

# Agenda Ordinary Meeting

Thursday, 28 April 2022



**BYRON**  
SHIRE  
COUNCIL

# Agenda Ordinary Meeting

held at Conference Room, Station Street, Mullumbimby  
commencing at 9.00am

Public access relating to items on this agenda can be made between 9:00 and 10:30 am on the day of the meeting. Requests for public access should be made to the General Manager or Mayor no later than 12:00 midday on the day prior to the meeting.

A handwritten signature in black ink, appearing to read 'Mark Arnold'.

**Mark Arnold**  
**General Manager**

---

---

## 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 24 March 2022
- 7. RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS**
- 8. MAYORAL MINUTE**
- 9. NOTICES OF MOTION**
  - 9.1 Land and Funds for Emergency Accommodation ..... 7
  - 9.2 Non-compliant companion animals ..... 14
  - 9.3 Corporate Governance - Councillors ..... 20
  - 9.4 NSW Government - Flood Inquiry Response ..... 24
  - 9.5 Temporary Accommodation - Flood Response ..... 30
- 10. PETITIONS**
- 11. SUBMISSIONS AND GRANTS**
  - 11.1 Grants March 2022 ..... 38
- 12. DELEGATES' REPORTS**
- 13. STAFF REPORTS**
  - General Manager**
    - 13.1 Crown Reserves - Update on deferred classification and categorisation applications ..... 43
    - 13.2 Review of Organisation Structure ..... 49
  - Corporate and Community Services**
    - 13.3 Appointment of Community Representatives to the Housing and Affordability Advisory Committee ..... 56
    - 13.4 Council Investments - 1 March 2022 to 31 March 2022 ..... 59
    - 13.5 Call for nominations for appointment to the Cape Byron Marine Park Advisory Committee ..... 67

# BYRON SHIRE COUNCIL

## Sustainable Environment and Economy

13.6	Annual Emissions Inventory and update on Net Zero Emissions goal.....	69
13.7	NSW Employment Zones Reform.....	82
13.8	Definition Amendment to Byron Shire Community Gardens Policy .....	90

## Infrastructure Services

13.9	Tender 2021-1131 - Water Reservoir Slope Stability Works .....	94
13.10	Tender 2021-1130 - Water Reservoir Roof Replacement Works .....	100
13.11	Tender 2021-1247 - Panel of Providers - Provision of Plumbing, Electrical, General Building & Maintenance Services.....	105
13.12	Mullum to Bruns Cycleway - Route Options for Community Consultation .....	110
13.13	Integrated Water Management Strategies .....	113

## 14. REPORTS OF COMMITTEES

### Infrastructure Services

14.1	Report of the Local Traffic Committee Meeting held on 12 April 2022.....	133
------	--	-----

## 15. QUESTIONS WITH NOTICE

15.1	Suffolk Park Caravan Park .....	139
15.2	Intersection of McGettigans Lane with Ewingsdale Road .....	142
15.3	Peak water levels in Byron for the March 2022 flood event .....	145

***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 Land and Funds for Emergency Accommodation**

5 **File No:** I2022/353

---

I move:

10 **1. That:**

- 15 a) Council's Finance Department identify any matured stocks, bonds or other funds that are not already committed to specific purposes and allocate the identified funds to the purchase of Supported Temporary Emergency Accommodation and infrastructure to support this accommodation that may go on council, State, Crown or private land.
- 20 b) Council applies for funding from State and Federal government to provide the community with Temporary Supported Emergency Accommodation.
- 25 c) Council allocates a portion of the Mayoral Fund to specifically finance Temporary Supported Emergency Accommodation for the community in need, to be made available for Council owned, State Owned, Crown land or Private land.

25 **2. That:**

- 30 a) Council identifies all parcels of Council owned land that could hold Temporary Supported Emergency Accommodation for residents affected by floods, fires or any natural or declared national disasters.
- 35 b) Council owned land could host Temporary Supported Emergency Accommodation that includes pet friendly accommodation options that may not be provided through private landholders or elsewhere.
- 40 c) Council's Planning Department submit any necessary Development Applications or Planning amendments to facilitate all manner of Temporary Supported Accommodation types such as motorhomes, tiny homes, modular and pod homes on Council owned land.

Signed: Cr Sama Balson

### **Councillor's supporting information:**

5 It was identified during our last Flood response meeting, that Byron Shire currently has over 500 households and 1,287 people displaced by the February/ March floods 2022. Byron Shire already had a housing emergency, we now have a housing catastrophe.

10 I note that there is now a provision by State Government for landlords to host mobile homes for persons affected by the flood national emergency and that there is intended State funding as well as potential State land in discussion that may provide accommodation pathways, however right now there is private land and potential council owned land that may provide additionally needed accommodation. Funding remains a key issue to get this underway expediently.

15 If we identify and access existing funds available, we can start the delivery of housing outcomes alongside State Initiatives, that can broaden the scope and reach a higher demand for the diverse accommodation needed.

20 Pet friendly accommodation is desperately needed for local residents who are otherwise being offered emergency accommodation as far away as Grafton or South Brisbane. Families and individuals already facing flood trauma should not be faced with the additional trauma of having to leave their family pets to be able to stay near work and schools in the Byron Shire.

25 We have a duty of care to ensure we are doing everything within our power to support the community during such a time of need. Please let us ensure all options are being considered and all funding that could be made available to provide emergency accommodation is made available.

### **Staff comments**

30 **by Shannon Burt, Director, Sustainable Environment and Economy and James Brickley, Manager Finance:**

The recommendations of this Notice of Motion (NOM) are divided into two sections – finance and planning. Staff responses have been provided accordingly below.

#### **Part 1 Finance:**

- 35 • **Council's Finance Department identify any matured stocks, bonds or other funds that are not already committed to specific purposes and allocate the identified funds to the purchase of Supported Temporary Emergency Accommodation and infrastructure to support this accommodation that may go on council, State, Crown or private land.**
- 40 • **Council applies for funding from State and Federal government to provide the community with Temporary Supported Emergency Accommodation.**



# BYRON SHIRE COUNCIL

## NOTICES OF MOTION

9.1

- **Council allocates a portion of the Mayoral Fund to specifically finance Temporary Supported Emergency Accommodation for the community in need, to be made available for Council owned, State Owned, Crown land or Private land.**

### 5 Comments from Manager Finance

In summary, it is suggested that Council does not have any funds adequate to assist with part 1(a) of this Notice of Motion.

10 The reference to bonds, stocks or other funds are assumed to be a reference to Council's investment portfolio. Essentially the value of Council's investment portfolio is committed for specific purposes and represents funds that are set aside for specific purposes already determined by Council through allocation in its current 2021/2022 budget and annual adoption of its Financial Statements.

15 Council has an adopted goal of maintaining an unrestricted cash balance of \$1million. Based on the current 2021/2022 budget, this balance is estimated to be at \$481,000 at 30 June 2022 but this outcome is prior to consideration of any financial impact upon Council associated with the February/March 2022 flood event. Council is currently half a million dollars below its preferred target to maintain some form of buffer against unforeseen expenditure or revenue loss.

20 Council is yet to consider the 31 March 2022 Quarterly Budget Review that will be presented to the 26 May 2022 Ordinary Meeting. It is likely that the current budget deficit for 2021/2022 of \$36,600 may very well increase and therefore the unrestricted cash balance may very well further decline due to the following:

- Further decline in interest revenue from current historic low interest rates.
- Cumulative impacts of revenue losses since 1 July 2021 due to the Pandemic
- 25 • The need for Council to identify funding of up to \$200,000 as its contribution to the restoration of infrastructure damaged by the floods.
- Council may need to absorb costs associated with the flood recovery that may not be funded but already incurred via any Commonwealth or State Government natural disaster funding

30 Information was recently provided to Councillors about the other problems that would be created if it reallocated any of its reserves known as 'internal restrictions' from their designated purposes. Council cannot reallocate any of its reserves known as 'external restrictions'.

35 It can only be stressed that Council needs to be careful with its current financial position given the current circumstances that the February/March 2022 flood event has presented to Council itself and that it really does not have the capacity or ability to support in any meaningful way what Part 1(a) of this Notice of Motion is suggesting.

**BYRON SHIRE COUNCIL**

## NOTICES OF MOTION

## 9.1

Whilst Part 1(c) of this Notice of Motion suggests that Council reallocate part of the Mayoral Fund to finance Temporary Supported Emergency Accommodation which is a decision for Council, that may require Council to alter the terms of reference for this Fund. That aside, at the time of preparing this response, the Mayoral Fund is yet to receive any donations.

## Part 2 Planning:

Comments from Director Sustainable Environment and Economy:

- Council identifies all parcels of Council owned land that could hold Temporary Supported Emergency Accommodation for residents affected by floods, fires or any natural or declared national disasters.
- Council owned land could host Temporary Supported Emergency Accommodation that includes pet friendly accommodation options that may not be provided through private landholders or elsewhere
- Council's Planning Department submit any necessary Development Applications or Planning amendments to facilitate all manner of Temporary Supported Accommodation types such as motorhomes, tiny homes, modular and pod homes on Council owned land.

Since the 2022 flood events staff have worked tirelessly and proactively alongside state government including the Premiers Department, Planning Department and Resilience NSW, as well as other northern region councils to identify solutions to house those displaced and living in temporary / emergency accommodation the result of the flood events.

To this end:

- A web link has been provided to advise of [Temporary accommodation options - Byron Shire Council \(nsw.gov.au\)](https://www.byronshire.nsw.gov.au) as per the recent State Government announcements. Separately, enquiries from landowners about camping ground and or caravan park development on private land for housing those displaced from the 2022 flood events are being logged and responded to as required by staff.
- 20 motorhomes have been set up at Byron Hospital for use in relation to COVID – servicing the whole region – Northern Rivers Health initiative.
- Staff identified around 14 council and crown land sites for consideration for temporary housing. These sites were presented to the Department of Planning (DPE) Flood Housing Recovery Team for consideration. Advice back from the Team was that 4 of these sites were deemed appropriate for immediate use and would be prioritised for temporary accommodation by the State Government. The remainder of the sites could be further considered for medium to longer term housing needs as part of the wider flood housing recovery process.

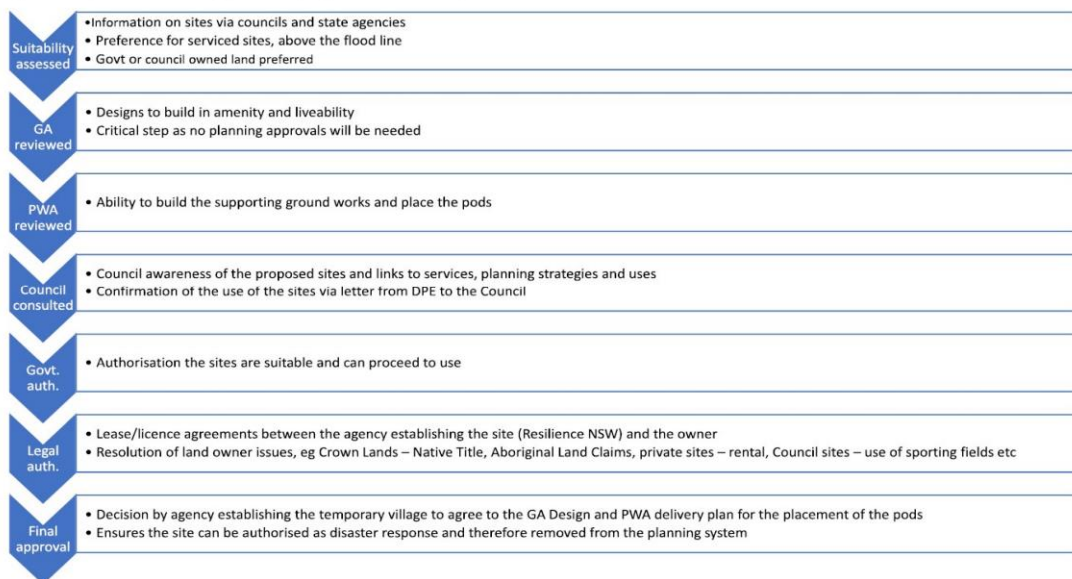
# BYRON SHIRE COUNCIL

## NOTICES OF MOTION

9.1

- Following this, staff met with representatives of the State Government Architect's office to look at the various forms of temporary accommodation available, and that could suit the prioritised sites, as well as confirming site planning and set up requirements to ensure that safe occupation and servicing of the sites could occur.
- 5 • Director Sustainable Environment and Economy now sits on the State Housing Recovery Taskforce. This Taskforce is a cross agency group within the NSW Government Flood Recovery Governance structure that has been set up to address short, medium, and long-term housing issues arising out of the 2022 flood events. This taskforce meets weekly. The key points from the most recent meeting being:
  - 10 ○ 17 plus sites across 5 LGAs identified for temporary housing for 2000 plus households.
  - Pop up temporary housing village designs progressing with each council on their priority sites.
  - 15 ○ The key selection criteria include: • impacts of hazard (flooding and bushfire) • land ownership • current planning controls • access to water, sewerage, electricity, and roads • access to local services and shops
  - Planning/SEPP amendments to enable the temporary housing on these sites expected to be notified shortly
  - 20 ○ Notification process about the temporary housing sites aka pop-up villages in each council area to be coordinated by DPE Flood Recovery Team & Resilience NSW. Council to be consulted and advised of this as it is to occur.
  - Pod Procurement update provided – multiple options looked at – EOI process used with a matrix of type, number, and delivery time frame. These need to be matched with sites. Supply is a challenge.
  - 25 ○ Legislation changes to enable temporary housing on prioritised sites to be valid for up to 5 years. As such site planning must be undertaken properly.
  - A community housing provider will be appointed as site manager of each of the sites to ensure appropriate selection and management of occupants, alongside Resilience NSW as the land manager for the length of the lease.
  - 30 ○ Further funding package announcements are likely for planning and engagement re recovery and rebuilding options for flood impacted communities; to support emergency accommodation needs, support extension of emergency accommodation; to address the undersupply of social and affordable housing pre flood.
  - 35 Below is a summary of the State Government endorsed process for temporary housing:

## Pop-Up Village approval process



Below is a link to a recent announcement of the Ballina Shire ‘pod village’ and funding from the NSW Premier for investment in temporary modular housing to give people displaced by floods a home while they rebuild their lives.

[\\$350 million modular housing package for flood-affected communities | NSW Government](#)

Staff are confident that the 4 prioritised sites in Byron Shire will be progressed to announcement in the coming week/s.

In addition to the above, prior to easter, staff went about identifying emergency accommodation options for those displaced by holidaymakers following media reports that many people would be left car camping in the streets. Site availability at Mullumbimby Showground, Bangalow Showground investigated for motorhome, caravans, and tents.

Discussions with Service NSW also ensued about meanwhile use buildings in the Byron Town Centre.

As a last resort, the Cavanbah Sports Centre carpark was proposed as a pop-up drive-in camp area. A request for igloo style lockable tents was also made to DPE Flood Recovery Housing team after these were put on the table as an option by the State Government Architect’s office. These were not available as it seems. Notwithstanding the above, the camp area was established for the easter period (in consultation with the Mullumbimby Neighbourhood Centre), with no take up use.

**Financial/Resource/Legal Implications:**

Various implications re resourcing and funding depending on resolution of council.

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

CSP Objective	CSP Strategy	DP Action
<b>Community Objective 4: We manage growth and change responsibly</b>	4.5: Work to improve community resilience in our changing environment	4.5.1: Develop and implement strategies for our community's needs

- 5 While there is an action that this work can be linked to in the current Delivery Program, it needs to be understood that there is no current Operational Plan link to the 2022 Flood Event. This has meant that many staff have been redeployed and or seconded to this work, which has and is having an impact on current adopted Operational Plan activities.

## Notice of Motion No. 9.2 Non-compliant companion animals

File No: I2022/283

5 I move that Council:

1. Notes the recent perceived increase in the number of dogs visible in the Shire;
2. Acknowledges that a 'Dogs in Public Spaces' Strategy is being developed but the Community Engagement stage has been delayed by the recent floods;
- 10 3. Shares the concern of many residents and visitors at the numbers of dogs in sensitive ecological areas and on public beaches and barking dogs in residential areas;
4. Notes that there is substantial evidence demonstrating that the presence of dogs has a negative impact on biodiversity;
- 15 5. Notes the priorities regarding dogs and cats in the adopted (Council Ordinary 24/3/22) Compliance Priorities Program Report 2021; and
  - a) requests staff to put further priority and emphasis on nuisance or off-leash dogs in environmentally sensitive areas such as Lilly Pilli, Belongil and Tallows estuaries and adjacent beaches,
  - 20 b) requests staff to put further enforcement priority and emphasis on off-leash dogs in towns and villages,
  - c) enhances community messaging of 5(a) and 5(b) through local media and any other channels,
  - d) conveys the same to tourism and accommodation operators;
- 25 6. Prepares a six-month review report, including any barriers to compliance in this area; and
7. Continues to work with NPWS to discourage the presence of dogs in National Parks and reserves.

30 Signed: Cr Michael Lyon and Cr Cate Coorey

**Councillor's supporting information:**

From the Compliance Priorities Program Report 2021:

Very High Priority 1.3

5 *Dangerous and/or menacing dogs;*

High Priority 2.4

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

10

Routine Priority 4.1

*Companion animals with a high emphasis on high visibility enforcement and public education*

<b>Customer Request Management Received 2021</b>		
Dogs Attacks	101	
Dogs Barking	128	
Dogs Found	123	415
Dogs Nuisance	292	
Dogs Restricted	5	
TOTAL	649	
Companion Animal related penalty infringements issued on daily patrols	57 * increase from 32 in the previous reporting period	\$23,115 value of fines

15 There appears to be an increase of dogs in the Shire in public places. News reports say that there is an overall increase of dogs Australia wide:

<https://www.dailytelegraph.com.au/news/nsw/australian-pet-ownership-reaches-record-high-during-covid-pandemic/news-story/3d6bafa280bd2715056c28a4961aeecd>

20 Dogs with well-behaved owners are not the focus of this NoM - rather, it is people who do not control their dogs in places where they should be controlled. Byron can only be dog-friendly if dogs and their owners are people and wildlife-friendly. Many people are experiencing being uncomfortable or threatened by the presence of dogs and they are often frightening to children. Dogs have been seen running on beaches where they are not allowed, disturbing beachgoers and attacking other dogs. I have seen dogs chasing wallabies. It is terrifying for the wallaby but I have had an owner say to me that it's just the dog having a bit of fun. It can literally cause the animal to die of fright.

25

Byron has a strong history of preserving and protecting wildlife but this is being eroded by increasing numbers of visitors into wild areas and local people whose actions threaten our

biodiversity. The world is in a biodiversity crisis, caused by human activity – particularly habitat loss or incursions into habitat.

The presence of dogs as an inhibitor of bird activity is well researched, eg:

- 5 [https://www.researchgate.net/publication/6055768\\_Four-legged\\_friend\\_or\\_foe\\_Dog\\_walking\\_displaces\\_native\\_birds\\_from\\_natural\\_areas](https://www.researchgate.net/publication/6055768_Four-legged_friend_or_foe_Dog_walking_displaces_native_birds_from_natural_areas)  
Peter B. Banks and Jessica V. Bryant. School of Biological, Earth and Environmental Sciences, University of New South Wales.

STUDY USED SEVERAL NATIONAL PARKS SITES WITH:

- 10        1. PERSON WALKING WITH DOG
2. PERSON WALKING ALONE
3. CONTROL – NO WALKING ACTIVITY
- 15        ☐ *Cautious conservation managers and government legislation typically ban domestic dogs from sensitive areas such as national parks and reserves, however, these bans induce strong protest from dog-walking lobbyists who cite a lack of evidence because multispecies responses of wildlife to dog walking are unknown.*
- 20        ☐ *Dog walking caused a 41% reduction in the numbers of bird individuals detected and a 35% reduction in species richness ( compared with untreated controls)*
- 25        ☐ *Humans walking alone also induced some disturbance but typically less than half that induced by dogs . Ground dwelling birds appeared most affected; 50% of the species recorded in control sites were absent from dog-walked sites.*
- 30        ☐ *For birds which did not flee the site, there were 76% fewer individuals within 10 m of when dog walking occurred compared with control sites, suggesting that birds were seeking refuge away from the immediate vicinity of the threat.*
- 35        ☐ *In the experiment testing bird responses to single and multiple walkers without dogs, bird abundance did not change with the addition of another human. This confirms that birds responded uniquely and additively when do and additively when dogs accompany walkers.*



- ☐ *Even dogs restrained on leads can disturb birds sufficiently to induce displacement and cause a depauperate local bird fauna.*

- 5 ☐ *These effects were in excess of significant impacts caused by human disturbance, which also caused decline in diversity and abundance. Responses to transient human disturbance are well known.*

## Staff comments

**by Sarah Nagel, Manager Public and Environmental Services, Sustainable Environment and Economy:**

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

Staff have spoken to Cr Lyon and Cr Coorey prior to the agenda being published to clarify this notice of motion.

Section 32A of the Companion Animals Act defines a ‘nuisance dog’ to be:

- (a) is habitually at large, or
- 15 (b) makes a noise, by barking or otherwise, that persistently occurs or continues to such a degree or extent that it unreasonably interferes with the peace, comfort or convenience of any person in any other premises, or
- (c) repeatedly defecates on property (other than a public place) outside the property on which it is ordinarily kept, or
- 20 (d) repeatedly runs at or chases any person, animal (other than vermin and, in relation to an animal, otherwise than in the course of droving, tending, working or protecting stock) or vehicle, or
- (e) endangers the health of any person or animal (other than vermin and, in relation to an animal, otherwise than in the course of droving, tending, working or protecting stock), or
- 25 (f) repeatedly causes substantial damage to anything outside the property on which it is ordinarily kept.

Pursuant to Council’s 2022 Compliance Priorities Program, dangerous or menacing dogs fall within the category of ‘very high priority’, uncontrolled dogs fall with the category of ‘high priority’ and noise disturbance (barking dogs) falls with the category of ‘high priority’.

- 30 Council’s Animal Enforcement Officers patrol areas that have been identified as non-compliant and areas that are notified to Council by the community. Officers also investigate reports of nuisance dogs in accordance with Council’s Enforcement Policy. Officers undertaking these duties are ‘Authorised Officers’ pursuant to the Companion Animals Act 1998 and undertake their duties with the ability to exercise discretion.

## BYRON SHIRE COUNCIL

### NOTICES OF MOTION

9.2

Any approach to enforcement of Companion Animal Act offences must be consistent with the intent and objectives of the relevant legislation (including the Companion Animals Act 1998), procedural fairness, natural justice, due process, the NSW Ombudsman's Enforcement Guidelines for Councils, Council's Enforcement Policy and Council's 2022 Compliance Priorities Program.

The concerns relating to nuisance dogs in environmentally sensitive areas is acknowledged. The concerns relating to off-leash dogs and barking dogs in towns and villages is acknowledged.

Staff can improve community safety in these areas through prompt and effective responses via visible and targeted patrols of areas with high reports of non-compliance with proactive enforcement of Companion Animals Act offences.

Staff can enhance community messaging through local media and other means; as well as conveying this message to tourism and accommodation operators.

Staff can prepare a six-month report reviewing progress and noting any barriers to compliance in this area.

Staff will continue to work with NPWS to discourage the presence of dogs in National Parks and Reserves.

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

Nil

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

Yes

2.4.3.5 Provide Companion Animal Management Services

2.4.3.6 Facilitate Companion Animal Education

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
<b>Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community</b>	2.4: Enhance community safety and amenity while respecting our shared values	2.4.3: Enhance public safety, health and liveability through the use of council's regulatory controls and services	<b>2.4.3.5</b>	Provide companion animal management services

## BYRON SHIRE COUNCIL

### NOTICES OF MOTION

9.2

<b>Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community</b>	2.4: Enhance community safety and amenity while respecting our shared values	2.4.3: Enhance public safety, health and liveability through the use of council's regulatory controls and services	<b>2.4.3.6</b>	Facilitate companion animals education
---	--	--	----------------	--

## **Notice of Motion No. 9.3 Corporate Governance - Councillors**

**File No:** I2022/354

5

---

**I move that the elected Councillors of Byron Shire Council develop and publish a charter for its own corporate governance by 30 June 2022 which includes:**

10

**1. Monthly meetings in the absence of management to articulate its approach to the strategic direction and supervision of Council - first week of each month for no more than 90 minutes.**

**2. An annual statement of objectives set out the priorities and targets for the mayor and councillors endorsed by the mayor and councillors - no more than one page including KPIs.**

15

**3. A monthly report from the mayor to explain to councillors and residents the work done and results each month against objectives and targets, in consultation with councillors.**

**4. A service standard and communication channels for immediate meetings and communication among councillors in the wake of natural disaster or emergency - e.g. same day virtual; next day in person.**

20

**5. A program for the development of councillors including 'CPD' style governance training and participation in LG NSW programs - e.g. for up to 10 hours per annum.**

25

**Signed: Cr Mark Swivel**

## Councillor's supporting information:

1. The BSC councillors do not, and have not over the years, met as a group separate from the BSC management; this is unusual in modern governance.
- 5 2. The BSC councillors did not meet as a group until 18 days after the recent floods, as a result, presumably of the habit or custom of not meeting as a group.
3. The contribution of the BSC councillors as a group and mayor would be enhanced by having clearer strategy 'as elected councillors', with meeting routines and reporting.
4. Teamwork between councillors and staff is essential to success but maximising the contribution of councillors depends on teamwork among councillors working as  
10 community representatives with a critical distance from the council staff and operations; just as our success equally depends on the professional expertise of staff and their independence from the political dimension of local government.
5. Councillors in local government are similar to company directors and many of the skills and disciplines in that domain including management by objectives and against targets  
15 can improve the contribution of elected councillors. There are many models but in my career development with ADIs I learnt the Carver model for setting strategy and policy, and monitoring compliance and performance. See e.g.:  
<https://www.carvergovernance.com>.

## Staff comments

- 20 **by Esmeralda Davis, Manager Corporate Services, Corporate and Community Services**

The *Local Government Act 1993* and *Local Government (General) Regulation 2021* provide the governance framework for Councils in NSW, supported by the Office of Local Government (OLG) which is responsible for strengthening the sustainability, performance,  
25 integrity, transparency and accountability of the local government sector. Furthermore, the OLG provide Councils with several best practice policies, including a Model Code of Conduct and Model Code of Meeting practice to support good governance, from which Council has developed and adopted its own.

30 The proposal to develop and publish a separate charter for corporate governance could be considered a duplication of the legislative and policy framework already in place, and should take into consideration the following points:

*1. Monthly meetings in the absence of management to articulate its approach to the strategic direction and supervision of council - first week of each month for no more than 90 minutes.*

35 It is unusual in Local Government for Councillors to meet outside of the formal Ordinary Meetings of Council or Committee meetings. Notwithstanding, Councillors are free to meet informally at their discretion but must ensure that debate on issues, preliminary or actual decisions are not made during these meetings. Advice from the OLG is that should an informal meeting occur, for the protection of Councillors, a record of meeting is kept by  
40 a staff member, in the event these meetings give rise to any doubt or claims about debate or decision making taking place as noted above. The record of meeting would provide the necessary defence against such claims.

