

Agenda Ordinary Meeting

Thursday, 23 February 2023



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.

OATH AND AFFIRMATION FOR COUNCILLORS

Councillors are reminded of the oath of office or affirmation of office made at or before their first meeting of the council in accordance with Clause 233A of the Local Government Act 1993. This includes undertaking the duties of the office of councillor in the best interests of the people of Byron Shire and the Byron Shire Council and faithfully and impartially carrying out the functions, powers, authorities and discretions vested under the Act or any other Act to the best of one's ability and judgment.

BYRON SHIRE COUNCIL

BUSINESS OF ORDINARY MEETING

1. PUBLIC ACCESS
2. APOLOGIES
3. ATTENDANCE BY AUDIO-VISUAL LINK / REQUESTS FOR LEAVE OF ABSENCE
4. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY
5. TABLING OF PECUNIARY INTEREST RETURNS (CL 4.14 CODE OF CONDUCT FOR COUNCILLORS)
6. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS
 - 6.1 Ordinary Meeting held on 15 December 2022
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15. QUESTIONS WITH NOTICE

Nil

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

Councillors are encouraged to ask questions regarding any item on the business paper to the appropriate Director prior to the meeting. Any suggested amendments to the recommendations should be provided to Councillor Support prior to the meeting to allow the changes to be typed and presented on the overhead projector at the meeting.

NOTICES OF MOTION

Notice of Motion No. 9.1 Including Left Bank Road properties in hospital site rezoning

5 **File No:** I2023/164

I move that Council:

- 10 1. **Recognises that rezoning of the ex-hospital site, on the corner of Azalea Street and Left Bank Road Mullumbimby, will enable development that is likely to heavily impact amenity of properties bordering the site to its south; and**
- 15 2. **brings four properties (2, 4, 12 and 16 Left Bank Road Mullumbimby; currently zoned R5) into the rezoning process that is underway for the ex-hospital site (currently zoned SP2) with the aim of zoning all properties R1.**

Attachments:

- 1 Map with adjoining 4 properties R5 to R1 L B Road, E2023/15160 

20 **Signed: Cr Duncan Dey**

Councillor's supporting information:

25 Four properties border the Mullumbimby ex-hospital site to its south. Council intends to 'upzone' the ex-hospital site to R1 zone and thus enable affordable housing amongst other uses on the site. This implies housing density and height that differs greatly from Council's neighbours to the south. Such development is likely to overshadow those neighbours, as well as overlook them.

One of the property owners addressed Council at our meeting of 15 December.

30 Action 21 of the Byron Rural Land Use Strategy flags them along with many other R5-zoned properties in the Shire for consideration for a change of zone to allow urban development. However, that process could take years longer than the process for the hospital site.

35 An equitable way of sharing the burdens and the benefits of development is to examine precincts rather than just properties. Recognising cross-boundary impacts south of the ex-hospital site points towards a zone boundary as proposed in this motion. These four properties are the most impacted. A fifth property west of these four has a different aspect, is vacant and drains westward. It is not heavily impacted by the hospital proposal.

The benefits to community of including the four properties include the additional housing that these large Lots can provide once zoned R1. That is an urban zoning, which would include them being sewerred. Consideration of this expansion of the sewer network is implied by the Motion, if carried. As these properties drain eastward, including them in consideration of the sewer needs of the ex-hospital site makes sense. I do not believe this inclusion to be more complex than many other expansions seen over recent years.

Staff comments

by Shannon Burt, Director, Sustainable Environment and Economy:

Report No. 13.3 PLANNING - Rural Land Use Strategy Review Scoping Report was presented to Council [Agenda of Ordinary \(Planning\) Meeting - Thursday, 8 December 2022 \(infocouncil.biz\)](https://infocouncil.biz)

This report provided an update on a previous report resolution where Council resolved **22-246** several actions including:

- **22-246** Item 2 to receive a report by end of November 2022 that details the scope of works and budget estimate needed to undertake a comprehensive five-year Rural Land Use Strategy review, with this report to inform a forward budget bid for this work to progress.
- **22-246** Item 3 prioritise delivery of Rural Land Use Strategy Action 21 in the 2022/23 financial year, being: Investigate capacity for re-subdivision within existing Large Lot Residential estates.
- **22-246** Item 4 requesting an options paper on the potential for additional 20 land to be nominated for rural lifestyle living opportunities and/or other emerging housing types in peri-urban areas e.g. villages

Extract from the report below:

Action 21: Investigate Large Lot Residential estate capacity for re-subdivision

- 30 This project applies to land that is currently zoned R5 Large Lot Residential as shown on Attachment 1. R5 Large Lot Residential zone whilst managed under in the Rural Land Use Strategy is considered by the DPI and DPE ¹ as a residential zone.

Key considerations unpinning this investigation would include:

- potential to deliver Affordable Housing
- land capacity and risk/hazard management
- 35 • stakeholder input with best endeavours to minimise stresses to the established communities by providing check-in points in the process
- enhancing sustainability and climate change resilience outcomes

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STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.3

- infrastructure capacity for expected additional population encompassing:
 - efficient servicing
 - cost-recovery options
 - 5 - viable management framework to enable infrastructure upgrade cost allocation and sequencing where multiple landowners are involved
- Resolution 22-246 Item 5(a) that requested options for more community title and intentional community lands.

1. Sources: DPI Planning for Agriculture in Rural Land Use Strategies and the DPE draft North Coast Regional Plan 2041

- 10 Diagram 1 sets out the key stages to the investigation.



Investigate capacity for re-subdivision within existing Large Lot Residential estates



Desktop analysis to rank LLR estate feasibility to resubdivide



Workshop with Council to select priority estates to progress



Consult with stakeholders on priority estates



Undertake AHCS viability assessment



Report to Council on findings of analysis and consultation



Subject to 4 commence process to amend LEP/DCP including application of an affordable housing contribution scheme if viable

Diagram 1: Stages to Action 21 project

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NOTICES OF MOTION

9.1

Resolution from 8 December 2022 meeting:

Report No. 13.3 PLANNING - Rural Land Use Strategy Review Scoping Report
File No: I2022/1417

22-685 Resolved that Council:

1. Supports staff progressing the scope of work and process as outlined in this report to review the Rural Land Use Strategy (RLUS) and to deliver RLUS Action 21: Investigate capacity for re-subdivision within existing Large Lot Residential estates.
2. Acknowledges:
 - a) that infrastructure capacity is a key consideration when denser land use as proposed under Action 21 is considered;
 - b) that staff will investigate capability, capacity, and feasibility of any site considered for change from rural to serviced residential;
 - c) a requirement of the Department of Planning, Industry, and Environment's North Coast Regional Plan is that, where transition to urban is not feasible, then the potential for smaller lot R5 subdivision (with on-site sewage) will be investigated.
3. Supports staff progressing as a precursor to the Action 21 delivery, Residential Strategy refresh and the RLUS review, preparation of a Housing Response Options Paper that would encompass Resolution 22-246 Item 4.
4. Notes that funding to progress both the Housing Response Options Paper and Action 21 of the RLUS will be funded from Flood Response Planning Grant from the NSW Planning Delivery Unit.
5. Notes that any new or additional funding for the comprehensive review of the RLUS, will be considered in the 2023/24 budget process/compilation amongst other priorities. (Dey/Lyon)

Consideration of the R5 Large Lot Residential land including the four private lots for future development is being progressed by staff as per the above resolution/s of Council.

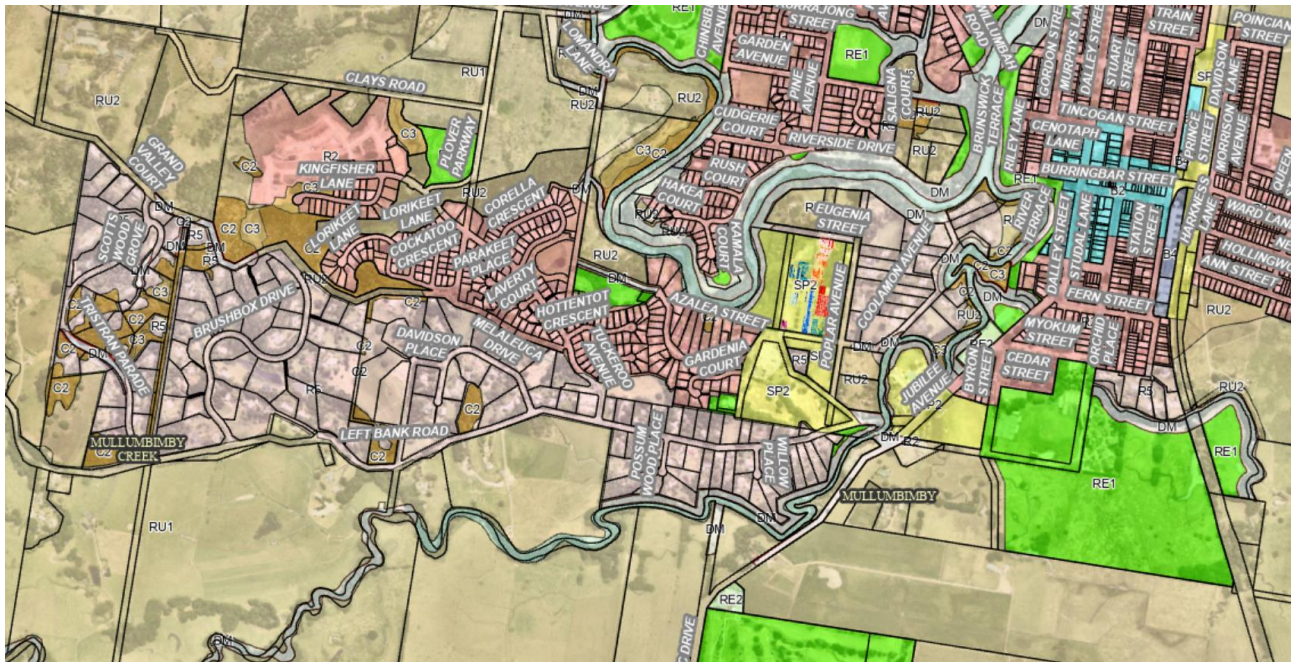


Image – R5 Large Lot Residential Zone Mullumbimby

Report No. 13.16 Former Mullumbimby Hospital - Land Use and Development Planning Update was considered [Agenda of Ordinary Meeting - Thursday, 15 December 2022](#) ([infocouncil.biz](#)), it noted the below in relation to this matter:

“There were also three requests to add some adjoining large-lot residential properties to the planning proposal process. This land is part of the Left Bank Road R5 Large Lot Residential area. In June 2022, Council resolved to progress Rural Land Use Strategy action 21 to investigate the capacity for re-subdivision of large lot residential areas. A separate report to the 8 December 2022 Council Planning meeting outlined a program for this work to align with the Residential Strategy refresh. This will facilitate an open and transparent consideration of options and issues such as infrastructure capacity. Another consideration will be the suitability for an affordable housing contribution scheme to be applied on possible land value uplifts resulting from an urban residential zoning and or further subdivision/densification.”

In the circumstances, staff do not support the NOM for the following reasons:

- Incorporating the four private lots as proposed into the planning proposal process for the Mullumbimby Hospital Site will complicate and significantly delay (stall) the rezoning of the site.
- Unlike the Mullumbimby Hospital Site, these private lots are not serviced or within a current urban servicing plan. Significant work needs to be done on land and servicing capability, and servicing augmentation, costs and sequencing needed to convert it to urban land before a decision can be made on what urban zone to apply to the land.

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- 5 • Unlike the Mullumbimby Hospital Site, these private lots are not identified in the Affordable Housing Contributions Scheme No 1. To rezone them as proposed would create an uplift in their value that would not be able to be captured for affordable housing in the Shire like other lands in the vicinity of the hospital site which have. Private land contributions are 20% under Scheme 1.
- Unlike the Mullumbimby Hospital Site, planning and environmental assessments have been completed or are significantly progressed to meet the requirements for a planning proposal.
- 10 • Unlike the Mullumbimby Hospital Site, an urban design protocol and site strategy have been endorsed by Council and publicly exhibited. The purpose of which being to inform a fast-tracked planning proposal for the site.

Other complications and risk to the Mullumbimby Hospital site project from the proposal could include:

- 15 • Whether private landowners contribute to the significant costs associated with the planning proposal - how this would be arranged and managed?
- Whether private landowners have a say in the proposed LEP changes? If there are any disagreements – how will these be managed? Will they have a perceived larger influence on the overall design?
- 20 • Whether there will be a perception in the community that Council's work is especially benefiting a small number of private landowners?
- Because of the above, whether the proposal creates a public private partnership arrangement which is not appropriate or desirable in the circumstances.

Financial/Resource/Legal Implications:

As highlighted in the staff response.

25

Is the proposal consistent with any Delivery Program tasks?

There are separate actions in the Delivery Program and Operational Plan for both the Mullumbimby Hospital Site and Action 21 in the Rural Land Use Strategy.

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
4: Ethical Growth We manage growth and change responsibly	4.1: Manage responsible development through effective place and space planning	4.1.3: Town / Village Masterplans - Develop, implement and update Place Plans that promote place-based forward planning strategies and actions	4.1.3.7	Amend Local Environmental Plan and Development Control Plan in accordance with Mullumbimby Hospital Precinct Plan
4: Ethical Growth We manage growth and change responsibly	4.1: Manage responsible development through effective place and space planning	4.1.2: Growth Management Strategies - Implement Local Growth Management Strategies	4.1.2.2	Investigate capacity for resubdivision within existing Large Lot Residential estates (Action 21).

Notice of Motion No. 9.2 Extend non-disruption by roadworks

File No: I2023/172

5

I move that Council:

- 10
1. Remembers its Resolution 22-741 of December 2022 adopting “policy” not to conduct disruptive roadworks during heavy traffic times on various important non-motorway routes in the Shire, recommits to the two routes named in that Resolution (listed as 1 and 2 below) and adds a third route (listed as 3 below):
 - a) Ewingsdale Road, during daylight hours,
 - b) Bangalow / Broken Head Roads, during morning and afternoon peak hours; and
 - 15 c) Mullumbimby from Jubilee Avenue to the Showground, on Mullumbimby Farmers Market mornings.
 2. Also recommits to:
 - a) writing to all relevant authorities, such as Essential Energy, requesting that they adhere to the same policies for work within the road corridor
 - b) noting that emergency road works are exempt from the above policies.

20

Signed: Cr Duncan Dey

Councillor’s supporting information:

On 15 December 2022 Council resolved (Res 22-741):

- 25
1. *That Council implements a policy of only conducting roadworks on Ewingsdale Road at night noting that minor maintenance works that can be easily ceased is not to be included in this prohibition.*
 2. *That Council implements a policy of not conducting roadworks on Bangalow Road and Broken Head Road during morning and afternoon peak hours.*
 - 30 3. *That Council writes to all relevant authorities, such as Essential Energy, requesting that they adhere to the same policies for work within the road corridor.*

4. *That Council receives a report to update Council on Transport for NSW plans to fix the Ewingsdale Highway interchange.*

On Friday 27 January roadworks were carried out on Main Arm Road to add Armco rails on the approaches to the narrow concrete bridge over Chinbible Creek. The nearby intersection of Main Arm Road with Murwillumbah Road is a crunch-point of the route to and from the Showground. The intersection is always impacted with delays up to five minutes on most Friday mornings. On the morning of 27 January, the delays were even longer. On 3 February, things got even worse.

