



Byron Shire Council



Agenda Ordinary Meeting

Thursday, 25 March 2021

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

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

Mark Arnold
General Manager

CONFLICT OF INTERESTS

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

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

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

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

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

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

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

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

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

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

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

Disclosure and participation in meetings

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

Committee, or

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

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

Non-pecuniary Interests - Must be disclosed in meetings.

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

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

RECORDING OF VOTING ON PLANNING MATTERS

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

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

BYRON SHIRE COUNCIL
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Sustainable Environment and Economy

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Infrastructure Services

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15. QUESTIONS WITH NOTICE

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

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

NOTICES OF MOTION

Notice of Motion No. 9.1 CONFIDENTIAL - Land Acquisition for Booyong Road dedication of land adjoining Lot 4 DP 707295

File No: I2021/284

RECOMMENDATION:

1. That pursuant to Section 10A(2)(c) of the Local Government Act, 1993, Council resolve to move into Confidential Session to discuss the report Land Acquisition for Booyong Road dedication of land adjoining Lot 4 DP 707295.
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, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business
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:

commercial in confidence information is contained within the report

Summary:

At the Ordinary Council meeting on 17 December 2020, Council authorised the General Manager to negotiate a contract for the acquisition of land for road purposes to the value of \$122,500 inclusive of all costs (resolution 20-716).

This report deals with the payment of costs associated with the discharge of any mortgage, stamp duty or any financial costs/loss from the use of the land.

Notice of Motion No. 9.2 Koala SEPP

File No: I2021/388

5 **I move that Council:**

1. **Writes to the Minister for Planning Rob Stokes as a matter of urgency and includes the concerns raised in points 2-7.**
2. **Notes the announcement of the Koala SEPP 2021.**
- 10 3. **Acknowledges the finalisation of the Byron Coastal Koala Plan of Management in the SEPP.**
4. **Expresses grave concern for the future survival of Koalas in NSW given that it overrides Council's ability to protect koala habitat in that it:**
 - a) **overrides decades of Council's efforts in protecting private lands from clearing and logging;**
 - 15 b) **removes Tree Preservation Orders**
 - c) **allows logging across all existing environmental zones,**
 - d) **removes the right to rezone rural land to an environmental zone, or**
 - e) **removes the right to vary the rural zoning.**
- 20 5. **Further conveys its concern for the future of koalas in NSW for the following reasons:**
 - a) **most rural land will be exempt under this SEPP including all within the Northern Rivers, with both existing farming and forestry zones exempt;**
 - b) **the SEPP allows for increased land clearing when it has already increased by 60% in the three years since the State Government relaxed land clearing laws;**
 - 25 c) **2/3 of the koala population remain unprotected by the SEPP as their habitat is on private land.**
- 30 6. **Notes that land zoned for primary production or forestry in regional NSW will not be subject to the new SEPP 2021 and protection of koala habitat in these areas is proposed to be delivered through 'new codes' for private native forestry and the Local Land Services (LLS) Act and urges that:**

- a) new codes must provide adequate protection of koala habitat on rural land.
- b) landowners of primary productions or forestry land should be given good business incentives to protect and enhance koala habitat on their land as part of their business.

7. Urges the Minister to restore Council's ability to protect Koala habitat.

Signed: Cr Cate Coorey

Councillor's supporting information:

- 10 A NSW parliamentary inquiry found in July last year that koalas would lose their habitat and become extinct in NSW before 2050 without urgent intervention.
- The government in January committed to only 11 of the 42 recommendations made by the inquiry and supported 17 of the recommendations in principle.
- 15 The government last week announced rural NSW land zoned for farming or forestry - labelled "core rural zones" - won't be subject to the new Koala State Environmental Planning Policy (SEPP) 2021. This deal struck between the NSW Liberal and Nationals parties will push the species to the brink.
- 20 It strips all NSW councils of their ability to rezone land used for primary production, allegedly in an attempt to protect koalas. If protections are removed from these areas, we have basically given up on the species and signed its death warrant. To protect koalas you have to protect trees
- This is catastrophic setback for the species as these areas are where most of the koalas live and where most koala habitat destruction is happening right now.
- 25 The government says the new SEPP would enhance koala protection in areas such as Sydney, the Blue Mountains and the Central Coast, where more than 95 per cent of development takes place.
- The key threat facing koalas is the ongoing loss of their habitat, yet this new SEPP won't stop this loss. Two-thirds of koalas live on private land, yet this government has weakened land clearing laws so that almost none of it is protected.
- 30 This policy is about opening the door to expanded land clearing on private land without clear rules for protecting koalas. Logging and land-clearing on forestry and agricultural land accounted for 90 per cent of all koala habitat destruction.
- 35 In July last year at the same time that the Parliamentary enquiry into koalas handed down its report, a report by WWF showed that more than a million hectares of threatened species' habitat was cleared for agriculture in New South Wales and Queensland without referral to the federal environment department for assessment.

Within a year of the state relaxing its native vegetation laws in 2017, land-clearing in New South Wales rose nearly 60% and has continued at a frightening pace since.

<https://www.environment.nsw.gov.au/topics/animals-and-plants/native-vegetation/landcover-monitoring-and-reporting/2018-landcover-change-reporting>

5 Staff comments

by Shannon Burt, Director, Sustainable Environment and Economy:

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

On 8 March 2021, an announcement was made about Koala SEPP 2021. This announcement came as a surprise to staff. Details about the SEPP 2021 on the DPIE as published follow:

- Koala SEPP 2019 will be remade across NSW as Koala SEPP 2021;
- The existing Koala SEPP 2020 will continue to apply in core rural zones (RU 1, 2 and 3), except in metropolitan Sydney, Blue Mountains and the Central Coast, where Koala SEPP 2021 will apply across all zones;
- 15 • Comprehensive Koala Plans of Management (KPOM) will be finalised to protect koala habitat in Tweed and Byron Shires.
- Private Native Forestry (PNF) and Local Land Services (LLS) codes will be revised to ensure robust protections for koalas in areas of high value koala habitat and certainty and consistency for primary producers;
- 20 • The Minister for Planning will issue a new section 9.1 direction to ensure that only the Minister, and not councils, will be empowered to rezone land used for primary production to an environmental zone, or to rezone land currently in rural zones 1, 2 and 3 to other rural zones;
- 25 • Once the codes are finalised and reflected in legislation (as required), the Koala SEPP 2020 will be repealed and the Koala SEPP 2021 will apply to the remaining land;
- At that time, dual consent provisions for PNF in local environmental plans will be removed through Koala SEPP 2021;
- 30 • Koala Plans of Management and guidelines under Koala SEPP 2021 will require the approval of the Secretary of DPIE and the concurrence of the Secretary of DRNSW.

There have been many media reports on the new SEPP 2021 that have painted an interesting picture of how it suddenly came to be in the public arena.

<https://www.smh.com.au/environment/conservation/nsw-s-koala-truce-may-be-temporary-as-deep-divisions-remain-20210310-p579mj.html>

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.2

<https://www.smh.com.au/environment/conservation/stokes-barilaro-agree-on-koala-policy-compromise-defusing-tensions-20210308-p578v0.html>

What staff have concluded from a review of the available information on the DPIE website is that the new Koala SEPP 2021 is a retrograde step for, and will have a deleterious impact on, the Byron Shire koala population.

- If the Byron KPOM gets approved under the Koala SEPP 2021, that will offer some level of protection to koalas in the Coastal Koala Planning area only. It is important to stress that our KPOM predominantly covers areas east of the highway (plus a small area of Mullumbimby). Most of the hinterland is not included – places like Goonengerry, Federal, Bangalow etc., where staff know there are koalas. At this time, staff are not sure if Council will ever have to do a second KPOM for the hinterland, or whether the 2021 SEPP will cover these areas.
- The Byron Shire KPOM only applies to development applications that require development consent, for land > 1ha, within the koala planning area. So adoption of our KPOM is not going to have any impact on clearing of primary production land for primary production purposes.
- Staff understand that zoned for primary production or forestry in regional NSW will not be subject to the new SEPP 2021.
- Protection of koala habitat in these areas will apparently be delivered through ‘new codes’ for private native forestry and the Local Land Services (LLS) Act. But these codes haven’t been developed yet so staff don’t know what they will do. The DPIE website states only that ‘more work is needed to revise codes for private native forestry and LLS to ensure robust protection for koalas in areas of high value habitat’.
- Given that primary production and forestry land provides a significant proportion of koala habitat in NSW, and is also critical in providing movement corridors for koalas to travel between adjacent protected areas, Council should lobby for these new codes to provide adequate protection of koala habitat on rural land. Council should also be lobbying for landowners of primary productions or forestry land to be given good business incentives to protect and enhance koala habitat on their land as part of their business.
- At the moment, the existing Koala SEPP 2020 (which is basically SEPP 44) will continue to apply to Byron Shire.
- SEPP 2020 will be repealed once new codes have been developed for the LLS act and private native forestry, then SEPP 2021 will apply.
- Staff note with concern that the DPIE website says that in future only the Minister for Planning, and not councils, will be empowered to rezone land used for primary production to an environmental zone, or to rezone land currently in rural zones RU1, RU2 and RU3 to other rural zones. This puts in jeopardy the current work of staff on the E zone review that is progressing into stages 3 and 4.

It would be fair to say that staff don't know what they don't know at this time. However, are of the opinion that the statement *'This is a win for regional NSW and balances the interests of farmers and the protection of koalas and their habitat,'* is an overstatement.

Financial/Resource/Legal Implications:

5 Not applicable.

Is the proposal consistent with any Delivery Program tasks?

| CSP Objective | L2 | CSP Strategy | L3 | DP Action | L4 | OP Activity |
|--|-----------|---|-----------|--|-----------|---|
| Community Objective 3: We protect and enhance our natural environment | 3.1 | Partner to protect and enhance our biodiversity, ecosystems and ecology | 3.1.1 | Protect and enhance our natural environment and biodiversity | 3.1.1.11 | Implement the Koala Plan of Management |
| Community Objective 3: We protect and enhance our natural environment | 3.1 | Partner to protect and enhance our biodiversity, ecosystems and ecology | 3.1.1 | Protect and enhance our natural environment and biodiversity | 3.1.1.12 | Partner with key stakeholders on koala research and management projects, including - NE Hinterland Koala Conservation Project - North Coast Koala Linkage and - Maximising outcomes for koalas on private land project. (Koala Plan of Management action) |
| Community Objective 3: We protect and enhance our natural environment | 3.1 | Partner to protect and enhance our biodiversity, ecosystems and ecology | 3.1.1 | Protect and enhance our natural environment and biodiversity | 3.1.1.1 | Implement the Biodiversity Conservation Strategy |

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.2

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|--|-----|---|-------|--|---------|--|
| Community Objective 3: We protect and enhance our natural environment | 3.1 | Partner to protect and enhance our biodiversity, ecosystems and ecology | 3.1.1 | Protect and enhance our natural environment and biodiversity | 3.1.1.2 | Revise Wildlife Corridor Mapping (Biodiversity Conservation Strategy action) |
| Community Objective 3: We protect and enhance our natural environment | 3.1 | Partner to protect and enhance our biodiversity, ecosystems and ecology | 3.1.1 | Protect and enhance our natural environment and biodiversity | 3.1.1.6 | Investigate opportunities for Council to provide incentives for landholders to conduct restoration works on their properties that will assist with long term biodiversity conservation.(Biodiversity Conservation Strategy action) |
| Community Objective 3: We protect and enhance our natural environment | 3.1 | Partner to protect and enhance our biodiversity, ecosystems and ecology | 3.1.1 | Protect and enhance our natural environment and biodiversity | 3.1.1.7 | Continue the E zone review (Action No.9 from Rural Land Use Strategy) |

Notice of Motion No. 9.3 Assistance for Landowners in Rural Zones

File No: I2021/389

5

I move that Council contacts all current and future new landowners in rural zones RU1, RU2 & R5 in the shire offering assistance with

- 10
1. Relevant information and contacts for technical aspects of soil, weed and pasture management, animal husbandry, environmental conservation, property planning and management.
 2. Information regarding financial support for on-farm environmental projects
 3. On-going information about organised activities such as field inspections and farm demonstrations.

Attachments:

15

- 1 Farming_Network_Poster_A4, E2021/9771 

Signed: Cr Alan Hunter

Councillor's supporting information:

- 20
- Byron Council aims to assist all rural landowners and managers, through our Biodiversity and Agricultural Officers, promote the adoption of best land management practices that benefit the farm, community and the environment.

Recently we have seen an increase in new and first time rural dwellers move into our rural hinterland areas, with various degrees of experience in sustainably managing the land.

- 25
- To assist the adoption of best practice in the management of the rural land and ensure we leave the land in the best possible condition for future generations, it is incumbent on us to see that these new owners have all they need to;
1. Support and promote the adoption of improved land management practices.
 2. Build capacity in natural resource management and sustainable agriculture.
 - 30 3. Increase biodiversity, improve water quality and soil health on farms.

The first step is to make contact and offer support with information about services available for those in need of such information.

A data base can then be established to further assist disseminate relevant information through the media, field days and farm walks on host farms.

Staff comments

5 by Sharyn French, Manager Environmental and Economic Planning, Sustainable Environment & Economy:

This Notice of Motion will complement the existing activities happening in this space. Staff are already well advanced in connecting with our rural landholders, including:

- Development of an A4 flyer (Attachment 1) that's been posted on various village noticeboards and agricultural supply stores
- 10 • Production of the 'Starting Out – An introductory guide to farming in Byron Shire'. A 70 page booklet designed to help new and future farmers with information on:
 - Things to consider before buying land
 - Making a living on small farms
 - Looking after the land, livestock management, preparing for natural disasters
 - 15 - Farm Biosecurity, chemical safety, managing farm waste and farmer health and safety
 - Case studies on a number of local farmers
- Multiple social media posts introducing our Agricultural Extension Officer and the services Council can provide our new and future farmers
- 20 • Our rural landowners database has grown to over 150 landowners wanting to be kept informed through regular updates on all things farming including grants, changes to policy, best practice agriculture and educational and networking opportunities
- Support to farmers through the Drought Pests and Weeds grant and Small Farms Grant including field days, mentoring opportunities, pest animal trapping, and
25 agricultural weed management

Financial/Resource/Legal Implications:

Council's Agricultural Extension Officer is 100% grant funded through to June 2022.

The services currently provided to our rural landholders are grant funded through the Drought Pests and Weeds Grant and the Small Farms Grant.

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9.3

Is the proposal consistent with any Delivery Program tasks?

| CSP Objective | L2 | CSP Strategy | L3 | DP Action | L4 | OP Activity |
|--|-----|---------------------------------------|-------|--|---------|---|
| Community Objective 3: We protect and enhance our natural environment | 3.4 | Support and secure our farming future | 3.4.1 | Develop and implement strategies to support agriculture, agri-business and farmers | 3.4.1.1 | Finalise and commence implementation of the Agriculture Action Plan |
| Community Objective 3: We protect and enhance our natural environment | 3.4 | Support and secure our farming future | 3.4.1 | Develop and implement strategies to support agriculture, agri-business and farmers | 3.4.1.2 | Continue to deliver Smart Farms –Small Grants project |

Notice of Motion No. 9.4 Housing Crisis

File No: I2021/390

5 I move that Council:

- 1. Declares we are currently experiencing a crisis situation with respect to housing availability and affordability in our community.**
- 2. Invites other councils experiencing similar challenges to make the same declaration.**
- 10 3. Investigates options for providing ‘temporary vanpacker’ accommodation for those locals currently forced to camp in their cars due to the lack of availability of other forms of accommodation. This may include the use of either Council land assets or land that we manage.**
- 15 4. Investigates options for safe and secure emergency accommodation for women in local tourist and caravan parks. This may include Council owned and operated parks and/or private parks. This may also include parks that are outside the Byron Shire.**
- 5. Makes contact with tourist and caravan park managers to discuss point 4 above.**
- 20 6. Receives a report back from staff on points 2- 5 by or before July 2021.**

Signed: Cr Michael Lyon

Councillor’s supporting information:

25 We have known for some time that affordability and availability of housing has been decreasing due to a range of factors. What has changed recently is the marked acceleration caused by the surge of buying of properties from out-of-towners. Local real estate agents have said that it has been a record year for sales and that the increase in rents has been unprecedented. Recently the ‘Hung Out to Dry’ exhibitions have highlighted the plight of potentially 600,000 women who are at risk of homelessness in **30** Australia. While very pronounced in Byron Shire, this crisis is not confined to our shire but is occurring up and down the coast and increasingly impacting on regional areas inland.

By declaring a crisis and asking other councils to do the same we can present a united front to State and Federal Governments who need to do more to protect and provide for our communities.

BYRON SHIRE COUNCIL

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9.4

The staff report on key workers at the last planning meeting has highlighted the impact of this crisis on the ability of businesses to hire staff and the detrimental impact to our local economy as a result. The rough sleeper count recently showed that Byron Shire has the highest number after Sydney in the state. This is despite us helping many people local during COVID with our homeless liaison officers. These statistics point to housing stress across the entire rental market and those based on the census were somewhat out of date, the situation on the ground is getting much worse on a daily basis as the buying boom continues.

We are working on a number of measures to provide for our key workers and community however while we wait for State Government to progress a number of our proposals there is a need for emergency accommodation as more and more people are forced to live in their cars. Point 3 of this motion seeks to identify Council-owned or managed land that could provide this type of 'vanpacker' accommodation with appropriate facilities as a transition point until appropriate permanent accommodation can be found.

Regarding point 4, Byron Community Centre (BCC) struggles to secure emergency, temporary accommodation for women, despite having a major donor/sponsor to pay for this.

- They would like temporary accommodation for women who are:
- Transitioning out of homelessness with the support of a Specialist Homelessness Service
- Vulnerable and are engaged with a social worker to reconnect with family, financial support or permanent housing
- Awaiting a space within the SHIFT Projects accommodation program
- Escaping domestic violence and are engaged with a social worker awaiting the next step to security.

The BCC have requested one or more of the following:

- The full time hire or lease of a one bedroom cabin for an entire year
- Sub-Letting a residential improved site for the period of 1-3 years
- Gaining a 3 year Lease of a residential improved site
- Purchasing a 3 year or partial 3 year lease of a residential site.

Staff comments by Shannon Burt, Director, Sustainable Environment and Economy:

Council received two reports at the March Ordinary Planning Meeting 11 March 2021 that expressly highlighted the challenges facing our local community when it comes to finding a safe and affordable place to call home.

Report No. 13.3 Byron Shire Key Workers Issues Paper
Report No. 13.4 Council's role in Housing Delivery

https://byron.infocouncil.biz/Open/2021/03/PLAN_11032021_AGN_1276.PDF

Extract below:

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9.4

“...Byron Shire’s key worker cohort is part of a larger community experiencing the highest stress levels in the Northern Rivers and is higher than New South Wales. The impact extends beyond very low to low households to include medium income households.