# BYRON SHIRE COUNCIL

## NOTICES OF MOTION

9.3

The information provided in part 1 of the Notice of Motion and point 1 of the Councillor's supporting information suggests that the proposed monthly meeting is more formal and as such, could potentially be considered a Committee of the Whole, particularly if Terms of Reference are developed for these meetings. A Committee of the Whole is established by resolution of Council, to consider any matter before the Council. It is proposed the meeting be in the absence of the General Manager and staff. If that is the case, the meeting contravenes the provisions of clause 5.23 of Council's Code of Meeting Practice and section 376 (1) of the Local Government Act, which provide that the General Manager is entitled to attend. Any resolution of Council to remove the General Manager's entitlement would be contrary to both the Code and the Act.

Furthermore, Clause 5.16 of the Code and section 10(1) of the Act provides that everyone (members of the public) is entitled to attend a meeting of the council and committees of the Council (where all of the members are Councillors).

*2. An annual statement of objectives set out the priorities and targets for the mayor and councillors endorsed by the mayor and councillors - no more than one page including KPIs.*

Councillors should not be setting their own priorities outside of the mandatory Integrated Planning and Reporting Framework. Council's objectives are clearly articulated in the Community Strategic Plan (outlining the community objectives) which are then cascaded into the Delivery Program.

The Delivery Program sets the Council's intended direction and purpose for each term and documents councillors' commitment to delivering on the community objectives through targeted actions. This framework is designed to provide councillors with the mechanism for managing the work of council at a strategic level and provides consistency in planning and reporting across the sector. Regular reporting is provided to Council on the progress towards these actions and Council's Annual Report summarises the achievement of these objectives at the end of each financial year. A separate annual statement would be a duplication of mandatory requirements.

In addition, as outlined during the Councillor induction, staff are working on an Outcomes Framework which provides for an initial set of outcomes against which to measure progress.

*3. A monthly report from the mayor to explain to councillors and residents the work done and results each month against objectives and targets, in consultation with councillors.*

This would be the Mayor's decision however Council already receives monthly, quarterly, six monthly and annual reporting as required by legislation.

*4. A service standard and communication channels for immediate meetings and communication among councillors in the wake of natural disaster or emergency - e.g. same day virtual; next day in person.*

This is at the discretion of councillors. Staff will keep councillors informed in the wake of an incident or emergency but on occasion updates may be impacted by the need to prioritise response activity. The Councillor Support Service Level Agreement outlines the support

## BYRON SHIRE COUNCIL

### NOTICES OF MOTION

9.3

available to Councillors in carrying out their civic duties, including responses times for the provision of information.

- 5 The comments supporting the Notice of Motion do not acknowledge the impact from the 28 February event on communications within the Shire and across the region and particularly the period that communications were lost within Mullumbimby after the event. The impact of this being that Administration building was not functional until communications were restored in the following week.

*5. A program for the development of councillors including 'CPD' style governance training and participation in LG NSW programs - e.g. for up to 10 hours per annum.*

- 10 Councillors were advised of available continuing professional development programs during induction, including the LGNSW programs. Additional support to develop individual professional development programs will be provided in line with the mandatory requirements of the [Councillor Induction and Professional Development Guideline](#) issued by the OLG.

15 **Financial/Resource/Legal Implications:**

Local Government Act 1993

Local Government (General) Regulation 2021

Code of Meeting Practice

Code of Conduct

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

No

## **Notice of Motion No. 9.4 NSW Government - Flood Inquiry Response**

**File No:** I2022/355

5

---

**I move:**

10 **That the councillors and management of Byron Shire Council facilitate and lead the community response to the NSW Flood Inquiry announced by state government over the next month by:**

1. **Conducting community meetings online and in person explaining the scope and purpose of the NSW Flood Inquiry across its various foci - causes, preparation, response, recovery;**
- 15 2. **Holding meetings led by councillors across the community in the first week of May eg in Mullum, SGB, Byron, Suffolk, Main Arm, Wilson's Creek, Bangalow, as appropriate;**
3. **Inviting each councillor to write a report on the lessons to be learned from the government and community response to the floods - by 20 May 2022;**
- 20 4. **Developing a 'flood drill' plan for each town, including chain of command and communication protocols, and integration of community groups - by 30 June;**
5. **Outlining a pathway for owners to looking to rebuild, including policies and costs for DAs in flood affected areas, and access to house repurchase and raising programs - by 30 June;**
- 25 6. **Working with businesses to identify needs and evaluate performance of state government programs to support business across the shire - by 30 June;**
7. **Engaging with outer communities of the LGA to address unique issues including transport, communications, landslips, stranded vehicles and assets, and tenancy disputes - by 20 May.**
- 30 8. **Exploring flexibility in enforcement and policy application - especially in housing and planning - to maximise overall social outcomes and community benefits in the wake of a natural disaster.**

**Signed: Cr Mark Swivel**



## **Councillor's supporting information:**

1. The NSW Flood Inquiry is hugely welcome and remains open for submissions until 20 May 2022 (and longer for those directly flood affected): see <https://www.nsw.gov.au/nsw-government/projects-and-initiatives/floodinquiry>.
- 5 2. BSC like other public sector players have 'skin in the game' of any emergency or disaster response but community interest demands a constructive, broad, honest and robust analysis.
- 10 3. The councillors elected by residents of the shire have a particular obligation to communicate (and analyse) the needs and interests of all residents, especially those directly affected by the floods, to prepare for future natural disasters including bushfires, tsunami and floods.
4. Contributing to the NSW Flood Inquiry should not prevent Byron Shire Council from taking action to address the impacts of the flood and improve 'resilience' in the meantime.
- 15 5. Councillor involvement will allow Byron Shire Council to understand the diverse needs of the community which vary across the LGA, eg impacts for 'Huonbrook' differ from 'Ocean Shores'.

## **Staff comments**

### **by Shannon Burt, Director, Sustainable Environment and Economy:**

- 20 In March 2022, the NSW Government commissioned an independent expert inquiry into the preparation for, causes of, response to and recovery from the 2022 catastrophic flood event across the state of NSW.

Professor Mary O'Kane AC and Michael Fuller APM have been engaged to lead the Inquiry.

25 The Inquiry will report on:

- the causes of and factors contributing to the frequency, intensity, timing and location of floods;
- preparation and planning by agencies and the community for floods in NSW;
- responses to floods, particularly measures to protect life, property and the environment;
- 30 • the transition from incident response to recovery;
- recovery, including housing, clean-up, financial support, community engagement and longer-term community rebuilding.

# BYRON SHIRE COUNCIL

## NOTICES OF MOTION

9.4

The Inquiry will consider and, if thought fit, make recommendations on a range of matters, including:

- 5 • the safety of emergency services and community first responders;
- current and future land use planning and management and building standards in flood prone locations across NSW;
- appropriate action to adapt to future flood risks to communities and ecosystems;
- coordination and collaboration between all levels of government.

10 The Inquiry is required to report to the Premier on causation, land use planning and management and related matters by 30 June 2022, and on all other matters by 30 September 2022.

The Review will travel to and consult directly with affected communities.

The Terms of Reference (TOR) for the Inquiry link below: [CS1111 Terms of Reference V4.pdf \(nsw.gov.au\)](#)

15 In response to this, staff have established an internal working group to prepare a submission to the Inquiry. This work is progressing and will be reported to Council at a meeting in June. This submission will endeavour to garner the available information re the flood event to respond to the TOR. As with most Inquiries, they are iterative, with additional submissions being able via the direct consultation process that occurs with community as part of the Inquiry process.

The Notice of Motion (NOM) calls for responses from both councillors and staff to occur within the next month. Responses to each are provided below.

- 25 **1. Conducting community meetings online and in person explaining the scope and purpose of the NSW Flood Inquiry across its various foci - causes, preparation, response, recovery;**

An online Have Your Say Platform will be established for those impacted by the 2022 flood events to share their stories. It will be based on the Tweed Shire Council platform below:

30 [Share your 2022 flood experience | Your Say Tweed](#)

We have already pushed out a survey re flood heights to impacted community.

35 <https://www.byron.nsw.gov.au/Council/Media-centre/Media-releases/Help-us-get-the-full-picture-on-flood-heights>

Other work is discussed in following items of the NOM.

40 This information will be included in the council submission made to the Inquiry.

Notwithstanding this, it is important for community to also make their submissions directly to the Inquiry.

## BYRON SHIRE COUNCIL

### NOTICES OF MOTION

9.4

2. **Holding meetings led by councillors across the community in the first week of May eg in Mullum, SGB, Byron, Suffolk, Main Arm, Wilson's Creek, Bangalow, as appropriate;**

5 It is noted that this action is for Councillor led meetings with community as appropriate in the first week of May. This is a matter for Councillors to determine. Staff are otherwise without capacity to convene and or conduct multiple community meetings in the timeframe nominated given their current flood response work coupled with business-as-usual work commitments.

- 10 3. **Inviting each councillor to write a report on the lessons to be learned from the government and community response to the floods - by 20 May 2022;**

It is noted that this action is for each Councillor to write their own report on lessons learnt from the flood event by 20 May. This is a matter for Councillors to determine.

- 15 4. **Developing a 'flood drill' plan for each town, including chain of command and communication protocols, and integration of community groups - by 30 June;**

20 Flood evacuation planning and response is the role of the NSW State Emergency Service (SES) as the lead agency for flood events. Other agencies such as NSW Police or Council may support SES in this process if requested or agreed to by SES. Additional to this the 2019 Tweed Byron Local Emergency Management Plan (EMPLAN) provides some guidance on the management of flood events. The plan was prepared by the Tweed Byron Local Emergency Management Committee in compliance with the NSW State Emergency & Rescue Management Act 1989. Further the SES have internal plans which guide their actions during a flood event.

25 Under the TOR for the Inquiry the responsiveness to the Flood event is to be examined and recommendations made. It is considered out of remit and pre-emptive for Council to step into this role separate to the responsible agencies and or the Inquiry process at this time. It is also likely that a review of the EMPLAN will be a recommendation from the enquiry, therefore this would be the appropriate time to review the EMPLAN.

30 The North Byron Floodplain Management Plan recommended the completion of an Evacuation Assessment for Mullumbimby under action ID RM07. Given this is a role for the SES and post recent events, staff have been in discussion with SES and requested that a review of evacuation centres and routes in flood affected towns and villages across the shire be the scope of this action and that it be completed as soon as practical. Staff can provide further detail on this process to the Floodplain Management Committee once the assessment commences.

35

# BYRON SHIRE COUNCIL

## NOTICES OF MOTION

9.4

**5. Outlining a pathway for owners to looking to rebuild, including policies and costs for DAs in flood affected areas, and access to house repurchase and raising programs - by 30 June;**

Staff have prepared fact sheets to assist landowners understand the current planning pathways to rebuild post flood event. There is further work occurring with the Department of Planning presently re flood response and recovery development options for impacted communities. As further information becomes available updates to the factsheets will occur.

[Voluntary house raising scheme - Byron Shire Council \(nsw.gov.au\)](#)

[Lodging a DA to raise a house - Byron Shire Council \(nsw.gov.au\)](#)

**6. Working with businesses to identify needs and evaluate performance of state government programs to support business across the shire - by 30 June;**

Staff have been proactive and have been communicating with local businesses and Chambers of Commerce since the first flood event. Staff have been visible and present in the impacted business areas also.

Staff have also been working with Resilience NSW, Regional NSW, Service NSW, Regional Development Australia in this regard.

There have been weekly conversations had, a business e newsletter produced with grants and other flood recovery information for businesses circulated. There is now a business impacts survey underway.

<https://www.byron.nsw.gov.au/Public-Notice/Survey-for-Flood-Impacted-Businesses>

This information will be included in the council submission made to the Inquiry.

**7. Engaging with outer communities of the LGA to address unique issues including transport, communications, landslips, stranded vehicles and assets, and tenancy disputes - by 20 May.**

This work is part of a wider communications and engagement process that needs to be undertaken as part of the local recovery process.

Feedback from individual communities about the 2022 flood events has already been collated by staff since the first event. This information will be included in the council submission made to the Inquiry.

A specific flood impact survey for community like one previously used for the 2020 bushfire impacted communities in southern NSW is under development for the Have your Say platform. Results from this survey will not be available by 20 May.

# BYRON SHIRE COUNCIL

## NOTICES OF MOTION

9.4

8. **Exploring flexibility in enforcement and policy application - especially in housing and planning - to maximise overall social outcomes and community benefits in the wake of a natural disaster.**

- 5 The adopted Enforcement Policy of Council (as per the Ombudsman Guidelines) already provides for Council to make enforcement decisions in an unbiased, consistent, balanced, and impartial manner. And the implementation of risk-based regulation to protect the environment, local economy, and the community of Byron Shire.

[Enforcement Policy - Byron Shire Council \(nsw.gov.au\)](https://www.byrongov.au/enforcement-policy)

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

Various implications re resourcing and funding depending on resolution of council.

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

CSP Objective	CSP Strategy	DP Action
<b>Community Objective 4: We manage growth and change responsibly</b>	4.5: Work to improve community resilience in our changing environment	4.5.1: Develop and implement strategies for our community's needs

- 15 While there is an action that this work can be linked to in the current Delivery Program, it needs to be understood that there is no current Operational Plan link to the 2022 Flood Event. This has meant that many staff have been redeployed and or seconded to this work, which has and is having an impact on current adopted Operational Plan activities.

## **Notice of Motion No. 9.5 Temporary Accommodation - Flood Response**

**File No:** I2022/356

5

---

**I move that the councillors and management of Byron Shire Council ('BSC') develop and publish a Temporary Housing Emergency Plan within 7 days in order to:**

- 10      **1. Communicate the state of play - estimating the number of flood affected residents and households across Byron Shire including homeowners and tenants;**
- 15      **2. Explore immediate housing options - with community, religious and other organisations to meet short term demand for housing in halls and on their property - to keep people close to home, work, health care and school from Easter until the time 'temporary accommodation' is installed on government property (which may be 6 to 12 weeks away)**
- 20      **3. Develop a model for community organisations and private landowners to provide accommodation for up to 10 people without a DA - noting that the 'moveable dwellings' regulation does not impose an explicit numerical cap on the number of dwellings permitted;**
- 25      **4. Conduct brief consultation meetings - online – for BSC to reality check the diverse needs of residents and capacity of community organisations and others to meet those needs;**
- 30      **5. Outline a plan for the rollout of temporary accommodation after Easter in this LGA -identifying the number of dwellings, number of people that can be accommodated, locations and intended duration of accommodation, financial options (if any) to rent and enable purchase of dwellings; and**
- 35      **6. Review BSC enforcement strategies - to prioritise social outcomes (eg a 6 month moratorium on DA enforcement for temporary solutions; enforcement of existing granny flat approvals which preclude 'STRA' usage); and**
- 7. Identify opportunities to learn from this experience and develop longer-term affordable housing solutions for the LGA as the Temporary Housing Emergency Plan is implemented.**

**Signed: Cr Mark Swivel**

## **Councillor's supporting information:**

1. We have 500 households and 1280 people needing temporary accommodation, maybe more.
- 5 2. Many residents will remain in emergency accommodation, some out of the Byron Shire LGA, and many are in short term 'couch surfing' situations or 'cars'.
3. There will be a time lag after Easter of 6 to 12 weeks (perhaps longer) in implementing the formal 'temporary accommodation' solutions funded and delivered by state government.
- 10 4. The social instability created by the under-resourced response across the region to the housing and accommodation crisis is a serious and pervasive concern.
5. Measures for Easter and plans for 'pod villages' are welcome and applauded but BSC must use whatever tools it can to improve outcomes for community members.

## **Staff comments**

### **15 by Shannon Burt, Director, Sustainable Environment and Economy:**

The recommendation of this Notice of Motion (NOM) includes development and publishing of a Temporary Housing Emergency Plan within 7 days of resolution of council on same.

Depending on the final resolution of council, a timeframe of 7 days is unlikely to be met by staff due to the work generated by the NOM as it stands and the interplay it has with other state agencies work, and should be subject to further consideration.

Noting the above, staff responses have been provided below to address each of the items of the NOM.

### **25 1. Communicate the state of play - estimating the number of flood affected residents and households across Byron Shire including homeowners and tenants;**

There are various data sources in existence regarding the number of people and number of accommodation places/spaces available to those displaced from the 2022 flood events.

Service NSW and Department of Communities and Justice (DCJ) are responsible for the official registrations of people, which are then matched to official places of accommodation. There are also unofficial lists of people and accommodation that are being matched outside the Service NSW and DCJ process. There also remains hidden homelessness in Byron Shire.

Better and more current information about flood affected residents and households in Byron Shire, and the Northern Rivers more widely is now able to be obtained via the State

Housing Recovery Taskforce. As this information is provided updates will be communicated via the Local Recovery Committee to councillors and community.

The most recent information for Byron Shire was 1282 persons / 530 households impacted. With over 1000 buildings assessed as having from slight to major damage.

- 5     **2. Explore immediate housing options - with community, religious and other organisations to meet short term demand for housing in halls and on their property - to keep people close to home, work, health care and school from Easter until the time 'temporary accommodation' is installed on government property (which may be 6 to 12 weeks away)**
- 10    Ordinarily halls, churches and community buildings are not able to be utilised for housing due to planning and building controls. To do so, in most instances would require a change of zone, and or a development application. As such this proposal is not considered an immediate option to address the housing needs of displaced residents from the 2022 flood events.
- 15    Additionally, prior to easter, staff went about identifying emergency accommodation options for those displaced by holidaymakers following media reports that many people would be left car camping in the streets. Site availability at Mullumbimby Showground, Bangalow Showground investigated for motorhome, caravans, and tents.
- 20    Discussions with Service NSW also ensued about meanwhile use buildings in the Byron Town Centre.
- 25    As a last resort, the Cavanbah Sports Centre carpark was proposed as a pop-up drive-in camp area. A request for igloo style lockable tents was also made to DPE Flood Recovery Housing team after these were put on the table as an option by the State Government Architect's office. These were not available as it seems. Notwithstanding the above, the camp area was established for the easter period (in consultation with the Mullumbimby Neighbourhood Centre), with no take up use.
- 30    **3. Develop a model for community organisations and private landowners to provide accommodation for up to 10 people without a DA - noting that the 'moveable dwellings' regulation does not impose an explicit numerical cap on the number of dwellings permitted;**
- 35    There is already a legislative framework under which 'moveable dwellings' can be permitted on land outside of a caravan park or camping ground.
- 40    Provided that community organisations and private landowners work within the legislation exemptions up to '10 people' (not 10 dwellings) may be able to be accommodated on land. Details below:
  - any tent, caravan or other portable device (whether or not on wheels) used for human habitation;
  - a manufactured home; or



- any conveyance, structure or thing of a class or description prescribed by the regulations.

These structures are either transportable, or easier to disassemble and relocate than other types of buildings used for human habitation.

- 5 Generally, a person is required to obtain council approval if they plan to install and occupy a moveable dwelling on their land (section 68 of the LG Act).

However, clause 77 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021 (LG Regulation) provides a number of exceptions to this requirement, including clause 77(1)(d).

- 10 This permits the temporary installation of a moveable dwelling on land without council approval if the moveable dwelling is:
- to accommodate a person displaced by *natural disaster (i.e. flood)*,
  - maintained in a safe and healthy condition, and
  - removed within 2 years of its installation.

- 15 This exception is intended to give affected homeowners/community an interim housing solution whilst they repair or rebuild their home, or progress plans for more permanent arrangements.

- 20 At the end of the 2-year exemption period, the moveable dwelling must be removed from the property unless another approval has been secured. If a landowner proposes to retain a moveable dwelling for longer than 2-years, an approval is required under section 68 of the LG Act. The LG Regulation gives councils the power to extend this period through their local approvals policy.

- 25 Clause 77(1)(d) of the LG Regulation enables a landowner to install one moveable dwelling on any land to accommodate a person who has been displaced by a *natural disaster i.e., flood*. There is no specific size limitation on the movable dwelling to be installed.

- 30 While it may be possible under clause 77 to install more moveable dwellings on the same land using the other exemptions, this is only possible if the criteria for the relevant exemption is met. For example: you may be able to have additional caravans or tents for a limited time; a caravan on land for use by a family member, a caravan for a seasonal worker.

- 35 Before installing a moveable dwelling, a person must have owner's consent and the movable dwelling needs to be installed on a part of the land that is safe and suitable. For example, as part of determining where the moveable dwelling can go things like: flood risk; risk of bush fire; access to services; and appropriate evacuation routes must be taken into account.

Note also that a Section 68 approval will be required to connect a movable dwelling to an on-site sewage management system where it is not deemed self-sufficient. Site operating systems, location and capacity will otherwise dictate what can be accommodated on a site.

Outside of this, 2 or more moveable dwellings installed on land (same lot) would require development consent under the Environmental Planning and Assessment Act for the use of land as a caravan park, camping ground or manufactured home estate.

- 5 A web link has been provided to advise community of this [Temporary accommodation options - Byron Shire Council \(nsw.gov.au\)](https://www.byrongov.au/Temporary-accommodation-options). Separately, enquiries from landowners about camping ground and or caravan park development on private land for housing those displaced from 2022 flood events are being logged and responded to as required by staff.

Comment from Legal Counsel

- 10 A reference to section 8 of the *Interpretation Act 1987* has been utilised to suggest that when “Moveable dwelling” is referred to in clause 77 of the Regulations, it must be a reference to the plural as well – this is not necessarily the case in every statute – for example, see the commentary of Rees J (citation below):

- 15 “While reference to a word in the singular includes a reference to the word in the plural form (section 8(b), *Interpretation Act 1987* (NSW)), the Interpretation Act does not preclude the operation of provisions as drafted and also permits a process of selective pluralising or singularising such that not every singular word need be pluralised and *vice versa*. These are matters to be resolved by the ordinary process of statutory construction including having regard to the purpose of the provision and whether one of the competing constructions leads to unfavourable consequences:
- 20 Perry Herzfeld, Thomas Prince, *Interpretation* (2nd ed, 2020, Lawbook Co) at [4.80] and the authorities there cited”

*VENTIA AUSTRALIA PTY LTD v BSA ADVANCED PROPERTY SOLUTIONS (FIRE) PTY LTD* [2021] NSWSC 1534; [28]

- 25 Clause 77 sets out the circumstances where moveable dwellings may be installed on land (not a caravan park or camping ground) without approval. It should be noted that the terms “moveable dwelling” and “caravan” are both used in the clause. A caravan is a type of moveable dwelling, so where ‘caravan’ is referred to, it is *only* a caravan that can be installed in the circumstances prescribed under the Regulation.

- 30 Only one caravan can be installed on land in connection with the owners dwelling house can be installed, and the use of it needs to be connected with the household (cl 77(1)(b))

- 35 Where 2 caravans are installed, the time frame for installation is limited (cl 77(1)(a))

A moveable dwelling (this is the broader term – so it could be a caravan, or tent, manufactured home or other portable device – see definition under the LG Act) can be placed on land to accommodate a person displaced as a result of a natural disaster

- 40 Considering all these provisions together, there are limited circumstances where caravans can be installed on land without approval – only where the owner of the land is connected with the use of the caravan, or where the timeframe is limited. However there is a further circumstance where a moveable dwelling can be installed on land where a person has been displaced by a natural disaster – in that circumstance, there is no need for a
- 45 “connection” to the owner of the land, and the timeframe is extended – up to 2 years. Taking into consideration the form and structure of this provision, it is unlikely more

than one moveable dwelling can be installed on land to accommodate a person displaced as a result of a natural disaster.

5 Arguably to interpret the provision in that way (moveable dwelling as plural) could lead to unfavourable consequences (see case reference above) – an unlimited number of moveable dwellings is the consequence of interpreting “moveable dwelling” as plural in clause 77(1)(d). Installing 3 or more caravans on a small parcel of land in central Mullumbimby, accommodating numerous people has amenity impacts, and health impacts having regard to sanitary disposal issues and the like. It is likely that “moveable dwelling”  
10 in the context of clause 77 would be interpreted in the singular.

**4. Conduct brief consultation meetings - online – for BSC to reality check the diverse needs of residents and capacity of community organisations and others to meet those needs;**

15 Engagement is ongoing and taking many forms. Further engagement with impacted community and organisations to be developed as part of the local recovery response process.

**5. Outline a plan for the rollout of temporary accommodation after Easter in this LGA -identifying the number of dwellings, number of people that can be accommodated, locations and intended duration of accommodation, financial options (if any) to rent and enable purchase of dwellings; and**  
20

25 The NSW Government has announced \$350 million investment in temporary modular housing across the northern rivers to give people displaced by floods a place to call home while they rebuild their lives. Discussions are underway with local councils across Tweed, Byron, Ballina, Richmond Valley and Lismore Local Government Areas to identify suitable sites for the homes.

30 Byron Shire Council staff are supporting the State Government in the identification of publicly owned sites suitable for temporary modular housing. The NSW Government will lead the delivery of temporary housing throughout the region with co-operation from Councils. Further details of this program are not yet clear at this point in time.

**6. Review BSC enforcement strategies - to prioritise social outcomes (eg a 6 month moratorium on DA enforcement for temporary solutions; enforcement of existing granny flat approvals which preclude ‘STRA’ usage); and**  
35

The adopted Enforcement Policy of Council (as per the Ombudsman Guidelines) already provides for Council to make enforcement decisions in an unbiased, consistent, balanced, and impartial manner. And the implementation of risk-based regulation to protect the environment, local economy, and the community of Byron Shire.

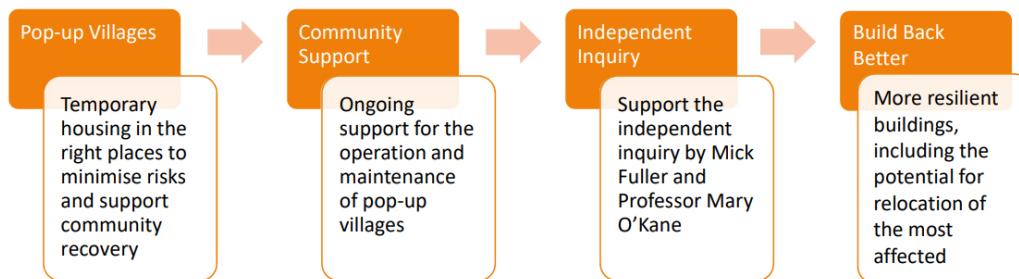
40 [Enforcement Policy - Byron Shire Council \(nsw.gov.au\)](https://www.byrongov.au/enforcement-policy)

**7. Identify opportunities to learn from this experience and develop longer-term affordable housing solutions for the LGA as the Temporary Housing Emergency Plan is implemented.**

- 5 Lessons learn from the 2022 flood events and identifying medium to long term housing solutions for Byron Shire will be part of the work that the State Housing Recovery Taskforce completes in the coming 12 months. This Taskforce is a cross agency group within the NSW Government Flood Recovery Governance structure that has been set up to address short-, medium- and long-term housing issues arising out of the 2022 flood events.
- 10 The Taskforce is responsible for: • Delivering an overarching conceptual strategy for approval by Government that covers the transition from immediate responses for emergency accommodation, through short term temporary accommodation through to the resolution of how to 'Build Back Better', including potential relocation of settlements. •
- 15 Developing and delivering on the taskforce's plan on a page and 100-day Flood Action Plan outcomes.

The Director Sustainable Environment and Economy attends the weekly meetings of the Taskforce and reports back to the Local Recovery Committee and council accordingly on their work plan.

