



Byron Shire Council



Agenda Ordinary Meeting

Thursday, 27 May 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.

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BUSINESS OF ORDINARY MEETING

- 1. PUBLIC ACCESS**
- 2. APOLOGIES**
- 3. REQUESTS FOR LEAVE OF ABSENCE**
- 4. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY**
- 5. TABLING OF PECUNIARY INTEREST RETURNS (CL 4.9 CODE OF CONDUCT FOR COUNCILLORS)**
- 6. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS**
 - 6.1 Ordinary Meeting held on 22 April 2021
 - 6.2 Extraordinary Meeting held on 13 May 2021
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Infrastructure Services

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15. QUESTIONS WITH NOTICE

Nil

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

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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.

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NOTICES OF MOTION

9.1

In NSW more broadly, there has been a 90% increase in production in the current financial year. This is due in part to the factors noted above, and also MADE IN NSW, a \$175 million fund over five years (2020/21 – 2024/25) to support the attraction to NSW of significant international and domestic feature film and major TV drama production.

- 5 The program will create a pipeline of high-end screen production in NSW and build on the success of previous investment. The program will focus its investment in new film and TV projects that: significantly contribute to the NSW economy, create high value jobs, create new opportunities in western Sydney and regional NSW, build the skills and capacity of established and emerging practitioners, grow audiences; and contribute to NSW's reputation as the leading State in business and film.
- 10

Some local statistics below:

2019-20	2020-21 (to date)
One major film project – <i>SeaChange</i>	Five major film projects – <i>Nine Perfect Strangers</i> (Disney / Hulu series) <i>Eden</i> (Stan series) <i>Seriously Red</i> (feature film) <i>God's Favourite Idiot</i> (Netflix series) <i>The Wilds</i> (withdrawn) (Disney series)
11 small scale applications	31 small scale applications

Notwithstanding the above, the NSW Government Local Government Filming Protocol 2009 remains the relevant Protocol that local councils are to comply with when determining applications or setting fees for filming activities.

- 15 Under the legislation, councils can only opt out of this Protocol by adopting a satisfactory alternative policy with the approval of the Director-General of the Department of Local Government.

- 20 There is a presumption in the Protocol that councils will grant approvals to filming projects. As such Councils are to ensure that requests for location film productions can occur unless there are exceptional circumstances or legislation requires the council to refuse to grant the approval.

Exceptional circumstances and ability to refuse a filming activity approval are limited. The fees and charges related to location filming activity are, at a maximum, to be cost reflective.

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.1

Given the significant amount of time and resourcing that is required to manage a filming application and subsequent approvals, the 2009 Protocol limitations are causing a disproportionate work impact on local government film contact officers and their teams.

- 5 There have been recent discussions between Byron, Tweed and Ballina Shire Film Contact Officers (FCO) about the above and need for an urgent review of the Protocol.

Screen NSW has also been contacted on same.

As a result, it is understood that the Office of Local Government is preparing a consultation process on an update of the Film Friendly Protocol.

Byron Shire Council is one of the councils that will be consulted.

- 10 The latest information we have had is that this process will start before the end of May.

Areas to be examined by the Protocol review are likely to include but are not limited to: resources needed to manage film permits; the current application processes; permitted uses for designated council-controlled land and land use planning processes.

- 15 The review will also include a new IPART fee structure to support local government to better resource film management requirements.

Updates on the Protocol review will be reported to Council later in the year.

Financial/Resource/Legal Implications:

Local Government Act 1993

Local Government Filming Protocol 2009

- 20 Northern Rivers Screenworks <https://screenworks.com.au/create/film-policy-and-permits/>

Is the proposal consistent with any Delivery Program tasks?

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
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PETITIONS

Petition No. 10.1 **Petition Against Production of Netflix Series Byron Baes - 8692 Signatures**

Directorate: Corporate and Community Services

5 **Report Author:** Heather Sills, Corporate Planning and Improvement Coordinator

File No: I2021/664

10 At Council's Ordinary meeting held on 22 April 2021 tabled a petition containing 8692 signatures which states:

Cancel the filming of Byron Baes in Byron Shire

15 *We, the community want all relevant statutory authorities to refuse to grant the production filming permits for any and all local and state government land, roads, parks, and waterways proposed for use during filming of the series. We further request that any filming permits already granted be rescinded in light of the detrimental impact to both our community and the environment.*

20 *We want the local government areas and state based authorities to prioritise community concern about the impact of the series in line with the relevant filming permit policies:*

Byron Shire Council has the responsibility to provide equitable access, care, control and management of the areas under its management and to ensure activities are carried out in an orderly manner which minimizes impact on the community.

Comments from Director Corporate and Community Services:

25 This petition was tabled at the Ordinary Meeting of Council held on 22 April 2021. At the same meeting, a Mayoral Minute was considered by Council regarding this matter where it was resolved that Council:

- 30 1. *Acknowledges and celebrates Byron Shire's significant local creative industry and welcomes the film and television industry working in our Shire, particularly when they are committed to employing and adding to the skills of local digital content professionals, taking a consultative approach.*
- 35 2. *Notes the significant economic threats posed to the wider Byron Shire economy and the overwhelming community opposition and concern about the possible reputational, and social damage inflicted upon the local community.*
 - a) *Writes to Eureka Productions and Netflix (Australia) stating its disapproval and opposition to the filming of "Byron Baes" in the Byron Shire.*

BYRON SHIRE COUNCIL

PETITIONS

10.1

- 5 b) *Requests the production seek to relocate to another location and community supportive of hosting the show*
- c) *Notes, that had Council the power to refuse to grant filming approvals on land, infrastructure or road reserves under its control or ownership it would have done so.*
- 10 d) *Requests the State government conduct a review of the current NSW filming protocols to better provide local community engagement and offers its support to provide input into the review.*
- e) *Writes to other State authorities and organisations with land and infrastructure assets, such as Cape Byron Marine Park, NPWS, Cape Byron Headland Trust, Arakwal Corporation etc, notifying them of Council's position.*
3. *Supports our creative community to challenge the premise of the proposed Byron Baes.*

15 The petition, having already been considered and resolved upon by Council, is for noting only.

RECOMMENDATION:

That the petition regarding the filming of Byron Baes in the Byron Shire be noted.

20 Attachments:

- 1 Confidential - Petition Against Production of Netflix Series Byron Baes - 8692 Signatures, S2021/2426

Petition No. 10.2 Invitation for General Manager and Councillors to Drive Along Kiah Close Ocean Shores to Experience How Damaged it is with attached Petition with 16 signatures

Directorate: Infrastructure Services

Report Author: James Flockton, Infrastructure Planning Coordinator

File No: I2021/749

10 Council is in receipt of a petition containing 16 signatures which states:

"We, the undersigned residents of Kiah Close, Ocean Shores, would like to invite you and the Councillors to drive along our street and decide if they would like to drive THEIR cars along it every day?"

Comments from Director Infrastructure Services:

15 Council has been successful in securing grant funding. Council staff are in the advanced stages of planning for the Fixing Local Roads Project which is centred in Ocean Shores.

Kiah Close is on the list of roads earmarked for rehabilitation. The works will involve some minor kerb repairs, heavy patching and asphalt overlay.

20 At the completion of the works, the Kiah Close pavement will be reinforced and renewed such that it is durable, smooth and free draining.

It is anticipated that the work will be complete within the first quarter of the 2021/2022 financial year.

In the meantime, Council will inspect the existing surface and make temporary repairs as prioritised in the maintenance program.

25

RECOMMENDATION:

1. That the petition regarding the road condition of Kiah Close, Ocean Shores be noted.
- 30 2. That the undersigned within the petition be advised that recent grant funding will be used to resurface Kiah Close in the first quarter of the 2021/2022 financial year.

BYRON SHIRE COUNCIL

PETITIONS

10.2

Attachments:

- 1 Confidential - Invitation for General Manager and Councillors to Drive Along Kiah Close
Ocean Shores to Experience How Damaged it is (CC: Councillor Support, P Holloway, D
5 Tomanek), S2021/2677

STAFF REPORTS - GENERAL MANAGER

Report No. 13.1 Brunswick Heads Surf Club Redevelopment - Request to reduce Surf Club's contribution towards carpark upgrades

5 **Directorate:** General Manager

Report Author: Shannon McKelvey, Executive Officer
Michael Matthews, Manager Open Space and Resource Recovery

File No: I2021/713

10 **Summary:**

15 The redevelopment of Brunswick Heads Surf Club requires an additional 25 carparks to be provided. It was proposed to accommodate those carparks on the adjoining road reserve, rather than on the Crown Reserve, with the Surf Club agreeing in June 2020 to provide a contribution of \$100,000 towards the costs of upgrades to the adjacent road and carparking.

20 In August 2020, Council resolved to support that proposal subject to finalisation of terms of the service agreement. In late 2020, the Surf Club received tender for the redevelopment works with costs higher than anticipated. They are now not in a position to make the full contribution without adverse impacts on the redevelopment and have requested that the amount they will contribute towards carpark upgrades be reduced to \$50,000.

RECOMMENDATION:

25 **That Council, subject to the Club entering into a Service Agreement, agree to Brunswick Heads Surf Club's request to reduce the amount they contribute towards car parking upgrades required to support the redevelopment of the surf club, from \$100,000 to \$50,000.**

30

Report

Development consent issued for redevelopment of the Brunswick Heads Surf Club required an additional 25 car park spaces to be provided to support use of the larger Surf Club.

- 5 The additional car parks were not able to be provided on the Crown Reserve which meant Council and the Surf Club had to find a different way to meet the requirement for additional carparking if the redevelopment was to proceed.

- 10 In June, 2020 representatives from the Surf Club agreed to pay to Council a monetary contribution of \$100,000 towards the reconstruction and upgrade of South Beach Road road and carparking. Council agreed to that proposal when it was reported in August, 2020, subject to the Surf Club entering into a fee for service agreement with Council (Res 20-420).

- 15 Since then, the Surf Club has received tender prices which were higher than expected and they have advised that they are not in a position to pay \$100,000 and have instead requested the amount be reduced to \$50,000. They also put forward an alternative proposal for carparking line marking works at another part of South Beach Road, however, that alternative would not deliver additional car parking and Council already has designed works proposed to upgrade that part of South Beach Road.

- 20 The Surf Club point to the important community services and volunteer contributions they provide to Brunswick Heads which Council has acknowledged. Another relevant consideration is that ownership of the upgraded building remains with the Crown Reserve and the redevelopment will deliver a much improved important public asset.

Staff recommend Council support the request, subject to the Surf Club signing the Service Agreement with Council.

25 Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 1: We have infrastructure, transport and services which meet our expectations	1.6	Manage traffic and parking in an efficient manner	1.6.2	Ensure future traffic demand and alternative solutions are addressed in major infrastructure plans	1.6.2.1	This continues to be a governing principle for all major infrastructure plans.

Recent Resolutions

- 20-420

Legal/Statutory/Policy Considerations

- 5 Native Title Rights and Interests continue in the Crown Reserve the Brunswick Heads Surf Club is located on. All works on that Crown Reserve must comply with the Native Title Act 1993 (Cth).

Financial Considerations

- 10 A \$50,000 reduction to the amount the Surf Club will contribute to the South Beach Road upgrade project will not reduce the scope of the core drainage, road and carparking work that Council can deliver but will reduce the amount available for ancillary components such as signage, paths, landscaping etc.

Consultation and Engagement

- 15 Consultation with Brunswick Heads Surf Club has been ongoing and this report arises from their request. Consultation with Native Title Interest owners has also been ongoing. Usual community consultation on the redevelopment occurred as part development assessment process and formal notification to Native Title Interest owners and community exhibition of the draft lease will occur as soon as Crown Lands give in-principle Minister's Consent to the proposed Surf Club lease.

**Report No. 13.2 Lease to Mullumbimby Rugby League
Football Club Limited**

Directorate: General Manager

Report Author: Paula Telford, Leasing and Licensing Coordinator

5 **File No:** I2021/440

Summary:

The Mullumbimby Rugby League Football Club Limited has requested a new lease over Lot 61 DP 856020 Manns Road Mullumbimby for occupation of Council community land for a sportsground.

10 This Report recommends that a new five year lease is granted.

RECOMMENDATION:

- 15 1. That Council notes that no submissions were received on the proposed lease to the Mullumbimby Rugby League Football Club Limited over Lot 61 DP856020 Manns Road Mullumbimby.
- 20 2. That Council authorises the General Manager, under delegation, to enter into a lease with the Mullumbimby Rugby League Football Club Limited over Lot 61 DP 856020 on the following terms:
- 25 a) term five years without holding over to commence 30 May 2021.
- b) at rent of \$1.00 per annum to compensate the Lessee for maintaining the public Right of Way (Carriageway) through the Lessee owned land to Lot 61 DP856020,
- 30 c) for the purpose of a sportsground,
- d) Lessee outgoings to include:
- i) all usage charges for all services connected to Lot 61 DP856020,
- ii) all costs for the care and maintenance of Lot 61 DP856020, and
- iii) public risk insurance to the value of \$20,000,000.
- e) Lessor to fully subsidise annual rates and fixed charges as compensation to the Lessee for maintaining the Right of Way (Carriageway) through the Lessee owned land to Lot 61 DP856020.

35

Report

The Mullumbimby Rugby League Football Club Limited (ACN 002 350 281) ('the Leagues Club') holds a twenty one year lease for occupation of Folio 61/856020 for the purpose of a sportsground. That lease will expire on 29 May 2021. The Leagues Club requests a new lease.

The land:

Folio 61/856020 is Council owned land classified as community and categorised as a sportsground. The Plan of Management ('the Plan') over the land expressly permits a lease to be granted for a term up to 21 years where the land is used as a sportsground.

Council staff will be undertaking a full review of the Plan in the near future. As a result, a short-term five year lease is proposed to the Leagues Club with a longer-term lease possible once the Plan review is completed. The Leagues Club has agreed to the short-term lease.

Access to the land:

Folio 61/856020 was purchased by Council in 1996 for specific use as a sportsground. Folio 61/856020 is a land-locked parcel of land.

As a condition of Council entering into the current twenty one year lease with the Leagues Club, Council required the Leagues Club to register a Right of Way ('Carriageway') in the form of an instrument under s88B of the *Conveyancing Act 1919* (NSW) in Folio 8/809341. The Carriageway provides public access through the Leagues Club's land to the land-locked Council land.

A condition of the s88B instrument is that Council, as the dominate tenement, is responsible for the upkeep and maintenance of the Carriageway. Council staff are proposing that peppercorn rent is payable under the new five year lease and that Council fully subsidise fixed rates and charges on the Land in lieu of the Leagues Club maintaining the Carriageway, at its cost, for the lease term.

Proposed new lease:

Council staff is proposing a new lease on the following:

- a) term five years without holding over to commence 30 May 2021,
- b) rent set at \$1.00 per annum, if demanded, to compensate the Leagues Club for it maintaining the Carriageway for the lease term,
- c) for the purpose of a sportsground,
- d) Lessee outgoings:
 - i. usage costs for all services connected to the land,

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STAFF REPORTS - GENERAL MANAGER

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ii. all costs for the care and maintenance of the land, and

iii. requisite \$20,000,000 public risk insurance.

e) Lessee not to construct or install anything permanent on the land without the written consent of the Lessor that will not be unreasonably withheld.

5 Council to be responsible for the following outgoings:

f) annual fixed rates and charges payable on the land to compensate the Leagues Club for it maintaining the Carriageway.

Public consultation:

10 Council staff by public notice advertised the proposed five year lease to the Leagues Club between 22 March and 19 April 2021. Council also individually notified all surrounding neighbours of the propose lease and placed a notice on the land. Council received no submissions.

As a result this Report recommends that Council grant the proposed five year lease to the Leagues Club on terms discussed in this report.

15 Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community	2.2	Support access to a wide range of services and activities that contribute to the wellbeing of all members of the Byron Shire community	2.2.1	Develop and maintain collaborative relationships with government, sector and community	2.2.1.2	Participate in and inform community planning

Recent Resolutions

Nil.

Legal/Statutory/Policy Considerations

20 Local Government Act 1993 (NSW)

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

- (1) If a council proposes to grant a lease, licence or other estate in respect of community land for a period (including any period for which the lease, licence or other estate could be renewed by the exercise of an option) exceeding 5 years, it must:
 - (a) give public notice of the proposal (including on the council's website), and
 - (b) exhibit notice of the proposal on the land to which the proposal relates, and
 - (c) give notice of the proposal to such persons as appear to it to own or occupy the land adjoining the community land, and
 - (d) give notice of the proposal to any other person, appearing to the council to be the owner or occupier of land in the vicinity of the community land, if in the opinion of the council the land the subject of the proposal is likely to form the primary focus of the person's enjoyment of community land.
- (2) A notice of the proposal must include:
 - information sufficient to identify the community land concerned
 - the purpose for which the land will be used under the proposed lease, licence or other estate
 - the term of the proposed lease, licence or other estate (including particulars of any options for renewal)
 - the name of the person to whom it is proposed to grant the lease, licence or other estate (if known)
 - a statement that submissions in writing may be made to the council concerning the proposal within a period, not less than 28 days, specified in the notice.
- (3) Any person may make a submission in writing to the council during the period specified for the purpose in the notice.
- (4) Before granting the lease, licence or other estate, the council must consider all submissions duly made to it.

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

- (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
 - (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.
- (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

This report recommends that rent payable under the five year lease is set at \$1.00 per annum if demanded, as compensation for the Leagues Club maintaining the Carriageway for the lease term.

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STAFF REPORTS - GENERAL MANAGER

13.2

This will require Council to subsidise the full value of market rent of \$14,580 per annum as calculated by 6% of the Unimproved Land Value.

Council is also asked to subsidise annual land rates and fixed charges currently \$982 per annum.

- 5 Total subsidy of \$15,562 is offered to the Leagues Club for the term.

Consultation and Engagement

Council by public notice advertised the proposed five year lease between 22 March and 19 April 2021 as well as individually notifying all surrounding neighbours of the propose lease and placed a notice on the land.

- 10 Council received no submissions.

Report No. 13.3 Airspace lease to Mercato on Byron Pty Ltd

Directorate: General Manager

Report Author: Paula Telford, Leasing and Licensing Coordinator

File No: I2021/572

5 Summary:

Mercato on Byron Pty Ltd (ACN 607 110 430) holds development consent 10.2013.587.1 for the construction of a terrace over the Jonson Street Byron Bay road reserve. Consent condition 23 requires Mercato on Byron Pty Ltd to enter into an airspace lease with Council for occupation of the constructed terrace.

- 10 Mercato on Byron Pty Ltd requests an airspace lease for a term of 20-years with an option of four by 20-year additional terms.
-

RECOMMENDATION:

- 15 **That Council authorises the General Manager, under delegations, to grant an airspace lease to Mercato on Byron Pty Ltd, subject to consent from the Secretary of the Department of Planning and Environment, on the following conditions:**

- 20 1) **fixed term of 20 years;**
- 20 2) **initial rent of \$6,200 per annum (inclusive GST) with rent annually increased thereafter by Consumer Price Index All Groups Sydney for the term; and**
- 25 3) **the Lessee is responsible for all maintenance and upkeep of the encroachment structure at its cost;**
- 25 4) **the Lessee must, at its cost, demolish and remove the structure in the airspace above the Jonson Street road reserve at the end of the lease, unless the Lessee has entered into a new lease with Council to commence on the day immediately after the end date its current lease; and**
- 25 5) **all lease preparation fees to be met by the Lessee.**

Attachments:

- 30 1 Confidential - Confidential Attachment 1: submission from Mercato on Byron Bay Pty Ltd regarding an airspace lease., E2021/57393
- 30 2 Confidential - Confidential Attachment 2 : Market Rent Valuation Report Mercato lease 2021, E2021/35807

35

Report

Development consent (10.2013.587.1) was granted to Mercato on Byron Pty Ltd ('Mercato') for the construction of Mercato on Byron ('the Centre') including a two balcony structure that overhangs 141m² of airspace above the Jonson Street road reserve.

- 5 Consent condition 23 required Mercato to enter into an airspace lease with Council in accordance with Council's Airspace Policy No12/004 in respect of the structure.

A section 138 approval under the *Roads Act 1993* was subsequently granted to Mercato to carry out works over a public road. Occupation Certificate (13.2013.587.7) was conditionally granted to Mercato without an airspace lease agreement.

- 10 Mercato now requests an airspace lease from Council and has provided a submission on proposed lease conditions (refer to Confidential Attachment 1).

Statutory authority:

- 15 Council, as the owner of the Jonson Street public road, may enter into a lease for use of airspace above the public road in accordance with s149 of the *Roads Act 1993* (NSW); but only with the approval of the Secretary of the Department of Planning and Environment.

This report has been brought to Council for consideration to approve the proposed airspace lease to Mercato. If approved, a request will then be forwarded to the Secretary of the Department of Planning and Environment for written consent for Council to enter into the proposed airspace lease with Mercato.

- 20 Proposed airspace lease:

i. Term of airspace lease:

Section 149(2) of the *Roads Act* requires that the term of an airspace lease not exceed 99 years.

- 25 Council staff supports a fixed term lease of 20-years on the basis that at the end of the 20-year lease term nothing should prevent Council from reviewing the lease conditions, including rent and for Council to resolve to enter into a new lease with Mercato.

- 30 In contrast, Mercato objects to a fixed 20-year lease, renewed at the sole discretion of Council. Mercato requests an initial lease term of 20-years with an option of an additional 4 x 20-years on the basis that both balconies are essential to providing ongoing sustainability and successful trade of current and future tenants. That it is commercially unrealistic and untenable to force the Centre owners into a fixed term lease when the lease requires both balconies to be demolished and removed at the end of the lease.

- 35 This report recommends that Council considers a fixed term 20-year lease to Mercato. If Council is to consider a term longer than 20 years than the maximum term of the lease plus all options to renew must not exceed 99 years.

ii. Rent

An independent market rent valuation from CBRE Valuation and Advisory Services was supplied by Mercato (refer to Confidential Attachment 2). The valuation establishes initial lease rent at \$44 per square metre at a total of \$6,200 (exclusive GST) per annum.

- 5 Council staff propose that the annual rent commence at \$6,200 (exclusive GST) with rent thereafter increased annually by Consumer Price Index All Groups Sydney ('CPI') for the lease term. Increasing annual rent by CPI is an accepted Council practice to cover the cost to Council to administer the lease.

- 10 In contrast, Mercato objects to an annual rent increase and instead proposes rent is fixed at \$6,200 (excluding GST) for the term of the 20-year lease with rent increased by CPI only on commencement of each further option.

This report recommends that initial rent commence at \$6,200 (excluding GST) with rent increased annually thereafter by Consumer Price Index All Groups Sydney for the term of the lease term.

- 15 iii. Outgoings:

Mercato must, at its cost, maintain the structure subject to the airspace lease in a satisfactory state of repair in accordance with s142 of the Roads Act and must obtain all approvals and plans required to maintain and carryout works to the structure.

- 20 Mercato must also obtain public risk insurance cover for the structure for a minimum \$20 millions cover and provide a copy of the cover annually to Council.

iv. Condition to demolish and remove

Clause 12.1 of the lease requires that the Lessee demolish and remove, at its cost, the structure that overhangs the Jonson Street road reserve at the end of the lease.

- 25 In contrast, Mercato objects to clause 12.1 noting that nothing in the development consent conditions or Councils Airspace Space Policy requires the balconies to be demolished at the end of the lease. Mercato request that clause 12.1 be amended to provide that should the Centre be demolished for redevelopment during the lease term that the lease will automatically end.

- 30 This report recommends that clause 12.1 remains in the lease requiring the Lessee to demolish and remove, at its cost, the structure in the airspace above the Jonson Street road reserve at the end of the lease. In order for the Lessee to avoid performance of clause 12.1 of the lease, that the Lessee must have entered into a new lease with Council to commence on the day immediately after the end date its current lease.