- 5 *Further indicators are single women key workers, particularly those in the over 45 age bracket are most likely to be adversely affected by housing access unless appropriate affordable housing is delivered.*

The Human Rights Commission notes that housing solutions need to be appropriate and responsive to the individual’s current and future needs, suggesting that new short-term housing initiatives, for example pop-up housing, may stabilise the housing situation.

- 10 *For some women this could provide support and capacity to continue working and aging in place amongst a supportive community...”*

- 15 This Notice of Motion is complimentary to current resolutions of Council; it seeks to further our attempts in a practical sense to connect our vulnerable and at risk community members with a safe place to live. The points of the resolution can be responded to by staff in a short time frame.

Financial/Resource/Legal Implications:

Not applicable

Is the proposal consistent with any Delivery Program tasks?

| CSP Objective | L2 | CSP Strategy | L3 | DP Action | L4 | OP Activity |
|---|-----|---|-------|---|---------|---|
| Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community | 2.4 | Enhance community safety and amenity while respecting our shared values | 2.4.3 | Enhance public safety, health and liveability through the use of council's regulatory controls and services | 2.4.3.3 | Respond to people experiencing homelessness and rough sleepers through engagement and referrals to appropriate support and housing services |
| Community Objective 4: We manage growth and change responsibly | 4.2 | Support housing diversity in appropriate locations across the Shire | 4.2.1 | Establish planning mechanisms to support housing that meets the needs of our community | 4.2.1.2 | Prepare a report on deliberative development models to facilitate the delivery of accessible housing |

Notice of Motion No. 9.5 Motion to the 2021 National General Assembly of Local Government

File No: I2021/411

5

I move that Council supports this Notice of Motion to be debated at the Australian Local Government Conference:

10 “That ALGA advocate for Federal and State Government to change the policy and regulatory setting to facilitate investment through to councils undertaking development to address the affordable and accessible housing crisis we are experiencing in the Northern Rivers Region.

15 This could include councils directly facilitating development through planning, providing land, and financial levers such as subsidies and private public partnerships, thereby providing the private sector with the certainty that it needs to invest confidently in the region.

We also request the Federal Government invest more money into social housing initiatives.”

Signed: Cr Sarah Ndiaye

20 Councillor’s supporting information:

Since 2016, as a council we have passed many resolutions that highlight the need to find a way to address housing availability and affordability in Byron Shire and have consistently pursued actions to that effect, but time and time again we are coming across stumbling blocks from the NSW Department of Planning and State and Federal Government regulations. Primarily we need the Federal Government to reinvest in the delivery of Social Housing in regional areas but we also need some flexibility when it comes to housing delivery so that the local council can assist in providing long term accommodation that sits outside the inflated unregulated market. This can happen through Community Land Trust, Live-Work and Restricted Purchase models for application to Council owned land and development but regional councils need assistance to help make this a reality.

35 These issues are not unique to Byron, but the impacts of many residential properties being short term holiday rental market and the inflated property market due to COVID as large numbers of people leaving the cities to move to regional areas has exacerbated an already dire situation leaving many of our locals homeless, in transitory housing or in extreme housing stress.

We have the highest number of rough sleepers outside of a capital city with the last street count showing 198 people sleeping rough and we know that is just the tip of the iceberg

when it comes to housing stress and homelessness. The Salvation Army housing affordability snapshot in 2020 indicated there was not one affordable property available and nothing for a low income family to live in. It goes further than that. Our key workers that teach, clean, care, pour juices and coffees, work in retail, deliver our post and put out
5 our fires also cannot afford to live here anymore. We know we are not the only community facing these issues. Our neighbours on all sides are also experiencing this and coastal communities particularly are feeling the pressure. We are under resourced to deal with this crisis. We need federal and state government assistance, via funding of social housing, flexibility in planning controls and clearer direction around public/private ownership to
10 address the issue.

Due to the current state planning framework and the constraints in which local government operates in terms of finance and co-investment options for housing development and its associated infrastructure, progress remains slow on delivery of any of the Council initiated projects. There is an urgent need for a policy circuit breaker to enable the supply of low- to
15 high-end rental and ownership accommodation opportunities outside the current 'inflated free market' for displaced local community and key workers in regional areas like Byron Shire.

Staff comments

by Shannon Burt, Director, Sustainable Environment and Economy:

20 Council received two reports at the March Ordinary Planning Meeting 11 March 2021 that expressly highlighted the challenges facing our local community when it comes to finding a safe, clean and affordable place to call home.

The reports also provided a summation of the many resolutions passed by the current Council that have since 2016, highlighted the need to find a way to address housing
25 availability and affordability in Byron Shire.

Report No. 13.3 Byron Shire Key Workers Issues Paper
Report No. 13.4 Council's role in Housing Delivery

https://byron.infocouncil.biz/Open/2021/03/PLAN_11032021_AGN_1276.PDF

This Notice of Motion is complimentary to these (current) resolutions of Council and is fully
30 supported by staff.

Financial/Resource/Legal Implications:

Not applicable.

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.5

Is the proposal consistent with any Delivery Program tasks?

| CSP Objective | L2 | CSP Strategy | L3 | DP Action | L4 | OP Activity |
|---|-----|---|-------|--|---------|--|
| Community Objective 4: We manage growth and change responsibly | 4.2 | Support housing diversity in appropriate locations across the Shire | 4.2.1 | Establish planning mechanisms to support housing that meets the needs of our community | 4.2.1.1 | Prepare an Affordable Housing contribution scheme under SEPP 70 to be incorporated in the local planning framework controls (Action in Residential Strategy) |
| Community Objective 4: We manage growth and change responsibly | 4.2 | Support housing diversity in appropriate locations across the Shire | 4.2.1 | Establish planning mechanisms to support housing that meets the needs of our community | 4.2.1.2 | Prepare a report on deliberative development models to facilitate the delivery of accessible housing |
| Community Objective 4: We manage growth and change responsibly | 4.2 | Support housing diversity in appropriate locations across the Shire | 4.2.1 | Establish planning mechanisms to support housing that meets the needs of our community | 4.2.1.3 | Progress future use of Lot 22, Mullumbimby Planning Proposal and Plan of Management |

SUBMISSIONS AND GRANTS

Report No. 11.1 Grants and Submissions March 2021

Directorate: Corporate and Community Services

Report Author: Donna Johnston, Grants Coordinator

5 **File No:** I2021/369

Summary:


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

10

RECOMMENDATION:

15 **That Council notes the report and Attachment 1 (E2021/41561) for Byron Shire Council's Submissions and Grants as at 28 February 2021.**

Attachments:

1 Grants report to Council - February 2021, E2021/41561 

20

Report

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

Successful applications

5 Since the last report Council was successful in obtaining a combined \$2,521,783 as a result of the following successful applications:

- Regional NSW - Summer Break Activities (Department of Regional NSW, Office of Youth) for the Slip Sliding Summer Fun
- Fixing Country Bridges (Transport for NSW) for replacement of Sherringtons Bridge, Englishes Bridge, Upper Main Arm Bridge
- 10 • Road Safety Program (Transport for NSW) for Tennyson Street

Unsuccessful applications

Council was notified in February that the application under the Youth Opportunities Program (NSW Department of Communities and Justice) for the Byron Shire Youth Solutions program was unsuccessful. Requested amount \$25,000.

- 15 Feedback to applicants indicates that this was a highly competitive process, and this year's funding round received 250 applications seeking over \$10.2 million. 35 organisations were approved to receive grants of between \$10,000 and \$50,000 to implement projects across NSW in 2021.

Applications submitted

20 Three grant applications were submitted in February including:

1. Heritage NSW 2021-23 Community Heritage: Byron Shire Heritage Advisory Service
2. Heritage NSW 2021-23 Community Heritage: Aboriginal Cultural Heritage Study
3. Create NSW multi year funding: Lone Goat Gallery

Upcoming grant opportunities

25 There are a number of upcoming grant opportunities for which Council will submit funding applications including:

- Building Better Regions Fund 2021
 1. Sandhills Wetlands Project
 2. Bioenergy Byron Facility
- 30 • NSW Department Planning, Industry & Environment: Floodplain Management Grants:
 1. New Brighton and Ocean Shores Overland Flow and Drainage Upgrade Study
 2. Federation Bridge Debris Deflectors - Mullumbimby Design
 3. Preferred Byron Bay Drainage Strategy (part of)

Strategic Considerations

Community Strategic Plan and Operational Plan

| CSP Objective | L2 | CSP Strategy | L3 | DP Action | L4 | OP Activity |
|---|-----|--|--------|---|----------|--|
| Community Objective 5: We have community led decision making which is open and inclusive | 5.6 | Manage Council's resources sustainably | 5.6.12 | Implement strategic grants management systems to deliver priority projects for Byron's community (SP) | 5.6.12.2 | Provide governance for grants management |

Legal/Statutory/Policy Considerations

- 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, more than \$35.6 million would be achieved which would provide significant funding for Council projects. Some of the grants require a contribution from Council (either cash or in-kind) and others do not. Council's contribution is funded.

The potential funding and allocation is detailed below:

| | | |
|----|---|---------------------|
| 15 | Requested funds from funding bodies | \$35,694,725 |
| | Council Contribution Cash | \$2,815,842 |
| | Council Contribution In-Kind | \$131,500 |
| | Other contributions | \$228,809 |
| 20 | Funding applications submitted and awaiting notification (total project value) | \$38,870,876 |

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 Railway Park Artisan Market day for one market only

Directorate: General Manager

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

File No: I2021/222

Summary:

10 The Byron Bay Community Association Incorporated requests a variation to its Railway Park Artisan Market Licence to move the market scheduled on Saturday 10 April 2021 to Friday 9 April 2021 to avoid a clash with the scheduled Artisan Market on Denning Park.

RECOMMENDATION:

15 **That Council, authorises the General Manager, under delegation, to vary the Railway Park Artisan Market Licence held by the Byron Bay Community Association Incorporated to move the scheduled market from 10 April 2021 to 9 April 2021.**

Report

- 5 Council resolved (**16-001**) to grant a Market Licence to the Byron Bay Community Association Incorporated ('the BBICA') to operate a weekly artisan market on each Saturday in Railway Park. Approval was subsequently amended by resolution (**18-350**) to permit the BBICA to suspend its weekly artisan market during winter months due to falling participation rates.

The BBICA was further forced to close the Railway Park Artisan Market for eight months in 2016 during upgrades to the Park. The Artisan Market was also closed for a number of months in 2020 due to COVID-19.

- 10 Council has previously approved by resolution (**20-377**) a one-off change in the date Railway Park Artisan Market date to avoid a clash with a scheduled market on Denning Park.

Request to move market day for one market only:

- 15 The BBICA requests that Council consider varying its market licence once again to move the scheduled Railway Park Artisan Market from Saturday 10 April 2021 to Friday 9 April 2021 to avoid a clash with the scheduled Denning Park Artisan Market.

Public notice:

- 20 In accordance with the Local Government Act, Council publically advertised the proposed the change of market dates between 12 February and 10 March 2021. Council received no submissions.

This report recommends that Council approves the one-off change to the Railway Park Artisan Market date from 10 April 2021 to 9 April 2021.

Strategic Considerations

Community Strategic Plan and Operational Plan

| CSP Objective | L2 | CSP Strategy | L3 | DP Action | L4 | OP Activity |
|---|-----|--|-------|--|---------|--|
| Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community | 2.1 | Support and encourage our vibrant culture and creativity | 2.1.7 | Support range of existing, emerging and major events | 2.1.7.3 | Administer licences for weddings, events, activities and filming on council and crown land |

Recent Resolutions

- Resolution (16-001)
- Resolution (18-350)
- 5 • Resolution (20-377)

Legal/Statutory/Policy Considerations

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

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

Financial Considerations

25 Nil.

Consultation and Engagement

Public notification of proposed change in one Artisan Market day from 10 April to 9 April 2021 occurred between 12 February and 10 March 2021. Council received no submissions.

Report No. 13.2 Sub-licence to the Trustee for the Mclvor Family Trust trading as The Ranch Byron Bay for access through Crown land.

Directorate: General Manager

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

File No: I2021/252

Summary:

A sub-licence held by The Trustee for the Mclvor Family Trust trading as The Ranch Byron Bay for access through Crown land will expire on 22 April 2021.

- 10 This report recommends that a new twelve month sub-licence is granted in accordance with resolution **(20-696)**.

15 **RECOMMENDATION:**

1. That Council authorises the General Manager, under delegation, to grant a sub-licence to The Trustee of the Mclvor Family Trust trading as The Ranch Byron Bay for a term of 12-months for the purpose of access through Lot 428 DP729272 being Crown Reserve R81780 on condition that:
 - 20 a) The Ranch Byron Bay holds a current permit with Cape Byron Marine Park for the term of the sub-licence; and
 - b) The Ranch Byron Bay takes all steps necessary to ensure that it collects all horse droppings from its horses and removes the droppings from the sub-licence area during and at the end of each access session.
- 25 2. That the sub-licence fee is set in accordance with Councils current Fees and Charges.

Report

Council resolved **(20-114)**:

1. *That Council authorises the General Manager to grant a sub-licence to The Trustee for the McIvor Family Trust trading as The Ranch Byron Bay for a term of six (6) months for the purpose of access through Lot 428 DP 729272 being Crown Reserve R82780 on condition that:*
 - a) *The Ranch Byron Bay holds a current permit with the Cape Byron Marine Park for the term of the sub-licence; and*
 - b) *The Ranch Byron Bay takes all steps necessary to ensure that all horse droppings are removed from the sub-licensed area during and at the end of each access session.*
2. *That sub-licence fees for the term be set at half the annual Sub-licence Beach Access Commercial Horse Riding fee as set in Council's current Fees and Charges.*

Council has received a request from The Ranch Byron Bay for a new sub-licence to commence 23 April 2021.

Authority to sub-licence:

In accordance with Crown head licence RI 564194 held by Council, a sub-licence for access through Lot 428 DP 729272 maybe granted for low impact recreational business purposes. Access through Crown land by horses is considered a low impact recreational business purpose by the Department of Planning, Industry and Environment ('the Department').

All aspects of Native Title were considered by the Department prior to the grant of head licence RI 564194 to Council. No notification is required under the head licence.

Term of sub-licence and conditions:

This report recommends that a new twelve month sub-licence is granted to The Ranch Byron Bay to ensure consistency with a previous Council resolution **(20-696)**:

That Council authorises the General Manager to grant a sub-licence to Cape Byron Seahorses Riding Centre for a term of 12 months for the purpose of access through Lot 428 DP 729272 being Crown Reserve R81780 on condition that:...

The new twelve month sub-licence is to commence 23 April 2021.

Mandatory conditions of the sub-licence:

Terms of the sub-licence requires the sub- licensee to:

- a) collect all horse dropping during and at the end of each access through South Beach Road and Lot 428 DP 729272; and

BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

13.2

- b) park its horse truck/float legally on South Beach Road and handle all horses in public areas in a safe manner.

Sub-licence rent must be set in accordance with Council's 2020-2021 fees and charges for Sub-licence Beach Access Commercial Horse Riding.

- 5 While equestrian commercial activities are prohibited in zone 7(f1) (Coastal Zone) under the Byron 1988 LEP, clause 48(1) of the LEP permits temporary use of the land for development not being designated development, for a maximum period of 7 days on any one occasion up to a maximum of 60 days in any calendar year because the land is vested in the Crown and the activity does not involve the erection of any permanent structures.
- 10 Planned works to South Beach Road Brunswick Heads:

Council is proposing to formalise current parking arrangements on South Beach Road Brunswick Heads with works to commence in 2023. The proposed works will not impact the proposed sub-licence to The Trustee for the McIvor Family Trust trading as the Ranch Byron Bay for the term of the sub-licence.

15 Strategic Considerations

Community Strategic Plan and Operational Plan

| CSP Objective | L2 | CSP Strategy | L3 | DP Action | L4 | OP Activity |
|--|-----|--|-------|---|---------|---|
| Community Objective 1: We have infrastructure, transport and services which meet our expectations | 1.2 | Provide essential services and reliable infrastructure which meet an acceptable community standard | 1.2.4 | Provide active and passive recreational Community space that is accessible and inclusive for all (SP) | 1.2.4.1 | Deliver adopted projects from the beach accessibility program |

Recent Resolutions

- Resolution (20-114).
- Resolution (20-696).

20 Legal/Statutory/Policy Considerations

Zone No 7 (f1) (Coastal Land Zone)

1 Objectives of zone

The objectives of the zone are:

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

2 Without development consent

Nil.

3 Only with development consent

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

48 Temporary use of certain land

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

- (a) such land is vested in the Crown, a Minister of the Crown or the Council, and
- (b) the development does not involve the erection of permanent structures ancillary to the use of that land.

(2) Despite any other provision of this plan, a person may, but only with the consent of the Council, carry out development on the following land for any purpose (not being designated development) for a maximum period of 7 days on any one occasion up to a maximum of 60 days in a calendar year if the development does not involve the erection of permanent structures ancillary to the use of that land:

Lot 1, DP 201626 and Lot 2, DP 542178, Ewingsdale Road, Ewingsdale
Lot 358, DP 704247, Bangalow Road, Byron Bay.

Financial Considerations

Rent under the Sub-licence is established by Council's fees and charges.

Rental income for the term of the Sub-licences is \$1,671.75 inclusive of GST.

Consultation and Engagement

Head licence RI 564194 does not require consultation or engagement to grant a sub-licence to an eligible low impact recreational business purposes.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.3 Budget: Mayor - Discretionary Allowance

Directorate: Corporate and Community Services

Report Author: Esmeralda Davis, A/Manager Corporate Services

5 **File No:** I2021/288

Summary:

10 One method that Council uses to support community groups, organisations, and local schools is through the provision of funding by way of the 'Mayor's Discretionary Allowance'. This funding has traditionally been made available through two separate budget allocations; one for pre-determined individual prizes/awards, the other available to be applied at the Mayor's discretion with Council endorsement by resolution.

The 2020/21 Budget adopted by Council includes a total allocation of \$3,900 for the Mayor's Discretionary Allowance, with \$1,900 allocated to 12 individual prizes/awards and the balance of \$2,000 unallocated, to be applied at the Mayor's discretion.

15 This report recommends that the total annual budget allocation for the Mayor's Discretionary Allowance be pooled and unallocated, giving maximum flexibility and discretion to the incoming Mayor, following the 2021 Local Government Elections in September.

20

RECOMMENDATION:

- 25 1. **That Council determines an annual budget allocation for the Mayor's Discretionary allowance each year, through the standard budget process, with distribution of this fund to be determined at the Mayor's discretion and endorsed by Council Resolution on an annual basis.**
2. **That the Mayor's Discretionary Fund budget allocation in 2021/22 be \$3,900.**

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STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.3

Report

The 2020/21 Budget adopted by Council includes a total allocation of \$3,900 for the Mayor's Discretionary Allowance, with \$1,900 allocated to 12 individual prizes/awards and the balance of \$2,000 to be applied at the Mayor's discretion. This is shown in the table below.

