

Agenda Ordinary Meeting

Thursday, 25 August 2022



BYRON
SHIRE
COUNCIL

Agenda Ordinary Meeting

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

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

CONFLICT OF INTERESTS

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

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

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

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

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

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

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

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

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

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

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

Disclosure and participation in meetings

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

- (a) at any time during which the matter is being considered or discussed by the Council or Committee, or
- (b) at any time during which the Council or Committee is voting on any question in relation to the matter.

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

Non-pecuniary Interests - Must be disclosed in meetings.

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

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

RECORDING OF VOTING ON PLANNING MATTERS

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

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

OATH AND AFFIRMATION FOR COUNCILLORS

Councillors are reminded of the oath of office or affirmation of office made at or before their first meeting of the council in accordance with Clause 233A of the Local Government Act 1993. This includes undertaking the duties of the office of councillor in the best interests of the people of Byron Shire and the Byron Shire Council and faithfully and impartially carrying out the functions, powers, authorities and discretions vested under the Act or any other Act to the best of one's ability and judgment.

BYRON SHIRE COUNCIL

BUSINESS OF ORDINARY MEETING

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

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

MAYORAL MINUTE

Mayoral Minute No. 8.1 Community Awards Ceremony

File No: I2022/965

5

I move that Council:

- 10 1. **Begin consultation with Byron Shire community stakeholders, particularly local Aboriginal community representatives, on a community recognition program with a view to:**
- a) **Discontinue the Australia Day Awards Ceremony held by Byron Shire Council each year.**
 - 15 b) **Establish a more inclusive annual Byron Shire Community Awards program to be held at another time during the year.**
2. **That a report be provided back to Council on the outcomes of the consultation for decision.**

20

Background Notes:

25 Australia Day holds great significance within the community and the country at large as a time to reflect on and acknowledge our history. Given the weight this day holds, and sentiment expressed by the people of Byron Shire, I am proposing that Council discontinue the annual Australia Day Awards Ceremony in pursuit of more inclusive avenues for community celebration.

30 Byron Shire is brimming with everyday people doing amazing work and tirelessly servicing their community. These people deserve recognition for their contribution to the Shire and I look forward to Council formally congratulating each and every one of them. To this end, I am proposing that Council explore the possibility of a Community Awards Ceremony that forefronts and champions the best of our community. Working closely with stakeholders across the Shire, this can be an event that the entire community can participate in and enjoy.

Signed: Cr Michael Lyon

35

Mayoral Minute No. 8.2 2022 Local Government NSW Conference Motions

File No: I2022/998

5

I move that Council submits the following Motion to the Local Government NSW Conference 2022:

10 **That Local Government NSW calls on the NSW Government to reverse the cost shift onto Local Government for liability for Native Title Compensation by deleting 'Division 8.4 – Compensation responsibilities' from the Crown Lands Management Act 2016.**

15 Background Notes:

Council acknowledges and supports the rights and interests of Bundjalung of Byron Bay Aboriginal Corporation (Arakwal) RNTBC and all Native Title holders, including rights to compensation under the Native Title Act 1993 (Cth), and NSW equivalent.

20 Until recently, the NSW Government was responsible for liability of Native Title compensation for the wide variety of activities that occur on Crown Land that can give rise to compensation. The NSW Government's [Budget Papers](#) include Native Title compensation as a non-quantifiable contingent liability but some of the responsibility for future contingent liability has been transferred to Local Government.

25 NSW Government shifted the cost of Native title compensation liability for some future acts onto local government with the introduction of 'Division 8.4 – Compensation Responsibilities' of the Crown Lands Management Act 2016.

30 Under the new regime, councils can now be liable to indemnify the NSW Government for Native Title compensation payable for acts done by a council on Crown Land under sections 24JAA, 24KA, 24MD or 24NA of the Native Title Act 1993 (Cth). This part of the Crown Lands Management Act also allows the NSW Government to take action against a council to recover native title compensation liability as a debt.

This shift of responsibility for future native title compensation represents a potentially significant future financial burden on local councils and it is inconsistent with LG NSW's call to the NSW Government to end cost shifting such as this onto Local Government.

35 **Signed: Mayor Michael Lyon**

NOTICES OF MOTION

Notice of Motion No. 9.1 High urban water charge



File No: I2022/1004

5

I move that Council:

- 10
1. Offer financial relief to a particular customer for their recent quarterly water charge of \$2,445 due on 12 July and incurred as a result of a waterline breakage that went undetected, because of flood debris and saturated soil conditions in the 2022 wet season.
 2. Offer that relief in the terms of the policy that Sydney Water applies in such circumstances, as articulated in Section 2.1.1 of that Policy; and
 - 15 3. Make the matter of relief for undetected water leakage a discussion topic on the next Water and Sewer Advisory Committee meeting (scheduled for 20 October 2022) and present the Sydney Water Policy as an example.

20 **Attachments:**

- 1 Policy: Debt Management and Financial Hardship Assistance 2019, E2019/63417 
- 2 Sydney Water Allowances and Rebates - 2022, E2022/75739 

25 **Signed: Cr Duncan Dey**

Councillor's supporting information:

30 The property is low-lying and flood-prone, on the outskirts of Mullumbimby. In clearing flood debris after the 2022 flood, the landholder accidentally damaged a waterline. There was no trace of the leak because the whole area was underwater and then saturated for months.

Council staff kindly notified the customer as soon as the meter reading came in. This is great practice. The customer had the leak fixed immediately.

As a community we must conserve water as best we can. It is a precious resource. To do this, Council can apply a bit of carrot and a bit of stick. Water Authorities such as Rous

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9.1

Water and Sydney Water have policies for financial relief in such circumstances. The Sydney Water version appears below.

I agree with Sydney Water that, when the leakage is not deliberate and is not a repeat offence, financial support can be offered.

- 5 The current case raises the issue of Byron Shire having a policy adopted through a public process, to deal with the issue in general. Part 3 of this Motion proposes that we create such a policy.

Parts 1 and 2 propose financial relief for the customer currently in that predicament.

Staff comments

- 10 **by Cameron Clark Manager Utilities, Infrastructure Services**

In relation to the policy development suggested in the Notice of Motion [NOM] (Part 3) it would be similar to Sydney Water Allowances and Rebate Policy (Attachment 2).

- 15 Council currently has a Debt Management and Financial Hardship Assistance Policy (Attachment 1) that enables customers to pay back the water charge over an agreed term interest free.

However, Council staff recommend that a once off relief adjustment can be applied to the owner's water charge where there was a water leak as referenced in Part 1 of the NOM.

The water lost due to the leak event will be charged at cost price that is subject to change.

- 20 The combination of the Debt Management and Financial Hardship Assistance Policy (interest free payment plan) could be used in conjunction with the cost price adjustment for water loss.

The owner receives a once off adjustment where the owner then becomes ineligible for any further adjustments.

Financial/Resource/Legal Implications:

- 25 Byron Shire Council does not have the same number of rate payers as Sydney Water therefore, does not have the same economies of scale around revenue to support the long term financial management of water infrastructure.

- 30 The cost of capital and operations in the water industry has significantly increased over the past 5 years. This includes the future water strategy to meet climate change criteria. Therefore, it is critical to ensure the revenue stream to water fund is managed appropriately to ensure Council meets their obligations around being a water authority.

If the relief adjustment is at cost price this minimises cost impact to Council, however there is still lost revenue to the water fund depending on how many customers opt for the relief adjustment.

In addition, there will be administration for the rates department to process the relief adjustment.

Is the proposal consistent with any Delivery Program tasks?

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.1: Enhance trust and accountability through open and transparent leadership	1.1.1: Leadership - Enhance leadership effectiveness, capacity, and ethical behaviour	1.1.1.1	Coordinate Council's annual policy review program, update and publish adopted policies
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.3: Ethical and efficient management of resources	1.3.1: Financial Management - Ensure the financial integrity and sustainability of Council through effective financial management	1.3.1.5	Issue annual/quarterly billing of rates and other charges
5: Connected Infrastructure We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable	5.5: Provide continuous and sustainable water and sewerage management	5.5.1: Water supply - Provide a continuous water supply that is maintained in accordance with NSW Health guidelines	5.5.1.14	Asset Management Plans / Asset Management System

Notice of Motion No. 9.2 Let's inform the Shire's reading community

File No: I2022/1005

5

I move that Council:

1. Recognises the value:

a) of local independent media over corporate syndicated media, and

10 b) of local newspapers like the Byron Shire Echo; and

2. Negotiates with The Echo a weekly or fortnightly advertising block aimed at informing the Shire's reading community about Council initiatives that involve them, including:

15 a) corporate plans including Council's Community Strategic Plan, Resourcing Strategy, Delivery Plan, Budget and annual Operational Plan;

b) strategic plans and policies that will have a significant impact on residents, community, the environment, business or the economy;

c) land-use and development plans including our Local Environmental Plan, and Development Control Plans;

20 d) where legislation requires community notification or consultation;

e) Development Applications with notification level 2 or higher (for publishing at least 5 days before their public exhibition period begins);

25 f) vacancies on Advisory Committees and other groups that include community members, at least twice before the closing date for nomination; and

g) community documents like the Community Strategic and Operational Plans.

3. Receives a report in October 2022 on costs and form of a weekly or fortnightly advertising block in the Echo, and on funding sources for it.

30 **Attachments:**

1 Community Engagement Policy, E2018/10445 

Signed: Cr Duncan Dey

Councillor's supporting information:

5 The issue of advertising in The Echo has been raised perennially since it ceased four years ago. Several submissions to our Delivery Program 2022-23 ask for notifications to appear again in The Echo (see Report 4.3 to our Extraordinary meeting of 30 June, Attachment 5).

Advertising of DA's in print media is no longer required by legislation. A review of Council practices has found the online DA tracker to be a more effective and efficient use of resources.

10 But the public doesn't always know when to consult the DA Tracker. As demonstrated with the recent DA in Clifford Street Suffolk Park, it was a slow start for community as word spread after notification of the public exhibition period by letters to immediate neighbours.

15 Informing community is inherent to the philosophy of government. Council has various related Policies including our *Community Engagement Policy* as appended to this Motion. Many of the items included in my Point 2 above come from that policy.

In addition, our *Communications & Social Media Policy* opens its Introduction with:

Byron Shire Council recognises the important relationship it has with its community, the need to communicate clearly about those matters which affect them and the need to consult in meaningful ways when decisions need to be informed by community input.

20 **Staff comments**

by Heather Sills, A/ Manager Corporate Services, Corporate and Community Services Directorate:

25 For clarification, the statement that advertising in The Echo has 'ceased' is incorrect. Council regularly places paid advertisements in The Echo. Newspaper advertisements continue to be used where there is a demonstrated need and when budget allows.

Advertising in The Echo, or any other specified media, is considered as part of a holistic approach to strategic communication that includes a range of touch points for the community including social media, website, radio, and E news.

30 There are many examples of the types of advertisements suggested in the recommendation that have been published in recent editions of The Echo, for example:

a) *corporate plans including Council's Community Strategic Plan, Resourcing Strategy, Delivery Plan, Budget and annual Operational Plan;*

35 Quarter page, display advertisements were published during the public exhibition period for the Community Strategic Plan on 6 April and 20 April, and the Delivery Program / Operational Plan on 18 May and 1 June.

- b) *strategic plans and policies that will have a significant impact on residents, community, the environment, business or the economy;*

The recent Moving Byron Strategy public exhibition was advertised in The Echo.

- 5 c) *land-use and development plans including our Local Environmental Plan, and Development Control Plans;*

This is required in accordance with Council's [Community Participation Plan](#).

- d) *where legislation requires community notification or consultation;*

This is complied with where legislation requires notification by newspaper.

- 10 e) *Development Applications with notification level 2 or higher (for publishing at least 5 days before their public exhibition period begins);*

In accordance with Council's [Community Participation Plan](#).

- f) *vacancies on Advisory Committees and other groups that include community members, at least twice before the closing date for nomination; and*

- 15 Advertisements were placed calling for Advisory Committees twice during the original round of nominations and once again in the recent round of nominations resulting from vacancies.

Separate advertisements were also placed calling for nominations for 355 Committees.

- g) *community documents like the Community Strategic and Operational Plans.*

As above in point a).

- 20 Other recent examples include advertisements about the Coastal Conference, Flood Inquiry, Lone Goat Gallery, community grants, leases, waste education, and road closures, among others.

- 25 Council generally has fairly high rates of engagement with the current approach to 'integrated' advertising in the Echo. Anecdotally, people report ignoring block advertising, which can result in every item within the advertising block being overlooked. In contrast, the display advertisements throughout the newspaper aim to draw the attention of the reader.

- 30 There is little evidence to indicate a widespread community desire for Council to revert to block advertising. Those that have indicated a desire for Council to reinstate block advertising have mostly been concerned with Development Application listings, however a review of Council practices has found the online DA tracker to be a more effective and efficient use of resources. Council should consider the cost benefit and willingness of the community to pay for block advertising where a more suitable solution exists.

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Competitiveness Principle

- 5 Should Council resolve per the recommendation as worded it may confer a competitive advantage to a single supplier, which is in conflict of Council's [Procurement and Purchasing Policy](#) Key Procurement Principle 3.6 *Competitiveness*, where "Council must ensure that all potential contractors or suppliers are afforded an equal opportunity to compete for all goods, works or services"

- 10 Council's current approach considers value for money when determining what and how to advertise particular information. Council advertises across a range of mediums and publications that include other local businesses such as radio and the Bangalow Herald, as well as social media.

Resourcing

- 15 The website is Council's primary avenue to communicate and do business with people. It is best practice for all information to be found on this website and for our community to use the website as their primary source of information about Council projects, issues etc.
- 15 Preparing a regular block advertisement will require staff resources to be diverted from other communication methods, which may result in a decreased level of service in those areas.

Further Report to Council

- 20 The intended purpose of the report to the October Meeting of Council is unclear, as decisions about how and where advertisements are placed are of an operational nature.

Financial/Resource/Legal Implications:

As outlined in the report.

Is the proposal consistent with any Delivery Program tasks?

CSP Objective	CSP Strategy	DP Action
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.2: Engage and involve community in decision making	1.2.2: Communication - Provide timely information to the community about Council projects and activities through traditional and digital media

Notice of Motion No. 9.3 Topics for Councillor Workshops

File No: I2022/1006

5

I move that Council:

1. **Add to the Agenda of each monthly Councillor Workshop an item with a rolling list of topics anticipated for future Workshops, so that Councillors can be consulted on what topics are presented at subsequent Workshops and when.**
- 10 2. **Store a change for the next update to our Code of Meeting Practice such that the arrangement described in Part 1 above is included.**

Signed: Cr Duncan Dey

15 **Councillor's supporting information:**

To the best of my knowledge, Councillors currently play no role in selecting what is presented to us at our monthly "Councillor Workshops". The Shire has many pressing issues and it is sometimes frustrating when Workshops cover items that are not as pressing. There should be opportunities for us to discuss what's to be presented and when.

By way of example, time taken for Development Applications assessment is an issue for the Shire and has even been exacerbated by the 2022 floods. We resolved (Res 22-047) in February 2022 before the floods *that the matter "Development Application Processing Performance" be brought before the next available Strategic Planning Workshop*. This happened at the August Workshop.

As part of the "board of directors" I would like to have some control on how our time is used at these important Thursdays each month, our Councillor Workshops.

Staff comments

30 **by Heather Sills, A/ Manager Corporate Services, Corporate and Community Services:**

Councillor Workshop agenda items may arise from:

- Upcoming items planned for council meetings
- Current issues

- Required by resolution of Council
- In response to a Councillor Request

5 As well as other relevant items that arrive on an ad hoc basis that warrant councillor attention. Often times, the list of items proposed for Councillor Workshops is over prescribed and the General Manager must prioritise by order of need.

10 Councillor Workshops provide a forum for responsive discussion of emerging issues. As such the full agenda is often difficult to predict in advance. A recent example of this has been providing councillors with updates on matters related to the 2022 flooding events. Furthermore, what is considered “not as pressing” by one Councillor, may be of great interest to another.

15 Councillor workshops are intended to provide councillors with a more in-depth discussion of upcoming items on the agenda and an opportunity for robust discussion that ensures councillors are adequately informed of issues before council. As such, matters at a councillor workshop can be detailed and complex in nature. Considerable staff time goes into preparing information in readiness for councillor workshops.

20 To increase the level of councillor involvement in workshop agendas, a short standing item could be accommodated where councillors are provided with a list of potential items to feature at future workshops. This would provide an opportunity for councillors to review topics, provide feedback, and suggest items for consideration at future Councillor Workshops - where they align with the purpose and scope of the workshops as delineated in the Code of Meeting Practice. Noting, however, due to reasons outlined above, it may be difficult to provide further detail of these items in advance.

While this can be accommodated, prescribing it in the Code of Meeting Practice is not considered necessary.

25 **Financial/Resource/Legal Implications:**

Not applicable.

Is the proposal consistent with any Delivery Program tasks?

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.1: Enhance trust and accountability through open and transparent leadership	1.1.2: Governance - Ensure legislative compliance and support Councillors to carry out their civic duties	1.1.2.3	Provide administrative support to Councillors to carry out their civic duties

Notice of Motion No. 9.4 North Rail Corridor Utilisation

File No: I2022/1011

5

I move that Council:

1. Notes the removal of train tracks from the rail corridor north of Byron Shire following Tweed Shire Council's decision to implement a bike path in the rail corridor in their Shire.
- 10 2. Receives a report on the rail corridor from Mullumbimby station through to the northern shire border:
 - a) Identifying the viability of rail beside a trail for the length of this section
 - b) Detailing any offers or interest received from commercial or other operators to reinstate a form of rail transport in this section
 - 15 c) Identifying cost savings that may be realised by utilising the corridor as part of the Mullum to Brunswick bike trail
 - d) Providing a cost estimate of converting this corridor section as a bike and pedestrian track
 - 20 e) Detailing any benefits to the broader 'Northern River Rail Trail' of connecting to the Tweed section

Signed: Cr Asren Pugh / Cr Michael Lyon

25 Councillor's supporting information:

Construction is continuing on the Tweed Council section of the Northern Rivers Rail Trail, with the project fully funded and the Trail being built along the rail corridor and includes removal of the rail tracks. There is no prospect of a train that runs north of Mullumbimby. There may be significant positive impacts of extending the rail trail from the tweed border down to Mullum, including enabling increased access to the trail.

Those planning the Rail Trail construction have raised issues of access to the beginning of the Tweed section of the Rail Trail where it meets the border of Byron Shire due to a lack of public land in this area.

Council is proposing to build a bike trail from Mullum to Brunswick, with one option running north along the rail corridor before turning east of Bruns. Given the likely NSW

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government funding for the Rail Trail, this creates opportunities to utilise this funding to offset the bike trail, saving this money for other projects within the shire.

Staff comments

by Phil Warner, Manager Assets & Major Projects, Infrastructure Services:

- 5 Part 1 is noted by staff.

Part 2 of the motion is seeking a report requiring significant investigative effort using specialist engineering resources.

Council has no budget or an estimate of cost for an investigation and assessment of this scale but could seek funding from the NSW government.

- 10 Staff are currently seeking advice from Tweed Shire Council and Richmond Valley councils in relation to an indicative/comparative cost of the scope of work as identified in this NoM. This information was not available at the time of compiling the agenda.

Financial/Resource/Legal Implications:

There is no budget to resource completion of Point 2 of the motion.

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

Yes as per below:

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
5: Connected Infrastructure We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable	5.1: Provide a safe, reliable, and accessible transport network	5.1.4: Multi-use rail corridor - Activate the rail corridor for multi-use that provides expanded active and shared transport options catering to visitors and residents	5.1.4.1	Investigate use of the rail corridor

Notice of Motion No. 9.5 Western Rail Corridor Utilisation

File No: I2022/1012

5

I move that Council:

1. Notes the previous unanimous support of council for the utilisation of the Rail Corridor through Bangalow from Rifle Range Road for bike and pedestrian travel
2. Receives a report on the rail corridor from Bangalow station through to Binna Burra:
 - 10 a) Identifying the viability of rail beside a trail for the length of this section
 - b) Detailing any offers or interest received from commercial or other operators to reinstate a form of rail transport in this section
 - 15 c) Provide a cost estimate for implementing and bike and pedestrian track along the rail corridor:
 - i. from the Bangalow Station to Rifle Range Road
 - ii. from the Bangalow Station to the Bangalow Industrial Estate
 - iii. from the Bangalow Station to Binna Burra
 - 20 d) Detailing any benefits to the community of building a bike and pedestrian track as above

Signed: Cr Asren Pugh

Councillor's supporting information:

25 Council has previously unanimously supported the community proposal to utilise the rail corridor from Bangalow Station through to Rifle Range Road. Implementing this proposal would drastically improve the active transport (biking, walking, etc) options for people of all ages and mobility across Bangalow, enabling travel from Rifle Range Road, passed the childcare centre, A&I Hall, Public School, Showgrounds and through to the sports fields without crossing a single road. It would dramatically improve the safety of children riding to and from school and activities.

30 Residents and businesses at the Industrial Estate and Binna Burra have limited opportunities for off road active transport that is safe. Many have requested an ability to safely use the rail corridor to ride and walk, including into town.

35 This Bangalow project has so far not been costed or moved to shovel ready status. This report aims to move this project to the next stage.

Staff comments

by Evan Elford, Manager Works, Infrastructure Services:

Part 1 is noted by staff.

5 Part 2 of the motion is seeking a report requiring significant investigative effort using specialist engineering resources.

Council has no budget or an estimate of cost for an investigation and assessment of this scale but could seek funding from the NSW government.

10 Staff are currently seeking advice from Tweed Shire Council and Richmond Valley Councils in relation to an indicative/comparative cost of the scope of work as identified in this Notice of Motion. This information was not available at the time of compiling the agenda.

Council has applied for a grant to fund the investigation and design of the shared path from Bangalow to Rifle Range Road but has not applied to extend this work to Binna Burra.

15 Financial/Resource/Legal Implications:

There is no budget to resource completion of Point 2 of the motion.

Is the proposal consistent with any Delivery Program tasks?

Yes in part.

Current investigation works for the rail corridor are linked to actions under Moving Byron.

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
5: Connected Infrastructure We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable	5.1: Provide a safe, reliable, and accessible transport network	5.1.4: Multi-use rail corridor - Activate the rail corridor for multi-use that provides expanded active and shared transport options catering to visitors and residents	5.1.4.1	Investigate use of the rail corridor

Notice of Motion No. 9.6 Rifle Range Road Traffic Calming

File No: I2022/1013

5

I move that Council:

1. Notes the recent listing of the NSW koala Population as endangered.
2. Notes the recent death of two breeding female koalas and their joeys in the Bangalow area
- 10 3. Receives a report on implementing and/or installing traffic calming options along the newly sealed section of Rifle Range Road in Bangalow north of Raftons Road

15 Signed: Cr Asren Pugh

Councillor's supporting information:

20 The NSW koala population is under immense pressure, exacerbated in recent years by fires, floods, continued habitat destruction and climate change. This is demonstrated by the announcement in February that koalas in NSW have been listed as endangered. It is a clear responsibility of council to respond to this by taking action to protect koalas wherever possible.

Council roadworks crew recently graded and sealed Rifle Range Road in Bangalow North of its intersection with Raftons road in Bangalow. This part of the road runs next to a key koala corridor in Bangalow and the first tree planting and project of Bangalow Koalas.

25 This section of road is also used by the community for walking and recreation.

In recent weeks the community has reported that two breeding koalas, each with a joey, were killed by cars on roads surrounding Bangalow. A devastating loss to the local population. Residents have reported cars travelling faster along that road since it was sealed. Efforts to slow traffic are important to protect local koalas.

30 Staff comments

by James Flockton, Infrastructure Planning Coordinator, Infrastructure Services

The section of road that has been recently sealed extended the partially sealed road to include the dual frontage resident allotments that also access Rosewood Avenue. The

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road is relatively narrow and considered a low speed, low vehicle usage environment which is well signposted as a no through road servicing 8 properties along its approximate 200m length from the intersection with Raftons Road to the end of the new seal. The new seal ends at a crest and splits into a private driveway and a little used gravel accessway.

- 5 There are no streetlights in this section of Rifle Range Road necessary to illuminate any traffic calming devices.

A number of koala advisory signs are also installed to inform users of the road who in the most part would be local residents due to the no through road signage.

- 10 Staff have been investigating and discussing options to reduce the risk of wildlife deaths on our roads. Reducing speeds is one method, but there are a number of other options available, all have positives and negatives and in this regard, a report could be prepared for the Infrastructure Advisory Committee outlining Council's current and /or planned actions.







Financial/Resource/Legal Implications:

The cost of suitable traffic management for wildlife can vary considerably and can be reported to Council as part of the report.

- 5 Council currently has no funding allocated or available for the proposed actions, therefore, grant funding or the cancellation of other projects would be required to fund any proposed ground works.

Is the proposal consistent with any Delivery Program tasks?

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
3: Nurtured Environment We nurture and enhance the natural environment	3.1: Partner to nurture and enhance our biodiversity, ecosystems, and ecology	3.1.1: Native species - Use best practice land management to improve ecological resilience and reduce threats to biodiversity	3.1.1.1	Partner with DPE to implement koala vehicle strike mitigation in Byron Shire as part of the NSW Koala Strategy 2022-2026.
			3.1.1.2	Engage with the community regarding mitigating threats to koalas.

Notice of Motion No. 9.7 North Byron Parklands - Splendour in the Grass 2022

File No: I2022/1014

5

I move:

1. That Council writes to Anthony John Roberts MP, Minister for Planning and Minister for Homes, and to the Independent Planning Commission as the declared consent authority that approved the development application (SSD 8169) for the North Byron Parklands site (applicant Billinudgel Property P/L) and conveys the following concerns regarding Splendour in the Grass 2022:
- a) Council notes the many negative impacts created by Splendour in the Grass (SITG) event and the effect of the festival on patrons, Byron Shire residents and businesses
- b) Since the time of the trial period, several resolutions (including 17-376 and 18-834) of Council have expressed multiple concerns surrounding the approval process and the final permanent approval given to the owners of the site to hold increasingly larger, and more frequent, events at the site. These concerns remained unheeded and many of them have now been realised at this latest SITG event
- c) Council has never supported the use of the site as per the 2019 approval determined by the Independent Planning Commission and in particular wishes to reiterate Resolution 18-834 of 13 December 2018:
1. *That Council does not currently support the proposal including the increase in attendance numbers, event types, and event days on the North Byron Parklands site beyond what has already been approved until its concerns as raised within its submission are satisfied*
 2. *That Council writes to advise the Department of Planning and the Independent Planning Commission of this position*
 3. *That Council does not support DOP's recommendation with respect to Parklands' self-monitoring of compliance;*
 4. *That Council proposes that any consideration of ongoing events must include an independent monitoring process, with the involvement of Council*
 5. *That Council's costs for monitoring should be funded by the applicants*
 6. *That this monitoring needs to be used as part of the Planning Secretary's ongoing compliance*

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7. That the original trial approval was that Council would be the consent authority at the end of the trial period and that this condition should remain;

- 5 d) Council is deeply concerned by the following unacceptable impacts of SITG 2022 on the Byron Shire community:
- traffic queues onto the site extending for several kilometres onto the M1 posed a danger to motorists
 - 10 • traffic delays of several hours impacted people who had to reach other destinations
 - social amenity was severely affected – traffic blockages inhibited people in several ways including being unable to reach their homes, visit local business and to pick up children from schools – many waited several hours in cars with children -- and school buses were held up for several hours,
 - 15 • loss of business – businesses in many parts of the Shire's capacity to operate was reduced due to the traffic impacts and inability of customers to reach them
 - businesses who could have relied on SITG patrons reported lost business as the mud and water on the site, and the traffic delays, prevented SITG patrons from visiting other parts of the Shire
 - 20
- 25 e) Council is very concerned about the safety of this event, and future events, on the site, with regard to, but not limited to, the following issues as widely recorded by medical staff in local hospitals and clinics, and patrons and witnesses at SITG:
- serious injuries such as broken bones, sprains and staph infections occasioned by the muddy conditions
 - 30 • the 'super-spreader' effect of COVID and other viral infections that emerged during and after the event that not only threaten health of patrons but impact on the operation of businesses and schools Shire-wide and beyond when carried back to patrons' homes in other locations
 - inadequate crowd management in the stage/tent areas resulting in falls, injuries and patrons fainting
 - 35 • inadequate provision of first aid or medical support and use of untrained security staff in lieu of first aid personnel

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- lack of readily available drinking water despite the widespread provision of alcohol sales
- excessive toilet queues and overflowing toilets resulting in widespread urinating and defecating on the ground with the potential for the spread of illness;

f) Council has serious concerns about the adequacy and impacts of the onsite sewage management system, given patrons' witnessing of overflowing toilets. Combined with the high water flow across the flooded site, urination and defecation outside of the toilet areas, these factors create the potential for serious contamination of the SEPP (Coastal Management 2018) wetland and resultant deleterious effects on the local ecology;

g) Council continues to have concerns about environmental impacts on and adjacent to the site, in particular the Billinudgel Nature Reserve.

h) Council has concerns about self-monitoring of the site by its owners, which is not independent. Compliance monitoring of events on the site as compliance reports, provided by the North Byron Parklands under NBP's self-monitoring regime, are at odds with local residents' and patrons' reports of compliance breaches.

2. That Council requests the Minister to:

- a) instigate an independent review of SITG 2022 with reference to, but not limited to, ecological impacts, health and safety, social impacts, public amenity, business impacts, and any other impacts on the Shire;
- b) recognise that Council is the key stakeholder for the community and should contribute to determining the terms of any review;
- c) consider the findings of the review as a basis for the manner in which further events may occur on the site.

3. That Council seeks community feedback on any impacts of SITG 2022 as per (2a) to inform any review of the event and to assist in future recommendations

Attachments:

- 1 Supporting information to NoM - Splendour in the Grass - Redacted, E2022/78193 

Signed: Cr Cate Coorey

Councillor's supporting information:

See Attachment 1 Supporting Information.

Staff comments

by Shannon Burt, Director, Sustainable Environment and Economy:

The Notice of Motion proposes that Council write directly to the relevant Minister in relation to the recent Splendour in the Grass (SITG) 2022 event about the issues raised in points 1a-h.

It also proposes that Council request the Minister to consider instigating an independent review of the SITG 2022 event as per points 2a-c.

Whether an independent inquiry is convened or not will be at the discretion of the relevant Minister.

Point 3 suggests that Council seeks community feedback on any impacts of SITG 2022 as per point (2a) to inform any review of the event and to assist in future recommendations.

Given the nature of event i.e., state significant development, and the relevant approval and primary regulatory bodies i.e., state government, this responsibility should sit with them not Council. It should also be noted that the engagement/feedback exercise proposed is not currently scoped or resourced.

Notwithstanding the above, in March 2019, the NSW Independent Planning Commission granted Development Consent for undertaking a number of events on a permanent basis at the North Byron Parklands venue, where SITG is held. These consent conditions required the establishment of a Regulatory Working Group (RWG).

To this aim, the North Byron Parklands RWG has been operating for many years to review environmental management and community relations.

Members include the NSW Police, Byron Shire Council, Tweed Shire Council, Roads and Maritime Services, Rural Fire Service, State Emergency Service, Office of Environment and Heritage and National Parks and Wildlife Service.

A community representative from both Tweed and Byron local government areas also sits on the RWG and are appointed by their respective Councils through an expression of interest process.

The last RWG meeting was held in February 2022. Minutes can be found here: <http://northbyronparklands.com/2017/docs/RWG/minutes/RWG%20Minutes%20Final%200.05.22.pdf> An update to the RWG was provided at that meeting on the plans for SITG 2022 event.

The RWG provides Council and community through member representatives the most immediate forum to receive and give feedback to the organisers of SITG.

The next RWG meeting is scheduled for 24 August 2022. SITG management will be in attendance to provide details and participate in discussions regarding the recent festival.

Financial/Resource/Legal Implications:

Point 3 of the Notice of Motion is not currently scoped or resourced.

Is the proposal consistent with any Delivery Program tasks?

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.1: Foster opportunities to express, celebrate and participate in arts and cultural activity	2.1.3: Events and festivals - Support and enable arts & cultural activity, festivals, projects, and events	2.1.3.9	Collaborate with government, agency and industry on policy and legislative reforms

SUBMISSIONS AND GRANTS

Report No. 11.1 Grants June/July 2022

Directorate: Corporate and Community Services

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

File No: I2022/988


Summary:

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

RECOMMENDATION:

15 **That Council notes the report and Attachment 1 (#E2022/75968) for Byron Shire Council's grant submissions as at 31 July 2022.**

Attachments:

20 1 Grant submissions as at 31 July 2022, E2022/75968 

Report

Currently Council has 15 grant submissions awaiting determination (refer Grants Report July 2022 (Attachment 1).

Successful applications

5 Flood Recovery Funding

Council has been notified of the following funding allocations as a result of the AGRN1012 Flood event:

- 10 1. NSW Local Land Services - Addressing priority flood impacts in Byron Shire
 \$200,000 (exc gst). Addressing riparian erosion.

Unsuccessful applications

NSW Department of Criminal Justice – Graffiti Removal Program (\$80,000). Only five \$80,000 grants awarded for NSW. Funding program oversubscribed

15 Applications submitted

Funding body	Funding scheme	Project name	Total project value \$	Amount requested \$	Council co-contribution \$
Resilience NSW	Disaster Risk Reduction Funding	Automated Flood Signs	\$300,000	\$300,000	\$0
NSW Crown Lands	Crown Reserve Improvement Fund 2022-23	South Beach Road (Brunswick Heads) public amenities	\$350,000	\$280,000	\$70,000

Upcoming grant opportunities

[Regional NSW – Business Case and Strategy Development Fund | NSW Government](#)

- 20 The \$24 million Regional NSW - Business Case and Strategy Development Fund supports local councils, joint organisations of councils, not-for-profit, industry and Aboriginal community groups with funding to develop business cases or strategies for regionally significant projects and initiatives.

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The subject of the business case or strategy must have the potential to deliver significant economic or community benefits to residents and businesses in two or more local government areas in regional NSW.

- 5 Staff considered submitting an application for the Byron Shire Rail with Trail, however, following advisement of the Northern Rivers Joint Organisation (NRJO) submitting an application for the whole Northern Rivers trail, it was determined not to proceed. The decision was based on the unlikelihood of two applications being awarded. The Byron Shire component will consider options for Rail with Trail for the Mullum to Byron and Mullum to Bangalow segments. Staff will assist with the NRJO application as required.

10 [Fixing Local Roads Round 4 – Transport for NSW](#)

Councils can apply for funding to complete vital works to improve journeys on local roads which are used by regional communities every day, making journeys for locals, farmers and freight safer, more efficient and more reliable.

- 15 The benefits and connections need to stimulate the economy and promote the social wellbeing of communities. Better roads mean improved access to schools, towns, hospitals and jobs, increased efficiencies for our primary producers, easier movement of freight and better outcomes for road safety in regional and rural communities.

- 20 Staff are currently prioritising a program of works to submit. Past successful programs have included Mullumbimby and Ocean Shores reseal program, Koonyum Range Road and National Parks adjoining roads.

[Country Passenger Transport Infrastructure Grants Scheme \(CPTIGS\) | Transport for NSW](#)

- 25 CPTIGS provides subsidies to support the construction or upgrade of bus stop infrastructure (generally owned and maintained by local councils) across country NSW. A maximum of \$11,500 is available per new bus shelter and \$2,500 for upgrades.