On 27 January, work was over by lunchtime. That day's work could have started at midday and been over by close of business for most businesses in the Shire.

Far better however would have been for the contract for the guardrails to have excluded disruptive roadworks on all Friday mornings.

Road closures on the route from Mullumbimby to the Showground have caused headaches previously. These two occasions were the worst to date.

Staff comments

by Phillip Holloway, Director Infrastructure Services:

Staff are committed to **Res 22- 741** and to date there have not been significant operational issues or significant cost implications.

It is expected that when more significant work is required that this will impact on costs to Council with increased labour costs and additional WHS requirements due to works being undertaken as night works.

In relation to extending the requirements of Res **22-741** to include "*Mullumbimby from Jubilee Avenue to the Showground, on Mullumbimby Farmers Market mornings.*", staff interpret this as applying to the following roads/streets:

- Dalley Street (Burringbar Street to Tincogan Street)
- Tincogan Stree (Dalley Street to Brunswick Terrace)
- Murwillumbah Road (Brunswick Terrace to Coolamon Scenic Drive)
- Main Arm Road (Coolamon Scenic Drive to Coral Ave)

Financial/Resource/Legal Implications:

If night works are required there will be a significant increase cost and reduce the amount of work achievable within current budgets.

Additional costs are not known at this time.

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NOTICES OF MOTION

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There are works planned on these sections within the current program and if the Notice of Motion is successful contractors and staff will be directed accordingly to abide by the changes.

Is the proposal consistent with any Delivery Program tasks?

- 5 Yes, Section 5.1 of CSP, however there is no specific Operational Plan activity.

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
5: Connected Infrastructure We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable	5.1: Provide a safe, reliable, and accessible transport network	5.1.1: Road network maintenance - Undertake road and transport network maintenance to meet the standards identified in the Asset Management Plan		

SUBMISSIONS AND GRANTS

Report No. 11.1 Grants January 2023

Directorate: Corporate and Community Services

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

File No: I2023/184


Summary:

10 Council has submitted applications for seventeen 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 **Council notes the report and Attachment 1 (#E2023/14683) for Byron Shire Council's grant submissions as at 31 January 2023.**

Attachments:

20 1 Grant submissions as at 31 January 2023, E2023/14683 

Report

Currently Council has 17 grant submissions awaiting determination (refer to Grants Submissions as at 31 January 2023 (Attachment 1 E2023/14683)).

Successful applications

- 5 Council has been advised that it has been awarded the following projects:

Floodplain Management Program 2022

- Byron Shire Overland Flow Path Study – grant funding \$166,666; Council contribution \$83,334
- 10
- Belongil and Tallow Flood Risk Management Study and Plan Update – grant funding \$100,001; Council contribution \$49,999

Stronger Country Communities Fund

- Byron Community Hub additional funding – grant funding \$1,236,956

Fixing Local Roads R5

- 15
- Pothole repair round – grant funding \$223,554
 - Regional and Local Repair Program (Potholes) 2023 – grant funding \$1,110,677

Australia Day 2023

- Australia Day – grant funding \$30,000

20 Unsuccessful / withdrawn applications

Notification has been received on the following unsuccessful applications:

Floodplain Management Program 2022

- Voluntary House Raising – grant funding \$500,000. This program is now being rolled out under the [Resilient Homes Program | NSW Government](#) program.

25 Crown Reserve Improvement Fund 2022-23

- South Beach Road (Brunswick Heads) public amenities – grant funding \$280,000. Program was oversubscribed.

Regional Housing Strategic Fund

- Former Mullumbimby Hospital site – grant funding \$250,000

30

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SUBMISSIONS AND GRANTS

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Applications submitted

The following applications were submitted during December 2022 and January 2023.

Funding Body	Funding scheme	Project name	Total project value \$	Amount requested \$	Council Contribution \$
Australian Government	Extension and Adoption of Drought Resilience Farming Practices Grants Program	Increasing drought resilience in Byron Shire through Regenerative Agriculture	\$177,140	\$177,140	\$0
NSW Department of Planning	NSW Department of Planning	Koala Vehicle Strike Hotspots	\$185,028	\$185,028	\$0
NSW DPE	Local Government Heritage Grant	Local Government Heritage Grant	\$15,000	\$15,000	\$0
NSW Office of Sport	Essential Sports Priority Program	Bangalow Sports Field Lighting	\$795,350	\$795,350	\$0
Transport for NSW	Regional and Local Repair Program (Potholes) 2023	Pothole funding	\$1,110,677	\$ -	\$0
Transport for NSW	Infrastructure Betterment Fund	Sandhills Wetlands stormwater retention basin	\$7,090,500	\$4,090,500	\$0
Transport for NSW	Infrastructure Betterment Fund	Byron Bay drainage - stage 1	\$8,929,880	\$8,929,880	\$0
Transport for NSW	Infrastructure Betterment Fund	Avocado Court & New City Road Mullumbimby drainage	\$1,728,264	\$1,728,264	\$0
Transport for NSW	Infrastructure Betterment	Automated Flood	\$3,697,612	\$3,697,612	\$0

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Funding Body	Funding scheme	Project name	Total project value \$	Amount requested \$	Council Contribution \$
	Fund	Signage			
Transport for NSW	Regional Roads Transport Recovery (Betterment)	Main Arm Road	\$8,077,322	\$8,077,322	\$0
Transport for NSW	Regional Roads Transport Recovery (Betterment)	Mullumbimby Road	\$2,770,609	\$2,770,609	\$0
Transport for NSW	Regional Roads Transport Recovery (Betterment)	Wilsons Creek Road	\$3,413,385	\$3,413,385	\$0
Transport for NSW	Safer Roads	Midgen Flat Road	\$964,555	\$964,555	\$0
Transport for NSW	Fixing Local Roads R5	Pothole Repair Round	\$223,554	\$223,554	\$0
Transport for NSW	Fixing Local Roads R4	Left Bank Road rehabilitation program	\$1,588,151	\$1,588,151	\$0
Transport for NSW	Fixing Local Roads R4	Suffolk Park reseal program	\$958,076	\$958,076	\$0
Transport for NSW	Fixing Local Roads R4	Bangalow reseal program	\$971,371	\$971,371	\$0
Australia Day Council	Australia Day	Australia Day	\$43,000	\$30,000	\$13,000

Upcoming grant opportunities

[Flood Recovery and Resilience Grant Program | NSW Environment and Heritage](#) – closes 8 March 2023.

- Program will support the implementation of the NSW Flood Prone Land Policy, which aims to reduce the impacts of existing flooding and flood liability on communities and reduce

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SUBMISSIONS AND GRANTS

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private and public losses resulting from floods, using ecologically positive methods wherever possible.

- 5 Includes funding for investigation and design, and implementation. Voluntary House Raising is not available under this fund; these applications go direct to the Resilient Homes Program.

Assistance under the program is \$3 from the government for every \$1 provided by the applicant (from Council revenue), except where a Council is eligible for enhanced funding.

Staff are currently considering potential applications.

- 10 [Community Assets Program | NSW Government](#) – closes 27 March 2023

The CAP covers communities that were impacted by the severe weather and flood events of February and June 2022 (AGRN 1012 and AGRN 1025). The program provides funding for the repair, restoration and betterment of directly damaged local community infrastructure owned and/or managed by Councils.

- 15 The repair, restoration or betterment of directly impacted local community infrastructure that does not provide a function to an essential public asset including:

- recreational and services buildings including libraries, youth and senior citizen facilities and tourism
- 20 • parks and playgrounds including equipment, furniture, fencing, shades, facilities and amenities
- holiday and caravan park facilities, boardwalks, footpaths, walking trails, community club structures including surf lifesaving
- amenities and community/service buildings that complement and support multiple
- 25 • social and recreation facilities
- cultural heritage and identity of place assets
- wharves, jetties and boat ramps
- pedestrian bridges, car parks, electric vehicle charging stations, retaining walls, landscaping, river/creek banks and signage in public spaces.

- 30 Projects under consideration include:

- Lighting at Bangalow Sports Fields
- Cavanbah car park restoration
- Council Chambers betterment funding
- Mullumbimby Recreation Grounds car park

- 35 [Litter Prevention Grants Program: grants available \(nsw.gov.au\)](#) – EOI closes 8 March 2024

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The NSW Government has opened the Waste and Sustainable Materials Strategy 2041 (WASM) Litter Prevention Grants Program for Councils, community groups and other key stakeholders to deliver litter prevention projects and develop strategic plans to address litter in their local environments.

- 5 Staff are considering potential projects.

[Disaster Ready Fund | NSW Government](#) – EOI closes 14 February 2023

- 10 Only Australian state and territory governments are eligible under the Disaster Ready Fund to apply for funding via an overarching Application comprising all Project proposals. Applications for New South Wales will be managed by the NSW Reconstruction Authority.

Co-contribution of 50% is required. A reduction or exemption can be requested.

Staff are preparing an EOI for the Sandhills Stormwater Retention Basin remaining construction funding require; approximately \$4 million. This project is central to the Preferred Byron Drainage Strategy identified under the Belongil Risk Management Plan.

- 15 [Growing Regional Economies Fund | NSW Government](#) – closes 23 May 2023

- 20 The Growing Regional Economies Fund aims to accelerate economic development and prosperity in regional NSW, increase the appeal of investing in regional NSW, support investment in major transformational projects that increase employment opportunities in regional areas and ensure that regional communities have the infrastructure and services required for sustainable growth.

The Fund also has a focus on enabling infrastructure that will support investment in regional housing projects to meet demand generated by growth in employment and economic activity.

Only one application can be submitted.

- 25 Staff are currently reviewing the guidelines and project eligibility and readiness for:
- Byron Bioenergy Facility OR
 - Former Mullumbimby Hospital site access works

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.3: Ethical and efficient management of resources	1.3.1: Financial Management - Ensure the financial integrity and sustainability of Council through effective financial management	1.3.1.9	Coordinate grant applications to support the delivery of Council projects and services within management plans, masterplans, strategic plans, Council resolutions and high priority actions from feasibility studies; and support the management of successful grants

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 \$38 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.

The potential funding is detailed below:

15	Successful applications	\$8,356,215 (total project value)
	Unsuccessful/withdrawn applications	\$1,380,000 (total project value)
	Requested funds from funding bodies	\$38,362,864
	Council Contribution Cash	\$173,503
	Other contributions	\$3,250,000
20	Funding applications submitted and awaiting notification (total value)	\$41,423,367

Consultation and Engagement

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 Request to change market day

Directorate: General Manager

5 **Report Author:** Paula Telford, Leasing and Licensing Coordinator

File No: I2022/1733

Summary:

10 The Byron Bay Community Association Incorporated requests a variation to its Railway Park Artisan Market Licence to move the scheduled market day from Saturday 8 April to Friday 7 April 2023.

RECOMMENDATION:

15 That Council, following no submissions received during the public notice of the proposal, authorises a variation to the Railway Park Artisan Market Licence held by the Byron Bay Community Association Incorporation to move the scheduled Railway Park Artisan Market Day from 8 April 2023 to 7 April 2023.

20

Report

Council resolved **(21-147)** to grant a Market Licence to the Byron Bay Community Association Incorporated ('the BBCA') to operate a weekly artisan market on each Saturday in Railway Park.

- 5 Council has previously approved by resolution **(22-696)**, **(20-377)**, **(21-311)** and **(21-510)** a one-off change in the date of a Railway Park Artisan Market to avoid a clash with another market in the Shire on the same day.

Request to move market day for one market only

- 10 The BBCA requests that Council consider varying the Railway Park Market Licence once again, to move the scheduled Artisan Market from Saturday 8 April 2023 to Friday 7 April 2023 to avoid a clash with the BBCA scheduled Denning Park Artisan Market on 8 April 2023.

Public Notice

- 15 In accordance with the *Local Government Act*, Council publicly advertised the proposed the change of market day from Saturday 8 April to prior Friday 7 April 2023 for twenty-eight days between 2 and 30 January 2023. No submissions were received.

As a result, this Report makes a recommendation to allow the one-off change to the Railway Park Artisan Market Day from 8 April to 7 April 2023, by a licence variation.

Strategic Considerations

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

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.1: Foster opportunities to express, celebrate and participate in arts and cultural activity	2.1.3: Events and festivals - Support and enable arts & cultural activity, festivals, projects, and events	2.1.3.8	Administer licences for weddings, events, activities and filming on council and crown land

Recent Resolutions

- **(22-696)**, **(20-377)**, **(21-311)** and **(21-510)**.

Legal/Statutory/Policy Considerations

Local Government Act

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

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

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

- 25 (3) *Any person may make a submission in writing to the council during the period specified for the purpose in the notice.*
- (4) *Before granting the lease, licence or other estate, the council must consider all submissions duly made to it.*

Financial Considerations

Nil.

30 Consultation and Engagement

Public notice of proposed change in one Artisan Market Day was conducted between 2 and 30 January 2023. No submissions were received.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.2 Council Investments - 1 January 2023 to 31 January 2023

5 **Directorate:** Corporate and Community Services

Report Author: James Brickley, Manager Finance

File No: I2023/141

Summary:

10 This report includes a list of investments and identifies Council's overall cash position for the period 1 January 2023 to 31 January 2023 for information.

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

15

RECOMMENDATION:

That Council notes the report listing Council's investments and overall cash position as of 31 January 2023.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.2

Report

Council has continued to maintain a diversified portfolio of investments. As of 31 January 2023, the average 90-day bank bill rate (BBSW) for the month was 3.37%. Council's performance for January 2023 was 2.82%.