5

Mayor's Discretionary Allowance 2020/21

| Ledger | Description | Amount |
|---------|---|-----------|
| 2153.1 | Byron Bay High School Prize Giving Ceremony | \$100.00 |
| 2153.2 | Mullumbimby High School Prize Giving Ceremony | \$100.00 |
| 2153.3 | Byron Rudolf Steiner Prize Giving Ceremony | \$100.00 |
| 2153.4 | Mullumbimby Shearwater Prize Giving Ceremony | \$100.00 |
| 2153.5 | Byron High Art Encouragement Award | \$100.00 |
| 2153.6 | Mullumbimby High Art Encouragement Award | \$100.00 |
| 2153.7 | Rudolf Steiner Art Encouragement Award | \$100.00 |
| 2153.8 | Shearwater Steiner Art Encouragement Award | \$100.00 |
| 2153.9 | Byron Arts Classic Acquisition Prize | \$500.00 |
| 2153.11 | SNAP Youth Photography Competition | \$200.00 |
| 2153.12 | Bruns heads Simple Pleasures Photo Comp | \$100.00 |
| 2153.13 | Unallocated | \$2000.00 |
| 2153.14 | Ocean Shores Art Expo | \$300.00 |

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This distribution of funds (excluding ledger 2153.13 *Unallocated*) was determined by Council resolution in 2011 (Res 11-728). Ledger 2153.13 *Unallocated* \$2,000, was subsequently added to the budget and adopted by Council in 2012.

5 A recent review of these allocations shows that 3 of the competition prizes have not been issued for several years:

- SNAP Youth Photography Competition: Last payment made end of 2014 financial year
- Byron Arts Classic Acquisition Prize: Last payment made end of 2016 financial year, this event has been disbanded.
- 10 - Brunswick Heads Simple Pleasures Photography Competition: Last payment made end of 2016 financial year

The Ocean Shores Art Expo remains current although, due to COVID-19, it did not go ahead in 2020 and therefore no prize money has been awarded this financial year.

15 Of the estimated 21 schools in the shire, only 4 are currently the beneficiaries of prizes/awards from this fund in accordance with Res 11-728: Byron Bay High School, Mullumbimby High School and Cape Byron Rudolph Steiner School and, Shearwater Steiner School. These school prizes are an automatic donation issued annually.

20 The distribution of the unallocated portion of the Mayor's Discretionary Allowance is determined, when a request has been made to the Mayor, by resolution of Council as per s356 of the Local Government Act and Res 09-349:

"09-349 Resolved that Council confirm that all s356 donations, to be made from the budget allocation "Mayor – Discretionary Allowance", must be the subject of a resolution of the Council at Ordinary or Extraordinary meeting."

25 The development of the 2021/22 draft budget along with the impending 2021 Local Government Election and new term of Council, presents a timely opportunity to review the Mayor's Discretionary Allowance to consider the relevance and equity of allocations, and to streamline the process.

Options

Giving consideration to the information provided in this report, Council may choose to:

- 30 a) maintain the status quo and leave the allocations of the Mayor's Discretionary Allowance unchanged;
- b) consider and determine a revised allocation of funds via a new resolution, to expand the prize/awards to a broader group of schools and/or competitions in the shire. Allocation would then be automatic, in accordance with the adopted budget; or

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STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.3

- c) consider and determine the allocation of funds via a new resolution to pool the total amount of the fund as 'unallocated' with distribution to be determined at the Mayor's discretion and by resolution of Council, in accordance with Res 09-349.

Process

- 5 Option c) is recommended to ensure maximum flexibility for the incoming Mayor to determine the distribution of funds, to ensure that funds are being applied to current events where appropriate, and to enable the establishment of a more equitable and streamlined process.
- 10 If this option is selected, it is recommended that schools/community groups be invited to submit an application on an annual basis, including justification for the request. This could occur in August each year, following the adoption of the budget. This provides the Mayor with the opportunity to consider all requests simultaneously and make a decision about the most meritorious recipient/s for that financial year. The Mayor's decision would be reported to Council for resolution in accordance with the Act and Res 09-349.
- 15 This approach is equitable and requires increased accountability from the schools/community groups, without creating a heavy administrative burden for Council.

Strategic Considerations

Community Strategic Plan and Operational Plan

| CSP Objective | L2 | CSP Strategy | L3 | DP Action | L4 | OP Activity |
|---|-----|---|-------|---|---------|--|
| Community Objective 5: We have community led decision making which is open and inclusive | 5.2 | Create a culture of trust with the community by being open, genuine and transparent | 5.2.2 | Incorporate wellbeing framework within organisation to inform decision making | 5.2.2.2 | Deliver annual Community Donations Program |

Recent Resolutions

- 20
- Res 09-349
 - Res 11-728

Legal/Statutory/Policy Considerations

In relating to the making of Section 356 Donations from Mayor's Discretionary Allowance, Council at its Ordinary meeting held on 14 May 2009 resolved as follows: -

“09-349 Resolved that Council confirm that all s356 donations, to be made from the budget allocation “Mayor – Discretionary Allowance”, must be the subject of a resolution of the Council at Ordinary or Extraordinary meeting.”

- 5 The Section 356 Donation will be advertised and public notice of financial assistance provided in accordance with Section 356 of the Local Government Act 1993.

356 Can a council financially assist others?

- (1) *A council may, in accordance with a resolution of the council, contribute money or otherwise grant financial assistance to persons for the purpose of exercising its functions.*
- 10 (2) *A proposed recipient who acts for private gain is not ineligible to be granted financial assistance but must not receive any benefit under this section until at least 28 days' public notice of the council's proposal to pass the necessary resolution has been given.*
- (3) *However, public notice is not required if--*
- (a) *the financial assistance is part of a specific program, and*
- 15 (b) *the program's details have been included in the council's draft operational plan for the year in which the financial assistance is proposed to be given, and*
- (c) *the program's proposed budget for that year does not exceed 5 per cent of the council's proposed income from the ordinary rates levied for that year, and*
- (d) *the program applies uniformly to all persons within the council's area or to a significant group of persons within the area.*
- 20 (4) *Public notice is also not required if the financial assistance is part of a program of graffiti removal work.*

Financial Considerations

There is no proposed increase to the Mayor’s Discretionary Allowance budget allocation for 2021/22.

25 **Consultation and Engagement**

The Director Corporate and Community Services and A/Manager Corporate Services consulted with the Mayor in relation to providing alternative options for the allocation of funds under the Mayor’s Discretionary Allowance, for the draft 2021/22 Budget.

Report No. 13.4 Council Investments - 1 February 2021 to 28 February 2021

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

5 **File No:** I2021/307

Summary:

This report includes a list of investments and identifies Council's overall cash position for the period 1 February 2021 to 28 February 2021 for information.

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

RECOMMENDATION:

That Council notes the report listing Council's investments and overall cash position as at 28 February 2021.

15

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.4

Report

Council has continued to maintain a diversified portfolio of investments. At 28 February 2021, the average 90 day bank bill rate (BBSW) for the month of February 2021 was 0.012%. Council's performance to 28 February 2021 was 0.77%. This is largely due to the active ongoing management of the investment portfolio, maximising investment returns through secure term deposits, bonds and purchasing floating rate notes with attractive interest rates. It should be noted that as investments mature, Council's investment return may continue to decrease due to the lower rates available in the current market.

The table below identifies the investments held by Council as at 28 February 2021

Schedule of Investments held as at 28 February 2021

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

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13.4

| Purch Date | Principal (\$) | Description | CP* | Rating | Maturity Date | No Fossil Fuel | Type | Interest Rate Per Annum | Current Value |
|------------|----------------|--|-----|--------|---------------|----------------|------|-------------------------|---------------|
| 31/03/17 | 1,000,000 | CBA Climate Bond | Y | AA- | 31/03/22 | N | FRN | 1.02% | 1,010,430.00 |
| 16/11/17 | 750,000 | Bank of Queensland | Y | BBB+ | 16/11/21 | N | FRN | 1.12% | 755,557.50 |
| 30/08/18 | 500,000 | Bank Australia Ltd (Sustainability Bond) | Y | BBB+ | 30/08/21 | Y | FRN | 1.39% | 502,540.00 |
| 24/07/20 | 2,000,000 | Bank of Queensland | N | BBB+ | 19/07/21 | N | TD | 0.90% | 2,000,000.00 |
| 30/07/20 | 1,000,000 | Judo Bank | Y | NR | 30/07/21 | N | TD | 1.25% | 1,000,000.00 |
| 03/08/20 | 1,000,000 | NAB | N | AA- | 03/08/21 | N | TD | 0.85% | 1,000,000.00 |
| 19/08/20 | 2,000,000 | NAB | N | AA- | 19/08/21 | N | TD | 0.80% | 2,000,000.00 |
| 26/08/20 | 1,000,000 | AMP Bank | Y | BBB | 26/08/21 | N | TD | 0.80% | 1,000,000.00 |
| 02/09/20 | 1,000,000 | Bank of Queensland | N | BBB+ | 01/09/21 | N | TD | 0.78% | 1,000,000.00 |
| 02/09/20 | 1,000,000 | NAB | N | AA- | 02/09/21 | N | TD | 0.75% | 1,000,000.00 |
| 24/09/20 | 2,000,000 | NAB | N | AA- | 24/09/21 | N | TD | 0.65% | 2,000,000.00 |
| 30/09/20 | 1,000,000 | Bank of Queensland | N | BBB+ | 30/09/21 | N | TD | 0.65% | 1,000,000.00 |
| 30/09/20 | 2,000,000 | CBA Green Deposit | N | AA- | 30/09/21 | N | TD | 0.70% | 2,000,000.00 |
| 07/10/20 | 2,000,000 | MyState Bank Limited | Y | NR | 07/10/21 | Y | TD | 0.70% | 2,000,000.00 |
| 13/10/20 | 1,000,000 | The Mutual Bank | Y | NR | 13/04/21 | Y | TD | 0.60% | 1,000,000.00 |

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| Purch Date | Principal (\$) | Description | CP* | Rating | Maturity Date | No Fossil Fuel | Type | Interest Rate Per Annum | Current Value |
|------------|----------------|------------------------------|-----|--------|---------------|----------------|------|-------------------------|---------------|
| 04/11/20 | 1,000,001 | AMP Bank | N | BBB | 05/05/21 | N | TD | 0.55% | 1,000,001.00 |
| 04/11/20 | 2,000,000 | NAB | N | AA- | 04/11/21 | N | TD | 0.55% | 2,000,000.00 |
| 09/11/20 | 1,000,000 | Community First Credit Union | Y | NR | 09/11/21 | Y | TD | 0.65% | 1,000,000.00 |
| 09/11/20 | 1,000,000 | The Mutual Bank | N | NR | 09/08/21 | Y | TD | 0.65% | 1,000,000.00 |
| 23/11/20 | 1,000,000 | AMP Bank | N | BBB | 23/11/21 | N | TD | 0.75% | 1,000,000.00 |
| 24/11/20 | 1,000,000 | Judo Bank | Y | NR | 24/11/21 | Y | TD | 0.84% | 1,000,000.00 |
| 25/11/20 | 2,000,000 | AMP Bank | N | BBB | 26/05/21 | Y | TD | 0.70% | 2,000,000.00 |
| 26/11/20 | 1,000,000 | Community First Credit Union | N | NR | 26/11/21 | Y | TD | 0.65% | 1,000,000.00 |
| 26/11/20 | 1,000,000 | Macquarie Bank | Y | A | 22/10/21 | N | TD | 0.50% | 1,000,000.00 |
| 01/12/20 | 1,000,000 | AMP Bank | N | BBB | 01/06/21 | N | TD | 0.70% | 1,000,000.00 |
| 07/12/20 | 2,000,000 | Credit Union Australia | Y | BBB | 07/06/21 | Y | TD | 0.45% | 2,000,000.00 |
| 17/12/20 | 2,000,000 | NAB | N | AA- | 17/12/21 | N | TD | 0.50% | 2,000,000.00 |
| 05/01/21 | 2,000,000 | NAB | N | AA- | 05/01/22 | N | TD | 0.45% | 2,000,000.00 |
| 05/01/21 | 1,000,000 | Judo Bank | N | NR | 06/07/21 | Y | TD | 0.55% | 1,000,000.00 |
| 20/01/21 | 1,000,000 | Westpac (Tailored) | Y | AA- | 20/01/22 | N | TD | 0.38% | 1,000,000.00 |
| 27/01/21 | 1,000,000 | The Mutual | N | NR | 27/01/22 | Y | TD | 0.50% | 1,000,000.00 |

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| Purch Date | Principal (\$) | Description | CP* | Rating | Maturity Date | No Fossil Fuel | Type | Interest Rate Per Annum | Current Value |
|--------------|----------------------|--|-----|--------|---------------|----------------|------------|-------------------------|----------------------|
| | | Bank | | | | | | | |
| 29/01/21 | 1,000,000 | ME Bank | Y | BBB | 31/01/22 | Y | TD | 0.45% | 1,000,000.00 |
| 01/02/21 | 2,000,000 | Suncorp | Y | A+ | 03/08/21 | Y | TD | 0.35% | 2,000,000.00 |
| 01/02/21 | 1,000,000 | B & E Ltd (Bank of Us) | Y | NR | 03/08/21 | Y | TD | 0.40% | 1,000,000.00 |
| 03/02/21 | 1,000,000 | NAB | N | AA- | 02/08/21 | N | TD | 0.40% | 1,000,000.00 |
| N/A | 9,069,386.14 | CBA Business Saver | N | AA- | N/A | N | CALL | 0.20% | 9,069,386.14 |
| N/A | 4,283,712.33 | CBA Business Saver – Tourism Infrastructure Grant | N | AA- | N/A | N | CALL | 0.20% | 4,283,712.33 |
| N/A | 2,112,915.20 | NSW Treasury Corp | N | AAA | N/A | Y | CALL | 0.01% | 2,112,915.20 |
| Total | 66,214,614.67 | | | | | | AVG | 0.77% | 66,748,304.67 |

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)

5 An additional column has been added to the schedule of Investments to identify if the financial institution holding the Council investment has been assessed as a 'No Fossil Fuel' investing institution. This information has been sourced through www.marketforces.org.au and identifies financial institutions that either invest in fossil fuel related industries or do not. The graph below 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](#).

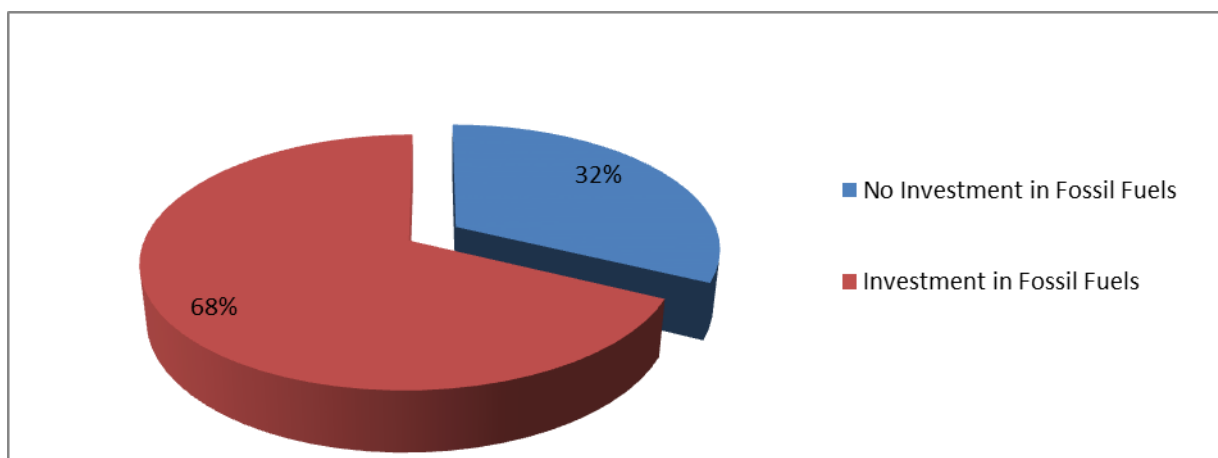
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Council has three investments with financial institutions that invest in fossil fuels but are nevertheless aligned with the broader definition of Environmental and Socially Responsible investments i.e.:

1. \$1,000,000 investment with the National Australia Bank maturing on 24 March 2022 known as a Social Bond that promotes Gender Equity.
2. \$1,000,000 investment with Commonwealth Bank maturing on 31 March 2022 known as a Climate Bond.
3. \$2,000,000 investment with Commonwealth Bank maturing on 30 September 2021 known as a Green Deposit.



Investment Policy Compliance

| Investment policy compliance | | | ACTUAL | Variance |
|---|-------|------|--------|--------------|
| % per institution should not exceed the following | | | | |
| AAA to AA | A1+ | 100% | 60.36% | Meets policy |
| A+ to A- | A1 | 60% | 1.51% | Meets policy |
| BBB to NR | A2,NR | 40% | 38.13% | Meets policy |

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

Associated Risk

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

The investment portfolio is outlined in the table below by investment type for the period 1 February 2021 to 28 February 2021:

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Dissection of Council Investment Portfolio as at 28 February 2021

| Principal Value (\$) | Investment Linked to: | Current Market Value (\$) | Cumulative Unrealised Gain/(Loss) (\$) |
|----------------------|---|---------------------------|--|
| 43,000,001.00 | Term Deposits | 43,000,001.00 | 0.00 |
| 2,250,000.00 | Floating Rate Note | 2,268,527.50 | 18,527.50 |
| 9,069,386.14 | CBA Business Saver | 9,069,386.14 | 0.00 |
| 4,283,712.33 | CBA Business Saver – Tourism Infrastructure Grant | 4,283,712.33 | 0.00 |
| 2,112,915.20 | NSW Treasury Corp | 2,112,915.20 | 0.00 |
| 5,498,600.00 | Bonds | 6,013,762.50 | 515,162.50 |
| 66,214,614.67 | | 66,748,304.67 | 533,690.00 |

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

5

The table below provides a reconciliation of investment purchases and maturities for the period of 1 February 2021 to 28 February 2021 on a current market value basis.

