Byron STP tertiary treatment ponds with Tallow Creek;
- 25
 - assessment of the past effectiveness and likely future utility of existing coastal management strategies (hard and soft) and the legal and factual matrix;
 - development of a community and stakeholder engagement strategy for Stage 2;
 - development of a method to use art and landscape architectural mapping as a tool in emotionally connecting people with a broader range of coastal values as a means of
- 30
 - improving community management of the coastal zone.

Implementation of these Stage 2 studies is pending Council's adoption of the Scoping Study for the Southern Shire Coastline and Belongil Estuary, and 2021/22 budget allocation.

- 35 The status on development of CMPs for the Byron Shire coastline is outlined in figure 1 below.

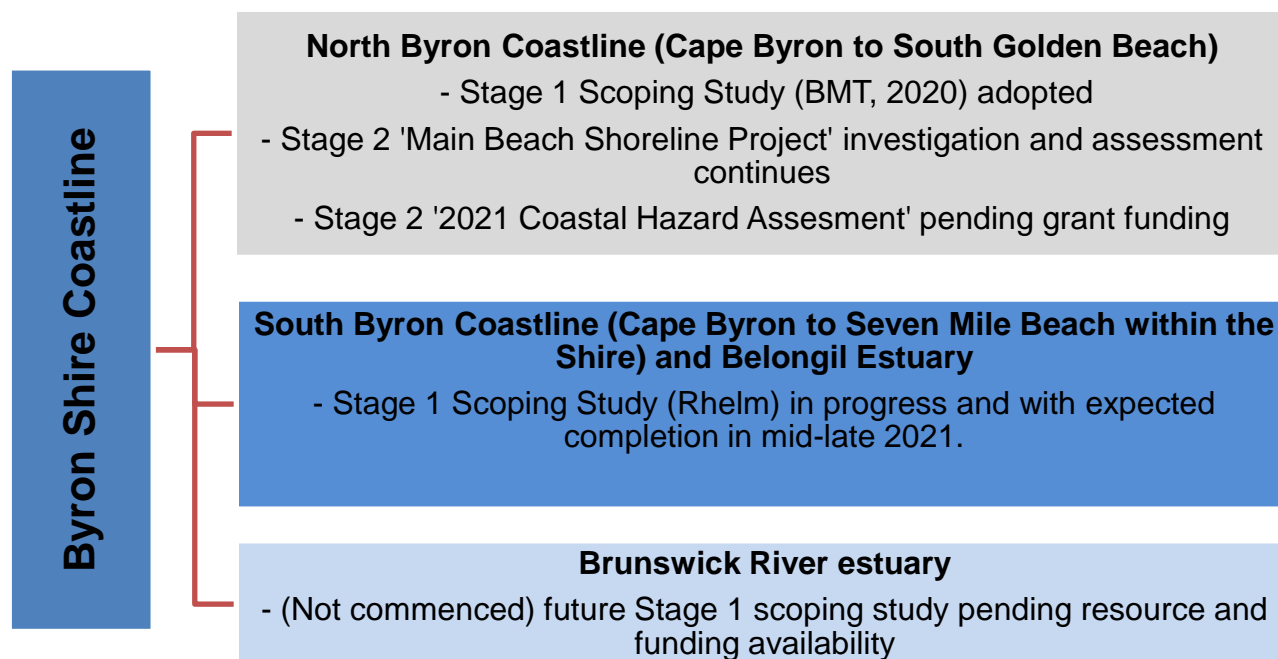


Figure 2: Byron Shire Council's status on developing CMPs

Further stages of CMP Development

- 5 The subsequent stages in the process are:
- Stage 2 – (continues) Undertaking of further Stage 2 investigations and assessments
 - Stage 3 – Identify and evaluate options (through risk assessment and cost, benefit analysis);
 - 10 • Stage 4 – Prepare, exhibit, finalise, certify and adopt a CMP (leading to implementation); and
 - Stage 5 – Implement, monitor, evaluate and report.

15 Stage 3 of the CMP process requires Council to identify and evaluate possible management options in order to select preferred coastal management actions to address the issues identified as affecting the CMP study area. The aim of Stage 3 is to develop strategies and actions that reduce exposure to coastal hazards, address coastal management issues and take advantage of opportunities. Effort will be made to 'fast track' any parts of this stage by using existing studies/plans and fit for purpose information (where available).

20 Stage 4 of the CMP process involves a draft CMP being prepared, exhibited and then submitted to the Minister for certification. Once the CMP is certified by the Minister,

Council must publish it in the Gazette. The CMP takes effect on the date on which it is published in the Gazette (or on a later date if specified in the CMP).

CMP progress and issues

5 According to the recent Coastal Council's 2020 Survey of coastal practitioners and managers on the implementation of the new Coastal Management Framework, there are 47 CMPs being prepared (NSW-wide), with **only three CMPs certified** (Stockton, Lake Illawarra and Lake Ainsworth) thus far. The number of councils involved in preparing a CMP (or CMPs) is 52 covering three distinct geographic scopes – Open Ocean Coast, Estuary, or a combination of Open Coast and Estuary. Some councils have decided to
10 prepare a numbers of separate CMPs for their estuaries and coasts; others have sought to combine estuary and coasts into a single CMP.

The coastal zone of Byron Shire comprises three estuaries bounded by 262 km² of coastal catchments as well as 35 km of open coast. The beaches, headlands, estuaries and catchments have significantly varying environmental, geomorphic and hydrological
15 processes and a complex array of management issues.

Pending the outcome of the current studies, Council will consider whether to prepare a CMP for the entire coastal zone, or whether to prepare two or more CMPs. For example there may be an Open Coast CMP and an Estuary CMP.

20 Key issues being encountered during implementation of the Coastal Management Framework and development of CMPs for Byron Shire centres predominantly on timing and insufficient guidance/information.

Issues being encountered include:

- 25 • Lack of guidance to local councils - information is needed on how to include broader catchment issues and effectively integrate catchment, coast and marine policy and governance.
- Improved technical guidance either in the Manual or Toolkit – further technical guidance is needed on coastal hazard and risk assessment to ensure a consistent approach.
- 30 • Improved guidance on the preparation of coastal management area maps, specifically for a Coastal Vulnerability Area.
- Insufficient ongoing funding to coastal management within Council (both planning and reactive).
- Ensuring government agencies have a good understanding of their role in the process.
- 35 • Lack of appropriate agency staff resourcing to reflect their involvement.

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- Insufficient project budgets to include engagement fees to allow adequate and meaningful engagement and collaboration with cultural representatives from relevant Aboriginal organisations.
- 5 • Communication and collaboration; higher level communication needs to be undertaken between state, local government, and agencies (i.e. Director/CEO Working Groups).
- 10 • Timing; progression through the stages of CMP development is taking a lot longer than originally anticipated. Staff thoughts are that technical studies (such as coastal hazard assessments) would be better rolled out by the state government (in collaboration with Council) to ensure consistency in studies that cross LGA boundaries.
- Timing; grant funding applications are taking > 4months to be approved. This delay in the approval of funding directly affects project timeframes and delivery of the stages of the CMP process.

15 **Next steps**

- It is recommended that Council writes to the Department of Planning, Industry and Environment and the Coastal Council to request a meeting to discuss how the Coastal Management Process could be improved, timeframes shortened and the development of CMPs for Byron Shire resourced more effectively
- 20 • Staff and project consultants will continue to progress the development of CMPs for the Byron Shire Coastline.
- The Scoping Study for the Southern Shire Coastline and the Belongil Creek estuary is expected for completion in mid-late 2021 and will be reported to Council.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 3: We protect and enhance our natural environment	3.3	Partner to protect and enhance the health of the Shire's coastlines, estuaries, waterways and catchments	3.3.1	Implement Coastal Management Program	3.3.1.1	Continue preparing a Coastal Management Program (CMP) in accordance with the staged process for Cape Byron to Sth Golden Beach
Community Objective 3: We protect and enhance our natural environment	3.3	Partner to protect and enhance the health of the Shire's coastlines, estuaries, waterways and catchments	3.3.1	Implement Coastal Management Program	3.3.1.4	Commence a Coastal Management Program (CMP) in accordance with the staged process for Cape Byron Southern Coastline (including Tallow and Belongil Creek Catchment)

Legal/Statutory/Policy Considerations

- 5 *Coastal Management Act (2016), SEPP (Coastal Management) 2018, Coastal Manual and associated Toolkit provided by the NSW State Government.*

Financial Considerations

An existing budget is allocated to the development of Coastal Management Programs for the Stage 2 study, Coastal Hazard Assessment update. Additional budget has been requested in the FY2021/22 budget to continue the development of CMPs.

5 Consultation and Engagement

Stakeholder and community engagement for the development of CMPs is ongoing and has comprised:

- Council website updates;
- social media messaging;
- 10 • community surveys;
- a series of stakeholder workshops on coastal zone values, management issues and risks; and
- face-to-face engagement at farmers markets and drop-in sessions during the process of Scoping study preparation or period for public comment.

15

**Report No. 13.13 Agricultural Land Use Planning Strategy
Options Paper - Submission**

Directorate: Sustainable Environment and Economy

Report Author: Peter Boyd, Project Officer - Environmental Projects

5 **File No:** I2021/561

Summary:

10 The NSW Government's Right to Farm Policy was reviewed in 2020. The review found, amongst other matters, that the Policy has been delivered but has not fixed the issues of land use conflict with farmers. The review recommended the state government prepare an Agricultural Land Use Planning Strategy (Strategy). Once this Strategy is finalised it may initiate a review of Council's adopted strategies such as the Rural Land Use Strategy and LEP provisions including changes to rural land use definitions and buffers.

The Department of Primary Industries sought comment on the proposed content of the Strategy and released an 'Agricultural Land Use Planning Strategy Options Paper'.

15 Staff drafted a response to the Options Paper which was presented to the Council (Planning) Meeting of 11 February 2021.

20 At the meeting it was resolved that an extension to the submission date be requested, that the draft response was presented to our local farming network, Agriculture Cluster Group and the Strategic Business Panel for further consultation and that Council be provided with a copy of the final submission following its lodgement.

This report provides a copy of Council's submission.

25 **RECOMMENDATION:**

That Council notes the submission to the NSW Agriculture Commissioner regarding the Agricultural Land Use Planning Strategy Options Paper - Submission (Attachment 1 - #E2021/39026)

Attachments:

30 1 Final submission - NSW Agricultural Land Use Planning Strategy Options Paper Dec 2020.docx, E2021/39026 

Report

As per resolution **21-007**, Council applied for and received an extension of the closing date from 28 February 2021 to 12 March 2021 to allow for further consultation on it's submission on the Agricultural Land Use Planning Strategy Options Paper - Submission.

- 5 The original draft response was presented and explained in plain English at a community workshop. Invitees to the workshop included members of the Strategic Business Panel, Agriculture Cluster Group and members of the Byron Shire Farmers network. Fourteen farming community members attended along with Cr Hunter representing Council.

- 10 The objectives of the workshop were to assist the members of the farming community to better understand the options presented in the state government's options paper and seek informed feedback and input on Council's submission. It was also to encourage and assist the farmers to formulate and send their own individual submissions.

As a result of the workshop, Council's draft submission was supported by those in attendance with minor additions to strengthen a couple of points.

- 15 Council's response to the Agricultural Land Use Planning Strategy Options Paper - Submission was submitted to the NSW Agriculture Commissioner on the 4 March 2021.

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	3.4	Support and secure our farming future	3.4.1	Develop and implement strategies to support agriculture, agri-business and farmers	3.4.1.1	Finalise and commence implementation of the Agriculture Action Plan
Community Objective 3: We protect and enhance our natural environment	3.4	Support and secure our farming future	3.4.1	Develop and implement strategies to support agriculture, agri-business and farmers	3.4.1.2	Continue to deliver Smart Farms –Small Grants project

Community Objective 3: We protect and enhance our natural environment	3.4	Support and secure our farming future	3.4.1	Develop and implement strategies to support agriculture, agri-business and farmers	3.4.1.3	Continue to convene Agricultural Cluster Group Meetings
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Recent Resolutions

- 21-007

Financial Considerations

No financial considerations.

5 Consultation and Engagement

Council staff held a workshop on the options paper with the farming community on Council's submission as well as to assist the farming community in formulating their own individual submission/s.

- 10 Invitations were sent to the members of the Byron Shire Strategic Business Panel, Byron Shire Farmer Network (160 members), the Byron Shire Agriculture Cluster Group (11 members) and a few local Agricultural related organisations. Fourteen community members attended the workshop.

Report No. 13.14 DA10.2020.571.1 - Mixed Use Development comprising a General Store/Cafe, Cafe, Co-working Space, 8 Shop Top Dwellings and a Boarding House at 94 Kingsford Drive, Brunswick Heads,

Directorate: Sustainable Environment and Economy

Report Author: Shannon Burt, Director Sustainable Environment and Economy

File No: I2021/529

Summary:

10 Development Application No. 10.2020.571.1 as originally submitted sought consent for the construction of a two storey mixed use development containing ground floor commercial premises comprising of 2 retail tenancies (described as a “general store / café” and a “café”) and an office premises (described as a “co-working space”), 8 shop top residential apartments (2 x 1 bedroom and 6 x 2 bedroom), 39 double boarding rooms (including 1
15 manager’s room and 3 accessible rooms) and ancillary communal facilities, at grade parking containing 51 car parking spaces (17 commercial spaces, 24 boarding 10 house spaces and 10 apartment spaces), 9 motorcycle spaces (associated with the boarding house) and 15 bicycle parking racks (5 commercial spaces and 10 boarding house spaces), landscaping and associated site works.

20 The development application was publicly notified by Council to adjoining and nearby owners in accordance with the Byron Shire Council Community Participation Plan between 19 November and 9 December 2020. Council received a total of 101 submissions and 1 petition with 1,090 signatures, all of which were by way of objection.

25 The Applicant commenced new proceedings in Class 1 of the Land and Environment Court’s jurisdiction appealing against Council’s deemed refusal of the development application (Proceedings No 2021/44517).

30 The proceedings were listed for a conciliation conference pursuant to section 34 of the *Land and Environment Court Act 1979* on 15 March 2021. 6 resident objectors addressed the conciliation conference by telephone. In addition 4 objectors who could not speak provided written submissions.

A report to Council’s Ordinary Meeting of 25 March 2021 reported on the conciliation conference and was debated in confidential session. Council resolved as follows:

21-104 Resolved:

35 1. *That the General Manager is not authorised to enter into consent orders, that instead, staff continue the current s34 Conciliation process for Development Application 10.2020.571.1 to address the matters below that are the concerns raised by Councillors and community:*

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a) Relationship between the development and the public domain in terms of an improved design integration to the public reserve and greater activation of the ground floor business/commercial/retail use area;

5 *b) Proportion of business/commercial/retail uses permitted under the B1 zone to the residential uses proposed in terms of increasing the former*

c) Ability to further supplement transport options to the site such as of the provision of a managed car share space, pedestrian amenity and active transport links

2. That the General Manager instruct Council's external solicitors to seek the consent of the Applicant to notify any plans amending the development application.

10 *3. That on receiving consent the amended plans be publicly notified for a period of 28 days.*

4. That a report be included in the agenda for Council's 27 May 2021 Ordinary meeting (or earlier) to enable Council to consider authorising delegations to the General Manager to enter into a conciliation agreement. (Richardson/Lyon)

15 The Applicant was advised of the above resolution and submitted amended plans to address Council's concerns. The proposed amendments include:

- An increase the retail tenancies from 2 to 4;
- An improved design integration to the public reserve resulting from greater activation of the ground floor retail use;

20 - A reduction in the number of boarding rooms from 39 to 38; and

- The provision of a share electric vehicle car space.

On 29 March 2021, the Court granted the parties an adjournment until 26 April 2021, to enable the development application to be considered at the Council meeting on 22 April 2021.

25 The Applicant consented to the notification of amended plans for a period of 7 days. This was factored in by the Court when granting the adjournment.

The amended plans were publicly notified from 7 April – 14 April, with a notification letter to previous submitters sent out also.

30 Given the Council meeting agenda publishing date, any submissions received to this notification will be presented to the Council meeting under separate cover, and, as additional supporting information to the agenda on the public web page.

RECOMMENDATION:

35 **That Council:**





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Pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2020.571.1 for Mixed Use Development comprising a General Store/Cafe, Cafe, Co-working Space, 8 Shop Top Dwellings and a Boarding House containing 39 Boarding Rooms, be approved subject to conditions listed in Attachment 1 #E2021/46249.

Attachments:

- 1 10.2020.571.1 Conditions of consent, E2021/46249 
- 2 Amended Plans 10.2020.571.1 as exhibited 7 April 2021, E2021/54004 
- 10 3 Render for the Corso from adjacent Park Reserve, E2021/54542 
- 4 Confidential - Petition received from exhibition 1 November 2020 to 9 December 2020, E2021/53948
- 5 Submissions received from exhibition 19 November 2020 to 9 December 2020, E2021/54075 
- 15 6 Confidential - BSC ats Oniva Pty Ltd - Advice on prospects, E2021/49935

Report

Background

Development Application No. 10.2020.571.1 as originally submitted sought consent for the construction of a two storey mixed use development containing ground floor commercial premises comprising of 2 retail tenancies (described as a “general store / café” and a “café”) and an office premises (described as a “co-working space”), 8 shop top residential apartments (2 x 1 bedroom and 6 x 2 bedroom), 39 double boarding rooms (including 1 manager’s room and 3 accessible rooms) and ancillary communal facilities, at grade parking containing 51 car parking spaces (17 commercial spaces, 24 boarding 10 house spaces and 10 apartment spaces), 9 motorcycle spaces (associated with the boarding house) and 15 bicycle parking racks (5 commercial spaces and 10 boarding house spaces), landscaping and associated site works.

The development application was publicly notified by Council to adjoining and nearby owners in accordance with the Byron Shire Council Community Participation Plan between 19 November and 9 December 2020. Council received a total of 101 submissions and 1 petition with 1,090 signatures, all of which were by way of objection.

The submissions received raised the following issues of concern:

- (a) Incompatibility with the character, scale, design and density of the area;
- (b) Exceedance of the floor space ratio development standard;
- (c) Lack of commercial and local facilities provided in the proposed development within Zone B1 Neighbourhood Centre; and
- (d) Increased reliance on on-street parking, increased vehicular movements to and from the site, and potential impacts on pedestrian safety.

On 16 December 2020, the Applicant commenced proceedings in Class 1 of the Land and Environment Court’s jurisdiction appealing against Council’s deemed refusal of the development application (Proceedings No 2020/00357219).

