

# Agenda Ordinary Meeting

Thursday, 24 February 2022



**BYRON**  
SHIRE  
COUNCIL

# Agenda Ordinary Meeting

held at Council Chambers, Station Street, Mullumbimby  
commencing at 9am

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

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

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

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## 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)

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## RECORDING OF VOTING ON PLANNING MATTERS

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

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

**BYRON SHIRE COUNCIL**  
**BUSINESS OF ORDINARY MEETING**

- 1. PUBLIC ACCESS**
- 2. APOLOGIES**
- 3. REQUESTS FOR LEAVE OF ABSENCE**
- 4. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY**
- 5. TABLING OF PECUNIARY INTEREST RETURNS (CL 4.9 CODE OF CONDUCT FOR COUNCILLORS)**
- 6. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS**
  - 6.1 Extraordinary Meeting held on 3 February 2022
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## 14. QUESTIONS WITH NOTICE

Nil

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

**NOTICES OF MOTION**

**Notice of Motion No. 9.1 Objectives for some Advisory Committees**

5 **File No:** I2022/101

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I move:

- 10 1. That Council considers including in the draft Objectives for our Coast and ICOLLs Advisory Committee the following purposes:
- a) steering & advising Council towards our Coastal Management Program;
  - b) creating and revising Council Strategies applying to our ICOLLs and Estuaries;
  - 15 c) offering a platform for stakeholders to talk with Council on these matters.
2. That Council considers structuring the draft Objectives for our Climate Change and Resource Recovery Advisory Committee to distinguish between the following endeavours:
- 20 a) Advising Council on recovering resources from so-called waste streams, especially from our municipal collection systems;
  - b) Advising Council on reducing council and community carbon emissions as our contribution to a better outcome for the planet; and
  - c) Advising Council on how and when to adapt to the impacts of Climate Change within Byron Shire.

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**Signed: Cr Duncan Dey**

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**Councillor's supporting information:**

5 We will likely consider draft Objectives for our Advisory Committees via a staff report to our March meeting. The Committees themselves, once populated, also get to discuss and advise Council on their Objectives. My purpose here is to table a perspective based on my years of working in these fields.

I trust staff will also advise us, including on regulatory requirements that need to be or could be included in the Committee's Objectives. Coastal Zone Management Plans (the predecessor of Coastal Management Plans) used to require a reference group. Whether CMP's do or not, progressing our CMP will benefit from having one.

10 My view is that Climate Change requires attention to two distinct objectives. The first one is to reduce council and community emissions. The second is to plan the adaptation we and our descendants will need when dealing with the impacts of Climate Change. Physical impacts include more intense storms, longer droughts, higher ocean levels, higher air temperatures, more bushfires of higher intensity. Adaptation to these could  
15 include:

- (i) locating new development to minimise new exposure to hazards like coastal erosion, flood inundation, bushfire, higher temperatures, etc;
- (ii) encouraging existing development to relocate away from exposure to hazards like coastal and flood inundation, bushfire, western aspects, etc;
- 20 (iii) allowing existing development that cannot relocate and thus remains exposed to hazards to serve out its useful life without redevelopment;
- (iv) supporting and bolstering our depleted Emergency Services;
- (v) relocating or abandoning vulnerable public assets such as roads, water & sewer infrastructure;
- 25 (vi) encouraging other authorities to relocate or abandon but certainly not to build or rebuild assets like arterial roads, rail, telecommunications in vulnerable locations.

Climate Change will also have social and health impacts. Collaboration will be an advantage.

30 The activities of the CC&RR Advisory Committee will overlap with those of the Coast & ICOLLs Committee and of the Floodplain Management Committee. I believe this is not a knock-out problem and can be accommodated by creating a 'rolling' meeting schedule such that the three Committees meet in different months. Staff, Councillors and community members who sit on multiple Committees can then carry ideas forward from one committee to the others. Draft meeting Minutes will be available in that same  
35 sequence.

**Staff comments**

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

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

5 Council considered [Report No. 5.7 Advisory Committee Structure and Determination of Councillor Representatives](#) at the extra ordinary meeting 3 February 2022. By Resolution **22-026** it established committees some with revised structures and objectives and councillor representation for each. A meeting schedule was also adopted by point 10 of the Resolution.

The current adopted schedule has the meetings in the following months for:

Committee Name	Months		
Climate Change and Resource Recovery Advisory Committee	June	September	November
Coastal and ICOLL Advisory Committee	June	October	

10 An [expression of interest](#) has now commenced to call for community members for each of the committees. It is anticipated that the EOI process will be reported to the March meeting of Council so that these committees can commence their meetings as per the adopted meeting schedule.

The purpose of the mentioned committees follows:

**15 Coastal and ICOLL Advisory Committee**

The purpose of the Coast and ICOLL Advisory Committee is to:

- Assist Council in the development of Coastal Management Programs for the Shire’s coast, estuary and ICOLLs.
- 20 • Provide input and feedback on existing projects, plans and strategies related to the coast and estuaries/ICOLLs.
- Offer a platform and conduit for communication between stakeholders and community members and agencies.

**Climate Change and Resource Recovery Advisory Committee**

- 25 • To assist Council in the development, implementation and review of relevant sustainability, resource recovery and climate change mitigation and adaptation plans, policies, and projects such as:
  - Council’s Net Zero Emissions Strategy and Action Plan
  - Council’s Towards Zero Integrated Waste Management and Resource Recovery Strategy

# BYRON SHIRE COUNCIL

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- Councils Illegal Dumping and Litter Enforcement and Education Plan
- Climate Change Adaptation Plan
- Renewable energy projects
- Local network trading and local network charges
- 5 • Carbon reporting
- Waste avoidance, resource recovery, circular economy and reuse programs
- Other sustainability and resource recovery initiatives.
- To support our community's drive towards zero emissions and zero waste to landfill.
- 10 • To identify and report opportunities or concerns regarding resource recovery, waste management, sustainability and climate change adaptation and mitigation issues to Council including, but not limited to, funding opportunities, special events, government policy, practice, or guidelines.

The mentioned committee TORs will be provided to the committees at their first meeting for review and endorsement, which in turn would be reported to Council by way of the minutes of that committee meeting. The objectives suggested in the Notice of Motion can be considered by the mentioned committees then.

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

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

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

CSP Objective	CSP Strategy	DP Action
<b>Community Objective 5: We have community led decision making which is open and inclusive</b>	5.2: Create a culture of trust with the community by being open, genuine and transparent	5.2.4: Support Councillors to carry out their civic duties

**Notice of Motion No. 9.2 Development Application Processing Performance**

**File No:** I2022/102

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I move:

1. That Council notes:

- 10 a) as outlined in Resolution 22-032, that Council determines more Development Applications (DA's) than average in NSW and that Council staff determine more DA's per staff member than average Council in NSW;
- b) that recruitment of appropriate skills and staff has been difficult;
- c) that DA processing times and uncertainty over processing times are matters of significant public frustration;
- 15 d) incorrect or incomplete paperwork being submitted creates significant workload for assessment staff and often leads to delays and increased complexity.

20 2. That Council receives a report by April 2022 on measures that may improve KPI's, reduce waiting times for DA processing, increase certainty in DA processing times and meet the requirements as set out in the letter from the Minister, including:

- 25 a) establishing a 'fast lane' for qualifying DA's, with a triage approach for determining if DA's meet the criteria to be 'fast tracked';
- b) determining guidelines that would qualify DA's to be fast tracked. These guidelines may include simplicity and levels of correct paperwork submitted;
- c) allocating additional funding towards DA processing; and
- 30 d) adjusting DA assessment procedures towards refusal with an invitation to re-lodge when DA documentation is deficient, and away from coaching for larger DA's to get inadequate documentation up to speed.

**Signed: Cr Duncan Dey and Cr Asren Pugh**

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

5 Council resolved on 3 February via Resolution **22-032** to receive a letter of 15 December 2021 from the NSW Government setting out *Minister's Expectations* on Development Assessment, Planning Proposals, and Strategic Planning Obligations. The letter set performance benchmarks that Council should be able to achieve. It also threatened Councils with removal of their planning powers.

10 In the financial year 2020 Byron Shire Council determined almost 3 times as many Development Applications (DA's) per 1000 residents as the average of NSW Councils (25.8 versus 9.4 based on LGPEP data for 2020). In that same period, 38% more applications were determined by each Full Time Equivalent staff member than the NSW average (36 versus 26).

15 The load on DA processing has not lifted since then. Impacts of the overload include reputational damage to Council, and increased avoidance of the application and assessment process. Some DA's are lodged with poor documentation and inadequate consideration of matters that must be addressed in the application. All this results in poor development, environmental & social damage, and a plethora of compliance tasks.

The motion seeks ways to grow respect for the assessment process, to complete assessments quickly and to encourage developers to stay legal.

## **Staff comments**

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

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

25 Report No. 5.13 Environmental Planning and Assessment (Statement of Expectations) Order 2021 [Agenda of Extraordinary Meeting - Thursday, 3 February 2022 \(infocouncil.biz\)](#) provided a comprehensive update to Councillors on the current performance reporting and benchmarks for development applications and planning proposals, resourcing, and continuous improvement programs for both.

30 It also made mention that Byron Shire is not the only council in the northern rivers region under pressure from development. Notwithstanding this, the report showed that Byron Shire is performing above its weight given size, workload and resourcing. This is acknowledged by point 1a).

## **Planning system**

35 The NOM places a heavy emphasis on development application processing and what Council staff can do to simplify, fast track and triage development applications to make it easier for applicants to navigate the system, and for the system to give them a quicker determination. It asks for new KPIS in this regard.

The NOM also asks staff to look at:

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- 2d) **adjusting DA assessment procedures towards refusal with an invitation to re-lodge when DA documentation is deficient, and away from coaching for larger DA's to get inadequate documentation up to speed.**

Staff are already doing this.

- 5 What the NOM fails to recognise is that the planning system is set by the State Government via their legislation and their Planning Portal, and in its current form neither allows Council to reject applications that are poorly made, without merit and or ambit claims against planning controls.

- 10 Once a development application is uploaded to the Planning Portal, meets a simple development application document checklist, and is paid for in the planning portal, the statutory assessment time period starts; with appeal rights after 40 days irrespective of staff requests for additional information or design amendments.

- 15 The current statutory development application fees also fail to cost recover the work done by staff in assessing development applications and appeals. The fee structure impedes Council's ability to properly resource its planning services in periods of highest demand. A review of the fees by the State Government is understood to be imminent with no details available at this time.

### Volume of state government reform

- 20 In addition to the above, it is also important for Councillor's to understand the current roll out of state government reforms which are many and complex. See table below. Each of these reforms has implications for the way Council staff manages development applications, assesses development applications, and determines development applications.

- 25 Also, the Planning Portal is about to be further updated which is also likely to impact staff responsible for its administration, and staff that use it for development application assessments.

Table - Summary January 2022 State Government reform

Name	Description	Timeframes
Minister's Planning Principles	Nine principles that will provide direction for planning in NSW SEPPs are being consolidated into 11 'themes'. S9.1 Directions to be 'grouped' into 9 themes <a href="https://www.planning.nsw.gov.au/Policy-and-Legislation/Planning-Principles">https://www.planning.nsw.gov.au/Policy-and-Legislation/Planning-Principles</a>	Updates commence 1 March 2022
EP&A Regulation 2021	Significant number of changes – see <a href="https://www.planningportal.nsw.gov.au/EP">https://www.planningportal.nsw.gov.au/EP</a>	Updated regulation will

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Name	Description	Timeframes
	<a href="#">A-regulation-review</a> and attached Guide.	commence 1 March 2022
New approach to rezoning	<p>Overhaul of the planning proposal process, including categorising rezonings, new streamlined processes and timeframes for each category.</p> <p><a href="https://www.planning.nsw.gov.au/Policy-and-Legislation/Under-review-and-new-Policy-and-Legislation/A-new-approach-to-rezoning-in-NSW">https://www.planning.nsw.gov.au/Policy-and-Legislation/Under-review-and-new-Policy-and-Legislation/A-new-approach-to-rezoning-in-NSW</a></p> <p>Includes an updated Local Environmental Plan Making Guidelines</p> <p><a href="https://www.planning.nsw.gov.au/-/media/Files/DPE/Guidelines/LEP-Making-Guideline.pdf">https://www.planning.nsw.gov.au/-/media/Files/DPE/Guidelines/LEP-Making-Guideline.pdf</a></p>	<p>Submissions on Discussion paper due by 28 February 2022</p> <p>Webinars on discussion paper and draft guideline in early Feb</p>
Draft Design and Place SEPP	<p>Replaces and repeals SEPP 65 and SEPP BASIX</p> <p>Includes revised <i>Apartment Design Guide</i>, new <i>Urban Design Guide</i>, updates to BASIX and new Local Government Design Review Panel Manual</p> <p><a href="https://www.planning.nsw.gov.au/Policy-and-Legislation/State-Environmental-Planning-Policies/Design-and-Place-State-Environmental-Planning-Policy">https://www.planning.nsw.gov.au/Policy-and-Legislation/State-Environmental-Planning-Policies/Design-and-Place-State-Environmental-Planning-Policy</a></p> <p>Also includes a draft s9.1 Ministers Direction – Design principles and Urban Design Guide objectives to be considered in some Planning Proposals</p>	Exhibition until 28 February 2022
Review of Infrastructure SEPP	Various amendments	EIE on exhibition until February 2022
Education SEPP	<p>Changes include:</p> <ul style="list-style-type: none"> <li>• providing changes to CIV thresholds to ensure planning assessment pathway is commensurate with scale and impacts of proposed project;</li> <li>• saving time and money through streamlined approval processes, making it easier for schools, TAFEs and</li> </ul>	

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### NOTICES OF MOTION

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<b>Name</b>	<b>Description</b>	<b>Timeframes</b>
	<p>universities to build new facilities and improve existing ones;</p> <ul style="list-style-type: none"> <li>• supporting the new student housing strategy proposed in the Housing Diversity SEPP for student housing on schools and tertiary institution campuses including TAFEs;</li> <li>• supporting the changing nature of tertiary institutions by making provision for innovation hub activities within existing tertiary institutions;</li> <li>• addressing concerns about impacts of child-care centres within Low Density Residential Zones (R2);</li> <li>• addressing existing policy anomalies in the Education SEPP.</li> </ul>	
Planning amendments for agriculture	<p>Draft Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2021 released. The LEP Order will introduce new land use terms into the Standard Instrument:</p> <ul style="list-style-type: none"> <li>• ‘agritourism’, ‘farm gate premises’ and ‘farm experience premises’ and</li> <li>• amend the definition of ‘farm stay accommodation’.</li> </ul> <p>It also includes two optional clauses councils can choose to adopt in their LEPs for farm stay accommodation and farm gate premises.</p>	<p>Council’s must advise whether they want to adopt the optional clauses by 25 February 2022 (using nomination form available on Portal)</p> <p>Final amending SEPP anticipated by 31 March 2022.</p>
Employment Zones	<p>Consolidation of Business and Industrial zones into 5 new “E Zones”</p> <p>Name changes for environmental protection zones</p>	<p>Translation tables to be returned to DPIE by 31 Jan 2022 (returned 17 Jan)</p> <p>Draft SEPP aiming for March</p>

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### NOTICES OF MOTION

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<b>Name</b>	<b>Description</b>	<b>Timeframes</b>
Statement of Expectations	Environmental Planning and Assessment (Statement of Expectations) Order 2021 Sets out matters the Minister can consider when deciding whether to revoke a Council's Planning Powers.	Order is now in force.
Infrastructure contributions	Environmental Planning and Assessment Amendment (Infrastructure Contributions) Regulation 2021	July 2022
Clause 4.6 Review	EIE for revised test exhibited in 2021	Reform package expected early 2022
Dept Primary Industries – State Significant Farmland mapping	Update to mapping framework.	
Regional Plan review	Review of the North Coast Regional Plan	Comments on draft narrative & map by 24 Jan 2022 Public exhibition expected April 2022
Standard conditions of consent	New prescribed conditions New set of standard conditions	Legislation change Feb 2022 to introduce new prescribed conditions
Planning for a more resilient NSW	A strategic guide to planning for natural hazards Includes a 'Resources Kit' with links to various resources, data sources etc, and a 'Natural resources Handbook', with various checklists useful for strategic decision making	
Complying Development reforms	Proposed changes to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP)	Legislation changes to be introduced 1

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<b>Name</b>	<b>Description</b>	<b>Timeframes</b>
	to support economic recovery. These include changes to complying development for retail, commercial and industrial uses and for the delivery of data centres.	Feb 2022
Regional Housing Taskforce	Regional Housing Taskforce established by State Government in July 2021 to investigate regional housing issues, challenges and planning system barriers preventing the delivering of housing supply. The Taskforce submitted a Findings Report (Sept 2021) and a Recommendations Report (Oct 2021) to the Minister for Planning and Public Spaces. The NSW Government's response to the Taskforce is expected sometime in 2022.	2022
NSW Heritage Act Review	In October 2021, the Legislative Council Standing Committee on Social Issues published the report of their inquiry into the Heritage Act 1977. The inquiry looked at the effectiveness of the Heritage Act and the NSW heritage regulatory system, along with heritage aspects of the Environmental Protection and Assessment Act 1979. The Government Response to the report was released in December 2021.	
Housing SEPP	<p>Changes include:</p> <p>Introduces two new housing types to meet changing needs:</p> <ul style="list-style-type: none"> <li>• Co-living housing</li> <li>• Independent living units</li> </ul> <p>Improves the way existing types of homes are delivered including:</p> <ul style="list-style-type: none"> <li>• Boarding houses</li> <li>• Build-to-rent housing</li> <li>• Seniors housing</li> </ul> <p>Includes the planning rules for:</p>	Legislation changes introduced November 2021

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<i>Name</i>	<i>Description</i>	<i>Timeframes</i>
	<ul style="list-style-type: none"><li>• Caravan parks and manufactured home estates</li><li>• Group homes</li><li>• Retention of existing affordable rental housing</li><li>• Secondary dwellings (sometimes known as granny flats)</li><li>• Social housing</li></ul>	
STRA SEPP	The STRA provisions now apply in the Byron Shire LGA, including a maximum of 180 days per year for non-hosted STRA.	Legislation changes introduced January 2022

### **Audit in development application process**

Further to the above. Byron Shire Council is one of 3 Councils that has been selected by the Audit Office of NSW to participate in an audit in 2021-22 into the development assessment (DA) process in local councils.

- 5 The audit will assess the extent to which the assessment of DAs by selected councils aligns with relevant legislation and relevant guidance from the Department of Planning, Industry and Environment and the Independent Commission Against Corruption.

10 This audit will also review how we do things and where we can improve compared to others. The audit objectives and outcomes correlate with the NOM. The audit has commenced and is expected to be completed over the next 12 months.

With the above said, it would be fair to say that a report back to Council in April on points:

**2a) establishing a ‘fast lane’ for qualifying DA’s, with a triage approach for determining if DA’s meet the criteria to be ‘fast tracked’;**

15 **2b) determining guidelines that would qualify DA’s to be fast tracked. These guidelines may include simplicity and levels of correct paperwork submitted;**

is unrealistic given the volume and breadth of change currently being managed by planning staff that needs to be taken into consideration before any reasonable and informed response to these points can be made. To undertake this work also would mean

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diverting staff from planning administration and development assessment duties which would only further exacerbate the pressure on these staff with their current workloads.

It is staff preference that the report as requested be presented to Council - post reforms introduction and post the Audit review process completion (likely at the end of 2022).

- 5 In the meantime, staff from planning administration and development assessment will continue to work on continuous improvements to the systems, look at additional resourcing options where needed, and to meet existing KPIs in the Operational Plan and those in the Order for development application determinations.

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

- 10 Potential and significant financial and resource implications to Council which need further consideration.

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

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

**SUBMISSIONS AND GRANTS**

**Report No. 11.1 Grants January 2022**

**Directorate:** Corporate and Community Services

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

**File No:** I2022/48

**Summary:**

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

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**RECOMMENDATION:**

15 **That Council notes the report and Attachment 1 (#E2022/9955) for Byron Shire Council's grant submissions as of 31 January 2022.**

**Attachments:**

20 1 Grant submissions as at 31 January 2022, E2022/9955 

# BYRON SHIRE COUNCIL

## SUBMISSIONS AND GRANTS

11.1

### Report

This report provides an update on grant submissions since the last report to Council. Currently Council has 18 grant submissions awaiting determination and announcement.

#### Successful applications

- 5 Council was advised of the following successful applications:

Funding body	Funding scheme	Project name	Total project value \$	Amount requested \$
<b>NSW Department Planning, Industry &amp; Environment</b>	Public Spaces Legacy Program	Sandhills Wetlands	<b>*\$6,300,000</b>	\$3,000,000
<b>National Australia Day Council</b>	National Australia Day Council	Australia Day - Citizenship and Awards Ceremony	<b>\$34,000</b>	\$30,000
<b>NSW Government - Office of Sport</b>	Regional Sports Facility	Suffolk Park Football Club	<b>\$489,483</b>	\$389,483
<b>Department of Planning, Industry and Environment</b>	Summer Night Fund	Mullum Pool - Slip Sliding Summer Fun	<b>\$15,000</b>	\$15,000
<b>Transport for NSW</b>	Fixing Local Roads	Rifle Range Road - additional funding	<b>\$597,015</b>	\$597,015

\*Sandhills Wetland project value is an estimate and is still being finalised. Funding options for the Council contribution have been identified and when the full costs are determined, will be detailed within an upcoming separate report.

#### Unsuccessful applications

- 10 Council has been advised of the following unsuccessful applications.

Funding body	Funding scheme	Project name	Total project value \$	Amount requested \$
<b>Australia Government</b>	National Landcare Program - Smart Farms Small Grants	Soil Science and Sustainable Farms in Byron Shire	<b>\$108,973</b>	\$108,973
<b>NSW Government</b>	Everyone Can Play	Byron Recreation Grounds Amenities block	<b>\$200,006</b>	\$100,000
<b>Department Regional NSW</b>	Stronger Country Communities Fund R4	Byron Street (Bangalow) Footpath	<b>\$471,884</b>	\$471,884

## BYRON SHIRE COUNCIL

### SUBMISSIONS AND GRANTS

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<b>Department Regional NSW</b>	Stronger Country Communities Fund R4	Cavanbah Centre	<b>\$70,600</b>	\$70,600
<b>Department Regional NSW</b>	Stronger Country Communities Fund R4	Bangalow Pathway	<b>\$50,000</b>	\$50,000
<b>Department Regional NSW</b>	Stronger Country Communities Fund R4	Mullumbimby Netball Club	<b>\$118,475</b>	\$118,475
<b>Department Regional NSW</b>	Stronger Country Communities Fund R4	Byron Street (Bangalow) Footpath	<b>\$471,884</b>	\$471,884

No feedback was provided for the National Landcare Program and Everyone Can Play. Council was successful in the previous Everyone Can Play program and is currently delivering this project.

- 5 Feedback on Stronger Country Communities will be provided in February. Suffolk Park Football Club was also submitted under this program however, it has been successfully funded under the Regional Sports Facility Fund program.

#### Applications submitted in November 2021 to January 2022

<b>Funding body</b>	<b>Funding scheme</b>	<b>Project name</b>	<b>Total project value \$</b>	<b>Amount requested \$</b>
Department of Planning, Industry and Environment	Habitat Action Grant	Marshalls Creek	<b>\$80,000</b>	\$40,000
Department of Planning, Industry and Environment	Coastal Estuary Implementation Program 2021 - planning stream	Scoping Study for the Southern Shire Coastline and Belongil Estuary - Stage 2	<b>\$111,500</b>	\$74,331
NSW Environment Protection Authority	Own it and Act R 6 - Stream 1	Reuse in Bruns	<b>\$75,000</b>	\$75,000
NSW Environment Protection Authority	Own it and Act R 6 - Stream 2	Stormwater litter	<b>\$50,000</b>	\$50,000
National Australia Day Council	National Australia Day Council	Australia Day - Citizenship and Awards Ceremony	<b>\$34,000</b>	\$30,000
Department of Planning, Industry and Environment	Summer Night Fund	Mullum Pool - Slip Sliding Summer Fun	<b>\$15,000</b>	\$15,000
Australian Government - National Recovery and Resilience Agency	Preparing Australian Communities	Byron Drainage Strategy	<b>\$1,281,720</b>	\$1,081,720

# BYRON SHIRE COUNCIL

## SUBMISSIONS AND GRANTS

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### Upcoming grant opportunities

#### [Streets as Shared Spaces Program | NSW Dept of Planning, Industry and Environment – Round 2](#)

5 The program supports the Premier's Priority to increase walkable access to quality open, green and public space in urban areas.

An Expression of Interest Application was submitted in November 2021 and Council has been invited to submit a full application in February 2022. The application supports the trial of Car Free Sundays in Byron Bay in conjunction with the Byron Community Markets.

#### 10 [Building Better Regions Fund \(BBRF\) | Department of Infrastructure, Transport, Regional Development and Communications, Australian Government](#)

The \$1.38 billion Building Better Regions Fund (BBRF) supports the Australian Government's commitment to create jobs, drive economic growth and build stronger regional communities into the future.

15 The fund invests in projects located in or benefiting eligible areas outside the major capital cities of Sydney, Melbourne, Brisbane, Perth, Adelaide, and Canberra. A total of \$250 million is available within Round 6.

Following the positive feedback from Round 5 and the project reaching the Ministerial Panel, Council will be submitting the Bioenergy Byron project.

#### [Walking and Cycling Program | Transport for NSW](#)

20 The Walking & Cycling Program's strategic objectives are aimed at:

- improving bike riding to and within centres, neighbourhoods and to key destinations
  - improving walkability in centres, neighbourhoods and at key destinations, and
  - enable vibrant centres and liveable neighbourhoods through the creation of street environments that prioritise walking and cycling.
- 25

Applications for strategic planning, design and construction can be submitted. Council projects being reviewed include:

#### Construction

- Byron St, Bangalow – upgraded path to connect Feros, sports field through the primary school
  - Orana Road, Ocean Shores – new shared path from Balemo Road to Water Lily Park
- 30

Design

- Lighthouse Road, Byron – new path (along road) to connect to the Lighthouse – to support access and safety
  - Raftons Road – new share path
- 5      • Rifle Range Road, Bangalow – new share path

Projects identified are priority programs within the Byron Shire Bike Plan 2019.

## Strategic Considerations

### Community Strategic Plan and Operational Plan

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

### Legal/Statutory/Policy Considerations

- 10 Under Section 409 3(c) of the *Local Government Act 1993* Council is required to ensure that 'money that has been received from the Government or from a public authority by way of a specific purpose advance or grant, may not, except with the consent of the Government or public authority, be used otherwise than for that specific purpose'. This legislative requirement governs Council's administration of grants.

### 15 Financial Considerations

If Council is successful in obtaining the identified grants, this would bring funding sought to \$39.5 million which would provide significant funding for Council projects. Some of the grants require a contribution from Council (either cash or in-kind) and others do not. Council's contribution is funded.