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13.4

Movement in Investment Portfolio – 28 February 2021

| Item | Current Market Value (at end of month) \$ |
|--|---|
| Opening Balance at 1 February 2021 | 69,246,100.02 |
| Add: New Investments Purchased | 4,000,000.00 |
| Add: Call Account Additions | 2,000,000.00 |
| Add: Tourism Call Account Additions | 0.00 |
| Add: Call Account Interest | 1,498.09 |
| Add: Tourism Call Account Interest | 657.13 |
| Add: T Corp Additions | 0.00 |
| Add: T Corp Interest | 49.43 |
| Less: Call Account Redemption | 2,500,000.00 |
| Less: Investments Matured | 2,000,000.00 |
| Less: Tourism Call Account Redemption | 0.00 |
| Less: T Corp Redemption | 4,000,000.00 |
| Plus: Fair Value Movement for period | 0.00 |
| Closing Balance at 28 February 2021 | 66,748,304.67 |

Term Deposit Investments Maturities and Returns – 1 February to 28 February 2021

| Principal Value (\$) | Description | Maturity Date | Number of Days Invested | Interest Rate Per Annum | Interest Paid on Maturity \$ |
|----------------------|-------------|---------------|-------------------------|-------------------------|------------------------------|
| 2,000,000.00 | Suncorp | 01/02/2021 | 181 | 0.70% | 6,942.47 |
| | | | | | 6,942.47 |

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

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13.4

Dissection of Council's Cash Position as at 28 February 2021

| Item | Principal Value (\$) | Current Market Value (\$) | Cumulative Unrealised Gain/(Loss) (\$) |
|---|----------------------|---------------------------|--|
| Investments Portfolio | | | |
| Term Deposits | 43,000,001.00 | 43,000,001.00 | 0.00 |
| Floating Rate Note | 2,250,000.00 | 2,268,527.50 | 18,527.50 |
| CBA Business Saver | 9,069,386.14 | 9,069,386.14 | 0.00 |
| CBA Business Saver – Tourism Infrastructure Grant | 4,283,712.33 | 4,283,712.33 | 0.00 |
| NSW Treasury Corp | 2,112,915.20 | 2,112,915.20 | 0.00 |
| Bonds | 5,498,600.00 | 6,013,762.50 | 515,162.50 |
| Total Investment Portfolio | 66,214,614.67 | 66,748,304.67 | 533,690.00 |
| | | | |
| Cash at Bank | | | |
| Consolidated Fund | 2,433,100.03 | 2,433,100.03 | |
| Total Cash at Bank | 2,433,100.03 | 2,433,100.03 | 0.00 |
| | | | |
| Total Cash Position | 68,647,714.70 | 69,181,404.70 | 533,690.00 |

STRATEGIC CONSIDERATIONS

Community Strategic Plan and Operational Plan

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

Legal/Statutory/Policy Considerations

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

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

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

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

Financial Considerations

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

Report No. 13.5 Expiry of Rates & Charges Financial Assistance due to COVID-19 on 25 March 2021

Directorate: Corporate and Community Services

5 **Report Author:** Stephen Ansoul, Revenue Coordinator

File No: I2021/401

Summary:

10 Council suspended debt management actions and provided financial assistance to support ratepayers having difficulty paying their rates and charges as a result of the COVID-19 pandemic from April 2020.

These special temporary arrangements expire on 25 March 2021.


The purpose of this report is to recommend transitional arrangements following this expiry date and a return to normal debt management practices.

15

RECOMMENDATION:

1. That Council ceases to accept special temporary COVID-19 payment plan applications after 25 March 2021.
- 20 2. For ratepayers that have registered for the special COVID-19 payment plan on or before 25 March 2021, that Council extends the interest write-off provisions to 30 June 2021.
- 25 3. That Council extends the suspension of rates and charges debt management practices (except for the issuing of overdue reminder notices) under the current Debt Management and Financial Hardship Assistance Policy 2019 (Attachment 1 – E2019/63417) until 30 June 2021.

Attachments:

- 30 1 Policy: Debt Management and Financial Hardship Assistance 2019 (current_policies), E2019/63417 

Report

Council has been providing a range of financial assistance measures to ratepayers finding it difficult to pay their rates on time as a result of the COVID-19 pandemic. The NSW Government has also made legislative changes that have impacted the normal debt management processes for overdue rates and charges.

The financial assistance measures introduced as a result of COVID-19 are listed below;

- Relax eligibility criteria for applications made under our Debt Management and Financial Hardship Policy 2019 so that all ratepayers have access to assistance provisions within the policy – 26 March 2020 Council meeting resolution **20-124** and 23 April 2020 Council meeting resolution **20-171**. These led to the implementation of a special generic payment plan that was offered to all ratepayers.
- The temporary COVID-19 payment plan was initially offered for a six month period from 1 April 2020 to 30 September 2020. The minimum payment required was \$50 per month. During the arrangement term, interest on outstanding rates and charges still accrued but if the arrangement was substantially honoured, interest accrued from 1 April 2020 to 30 September 2020 was written off.

It should be noted that Local Government Circular 20-19 subsequently issued on 26 May 2020, determined that the maximum interest rate for outstanding rates and charges for 2020/21 was to be set at 0% from 1 July 2020 to 31 December 2020 and then change to 7% from 1 January 2021 to 30 June 2021.

The payment plan was reviewed by Council in its 24 September 2020 meeting and extended to 25 March 2021 under the same conditions – resolution **20-512**. Existing applicants did not need to reapply. Note that the expiry date was chosen as it was consistent with the end date of special COVID-19 regulations made by the NSW Government (see following section about the suspension of debt recovery).

Council advised applicants that they would be contacted early April 2021 in regard to future arrangements.

- Suspend merchant payment surcharge fees. 26 March 2020 Council meeting resolution **20-124**.
- Suspend debt management processes (except for the issuing of overdue reminder notices) – 23 April 2020 Council meeting resolution **20-171**.
 - Note that section 747AB of the Local Government (General) Regulation 2005 was introduced on 17 April 2020 (Office of Local Government circular 20-12), which limits a council's ability to commence legal debt recovery processes. Office of Local Government circular 20-37 issued on 22 September 2020 extended the prescribed period for the purpose of this clause to 25 March 2021. At the time of writing this report no further information has been received from the OLG.

At the time of writing this report, the NSW Government had not issued any circulars advising of a change to the end date of the above legislation.

5 The recommendations will provide ratepayers with around 90 days to pay any overdue amounts prior to interest charges being applicable. Ratepayer's still experiencing financial hardship can be supported via the range of assistance options provided within Council's Debt Management and Financial Hardship Assistance Policy 2019. It is important to understand that eligibility for certain assistance will again be restricted, such as business customers where eligibility was relaxed.

10 Even though it is recommended to re-commence debt management processes in accordance with the above adopted policy from 1 July 2021, normal debt management processes won't commence until after the first rates instalment of 2021/22 becomes overdue after 31 August 2021, due to the quarterly cyclical nature of our processes.

There are currently around 700 properties registered under the temporary COVID-19 payment plan out of around 16,000 rateable properties (approximately 5%).

15 For the initial term of the COVID-19 payment plan, around 500 properties received an interest write-off for the period between 1 April 2020 and 30 June 2020 – the total write-off amount being around \$10,000.

Options

20 Council could choose to alter the recommended dates to end the temporarily offered payment plan, interest free period and commencement of normal debt management processes.

Strategic Considerations

Community Strategic Plan and Operational Plan

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

Recent Resolutions

25 Relevant prior Council resolutions are contained with this report.

Legal/Statutory/Policy Considerations

Legislative concerns and Council policy implications have been explained within this report.

Financial Considerations

- 5 The COVID-19 pandemic has obviously caused considerable financial implications. Like other support mechanisms implemented by Government, it was important to offer support to ratepayers during the COVID-19 pandemic.

- 10 Apart from the approximately \$10,000 already written off, if the recommendations of this report are supported, Council will provide a further write-off for customers that have registered for the COVID-19 payment plan for the period 1 October 2020 to 30 June 2021.

Due to the ratepayer support measures put in place during the COVID-19 pandemic, Council's rates and annual charges outstanding debt is currently around 10% of the total levy which is a rise of around 5% in the space of less than one year.

Consultation and Engagement

- 15 Significant communication with internal and external customers has been undertaken in regard to financial support during the COVID-19 pandemic.

Council advised ratepayers that were registered for the COVID-19 payment plan in early October 2020 (at the time Council decided to extend the support to 25 March 2021) that they would be advised of future arrangements in early April 2021.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.6 Voluntary Visitor Fund

Directorate: Sustainable Environment and Economy

Report Author: Jess Gilmore, Events & Economy Team Leader

5 **File No:** I2021/354

Summary:

Council at the 25 June 2020 meeting received a project update report on the Voluntary Visitor Fund (VVF). At this meeting Council resolved (**Resolution 20-353**) to defer a decision on the Voluntary Visitor Fund, until the March 2021 Council Meeting.

10 Council also resolved to continue to collect a voluntary visitor contribution from Council's First Sun and Suffolk Park Holiday Parks; and allocate the funds collected to implement the Byron Shire Sustainable Visitation Strategy once adopted by Council.

The update on the VVF from the 25 June 2020 meeting is reproduced in this report and updated where appropriate for Council's consideration.

15

RECOMMENDATION:

That Council no longer pursues a Voluntary Visitor Fund.

20

Report

The Mayor first presented the concept of a Voluntary Visitor Fund (VVF) to Council at its meeting on 21 November 2013 as a Notice of Motion. The purpose of the VVF in short is to assist Council with managing the financial impacts the result of tourism and visitation in Byron Shire. The Council resolution follows (**Resolution 13-622**):

1. *That Council commence a trial voluntary visitor contribution at the First Sun and Suffolk Park caravan parks.*
2. *That staff ensure this requirement is outlined within the scope of future park management contracts.*
3. *That the trial period begins from 1 July, 2014, coinciding with new park management contracts and an evaluation be provided after the Summer holiday period, 2015.*
4. *That staff provide a report addressing the following aspects:*
 - a) *Creation of a Beautify Byron Fund, in which to receive funds raised and to provide a prioritised list of projects where the funds raised could be spent.*
 - b) *The development of a marketing and promotional strategy to facilitate the voluntary contribution project.*
 - c) *Inviting other businesses within Byron Bay to also take part in the voluntary contribution scheme, including being part of a governing body to oversee the Fund.*
 - d) *Financial implications.*

From 2013 to 2016 a substantial amount of work was completed on the rebranded 'Beautify Byron Fund'. However, the program did not gain traction or support enough from the tourism industry to be financial.

Since the fund commenced in 2013 our holiday parks have collected approximately \$21,000. Council resolved at the 25 June 2020 meeting (**Resolution 20-353**) to allocate these funds to implementing the Sustainable Visitation Strategy once adopted by Council

In 2018 the Mayor initiated a follow up forum with industry leaders and key stakeholders to discuss a 'reboot' of the Voluntary Visitor Fund.

The following was discussed at the forum:

1. A proposed framework / governance structure
2. Proposed administration
3. Proposed fee structure
4. Transparency and auditing
5. Collection frequency and method
6. Contracts with accommodation providers

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STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.6

7. Project budget, including income estimates

8. Timelines

After the forum the level of industry commitment and support to a VVF did not change.

At the 23 August 2018 Council meeting a NOM provided a suggested path forward.

5 Council resolved (**Resolution 18-556**) as follows:

1. *That Council initiate a Voluntary Visitor Fund utilising the framework and governance structure option 3 - which shows Council as the administrator of the fund with an industry led Steering Committee.*

2. *That this project be shared with the Strategic Business Panel*

10 3. *That a quarterly report be provided to Council on the status of the Voluntary Visitor Fund*

15 Over a period of three months, Council engaged a consultant to implement this resolution. The deliverables included, signing up businesses, creating the governance model and preparing a list of projects that could be considered for implementation of the VVF. The consultant visited over 100 businesses and presented the VVF concept (some on more than one occasion). During these three months, no businesses signed up to the VVF program.

20 Due to the lack of industry support a luncheon was organised with five key industry leaders, the Mayor, Director of Sustainable Environment and Economy and the Tourism Officer to stimulate discussion and interest. The intent of the meeting was to invite these industry leaders to commit to the VVF and take a leadership role with industry and encourage other businesses to be part of the program. At the meeting all attendees agreed and pledged their support to a VVF, however shortly after the meeting four of the businesses withdrew their support. The North Byron Parklands through a Voluntary Planning Agreement (VPA) (which is separate to the VVF) however remain obligated to making a monetary contribution to Council via a development consent condition. This VPA is yet to be executed.

At the 25 June 2020 meeting Council considered the above information and resolved (**Resolution 20-353**) to:

30 1. *Defers a decision on the Voluntary Visitor Fund, until a report is presented to a Council Meeting in March 2021.*

2. *Continues to collect a voluntary visitor contribution from Council's First Sun and Suffolk Park Holiday Parks; and*

35 3. *Allocates the funds collected from 2 to implement the Byron Shire Sustainable Visitation Strategy once adopted by Council.*

Next steps

After engaging extensively with industry, it is recommended the VVF does not progress any further due to:

- Lack of commitment from the tourism industry to support a VVF
- 5 • Other grant funding for community infrastructure that has been received by Council including \$25m designed to offset tourism infrastructure impacts, and
- The impacts of COVID-19 on the tourism industry.

Strategic Considerations

Community Strategic Plan and Operational Plan

| CSP Objective | L2 | CSP Strategy | L3 | DP Action | L4 | OP Activity |
|---|-----|---|-------|--|---------|--------------------------------|
| Community Objective 4: We manage growth and change responsibly | 4.4 | Support tourism and events that reflect our culture and lifestyle | 4.4.1 | Build a tourism industry that delivers local and regional benefits in line with the community's values | 4.4.1.3 | Deliver Voluntary Visitor Fund |

10 Recent Resolutions

- 13-622
- 18-556
- 20-353

Legal/Statutory/Policy Considerations

- 15 Council wrote to the Australian Local Government Association (ALGA), seeking advice on whether the VVF would be classified as a Public Private Partnership (PPP). ALGA is currently undecided on whether the VVF triggers a PPP arrangement and requires additional information to make a determination. This has been placed on hold pending the outcome of this report.

20 Financial Considerations

As the reserve for the VVF holiday parks is classified as an Internally Restricted Asset, its operation is determined by Council resolution. Council resolved at the 25 June 2020

meeting (Resolution 20-353) to allocate these funds to implementing the Sustainable Visitation Strategy once adopted by Council.

Consultation and Engagement

Extensive engagement with the tourism industry was undertaken.

Report No. 13.7 Byron Shire Council ats Oniva Pty Ltd - 94 Kingsford Drv, Brunswick Heads, Mixed Use Development comprising a General Store/Cafe, Cafe, Co-working Space, 8 Shop Top Dwellings and a Boarding House containing 39 Boarding Rooms

Directorate: Sustainable Environment and Economy

Report Author: Ralph James, Legal Counsel

File No: I2021/378

Summary:

This report is about current Land and Environment Court proceedings presently scheduled for a section 34 Conciliation Conference on 15 March 2021. It seeks direction from Council as to whether the General Manager will be delegated to enter into consent orders or a s34 Conciliation Agreement approving DA10.2020.571.1 - 94 Kingsford Drv, Brunswick Heads, subject to appropriate conditions to be finalised under delegation.


RECOMMENDATION:

That the General Manager be authorised to enter into consent orders or a s34 Conciliation Agreement approving Development Application 10.2020.571.1, subject to appropriate conditions to be finalised under delegation.

OR

That the General Manager is not authorised to enter into consent orders or a s34 Conciliation Agreement approving Development Application 10.2020.571.1.

Attachments:

- 1 Confidential - Council's Statement of Facts and Contentions - Oniva Pty Ltd, E2021/38098
- 2 Letter - Marsdens Law Group to Objectors - Oniva Pty Ltd - 10.2020.571.1, E2021/43619 

Report

THE PROPOSAL

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

The development application was publicly notified by the Respondent to adjoining and nearby owners in accordance with the Byron Shire Council Community Participation Plan between 19 November and 9 December 2020.

Council received a total of 101 submissions and 1 petition with 1,090 signatures, all of which were by way of objection.

The submissions received by the Respondent raised the following issues of concern:

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

25 LAND AND ENVIRONMENT COURT

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

On 12 February 2021, Council filed its Statement of Facts and Contentions in Proceedings No 2020/00357219. Contention 1 contended that the Court did not have jurisdiction to hear the proceedings in circumstances where the Applicant lodged the Class 1 Application prior to its entitlement to rely upon the deemed refusal of the development application.

On 16 February 2021, the Applicant commenced new proceedings in Class 1 of the Land and Environment Court’s jurisdiction appealing against Council’s deemed refusal of the development application (Proceedings No 2021/44517).

COUNCIL'S CONTENTIONS IN THE PROCEEDINGS

Floor Space Ratio

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

Traffic Planning, Vehicle Parking, Circulation and Access

- 10 The development application must be refused because the proposed development does not provide suitable vehicular access to the site in contravention of clause 6.6(e) of BLEP 2014 and does not demonstrate compliance with Chapter B4 of BDCP 2014 and Australian Standards AS2890.1:2004 and AS2890.2:2002 in terms of parking supply and design. Further, insufficient information has been provided to enable a proper assessment of the impact of the proposed development on traffic in the locality.
- 15

Stormwater and Erosion and Sediment Control Measures – Insufficient Information

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

Communal and Private Open Space

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

Public Interest

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

A full copy of Council's Statement of Facts and Contentions is confidential attachment 1.

CONCILIATION CONFERENCE

- 35 The proceedings are listed for a conciliation conference pursuant to section 34 of the *Land and Environment Court Act 1979* on 15 March 2021. Conciliation conferences are explained in detail below.

The conciliation conference will commence on site at 10:30am and continue at the Cavanbah Centre.

It has been arranged for 6 resident objectors to speak by telephone during the conciliation, and in addition 4 objectors who could not speak have provided written submissions.

- 5 Council staff who will participate in the conciliation conference are Legal Counsel, the Manager Sustainable Development and a Building and Construction Services development engineer.

Councillors will be provided with a confidential memo updating the outcome of the conciliation conference after 15 March 2021.

10 The conciliation process

Conciliation in the Court is undertaken in accordance with Section 34 of the Land and Environment Court Act (otherwise known as a Section 34 Conference).

Section 34 Conferences, as articulated by the Chief Judge provide:

- 15 *“for a combined or hybrid dispute resolution process involving first, conciliation and then, if the parties agree, adjudication. The conciliation involves a Commissioner with technical expertise on issues relevant to the case acting as a conciliator in a conference between the parties. The conciliator facilitates negotiation between the parties with a view to their achieving agreement as to the resolution of the dispute. If the parties are able to reach agreement, the conciliator, being a Commissioner of the Court, is able to dispose of the*
20 *proceedings in accordance with the parties’ agreement.”*

The Court’s practice note encourages parties to consider using Section 34 Conferences to resolve disputes or narrow the scope of issues in dispute. The parties should properly prepare for each conference with this purpose in mind.

- 25 In accordance with Section 34(1A) of the Act it is the duty of each party to proceedings where a conciliation conference has been arranged to participate, in good faith, in the conciliation conference.

