

Floodplain Management Advisory Committee Meeting

A Floodplain Management Advisory Committee Meeting of Byron Shire Council will be held as follows:

Venue	Conference Room, Station Street, Mullumbimby
Date	Thursday, 21 April 2022
Time	2.00pm

Phillip Holloway
Director Infrastructure Services

I2022/372
Distributed 14/04/22

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 MEETING

1. APOLOGIES

2. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

3. STAFF REPORTS

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STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 3.1 Committee Constitution

Directorate: Infrastructure Services

5 **Report Author:** Sophie Black, Infrastructure Planning Support Officer

File No: I2022/343

Summary:

Draft Committee Constitution to be ratified by Committee.

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RECOMMENDATION:

That the Floodplain Management Advisory Committee ratify the draft Committee Constitution.

15 **Attachments:**

1 DRAFT Floodplain Advisory Committee Constitution 2022, E2021/147959 , page 7  

Report

That the Floodplain Management Advisory Committee ratify the draft Committee Constitution attached to this Report.

Strategic Considerations

5 Community Strategic Plan and Operational Plan

Not applicable

Recent Resolutions

Not applicable.

Legal/Statutory/Policy Considerations

- 10 Section 377 of the Local Government Act – explanation of how this applies?

Financial Considerations

Not applicable.

Consultation and Engagement

Draft Committee Constitution issued to Committee Members via email prior to meeting.



BYRON SHIRE COUNCIL

**FLOODPLAIN MANAGEMENT ADVISORY
COMMITTEE**

DRAFT CONSTITUTION

INFORMATION ABOUT THIS DOCUMENT

(INTERNAL USE ONLY)

Date Adopted by Council	TBC	Resolution No.	TBC
Responsibility	Infrastructure Services		
Review Timeframe	Each Term of Council		
Last Review Date:	December 2021	Next Scheduled Review Date	December 2024

Document History

Doc No.	Date Amended	Details Comments eg Resolution No.
E2016/90828	29 September 2016	Constitution as adopted by Council 29/09/16

Further Document Information and Relationships

Related Legislation	Section 355, Local Government Act (1993)
Related Policies	Code of Conduct 2016 Work Health Safety Policy Code of Meeting Practice
Related Procedures/ Protocols, Statements, documents	

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Constitution: Floodplain Management Advisory Committee

1. Preamble

The Floodplain Management Advisory Committee is an advisory Committee of the Council and does not have executive power or authority to implement actions.

The role of the Committee is to report to Council and provide appropriate advice and recommendations on matters relevant to this Constitution.

2. Purpose

The purpose of the Floodplain Management Advisory Committee is to oversee and advise Council on the preparation, implementation and review of Flood Studies and Floodplain Risk Management Studies as required.

This includes overseeing and advising on any documents or processes that impact the management of ICOLL's (Intermediately Closed and Open Lakes or Lagoons).

3. Timeframe for Committee

The lifespan of the Floodplain Management Advisory Committee is for the term of Council 2022-2024.

4. Responsible Directorate

This Committee is administered by the Infrastructure Services Directorate. The Director or their delegate will attend these meetings and minutes will be taken by a member of their staff.

5. Membership

Council must appoint all advisory Committee members. Appointment must take place prior to a member being conferred the responsibilities and rights as set out in this document.

Council may release individual members from the advisory Committee at any time by a resolution of Council. Council may also appoint any new members to a Committee at any time by a resolution of Council.

Membership is to include:

- 3 Councillors
- 6 relevantly qualified community representatives (2 from each of the major catchments; Tallow Creek, Belongil Creek, Brunswick River)
- 1 Department of Planning, Industry and Environment representative
- 1 State Emergency Service representative
- 1 Cape Byron Marine Park representative
- 1 National Parks representative
- Byron Shire Council General Manager (or staff member delegate)

Note: Staff members participating on the Committee do not have any voting entitlements.

Constitution: Floodplain Management Advisory Committee

6. Induction

All members will be required to participate in an induction process at the establishment of a new Committee, and at any time a replacement voting member joins a Committee. The induction will be scheduled prior to the first meeting of the Committee and will cover topics such as this Constitution, the Code of Meeting Practice, Conflicts of Interest and Code of Conduct.

Replacement voting members will be inducted by experienced Committee members at, or prior to, their first meeting.

7. Quorum

A quorum is to constitute at least half the number of members, two of which are to be Councillors. The General Manager or delegate, who must be a member of staff, is to attend the Advisory Committee meeting and is not counted in the quorum for the meeting.

8. Confidentiality

Members of the Committee will, in those circumstances where confidential matters are subject to deliberation, maintain confidentiality.

9. Election of Chairperson

The position of Chairperson is to be elected from Councillors comprising the Committee but only in circumstances where the Mayor elects not to assume the position of Chairperson.

10. Voting

- a) Each member of the Committee (with the exception of staff members) is to have one vote, with the Chairperson to have a casting vote in addition to a deliberative vote.
- b) Members of the Committee who are not Councillors may abstain from voting in any circumstances without such abstention being recorded in the negative.

11. Majority Decision

A majority decision of the Committee requires a majority of elected members to be present and voting on any item subject to the requirements of a quorum being met at the meeting.

12. Convening Meetings

Meetings will be held as required, generally every quarter. An annual timetable of meetings will be prepared in advance and adopted by Council every for the following 12 months.

Constitution: Floodplain Management Advisory Committee

A meeting of the Committee may be convened in response to either the direction of the Mayor (or in the Mayor's absence the Deputy Mayor) in written form to the General Manager; or two Councillors in written form to the General Manager, or by resolution of the Council.

13. Agenda Preparation

It is the responsibility of the chairperson to prepare the agenda in consultation with the relevant Director, setting out the terms of business to be considered.

The agenda is an organised list of the business, in order, that will be transacted at the meeting. An agenda for each meeting, containing a brief report on each item, is to be provided to Committee members and available on Council's website at least 7 days prior to the meeting being held.

Each item of business to discuss at the meeting is required to be listed on the agenda and in written form. Verbal reports at the meeting are not an acceptable practice.

For some matters, it will be necessary to attach other relevant information to the agenda to inform and direct discussion. Such information is to be circulated with the agenda.

Committee members may request items for inclusion in future agendas, through the Chair.