## Overview of the Workplan



**20 Financial/Resource/Legal Implications:**

Various implications re resourcing and funding depending on resolution of council.

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

CSP Objective	CSP Strategy	DP Action
<b>Community Objective 4: We manage growth and change responsibly</b>	4.5: Work to improve community resilience in our changing environment	4.5.1: Develop and implement strategies for our community's needs

## BYRON SHIRE COUNCIL

### NOTICES OF MOTION

9.5

While there is an action that this work can be linked to in the current Delivery Program, it needs to be understood that there is no current Operational Plan link to the 2022 Flood Event. This has meant that many staff have been redeployed and or seconded to this work, which has and is having an impact on current adopted Operational Plan activities.

5

SUBMISSIONS AND GRANTS

**Report No. 11.1 Grants March 2022**

**Directorate:** Corporate and Community Services

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

**File No:** I2022/308

**Summary:**


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

---

**RECOMMENDATION:**

- 15 1. That Council notes the report and Attachment 1 (#E2022/30893) for Byron Shire Council's grant submissions as of 31 March 2022.
2. That Council requests a report on the Voluntary House Raising Scheme detailing the process and co-contribution funding requirements.

20 **Attachments:**

- 1 Grants Report March 2022, E2022/30893 

25

## Report

Currently Council has 21 grant submissions awaiting determination; refer Grants Report March 2022 attachment.

### Successful applications

- 5 No successful applications advice received in March 2022.

### Unsuccessful applications

No unsuccessful applications advice received in March 2022.

### Applications submitted

No applications submitted in March 2022.

- 10 Upcoming grant opportunities

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

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

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

- 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
- 25 • 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
- mitigation works that are identified as a high priority in floodplain risk management plans adopted by councils.

- 30 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

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)

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

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.

- 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.

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

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

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.



# BYRON SHIRE COUNCIL

## SUBMISSIONS AND GRANTS

11.1

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.

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

10 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

- 15 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.

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

- 25 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

- 30 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.

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

## Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
<b>Community Objective 5: We have community led decision making which is open and inclusive</b>	5.6: Manage Council's resources sustainably	5.6.12: Implement strategic grants management systems to deliver priority projects for Byron's community (SP)	<b>5.6.12.2</b>	Provide sound governance for grants management

### Legal/Statutory/Policy Considerations

- 5 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

- 10 If Council is successful in obtaining the identified grants, this would bring funding sought to approximately \$27 million which would provide significant funding for Council projects. Some of the grants require a contribution from Council (either cash or in-kind) and others do not. Council's contribution is funded. Please note that the Bioenergy Byron Facility has been submitted under two different funding programs; both are included in the
- 15 total value below.

The potential funding is detailed below:

	Requested funds from funding bodies	\$27,919,213
	Council Contribution Cash	\$32,330,212
	Council Contribution In-Kind	\$36,000
20	Other contributions	\$47,140
	<b>Funding applications submitted and awaiting notification (total value)</b>	<b>\$60,362,565</b>

### Consultation and Engagement

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

STAFF REPORTS - GENERAL MANAGER

**Report No. 13.1 Crown Reserves - Update on deferred classification and categorisation applications**

**Directorate:** General Manager

**Report Author:** Shannon McKelvey, Executive Officer

**File No:** I2022/307





**Summary:**

With the commencement of revised Crown Lands Management legislation, NSW councils have been working with the Department of Planning and Environment - Crown Lands (DPE-CL) to progressively assess, classify and categorise crown reserves managed by councils. Council lodged its applications for reserves in this Shire in 2019 and the bulk of reserves were classified and categorised in 2020 and 2021, with a small handful deferred by DPE-CL. This report provides an update on seven of the deferred reserves and details of next steps Council has been requested to take in relation to two of those reserves.

**RECOMMENDATION:**

**That Council apply to the Minister administering Crown Lands Management Act 2016 for classification of Crown Reserves R65234, R73709, R73711 as Operational Land under the Local Government Act 1993.**

**Attachments:**

- 1 Location of Crown Reserve R65234, E2022/35053 
- 2 Location of Crown Reserves R48640, R73709 and R73711, E2022/35055 
- 3 Directed categories for Crown Reserve R82000 Main Beach Foreshore, E2022/35056 
- 4 Directed categories for Crown Reserve R97066 Suffolk Park Foreshore, E2022/35057 

## Report

Following the 2018 commencement of new Crown Lands Management legislation, NSW councils have been working with the Department of Planning and Environment - Crown Lands (DPE-CL) to progressively assess, classify and categorise some crown reserves according to requirements of the Local Government Act 1993. The crown reserves involved in this process are those reserves where Council has been appointed (by notice published in the gazette) as the Crown Land Manager.

Council lodged its applications for classification and categorisation in 2019 and the bulk of reserves were classified and categorised in 2020 and 2021. A small number were deferred because either:

1. additional steps had to be taken by DPE-CL before Council's applications could proceed – there are still two areas of Crown Land that this applies to which remain deferred;
2. DPE-CL wanted to undertake further investigations into the reserves before making a final decision on their classification or categorisation.

DPE-CL have completed investigations and made final decisions for seven reserves that fell into the second category. Details are provided below but in summary:

- for 2 reserves, DPE-CL have rejected Council's proposal and requested that Council instead apply for Operational Land classification. A Council resolution is required to make the applications.
- for 2 reserves, DPE-CL have confirmed that the Council's proposal is appropriate and those applications can proceed. No further action is required from Council for these reserves.
- for 3 reserves, DPE-CL have completed the categorisation applications and made final categorisation decisions.

More details are provided below:

- a) Reserve R65234 – Keyes Bridge, Federal – gazetted purpose Rubbish Dump – Refer to Attachment 1

Council resolved to seek a Natural Area (Bushland) categorisation. Following their investigations, DPE-CL have determined that classification of the reserve as Community Land would be inconsistent with its gazetted purpose. Instead, Council has been requested to lodge an Operational Land classification application for this reserve.

An Operational Classification will not alter current uses, licence to the local landcare group or activities on the reserve and it will not enable Council or community to do anything more or less with the reserve. It will mean that Council will not be required to adopt a Plan of Management for it.

- b) Reserves R48640, R73709 and R73711– Brunswick Heads - gazetted purposes Night Soil Depot and Sanitary Purposes Refer to Attachment 2

These reserves adjoin the former Brunswick heads Sewerage Treatment Plant. Historical uses of reserves for these types of gazetted purposes often resulted in contamination. The adjoining former Brunswick Heads Sewerage Treatment Plant site which Council acquired was contaminated and following the STP's closure, Council has expended considerable funds remediating this land. The contamination status of the crown reserves is currently unknown (although some contamination associated with historic rubbish dump uses has been located nearby).

For reserves R48640 and R73709 Council resolved to seek an Operational Land classification. DPE-CL have confirmed that they support Council's proposal and these applications can proceed.

For reserve R73711 Council resolved to seek a Community Land classification and categorisation as General Community Use but this has been rejected by DPE-CL. Following their investigations, DPE-CL have determined that classification of the reserve as Community Land would be inconsistent with its gazetted purpose. Instead, Council has been requested to lodge an Operational Land classification application for this reserve, which would require a Council resolution.

An Operational Classification will not alter current uses and activities on the reserve or enable Council or community to do anything more or less with the reserve. It will mean that Council will not be required to adopt a Plan of Management for it.

- c) R82000 Main Beach Foreshore – gazetted purpose Public Recreation

Council resolved to seek categorisation of the reserve as General Community Use\* to accommodate the existing low impact commercial activities that occur on the reserve and provide the community with flexibility to decide locally through the Plan of Management process how this iconic reserve would be used and managed in the future.

After their investigations DPE-CL have categorised the reserve as a mix of Park, General Community Use and Natural Area (Bushland or Foreshore). The different areas are shown in the maps at Attachment 3. The reason given was that the proposed single category\* would not adequately capture the natural features of the reserve.

The directed categorisations will place some restrictions on what uses and activities a Plan of Management can authorise on the Reserve. Current activities will be able to continue but Council will have to take additional steps to seek Minister approvals if community ask for additional uses through the Plan of Management process.

- d) R97604 – South Beach Brunswick - gazetted purpose Caravan and Camping.

# BYRON SHIRE COUNCIL

## STAFF REPORTS - GENERAL MANAGER

13.1

Council resolved to seek categorisation of the reserve as Natural Area\*. After their investigations DPE-CL have categorised the reserve General Community Use. The reason given was that General Community Use was most closely aligned with the gazetted purpose of the reserve.

5 The directed categorisation will not alter current uses and activities on the reserve and will most likely accommodate any additional uses the community asks for during the Plan of Management process.

10 e) R97066 – Suffolk Park Foreshore – gazetted purpose Public Recreation

15 Council resolved to seek classification of a small part of the reserve as Operational land which has been rejected. For the remainder of the reserve, Council resolved to seek a General Community Use\* categorisation to accommodate the low impact commercial activities that occur on the reserve and to provide the community with flexibility to decide locally through the Plan of Management process how this reserve would be used and managed in the future. This has also been rejected.

20 Following their investigations, DPE-CL have categorised the whole reserve as Community Land, Natural Area (Bushland or Foreshore). The areas are shown in the maps at Attachment 4. The reason given was that that proposed category was not most closely aligned with this gazetted purpose of the reserve or its land use.

25 The directed categorisations will place some restrictions on what uses and activities a Plan of Management can authorise on the reserve. Current activities will be able to continue but Council will have to take additional steps to seek Minister approvals if community ask for additional uses through the Plan of Management process.

30 \* NB Council's resolutions from 2018 and 20119 have to be considered in the context of the rules that applied at that time. In particular, Council's capacity to categorise reserves was constrained by a 'one purpose-one category' rule that DPE-CL was then strictly imposing. That rule prohibited councils from applying for more than category when a reserve had a single gazetted purpose. DPE-CL later abandoned the rule after lobbying from councils pointing out the unsatisfactory results it was leading to. Had Council been able to apply for multiple categories in the first instance, it would have done so for a  
35 number of reserves.

Also Attachments 3 and 4 have been supplied by DPE-CL in their presented format and alternative versions without the underlying aerial photographs are not yet available.

## Strategic Considerations

### Community Strategic Plan and Operational Plan

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

### Recent Resolutions

Relevant to the reserves referred to in this report:

- 5 • 18-759 – resolution to classify and categorise a number of crown reserves
- 19-018 – resolution to seek Community Land classification and Natural Area (Bushland) categorisation for Reserve 65234 at Keyes Bridge, Federal
- 19-134 – resolution relating to a number reserves, including relevant to this report:
  - (b) General Community Use categorisation for R73711;
  - 10 (c) Natural Area categorisation for R97604;
  - (d) part Operational Land classification for a small part of Suffolk Park foreshore reserve R97066.

### Legal/Statutory/Policy Considerations

- 15 Council manages a number of crown reserves on behalf of the State Government either as a Crown Land Manager appointed under s3.3 of the Crown Land Management Act 2016 (CLM Act) or because management is devolved to Council under s48 of the Local Government Act 1993 (LG Act).

- 20 Where Council is the appointed Crown Land Manager, Council must manage the land in accordance with both the CLM Act and the LG Act and Council has a variety of obligations and powers. Relevant to this report, some examples include:

- obligation to manage the land as Community Land unless it has been classified with written Minister's consent as Operational Land (s3.22 CLM Act)

- for land classified as Community Land, the requirements to:
  - categorise the land in accordance with the requirements of s36 of the LG Act (s3.23 CLM Act);
  - prepare Plans of Management in accordance with the requirements of the Local Government Act (s3.23 CLM Act and Division 2 LG Act)
  - pending adoption of a Plan of Management, not change the 'nature and use' of the crown reserve (s44 LG Act).
- for land classified as Operational Land, the requirements to manage the land in accordance with the LG Act, but with additional restrictions on powers for example there being no power for a council to dispose of crown reserves classified as Operational Land (s3.22 CLM Act)

### **Financial Considerations**

There are no costs, only staff time, associated with completing DPE-CL's request to Council to apply for Operational Land classification for two reserves.

- 15 Preparation of Plans of Management for Crown Reserves will require budget allocations, which is why they have to be prioritised and progressively worked through over time as funding and staff resources become available.

### **Consultation and Engagement**

- 20 Consultation and engagement with the community will be required when Plans of Management are being developed but is not required during this statutory step required as a result of the legislation change.



## Report No. 13.2      Review of Organisation Structure

**Directorate:** General Manager

**Report Author:** Mark Arnold, General Manager

**File No:** I2022/369

### 5      **Summary:**

Section 333 of the Local Government Act 1993 requires that the council must review, and may re-determine, the organisation structure within 12 months after any ordinary election of the council.

10      Section 332 of the Local Government Act 1993 also sets out requirements for the determination of the organisation structure:

*"(1) A council must, after consulting the general manager, determine the following:*

*(a) the senior staff positions within the organisation structure of the council,*

*(b) the roles and reporting lines (for other senior staff) of holders of senior staff positions,*

15      *(c) the resources to be allocated towards the employment of staff.*

*(1A) The general manager must, after consulting the council, determine the positions (other than the senior staff positions) within the organisation structure of the council.*

20      *(1B) The positions within the organisation structure of the council are to be determined so as to give effect to the priorities set out in the strategic plans (including the community strategic plan) and delivery program of the council."*

25      This report provides a review of the organisation structure. If Councillors wish to consult with the General Manager on individual Senior Staff positions within the organisation structure, it is recommended that Council do so in Confidential session, in accordance with s10A(2)(a) of the Local Government Act 1993, on the grounds that it involves personnel matters concerning particular individuals.

**RECOMMENDATION:**



5    **That Council, in accordance with sections 332 and 333 of the Local Government Act 1993:**

1.    **Determines the following four (4) positions as Senior Staff positions:**

- **General Manager**
- **Director Corporate and Community Services**
- **Director Infrastructure Services**
- **Director Sustainable Environment and Economy**

2.    **Adopts the organisation structure, roles and reporting lines for Senior Staff as detailed in this report and included at Attachment 1 (#E2022/34981).**

15    **Attachments:**

- 1    Organisation Structure, E2022/34981 
- 2    Senior Staff positions with roles and reporting, E2022/34978 

20

## Report

### Background

5 The Council have a number of statutory duties in relation to determining the designated Senior Staff positions within the organisation structure and roles and reporting lines of Senior Staff positions – see Legal Considerations section below.

The Office of Local Government provides direction in the 2021 Councillor Handbook as follows:

*“After consulting with the general manager, the Local Government Act 1993 requires the governing body of the council to determine:*

- 10
- *the senior staff positions within the organisation structure of the council*
  - *the roles and reporting lines (for other senior staff) of holders of senior staff positions*
  - *the resources to be allocated towards the employment of staff.*

15 *The general manager is responsible for determining non-senior staff position within the organisation structure of the council but must do so in consultation with the governing body.*

*The Act requires the positions within the organisation structure of the council to be determined to give effect to the priorities identified in the council’s community strategic plan and delivery program.*

20 *The general manager is responsible for the appointment of staff in accordance with the organisation structure determined by the council and the general manager and the resources approved by the council. The general manager is also responsible for the management, direction and dismissal of staff.*

25 *In the case of senior staff, the general manager may only appoint or dismiss senior staff after consultation with the council. It is important note that while the general manager should consider the views of the governing body of the council in making a decision to appoint or dismiss a senior staff member, the ultimate decision to do so rests with the general manager and not the governing body. It is therefore not open to the governing body of the council to direct the general manager on the*

30 *appointment or dismissal of senior (and any other) staff.”*

### Designating ‘Senior Staff’ positions

35 Section 322(2) of the Local Government Act (LG Act) sets out minimum criteria for Senior Staff positions. The designation of a position as ‘Senior Staff’ allows a General Manager to appoint staff to those positions on the statutory performance-based contracts (as opposed to non-senior staff positions which are award-governed permanent roles). The positions

# BYRON SHIRE COUNCIL

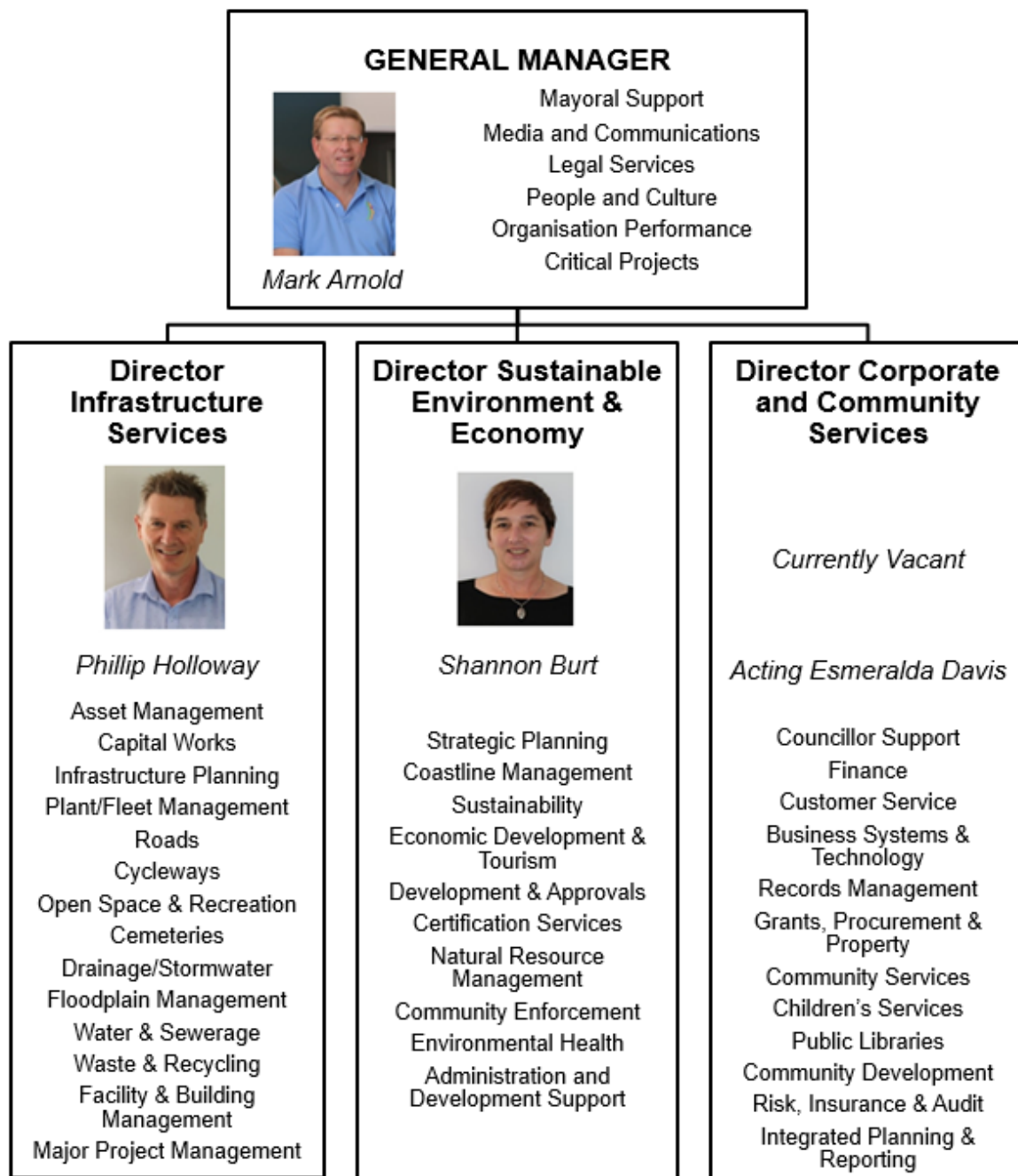
## STAFF REPORTS - GENERAL MANAGER

13.2

within the organisation structure that meet the Senior Staff criteria are the current designated positions of:

- General Manager
- Director Corporate and Community Services
- Director Infrastructure Services
- Director Sustainable Environment and Economy

The areas of responsibility of each of these positions are shown below. It is recommended that Council resolve to endorse the continuation of the designation of these positions as Senior Staff.



## **Roles and reporting lines for senior staff positions**

- As workshopped with Councillors as part of the induction program, the Organisation Structure with recommended Senior Staff roles and reporting lines is shown in Attachment 1. Additional information provided in the Unit Overviews for each functional area shown in attachment 2. Please note that the Unit Overviews were prepared in late 2021 for the induction program so the information in them is at that point in time and would not reflect, for example, the recently resolved new committee structure or financial updates from the last two quarterly budget reviews.
- The structure is designed, as required by s332(1B), to enable efficient delivery of the Community Strategic Plan and Delivery Plan. Over the coming years Council will need to continue to deliver the planned programs and projects but now in addition to the significant work that has arisen from the 2022 floods. Maintaining the highly experienced and skilled workforce that Council has (despite the extreme worker housing cost pressures being experienced in the region) will be critical.
- In addition to ensuring Council has capacity to deliver on its commitments, the focus of the current structure on delivery compares favourably with structures of similar sized councils. For example, according to The Australasian Local Government Performance Excellence Program FY21 Report Byron Shire Council:
- had 2% fewer Manager positions and 2% more Team Leader/Supervisor positions than medium sized councils;
  - had employee costs representing 29% of total operating expenses, 5% lower than the median for regional councils of 34%;
  - delivered capital expenditure (capital works projects) valued at \$1,240 per resident, 44% higher than the median for medium sized NSW councils of \$860 per resident.
- It is recommended that Council resolve to endorse the roles and reporting lines shown in the organisation structure at Attachment 1.

## **Strategic Considerations**

### **Community Strategic Plan and Operational Plan**

<b>CSP Objective</b>	<b>CSP Strategy</b>	<b>DP Action</b>	<b>Code</b>	<b>OP Activity</b>
<b>Community Objective 5: We have community led decision making which is open and inclusive</b>	5.6: Manage Council's resources sustainably	5.6.10: Use business insights and strategic business planning to continuously improve (SP)	<b>5.6.10.2</b>	Maintain the register and provide status reports on corporate legislative compliance reporting and monitor for currency and non-compliance issues.

## Recent Resolutions

At its meeting of 22 June 2017, Council resolved (via Resolution 17-251) the executive and senior staff structure as follows:

- General Manager
- 5 - Director Corporate and Community Services
- Director Infrastructure Services
- Director Sustainable Environment and Economy

## Legal/Statutory/Policy Considerations

A number of sections of the Local Government Act, 1993, apply including:

- 10 - Section 10A(1) and (2a) which provides that Council may close to the public parts of its meetings as comprise the receipt or discussion of information on personnel matters concerning particular individuals
- Section 223 which sets out the elected Council's role including to:
  - 15 - develop and endorse the community strategic plan, delivery program and other strategic plans, program, strategies and policies of the Council
  - determine the process for appointment and performance monitoring for the General Manager
  - determine senior staff positions within the organisation structure.
- 20 - Section 332 which sets out requirements for the determination of the organisation structure as follows:

*"(1) A council must, after consulting the general manager, determine the following:*

  - (a) the senior staff positions within the organisation structure of the council,*
  - 25 *(b) the roles and reporting lines (for other senior staff) of holders of senior staff positions,*
  - (c) the resources to be allocated towards the employment of staff.*

*(1A) The general manager must, after consulting the council, determine the positions (other than the senior staff positions) within the organisation structure of the council.*

- 30 *(1B) The positions within the organisation structure of the council are to be determined so as to give effect to the priorities set out in the strategic plans (including the community strategic plan) and delivery program of the council."*

## BYRON SHIRE COUNCIL

### STAFF REPORTS - GENERAL MANAGER

13.2

- Section 322(2) which mandates that positions can only be designated as Senior Staff if the:

5       “(a) *responsibilities, skills and accountabilities of the position are generally equivalent to those applicable to the Executive Band of the Local Government (State) Award, and*

      “(b) *the total remuneration package payable with respect to the position is equal to or greater than the minimum remuneration package ... payable with respect to senior executives whose positions are graded Band 1 under the [Government Sector Employment Act 2013](#).*”

- 10    - Section 333 which requires council to review the organisation structure within 12 months after any ordinary election of the council.

- Section 338 which governs the mandatory performance-based contracts for designated Senior Staff positions.

15    The Local Government (State) Award NSW and NSW and federal industrial laws apply to non-senior staff positions.

### **Financial Considerations**

The recommendations are cost neutral. The addition or removal of senior staff positions or changes to roles and reporting lines can have financial implications which would require a budget to be identified and allocated.

20

**STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES**

**Report No. 13.3      Appointment of Community Representatives to the Housing and Affordability Advisory Committee**

**Directorate:** Corporate and Community Services

**Report Author:** Mila Jones, Governance Coordinator

**File No:** I2022/290

**Summary:**

Council received a report on 24 February 2022 seeking approval to advertise for community representatives to its Housing and Affordability Advisory Committee for the term of Council.

Members of the community were invited to submit an Expression of Interest for inclusion on this Committee by completing an online nomination form. This report provides information about the nominations received and recommends appointment to the Housing and Affordability Advisory Committee.

---

**RECOMMENDATION:**

- 1. That Council selects the community representatives from the options provided at Attachment 1 (E2022/29610), and they be appointed to the Housing and Affordability Advisory Committee for the 2022-2024 term ending September 2024.**
- 2. That all appointed Advisory Committee members:**
  - a) be notified of their appointment to the committee; and**
  - b) complete induction, Code of Conduct, and confidentiality requirements.**
- 3. That any unsuccessful nominees be notified.**

**Attachments:**

- Confidential - Housing and Affordability Advisory Committee - Nominations for Appointment - 2022, E2022/29610
- Confidential - Housing and Affordability Advisory Committee - Separate files eg CV's to go with Nominations for Appointment - 2022, E2022/30524



## Report

Council received a report on 24 February 2022 seeking to determine the Housing and Affordability Advisory Committee structure for the term of Council and to invite nominations from community representatives to the Committee.

- 5 Nominations were subsequently called for the Committee. A summary of the nominations received is provided at confidential Attachment 1 with the nominees' supporting information such as CVs provided at confidential Attachment 2.

- 10 More nominations were received than the membership number determined by Council on 24 February. Council is asked to consider the nominations and determine the appointment of community representatives to the Committee.

Committee Membership includes:

- Crs Ndiaye, Balson, Dey
- Up to 7 Community/Subject matter experts

## Strategic Considerations

### 15 Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
<b>Community Objective 4: We manage growth and change responsibly</b>	4.2: Support housing diversity in appropriate locations across the Shire	4.2.1: Establish planning mechanisms to support housing that meets the needs of our community		NA
<b>Community Objective 5: We have community led decision making which is open and inclusive</b>	5.1: Engage and involve community in decision making	5.1.1: Facilitate inclusive community consultation and stakeholder engagement to inform Council decision making (SP)		NA
	5.2: Create a culture of trust with the community by being open, genuine and transparent	5.2.4: Support Councillors to carry out their civic duties	5.2.4.5	Implement and manage Code of Conduct training programs for Councillors, staff, and committee members

## **Recent Resolutions**

- [22-005 and 22-026 3 February 2022](#)
- [22-042 24 February 2022](#)

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

- 5 Advisory committees operate under an adopted Constitution and Council's Code of Meeting Practice.

## **Financial Considerations**

Community representatives on most advisory committees, including this one, are volunteers.

## **10 Consultation and Engagement**

Nominations were open from 15 March 2022 and closed on 1 April 2022 during which time two advertisements were placed in the local newspaper, in addition to advertising on Council's website and social media.