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	1.2.8	Develop capital upgrades, renewal and enhancements works program for buildings-including community buildings, public toilets, emergency services, sports club facilities and Council operations buildings (SP)	1.2.8.1	Consult with user groups to establish user agreements, leases, licenses and Plans of Management

Recent Resolutions

- Nil.

5 Legal/Statutory/Policy Considerations

149 Leasing of land above or below public road

- (1) A roads authority may lease the air space above, or land below the surface of, any public road (other than a Crown road) that is owned by the authority.
- (2) Such a lease may not be granted by a roads authority other than Transport for NSW except with the approval of the Secretary of the Department of Planning and Environment.
- (3) The Secretary of the Department of Planning and Environment must not approve a lease in respect of a public road if the granting of the lease would be inconsistent with the rights of passage and access that exist with respect to the road.
- (4) The term of a lease, together with any option to renew, must not exceed 99 years.

Byron Shire Council Policy Road Airspace 2019 provides a list of principles of a roads airspace lease being:

- a. *The owner of the property adjacent to the subject airspace structure is responsible for the maintenance of the structure in a safe and secure condition. Council may require of the landowner at any time that a structural engineer's certificate be provided that the subject airspace structure is safe.*
- 5 b. *The owner of the property adjacent to the airspace structure shall maintain the subject airspace structure in an attractive and well maintained condition.*
- c. *Council reserves the right to require the maintenance is carried out if, in Councils opinion, maintenance is necessary for aesthetic or safety purposes.*
- 10 d. *The owner of the property adjacent to the subject airspace structure is to indemnify Council through public risk insurance to a minimum value that is consistent with Councils insurance practices.*
- e. *Where the proposed structure comprises commercial floor space, rather than awning only. Council will levy and collect fees in accordance with Councils Fees and Charges adopted annually*
- 15 *Clause 5.6 Where the proposed structure incorporates floor area but is proposed in order to benefit streetscape, heritage or some other public interest, Council may elect to not levy a rental fee. A rental fee will be charges for such uses as restaurant, commercial or similar and the fee will be based on a market valuation.*

Financial Considerations

- 20 This report recommends that rent commence at \$6,200 (exclusive of GST) and thereafter is increased annually on the anniversary of the commencement date by Consumer Price Index All Group Sydney for the lease term.

Consultation and Engagement

Consultation was had with Mercato. No public consultation required.

Report No. 13.4 Memento Aestates - Byron Bay public art installation

Directorate: General Manager

Report Author: Claire McGarry, Place Manager - Byron Bay

5 **File No:** I2021/654

Summary:

This report provides an update on the *Memento Aestates* artwork commissioned as part of the Railway Park upgrade in Byron Bay.

It recommends installation of the artwork at an alternate location within the rail precinct.

10

RECOMMENDATION:

- 15 1. That Council endorses the installation of *Memento Aestates* in the location identified within the report (#E2021/58600).
2. That the installation be included as a variation to the construction contract for Greenwoods Landscape Management for the Rail Corridor Restoration project.

Attachments:

- 20 1 Rail Corridor- Artwork Location 1, E2021/58600

Report

In 2019, Council commissioned a piece of public art – *Memento Aestates* – as part of the Railway Park upgrade.

- 5 The timing for installation of the artwork did not align with the construction program for the park, so was separated from the park works. In the meantime, Council continued to work with the contracted artist (Giovanni Veronesi through UAP) to guide the process of fabrication and delivery to Council's depot ready for installation.

- 10 Council submitted a s60 heritage application for the installation of the artwork in the 'plaza/forecourt' area of Railway Park, out the front of the former ticket office building. The NSW Heritage office have raised concerns with this location related to sight lines between Jonson St and the former ticket office. To date, they have been unable to give an indication of:

- Likely outcome of the s60 application; or
- Likely timeframe for a decision to be made.

- 15 Both the artist and Council are seeking to finalise installation within a reasonable timeframe. It is proposed that in order to keep installation timeframe within Council's control and remove heritage concerns, an alternate location be considered as part of the Rail Corridor Restoration project, adjacent to Shirley Street – see photo below and construction drawings in Attachment 1. Note that the shipping container, wood stockpile, 20 fencing and transformer building will be removed as part of the rail corridor works, with seating, pathways and planting installed.

The installation could be a variation to the existing contract to Greenwoods Landscape Management for the construction of the rail corridor which would enable installation prior to June 2021.



Rationale for this location

- The artwork unveiling will be part of the unveiling of the new corridor works rather than the perception of it being put into Railway Park as an after-thought. This means it can be considered fresh along with the new public park and associated rail corridor works
- The proposed location is an area of the Rail Corridor park with existing natural amenity- with mature trees and their associated shade and dappled light providing a comfortable space
- The proposed location is at the very northern end with a vista along the rail corridor to the south- meaning it can be viewed as part of the vista but not impede the vista
- The proposed location is accessible, visually and physically, from the northern entry point to the town centre and in this way becomes a subtle part of Byron's entry experience
- Associated paths and seating mean that the proposed location is accessible and that the piece can be appreciated as part of its setting
- The location means that the rationale for the artwork (which references both summer memories and rail heritage) is relevant and can be appreciated without competing with the residual and present heritage of the Rail precinct

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community	2.1	Support and encourage our vibrant culture and creativity	2.1.3	Enhance opportunities for interaction with art in public spaces	2.1.3.1	Implement Public Art Strategy

Recent Resolutions

September 2020

- 5 **Resolved** that Council supports the installation of *Memento Aestates* at the station building forecourt site within Railway Park, Byron Bay, pending final Heritage approval.

Legal/Statutory/Policy Considerations

The proposal aligns with Council Public Art Policy and Strategy.

Financial Considerations

- 10 The commissioning of this artwork was funded through the Railway Park upgrade in 2019. There is no additional expenditure associated with the alternate artwork location.

Consultation and Engagement

The proposed alternate location has been discussed with, and supported by:

- Byron Bay Masterplan Guidance Group
- 15 • UAP (contracted artist)
- Public Art Panel
- Plummer & Smith (landscape architect – Railway Park and Rail Corridor Restoration Project)

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Report No. 13.5 Policy Review 2020-2021 - Part 4

Directorate: Corporate and Community Services

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

File No: I2021/361

Summary:

10 As part of Council's compliance framework, an annual review of Council policies is undertaken. This is the last in a series of reports to Council relating to the 2020/21 policy review.

Five policies are discussed in this report, two policies are being recommended for updating and three are proposed to be repealed as the information is contained elsewhere, for example as required by legislation.

Updated policies

- 15
- Waste disposal fees for not-for-profit groups 2012
 - Waste Disposal Following a Natural Disaster or Significant Storm Event 2014

Recommended for repeal

- Appropriate Dispute Resolution of Development Proposals 2002
- Social Impact Assessment Policy 2009
- 20 • Writing Off Water and Sewerage Usage Charges Policy 2012

RECOMMENDATION:

- 25 1. That the following policies be placed on public exhibition for the reason stated alongside it for 28 days, allowing 42 days for submissions:
- a) Appropriate Dispute Resolution of Development Proposals 2002 – to be repealed
 - b) Social Impact Assessment Policy 2009 – to be repealed
 - 30 c) Waste disposal fees for not-for-profit groups 2012 – as updated and shown in track changes at Attachment 1 (E2021/30536)

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d) **Waste Disposal Following a Natural Disaster or Significant Storm Event 2014 – as updated and shown in track changes at Attachment 2 (E2021/43663).**

5 e) **Writing Off Water and Sewerage Usage Charges Policy 2012 – to be repealed**

2. That:

a) **should there be no submissions received for a policy, the update or repeal be endorsed for those policies; and,**

10 b) **should submissions be received on a policy, those policies be reported back to Council noting the submissions and any amendments made as a result of the feedback received.**

Attachments:

- 15 1 DRAFT Policy: Waste disposal fees for not-for-profit groups 2021, E2021/30536
2 DRAFT Policy: Waste and Disposal following a natural disaster or significant storm event 2021, E2021/43663

Report

An important element of public sector governance is establishing key policies and ensuring they are available, regularly updated and monitored for compliance.

- 5 As part of our Compliance Framework, staff undertake an annual review of Council policies. This report is the fourth and final in a series that is being provided to Council over the 2020-2021 period.

Policy review status

The policy review for 2020 -2021 commenced strongly and has maintained that momentum.

- 10 A comparison between the status of policies as at 2019, 2020 and 2021 is provided in table 1 below, which indicates a continuing positive trend.

Table 1: Policy status

Policy Status	As at 30 June 2019	As at 30 June 2020		As at 30 June 2021*	
	Percentage	Number	Percentage	Number	Percentage
Current	27%	41	40%	74	78%
Submitted to Council	<i>Details unavailable</i>	2	2%	5	5%*
Review Initiated		10	10%	12	13%
Overdue for Review		50	48%	4	4%
Total		103	100%	95	100%

* Figure includes the policies listed in this report.

Next steps – Review 2021-2022

- 15 Staff continue to review Council policies, with the Governance team providing the processes and framework to support currency across the organisation.

- 20 A rolling four-year policy review timetable assists the review process. Any outstanding policies that remain overdue in this period will be rolled over to the 2021-2022 review period. A number of the policies that remain outstanding have been placed on hold for a variety of reasons, e.g. review included as an Operational Plan Activity in 2021-2022, awaiting consultants, imminent legislative changes etc.

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Policy actions and recommendations

Policy	Dir	Action proposed
<u>Appropriate Dispute Resolution of Development Proposals 2002</u>	SEE	<p>It is proposed that this Policy is repealed.</p> <p>The process for mediation and dispute resolution is set out in the EPA Act 1979:</p> <ul style="list-style-type: none"> • S8.2 for a review of determination • Applicant appeals their rights if dissatisfied how a DA was determined (e.g. refused or unhappy with conditions of approval) under Part 8 of the Act (Reviews and Appeals) • Third Party appeal rights under S9.45 Restraint etc. of Breach of the Act • Council no longer has a Dispute Resolution/Legal Services Committee
<u>Social Impact Assessment Policy 2009</u>		<p>This policy is proposed to be repealed.</p> <p>The subject matter is now covered by DCP 2010 Chapter 21 Social Impact Assessment, as well as DCP 2014 Chapter B12 Social Impact Assessment.</p>
<p>Waste disposal fees for not-for-profit groups 2012</p> <p>(Attachment 1)</p>	IS	<p>It is proposed that this draft updated policy is endorsed for public exhibition.</p> <p>Amendments have been drafted as follows:</p> <ol style="list-style-type: none"> 1. Addition of requirement for ABN at 4.1.3. 2. The following additional wording shown in bold is proposed to be added to 4.1.1: <p><i>“Council will provide a \$1849 (2020/21) (indexed yearly in accordance with waste management fees) credit at the Byron Resource Recovery Centre for each bona fide not-for-profit organisation that runs either:</i></p> <ul style="list-style-type: none"> • <i>a disposal store for the sale of second hand and reusable items within the Byron Local Government Area (LGA); with the waste generated being from within the Byron LGA, and proceeds from the organisation benefitting the local (Northern</i>

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		<p><i>Rivers) community; or</i></p> <ul style="list-style-type: none"> <i>a not-for-profit community group that cleans up public land."</i> <p>The reason for this additional wording is to ensure support of charity organisations that support the local community, not those raising funds for organisations overseas.</p>
<p>Waste Disposal Following a Natural Disaster or Significant Storm Event 2014</p> <p>(Attachment 2)</p>	IS	<p>It is proposed that this draft updated Policy is endorsed for public exhibition.</p> <p>This Policy has been amended to propose the following additional wording at 3.1.1:</p> <p><i>"In the event of a natural disaster, bush fire or storm event, green waste will not be considered eligible under this section unless deemed appropriate by the General Manager and may be eligible only to areas deemed affected."</i></p> <p>The reason for this additional wording is an attempt to rectify a misalignment between the intent of clause 3.1.1 of the Policy and the events that take place when a natural disaster is declared.</p> <p>The Policy's intent is to allow for a quick response in waiving fees during a significant weather event for all affected residents in the Shire. However, using last year's bushfires as an example, not all events generate a significant amount of green waste in the way that a storm or flooding event may, and may not affect much of the Shire. Under the current wording, once a natural disaster is declared the Policy is activated regardless of the actual effect it has had. The change in wording will ensure that the policy is appropriately activated to support residents swiftly in a time of need without putting unreasonable strain and unforeseen costs on resource recovery activities.</p>
<p><u>Writing Off Water and Sewerage Usage Charges Policy 2012</u></p>		<p>It is proposed that this Policy is repealed.</p> <p>All sections of the Policy are covered in documentation elsewhere or redundant as noted below:</p> <p>Clause 2.1. – Under 2.1 (a) it states that "prior to the issuing of Water & Sewer Usage Reminder Notices, any</p>

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	<p>outstanding amounts of \$2.00 or less will be written off”.</p> <p>The small rates debts being written off are processed under delegated authority and this is an operational process not requiring specific Council Policy.</p> <p>To ensure transparency and processing consistency, the Executive Team endorsed on 31 March 2021 that the current small debt write off practices be included in the Management Administrative Guidelines Rates and Charges 2019 document.</p> <p>Clause 2.2. – This section covers undetectable water leak adjustments and is obsolete. The reason for this is that adjustments were only provided on the sewer usage component of the water account and we abolished the volumetric based sewer usage charge for residential properties from 2020/21. Non-Residential customers still pay a sewer usage charge, but we now consider any adjustments to the sewer usage component of the bill as an adjustment rather than a write-off. This adjustment is now covered in the Statement of Revenue Policy (now incorporated in our Schedule of Fees and Charges – E2020/64426 – see page 20).</p> <p>Clause 2.3. – Water allowances for medical use (i.e. dialysis) are also covered within the Schedule of Fees and Charges (E2020/64426 – see page 15).</p> <p>Clause 2.4. – Hardship assistance for large families – Part (c) is obsolete as Council abolished an inclining step tariff rate per kilolitre of water consumed in favour of a single rate per kilolitre dialysis at the end of 2018/19. The rest of clause 2 deals with financial hardship and all the support offered in this regard is now within the Debt Management and Financial Hardship Policy (E2019/63417) – for payment arrangements see sections 5.1, 6.2 and 6.3 as well as our MAG (current version E2019/41299 – see sections 6 and 7).</p> <p>Clause 2.5. – This is simply legislation (cl 131 of LG Regulation) so it's not required to keep the Policy for this information alone.</p>
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Key issues

When reviewing our policies, Council's Corporate Documents Standard (internal policy) provides the following guidance to staff:

A Policy sets out Byron Shire Council's position on a specific matter – a formal statement of intent and non-discretionary governing principles that apply to Byron Shire Council's practice. The principles are derived from and shaped by the law and regulations that apply, community expectations, and the values and mission contained in the adopted Community Strategic Plan. A Policy is a concise document that may facilitate, enable or constrain practice, standard, guidelines or delegated functions but does not prescribe in detail how to perform certain functions - instead it provides a framework for action with its primary role being to guide the achievement of the adopted strategic goals and ensure legislative compliance.

The most recent developments in legislative requirements, and the community's and Council's position on certain matters have been checked for each policy to determine whether a policy required updating, or whether a policy was still necessary. A policy may no longer be necessary, for instance, if legislation now wholly covers Council's policy position, or if a policy reflects legislation that no longer exists.

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	5.2.3	Provide access to publicly available corporate registers	5.2.3.2	Review, update and publish Council policies online and report on the status of Council's policy register

Recent Resolutions

All resolution numbers related to the policy review for 2020 to 2021 are listed here:

- 20-383 (27 August 2020)
- 20-672 (26 November 2020)
- 21-049 (25 February 2021)

Legal/Statutory/Policy Considerations

Each policy is reviewed to ensure consistency with the relevant legislation, agency guidelines, rules or protocols.

Financial Considerations

There are no financial considerations.

Consultation and Engagement

- 5 Following consultation with relevant managers and document development officers, the policies included in this report were provided to the Executive Team at their meeting on 21 April 2021. The Executive Team approved these policies to be reported to Council at this meeting.

Following this Ordinary Meeting the documents will be placed on public exhibition in order to allow for submissions.

Report No. 13.6 Council Investments - 1 April 2021 to 30 April 2021

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

5 **File No:** I2021/700

Summary:

This report includes a list of investments and identifies Council's overall cash position for the period 1 April 2021 to 30 April 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 30 April 2021.

15

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Report

Council has continued to maintain a diversified portfolio of investments. At 30 April 2021, the average 90 day bank bill rate (BBSW) for the month of April 2021 was 0.05%.

Council's performance to 30 April 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 30 April 2021

Schedule of Investments held as at 30 April 2021

Purch Date	Principal (\$)	Description	CP *	Rating	Maturity Date	No Fos sil Fuel	Type	Int. Rate	Current Value
24/03/17	1,000,000.00	NAB Social Bond (Gender Equality)	Y	AA-	24/03/22	N	B	3.25%	1,026,920.00
15/11/18	980,060.00	NSW Treasury Corp (Green Bond)	N	AAA	15/11/28	Y	B	3.00%	1,116,420.00
20/11/18	1,018,290.00	QLD Treasury Corp (Green Bond)	N	AA+	22/03/24	Y	B	3.00%	1,077,420.00
28/03/19	1,000,000.00	National Housing Finance & Investment Corporation	Y	AAA	28/03/31	Y	B	2.38%	1,062,110.00
21/11/19	1,000,250.00	NSW Treasury Corp (Sustainability Bond)	N	AAA	20/03/25	Y	B	1.25%	1,028,730.00
27/11/19	500,000.00	National Housing Finance & Investment Social Bond	Y	AAA	27/05/30	Y	B	1.57%	491,850.00

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Purch Date	Principal (\$)	Description	CP *	Rating	Maturity Date	No Fos sil Fuel	Type	Int. Rate	Current Value
31/03/17	1,000,000.00	CBA Climate Bond	Y	AA-	31/03/22	N	FRN	1.02%	1,007,550.00
16/11/17	750,000.00	Bank of Queensland	Y	BBB+	16/11/21	N	FRN	1.12%	753,555.00
30/08/18	500,000.00	Bank Australia Ltd (Sustainability Bond)	Y	BBB+	30/08/21	Y	FRN	1.39%	501,565.00
24/07/20	2,000,000.00	Bank of Queensland	N	BBB+	19/07/21	N	TD	0.90%	2,000,000.00
30/07/20	1,000,000.00	Judo Bank	Y	NR	30/07/21	N	TD	1.25%	1,000,000.00
03/08/20	1,000,000.00	NAB	N	AA-	03/08/21	N	TD	0.85%	1,000,000.00
19/08/20	2,000,000.00	NAB	N	AA-	19/08/21	N	TD	0.80%	2,000,000.00
26/08/20	1,000,000.00	AMP Bank	Y	BBB	26/08/21	N	TD	0.80%	1,000,000.00
02/09/20	1,000,000.00	Bank of Queensland	N	BBB+	01/09/21	N	TD	0.78%	1,000,000.00
02/09/20	1,000,000.00	NAB	N	AA-	02/09/21	N	TD	0.75%	1,000,000.00
24/09/20	2,000,000.00	NAB	N	AA-	24/09/21	N	TD	0.65%	2,000,000.00
30/09/20	1,000,000.00	Bank of Queensland	N	BBB+	30/09/21	N	TD	0.65%	1,000,000.00
30/09/20	2,000,000.00	CBA Green Deposit	N	AA-	30/09/21	N	TD	0.70%	2,000,000.00
07/10/20	2,000,000.00	MyState Bank Limited	Y	NR	07/10/21	Y	TD	0.70%	2,000,000.00
04/11/20	1,000,001.00	AMP Bank	N	BBB	05/05/21	N	TD	0.55%	1,000,001.00

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Purch Date	Principal (\$)	Description	CP *	Rating	Maturity Date	No Fos sil Fuel	Type	Int. Rate	Current Value
04/11/20	2,000,000.00	NAB	N	AA-	04/11/21	N	TD	0.55%	2,000,000.00
09/11/20	1,000,000.00	Community First Credit Union	Y	NR	09/11/21	Y	TD	0.65%	1,000,000.00
09/11/20	1,000,000.00	The Mutual Bank	N	NR	09/08/21	Y	TD	0.65%	1,000,000.00
23/11/20	1,000,000.00	AMP Bank	N	BBB	23/11/21	N	TD	0.75%	1,000,000.00
24/11/20	1,000,000.00	Judo Bank	N	NR	24/11/21	Y	TD	0.84%	1,000,000.00
25/11/20	2,000,000.00	AMP Bank	N	BBB	26/05/21	Y	TD	0.70%	2,000,000.00
26/11/20	1,000,000.00	Community First Credit Union	N	NR	26/11/21	Y	TD	0.65%	1,000,000.00
26/11/20	1,000,000.00	Macquarie Bank	Y	A	22/10/21	N	TD	0.50%	1,000,000.00
01/12/20	1,000,000.00	AMP Bank	N	BBB	01/06/21	N	TD	0.70%	1,000,000.00
07/12/20	2,000,000.00	Credit Union Australia	Y	BBB	07/06/21	Y	TD	0.45%	2,000,000.00
17/12/20	2,000,000.00	NAB	N	AA-	17/12/21	N	TD	0.50%	2,000,000.00
05/01/2	2,000,000.00	NAB	N	AA-	05/01/22	N	TD	0.45%	2,000,000.00
05/01/21	1,000,000.00	Judo Bank	N	NR	06/07/21	Y	TD	0.55%	1,000,000.00
20/01/21	1,000,000.00	Westpac (Tailored)	Y	AA-	20/01/22	N	TD	0.38%	1,000,000.00
27/01/21	1,000,000.00	The Mutual Bank	N	NR	27/01/22	Y	TD	0.50%	1,000,000.00
29/01/21	1,000,000.00	ME Bank	Y	BBB	31/01/22	Y	TD	0.45%	1,000,000.00
01/02/21	2,000,000.00	Suncorp	Y	A+	03/08/21	Y	TD	0.35%	2,000,000.00

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Purch Date	Principal (\$)	Description	CP *	Rating	Maturity Date	No Fos sil Fuel	Type	Int. Rate	Current Value
01/02/21	1,000,000.00	B & E Ltd (Bank of Us)	Y	NR	03/08/21	Y	TD	0.40%	1,000,000.00
03/02/21	1,000,000.00	NAB	N	AA-	02/08/21	N	TD	0.40%	1,000,000.00
10/03/21	1,000,000.00	86400	Y	NR	09/06/21	Y	TD	0.65%	1,000,000.00
13/04/21	1,000,000.00	The Mutual Bank	Y	NR	10/09/21	Y	TD	0.50%	1,000,000.00
N/A	11,073,924.79	CBA Business Saver	N	AA-	N/A	N	CALL	0.20%	11,073,924.79
N/A	2,112,505.74	CBA Business Saver – Tourism Infrastructure Grant	N	AA-	N/A	N	CALL	0.20%	2,112,505.74
N/A	2,113,029.20	NSW Treasury Corp	N	AAA	N/A	Y	CALL	0.01%	2,113,029.20
Total	67,048,060.73						AVG	0.77%	67,365,580.73

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](#).