- 5 As investments mature Council should begin to see increased rates due to the recent Reserve bank increase in cash rates. The table below identifies the investments held by Council as at 31 January 2023

Schedule of Investments held as at 31 January 2023

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%	957,250.00
20/11/18	1,000,000.00	QLD Treasury Corp (Green Bond)	N	AA+	22/03/24	Y	B	1.78%	994,940.00
28/03/19	1,000,000.00	National Housing Finance & Investment Corporation	Y	AAA	28/03/29	Y	B	2.38%	923,220.00
21/11/19	1,000,000.00	NSW Treasury Corp (Sustainability Bond)	N	AAA	20/03/25	Y	B	1.25%	951,260.00
27/11/19	500,000.00	National Housing Finance & Investment Corporation	Y	AAA	27/05/30	Y	B	1.52%	422,065.00
15/06/21	500,000.00	National Housing Finance & Investment Corporation	Y	AAA	01/07/31	Y	FRN	1.99%	501,910.00
06/09/21	1,000,000.00	Northern Territory	N	Aa3	15/12/26	Y	B	1.40%	1,000,000.00

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Int. Rate	Current Value (\$)
		TCorp							
16/09/21	1,000,000.00	QLD Treasury Corp (Green Bond)	N	AA+	02/03/32	Y	B	1.83%	928,180.00
17/12/21	2,000,000.00	NAB	P	AA-	01/02/23	N	TD	3.75%	2,000,000.00
23/08/22	2,000,000.00	AMP Bank	P	BBB	23/02/23	N	TD	3.70%	2,000,000.00
29/09/22	2,000,000.00	AMP Bank	N	BBB	01/02/23	N	TD	3.95%	2,000,000.00
21/10/22	1,000,000.00	AMP Bank	N	BBB	21/02/23	N	TD	3.90%	1,000,000.00
26/10/22	1,000,000.00	AMP Bank	N	BBB	23/02/23	N	TD	3.85%	1,000,000.00
16/11/22	1,000,000.00	AMP Bank	N	BBB	16/03/23	N	TD	3.95%	1,000,000.00
12/12/22	2,000,000.00	NAB	N	AA-	13/03/23	N	TD	3.80%	2,000,000.00
22/12/22	1,000,000.00	Macquarie Bank Ltd	P	AA-	27/04/23	N	TD	3.97%	1,000,000.00
22/12/22	1,000,000.00	Macquarie Bank Ltd	N	AA-	23/03/23	N	TD	3.97%	1,000,000.00
04/01/23	2,000,000.00	NAB	N	AA-	04/05/23	N	TD	3.97%	2,000,000.00
05/01/23	2,000,000.00	NAB	N	AA-	05/05/23	N	TD	4.07%	2,000,000.00
05/01/23	1,000,000.00	NAB	N	AA-	05/04/23	N	TD	3.95%	1,000,000.00
09/01/23	2,000,000.00	NAB	N	AA-	11/04/23	N	TD	3.32%	2,000,000.00
24/01/23	1,000,000.00	Macquarie Bank Ltd	N	AA-	26/04/23	N	TD	3.68%	1,000,000.00
N/A	28,770,669.62	CBA Business Saver	P	AA-	N/A	N	CALL	3.20%	28,770,669.62
N/A	4,705,716.95	CBA Business Saver – Tourism Infrastructure Grant	N	AA-	N/A	N	CALL	3.20%	4,705,716.95

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Int. Rate	Current Value (\$)
N/A	10,219,688.94	Macquarie Accelerator Call	N	A	N/A	N	CALL	2.00%	10,219,688.94
Total	71,696,075.51						AVG	2.82%	71,374,900.51

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)

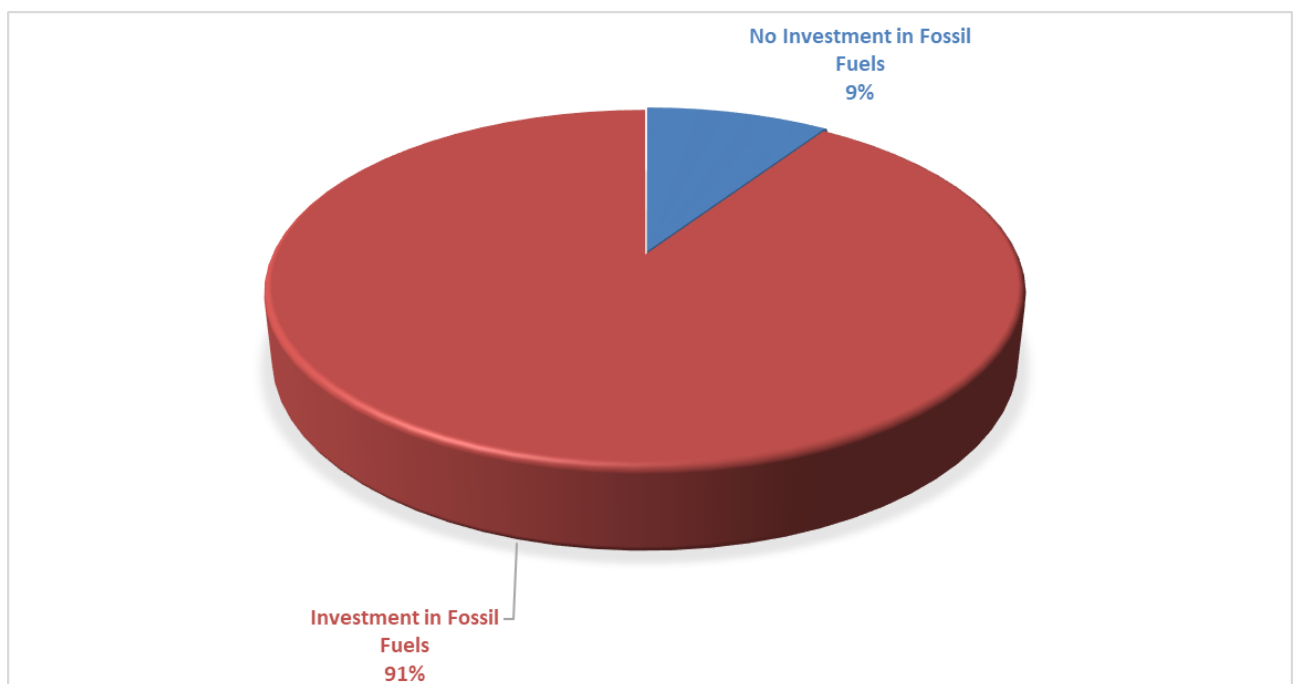
An additional column has been added to the schedule of Investments to identify if the financial institution holding the Council investment has been assessed as a 'No Fossil Fuel' investing institution. This information has been sourced through

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

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

Council may from time to time have an investment with a financial institution that invests in fossil fuels but is nevertheless aligned with the broader definition of Environmental and Socially Responsible investments.

15



Investment Policy Compliance

- 5 The below 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).

Investment policy compliance				
% should not exceed the following			ACTUAL	
AAA to AA	A1+	100%	65%	Meets policy
A+ to A-	A1	60%	21%	Meets policy
BBB to NR	A2,NR	40%	14%	Meets policy

10 **NSW Treasury Corporation Compliance – Loan Borrowing Conditions**

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 where Council can invest based on the credit rating of the financial institution, the term of the investment and counterparty limit.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.2

NSW Treasury Corporation has reviewed Council's Investment Portfolio and 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:

Tcorp compliance						
% should not exceed the following			Counterparty Limit	Tenor	ACTUAL	Variance
Tcorp	100%	100%	100%	N/A	0%	Meets policy
AAA	100%	100%	100%	N/A	7%	Meets policy
AA+ to AA-	100%	100%	100%	5Y	58%	Meets policy
A+ to A	100%	100%	100%	3Y	21%	Meets policy
A-	40%	40%	40%	3Y	0%	Meets policy
BBB+	30%	10% 3 Years	3Y	3%	Meets policy	
BBB		5% 12 Months	1Y	11%	Does not meet policy	
BBB- and below (local ADI'S)	5%	5% 12 Months	1Y	0%	Meets policy	
BBB- and below (other)		250,000	1Y	0%	Meets policy	

Council 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.

- 10 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. Investments which 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.
- 15 The investment portfolio is outlined in the table below by investment type for the period 1 January 2023 to 31 January 2023:

Dissection of Council Investment Portfolio as at 31 January 2023

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	1,496,850.00	(3,150.00)
28,770,669.62	CBA Business Saver	28,770,669.62	0.00
4,705,716.95	CBA Business Saver – Tourism Infrastructure Grant	4,705,716.95	0.00
10,219,688.94	Macquarie Accelerator	10,219,688.94	0.00
5,500,000.00	Bonds	5,181,975.00	(318,025.00)

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.2

Principal Value (\$)	Investment Linked to:	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
71,696,075.51		71,374,900.51	(321,175.00)

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. The table below identifies Council's overall cash position for the month of January 2023 as follows:

Dissection of Council's Cash Position as at 31 January 2023

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Investments Portfolio			
Term Deposits	22,000,000.00	22,000,000.00	0.00
Floating Rate Note	1,500,000.00	1,496,850.00	(3,150.00)
CBA Business Saver	28,770,669.62	28,770,669.62	0.00
CBA Business Saver – Tourism Infrastructure Grant	4,705,716.95	4,705,716.95	0.00
Macquarie Accelerator	10,219,688.94	10,219,688.94	0.00
Bonds	5,500,000.00	5,181,975.00	(318,025.00)
Total Investment Portfolio	72,696,075.51	72,374,900.51	(321,175.00)
Cash at Bank			
Consolidated Fund	2,515,272.38	2,515,272.38	0.00
Total Cash at Bank	2,515,272.38	2,515,272.38	0.00
Total Cash Position	75,211,347.89	74,890,172.89	(321,175.00)

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.3: Ethical and efficient management of resources	1.3.1: Financial Management - Ensure the financial integrity and sustainability of Council through effective financial management	1.3.1.6	Maintain Council's cash flow

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.

25

Report No. 13.3 **Update to Council's Business Ethics Statement**

Directorate: Corporate and Community Services

Report Author: Alexandra Keen, Strategic Contracts & Procurement Coordinator

File No: I2022/1815

Summary:

Council's endorsement is sought of the Business Ethics Statement 2022 (Attachment 1).

The [Business Ethics Statement 2020](#) is published on Council's website, and provides a statement to the community and potential suppliers about Council's expectations when seeking to deal with Council. The proposed changes reflect legislative amendments to reporting obligations by councils regarding modern slavery, sustainability and carbon neutrality goals, as well as other minor updates.

RECOMMENDATION:

That Council endorses the updated Business Ethics Statement 2022 (E2022/122254).

Attachments:

1 Business Ethics Statement 2022, E2022/122254 

Report

The Business Ethics Statement (Statement) is reviewed every two years and following the most recent review some updates are proposed (Attachment 1). The [Business Ethics Statement 2020](#) is published on Council's website, and provides a statement to the community and potential suppliers about Council's expectations of integrity and ethical behaviour when seeking to deal with Council. Council's approval is sought for the updated Statement.

Key issues

There are a number of minor amendments made to the Statement to ensure it references current policies and legislation. The other changes made concern Clause 5, and are:

- The provision of information to Council when requested (not just required).
- Expand the expectation that suppliers also not lobby or canvass Council staff during a request for quote process.
- A new point to reiterate that suppliers should refrain from engaging in practices which cause, involve or contribute to modern slavery and when requested respond to questionnaires, procurement and contract criteria in respect of this issue.
- Expand the provision that suppliers will respond to Council requests for information about carbon emissions of goods and services.
- Include a new requirement that suppliers will eliminate, reduce, or reuse waste where possible in relation to providing goods and services, their manufacture, supply chains and maintenance to reduce landfill.

Next steps

Should Council approve the updates to the Statement it will be published on Council's website.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.1: Enhance trust and accountability through open and transparent leadership	1.1.1: Leadership - Enhance leadership effectiveness, capacity, and ethical behaviour	1.1.1.1	Coordinate Council's annual policy review program, update and publish adopted policies
3: Nurtured Environment We nurture and enhance the natural environment	3.4: Support and empower our community to adapt to, and mitigate our impact on climate change	3.4.4: Net Zero - Work towards achieving Council's 100% net zero-emissions target	3.4.4.1	Develop a carbon offset policy and procedure for Council in order to achieve net zero emissions.
3: Nurtured Environment We nurture and enhance the natural environment	3.5: Minimise waste and encourage recycling and resource recovery practices	3.5.1: Waste management and resource recovery strategy - Implement Integrated Waste Management and Resource Recovery Strategy - Towards Zero	3.5.1.3	Improve management of Council generated waste

Recent Resolutions

Nil.

Legal/Statutory/Policy Considerations

The express inclusion of modern slavery expectations will assist Council with complying with its obligations under sections 428(4)(d) and 438ZE *Local Government Act 1993*, which commenced on 1 July 2022.

- 5 The refinement of expectations of suppliers or parties doing business with Council regarding sustainability and carbon emissions aligns with *Net Zero Emissions Strategy for Council Operations 2025*, and *Towards Zero Integrated Waste Strategy 2019-2029*.

Financial Considerations

Nil.

10 **Consultation and Engagement**

Consultation with internal stakeholders occurred with respect to the proposed updates.

Report No. 13.4 Conduct of the 2024 Local Government Election

Directorate: Corporate and Community Services

Report Author: Amber Evans Crane, Governance Support Officer

5 **File No:** I2022/1838

Summary:

Council has until 13 March 2023 to resolve to enter into arrangements with the Electoral Commission, or an electoral services provider, to administer the 2024 ordinary council elections.

10 This report recommends that Council enters into an arrangement with the NSW Electoral Commissioner to administer the 2024 Local Government Election, and any associated Council polls and constitutional referenda.

15

RECOMMENDATION:

That Council resolves:

1. Pursuant to s. 296(2) and (3) of the *Local Government Act 1993 (NSW)* ("the Act") that an election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of the Council.
2. Pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, that a Council poll arrangement be entered into by contract for the Electoral Commissioner to administer all Council polls of the Council.
3. Pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, that a constitutional referendum arrangement be entered into by contract for the Electoral Commissioner to administer all constitutional referenda of the Council.

30

Report

Under section 296AA of the Local Government Act 1993 (the Act), councils are required to determine how their ordinary elections in September 2024 are to be administered by 13 March 2023.

5 Each Council must resolve to either:

- enter into an election arrangement with the NSW Electoral Commissioner (NSWEC) to administer all the Council's elections, polls and constitutional referenda; or
- that the Council's elections are to be administered by another electoral services provider engaged by the Council.

10 If a Council does not resolve to engage the NSWEC to administer its elections by 13 March 2023, it must engage another electoral services provider to do so.

A Council that fails to make a decision on the administration of its elections by 13 March 2023 will be required to publish a notice of that failure on its website.

15 Councils, in making a determination on the conduct of the election, must do so by resolution and that resolution should include the arrangement that is to be entered into.

This report recommends that Council enters into an arrangement with the Electoral Commissioner to conduct the 2024 Local Government Election and any associated Council polls and constitutional referenda.

20 The recommended resolution uses text provided by the Office of Local Government in its model resolution for councils wishing to arrange for the Electoral Commissioner to administer their elections and associated polls/referenda.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.1: Enhance trust and accountability through open and transparent leadership	1.1.2: Governance - Ensure legislative compliance and support Councillors to carry out their civic duties		A new activity is proposed to be included in the 2023/24 Operational Plan.

Legal/Statutory/Policy Considerations

The *Local Government Amendment Act 2019* was assented to on 24 June 2019, which provided for the extension of the 'cut-off' date for Council to make a decision on the administration of elections, and to require Councils that do not enter into an arrangement with the Electoral Commissioner to engage an electoral services provider to administer elections. Further details regarding the recent amendments to the *Local Government Act 1993* are outlined in the [Office of Local Government Circular 19-14](#).

Section 55(3) of the Act provides that a Council need not invite tenders before entering into a contract with the Electoral Commissioner for the administration of the council's elections, constitutional referendums and polls.

Where a Council decides to engage an electoral services provider to conduct its elections, constitutional referendums and polls, section 296A of the Act outlines that the provider is to appoint a returning officer and a substitute returning officer, and that neither of these positions can be employees of the Council. The returning officer is to appoint one or more electoral officials, who may or may not be employees of the Council.

Section 296A also provides that the General Manager cannot be appointed as a returning officer, substitute returning officer or electoral official for any area.

Financial Considerations

Council will require a budget allocation in its 2023/24 budget for administration expenses and 2024/25 budget for payment for administering the election. To assist with this as part of the annual budget process, Council sets aside an allocation into the Election Reserve.

For 2022/2023 financial year, Council allocated \$80,000 with a projected reserve balance at 30 June 2023 of \$115,700. Given the short turn around from the election expenditure in the 2021/2022 financial year, there has not been the opportunity to rebuild the reserve over a four year term so Council will need to budget over the course of the 2023/2024 and 2024/2025 financial year funds to the Election Reserve to cater for the anticipated cost of the election in September 2024.