On 12 February 2021, Council filed its Statement of Facts and Contentions in Proceedings No 020/00357219. Contention 1 contended that the Court did not have jurisdiction to hear the proceedings in circumstances where the Applicant lodged the Class 1 Application prior to its entitlement to rely upon the deemed refusal of the development application. On 16 February 2021, the Applicant commenced new proceedings in Class 1 of the Land and Environment Court’s jurisdiction appealing against Council’s deemed refusal of the development application (Proceedings No 2021/44517).

The proceedings were listed for a conciliation conference pursuant to section 34 of the *Land and Environment Court Act 1979* on 15 March 2021. 6 resident objectors addressed the conciliation conference by telephone. In addition 4 objectors who could not speak provided written submissions.

Council’s Contentions in the Proceedings were:

Floor Space Ratio

The development application must be refused because the floor space ratio of the proposed development is excessive, does not comply with the development standard in clause 4.4(2) of BLEP 2014 and a written request pursuant to 5 clause 4.6 of BLEP 2014 has not been submitted in support of the contravention. Further, inadequate information has been provided to enable a full assessment of the degree of the contravention of the floor space ratio development standard.

Traffic Planning, Vehicle Parking, Circulation and Access

The development application must be refused because the proposed development does not provide suitable vehicular access to the site in contravention of clause 6.6(e) of BLEP 2014 and does not demonstrate compliance with Chapter B4 of BDCP 2014 and Australian Standards AS2890.1:2004 and AS2890.2:2002 in terms of parking supply and design. Further, insufficient information has been provided to enable a proper assessment of the impact of the proposed development on traffic in the locality.

Stormwater and Erosion and Sediment Control Measures – Insufficient Information

The development application should be refused because insufficient information has been provided to enable a proper assessment of the proposed development in terms of stormwater management and erosion and sediment control against the controls in Parts B3.2.3 and B3.2.4 in Chapter B3 Services of BDCP 2014.

Communal and Private Open Space

The development application should be refused because the proposed communal living room is inadequate, and the design and location of the proposed private outdoor space for residents of the boarding house is unacceptable. In that regard, an acceptable level of amenity for residents of the boarding house will not be provided.

Public Interest

The development application should be refused because the proposed development is not in the public interest having regard to the contentions raised above and the issues raised in the submissions received by Council (to the extent that the issues coincide with those contentions).

The above contentions were addressed via the conciliation process and the submission of amended material by the Applicant.

A report to Council's Ordinary Meeting of 25 March 2021 reported on the conciliation conference and was debated in confidential session. Council resolved as follows:

21-104 Resolved:

1. That the General Manager is not authorised to enter into consent orders, that instead, staff continue the current s34 Conciliation process for Development Application 10.2020.571.1 to address the matters below that are the concerns raised by Councillors and community:

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- a) Relationship between the development and the public domain in terms of an improved design integration to the public reserve and greater activation of the ground floor business/commercial/retail use area;
- b) Proportion of business/commercial/retail uses permitted under the B1 zone to the residential uses proposed in terms of increasing the former
- c) Ability to further supplement transport options to the site such as of the provision of a managed car share space, pedestrian amenity and active transport links

2. That the General Manager instruct Council's external solicitors to seek the consent of the Applicant to notify any plans amending the development application.

3. That on receiving consent the amended plans be publicly notified for a period of 28 days.

4. That a report be included in the agenda for Council's 27 May 2021 Ordinary meeting (or earlier) to enable Council to consider authorising delegations to the General Manager to enter into a conciliation agreement. (Richardson/Lyon)

Following the Council Meeting the Applicant was advised of the above resolution and submitted amended plans to address Council's concerns. The proposed amendments include:

- An increase the retail tenancies from 2 to 4;
- An improved design integration to the public reserve resulting from greater activation of the ground floor retail use;
- A reduction in the number of boarding rooms from 39 to 38; and
- The provision of an share electric vehicle car space.

Description of the proposed development

The application, as amended, seeks approval for Mixed Use Development comprising 4 Retail tenancies, 8 Shop Top Dwellings and a Boarding House containing 38 Boarding Rooms, inclusive of a manager's residence.

The buildings are two storeys in height with the eastern building containing ground floor retail premises and 8 shop top dwellings above. The 8 shop top housing dwellings contain 2 bedrooms. The 38 boarding rooms, inclusive of the manager's residence, are contained within an 'L' shaped building located along the western and southern boundaries. The 38 boarding rooms have separate bedroom, living areas and bathrooms. A private area open space is also provided for each of the boarding rooms and the shop top dwellings.

A total of 260m² of retail floor area is proposed (including amenities).

Car parking for 49 vehicles is proposed, including the provision of a shared electric vehicle space. 8 motorbike spaces and 19 bicycle spaces are also proposed.

The boarding house contains a common room of 40m², a laundry and approximately 170m² of communal landscaped area.

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The building footprint is 1,049m² or 24.4% of the site area. The landscaped area comprises 1,376m² or 32% of site area.

- 5 Proposed materials and finishes include rendered / painted masonry, horizontal f.c. sheeting and Colorbond roof sheeting.

The proponent has also advised that they are partnering with the SHIFT Project, Arakwal and North Coast Community Housing to allocate 3 boarding rooms for the SHIFT Project and 3 boarding rooms for Arakwal at reduced rents.

- 10 It is also proposed to offset the carbon footprint of the build.

Description of the site

Land is legally described	LOT: 71 DP: 851902	
Property address	94 Kingsford Drive BRUNSWICK HEADS	
Land is zoned:	B1 Neighbourhood Centre	
Land area is:	4300 m ²	
Property is constrained by:	Bushfire prone land Acid Sulfate Soils Class 3	
	Is a BDAR required due to the location of the proposed development?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Are there any easements in favour of Council affecting the site?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Is there a Vegetation Management Plan which might affect the proposal?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Is there a Voluntary Planning Agreement which might affect the proposal?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

- 15 The site is located within the Bayside Brunswick Estate and has 20 metres frontage to Torakina Road to the north and 6.165 metres frontage to Kingsford Drive to the south west. Lilly Pilly Community Preschool is located to the west of the site. A public reserve adjoins the site to the north east. The site is relatively level and is presently cleared.

20 Key issues

1. SECTION 4.14 – BUSH FIRE PRONE LAND

- 25 Under section 4.14 of the Act, Council must be satisfied prior to making a determination for development on bush fire prone land, that the development complies with the document 'Planning for Bush Fire Protection 2006'. The site is bush fire prone land. The development application is accompanied by a Report by Bushfire Certifiers dated 16 October 2020 which was referred to RFS. The RFS has issued General Terms of Approval as per the condition in the recommendation.

30 2. SECTION 4.15C – MATTERS FOR CONSIDERATION – DISCUSSION OF ISSUES

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

5 2.1 State Environmental Planning Instruments

	Satisfactory	Unsatisfactory
State Environmental Planning Policy No 55— Remediation of Land	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: The potential contamination of the land from past land use has been considered during the Planning Proposal and subdivision process.		
State Environmental Planning Policy No 64— Advertising and Signage	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: Separate development applications will follow for any signage associated with the retail tenancies as required.		
State Environmental Planning Policy (Affordable Rental Housing) 2009	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: See detailed assessment in relation to provisions below.		
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: A BASIX Certificate has been prepared for the proposal.		
State Environmental Planning Policy (Coastal Management) 2018	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: The site is mapped as Coastal Environment Area in accordance with the SEPP and is unlikely to result in significant impacts on the environment.		

State Environmental Planning Policy (Affordable Rental Housing) 2009

- 10 The subject application has been made in accordance with the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 (Affordable Rental Housing SEPP). Division 3 of the SEPP applies to Boarding Houses.

- 15 The following clauses of the Affordable Rental Housing SEPP apply to the proposed development.

26 Land to which Division applies

This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones—

- 20 (a) Zone R1 General Residential,
 (b) Zone R2 Low Density Residential,
 (c) Zone R3 Medium Density Residential,
 (d) Zone R4 High Density Residential,
 (e) Zone B1 Neighbourhood Centre,
 25 (f) Zone B2 Local Centre,

(g) *Zone B4 Mixed Use.*

The site is zoned B1 Neighbourhood Centre in accordance with the provisions of Byron Local Environmental Plan 2014.

27 Development to which Division applies

- (1) *This Division applies to development, on land to which this Division applies, for the purposes of boarding houses.*
- (2) *Despite subclause (1), clauses 29, 30 and 30A do not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Greater Sydney region unless the land is within an accessible area.*
- (3) *Despite subclause (1), clauses 29, 30 and 30A do not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone that is not in the Greater Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use or within a land use zone that is equivalent to any of those zones.*

The site is not zoned R2 Low Density Residential.

28 Development may be carried out with consent

Development to which this Division applies may be carried out with consent.

Division 3 of the SEPP applies to the development and may therefore be carried out with consent.

29 Standards that cannot be used to refuse consent

- (1) *A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than—*
 - (a) *the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or*
 - (b) *if the development is on land within a zone in which no residential accommodation is permitted—the existing maximum floor space ratio for any form of development permitted on the land, or*
 - (c) *if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus—*
 - (i) *0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or*
 - (ii) *20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.*

Boarding houses and shop top housing are permitted on the site and a maximum density of 0.5:1 applies to these forms of residential accommodation. The proposed development does not exceed the maximum floor space ratio of 0.5:1.

(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds—

(a) **building height**

if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,

The height of the proposed building has a maximum height of 8.4 metres and does not exceed the maximum building height limit of 9 metres prescribed by Clause 4.3 of Byron Local Environmental Plan 2014.

(b) **landscaped area**

if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,

The boarding house building is setback from Torakina Road approximately 34 metres and approximately 45 metres from Kingsford Drive. The landscaping to the frontage of Torakina Road is 11.258 metres in depth which is compatible with the streetscape.

(c) **solar access**

where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,

The communal living room will only receive 2.5 hours of direct sunlight in mid-winter between 9am and 3pm. However it will also receive direct sunlight prior to 9am. Each boarding room also has a living area and an area of private open space. Solar access is deemed acceptable in this regard.

(d) **private open space**

if at least the following private open space areas are provided (other than the front setback area)—

- (i) *one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers,*
- (ii) *if accommodation is provided on site for a boarding house manager—one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation,*

An area of open space of approximately 170m² with a minimum dimension of 8 metres is provided for the use of the lodgers. Private open space provided adjacent to the manager's unit has a minimum dimension of 3.98 metres and is 17m² in area.

Each boarding room is also provided with an area of private open space directly off the living area.

(e) **parking**

if—

- (i) *in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and*
- 5 (ii) *in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and*
- (iia) *in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and*
- 10 (iii) *in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,*

The proposed 38 rooms generate a requirement for 19 car parking spaces. A total of 23 spaces are provided for the boarding house component of the development including one electric vehicle share car space.

(f) accommodation size

if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least—

- 20 (i) *12 square metres in the case of a boarding room intended to be used by a single lodger, or*
- (ii) *16 square metres in any other case.*
- (3) *A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.*
- 25 (4) *A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).*
- (5) *In this clause—*

social housing provider *does not include a registered community housing provider unless the registered community housing provider is a registered entity within the meaning of the [Australian Charities and Not-for-profits Commission Act 2012](#) of the Commonwealth.*

The plans of the floor plan types submitted with the application indicate that the gross floor area of the boarding rooms, excluding areas used for the purposes of private kitchen or bathroom facilities, comply with the minimum requirement of 16m². The boarding rooms have private kitchen and bathroom facilities.

30 Standards for boarding houses

- 40 (1) *A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following—*
- (a) *if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,*

A communal area is defined in accordance with Clause 25 of the Affordable Housing SEPP as:

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communal living room means a room within a boarding house or on site that is available to all lodgers for recreational purposes, such as a lounge room, dining room, recreation room or games room.

5 The development includes a communal room with an area of 40m². The communal area opens directly onto the landscaped area and adjoins the manager's unit.

(b) *no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres,*

10 No boarding room has a gross floor area exceeding 25m² (excluding areas used for the purposes of private kitchen or bathroom facilities).

(c) *no boarding room will be occupied by more than 2 adult lodgers,*

15 No more than 2 adult lodgers will occupy any boarding room.

(d) *adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,*

20 Each of the boarding rooms is provided with kitchen and bathroom facilities of an adequate size.

(e) *if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,*

25 An on site manager's residence is provided for the boarding house.

(f) *(Repealed)*

30 (g) *if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,*

35 Byron Local Environmental Plan 2014 nominates boarding houses as permissible with development consent in the B1 Neighbourhood Centre Zone. The development has been designed so that no part of the ground floor of the proposal that fronts the street will be used for residential purposes.

(h) *at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.*

40 This provision requires 6 bicycle spaces and 6 motorcycle spaces for the 28 boarding rooms. A total of 10 bicycle spaces and 8 motorcycle spaces are provided for the boarding house.

45 (2) *Subclause (1) does not apply to development for the purposes of minor alterations or additions to an existing boarding house.*

The proposal does not comprise alterations or additions to an existing boarding house.

30AA Boarding houses in Zone R2 Low Density Residential

A consent authority must not grant development consent to a boarding house on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone unless it is satisfied that the boarding house has no more than 12 boarding rooms.

The site is not located within an R2 Low Density Residential Zone.

30A Character of local area

A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.

Bayside Brunswick Estate is presently characterised by single dwelling houses and secondary dwellings. A child care centre and public reserve adjoin the subject site. The most recently released Stage 1A, opposite the site on Torakina Road and Omega Circuit comprising 12 lots, includes single dwelling houses, secondary dwellings and dual occupancy development of one and two storeys. Development Application No. 10.2020.24.1 for the subdivision of the residual estate into 145 residential lots, a medium density lot, 2 larger lifestyle lots, 2 public reserve lots, associated roads and construction in 7 stages is presently being assessed by Council. The medium density lot of some 4,500m² adjoins the site to the east. It is envisaged that a 2 storey development is likely on the medium density lot.

The proposed boarding house component of the development is consistent with the residential scale of the locality. The design of the development is 2 storeys and will result in a floor space ratio of 0.5:1 which is consistent with the existing residential area. Given the unusual configuration of the allotment with 6.165 metres frontage to Kingsford Drive and 20 metres frontage to Torakina Road, the built form of the boarding house will be most visible from the adjacent public reserve. As illustrated in the perspective prepared for the 'park view' the proposal has a residential form and scale consistent with that of both the existing and desired future character of the area (Attachment to the report).

2.2 Byron Local Environmental Plan 2014 (LEP 2014)

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

Part 1	<input checked="" type="checkbox"/> 1.1 <input checked="" type="checkbox"/> 1.1AA <input checked="" type="checkbox"/> 1.2 <input checked="" type="checkbox"/> 1.3 <input checked="" type="checkbox"/> 1.4 <input checked="" type="checkbox"/> Dictionary <input checked="" type="checkbox"/> 1.5 <input checked="" type="checkbox"/> 1.6 <input checked="" type="checkbox"/> 1.7 <input checked="" type="checkbox"/> 1.8 <input type="checkbox"/> 1.8A <input checked="" type="checkbox"/> 1.9 <input type="checkbox"/> 1.9A
Part 2	<input checked="" type="checkbox"/> 2.1 <input checked="" type="checkbox"/> 2.2 <input checked="" type="checkbox"/> 2.3 <input checked="" type="checkbox"/> Land Use Table <input type="checkbox"/> 2.4 <input type="checkbox"/> 2.5 <input type="checkbox"/> 2.6 <input type="checkbox"/> 2.7 <input type="checkbox"/> 2.8
Part 3	<input type="checkbox"/> 3.1 <input type="checkbox"/> 3.2 <input type="checkbox"/> 3.3
Part 4	<input type="checkbox"/> 4.1 <input type="checkbox"/> 4.1A <input type="checkbox"/> 4.1AA <input type="checkbox"/> 4.1B <input type="checkbox"/> 4.1C <input type="checkbox"/> 4.1D <input type="checkbox"/> 4.1E <input type="checkbox"/> 4.1F <input type="checkbox"/> 4.2 <input type="checkbox"/> 4.2A

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	<input type="checkbox"/> 4.2B <input type="checkbox"/> 4.2C <input type="checkbox"/> 4.2D <input checked="" type="checkbox"/> 4.3 <input checked="" type="checkbox"/> 4.4 <input type="checkbox"/> 4.5 <input type="checkbox"/> 4.6
Part 5	<input type="checkbox"/> 5.1 <input type="checkbox"/> 5.2 <input type="checkbox"/> 5.3 <input type="checkbox"/> 5.4 <input type="checkbox"/> 5.6 <input type="checkbox"/> 5.7 <input type="checkbox"/> 5.8 <input type="checkbox"/> 5.10 <input type="checkbox"/> 5.11 <input type="checkbox"/> 5.12 <input type="checkbox"/> 5.13 <input type="checkbox"/> 5.14 <input type="checkbox"/> 5.15 <input type="checkbox"/> 5.16 <input type="checkbox"/> 5.17 <input type="checkbox"/> 5.18 <input type="checkbox"/> 5.19
Part 6	<input checked="" type="checkbox"/> 6.1 <input type="checkbox"/> 6.2 <input type="checkbox"/> 6.3 <input type="checkbox"/> 6.4 <input type="checkbox"/> 6.5 <input checked="" type="checkbox"/> 6.6 <input type="checkbox"/> 6.7 <input type="checkbox"/> 6.8 <input type="checkbox"/> 6.9 <input type="checkbox"/> 6.10 <input type="checkbox"/> 6.11

In accordance with LEP 2014 clauses 1.4 and 2.1 – 2.3:

- (a) The proposed development is defined in the LEP 2014 Dictionary as a Mixed Use development comprising a café, retail, 8 shop top dwellings and a boarding house containing 38 boarding rooms (including a manager's residence);
- (b) The land is within the B1 Neighbourhood Centre according to the Land Zoning Map;
- (c) The proposed development is permissible with consent; and
- (d) Regard is had for the Zone Objectives as follows:

Zone Objective	Consideration
To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.	The proposed development provides for small-scale retail uses to serve the needs of people living in the surrounding neighbourhood.

Clause 4.3 Height of Buildings

The maximum building height permitted on the land in accordance with Clause 4.3 of 9 metres as measured to the topmost part of the building. The building height is a maximum of 8.4 metres.

Clause 4.4 Floor Space Ratio

Clause 4.4 prescribes a maximum floor space ration of 0.5:1. The site has an area of 4,300m² and the proposal has a total gross floor area of 2,150m², resulting in a floor space ratio of 0.5:1.

Clause 6.1 Acid Sulfate Soils

The subject site is identified as containing Class 3 potential acid sulfate soils in accordance with Council's Acid Sulfate Soil Mapping. Clause 6.1 requires development consent and the preparation of an Acid Sulfate Soils Management Plan for works undertaken on Class 3 land more than 1 metre below the natural ground surface or works by which the water table is likely to be lowered more than 1 metre below the natural ground surface.