14. Conduct of Business

Each item of business is discussed in the order in which it appears on the agenda. No new matters will be introduced at the meeting. New items of business may be included in a future agenda as noted in clause 13 above.

15. Records of meetings

- a) The minutes of meetings are to be circulated to members of the group within 7 days of the meeting so that members can provide feedback through the Chair on the draft unconfirmed minutes.
- b) Minutes of Committee meetings will be kept and presented to Council at its next meeting via a report of the Committee meeting.

16. Absence from Committee Meetings

All Committee members are required to advise the chair when they are unable to attend Committee meetings. The absence of Committee members from the meeting is to be recorded in the minutes. A Committee member (other than the Mayor) ceases to be a member of a Committee if the member:

- a) Has been absent from three consecutive meetings of the Committee without having given reasons acceptable to the Committee for the member's absence, or
- b) Has been absent from at least half of the meetings of the Committee held during the immediately preceding year without having given to the Committee acceptable reasons for the member's absences.

Constitution: Floodplain Management Advisory Committee

17. Project Reference Groups

Project Reference Groups may be established by Council at the recommendation of the Committee to address issues clearly identified by the Committee.

Project Reference Groups operate in accordance with Council's adopted Constitution template for Project Reference Groups.

18. Section 377 Delegation

The Committee does not have any delegated functions pursuant to section 377 of the Local Government Act (1993) and does not have the power to direct staff.

19. Meeting Practice

Meetings are to be conducted in accordance with this Constitution and, where required, reference to Council's Code of Meeting Practice.

20. Miscellaneous

- a) **Insurance:** All group members are covered by the public liability policy of Council. This insurance does not preclude the Advisory Committee from due diligence and all Council policies must be adhered to.
- b) **Code of Conduct:** All group members to abide by Council's adopted Code of Conduct at all times.
- c) **Pecuniary Interest:** Pecuniary Interest may be defined as an interest that a person has in a matter, as a group member or employee of a company or other body, 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. Such other person includes the spouse or de-facto partner or relative of the group member.

Section 446 of the Local Government Act states that "a member of a council Committee, other than a Committee that is wholly advisory, must disclose pecuniary interests..."

Even though the Local Government Act provides an exemption to disclose pecuniary interests Council's preference is for all members to declare pecuniary interests where applicable.

- d) **Work Health Safety:** All group members are required to comply with the "Worker Responsibilities" as prescribed in the Work Health Safety Policy.

Report No. 3.2 Post Flood Event Update

Directorate: Infrastructure Services

Report Author: Scott Moffett, Drainage & Flood Engineer, IS - Works - Infrastructure Planning

5 **File No:** I2022/345

Summary:

10 Following the recent flooding and rain events, Council has been working closely with State Emergency Services (SES), the Department of Planning & Environment (DPE) along with specialist flooding external consultants to undertake a post event/s data collection and summary report.

This report provides a summary of actions and ongoing activities for discussion by the Flood Advisory Committee (FAC).

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RECOMMENDATION:

That the FAC discusses and notes the report and attachments.

Attachments:

20 1 Confidential - CONFIDENTIAL - OEH Calibration Assessment, E2022/34483

Report

Following the recent flooding and rain events, Council has been working closely with State Emergency Services (SES), the Department of Planning & Environment (DPE) along with specialist flooding external consultants to undertake a post event/s data collection and summary report.

Council initiated the first phase internal post event survey protocols immediately following the recent events. Council's Flooding and Drainage Engineer was the contacted by SES to collaborate for obtaining post event survey marks. SES contracted Public Works Advisory (PWA) to provide survey resourcing across the Byron Shire. All survey is to be supplied and funded by SES. DPE then became involved to oversee the data collection. Council's Flooding and Drainage Engineer worked closely with SES, DPE and PWA to isolate the areas of interest with a focus on the main urbanised areas of the shire. Post event survey has now been completed and SES, DPE and PWA, along with Council are currently collating the data and undertaking quality assurance. This data will be available for use by Council in the coming weeks. Survey has covered the Brunswick River, Belongil and Tallow Creek catchments.

Council then initiated the second phase of post event survey protocols. This has involved releasing media alerts to all shire residents to ask for assistance with collection of additional private property survey. This initiative has been very successful with 126 responses received so far and more coming in every day. Over the coming weeks Council will be mobilising survey resources to begin the final stage of the survey involving surveying private property recorded flood marks. The scope, timing and funding arrangements are still being negotiated with various Government departments and authorities together with Council.

Council contacted DPE to initiate post event technical analysis. Following discussions with Council's Flooding and Drainage Engineer, DPE kindly agreed to completely fund all the post event technical analysis. The high-level scope of works is included in the attached document. The post event technical analysis will cover the Brunswick River, Belongil and Tallow Creek catchments. WMA (Council's lead flood consultant for the Brunswick River catchment) was commissioned by DPE for the Brunswick River catchment and BMT (Council's lead flood consultant for the Belongil catchment) was commissioned by DPE for the Belongil and Tallow Creek catchments. The attachment contains a high level scope for the Brunswick River catchment and the scope for the Belongil and Tallow Creek catchments will follow closely this methodology for the Brunswick River catchment's scope.

There is a large amount of works involved to complete the post event technical analysis and current estimates from DPE and consultants is likely to take between two to three months as a minimum.

Key issues

- Timing of works
- Privacy of data

Options

5 Not applicable

Next steps

- Quality assurance and sorting of phase one survey data
- Undertake physical survey for phase two data collection
- Close technical project management of the post event technical analysis

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Financial Considerations

- Council's Flooding and Drainage Engineer's time and resource allocation
- Phase two survey scope and funding arrangements yet to be finalised.

Report No. 3.3 Flooding and Drainage Grants Update

Directorate: Infrastructure Services

Report Author: Scott Moffett, Drainage & Flood Engineer, IS - Works -
Infrastructure Planning

5 **File No:** I2022/346

Summary:

Update on current grant applications that support the recommendations from Floodplain Risk Management Study and Plans.

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RECOMMENDATION:

That the Floodplain Management Committee notes the grant applications currently submitted.

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Report

The following information provides an overview of current grant applications that support the recommendations from Floodplain Risk Management Study and Plans.