The cost estimate for the NSW Electoral Commission (Electoral Commission) to conduct Council's 2024 ordinary election is given in the following table.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.4

Projects/ Deliverables	Amount (\$)
Ballot Papers	5,097
Call Centre	8,703
Counting and Results - Centralised	-
Counting and Results - Declaration Voting	6,358
Event Staffing	157,209
Information Technology	9,491
Logistics	18,577
Postal Voting Services	10,819
Venues	39,716
Voter Awareness	15,669
Financial Services	2,565
Constitutional Referendum	-
Council Poll	-
TOTAL (excluding GST)	274,205

The Electoral Commission does not apply any margin to the cost. Costs have risen since the December 2021 elections and are likely to continue to rise between the date of this estimate and the holding of the election. The electoral commission has named the key cost increases as:

- 5 1. Early voting centre rental costs have significantly increased since LGE21
2. Logistics costs are increasing by 10% year-on-year
3. The fuel levy for material deliveries and collections has increased by 24%
4. The 3-year CPI increase is 13.12%
5. Staff costs have risen by 2.83% pa
- 10 6. Growth in the number of electors is 3.34% over 3 years
7. Paper costs have risen (affecting ballot papers and printed rolls)

By way of comparison, the following election expenses were incurred in prior years:

<i>Election Year</i>	<i>Electoral Commission Costs</i>	<i>Other Costs</i>	<i>Total Election Costs</i>
2008	\$122,900	\$4,290	\$127,190
2012	\$140,854	\$2,979	\$143,833
2016	\$177,621	\$9,575	\$187,196
2021	\$220,029	\$7,252	\$227,280

Report No. 13.5 Council Investments - 1 December 2022 to 31 December 2022

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

5 **File No:** I2023/8

Summary:

Summary:

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

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

15 **RECOMMENDATION:**

That Council notes the report listing Council's investments and overall cash position as of 31 December 2022.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

Report

Council has continued to maintain a diversified portfolio of investments. As of 31 December 2022, the average 90-day bank bill rate (BBSW) for the month was 3.16%. Council's performance for December 2022 was 2.91%.

- 5 As investments mature Council should begin to see increased rates due to the recent Reserve bank increase in cash rates. The table below identifies the investments held by Council as at 31 December 2022:

Schedule of Investments held as at 31 December 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%	957,250.00
20/11/18	1,000,000.00	QLD Treasury Corp (Green Bond)	N	AA+	22/03/24	Y	B	1.78%	994,940.00
28/03/19	1,000,000.00	National Housing Finance & Investment Corporation	Y	AAA	28/03/29	Y	B	2.38%	923,220.00
21/11/19	1,000,000.00	NSW Treasury Corp (Sustainability Bond)	N	AAA	20/03/25	Y	B	1.25%	951,260.00
27/11/19	500,000.00	National Housing Finance & Investment Corporation	Y	AAA	27/05/30	Y	B	1.52%	422,065.00
15/06/21	500,000.00	National Housing Finance & Investment Corporation	Y	AAA	01/07/31	Y	FRN	1.99%	501,910.00
06/09/21	1,000,000.00	Northern Territory TCorp	N	Aa3	15/12/26	Y	B	1.40%	1,000,000.00

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Int. Rate	Current Value (\$)
16/09/21	1,000,000.00	QLD Treasury Corp (Green Bond)	N	AA+	02/03/32	Y	B	1.50%	928,180.00
17/12/21	2,000,000.00	NAB	P	AA-	01/02/23	N	TD	3.75%	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
15/06/22	2,000,000.00	NAB	N	AA-	13/03/23	N	TD	3.80%	2,000,000.00
23/08/22	2,000,000.00	AMP Bank	P	BBB	23/02/23	N	TD	3.70%	2,000,000.00
06/09/22	2,000,000.00	MyState Bank	P	BBB	05/01/23	Y	TD	3.30%	2,000,000.00
09/09/22	2,000,000.00	NAB	N	AA-	09/01/23	N	TD	3.32%	2,000,000.00
29/09/22	2,000,000.00	AMP Bank	N	BBB	27/01/23	N	TD	3.95%	2,000,000.00
21/10/22	1,000,000.00	AMP Bank	N	BBB	21/02/23	N	TD	3.90%	1,000,000.00
26/10/22	1,000,000.00	AMP Bank	N	BBB	23/02/23	N	TD	3.85%	1,000,000.00
26/10/22	1,000,000.00	Macquarie Bank Ltd	N	AA-	24/01/23	N	TD	3.68%	1,000,000.00
16/11/22	1,000,000.00	AMP Bank	N	BBB	16/03/23	N	TD	3.95%	1,000,000.00
22/12/22	1,000,000.00	Macquarie Bank Ltd	N	AA-	27/04/23	N	TD	3.97%	1,000,000.00
22/12/22	1,000,000.00	Macquarie Bank Ltd	N	AA-	23/03/23	N	TD	3.97%	1,000,000.00
N/A	22,692,775.83	CBA Business Saver	P	AA-	N/A	N	CALL	3.20%	22,692,775.83
N/A	4,692,962.38	CBA Business Saver – Tourism Infrastructure Grant	N	AA-	N/A	N	CALL	3.20%	4,692,962.38
N/A	10,192,269.20	Macquarie Accelerator Call	N	A	N/A	N	CALL	2.00%	10,192,269.20
Total	63,578,007.41						AVG	%	63,256,832.41

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STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

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)

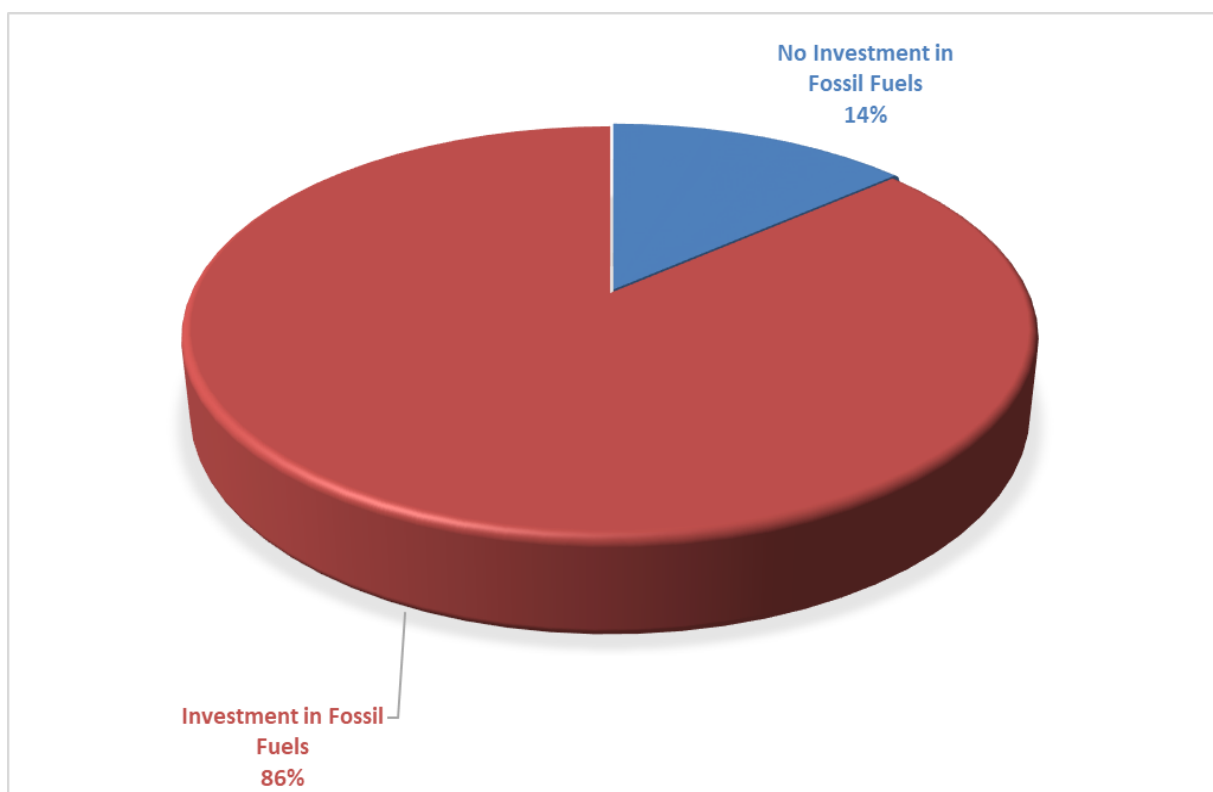
An additional column has been added to the schedule of Investments to identify if the financial institution holding the Council investment has been assessed as a 'No Fossil Fuel' investing institution. This information has been sourced through

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

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

Council has 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.:

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



5 Investment Policy Compliance

- The below 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).

Investment policy compliance			ACTUAL		
% should not exceed the following					
AAA to AA	A1+	100%	65%		Meets policy
A+ to A-	A1	60%	21%		Meets policy
BBB to NR	A2,NR	40%	14%		Meets policy

NSW Treasury Corporation Compliance – Loan Borrowing Conditions

- 15 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 where Council can invest based on the credit rating of the financial institution, the term of the investment and counterparty limit.

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NSW Treasury Corporation has reviewed Council's Investment Portfolio and 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:

Tcorp compliance % should not exceed the following		Counterparty Limit	Tenor	ACTUAL	Variance
Tcorp	100%	100%	N/A	0%	Meets policy
AAA	100%	100%	N/A	7%	Meets policy
AA+ to AA-	100%	100%	5Y	58%	Meets policy
A+ to A	100%	100%	3Y	21%	Meets policy
A-	40%	40%	3Y	0%	Meets policy
BBB+	30%	10% 3 Years	3Y	3%	Meets policy
BBB		5% 12 Months	1Y	11%	Does not meet policy
BBB- and below (local ADS)	5%	5% 12 Months	1Y	0%	Meets policy
BBB- and below (other)		250,000	1Y	0%	Meets policy

5

Council 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.

- 10 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. Investments which 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.
- 15 The investment portfolio is outlined in the table below by investment type for the period 1 December 2022 to 31 December 2022:

Dissection of Council Investment Portfolio as at 31 December 2022

Principal Value (\$)	Investment Linked to:	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
19,000,000.00	Term Deposits	19,000,000.00	0.00
1,500,000.00	Floating Rate Note	1,496,850.00	(3,150.00)
22,692,775.83	CBA Business Saver	22,692,775.83	0.00
4,692,962.38	CBA Business Saver – Tourism Infrastructure Grant	4,692,962.38	0.00
10,192,269.20	Macquarie Accelerator	10,192,269.20	0.00
5,500,000.00	Bonds	5,181,975.00	(318,025.00)
63,578,007.41		63,256,832.41	(321,175.00)

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STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

Council's overall 'cash position' is not only measured by funds invested but also by the funds retained in its consolidated fund or bank account for operational purposes. The table below identifies Council's overall cash position for the month of December 2022 as follows:

Dissection of Council's Cash Position as at 31 December 2022

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Investments Portfolio			
Term Deposits	19,000,000.00	19,000,000.00	0.00
Floating Rate Note	1,500,000.00	1,496,850.00	(3,150.00)
CBA Business Saver	22,692,775.83	22,692,775.83	0.00
CBA Business Saver – Tourism Infrastructure Grant	4,692,962.20	4,692,962.20	0.00
Macquarie Accelerator	10,192,269.20	10,192,269.20	0.00
Bonds	5,500,000.00	5,181,975.00	(318,025.00)
Total Investment Portfolio	63,578,007.23	63,256,832.23	(321,025.00)
Cash at Bank			
Consolidated Fund	12,935,040.51	12,935,040.51	0.00
Total Cash at Bank	12,935,040.51	12,935,040.51	0.00
Total Cash Position	76,513,047.74	76,191,872.74	(321,025.00)

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.3: Ethical and efficient management of resources	1.3.1: Financial Management - Ensure the financial integrity and sustainability of Council through effective financial management	1.3.1.6	Maintain Council's cash flow

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.

25

Report No. 13.6 Richmond Tweed Regional Library Deed of Agreement 2023 - 2027

Directorate: Corporate and Community Services

Report Author: Esmeralda Davis, Director Corporate and Community Services

5 **File No:** I2023/23

Summary:

10 The purpose of this report is to detail the development of the Richmond Tweed Regional Library (RTRL) Deed of Agreement for the period 1 July 2023 to 30 June 2027, which governs the future operation of the RTRL and the respective rights and obligations of Member Councils, including Byron Shire Council.

Pursuant to the new agreement, the Member Councils wish to continue to appoint Lismore City Council as the Executive Council to provide and manage the Library Services provided by the RTRL.

15

RECOMMENDATION:

That in relation to the Richmond Tweed Regional Library Deed of Agreement for the period 1 July 2023 to 30 June 2027, Council:

- 20
1. **Adopts the Deed of Agreement (Attachment 1 E2023/334)**
 2. **Delegates the General Manager to execute the Deed on behalf of the Byron Shire Council**
 3. **Appoints Lismore City Council to continue as the Executive Council for the Richmond Tweed Regional Library**

25

Attachments:

- 30
- 1 Draft Deed - Richmond Tweed Regional Library - December 2022, E2023/3734 

Report

The existing Deed was endorsed by the Richmond Tweed Regional Library Committee and approved by Member Councils in 2017. The existing Deed will cease on 30 June 2023. A new Deed is required to be executed before then, in order for Member Councils to continue to be part of the regional service.

Background

The Richmond Tween Regional Library (RTRL) service was established in 1973 and consists of four Member Councils including Lismore City Council, Tweed Shire Council, Ballina Shire Council and Byron Shire Council. A simple Agreement, signed in 1978, formed the basis of the governance structure for the RTRL service, for which Lismore City Council was appointed the Executive Council responsible for the delivery of library services on behalf of Member Councils. This arrangement has continued to date.

The existing Deed, based on an Executive Council model, creates and prescribes the operating arrangements for the RTRL.

As required by the existing Deed, a review was undertaken to assess if any library staff should be employed directly by Member Councils. Currently, all regional library staff are employed by the Executive Council. A final report on the review was reported to the RTRL Committee's 22 April 2022 meeting and it was resolved no further action be taken to implement the alternative, being a cooperative library model. The RTRL Committee comprises of Councillor representatives from each Member Council, and Cr Swivel and Cr Pugh were appointed as Byron Shire Council members for this term of Council.

Based on the Committee's decision, a new Deed has been drafted for a four (4) year period and consultation with Member Council General Managers and the RTRL's Senior Leadership Group (SLG) undertaken.

At its meeting on 9 December 2022, the RTRL Committee endorsed the Deed of Agreement– Richmond Tweed Regional Library 2023 - 2027 and recommended approval by Member Councils, being the subject of this report.

To support the Deed of Agreement, Service Level Agreements (SLAs) have been developed for RTRL services provided by the Executive Council to Member Councils. The SLAs define the range and standards of services to be offered and are intended to quantify key services provided, not all services provided. The provision of SLAs is a condition of the RTRL Deed of Agreement. The SLAs will be reviewed annually and issued to Member Councils once the RTRL Committee has adopted the annual budget.

The SLAs for this financial year have been reviewed by each Member Council and the SLG and distributed to Member Councils for signing. Byron Shire Council signed and returned its SLA on 24 October 2022.