[Coastal and estuary grants | NSW Environment and Heritage](#)

The [2022–23 funding round](#) for the planning stream is open. Council will be submitting an application later in the financial year.

- 30 Funding for the [implementation stream](#) is open and closes at **5 pm on 14 September 2022**. Council currently does not have a suitable project.

[Stronger Country Communities Fund - Round 5 | NSW Government](#)

- 35 The Stronger Country Communities Fund (SCCF) Round 5 will see a further \$160 million in funding for community projects that increase the wellbeing of regional NSW communities, including up to \$50 million for projects delivered by community organisations. Council staff are currently considering potential project nomination/s.

[Multi-Sport Community Facility Fund | NSW Government](#)

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The NSW Government has committed \$200 million to the Multi-Sport Community Facility Fund, recognising the critical role local sport infrastructure plays in keeping communities healthy, active and connected.

- 5 The grant amount requested by an applicant must be a minimum of \$1 million and cannot exceed \$5 million. All applications are expected to provide a minimum 50% financial co-contribution of the grant amount.

[Regional Tourism Activation Fund - Round 2 | NSW Government](#)

- 10 The \$150 million Regional Tourism Activation Fund - Round 2 supports the development of high impact tourism infrastructure projects that increase visitation, expenditure and extend length of stay for visitors to regional NSW.

- 15 25% matching contribution is required. Co-contributions towards projects cannot be made using funding received from the NSW Government, with the exception of co-contributions towards projects that are proposed to be developed and delivered in partnership with a NSW Government agency. For example, a project led by a local council cannot use funding received through a previous NSW Government grant program towards their co-contribution.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.3: Ethical and efficient management of resources	1.3.1: Financial Management - Ensure the financial integrity and sustainability of Council through effective financial management	1.3.1.9	Coordinate grant applications to support the delivery of Council projects and services within management plans, masterplans, strategic plans, council resolutions and high priority actions from feasibility studies; and support the management of successful grants

Legal/Statutory/Policy Considerations

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

Financial Considerations

If Council is successful in obtaining the identified grants, this would bring funding sought to approximately \$52.4 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. Please note that the Bioenergy Byron Facility has been submitted under two different funding programs; both are included in the total value below.

The potential funding is detailed below:

10	Requested funds from funding bodies	\$19,673,966
	Council Contribution Cash	\$32,834,214
	Council Contribution In-Kind	\$10,000
	Other contributions	\$0
	Funding applications submitted and awaiting notification (total value)	\$52,438,180

15 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 Byron Visitors Centre Incorporated

Directorate: General Manager

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

File No: I2022/717

Summary:

10 The Byron Visitors Centre Incorporated requests a new five-year lease to occupy the premises at part Folio 1/827049, 80 Jonson Street Byron Bay for the purpose of a visitor information centre.

This report recommends a new lease is granted.

15 **RECOMMENDATION:**

1. That Council notes that no submissions were received from public notice of a proposed five-year lease over part Folio 1/827049, 80 Jonson Street Byron Bay advertised between 22 June and 19 July 2022.
- 20 2. That Council grants a five-year premise lease over part Folio 1/827049, 80 Jonson Street Byron Bay to the Byron Visitors Centre Incorporated on the following terms and conditions:
 - a) term of two-years with an option of three-years with no holding over,
 - b) annual rent to be fully subsidised via a section 356 donation of Council to the value of \$69,600 being calculated at 6% of the unimproved land value,
 - 25 c) fixed rates and charges to be fully subsidised in accordance with Councils Section 356 Donations Rates and Charges Policy 2021,
 - d) Lessee to pay all other outgoings for occupation of the premises including but not limited to public liability insurance and contents insurance for full replacement value,
 - 30 e) Lessor to be responsible for annual fire safety inspections, annual pest inspections and controls and all structural repairs, renewals, and replacements,
 - f) closed circuit television equipment installed in the Premises is owned and managed by the Byron Shire Council.
 - 35 g) Council to waive document preparation fees as set by Councils 2022-2023 Fees and Charges.

Report

The Byron Visitors Centre Incorporated ('BVC Inc') holds a lease over part Folio 1/827049, 80 Jonson Street Byron Bay for the purpose of a visitor information centre. The lease expires on 30 September 2022.

- 5 BVC Inc requests a new two-year lease with option of three-years to commence 1 October 2022.

Land

Folio 1/827049 was acquired by Byron Shire Council from NSW State Rail on 13 April 1993.

- 10 Folio 1/827049 is classified as community land and categorised for general community use. The Plan of Management over the land requires the building on the land, colloquially known as the Old Station Masters Cottage, ('the Premises') to be used as a professional visitor information centre.

- 15 Use of the Premises on Folio 1/827049 for a visitor information centre is permitted without consent in accordance with clause 2.73(3)(a)(iii) of the *State Environment Planning Policy (Transport and Infrastructure) 2021* being development carried out by or on behalf of Council on a Council owned public reserve.

Background

- 20 Council created a committee in 1996 to manage Folio 1/827049. The committee subsequently leased the Premises to the Byron Environmental Centre in 1996 to supply a visitor information service for Byron Bay.

In 1997, as result of a tender process, Council granted a two-year lease to Byron Shire Tourism Association and Byron Bay Chamber of Commerce to provide a visitor information services from the Premises.

- 25 In late 2002 Council resolved (02-1234) to transfer the lease from Byron Shire Tourism Association and Byron Bay Chamber of Commerce to BVC Inc. The resolution called for fully subsidised rent and annual fixed rates and charges via a section 356 of the *Local Government Act 1993* (NSW), donation of Council. The Lessee to cover all remaining outgoings.

- 30 The decision to offer the lease at fully subsidised rent was given in response to Councils relatively low financial contribution towards tourism management in the Shire at that time. In addition to difficulties for a Lessee to generate sufficient income to meet market rent and other outgoings exceeding \$50,000 per annum on land classified as community land. The survival of the Lessee was considered paramount given the very high demand for visitor
35 information services in Byron Bay at that time.

In 2004, following an Expression of Interest, Council resolved (04-553) to offer BVC Inc a new three-year lease with a two-year option. BVC Inc. has continually occupied the Premises via successive five-year leases since 2004.

- 5 BVC Inc. currently operates the Byron Bay Visitor Information Centre six days per week providing a valuable conduit and community resources for visitors, locals, and businesses.

The relocation of the bus interchange and upgrade of park lands surrounding the Centre has greatly assisted in making the Centre more welcoming and visible. The Centre is the second busiest Information Centre in New South Wales.

- 10 In addition to greeting, educating, directing, and advising scores of visitors each day, BVC Inc also promotes many local businesses to visiting tourists and assists many locals to book travel and accommodation online.

BVC Inc currently has a strong team of 20 volunteers taking great pride in offering a fantastic visitor experience while promoting all things the Byron Shire has to offer.

Direct Negotiation

- 15 Section 55(3)(e) of the *LGA* provides the authority for Council to directly negotiate a new five-year lease over community land to BVC Inc.

Rent

- 20 The report recommends that the proposed lease is offered at fully subsidised rent. BVC Inc being a not-for-profit organisation is eligible for subsidised rent in accordance with Councils Leasing and Licensing Policy 2021.

In accordance with that Policy subsidised rent is calculated at 6% of the unimproved capital value of the land being at \$69,600 per annum.

Terms and conditions of the proposed Lease

- 25 In accordance with Councils Leasing and Licensing Policy, terms, and conditions of the proposed lease will include:

- 30 a) term of two-years with an option of three-years with no holding over,
- b) annual rent to be fully subsidised via a section 356 donation of Council to the value of \$69,600 being calculated at 6% of the unimproved land value,
- c) fixed rates and charges to be fully subsidised in accordance with Councils Section 356 Donations Rates and Charges Policy 2021,
- d) Lessee to pay all other outgoings for occupation of the premises including but not limited to public liability insurance and contents insurance for full replacement value,
- e) Lessor to be responsible for annual fire safety inspections, annual pest inspections and controls and all structural repairs, renewals, and replacements,

- f) closed circuit television equipment installed in the Premises is owned and managed by the Byron Shire Council.
- g) Council to waive document preparation fees as set by Councils 2022-2023 Fees and Charges.

5 Public Notice

In accordance with s47A of the LGA Council gave public notice of the proposed lease to the BVC Inc between 22 June and 19 July 2022. Council received no submissions.

In accordance with s47(4) of the LGA, Council note that no submissions were received from the public notice. That Council grant the proposed lease as recommended in this report.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.5: Empower community leadership through collaboration, capacity building, and cultivating community driven initiatives	1.5.1: Community grant programs - Provide financial assistance and grants to empower community groups and organisations to deliver priority projects	1.5.1.2	Deliver funding and support for community groups

Recent Resolutions

Nil.

15 Legal/Statutory/Policy Considerations

Local Government Act 1993 (NSW)

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

- (1) *If a council proposes to grant a lease, licence, or other estate in respect of community land for a period (including any period for which the lease, licence or other estate could be renewed by the exercise of an option) exceeding 5 years, it must:*

- (a) *give public notice of the proposal (including on the council's website), and*
- (b) *exhibit notice of the proposal on the land to which the proposal relates, and*

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- (c) give notice of the proposal to such persons as appear to it to own or occupy the land adjoining the community land, and
- (d) give notice of the proposal to any other person, appearing to the council to be the owner or occupier of land in the vicinity of the community land, if in the opinion of the council the land the subject of the proposal is likely to form the primary focus of the person's enjoyment of community land.

(2) A notice of the proposal must include:

- information sufficient to identify the community land concerned
- the purpose for which the land will be used under the proposed lease, licence, or other estate
- the term of the proposed lease, licence or other estate (including particulars of any options for renewal)
- the name of the person to whom it is proposed to grant the lease, licence, or other estate (if known)
- a statement that submissions in writing may be made to the council concerning the proposal within a period, not less than 28 days, specified in the notice.

(3) Any person may make a submission in writing to the council during the period specified for the purpose in the notice.

(4) Before granting the lease, licence or other estate, the council must consider all submissions duly made to it.

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

(1) This section applies to a lease, licence or other estate in respect of community land granted for a period that (including any period for which the lease, licence or other estate could be renewed by the exercise of an option) does not exceed 5 years, other than a lease, licence or other estate exempted by the regulations.

(2) If a council proposes to grant a lease, licence or other estate to which this section applies:

(a) the proposal must be notified and exhibited in the manner prescribed by section 47, and

(b) the provisions of section 47 (3) and (4) apply to the proposal, and

(c) on receipt by the council of a written request from the Minister, the proposal is to be referred to the Minister, who is to determine whether or not the provisions of section 47 (5)–(9) are to apply to the proposal.

(3) If the Minister, under subsection (2) (c), determines that the provisions of section 47 (5)–(9) are to apply to the proposal:

(a) the council, the Minister and the Director of Planning are to deal with the proposal in accordance with the provisions of section 47 (1)–(8), and

(b) section 47 (9) has effect with respect to the Minister's consent.

Financial Considerations

This report recommends that the lease is offered at fully subsidised rent.

- 5 Annual rent to be calculated in accordance with Councils Leasing and Licensing Policy 2022 at 6% of the unimproved land value being \$69,600. That rent to be subsidised via a s356 of the *LGA* donation of Council.

Consultation and Engagement

Public notice of the proposed five-year lease was advertised on Council's website between 22 June and 19 July 2022. No submissions were received.

Report No. 13.2 Licence to RBA Holdings Pty Ltd

Directorate: General Manager

Report Author: Paula Telford, Leasing and Licensing Coordinator

File No: I2022/731

5 **Summary:**

RBA Holdings Pty Ltd (A.C.N. 144 070 986) requests a new five-year licence with option of five-years to provide and operate digital black spot television re-transmission equipment at Warrambool Road Ocean Shores, part Folio 1/735732.

This report recommends the proposed licence is granted.

10

RECOMMENDATION:

15 That Council authorises the General Manager, under delegated authority, to grant a licence with RBA Holdings Pty Ltd (A.C.N 144 070 986) on the following terms and conditions:

- a) part Folio 1/735732, Warrambool Road Ocean Shores,
- b) term five-years with option of five-years with no holding over,
- c) annual rent set at \$1 if demanded,
- 20 d) Licensee to own all digital re-transmission equipment and to have unlimited access to the site,
- e) Licensor to maintain, at its cost, access to the site, the equipment shed, mains power connection and all usage costs, an air-conditioner, a transmission tower, and security fencing, and
- 25 f) Council to waive document preparation fees as set by its 2022-2023 Fees and Charges.

Report

RBA Holdings Pty Ltd (A.C.N 144 070 986) ('RBAH') holds a Licence over part Folio 1/735732, Warrambool Road Ocean Shores for the purpose of installing and operating a free to air digital re-transmission station for the purpose of eradicating black spot television reception in Ocean Shores.

RBAH requests a new five-year licence with option of five-years.

Land

Folio 1/735732, Warrambool Road Ocean Shores is known as the Tongarra Reservoir site being Council owned land classified as operational. The Tongarra Reservoir is an operational reservoir.

Background

In 2000 the Commonwealth Government launched a \$35 million "Television Black Spots Program" to overcome black spot television reception areas across Australia. Funding was available for upgrades to existing sites and the creation of new re-transmission sites across Australia.

Council at that time did not have the resources available to establish new re-transmission sites in the Shire. Instead, Council accepted an offer from Australian Broadcasting Services Pty Ltd to assist with resources needed to meet the funding criteria by:

- obtaining analogue frequencies required to start up new re-transmission facilities,
- negotiate access to existing transmission facilities for the installation of re-transmission equipment, and
- to supply and install re-transmission equipment up to \$25,000 per site.

Council resolved (**01-46**):

- That Council apply for assistance under the Commonwealth Government's Television Black Spots Program as a Coordinating body for the Mullumbimby Creek area, along with any other areas in the Shire as they arise.*
- That Council utilise the services of Australian Broadcasting Services to undertake the submission(s) process.*
- That Council advise the Television Fund Unit in Canberra, that Council will act as Coordinating Body for the full region identified in the original "Rosebank" submission in order to determine eligibility only.*
- That in the event Council is successful in its claim for assistance, staff are to prepare a further report to Council on the financial and other implications of the project.*

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5. *That Council write to the Federal Minister for Communications and the local Federal Member advising that it believes that the provision of this infrastructure is a Federal Government responsibility.*

Re-transmission facilities for analogue television reception were established at:

- 5
- Byron Bay/Suffolk Park – Patterson St,
 - Ocean Shores – Tongarra Reservoir, and
 - Mullumbimby – Scotts Wood Grove.

10 Council entered into a Memorandum of Understanding with Australian Broadcasting Services Pty Ltd for the supply of agreed resources. The Memorandum required Council, at its cost, to supply and maintain mains power connections, equipment sheds, air-conditioning and transmission towers at all sites.

15 In 2012 Regional Broadcasting Australia mandated an upgrade to the Byron Bay and Ocean Shores re-transmission sites for digital television. The Mullumbimby site was considered unviable for an upgrade due to costs outweighing community needs. Affected Mullumbimby residents were instead offered access to Viewer Access Satellite Television via a Satellite Subsidy Scheme.

Council contracted with RBAH under a 10-year licence to upgrade remaining re-transmission sites to digital services, at no cost to Council.

20 RBAH has requested a new five-year licence with option of five-years over the Ocean Shores site to commence 10 September 2022. RBAH will continue to occupy the Byron Bay site under holding over provisions of its current licence until the future of the Paterson Street Reservoir is determined.

Direct Negotiation

25 Section 55(3)(e) of the *LGA* provides authority to directly negotiate the proposed lease with RBAH without a tender invitation.

Rent

RBAH is funded by regional broadcasters excluding SBS for the provision of digital re-transmission technology to overcome black spot television reception in regional areas. RBAH is constituted not to make a profit.

30 Council previously resolved to grant RBAH a licence at peppercorn rent given the significant community interest and benefit in eradicating free to air digital black spot television reception in Ocean Shores.

35 This report recommends that annual rent is again fully subsidised. The rationale being that if RBAH were to terminate its interests in the sites, then Council would need to either fund and operate a free to air digital re-transmission station or contract with another provider to eradicate black spot television reception areas in Ocean Shores.

Terms and conditions of new Licence

The new licence over the Ocean Shores site is proposed to be offered on the following terms and conditions:

- a) part Folio 1/735732, Warrambool Road Ocean Shores,
- 5 b) term five-years with an option of five-years with no holding over,
- c) annual rent set at \$1, if demanded,
- d) Licensee to own all the digital re-transmission equipment and to have unlimited access to the site,
- 10 e) Licensor to maintain, at its cost, access to the site, an equipment shed, main power connection and usage costs, air-conditioning, transmission tower and security fencing, and
- f) Council to waive document preparation fees as set by its 2022-2023 Fees and Charges.

15 The report recommends a new licence is offer to RBA Holdings Pty Ltd on terms set out in this report.

Public Notice

Council was not required by legislation to publicly advertise the proposed licence for public comment.

Strategic Considerations

20 Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
5: Connected Infrastructure We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable	5.3: Invest in renewable energy and emerging technologies	5.3.4 Telecommunications - Advocate for more disaster resilient communication networks		Not applicable.

Recent Resolutions

Nil.

Legal/Statutory/Policy Considerations

Nil.

Financial Considerations

- 5 This report recommends that the proposes licence to RBAH is granted at fully subsidised rent. The rational being the cost to Council for the rent subsidy is less than the cost to Council to operate its own re-transmission station or to tender for another operator to provide a digital re-transmission station to eradicate black spot television reception in Ocean Shores.

Consultation and Engagement

- 10 Council was not required to publicly advertise the proposed licence for public comment.

Report No. 13.3 General Manager Delegation - Procurement

Directorate: General Manager

Report Author: Alexandra Keen, Strategic Contracts & Procurement
Coordinator
5 Ralph James, Legal Counsel

File No: I2022/918

Summary:

This report seeks Council approval to:

- 10 a) amend the General Manager's current delegations for acceptance and rejection
 of tenders, and
 b) resolve that tenders are not required for flood related response and recovery
 works with a value of up to \$1 million (GST exclusive).

RECOMMENDATION:

That Council:

- 20 1. pursuant to s377(1) of the *Local Government Act 1993* increases the delegation
 to the General Manager with respect to accepting or rejecting tenders to \$1
 million (excluding GST), and \$2 million (excluding GST) for contracts relating
 to flood response and recovery, subject to the limitation in s377(1)(i) of the
 Local Government Act 1993
- 25 2. pursuant to s55(3)(i) of the *Local Government Act 1993* endorses for the
 reasons set out below, that, up until 22 February 2023, the requirements for
 tendering do not apply to contracts with an expected value of up to \$1 million
 (excluding GST) which are primarily for the purpose of flood response and
 recovery:
- 30 a) There are still significant recovery works underway, including works
 associated with hinterland access and remediation, associated with the
 February 2022 natural disaster event, which require specialist expertise or
 would benefit from the continued work of current contractors in order for
 works to be completed in a timely manner.
- 35 b) The negative impact on the local community that the loss of access to
 infrastructure is having including impacts to food, housing, social
 connection/activities, education, work, and medical access.




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- c) **The local market conditions where there is a high demand for contractors and materials/goods in light of neighbouring shires in the Northern Rivers and Southern Queensland also being extensively impacted by the February 2022 flood event.**

5 **Attachments:**

- 1 General Manager Delegations, E2022/57999 
- 2 s377 Local Government Act 1993, E2022/64978 
- 3 s55 Local Government Act 1993, E2022/70651 

10

Report

The cost of many contracts for the supply of goods and services has increased significantly in the past 12 months due to changed market conditions from natural disasters and the continued supply chain issues associated with COVID-19. The wide-spread impacts of the February 2022 flood event, in particular, has reduced the availability of many contractors and goods in the local market.

Provisions within the *Local Government Act 1993* (Act) and *Local Government Regulations 2021* (Regs) can be relied upon to expedite procurement processes during extenuating circumstances such as those being experienced by Byron Shire Council.

This report seeks Council approval to:

- a) amend the General Manager's current delegations for acceptance and rejection of tenders, and
- b) resolve that tenders are not required for flood related response and recovery works with a value of up to \$1 million (GST exclusive).

General Manager Delegation

Currently the General Manager's delegations permit the General Manager to accept tenders up to a value of \$250,000 (GST inclusive) or up to \$500,000 for repair or recovery works primarily associated with declared natural disasters, BSC113 (see [Attachment 1](#)). The increase in expenditure (to \$500,000) for declared natural disasters was recently introduced to the *Local Government (General) Regulation 2021* via Clause 170A. This clause can be relied upon until 22 February 2023 (being 12 months from the date of the natural disaster declaration for the February 2022 Flood Event).

At present, Council must resolve to accept or reject tenders for contracts above these amounts.

Many neighbouring councils have sought to increase the delegated tender acceptance amount to their General Manager, to enable more effective and efficient responses to tenders. For example Tweed Shire Council, at its 16 June 2022 meeting, resolved to allow the General Manager to accept tenders for contracts of a value of \$1 million (excluding GST) and \$3 million (excluding GST) for contracts relating to flood restoration tenders.

To avoid delays in the procurement process and reduce the impact on the community, it is recommended that Byron Shire Council increase the General Manager's delegations to permit accepting or rejecting tenders:

- up to \$1 million (excluding GST); and
- up to \$2 million (excluding GST) for contracts relating to flood response and recovery

Any tenders above these values will be reported to Council for resolution.

Tendering Requirements

The threshold for exemption of the tendering requirements of \$250,000 contained in s55(3)(n)(1) of the *Local Government Act 1993* was assented to in June 2019. Since this time the market conditions have changed significantly, and with interest rate rises it is further expected to adversely impact prices for contractors and goods/materials.

The extenuating circumstances being experienced by neighbouring councils, such as Tweed Shire Council, are also present in the Byron Shire Council markets due to its regional locality and limited availability of competitive or reliable tenders. In particular:

1. There are still significant recovery works underway, including works associated with hinterland access and remediation, associated with the February 2022 natural disaster event, which require specialist expertise or would benefit from the continued work of current contractors in order for works to be completed in a timely manner.
2. The negative impact on the local community that the loss of access to infrastructure is having including impacts to food, housing, social connection/activities, education, work, and medical access.
3. The local market conditions where there is a high demand for contractors and materials/goods in light of neighbouring shires in the Northern Rivers and Southern Queensland also being extensively impacted by the February 2022 flood event.

If Byron Shire Council is to remain competitive in the market where neighbouring councils are adapting their approaches to procurement, it is proposed that Council resolve to not apply the tendering requirements for flood response and recovery contracts with a value of up to \$1 million (excluding GST) in accordance with s55(3)(i) of the *Local Government Act 1993* (Attachment 3) up until 22 February 2023, being 12 months from the date of the natural disaster declaration (and in line with clause 170A of the *Local Government (General) Regulation 2021*).

The removal of the tendering requirement as set out above, does not exempt Council from the requirement to follow a robust procurement process involving requests for quotation to ensure value for money and a competitive approach for seeking goods and services.

Next steps

If Council resolves to accept the changes proposed in this report, the Governance and Internal Audit Coordinator will update the General Manager's delegations, and this and any supported tendering changes will be communicated to staff.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.1: Enhance trust and accountability through open and transparent leadership	1.1.2: Governance - Ensure legislative compliance and support Councillors to carry out their civic duties	1.1.2.2	Maintain, publish and report on relevant registers including delegations, Councillors and designated staff disclosures of interests, Councillor and staff gifts and benefits, and staff secondary employment.
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.3: Ethical and efficient management of resources	1.3.4: Procurement - Ensure Council's procurement framework is robust, efficient, and effective	1.3.4.1	Investigate and implement initiatives to build internal capacity in effective procurement and contract management

Recent Resolutions

- **22-311** Review of Council Delegations

5 Legal/Statutory/Policy Considerations

[Section 377\(1\)](#) of the *Local Government Act 1993* allows a council, by resolution, to delegate to the General Manager or any other person functions of the Council under the *Local Government Act 1993*, with the only limitation for tendering under subsection 377(1)(i) in respect of accepting tenders for services currently provided by members of staff of the council ([Attachment 2](#)).

[Section 55\(3\)\(i\)](#) permits that tenders need not be invited for a contract where, because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenderers, a council decides by resolution (which states the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders.

15 Financial Considerations

Nil.

Consultation and Engagement

Not applicable.

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**Report No. 13.4 Community Initiatives Program 2022-2023
Recommendations for Funding**

5 **Directorate:** Corporate and Community Services

Report Author: Emily Fajerman, Community & Cultural Development
 Coordinator

File No: I2022/462

Summary:

10 The Community Initiatives Program provides funding to not-for-profit community
 organisations and community groups to deliver projects that create positive social, cultural,
 and environmental outcomes.

 Council called for applications between 16 May and 30 June this year and 19 eligible
 applications were received. This report recommends that 11 community projects are
15 funded to the value of \$44,200 for the 2022/2023 financial year.

RECOMMENDATION:

- 20 1. **That Council approves the recommended projects for the Community
 Initiatives Program as per Attachment 1 (E2022/73029), listed below**
 (to be inserted following Council determination):
- _____
- 25 2. **That Council notes the applications not recommended as per Attachment 1
 (E2022/73029).**

Attachments:

- 30 1 Confidential - Community Initiatives Program 2022-2023 - Assessment Panel Summary and
 Recommendations for Funding - for Council, E2022/73029

Report

Through the provision of grants, sponsorships and funding, Council can work in collaboration with community groups to further the aims identified in the four-year Delivery Program and annual Operational Plan.

- 5 Each year incorporated not-for-profit organisations and community groups are eligible to apply for grants of up to \$5,000 through the Community Initiatives Program.

On 16 May 2022, Council opened the Community Initiatives Program round for 2022/2023 and applications closed on 30 June 2022.

- 10 Information about the Community Initiatives Program such as application dates, guidelines, eligibility, and criteria were made available on Council's website, Facebook page and via the Echo Newspaper. Email campaigns were also utilised to target interested stakeholders and networks.

- 15 A total of 19 eligible applications were received. Applications were assessed against defined criteria as well as the integrity of the proposed budget, project plan, partnerships, contributions, and connection to the local community.

The assessment panel included:

- Coast, Biodiversity and Sustainability Coordinator
- Events and Projects Support Officer
- Grants Coordinator

- 20 The panel recommends that Council funds 11 of the community projects, detailed in Attachment 1 (E2022/73029).

All recipients will be required to sign a contract, share project outcomes, and acquit their funding by June 2023.

Next steps

- 25 Contracts will be entered into with all successful applicants, pending Council approval by resolution.

- 30 The contract management process will involve staff in the Community and Cultural Development team setting contract conditions for each approved project, establishing communications and information management, meeting with community stakeholders and reviewing project acquittals.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.5: Empower community leadership through collaboration, capacity building, and cultivating community driven initiatives	1.5.1: Community grant programs - Provide financial assistance and grants to empower community groups and organisations to deliver priority projects	1.5.1.1	Deliver annual Community Initiatives Program and associated funding and support

Legal/Statutory/Policy Considerations

- 5 The Community Initiatives Program (Section 356) Policy details the process and approach for delivering the funding. The Policy was reviewed in March 2022, resulting in changes to improve program delivery, and was adopted by Council on 25 March 2022 (**Res 22-077**).

Section 356 of the Local Government Act 1993 provides that a council may, in accordance with a resolution of the council, contribute money or otherwise grant financial assistance to persons for the purpose of exercising its functions.

- 10 The provisions of section 356 (2) have been complied with.

Financial Considerations

A total value of \$44,200 is recommended in this report and is provided in the 2022/2023 Community Development budget.

Report No. 13.5 Council Investments - 1 June 2022 to 30 June 2022

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

5 **File No:** I2022/843

Summary:

This report includes a list of investments and identifies Council's overall cash position for the period 1 June 2022 to 30 June 2022 for information.

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

15 **RECOMMENDATION:**

That Council notes the report listing Council's investments and overall cash position as at 30 June 2022.

20

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Report

Council has continued to maintain a diversified portfolio of investments. As of 30 June 2022, the average 90-day bank bill rate (BBSW) for the month was 1.60%. Council's performance for June 2022 was 1.28%.

- 5 As investments mature Council should begin to see increased rates due to the recent Reserve bank increase in cash rates. The table below identifies the investments held by Council as at 30 June 2022:

Schedule of Investments held as at 30 June 2022

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Int. Rate	Current Value (\$)
15/11/18	1,000,000.00	NSW Treasury Corp (Green Bond)	N	AAA	15/11/28	Y	B	3.00%	942,150.00
20/11/18	1,000,000.00	QLD Treasury Corp (Green Bond)	N	AA+	22/03/24	Y	B	1.18%	997,040.00
28/03/19	1,000,000.00	National Housing Finance & Investment Corporation	Y	AAA	28/03/29	Y	B	2.38%	901,630.00
21/11/19	1,000,000.00	NSW Treasury Corp (Sustainability Bond)	N	AAA	20/03/25	Y	B	1.25%	938,600.00
27/11/19	500,000.00	National Housing Finance & Investment Corporation	Y	AAA	27/05/30	Y	B	1.52%	408,615.00
06/09/21	1,000,000.00	Northern Territory TCorp	N	Aa3	15/12/26	Y	B	1.40%	1,000,000.00
16/09/21	1,000,000.00	QLD Treasury Corp (Green Bond)	N	AA+	02/03/32	Y	B	1.50%	928,180.00

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Int. Rate	Current Value (\$)
15/06/21	500,000.00	National Housing Finance & Investment Corporation	Y	AAA	01/07/31	Y	FRN	0.41%	501,490.00
04/11/21	2,000,000.00	NAB	P	AA-	04/11/22	N	TD	0.45%	2,000,000.00
09/12/21	2,000,000.00	NAB	N	AA-	05/09/22	N	TD	1.75%	2,000,000.00
17/12/21	2,000,000.00	NAB	N	AA-	19/12/22	N	TD	0.72%	2,000,000.00
05/01/22	2,000,000.00	NAB	N	AA-	04/07/22	N	TD	0.52%	2,000,000.00
20/01/22	1,000,000.00	Westpac (Tailored)	P	AA-	20/01/23	N	TD	0.79%	1,000,000.00
31/01/22	1,000,000.00	NAB	N	AA-	29/08/22	N	TD	1.60%	1,000,000.00
22/02/22	1,000,000.00	Macquarie Bank Ltd	P	A	23/08/22	N	TD	0.65%	1,000,000.00
25/02/22	1,000,000.00	Macquarie Bank Ltd	N	A	25/08/22	N	TD	0.65%	1,000,000.00
08/03/22	2,000,000.00	Suncorp	P	A+	05/09/22	Y	TD	0.52%	2,000,000.00
09/03/22	2,000,000.00	NAB	N	AA-	06/09/22	N	TD	1.85%	2,000,000.00
29/4/2022	2,000,000.00	NAB	N	AA-	28/07/2022	N	TD	1.05%	2,000,000.00
04/05/22	2,000,000.00	NAB	N	AA-	02/08/22	N	TD	1.20%	2,000,000.00
20/05/2022	2,000,000.00	NAB	N	AA-	16/11/2022	N	TD	2.05%	2,000,000.00
31/05/2022	2,000,000.00	NAB	N	AA-	29/08/2022	N	TD	1.60%	2,000,000.00
7/6/2022	1,000,000.00	Macquarie Bank Ltd	N	A	6/9/2022	N	TD	1.77%	1,000,000.00
15/6/2022	2,000,000.00	NAB	N	AA-	13/9/2022	N	TD	2.15%	2,000,000.00
28/6/2022	2,000,000.00	NAB	N	AA-	26/10/2022	N	TD	2.52%	2,000,000.00
N/A	15,324,274.65	CBA Business Saver	N	AA-	N/A	N	CALL	0.70%	15,324,274.65
N/A	4,636,655.83	CBA Business Saver –	N	AA-	N/A	N	CALL	0.95%	4,636,655.83

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Int. Rate	Current Value (\$)
		Tourism Infrastructure Grant							
N/A	18,059,526.79	Macquarie Accelerator Call	N	A	N/A	N	CALL	0.90%	18,059,526.79
Total	74,020,457.27						AVG	1.28%	73,638,162.27

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 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

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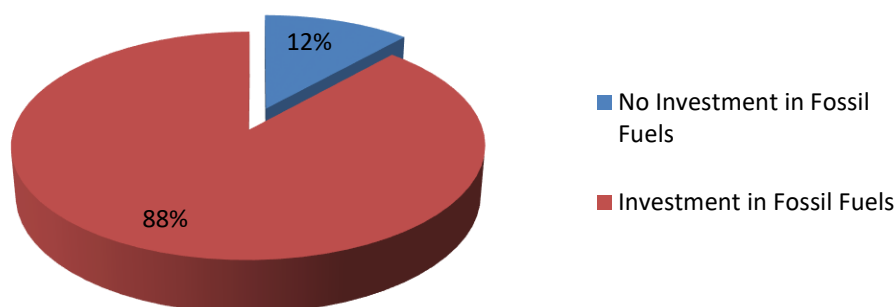
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not. Council's current Investment Policy defines Environmental and Socially Responsible Investing at Section 4.1 of the Policy which can be found on Council's [website](#).

Council has one investment with a financial institution that invests in fossil fuels but is nevertheless aligned with the broader definition of Environmental and Socially Responsible investments i.e.:

1. \$1,000,000 investment with Westpac Bank maturing on 20 January 2023 is a tailored term deposit and certified green investment.



Investment Policy Compliance

- 10 The below 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).
- 15

Investment policy compliance % should not exceed the following			ACTUAL	
AAA to AA	A1+	100%	72%	Meets policy
A+ to A-	A1	60%	28%	Meets policy
BBB to NR	A2,NR	40%	0%	Meets policy

NSW Treasury Corporation Compliance – Loan Borrowing Conditions

- 20 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 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 reminded Council it needs to remain within the investment parameters outlined in the accepted loan

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agreements. Council currently complies with T Corp Borrowing conditions as indicated in the table below:

Tcorp compliance			Counterparty Limit	Tenor	ACTUAL	Variance
% should not exceed the following						
Tcorp	100%	100%	100%	N/A	0%	Meets policy
AAA	100%	100%	100%	N/A	6%	Meets policy
AA+ to AA-	100%	100%	100%	5Y	62%	Meets policy
A+ to A	100%	100%	100%	3Y	32%	Meets policy
A-	40%	40%	40%	3Y	0%	Meets policy
BBB+	30%	10% 3 Years	3Y	3Y	0%	Meets policy
BBB		5% 12 Months	1Y	1Y	0%	Meets policy
BBB- and below (local ADI'S)	5%	5% 12 Months	1Y	1Y	0%	Meets policy
BBB- and below (other)		250,000	1Y	1Y	0%	Meets policy

- 5 Council 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.

- 10 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. Investments which 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 June 2022 to 30 June 2022:

15 Dissection of Council Investment Portfolio as at 30 June 2022

Principal Value (\$)	Investment Linked to:	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
29,000,000.00	Term Deposits	29,000,000.00	0.00
1,500,000.00	Floating Rate Note	1,498,530.00	(1,470.00)
15,324,274.65	CBA Business Saver	15,324,274.65	0.00
4,636,655.83	CBA Business Saver – Tourism Infrastructure Grant	4,636,655.83	0.00
18,059,526.79	Macquarie Accelerator	18,059,526.79	0.00
5,500,000.00	Bonds	5,119,175.00	(380,825.00)
74,020,457.27		73,638,162.27	(382,295.00)

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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. The table below identifies Council's overall cash position for the month of June 2022 as follows:

Dissection of Council's Cash Position as at 30 June 2022

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Investments Portfolio			
Term Deposits	29,000,000.00	29,000,000.00	0.00
Floating Rate Note	1,500,000.00	1,498,530.00	(1,470.00)
CBA Business Saver	15,324,274.65	15,324,274.65	0.00
CBA Business Saver – Tourism Infrastructure Grant	4,636,655.83	4,636,655.83	0.00
Macquarie Accelerator	18,059,526.79	18,059,526.79	0.00
Bonds	5,500,000.00	5,119,175.00	(380,825.00)
Total Investment Portfolio	74,020,457.27	73,638,162.27	(382,295.00)
Cash at Bank			
Consolidated Fund	4,958,139.52	4,958,139.52	0.00
Total Cash at Bank	4,958,139.52	4,958,139.52	0.00
Total Cash Position	78,978,596.79	78,596,301.79	(382,295.00)

STRATEGIC CONSIDERATIONS

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.3: Ethical and efficient management of resources	1.3.1: Financial Management - Ensure the financial integrity and sustainability of Council through effective financial management	1.3.1.6	Maintain Council's cash flow

Legal/Statutory/Policy Considerations

- 5 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*.