Floodplain Management Grants 2022-20223

- 5 Weblink: [Floodplain management grants | NSW Environment, Energy and Science](#)

Application date extended until 5 May 2022 due to recent AGRN 1012 natural disaster flooding event. Four streams are available and include:

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

According to the funding guidelines generally, the highest priority will be given to the following projects:

- 15
 - flood studies or floodplain risk management studies and plans (or reviews) where existing communities are exposed to flood risk, but this risk is not fully understood or managed, or with significant development pressures
 - the next stage of a mitigation work that is integral to a stage in progress; for example, the next stage of a levee project or works to offset the impacts from a levee project being constructed
- 20
 - mitigation works that are identified as a high priority in floodplain risk management plans adopted by councils.

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

Staff are preparing the following applications:

1. Byron Shire Overland Flow and Drainage Upgrade Study

- 30 Total value: \$250,000
Flooding and drainage issues within the Byron Shire are from a combination of creek and riverine flooding, coupled with significant overland flooding, as water makes its way to creeks and rivers.

Funding is required to enhance Council's resourcing to undertake the project within the most affected towns. This project was identified as a high priority action from the North Byron Flood Risk Management Plan, 2020.

2. Voluntary House Raising Scheme (VHRS)

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Funding for houses as prioritised under Council's Flood Risk Management Study and Plans for North Byron, Brunswick River, Belongil Creek and Tallow Creek.

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Voluntary house raising (VHR) is a flood risk management tool which involves raising a home above the minimum flood design level or relocating a home within its current lot to higher ground.

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- Only Councils can apply; it is not open to homeowners.
- It is only available for residential properties, not commercial or industrial.
- Only available for properties with buildings that were approved and constructed prior to 1986.
- Funding is only available for properties identified in a VHRS that has been subject to a Scoping Study or clearly scoped and identified through the Flood Risk Management Plan.
- Properties which are benefiting substantially from other floodplain mitigation measures – such as houses already protected by a levee or those that will be – will not be funded for VHR.

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Further information on the eligibility criteria and implementation of voluntary house raising projects is available at [Current grants | NSW Environment and Heritage](#).

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Council's current Flood Risk Management Study and Plans have identified a list of approximately 60 properties that may be eligible under the VHRS.

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A co-contribution is required; funding ratio of \$2 government to \$1 Council or homeowner contribution. A report to Council outlining potential options and process, is being prepared and will be reported to Council in June 2022, following a Strategic Planning Workshop.

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It should be noted that only about two houses per year per local government area are awarded, but it can vary depending on the number of applications received and the state funding available.

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To assist with community enquiries, a factsheet has been prepared and is available on Council's website [Voluntary house raising scheme - Byron Shire Council \(nsw.gov.au\)](#).

The NSW Floodplain Management Grants are not likely to be announced prior to November 2022.

3. Review of Belongil and Tallow Floodplain Risk Management Plans

Total value: \$150,000

Following the February/March 2022 AGRN 1012 natural disaster event, Council staff and external agencies will have access to new flood information.

The new information will be used to review and update the Belongil Creek and Tallow Creek Floodplain Risk Management Plans (FRMP) and incorporate potential new recommendations and flood knowledge.

The update is required due to the age of the documents (Belongil Creek FRMP, 2015 and Tallow Creek FRMP, 2015).

Floodplain Risk Management Plans provide an understanding of the current and future flood risk within the catchment and investigates a suite of management options to mitigate risk.

4. Evacuation Route Review and Update

Total value: \$150,000

A review and update of evacuation routes in the Byron Shire; Mullumbimby being a priority. This project will require close collaboration with SES and other relevant State agencies. The project was identified as a high priority action from the North Byron Flood Risk Management Plan, 2020.

It has been identified that the review will be undertaken by an external agency and therefore, will not require a Council application.

Preparing Australian Communities 2022

Weblink: [Preparing Australian Communities - Local Stream | business.gov.au](https://business.gov.au/preparing-australian-communities-local-stream)

In early 2021, Council applied for the Byron Drainage Strategy under the NSW Floodplain Management Grants; in February 2022, Council was advised that it was unsuccessful for this project.

In January 2022, Byron Shire Council applied for funding under the Australian Government's **Preparing Australian Communities – Local Stream** (Department of Industry, Science, Energy and Resources) for the Byron Drainage Strategy.

The program is one component of the Preparing Australia Program targeting support to locally identified and locally led projects that will improve the resilience of communities against natural hazards. Round 1 focused on projects that will improve the resilience of communities against bushfires, flood and tropical cyclones.

When completed, the Byron Drainage Strategy will confirm a preferred town centre flood mitigation plan and prioritisation of stormwater drainage infrastructure.

It will achieve this by undertaking detailed flood modelling, understanding and resolving social or environmental conflicts, key stakeholder inputs, and enable Council to develop detailed design, construction documentation and confidently go to tender.

The Strategy will detail a drainage system adaptable to future projected sea-level rise, ocean storm surges and increased rainfall intensities associated with climate change. It will also provide updated information to the NSW State Emergency Service to effectively prepare and implement local flood plans to deal with flood emergency response.

10 Project Outcomes

The following overarching goals will form the basis of an evidence-based framework to measure the impact of the Byron Drainage Strategy:

- Reduce flooding at nominated flood prone sites, significant reduction of inundated properties
- Provide increased immunity against ocean storm surges within main town area
- Reduce stormwater pollution at Clarkes Beach and Belongil Estuary
- Improve trafficability of local roads

The above goals are supported underpinned by the following outcomes:

1. Accurate understanding of drainage assets
2. Updated flood and drainage modelling to current Australian standards
3. Preferred concept for flooding and drainage asset augmentation
4. Improved community awareness
5. Completion of above and below ground survey to inform future asset upgrade
6. Detailed design of preferred concept and construction drawings

The Byron Drainage Strategy will include the following project scope and key activities:

1. Inception meeting and data collection
 - Undertake a site visit and inception meeting
 - Collect all relevant baseline data and identify and gaps for Byron Shire Council (BSC) consideration.

2. Initial Survey

- The scope and specification of the survey work is to be determined by the Tenderer with reference to Council's Typical Survey Specification.
- Specification to be developed by the tenderer according to the requirements of item 3 - Modelling.