New Deed – Key Elements

The following is a summary of key elements from the new Deed:

- Definitions – Code of Meeting Practice means The Model Code of Meeting Practice for Local Councils in NSW 2021 published by the Office of Local Government and made under section 360 of the Local Government Act 1993, as amended or substituted from time to time.
- Definitions – Model Code of Conduct means The Model Code of Conduct for Local Councils in NSW 2020 made under section 440 of the Local Government Act 1993 and published by the Office of Local Government, as amended or substituted from time to time
- 4.1 This Deed commences on the Commencing Date (1 July 2023) and ends on the Expiry Date (30 June 2027).
- 5.1 The Executive Council is to establish the RTRL Committee as a Committee of the Executive Council as soon as practicable after the Commencing Date and delegate to the RTRL Committee the functions necessary to enable the RTRL Committee to efficiently and effectively perform its functions under this Deed.
- 5.2 The RTRL Committee is to:
 - (a) oversee the efficient and effective functioning of the RTRL,
 - (b) deliberate on matters concerning the affairs of the RTRL,
 - (c) review and endorse policies and plans relating to the provision of the Library Services,
 - (d) monitor and review the provision of the Library Services,
 - (e) oversee the finances of the RTRL,
 - (f) review and endorse the RTRL Annual Budget for each financial year,
 - (g) liaise with the Executive Council relating to the provision of the Library Services,
 - (h) consider and determine any application from a Council to become a Member Council of the RTRL, and
 - (i) exercise functions delegated to it by the Executive Council.
- 6.1 The RTRL Committee is to be comprised of two (2) RTRL Committee Members appointed by each Member Council.
- 7.1 The RTRL Committee is to hold not less than two (2) meetings each year.
- 7.2 Subject to this clause, the Code of Meeting Practice of the Executive Council is to govern the conduct of meetings of the RTRL Committee.
- 8.1 Lismore City Council is appointed by the Member Councils to be the Executive Council of the RTRL and accepts such appointment.
- 8.2 For the purpose of enabling the Executive Council to perform its functions under this Deed, the Member Councils delegate to the Executive Council their functions relating to the provision and management of libraries, library services and information services within their LGAs.
- 9.2 A Member Council is responsible for the provision and maintenance of Branch Library premises, fixtures, fittings and furnishings within its LGA.
- 10.1 The SLG shall include a minimum of one senior staff member nominated by each Member Council as well as the Executive Officer and RTRL Manager. The Executive Council may have the Executive Officer act as the senior staff member for the Executive Council on the SLG.

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STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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- 11.1 The Executive Officer of the RTRL is the General Manager of the Executive Council or a person appointed by the General Manager of the Executive Council to be the Executive Officer.
- 5 • 11.2 The Executive Officer is responsible to the Executive Council for the administration and financial operation of the RTRL.
- 11.3 The Executive Officer is the key liaison person for Member Councils and the RTRL Committee in relation to matters concerning the RTRL.
- 13.1 Within one year of the Commencing Date, the RTRL Committee, in consultation with the SLG, is to adopt a revised RTRL Strategic Plan.
- 10 • 14.3 Any increase in the Member Council Contribution in the RTRL Annual Budget is to be based on the annual base rate peg (excluding the individual rate peg population factor relevant for each Member Council). It is acknowledged that due to population cost driver impacts, individual Member Council Contributions may be above or below the rate peg.
- 15 • 14.4 A proposal for a change in service levels or service levels in the RTRL Annual Report which results in total Member Council Contributions increasing above the rate peg limit may also be provided however the proposal must be clearly defined, costed and stated how it will impact a Member Council Contribution.
- 20 • 14.5 The proposed RTRL Annual Budget must be endorsed by the RTRL Committee and SLG.
- 16 (a) As soon as practicable after the Commencing Date, the Executive Council, in consultation with the SLG, is to prepare a proposed SLA for each Member Council's LGA.
- 25 • 18.4 Where the Executive Council is considering closing or significantly changing a Branch Library opening hours due to a staff or customer work, health and safety concern, the Executive Council must consult with the Member Council representative to determine an agreed risk based approach and available options to respond to the work, health and safety concern and customer service impacts.

New Deed – Key Changes

30 The following is a summary of key changes from the current Deed:

1. Term & Extension:

- a. Deed will be operational from 1 July 2023 to 30 June 2027
- b. No later than eighteen (18) months before the expiry date, the Executive Council will notify all Member Councils that they may make a written request to the RTRL Committee and all other Member Councils to extend the Term for a further period of one (1) year

35 2. Proceedings of the RTRL Committee:

The RTRL Committee is to hold not less than two (2) meetings each year. (Currently, this is four (4) meetings)

40 3. RTRL Annual Budget:

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.6

- 5 a. The total Member Council contribution increase each year is to be based on the annual base rate peg (excluding the individual rate peg population factor relevant for each Council). It is acknowledged that due to population cost driver impacts, individual Member Council contributions may be above or below the rate peg.
- b. A proposal for changes in services or service levels which results in total Member Council contributions increasing above the rate peg limit may also be provided however they must be clearly stated, costed and how they are to be paid by a Member Council or Member Councils.
- 10 4. Staff:
- 15 Where the Executive Council is considering closing or significantly changing a Member Council service due to a staff or customer Work, Health and Safety concern, the Executive Council must consult with the Member Council Senior Leadership Group representative as part of the process to determine an agreed risk-based approach and available options to respond to the work, health and safety concern and customer service impacts.
5. Performance:
- a. Annual performance measures for the delivery of the Library Services are contained in the SLAs
- 20 b. An assessment of the quality of the Library Services is to be delivered to each Member Council measured against performance benchmarks in the RTRL Strategic Plan and the SLAs

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.4: Enrich lifelong learning and education and support services to help young people thrive	2.4.1: Libraries - Provide modern library services in partnership with Richmond Tweed Regional Library services	2.4.1.1	Actively participate in the Richmond Tweed Regional Library (RTRL) Senior Leadership Group and provide support to RTRL Committee

Recent Resolutions

- Res 21-132
- Res 17-366

Legal/Statutory/Policy Considerations

- 5 The Deed of Agreement is governed by the Library Act 1939.

Financial Considerations

- 10 The total Member Council contribution increase each year is to be based on the annual base rate peg (excluding the individual rate peg population factor relevant for each Council). It is acknowledged that due to population cost driver impacts, individual Member Council contributions may be above or below the rate peg.

Council's contribution for 2022/2023 is \$1,558,900 as per the adopted budget.

Consultation and Engagement

- 15 The new Deed of Agreement has been developed in consultation with Member Council General Managers and the RTRL's Senior Leadership Group. The new Deed of Agreement has been endorsed by the RTRL Committee.

Report No. 13.7 Budget Review - 1 October 2022 to 31 December 2022

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

5 **File No:** I2023/140

Summary:

10 This report has been prepared to comply with Section 203 of the *Local Government (General) Regulation 2021* and to inform Council and the community of Council's estimated financial position for the 2022/2023 financial year, reviewed as at 31 December 2022.

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

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




This report was considered by the Finance Advisory Committee at its Meeting held on 16 February 2023.

20

RECOMMENDATION:

- 25 1. That Council authorises the itemised budget variations as shown in Attachment 2 (#E2023/13829) which include the following results in the 31 December 2022 Quarterly Review of the 2022/2023 Budget:
- a) General Fund – \$0 movement to the Estimated Unrestricted Cash Result
 - b) General Fund - \$7,342,100 increase in reserves
 - c) Water Fund - \$208,200 decrease in reserves
 - d) Sewerage Fund - \$297,500 decrease in reserves
- 30 2. That Council adopts the revised General Fund Estimated Unrestricted Cash Result of (\$205,000) for the 2022/2023 financial year as at 31 December 2022.

Attachments:

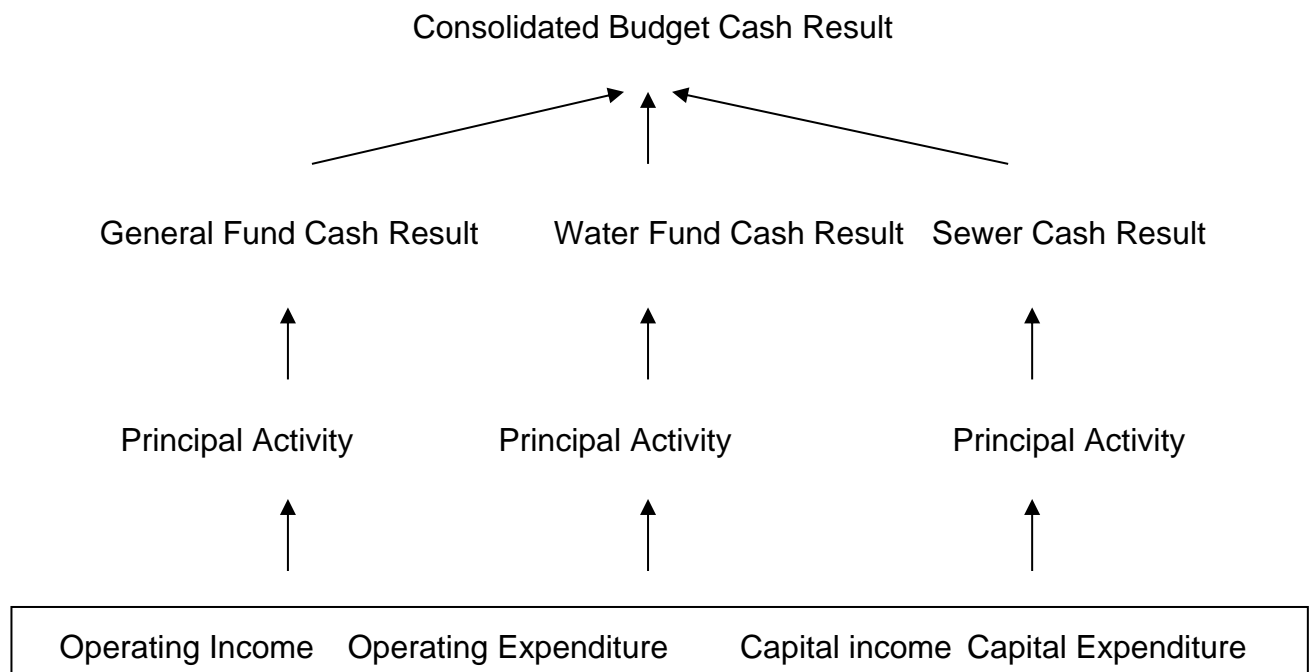
- 1 Budget Variations for General, Water and Sewerage Funds, E2023/13828 
- 2 Itemised Listing of Budget Variations for General, Water and Sewerage Funds, E2023/13829 
- 3 Integrated Planning and Reporting Framework (IP&R) required Quarterly Review Statements, E2023/13832 

Report

Council adopted the 2022/2023 budget on 30 June 2022 via Resolution **22-332**. Council also considered and adopted the budget carryovers from the 2021/2022 financial year, to be incorporated into the 2022/2023 budget at its Ordinary Meeting held on 25 August 2022 via Resolution **22-391**. Since that date, Council has reviewed the budget taking into consideration the audited 2021/2022 Financial Statement results and progress through the first half of the 2022/2023 financial year. This report considers the December 2022 Quarter Budget Review.

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

Contained in the document at Attachment 1 is the following reporting hierarchy:



The pages within Attachment 1 are presented (from left to right) by showing the original budget as adopted by Council on 30 June 2022 plus the adopted carryover budgets from 2021/2022 followed by the resolutions between July and December and the revote (or adjustment for this review) and then the revised position projected for 30 June 2023 as at 31 December 2022.

On the far right of the Principal Activity, there is a column titled "Note". If this is populated by a number, it means that there has been an adjustment in the quarterly review. This number then corresponds to the notes at the end of the Attachment 1 which provides an explanation of the variation.

There is also information detailing restricted assets (reserves) to show Council's estimated balances as at 30 June 2023 for all Council's reserves.

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

Office of Local Government Budget Review Guidelines:

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

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

Since the introduction of the new planning and reporting framework for NSW Local Government, it is now a requirement for Councils to provide the following components when submitting a Quarterly Budget Review Statement (QBRs):-

- A signed statement by the Responsible Accounting Officer on Council's financial position at the end of the year based on the information in the QBRs
- Budget review income and expenses statement in one of the following formats:
 - Consolidated
 - By fund (e.g. General, Water, Sewer)
 - By function, activity, program etc. to align with the management plan/operational plan
- Budget Review Capital Budget
- Budget Review Cash and Investments Position
- Budget Review Key performance indicators
- Budget Review Contracts and Other Expenses

The above components are included in Attachment 3 and outlined below:

Income and Expenditure Budget Review Statement by Type

This shows Council's income and Expenditure by type. This has been split by Fund. Adjustments are shown, looking from left to right. These adjustments are commented on through the last 9 pages of Attachment 1.

Capital Budget Review Statement

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

Cash and Investments Budget Review Statement

- 10 This statement reconciles Council's restricted funds (reserves) against available cash and investments. Council has attempted to indicate an actual position as at 31 December 2022 of each reserve to show a total cash position of reserves with any difference between that position and total cash and investments held as available cash and investments. It should be recognised that the figure is at a point in time and may vary greatly in future quarterly reviews depending on cash flow movements.

Key Performance Indicators (KPI's)

At this stage, the KPI's within this report are:

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

These may be expanded in future to accommodate any additional KPIs that Council may adopt to use in the future.

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

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CONSOLIDATED RESULT

The following table provides a summary of the overall Council budget on a consolidated basis inclusive of all Funds' budget movements for the 2022/2023 financial year projected to 30 June 2023 but revised as at 31 December 2022.

2022/2023 Budget Review Statement as at 31 December 2022	Original Estimate (Including Carryovers) 1/7/2022	Adjustments to 31 Dec 2022 including Resolutions*	Proposed 31 Dec 2022 Review Revotes	Revised Estimate 30/6/2023 at 31/12/2022
Operating Revenue	98,653,200	4,046,400	13,294,800	115,994,400
Operating Expenditure	111,603,900	5,833,100	9,209,800	126,646,800
Operating Result – Surplus/Deficit	(12,950,700)	(1,786,700)	4,085,000	(10,652,400)
Add: Capital Revenue	37,235,900	(6,137,900)	2,760,800	33,858,800
Change in Net Assets	24,285,200	(7,924,600)	6,845,800	23,206,400
Add: Non Cash Expenses	18,455,700	2,033,900	0	20,489,600
Add: Non-Operating Funds Employed	20,800,000	0	0	20,800,000
Subtract: Funds Deployed for Non-Operating Purposes	(99,493,500)	(1,404,900)	(9,400)	(100,907,800)
Cash Surplus/(Deficit)	(35,952,600)	(7,295,600)	6,836,400	(36,411,800)
Restricted Funds – Increase / (Decrease)	(35,747,600)	(7,295,600)	6,836,400	(36,206,800)
Forecast Result for the Year – Surplus/(Deficit) – Unrestricted Cash Result	(205,000)	0	0	(205,000)

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GENERAL FUND

In terms of the General Fund projected Unrestricted Cash Result the following table provides a reconciliation of the estimated position as at 31 December 2022:

Opening Balance – 1 July 2022	\$0
Plus original budget movement and carryovers	(205,000)
Council Resolutions July – September Quarter	(2,000)
September QBR – increase/(decrease)	0
Council Resolutions October – December Quarter	2,000
Recommendations within this Review – increase/(decrease)	0
Estimated Unrestricted Cash Result Closing Balance – 30 June 2023	(\$205,000)

- 5 The General Fund financial position overall has not moved as a result of this budget review, leaving the forecast cash result for the year at an estimated deficit of \$205,000. The proposed budget changes are detailed in Attachment 1 and summarised further in this report below.