Conciliation Agreement/Consent Orders

The differences between finalising the Court proceedings via a Conciliation Agreement compared to Consent Orders are as follows:

- 30 1. A Conciliation Agreement is between Council and the applicant ie Council stays the determining authority.
- Use of a Conciliation Agreement would bring the Court cases to an end immediately and without the need for Council to include any expert witness costs or any legal costs beyond the minor costs associated with finalising the Conciliation Agreement.
- 35 2. Consent Orders are Orders issued by the Court by agreement ie the Court becomes the determining authority and has the power to refuse to issue the orders the parties

are asking for and/or to make different orders instead. With a Consent Orders hearing, everything, including the proposed conditions, is open to the Court to finally determine and, for example, a Commissioner might disagree with proposed conditions and issue orders with different conditions.

- 5 Because the Court becomes the determining authority, Consent Orders will not be entered by the Court without a hearing. That means a hearing would need to be held (usually commencing on-site then adjourning to a local Court house) and solicitors, expert witnesses and people who lodged an objection who wished to make a verbal submission to the hearing would have to attend, and Council would incur the associated legal and witnesses costs.
- 10

Usually, Consent Orders Hearing are shorter than defended hearings, often only 2 - 4 hours instead of the minimum full day hearing or more, but the hearing still needs to be prepared for and attended, just like a defended hearing would be, which means that the vast majority of the costs are still incurred.

- 15 Due to the reduced certainty and the higher costs, this is usually not the option recommended by staff for disposal of the court cases where Conciliation Agreement option is still available, as is the case here.

Strategic Considerations

Community Strategic Plan and Operational Plan

| CSP Objective | L2 | CSP Strategy | L3 | DP Action | L4 | OP Activity |
|---|-----------|--|-----------|---|-----------|-------------------------------------|
| Community Objective 5: We have community led decision making which is open and inclusive | 5.6 | Manage Council's resources sustainably | 5.6.13 | Manage the delivery of high quality cost effective legal services | 5.6.13.2 | Represent Council's legal interests |

20 Legal/Statutory/Policy Considerations

Statement of Contentions

The first purpose of the Statement of Contentions is to inform applicants of the case to be met. The second purpose is to inform the Commissioner what the case is about.

Conciliation conferences

- 25 As per the body of this report.

Expert witness

Essentially, expert evidence is opinion evidence or, the opinion of the expert. The primary function of the expert witness is to assist the court in reaching its decision by providing independent expert/technical analysis and opinion on an issue(s), based on the information provided by those instructing the expert.

- 5 An expert witness must comply with the code of conduct in Schedule 7 to the *Uniform Civil Procedure Rules 2005*

The expert witness code of conduct imposes:

- a general duty to the Court
- a duty to comply with orders
- 10 • a duty to work co-operatively with other expert witnesses
- requirements regarding the content of the expert's report.

General duty to the Court

- 15 An expert witness has an overriding duty to assist the Court impartially on matters relevant to the expert witness's area of expertise. An expert witness' paramount duty is to the Court and not to any party in the proceedings (including the person retaining the expert witness. An expert witness is not an advocate for a party.

Duty to comply with Court directions

An expert witness must abide by any direction of the Court.

- 20 The expert, when complying with any direction of the Court to confer with another expert witness or to prepare a parties' expert's report with another expert witness in relation to any issue:

- (a) must exercise his or her independent, professional judgment in relation to that issue
 - (b) must endeavour to reach agreement with the other expert witness on that issue
 - (c) must not act on any instruction or request to withhold or avoid agreement with the other expert witness.
- 25

Resident objectors

- 30 Resident objectors have a unique role in development appeals in Class 1 of the Land & Environment Court's jurisdiction. However there are some limitations to that role which, if not adequately explained to residents, can lead to dissatisfaction with the process, and criticism of the Council officers managing or giving evidence in the appeal.

A resident objector has no legal entitlement to participate in a development appeal. However, councils almost always call resident objectors as witnesses to assist their case, and the Court has the power to inform itself on any matter in such manner as it thinks appropriate, and can therefore hear residents concerns.

- 5 Despite their special status, resident objectors are not parties to the proceedings before the Court. Councils' legal advisors strive to make it clear that they act for the Council, not the resident objector.

The court has said in the past:

- 10 *"It is not acceptable to identify as a ground for refusal "matters raised by the objectors". The respondent consent authority is to identify which, if any, of the matters raised by the objectors the respondent itself contends, on a reasonable basis, justifies the refusal of the application."*

Financial Considerations

- 15 The current estimate of professional legal costs is in the order of \$28,000.00 to \$32,000.00 plus GST if the matter proceeds to a conciliation conference of not more than one day in duration and (if the proceedings are not resolved at the conciliation conference) thereafter to a hearing of not more than two days in duration.

Consultation and Engagement

- 20 A without prejudice meeting was held with the Applicant ahead of the conciliation conference in an attempt to refine the issues going forward to the conciliation conference.

On 23 February 2021 a letter was forwarded by Council's external solicitors to those persons who had made submissions by way of objection. Attached 2 is a copy of the letter template.

- 25 By memo dated 3 March 2021 and at the Strategic Planning Workshop on 4 March 2021 Councillors were briefed as to the proceedings.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.8 Brunswick Heads Parking Scheme Review

Directorate: Infrastructure Services

Report Author: Katie Hughes, Project Engineer

5 **File No:** I2021/281

Summary:

This report has been prepared to present options for parking time limits in Brunswick Heads.




10 Four plans have been prepared for parking time limits for consideration with the preferred layout taking into account feedback from consultants, key community stakeholders and Council Staff.

15 Feedback was sought on the proposed plans from the Chamber of Commerce, Brunswick Heads Progress Association (and Community Alliance for Byron Shire), Brunswick Heads Public School, SLSC and Reflections Holiday Parks.

RECOMMENDATION:

- 20
1. That Council adopts the Preferred Layout, Figure 4 (as per attachment 2 - E2021/34931) and implements the proposed parking time limits once approved by the Local Traffic Committee.
 2. That Council allocates 4 car parking spaces adjacent to the Brunswick Heads SLSC for club use, once approved by the Local Traffic Committee.

Attachments:

- 25
- 1 Stakeholder Feedback on Brunswick Heads Parking, E2021/34929 
 - 2 Brunswick Heads Parking Limit Maps, E2021/34931 
 - 3 Questions-on-Notice-27-August-2020, E2021/34923 

Report

At the Council Meeting of 24 September 2020, the Director of Infrastructure Services responded to **Question with Notice No 13.1** with the below in regards to Resolution **20-413** to defer consideration of pay parking until the March 2022 Ordinary Council Meeting.

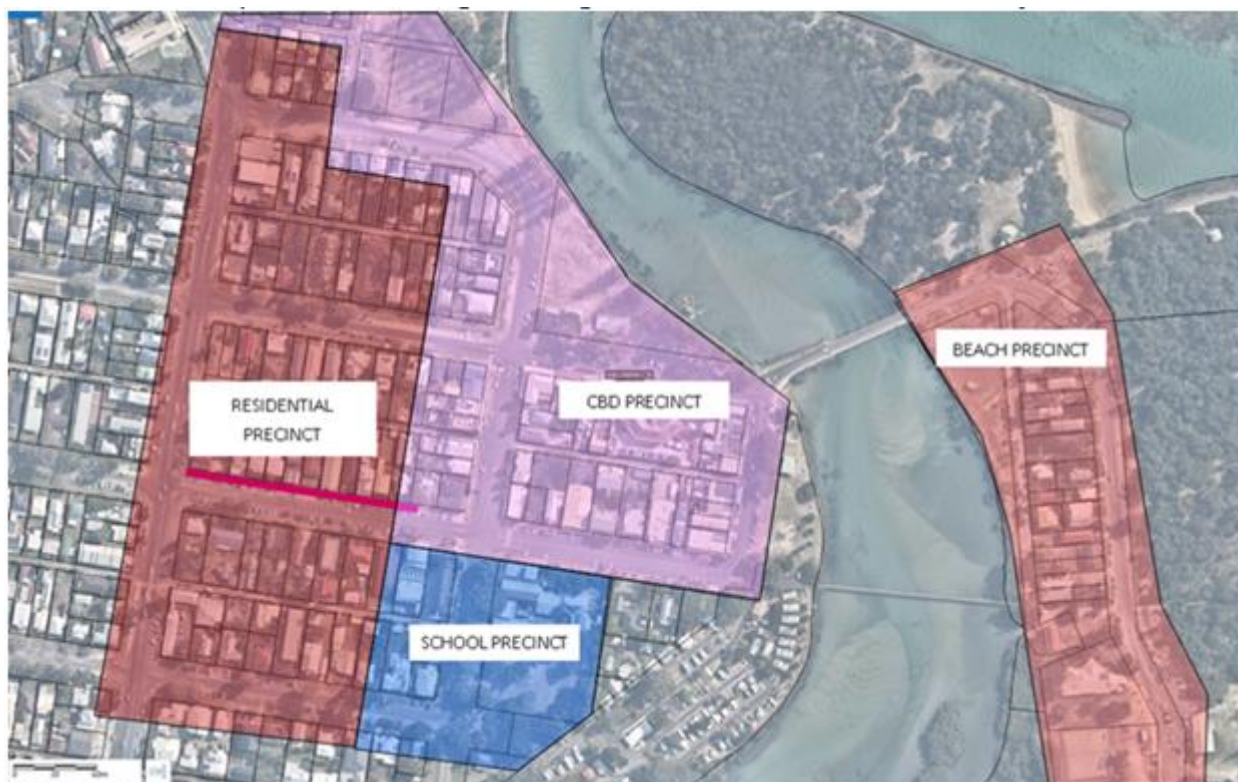
- 5 *Staff will continue to review parking time limits and alternate parking management strategies that don't involve paid parking in order to address some identified parking concerns in the interim.*

- 10 *It is anticipated this process will incorporate consultation with key community stakeholders to ensure all opinions are considered and that changes reflect community needs.*

The full question and response are attached to this report at attachment 3.

Key issues

- 15 For the following discussion the area in question has been divided into four general parking precincts; the Residential Precinct, the CBD Precinct, the School Precinct and the Beach Precinct. These areas are defined in Figure 1 below. These precincts are not intended to be prescriptive and are supplied for the purposes of discussion only.



Parking Precincts Locality Plan

Issues with the current parking layout include consistently high occupancy rates in the CBD, Beach and School Precincts. The majority of carparks in these areas exceed an average of 80% capacity over the study period.

- 5 Compliance has reported issues with illegal camping in the Beach Precinct. Staff indicated that unrestricted parking in the Beach Precinct enables campers to establish patterns of gathering in carparks and remaining for extended periods of time.

In addition to the existing arrangements shown in figure 1, four options have been provided with this report for consideration as outlined below.

Options

10 1. Current Parking Limits

The current parking limits have been provided as Option 1.

Issues with the current parking layout include consistently high occupancy rates in the CBD, Beach and School Precincts. The majority of carparks in these areas exceed an average of 80% capacity over the study period.

- 15 The Compliance Team has reported issues with illegal camping in the Beach Precinct. Staff indicated that unrestricted parking in the Beach Precinct enables campers to establish patterns of gathering in carparks and remaining for extended periods of time.

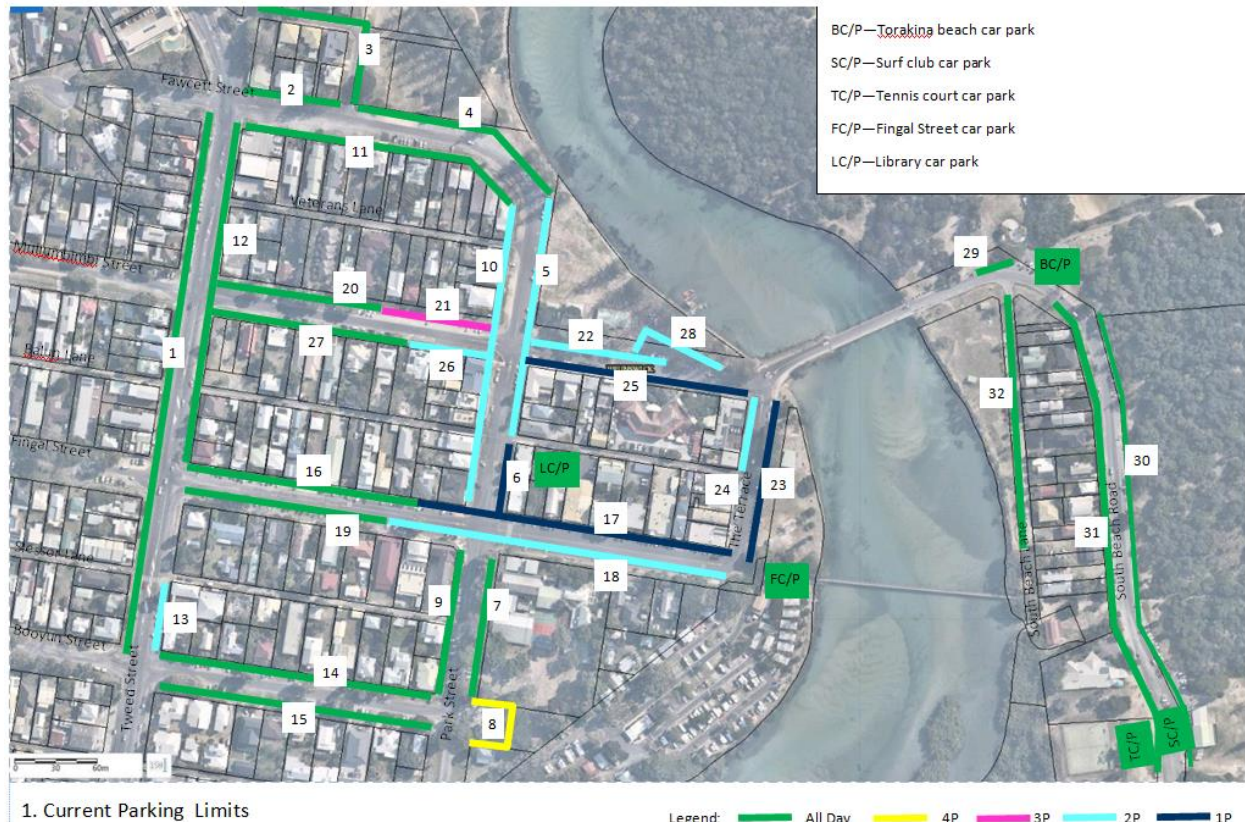


Figure 1. Current Parking Limits

2. TPS Consultants Advised Parking Limits

This plan is based on advice provided by TPS based on their 2019 parking study.

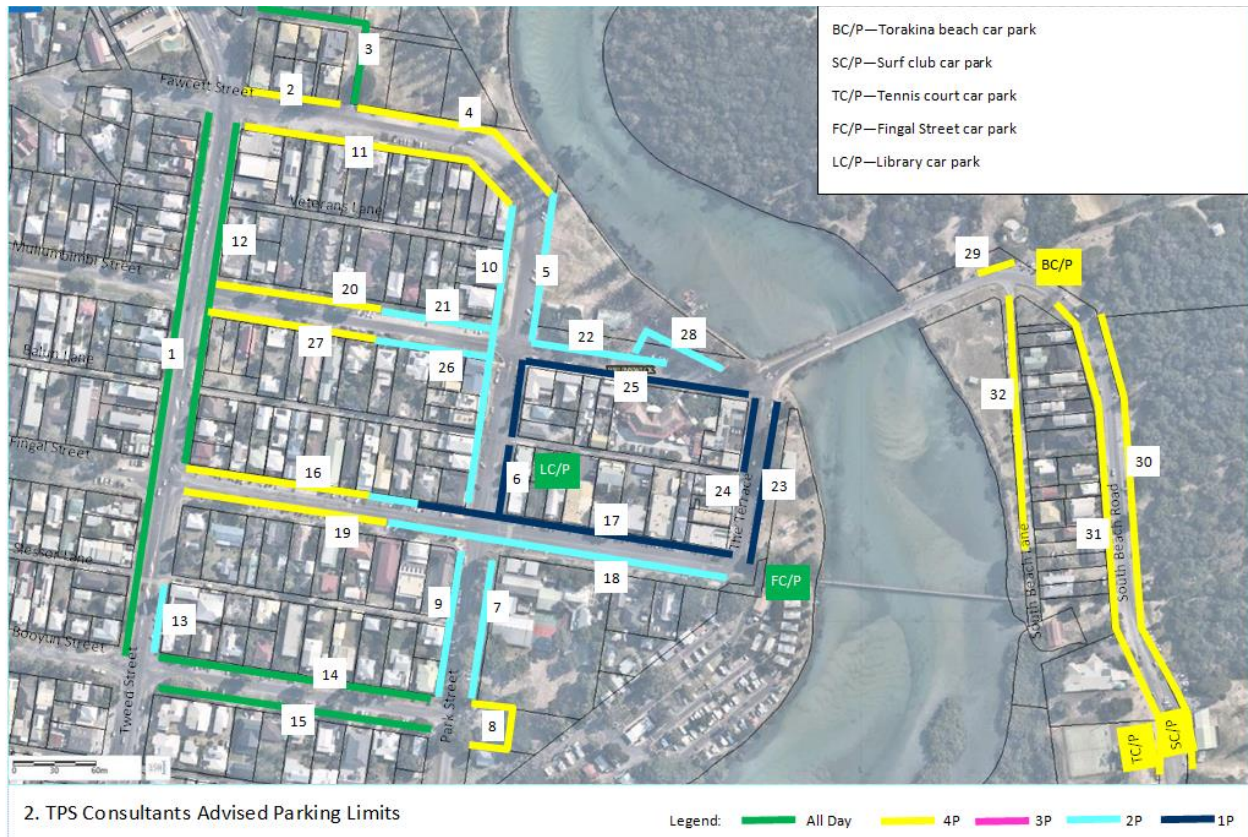


Figure 2. TPS Consultant Advised Parking Limits

- 5 This plan represents the most significant increase in parking limits with a large portion of the currently unrestricted Residential and Beach Precincts converted to 4P. This large increase in limited parking in the Residential Precinct is likely to be unpopular with residents.

- 10 This plan is not supported by the Chamber of Commerce due to the lack of parking for workers and the impact of increased limits of shoppers who would otherwise stay longer than the introduced limits permit.

Brunswick Heads Public School also does not support introducing 2P limits on Park Street south of Fingal Street due to the impacts on teachers, parents and volunteers.

- 15 This option does not provide any on street all day parking for residents in the Beach Precinct.

3. Chamber of Commerce Recommended Parking Limits

This plan is based on advice from the Brunswick Heads Chamber of Commerce representatives.