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3. Modelling

- Determine baseline flooding and flow conditions for a range of design flood events including the 1% AEP and an extreme event in accordance with BSC requirements and the NSW Floodplain Risk Management Guidelines and Australian Rainfall and Runoff 2019
- Prepare a preferred option report for Council approval

4. Options Development

- Review the 2015 options, discuss with Council any additional options
- Includes a Council internal staff workshop
- Options unit rate estimate (+/- 50%)
- Prepare preliminary legal (incl. Crown Land), social, environmental, infrastructure conflict, constructability, design, safety and heritage risk assessment
- Develop a Multi-Criteria Assessment and Weighted Score for each options
- Workshop with Council and key external stakeholders
- Prepare a preferred option report for Council approval (including internal staff and Council Committee workshops)

5. Concept development of the preferred option

- Additional survey and investigations (including geotechnical investigations) on preferred route as required to complete the concept design concept design, in accordance with the requirements of Northern Rivers Local Government Development Design and Construction Manuals; including layouts, equipment sizes, concept drawings, concept unit rate estimate, attend concept design review meeting to present design options, and concept design report including calculations that support equipment and material selection.
- Implementation options (contract frameworks etc), including consideration of following possible options

- Design then Construct

- Key issues for consideration in a Construction MP, ie school holidays, public access/tourism, COVID, weather, event management
- Review of Environmental Factors for approval

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6. Workshops

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- Three workshops with internal staff and the Council Flood Plain Risk Management Committee. Comments from the Internal workshop are to be addressed (and revised documents to be reviewed by Council) prior to presentation at the Flood Plain Risk Management Committee Workshop.
- The Options Development Workshops with Council Internal Staff and Key External Stakeholder are to be carried out according to the Stakeholder Engagement Plan.

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7. Concept Design Review meeting

8. Detailed Design of final preferred concept design & Issue For Construction Documentation

9. Request For Information (RFI), Issues, Risks, Variations Registers

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- Maintain registers of RFIs, Issues, Risks and Variations (pending, approved and rejected, client and consultant initiated)

Outcome: Whilst Council has not been formally advised, on 7 April Senator the Hon Bridget McKenzie (Minister for Emergency Management and National Recovery and Resilience) announced within a media release that Byron had received \$1.08 million for the Byron Drainage Strategy

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[\\$150 Million Delivered To Reduce Natural Disaster Risk And Build Resilience In Our Communities | Ministers Media Centre \(pmc.gov.au\)](https://www.pmc.gov.au/ministers/minister-for-emergency-management-and-national-recovery-and-resilience/media-releases/2021/150-million-delivered-to-reduce-natural-disaster-risk-and-build-resilience-in-our-communities)

30

Minister for Emergency Management and National Recovery and Resilience, Senator the Hon Bridget McKenzie said the Preparing Australian Communities Program – Local Stream, is the first tranche of the Preparing Australia Program, which is an investment by the Australian Government of \$600 million over six years to build the nation's resilience to natural disasters.

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

3.3

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Funded projects include:

- 5 • \$10 million for the Resilient Yarra Ranges' program which will empower council and communities to better understand and cope with hazardous events, including bushfires;
- Over \$6.6 million, co-funded with the Mackay Regional Council, to build the Pioneer River Levee at Valetta Gardens / Rivers Edge in Mackay;
- \$3.5 million for flood mitigation infrastructure projects on the Gold Coast;
- \$1.08 million for a drainage strategy for Byron Town Centre;
- 10 • \$760,000 for the Ballina Shire Council to reform planning strategies and improve flood emergency management;
- \$72,000 to survey and assess the resilience of street and park trees in Karratha to cyclones, and;
- 15 • \$4.4 million to develop a comprehensive assessment and management system for Cape York community infrastructure at risk of cyclones.

The project is also on the following webpage: [Preparing Australian Communities Program - Local | National Recovery and Resilience Agency](#)

Successful applicants and projects

Expand all

New South Wales		
Applicant	Project	Amount funded
Byron Shire Council	Byron Bay Town Centre Flood Mitigation: Drainage Strategy	\$1,081,720.00

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Strategic Considerations

Community Strategic Plan and Operational Plan

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

3.3

CSP Objective	CSP Strategy	DP Action	Code	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 sound governance for grants management

Financial Considerations

Floodplain Management Grants – if they are successful, Council will need to provide supporting funding of \$1 per \$2 funding requested

- 5 Preparing Australian Communities – Council had provided funding support of \$200,000 towards the Byron Drainage Strategy; currently available within the 2021-2022 Council budget.

Funds have been allocated within Infrastructure Services budget to support the remaining grants.

Consultation and Engagement

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

Floodplain Risk Management Study and Plans are required to undergo community consultation prior to being adopted.

Report No. 3.4 **Belongil Catchment Drainage Board Update and Actions Required**

Directorate: Infrastructure Services

Report Author: Scott Moffett, Drainage & Flood Engineer, IS - Works -
Infrastructure Planning

File No: I2022/347

Summary:

A report titled "Council's interaction and collaboration with the Belongil Drainage Union - update and forward strategy" (I2021/176 - attached) was presented to the June 2021 Floodplain Advisory Committee meeting. There were nine recommendations that were supported by the committee and subsequently endorsed by Council. These were:

1. **Supports the current collaboration and communication with the Belongil Catchment Drainage Board (BCDB).**
2. **Nominate a sitting Councillor for representation on the Belongil Catchment Drainage Board.**
3. **Request the Belongil Catchment Drainage Board consider an urgent review of their constitution to allow a Councillor to be a member of the Board prior to the Boards next election.**
4. **Pay the outstanding fees of \$30,000 (from Sewer Fund: GL 7205.27)**
5. **Will not pay any future payments to the Belongil Catchment Drainage Board until such time that the Belongil Catchment Drainage Board undertakes appropriate land audits and produces a robust and equitable ongoing financial management plan for the Board's area.**
6. **Offers assistance to the Belongil Catchment Drainage Board with the development of a fair and equitable rating financial model, including investigating access to Council's systems to rate members on the Board's behalf.**
7. **Includes a member of the Belongil Catchment Drainage Board as a key stakeholder the Council current Coastal Management Plan for the Belongil area.**

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8. **Staff actively collaborate, support and engage with Southern Cross University for further research and investigations for the Belongil catchment**

5 9. **Note that the Byron Shire Floodplain Risk Management Committee support staff presenting the contents of this report to Council.**

This report provides an update on the progress of these recommendations for further discussion and action by the committee.