Generally minimal earthworks are required other than for footings and infrastructure.

However, the revised concept stormwater plan includes detention tanks which will necessitate excavations to a depth off more than 1 metre below ground level. An Acid Sulfate Soils Management Plan has been submitted addressing the requirements of the clause. Appropriate conditions of consent have been recommended in relation to managing acid sulphate soils during construction.

Clause 6.6 Essential Services

Clause 6.6 requires the consent authority to be satisfied that services essential for the development including the supply of water and electricity, the disposal of sewage and stormwater and the provision of suitable vehicular access are available or that adequate arrangements have been made to make them available when required.

The site is able to be adequately serviced in terms of water supply, electricity and sewerage infrastructure. It is noted the existing sewage infrastructure servicing the site can cater for the development. Conditions to apply in relation to the payment of headworks charges as per Councils Fees and Charges. A stormwater management plan has been submitted addressing Councils requirements for stormwater treatment and detention and discharge to Council infrastructure.

Adequate vehicular access is provided for cars and service vehicles to service the development. Vehicles able to enter and leave in a forward direction entering from Torakina Road and exiting from Kingsford Drive.

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

The Department of Planning, Industry and the Environment exhibited an Explanation of Intended Effect (EIE) under section 3.30 of the Environmental Planning and Assessment Act 1979, for a new Housing Diversity SEPP in July-September 2020. The submissions received in response to the exhibition are still under consideration by the Department. At the time of writing this report the Housing Diversity SEPP (environmental planning instrument) had not been formally presented and or notified by the Minister.

2.4 Byron Shire Development Control Plan 2014 (DCP 2014)

DCP 2014 is an applicable matter for consideration in the assessment of the subject development application in accordance with subsection 4.15(1) of the EP& A Act because it applies to the land to which LEP 2014 applies. The DCP 2014 Parts/Chapters that are checked below are of relevance to the proposed development:

Part A	<input checked="" type="checkbox"/>
Part B Chapters:	<input type="checkbox"/> B2 <input type="checkbox"/> B3 <input checked="" type="checkbox"/> B4 <input type="checkbox"/> B5 <input type="checkbox"/> B6 <input type="checkbox"/> B7 <input checked="" type="checkbox"/> B8 <input type="checkbox"/> B9 <input type="checkbox"/> B10 <input type="checkbox"/> B11 <input checked="" type="checkbox"/> B12 <input type="checkbox"/> B13 <input type="checkbox"/> B14
Part C Chapters:	<input type="checkbox"/> C1 <input type="checkbox"/> C2 <input type="checkbox"/> C3 <input type="checkbox"/> C4
Part D Chapters	<input checked="" type="checkbox"/> D1 <input type="checkbox"/> D2 <input type="checkbox"/> D3 <input type="checkbox"/> D4 <input type="checkbox"/> D5 <input type="checkbox"/> D6 <input type="checkbox"/> D7 <input type="checkbox"/> D8 <input type="checkbox"/> D9
Part E Chapters	<input type="checkbox"/> E1 <input type="checkbox"/> E2 <input type="checkbox"/> E3 <input type="checkbox"/> E4 <input type="checkbox"/> E5 <input type="checkbox"/> E6 <input type="checkbox"/> E7 <input type="checkbox"/> E8

These checked Chapters/Parts have been taken into consideration in the assessment of the subject development application in accordance with Section 4.15 of the EP&A Act. The proposed development is demonstrated to meet the relevant Objectives of DCP 2010 (in

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some cases subject to conditions and/or to the satisfaction of other assessing officers).

Provision	Compliance	Comment
Part A A13.4 Community consultation prior to development application lodgement	Yes	
A13.4.1 Minimum requirements for pre-lodgement community consultation	Yes	Pre-development application lodgement community consultation was undertaken in accordance with the requirements of Part A 13.4.1 and documented in the submission.
Chapter B4 Traffic Planning, Vehicle Parking, Circulation & Access		
B4.2.9 Loading Bays	Yes	Loading facilities are provided for the proposal.
B4.2.12 Parking Schedules	Yes	<p>The following parking rates apply to the development in accordance with Table B4.1:</p> <ul style="list-style-type: none"> - Boarding house – in accordance with Affordable Rental Housing SEPP - Retail / Food & drink – 1 space per 20m² gross floor area - Shop top housing 1space per 2 bedroom dwelling plus 1 per 4 for dwellings for visitors <p>The proposal generates a requirement for the following car parking:</p> <ul style="list-style-type: none"> - Boarding house 19 - Retail / Food & drink 13 - Shop top housing – 10 <p>Total parking required is 42 spaces. The development provides 49 spaces.</p> <p>-</p>
Chapter B8 Waste Minimisation and Management		
B8.2.2 Site Waste Minimisation and Management Plan	Yes	A Site Waste Minimisation and Management Plan has been submitted in accordance with the requirements of Chapter B8.
Chapter B12 Social Impact Assessment		
B12.1.3 A Social Impact	Yes	Sarah George Social Impact Planning

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Provision	Compliance	Comment
Assessment is required for a boarding house accommodating 20 or more residents		Consultants has prepared a Social Impact Assessment for the development.
B12.2 A Social Impact Assessment must be prepared and certified by a suitably qualified person.	Yes	The Social Impact Assessment has been prepared by a suitably qualified person.
B12.3 Elements for consideration in the preparation of a Social Impact Assessment include transport, safety, diversity, amenity, employment and training and culture.	Yes	The matters identified in B12.3 have been considered in the Social Impact Assessment.
Chapter D1 Residential Accommodation in Urban, Village and Special Purpose Zones		
D1.2.1 Building Height Plane	Yes	A minor encroachment into the building height plane on the western boundary adjoining the preschool meets the performance criteria as it will not impact on views, privacy or solar access.
D1.2.2 Setbacks from boundaries requires a 4.5 metre set back from the primary front boundary.	Yes	The building is set back 11.258 metres from Torakina Road.
D1.2.4 Character and visual impact	Yes	The built form proposed is appropriate for the locality and incorporates balconies, overhanging eaves and the use of materials compatible with the existing built environment.
D1.2.5 Fences	Yes	Fencing is consistent with the provisions if D1.2.5.
D1.8 Boarding Houses		
D1.8 Provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 apply to boarding houses.	Yes	See assessment section 4.1 of this report.
D1.10 Shop Top Housing		
D1.10.1 Density Control – minimum of 25% of floor space must be set aside for commercial / retail and all ground floor area fronting	Yes	The retail floor area is 25% of the overall floor area and retail floor space fronts the street.

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Provision	Compliance	Comment
the street must be for retail and / or business premises.		
D1.10.2 Accessibility – each dwelling must have direct access from the street without the need to pass through retail or business premises.	Yes	Direct access is provided to the shop top housing without the need to pass through the retail premises.
D1.10.3 Private Open Space – each dwelling must have access to a private open space balcony.	Yes	The dwellings have a private open space balcony that meets the minimum dimension of 2.5 metres and the minimum area of 15m ² required. The balconies will have adequate solar access and privacy screens are proposed.
D1.10.4 Sound Proofing	Yes	Dwellings will be sound proofed as required.
D1.10.5 Clothes Drying Area	Yes	Dwellings will have an internal laundry area.
D1.10.6 Site Facilities	No	The development complies with the site facility requirements.

2.5 Environmental Planning & Assessment Regulation 2000 Considerations

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

* Non-compliances and any other significant issues discussed below

5

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

Impact on:	Likely significant impact/s?
Natural environment	The development is not likely to result in significant impacts on the natural environment. The site does not contain significant vegetation. Stormwater management is satisfactorily addressed and erosion and sedimentation control will be required during construction. It is also proposed to offset the carbon emissions of the build.
Built environment	<u>Traffic</u> The documentation submitted by McLaren Traffic Engineering

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	<p>and Road Safety Consultants provides sufficient information to demonstrate that the development will not adversely impact on flow efficiency or road safety considerations. Modelling undertaken indicates that the Level Of Service (LOS) of the intersection of Bayside Way and Tweed Street (Old Pacific Highway) will remain unchanged.</p> <p><u>Amenity</u></p> <p>An on-site manager will assist in ensuring that the development does not impact on the amenity of the area in terms of noise etc.</p> <p>Submissions in relation to the development raise concern regarding the impact of the proposal on the amenity of the local area particularly in relation to overflow car parking. Seven parking spaces are provided in excess to the requirements of the DCP and SEPP. An electric share car space is also proposed.</p> <p><u>Built Form & Character</u></p> <p>The site has an unusual configuration with 20 metres frontage to Torakina Road and 6.165 metres frontage to Kingsford Drive. The primary view of the site will be from the public reserve adjoining the site. A perspective of the development as viewed from the public reserve illustrates the retail tenancies address the reserve and provide a built form of residential scale (Attachment to the report). The development complies with the building height and floor space ratio controls and is compatible with the existing and desired future character of the area.</p>
Social Environment	<p>A Social Impact Assessment has been submitted for the development. The report identifies the following positive social impacts of the proposal:</p> <ul style="list-style-type: none"> - Contribution to the affordable housing stock in Byron Shire; - Increase in the diversity of housing available; - Provision of housing for key workers, students, older people and people with a disability. <p>Rental accommodation with security of tenure is severely lacking in Byron Shire at present.</p> <p>The proponent has also advised that they are partnering with the SHIFT Project, Arakwal and North Coast Community Housing to allocate 3 boarding rooms for the SHIFT Project and 3 boarding rooms for Arakwal at reduced rents.</p>
Economic impact	<p>Positive economic impacts are anticipated during construction and post construction in terms of employment.</p>

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Construction Impacts	The development will generate minor impacts during its construction. Conditions of consent recommended to control hours of work, builders waste, construction noise, installation of sedimentation and erosion control measures and the like to ameliorate such impacts.
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Are there any Council Policies that are applicable to the proposed development?

Council Policy	Consideration
Building in the Vicinity of Underground Infrastructure Policy 2020	The proposal has been designed to comply with this policy in relation to the sewer line located along the northern and eastern boundary. Conditions to apply.

5 2.7 The suitability of the site for the development

10 The site constraints including bushfire hazard and acid sulfate soils are able to be addressed and managed. Adequate provision is available for water, sewer, electricity and telecommunications. The application has demonstrated compliance with Council's requirements in relation to stormwater management.

It is considered that the site is suitable for the proposed development.

15 2.8 Submissions made in accordance with this Act or the regulations

The development application was first publicly notified from 19 November – 9 December 2020.

20 There were **101** submissions made on the development application and 1 petition with 1,090 signatures, all which objected to the development. (Attachments to the report).

The submissions received raised the following issues of concern.

Issue	Comment
Built Form & Character	
Incompatibility with the character, scale, design and density of the area.	<p>The proposed built form is consistent with the planning controls in terms of height and floor space ratio. The floor space ratio of 0.5:1 is consistent with that of the surrounding R2 Low Density Residential Zone.</p> <p>While the present residential area consists predominantly of single storey dwelling houses, the most recent stage of the release area includes 2 storey buildings and dual occupancy development. The site adjoins a medium density allotment of 4,500m² and it is anticipated that 2 storey</p>

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	development will occur on this allotment.
Highest density development in Brunswick Heads with over 3,000m ² of the 4,300m ² to be built in.	The floor space ratio of the development is 0.5:1. The site cover of the buildings is 1049m ² or 24.4%. The landscaped area of the site is 1376m ² or 32%. The proposed development is not considered to comprise high density development.
Setback of 11 metres from Torakina Road double that of surrounding residential properties. Not consistent with streetscape (and Cl. 29(2)(b) of SEPP). Setback dominated by access – no street address.	The landscaped set back of 11 metres is considered appropriate given the mixed use nature of the site and the adjacent public reserve.
Does not engage with the reserve it “turns its back”.	The amended plans and perspective demonstrate the engagement of the ground floor retail land uses with the adjacent reserve (Attachments to the report).
The proposal’s appearance is not in harmony with the buildings around it and the character of the street in terms of footprint, height, curtilage, front street setback, elevations, roof form, materials and finishes and building address.	The proposed building represents a contemporary building within an older residential housing estate. The buildings under construction in the most recently released stage of the estate demonstrate how the estate is changing in terms of the built form. It is anticipated that the future stages of the estate, including the adjacent medium density lot of 4,500m ² , will differ from the existing single storey brick and tile built form.
Social Issues	
Not the right area for a boarding house. Family orientated area.	It is desirable for a residential area to provide for housing diversity and cater for a range of households including singles and couples. These household types are not considered to be inconsistent with an area being “family orientated”.
Social issues will result such as drinking and smoking in reserve.	The perception that the development will result in anti-social behaviour is unfounded.
Proximity to preschool and playground could attract undesirable people who prey on children.	This perception is unfounded.
Site Suitability	
No shops or public transport.	The proposal will provide retail premises to service residents.
Nearest bus stop 2.5 km away.	School bus services available for use by the general public stop in Kingsford Drive. The development also proposes a share car space for an electric vehicle.
Sufficient sewerage capacity?	Sufficient sewerage capacity is available for

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	the development.
Inconsistency with Byron LEP 2014	
Exceedance of the floor space ratio development standard	The revised scheme complies with the floor space ratio of 0.5:1.
Inconsistency with objective of B1 Zone.	The development provides for small-scale retail to serve the needs of people who live in the area.
Site identified for commercial land use. Commercial land uses insufficient given the only B1 Zoned land in Bayside.	The proposed development includes retail floor space. It is considered that the floor area proposed is satisfactory given the catchment of the site.
Need doctor, chemist, dentist, bakery and grocery store.	4 retail premises are identified in the proposed plans.
Other	
No communal room.	A common room of 40m ² is proposed.
No letterboxes or bins.	Letterboxes and bin storage areas are provided.
No monitoring of people per room.	The property manager and site manager will monitor the number of residents in each room.
Manager only available via message after hours.	The manager will reside on site.
No waste management plan submitted.	A Site Waste Management and Minimisation Plan was submitted for the development application.
Need good long term housing not short term boxes.	The proposed boarding rooms and shop top housing will provide long term rental accommodation.
Small expensive rooms.	The proposed rooms will increase the availability of rental accommodation for singles and couples in the area.
Room GFA exceeds maximum SEPP provisions.	The GFA of the boarding rooms complies with the SEPP.
Traffic & Parking	
Increased reliance on on-street parking.	Proposed parking supply exceeds the requirements of the DCP and SEPP.
Increased vehicular movements to and from the site. Only one entry and exit to estate.	The proposed traffic generation of the development has been assessed and will not adversely impact on the local road network.
Potential impacts on pedestrian safety.	The future stages of the Bayside Estate propose the extension of Kingsford Drive which is presently a no through road. The additional traffic generated by the development is not likely to pose significant risk for pedestrian safety.

Amended plan exhibition and report to Council

5 On 29 March 2021 the Court granted the parties an adjournment until 26 April 2021, to enable the development application to be considered at the Council meeting on 22 April 2021.

The Applicant consented to the notification of amended plans for a period of 7 days. This was factored in by the Court when granting the adjournment.

10 The amended plans were publicly notified from 7 April – 14 April, with a notification letter to previous submitters sent out also.

Given the agenda publishing date, any submissions received to this notification will be presented to the Council meeting under separate cover, and, as additional supporting information on the agenda public web page.

15 **2.9 Public interest**

The proposed development is unlikely to prejudice or compromise the public interest or create an undesirable precedent. The provision on an increase in the diversity of housing and permanent rental accommodation is considered to be in the public interest.

20 **3 DEVELOPER CONTRIBUTIONS**

3.1 Water & Sewer Levies

Section 64 levies will be payable.

25 **5.1 Section 7.11 Contributions**

Section 7.11 Contributions will be payable.

Conclusion

30 The DA proposes Mixed Use Development comprising Retail premises, 8 Shop Top Dwellings and a Boarding House containing 38 Boarding Rooms. The proposed development is satisfactory having regard to the relevant environmental planning instruments and planning controls applicable to the site. The proposal raises no significant issues in terms of environmental impacts which cannot be managed and the site is
35 considered suitable for the development. The application appropriately addresses the relevant constraints applying to the site, and is recommended for approval subject to conditions of consent.

Statement of Reasons
The proposed modifications were minor and substantially the same as the original development approval with no detrimental environmental impacts.
The proposed development complies with the provisions of Byron Local Environmental Plan 1988.
The proposed development complies with the provisions of Byron Local Environmental

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Plan 2014.
The proposed development complies with relevant State Environmental Planning Policies
The proposed development complies with relevant provisions of Development Control Plan 2014
The proposed development complies with relevant provisions of Development Control Plan 2010
The proposed development complies with Environmental Planning & Assessment Regulation 2000 considerations.
The proposed development will not have significant adverse impact on the natural, built or social environment or economic impacts on the locality.
The proposed development is considered suitable for the proposed site.
The development application was notified/advertised in accordance with the Community Participation Plan. Issues raised in the submissions have been addressed during assessment of the application.
The proposed development is unlikely to prejudice or compromise the public interest.
The proposed development will not have a detrimental impact on the heritage character of the precinct or the buildings contained on the site. It is considered consistent with the heritage provisions contained within Clause 5.10 of Local Environmental Plan 2014.
The proposed development will not have a detrimental impact on the heritage character of the precinct or the buildings contained on the site. It is considered consistent with the heritage provisions contained within Development Control Plan 2014.

Recent Resolutions

- 21-104

Legal/Statutory/Policy Considerations

5 Staff sought legal advice from external solicitors as to Council's prospects of succeeding in the Land and Environment Court appeal if it were to continue to defend its (deemed) refusal of the development application, having regard to the amended plans which were submitted by the Applicant on 4 March 2021.

10 That advice is contained in confidential attachment to the report. Councillors should note that although the advice is dated 24 March 2021 it was not available in its final form until after Council had resolved on 25 March 2021.

Although the advice relates to amended plans submitted by the Applicant on 4 March 2021 it remains applicable to amended plans submitted by the Applicant pursuant to Council's 25 March 2021 resolution.

DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

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

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Environment Division.	
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Provide Disclosure Statement register details here: Not applicable

Report No. 13.15 Byron Triathlon Change of Date

Directorate: Sustainable Environment and Economy

Report Author: Alice Heasman, Project Support Officer

File No: I2021/589

5 Summary:

The Local Traffic Committee (LTC) considered a report on this event on the 16 February 2021 meeting and adopted staff recommendations, with an additional requirement of a VMS board. LTC minutes were adopted by Council at the 25 March 2021 meeting. (Res **21-091**).

- 10 The event was approved for Saturday 8 May 2021, after discussions with local community groups and local police the event organiser is proposing to change the event day to Sunday 9 May 2021, to minimise impacts on the Byron town centre and community. No other changes are proposed, just the date.