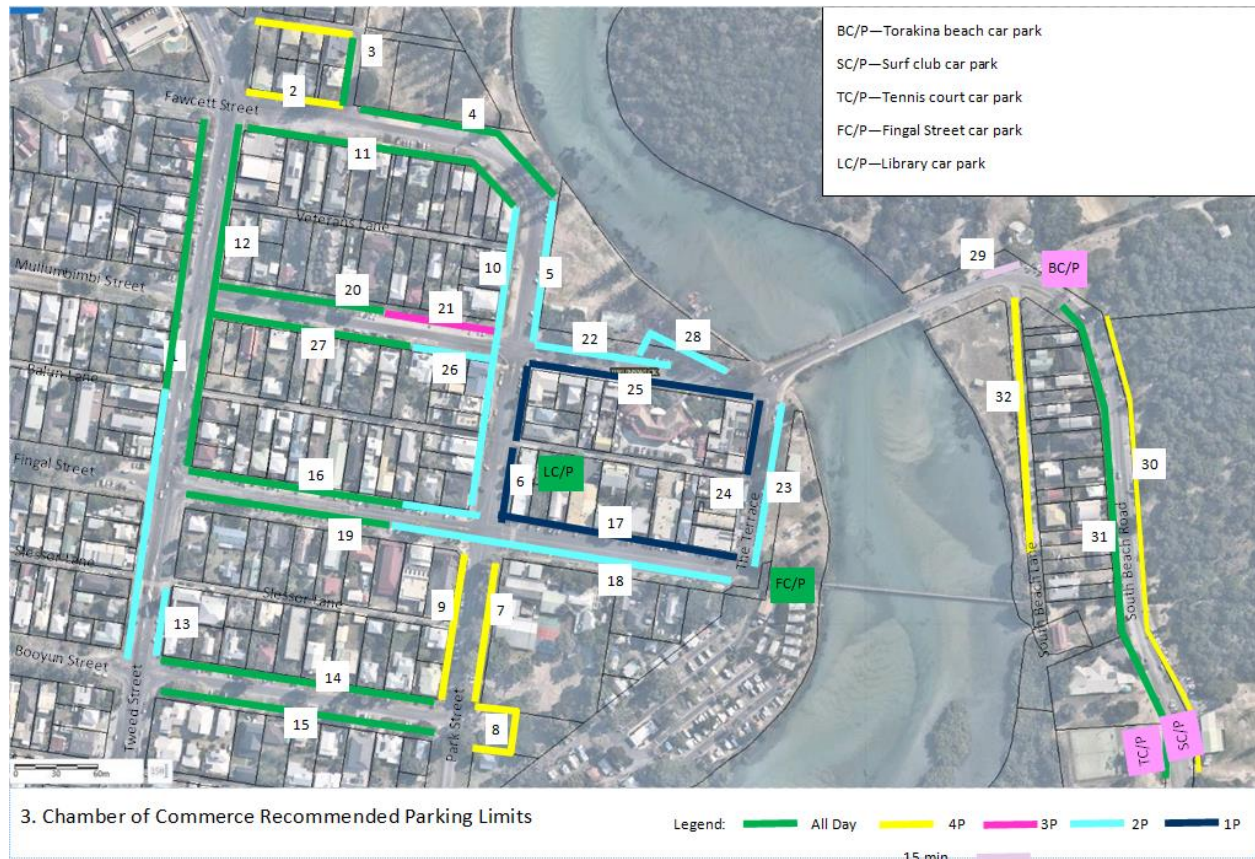


Figure 3. Chamber of Commerce Recommended Parking Limits

A range of parking limits in the Beach Precinct is not supported by the Compliance Team as this may create confusion of limits. However, a 5-15 minute drop off zone adjacent to Torakina Beach is supported to allow passengers to safely alight from vehicles during busy periods.

The Chamber supports maintaining the 3hr parking on Mullumbimbi Street to allow hairdresser clients adequate time for appointments.

The Chamber has requested 1P and 2P spaces on The Terrace be swapped to allow adequate time for café customers.

4. Preferred Parking Limits

The preferred option is based on advice from the community, parking consultant and staff. It is the recommended option for parking limits in Brunswick Heads.

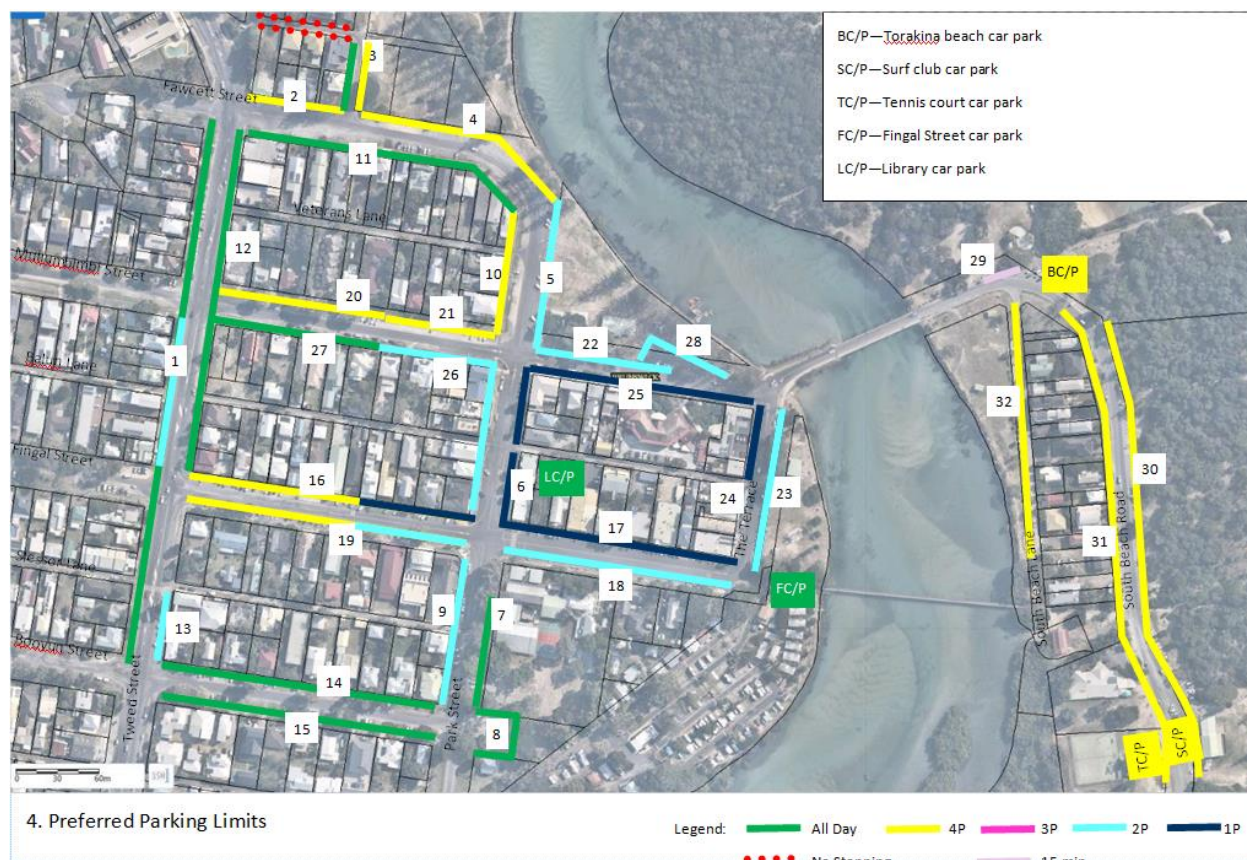


Figure 4. Preferred Parking Limits

This option balances residential, business and visitor needs in the Residential Precinct by providing a mix of parking limits including all day parking.

- 5 This option promotes consistency of limits, minimising multiple changes in limits in each precinct. The Compliance Team support minimising the changes in parking limits at mid-block locations. Keeping parking limits consistent for whole blocks where possible leads to less confusion of time limits. For consistency Council staff also recommend removing 3hr parking.
- 10 Higher turnover parking has been provided adjacent to highly frequented park and riverside locations to encourage parking adjacent to recreation areas and minimise frequent road crossings by pedestrians.

No parking is recommended on Mona Lane as parking on the verges of this narrow lane represents a safety risk. The carriageway is too narrow to allow two-way traffic and parking.

5. BHPA Proposed Limits

Option 5 is based on recommendations received by the Brunswick Heads Progress Association.

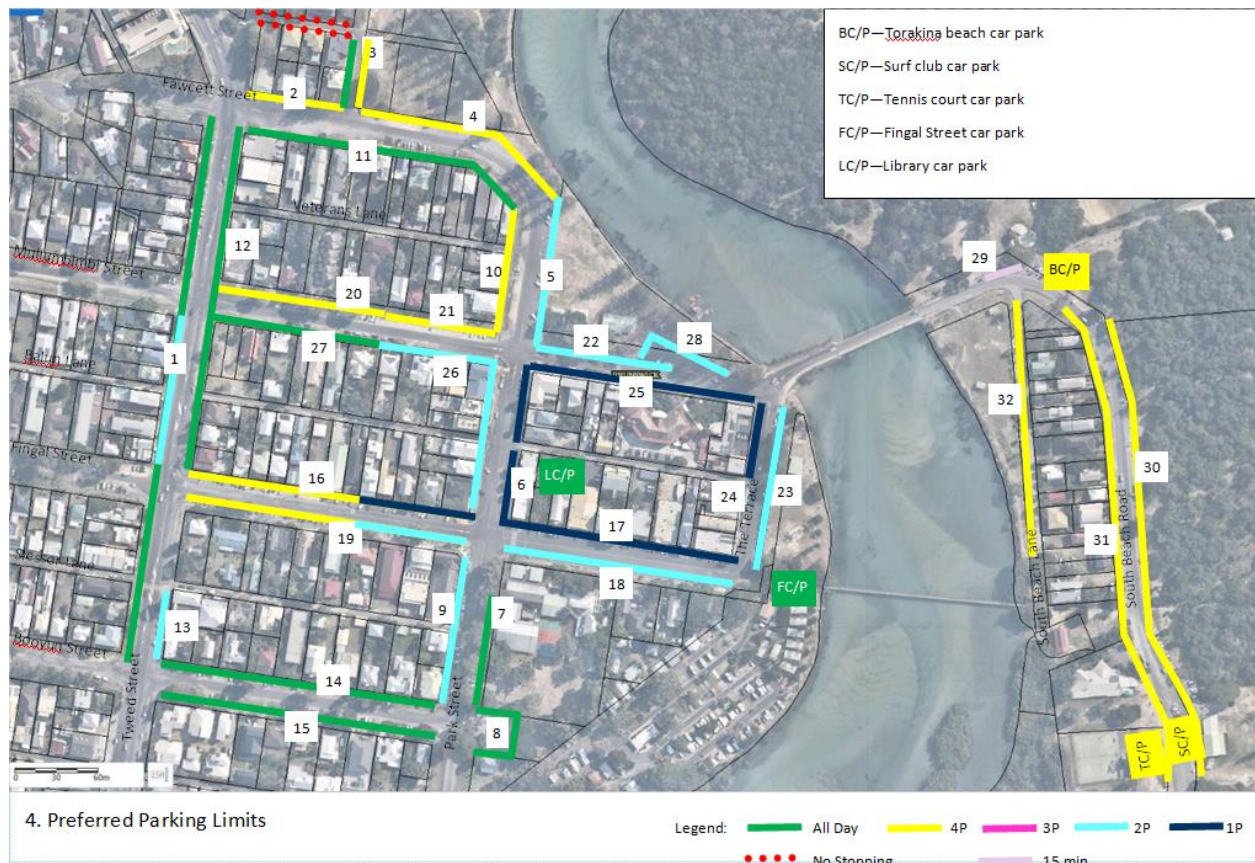


Figure 5. Brunswick Heads Progress Association Recommended Parking Limits

The Brunswick Heads Progress Association submission advocates for expanded parking limits with the inclusion of a resident permit system. The plan also includes no parking on all laneways in Brunswick Heads.

The parking limits extend beyond the map shown above to the north and the south to cover the majority of residential areas in the main township of Brunswick Heads east of Tweed Street.

This proposal is supported by the Community Alliance for Byron Shire (CABS) representatives. CABS advocates for a restricted parking area that encompasses the entirety of Brunswick Heads from the northern and southern highway entrances to the town.

A permit system is not supported by Council Staff due to a number of issues including the difficulties of retrofitting such a system to an established high tourism area. Many businesses including holiday accommodations and bar and restaurants rely on their guests being able to park overnight in on street parking. Onsite parking is inadequate for the vast majority of businesses in the town. A resident's only permit for on street parking would create parking issues for any non-residents such as workers, residents guests, tourists, visitors to the two affected caravan parks and bar and restaurant guests. A significant amount of resources, staff time and significant funding would be required to implement and manage the permits and the overnight compliance of vehicles left within the permit area.

Staff have investigated the tow away area presented by CABS and have found that such a system is usually implemented on main thoroughfares in dense urban cities where clearways are required to maintain peak hour traffic flow. These types of systems are generally not used for residential streets for nuisance parking.

5 Additional Requests

Council Staff have received a number of additional requests in relation to parking in Brunswick Heads. The SLSC has requested 8-10 spaces directly adjacent to the Surf Club be dedicated to SLSC members for use by lifeguards. It is recommended this request is granted for 4 spaces.

- 10 Council has also received requests for the No Parking 1 AM to 6 AM zone in the Beach Precinct be altered to No Parking 1 AM to 5 AM to allow for early morning access to the Beach Precinct. This is not supported by The Compliance Team as it would greatly limit the ability for staff to manage illegal camping.

Strategic Considerations

15 Community Strategic Plan and Operational Plan

| CSP Objective | L2 | CSP Strategy | L3 | DP Action | L4 | OP Activity |
|--|-----|---|-------|--|---------|---|
| Community Objective 1: We have infrastructure, transport and services which meet our expectations | 1.6 | Manage traffic and parking in an efficient manner | 1.6.1 | Implement review of parking management | 1.6.1.1 | Implement Parking Management Strategy for Brunswick Heads |

Recent Resolutions

- Resolution **20-413**

Financial Considerations

- 20 Should Councillors wish to undertake further community consultation prior to making a determination a budget of \$10,000 will be required in the next quarterly review to prepare accessible plans, consult with the community and prepare and manage a Your Say consultation webpage. This process will add a minimum of 2 months to the project timeline.

Consultation and Engagement

Feedback was sought on the proposed plans from the Chamber of Commerce, Brunswick Heads Progress Association (and Community Alliance for Byron Shire), Brunswick Heads Public School, SLSC and Reflections.

- 5 The feedback has been attached to this report (E2021/34929).

A further meeting was held with the Chamber of Commerce and Brunswick Heads Progress Association on the 12th March 2021 to discuss the feedback received and the proposed plans.

**Report No. 13.9 Byron Street, Bangalow - Shared Path
Design and Options Study****Directorate:** Infrastructure Services**Report Author:** Katie Hughes, Project Engineer5 **File No:** I2021/286**Summary:**

Council allocated funds (**Res 20-357**) for an options assessment and design of the Byron Street Shared Path in Bangalow. This report presents two options for the upgrade of the shared path.

- 10 Survey, concept design and an options assessment have been undertaken for the Byron Street connection and a determination on the preferred option is sought from Council prior to the completion of detailed design.

Two options are proposed for the upgrade of the Byron Street Shared Path:

1. Upgrade the existing footpath on the northern side of Byron Street
- 15 2. Construct a new path and pedestrian bridge on the southern side of Byron Street

RECOMMENDATION:

- 20 **That Council supports the progression of Option 2 (a new path and pedestrian bridge on the southern side of Byron Street, Bangalow and upgrade the existing Byron Street path west of Byron Creek) to a shovel ready status.**

Attachments:

- 25 1 3724-1013 Stage 2 Options Assessment Report, E2021/38110 

Report

Council resolved (Res 20-357) to add an additional item to the capital works budget for the design and options study of share paths BA001 and BA023 in Bangalow for \$100,000. As recommended within the adopted PAMP.

- 5 Survey, concept design and an options assessment have been undertaken for the Byron Street connection and a determination on the preferred option is sought from Council prior to the completion of detailed design.

Key issues

- 10 Currently the existing Byron Street footpath is non-compliant in both width and grade with a number of footpath defects limiting accessibility for users.

Further it offers poor connection to the proposed Deacon Street path.

Options

Two options were proposed for the upgrade of the Byron Street Shared Path:

1. Upgrade the existing footpath on the northern side of Byron Street
- 15 2. Construct a new path and pedestrian bridge on the southern side of Byron Street

Both options include upgrading the existing Byron Street path west of Byron Creek to improve accessibility for pedestrians using this path as the community has raised concerns over the defects and accessibility of this path. This includes widening of the existing path and replacing uncompliant sections of path for a length of 170m (west of the bridge).

- 20 Concept design plans for both options have been provided at attachment 1 as part of the options assessment.

Option 1

- 25 Upgrade the existing footpath on the northern side of Byron Street includes widening part of the existing pedestrian path. The existing path is highly constrained with a width of 1.7m on the existing pedestrian bridge without opportunity for widening. Either side of the bridge the path is also constrained by guardrail. Therefore, only minor improvements to accessibility will be able to be achieved for the overall length of the pathway for this option.

The approximate construction cost of this option including the upgrades to the west of Byron Creek is approximately \$350,000.

Option 2

5 Construct a new path and pedestrian bridge on the southern side of Byron Street and construct of 150m of new path, including the 45m of bridge and 34m of retaining up to 1m in height and including upgrading the western section of the existing pathway on the northern side of Byron St west of the bridge.

Option 2 will include a new pedestrian refuge in Ballina Road not currently shown on the design plans as a consequence of discussions with the Place Planning collective. There is also the potential that a land purchase to widen the path adjacent the Anglican Church may be needed, this requires further consultation.

10 This option is significantly more difficult to construct as it will involve relocating a Council water main, construction of a retaining wall in a highly constrained location adjacent to the existing bridge and monitoring for the Giant Barred Frog may be required during construction.

15 The approximate construction cost of this option including the upgrades to the west of Byron Creek is approximately \$1,905,000 and includes an allowance for a bridge structure.

Recommendation

Further detail is provided in attachment 1, however, in overview the follow key comments are provided.

20 Option 2 is significantly more expensive; however, it offers the best accessibility and compliance outcomes for the community, pedestrians and bikes.

There are existing pedestrian limitations on the northern side of the bridge Byron Street, these cannot be resolved by option 1.

25 The options assessment and Deacon Street Path detail design process did not find an acceptable solution to connect pedestrians between the northern side of Byron Street and the proposed Deacon Street path. The safest connection method is via the additional bridge and supporting paths proposed by option 2.

30 It is recommended that Option 2 be adopted as well as upgrades to the existing non-compliant Byron Street path west of Byron Creek. If supported these designs will now be taken to a shovel ready status in order to apply for grant for the construction. This will include consultation with the community.