- 20 The potential funding is detailed below:

	Requested funds from funding bodies	\$18,267,218
	Council Contribution Cash	\$21,183,070
	Council Contribution In-Kind	\$36,000
	Other contributions	\$0
25	<b>Funding applications submitted and awaiting notification (total value)</b>	<b>\$39,516,288</b>

**Consultation and Engagement**

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

STAFF REPORTS - GENERAL MANAGER

**Report No. 13.1 Lease to Huron Bay Pty Ltd (A.C.N )**

**Directorate:** General Manager

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

**File No:** I2021/1952

**Summary:**

10 Mr William Francis Bailey requested a new 7-year lease with an option of 7-years over Lot 6 DP836887 ('the Land') to Parington Pty Ltd to secure hangar access to support his farming business. Council resolved **(21-430)** to grant a new five-year lease to Parington Pty Ltd.

15 Following resolution (21-430), Mr William Francis Bailey contacted Council requesting the new lease be granted to his other company Huron Bay Pty Ltd (A.C.N 654 298 405) and not Parington Pty Ltd. As a result, a new report is tabled for Council consideration.

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**RECOMMENDATION:**

20 **That Council authorises the General Manager, under delegation, to enter into a Head Lease with Huron Bay Pty Ltd (A.C.N. 654 298 405) on the following terms:**

- a) over Lot 6 DP836887 Staceys Way Tyagarah,
- b) term five-years,
- 25 c) base rent to be set by an independent market valuation (yet to be received) with rent annually increased thereafter by Consumer Price Index All Groups Sydney,
- 30 d) for the purpose of storage of aircraft,
- e) the Lessor to consent to the Lessee sub-leasing part of the leased land to T & L West for the same term and purpose as the Head Lease,
- 35 f) the Lessor acknowledges that the Lessee and T & L West own all improvements on the Land,
- g) Lessee must, at its cost, be responsible for the following:
  - i) all outgoings payable in respect of the Land,

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- ii) all maintenance of improvements on the Land including but not limited to all buildings, road access and or carpark constructed on the Land,
  - iii) providing a minimum \$20 million public risk insurance cover noting Byron Shire Council as an interested party, and
  - 5 iv) hold all consents, approvals, and others authorisation for storage of aircraft on the Land.
- 
- h) Lessee must, at its cost, removal all improvements from the Land and return the Land as vacant possession to the Lessor on the day the Head Lease ends, unless a new lease is negotiated to commence on the day after the end of the Head Lease.
- 
- 10 i) The Lessee to enter into an Access Licence for the Tyagarah Airfield upon acceptance of a Head Lease over the Land.
- 
- 15

## Report

Council resolved (21-430) at its 28 October 2021 meeting:

*That Council authorises the General Manager, under delegation, to enter into a lease with Parington Pty Ltd (A.C.N. 002 015 581) on the following terms:*

- 5 a) *Lot 6 DP836887 Staceys Way Tyagarah,*  
b) *term five-years,*  
c) *base rent to be set by an independent market valuation (yet to be received) with rent annually increased thereafter by Consumer Price Index All Groups Sydney,*  
d) *for the purpose of storage of aircraft,*  
10 e) *the Lessor to consent to the Lessee sub-leasing part of the leased land to T & L West for the same term and purpose as the Head Lease held by the Lessee,*  
f) *the Lessor acknowledges that the Lessee and T & L West owns all buildings and improvements on the Land,*  
g) *Lessee must, at its cost, be responsible for the following:*  
15 i) *all outgoing payments payable in respect of the Land,*  
ii) *all maintenance of improvements on the Land including but not limited to all buildings, road access and or carpark constructed on the Land,*  
iii) *minimum \$20 million public risk insurance covers noting Byron Shire Council as an interested party provided by the Lessee; and*  
20 iv) *all consents, approvals and others authorisation for storage of aircraft on the Land.*  
h) *Lessee and Sub-Lessee must at their cost, removal all buildings and other improvements from the Land and return the Land to vacant possession at the end of the lease unless a new lease is negotiated to commence on the day after the end*  
25 *date of the lease.*

Following Council resolution (21-430) Mr William Francis Bailey ('Mr Bailey') director of Parington Pty Ltd, contacted Council requesting that Council enter into a new lease with his other company Huron Bay Pty Ltd (A.C.N 654 298 405) and not Parington Pty Ltd.

## 30 Background

Lot 6 DP836887 ('the Land'), as vacant land, was first leased to Ron Llewellyn in September 1988 for seven years for the purpose of an aircraft hangar, clubhouse, recreation, camping and children's playground. This lease ended without any construction taking place on the Land.

- 35 On 12 August 1993, Council entered into a seven-year lease, with a 7-year option with Mr Bailey in accordance with Council resolution (02-1237). Terms of the lease authorised the construction of a hangar, office, amenities and carparking subject to development consent. Terms of the Lease required the Lessee, at its cost, to remove all improvements on the land within one-month from termination of the lease. A hangar was constructed on the land  
40 under development approval 94/487.

On 13 November 1997, Council, by letter signed by the then General Manager Mr Ray Kent, consented to the Lessee sub-leasing part of the leased land for the same purpose as

# BYRON SHIRE COUNCIL

## STAFF REPORTS - GENERAL MANAGER

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the lease held by Mr Bailey. Mr Bailey then sub-leased part of the Land to T & L West. T & L West constructed a second hangar on the Land following a Land and Environment Court ruling in 2000.

- 5 On 1 July 2007 Council entered into a new lease with Mr Bailey for a term of 5-years commencing 1 July 2007 for hangar and associated activities. The Lessee currently holds this lease under holding over provisions. Clause 13(b) of the lease requires the Lessee to remove, at its cost, all its improvements from the Land at the end of the lease.

Mr Bailey requests a new seven-year Head Lease for hangar and associated activities over the land to Huron Bay Pty Ltd (A.C.N 654 298 405).

### 10 **The Land:**

The Land is Council owned and classified as operational.

Council's Business and Industrial Lands Strategy identified the Land as a preliminary site for a potential 9-hectare industrial land area referred to Area Number 3: Gulgan East Industrial Site.

- 15 The Strategy suggests a timeframe of 3-to-5-years to undertake a planning proposal to rezone the land. The rezoning is conditional on the provision of essential infrastructure to the site for water, sewerage, and road connections to the M1 Motorway.

No action is currently reported in Council's Operational Plan to advance investigations into the Tyagarah site. Other lands identified in the Strategy are also being investigated.

- 20 The report recommends that a five-year lease is granted to the Lessee to prevent any impact on the progress of the Business and Industrial Lands Strategy by Council.

### **Improvements on the Land:**

Two aircraft hangars are built on the Land.

- 25
- Hanger One, built to the rear of the Land and authorised by development consent 94/487.
  - Hanger Two, built to the front of the Land and authorised by development consent 99/0227 after a Land and Environment Court ruling.

- 30 According to terms of the current lease, the Lessee owns Hanger One along with all its other improvements on the Land.

Hanger Two appears to be owned by T & L West and occupies the land under a private agreement with the Lessee.

- 35 Staff recommend that a new five-year Head Lease is granted to Huron Bay Pty Ltd with terms of the Head Lease permitting the Lessee to sub-lease part of the land to T & L West for the same term and purpose as the Head Lease.

## BYRON SHIRE COUNCIL

### STAFF REPORTS - GENERAL MANAGER

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That the proposed five-year lease requires the Lessee to remove, at its cost, all improvements from the land, including improvements owned by T & L West, and to return the land to the Lessor as vacant possession on the day the Head Lease ends, unless a new lease is entered into prior to the end of the Head Lease.

#### 5 **Use of Tyagarah Airfield:**

Use of the Tyagarah Airfield is controlled by an Access Licence with user costs set out in Councils Fees and Charges. Council will require Huron Bay Pty Ltd (A.C.N 654 298 405) to enter into an Access Licence for the Tyagarah Airfield upon acceptance of a Head Lease over the Land.

#### 10 **Terms of proposed lease:**

Council staff propose a new Head Lease to Huron Bay Pty Ltd (A.C.N 654 298 405) on the following:

- a) over Lot 6 DP836887 Staceys Way Tyagarah,
- 15 b) term five-years,
- c) base rent to be set by an independent market valuation (yet to be received) with rent annually increased thereafter by Consumer Price Index All Groups Sydney,
- d) for the purpose of storage of aircraft,
- e) the Lessor to consent to the Lessee sub-leasing part of the leased land to T & L West
- 20 f) the Lessor acknowledges that the Lessee and T & L West own all improvements on the Land,
- g) Lessee must, at its cost, be responsible for the following:
  - i) all outgoing payments payable in respect of the Land,
  - 25 ii) all maintenance of improvements on the Land including but not limited to all buildings, road access and or carpark constructed on the Land,
  - iii) providing a minimum \$20 million public risk insurance cover noting Byron Shire Council as an interested party, and
  - 30 iv) hold all consents, approvals, and others authorisation for storage of aircraft on the Land.
- h) Lessee must, at its cost, removal all improvements from the Land and return the Land as vacant possession to the Lessor on the day the Head Lease ends, unless a new lease is negotiated to commence on the day after the end of the Head Lease.
- 35 i) The Lessee to enter into an Access Licence for the Tyagarah Airfield upon acceptance of a Head Lease over the Land.

40

## **Strategic Considerations**

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

<b>CSP Objective</b>	<b>CSP Strategy</b>	<b>DP Action</b>	<b>Code</b>	<b>OP Activity</b>
Community Objective 1: We have infrastructure, transport and services which meet our expectations	1.2: Provide essential services and reliable infrastructure which meet an acceptable community standard	1.2.6: Optimise Council's property portfolio (SP)	1.2.6.9	Manage leases and contracts at Tyagarah Airfield
Community Objective 5: We have community led decision making which is open and inclusive	5.5: Manage Council's finances sustainably	5.5.1: Enhance the financial capability and acumen of Council	5.5.1.2	Support the organisation in identifying financial implications of projects, proposals and plans

### **Recent Resolutions**

- Resolution (21-430)

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

As detailed in the report.

### **Financial Considerations**

Base rent to be set by independent market rent valuation from an approved Valuer. Base rent will be increased annually by Consumer Price Index All Groups Sydney for the term.

- 10 Ancillary uses of the airfield by Huron Bay Pty Ltd (A.C.N 654 298 405) and its sub-Lessee to be charged in accordance with Councils Fees and Charges for landing, parking, and aircraft access registration fees.

### **Consultation and Engagement**

- 15 Council staff have advised Mr Bailey that the report will recommend a five-year lease instead of his requested seven-year with seven-year option to prevent any impact on the progress of the Business and Industrial Lands Strategy by Council over the leased land.

**Report No. 13.2 Grant of 5-year licence over Mullumbimby Community Hall (former Mullumbimby Scout Hall) to preferred respondent**

**Directorate:** General Manager

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

**File No:** I2021/1954

**Summary:**

10 A Request for Proposal to licence the Mullumbimby Community Hall over five-years for the purpose of a multi-use community building was advertised between 4 November and 2pm 6 December 2021.

This report recommends a new licence is granted to the successful respondent to the Request for Proposal.

15

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**RECOMMENDATION:**

1. That Council note that no submissions were received from public notice of a proposed five-year licence over the Mullumbimby Community Hall advertised between 4 January and 2 February 2021.
- 20 2. That Council award a five-year licence over the Mullumbimby Community Hall to the successful Respondent listed in Confidential Attachment 1 – Final Evaluation Report with the following terms:
  - a) part Folio 321/755692 being the building known as the Mullumbimby Community Hall,
  - 25 b) term of five-years,
  - c) purpose of a community building as defined by the Byron Local Environmental Plan 1998,
  - d) base rent to be set at \$490 per annum exclusive of GST and increased thereafter annually by Consumer Price Index All Groups Sydney,
  - 30 e) Council to subsidise rent to the value of \$16,790 (exclusive GST),
  - f) Council to subsidise fixed rates and charges payable in accordance with Policy Section 256 Donations – Rates and Charges 2021,

# BYRON SHIRE COUNCIL

## STAFF REPORTS - GENERAL MANAGER

13.2

**g) Licensee to pay all other outgoings and must provide public liability insurance to the minimum value of \$20 million noting Byron Shire Council as an interested party.**

5 **3. That Council makes public its decision, including the name of the successful Respondent.**

**4. That Council thanks the Mullumbimby Scout Group for its contribution and long-term commitment to the Mullumbimby community.**

### **Attachments:**

10

- 1 Confidential - Attachment 1: Final Evaluation Panel Report, E2021/151754
- 2 Confidential - Attachment 2: Probity Report, E2021/152423

15

## Report

### Background:

5 Lot 321 DP755692, River Terrace Mullumbimby is Council owned land classified as community land. The Mullumbimby Community Hall (previously known as the Mullumbimby Scout Hall), ('the Hall) is built on the land.

10 In October 2021, Scouts NSW Mullumbimby Branch was forced to close and vacated the Hall. Scouts Mullumbimby Branch having been active in the community since before 1930's having initially occupied the Mullumbimby Drill Hall before moving into the Hall in the 1960's. Council thanks the Mullumbimby Scout Group for its contribution and long-term commitment to the Mullumbimby community.

To ensure hirers of the Hall were not disadvantaged by Scouts vacating the Hall, Council staff took over management of the Hall from November 2021 allowing all regular hirers continued use of the Hall free of charge until a new licensee could be found.

### Request for Proposal

15 A Request for Proposal to licence the Hall over five years was run between 4 November and 2:00pm 6 December 2021. The Request for Proposal was open to non-profit organisations to manage and maintain the Hall as a multi-use community building in accordance with the Plan of Management for the land.

Council received three submissions:

- 20
- Creative Mullumbimby Incorporated,
  - Mullum Cares Incorporated, and
  - Mullumbimby & District Neighbourhood Centre Incorporated.

### Evaluation of submissions received:

25 Submissions received were assessed against predetermined Compliance and Qualitative criteria as provided in the Request for Proposal document.

The evaluation assessment period ran from 7 to 15 December 2021 in accordance with the Evaluation Plan. The Evaluation Panel was chaired by the Acting Manager Open Space with probity advice provided by Councils Corporate Planning and Improvement Coordinator.

30 In accordance with the Evaluation Plan, the Evaluation Panel was required to:

- evaluate the compliance criteria and establish that a submission was compliant,
- score the qualitative criteria against pre-defined weightings,
- clarify information with respondents if required, and
- make recommendations of a preferred Respondent.

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### STAFF REPORTS - GENERAL MANAGER

13.2

The Evaluation Panel independently evaluated each submission by scoring both the compliance and weighted qualitative criteria. The Panel meet on two occasions to resolved discrepancies before reaching a consensus as to the preferred Respondent.

Compliance Criteria:

Detail	Compliance
1. Conflict of Interest Declaration	Yes/No
2. Instrument of proposal: i. Organisation name and Trading name if different, ii. A.B.N and/or A.C.N, iii. Evidence of non-profit status, iv. Organisation profile, v. Referee details	Yes/No
3. Details of insurance or statement insurance will be obtained.	Yes/No
4. Commencement date of licence.	Yes/No

5 Qualitative Criteria:

Description of Qualitative Criteria	Weighting
<p>1. Describe your organisation vision and demonstrated understanding</p> <p><i>Minimum information to provide:</i></p> <p>a) Describe your vision and how it aligns with Council's vision to '<i>strongly protect the shire's lifestyle, diversity and community spirit</i>'?</p> <p>b) Describe the community outcomes you are hoping to achieve and how you will know if you're achieving them, supported by a list of Key Performance Indicators?</p> <p>c) Describe your organisations anticipated support for diverse community user groups with different needs and goals to fully realise the potential of the Mullumbimby Community Hall, including anticipated marketing and promotion of the Hall for community activities?</p> <p>d) Detail your anticipated hire fee structures?</p> <p>e) Describe any similar experiences in running a community hall or alike?</p>	50%
<p>2. Describe the proposed management and key personnel</p> <p><i>Minimum information to provide:</i></p> <p>a) Describe how the Mullumbimby Community Hall will be managed, including governance as well as operational matters such as proposed opening hours and how after hour's usage will be provided and managed?</p> <p>b) Describe any additional services to be provided and core personnel?</p> <p>c) Describe your bookings management system including ability to report usage back to Council?</p> <p>d) Describe how the organisation will enable community and</p>	40%

# BYRON SHIRE COUNCIL

## STAFF REPORTS - GENERAL MANAGER

13.2

Description of Qualitative Criteria	Weighting
stakeholder input into decision making and how will you manage compliments and complaints?	
3. Describe proposed improvements to the Premises. <i>Minimum information to provide:</i> a) Describe your anticipated maintenance schedule for Mullumbimby Community Hall over the licence term?	10%

Following assessment of each submission against the assessment criteria, the Evaluation Panel recommended the successful Respondent as detailed in Attachment 1: Final Evaluation Panel Report.

A Probity Report of the evaluation process is contained in Confidential Attachment 2.

## 5 Community Consultation

Public notice of a proposed five-year licence was exhibited between 4 January and 2 February 2022. Council received no submissions.

## Strategic Considerations

### Community Strategic Plan and Operational Plan

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

## 10 Recent Resolutions

- Nil.

## Legal/Statutory/Policy Considerations

Local Government Act 1993 (NSW)

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

# BYRON SHIRE COUNCIL

## STAFF REPORTS - GENERAL MANAGER

13.2

- 5 (1) *If a council proposes to grant a lease, licence or other estate in respect of community land for a period (including any period for which the lease, licence or other estate could be renewed by the exercise of an option) exceeding 5 years, it must:*
- (a) *give public notice of the proposal (including on the council's website), and*
- (b) *exhibit notice of the proposal on the land to which the proposal relates, and*
- 10 (c) *give notice of the proposal to such persons as appear to it to own or occupy the land adjoining the community land, and*
- (d) *give notice of the proposal to any other person, appearing to the council to be the owner or occupier of land in the vicinity of the community land, if in the opinion of the council the land the subject of the proposal is likely to form the primary focus of the person's enjoyment of community land.*
- (2) *A notice of the proposal must include:*
- *information sufficient to identify the community land concerned*
  - *the purpose for which the land will be used under the proposed lease, licence or other estate*
  - *the term of the proposed lease, licence or other estate (including particulars of any options for renewal)*
  - *the name of the person to whom it is proposed to grant the lease, licence or other estate (if known)*
  - *a statement that submissions in writing may be made to the council concerning the proposal within a period, not less than 28 days, specified in the notice.*
- 15 (3) *Any person may make a submission in writing to the council during the period specified for the purpose in the notice.*
- 20 (4) *Before granting the lease, licence or other estate, the council must consider all submissions duly made to it.*
- 25

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

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

**Financial Considerations**

5 The Request for Proposal stipulated subsidised annual rent to the value of minimum Crown is payable by the Licensee. As a result, Council must subsidise annual rent to the value of \$16,790 calculated from the following formula: 6% of the unimproved value of the land at \$17,280 less minimum Crown rent at \$490.

In accordance with its Policy Section 356 Donations – rates and charges, the licensee is eligible for a full subsidy of annual fixed rates and charges payable on the land.

All remaining outgoings is payable by the Licensee. Annual rent will be increased by CPI, all groups Sydney commencing year two of the lease for the term.

10 **Consultation and Engagement**

Public notice of the proposed five-year licence was advertised on Council's website between 4 January and 2 February 2022. No submissions were received.

**Report No. 13.3 Council Investments - 1 November 2021 to 30 November 2021**

5 **Directorate:** Corporate and Community Services  
**Report Author:** James Brickley, Manager Finance  
**File No:** I2021/1922

**Summary:**

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

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

**RECOMMENDATION:**

**That Council notes the report listing Council's investments and overall cash position as at 30 November 2021.**

15 .

## BYRON SHIRE COUNCIL

### Report

5 Council has continued to maintain a diversified portfolio of investments. As of 30 November 2021, the average 90-day bank bill rate (BBSW) for the month of November 2021 was 0.02%. Council's performance to November 2021 was 0.55%. This is largely due to the active ongoing management of the investment portfolio, maximising investment returns through secure term deposits, bonds and purchasing floating rate notes with attractive interest rates. It should be noted that as investments mature, Council's investment return may continue to decrease due to the lower rates available in the current market.

10 The table below identifies the investments held by Council as at 30 November 2021

#### Schedule of Investments held as at 30 November 2021

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fos sil Fuel	Type	Int. Rate	Current Value
24/03/17	1,000,000.00	NAB Social Bond (Gender Equality)	Y	AA-	24/03/22	N	B	3.25%	1,011,900.00
15/11/18	1,000,000.00	NSW Treasury Corp (Green Bond)	N	AAA	15/11/28	Y	B	3.00%	1,064,660.00
20/11/18	1,000,000.00	QLD Treasury Corp (Green Bond)	N	AA+	22/03/24	Y	B	3.00%	1,057,630.00
28/03/19	1,000,000.00	National Housing Finance & Investment Corporation	Y	AAA	28/03/31	Y	B	2.38%	1,014,590.00
21/11/19	1,000,000.00	NSW Treasury Corp (Sustainability Bond)	N	AAA	20/03/25	Y	B	1.25%	993,570.00
27/11/19	500,000.00	National Housing Finance & Investment Social Bond	Y	AAA	27/05/30	Y	B	1.52%	469,907.00
06/09/21	1,000,000.00	Northern Territory TCorp	Y	Aa3	15/12/26	Y	B	1.40%	1,000,000.00

## BYRON SHIRE COUNCIL

### STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fos sil Fuel	Type	Int. Rate	Current Value
16/09/21	1,000,000.00	QLD Treasury Corp (Green Bond)	N	AA+	02/03/32	Y	B	1.50%	918,390.00
31/03/17	1,000,000.00	CBA Climate Bond	Y	AA-	31/03/22	N	FRN	0.95%	1,003,440.00
15/06/21	500,000.00	National Housing Finance & Investment Social Bond	Y	AAA	01/07/31	Y	FRN	0.21%	501,295.00
17/12/20	2,000,000.00	NAB	Y	AA-	17/12/21	N	TD	0.50%	2,000,000.00
05/01/21	2,000,000.00	NAB	N	AA-	05/01/22	N	TD	0.45%	2,000,000.00
20/01/21	1,000,000.00	Westpac (Tailored)	Y	AA-	20/01/22	N	TD	0.38%	1,000,000.00
27/01/21	1,000,000.00	The Mutual Bank	Y	NR	27/01/22	Y	TD	0.50%	1,000,000.00
29/01/21	1,000,000.00	ME Bank	Y	BBB	31/01/22	Y	TD	0.45%	1,000,000.00
09/06/21	1,000,000.00	Illawarra Credit Union	Y	NR	09/12/21	Y	TD	0.45%	1,000,000.00
24/06/21	1,000,000.00	ME Bank	N	BBB	24/02/22	Y	TD	0.45%	1,000,000.00
30/06/21	1,000,000.00	ME Bank	N	BBB	27/01/22	Y	TD	0.45%	1,000,000.00
06/07/21	1,000,000.00	Judo Bank	Y	BBB-	04/07/22	Y	TD	0.70%	1,000,000.00
23/07/21	1,000,000.00	AMP Bank	Y	BBB	23/12/21	Y	TD	0.50%	1,000,000.00
30/07/21	1,000,000.00	AMP Bank	N	BBB	28/06/22	Y	TD	0.75%	1,000,000.00
09/08/21	1,000,000.00	The Mutual Bank	N	NR	07/02/22	Y	TD	0.45%	1,000,000.00
26/08/21	1,000,000.00	AMP Bank	N	BBB	22/02/22	N	TD	0.35%	1,000,000.00
01/09/21	1,000,000.00	Bank of Queensland	Y	BBB+	02/03/22	N	TD	0.33%	1,000,000.00
10/09/21	1,000,000.00	The Mutual	N	NR	10/03/22	Y	TD	0.45%	1,000,000.00

## BYRON SHIRE COUNCIL

### STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Int. Rate	Current Value
		Bank							
03/09/21	2,000,000.00	Suncorp	Y	A+	02/03/22	Y	TD	0.30%	2,000,000.00
03/09/21	2,000,000.00	Bank of Queensland	N	BBB+	04/01/22	N	TD	0.30%	2,000,000.00
06/09/21	1,000,000.00	Volt Bank	Y	NR	06/12/21	Y	TD	0.40%	1,000,000.00
09/09/21	1,000,000.00	Illawarra Credit Union	N	NR	09/09/22	Y	TD	0.55%	1,000,000.00
01/10/2021	1,000,000.00	AMP Bank	N	BBB	01/04/22	N	TD	0.65%	1,000,000.00
04/11/2021	2,000,000.00	NAB	N	AA-	04/11/22	N	TD	0.45%	2,000,000.00
30/11/2021	2,000,000.00	NAB	N	AA-	29/04/22	N	TD	0.38%	2,000,000.00
N/A	17,285,825.83	CBA Business Saver	N	AA-	N/A	N	CALL	0.20%	17,285,825.83
N/A	8,154,610.38	CBA Business Saver – Tourism Infrastructure Grant	N	AA-	N/A	N	CALL	0.20%	8,154,610.38
N/A	2,112,906.02	NSW Treasury Corp	N	AAA	N/A	Y	CALL	0.00%	2,112,906.02
N/A	15,019,326.79	Macquarie Accelerator Call	N	A	N/A	N	CALL	0.35%	15,019,326.79
<b>Total</b>	<b>79,572,669.02</b>						<b>AVG</b>	<b>0.55%</b>	<b>79,608,051.02</b>

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

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

# BYRON SHIRE COUNCIL

Note 3.	Type	Description	
	B	Bonds	Principal can vary based on valuation, interest payable via a fixed interest, payable usually each quarter.
	FRN	Floating Rate Note	Principal can vary based on valuation, interest payable via a floating interest rate that varies each quarter.
	TD	Term Deposit	Principal does not vary during investment term. Interest payable is fixed at the rate invested for the investment term.
	CALL	Call Account	Principal varies due to cash flow demands from deposits/withdrawals. Interest is payable on the daily balance.

### Environmental and Socially Responsible Investing (ESRI)

An additional column has been added to the schedule of Investments to identify if the financial institution holding the Council investment has been assessed as a 'No Fossil Fuel' investing institution. This information has been sourced through [www.marketforces.org.au](http://www.marketforces.org.au) and identifies financial institutions that either invest in fossil fuel related industries or do not. The graph below highlights the percentage of each classification across Council's total investment portfolio in respect of fossil fuels only.

5

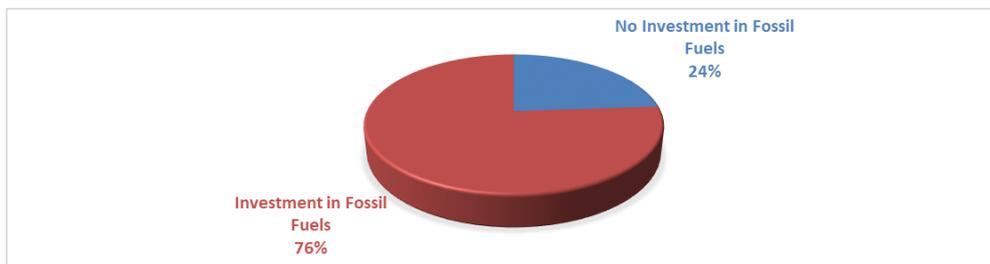
The notion of Environmental and Socially Responsible Investing is much broader than whether a financial institution as rated by 'marketforces.org.au' invests in fossil fuels or not. Council's current Investment Policy defines Environmental and Socially Responsible Investing at Section 4.1 of the Policy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

10

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

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

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# BYRON SHIRE COUNCIL

Investment policy compliance			ACTUAL		
% should not exceed the following					
AAA to AA	A1+	100%	53.34%		Meets policy
A+ to A-	A1	60%	18.87%		Meets policy
BBB to NR	A2,NR	40%	25.13%		Meets policy

## Investment Policy Compliance

5 The above table identifies compliance with Council’s Investment Policy by the proportion of the investment portfolio invested with financial institutions, along with their associated credit ratings compared to parameters in the Investment Policy. The parameters are designed to support prudent short and long-term management of credit risk and ensure diversification of the investment portfolio. Note that the financial institutions currently offering investments in the ‘ethical’ area are still mainly those with lower credit ratings (being either BBB or not rated at all i.e., credit unions).

## 10 NSW Treasury Corporation Compliance – Loan Borrowing Conditions

15 Council has borrowed loans through NSW Treasury Corporation under the Local Government Low Cost Loans Initiative. As part of these loan borrowings, NSW Treasury Corporation has placed restrictions on Council’s investments in terms of where Council can invest based on the credit rating of the financial institution, the term of the investment and counterparty limit. NSW Treasury Corporation has reviewed Council’s Investment Portfolio and has reminded Council it needs to remain within the investment parameters outlined in the accepted loan agreements. Council currently does not comply as is indicated in the table below:

Tcorp compliance			Counterparty Limit	Tenor	ACTUAL	Variance
% should not exceed the following						
Tcorp		100%	100%	N/A	3%	Meets policy
AAA		100%	100%	N/A	7%	Meets policy
AA+ to AA-		100%	100%	5Y	29%	Meets policy
A+ to A		100%	100%	3Y	25%	Meets policy
A-		40%	40%	3Y	0%	Meets policy
BBB+		30%	10% 3 Years	3Y	4%	Does not meet policy
BBB			5% 12 Months	1Y	13%	Does not meet policy
BBB- and below (local ADI'S)		5%	5% 12 Months	1Y	0%	Meets policy
BBB- and below (other)			250,000	1Y	18%	Does not meet policy

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

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

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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The investment portfolio is outlined in the table below by investment type for the period 1 November 2021 to 30 November 2021:

### **Dissection of Council Investment Portfolio as at 30 November 2021**

<b>Principal Value (\$)</b>	<b>Investment Linked to:</b>	<b>Current Market Value (\$)</b>	<b>Cumulative Unrealised Gain/(Loss) (\$)</b>
28,000,000.00	Term Deposits	28,000,000.00	0.00
2,500,000.00	Floating Rate Note	2,562,365.00	62,365.00
17,285,825.83	CBA Business Saver	17,285,825.83	0.00
8,154,610.38	CBA Business Saver – Tourism Infrastructure Grant	8,154,610.38	0.00
2,112,906.02	NSW Treasury Corp	2,112,906.02	0.00
15,019,326.79	Macquarie Accelerator	15,019,326.79	0.00
6,500,000.00	Bonds	6,473,017.00	-26,983.00
<b>79,572,669.02</b>		<b>79,608,051.02</b>	<b>35,382.00</b>

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

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

## BYRON SHIRE COUNCIL

### Movement in Investment Portfolio – 30 November 2021

Item	Current Market Value (at end of month) \$
<b>Opening Balance at 1 November 2021</b>	<b>67,878,559.40</b>
Add: New Investments Purchased	4,000,000.00
Add: Call Account Addition	9,500,000.00
Add: Tourism Call Account Addition	8,000,000.00
Add: Macquarie Accelerator Interest	3,512.97
Add: Tourism Call Account Interest	1,296.44
Add: TCorp Interest	724.55
Add: Call Account Interest	2,121.16
Less: Call Account Redemption	1,800,000.00
Less: Investments Matured	7,750,001.00
Less: Fair Value Movement for period	228,162.50
<b>Closing Balance at 30 November 2021</b>	<b>79,608,051.02</b>

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

5

### Dissection of Council's Cash Position as at 30 November 2021

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
<b>Investments Portfolio</b>			
Term Deposits	28,000,000.00	28,000,000.00	0.00
Floating Rate Note	2,500,000.00	2,562,365.00	62,365.00
CBA Business Saver	17,285,825.83	17,285,825.83	0.00
CBA Business Saver – Tourism Infrastructure Grant	8,154,610.38	8,154,610.38	0.00

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
NSW Treasury Corp	2,112,906.02	2,112,906.02	0.00
Macquarie Accelerator	15,019,326.79	15,019,326.79	0.00
Bonds	6,500,000.00	6,473,017.00	-26,983.00
<b>Total Investment Portfolio</b>	<b>79,572,669.02</b>	<b>79,608,051.02</b>	<b>35,382.00</b>
<b>Cash at Bank</b>			
Consolidated Fund	2,431,255.79	2,431,255.79	0.00
<b>Total Cash at Bank</b>	<b>2,431,255.79</b>	<b>2,431,255.79</b>	<b>0.00</b>
<b>Total Cash Position</b>	<b>82,003,924.81</b>	<b>82,039,306.81</b>	<b>35,382.00</b>

## STRATEGIC CONSIDERATIONS

### Community Strategic Plan and Operational Plan

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

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

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

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

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

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

### **Financial Considerations**

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

## BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.4

### **Report No. 13.4 Council Investments - 1 December 2021 to 31 December 2021**

**Directorate:** Corporate and Community Services

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

5 **File No:** I2022/12

#### **Summary:**

This report includes a list of investments and identifies Council's overall cash position for the period 1 December 2021 to 31 December 2021 for information.

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

#### **RECOMMENDATION:**

**That Council notes the report listing Council's investments and overall cash position as at 31 December 2021.**

15

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.4

### Report

- Council has continued to maintain a diversified portfolio of investments. As of 31 December 2021, the average 90-day bank bill rate (BBSW) for the month of December 2021 was 0.06%. Council's performance to December 2021 was 0.55%. This is largely due to the active ongoing management of the investment portfolio, maximising investment returns through secure term deposits, bonds and purchasing floating rate notes with attractive interest rates. It should be noted that as investments mature, Council's investment return may continue to decrease due to the lower rates available in the current market.
- 5
- 10 The table below identifies the investments held by Council as at 31 December 2021

### Schedule of Investments held as at 31 December 2021

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fos sil Fuel	Type	Int. Rate	Current Value
24/03/17	1,000,000.00	NAB Social Bond (Gender Equality)	Y	AA-	24/03/22	N	B	3.25%	1,011,900.00
15/11/18	1,000,000.00	NSW Treasury Corp (Green Bond)	N	AAA	15/11/28	Y	B	3.00%	1,082,130.00
20/11/18	1,000,000.00	QLD Treasury Corp (Green Bond)	N	AA+	22/03/24	Y	B	3.00%	1,047,150.00
28/03/19	1,000,000.00	National Housing Finance & Investment Corporation	Y	AAA	28/03/31	Y	B	2.38%	1,035,100.00
21/11/19	1,000,000.00	NSW Treasury Corp (Sustainability Bond)	N	AAA	20/03/25	Y	B	1.25%	1,003,170.00
27/11/19	500,000.00	National Housing Finance & Investment Social Bond	Y	AAA	27/05/30	Y	B	1.52%	481,844.00
06/09/21	1,000,000.00	Northern Territory TCorp	Y	Aa3	15/12/26	Y	B	1.40%	1,000,000.00

## BYRON SHIRE COUNCIL

### STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.4

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fos sil Fuel	Type	Int. Rate	Current Value
16/09/21	1,000,000.00	QLD Treasury Corp (Green Bond)	N	AA+	02/03/32	Y	B	1.50%	948,350.00
31/03/17	1,000,000.00	CBA Climate Bond	Y	AA-	31/03/22	N	FRN	0.95%	1,002,700.00
15/06/21	500,000.00	National Housing Finance & Investment Social Bond	Y	AAA	01/07/31	Y	FRN	0.21%	501,305.00
05/01/21	2,000,000.00	NAB	N	AA-	05/01/22	N	TD	0.45%	2,000,000.00
20/01/21	1,000,000.00	Westpac (Tailored)	Y	AA-	20/01/22	N	TD	0.38%	1,000,000.00
27/01/21	1,000,000.00	The Mutual Bank	Y	NR	27/01/22	Y	TD	0.50%	1,000,000.00
29/01/21	1,000,000.00	ME Bank	Y	BBB	31/01/22	Y	TD	0.45%	1,000,000.00
24/06/21	1,000,000.00	ME Bank	N	BBB	24/02/22	Y	TD	0.45%	1,000,000.00
30/06/21	1,000,000.00	ME Bank	N	BBB	27/01/22	Y	TD	0.45%	1,000,000.00
06/07/21	1,000,000.00	Judo Bank	Y	BBB-	04/07/22	Y	TD	0.70%	1,000,000.00
30/07/21	1,000,000.00	AMP Bank	N	BBB	28/06/22	Y	TD	0.75%	1,000,000.00
09/08/21	1,000,000.00	The Mutual Bank	N	NR	07/02/22	Y	TD	0.45%	1,000,000.00
26/08/21	1,000,000.00	AMP Bank	N	BBB	22/02/22	N	TD	0.35%	1,000,000.00
01/09/21	1,000,000.00	Bank of Queensland	Y	BBB+	02/03/22	N	TD	0.33%	1,000,000.00
10/09/21	1,000,000.00	The Mutual Bank	N	NR	10/03/22	Y	TD	0.45%	1,000,000.00
03/09/21	2,000,000.00	Suncorp	Y	A+	02/03/22	Y	TD	0.30%	2,000,000.00
03/09/21	2,000,000.00	Bank of Queensland	N	BBB+	04/01/22	N	TD	0.30%	2,000,000.00

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.4

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Int. Rate	Current Value
09/09/21	1,000,000.00	Illawarra Credit Union	N	NR	09/09/22	Y	TD	0.55%	1,000,000.00
01/10/21	1,000,000.00	AMP Bank	N	BBB	01/04/22	N	TD	0.65%	1,000,000.00
04/11/21	2,000,000.00	NAB	N	AA-	04/11/22	N	TD	0.45%	2,000,000.00
30/11/21	2,000,000.00	NAB	N	AA-	29/04/22	N	TD	0.38%	2,000,000.00
09/12/21	2,000,000.00	NAB	N	AA-	07/06/22	N	TD	0.50%	2,000,000.00
17/12/21	2,000,000.00	NAB	Y	AA-	19/12/22	N	TD	0.50%	2,000,000.00
N/A	14,288,383.97	CBA Business Saver	N	AA-	N/A	N	CALL	0.20%	14,288,383.97
N/A	5,936,932.41	CBA Business Saver – Tourism Infrastructure Grant	N	AA-	N/A	N	CALL	0.20%	5,936,932.41
N/A	2,113,304.08	NSW Treasury Corp	N	AAA	N/A	Y	CALL	0.02%	2,113,304.08
N/A	15,022,959.51	Macquarie Accelerator Call	N	A	N/A	N	CALL	0.35%	15,022,959.51
<b>Total</b>	<b>73,361,579.97</b>						<b>AVG</b>	<b>0.55%</b>	<b>73,475,228.97</b>

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

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

**Note 3.**

<b>Type</b>	<b>Description</b>	
B	Bonds	Principal can vary based on valuation, interest payable via a fixed interest, payable usually each quarter.
FRN	Floating Rate	Principal can vary based on valuation, interest

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.4

	Note	payable via a floating interest rate that varies each quarter.
TD	Term Deposit	Principal does not vary during investment term. Interest payable is fixed at the rate invested for the investment term.
CALL	Call Account	Principal varies due to cash flow demands from deposits/withdrawals. Interest is payable on the daily balance.

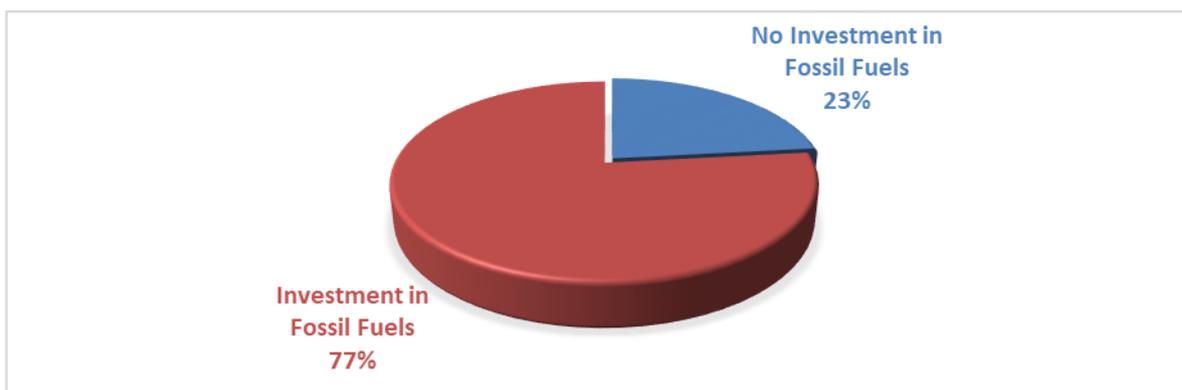
### **Environmental and Socially Responsible Investing (ESRI)**

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

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

- 15
1. \$1,000,000 investment with the National Australia Bank maturing on 24 March 2022 known as a Social Bond that promotes Gender Equity.
  2. \$1,000,000 investment with Commonwealth Bank maturing on 31 March 2022 known as a Climate Bond.



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# BYRON SHIRE COUNCIL

Investment policy compliance			ACTUAL		
% should not exceed the following					
AAA to AA	A1+	100%	56.19%		Meets policy
A+ to A-	A1	60%	20.48%		Meets policy
BBB to NR	A2,NR	40%	20.45%		Meets policy

## Investment Policy Compliance

5 The above table identifies compliance with Council’s Investment Policy by the proportion of the investment portfolio invested with financial institutions, along with their associated credit ratings compared to parameters in the Investment Policy. The parameters are designed to support prudent short and long-term management of credit risk and ensure diversification of the investment portfolio. Note that the financial institutions currently offering investments in the ‘ethical’ area are still mainly those with lower credit ratings (being either BBB or not rated at all i.e., credit unions).

## 10 NSW Treasury Corporation Compliance – Loan Borrowing Conditions

15 Council has borrowed loans through NSW Treasury Corporation under the Local Government Low Cost Loans Initiative. As part of these loan borrowings, NSW Treasury Corporation has placed restrictions on Council’s investments in terms of where Council can invest based on the credit rating of the financial institution, the term of the investment and counterparty limit. NSW Treasury Corporation has reviewed Council’s Investment Portfolio and has reminded Council it needs to remain within the investment parameters outlined in the accepted loan agreements. Council currently does not comply as is indicated in the table below:

Tcorp compliance			Counterparty Limit	Tenor	ACTUAL	Variance
% should not exceed the following						
Tcorp	100%	100%	100%	N/A	3%	Meets policy
AAA	100%	100%	100%	N/A	7%	Meets policy
AA+ to AA-	100%	100%	100%	5Y	47%	Meets policy
A+ to A	100%	100%	100%	3Y	23%	Meets policy
A-	40%	40%	40%	3Y	0%	Meets policy
BBB+	30%	10% 3 Years	10% 3 Years	3Y	4%	Does not meet policy
BBB		5% 12 Months	5% 12 Months	1Y	8%	Does not meet policy
BBB- and below (local ADI'S)		5% 12 Months	5% 12 Months	1Y	0%	Meets policy
BBB- and below (other)	5%	250,000	250,000	1Y	9%	Does not meet policy

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

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

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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The investment portfolio is outlined in the table below by investment type for the period 1 December 2021 to 31 December 2021:

### Dissection of Council Investment Portfolio as at 31 December 2021

Principal Value (\$)	Investment Linked to:	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
27,000,000.00	Term Deposits	27,000,000.00	0.00
2,500,000.00	Floating Rate Note	2,551,155.00	51,155.00
14,288,383.97	CBA Business Saver	14,288,383.97	0.00
5,936,932.41	CBA Business Saver – Tourism Infrastructure Grant	5,936,932.41	0.00
2,113,304.08	NSW Treasury Corp	2,113,304.08	0.00
15,022,959.51	Macquarie Accelerator	15,022,959.51	0.00
6,500,000.00	Bonds	6,562,494.00	62,494.00
<b>73,361,579.97</b>		<b>73,475,228.97</b>	<b>113,649.00</b>

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

- 10 The table below provides a reconciliation of investment purchases and maturities for the period of 1 December 2021 to 31 December 2021 on a current market value basis.

## BYRON SHIRE COUNCIL

### Movement in Investment Portfolio – 31 December 2021

Item	Current Market Value (at end of month) \$
<b>Opening Balance at 1 December 2021</b>	<b>79,608,051.02</b>
Add: New Investments Purchased	4,000,000.00
Add: Macquarie Accelerator Interest	3,632.72
Add: Tourism Call Account Interest	1,275.74
Add: TCorp Interest	398.06
Add: Call Account Interest	2,558.14
Less: Call Account Redemption	3,000,000.00
Less: Tourism Call Account Redemption	2,218,953.71
Less: Investments Matured	5,000,000.00
Add: Fair Value Movement for period	78,267.00
<b>Closing Balance at 31 December 2021</b>	<b>73,475,228.97</b>

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

### Dissection of Council's Cash Position as at 31 December 2021

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
<b>Investments Portfolio</b>			
Term Deposits	27,000,000.00	27,000,000.00	0.00
Floating Rate Note	2,500,000.00	2,551,155.00	51,155.00
CBA Business Saver	14,288,383.97	14,288,383.97	0.00
CBA Business Saver – Tourism Infrastructure Grant	5,936,932.41	5,936,932.41	0.00
NSW Treasury Corp	2,113,304.08	2,113,304.08	0.00

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.4

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Macquarie Accelerator	15,022,959.51	15,022,959.51	0.00
Bonds	6,500,000.00	6,562,494.00	62,494.00
<b>Total Investment Portfolio</b>	<b>73,361,579.97</b>	<b>73,475,228.97</b>	<b>113,649.00</b>
<b>Cash at Bank</b>			
Consolidated Fund	4,719,068.28	4,719,068.28	0.00
<b>Total Cash at Bank</b>	<b>4,719,068.28</b>	<b>4,719,068.28</b>	<b>0.00</b>
<b>Total Cash Position</b>	<b>78,080,648.25</b>	<b>78,194,297.25</b>	<b>113,649.00</b>

## STRATEGIC CONSIDERATIONS

### Community Strategic Plan and Operational Plan

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

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

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

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

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

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

### **Financial Considerations**

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

## BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

### **Report No. 13.5 Council Investments - 1 January 2022 to 31 January 2022**

**Directorate:** Corporate and Community Services

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

5 **File No:** I2022/43

#### **Summary:**

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

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

#### **RECOMMENDATION:**

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

15

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

### Report

5 Council has continued to maintain a diversified portfolio of investments. As of 31 January 2022, the average 90-day bank bill rate (BBSW) for the month of January 2022 was 0.07%. Council's performance to January 2022 was 0.57%. This is largely due to the active ongoing management of the investment portfolio, maximising investment returns through secure term deposits, bonds and purchasing floating rate notes with attractive interest rates. It should be noted that as investments mature, Council's investment return may continue to decrease due to the lower rates available in the current market.

The table below identifies the investments held by Council as at 31 January 2022

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

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fos sil Fuel	Type	Int. Rate	Current Value
24/03/17	1,000,000.00	NAB Social Bond (Gender Equality)	P	AA-	24/03/22	N	B	3.25%	1,004,290.00
15/11/18	1,000,000.00	NSW Treasury Corp (Green Bond)	N	AAA	15/11/28	Y	B	3.00%	1,061,820.00
20/11/18	1,000,000.00	QLD Treasury Corp (Green Bond)	N	AA+	22/03/24	Y	B	3.00%	1,040,251.94
28/03/19	1,000,000.00	National Housing Finance & Investment Corporation	Y	AAA	28/03/31	Y	B	2.38%	1,019,950.00
21/11/19	1,000,000.00	NSW Treasury Corp (Sustainability Bond)	N	AAA	20/03/25	Y	B	1.25%	991,680.00
27/11/19	500,000.00	National Housing Finance & Investment Social Bond	Y	AAA	27/05/30	Y	B	1.52%	476,390.00
06/09/21	1,000,000.00	Northern Territory TCorp	N	Aa3	15/12/26	Y	B	1.40%	1,000,000.00

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### STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fos sil Fuel	Type	Int. Rate	Current Value
16/09/21	1,000,000.00	QLD Treasury Corp (Green Bond)	N	AA+	02/03/32	Y	B	1.50%	948,350.00
31/03/17	1,000,000.00	CBA Climate Bond	P	AA-	31/03/22	N	FRN	0.95%	1,001,320.00
15/06/21	500,000.00	National Housing Finance & Investment Social Bond	Y	AAA	01/07/31	Y	FRN	0.21%	501,505.00
24/06/21	1,000,000.00	ME Bank	P	BBB	24/02/22	Y	TD	0.45%	1,000,000.00
06/07/21	1,000,000.00	Judo Bank	P	BBB-	04/07/22	Y	TD	0.70%	1,000,000.00
30/07/21	1,000,000.00	AMP Bank	P	BBB	28/06/22	Y	TD	0.75%	1,000,000.00
09/08/21	1,000,000.00	The Mutual Bank	P	NR	07/02/22	Y	TD	0.45%	1,000,000.00
26/08/21	1,000,000.00	AMP Bank	N	BBB	22/02/22	N	TD	0.35%	1,000,000.00
01/09/21	1,000,000.00	Bank of Queensland	P	BBB+	02/03/22	N	TD	0.33%	1,000,000.00
10/09/21	1,000,000.00	The Mutual Bank	N	NR	10/03/22	Y	TD	0.45%	1,000,000.00
03/09/21	2,000,000.00	Suncorp	P	A+	02/03/22	Y	TD	0.30%	2,000,000.00
09/09/21	1,000,000.00	Illawarra Credit Union	P	NR	09/09/22	Y	TD	0.55%	1,000,000.00
01/10/21	1,000,000.00	AMP Bank	N	BBB	01/04/22	N	TD	0.65%	1,000,000.00
04/11/21	2,000,000.00	NAB	N	AA-	04/11/22	N	TD	0.45%	2,000,000.00
30/11/21	2,000,000.00	NAB	N	AA-	29/04/22	N	TD	0.38%	2,000,000.00
09/12/21	2,000,000.00	NAB	N	AA-	07/06/22	N	TD	0.50%	2,000,000.00
17/12/21	2,000,000.00	NAB	N	AA-	19/12/22	N	TD	0.50%	2,000,000.00
1/5/2022	2,000,000.00	NAB	N	AA-	4/7/2022	N	TD	0.52%	2,000,000.00

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Int. Rate	Current Value
20/01/22	1,000,000.00	Westpac (Tailored)	P	AA-	20/01/23	N	TD	0.79%	1,000,000.00
31/1/2022	1,000,000.00	NAB	N	AA-	31/5/2022	N	TD	0.43%	1,000,000.00
N/A	18,791,326.11	CBA Business Saver	N	AA-	N/A	N	CALL	0.20%	18,791,326.11
N/A	5,937,940.88	CBA Business Saver – Tourism Infrastructure Grant	N	AA-	N/A	N	CALL	0.20%	5,937,940.88
N/A	2,113,236.22	NSW Treasury Corp	N	AAA	N/A	Y	CALL	0.02%	2,113,236.22
N/A	15,026,572.15	Macquarie Accelerator Call	P	A	N/A	N	CALL	0.35%	15,026,572.15
<b>Total</b>	<b>73,869,075.36</b>						<b>AVG</b>	<b>0.57%</b>	<b>73,914,632.30</b>

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

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

**Note 3.**

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

**Environmental and Socially Responsible Investing (ESRI)**

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

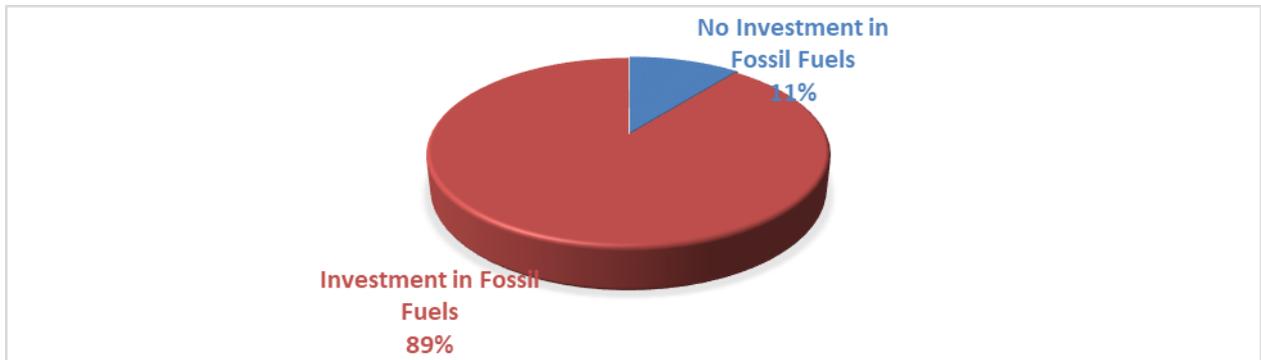
5 [www.marketforces.org.au](http://www.marketforces.org.au) and identifies financial institutions that either invest in fossil fuel related industries or do not. The graph below highlights the percentage of each classification across Council’s total investment portfolio in respect of fossil fuels only.

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

10

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

- 15
1. \$1,000,000 investment with the National Australia Bank maturing on 24 March 2022 known as a Social Bond that promotes Gender Equity.
  2. \$1,000,000 investment with Commonwealth Bank maturing on 31 March 2022 known as a Climate Bond.
  3. \$1,000,000 investment with Westpac Bank maturing on 20 January 2023 is a tailored term deposit and certified green investment.
- 20



Investment policy compliance % should not exceed the following			ACTUAL	
AAA to AA	A1+	100%	62%	Meets policy
A+ to A-	A1	60%	23%	Meets policy
BBB to NR	A2,NR	40%	15%	Meets policy

**Investment Policy Compliance**

25 The above table identifies compliance with Council’s Investment Policy by the proportion of the investment portfolio invested with financial institutions, along with their associated

## BYRON SHIRE COUNCIL

credit ratings compared to parameters in the Investment Policy. The parameters are designed to support prudent short and long-term management of credit risk and ensure diversification of the investment portfolio. Note that the financial institutions currently offering investments in the 'ethical' area are still mainly those with lower credit ratings (being either BBB or not rated at all i.e., credit unions).

### NSW Treasury Corporation Compliance – Loan Borrowing Conditions

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

Tcorp compliance			Counterparty Limit	Tenor	ACTUAL	Variance
% should not exceed the following						
Tcorp	100%		100%	N/A	3%	Meets policy
AAA	100%		100%	N/A	7%	Meets policy
AA+ to AA-	100%		100%	5Y	50%	Does not meet policy
A+ to A	100%		100%	3Y	25%	Meets policy
A-	40%		40%	3Y	0%	Meets policy
BBB+	30%		10% 3 Years	3Y	1%	Meets policy
BBB			5% 12 Months	1Y	6%	Does not meet policy
BBB- and below (local ADI'S)	5%		5% 12 Months	1Y	0%	Meets policy
BBB- and below (other)			250,000	1Y	8%	Does not meet policy

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

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

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

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

Principal Value (\$)	Investment Linked to:	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
23,000,000.00	Term Deposits	23,000,000.00	0.00

## BYRON SHIRE COUNCIL

### STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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2,500,000.00	Floating Rate Note	2,543,076.94	43,076.94
18,791,326.11	CBA Business Saver	18,791,326.11	0.00
5,937,940.88	CBA Business Saver – Tourism Infrastructure Grant	5,937,940.88	0.00
2,113,236.22	NSW Treasury Corp	2,113,236.22	0.00
15,026,572.15	Macquarie Accelerator	15,026,572.15	0.00
6,500,000.00	Bonds	6,502,480.00	2,480.00
<b>73,869,075.36</b>		<b>73,914,632.30</b>	<b>45,556.94</b>

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

- 5 The table below provides a reconciliation of investment purchases and maturities for the period of 1 January 2022 to 31 January 2022 on a current market value basis.

## BYRON SHIRE COUNCIL

### Movement in Investment Portfolio – 31 January 2022

Item	Current Market Value (at end of month) \$
<b>Opening Balance at 1 January 2022</b>	<b>73,475,228.97</b>
Add: New Investments Purchased	1,000,000.00
Add: Macquarie Accelerator Interest	3,612.64
Add: Tourism Call Account Interest	1,008.47
Less: TCorp Interest	67.86
Add: Call Account Interest	2,942.14
Add: Call Account Deposits	4,500,000.00
Less: Tourism Call Account Redemption	0.00
Less: Investments Matured	5,000,000.00
Less: Fair Value Movement for period	68,092.06
<b>Closing Balance at 31 January 2022</b>	<b>73,914,632.30</b>

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

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

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
<b>Investments Portfolio</b>			
Term Deposits	23,000,000.00	23,000,000.00	0.00
Floating Rate Note	2,500,000.00	2,543,076.94	43,076.94
CBA Business Saver	18,791,326.11	18,791,326.11	0.00
CBA Business Saver – Tourism Infrastructure Grant	5,937,940.88	5,937,940.88	0.00
NSW Treasury Corp	2,113,236.22	2,113,236.22	0.00

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Macquarie Accelerator	15,026,572.15	15,026,572.15	0.00
Bonds	6,500,000.00	6,502,480.00	2,480.00
<b>Total Investment Portfolio</b>	<b>73,869,075.36</b>	<b>73,914,632.30</b>	<b>45,556.94</b>
<b>Cash at Bank</b>			
Consolidated Fund	2,602,882.03	2,602,882.03	0.00
<b>Total Cash at Bank</b>	<b>2,602,882.03</b>	<b>2,602,882.03</b>	<b>0.00</b>
<b>Total Cash Position</b>	<b>76,471,957.39</b>	<b>76,517,514.33</b>	<b>45,556.94</b>

## STRATEGIC CONSIDERATIONS

### Community Strategic Plan and Operational Plan

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

**Legal/Statutory/Policy Considerations**

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

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

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

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

**Financial Considerations**

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

**Report No. 13.6 Budget Review - 1 October 2021 to 31 December 2021**

**Directorate:** Corporate and Community Services

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

5 **File No:** I2022/33

**Summary:**

10 This report has been prepared to comply with Section 203 of the *Local Government (General) Regulation 2021* and to inform Council and the Community of Council's estimated financial position for the 2020/2021 financial year, reviewed as at 31 December 2021.

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

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

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**RECOMMENDATION:**

- 20 1. **That Council authorises the itemised budget variations as shown in Attachment 2 (#E2022/11334) which include the following results in the 31 December 2021 Quarterly Review of the 2021/2022 Budget:**
- a) **General Fund – \$308,400 decrease to the Estimated Unrestricted Cash Result**
  - 25 b) **General Fund - \$2,752,400 increase in reserves**
  - c) **Water Fund - \$21,100 increase in reserves**
  - d) **Sewerage Fund - \$8,200 increase in reserves**
2. **That Council adopts the revised General Fund Estimated Unrestricted Cash Result of \$481,000 for the 2021/2022 financial year as at 31 December 2021.**

30

**Attachments:**

- 1 Budget Variations for General, Water and Sewerage Funds, E2022/11333 

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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- 2 Itemised Listing of Budget Variations for General, Water and Sewerage Funds, E2022/11334 
- 3 Integrated Planning and Reporting Framework (IP&R) required Quarterly Review Statements, E2022/11335 

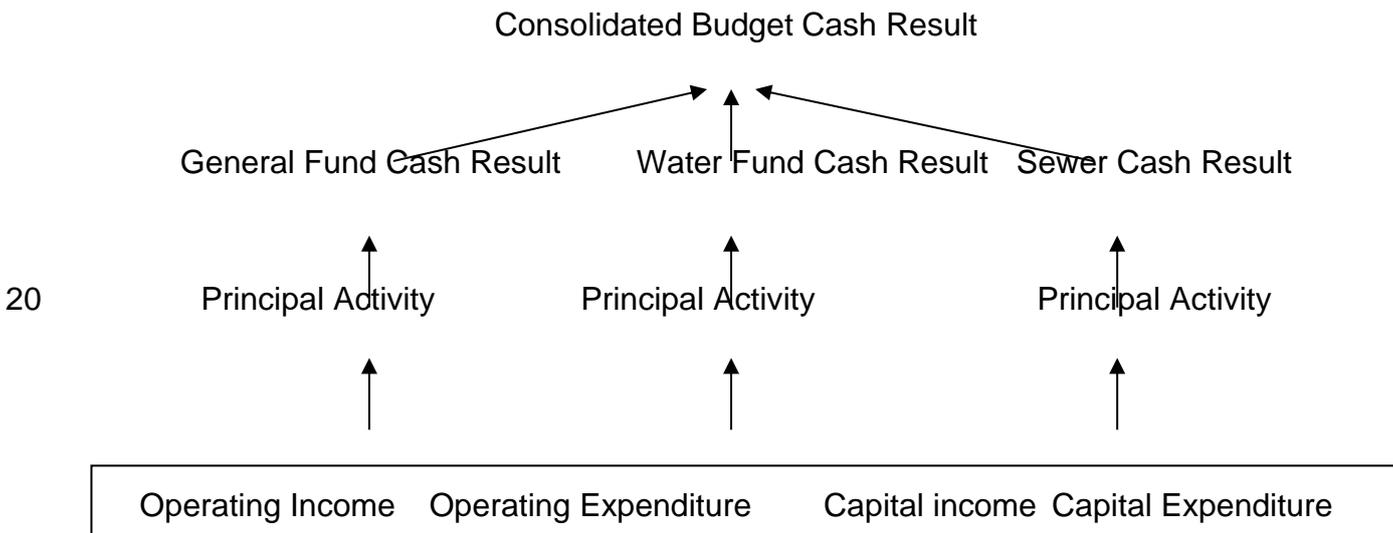
5

Report

Council adopted the 2021/2022 budget on 24 June 2021 via Resolution 21-243. Council also considered and adopted the budget carryovers from the 2020/2021 financial year, to be incorporated into the 2021/2022 budget at its Ordinary Meeting held on 26 August 2021 via Resolution 21-315. Since that date, Council has reviewed the budget taking into consideration the 2020/2021 Financial Statement results and progress through the first half of the 2021/2022 financial year. This report considers the December 2021 Quarter Budget Review.

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

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



The pages within Attachment 1 are presented (from left to right) by showing the original budget as adopted by Council on 24 June 2021 plus the adopted carryover budgets from 2020/2021 followed by any budget adjustments prior to this report and the revote (or adjustment for this review) and then the revised position projected for 30 June 2022 as at 31 December 2021.

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

There is also information detailing restricted assets (reserves) to show Council's estimated balances as at 30 June 2022 for all Council's reserves.

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

**Office of Local Government Budget Review Guidelines:**

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

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

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

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

The above components are included in Attachment 3:-

**Income and Expenditure Budget Review Statement by Type**

25 This shows Council's income and Expenditure by type. This has been split by Fund. Adjustments are shown, looking from left to right. These adjustments are commented on through the last 13 pages of Attachment 1.

**Capital Budget Review Statement**

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

**Cash and Investments Budget Review Statement**

35 This statement reconciles Council's restricted funds (reserves) against available cash and investments. Council has attempted to indicate an actual position as at 31 December 2021 of each reserve to show a total cash position of reserves with any difference between that position and total cash and investments held as available cash and investments. It should be recognised that the figure is at a point in time and may vary greatly in future quarterly reviews pending on cash flow movements.

## BYRON SHIRE COUNCIL

### Key Performance Indicators (KPI's)

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

- **Debt Service Ratio** - This assesses the impact of loan principal and interest repayments on the discretionary revenue of Council.
  - 5 ○ **Rates and Annual Charges Outstanding Ratio** – This assesses the impact of uncollected rates and annual charges on Councils liquidity and the adequacy of recovery efforts
  - **Asset Renewals Ratio** – This assesses the rate at which assets are being renewed relative to the rate at which they are depreciating.
- 10 These may be expanded in future to accommodate any additional KPIs that Council may adopt to use in the future.

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

### CONSOLIDATED RESULT

- 15 The following table provides a summary of the overall Council budget on a consolidated basis inclusive of all Funds' budget movements for the 2021/2022 financial year projected to 30 June 2022 but revised as at 31 December 2021.

2021/2022 Budget Review Statement as at 31 December 2021	Original Estimate (Including Carryovers) 1/7/2021	Adjustments to 31 Dec 2021 including Resolutions*	Proposed 31 Dec 2021 Review Revotes	Revised Estimate 30/6/2022 at 31/12/2021
Operating Revenue	93,504,500	(1,572,200)	(1,140,200)	90,792,100
Operating Expenditure	97,728,100	2,387,000	1,890,700	102,005,800
<b>Operating Result – Surplus/Deficit</b>	<b>(4,223,600)</b>	<b>(3,959,200)</b>	<b>(3,030,900)</b>	<b>(11,213,700)</b>
Add: Capital Revenue	28,841,500	223,700	(2,992,400)	26,072,800
<b>Change in Net Assets</b>	<b>24,617,900</b>	<b>(3,735,500)</b>	<b>(6,023,300)</b>	<b>14,859,100</b>
Add: Non Cash Expenses	15,779,900	0	1,750,500	17,530,400
Add: Non-Operating Funds Employed	13,500,000	6,557,500	0	20,057,500
Subtract: Funds Deployed for Non-Operating Purposes	(80,385,700)	(14,734,400)	6,746,100	(88,374,000)

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2021/2022 Budget Review Statement as at 31 December 2021	Original Estimate (Including Carryovers) 1/7/2021	Adjustments to 31 Dec 2021 including Resolutions*	Proposed 31 Dec 2021 Review Revotes	Revised Estimate 30/6/2022 at 31/12/2021
<b>Cash Surplus/(Deficit)</b>	<b>(26,487,900)</b>	<b>11,912,400</b>	<b>(2,473,300)</b>	<b>(35,927,000)</b>
Restricted Funds – Increase / (Decrease)	(26,487,900)	12,184,200	(2,781,700)	(35,890,400)
<b>Forecast Result for the Year – Surplus/(Deficit) – Unrestricted Cash Result</b>	<b>0</b>	<b>271,800</b>	<b>(308,400)</b>	<b>(36,600)</b>

### GENERAL FUND

In terms of the General Fund projected Unrestricted Cash Result the following table provides a reconciliation of the estimated position as at 31 December 2021:

<b>Opening Balance – 1 July 2021</b>	<b>\$517,600</b>
Plus original budget movement and carryovers	0
Council Resolutions July – September Quarter	0
September 2021 QBR	271,800
Council Resolutions October – December Quarter	0
Recommendations within this Review – increase/(decrease)	(308,400)
<b>Estimated Unrestricted Cash Result Closing Balance – 30 June 2022</b>	<b>\$481,000</b>

- 5 The General Fund financial position overall has decreased by \$308,400 as a result of this budget review, leaving the forecast cash result for the year to an estimated overall deficit of \$36,600. The major reason for the deficit position projected within this budget review is the impact that COVID-19 lockdown and restrictions has had on income across Council's operations in the first six months of the financial year. The proposed budget changes are detailed in Attachment 1 and summarised further in this report below.

### 10 Council Resolutions

Council has not passed any resolutions that impact the unrestricted cash result for the October 2021 to December 2021 quarter.

# BYRON SHIRE COUNCIL

## Budget Adjustments

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

Budget Directorate	Revenue Increase/ (Decrease) \$	Expenditure Increase/ (Decrease) \$	Accumulated Surplus (Working Funds) Increase/ (Decrease) \$
General Manager	177,500	177,500	0
Corporate & Community Services	(37,500)	51,200	(88,700)
Infrastructure Services	(7,813,400)	(7,589,300)	(224,100)
Sustainable Environment & Economy	291,700	287,300	4,400
<b>Total Budget Movements</b>	<b>(7,381,700)</b>	<b>(7,073,300)</b>	<b>(308,400)</b>

## Budget Adjustment Comments

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

### 10 General Manager

- In the General Manager's program, it is proposed to increase the budget for operating income as Council has recovered \$110,700 of legal fees and collected \$100 in subpoena fees. This can be transferred to the Legal Services reserve that had a balance of \$13,700 at 30 June 2021. It is also proposed to defer the Crown pay parking portion of the development of the Crown Reserves plan of management (\$30,000) due to a decrease in income from pay parking.
- In the People & Culture program, it is proposed to increase the budget for operating income as Council has received a rebate from Statecover (\$95,200) and a contribution from the Department of Education, Science and Training (\$1,500) for a trainee position.

### Corporate and Community Services

- In the Corporate Services program, it is proposed to increase operating income by \$24,000 due to a grant received for Australia Day from the COVID Safe grants program. This is offset by a decrease in expenditure for the electricity contract that is complete (\$40,000), an increase in expenditure for Australia Day (\$24,000), and decreases across various insurance ledger numbers where the actual expenditure is less than the

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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budget (\$2,700). The savings from the electricity contract (\$40,000) are to be transferred to the Risk Management Reserve that can be utilised for the purchase of a proposed contract management system in the 2022/23 financial year.

- 5 • In the Sandhills program, it is proposed to decrease operating income by \$100,000 due to the effect that the lockdown and restrictions related to COVID-19 have had on attendance at Sandhills.
- 10 • In the Library Services program, it is proposed to increase operating income and expenditure by \$27,700 as the Local Priority grant received is more than the budget, in addition to an increase in the actual per capita grant received (\$10,800).

### **Infrastructure Services**

- 15 • In the Asset Management Planning program, it is proposed to decrease operating expenditure due to actual expenditure for the Assetic software being less than the budget (\$10,200). This can be offset through support services. It is also proposed to allocate a budget for income from the sale of roads/road closures. This can be transferred to the Infrastructure Services Carryover reserve.
- 20 • In the Emergency Services program, it is proposed to decrease the budget for income from the New South Wales Rural Fire Service for bushfire operations as the actual contribution received is less than the budget estimate.
- 25 • In the Local Roads and Drainage program, there are a number of adjustments outlined under Note 11 in the Budget Variations explanations section of Attachment 1. Further disclosure is included in the second and third pages of Attachment 2 under the budget program heading Local Roads and Drainage.
- 30 • In the Roads and Maritime Services program (RMS), it is proposed to decrease operating income and expenditure by \$50,000 as the allocation from TfNSW is lower than the estimated budget. It is also proposed to move \$7,000 budget from the speed radar sign trial to assist in the completion of the Brunswick Heads public school line marking project in the Local Roads and Drainage program.
- 35 • In the Open Space and Recreation program, there are a number of adjustments outlined under Note 13 in the Budget Variations explanations section of Attachment 1. Further disclosure is included in the fourth page of Attachment 2 under the budget program heading Open Space & Recreation.
- 40 • In the Waste & Recycling program, it is proposed to decrease operating income by \$253,900 as the forecast income for Waste Disposal Fees is less than the budget due to the COVID-19 lockdown and restrictions (\$500,000), with an increase in income for Domestic Waste Management charges (\$104,400), Commercial Annual Charges (\$46,100) and the Annual Waste Operations Charge as the actual income is more than the budget. Council has also accepted grants from the Environmental protection Agency (EPA) for \$62,500 for the Own it and Act project (\$25,000) and the On the Ground project (\$37,500). It is proposed to decrease capital works by \$3,094,400,
- 45

## BYRON SHIRE COUNCIL

### STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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largely due to the rehabilitation of the landfill (\$3,000,000) not being undertaken this financial year due to delays in laboratory testing required to undertake the design works.

- 5 • In the Cavanbah Centre program, it is proposed to decrease operating income by \$208,400 due to the effect that the lockdown and restrictions related to Covid-19 have had on usage and attendance at the Cavanbah Centre.
- 10 • In the Facilities Management program, it is proposed to decrease operating expenditure due to the actual cost of the feasibility study for the conversion of the Mullumbimby pool to a year-round facility being under budget. It is proposed to increase capital expenditure by \$41,000 for the public toilets in Middleton Street, to allow the project to be completed

### **Sustainable Environment and Economy**

- 15 • In the Development Certification program, it is proposed to increase operating income due to an increase in actual income against the budget for Certificate Registration Fees (\$10,000), Complying Development Certificates (\$5,000), Building Control income (\$2,000), Income Activities Over Roads (\$93,300) and the Information and Technology Service Fee (\$75,000). It is proposed to increase operating expenditure due to an increase in temporary resourcing/overtime as a result of an increased labour shortage and workload (\$50,000) and a budget required for the Regional NSW Planning Portal (\$46,100).
- 20 • In the Environment & Compliance program, it is proposed to increase the budget for the Environmental Enforcement Levy due to increased income (\$100,000). This can be transferred to the Environment and Compliance Levy Reserve.
- 25 • In the Planning Policy & Natural Environment program, it is proposed to decrease operating income by \$19,600 overall due to a grant for Jonson Street protection works already being received (\$31,600) needing to be removed from the budget and a new grant received for the Habitat Actions project (\$12,000).  
30 It is proposed to increase operating expenditure as an additional budget is required for the Jonson Street Protection Works (\$42,000), and budgets required for the Habitat Action project (\$12,000), the Charging Station Network Transition (\$12,900), a budget allocation for a Housing Summit to take place this financial year (\$10,000), with a decrease against the Green Line Walkway concept design (\$57,500) due to the amended pay parking income forecast adjustment. It is proposed to further reduce  
35 expenditure by (\$10,000) from sustainability programs to contribute to event funding support for sustainable activities in the Economic Development Program.

### **WATER FUND**

- 40 After completion of the 2020/2021 Financial Statements the Water Fund as at 30 June 2021 has a capital works reserve of \$6,077,800 and held \$1,859,500 in section 64 developer contributions.

The estimated Water Fund reserve balances as at 30 June 2022, and forecast in this Quarter Budget Review, are derived as follows:

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#### Capital Works Reserve

<b>Opening Reserve Balance at 1 July 2020</b>	<b>\$6,077,800</b>
Plus original budget reserve movement	(3,545,100)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	(723,300)
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	31,100
<b>Forecast Reserve Movement for 2021/2022 – Increase / (Decrease)</b>	<b>(4,237,300)</b>
<b>Estimated Reserve Balance at 30 June 2022</b>	<b>\$1,840,500</b>

#### Section 64 Developer Contributions

<b>Opening Reserve Balance at 1 July 2021</b>	<b>\$1,859,500</b>
Plus original budget reserve movement	(1,022,800)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	(50,000)
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	(10,000)
<b>Forecast Reserve Movement for 2021/2022 – Increase / (Decrease)</b>	<b>(1,082,800)</b>
<b>Estimated Reserve Balance at 30 June 2022</b>	<b>\$776,700</b>

- 5 Movements for Water Fund can be seen in Attachment 1 with a proposed estimated increase to reserves (including S64 Contributions) overall of \$21,100 from the 31 December 2021 Quarter Budget Review.

### **SEWERAGE FUND**

After completion of the 2020/2021 Financial Statements the Sewer Fund as at 30 June 2021 has a capital works reserve of \$3,453,200 and plant reserve of \$896,200. It also held \$8,871,900 in section 64 developer contributions.

10 Capital Works Reserve

<b>Opening Reserve Balance at 1 July 2021</b>	<b>\$3,453,200</b>
Plus original budget reserve movement	(3,128,300)
Resolutions July - September Quarter – increase / (decrease)	(210,000)
September Quarterly Review Adjustments – increase / (decrease)	187,900

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Resolutions October - December Quarter – increase / (decrease)	(15,000)
December Quarterly Review Adjustments – increase / (decrease)	233,200
<b>Forecast Reserve Movement for 2021/2022 – Increase / (Decrease)</b>	<b>(2,932,200)</b>
<b>Estimated Reserve Balance at 30 June 2022</b>	<b>\$521,000</b>

#### Plant Reserve

<b>Opening Reserve Balance at 1 July 2021</b>	<b>\$896,200</b>
Plus original budget reserve movement	0
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	0
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	0
<b>Forecast Reserve Movement for 2021/2022 – Increase / (Decrease)</b>	<b>0</b>
<b>Estimated Reserve Balance at 30 June 2022</b>	<b>\$896,200</b>

#### Section 64 Developer Contributions

<b>Opening Reserve Balance at 1 July 2020</b>	<b>\$8,871,900</b>
Plus original budget reserve movement	(2,731,200)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	(2,904,200)
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	(225,000)
<b>Forecast Reserve Movement for 2020/2021 – Increase / (Decrease)</b>	<b>(5,860,400)</b>
<b>Estimated Reserve Balance at 30 June 2021</b>	<b>\$3,011,500</b>

5 Movements for the Sewerage Fund can be seen in Attachment 1 with a proposed estimated overall increase to reserves (including S64 Contributions) of \$8,200 from the 31 December 2021 Quarter Budget Review.

#### **Legal Expenses**

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

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The table that follows indicates the allocated budget and actual legal expenditure within Council on a fund basis as at 31 December 2021.

### Total Legal Income & Expenditure as at 31 December 2021

Program	2021/2022 Budget (\$)	Actual (\$)	Percentage To Revised Budget
<b>Income</b>			
Legal Expenses Recovered	0	110,700	0%
<b>Total Income</b>	<b>0</b>	<b>0</b>	<b>0%</b>
<b>Expenditure</b>			
General Legal Expenses	200,000	186,031	93.02%
<b>Total Expenditure General Fund</b>	<b>200,000</b>	<b>186,031</b>	<b>93.02%</b>

- 5 Note: At the time of writing this report in January, Council has incurred additional expenditure that brings the total legal expenditure for 2021/22 to \$205,174. This should continue to be monitored to ensure there is enough funding for future expenses. This budget review is transferring \$110,800 to the legal service reserve which can be used to further support the legal expense budget if required.

## Strategic Considerations

### 10 Community Strategic Plan and Operational Plan

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

## Legal/Statutory/Policy Considerations

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

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

## Financial Considerations

20 The 31 December 2021 Quarter Budget Review of the 2021/2022 Budget is showing a deficit of \$308,600. This leaves the movement against the unrestricted cash balance attributable to the General Fund to an estimated deficit of \$36,600 for the year, leaving the estimated unrestricted cash balance attributable to the General Fund at an estimated \$481,000 at 30 June 2022.

25 The 31 December 2021 Quarter Budget Review has provided an opportunity for Council to take stock of revenue losses sustained during the first six months of the financial year compared to the original budget. The report identifies at the outset the impact of the COVID-19 lockdowns and restrictions in the July 2021-December 2021 period which have impacted Council revenues negatively by \$1,808,400 for the following areas:

- Pay Parking revenue \$1,000,000
- 30 • Sandhills Child Care Centre \$100,000
- Waste Landfill Fees \$500,000
- Cavanbah Centre revenues \$208,400

35 Whilst the outlook for the remainder of the financial year may provide Council the opportunity to recover some revenue, that is still somewhat uncertain. The improvement in the budget outcome in the September 2021 quarter has now been consumed by the

## BYRON SHIRE COUNCIL

### STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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revenue losses not able to be absorbed by reserves to the current projected deficit of \$36,600 for the 2021/2022 financial year.

5 It is the view of the Responsible Accounting Officer that the short term financial position of the Council is still satisfactory for the 2021/2022 financial year, having consideration of the original estimate of income and expenditure at the 31 December 2021 Quarter Budget Review.

10 This opinion is based on the estimated General Fund Unrestricted Cash Result position and that the current indicative budget position for 2021/2022 outlined in this Budget Review. Council must remember it has a short term financial goal of maintaining \$1,000,000 in unrestricted cash and if it is of the view to recover this position by 30 June 2022, the budget position must continue to improve by a further \$519,000 to a surplus position of \$482,400.

15 It is suggested Council carefully consider financial impacts for the remainder of the financial year and what it will be able to achieve due to the impacts of COVID-19. In this regard the next budget review for the 31 March 2022 quarter will be also important to reassess the financial position.

**Report No. 13.7 Council Resolutions Quarterly Review - Q2 -  
1 October to 31 December 2021**

**Directorate:** Corporate and Community Services

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

**File No:** I2022/44

**Summary:**

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

10 110 resolutions were completed during the period 1 October to 31 December 2021.

As at 31 December 2021, there were 70 active resolutions.

**RECOMMENDATION:**

- 15 1. That Council notes the information provided in this report on active Council Resolutions in Attachment 1 (#E2021/155913).
2. That Council notes the completed Resolutions in Attachment 2 (#E2021/155914).
- 20 3. That Council endorses the closure of Resolutions 20-203, 20-727, 21-221, 21-273, and 21-275 as identified in Table 1: Council resolutions that are to be closed; and included in the completed Resolutions in Attachment 2 (#E2021/155914).

**Attachments:**

- 25 1 Active Resolutions - as at 31 December 2021, E2021/155913 
- 2 Completed Resolutions Report - 1 October to 31 December 2021, E2021/155914 

30

## Report

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

### 5 Quarterly Report – 1 October to 31 December 2021

#### Active Resolutions

10 The *Active Resolutions Report* (#E2021/155913) provides an update to Council on all active resolutions up to 31 December 2021, with relevant commentary regarding the status of each resolution as at this date. There were 70 active resolutions at the time of preparing this report.

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

#### Completed Resolutions

15 The *Completed Resolutions Report* (#E2021/121862) provides details of those resolutions that were completed during the period 1 October to 31 December 2021. 110 resolutions were completed during this period.

#### Resolutions for Closure

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

**Table 1: Council resolutions that are to be closed:**

Meeting Date	Res No.	Report Title	Staff Comments and Recommendation
21/5/2020	20-203	PLANNING - 26.2018.2.1 The Linnaeus Estate - Options for proceeding with Community Title Subdivision	Superseded by resolution 21-495
17/12/2020	20-727	Opportunity for activation and increased passive surveillance at the Mullumbimby Skate Bowl	Superseded by resolution 21-501
24/6/2021	21-221	Multiple Occupancies and Rural Workers Cottages	Superseded by resolution 21-498
5/8/2021	21-273	Emergency Housing	Superseded by resolution 21-496
5/8/2021	21-275	MOs and CTs – pathway for secondary dwellings	Superseded by resolution 21-498

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Meeting Date	Res No.	Report Title	Staff Comments and Recommendation
		and dual occupancies	

### Strategic Considerations

#### Community Strategic Plan and Operational Plan

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

### Recent Resolutions

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

### Legal/Statutory/Policy Considerations

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

### Financial Considerations

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

### Consultation and Engagement

Not applicable.

**Report No. 13.8      Delivery Program 6-monthly Report and  
2021/22 Operational Q2 Report - to 31  
December 2021**

**Directorate:** Corporate and Community Services

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

**File No:** I2022/93

**Summary:**

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

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

15

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**RECOMMENDATION:**

20 **That Council notes the Delivery Program 6-monthly Report and 2021/22 Operational  
Plan second Quarter Report for the period ending 31 December 2021 (Attachment 1  
#E2022/10336).**

**Attachments:**

25 1  Delivery Program and Operational Plan - Quarterly Report - December 2021, E2022/10336

## Report

The Delivery Program and Operational Plan are two key corporate documents that establish Council's goals and priorities for the term and the current financial year.

5 The Delivery Program (4-year) outlines the principal activities to be undertaken to implement the strategies established by the Community Strategic Plan (10-year), within the resources available under the Resourcing Strategy. All plans, projects, activities, and funding allocations must be directly linked to this program.

10 The Delivery Program is supported by the annual Operational Plan, which identifies the individual projects and activities that will be undertaken for the year to achieve the commitments made in the Delivery Program.

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

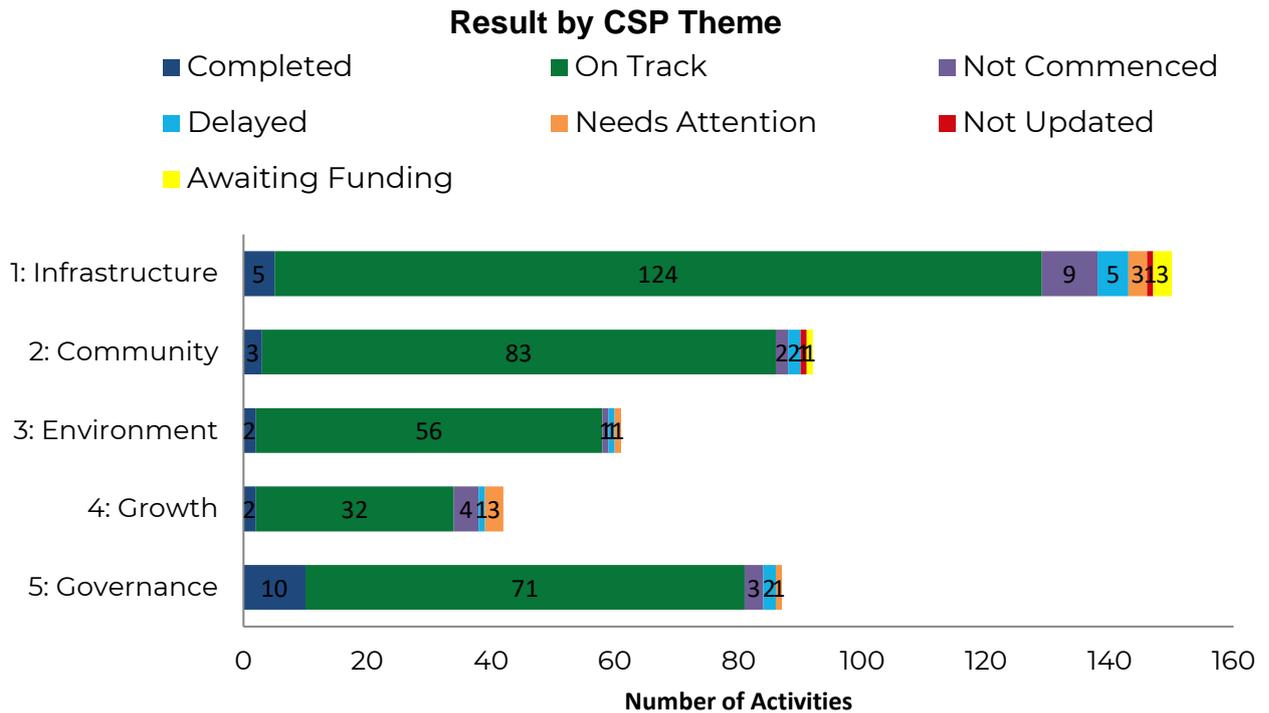
15 *"The general manager must ensure that regular progress reports are provided to the council reporting as to its **progress with respect to the principal activities detailed in its delivery program**. Progress reports must be provided at least **every 6 months**"*

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

## Strategic Objectives

The report (#E2021/97874) is structured by the five 'Our Byron, Our Future' Community Strategic Plan 2028 objectives:

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



**Report Details**

5 The report details Council’s achievement of the activities in the 2021/22 Operational Plan. It includes a status update on progress and notes any highlights or exceptions where actions were delayed or reprioritised.

Each section notes the progress against the activities including:

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

## **Strategic Considerations**

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

<b>CSP Objective</b>	<b>L2</b>	<b>CSP Strategy</b>	<b>L3</b>	<b>DP Action</b>	<b>L4</b>	<b>OP Activity</b>
<b>Community Objective 5: We have community led decision making which is open and inclusive</b>	5.2	Create a culture of trust with the community by being open, genuine and transparent	5.2.1	Provide timely, accessible and accurate information to the community	5.2.1.2	Continuous improvement of corporate planning and reporting process

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

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

### **Financial Considerations**

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

### **Consultation and Engagement**

- The development of the Delivery Program was informed by extensive engagement around the Community Strategic Plan and specifically a Community Solutions Panel on infrastructure priorities.
- 15 The progress reports on the Operational Plan and Delivery Program are published on Council’s website as a way of ensuring transparency around how Council is progressing activities and actions.

**Report No. 13.9 Draft Community Strategic Plan - Our Byron Our Future 2032**

**Directorate:** Corporate and Community Services

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

**File No:** I2022/94

**Summary:**

10 The Community Strategic Plan guides long term future planning to meet the needs and aspirations of the community. It sets the collective vision for the next 10 years and highlights the community's priorities. It is a collective document with delivery facilitated by Council in collaboration with the community and other partners.

Following an election, each new Council must review the Community Strategic Plan by 30 June the following year.

15 The Community Strategic Plan, *Our Byron Our Future*, was developed in 2018 following extensive community engagement. This plan has been reviewed in collaboration with community and is put before Council seeking endorsement for it to be placed on public exhibition, inviting further input from community.

20 A Community Engagement Strategy has been prepared which outlines the results of the engagement undertaken to date and provides opportunities for Council to undertake further community engagement as it prepares its Delivery Program.

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**RECOMMENDATION:**

25 **That Council:**

1. **Endorses the Community Strategic Plan, *Our Byron Our Future 2032* (Attachment 1 #E2022/7986), for public exhibition.**
2. **Endorses the Community Engagement Strategy (Attachment 2 #E2021/63492) and undertakes further consultation with community on the development of the underpinning Delivery Program.**
- 30 3. **That the outcomes of the exhibition and engagement be reported back to Council in April 2022, with the other components of the Integrated Planning and Reporting framework.**

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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### **Attachments:**

- 1 Draft Community Strategic Plan - Our Byron Our Future 2032, E2022/7986 
- 2 Community Engagement Strategy - Community Strategic Plan, E2021/63492 

5

## Report

5 The new Community Strategic Plan (CSP) has been developed to guide long term future planning to meet the needs and aspirations of the community. This review is an opportunity for Council to consider the objectives and strategies which sit at the highest level of Council's planning hierarchy to set the framework for the Delivery Program.

A sound CSP can be used by councils and other stakeholders in the community as a lobbying tool, to support funding applications and to confirm strategic priorities.

## Outcomes

10 The review of the Community Strategic Plan is an evolution of the 2028 Community Strategic Plan. The review has led to a revised 'vision' and redefined the five community objectives.

**Vision** - *Our Byron Shire is a 'meeting place': Where all people can come together to connect, share, grow, inspire, and create positive change.*

15 The *community objectives*, while retaining the five original themes, have been refreshed to ensure continuing relevance, based on feedback from the community.

The inclusion of values-based terminology at the heading level seeks to better reflect community values and aspirations: Connected, Inclusive, Protected, Ethical, and Effective.

20 The associated *strategies* have also been redefined and realigned with the community objectives to more clearly articulate the intended priorities and aspirations of the community. Further detail is provided in the Community Engagement Strategy (attachment 2). A summary is below:

**Community Objective 1: Our Effective Leadership** – We have effective decision making and community leadership that is open and informed.

25 *Strategies:*

- 1.1 Enhance trust and accountability through open and transparent leadership
- 1.2 Engage and involve community in decision making
- 1.3 Ethical and efficient management of resources
- 1.4 Enhance organisation capability through innovative practices and regional  
30 partnerships
- 1.5 Empower community leadership through collaboration, capacity building, and cultivating community driven initiatives

**Community Objective 2: Our Inclusive Community** – We have an inclusive and active community where diversity is embraced, and everyone is valued.

35 *Strategies:*

- 2.1 Foster opportunities to express, celebrate and participate in arts and cultural activity

- 2.2 Enhance safety and contribute to the physical, mental, and spiritual health and wellbeing of our people
- 2.3 Respect and value Aboriginal cultures, knowledge, and history
- 2.4 Enrich lifelong learning and education and support services to help young people thrive
- 2.5 Create social impact and initiatives that address disadvantage

**Community Objective 3: Our Protected Environment** – We protect and enhance our natural environment.

*Strategies:*

- 3.1 Partner to nurture and enhance our biodiversity, ecosystems, and ecology
- 3.2 Deliver initiatives and education programs to encourage protection of our environment
- 3.3 Protect the health of our coastlines, estuaries, waterways, and catchments
- 3.4 Support and empower our community to adapt to, and mitigate our impact on climate change
- 3.5 Minimise waste and encourage recycling and resource recovery practices

**Community Objective 4: Our Ethical Growth** – We manage growth and change responsibly

*Strategies:*

- 4.1 Manage responsible development through effective place and space planning
- 4.2 Enable housing diversity and support people experiencing housing insecurity
- 4.3 Promote and support our local economy
- 4.4 Foster sustainable visitation and the impacts of tourism on the Shire
- 4.5 Support a resilient community that can adapt and respond to change

**Community Objective 5: Our Connected Infrastructure** – We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable.

*Strategies:*

- 5.1 Provide a safe, reliable, and accessible transport network
- 5.2 Connect the Shire through integrated transport services
- 5.3 Invest in renewable energy and emerging technologies
- 5.4 Provide accessible community facilities and open spaces
- 5.5 Provide continuous and sustainable water and sewerage management

**Performance Indicators**

For the first time a set of draft performance indicators has been included in the CSP to help measure progress towards the CSP outcomes. These indicators are aspirational and as this is the first version, we expect the indicator suite will evolve as the underlying data sets are refined and as a result of community feedback.

**Next Steps**

5 Cascading out of the ten year strategies of the CSP come the four year actions in the Delivery Program. The Delivery Program outlines Council’s commitment to the community on how it will work towards the CSP strategies during its term. The annual activities in the Operational Plan detail how Council works towards the Delivery Program year by year.

Phase two of the community engagement strategy will assist Council and staff to consider priorities and resourcing for the Delivery Program.

10 The final CSP, Resourcing Strategy, Delivery Program, and Operational Plan will be presented to Council in April for public exhibition. All documents must be endorsed by 30 June 2022.

**Strategic Considerations**

**Community Strategic Plan and Operational Plan**

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
<b>Community Objective 5: We have community led decision making which is open and inclusive</b>	5.2: Create a culture of trust with the community by being open, genuine and transparent	5.2.1: Provide timely, accessible and accurate information to the community	<b>5.2.1.2</b>	Undertake a community engagement program to review and develop Council's Integrated Planning and Reporting framework documents

**Legal/Statutory/Policy Considerations**

15 The requirements for the Community Strategic Plan are governed by [Section 402](#) of the Local Government Act 1993:

- (1) *Each local government area must have a community strategic plan that has been developed and endorsed by the council. A community strategic plan is a plan that identifies the main priorities and aspirations for the future of the local government area covering a period of at least 10 years from when the plan is endorsed.*
- 20 (2) *A community strategic plan is to establish strategic objectives together with strategies for achieving those objectives.*
- 25 (3) *Following an ordinary election of councillors, the council must review the community strategic plan before 30 June following the election. The council may endorse the existing plan, or develop or endorse a new community strategic plan, as appropriate, to ensure that the area has a community strategic plan covering at least the next 10 years.*

Further requirements are outlined in sections 403-406 and in the Integrated Planning and Reporting [Guidelines](#) and [Handbook](#).

### **Financial Considerations**

- 5 The review of the Community Strategic Plan and community engagement have been provided for in the 2021/22 budget.

### **Consultation and Engagement**

In reviewing the CSP, Council worked closely with community to understand how to best reflect their needs and priorities for the future. To date, this has included:

- Community Satisfaction Survey
- 10 • YouthSay Program
- Visioning workshop
- Online survey
- Community workshops

The outcomes from this engagement are provided in detail in attachment 2.

- 15 Council is now tasked with developing its Delivery Program for the next 4 years. The Community Engagement Strategy provides further opportunities for Council to engage with the community during this process, including a 'listening tour', working with newly established committees, and online 'community conversations'.

5 **Report No. 13.10 Main Beach and Denning Park, Byron Bay - Crown Reserve R82000 - clarification of future uses pending adoption of a Plan of Management**

**Directorate:** Sustainable Environment and Economy

**Report Author:** Jess Gilmore, Events & Economy Team Leader  
Shannon McKelvey, Executive Officer

10 **File No:** I2022/9

**Summary:**

15 Denning Park, Apex Park and the Main Beach foreshore are part of Crown Reserve R82000 and are referred to in this report as 'Main Beach Reserve'. Council has care and control of the Main Beach Reserve as a Crown Land Manager and Licensee. Currently, Council must manage the Main Beach Reserve to:

1. be consistent with the Crown Reserve's gazetted purpose of Public Recreation; and
2. permit only activities that do not change the nature or use of the Crown Reserve (from what it has historically been used for).

20 If Council seeks to change the nature and use of Main Beach Reserve or licence new and different activities on the Reserve, Council should work with community and Crown Lands to prepare a Minister-approved Plan of Management that authorises the new and different activities or seek a new commercial activities approval from Crown Lands.

25 Council regularly gets requests to use Main Beach Reserve for a variety of activities. Requests for public recreation activities that are consistent with the historical use of the Reserve may be licenced by Council. However, the Reserve should not currently be used for activities of an enclosed commercial nature or that would change the nature and use of the reserve.

30 For community information, and to ensure both proponent and Council's resources can be used efficiently, this report sets out the status of the Main Beach Reserve and restrictions that apply to Council's management of the Reserve. This report recommends that Council pass a resolution that provides clarity to proponents about the nature and use of Main Beach Reserve, and the activities that Council can, at the moment, licence on the Reserve.

35

**RECOMMENDATION:**

**That Council resolve that:**

- 5    1.    **Pending adoption of a new Plan of Management, Council as Crown Land Manager will not issue temporary licences for use of the Main Beach Reserve for activities that:**
- (a)    **are inconsistent with the gazetted purpose of Public Recreation,**
- (b)    **are of an enclosed commercial nature (except as referred to in part 2)**
- 10    (c)    **involve liquor licencing, and/or**
- (d)    **exclude members of the public from free use of the Reserve.**
2.    **Council will continue to manage Low-Impact Commercial Recreation Activities on Main Beach Reserve consistent with Licence RI564194 and Council's adopted Policy *Commercial Activities on Coastal and Riparian Crown Reserves*.**
- 15

**Attachments:**

- 20    1    Confidential - Commercial activities on Dening Park, E2022/10763

## Report

### Key issues

5 Staff provide significant support to event and festival proponents in the Shire to help them match their event to appropriate locations, get necessary approvals, and plan and deliver their events successfully using sustainable practices.

10 Each year, Council receives many requests for licences to use the Main Beach foreshore, including Denning Park, for a range of uses. Requests that meet the requirements that apply to this public land are supported and progress but applications that fail to meet the restrictions must be refused. Generally, staff are able to support proponents to find alternative locations. However, one proponent continues to seek use of the Main Beach Reserve for an event, so the matter is being reported to Council for consideration.

15 Staff recommend that the Byron Music Festival proposal on Main Beach Reserve, and events like it, should be refused because these types of events are inconsistent with the public recreation purpose of Main Beach Reserve, the collective impacts of these types of events will change the nature and use of Main Beach Reserve and currently, Council does not have a separate exemption from the Department of Planning, Industry and Environment – Crown Lands ('DPIE-CL') to authorise commercial activities of this type on Main Beach Reserve. Detailed information is provided in this report.

20 The decisions that Council make for any individual request to use Main Beach Reserve should be consistently and fairly applied to all similar requests to use the reserve.

### Options

Council can:

- 25 1. Resolve to provide clarification about what types of activities cannot be authorised on Main Beach Reserve (until there is a Plan of Management or a DPIE-CL exemption in place) – this is the staff recommendation.
2. Leave it as a matter to be determined under delegation – in which case staff will decline Byron Music Festival's 2022 application (and others like it such as the request considered in December 2021) for the reasons set out in the report.
3. Determine:
  - 30 • that the Byron Music Festival proposal is consistent with the Reserve's Public Recreation purpose, does not involve elements of an enclosed commercial nature and does not change the existing nature and use of Main Beach Reserve;
  - 35 • to issue a temporary licence to Byron Music Festival and decide what the licence conditions will be, with clarification whether that will include lifting of alcohol prohibitions; and

- to treat other applications for events of a similar nature the same in future.

### Detailed Information

Main Beach Reserve (R82000) is the iconic park behind Main Beach, Byron Bay, stretching from Clarkes Beach to Johnson Street, including Denning and Apex Parks.

5 Council looks after R82000:

- as Crown Land Manager, responsible for ensuring that uses comply with the Crown Lands Management Act 2018 and the Local Government Act 1993; and
- as a Licensee from the Crown under Licence R1564194 for *Business Purposes (Low Impact Commercial Recreational Activities)*”, which authorises Council to grant sub-licences for low-impact commercial recreational activities on R82000, for example markets, surf schools and sea kayak following a competitive process.

In relation to Main Beach Reserve, Council has two key legal obligations which are to ensure the activities that Council authorises:

- are only for the purposes Public Recreation (unless there is a DPIE-CL exemption); and
- do not change “the nature or use” of the Reserve (unless there is a Minister-approved Plan of Management in place that gives Council permission to make the change).

### Use for Public Recreation Purposes

20 R82000 is a Crown Reserve that was dedicated for the sole purpose of Public Recreation on 30 October 1959 – [see information on the Crown Lands Portal](#). This means R82000 should:

- only be used for Public Recreation purposes; and
- not be used for activities of an enclosed commercial nature or for private profit, unless an exception has been granted by DPIE-Crown Lands.

On the issue of types of activities that are consistent with a Public Recreation purpose, the Courts, and therefore DPIE-Crown Lands, take a relatively conservative approach that is based on the underlying legal principle that public land is required to be available for public purposes.

30 Public recreation includes activities that come within the usual, common understanding of that term and extends to activities for both physical and mental wellbeing. It has been

found to not extend to any activity that is of an enclosed commercial nature or for private profit.

Some factors that can influence whether or not an activity amounts to public recreation include:

- 5
- if participation is open to all members of the public, free and without any restrictions (such as limits on access times, membership or entry requirements)
  - how the activity impacts on other users and other public recreation uses
  - how the activity interferes with usual public enjoyment of public land.

10 On the issue of commerciality, it does not matter if a proponent is a not-for-profit organisation, community group or individual, the relevant consideration is the nature of the activity.

15 If an activity is of a commercial nature or inconsistent with a reserve purpose, it cannot be authorised by Council as Crown Land Manager, however, they can be authorised by the Minister under the Crown Lands Management Act (CLMA). There are currently four exemptions granted by DPIE-CL for commercial activities on Main Beach Reserve. They are:

- activities permitted by the individual leases for Byron Bay Pool and Clarkes Beach Cafés and Byron Surf Club; and
- 20
- activities permitted by Licence RI564194 issued by DPIE-CL to Council for “*Business Purposes – Low Impact Commercial Recreational Activities*”. This Licence is what gives Council the power to call tenders and issue the small number of sub-licences for low-impact markets, surfing, paddle boarding and sea kayaking operations on Crown Land.

25 If Council want to seek the ability to authorise other commercial uses on Main Beach Reserve such as ticketed or for-fee festivals or events, Council should apply to DPIE-CL for a new exemption by way of a further commercial activities licence.

### **Nature and Use of Main Beach Reserve R82000**

30 Main Beach Reserve has historically been used as public open space for passive recreation activities (such as beach pursuits, exercise, socialising, dog-walking etc) and compatible low-impact commercial recreational activities (ie the small number of tendered markets, surfing, kayaking and paddle boarding operations) where those activities do not interfere with public enjoyment of the public land.

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The types of activities that Council as Crown Land Manager has authorised on Reserve 82000, (above the high water mark which is Council's area of responsibility) are:

- 5 a) passive public recreation;
- b) licences for low-impact markets;
- c) temporary licences issued for charitable recreational activities eg Westpac Helicopter Coastal Charity Walk, Byron Winter Whales Ocean Swim and Byron Triathlon;
- d) Council auspiced free community events;
- 10 e) short term licences issued for small-scale, no-impact wedding ceremonies;
- f) temporary licences for free-to-the public cultural or arts events/installations.

These historic activities and uses share a number of important features that make them consistent with the Reserve's Public Recreation purpose including:

- 15
  - no exclusive use of or restriction on any part of the Reserve
  - continued free public access to and use of the reserve alongside the authorised activity
  - low/no impact on the Reserve or on other uses and users of the reserve
  - no liquor licensing
- 20
  - no commercial elements.

These are the activities that generally define the 'existing nature and use' of R82000 and can continue without a Plan of Management in place. An activity that Council considers would change the nature and use of R82000 should not be authorised by Council without, either:

- 25
  - an additional exemption from DPIE-Crown Lands; or
  - working with community and Crown Lands to develop a Minister-approved Plan of Management that gives permission to make the change.

### **Byron Music Festival Request**

- 30 Last year Council resolved to issue a temporary licence under s2.20 of the Crown Land Management Act for the Byron Music Festival to be held at Denning Park. What was originally proposed and considered by Council in February 2021 (when Council resolved to issue a licence) and what actually took place in June 2021, were very different events.

When Council first considered the matter, the proposal was for:

- 35
  - an event that would be held at many venues across the town, involving the CBD and local businesses, with the parts to be held on Reserve R82000 being only a component of the bigger event;
  - a post-COVID 'recovery' type event;

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- all activities on R82000 to be “*open to the public at no charge (ie no entry fee)*”;
  - Denning Park to be used only for low impact activities such as ‘busking/live music, educational presentations, workshops, food and artisan stalls, art and film exhibitions and environmental programs’;
- 5
- an event that did not involve liquor licensing or alcohol sale on R82000; and
  - an event that would require no financial support from Council.

Subsequently through consecutive changes, the Byron Music Festival event evolved into something very different to what staff and Council had originally supported. The event as held:

- 10
- was predominantly a music festival on R82000;
  - was of a commercial nature;
  - was fenced, gated and ticketed (for-fee) with the public unable to use that area of the Reserve during the event, and during the bump-in and bump-out periods;
  - involved no free components for the public on R82000;
- 15
- heavily impacted other users and uses of the Reserve;
  - was liquor licenced;
  - was a first of what the proponents now say is an annual event;
  - required financial support from Council in the form of fee waiver.

20

Relying on the information provided, staff supported the original proposal as a one-off, non-commercial, free public event designed to support local artists and businesses recover post-COVID. It was assessed as being compliant with statutory requirements, and staff recommended Council issue a temporary licence because the event as originally proposed for Denning Park:

- was going to be low impact
- 25
- was for uses on the R82000 consistent with its gazetted purpose of Public Recreation eg busking, art, education and environmental programs
  - involved no commercial activities other than a small number of complimentary food and artisan stalls (which were consistent with markets under Council’s Licence);
  - would not exclude the public from use of the reserve during the event.

30

However, had the proponents applied for the event ‘as held’ in their original application, staff would have recommended the proponent look for an alternative venue and that Council should refuse to issue a temporary licence for the event on Main Beach Reserve because:

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- it was for activities of an enclosed commercial nature and, assessed as a whole, would be inconsistent with the reserve purpose of Public Recreation; and
- the activity (individually and cumulatively with other proposals treated equally) would change the nature and use of the Reserve and that was not authorised by a Plan of Management.

On 10 June 2021, Council passed Resolution **21-183(3)** '*That Council makes clear that this event in this location being free of alcohol restrictions is a one-off and in no way to be relied upon as a precedent*', as a result of the particular circumstances of the evolution of that event application, to be clear that it was not a precedent.

- 10 The proponents of Byron Music Festival were advised of Council's resolution and have been given staff advice a number of times that the event proposed for 2022 should not be authorised on Reserve R82000 and to look for other venues. However, the proponents press their application to hold the same event in 2022, and annually after that, on Main Beach Reserve.
- 15 Byron Music Festival are not the only event proponents interested in using Main Beach Reserve and in December staff met with another local group with a similar proposal and staff also advised that group to look at other venues in the Shire. Those proponents are currently following the staff advice. If Council are of a mind to reject the staff recommendation and determine that Byron Music Festival can be authorised on Main
- 20 Beach Reserve, Council would also need to treat the other recent application, and others like it, the same way. That would likely mean Council would need to establish parameters and a process to ensure applications are treated fairly.

### **Plan of Management**

- 25 Under the Crown Lands Management Act (CLMA), most reserves managed by Council need to be classified as Community or Operational Land, and then Community Land has to be Categorised and included in a Plan of Management based on its category.

If community and Council do not want to change uses on a Crown Reserve, then the existing uses can continue and a Plan of Management can be developed when resources permit.

- 30 However, if community or Council want to change the nature or use of a Crown Reserve, then a Plan of Management is first required. A Plan of Management still cannot authorise an unlawful activity and a Plan that seeks to authorise activities inconsistent with the reserve's Gazetted Purpose must expressly add an additional Purpose or Purposes, and that requires Minister's consent.
- 35 Preparation of a Plan of Management for Main Beach Reserve has been on hold because:

1. A small part of the reserve has not been classified or categorised by DPIE-CL yet. A Plan of Management for the remainder of Main Beach Reserve could be prepared, but the process would then have to be updated (and approval and exhibition processes repeated) when the classification and categorisation is finalised.
  
- 5 2. The content of the Plan of Management for Main Beach Reserve will be influenced by the decisions Council makes for the Main Beach Foreshore project. Work on options for that project is currently underway. A Plan of Management could be prepared based on the status quo but it would then need updating to include the  
10 outcomes of Council decisions on the foreshore project.
  
3. It has not been a high priority for the community, with the existing nature and uses of the Reserve broadly meeting community expectations, with the exception of the Byron Music Festival proposal.
  
- 15 If Main Beach Reserve becomes the priority for Plan of Management preparation it could be included in the 2022/2023 Operational Plan with budget, as long as other Plan of Management projects are deferred. Council would then have to find additional funding to update the Plan when the further information is received, so staff do not recommend this from an efficiency perspective.

**20 Strategic Considerations**

**Community Strategic Plan and Operational Plan**

<b>CSP Objective</b>	<b>CSP Strategy</b>	<b>DP Action</b>	<b>Code</b>	<b>OP Activity</b>
<b>Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community</b>	2.1: Support and encourage our vibrant culture and creativity	2.1.7: Support range of existing, emerging and major events	<b>2.1.7.1</b>	Continue to support event organisers in the delivery of events.
<b>Community Objective 2: We cultivate and celebrate our diverse cultures,</b>	2.1: Support and encourage our vibrant culture and creativity	2.1.7: Support range of existing, emerging and major events	<b>2.1.7.3</b>	Administer licences for weddings, events, activities and filming on council and crown land

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## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

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<b>lifestyle and sense of community</b>				
<b>Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community</b>	2.1: Support and encourage our vibrant culture and creativity	2.1.3: Enhance opportunities for interaction with art in public spaces	<b>2.1.3.4</b>	Provide information and advice to internal and external stakeholders to support Arts and Cultural Development.
<b>Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community</b>	2.3: Provide accessible, local community spaces and facilities	2.3.8: Meet requirements for the transition of management of Crown Land to Council under the Crown Lands Management Act 2018	<b>2.3.8.2</b>	Develop Plans of Management for Council Land, that incorporate inclusion and accessibility, in accordance with prioritisation plan
<b>Community Objective 4: We manage growth and change responsibly</b>	4.3: Promote and support local business development, education and employment opportunities	4.3.1: Facilitate and support sustainable development of our business community	<b>4.3.1.2</b>	Continue to strengthen partnerships between Council and the business community
<b>Community Objective 4: We manage growth and change responsibly</b>	4.4: Support tourism and events that reflect our culture and lifestyle	4.4.1: Build a tourism industry that delivers local and regional benefits in line with the community's values	<b>4.4.1.2</b>	Continue to liaise with our business and tourism industry.

### Recent Resolutions

Council passed the following resolutions relating to the Byron Music Festival:

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**21-040 Resolved:**

1. That Council grants a temporary licence in accordance with section 2.20 of the Crown Land Management Act for the purpose of Entertainment, Exhibition and Markets to the Byron Music Festival between Friday 18 June 2021 and Monday 21 June 2021 for occupation of Denning Park.
2. That the granting of the temporary licence be subject to receipt and favourable assessment of a full Event Application including:
  - a management of environmental risks on the site with consideration to the dune areas
  - b financial structure and management of the event.

**21-183 Resolved:**

1. That any restrictions affecting the sale and consumption of alcohol in that part of Denning Park Byron Bay highlighted in red in the following aerial be suspended for the duration of the Byron Music Festival on 19 June 2021.



2. That the Police and any other relevant authorities be notified of Council's resolution.
3. That Council makes clear that this event in this location being free of alcohol restrictions is a one-off and in no way to be relied upon as a precedent.

**21-198 Resolved:**

That Council grants a temporary licence in accordance with section 2.20 of the Crown Land Management Act for the purpose Entertainment, Exhibition and Markets to the Byron Music Festival for Saturday 19 June 2021 for occupation of Denning Park, subject to:

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1. All market stalls on the beachside of the existing pathway to be moved back, a minimum of 10m from the timber fence, in line with the pathway, with the area between the back of stalls and the timber fencing to be back of house only, with no general public access;
  - 5 2. Market stalls requiring vehicles integral to stall operation, are to be located on the south side of the path;
  3. The proposed 'world stage' is to be relocated away from the dune edge to the south side of the path.
  4. A limit of 3,000 people being imposed on the Denning Park site.
- 10 **21-408 Resolved:**
4. Council recognises this unique event and the circumstances in which it took place and supports a reduction of fees as per option 2 in the agenda: The reduction of fees includes the private rate for the event day only, and standard rate for the set up and pack down event days, when tickets were not required to enter the location. The Temporary Licence for Activity on Crown Reserve fees would then reduce from \$10,212 to \$4,086 (a reduction of \$6,126). This reduced fee combined with the other fees would equate to a total fee payable to Council of \$6,894.

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

- 20 Main Beach Reserve must be managed in accordance with the Crown Lands Management Act (CLMA) and Regulations, which in turn requires compliance with the public land provisions of the Local Government Act 1993 (LGA).

Some of the key provisions include:

- s2.12 CLMA – Crown land may only be used for its gazetted purpose/s or as expressed authorised by or under the CLMA
- 25 • s2.14 & 2.15 CLMA – Minister can add to or alter a Reserve's Purpose but Minister must be satisfied that the change is consistent with the objects of the CLMA and in the public interest
- s2.18 CLMA – Minister can grant a lease or licence for any purpose considered to be in the public interest (regardless of whether it is inconsistent with the reserve purpose).
- 30 • s2.20 CLMA – Regulations can allow short-term licences over Crown Land
- Clause 31 Crown Land Management Regulations – prescribes the purposes for which a short term licence can be granted, for example entertainment, exhibitions, functions, sport and recreation, events and markets. (NB this is still subject to the need for consistency with Reserve purpose because the prescribed list also includes for example, camping, holiday accommodation or military exercises.)
- 35

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- Part 3 CLMA – covers many aspects of ‘Management of Crown Land’, including Functions of Crown Land Managers and Plans of Management.
- s44 LGA – use of community land pending adoption of a Plan of Management
- Part 2 Chapter 6 LGA – use and management of community land

5 Legal Counsel has provided advice which is Confidential attachment 1.

### **Byron Shire Council adopted *Policy 5.52 Commercial Activities on Coastal and Riparian Crown Reserves***

10 Section 4 of Council’s Policy *Commercial Activities on Coastal and Riparian Crown Reserves* defines what activities Council has determined may be carried out on a coastal Crown reserve without requiring the issue of a temporary licence. These activities are:

- Emergency Services performed by recognised Emergency Service Organisations;
- Social Gatherings;
- Spreading of Ashes; and
- Volunteer Rescue Organisations – Training Days.

15 Section 5 of the Policy outlines what activities Council may issue a temporary licence over this area for. These activities are:

- Sporting Events – Organised
- Educationally based community activities
- Fundraising activities by Registered Charities
- 20 • Political Functions
- Religious Functions
- Weddings

### **Native Title**

25 Native Title Rights and Interests have been surrendered over Main Beach Reserve R82000 by an Indigenous Land Use Agreement ('ILUA') between the Minister for Lands and the Bundjalung People of Byron Bay.

### **Financial Considerations**

30 Cost estimates for a basic Plan of Management are around \$30,000. However, the complexity of Main Beach Reserve would likely require additional funding, particularly for consultation, and the project scope would need to be settled before a cost estimate could be provided. If Council want to prioritise Main Beach Reserve Plan of Management, budget and resources can be considered in the 2022/2023 Operational Plan, but that will delay other Plan of Management projects.

### **Consultation and Engagement**

35 Discussions have occurred with the following staff to establish land use suitability and constraints:

## BYRON SHIRE COUNCIL

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Claire McGarry, Place Manager - Byron Bay  
Malcolm Robertson, Acting Manager, Open Spaces  
Paula Telford, Leasing Coordinator  
Ralph James, Legal Counsel

5

**Report No. 13.11 Place Planning Collective Update and Expression of Interest for Upcoming Vacancies**

**Directorate:** Sustainable Environment and Economy

5 **Report Author:** Andrew FitzGibbon, Place Planning Coordinator  
Kristie Hughes, Place Liaison Officer

**File No:** I2021/1425

**Summary:**

10 The Place Planning Collective (PPC) is a group of community members and Councillors who meet monthly with staff, their purpose is to guide the implementation of actions in our adopted masterplans.

As stipulated in the Place Planning Charter, “the collective will be made up of up to twelve community members and up to three nominated Councillors” with members being appointed for a two-year term.

15 With a new Council in place and a significant number of members coming to the end of their two-year tenure, this report provides an update on the work the PPC has been undertaking and an overview of the expression of Interest process that is proposed to source new members.

20 Council is also requested to nominate up to three Councillors to be members of the Place Planning Collective. At a minimum, this would require participation in (approximately) monthly 2-hour meetings.

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25 **RECOMMENDATION:**

1. That Council notes the 2021 update from the Place Planning Collective.
2. That Council thanks the community members on the Place Planning Collective for their time and contributions made throughout 2021.
3. That Council endorses an Expression of Interest process to select new  
30 community representatives to replace members who have reached the end of their term.
4. That Council nominate up to three Councillors to be members of the Place Planning Collective as follows: \_\_\_\_\_.

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### **Attachments:**

- 1 Form of Special Disclosure of Pecuniary Interest, E2012/2815 

5

## REPORT

### The Place Planning Collective

5 In September 2019, Council resolved to establish the Place Planning Collective (PPC or “Collective”) to guide and influence the implementation of existing and future masterplans in Byron Shire (**Res 19-451**).

10 The PPC held its first meeting in March of 2020 and has continued to meet in an online forum monthly. Made up of both community representatives and Councillors, the current cohort has eleven community members, seven of whom are nearing the end of their initial two-year term. There are allocated positions for up to three Councillors within the Collective.

One of the first activities of the PPC was the development of the Place Planning Collective Charter which provides guidelines for the working group. The charter was endorsed by Council in May 2020 (Res 20-217). Key aspects of the charter are:

- 15 • **Purpose:** The Place Planning Collective exists to enable and facilitate community recommendations and priorities as detailed in the place plans for Bangalow, Mullumbimby, Byron Arts and Industry Estate, and future place plans developed in Byron Shire.
- 20 • **Authority:** Council will look to the Place Planning Collective for advice and innovation and incorporate the Collective’s recommendations into decisions to the maximum extent possible.
- **Media:** Members of the Collective must not discuss sensitive, confidential, or political matters with the media. Confidentiality agreements to be signed by each member.

Further information on the Place Planning Collective, its charter, members, and meeting minutes can be found on Council’s website here:

25 <https://www.byron.nsw.gov.au/Community/Place-planning/Place-Planning-Collective>

### Accomplishments in 2021

#### Priority projects list

30 The group has been a very strong advocate for greater levels of community engagement on the selection and implementation of priority projects in Byron Shire. Throughout 2021 the PPC worked closely with staff to establish a priority project list for each masterplan. In their recent evaluation Members unanimously cited this process as being the most effective in progressing the goals and outcomes of the PPC.

#### Upskilling the PPC

35 A presentation from Council’s Grants Coordinator provided an insight into the grant application process and the importance that collaboration and thorough project documentation have been in successful grant applications. With this knowledge the group has been working to scope out masterplan priorities across a broad range of categories with the aim of being grant ready, should funding become available.

**The Federal Village Masterplan**

The PPC has been eagerly watching the development of the Federal Village Masterplan, as the first community-led planning process within Byron Shire there is a lot to learn as this project progresses that will inform future processes.

- 5 At the end of the year the group completed an Evaluation Survey with feedback received from community members and staff. With majority of responses being positive, the group are beginning to see the results of their hard work and feeling their contributions are having a positive effect. As multiple PPC members noted the projects and processes involved can be slow moving and require a certain level of commitment.

- 10 Other key projects that the PPC have been involved with in the last 12 months:

[Talking Street Trial, Mullumbimby](#)

[Bangalow DCP and structure plan for the Triangle](#)

[Shared Paths in Bangalow](#)

[Bayshore Drive Pocket Park](#)

- 15 [Centennial Circuit One Way Trial](#)

**Community Membership Expression of Interest**

Community representatives have joined the Place Planning Collective at different stages since its beginning. For the original members still in place, their two-year tenure is coming to an end in March 2022.

- 20 **Membership of the Place Planning Collective**

The initial intention of the PPC was to have seven community members selected through an Expression of Interest process and five community members selected through the [Citizens Lottery](#).

- 25 It quickly became apparent that members without a direct interest in one of the masterplans being managed or developed had either resigned or disengaged. The Place Planning Collective Charter was subsequently updated to reflect a more sustainable way of finding and retaining members. It is proposed that Council hold an expression of interest process in alignment with the charter, to fill upcoming vacancies in the PPC.

- 30 The charter suggests that when selecting new members, “Council seeks to maximise a diversity of interests and skills and achieve a mixed representation of the Shire’s community. Future members will be appointed to fill identified skill or representational gaps within the Collective.” (**Res 21-188**). Existing members have the option to re-apply should they wish to.

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## Current Place Planning Collective members:

<b>Representative Masterplan</b>	<b>Member</b>	<b>Term Ending</b>
Mullumbimby	<b>David Brown</b>	<b>March 2022</b>
	<b>Natalie Eggenberger</b>	<b>March 2022</b>
	<b>Madeleine Faught</b>	<b>March 2022</b>
	<b>Sasha Mainsbridge</b>	<b>March 2022</b>
Bangalow	<b>Jenny Bird</b>	<b>March 2022</b>
	<b>Clare Hopkins</b>	<b>March 2022</b>
	Lauren Julian	June 2023
Byron Arts & Industry Estate	<b>Jack Dods</b>	<b>March 2022</b>
	Ben Wallace	June 2023
Federal	Alan Goldstein	May 2023
	Jenna Reed Burns	May 2023

The above table shows the eleven community representatives currently serving on the PPC, seven of these are charter members whose two-year tenure is ending.

Council is seeking to progress an Expression of Interest process to recruit new members.

- 5 This EOI will be advertised for a period of 28 days on Council's website and social media platforms, through advertisements placed in the Echo and with Council staff directly advising community members/groups during the public exhibition.

## Councillor Representatives

- 10 The Charter provides for 3 Councillor representatives and outlines the role expectations of participants. Given the appointment of a new Council, it is now appropriate to seek new

Councillor representatives for the PPC. In the recent evaluation survey, several PPC members expressed a desire for stronger attendance and involvement from nominated Councillors to increase the profile and effectiveness of the PPC.

## **Strategic Considerations**

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

<b>CSP Objective</b>	<b>L2</b>	<b>CSP Strategy</b>	<b>L3</b>	<b>DP Action</b>	<b>L4</b>	<b>OP Activity</b>
Community Objective 4: We manage growth and change responsibly	4.1	Support the visions and aspirations of local communities through place-based planning and management	4.1.1	Develop, implement and update Place Plans that promote place-based forward planning strategies and actions	4.1.1.2	Continue to implement actions from Our Mullumbimby Masterplan, Bangalow Village Plan and Byron Arts and Industry Estate Plan

### **Recent Resolutions**

- 21-188: Council Meeting 10 June 2021 – additional community members
- 20-703: Council Meeting 17 December 2020 – end of 2020 update
- 20-217: Council Meeting 21 May 2020 – endorsed the Charter for the Collective
- 10 • 19-690: Council Meeting 12 December 2019 – initial EOI nominations
- 19-451: Council Meeting 19 September 2019 – resolution to establish the Collective

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

Nil

### **Financial Considerations**

15 Nil

### **Consultation and Engagement**

As described within the report

**Report No. 13.12 Terms of Reference and Membership -  
Byron Shire Housing and Affordability  
Committee**

**Directorate:** Sustainable Environment and Economy

5 **Report Author:** Shannon Burt, Director Sustainable Environment and Economy

**File No:** I2022/49

**Summary:**

Council considered [Notice of Motion No. 4.5 Housing and Affordability Advisory Committee for Byron Shire](#) and resolved that:

- 10 **22-005 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 affordable housing opportunities.**

15 The purpose of this report is to confirm the terms of reference for, and membership of the committee to enable an expression of interest to be run for membership and the first committee meeting to be held following membership selection.

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**RECOMMENDATION:**

20 **That Council:**

1. **Confirms the terms of reference for, and membership of the Byron Shire Housing and Affordability Committee as presented in the report.**
2. **Notes that the call for nominations for community representatives/subject matter experts for the committee will be reported back to Council at the April**  
25 **Ordinary Meeting for appointment.**

## Report

Council considered Notice of Motion (NOM) No. 4.5 Housing and Affordability Advisory Committee for Byron Shire and resolved that:

- 5 **22-005 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 affordable housing opportunities.**

Within the staff response to this NOM, the following information was provided in support of the Committee promulgation to Council for their consideration.

10 Committee Scope:

- 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
- 20 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.

Committee Role:

- 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.
- 30 • Partnership opportunities with key stakeholders regarding best practice models for affordable, sustainable, accessible, diverse and inclusive housing.
- Implementation of policy.
- Activities, forums, roundtables, projects, programs and events to encourage delivery of affordable and sustainable housing options for the community.

35 Committee Membership:

- 3 x Councillors - Crs Ndiaye, Balson, Dey (**Resolution 22-026**)
- Up to 7 x Community / Subject matter expert members selected following an Expression of Interest process.

- 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.

Endorsement of the above, will enable an expression of interest to be run for membership and the first committee meeting to be held following membership selection.

**Strategic Considerations**

**10 Community Strategic Plan and Operational Plan**

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

**Recent Resolutions**

- 22-005

**Legal/Statutory/Policy Considerations**

As per other council committees.

**15 Financial Considerations**

As per other council committees.

**Consultation and Engagement**

As per other council committees.

**Report No. 13.13 Economic Impact Assessment of Planning Proposal for Short-Term Rental Accommodation**

**Directorate:** Sustainable Environment and Economy

5 **Report Author:** Ben Grant, Planner  
Shannon Burt, Director Sustainable Environment and Economy  
Natalie Hancock, Senior Planner

**File No:** I2022/98

**Summary:**

10 This report provides a summary of the findings of a recent economic impact assessment (EIA) carried out by Urbis on Byron Shire Council’s Planning Proposal for short-term rental accommodation (STRA). It also explains the implications of the EIA and the result of a peer review that has been commissioned which calls into question the validity of the report’s final recommendation.

15 The EIA was requested by the then NSW Department of Planning, Industry and Environment (DPIE) to help explain the likely economic impacts of Council’s Planning Proposal, which would see non-hosted STRA ‘capped’ to 90-days per year in most of the Byron LGA, except for certain precincts in Byron Bay, Suffolk Park and Brunswick Heads where it would be permitted 365-days per year. The idea is to preserve housing in most of  
20 the Shire’s residential and rural areas, while also acknowledging that some places with high tourism appeal located close to beaches and services might be suitable for unrestricted holiday letting.

The objective of the EIA was to review Council’s Planning Proposal and compare it to five  
25 other policy options, ranging from a 180-day per year cap across the entire LGA through to an ‘unregulated’ model with no restriction on holiday letting, and three other variations on the precinct model that would see non-hosted STRA limited in some areas to either 90 days or 180 days per year.

30 The EIA was completed and delivered in November 2021. The report takes existing demographic, employment, tourism, interview, survey data and models the predicted economic and social impacts of each of the six policy options. The analysis considers the likely impacts of different day caps on STRA supply, prices, visitation levels, the property market, employment, local consumption, trading and quality of life.

35 To identify a preferred policy, a cumulative distributed net-benefit analysis is used to measure the likely net benefits or disbenefits for seven key stakeholder groups. The aim is to identify the policy with the greatest overall balance of costs and benefits for all stakeholders, acknowledging that some impacts will be beneficial for certain groups and detrimental to others. For example, increased property values would be beneficial for property owners, but detrimental to prospective purchasers and renters.

5 The findings of the EIA provide several useful insights. For example, analysis of the demographic and housing data revealed that the Byron LGA is experiencing housing market failure, with poor affordability, very low rental vacancy rates and high concentrations of non-hosted STRA approaching 35% of total dwelling stock. These findings align with previous Council investigations used to underpin the original Planning Proposal.

10 Another interesting finding was the relatively high proportion of underutilised STRA properties which are 'available' but not occupied for much of the year. This demonstrates an oversupply of accommodation in the STRA sector, but also reflects the choice of some owners who buy and hold properties primarily for enjoyment and may not be motivated by income from short-term or long-term rentals.

15 While the impacts of each policy vary, it is apparent that a lower day cap is going to increase the supply of long-term rentals, which in turn will decrease the supply of non-hosted STRA and the availability of tourist accommodation generally. Unsurprisingly, this effect would be felt more strongly under a 90-day cap compared to a 180-day cap. However, due to latent capacity in the STRA market from underutilised properties, even a 90-day cap is unlikely to have a significant impact on visitation levels or retail driven spending and employment. The EIA predicted that forecast demand for visitor accommodation could likely be met under a 90-day model if occupancy rates increased within the remain stock of non-hosted STRA. On the other hand, the operational sector of the STRA economy, such as cleaners and gardeners, would be more significantly affected by a lower day cap, with job losses expected in this sector due to less spending on property maintenance.

25 The EIA ultimately concluded that a 180-day per year cap across the entire Byron LGA was the preferred policy option from an economic perspective as it will provide the most substantial benefits across the relevant stakeholder groups while minimising detrimental impacts on the visitor market.

30 However, after an initial review of the EIA by Council staff, it became apparent there were several potential problems with the methodology, impact assessment and net-benefit analysis used to produce the reports final recommendation. For example, the report has limited social impact assessment and there appear to be anomalies in the ratings applied to certain impacts and stakeholder groups.

40 To address these concerns, and to gain a second opinion, Council commissioned Dr. Peter Phibbs to undertake a peer review of the EIA. Dr. Phibbs' review concluded that while the EIA offers some useful material, the rating system used to produce the reports recommendation is fundamentally flawed and does not allow a fair or balanced comparison of each policy. He noted that although economic impact analysis can be a useful aid in decision making, it is not intended to be used as an evaluative tool by itself. He also commented that the method used to compare each option is unreliable because no attempt is made to weigh the importance of the impacts on different stakeholder groups. This means that benefits to the local community of less STRA is more than outweighed by the negative impacts to visitors of having to pay more for their accommodation.

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In addition to the findings of the EIA and the peer review, there is another issue that warrants further discussion.

5 On June 24, 2021, DPIE issued a Gateway determination which requires Council to update the Planning Proposal to reflect the recommendations of the EIA. What this means, in practice, is that the final form of the Planning Proposal and the ultimate policy response, will be decided on fairly narrow economic grounds by an external consultant. This is an unfortunate and detrimental outcome considering the broad range of social, economic and environmental considerations that need to be taken into account on this issue.

10 As a result of the peer review and other issues raised in this report, it is recommended that the Planning Proposal NOT BE updated to reflect the recommendations of the EIA at this stage. It is questionable whether the SEPP will provide the best balance of economic and social benefits for the Byron Shire community, particularly in the context of the current housing crisis.

15 Instead, it is recommended that the existing Planning Proposal together with the peer review of the EIA, be forwarded to DPIE for further consideration. This option is considered to offer the greatest social benefit due to increased housing opportunities while also having relatively mild impacts on the tourism sector. The Planning Proposal will need to be amended to satisfy several conditions in the Gateway determination before being sent to DPIE.

20 It should also be noted that if Council elects instead to adopt the EIA recommendation, this will require the Planning Proposal to be withdrawn, allowing the current planning rules that apply under the SEPP (Housing) 2021 to continue. Correspondence with DPIE late last year confirmed that Ministerial Direction 3.7 (Reduction in non-hosted STRA period) would remain in force for the foreseeable future. DPIE have also indicated that the STRA provisions in the Housing SEPP could potentially be reviewed in 2024. Thus, if the  
25 Planning Proposal is withdrawn, there may be an option to revisit a possible 90-day cap at some point in the future.

#### NOTE TO COUNCILLORS:

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

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#### RECOMMENDATION:

##### That Council:

- 40
- 1. Notes the findings and recommendations of the Economic Impact Assessment and that of the Peer Review of the Economic Impact Assessment by Dr Peter Phibbs in Attachments 1 and 2.**

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2. **Notes the Planning Proposal Timeline including delays to it due to the changing State Government requirements placed on Council in Attachment 3.**
3. **Supports wholeheartedly the existing 90-day/365-day cap option and instructs staff to amend the current Planning Proposal to meet the requirements of the Gateway Determination in Attachment 4, except for Condition 1(b), point 3, which requires the Planning Proposal to reflect the recommendations of the DPIE endorsed Economic Impact Assessment.**
4. **Authorises staff to submit the Peer Review with the amended Planning Proposal to the Department of Planning and Environment for a revised Gateway Determination to enable public exhibition of the Planning Proposal.**
5. **Requests the Department of Planning and Environment to extend the Gateway Determination date to 31 December 2022 or to when the Planning Proposal is determined and or notified.**

## **Attachments:**

- 1 DPIE Byron STRA EIA (prepared by Urbis), E2022/11735 
- 2 Peer Review of EIA prepared by Dr Peter Phibbs for Byron Shire Council, E2022/11741 
- 3 Timeline summary of Council's Short Term Rental Accommodation Planning Proposal 26.2020.1.1, E2022/13014 
- 4 DPIE Gateway Determination - Byron Shire V2 Short-Term Rental Accommodation Planning Proposal 26.2020.1.1, E2021/89520 
- 5 DPIE issued EIA Framework Technical Notes 02/11/2020 for Byron Shire Short Term Rental Accommodation Planning Proposal, E2022/13100 

## Report

### Purpose

5 This report provides a summary of the findings and recommendations of a recent economic impact assessment (EIA) carried out by Urbis, a consulting firm based in Sydney, on Byron Shire Council's Planning Proposal for short-term rental accommodation (STRA). It also explains the implications of the EIA and the result of a peer review that has been commissioned which calls into question the validity of the report's final recommendation.

10 A conditional Gateway determination for the Planning Proposal was issued by DPIE on 24 June 2021 which requires the Planning Proposal to be updated to reflect the recommendations of the EIA. Thus, the EIA is critical in shaping the final form of the Planning Proposal and determining whether it should proceed.

### Background

15 Byron Shire has arguably the highest concentration of non-hosted STRA of any LGA in NSW with an estimated 5,250 properties, or 35% of total housing stock actively listed on Airbnb or Stayz throughout 2019. The majority of these were entire home or apartments that were frequently available throughout the year.

20 In recognition of the unique pressures facing the Byron Shire community, the Minister for Planning issued a Direction (see below) on 15 February 2019 which gave Council the opportunity to lodge a Planning Proposal that could limit the use of non-hosted STRA to 90-days per year in the Byron LGA.

#### 3.7 Reduction in non-hosted short term rental accommodation period

##### Objective

(1) The objectives of this direction are to:

25 (a) mitigate significant impacts of short-term rental accommodation where non-hosted short term rental accommodation period are to be reduced, and

(b) ensure the impacts of short-term rental accommodation and views of the community are considered.

Where this direction applies

30 **(2) This direction applies to Byron Shire Council.**

When this direction applies

(3) This direction applies when the council prepares a planning proposal to identify or reduce the number of days that non-hosted short-term rental accommodation may be carried out in parts of its local government area.

What a planning proposal authority must do if this direction applies

(4) The council must include provisions which give effect to the following principles in a planning proposal to which this direction applies:

- 5       • non-hosted short term rental accommodation periods must not be reduced to be less than 90 days
- the reasons for changing the non-hosted short-term rental accommodation period should be clearly articulated
- 10     • there should be a sound evidence base for the proposed change, including evidence of the availability of short-term rental accommodation in the area (or parts of the area) in the 12 months preceding the proposal, relative to the amount of housing in the area, and trend data on the availability of short-term rental accommodation over the past 5 years.
- 15     • the impact of reducing the non-hosted short-term rental accommodation period should be analysed and explained, including social and economic impacts for the community in general, and impacted property owners specifically.

Consistency

20     (5) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are of minor significance.

25     In February 2020, Council adopted and submitted a Planning Proposal to DPIE with a request for a Gateway determination to introduce new planning controls for short-term rental accommodation into the Byron Local Environmental Plan 2014 (LEP 2014). A key provision was the introduction of a 90-day per year cap on non-hosted STRA across the LGA.

**13.12 PLANNING - 26.2020.1.1 - Planning Proposal for Short Term Rental Accommodation** [Agenda of Ordinary \(Planning\) Meeting - 20 February 2020 \(infocouncil.biz\)](#)

30     Following an initial assessment, DPIE informed Council in June 2020 that a more rigorous economic analysis was required to evaluate the potential impacts on the tourism industry and long-term rental housing market if property owners would be required to reduce their non-hosted STRA to 90-days per year. Council staff had prepared and submitted already to the DPIE economic and social impacts data which appeared to meet the above Direction to enable the Planning Proposal to proceed to Gateway determination. This  
35     considering the need to meet part b of the objectives of the Direction:

...b) ensure the impacts of short-term rental accommodation and **views of the community are considered.**

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5 Consequently, Council requested further clarification soon after from the DPIE as to exactly what they required, noting that a study of this nature could be prohibitively expensive and take months to complete. There appeared to be no formal requirements in any of the DPIE documents for STRA that staff were able to source, and there was no baseline data on STRA either.

Over four months later, in December 2020, DPIE sent Council a draft Economic Impact Assessment framework, outlining the scope for an Economic Impact Assessment report that Byron Shire needed to comply with for a Gateway Determination to be issued for the Planning Proposal (Attachment 5).

10 About the same time, due to the need to update Council on its Planning Proposal V1, Council received Report **13.21 Update - Impacts of and management options for short term rental accommodation (STRA) in Byron Shire** [Agenda of Ordinary \(Planning\) Meeting - Thursday, 19 November 2020 \(infocouncil.biz\)](#)

15 In actioning Council resolution **20-605** from that meeting, the Planning Proposal was later revised and resubmitted on 5 March 2021, putting forward an alternative precinct model which aims to limit non-hosted STRA to 90-days per year across most of the LGA, except in certain precincts where it would be permitted 365 days per year. This approach attempts to preserve housing in most of the Shire's residential and rural areas, while also acknowledging that certain locations with high tourism appeal near beaches and services  
20 may be better suited to unrestricted holiday letting.

What followed the Planning Proposal submission to the DPIE was further delay and an impasse with the DPIE on the merits of this Planning Proposal. Of note also was the timing interplay with the above, with the announcement of the State Environmental Planning Policy (SEPP STRA) going live in mid-2021 (later November 2021) as well as the  
25 concerns raised by Council, that because of this, the SEPP STRA would apply to Byron Shire ahead of the Planning Proposal process being finalised.

A meeting with the then Minister for Planning ensued and an exception for Byron Shire to the SEPP STRA date was granted until 31 January 2022. This Minister granted this extension in good faith and on the basis that the EIA and Planning Proposal process could  
30 be finalised by the DPIE by then. A project timeline for the Planning Proposal is detailed in Attachment 3.

Following several more months of discussions, Council entered into a joint funding agreement with the Planning Delivery Unit (PDU) of DPIE to fund the EIA now required as the project cost was beyond that which Council had envisaged and was otherwise  
35 budgeted for at this time. The PDU is a new division of DPIE created with the aim of progressing development applications or Planning Proposals that may be 'stuck' in the system. Normally the PDU mediates disputes that involve local councils and other state agencies or landowners not the DPIE itself. This is one of several projects that Byron Shire has found itself in these particular and peculiar circumstances over the past 2 years.

40 As such, and as the bulk of funding was provided by PDU for the EIA, they also assumed responsibility for engaging a consultant, managing the project, and ensuring timely delivery

of the final report. Urbis, a consulting firm based in Sydney, was selected by PDU to carry out the study, with work commencing in mid-2021.

5 On 24 June 2021, DPIE issued a conditional Gateway determination for the Planning Proposal which can be found in Attachment 4 of this report. The Gateway requires Council to submit a revised Planning Proposal that will recommend an amendment to *State Environmental Planning Policy (Affordable Rental housing) 2009* (now superseded by SEPP Housing 2021), instead of LEP 2014 as originally proposed. It is understood this option is preferred by DPIE for the sake of consistency however no specific reasons were given for the change.

10 The final EIA was delivered to PDU in November 2021. In summary, the report concludes that the SEPP, which introduces a 180-day per year cap on non-hosted STRA across the entire Byron LGA, will generate net benefits for the most stakeholder groups and is therefore the preferred policy option from an economic perspective.

15 A key requirement of the Gateway determination is that the Planning Proposal must be updated to reflect the recommendations of the EIA. Thus, Council will need to carefully consider the findings of the EIA and decide whether to proceed with the current Planning Proposal.

### **Economic Impact Assessment – Aims and Objectives**

20 The objective of the EIA is to review Council’s Planning Proposal and compare it to five other policy options, ranging from a 180-day per year cap across the whole LGA through to an ‘unregulated’ model with no restriction on holiday letting, and three other variations on the precinct model that would see non-hosted STRA limited to either 90 days or 180 days per year in certain areas.

25 The report takes existing demographic, employment, tourism, interview and survey data, and models the predicted economic and social impacts of each of the six policy options. The analysis considers the likely impacts of different day caps on STRA supply, STRA prices, visitation levels, the property market, employment, local consumption and trading, and quality of life.

30 To identify a preferred policy, the EIA uses a cumulative distributed net-benefit analysis to measure the likely net benefits or disbenefits for seven key stakeholder groups.

These include:

- 35 (1) Visitor Market - Operators,  
(2) Visitor Market - Visitors,  
(3) Property Market - Renters and Purchasers,  
(4) Property Market - Owners,  
(5) Local Businesses,  
(6) Workers, and  
40 (7) Residents.

## The Six Policy Options

5 Six policy options have been identified that could be potentially implemented in the Byron LGA to address the issues currently being faced, particularly in the housing market. These policy options all relate to the implementation of a 'cap' on the number of days a property can be made available as non-hosted STRA each year.

The six policy options are as follows:

- 10 • **Base Case: SEPP** - Default policy under the SEPP (Housing) 2021, which includes a 180-day cap on non-hosted STRA across the entire LGA.
- 15 • **Base Case: SEPP Alternative** - A variation to the SEPP, which proposes a 180-day cap on non-hosted STRA, except in a set of Urbis defined precincts where STRA would be permitted 365-days per year.
- 20 • **Option 1: Planning Proposal** - Council's Planning Proposal, which includes a 90-day per year cap on non-hosted STRA except in a set of Council defined precincts where STRA would be permitted 365-days per year.
- 25 • **Option 1A: PP Alternative 1** - A variation to Council's Current Planning Proposal which assumes a 180-day cap on non-hosted STRA outside of Council-defined STRA Precincts (instead of 90-days).
- 30 • **Option 1B: PP Alternative 2** - A second variation to Council's Current Gateway Planning Proposal which assumes a 90-day cap except in a set of Urbis defined precincts where STRA would be permitted 365-days per year.
- **Option 2: No Caps** - No caps on non-hosted STRA across the entire LGA.

## Findings of the socio-economic review

35 The EIA includes a review of the local socio-economic context, which draws on demographic, employment, tourism and housing market data. Importantly, this information underpins the economic modelling which occurs later in section 4 of the report. A summary of the most relevant findings is given below, however, full details can be found in Section 2 on pages 41 to 63 of the EIA.

### There is high concentration of STRA activity and insufficient housing supply

40 Between 2017 and 2019, the number of non-hosted STRA properties increased from 3,860 properties to 5,250 properties, which equates to 35% of total dwelling stock in the Byron LGA. During the same period, long-term residential rentals as a proportion of total rental supply (i.e., both short term and long term) in the Byron LGA have fallen from 61%  
45 to 53% of dwellings. This indicates a trend of long-term rentals shifting into the short-term market.

**There is a high proportion of underutilised properties**

5 Approximately 62% of non-hosted STRA properties were listed as ‘available’ for more than 180 days per year, however, most of these properties (61%) were ‘occupied’ for less than 90 days per year. This implies a relatively high proportion of properties which are underutilised or left vacant for most of the year.

**Residential vacancies are low and there is poor housing affordability**

10 Between 2016 and 2019, residential vacancy rates in the Byron Shire and across the broader North Coast have remained below 2.1%. Further, most jobs in the LGA are in Byron Bay town centre (42%), however, by 2019, nearly half (44%) of dwellings in the Byron Bay town centre were being used as non-hosted STRA. Therefore, the ability for workers to live close to their place of work has diminished since 2016.

15

**There is market failure**

20 Ultimately, Urbis conclude there is a market failure where a lack of clear regulation and attractive revenue prospects have led many property owners to convert their residential properties into STRA properties. This has caused further tightening of an already low vacancy residential market, thereby creating further upward rent and price pressure which attracts additional investors and is leading to worsening affordability for renters and prospective purchasers.

25 **Findings of the survey and industry interviews**

To help inform the analysis, a series of in-depth interviews were carried out with local real estate agents and property managers, and a survey was distributed for property owners who were actively participating in the STRA sector. The survey was accessible via the Council website (although, it is important to note that Council had no role in preparing the survey questions). The responses from the survey were used to understand how people might change their behaviour under different policy settings. Specifically, what would people do under a 90-day or 180-day cap, and would they consider selling or converting to long-term rental?

35

The following is summary of the most important insights from the survey and interviews. Full details can be found in Section 3, pages 67 to 74 of the EIA.

40 **Survey insights**

**Under a 90-day cap scenario, 39% of respondents said they may shift out of STRA**

45 Under the proposition of a 90-day cap, about 61% of owners stated they will continue to rent their properties out as short stay accommodation for the maximum period allowed (i.e., 90-days per year), with 32% stating they would shift into long-term rental and 7% stating they would sell.

**Under a 180-day cap scenario, 20% of respondents said they may shift out of STRA**

5 Under the proposition of a universal 180-days cap across the LGA, most properties owners stated they will continue to rent their properties out as short stay accommodation for the maximum period allowed (~80%), with 17% stating they would shift into long-term rental and 3% stating they would sell.

**Only a small number of respondents (8%) indicated they would shift out of STRA under a 365-day cap scenario (no cap).**

10 As expected, an 'unregulated' model with no day cap (either across the entire LGA or in specific precincts) is likely to result in minimal changes to the current situation. Approximately 92% of survey respondents said they would continue to use their properties for STRA if no day caps were imposed. Interestingly, 8% of respondents claimed they would shift into long-term rental under this policy. The EIA did not attempt to explain this finding, but it may be related to conditions in the tourism sector at the time of the survey due to the Covid-19 pandemic. There could also be a minority of owners who are unable to comply with basic legal or fire safety requirements under the new state-wide planning framework.

**Interview insights**

**Many Owners Buy and Hold Properties for their Enjoyment**

25 According to interviewees, affluent owners often purchase property primarily for their own personal use and enjoyment. Consequently, they choose to rent the property out as short stay accommodation in the times they are not using it. Long-term rental would not be an option for this type of owner as it would remove the benefit and reason for owning the property.

**STRA Property is Unlikely to be Suitable for Long Term Rental**

35 Interviewees commented that some dwellings have been built or altered specifically for tourist accommodation purposes. If some of these properties were to be transferred to the long-term rental market, the rents being sought would generally reflect the standard of the property. This would not address the shortage of long-term rentals if new properties were priced above where the market gap is.

**STRA Market Supports a High Yielding Visitor Strategy**

40 Family groups, many of whom are affluent residents from Sydney, Melbourne and other cities, are looking for houses to stay in. They have less interest in a hotel or resort in the Byron area which may not suit their spatial needs or be pet friendly. One manager reported an average spend of \$4,190 versus for STRA groups versus \$732 for a visitor in hosted accommodation such as a serviced apartment.

**The Council-defined STRA Precinct Boundaries Do Not Make Sense to Industry**

Interviewees commented that the type of property is the often driver rather than the location itself, so some visitors choose house over location. Therefore, they go to areas that offer them the experience they want and that could be in a property an owner has developed to a high standard which happens to be in a residential area. Some interviewees also commented that areas outside Byron Bay will potentially be adversely impacted by new policies yet may not have the same issues that are driving a review of policy related to STRA.

**Outcome of the Impact Assessment**

The EIA attempts to model the predicted direct, indirect and social impacts of each of the six policy options. Each policy was given a rating of low, medium or high, depending on the severity of the predicted impact, which is further categorised by its direction, either up or down. Urbis state that the impact assessment is intended to be value neutral. In other words, it is claimed the ratings do not reflect whether a potential impact is beneficial or detrimental, as this would ultimately be a value judgement that depends on the person or group being impacted.

A value lens is applied by Urbis later in the Cumulative Distributed Net-Benefit Analysis, which attempts to identify which stakeholder groups would be the most affected under each policy option, either beneficially or detrimentally.

Full details of the impact assessment can be found in Section 4, pages 80 to 157, of the EIA. The most relevant findings covering impacts on STRA supply, the long-term housing market, visitation levels, and employment are summarised below.

**Direct Impacts**

**Impacts on STRA supply and prices**

**The supply of non-hosted STRA will be reduced under all policy options, however a 90-day cap will have a greater impact**

Modelling predicts that all policy options will cause a reduction in the supply of non-hosted STRA, which is not unexpected given that five of the six options involve the use of a day cap to restrict non-hosted STRA activity.

Council's Planning Proposal is expected to result in the most significant reduction, with an estimated decrease of approximately 34% relative to 2019 levels. By comparison, the SEPP, plus Options 1A and 1B are all estimated to moderately reduce non-hosted STRA supply by approximately 19%, 18% and 18%, respectively.

The remaining two policy options, the SEPP Alternative and Option 2 No Caps, are expected to result in relatively low impacts on supply. Specifically, the SEPP Alternative is estimated to reduce non-hosted STRA supply by approximately 12% while Option 2 No Caps results in an 8% decrease.

**Table 1.** Predicted changes to non-hosted STRA supply

Policy Option	% Change
Base Case – SEPP Option	-19%
Base Case – SEPP Alternative	-12%
Option 1 – Planning Proposal	-34%
Option 1A – PP Alternative	-18%
Option 1B – Urbis precincts	-18%
Option 2 – No Caps	-8%

**5 Lower availability of non-hosted STRA could lead to higher prices**

All policies are anticipated to increase STRA prices although Council’s Planning Proposal and Option 1B area anticipated to have the greatest impact with a 26% price increase. In comparison, the SEPP, SEPP Alternative and Option 1A, are anticipated to result in a 14% increase. Option 2 No Caps was the only policy not predicted to increase prices.

It should be noted that the predicted changes to the STRA prices were strongly influenced by insights from the survey of STRA providers and reflect only how these providers stated they would attempt to directly influence prices. The predictions also reflect changes in expected occupancy rates. That is, a lower STRA supply is expected to result in higher occupancy rates which could put upward pressure on prices.

**Table 2.** Predicted changes to non-hosted STRA prices

Policy Option	2019 Average Daily Rate	Predicted Average Daily Rate	% Change
Base Case – SEPP Option	\$321	\$364	14%
Base Case – SEPP Alternative	\$321	\$364	14%
Option 1 – Planning Proposal	\$321	\$403	26%
Option 1A – PP Alternative	\$321	\$364	14%
Option 1B – Urbis precincts	\$321	\$403	26%
Option 2 – No Caps	\$321	\$325	1%

**Impacts on housing supply and long-term rentals**

**A lower day cap will increase supply of long-term rental and owner occupier properties**

Council’s Planning Proposal is estimated to have the greatest effect on long-term housing, increasing permanent rentals by 1535 dwellings which equates to a 24% increase. The SEPP option is predicted to bring 885 new dwellings (14% increase), while the SEPP Alternative, and Options 1A and 1B are expected to return 575 (9%), 830 (13%) and 840

(13%) long-term rentals respectively. Option 2 No Caps is predicted to result in 420 properties (6.5%) shifting into the long-term rental market.

**Table 3:** Predicted change to long-term rental and owner occupier market.

5

Policy Option	Long Term Rental	%	Owner Occupy	%
Base Case – SEPP Option	885	14%	100	1%
Base Case – SEPP Alternative	575	9%	45	0.5%
Option 1 – Planning Proposal	1535	24%	275	3%
Option 1A – PP Alternative	830	13%	100	1%
Option 1B – Urbis precincts	840	13%	120	1.5%
Option 2 – No Caps	420	6.5%	0	0%

## Residential Property Value Impacts

10

**Residential property values may be affected relative to other areas with less restrictive planning controls**

15

Predicted changes in property valuation have been assessed against the perceived rights of homeowners in Byron LGA compared to the rest of NSW. For example, a 90-day cap would be perceived as more restrictive than a 180-day cap which applies to Greater Sydney, and this would translate into *relatively* lower property price growth.

20

As such, Option 2 No Caps was considered likely to result in a high increase in property values, while the Option 1 Planning Proposal would have a relatively high decrease, presumably due to stricter planning rules under Option 1 compared to the rest of NSW. Both the SEPP and Option 1A were estimated to produce a low decrease in property values while the SEPP Alternative and Option 1B produced a moderate increase and decrease in property values respectively.

25

**Table 4:** Predicted change in residential property values

Policy Option	Predicted price change
Base Case – SEPP Option	Low Decrease
Base Case – SEPP Alternative	Moderate Increase
Option 1 – Planning Proposal	High Decrease
Option 1A – PP Alternative	Low Increase
Option 1B – Urbis precincts	Moderate Decrease
Option 2 – No Caps	High Increase

## Indirect Impacts

### Visitor Market Impacts

5 **Both 180-day and 90-day per year caps will cause a reduction in room availability, although the effect will be stronger under a 90-day cap.**

10 As expected, policies which had the most beneficial impact on long-term housing also had a greater impact on the availability of rooms due to properties being shifted out of the tourism market and placed back into long term housing. Conversely, policies which have little effect on long-term housing also had little effect on room availability.

15 This is reflected in the impact assessment which shows that number of available room nights is forecast to increase by ~1.2% p.a. under Option 2 No Caps and will slightly increase under the SEPP Alternative by ~0.3% p.a. between 2021 and 2027.

20 The remaining four policy options are all forecast to result in lower available room nights in by virtue of stricter caps and/or application of the caps to a broader geographical area. Option 1 Planning Proposal will have the most significant impact with available rooms decreasing by 12.8% p.a. by 2027. The SEPP, Option 1A and Option 1B are all estimated to moderately reduce room night availability by approximately 2.6%, 1.8% and 2.7% p.a., respectively.

25 **Table 5: Predicted Available Room Nights (2019 – 2027)**

Policy Option	2019	2024	2027	Change p.a. (%)
Base Case – SEPP Option	1,119,560	795,541	819,913	-2.6%
Base Case – SEPP Alternative	1,119,560	946,748	974,106	0.3%
Option 1 – Planning Proposal	1,119,560	408,934	422,591	-12.8%
Option 1A – PP Alternative	1,119,560	834,700	859,164	-1.8%
Option 1B – Urbis precincts	1,119,560	785,763	811,375	-2.7%
Option 2 – No Caps	1,119,560	1,004,116	1,031,724	1.2%

30 **Occupied room nights will be similar under all the policy options, however, occupancy rates will increase more significantly under a 90-day cap**

35 Total occupied room nights for non-hosted STRA (which refers to the actual number of nights where a property is occupied by visitors), is forecast to grow strongly by 4.7% p.a. under the SEPP, SEPP Alternative, Option 1A and Option 2 No Caps. This is a result of there still being sufficient forecast available room nights under these four policy options to meet forecast demand.

Under Option 1 Planning Proposal or Option 1B, occupied room nights are anticipated to increase moderately by ~3.9% between 2021 and 2027.

Forecast occupancy rates vary by policy option primarily due to the differing number of available rooms. Across five of the options, the forecast occupancy rates generally remain within a 10% range. However, occupancy rates under Option 1 are forecast to reach 92% in 2026, around double the rates under the other policy options. This is purely a result of the significant reduction in the number of available room nights under this option.

**Table 6:** Predicted Occupied Room Nights (2019 – 2027)

Policy Option	2019	2024	2027	Change p.a. (%)
Base Case – SEPP Option	383,922	387,743	404,399	4.7%
Base Case – SEPP Alternative	383,922	387,743	404,399	4.7%
Option 1 – Planning Proposal	383,922	367,353	383,787	3.8%
Option 1A – PP Alternative	383,922	382,743	404,399	3.9%
Option 1B – Urbis precincts	383,922	366,862	384,665	4.7%
Option 2 – No Caps	383,922	382,743	404,399	4.7%

## 10 Local Consumption and Trading Impacts

**The STRA operational sector will be the most significantly affected part of the economy**

15 Based on insights from the survey, STRA providers in the Byron LGA are estimated to spend an average of ~\$20,500 per annum per property on the maintenance, cleaning and other services. In comparison, data sourced from the ABS Household Expenditure Survey indicates that residential households spend only ~\$2,095 on property cleaning and maintenance (not accounting for potential property management fees associated with long term rentals).

20 Based on this finding, the EIA predicts that the operational sector of the local economy is predicted to be the most significantly affected, with Option 1 Planning Proposal anticipated to result in ~\$33 million in foregone spending on property maintenance. This compares to an \$18 million reduction under the SEPP and \$7 million less spending under Option 2 No Caps.

**Table 7:** Estimated reduction in operational spending

Policy option	STRA dwellings converted to residential	foregone spending per dwelling	Annual foregone spending (million)
Base Case – SEPP Option	~420	\$18,400	\$18.10m
Base Case – SEPP Alternative	~960	\$18,400	\$11.40m
Option 1 – Planning Proposal	~930	\$18,400	\$33.30m
Option 1A – PP Alternative	~1810	\$18,400	\$17.10m
Option 1B – Urbis precincts	~620	\$18,400	\$17.70m

Option 2 – No Caps	~985	\$18,400	\$7.70m
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**Retail spending will increase by a similar amount under all policy options**

5 STRA retail spending is forecast to increase by a similar amount under all options, growing between 5.9% and 6.2% between 2019 and 2027. The EIA claims this is because retail spending is driven primarily by visitation levels, which are proposed to be similar amongst all options over the next 5 years. The growth rate would be slightly less under a 90-day cap compared to other policies but is still predicted to increase over the next 5 years.

10 **Impacts on Local Employment**

**Employment in the STRA operational sector most affected**

15 Operational jobs such as cleaners, gardeners and property maintenance are forecast to be the most affected sector of the economy, with a predicted loss of employment in this sector under all policy options. This is related to an increase in long-term housing and reduced spending on property maintenance. The Planning Proposal is predicted to have the greatest effect, resulting in a loss of 265 operational jobs, compare with a loss of 145 operational jobs under the SEPP and 62 jobs under Option 2 No Caps.

20

**Table 8:** Estimated reduction in employment for cleaning, maintenance etc.

Policy option	Direct jobs	Indirect jobs	Total Jobs
Base Case – SEPP Option	-112	-33	-145
Base Case – SEPP Alternative	-70	-20	-90
Option 1 – Planning Proposal	-205	-60	-265
Option 1A – PP Alternative	-105	-31	-136
Option 1B – Urbis precincts	-109	-32	-141
Option 2 – No Caps	-48	-14	-62

25 **Retail employment and other jobs are likely to increase under all policy options**

25

By contrast, local employment driven by retail and other sectors is expected to increase between 254 and 272 jobs and will be similarly affected under all policy options. This reflects that retail and other jobs are driven more by visitation numbers generally which are predicted to increase in the future under all policy options.

30

**Table 9:** Estimated change in employment related to retail spending

Policy option	2019	2024	2027	Total 2021-27
Base Case – SEPP Option	1194	811	894	+ 272
Base Case – SEPP Alternative	1194	811	894	+ 272
Option 1 – Planning Proposal	1194	797	876	+ 255
Option 1A – PP Alternative	1194	811	894	+ 272

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Option 1B – Urbis precincts	1194	798	875	+ 254
Option 2 – No Caps	1194	811	894	+ 272

**Net employment will increase under all policies except for the Planning Proposal, due to a somewhat greater impact on operational jobs**

5 Overall, net employment is predicted to increase under all policy options except the Planning Proposal due to a slightly greater loss of operational jobs for this option. However, overall, lost operational jobs will largely be offset by other jobs driven by increases in retail spending, due to a predicted increase in tourism and visitor spending by 2027.

10 **Table 10:** Estimated change in employment for retail

Policy options	Operational Jobs	Retail Jobs	Total change by 2027
Base Case – SEPP Option	-145	272	127
Base Case – SEPP Alternative	-90	272	182
Option 1 – Planning Proposal	-265	255	-10
Option 1A – PP Alternative	-136	272	136
Option 1B – Urbis precincts	-141	254	113
Option 2 – No Caps	-62	272	210

## Impacts on the Residential Property Market

15 **Lowering the day cap could reduce rents because of increased supply in the long-term rental market**

20 Given there is a tight rental vacancy rate in Byron Shire (~2%), any increase in the long-term rental market dwelling supply is likely to materially reduce rents. The degree of impact will, of course, depend on the increase of supply in the long-term rental market.

25 Therefore, Option 1 Planning Proposal is expected to have the greatest impact on long term rental market rents. This estimated decrease is underpinned by the expected ~24% increase in the supply of long-term rental dwellings relative to the number of long-term rental dwellings in 2021. Additionally, the likely strong decrease in rents under Option 1 also has significant potential to improve rental affordability in the Byron LGA and to enable greater housing choice for residents.

30 In comparison, the SEPP Option 1A and Option 1B are estimated to result in a moderate decrease in long term rental market rents by virtue of their estimated ~13-14% increase in long-term rentals. The remaining two policy options, the SEPP Alternative and Option 2 No Caps, are estimated to result in relative low decreases in long term rental market rents as a result of their estimated ~6.5-9% increase in the supply of long-term rental dwellings.

35

**A lower day cap could potentially reduce residential property values relative to other areas**

5 Conversely, a reduction in rental yields could also put downward pressure on property values. The EIA concluded that Option 1 Planning Proposal is estimated to result in residential property values experiencing a relatively large decrease by virtue of the expected strong negative rent impacts. In comparison, the SEPP, Option 1A, and Option 1B are all estimated to result in moderate decreases in residential property values driven by the estimated moderate negative impacts on long term rental market rents. The remaining two policy options, the SEPP Alternative and Option 2 No Caps, are estimated to only result in relative low decreases in residential property values because of their estimated low negative impacts on long term rental market rents.

15 **Property investment and development activity are not likely to be significantly affected due to the high land prices in the Byron LGA**

20 By virtue of relatively high property values in the Byron LGA, the EIA predicted that development activity is not likely to be significantly impacted by any of the proposed policy options except Option 1 Planning Proposal. However, because property values are already high in the Byron LGA, development activity is likely to experience no more than a moderate decrease under this option.

25 **Housing stress is likely to be reduced if more long-term rentals become available, however, this depends on employment (and therefore incomes) remaining relatively unaffected**

30 Given housing stress is based on the ratio of income to housing expenses (i.e., rent or mortgage payments), and changes to employment (and therefore incomes), rents and residential property values will all result in a change to the level of housing stress being experienced. The degree of impact will therefore depend on the degree by which the rents, property values and employment change.

35 The SEPP, Option 1A, and Option 1B are expected to result in moderate decreases in long term rental market rents and residential property values, combined with moderate increases in employment (and therefore incomes). Therefore, housing stress is estimated to potentially decrease under these three policy options. On the other hand, the SEPP Alternative and Option 2 No Caps are expected to decrease housing stress only slightly. This is a result of the low estimated decreases in long term rental market rents and residential property values.

40 The Planning Proposal option is anticipated to result in a moderate decrease in housing stress despite high decreases in long term rents and residential property values. The EIA concluded that lower rents and property prices under this option would be partially offset by a reduction in employment and economic activity, resulting in a smaller reduction in housing stress overall.

45

## Social Impact Assessment

5 To complement the largely measurable direct and indirect impacts, the report also includes  
a brief social impact assessment of the 'non-measurable' impacts potential on the Byron  
Shire economy. Potential social impacts were canvassed in terms of impacts on: (1) the  
local tourism sector (2) demand for local services and businesses, (3) local employment,  
(4), housing accessibility and affordability, (5) quality of life for local residents, and (6)  
community and permanency.

10 In summary, the SEPP was assessed as having the greatest potential social benefits out  
of the six policy options and Option 1, Council's Planning Proposal, was assessed as  
having the second highest social benefit with moderate benefits across all categories.

15 Despite Option 1 Planning Proposal being estimated to deliver more permanent housing,  
the report ranked this option lower than the SEPP in terms of social benefits due to a  
perceived moderate increase in amenity and local identity and culture. This is mainly  
because the EIA has attributed amenity, local culture and identity as partially being a  
product of visitation, retail spending and the presence of shops, cafes and restaurants  
20 which are expected to experience strong growth under the SEPP but only moderate  
growth under the Planning Proposal.

25 The remaining three policy options were expected to have lower social benefits (to varying  
degrees) compared to the SEPP or the Planning Proposal, with Option 2 No Caps having  
the lowest social benefit as it would contribute to ongoing problems relating to housing  
opportunities and neighbourhood conflict arising from noise disturbances.

## Findings of the Cumulative Distributed Net-Benefit Analysis

30 To identify a preferred policy, the EIA uses a Cumulative Distributed Net-Benefit Analysis  
to measure the likely net benefits or disbenefits for seven key stakeholder groups. The  
idea is to identify the policy with the greatest overall balance of costs and benefits for all  
stakeholders, acknowledging that some impacts will be beneficial for certain groups and  
detrimental to others.

35 Included stakeholder groups:

- Visitor Market (i.e. the Byron LGA Tourism Sector) - Operators
- Visitor Market (i.e. the Byron LGA Tourism Sector) – Visitors
- 40 • Residential Property Market – Renters and Purchasers (i.e., individuals/groups who  
will suffer disbenefits if rents or property values increase)
- Residential Property Market – Owners (i.e. individuals/groups who will enjoy benefits  
if rents or property values increase)
- Local Businesses and Services
- 45 • Local Workers (i.e. local employment)
- Local Residents / Community (i.e. quality of life of and permanency)

A detailed breakdown of the cumulative distributed net-benefit analysis can be found in Section 4.3, page 85 of the EIA.

5 To summarise, the SEPP (180 day per year cap across the entire LGA) was given the highest overall score as it is predicted to generate net benefits for all stakeholder groups except for Visitor Market – Visitors. Under this option, strong benefits are expected to accrue to the Renters and Purchasers and Local Residents / Community without any net disbenefits accruing to Residential Property Owners, Local Services, Businesses and Local Workers.

10

**Table 11:** Ratings from the Cumulative Distributed Net-Benefit Analysis.

Policy Option	Overall Rating
Base Case – SEPP Option	High Net benefit (+13.5)
Base Case – SEPP Alternative	High Net benefit (+12)
Option 1 – Planning Proposal	Moderate Net benefit (+7)
Option 1A – PP Alternative	High Net Benefit (+12)
Option 1B – Urbis precincts	Moderate Net Benefit (+8.33)
Option 2 – No Caps	Moderate Net Benefit (+7.5)

## Recommendation

15

The EIA ultimately concluded that a 180-day per year cap across the entire Byron LGA was the preferred policy option from an economic perspective. The report estimates this option will provide the most substantial benefits across the seven relevant stakeholder groups while minimising detrimental impacts on the visitor market.

## 20 Peer review and discussion of issues

After an initial review of the EIA by Council staff, it became apparent there were several potential problems with the methodology, impact assessment and net-benefit analysis used to produce the reports final recommendation. For example, the report has limited social impact assessment and there appeared to be anomalies in the ratings applied to certain impacts and stakeholder groups.

25

To address these concerns, and to gain a second opinion, Council commissioned [Dr. Peter Phibbs](#) to provide a peer review of the EIA (Attachment 2).

30 Dr. Phibbs was previously a Professor in the Faculty of Architecture, Design and Planning at the University of Sydney. He has considerable experience in economic impact assessment and has published numerous academic papers on the issue. Peter’s recent research has focused on housing issues, including detailed examinations of the short-term rental market and appropriate planning responses. Along with his colleague [Professor Nicole Gurrán \(sydney.edu.au\)](#), Peter authored one of the early papers in the international planning literature on planning responses to short-term rental housing.

[Challenging the Discourse around the Impacts of Airbnb through Suburbs Not Cities: Lessons from Australia and COVID-19 - Critical Housing Analysis \(housing-critical.com\)](#)

[Introduction to the Special Issue: Short-Term Rentals and the Housing Market - Critical Housing Analysis \(housing-critical.com\)](#)

5 Perhaps the most significant issue raised in the peer review is that the authors have attempted to use the findings of the EIA as a decision-making tool, just as you would a cost-benefit analysis. In Dr. Phibbs' view, this is a fundamental error. He noted that although economic impact analysis can be a useful aid in decision making, it is not intended to be used as an evaluative tool by itself. This is because many actions that  
10 might generate significant economic benefits could also have significant social and environmental costs.

He further noted that the scoring system used to produce the reports final recommendations does not attempt to weigh the relative importance of the various stakeholder groups. This means benefits to the community from less STRA is outweighed  
15 by the negative impacts of visitors having to pay more for their accommodation. And while the authors might claim they didn't know the weights to apply, by combining the scores in the way they have in the report they explicitly use an equal weighting for the impacts on each stakeholder. On this issue, Dr Phibbs commented that "unless you consider the relative weightings of the various stakeholders, it is impossible to come to a balanced  
20 recommendation. Just adding up scores is not a method that will generate any precision". As a result, he was strongly of the view that the recommendations that the consultant provides are misleading.

In addition to these main points, the peer review also highlighted several other potential problems with the report. For example, the EIA does not include any assessment of the  
25 impacts on the State economy. The Urbis report suggests that restricting the supply of tourist accommodation will lead to people having holidays in surrounding locations. However, in economic terms, this means there will be no net economic impact – the economic activity will be transferred to another area. Transferring tourists from Byron Shire to other locations in NSW with less stressed housing markets would have net benefits for  
30 NSW.

Several other issues were also identified, including an unusual and limited social impact assessment, questionable figures on the long-term rental market and a general downplaying of the benefits of long-term renting versus STRAs. Dr. Phibbs notes that "in  
35 places, the study looks like it might have been funded by STRA owners in Byron Bay rather than taking a broader perspective".

In addition to the findings of the EIA and the peer review, there is another issue that warrants further discussion.

On June 24, 2021, DPIE issued a Gateway determination which requires Council to update the Planning Proposal to reflect the recommendations of the EIA. What this means  
40 in practice is that the final form of the Planning Proposal, and the ultimate policy response, will be decided on fairly narrow economic grounds by an external consultant. This is an

unfortunate outcome considering the broad range of social, economic, and environmental considerations that need to be taken into account on this issue.

## Conclusion

5 As a result of the peer review and other issues raised in this report, it is recommended that the Planning Proposal NOT BE updated to reflect the recommendations of the EIA at this stage. It is highly questionable whether the SEPP will provide the best balance of economic and social benefits for the Byron Shire community, particularly in the context of the current housing crisis.

10 Instead, it is recommended that the existing Planning Proposal together with the peer review of the EIA be forwarded to DPIE for further consideration and issue of a revised Gateway Determination. This option is considered to offer the greatest social benefit due to increased housing opportunities while also having relatively mild impacts on the tourism sector. The Planning Proposal will need to be amended to satisfy several conditions in the Gateway determination before being sent to DPIE.

15 It should also be noted that if Council elects instead to adopt the EIA recommendation, this will require the Planning Proposal to be withdrawn, allowing the current planning rules that apply under the SEPP (Housing) 2021 to continue. Correspondence with DPIE late last year confirmed that Ministerial Direction 3.7 (Reduction in non-hosted STRA period) would remain in force for the foreseeable future. DPIE have also indicated that the STRA  
20 provisions in the Housing SEPP could potentially be reviewed in 2024. Thus, if the Planning Proposal is withdrawn, there may be an option to revisit a possible 90-day cap at some point in the future.

## Strategic Considerations

### *Community Strategic Plan and Operational Plan*

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 4: We manage growth and change responsibly	4.1	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	4.1.3.10	Prepare a Planning Proposal to enable precinct based Short Term Rental Accommodation.

## 25 Recent Resolutions

- 20-001 – Council Planning Meeting 20 Feb 2020 – Planning Proposal for short-term rental accommodation

20-605 – Council Planning Meeting 19 Nov 2020 – Impacts and management options for STRA in Byron Shire.

**Legal/Statutory/Policy Considerations**

As discussed in the report.

**5 Financial Considerations**

The Planning Proposal and the Council associated documents prepared to date have been Council funded and resourced. This includes staff time and a budget allocation for the Planning Proposal preparation and drafting work.

10 This includes part funding of the Economic Impact Assessment prepared by Urbis for the DPIE PDU which cost a total of \$108,278 (Council contribution \$20,278).

Should Council seek to expand the work required for the completion of the Planning Proposal e.g., survey work or additional social and economic analysis, a further budget allocation would need to be made once this work was scoped.

**Consultation and Engagement**

15 Should the Planning Proposal proceed to public exhibition, community consultation and engagement will be carried out in accordance with the requirements of the relevant Gateway determination from DPIE and any other requirements of Council.

STAFF REPORTS - INFRASTRUCTURE SERVICES

**Report No. 13.14 Kolora Way - Pedestrian Bridge and Shared Path - Project Update**

5 **Directorate:** Infrastructure Services  
**Report Author:** Kirk Weallans, Project Engineer  
James Flockton, Infrastructure Planning Coordinator  
**File No:** I2022/10

**Summary:**

10 Council has previously identified that the installation of a new pedestrian and cyclist access bridge/path across Yelgun Creek adjacent the Kolora Way Bridge on New Brighton Road, New Brighton as a priority project.

15 Mapped Coastal Wetland exists within the proposed shared path project footprint. Impact to this wetland by the project will trigger an Environmental Impact Statement, a process which is associated with additional costs and project planning timeframes.

20 In 2021/22 \$100,000 was allocated to undertake planning and design work to bring the project to a shovel ready status. Quotes were invited from 10 Consultants for the detailed design, necessary investigations, and preparation of an Environmental Impact statement. Council received 2 quotes price at \$166,000 and \$172,500 ex GST to complete this works package. The quoted prices significantly exceed Council's available budget of \$100,000 to complete this work.

25 As a consequence, Council's preferred way forward is to place the project on hold until sufficient funds are available to undertake the identified scope of work, continue to investigate alternative funding and delivery opportunities and re-allocate this budget in accordance with the recommendations in the December 2021 quarterly budget report including moving funds to enable the Ewingsdale Road cycleway missing link to be completed adjacent the roundabout entrance to the Cavanbah Centre which is also a priority A project.

30 Council staff are seeking direction from Council as to how best progress the project.

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**RECOMMENDATION:**

35 **1. That the Kolora Way - Pedestrian Bridge and Shared Path project be placed on hold until sufficient funding can be allocated to bring the project to a shovel ready status.**

# BYRON SHIRE COUNCIL

## STAFF REPORTS - INFRASTRUCTURE SERVICES

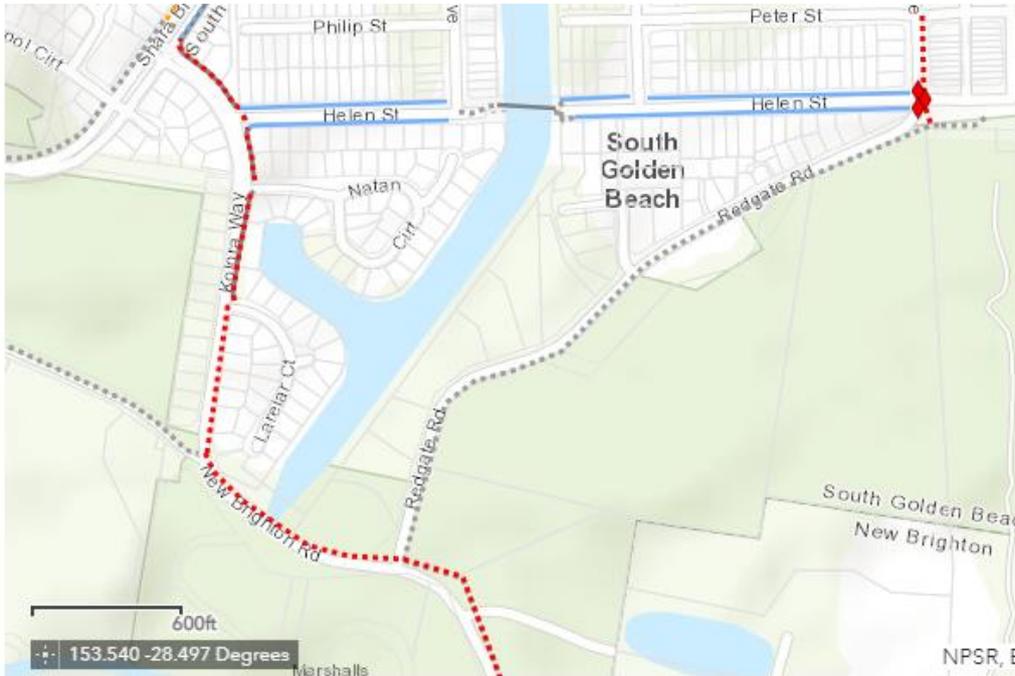
13.14

2. **That Council staff continue to investigate alternate grant funding and delivery methods for the project.**
3. **That the existing funding source of \$100,000 be reallocated as per the December 2021 quarterly report.**

5

Report

Council has previously identified that the installation of a new pedestrian and cyclist access bridge/path across Yelgun Creek adjacent the Kolora Way Bridge on New Brighton Road, New Brighton as a priority project. The project is considered a priority A project as defined in Council’s Pedestrian Access and Mobility Plan.



Map legend



Figure 1 – Excerpt from Council’s Pedestrian Access and Mobility Plan showing priority pedestrian connections in New Brighton

The objective of the project is to provide safer access across Yelgun Creek for pedestrians and cyclists of all abilities as well as enable safer access to nearby villages, schools and amenities.

Mapped Coastal Wetland exists within the proposed shared path project footprint. Impact to this wetland by the project will trigger an Environmental Impact Statement, a process which is associated with additional costs and project planning timeframes.

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Previously Council have resolved (**21-244**) "That Council supports the detailed design of Option 3 for the construction of a new shared path and pedestrian bridge to the north of the existing road bridge on Kolora Way, proceeding to shovel ready status in financial year 2021/22". (Lyon/Cameron)

- 5 In 2021/22 \$100,000 was allocated to undertake planning and design work to bring the project to shovel ready status. Quotes were invited from 10 Consultants for the detailed design, necessary investigations, and preparation of an Environmental Impact statement. Council received 2 quotes price at \$166,000 and \$172,500 ex GST to complete this works package. The quoted prices significantly exceed Council's available budget of \$100,000 to complete this work.
- 10

Council staff seek direction from Council as to how best progress the project. The following options have been considered by Council Officers:

1. Council identifies a suitable funding source to double the existing project budget and Council Officers proceed with delivering a shovel ready project.
- 15 2. Place the project on hold until sufficient funding can be allocated and have the existing funding returned to the reserve and/or reallocated.
3. Allocate the existing funding to construct small sections of path or access ramps where permissible under the existing funding allocation.
- 20 4. Allocate the existing funding to design an alternative shared path connection along Helen Street to connect to the existing Helen Street pedestrian bridge. This option is unlikely to trigger the extensive environmental and planning investigations associated with the Kolora Way/New Brighton Road shared path option. This connection is identified as a Priority C in the Pedestrian Access and Mobility Plan.
- 25 5. Council investigate alternate grant funding and alternate delivery methods for the project. The funding schemes to be investigated would include the bridge replacement program i.e. a shared path be constructed as part of a new vehicles bridge, as well as, active transport schemes where the pedestrian bridge would be a standalone structure.

- 30 It is recommended that the project be placed on hold until sufficient funding can be allocated. In addition, it is recommended that where an eligible grant funding scheme exists that an application be made for funding for the project.

## **Strategic Considerations**

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

<b>CSP Objective</b>	<b>CSP Strategy</b>	<b>DP Action</b>	<b>Code</b>	<b>OP Activity</b>
Community Objective 1: We have infrastructure, transport and services which meet our expectations	1.1: Provide a road network which is safe, accessible and maintained to an acceptable level of service	1.1.3: Prioritise road network asset renewal and upgrade programs in line with Community Solutions Panel values (SP)	1.1.3.16	Deliver Kolora Way Footpath and Bridge Upgrade

**Report No. 13.15 Request for exemption of developer contributions by Byron Community Centre**

**Directorate:** Infrastructure Services

**Report Author:** Christopher Soulsby, Development Planning Officer S94 & S64

5 **File No:** I2022/63

**Summary:**

The purpose of this report is to present a request for waiver of developer contributions to Council for consideration.

10 The Byron Community Centre has written to Council (Attachment 1) requesting that it's development be exempted from paying developer contributions.

The development does not meet any of the requirements for an exemption from having to pay the section 7.12 developer contributions as set out in the plan and on this basis the request should be declined.

15 The water and sewer contributions levied by Council may be waived subject to compliance with clause 2.7 of the adopted development servicing plan.

The applicant will have to seek a separate waiver from Rous Council for the bulk water charges.

20

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**RECOMMENDATION:**

1. That Council advises the developer that the contributions required by condition 7 of development consent 10.2021.59.1 will not be waived; and
- 25 2. That Council grants delegated authority to the General Manager to determine an application made by the Byron Community Centre to waive the water and sewer levies required by condition 6 of development consent 10.2021.59.1 provided that the developer demonstrates that they meet the requirements of section 2.7 of the Development Servicing Plan.

30 **Attachments:**

- 1 Letter from Byron Community Centre - Request for Exemption of Development Contributions for 10.2021.59.1 - 69 Jonson Street BYRON BAY, S2021/5797 

35

## Report

A development application for “alterations and additions to existing commercial premises/community building, comprising new verandah drinks bar and use of theatre bar and building identification signage” was lodged by Byron Bay Planning & Property Consultants on behalf of Byron Community Centre. The cost of works was noted as \$562,281.00 on the development application.

Development consent 10.2021.59.1 was issued on 30 November 2021. The consent has two conditions that require the payment of contributions. These are conditions six and seven as set out below:

### 6 **Certificate of Compliance – s307 Water Management Act 2000**

*Prior to issue of any Construction Certificate, a Certificate of Compliance under Section 307 of the Water Management Act 2000 must be obtained upon payment of developer charges for water and sewer as calculated in accordance with Byron Shire Council and Rous Water Development Servicing Plans. Where staging of the Construction Certificate occurs, a separate s307 Compliance Certificate must be obtained for each stage.*

*Byron Shire Council acts as Rous Water’s agent in this matter and will issue a Certificate of Compliance on behalf of Rous Water upon payment of the Rous Water Development Servicing Charge to this Council.*

*Note: For issue of the Certificate of Compliance, an application form and associated fee must be lodged via Council’s website. Copies of Byron Shire Council’s Development Servicing Plans are available via Council’s website.*

*Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment. A check must be made with Council to ascertain the current rates by contacting Council’s Principal Engineer Systems Planning, Utilities on 02 6626 7000. Applicable charges can also be found on Council’s website: <https://www.byron.nsw.gov.au/Services/Water-sewer/Plumbers-and-developers/Calculate-the-cost-of-an-Equivalent-Tenement#section-3>*

*The contributions payable will be adjusted in accordance with relevant plan and the amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.*

*Payment by Personal or Company Cheque will not be Accepted*

### **Water payments under the Water Management Act 2000**

*Charges will be calculated based on the additional water and sewerage load that the proposed development generates, shown in Equivalent Tenements (ET) by the following table:*

# BYRON SHIRE COUNCIL

## ADDITIONAL WATER & SEWER LOAD OF DEVELOPMENT (ET Policy 2018)

	<b>Stage 1</b>	<b>Stage 2</b>	<b>Stage 3</b>	<b>Stage 4</b>
Water	1.80 ET	4.95 ET	1.32 ET	0 ET
Bulk Water	1.80 ET	4.95 ET	1.32 ET	0 ET
Sewer	3.00 ET	8.25 ET	2.20 ET	0 ET

### 7 Section 7.12 levy to be paid

5 The levy will be calculated as follows:

*Levy payable = %C x \$C*

- *%C is the levy rate applicable as set out in the latest Ministerial Direction issued under section 7.17.*
- *\$C is the proposed cost of carrying out the development.*

10 The rate of %C is:

*Proposed cost of the development    Maximum percentage of the levy*

*Up to \$100,000 Nil*

*\$100,001–\$200,000 0.5 percent*

*More than \$200,000 1.0 percent*

15 *The cost of development must be calculated in accordance with clause 25J of the Regulation. The Cost Summary Report (copy attached) as set out in schedule 2 of the Section 7.12 contributions plan must be submitted to Council with the payment. The cost summary report must be prepared by a quantity surveyor. Copies of Cost Summary Report are available at Council's main office or may be downloaded from Council's website.*

20

The section 7.11 levy for condition 7 will be \$5,622.81 based on the estimated cost of construction. This is 1% of the cost of construction.

25 The current rates per equivalent tenement for the water and sewer charges in Byron Bay/Suffolk Park is \$8,943 for bulk water, \$830 for water and \$10,888 for sewer. If the developer requests their certificate of compliance this financial year, then the total for the payments required under the Water Management Act 2000 will be \$225,311.71.

The breakdown of these fees is as follows:

Water 8.07 ET @\$830.00 = \$6,698.10

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## STAFF REPORTS - INFRASTRUCTURE SERVICES

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Bulk Water 8.07ET @ \$8,943.00 = \$72,170.01

Sewer 13.45ET @ \$10,888.00 = \$146,443.60

5 The Byron Community Centre has requested the waiver of the section 7.11 fees. They have not formally requested the waiver of the water and sewer payments. This report will address both issues as the developer may not have been aware of the quantum of the water and sewer charges and staff have assumed that if the developer has an issue with the \$5,622.81 section 7.11 levy, then they will have a similar issue with the water and sewer charges. A telephone conversation with the General Manager of the Byron Community Centre has confirmed that they were unaware of the water and sewer charges and would like the waiver considered.

10 The section 7.11 levy is applied to all non-residential development. The exemptions contained within that plan are as follows:

*The levy will not be imposed in respect of development:*

- 15 (a) *Where the proposed cost of carrying out the development is \$100,000 or less; or*
- *for the purpose of disabled access; or*
  - *for the sole purpose of providing affordable housing; or*
  - *for the purpose of reducing a building's use of potable water (where supplied from water mains) or energy; or*
  - *for the sole purpose of the adaptive reuse of an item of environmental heritage; or*
  - *for residential development.*
- 20 (b) *Where a development proposal contains both a residential component and a non-residential component, then Council will calculate the levy for the residential component under the adopted section 7.11 plan and the levy for the non-residential component under this section 7.12 plan. The levy finally imposed on the development consent will be which ever the*
- 25 *greater amount is.*

The development does not meet any of these exemptions in the section 7.11 contributions plan. The levy cannot be waived under the plan.

30 Council may provide financial assistance to a person or organisation. Section 356 of the Local Government Act 1993 sets out the provisions that enable Council to financially assist a person.

### **356 Can a council financially assist others?**

- (1) *A council may, in accordance with a resolution of the council, contribute money or otherwise grant financial assistance to persons for the purpose of exercising its functions.*
- 35 (2) *A proposed recipient who acts for private gain is not ineligible to be granted financial assistance but must not receive any benefit under this section until at least 28 days' public notice of the council's proposal to pass the necessary resolution has been given.*
- (3) *However, public notice is not required if—*
- a) *the financial assistance is part of a specific program, and*

b) *the program's details have been included in the council's draft operational plan for the year in which the financial assistance is proposed to be given, and*

c) *the program's proposed budget for that year does not exceed 5 per cent of the council's proposed income from the ordinary rates levied for that year, and*

5 d) *the program applies uniformly to all persons within the council's area or to a significant group of persons within the area.*

*(4) Public notice is also not required if the financial assistance is part of a program of graffiti removal work.*

10 There is currently no budget available to provide this financial assistance. Council may set a budget to provide the financial assistance, but a source of funds would need to be found.

With respect to the water and sewer charges there is an exemption clause in the Development Servicing Plan (DSP).

### **2.7 Exemption**

15 *Under section 306 (4) and (5) of the Water Management Act 2000, the Minister for Planning may make a determination in regard to developer charges levied on Crown development. Crown developments for essential community services (education, health, community services, and law and order) are exempt from general developer charges. Water utilities may charge these developments only for that portion of the direct connection cost (e.g. for a lead-in main) relating to Crown development.*

20 *BSC may waive developer contributions where the proponent demonstrates to Council's satisfaction that it is a non-profit and charitable organisation, which by virtue of carrying out such development, is considered to be making a significant and positive contribution to the community and is unable to recover the charge from the end user.*

25 Council may not waive the bulk water charges. The applicant will have to make a separate submission to Rous Water.

As the applicant has not made a formal submission to seek the waiver of the water and sewer contributions there is not sufficient evidence before Council to make a determination if the applicant and the development meet the criteria set out in section 2.7 of the DSP.

30 Council may grant a delegation to the General Manager to approve the waiver subject to receipt of an application from the Byron Community Centre demonstrating that they meet the requirements for the waiver.

## **Options**

The following options are available to Council:

1. Council may require the developer to pay all contributions; or

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## STAFF REPORTS - INFRASTRUCTURE SERVICES

13.15

2. Council may nominate a budget to pay the section 7.12 contributions and financially assist the Byron Community Centre under section 365 of the Local Government Act 1993; and / or
- 5 3. Grant a delegation to the General Manager to waive water and sewer charges if the developer meets the requirements of section 2.7 of the Development Servicing Plan.

## **Strategic Considerations**

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

<b>Community Objective 1: We have infrastructure, transport and services which meet our expectations</b>	1.5: Provide continuous urban water and sewerage services within the Shire	1.5.4: Implement the Water and Sewerage Strategic Business Plan
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## **Legal/Statutory/Policy Considerations**

- 10 The implications of section 356 of the Local Government Act have been discussed above as has the waiver clause in the section 7.12 plan and the DSP.

## **Financial Considerations**

There is no identified source of funding to add to a budget to financially assist this developer.

## 15 **Consultation and Engagement**

No consultation has been undertaken for this application.