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

**Report No. 13.4 Council Investments - 1 March 2022 to 31 March 2022**

**Directorate:** Corporate and Community Services

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

5 **File No:** I2022/298

**Summary:**

This report includes a list of investments and identifies Council's overall cash position for the period 1 March 2022 to 31 March 2022 for information.

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

---

**RECOMMENDATION:**

15 **That Council notes the report listing Council's investments and overall cash position as at 31 March 2022.**

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.4

### Report

Council has continued to maintain a diversified portfolio of investments. As of 31 March 2022, the average 90-day bank bill rate (BBSW) for the month of March 2022 was 0.16% Council's performance to March 2022 was 0.49%. 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 2022

### 10 Schedule of Investments held as at 31 March 2022

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Int. Rate	Current Value
15/11/18	1,000,000.00	NSW Treasury Corp (Green Bond)	N	AAA	15/11/28	Y	B	3.00%	1,004,850.00
20/11/18	1,000,000.00	QLD Treasury Corp (Green Bond)	N	AA+	22/03/24	Y	B	3.00%	961,100.00
28/03/19	1,000,000.00	National Housing Finance & Investment Corporation	Y	AAA	28/03/31	Y	B	2.38%	1,017,060.00
21/11/19	1,000,000.00	NSW Treasury Corp (Sustainability Bond)	N	AAA	20/03/25	Y	B	1.25%	964,820.00
27/11/19	500,000.00	National Housing Finance & Investment Social Bond	Y	AAA	27/05/30	Y	B	1.52%	442,310.00
06/09/21	1,000,000.00	Northern Territory TCorp	N	Aa3	15/12/26	Y	B	1.40%	1,000,000.00
16/09/21	1,000,000.00	QLD Treasury Corp (Green Bond)	N	AA+	02/03/32	Y	B	1.50%	928,180.00

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.4

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Int. Rate	Current Value
15/06/21	500,000.00	National Housing Finance & Investment Social Bond	Y	AAA	01/07/31	Y	FRN	0.21%	501,510.00
06/07/21	1,000,000.00	Judo Bank	P	BBB-	04/04/22	Y	TD	0.70%	1,000,000.00
30/07/21	1,000,000.00	AMP Bank	P	BBB	28/06/22	Y	TD	0.75%	1,000,000.00
01/10/21	1,000,000.00	AMP Bank	N	BBB	01/04/22	N	TD	0.65%	1,000,000.00
04/11/21	2,000,000.00	NAB	P	AA-	04/11/22	N	TD	0.45%	2,000,000.00
30/11/21	2,000,000.00	NAB	N	AA-	29/04/22	N	TD	0.38%	2,000,000.00
09/12/21	2,000,000.00	NAB	N	AA-	07/06/22	N	TD	0.50%	2,000,000.00
17/12/21	2,000,000.00	NAB	N	AA-	19/12/22	N	TD	0.50%	2,000,000.00
01/05/22	2,000,000.00	NAB	N	AA-	04/07/22	N	TD	0.52%	2,000,000.00
20/01/22	1,000,000.00	Westpac (Tailored)	P	AA-	20/01/23	N	TD	0.79%	1,000,000.00
31/01/22	1,000,000.00	NAB	N	AA-	31/05/22	N	TD	0.43%	1,000,000.00
22/02/22	1,000,000.00	Macquarie Bank Ltd	P	A	23/08/22	N	TD	0.65%	1,000,000.00
25/02/22	1,000,000.00	Macquarie Bank Ltd	N	A	25/08/22	N	TD	0.65%	1,000,000.00
08/03/22	2,000,000.00	Suncorp	P	A+	02/03/22	Y	TD	0.30%	2,000,000.00
09/03/22	2,000,000.00	NAB	N	AA-	08/06/22	N	TD	0.45%	2,000,000.00
N/A	24,297,946.81	CBA Business Saver	N	AA-	N/A	N	CALL	0.20%	24,297,946.81
N/A	5,939,860.70	CBA Business Saver – Tourism Infrastructure Grant	N	AA-	N/A	N	CALL	0.20%	5,939,860.70
N/A	2,112,153.08	NSW Treasury Corp	N	AAA	N/A	Y	CALL	0.02%	2,112,153.08

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.4

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Int. Rate	Current Value
N/A	18,035,897.13	Macquarie Accelerator Call	N	A	N/A	N	CALL	0.35%	18,035,897.13
<b>Total</b>	<b>78,385,857.72</b>						<b>AVG</b>	<b>0.49%</b>	<b>78,205,687.72</b>

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

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

**Note 3.**

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

### Environmental and Socially Responsible Investing (ESRI)

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

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

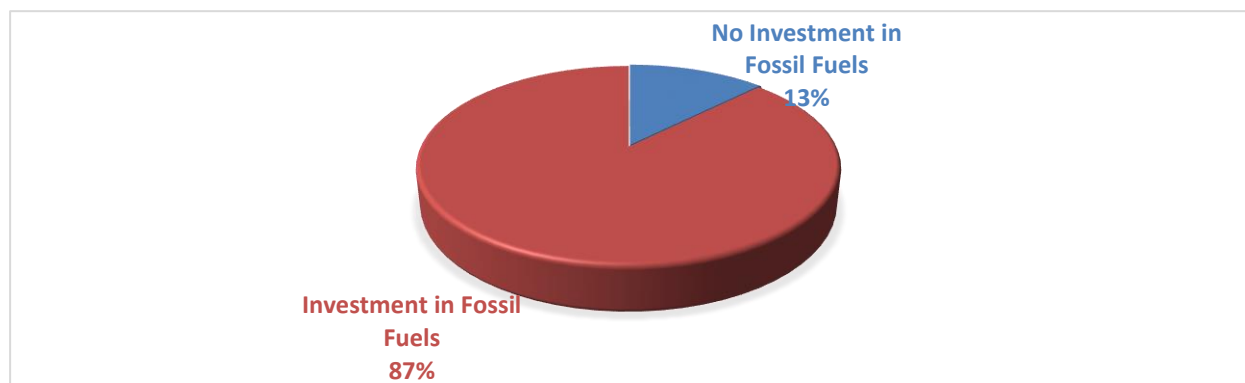
# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.4

Council has one investment with a financial institution that invests in fossil fuels but is nevertheless aligned with the broader definition of Environmental and Socially Responsible investments i.e.:

- 5 1. \$1,000,000 investment with Westpac Bank maturing on 20 January 2023 is a tailored term deposit and certified green investment.



Investment policy compliance % should not exceed the following			ACTUAL	
AAA to AA	A1+	100%	72%	Meets policy
A+ to A-	A1	60%	26%	Meets policy
BBB to NR	A2,NR	40%	4%	Meets policy

### Investment Policy Compliance

- 10 The above table identifies compliance with Council's Investment Policy by the proportion of the investment portfolio invested with financial institutions, along with their associated credit ratings compared to parameters in the Investment Policy. The parameters are designed to support prudent short and long-term management of credit risk and ensure diversification of the investment portfolio. Note that the financial institutions currently 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).
- 15

### NSW Treasury Corporation Compliance – Loan Borrowing Conditions

- 20 Council has borrowed loans through NSW Treasury Corporation under the Local Government Low Cost Loans Initiative. As part of these loan borrowings, NSW Treasury Corporation has placed restrictions on Council's investments in terms of where Council can invest based on the credit rating of the financial institution, the term of the investment and counterparty limit. NSW Treasury Corporation has reviewed Council's Investment Portfolio and has reminded Council it needs to remain within the investment parameters outlined in the accepted loan agreements. Council currently complies with T Corp Borrowing conditions as indicated in the table below:
- 25

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.4

Tcorp compliance							
% should not exceed the following			Counterparty Limit		Tenor	ACTUAL	Variance
Tcorp		100%	100%		N/A	3%	Meets policy
AAA		100%	100%		N/A	6%	Meets policy
AA+ to AA-		100%	100%		5Y	59%	Meets policy
A+ to A		100%	100%		3Y	28%	Meets policy
A-		40%	40%		3Y	0%	Meets policy
BBB+			10% 3 Years		3Y	0%	Meets policy
BBB		30%	5% 12 Months		1Y	2%	Meets policy
BBB- and below (local ADI'S)			5% 12 Months		1Y	1%	Meets policy
BBB- and below (other)		5%	250,000		1Y	0%	Meets policy

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

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

The investment portfolio is outlined in the table below by investment type for the period 1 March 2022 to 31 March 2022:

### Dissection of Council Investment Portfolio as at 31 March 2022

Principal Value (\$)	Investment Linked to:	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
21,000,000.00	Term Deposits	21,000,000.00	0.00
1,500,000.00	Floating Rate Note	1,518,570.00	18,570.00
24,297,946.81	CBA Business Saver	24,297,946.81	0.00
5,939,860.70	CBA Business Saver – Tourism Infrastructure Grant	5,939,860.70	0.00
2,112,153.08	NSW Treasury Corp	2,112,153.08	0.00
18,035,897.13	Macquarie Accelerator	18,035,897.13	0.00
5,500,000.00	Bonds	5,301,260.00	(198,740.00)
<b>78,385,857.72</b>		<b>78,205,687.72</b>	<b>(180,170.00)</b>



# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.4

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 2022 the table below identifies Council's overall cash position as follows:

5

### Dissection of Council's Cash Position as at 31 March 2022

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
<b>Investments Portfolio</b>			
Term Deposits	21,000,000.00	21,000,000.00	0.00
Floating Rate Note	1,500,000.00	1,518,170.00	18,570.00
CBA Business Saver	24,297,946.81	24,297,946.81	0.00
CBA Business Saver – Tourism Infrastructure Grant	5,939,860.70	5,939,860.70	0.00
NSW Treasury Corp	2,112,153.08	2,112,153.08	0.00
Macquarie Accelerator	18,035,897.13	18,035,897.13	0.00
Bonds	5,500,000.00	5,301,260.00	(198,740.00)
<b>Total Investment Portfolio</b>	<b>78,385,857.72</b>	<b>78,205,287.72</b>	<b>(180,170.00)</b>
<b>Cash at Bank</b>			
Consolidated Fund	1,119,747.34	1,119,747.34	0.00
<b>Total Cash at Bank</b>	<b>1,119,747.34</b>	<b>1,119,747.34</b>	<b>0.00</b>
<b>Total Cash Position</b>	<b>79,505,605.06</b>	<b>79,325,035.06</b>	<b>(180,170.00)</b>

## STRATEGIC CONSIDERATIONS

### Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
<b>Community Objective 5: We have community led decision making which is open and inclusive</b>	5.5: Manage Council's finances sustainably	5.5.2: Ensure the financial integrity and sustainability of Council through effective planning and reporting systems (SP)	<b>5.5.2.5</b>	Manage treasury functions of Council to maintain cash flow and maximise return on invested funds
		5.5.2: Ensure the financial integrity and sustainability of Council through effective planning and reporting systems (SP)	<b>5.5.2.6</b>	Identification of ethical investment opportunities with environmental and social inclusion outcomes

### Legal/Statutory/Policy Considerations

5 In accordance with Section 212 of the *Local Government (General) Regulation 2021*, the Responsible Accounting Officer of Council must provide Council with a monthly report detailing all monies it has invested under section 625 of the *Local Government Act 1993*.

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

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.

## Report No. 13.5 Call for nominations for appointment to the Cape Byron Marine Park Advisory Committee

**Directorate:** Corporate and Community Services

**Report Author:** Richard Bradbury, Corporate Support Officer

5 **File No:** I2022/305

### Summary:

In previous terms Council has had representatives on the Cape Byron Marine Park Advisory Committee (Cr Coorey with Cr Cameron as alternate).

10 DPI Fisheries has invited nominations for a delegate and an alternate as representatives of Council on the Cape Byron Marine Park Advisory Committee for the new term of Council.

---

### 15 RECOMMENDATION:


That Council

1. Notes that Cr Coorey was previously appointed to the Cape Byron Marine Park Advisory Committee.
- 20 2. Determines a delegate member and alternate for the Cape Byron Marine Park Advisory Committee:

Member: Cr \_\_\_\_\_

Alternate: Cr \_\_\_\_\_

### Attachments:

- 25
- 1 Nomination form 1 - for appointment to Marine Park Advisory Committee(2).DOCX, E2022/30357 

## **Report**

Marine Park Advisory Committees aim to hold a minimum of two meetings per calendar year but may meet more frequently when there are significant matters requiring the attention of members.

## **5 Strategic Considerations**

### **Community Strategic Plan and Operational Plan**

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

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

- 10 Delegates are elected by a process of nomination called for at the meeting by the Mayor, and where there are more nominations received than the number of delegate positions, a ballot by Councillors for the representative by show of hands will be taken.

### **Financial Considerations**

Out-of-pocket expenses including travel costs incurred by members to attend meetings are reimbursed by the DPI.

## **15 Consultation and Engagement**

Not applicable.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

## Report No. 13.6 Annual Emissions Inventory and update on Net Zero Emissions goal

5 **Directorate:** Sustainable Environment and Economy

**Report Author:** Julia Curry, Sustainability and Emissions Reduction Officer  
Hayley Briggs, Sustainability and Emissions Reduction Officer

**File No:** I2022/27

### Summary:

- 10 This report presents:
- A. the Annual Emissions Inventory for Council operations for the 2020/21 financial year (Attachment 1 - E2022/5746); and
  - B. the first annual progress update on the *Net Zero Emissions Action Plan for Council Operations 2025* (Attachment 2 – E2020/56957).
- 15 Byron Shire Council experienced a 15% reduction in organisational carbon emissions in 2020/21 compared to the previous year and is on track to reach the net zero target in 2025 having achieved its 100% renewable energy target five years ahead of schedule.

This report also advises that the internal carbon offsetting workshop from **Res 20-729** will be held at the May Strategic Planning Workshop for Councillors and the leadership team.

20

### RECOMMENDATION:

That Council notes:



- 25 1. The annual emissions inventory and Council's progress toward meeting the net zero emissions 2025 target (Attachment 1 - E2022/5746).
- 2. The progress update on the *Net Zero Emissions Action Plan for Council Operations 2025*.
- 30 3. The successful achievement of Resolution 17-086 to achieve 100% renewable energy, five years ahead of schedule.
- 4. An internal Councillor and staff workshop will be organised for the May Strategic Planning Workshop on carbon offsetting for Council's operational net zero emissions target.

## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.6

#### **Attachments:**

- 1 2020-21 Annual inventory of Council's emissions profile and progress update, E2022/5746 
- 5 2 Net Zero Emissions Action Plan For Council Operations 2025, E2020/56957 

## Report

### Introduction

Council has been annually reporting on its greenhouse gas emissions since baseline year 2015/16. Council has resolved to be net zero emissions for its operations by 2025, to source 100% of its energy through renewable sources by 2027 (**Res 17-086**), and to become certified carbon neutral under the Climate Active standard commencing in financial year 2025/26 (**Res 19-634**).

The *Net Zero Emissions Action Plan for Council Operations 2025* (the Action Plan) was adopted by Council in 2020 (**Res 20-628**) and maps a path for future activities that Council will undertake to reduce emissions from Council operations (Attachment 2 - E2020/56957).

Part A of this report presents the 2020/21 Annual Emissions Inventory for Council operations. Part B of this report presents the first annual progress update on the Action Plan. There is also a small section outlining the next steps to investigate carbon offsets.

### Part A: 2020/21 Annual Emissions Inventory overview

Byron Shire Council experienced a 15% reduction in organisational carbon emissions in 2020/21 compared to the previous year. This was predominantly due to the natural decline of landfill gas fugitive emissions. Council's electricity contract was 100% offset in 2020/21, so fluctuations in actual emissions in the electricity and streetlighting sectors did not have an impact on that reduction. The reduction brings Council on track to meeting the target of net zero emissions so long as this level of electricity offset is maintained in perpetuity.

Figure 1 and Table 1 below show how Council is tracking towards the net zero target.

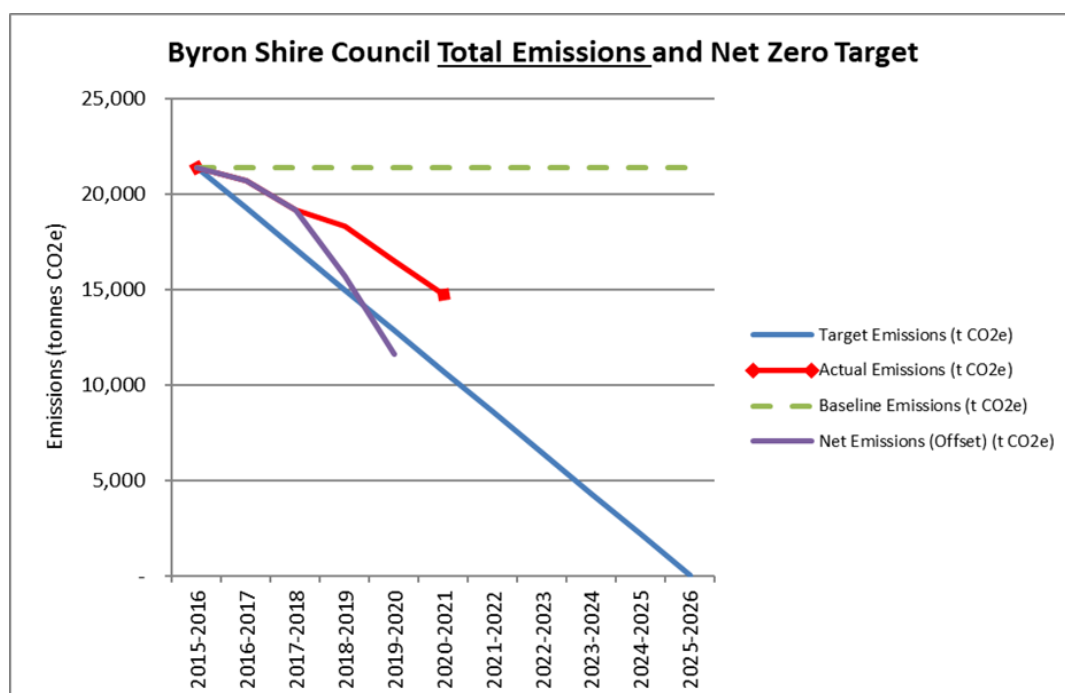


Figure 1. 2020/21 Emissions tracking towards 2025 target

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.6

**Table 1.** 2020/21 Actual and net emissions since baseline year 2015/16.

Financial Year	Actual Emissions (tCO <sub>2</sub> e)	Net Emissions (Offset) (tCO <sub>2</sub> e)	Target (tCO <sub>2</sub> e)
2016	21,389	21,389	21,389
2017	20,701	20,701	19,250
2018	19,122	19,122	17,111
2019	18,325	15,700	14,972
2020	16,442	11,618	12,833
2021	14,715	9,904	10,695

A detailed analysis of each sector is provided in Attachment 1 (E2022/5746). Table 2 below gives a brief overview of the changes in each sector since the previous year.

**Table 2.** Summary of emissions sector changes since previous year

Sector	Highlights	Emissions Change (tCO <sub>2</sub> e)
<b>General Electricity</b>	<ul style="list-style-type: none"> <li>Retailer Powershop provided 100% carbon offset electricity.</li> <li>3% increase in electricity use and 1% increase in actual emissions (discrepancy in figures due to the lowering of the NSW emissions factor for grid purchased electricity due to more renewable energy being on the NSW network generally).</li> <li>Increase in kWh consumption attributed to increased patronage of Council assets (community use buildings, sewage treatment plants and pump stations, and water supply facilities) due to increased visitor numbers with the easing of COVID-19 restrictions; increased precipitation; and a malfunctioning air compressor at the Byron Resource Recovery Centre.</li> <li>Potential major projects Dingo Lane Solar Farm and Bioenergy facility at West Byron Sewage Treatment Plant could reduce Council's electricity consumption significantly, if implemented.</li> <li>Annual cost \$1,264,789.</li> </ul>	+27
<b>Streetlight Electricity</b>	<ul style="list-style-type: none"> <li>Retailer Powershop provided 100% carbon offset electricity.</li> <li>36 new streetlights were added throughout the Shire, however electricity use was reduced by 6.2% due a bulk replacement of 119 older streetlights with LEDs across South Golden Beach and Ocean Shores in May 2020, as well as all spot replacements in the Shire being LEDs.</li> </ul>	-53



# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.6

Sector	Highlights	Emissions Change (tCO2e)
	<ul style="list-style-type: none"> <li>Council's electricity supply contractor Essential Energy has a bulk LED upgrade planned for the Shire in 2022/23. Council is pursuing a cost benefit analysis of the most cost-effective way to implement the rollout as a matter of priority with Essential Energy.</li> <li>Annual cost \$308,146.</li> </ul>	
<b>Fleet</b>	<ul style="list-style-type: none"> <li>7% increase in fuel consumption.</li> <li>Significant 17% increase in cost, due to the increase in fuel usage and the increasing price of petrol and diesel.</li> <li>45% of fuel used in light (passenger) vehicle fleet and 55% used in heavy plant and equipment.</li> <li>Significant action is required to reduce fleet sector emissions.</li> <li>Annual cost \$715,819.</li> </ul>	+81
<b>Bottled Gas</b>	<ul style="list-style-type: none"> <li>Negligible emissions footprint.</li> <li>14% increase in consumption due to increased visitor numbers and childcare reopening with the easing of COVID-19 restrictions.</li> <li>No action required.</li> <li>Annual cost \$12,776.</li> </ul>	+4
<b>Waste</b>	<ul style="list-style-type: none"> <li>19% reduction due to natural decline of landfill.</li> <li>Composting emissions have been included for the third year in a row.</li> <li>Analysis of landfill methane gas flare and Australian Carbon Credit Unit generation in line with the net zero target is in progress. The ACCU contract was due to expire in December 2021 but there was a shortfall in Council's credits. Staff have requested a five-year extension with the Clean Energy Regulator until sufficient ACCUs have been created by the gas flare project to meet contract obligations.</li> </ul>	-1,734
<b>Wastewater</b>	<ul style="list-style-type: none"> <li>5% decrease in wastewater fugitive emissions, despite a 17% increase in flow (due to relaxations in COVID-19 travel restrictions and increased precipitation).</li> <li>Emissions declined as three of the four STPs (Byron, Bangalow and Brunswick Valley) experienced a marked reduction in total nitrogen effluent concentrations (improved treatment quality), and a reduced amount of biosolids being land applied at Bangalow and Byron STPs.</li> <li>Main area of action required is reducing wastewater generation from the community and inflow and infiltration from storm water to the sewer system.</li> </ul>	-52

Sector	Highlights	Emissions Change (tCO <sub>2</sub> e)
Total		-1,727

## Part B: Progress update on *Net Zero Emissions Action Plan for Council Operations 2025*

The *Net Zero Emissions Action Plan for Council Operations 2025* (the Action Plan) (Attachment 2) was adopted by Council at the Ordinary Meeting of 26 November 2020 (**resolution 20-628**). The Action Plan maps a path for future activities that Council will undertake to reduce emissions from Council operations. It was designed to align with the Delivery Program and Operational Plan and allocates responsibility for specific actions to different Directorates. This helps keep staff accountable and to track progress.

There are five objectives, based on Council's principal sources of emissions, which provide the Action Plan's basic structure:

- Objective A – Electricity;
- Objective B – Fuel;
- Objective C – Waste, Water, and Sewer;
- Objective D – Governance; and
- Objective E – Community Infrastructure.

Actions within the Action Plan are labelled based on the emissions objective (i.e. sector) they correlate to. For example, under Objective A – Electricity, Action A1 is “investigate 5MW solar farm at Dingo Lane, Myocum”.

The measure under 2021/22 Operational Plan Activity 3.2.1.1 “Implement the *Net Zero Emissions Action Plan for Council Operations 2025*” is, “annual report to Council on delivery of Action Plan, alongside annual emissions inventory”. The following update completes that OP Activity.

### Objective A – Electricity

Objective: improve electricity efficiency and transition to 100% renewable energy.

As of 1 January 2022, Council achieved the “100% renewables” part of **resolution 17-086** and fulfilled the overarching Action Plan Electricity objective to “transition to 100% renewable energy”. This is five years ahead of the 2027 target. Until 1 January 2024, Council has a contract with electricity retailer Iberdrola to source approximately 60% of its total operational electricity needs (all large sites) from Collector Wind Farm in Cullerin, NSW. The remainder of Council's electricity needs will be 100% GreenPower (all small sites). Fulfilling the 100% renewables target will help Council achieve our net zero emissions target by 2025.

## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.6

While Council may have achieved this renewable energy target, the best solution is to always avoid use of electricity in the first place or seek to reduce current consumption. The following actions seek to minimise Council's carbon profile.

Action	Corresponding OP Activity	Status update	Estimated delivery date
A1. <i>Investigate 5MW solar farm at Dingo Lane, Myocum</i>	1.4.4.5	In April 2021, Council noted the Dingo Lane Business Case and endorsed Option 3 (Council owns and operates the Solar Farm and retires Large Generation Certificates, if produced, for its own benefit). Staff are continuing with the Development Application process to progress the project to shovel ready status. Council will receive 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.	30 June 2022 (project to be shovel ready)
A2. <i>Investigate bioenergy facility at West Byron STP</i>	3.2.1.5	Staff expect to present materials to the ARENA Board for Final Approval by April 2022. The Development Application determination is expected by May/June 2022. If/when State and Federal authorities grant approval, Council can consider the holistic financial implications of the Bioenergy and Dingo Lane projects on Council's Long Term Financial Strategy and make a decision for 'Go/No Go' on construction for the Bioenergy Facility.	30 June 2022 (Council decision for 'Go/No Go')
A3. <i>Facilitate bulk roll out of LED streetlights for Byron Shire</i>	n/a	In September 2021, ET supported funding sources being identified in the 2022/23 budget to undertake the bulk LED rollout. A further	2022/23 (bulk rollout planned)

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.6

Action	Corresponding OP Activity	Status update	Estimated delivery date
		report will be brought to ET when detailed information is available from Essential Energy about Smart Street Lighting.	
A4. <i>Investigate energy efficiency upgrade of Council Administration Building, Mullumbimby</i>	3.2.1.11	The Sustainability team has partnered with Council's Property Maintenance team to investigate options for energy efficiency upgrades at the Administration Building.	30 June 2022 (business case to Council)

### Objective B – Fuel

Objective: optimise fuel efficiency and transition to renewable fuel sources.