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

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

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

Financial Considerations

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

Report No. 13.6 Carryovers for Inclusion in the 2022-2023 Budget

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

5 **File No:** I2022/902

Summary:

10 This report is prepared for Council to consider and to adopt the carryover Budget allocations for works and services, either commenced and not completed, or not commenced but allocated in the 2021/2022 financial year for inclusion in the 2022/2023 Budget Estimates.


This report is also the subject of a report to the Finance Advisory Committee at its Meeting held on 18 August 2022.

15

RECOMMENDATION:

20 That Council approves the works and services (with respective funding) shown in Attachment 1 (#E2022/76668) to be carried over from the 2021/2022 financial year and that the carryover budget allocations be adopted as budget revotes for inclusion in the 2022/2023 Budget Estimates.

Attachments:

25 1 2021-22 Budget Carryovers for inclusion in 2022-23 Budget, General, Water and Sewer Funds, E2022/76668 

Report

Each year Council allocates funding for works and services across all budget programs. For various reasons, some of these works and services are incomplete at the end of the financial year. The funding for these works and services is restricted or reserved at the end of the financial year to be carried over to the following year for completion.

This report identifies all the works and services proposed to be carried over to the 2022/2023 Budget Estimates and the respective funding of each, relating to works and services not completed during the course of the 2021/2022 financial year. The specific details including funding sources of all carryover works and services that are the subject of this report are outlined in Attachment 1.

The works and services are fully funded and have no impact on Council's Unrestricted Cash Result or the 2022/2023 Budget Estimates result.

As in previous years there is a significant amount of carryovers with total carryovers for 2021/2022 amounting to \$24,899,600. This is a large increase when compared to previous years but is attributable to the following:

- The disruption of February/March 2022 flood events and subsequent recovery response.
- Council's ongoing receipt of grant funding not necessarily flood related.

Table 1 below outlines a comparison of carryovers from previous financial years:

Table 1 - Value of budget carryovers 2018/19 – 2022/23

Fund	2018/19 (\$)	2019/20 (\$)	2020/21 (\$)	2021/22 (\$)	2022/23 (\$)
General	9,004,500	6,024,800	7,875,500	10,719,000	17,539,200
Water	879,500	301,900	1,118,800	840,300	3,318,000
Sewer	2,473,500	625,400	1,129,200	1,695,500	4,042,400
Total	12,357,500	6,952,100	10,123,500	13,254,800	24,899,600

General Fund

The value of works carried over to 2022/2023 for the General Fund has increased by over 64% from the 2021/2022 amount (\$6,820,200). Of the \$17,539,200 of General Fund carryovers, just over 52% (\$9,197,200) is attributable to Local Roads and Drainage projects not completed in 2021/2022 to be carried forward to 2022/2023. This percentage

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is more than the carryovers attributable to Local Roads and Drainage from 2021/2022 (40%). The extent of carryovers in the General Fund is also relevant to the number of, and size of grant funded works. Approximately \$10.663 million of the General Fund carryovers are funded from unexpended or approved grants.

- 5 Major carryover items in General Fund are as follows:

Item	Amount \$
Feb 2022 Flood Event DPIE - Resilience	965,000
Preparing Australian Communities – Byron Drainage Study	465,500
Election Commitment Grant Major Patching	463,800
Election Commitment Grant Reseal Program	476,100
Local Roads Reseals	339,700
Gilmore Crescent	492,300
Byron Bay Drainage Upgrade	326,400
Coolamon Scenic Drive 16.5km section	530,100
Safer Roads Program - Myocum - Myocum Rd	624,400
Rifle Range Rd Upgrade	1,180,900
Mullumbimby Local Roads Rehabilitation	498,800
Fed & State Stimulus - Rifle Range Rd	537,500
Sandhills Wetlands Project	1,446,300
Suffolk Park Football Club Change Rooms	485,000
Former Mullumbimby Hospital Remediation	1,500,000

Water and Sewer Funds

Carryovers for the Water Fund have increased by \$2,477,700 and increased for the Sewer Fund by \$2,346,900 compared to the carryover for the 2021/2022 financial year. Details of these carryovers are included in Attachment 1.

- 10 The following table outlines the project status with comments provided by Infrastructure Services of Local Roads & Drainage capital works carryovers for Councillors' information, where works are in progress or contracts have been awarded at the time of writing this report.

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Table 2 – Schedule of Carryover works current status

Ledger #	Project	Carryover \$	Status
44286.032	Streets as Shared Spaces - Market Relocation	242,800.00	Grant funded project, design underway and construction of stage 1 planned for October 2022.
44288.001	ECG Major Patching Program	463,800.00	Works programmed to be completed as per funding deadline of August 2022.
44289.001	ECG Pavement Asphalt Overlay Program	109,300.00	Works programmed to be completed as per funding deadline of August 2022.
44290.001	ECG Reseal Program	476,100.00	Works programmed to be completed as per funding deadline of August 2022.
44283.085	Stuart St Tincogan St Intersection	18,700.00	Grant funded works. Design works ongoing and construction planned.
44283.087	Carlyle St, Byron Bay	7,700.00	Grant funded works. Design works ongoing and construction planned.
44283.088	Main Arm Rd	39,700.00	Grant funded works. Design works ongoing and construction planned.
44283.059	The Pocket Road Stage 2 (Ch 2,810 - 3,69	145,600.00	Construction works underway.
44283.101	A&I Estate - Bayshore Drive Reconstruction	132,000.00	Grant funded works. Design works ongoing and construction planned.
44284.004	Brunswick Heads - South Arm Carpark	5,100.00	Grant funded works. Design works ongoing and construction planned.
44283.113	Fern St (Station to Dalley)	26,900.00	Grant funded works. Design works ongoing and construction planned.
44283.127	Station Street	25,400.00	Grant funded works. Design works ongoing and construction planned.
44281.018	S/Park - Bangalow Rd/Tennyson St Missing Links	183,600.00	Invoices yet to be paid

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Ledger #	Project	Carryover \$	Status
4338.001	Local Roads Reseals (Rev)	339,700.00	Resheeting programmed for delivery in early 2022/23. Other grant projects have funded works have taken priority in 2021/22.
44003.042	Access ramps and footpaths Works	35,300.00	Works programmed for delivery in early 2022/23.
44003.145	Design & Options Study BA001 and BA023	8,800.00	Design currently being finalised.
44026.018	Bridge Inspections	84,600.00	Funds to be reallocated to 44026.026 in 2022/23 to achieve efficiencies in completing essential bridge maintenance works.
44026.022	Upper Main Arm Bridge - Main Arm Road	40,100.00	Grant funded works awaiting outcome of variation request.
44026.023	Sherringtons Bridge - Sherringtons Lane	40,600.00	Grant funded works awaiting outcome of variation request.
44026.024	Englises Bridge - Englises Road	45,500.00	Carry over of grant funds already received. Now funded by natural disaster funding.
44281.013	Mullumbimby to Brunswick Heads Cycleway	56,100.00	Grant funded works. Design works ongoing and construction planned.
44281.017	Ewingsdale Road Shared Path Missing Link Upgrade - Byron Bay	130,700.00	Works mostly complete and will be finalised early in 2022/23.
44282.021	44 Kingsley Lane - Kerb and Gutter	9,300.00	Works mostly complete and will be finalised early in 2022/23.
44282.023	SGB Street Drainage		Works mostly complete and will

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Ledger #	Project	Carryover \$	Status
	Upgrade - Pacific Es	1,200.00	be finalised early in 2022/23.
44282.031	Reflections Holiday Park Drainage	149,100.00	Works mostly complete and will be finalised early in 2022/23.
44282.032	SGB Street Drainage Upgrade - Clifford St	130,300.00	Works commenced and will be finalised early in 2022/23.
44282.035	Rajah Road Flood Flow Path - construction	56,700.00	Construction ready and programmed for construction in 2022/23.
44282.036	SGB Street Drainage Upgrade - Gloria Street (east) - Design	15,000.00	Design has commenced and will be complete in 2022/23.
44282.042	Byron Bay Drainage Upgrade	326,400.00	Grant funded works. Design currently out to tender.
44282.043	Overland Flow Path-32 Coomburra Crescent	40,000.00	Design has commenced and will be complete in 2022/23.
44283.039	Johnston Lane Causeway - Private Works	126,300.00	Grant funded works awaiting outcome of variation request. Construction ready.
44283.040	Causeways, Culvert and Bridge Renewal In	81,500.00	These funds are required to support the grant funded Upper Main Arm Road Causeway No.2 renewal - funds to be moved into this project.
44283.041	Bangalow Sportsfield Access Road	14,800.00	Design ongoing and awaiting further information.
44283.049	Gravel Resheeting	296,200.00	Resheeting programmed for delivery in early 2022/23. Other grant projects have funded works have taken priority in

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Ledger #	Project	Carryover \$	Status
			2021/22.
44283.066	Coolamon Scenic Drive 16.5km section,	530,100.00	Works commenced and will be finalised early in 2022/23.
44283.084	Stuart Street	115,800.00	Works mostly complete - Awaiting payment of final invoices.
44283.106	Safer Roads Program - Myocum - Myocum Rd	624,400.00	Works mostly complete and will be finalised early in 2022/23.
44283.107	Fixing Country Roads - Myocum Rd Upgrade	130,000.00	Works mostly complete and will be finalised early in 2022/23.
44283.108	National Parks Access Rd Sealing	226,400.00	Works programmed for delivery in early 2022/23.
44283.109	Rifle Range Rd Upgrade	1,180,900.00	Grant funded works awaiting outcome of variation request. Construction ready.
44283.115	Broken Head Reserve Road Traffic Control Works	190,500.00	Works programmed for delivery in early 2022/23. Funds to be combined with budget in 2022/23.
44283.116	Seven Mile Beach Road Traffic Control Works Stage 1	6,800.00	Works programmed for delivery in early 2022/23. Funds to be combined with budget in 2022/23.
44283.124	Fixing Local Roads - Ocean Shores Resurfacing	174,700.00	Grant funded works programmed for delivery in 2022/23.
44283.128	Murwillumbah Rd Mullum - Pedestrian Cros	173,300.00	Grant funded works programmed for delivery in

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Ledger #	Project	Carryover \$	Status
			2022/23.
44283.129	Mullumbimby Local Roads Rehabilitation	498,800.00	Grant funded works programmed for delivery in 2022/23.
44283.132	Fed & State Stimulus - Rifle Range Rd	537,500.00	Grant funded works awaiting outcome of variation request. Construction ready.
44283.131	Koonyum Range Road Sealing	14,900.00	To be completed in 2022/23
44285.013	Heavy Patching	14,300.00	Resheeting programmed for delivery in early 2022/23. Other grant projects have funded works have taken priority in 2021/22.
44286.015	Retaining Wall Works Program	10,500.00	Resheeting programmed for delivery in early 2022/23. Other grant projects have funded works have taken priority in 2021/22.
44286.017	Esplanade Beach Access and Parking Impro	36,900.00	Design underway and programmed for completion in 2022/23.
44286.028	Broken Head Reserve Rd Speed Zone Changes	6,800.00	Programmed for implementation as part of 44283.115.
44286.029	Coorabell PS Line Marking	14,000.00	Grant funded works programmed for delivery in 2022/23.
44286.031	Jarvis Land Transfer Agreement	100,000.00	Finalisation of transfer delayed but planned for 2022/23.

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Ledger #	Project	Carryover \$	Status
	Total	8,491,500	

In accordance with Section 211 of the Local Government (General) Regulation 2021, Council conducted an Extraordinary Meeting to approve expenditure on 30 June 2022 via Resolution **22-332** to create the 2022/2023 Budget. The expenditure items that are the subject of this report were not included in the 2022/2023 Budget Estimates, but now need to be. The intent of this report is to seek Council approval to revoke the carryovers from the 2021/2022 financial year and to adopt the budget carryovers for inclusion in the 2022/2023 Budget Estimates.

At its meeting held on 28 March 2013 the Strategic Planning Committee considered Report 4.3 on Council's financial position for the 2012/2013 financial year. The recommendations from this meeting were adopted by Council at its Ordinary Meeting held on 18 April 2013 through resolution **13-164**. Committee recommendation SPC 4.3 in part 5 included the following process to be applied to the consideration of any amount identified as a carryover to the 2013/14 and future Budgets and funded from general revenues:

That Council determines that any general revenue funded allocated expenditure, not expended in a current financial year NOT be automatically carried over to the next financial year before it is reviewed, and priorities established

This report is to be considered by the Finance Advisory Committee at its Meeting held on 18 August 2022.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.3: Ethical and efficient management of resources	1.3.1: Financial Management - Ensure the financial integrity and sustainability of Council through effective financial management	1.3.1.2	Provide Quarterly Budget Reviews to Council for adoption.

Legal/Statutory/Policy Considerations

Section 211 of the Local Government (General) Regulation 2021 outlines the requirements of Council relating to authorisation of expenditure. Specifically Section 211 states:

- 5 (1) *A council, or a person purporting to act on behalf of a council, must not incur a liability for the expenditure of money unless the council at the annual meeting held in accordance with subclause (2) or at a later ordinary meeting:*
 (i) *has approved the expenditure, and*
 (ii) *has voted the money necessary to meet the expenditure.*
- 10 (2) *A council must each year hold a meeting for the purpose of approving expenditure and voting money.*

Financial Considerations

- 15 The Financial implications of this report have been outlined above in that, should Council adopt the recommendation of the report, the 2022/2023 Budget result will not change, nor will the Unrestricted Cash Result.

Report No. 13.7 **Appointment of Replacement Community Members to Advisory Committees**

Directorate: Corporate and Community Services

Report Author: Richard Bradbury, Councillor Support Officer

5 **File No:** I2022/928

Summary:

10 Council resolved on 24 March 2022 to appoint community representatives to its Advisory Committees for the term of Council. New members are required due to the resignation of members of the Water & Sewer, Biodiversity, Floodplain and Coastal & ICOLL Advisory Committees.

Expression of Interest for inclusion on these committees was invited by completing an online nomination form. This report provides information about the nominations received and recommends appointment to the various Advisory Committees with vacancies.

15

RECOMMENDATION:

- 20 1. That community representatives, as recommended in confidential attachment 1 (E2022/63044), be appointed to each respective Advisory Committee for the 2022-2024 term ending September 2024.
2. That, where no recommendation is made in confidential attachment 1 (E2022/63044), Council select the community representatives from the options provided, and they be appointed for the respective Advisory Committee for the 2022-2024 term ending September 2024.
- 25 3. That in the case of future resignations from Advisory Committees that replacement community members be appointed from the recommended list of previous applicants, and where no suitable or available applicants exist applications for new members are then advertised.
4. That all appointed Advisory Committee members:
 - 30 a) be notified of their appointment to the committee; and
 - b) complete induction, Code of Conduct, and confidentiality requirements.
5. That any unsuccessful nominees be notified.

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Attachments:

- 1 Confidential - Advisory Committees Nominations and Recommendations for Appointment
July 2022, E2022/63044
- 5 2 Confidential - Curriculum Vitae of applicants for the Water and Sewer Advisory Committee
July 2022, E2022/71581
- 3 Confidential - Curriculum Vitae of applicants for the Floodplain Advisory Committee July
2022, E2022/71580
- 4 Confidential - Curriculum Vitae of applicants for the Coastal and ICOLL Advisory Committee
July 2022, E2022/71579
- 10 5 Confidential - Curriculum Vitae of applicants for the Biodiversity Advisory Committee July
2022, E2022/71578
- 15

Report

Council resolved on 24 March 2022 to appoint community representatives to its Advisory Committees for the term of Council. New members are required due to the resignation of members of the Water & Sewer, Biodiversity, Floodplain, and Coastal & ICOLL Advisory Committees. Nominations were subsequently advertised. A summary of the number of nominations received is provided below:

- Biodiversity Advisory – 2 vacancies and 5 nominations
- Coastal and ICOLL Advisory Committee – 2 vacancies and 8 nominations
- Floodplain Management Advisory Committee – 2 vacancies and 7 nominations
- Water and Sewer Advisory – 1 vacancy and 2 nominations

The majority of committees received more nominations than available positions, in accordance with the structure and membership as determined by Council on 3 February 2022. Council is therefore asked to consider the nominations provided in confidential Attachment 1 and determine the appointment of community representatives to each of the committees.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.2: Engage and involve community in decision making	1.2.4: Advisory Committees - Coordinate advisory committees to inform decision making on their areas of expertise	1.2.4.1	Coordinate and support Advisory Committees to assist with effective Council decision making

Report No. 13.8 Delivery Program 6-monthly Report and Operational Plan 2021/22 Quarter 4 Report - to 30 June 2022

Directorate: Corporate and Community Services

5 **Report Author:** Heather Sills, A/ Manager Corporate Services

File No: I2022/940

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 second '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 Council achieved 73% of the Operational Plan activities that were planned to be delivered in 2021/22.

RECOMMENDATION:

20 **That Council notes the Delivery Program 6-monthly Report and 2021/22 Operational Plan Fourth Quarter Report for the period ending 30 June 2022 (Attachment 1 #E2022/67538).**

Attachments:

25 1 Delivery Program 6-Monthly Report and Operational Plan Quarterly Report - Q4 - to 30 June 2022, E2022/67538 

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.

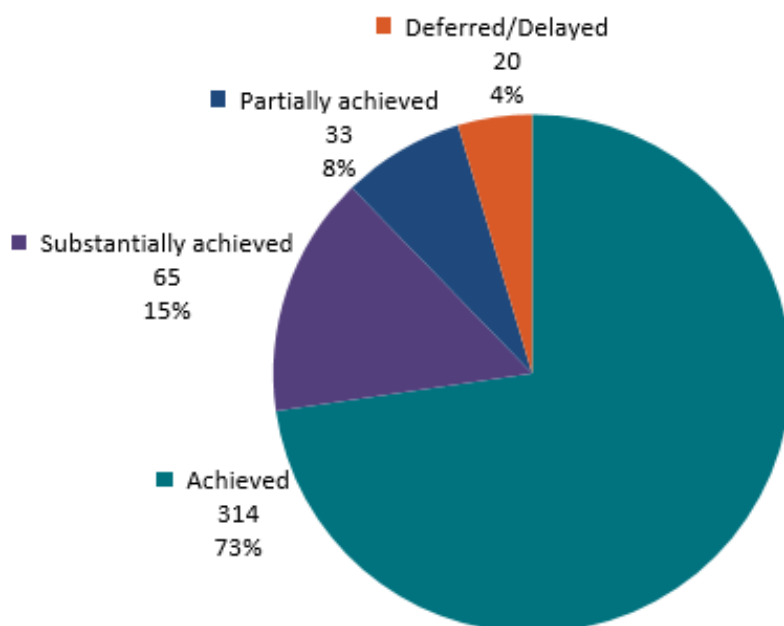
- 10 The Delivery Program is supported by the annual Operational Plan, which identifies the individual projects and activities that will be undertaken for the year to achieve the commitments made in the Delivery Program.

The General Manager is required to provide six monthly progress reports to the Council on the progress toward 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, the Council is provided with a Quarterly Report on the activities in the Operational Plan, to promote effective and efficient reporting and decision making.

2021/22 Operational Plan Activities



As this is the last quarter report for the 2020/21 financial year, this report details Council's achievement of the activities in the 2020/21 Operational Plan. Overall, Council achieved 73% of planned activities against the measures in the plan. This compares to 80% during 2020/21.

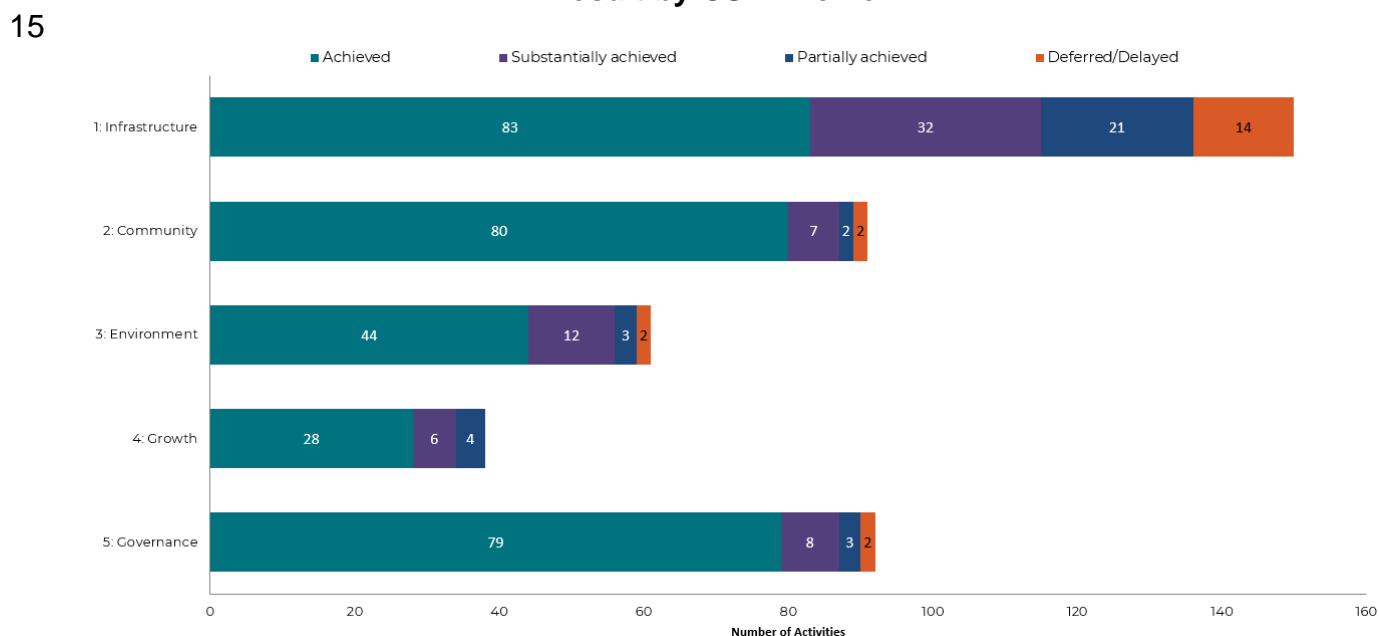
15% of activities were substantially achieved, meaning they were significantly progressed but not finalised, while 8% were partially achieved, and 4% deferred. Details on the reason for the status of each activity are outlined in the attachment.

Strategic Objectives

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

- 5 • 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**
- 10 • Community Objective 4: We manage **growth** and change responsibly
- Community Objective 5: We have community led decision making which is open and inclusive (**governance**)

Result by CSP Theme



Report Details

20 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
- Measure
- 25 • Timeframe
- Comments
- Status

Summary of Achievements

Council achieved 73% of its actions during this period. Some activities were not fully achieved and/or deferred as a direct result of COVID-19 and the February/March 2022 flood events. Further detail on individual activities and the impacts is provided in detail in the attachment.

Key achievements include:

Infrastructure

- Stuart Street upgraded
- Middle Pocket Road improvements completed
- 10 • 24+ streets upgraded under the Fixing Local Roads - Ocean Shores Resurfacing project
- Grays Lane upgrade completed
- Successful speed radar sign trial
- 15 • Completed detailed laser assessment of the condition of all sealed roads which provided crucial data for a predictive computer modelling
- Completed new fully accessible toilet at Gaggin Park, Suffolk Park, with accessible pathway and new disability parking
- New accessible pathway installed at Bangalow Parklands
- Tennyson Street shared path upgrade works completed
- 20 • Byron Bay Library ceiling replacement works were completed
- Resolved (21-188) to implement a master plan for Lot 12 Bayshore Drive Byron Bay and moved to provide a long term lease site on the property to TAFE NSW
- Completed construction of the Byron Rail Precinct projects
- 25 • New public toilets provided at Middleton Street, Byron Bay, Clarkes Beach and Gaggin Park, Suffolk Park
- Capital renewal works completed to the Cavanbah Centre, Byron Stationmasters Cottage, Mullum War Widow's Cottage, Council Chambers, Suffolk Park Holiday Park, Brunswick Memorial Hall, Bangalow Showgrounds Rotunda, and First Sun Holiday Park.
- 30 • Byron Loves BYO campaign promoted reuse over waste generation

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- Worked with Circular Cafes to support hospitality businesses to recycle organic waste, implement reuse programs and decrease waste to landfill
- Compliance with all NSW Environmental Protection Licences
- Upgrade to Butler Street Sewer Pump Station SPS3003 rising main
- 5 • Byron Bay, Brunswick Heads, and Ocean Shores sewerage pump station renewals
- Works on the Byron Bypass cross connection completed
- Online Digital Asset Management Plans built
- Ocean Shores water pipeline renewal completed in Casons Lane, New Brighton
- 10 • Engaged the Water Sensitive Cities Institute to assist with the review of the Effluent Reuse management plan strategy

Community

- The Global Beats Harmony Festival was held in March 2022 in collaboration with people from culturally and linguistically diverse backgrounds
- Virtual Australia Day Awards recognised the contribution of community members
- 15 • The Lone Goat Gallery reopened in January 2022 with the highly successful and well-attended "Beach Dogs of Byron Bay", a posthumous exhibition commemorating the life and contribution of award-winning local photographer Rob Scott-Mitchell
- Worked with Arakwal Corporation and Tweed Byron Local Aboriginal Land Council to incorporate cultural designs into the Skate Park wetlands boardwalk at the Sandhills Estate, celebrating the cultural and environmental significance of the land
- 20 • Supported Byron Multicultural with a whole-of-community survey to gather insights and opinions from people from culturally diverse backgrounds
- 285 people were conferred as new Australian Citizens at 5 Citizenship Ceremonies
- Arakwal artists, Nickolla and Kaitlyn Clark, created artworks that depict sacred stories of local forest and coastal middens on pavements around the intersection of Burringbar Street and Stuart Street, as part of the Talking Street project
- 25 • Convened the Byron Shire Coordination group, who are working to improve outcomes for people sleeping rough; the services support up to 28 people per month and last year 17 people exited homelessness into housing.
- 30 • In partnership with Resilience NSW, opened the Recovery Centre in Mullumbimby to provide face-to-face support to residents and outreach to impacted communities affected by the flood

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- Disability Inclusion Action Plan (DIAP) 2022-2026 was developed
- Partnered with the Byron Bay Community Association (BBCA) to open the Fletcher Street Cottage which provides support, information, referral and advocacy to people experiencing or at risk of homelessness in a safe, welcoming space
- 5 • Delivered high quality business and educational outcomes for Children's Services
- Partnered with Social Habitat to develop a concept design for a proposed upgrade to Brunswick Heads library
- Evans Street play unit was significantly refurbished and renewal of play items completed at Jacaranda playground
- 10 • Engaged the Australian Red Cross (ARC) to deliver 14 Strengthening Communities workshops and 15 Street Meets to support community resilience
- Fifteen Community Resilience Teams (CRT) created across the Byron Shire
- Get Ready Business Resilience workshops conducted on 5 and 12 October 2021.
- Mental health and natural disaster recovery for business owners workshop
- 15 conducted on 17 May 2022
- Partnered with NSW Police and Experience Rova to deliver Soul Street NYE, a family-friendly event utilising place activation strategies through art, food, play, music and performance activities to increase community safety

Environment

- 20 • Restored approximately 800m of the Brunswick riverbank and Flying-fox habitat through the NSW Environmental Trust Flying Improvement project
- Restored over 6ha of koala habitat on private land and in partnership with DPE
- Provided approximately 3,000 koala food trees to landholders
- Shire wide draft wildlife corridor mapping prepared
- 25 • Partnered with Brunswick Valley Landcare (BVL) to deliver Slips Slopes and Slides workshop restoring landslips and riverbank erosion, and to launch Climate Resilient Landscapes Guide
- Chemical free steam weeding programs have successfully been maintained across the Shire's playgrounds and town centers
- 30 • Delivered the 'Drought Pests and Weeds' project
- Carramar Reserve in Ocean Shores received significant fuel/weed reduction through the bush regeneration program

BYRON SHIRE COUNCIL

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- Proactive approach taken to seek out and eradicate small outbreaks of Bitou Bush from the Byron containment zone
- Annual Emissions Inventory reported to Council along with an update on actions achieved under the Net Zero Emissions Action Plan for Council Operations 2025
- 5 • Climate Change Adaptation Plan prepared and implementation has commenced
- Continued to showcase public food garden outside Council Chambers
- Partnered with Tweed Council to run the 29th Annual NSW Coastal Conference - 'Living with Uncertainty' 31 May - 2 June 2022
- 10 • Various community education, engagement activities and information communication pieces were developed to increase awareness and understanding about the Shire's coastal biodiversity and values
- Construction of additional flowpath from Byron Sewerage Treatment Plant
- Four workshops delivered in partnership with Brunswick Valley Landcare including farm planning and soils workshops
- 15 • Farmer regenerative agriculture mentoring program in progress, in partnership with Southern Cross University

Growth

- Finalised the Byron Arts and Industry Estate Precinct Plan
- Mullumbimby Talking Streets Project
- 20 • Updated the Bangalow Development Control Plan
- Gateway determination received to enable exhibition of Short-Term Rental Accommodation planning controls for a 90 day cap and up to 365 days in select locations of the Shire
- 25 • Workshops delivered including Mental Health and Natural Disaster Recovery with flood impacted businesses and Grow Your Business Online
- Student based apprenticeship and traineeship information evening in partnership with NSW Department of Education and Mullumbimby High School
- 200 responses to the Business Impacts, Resilience and Continuity Survey
- 30 • Played a key role in managing local recovery following the floods, providing services and assistance to the community and the ongoing coordinated process of supporting affected communities in the reconstruction of the built environment and the restoration of emotional, social, economic, built and natural environment wellbeing

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- As part of the Bushfire Recovery funding, partnered with Banaam to deliver seven Aboriginal Custodianship workshops which included Rural Fire Service, NSW Fire and Rescue, Red Cross, Marine Rescue, NSW Police, local neighbourhood centres, Council staff, and the Aboriginal community

5 **Governance**

- A new corporate style guide was completed and is being rolled out
- Continued to talk directly with volunteer community groups through the Community Roundtable
- 10 • Frequent 'Flood Recovery Updates' distributed to keep the community informed about the Council's flood recovery activities and associated information
- A substantial increase in followers on social media and use of the website by members of the public during critical points of the COVID pandemic and the flood emergency
- 15 • Partnered with the University of New South Wales (UNSW) to develop a whole-of-council outcomes measurement framework to support Council to assess its performance and track community changes over time
- Funded nine applications, with a total value of \$44,200, through the Community Initiatives 2021-2022 funding round
- 20 • Comprehensive formal induction provided to new term of Council following the 2021 Local Government Election
- Prepared a number of infrastructure and asset management videos that have been posted to the web site and positively received by the community
- Adopted the revised Byron Shire Community Strategic Plan 2032, Resourcing Strategy, Delivery Program 2022-26 and associated plans
- 25 • Renewable Energy Supply Agreement was entered into on 1 January 2022

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.1: Enhance trust and accountability through open and transparent leadership	1.1.2: Governance - Ensure legislative compliance and support Councillors to carry out their civic duties

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.

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

Financial Considerations

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

15 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.

20 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 Council Resolutions Quarterly Review - Q4 -
1 April to 30 June 2022**

Directorate: Corporate and Community Services

Report Author: Heather Sills, A/ Manager Corporate Services

5 **File No:** I2022/943

Summary:

This report provides an update on the status of Council resolutions as at 30 June 2022.

124 resolutions were completed during the period 1 April to 30 June 2022.



As at 30 June 2022, there were 98 active resolutions.

10

RECOMMENDATION:

1. That Council notes the information provided in this report on active Council Resolutions in Attachment 1 (#E2022/61386).
- 15 2. That Council notes the completed Resolutions in Attachment 2 (#E2022/61419).

Attachments:

- 1 Active Resolutions Report - as at 30 June 2022, E2022/61386 
- 2 Completed Resolutions Report - 1 April to 30 June 2022, E2022/61419 

20

Report

Each quarter, Council is updated 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 April to 30 June 2022

Active Resolutions

10 The *Active Resolutions Report* (#E2022/61386) provides an update to Council on all active resolutions up to 30 June 2022, with relevant commentary regarding the status of each resolution as at this date. There were 98 active resolutions at the time of preparing this report.

22 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* (#E2022/61419) provides details of those resolutions that were completed during the period 1 April to 30 June 2022. 124 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, may be endorsed by Council for closure.

There were no actions identified for closure during the reporting period.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.1: Enhance trust and accountability through open and transparent leadership	1.1.2: Governance - Ensure legislative compliance and support Councillors to carry out their civic duties	1.1.2.4	Deliver Council meeting secretariat – including agenda preparation, minutes and council resolutions monitoring

Recent Resolutions

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

Legal/Statutory/Policy Considerations

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

Financial Considerations

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

Consultation and Engagement

- 10 Not applicable.

Report No. 13.10 Council Investments - 1 July 2022 to 31 July 2022

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

5 **File No:** I2022/951

Summary:

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

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

15 **RECOMMENDATION:**

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

20

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Report

Council has continued to maintain a diversified portfolio of investments. As of 31 July 2022, the average 30-day bank bill rate (BBSW) for the month was 1.49%. Council's performance for July 2022 was 1.38%.