10

RECOMMENDATION:

That the Floodplain Management Advisory Committee:

1. **Notes the report update.**
- 15 2. **Discusses and actions the remaining recommendations including calling a formal meeting between Council and the Belongil Catchment Drainage Board.**

Attachments:

- 20 1 Report 17/06/2021 Byron Shire Floodplain Risk Management Committee Council's interaction and collaboration with the Belongil Drainage Union - update and forward strategy, I2021/176 , page 33 [!\[\]\(0f13e74bece43321be4542883500ac30_img.jpg\)](#) 
- 25 2 Action Memo Item - Adoption of Minutes from Previous Byron Shire Floodplain Risk Management Committee Meeting Council 26/08/2021, I2021/1517 , page 45 [!\[\]\(c03b623d46cc76dcf514be21d5657bcb_img.jpg\)](#) 

Report

The following section describes the actions taken to date.

- 5 **1. Supports the current collaboration and communication with the Belongil Catchment Drainage Board (BCDB).**

This action is complete, noting that collaboration is to be ongoing.

- 2. Nominate a sitting Councillor for representation on the Belongil Catchment Drainage Board.**

10 This action is to occur during the committee meeting.

- 3. Request the Belongil Catchment Drainage Board consider an urgent review of their constitution to allow a Councillor to be a member of the Board prior to the Boards next election.**

15 This action is complete. The boards constitution may not allow this, however, the board has indicated that they would be happy for a nominated Councillor to be present at their by biannual meeting. This will be further discussed at the upcoming meeting between Council and the Belongil Catchment Drainage Board.

- 20 **4. Pay the outstanding fees of \$30,000 (from Sewer Fund: GL 7205.27)**

This action is complete.

- 25 **5. Will not pay any future payments to the Belongil Catchment Drainage Board until such time that the Belongil Catchment Drainage Board undertakes appropriate land audits and produces a robust and equitable ongoing financial management plan for the Board's area.**

This will be further discussed at the upcoming meeting between Council and the Belongil Catchment Drainage Board.

- 30 **6. Offers assistance to the Belongil Catchment Drainage Board with the development of a fair and equitable rating financial model, including investigating access to Council's systems to rate members on the Board's behalf.**

35 This action is to occur during the committee meeting.

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7. **Includes a member of the Belongil Catchment Drainage Board as a key stakeholder the Council current Coastal Management Plan for the Belongil area.**

5 This action is complete.

8. **Staff actively collaborate, support and engage with Southern Cross University for further research and investigations for the Belongil catchment**

This action is complete and ongoing.

10

9. **Note that the Byron Shire Floodplain Risk Management Committee support staff presenting the contents of this report to Council.**

This action is complete.

Key issues

- 15 Council has land within the Belongil Catchment Drainage Board (BCDB) area; we are a paying member of the BCDB. It is essential Council plays a key role on the BCDB to ensure the area is managed appropriately and ensure our funds are being spent equitably.

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 community planning to inform decision making, build capacity and develop a shared responsibility for actions with the community.

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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	2.2.1.1	Support local interagency and regional network development to improve collaboration and inclusion
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Recent Resolutions

- Resolution record number I2021/1517 attached.

Legal/Statutory/Policy Considerations

5 Drainage Act 1939, which was later consolidated with the Water Management Act 2000 (WM 2000).

Financial Considerations

Council staff time and resourcing.

Consultation and Engagement

Who was consulted?	How did consultation occur? e.g. email, verbal etc	Comments/Feedback
BCDB	Formal meeting and ongoing email and verbal correspondence	Working well, ongoing
DPIE	Verbal and email	Comments/feedback received and contained in this report
Phil Warner	Verbal	Historic management information of the BCDB
Phillip Holloway	Verbal and email	Ongoing updates

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Southern Cross University	Verbal and Email	Ongoing support and research
Council various internal departments	Verbal, emails, workshops	West Byron STP and Coastal Management Plan

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4.1

Report No. 4.1 Council's interaction and collaboration with the Belongil Drainage Union - update and forward strategy

Directorate: Infrastructure Services

5 **Report Author:** Scott Moffett, Drainage & Flood Engineer, IS - Works - Infrastructure Planning
James Flockton, Infrastructure Planning Coordinator

File No: I2021/176

Summary:

10 The Belongil Catchment Drainage Board (BCDB) is a Private Drainage Board or Drainage Union as defined in the Water Act.

The BCDU has approximately 150 members. Byron Shire Council is a member as it owns and operates land within the BCDU boundaries, but we are not on the Board of directors.

15 Council and the BCDU have had a long-standing financial agreement. This was acknowledged by Council in 2017 and for the years 2004 to 2017 (13 years) the BCDB received \$100,000. These funds were largely used to develop a Management Plan (approx. \$60,000 that has now been finalised) and drain maintenance works (approx. \$20,000 to date).

20 The Board of directors voted unanimously to charge BSC a yearly levy of \$10,000 as per the agreement between Council and the BCDB. Council currently has an outstanding invoice for the sum of \$30,000 for 2018 to 2020 inclusive.

Council recently attended a committee meeting with the BCDB with council officers Cameron Clark, James Flockton, Scott Moffett (officer now responsible for the collaboration and communications with the BCDB) and Cr Lyon.

25 Prior to this meeting Council officers sought direction from the Department of Planning, Industry and Environment (DPIE), Water Group in order to help staff understand more detail about how drainage Boards work. Staff asked a number of key questions to help understand where Council should go moving forward with the Board.