Strategic Considerations

Community Strategic Plan and Operational Plan

| CSP Objective | L2 | CSP Strategy | L3 | DP Action | L4 | OP Activity |
|--|-----|---|-------|---|---------|---|
| Community Objective 1: We have infrastructure, transport and services which meet our expectations | 1.1 | Provide a road network which is safe, accessible and maintained to an acceptable level of service | 1.1.3 | Prioritise road network asset renewal and upgrade programs in line with Community Solutions Panel values (SP) | 1.1.3.2 | Deliver access ramp and footpath upgrades and renewals shire wide |
| Community Objective 1: We have infrastructure, transport and services which meet our expectations | 1.1 | Provide a road network which is safe, accessible and maintained to an acceptable level of service | 1.1.3 | Prioritise road network asset renewal and upgrade programs in line with Community Solutions Panel values (SP) | 1.1.3.4 | Replacement of damaged footpaths |

Recent Resolutions

- Res 20-357

5 Financial Considerations

The approximate construction cost to improve the existing shared path where possible is approximately \$350,000.

10 The approximate construction cost of constructing a new pedestrian bridge and shared path connection to the south of Byron Street including the upgrades to the west of Byron Creek is approximately \$1,905,000.

The construction stage is currently unfunded. However, being shovel ready will allow Council to apply for grant funds for the construction stage.

Consultation and Engagement

This project resulted from a Your Say consultation held in July 2020 for the Bangalow Shared Paths where community members indicated that upgrades to the Byron Street footpath were a priority. The path has been identified in the Byron Shire 10 Year Bike Plan as priority A to the west of Byron Creek and C to the east.

- 5 The options were presented at the February Place Planning Collective meeting and were presented to key stakeholders at a meeting held on 11th March 2021. Further consultation is to be undertaken during the detailed design phase of the project.

Report No. 13.10 Stuart Street Green Spine Project Update and Next Steps

Directorate: Infrastructure Services

Report Author: Kirk Weallans, Project Engineer

5 **File No:** I2021/434

Summary:

The purpose of this report is to provide an update to Council on the Stuart Street Green Spine project and to recommend the staging of works and “next steps” to be undertaken in order to continue to progress the project.


- 10 Two concept designs have been prepared by Council’s consultant. These designs have been developed to help facilitate consultation and obtain community feedback for the Stuart Street Green Spine project.

- 15 The timing of the current Stage 1 of this project is critical. A mandatory requirement for Stage 1, is that the grant funding amounting to approximately \$600k must be spent on infrastructure renewals by the 30 June 2021.

RECOMMENDATION:

- 20 1. That Council approves the completion of infrastructure renewal works required to satisfy the June 2021 funding constraints, and that this work be undertaken on the basis, that it is not dependent upon consultation and detailed design. These works may include the following works on Stuart Street: -
- (i) Pavement upgrades between Burringbar Street and Fern Street
- 25 (ii) Removal of African Tulip trees and replacement with appropriate street trees
- (iii) Footpath upgrade works
- 30 2. That Council endorses the actions relating to community feedback as documented in Attachment 1 (E2021/41567) on the Stuart Street Green Spine Project and the updating of the concept designs based on endorsed actions and relevant design standards.

Attachments:

- 35 1 24.2020.32.1 - Concept Design Consultation Summary (Jan - Feb 2021) and Actions - Stuart Street Green Spine Project, E2021/41567 

REPORT

Background

- The Stuart Street Green Spine is a priority action identified in the “Our Mullumbimby” Masterplan. The Masterplan was endorsed by Council in December 2019. The Masterplan defines the project as aiming to encourage active transport connections and to create a continuous green boulevard for the length of Stuart Street. The resolution of cycleway alignments, drainage and road pavement upgrades are further additional required outcomes that will be associated with the overall Stuart Street Green Spine design.
- 5 Council has engaged Consultants Hansen Partnership to undertake the design work for this project. Hansen Partnership are contracted to develop the project to a shovel ready status. To date two concept designs have been prepared which incorporated community consultation feedback received through a pre-design community consultation process which concluded in August 2020.
- 10 Council has recently completed a subsequent round of consultation from the 25 January to the 14 February for the Stuart Street Green Spine project. The concept designs were intended to facilitate further consultation and promote idea generation. The main difference between the two concept designs developed was the positioning of a cycleway i.e. on road or off road.
- 15 A key issue from the Community Consultation process undertaken in February 2021 period was that the majority of the respondents favoured an “off road” to an “on road” cycleway in Stuart Street.
- 20 A third option to be investigated by Council is the proposal to introduce a 10 km/h shared zone or 30km/h speed zone with bikes remaining in roadway, while creating a safer environment for cyclists.
- 25

Consultation and Engagement

The following consultation activities relevant to the Green Spine project have been undertaken to date:

- October/November 2019 - “Our Mullumbimby Masterplan”
- 30 • August 2020 - Pre-Concept Design Consultation
- November 2020 - Concept Designs revealed to the “Place Planning Collective”
- January/February 2021 - Concept Design Phase Consultation
 - o Your say page on Council’s website
 - o A “listening post” event where the community met and talked to staff and
 - 35 Consultants
 - o A mailbox drop of Stuart and Burringbar Streets
 - o Email and letter to community groups and businesses
 - o Door knock of businesses on Stuart and Burringbar Streets
 - o Drop in session in Council Chambers

- 02 March 2021 – Meeting with representatives from the Mullumbimby Chamber of Commerce and local businesses

Concept Design Phase Community Consultation Summary

5 Between the period of 25 January to 14 February 2021, the community were able to provide feedback on the concept design work completed to date via Council's have "your say" webpage and survey, 88 responses were received through the online platform. A small number of comments were also provided via phone and email.

10 A general theme, which emerged through the initial consultation period is that there are varying perspectives on what the commercial area of Stuart Street should reflect in terms of the ultimate design outcome. The right balance needs to be found in terms of carparks, vegetation, loading zones and bike lanes. Further consultation is required with the community to further consider these points on their own merits.

A summary of the consultation feedback received has been summarised in Attachment 1. The table in attachment 1 also includes recommended actions in relation to the comments.

15 In relation to the cycleway alignment in terms of the off-road and the on-road options, the following statistical feedback was received

- 70% of respondents were in favour of an off-road cycleway
- 11% of respondents do not want a cycleway
- 9% of respondents prefer an on-road cycleway
- 20 • 5% respondents no response
- 2% respondents do not mind either way.

Meeting with representatives from Mullumbimby Chamber of Commerce and local businesses

25 On the 2nd March 2021, a meeting was facilitated between Council staff, Cr Richardson, Cr Cameron, representatives from the Mullumbimby Chamber of Commerce and local businesses.

Key points noted from the meeting included:

- Support for a shared or 30km/h zone in the Stuart Street commercial area
- Representatives did not support an off road cycleway
- 30 • Council to undertake infrastructure renewal works in order to meet grant funding timelines of 30/6/2021, prior to completing further consultation and detailed design for the Green Spine project
- Support for the removal of African Tulip Trees
- Representatives suggested continued involvement from Council's Place Planning
- 35 Team in terms of consultation
- Representatives did not support the narrowing of the Stuart Street and Burringbar intersection i.e. allow the space for two vehicles at the holding line i.e. vehicle space for a left turn turning vehicle and vehicle space for a straight through or right turning vehicle

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- Loading zones to be further discussed with businesses
- Council's Greenspine project is aiming desirably for a "no nett loss" of parking along the length of Stuart Street
- Cycleway and planting locations are still to be determined through the design process in terms of preferred locations

Key agreed actions from the meeting included:

- Council to schedule a "drop in session" for representatives from the Chamber of Commerce and Mullumbimby businesses in order for them to meet and to explain their particular issues of concern as well as suggested improvements or modifications to the design
 - Design points to be discussed through this process include preferred location for plantings, parking considerations, loading zones, laneway parking and loading interactions and waste collection as well as improving the walkability of the existing Stuart Street footpath network.
- Council Green Spine design to consider integration with adjacent side streets

Project Construction Staging

The project this size needs to be completed in a staged process. Proposed stages are provided below.

Stage 1 Works – Infrastructure Renewals

To meet grant deadlines Council will undertake a suite of works prior to the end of this financial year that will not require further community consultation.

It is anticipated that the works may include a combination of the following on Stuart Street between Burringbar Street and Fern Street:

- (1) Pavement upgrades (essentially between Whian and Fern Sts)
- (2) Removal of African Tulip trees and tree replacement
- (3) Footpaths

The works extent is to be confirmed following preliminary estimates.

Stage 2 Works – Initial Grant Funded Improvements

The anticipated 2021/22 works, for which further community consultation is required, will be inclusive of the following:-

- (a) Pavement upgrades (essentially between Whian and Burringbar Sts)
- (b) Shared zone or cycleway linemarking/construction
- (c) Landscaping

The works extent is to be confirmed and subject to available budget.

Stage 3 Works – Completion of Green Spine Upgrade (Unfunded)

5 Upon completion and endorsement of the detail designs the project will be fully shovel ready for the length of Stuart Street. At this time Council will seek grant funding to compete a entire upgrade of Stuart Street when opportunities arise.

Key issues to be considered as part of the works

Stuart Street Crossfalls

10 Sections of Stuart Street have a high pavement crown and excessive transverse crossfalls back to the kerb and channel. Crossfalls in some sections of Stuart Street are 8-10% in magnitude. These crossfalls are 3-5% above the maximum crossfall recommended in the Australian Design Standards. Accordingly, the existing crossfalls will guide the final location of cycleways.

The Australian Design Standards maximum crossfall of 5% is recommended to reduce the likelihood of:

- 15
- car doors rapidly swinging open or shut when parked on steeply sloped pavements
 - impact on rideability for cyclists
 - a motorcycle may have a tendency to topple sideways or to roll of the side stand depending on how the motorcycle is parked

20 Another point to consider is that there is a substantial reduction in stability for tricycles. This is a safety issue in terms of a rider loosing directional control when using a tricycle on an on-road cycleway with excessive crossfalls as the rider does not have the ability to lean into a slope as does a cyclist

25 Council's current available budget for road renewal is insufficient to undertake full reconstruction for the section of Stuart Street between Burringbar Street and Whian Street, which exhibits adverse road crossfalls.

Low speed environment the for Stuart Street Commercial Area

30 During the meeting on the 02 March with representatives from the Chamber of Commerce and local businesses the possibility of extending a shared zone currently approved for the intersection of Burringbar and Stuart Streets to cover the commercial area of Stuart Street was discussed and supported.

35 The TfNSW technical directive for shared zones states that *"90 and 45 degrees parking are not considered appropriate in a shared zone. The minimum carriage way widths required for 90- and 45-degrees parking does not adhere to the requirements for a self-enforcing road environment. In addition, it is undesirable to have vehicles reversing within a shared zone."* Therefore, based on this technical directive implementing a 10km/h shared zone for the commercial area may be problematic.

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In the event a 10km/h shared zone is not supported, Council will further investigate a 30km/h speed zone alternative for the Stuart Street commercial area which is also considered a suitable speed environment where there is a mix of pedestrians, cyclists and vehicles. The NSW Government has recently implemented safer reduced speed zones of 30km/h in Manly and Liverpool to support the community and improve safety.

It is important to note that the option of a 10km/h shared zone or 30km/h speed zone was never presented to the community at large as part of the February 2021 “your say” initiative. Safety was a primary consideration for the majority of the respondents to the survey. It is for this reason that their preference was for an off-road as opposed to an on-road cycleway.

The off-road cycleway however is appearing as an increasingly unlikely option for the following reasons

- The off-road cycleway may create conflicts and represent a safety risk between pedestrians and cyclists at the Burringbar and Stuart Streets intersection
- The off-road cycleway will impact car parking spaces owing to cycleway transitions at intersections in order to promote safer crossing points for cyclists, these abrupt transitions are associated with their own safety issues and may trigger street lighting improvements.
- Full road reconstruction between Burringbar Street and Whian Street is required, Council does not have enough budget to complete this work
- Implementation of 10 or 30km/h speed zones would negate the need for formalised cycleway lanes and are considered to be an appropriate and achievable solution that meets all the safety concerns received during consultation to date.

Infrastructure Renewals

Council is required to expend approximately \$600k by 30 June 2021, generally on infrastructure renewals. The intent is to undertake infrastructure renewal works that do not impact the long-term vision for the Stuart Street Green Spine project.

The renewal works programmed for Stuart Street will predominately, but not exclusively, include pavement upgrades between Burringbar Street and Fern Street.

The limits of Stage 1 may be slightly reduced or extended to match the scope of the available funding.

It should be noted that some works may be sacrificial dependent on the timing for final design and implementation of landscape works however Council will endeavour to minimise this as much as possible.

Infrastructure renewal work will be carried out prior to completion of additional consultation and detailed design.

Next steps

The following next steps are recommended to ensure that the project continues to progress that existing grant funding requirements are realised:

- 5 1. Confirm scope of infrastructure renewal works required to satisfy funding constraints. Work is not dependent upon consultation and detailed design. Complete stage 1 works on ground.
2. Revised Green Spine concept design as appropriate based on community feedback and project constraints, as noted in attachment 1 and detailed in this report.
3. Present revised Green Spine design to a Council Strategic Planning Workshop
- 10 4. Undertake further consultation with the community prior to advancing the Stuart Street Green Spine design
5. Report final Green Spine concept design to Council, including suggested stages and cost estimates to complete full upgrade
6. Develop Issue For Construction drawings to bring project to a shovel ready status
- 15 7. Complete stage 2 works on ground
8. Prepare business case to take advantage of grant opportunities to fund construction of the full scope
9. Complete stage 3 works on ground when funded.

STRATEGIC CONSIDERATIONS

20 **Community Strategic Plan and Operational Plan**

| CSP Objective | L2 | CSP Strategy | L3 | DP Action | L4 | OP Activity |
|--|-----|---|-------|---|----------|------------------------------|
| Community Objective 1: We have infrastructure, transport and services which meet our expectations | 1.1 | Provide a road network which is safe, accessible and maintained to an acceptable level of service | 1.1.3 | Prioritise road network asset renewal and upgrade programs in line with Community Solutions Panel values (SP) | 1.1.3.17 | Design Stuart Street Renewal |

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| | | | | | | |
|---|-----|--|-------|--|---------|---|
| Community Objective 4: We manage growth and change responsibly | 4.1 | Support the visions and aspirations of local communities through place-based planning and management | 4.1.1 | Develop, implement and update Place Plans that promote place-based forward planning strategies and actions | 4.1.1.4 | Develop a Landscape Plan for Stuart St Greenspine (Our Mullumbimby Masterplan action) |
|---|-----|--|-------|--|---------|---|

Financial Considerations

The current available budget for design and construction over the next two years is \$1,287,600 which is funded via:

\$660,000 from the \$25 million Election Commitment Grant (ECG)

- 5 *\$300,000 Local Roads and Community Infrastructure Program (LRCIP); and*
\$327,000 from s7.11 developer contributions.

Infrastructure renewal works to be completed by June 2021 are funded by:

\$300,000 – LRCIP

\$327,000 – ECG

- 10 Under the LRCIP, Council has committed to a grant co-contribution value of \$327,000. The co-contribution was to originally be funded from s7.11 developer contributions. Developer contributions can only be expended on prescribed infrastructure assets including cycleways and landscaping. The consultation and design process is not yet advanced enough to inform the location of cycleways and landscaping design elements.
- 15 Therefore, the s7.11 developer contributions are to be substituted with ECG funds. The s7.11 developer contributions will be allocated to the project once detailed design is sufficiently advanced.

Council will be required to submit a scope variation under the Local Roads and Community Infrastructure Program as the work plan nominated at the time of application has changed.

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

Report No. 14.1 Report of the Audit, Risk and Improvement Committee Meeting held on 18 February 2021

5 **Directorate:** Corporate and Community Services

Report Author: Emma Fountain, Strategic Risk & Business Continuity Coordinator

File No: I2021/262

Summary:

10 This report provides the minutes of the Audit, Risk and Improvement Committee Meeting held on 18 February 2021 for determination by Council.

RECOMMENDATION:

15 1. **That Council notes the minutes of the Audit, Risk and Improvement Committee Meeting held on 18 February 2021 in Attachment 3 (I2021/243).**

2. **That Council adopts the following Committee Recommendations:**

Report No. 5.4 2020 Year End Audit Management Letter

File No: I2021/205

Committee Recommendation 5.4.1

That the comments provided by Management in response to issues raised in the 2020 Year End Audit Management Letter (#E2021/30330) be noted by Council and the Audit, Risk and Improvement Committee.

Report No. 5.5 2020-2021 External Audit Engagement Plan

File No: I2021/206

Committee Recommendation 5.5.1

That Council notes the External Audit Engagement Plan prepared by the Audit Office of New South Wales for the year ended 30 June 2021 as outlined in


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REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

14.1

Confidential Attachment 1 (#E2021/31603).

Attachments:

- 1 Confidential - 2020-2021 External Audit Engagement Plan, E2021/31603
- 2 Confidential - 2020 Year End Audit Management Letter from Audit Office of NSW,
5 E2021/30330
- 3 Minutes 18/02/2021 Audit, Risk and Improvement Committee, I2021/243 

Report

The attachment to this report provides the minutes of the Audit, Risk and Improvement Committee Meeting of 18 February 2021 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 https://byron.infocouncil.biz/Open/2021/02/ARIC_18022021_AGN_1297_AT_EMBEDDED.PDF

Committee Recommendations

Report No. 3.1 Adoption of Minutes from Audit, Risk and Improvement Committee Meeting 12 November 2020

- 10 That the minutes of the Audit, Risk and Improvement Committee Meeting held on 12 November 2020 be confirmed.

Report No. 4.1 Delivery Program 6-monthly Report and 2020/21 Operational Plan Report - Q2 - December 2020

- 15 That the Audit, Risk, and Improvement Committee notes the Delivery Program 6-monthly Report and 2020/21 Operational Plan Quarter 2 Report for the period ending 31 December 2020 (#E2021/4352).

Report No. 5.1 CONFIDENTIAL - Internal Audit Report - February 2021

That the Audit, Risk and Improvement Committee:

1. Notes the Internal Audit Status Report – February 2021 (E2021/29435)
- 20 2. Endorses the recommendations from the Executive Team to close off 5 recommendations in Appendix A of the Internal Audit Status Report (E2021/29435)
3. Requests management to implement the recommendations made in the Internal Audit of Asset Management – January 2021 (E2021/9941)

Report No. 5.2 CONFIDENTIAL - Cyber Security and System Outages Quarterly Update

25

That the Audit, Risk and Improvement Committee:

1. Notes the attached security and incident reports;
 - a) Security Intrusion Detection Report. Attachment 1 (E2021/17718); and,
 - b) Incident Outages Report. Attachment 2 (E2021/17715); and,
 - 30 c) Security Incident Report. Attachment 3 (E2021/17716); and,

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2. Receives ongoing status reports for cyber incidents and systems outages.

Report No. 5.3 CONFIDENTIAL - Risk Management Update

That the Audit, Risk and Improvement Committee notes the strategic and operational risk reports for the quarter ending 31 December 2020 (E2021/18481).