- 5 As investments mature Council should begin to see increased rates due to the recent Reserve bank increase in cash rates. The table below identifies the investments held by Council as at 31 July 2022:

Schedule of Investments held as at 31 July 2022

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Int. Rate	Current Value (\$)
15/11/18	1,000,000.00	NSW Treasury Corp (Green Bond)	N	AAA	15/11/28	Y	B	3.00%	983,970.00
20/11/18	1,000,000.00	QLD Treasury Corp (Green Bond)	N	AA+	22/03/24	Y	B	1.18%	1,003,860.00
28/03/19	1,000,000.00	National Housing Finance & Investment Corporation	Y	AAA	28/03/29	Y	B	2.38%	941,710.00
21/11/19	1,000,000.00	NSW Treasury Corp (Sustainability Bond)	N	AAA	20/03/25	Y	B	1.25%	957,730.00
27/11/19	500,000.00	National Housing Finance & Investment Corporation	Y	AAA	27/05/30	Y	B	1.52%	430,120.00
06/09/21	1,000,000.00	Northern Territory TCorp	N	Aa3	15/12/26	Y	B	1.40%	1,000,000.00
16/09/21	1,000,000.00	QLD Treasury Corp (Green Bond)	N	AA+	02/03/32	Y	B	1.50%	928,180.00

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Int. Rate	Current Value (\$)
15/06/21	500,000.00	National Housing Finance & Investment Corporation	Y	AAA	01/07/31	Y	FRN	0.41%	501,445.00
04/11/21	2,000,000.00	NAB	P	AA-	04/11/22	N	TD	0.45%	2,000,000.00
17/12/21	2,000,000.00	NAB	N	AA-	19/12/22	N	TD	0.72%	2,000,000.00
20/01/22	1,000,000.00	Westpac (Tailored)	P	AA-	20/01/23	N	TD	0.79%	1,000,000.00
22/02/22	1,000,000.00	Macquarie Bank Ltd	P	A	23/08/22	N	TD	0.65%	1,000,000.00
25/02/22	1,000,000.00	Macquarie Bank Ltd	N	A	25/08/22	N	TD	0.65%	1,000,000.00
08/03/22	2,000,000.00	Suncorp	P	A+	05/09/22	Y	TD	0.52%	2,000,000.00
04/05/22	2,000,000.00	NAB	N	AA-	02/08/22	N	TD	1.20%	2,000,000.00
31/05/22	1,000,000.00	NAB	N	AA-	29/08/22	N	TD	1.60%	1,000,000.00
07/06/22	2,000,000.00	NAB	N	AA-	05/09/22	N	TD	1.75%	2,000,000.00
08/06/22	2,000,000.00	NAB	N	AA-	06/09/22	N	TD	1.85%	2,000,000.00
04/07/22	2,000,000.00	NAB	N	AA-	04/10/22	N	TD	2.32%	2,000,000.00
28/07/22	2,000,000.00	NAB	N	AA-	26/10/22	N	TD	2.60%	2,000,000.00
20/05/22	2,000,000.00	NAB	N	AA-	16/11/22	N	TD	2.05%	2,000,000.00
31/05/22	2,000,000.00	NAB	N	AA-	29/08/22	N	TD	1.60%	2,000,000.00
07/06/22	1,000,000.00	Macquarie Bank Ltd	N	A	06/09/22	N	TD	1.77%	1,000,000.00
15/06/22	2,000,000.00	NAB	N	AA-	13/09/22	N	TD	2.15%	2,000,000.00
28/06/22	2,000,000.00	NAB	N	AA-	26/10/22	N	TD	2.52%	2,000,000.00
11/07/22	2,000,000.00	NAB	N	AA-	08/11/22	N	TD	2.68%	2,000,000.00
N/A	15,343,083.29	CBA Business Saver	N	AA-	N/A	N	CALL	1.45%	15,543,083.29

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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 (\$)
N/A	4,642,048.32	CBA Business Saver – Tourism Infrastructure Grant	N	AA-	N/A	N	CALL	0.85%	4,642,048.32
N/A	18,073,707.16	Macquarie Accelerator Call	N	A	N/A	N	CALL	0.95%	18,073,707.16
Total	76,058,838.77						AVG	1.38%	76,005,853.77

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 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.

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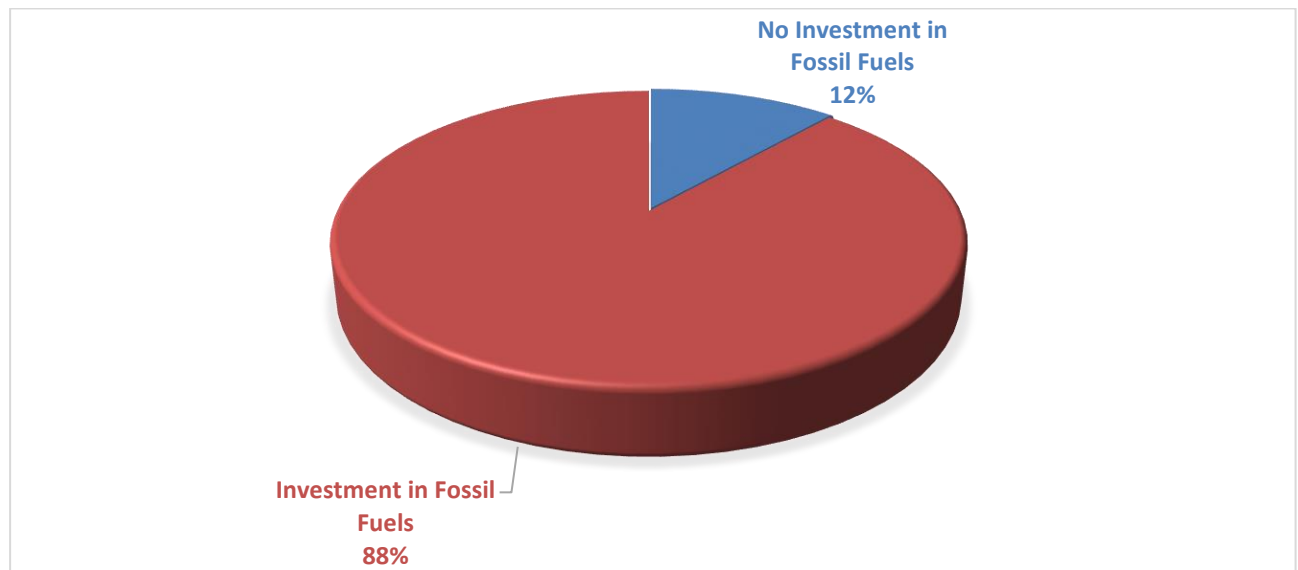
13.10

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](#).

- 5 Council has one investment with a financial institution that invests in fossil fuels but is nevertheless aligned with the broader definition of Environmental and Socially Responsible investments i.e.:

1. \$1,000,000 investment with Westpac Bank maturing on 20 January 2023 is a tailored term deposit and certified green investment.

10



Investment Policy Compliance

- 15 The below 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).
- 20

Investment policy compliance % should not exceed the following			ACTUAL	
AAA to AA	A1+	100%	73%	Meets policy
A+ to A-	A1	60%	27%	Meets policy
BBB to NR	A2,NR	40%	0%	Meets policy

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 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 reminded Council it needs to remain within the investment parameters outlined in the accepted loan agreements. Council currently complies with T Corp Borrowing conditions as indicated in the table below:

Tcorp compliance			Counterparty Limit		Tenor	ACTUAL		Variance	
% should not exceed the following									
Tcorp		100%	100%		N/A	0%		Meets	policy
AAA		100%	100%		N/A	6%		Meets	policy
AA+ to AA-		100%	100%		5Y	63%		Meets	policy
A+ to A		100%	100%		3Y	31%		Meets	policy
A-		40%	40%		3Y	0%		Meets	policy
BBB+			10% 3 Years		3Y	0%		Meets	policy
BBB		30%	5% 12 Months		1Y	0%		Meets	policy
BBB- and below (local ADI'S)			5% 12 Months		1Y	0%		Meets	policy
BBB- and below (other)		5%	250,000		1Y	0%		Meets	policy

Council 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. Investments which 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 July 2022 to 31 July 2022:

Dissection of Council Investment Portfolio as at 31 July 2022

Principal Value (\$)	Investment Linked to:	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
31,000,000.00	Term Deposits	31,000,000.00	0.00
1,500,000.00	Floating Rate Note	1,506,025.00	6,025.00
15,543,089.29	CBA Business Saver	15,543,083.29	0.00

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Principal Value (\$)	Investment Linked to:	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
4,642,048.32	CBA Business Saver – Tourism Infrastructure Grant	4,642,048.32	0.00
18,073,707.16	Macquarie Accelerator	18,073,707.16	0.00
5,500,000.00	Bonds	5,240,990.00	(259,010.00)
76,258,844.77		76,005,853.77	(252,985.00)

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. The table below identifies Council's overall cash position for the month of July 2022 as follows:

Dissection of Council's Cash Position as at 31 July 2022

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Investments Portfolio			
Term Deposits	31,000,000.00	31,000,000.00	0.00
Floating Rate Note	1,500,000.00	1,506,025.00	6,025.00
CBA Business Saver	15,543,083.29	15,543,083.29	0.00
CBA Business Saver – Tourism Infrastructure Grant	4,642,048.32	4,642,048.32	0.00
Macquarie Accelerator	18,073,707.16	18,073,707.16	0.00
Bonds	5,500,000.00	5,240,990.00	(259,010.00)
Total Investment Portfolio	76,258,838.77	76,005,853.77	(252,985.00)
Cash at Bank			
Consolidated Fund	2,330,258.05	2,330,258.05	0.00
Total Cash at Bank	2,330,258.05	2,330,258.05	0.00
Total Cash Position	78,589,096.82	78,336,111.82	(252,985.00)

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.3: Ethical and efficient management of resources	1.3.1: Financial Management - Ensure the financial integrity and sustainability of Council through effective financial management	1.3.1.6	Maintain Council's cash flow

Legal/Statutory/Policy Considerations

5 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*.

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

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

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

Financial Considerations

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

25

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.11 PLANNING - 26.2021.3.1 150 Lismore Road, Bangalow Submissions Report

5 **Directorate:** Sustainable Environment and Economy

Report Author: Sam Tarrant, Planner

File No: I2022/554

Summary:

10 This report presents the public exhibition outcomes for a planning proposal to rezone part of 150 Lismore Road, Bangalow from RU1 Primary Production to IN1 General Industrial and C3 Environmental Management.

The planning proposal was exhibited from 11 April to 11 May 2022. Six public submissions and six agency submissions were received.

15 A number of changes to the exhibited proposal are recommended including reducing the area of IN1 zoning and increasing the C3 zoning to provide a greater buffer to Maori Creek.

It is recommended that the amended planning proposal as attached to this report is adopted and submitted to DPIE for finalisation.

20 **NOTE TO COUNCILLORS:**

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

RECOMMENDATION:






30 **That Council adopts the amended planning proposal as attached to this report (Attachment 1 - #E2022/62680) to rezone part 150 Lismore Road, Bangalow to IN1 General Industrial and C3 Environmental Management, and forwards this to the Department of Planning, Industry and Environment for finalisation.**

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STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

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Attachments:

- 1 26.2021.3.1 - Planning Proposal Post Exhibition Version, E2022/62680 
- 2 26.2021.3.1 - Combined agency submissions, E2022/52801 
- 5 3 26.2021.3.1 - Combined Public Submissions, E2022/44088 
- 4 26.2021.3.1 - BCD and Applicant Flood Correspondence, E2022/67134 
- 5 Template - Form of Special Disclosure of Pecuniary Interest, E2012/2815 

Report

At the September 2021 Planning Meeting, Council received a report on a submitted planning proposal to rezone part of 150 Lismore Road, Bangalow from RU1 Primary Production to IN1 General Industrial and C3 Environmental Management.

- 5 The site is identified as an investigation area within Byron Business and Industrial Lands Strategy.

Council resolved **21-356** to proceed to public exhibition and consider a submissions report post exhibition with any recommended changes.

- 10 This report outlines the exhibition period, submissions received and recommended changes to the exhibited planning proposal.

The planning proposal was exhibited from 11 April to 11 May 2022. Notification was sent to adjoining landowners, relevant community groups and government agencies.

- 15 During exhibition, six public submissions were received including one submission that was received after exhibition had closed. In this case, the late submission has been included and considered with the other submissions.

The agency and public submissions have been summarised and addressed below. Copies of the submissions are attached to this report.

- 20 An extension to the gateway deadline was granted for this planning proposal due to the flood events delaying public exhibition and the changes recommended to the proposal from public exhibition. The gateway expires 13 November 2022.

Agency submissions

Department of Primary Industries Agriculture – No objections

Mining, Exploration and Geoscience – No objections

- 25 **TransGrid** – No impact to TransGrid therefore no comment required

- 30 **Department of Primary Industries Fisheries** – Provides comments for Council's consideration. Notes that Maori Creek is a 4th order waterway and is considered Type 2 key fish habitat. Fisheries policy recommends a minimum buffer of 50m. Fisheries notes that Byron Creek, which is 500m downstream, is mapped as Type 1 key fish habitat and is mapped as potential habitat for the threatened species Southern Purple Spotted Gudgeon. DPI Fisheries recommends the C3 zone consistent with the Fisheries buffer policy.

- 35 The planning proposal has been updated to include a minimum 40m E3 zoned buffer from Maori Creek to the edge of the IN1 zoning with the buffer increasing to 70m at the southern portion of the lot. This is considered a suitable distance noting that there is currently very limited riparian vegetation and Byron DCP 2014, Chapter B1 Biodiversity

requires a vegetation management plan or biodiversity conservation management plan to be submitted with the subdivision development application, which will result in this area being re-vegetated.

Transport for NSW – Raises no objections and provided the following comments

- 5 - TfNSW are aware of feasibility studies undertaken by Byron Shire Council to consider transport-related uses of the corridor. The planning proposal should note this.
- 10 - The preliminary site investigation report supporting the planning proposal concludes negligible risk to human health. TfNSW is currently conducting environmental assessment for contamination along the rail corridor. TfNSW is not currently aware of contaminants in the rail corridor or on the common boundaries with the development site.

The use of this site for industrial purposes will not hinder any reactivation of the rail corridor. The planning proposal has been updated to reflect this.

- 15 **Biodiversity Conservation Division (BCD)** – During public exhibition BCD recommended an ecological assessment be made which included a survey to determine if Hairy Joint Grass was present on the site. The applicant provided an ecological assessment report and found no Hairy Joint Grass on site. A small soak area was identified on the site. BCD assessed this report and provided the following
- 20 recommendations.

- The soak area has high environmental value and should be zoned C2 Environmental Conservation including a 20m buffer
- A C3 Environmental Management zoned buffer for a distance of 20m should apply to both sides of Maori Creek
- 25 - The planning proposal should be updated to reflect the soak area and Maori Creek being included on the Biodiversity Values Map
- The flood impact study should be updated to provide details regarding the model calibration and utilise flood data from the February-March floods if available

- 30 BCD requested opportunity to review the proposal once updated with the above recommendations. The recommendations were addressed, and the amended planning proposal as presented in this report was sent to BCD who provided support for the proposal.

BCD sought clarification if data exists at the Binna Burra gauge for the February-March 2022 flood event to calibrate the flood model.

- 35 The applicants flood engineer confirmed there is data available from the February-March event at the Binna Burra gauge and that the peak is higher than the 2017 event. The inclusion of this recent event may improve model accuracy for larger events, although the model has been calibrated to a large event in 2017. The flood assessment report

BYRON SHIRE COUNCIL

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demonstrates an accurate relationship between the rating curve and the model predictions indicating that the existing model is likely to provide an adequate representation for larger events than were previously modelled.

- 5 Council does not have a recent adopted flood study model for this catchment, which places the onus on the applicant when preparing flood studies. The flood engineer notes that if the model was to be re-calibrated to include the 2022 event there would be a \$10-15k cost for the applicant and the work would take a minimum of 3 months to complete.

- 10 The additional time required to complete a model re-run would push the planning proposal past the gateway expiration. DPIE have stated in the gateway alteration letter that they are unlikely to support any further extension to the completion time frame for this planning proposal.

In addition, the most up to date flood information will be required at the development application stage to determine flood planning level on this site, which will utilise data from the 2022 event.

- 15 Furthermore the proposed industrial zoned area has been significantly reduced since the flood assessment was produced resulting in less fill required and the development area moving away from the lower lying areas adjacent to Maori Creek.

- 20 Given the demonstrated accuracy of the flood model, the reduction in proposed industrial land, further consideration at the development application stage and gateway time restraints, it is considered that the current model is acceptable to progress the rezoning.

No response was received from **Essential Energy, NRAR, TBLALC or Rous County Council.**

Public submissions

- 25 Six submissions were received, one of which was accepted after exhibition had closed. The key points within the submissions have been summarised and staff have provided comment in the following table. The submissions are available in attachment 3.

Submission	Staff comment
An FSR of 0.75:1 is not the same as the adjoining estate as the DCP required a maximum building footprint of %50 of each allotment to minimise road parking.	<p>FSR is applied within the Byron LEP 2014. The adjoining industrial estate is mapped with a maximum FSR of 0.75:1 and a height limit of 9m. This forms the maximum building envelope permissible within the LEP.</p> <p>The DCP control referenced in this submission is taken from DCP 2010 Chapter B12. This DCP applies to land zoned under Byron LEP</p>

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Submission	Staff comment
	1988 and does not apply to this site.
<p>The flood impact assessment is now redundant due to the recent floods which covered half of the site.</p> <p>Green areas need to be retained to minimise impacts from flooding. The rezoning has potential to exacerbate flooding.</p>	<p>The flood study utilised the most up to date flood data available to model the flooding of the site and is likely to provide an adequate representation for larger events than were previously modelled. The report shows that the area to be rezoned for industrial use can be filled above the flood level without increasing off site flood impacts.</p> <p>The C3 zoned buffer has been significantly increased and will minimise the amount of fill required and limit industrial development to higher ground away from Maori Creek.</p>
<p>The rezoning will increase the size of the industrial estate considerably and increase traffic onto Lismore Road.</p> <p>The bulk and scale will cause amenity impacts and a significant increase in artificial light exposure from businesses.</p>	<p>The industrial zoned area has been reduced to provide a greater buffer to Maori Creek. Revegetation of the riparian area will reduce light spill from this development and the existing industrial area.</p> <p>The traffic assessment accompanying this proposal concludes that Lismore Road and turning lane is capable of facilitating this rezoning.</p>
<p>The proposal will have a visual impact as it is the gateway from the west of Bangalow and should be landscaped.</p> <p>There is an opportunity to landscape the area to mitigate visual impacts.</p>	<p>Part of the site is proposed to be zoned C3 Environmental Management. Planting of this area will be required at the development application stage.</p> <p>The site is small scale and directly adjoining an existing industrial estate. Future development of the site will be screened by the existing industrial estate and is unlikely to have a significant visual impact.</p>
<p>Is there any proof that additional industrial land is required in this area?</p>	<p>Direction 3: Long Term Supply (p.63) within the Business and Industrial Lands Strategy discusses the need for additional industrial land within the shire.</p> <p>Additional residential lands have come online</p>

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Submission	Staff comment
	over the last 5 years in Bangalow, including Clover Hill, The Meadows and Parrot Tree Place creating additional demand for employment lands.
Byron Creek would be put at risk by having industrial use adjoining. The buffer is too small.	The buffer has been increased to a minimum of 40m and a 20m environmental zone on the eastern side. This area will require suitable plantings as part of the development application for subdivision.
Bangalow Progress Association supports the proposal and the inclusion of the C3 Environmental Buffer.	Noted.
Part of the adjoining industrial property is incorrectly zoned RU1 and should be corrected to IN1	<p>A small area on the eastern boundary of the existing industrial estate contains an RU1 zoning. This has carried over from a subdivision of the paper road which gave additional land to lots within the estate.</p> <p>This area should be rezoned IN1 for consistency, however this planning proposal has only considered the subject land at 150 Lismore Road. This inconsistency has been flagged to be corrected in a future LEP housekeeping planning proposal.</p>
Stormwater impacts on the adjoining properties should be considered with impacts from filling and planned revegetation.	<p>The flood study completed by BMT modelled the impact on flooding from filling the site and found no observable impacts to the existing industrial estate.</p> <p>Further assessment of stormwater and drainage is required at the development application stage.</p> <p>The details of revegetation within the C3 zone are not yet available and will be submitted and considered at the development application stage.</p> <p>The reduced IN1 zoned area will minimise the</p>

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Submission	Staff comment
	fill required.
Concern regarding noise pollution from a large extension of the industrial estate. Currently noise impacts from the existing industrial estate.	<p>The area proposed for industrial land is over 400m from the closest residential zone.</p> <p>The area proposed for expansion is relatively small and is unlikely to significantly contribute to noise pollution.</p> <p>Conditions for hours of operation can be applied at the development application stage.</p>
The proposal is directly adjacent to neighbourhood streets and residential dwellings.	The area proposed for industrial land is over 400m from the closest residential zone. See above comments regarding noise impacts.
There is a possibility of the rail corridor being used as a rail trail in the future. This industrial estate provides a good opportunity to provide peripheral car parking to service the rail trail.	<p>This site has been identified within Byron Business and Industrial Strategy as an investigation site for industrial land.</p> <p>The rezoning will not hinder any future reactivation of the rail corridor.</p>

Changes to the exhibited planning proposal

As a result of the comments received during public exhibition, a number of changes to the planning proposal are recommended including:

- 5 • Increase the C3 Environmental Management zoned buffer between Maori Creek and the IN1 land to a minimum of 40m.
- Include a 20m C3 Environmental Management buffer to the east of Maori creek
- Zone the 'soak area' identified in the Ecological Assessment to C3 Environmental Management
- 10 • Update the minimum lot size and floor space ratio map to reflect the change in zoning.
- Update the planning proposal to reference Maori Creek as being mapped on the Biodiversity Values map.
- Update the planning proposal to reflect the exhibition outcomes.

The updated minimum lot size and floor space ratio maps have not yet been produced. They will be updated to reflect the final adopted zone boundaries (Fig 1 below).

The changes are reflected within the post exhibition planning proposal contained in Attachment 1 (E2022/62680).

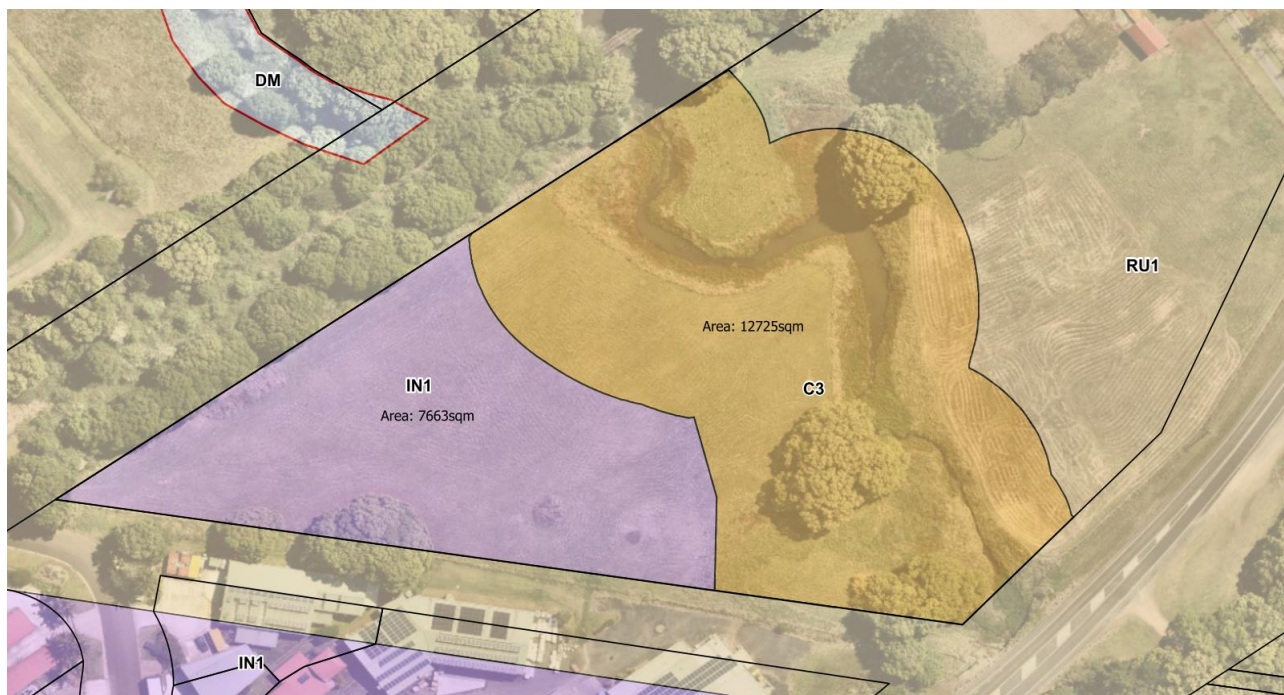


Figure 1: Updated land zoning map

Next steps

It is recommended that Council adopt the planning proposal in Attachment 1 and forward it to the Department of Planning, Industry and Environment for finalisation.

- 10 The gateway for this proposal expires on 13 November 2022.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
4: Ethical Growth We manage growth and change responsibly	4.1: Manage responsible development through effective place and space planning	4.1.4: LEP & DCP - Review and update the Local Environmental Plan and Development Control Plans	4.1.4.5	Consider landowner planning investigations for possible new industrial and/or business park areas, as identified in the BILS.

Recent Resolutions

- 5 • **21-356** to proceed to public exhibition and receive a submissions report with any recommended changes.

Legal/Statutory/Policy Considerations

This planning proposal will amend Byron Local Environmental Plan 2014 in accordance with the relevant legislative requirements.

Financial Considerations

- 10 This is an applicant initiated planning proposal with all costs borne by the applicant.

Consultation and Engagement

As outlined within this report.

Report No. 13.12 Affordable Housing - 57 Station Street, Mullumbimby

Directorate: Sustainable Environment and Economy

5 **Report Author:** Shannon Burt, Director Sustainable Environment and Economy
Sharyn French, Manager Environmental and Economic Planning

File No: I2022/551

Summary:

10 Council resolved (**Res 22-120, part 5**) at the 14 April 2022 Council Planning Meeting, to enter into a Project Agreement with Landcom to facilitate both parties working together on the affordable housing development at 57 Station Street Mullumbimby.

Council is the first northern rivers regional council to work with Landcom in the delivery of long-term affordable housing.

15 Since then, Landcom and Council staff further refined the preliminary concepts presented at the 14 April Meeting through a co-design workshop, which considered the matters raised in part 4 of resolution **22-120**, being: utilising the ground floor to include shopfronts along Station Street and additional dwellings rather than car parking.

Landcom presented the refined options to Councillors at the 2 June Strategic Planning Workshop.

20 The next step is for Landcom to run a Request for Proposal (RFP) tender process based on the project's vision, objectives and shared project outcomes expressed through a reference scheme, to identify and select a Community Housing Provider (CHP). The tender evaluation committee will comprise two Landcom staff and two Council officers.

25 Council will enter a lease with the CHP for the land. All parties will enter into a Heads of Agreement with the successful CHP at the end of the RFP Process. All parties will enter into a development deed for the delivery of the project.

The timeline for the project to deliver on ground affordable housing to our community from now is 2025.

5 RECOMMENDATION:

- 1. That Council delegate authority to the General Manager to run the tender process and documentation as described in this report, accept the preferred Complying Tender, and enter into a Heads of Agreement, lease agreement and development deed at the relevant time.**
- 10 2. That should Community Housing Providers (CHPs) submit a non-complying tender and the Tender Evaluation Committee recommend the acceptance of that tender, then the non-complying tender will be reported to Council for final determination.**
- 15 3. Note that updates on the project will be discussed with Councillors at quarterly workshops by the Community Housing Provider.**
- 4. That Council appoint the following staff to the Tender Evaluation Committee: Director Sustainable Environment and Economy and (Acting) Director Corporate and Community Services.**

20 Attachments:

- 1 Landcom Presentation - Byron Shire Councillor Workshop 4 August 2022, E2022/77566** 

Report

At the 14 April 2022 Council Planning Meeting, Council considered a [report](#) on an affordable housing development on 57 Station Street Mullumbimby and resolved (**Res 22-120**) amongst other matters, to enter a Project Agreement with Landcom to facilitate both parties working together on this development.

Resolution 22-120:

1. *Notes the overview of who Landcom is, and their experience in delivering affordable housing projects (Attachment 1 #E2022/29946);*
2. *Notes the project rationale and the preliminary concept plan prepared for an affordable housing development on 57 Station Street, Mullumbimby (Attachment 2 #E2022/29947);*
3. *Notes that one of the key project objectives is 'to deliver the optimum amount of affordable housing which best meets the housing needs of the local community, while being financially feasible for all parties'.*
4. *Further to point 3, the Term Sheet objectives be amended to include consideration of: utilising the ground floor to include shopfronts along Station Street and additional dwellings rather than car parking. This to be explored via the co-design process workshopped with Councillors. The final design to be reported to Council.*
5. *Endorses the Mayor to sign a Project Agreement in the form of a Terms Sheet Agreement (Confidential Attachment 3 #E2022/29948) with Landcom to facilitate work with Council on an affordable housing project on 57 Station Street Mullumbimby as amended by point 4.*
6. *Requests Landcom to engage with adjoining landowners to explore opportunities for further development and design via collaboration to maximise the benefits of the project.*
7. *Notes that we are in a housing emergency and approaches this project as a potential template for other projects across the Shire.*

Project Vision & Objectives

The Project Vision is for Council, Landcom and the CHP to deliver diverse and affordable dwellings which best meets the housing needs of the Mullumbimby community while being feasible for all parties.

Landcom and Council's shared process objectives for 57 Station Street, Mullumbimby are:

- **Affordable Housing**—Deliver the optimum amount of affordable housing which best meets the housing needs of the local community, while being financially feasible for all parties.
- **Tenure**—The housing is to be retained for affordability over the long-term through either a long-term (50-year+) lease or transfer of title to a CHP to manage.

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- **Car Park**—Council is to retain ownership (through either freehold title or 99-year lease) of a car park with 24 car spaces.
- **Financial Commitment (Council)** –Council will not be required to contribute any additional funds to the development of the Project, other than the contribution of the Property for a consideration of \$1.
- **Financial Commitment (Landcom)** – Landcom will perform its obligations on a “cost recovery” basis and recover its external and internal (development management and overhead) costs from the Project.
- Utilising the ground floor to **include shopfronts along Station Street and additional dwellings rather than car parking**. This to be explored via the co-design process workshoped with Councillors. The final design to be reported to Council.

Shared Project Outcomes

- Supply (Increase the supply of affordable and diverse housing): The delivery of new dwellings will provide a material boost to the supply of housing in Mullumbimby.
- Diversity (Increase housing diversity): The Project will deliver a diverse mix of product (including studios, 1-bedroom units and 2-bedroom units).
- Affordability (Provide affordable housing): The Project is targeted to deliver affordable housing for people on low-moderate incomes.
- Feasibility (Financially feasible for all parties): The Project will be financially feasible for all parties. In particular, Council will not be required to contribute any additional funds to the development of the Project, other than the contribution of the Property for a consideration of \$1.
- Design (Establish design excellence): The Project will seek quality and sustainable design outcomes to ensure dwellings are durable, sustainable, fit for purpose and seamlessly integrate with the character of the local neighbourhood.
- Land Use (Ground floor retail): The Project will include retail shops on the ground floor facing Station Street.

Project Design

- On 16 May 2022 a co-design workshop was held between Landcom and Council staff to further refine the preliminary concept plans presented at the 14 April Council Planning Meeting.

This workshop also considered, as resolved by Council, utilising the ground floor to include shopfronts along Station Street and additional dwellings rather than car parking. These concept plans were then presented to Councillors at the 2 June Strategic Planning Workshop.

At the 2 June Workshop, Landcom presented 3 concept options to Council with varying dwelling and carparking compositions. In response to Councillor feedback during that Workshop, a Reference Scheme was refined based on optimising the site for affordable housing units and ensuring appropriate activation of the Station Street commercial/retail use.

The Reference Scheme has been incorporated into the RFP documentation for tenderers to respond to.

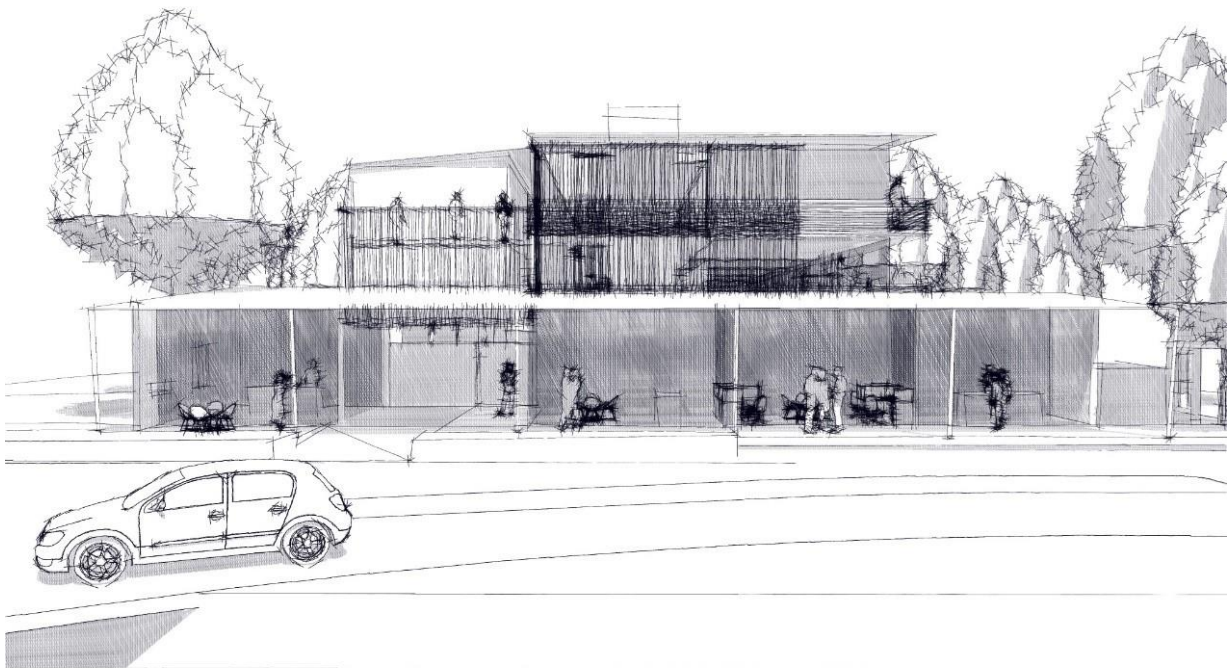
The RFP process is a means to test the market as to whether such a reference scheme can be delivered and operated by a CHP, and be feasible, respond to a specific housing need, and locally appropriate.

- 5 Through the RFP process the CHP will provide a complying tender and propose how the Reference Scheme can be optimised to achieve the Project Vision and Desired Project Outcomes.

If an alternative design is proposed by the CHP, it will be assessed as a non-complying tender.