Action	Corresponding OP Activity	Status update	Delivery date
B1. <i>Investigate new bulk fuel storage and monitoring system to minimise manual data entry</i>	3.2.1.3	Fleet Team Leader is reviewing Council's fuel infrastructure, including software used for data capture and reporting. Current infrastructure has passed its recommended life span and the fuel management processes currently used are inefficient. The new system will include a fuel card system for all plant and equipment to allow accurate data capture. This will enable Council to provide more accurate reports on fuel usage and emissions.	30 June 2022 (ET report)
B2. <i>Develop and deliver Electric Vehicle Charging Station Policy and Procedure</i>	1.6.3.2	ET endorsed the <i>Electric Vehicle Charging Station Instalment and Maintenance Procedure 2021</i> in June 2021. This internal document applies to staff wishing to install new or maintain existing Council-owned EV charging stations. A how-to guide for external providers wishing to	30 June 2022 (ongoing management)

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.6

Action	Corresponding OP Activity	Status update	Delivery date
		<p>install charging stations on Council land will be tabled at an ET meeting in early 2022. In addition, the Sustainability Team has engaged a third party to manage and monitor Council's two EV charging stations on one software platform, and formalised Council's Property Maintenance Coordinator as the EV charging station asset owner.</p> <p>A user-pays system will be implemented in early 2022.</p>	
B6. <i>Review Council's passenger vehicle policies and procedures to encourage Hybrid and Electric Vehicle ownership</i>	n/a	<p>This was partially achieved on 7 October 2020 when ET resolved that the <i>Light Motor Vehicle Fleet Procedure – "Fees and Charges Makes &amp; Models"</i> be updated to include Hybrid and Electric Vehicle options. Currently EV's and Hybrids attract a high weekly internal lease rate for Council due to their high capital costs, which may make them an unviable option for staff private usage. They are expected to reach price parity with petrol vehicles by the mid-2020s.</p> <p>A report to the Executive Team on Council's transition to EVs is being prepared for May 2022.</p>	Partially achieved October 2020; significant measures still need to be taken to transition the entire fleet to electric.
B9. <i>Investigate options for decentralised workforce - Review Scope 3 emissions boundary to include working from home arrangements.</i>	n/a	<p>Due to the "work from home" health orders resulting from the COVID-19 pandemic, Council's workforce has become decentralised over the past two years. This contributed to a 10% decrease in electricity usage at Council's Administration building in 2020/21. It is anticipated that staff will continue to work from home in some capacity post-</p>	30 June 2022 (review of scope 3 emissions boundary)

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.6

Action	Corresponding OP Activity	Status update	Delivery date
		<p>pandemic.</p> <p>The Sustainability team is currently reviewing Council's emissions boundary to include scope 3 sources such as staff commute (see Action D5 below). Working from home arrangements that continue post-pandemic will help reduce emissions from staff commute in the long term.</p>	

### Objective C – Waste, Water, and Sewer

Objective: Reduce waste and improve water efficiency.

Action	Corresponding OP Activity	Status update	Delivery date
<i>C3. Progress the closure and rehabilitation of the Southern Expansion landfill cell at the Byron Resource Recovery Centre.</i>	1.4.4.4	Staff are progressing the landfill capping and closure of civil works of the Southern Expansion and will commence rehabilitation as outlined in the <i>Byron Resource Recovery Centre Master Plan</i> .	30 June 2022 (Stage 1 works completed)
<i>C4. Increase efficiency of sewage treatment plants and pump infrastructure.</i>	3.2.1.13	A new position of Sustainability Officer – Utilities was filled in April 2021 to focus on increasing energy efficiency and reducing emissions in the utilities (wastewater collection and treatment) sector. An energy usage audit and benchmarking of Council's utilities services has commenced, and staff are contributing to monthly reports, performance tracking and anomaly identification for Utilities assets.	30 June 2022 (energy usage audit complete)

## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.6

Action	Corresponding OP Activity	Status update	Delivery date
C6. <i>Review operation of gas flare at Byron Resource Recovery Centre</i>	3.2.1.4	<p>Staff are working with a consultant to review the efficiency of the Myocum Landfill Gas Flare and investigate Council's Australian Carbon Credit Unit (ACCU) generation in line with the net zero emissions target.</p> <p>The ACCU contract was due to expire in December 2021, but there was a shortfall in Council's credits. Staff have requested a five-year extension from the Clean Energy Regulator in order to generate sufficient ACCUs and meet contract obligations. A report will be presented to Council by June 2022.</p>	30 June 2022 (report to Council)

#### Objective D – Governance

Objective: Disclose and improve emissions reporting and invest in high quality carbon offsets.

Action	Corresponding OP Activity	Status update	Delivery date
Actions D2 and D3. <i>Conduct Councillor and staff education on carbon monitoring and offsets and Develop and implement a carbon offset policy for Council</i>	3.2.1.10	The Sustainability team has begun research and development of a draft carbon offset policy for Council operations that will set out how Council selects carbon offset units in order to achieve net zero emissions. Two internal workshops with Councillors and senior leadership staff will be held in May and mid-2022.	30 June 2022 (report to Council)
D5. <i>Develop an emissions disclosure framework for Council staff - Define Council's emissions boundary in</i>	3.2.1.2	All relevant scope 3 emissions will need to be included in Council's boundary by 2025/26 when we aim to become certified carbon neutral under Climate Active.	30 June 2022 (report to Council)

Action	Corresponding OP Activity	Status update	Delivery date
<i>accordance with the Climate Active guidelines</i>		Staff are working with a consultant to define Council's boundary and determine the most efficient way to measure relevant scope 3 emissions. A report on the newly defined Climate Active-compliant boundary will be reported on by June 2022. Staff plan to start reporting on scope 3 sources in the 2021/22 inventory. Inclusion of scope 3 sources will be done gradually over time until the deadline of 2025/26, and will depend on availability of data.	

### **Carbon Offsetting for Net Zero Emissions Target**

Council resolved to become certified carbon neutral under the federal government's Climate Active (**Res 19-634**). In order to become certified Council will need to purchase carbon offset units for its outstanding emission, that cannot be reduced or avoided all together.

In response to Operational Plan activity 3.2.1.10, an internal Councillor and staff workshop will be held in May 2022. It will introduce the basics of carbon offsets and begin a discussion on Council's long-term strategy for carbon offsetting to maintain our net zero and carbon neutral status.

## **Strategic Considerations**

### **Community Strategic Plan and Operational Plan**

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
<b>Community Objective 3: We protect and enhance our natural environment</b>	3.2: Strive to become a sustainable community	3.2.1: Work towards Council's zero-emissions target	<b>3.2.1.1</b>	Implement the Net Zero Emissions Action Plan for Council Operations 2025
			<b>3.2.1.2</b>	Prepare Annual Emissions Inventory to determine progress towards 2025 Net Zero Emission Target.



## Recent Resolutions

Council has made the following resolutions in relation to reducing its operational emissions:

- 5 • **Res 17-086:** To achieve net zero emissions for Council operations by 2025; and to source 100% of its energy through renewable sources within ten years (by 2027).
- **Res 19-268:** Adoption of *Net Zero Emissions Strategy for Council Operations 2025*.
- **Res 19-634:** To become certified carbon neutral under the Climate Active standard (formerly the National Carbon Offset Standard, or NCOS) commencing in financial year 2025/26.
- 10 • **Res 20-628:** Adoption of *Net Zero Emissions Action Plan for Council Operations 2025*.
- **Res 20-729:** internal carbon offsetting workshop for Councillors and staff to be held in 2021/22.

## Legal/Statutory/Policy Considerations

15 N/A.

## Financial Considerations

N/A.

## Consultation and Engagement

20 This report was prepared in consultation with all Directorates and was endorsed by the Executive Team at the Meeting of 02 February 2022.

**Report No. 13.7 NSW Employment Zones Reform**

**Directorate:** Sustainable Environment and Economy

**Report Author:** Steve Daniels, Project Officer - Planning Reforms

**File No:** I2022/142

**5 Summary:**

The NSW Department of Planning, Industry and Environment (DPIE) is introducing new employment zones across all local government areas in NSW. The new employment zones will replace the existing business and industrial zones in Byron LEP 2014.

10 The DPIE reform of employment zones aims to support long-term economic recovery through job creation and encouraging increased productivity in NSW. The Department hopes to achieve this by delivering a more simplified employment zones framework that suits the future of work, while facilitating the delivery of strategic plans and planning priorities. In general, the reforms will provide for greater land use flexibility, particularly in industrial zones.

15 Councils have been tasked with reviewing the proposed translation of land use controls from the existing zones to the proposed zones. The aim for Councils is to deliver a translation from the existing zones to the proposed zones in a manner that retains consistency wherever possible.

20 This report seeks Council's 'in-principle' endorsement of the proposed employment zones framework for Byron Shire ahead of a state-wide public exhibition that is expected to take place in May 2022.

---

**25 RECOMMENDATION:**

**That Council:**




1. **Provides in-principal endorsement of the Employment Zones Translation as detailed in Attachment 1 (E2022/32628) and Attachment 2 (E2022/32443) ahead of a state-wide public exhibition that is expected to take place in May 2022.**
- 30 2. **Notes the Department of Planning, Industry and Environment will have primary carriage of the public exhibition process; however support will be required from councils to ensure notice of the exhibition reaches relevant stakeholders and community members in their respective LGAs.**
- 35 3. **Following exhibition, receive a strategic planning workshop and report to Council with details of any recommended amendments for final endorsement of a submission to the Department of Planning, Industry and Environment.**

## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.7

#### **Attachments:**

- 1 Land Use Table Translation\_Byron LEP 2014 Employment Zones\_Pre Exhibition, E2022/32628 
  - 5 2 Mapping Translation \_Byron LEP 2014 Employment Zones\_Pre exhibition, E2022/32443 
  - 3 Template - Form of Special Disclosure of Pecuniary Interest - IF YOU EDIT THIS, THE TEMPLATE IN BSC TEMPLATES MUST ALSO BE UPDATED, E2012/2815 
- 10

## Report

### Background

5 The NSW Department of Planning, Industry and Environment (DPIE) is introducing new employment zones across all local government areas in NSW. The new employment zones will replace the existing business and industrial zones in Byron LEP 2014.

The DPIE first exhibited the draft employment zones framework from 20 May 2021 until 30 June 2021. Submissions received by the Department were used to help shape and refine the proposed reforms.

10 In late 2021, Councils across NSW were asked to provide feedback on specific zone and land use reforms that would apply to their respective local government areas. Council staff reviewed the proposed changes and provided feedback to the department in early 2022, followed by a Strategic Planning Workshop with Councillors to discuss the new framework. After considering Council's feedback, the DPIE forwarded a revised draft to staff on 31 March 2022.

15 This report seeks Council's 'in-principle' endorsement of the proposed employment zones framework for Byron Shire ahead of a state-wide public exhibition that is expected to take place in May 2022.

### Overview of DPIE Employment Zones Reform Program

20 The term 'employment zones' refers to land use zones for which commercial activity is the predominant use, this includes industrial zones and business zones. Strategic planning in these zones is currently guided by Council's Business and Industrial Land Strategy.

Notwithstanding the above, employment generating activities also occur in other zones, such as residential and rural zones, however they are not subject to the reforms discussed in this report.

25 The existing Business (B) and Industrial (IN) zones in NSW are being replaced with five new employment zones and three supporting zones under Standard Instrument (Local Environmental Plans) Order 2006 (SI LEP Order). Each council's Local Environmental Plan prepared under the SI LEP Order will need to be updated to transition existing 'B' and 'IN' zones to one of the new Employment or supporting zones by December 2022  
30 (i.e., when the B and IN zones are repealed from the SI LEP Order).

### Reason for the reforms

35 The DPIE reform of employment zones aims to support long-term economic recovery through job creation and encouraging increased productivity in NSW. The Department hopes to achieve this by delivering a more simplified employment zones framework that suits the future of work, while facilitating the delivery of strategic plans and planning priorities. In general, the reforms will provide for greater land use flexibility, particularly in industrial zones.

There are pros and cons to this approach. The positive view is that greater flexibility in land use controls will allow the business community to be more adaptive to the evolving ways in which we do business and how we work, particularly in a post COVID world. However, increased flexibility can also bring greater potential for land use conflicts, in this regard Council will need to monitor the effects as we move forward.

### **Scope of reforms and Council's role in the process**

The reforms will introduce changes to planning controls in Byron LEP 2014, specifically:

- The repeal of existing employment zones to be replaced by new employment zones.
- Updating the zoning maps to reflect the new land use zones.
- Introducing new land use tables to govern the objectives and permitted/prohibited uses for each new zone.

Councils have been tasked with reviewing the proposed translation of zone objectives and land use controls from the existing zones into the proposed zones. The aim for Councils is to deliver a translation from the existing zones to the proposed zones in a manner that retains consistency. For example, land uses in each location that are currently permitted with consent should remain as permitted with consent wherever possible.

In this respect, **the process is largely administrative and is not viewed by the DPIE as an opportunity for Councils to make wholesale 'strategic' changes to land use controls and/or rethink the function of business and industrial zones — this type of strategic planning happens when Council periodically reviews its Business and Industrial Land Strategy.**

### **Proposed Employment Zones Framework for Byron Shire**

The reforms will replace the existing Byron LEP 2014 business and industrial zones as described below in Table 1.

Table 1 – Proposed Zone Translation for Byron Shire

Existing Byron LEP 2014 Zone	Proposed Replacement Zone	Staff General Comment
Zone B1 Neighbourhood Centre	Zone E1 Local Centre	- Merge of 2 zones - Key change is greater flexibility for business activity on land currently zoned B1
Zone B2		- Translation is largely consistent with little risk of land use conflicts

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.7

Existing Byron LEP 2014 Zone	Proposed Replacement Zone	Staff General Comment
Local Centre		
Zone B4 Mixed Use	Zone MU1 Mixed Use	<ul style="list-style-type: none"> <li>- Largely consistent translation</li> <li>- Mandatory zone objectives are more targeted towards shop top residential use and active street frontage</li> </ul>
Zone B7 Business Park	Zone E3 Productivity Support	<ul style="list-style-type: none"> <li>- Minor expansion of permitted uses</li> <li>- Translation is largely consistent with little risk of land use conflicts</li> </ul>
Zone IN1 General Industrial	Zone E4 General Industrial	<ul style="list-style-type: none"> <li>- Merge of 2 zones</li> <li>- Key change is greater flexibility for business/industrial activities on land currently zoned IN1 &amp; IN2</li> <li>- Land use conflicts have been minimised by prohibiting some uses currently permitted in the IN1 zone - refer to land use conflicts discussion below</li> </ul>
Zone IN2 Light Industrial		

The key takeaway from Table 1 is that the existing B1 & B2 zones have been merged into a single zone (E1), as have the existing IN1 & IN2 zones (E4). The list of permitted uses in these areas will be expanded as a natural result of merging two zones together, and landowners will therefore have greater flexibility in these locations.

Please note that there are some site-specific exceptions to the above translation, namely:

- Part of the Byron Arts & Industry Estate is proposed to transition from B7 to E4. This is because the approved existing uses in this precinct are better aligned to the E4 General Industrial zone.
- Mullumbimby Woolworths & Carpark site is proposed to transition from B2 to MU1. This is because the site is not part of the local centre, and the existing use is better aligned with the MU1 Mixed Use zone rather than the E1 Local Centre zone.

### Byron LEP 2014 Land Use Tables

Land use tables are a planning control in Byron LEP 2014 that prescribe the objectives for a given zone, as well as the land uses in the zone that are permitted without consent, permitted with consent, or prohibited.

- 5 For reference, the land use table translation, which shows the existing and proposed employment zones is included as Attachment 1.

- 10 The DPIE has limited the discretion that Councils have over what zone objectives are included for each zone, as well as the land uses that are deemed as permitted without consent, permitted with consent, or prohibited. In this regard, some objectives and land uses are mandatory for a given zone, while others are optional. In the proposed land use tables (Attachment 1), the items printed in blue are the optional inclusions.

Council staff have worked with the DPIE to ensure that the land use tables in Attachment 1 are the closest possible translation between the existing and proposed zones.

#### Mapping Translation

- 15 Attachment 2 provides a map-based comparison between the existing and proposed zones.

PLEASE NOTE: Sites zoned under Byron LEP 1988 (i.e., West Byron) are not subject to the employment zone reforms. Further work with the DPIE will be required to determine how best to transition these areas into the new framework.

#### Managing Land Use Conflicts

- 20 As noted above, the merging of zones expands the range of permitted uses in some locations and has the potential to generate land use conflicts. No land use conflict concerns are apparent for the proposed E1 Local Centre zone, however staff raised concerns with the DPIE in relation to some existing uses that would be carried over into the E4 General Industrial zone, these being:

- 25
- Offensive Industries; and
  - Sewage Treatment Plants

- 30 Offensive industries are currently permitted in the IN1 General Industrial zone but specifically prohibited in the IN2 Light Industrial zone. Staff consider that the inclusion of 'offensive industries' as being permitted with consent in the E4 General Industrial zone presents a land use conflict risk. Offensive industries are not a featured land use in Byron Shire and generally take place in neighbouring LGA's such as Tweed, Lismore and Ballina. In this regard, Council advocates a regional approach to accommodating offensive industrial uses.

- 35 Similarly, 'sewage treatment plants' (STPs) are currently permitted in the IN1 zone but specifically prohibited in the IN2 zone. Staff have recommended that this use be prohibited in the proposed E4 General Industrial zone due to the potential for land use conflicts. It is noted that none of our existing STPs have an industrial zoning.

DPIE has agreed to these recommendations. Any future proposal for these uses in the E4 zone will require an 'additional permitted use' clause to be included in Byron LEP 2014 for the site, subject to merit. There may also be an option to approve a sewage treatment plant under the [Infrastructure SEPP](#).

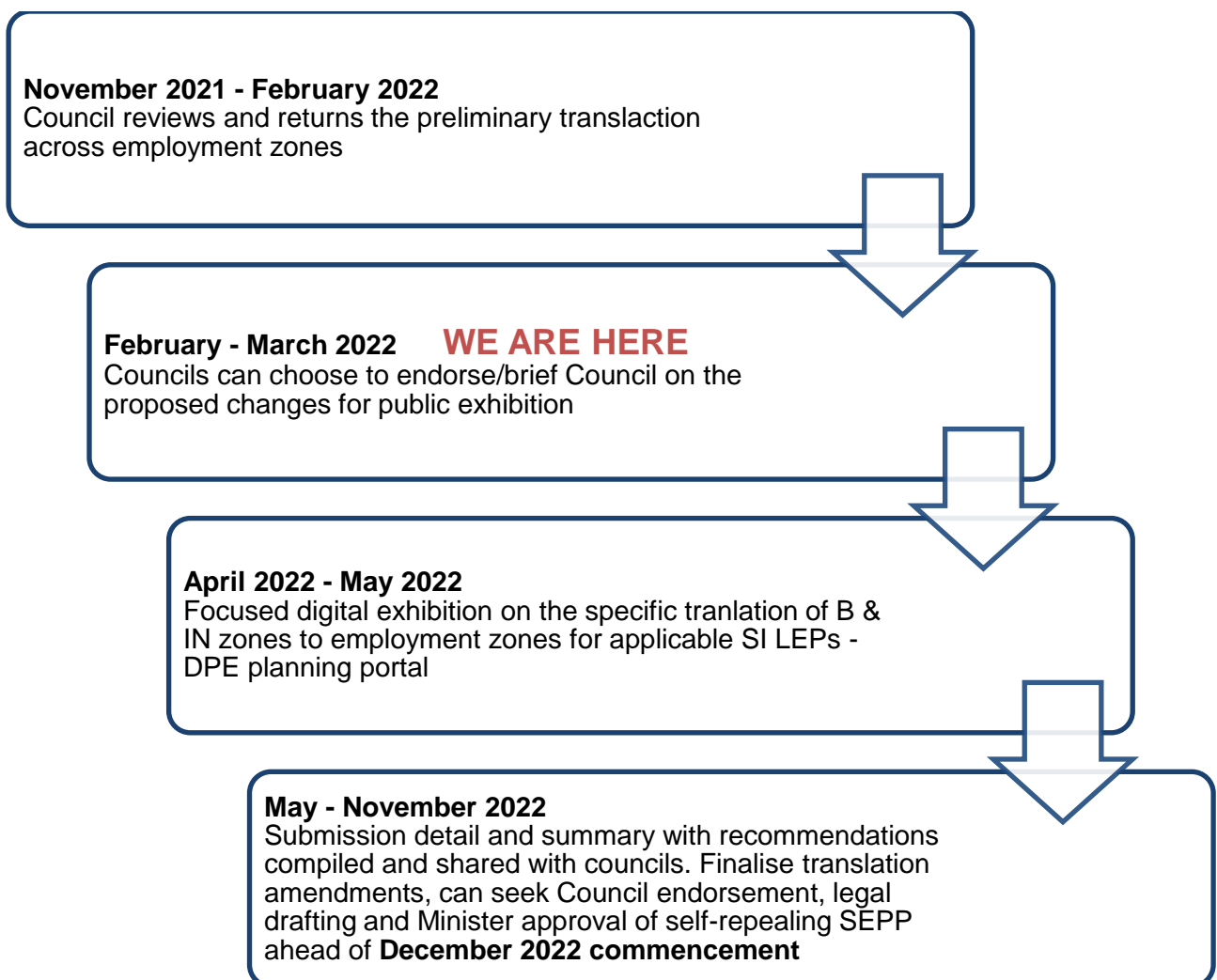
## 5 Next Steps

This report recommends that Council endorse 'in-principle' the proposed zone translation. Following this, the DPIE will undertake a public exhibition of the new framework.

10 The DPIE will have primary carriage of the public exhibition process, however support will be required from councils to ensure notice of the exhibition reaches relevant stakeholders and community members in their respective LGAs.

Following exhibition, a further strategic planning workshop and report to Council will detail any recommended amendments and seek final endorsement.

The timeline below shows how the exhibition phase fits with the overall reform program.





## Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
<b>Community Objective 4: We manage growth and change responsibly</b>	4.1: Support the visions and aspirations of local communities through place-based planning and management	4.1.3: Manage development through a transparent and efficient assessment process	<b>4.1.3.10</b>	Prepare a Planning Proposal to enable precinct based Short Term Rental Accommodation.

### Recent Resolutions

N/A

### 5 Legal/Statutory/Policy Considerations

The relevant policy considerations are addressed above.

### Financial Considerations

N/A

### Consultation and Engagement

- 10 Public exhibition of the Employment Zones Reform is expected to take place in May 2022. This process will be led by the DPIE, with Council responsible for ensuring relevant stakeholders and community members are made aware of the exhibition.

**Report No. 13.8      Definition Amendment to Byron Shire  
Community Gardens Policy**

**Directorate:** Sustainable Environment and Economy

**Report Author:** Julia Curry, Sustainability and Emissions Reduction Officer  
Isabelle Hawton, Place Liaison Officer

**File No:** I2022/190

**Summary:**

Following discussions at the December 2020 Strategic Planning Workshop, the definitions in Council's Byron Shire Community Gardens Policy have been reviewed. The definition of a community garden has been revised to be more inclusive of the successful environmental enterprises at the Mullumbimby Community Garden site that currently sit outside the existing 'community garden' definition.

This report seeks Council's endorsement for public exhibition of the revised Policy definitions to include an 'enterprise garden' definition, in addition to the original definition. This revision will only apply to Mullumbimby Community Garden. All other gardens will remain categorised under the traditional definition.

---

**RECOMMENDATION:**

1. That Council publicly exhibits the updated Draft Community Gardens Policy (Attachment 1 - E2022/29660) for a period of 28 days.
2. That any submissions received on the revised Community Garden Policy be reported to Council for consideration, prior to the adoption of the revised Policy; and if no submissions are received, Council adopts the Policy.

**Attachments:**

- 1 DRAFT Policy Community Gardens 2022 PDF, E2022/29660 

## Report

5 There are two existing licenced community gardens on Council land, one in Mullumbimby and another in Ocean Shores. There are also negotiations underway with residents from Suffolk Park to establish a licenced community garden in Linda Vidler Park. These current and potential community gardens operate under the Byron Shire Community Gardens Policy. This policy has been updated in accordance with 2021/22 *Operational Plan Activity 4.5.1.3*.

## Policy background

10 The Byron Shire Community Gardens Policy was originally written in 2010, prior to any community gardens existing in the Byron Shire. The policy was then reviewed and simplified in 2020 to meet the demands of the progressive community gardens.

## Definition update

15 The revised Policy, (Attachment 1 – E2022/29660), has been updated again to accommodate the evolving use of the Mullumbimby Community Garden site, under the licence of Mullum S.E.E.D.

20 The Mullumbimby Community Garden is located at Lot 22 DP 1073165. Since becoming established as a licensed community garden in 2009, the use of the site has continued to expand to include not just the traditional community garden but also a Men's Shed, permaculture education, and a rainforest seedling nursery, as well as many other organisations.

25 The garden incorporates and welcomes these environmental enterprises under the auspice of Mullum SEED (current licensee of Lot 22 DP 1073165), and the Policy definition is being updated to support these additional uses and on-site activities that meet existing community needs. The definition change will enable council staff to manage the on-site activities more easily and safely and allow our compliance team to better direct their efforts.

30 The definition amendment retains the original 'community garden' definition, but also has an additional section titled 'enterprise garden'. All community gardens will remain under the original definition, except Mullumbimby Community Garden which will be considered an 'enterprise garden'.

Community Garden	<p>Public land identified for the primary purposes of growing fresh produce, including Enterprise Gardens.</p> <p>Community gardens may host gardening-related recreational and educational activities, in line with their licence agreement. They provide a range of social, environmental, and educational needs.</p>
------------------	---

Enterprise Garden	<p>An enterprise garden is a type of Community Garden located on public land (at Lot 22 DP 1073165, Mullumbimby).</p> <p>Enterprise gardens are not-for-profit. They may also support, in accordance with the licence agreement:</p> <ul style="list-style-type: none"> <li>• Small-scale sustainability related open days and/or workshops,</li> <li>• Environment-related recreational, educational and sustainability initiatives,</li> <li>• Social and community enrichment groups and activities ancillary to a community garden.</li> </ul>
-------------------	--

### Next Steps

Following the review of the policy, staff will review the current licence agreement with Mullum S.E.E.D to further progress the inclusion of the enterprising and environmental activities on site.

## 5 Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
<b>Community Objective 3: We protect and enhance our natural environment</b>	3.2: Strive to become a sustainable community	3.2.2: Support community environmental and sustainability projects	<b>3.2.2.3</b>	Support community gardens in accordance with the Policy and Guidelines
<b>Community Objective 4: We manage growth and change responsibly</b>	4.5: Work to improve community resilience in our changing environment	4.5.1: Develop and implement strategies for our community's needs	<b>4.5.1.3</b>	Review Community Gardens Policy

**Legal/Statutory/Policy Considerations**

Community garden licences must be granted in accordance with Section 47 of the Local Government Act 1993 and be expressly authorised in the relevant Plan of Management.

- 5 Byron Shire Community Garden Policy – this report proposes a change to the “community garden” definition.

**Financial Considerations**

Funding for the exhibition of the draft Policy is covered in the existing budget.

**Consultation and Engagement**

- 10 Consultation with the Mullum S.E.E.D General Manager and Secretary was undertaken in the drafting of the definition revision. The Mullumbimby Community Garden and Mullum SEED will be consulted again during the public exhibition period and encouraged to provide feedback on the policy revision.

STAFF REPORTS - INFRASTRUCTURE SERVICES

**Report No. 13.9      Tender 2021-1131 - Water Reservoir Slope Stability Works**

5    **Directorate:**                      Infrastructure Services

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

**File No:**                         I2022/165

**Summary:**

10    On 22 September 2021, the General Manager, under delegated authority, approved the use of the open tender method to call for tenders for Contract 2021-1131 – Water Reservoir Slope Stability Works.

The Request for Tender was advertised from 9 December 2021 to 10 February 2022. Tenders were received from the following organisations:

- Australian Marine & Civil
- 15    • Dalski Pty Ltd
- Earthtec Pty Ltd
- Geover
- Pan Civil
- Piling & Concreting Australia
- 20    • Uplift Safety
- Warner Company

25    Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulations 2005. This report summarises the background and assessment of the tenders and provides a recommendation to award the tender for Contract 2021-1131.