- 15 The LTC will consider the change of date at the 13 April 2021 meeting, which is after the closing of the agenda for this Council meeting. Councillors will be advised by memo of the LTC resolution prior to the Council meeting.

- 20 Council is requested to endorse the change of date for the event, subject to LTC support. This is required because the minutes of the 13 April 2021 LTC meeting will be reported to the May Council meeting which will be after the event.
-

RECOMMENDATION:

- 25 That, subject to LTC support, Council endorses the change of date for the Byron Triathlon from Saturday 8 May 2021 to Sunday 9 May 2021.

Report

The Byron Triathlon was proposed for 8 May 2021, after community and local police consultation the event organisers are proposing to change the event date to Sunday 9 May 2021 to reduce Byron town centre and community impacts.

5 Key issues

This change was decided after community and police consultation.

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	2.1	Support and encourage our vibrant culture and creativity	2.1.7	Support range of existing, emerging and major events	2.1.7.2	Deliver event and festivals annual sponsorship program

Recent Resolutions

- 10 • Res 21-091

Legal/Statutory/Policy Considerations

Not applicable.

Financial Considerations

Not applicable.

15 Consultation and Engagement

After community and local police consultation the event organisers are proposing the change of date to minimise town centre and community impact.

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Report No. 13.16 Road Access and Safety Principles

Directorate: Infrastructure Services

Report Author: Andrew Pearce, Traffic Engineer
James Flockton, Infrastructure Planning Coordinator

File No: I2021/282

Summary:

This report is in response to Council Resolution **20-741**

At the 17th December, 2020, Council meeting Council Resolved that :

1. *Adopts the following Road Access and Safety Principles (RASPs) for the Byron Shire road network:*
 - a) *All users and modes of transport have an equal right of safe access to and movement on the road network.*
 - b) *Road safety audits must consider the access and safety of all road users, modes of transport and services delivered within the road reserve such as bus stops and waste collection.*
 - c) *Road renewals, upgrades and maintenance must demonstrate that works have considered all road users, modes of transport and services delivered in the road reserve and ensure fair funding for all users and modes and any inability to provide such delivery must be justified.*
 - d) *New roads must include safe access infrastructure for cyclists, pedestrians and services delivered in the road reserve and ensure fair funding for all users and modes*
2. *Embeds the Road Access and Safety Principles (RASPs) actions into the Operational/Delivery Plan at the next quarterly review:*
 - a) *Adapt Asset Management policy, capital works and maintenance planning procedures so that the RASP's are able to be applied to all new road related projects from July 2021.*
 - b) *Update road related infrastructure, movement, access and safety policies to be able to apply RASP's by June 2021.*
 - c) *Identify and update relevant DCP chapters to include RASPs by December 2021.*
3. *Receives a report at the April Ordinary Meeting 2021 to:*
 - a) *Report on progress*
 - b) *identify any conflicting issues and how they may be reconciled.*
 - c) *identify a pathway and timetable to complete implementation of all necessary actions.*

This report is written in response to Item 3 and will address each item in order.

RECOMMENDATION:

- 5 **That Council notes the report and support the proposed pathway and timeline outlined in the report to finalise a Council Policy for Road Access and Safety Principles**

10

Report

Progress

Staff have made the following progress towards embedding Road Access and Safety Principles (“RASP’s”) into Council processes and work undertaken by Council.

- 5 An interdepartmental meeting and a workshop has been held to:
- Review the resolution,
 - Review Councils current practices across all departments
 - Identify ways to demonstrate how RASP’s can be further embedded within Council practices in a sustainable and reportable way across all sections of Council. This is to ensure all road projects and works can adequately and clearly demonstrate how road safety for all road users and modes of transport has been assessed and implemented.
- 10
- Identified the need for a matrix that covers each work type and the level to which RASP’s can feasibly be considered.
- 15
- Identified the meanings for each work type.
 - Identified issues to address to ensure an agreed, consistent and uniform approach is adopted by all sections of Council.
 - Identified what a Road Safety Audits (RSA) must consider by law
 - Embedding the consideration of RASP’s within Infrastructure Planning’s Safety In Design processes.
- 20

These meetings systematically went through the work and processes undertaken by each section of Council (i.e. Development Assessments & Roads Act Approvals; Planning Proposals; Infrastructure Planning, Safer Roads Grant applications and Road Maintenance).

- 25 Based on these meetings staff representatives from each department are continuing to review internal documents, processes and works in light of Resolution 20-741, to see where and how RASP’s can be more fully embedded in Council practices and documents.

- 30 It is proposed that the best way to embed RASP’s into all of Council’s business is through a new RASP Policy and Strategy. This is discussed in more detail below and is considered the most efficient way to embed RASP across multiple documents and departments.

Conflicting Issues

Uniform Approach

A potential area of conflict is ensuring consistent definition and understanding of RSA / RASP's definitions and processes across staff. This may result in different expectations and application methods between staff, departments and the public.

- 5 To address this staff confirmed the need to develop a relevant policy document that will embed an agreed and uniform approach to Road Safety Audits and methods of applying RASP's across all sections of Council. It is proposed that a matrix be developed to help make this clear.

- 10 It was identified that this policy and Council's methodology should be in alignment with State and National guidelines as they provide best practice guidance on how to embed such methodology in a demonstrable, reportable way.

It is also noted that staff considers these State and National guidelines to fully compliment the goals of Res 20-741. To demonstrate this point, Res 20-741 Item 1b states:

- 15 *Road safety audits must consider the access and safety of all road users, modes of transport and services delivered within the road reserve such as bus stops and waste collection.*

Similarly the Austroads Guide to Road Safety, Part 6 – Managing Road Safety Audits states:

- 20 *A road safety audit is a formal, robust technical assessment of road safety risks associated with road transport projects. ...*
The objective of a road safety audit is to identify foreseeable hazards for all road users. The road safety audit process provides a reasonable, but not absolute, hazard identification method for all road users with a particular focus on the reduction in fatal and serious injuries.

- 25 Both the resolution and Austroads guidelines require road safety, associated with all transport projects, be considered from the perspective of all road users.

These guidelines also provide clear nationally agreed definitions of Road Safety Audits and associated terminology, outlines recommended processes and provides guidance on how to write a RSA and safe systems policy.

Types of Road Works

- 30 Road / Transport related works occur primarily within 3 key areas of Council, each with their own legislative requirements and constraints:

Asset Maintenance: Council works including; maintenance and maintenance renewal works.

- 35 Infrastructure Planning: Council works including; capital renewal, upgrade, new works as well as safer road program grants projects and place making projects.

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Planning: Private works including Development Applications, Building Works, Roads Act applications, Planning Proposals, etc

5 For works completed by Council, staff will be using the work types within Council's adopted Asset Management Plan to define the differences between, Maintenance, Renewal, Upgrade and New works and then create a matrix for the level of consideration that is available under each work type.

10 Recent meetings confirmed the broad range and scale of works within these 3 areas. They can vary significantly from driveway applications, subdivisions, bridge and road renewals to full upgrades as part of place making projects. In addition, each of these key areas operates within legislative frameworks that are sometimes distinct from each other.

State and National RSA guidelines recognise this range and scale of works and recognise a single one size fits all RSA template is not best practice.

15 Therefore, with regard to RSA it is proposed to outline in a central policy a framework that helps staff identify the level of audit recommended and documentation relevant to the scale and type of work. It is also anticipated that all relevant documents will reference this central policy.

It is proposed that the RASP Strategy will have a matrix to that will require a certain level of RSA dependent upon the project budget.

20 Further it is proposed that each work area will set up systems to continually record what actions have been taken to consider and implement RASP's with each project or program. This information will then be readily available should a Councillor, resident or other interested party request details for a particular project.

Examples

Staff have investigated typical examples under the different works types:

25 Maintenance options for improvement are limited without significant funding increases. For example a significant increase in Council's road side vegetation and shoulder maintenance would improve safety for other road users, however, this would likely require the tripling or quadrupling of the existing maintenance budget areas.

30 Renewal such as an asphalt overlay can offer opportunities. For example when Council recently completed an asphalt overlay of Argyle Street in Mullumbimby we chose to replace line marking with narrower travel lanes. This did not provide sufficient space for a, to standard, bike lane as there was not sufficient space, but it has provided an improved space for cyclist, at no additional cost to the works because the line marking was already being replaced as part of the works.

35 Upgrade works can be a mixture of scenario's. Some road upgrades have space and terrain that allow additional space to be provided for other road users, easily and with some budget increases, if the funds are available. Other projects have steep terrain or high conservation value vegetation which either results in the space simply not being

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available for other road users or the cost for retaining structures is so high the work is cost prohibitive.

- 5 New works typically fully consider all users as per standards and guidelines. The recent Byron Bypass is an example of this in effect, within the projects scope, budget and warrants only allow pedestrian refuges rather than pedestrians crossings.

- 10 New Developments are also a mixture of scenarios. In some instances Council can and do simply condition works from within the PAMP or Bike Plan, or other suitable works that improve access for all road users as part of a proposed development approval. However, staff must be able to prove there is a nexus to that condition. If a nexus can not be proven then the conditioning is not suitable and cannot be used by staff.

Key issues

Staff to develop a central RASP Policy and Strategy with a framework that:

- 15
- Embeds RASP from the perspective of all road users into associated all transport projects.
 - Helps staff identify the level of RSA recommended and documentation relevant to the scale and type of work via a matrix.
 - Provides a matrix for action against various work types.
 - Provides methods to document how RASP's have been considered in Councils works and approvals.
- 20

Options

N/A

Next steps

Pathway and Timetable

- 25 The current pathway forward is summarised as follows. Note the earliest TIAC meeting where documents and actions can be reviewed is 17th June 2021 and Council elections will constrain the reporting to Council.

TASK	FINISH DATE	COMMENTS
Prepare further material and investigations	20 th April	Include actions to update DCP, Project Management systems and Development Standards as required.

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Third Interdepartmental Workshop	21 st April	Share findings of Internal Reviews, Write Draft Policy, and Develop Matrix.
Staff Review of Draft RASP's Policy & Strategy	15 th May	Each departmental review Draft Policy.
Fourth Interdepartmental Workshop	21 st May	Draft RASP's Policy & Strategy ready for TIAC report preparation.
TIAC review Draft RASP's Policy & Strategy	17 th June 2021	Reports due by 1 st June.
Final Interdepartmental Workshop Post TIAC review	16 th July	Discuss TIAC comments and agree proposed amendments.
Finalise RASP's Policy & Strategy for Council approval	25 th September	Update based on TIAC comments
Council Report to finalise RASP's Policy and Strategy	14 th October, 2021	Reports due by 20 th September. First opportunity to report to Council. Will be to the new Council.

Strategic Considerations

Community Strategic Plan and Operational Plan

While there is no specific OP action connected to the work outlined in this report the following OP action is related.

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
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<p align="center">Community Objective 5: We have community led decision making which is open and inclusive</p>	<p align="center">5.2</p>	<p align="center">Create a culture of trust with the community by being open, genuine and transparent</p>	<p align="center">5.2. 3</p>	<p align="center">Provide access to publicly available corporate registers</p>	<p align="center">5.2.3.2</p>	<p align="center">Review, update and publish Council policies online and report on the status of Council's policy register</p>
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Recent Resolutions

- Resolution 20-741

Legal/Statutory/Policy Considerations

- TfNSW Guidelines for Road Safety Audit Practices
- 5 • TSR 11/01, TfNSW Road Safety Assessment Methods: Deciding Which One to Use
- Austroads Guide to Road Safety Part 6: Managing Road Safety Audits
 - Austroads Guide to Road Safety Part 6A: Implementing Road Safety Audits.

Financial Considerations

- 10 The financial considerations are currently unknown as the impact to Council's budget and project costs will vary from project to project. .

Consultation and Engagement

Consultation and engagement has been and is proposed to be in accordance with the Pathway and Timetable chart outlined in the report above.

Report No. 13.17 Dingo Lane Solar Farm - Feasibility Study Outcomes

Directorate: Infrastructure Services

Report Author: Cameron Clark, Manager Utilities

5 **File No:** I2021/408

Summary:

At Council's meeting of 23 May 2019, Council resolved the following, **Res 19-258**

10 *Resolved 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. (Ndiaye/Lyon)*

Council subsequently adopted the funding within the 2019/20 budget and this activity is now complete.

15 There is no doubt that Dingo Lane Solar Farm is a significant project in terms of it's potential to assist Council's commitment to emissions reduction. It is also a substantial financial commitment, with a current high degree of risk and whilst considering the potential environmental benefits of the project, Council must also consider the financial aspects of the project itself, and to the Council overall in context of other projects.

20 The preferred option for Council to consider in respect of the Dingo Lane Solar Farm is Option 3 known as 'Solar Option Green'. Based on the updated feasibility analysis provided by Resource Analytics, this Option indicates a positive net present value outcome over 25 years for Council of \$5.7million.

25 Whilst the Dingo Lane Solar Farm project is based on revenues generated being sufficient to recover any loan repayments, if a \$12million loan is secured in the General Fund, it may limit Council's ability to borrow for other projects identified in the Report or not yet identified. Essentially if the Dingo Lane Solar Farm project proceeds, it may be a case that Council may not be able to borrow for other projects if assessment of Council's financial capacity by lending financial institutions is not acceptable.

30 Should Council elect to proceed with this project, the critical path prior to calling price tenders becomes the Development Applications, refer to resolution **20-551** (22rd October 2020):-

- 1) *That Council authorises the General Manager to submit a Development Application for the proposed 5MW Solar Farm at Dingo Lane, Myocum (Lot 15 DP 1178892)*

- 35 2) *That Council notes that the DA is to seek approval for the use of the land for a 5MW Solar Farm only and that the consideration of the go/no go around the*

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outcomes of the business case, feasibility investigation and commercial delivery options be reported to council in February 2021 (Richardson/Hunter)

5

RECOMMENDATION:

That in relation to the Dingo Lane 5MW Solar Farm Project, Council:-

1. **Notes the Business Case included as Attachment 1 (E2021/44986) and endorse Option 3 as the preferred option;**
- 10 2. **Continues with the current Development Application to progress the project to shovel ready status; and**
- 15 3. **Receives a further report on the project, following the determination of current grant applications for the proposed Bioenergy Facility at the Byron STP to consider the holistic financial implications of both projects on Council's Long Term Financial Strategy.**

Attachments:

- 1 Confidential - Dingo Lane Solar Farm Business Case Update III x2 20210226, E2021/44986

20

Report

The Dingo Lane Solar Farm project has been identified as integral to Byron Shire Council's 'Net Zero Emissions Strategy for Council Operations 2025' (the Strategy). Responding to Council's commitment to 'Replace existing energy supplies from fossil fuels with renewables', the strategy identified the project as a key opportunity to offset traditional electricity used by Byron Shire Council within its operations, and community emissions where possible.

The proposal has been considered by Council over a number of years with other key documents, such as the *Our Byron, Our Future: Community Strategic Plan 2028*, *Byron Rural Land Use Strategy* and draft *Byron Shire Local Strategic Planning Statement – March 2020*.

In May 2019, Council commenced a detailed feasibility study for the Dingo Lane Solar Farm. This study is now complete, with various approvals processing underway (Essential Energy, Development Application). A final updated business case was prepared on 26 February 2021 for Council consideration.

The detailed feasibility study has completed:-

- Visual and glare assessment
- Ground investigations
- Environmental investigation
- Electrical grid modelling
- Stakeholder engagement
- Internal alignment within Council
- Construction contractor engagement and early tenderer involvement process
- Electrical retail market Expression Of Interest (EOI)
- Preparation of approval documents (Development Application and Essential Energy approvals)

Council has invested \$658k in the developing the project to-date including the feasibility study.

The project has been considered as a Council owned and operated asset as this represents the direction from the original 2019 Business Case and the most likely profitable delivery model. The current 2021 Business Case version III (Attachment 1) has itemised other delivery models and options but demonstrates that, as per the original direction, a Council owned and operated asset is the one that provides the best net present value (NPV).

At the March 2021 Strategic Planning Workshop (SPW) Councillors were informed of the completion of the detailed feasibility study and that Council will be able to consider the project on the basis of the updated Business Case, subject to:-

- Essential Energy and Development Application Approvals;
- Loan funding and prioritisation of this project with Council's loan borrowing capability; and

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- Actual prices from Contractors / Electrical Market Retailers, affirmed on Tender Award by Council.

Options

- 5 As this project has been developed according to the Dingo Lane Solar Farm Business Case from 2019, the focus has been on a Council Owned and Operated Asset at 1 Dingo Lane, Myocum (as this was the outcome of the 2019 Business Case which was endorsed by Council). The current Business Case (Attachment 1 E2021/44986) includes consideration of other options from B (other offset methods) & C (other infrastructure delivery models) and, for the most part, is agnostic towards option A (different sustainability goals) and does not consider option D (other locations).

Option A: If Council decides now or in the future to reconsider their sustainability goals, this does not affect the financial viability of the Solar Farm project, except to potentially allow for more profitability through the selling of renewable energy certificates (i.e. Option 2 in the Business Case).

- 15 *Option D:* Other locations for a Solar Farm have been out of scope of this project, and reference is made to the narrative above and the work of previous Council resolutions and the Byron Energy Action Tank in identifying and promoting this site for assessment.

Other Options

- 20 Bio-Energy has a unique feature that, if it is to go ahead, the peak generation times can be modified to be offset from peak solar times.

- 25 Whether to install a Battery or not is also an option which has not been actively included in this project. What has been included is an *allowance for a future battery* and it is expected that this future battery would be installed when the cost/benefit of installing it is satisfactory. It is expected that the Price Tender for the Construction Contractor will include an optional allowance to investigate and supply a battery in parallel to the construction of the Solar Farm.

Preferred Option

The preferred option is then Option 3 where Council Owns and operates the Solar Farm and retires LGCs (Large Generation Certificates if produced) for its own benefit.

Option	Physical Construction @ 1 Dingo Lane	PPPT* or PPA*?	LGCs sold or retired?	Advantage to BAU (25 years)
3. Solar Project Green	Yes	PPPT	Retired	\$5.7M

- 30 * PPAs – Power purchase agreements – contract between two or more parties, one which generates electricity (seller) and the other/s which purchase electricity (the buyer/off taker). These types of agreements often have a long term fixed price and use an electricity retailer as a ‘middle man’.

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PPPT – Pull – price pass through – contract generally between two parties, whereby the electricity generator (the seller) goes straight to the market for prices, with an electricity retailer as the facilitator, thus avoiding ‘wholesale price’ add-ons but also exposes Council to the market spot price for both purchasing and selling electricity.