- 10 The Reference Scheme as agreed provides a total of 32 dwellings, including 12 x studio, 14 x 1 and 6 x 2 bedroom units for people on low-moderate incomes, as well as 120m² of retail/commercial space. The design, including number of dwellings, typology and configuration, will be determined through the co-design process and development application process with the successful CHP. There is an option for up to four of the units to be available to Council to provide accommodation for staff at market rates. If any of the units are not required in a given year they will be available to the CHP to place appropriate tenants.
- 15

Figure1: Artist's impression

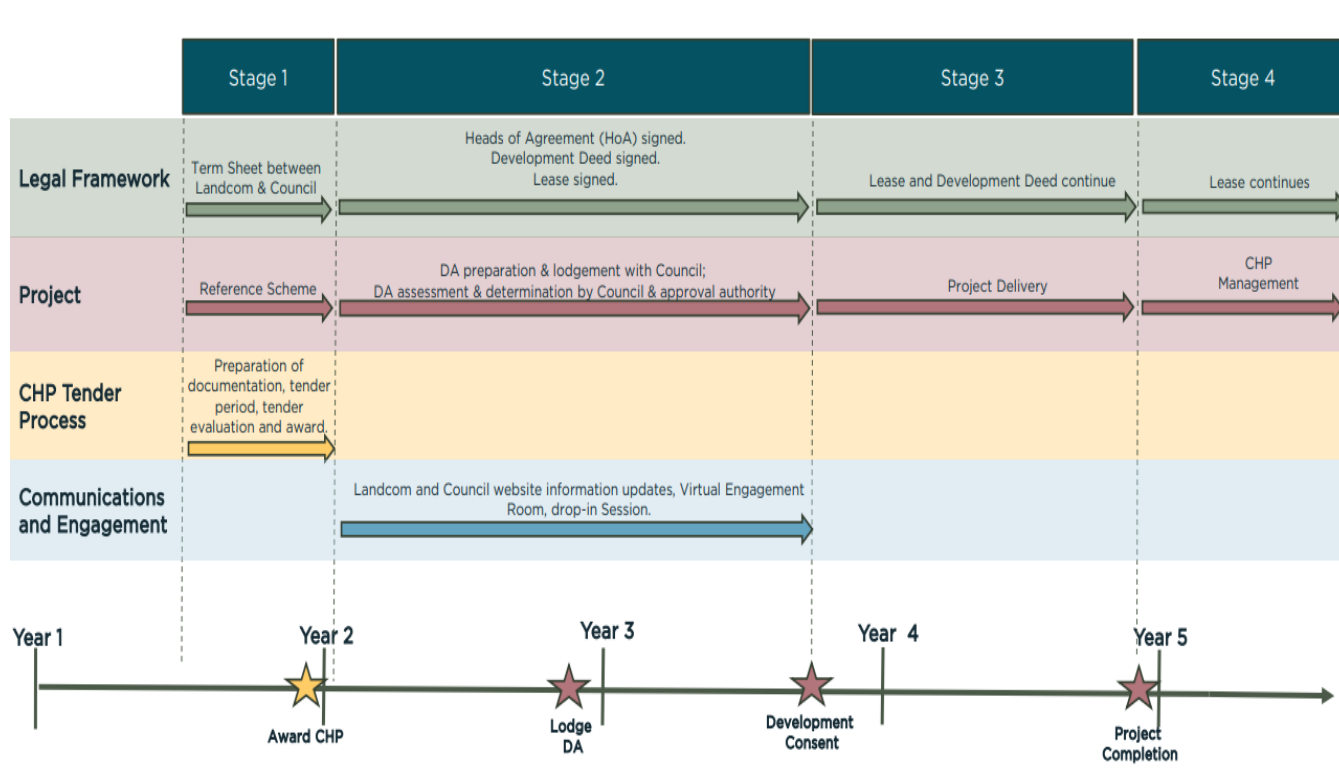


Next steps

Council and Landcom intend to partner with a CHP to develop the Project in 4 stages:

- Stage 1: Contracts and Co-Design
- Stage 2: Development Application and Approval Phase
- Stage 3: Project Delivery
- Stage 4: Occupation by Affordable Housing Residents

Figure 2: Project process



At this time, Council as landowner is being asked to progress a **RFP process** as summarised below.

Request for Proposal (RFP) Process - Based on the design principles and reference scheme chosen by Council, Landcom will prepare tender documentation with Council to invite Community Housing Providers (CHPs). The purpose of the RFP Process is to select and enter into a Heads of Agreement with a preferred CHP.

Respondents will also be assessed on their ability to manage and deliver the Project within a suitable timeframe and manage risk appropriately.

It is recommended that provision will be made in the tender documentation to seek both complying and non-complying tenders:

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Complying tender will have considered and responded to all the criteria detailed above. It is recommended that Council's General Manager will have the delegated authority to accept the preferred tender as recommended by the Tender Evaluation Committee.

- 5 **Non-Complying tender**, subject to Council agreement, the RFP will be structured to provide CHPs an opportunity to provide a non-complying tender, in addition to a complying tender. This means that the tenderer can propose alternative commercial terms but that still demonstrate how the proposal meets the project vision and objectives.
- 10 Providing a non-complying tender option allows the process to introduce an alternate scheme that may provide an optimal outcome. Landcom and Council will work with the preferred CHP on the sites design.

- 15 **Tender Evaluation Committee** will have equal representation across Landcom and Council. It is recommended that two Council staff be appointed to the tender panel being Director Sustainable Environment and Economy and Acting Director Corporate and Community Services.

Subsequent to the RFP process being completed the Development Application Phase can commence/

- 20 **Development Application (DA):** Landcom and the CHP will undertake a co-design process. Landcom will prepare and submit the DA. The development application will be determined by Northern Regional Planning Panel with Council staff preparing the assessment report to the Panel. See comments below in community and engagement section.

- 25 **Project managing the delivery** will be the CHP, unless otherwise negotiated (between the CHP and Landcom) for Landcom to undertake the role.

Stage 1 Key Project Milestones

Milestones	When	Comments
Request for Proposals (RFP) from Community Housing Providers (CHPs) Open	Sept 2022	Landcom will prepare the RFP documents including an Information Memorandum, Returnable Schedules for the CHPs to complete, and a draft Heads of Agreement
RFP responses due	Oct 2022	CHPs will have 6-weeks to prepare an RFP response
Select preferred CHP partner	Nov 2022	An Assessment Panel (including two representatives from each organization (Landcom and Council)) will assess the RFP
Heads of Agreement signed	Early 2023	The Heads of Agreement will be finalized and signed with the preferred CHP Partner

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.3: Ethical and efficient management of resources	1.3.5: Resourcing - Identify and investigate resourcing to meet future needs	1.3.5.9	Review relocation expenses protocol in the Recruitment and Selection Guideline and introduce a short-term housing accommodation scheme
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.5: Create social impact and initiatives that address disadvantage	2.5.3: Rough sleepers - Work in partnership to reduce and end rough sleeping through community action	2.5.3.1	Respond to people experiencing homelessness and rough sleepers through engagement and referrals to appropriate support and housing services
4: Ethical Growth We manage growth and change responsibly	4.2: Enable housing diversity and support people experiencing housing insecurity	4.2.2: Partnerships and pilots to address housing needs - Investigate partnerships and pilots that deliver an innovative and affordable housing model for the Shire	4.2.2.2	Deliver Landcom MoU

Recent Resolutions

- Resolution **19-565** – MOU with North Coast Community Housing
- 5
- Resolution **21- 302** – in-principle support to facilitate the establishment of diverse and affordable housing on suitable Council owned car parks
 - Resolution **22-120** – Term Sheet Agreement with Landcom re. affordable housing project on 57 Station Street Mullumbimby

Legal/Statutory/Policy Considerations

Council resolved (res. 22-120) to enter into a Project Agreement in the form of a Terms Sheet Agreement (TSA) with Landcom to facilitate work with Council on this project. The TSA has now been signed by both parties. The TSA sets in place some parameters around which discussions continue, allowing Landcom to complete due diligence and further design iterations. It also establishes consideration of the roles of the parties and how the project would be delivered.

Financial Considerations

There are several matters that need to be resolved in more detail between Landcom and Council including the: design, structure, financial feasibility, and legislative compliance of the project. These matters will be the subject of further discussions and reports to Council as required under the TSA.

Consultation and Engagement

Codesign workshop held between Landcom and Council staff.

Strategic Planning Workshop held with Councillors.

As the development application will be referred to the Northern Regional Planning Panel, under Council's Community Participation Plan (CPP) it is deemed to be community significant development, which requires consultation with the community before the development application is lodged.

Landcom will develop a suite of communications and engagement approaches for this project including a virtual engagement room like their [Queenscliff project](#) and project information accessible on their website, with links to this from Council's web.

To provide Councillors with updates on the project it is recommended that workshops be held every quarter through the project's life with the CHP.

Report No. 13.13 Popcar FY2021 report

Directorate: Sustainable Environment and Economy

Report Author: Phillip Ridler, Sustainability Officer

File No: I2022/561

5 Summary:

This report outlines the community usage of the share car service provided by Popcar that is located on Council operational land. The reported usage is between April 2021 and March 2022, this is compared to the previous year April 2020 to March 2021.

10 In 2021 Council resolved (Res **21-200**) to increase the number of bays supplied to Popcar from 10 to 16, however, only four new spaces were identified and agreed upon.

Usage has decreased between April 2021 and March 2022 compared to the previous year, bookings have decreased 17% and overall hours usage is 44% less. This is also with an addition of four new vehicles, although three were only in place for 4 months. If the four new spaces were not added the bookings would have been down -26% and hours -54%.

15 The decrease in use of the Popcar service is believed to be due to a COVID-19 influence, resulting in less visitors and low general travel and community activity.

20 Popcar's current annual lease expired on 29 July 2022. Based on the past performance, prior to COVID-19, and the recent increased use of the share cars and the benefits this service brings to the community, it is recommended that Council continues to lease the 14 bays to Popcar. It is recommended Popcar continue to operate the share cars within Byron Shire for a period of 12 months, ending on 29 July 2023.

25 There are other car share companies operating in Australia. Council must create an equal opportunity for all operators, and as per Resolution 21- 200, staff will invite car share operators in 2022/23 to respond to a competitive Expression of Interest for the 14 car share parking bays in Byron Shire for a three-year lease commencing in 2023/24. This will give Popcar more than 12 months to test the viability of the extra four vehicles they have added with the additional bays, and for business as usual to be monitored following the effects of the Covid lockdowns and flood disturbance.


30

RECOMMENDATION:

That Council:

- 5 1. **Continues to lease the 14 bays to Popcar to provide a car sharing service in Byron Bay and Mullumbimby and invite Popcar to renew their annual lease, with an end date of 29 July 2023.**
- 10 2. **Notes that the cost of applications and bay permits as outlined in the Car Share Procedure and Council's Fees and Charges will be reviewed in line with the 2023/24 budget process.**

Attachments:

- 1 Appendix 1, Popcar Community usage FY20-21, E2022/47765 
- 15

Report

Popcar provides a car share service with 14 vehicles in the Byron Shire Council area, 12 are based in Byron Bay and 2 in Mullumbimby. The Popcar vehicles are located on Council owned land and Popcar pay a yearly fee to Council per space.

- 5 The inclusion of share cars in Byron Shire provides an alternative transport option for the community. It can help to reduce the need for private car ownership and when coupled with other mechanisms, facilitate the people first, cars second vision of the Byron Town Centre Masterplan.

- 10 Key advantages of a car share service for the community are that it encourages reduced car ownership, reduces traffic volumes and saves on carbon emissions as the cars currently supplied by Popcar are hybrid vehicles.

- 15 This report outlines the community usage of the share cars provided by Popcar that are located on Council land. The reporting period is April 2021 to March 2022 and comparisons are made to the previous reporting period April 2020 to March 2021. The report also recommends extending the lease with Popcar whilst staff invite car share operators to respond to an Expression of Interest process (as per Res **21-200**) to utilise the 14 car share parking bays.

Background

- 20 In 2018, Council resolved (Res. **18-115**) to support a 12 month car share pilot. Expressions of Interest were sought from car share companies and Popcar was selected (Res.**19-009**). Popcar launched their services in Byron Shire on June 5, 2019 with 8 share cars available in Byron and 2 in Mullumbimby.

- 25 In 2020, Council resolved (**20-271**) to continue to lease the 10 bays to Popcar and for staff to liaise with Popcar and the Local Traffic Committee about possible expansion of car parking spaces.

On 25 June 2021, Council resolved (**21-200**) to:

1. *Continues to lease the 10 bays to Popcar to provide a car sharing service in Byron Bay and Mullumbimby and invite Popcar to renew their annual lease, with an end date of 29 July 2022.*
- 30 2. *Notes this report and that Popcar's proposal for 6 additional parking bays in Byron Bay will be reported to Council through the 17 August 2021 Local Traffic Committee Meeting (if approved the lease end date will be 29 July 2022 in line with the original 10 bays).*
- 35 3. *Notes that a report outlining the next 12 month usage statistics, including the usage of the 6 additional bays (if they are approved), will be provided to Council in June 2022, and that a recommendation on whether or not to invite Popcar to renew their annual lease for another year will be made at that time.*

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4. *Notes that the cost of applications and bay permits as outlined in the Car Share Procedure and Council's Fees and Charges will be reviewed as part of the 2022/23 budget process.*
5. *Resolves to invite car share operators to respond to a competitive Expression of Interest in 2022/23 for the 10 (potentially 16) car share parking bays in Byron Shire for a three-year contract commencing in 2023/24.*

Community usage

A comprehensive report detailing the usage of each vehicle from April 2020 to March 2022 is contained in Attachment 1.

- 10 Usage has decreased between April 2021 and March 2022 compared to the previous year, bookings have decreased 17% and overall hours usage is 44% less.

- 15 The decrease in use of the Popcar service is believed to be due to the COVID-19 lock downs resulting in less visitors and low general travel and community activity. Also, the floods did affect the car use and a Popcar in Marvel Street and one in Shirley Street were inundated with water and have since been withdrawn and are being replaced. There is also a decrease in the usage of Popcars at the Station Street Carpark. This is in part attributed to Council staff no longer needing to use these vehicles for business due to pool and council cars being available. The drop in usage can be seen in the graphs below, the months mainly affected by the COVID-19 restrictions are June 2021 to November 2021:

- 20 **Table 1:** Booking hours summary, with the 4 new spaces included.

	April 2020 – March 2021	April 2021 – March 2022	Percentage change
Total Bookings	1,776	1,473	-17%
Total Hours Booked	27,544	15,321	-44%

Table 2: Booking hours summary, without 4 new spaces.

	April 2020 – March 2021	April 2021 – March 2022	Percentage change
Total Bookings	1,776	1,306	-26%
Total Hours Booked	27,544	12,453	-55%

- 25 The following graphs show bookings and hours booked for bays at five car share locations over the period April 2020 – March 2022 and a combined graph. A full list of bookings and hours booked for each of the car share locations (Bays 1-14) over the period from April 2020 – March 2022 can be found at Attachment 1. The graphs below show a steady increase in usage at each location and then a significant drop between June and November 2021. It must also be noted that COVID-19 restrictions were also present at the start of 2020 and this reflects in the usage at this time.

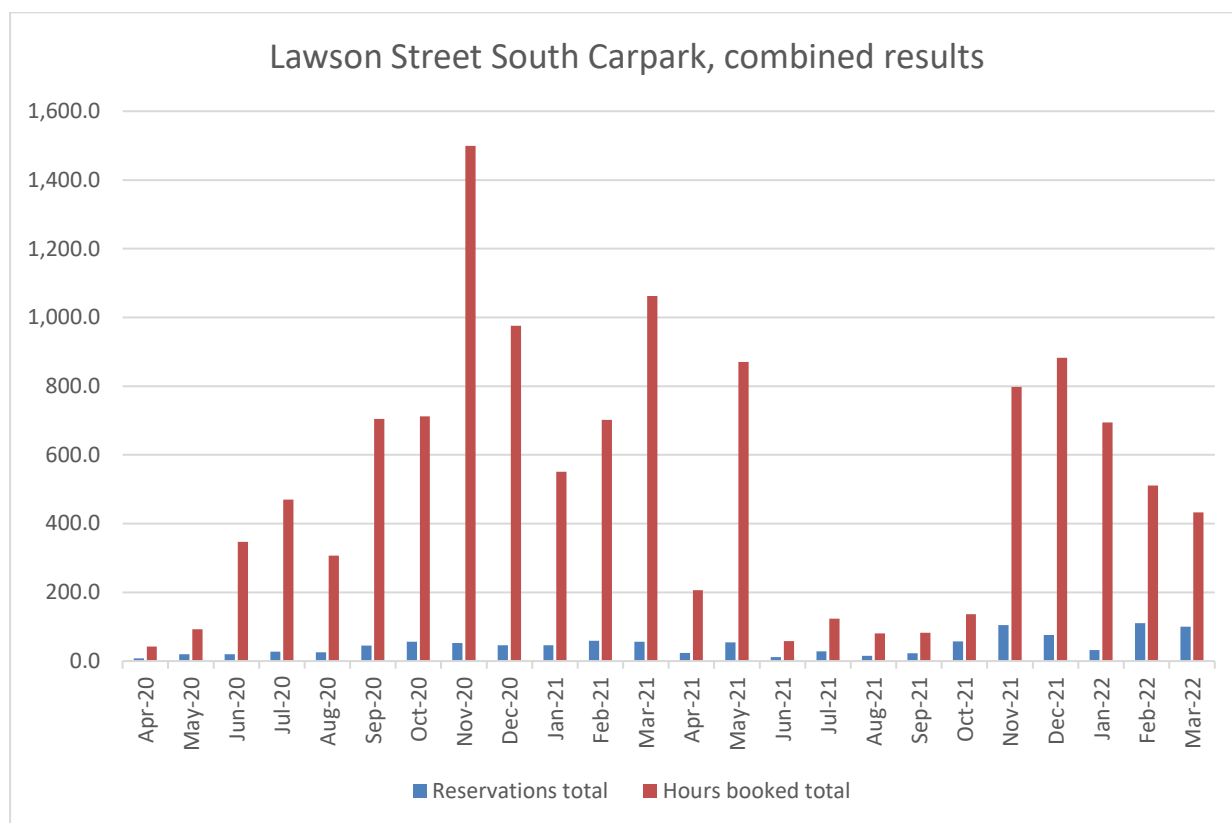


Figure 1: Byron Bay – Lawson St. South Carpark, 4 spaces, results combined April 2020 - March 2022

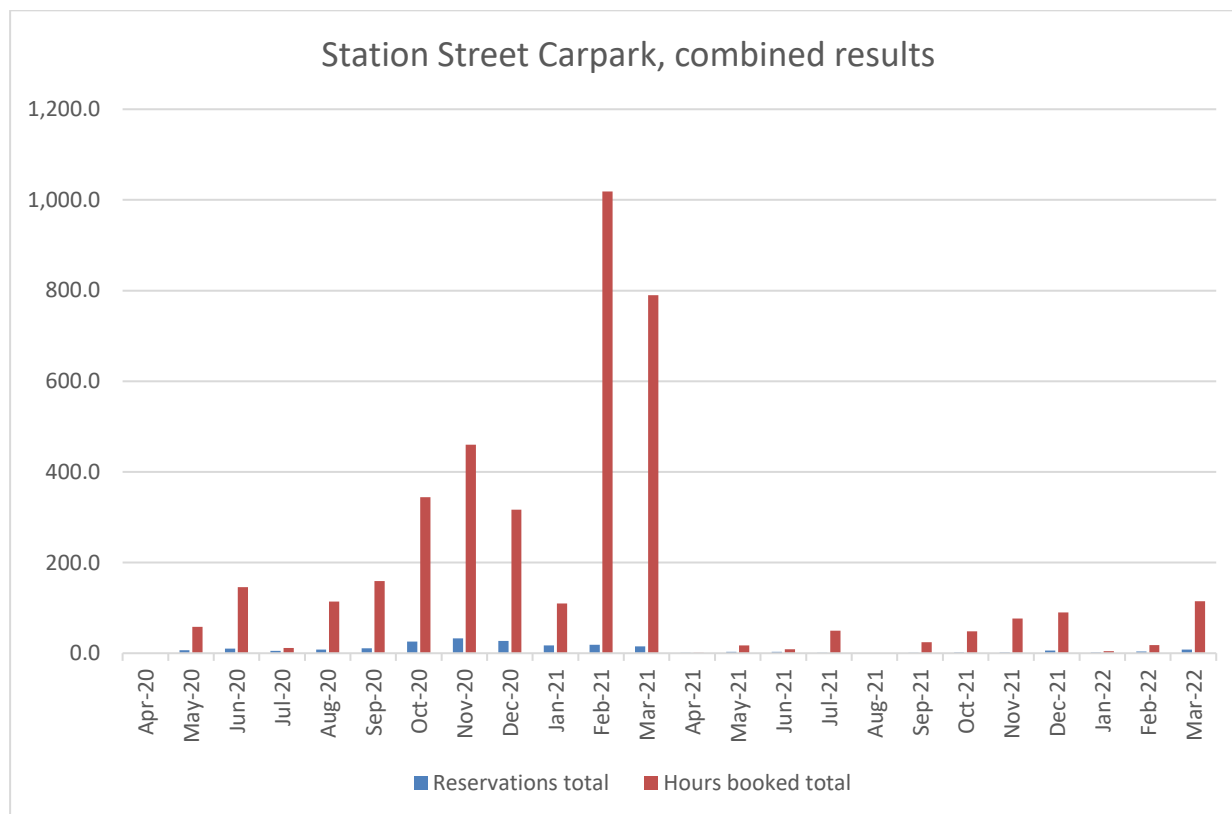


Figure 2: Mullumbimby – Station St. Carpark, 2 spaces, results combined April 2020 - March 2022

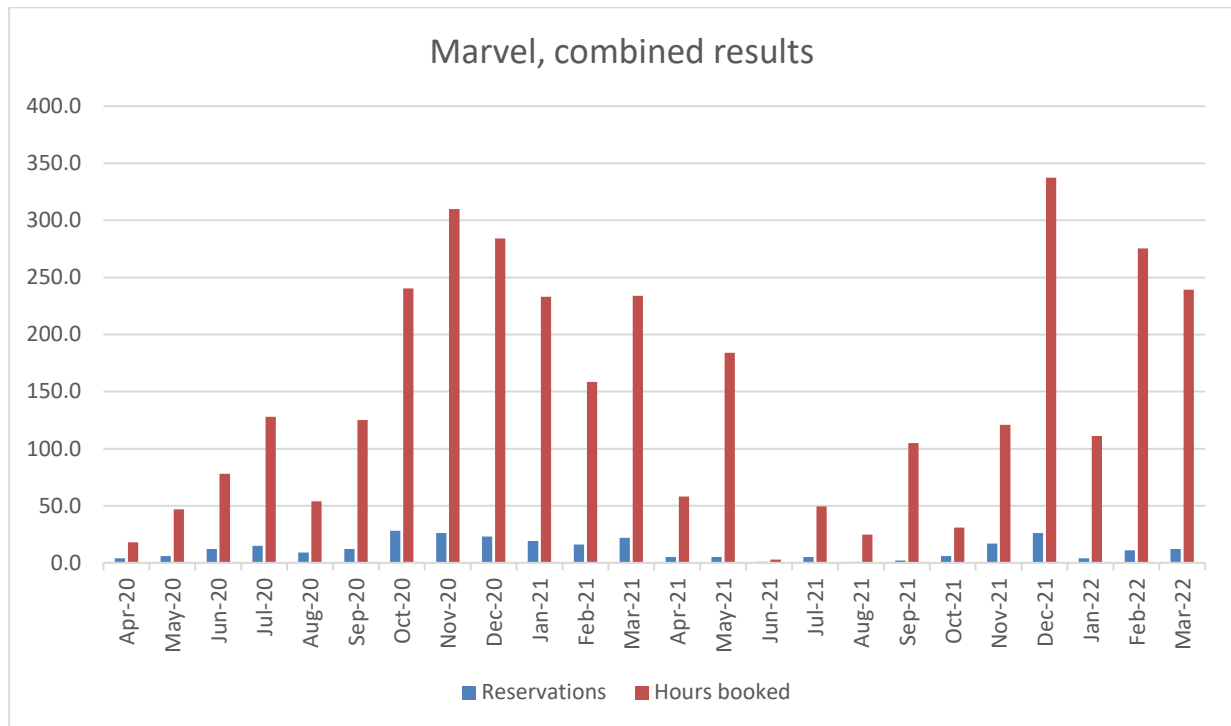


Figure 3: Marvel St, 2 spaces, results combined April 2020 - March 2022

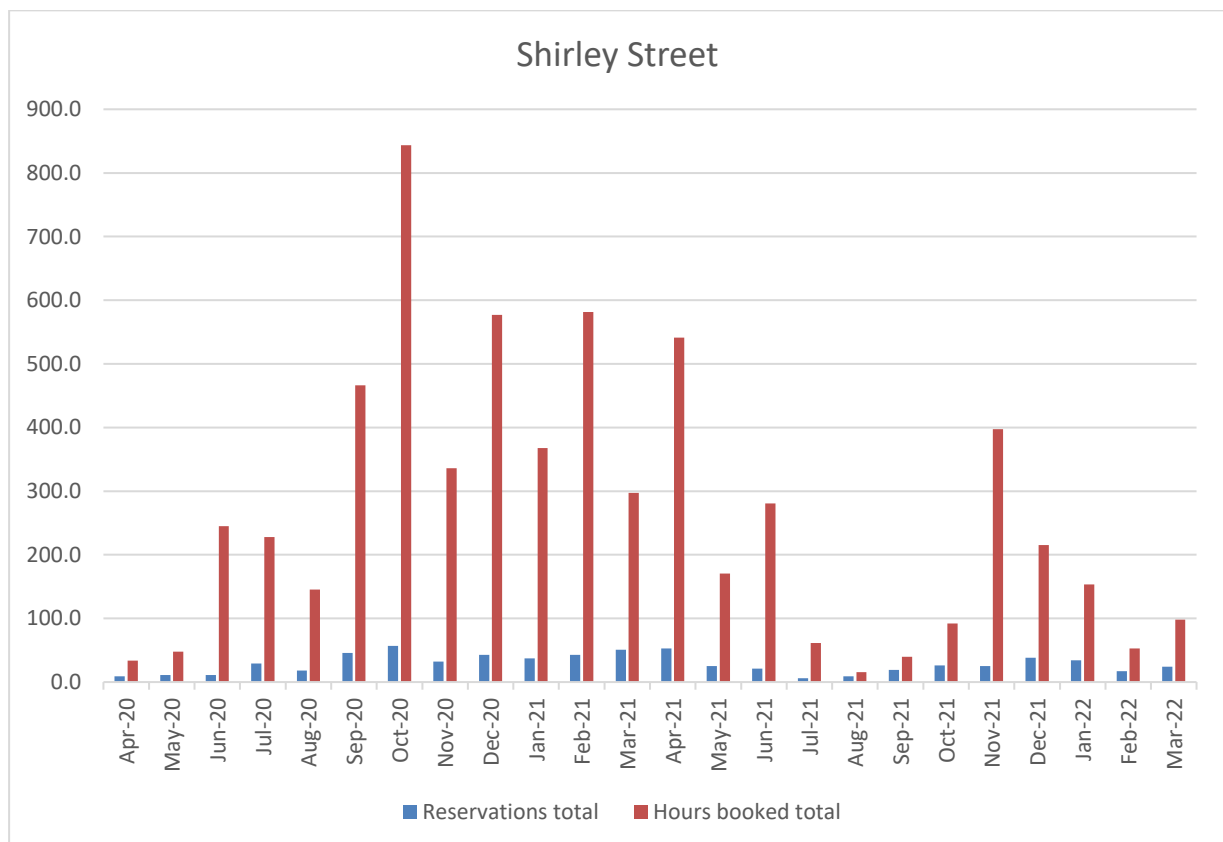


Figure 4: Shirley St, 1 space, April 2020 - March 2022

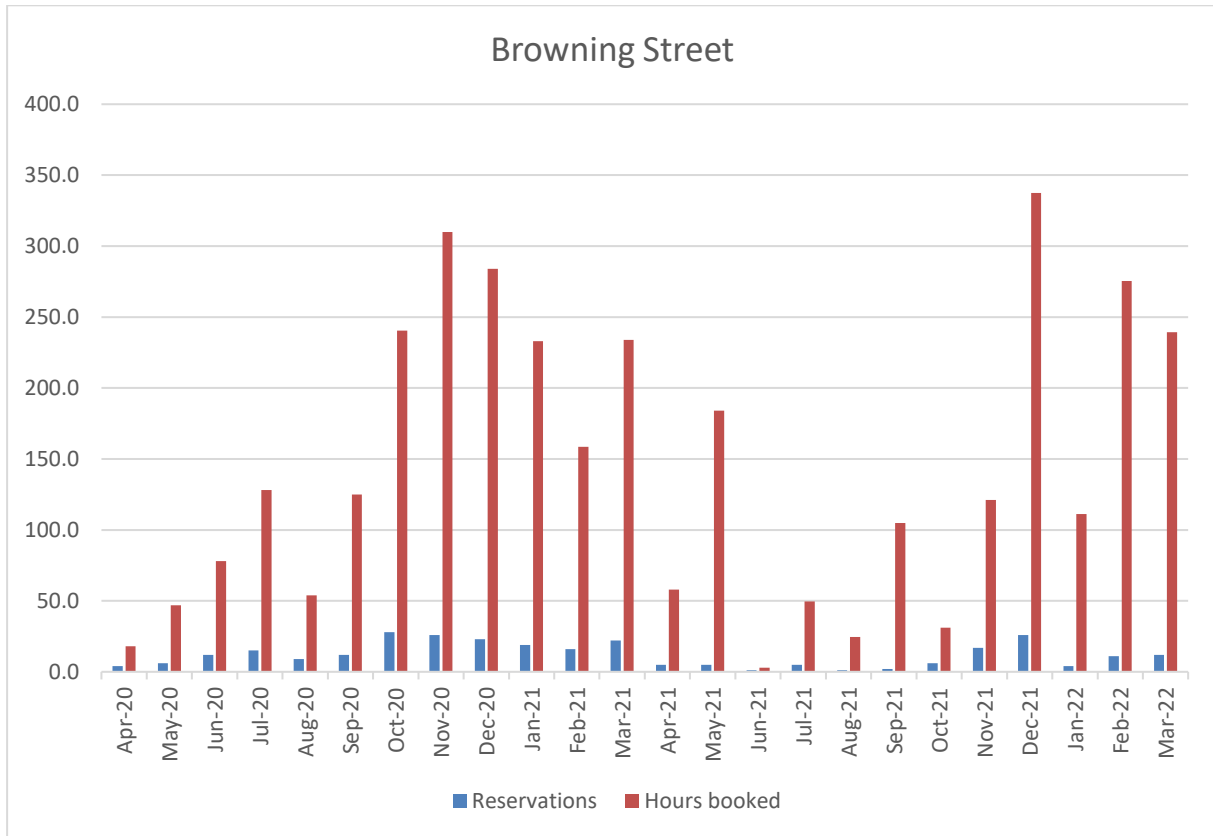


Figure 5: Browning St, 1 space, April 2020 - March 2022

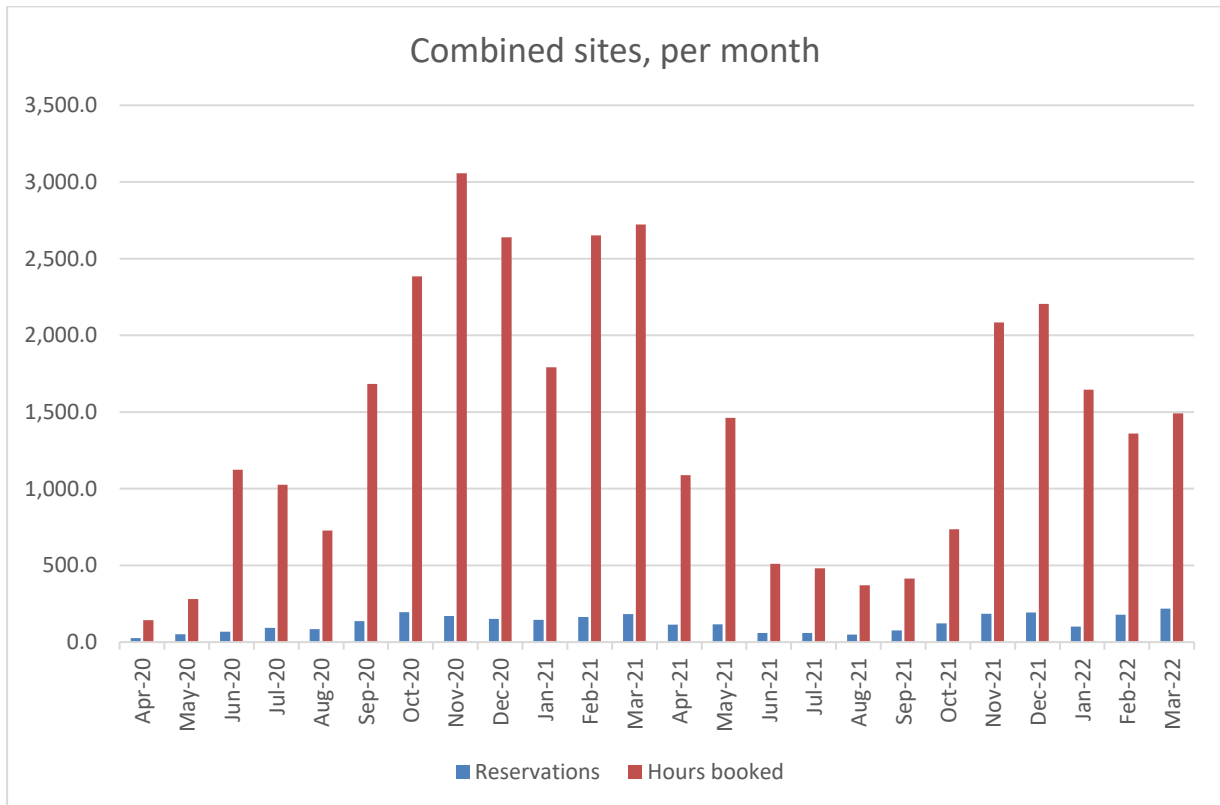


Figure 6: All sites combined, 14 spaces, April 2020 - March 2022

Key issues

There have been no issues reported from parking enforcement about unauthorised vehicles parking in the car share bays. No concerns have been received from the community regarding the bays or their locations.

5 Options

Popcar has said that they would like to continue to operate this service in the Shire. They are also interested in working with Council to help with the flood work and supply a vehicle for a short period of time to help the community at little or no cost.

Next steps

- 10 There are other car share companies operating within Australia. Council must create an equal opportunity for all operators, and as per Resolution **21- 200**, staff will invite car share operators in 2022/23 to respond to a competitive Expression of Interest for the 14 car share parking bays in Byron Shire for a three-year lease commencing in 2023/24.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
5: Connected Infrastructure We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable	5.3: Invest in renewable energy and emerging technologies	5.3.1: Future needs - Plan for the infrastructure needs of the current and future population	5.3.1.5	Report regulatory traffic matters and items requiring comment through the Local Traffic Committee for recommendation to Council for approval

Recent Resolutions

- 5
- Resolution 18-115 - 22 February 2018
 - Resolution 19-009 – 21 February 2019
 - Resolution 20-271 - 18 June 2020
 - Resolution 21-200 - 25 June 2021

Legal/Statutory/Policy Considerations

- 10 None relevant to this report

Financial Considerations

Popcar will need to apply to renew the annual permits to continue to lease the car share bays. The permits are \$110 per space as per Council's Fees and Charges.

- 15 The cost of annual permits (\$110) and the administration fee for new applications (\$440) will be invoiced in June 2022.

Consultation and Engagement

None relevant to this report

Report No. 13.14 PLANNING - Use of zipline ancillary to a primitive camping ground

Directorate: Sustainable Environment and Economy

Report Author: Ivan Holland, Planner

5 **File No:** I2022/684

Proposal:

DA No: 10.2021.683.1

NSW PP PAN-36736

Proposal description: Use of Zipline Ancillary to a Primitive Camping Ground

Property description: LOT: 2 DP: 1154966
1156 Main Arm Road UPPER MAIN ARM

Parcel No/s: 241281, 117330

Applicant: Mr N Satz

Owner: Mr D W McIlrath

Zoning: RU2 Rural Landscape /1(a) General Rural / 7(k) Habitat

Date received: 26 October 2021

Integrated / Designated Development: ☐ Integrated ☐ Designated ☒ Not applicable

Concurrence required No

Public notification or exhibition:

- Level 2 advertising under Council's Community Participation Plan.
- Exhibition period: 5 to 18 November 2021
- Submissions received: Nil (0)
- Submissions acknowledged: ☐ Yes ☐ No ☒ N/A

Variation request to Development Standards under an EPI (eg clause 4.6)

Clause 64A

Estimated cost \$2,500.00

Delegation to determine Council

Issues • Variation to development standard - Height of building (structure)

Summary:

The DA proposes Use of Zipline Ancillary to a Primitive Camping Ground. The zipline (and campground) is located near the southern boundary of the property and Main Arm Road. The zipline runs from a 11.2m high platform, attached to a tree, for ~100m to a terminus ~3m above ground. The zipline is not to be used for commercial purposes and conditions of consent recommended accordingly. The application appropriately addresses the relevant constraints applying to the site and is recommended for approval as a deferred commencement consent and subject to the conditions attached to this Report.