**RECOMMENDATION:**

1. That Council awards Tender 2021-1131 to the tenderer recommended in the Tender Evaluation Report (Confidential Attachment 1 #E2022/19328).
2. That Council's budget for these works be increased by \$375,000 as detailed in this report with funding provided from the Water Capital Works Reserve.
3. That Council makes public its decision, including the name and amount of the successful tenderer, in accordance with Clause 179(b) of the Local Government (General) Regulation 2021.

**Attachments:**

- 1 Confidential - 24.2021.44.1 - 2021-1131 - Slope Stability Works - Evaluation Report, E2022/19328

## Report

On 22 September 2021, the General Manager, under delegated authority, approved the use of the open tender method to call for tenders for Contract 2021-1131 – Water Reservoir Slope Stability Works.

- 5 A contract to undertake these works is required due to the specialist nature of the works and the risk associated with undertaking the works.

The Request for Tender sought responses from proponents to provide the required materials, labour and plant to stabilise the slope at five of Council's water reservoirs.

The Contract is expected to commence in April 2022 for a period of six months.

- 10 The Contract will be managed by the Utilities Capital Works Engineer.

Tenders were advertised as follows:

Vendorpanel & Council website: 9 December 2021 to 10 February 2022.

A mandatory site briefing was held at the five reservoirs, where thirteen organisations attended.

- 15 An Evaluation Panel comprising of three members was formed.

Tenders closed on 10 February 2022 and tenders were received from the following proponents:

- Australian Marine & Civil
- Dalski Pty Ltd
- 20 • Earthtec Pty Ltd
- Geovert
- Pan Civil
- Piling & Concreting Australia
- Uplift Safety
- 25 • Warner Company

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

*Mandatory criteria:*

- a) Tender lodged on time, in accordance with the Conditions of Tender.
- 30 b) Attendance at the mandatory briefing.
- c) Respondent has a valid Australian Business Number.
- d) Tenderer has no conflicts of interest.
- e) All tender forms and schedules are completed.
- f) Respondent substantially complies with the Conditions of Contract.
- 35 g) Respondent substantially complies with the Statement of Requirements and Specifications.



## BYRON SHIRE COUNCIL

### STAFF REPORTS - INFRASTRUCTURE SERVICES

13.9

- h) Holds, or is able to obtain, the insurances as specified in the Statement of Requirements.
- i) Workers Compensation Insurance for all employees.
- j) Financial capacity to undertake the contract.
- 5 k) Respondent has satisfactory work health and safety and environmental compliance.
- l) Commitment to ethical business practices.
- m) Does not obtain financial benefit from Australia's offshore detention centres or involved with the development or operation of the Carmichael mine or otherwise have ties to Bravus Mining.
- 10 *Qualitative criteria:*
- a) Profile and relevant experience.
- b) Quality and availability of resources.
- c) Delivery plan.
- 15 d) Ethical and social considerations.

Following the evaluation, the Evaluation Panel conducted referee and financial checks on the shortlisted tenderers. The results of these checks were deemed by the Evaluation Panel to be satisfactory as detailed in the attached Evaluation Report.

### Financial Considerations

- 20 The price basis for the contract is a mixture of lump sum and schedule of rates items.

Council has insufficient budget for the works and the following adjustments are required to award this tender:

Ledger	Name	Current Budget \$	Increased Budget Required \$	Proposed New Budget \$
6673.001	Wategos Reservoir Renewals	475,000	44,000	519,000
6649.008	Coopers Shoot Reservoir Renewals	480,600	56,000	536,600
6849.008	Tongarra Reservoir Renewals	150,000	68,000	218,000
6849.014	Warrambool Reservoir Renewals	150,000	201,000	351,000
6549.001	Saddle Road Reservoir Renewals	150,000	6,000	156,000
	<b>Total</b>	<b>1,405,600</b>	<b>375,000</b>	<b>1,780,600</b>

- 25 This total increase of \$375,000 accounts for the tender price as detailed in the attached confidential assessment and recommendation report, as well as an allowance of 10% for contingency and 5% for project management and contract administration.

Due to the confidential nature of the tender assessment, the amount of the successful tender is not shown in this report and will be published once Council has resolved to award the tender in accordance with the recommendation report.

## Statutory and Policy Compliance Considerations

- 5 The tendering process has been undertaken in accordance with Council's Purchasing and Procurement Policy, and the provisions of the Local Government (General) Regulation 2021.

The Local Government (General) Regulations 2021 define the options available to Council. An extract is provided below.

### 10 Local Government (General) Regulation 2021 - Reg 178

#### Acceptance of tenders

##### 178 Acceptance of tenders

- (1) After considering the tenders submitted for a proposed contract, the council must either—
- 15 (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.
- (1A) Without limiting subsection (1), in considering the tenders submitted for a proposed contract for the performance of domestic or other waste management services, the council must take into account whether or not existing workers (within the meaning of section 170) will be offered employment or engagement on terms and conditions comparable to those applicable to the workers immediately before the tender was submitted.
- 20
- (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 section 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.
- 25
- (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—
- 30 (a) postpone or cancel the proposal for the contract,
- (b) invite, in accordance with section 167, 168 or 169, fresh tenders based on the same or different details,
- 35

## BYRON SHIRE COUNCIL

### STAFF REPORTS - INFRASTRUCTURE SERVICES

13.9

- (c) *invite, in accordance with section 168, fresh applications from persons interested in tendering for the proposed contract,*
  - (d) *invite, in accordance with section 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract,*
  - 5 (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.*
- 10 (4) *If a council resolves to enter into negotiations as referred to in subsection (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 subsection (3)(b)–(d),*
  - (b) *the council's reasons for determining to enter into negotiations with the person or persons referred to in subsection (3)(e).*
- 15 Council's endorsement of the recommendation to award the tender as recommended in the attached Evaluation Report is sought.

## **Report No. 13.10 Tender 2021-1130 - Water Reservoir Roof Replacement Works**

**Directorate:** Infrastructure Services

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

5 **File No:** I2022/166

### **Summary:**

On 22 September 2021, the General Manager, under delegated authority, approved the use of the open tender method to call for tenders for Contract 2021-1130 – Water Reservoir Roof Replacement Works.

- 10 The Request for Tender was advertised from 16 December 2021 to 21 February 2022. Tenders were received from the following organisations:
- Advanced Concrete Engineering
  - Australian Reservoir Services
  - Walz Group
- 15 Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulations 2005. This report summarises the background and assessment of the tenders and provides a recommendation to award the tender for Contract 2021-1130.

---

### **20 RECOMMENDATION:**

1. That Council awards Tender 2021-1130 to the tenderer recommended in the Tender Evaluation Report (Confidential Attachment 1 #E2022/19375).
2. That Council's budget for these works be increased by \$547,000 as detailed in this report with funding provided from the Water Capital Works Reserve.
- 25 3. That Council makes public its decision, including the name and amount of the successful tenderer, in accordance with Clause 179(b) of the Local Government (General) Regulation 2021.

### **Attachments:**

- 30 1 Confidential - 24.2021.43.1 - 2021-1130 - Roof Replacement Works - Evaluation Report, E2022/19375

## Report

On 22 September 2021, the General Manager, under delegated authority, approved the use of the open tender method to call for tenders for Contract 2021-1130 – Water Reservoir Roof Replacement Works.

- 5 A contract to undertake these works is required due to the specialist nature of the works and the risk associated with undertaking the works.

The Request for Tender sought responses from proponents to provide the required materials, labour and plant to replace the roofs at three of Council's water reservoirs.

The Contract is expected to commence in May 2022 for a period of nine months.

- 10 The Contract will be managed by the Utilities Capital Works Engineer.

Tenders were advertised as follows:

Vendorpanel & Council website: 16 December 2021 to 21 February 2022.

Mandatory briefings were held at the three reservoirs, where three organisations attended.

An Evaluation Panel comprising of three members was formed.

- 15 Tenders closed on 21 February 2022 and tenders were received from the following proponents:

- Advanced Concrete Engineering
- Australian Reservoir Services
- Walz Group

- 20 Tenders were evaluated by the Evaluation Panel in accordance with the following evaluation criteria:

*Mandatory criteria:*

- a) Tender lodged on time, in accordance with the Conditions of Tender.
- b) Attendance at the mandatory briefing.
- 25 c) Respondent has a valid Australian Business Number.
- d) Tenderer has no conflicts of interest.
- e) All tender forms and schedules are completed.
- f) Respondent substantially complies with the Conditions of Contract.
- g) Respondent substantially complies with the Statement of Requirements and Specifications.
- 30 h) Holds, or is able to obtain, the insurances as specified in the Statement of Requirements.
- i) Workers Compensation Insurance for all employees.
- j) Financial capacity to undertake the contract.
- 35 k) Respondent has satisfactory work health and safety and environmental compliance.
- l) Commitment to ethical business practices.

## BYRON SHIRE COUNCIL

### STAFF REPORTS - INFRASTRUCTURE SERVICES

13.10

m) Does not obtain financial benefit from Australia's offshore detention centres or involved with the development or operation of the Carmichael mine or otherwise have ties to Bravus Mining.

5 *Qualitative criteria:*

- a) Profile and relevant experience.
- b) Quality and availability of resources.
- c) Delivery plan.
- d) Ethical and social considerations.

10 Following the evaluation, the Evaluation Panel conducted referee and financial checks on the preferred tenderer. The results of these checks were deemed by the Evaluation Panel to be satisfactory as detailed in the attached Evaluation Report.

### **Financial Considerations**

The price basis for the contract is a mixture of lump sum and schedule of rates items.

15 Council has insufficient budget for the works and the following adjustments are required to award this tender:

<b>Ledger</b>	<b>Name</b>	<b>Increase Budget Required \$</b>
6673.001	Wategos Reservoir Renewals	115,000
6649.008	Coopers Shoot Reservoir Renewals	211,000
6849.009	Yamble Reservoir Renewals	221,000

20 This total increase of \$547,000 accounts for the tender price as detailed in the attached confidential assessment and recommendation report (#E2022/19375), as well as an allowance of 10% for contingency and 5% for project management and contract administration.

25 There is another report presented to this Ordinary Meeting of Council for Council to consider concerning Tender 2021-1131 – Water Reservoir Slope Stability Works. That report also requires additional budget to be provisioned for the Wategos Reservoir Renewals project and the Coopers Shoot Reservoir Renewals project aside from the increase budget required in the table above.

## BYRON SHIRE COUNCIL

### STAFF REPORTS - INFRASTRUCTURE SERVICES

13.10

To give Council the overall budget requirements for both tender reports, the following table indicates this for the projects identified in this report:

Ledger	Name	Current Budget \$	Increase Budget Required Tender 2021-1130 \$	Increase Budget Required Tender 2021-1131 \$	Proposed New Budget \$
6673.001	Wategos Reservoir Renewals	475,000	115,000	44,000	634,000
6649.008	Coopers Shoot Reservoir Renewals	480,600	211,000	56,000	747,600
6849.009	Yamble Reservoir Renewals	474,600	221,000	0	695,600
	<b>Total</b>	<b>1,430,200</b>	<b>547,000</b>	<b>100,000</b>	<b>2,077,200</b>

- 5 Due to the confidential nature of the tender assessment, the amount of the successful tender is not shown in this report and will be published once Council has resolved to award the tender in accordance with the recommendation report.

### Statutory and Policy Compliance 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 2021.

- 10 The Local Government (General) Regulations 2021 define the options available to Council. An extract is provided below.

#### Local Government (General) Regulation 2021 - Reg 178

##### Acceptance of tenders

##### *178 Acceptance of tenders*

- 15 (1) *After considering the tenders submitted for a proposed contract, the council must either—*
- (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.*
- 20 (1A) *Without limiting subsection (1), in considering the tenders submitted for a proposed contract for the performance of domestic or other waste management services, the council must take into account whether or not existing workers (within the meaning of section 170) will be offered employment or engagement on terms and conditions*

## BYRON SHIRE COUNCIL

### STAFF REPORTS - INFRASTRUCTURE SERVICES

13.10

*comparable to those applicable to the workers immediately before the tender was submitted.*

- 5 (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 section 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.*
- 10 (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 section 167, 168 or 169, fresh tenders based on the same or different details,*
- 15 (c) *invite, in accordance with section 168, fresh applications from persons interested in tendering for the proposed contract,*
- (d) *invite, in accordance with section 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract,*
- 20 (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 subsection (3)(e), the resolution must state the following—*
- 25 (a) *the council's reasons for declining to invite fresh tenders or applications as referred to in subsection (3)(b)–(d),*
- (b) *the council's reasons for determining to enter into negotiations with the person or persons referred to in subsection (3)(e).*

30 Council's endorsement of the recommendation to award the tender as recommended in the attached Evaluation Report is sought.



**Report No. 13.11 Tender 2021-1247 - Panel of Providers - Provision of Plumbing, Electrical, General Building & Maintenance Services**

**Directorate:** Infrastructure Services

5 **Report Author:** Joshua Winter, Capital Works Engineer  
Cameron Clark, Manager Utilities

**File No:** I2022/280

**Summary:**

10 On 31 August 2021, the General Manager, under delegated authority, approved the use of the open tender method to call for tenders for Contract 2021-1247 Panel of Providers – Provision of Plumbing, Electrical, General Building and Maintenance Services.

The Request for Tender was advertised from 24 November 2021 to 17 December 2021. Tenders were received from the following organisations:

- Bishton Group Pty Ltd
- 15 • Concept Engineering Services Pty Ltd
- Eximm Property Services Pty Ltd
- Inglis Fire & Safety
- Northern Rivers Fencing
- O'Brien Electrical & Plumbing Lismore
- 20 • Qube Electrical
- Rob War Electrical Services Pty Ltd
- Rohan Property Maintenance Pty Ltd
- SS Irrigation
- Stralis Energy Pty Ltd
- 25 • Thearle Electrical

Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulations 2005. This report summarises the background and assessment of the tenders and provides a recommendation to award the tender for Contract 2021-1247.

**RECOMMENDATION:**

- 5      1.    **That Council awards Contracts to each of the organisations recommended in the Tender Evaluation Report (Confidential Attachment 1 - E2022/29277).**
3.    **That Council makes public its decision, including the names of the successful tenderers, in accordance with Clause 179(b) of the Local Government (General) Regulation 2021.**

**Attachments:**

10

- 1      Confidential - 2021-1247 - Tender Evaluation Report - Provision of Plumbing, Electrical, General Building & Maintenance Services - Signed by Panel, E2022/29277

## Report

On 31 August 2021, the General Manager, under delegated authority, approved the use of the open tender method to call for tenders for Contract 2021-1247 Panel of Providers – Provision of Plumbing, Electrical, General Building and Maintenance Services.

- 5 Council has a vast building portfolio that from time to time requires works and maintenance to manage these assets responsibly. The intent of this tender is to establish a panel of providers that are competent and able to assist Council in this asset management without the need for individual tender engagements. It is anticipated that through establishing this panel of providers, Council will be able readily engage competent resources on an as required basis to provide the support it needs.
- 10

The Request for Tender sought responses from proponents to provide Plumbing, Electrical, General Building and Maintenance Services throughout Council's building portfolio.

- 15 The Contract is expected to commence in May 2022 for a period of three (3) years with an option to extend the contract for further period of two (2) years at Council's sole discretion.

The Contract will be managed by Manager Utilities.

Tenders were advertised as follows:

Vendorpanel & Council website: 24 November 2021 to 17 December 2021.

An Evaluation Panel comprising of three members was formed.

- 20 Tenders closed on 17 December 2021 and tenders were received from the following proponents:
- Bishton Group Pty Ltd
  - Concept Engineering Services Pty Ltd
  - Eximm Property Services Pty Ltd

25

  - Inglis Fire & Safety
  - Northern Rivers Fencing
  - O'Brien Electrical & Plumbing Lismore
  - Qube Electrical
  - Rob War Electrical Services Pty Ltd

30

  - Rohan Property Maintenance Pty Ltd
  - SS Irrigation
  - Stralis Energy Pty Ltd
  - Thearle Electrical

- 35 Tenders were evaluated by the Evaluation Panel in accordance with the following evaluation criteria:

*Mandatory criteria:*

- 5 a) Tenderer must have a valid Australian Business Number.  
b) Substantial conformance to Conditions of Contract and Statement of Requirements.  
c) Workers compensation insurance for all employees.  
d) Holds, or is willing to obtain, the insurances as specified in the Statement of Requirements.  
e) Satisfactory Work Health and Safety practices.  
f) Financial capacity to undertake the contract.  
g) Commitment to ethical business practice principles.
- 10 *Qualitative criteria:*  
a) Profile and relevant experience.  
b) Price.

The result of the evaluation is detailed in the attached Evaluation Report.

### Financial Considerations

- 15 The price basis for the contract is a schedule of rates that are utilised when Council requests work under the Contract.

Council's standard procurement process ensures that there must be sufficient funding for any works procured under this contract within the relevant budgets.

### Statutory and Policy Compliance Considerations

- 20 The tendering process has been undertaken in accordance with Council's Purchasing and Procurement Policy, and the provisions of the Local Government (General) Regulation 2021.

The Local Government (General) Regulations 2021 define the options available to Council. An extract is provided below.

### 25 Local Government (General) Regulation 2021 - Reg 178

#### [Acceptance of tenders](#)

#### *178 Acceptance of tenders*

- (1) *After considering the tenders submitted for a proposed contract, the council must either—*
- 30 (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.*
- 35 (1A) *Without limiting subsection (1), in considering the tenders submitted for a proposed contract for the performance of domestic or other waste management services, the council must take into account whether or not existing workers (within the meaning of section 170) will be offered employment or engagement on terms and conditions*

## BYRON SHIRE COUNCIL

### STAFF REPORTS - INFRASTRUCTURE SERVICES

13.11

*comparable to those applicable to the workers immediately before the tender was submitted.*

- 5 (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 section 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.*
- 10 (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 section 167, 168 or 169, fresh tenders based on the same or different details,*
- 15 (c) *invite, in accordance with section 168, fresh applications from persons interested in tendering for the proposed contract,*
- (d) *invite, in accordance with section 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract,*
- 20 (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 subsection (3)(e), the resolution must state the following—*
- 25 (a) *the council's reasons for declining to invite fresh tenders or applications as referred to in subsection (3)(b)–(d),*
- (b) *the council's reasons for determining to enter into negotiations with the person or persons referred to in subsection (3)(e).*

30 Council's endorsement of the recommendation to award the contract to the tenderers as recommended in the attached Evaluation Report is sought.

**Report No. 13.12 Mullum to Bruns Cycleway - Route Options for Community Consultation**

**Directorate:** Infrastructure Services

**Report Author:** Kirk Weallans, Project Engineer

5 **File No:** I2022/323

**Summary:**

Council has proposed an initiative to undertake a cycleway project to connect the towns of Brunswick Heads and Mullumbimby.

10 Council Infrastructure Planning Officers have engaged a Consultant to undertake a route options investigation in order to assist Council in determining a preferred route from a risk, budget and user perspective.

Following two workshops with Councillors Route A and Route D were recommended to inform the Mullum to Bruns cycleway community consultation activities.

15

**RECOMMENDATION:**

**That Council:**

1. Commences community consultation on Route Options A and D as part of the Mullum to Bruns cycleway project.
- 20 2. Reports the findings of the community consultation back to Council with a view to inform a single preferred route for the cycleway which is to be progressed in terms of investigation, planning and design activities.

25

## Report

Council has proposed an initiative to undertake a cycleway project to connect the towns of Brunswick Heads and Mullumbimby.

- 5 Council Infrastructure Planning Officers have engaged a Consultant to undertake a route options investigation in order to assist Council in determining a preferred route from a risk, budget and user perspective.

The various cycleway routes were assessed against the following categories:

- 10
- Route distance
  - Grades
  - Travel Time
  - Intersections to navigate
  - Planning & Environmental Constraints
  - Land acquisitions
  - Connectivity to population groups

- 15 Native title, planning and environmental approvals, ecological impact, safety, flooding, budget, community views, land acquisitions and project timeframes are a few risks associated with the cycleway route options presented.

- 20 Following two workshops with Councillors in which risk and opportunities were discussed, two routes were shortlisted for community consultation (refer figure 1), namely Route A and Route D.

- **Route A** – a trail following the disused rail corridor north from Mullumbimby and connecting to Brunswick Heads via a combination of road reserve, private property and existing paths.
  - **Route D** – a trail along Mullumbimby Road, Hambly Road, through sugar cane fields directly to Henderson Lane, The Saddle Road and Tweed Street
- 25

The exact alignment of the routes will be determined as part of future investigation and design activities.

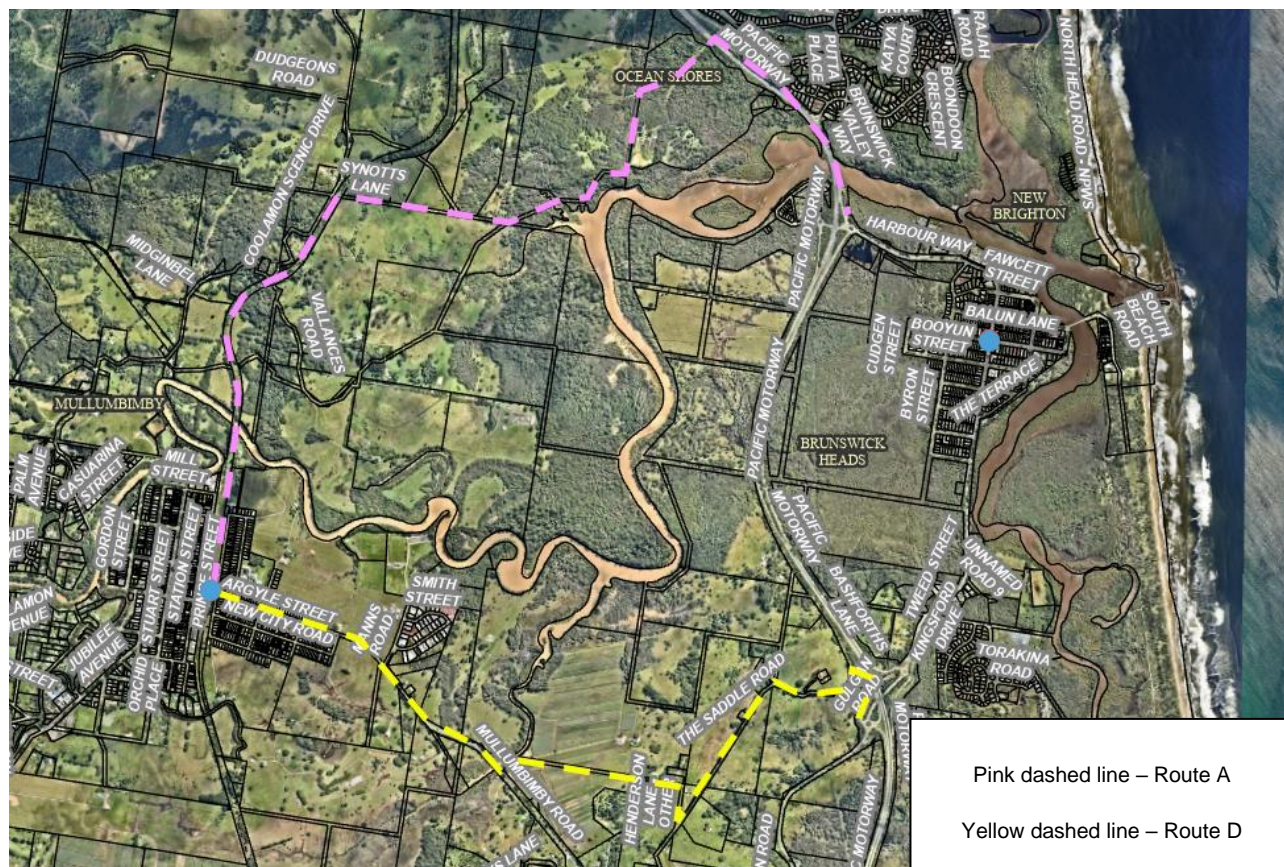


Figure 1 – Route A and Route D options to connect Mullumbimby to Brunswick Heads

## Next steps

- 5 The next step is to undertake a community consultation regarding the two shortlisted options Route A and Route D.

## Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
<b>Community Objective 1: We have infrastructure, transport and services which meet our expectations</b>	1.6: 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)	<b>1.6.3.4</b>	Deliver Mullumbimby to Brunswick Heads On Road Cycleway



## **Report No. 13.13 Integrated Water Management Strategies**

**Directorate:** Infrastructure Services

**Report Author:** Cameron Clark, Manager Utilities

**File No:** I2022/313

### **5 Summary:**

This report is submitted in response to the adoption of the 2021 Rous Future Water Project 2060 Integrated Water Management Cycle Strategy (IWCM Strategy).

Part d) of Resolution **21-271**:

- 10 i) *diverse local supply modes and sources,*
  - ii) *efficiency and water conservation measures,*
  - iii) *amendments to BLEP that ensure the health of local sources and water catchments,*
  - iv) *a community engagement plan to progress the matters identified in this resolution,*  
*and*
  - 15 v) *considers development of local water sources and partnerships with other LGAs that complements the diversified direction established by the adopted IWCM.*
- 

### **RECOMMENDATION:**

#### **20 That Council notes:**

1. **That during Stage 2 of the IWCM Strategy (beyond 2028) further investigation into the groundwater supplies at Tyagarah Byron Shire, will be undertaken by Rous County Council to confirm infrastructure requirements and assess environmental impacts.**
- 25 2. **That during Stages 1 and 2, Rous County Council will continue investigations into the preferred long-term source augmentation strategy (Stage 3 options) which may include (around 2040):**
  - i) **Expansion of the Tyagarah groundwater scheme (if viable).**
  - ii) **Desalination of ocean feedwater at Byron Bay.**
  - 30 iii) **A regional desalination facility with interconnection of the Tweed and Rous County Council regional supplies.**
  - iv) **Surface Water Supplies**
- 35 3. **That progress the Mullumbimby Water Supply Strategy based on the most favourable augmentation as Scenario S3: Permanent connection to Rous County Council regional supply: In this scenario, Mullumbimby would form part of the Rous County Council regional supply network with bulk treated water transferred to the Azalea Street reservoirs in Mullumbimby.**

# BYRON SHIRE COUNCIL

## STAFF REPORTS - INFRASTRUCTURE SERVICES

13.13

4. **That a draft of the Rous County Council Regional Demand Management Plan 2023 - 2026 will be on public exhibition during 2022**

## **Report**

This report is submitted in response to the adoption of The 2021 Rous Future Water Project 2060 Integrated Water Management Cycle Strategy (IWCM Strategy).

Part d) of Resolution **21-271**:

- 5     *i) diverse local supply modes and sources,*  
       *ii) efficiency and water conservation measures,*  
       *iii) amendments to BLEP that ensure the health of local sources and water catchments,*  
       *iv) a community engagement plan to progress the matters identified in this resolution, and*  
       *v) considers development of local water sources and partnerships with other LGAs that*  
 10    *complements the diversified direction established by the adopted IWCM.*

### **i) diverse local supply modes and sources**

- 15    Byron Shire Council (Council) provides reticulated water supply services to the urban areas of Ocean Shores, Brunswick Heads, Byron Bay, Suffolk Park, Bangalow and Mullumbimby. A summary of the current water supplies and planning undertaken for future supplies is provided below. Council has also commenced a review of its draft 2017 *Water Supply and Sewerage Strategic Plan* (IWCM Strategy) which will provide a current and consolidated IWCM Strategy to guide water and sewerage services into the future.

