

# Notice of Meeting

## Infrastructure Advisory Committee Meeting

An Infrastructure Advisory Committee Meeting of Byron Shire Council will be held as follows:

Venue	Conference Room, Station Street, Mullumbimby
Date	Thursday, 16 June 2022
Time	9.00am

Phillip Holloway  
Director Infrastructure Services

I2022/690  
Distributed 09/06/22

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## CONFLICT OF INTERESTS

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**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

### 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 MEETING**

- 1. APOLOGIES**
- 2. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY**
- 3. STAFF REPORTS**

**Infrastructure Services**

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STAFF REPORTS - INFRASTRUCTURE SERVICES

**Report No. 3.1 Election of Chair and Committee Constitution**

5 **Directorate:** Infrastructure Services  
**Report Author:** Shelley Flower, Executive Assistant IS  
**File No:** I2022/565

**Summary:**

10 The Infrastructure Advisory Committee elect a Committee Chairperson and ratify draft Committee Constitution.

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**RECOMMENDATION:**

15 **That Council supports the following:**

1. **Election of Cr ..... as the Chairperson of the Infrastructure Advisory Committee.**
2. **The Infrastructure Advisory Committee adopting the draft Committee Constitution.**

20 **Attachments:**

- 1 DRAFT Infrastructure Advisory Committee Constitution 2022, E2021/148639 , page 7 [↓](#)

**Report**

The Infrastructure Advisory Committee is to elect a Chairperson and ratify the draft Committee Constitution (attached).

**Strategic Considerations**

**5 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 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**

This is a new advisory Committee as per Council resolution 22-026. Prior to creation of this Committee, similar subject matter was covered by the Transport and Infrastructure Advisory Committee.

**10 Legal/Statutory/Policy Considerations**

The Constitution has been prepared with reference to Council’s Code of Conduct and Code of Meeting Practice.

15 The Committee is an advisory Committee of the Council. The objectives of the Committee are outlined in the Constitution. The role of the Committee is to report to Council and provide appropriate advice and recommendations on matters relevant to the Constitution.

**Financial Considerations**

Not applicable.

**Consultation and Engagement**

Not applicable.

















**Report No. 3.2 Mullum to Bruns/Ocean Shores Cycleway - Route Options**

**Directorate:** Infrastructure Services

**Report Author:** Kirk Weallans, Project Engineer

5 **File No:** I2022/631

**Summary:**

10 The first stage of the Mullum to Bruns Cycleway was to complete an investigation of route options. This options study is to help Council determine a preferred route from a risk, budget and user perspective. The options study is now complete, and two routes have been shortlisted by Council as being worthy of more detailed investigation.

**Route A** – a trail following the disused rail corridor north from Mullumbimby and connecting to Ocean Shores and Brunswick Heads via a combination of road reserve, private property and existing paths.

15 **Route D** – a trail along Mullumbimby Road, Hambly Road, through sugar cane fields directly to Henderson Lane, The Saddle Road and Tweed Street.

The route alignments are conceptual only at this stage and a final alignment would only proceed following full consultation, additional investigations/design and be ratified by Council.

20 Council have resolved to take the two preferred options to the community consultation phase of the project prior to considering selection of a final option.

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25 **RECOMMENDATION:**

**That the Infrastructure Advisory Committee note the Mullum to Bruns Cycleway – Route Options Report.**

**Attachments:**

30 1 24.2021.3.1 - Mullum to Bruns Cycleway - Route Options Report - Oct 2021, E2021/135561 , page 18 [↓](#)

## Report

5 Council is exploring options for a new cycleway project to connect the town of Mullumbimby to Brunswick Heads/Ocean Shores and beyond. Council's original objective for the project was to provide a cycleway connection between Mullumbimby township and Brunswick Heads, however, the options study includes solutions that cover the other suburbs in the north of Shire. The project, if successful, is significant for the region and could provide a safe and accessible alternative transport route for the local community linking urban areas to schools and workplaces along the route, helping achieve the goals of the Byron Shire Council's Community Strategic Plan, Pedestrian Access and Mobility Plan and Bike Plan.