NOTE TO COUNCILLORS:

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

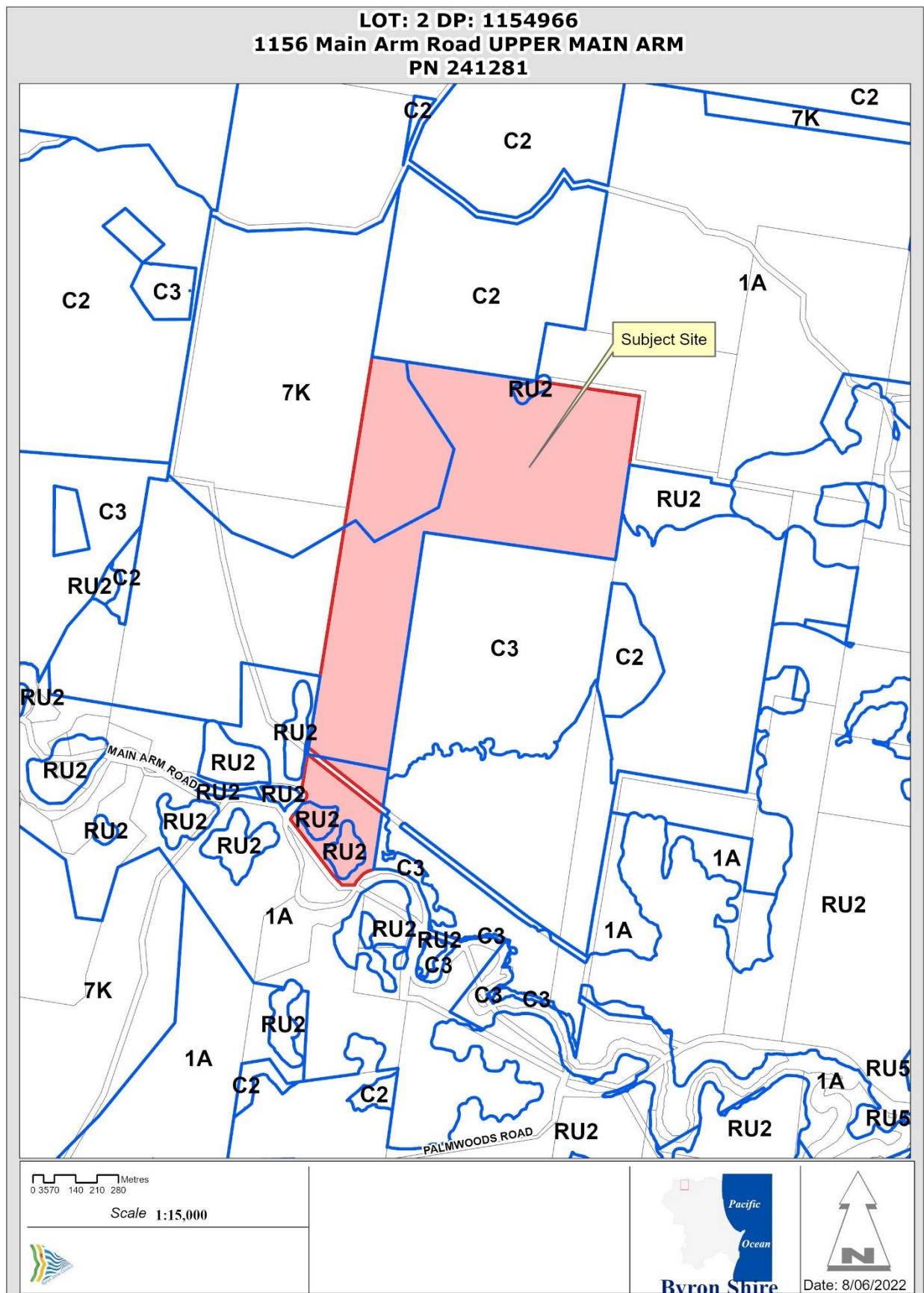
RECOMMENDATION:

That Pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2021.683.1 for Use of Zipline Ancillary to a Primitive Camping Ground, be granted as a deferred commencement consent subject to the conditions in Attachment 3.

Attachments:

- 1 DA 10.2021.683.1 - Site plan, E2021/133471 
- 2 DA 10.2021.683.1 - Variation request, E2022/53474 
- 3 DA 10.2021.683.1 - Recommended conditions, E2022/54860 

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Assessment:

1. INTRODUCTION

History/Background

Council records show the following development approval history for the property:

<u>Application / Register No</u>	<u>Description</u>	<u>Status</u>	<u>Date</u>
<u>10.2019.620.1</u> DevelopmentApplication	Subdivision of Two (2) Lots	APPR	07/10/2020
<u>5.1994.498.1</u> DevelopmentApplications	Tourist Facility	REFD	16/02/1995
<u>10.2007.801.1</u> DevelopmentApplication	Boundary Adjustment	WITH	10/03/2008
<u>10.2009.45.1</u> DevelopmentApplication	Rural Subdivision (Boundary Adjustment) to create 2 lots of	REFU	04/06/2009
<u>10.2019.620.1</u> DevelopmentApplication	Subdivision of Two (2) Lots	APPR	07/10/2020
<u>10.2021.683.1</u> DevelopmentApplication	Use of Zipline Ancillary to a Primitive Camping Ground	Pending	

<u>Module</u>	<u>Memo Type</u>	<u>Date</u>	<u>Nbr</u>	<u>Comments</u>
Property	BA pre Munics		1	BA Number 912165 BA Type AMENITIES Determined By LRJ Application Date 18/04/1991 Determination Date 17/09/1991 Value 52000 ? 0
<u>Module</u>	<u>Memo Type</u>	<u>Date</u>	<u>Nbr</u>	<u>Comments</u>
Property	DA pre Munics		1	DA Number 890173 Type CAM Determined by MPR Determination Type C Application Date 31/03/1989 Determination Date 07/07/1989 Application Fee 205 Value of Development 0 CAMPING GROUND
...	..	-	...	-

Of key relevance to this application is DA 5.1989.173.1 being the original approval for the primitive campground on the property (Lot 5 DP 588313). Only a site plan could be located in the records for this DA (see Figure 1).

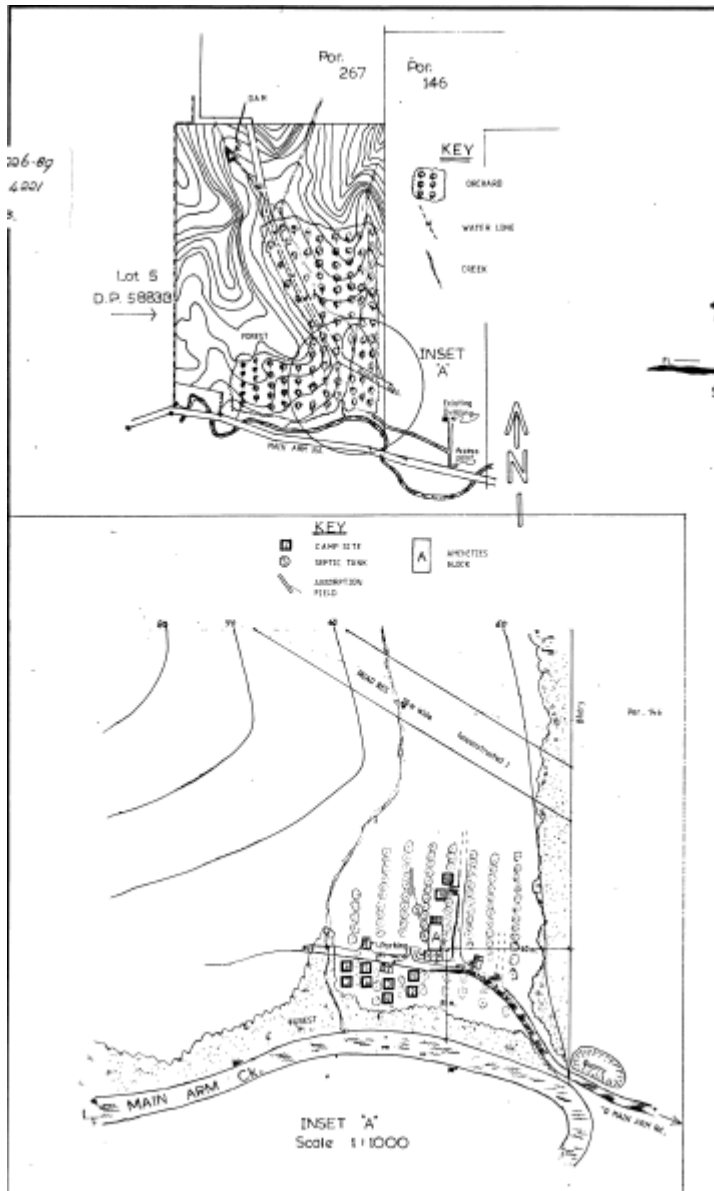


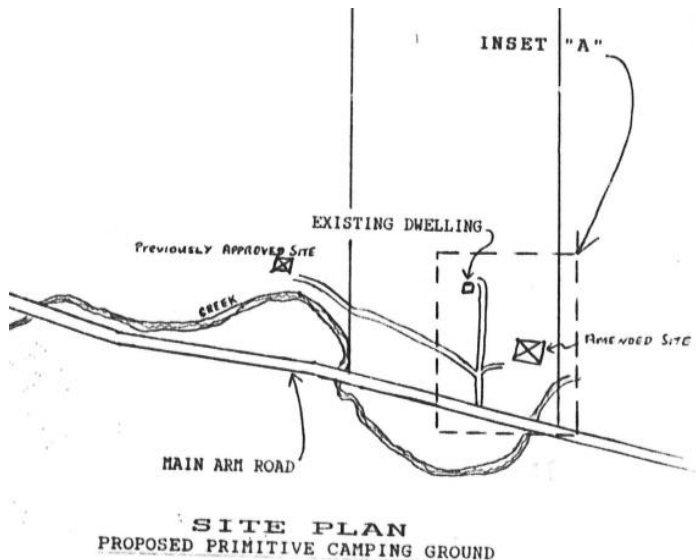
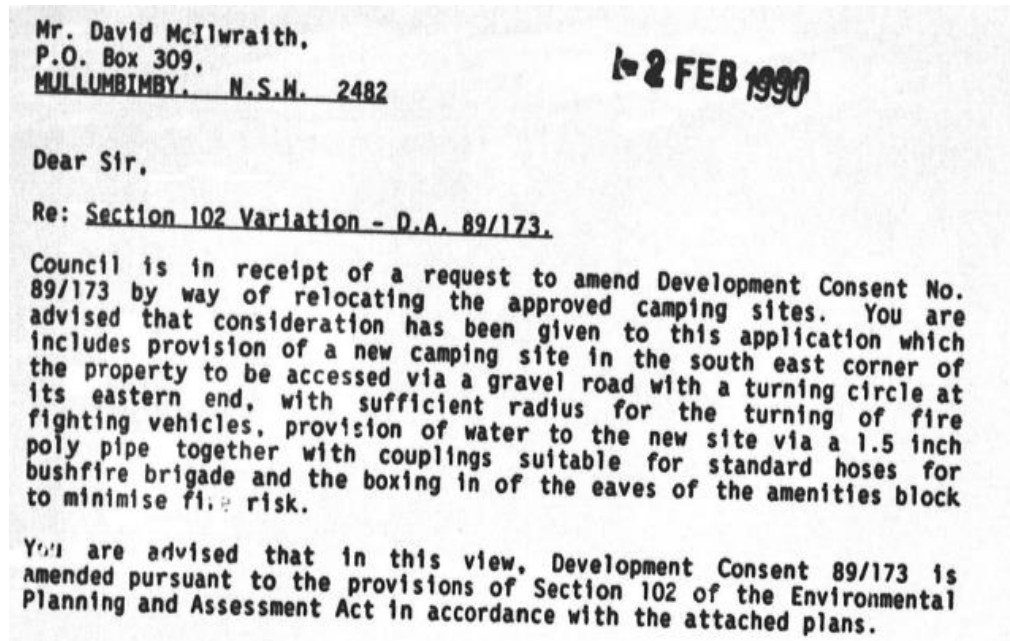
Figure 1. Site plan for DA 5.1989.173.1 – Primitive Camping Ground

- 5 The site plans (Figure 1) and file correspondence indicate that the campground is set-up and operating further east to the originally approved location and that this amended location (i.e., the current location) was approved (see extracts below).

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An AHIMS search for 1156 Main Arm Road did not identify any aboriginal sites or places.

5

Description of the proposed development

This application seeks approval for Use of Zipline Ancillary to a Primitive Camping Ground. The zipline (and campground) is located near the southern boundary of Lot 2 DP 1154966 and proximate to Main Arm Road (see Figure 2).

10



Figure 2. Site plan showing location of the zipline.

Description of the site

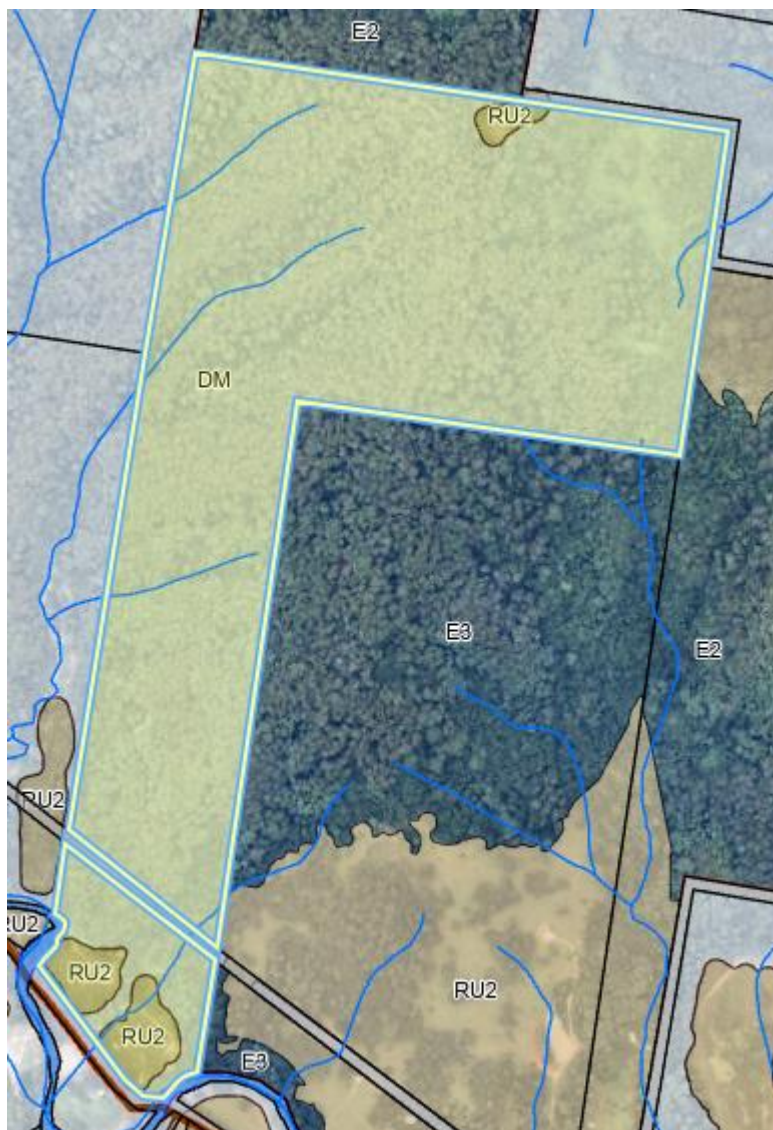


Figure 3. Aerial photo with land zoning overlay. Subject property is identified by yellow polygon.

Land is legally described	<u>LOT: 2 DP: 1154966, LOT: 5 DP: 588313</u>
Property address	1156 Main Arm Road UPPER MAIN ARM
Land is zoned:	RU2 Rural Landscape / PART 1A General Rural / 7K Habitat Zone Byron LEP 1988
Land area is:	78.49ha
Property is constrained by:	<ul style="list-style-type: none"> • Bushfire prone land • High Environmental Value vegetation • Powerlines

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	<ul style="list-style-type: none">• Biodiversity values/key fish habitat• Koala potential habitat• Coastal wetland buffer	
	Is a BDAR required due to the location of the proposed development?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Are there any easements in favour of Council affecting the site?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Is there a Vegetation Management Plan which might affect the proposal?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Is there a Voluntary Planning Agreement which might affect the proposal?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

The property has biodiversity values mapped land however no works/use within mapped lands are proposed. Accordingly, there is no requirement for a BDAR to be prepared for this application.

5 2. SUMMARY OF REFERRALS

Referral	Issue
Building Surveyor	No objections subject to conditions.

3. SECTION 4.14 – BUSH FIRE PRONE LAND

- 10 Under section 4.14 of the Act, Council must be satisfied prior to making a determination for development on bush fire prone land, that the development complies with the document '*Planning for Bush Fire Protection 2019*'. The site is bush fire prone land. The development application is for a Class 10 structure (8.3.2) and there no specific requirements for the subject development.
- 15 Effect of 10/50 rule on significant vegetation: Nil. The property is not within an area where the 10/50 clearing code applies and the code would not apply to a zipline.



Photo 1 – Campground access from Main Arm Road



Photo 2 – Zipline. View east from low-point to high-point



Photo 3 – Zipline low-point (western end)



Photo 4 – Zipline high-point (eastern end)

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

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

State Environmental Planning Policies (SEPP)

Consolidated SEPPs 2021

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Considerations	Satisfactory	Unsatisfactory
<p><i>Biodiversity and Conservation SEPP 2021</i></p> <p>Consideration: Council's GIS shows some areas of the property are mapped as potential koala habitat however none of the property is mapped as 'preferred' koala habitat and no koala sighting have been recorded. On the basis of this information, the property is not considered to be core koala habitat and the DA may be granted under this SEPP.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p><i>Resilience and Hazards SEPP 2021</i></p> <p>Consideration: The zipline is not within the coastal wetland or associated proximity area. Significant impacts on the lasted matters will not result from the use of the zipline.</p> <p>The subject property is not mapped as contaminated in Council's GIS and no works are proposed by this application.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

4.2A Byron Local Environmental Plan 2014 (LEP 2014)

Note: The zipline is predominantly within the RU2 zone with the eastern end of the zipline marginally encroaching into the 1(a) zone.

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

Part 1	<input checked="" type="checkbox"/> 1.1 <input checked="" type="checkbox"/> 1.1AA <input checked="" type="checkbox"/> 1.2 <input checked="" type="checkbox"/> 1.3 <input checked="" type="checkbox"/> 1.4 <input checked="" type="checkbox"/> Dictionary <input checked="" type="checkbox"/> 1.5 <input checked="" type="checkbox"/> 1.6 <input checked="" type="checkbox"/> 1.7 <input checked="" type="checkbox"/> 1.8 <input type="checkbox"/> 1.8A <input checked="" type="checkbox"/> 1.9 <input type="checkbox"/> 1.9A
Part 2	<input checked="" type="checkbox"/> 2.1 <input checked="" type="checkbox"/> 2.2 <input checked="" type="checkbox"/> 2.3 <input checked="" type="checkbox"/> Land Use Table <input type="checkbox"/> 2.4 <input type="checkbox"/> 2.5 <input type="checkbox"/> 2.6 <input type="checkbox"/> 2.7 <input type="checkbox"/> 2.8
Part 3	<input type="checkbox"/> 3.1 <input type="checkbox"/> 3.2 <input type="checkbox"/> 3.3
Part 4	<input type="checkbox"/> 4.1 <input type="checkbox"/> 4.1A <input type="checkbox"/> 4.1AA <input type="checkbox"/> 4.1B <input type="checkbox"/> 4.1C <input type="checkbox"/> 4.1D <input type="checkbox"/> 4.1E <input type="checkbox"/> 4.1F <input type="checkbox"/> 4.2 <input type="checkbox"/> 4.2A <input type="checkbox"/> 4.2B <input type="checkbox"/> 4.2C <input type="checkbox"/> 4.2D <input checked="" type="checkbox"/> 4.3 <input type="checkbox"/> 4.4 <input type="checkbox"/> 4.5 <input type="checkbox"/> 4.6

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Part 5	<input type="checkbox"/> 5.1 <input type="checkbox"/> 5.2 <input type="checkbox"/> 5.3 <input type="checkbox"/> 5.4 <input type="checkbox"/> 5.6 <input type="checkbox"/> 5.7 <input type="checkbox"/> 5.8 <input type="checkbox"/> 5.10 <input type="checkbox"/> 5.11 <input type="checkbox"/> 5.12 <input type="checkbox"/> 5.13 <input type="checkbox"/> 5.14 <input type="checkbox"/> 5.15 <input type="checkbox"/> 5.16 <input type="checkbox"/> 5.17 <input type="checkbox"/> 5.18 <input type="checkbox"/> 5.19 <input type="checkbox"/> 5.20 <input type="checkbox"/> 5.21 <input type="checkbox"/> 5.22
Part 6	<input type="checkbox"/> 6.1 <input type="checkbox"/> 6.2 <input type="checkbox"/> 6.4 <input type="checkbox"/> 6.5 <input checked="" type="checkbox"/> 6.6 <input type="checkbox"/> 6.7 <input type="checkbox"/> 6.8 <input type="checkbox"/> 6.9 <input type="checkbox"/> 6.11 <input type="checkbox"/> 6.12 <input type="checkbox"/> 6.13 <input type="checkbox"/> 6.14 <input type="checkbox"/> 6.15

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

- 5
- (a) The proposed development is not expressly defined in the LEP 2014 Dictionary, however, is considered as an ancillary activity to the previously approved *primitive camping ground* as defined within the BLEP 1988 (Note: Camping Grounds are permissible in zone RU2).
 - (b) The land is within the RU2 Rural Landscape according to the Land Zoning Map;
 - (c) The proposed development is permitted with consent; and
 - (d) Regard is had for the Zone Objectives as follows:

Zone Objective	Consideration
• To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.	The zipline will not hinder this objective
• To maintain the rural landscape character of the land.	The zipline does not impact on the landscape character
• To provide for a range of compatible land uses, including extensive agriculture.	The zipline will not hinder this objective
• To enable the provision of tourist accommodation, facilities and other small-scale rural tourism uses associated with primary production and environmental conservation consistent with the rural character of the locality.	The zipline is complimentary, and ancillary, to the approved primitive camping ground
• To protect significant scenic landscapes and to minimise impacts on the scenic quality of the locality.	The zipline does not impact on the scenic quality of the locality.

4.3 Height of buildings

- 10
- The zipline termini are structures and fall within the definition of 'buildings'. The western zipline terminus is within zone RU2 but is ~3.2m above ground and less than the 9m height limit.

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The remaining underlined clauses have been taken into consideration in the assessment of the subject development application in accordance with Section 4.15 of the EP&A Act. The proposed development complies with all of these clauses (in some cases subject to conditions and/or to the satisfaction of other assessing officers), except in relation to

5 Clause 4.3 Height of buildings which is considered further as follows:

4.2B Byron Local Environmental Plan 1988 (LEP 1988)

10 BLEP 1988 is an applicable matter for consideration in the assessment of the subject development application in accordance with subsection 4.15(1) of the EP&A Act because it applies to the subject land and the proposed development. The LEP 1988 clauses that are checked below are of relevance to the proposed development:

Part 1	<input checked="" type="checkbox"/> 1 <input checked="" type="checkbox"/> 2 <input checked="" type="checkbox"/> 2A <input checked="" type="checkbox"/> 3 <input checked="" type="checkbox"/> 4 <input checked="" type="checkbox"/> 5 <input checked="" type="checkbox"/> LEP 1988 Dictionary <input checked="" type="checkbox"/> 7
Part 2	<input checked="" type="checkbox"/> 8 <input checked="" type="checkbox"/> 9
Part 3	<input type="checkbox"/> 10 <input type="checkbox"/> 11 <input type="checkbox"/> 11A <input type="checkbox"/> 11B <input type="checkbox"/> 12 <input type="checkbox"/> 13 <input type="checkbox"/> 14 <input type="checkbox"/> 15 <input type="checkbox"/> 16 <input type="checkbox"/> 17 <input type="checkbox"/> 17A <input type="checkbox"/> 17B <input type="checkbox"/> 18 <input type="checkbox"/> 19 <input type="checkbox"/> 20 <input type="checkbox"/> 22 <input type="checkbox"/> 23 <input type="checkbox"/> 24 <input type="checkbox"/> 25 <input type="checkbox"/> 27 <input type="checkbox"/> 29 <input type="checkbox"/> 29AA <input type="checkbox"/> 29A <input type="checkbox"/> 30 <input type="checkbox"/> 31 <input type="checkbox"/> 32 <input type="checkbox"/> 33 <input type="checkbox"/> 34 <input type="checkbox"/> 35 <input checked="" type="checkbox"/> 36 <input type="checkbox"/> 37 <input type="checkbox"/> 38 <input type="checkbox"/> 38A <input type="checkbox"/> 38B <input type="checkbox"/> 39 <input type="checkbox"/> 39A <input type="checkbox"/> 39B <input type="checkbox"/> 39C <input checked="" type="checkbox"/> 40 <input type="checkbox"/> 41 <input type="checkbox"/> 42 <input type="checkbox"/> 43 <input type="checkbox"/> 44 <input checked="" type="checkbox"/> 45 <input type="checkbox"/> 46 <input type="checkbox"/> 47 <input type="checkbox"/> 47AA <input type="checkbox"/> 47A <input type="checkbox"/> 48 <input type="checkbox"/> 48A <input type="checkbox"/> 49 <input type="checkbox"/> 51 <input type="checkbox"/> 52 <input type="checkbox"/> 53 <input type="checkbox"/> 54 <input type="checkbox"/> 55 <input type="checkbox"/> 56 <input type="checkbox"/> 57 <input type="checkbox"/> 58 <input type="checkbox"/> 59 <input type="checkbox"/> 60 <input type="checkbox"/> 61 <input type="checkbox"/> 62 <input type="checkbox"/> 63 <input type="checkbox"/> 64 <input checked="" type="checkbox"/> 64A <input type="checkbox"/> 64B <input type="checkbox"/> 64C <input type="checkbox"/> 64D

In accordance with LEP 1988 clauses 5, 8 and 9:

- (a) The proposed development is ancillary to “primitive camping ground” as defined in the LEP 1988 Dictionary;
- 15 (b) The land is within the LEP1988 1(a) General Rural according to the map under LEP 1988;
- (c) The proposed development is permitted with consent; and
- (d) The proposed development is consistent with the relevant objectives of the Zone for the following reasons:

Zone Objective	Consideration
(a) to encourage and permit a range of uses creating a pattern of settlement, at a scale and character that maintains or enhances the natural, economic, cultural, social and scenic amenity of the rural environment of the Shire of Byron,	The use of the zipline is associated with an approved tourism use and is not contrary to the relevant zone objectives
(b) to encourage and permit a pattern of settlement which does not adversely affect	

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Zone Objective	Consideration
<p>the quality of life of residents and visitors and maintains the rural character,</p> <p>(c) to ensure development only occurs on land which is suitable for and economically capable of that development and so as not to create conflicting uses,</p> <p>(d) to allow the use of land within the zone for agricultural purposes and for a range of other appropriate purposes whilst avoiding conflict between other uses and intensive agriculture,</p> <p>(e) to identify lands (shown hatched on the map) which in the opinion of the council possess a limited capability for more intensive uses or development,</p> <p>(f) to restrict the establishment of inappropriate traffic generating uses along main road frontages other than in roadside service areas,</p> <p>(g) to ensure sound management of land which has an extractive or mining industry potential and to ensure that development does not adversely affect the potential of any existing or future extractive industry,</p> <p>(h) to enable the provision of rural tourist accommodation and facilities only where such facilities are compatible with the form and density of the nature of the locality, and</p> <p>(i) to permit the development of limited light industries which do not pose any adverse environmental impact, (e.g., software manufacture and film processing), and</p> <p>(j) to ensure that the development and use of land shown cross-hatched on the map adjacent to areas of significant vegetation and wildlife habitat do not result in any degradation of that significant vegetation and wildlife habitat, and that any development conserves and protects and enhances the value of the fauna and flora.</p>	

40 Height

The zipline termini are structures and fall within the definition of 'buildings'. The eastern zipline terminus is within zone 1(a) and the platform is ~11.2m above ground and exceeds than the 9m height limit (see Photo 4). The application states that "*The use of the platform is entirely cosmetic. It is not required for either safety of structural purposes*". Following a request by Council, the applicant provided a written request to vary the development standard with respect to height of the structure on 5/6/2022 (E2022/53251) which is considered below.

The remaining checked clauses have been taken into consideration in the assessment of the subject development application in accordance with Section 4.15 of the EP&A Act. The proposed development complies with all of these clauses (in some cases subject to conditions and/or to the satisfaction of other assessing officers), except in relation to Clause 40 Height which is considered further as follows:

Clause 64A Exceptions to Development Standards

Applicant has sought a variation to the Height (clause 40) development standard by proposing a zipline platform with a height of 11.2m (~24% variation to the standard).

The applicant has submitted a written request that strict compliance with the development standard is unreasonable or unnecessary and that there are sufficient environmental grounds to vary the controls as follows:

- A reduction in height for the zipline platform would lead to a "reduction in the margin of safety for users".
- There will be "no discernible or detrimental environmental effect" associated with the height of the zipline platform
- A lower platform height "would detract from the novelty, excitement and enjoyment of the ride".

It is considered that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental grounds to vary the development standard for the following reasons:

- the height and scale of the zipline platform does not conflict with the location, surrounding development or environmental characteristic of the land.
- the development standard is primarily targeted towards buildings, rather than a small (~6m²), open platform in a tree.
- the minor scale and obscured location (within and surrounding a tree) of the structure are such that visual impacts of the development are negligible

Further the proposal is in the public interest having regards to the relevant objective of the development standard being "*to ensure that the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics*"

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of the land" as the structure is relatively small in area (~6m²), is open (without walls or roof) and located in a tree.

The concurrence of the Planning Secretary is not required. Concurrence may be assumed by Council (but not a delegate of Council) under Planning Circular PS 20-002.

- 5 It is recommended that the development standard can be varied in this instance.
- a) The development is satisfactory having regard to the requirements outlined in clause 64A;
 - b) The development is satisfactory having regard to applicable Department of Planning, Infrastructure and Environment Circulars;
 - 10 c) The development is satisfactory having regard to relevant caselaw;
 - d) The DA demonstrates that compliance with the development standard is unreasonable and unnecessary;
 - e) The DA demonstrates that there are sufficient environmental planning grounds to justify contravening the standard;
 - 15 f) The DA demonstrates that the development is in the public interest;
 - g) The DA demonstrates that the development is consistent with the objectives of the standard and the zone; and
 - h) The DA demonstrates the grounds of the request are particular to the proposed development on this site, and that there is something particular to the development on this site to justify the variation.
 - 20

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

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

25

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

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

30

Part A	<input checked="" type="checkbox"/>
Part B Chapters:	<input checked="" type="checkbox"/> B1 <input type="checkbox"/> B2 <input type="checkbox"/> B3 <input type="checkbox"/> B4 <input type="checkbox"/> B5 <input type="checkbox"/> B6 <input type="checkbox"/> B7 <input checked="" type="checkbox"/> B8

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	<input type="checkbox"/> B9 <input type="checkbox"/> B10 <input type="checkbox"/> B11 <input type="checkbox"/> B12 <input checked="" type="checkbox"/> B13 <input type="checkbox"/> B14
Part C Chapters:	<input type="checkbox"/> C1 <input type="checkbox"/> C2 <input type="checkbox"/> C3 <input type="checkbox"/> C4
Part D Chapters	<input type="checkbox"/> D1 <input type="checkbox"/> D2 <input checked="" type="checkbox"/> D3 <input type="checkbox"/> D4 <input type="checkbox"/> D5 <input type="checkbox"/> D6 <input type="checkbox"/> D7 <input type="checkbox"/> D8 <input type="checkbox"/> D9
Part E Chapters	<input type="checkbox"/> E1 <input type="checkbox"/> E2 <input type="checkbox"/> E3 <input type="checkbox"/> E4 <input type="checkbox"/> E5 <input type="checkbox"/> E6 <input type="checkbox"/> E7 <input type="checkbox"/> E8 <input type="checkbox"/> E9 <input type="checkbox"/> E10

B1: Biodiversity

The zipline and associated structures encroach areas of vegetation mapped as high environmental value vegetation (subtropical rainforest), key fish habitat and koala potential habitat. Consequently, the development does not meet ecological setbacks to 'red-flagged' areas (B1.2.1). However, a variation to the ecological setbacks is reasonable in the circumstances as:

- no tree removal is required or proposed;
- the scale and impact of the development is minimal;
- the development does not require a managed bush fire setback;
- the development does not trigger clearing entitlements under other mechanisms (e.g., NSW RFS 10/50 Vegetation Clearing Code);
- there will be no net loss of biodiversity; and
- an arborists report was provided with the application that states "... all the anchor and support trees are adequate and suitable in terms of their use for the zipline both as anchor trees and support trees".

D3: Tourist Accommodation

Although this chapter is applicable to the zipline (particularly D3.3.3 Caravan Parks and Camping Grounds), as ancillary development to the campground, there are no provisions that are directly relevant to the proposal.

These checked Parts/Chapters have been taken into consideration in the assessment of the subject development application in accordance with Section 4.15 of the EP&A Act. The proposed development is demonstrated to meet the relevant Objectives of all relevant Parts/Chapters (in some cases subject to conditions and/or to the satisfaction of other assessing officers).

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4.4B Byron Shire Development Control Plan 2010 (DCP 2010)

- 5 DCP 2010 is an applicable matter for consideration in the assessment of the subject development application in accordance with subsection 4.15(1) of the EP& A Act because its purpose is to provide planning strategies and controls for various types of development permissible in accordance with LEP 1988. The DCP 2010 Chapters/Parts that are checked below are of relevance to the proposed development:

Chapter 1 Parts:	<input checked="" type="checkbox"/> A <input type="checkbox"/> B <input checked="" type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> E <input type="checkbox"/> F <input type="checkbox"/> G <input type="checkbox"/> H <input type="checkbox"/> J <input type="checkbox"/> K <input type="checkbox"/> L <input type="checkbox"/> N
Chapters:	<input type="checkbox"/> 4 <input type="checkbox"/> 6 <input type="checkbox"/> 7 <input type="checkbox"/> 8 <input type="checkbox"/> 9 <input type="checkbox"/> 10 <input type="checkbox"/> 11 <input type="checkbox"/> 12 <input type="checkbox"/> 14 <input type="checkbox"/> 15 <input type="checkbox"/> 16 <input type="checkbox"/> 17 <input type="checkbox"/> 18 <input type="checkbox"/> 19 <input type="checkbox"/> 20 <input type="checkbox"/> 21 <input type="checkbox"/> 22

Chapter 1: Part C – Residential Development

- 10 Although this chapter is applicable to the zipline (particularly C10. Caravan Parks and Camping Grounds), as ancillary development to the campground, there are no provisions that are directly relevant to the proposal.

These checked Chapters/Parts have been taken into consideration in the assessment of the subject development application in accordance with Section 4.15 of the EP&A Act. The proposed development is demonstrated to meet the relevant Objectives of DCP 2010 (in some cases subject to conditions and/or to the satisfaction of other assessing officers).