#### **Rous Regional Water Supply:**

- 20    Rous County Council (RCC) is the bulk water supplier for the majority of the shire servicing a permanent population of 23,000 people (approximately 9,600 residential and 1,600 non-residential connections). Council distributes water purchased from RCC through four separate distribution systems owned and operated by Council:

- Bangalow.
- Brunswick Heads.
- 25    •     Byron Bay including Suffolk Park.
- Ocean Shores including New Brighton, South Golden Beach and Billinudgel.

RCC also supplies customers directly from RCC trunk mains (150 rural connections) or via a reticulation main connected to the trunk system (470 connections in villages including Ewingsdale).

- 30    RCC sources water for Byron Shire from Rocky Creek Dam on Terania Creek and Wilsons River Source (run-of-river abstraction) in the Lismore LGA. The 2021 *Rous Future Water Project 2060 Integrated Water Cycle Management Strategy* (IWCM Strategy) documents the investigations undertaken by RCC into new water supply sources to ensure long-term water supply security for the region. It builds on the investigations undertaken by RCC over the last few decades to identify potential source augmentation options and enable  
 35    selection of a preferred long-term strategy. Stage 1 of the adopted future strategy involves the use of surface water from Marom Creek to supply Alstonville and Wollongbar to supplement the existing supply sources. The future components of the adopted RCC long-term strategy that are relevant to Byron Shire's water supplies are:

## BYRON SHIRE COUNCIL

### STAFF REPORTS - INFRASTRUCTURE SERVICES

13.13

- Stage 2 (beyond 2028) - groundwater supplies from Tyagarah in Byron Shire. Further investigation into the groundwater supplies will be undertaken by RCC to confirm infrastructure requirements and assess environmental impacts.
- 5 • During Stages 1 and 2, RCC will continue investigations into the preferred long-term source augmentation strategy (Stage 3 options) which may include (around 2040):
  - Expansion of the Tyagarah groundwater scheme (if viable).
  - Desalination of ocean feedwater at Byron Bay.
  - A regional desalination facility with interconnection of the Tweed and RCC regional supplies.
  - 10 ○ Surface water supplies.

Other source options investigated by RCC (but not adopted in the current strategy for various reasons) are:

- Raising existing dams.
- Supply from Toonumbar Dam (Kyogle Shire).
- 15 • Regional interconnection with Tweed Shire with additional surface water sources in the Rous region.
- Stormwater reuse (potable and non-potable).
- Managed aquifer recharge with treated wastewater effluent.

20 RCC considers that indirect potable reuse (highly treated reclaimed water supply into Rocky Creek Dam, Emigrant Creek Dam or Wilsons River Source) from Ballina, Lismore or Bangalow sewage treatment plants (STPs) for subsequent extraction, treatment and transfer is not considered a viable short-term (less than ten years) solution for securing RCC's long-term water supply. However, it may be considered by RCC in future if the challenges of high capital and operational costs, waste stream management, high energy demand, low yield and length, costly and uncertain approvals process can be overcome.

25

The Future Water Project 2060 includes the development of a pilot plant to test the capability to produce purified recycled water of a drinking standard. The verification and operational approval process is expected to take a minimum 10 years. However, the start of construction would depend on the timeline for funding and discussions with the NSW Government. If regulatory approval and community support are gained after this time, the pilot plant's purified recycled water would then be supplied for use throughout the Perradenya Estate (in Lismore Shire).

30

#### **Mullumbimby Water Supply:**

35 Mullumbimby's drinking water supply is sourced from the upper reaches of Wilsons Creek, a tributary of the Richmond River. The Mullumbimby water supply services a permanent population of 3,600 people (approximately 1,600 residential and 270 non-residential connections). Water is extracted from Lavertys Gap Weir (73 ML storage) on Wilsons Creek where it flows through a 'race' (open channel), via a tunnel to the water treatment plant (WTP). An emergency supply pipeline from the RCC bulk supply can supply treated

## BYRON SHIRE COUNCIL

### STAFF REPORTS - INFRASTRUCTURE SERVICES

13.13

water to lower elevation areas (East Mullumbimby) if required. The Mullumbimby water supply system is owned and operated by Council.

Council has commissioned a long-term strategy for Mullumbimby water supply. The key issue to be addressed is water supply security (servicing existing customers and future development over the long-term). Council has prepared growth management strategies for urban land, rural areas and business/industrial land which include future development that will increase the demand for potable water. The strategy also considers the following issues:

- Asset condition and performance:

- The raw water channel (constructed in the 1920s) has exceeded its useful life. The likelihood of failure is considered very high and on the basis that structural failure of the channel would cause extended interruption to the water supply, upgrading the raw water transfer system is a high priority while the weir supply continues to be used.

- In addition, due to the age of the Mullumbimby WTP (originally constructed in 1940), the WTP requires replacement in the next five to ten years. WTP upgrades are also required in the short term to ensure removal of pathogens.

- Drought management and emergency response:

- Restrictions are currently introduced based on the water level and inflows in Lavertys Gap weir. Restrictions were imposed in Mullumbimby during the droughts of 2002/03, 2006/07 and 2019/20 and after the flood in February/March 2022 (as the WTP was non-operational).

- The emergency supply from the RCC) regional supply was used to supply water to lower elevation areas (East Mullumbimby) during summer 2019/20 and after the flood in March 2022.

- The RCC emergency supply cannot currently service all areas of the town. After the March 2022 flood, water had to be trucked to the higher elevation areas while the WTP was not operational.

- Heritage considerations and management obligations:

- Lavertys Gap Weir and the channel are listed on the NSW State Heritage Register (as part of the Mullumbimby hydro-electric power complex). In addition, the WTP has heritage significance at a local level. This has implications for the future management and rehabilitation of these assets.

A secure water supply is critical to ensure the Mullumbimby community's health and quality of life as well as a sustainable environment and continued economic prosperity. Council has a duty to ensure that there is enough water available to meet the long-term needs of Mullumbimby. Based on the current demand and secure yield forecasts, investment in new water sources cannot be continuously deferred and by 2025 new sources of water will be required to meet the town's long-term water needs.

Options to increase the supply and reduce potable water demand have been identified and analysed and scenarios have been developed using combinations of the options to achieve the required secure yield in the long-term (2050). The asset condition, emergency response and heritage obligations have also been considered in the development and assessment of supply scenarios. An IWCM approach has been used to compare options and scenarios and identify the preferred supply augmentation scenario to meet the predicted 2050 demand. A coarse screening assessment considered a range of new as well as previously identified supply options. The following options passed the coarse assessment and were further assessed and discussed in detail in the draft strategy:

- Option 1: Do nothing (for comparison with augmentation options).
- Option 2: Raising Lavertys Gap weir (to increase storage).
- Option 3: Off-stream storage (to harvest high flows and increase storage).
- Option 4A: Permanent connection to the RCC bulk water supply.
- Option 4B: Emergency connection to RCC bulk water supply (extended to higher elevation areas with supply from Laverty's Gap Weir and WTP retained).
- Option 5: Groundwater (to supplement supply from Laverty's Gap Weir and WTP).

Following a detailed assessment of these options, Option 2 (raising Lavertys Gap weir) was not recommended for further consideration due to the minimal yield benefit, high costs and significant impacts on terrestrial biodiversity as well as downstream users and the environment.

Other options involving stormwater reuse, local desalination, indirect potable reuse and new surface water sources from the Brunswick River (freshwater reaches) were not recommended in the study.

Four scenarios were developed from combinations of the remaining options that would achieve the required secure yield over the long term. All scenarios include the following common components:

- Continued use of the weir supply and Mullumbimby WTP in the short-term.
- Short-term WTP upgrades to ensure consistent supply of microbially safe water.
- Extension of the RCC emergency bulk water supply connection to be used as a secure emergency response measure when required to supplement the weir supply (Option 4B).
- An increase in the Lavertys gap weir licence extraction limit (likely to be required from 2023 unless an alternative source is implemented).

- Review and update of the drought management plan based on the performance of the supply and drought management regime during the recent drought.
- Implementation of demand management measures and water loss reduction measures.
- 5 • Continued investigation of the long-term impacts of climate change on the secure yield of the weir supply.
- Resolution of the heritage management requirements for the weir, channel and WTP.
- Development of alternative supply options for Council's trunk main customers (Located between the WTP and supply reservoirs).
- 10 • Continued identification and implementation of urban effluent reuse opportunities.

The potentially feasible water supply augmentation scenarios are:

- Scenario S1: Base case: Improvements to the existing raw water transfer system and a new WTP. This scenario would provide security of supply until 2025. Beyond 2025, restrictions may become more frequent and/or more severe.
- 15 • Scenario S2: Off-stream storage: Improvements to the existing raw water transfer system, construction of a nominal 200 ML off-stream storage and new WTP. High stream flows would be transferred to fill the off-stream storage. Water from the storage will be treated at the new WTP and transferred to the township.
- Scenario S3: Permanent connection to RCC regional supply: In this scenario, Mullumbimby would form part of the RCC regional supply network with bulk treated water transferred to the Azalea Street reservoirs in Mullumbimby.
- 20 • Scenario S4: Supplementary groundwater: Improvements to the existing raw water transfer system, a new WTP, construction of new bores to the south-west of Mullumbimby with raw water transferred either to the weir or the new WTP for treatment and distribution to the township.
- 25

A triple-bottom-line (TBL, environmental, social and economic) assessment was used to compare the scenarios. Based on the TBL assessment, the most favourable scenario is S3: Permanent connection to the RCC regional supply. This scenario would have minimal environmental impact and the security of supply is only limited by the security of the RCC regional supply. Social acceptance of this scenario has not yet been determined but when other factors such as energy consumption, infrastructure modifications and required investment are considered, the regional supply has significant benefit over the local scenarios. The net present value of the regional scenario is the lowest of all scenarios. There are significant capital cost savings in avoiding the need to replace the Mullumbimby WTP and upgrade the weir supply in addition to constructing new infrastructure, however, the ongoing costs of a regional supply are expected to be higher than local scenarios.

The benefits of centralisation of water supplies and regional interconnection have been recognised in a previous study undertaken by the Northern Rivers Regional Organisation of Councils (now Joint Organisation) including improved financial outcomes through economies of scale, access to a wider range of options to improve efficiency, system

resilience and operational flexibility. Financial benefits would result from regional opportunities for staging of water source development, increased flexibility in scheme development, reduced duplication of infrastructure and sharing of costs over a larger customer base. There is also the potential to reduce the risk of supply shortage in the region through supply diversity, supply redundancy, climate resilience and system flexibility. A regional scheme also allows access to a wider range of options to improve environmental and social outcomes than a local scheme.

### **Non-potable recycled water:**

Recycled water for non-potable supply to households and businesses is available in some parts of the Shire and is likely to contribute to a reduction in overall water demand across the region in the future. Recycled water is available in some parts of Byron Bay for toilet flushing to supplement potable supplies. The scheme is still in its infancy and will be further developed over time as discussed below.

Approximately 15% (475 ML/a) of treated effluent from Council STPs is currently recycled for irrigation on sporting fields and nurseries, public toilet flushing and irrigation of pasture, fodder and bamboo. Another 400 ML/a is estimated to be reused for wetland regeneration through evapotranspiration. The draft Byron Shire Effluent Management Strategy 2017-2027 was prepared to establish the path for effluent management in the Byron Shire over the next ten years. The strategic vision is that sewage will be managed in an ecologically sustainable way that has no adverse impact on the natural environment, protects public health, achieves maximum resource recovery and meets the needs and expectations of existing and future communities.

Council's experience in operating effluent management schemes since 1999 has provided valuable insight into the future directions of effluent management in Byron Shire. In the absence of high-water using industries and in an area that receives sufficient rainfall, Council has been challenged to find ways to significantly increase levels of effluent reuse. Over the next ten years Council will focus on effluent management projects that maximise effluent application.

Wetlands and environmental schemes will form the key direction in effluent management for the future. The Byron Bay Integrated Wetland Management Reserve has been successful in achieving not only high levels of effluent reuse through wetland creation (which creates habitats, species protection and reduces the overall volume of effluent through evapotranspiration and groundwater recharge) but also in the environmental remediation (inundation) of localised acid sulphate soil and habitat loss.

The Byron Bay Urban Recycled Water Scheme will continue to be developed to full capacity. All sporting fields and nurseries along the urban corridor use recycled water for irrigation purposes and recently the scheme has been extended to include flushing of public toilets at the local hotels and caravan parks. An upgrade to the system will be considered based on demand, although it is considered growth will be small and incremental. Urban schemes are not considered viable for the smaller villages including Brunswick Heads, Mullumbimby, Bangalow or Ocean Shores.



## BYRON SHIRE COUNCIL

### STAFF REPORTS - INFRASTRUCTURE SERVICES

13.13

The Main Arm Recycled Water Scheme has been the least successful effluent management application with the scheme failing to meet community aspirations. In theory, rural reuse projects are able to utilise high volumes of effluent, however the uncertainty with the operation of rural schemes due to external limitations such as high rainfall (low demand for alternative water sources) and the business decisions of private landowners increases the risks associated with the development of rural schemes. Previous reliance on small businesses and farming enterprises has not provided the long-term demand for recycled water that the Byron Shire community desires.

Although Council continues to expand non-potable recycled water connections to new developments, a high cost of connection and approval along with other challenges limit the feasibility of retrofitting existing properties. The provision of rebates (by RCC) has been dependent on Council engaging with suitable customers. In 2021 the Byron Beach Hotel connected to the Council recycled water network, a project supported by RCC that will reduce demand on the potable water supply by over 4 ML/a. This outcome is the result of close to three years engagement with the Hotel through the RCC Sustainable Water Partner Program.

Currently, the demand for the available recycled water resource in Byron Shire is less than the supply resulting in the discharge of highly treated wastewater to the environment. This is regarded as a lost opportunity to utilise this resource. Recent drought conditions in the region have highlighted the community's desire for the use of recycled water as part of a portfolio of water sources to secure the region's future water supplies and its resilience to future droughts and climate change. Council is currently reviewing its 2017 recycled water strategy, taking a more proactive approach to harness the potential of recycled water to deliver broader community outcomes, while also maintaining the original focus of protecting waterways from effluent discharge and supporting environmental flows. The revised strategy will consider the following:

- Continuation of the prioritisation of regenerative environmental effluent reuse (e.g. wetlands) as there is evidence of further positive impacts on the local hydrology, and the resilience of these systems to the high variability of effluent flows.
- Rural uses (e.g. farmland irrigation) are a lower strategic priority for connection in the next 5-10 years due to their low levels of demand reliability.
- Urban uses:
  - Considered to be a lower strategic priority for connection in the next 5-10 years due to their relatively more complex operating and regulatory environment (particularly for residential customers - e.g. toilet flushing), and limited scale of greenfield development (with the exception of West Byron, where recycled water supply has already been committed to). However, regional water security challenges and growing political and community acceptance of recycled water may drive the expansion of urban opportunities sooner than the current 2030 planning horizon.
  - Improvements in the Byron Bay Urban Recycled Water Scheme treatment and management systems to allow for recycled water supply to higher risk uses in the residential space (toilet flushing and washing machines). This is to allow for the upcoming supply to the West Byron development and maintaining a reliable and

safe supply to current connections in the system (irrigation and toilet flushing in public areas and businesses).

- Council has been taking an opportunistic approach to extend supply to “low hanging fruit” connections such as irrigation/outdoor uses on public green areas and businesses. These are assessed on a case-by-case basis (e.g. considering funding availability, proximity to recycled water mains, etc.). This approach is likely to continue.

- Recycled water at the regional level – Council staff are keeping track of RCC’s progress in the recycled water space to ensure strategic alignment and synergies. At this stage, RCC is recommending that Council continues with recycled water efforts at a local level. BSC will remain in proactive communication with RCC regarding this issue.

### ii) efficiency and water conservation measures

Appropriate urban water conservation is a required outcome of the *NSW Best-Practice Management of Water Supply and Sewerage Framework* and the *Water Management Act 2000* (as well as the *National Water Initiative*). Demand management and water conservation measures are implemented by councils using a suite of measures usually defined in a Demand Management Plan or IWCM Strategy. The Best-Practice Management Framework has been streamlined with checklists from the 2007 best-practice guidelines superseded by the 2019 checklist for IWCM Strategies and 2014 Checklist for Strategic Business Plans. The checklists require demand management measures to be assessed including pricing, a review of the current program and potential new non-build water conservation measures with respect to their cost effectiveness (leakage reduction, pressure reduction, other losses, communication, permanent water conservation measures, retrofit etc.), the impacts of BASIX, open space irrigation, metering and billing.

Demand management initiatives have been successful in the region at reducing water demand. Previous demand management initiatives across the region have focussed on top-down measures including:

- Regulation - BASIX (mandatory rainwater tanks for new development) and standards for plumbing and water-related appliances through the water efficiency labelling scheme (WELS).
- Pricing - water supply tariffs are set by Council to achieve full cost recovery and related best-practice requirements.
- Incentives - rebates for water saving fixtures, fittings, rainwater tanks and recycled water connections available through RCC.
- Education and marketing - to inform people about the value and scarcity of water and the need for water conservation.
- Technical/engineering approaches - smart meters (limited application within the region to date), low-flow plumbing fixtures, insulation of hot water pipes, low water use irrigation fixtures, less water intensive gardens and alternative water sources.

Increased water efficiency and demand management strategies have reduced or eliminated many of the non-essential uses of water from everyday life, meaning that it is now harder to achieve sustainable long-term reductions in demand. This is termed 'demand hardening'.

- 5 The 2018 RCC Regional Demand Management Plan (RDMP) provides details on demand management strategies to be adopted over four years (2019 - 2022) within the Ballina, Byron, Lismore and Richmond Valley Council areas. The initiatives in the RDMP have targeted all potable water supply customers in the region (including Mullumbimby). The RDMP includes actions for Council to reduce demand (monitoring, evaluation and
- 10 reporting, water loss management, non-residential programs, smart metering, recycled water, rainwater tank rebates and community engagement and engagement). Most of these options are still under-development and the full cost and resulting demand reduction are unknown.

- 15 A Water Loss Management Plan was prepared for Council in 2019 (Detection Services, 2019) including flow metering, pressure management recommendations, active leak detection and repair. Pressure management areas were originally implemented in 2007 and have recently been improved in the low-lying areas and parts of northern Mullumbimby.

- 20 Ongoing review and update of demand management activities is a key component of the RCC Future Water Project 2060. RCC is currently reviewing and updating the RDMP for the next four years (2023 – 2026). A draft of the RDMP 2023 - 2026 will be on public exhibition during 2022. The draft RDMP 2023 – 2026 was developed through:

- Consultation with RCC and the constituent councils separately and through the Regional Water Supply Agreement Liaison Committee (the Liaison Committee).
- 25 • Review of previous RDMP 2019 - 2022 implementation progress.
- Review of the demand management initiatives of other water utilities.
- Consideration of current indicators of demand and losses.
- Investigation of behaviour change applications in water supply demand management.

- 30 The draft RDMP includes a combination of top-down measures and complementary behaviour change components that aim to enhance the success of the plan through a measurable and persistent reduction in water use in all households by allowing individuals and households to:

- Create a situation where they are facilitated to choose their own reasons for change.
  - Form their own plan for change using both existing and potentially new tools.
- 35 The top-down measures and behaviour change components will complement the supply measures adopted in the Future Water Project 2060 for the RCC regional supply areas. A key driver of the RDMP is the economic benefit of deferring or downsizing new water supply works as much as possible. The objectives of demand management in the region are to reduce normal consumption and average supply requirements to reduce the

urgency of water source augmentation. Demand management actions also aim to increase awareness of the value of water and level of customer consumption. Innovative approaches have been proposed to improve the success of any actions over time. Pilot programs are proposed to test uncertainties and prove effectiveness of potential new or modified actions.

The focus areas for the draft RDMP 2023 – 2026 are:

1. Collection and analysis of detailed demand data - accurate identification of water demand in terms of customer sectors and uses and improved understanding of components of water losses.
2. Pilot programs focusing on changing behaviour of residents to use less water to complement other supply and demand measures and to test the community desire, costs and benefits of future residential retrofit programs for household and external water uses. Residential programs will also be designed to include components which support residents to identify and repair leaks.
3. Customer engagement programs targeting key business sectors, schools, older properties with inefficient fittings and fixtures, household leaks or high-water users with increased customer involvement, understanding and ownership of water efficiency requirements.

In parallel with the RDMP, Council will implement effective asset management and strategic planning activities including water loss management programs aimed at reducing water wastage through leakage and to assist with improved understanding of water supply and demand. Water supply pricing will be reviewed on an ongoing basis to support the demand management objectives. The demand reduction measures suitable for Mullumbimby water supply will be considered in the development of Council's revised IWCM Strategy.

Smart metering, in conjunction with the water loss management program can reduce water loss within the water network by identifying leaks and assist customers to better understand water usage. Council is currently undertaking a pilot project in East Mullumbimby (potable customers) and Byron Bay (recycled water users) to determine the viability of smart metering for the remainder of the shire.

### **iii) amendments to BLEP that ensure the health of local sources and water catchments**

Clause 6.5 Drinking Water Catchments of the Byron LEP 2014 aims to protect drinking water catchments by minimising the adverse impacts of development on the quality and quantity of water entering drinking water storages. This clause applies to land zoned under the 2014 LEP and identified as "Drinking water catchment" on the Drinking Water Catchment Map including the parts of the catchments of Wilsons River Source and parts of the Lavertys Gap Weir catchment.

Clause 6.5 states that:

*(1) The objective of this clause is to protect drinking water catchments by minimising the adverse impacts of development on the quality and quantity of water entering drinking water storages.*

5 *(2) This clause applies to land identified as “Drinking water catchment” on the Drinking Water Catchment Map.*

*(3) In deciding whether to grant a development application for development on land to which this clause applies, the consent authority must consider the following -*

10 *(a) whether or not the development is likely to have any adverse impact on the quality and quantity of water entering the drinking water storage, having regard to the following -*

*(i) the distance between the development and any waterway that feeds into the drinking water storage,*

*(ii) the on-site use, storage and disposal of any chemicals on the land,*

15 *(iii) the treatment, storage and disposal of waste water and solid waste generated or used by the development,*

*(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

20 *(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that -*

*(a) the development is designed, sited and will be managed to avoid any significant adverse impact on water quality and flows, or*

*(b) if that impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that impact, or*

25 *(c) if that impact cannot be minimised - the development will be managed to mitigate that impact.*

The Drinking Water Catchment Map only applies to land zoned under the 2014 LEP. Some areas were deferred from being zoned in the Byron LEP 2014. These areas are known as Deferred Matters (DM) and 1988 LEP land use zones still apply.

30 The LEP zoning and Drinking Water Catchment map is overlaid with the hydrological catchment areas within Byron Shire for the two drinking water supplies in *Figure 1*. Deferred Matter areas with LEP 1988 land zonings within the drinking water catchments are summarised in *Table 1*.

*Table 1: Details of drinking water catchments within Byron Shire and LEP provisions*

# BYRON SHIRE COUNCIL

## STAFF REPORTS - INFRASTRUCTURE SERVICES

13.13

LEP Provisions/area (ha)	Lavertys Gap Weir catchment	Wilsons River Source catchment
Catchment area within Byron Shire	2,625	23,583
<b>2014 LEP</b>		
Drinking water catchment map (Clause 6.5)	1,098	18,975
<b>1988 LEP (Deferred Matter)</b>		
<i>Rural zones</i>		
1A – General Rural	9	1,451
1A – General Rural (hatched – Clause 38)	9	2,243
1B1 – Agricultural Protection B1	-	205
1B2 – Agricultural Protection B2	-	140
1C1 – Small Holdings C1	-	33
1D – Investigation	-	0.03
1E – Extractive Resources	-	7
1F - Forestry	6	5
<i>Urban zones</i>		
2A – Residential	-	0.01

# BYRON SHIRE COUNCIL

## STAFF REPORTS - INFRASTRUCTURE SERVICES

13.13

LEP Provisions/area (ha)	Lavertys Gap Weir catchment	Wilsons River Source catchment
2V – Village	-	1
5A – Special Uses	-	11
6A – Open Space	-	2
<i>Environmental protection zones</i>		
7C – Water Catchment	1,231	15
7D – Scenic Escarpment	3	102
7J – Scientific	-	20
7K – Habitat Zone	279	373
<i>Reservation zones</i>		
9A – Proposed Road Reserve Zone	-	0.5
<i>Total Deferred Matter</i>	<i>1,528</i>	<i>4,608</i>

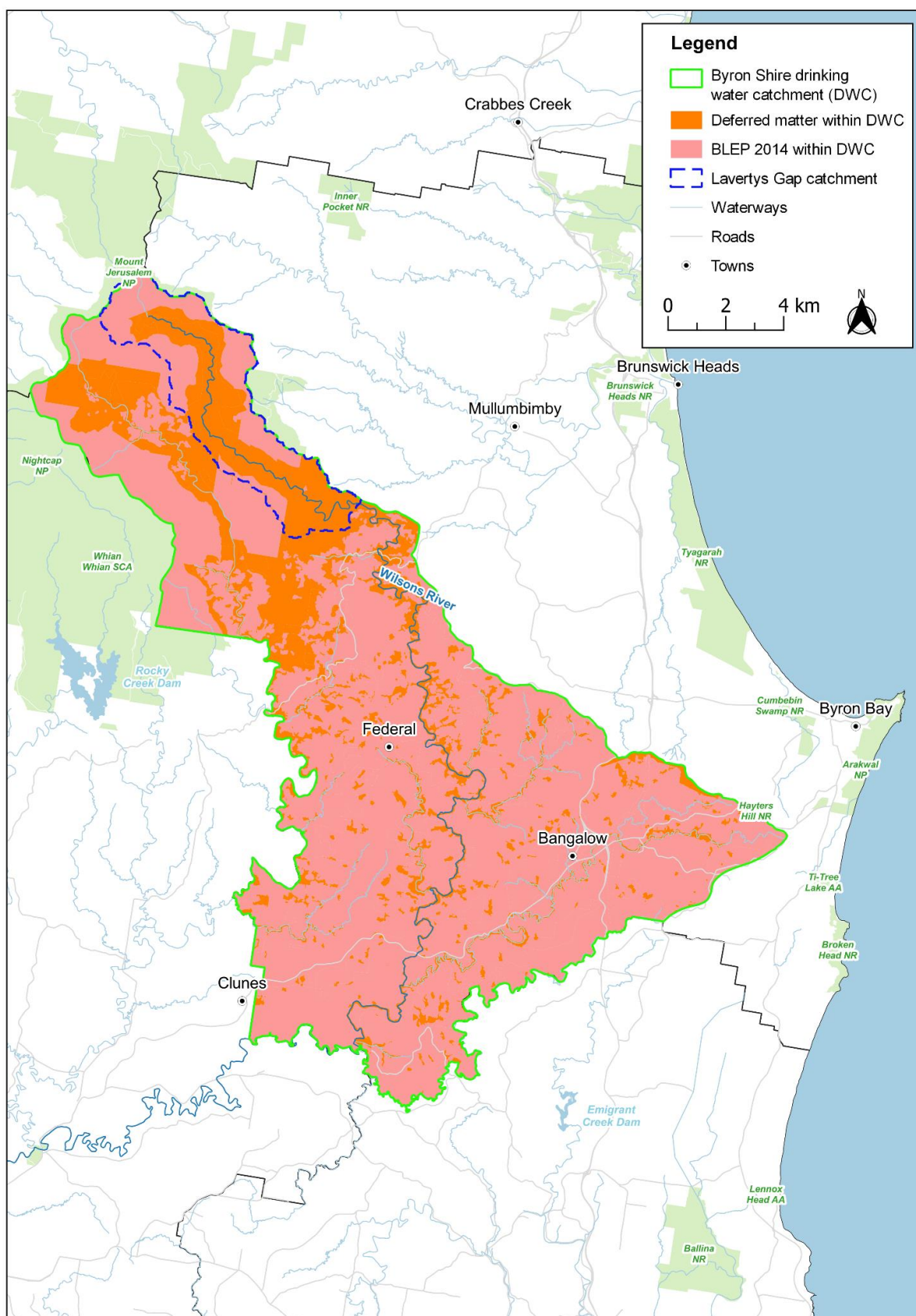


Figure 1: Drinking water catchments within Byron Shire and LEP provisions



**iv) a community engagement plan to progress the matters identified in this resolution**

RCC has undertaken extensive community consultation as part of the development of the Future Water Project 2060 and has incorporated the feedback in revisions as adopted by RCC. To progress the development of the preferred long-term strategy for Mullumbimby, the following consultation actions are required:

- Liaison with RCC regarding connection to the regional water supply including:
  - Long-term security.
  - Costs of connection to the regional supply.
  - Revision of service level agreement.
- Community engagement on the proposed strategy including First Nations representatives.
- Liaison with trunk main customers to develop alternative water supply options.
- Consultation with Essential Energy regarding assets associated with the hydroelectric facility.
- Consultation with relevant agencies such as Department of Primary Industries (DPI) - Fisheries, Heritage NSW, Department of Planning and Environment (DPE) - Water and NSW Health.
- Request for increase in water extraction licence from DPE - Water.