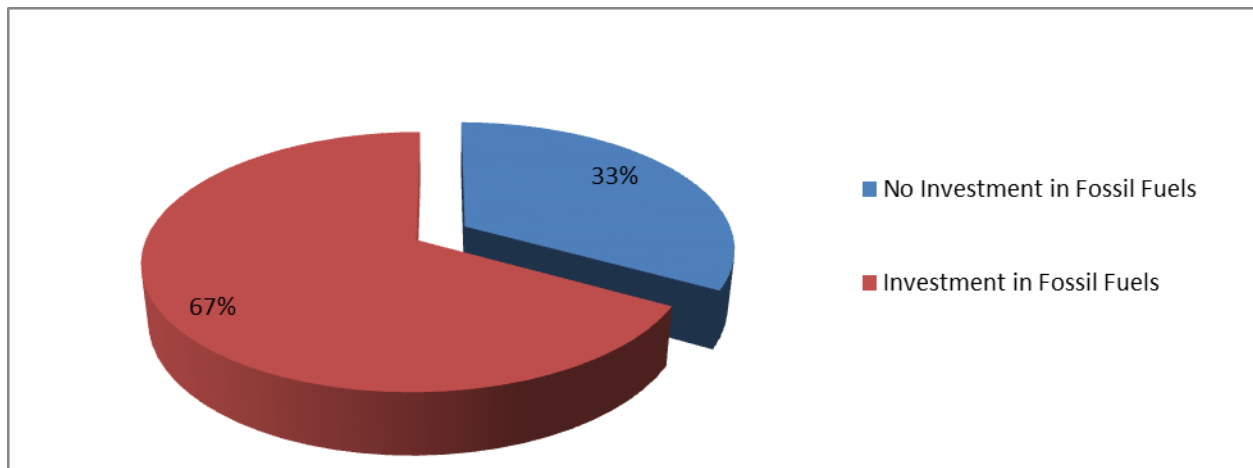
BYRON SHIRE COUNCIL

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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					
% per institution should not exceed the following				ACTUAL	Variance
AAA to AA	A1+	100%	59.36%	Meets policy	
A+ to A-	A1	60%	1.49%	Meets policy	
BBB to NR	A2,NR	40%	39.15%	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).

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Associated Risk

5 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 April 2021 to 30 April 2021:

Dissection of Council Investment Portfolio as at 30 April 2021

Principal Value (\$)	Investment Linked to:	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
44,000,001.00	Term Deposits	44,000,001.00	0.00
2,250,000.00	Floating Rate Note	2,262,670.00	12,670.00
11,073,924.79	CBA Business Saver	11,073,924.79	0.00
2,112,505.74	CBA Business Saver – Tourism Infrastructure Grant	2,112,505.74	0.00
2,113,029.20	NSW Treasury Corp	2,113,029.20	0.00
5,498,600.00	Bonds	5,803,450.00	304,850.00
67,048,060.73		67,365,580.73	317,520.00

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

The table below provides a reconciliation of investment purchases and maturities for the period of 1 April 2021 to 30 April 2021 on a current market value basis.

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Movement in Investment Portfolio – 30 April 2021

Item	Current Market Value (at end of month) \$
Opening Balance at 1 April 2021	70,579,132.98
Add: New Investments Purchased	1,000,000.00
Add: Call Account Additions	0.00
Add: Tourism Call Account Additions	0.00
Add: Call Account Interest	2,181.66
Add: Tourism Call Account Interest	344.70
Add: T Corp Additions	0.00
Add: T Corp Interest	91.39
Less: Call Account Redemption	3,000,000.00
Less: Investments Matured	0.00
Less: Fair Value Movement for period	216,170.00
Closing Balance at 30 April 2021	67,365,580.73

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 April 2021 the table below identifies Council's overall cash position as follows:

5

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13.6

Dissection of Council's Cash Position as at 30 April 2021

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Investments Portfolio			
Term Deposits	44,000,001.00	44,000,001.00	0.00
Floating Rate Note	2,250,000.00	2,262,670.00	12,670.00
CBA Business Saver	11,073,924.79	11,073,924.79	0.00
CBA Business Saver – Tourism Infrastructure Grant	2,112,505.74	2,112,505.74	0.00
NSW Treasury Corp	2,113,029.20	2,113,029.20	0.00
Bonds	5,498,600.00	5,803,450.00	304,850.00
Total Investment Portfolio	67,048,060.73	67,365,580.73	317,520.00
Cash at Bank			
Consolidated Fund	3,046,077.30	3,046,077.30	0.00
Total Cash at Bank	3,046,077.30	3,046,077.30	0.00
Total Cash Position	70,094,138.03	70,411,658.03	0.0.00

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. 13.7 2020/21 Operational Plan Report - Q3 -
March 2021**

Directorate: Corporate and Community Services

Report Author: Heather Sills, Corporate Planning and Improvement
Coordinator

File No: I2021/707

Summary:

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

RECOMMENDATION:

1. That Council notes the 2020/21 Operational Plan Quarter 3 Report for the period ending 31 March 2021 (Attachment 1 #E2021/63408).
2. That Council adopts the proposed amendments to the Operational Plan 2020/21 outlined in Attachment 2 (#E2021/51099).

Attachments:

- 1 Operational Plan Quarterly Report - Q3 - March 2021, E2021/63408
- 2 Quarter 3 Report - Proposed Amendments to Operational Plan 2020/21, E2021/51099

Report

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

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

10 *"The general manager must ensure that regular progress reports are provided to the council reporting as to its **progress with respect to the principal activities detailed in its delivery program**. Progress reports must be provided at least **every 6 months**"*

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

Strategic Objectives

The report (#E2021/4352) is structured by the five 'Our Byron, Our Future' Community Strategic Plan 2028 objectives:

- 20 • Community Objective 1: We have infrastructure, transport and services which meet our expectations
- Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community
- Community Objective 3: We protect and enhance our natural environment
- 25 • Community Objective 4: We manage growth and change responsibly
- Community Objective 5: We have community led decision making which is open and inclusive

Report Details

30 The report details Council's progress towards achieving the activities in the 2020/21 Operational Plan. It includes a status update on progress and notes any highlights or exceptions where actions may be delayed or reprioritised.

Each section notes the progress against the activities including:

- Activity
- Responsible directorate
- 35 • Measure
- Timeframe
- Comments
- Status

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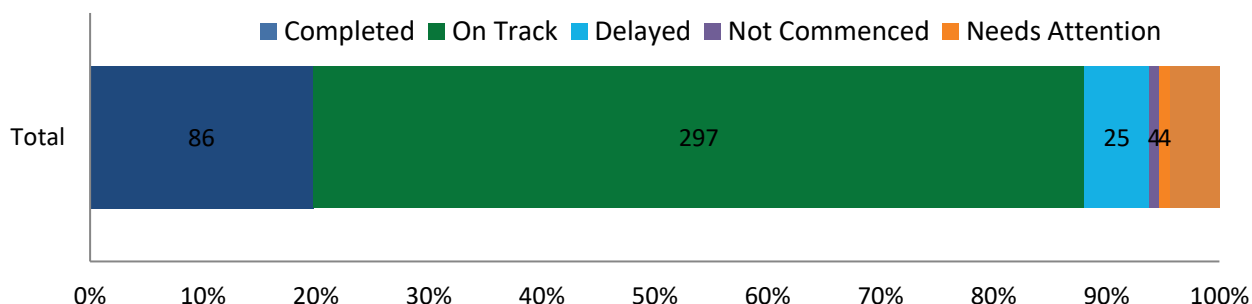
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- On track – indicates that an activity is currently on track, taking into account the timeframe, measures, and budget
- Delayed – indicates that an activity is progressing, but not currently on track with the timeframe, measures, or budget
- Needs attention – indicates that the scope of the activity may need to be reviewed in line with constraints such as timeframe/budget
- Not commenced – the activity is not due to have commenced or has not commenced
- Completed – the activity has been completed in accordance with the prescribed measures

Summary of Activities

The chart below provides a summary of the status of the Operational Plan activities as at 31 March 2021.



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	5.2.1	Provide timely, accessible and accurate information to the community	5.2.1.2	Continuous improvement of corporate planning and reporting process

Legal/Statutory/Policy Considerations

The General Manager is required under Section 404 (5) of the *Local Government Act 1993* to provide regular progress reports as to the Council's progress with respect to the

principal activities detailed in the Delivery Program/Operational Plan. Progress reports must be provided at least every six months.

Financial Considerations

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

Consultation and Engagement

The development of the Delivery Program was informed by extensive engagement around the Community Strategic Plan and specifically a Community Solutions Panel on infrastructure priorities.

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

Report No. 13.8 Grants and Submissions April 2021

Directorate: Corporate and Community Services

Report Author: Donna Johnston, Grants Coordinator

File No: I2021/733

5 **Summary:**

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

10

RECOMMENDATION:

That Council notes the report and Attachment 1 (#E2021/63030) for Byron Shire Council's Submissions and Grants as at 30 April 2021..

15 **Attachments:**

1 Grant submissions - April 2021, E2021/63030

Report

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

Successful applications

- 5 Council was advised of the following four successful applications in April:

Funding body	Funding scheme	Project name	Total project value \$	Amount requested \$
NSW Department Planning, Industry & Environment	Coastal and Estuary Grants Program	New Brighton Sand Dune Protection Project	\$18,000	\$9,000
Transport for NSW	Fixing Local Roads	Various Rds Ocean Shores SGB & New Brighton	\$3,174,902	\$3,174,902
Department of Planning, Industry and Environment	Everyone Can Play	Gaggin Park Accessibility Modifications	\$210,000	\$75,000
NSW Department Planning, Industry & Environment	Regional NSW Planning Portal Grant	Regional NSW Planning Portal Grant	\$50,000	\$50,000

Unsuccessful applications

Unfortunately, Council was not successful with its second Fixing Local Roads application for Seven Mile Beach, Broken Head – amount \$783,656.

Applications submitted

- 10 Five grant applications were submitted in April including:
- 1) Australian renewable Energy Agency (ARENA)
 - Byron Bioenergy Facility – expression of interest for design and construction
 - 2) Crown lands COVID-19 Recovery Funds

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- Clarkes Beach public amenities replacement
- Two VMS trailers to support public health messaging

3) Transport for NSW – School Zone Infrastructure Program

- 5 - Wombat crossing at St Johns Primary School, Mullumbimby

4) NSW Department Planning, Industry & Environment

- NSW Planning portal

10 Upcoming grant opportunities

Stronger Country Communities Fund (<https://www.nsw.gov.au/regional-growth-fund/stronger-country-communities-fund>) opened on 1 May and will close on 25 June 2021. The funding program totals \$100 million and objectives of the fund are:

- 15 1. to boost the liveability of communities in regional areas by providing new or upgraded social and sporting infrastructure or community programs that have strong local support
2. to deliver enhanced infrastructure and programs that remove barriers to female participation in sport across regional NSW.

20 The NSW Government has allocated \$50 million towards enabling female sporting infrastructure and the remaining \$50 million for community amenity projects and programs.

For requests over \$1 million, a financial co-contribution of 25 percent is required. At the time of writing this report, the funding allocation for the Byron Shire LGA was unknown.

25 Each Local Government Area is strongly encouraged to allocate up to 50 percent of its funding allocation to projects relating to female sport either through enhanced infrastructure or relevant programs. The focus on female sports applies to both adult and youth sporting activities.

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, over \$50 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 total amount below (\$81 million) includes projects that have been applied for in two funding schemes (for examples Bioenergy Byron and Sandhills Wetlands).
- 15

The potential funding and allocation is detailed below:

	Requested funds from funding bodies	\$51,380,942
	Council Contribution Cash	\$30,437,578
	Council Contribution In-Kind	\$0
20	Other contributions	\$82,869
	Funding applications submitted and awaiting notification (total project value)	\$81,901,388

Consultation and Engagement

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

Report No. 13.9 Mayor and Councillor Remuneration 2021/22

Directorate: Corporate and Community Services

Report Author: Joelinda Bourke, Corporate Support Officer

File No: I2021/744

5 **Summary:**

The Local Government Remuneration Tribunal has handed down its report and determinations on fees for Councillors and Mayors for the 2021/22 Financial Year. This report outlines the Tribunal's fee range and the proposed Mayor and Councillor fees for 2021/22.

10

RECOMMENDATION:

That Council:

- 15
1. **Fixes the fee payable to each Councillor under Section 248 of the Local Government Act 1993 for the period 1 July 2021 to 30 June 2022 at \$20,690.**
 2. **Fixes the fee payable to the Mayor under section 249 of the Local Government Act 1993, for the period from 1 July 2021 to 30 June 2022 at \$45,140.**
 3. **Not determine a fee payable to the Deputy Mayor, in accordance with its**
- 20
- current practice.**

Report

Each year the Local Government Remuneration Tribunal must determine, in each of the categories determined under section 239, the maximum and minimum amounts of fees to be paid during the following year to councillors and mayors.

- 5 The Remuneration Tribunal has determined the maximum and minimum amounts of fees to be paid during the 2021/22 financial year. Byron Shire Council is categorised as a Regional Rural council and the appropriate fee range is as follows:

Category	Councillor/Member Annual Fee (\$ effective 1 July 2021)		Mayor/Chairperson Additional Fee* (\$ effective 1 July 2021)	
	Minimum	Maximum	Minimum	Maximum
Regional Rural	9,370	20,690	19,970	45,140

**This fee must be paid in addition to the fee paid to the Mayor/Chairperson as a Councillor/Member (s.249(2)).*

- 10 Currently the annual fees payable to Councillors and the Mayor for the 2020/21 financial year are the maximum fee fixed at \$20,280 per annum for a Councillor with an additional fee of \$44,250 for the Mayor.

- 15 In making its determination, the Tribunal reviewed the key economic indicators, including the Consumer Price Index and Wage Price Index, and had regard to budgetary limitations imposed by the Government's policy of rate pegging. It determined a 2 per cent increase is warranted. The 2 per cent increase will apply to the minimum and maximum of the ranges for all existing categories. The Tribunal's determinations have been made with the assistance of two Assessors.

- 20 A full copy of the Annual Report and Determination of the Local Government Remuneration Tribunal is available at <https://www.remtribunals.nsw.gov.au/local-government/current-lgrt-determinations>

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	5.2.4	Support Councillors to carry out their civic duties	5.2.4.3	Provide support to Councillors – including councillor requests, briefing sessions, provision of facilities and payment of expenses, and record keeping

Legal/Statutory/Policy Considerations

Section 248 of the Local Government Act 1993 states:

- 5 (1) *A council must pay each councillor an annual fee.*
 (2) *A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.*
 (3) *The annual fee so fixed must be the same for each councillor.*
 10 (4) *A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.*

Section 249 of the Local Government Act 1993 states:

- (1) *A council must pay the mayor an annual fee.*
 (2) *The annual fee must be paid in addition to the fee paid to the mayor as a councillor.*
 15 (3) *A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.*
 (4) *A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.*
 20 (5) *A council may pay the deputy mayor (if there is one) a fee determined by the council for such time as the deputy mayor acts in the office of the mayor. The amount of the fee so paid must be deducted from the mayor's annual fee.*

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Section 250 of the Local Government Act 1993 states:

Fees payable under this Division by a council are payable monthly in arrears for each month (or part of a month) for which the councillor holds office.

Financial Considerations

5 Councillors and Mayoral fees presently paid

\$20,280 each x 9	=	\$182,520
Plus Mayor additional fee	=	\$ 44,250
Total Paid		\$226,770

Councillors and Mayoral fees 2021/22 increased to maximum set by the Tribunal

10	\$20,690 each x 9	=	\$186,210
	Plus Mayor additional fee	=	\$ 45,140
	Total Paid		\$231,350

The draft 2021/22 Budget includes a total allocation of \$232,500 for Councillor Fees and the Mayoral Allowance, which will be adjusted prior to adoption.

15 Allowance for Deputy Mayor

Section 249 (Clause 5) of the Local Government Act 1993 states that:

A council may pay the deputy mayor (if there is one) a fee determined by the council for such time as the deputy mayor acts in the office of the mayor. The amount of the fee so paid must be deducted from the mayor's annual fee.

- 20 As stated in the above clause, Council is not bound to set a fee, but if it so chooses must deduct that sum from the amount available under the Mayoral allowance.

- Current practice is that an acting period for Deputy Mayor would apply only in instances where the Mayor has leave of absence endorsed by Council and any pro rata fees would be deducted from the Mayoral allowance where agreed on a case by case basis in accordance with Section 249 of the Local Government Act 1993.
- 25

Consultation and Engagement

- The Local Government Remuneration Tribunal consults with local governments to arrive at its determination. Byron Shire Council made a submission to the Tribunal supporting the maximum allowable increase of 2.5%. Council has an adopted view that the current maximum fees for Councillors and Mayors are inadequate for the roles and responsibilities.
- 30

**Report No. 13.10 Council Resolutions Quarterly Review - Q3 -
1 January to 31 March 2021**

Directorate: Corporate and Community Services

Report Author: Heather Sills, Corporate Planning and Improvement
Coordinator

File No: I2021/751

Summary:

This report provides an update on the status of Council resolutions as at 31 March 2021.

92 resolutions were completed during the period 1 January to 31 March 2021.

As at 31 December 2020, there were 105 active resolutions.

RECOMMENDATION:

1. That Council notes the information provided in this report on active Council Resolutions in Attachment 1 (#E2021/54148).
2. That Council notes the completed Resolutions in Attachment 2 (#E2021/54149).
3. That Council endorses the closure of the Resolutions identified in Table 1: Council resolutions that have been superseded by other resolutions; and which have been included in the completed Resolutions in Attachment 2 (#E2021/54149).

Attachments:

- 1 Active Resolutions - as at 31 March, E2021/54148
- 2 Completed Resolutions - 1 January to 31 March 2021, E2021/54149

Report

Each quarter, Council is provided with an update on the status of Council resolutions; identifying those resolutions completed within the reporting period, those proposed to be closed, and those resolutions that remain 'Active'.

5 Quarterly Report – 1 January to 31 March 2021

Active Resolutions

10 The *Active Resolutions Report* (#E2021/54148) provides an update to Council on all active resolutions as at 31 March 2021; with relevant commentary regarding the status of each resolution as at this date. There are 105 active resolutions; including those resolutions from the December Council Meetings which may or may not have had any action taken at the time of preparing this report.

44 of the active resolutions were overdue by more than 60 days at the time the report was prepared. Resolutions could be active or overdue as a result of budget constraints, staff resourcing, extended negotiations with stakeholders, or other reasons.

15 Completed Resolutions

The *Completed Resolutions Report* (#E2021/54149) provides details of those resolutions that were completed during the period 1 January to 31 March 2021. There were 92 resolutions completed between 1 January to 31 March 2021.

Resolutions for Closure

20 Council resolutions that are no longer relevant or have been superseded either by other resolutions, legislative change or other matters, are provided in Table 1 below. These resolutions are also reflected in the *Completed Resolutions Report*.

Table 1: Council resolutions that have been superseded by other resolutions:

Meeting Date	Res No.	Report Title	Staff Comments and Recommendation
28/11/2019	19-616	Multi Use of Byron Shire Rail Corridor - Next Steps	As per 25 Feb 2021 Council Resolution 21-053: “1. That Council closes Resolution 19-616, with the remaining actions being addressed within Resolution 20-127. 2. That Council considers a budget allocation at the March 2021 quarterly review to undertake further work on the Rail with Trail project.”

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	5.2.4	Support Councillors to carry out their civic duties	5.2.4.2	Deliver Council meeting secretariat – including agenda preparation, minutes and council resolutions monitoring

Recent Resolutions

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

Legal/Statutory/Policy Considerations

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

Financial Considerations

- 10 A number of resolutions note that resource constraints limit completion of action required.

Consultation and Engagement

Not applicable.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.11 Contribution towards Northern Rivers Regional Koala Activity Assessment

Directorate: Sustainable Environment and Economy

5 **Report Author:** Lizabeth Caddick, Biodiversity Officer

File No: I2021/596

Summary:

10 This report seeks Council support to contribute \$5,000 towards the Northern Rivers Regional Koala Activity Assessment. This is a koala activity monitoring program across the Northern Rivers council areas of Byron, Ballina, Tweed, Lismore, Kyogle and Richmond Valley. The Koala Activity Assessment will allow tracking of regional koala population trends over time, helping to guide management programs and conservation actions in a strategic way across the Northern Rivers. The assessment will build on an existing dataset created by the University of Queensland, which is already being used by the NSW
15 Government and local councils in the region to guide koala habitat restoration projects.

RECOMMENDATION:

20 **That Council contributes \$5,000 from the Biodiversity Conservation Strategy Budget (account number 2605.160) towards the Northern Rivers Regional Koala Activity Assessment.**

25

Report

5 The first regional assessment of koala activity in the Northern Rivers was completed in 2018, through an Australian Research Council Linkage Grant project. This project was led by the University of Queensland, together with the four far north coast councils (Byron, Tweed, Lismore and Ballina), Friends of the Koala (Inc.) and Southern Cross University.

10 This four-year study significantly increased knowledge of the location and significance of koala distribution and activity levels, habitat use and tree species preferences throughout the region. This information is now being directly applied through the NSW Government-funded North East Hinterland Koala Conservation Project, where koala activity mapping is being used to guide and prioritise koala recovery actions including habitat restoration and securing private land conservation agreements.

15 Staff from Tweed, Lismore, Ballina and Byron Shire Councils, together with Kyogle and Richmond Valley Council areas, have developed a proposal seeking funding to repeat the Koala Activity Assessment on a 3-yearly cycle to allow tracking of regional koala population trends over time. The Koala Activity Assessment outcomes will guide adaptive changes needed to management programs and conservation actions, and will also contribute towards the development of a Regional Koala Conservation Strategy for the Northern Rivers.

20 The proposed regional Koala Activity Assessment aims to survey a minimum of 300 sites for koala activity, across Tweed, Byron, Ballina, Lismore, Kyogle and Richmond Valley local government areas. Sites will be selected based on those most likely to detect change over time, and the number of sites surveyed will allow identification of changes at an appropriate scale for meaningful management intervention. The survey methodology is
25 simple and cost-effective, and will be consistent with the 2018 study to enable comparison between the two datasets. The project will also seek to test the integration of data from alternative survey methods (drones and detection dogs) with the existing long term koala activity data set.

30 Tweed Shire Council is leading the project to seek funding for the Koala Activity Assessment, and is currently in discussions with WWF and DPIE regarding funding. To fully fund the project, all local councils involved have been asked to contribute some funding. This report requests Council to support a contribution of \$5,000 towards the Northern Rivers Koala Activity Assessment.

Next steps

35 Tweed Shire Council to finalise discussions with WWF and DPIE regarding funding the project.

Tweed Shire Council to engage a consultant to deliver the Koala Activity Assessment once funding is secured.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 3: We protect and enhance our natural environment	3.1	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
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	3.2	Strive to become a sustainable community	3.2.2	Support community environmental and sustainability projects	3.2.2.2	Participate in regional sustainability and environmental working groups and initiatives.
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Recent Resolutions

N/A

Legal/Statutory/Policy Considerations

- 5 The monitoring is also intended to integrate with other monitoring programs, including the draft NSW Koala Monitoring Strategy.

The data will also provide an additional resource in implementation of the Byron Coast Comprehensive Koala Plan of Management.

Financial Considerations

- 10 The current proposal for a regional Koala Activity Assessment aims to survey a minimum of 300 sites for koala activity, across Tweed, Byron, Ballina, Lismore, Kyogle and Richmond Valley local government areas, using a cost-effective methodology that does not require specialist or expensive equipment. This is considered an appropriate scale to provide data that will guide effective management.

- 15 The total project cost has been estimated at around \$217,200, as per Table 1 below. The bulk of this funding is being sought from WWF and DPIE, with smaller contributions from local councils. It is proposed that Byron Shire Council contribute \$5,000 to the project.

There are funds available in the existing 2020/21 Biodiversity Conservation Strategy budget (account number 2605.160) to support this project.

Table 1 – Estimated total project cost

Task	Cost
Finalise methods and operational plan (consultant)	\$14,400
GIS data compilation and analysis (UQ)	\$13,200

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Prepare consolidated regional vegetation map (consultant)	\$7,200
Request and secure landholder permissions (consultant and councils)	\$12,600
Field work / assessment (10 weeks @ 30 sites/week; 2 x 3-person teams)	\$120,000
Trial of alternative survey methods (drones, dogs)	\$10,800
Operational costs (Field equipment, travel and accommodation costs)	\$30,000
Reporting & administration	\$9,000
	\$217,200

Consultation and Engagement

The proposed Koala Activity Assessment is a joint regional project, which is being led by Tweed Shire Council. During development of the proposal, input has been sought from Tweed, Byron, Ballina, Lismore, Richmond Valley and Kyogle Councils, as well as subject matter experts at the University of Queensland, and Friends of the Koala.

5

**Report No. 13.12 PLANNING - Development Application
10.2020.215.1 Multi Dwelling Housing
Comprising of Ten (10) Two Storey
Detached Dwellings and Ten (10) Swimming
Pools and Strata Subdivision at 6 Keats
Street Byron Bay**

Directorate: Sustainable Environment and Economy

Report Author: Ivan Holland, Planner

File No: I2021/817

Proposal:

Property description: LOT: 2 DP: 1257709
6 Keats Street BYRON BAY

Parcel No/s: 269978

Applicant: Ardill Payne & Partners

Owner: Stanford Finance Solutions Pty Ltd & Lilac Capital Pty Ltd & others

Zoning: R2 Low Density Residential

Date received: 4 May 2020

Integrated / Designated Development:

☒ Integrated

Concurrence required: Yes – Enter CNR No.7391

Public notification or exhibition:

- Level 2 advertising under DCP 2014 Part A14 – Public Notification and Exhibition of Development Applications
- Exhibition period: 14/5/20 to 3/6/20
- Submissions received: 10
- Submissions acknowledged: ☐ Yes ☒ No ☐ N/A

Planning Review Committee: 11 June 2020

Variation request Not applicable
Delegation to determine: Council

Issues:

- 5 • Potential impacts on adjacent coastal wetland
- Encroachment into the building height plane
- Encroachment into the street front setback
- Submissions in opposition from neighbouring residents

Update:

10 This application was reported to the Council Planning Meeting on 13 May 2021 whereby the matter was deferred as follows:

(Res No.: 21-189).

15 *Resolved that the item "PLANNING - Development Application 10.2020.215.1 Multi Dwelling Housing Comprising of Ten (10) Two Storey Detached Dwellings and Ten (10) Swimming Pools and Strata Subdivision at 6 Keats Street Byron Bay" be deferred to the 27 May Ordinary Meeting of Council to allow further consideration of the buffer between the development and the coastal wetland. (Coorey/Cameron)*

The coastal wetland buffer issue is summarised as follows:

- a) A narrow vegetated buffer (~7-9m in width most of which is a stormwater channel) is proposed between the development and the coastal wetland;
 - 20 b) The Rural Fire Service general terms of approval for the development require the vegetated buffer to be managed as an asset protection zone which results in the buffer having limited ecological value; and
 - c) The application provided limited detail on the limited buffer between the development footprint and the adjacent coastal wetland.
- 25 The applicant has been in contact with Council and is to provide further detail regarding the buffer issue (*pers. comm.* Ardill Payne & Partners) however this had not been received by Council at the time of finalising this report.

30 The recommendation to require a solid, non-combustible fence to be constructed along the southern boundary of the development is a separate but related matter. The fence was recommended to minimise urban edge effects (such as noise, light, gross pollution and exotic species) on the wetland due to the proposed, adjacent residential land use. Guidance on the required height for such fences has not been identified however to be effective it is considered that the fence would need to be at least 1.5m in height and ideally 1.8m. Any lower than 1.5 metres the fence begins to lose its effectiveness. Fences may be permitted to a height of 1.8m for properties where it is "*necessary for safety, noise mitigation purposes*" (D1.2.5 of DCP 2014). The fence can be constructed from a range of materials provided they are non combustible such as colour bond, brick, fibro cement, rendered concrete and the like. It is anticipated the fence will have a gate in it for access/ maintenance purposes.

Following consideration of this application at the Planning Meeting of Council on 13 May 2021 (changes have been made to conditions 3, 67 and 83 and are clearly identified).

An updated suite of recommended conditions are attached to the report (Attachment 1).

Summary of proposal:

- 5 This application has been referred by the Planning Review Committee for determination by the elected Council.

This application seeks approval for multi dwelling housing comprising of ten (10), two storey detached dwellings and ten (10) swimming pools and strata subdivision (see Figure 1).

- 10 Dwellings have four (4) bedrooms, a guest room, three (3) bathrooms, a balcony, ground floor outdoor areas, a swimming pool, a garage and carport.

The strata subdivision will ultimately result in each dwelling being located on an individual strata lot with the driveway and southern landscaping being located on common property.

The applicant proposes staging the development as follows:

- 15 • Stage 1 – construction of dwellings 5 – 10 including swimming pools, driveway and landscaping.
• Stage 2 – strata subdivision of dwelling 5 – 10 and creation of a vacant strata lot.
• Stage 3 – construction of dwellings 1 – 4 including swimming pools and landscaping on the vacant strata lot.
20 • Stage 4 – strata subdivision of dwelling 1 – 4.

Earthworks and tree removal will be required to facilitate the development.

- 25 During the assessment, the buffer between the dwellings and associated driveways were moved north to increase the setback to the mapped coastal wetland to the south of the property. Council's Ecologist is of the view that the application has not adequately demonstrated that significant impacts on the coastal wetland will be avoided by the development owing to the limited buffer width and that the buffer is required to be managed for bush fire protection purposes (rather than for ecological benefit). However, a condition has been recommended to require a solid, non-combustible fence to be
30 constructed adjacent along the southern boundary of the development such that the buffer is separated from the residential land use to minimise urban edge effects on the wetland.

- Some minor plan amendments have been required by recommended conditions to address issues raised in the assessment. Otherwise the application appropriately addresses the relevant constraints applying to the site, and is recommended for approval
35 subject to the conditions listed in the Recommendation of this Report below.

NOTE TO COUNCILLORS:

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5 In accordance with the provisions of S375A of the Local Government Act 1993, a Division is to be called whenever a motion for a planning decision is put to the meeting, for the purpose of recording voting on planning matters. Pursuant to clause 2(a) under the heading Matters to be Included in Minutes of Council Meetings of Council's adopted Code of Meeting Practice (as amended) a Division will be deemed to have been called by the mover and seconder of all motions relating to this report.

RECOMMENDATION:

10 That pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2020.215.1 for Multi Dwelling Housing Comprising of Ten (10) Two Storey Detached Dwellings and Ten (10) Swimming Pools and Strata Subdivision, be granted consent subject to the updated conditions listed in Attachment 8 (#E2021/57487)

Attachments:

- 15
- 1 Overall site plans - DA 10.2020.215.1 - 6 Keats Street, E2021/58179
 - 2 Dwelling plans Part 1 - DA 10.2020.215.1 - 6 Keats Street, E2021/58188
 - 3 Dwelling plans Part 2 - DA 10.2020.215.1 - 6 Keats Street, E2021/58189
 - 4 Stormwater management plan - DA 10.2020.215.1 - 6 Keats Street, E2021/58168

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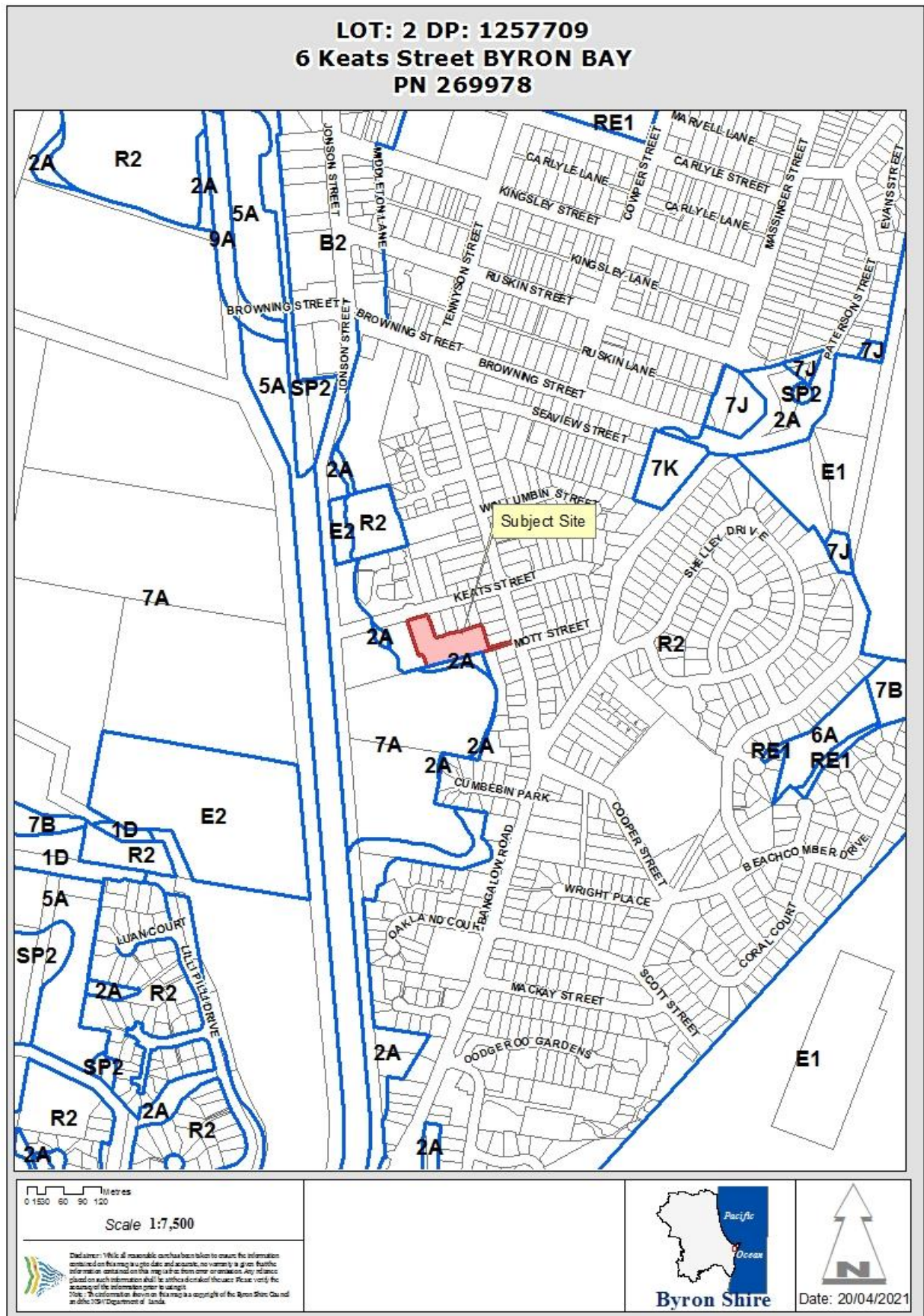
 - 5 Driveway plans - DA 10.2020.215.1 - 6 Keats Street, E2021/58169
 - 6 Strata subdivision documents - DA 10.2020.215.1 - 6 Keats Street, E2021/58173
 - 7 Landscaping plans - DA 10.2020.215.1 - 6 Keats Street, E2021/58174
 - 8 Updated recommended conditions - DA 10.2020.215.1 - 6 Keats Street, E2021/57487
 - 9 Submissions received - DA 10.2020.215.1 - 6 Keats Street, E2021/57828

25

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Report

1. INTRODUCTION

1.1. History/Background

The subject property was created by a 2 lot subdivision (DA 10.2016.794.1) which was approved on 13/6/2017.

1.2. Description of the proposed development

This application seeks approval for multi dwelling housing comprising of ten (10), two storey detached dwellings and ten (10) swimming pools and strata subdivision (see Figure 1).

The Dwellings have four (4) bedrooms, a guest room, three (3) bathrooms, a balcony, ground floor outdoor areas, a swimming pool, a garage and carport. The strata subdivision will ultimately result in each dwelling being located on an individual strata lot with the driveway and southern landscaping being located on common property.

The applicant proposes staging the development as follows:

- Stage 1 – construction of dwellings 5 – 10 including swimming pools, driveway and landscaping.
- Stage 2 – strata subdivision of dwelling 5 – 10 and creation of a vacant strata lot.
- Stage 3 – construction of dwellings 1 – 4 including swimming pools and landscaping on the vacant strata lot.
- Stage 4 – strata subdivision of dwelling 1 – 4.

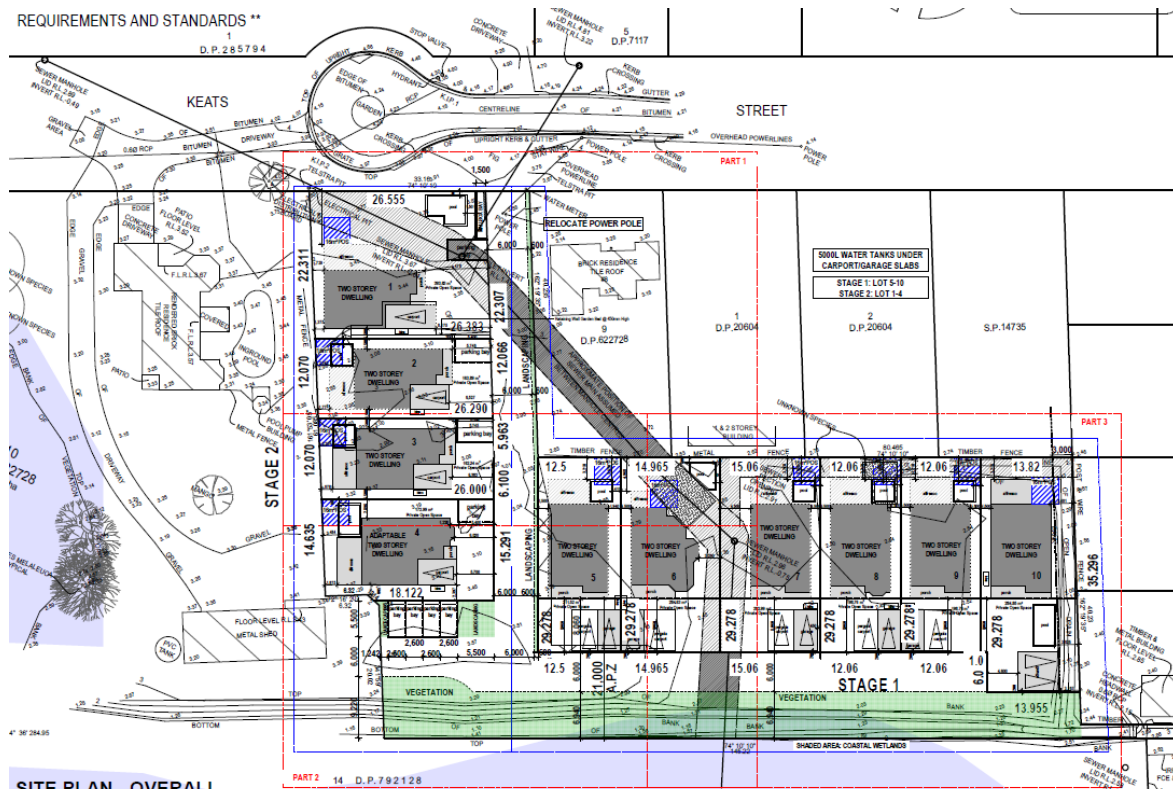


Figure 1. Site plan showing location and layout of proposed dwellings, swimming pools and associated infrastructure and landscaping.

1.3. Description of the site



5 Figure 2. Aerial photo showing property (identified by yellow polygon) and land zoning showing property zoned as R2.

Land is legally described	LOT: 2 DP: 1257709	
Property address	6 Keats Street BYRON BAY	
Land is zoned:	R2 Low Density Residential	
Land area is:	6013 m ²	
Property is constrained by:	<ul style="list-style-type: none"> • Flood Liable Land • Bushfire prone land • Acid Sulfate Soils Class 5 • Underground powerlines • Stormwater drains • Sewer pipelines and manhole • Biodiversity values (beyond the development footprint) 	
	Is a BDAR required due to the location of the proposed development?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Are there any easements in favour of Council affecting the site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Is there a Vegetation Management Plan which might affect the proposal?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Is there a Voluntary Planning Agreement which might affect the proposal?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No



Photo 3 – open stormwater drain adjacent to southern boundary – view east



Photo 4 – open stormwater drain adjacent to southern boundary – view west



Photo 5 – open stormwater drain at east of property – view east



Photo 6 – sewer manhole and tree to be removed



Photo 7 – one of three stormwater grates within the property

2. SUMMARY OF REFERRALS

Referral	Issue
Environmental Health Officer	No objections subject to conditions.
Development Engineer	No objections subject to conditions.

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Referral	Issue
Ecologist	See Comments below Re: Biodiversity Act 2016 and SEPP Coastal Management 2018
Rural Fire Service (100B)	No objections subject to conditions.
Essential Energy	No objections, general comments only.

3. SECTION 1.7 – APPLICATION OF PART 7 BIODIVERSITY CONSERVATION ACT 2016

5 The development footprint will not encroach into land within the property identified on the Biodiversity Values map (see Figure 4 below. In relation to this property, the area mapped as biodiversity values is the same as the area mapped as coastal wetland).

10 Council's Ecologist notes that, should tree removal be required within the area mapped as biodiversity values (i.e., to establish an asset protection zone), then the biodiversity offsets scheme and the requirement for a biodiversity assessment report would be triggered (*Biodiversity Conservation Act 2016*, Parts 6 and 7). As noted below, a condition has been recommended to prevent removal of vegetation within the mapped biodiversity values/coastal wetland area within the property.

15 4. State Environmental Planning Policy (Coastal Management) 2018

20 A small section at the south of the property is mapped as a coastal wetland (see Figure 4 below) and the remainder of the property is mapped as wetland buffer. The built footprint of the proposed development does not encroach into the mapped coastal wetland. The section of mapped wetland adjacent to the boundary is part of Council's stormwater infrastructure being an open drain taking stormwater from the site, surrounding properties and Bangalow Road to the west where it eventually discharges into the Cumbebin Wetland via a culvert under the north coast rail corridor.

25 Council's ecologist was concerned if clearing is required in the mapped wetland area (and the Biodiversity values area) the application becomes designated development. The development footprint, including vehicular access and asset protection zones, will not require any clearing of vegetation in the wetland. Survey detail submitted with the application indicates the drain is located along the southern boundary of the lot and wetland vegetation is only on the southern bank and in the neighbouring property. Notwithstanding this, conditions have been recommended protecting and preventing clearing of vegetation within the mapped coastal wetland.

30 A larger vegetated buffer, with meaningful setbacks to the coastal wetland to the south, would be preferable however, considering the peri-urban nature of the parcel a condition has been recommended to require a solid, non-combustible (i.e. sheet metal) fence to be constructed adjacent to the driveway. This fence will benefit the coastal wetland by minimising urban edge effects such as noise, light, gross pollution (i.e., rubbish) and exotic species that are likely to result from the development. The applicant has also proposed landscaping along the northern edge of the drain to which will also assist with mitigation of edge effects. Conditions of consent to apply.

40 Having regard to the above, the impact of the proposed development on the coastal wetland is considered acceptable under this SEPP.



Figure 4. Aerial photo with subject site identified as yellow polygon, coastal wetlands identified as blue/ diagonal stripes and stormwater infrastructure yellow dashed line.

5. SECTION 4.14 – BUSH FIRE PRONE LAND

Under section 4.14 of the Act, Council must be satisfied prior to making a determination for development on bush fire prone land, that the development complies with the document 'Planning for Bush Fire Protection'. The site is bush fire prone land. The development application is for integrated development and was referred to the NSW Rural Fire Service, which provided a bush fire safety authority and general terms of approval which are included in the Recommendation of this Report below.

EFFECT OF 10/50 RULE ON SIGNIFICANT VEGETATION

The subject parcel of land is located in a designated 10/50 vegetation entitlement clearing area. However, the 10/50 exemption to clear vegetation cannot be used on this parcel of land. This land is excluded from the operation of the 10/50 Code as it has been identified as being wholly or partially within coastal wetlands (online tool accessed – 17/2/21).

6. SECTION 4.15C – MATTERS FOR CONSIDERATION – DISCUSSION OF ISSUES

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

6.1 State Environmental Planning Instruments

	Satisfactory	Unsatisfactory
State Environmental Planning Policy No 55—Remediation of Land	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: The applicant has submitted details addressing SEPP 55 which is generally satisfactory, however the contamination investigation provided does not adequately assess the whole development site and the subject site is identified on Council's mapping as containing radioactive sand fill. Conditions have been recommended that require a detailed contaminated land assessment to be prepared for the entire site (as a deferred commencement condition). Following which, preparation of a remedial action plan (RAP) may be required (if contamination is		

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	Satisfactory	Unsatisfactory
detected) and implementation of the RAP to ensure the site is suitable for the proposed residential development.		
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: The proposal is for BASIX affected development and a multi dwelling BASIX Certificate was provided with the application.		
State Environmental Planning Policy (Infrastructure) 2007	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: The proposal involved works in the proximity of electricity distribution infrastructure. Essential Energy was notified of the DA and their advice has been taken into consideration (clause 45). Essential Energy general comments are included in the notes section of the consent.		

4.2A Byron Local Environmental Plan 2014 (LEP 2014)

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

- 5 (a) The proposed development is defined in the LEP 2014 Dictionary as multi dwelling housing;
 - (b) The land is within the R2 Low Density Residential according to the Land Zoning Map;
 - (c) The proposed development is permitted with consent; and
 - (d) Regard is had for the Zone Objectives as follows:
- 10 Subdivision of land (as defined in clause 6.2 of the EP&A Act) is permitted with consent pursuant to clause 2.6 of LEP 2014. Proposed demolition of the shed is permitted with consent pursuant to clause 2.7 of LEP 2014.

Zone Objective	Consideration
<ul style="list-style-type: none"> To provide for the housing needs of the community within a low density residential environment. To enable other land uses that provide facilities or services to meet the day to day needs of residents. 	<p>The proposed multi dwelling housing has the ability to provide for the housing needs of the community.</p> <p>In terms of yield the proposal will result in one house per 600m² which is not inconsistent with the objectives of the R2 Zone</p>

- 15 The subject property with an area in excess of 6000 m² meets the minimum lot size for multi dwelling housing being 1000m² (c.4.1E).
- The maximum height of the dwellings is ~8.5m which is compliant with the 9m maximum (c.4.3).
- 20 The floor space ratio of the combined development is ~0.35:1 and well below the relevant limit of 0.5:1 for the property (c.4.4).
- The site is classified as containing class 5 acid sulfate soils which are unlikely to be disturbed during construction works. Council's Environmental Health Officer has recommended that
- 25 conditions be included that require a preliminary acid sulfate soils investigation be carried out to ensure there is no environmental impact (c.6.1) from construction activities.
- Subject property is partly identified as prone to flooding with heights across the site varying from
- 30 3.82 m AHD at Keats Street down to 2.02m adjacent to the northern bank of the drain with the land generally grading to the southern boundary. To avoid filling the site, Conditions of consent recommended in relation to houses being constructed using a bearer and joist design other than

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the adaptable dwelling on Lot 4 which is on an elevated knoll which meets the minimum floor level of 3.1 m AHD. (c.6.2 and 6.3).

The development site is an urban location which has access to services or the ability to access services when required (c.6.6). Council's Development Engineer determined that the design and construction of the re-routing of the inter-allotment drainage system, servicing numbers 10 and 12 Keats Street, needs to be carried out prior to the approval commencing to ensure the landowner approvals for this work are current (i.e., as a deferred commencement condition). Otherwise, issues associated with stormwater and sewer services that transect the site have been assessed by Council's Development Engineer and Systems Planning Officer and found to be acceptable subject to recommended conditions.

The proposal raises no other issues under the LEP.

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

No proposed instruments were identified that are relevant to this proposal.

4.4A Byron Shire Development Control Plan 2014 (DCP 2014)

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

Part A	<input checked="" type="checkbox"/>
Part B Chapters:	<input checked="" type="checkbox"/> B1 <input checked="" type="checkbox"/> B2 <input checked="" type="checkbox"/> B3 <input checked="" type="checkbox"/> B4 <input checked="" type="checkbox"/> B5 <input checked="" type="checkbox"/> B6 <input checked="" type="checkbox"/> B7 <input checked="" type="checkbox"/> B8 <input checked="" type="checkbox"/> B9 <input type="checkbox"/> B10 <input type="checkbox"/> B11 <input type="checkbox"/> B12 <input checked="" type="checkbox"/> B13 <input checked="" type="checkbox"/> B14
Part C Chapters:	<input type="checkbox"/> C1 <input checked="" type="checkbox"/> C2 <input type="checkbox"/> C3 <input type="checkbox"/> C4
Part D Chapters	<input checked="" type="checkbox"/> D1 <input type="checkbox"/> D2 <input type="checkbox"/> D3 <input type="checkbox"/> D4 <input type="checkbox"/> D5 <input checked="" type="checkbox"/> D6 <input type="checkbox"/> D7 <input type="checkbox"/> D8
Part E Chapters	<input type="checkbox"/> E1 <input type="checkbox"/> E2 <input type="checkbox"/> E3 <input type="checkbox"/> E4 <input checked="" type="checkbox"/> E5 <input type="checkbox"/> E6 <input type="checkbox"/> E7

Chapter A13.4 and Community Participation Plan

The proposal is community significant development being "residential accommodation resulting in 10 or more dwellings" and as such community consultation is required to be undertaken prior to lodgement of a development application (A13.4). The failure to carry out community consultation prior to development application lodgement is also contrary to the equivalent requirements in Council's Community Participation Plan (October 2019) (see also sections 2.21 and 2.22 of the EP&A Act). Confirmation that pre-lodgement consultation was not, and will not, be undertaken was provided by the applicant Ardill Payne and Associates, to Council, on 8 April 2020 who advised that:

- The land owners immediately to the west of the subject site disposed of this vacant land following a two Lot subdivision with the knowledge that a medium density development would be undertaken onsite.
- The two properties immediately to the east of the subject site have been consulted about the project during the planning stage.
- The development is on the lower end of the community significant development definition threshold being 10 dwellings.
- The proposed medium density development is:

- well below the nominated floor space ratio for the subject site,
 - complaint with nominated height limits,
 - generally exceeds all building lines and setbacks
 - compliant with carparking requirements including visitor spaces
 - will be adequately serviced by all reticulated services
 - will not be visible from Bangalow Road, and
 - will provide generous areas of landscaping and private open space for each dwelling
- Accordingly, pre-lodgement consultation is not deemed necessary nor advantageous in this instance. APP have been instructed by our client to assess and satisfactorily address any reasonable submissions received during Council's public notification process

It is noted that the failure to carry out that consultation has resulted in delays in finalising the assessment of this DA. Had they discussed the proposal with the neighbours more broadly in accordance with the Community Participation Plan, issues such as stormwater management, easement issues and privacy concerns as raised in the submissions and by Council could have been more thoroughly addressed in the DA by the applicant when first submitted.

However, as the development application has since been publicly exhibited and notified to neighbours and submissions have been considered (see 4.8 below) it is arguable that the views of the community have been sought and considered. Should Council be dissatisfied with this, a condition could be imposed to reduce the number of dwellings to 9 to ensure compliance with the Community Participation Plan. The effect of such a condition would potentially result in a separate stand alone DA being submitted for the tenth dwelling, or the applicant utilising their appeal or review rights under the EPA Act 1979.

Chapter B1

The proposed development will require the removal of all trees from the site but for those adjacent to the southern boundary/drain The SEE identifies these trees as either "landscaping" or "Pandanus Palm plantation". As such, this vegetation is not considered to be "red-flag" vegetation under Chapter B1. However if the Pandanus are endemic (i.e., Pandanus tectorius) they should be relocated on site and incorporated into the proposed landscaping. As noted above, a condition has been recommended preventing clearing of vegetation within the mapped coastal wetland.

Chapters B3 and B4

Council's Engineer has assessed the revised proposal and updated stormwater management plan and is satisfied the development meets, or is capable of meeting, relevant servicing and parking requirements subject to recommended conditions.

Chapter B6

The SEE did not address land use conflict in relation to the location of the residential development adjacent to a coastal wetland/area of biodiversity value. In this regard:

- "New urban development, rural settlement and other development should be sited and designed to protect key environmental assets and, where possible, enhance environmental assets including high conservation value vegetation and habitats and ecosystems, ecosystem corridors, waterways, endangered ecological communities and key habitat.
- The potential for land use conflict and development of mitigation measures should be assessed as part of any proposed intensification of use..." (B6.2.3).

As discussed above, a narrow (~7m) landscaped buffer has been proposed between the development and the mapped coastal wetland which will need to be managed as an asset protection zone. No information was provided with the application to demonstrate the adequacy of

this buffer in protecting and ideally enhancing the adjacent coastal wetland. As such, a condition has been recommended to require the southern edge of the development to be fenced to minimise the impact on the coastal wetland from urban edge effects.

5 **Chapter B7**

The standard condition requiring windows to be screened has been recommended owing to the development being located within a mapped mosquito risk zone.

Chapter B8

10 A site waste minimisation and management plan (SWMMP) was not submitted with the application (B8.2.1). A condition has been recommended requiring a SWMMP to be submitted prior to the issue of a construction certificate and to address:

- Demolition (B8.3.1);
- Construction (B8.3.2);
- 15 • Ongoing use including ensuring there is sufficient space for bins to be placed on Keats Street for collection (B8.3.3); and
- Matters specific to multi dwelling housing (B8.4.2.).

Chapter B9

20 An amended concept landscaping plan (Overview, Rev 003, Kris McFadden Design, 21/12/20) was provided that increased the landscape area along the southern boundary of the property (Chapter B9). A condition has been recommended requiring a detailed landscaping plan to be submitted for approval, prior to the issues of a construction certificate, that demonstrates:

- Consistency with the general landscape design principles (B9.3.1);
- 25 • Matters specific to multi dwelling housing (B9.4.1) including but not limited to screen planting to street frontages and driveway areas, identification of common landscaped area (B9.4.2);
- Landscaping of the drainage line along the southern boundary of the property (B9.10.2);
- Consideration of a street tree (B9.11.1);
- 30 • Existing vegetation (B9.12.4); and
- Planting size, density and species (B9.12.5).

Chapter B13

35 Dwelling No.4 will be an adaptable dwelling which meets the minim requirement for 10% of dwelling units to be adaptable (B13.2.2). Required adaptable car parking has been assessed by Council's Development Engineer and found to be acceptable subject to conditions.

Chapter B14

40 Council's Engineer has assessed the earthworks required for the development and is satisfied that the works and potential impacts can be adequately managed (i.e., erosion and sediment control) subject to recommended conditions.

Chapter C2

45 Council's Engineer has assessed the revised proposal and is satisfied the development meets, or is capable of meeting, relevant flood planning requirements subject to recommended conditions.

Chapter D1

50 Indicative streetscape renders were provided. Owing to the shape of the lot the character and visual impact of the development will be minimal with only Lot1 being clearly visible from Keats Street (D1.2.4).

Fencing is shown along the Keats Street boundary in the streetscape renders however no details were provided in the application. A mailbox structure is proposed at the northeast corner of Lot 1. Any street front fencing and the mailbox structure should be limited to 1.2m in height: conditions recommended (D1.2.5).

5 According to plans provided, each dwelling will have usable, ground-level, private open space of at least 30m² and at least 4m in width and length (D1.6.1).

Chapter D6

10 The application did not include a consideration of the subdivision design guidelines (D6.2.1). As a result the subdivision deviates from some of the design guidelines particularly relating to riparian buffers and land fronting watercourses. The proposed lots sizes are below the 600m² minimum (D6.4.1) however, minimum lot size requirements do not apply to strata subdivisions (clause 4.1(4)(a) of LEP 2014). Council's Development Engineer is satisfied that the subdivision is

15 acceptable subject to recommended conditions (D6.4).

Chapter E5

20 6 Keats Street is located within Pocket B which is characterised by has "*an eclectic array of architectural styles, with diverse coastal architectural themes*" and "*built form is largely one or two storeys incorporating various building materials and styles*" (E5.8.4). The proposed development is not at odds with the relevant character narrative. Further, the property is located in the "transitional" area "*earmarking an area for change incorporating pockets of low rise medium density homes that match the amenity of traditional free standing homes, while introducing contemporary dwelling forms*".

25

What Section and prescriptive measure does the development not comply with?	Does the proposed development comply with the Objectives of this Section? Address.	Does the proposed development comply with the Performance Criteria of this Section? Address.
<p>D1.2.1 Building Height Plane</p> <p>The western façade of Lots 1 (both floors) 2, 3 and 4 (ground floor only) encroach the building height plane. The eastern façade of Lot 10 (first floor only) encroaches the building height plane.</p> <p><u>Note:</u> The northern façade of lots 5, 7, 8, 9 and 10 encroach the building height plane. These encroachments have not been considered further as they are on the south side of existing development (i.e., no shading impacts) and are only small sections of the ground floor alfresco area roof (i.e., minimal privacy and view impacts).</p>	<p>The proposed development complies with the Objectives of the Section because:</p> <p>Shadow diagrams were provided for Lots 1, 2 and 10 which show no shading impact on the neighbouring dwelling to the west (Lots 1 and 2) or east (Lot 10). There are no dwellings adjacent to and west of Lots 3 and 4.</p> <p>Privacy and view impacts from the encroachments will be minor due to the encroachments being largely of the ground floor roof of alfresco areas.</p> <p>Privacy impacts of the first floor encroachments of Lot 1 and Lot</p>	<p>The proposed development complies with the Performance Criteria of this Section because:</p> <p>The first floors of the proposed dwellings are largely set back progressively from the boundaries;</p> <p>All dwellings and lots have a north facing outdoor area and covered alfresco areas.</p> <p>The development will not cause shading impacts on living areas of neighbouring dwellings as evidenced in the shadow diagrams provided.</p>

<p>D1.2.2 Setbacks from Boundaries</p> <p>The dwellings comply with relevant setbacks but for the swimming pool associated with Lot 1 which is located in the street front setback. The provision states <i>“Pools should not be located within the street frontage setback, except on sites where private open space can be accommodated only in this location or other site attributes support this outcome.”</i></p>	<p>10 can be minimised by screening windows on the non-compliant facades: conditions recommended. View impacts from the Lot 10 encroachment can be minimised through alterations to the building design: condition recommended.</p> <p>The proposed development complies with the Objectives of the Section because:</p> <p>Lot 1 is constrained by a sewer easement and the proposed pool has good solar orientation being located north of the dwelling.</p>	<p>The proposed development complies with the Performance Criteria of this Section because:</p> <p>Although setbacks are to be applied flexibly, the Lot 1 pool is to be 800mm from the street front boundary. This minimal setback does not allow adequate landscaping to be provided to avoid impacts on the streetscape. The pool could be relocated south of the sewer easement where the Alfresco area is currently proposed. As such, the Lot 1 swimming pool should be relocated south of the sewer easement or removed from the proposal altogether: conditions recommended.</p>
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The proposed development is demonstrated to meet the relevant Objectives of DCP 2014.

4.5 Environmental Planning & Assessment Regulation 2000 Considerations

Clause	This control is applicable to the proposal:	I have considered this control as it relates to the proposal:	If this control is applicable, does the proposal comply?
92	Yes	Yes	Condition recommended that demolition of shed be undertaken in accordance with AS 2601
93	No	N/A	N/A
94	No	N/A	N/A
94A	No	N/A	N/A

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

Impact on:	Likely significant impact/s?
Natural environment	No. The proposal will not have a significantly adverse impact on the natural environment of the locality.
Built environment	No. The proposal will not have a significantly adverse impact on the built environment of the locality.
Social Environment	No. The proposal will not have a significant social impact on the locality.
Economic impact	No. The proposal will not have a significant economic impact on the locality.

- 5 Standard conditions of consent recommended in relation to the construction activities including construction noise, hours of work, builders waste and implementation of sedimentation and erosion control measures.

4.7 The suitability of the site for the development

- 10 The site can be serviced, has manageable constraints and is assessed as suitable for the proposed development.

4.8 Submissions made in accordance with this Act or the regulations

- 15 The development application was publicly exhibited

There were **ten (10)** submissions made on the development application:

- 20 - Nil (0) For
- Ten (10) Against

Key issues raised in submissions	Consideration
	The developments density and yield satisfies the objective of the R2 Zone.
Stormwater management / drainage	Council's Development Engineer is satisfied that adequate provision has been made (or will be made through compliance with recommended conditions) for managing stormwater and drainage from and for the development.
Site suitability – property is subject to flooding	Council's Development Engineer is satisfied that the flooding impacts can be adequately managed via recommended conditions.
Traffic impacts	Council's Development Engineer is satisfied that the traffic impact is low risk and can be adequately managed via recommended conditions.
	As noted above, the applicant confirmed that pre-lodgement consultation was not undertaken.
Waste collection	A condition has been recommended that requires a site waste minimisation and management plan to be provided prior to the issue of a construction certificate that includes details of waste management associated with

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	ongoing use of the development including ensuring there is sufficient space for bins to be placed on Keats Street for collection.
Encroachment of development on Cumbebin Swamp	Impacts on the wetland have been considered as discussed above
Residential Impacts (noise, amenity, privacy)	<p>But for the building height plane and street front setback encroachments discussed above, the proposed multi dwelling housing is otherwise compliant with Council planning requirements.</p> <p>View impacts from the Lot 10 first floor, building height plane encroachment can be minimised through alterations to the building design for which a condition recommended.</p> <p>A fence has been requested by some submitters along the northern boundary of proposed Lots 5 to 10 to mitigate potential amenity impacts. Conditions of consent recommended requiring the fence to be constructed.</p>

4.9 Public interest

- 5 The proposed development is unlikely to prejudice or compromise the public interest or create an undesirable precedent.

5. DEVELOPER CONTRIBUTIONS

5.1 Water & Sewer Levies

- 10 Section 64 levies will be payable.

5.2 Section 7.11 Contributions

- 15 Section 7.11 Contributions will be payable.

6. DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

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

Provide Disclosure Statement register details here: Not applicable

20 Conclusion

This application seeks approval for multi dwelling housing comprising of ten (10), two storey detached dwellings and ten (10) swimming pools and strata subdivision.

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- 5 The key issues associated with this proposed development are stormwater management and potential impacts on the adjacent coastal wetlands. Conditions have been recommended to address stormwater management including a deferred commencement condition relating to proposed modification to inter-allotment drainage affecting numbers 10 and 12 Keats Street. The buffer between the development and the coastal wetland was increased in size but remains limited (~7m) in width and is subject to strict management requirements for bushfire protection (thus limiting the ecological value of the buffer). However, the buffer will be landscaped and a fence between the development and the buffer/wetland to mitigate potential impacts on development has been required by a recommended condition.
- 10
- Some minor plan amendments have been required by recommended conditions to address issues raised in the assessment. Otherwise the application appropriately addresses the relevant constraints applying to the site, and is recommended for approval subject to the recommended conditions (Attachment 8).
- 15 The proposal is 'community significant development' however the applicant failed to carry out the required community consultation prior to lodging the development application. However, as the development application has since been publicly exhibited and notified to neighbours, and submissions have been considered, it is arguable that the views of the community have been sought and considered as per the intent of this requirement.

Report No. 13.13 Update Resolution 21-152 Byron Baes and Resolution 21-207 Information and Support for Filming Activities in Byron Businesses and on Council Controlled Land

5 **Directorate:** Sustainable Environment and Economy

Report Author: Shannon Burt, Director Sustainable Environment and Economy
 Jess Gilmore, Events & Economy Team Leader

File No: I2021/818

Summary:

10 The purpose of this report is to provide Council with an update on **Resolution 21-152** Byron Baes and **Resolution 21-207** Information and Support for Filming Activities in Byron Businesses and on Council Controlled Land due to their interrelated content.

15

RECOMMENDATION:

That Council note the update provided on Resolution 21-152 Byron Baes and Resolution 21-207 Information and Support for Filming Activities in Byron Businesses and on Council Controlled Land.

20

Report

Resolution 21-152

5 At the Ordinary Council meeting 22 April 2021, a Mayoral Minute No. 8.2 Byron Baes was considered, and Council resolved **(Res 21-152)** as follows:

That Council:

- 10 1. Acknowledges and celebrates Byron Shire's significant local creative industry and welcomes the film and television industry working in our Shire, particularly when they are committed to employing and adding to the skills of local digital content professionals, taking a consultative approach.
- 15 2. Notes the significant economic threats posed to the wider Byron Shire economy and the overwhelming community opposition and concern about the possible reputational, and social damage inflicted upon the local community.
 - 15 a) Writes to Eureka Productions and Netflix (Australia) stating its disapproval and opposition to the filming of "Byron Baes" in the Byron Shire.
 - b) Requests the production seek to relocate to another location and community supportive of hosting the show
 - c) Notes, that had Council the power to refuse to grant filming approvals on land, infrastructure or road reserves under its control or ownership it would have done so.
 - 20 d) Requests the State government conduct a review of the current NSW filming protocols to better provide local community engagement and offers its support to provide input into the review.
 - 25 e) Writes to other State authorities and organisations with land and infrastructure assets, such as Cape Byron Marine Park, NPWS, Cape Byron Headland Trust, Arakwal Corporation etc, notifying them of Council's position.
3. Supports our creative community to challenge the premise of the proposed Byron Baes.

Update on Resolution 21-152

Resolution points are addressed below:

- 30 **1. Acknowledges and celebrates Byron Shire's significant local creative industry and welcomes the film and television industry working in our Shire, particularly when they are committed to employing and adding to the skills of local digital content professionals, taking a consultative approach.**

Noted for the purposes of this report.

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2. Notes the significant economic threats posed to the wider Byron Shire economy and the overwhelming community opposition and concern about the possible reputational, and social damage inflicted upon the local community.

5 **a) Writes to Eureka Productions and Netflix (Australia) stating its disapproval and opposition to the filming of “Byron Baes” in the Byron Shire.**

b) Requests the production seek to relocate to another location and community supportive of hosting the show

10 **c) Notes, that had Council the power to refuse to grant filming approvals on land, infrastructure or road reserves under its control or ownership it would have done so.**

By email dated 27 April 2021, the Byron Baes production team was advised to note the Mayoral Minute from the 22 April Council meeting - Mayoral Minute No. 8.2 Byron Baes. Resolution 21-152.

15 Further advice being, that there is disapproval and strong opposition from Council and community to the filming of Byron Baes in Byron Shire, with a preference that the production seeks to relocate to another location.

It was also noted that under the Protocol and, based on the information provided, the filming activity was the ultra low Impact category as outlined in the Protocol, and as such, does not require a Council filming permit.

20 Ultra low Impact means that there are ten or less in the cast and crew; no disruption is caused to the Council's stakeholders, retailers or motorists or other events in the vicinity of the activities; activities are contained to footways or public open space areas only; public safety is maintained at the locations at all times during the conduct of the activities; and vehicles associated with the conduct of the activities are legally parked at all times and are
25 not driven onto footways, parks or plaza areas.

Notwithstanding the above, the Byron Baes production team was asked to respect the following points:

- The production crew are to be mindful of protecting and minimising damage to all filming areas and are not permitted to carry out any works.
- 30 • Whilst you have consent to film in and around Byron Shire, you must not exclude others from accessing the areas.
- The activity should not disrupt retailers, motorists, residents, other events or general public in the vicinity of your activity.
- Access to the beach should only be via the established beach access point/s.
- 35 • No activity should take place in vegetated coastal dune areas, including the foredune with dunal grasses. This refers to equipment, camera and crew.

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- No significant disturbance or damage to vegetation both aquatic (in the water) and riparian (on the riverbank). This includes no removal of living plant material.
- No vehicle may be driven in a park or on a beach. UNDER NO CIRCUMSTANCES are vehicles to be driven on or over frontal dunes or foreshore areas or into coastal nature reserves.
- Vehicles associated with the conduct of the activities are legally parked at all times. Parking arrangements are to ensure access to public car parks is retained and due consideration is given to the needs of other users.
- All rubbish, props and signage shall be collected and removed at the conclusion of filming.
- Advise Council should any changes to schedule, and if the cast + crew size goes over ten people.

d)Requests the State government conduct a review of the current NSW filming protocols to better provide local community engagement and offers its support to provide input into the review.

There have been recent discussions between Byron, Tweed and Ballina Shire Film Contact Officers (FCO) about the above and need for an urgent review of the Protocol.

Screen NSW has also been contacted on same.

As a result, it is understood that the Office of Local Government is preparing a consultation process on an update of the Protocol.

Byron Shire Council is one of the councils that will be consulted.

The latest information we have had is that this process will start before the end of May.

Areas to be examined by the Protocol review are likely to include but are not limited to: resources needed to manage film permits; the current application processes; permitted uses for designated council-controlled land and land use planning processes.

The review will also include a new IPART fee structure to support local government to better resource film management requirements.

e)Writes to other State authorities and organisations with land and infrastructure assets, such as Cape Byron Marine Park, NPWS, Cape Byron Headland Trust, Arakwal Corporation etc, notifying them of Council's position.

There has been informal contact with many of the above authorities and organisations about filming activities in Byron Shire. As part of the Protocol review further contact and dialogue will occur.

3.Supports our creative community to challenge the premise of the proposed Byron Baes.

Noted for the purposes of this report.

Resolution 21-207

At the Council Planning on 13 May 2021, a Matter of Urgency: Information and Support for Filming Activities in Byron Businesses and on Council Controlled Land was considered and Council resolved **(21-207)** as follows:

1. That Council:
 - a) disseminate information to the business community to inform them of their rights with regard to filming on their premises;
 - b) alert those who may be filming in private and or business premises that they are not to use that content for broadcast/publishing without express permission of the owner.
2. That this might take the form of media and information that might include but not be limited to:
 - a) print advertisements in local media;
 - b) community service announcements;
 - c) associated collateral material that can be used to inform business owners and assist them in asserting their rights; and
 - d) Direct enquiries to a suitable webpage / online portal via Council's website
 - e) adequately cover the cost of facilitating filming in the Shire.
3. That Council designate all filming related to the Byron Baes Production and the potential resulting broadcast media (the activity) as occurring under "exceptional circumstances" on the basis of:
 - a) the production's failure to engage with the indigenous community in respect of the impact of proposed filming on a location or community;
 - b) the potential for harm to the environment as a result of the activity;
 - c) the potential for harm to landmarks/buildings as a result of the activity;
 - d) disruption to businesses, of a kind that cannot be conditioned and which is not simply short term, particularly against the background of the previous year and the impact Covid has had;
 - e) unreasonable impacts on the day to day living of the community, both during the filming of the series and after the series concludes;
 - f) the potential for the community to protest, thereby creating an unsafe environment which increases a risk to the community.

Update on Resolution 21-207

Resolution points are addressed below:

1. **That Council:**
 - a) **disseminate information to the business community to inform them of their rights with regard to filming on their premises;**
 - b) **alert those who may be filming in private and or business premises that they are not to use that content for broadcast/publishing without express permission of the owner.**
2. **That this might take the form of media and information that might include but not be limited to:**
 - a) **print advertisements in local media;**
 - b) **community service announcements;**
 - c) **associated collateral material that can be used to inform business owners and assist them in asserting their rights; and**
 - d) **Direct enquiries to a suitable webpage / online portal via Council's website**

e) adequately cover the cost of facilitating filming in the Shire.

Council staff are looking at the types of information dissemination that can be resourced through existing funded staff time and budget.

5

An update to the Council web page and email to relevant business chambers, industry community groups about the resolution is a likely initial response. Print advertisements and community service announcement campaigns would need to be scoped and would require a new budget bid for FY21/22.

10

It should be noted that the filmmaker's responsibilities and obligations are recognised under the Protocol (and the Code of Conduct for Location Filming in NSW). This includes pre filming notification:

- 15
 - Obtain relevant approvals for the activity to be conducted.
 - Advise residents and businesses in the area by letter box drop of what is planned, when and where. Include details and conditions of the filming approval and provide a contact name and number at the production office and the location.
 - The letters should be delivered in time for people to make further inquiries if they
- 20
 - feel the need.
 - When filming for an extended period or undertaking activities with a high impact on community amenity, allow for community feedback on the proposed arrangements.
 - When filming on private land, the local council, police and community must be notified of the filming activity, even if specific approvals for filming are not required.
- 25
 - Particular consideration needs to be given to businesses whose trade could be adversely affected by filming activities.

The act of filming does not of itself require an approval by councils, nor is it subject to fees. What may require approval, and attract fees, are activities associated with filming where approval is required under legislated or regulatory authority or services are provided to the filmmaker.

The costs schedule below reflects the current costs under the Protocol which may be charged by councils in considering applications by filmmakers for approvals. The table provides a schedule of fees for applications for approvals and in relation to traffic management plans. The schedule sets out the maximum fees which may be imposed, although councils may choose to impose lower fees or no fees at all. Councils may only charge fees for services they provide.

40

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Ultra Low	Low	Medium	High
No more than 10 crew	11-25 crew	26-50 crew	> 50 crew
No disruption is caused to the Council's stakeholders, retailers or motorists or other events in the vicinity of the activities	No more than 4 trucks/vans	No more than 10 trucks	> 10 trucks
Activities are contained to footways or public open space areas only	No construction	Some construction	Significant construction
Public safety is maintained at the locations at all times during the conduct of the activities	Minimal equipment/lighting	Equipment used for example, dolly, trucks, medium-sized cranes, jibs	Extensive equipment
Vehicles associated with the conduct of the activities are legally parked at all times and are not driven onto footways, parks or plaza areas	Small or no unit base required	Unit base required	Large unit base required
	Usually 1-2 locations	No more than 4 locations	> 4 locations
\$0	\$0 - \$150	\$0 - \$300	\$0 - \$500

3. That Council designate all filming related to the Byron Baes Production and the potential resulting broadcast media (the activity) as occurring under “exceptional circumstances” on the basis of:

- a) the production’s failure to engage with the indigenous community in respect of the impact of proposed filming on a location or community;
- b) the potential for harm to the environment as a result of the activity;
- c) the potential for harm to landmarks/buildings as a result of the activity;
- d) disruption to businesses, of a kind that cannot be conditioned and which is not simply short term, particularly against the background of the previous year and the impact Covid has had;
- e) unreasonable impacts on the day to day living of the community, both during the filming of the series and after the series concludes;
- f) the potential for the community to protest, thereby creating an unsafe environment which increases a risk to the community.

The film application received from *Byron Baes* indicated:

- A cast & crew of ten people or less;

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- Filming predominantly on private land (homes and businesses);
- Filming on public land mainly 'general vision' which are general shots of the surrounds and only 2 camera operators on site (+ possible drone);
- No structures, no vehicles on public land, no access to Council's power, no amplified sound / generators, no road closures or hold and release.

As such, the production was categorised into the ultra low impact category within the Protocol and as such did not trigger any requirement for a permit to film on Council managed land.

Under the Protocol, councils are to ensure that requests for location film productions are able to occur, unless there are exceptional circumstances or legislation requires the council to refuse to grant the approval. The presumption is that councils will approve filming applications unless exceptional circumstances exist. A definition of 'exceptional circumstances' is not provided, however the Protocol is clear about what does not constitute such circumstances:

The Protocol also states that any refusal "must not relate to extraneous matters such as community disaffection, screen content or "quality control", or if a council holds a view that the content of the filming activity promotes values which it does not endorse (for example, violence, alcohol consumption, portrayal of a region in an unflattering manner).

Elected officials are entitled to be informed about proposed filming activity in their area. However, opposition from interested councillors, council staff, residents or other interest groups are not sufficient grounds for refusal. Under the Protocol councils have no editorial function provided the filmmakers are complying with the law. Nor do councils have the authority to withhold approval on the basis of content or moral grounds.

Council must also advise the applicant of the appeals process: if a filmmaker is dissatisfied with the conditions of approval or a decision to refuse an application, they should in the first instance speak with the relevant approving authority or other relevant Government agency where it is the landowner. They may subsequently seek mediation through the NSW Film and Television Office who may seek support from other relevant agencies such as the Department of Premier and Cabinet. Staff have requested further information about this process from Screen NSW.

The ability for councils to require approval and or refuse filming will be the subject of further discussion as part of the review of the Protocol.

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

- 21-152 & 21-207

5 Legal/Statutory/Policy Considerations

As discussed in the report.

Financial Considerations

As discussed in the report.

Consultation and Engagement

- 10 As discussed in the report.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.14 Pedestrian Safety and Amenity in Suffolk Park**Directorate:** Infrastructure Services5 **Report Author:** Cesar Giraldo, Project Engineer**File No:** I2021/283**Summary:**

The report present recommendations on safety enhancements for pedestrians in Suffolk Park as requested in **Council Resolution 20-432** which resolved that Council:

- 10 1. *Notes the advice from the Suffolk Park Progress Association regarding longstanding pedestrian access and safety issues on Broken Head Road, Beech Drive and Clifford Street.*
2. *Supports installation of marked pedestrian crossings as shown on the attached Pedestrian Amenity and Safety Plan at the following locations.*
- 15 a) *Broken Head Road adjacent to the nearby bus stops and the aged care home on the corner of Beech Drive.*
- b) *Southern end of Beech Drive adjacent to bus stop at the existing raised platform on the road.*
- c) *Clifford Street adjacent to the supermarket and shops.*
- 20 3. *With consultation, investigates further traffic calming and other treatments to slow traffic within the retail and service precinct as shown on the Pedestrian Amenity and Safety Plan including implementation of a 40kph or lower speed limit and a shared zone.*
- 25 4. *Notes that the proposed pedestrian crossings are consistent with project SP003 in the Bike Plan and projects SP003, SP005 and SP006 in the Pedestrian, Access and Movement Plan.*
5. *Refers the regulatory issues to the Local Traffic Committee to identify relevant regulatory requirements.*
- 30 6. *Identifies a funding pathway at the next Quarterly Budget Review and receive a further report.*

RECOMMENDATION:

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That Council:

1. Supports the installation of a pedestrian refuge at Broken Head Road as detailed in proposal at attachment 1 (E2021/60667).
2. Supports the enhancement of existing pedestrian refuges at the roundabout on the intersection of Broken Head Road and Beech Drive.
3. Considers for inclusion of supporting refuge and enhancements in the 10 year capital works program.
4. Staff seek funding opportunities for construction to occur as a priority.

Attachments:

- 1 Pedestrian refuge locations, E2021/60667
- 2 Pedestrian and traffic count reports, E2021/60666

1.

Report

Following Council Resolution 20-432, staff have completed site inspections and detail review of the Pedestrian Amenity and Safety Plan proposed by the Suffolk Park Progress Association (SPPA).

- 5 Additionally, Council has engaged consultants to complete traffic and pedestrian counts on Broken Head Rd, Clifford St and Beech Drive. The summary of findings are provided in attachment 1.

Warrants for pedestrian crossings are explained in the following TfNSW document:

- 10 • Roads and Maritime Supplement to AS1742.10-2009: Manual of Uniform Traffic Control Devices – Part 10: Pedestrian control and protection – Version 3

The following table is a summary of the TfNSW warrants. Under Normal Warrants if the vehicle flow per hour is $V = 500$, then the minimum pedestrian flow per hour must be $P = 120$ people per hour for 3 hours (being $60,000 \div V$).

	Pedestrian flow per hour (P)	Vehicle flow per hour (V)	PxV
Normal Warrants ¹	≥ 30	≥ 500	$\geq 60,000$
Reduced Warrants#1 ²	≥ 30	≥ 200	-
Reduced Warrants#2 ³	≥ 30	≥ 20	$\geq 60,000$
Special Warrant ⁴	≥ 30	≥ 500	$45,000 \leq PxV \leq 60,000$

Notes:

- 15 1. Normal Warrant values must be met in three separate one hour periods in a typical day.
 2. Reduced Warrants#1 apply where the site is used predominately by school children, is not suitable site for a Children's Crossing and (P) / (V) values are met in two counts of one hour duration immediately before and after school hours.
 20 3. Reduced Warrants#2 apply if at least 50% of pedestrians using the crossing are aged or impaired and (P), (V) & (PxV) values are met in three one hour periods in a typical day.
 4. Council must justify why this location is in need of a special crossing.

Based on the measured data from the latest and historical traffic counts, warrants for marked (Zebra) pedestrian crossings on Broken Head Rd, Clifford St and Beech Drive are not met.

- 25 Traffic and pedestrian volumes are substantially lower than the requirement set by TfNSW shown on the table above. Furthermore, Council does not have the delegated authority to install a marked (Zebra) pedestrian crossing without TfNSW approval. To receive this approval Council needs to meet the above warrants.

- 30 Measured traffic volumes and speed completed in April 2021 detailed the 85 percentile speed to be on average 45km/h (5 km/h under posted speed) on Broken Head Road. Moreover, 85 percentile speed in Clifford St measured in August 2019 resulted in 43Km/h (7Km/h under posted speed).

Traffic behaviour has not change in this area based on the latest and historical traffic counts available. Based on the above findings TfNSW is not likely to undertake a speed zone review on Broken Head Rd or Clifford St.

Options

- 5 Council acknowledges the increased number of pedestrians crossing Broken Head Rd between Clifford St and Beech Av to access the beach, sporting facilities, age care centre, shopping area, bus stations, etc.

As an alternative to marked zebra crossings, staff propose the following safety enhancements on Broken Head Rd to meet existing and future pedestrian movements which are in accordance with PAMP:

- 10
1. Install pedestrian refuge on Broken Head Rd adjacent to RSL Age Centre to provide safe access to bus stops.
 2. Enhance safety at existing pedestrian refuges around the roundabout located on the intersection of Beach Drive and Broken Head Rd. Safety enhancement will include additional signage (W6-1)(W8-25), paving markings and holding rail.
- 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	1.3	Support, through partnership, a network of integrated sustainable transport options	1.3.1	Ensure an integrated and accessible transport network (SP)	1.3.1.2	Delivery prioritised Pedestrian and Access Mobility Plan (PAMP) facilities

Financial Considerations

No budget source has been allocated to this project.

- 20 The total budget required to complete the above options is \$65,000.

Consultation and Engagement

Proposed crossings are consistent with projects SP003, SP005 and SP006 in the Pedestrian, Access and Movement Plan.

Report No. 13.15 Rifle Range Road to Bangalow Shared Path

Directorate: Infrastructure Services

Report Author: Katie Hughes, Project Engineer

File No: I2021/380

5 Summary:

An application for funding for the Rifle Range Road to Bangalow Shared Path was made to the Bushfire Local Economic Recovery (BLER) Fund. Results of the application are expected by mid-2021.

10 The route selected in this concept design generally aims to minimise building over the rail tracks due to the potential for approval delays, asbestos contamination and additional costs resulting from civil works required to cap and preserve the rail infrastructure.

The Bangalow Progress Association has reviewed the proposed route with representatives from the Place Planning Collective, Bangalow Chamber of Commerce and the Northern Rivers Rail Trail and has submitted an alternate route.

15 This report recommends a path forward with consideration of the above.

RECOMMENDATION:

20 That Council:

1. Supports further investigation of design options for a shared path from Rifle Range Road to Bangalow utilising the rail corridor, west of Bangalow Railway Station.
- 25 2. Supports staff to commence discussions with the Bangalow Showgrounds Committee regarding the possible position and placement of a shared path through the showgrounds.
3. Supports an application to TfNSW and John Holland for the construction of a shared path within the rail corridor and along the rail line west of Bangalow Railway Station.

30 Attachments:

- 1 2846-Prelim Set-19 Nov 2020, E2021/57048
- 2 Bangalow Shared Path Draft Community Concept Plan_JB_, E2021/57272

35

Report

An application for funding for the Rifle Range Road to Bangalow Train Station Shared Path was made to the Bushfire Local Economic Recovery (BLER) Fund. The concept plans provided with the application are attached to this report at Attachment 1. Results of this application are expected by mid-2021.

The route selected in this concept design generally aims to minimise building over the existing rail tracks due to the potential for approval delays, asbestos contamination and additional costs resulting from civil works required to cap and preserve the rail infrastructure.

The Place Planning Collective and Bangalow Progress Association have been consulted on the proposed plans. The Bangalow Progress Association has reviewed the proposed route with representatives from the Place Planning Collective, Bangalow Chamber of Commerce and the Northern Rivers Rail Trail and has submitted an alternate route that is provided at Attachment 2.

Should the grant application be successful Council Staff will consult with key community groups when completing the draft designs. Where practicable Council could incorporate the requested amendments, if supported by Council.

Approval would be required from TfNSW and John Holland for both path routes. TfNSW have indicated they are likely to accept the path on the rail track west of Bangalow Train Station contingent upon a formal application being made and the rail infrastructure being preserved. TfNSW have indicated that the license will likely include a condition for Council to maintain the corridor surrounding the path including vegetation management.

Placement of the path on the rail line west of the existing Bangalow Railway Station is not expected to impact of the potential for future use of the railway between Bangalow and Byron Bay.

Key issues

The first key area in which Councils proposed plan differs from those proposed by the community is Section 7 and 8 below. Council will consider this suggestion by the community with consideration for any potential conflict with future plans for the rail corridor east of the Bangalow Railway Station and budget constraints. A key consideration is to ensure the design does not compromise future use of the corridor in line with the Multi Use activation of the Rail Corridor



Figure 1: Community Suggestion at Railway Station

The second key area in which the community's suggestions differ from the path shown in the grant application is the connection to the sportsgrounds. Connection to the sportsgrounds was a key objective of the grant application.

The proposed route shown in Council's plans utilises the existing footpath on Leslie Street and Rankin Drive to connect to the sportsgrounds. This route has a connection to, rather than through the showgrounds opposite Hanlon Court.

The route suggested by the community shortcuts through Bangalow Showgrounds as shown below. There are a number of pinch points for this route including the carpark adjacent to the Bangalow A&I Hall and the laneway to the east of the hall. Consultation will be required with the Showgrounds Committee for this route.

The route suggested by the community requires the construction of 50% more new path and therefore will be significantly more expensive than the route proposed by Council Staff. Council's suggested route includes the construction of approximately 1km of new path which was costed at \$1,600,000.

The community suggested route is approximately 1.5km long and based on price per meter would cost approximately \$2,400,000. A detailed costing of the community suggestion is yet to be undertaken and this does not take into account the greater path

width in the community's suggestion or the potential for less earthworks where the community path is located over the existing rail line. Council will undertake a detailed costing of both routes prior to making a determination.

- 5 Despite these issues this route offers a shorter connection and provides safer pedestrian and cyclist routes in highly pedestrianised areas so staff support investigations to deliver these suggestions where practicable.



Figure 2: Community Suggestion at Showgrounds

Contamination

- 10 There is potential asbestos contamination in the rail corridor. Contamination testing will likely be required at project initiation. If significant contamination is discovered Council will investigate treatment costs verses re-routing the path around the contamination.

Other Land Ownership.

- 15 Sections of the path are located on a Crown Reserve and Crown Waterway. Byron Shire Council is the land manager of these parcels so a native title worksheet will need to be undertaken in consultation with Councils Native Title Manager.

- 20 Sections of the path are located on land subject to Non-exclusive Native Title over Byron Creek. This represents a minor timing risk and will need to be actioned immediately after receiving confirmation of the grant. Works are expected to be either permitted under Section 175 Roads Act or a 2-month approval process may be required from Crown as a worst case scenario for approval of the construction of the bridge.

Next steps

It is proposed that staff investigate the community route further. This will include consulting further with the Bangalow community, the Bangalow Showgrounds Committee and applying for a license to utilise the rail corridor with TfNSW and John Holland.

- 5 Pending a successful outcome of the Bushfire Local Economic Recovery grant application this project would then enter into the detailed planning and design and construction phase of the project.

Staff will report back to Council with the consultation and license applications results, an agreed shared path route and more detailed project costs.

10 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	1.3	Support, through partnership, a network of integrated sustainable transport options	1.3.1	Ensure an integrated and accessible transport network (SP)	1.3.1.2	Delivery prioritised Pedestrian and Access Mobility Plan (PAMP) facilities

Consultation and Engagement

- 15 The Place Planning Collective and Bangalow Progress Association have been consulted on the proposed plans. The Bangalow Progress Association has reviewed the proposed route with representatives from the Place Planning Collective, Bangalow Chamber of Commerce and the Northern Rivers Rail Trail and has submitted an alternate route.

- 20 The Byron Shire Bike Plan and Pedestrian Access and Mobility Plan shows the path on the rail line as a Priority A project. A shared path on Lismore Road and connections to the rail from Rankin Drive are shown as Priority B while the shared path on Leslie Street and connection to the Showgrounds are shown as Priority C. Below is the Bangalow Map from the Bike Plan.

13.15

Figure 3: PAMP Plan

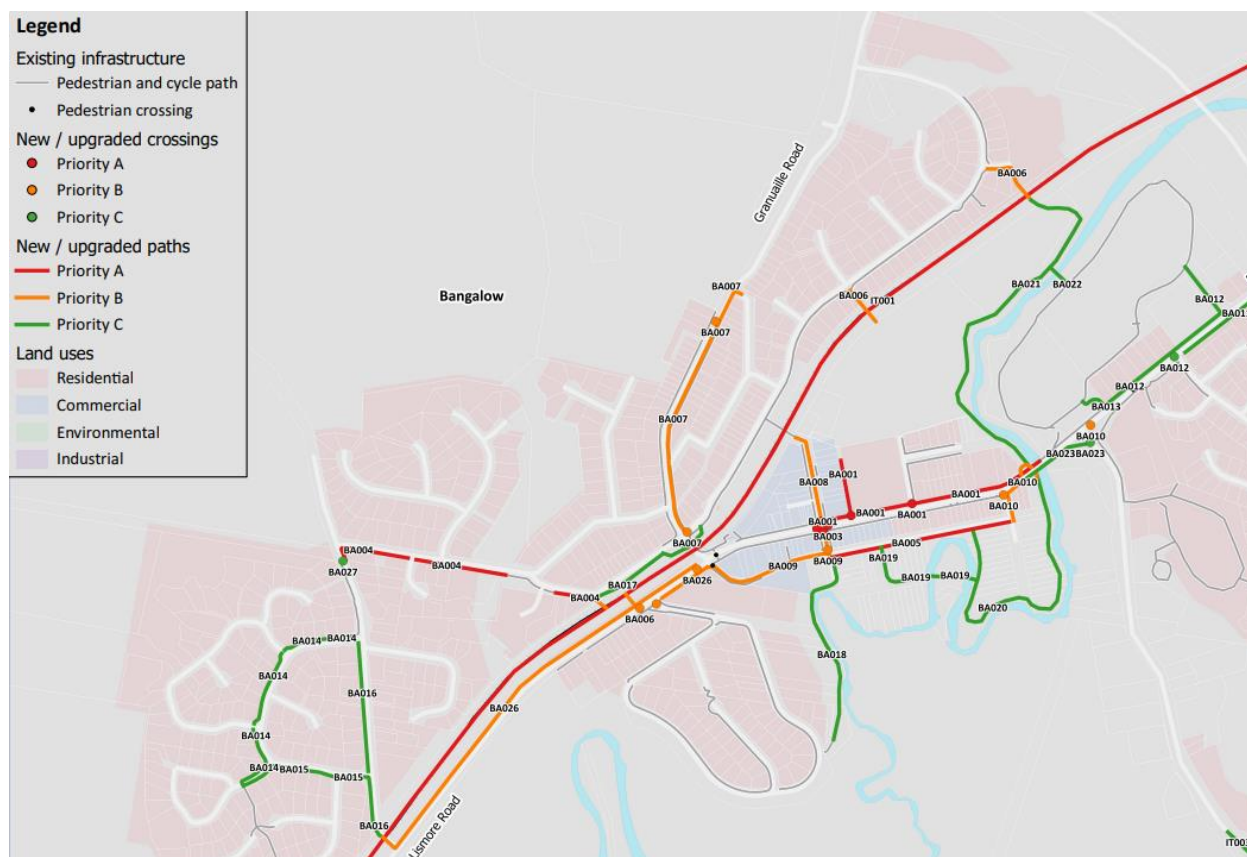


Figure 4: Byron Shire Bike Plan

- 5 The Bangalow Village Plan and Implementation Plan identifies improved cycle and walking facilities as one of the three “highest priority positions as identified by the Bangalow Village Guidance Group and the Bangalow community”. A walk/cycle route from Rifle Range Road to the sports fields is listed as the first priority and the below figure is provided as a suggested route. While it appears the route does not align well with the background image it generally depicts a path on or near the rail line with connections to the sports fields over Byron Creek.

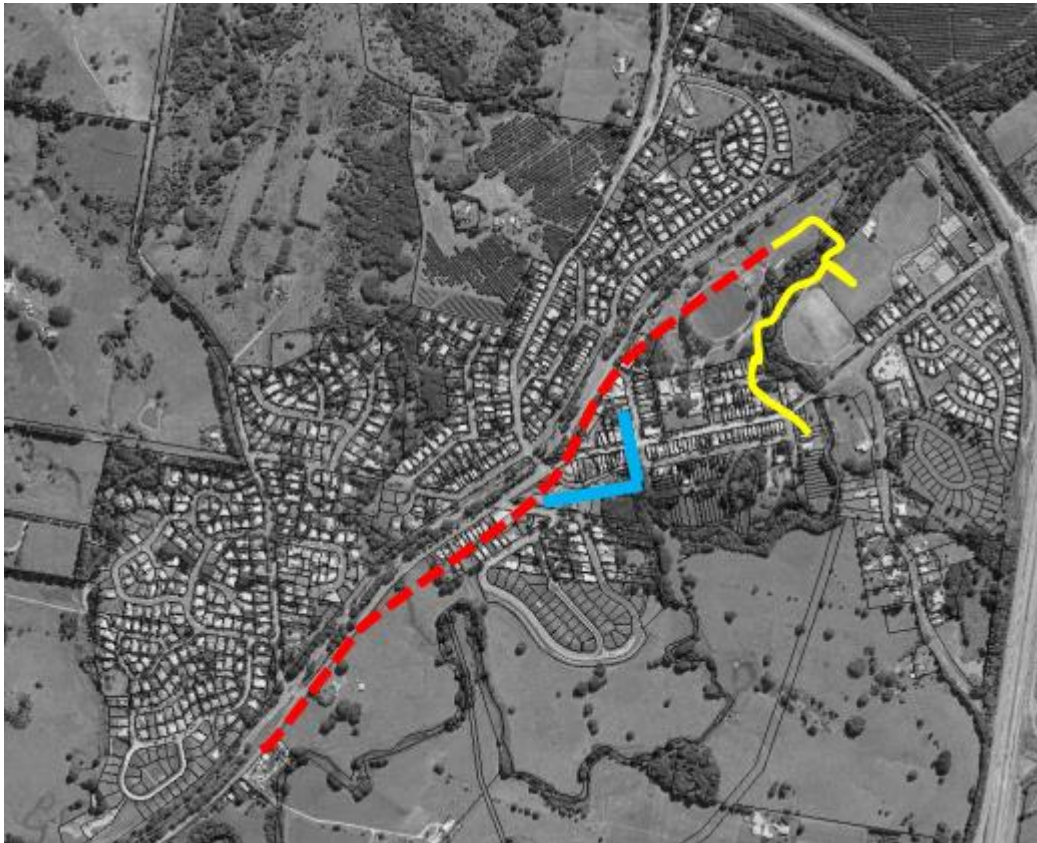


Figure 5: Bangalow Village Plan

- 10 A new path constructed on the rail line is identified as a Priority A upgrade in both the Pedestrian Access and Mobility Plan (PAMP) and the Byron Shire 10 Year Bike Plan. A path on Lismore Road is identified as a Priority B project while upgrades on Leslie Street are identified as Priority C.

Report No. 13.16 Proposal to Name Mullumbimby Creek Bridge currently known as Azalea Street Bridge.

Directorate: Infrastructure Services

5 **Report Author:** Deanna Savage, Roads and Property Officer

File No: I2021/352

Summary:

10 The purpose of this report is to seek direction on the naming of the bridge that goes over Mullumbimby Creek near the corner of Jubilee Avenue and Azalea Street. Currently the bridge is not signposted and officially named however is informally known as the 'Azalea Street Bridge'.

15 **RECOMMENDATION:**

That Council:

1. Supports the proposal put forward by the Board of Directors of Bundjalung of Byron Bay Aboriginal Corporation (Arakwal) (BOBBAC) and name the bridge "King Bobby Bridge"
- 20 2. Funds the installation and maintenance of a sign from the Bridges Inspection fund Account No 44026.18 in the New Financial Year commencing on 1 July 2021.

Attachments:

- 25 1 Email from Stephen Hall - Brunswick Valley Historical Society - Signposting 'Livingstone Bridge' Newsletter story, E2021/49950
- 2 Response to Livingston Bridge signposting from BOBBAC's meeting board of directors Arakwal, E2021/49985

30

Report

Council was approached by the Brunswick Valley Historical Society, as per *Attachment 1 E2021/49950*, requesting to have the bridge that goes over Mullumbimby Creek nearing the corner of Jubilee Avenue and Azalea Street named "Livingston Crossing" after a local Pioneer. Currently the bridge is not signposted however is informally known as the 'Azalea Street Bridge'.

As this particular bridge crosses a Crown Waterway that has non-exclusive Native Title rights, the request was sent to Bundjalung of Byron Bay Aboriginal Corporation (Arakwal) (BOBBAC) for comment.

The Board of Directors of BOBBAC did not endorse the name chosen for the bridge by the Brunswick Valley Historical Society, and as per *Attachment 2 E2021/49985* have responded with their own recommendation to name the bridge "King Bobby Bridge" an important Arakwal ancestor.

Both *Attachment 1 E2021/49950* and *Attachment 2 E2021/49985* outline each names historical significance and give great past references on each proposed name.

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	1.1.2	Develop maintenance levels for road network infrastructure in line with Community Solutions Panel values (SP)	1.1.2.1	Undertake bridge inspection program to identify and prioritise scheduled maintenance and renewal of bridge components or bridges

Legal/Statutory/Policy Considerations

Council is guided by Geographical Naming Board standards. There is no particular legislated requirement for naming Bridges. The Geographical Naming Board suggests to Councils to follow normal road naming principles for naming Bridges.

Council also has no policy in place for naming Bridges.

Financial Considerations

The cost of installing/managing signage for bridge naming normally sits with Council so funding would need to be found and allocated. The approximate cost for this would be

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\$1,000 which could come out of the Bridges Inspection fund Account No 44026.18 in the New Financial Year 1 July 2021.

Consultation and Engagement

Council Staff

- 5 Bundjalung of Byron Bay Aboriginal Corporation (Arakwal)

Brunswick Valley Historical Society

Report No. 13.17 Linda Vidler Park Masterplan

Directorate: Infrastructure Services

Report Author: Malcolm Robertson, Team Leader Open Space

File No: I2021/575

5 Summary:

Council resolved **20-068** - That Council;

- Develops a Masterplan for the Reserve that is subject to further community consultation and which is reported back to Council for adoption.
- Allocates a budget of \$10,000 from the Open Space Suffolk Park Reserve for the development of the Masterplan

The Masterplan development for Linda Vidler Park has been progressed to the stage of Public exhibition and has been developed from face to face consultation with key stakeholder groups. The Draft Masterplan has now been developed for public exhibition to allow further input from the wider community and existing key stakeholder groups.

RECOMMENDATION:

That Council:

1. Endorses the exhibition of the Draft Linda Vidler Park Masterplan as shown in Attachment 1 (E2021/54410) for 28 days.
2. Approves advertisement for expressions of interest to establish a Community Garden within Linda Vidler Park
3. Receives a further report at the close of the exhibition period detailing the community response received to the Plan and any recommended or necessary amendments to the Masterplan.

Attachments:

- 1 Linda Vidler Park Draft Masterplan higher res A3, E2021/54410
- 2 Linda Vidler Draft Masterplan- large format plan, E2021/54413
- 3 Concept 7 - SPFC proposal for Linda Vidler Masterplan, E2021/65343
- 4 SPFC Communications around Masterplan, E2021/65351

Report

A Masterplan for the Linda Vidler parklands is intended to provide a framework and implementation plan for the future development, upgrade and management of this precinct.

- 5 The Masterplan is intended to coordinate diverse considerations and aspirations into a strategic long term vision for the precinct as an active and passive recreational precinct. The draft Masterplan as developed is considered and evaluated alternative uses against the overall goals and needs of the Community, in alignment with the adopted Plan of Management.
- 10 The Masterplan also aims to optimise the park through provision of safe and accessible facilities for the enjoyment of the community whilst maximising recreational opportunities, and protecting important environmental and cultural values. The precinct is intended to be an open space for the whole community, a multi-functional, multi-generational and flexible space that promotes learning and interaction and allows for repose, relaxation, and both
- 15 informal and organised activity.

There are some known parameters that will be retained such as the existing recreation components (football / tennis / skate / bocce / playground / pump track) and there are some constraints around the required drainage across the site.

- 20 The existing Plan of Management contained an indicative concept layout for the parklands, identifying possible locations for infrastructure. Community engagement was undertaken in relation to the Plan of Management and this identified components of the concept master plan that were supported, including;

- BMX pump track
- Community Gardens and indigenous food plantings
- 25 • Nature play.
- Exercise station.
- Improved access, circulation and connectivity including paths which meander through the forest
- Shelters, seating, and water points
- 30 • Cultural and environmental interpretation
- Potential community events / market use

The draft Masterplan now seeks to integrate the desired elements within the constraints of existing and required infrastructure.

Background

- 35 This land was previously held by the Department of Education. In 2001 Council initiated negotiations to gain licenced tenure to enable the construction of a sports field on part Lot 60 DP 817888. A Deed of Licence was executed on 1 April 2004 for a term of five years with two (2) options of renewal. The Deed of Licence a terminated on 31 December 2018.

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On 23 August 2012 Council received a proposal from the Suffolk Park Progress Association Inc. to construct a community garden, children's bike course and mini sports field within the balance of Council's licensed area over part Lot 60 DP 817888.

- 5 When the Department of Education determined that the land was not required for school purposes, plans were developed to sell of the land for private residential purposes. Recognising the community need for open space, on 23 June 2017 Council successfully settled on purchase of the land.

Council Resolved **19-448** on 19 September 2019 to adopt the Plan of Management for the Suffolk Park Recreation Grounds.

- 10 Council subsequently resolved 19-608 on 29 November 2019 to name the parcel of land as Linda Vidler Park, recognising a prominent local citizen and Arakwal elder.

Key issues

Drainage

- 15 Linda Vidler Park is a no-fill zone. Drainage on the site is currently poorly formed and impacts current and any future development. Consultants Engeny have been engaged to complete draft drainage plans for the Linda Vidler Precinct. This drainage plan considers flood impacts and incorporates WSUD for the site, seeking to allow potential water supply to the community gardens through a retention pond.

- 20 Drainage concepts have been prepared and shared with all stakeholders. All stakeholders agree the Masterplan drainage proposed is an essential improvement to allow the park to be fit for purpose. Concept layouts created to date have been seen as acceptable by all key stakeholders. The agreed approach is to minimise impacts to existing flora and fauna, and this will maintain precedent over drainage flow rates.

Community Gardens

- 25 The Suffolk Park Community Gardens have a vision for a garden designed around permaculture principles. There are extensive plantings established within the community gardens and the Community Gardens Committee have desire that existing plantings are respected and wherever possible incorporated into design.

- 30 Community desire for bush tucker plantings aligns well with the vision of the Community Gardens and the draft plan seeks to allow continuity between designated bush tucker and community gardens areas.

- 35 The Community Gardens committee have a strong desire to improve and develop the gardens space. Adoption of the Masterplan will allow a formal licence for the Community Gardens to be granted, and this tenure will allow the group to seek external grant funding for future developments. It is proposed that expressions of interest in establishing a Community Garden are sought in parallel with the public exhibition of the draft masterplan.

Suffolk Park Football Club

5 The Suffolk Park Football Club (SPFC) has strongly lobbied for expansion of playing fields to be included within the Masterplan and have independently developed a range of concept designs for the land. SPFC have provided 14 written submissions to Council inputting to the Masterplan process, including a detailed brief on 19 January 2021 following the initial site meeting.

All information submitted by SPFC has been referenced in the development of the draft Masterplan, however their desire for additional playing fields has not been realised within the draft because of impacts to other key uses and limitations on available land.

10 SPFC attended the first round of consultation, but subsequently withdrew from future engagement, advising that SPFC club policies do not allow for this style of engagement.

15 Council staff offered SPFC opportunities to reschedule a meeting at their convenience and an additional engagement with the club was held on Friday 7 May. At this meeting SPFC committee members noted the planned improvements to SPFC facilities included within the preliminary sketches, but noted that their aspirations for additional fields is not included in the Masterplan. They tabled a new "Concept 7" for the park that they had generated in April and have been undertaking their own engagement with stakeholders.

20 This new SPFC concept places two additional junior fields adjacent to the Community Gardens area. This concept has been included for reference (Attachment 3). It needs to be noted in viewing this concept that the scale of the proposed junior fields is incorrect, showing them around 25% smaller than actual.

Suffolk Park Farmers Markets

25 A new group representing a proposed Suffolk Park Farmers Markets has been in contact with Council. It was considered appropriate that a proposal for this type of activity needed to be given consideration alongside the other community desires for the park so that potential options to accommodate a market, or similar community activities could be addressed.

30 To date no formal proposal for a new Farmers Market has been received. Council staff are continuing discussions and looking to assist the group as required, with any future outcomes to be subject to the process as outlined within Council's adopted Sustainable Community Markets Policy and Guidelines.

Next steps

35 It is recommended that the draft Masterplan will be placed on public exhibition for a period of 28 days. Community feedback and any required amendments to the draft plan will be considered prior to returning the matter to Council for adoption.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 3: We protect and enhance our natural environment	3.2	Strive to become a sustainable community	3.2.2	Support community environmental and sustainability projects	3.2.2.3	Support community gardens in accordance with the Policy and Guidelines
Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community	2.3	Provide accessible, local community spaces and facilities	2.3.7	Deliver Open Space and Recreational services in line with Community Solutions Panel values (SP)	2.3.7.8	Deliver adopted infrastructure within the Suffolk Park Recreation Ground in accordance with POM and Community consultation

Financial Considerations

- 5 There are no direct financial implications from the development and adoption of the Masterplan. Funding exists within the Suffolk Park Open Space Developer Contributions reserve. These funds are intended to be leveraged for future grant funding opportunities to allow construction of Masterplan infrastructure.

Consultation and Engagement

- 10 Information gained through the Plan of Management engagement process was used as a starting point for development of the Masterplan.

Consultation to date has been undertaken with key stakeholders Arakwal Corporation, Suffolk Park Progress Association, Suffolk Park Community Gardens and Suffolk Park Football Association (SPFC). Stakeholder meetings hosted by Council and Plummer and Smith Landscape Architects were held on 25 November 2020 and 3 March 2021.

- 15 Key stakeholders attended both meetings, with the exception of SPFC. SPFC attended the first round of consultation, but on invitation for the second round SPFC advised that this

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process did not fit within their club policies and procedures. SPFC confirmed that their representatives were unable to attend any meeting unless they received a draft Masterplan 5-7 days in advance of the meeting.

- 5 SPFC had previously sent multiple written submissions to Council inputting to the Masterplan process, including a detailed brief on January 19th 2021 following the initial site meeting. All information submitted by SPFC was referenced in the development of the draft Masterplan.

- 10 Council staff acknowledged in response to SPFC that they understood the upgrade detail that the club wished to see within the Masterplan and offered an opportunity for a rescheduled meeting to discuss the matter at the club's convenience. A second round of consultation with the SPFC was subsequently completed on 7 May 2021.

- 15 SPFC have indicated to Council that they believe consultation with the club has been inadequate. For reference, a table indicating engagement and communications between Council staff and SPFC leading to the draft Masterplan has been included as Attachment 4.

- 20 A new group representing a proposed Suffolk Park Farmers Markets has been in contact with Council. It was considered appropriate this a proposal for this type of activity needed to be given consideration alongside the other community desires for the park, and therefore appropriate to engage with this group as a new stakeholder. To date no formal proposal for a new Farmers Market has been received. Council staff are continuing discussions and looking to assist the group as required.

Report No. 13.18 Former South Byron Sewage Treatment Plant - Sewage Treatment Ponds and Stage 2B Remediation Completion

Directorate: Infrastructure Services

5 **Report Author:** Nikki Bourke, Project Officer

File No: I2021/640

Summary:

10 The Stage 2B Remediation of the former South Byron Sewage Treatment Plant (STP) is due for completion in July 2021. Once the EPA accredited Contaminated Site Auditor (the Auditor) sign-off is received the decontamination of the land-based portion of the site will be deemed complete. However there are remaining risks associated with the former sewage ponds remaining on site.

This report proposes a pathway to mitigate those risks.

15

RECOMMENDATION:

1. That the following studies be undertaken for the former South Byron Sewage Treatment Plant tertiary ponds:
 - 20 a) A detailed site investigation for the sewage ponds to characterise the contamination risk; and
 - b) An options and cost-benefit assessment to mitigate risks associated with retaining the sewage ponds.
- 25 2. That the recommendations from the above studies be reported to Council.

Report

The remediation of the former South Byron STP has consisted of three works phases:

- Stage 1 – demolition of infrastructure,
- Stage 2A – remediation of nightsoil area containing potentially mobile contaminants (hydrocarbons), and
- Stage 2B – remediation of remaining land-based contamination.

The Stage 2B remediation works contract is due for completion in July 2021. Works in accordance with the site's detailed remediation action plan are complete, along with site profiling and placement of topsoil. Remaining tasks include landscaping (revegetation and hydromulching), boundary fencing of the site and an on-maintenance period.

A Site Validation Report and Long-Term Environmental Management Plan will be completed and reviewed by the Auditor. Once Auditor sign-off is received, the decontamination of the land-based portion of the site will be deemed complete.

Risks remain on the site that are associated with the former sewage tertiary settlement ponds that remain on site. These risks are discussed further below.

A future report will also be prepared for the incoming 2021 Council to report on the receipt of Auditor sign-off and enable their deliberations on the future use of the site.

Key issues

In accordance with resolution **19-677**, consideration of the future use of the site has paused while the site remediation is completed. In turn this has delayed Operations Plan action 1.5.4.1, the remediation of the tertiary ponds which are linked to future use.

The former sewage tertiary settlement ponds (sewage ponds) are two ponds that are situated adjacent to Tallow Creek and are no longer hydraulically connected to the creek. They were constructed in 1972 and were used to settle out any sediments remaining in the effluent following the upstream treatment processes.

Investigations to date have indicated that biosolids/sediments at the base of the ponds are between 0.3 - 0.9 m thick. Depending on the nature of the sewage catchment (residential/commercial/industrial), various levels of contaminants can be present in such sediments.

Contamination risk:

Three reports to date have included an investigation of contaminants in the sewage pond sediments and surface waters contained within the ponds. Two of these investigations were preliminary sampling events of a general suite of contaminants, and the most recent investigation assessed the presence of per- and polyfluoroalkyl substances (PFAS).

A brief summary of the reported findings are as follows:

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- 5 • Landpartners 2007 – Reported that the collection and deposition of metals bound to organic chelating compounds within the sewage ponds may yield metal concentrations in excess of the Human Investigation Levels as defined by NEPM (1999). The report recommended that further investigations are conducted to ascertain the:
 - depth and distribution of biosolids within the tertiary pond area;
 - the presence and concentration of any potential contaminants contained within both the biosolid accumulations as well as the underlying sediment; and
 - 10 ○ the presence and concentration of any potential contaminants contained within the waters overlying the biosolid accumulations.
- Cavvanba 2012 – Findings included:
 - Asbestos baffles and pipes were noted submerged within the ponds;
 - 15 ○ Topsoil and black organic material from pond embankments was sampled and analysed for metals, pesticides and polychlorinated biphenyls (PCBs). All results were below the residential and ecological investigation levels;
 - Eight sediment samples collected from the ponds returned concentrations of heavy metals below the parks/open space criteria. A preliminary evaluation against the sediment quality guidelines (ISQG) indicates that the
 - 20 concentrations exceed the Low ISQG for cadmium, copper, lead, nickel, zinc and mercury, and exceeded the High ISQG for copper, zinc and mercury, and to a lesser extent, nickel.
 - The surface water investigation of the tertiary ponds indicated that the water
 - 25 bodies are not significantly impacted as a result of the STP, with minor exceedances of copper, mercury and biological contaminants detected within the tertiary ponds. The waters of both ponds are of a similar quality, and do not appear to be stratified. The surface water can be described as relatively neutral pH, fresh, poorly oxygenated and moderately reducing.
 - 30 • GHD 2019 – There were minor detections of PFAS in the surface waters of the sewage ponds and in one sediment sample, a comparison with the adopted assessment criteria indicates the concentrations detected are below relevant PFAS guidelines and do not pose a significant risk to human or ecological health.
- 35 It has been the general advice of the environmental consultants and Auditor engaged that, in relation to contamination, there is very low risk to human or ecological health while the sediments and asbestos remain submerged and undisturbed within the sewage ponds.

Public safety risk:

Retaining the sewage ponds in their current state poses potential public safety risks. The two notable risks are:

- 5 • Risk of exposure to contaminants – entering the ponds may result in a person coming into contact with contaminated sediments. As sediment contamination levels are considered to be low and surface waters not impacted, a person would have to consume sediments for this to be a risk of significant concern.
- 10 • Risk of injury or drowning – the design of the ponds are such that they have steep, almost vertical banks around the perimeter and waters are up to 2 – 3 metres in depth. The pond design does not allow for footholds to exit the ponds should a person enter or fall into them. Additionally, in the years since decommissioning the STP, natural revegetation of the embankments has led to the presence of water weeds obscuring the edges of the ponds.

15 Some public safety mitigation measures are in place with both sewage ponds being surrounded by a three strand farm fence. Clear signage stating that swimming is prohibited is also present to the north and south of the sewage ponds. Should the ponds remain in their current state in perpetuity, improved public safety measures such as high security/exclusion fencing and additional signage is recommended to further mitigate risk.

Options

20 It is anticipated that the future use of the site will be considered by the next elected Council. In anticipation of this work, several options exist to advance operations plan action 1.5.4.1 and further assess the risks associated with the ponds including:

- 25 • Detailed contamination investigations of the ponds to supplement the historical sampling and ascertain a clear understanding of public and ecological health risks. This would be required to develop a remediation action plan and/or a design and works methodology if reshaping the ponds is desired;
- 30 • Remediation of the ponds may be required to remove or cap sediments should contaminants be found to exceed human or ecological health levels;
- 30 • Reshaping ponds may be required or desired to mitigate public safety risk. This could involve altering/reducing the batter slopes, reducing the depth, and/or naturalising and joining the ponds to provide one water body for environmental, aesthetic and passive public recreation reasons;
- 35 • Filling in the ponds to remove them altogether; or
- 35 • “Do nothing”. It should be noted that this option still requires a capital and operational investment in upgraded security/exclusion fencing (1.8m cyclone + barbed wire topped), maintenance and increased signage. This would also have a negative aesthetic and recreational impact in what is considered to be a prime coastal land parcel.

Next steps

It is recommended that the next steps are to:

- Undertake a detailed site investigation specific to the sewage ponds to complete any data gaps in understanding the contamination risk and to determine whether any remediation is required;
- Undertake an options and cost/benefit assessment to address contamination and public safety risks;
- Report the findings and recommendations to Council; and
- Implement any actions as resolved by Council.

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	1.5	Provide continuous urban water and sewerage services within the Shire	1.5.2	Ensure Wastewater Treatment Plants are maintained in accordance with operating licences	1.5.2.4	Compete Stage 2 South Byron Sewerage Treatment Plant Remediation

Recent Resolutions

- **Report No. 13.17 2019-0034 South Byron STP Remediation - Stage 2B Works**

File No: I2020/1401

20-491 Resolved:

1. That Council awards Tender Contract 2019-0034 South Byron STP Remediation - Stage 2B Remediation to the tenderer recommended on page 9 of the Confidential Tender Evaluation Report (Attachment 1 - E2020/71322).

2. That Council makes public its decision, including the name and amount of the successful tenderer, in accordance with Clause 179(b) of the Local Government (General) Regulation 2005. (Richardson/Cameron)

- **Report No. 13.34 1 Broken Head Road Project**

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File No: I2019/1923

19-677 Resolved:

1. That Council decline to accept any of the tenders submitted for RFT 2019-0015 – 1 Broken Head Road Redevelopment.

5 2. That Council, in accordance with s178 part 3(a) under Local Government Regulation 2005, cancel the proposal for the contract.

3. That Council pause action on the future use of the site whilst the remediation of the site is completed. (Spooner/Hackett)

• **Report No. 13.24 Former South Byron STP - Options for Redevelopment**

10 File No: I2017/230

17-225 Resolved:

1. That Council retain ownership of the former South Byron STP site and proceed with the proposed Preliminary Expression of Interest process for the possible redevelopment of the site.

15 2. That Council complete remediation of the site as proposed in the Draft 2017/18 Budget.

(Richardson/Hunter)

The motion was put to the vote and declared carried.

Legal/Statutory/Policy Considerations

20 The Contaminated Land Management Act 1997 (NSW) establishes a process for the EPA to identify, investigate, and remediate land that it considers to be contaminated significantly enough to require regulation. Contaminated land is also regulated under the Environmental Planning and Assessment Act 1979 (NSW), and State Environmental
25 Planning Policy 55 - Remediation of Land, whether or not the EPA regulates the site under the Contaminated Land Management Act 1997 (NSW). Water and land pollution, which may cause contamination, is regulated under the Protection of the Environment (Operations) Act 1997 (NSW).

The Local Government Act 1993 (NSW) and the Civil Liability Act 2002 (NSW) are relevant to public safety matters and the management of foreseeable risk.

30 Relevant council policies include:

- Management of Contaminated Lands Policy 2008; and
- Risk Management Policy 2019.

Financial Considerations

5 General Ledger 7649.005 South Byron STP Remediation has \$36,000 allocated in the 2021-2022 financial year which would enable the recommended investigations to commence. Additional funds would need to be allocated to complete the studies and any recommended/resolved works. Additional funds would likely be sourced from Council's sewer fund in consultation with Council.

Consultation and Engagement

10 Community and key stakeholders have been consulted extensively for the former South Byron STP site remediation and future use projects undertaken to date. Various stakeholders have expressed strong views with respect to the sewage ponds which include:

- A desire to retain the still, fresh-water bodies for biodiversity reasons such as bird habitat,
- 15 - A desire to retain the ponds for passive recreational purposes such as bird watching and picnicking,
- Being opposed to placing any contaminants including inert (will not migrate) contaminants in the ponds and capping as a remediation action plan for the whole of site,
- 20 - Being generally opposed to filling the ponds to retain ecological benefit (birds in particular),
- Being in favour of naturalising the ponds.

Upon completion of the items 1a and 1b in the recommendation and these matters are reported to Council further community consultation on the preferred option will be required.

Report No. 13.19 2021-0009 - Supply and Installation of Guardrail

Directorate: Infrastructure Services

Report Author: Henry Spangler, Works Coordinator

5 **File No:** I2021/655

Summary:

The General Manager, under delegated authority, approved the use of the open tendering method to call for an open Panel Source tender for Contract 2021-0009, Supply and Installation of Guardrail.

10 As a result of discussions with other NSW councils regarding their requirements for Road Safety Barriers Systems, Regional Procurement® has called an open Panel Source tender.

Tenders closed at 10.00am on 12 January 2021.

The following Councils participated in this Tender process:

- 15
- Bellingen Shire
 - Byron Shire
 - Clarence Valley
 - Coffs Harbour City
 - Kyogle
- 20
- Lismore City
 - MidCoast
 - Nambucca Valley
 - Richmond Valley

This tender was advertised in the following media:

- 25
- Tenderlink on 8 December 2020.

Eight (8) tender documents were downloaded from the Tenderlink Portal.

Six (6) tenders in total were received from:

- 30
- A1 Highways Pty Ltd
 - AJ & LJ Irwin, trading as Irwin Fencing Pty Ltd
 - GRI Road Services Pty Ltd
 - Guardrail Systems Pty Ltd
 - Schramm Group Pty Ltd
- 35
- Ingal Civil Products (supply only – not considered further)
-

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RECOMMENDATION:

- 5 1. That Council award the Tender 2021-0009 - Supply and Installation of Guardrail Tender and the suppliers listed below be appointed to this tender as Panel Source suppliers to Byron Shire Council for the initial period of 1 April 2021 to 31 March 2024:
 - a) A1 Highways Pty Ltd
 - b) AL & LJ Irwin, trading as Irwin Fencing Pty Ltd
 - c) GRI Road Services, Pty Ltd
 - d) Guardrail Systems Pty Ltd
 - 10 e) Schramm Group Pty Ltd
 - f) Ingal Civil Products (supply only)
2. That the provision be allowed for a 12 months extension based on satisfactory supplier performance, which may take this contract through to 31 March 2025.
- 15 3. That Council makes public its decision, including the name and amount of the successful tenderer, in accordance with Clause 179(b) of the Local Government (General) Regulations 2005.

Attachments:

- 20 1 Confidential - T2021-0009 - Guardrail Supply and Installation Tender Evaluation, E2021/58473

Report

Council Is likely to procure more than \$250,000 of guardrail products between the 1/04/2021 to 31/03/2024, therefore in accordance with the Local Government (General) Regulation 2005 – Part 7 Tendering, where expenditure on a tender exceeds \$250,000 over the term of the contract a council must, by resolution, adopt a report accepting the tender recommendation. Furthermore, tenders which have been accepted by Council will form part of a panel of suppliers referred to as the 'Approved Suppliers List'.

The Request for Tender sought responses from proponents to provide the pricing for three scenarios:

- 10 • 318m of Ezyguard (or equivalent) C/W ET-SS Terminal (or equivalent) at either end
 - Soil condition: Non reactive clay - Dial-before-you-dig: complete & no services
 present - Traffic control: 3 person crew plus relief staff (by Tenderer) - RO Cert by
 Council.
- 15 • 88m of Ezyguard Guardrail (or equivalent) C/W ET-SS Terminal (or equivalent) at
 either end - Radius: 60mtr overall length 12 m - Soil condition: non reactive clay -
 Dial-Before- you- Dig: Complete & no services present - Traffic control: 3 person
 crew required plus relief staff (by Tenderer) - RO Cert obtained by Council
- 20 • 2 x 50 metres of Flexfence (or equivalent) from Anchor to Anchor as per drawings
 (4 Anchors in total) in accordance with Specifications and/or Australian Standards. •
 Concrete Plant within a 5km distance from site. • Soil Condition: Non-Reactive Clay
 with NO ROCK present • Dial-Before-You-Dig: Already Complete and No Services
 Present • TCP's Require Approval by Principal's Representative • Speed
 Restrictions for Traffic Control and ROL also obtained by Council

25 The tender has been conducted in accordance with Clause 166(a) of the Local
 Government (General) Regulation 2005.

Conflict of Interest Declarations were signed by all participating evaluation panel members including the Regional Procurement facilitator. The declarations are available to be viewed if required.

No late tenders were received.

30 All tenderers were noted as active on the ASIC website.

All tenderer insurance records were checked against Tender requirements and potential non-conformities were noted in the Evaluation Matrix for the consideration of the panel.

35 All tenders were deemed conforming to the Tender requirements for supply and
 installation apart from Ingal Civil Products that do not undertake installation work. Noting
 the demands from current workloads being experienced in the construction industry, the
 inclusion of Ingal on the panel as a potential supplier to facilitate the supply of guardrail
 products direct to Council work teams undertaking construction works is considered

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desirable. Accordingly, Ingal Civil Products have been recommended for inclusion in the panel on a supply only basis.

The tender evaluation was conducted on Friday 16 April 2021 via teleconference with the following BSC staff participating:

- 5
- Hank Spangler – Works Coordinator
 - Fernanda Garcia – Strategic Procurement Coordinator (observer)
 - Peter Salafia – Manager Regional Procurement as facilitator

10 The evaluation was conducted in accordance with the Local Government Tendering Guidelines, Regional Procurement Tendering Code of Conduct and Tendering Evaluation Principles and Process. Confidentiality and probity were maintained throughout the process.

Qualitative criteria:

Tender Price	<ul style="list-style-type: none">• Three (3) pricing scenarios were used to determine an objective price comparison.• The lowest overall amount for each pricing scenario was awarded the full Criteria % for each scenario as shown in the Evaluation Results Table on the following page.• Each subsequent scenario \$ value was then divided into the lowest \$ value to obtain a pro-rata score.
Local Content	<ul style="list-style-type: none">• Tenderers were assessed by individual councils as to the points to be allocated for this criterion.
Previous Experience	<ul style="list-style-type: none">• Previous Experience was included by adding the total scores obtained from the Tenderer's three nominated contacts (where each is worth up to 25 points) and dividing this total by the maximum possible score of 75, then multiplying this number by the allocated matrix Weighting value.
WHS	<ul style="list-style-type: none">• If the tenderer provided the required evidence to meet the benchmark, e.g.: a current ISO certificate and Safety Management Plan document contents page, the Evaluation Panel awarded full marks for that category.• If the tenderer failed to meet the benchmark completely, eg: they demonstrated no ability to meet the criteria and did not provide any evidence, the Panel awarded 0 points to the tenderer for that evaluation criteria.
Quality Assurance	<ul style="list-style-type: none">• If the tenderer provided the required evidence to meet the benchmark, e.g.: a current ISO certificate and QMS document contents page, the Evaluation Panel awarded full marks for that category.

	<ul style="list-style-type: none"> • If the tenderer provided partial evidence to meet the benchmark, e.g.: provided a QMS document contents page but they are not ISO certified, the Panel determined a lower score subject to the evidence provided. • If the tenderer failed to meet the benchmark completely, e.g.: they demonstrated no ability to meet the criteria and did not provide any evidence, the Panel awarded 0 points to the tenderer for that evaluation criteria.
Physical Resources	<ul style="list-style-type: none"> • To be scored by the Evaluation Panel based on information provided.
Ecologically Sustainable Content	<ul style="list-style-type: none"> • Tenderers were assessed by individual councils as to the points to be allocated for this criterion.

Legal/Statutory/Policy Considerations

The tendering process has been undertaken in accordance with the Council's Purchasing and Procurement Policy, and the provisions of the Local Government (General) Regulation 2005. The Local Government (General) Regulations 2005 define the options available to Council. And extract is provided below.

Local Government (General) Regulation 2005 - Reg 178

178 Acceptance of tenders

- 10 (1) *After considering the tenders submitted for a proposed contract, the council must either:*
- (a) *accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or*
- (b) *decline to accept any of the tenders.*
- 15 (2) *A council must ensure that every contract it enters into as a result of a tender accepted by the council is with the successful tenderer and in accordance with the tender (modified by any variation under clause 176). However, if the successful tender was made by the council (as provided for in section 55 (2A) of the Act), the council is not required to enter into any contract in order to carry out the requirements of the proposed contract.*
- 20 (3) *A council that decides not to accept any of the tenders for a proposed contract or receives no tenders for the proposed contract must, by resolution, do one of the following:*
- (a) *postpone or cancel the proposal for the contract,*
- 25 (b) *invite, in accordance with clause 167, 168 or 169, fresh tenders based on the same or different details,*

- 5
- (c) *invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract,*
 - (d) *invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract,*
 - (e) *enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender,*
 - (f) *carry out the requirements of the proposed contract itself.*
- 10
- (4) *If a council resolves to enter into negotiations as referred to in subclause (3) (e), the resolution must state the following:*
 - (a) *the council's reasons for declining to invite fresh tenders or applications as referred to in subclause (3) (b)–(d),*
 - (b) *the council's reasons for determining to enter into negotiations with the person or persons referred to in subclause (3) (e).*
- 15
- Council's endorsement of the recommendation to award the tender as recommended in the attached Evaluation Report is sought.

Financial Considerations

- 20
- Due to increase in designed roadside safety in Capital projects and increase in funding in roadside safety maintenance funding, yearly expenditure in guardrail is likely to exceed \$250,000 per 3 year period. All projects and maintenance activities have dedicated budget to account for the inclusion of applicable guardrail.

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 14.1 Report of the Biodiversity Advisory Committee Meeting held on 18 March 2021

Directorate: Sustainable Environment and Economy

5 **Report Author:** Michelle Chapman, Project Support Officer

File No: I2021/614

Summary:

This report provides the minutes of the Biodiversity Advisory Committee meeting held on 18 March 2021 for determination by Council.

10

RECOMMENDATION:

1. That Council notes the minutes of the Biodiversity Advisory Committee Meeting held on 18 March 2021.

15

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

Report No. 4.2 Wildlife Signage Update

Committee Recommendation 4.2.1

That the Biodiversity Advisory Committee recommends to Council that they consider an allocation of \$11,500 in the 2021/22 budget to fund the development of a Wildlife Roadkill Mitigation Strategy for Byron Shire Council.

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

Report No. 4.4 Wildlife Safe Havens - Brunswick Valley Landcare Initiative

Committee Recommendation 4.4.1

That the Biodiversity Advisory Committee recommend to Council that an amount of \$1000 from account 2605.127 be allocated to the Brunswick Valley Landcare Schools Wildlife Safe Havens initiative to purchase and install 2 nest boxes at two schools including monitoring training and follow-up over two nesting seasons.

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REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY 14.1

Attachments:

- 1 Minutes 18/03/2021 Biodiversity Advisory Committee, I2021/427

5

Report

The attachment to this report provides the minutes of the Biodiversity Advisory Committee Meeting of 18 March 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/2021/03/BAC_18032021_A_GN_1302_AT.PDF

Management Comments

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

10 Financial Implications

As per the Reports listed within the Biodiversity Advisory Committee Meeting of 18 March 2021.

Statutory and Policy Compliance Implications

- 15 As per the Reports listed within the Biodiversity Advisory Committee Meeting of 18 March 2021.

Report No. 14.2 Report of the Heritage Panel Meeting held on 18 March 2021

Directorate: Sustainable Environment and Economy

Report Author: Chris Larkin, Manager Sustainable Development
Noreen Scott, EA Sustainable Environment and Economy

File No: I2021/776

Summary:

The attachment to this report provides the minutes of the Heritage Panel meeting held on 18 March 2021 for determination of Council.

RECOMMENDATION:

1. **That Council notes the minutes of the Heritage Panel Meeting held on 18 March 2021.**

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

Report No. 3.1 Minutes from previous meeting held 11 June 2020 adopted by Council 27 August

File No: I2020/1349

Committee Recommendation 3.1.1

That the Heritage Panel note the minutes of the 11 June 2020 meeting as adopted by Council 27 August.

3. **That Council adopts the following Committee and Management Recommendation:**

Report No. 4.1 Notes from the previous Heritage Panel meeting 10 September 2020

File No: I2021/379

Committee Recommendation 4.1.1

That the Heritage Panel confirms the notes from the 10 September 2020 meeting.

- 4. That Council adopts the following Committee and Management Recommendations:**

Report No. 4.2 Heritage Panel Member Updates

File No: I2021/381

Committee Recommendation 4.2.1

- 1. That the Heritage Panel notes the member updates.**
- 2. That the Heritage Panel receives a report on development approval processes for state heritage items at the next meeting.**

- 5. That Council adopts the following Committee and Management Recommendations:**

Report No. 4.3 Discussion Piece - "Stuck in the past: why Australian heritage practice falls short of what the public expects"

File No: I2021/382

Committee Recommendation 4.3.1

- 1. That the Heritage Panel notes the discussion piece "Stuck in the past: why Australian heritage practice falls short of what the public expects" and the Victorian Heritage Council: State of Heritage Report 2020.**
- 2. That the Heritage Panel receives reports which include articles and published papers and the like for discussion at future meetings.**

- 6. That Council adopts the following Committee and Management Recommendations:**

Report No. 4.4 Heritage Program Update

File No: I2021/383

Committee Recommendation 4.4.1

- 1. That the Heritage Panel notes the heritage program update report as**

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REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY 14.2

presented by staff.

2. That the Heritage Panel request an extra meeting before September 2021 if the meeting schedule allows.

Attachments:

5

- 1 Heritage Panel minutes 18 March 2021, E2021/65659

Report

The attachment to this report provides the minutes of the Heritage Panel Meeting of 18 March 2021 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 https://byron.infocouncil.biz/Open/2021/03/HER_18032021_AGN_1333_AT_EMBEDDED.PDF

Committee Recommendation

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

10 Financial Implications

As per the Reports listed within the Heritage Panel Meeting of 18 March 2021.

Statutory and Policy Compliance Implications

As per the Reports listed within the Heritage Panel Meeting of 18 March 2021.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

**Report No. 14.3 Report of the Local Traffic Committee
Meeting held on 13 April 2021**

Directorate: Infrastructure Services

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

File No: I2021/622

Summary:

This report contains the recommendations of the Local Traffic Committee (LTC) meeting held on 13 April 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 Transport for New South Wales (TfNSW) 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 TfNSW 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 TfNSW and the NSW Police representatives in writing of their intention to approve the proposal. TfNSW or the NSW Police may then lodge an appeal to the Regional Traffic Committee (RTC).
- 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 TfNSW and NSW Police representatives in writing of their intention to approve the proposal. TfNSW or the NSW Police may then lodge an appeal to the RTC.

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

RECOMMENDATION:

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REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

14.3

1. That Council notes the minutes of the Local Traffic Committee Meeting held on 13 April 2021.

2. That Council adopts the following Committee Recommendation:

Report No. 6.1 Azalea St Intersection Upgrade
File No: I2021/372

Committee Recommendation 6.1.1

That Council support the proposed regulatory signs, lines and devices presented in Attachment 1 (E2021/51345) for works associated with the Azalea St / Jubilee Ave, Mullumbimby intersection, with the addition of NO STOPPING signs or lines along the Co-op frontage.

Shanahan, Foley and Davis voted in favour of the motion. Cr Cameron voted against the motion.

3. That Council adopts the following Committee Recommendation:
Report No. 6.2 Brunswick Heads Parking Limit Review
File No: I2021/482

Committee Recommendation 6.2.1

That Council note LTC's endorsement of resolution 21-099.

Shanahan, Foley, Cameron and Davis voted in favour of the motion. Nil voted against the motion.

5

4. That Council adopts the following Committee Recommendation:

Report No. 6.3 Traffic Management for Festival of the Stone
File No: I2021/562

Committee Recommendation 6.3.1

That Council approve the Traffic Management Plan and Traffic Control Plan for the 2021 Festival of the Stone in Attachment 1 (E2021/50419).

Shanahan, Foley, Cameron and Davis voted in favour of the motion. Nil voted against the motion.

5. That Council adopts the following Committee Recommendations:

Report No. 6.4 Event - Byron Triathlon - 9 May 2021

File No: I2021/588

Committee Recommendation 6.4.1

1. That Council endorse the Traffic Management and Traffic Control Plans for the Byron Bay Triathlon to be held on Sunday 9th 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 TfNSW 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 TfNSW;
- 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;**
 - paying Council's Road Event Application Fee prior to the event.**

Shanahan, Foley, Cameron and Davis voted in favour of the motion. Nil voted against the motion.

Attachments:

5

- 1 DRAFT LTC_13042021_MIN_1344, E2021/56527

Report

The attachment to this report provides the minutes of the Local Traffic Committee Meeting of 13 April 2021 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 https://byron.infocouncil.biz/Open/2021/04/LTC_13042021_AGN_1344_AT_EMBEDDED.PDF

Financial Implications

As per the Reports listed within the Local Traffic Committee Meeting of 13 April 2021.

Statutory and Policy Compliance Implications

- 10 As per the Reports listed within the Local Traffic Committee Meeting of 13 April 2021.

**Report No. 14.4 Report of the Transport and Infrastructure
Advisory Committee Meeting held on 15
April 2021**

Directorate: Infrastructure Services

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

File No: I2021/644

Summary:

The attachment to this report provides the minutes of the Transport and Infrastructure Advisory Committee Meeting of 15 April 2021 for determination by Council.

10

RECOMMENDATION:

1. That Council notes the minutes of the Transport and Infrastructure Advisory Committee Meeting held on 15 April 2021.

15

2. That Council adopts the following Committee Recommendation:

Report No. 3.1 Adoption of Minutes from Previous Meeting

File No: I2021/557

Committee Recommendation 3.1.1

That the minutes of the Transport and Infrastructure Advisory Committee Meeting held on 28 January 2021 be confirmed.

3. That Council adopts the following Committee Recommendations:

Report No. 4.1 Road Safety Campaign

File No: I2021/218

Committee Recommendation 4.1.1

That:-

1. Council continues to pursue funding opportunities for road safety awareness, infrastructure enhancements that improve safety and access

for all road users and to embed road safety principles in all transport related projects.

2. The next TIAC meeting include a workshop session to generate discussion, ideas and suggestions regarding road safety messaging and location of safety signage as per Res 20-405 (3).

3. Prior to the workshop referred to in 2, TIAC members receive information on the 'Go Together' program including examples of signage and messaging promoted by the program.

4. TfNSW representatives will attend the workshop mentioned in point 2.

4. That Council adopts the following Committee Recommendations:

Report No. 4.2 Update on roads, reseals, reconstructions, maintenance requirements, and budgetary situation

File No: I2021/219

Committee Recommendation 4.2.1

1. That Council notes the report.

2. That future report include annual condition report summarizing the overall status of various asset classes.

5. That Council adopts the following Committee Recommendation:

Report No. 4.3 Kolora Way Shared Path Update

File No: I2021/220

Committee Recommendation 4.3.1

That Council supports the detailed design of Option 3 for the construction of a new shared path and pedestrian bridge to the north of the existing road bridge on Kolora Way, proceeding to shovel ready status in financial year 2021/22

6. That Council adopts the following Committee Recommendation:

Report No. 4.4 Membership change to TIAC constitution

File No: I2021/289

Committee Recommendation 4.4.1

That Council approves Glenn Bailey as the temporary replacement representative member, as nominated by Katrina Ross.

7. That Council adopts the following Committee Recommendations:

Report No. 4.5 PAMP and Bike Plan Evaluation Processes

File No: I2021/464

Committee Recommendation 4.5.1

That Council:-

- 1. Note the work already done and underway to progress the PAMP and Bike Plan recommendations.**
- 2. Prioritise future PAMP and Bike Plan projects as follows**
 - a) Projects or parts of projects that provide greater connectivity to and within active networks (Bike and Pedestrian) as well as better connectivity to public transport.**
 - b) Projects that align with Integrated Transport Strategy objectives, particularly where a modal shift away from car use is supported and enhanced.**
 - c) Projects that improve connectivity and promote a shift from car use should initially be considered from PAMP and Bike Plan priorities covered by Master Plans.**
- 3. Where possible Council seek grant funding to help accelerate the roll out of**

PAMP and Bike Plan projects.

- 4. Continue to investigate opportunities to undertake strategic PAMP and Bike Plans projects that meet the connectivity and modal shift criteria, but not covered by Master Plans as funding permits.**
 - 5. That the PAMP and Bike Plan Council web page be updated to inform the community of this priority review.**
- 8. That Council adopts the following Committee Recommendations:**

Report No. 4.6 Movement and Place Brief (Draft)

File No: I2021/540

Committee Recommendation 4.6.1

- 1. That Council notes the draft Movement and Place Brief.**
 - 2. That TIAC advise that the brief needs to ensure the following**
 - a) Alignment with Transport Strategy objectives especially the need to promote modal shift away from cars entering the town centre.**
 - b) Ensuring that place features within ‘movement corridors’ be acknowledged that that safety and access is enhanced for all travelling within movement corridors and that other services (e.g. buses, rubbish removal) provided within the corridor are safely supported.**
 - 3. That a further report be provided and time allocated for TIAC to properly consider the Movement and Place Framework.**
 - 4. That TIAC and Council be provided with any feedback given by TfNSW and a copy of an updated draft brief.**
- 9. That Council adopts the following Committee Recommendations:**

Report No. 4.7 Tourism Signage Policy

BYRON SHIRE COUNCIL

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

14.4

File No: I2021/559

Committee Recommendation 4.7.1

- 1. That Council support the adoption of the attached revision of the Tourist, Street Name, Community Facility and Service Signs Policy, 07/102 - (Attachment 1, E2021/51763), incorporating amendments identified by TIAC.**
- 2. That the Policy register be updated with the new policy.**

Attachments:

- | | |
|---|--|
| 5 | <div>1 DRAFT - Policy Review - 07_102 - Tourist Street Name Community Facility and Service Signs, E2021/51763</div> <div>2 Minutes 15/04/2021 Transport and Infrastructure Advisory Committee, I2021/621</div> |
|---|--|

Report

The attachment to this report provides the minutes of the Transport and Infrastructure Advisory Committee Meeting of 15 April 2021 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 https://byron.infocouncil.biz/Open/2021/04/TIAC_15042021_AGN_1319_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 Transport and Infrastructure Advisory Committee Meeting of 15 April 2021.

Statutory and Policy Compliance Implications

As per the Reports listed within the Transport and Infrastructure Advisory Committee Meeting of 15 April 2021.

**Report No. 14.5 Report of the Water, Waste and Sewer
Advisory Committee Meeting held on 29
April 2021**

Directorate: Infrastructure Services

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

File No: I2021/724

Summary:

The attachment to this report provides the minutes of the Water, Waste and Sewer Advisory Committee Meeting of 29 April 2021 for determination by Council.

10

RECOMMENDATION:

1. **That Council notes the minutes of the Water, Waste and Sewer Advisory Committee Meeting held on 29 April 2021.**

15

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

Report No. 3.1 Adoption of Minutes from Previous Meeting

File No: I2021/631

Committee Recommendation 3.1.1

That the minutes of the Water, Waste and Sewer Advisory Committee Meeting held on 18 February 2021 be confirmed.

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

Report No. 4.2 Mullumbimby Future Water Strategy

File No: I2021/478

Committee Recommendation 4.2.1

That this matter be further discussed at an extraordinary meeting of WWSC to be held in May 2021.

4. That Council adopts the following Committee Recommendations:

Report No. 4.4 Ocean Shores transfer to Brunswick Valley STP

File No: I2021/615

Committee Recommendation 4.4.1

- 1. That Council notes the report.**
- 2. The Committee have a workshop on this matter in May 2021.**

5. That Council adopts the following Committee Recommendation:

Report No. 4.6 Item for discussion - HuskeeSwap

File No: I2021/617

Committee Recommendation 4.4.6

That Council notes that the Committee supports initiatives to reduce single use containers.

6. That Council adopts the following Committee Recommendation:

Motion: Deferral of not discussed items

Committee Recommendation:

That Council notes that the Committee's agenda in April included reports on several major issues and that reports 4.1, 4.3 and 4.5 will carry over to the next ordinary Committee meeting (in August).

5 Attachments:

- 1 Minutes 29/04/2021 Water, Waste and Sewer Advisory Committee, I2021/651**

Report

The attachment to this report provides the minutes of the Water, Waste and Sewer Advisory Committee Meeting of 29 April 2021 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 https://byron.infocouncil.biz/Open/2021/04/WWWSAC_29042021_AGN_1323_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 29 April 2021.

Statutory and Policy Compliance Implications

As per the Reports listed within the Water, Waste and Sewer Advisory Committee Meeting of 29 April 2021.