30

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3.4 - ATTACHMENT 1

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RECOMMENDATION:

The Byron Shire Floodplain Risk Management Committee recommends:-

That Council:-

- 5 1. **Supports the current collaboration and communication with the Belongil Catchment Drainage Board (BCDB).**
2. **Nominate a sitting Councillor for representation on the Belongil Catchment Drainage Board.**
- 10 3. **Request the Belongil Catchment Drainage Board consider an urgent review of their constitution to allow a Councillor to be a member of the Board prior to the Boards next election.**
- 15 4. **Pay the outstanding fees of \$30,000 (from Sewer Fund: GL 7205.27)**
- 20 5. **Will not pay any future payments to the Belongil Catchment Drainage Board until such time that the Belongil Catchment Drainage Board undertakes appropriate land audits and produces a robust and equitable ongoing financial management plan for the Board's area.**
- 25 6. **Offers assistance to the Belongil Catchment Drainage Board with the development of a fair and equitable rating financial model, including investigating access to Council's systems to rate members on the Board's behalf.**
- 30 7. **Includes a member of the Belongil Catchment Drainage Board as a key stakeholder the Council current Coastal Management Plan for the Belongil area.**
- 35 8. **Staff actively collaborate, support and engage with Southern Cross University for further research and investigations for the Belongil catchment**
9. **Note that the Byron Shire Floodplain Risk Management Committee support staff presenting the contents of this report to Council.**

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Report

The Belongil Catchment Drainage Board (BCDB) is a Private Drainage Board or Drainage Union as defined in the Water Act.

- 5 The BCDU has approximately 150 members. Byron Shire Council is a member as it owns and operates land within the BCDU boundaries, but we are not on the Board of directors.

- 10 Council and the BCDU have had a long-standing financial agreement. This was acknowledged by Council in 2017 and for the years 2004 to 2017 (13 years) the BCDB received \$100,000. These funds were largely used to develop a Management Plan (approx. \$60,000 that has now been finalised) and drain maintenance works (approx. \$20,000 to date).

The Board of directors voted unanimously to charge BSC a yearly levy of \$10,000 as per the agreement between Council and the BCDB. Council currently has an outstanding invoice for the sum of \$30,000 for 2018 to 2020 inclusive.

- 15 Council recently attended a committee meeting with the BCDB with council officers Cameron Clark, James Flockton, Scott Moffett (officer now responsible for the collaboration and communications with the BCDB) and Cr Lyon.

- 20 Prior to this meeting Council officers sought direction from the Department of Planning, Industry and Environment (DPIE), Water Group in order to help staff understand more detail about how drainage Boards work. Staff asked a number of key questions to help understand where Council should go moving forward with the Board.

Below is a summary of questions and responses received:

General statement from DPIE- Details of the Minister's functions with respect to private drainage Boards

- 25 Drainage unions were established under the *Drainage Act 1939*, which was later consolidated with the *Water Management Act 2000* (WM 2000).

- 30 The purpose of constituting drainage unions was to provide for the drainage of land on which water accumulated (either permanently or occasionally) due to the absence of sufficient natural or artificial drainage, flood prevention works, or works to mitigate the effect of tides (*Drainage Act 1939*, s 8).

The Minister has a limited role with respect to private drainage Boards

- 35 Private drainage Boards are independent, landholder-run corporations. Each Board is comprised of directors elected by landholders within the drainage district. Boards may levy rates to fund their operations. Each Board is responsible for fixing, assessing and levying such rates.

The only means of dissolving a private drainage Board is by a petition to the Governor from at least a third of the landholders within the drainage district.

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Under the WMA 2000, the Minister has only limited functions in relation to private drainage Boards. In particular, the Minister has no oversight role and has no obligations or responsibilities to provide assistance to these Boards.

5 Governance of private drainage Boards

The provisions of the WMA 2000 relating to private drainage Boards do not provide any powers for the Minister to become involved in the day to day affairs of a Board. The majority of powers are given to the private drainage Board. A private drainage Board is a corporation under the corporate name by which it was constituted (s 200 WMA 2000)

Overview of relevant provisions of the legislation

15 The WMA 2000 provides for the appointment and election of directors (s201), the functions of private drainage Boards (s202), powers of entry (s203), extension of drainage works (s204) and the amendment of boundaries of the drainage district (s 205). It also prescribes requirements for the fixing and levying of rates (s 206).
20 Part 5 and Part 6 of the Water Management (General) Regulation 2018 (WMR) contains provisions relating to private drainage Boards, including in relation to the conduct of elections, quorum for a private drainage Board and finance.

An election of directors of a private drainage Board must be held every 3 years (cl 92(1) WMR). A person is entitled to vote in an election of directors of a private drainage Board if the person is the owner of land within the drainage district of that Board (cl 61(1) WMR).

The Minister's functions with respect to private drainage Boards

The Minister's role is very limited under Part 3 of Chapter 4. The only functions the Minister has in relation to PDBs are to:

- 30 • appoint a director if any Crown lands are included in a private drainage Board's district (s201(2) WMA 2000)
- cause notice of an application for the amendment of the boundaries of the drainage district to be published in the authorised manner (s205(3) WMA 2000)
- 35 • consider any objections and recommend (or recommend modification) of an application for amendment to the boundaries (s205(5) WMA 2000)
- notify the approval of the Governor and particulars of the alteration made in the boundaries in the Gazette (s205(6) WMA 2000)
- approve the manner in which the private drainage Board publishes their accounts (s218(2) WMA 2000).

40

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DPIE response to Council's questions

1. Can the Belongil Drainage Board amend their catchment area?

Yes. The WMA 2000 provides for the amendment of boundaries of the drainage district (s205) and for extension of drainage works (s204).

5 The Board will need to ensure they have met the requirements outlined in the relevant section of the WMA 2000.

2. If the catchment can be amended, is there a process to follow?

10 The Board will need to put in an application according to the process specified in section 205 of the WMA 2000:

The Water Management Act 2000

Section 205 Amendment of boundaries

15 (1) *The boundaries of a drainage district may from time to time, on application by the private drainage Board, be amended by the Governor.*

(2) *Any such application must contain particulars of the lands proposed to be added to or excised from the drainage district, and that have or are capable of being increased in value or that have decreased in value respectively by reason of the operations of the private drainage Board.*

20 (3) *The Minister must cause notice of any such application to be published in the authorised manner.*

(4) *The notice must—*

(a) *give particulars of the lands proposed to be added to or excised from the drainage district, and*

25 (b) *appoint a time (not being earlier than 8 weeks after the date of publication of the notice) and place at which objections may be lodged.*

30 (5) *After expiration of the appointed time and on consideration of any objection lodged the Minister may recommend and the Governor may approve an application with such modification, if any, as the Minister, on investigation, may recommend.*

(6) *The approval of the Governor, and particulars of the alterations made in the boundaries of the drainage district, must be notified by the Minister in the Gazette.*

35 (7) *As from the date of publication of such notification, the boundaries of the drainage district are taken to be altered accordingly.*

3. Does the Belongil Drainage Board have the ability to pressure Council about issues outside of their catchment area?

40 A drainage Board is not limited in the issues which they can raise with their relevant council, but has no particular standing other than as a community member.