It is expected that Council would place the draft Mullumbimby Water Supply Strategy on public exhibition and incorporate community feedback prior to adoption.

The RDMP 2019 -2022 and draft RDMP 2023 - 2026 also have a strong community engagement focus. As water demand education and awareness activities promote the uptake of water efficiency measures and highlight water wastage, they also engage the community to be better advocates for water conservation and protection, with the expectation that water is supplied, delivered and used efficiently.

Stakeholder engagement is an important component of the IWCM Strategy review commenced this year. This will include:

- Consultation with key agencies such as DPE - Water, EPA and NSW Health.
- Review and incorporation of the relevant outcomes of previous consultation undertaken by Council.

The approach to community consultation will be developed in later stages of the IWCM project and may include dedicated project reference group (PRG) workshops or workshops with the Water, Waste and Sewer Advisory Committee.

**v) considers development of local water sources and partnerships with other LGAs that complements the diversified direction established by the adopted IWCM.**

5 The development of local water sources for Mullumbimby is discussed in part i) above. To  
 10 reduce overall environmental impact, the utilisation of existing water infrastructure (within  
 sustainable limits) should be considered in preference to the exploitation of new resources.  
 The connection to the RCC bulk supply system provides the opportunity to utilise existing  
 supply/treatment infrastructure and reduce the potential for over-extraction from Wilsons  
 River at Lavertys Gap. The opportunities for effluent reuse are also discussed in part i)

15 above.  
 The harvesting of flood flows and utilisation of off-stream storages is often regarded as a  
 viable strategy for surface water extraction. Typically, this results in the preservation of the  
 low-flow hydrological regime downstream, with a relatively small proportion of the highest  
 flows being affected. Whilst this may have geomorphological implications due to reduction  
 of scouring flows, and hence long-term effects on downstream habitats, the impact on  
 instream waterways can be minimised. If a suitable site, with minimal inherent  
 environmental values can be used for the off-stream storage, the ecological impacts of an  
 off-stream storage scenario for Mullumbimby (S2) can be minimised. Other environmental  
 factors such as water losses (due to evaporation), pumping costs/ energy/ carbon  
 emissions, loss of agricultural land etc. then become more important.

20 Scenarios relying on local groundwater supplies (S4 – potentially a local fractured rock  
 groundwater supply and S3 – proposed future coastal sand aquifer supply at Tyagarah as  
 part of the regional water supply) have the potential to impact on groundwater dependent  
 ecosystems (GDEs). These impacts are expected to be adequately managed through site  
 selection and extraction regimes, although this needs to be undertaken with a clear  
 understanding of the aquifer hydrology and the degree of connectivity to GDEs. The  
 environmental response of aquifers and GDEs to extraction can be long-term, hence the  
 impacts of over-extraction tend to be masked and more difficult to detect in monitoring. For  
 this reason, it is prudent to build groundwater extraction schemes incrementally to ensure  
 that there is time to detect impacts on GDEs and adjust extraction accordingly. Any  
 impacts on the terrestrial environment at groundwater extraction sites are expected to be  
 adequately managed through site selection.

35 There has been no assessment undertaken of the cumulative impact of the options for  
 Mullumbimby involving connection to RCC supplies, however it is considered that  
 connection to a regional water supply scheme would result in lower environmental impact  
 than development of an additional local supply source and infrastructure in Mullumbimby.  
 In addition, reduced extraction from Lavertys Gap Weir and potentially taking the weir out  
 of service may improve environmental outcomes for the Wilsons River system over the  
 long-term. Other beneficial uses of the weir may also be identified by Council.

40 As discussed in part i) above, RCC will investigate the development of local water sources  
 as part of Stage 2 and 3 of the Future Water Project 2060 across the Ballina, Byron,  
 Lismore and Richmond Valley LGAs. Council is also working with RCC and the other  
 constituent councils (Ballina, Byron and Lismore) in the development and implementation  
 of demand management initiatives.

The *Northern Rivers Regional Bulk Water Supply Study* prepared by NOROC in 2013 examined potential scenarios for interconnecting the region's water supplies to address water security issues. The study concluded that significant financial, social and environmental benefits are expected to be gained from interconnecting the region's water supply as well as improving the resilience and flexibility of the system. These options would require the cooperation of the Northern Rivers Joint Organisation of Councils, RCC, Tweed, Ballina, Byron, Lismore, Richmond Valley and Byron Shire Council. These regional options are also included in the long list of options in the Draft *Regional Water Strategy for the Far North Coast* prepared by the NSW Government in 2020. Tweed Shire Council is planning to raise Clarrie Hall Dam as a short-term augmentation option for the Bray Park water supply. RCC and Tweed Shire Council are implementing the next stage of their water strategies independent of a regional approach. In the longer term, RCC and other regional water supply authorities may consider additional interconnection options.

## Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
<b>Community Objective 1: We have infrastructure, transport and services which meet our expectations</b>	1.5: Provide continuous urban water and sewerage services within the Shire	1.5.3: Ensure Water Supply is maintained in accordance with NSW Health guidelines	<b>1.5.3.2</b>	Implement recommendations from Mullumbimby water supply security investigations and upgrade

## Recent Resolutions

**21-271** Resolved that Council notes the adoption of the *Integrated Water Cycle Management (IWCM) Strategy* at the 21 July 2021 Extraordinary Meeting of Rous County Council (RCC) and ...

a) recognises the traditional custodians including the Widjabul Wia-bal people and their deep cultural knowledge, connection and understanding of the water cycle and natural catchment systems within the RCC service area.

b) acknowledges the role of Byron Shire Council to be part of securing our future water supply, both as constituent members of RCC and as responsible custodians of our region

c) consults with our community to,

i) reduce reliance on town water,

ii) strengthen community preparedness for climate extremes, and

*iii) expand take up of water reuse sources.*

*d) provides a report to the new Council within 3 months of election that identifies*

*i) diverse local supply modes and sources,*

*ii) efficiency and water conservation measures,*

5 *iii) amendments to BLEP that ensure the health of local sources and water catchments,*

*iv) a community engagement plan to progress the matters identified in this resolution, and*

10 *v) considers development of local water sources and partnerships with other LGAs that complements the diversified direction established by the adopted IWCM.*

### **Financial Considerations**

Implications will be dependent on options or strategy adopted by Council to address the issue of water supply security.

### **Consultation and Engagement**

15 Ongoing consultation and hold points through the Water and Sewer Advisory Committee. BSC's IWCM will have community engagement plan and process through public exhibition consistent with RCC IWCM adoption process.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

**Report No. 14.1      Report of the Local Traffic Committee  
Meeting held on 12 April 2022**

5    **Directorate:**                      Infrastructure Services

**Report Author:**                Michelle Wilcox, Traffic & Parking Systems Officer

**File No:**                            I2022/350

---

10   **Summary:**

The attachment to this report provides the minutes of the Local Traffic Committee Meeting held on 12 April 2022 for determination by Council.

Council's action on the LTC advice will be:

- 15    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 TfNSW or the NSW Police representatives of the decision.
- b)    If Council is in agreement with the LTC unanimous support, but no longer wants to proceed, the proposal may still be rejected.
- 20    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 TfNSW or the NSW Police representatives of the decision.
- 25    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 TfNSW and the NSW Police representatives in writing of their intention to approve the proposal. TfNSW or the NSW Police may then lodge an appeal to the Regional Traffic Committee (RTC).
- 30    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 TfNSW and NSW Police representatives in writing of their intention to approve the proposal. TfNSW or the NSW Police may then lodge an appeal to the RTC.

Due to the fact that the TfNSW and the NSW Police have the power to appeal certain decisions of the Council, the LTC cannot provide its advice to Council until both TfNSW and the NSW Police have provided their vote on the issue.

---

**RECOMMENDATION:**

- 5 1. That Council notes the minutes of the Local Traffic Committee Meeting held on 12 April 2022.

2. That Council adopts the following Committee Recommendations:

**Report No. 6.1 Dedicated parking for parcel pick-up Byron Farmers Market**  
File No: I2022/111

**Committee Recommendation 6.1.1**

**That Council support:**

1. The use of 5 parking spaces located between the old and new disabled parking bays on Somerset Street, Byron Bay to the Byron Farmers Market Inc during the weekly farmers markets for the period of their lease.
2. The installation of “loading zone, Rear to Kerb, 15 minute, Thursday 7am-11am” signs on the existing sign posts between the old and new disabled parking bays on Somerset Street, Byron Bay.
3. Removal of the old disabled parking bays pavement markings to the left of the proposed loading zone to reduce confusion regarding parking restrictions.

3. That Council adopts the following Committee Recommendation:

**Report No. 6.2 No Overnight Parking - Bangalow Heritage House**  
File No: I2022/136

**Committee Recommendation 6.2.1**

**That Council acknowledge the comments of the committee and note the matter is deferred to the next available LTC meeting.**

**4. That Council adopts the following Committee Recommendation:****Report No. 7.1 Clays Road & Coral Avenue upgrade**

File No: I2022/188

**Committee Recommendation 7.1.1**

That Council support the regulatory signs, lines and traffic control devices associated with the Clays Road and Coral Avenue upgrade, as shown in Attachment 1 (E2022/19154) modified to accommodate TfNSW comments.

**5. That Council adopts the following Committee Recommendations:****Report No. 7.2 Event - Byron Triathlon 7 May 2022**

File No: I2022/324

**Committee Recommendation 7.2.1**

That:

1. That as supported by Council Resolution 22/101 Council endorse the Byron Bay Triathlon to be held on Saturday 7th May 2022, which includes the following temporary road closures below:

<b>CLOSED STREETS</b>	<b>BETWEEN</b>	<b>TIMES</b>
Bay St	Fletcher St to Middleton St (both directions)	4am-12pm
Middleton St	Bay St to Marvel St (both directions)	4am-12pm
Middleton St	Lawson Street and Marvel Street (both ways)	4am-10.30am
Lawson St	Middleton St to Massinger St (both directions)	4am-12pm
Marvell St	Middleton St to Tennyson St (both directions)	5am-10.30am
Tennyson St	Marvell St to Browning St (both directions)	5am-10.30am
Bangalow Rd	Browning St to Old Bangalow Rd (both directions)	6am-10am
Broken Head Rd	Old Bangalow Rd to BP Service Station	6am-10am

	<b>Beech Drive (both directions)</b>	
--	--------------------------------------	--

**2. That the approval provided in Part 1 and Part 2 is subject to:**

- a) separate approvals by NSW Police and TfNSW being obtained;**
- b) The event organiser provide Council with an updated Traffic Management Plan and Traffic Control Plans for the 2022 event no later than two (2) weeks prior to the event;**
- c) development and implementation of a Traffic Management Plan and Traffic Control Plan(s) by those with appropriate TfNSW accreditation and the holding of current and appropriate levels of insurance and liability cover including the provision of VMS boards one week prior to the event;**
- d) the impact of the event be advertised, and charged at cost to the organisers, via a notice in the local weekly paper a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints;**
- e) the event be notified on Council's web page with the event organiser supplying Council with the relevant information;**
- f) Access from main beach car park to Fletcher St is to be unrestricted at all times.**
- g) Access to Lawson St between Fletcher St and Middleton St to be permitted at all times.**

**3. That the event organisers:**

- a) inform the community and businesses that are directly impacted (eg within road closure zones) via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised;**
- b) arranging for private property access and egress affected by the event;**
- c) liaising with bus, taxi and waste operators and ensuring arrangements are made for provision of services during conduct of the event;**
- d) consulting with emergency services and any identified issues be addressed;**
- e) holding \$20m public liability insurance cover which is valid for the event;**



# BYRON SHIRE COUNCIL

## REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

14.1

- f) paying Council's Road Event Application Fee prior to the event.
- 4. subject to the provision of Traffic Control Plans considered satisfactory to Council for the event, that the signs and devices necessary to effect the temporary road closures also be approved.

### **Attachments:**

5

- 1 Minutes 12/04/2022 Local Traffic Committee, I2022/289 

## Report

The attachment to this report provides the minutes of the Local Traffic Committee Meeting of 12 April 2022 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 [Agenda of Local Traffic Committee Meeting - Tuesday, 12 April 2022 \(infocouncil.biz\)](https://infocouncil.biz)

This report contains the recommendations of the Local Traffic Committee (LTC) meeting held on 12 April 2022.

### Committee Recommendation

Refer to minutes attached.

### 10 Management Comments

Refer to minutes attached.

### Financial Implications

As per the Reports listed within the Local Traffic Committee Meeting of 12 April 2022.

### Statutory and Policy Compliance Implications

- 15 As per the Reports listed within the Local Traffic Committee Meeting of 12 April 2022.

QUESTIONS WITH NOTICE

**Question with Notice No. 15.1 Suffolk Park Caravan Park**

**File No:** I2022/282

5

---

Cr Dey asks the following questions:

- 10 1. How many sites does the Suffolk Park Caravan Park contain and how many are set aside for permanent occupation?
2. In what management plan or similar are such things defined?
3. Does that plan recognise or distinguish between Operational and Community classified land within the Park and, if so, where is the boundary shown on a plan or map?
- 15 4. How many permanent sites are owned by Council itself?
5. Are there plans to re-purpose sites within the Park and, if so, when and how many sites?
6. Why, during a housing crisis, are there empty sites in the permanent resident section?
- 20 7. Is any of the land that the caravan parks occupies impacted by Native Title issues?

**Response Director Infrastructure Services:**

Answers to the questions posed are provided below. These responses need to be considered relative to the complex history around the long-term sites at Suffolk Beachfront Holiday Park. Current processes in play to address historic anomalies around the long-term sites also need to be noted.

To legally accommodate long term residents within the Holiday Park Council in 2018 finalised an extensive statutory process to reclassify a section of the Holiday Park from community land to operational land. This was required because residential use and long-term licences conflicted with the previous community land classification under the Local Government Act 1993.

Once reclassification was approved, Council in September 2018 resolved to endorse a project plan and communication strategy to transition current permanent residents to new site agreements and to ensure regulatory compliance. This plan is progressing well and is being worked through in close liaison with permanent residents.

## BYRON SHIRE COUNCIL

### QUESTIONS WITH NOTICE

15.1

A presentation is currently planned to be tabled at the Strategic Planning Workshop in June outlining actions currently underway and potential opportunities around long-term sites within the legislative requirements.

#### Question Responses:

- 5      1.      The current approval to operate for the park provides for a total of 82 sites; of these there are 19 long-term sites, 12 short-term sites and 51 campsites (Attachment 1).
- 10      2.      There is no adopted Plan of Management (POM) for this land. A draft POM had previously been prepared in 2012, but this process identified the legislative conflict around utilising community land for long term sites and triggered the required process to reclassify a section of the Holiday Park from community land to operational land.
- 15      The LEP land zoning for Suffolk Beachfront Holiday Park outlines permitted uses for RE1 zoned (Public Recreation). The LEP amendment in 2018 was actioned by Council to legally allow long term residents to occupy their own dwellings at the park and have some secure long-term tenure.
- 20      The ATO for the Suffolk Beachfront Holiday Park outlines the approved site allocations within the park according to the size and site requirements outlined in the legislation. The ATO is renewed based on general compliance with the Local Government (General) Regulation, Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation, and for Suffolk Park special conditions for long term sites
- 25      3.      The 2018 Byron LEP amendment (Attachment 2) distinguishes between the Operational & Community Land. Attachment 3 contains the survey map referenced within the Byron LEP Amendment, with the grey areas indicating re-classification of operational land. This plan also shows the surveyed boundary lines and associated encroachments onto Crown land.
- 30      4.      All the sites within the park are owned by Council. 19 sites are designated for long term occupancy. The long-term sites within Suffolk Holiday Park are effectively a land lease community, whereby the owner/occupier of the home rents the site on which the home sits from the operator, which in this case is Council.
- 35      .      The home may be a manufactured home or a moveable dwelling such as a caravan. The dwelling owner pays site fees (rent) for the right to occupy the site and is responsible for all maintenance and upkeep of the home.
5.      A presentation is planned for the Strategic Planning Workshop in June 2022. This presentation will outline opportunities across the park, including actions currently underway to address compliance and the potential opportunities around long-term sites, within the legislative requirements.

# BYRON SHIRE COUNCIL

## QUESTIONS WITH NOTICE

15.1




6. The approval to operate allows 19 long-term sites at the holiday park. Of the 19 designated long-term sites;

- 14 sites have owner occupier dwellings
- One site with a privately owned dwelling has a sublet tenant
- One site with a Council owned dwelling that is tenanted
- One site with a Council owned dwelling tenanted to a community organisation.
- Two sites are currently vacant and are used for overflow tourist sites.

Compliance issues with the long-term dwellings, including the size of individual sites and encroachments onto crown land are currently being addressed through an engagement process with the dwelling owners. Once these compliance issues and encroachments are rectified, opportunity will arise for all long-term sites to be fully tenanted by residents.

7. The encroachments onto Crown Land have Native Title implications. This Crown Land encroachment has impacted available options for a number of both long-term and short-term sites. The SPW presentation planned in June will provide options to resolve the encroachments within legislative constraints.

### **Attachments:**

- 1 Plan attached to Approval to Operate Suffolk Beachfront Holiday Park, E2022/31897 
- 2 Byron LEP 2014 Amendment 15 - Gazetted Instrument, E2022/31853 
- 3 Suffolk Beachfront Holiday ~ Map showing permanent sites, E2022/31853 

## Question with Notice No. 15.2 Intersection of McGettigans Lane with Ewingsdale Road

File No: I2022/351

5

---

Cr Duncan Dey asks the following questions:

1. Are there designs ready for a roundabout or other upgrade configuration for this intersection, to ease the danger and extreme inconvenience to users of McGettigans Lane?
2. When was the last traffic count undertaken and does it identify school related traffic volumes?
3. Has an intersection upgrade project been on Council's works program in previous years?
4. Would such an upgrade be funded by Council or by the State, or a combination?
5. Is progress of this matter held up by questions around expanding Ewingsdale Road to dual lanes?

### Response Director Infrastructure Services:

The proposed roundabout on MR545 Ewingsdale Road and McGettigans Lane is one part of a much bigger project that has been submitted to Infrastructure Australia.

There are known capacity issues associated with Ewingsdale Road and the M1 interchange.

Council has been working with Transport for NSW on this issue since 2019. Council had previously made an application to Infrastructure Australia to have the upgrading of Ewingsdale Road identified as a priority project for Australian Government funding, this application was unsuccessful. A second application was subsequently made to Infrastructure Australia by Council and Transport for NSW that included updated traffic modelling and a new financial model to demonstrate that the project was of national significance.

The second application was successful with the project moving through the first gateway of the Infrastructure Australia process. Detail of the project can be found here: <https://www.infrastructureaustralia.gov.au/map/m1-pacific-motorway-byron-bay-interchange-capacity>

The full application including of all the traffic and financial modelling was provided to the previous Council and can be made available on the hub if requested.

The next step in the process is the completion of an options study. Stakeholder engagement will be a key part of the options study and is a requirement of the Infrastructure Australia guidelines. The Ewingsdale community will be key stakeholders in this process. This is a process that will involve all three levels of government.

- 5 Traffic modelling undertaken to date indicates that a roundabout constructed in isolation may not be an appropriate solution to the larger capacity issue in the network. Council does not hold sufficient developer contributions for fund the roundabout at this point in time.

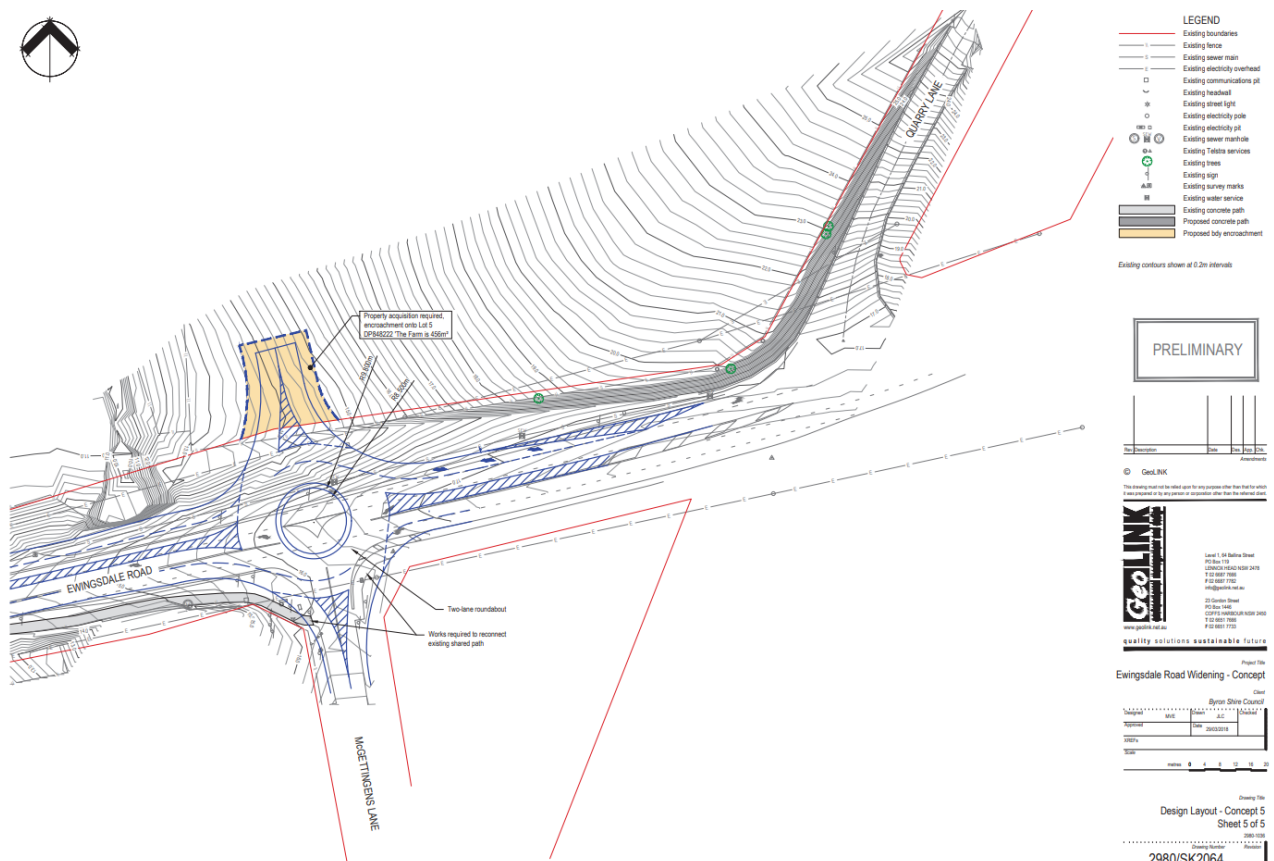
- 10 MR545 is also part of an application to the Independent Panel assessing the handover of regional roads to Transport for NSW. The outcome of this process has yet to be finalized. If MR545 becomes a State road then the responsibility for the upgrades reverts to Transport for NSW.

A briefing for Councillors on the Infrastructure Australia project will be scheduled for a future strategic planning workshop.

- 15 To answer the specific questions:

1. Council had engaged a consultant to prepare a preliminary 2D high level concept plan for the dual lane upgrade of Ewingsdale Road from McGettigans Lane to the interchange. Part of this concept design was a roundabout of similar specifications to that constructed at Bayshore Drive.

- 20 An excerpt from the plan set is shown below.



## BYRON SHIRE COUNCIL

### QUESTIONS WITH NOTICE

15.2

- 5
2. Full classifier counts that include volumes by vehicle classification, hourly volumes, and speed profiles was undertaken on Ewingsdale Road west of the Hospital roundabout from 30 October 2019 to 9 November 2019 and on McGettigans Lane 150m south of the intersection from 31 July to 28 August 2019. Both of these counts were undertaken during school term.
- 10
3. The intersection upgrade is in Council's developer contributions plan. The preliminary concept work had been funded from developer contributions. The construction is not in the 10 Year capital plan as it is currently unfunded. As has been outlined above, a roundabout at this intersection will not be constructed in isolation as it is part of a much larger project.
4. The application to Infrastructure Australia is to seek Australian Government funding. The total project will likely be funded by all three levels of government.

15

A roundabout at this location cannot proceed without funding. There are currently no suitable grants schemes for a roundabout in this location. Council does not hold sufficient developer contributions to fund the roundabout. Securing Australian Government funding through the Infrastructure Australia process is currently the best option to progress these works. This does mean that the roundabout is tied to the upgrade of the M1 interchange and the dual lane upgrade of Ewingsdale Road from McGettigans to the interchange.

20



## Question with Notice No. 15.3 Peak water levels in Byron for the March 2022 flood event

File No: I2022/352

5

---

Cr Duncan Dey asks the following questions:

1. When will surveyed flood levels for this event in and around Byron Bay be published?
- 10 2. Along the route of westwards from Byron's CBD to Belongil Creek (the Main Drain and Cumbebin Wetland) what were the affluxes through significant structures such as the railway embankment and under Butler Street & the Bypass embankment?
3. If surveyed levels of peak water marks are not available, can they be sought and surveyed?

### Response Director Infrastructure Services:

- 15 Following is an extract from the report to the Floodplain Management Advisory Committee on 21 April 2022 which outlines the current status for the collection of flood related data and survey information.

20 *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.*

25 *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*

30 *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.*

35 *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*

## BYRON SHIRE COUNCIL

### QUESTIONS WITH NOTICE

15.3

*arrangements are still being negotiated with various Government departments and authorities together with Council.*

- 5 *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.*
- 10
- 15 *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.*