- 5 It is necessary to note that:-
- A) It may not be necessary to generate or retire LGCs at all if the energy is sold as “bundled” Green Energy, and this becomes a operational practicality, very closely tied to any accreditation scheme;
 - 10 B) More energy is produced by the solar farm than is used by Council, so practically some or all can be retired in certain years depending on the practicalities of the LGC market and/or Council’s emissions;
 - C) The Business Case assume that all LGCs are sold from Year 1, where is in practice Council would sell them prior to the 2025/2027 policy deadlines as this would increase the cash flow of the project in the short time; and
 - 15 D) PPPT is the current Energy Retail form that is expected to provide the best return to Council for the project, but this is expected to be continually evaluated through the project life-cycle, included at the Price Tender stage, where both PPPTs and PPAs will be acceptable for the project.

Option 3 then represents a conservative assessment of the profitability of the Solar Farm.

20 Next steps

In May 2019 the following ‘next steps’ were proposed;

‘Next Steps’ from May 2019	Progress as at March 2021
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. (Res 19-258)	Completed
Prepare an Expression of Interest (EOI) to test market appetite to undertake the Design & build/ Operation & Maintenance for the Project	Completed, shortlist established April 2020 (Res 20-192)
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.	Completed, reporting to Council in April 2021 (I2021/535)
Notify Essential Energy in writing with Council’s intention to proceed with a connection application by 19 April 2019	Completed. Application assessment underway

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'Next Steps' from May 2019	Progress as at March 2021
Engage a third-party to complete further independent detailed flood risk modelling for the site.	Completed
Undertake preliminary site geotechnical studies.	Completed
Consider the optimum level of equity capital required by the Project and consult with NSW TCorp, CEFC and other preferred lending providers to assess appetite and terms to fund the required capital budget	It is unlikely that TCorp will fund this project under its rules and as such commercial loans would be required to fund this project
Undertake a pre-lodgement meeting with Council to understand development approval needs and progress the DA process, noting the requirement that the development will require JRPP approval.	Completed
Engage a third-party consultant to prepare a development application and associated studies.	Completed
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	Completed

If Council decides to proceed to shovel ready with the project, the next steps are:-

1. Liaise with Authorities through the Development Application and Essential Energy approvals processes; and
- 5 2. Carry out public exhibition of the DA according to the Approval Authorities requirements

Strategic Considerations

Community Strategic Plan and Operational Plan

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CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 1: We have infrastructure, transport and services which meet our expectations	1.4	Provide a regular and acceptable waste and recycling service	1.4.4	Ensure facilities and services meet statutory requirements	1.4.4.8	Dingo Lane, Myocum Solar Farm Project
Community Objective 3: We protect and enhance our natural environment	3.2	Strive to become a sustainable community	3.2.1	Work towards Council's zero-emissions target	3.2.1.1	Implement Net Zero Emissions Strategy for Council Operations 2025

Legal/Statutory/Policy Considerations

OLG Capex Review Requirements

Loan funding requirements

Net Zero and Renewable Target Resolutions

5 Environmental Planning and Assessment Act 1979

Essential Energy Approvals process

Our Byron, Our Future: Community Strategic Plan 2028,

Byron Rural Land Use Strategy and draft Byron Shire Local Strategic Planning Statement – March 2020

10 Byron Rural Land Use Strategy 2017

Local Government Act 1993

Financial Considerations

Comment by Manager Finance

15 There is no doubt that Dingo Lane Solar Farm is a significant project in terms it's potential to assist Council's commitment to emissions reduction. It is also a substantial financial commitment with a current high degree of risk and whilst considering the potential

environmental benefits of the project, Council must also consider the financial aspects of the project itself and to the Council overall in context of other projects.

Dingo Lane Solar Farm Project – Project Financial Considerations

As indicated in the report above, the preferred option for Council to consider in respect of the Dingo Lane Solar Farm is Option 3 known as 'Solar Option Green'. Based on the updated feasibility analysis provided by Resource Analytics indicates a positive net present value outcome over 25 years for Council of \$5.7million. In considering this option as the most beneficial to Council balancing emissions and finance, the following points are provided:

- Option 3 is predicated a positive net present value outcome assuming that at the end of 25 years, Council would be able to sell the assets for \$2.7million. Whilst consistently applied across all option outcomes where it applies, the Resource Analytics Report does not outline how the sale price at year 25 is determined except to say that the assets could be sold at any time once the plant is operational and a steady state of behaviour is achieved. Without certainty of this value, the positive net present value of option 3 declines 47%.
- On average including a future asset sale, a positive outcome of \$228,000 per annum is achievable if Council is willing to surrender the associated Large Scale Generation Certificates (LGCs). On the assumption if Council was to borrow \$12million to construct the project, a simple return on investment calculation would suggest the annual return on average is 1.9%. It is indicated in the Resource Analytics report that an external developer would expect at least a 9% return on such a project. This would indicate that whilst the project is cash flow positive on its feasibility, it is not to a scale that would warrant investment commercially. Whilst Council may not consider the project in a commercial sense to this extent, the low return on investment does show the project whilst positive in feasibility terms based on the assumptions used, market testing those assumptions may negatively impact the financial outcome and there is a small scope to move before the project could become financially unviable.
- The solar farm is proposed to be constructed on land that is owned by Council's Waste Fund. This land, purchased for the purpose of providing a buffer to the Myocum landfill was funded by loan borrowings taken out in 2012 and those loan repayments are being met by the Waste Fund. Whilst overall the land is Council land, it might be considered in fairness to the Waste Fund that the solar farm project should contribute by way of lease/rental to the Waste Fund for use of the land. This has not been factored into the feasibility and would further erode the positive cash flow outcome of the project if the project was seen to be on a stand alone basis without any form of subsidy.
- The feasibility of the solar farm project has included as a worse case scenario an estimated cost of network upgrades specified by Essential Energy at \$1,528,300. Whilst these contestable works range in cost between \$493,000 to \$1,528,300, they are not certain and as noted in the Resource Analytics report remain a key risk until Essential Energy provide more clarity in response to the detailed network modelling submission.
- As indicated in the report summary above, at the time of writing this report, Council has invested \$656,300 in actual and committed costs in the feasibility of the Dingo

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Lane Solar Farm overall. The General Fund has not had and does not have the financial capacity to fund this expenditure to date so it has been funded from the Other Waste Reserve.

5 Should the project proceed, the overall costs of feasibility should be reimbursed to the Other Waste Reserve.

- 10 Given the nature of this project funded 100% by external loan, it may not be possible to secure loan financing through the low interest loan facility offered by NSW Treasury Corporation. This project may be outside their lending policy that is oriented towards infrastructure renewal and addressing infrastructure backlog but not projects creating new assets and one that might be considered to be potentially commercial. The project would need evaluation from a lending sense by NSW Treasury Corporation but if not acceptable, Council would need to apply to a Bank for a loan. This may attract a higher interest rate on the loan borrowings but would hopefully be within the assumption contained in the feasibility study.

15 Council – Overall Financial Considerations

The funding proposal for the construction of the Dingo Lane Solar Farm is based on Council securing a \$12million loan. As background, at 30 June 2020, Council had the following outstanding loan balances:

Fund	Loan Balance \$
General Fund	22,262,720
Sewerage Fund	40,572,417
Total	62,835,137

20 During the 2020/2021 financial year before considering any new loan funding requirements for the financial year, Council is expected to repay the following loan principal amounts:

Fund	Loan Balance \$
General Fund	1,154,561
Sewerage Fund	2,372,082
Total	3,526,643

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Expected outstanding loan balances at 30 June 2021 before considering any new loan borrowings will therefore be:

Fund	Loan Balance \$
General Fund	21,108,159
Sewerage Fund	38,200,335
Total	59,308,494

If Council proceeded to borrow \$12million to construct the Dingo Lane Solar Farm, it would increase its debt level by 20% overall and by 57% in the General Fund immediately.

- 5 There are other projects that are on the horizon for Council that may require loan funding in the absence of alternate funding sources that are also significant in their cost including the following (not in any preference or order with some still requiring costing and timing):

Project	Estimated Cost \$	Potential Loan Funding \$	Timing	Fund
Byron Bay Bypass additional funding	1,750,000	1,750,000	2020-2021	General
Bio Energy – assuming no grant funding	12,000,000	12,000,000	2021-2022	Sewerage
Mullumbimby Hospital – post remediation	Unknown	Unknown	Unknown	General
Byron Bay Hospital	3,500,000	3,500,000	2021-2022	General funded from Water
Byron Bay Drainage Strategy – assuming grant funding	5,000,000	5,000,000	Unknown	General
Sandhills Estate –	3,500,000	2,500,000	Unknown	General (Sewerage Fund contribution to be

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assuming grant funding				determined)
Byron Bay Town Centre Masterplan	Unknown	Unknown	Unknown	General
Rail Corridor – Reinstatement of light rail	Unknown	Unknown	Unknown	General
Coastal Protection Works	Unknown	Unknown	Unknown	General
Valances Road Sustainability Centre	Unknown	Unknown	Unknown	General/Sewerage
Lot 22 Mullumbimby Development	Unknown	Unknown	Unknown	General
Byron Bay Memorial Pool	Unknown	Unknown	Unknown	General
Relocation and renewal of Bayshore Drive Depot	Unknown	Unknown	Unknown	General
Replacement of roof and air conditioning Mullumbimby Administration Centre	Unknown	Unknown	Unknown	General

- 5 The majority of potential borrowing requirements in the future appear to be General Fund related which would have the least capacity to borrow. Whilst the Dingo Lane Solar Farm project is based on revenues generated being sufficient to recover any loan repayments, if a \$12million loan is secured in the General Fund, it may limit Council's ability to borrow for other projects identified above or not yet identified. Essentially if the Dingo Lane Solar Farm project proceeds, it may be a case that Council may not be able to borrow for other projects if assessment of Council's financial capacity by lending financial institutions is not acceptable. How a lending financial institution determines financial capacity is the subject of Council submitting an application and waiting to see if it is approved. It may be a case that projects may need to be deferred or cannot proceed without other funding if loan borrowings do not become an option.
- 10

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On an overall basis assuming Council has to borrow for Bio Energy and Dingo Lane Solar Farm within the next two financial years, that has the potential to increase Council's debt position overall by 46% excluding principal repayments for 2021/2022 and 2022/2023.

- 5 Council could be looking at a debt position of approximately \$85million which equates to 100% of Council's overall operating revenue based on 2019/2020 levels. For the last two financial years (2018-2019 and 2019-2020), Council did not meet the benchmark for the debt service cover ratio where the operating result before capital excluding depreciation did not exceed twice the result of loan principal repayments plus interest costs.

- 10 Existing loan repayments for Council in all funds of principal and interest are estimated to be \$6.583million for the 2020/2021, 2021/2022, 2022/2023 financial years respectively and will peak at \$9.878million in 2023/2024 when the \$3.334million loan for remediation of the former Mullumbimby Hospital is due to be repaid in full.

- 15 Essentially, Council may be able to borrow a loan for the Dingo Lane Solar Farm project in isolation but it may risk the potential to borrow for other projects identified above. Whilst in theory in the immediate term both the Dingo Lane Solar Farm and Bio-Energy projects are both self funding projects, it is not certain the addition of a potential \$29.25million (also including Byron Bay Bypass and former Byron Bay Hospital) in additional loan borrowings over a possible two financial year basis will allow all projects to occur simultaneously nor the consideration of any other project(s) that may require loan funding.

20 Financial Considerations Summary

Ultimately it is a decision for Council the next steps for the Dingo Lane Solar Farm Project.

Given the scale of the project, its potential financial risk, the need to balance this project in terms of priority in relation to other Council projects outlined above that may need loan funding, Council should carefully consider these matters.

- 25 In that respect the recommendations outlined in the report is supported.

Consultation and Engagement

A Communications and Stakeholder Engagement Plan was developed in September 2019.

Engagement activities between November 2019 and April 2021 include:-

- 30
- Door knock and mail out to residents and ratepayers in the neighbouring area (Myocum/Montecollum/Coolamon Scenic Drive) with a personalised letter, fact sheet and FAQs;
 - An on-site meeting was publicised via print and online advertising campaigns; and
 - Multiple driveway meetings were then held with residents, followed by a meeting at Council Chambers with management and representatives of the neighbour group.
- 35 The broader communication campaign included a dedicated Council webpage and a "Your Say" project page with online guestbook, Q&A session and make a submission form.

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An online social media and print advertising campaign directed traffic to the “*Your Say*” page.

Media releases were distributed, resulting in local and regional media coverage and interviews with print, online and radio media.

- 5 Site meetings were held with Arakwal representatives to explore indigenous opportunities, specifically under-the-solar enterprise projects (agri-voltaics).

Report No. 13.18 Byron Bay Access and Movement Plan and Pedestrian Access - Byron Bypass

Directorate: Infrastructure Services

Report Author: Andrew Pearce, Traffic Engineer

5 **File No:** I2021/280

Summary:


10 This report seeks Council's endorsement of the attached Movement and Place Brief (Attachment 1 - #E2021/50925).

RECOMMENDATION:

That Council:-

- 15 1. Supports the attached Movement and Place Scope (E2021/50925) and proposed process outlined in the report (I2021/280)
- 20 2. Considers an allocation of \$150,000 in conjunction with other budget priorities as part of the 31 March 2021 Quarterly Budget Review to undertake the Byron Bay & Wategos Parking Scheme Review and Movement and Place Study of the Byron Bay Township

Attachments:

- 25 1 DRAFT BYRON BAY ACCESS AND MOVEMENT BRIEF, E2021/50925 

Report

Background

Council resolved the following at Council's 21st December Ordinary Council meeting:

- 5 1. That Council supports the preparation of a brief for an Access and Movement Plan for Byron Bay Town Centre.
2. That the brief and an identified funding source be reported to Council prior to progressing the project.

Following this resolution Councillors and staff subsequently met with TfNSW representatives at the Cavanbah Centre to discuss the Movement and Place framework.

- 10 As part of that meeting it was agreed to undertake a Movement and Place Study (M&P) of the transport corridors in and connecting to the Byron Bay Township. The aim of this brief and the Movement and Place Study will address the same concerns and intent covered by the above resolution.

- 15 The attached brief has been sent to both TfNSW and TIAC for comment. At the time this report was written no feedback has been received. However, any feedback received prior to this Council meeting will be supplied to Councillors as a memo. This report has been submitted to Council now in order to commence the Study in a time efficient manner.

A Request For Quote (RFQ) to undertake a Movement and Place Study will be developed based around the attached scope, incorporating relevant feedback from TfNSW and TIAC.

- 20 The following Movement and Place Summary is taken directly from the 15th April TIAC report.

Movement and Place Summary

- 25 Historically transport corridors have been viewed as just a way to get vehicles from A to B. The Movement and Place Framework recognises that streets and transport corridors are not just about moving people and goods – they are also places for people to live, work and spend time. 'Movement and Place' is about getting the right mix of transport in the right locations to create places we can all enjoy.

In particular, the 'Movement and Place Framework' aims to balance the needs of:

- Safe and efficient movement of people and goods along key movement corridors.
- 30 • Creating vibrant places for local communities.

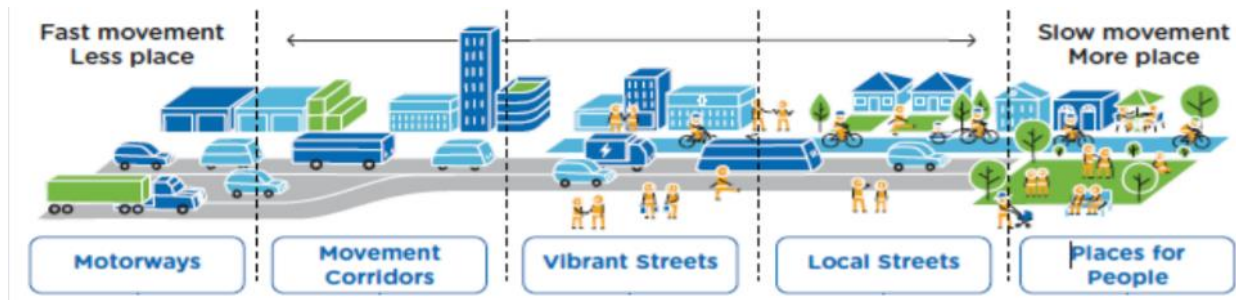


Figure 1: Movement and place framework: Future Transport Strategy 2056.

Even along sections of the one road the road environment can transition from being more 'place' focused to more 'movement' focused. An example of this is Jonson Street once the Master Plan is rolled out. At the southern end of the Bypass, Jonson Street may function more towards the 'movement' corridor end, while the proposed northern shared zone section proposes to function more towards the 'place' end.

This transition from movement to place can create tensions within the road corridor and the movement and place framework helps answer questions, such as:

- which road users gets priority (cars or people) along each section of Jonson Street,
- how do we design the road corridor along the full length of Jonson St to help transition the road environment to facilitate this change in priority.

Therefore, the objective of applying the Movement and Place framework to transport corridors associated with the Byron Bay township is to help plan, design and deliver transport corridors within the Byron Bay township that meet the goals and visions outlined in the Byron Bay Master Plan.

To this end, the aim is to apply the Movement and Place framework to the Byron Bay transport network (whether rail, pedestrian, cycle or vehicle) to help plan, design and deliver a transport network that balances movement and plans with the vision of the Byron Bay Master Plan.

Accordingly, the Draft Movement and Place Brief is provided at Attachment 1 for review.

At a recent meeting between TfNSW and Councillors to discuss Movement and Place it was also agreed to provide a copy of the brief to TfNSW for comment. This attached Brief has been sent to TfNSW for comment. No feedback has been received at the time this report was written.

To gain a deeper understanding of the Movement and Place framework, it is recommended viewing the following TfNSW resources.

The Aligning Movement and Place document has been attached as it provides the most balanced level of introduction information.

Aligning Movement and Place – an introduction to the framework

Better Streets – a fact sheet providing a higher level overview

Practitioner's Guide to Movement and Place – outline a recommended structure and process for applying the framework to a project

- 5 **Achieving balance between 'movement' and 'place' in designing vibrant streets** – this document focuses on 'Vibrant Streets'. As seen in Figure 1 above, Vibrant Streets have particular tensions as their purposes is roughly 50% Movement and 50% Place.

Parking Scheme Review

As part of the Movement and Place Study a Parking Scheme Review of Belongil, Byron Bay and Wategos will be undertaken and the findings used as part of this M&P Study.

- 10 At the time this report was written a RFQ for the Belongil Parking Scheme Review has been issued. The Byron Bay and Wategos Parking Scheme Review will be undertaken in tandem with the M&P Study.

Proposed Process

Subject to Council support for the attached Brief it is proposed to:

- 15
- Incorporate feedback from TIAC and TfNSW into a final Brief
 - Then issue a RFQ on Vendor Panel,
 - subject to adequate funding being allocated and appropriate funding source being identified.
- 20
- If feedback from TIAC or TfNSW is received after the Council meeting and requires a substantial change to the attached scope will be reported back to Council.