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It is up the Council to determine how to respond to any such pressure.

- 5 4. If the Board wanted to redesign the drainage systems in their catchment, what process should be followed?

The WMA 2000 outlines the functions of private drainage Boards in s202, which includes constructing, altering or extending drainage works in the drainage district. This could include redesigning the drainage works.

10

s202 Functions of private drainage Boards

(1) A private drainage Board has the following functions—

(c) to construct, alter, or extend any drainage works in accordance with any authority and consent given under this Part.

15

The extension of drainage works is also subject to s204. If s204 is relevant because drainage works were being extended, then a majority vote at a general meeting (with the minimum number of members) is required to authorise the extension of drainage works.

s204 Extension of drainage works

20

(2) A private drainage Board is to carry out such extensions of drainage works as are authorised by a majority of votes cast at a general meeting at which a quorum is present.

- 25 5. The drainage Board have prepared a Plan of Management; do all landowners in the catchment need to approve it? Do we need to approve it noting we are a landowner in the catchment?

Private drainage Boards are responsible for the preparation, review and implementation of management programs for their drainage district (s202(1)(a)).

30

The Board is composed of directors who are elected by the landholders within the drainage district. Clause 61 of the Water Management (General) Regulation 2018 details the persons eligible to vote.

35

If Council have any concerns regarding the plan of management and as a landholder within the district, it is recommended that these concerns be raised with the drainage Board.

40

The WMA 2000 does not indicate that such a plan of management would require approval by all landholders. This is contrasted with s204 which provides that extensions to drainage works require a majority member vote and not the approval of all.

45

If the plan of management includes aspects which would require a development consent there may be other approval requirements whereby council is the determining authority.

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3.4 - ATTACHMENT 1

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- 5 6. Council has an Opening Strategy for the mouth of the catchment (the mouth is outside what we believe to be the Board's catchment area) – it is an ICOLL. We are happy with the strategy and it has a happy medium of environmental awareness and draining for the Board. However, the Board would like to see it revisited. What should we do?

This is a matter for Council, not the Department. Also see the response to item 4.

- 10 7. The Board want a comprehensive and independent flood study prepared (they do not appear to trust ours) – What should we do?

This is a matter for Council, not the Department. Also see response to item 4.

- 15 8. The Board requested we change our sewer discharge points and ideally move our sewer discharge points out of the catchment. Our discharge is fully approved – What should we do?

20 This is a matter for Council, not the Department. We would suggest Council seek its own legal advice on this.

- 25 9. Belongil Creek is a Crown waterway. Council does not have any jurisdiction over it without licenses and in our opinion are not required to remove or manage blockages and silt under any legislation. Are we correct? Who is responsible?

30 Crown land is owned by the State and managed by a different area of the Department. Generally, if Council does not own the land, we would anticipate that they have no obligation to manage it.

35 However, we would suggest Council also follow this issue up. Enquiries can be made at: 1300 886 235

See: <https://www.industry.nsw.gov.au/lands/what-we-do/management>
https://www.lawsociety.com.au/sites/default/files/2019-09/LS3148_Policy_RuralIssues-factsheet_CrownLand.pdf

- 40 10. The Board requested we redesign and upgrade a culvert under our road, our opinion is the culvert is suitable for its current use – what should we do?

This is a matter for Council, not the Department.

- 45 11. Does the Drainage Board have authority to come into council operated lands which have a drainage management plan or program for i.e. industrial estate and undertake drainage maintenance? Does their right of entry legislation trump ours?

Section 203 of the WMA 2000 provides authority for the drainage Board or persons duly authorised by the Board to enter land within or outside its drainage district;

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however, this is only permissible for the purposes of undertaking the functions for which the Board is responsible for.

5 In exercising this right, if any damage occurs to land the drainage Board is responsible for fully compensating the landholder. The right of the drainage Board to enter land does not extinguish the right of others.

10 12. Costs, fees and charges. Should Council be paying for this service (as it says they can collect fees and charges. Is that from land owners? Do other Councils pay Drainage Boards?

15 Section 202 of the WMA 2000 provides the drainage Board the power to create a levy and collect rates. This relates to the landholders within the drainage district. Therefore, if Council is a landholder they may be liable to pay a levy. The Department cannot comment on the levies paid by members of other drainage Boards.

20 13. Who is responsible if there is an incident WHS or environmental incident. Tree removal without approvals. They are not deemed a council subcontractor so how does that work if they are on our land? Who holds this risk?

25 The WMA 2000 does not deal with WHS related matters or environmental incidents. Accordingly, this is not a matter for the Department. We note our understanding is that tree removal is generally a Council matter.

14. Is there any other MOU's out there between councils and drainage Boards?

30 DPIE does not have oversight of MOUs between councils and drainage Boards. If Council is seeking advice on this issue we suggest contacting other councils which have drainage Boards within their local government area.

15. How many drainage Boards are out there today, are they still relevant?

35 Yes, drainage Boards are still relevant and all details pertaining to them are described in Part 3 of the WMA 2000. Drainage Boards may only be dissolved by a petition to the Governor from at least a third of the landholders within the drainage district.

40 16. Do drainage Boards trump Councils drainage management programs. We understand they have powers but do they exceed ours?

We are not aware of how the powers of drainage Boards interact with Council's drainage management programs. We suggest seeking independent legal advice.

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- 5 17. Can we have some clarity around the Board's and Council's powers roles and responsibilities. Noting Council is a landowner in the area we believe to be the Board's catchment.
- Division 2 of the WMA 2000 details the role and responsibilities of the drainage Board. Council as a landholder may attend general meetings, vote on issues, pay a levy and participate in votes for the directors.
- 10 We are not aware of the interaction between Boards and Council's powers, roles and responsibilities. We suggest seeking independent legal advice.
- 15 18. The drainage Board are pushing Council to increase our reuse out of the catchment. We also want to increase our reuse, but can only do so much – how should we handle this?
- This is a matter for Council, not the Department.