15 4.5 Environmental Planning and Assessment Regulation 2000 considerations

	Applicable to the proposal:	Considered the control as it relates to the proposal:	If this control is applicable, does the proposal comply?
Clause 92 - Additional matters that consent authority must consider	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> NA	<input checked="" type="checkbox"/> NA
Clause 93 Fire safety and other considerations	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> NA	<input checked="" type="checkbox"/> NA
Clause 94 - Consent authority may require buildings to be upgraded	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> NA	<input checked="" type="checkbox"/> NA
Clause 94A - Fire safety and other considerations applying to erection of temporary structures	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> NA	<input checked="" type="checkbox"/> NA

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

Impact on:	Likely significant impact/s?
Natural environment	No. The proposal will not have a significantly adverse impact on the natural environment of the locality.
Built environment	No. The proposal will not have a significantly adverse impact on the built environment of the locality.
Social Environment	No. The proposal will not have a significant social impact on the locality.
Economic impact	No. The proposal will not have a significant economic impact on the locality.
Construction Impacts	The development will generate minor impacts during its construction. Conditions of consent recommended to control hours of work, builders waste, construction noise, installation of sedimentation and erosion control measures and the like to ameliorate such impacts.

No Council Policies that are applicable to the proposed development were identified.

5 4.7 The suitability of the site for the development

The site is suitable for the proposed development.

4.8 Submissions made in accordance with this Act or the regulations

The development application was publicly exhibited

10 There were **no** submissions made on the development application.

4.9 Public interest

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

5. DEVELOPER CONTRIBUTIONS

15 5.1 Water & Sewer Levies

No Section 64 levies will be required.

5.2 Developer Contributions

No Developer Contributions will be required.

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6. DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

Disclosure details	Response
Has a Disclosure Statement been received in relation to this application? If Yes, Provide Disclosure Statement register reference: 91.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Have staff received a 'gift' from anyone involved in this application that needs to be disclosed.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

7. CONCLUSION

- 5 The DA proposes Use of Zipline Ancillary to a Primitive Camping Ground (known as 'Macca's Campground) at 1156 Main Arm Road, Upper Main Arm. The zipline has already been constructed and a building information certificate is recommended as a deferred commencement requirement. The starting platform for the zipline is 11.2m high and above the 9m building height limit however the platform is relatively small and is located such that visual impacts are minimal. The application appropriately addresses the relevant constraints applying to the site and is recommended for approval as a deferred commencement consent and subject to the conditions attached to this Report.
- 10

Report No. 13.15 Resolution 22-332 - Animal Enforcement Resourcing

Directorate: Sustainable Environment and Economy

Report Author: Sarah Nagel, Manager Public and Environmental Services

5 **File No:** I2022/897

Summary:

10 Council included actions in resolution **22-332: Noting Operational Plan Activity '2.2.4.2 Provide companion animal management services', requests staff to prepare a report to address the resourcing needs that are required to give effect to this activity and resolution 22-208 Report No 9.2 - Non-compliant companion animals at the August ordinary meeting.**

This report addresses the resourcing needs required to give effect to resolution **22-208 Report No 9.2 - Non-compliant companion animals** [Agenda of Ordinary Meeting - Thursday, 26 May 2022](#).

15

RECOMMENDATION:

That Council:

- 20
1. **Notes the current companion animal education and animal enforcement resourcing and staff operations as discussed in the report.**
 2. **Notes that employment of an Animal Education and Enforcement Officer under the NSW Local Council Support Package Companions Animals Grant is proposed for a period of up to 20 months which will increase the number of Animal Enforcement Officers to three.**
 - 25 3. **Notes that the Animal Education and Enforcement Officer would take on all educative duties in relation to companion animals, thereby allowing the other two Animal Enforcement Officers to solely focus on the animal enforcement activities under Resolution 22-208.**

30

Report

Current resourcing and operations

Council employs two Animal Enforcement Officers within the Community Enforcement Team. The officers each work 76 hours per fortnight over a 7-day rotating roster, with on-call work out of hours. These officers share one animal enforcement vehicle which is required for transporting animals during shifts and out-of-hours. The vehicle includes dog and cat containment areas and animal response equipment, which meet relevant standards for Workplace Health and Safety and animal welfare.

An Animal Enforcement Officer equates to approximately \$120,000.00 per annum and a basic animal enforcement vehicle is approximately \$60,000.00.

Council's 2022 Compliance Priorities Program lists dangerous and/or menacing dogs as 'very high priority'; uncontrolled dogs, including those kept on land where Policy or Development consent prohibits it, as 'high priority' and companion animals with a high emphasis on high visibility enforcement and public education as 'routine priority'.

Officers are also required to give effect to resolution **22-208** [Minutes of Ordinary Meeting - Thursday, 26 May 2022](#)

Complaint management

During 2021, the Community Enforcement team received **4,117** Customer Request Management ("CRMs"), which included **773** animal complaints (Cats – nuisance, stray or removal; Dogs – attack, barking, found, nuisance, restricted, unregistered; Livestock; Poultry and Rabbits). This was a reduction of 70 CRM's compared to the previous year. Animal complaints made up **19%** of the CRM's received by the entire enforcement team.

The enforcement team make best endeavours to respond to all manner of compliance priority duties across the whole of the Shire. This is undertaken in the context of the rotating roster. The start and finish times on the roster, as well as the days, are continuously varied to accommodate the need to patrol numerous places in towns, villages and the coast and due to time of year. This is balanced against the requirement for the roster to also observe State Award and Workplace Health and Safety requirements for officers.

All CRMs are responded to as per the adopted Compliance Priorities Program and/or as resources permit their re-prioritisation.

In 2021, there were approximately **649** customer requests made in relation to dogs. A reduction from **675** in the previous period, possibly due to increased proactive daily visible patrols of dog exercise areas and hot spots. This may also be due to reduced visitors to the Shire. These included:

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Customer Request Management Received	2021
Dogs Attacks	101
Dogs Barking	128
Dogs Found	123
Dogs Nuisance	292
Dogs Restricted	5
TOTAL	649

In the reporting period Council:

- 5 Served **5** Intentions to Declare a Menacing or Dangerous Dog and issued **15** Orders relating to Menacing or Dangerous Dogs under the Companion Animals Act. These methods often result in Council expending finances and resources that rarely result in much financial return. These also require officers to undertake ongoing inspections of properties to ensure compliance with the Orders.
- 10 Completed daily patrols and issued **57** Companion Animal related penalty infringement notices to the value of \$23,115.00. How many of these infringements were actually paid by offenders is unknown and how much of this value was received by Council is unknown due to the nature of how State Revenue manages infringements and disburses infringement payments to councils. Each of these
- 15 infringements also incurred a handling fee to be paid by Council to State Revenue (whether the offender eventually paid the fine or not).
- 20 Successfully finalised **7** Local Court prosecutions in relation to a dog. Fines and costs were awarded to Council totalling \$3,645.00 for the seven matters. This is minimal compared to the financial costs of managing these prosecutions.

25 Animal Enforcement Officers also completed daily proactive enforcement to dog exercise areas within the Shire. These patrols are varied to cover times between early morning and late afternoon. An officer's daily shift is 8.5 hours so these times cannot be covered on every shift. The officers also respond to all complaints received by Council in relation to dogs and cats. For officer safety, some tasks require officers to respond in pairs. The result of this is, like any other enforcement agency, that it is not possible or reasonable to expect officers to respond to every report immediately or be in every location of the Shire at once.

Education and other companion animal initiatives

- 30 Animal Enforcement Officers are also responsible for educating community groups, local schools and the public on responsible pet ownership and safety around companion animals. This includes the preparation and presentation of community events, microchipping/desexing incentives and school presentations, media releases and the management of Council's webpage information.
- 35 Due to the restrictions of the Public Health Orders the inaugural 'Bow Wow! Look at me now!' event; which includes interactive dog training sessions, vet checks, nail clipping, micro-chipping, dog washing, riverside nature walk, sausage sizzle and doggie gift bags;

BYRON SHIRE COUNCIL

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was again postponed in 2021. The free RSPCA microchip day was also postponed in 2021. Officers are now required to progress these community initiatives, as part of the educative duties.

- 5 To assist Council's management of dogs within the Shire, the 'Dogs in Public Spaces Strategy' was commenced. Details of this project are included in a separate report on this agenda. The web home page can otherwise be accessed from here [Dogs in Public Spaces Strategy](#)

Media releases were issued in relation to responsible dog ownership and joint interagency compliance actions.

- 10 Increased proactive companion animal patrols within dog exercise areas, dog prohibited areas and dog on lead compliance within public spaces was implemented. Officers schedule and undertake regular compliance inspections of all menacing/dangerous dogs within the Shire (and are also managing the 'RSPCA Keeping Cats Safe at Home' project).

- 15 In addition to the above, officers are required to provide support to parking enforcement officers and community enforcement officers during peak periods and are responsible for maintaining Council's pound and caring for animals within the pound.

Local Council Support Package Companion Animals

- 20 The Companion Animals Program Grant provides financial assistance to highly impacted councils towards supporting pound operations in assisting with reuniting and rehoming pets displaced by the 2022 flood events.

Details of Grant proposed were reported to Council Report No. 11.1 AGRN1012 - Natural Disaster \$2.375 million - Program of Works [Agenda of Ordinary \(Planning\) Meeting - Thursday, 11 August 2022](#)

- 25 As part of the Companion Animals Program Grant, a submission has been included for employment of an 'Animal Education and Enforcement Officer' to assist the Animal Enforcement Officers. If successful, this officer would take on all educative duties in relation to companion animals, allowing the other two animal enforcement officers to solely focus on animal enforcement activities.

- 30 Due to the nature of the grant, the employment period of the proposed Animal Education and Enforcement Officer however is restricted to a period of 18 to 20 months.

To extend the position beyond this time will require an operational budget allocation for a new animal enforcement officer and vehicle.

35

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.2: Enhance safety and contribute to the physical, mental, and spiritual health and well being of our people	2.2.4: Companion animals - Promote awareness of the requirements of the Companion Animals Act with respect to the ownership of companion animals	2.2.4.1	Undertake proactive patrols of community parks and open spaces to monitor safe use by dogs and their owners
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.2: Enhance safety and contribute to the physical, mental, and spiritual health and well being of our people	2.2.4: Companion animals - Promote awareness of the requirements of the Companion Animals Act with respect to the ownership of companion animals	2.2.4.2	Provide companion animal management services
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.2: Enhance safety and contribute to the physical, mental, and spiritual health and well being of our people	2.2.4: Companion animals - Promote awareness of the requirements of the Companion Animals Act with respect to the ownership of companion animals	2.2.4.3	Facilitate companion animals education
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.2: Enhance safety and contribute to the physical, mental, and spiritual health and well being of our people	2.2.4: Companion animals - Promote awareness of the requirements of the Companion Animals Act with respect to the ownership of companion animals	2.2.4.4	Develop Dogs in Public Space Strategy

Recent Resolutions

- Resolution 22-208
- Resolution 22-332

Legal/Statutory/Policy Considerations

- 5 There are several Acts which give local government regulatory powers in relation to dogs. They include:
- Local Government Act 1993
 - Environmental Planning & Assessment Act 1979
 - Companion Animals Act 1998
- 10
- Food Act 2003
 - Public Health Act 2010

Compliance action is considered and determined through Council's adopted Enforcement Policy 2020 and the NSW Ombudsman Enforcement Guidelines for councils.

Financial Considerations

- 15 Any additional companion animal and or animal enforcement resourcing to that already in the adopted FY 22/23 operational budget and or that proposed in the Local Council Support Package – Companion Animals Grant would require a new and separate operational budget allocation from Council.

- 20 As stated above an Animal Enforcement Officer equates to approximately \$120,000.00 per annum and a basic animal enforcement vehicle is approximately \$60,000.00.

Consultation and Engagement

None relevant to this report.

Report No. 13.16 Dogs in Public Spaces Strategy

Directorate: Sustainable Environment and Economy

Report Author: Sarah Nagel, Manager Public and Environmental Services

File No: I2022/898

5 Summary:

Council resolved to create a 'Dogs in Public Spaces Strategy' (DiPs) that reflects a balanced policy approach to this issue.

10 A draft DiPS has now been prepared which aims to consider the needs of dog owners, as well as members of the public, who all use and enjoy these spaces.

The draft DiPs builds on feedback received from the community about improving dog exercise areas in the Shire whilst also balancing dogs with the environment.

15 The draft DiPs includes a clear vision, key themes and supporting actions to drive infrastructure improvements in the future and set out clear priorities for Council's education and compliance activities.

20

RECOMMENDATION:

That Council:

25

1. **Notes the preparation of the draft Dogs in Public Spaces Strategy and Guide to Dog Areas in Byron Shire documents.**
2. **Endorses that the draft Dogs in Public Spaces Strategy and Guide to Dog Areas in Byron Shire be placed on public exhibition for a minimum 6 weeks to allow for community feedback and submissions.**
3. **Receives a submissions report following the public exhibition of the documents referred to in point 1 and 2.**

30

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Attachments:

- 1 Dogs in Public Spaces Strategy - Final Draft, E2022/76342 
- 2 Guide to dog areas in Byron Shire - Final Draft, E2022/76343 

40

Report

Background

5 The introduction of the Companion Animals Act in 1998 established a legislative framework, where dogs were limited to leashed activities except in designated off-leash areas.

10 Byron Shire Council Policy 5.31 Companion Animal Exercise Areas defines areas where people may exercise their dogs: [Current Policy 5.31 and off-leash exercise areas](#)

The Policy was last reviewed in 2011, and its currency is now in question. As a result, Council resolved via **18-362** that DiPS be prepared instead of a revised policy: [Minutes of Ordinary Meeting - 21 June 2018](#)

15 The progress of DiPS was noted in Resolution **22-208**:[Minutes of Ordinary Meeting - Thursday, 26 May 2022](#)

20 Management of dogs in the Shire is listed in a number of items within Council's 2022 Compliance Priorities Program: including Very High, High and Routine Priorities.

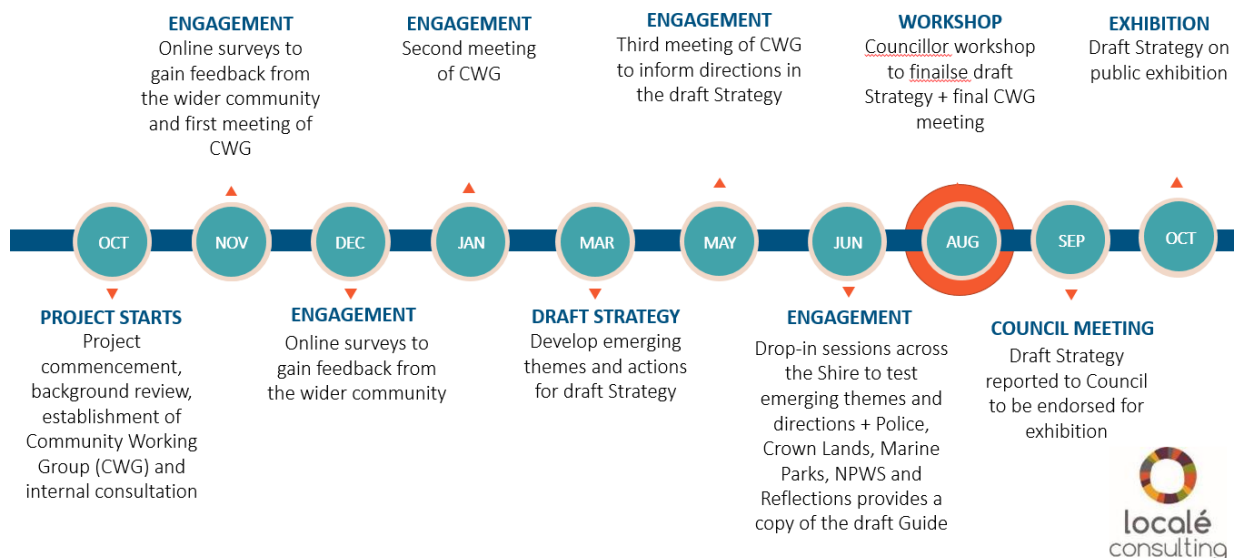
In recent times the management of dogs in the Shire has been subject to the following unique pressures:

- Increasing population and levels of dog ownership, particularly since COVID;
- 25 • Increasing perception that dogs are a family member / evolving relationship between dog owners and their pets;
- Homelessness / rough sleeper / transient population who have specific needs and challenges;
- Laid back attitude and culture;
- High tourism and visitation;
- 30 • No change in dog off-lead areas for many years; and
- Polarised views and feelings about dogs and their behaviour.

Management of dogs in the Shire is complicated by a number of constraints:

- Availability of space and its competing uses;
- 35 • Limited opportunity to change the boundaries of the existing off-lead areas due to the proximity to National Parks lands and environmentally sensitive areas;
- Off-lead areas on the beach constrain use of non-dog owners – therefore additional areas very difficult to identify; and
- 40 • Large areas of public space are scarce and developing new off-lead areas away from the beach in every major village is very difficult.

The DiPS Project timeframe so far:



5

The DiPS project commenced in October 2021, with a background review, establishment of a Community Working Group (“CWG”) and internal consultation.

- 10 In November and December 2021, online surveys were undertaken to gain feedback from the wider community and the first meeting of the CWG took place. The second CWG meeting happened in January 2022. In March 2022, draft emerging themes and actions were developed for the DiPS. A third CWG meeting, to inform directions in the draft DiPS, took place in May 2022. In June 2022, community engagement via drop-in sessions throughout the Shire were undertaken to test emerging themes and directions. In August 2022, the fourth and final CWG meeting was undertaken, and the DiPS was presented to the Councillor workshop.

- 20 During the project, **4** CWG meetings took place, **55** responses to the business survey were received, **975** responses to the community survey were received and **300 plus** people attended the community drop-in sessions.

- 25 Local Police, National Parks & Wildlife, Marine Parks, Crown Lands and Reflections have been provided with the draft strategy, as well as the draft Dog Areas in the Byron Shire, and been invited to provide feedback.

What was heard?

- 30
- Diverse and divided opinions in the community about how to manage dogs in public spaces;
 - General consensus that it is important to protect the environment from the impacts of dogs – both wildlife and habitat;
 - Many value the social aspect of dog ownership and also value the community aspect of the places they go with their dogs;

- Many dog owners are happy with the location of the existing off-lead areas though given their popularity the beaches are crowded and some are seen as too small (eg Brunswick);
- Growing concern from the wider community about out-of-control and poorly trained dogs, particularly at off-lead beaches and places where dogs should be on-lead or are not allowed;
- General concern about dog owners not picking up after their dogs and some owners being aggressive / recalcitrant / sense of entitlement;
- Difference in opinion about best approach – many desire greater visibility of enforcement officers and more enforcement action for non-compliances. Others want focus on education about responsible dog ownership and appropriate dog behaviour;
- Council does a great job with providing dog waste bags;
- Signage is old, confusing and inconsistent;
- Council's website is difficult to navigate and to find relevant information;
- Some areas need upgrading of associated infrastructure such as car parks (eg: Ocean Shores).

The **vision** of the project is ***to manage dogs in suitable public spaces in a way that creates safe and respectful places and reflects a balance of needs between the environment, dog owners and the broader public.***

The project has explored:

- potential changes to the existing conditions for off-lead dog areas within the Shire;
- the need for new dog prohibited areas, off-lead areas or enclosed dog parks within the Shire;
- the suitability of existing dog exercise areas and associated infrastructure such as signage and bin; and
- how Council can encourage and promote responsible dog ownership.



The project outcome is two key documents, which are attached to this report:

- The Dogs in Public Spaces Strategy; and
- A Guide to Dog Areas in the Byron Shire (with updated mapping of dog prohibited, dog on-lead and dog off-leash areas).

Themes

Community feedback and the CWG determined five themes for the strategy:



Theme 1: Environment – manage negative impacts of dogs on our wildlife and environment

- Strategic direction 1 – Educate residents and visitors about the environmental impacts of dogs.
- Strategic direction 2 – Partner with National Parks & Wildlife Service to educate and enforce rules in environmentally sensitive areas.



Theme 2: Education – engage with residents, businesses and visitors by promoting responsible dog ownership

- Strategic direction 3 – Increase education opportunities for residents and dog owners.
- Strategic direction 4 – Improve Council's website information about dogs.
- Strategic direction 5 – Develop education material specifically for visitors and accommodation providers.



Theme 3: Responsibility – support dog owners to follow the rules by taking an active compliance approach and encouraging individual responsibility

- Strategic direction 6 – Encourage dog-owners to take personal responsibility.
- Strategic direction 7 – Take an active compliance approach.
- Strategic direction 8 – Reward people for doing the right thing.



Theme 4: Infrastructure – improve infrastructure to support responsible dog ownership and minimise impacts

- Strategic direction 9 – Prioritise provision of bins and dog waste bags.
- Strategic direction 10 – Implement clear, consistent and engaging signage across the Shire.
- Strategic direction 11 – Where necessary, implement site specific upgrades.



Theme 5: Spaces – create spaces that balance the needs of dog owners and other public space users

- Strategic direction 12 – Redefine boundaries of selected existing off-lead areas.
- Strategic direction 13 – Clarify and map dog prohibited areas.
- Strategic direction 14 – Develop new enclosed dog off-lead areas.
- Strategic direction 15 – Trial timeshare arrangements for selected sportsgrounds and reserves.
- Strategic direction 16 – Remove existing designated on-lead areas.

Next Steps – the Implementation Plan

- Improve online information and mapping. The new mapping is user friendly, easy to comprehend and incorporates dog prohibited areas, dog on-leash areas and dog off-leash areas throughout the Shire.
- Increase resources to support greater education and compliance. Note the report 'Animal Enforcement Resourcing' included in this meeting's agenda.
- Implement Shire wide signage review and upgrade with a focus on off-lead areas and known hot spots; and
- Investigate options for new dedicated enclosed dog areas. Note **Resolution 20-727** [Minutes of Ordinary Meeting - Thursday, 17 December 2020](#), Council has grant funding and is exploring options in Mullumbimby, and other locations, for suitability.

It is proposed that the draft DiPs and Guide to Dog Areas in the Byron Shire be placed on public exhibition to allow for community feedback and submissions.

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.2: Enhance safety and contribute to the physical, mental, and spiritual health and well being of our people	2.2.4: Companion animals - Promote awareness of the requirements of the Companion Animals Act with respect to the ownership of companion animals	2.2.4.4	Develop Dogs in Public Space Strategy

Recent Resolutions

- Resolution **18-362**
- Resolution **20-727**
- Resolution **22-208**

Legal/Statutory/Policy Considerations

There are a number of Acts which give local government regulatory powers in relation to dogs. They include:

- Local Government Act 1993
- Environmental Planning & Assessment Act 1979
- Companion Animals Act 1998
- Food Act 2003
- Public Health Act 2010

Compliance action is considered and determined through Council's adopted Enforcement Policy 2020 and the NSW Ombudsman Enforcement Guidelines for Councils.

Financial Considerations

There is an existing budget allocation for the creation of a Dogs in Public Spaces Strategy.

Consultation and Engagement

Community and Councillor consultation and engagement to date is outlined in the body of this report. The draft Dogs in Public Spaces Strategy and Guide to Dog Areas in Byron Shire will be placed on public exhibition for a minimum 6 weeks to allow for community feedback and submissions.

Report No. 13.17 Draft Federal Village Masterplan

Directorate: Sustainable Environment and Economy

Report Author: Isabelle Hawton, Place Liaison Officer

File No: I2022/905

5 Summary:

Since 2020, Council has been working with the Federal community on a community led Masterplan for Federal Village.

10 The process has been championed by the Federal Village Masterplan Steering Group, a committed group of ten community volunteers who have worked hard to ensure that the draft plan reflects the aspirations of the wider community.



The steering group have held several community workshops during the process of formulating the plan and worked closely with Council staff to ensure that the projects included are feasible and well thought out.

15 It is now time to exhibit the draft Masterplan to the wider Federal community.

RECOMMENDATION:

- 20
1. That Council endorses the Draft Federal Village Masterplan for public exhibition as outlined in the report.
 2. That Council receives a further submissions report at the close of the extended exhibition period.

Attachments:

- 25
- 1 Draft Federal Village Masterplan_Aug_2022, E2022/73451 
 - 2 Form of Special Disclosure of Pecuniary Interest, E2012/2815 

Report

Since 2020, Council has been working with the Federal community on a community led Masterplan for Federal Village.

- 5 The process has been championed by the Federal Village Masterplan Steering Group, a committed group of ten community volunteers who have worked hard to ensure that the draft plan reflects the aspirations of the wider community.

The steering group have held several community workshops during the process of formulating the plan and worked closely with Council staff to ensure that the projects included are feasible and well thought out.

- 10 It is now time to exhibit the draft Masterplan to the wider Federal community.

Process

- 15 There has been much work to get to this point. In 2020, the Federal community approached Council, seeking support to create a Masterplan for Federal Village. Later that year, Council resolved to trial the first community-led Masterplan for the Shire ([refer resolution 20-689](#)).

Following this resolution, the steering group was created. The group initially consisted of eight community members who were active in the initiation of the Masterplan, but expressions of interest to join the group were sought from the wider community, resulting in two new members being added to the group.

- 20 The ten steering group members lead the community engagement process that was integral to the Masterplan, including:
- An online survey that received 154 respondents
 - A door-to-door survey that interviewed 84 households
 - A listening post in Federal Pak
- 25
- Two different workshops focussed on visioning and actions (233 participants total)
 - Many one-on-one interviews with key stakeholders in the village, including major land owners, commercial operators, bus companies and rivers, RU5 property owners etc.
 - Online feedback forms for the draft vision and principles
 - Online feedback forms for the draft actions
- 30 Further community engagement is planned as a part of the draft Masterplan exhibition period.

Vision

The Federal Village Masterplan will be guided by the following vision:

5 *Federal village is a welcoming and inclusive meeting place, with people and nature at its heart. We embrace our rural village lifestyle within the hinterland and champion and future where our community flourishes, with each generation.*

Principles

There are four principles which underpin the actions of the Federal Village Masterplan:

A vibrant people

10 We are bound by our strong sense of community, where diversity and creativity are celebrated, and our neighbourhoods are safe and welcoming for all.

A long term focus

We foster a determination for a sustainable future and want long term thinking to underpin all growth in Federal.

A thriving hinterland

15 We treasure our hinterland environment – acknowledging the Widjabul Wia-bal people as its first custodians, its Big Scrub origins, productive farms and regenerating forests – and we actively seek to protect and enhance the biodiversity of Federal.

A living village

20 We are proud of the distinctive, unassuming character of our village and the intangible spirit of place, and keenly support the places and the occasions which bring community together.

Actions

There are 17 actions that are scoped out in the Draft Federal Village Masterplan:

- 25
1. Upgrade the Federal main street to create a safer pedestrian-friendly street and a green functional centre for the community that alleviates existing issues between cars, buses and pedestrians while retaining the village's unpolished character.
 2. Improve connectivity in and around the village with the construction of safe, pedestrian-friendly paths and cycleways.
 3. Install welcome signage, including wildlife-awareness signs, and minor landscaping in the public road reserves at the entrances to the village.
- 30

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4. Upgrade the intersection of Coorabell and Binna Burra Roads to improve safety.
5. Update the Local Environmental Plan and Development Control Plan to reflect the vision, principles, and character statement of the Federal Village Masterplan.
 - 5 a. Ensure that all developments in and around the village incorporate integrated greenspace in their design that links to and complements existing community greenspace of the village.
 - 5b. Promote the Federal Village Masterplan to ensure it is considered by Council, community and developers - especially during the period prior to Local Environmental Plan and Development Control Plan updates.
6. Conduct a heritage assessment of the main street and into Federal Drive (towards Eureka), leading to consideration of a Heritage Conservation Area listing.
7. Contain commercial development to one clearly zoned area (the extent of which to be determined during detailed planning) and reinforce planning controls accordingly.
8. Encourage more affordable, attainable and sustainable housing, that is also environmentally responsive, within the existing village zone.
9. Collaborate with Council, Crown Lands, Native Title Rights and Interests Owners, Jali Local Aboriginal Land Council and the NSW Aboriginal Land Council to get the best outcome for claimants and community regarding Crown Land (Lot 89 DP755697 Public Reserve 105960 and Lot 90A DP 374765 Public Reserve 228590).
- 10 a. Investigate the potential for the community to purchase the vacant block on the corner of Roses Road and Federal Drive (Lot 1 DP1003205) to be managed as a community asset.
 - b. If community purchase of the site is not possible, implement planning controls or the like to ensure the best possible outcome with maximum community benefit which incorporates the site into the village life of Federal.
11. Upgrade Federal Park and develop a landscape plan to incorporate the following: more seating; path improvements; increased planting; updated children's play/sports equipment; a performance space.
12. Install two interpretative signs that acknowledge the traditional custodians and provide a brief history of the village and surrounds (supported by online/hard copy information).

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13. Hold regular community focussed events that support and champion the local arts community.

14. Prepare the community for natural disasters

15. Investigate incorporating Federal and surrounds as its own area under the Byron Shire Development Contributions Plan.

16. Create a report on other potential funding streams for Federal Village Masterplan Actions.

17. Establish an ongoing Federal Village Masterplan Implementation Team to progress actions, investigate funding opportunities, provide annual reports to the community and initiate a review of the Masterplan after five years.

Next steps

The plan is now ready for further engagement with the wider community. As this is a community-led plan, the engagement methodology will vary slightly from previous masterplans.

Engagement plan

Stage	Dates	Activities	Who
Primary exhibition period	1 to 30 September	Range of engagement activities including: <ul style="list-style-type: none">• Mail outs to landowners in the village• Emails to email list• Local social media• Posters at key locations• At least 2 drop-in sessions in the village• Send to relevant agencies and stakeholders (e.g Department of Planning and Environment, Transport for NSW, JALI etc.)	Federal Village Masterplan Steering Group Council Place Planning Staff
Review of document	1 to 16 October	Review feedback on Masterplan and make any necessary changes	Federal Village Masterplan Steering Group

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Stage	Dates	Activities	Who
			Council Place Planning Staff
Secondary exhibition period	17 October to 29 October	Present revised document to community: <ul style="list-style-type: none">• email out to previous submitters• Email to email list.• Drop in session/Park Party	Federal Village Masterplan Steering Group Council Place Planning Staff
Report to Council for potential adoption	15 December		Council Place Planning Staff Federal Village Masterplan Steering Group

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
4: Ethical Growth We manage growth and change responsibly	4.1: Manage responsible development through effective place and space planning	4.1.3: Town / Village Masterplans - Develop, implement and update Place Plans that promote place-based forward planning strategies and actions	4.1.3.5	Support the Federal Community Village Masterplan Steering Group to finalise the community-led master planning for Federal

Recent Resolutions

- Resolution **20-418**: Request to Prepare Project Scope (27 August 2020)
- Resolution **20-689**: Federal Community Led Masterplan – Project Scope (10 December 2020)
- 5 • Resolution **21-243**: Movement and access budget allocation (24 June 2021)
- Resolution **21-261**: Update on the Masterplan and Main Street Process (5 August 2021)

Legal/Statutory/Policy Considerations

None relevant to this report.

10 **Financial Considerations**

None relevant to this report.

Consultation and Engagement

As outlined in the report.

Report No. 13.18 PLANNING - 10.2021.291.2 - S4.55 to introduce Construction Staging of Development and for Minor Internal Changes to Floor Plans, Amendments to Roof Top Area and Introduction of Dual Key Apartments

Directorate: Sustainable Environment and Economy

Report Author: Shannon Burt, Director Sustainable Environment and Economy

File No: I2022/935

Proposal:

Modification No:	10.2021.291.2
Proposed modification:	S4.55 to introduce Construction Staging of Development and for Minor Internal Changes to Floor Plans, Amendments to Roof Top Area and Introduction of Dual Key Apartments
Original Development:	Demolition of Existing Backpackers' Hostel and Construction of a Mixed-Use Development Comprising Retail Premises and Serviced Apartments
Type of modification sought:	
Property description:	LOT: 2 DP: 258385, LOT: 1 DP: 258385 118 Jonson Street BYRON BAY, 116 Jonson Street BYRON BAY
Parcel No/s:	34820, 34830
Applicant:	S J Connelly Pty Ltd & Kate Singleton Pty Ltd
Owner:	Aidop No 6 Pty Ltd & Aidop No 5 Pty Ltd
Zoning:	B2 Local Centre
Date received:	28 March 2022
Original DA determination date:	Deferred Commencement Consent 04/11/2021
Integrated Development:	Yes
Public notification or exhibition:	<ul style="list-style-type: none"> – Level 2 advertising under the Byron Shire Council Community Participation Plan. – Exhibition period: 6/4/22 to 26/4/22 – Submissions received: 7 in support
Planning Review Committee:	Not applicable
Delegation to determination:	Council

Summary:

This report considers a 4.55(2) Modification Application DA 10.2021.291.1 Demolition of existing backpackers hostel and construction of a mixed-use development comprising retail premises and serviced apartments in accordance with the Environmental Planning and Assessment Act 1979.

The modification application includes a request to vary the height of buildings development standard. The request to vary the development standard is supported.

Following exhibition of the application, 7 submissions in support of the modification application were received.

The site is considered suitable for the proposed modified development and the proposal adequately addresses relevant planning controls. The modified development is not considered to be contrary to the public's interest and will not result a significant adverse social, environmental, or economic impact.

This report recommends that the development consent be modified as per the conditions in the attached development consent as amended in Attachment 1. For clarity an amended version with track changes is included in Attachment 3.

NOTE TO COUNCILLORS:

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

RECOMMENDATION:









That Pursuant to Section 4.55 of the Environmental Planning & Assessment Act 1979, that Application No. 10.2021.291.2 for S4.55 to introduce construction staging of development and for minor internal changes to floor plans, amendments to roof top area and introduction of dual key apartments, be approved subject to the conditions of consent as amended in Attachment 1 (#E2022/75457).