Key issues

The Movement and Place Study will help plan, prioritise and deliver Byron Bay Master Plan projects with an emphasis on safe place making.

Next steps

- 25 Incorporate feedback from TIAC and TfNSW into a final Brief and issue a RFQ on Vendor Panel, subject to adequate funding being allocated and appropriate funding source being identified.

If feedback from TIAC or TfNSW is received after the Council meeting and requires a substantial change to the attached Brief it will be reported back to Council.

30 **Other sub-headings**

N/A

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 4: We manage growth and change responsibly	4.1	Support the visions and aspirations of local communities through place-based planning and management	4.1.1	Develop, implement and update Place Plans that promote place-based forward planning strategies and actions	4.1.1.6	Investigate priority needs for future masterplans
Community Objective 4: We manage growth and change responsibly	4.1	Support the visions and aspirations of local communities through place-based planning and management	4.1.1	Develop, implement and update Place Plans that promote place-based forward planning strategies and actions	4.1.1.1	Progress draft Planning Proposal and DCP chapter to amend planning controls for Byron Bay town centre (Byron Bay Town Centre Masterplan action)
Community Objective 1: We have infrastructure, transport and services which meet our expectations	1.7	Manage traffic and parking in an efficient manner	1.6.3	Ensure new infrastructure is planned and funded to meet the needs of the current and future population (SP)	1.6.3.3	Advocate and apply for grant improve transport networks

Recent Resolutions

- 20-737

5 Legal/Statutory/Policy Considerations

Ensure an alignment between Byron Bay Master Plan, PAMP and Bike Plan goals and visions.

Financial Considerations

5 Until RFQ submissions are received for this Study it is recommended to allocate a minimum of \$150,000 to undertake:

- Byron Bay & Wategos Parking Scheme Review
- Movement and Place Study of the Byron Bay Township.

As a guide,

- the Integrated Transport Management Study had a budget of \$175,000 allocated
- 10 • Belongil Parking Scheme Review has a budget of \$20,000 allocated

Comment by Manager Finance

15 Currently there is not an allocated funding source to undertake this Study and the 2020/2021 Budget is currently has a deficit position of \$296,100. It would be preferable for Council to consider the funding for this Study in conjunction to consideration of the 31 March 2021 Quarterly Budget Review scheduled to be reported to Council during May 2021 to see whether funding can be identified. Whilst a funding source is being determined, the development of a Request for Quotation document could still occur and be ready if funding is identified.

Consultation and Engagement

20 Consultation is underway with TfNSW and TIAC.

Report No. 13.19 Proposed Policy for Glare Shields on Streetlights

Directorate: Infrastructure Services

Report Author: Joshua Provis, Road and Bridge Engineer

5 **File No:** I2021/460

Summary:

Council has received multiple requests from residents to address bright street lights in front of their properties which are causing a nuisance.

10 This report proposes a policy for installation of glare shields which will provide a framework for such requests to be considered and actioned.

RECOMMENDATION:

15 **That the draft Proposed Policy for Glare Shields on Streetlights be placed on public exhibition for a minimum period of 28 days, and**

a) **That in the event that any submissions are received on the draft policy, it be reported back to Council prior to adoption; or.**

20 b) **That in the event that no submissions are received on the Proposed Policy for Glare Shields on Streetlights that:-**

i) **It be adopted and incorporated in Council's Policy Register; and**

ii) **The proposed fees and charges be adopted within Council's 2021/22 Fees and Charges schedule.**

25 Attachments:

1 Draft Policy for Glare Shields on Streetlights, E2021/47567 

Report

Currently, Council does not have an approved process to action requests for glare shields.

Following a high number of new requests from residents more recently, Council staff have investigated possible options for actioning requests with Essential Energy.

- 5 At Council's request, Essential Energy can inspect lights and provide general advice on glare shields. However, regardless of the general advice provided, Essential Energy will not install a glare shield until Council signs the Glare Shield Agreement, which places responsibility on Council for any departure from the Australian Standard AS/NZS 1158.

- 10 Therefore Council needs to undertake its own assessment and only allow glare shields when the streetlight will still meet the Australian Standard with the glare shield fitted. Council's assessment will include factors such as standard of lighting in the area, road and footpath user safety, and departures from Australian Standards. The cost to undertake the assessment is proposed to be charged to the resident and included in the draft Council's Fees and Charges Schedule for 2021/22, with the fee being currently proposed at \$300.

- 15 Council should not allow glare shields to be installed at the following locations under any circumstances:

- *at pedestrian crossings*
- *at intersections*
- *across the road or along the road from the resident making the request*
- 20 • *at roundabouts*
- *at road bends*
- *adjacent to local area traffic management devices (i.e. traffic island).*

- 25 If after making its assessment, Council staff and the Director Infrastructure Services deem it is safe and the light can still comply with the provisions of the Australian standard with a glare shield fitted, Council will sign the Essential Energy waiver and approve the installation of the glare shield.

The cost to supply and install a Glare Shield is to be charged to the resident and is included in the draft Council's Fees and Charges Schedule for 2021/22, which is currently proposed at \$800.

30 Legislative and strategic context

Strategic Considerations

The Streetlight Glare Shield Policy relates to Australian Standard AS/NZS 1158 Lighting for roads and public spaces.

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	5.3	Deliver a high level of customer service	5.3.1	Enhance external and internal customer service effectiveness	5.3.1.2	Deliver great service to our customers and provide consistent, accurate and timely information

Legal/Statutory/Policy Considerations

The draft Streetlight Glare Shield Policy relates to Australian Standard AS/NZS 1158 Lighting for roads and public spaces.

5 Consultation and Engagement

The report and proposed policy has been developed in response to customer requests on the issue of bright street lights.

Report No. 13.20 Speed Zone Reviews - LTC Process

Directorate: Infrastructure Services

Report Author: Andrew Pearce, Traffic Engineer

File No: I2021/475

5 Summary:

The purpose of this report is to address item 4 of Resolution **21-038**:

4. *That Council receive a report to provide a process so that all speed reviews can be referred to the LTC.*

10 This report will first outline the current speed zone review process and then outline an alternate speed zone review process where requests are referred to the LTC.

RECOMMENDATION:

- 15 **That Council requests TfNSW provide a list of submitted speed zone review requests to each LTC meeting (excluding extraordinary meetings) for noting or comment.**

20

Report

Current Process

Each NSW region has a TfNSW officer assigned to investigate all speed zone review requests. This is because authority to modify speed zones has not been delegated to local Council's and remains under the authority of TfNSW. For the Northern Rivers the TfNSW representative is the TfNSW representative on the Local Traffic Committee.

Typically, speed zone review requests come from 2 sources:

i) The Community:

- 10 a. From individual residents or community groups, such as: Binna Burra Rd, Federal Village and Rifle Range Road.

ii) Council Staff:

- a. Due to projects, such as: Mullumbimby Talking Streets and Grays Lane
b. Due to Staff passing on community requests, such as: Bangalow Rd

15 To ensure the community has a say in speed zones, TfNSW have a portal where all community members submit requests for a speed zone review at any time (see - <https://www.saferroadsnsw.com.au/haveyoursay.aspx>).

Requests submitted via this portal are directed to the TfNSW Northern Rivers representative for review.

20 Council staff, in turn, directs their enquiry directly to the TfNSW Northern Rivers representative.

Recent examples of speed zone review requests submitted by the community via the TfNSW portal are shown below with the TfNSW findings:

- Federal Drive (between Eureka Road and Federal Village)

25 ○ Currently 100km/h

 ○ TfNSW recommended reducing speed limit to 80k/h
- Broken Head Road in the vicinity of Sugar Cane Road.

 ○ Currently 80km/h

30 ○ Community requested it be reduced to 60 km/h or lower

 ○ TfNSW recommended no change to current 80km/h speed zone

- Binna Burra Road (between Coorabell Road and Lismore Road)
 - Preliminary feedback - TfNSW recommended improving Wayfinding signage
 - Preliminary feedback - TfNSW recommended amending bridge signage
- 5 ○ Speed zones still under review

Recent examples of speed zone review requests submitted by Staff include:

- Grays Lane
 - Currently 100km/h
 - To be sealed as part of recent grants
- 10 ○ Staff requested a reduced 60km/h limit
- TfNSW supports this request
- Mullumbimby Talking Streets
 - Council requested a 30km/h speed during trial
- 15 ○ TfNSW supported the request
- Bangalow Road (between Bangalow and Broken Head Road)
 - Request submitted by staff on behalf of a community request
 - Currently 80k/h
- 20 ○ Community requested it become 60k/h or lower for the whole length
- Currently under review

It is helpful to note the TfNSW representative drives along all roads under investigations with specific equipment to help assess the speed environment.

LTC Process

- 25 There are essentially 2 possible options to ensure all speed reviews are directed to LTC. The recommendation proposes to support Option 2 as a simpler and more efficient process.

Option 1: Submit ALL known requests to LTC for comment prior to submitting the request to TfNSW.

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Where Staff are aware of community requests for speed zone reviews staff ask the community to first submit their request to LTC for comment before they submit their request to TfNSW via the portal.

5 A limitation of this option is that staff are not always aware of community requests submitted via the portal.

Another limitation is this option may lengthen the review process by a couple months. Currently Staff and community take their requests directly to the TfNSW representative and the assessment takes 1-2 months after the submission.

10 LTC officially meets every 2 months with reports due for approval 3 weeks prior. If a request is identified after the report deadline the request would need to go to the following LTC meeting.

15 Therefore the April 13th LTC reports are due by 26th March. If a request is identified on March 30th the request would need to go to the following 15th June meeting. Rather than submit the request on 30th March staff would need to wait till 15th June. The review process would commence after 15th June.

20 *Option 2:* Request TfNSW to provide a list of speed zone reviews requests to each LTC meeting (excluding extraordinary meetings) for comment via a standing agenda item.

This would allow a faster review process as requests would be submitted straight away.

25 In other words if a request is identified on March 30th it can be submitted to TfNSW immediately by Council or the public through the TfNSW website. The review process may commence and TfNSW make their decision. At the June 15th meeting TfNSW could then present a list of all requests.

If TfNSW did not support a request LTC could provide comments and request a reconsideration, if appropriate.

Next steps

30 N/A

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	1.6.4	Improve effectiveness of Local Traffic Committee	1.6.4.1	Report regulatory traffic matters for recommendation to Council and items requiring comment through the Local Traffic Committee

Recent Resolutions

- N/A

5 Legal/Statutory/Policy Considerations

N/A

Financial Considerations

N/A

Consultation and Engagement

10 N/A

Report No. 13.21 Land acquisition for the purpose of widening and realignment of Myocum Road

Directorate: Infrastructure Services

Report Author: Deanna Savage, Roads and Property Officer
Joshua Provis, Road and Bridge Engineer

File No: I2021/477

Summary:

This report is being presented to Council to approve land acquisitions for the purpose of facilitating road widening, realignment and safety upgrade of a 500m section of Myocum Road.

RECOMMENDATION:

1. That Council authorises the acquisition of the identified land in Figure 1 of this report for road widening and realignment purposes.
2. That Council authorises staff to complete all tasks to allow the acquisition, including carrying out survey work and valuations, entering agreements with the relevant land owners, paying just compensation and registering the acquisitions.

Report

5 Council has been successful in receiving grant funding of \$1,894,708 and will contribute \$300,000 to address the condition of approximately 500m of Myocum Road and the safety at the intersection of Myocum Road with Possum Shoot Road and Kennedy's Lane, Ewingsdale.

In order to provide safety for road users at the intersection of Possum Shoot Road and Kennedys Lane, Myocum Road is required to be re-aligned to the west of Possum Shoot Road so that adequate sight distance can be achieved.

The outcomes of the project will be:

- 10
- Increased safety and sight distance for all road users at the intersection
 - A more efficient route, particularly for heavy vehicles
 - Wider sealed shoulders for pedestrians and cyclists
 - Minimum 3.5m travel lanes for vehicles
 - New drainage system with higher level flood immunity for road
- 15
- New line marking, safety barrier and signage design.

As a result of concept, preliminary design and survey, Council staff have identified areas of private land that are required to be acquired in order to facilitate the proposed upgrade.

Sections of existing road reserve no longer required will also be made available for sale to the adjacent landowners.

- 20 The parcels of land in question are identified in **Figure 1** below.

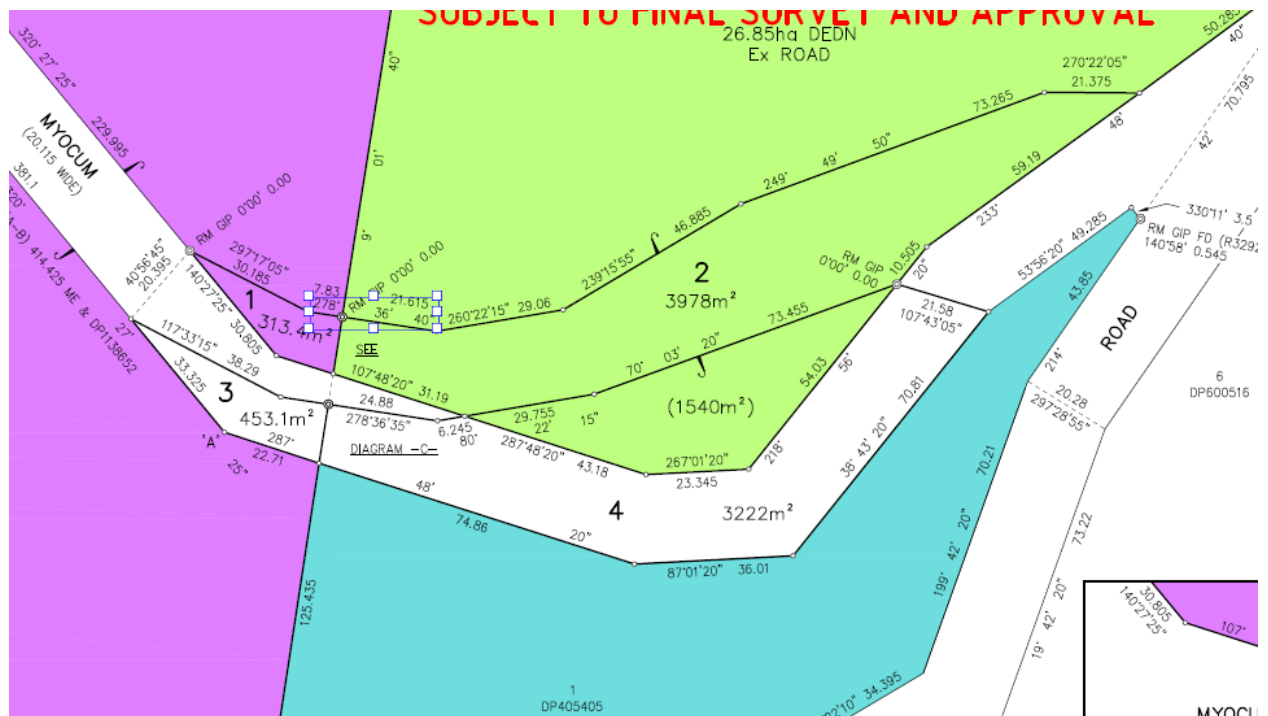
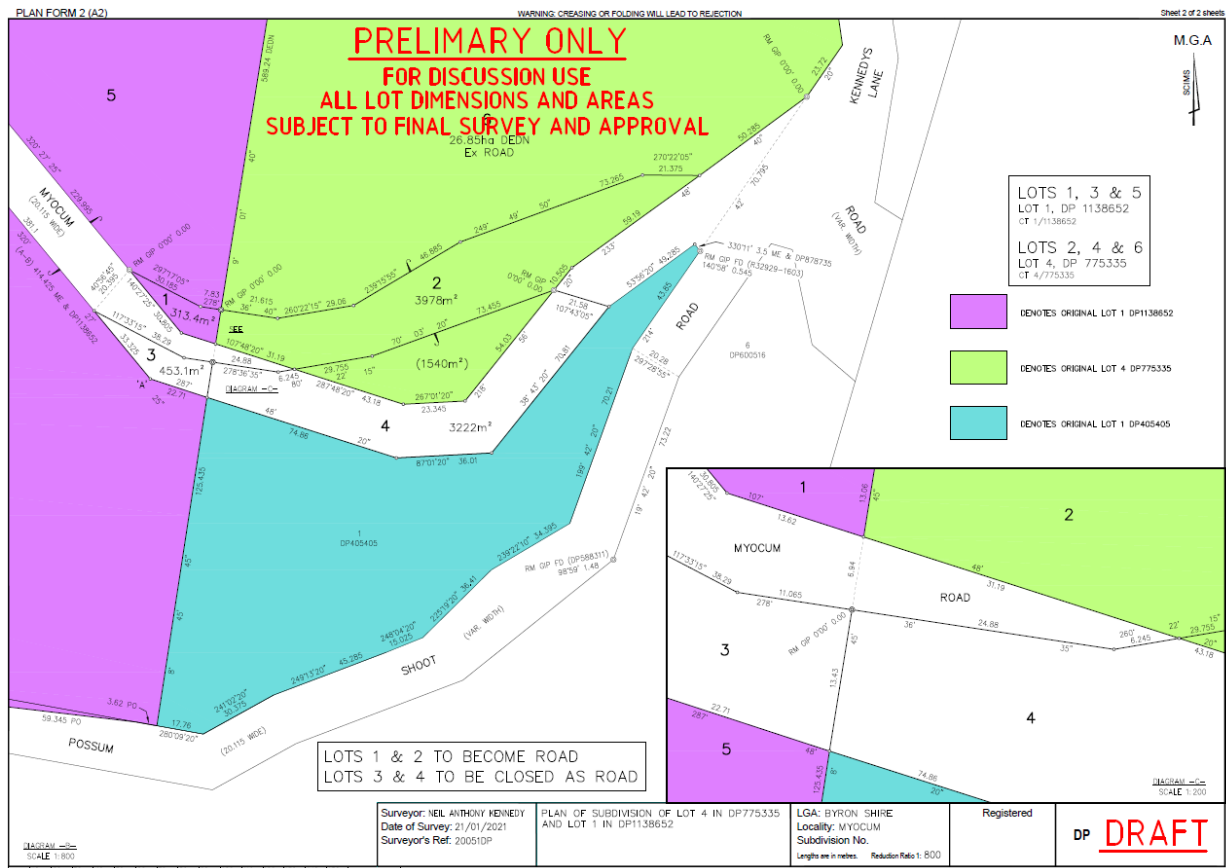


Figure 1: Proposed acquisition plan

Lot 1 (313.4m²)

- 5 It is proposed this lot is acquired by Council and dedicated as new road reserve.