10

A preliminary investigation of route options has been undertaken to help determine a preferred route from a risk, budget and user perspective.

The various cycleway routes were assessed against the following categories:

- Route distance
- 15 • Grades
- Travel Time
- Intersections to navigate
- Planning & Environmental Constraints
- Land acquisitions
- 20 • Connectivity to population groups

Following two workshops with Councillors in which risk and opportunities were discussed, two routes were shortlisted for community consultation (refer figure 1), namely Route A and Route D.

25 **Route A** – a trail following the disused rail corridor north from Mullumbimby and connecting to Ocean Shores and Brunswick Heads via a combination of road reserve, private property and existing paths.

**Route D** – a trail along Mullumbimby Road, Hambly Road, through sugar cane fields directly to Henderson Lane, The Saddle Road and Tweed Street.

30 Native title, planning and environmental approvals, ecological impact, safety, flooding, budget, community views, land acquisitions and project timeframes are a few of the risks associated with the cycleway route options presented.

The route alignments are conceptual only at this stage and a final alignment would only proceed following full consultation, additional investigation and design activities and be ratified by Council.

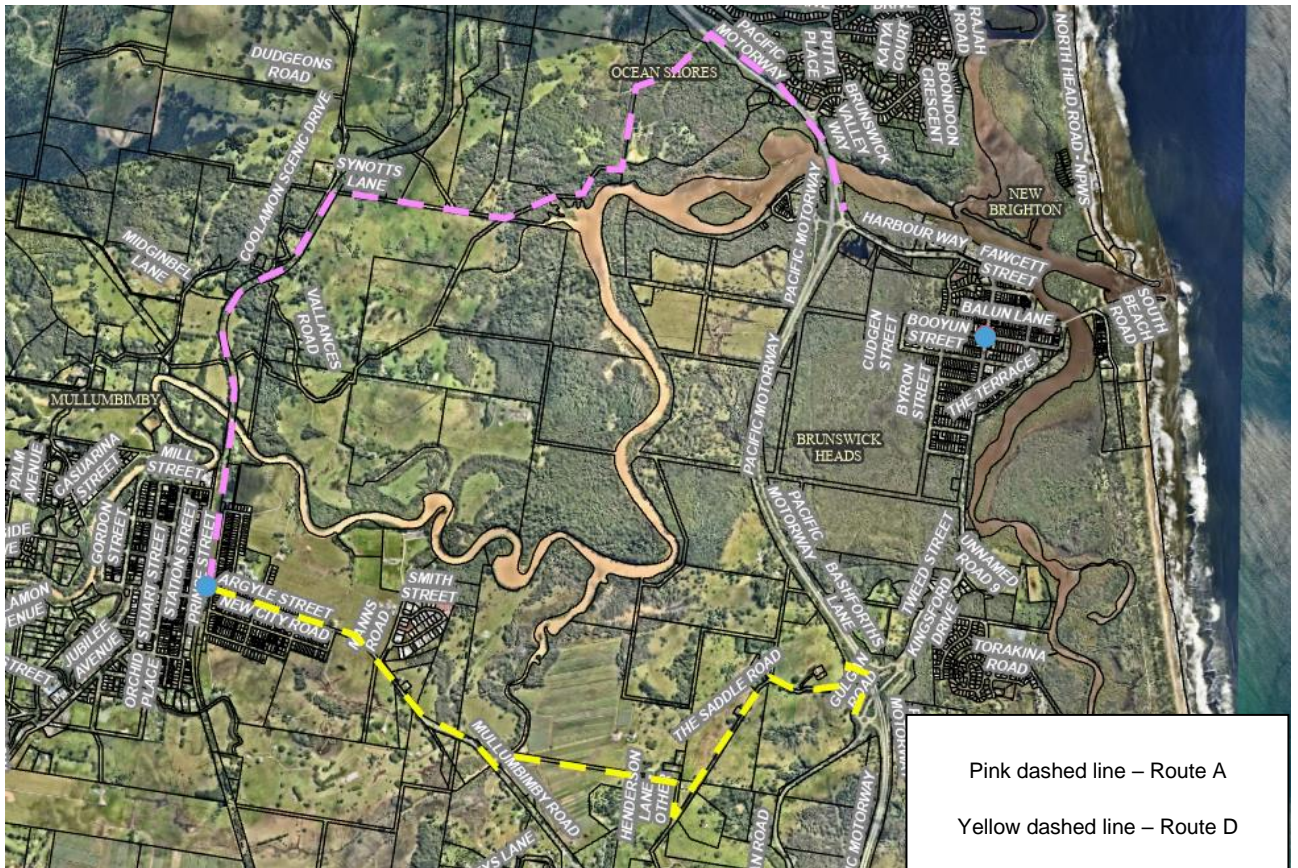


Figure 1 – Route A and Route D options to connect Mullumbimby to Brunswick Heads

**Next steps**

5 Community consultation regarding the two shortlisted options Route A and Route D is being developed and will commence soon. The outcomes will be reported to the Infrastructure Advisory Committee and then Council with an aim to select a preferred route.

Upon selection of a preferred a route the detail design phase will be commenced.

**Strategic Considerations**

10 **Community Strategic Plan and Operational Plan**

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
<b>Community Objective 1: We have infrastructure, transport and services which meet</b>	<b>1.6: Manage traffic and parking in an efficient manner</b>	<b>1.6.3: Ensure new infrastructure is planned and funded to meet the needs of the current and</b>	<b>1.6.3.4</b>	<b>Deliver Mullumbimby to Brunswick Heads On Road Cycleway</b>



# BYRON SHIRE COUNCIL

## STAFF REPORTS - INFRASTRUCTURE SERVICES

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<b>our expectations</b>		<b>future population (SP)</b>		
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### **Recent Resolutions**

Res- 22-140

**Resolved** that Council:

1. Commences community consultation on Route Options A and D as part of the Mullum to Bruns cycleway project.
2. Reports the findings of the community consultation back to Council with a view to inform a single preferred route for the cycleway which is to be progressed in terms of investigation, planning and design activities.















































































































































**Report No. 3.3 Myocum Quarry DA Compliance and Options Report**

**Directorate:** Infrastructure Services

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

5 **File No:** I2022/656

**Summary:**

10 This report presents the findings and recommendations of the “DA Compliance Assessment and Options Assessment for Myocum Quarry” Report by Consultants GHD, and informs the Infrastructure Advisory Committee of actions being undertaken as resolved by the Executive Team of Council.

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**RECOMMENDATION:**

15 **That the Infrastructure Advisory Committee note the contents of this report and the actions being progressed as resolved by the Executive Team.**

**Attachments:**

- 20 1 24.2021.23.1 Myocum Quarry DA - FINAL final draft 12554185-REP-1\_DA Compliance and Options Assessment for Myocum Quarry, E2021/155252 , page 87 [↓](#)
- 2 2212554185 Rev A Drawings Myocum Quarry Survey simplified GHD 2022, E2022/22942 , page 171 [↓](#)
- 3 24.2021.23.1 Myocum Quarry DA - Comments from Chris Larkin SEE Manager RE: Myocum Quarry DA review, E2022/10438 , page 187 [↓](#)

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## Report

5 A Development Application (DA 10.2001.496.2) for the Myocum Quarry (Lot1/DP591441) was approved in 2008 to amend extraction amounts and approve the rehabilitation plan in accordance with an Environmental Impact Statement (2001) Supplementary Report (2002) and Statement of Environmental Effects (2007) prepared by GHD.

It was a committee recommendation (4.5.1) of the former Water, Waste and Sewer Steering Committee (WWSC): *That WWSC receive further information on the status and obligations of rehabilitation on Council's quarry and other quarries.*

10 GHD consulting were engaged in June 2021 to undertake two studies:

- Aerial survey and mass variance assessment - an aerial survey to determine terrain and cut/fill variances with the DA's rehabilitation plan was undertaken in 2016. For currency GHD and surveyor HELImetrex were engaged to update the survey, terrain model and assessment of variances with the DA's rehabilitation plan.
- DA Compliance Assessment and Options Assessment – to ascertain the status of the remediation and rehabilitation of the Myocum Quarry in accordance with DA conditions to determine compliance. An options assessment was requested to propose short, medium and long-term options for the site and to estimate the cost of rectification options. The study also investigates other areas of the quarry to determine if quality material exists for extraction and to determine approval requirements to further extract to maximise the potential of the site.

## Key issues

### *Aerial Survey and Mass Balance Assessment:*

25 It was found that the Myocum Quarry does not currently match the required final rehabilitated landform specified by the DA conditions. There are both areas of overextraction (ie. areas needing fill to achieve the DA final landform/control line) and underextraction (areas needing to be cut to achieve the DA final landform/control line). This can be viewed in the survey figures in Attachment 2 of this report (and alternatively  
30 Appendix A of the Attachment 1 report provides a different presentation). (The cross section figures are the easiest to interpret.)

A stakeholder request was made to simplify the figures in the Attachment 1 report to aid the interpretation of the current landform compliance and this was attempted in Attachment  
35 2. The "depth range levels" figure was simplified to 2 colours in Attachment 2 where:-  
- Yellow shades indicates where fill is required to achieve DA levels. Less fill required = light shades, more fill required = dark shades. This will be difficult if not impossible to achieve in many places due to the sheer landform currently existing in these areas.

# BYRON SHIRE COUNCIL

## STAFF REPORTS - INFRASTRUCTURE SERVICES

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- Blue shades indicate areas where cuts can be performed (and material won) to achieve the DA levels.

### *DA Compliance and Options Assessment for Myocum Quarry:*

The report noted areas of non-compliance relating to the following categories:-

- 5 1. Progressive rehabilitation – 5 specific areas of non-compliance relating to rehabilitation.
- 10 2. Monitoring and assessment requirements – the environmental performance of the site is being tracked and managed where required, however an Overall Quarry Monitoring Plan is required to alleviate a number of the minor issues that occur on site and potentially alleviate some of the more significant non-compliance issues associated with the operation of the quarry.

If no action is taken, Council may be subject to action from the following regulatory bodies:

- *“Byron Shire Council:*
  - 15 – *BSC may issue stop work notices or potentially prosecute the operator (proponent) for breaching conditions of Consent of DA 10.2001.496.2 in accordance with the Environmental Planning and Assessment Act 1979 particularly in relation to:*
    - 20 ▪ *Condition 1 – the Rehabilitation Plan provided in the 2001 EIS indicated that the quarry will be extracted to a maximum depth of 0 metres AHD. However, there has been extraction below this level.*
    - *Condition 8 – no revegetation has taken place as detailed in this condition.*
    - *Condition 28 – the site has not been progressively rehabilitated as detailed in this condition.*

*[It is to be noted that Council is unlikely to take enforcement action against itself]*
- *NSW Resources Regulator:*
  - 25 – *The NSW Resources Regulator is responsible for Work, Health and Safety issues in relation to the quarry. As quarrying has occurred outside of the extent approved under DA 10.2001.496.2, the quarry may be deemed unsafe and as such work, health and safety measures may need to be addressed prior to any further quarrying at the site.*
  - 30 – *The Inspector of Mines responsible for the quarry stated that the eastern high wall required rehabilitation to make safe. Other safety issues may also exist.*
- *NSW Environment Protection Agency:*
  - 35 – *The NSW EPA may prosecute Council in accordance with the Protection of the Environment Operations Act 1997 for breaches against EPL 12600 for the Myocum Quarry.*
- *Water NSW (through Natural Resource Access Regulator):*

- Should the groundwater be intercepted and contaminated, without an aquifer interference licence from Water NSW, the Natural Resource Access Regulator may take action in accordance with Water Management Act 2000.
- Investigators are authorised under the Water Management Act 2000 to gather evidence. NRAR’s authorised officers can enter a person’s private property (other than a residence) without a search warrant and undertake activities on a property such as inspect and test equipment, take samples and examine records.”

**Options**

Options for short, medium and long term rectification of compliance at the Myocum Quarry were assessed with the final recommendation being:

*“Based on the findings of the compliance and options assessment, and consideration of the risks associated with the ‘do nothing’ option, GHD recommends that the best course of action in the short term would be to seek development consent for a modified quarry proposal, which would involve modification to the existing development consent to legitimise the areas which have been over excavated whilst still pursuing the material that was envisaged to be extracted under the original approval (as modified).*

*Having reviewed the previous approval documentation it is recommended that the best course of action in the short term is to prepare a Section 4.55(2) modification to the original development consent for the quarry to enable extraction of the remaining resource, ongoing stockpiling, crushing, grinding and separating at the site, resolution of a revised rehabilitation strategy for the site given the over extraction at the site. This exercise may also rationalise the sediment basins on the site to be able to maximise the use of the site for identified long term options, if BSC chooses.*

*An SEE would also outline the proposed modifications for which approval is to be sought and assess the likely environmental impacts of the modifications. Consideration would be given to flora and fauna, visual amenity, air quality, water management, noise and vibration, Aboriginal cultural heritage, traffic and access, hazards and risks, geotechnical constraints, rehabilitation and revegetation. These matters would be considered relying on predominantly existing available desktop information.”*

The cost estimate for implementing the above development consent modification recommendation is \$20-60,000 (ex GST).

**Next steps**

The Executive Team resolved to adopt the consultant’s recommendation to seek to obtain a modified quarry development consent.

The project team will now progress this action commencing with a Development Advisory Panel (DAP) meeting with the SEE Directorate prior to proceeding with the preparation of documents to support a modified DA submission.

**Strategic Considerations**

**Community Strategic Plan and Operational Plan**

## BYRON SHIRE COUNCIL

### STAFF REPORTS - INFRASTRUCTURE SERVICES

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There are no specific Operational Plan Activities for the Myocum Quarry, however several Delivery Program Actions relate to the operation of the quarry, neighbouring land uses, remaining resource availability for road networks, environmental outcomes and statutory outcomes including:

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
<b>Community Objective 1: We have infrastructure, transport and services which meet our expectations</b>	1.1: Provide a road network which is safe, accessible and maintained to an acceptable level of service	1.1.4: Develop road network new works program in line with Community Solutions Panel values/principles (SP)		
<b>Community Objective 1: We have infrastructure, transport and services which meet our expectations</b>	1.1: Provide a road network which is safe, accessible and maintained to an acceptable level of service	1.1.6: Provide stormwater infrastructure to manage flood mitigation, social and environmental outcomes		
<b>Community Objective 1: We have infrastructure, transport and services which meet our expectations</b>	1.2: Provide essential services and reliable infrastructure which meet an acceptable community standard	1.2.1: Deliver infrastructure maintenance services in line with Community Solutions Panel values (SP)		
<b>Community Objective 1: We have infrastructure, transport and services which meet our expectations</b>	1.4: Provide a regular and acceptable waste and recycling service	1.4.4: Ensure facilities and services meet statutory requirements		

## 5 Recent Resolutions

Not applicable

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

5 It is considered that the Myocum Quarry currently contains a high level of regulatory risk, and potentially high levels of financial, reputational, environmental and workplace health and safety risk operating the quarry in its current state and under the current DA.

Refer to the consequences of no action in the 'Key Issues' section above.

### **Financial Considerations**

10 To implement the remediation of Lot 12 Bayshore Drive Byron Bay, in excess of \$900,000 was internally borrowed from the Quarry Reserve. It is anticipated that with the foreshadowed sale of part of Lot 12 these funds will be returned to the reserve to facilitate any necessary remediation of the Quarry.

### **Consultation and Engagement**

15 IS staff referred the "DA Compliance Assessment and Options Assessment for Myocum Quarry" to the SEE department for their review and comment. The initial response from Manager Sustainable Development, SEE (Chris Larkin) is provided in Attachment 3.

Internal stakeholders have been consulted within the Works and Resource Recovery divisions of the IS directorate.





































































































































































































