Recent BCDB meeting

- 20 A range of issues were discussed at the recent BCDB meeting. These are summarised below:
- SEE officers gave an overview of West Byron developments and a current status update. This was greatly appreciated by the Board.
 - 25 • The BCDB requested that a member of the Board be invited to be on the current Coastal Management Plan Council committee.
 - 30 • Manager of Utilities gave an update on the additional Flow Path servicing the West Byron Sewerage Treatment Plant (STP), which was greatly appreciated by the Board. Council Utilities department have committed to the following:
 - Providing water quality and discharge volumes in the online portal so it is easily available to everyone. Target date for this is end of financial year.
 - A graphic showing all flow paths, monitoring points and discharge points (Total Water Balance schematic)
 - 35 ○ Operation Manual will get reported to Council via the Water, Waste and Sewer Advisory Committee.
 - Ensure all existing ground water bores are being monitored. The BCDB has given full permissions for Council to access their private properties for operation and maintenance of the ground water bores as was allowed
 - 40 historically
 - Discuss recycled water strategy at a future meeting
 - 45 • Funding of the Board was discussed. Currently, Council is the only member of the union that is levied / rated (\$10,000/calendar year). Council asked why this was the case as it appears to be unequitable. The BCDB believe that the flows from the current STP discharge are taking all the capacity of the Union drain and this prevents the drain from performing its intended purpose. Officers explained that

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further transparency of flow data and the future operation of the additional flow will improve the understanding and capacity of Union drain operations. It was also noted that all surrounding land still receives a benefit from the Union Drain.

- 5
 - It was noted that BCDB have no way of rating their members. (Post meeting discussions have highlighted that we currently rate residents on behalf of Rous Water, therefore, there appears to no reason why we could not do the same for the BCDB).
- 10
 - The BCDB noted it doesn't require a formal Memorandum of Understanding (MOU) with Council, just a commitment to fund the drainage Board. Staff noted that an equitable way to levy all members was needed as well as processes and funding to ensure the BCDB area is managed fairly and appropriately.
- 15
 - It was agreed that it would be valuable to have a Councillor to nominate to sit on the BCDB however, election are two years away.
- 20
 - It was agreed that some specialist research involvement from the local Southern Cross University for specialist agricultural research/water balance topics would be beneficial.

In summary the meeting was productive with the BCDB unanimous in working more closely with Council for the better overall understanding and management of the BCDB area.

- 25 It is noted that if the BCDB are to be sustainable into the future they will need a robust and equitable ongoing financial management plan that can support annual maintenance and future catchment improvements (revegetation, culvert improvements etc).
- 30 They cannot continue to solely rely upon Council funds. This needs to be the Board's highest priority and due to the complexities in creating such a plan Council should support the Board in achieving this goal.

Key issues

Council has land within the BCDB area; we are a paying member of the BCDB. It is essential Council plays a key role on the BCDB to ensure the area is managed appropriately and ensure our funds are being spent equitably.

Options

Not applicable

Next steps

Please refer to recommendations.

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Strategic Considerations**Community Strategic Plan and Operational Plan**

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community	2.2	Support access to a wide range of services and activities that contribute to the wellbeing of all members of the Byron Shire community	2.2.1	Develop and maintain collaborative relationships with government, sector and community	2.2.1.2	Participate in community planning to inform decision making, build capacity and develop a shared responsibility for actions with the community.
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	2.2.1.1	Support local interagency and regional network development to improve collaboration and inclusion

Recent Resolutions

Not applicable

5 Legal/Statutory/Policy Considerations

Drainage Act 1939, which was later consolidated with the Water Management Act 2000 (WM 2000).

Financial Considerations

Pay the outstanding fees of \$30,000 (from Sewer Fund: GL 7205.27)

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Consultation and Engagement

Who was consulted?	How did consultation occur? e.g. email, verbal etc	Comments/Feedback
BCDB	Formal meeting and ongoing email and verbal correspondence	Working well, ongoing
DPIE	Verbal and email	Comments/feedback received and contained in this report
Phil Warner	Verbal	Historic management information of the BCDB
Phillip Holloway	Verbal and email	Ongoing updates
Southern Cross University	Verbal and Email	Ongoing support and research
Council various internal departments	Verbal, emails, workshops	West Byron STP and Coastal Management Plan

Byron Shire Council

FOR ACTION

Report No 3.1 - Adoption of Minutes from Previous Byron Shire Floodplain Risk Management Committee Meeting

TO: Tomanek, Dominika - Executive Assistant Infrastructure Services

COPY TO:

DATE: 22 September 2021

MEETING: Council Meeting of 26 August 2021

RESOLUTION NUMBER: 21-334

Action is required for this item as per the Council Resolution outlined below.

Resolved that Council adopt the following Committee Recommendation:

Report No. 4.1 Council's interaction and collaboration with the Belongil Drainage Union - update and forward strategy

File No: I2021/176

Committee Recommendation 4.1.1

The Byron Shire Floodplain Risk Management Committee recommends:

That Council:

1. Supports collaboration and communication with the Belongil Catchment Drainage Board (BCDB).
2. Nominate a Councillor for representation on the Belongil Catchment Drainage Board.
3. Request the Belongil Catchment Drainage Board consider a review of their constitution to facilitate a Councillor (ex officio) position on the Board.
4. Pay the outstanding fees of \$30,000 (from Sewer Fund: GL 7205.27).
5. Will make future payments to the Belongil Catchment Drainage Board when the Belongil Catchment Drainage Board undertakes appropriate land audits and produces a financial management plan for the Board's area.
6. Offers assistance to the Belongil Catchment Drainage Board with the development of a rating financial model, including investigating access to Council's systems to rate members on the Board's behalf.

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7. Invites a member of the Belongil Catchment Drainage Board to be a key stakeholder in developing Council's Coastal Management Plan.
8. Actively collaborate, support and engage with Southern Cross University for further research and investigations for the Belongil catchment.
9. Continue dialogue with relevant agencies, including DPIE Water, towards ongoing collaborative management in the Belongil area. (Lyon/Martin)

SPECIFIC ACTIONS REQUIRED: