



Byron Shire Council



Agenda Extraordinary Meeting

Thursday, 3 February 2022
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.

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

Mark Arnold
General Manager

CONFLICT OF INTERESTS

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

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

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

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

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

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

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

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

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

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

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

Disclosure and participation in meetings

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

Committee, or

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

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

Non-pecuniary Interests - Must be disclosed in meetings.

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

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

RECORDING OF VOTING ON PLANNING MATTERS

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

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

BYRON SHIRE COUNCIL
BUSINESS OF EXTRAORDINARY
MEETING

1. PUBLIC ACCESS

2. APOLOGIES

3. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

4. NOTICES OF MOTION

4.1	EV charging station in Station Street	7
4.2	Notice of Motion to LGNSW Special Conference - Governance Tools	10
4.3	Notice of Motion to LGNSW Special Conference - Stamp Duty Recycling for Housing Investment	12
4.4	Notice of Motion to LGNSW Special Conference - First Nations Voice to Council.....	14
4.5	Housing and Affordability Advisory Committee for Byron Shire	16
4.6	Byron Shire Housing Summit 2022.....	19
4.7	Panels and Committees.....	23
4.8	Arts and Culture Summit 2022.....	25
4.9	Council Meeting Times	28

5. STAFF REPORTS

General Manager

5.1	Oath or Affirmation of Office	31
5.2	Election of Deputy Mayor - 2022.....	34
5.3	Adoption of a Code of Meeting Practice	38
5.4	Review of Council's Codes of Conduct.....	48

Corporate and Community Services

5.5	Review of Council Delegations	53
5.6	Meeting Schedule 2022 - Council Meetings and Strategic Planning Workshops.....	60
5.7	Advisory Committee Structure and Determination of Councillor Representatives.....	64
5.8	Establishment and Delegation to Section 355 Committees	80
5.9	Election of Representatives for Rous County Council	86
5.10	Determination of Councillor Representatives on Regional Committees.....	90
5.11	Countback for Casual Vacancy within the first 18 months of Term.....	99
5.12	Local Government NSW Special Conference	102

Sustainable Environment and Economy

5.13	Environmental Planning and Assessment (Statement of Expectations) Order 2021.....	105
5.14	Northern Regional Planning Panel Membership	116

BYRON SHIRE COUNCIL

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

NOTICES OF MOTION

Notice of Motion No. 4.1 EV charging station in Station Street

File No: I2022/1

5

I move:

- 10 1. **That Council reconfirms its commitment to reducing carbon emissions and confirms its support for Electric Vehicles over those driven by fossil fuels.**
2. **That the following issues at the EV charging station in Council's carpark be remedied, by March 2022:**
 - 15 a) **pigeon poo splattering EV's due to pigeons roosting in the roof structure over the parking bays with EV chargers; and**
 - b) **rainwater falling on the charging equipment and on people using it.**
3. **That Council receives a report in April 2022 on the resolution of these issues.**

Signed: Cr Duncan Dey

20 **Councillor's supporting information:**

Photo 1 shows the general layout of the charging station. A faulty charge socket is taped up and is understood to not be operating. Council will be replacing the faulty unit with one of a higher standard in January 2022.

25 The roof over the carpark hosts solar panels and shades cars. The roof appears to meet structural standards for cross-bracing by having diagonal bracing in the northern bay of each roof. That is also where the EV chargers are located. Photo 2 shows the favoured pigeon perch. There is an accumulation of pigeon poo on the ground under the perch and line-marking paint there has almost disappeared.

30 Methods for preventing the conflict between birds and EV's could include changing the method of cross-bracing, for example.

The pitch of the roofing sheds water centrally, over the charge sockets. Photo 1 shows a short length of box gutter, probably designed to reduce rainwater dropping onto the solar inverters. That protection does not extend far enough south however, to prevent the charging sockets and the people using them from being drenched during rain.

Reasons to support this proposal include Council's commitment to Zero Emissions. And people who choose to use Electric Vehicles should be supported and not punished for doing so.



5

Staff comments

by Shannon Burt, Director, Sustainable Environment and Economy:

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

5 The conflicts raised about birds and the location of the EV charging station in Council's Administration Building car park at Mullumbimby are noted.

Staff will prepare a report to address these conflicts as requested by this Notice of Motion for the Ordinary Council meeting in April 2022.

Financial/Resource/Legal Implications:

10 A scope of works, costing of works and budget allocation is needed to address this Notice of Motion.

Is the proposal consistent with any Delivery Program tasks?

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
Community Objective 3: We protect and enhance our natural environment	3.2: Strive to become a sustainable community	3.2.1: Work towards Council's zero-emissions target	3.2.1.12	Monitor Council's solar assets.

Notice of Motion No. 4.2 Notice of Motion to LGNSW Special Conference - Governance Tools

File No: I2022/2

5

I move:

That Council submits a Notice of Motion to the LGNSW Special Conference:

10 **That Local Government NSW works with councils to develop template governance tools to enhance transparency and performance reporting including:**

- a) **A dashboard summary reporting tool tracking progress against objectives as set out in key planning documents - community strategic plan, financial plan and budget, residential land use and other strategies etc; and**
- 15 b) **A consolidated State Government relationship reporting tool tracking all 'live' issues and projects between an LGA and State Government across all portfolio areas including grant applications, policy / project proposals, state government- initiated projects etc.**

Signed: Cr Mark Swivel

Councillor's supporting information:

20 Council websites include an abundance of plans, reports, and data. For direct participants in the local government including councillors, staff, consultants and other stakeholders the resources are invaluable to their work. For most residents and rate payers the information provided on performance and progress against objectives could be collated and summarised.

25 The core business of councils is common and a template could provide useful summary data against objectives (targets) on revenue and surpluses, housing approvals, financial ratios, road works, sewerage and water, visitor numbers etc. The reporting tool would complement existing reports to residents and ratepayers on how rates are spent with a snapshot of how council spends money and performs at a macro level.

30 The relationship between councils and state government is fundamental to local government. Reporting on that relationship tends to be project based or piecemeal. Local government is a statutory creation of state government and can be seen as an extension of it. Residents and rate payers are aware of the interaction between state and local government but perhaps not its full depth or significance. Projects, funding decisions and
35 changes to law or policy tend to be reported 'one-off'. Most residents and rate payers would benefit from receiving an integrated picture of the relationship between their local

BYRON SHIRE COUNCIL

NOTICES OF MOTION

4.2

council and state government. The use of a consolidated reporting tool can also assist decision makers in adopting a more holistic approach to decision-making seeing the 'cross-portfolio' connections between issues, for example housing, transport and tourism.

Staff comments

5 **by Vanessa Adams, Director Corporate & Community Services:**

While some comparative information on NSW councils is available via: [Your Council NSW](#) and which may go some way to addressing point (a) above, it has not progressed as far as point (b).

10 Should Council endorse this proposed motion for submission to the conference, officers will process it in the required timeframe.

Financial/Resource/Legal Implications:

Nil

Is the proposal consistent with any Delivery Program tasks?

CSP Objective	CSP Strategy	DP Action	Code	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	5.2.6: Keep community informed and provide updated relevant and timely information on Council activities and projects	5.2.6.4	Produce a regular community newsletter 'Something to Talk about'

Notice of Motion No. 4.3 Notice of Motion to LGNSW Special Conference - Stamp Duty Recycling for Housing Investment

File No: I2022/3

5

I move:

10 **That Council submits the following Notice of Motion to the LGNSW Special Conference 2022:**

- 15
1. **That Local Government NSW lobbies the NSW Government to secure the ‘recycling’ of transfer duty and land tax revenue into Local Government Areas experiencing house price inflation and homelessness, housing shortage and rental stress to invest in new housing stock for essential workers, lower income and vulnerable members of the community.**
 2. **That Local Government NSW lobbies the NSW Government to use ‘stamp duty recycling’ as a mechanism for equalising the social housing stock across the state so that Local Government Areas that are behind the state average can catch up over the next decade.**

20 **Signed: Cr Mark Swivel**

Councillor’s supporting information:

25 Well-off owners investing in LGAs like Byron Shire generate significant transfer duty – and land tax – income for the State Government. The median house price in Byron Shire jumped from \$1.3 million to \$2.7 million in a year in 2021. Stamp duty revenue generated by our rising property market rose by over \$1bil in 2021 despite the impact of Covid-19 on our economy. Total stamp duty revenue is anticipated to be over \$11bil this financial year.

30 At the same time homelessness rates in Byron Shire are estimated to be the highest outside Sydney. In addition, social housing stock in Byron Shire at around 2 per cent of overall housing stock is well below the state average which is around 6 per cent. Gentrification is a general process that occurs across the country and especially in our cities however its impacts can be managed by targeted and nuanced fiscal policy.

35 State government can ‘recycle’ the stamp duty generated in Byron and other communities by investing in homes for our lower income members of the community in social housing and innovative projects such as community land trusts that disconnect from the private market to ensure access to housing at a manageable rate for local residents, in particular essential workers, single parents and older residents on lower incomes.

BYRON SHIRE COUNCIL

NOTICES OF MOTION

4.3

We are seeing significant issues for skilled employees in aged care and health care (including paramedics, nurses) who cannot afford to live within a commutable distance in regional areas. The lack of housing can undermine the delivery of these core social services (including for example not offering beds in aged care due to staffing shortages).

5 **Staff comments**

by Shannon Burt, Director, Sustainable Environment and Economy:

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

This Notice of Motion is consistent with:

Resolution 21-066 (d) that Council:

- 10 *Advocate for Federal and State Government to change the policy and regulatory setting to facilitate investment through to councils undertaking development. This could include councils directly facilitating development through planning, providing land, and financial levers such as subsidies and private public partnerships, thereby providing the private sector with the certainty that it needs to invest confidently in the region.*

- 15 **Resolution 21-496 (6)** that Council:

Continues to advocate and agitate for housing policy change and financial support from the state and commonwealth governments where opportunities arise.

Financial/Resource/Legal Implications:

None relevant to this Notice of Motion.

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

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
Community Objective 4: We manage growth and change responsibly	4.2: Support housing diversity in appropriate locations across the Shire	4.2.1: Establish planning mechanisms to support housing that meets the needs of our community	4.2.1.3	Progress governance framework and partnerships for the delivery of diverse housing

Notice of Motion No. 4.4 Notice of Motion to LGNSW Special Conference - First Nations Voice to Council

File No: I2022/4

5

I move:

10 **That Council submits the following Notice of Motion to the LGNSW Special Conference 2022:**

15 **That Local Government NSW develops an advisory body model for a First Nations Voice to Council for local indigenous communities based on the vision in the Uluru Statement From The Heart; with the structure, terms of reference and membership for the First Nations Voice to Council to be determined by consultation with local indigenous community stakeholders including land councils, native title holders and elders in conjunction with Local Councils.**

Signed: Cr Mark Swivel

Councillor's supporting information:

20 The Uluru Statement 'From The Heart' sets out a clear vision for indigenous Australia to play an active consultative and advisory role in our government. The Statement says: 'We call for the establishment of a First Nations Voice enshrined in the Constitution'.

25 Federal and State governments are yet to implement this transformative, inclusive innovation, perhaps because of the aspiration to change the federal constitution, a typically complex and contested process. However, there has been some movement on treaty proposals and negotiations especially at local government level. In Byron Shire the MoU with the Bundjalung (Arakwal) Aboriginal Corporation can inform the model locally.

30 Local councils with their immediate community engagement and responsibility for land use are uniquely well positioned to facilitate the better integration of indigenous communities into our processes of government. The model could be designed so that it operates as an advisory body or consultative committee. Nevertheless, this model, operating at the grass roots, could encourage long term constitutional change. Remember that the Statement says: 'We seek constitutional reforms to empower our people and take a *rightful place* in our own country. When we have power over our destiny our children will flourish. They will walk in two worlds and their culture will be a gift to their country'.

35

BYRON SHIRE COUNCIL

NOTICES OF MOTION

4.4

- 5 The First Nations Voice to Council could be consulted on all policies and decisions likely to affect the local indigenous community. Councillors would need to consider the recommendations made by the Voice to Council and respond to questions raised. Membership of the Voice to Council could for example have 3 representatives from the local indigenous community including representatives from the Land Council, Native Title holders and community members with professional expertise that could assist in analysing council proposals and projects.

See The Uluru Statement From The Heart - <https://ulurustatement.org/the-statement>

Staff comments

- 10 **by Vanessa Adams, Director Corporate & Community Services:**

Should Council endorse this Notice of Motion, officers will process it for submission to LGNSW.

Financial/Resource/Legal Implications:

Nil

Is the proposal consistent with any Delivery Program tasks?

- 15 Yes

CSP Objective	CSP Strategy	DP Action	Code	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	2.1.6: Develop strong and productive relationships between the Aboriginal community and Council	2.1.6.1	Build and maintain existing relationships with identified stakeholder groups

Notice of Motion No. 4.5 Housing and Affordability Advisory Committee for Byron Shire

File No: I2022/5

5

I move:

10 **That Council creates a Housing and Affordability Advisory Committee for Byron Shire to provide advice, share relevant information, advocate for, and help fast track progress on any affordable housing opportunities.**

Signed: Cr Sarah Ndiaye

Councillor's supporting information:

15 Byron Shire is in the midst of a housing crisis that is having terrible ramifications across our community. We have declared a Housing Emergency. We have people sleeping in cars, couch surfing or having to travel long distances to continue to work. We have businesses unable to hold staff due to the instability of housing.

20 We currently have a host of options in progress, many sitting with the State Government waiting for approval. These include the exploration of Lot 22 in Mullumbimby, the former Mullumbimby Hospital Site for affordable housing, the Residential Strategy for infill and greenfield housing opportunities, an Affordable Housing Contribution Scheme under SEPP 70, requests for Tiny Homes to be permissible on Council, crown and State Railway Land, the exploration of housing development opportunities above Council land (carparks for example),
25 the Community Lands Trust and our ongoing work to reduce the number of our residential housing stock being used on the Short Term Holiday Accommodation market. There are also other short- and long-term policy and development initiatives being explored with others.

30 There are also a lot of highly skilled people interested in finding solutions to the issues. An advisory committee could stay abreast of opportunities, contribute ideas, and help land workable solutions.

35 There is no need to reinvent the wheel. We could use a similar structure to the one currently operational at the Inner West Council of Sydney.

<https://www.innerwest.nsw.gov.au/contribute/community-engagement/local-democracy-groups/housing-and-affordability-advisory-committee>

40 A draft Housing and Affordability Advisory Committee purpose, scope, role, and membership follow:

Housing and Affordability Advisory Committee

The Committee purpose is to contribute to the vision for the Byron Shire and its guiding principle to work together in a way that is creative, caring and just.

5 Affordable housing is a basic need and an essential element of an inclusive and sustainable community.

The scope of the Committee is to:

- 10 • Monitor and promote the implementation of [Council's Affordable Housing Policy](#) and other relevant policies and plans related to affordable housing for very low, low and moderate income households, including essential workers, boarding house residents, homeless people and others experiencing housing stress.
- 15 • Serve as a resource for Council in relation to the housing market, trends and community impacts, including supporting access to and opportunities for affordable, sustainable and accessible housing options where relevant.
- Suggestions on improving the development of housing options that support the retention of a diverse and inclusive community and an accessible and sustainable place to live.
- Assist in the development of programs and [initiatives](#) to highlight the importance of housing to the well-being and dynamism of the community.

20 The role of the Committee is to assist Council to develop its policies, plans, programs and services by providing contributions to and feedback on:

- 25 • Policy, research and priorities relating to the housing market and trends, and their impacts on the community, including the provision of appropriate, affordable housing and related opportunities as well as identification of service gaps.
- Joint opportunities with State and Federal agencies, peak housing bodies and community housing providers.
- Partnership opportunities with key stakeholders regarding best practice models for affordable, sustainable, accessible, diverse and inclusive housing.
- Implementation of policy.
- 30 • Activities, forums, roundtables, projects, programs and events to encourage delivery of affordable and sustainable housing options for the community.

Membership of the Committee is to include:

3 x Councillors.

35 Up to 7 x Community / Subject matter expert members selected following an Expression of Interest process.

40 One or more Council staff members appointed as conveners of the Advisory Committee. The convener will develop the agenda in consultation with members, attend meetings, advise members about Council policy where relevant and take notes of recommendations resulting from agenda items. It is proposed to nominate the Director Sustainable Environment and Economy and their delegate/s as conveners.

Staff comments

by Shannon Burt, Director, Sustainable Environment and Economy:

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

5 Advisory Committees are established to make recommendations to Council on specific matters to assist Council’s decision making. The specific matters and areas of expertise for each Advisory Committee are determined by Council when an advisory committee is established and in the adopted constitution for the Advisory Committee.

10 The purpose, scope, role and membership of the proposed Housing and Affordability Advisory Committee aligns with and complements current resolutions of Council and the various housing and affordability initiatives going on.

Financial/Resource/Legal Implications:

As per other council committees.

Is the proposal consistent with any Delivery Program tasks?

CSP Objective	CSP Strategy	DP Action
Community Objective 4: We manage growth and change responsibly	4.2: Support housing diversity in appropriate locations across the Shire	4.2.1: Establish planning mechanisms to support housing that meets the needs of our community
Community Objective 5: We have community led decision making which is open and inclusive	5.1: Engage and involve community in decision making	5.1.1: Facilitate inclusive community consultation and stakeholder engagement to inform Council decision making (SP)

15

Notice of Motion No. 4.6 Byron Shire Housing Summit 2022

File No: I2022/6

5

I move:

1. That Council convenes a second Byron Shire Housing Summit to share the current options and explore new ones.
- 10 2. The Summit to include presentations from Council, a community housing provider, a housing industry representative, Housing NSW, Landcom, a local community organisation, a representative from NSW Department of Planning and a housing policy specialist.
- 15 3. The Summit to be open to the public and invited stakeholders including state and federal political representatives.
4. The Summit to include consideration of the following:
 - 20 a) current council policies, strategies and resolutions to promote affordable housing;
 - b) current council policies, strategies and resolutions that inhibit the provision of affordable housing;
 - 25 c) proposals that could be trialled and implemented to support affordable housing in the Byron Shire.

Signed: Cr Sarah Ndiaye

30 **Councillor's supporting information:**

In 2016 a similar resolution was passed, and a very successful event was held exploring options to address our housing crisis. From there many connections were made and opportunities explored, but our housing crisis has only worsened. Having another Housing Summit now, 5 years later, would give new councillors and community an opportunity to come up to speed on current projects, hear from industry professionals and help focus intensions for the new council so that we can land some necessary housing outcomes.

35

A link to the outcomes of Council's previous Summit and Roundtable follows:

[Housing: Stakeholder meetings and presentations - Byron Shire Council \(nsw.gov.au\)](https://www.nsw.gov.au/housing-stakeholder-meetings-and-presentations-byron-shire-council)

Housing: Stakeholder meetings and presentations

Council held a diverse range of high level stakeholder meetings between 2017 and 2019. Listen to the presentations and read about the outcomes of the housing summit, roundtable, charrette and forum.

**Our Housing Challenge Forum: Local Communities: +
Local Solutions: Byron Perspective - 10 May 2019**

Our Housing Challenge Forum Presentations +

Housing Charette, November 2018 +

Byron Housing Roundtable, 5 July 2018 +

Housing Roundtable Presentations +

Housing Summit, 10 February 2017 +

Housing Summit Presentations +

Staff comments

by Shannon Burt, Director, Sustainable Environment and Economy:

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

5 Staff are being asked to convene a Housing Summit. This task will involve the following key tasks:

- Summit Plan developed, key speakers identified and secured for the day;
- Independent facilitator selected & venue selected;
- Summit advertised;
- 10 • Mailing list developed and invitations distributed;
- Full day summit conducted.

15 The Summit would include presentations from Council, a community housing provider, a housing industry representative, Housing NSW, Landcom, a local community organisation, a representative from NSW Department of Planning and a housing policy specialist.

The Summit is to be open to the public.

20 The Summit would provide a specific engagement activity to inform Council Policy direction which involves key stakeholders of interest.

Given the above and need for a budget allocation for the Summit to proceed, a date for the Summit to occur is unlikely to be able to be confirmed until after June 2022.

Financial/Resource/Legal Implications:

25 A budget allocation of up to \$10,000 would need to be allocated to support the Summit if it is to proceed. This includes facilitation & reporting, venue hire & catering, agenda and presenters. This cost is based on a scaled down version of the previous Housing Summit and Roundtable held by Council. The allocation of funds could made through the 22/23 budget process under way.

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

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
Community Objective 4: We manage growth and change responsibly	4.2: Support housing diversity in appropriate locations across the Shire	4.2.1: Establish planning mechanisms to support housing that meets the needs of our community	4.2.1.3	Progress governance framework and partnerships for the delivery of diverse housing

BYRON SHIRE COUNCIL

NOTICES OF MOTION

4.6

Community Objective 4: We manage growth and change responsibly	4.1: Support the visions and aspirations of local communities through place-based planning and management	4.1.3: Manage development through a transparent and efficient assessment process	4.1.3.7	Share information through builder and developer forums
Community Objective 4: We manage growth and change responsibly	4.3: Promote and support local business development, education and employment opportunities	4.3.1: Facilitate and support sustainable development of our business community	4.3.1.2	Continue to strengthen partnerships between Council and the business community

Notice of Motion No. 4.7 Panels and Committees

File No: I2022/7

5

I move that the following changes are made to current panels and committees:

1. **Water, Waste and Sewerage Advisory Committee be separated into a Water and Sewage Advisory Committee and the Waste and Resource recovery becomes part of Sustainability and Emissions Reduction Advisory Committee.**
- 10 2. **The Public Art Panel becomes part of an Arts and Culture Panel or Committee.**
3. **Byron Shire Floodplain Risk Management Committee and the Coastal Estuary Catchment Panel merge to create a new panel or committee.**

Signed: Cr Sarah Ndiaye

Councillor's supporting information:

15 1/. As the previous Chair of the Water, Waste and Sewage Advisory Committee for 5 years I have long wanted to separate Waste from the other aspects of this Committee. Water and Sewage are complex and require a large amount of time and consultation. Waste and Resource Recovery does not end up with the necessary focus and engagement. It also means a lot of staff time and energy is wasted waiting in meetings while committee
20 members and staff from other areas discuss their important content. While years ago when there were issues involving both areas of council at the resource recovery centre, these issues have long since been resolved and it is no longer necessary to have these areas together. The objectives of the Waste team and many interested community members now more often align with Sustainability and Emissions Reduction Advisory Committee
25 (SERAC).

2/. As the previous Chair of the Public Art Panel (PAP) I am not 100% sure about this but thought it worthy of discussion as we make decisions about Panels and Committees for the term. The Public Art Panel has been very busy and achieved a lot. The changes to Voluntary Planning Agreements and contributions for Public Art are generating more work
30 for the Panel, however, given council now have an adopted Public Art Policy which has a clearer framework, an Arts and Culture Officer employed and The Lone Goat Gallery is no longer requiring attention from PAP, there may be room to broaden the scope of the panel to include Arts and Culture. This has been raised by other councillors as well. The related industries play a significant role in both our community culture and our economy. The
35 sector and those employed or practising received a huge hit as part a result of COVID. Many of our artists, performers, venues, festivals have been struggling or hanging by a thread and there have also been a lot of changes to related arts policy. An Arts and Culture Panel or Committee could help steer a creative recovery - or the scope may be too

BYRON SHIRE COUNCIL

NOTICES OF MOTION

4.7

broad and it not serve its purpose at all. Can the necessary Public Art related planning decisions be made under this umbrella? These issues need to be discussed as we set up the panels and committees for this term and the public should also have an opportunity to comment on them.

- 5 3/. I have not been part of either the Byron Shire Floodplain Risk Management Committee or the Coastal Estuary Catchment Panel however I have heard this suggested by some involved and experienced on multiple occasions, seeing reports sent to one but not the other and it causing unnecessary distress. Similar staff, councillors and community members are involved and many related issues seem to be discussed. A merge to create
10 a new panel or committee may be a more effective way of addressing related issues. There seem to be a number of cross catchment issues that could be addressed within the same group or perhaps they are too different but it is perhaps worth discussing.

Staff comments

by Vanessa Adams, Director Corporate & Community Services:

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

A separate report in this agenda already proposes separating Waste into a new Resource Recovery Committee, however if Councillors wish to include it in the Sustainability and Emissions Reduction Advisory Committee (SERAC) this could occur. Please note the report also proposes to change the name of SERAC to Climate Change Advisory
20 Committee which may not suit if the committee is to include Waste.

The report also proposes turning the previous Public Art Panel into a Public Art Committee, this can easily be renamed Arts & Culture Committee at Councillors' discretion.

- 25 The report also proposes that the Coastal and Estuary panel should be discontinued as its scope is felt to be captured by the Floodplain Risk Management Committee.

Financial/Resource/Legal Implications:

Nil

Is the proposal consistent with any Delivery Program tasks?

- 30 Not specifically, although these changes will support Councillors to carry out their duties effectively (5.2.4).

Notice of Motion No. 4.8 Arts and Culture Summit 2022

File No: I2022/8

5

I move:

1. That Council convenes an Arts and Culture Summit to offer an opportunity for local Arts professionals to share their experiences and ideas about how we can reinvigorate the local creative arts and industry after such a challenging few years having to contend with Covid related instability. Council can also share the current opportunities and challenges being experienced in the sector from Council's perspective.
2. The summit to include presentations from Council, and the invitation extended to encompass a wide range of local input, including for example:

Community arts organisations, arts industry, Create NSW, Arts Northern Rivers, a local community organisation or institution, a representative from NSW Department of Planning and an arts policy specialist.

Northern Rivers representative from Music NSW, Northern Rivers Screenworks, local festival representatives (e.g., Blues Fest, Mullum Music Festival, Byron Writers Festival, Byron Film Festival, Splendour, Falls, Surf, Byron Music, Bangalow Film, Bangalow Music Festival), The Mud Trail etc and possibly venues such as Byron Community and Cultural Centre and Brunswick Picture House.
3. The summit to be open to invited stakeholders including state and federal political representatives.
4. The summit to include consideration of the following:
 - a) current council policies, strategies and resolutions to promote the arts;
 - b) current council policies, strategies and resolutions that inhibit the creative industries;
 - c) proposals that could be trialled and implemented to support Arts and Culture in the Byron Shire.

Signed: Cr Ndiaye

Councillor's supporting information:

5 Hosting an Arts and Culture Forum - The Arts have been severely impacted by Covid - all our major and most of our minor festivals have had to cancel or postpone - many have lost an enormous amount of money and some fear they will not be able to come back without support.

During the last 2 years we have also had an increase in film related activity. We had planned to have a meeting with industry stakeholders however Covid and Govt changes made that challenging.

10 There have been changes to the related SEPP (<https://www.planning.nsw.gov.au/fun-sepp>) and having some kind of forum where people could share their experiences and ideas could give council an opportunity to better support this process, update community on current information and address concerns of residents.

There is also the complication of multiple tenures that needs more public awareness, especially given the implications of Native Title.

15 **Staff comments**

by Vanessa Adams, Director Corporate & Community Services:

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

20 The proposed Summit aligns with current activity to develop an Arts & Culture Strategy and will help inform strategy direction.

However, 'culture' is a very broad term and can have different meaning to certain communities i.e., Aboriginal people view cultural activities differently. Perhaps it could be titled 'Creative Industries' or similar instead.

25 Convening it will require the following:

- Summit Plan developed, key speakers identified and secured;
- Independent facilitator (and possibly venue)

30 The Summit should include presentations from Council (including the Planning team regarding approvals for council owned and managed land, and potentially Native Title Manager involvement).

35 Covid challenges are likely to continue for some time. In order that this not be unduly delayed staff would like to suggest consideration be given to whether this might be an online forum. A recent example is this one by [Australia Council for the Arts](#).

Financial/Resource/Legal Implications:

5 To give this a fair chance of success a budget allocation of up to \$10,000 would need to be allocated to include facilitation and reporting, venue hire & catering if an in-person event is preferred, and presenter costs. The allocation of funds could made through the 22/23 budget process under way.

Is the proposal consistent with any Delivery Program tasks?

No

Notice of Motion No. 4.9 Council Meeting Times

File No: I2022/26

5

I move:

1. That council is committed to ensuring that the public has the maximum opportunities to contribute through public access and observe council meetings. We recognise that:
 - 10 a) over 80% of Australian employees work during the day (with 15%-20% working shift work)
 - b) working arrangements have a significant impact on the ability of the public to participate in, or observe, council meetings
 - 15 c) Work arrangements have an impact on the ability of the public to run for council, requiring a significant loss of income or rare flexible work arrangements.

2. That the schedule of meetings contained in Staff Report 5.7 be amended to
 - 20 a) have ordinary meetings to begin at 5pm
 - b) have SPW meetings to begin at 5pm
 - c) have planning meetings beginning at 5pm, with site inspections scheduled to begin from 3pm

3. That policies that provide support for caring responsibilities of councillors and staff be reviewed to enable these changes and ensure full participation is possible.
25

Signed: Cr Asren Pugh

Councillor's supporting information:

Byron Shire Council is very rare in holding its council meetings during the day. An informal survey of my own networks failed to identify any other councils that meet during the day (although I'm sure there are some).
30

With over 80% of Australian employees working during the day (15%-20% being shift workers), current meeting times are disenfranchising a significant proportion of our constituents and hampering their ability to contribute to and observe council meetings.

In own experience, the requirement to give up a minimum of one day per fortnight of paid work, with a realistic requirement being at least a day per week, was a reason for many potential council candidates to decline to nominate during the last election.
35

BYRON SHIRE COUNCIL

NOTICES OF MOTION

4.9

Having the whole Senior Executive team away from their operational duties for one day in 10 is also inefficient and detrimental to delivering services to our community.

5 As recently experienced, limiting council meetings to during the day provides significant scheduling difficulties to fit around work requirements of councillors and impacts on the timely decision making, for example notices of motion to the Local Government Conference.

ABS shift work stats -

<https://www.abs.gov.au/ausstats/abs@.nsf/featurearticlesbyCatalogue/5461A9DAE97FF759CA2578C300153388?OpenDocument>

10 **Staff comments**

by Vanessa Adams, Director Corporate & Community Services:

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

There are a number of considerations for Council in deciding on this proposal.

Length of Meetings

15 Byron Shire Council meetings start at 9am (11am for Planning Meetings) and can continue until late in the afternoon due to the number of items for determination allied to the length of public access. Average finish time is between 3 and 4pm, making the average meeting time around 6 hours, including recesses for lunch and after public access. In a State-wide comparison (using the Local Government Performance Excellence Program 2020 report)

20 Byron Shire has one of the longest Council meeting times of all Council respondents across Australia and New Zealand with only 2 councils having longer meetings. The median is 137 minutes (2.28 hours). Our median is 318 minutes (5.3 hours).

A 5pm start would potentially see Council meetings ending around 11pm.

25 A potential solution would be to commence public access at 4pm and impose a hard limit of finishing by 10pm. This may be achievable if public access is constrained to an hour and there are no recess periods. This is still quite late for effective decision making on complex matters.

30 Given the length of agendas it is not impossible that Council would not get through all its business and would have to convene an Extraordinary meeting the following day to conclude matters. This has regularly occurred at Lismore Council for example.

Public Participation

In past years Byron Shire Council has, on occasion, run late meetings twice a year in other locations e.g., Ocean Shores and Bangalow. Despite extensive awareness raising, public attendance was lower than at a daytime council meeting.

35 Since Council commenced livestreaming Council Meetings in March 2020, public access has included provisions for members of the public to join via webinar and/or provision of a

pre-recorded video or written submission. This has provided increased opportunities for members of the public to make representation to Council, reducing the impact on their other commitments.

NSW Local Government (State) Award Penalty Rates and WHS

- 5 Current resourcing requirements for Council meetings see the whole governance team participating in or supporting council meetings.

For Administrative staff, the Award stipulates the span of ordinary hours as 6am to 6pm.

- 10 *“Ordinary hours worked outside the span of 6:00am to 6:00pm Monday to Friday shall attract a 20% shift penalty in addition to the ordinary hourly rate of pay for the actual time worked outside the span of hours”*

In addition to penalty rates, overtime may also apply depending on the staff member.

- 15 In addition, the Award’s fatigue management component requires a minimum rest period between shifts. This would impact on availability of staff to carry out work before and after a late meeting. For example, the minimum rest period would potentially see the whole governance team unavailable the morning after a council meeting with consequent impacts on our ability to staff an Extraordinary meeting and also to produce minutes in a timely fashion.

Council also has a duty of care to staff and Councillors which gives rise to concerns about the risk inherent in tired staff and Councillors driving home late at night.

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

Potential payment of penalty rates/overtime.

Is the proposal consistent with any Delivery Program tasks?

CSP Objective	CSP Strategy	DP Action	Code	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	Deliver Council meeting secretariat – including agenda preparation, minutes and council resolutions monitoring

STAFF REPORTS - GENERAL MANAGER

Report No. 5.1 Oath or Affirmation of Office

Directorate: General Manager

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

File No: I2021/1953

Summary:

10 [Section 233A](#) of the *Local Government Act 1993* prescribes that “A councillor must take an oath of office or make an affirmation of office at or before the first meeting of the council after the councillor is elected.”

The purpose of this report is to make a formal record of the Oath of Office or Affirmation of Office taken by individual Councillors prior to the commencement of the new Council’s first Ordinary Meeting.

15

RECOMMENDATION:

20 That it be noted that the following Councillors took either the Oath of Office or Affirmation of Office, before the General Manager, prior to the first Ordinary Meeting of the new Council on 03 February 2022:

List of Councillors

Report

Councillors will be required to take an Oath of Office or make an Affirmation of Office at the first meeting of Council.

Oath

5 *I [name of councillor] swear that I will undertake the duties of the office of councillor in the best interests of the people of [name of council area] and the [name of council] and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgment.*

10 Affirmation

I [name of councillor] solemnly and sincerely declare and affirm that I will undertake the duties of the office of councillor in the best interests of the people of [name of council area] and the [name of council] and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgment.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	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	Deliver Council meeting secretariat – including agenda preparation, minutes and council resolutions monitoring

Legal/Statutory/Policy Considerations

20 [Section 233A](#) of the *Local Government Act 1993* prescribes that a councillor must take an oath of office or make an affirmation of office and that failing to do so, without reasonable excuse, precludes them from attending any meetings as a Councillor.

The minutes of the meeting will record the taking of an oath or making of an affirmation in accordance with Council's obligations under s233(6).

Financial Considerations

25 Not applicable.

Consultation and Engagement

Not applicable.

BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

5.2

Report No. 5.2 Election of Deputy Mayor - 2022

Directorate: General Manager

Report Author: Heather Sills, Corporate Planning and Improvement Coordinator

5 **File No:** I2021/984

Summary:

In accordance with [Section 231](#) of the *Local Government Act 1993* Councillors can elect a Deputy Mayor. The normal practice for Byron Shire is to elect a Deputy Mayor for a period of 12 months at the Ordinary Council meeting in September each year.

10 Due to the postponement of the Local Government Election to December 2022, the term of the Deputy Mayor will be shorter than usual, to September 2022, to realign in advance of the next Local Government Election in September 2024.

15

RECOMMENDATION:

1. **That Council elects a Deputy Mayor for the period from 20 January 2021 until the first meeting of Council in September 2022.**
2. **That the method of election of the Deputy Mayor be by way of ordinary ballot.**

20

Report

In accordance with Section 231 of the Local Government Act 1993, a council may elect a Deputy Mayor to assist the Mayor in the performance of his/her duties.

- 5 (1) *The councillors may elect a person from among their number to be the deputy mayor.*
- (2) *The person may be elected for the mayoral term or a shorter term.*
- (3) *The deputy mayor may exercise any function of the mayor at the request of the mayor or if the mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of mayor.*
- 10 (4) *The councillors may elect a person from among their number to act as deputy mayor if the deputy mayor is prevented by illness, absence or otherwise from exercising a function under this section, or if no deputy mayor has been elected.*

Term of the Deputy Mayor

Section 231 (2) of the Local Government Act states: “*The person may be elected for the mayoral term or a shorter term*” such as:

- 15 1. For a period of 12 months
2. For the period of the Mayoral Term
3. For another period determined by Council

Returning Officer

20 Schedule 7(1) of the Local Government (General) Regulation 2005 states that the “*General Manager (or a person appointed by the General Manager) is the Returning Officer.*”

Nomination

Schedule 7(2) of the Local Government (General) Regulation 2005 states that:

- 25 (1) *A councillor may be nominated without notice for election as mayor or deputy mayor.*
- (2) *The nomination is to be made in writing by 2 or more councillors (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.*
- (3) *The nomination is to be delivered or sent to the returning officer.*
- 30 (4) *The returning officer is to announce the names of the nominees at the council meeting at which the election is to be held.*

Nomination forms have been provided as an attachment to this business paper. Any completed nomination forms should be handed to the General Manager prior to the commencement of the Council meeting.

Election

Schedule 7(3) of the Local Government (General) Regulation 2005 states:

- (1) *If only one councillor is nominated, that councillor is elected.*
- 5 (2) *If more than one councillor is nominated, the council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot; or by open voting.*
- (3) *The election is to be held at the Council meeting at which the Council resolves the method of voting.*
- 10 (4) *In this clause:*
 - “ballot” has its normal meaning of secret ballot;*
 - “open voting” means voting by a show of hands or similar means.*

The following additional information outlines various ballot systems. Traditionally, this Council has determined the election for Deputy Mayor by ordinary ballot.

15 Preferential ballot – as per its normal interpretation, the ballot papers are to contain the names of all candidates and Councillors mark their votes 1, 2, 3 and so on against the various names, so as to indicate their order of preference for all of the candidates.

Ordinary ballot – this is the usual method adopted in New South Wales. Ballots are secret with only one candidate’s name written on a ballot paper.

20 Where there are two candidates, the person with the most votes is elected. If the ballots for the two candidates are tied, the one to be elected is to be chosen by lots, with the first name out being declared elected.

25 Where there are three or more candidates, the person with the lowest number of votes is eliminated and the process started again until there are only two candidates. The determination of the election would then proceed as if the two were the only candidates. In the case of three or more candidates where a tie occurs, the one to be excluded will be chosen by lot.

30 Choosing by Lot – to choose a candidate by lot, the names of the candidates who have equal numbers of votes are written on similar slips of paper by the returning officer, the slips are folded by the returning officer so as to prevent the names being seen, the slips are mixed and one is drawn at random by the returning officer and the candidate whose name is on the drawn slip is chosen, on the basis detailed above.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	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	Deliver Council meeting secretariat – including agenda preparation, minutes and council resolutions monitoring

Legal/Statutory/Policy Considerations

5 The Deputy Mayor will undertake the Mayor’s role at the request of the Mayor and in situations where the Mayor is prevented by illness, absence or other reasons from exercising the functions of the position. The role of the Mayor is defined by [Section 226 of the Local Government Act 1993](#).

Financial Considerations

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

10 *(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.*

15 Therefore the Deputy Mayor when acting in the role of Mayor, in instances where the Mayor has leave of absence endorsed by Council, could be paid a fee calculated on a pro-rata basis of the annual Mayoral allowance, which would be deducted from the amount of the monthly Mayoral allowance paid to the Mayor, in accordance with Section 249 of the *Local Government Act 1993*.

Consultation and Engagement

20 Not applicable.

Report No. 5.3 Adoption of a Code of Meeting Practice

Directorate: General Manager

Report Author: Ralph James, Legal Counsel
Heather Sills, Corporate Planning and Improvement
Coordinator

5

File No: I2021/1921

Summary:

10 The Model Code of Meeting Practice for Local Councils in NSW is made under section 360 of the *Local Government Act 1993* and clause 232 of the *Local Government (General) Regulation 2021*.

15 Council must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code within 12 months of the local government elections. Council's adopted meeting code must not contain provisions that are inconsistent with the mandatory provisions. Council's adopted meeting code may also incorporate the non-
15 mandatory provisions of the Model Meeting Code and any other supplementary provisions adopted by the council.

20 Under section 361 of the Local Government Act 1993, before adopting a new code of meeting practice, councils must first exhibit a draft of the code of meeting practice for at least 28 days and provide members of the community at least 42 days in which to comment on the Draft Code.

25 **RECOMMENDATION:**

1. **That Council notes that the Code of Meeting Practice (E2021/141380) incorporates both the mandatory and non-mandatory provisions of the prescribed Model Code of Meeting Practice for Local Councils in NSW.**
2. **That Council places the Code of Meeting Practice on public exhibition for a period of 28 days and invites submissions for a period of 42 days (those periods running partly concurrently) and that:**
 - a) **Should no submissions be received the Code of Meeting Practice be adopted, or**
 - b) **Should any submissions be received those submissions be reported to Council prior to adoption.**

30

35

Attachments:

1 DRAFT Code of Meeting Practice 2022, E2021/141380

Report

5 The Office of Local Government has prescribed a [Model Code of Meeting Practice for Local Councils in NSW](#) (Model Meeting Code). The Model Meeting Code contains both mandatory and non-mandatory provisions. Accordingly, Council's current Code of Meeting Practice already contains many of the mandatory and non-mandatory provisions of the 2021 Model Meeting Code.

In accordance with requirements under the *Local Government Act 1993*, a Draft Code 2022 of Meeting Practice (Draft Code 2022) has been prepared for Council's consideration. This is provided at attachment 1.

10 The Draft Code 2022 includes those mandatory provisions from the Model Meeting Code which are not already in Council's current Code of Meeting Practice are set out in black font and non-mandatory provisions of the Model Meeting Code which are not already in Council's current Code of Meeting Practice are set out in red font.

15 The provisions of the Model Meeting Code which are already in Council's current Code of Meeting Practice are set out in blue font. To aid Council's consideration, a link to the current [Code of Meeting Practice](#) is provided.

Model Meeting Code– statutory foundation

20 The Model Meeting Code is made under section 360 of the *Local Government Act 1993* (the Act) and clause 232 of the *Local Government (General) Regulation 2021* (the Regulation) which are in the following terms:

360 Conduct of meetings of councils and committees

- (1) The regulations may prescribe a model code of meeting practice for the conduct of meetings of councils and committees of councils of which all the members are councillors.
- (2) The model code may contain both mandatory and non-mandatory provisions.
- 25 (3) A council must, not later than 12 months after an ordinary election of councillors, adopt a code of meeting practice that incorporates the mandatory provisions of the model code prescribed by the regulations. The adopted code may also incorporate the non-mandatory provisions and other provisions.
- 30 (4) A code adopted or amended by the council must not contain provisions that are inconsistent with the mandatory provisions.
- (5) A council and a committee of the council of which all the members are councillors must conduct its meetings in accordance with the code of meeting practice adopted by it.

232 Model code of meeting practice

35 The *Model Code of Meeting Practice for Local Councils in NSW*, published in the Gazette on 29 October 2021, is prescribed for the purposes of the Act, section 360(1).

Model Code of Meeting Practice – application and adoption

5 The Model Meeting Code applies to all meetings of councils and committees of councils of which all the members are councillors (committees of council). Council committees whose members include persons other than councillors may adopt their own rules for meetings unless the council determines otherwise.

The Model Meeting Code comprises of mandatory and non-mandatory provisions.

The Model Meeting Code has been updated to reflect best practice and to current day meeting processes. It contains a number of important changes about meeting protocol and how the community participates in the meeting process.

10 As stated above, the Model Meeting Code has two elements:

- mandatory provisions (indicated in black font)
- non-mandatory provisions (indicated in red font)

15 The non-mandatory provisions cover areas of meeting practice that are common to most councils but where there may be a need for some variation in practice between councils based on local circumstances.

20 Council must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code within 12 months of the local government election. Council's adopted meeting code must not contain provisions that are inconsistent with the mandatory provisions.

25 Council's adopted meeting code may also incorporate the non-mandatory provisions of the Model Meeting Code and any other supplementary provisions adopted by the council.

Under section 361 of the Local Government Act 1993, before adopting a new code of meeting practice, councils must first exhibit a draft of the code of meeting practice for at least 28 days and provide members of the community at least 42 days in which to comment on the Draft Code 2022.

30 Considerations for adoption of Draft Code 2022

Model Meeting Code –Statement of ethical obligations

35 An amendment has been made to the Model Meeting Code implementing recommendation 6 in ICAC's report in relation to its investigation of the former Canterbury City Council (Operation Dasha). ICAC recommended that the Model Meeting Code be amended to require that council business papers include a reminder to councillors of their oath or affirmation of office, and their conflict of interest disclosure obligations.

Model Meeting Code – the audio-visual provisions

The Model Meeting Code contains new provisions that allow councils to permit individual councillors to attend meetings by audio-visual link and to hold meetings by audio-visual

BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

5.4

link in the event of natural disasters or public health emergencies. The provisions governing attendance at meetings by audio-visual link are non-mandatory.

5 Amendments have also been made to the provisions governing the webcasting of meetings and disorder at meetings to reflect amendments to the Regulation since the previous iteration of the Model Meeting Code was prescribed.

Since remote attendance was first permitted in response to the COVID-19 pandemic, many councils, including Byron Shire, have made use of and appreciated the increased flexibility and accessibility of audio-visual meetings.

10 When appropriately managed, remote meeting provisions support a greater diversity of people to participate in council meetings. Remote meeting provisions may ease participation of people with caring responsibilities, people with disability and people that need, on occasion, to travel for work.

15 Remote meeting provisions also reflect contemporary expectations and understanding about effective attendance at and participation in meetings in ways other than solely in-person attendance.

Draft Code 2022: it is recommended in the Draft Code 2022 before Council that the provisions for audio-visual attendance be included.

20 **Provisions of the Model Meeting Code which must be adopted (assuming that Council supports the audio-visual provisions)**

3.22 *Statement of Ethical obligation*

25 3.22 Business papers for all ordinary and extraordinary meetings of the council and committees of the council must contain a statement reminding councillors of their oath or affirmation of office made under section 233A of the Act and their obligations under the council's code of conduct to disclose and appropriately manage conflicts of interest.

30 3.28 *urgency motions in extra ordinary meetings*

3.28 Despite clause 3.27, business may be considered at an extraordinary meeting of the council, even though due notice of the business has not been given, if:

- 35 (a) a motion is passed to have the business considered at the meeting, and
- (b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

40 5.2 *participation in meetings by audio-visual link*

5.2 A councillor cannot participate in a meeting of the council or of a committee of the council unless personally present at the meeting, unless permitted to attend the

BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

5.4

meeting by audio-visual link under this code.

5.15 to 5.29 Meetings held by audio-visual links

- 5 5.15 A meeting of the council or a committee of the council may be held by audio-visual link where the mayor determines that the meeting should be held by audio-visual link because of a natural disaster or a public health emergency. The mayor may only make a determination under this clause where they are satisfied that attendance at the meeting may put the health and safety of councillors and staff at risk. The mayor must make a determination under this clause in consultation with the general manager and, as far as is practicable, with each councillor.
- 10
- 5.16 Where the mayor determines under clause 5.15 that a meeting is to be held by audio-visual link, the general manager must:
- 15 (a) give written notice to all councillors that the meeting is to be held by audio-visual link, and
- (b) take all reasonable steps to ensure that all councillors can participate in the meeting by audio-visual link, and
- 20 (c) cause a notice to be published on the council's website and in such other manner the general manager is satisfied will bring it to the attention of as many people as possible, advising that the meeting is to be held by audio-visual link and providing information about where members of the public may view the meeting.
- 5.17 This code applies to a meeting held by audio-visual link under clause 5.15 in the same way it would if the meeting was held in person.
- 25 **Note:** Where a council holds a meeting by audio-visual link under clause 5.15, it is still required under section 10 of the Act to provide a physical venue for members of the public to attend in person and observe the meeting.

Attendance by councillors at meetings by audio-visual link

- 30 5.18 Councillors may attend and participate in meetings of the council and committees of the council by audio-visual link with the approval of the council or the relevant committee.
- 5.19 A request by a councillor for approval to attend a meeting by audio-visual link must be made in writing to the general manager prior to the meeting in question and must provide reasons why the councillor will be prevented from attending the meeting in person.
- 35
- 5.20 Councillors may request approval to attend more than one meeting by audio-visual link. Where a councillor requests approval to attend more than one meeting by audio-visual link, the request must specify the meetings the request relates to in addition to the information required under clause 5.19.

BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

5.4

- 5.21 The council must comply with the Health Privacy Principles prescribed under the *Health Records and Information Privacy Act 2002* when collecting, holding, using and disclosing health information in connection with a request by a councillor to attend a meeting by audio-visual link.
- 5 5.22 A councillor who has requested approval to attend a meeting of the council or a committee of the council by audio-visual link may participate in the meeting by audio-visual link until the council or committee determines whether to approve their request and is to be taken as present at the meeting. The councillor may participate in a decision in relation to their request to attend the meeting by audio-visual link.
- 10 5.23 A decision whether to approve a request by a councillor to attend a meeting of the council or a committee of the council by audio-visual link must be made by a resolution of the council or the committee concerned. The resolution must state:
- (a) the meetings the resolution applies to, and
- 15 (b) the reason why the councillor is being permitted to attend the meetings by audio-visual link where it is on grounds other than illness, disability, or caring responsibilities.
- 5.24 If the council or committee refuses a councillor's request to attend a meeting by audio-visual link, their link to the meeting is to be terminated.
- 5.25 A decision whether to approve a councillor's request to attend a meeting by audio-visual link is at the council's or the relevant committee's discretion. The council and committees of the council must act reasonably when considering requests by councillors to attend meetings by audio-visual link. However, the council and committees of the council are under no obligation to approve a councillor's request to attend a meeting by audio-visual link where the technical capacity does not exist to allow the councillor to attend the meeting by these means.
- 20 5.26 The council and committees of the council may refuse a councillor's request to attend a meeting by audio-visual link where the council or committee is satisfied that the councillor has failed to appropriately declare and manage conflicts of interest, observe confidentiality, or to comply with this code on one or more previous occasions they have attended a meeting of the council or a committee of the council by audio-visual link.
- 30 5.27 This code applies to a councillor attending a meeting by audio-visual link in the same way it would if the councillor was attending the meeting in person. Where a councillor is permitted to attend a meeting by audio-visual link under this code, they are to be taken as attending the meeting in person for the purposes of the code and will have the same voting rights as if they were attending the meeting in person.
- 35 5.28 A councillor must give their full attention to the business and proceedings of the meeting when attending a meeting by audio-visual link. The councillor's camera must be on at all times during the meeting except as may be otherwise provided for under this code.
- 40

BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

5.4

5.29 A councillor must be appropriately dressed when attending a meeting by audio-visual link and must ensure that no items are within sight of the meeting that are inconsistent with the maintenance of order at the meeting or that are likely to bring the council or the committee into disrepute.

5

14.20 audio-visual link in closed meetings

14.20 Councillors attending a meeting by audio-visual link must ensure that no other person is within sight or hearing of the meeting at any time that the meeting is closed to the public under section 10A of the Act.

10

15.20 and 15.21 disorder in a meeting attended by audio visual link

15.20 Where a councillor is attending a meeting by audio-visual link, the chairperson or a person authorised by the chairperson may mute the councillor's audio link to the meeting for the purposes of enforcing compliance with this code.

15

15.21 If a councillor attending a meeting by audio-visual link is expelled from a meeting for an act of disorder, the chairperson of the meeting or a person authorised by the chairperson, may terminate the councillor's audio-visual link to the meeting.

20

16.2 conflict-of-interest declaration in meetings attended by audio-visual link

16.2 Councillors attending a meeting by audio-visual link must declare and manage any conflicts of interest they may have in matters being considered at the meeting in accordance with the council's code of conduct. Where a councillor has declared a pecuniary or significant non-pecuniary conflict of interest in a matter being discussed at the meeting, the councillor's audio-visual link to the meeting must be suspended or terminated and the councillor must not be in sight or hearing of the meeting at any time during which the matter is being considered or discussed by the council or committee, or at any time during which the council or committee is voting on the matter.

25

30

19.2 (a) recording of names of Council is attending by audio-visual link

19.2(a) the names of councillors attending a council meeting and whether they attended the meeting in person or by audio-visual link,

35

20.22 (a) recording of names of councillors in committee meeting minutes are attended by audio-visual link

20.22 (a) the names of councillors attending a meeting and whether they attended the meeting in person or by audio-visual link,

40

Sections of the 2021 Model Meeting Code which do not change Council's current Code of Meeting Practice

1 Introduction

2 Meeting Principles

5 **3 Before the meeting.** Except that in 3.12 (b) where the General Manager is given an option where a Notice of Motion calls for expenditure of funds, 3.22 where the statement of ethical obligations has been added and 3.28 (b) which provides for an urgency motion at an extraordinary meeting, are amended by the Model Meeting Code

10 **4 Public Forums.** All of this section is as per the Model Meeting Code however clauses 4.1, 4.3, 4.4, 4.5, 4.8, 4.9, 4.10, 4.11, 4.12, 4.13, 4.14, 4.15, 4.20, 4.21, 4.22, 4.23 and 4.24 are all as per Council's current Code of Meeting Practice.

5 Coming together. Except that 5.2 and 5.15 to 5.29 (dealing with audio-visual link) are all added by the Model Meeting Code.

6 The Chairperson

15 **7 Modes of Address**

8 Order of Business-Ordinary Meeting

9 Consideration of Business

20 **10 Rules of Debate.** Except that the Model Meeting Code adds 10.9 concerning motions requiring the expenditure of funds. In 10.10 the sentence dealing with a seconder or a mover of a motion cannot second an amendment has been removed. Current clauses 10.33 to 10.40 Tabling motions has been removed (these fall within the general law of meeting practice).

11 Voting

12 Committee of the Whole

25 **13 Dealing with items by exception**

14 Closure of meetings to the public. Except that in 14.10 the ability to make a representation during Public Access sessions has been removed and 14.20 has been added in relation to audio-visual links

30 **15 Keeping Order at Meetings** Except 15.20 and 15.21 relating to audio-visual link have been added.

16 Conflicts of interest. Clause 15.2, relating to audio-visual link has been added

17 Decisions of Council

BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

5.4

18 Time Limits on Council's meetings In 18 1 the words "if the meeting commenced at 9 AM" have been omitted.

19 After the meeting Clause 19.2 (a) (relating to audio-visual link) has been added

20 Council Committees Clause 20.22 (a) (relating to audio-visual link) has been added

5 **21 Irregularities**

22. Definitions. A definition of "audio-visual link" has been added

Draft Code 2022: it is recommended in the Draft Code 2022 before Council that the provisions of the Model Meeting Code for Public Access be included.

10 **Model Meeting Code –Limitation to submissions for or against recommendations in items on the agenda in Public Access sessions**

The purpose of public access sessions is to provide an opportunity for members of the public to participate directly in the democratic process through making representation to Council about matters on the Agenda and thereby influence Council's decision making.

15 Public Access sessions support Councillors in performing their duties as elected officials. It allows for members of the public to directly address Councillors about matters on the meeting agenda.

20 In 2013 general submissions and questions were removed in a revision of the Code of Meeting Practice. They were reinstated through a Notice of Motion in 2015 designed to support democracy, accountability and so that emerging issues of importance within the community could be brought to the attention of councillors.

It should be noted that there is an array of avenues for the community to bring matters to Council attention short of it being posed as a question or a submission at a meeting

25 A brief comparison with a sample of other councils has indicated that allowing questions as part of public access may be an uncommon practice, with most councils sampled requiring that public access must be specifically related to items on the Agenda before Council:

	Public Access (item on the Agenda)	General Submissions	Questions
Lismore	✓	15 minute 'Public Forum' held before Councillor briefings (separate to Council Meetings)	✗
Tweed	✓	At the discretion of the General Manager	✗
Ballina	✓	✗	✓
Clarence Valley	✓	✗	✗

BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

5.4

Coffs Harbour	✓	x	x
Port Macquarie Held on the Monday before the Ordinary Meeting	✓	✓	x
Nambucca Valley	✓	✓	x

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	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	Deliver Council meeting secretariat – including agenda preparation, minutes and council resolutions monitoring

Recent Resolutions

- 5 • Current Code of Meeting Practice adopted following exhibition per resolution **20-610**

Legal/Statutory/Policy Considerations

As set out in the body of the Report.

Financial Considerations

Nil.

10 Consultation and Engagement

Consultation between Legal Counsel and the Corporate Planning and Improvement, and Governance Coordinators developed the Draft Code 2022.

The Director Corporate and Community Services and the Manager Corporate Services were consulted as the Draft Code 2022 was developed.

- 15 The Executive Team was briefed on the current version of the Draft Code 2022 on 1 December 2021.

Report No. 5.4 Review of Council's Codes of Conduct

Directorate: General Manager

Report Author: Ralph James, Legal Counsel

File No: I2021/1929

5 **Summary:**

It is a statutory requirement that council must, within 12 months after each ordinary election, review its adopted Code of Conduct and make such adjustments as it considers appropriate and as are consistent with the *Local Government Act 1993*.

10

RECOMMENDATION:

15 **That Council, having reviewed its Codes of Conduct included at Attachment 1 (#E2020/80736), Attachment 3 (#E2019/858) and Attachment 4 (E2019/859) and the related Procedures for the Administration of the Code of Conduct included at Attachment 2 (E2020/81056), adopt these Codes and Procedures with no adjustments.**

20 **Attachments:**

- 1 Code of Conduct for Councillors of 2020, E2020/80736
- 2 Procedures for the Administration of the Code of Conduct 2020, E2020/81056
- 3 Code of Conduct for Council Staff, E2019/858
- 25 4 Code of Conduct for Council Committee Members et cetera, E2019/859

Report

On 7 August 2020, the NSW Government published *The Model Code of Conduct for Local Councils in NSW 2020* and the *Code for the Administration of The Model Code of Conduct for Local Councils in NSW 2020*. These documents replaced the previous versions published in 2018.

The Model Code has binding legal force on local government officials under section 440(5) of the *Local Government Act 1993* (NSW). The Code Procedures have binding legal force on local government officials in relation to the investigation of complaints about breaches of the new Model Code and associated matters under s440AA(5) of the LG Act

440 Codes of conduct

- (1) The regulations may prescribe a model code of conduct (the **model code**) applicable to councillors, members of staff of councils and delegates of councils.
- (5) Councillors, members of staff and delegates of a council must comply with the applicable provisions of—
- (a) the council's adopted code, except to the extent of any inconsistency with the model code as in force for the time being, and
- (b) the model code as in force for the time being, to the extent that—
- (i) the council has not adopted a code of conduct, or
- (ii) the adopted code is inconsistent with the model code, or
- (iii) the model code contains provisions or requirements not included in the adopted code.

440AA Administration of code of conduct

- (5) Councillors, members of staff and delegates of a council must comply with the applicable provisions of—
- (a) the council's adopted procedure, except to the extent of any inconsistency with the model procedure as in force for the time being, and
- (b) the model procedure as in force for the time being, to the extent that—
- (i) the council has not adopted the model procedure, or
- (ii) the adopted procedure is inconsistent with the model procedure, or
- (iii) the model procedure contains provisions or requirements not included in the adopted procedure.

BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

5.4

On 24 September 2020 Council resolved (20-483):

- 5 1. That Council adopts the amendments to the *Code of Conduct for Councillors* (E2020/69254) as detailed in the Report.
2. That Council endorses the amendments to the *Procedures for the Administration of Council's Code of Conduct* (E2020/69256) as detailed in the Report.

10 The Code document was finalised as adopted and became document E2020/80736 – Attachment 1. The Procedures document was finalised as adopted and became document E2020/81056 – Attachment 2.

15 In a Circular dated 18 December 2018 the Office of Local Government advised that some councils indicated in their feedback on the consultation draft of the Model Code of Conduct a preference for adopting separate codes of conduct for councillors, staff and delegates and committee members instead of a single code of conduct that applies to all council officials. To assist councils to do this, OLG prepared bespoke versions of the Model Code of Conduct for councillors, staff and delegates and committee members for adoption,
20 instead of a single code of conduct, should councils wish to do so.

Council adopted separate Codes. Attachment 3 is the Code of Conduct for Council Staff. Attachment 4 is the Code of Conduct for Council Committee Members, Delegates of Council and Council Advisors.

25 LGA section 440(7) provides that a council must, within 12 months after each ordinary election, review its adopted code and make such adjustments as it considers appropriate and as are consistent with this section.

30 Since the adoption of the Codes no legislative changes or other matters have arisen which warrant adjustments to the Codes or the Procedures.

In the period 1 September 2019 to 31 August 2021 the following Code of Conduct
35 complaints have been received and determined.

Complaint Against	Details	Outcome
Councillor	Claim that Cr should have declared relationship with a developer as significant instead of non significant	Complaint not sustained
Councillor	Harassment (neighbour dispute)	Complaint not sustained

BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

5.4

Complaint Against	Details	Outcome
Staff	Corruption in subdivision	Complaint not sustained
Parking Enforcement Officer	Misconduct/abuse of power.	Complaint not sustained
Planning Staff	DA assessment	Complaint not sustained
Councillors and the General Manager	Events arising from a Planning Meeting	Not a Code of Conduct Complaint
Staff	Conflict of Interest	Complaint not sustained
Councillors and the General Manager and staff	Events arising from a Planning Meeting	Withdrawn
Councillor	Breach of confidentiality	Complaint not sustained
Staff	Compliance inspections	Complaints not sustained

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	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	5.2.4.5	Implement and manage Code of Conduct training programs for Councillors, staff, and committee members

Recent Resolutions

As set out in the Report

5 Legal/Statutory/Policy Considerations

As set out in the Report

Financial Considerations

The costs associated with the investigation of two of the complaints listed in the table above by external members of Council's Code of Conduct Review Panel was \$8,121.92

10 Consultation and Engagement

Nil.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 5.5 Review of Council Delegations

Directorate: Corporate and Community Services

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

File No: I2021/1844

Summary:

10 Council is required to review its delegations within the first 12 months of an election. Council may, by resolution, delegate to the General Manager any Council function other than the matters specifically set out in section 377 of the Local Government Act 1993.

RECOMMENDATION:

- 15 1. That Council revokes its previous delegations to the Mayor and General Manager and adopts the following :
- a) Instrument of Delegation to the Mayor shown at Attachment 1 (E2021/140718); and
 - 20 b) Instrument of Delegation to the General Manager at Attachment 2 (E2021/140618).
2. That Council reconfirms that it delegates its functions as a Local Control Authority for noxious weeds under s370 of the Biosecurity Act 2015 to Rous County Council until such time as the delegation is revoked or re-delegated.
- 25 3. That Council reconfirms its delegations to Council's Special Purposes Committee, i.e., the Planning Review Committee, as set out in Council's Code of Meeting Practice at clause 21 (E2021/129794).
4. That Council reconfirms its acceptance of delegation of functions from other agencies as set out at Attachment 3 (E2021/140789).
- 30 5. That Council notes that Delegations of Authority for Council's Section 355 Committees is the subject of a separate report to Council.

Attachments:

- 1 Delegation of functions to the Mayor - for adoption following new term of Council, E2021/140718

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

5.5

- 2 Delegation of functions to the General Manager - for adoption following new term of Council, E2021/140618
- 3 Delegations accepted by Council (Food Act 2003, Plumbing and Drainage Act 2012) - for adoption following new term of Council, E2021/140789

5

Report

5 Section 380 of the Local Government Act 1993 states that each council must review all its delegations during the first 12 months of each term of office. Council may, by resolution, delegate to the General Manager any Council function other than the matters specifically set out in section 377 of the Local Government Act 1993. These matters are included in the Statutory and Policy Implications section of this report.

Mayor

10 Council's current delegation to the Mayor was adopted on 23 April 2020 via Resolution **20-188**. The proposed change to this instrument is to remove the COVID-19 provision which is not applicable at this time. For reference, this provision is removed by track changes in the recommended instruction at Attachment 1. Further minor amendments have been made to formatting and wording to bring it in line with Council's Delegations Register. The intention of each delegation has not been affected.

General Manager

15 Council's current delegation to the General Manager was adopted on 2 August 2018 via Resolution **18-489**. There are no proposed changes to this instrument, other than minor formatting and minor wording changes to bring it in line with Council's Delegations Register. The intention of each delegation has not been affected. The recommended instrument is included in this report as Attachment 2.

20 Rous County Council

Council adopted on 21 September 2017 via resolution **17-422** that Council "*reconfirm its delegation of its functions for noxious weeds under the Noxious Weeds Act, 1993, to Rous County Council until such time as the delegation is revoked or re-delegated.*"

25 It is proposed to reconfirm this delegation as amended at point 2 of the recommendation to this report, noting the reference to the repealed Noxious Weeds Act 1993 has been amended to reference its replacement, the [Biosecurity Act 2015](#).

Special Purpose Committee endorsed under Council's Code of Meeting Practice

30 Council's Planning Review Committee is a Special Purpose Committee which is endorsed under Council's Code of Meeting Practice. The delegation to this Committee is shown at [clause 21](#) of the Code.

It is proposed to reconfirm this delegation until such time as the delegation is revoked or re-delegated.

Acceptance of delegation of functions from other agencies

35 Pursuant to s381 of the Local Government Act 1993, and by every other Act conferring a power of delegation, Council reconfirmed at the Ordinary Meeting on 21 September 2017 its acceptance of functions and powers to Council. It is proposed to reconfirm acceptance of these functions and powers shown at Attachment 3 except for the delegation under the

Environmental Planning and Assessment Act 1979 as it is no longer applicable. The updated s59 (now [s3.36](#)) of that Act has since been amended to reference the “local plan-making authority” (Council) rather than “the Minister”.

Strategic Considerations

5 Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	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	5.2.3.1	Maintain, publish and report on relevant registers including delegations, Councillors and designated staff disclosures of interests, Councillor and staff gifts and benefits, and staff secondary employment.

Recent Resolutions

Not applicable

Legal/Statutory/Policy Considerations

10 The Local Government Act 1993 establishes the statutory framework for the delegation of Council’s authority.

Local Government Act 1993 - Part 3 Delegation of functions

377 General power of the council to delegate

- 15 (1) A council may, by resolution, delegate to the general manager or any other person or body (not including another employee of the council) any of the functions of the council under this or any other Act, other than the following—
- (a) the appointment of a general manager,
 - (b) the making of a rate,
 - (c) a determination under section 549 as to the levying of a rate,
 - (d) the making of a charge,
 - 20 (e) the fixing of a fee,
 - (f) the borrowing of money,
 - (g) the voting of money for expenditure on its works, services or operations,
 - (h) the compulsory acquisition, purchase, sale, exchange or surrender of any
 - 25 land or other property (but not including the sale of items of plant or equipment),

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

5.5

- 5 (i) the acceptance of tenders to provide services currently provided by members of staff of the council,
(j) the adoption of an operational plan under section 405,
(k) the adoption of a financial statement included in an annual financial report,
(l) a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6,
(m) the fixing of an amount or rate for the carrying out by the council of work on private land,
10 (n) the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work,
(o) the review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the Environmental Planning and
15 Assessment Act 1979,
(p) the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194,
(q) a decision under section 356 to contribute money or otherwise grant financial assistance to persons,
20 (r) a decision under section 234 to grant leave of absence to the holder of a civic office,
(s) the making of an application, or the giving of a notice, to the Governor or Minister,
(t) this power of delegation,
25 (u) any function under this or any other Act that is expressly required to be exercised by resolution of the council.
- (1A) Despite subsection (1), a council may delegate its functions relating to the granting of financial assistance if—
- 30 (a) the financial assistance is part of a specified program, and
(b) the program is included in the council's draft operational plan for the year in which the financial assistance is proposed to be given, and
(c) the program's proposed budget for that year does not exceed 5 per cent of the council's proposed income from the ordinary rates levied for that year,
35 and
(d) the program applies uniformly to all persons within the council's area or to a significant proportion of all the persons within the council's area.
- 40 (2) A council may, by resolution, sub-delegate to the general manager or any other person or body (not including another employee of the council) any function delegated to the council by the Departmental Chief Executive except as provided by the instrument of delegation to the council.
- (3) A council may delegate functions to a joint organisation only with the approval, by resolution, of the board of the joint organisation.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

5.5

378 Delegations by the general manager

- 5
- (1) The general manager may delegate any of the functions of the general manager, other than this power of delegation.
 - (2) The general manager may sub-delegate a function delegated to the general manager by the council to any person or body (including another employee of the council).
 - (3) Subsection (2) extends to a function sub-delegated to the general manager by the council under section 377(2).

379 Delegation of regulatory functions

- 10
- (1) A regulatory function of a council under Chapter 7 must not be delegated or sub-delegated to a person or body other than—
 - (a) a committee of the council of which all the members are councillors or of which all the members are either councillors or employees of the council, or
 - 15 (b) an employee of the council, or
 - (c) a county council, or
 - (d) a joint organisation.
 - (2) A regulatory function of a county council under Chapter 7 must not be delegated or sub-delegated to a person or body other than—
 - 20 (a) a committee of the county council of which all the members are members of the county council or of which all the members are either members of the county council or employees of the county council, or
 - (b) an employee of the county council, or
 - (c) a council.
 - 25 (2A) A council may delegate a regulatory function to a joint organisation only with the approval, by resolution, of the board of the joint organisation.
 - (3) However, if—
 - 30 (a) a regulatory function is delegated to a county council, the function may be delegated to the general manager and by the general manager to an employee of the county council, or
 - (b) a regulatory function is delegated to a council, the function may be delegated to the general manager and by the general manager to an employee of the council, or
 - 35 (c) a regulatory function is delegated to a joint organisation the function may be delegated to the executive officer and by the executive officer to an employee of the joint organisation.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

5.5

380 Review of delegations

Each council must review all its delegations during the first 12 months of each term of office.

381 Exercise of functions conferred or imposed on council employees under other Acts

- 5 (1) If, under any other Act, a function is conferred or imposed on an employee of a council or on the mayor or a councillor of a council, otherwise than by delegation in accordance with this section, the function is taken to be conferred or imposed on the council.
- (2) Such a function may be delegated by the council in accordance with this Part.
- 10 (3) A person must not, under any other Act, delegate a function to—
- the general manager, except with the approval of the council
 - an employee of the council, except with the approval of the council and the general manager.

Financial Considerations

15 Nil

Consultation and Engagement

Consultation with Councillors is via this report.

Report No. 5.6 Meeting Schedule 2022 - Council Meetings and Strategic Planning Workshops

Directorate: Corporate and Community Services

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

File No: I2021/1839

Summary:

This report is prepared to allow Council to determine the schedule of Ordinary and Planning Meetings and Strategic Planning Workshops for the 2022 calendar year.

10 A proposed schedule of dates, times and places for the Ordinary and Planning Meetings and Strategic Planning Workshops in 2022 is recommended for adoption. Following Council endorsement, the meeting schedule will be publicly notified on Council's website.

15 Consideration of Committee meeting dates will be referred to Council at a future meeting, pending determination of the committee structure, which is the subject of a separate report to this meeting.

RECOMMENDATION:

20 1. That Council endorses the meeting frequency and cycle to generally follow the monthly pattern of:

- 25 1st Thursday - Strategic Planning Workshop & Planning Review Committee
2nd Thursday - Planning Meeting
3rd Thursday - Committee meetings
4th Thursday - Ordinary Meeting
5th Thursday (where applicable) – Committee meetings

2. That Council continues to support a recess in January and July each year, where no meetings are scheduled.

30 3. That Council adopts the following schedule of Ordinary and Planning Meetings and Strategic Planning Workshops (SPW) for 2022:

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

5.6

Date	Meeting/Workshop (Thursday)
10-Feb-22	SPW
24-Feb-22	Ordinary
03-Mar-22	SPW
10-Mar-22	Planning
24-Mar-22	Ordinary
07-Apr-22	SPW
14-Apr-22	Planning
28-Apr-22	Ordinary
05-May-22	SPW
12-May-22	Planning
26-May-22	Ordinary
02-Jun-22	SPW
09-Jun-22	Planning
23-Jun-22	Ordinary
30-Jun-22	Extraordinary
JULY	RECESS
04-Aug-22	SPW
11-Aug-22	Planning
25-Aug-22	Ordinary
01-Sep-22	SPW
08-Sep-22	Planning
22-Sep-22	Ordinary
06-Oct-22	SPW
13-Oct-22	Planning
27-Oct-22	Ordinary
03-Nov-22	SPW
10-Nov-22	Planning
24-Nov-22	Ordinary
1-Dec-22	SPW
08-Dec-22	Planning
15-Dec-22	Ordinary

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

5.6

4. That the Ordinary Meetings be held in the Council Chambers, Mullumbimby with a start time of 9.00am.

5. That the Planning Meetings be held in the Council Chambers, Mullumbimby with a start time of 11.00am, following site inspections which are held at 9.00am on the day of the Planning Meeting.

Report

The proposed meeting schedule, is based on the current structure of Ordinary and Planning Meetings and Strategic Planning Workshops, such that meetings are generally held on each Thursday following a monthly pattern of:

- 10 • 1st Thursday - Strategic Planning Workshop and Planning Review Committee
- 2nd Thursday - Planning Meeting
- 3rd Thursday - Committee meetings
- 4th Thursday - Ordinary Meeting
- 5th Thursday (where applicable) – Committee meetings

15 The schedule has also been prepared with consideration to events such as public holidays and conferences, noted impacts are:

- The LGNSW Special Conference 2022 is scheduled to be held from 28 February to 2 March 2022 in Sydney, NSW. There are no scheduled Council Meetings during these dates.
- 20 • The 2022 National General Assembly of Local Government is scheduled to be held from 19-22 June 2022 in Canberra. Although there is no meeting during this time, there is an Ordinary Meeting scheduled for the day after the Assembly.

25 An Extraordinary Council Meeting is proposed for 30 June 2022 for the purposes of adopting key Integrated Planning and Reporting documents, following a public exhibition period.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	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	Deliver Council meeting secretariat – including agenda preparation, minutes and council resolutions monitoring

Legal/Statutory/Policy Considerations

Clause 3.2 of Council's *Code of Meeting Practice* states that "*The council shall, by resolution, set the frequency, time, date and place of its Ordinary meetings.*"

5 The setting of the 2022 meeting schedule complies with Council's obligations under the various sections of the *Local Government Act 1993* that apply to meeting dates, namely:

- [Section 9](#) notes that a council must give notice to the public of the times and places of its meetings
- [Section 365](#) notes that Council is required to meet at least 10 times each year, each in a different month
- 10 • [Section 367](#) outlines the required notice period of business papers for Councillors.

Financial Considerations

There are no financial implications with this meeting schedule.

Consultation and Engagement

Public notice of the 2022 meeting schedule will be given on Council's website.

**Report No. 5.7 Advisory Committee Structure and
Determination of Councillor Representatives**

Directorate: Corporate and Community Services

Report Author: Richard Bradbury, Corporate Support Officer

5 **File No:** I2021/1947

Summary:

10 Advisory Committees are established to make recommendations to Council on specific matters to assist Council's decision making. The specific matters and areas of expertise for each advisory committee are determined by Council when an advisory committee is established and in the adopted constitution for the advisory committee.

15 This report has been prepared to provide Council with a proposed restructure for Advisory Committees. This structure has been developed following a review of the Committee structure and operations during the 2016-2021 term of Council.

The report also enables the appointment of the Councillor members to the listed Advisory Committee, calls for nominations from members of the public, and proposes the 2022 Committee meeting schedule.

20 The membership, meeting frequency, and purpose of each Committee is summarised in this report.

RECOMMENDATION:

25 **That Council:**

1. **Notes the following Advisory Committees are proposed to continue in their current form and appoints Councillor representatives:**
 - **Floodplain Risk Management Committee – 3 Councillors**
 - **Local Traffic Committee – 1 Councillor or council officer**
 - **Arakwal Memorandum of Understanding Advisory Committee – 2 Councillors**

2. **Notes the proposed revised structure and objectives of the following Advisory Committees and appoints Councillor representatives:**
 - 35 a) **Audit, Risk, and Improvement Committee (reduce number of Councillors from 3 to start aligning with proposed new guidelines to be set by regulation) – 2 Councillors**
 - b) **Biodiversity Advisory Committee (reduce number of Councillors from 3) – 2 Councillors**

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

5.7

- 5
- 10
- 15
- 20
- 25
- 30
- 35
- 40
- 45
- c) **Climate Change Advisory Committee (change of name from the Sustainability and Emissions Reduction Advisory Committee and reduce number of Councillors from 3) – 2 Councillors**
 - d) **Finance Advisory Committee (reduce number of Councillors from 6) – 4 Councillors**
 - e) **Infrastructure Advisory Committee (split the Transport and Infrastructure Advisory Committee into two and create the Moving Byron Advisory Committee and reduce the number of Councillors from 3) – 2 Councillors**
 - f) **Moving Byron Advisory Committee (new) – 2 Councillors**
 - g) **Water and Sewer Advisory Committee (split the Water, Waste and Sewer Advisory Committee into two and create the Resource Recovery Advisory Committee) – 2 Councillors**
 - h) **Resource Recovery Advisory Committee (new) – 2 Councillors**
 - i) **Heritage Advisory Committee (formerly Panel) – 3 Councillors**
 - j) **Strategic Business Advisory Committee (formerly Panel) – 3 Councillors**
 - k) **Public Art Advisory Committee (formerly Panel) – 2 Councillors**
3. **Notes that calls for nominations for community representatives for each committee will be reported back to Council at the March Ordinary Meeting for appointment.**
 4. **Endorses the proposed Committee Meeting schedule as provided at Attachment 2 (E2021/155310).**
 5. **Writes to the former committee members advising them of the changes to Council’s committee structure, officially thanking them for their contribution to date, and inviting a nomination on the new committee.**
 6. **Notes discontinuation of the Coastal and Estuary Panel and writes to members of the Panel to officially thank them for their contribution to date.**
 7. **Establishes the Communications Panel and appoints three Councillors as representatives.**
 8. **Establishes the General Manager’s Performance Review Panel and appoints the Mayor and three Councillors as representatives.**
 9. **Adopts the draft Audit Risk and Improvement Committee Constitution at Attachment 3 (E2021/148820) which begins to align with the Office of Local Government Guidelines expected to be implemented from 1 July 2022.**
 10. **Notes the Advisory Committee Constitution template at Attachment 1 (E2021/150446) to be used in the development of Advisory Committee Constitutions once established.**

Attachments:

- 1 Advisory Committee Constitution Template 2022, E2021/150446
- 2 Draft Meeting Schedule Summary - 2022, E2021/155310
- 3 Audit Risk and Improvement Committee Constitution 2022, E2021/148820

Report

5 This report has been prepared to advise Council of the proposed structure for Advisory Committees for the duration of the Council term. Advisory committees are an important element of Council decision making and provide an opportunity for Council to seek community input and expertise of specific matters.

10 Advisory Committees have the role of making recommendations to Council following the consideration of staff reports at a meeting of the Advisory Committee. The specific matters and areas of expertise for each Advisory Committee are determined by Council in the establishment of the Advisory Committee and in the adopted Constitution for the Advisory Committee.

The recommendations of the Advisory Committee are made to Council through the Minutes of the Advisory Committee meeting and considered at an Ordinary Meeting.

15 An advisory committee may consist only of Councillors, or Councillors and appointed members. This report enables the appointment of the Councillor representatives and it recommends that Council calls for expressions of interest from members of the public which will be reported back to Council for determination of appointment.

The term of office for all Committees is the same term of the current Council.

Review of Advisory Committee Structure

20 The structure of Council's Advisory Committees and Panels has been reviewed to determine the ongoing need and structure of each. Feedback from existing committee members, Councillors, and staff contributed to this review.

25 Good governance is central to ensuring that committees are effective and that they meet their responsibilities. The Constitution clearly articulates their roles and responsibilities. The review has broadened the scope of some committees to give them a more holistic and strategic focus.

The outcomes of the review are listed here:

1. The following Advisory Committees are proposed to remain unchanged:
 - Finance Advisory Committee (change in membership number only)
 - Floodplain Risk Management Committee
 - 30 • Local Traffic Committee
 - Audit, Risk, and Improvement Committee
 - Biodiversity Advisory Committee
2. The Transport and Infrastructure Advisory Committee is proposed to be split to form an Infrastructure Advisory Committee and a new Moving Byron Advisory Committee.
- 35 3. The Water, Waste and Sewer Advisory Committee is proposed to be split to form a Water and Sewer Advisory Committee and a new Resource Recovery Advisory Committee.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

5.7

4. The Sustainability and Emissions Reduction Advisory Committee is proposed to change its name to the Climate Change Advisory Committee

5. Three of Council's previous Panels are proposed to be changed to committees for consistency:

- 5 • Heritage Advisory panel
- Strategic Business panel
- Public Art panel

6. The following Panel is proposed to be discontinued:

- 10 • Coastal and Estuary panel (scope captured by the Floodplain Risk Management Committee)

7. The following Panel is proposed to be continued:

- 15 • Communications Panel

The role of this Panel is to facilitate strategic policy development on a range of communication issues concerning Byron Shire Council and to make recommendations to accordingly.

8. The following Panel is proposed to be formally established:

- 20 • General Manager's Performance Review Panel

The role of this Panel is to undertake the review of the General Managers Performance Agreement endorsed by the Council and executed by the Mayor and General Manager.

25 The reviews are conducted twice in each 12 month period, with an interim review after 6 months and the final review after a 12 month period.

The report findings and recommendations of the final review are reported to Council.

30 The Panel also provides input into the new performance agreement in consultation with the General Manager and in alignment with the goals contained in the Community Strategic Plan, Resourcing Strategy, Delivery Program and Operational Plans.

The Reviews have a facilitator to assist the Panel with the review process.

35 The membership of the Panel includes the Mayor and three (3) Councillors.

The following tables provide a summary of each proposed Advisory Committee.

40

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

5.7

Advisory Committee	Meeting Cycle	Number of Representatives <i>Note: Staff members participating on committees do not have any voting entitlements.</i>	Objectives
Arakwal Memorandum of Understanding Advisory Committee	Quarterly	<p>2 Councillors</p> <p>1 General Manager of the Bundjalung of Byron Bay Aboriginal Corporation (Arakwal)</p> <p>3 invited representatives from the Bundjalung of Byron Bay Aboriginal Corporation (Arakwal), two of which must be board members and one a current member</p> <p>1 Community Projects Officer</p> <p>1 Council - General Manager (or staff member delegate)</p>	<p>The purpose of the Arakwal Memorandum of Understanding (MoU) Advisory Committee is to meet as required to develop a Memorandum of Understanding between the Byron Shire Council and the Bundjalung of Byron Bay (Arakwal) people and deliver and review identified actions, governance, processes and projects.</p> <p>The Council acknowledges that Aboriginal people are the original inhabitants of the Byron Shire area and that according to their continuing law, traditions and customs it remains their traditional country. The Council also acknowledges and respects the Corporation's right to speak for its country in accordance with its laws, traditions and customs.</p> <p>The parties commit themselves to seek together ways in which Aboriginal interests can be advanced where decisions are to be made about their traditional country.</p> <p>The parties commit themselves to work together to ensure that this is done in a way that advances the interests of the whole community and promotes harmonious community interests.</p> <p>This committee meets to fulfil Council's legal obligations under the Native Title Act and facilitate an avenue for the traditional owners as</p>

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

5.7

			<p>recognised under the Native Title Act (1993) the Bundjalung of Byron Bay, Arakwal People, to participate in governance on matters relating to their ancestral homelands.</p> <p>It is proposed that this Committee be chaired by an Arakwal member</p>
Audit, Risk, and Improvement Committee	Quarterly	<p>2 Councillors</p> <p>3 relevantly qualified external representatives</p>	<p>The purpose of the Committee is to report to Council and provide independent advice and recommendations on matters identified in its Constitution.</p> <p>The Committee has a legislated duty to keep under review the following aspects of Council's operations:</p> <ul style="list-style-type: none"> a) Compliance b) Risk management c) Fraud control d) Financial management e) Governance f) Implementation of the strategic plan, delivery program and strategies g) Service reviews h) Collection of performance measurement data by Council i) Any other matters prescribed by the regulations made under the Act. <p>The Committee is also to provide information to Council for the purpose of improving Council's performance of its functions.</p>
Biodiversity Advisory Committee	Quarterly	<p>2 Councillors</p> <p>6 relevantly qualified community members (1 coastal expertise and 1 farmer/rural landholder),</p>	<p>The purpose of the Committee is to:</p> <ul style="list-style-type: none"> a) assist Council in the development, implementation and review of relevant biodiversity plans and policies such as: Biodiversity

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

5.7

		<p>1 Brunswick Valley Landcare representative</p> <p>1 Council - General Manager.</p>	<p>Conservation Strategy, Integrated Pest Management Plan, Flying Fox Camp Management Plan, Coastal Koala Plan of Management, Pest Animal Management Plan.</p> <p>b) support our Agricultural Action Plan's goal to improve productivity and sustainable land use practices on rural lands in Byron Shire.</p> <p>c) identify and report biodiversity (terrestrial and coastal) and sustainable/regenerative agriculture matters to Council including, but not limited to: issues and concerns; community or collaborative opportunities; grant funding opportunities; special events; consultation and community engagement ideas; government policy; best practice or improved guidelines/guidance.</p>
<p>Byron Shire Floodplain Risk Management Advisory Committee</p>	<p>Quarterly</p>	<p>3 Councillors</p> <p>6 community members (2 from each major catchment: Tallow Creek, Belongil Creek, Brunswick River)</p> <p>1 Department of Planning, Industry and Environment representative</p> <p>1 State Emergency Service representative</p> <p>1 Cape Byron Mark Park representative</p> <p>1 National Parks</p>	<p>The purpose of the Committee is to oversee and advise Council on the preparation, implementation and review of Flood Studies and Floodplain Risk Management Studies as required.</p> <p>This includes overseeing and advising on any documents or processes that impact the management of ICOLL's (Intermediately Closed and Open Lakes or Lagoons).</p>

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

5.7

		representative 1 Council - General Manager	
Finance Advisory Committee	Quarterly	4 Councillors General Manager Director CCS Director SEE Director IS Manager Finance	The purpose of the Committee is to: a) Consider and review the Council Quarterly Budget Review before presentation to Council at the next Ordinary Meeting b) consider other financial information and matters as they arise.
Local Traffic Committee	10 per annum	1 Councillor or council officer 1 NSW Police representative 1 Road Traffic Association representative 1 Local State MP (or their nominee)	<p>The LTC is primarily a technical review Committee, which is required to advise the Council on matters referred to it by Council. These matters must be related to prescribed traffic control devices and traffic control facilities for which Council has delegated authority. The LTC does not have executive power or authority to implement actions.</p> <p>The LTC should consider the technical merits of the proposal and ensure that the proposal meets current technical guidelines.</p> <p>The functions delegated to Council in the Delegation are:</p> <ol style="list-style-type: none"> 1. authorisation of prescribed traffic control devices covered under Division 1 of Part 4 (Sections 50 to 55 of the Road Transport (Safety and Traffic Management) Act 1999 (repealed)); 2. regulation of traffic under Division 2 of Part 8 (Sections 116 to 119) of the Roads Act 1993. <p>Note "regulate traffic" for the purpose of the Roads Act means to restrict or prohibit the passage along a road of persons,</p>

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

5.7

			<p>vehicles or animals.</p> <p>3. authorisation of special event parking schemes under Division 2 of Part 5 (Clauses 122 and 123) of the Road Transport (General) Regulation 2013 on public roads other than classified roads.</p>
Climate Change Advisory Committee	Quarterly	<p>3 Councillors</p> <p>4 relevantly qualified community members</p> <p>1 Zero Emissions Byron member</p> <p>1 Community Owned Renewable Energy Mullumbimby member</p> <p>1 Resilient Byron member</p> <p>1 Council - General Manager</p>	<p>The purpose of the Committee is to:</p> <p>a) assist Council in the development, implementation and review of relevant sustainability and climate change mitigation and adaptation plans, policies and projects such as: Council's Net Zero Emissions Strategy and Action Plan, Climate Change Adaptation Plan, renewable energy projects, local network trading and local network charges, carbon reporting and associated sustainability initiatives.</p> <p>b) support our community's drive towards zero emissions.</p> <p>c) identify and report opportunities or concerns regarding sustainability and climate change adaptation and mitigation issues to Council including, but not limited to, funding opportunities, special events, government policy, practice or guidelines.</p>

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

5.7

<p>Infrastructure Advisory Committee</p>	<p>Quarterly</p>	<p>2 Councillors 4 relevantly qualified community members 1 Council - General Manager</p>	<p>The purpose of the Committee is to:</p> <ul style="list-style-type: none"> a) develop and review policies and priorities for addressing the management of civil infrastructure to meet the needs and aspirations of the Shire's population in a sustainable way. b) review Council's Asset Management Plan and 10 year works program. c) review the level of service to be provided by the Council in the maintenance and renewal of assets within the available budget and resources. d) advise on opportunities or concerns regarding infrastructure to Council as required, including but not limited to, funding opportunities, government policy, practice or guidelines, safety, accessibility, and other such relevant issues.
<p>Moving Byron Advisory Committee</p>	<p>Quarterly</p>	<p>2 Councillors 4 relevantly qualified community members 1 Council - General Manager</p>	<p>The purpose of the Committee is to:</p> <ul style="list-style-type: none"> a) support the development, adoption and implementation of the Moving Byron (strategy) and in particular its implication on other Council policy, practice, process, operations and decision-making. b) advise on opportunities or concerns regarding transport services and infrastructure to Council as required, including but not limited to, funding opportunities, government policy, practice or guidelines,

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

5.7

			<p>safety, accessibility, mobility and other such relevant transport issues.</p> <p>c) review Council's Bike Plan and PAMP actions table and priorities annually or as required to help guide the development and prioritisation of the 10 year works program.</p> <p>d) Review Council's Traffic and Transport Infrastructure register annually to help guide the development and prioritisation of the 10 year works program.</p>
<p>Water and Sewer Advisory Committee</p>	<p>Quarterly</p>	<p>2 Councillors</p> <p>4 relevantly qualified community members</p> <p>1 Council - General Manager (or staff member delegate)</p>	<p>The purpose of the Committee is to:</p> <p>a) develop policies for addressing the water and sewer cycle management needs and aspirations of the Shire's population in an ecologically sustainable way.</p> <p>b) develop strategies for natural resource management / demand management for water and sewer management within the Shire.</p> <p>c) recommend on strategies and plans that address water and sewer management issues in a regional/ broader context.</p>

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

5.7

Resource Recovery Advisory Committee	Quarterly	<p>3 Councillors</p> <p>4 relevantly qualified community members</p>	<p>The purpose of the Committee is to:</p> <ul style="list-style-type: none"> a) develop policies for addressing waste cycle management needs and aspirations of the Shire's population in an ecologically sustainable way. b) develop strategies for natural resource management within the Shire. c) recommend on strategies and plans that address resource recovery issues in a regional/ broader context.
Heritage Advisory Committee	Quarterly	<p>3 Councillors</p> <p>4 historical society members (one each from Brunswick Valley, Byron Bay, Bangalow and Mullumbimby)</p> <p>2 x representative of local Indigenous organisations (Bunjalung of Byron Bay Arakwal Aboriginal Corporation (Arakwal) and Tweed Byron Local Aboriginal Council)</p> <p>3 community members with relevant qualifications / experience</p> <p>1 Council - General Manager</p>	<p>The purpose of the Committee is to provide support and advice to Council to assist its operations on heritage matters.</p> <p>Actions of the Heritage Advisory Committee that can assist to achieve this include:</p> <ul style="list-style-type: none"> a) Assisting Council in the development of policies and strategies including the preparation of a Heritage Strategy and the management of natural and cultural heritage generally in Byron Shire local government area. b) Advising Council staff, the Heritage Adviser and the Council on matters relating to the ongoing implementation of the Heritage Strategy (once completed). c) Assisting Council to procure and allocate funding assistance and to recommend projects for which funding should be sought in line with the Heritage Strategy (once completed). d) Providing access to the general community to distribute information and for public input

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

5.7

			<p>into heritage management, e.g., to nominate additional properties for assessment of heritage significance.</p> <p>e) Advising Council on a range of heritage-related matters which are of interest to the community, in particular, by providing expertise, local knowledge and guidance on heritage matters and in relation to heritage assessments.</p>
<p>Strategic Business Advisory Committee</p>	<p>Quarterly</p>	<p>3 Councillors</p> <p>1 Council - General Manager (or staff member delegate)</p>	<p>The purpose of the Committee is to:</p> <p>a). assist Council in the development, implementation and review of the new business industry and visitor economy strategy.</p> <p>b) identify and report business and visitor economy matters to Council including, but not limited to opportunities or concerns, funding opportunities, government policy, best practice/guidelines.</p> <p>Key strategic objectives include:</p> <ol style="list-style-type: none"> 1. Support the resilience and longevity of local industry, business and employment 2. Encourage our emerging sectors to flourish 3. Build informed and connected businesses <p>These objectives cover job security and creation, entrepreneurship and innovation, business resilience, collaboration and leadership, promotion of investment, education and training as well as support for a sustainable visitor economy.</p>

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

5.7

Public Art Advisory Committee	Quarterly	<p>2 Councillors</p> <p>1 Arakwal Corporation member</p> <p>1 Council - General Manager</p> <p>Community members with relevant experience</p>	<p>The purpose of the Committee is to:</p> <ul style="list-style-type: none"> a) provide advice to Byron Shire Council on matters relating to Public Art and manage expectations of the Byron Shire community. b) assist Council in meeting the objectives of the Public Art Policy. c) provide input and feedback on strategic directions for public art policy and project development, including review of existing Public Art Strategy and Council's cultural activities as the need arises. d) assist and advise Council's decision-making process relating to the acquisition, support or commissioning of public art projects. Assess public art donation and loan proposals against the Public Art Guidelines and Criteria and provide recommendations to Council. e) provide advice, if required, pertaining to Public Art in private developments as per the Development Control Plan for Public Art and the Public Art Strategy. f) provide input and feedback on conceptual briefs when engaging artists for the Council's public art and place-making projects and review received proposals as required. g) assist in identifying any gaps in public art provision and suitable sites within the Shire's centres and key public spaces.
-------------------------------	-----------	---	--

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

5.7

<p>Communications Panel</p>	<p>Quarterly</p>	<p>3 Councillors 1 Council – General Manager</p>	<p>The purpose of this Panel is to facilitate strategic policy development on a range of communication issues concerning Byron Shire Council and to make recommendations to Council accordingly.</p> <p>The Panel will make recommendations to Council inclusive of the following objectives:</p> <ul style="list-style-type: none"> a) To communicate, educate and engage the community with an integrated and consistent approach. b) To improve the access to information that clarifies Council's policies, corporate values and objectives to all stakeholders. c) To investigate new and emerging technologies to enhance effective communication between Council and community. d) To provide an annual budget for consideration by Council <p>The Panel does not have the power to direct staff but will make recommendations to Council.</p>
-----------------------------	------------------	---	---

Financial Considerations

The community representatives on most of these advisory committees are volunteer representatives except for the Audit, Risk and Improvement Committee (ARIC).

5

In 2008, Council resolved to pay fees for the services of the relevantly qualified external members on the ARIC. It is recommended that external members continue to be remunerated given the increased breadth of the ARIC's responsibilities as a result of a legislative amendment in 2016. Furthermore, proposed guidelines being drafted by the

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

5.7

Office of Local Government will, once adopted, further expand the responsibilities of the ARIC members.

5 In accordance with Council's Mayor and *Councillors' Payment of Expenses and Provision of Facilities Policy*, a Councillor may claim reimbursement for travelling costs to attend meetings.

Statutory and Policy Compliance Implications

Each Advisory Committee operates under an adopted Constitution and Council's Code of Meeting Practice.

10 There is a requirement under s428A of the *Local Government Act 1993* (NSW) for Council to have an Audit, Risk and Improvement Committee.

Report No. 5.8 Establishment and Delegation to Section 355 Committees

Directorate: Corporate and Community Services

5 **Report Author:** Melitta Firth, Arts & Culture Office
Isabelle Wood, Project Officer (Generalist)

File No: I2021/1123

Summary:

10 [Section 355](#) of the *Local Government Act 1993* allows Council to delegate certain functions to a Committee. Council currently has 10 Section 355 Management Committees or Boards of Management delegated to manage the operations and maintenance of selected community facilities.

15 A review of the existing s355 Committee structure and governance has been undertaken. Following this review the report recommends that Council re-establish nine Committees and Boards of Management to manage Council's facilities and proposes amendments to the [Halls and Venues Guidelines for Section 355 Committees and Boards](#) (Guidelines) regarding the appointment of members and Councillors to the committee.

20 **RECOMMENDATION:**

1. That Council grants an extension of term to the existing s355 Committees of one month due to the delay in the first Council meeting of the new term and that staff write to advise existing committee members accordingly.
2. That Council confirms the establishment of the following eight Committees under Section 355(b) of the Local Government Act 1993
 - 25 a) Bangalow Parks (Bangalow Showground) Section 355 Management Committee
 - b) Brunswick Heads Memorial Hall Section 355 Management Committee
 - 30 c) Brunswick Valley Community Centre Section 355 Management Committee
 - d) Durrumbul Community Hall Section 355 Management Committee
 - e) Ocean Shores Community Centre Section 355 Management Committee
 - f) South Golden Beach Community Centre Section 355 Management Committee
 - 35 g) Suffolk Park Community Hall Section 355 Management Committee
 - h) Marvel Hall Section 355 Management Committee
2. That Council confirms the establishment of the following two Boards of Management under Section 355(b) of the Local Government Act 1993:
 - 40 a) Bangalow A&I Hall
 - b) Mullumbimby Civic Memorial Hall

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

5.8

- 5
3. That Council revokes the Section 377 Delegation of Authority to the Lone Goat Gallery Voluntary Management Board, disbands the committee and dissolves the Lone Goat Gallery Section 355 Committee. A letter of thanks to be sent to all Committee Members.
- 10
4. That Council adopts the Delegation of Authority under Section 377 of the Local Government Act 1993, as shown in Attachment 1 (#E2016/66109) for each Section 355 Management Committee and Board of Management confirmed in 1 and 2 above.
- 15
5. That Council endorses the *Halls and Venues Guidelines for Section 355 Committees and Boards* (attachment 2, E2021/154643), with the following amendments:
- 15
- a) That 'objectives' be included to outline what was previously known as the 'terms of reference'.
- 20
- b) Other than the initial appointments, removal of the requirements for Section 355 and Board of Management Committee resignations and appointments to be formally endorsed by Council resolution, and that function to be delegated to the General Manager under Section 377 of the Local Government Act 1993.
- 25
- c) That designated Councillor contacts are determined for each Committee in place of Councillor appointments to board positions on Section 355 and Board of Management Committees.
- 30
6. That Council determines a Councillor contact for each of the following Section 355 Management Committees or Boards of Management confirmed in 1 and 2 above.
- 30
- a) Bangalow Parks (Bangalow Showground) Section 355 Management Committee – Cr _____.
- b) Brunswick Valley Community Centre Section 355 Management Committee – Cr _____.
- 35
- c) Brunswick Heads Memorial Hall Section 355 Management Committee – Cr _____.
- d) Durrumbul Community Hall Section 355 Management Committee – Cr _____.
- e) Ocean Shores Community Centre Section 355 Management Committee – Cr _____.
- 40
- f) South Golden Beach Community Centre Section 355 Management Committee – Cr _____.
- g) Suffolk Park Community Hall Section 355 Management Committee – Cr _____.
- 45
- h) Bangalow A&I Hall Board of Management I – Cr _____.
- i) Mullumbimby Civic Memorial Hall Board of Management – Cr _____.
- j) Marvell Hall 355 Management Committee – Cr _____.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

5.8

Attachments:

- 1 Section 355 Management Committee Delegation of Authority, E2016/66109
- 2 Draft Halls and Venues Guidelines for Section 355 Committees and Boards, E2021/154643

5

Report

Section 355 of the *Local Government Act 1993* provides that a Council may appoint a committee and delegate under Section 377, authority for the care, control, and management of community buildings.

- 10 The existing committees are operating under a 3 month 'sunset' clause to accommodate the delay in Council elections. This expires on 4 March. Given the subsequent delay in holding the first Council meeting of the new term, this 'sunset' clause will need to be extended by one month to accommodate the time required for the nomination process, for the results to be considered by Council for adoption and for the new committee induction process to take place. The new committees will now be up and running in April.
- 15

- Council presently has 10 community halls and centres which are located on either Council or Crown Land for which it has established Section 355 Committees or Boards of Management. There are eight facilities managed by a Section 355 Management Committee and two facilities managed by a Section 355 Board of Management with a contracted coordinator or booking officer.
- 20

The Lone Goat Gallery was formerly operating under a Section 355 Board of Management however it has transitioned to direct Council management upon the employment of a Gallerist.

- 25 The management of the Brunswick Valley Community Centre is transitioning to a lease agreement. The Section 355 Committee will operate in the interim.

- Committees and Boards of Management appointed under Section 355 of the Local Government Act are appointed for the full term of the Council, with the addition of an extra three months after the General Election of Councillors. All current Section 355 Management Committee members will cease to hold office at the end of February 2022.
- 30 Council is required to appoint community representatives on each committee at the beginning of the term.

To assist with transparency and accountability of the Section 355 Management Committees, each Committee is issued with a Section 377 Delegation of Authority (Attachment 1) which is made by a resolution of Council.

- 35 Committee operations are guided by the [Halls and Venues Guidelines for Section 355 Management Committees and Boards](#).

Section 355 Committee Structure and Governance Review

5 The NSW Office of Local Government encourages councils to review the operations of committees established under section 355 of the *Local Government Act 1993* (the Act). Council recently engaged a consultant to conduct a review of the current Section 355 Committee model and provide recommendations for improvements and alternative models of governance, where appropriate.

The scope of the review included:

- desk review of all relevant documents including financial and governance processes
- research of alternate models of community facility management
- 10 • community engagement and consultation with key stakeholders and staff
- analysis of findings and preparation of report including recommendations regarding alternate model/s of community facility management

The context of the review included the following considerations:

- the impacts of COVID on halls and committee income and planning
- 15 • an ageing volunteer base and difficulty in recruitment of new committee members
- changes in the level of Council support required and staffing resources
- changing operational, financial, and legal risks
- diverse and varied situations (financial or otherwise) of different hall committees
- three committees operating outside Council's financial system

20

Recommendations from the Review

Expedite the recruitment and appointment process of Committee Members.

25 Previously Council has formally approved new Committee member appointments by resolution, delaying recruitment of new members and significantly impacting hall operations. In the previous term, these matters have consistently been block voted and therefore, it is recommended that the General Manager is delegated the authority to appoint office bearers and members when existing members resign mid-term.

Councillor Membership

30 There is no legislative requirement for Councillor representation on Section 355 Committees. Committees are delegated to perform operational functions of Council. The review indicates that Councillor involvement has been sporadic and responding committee members rated the importance of Councillor membership as low.

35 It is recommended that in lieu of appointing Councillors to committee positions in the new Council term that a suitable Councillor contact be determined for each Committee. The role of the Councillor contact would be to liaise with Committees as required or when matters are unable to be resolved by staff. This means that Councillors would not occupy a position on the board/committee, nor would they be required to attend meetings except as requested. Staff would remain the primary contact for Committee members for operational matters.

40

Additional Recommendations

The review identified other potential improvement opportunities. They will be further investigated and implemented as resources permit. Opportunities include:

- 5 • Update and improve templates, and all governance resources, including Council’s induction process and clarification of roles and responsibilities for Committee members.
- 10 • Standardise financial arrangements including float amounts across all Committees.
- 15 • Transition the three remaining Committees across to Council’s financial system or confirm alternate management models.
- Strengthen the capacity of committee members through increased support from staff, increased opportunities for professional development training and improving online resources.
- Valuing and celebrating committee member achievements and significant contributions to our community.

20 Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community	2.3: Provide accessible, local community spaces and facilities	2.3.2: Support effective management of community buildings (SP)	2.3.2.1	Review community building management model and implement recommendations

Recent Resolutions

25 Council recently resolved to move to direct management of the Lone Goat Gallery, with employment of a Gallerist on staff for an initial period of 12 months (Resolution 21-148 I2021/394). With direct Council management of the gallery and gallerist, and all operations managed by Council, the voluntary Section 355 Committee is no longer required.

Resolution 21-148: Council resolved to reopen Lone Goat Gallery under a direct delivery partnership gallery model.

5 Resolution 19-162: Council terminated the Delegated Authority for a Section 355 Management Committee to manage Heritage House and Tennis Courts Bangalow and grant a lease to Bangalow Historical Society for 5 years.

Resolution 18-332: Terminate the Management Committee as of 30 June 2018 to facilitate move of Rural Fire Service into Cook Pioneer Centre.

Resolution 21-148: That Council provides \$7,300.00 to Bangalow A&I Hall to cover operational expenditure for the four-month period of November 2021 to February 2022.

10 **Legal/Statutory/Policy Considerations**

[Section 355](#) of the *Local Government Act 1993* provides that a Council may appoint a committee and delegate under [Section 377](#) certain functions to a committee including the authority for the care, control and management of community buildings.

Financial Considerations

15 The Section 355 Management Committees are required to provide financial information in accordance with the Guidelines. Fees for these community facilities are set by Council at the beginning of each financial year.

Community representatives on a Section 355 Management Committee are volunteers and operate under Section 377 Delegations.

20 The Guidelines provide for the payment of an honorarium to selected committee members in recognition of the volume of work associated with office bearer positions and bookings duties. These honorarium payments are subject to review and approval by Council's Finance Manager to ensure the revenue generated by the hall or facility is sustainable and covers any such payments.

25 **Consultation and Engagement**

Significant consultation was undertaken as part of the Section 355 Governance Review with key stakeholders, committee members and staff.

30

Report No. 5.9 Election of Representatives for Rous County Council

Directorate: Corporate and Community Services

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

File No: I2021/1962

Summary:

Rous County Council is constituted under the *Local Government Act 1993* and has three main functions:

- 10
- Bulk water supply
 - Weed biosecurity
 - Flood mitigation

15 Rous County Council is made up of eight councillors with two nominated from each of the constituent councils (Ballina, Byron, Lismore and Richmond Valley). Councillors are elected in accordance with the Local Government Council term, with the Chairperson and Deputy Chairperson being elected each year by the councillors.

20 Rous County Council requires that the Councillor delegates are elected by Preferential Ballot. The legislative requirements for the elections are set out in *Schedule 9 - Election of members of county councils* of the Local Government (General) Regulation 2005.

RECOMMENDATION:

- 25
1. **That Council determines by Preferential Ballot its first delegate to Rous County Council.**
 2. **That Council determines by Preferential Ballot its second delegate to Rous County Council.**

Attachments:

- 30
- 1 Nomination Form - Council Delegate to Rous County Council, E2021/59091
 - 2 Information Resource - Jumping on Board with Rous County Council, E2021/154802

Report

5 Rous County Council is constituted under the *Local Government Act 1993*. County Councils are different to local councils; they are specifically set up or delegated to provide one or more functions of a local council. This means that they have specific functions that they undertake for the local councils of the areas within which they operate. These Councils are referred to as 'constituent councils'.

Rous Country Council has three main functions, further information on each is available on its [website](#):

- 10 • Bulk water supply
- Weed biosecurity
- Flood mitigation

15 Rous County Council has eight councillors with two nominated from each constituent council (Ballina, Byron, Lismore and Richmond Valley). Councillors are elected at the commencement of a local government term. The Byron Shire councillors elected under the previous term were Cr Simon Richardson and Cr Basil Cameron. Following Cr Richardson's resignation Cr Cate Coorey was elected in May 2021.

Meetings are held:

20 **When:** Third Wednesday in
February, April, June, August, October and December
Time: 10.30am
Where: Rous Water Centre
Level 4, 218-232 Molesworth Street, Lismore

25 Councillors are remunerated in accordance with the [Local Government Remuneration Tribunal Annual Determination](#). These amounts are subject to annual review. The fee payable to each Councillor in 2021/22 is currently set at \$10,340 per annum (the maximum amount payable).

30 Further information about Rous County Council is available in attachment 2.

Election of Delegates

In the event that more than two Councillors nominate, each delegate will be elected individually meaning there will be two separate election processes.

35 Councillor delegates are to be elected by Preferential Ballot. The legislative requirements for the elections are set out in *Schedule 9 - Election of members of county councils* of the Local Government (General) Regulation 2021 (Regulation).

The following information is provided on nominations.

5 Nomination

- (1) A councillor of the constituent council may be nominated for election as a member of the county council.
- (2) The nomination:
 - 5 (a) may be made without notice by any councillor of the council, and
 - (b) is to be in writing delivered or sent to the returning officer, and
 - (c) is not valid unless the nominee has indicated consent to the nomination in writing.
- 10 (3) The returning officer is to announce the names of the nominees at a council meeting.

A nomination form has been included as attachment 1 to this report. The nomination form should be provided to the General Manager as the Returning Officer either prior to or at the start of the meeting to enable the preparation of the ballot papers for the elections to be held as part of the Council’s consideration of this report.

15 The following information is provided on the ballot papers and voting:

7 Ballot-papers and voting

- (1) The ballot-papers are to contain the names of all the candidates. The councillors are to mark their votes by placing the figures 1, 2 and so on against the various names so as to indicate the order of their preference for at least the number of candidates to be elected.
- 20 (2) The formality of a ballot-paper under this Part is to be determined in accordance with section 345 of this Regulation as if it were a ballot-paper referred to in that section.
- (3) An informal ballot-paper is to be rejected at the scrutiny of votes.
- 25 Votes will be counted in accordance the preferential system outlined in [Schedule 4](#) of the Regulation.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	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	Deliver Council meeting secretariat – including agenda preparation, minutes and council resolutions monitoring

Legal/Statutory/Policy Considerations

As discussed in the body of this report, the delegates to Rous County Council are to be elected by Preferential Ballot. This is a legislative requirement set out in Schedule 9 of the Local Government (General) Regulation 2021.

5 Financial Considerations

As outlined in the report, Councillor delegates to County Councils are remunerated in accordance with the [Local Government Remuneration Tribunal Annual Determination](#).

Consultation and Engagement

Not applicable.

Report No. 5.10 Determination of Councillor Representatives on Regional Committees

Directorate: Corporate and Community Services

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

File No: I2021/1955

Summary:

Council is represented on a number of community groups and industry bodies (Regional Committees). Details of Regional Committees are shown in the body of this report.

10 Regional Committee memberships may consist of Councillors, Government Departments, staff representatives and other professional, and community representatives.

After each term of Council, it is necessary to re-elect Councillor representatives to the Regional Committees.

15

RECOMMENDATION:

That Council:

- 20 1. **Notes that Cr Coorey’s appointment to the Arakwal National Park, Byron Coast Area Management Committee, and Cape Byron Trust has been endorsed by the Minister to 2024 and given her re-election to Council, she will continue in this position.**
2. **Notes that the Mayor and Alternate Delegate, the Deputy Mayor, are appointed as Council’s representative on the Northern Rivers Joint Organisation.**
- 25 5. **Determines its representatives on the following Regional Committees:**
- a) **Arts Northern Rivers Board of Directors**
Member: Cr _____
Alternate: Cr _____
 - 30 b) **Byron Bay Liquor Accord**
Cr _____
Cr _____
 - c) **Chamber of Commerce – Bangalow**
Cr _____
 - 35 d) **Chamber of Commerce – Brunswick Heads**
Cr _____

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

5.10

- e) **Chamber of Commerce – Byron Bay**
Cr _____
- f) **Chamber of Commerce – Mullumbimby**
Cr _____
- 5 g) **Far North Coast Bush Fire Management Committee**
Cr _____
- h) **Mullumbimby Showground Trust**
Cr _____
- 10 i) **North Byron Parklands Regulatory Working Group**
Cr _____
- j) **Richmond Tweed Regional Library Committee**
Member: Cr _____
Member: Cr _____
15 Alternate: Cr _____

Report

Council is in regional partnerships with various community groups and industry bodies (Regional Committees) which require Councillor representation.

5 After each term of Council, it is necessary to re-elect Councillor representatives to the Regional Committees.

Information has been sought from each Regional Committee requiring Councillor representation. Regional Committees are listed below with brief information on each committee.

10 Nominations for the various Regional Committees will be made by verbal nomination at the meeting. Councillors may nominate themselves or another Councillor may nominate them to be a representative on a committee. If nominated by another Councillor they have the right to decline the nomination.

15 If there is more than one nomination for a Committee and the Committee only requires one representative, a ballot by Councillors for the representative by show of hands will be taken.

Arakwal National Park Management Committee

Byron Coast Area Management Committee

Cape Byron Trust

Previous Councillor representative: Cr Coorey

20 The Arakwal National Park Management Committee is established under section 24(3) of the National Parks and Wildlife Act 1974 (NPW Act) for the care, control and management of the Arakwal National Park.

25 The Byron Coast Area Management Committee is established under section 24(3) of the NPW Act for the care, control and management of Tyagarah, Brunswick Heads (south), Hayters Hill, Julian Rocks Nguthungulli, Cumbebin Swamp, Broken Head Nature Reserves.

Cape Byron Trust is established under section 47GA of the NPW Act for the care, control and management of Cape Byron State Conservation Area.

Meetings are held:

30 **When:** Bimonthly
Where: Byron Coast Area office meeting room
Arakwal Depot, Tallow Beach Road, Byron Bay

35 *Please Note: Cr Coorey's appointment to the Arakwal National Park, Byron Coast Area Management Committee, and Cape Byron Trust was endorsed by the Minister to 2024 and given her re-election to Council she will continue to represent Council in these positions.*

Arts Northern Rivers Board of Directors

Previous Councillor representative: Cr Hackett
Alternate: -

5 As the peak arts body, Arts Northern Rivers works with individuals, organisations and government to generate, promote and advocate for the arts and creative industries in the Northern Rivers region of NSW. Arts Northern Rivers is supported by Create NSW and local Governments in our region who work with us to ensure access to arts and cultural activity for everyone.

10 As part of Arts Northern River's founding constitution signed by all 7 regional councils of the Northern Rivers, 1 x Representative and 1 x Alternate from each council holds a position on the Board of Directors of the Arts Northern Rivers Board.

Each Councillor as the representative on the Board is to have an Alternate member should the Councillor not be able to attend a meeting during the year. This could be a staff member within council as per the ANR constitution:

15 a. *each contributing Local Government will decide how to select its representative, either through direct appointment or by calling for Expressions of Interest, in consideration of selection criteria attached at Appendix ONE. They may be councillors, staff or members of the arts community from each Local Government Area.*

20 Staff recommend that the Manager Social & Cultural Planning, Deb Stafford, be appointed as the alternate member.

Meetings will be held:

25 **When:** 4 meetings / year
18 February 2022
6 May 2022
26 August 2022
2 December 2022
Time: 10.00am to 12.30pm
30 **Where:** Arts Northern Rivers Office
The Lismore Regional Gallery
11 Rural Street
Lismore

Further information can be obtained on its website at www.artsnorthernrivers.com.au

Byron Bay Liquor Accord

35 Previous Councillor representatives: Cr Spooner, Cr Lyon

The Byron Bay Liquor Accord (BBLA) was formally established in 2013 as a not for profit, voluntary membership based organisation that was formed by its members to help reduce alcohol related harm and anti-social behaviour in the Byron Bay LGA.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

5.10

Under the Liquor Act, Licensees are required to be regulated and have a proactive response in dealing with alcohol-related issues. The Liquor Accord and Council staff have previously recommended it would be beneficial to have a Councillor representative on this committee when dealing with significant events such as Blues Fest, Splendour and New Year's Eve. Meetings are held:

When: Monthly, Tuesday or Thursday
Time: 10.30am for approximately 2 hours
Where: Byron Bay – venue varies

10 Further information can be found on the [Byron Bay Liquor Accord](#) website.

Chamber of Commerce - Bangalow

Previous Councillor representative: Mayor

15 The aim of the Chamber is to provide a network of support for local businesses and the community. *"We are committed to sustainable growth, renewal and prosperity and believe that we can meet the diverse needs of our community while also respecting our surrounding eco systems."*

The Chamber is involved with major Bangalow events, such as the Billy Cart Derby, The Bangalow Music Festival, the Bangalow Film Fiesta and Christmas Eve Celebrations.

Meetings dates and times are to be confirmed.

20 Chamber of Commerce – Brunswick Heads

Previous Councillor representative: Cr Lyon

"To foster a dynamic local business sector, encouraging sustainable and innovative business development in line with the community's vision for Brunswick Heads."

Meetings are held:

25 **When:** 2nd Wednesday of the month
General members meetings on the
3rd Tuesday or Wednesday every second month
Time: 5.30pm
Where: Brunswick Heads Visitor Centre

30 Further information can be obtained on its web page at [About The Chamber - Brunswick Heads](#)

35

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

5.10

Chamber of Commerce - Byron Bay

Previous Councillor representative: Cr Spooner

5 The purpose of the Byron Bay Chamber of Commerce is to support local businesses to collaborate and innovate to benefit their own growth and prosperity, the broader community and to enhance the unique reputation of Byron Bay as a thriving, values driven place to do business.

Meetings dates and times are to be confirmed.

Further information can be obtained on the [Byron Bay Chamber of Commerce](#) website.

Chamber of Commerce - Mullumbimby

10 Previous Councillor representative: Cr Cameron

The Mullumbimby Chamber of Commerce is a mix of businesses and community groups that have come together for the purpose of taking care of Mullumbimby, not only in the present but also to have input into the future. They have a broad representation of Mullumbimby and have formed a strong partnership with Byron Shire Council.

15 Meetings dates and times are to be confirmed.

Further information can be obtained on the [Mullumbimby Chamber of Commerce](#) website.

Far North Coast Bush Fire Management Committee

Previous Councillor representative: Cr Lyon

20 The Bush Fire Management Committee is integral to bush fire management across NSW. It provides a valuable forum through which bush fire management decisions can be made across the landscape and across all land tenures. It is essential that they operate effectively to make the best use of member's time and to achieve the best outcomes for the community.

25 Representatives attending include a Councillor from Ballina and Byron Shire, staff from Byron, Ballina and Tweed Councils, RFS, Fire and Rescue, Essential Energy, The Nature Conservation Council of NSW, North Coast Farmers Federation, Cane Growers, Crown Lands and Local Aboriginal Land Councils.

Meetings are held:

30 **When:** Bimonthly
Time: 10.00am
Where: Regional venues

35

Mullumbimby Showground Land Manager

Previous Councillor representative: Cr Cameron

Mullumbimby Showground is under the care, control and management of a community-based Board known as the Mullumbimby Showground Land Manager.

5 The Land Manager is an incorporated body established under the *Crown Lands Act 2016*. The Board is appointed by the Minister and is responsible for managing the affairs of the Showgrounds.

10 A Council ex-officio position has been included and they request that a representative be nominated for the Minister's approval.

Meetings are held:

When: Monthly on the 2nd Monday
Time: 6.00pm
Where: Mullumbimby Showground

15 Information is available on the [Mullumbimby Showground](#) website.

North Byron Parklands Regulatory Working Group

Previous Councillor representatives: Cr Cameron, Cr Hunter, and Mayor

20 North Byron Parklands (Parklands) Regulatory Working Group (RWG) has been operating for many years to review environmental management and community relations. Members include the NSW Police, Byron Shire Council, Tweed Shire Council, Roads and Maritime Services, Rural Fire Service, State Emergency Service, Office of Environment and Heritage and National Parks and Wildlife Service.

25 A community representative from both Tweed and Byron local government areas also sits on the RWG. Chris Hauritz was appointed by Council through an expression of interest process (resolution 19-587).

The Council representative can be either a Councillor and / or staff.

Meetings are held:

When: Prior to an event (as necessary)

30

35

Northern Rivers Joint Organisation

Councillor representative: Mayor

5 Joint Organisations (JOs) provide a way for local councils and the NSW Government to work together to deliver things that matter the most to regional communities. They represent a commitment to collaborate in the long term to develop and support a shared vision for the region.

Joint organisations are legislated under the NSW Local Government Act, which give NRJO the ability to enter into contracts and take on other important roles of behalf of consenting councils.

10 NRJO member councils are the six Local Government Areas of Ballina, Byron, Lismore, Richmond Valley, Kyogle and Tweed in the Northern Rivers region of Northern NSW. The NRJO Board membership is the mayors of each of these councils.

Meetings are held:

15 **When:** Quarterly, 1st or 2nd Friday
February, May, August and November
Time: 10.00am for approximately 4 hours
Where: Various regional venues

Information can be found on the [Northern Rivers Joint Organisation](#) website.

20 **Richmond-Tweed Regional Library Committee**

Previous Councillor representatives: Cr Coorey, Cr Ndiaye
Alternate: Cr Cameron

The Richmond Tweed Regional Library Committee manages library services for the Ballina, Byron, Tweed and Lismore council areas.

25 The Committee requests the appointment of two Councillor representatives and an approved alternate delegate who may attend the meetings of the Committee when the Council's nominated representative(s) is/are unavailable.

Meetings are held:

30 **When:** Quarterly on the 4th Friday
2022 – 25 March, 27 May, 26 August, 25 November
Time: 1pm for approximately 2 hours
Where: Various regional venues

Further information is available on the [Richmond Tweed Regional Library](#) website.

35

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	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	Deliver Council meeting secretariat – including agenda preparation, minutes and council resolutions monitoring

Legal/Statutory/Policy Considerations

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

Financial Considerations

Councillors' travel to and from Regional Committee meetings is reimbursed by Council and budgeted for in the Councillors' Budget.

10 **Consultation and Engagement**

Not applicable.

Report No. 5.11 Countback for Casual Vacancy within the first 18 months of Term

Directorate: Corporate and Community Services

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

File No: I2021/983

Summary:

10 [Section 291A](#) of the *Local Government Act 1993* outlines that a countback can be held instead of by-election in certain circumstances. A countback can only be enacted if the council has at its first meeting following that ordinary election of councillors, by resolution, declared that any casual vacancy within the first 18 months of the term is to be filled by a countback of votes cast at the last election for that office.

Councils that do not resolve to fill vacancies using a countback at their first meeting after the election will be required to fill vacancies through a by-election.

15 The purpose of this report is for Council to resolve whether a countback will apply in the event of a casual vacancy in accordance with Section 291A of the *Local Government Act 1993*.

20

RECOMMENDATION:

That Council endorses the use of the countback method in the event that a casual vacancy in the office of a councillor occurs within the first 18 months of the current term of office.

25

Report

The following information has been obtained from [How Voting Works | Local, State & Federal Government Elections - NSW Electoral Commission](#)

5 A countback election is used to elect a councillor to fill a single vacancy, where the vacating councillor was elected under the proportional representation method (i.e. where two or more candidates were elected at a local government ordinary election). If there are multiple vacancies, a separate countback election is held for each vacancy.

10 The returning officer contacts all unelected candidates from the local government ordinary election who may still qualify to be elected to the office of councillor. Where the candidate is interested, they must submit a formal application to the returning officer. All candidates who submit and do not withdraw their application, become eligible candidates.

The timeline for a countback election is

- 15
1. The Electoral Commissioner is notified of a casual vacancy, within seven days of it occurring.
 2. A returning officer is appointed within 14 days of the notification of the vacancy.
 3. Casual vacancy notices are issued 2 to 14 days from the appointment of the returning officer.

20

 4. Where a candidate is interested, they must submit a formal application to the returning officer. The application period closes after 10 days of the notices being issued.
 5. The countback is conducted within 14 days of the vacancy notices being issued.
 6. It may take up to a month for the results to be declared.

25 A countback election must be completed within 49 days, and applications for candidates to participate is open for 10 days.

If there are no eligible candidates, a by-election must be held. If there is only one eligible candidate, that candidate is elected. If there are multiple eligible candidates, a countback election is conducted.

- 30 In a countback election, the returning officer
- uses preference data from ballot papers from the previous local government ordinary election
 - uses the same proportional representation method used in the original election
 - effectively re-runs the election making the vacating councillor ineligible and distributing each of their ballot papers to the next preference on the ballot paper

35

 - if a non-eligible candidate would be elected, the election is re-run with that candidate's ballot papers also distributed to their next preference on the ballot paper
 - re-runs the countback until an eligible candidate is elected.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	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	Deliver Council meeting secretariat – including agenda preparation, minutes and council resolutions monitoring

Legal/Statutory/Policy Considerations

[Section 291A](#) of the *Local Government Act 1993*.

5 Financial Considerations

Councils that do not resolve to fill vacancies using a countback at their first meeting after the election will be required to fill vacancies using a by-election. It is expected that this would cost at least \$150,000.

Consultation and Engagement

10 Not applicable.

Report No. 5.12 Local Government NSW Special Conference

Directorate: Corporate and Community Services

Report Author: Heather Sills, Corporate Planning and Improvement
Coordinator

5 **File No:** I2021/1165

Summary:

10 The Local Government NSW Special Conference will take place from 28 February - 2
March 2022 at the Hyatt Regency Sydney and will feature a range of keynote speakers, as
well as the critically important debate and resolution of council-submitted motions to
determine the advocacy agenda for the year ahead.

15 Council is entitled to three voting delegates in the debating session. In accordance with the
Councillor Expenses and Facilities Policy, *“A resolution of Council is required to authorise
attendance of Councillors at LGNSW Conference(s) as a voting delegate.”*

RECOMMENDATION:

20 That Council authorises Cr _____, Cr _____, and Cr _____ to attend
the Local Government NSW Special to be held at the Hyatt Regency Hotel in Sydney
from 28 February to 2 March 2022.

Report

The Local Government NSW Special Conference will take place from 28 February - 2 March 2022 at the Hyatt Regency Sydney.

5 Council is entitled to three voting delegates in the debating session. This number is determined by population (see Attachment 1). In accordance with the Councillor Expenses and Facilities Policy, *“A resolution of Council is required to authorise attendance of Councillors at LGNSW Conference(s) as a voting delegate.”*

This year the voting delegates will be responsible for voting in the election for Office Bearers and the Board in addition to the usual voting on motions.

10 Additional information and updates can be found on the [LGNSW website](#).

Council is to notify LGNSW of its voting delegates by Thursday, 17 February 2021. Nominations of voting delegates received after the closing date/time cannot be accepted.

15 The purpose of this report is to enable Council to authorise the attendance of three (3) Councillors as voting delegates to the Local Government Association of NSW Special Conference.

Motions

All member Councils can put forward motions to be considered at the Conference. Members are invited to submit motions via an online portal.

20 Councillors can put forward motions to be considered at the Conference, but they must first be endorsed by Council prior to submission. The Councillor Expenses and Facilities Policy states at clause 6.40 that *“Submission of motions to the Local Government NSW Annual Conference... for consideration by Council will be done by notice of motion, which can be considered during the year.”*

25 Proposed motions should be strategic, affect members state-wide and introduce new or emerging policy issues and actions. When submitting motions, members are encouraged to familiarise themselves with the Action Reports from previous meetings and the existing principles and positions of LGNSW on issues of importance to the sector, as members will be asked to identify if their motion is seeking a change to LGNSW's existing Policy Position.

30 Further information on submitting motions is available in the *LGNSW 2021 Conference Motions Submission Guide* available [online](#).

Deadline for submitting motions

35 The latest date motions will be accepted for inclusion in the Conference Business Paper is 12 midnight (AEDT) on Sunday 30 January 2022. Councillors wishing to propose motion/s for consideration by Council should do so by Notice of Motion to the 20 January Ordinary Meeting.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	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	Deliver Council meeting secretariat – including agenda preparation, minutes and council resolutions monitoring

Legal/Statutory/Policy Considerations

- 5 In accordance with Council’s Mayor and Councillors Payment of Expenses and Provision of Facilities Policy, “*A resolution of Council is required to authorise attendance of Councillors at Local Government and Shires Association Conference(s) as a voting delegate.*”

Financial Considerations

Council has an allocation for conferences of \$31,500.00 within the 2021/22 budget.

- 10 As at January 2022, \$158 of expenses have been incurred and the available budget remains at \$31,342. Council is therefore able to fund the cost of three delegates from this budget.

Costs *per person*:

15	Registration Fee	\$1094.50
	Flights (<i>approx</i>)	\$405.50
	Conference Functions (<i>approx</i>)	\$300.00
	Accommodation (<i>approx</i>)	<u>\$1,200.00</u>
	Total	<u>\$3,000.00</u>

20 **Consultation and Engagement**

Not applicable.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 5.13 Environmental Planning and Assessment (Statement of Expectations) Order 2021

5 **Directorate:** Sustainable Environment and Economy
Report Author: Shannon Burt, Director Sustainable Environment and Economy
File No: I2021/1967

Summary:

10 The purpose of this report is to advise Council of the recently made Environmental Planning and Assessment (Statement of Expectations) Order 2021.

RECOMMENDATION:

15 **That Council:**

1. **Notes the staff update on the Environmental Planning and Assessment (Statement of Expectations) Order 2021.**
- 20 2. **Notes and commends staff on the Council's performance on development assessment matters, planning proposals and strategic planning given numerous legislative changes imposed on councils and challenges as the result of the COVID-19 pandemic during the past 18 months.**
- 25 3. **Understands that the Statement of Expectations Order 2021 imposes new and separate performance benchmarks for development assessment, planning proposals and strategic planning, that if not met may result in the planning powers of a Council being removed with a planning administrator or regional panel put in place instead to exercise a council's functions.**

30 **Attachments:**

- 1 Notification DPIE Secretary - Environmental Planning and Assessment (Statement of Expectations) Order 2021, E2022/805

35

Report

Background

5 Council was notified on 15 December 2021, by the Secretary of the Department of Planning Industry and Environment, of the Environmental Planning and Assessment (Statement of Expectations) Order 2021.

The Order sets benchmarks for council performance in the areas of development assessment, planning proposals and strategic planning. Attachment 1.

10 The Secretary's letter states: *It is also important to note that for the first-time, incoming councillors will be provided an induction on planning and their role in ensuring the planning system operates as efficiently as possible. Accordingly, I would encourage you to table this letter and Order at your first available council meeting.*

15 A half day planning system induction was provided to all councillors on 19 January 2021 where this Order was mentioned. In keeping with the Secretary's suggestion, the Order is now tabled for Council at the first meeting.

Performance reporting and benchmarks

Staff regularly report to Council about development assessment matters, planning proposals and strategic planning.

20 The most recent report on development assessment matters was to the Planning Meeting on 5 August 2021 [Report No. 13.22 Development Assessment eSymposium](#)

Byron Council also participates in the Local Government Performance Excellence Program (LGPEP), which is run by Local Government Professionals in partnership with PricewaterhouseCoopers.

25 In 2020, the LGPEP did a deep dive into development application processing to provide industry comparisons of the types, volumes and values of applications being processed by councils.

Below is a snapshot of the FY2020 findings re Byron Shire:

- 30 • more applications were received in Byron than the NSW average (eg 25.8 DAs were determined in Byron Shire for every 1,000 residents compared with a NSW average of 9.4)
- higher numbers of applications were determined by each Full Time Equivalent staff member at Byron than the NSW average (eg 36 DAs determined per full time staff member compared with NSW average of 26)
- 35 • Byron received and determined more than double the number of residential DAs than the NSW average

BYRON SHIRE COUNCIL

- DAs of a total value of \$7M+ were determined by Byron compared with the NSW average total value of \$4.52M (value is the cost of works, not of land, and is an indicator of scale)
- 5
- Byron had fewer applications for residential alternations and additions and new single houses and significantly more applications for secondary dwellings and other types of residential accommodation.

Further, the Annual Operational Plan (OP) sets KPIs for Development Assessment, Planning Proposals and Strategic Planning obligations. EoY21 results follow:

Development Assessment	Measure	2021/22
<p>Action</p> <ul style="list-style-type: none"> • Assess and determine development applications 	<ol style="list-style-type: none"> 1. Time taken to determine development applications under delegated authority - Average = 70 days, Median = 60 days 2. Time taken to determine modification applications under delegated authority - Average = 50 days, Median = 40 days 3. % of applications determined within 50 days under delegated authority >50% 4. % of modified applications determined within 40 days under delegated authority >60% 	<ol style="list-style-type: none"> 1. Average days 103 / Median days 73 2. Average days 49 / Median days 37 3. 38% of applications determined within 50 days 4. 65% of applications determined within 40 days.

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

5.13

Planning Proposals	Measure	2021/22
<p>Actions</p> <ul style="list-style-type: none"> Prepare and assess Planning Proposals and Development Control Plans, and amend Local Environmental Plan maps 	<p>80% of applicant-initiated planning proposals reported to council within 90 days once the applicant has paid the required Stage 1 assessment costs.</p>	<p>Achieved to date</p>
<ul style="list-style-type: none"> Commence Employment Zone reform implementation 	<p>Prepare scope of work</p>	<p>Initial review of zone implementation plan and supporting information has commenced, with scope of work to follow</p>
<ul style="list-style-type: none"> Prepare an Affordable Housing contribution scheme under SEPP 70 to be incorporated in the local planning framework controls (Action in Residential Strategy) 	<p>Finalise LEP amendment to apply SEPP 70 affordable housing contribution to one or more of the sites identified in the Residential Strategy</p>	<p>Planning proposal submitted to DPIE planning portal – pending advice</p>
<ul style="list-style-type: none"> Prepare a Planning Proposal to enable precinct based Short Term Rental Accommodation 	<p>Planning proposal progressed in accordance with Gateway</p>	<p>Consultants Urbis were engaged by the Departments PDU to prepare an Economic Impact Assessment (EIA) to inform review of Councils STRA Planning Proposal. Staff expressed considerable concerns with the draft EIA to PDU and these remain with the revised and now finalised EIA. This matter is the subject of a separate report to council in early 2022.</p>
<ul style="list-style-type: none"> Progress future use of Lot 22, Mullumbimby Planning Proposal, Plan of Management and Structure Plan 	<p>Planning proposal progressed in accordance with Gateway Plan of Management and Structure Plan commenced pending outcome of Planning Proposal</p>	<p>Planning proposal submitted to DPIE for Gateway determination in January 2021. DPIE returned the planning proposal on the basis that the residential strategy and affordable housing contributions scheme (AHCS) was yet to be finalised. The Departments</p>

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

5.13

		<p>Planning and Delivery Unit (PDU) have completed a peer review of the planning proposal to determine if it can proceed ahead of the strategy and the AHCS. The peer review</p> <p>The peer review was received in July 2021 and reviewed by staff. PDU were advised that we had significant concerns with the review and as such we were unable to accept the findings of the peer review. The peer review has now been finalised. PDU have advised in November 2021 that they will provide formal correspondence on the peer review outcome – we are still waiting for this advice.</p>
Strategic Planning obligations	Measure	2021/22
<p>Actions</p> <ul style="list-style-type: none"> Commence review of Local Strategic Planning Statement priority actions 	<p>LSPS review of priority actions commenced</p>	<p>This work is on hold pending State government's endorsement of Residential Strategy and Affordable Housing Contribution Scheme, as well as review of the North Coast Regional Plan.</p>
<ul style="list-style-type: none"> Prepare submission/s on draft changes to State government planning policy or legislative reforms 	<p>Submission/s prepared where required.</p>	<p>Submissions made to:</p> <ul style="list-style-type: none"> North Coast Regional Plan review - Local Government Narratives 'questionnaire' draft Northern Rivers Regional Plan (prepared by Regional Development Australia - Northern Rivers) proposed 2021 'Environmental Planning

		<p align="right">& Assessment Regulation'</p> <ul style="list-style-type: none"> • NSW Regional Housing Taskforce (joint submission by the Northern Rivers Joint Organisation (NRJO) and Byron Shire Council) • NSW Legislative Assembly Committee on Community Services' Inquiry into options to improve access to existing and alternative accommodation to address the social housing shortage • Department of Planning, Industry and Environment Population Dynamics (response provided via the NRJO) • the draft Housing SEPP for adoption of LEP 2014 Clause 5.5 part (a)
--	--	---

Development Assessment Matters

5 Not all OP KPIs for development assessment have been met by year's end 2021. This is not unexpected in the circumstances. There has been a sharp increase in development applications submitted since early 2021, with over 100 more development applications submitted than for the same period 12 months earlier. During this time also there has been staff turnover and impacts from COVID lockdowns and border closures on workflows and assessments. While development application increases continue, determination times are expected to remain higher than in previous years.

10 As such, key messaging has gone out to our community and consultants about delays to development application assessments.

[Delays to DA assessment times - Byron Shire Council \(nsw.gov.au\)](https://www.nsw.gov.au/development-assessment-times-byron-shire-council)

Lismore, Ballina, and Tweed Councils have done similarly:

[Delays to DA assessment times – Lismore City Council \(nsw.gov.au\)](https://www.nsw.gov.au/development-assessment-times-lismore-city-council)

[The DA process | Ballina Shire Council \(nsw.gov.au\)](https://www.nsw.gov.au/development-assessment-times-ballina-shire-council)

[Delays in DA assessment times | Tweed Shire Council \(nsw.gov.au\)](https://www.tweedshire.nsw.gov.au/development-assessment-times)

Development Assessment Continuous Improvement Program

5 Despite the increase in development applications, Council has been working on continuous improvements within the development assessment area over the last few years, with several efficiencies and streamlined processes being introduced.

- 10 • Introduction to ePlanning – Council was an early adopter of the now mandated NSW Planning Portal (the portal). Prior to the introduction of the portal Council did not have an online DA lodgement platform. Processes were developed around the portal that allowed us to seamlessly migrate to mandatory lodgement when Council closed in 2020 in response to COVID-19. As of July 2021, all NSW Councils were mandated to use the portal. The early adoption has meant that there was no impact on our services due to this change. Council has recently introduced integration between the portal and internal document and registration systems to further streamline processes.
- 15 • Refining the pre-lodgement review process – The portal allows for a pre-lodgement review of DAs to be undertaken prior to formally accepting a DA. A review of the duty town planning position identified the benefit of having the assessing planner carry out the initial completeness check on the DA before it is accepted and require deficient information to be lodged prior to accepting the application for assessment. This change also enables the planner to be more familiar with the application from the beginning of the assessment phase once the DA is lodged.
- 20 • DA Tracker - Council introduced the DA Tracker in April 2018 to improve the customer experience, be it the owner or applicant, or an interested community member. Complete DAs are now available online. The community can track the progress of an application from lodgement to determination.
- 25 • One-on-one consultant meetings - Council's Director of Sustainable Environment and Economy invited seven regular planning consultants to take part in a questionnaire and had one-on-one appointments to provide feedback on Council's DA assessment performance and to identify areas that could be improved. This enabled us to make changes where issues were raised.
- 30 • Improvements to information and functionality of Council's website - Improvements to functionality and information when Council introduced a new website in 2018 enhanced the DA experience for applicants. Continual improvement to the website is ongoing.
- 35 • Planning eNews - The Planning eNews is distributed regularly to over 130 planning consultants and other interested parties who have subscribed. The eNews enables Council to communicate directly with its customers, to pass on important information and provide guidance for submitting more suitable DAs.
- 40 • Assessment Report improvements and automations – Ongoing improvements and automations have been introduced to the existing assessment reports and consent conditions. These automations allow the officer to select pre-populated information based on the Local Environmental Plan and site constraints. The formulation of generic

condition groups for regular development types has also assisted in improving staff time spent on assessment.

- 5 • Electronic Stamping and Signing - An electronic stamping and signing solution was an important tool to complement the Planning Portal and to reduce manual handling and DA assessment timeframes. Although initial inquiries had been made earlier, during COVID-19 we were able to fast-track the installation and implementation of electronic stamping and signing software to enable remote working staff to continue processing applications in a timely manner.
- 10 • Comprehensive DA Matrix and Checklist - A comprehensive [DA Matrix and Checklist](#) was introduced to better inform applicants, particularly those not experienced in lodging DAs, about the documentation required when submitting a DA for a number of project types.
- 15 • Weekly new DA review - The Sustainable Development Manager and relevant team leaders (Planning, Development Engineering, Building) meet individually with all the planners weekly to review new DAs. The purpose of the meeting is to identify any issues on a DA early or offer immediate advice so that internal referrals are not required. The weekly meeting also provides a regular opportunity for the planners to present existing or long-standing applications with issues that may need further attention or advice.
- 20 • Development Assessment Procedure Manual - An updated manual is currently being written to include recent procedural changes. The manual will improve staff understanding of the processes and ensure they consistently manage DAs from lodgement.

25 As stated above, Council was an early adopter of the now mandated NSW Planning Portal and was invited to participate in the Public Space Legacy Program where success was measured against development assessment improvements.

30 In a period of increased development activity, partly due to government incentives in the building industry and the sharp rise in the property market that saw city dwellers flock to our region because of COVID-19 lockdowns; the Independent Assessment Panel has recently approved access to a further 50% of its funding allocation under that program to commence construction of the Sandhills Wetlands Activation.

Development Assessment Staffing

35 The above process changes and achievements by a small and dedicated team are laudable. However, staff resourcing, staff application allocation and workflow continues to be a challenge and subject to ongoing review. As noted above, present workloads are excessive and not sustainable. On any given week there are between 350-400 development applications at various stages of receipt/process and assessment in the system.

40 On average each development assessment planner has a workload of above 50 development applications each. Best practice states that no more than 25 development

application can be reasonably and efficiently managed by an individual staff member at any one time.

5 To address this, contract staff are necessary to alleviate both the pressure on FTE staff, and to fill a vacancy when it occurs due to the lengthy and difficult process of recruiting the right people that can afford to move to the area and live here. Contract staff however come at an added cost to Council.

Staff secondment from other planning teams in Council is also now necessary and commonplace. We have a development support officer and a strategic planner assessing development applications as part of and or in addition to their normal work.

10 Further, both the Manager Sustainable Development and Director Sustainable Environment and Economy are managing contestable and or significant development applications. This is not so commonplace but necessary due to skills gap at Council and in the planning industry more generally, which further impedes Council recruiting for suitably experienced planners.

15 **Planning Proposals and Strategic Planning obligations**

The work of this team has been overrun by the plethora of state government reforms and four key matters (Residential Strategy, Affordable Housing Contributions Scheme, Short Term Rental Accommodation and Lot 22 Mullumbimby) that are mostly still to be resolved with the Department's Planning & Delivery Unit.

20 As a result of the reforms and Council resolutions on the key matters there are several new OP actions that Council will consider via a separate report, these are:

- Commence updating systems in response to state government SEPP consolidation
 - Review Planning Proposal fees & charges, including administrative process
 - Commence Affordable Housing Contribution Scheme - Community Housing Provider EOI and Implementation and Delivery Program
- 25

Due to the timeframes imposed by the state government on some of these actions, this will drive the team's workload for the coming year and beyond.

Key issues

30 This new planning regime is the latest in a long line of reforms to the NSW Planning system and its related administrative practices imposed on councils with limited notice and or engagement which continue to adversely affect councils' service delivery.

Anyone dealing with councils like Byron Shire knows that it has been a very difficult 12-24 months for our planning teams.

35 State's one-size fits all approach ignores the challenges faced by regional councils as opposed to those in the cities, where pre-existing use and services simplify the planning process.

5 Further, the statutory fees that councils can charge under NSW State Government Regulations have not been increased in decades, yet the NSW Planning System has become more complex, requiring a much wider range of technical expertise and input beyond our town planning staff. A process which is further impeded by their inability to review projects for adequacy prior to them being lodged.

In addition, the state government has released a [Discussion Paper](#): A New Approach to Rezoning for feedback until 28 February 2021.

This is intended to speed up the process for changing planning rules on a particular piece of land – known as rezoning. The reforms include new ways to:

- 10
- cut the time it takes to process a proposal to change planning rules by a third by 2023
 - establish an appeals pathway for planning proposals to overcome delays and progress rezonings that are consistent with strategic plans.

Staff will be preparing a submission.

15 **Next steps**

The Director Sustainable Environment and Economy has written to the Department seeking further clarification on the Order given the paucity of information that accompanied its release. A request for resources at no cost has also been made to the Department’s Planning Delivery Unit to assist Northern Rivers councils facing a labour shortage, skills deficit, and inability to recruit for planners due to the housing crisis. No formal response has been received at the time of writing this report.

20

The Northern Rivers Joint Organisation Executive Assistant is also working alongside the Northern Rivers Planning Directors’ group on a position statement about the Order and its impact on the council group.

25 **Strategic Considerations**

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
Community Objective 4: We manage growth and change responsibly	4.1: Support the visions and aspirations of local communities through place-based planning and management	4.1.3: Manage development through a transparent and efficient assessment process	4.1.3.1	Assess and determine development applications

Community Objective 4: We manage growth and change responsibly	4.1: Support the visions and aspirations of local communities through place-based planning and management	4.1.3: Manage development through a transparent and efficient assessment process	4.1.3.11	Prepare and assess Planning Proposals and Development Control Plans, and amend Local Environmental Plan maps
---	---	--	-----------------	--

Legal/Statutory/Policy Considerations

5 The Order sets expectations for councils in relation to their performance on a range of planning and development functions under the Environmental Planning and Assessment Act 1979. If a council is found not to be meeting these expectations, the Minister can take these matters into consideration as part of determining if it is appropriate to appoint a planning administrator or regional panel to exercise a council’s functions. The Order is made under section 9.6(9) of the Act.

Financial Considerations

Potential and significant financial and resource implications to Council.

10 **Consultation and Engagement**

Not applicable to this report.

Report No. 5.14 Northern Regional Planning Panel Membership

Directorate: Sustainable Environment and Economy

Report Author: Shannon Burt, Director Sustainable Environment and Economy

5 **File No:** I2021/1966

Summary:

The purpose of this report is to have councillors review Council's current nominated members to the Northern Regional Planning Panel and either confirm ongoing appointments and or make new ones.

10

RECOMMENDATION:

That Council:

- 15 **1. Notes the report on Northern Regional Planning Panel Membership.**
- 2. Having reviewed the current Byron Shire membership on the Northern Regional Planning Panel:**
- 20 i. **Confirms David Brown and Joe Vescio as nominated members subject to their written confirmation; and**
- ii. **Calls for nominations for three alternate members by an expression of interest process.**
- 25 **3. Notifies the Planning Panel Secretariat of the above.**

Report

Sydney and Regional Planning Panels were introduced to NSW in 2009 to determine regionally significant development applications and other planning matters. More detail here [About Planning Panels | Planning Portal - Department of Planning and Environment \(nsw.gov.au\)](#)

5 'Regionally significant development' is generally development with a capital investment value (CIV) over \$30 million.

10 There are five Sydney Planning Panels and four Regional Planning Panels across NSW. Each Panel is an independent body that is not subject to the direction of the Minister of Planning.

15 Under the Environmental Planning and Assessment Act, a Council can nominate two persons as Council nominees for the purposes of the Panel, **at least one** of whom has expertise in planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering, or tourism.

20 A Panel is comprised of five members: three appointed by the Minister and two appointed by the relevant local council. Each Panel also includes alternates to act in place of the permanent members if they are unavailable for any reason including conflict of interest.

The current Ministerial appointed members to the **Northern Regional Planning Panel** are: Chair Paul Mitchell and State Members Penny Holloway and Stephen Gow.

25 The current Byron Shire nominated member/s are David Brown (community). The alternate member/s are ex Councillor Basil Cameron and Joe Vescio (community).

The above nominated members were selected by an expression of interest process and Council **Resolution 18-494**.

30 Given time and a new Council, a review of the nominated Byron Shire Panel membership is considered appropriate. There is also a need to increase the pool of Byron Shire Panel members to ensure there are alternate members.

35 The options for Council are:

- 40 i. Confirm David Brown and Joe Vescio as nominated members subject to their written confirmation; and call for nominations for three alternate members by an expression of interest process. OR
- ii. Spill membership and call for nominations for five new nominated/alternate members by an expression of interest process. OR
- 45 iii. Directly nominate five new nominated/alternate members subject to a notification process which allows them to confirm acceptance or not.

50 By way of observation, the current members of David Brown, ex Councillor Basil Cameron and Joe Vescio have been active in attendance and participatory at Panel meetings since their appointments.

The current system for developments to be determined by the Panel is that a planning report is prepared independently by a Council planner and that planner presents the report to the Panel and speaks to it at the public determination hearing.

- 5 Council has six development applications with the Panel for determination. These development applications are significant and high profile.

<p>DA</p> <p>PPSNTH-135 Under assessment</p> <p>Northern Regional Planning Panel</p> <p>Coastal Protection Works - Geobags, Seawall and Dune Rebuilding/Beach Coastal Protection Works - Geobags, Seawall and Dune Rebuilding/Beach Nourishment Works to the front of Reflections Holiday Park, Clarkes Beach</p> <p>1 Lighthouse Road, Byron Bay</p> <p>→</p>	<p>DA</p> <p>PPSNTH-136 Under assessment</p> <p>Northern Regional Planning Panel</p> <p>Coastal Protection Works - Geobags, Seawall and Dune Rebuilding/Beach Nourishment Works at Clarkes Beach</p> <p>2 MASSINGER STREET BYRON BAY 2481, BAY STREET BYRON BAY 2481</p> <p>→</p>	<p>DA</p> <p>PPSNTH-134 Under assessment</p> <p>Northern Regional Planning Panel</p> <p>Subdivision to create One Hundred and Thirty One (131) Lots</p> <p>15 TORAKINA ROAD BRUNSWICK HEADS 2483</p> <p>→</p>
<p>DA</p> <p>PPSNTH-106 Under assessment</p> <p>Northern Regional Planning Panel</p> <p>Demolition of Existing Buildings and Construction of a Three (3) Storey Mixed Use Retail/Residential Development including Basement Parking</p> <p>90-96 JONSON STREET BYRON BAY 2481</p> <p>→</p>	<p>DA</p> <p>PPSNTH-102 Under assessment</p> <p>Northern Regional Planning Panel</p> <p>Bioenergy Facility</p> <p>45 WALLUM PLACE BYRON BAY 2481</p> <p>→</p>	<p>DA</p> <p>PPSNTH-83 Under assessment</p> <p>Northern Regional Planning Panel</p> <p>Mixed Use Development</p> <p>951 BROKEN HEAD ROAD BROKEN HEAD 2481</p> <p>→</p>

Each application is at a different stage of assessment, but in keeping with the new Environmental Planning and Assessment (Statement of Expectations) Order 2021, will need to be reported to the Panel and determined by or before 250 days lodgement on the Planning Portal.

5 As such, it is important that Council retain Panel members to provide local representation for Panel meetings now and ongoing.

For further information see [Sydney and Regional Planning Panels](#) page on the [Planning Portal website](#).

10 **Strategic Considerations**

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
Community Objective 4: We manage growth and change responsibly	4.1: Support the visions and aspirations of local communities through place-based planning and management	4.1.3: Manage development through a transparent and efficient assessment process	4.1.3.1	Assess and determine development applications

Recent Resolutions

• **18-494 Resolved:**

- 15
1. That Council nominate David Milledge and David Brown as the two full time positions, with Joe Vescio as alternate for David Milledge and Cr Cameron as alternate for David Brown, to represent Council on the Northern Joint Regional Planning Panel.
 2. That Council thank all nominees for their interest and time in submitting an Expression of Interest.
 3. That Council notify the Planning Panel Secretariat of the above nominations.

20 *Note that David Milledge subsequently resigned from the Panel membership.*

Legal/Statutory/Policy Considerations

All regional panel members are expected to follow the regional panel’s operational procedures and to adhere to the regional panel’s code of conduct. Both documents can be found at:

25 [Planning Panel Publications | Planning Portal - Department of Planning and Environment \(nsw.gov.au\)](http://www.planning.nsw.gov.au)

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

5.14

Relevant extracts below:

4.5 Selection of council members Each council determines how their members are selected.

5 In selecting members, councils should have regard to any conflict of duties that would be created for a person nominated to the Panel if they are in any way responsible or involved in the assessment of matters to be determined by the Panel or involved in voting or deliberating on matters that come before the Panel.

Councils are not restricted to nominating people from the council's local area. They can appoint, terminate, and reappoint members at any time, and can determine the duration of each appointment.

10 Generally, so as to ensure the greatest degree of continuity for the Panels, councils should consider appointing members for the maximum term of three years provided for under the EP&A Act. However, councils should reconsider if the nominations to the Panels are appropriate within 12 months following a council election.

Following a change to its nominees, council is to forward the new member's contact details to the secretariat as soon as possible and this must be a minimum of 14 days before any meeting at which they will act as a Panel member.

15 If a council fails to nominate one or more council members, a Panel may still exercise its functions in relation to the area of the council concerned.

5.2 Declaration of interests

20 On being informed of a matter to come before the Panel members should consider if they have an actual, potential or reasonably perceived conflict and, if so, declare the conflict and take any appropriate action, such as allowing an alternate member to take their place.

Panel members are required to complete and sign a declaration of interest form in relation to each matter which is considered by the Panel, either before, or at the commencement of, the Panel's determination proceedings.

25 Any verbal declarations are to be recorded in writing. **To avoid any perceptions of bias, and to meet requirements of the Code of Conduct, councillors who have previously deliberated or voted on a matter that is to come before the Panel (such as a submission from the council on a DA for regionally significant development, a related voluntary planning agreement or a planning proposal) must stand aside from their place on the Panel and allow council's nominated alternative member to take their place. Alternatively, the member may choose to not participate in the deliberations or voting on the matter at the council (or council committee) meeting. They should also not remain in the council chamber during the council's deliberations.**

30

Financial Considerations

35 The Department of Planning does not remunerate council nominated members, it is a matter for each council to determine, taking into consideration the previous guidelines from the Minister, being:

Council Staff Members: No fees should be paid, as participation in the regional panel would form part of the employee's regular duties, consistent the Department Premier and Cabinet Guidelines for NSW Board and Committee Members: Appointment and Remuneration (the DPC Guidelines).

40

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

5.14

Elected Councillors: As Councillors already receive an annual fee set by the Local Government Remuneration Tribunal each year for performing their councillor duties, an additional per meeting fee is reasonable, recognising that membership of the regional panel brings additional responsibilities.

- 5 Community members: Each council may determine an appropriate level of remuneration for that person, by arrangement with that member, with your Council's current rates used as a guide when determining appropriate remuneration rates. The rates of remuneration used are those set by the Minister. The fees associated with preparing for and attending the Panel can vary per development application. There is no specific corporate
- 10 governance budget allocation for these payments.

Consultation and Engagement

Not applicable to this report.

BYRON SHIRE COUNCIL