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Lot 2 (3978m2)

It is proposed this lot is acquired by Council and dedicated as new road reserve.

Lot 3 (453.1m2)

- 5 It is proposed this road reserve will be closed and be made available for sale to the adjacent landowner (Lot 1 DP1138652).

Lot 4 (3222m2)

It is proposed this road reserve will be closed and be made available for sale to the adjacent landowner (Lot 1 DP405405).

Stranded parcel (1540m2)

- 10 This parcel would be stranded to the existing owner (Lot 4 DP 775335) by the proposed road reserve, therefore it is proposed the owner is given the option to retain the parcel or have it acquired by Council. In the case of purchase by Council it would also be made available for sale to the adjacent landowner (Lot 1 DP405405).

Strategic Considerations

15 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	1.1.3	Prioritise road network asset renewal and upgrade programs in line with Community Solutions Panel values (SP)	1.1.3.11	Deliver Myocum Road Renewal - Stage 1

Legal/Statutory/Policy Considerations

Roads Act 1993

Division 3 Closing of council public roads by councils

38A When council may close council public road

- 20 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 provides lawful and reasonably practicable vehicular access to that land.

Land Acquisition (Just Terms Compensation) Act 1991 (NSW)

1 s1 Notice of intention to acquire land by compulsory process

- (1) An authority of the State may not acquire land by compulsory process unless the authority has given the owners of the land written notice of its intention to do so.
- (2) The authority of the State is not prevented from acquiring the land by agreement after giving the proposed acquisition notice.

Roads Act 1993

Part 12 Division 1 Section 177

177 Power to acquire land generally

- (1) The Minister, RMS or a council may acquire land for any of the purposes of this Act.
- (2) Without limiting subsection (1), the Minister, RMS or a council may acquire—
 - (a) land that is to be made available for any public purpose for which it is reserved or zoned under an environmental planning instrument; or
 - (b) land that forms part of, or adjoins or lies in the vicinity of, other land proposed to be acquired for the purpose of opening, widening or constructing a road or road work.
- (3) Without limiting subsection (1), RMS may also acquire land that it proposes to declare to be.

Policy Acquisition and Disposal 2016 – (5) Land Acquisitions

Financial Considerations

The costs associated with the acquisitions, road closures, including all survey and valuation costs have been budgeted for within the project.

Consultation and Engagement

Verbal discussions have taken place between all affected land owners and Council, however formalised agreements will be forthcoming following a Council resolution. All affected land owners are supportive of the project going forward.

Report No. 13.22 Seven Mile Beach Road and Broken Head Reserve Road Update

Directorate: Infrastructure Services

Report Author: Katie Hughes, Project Engineer

5 **File No:** I2021/528

Summary:

The purpose of this report is to provide an update on the Broken Head projects and present the results from the recent consultation.

10 Targeted consultation with key stakeholders and wider community consultation via a Your Say webpage has been undertaken to develop concept plans for both Broken Head Reserve Road and Seven Mile Beach Road.







15 This report summarises results of the Your Say consultation, provides an update on the locality plans and seeks endorsement for preferred options for both the Broken Head Reserve Road and Seven Mile Beach Road locality plans.

RECOMMENDATION:

That Council:

- 20 1. Notes the report and endorse the following actions based on it:-
- a). The design of Seven Mile Beach Road be progressed generally in accordance with Option 1 to seal the entire length of road and carparks, Attachment 4 (E2021/51923).
 - 25 b). The design of Broken Head Reserve Road progressed generally in accordance with Option 2 nose in parking, Attachment 6 (E2021/51925).
2. Notes the staff comments within Attachment 9 – Shoalhaven Temporary Control Review (E2021/53022).




Attachments:

- 30
- 1 Survey_Responses_Report_Redacted, E2021/51757 
 - 2 BHRR Resident Submission_Redacted, E2021/51760 
 - 3 Resident Submission_Redacted, E2021/51765 
 - 4 Seven_Mile_Beach_Road_-_parking_and_sealing, E2021/51923 
 - 35 5 BrokenHead_-_Option_1_-_Reverse_in_parking, E2021/51924 
 - 6 BrokenHead_-_Option_2_-_Nose_in_parking, E2021/51925 

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- 7 BrokenHead_-_Option_3_-_Parallel_parking, E2021/51926 
- 8 LoU - Letter of Understanding, E2021/51962 
- 9 Shoalhaven Temporary control review, E2021/53022 

5

Report

On 31st August 2020 Council passed the following resolution.

RESOLUTION NUMBER: 20-424

Resolved that Council note the report and endorse the following actions based on it:

- 5 a) for Seven Mile Beach Road:
 - (i) develop a delivery program and communicate program with resident group.
 - (ii) detail design of works in consultation with identified stakeholders.
 - 10 (iii) undertake business case in consultation with Council's Finance team and DCA to confirm the financial viability of pay parking and parking technology requirements in the area.
 - (iv) Analyse compliance car counts to investigate the appropriateness and extent of pay parking.
 - 15 (v) Request NPWS to formalise and seal the Kings Beach Carpark and that this work be integrated into or undertaken in conjunction with the sealing works on Seven Mile Beach Road.
 - (vi) approach NPWS with the proposal to manage and patrol their car parking scheme at Kings Beach. This would allow the whole Broken Head and Seven Mile Beach Rd plans to be integrated and managed as a whole.
 - 20 (vii) consider a later report to Council and recommendation to give staff authority and permission to approach Transport for NSW for consent to apply paid parking.
 - 25 (viii) complete design investigations and documentation for the delivery of sealing works, signage, intersection treatment and traffic management facilities ensuring these integrate and complement any planned works in Broken Head Reserve Road whilst ensuring project delivery within agreed grant milestones.
- 30 b) for Broken Head Reserve Road:
 - (i) develop and communicate Delivery Program to relevant stakeholders;
 - (ii) commence detailed design in consultation with resident representatives;
 - (iii) Have Your Say survey to refine project scope and site considerations;
 - 35 (iv) undertake analysis of LPR survey data to provide justification to TfNSW for paid parking;
 - (v) undertake business case in consultation with Finance and DCA to confirm the financial viability of pay parking and parking technology in the area;
 - 40 (vi) approach NPWS with the proposal to manage and patrol their car parking scheme at the end of Broken Head Reserve Road. This would allow the whole Broken Head and Seven Mile Beach Rd plans to be well integrated and managed as a whole;
 - (vii) prepare concept designs for remaining area of road and parking areas;

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- 5
- (viii) consider a later report and recommendation to give staff the authority and permission to approach TfNSW for consent to apply paid parking if approved by Council; and
- (ix) complete investigation and scope development of road repair works from Election Commitment funds and undertake works in co-ordination with sealing works on seven Mile Beach Road.
- 10
- c) additional actions:
- (i) enter into an Inter-Agency Consultation Group to include NPWS, Police, RFS, Arakwal and Crown Lands;
- (ii) to prepare a communications plan to be all encompassing for the Seven Mile Beach Road group, Broken Head Reserve Road group, and other relevant stakeholders;
- 15
- (iii) develop a Memorandum of Understanding (MoU) in consultation with the Inter-Agency Consultation Group, the Seven Mile Beach Road community group and Broken Head Reserve Road community groups;
- (iv) together with the Inter-Agency Consultation Group, develop an overarching Management Plan (informed by the MoU) for the Broken Head Reserve Road and Seven Mile Beach Road areas, for the
- 20
- following purposes:
- To clearly set expectations for day to day operations, clarify matters such as:
 - o Inter-Agency roles and responsibilities;
 - o Who has authority to close the roads and car parks and the
 - 25
 - conditions under which this would occur;
 - o Which Agency to contact when specific matters arise;
 - o Where Council's and NPWS delegated authority is limited to;
 - o Appropriate expectations for Council's staff in regards to the scope and frequency of tasks they are expected to undertake.
 - 30
 - Help integrate Council works with the plans and requirements of other key agencies. This would help ensure funds are not wasted duplicating plans already underway by other agencies, help Council plan the timing of works to tie in with other Agencies and prevent designs not complying with the emergency service
 - 35
 - requirements.
 - Set out a longer term action plan and proposed priorities.

Consultation and Engagement

40 Targeted consultation with key stakeholders and wider community consultation via a Your Say webpage was undertaken to develop concept plans for both Broken Head Reserve Road and Seven Mile Beach Road in line with actions a) (ii), b) (ii) and b) (iii).

A meeting was held with the Seven Mile Beach Road residents group on 13th October 2020 and a meeting was held with the Broken Head Reserve Road residents group on 4th September 2020. The purpose of these meetings was to develop a number of concept design options for both locations in consultation with the local residents.

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A meeting was held with the interagency group including representatives from NPWS, RFS, Police and Arakwal on 29th October 2020. The purpose of this meeting was to identify longer term plans proposed by NPWS for the Broken Head Reserve area to ensure it aligned with options discussed with the local residents.

- 5 Your Say Consultation was undertaken from 5th January accompanied by a media release, to 15th February 2021 to gain community feedback regarding the design options.

The webpage received 559 visits with 172 respondents to the survey with community members generally responding to questions relating to both projects.

A summary of the results can be found in Attachment 1 (E2021/51757).

- 10 In regards to the Memorandum of Understanding (MoU) discussions have been undertaken with the inter-agency group including the NPWS and NSW Police and it was determined that a Letter of Understanding (LoU) was more appropriate in this instance. The LoU was prepared by Council Staff from the SEE directorate and has been executed by key agencies, Attachment 8(E2021/51962). The LoU outlines authority responsibilities
- 15 in regards to responses and enforcement.

Key issues

The key issues at Broken Head as identified by residents has been covered previously in a number of reports and was used to create a list of key concerns for the public consultation. The key concerns as identified in the consultation are listed below;

Broken Head Reserve Road	Seven Mile Beach Road
1. Availability of parking 68%	1. Availability of parking 70%
2. Illegal Camping 50%	2. Illegal Camping 55%
3. Traffic 47%	3. Impact of Traffic on wildlife and the natural environment 54%
4. Illegal Parking 45%	4. Traffic 52%
5. Impact of Traffic on wildlife and the natural environment 42%	5. Illegal Parking 51%
6. Erosion on road verges 35%	6. Dust 48%
7. Dust 35%	7. Erosion on road verges 42%
8. Pedestrian safety 34%	8. Pedestrian safety 41%
9. Cyclist safety 31%	9. Cyclist safety 34%

10. Accessibility to beaches 25%	10. Accessibility to beaches 30%
11. Other 11%	11. Other 12%

Design Options

Broken Head Reserve Road

Survey respondents favoured Option 2 for nose in parking at Broken Head Reserve Road as shown in Figure 1 below.

- 5 18 Broken Head Reserve Road residents made a combined submission Attachment 2 (E2021/51760) in which they stated that Option 1 for reverse in parking is their preference. A further two residents made a submission Attachment 3 (E2021/51765) also supporting reverse in parking. During community consultation with the local residents Option 1 was preferred as residents believed this offered a safer solution.
- 10 The default position for angled parking is nose in as per NSW parking Legislation. When the direction for parking is not specified cars must park nose in. As the direction of parking is not currently specified in Broken Head in both Council and NPWS carparks by default the direction of parking is nose in. Austroads specifies that parking direction should be made consistent within a location. Therefore, staff recommends Option 2 for nose in
- 15 parking for the following reasons:
1. It is the preferred survey response
 2. Some survey responses noted reverse in parking may result in people blocking the pathway as they unload cars
 - 20 3. There is likely to be insufficient room to unload surf boards due to fencing and vegetation behind the car parks
 4. It is proposed to reduce the speed limit through the village to 40k/h creating a traffic calmed environment and reducing the potential traffic conflict if nose in was adopted.

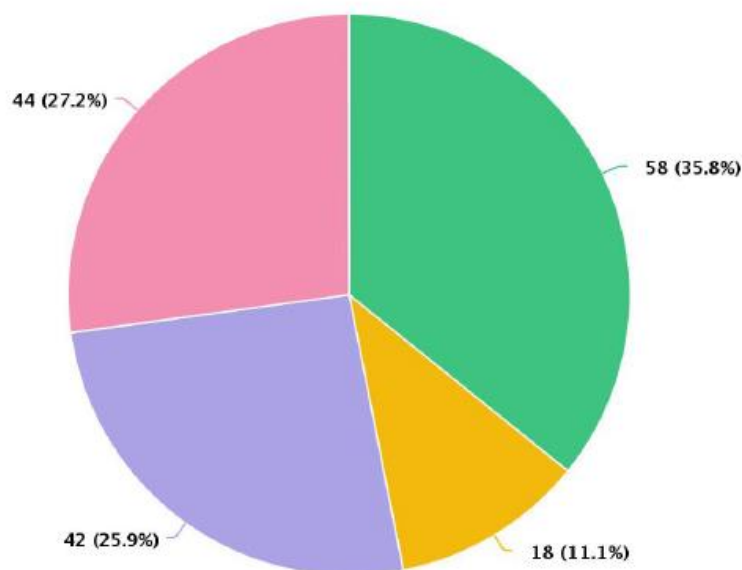


Figure 1. Broken Head Reserve Road Options

Seven Mile Beach Road

- 5 Survey respondents favoured Option 1 to seal Seven Mile Beach Road and carparks as shown in Figure 2 below. This option is also preferred by Council Staff as it minimises erosion, sediment and dust impacts from Seven Mile Beach Road on the surrounding environment, minimises maintenance, improves access and improves the 'parking chaos' at the beach carparks.

Which option do you support?



Question options

(Click items to hide)

- Do nothing – leave the area as it currently is.
- Option 3: Sealing the beach carparks only.
- Option 2: Sealing Seven Mile Beach Road only.
- Option 1: Sealing the road and carparks at Whites Beach, Brays Beach and Seven Mile Beach

Figure 2. Seven Mile Beach Road Options

Further treatments have been discussed with the community groups and are proposed to be included in the detailed design as follows.

5 Broken Head Reserve Road;

- Entrance treatments to the village

- Bollards
- Rumble strips
- Landscaped areas
- Localised road widening

- 5
- Wheel stops
 - Traffic calming devices
 - Drainage improvements

Seven Mile Beach Road;

- Entrance traffic calming median islands
- 10
- Bollards
 - No Stopping linemarking
 - Traffic calming devices
 - Drainage improvements

- 15
- The entrance to Seven Mile Beach Road is subject to further investigation with groups calling for either traffic calming median islands or roundabout linemarking to improve traffic movements within the village.

Next steps

The next steps for this project are:

- Complete design of locality plans.
- 20
- Meet with paid parking consultant and complete business case.
 - Continue work with NPWS to secure funding for further improvements to both localities as per investigations and locality plans.

Paid Parking

- 25
- 57.6% respondents to the Your Say Consultation were in favour of the introduction of paid parking as per Figure 3 below. As can be seen from the comments the main concern is that either Council's Byron Residents Permit or NPWS permit should be valid for the paid parking area. Further liaison with NPWS is required to determine if an integrated permit system could be implemented.

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Discussions are underway with paid parking consultant DCA in line with item a) (iii). Two site inspections have been scheduled with the Melbourne based consultant both of which were cancelled due to COVID travel restrictions, the most recent of which was proposed for 30/03/2021.

- 5 In light of two cancelled meetings DCA are undertaking a desktop review of their recommended PP system for these remote areas and providing a review of some community suggested options.

- 10 One specific option raised by the community is an entrance system where patrons pay at the entrance to Seven Mile Beach Road with a sign showing how many spaces are available along the road. While staff do not believe such a system is practical DCA have been asked to consider and comment on such a system.

- 15 It is considered that wayfinding signage at the entrance showing the number of spaces available, combined with in ground sensors, a phone app for payments and a relay system to overcome mobile black spot issues may be a practical solution. This is also being considered by DCA.

Whatever option is adopted Council is confident a solution can be installed that is functional in a remote area susceptible to potential vandalism.

Would you support the introduction of pay parking on Broken Head Reserve Road?

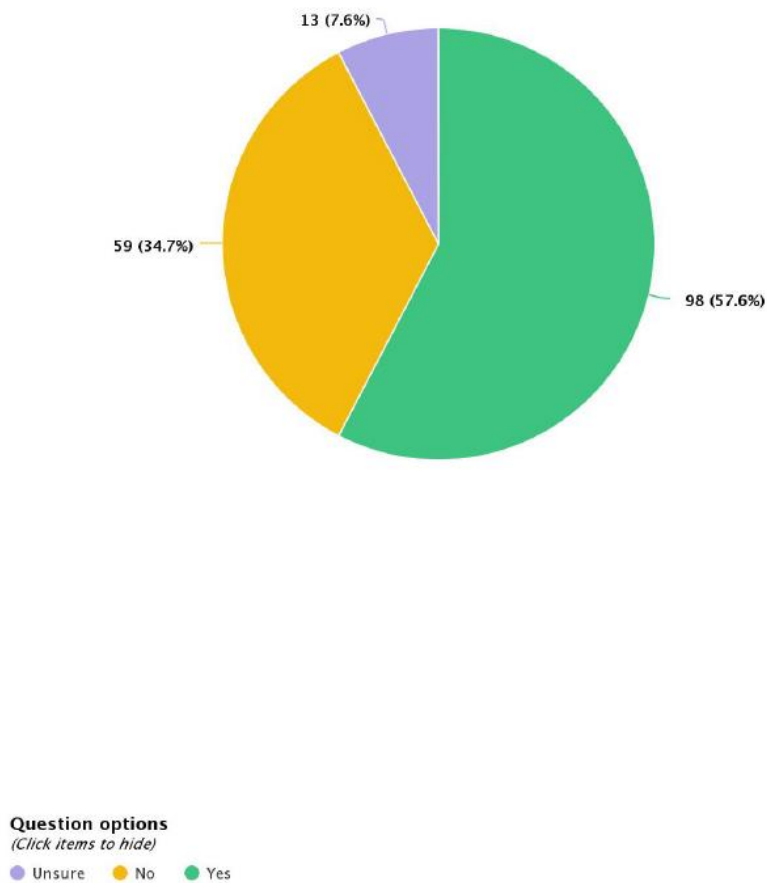


Figure 3. Paid Parking Responses

Shoalhaven Council Traffic Management Review

During previous discussions on options for the Broken Head Reserve Road and 7 Mile Beach Road Precinct, the summer period traffic response undertaken by Shoalhaven was raised as a potential mitigation model for the precinct.

- 5 As a follow up Council staff contacted Shoalhaven Council to understand the traffic management methods used to control significant traffic and parking concerns at Hyams Beach in the Shoalhaven area.

A review of their approach has been summarised and can be reviewed in Attachment 9. Shoalhaven Temporary control review, E2021/53022.

- 10 Should Council wish to pursue this approach, staff can further report on the preferred traffic management options identified within Attachment 9.