5 Report No. 5.4 CONFIDENTIAL - 2020 Year End Audit Management Letter

That the comments provided by Management in response to issues raised in the 2020 Year End Audit Management Letter (#E2021/30330) be noted by Council and the Audit, Risk and Improvement Committee.

Report No. 5.5 CONFIDENTIAL - 2020-2021 External Audit Engagement Plan

- 10 That Council notes the External Audit Engagement Plan prepared by the Audit Office of New South Wales for the year ended 30 June 2021 as outlined in Confidential Attachment 1 (#E2021/31603).

Report No. 5.6 CONFIDENTIAL - External Audit Actions Quarter 2 2020-2021 Update

- 15 That the Audit, Risk and Improvement Committee notes the external audit activity update for the quarter ending 31 December 2020 as outlined in Confidential Attachment 1 (#E2021/31417).

Management Comments

- 20 The committee recommendations are supported by management and are provided in the attachment to this report.

Financial Implications

As per the Reports listed within the Audit, Risk and Improvement Committee Meeting of 18 February 2021.

Statutory and Policy Compliance Implications

- 25 As per the Reports listed within the Audit, Risk and Improvement Committee Meeting of 18 February 2021.

**Report No. 14.2 Report of the Public Art Panel Meeting held
on 18 February 2021**

Directorate: Corporate and Community Services

Report Author: Melitta Firth, Arts & Culture Office

5 **File No:** I2021/359

Summary:

A meeting of Public Art Advisory Panel was held on 18 February, 2021 to consider:

- Mullumbimby Talking Street Trial Update
- Brunswick Nature Sculpture Walk – Partnership Proposal
- 10 • Creative Activation Seed Funding (Formerly Public Arts Small Grants)

The panel recommendations are provided for consideration, along with management comments.

RECOMMENDATION:

- 15 1. **That Council notes the minutes of the Public Art Panel Meeting held on 18 February 2021.**

2. **That Council adopts the following Committee Recommendation:**

Report No. 3.1 Public Art Panel Adoption of Minutes 29 October 2020

File No: I2021/168

Committee Recommendation 3.1.1

That the minutes of the Public Art Panel Meeting held on 29 October 2020 be confirmed.

3. **In relation to the Mullumbimby Talking Street update, that Council notes:**

Report No. 4.1 Mullumbimby Talking Street Trial Update

File No: I2021/139

Committee Recommendation 4.1.1

That the Public Art Panel:

- 1. Notes Council Resolution 20-698.**
- 2. Acknowledges the decision that the Mullumbimby Talking Street Trial project does not have a budget for the inclusion of art and requests a further update from staff.**

4. That Council adopts the following Committee Recommendation:

Report No. 4.2 Brunswick Nature Sculpture Walk - Partnership Request

File No: I2021/140

Committee Recommendation 4.2.1

- 1. That the Public Art Panel notes the proposition from Brunswick Nature Sculpture Walk.**
- 2. That Council accepts the Brunswick Nature Sculpture Walk partnership proposal in principle.**

Management Recommendation

- 2. That Council encourages Brunswick Nature Sculpture Walk to submit an application for funding and support in the upcoming Community Initiatives grant round.**

5. That Council notes:

Report No. 4.3 Creative Public Spaces Small Grant Scheme

File No: I2021/146

Committee Recommendation 4.3.1

That the Public Art Panel accepts the proposed changes to the Creative Public Spaces Grant Program with several minor amendments as noted.

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REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

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Attachments:

- 1 Minutes 18/02/2021 Public Art Panel, I2021/244 

5

Report

The attachment to this report provides the minutes of the Public Art Panel Meeting of 18 February 2021 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/2021/02/PAP_18022021_MIN_1336.PDF

Management Comments

10 Management provided an alternative recommendation in Item 4 to enable a partnership with Brunswick Nature Sculpture Walk to be considered and, if appropriate, developed through an equitable, transparent process, noting:

1. The issue of partnerships requires consideration in a broader context, rather than in standalone circumstances, to ensure a strategic and equitable approach.
- 15 2. Open processes, such as funding rounds and/or Expressions of Interest, support equity and transparency regarding Council's funding allocation mechanisms.
3. Council resourcing constraints require this request to be balanced with competing arts and cultural priorities.

The remainder of the committee recommendations are supported by management.

20 Financial Implications

Regarding 4.2.1, if the Brunswick Nature Sculpture Walk partnership proposal is accepted, the total amount is \$28,000.

25 Financial support requested is a contribution of \$3,000 per annum over 6 years, as contribution to the two events (the event occurs on a triennial basis) commencing in 2022. An additional \$5,000 is requested for the acquisitive award which will occur twice in the 6 year partnership proposal period.

This funding would be allocated from the Public Art budget (2323.1) over 6 years.

The Brunswick Nature Sculpture Walk has already received \$5,000 from this budget this financial year for its upcoming event.

30 Statutory and Policy Compliance Implications

As per the Reports listed within the Public Art Panel Meeting of 18 February 2021.

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 14.3 Report of the Sustainability and Emissions Reduction Advisory Committee Meeting held on 28 January 2021

5 **Directorate:** Sustainable Environment and Economy

Report Author: Kimberley Rogers, Environment Support Officer

File No: I2021/250

Summary:


10 The attachment to this report provides the minutes of the Sustainability and Emissions Reduction Advisory Committee meeting held on 28 January 2021 for determination by Council.

RECOMMENDATION:

15 **That Council notes the minutes of the Sustainability and Emissions Reduction Advisory Committee Meeting held on 28 January 2021.**

Attachments:

20 1 Minutes 28/01/2021 Sustainability and Emissions Reduction Advisory Committee, I2021/77



Report

The attachment to this report provides the minutes of the Sustainability and Emissions Reduction Advisory Committee Meeting of 28 January 2021 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 https://byron.infocouncil.biz/Open/2021/01/SERAC_28012021_AGN_1314_AT.PDF

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

Financial Implications

- 10 As per the Reports listed within the Sustainability and Emissions Reduction Advisory Committee Meeting of 28 January 2021.

Statutory and Policy Compliance Implications

As per the Reports listed within the Sustainability and Emissions Reduction Advisory Committee Meeting of 28 January 2021.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

**Report No. 14.4 Report of the Local Traffic Committee
Meeting held on 16 February 2021**

Directorate: Infrastructure Services

5 **Report Author:** Andrew Pearce, Traffic Engineer

File No: I2021/276

Summary:

This report contains the recommendations of the Local Traffic Committee (LTC) meeting held on 16 February 2021.

10 Council's action on the LTC advice will be:

- a) If Council is in agreement with the LTC unanimous support then the proposal may be approved. In these cases there is no conflict between Council and the advice of the LTC, consequently there is no need for Council to inform the RMS or the NSW Police representatives of the decision.
- 15 b) If Council is in agreement with the LTC unanimous support, but no longer wants to proceed, the proposal may still be rejected.
- c) If Council is in agreement with the LTC unanimous decline then the proposal may be rejected. Again there is no conflict between Council and the advice of the LTC. Consequently there is no need for Council to inform the RMS or the NSW Police representatives of the decision.
- 20 d) If Council decides to proceed with a proposal where the advice of the LTC is not unanimous support, then the Council must first advise the RMS and the NSW Police representatives in writing of their intention to approve the proposal. The RMS or the NSW Police may then lodge an appeal to the Regional Traffic Committee (RTC).
- 25 e) If Council decides to proceed with a proposal where the advice of the LTC is a unanimous decline, then the Council must first advise the RMS and NSW Police representatives in writing of their intention to approve the proposal. The RMS or the NSW Police may then lodge an appeal to the RTC.

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

RECOMMENDATION:

- 5 1. That Council notes the minutes of the Local Traffic Committee Meeting held on 16 February 2021.

2. That Council adopt the following Committee Recommendation(s):

Report No. 6.1 Azalea St Intersection Upgrade

File No: I2021/98

Committee Recommendation 6.1.1

That Council request proponents review the plans associated with the Azalea St and Jubilee St intersection upgrade, to consider the committee's comments and demonstrate how pedestrian and cyclist access and safety is enhanced, and to incorporate works highlighted within the Bike Plan.

3. That Council adopt the following Committee Recommendation(s):

Report No. 6.2 Event - Byron Bay Bluesfest 2021

File No: I2021/169

Committee Recommendation 6.2.1

1. That Council endorse the regulatory traffic management facilities and devices, including signs and traffic controller provisions proposed for the Council controlled public road network as outlined in document E2021/4373 for the Byron Bay Bluesfest 2021 to be held on Thursday April 1 to Monday 5 April 2021, or alternatively, Thursday 29th September to Monday 4th October (if COVID 19 restrictions prevent the April event going ahead), subject to the following conditions:
2. Separate approvals by NSW Police and Transport for NSW being obtained, noting that the event is on a state road or may impact the state road network;
3. The development and implementation of a Traffic Management Plan and Traffic Control Plan(s) by those with relevant TfNSW accreditation. These plans are to be submitted to Byron Shire Council at least 2 months prior to the event for approval of traffic regulation on roads under Byron Shire

control;

- 4. The TMP is to include contingency measures in case the level of queuing fails to meet KPI requirements. It is noted that such queuing may be caused by the introduction of paid parking.**
- 5. The Traffic Management Plan and the Traffic Control Plan(s) to be implemented by those with relevant and current TfNSW accreditation;**
- 6. Traffic camera data recorders or similar be used to obtain an accurate record of traffic impacts at KPI queue locations;**
- 7. That the impact of the event be advertised 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;**
- 8. The event organiser:**
 - i) advertise the impact of the event 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;**
 - ii) provide a copy of the advert for Council's web page;**
 - iii) give consideration of any submissions received;**
 - iv) inform community and businesses that are directly impacted (e.g. adjacent to the event) via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised;**
 - v) arrange for private property access and egress affected by the event;**
 - vi) liaise with bus and taxi operators and ensuring arrangements are made for provision of services during conduct of the event;**
 - vii) consult with emergency services and any identified issues be addressed;**
 - viii) holding \$20m public liability insurance cover which is valid for the event.**
 - ix) paying of Council's Road Event Application Fee prior to the event.**

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REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

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9. The event organiser is to:

- i) undertake consultation with community and affected businesses including adequate response/action to any raised concerns;**
- ii) undertake consultation with emergency services and any identified issues addressed;**
- iii) hold \$20m public liability insurance cover which is valid for the event;**
- iv) pay Council's Road Event Application Fee prior to the event.**

4. That Council adopt the following Committee Recommendation(s):

Report No. 6.3 Event - Byron Triathlon - 8 May 2021

File No: I2021/170

Committee Recommendation 6.3.1

- 1. That Council endorse the Byron Bay Triathlon to be held on Saturday 8th May 2021, which includes the following temporary road closures below:**

| CLOSED STREETS | BETWEEN | TIMES |
|-----------------------|--|--------------------|
| Bay St | Fletcher St to Middleton St (both directions) | 5am-5pm |
| Middleton St | Bay St to Marvel St (both directions) | 5am-3pm |
| Lawson St | Middleton St to Massinger St (both directions) | 5am-5pm |
| Marvell St | Middleton St to Tennyson St (both directions) | 10.30am-3pm |
| Tennyson St | Marvell St to Browning St (both directions) | 10.30-3pm |
| Bangalow Rd | Browning St to Old Bangalow Rd (both directions) | 11.30am-3pm |
| Broken Head Rd | Old Bangalow Rd to BP Service Station Beech Drive (both directions) | 11.30am-3pm |

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

- a) separate approvals by NSW Police and Transport for NSW being obtained;**

- b) the event organiser provide council with an updated Traffic Management Plan and Traffic Control Plan for the 2021 event, if required by the Police and Transport for NSW;**
 - c) development and implementation of a Traffic Management Plan and Traffic Control Plan(s) by those with appropriate TfNSW accreditation and the holding of current and appropriate levels of insurance and liability cover;**
 - d) the impact of the event be advertised, and charged at cost to the organisers, via a notice in the local weekly paper and VMS boards a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints;**
 - e) the event be notified on Council's web page with the event organiser supplying Council with the relevant information;**
 - f) Access from main beach car park to Fletcher St is to be unrestricted at all times.**
 - g) Access to Lawson St between Fletcher St and Middleton St to be permitted at all times.**
- 3. That the event organisers:**
- a) inform the community and businesses that are directly impacted (eg within road closure zones) via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised;**
 - b) arranging for private property access and egress affected by the event;**
 - c) liaising with bus, taxi and waste operators and ensuring arrangements are made for provision of services during conduct of the event;**
 - d) consulting with emergency services and any identified issues be addressed;**
 - e) holding \$20m public liability insurance cover which is valid for the event;**
 - f) paying Council's Road Event Application Fee prior to the event.**

5. That Council adopt the following Committee Recommendation(s):

Report No. 6.4 Event - Byron Coast Charity Walk - 22 May 2021

File No: I2021/172

Committee Recommendation 6.4.1

- 1. That Council support the Westpac Life Saver Rescue Helicopter fundraiser, Byron Coast Charity Walk, to be held Saturday 22 May 2021 from 5.00am – 5.00pm.**
- 2. That Council support in Part 1 is subject to:**
 - a. The development of a Traffic Management Plan and Traffic Control Plan(s) for the 2021 event by those with relevant and current Transport for NSW accreditation. The Traffic Control Plan(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 Control Plans as designed by those with appropriate accreditation and implemented by people with appropriate accreditation, including traffic controllers.**
 - f. That the impact of the event be advertised 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.**
 - g. The event is notified on Council’s webpage.**
 - h. The event organiser:**
 - i) Undertake consultation with affected community and**

businesses including adequate response/action to any raised concerns.

- ii) Undertake consultation with emergency services and any identified issues addressed.**
- iii) Holding \$20m public liability insurance cover which is valid for the event.**
- iv) Paying Council's Road Event Application Fee prior to the event.**

6. That Council adopt the following Committee Recommendation(s):

Report No. 6.5 Event - Anzac Day 2021 - Road Closures in Byron Bay, Mullumbimby, Brunswick Heads and Bangalow

File No: I2021/174

Committee Recommendation 6.5.1

1. That Council:

- a) endorse the ANZAC Day Parades for 25 April 2021, 2022 and 2023 for the Return Services League sub branches of Byron Bay, Mullumbimby, Bangalow and Brunswick Heads / Billinudgel, subject to no changes to the traffic control plans;**
- b) assists, where requested and required, with implementing the necessary temporary road closures and detours;**
- c) place advertisements in a local weekly newspaper 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;**
- d) Notify the event on Council's webpage.**

2. That the event organiser:

- a) obtain separate approvals by NSW Police and TfNSW, noting that the Bangalow event is on a state road or may impact the state road network;**
- b) undertake consultation with community and affected businesses including adequate response/action to any raised concerns;**

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- c) undertake consultation with emergency services and any identified issues addressed;
 - d) holding \$20m public liability insurance cover which is valid for the event.
- 3. That the approvals provided above are subject to NSW Police approval being obtained and that each event is undertaken either or both under Police escort or traffic control and/or Council's implemented traffic control.

Attachments:

- 1 Minutes 16/02/2021 Local Traffic Committee, I2021/190 

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Report

The attachment to this report provides the minutes of the Local Traffic Committee Meeting of 16 February 2021 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 https://byron.infocouncil.biz/Open/2021/02/LTC_16022021_AGN_1343_AT_EMBEDDED.PDF

Financial Implications

As per the Reports listed within the Local Traffic Committee Meeting of 16 February 2021.

Statutory and Policy Compliance Implications

- 10 As per the Reports listed within the Local Traffic Committee Meeting of 16 February 2021.

**Report No. 14.5 Report of the Water, Waste and Sewer
Advisory Committee Meeting held on 18
February 2021**

Directorate: Infrastructure Services

5 **Report Author:** Dominika Tomanek, Executive Assistant Infrastructure Services

File No: I2021/285

Summary:

The attachment to this report provides the minutes of the Water, Waste and Sewer Advisory Committee Meeting of 18 February 2021 for determination by Council.

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RECOMMENDATION:

1. That Council notes the minutes of the Water, Waste and Sewer Advisory Committee Meeting held on 18 February 2021.

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2. That Council adopt the following Committee Recommendation(s):

**Report No. 3.1 Adoption of Minutes of Previous Meeting held on 29 October
2020**

File No: I2021/177

Committee Recommendation 3.1.1

That the minutes of the Water, Waste and Sewer Advisory Committee Meeting held on 29 October 2020 be confirmed.

3. That Council adopt the following Committee Recommendation(s):

Report No. 4.1 Byron STP Condition 9 Additional Load - Quarterly Report

File No: I2021/161

Committee Recommendation 4.1.1

1. That Council recognises:

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- a) That Additional Load approved since 2006 is of the order of 1.6 ML/day;
 - b) That in recent years 1.1 ML/day of Byron STP's effluent has been reused;
 - c) That Consent Condition 9 approved by Council in December 2002 states "Additional load at West Byron STP will not be accepted until: availability of sufficient reuse capacity to accommodate 100% of the volume of treated effluent generated by the additional load ";
 2. That Council seeks an independent planning assessment during the current financial year, of the interpretation of, compliance with, and ongoing fulfilment of Condition 9;
 3. That Council seeks more opportunities to re-use effluent as soon as possible
4. That Council adopt the following Committee Recommendation(s):
- Report No. 4.2 Inflow and Infiltration - Sewer Asset Management**
- File No: I2021/175
- Committee Recommendation 4.2.1**
1. That Council notes the report.
 2. That reporting to the committee and Council on the sewer rectification programme be annual (or more frequent if needed).
 3. That reporting on Inflow/Infiltration continue to each Water, Waste and Sewer Advisory Committee meeting after any storm event where a Daily Inflow to an STP has exceeded its ADWF by factor of 10 or more, plus annually.
5. That Council adopt the following Committee Recommendation(s):
- Report No. 4.3 Myocum Quarry status and rehabilitation update**
- File No: I2021/226
- Committee Recommendation 4.3.1**
1. That Council recognises its obligations in respect of the management and

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rehabilitation of Myocum Quarry.

- 2. That this issue be the first item on a future Agenda to the Water, Waste and Sewer Advisory Committee and include a site visit.**

Attachments:

- 1 Minutes 18/02/2021 Water, Waste and Sewer Advisory Committee, I2021/235 

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Report

The attachment to this report provides the minutes of the Water, Waste and Sewer Advisory Committee Meeting of 18 February 2021 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 https://byron.infocouncil.biz/Open/2021/02/WWSAC_18022021_AGN_1322_AT_EMBEDDED.PDF

Committee Recommendation

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

Financial Implications

- 10 As per the Reports listed within the Water, Waste and Sewer Advisory Committee Meeting of 18 February 2021.

Statutory and Policy Compliance Implications

As per the Reports listed within the Water, Waste and Sewer Advisory Committee Meeting of 18 February 2021.