Council Resolutions

- 10 Resolution 22-361 relating to the Plan of Management for Bangalow Sportsfields point 4 states 'That council support a workshop with Bowling Club stakeholders and a budget of up to \$2,000 be made available to support this workshop'. This has been added to the 2022/2023 Budget.

Resolution 22-742 point 3 rescinds point 4 of resolution 22-361, above, removing the budget allocation of \$2,000.

Budget Adjustments

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

Budget Directorate	Revenue Increase/ (Decrease) \$	Expenditure Increase/ (Decrease) \$	Accumulated Surplus (Working Funds) Increase/ (Decrease) \$
General Manager	37,500	37,500	0
Corporate & Community Services	32,700	17,500	15,200
Infrastructure Services	13,323,500	13,374,300	(50,800)
Sustainable Environment & Economy	508,900	473,300	35,600
Total Budget Movements	13,902,600	13,902,600	0

Budget Adjustment Comments

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

10 General Manager

- In the General Managers program, it is proposed to decrease operating expenditure by \$60,000 as the development of the Plans of Management for Crown Reserves will not be undertaken this financial year. The budget has been moved to the draft 2023/24 budget.

- 15
- In the People & Culture program, it is proposed to increase operating expenditure by \$97,500 due to the Workers Compensation premium being more than the initial estimated budget.

Corporate and Community Services

- 20
- In the Information Services program, it is proposed to decrease the budget of \$20,000 for Cyber Penetration Testing as the State Government undertook this on Council's behalf so is no longer required.
- 25
- In the Corporate Services program, it is proposed to increase operating income by \$24,000 due to a grant received for Australia Day. It is proposed to decrease operating expenditure by \$21,000 as the activities associated with the Annual Procurement Plan

and the drafting and implementing of a new contract management framework and supporting contract management software (\$45,000) will be deferred until 2023/24. This has been added to the draft 2023/24 budget. This is offset by an increase of \$24,000 to Australia Day expenditure, funded from the grant.

5

- In the Community Development program, it is proposed to increase operating income and expenditure by \$15,000 due to a grant received for Regional Youth – Summer Holiday Break.

- 10
- In the Public Libraries program, it is proposed to increase operating income due to actual income received for the per capita grant (\$18,100) and the Local Priority Grant (\$27,300) being more than the budget. It is proposed to increase operating expenditure due to increased costs relating to security (\$2,900), and an adjustment to the Local Priority Grant expenditure to match the income received (\$27,300).

15 **Infrastructure Services**

- In the Projects and Commercial Development Program, it is proposed to decrease capital expenditure as some of the budget allocated for the Lot 12 Bayshore Drive remediation is required for Bush Regeneration.

- 20
- In the Depot Services program, it is proposed to increase operating income as a contribution from the SEE Directorate is required due to the Plant Fund contributing to the additional costs for parking vehicles. This \$48,000 will reimburse the Plant Reserve.

- 25
- In the Local Roads and Drainage program, there are a number of adjustments outlined under Note 13 on pages 52 to 53 in the Budget Variations explanations section of Attachment 1. Further disclosure is included in the second page of Attachment 2 under the budget program heading Local Roads and Drainage.

- 30
- In the Transport for New South Wales program (TfNSW), it is proposed to increase operating income by \$12,302,900 due to income received for the February 2022 flood event. This is for various Emergency Works and EPAR projects, some of which had been expended in 2022, with a breakdown shown on page 3 of attachment 2. Of this total, \$3,957,400 can be transferred to the negative flood recovery reserve that was created at 30 June 2022 as Council had expended considerably more on projects than funds that had been received, and this income covers a portion of that. It should be noted that this transfer to the negative Flood Recovery reserve now leaves the balance at zero.
- 35

- 40
- In the Open Space and Recreation program, there are a number of adjustments outlined under Note 15 on pages 53 to 55 in the Budget Variations explanations section of Attachment 1. Further disclosure is included in the third page of Attachment 2 under the budget program heading Open Space & Recreation.

- 45
- In the Facilities Management program, it is proposed to increase operating income so the budget for the Byron Bay tennis courts matches the actual income received. It is proposed to decrease operating expenditure due to the Marvell Hall Access Ramp

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(\$105,000) and Marvell Hall Kitchen Renovation (\$195,900) being moved to the 2023/24 draft budget as they will not be completed this financial year. It is also proposed to increase capital works for the Bangalow Showground Fencing (\$14,700) and the Byron Community Hub (\$1,237,000).

5 Sustainable Environment and Economy

- In the Planning Policy & Natural Environment program, it is proposed to increase operating income and expenditure by \$234,000 due to grants received for Addressing Priority Flood Impacts in BSC (\$200,000), WIRES – No Bat No Me project (\$19,000) and the Koala Habitat Restoration Program (\$15,000). In addition to this, grant income has been received on completion of the Jonson Street Protection works (\$38,200) and transferred back to the Holiday Park reserve which is where the initial expenditure was taken from, grant income from Stage 2 for the Southern Coastal Management Program (\$77,400) and grant income for the CZMP Coastal Hazard Assessment Study (\$90,000). It is proposed to increase operating expenditure by a further \$81,400 due to the Stage 2 for the Southern Coastal Management Program (\$59,100), CZMP for Byron Bay Embayment (\$58,500), \$10,100 for repairs to the electric vehicle station at Byron library, and budgets no longer required for the Riparian Restoration project (\$17,400) and the Develop Governance Models for the Facilitation of Housing project (\$28,900).
- In the Environment & Compliance program, it is proposed to increase operating expenditure due to the purchase of new enforcement vehicles.

WATER FUND

After completion of the 2021/2022 Financial Statements the Water Fund as at 30 June 2022 has a capital works reserve of \$8,953,800 and held \$1,844,900 in section 64 developer contributions.

The estimated Water Fund reserve balances as at 30 June 2023, and forecast in this Quarter Budget Review, are derived as follows:

Capital Works Reserve

Opening Reserve Balance at 1 July 2021	\$8,953,800
Plus original budget reserve movement	(4,874,800)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	(1,036,100)
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	(279,100)
Forecast Reserve Movement for 2022/2023 – Increase / (Decrease)	(6,190,000)
Estimated Reserve Balance at 30 June 2023	\$2,763,800

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Section 64 Developer Contributions

Opening Reserve Balance at 1 July 2022	\$1,844,900
Plus original budget reserve movement	(1,120,100)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	(500,000)
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	70,900
Forecast Reserve Movement for 2022/2023 – Increase / (Decrease)	(1,549,200)
Estimated Reserve Balance at 30 June 2023	\$295,700

Movements for Water Fund can be seen in Attachment 1 with a proposed estimated decrease to reserves (including S64 Contributions) overall of \$208,200 from the 31 December 2022 Quarter Budget Review.

5 SEWERAGE FUND

After completion of the 2021/2022 Financial Statements the Sewer Fund as at 30 June 2022 has a capital works reserve of \$2,701,600 and plant reserve of \$896,200. It also held \$7,180,100 in section 64 developer contributions and a \$766,900 unexpended grant.

Capital Works Reserve

Opening Reserve Balance at 1 July 2022	\$2,701,600
Plus original budget reserve movement	(926,200)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	(653,600)
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	(257,500)
Forecast Reserve Movement for 2022/2023 – Increase / (Decrease)	(1,837,300)
Estimated Reserve Balance at 30 June 2023	\$864,300

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Plant Reserve

Opening Reserve Balance at 1 July 2022	\$896,200
Plus original budget reserve movement	0
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	0
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	0
Forecast Reserve Movement for 2022/2023 – Increase / (Decrease)	0
Estimated Reserve Balance at 30 June 2023	\$896,200

Section 64 Developer Contributions

Opening Reserve Balance at 1 July 2021	\$7,180,100
Plus original budget reserve movement	(4,591,700)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	375,000
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	(40,000)
Forecast Reserve Movement for 2022/2023 – Increase / (Decrease)	(4,256,700)
Estimated Reserve Balance at 30 June 2023	\$2,923,400

- 5 Movements for the Sewerage Fund can be seen in Attachment 1 with a proposed estimated overall decrease to reserves (including S64 Contributions) of \$297,500 from the 31 December 2022 Quarter Budget Review.

Legal Expenses

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

The table that follows indicates the allocated budget and actual legal expenditure within Council on a fund basis as at 31 December 2022.

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Total Legal Income & Expenditure as at 31 December 2022

Program	2022/2023 Budget (\$)	Actual (\$)	Percentage To Revised Budget
Income			
Legal Expenses Recovered	0	0	0%
Total Income	0	0	0%
Expenditure			
General Legal Expenses	202,600	87,554	43.21%
Total Expenditure General Fund	202,600	87,554	43.21%

Note: At the time of writing this report in February, Council has committed additional expenditure of \$24,220 that brings the total legal expenditure for 2022/23 to \$111,774. This should continue to be monitored to ensure there is enough funding for future expenses.

5

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.3: Ethical and efficient management of resources	1.3.1: Financial Management - Ensure the financial integrity and sustainability of Council through effective financial management	1.3.1.2	Provide Quarterly Budget Reviews to Council for adoption.

Legal/Statutory/Policy Considerations

In accordance with Section 203 of the Local Government (General) Regulation 2021 the Responsible Accounting Officer of a Council must:

10

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- 5 (1) *Not later than 2 months after the end of each quarter (except the June quarter), the responsible accounting officer of a council must prepare and submit to the council a budget review statement that shows, by reference to the estimate of income and expenditure set out in the statement of the council's revenue policy included in the operational plan for the relevant year, a revised estimate of the income and expenditure for that year.*
- (2) *A budget review statement must include or be accompanied by:*
- 10 (a) *a report as to whether or not the responsible accounting officer believes that the statement indicates that the financial position of the council is satisfactory, having regard to the original estimate of income and expenditure, and*
- (b) *if that position is unsatisfactory, recommendations for remedial action.*
- (3) *A budget review statement must also include any information required by the Code to be included in such a statement.*

Financial Considerations

- 15 The 31 December 2022 Quarter Budget Review of the 2022/2023 Budget has not changed the budget position overall as indicated at the 30 September 2022 Quarterly Budget Review. This leaves the movement against the unrestricted cash balance attributable to the General Fund to an estimated deficit of \$205,000 for the year, leaving the unrestricted cash balance attributable to the General Fund at an estimated \$205,000 deficit at 30 June 2023.

It is the view of the Responsible Accounting Officer that the short term financial position of the Council is still satisfactory for the 2022/2023 financial year, having consideration of the original estimate of income and expenditure at the 31 December 2022 Quarter Budget Review.

- 25 This opinion is based on the estimated General Fund Unrestricted Cash Result position and that the current indicative budget position for 2022/2023 outlined in this Budget Review is further improved through the remaining quarterly budget reviews for the 2022/2023 financial year. Council must remember it has a short term financial goal of maintaining \$1,000,000 in unrestricted cash.
- 30 The 2022/2023 budget estimates are at a stage where it is a real issue for Council in terms of physical capacity to deliver works programs, operational plan activities and the ongoing flood recovery. It is suggested that Council look closely to the remainder of 2022/2023 and consider what is likely to be achieved and start to remove from the budget and operational plan, items that will not be delivered/completed. This is especially the case in relation to Capital Works expenditure. It will be essential that Council reviews this position as part of the 31 March 2023 Quarterly Budget Review.

- 40 Pleasingly the 31 December 2022 Quarterly Budget Review demonstrates an improvement in the cash position of Council following a significant payment of Natural Disaster funding in December 2022 of over \$9.1million reimbursing significant expenditure incurred in the previous financial year plus some expenditure in the current financial year.

**Report No. 13.8 Council Resolutions Quarterly Review - Q2 -
1 October to 31 December 2022**

Directorate: Corporate and Community Services

Report Author: Heather Sills, Manager Corporate Services

5 **File No:** I2023/146

Summary:

This report provides an update on the status of Council Resolutions as at 31 December 2022.

155 Resolutions were completed during the period 1 October 2022 to 31 December 2022.

10 145 Resolutions remain active.

RECOMMENDATION:

That Council:

- 15 1. **Notes the information provided in this report on active Council Resolutions in Attachment 1 (#E2022/129525).**
2. **Notes the completed Resolutions in Attachment 2 (#E2022/129526).**

Attachments:

- 20 1 Active Resolutions - as at 31 December 2022, E2022/129525 
- 2 Completed Resolutions - 1 October to 31 December 2022, E2022/129526 

Report

Each quarter, Council is updated on the status of Council Resolutions; identifying those Resolutions completed within the reporting period, those proposed to be closed, and those Resolutions that remain 'Active'.

5 Quarterly Report – 1 October 2022 to 31 December 2022

Active Resolutions

10 The *Active Resolutions Report* (#E2022/129525) provides an update to Council on all active Resolutions up to 31 December 2022, with relevant commentary regarding the status of each Resolution as at this date. There were 145 active Resolutions at the time of preparing this report.

41 of the active Resolutions were overdue by more than 60 days at the time the report was prepared. Resolutions could be overdue due to budget constraints, staff resourcing, extended negotiations with stakeholders, or other reasons.

Completed Resolutions

15 The *Completed Resolutions Report* (#E2022/129526) provides details of those Resolutions that were completed during the period 1 October 2022 to 31 December 2022. 155 Resolutions were completed during this period.

Resolutions Closed with No Action:

There were no actions identifies as needing to be 'closed with no action'.

20 Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.1: Enhance trust and accountability through open and transparent leadership	1.1.2: Governance - Ensure legislative compliance and support Councillors to carry out their civic duties	1.1.2.4	Deliver Council meeting secretariat – including agenda preparation, minutes and council resolutions monitoring

Recent Resolutions

This report has been prepared in accordance with requirements prescribed by Council Resolution **20-513**.

Legal/Statutory/Policy Considerations

- 5 Implementation of Council Resolutions in accordance with the *Local Government Act 1993*.

Financial Considerations

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

Consultation and Engagement

- 10 Not applicable.

Report No. 13.9 Delivery Program 6-monthly Report and Operational Plan 2022/23 - Q2 - to December 2022

Directorate: Corporate and Community Services

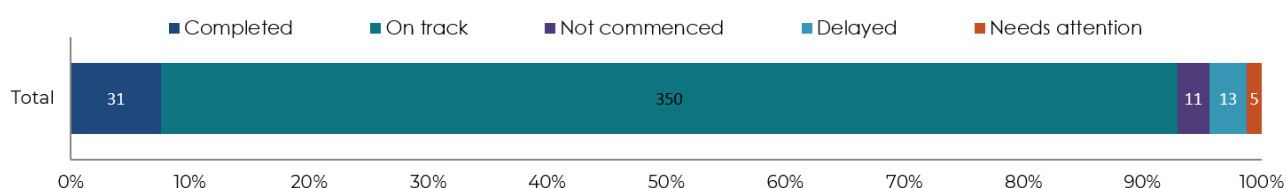
Report Author: Heather Sills, Manager Corporate Services

File No: I2023/147

Summary:

Council's Operational Plan outlines its projects and activities to achieve the commitments in its four-year Delivery Program. In accordance with the *Local Government Act 1993* progress reports must be provided at least every six months.

This report represents the progress toward the activities in the 2022/23 Operational Plan at the end of the second quarter, being 31 December 2022. A summary of the status is provided in the graph below:



This report also represents the '6-monthly edition' of the Quarterly Report, providing an additional reporting layer regarding the Council's progress toward the higher-level actions of the Delivery Program.