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	1.6.1	Implement review of parking management	1.6.1.3	Complete Seven Mile Beach Road and Broken Head Road Traffic Management Improvements Investigation

Recent Resolutions

- 15 • 20-424

Report No. 13.23 Byron Bay Skate Park and Recreation Precinct - Endorsement of Detailed Design for Construction

Directorate: Infrastructure Services

5 **Report Author:** Daniel Strzina, Project Engineer

File No: I2021/552

Summary:




10 This report seeks endorsement of the Developed Detailed Design plans for the Skate Park and Recreation Precinct and delegation of authority to proceed with engagement of a suitable construction contractor.

RECOMMENDATION:

15 **That Council:**

1. **Endorses the Developed Detailed Design plan for the Skate Park and Recreation Precinct at Sandhills Estate in Byron Bay (Attachment 1 – E2021/53195)**
- 20 2. **Proceeds with procurement of a construction contractor to deliver the works by means of a Request for Tender using the open tendering method by which tenders for the proposed contract are invited by public advertisement.**
- 25 3. **Delegates authority to the General Manager to the award the construction tender, if the construction price is within the adopted project budget, and on the basis that the tender is not awarded after the commencement of the caretaker period.**

Attachments:

- 1 Byron Bay Skate Park and Recreation Precinct - Developed Detailed Design, E2021/53195 
- 30 2 Byron Bay Skatepark and Recreation Precinct - Final Concept Design Public Exhibition Submissions - 26-Mar-2021, E2021/53373 
- 3 3 Correspondence with key stakeholders - Skate Park and Recreation Precinct Final Concept Design, E2021/53374 

REPORT

Background

In April 2018, Council resolved **(18-001)** to:

- 5 1. *Identify the Sandhills area as its preferred location for a Byron Bay Skate Park.*
2. *Seek public and user group feedback and ascertain support for this location.*
3. *Seek support from the Department of Industry-Crown Land for use of this site for a youth focused activity.*
- 10 4. *Provide a report on the feedback provided by stakeholders, the wider community and the Department of Industry-Crown Land.*

In response to Part 4 above, community consultation was undertaken to seek feedback on Sandhill as a location for the skate park, with responses reported to Council in August 2018. It was resolved **(18-542)** that Council:

- 15 1. *Note the report*
2. *Confirm its support for the Byron Skate Park and Recreation Hub to be located in the Sandhills area.*
3. *Continue to investigate funding opportunities for the development of the Byron Skate Park and Recreation Hub.*
- 20 4. *In order to become eligible for forthcoming grant funding opportunities, request urgent consideration of its request of the vesting of the land across to Council from Crown Lands staff and the responsible Minister.*
- 25 5. *Due to the urgency as outlined in 4, seek further advocacy for the request from the Parliamentary Secretary for the North Coast, Ben Franklin, and local member, Tamara Smith.*
6. *That Council convene a meeting with the Byron Youth Service to clarify the status of historical development applications in the Sandhills area and to establish a partnership to help realise the Skate Park and Recreation Hub.*

30 Through 2018 and 2019, staff undertook extensive community consultation to seek public and user group feedback and identify critical success factors for a skate park being located at Sandhills Estate. Based on the feedback received and research undertaken regarding best practice skatepark design, the critical success factor for this project was identified as
35 the development of a broader recreation 'precinct' within the Sandhills Estate to improve passive surveillance around the skate park and enable noise mitigation measures to be integrated into the landscape design.

40 As such, while the project started out as a skate park proposal, the scope has been expanded to incorporate the entire Sandhills site, ensuring a holistic and strategic approach to site development.

A range of specialist consultants were engaged during the development of concept plans for the site:

- 45 • Plummer and Smith (landscape architects)
- Convic (skate park specialists)

- Australian Wetlands Consulting (wetland and environmental management specialists)
- Rob Kooyman (ecologist)

5 On 28 February 2020, the NSW Government announced funding under the NSW Tourism Impacts Infrastructure Election Commitment Fund for Stage 1 of works - the skate park and pedestrian / cycle linkages west of Gilmore Crescent, connecting the Rec Grounds to Main Beach and the YAC to Middleton St.

On 26 March 2020, a report (I2020/187) was delivered to Council seeking endorsement of concept plans so that Stage 1 works can progress to detailed design and construction.

10 Council resolved (**20-131**):

1. *That Council endorse the concept plans identified for Sandhills Estate Skate Park and Recreation Hub (E2020/10834) ensuring noise attenuation, light spillage mitigation and crime prevention through environmental design principles are included in the designs.*
- 15 2. *That Council proceed to detailed design for Stage 1 works with a further report at design completion and prior to construction and continue to consult the immediate neighbours and other stakeholders during this process.*

20 This report seeks endorsement of the detailed design plans developed by Convic for the Stage 1 works (Skate Park and Recreation Precinct) and delegation of authority to proceed with engagement of a suitable construction contractor to deliver the works.

Design Development

25 In September 2020, Convic were engaged to use the endorsed concept plans and consultation feedback to finalise detailed designs for the Skate Park and Recreation Precinct, with emphasis placed on the importance of:

- Activation of the area through architectural design
- Amenity for users of all ages and abilities, with reference to the Everyone Can Play guidelines (NSW Government)
- 30 • Improvement of community safety and security through CPTED principles and maximisation of passive surveillance
- Site constraints as identified in the draft REF and existing documentation
- Coordination of the design with the finalised REF and CPTED Report
- Engaging directly during the design process with key stakeholder groups identified by Council

- Noise attenuation/mitigation, particularly with respect to the adjacent Early Childhood Centre and neighbouring properties
- Existing and future CCTV coverage
- Ecology of the surrounding area
- 5 • Drainage and WSUD principles
- Consideration of site-specific supporting infrastructure and recommendation on their inclusion or not (including facility lighting, drinking fountains, bike racks, mobile phone charging stations, bike/board service/repair stations, power supply, and water supply.)
- 10 • Design of facility lighting for the skate park including light spillage mitigation
 - Noting that skate park lighting may not be suitable/desirable
 - Skate park component of works package to include provision of conduits and foundations only so that lighting may be easily installed at a later date if it is considered appropriate
- 15 • Design of path and area lighting for the broader recreation precinct.
 - Works package to include the provision of recreation precinct lighting
- Constructability
- Identification of opportunities for cultural interpretation through design
- Consideration of future Operation and Maintenance requirements
- 20 • A Skate Park component of the works package
- A Recreation Precinct portion of the works package (including surrounding connecting paths, precinct lighting, landscaping, supporting infrastructure etc.)

The development of the design took place in three key phases, with consultation playing a key part of each:

- 25 1. **Pre-design** – an in-depth review of the site, the information collected to date and the initial concept design to better understand the project and how to deliver the objectives. This included workshops/meetings with the key stakeholders and a public survey that was circulated widely to gather information on what the community wanted for the area.
- 30 2. **Final Concept Design** – An educated, more detailed revision of the concept design based on collected information and feedback from the community. This included further workshops/meetings with the key stakeholders, input from

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Councillors at the January strategic planning workshop (SPW) and went out on public exhibition to gather further feedback from the community.

3. **Developed Detailed Design** – A final developed design based on all the information gathered and consultation undertaken to date, with all the detail necessary for the engagement of a suitable contractor to construct the facility.

5

The following is an engagement table detailing the consultation during the design development:

KEY STAKEHOLDER ENGAGEMENT	1. PRE DESIGN Nov/Dec 2020	2. FINAL CONCEPT DESIGN Feb/Mar 2021	3. DEVELOPED DETAILED DESIGN Mar/Apr 2021	4. DESIGN DOCUMENTATION COMPLETE Apr 2021
Arakwal Heritage	Meeting & ACH Inspection	Invite submissions (Public Exhibition)	Notify	
Arakwal Art	Workshop inc. Convic & Survey	Workshop inc. Convic	Ongoing consultation	Ongoing consultation
Skate Committee	Workshop inc. Convic & Survey	Workshop inc. Convic	Notify	
Sandhills Early Childhood Centre	Meeting & Survey	Meeting & invite submissions	Notify	
YAC	Meeting & Survey	Meeting & invite submissions	Notify	
Court House, Library, Motel	Notify & Survey	Meeting & invite submissions	Notify	
Byron Town Centre Masterplan Group	Notify & Survey	Meeting & invite feedback at meeting	Notify	
Neighboring properties	Notify (letter) & Survey	Letter & invite submissions (Public Exhibition)	Notify	

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Councillors	Notify & Survey	WORKSHOP at SPW on 4 Feb 2021	WORKSHOP at SPW on 1 Apr 2021	Report to Council with design & construction tender
Broader Community	Notify & Survey	Invite Submissions (Public Exhibition)	Notify	

Engagement with the key stakeholders was thorough and effective, with the main concerns being noise, security, lighting, parking and ongoing maintenance of the area. The feedback on noise, security and lighting concerns was considered in the design where possible through:

- 5
 - Using quieter materials
 - Placing noisier features as far as possible from noise-sensitive areas
 - Placing quieter features closer to sensitive areas
 - Landscape design to minimise the projection of sound towards sensitive areas
- 10
 - Incorporation of Arakwal cultural education signage and a yarning circle along the path from Middleton St to help encourage a respectful attitude to the area
 - Landscape design to encourage passive surveillance and discourage antisocial activity
 - Lighting design to encourage passive surveillance and discourage antisocial activity as well as control spillage to neighbouring properties
- 15
 - Timed lighting and BBQs to discourage late use and antisocial activity
 - Inclusion of all-ages and all abilities features to activate the area for passive surveillance
 - Landscape design with consideration of neighbours/stakeholders and their concerns
- 20 Engagement with the general public was also effective. The pre-design survey attracted an impressive 232 responses and the final concept design attracted 60 responses, the vast majority of which (86%) were in support of the design. Common themes among the submissions included shade, lighting, toilets and accessibility. Additional shade has been provided, lighting is being investigated and improved accessibility has been incorporated
- 25 into the design. While toilets are not included as part of this project, they will be constructed adjacent as part of a separate project.

Arakwal were engaged initially to discuss the project and undertake an Aboriginal Cultural Heritage inspection. No significant sites of interest were identified, though plans were put in place to ensure that ACH monitors were present during any excavation once works commence.

- 5 Arakwal have also been engaged to collaborate with Convic on multiple opportunities for cultural expression. These include development of artistic concepts, colour pallets, cultural education signage, path artwork, dual naming and bush tucker gardens. They have indicated their support for the project and desire to continue to work with the project team to advise on and help deliver these initiatives. Staff are very supportive of this approach
- 10 and will continue to work closely with Arakwal throughout the design and construction process to maximise opportunities for collaboration and representation.

- 15 A copy of the submissions from the Your Say page second round of consultation is provided as Attachment 2. Also provided as attachment 3 is specific correspondence from Byron Youth Service, Communities and Justice (Byron Courthouse), Richmond Tweed Regional Library, and adjoining owners.

The Developed Detailed Design is presented to Council for endorsement as Attachment 1 (E2021/53195) with the view to proceed with procurement of a construction contractor to undertake the works.

Construction Tender Award

- 20 There is a risk that the tender process may not fit into the Council reporting timetable, before the commencement of the upcoming caretaker period. As such, it is recommended the Council delegate authority to award the tender for the construction of these works to the General Manager to ensure the timely delivery of keenly awaited infrastructure.

Strategic Considerations

- 25 The development of this precinct is consistent with the strategic vision laid out in the Byron Bay Town Centre Masterplan. It is consistent with the Community Strategic Plan and the Operational Plan.

- 30 The provision of amenities/public toilets was identified as additional scope that is essential in activating the area as it enables families and other users to stay for extended periods without having to leave or use the library facilities. Design and construction of these facilities is planned as part of a separate project to be delivered in parallel with the Skate Park and Recreation Precinct.

- 35 Consultation with the Sandhills Early Childhood Centre, Library, Courthouse and YAC highlighted issues with the lack of parking in the area and an inefficient use of the space due to the inadequate road layout. Road surface upgrades, carpark formalisation and a connecting shared path along Tennyson Street are planned as part of a separate project to be delivered in parallel to the Skate Park and Recreation Precinct. Road upgrades, carpark formalisation and a connecting shared path along Gilmore Crescent are also planned as part of a separate project.

- 5 The Skate Park and Recreation Precinct is one part of an overarching vision for Sandhills Estate that manages and integrates various projects into a cohesive whole – skate park; wetland rehabilitation and flood storage; bike and pedestrian linkages; and formalisation of car parking. This will ensure that the various project components across the site are working towards shared and complementary outcomes for the whole site and all stakeholders.

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	1.2.4	Provide active and passive recreational Community space that is accessible and inclusive for all (SP)	1.2.4.4	Finalise detailed design for the Byron Skate Park and Recreation Hub

Recent Resolutions

Resolution 20-131 Ordinary Council Meeting 26 March 2020

Report No. 13.2 Sandhills Skate Park and Recreation Hub

File No: I2020/187

Resolved:

1. *That Council endorse the concept plans identified for Sandhills Estate Skate Park and Recreation Hub (Attachment 1 – E2020/10834) ensuring noise attenuation, light spillage mitigation and crime prevention through environmental design principles are included in the designs.*
2. *That Council proceed to detailed design for Stage 1 works with a further report at design completion and prior to construction and continue to consult the immediate neighbours and other stakeholders during this process. (Spooner/Richardson)*

The motion was put to the vote and declared carried.

Legal/Statutory/Policy Considerations

The recommendation to delegate award of the construction tender for the Skate Park and Recreation Precinct to the General Manager is to enable the tender to be awarded prior to the operation of clause 393B (1) (a) of the NSW Local Government Regulation 2005 set out as follows:

5 *93B Exercise of council functions during caretaker period*

(1) The following functions of a council must not be exercised by the council, or the general manager or any other delegate of the council (other than a Joint Regional Planning Panel or the Central Sydney Planning Committee), during a caretaker period—

- 10 *(a) entering a contract or undertaking involving the expenditure or receipt by the council of an amount equal to or greater than \$150,000 or 1% of the council's revenue from rates in the preceding financial year (whichever is the larger),.*

Local Government (General) Regulation 2005

- 15 *166 Council to decide whether tenders are to be by open tendering or selective tendering
Whenever a council is required by section 55 of the Act to invite tenders before entering into a contract, the council must decide which of the following tendering methods is to be used—*

- (a) the open tendering method by which tenders for the proposed contract are invited by public advertisement,*
- 20 *(b) the selective tendering method by which invitations to tender for a particular proposed contract are made following a public advertisement asking for expressions of interest,*
- (c) the selective tendering method by which recognised contractors selected from a list prepared or adopted by the council are invited to tender for proposed contracts of a particular kind.*

25 **Financial Considerations**

Based on current estimates, there is sufficient budget allocated to this project to undertake construction.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

**Report No. 14.1 Report of the Local Traffic Committee
Meeting held on 16 March 2021**

Directorate: Infrastructure Services

5 **Report Author:** Andrew Pearce, Traffic Engineer

File No: I2021/531

Summary:

This report contains the recommendations of the Extraordinary Local Traffic Committee (LTC) meeting held on 16 March 2021.

10 Council's action on the LTC advice will be:

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

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

RECOMMENDATION:

BYRON SHIRE COUNCIL

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

14.1

1. That Council notes the minutes of the Local Traffic Committee Meeting held on 16 March 2021.

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

Report No. 6.1 Brunswick Heads - No Parking Signage

File No: I2021/204

Committee Recommendation 6.1.1

That Council endorse the installation of:

1. No Parking 1am-6am signage along the eastern side of Mona Lane, Fawcett St (between Mona Lane and Park Street) and Park Street (between Fawcett Street and Mullumbimbi Street).
2. No Parking Area 1am-6am signage at the entrance to the Stan Thompson Oval area

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

Report No. 6.2 Event - Byron Writers Festival 2021

File No: I2021/300

Committee Recommendation 6.2.1

That Council support the Byron Bay Writers Festival 6-8th August 2021, subject to:

- 1) Development and implementation of a Traffic Management Plan (TMP) and Traffic Control Plan(s) (TCP) by those with appropriate TfNSW accreditation and the holding of current and appropriate levels of insurance and liability cover. The TMP and TCP to be generally in accordance with Attachment 1 (E2021/38636);
- 2) West bound event traffic arriving from Byron Town Centre to be directed down Sunrise Blvd, as a contingency, if east bound traffic on Ewingsdale Rd is queued back to the Ewingsdale Road interchange;
- 3) Separate approvals by NSW Police and TfNSW being obtained;
- 4) The event organiser to:

- i) Advertise the impact of the event, via a Variable Message Signage (VMS) and notice in the local weekly paper, a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints;**
- ii) Arrange the event being notified on Council's webpage a minimum one week prior to the TCP being implemented;**
- iii) undertake consultation with community and affected businesses including adequate response/action to any raised concerns during and after the event;**
- iv) undertake consultation with emergency services and any identified issues addressed;**
- v) hold \$20m public liability insurance cover which is valid for the event.**

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

Report No. 6.3 Event - Mullum2Bruns Paddle

File No: I2021/302

Committee Recommendation 6.3.1

That Council endorse the TMP and TCP for the Mullum2Bruns Paddle 2021 to be held Sunday 23 May 2021, and event dates in 2022 and 2023 subject to:

1. The development and implementation of a Traffic Management Plan (TMP) and Traffic Control Plan(s) (TCP) by those with appropriate NSW accreditation.

2. The event organiser to:

- a) Advertise the impact of the event, via a Variable Message Signage on site and notice in the local weekly paper, a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints;**
- b) Arrange for the event to be notified on Council's webpage a minimum**

one week prior to the TCP being implemented;

c) undertake consultation with relevant community and affected businesses including adequate response/action to any raised concerns during and after the event;

d) undertake consultation with emergency services and any identified issues addressed;

e) hold \$20m public liability insurance cover which is valid for the event.

3. Endorsement for the three year period is subject to no significant changes being made to the running and timing of the event.

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


Report No. 6.4 Bay Lane Modifications

File No: I2021/363

Committee Recommendation 6.4.1

That Council supports removing the One Way from Bay Lane and installing the regulatory signs and lines outlined in Attachment 1 (E2021/40751) as modified by the committee comments.

Attachments:

5 1 LTC_16032021_MIN_1395_EXTRA 2, E2021/50688 

Report

The attachment to this report provides the minutes of the Local Traffic Committee Meeting of 16 March 2021 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 https://byron.infocouncil.biz/Open/2021/03/LTC_16032021_AGN_1395_AT_EXTRA_EMB_EDEDED.PDF

Financial Implications

As per the Reports listed within the Local Traffic Committee Meeting of 16 March 2021.

Statutory and Policy Compliance Implications

- 10 As per the Reports listed within the Local Traffic Committee Meeting of 16 March 2021.