RECOMMENDATION:

That Council:

1. **Notes the 2022/23 Operational Plan Quarter 2 Report for the period ending 31 December 2022 (Attachment 1 #E2023/11308).**
2. **Adopts the proposed amendments to the Operational Plan 2022/23 outlined in Attachment 2 (#E2022/126473).**

Attachments:

- 1 Delivery Program and Operational Plan - Quarterly Report - December 2022, E2023/11308
5 2 Quarter 2 Report - Proposed Amendments to Operational Plan 2022/23, E2022/126473

Report

10 The Delivery Program and Operational Plan are two key corporate documents that establish Council's goals and priorities for the term of the Council and the current financial year. The Delivery Program is supported by the annual Operational Plan, which identifies the individual projects and activities that will be undertaken for the year to achieve the commitments made in the Delivery Program.

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

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

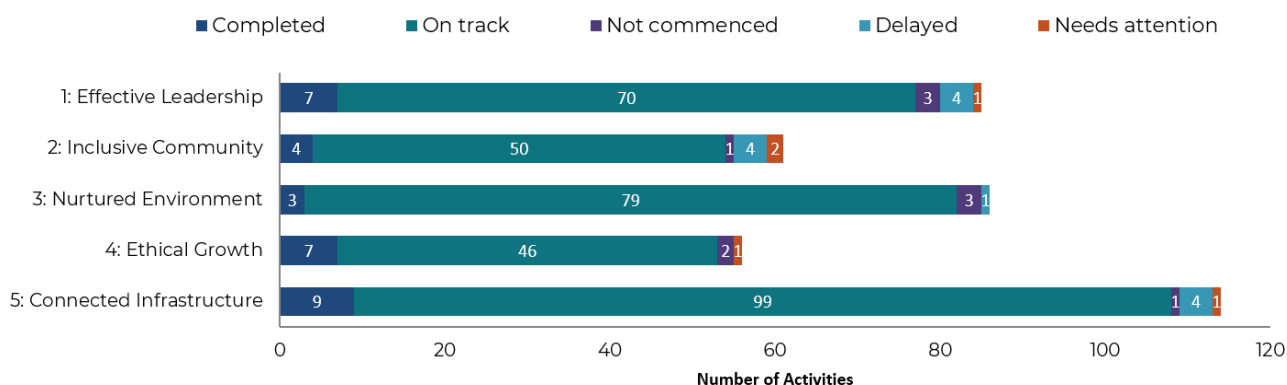
20 While the requirement is six monthly reporting, the Council is provided with a Quarterly Report on the activities in the Operational Plan, to promote effective and efficient reporting and decision making.

Strategic Objectives

25 The report (#E2023/11308) is structured by the five Community Objectives in the Byron Shire Community Strategic Plan:

- Effective Leadership: We have effective decision making and community leadership that is open and informed
- Inclusive Community: We have an inclusive and active community where diversity is embraced and everyone is valued
- Nurtured Environment: We nurture and enhance the natural environment
- Ethical Growth: We manage growth and change responsibly
- Connected Infrastructure: We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable

Q2 Status by Community Objective:



5 Report Details

The report details Council's progress toward the activities in the 2022/23 Operational Plan. It includes a status update on progress and commentary on the activities undertaken during the reporting period.

Each section notes the progress against the activities including:

- 10
 - Activity
 - Measure
 - Timeframe
 - Comments
 - Status
- 15
 - ✓ **Completed:** the activity has been completed in accordance with the prescribed measures
 - ▶ **On Track:** progressing and on track, in accordance with the timeframe, measures, and budget
 - ⚠ **Needs Attention:** indicates that the scope of the activity may need to be reviewed in line with constraints such as timeframe/budget
 - || **Delayed** – progressing but not currently on track with the timeframe, measures, or budget
 - **Not Commenced** – not yet commenced or due to commence

Proposed Amendments

- 25 This is the second quarterly report of the 2022/23 Operational Plan. Six activities have been identified as requiring amendments, seven activities have been proposed to be removed and one new activity has been proposed for inclusion. These are provided in attachment 2 (E2022/126473) for Council's endorsement.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.1: Enhance trust and accountability through open and transparent leadership	1.1.4: Performance Measurement and Reporting - Embed a robust performance management system through the development of an outcomes measurement framework

Legal/Statutory/Policy Considerations

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

Financial Considerations

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

Consultation and Engagement

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

15

Report No. 13.10 Submission - Councillor Misconduct Framework

Directorate: Corporate and Community Services

Report Author: Heather Sills, Manager Corporate Services
Ralph James, Legal Counsel

File No: I2023/155

Summary:

In 2021, the NSW Government commissioned an independent review of the processes and procedures for dealing with allegations of councillor misconduct.

10 Mr Gary Kellar PSM was appointed to undertake the independent review, to examine the current administrative framework under which complaints about councillor misconduct are managed, including analysis of other jurisdictions. The review has now concluded and the findings report, including 49 recommendations is available [here](#).

15 While extensive consultation has already occurred, the NSW Government is inviting further feedback and submissions on some of the key recommendations for change contained in the report. A Consultation Guide to help inform feedback is available [here](#).

20 The submission period closed on 3 February, which did not provide an opportunity for Council to consider the draft submission prior to it being made to OLG. The submission is now presented to Council, seeking Council endorsement or amendment. This subsequent submission will be provided to OLG as a late submission.

RECOMMENDATION:

25 **That Council endorses the submission to the Office of Local Government on the Councillor Misconduct Framework, as provided in attachment 1 (E2022/125019).**

Attachments:

30 1 Submission - Councillor Misconduct Framework, E2022/125019 

Report

[OLG Circular 22-38](#) issued on 13 December 2022 called for submissions on the Councillor Misconduct Framework. The Circular was published to the Hub and available to Councillors on the date it was received.

- 5 The report and recommendations for change are the result of an independent report, commissioned by the Office of Local Government to review of the processes and procedures for dealing with allegations of councillor misconduct.

- 10 The 49 recommendations are extensive and include: a new, independent framework for dealing with councillor misconduct; the establishment of an independent Councillor Conduct Commission to oversee independent Councillor Conduct Review Panels, and tougher, prescribed penalties and sanctions to respond to misconduct, including the ability to impose monetary penalties on individuals.

- 15 Those councils who experience misconduct and the NSW Government would be jointly required to meet the costs of the independent panels and the Commission in dealing with complaints about councillors.

Other key recommendations include:

- requiring candidates at local government elections to participate in free training before they can nominate for local government elections;
- prescribing mandatory training and professional development requirements for
20 elected councillors;
- creating and mandating a separate code of conduct for councillors, covering all forms of meetings, briefings and workshops; and
- revising the Model Code of Meeting Practice and strengthening the mayor's/chair's powers and obligations.

- 25 While extensive consultation has already occurred, the NSW Government invited further feedback and submissions on some of the key recommendations for change contained in the report. A Consultation Guide to help inform feedback was made available [here](#).

Submissions were to be received by 3 February 2023.

- 30 Due to the timing of the receipt of information, there was not an opportunity to have the draft submission endorsed by Council prior to the deadline. Accordingly, retrospective endorsement of the submission, or amendments as necessary, will be the subject of a further late submission to the Office of Local Government.

- 35 The submission as made was generally in favour of the recommendations, with suggestions for further consideration, such as financial incentives for compliance with training requirements as opposed to penalties for non-compliance.

The full submission is available at Attachment 1.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.1: Enhance trust and accountability through open and transparent leadership	1.1.2: Governance - Ensure legislative compliance and support Councillors to carry out their civic duties	1.1.2.3	Provide administrative support to Councillors to carry out their civic duties

Recent Resolutions

- 5 Not applicable.

Legal/Statutory/Policy Considerations

The NSW Government has made no final decisions about implications of the Kellar report's recommendations at this time and seeks feedback from the local government sector and the public to inform the Government response to the review.

10 Financial Considerations

There are no financial considerations at this point, however the recommendations of the report include that those councils who experience misconduct and the NSW Government would be jointly required to meet the costs of the independent panels and the Commission in dealing with complaints about councillors.

15 Consultation and Engagement

The circular indicated that anyone, including the general public, councils, individual councillors and council staff, can make written submissions in response to the consultation paper. The circular was made available to Councillors via the Hub on the date it was received.

20

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.11 Application for Revocation of Menacing Dog Order

5 **Directorate:** Sustainable Environment and Economy

Report Author: Leon Wark, Animal Enforcement Officer

File No: I2022/1607

Summary:

10 Mr Marcus Crouch-Carter, owner of a desexed male Bull Arab 'Simba' microchip number 982000364624792, has made application to Council to consider revocation of a Menacing Dog Declaration dated 20 August 2021.

15 **RECOMMENDATION:**

That Council revokes the Menacing Dog Declaration relating to desexed male Bull Arab 'Simba' microchip number 982000364624792.

Attachments:

- 20 1 Confidential - Statement from Brian Mollet - Regarding Dog Attack at 55 New City Road MULLUMBIMBY - 30.2021.6028.1, S2021/4330
- 2 Confidential - Mr Marcus Crouch-Carter - 79.2021.19.2 30.2021.6028.1 - Menacing Dog Declaration for Simba - Microchip 982000364624792(3)_PDF version, E2023/9277
- 3 Confidential - Wil Constable_Reference for Simba_Menacing Dog 79.2021.19.2, E2023/9290
- 25 4 Confidential - Filenote of Leon Wark - 79.2021.19.2 30.2021.6028.1 - Menacing ~ Microchip 982000364624792, E2023/9279
- 5 Confidential - Email from Josh Blau from K9 - Supplementary behavioural training report for Simba - Microchip 982000364624792 - owner M Crouch-Carter - 79.2021.19.2, E2023/9535

30

Report

On 20 August 2021, Council declared a desexed male Bull Arab 'Simba' microchip number 982000364624792 ("Simba"), owned by Mr Marcus Crouch-Carter, a menacing dog pursuant to Section 34(1A) of the *Companion Animals Act 1998* ("the Act"). A copy of the declaration is attached to this report.

The declaration was the result of an attack which took place on 11 July 2021, when Simba was 4 years of age. The attack occurred when an Australia Postal worker attended the property where Simba resides to deliver parcels. Simba ran at the postal worker, who was outside the property at that time. Simba bit the worker on the posterior of his left knee. The bite allegedly left an abrasion/red marking but did not break the skin. No medical treatment was required by the victim and the victim failed to supply photographs of the injury to Council. The victim's statement is attached to this report.

The incident was considered to be on the very low-end scale of seriousness and no penalty infringement notice was issued to the dog's owner.

The menacing declaration stipulates that in accordance with section 39(2)(b) of the Act, the issuing Council has determined that it is necessary for this dog to undergo appropriate behavioural training before the Council will consider any application to revoke the declaration.

On 26 August 2022, Council received an application from Mr Marcus Crouch-Carter to revoke Simba's menacing dog declaration.

Simba is now 5 years of age. Simba has remained residing with his owner and his family at the address in Mullumbimby.

Section 39 of the Act states:

(1) *The owner of a dog that has been declared a dangerous dog or a menacing dog under this Division can apply to the council of the area in which the dog is ordinarily kept (whether or not it is the council whose authorised officer made the declaration) for the declaration to be revoked.*

(1A) *An application under subsection (1) cannot be made until after the period of 12 months following the date on which the dog was declared to be a dangerous dog or a menacing dog.*

(2) *The council to which the application is made may revoke the declaration but only if satisfied that—*

(a) *it is appropriate to do so, and*

(b) *if the council determines that it is necessary—the dog has undergone appropriate behavioural training.*

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.11

(2A) *In making a determination under subsection (2) (a) in relation to a menacing dog declaration, the council is to have regard to the nature and extent of any behavioural training that the dog has undergone.*

5 (3) *The council must, as soon as practicable, give notice to the owner of the dog that the declaration has been revoked or that the council has refused to revoke the declaration.*

Simba resides within the Byron Shire Council area and the application has been made after the period of 12 months following the date on which Simba was declared a menacing dog (satisfying sections (1) and (1A)).

10 A written reference, supporting the revocation of the menacing dog declaration has been provided by Wil Constable and is attached to this report. Mr Constable has known Simba for five years and owns a six-month-old puppy that he allows to interact with Simba.

15 To support his application, Mr Crouch-Carter engaged a dog behaviouralist, Mr Josh Blau, to perform an assessment of Simba. Mr Blau did not provide a formal report but did provide an email summary of the assessment, with video links. The email is attached to this report and the videos are summarised in the filenote of Leon Wark attached to this report.

20 In his email Mr Blau states he does not believe Simba should be required to abide by menacing dog requirements of being contained in a childproof enclosure, wearing a muzzle in public and wearing a red/yellow dangerous dog collar. Mr Blau concluded that Simba is not a risk to the wider community.

25 The videos depict numerous instances of non-compliance with the menacing dog declaration whilst in a public place while Simba was undergoing a behavioural assessment (not wearing a dangerous dog collar, not wearing a muzzle, not enclosed in a manner that is sufficient and not under affective control in a public place). However, the videos do not depict any menacing behaviour.

Mr Blau provided a supplementary report, via email, to Council on 30 January 2023, which is also attached to this report. The supplementary report clarifies that Simba has undergone behavioural training.

30 A search of Council records reveals that there has been no reported non-compliance with the menacing declaration. Council also has no record of complaints involving Simba following the initial incident and the date of the declaration.

35

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.2: Enhance safety and contribute to the physical, mental, and spiritual health and well being of our people	2.2.4: Companion animals - Promote awareness of the requirements of the Companion Animals Act with respect to the ownership of companion animals	2.2.4.2	Provide companion animal management services

Legal/Statutory/Policy Considerations

- Companion Animals Act 1998
- 5 • Companion Animals Regulation 2018
- Enforcement Policy 2020

Financial Considerations

This report is managed within the existing operational budget allocation.

Consultation and Engagement

- 10 No consultation process is required in relation to this report.

Report No. 13.12 Companion Animal Exercise Area Policy

Directorate: Sustainable Environment and Economy

Report Author: Sarah Nagel, Manager Public and Environmental Services

File No: I2023/154

5 **Summary:**

Council resolved to place the draft Companion Animal Exercise Area Policy on public exhibition.


The draft policy was placed on public exhibition for 28 days, during which one submission was received.

- 10 This report recommends that Council adopts the draft Companion Animal Exercise Area Policy without amendment.

15 **RECOMMENDATION:**

That Council adopts the Companion Animal Exercise Area Policy (E2022/103808).

Attachments:

- 20 1 DRAFT Policy: Companion Animal Exercise Areas 2023, E2022/103808 

Report

Council resolved via **22-738** that the Companion Animal Exercise Area Policy (“the policy”) be placed on public exhibition for 28 days to allow for submissions and that should submissions be received on the policy, that the policy be reported back to Council noting the submissions and any amendments made as a result of the submissions received
[Minutes of Ordinary Meeting - Thursday, 15 December 2022 \(infocouncil.biz\)](#)

The policy was placed on public exhibition for a period of 28 days, ending 5 February 2023. During that period, Council received one submission which stated:

“Council resolved via 18-362 that a ‘Dogs in Public Spaces Strategy’ (DiPS) be prepared instead of a revised Companion Animal Exercise Area Policy: Minutes of Ordinary Meeting - 21 June 2018 Council has Adopted to not revise this Policy”

Council’s Resolution **18-362** from the 21 June 2018 meeting, did not state that the Dogs in Public Spaces Strategy (“DiPS”) would replace the Companion Animal Exercise Area Policy.

18-362 Resolved that Council:

1. *Note the report and support the preparation of a Byron Shire Dogs in Public Spaces Strategy.*
2. *Receive a further report on Stage 1 - Byron Shire Dogs in Public Spaces Strategy (Initial information gathering and research) and a Community Engagement Plan once this work is completed.*

However, the [report](#) to that meeting did state: ‘It is proposed that the DiPS will replace the Byron Shire Council Policy 5.31 Companion Animal Exercise Areas’

The exhibition of the policy proceeded as per Council’s Resolution from the 15 December 2022 Council meeting (**22-738**).

The draft policy is consistent with Council Resolutions **18-362** and **22-738**. No amendments have been made to the policy as a result of the submission received.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.2: Enhance safety and contribute to the physical, mental, and spiritual health and well being of our people	2.2.4: Companion animals - Promote awareness of the requirements of the Companion Animals Act with respect to the ownership of companion animals	2.2.4.4	Develop Dogs in Public Space Strategy

Recent Resolutions

- Resolution **18-362**
- Resolution **20-727**
- Resolution **22-208**
- Resolution **22-420**
- Resolution **22-738**

Legal/Statutory/Policy Considerations

Companion Animals Act 1998

Financial Considerations

The policy is managed within the existing operational budget allocation.

Consultation and Engagement

The policy was placed on public exhibition for 28 days.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.13 Fees and Charges - Use of car parking spaces for construction purposes

5 **Directorate:** Infrastructure Services
Report Author: Judd Cornwall, Traffic & Transport Engineer
File No: I2023/56

Summary:

10 The purpose of this report is to gain Council endorsement for the proposed fee structure regarding the use of Council land/road reserve to enable construction work, events, or temporary use as it relates to carparking spaces (following public exhibition).

15 **RECOMMENDATION:**

1. That Council endorses the proposed fees for “Use of Council land/road reserve to enable construction work, events or temporary use” be placed on public exhibition for a period of 28 days in accordance with s610F of the Local Government Act 1993.
- 20 2. That any submissions received are reported to Council prior to adoption of the proposed fees.
3. That if no submissions are received during the public notice period Council adopts the fees from 1 April 2023.

25

Report

During the public exhibition of Council's 2022/23 Integrated Planning and Reporting documents, including Revenue policy in May 2022, Council received numerous submissions in relation to 'hoarding fees'. At the time, Council resolved on the fees in table 1 below with resolution **22-332 part 4** requiring that Council "*Prepares a report to be delivered in September to provide options regarding fee structure for use of parking spaces and road reserves adjacent to construction sites for construction temporary use and events with the financial implications*).

Table 1: Adopted 2022/23 fees and charges regarding the use car parking spaces for construction purposes.

Fee name and description	Fee amount
Application fee	\$180.00
<i>(Eg. Hoarding, scaffolding, fencing, works zones, other temporary structures or traffic control device/s)</i>	
Inspection fee	\$200.00
<i>per hour (minimum 2 inspections with application – further inspections to be paid as required, eg. change to work zone)</i>	
Urgency fee	\$200.00
<i>Where use is required within 10 working days of the application being lodged.</i>	
Low Impact Occupation of Council Land	\$1.00 per m ² / day
<i>Where pedestrian, cyclist and vehicular traffic are not disrupted, includes public reserves</i>	
Footpath / verge closure	\$3.00 per m ² / day
<ol style="list-style-type: none"> <i>Where the footpath / verge area is closed to pedestrians and/or cyclists.</i> <i>Where an elevated gantry is installed, fees will be charged for the set up and takedown down then charged at a low impact Occupation rate for the period of occupation.</i> 	
Road Closure (full and partial)	\$13.00 per m ² / day
<i>Where the traffic lanes are closed to traffic.</i>	

This matter was brought to a councillor workshop on 3 November 2022 for discussion. During the workshop Councillors expressed views that the fees were too high in relation to the use of Council car parking spaces for the purposes of hoardings.

Whilst Council wants to discourage the use of public property for construction, in cases where the impacts are unavoidable and can be managed/mitigated adjacent the development it is proposed that Council minimise the charges.

Therefore, for carparking spaces that are within a pay parking zone the charges are proposed to be charged at \$105/6LM per day adjacent the property rather than the \$120 per space shown in the current policy.

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STAFF REPORTS - INFRASTRUCTURE SERVICES

13.13

Most of the pay parking in the Shire is angle parking, where each space occupies approximately 2.5m of lineal kerb space, based on the current charges this translates to roughly \$288/6LM per day. The proposed charge relates to the current charge for non-pay parking space (\$60/space), plus the revenue generated by one space (\$45).

- 5 For non-pay parking spaces, it is proposed that Council maintain the current \$60 charge per day but charge per 6LM of kerb space rather than per space. For a comparison Tweed Shire are currently charging \$79/6LM/day.

- 10 Where the impact on car parking opportunity extends past the frontage of the development it is proposed that this extra space is charged as double the rate per 6LM/day in each case (non-pay parking and pay parking) to help discourage impacts on surrounding businesses and residents.

The proposed amendment to the Shires current charges is shown below (table 2).

Table 2: Proposed changes to charges regarding the use car parking spaces for construction purposes.

Use of Council land/road reserve to enable construction work, events or temporary use	
Frontage parking – non pay parking location	\$60/6LM/day
Frontage parking – pay parking location	\$105/6LM/day
Extended frontage parking (additional space extending past development frontage)- non-pay parking location	\$120/6LM/day
Extended frontage parking (additional space extending past development frontage)- non-pay parking location	\$210/6LM/day

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
5: Connected Infrastructure We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable	5.2: Connect the Shire through integrated transport services	5.2.4: Parking - Manage parking through effective controls that support Movement and Place Plans and are coordinated with other initiatives such as park and ride	5.2.4.2	Maintain Byron Bay Paid Parking System
4: Ethical Growth We manage growth and change responsibly	4.1: Manage responsible development through effective place and space planning	4.1.1: Development assessment - Manage development through a transparent and efficient assessment process	4.1.1.2	Certify development in accordance with relevant legislation.

Recent Resolutions

- 5 • **22-332 part 4** (*Prepares a report to be delivered in September to provide options regarding fee structure for use of parking spaces and road reserves adjacent to construction sites for construction temporary use and events with the financial implications*).

Legal/Statutory/Policy Considerations

- 10 This report proposes changes to the current revenue policy as it pertains to charges for the use of car parking spaces for construction purposes. [s610F](#) of the *Local Government Act 1993* requires the public notice of fees, where fees are proposed to be amended outside adoption of the Operational Plan, as outlined below:

610F Public notice of fees

- (1) *A council must not determine the amount of a fee until it has given public notice of the fee in accordance with this section and has considered any submissions duly made to it during the period of public notice.*
- 5 (2) *Public notice of the amount of a proposed fee must be given (in accordance with the regulations) in the draft operational plan for the year in which the fee is to be made.*
- (3) *However, if, after the date on which the operational plan commences—*
- (a) *a new service is provided, or the nature or extent of an existing service is changed, or*
- 10 (b) *the regulations in accordance with which the fee is determined are amended, the council must give public notice (in accordance with [section 705](#)) for at least 28 days of the fee proposed for the new or changed service or the fee determined in accordance with the amended regulations.*
- 15 (4) *This section does not apply to a fee determined by a council for an application made in a filming proposal, if that fee is consistent with a scale or structure of fees set out in an applicable filming protocol.*

Financial Implications

It is ultimately difficult to determine any potential revenue loss from the revised fee structure as the amount generated is contingent upon level of development.

- 20 For reference, revenue generated in the 2021/22 financial year amounted to \$732,000.

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 14.1 Report of the Coast and ICOLL Advisory Committee Meeting held on 20 October 2022

5 **Directorate:** Sustainable Environment and Economy
Report Author: Michelle Wilde, Project Support Officer
File No: I2023/124

Summary:

- 10 This report provides the minutes of the Coast and ICOLL Advisory Committee Meeting of 20 October 2022 for determination by Council.
-

RECOMMENDATION:

- 15 **That Council notes the minutes of the Coast and ICOLL Advisory Committee Meeting held on 20 October 2022.**

20 **Attachments:**

- 1 Minutes 20/10/2022 Coast and ICOLL Advisory Committee, I2022/1443 

BYRON SHIRE COUNCIL

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY 14.1

Report

The attachment to this report provides the minutes of the Coast and ICOLL Advisory Committee Meeting of 20 October 2022 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 https://byron.infocouncil.biz/RedirectToDoc.aspx?URL=Open/2022/10/CICOL_20102022_AGN_1510_AT.PDF

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

Summary of Reports

- 10 **Report No. 4.1 - Council's Integrated Management System (IMS) and ICOLLs presentation on ICOLL management and flooding.**

The Committee noted the presentation and support the ongoing development of the Integrated Management System.

- 15 **Report No. 4.2 - Update on the development of Coastal Management Programs (CMPs) for the Byron Shire Coastline.**

The Committee noted the update of the development of CMPs and CMP projects for the Byron Shire coastline, issues being encountered, recommended pathway forward and next steps for CMP preparation.

- 20 **Report No. 4.3 - Bringing Back the Bruns - project update**

The Committee noted the report.

Report No. 4.4 - Update of Constitution and New Members

The Committee noted the updated constitution.

Financial Implications

- 25 As per the Reports listed within the Coast and ICOLL Advisory Committee Meeting of 20 October 2022.

Statutory and Policy Compliance Implications

As per the Reports listed within the Coast and ICOLL Advisory Committee Meeting of 20 October 2022.

30

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

**Report No. 14.2 Report of the Local Traffic Committee
Meeting held on 7 February 2023**

5 **Directorate:** Infrastructure Services

Report Author: Shelley Flower, Traffic and Parking Systems Officer

File No: I2023/166

10 **Summary:**

The attachment to this report provides the minutes of the Local Traffic Committee Meeting held on 7 February 2023 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 7 February 2023.

2. That Council adopts the following Committee Recommendations:

Report No. 6.1 10.2022.488.1 - Stone and Wood
File No: I2023/116

Committee Recommendation 6.1.1

1. That Council supports the Byron Bay Triathlon to be held on Saturday 13 May 2023 and the Byron Lighthouse Run to be held on Sunday 14 May 2023.
2. That Council supports in Part 1 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 Guidance Scheme/s for the 2023 event;
 - c) development and implementation of a Traffic Management Plan and Traffic Guidance Scheme/s by those with appropriate TfNSW accreditation and the holding of current and appropriate levels of insurance and liability cover;
 - 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.
3. The event organiser to:
 - a) inform the community and businesses that are directly impacted (e.g. 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) liaising with bus, taxi and waste operators and ensuring arrangements are made for provision of services during conduct of the event;**
- c) consulting with emergency services and any identified issues be addressed;**
- d) holding \$20m public liability insurance cover which is valid for the event;**
- e) paying Council's Road Event Application Fee prior to the event;**
- f) not place any signage on the road related area of the Pacific Highway.**

3. That Council adopts the following Committee Recommendations:

Report No. 7.1 Byron Bay Triathlon and Byron Lighthouse Run May 2023

File No: I2022/1912

Committee Recommendation 7.1.1

- 1. That Council supports the Byron Bay Triathlon to be held on Saturday 13 May 2023 and the Byron Lighthouse Run to be held on Sunday 14 May 2023.**
- 2. That Council supports in Part 1 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 Guidance Scheme/s for the 2023 event;**
 - c) development and implementation of a Traffic Management Plan and Traffic Guidance Scheme/s by those with appropriate TfNSW accreditation and the holding of current and appropriate levels of insurance and liability cover;**
 - 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. The event organiser to:
- a) inform the community and businesses that are directly impacted (e.g. 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;
 - f) paying Council's Road Event Application Fee prior to the event;
 - g) not place any signage on the road related area of the Pacific Highway.

4. That Council adopts the following Committee Recommendations:

**Report No. 7.2 Event - Westpac Helicopter Byron Coastal Charity Walk – April
29**

File No: I2023/52

Committee Recommendation 7.2.1

- 1. That Council supports the Westpac Life Saver Rescue Helicopter fundraiser, Byron Coast Charity Walk, to be held Saturday 29 April 2023 from 5.00am – 5.00pm.**
- 2. That Council supports in Part 1 is subject to:**
 - a) The development of a Traffic Guidance Scheme (TGS) and Traffic Management Plan(s) for the 2023 event by those with relevant and current TfNSW accreditation. The TGS(s) and Traffic Management Plan is to include, but is not limited to, the following:**
 - b) Signage, which specifies the date, hours and nature of the event, be positioned at the entrance and exit of Seven Mile Beach Road one week prior to the event;**
 - c) On the day of the event, at 500m intervals on Seven Mile Beach Road, and facing both directions of travel, signs advising of “ Special Event – Charity Walk Ahead” (or similar) are installed prior, and removed after, the event occurs;**
 - d) A safety induction for participants advising of hazards be provided.**
 - e) Implementation of the Traffic Management Plan and Traffic Guidance Scheme/s as designed by those with appropriate accreditation and implemented by people with appropriate accreditation, including traffic controllers.**
- 3. The event organiser to:**
 - a) Advertise the impact of the event, via a Variable Message Sign on site and notice in the local weekly paper, a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints;**
 - b) Arrange for the event to be notified on Council’s webpage a minimum one week prior to the TGS being implemented;**
 - c) Undertake consultation with affected community and businesses including adequate response/action to any raised concerns.**
 - d) Undertake consultation with emergency services and any identified issues addressed.**
 - e) Holding \$20m public liability insurance cover which is valid for the**

- event.
- f) **Paying Council's Road Event Application Fee prior to the event.**
 - g) **Not place any signage on the road related area of the Pacific Highway.**

5. That Council adopts the following Committee Recommendation:

Report No. 7.3 Byron Community Markets - Temporary Road Closure
File No: I2023/106

Committee Recommendation 7.3.1

That Council notes there has been no substantive changes since the approval was given and the first market will be in March.

Attachments:

- 5 1 Minutes 07/02/2023 Local Traffic Committee, I2023/131 

Report

10 The attachment to this report provides the minutes of the Local Traffic Committee Meeting of 7 February 2023 for determination by Council. The agenda for this meeting can be located on Council's website at:

https://byron.infocouncil.biz/Open/2023/02/LTC_07022023_AGN_1626_AT.PDF

Committee Recommendation

As per the Reports listed within the Local Traffic Committee Meeting of 7 February 2023.

Financial Implications

15 As per the Reports listed within the Local Traffic Committee Meeting of 7 February 2023.

Statutory and Policy Compliance Implications

As per the Reports listed within the Local Traffic Committee Meeting of 7 February 2023.

Report No. 16.1 CONFIDENTIAL - Compliance at 8 Grays Lane, Tyagarah

5 **Directorate:** Sustainable Environment and Economy

Report Author: Sarah Nagel, Manager Public and Environmental Services

File No: I2023/65

Summary:

- 10 Council resolved to receive a report on compliance at the nursery and landscaping business beside the Pacific Motorway at 8 Grays Lane, Tyagarah. This report outlines compliance at that property.

15 **RECOMMENDATION:**

1. That pursuant to Section 10A(2)(e) of the Local Government Act, 1993, Council resolves to move into Confidential Session to discuss the report Compliance at 8 Grays Lane, Tyagarah.
- 20 2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
- a) information that would, if disclosed, prejudice the maintenance of law
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:

The report contains information that would prejudice legal action.