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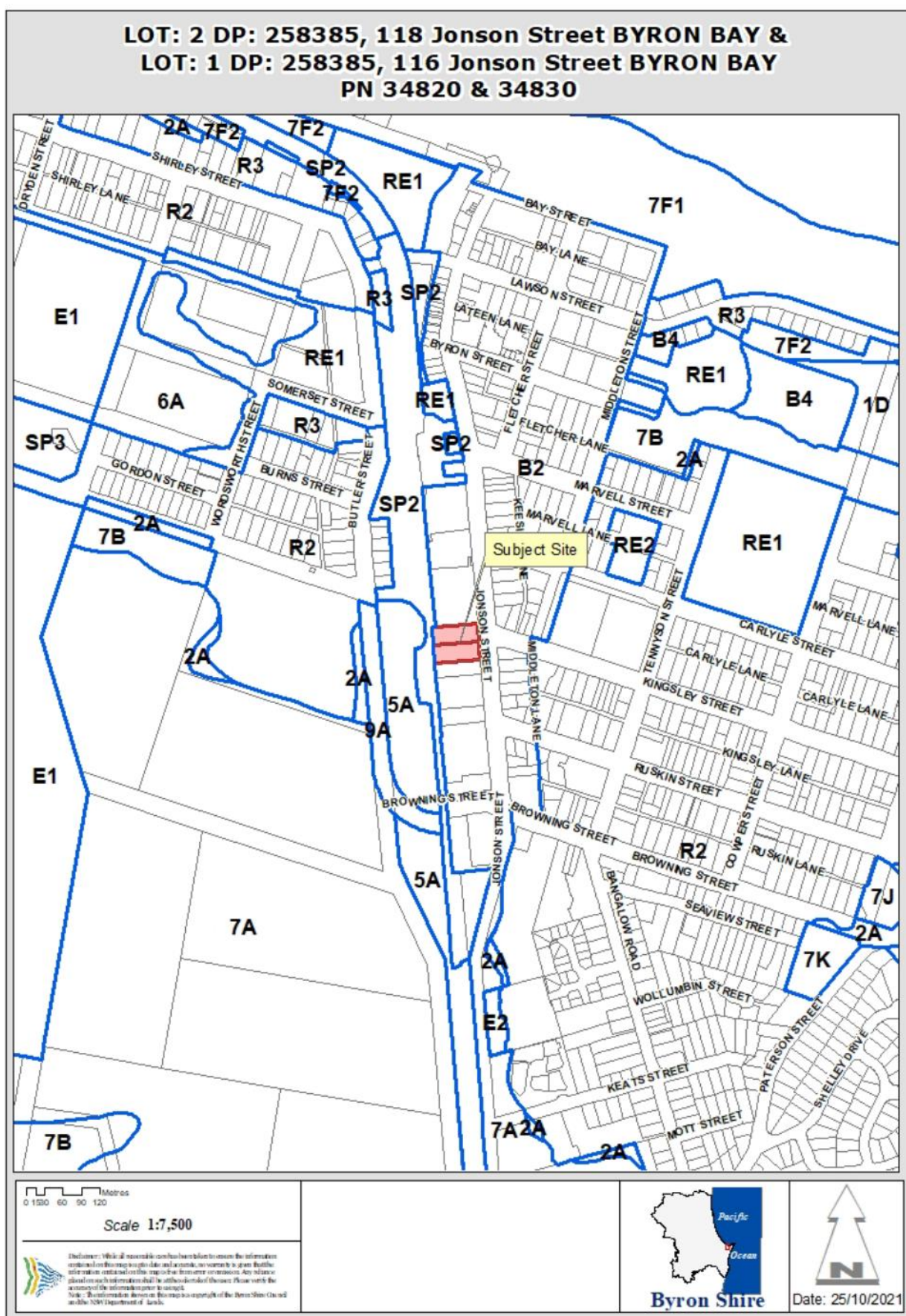
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Attachments:

- | | | |
|----|---|---|
| 1 | 10.2021.291.1 Conditions of consent as amended, E2022/75457 |  |
| 2 | 10.2021.291.2 Modified Plans, E2022/64234 |  |
| 5 | 3 10.2021.291.2 Draft PDF Conditions of Consent with track changes, E2022/78147 |  |
| 4 | 10.2021.391.2 Applicant's Clause 4.6 variation request, E2022/26292 |  |
| 5 | 10.2021.291.2 Submissions received, E2022/72121 |  |
| 6 | 10.2021.291.2 Roofscape Plans Approved and Proposed, E2022/75204 |  |
| 7 | 10.2021.291.2 Plans of Dual Key Apartments, E2022/75849 |  |
| 10 | 8 10.2021.291.2 Roof Sections Approved and Proposed, E2022/75924 |  |

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Assessment:

1. INTRODUCTION

1.1. History/Background

DA10.2021.291.1 – Deferred Commencement Consent approved 4 November 2021.

1.2. Description of the proposed development

This application seeks approval for a 4.55(2) Modification Application DA 10.2021.291.1 Demolition of existing backpackers hostel and construction of a mixed-use development comprising retail premises and serviced apartments in accordance with the Environmental Planning and Assessment Act 1979.

The key elements of the modifications sought are:

- The introduction of dual key apartments;
- The amendment of the structure of the consent to provide for separate construction certificates for different phases of the development;
- Changes resulting from post development consent detailed design including minor internal changes, increase in roof top softscape, amendments to services and refinement of plan and machinery required for the proposed development.

The application includes a request to vary the height of buildings development standard. The request to vary the development standard is supported.

1.3. Description of the site

Land is legally described	Lots 1 & 2 DP 258385
Property address	116- 118 Jonson Street BYRON BAY
Land is zoned:	B2 Local Centre
Land area is:	4,282m ²

1.4. Statutory Assessment

Section 4.55(2)(a) Is the proposal substantially the same?

In determining the application, Council is required to take into consideration the following matters as are relevant to the development that apply to the land to which the development application relates:

In *Vasic Pty Ltd v Penrith City Council* [1992] NSWLEC 8, Stein J held that "substantially" meant "essentially all material or having the same essence."

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In Moto Projects (No 2) Pty Ltd v North Sydney Council (1999) 106 LGERA 298 at [56] Bignold J held that the task for determining whether a development as proposed to be modified is substantially the same as the consent granted was as follows:

- 5 "The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted)."
- 10 In the context of the current application, the proposal can be considered to be substantially the same as the development to which consent was originally granted. A more details assessment and commentary is provided below.

15 ***Section 4.55(2)(b) Are there any condition(s) of consent imposed by a Minister, government or public authority that require modification?***

- Minor changes to some general terms of approval imposed by an approval authority were required to reflect the staging of development proposed. No objections to the modifications proposed to the consent were received within the 21-day period under the Act.
- 20

Section 4.55(2)(c) Does the application require notification/advertising in accordance with the regulations and/or any Development Control Plan?

- 25 Notification has been undertaken in accordance with the regulations and Council's DCP.

1.5. Assessment of modifications sought

- 30 The proposal maintains a mixed-use development comprising retail premises and serviced apartments.

The existing and proposed development is summarised as follows:

Existing Development	Modified development
41 serviced apartments: 6 x 2 bedroom apartments 30 x 3 bedroom apartments 5 x 4 bedroom apartments	41 serviced apartments (32 Dual Key): 2 x 1 or 2 bedroom dual key serviced apartments 4 x 2 bedroom serviced apartments 25 x 2 or 3 bedroom dual key serviced apartments 5 x 3 bedroom serviced apartments 5 x 3 or 4 dual key serviced apartment
199m2 of café/restaurant	256m2 of retail/café
461m2 of retail	346m2 of retail
119 car parking spaces including 33 retail car parking spaces, including 1 accessible parking space and 86 serviced apartment car parking spaces including 7 accessible parking spaces and 10 visitor spaces	119 car parking spaces including 33 retail car parking spaces, including 1 accessible parking space and 86 serviced apartment car parking spaces including 7 accessible parking spaces and 10 visitor spaces

- 35 The built form as approved remains otherwise substantially the same except for minor amendments to the design as discussed in the report.

Modification element – dual key apartments

The proposed modification seeks to introduce a dual key room configuration for identified service apartments to provide greater flexibility and diversity of accommodation on site.

A dual key apartment is where one apartment can be divided into two. Both apartment areas are typically self-contained and will include a bedroom, bathroom, kitchen and living space.

The apartments may have a separate access point to each dwelling, or there may be a shared foyer through which there are two lockable doors to the dwellings.

Dual key changes summarised below. See Attachment 7 for floor plan details of the dual key changes as proposed.

Approved bedrooms (41 apartments)	Proposed bedrooms (41 apartments)
6 x 2 bedroom apartments	2 x 1 or 2 bedroom dual key serviced apartments
30 x 3 bedroom apartments	4 x 2 bedroom serviced apartments
5 x 4 bedroom apartments	25 x 2 or 3 bedroom dual key serviced apartments
	5 x 3 bedroom serviced apartments
	5 x 3 or 4 dual key serviced apartment

The proposed modification to introduce dual key apartments is supported.

The changes to enable dual key apartments are internal.

As assessed, it provides increased diversity in accommodation types provided on site, while maintaining compliance with relevant planning controls like design excellence and car parking.

Modification element – phases of development for construction certificates

A substantial number of the conditions are proposed to change to reflect that there will be a number of construction certificates sought in relation to the development.

Stage 1 – Demolition; Stage 2 – Basement excavation, retention and shoring; Stage 3 – Construction of basement slab including in-ground services; Stage 4 – Construction of structure including services; Stage 5 – Completion of works and landscaping

The associated conditions as a result require clarification as to which construction certificate issue they will be required to be satisfied by. To this aim wording changes are proposed to a number of conditions in the development consent.

Further wording changes for clarity of condition intent and a correction of consent condition has also been necessary due to the modifications sought.

Attachment 3 provides a tracked change version of the existing consent showing which conditions are changing and how.

The proposed changes to the conditions of consent have been assessed as acceptable. The changes proposed do not materially change the development as approved, do not undermine the intent of the original consent conditions, and maintain compliance with the relevant planning controls.

Modification element – post development consent design changes

The revision to the plans incorporates amendments to the approved development comprising the following:

- Minor internal changes to basement and stair access to ground floor;
- Minor internal changes to ground floor lobby and access stair to level 1;
- Minor changes to ground floor retail configuration (improvements, external change to glazing configuration);
- Internal changes to 2,3,4 bed apartment type to accommodate dual-key configuration, internal changes only;
- Minor changes to rooftop to increase rooftop softscape by 144m² to improve sustainability by reducing heat load; new mechanical riser to service kitchen exhaust – as per mechanical advice and coordination; and a minor change to reconfiguration of fire escape stair (stair 09) along northern boundary and minor reconfiguration of rooftop pool layout to accommodate additional landscaped areas, DDA accessible platform lift, pool plant and services and poolside seating;
- Minor change to services – as per consultant advice, coordination and design development;
- Minor change – design development; and
- Additional accessible service lift.

Plan changes are marked up clearly and annotated on plans in Attachment 2 and Roofscape Plans Attachment 6.

To this aim wording changes are proposed to a number of conditions in the development consent.

Attachment 3 provides a tracked change version of the existing consent showing which conditions are changing and how.

2. SECTION 4.15 – MATTERS FOR CONSIDERATION – DISCUSSION OF ISSUES

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

2.1. State Environmental Planning Instruments

The proposed modification raises no issues under the applicable SEPPs.

2.2. Byron Local Environmental Plan 2014 (LEP 2014)

The LEP 2014 clauses that are of relevance to the proposed modifications are discussed below:

Clause 4.3 – Height of buildings

- 5 Clause 4.3 provides that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The clause establishes that this height is measured from existing ground level to the finished level of the roof or parapet.

The Height of Buildings Map shows a maximum allowable height of 11.5m in this part of the town centre.

- 10 As discussed further below, some building components exceed the 11.5m development standard.

The application includes a submission under clause 4.6 of the LEP, arguing that compliance with the 11.5m building height standard is unreasonable and unnecessary.

- 15 That submission is assessed below under Clause 4.6 Exceptions to Development Standards.

Clause 4.6 Exceptions to Development Standards

Where a modification of consent includes a variation to a development standard, an application under Clause 4.6 Exceptions to Development Standards of the LEP is required.

- 20 Clause 4.6 provides that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard, by demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

25 As per the planning circular *PS 18-003 - Variations to development standards*, the Secretary's concurrence can be assumed in relation to variations. Where variations are greater than 10%, the secretary's concurrence can only be assumed by a decision of the Council (i.e., not delegated to a Council officer).

- 30 **Building Height:**

1. Summary of Height Exceedance

The site is subject to a maximum height development standard of 11.5m.

Minor variations to the maximum building height standard were approved as part of the original development consent.

- 35 Report No. 13.3 PLANNING - Development Application 10.2021.291.1 Mixed Use Development - Shops and Serviced Apartments - 116-118 Jonson Street Byron Bay

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[Agenda of Ordinary \(Planning\) Meeting - Thursday, 4 November 2021 \(infocouncil.biz\)](https://infocouncil.biz)

Because of the final detail design process, further minor height variations have resulted to roof top elements of the building. Primarily there is a minor increase in approved height to the lift overrun, pool balustrading and pool plant. There is a new area of mechanical ventilation also on the roof.

2. Clause 4.6 Exceptions to Development Standards

A written request has been submitted to Council, in accordance with clause 4.6(3)(a) and (b) of the Byron LEP 2014 demonstrating:

- a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,
- b) That there are sufficient environmental planning grounds to justify contravening the development standard,
- c) the proposed development will be in the public interest because it is consistent with the objectives of the standard
- d) the objectives for the development within the zone in which the development is proposed to be carried out.

3. The Development Standard to be varied

The 11.5m building height, prescribed by the Height of Buildings Map applicable to the site under Clause 4.3 of LEP 2014.

4. Extent of Variation to the Development Standard

Building component	Height (RL) APPROVED	Height (RL) PROPOSED	Height (m) APPROVED	Height (m) PROPOSED	Height above 11.5m max (m) APPROVED	Height above 11.5m max (m) PROPOSED
Pool	15.65	16.18	12.65	13.18	1.15	1.68
balustrade						
Terrace roof	15.65	-	12.65	-	1.15	-
fencing						
Solar array	16.75	-	13.75	-	2.25	-
Pool deck	-	15.18	-	12.18	-	0.68
Pool plant	-	16.18	-	13.18	-	1.68
Lift overrun	17.10	17.48	14.1	14.48	2.60	2.98
Mechanical ventilation	-	16.5	-	13.5	-	2.04

Plan sections to show building element heights as approved and that proposed for comparison (Attachment 8). The table above also provides a summary.

5. Applicants written request under clause 4.6(3)(a) and (b)

The applicant's written request to vary the height of buildings development standard is Attachment 4.

Consideration of Applicants Written Request under Clause 4.6(3)(a)(i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- 5 a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- 10 b) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

15 *Does the written request adequately address those issues at Clause 4.6(3)(a)?*

The height of the proposal is generally compliant with the 11.5m.

Minor variations to the maximum building height standard were approved as part of the original development consent.

20 Because of the final detail design process, further minor height variations have resulted to roof top elements of the building.

The exceptions to the approved height now proposed are the lift overrun, pool balustrading, pool plant and new mechanical ventilation area, which have varying non-compliances of between 0.68m to 2.98m above the 11.5m height standard.

25 The lift overrun is the element that mostly exceeds the height limit by 2.98m (maximum height of 14.48m). This represents a 26% variation to the height standard.

These elements are for the main, ancillary to the proposal. They otherwise provide a necessary building service function and or are necessary for the safety and amenity of building users.

30 These elements due to roof top location and positioning will not be readily visible from the public street, will not impact on adjoining properties amenity or create additional use of the roof top area.

As such the written request that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient planning grounds to justify contravening it is supported.

35 *Does the written request adequately address those issues at clause 4.6(3)(b)?*

For the reasons stated above, the elements that exceed the building height limit do not conflict with the objectives of the standard or the zone.

These elements are for the main, ancillary to the proposal. They otherwise provide a necessary building service function and or are necessary for the safety amenity of building users.

- 5 Visual and or amenity impacts from these are negligible given their roof top location and positioning, as compared to a compliant building form.

As such the written request that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case is supported.

Is the development in the public interest?

- 10 The development is in the public interest because it is consistent with the objectives of the standard and the objectives of the zone in which the development is proposed to be carried out. All submission received to the proposal were in support.

Clause 6.13 – Design excellence – Byron Bay town centre

Development consent must not be granted to a new building in the town centre unless Council is satisfied that it exhibits design excellence.

- 15 To achieve design excellence the proposal inter alia must incorporate sustainable design principles, have a high standard of architectural design, materials, and detailing, respond well to the environmental and built forms characteristics of the site and neighbouring buildings, and improve the quality of the public domain.

- 20 The clause also states that development consent must not be granted to a development unless the Byron Design Excellence Panel has endorsed the development as exhibiting design excellence.

The Design Excellence Panel reviewed and raised no objections to the modifications proposed to the building layout or design.

- 25 Any wording changes to conditions relevant to design excellence and or sustainability are acceptable and considered necessary to reflect the sustainability certification process and the sustainability commitments more clearly.

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

- 30 No proposed instruments were identified that are applicable to this application.

3.5 Byron Shire Development Control Plan 2014 (DCP 2014)

The DCP 2014 Parts/Chapters that are of relevance to the proposed modifications are discussed below:

Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access

- 35 The proposed modification raised no issues under the relevant chapters of DCP 2014.

A Traffic Impact Assessment has been submitted to support the application and shows that the carparking provided on site is able to accommodate the changes proposed to the approved development, including the introduction of dual key apartments. The

development is able maintain compliance with the DCP requirements for traffic and parking for all other matters of consideration.

3.6 Environmental Planning & Assessment Regulation 2021 Considerations

The proposed modification raises no issues under the Regulations.

5 3.7 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The proposed modification raises no additional issues in terms of the environmental impacts which have not been considered previously.

10 3.8 The suitability of the site for the development

The site is considered suitable for the development and the modification raises no additional issues which have not been considered previously.

3.9 Submissions made in accordance with this Act or the regulations

The development application was publicly exhibited.

15 There were 7 submissions made in support of the development application (Attachment 5).

3.10 Public interest

The proposal does not to prejudice or compromise the public interest or create an undesirable precedent. Submissions received were in support.

5.CONCLUSION

20 The site is considered suitable for the proposed modified development and the proposal adequately addresses relevant planning controls. The development is not considered to be contrary to the public's interest and will not result a significant adverse social, environmental, or economic impact.

25 6 DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

Has a Disclosure Statement been received in relation to this application	No
Have staff received a 'gift' from anyone involved in this application that needs to be disclosed. Where the answer is yes, the application is to be determined by the Director or Manager of the Planning, Development and Environment Division.	No
Provide Disclosure Statement register details here:	Not applicable

Report No. 13.19 PLANNING - Report of the Planning Review Committee held 4 August 2022

Directorate: Sustainable Environment and Economy

Report Author: Chris Larkin, Manager Sustainable Development

5 **File No:** I2022/989

Summary:

This report provides the outcome of the Planning Review Committee (PRC) held on 4 August 2022.

NOTE TO COUNCILLORS:

10 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.

15

RECOMMENDATION:

That Council endorses the outcomes of the Planning Review Committee meeting held on 4 August 2022.

20

Report

The Planning Review Committee meeting was held on 4 August 2022. The meeting commenced at 5.00pm and concluded at 5:30pm.

5 Councillors: M Lyon (Mayor), D Dey, P Westheimer, A Hunter, A Pugh, S Ndiaye, Cr S Balson

Apologies: Cr C Coorey, Cr M Swivel

Conflict of Interest: Nil

Staff: Shannon Burt (Director Sustainable Environment and Economy), Chris Larkin (Manager Sustainable Development)

10 The following development applications were reviewed with the outcome shown in the final column.

DA No. / Applicant	Property Address / Proposal	Consultation / Submissions	Reason/s / Outcome
10.2022.248.1 Balanced Planning Consultants	16 Whian Road EUREKA Multiple Occupancy consisting of Fourteen (14) Dwelling Sites, Associated Infrastructure, Land Management and Environmental Enhancement including Removal of Three (3) Trees	Level 2 28/6/22 to 11/7/22 9 submissions against 1 support	The perceived public significance of the application Council
10.2022.36.1 Town Planning Studio Pty Ltd	71 Lawlers Lane Bangalow Tourist and Visitor Accommodation comprising of Twelve (12) Cabins and Ancillary Recreation Building	Level 2 1/3/22 to 14/3/22 18 submissions against	The validity of the matters raised in the public submissions Council

Report No. 13.20 Place Planning Collective Expression of Interest Candidate Selection

Directorate: Sustainable Environment and Economy

Report Author: Kristie Hughes, Place Liaison Officer

5 **File No:** I2022/872

Summary:

10 In February 2022 Council resolved to commence an Expression of Interest (Eoi) process to appoint new community representatives to the Place Planning Collective (PPC) replacing members who have reached the end of their term (Res **22-059**). This process has now been completed. 32 applications were received in total.

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

15 The Eoi specifically sought applicants to represent the Bangalow, Mullumbimby and Byron Arts and Industry Estate communities. There are currently nine places available with four allocated to Mullumbimby, three places available for Bangalow and two for the Byron Arts and Industry Estate.

20 Previously the Place Planning Collective monthly meetings were held during business hours, which has been a barrier for some Councillors and community members to attend. The Eoi surveyed applicants about suitable meeting times and consequently, meetings are now scheduled at a later timeslot with the aim of accommodating and engaging a broader spectrum of the community.

25

RECOMMENDATION:

30 1. That Council appoints nine Place Planning Collective members from the following: Attachment 1 (E2022/65420 CONFIDENTIAL Place Planning Collective applicant summary 2022), Attachment 2 (E2022/63168 CONFIDENTIAL Place Planning Collective Eoi submission forms).

2. That selected members are distributed as follows:

Four members representing Mullumbimby are: _____, _____, _____ and _____.

Three members representing Bangalow are: _____, _____ and _____.

35 Two members representing Byron Arts & Industry Estate are: _____ and _____.

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Attachments:

- 1 Confidential - Place Planning Collective Eol applicant summary 2022, E2022/65420
- 5 2 Confidential - Place Planning Collective Eol submission forms 2022, E2022/63168

Report

The Place Planning Collective

5 The PPC is a group of community members, staff and Councillors who guide and manage the implementation of the Mullumbimby, Bangalow, Federal, and Byron Arts and Industry Estate masterplans.

The Place Planning Collective Charter provides guidelines for the working group. The charter was endorsed by Council in May 2020 (Res **20-217**).

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

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

Expression of Interest Process

In February 2022 Council resolved to commence an expression of interest process to recruit additional community representatives as multiple members have reached the end of their initial tenure (Res **22-059**).

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

The appointed Councillors are: Cr Lyon, Cr Ndiaye and Cr Swivel as members of the Place Planning Collective and Cr Dey as an alternate.

20 The expression of interest was advertised on Council's website for five weeks (May 25 2022 to July 3 2022). In addition to advertising the Eol on Council's website and in the Echo, the invitation was extended to local community groups, business chambers, schools and preschools, along with previous participants of relevant masterplan working groups. This was to target a local cohort, more likely to be interested in participating in the PPC.

25 As per the Eol criteria new appointments are required to be affiliated with the Mullumbimby, Bangalow and Byron Arts and Industry Estate communities and masterplans. As the PPC is oriented around masterplans and managing their actions previous experience has shown that members without a direct interest in one of the relevant masterplans have been disengaged. It should be noted that five expressions of
30 interest received during this process appeared to be unlinked to an existing Masterplan.

Previously the Place Planning Collective monthly meetings were held during business hours, which has been a barrier for some Councillors and community members to attend. The Eol surveyed applicants about suitable meeting times and consequently, meetings are now scheduled at a later timeslot (monthly, Tuesdays 3.30 to 5.30pm) with the aim of
35 accommodating and engaging a broader spectrum of the community.

In total 32 submissions were received, five of those are from existing members wishing to continue their membership. There are positions available for nine members to join the Collective with three positions already filled by newer members.

Strategic Considerations

5 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	4.1.1	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

- **22-059:** Council meeting February 24 2022 – PPC update and EOI for upcoming vacancies
- **21-188:** Council Meeting 10 June 2021 – additional community members
- 10 • **20-703:** Council Meeting 17 December 2020 – end of 2020 update
- **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

15 Consultation and Engagement

As described within the report.

Report No. 13.21 PLANNING - Quarter 2 SEPP Variations April to June 2022

Directorate: Sustainable Environment and Economy

Report Author: Chris Larkin, Manager Sustainable Development

5 **File No:** I2022/903

Summary:

This report is provided as a requirement of the NSW Department of Planning Circular PS17-006, for reporting on exceptions to development standards for applications made under clause 4.6 of the Standard Instrument LEP and Clause 6 of SEPP 1.

10 **NOTE TO COUNCILLORS:**

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.

15

RECOMMENDATION:

20 **That Council adopts the report on exceptions to development standards for the period April to June 2022.**

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.21

Report

This report is provided as a requirement of the NSW Department of Planning Circular PS17-006, for reporting on exceptions to development standards for applications made under Clause 4.6 of the Standard Instrument LEP and Clause 6 of SEPP 1.

5 SEPP 1 applies to development applications submitted under Byron Local Environmental Plan 1988. Clause 4.6 applies to development applications submitted under Byron LEP 2014.

10 The period of reporting is for the April to June 2022 Quarter for the following DAs:

Quarter 2 April to June 2022

DA No.	10.2021.384.1
Development	Mixed
Property:	90-96 Jonson Street BYRON BAY
Lot and DP:	LOT: 5 DP: 619224
Zoning:	B2 Local Zone
Development Standard being varied:	Clause 4.3 Height of building
Justification Summary	<p>"The height of the proposal is generally compliant with the 11.5m except for the swimming pool, pool terrace fence, stairs, lift core and lift lobby which have varying non-compliances with the 11.5m of up to a maximum height of 14.58m. These elements are for the main, ancillary to the proposal. They otherwise provide a necessary building service function and/or are necessary for the safety and amenity of building users. These elements due to roof top location and positioning will not be readily visible from the public street, will not impact on adjoining properties amenity or create additional use of the roof top area.</p> <p>Notably, it is the lift core that mostly exceeds the height limit in excess of 10%."</p>
Extent of variation	Varies – max 27%
Concurrence	Northern Regional Planning Panel
Determined Date	27/5/2022
Determined By	NRPP
DA No.	10.2021.364.1
Development	Bioenergy Facility
Property:	45 Wallum Place BYRON BAY
Lot and DP:	LOT: 2 DP: 706286
Zoning:	"RU2 Residential Zone / t DM Deferred Matter under Byron LEP 1988"
Development Standard being varied:	Clause 4.3 Height of building

BYRON SHIRE COUNCIL

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Justification Summary	<p>"- No alternative design solution will allow the BEF to operate successfully without exceeding 9m in height from the existing ground level.</p> <p>- The proposed BEF is set back over 200 metres from Wallum Place, behind the BBSTP, and 2.5 metres below the BBSTP ground level. The proposed BEF buildings will be compatible with the character of the water and waste treatment infrastructure already located on the lot.M9</p> <p>- Topography and existing vegetation character screen the BEF from all visual receptors. This conclusion is further supported a Visual Impact Assessment of the proposed BEF (Appendix L of the EIS).M11"</p>
Extent of variation	50.7%
Concurrence	Northern Regional Planning Panel
Determined Date	26/05/2022
Determined By	NRPP
DA No.	10.2021.411.1
Development	Community Title Subdivision consisting of Three (3) Community Title Lots and One (1) Neighbourhood Property
Property:	139 Broken Head Reserve Road BROKEN HEAD
Lot and DP:	LOT: 2 DP: 1246381
Zoning:	C2 Environmental Conservation / SP3 Tourist - Byron LEP 2014, 7(f1) Coastal - Byron LEP 1988
Development Standard being varied:	Minimum lot size (clauses 4.1 and 4.1AA Byron LEP 2014 and clause 11 Byron LEP 1988)
Justification Summary	The community title subdivision will not create any new development opportunities, the community title subdivision ensures the existing tourist development pattern on the land remains in perpetuity and it [the subdivision] allows a form of ownership where all the owners can share equally in the value of the restored bushland on the property and use their collective resources to ensure the ongoing conservation of the land
Extent of variation	Varies - max. 97.9%
Concurrence	Council
Determined Date	23/06/22
Determined By	Council
DA No.	10.2021.451.1
Development	Alterations and Additions to Existing Dwelling House and Tree Removal Six (6) Trees
Property:	31 Pacific Vista BYRON BAY
Lot and DP:	LOT 140 DP: 731315
Zoning:	R2 Low density Residential

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

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Development Standard being varied:	Clause 4.3 Height of building
Justification Summary	variation is minor, restricted to rear of the dwelling, results from previous development that lowered the ground level, negligible visual impacts on street front
Extent of variation	7.7%
Concurrence	
Determined Date	11/05/2022
Determined By	Council (delegate)

Strategic Considerations

Community Strategic Plan and Operational Plan

5

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
4: Ethical Growth We manage growth and change responsibly	4.1: Manage responsible development through effective place and space planning	4.1.1: Development assessment - Manage development through a transparent and efficient assessment process	4.1.1.1	Assess and Determine DA's accordance with the relevant legislation

Legal/Statutory/Policy Considerations

10

The report is provided as a requirement of [NSW Department of Planning circular PS 17-006](#).

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.22 Mullumbimby Pool Feasibility Study

Directorate: Infrastructure Services

5 **Report Author:** Malcolm Robertson, Manager Open Space and Facilities

File No: I2022/874

Summary:

10 A Feasibility Study on the upgrade of the Mullumbimby Memorial Centre - Petria Thomas Pool has been completed to draft stage. Upgrade of the existing facility into a year-round, solar heated pool with an access ramp, children's splash area and a separate rehabilitation / hydrotherapy pool have been reflected within concept designs.

The Feasibility Study was initiated prior to the recent flooding event. Potential for future flooding is front of mind for community and the sustainability of the current location has been questioned.

15 This study has been completed for a stand-alone facility without consideration of Shire-wide pool provision. While not within the scope of the current study, Shire-wide analysis of pool provision may allow better informed decision.

Council approval to place the draft Feasibility Study on public exhibition is sought.

20

RECOMMENDATION:

- 25 1. **Council endorses the draft Mullumbimby Pool Feasibility Study being placed on public exhibition for a period of 28 days, with any submissions received to be reported back to Council.**

Attachments:

- 30 1 Mullumbimby Memorial Centre - Petria Thomas Swimming Pool - draft Feasibility Study, E2022/75479 

Background

A Feasibility Study for the Mullumbimby Memorial Centre - Petria Thomas Pool was initiated in 2021 through Resolution **20-061**. The study investigated options to convert the Petria Thomas Swimming Pool in Mullumbimby into a year-round, solar heated facility and the addition of disability access to the 50-metre pool, a splash children's pool and a rehabilitation / hydrotherapy pool. The feasibility also considered water treatment options and investigated the public health and social benefits of such a facility.

Key issues

There was very strong support from all stakeholders during the feasibility development. In a survey undertaken by the consultants, respondents stated that they wanted the pool to be accessible all year round and believed the best way to do this was to heat the swimming pools. Many stated that the redevelopment of the pool would mean that they do not have to travel to another pool to fulfil their aquatic needs.

The study confirms that, faced with an ageing population, Mullumbimby will have to look for more ways for community facilities to become truly accessible, for people of all abilities. There are currently Shire-wide limitations in aquatic fitness and swimming opportunities for people with a disability due to the lack of services and accessible infrastructure.

Provision of ramp access, a warm water pool, accessible change facilities with adult change tables and overhead hoist directly into the pool would provide significant competitive advantage for the Mullumbimby pool. The study provides financial consideration of the positive health, social and economic benefits to be gained from an upgraded facility, showing potential benefit to cost ratio of 1:98.

Flooding vulnerability of the location is currently front of mind for community now. The Feasibility Study was completed to draft stage prior to the flood event however it is recognised the site is flood prone. The proposal for design is intended to minimise flood impacts for a recreation facility built at the 1 in 100-year flood level and how best to mitigate this through design, such as using flood resistant materials and positioning core infrastructure to ensure future flood resilience.

Parking availability is a key concern at this location. 26 formal parking spaces have been identified within the proposed upgrades, but this is recognised as likely to be insufficient to service the upgraded facility. Should the concepts advance to detail design formal traffic and parking studies will need to be undertaken.

Water and space heating is the single most expensive operating cost for warm water pools after labour. A combination of solar power and electric heat pumps is recommended as the most effective and efficient option for Mullumbimby, however technical advice is needed at the detailed design stage to confirm design and costings. An allowance is made within the budget for environmentally sustainable design, pending costings within detail design.

The pool is located on the traditional lands of the Bundjalung of Byron Bay, Arakwal People, who continue to have rights and interests in the land. Ongoing management and

use of the pool need to continue to co-exist with the exercise of Native Title Rights and Interests in the land. Any redevelopment of the pool can only occur if it is a 'valid future act' complying with Native Title Act 1993. Before proceeding with any proposed redevelopment plans, Native Title Manager Advice will be required on the specific plans to ascertain whether an obligation to pay compensation for impacts on Native Title Rights and Interests is created.

Strategic Considerations

The Open Space and Recreation Needs Assessment and Action Plan adopted in 2018 considered provision of Aquatic Facilities across the Shire. The 2018 Byron Community levels of satisfaction with pool provision is shown in Figure 1 below. While generally not dissatisfied, all communities sought increased provision or enhanced services. There has been a long-standing request from sections of the Bangalow community for an additional swimming pool to be constructed in their village.

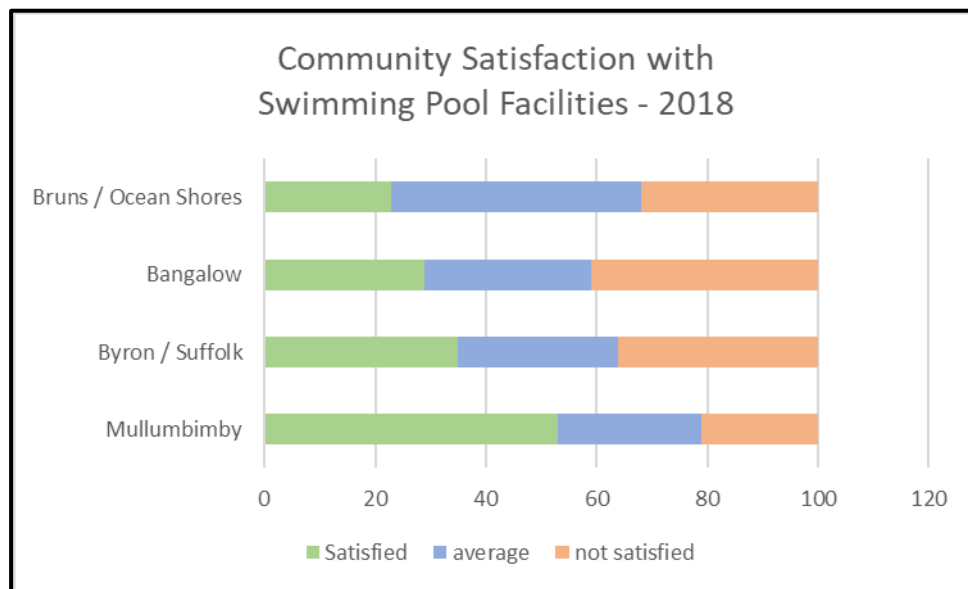


Figure 1: Satisfaction with Pool Facilities

Council resolved **18-039** (1 February 2018) that concept plans for options for possible refurbishment of the Byron Bay Pool be prepared for community consultation to ascertain community priorities and preferences. This project is ongoing but has been delayed as Council seeks resolution with the Crown regarding alignment of boundaries.

The adopted Recreation Needs Assessment identified that Byron Shire is currently over supplied with aquatic facilities. Accepted provision rates for aquatic facilities by local governments are around 1:60,000 people. With the Byron Shire having a projected population of around 40,000 in by 2041, one quality aquatic facility would meet current, as well as long-term future demand, according to accepted standards of service.

The study identifies 17,000 potential swimmers across Byron Shire, with market projections predicting this to grow to 20,906 by 2041. Byron Shire swimmers currently have access to 18 public pools within a 35km radius of Mullumbimby.

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STAFF REPORTS - INFRASTRUCTURE SERVICES

13.22

The study identifies swimmers make 46,300 visits per annum (2021) to the Mullumbimby pool each year. Upgrades are predicted to lift usage of the Mullumbimby Pool to around 113,688 visits per annum. Of these 27,000 are directly related to the proposed new warm water pool.

- 5 Council's other public pool in Byron Bay is also requiring upgrade. Redevelopment of both Mullumbimby and Byron pools will see these facilities effectively competing for users. Even if both current facilities are upgraded, Brunswick Heads, Ocean Shores and Bangalow communities may remain dissatisfied with provision that does not directly support their localities.
- 10 It may be that to provide the best quality and most cost-effective service for community, the current pool provision may need to be reviewed within a Shire-wide analysis so that funding for detail design and upgrade, or provision of a new facility can be applied strategically.
- 15 The next step for the draft feasibility is Council Resolution to initiate public exhibition. Concerns around flooding of the current site may be reflected in community feedback should the study be placed on public exhibition.
- Community also currently have expectation that Council will be looking to enhance facilities at Byron Bay. Bangalow community have been seeking their own pool facility.
- 20 Following the flood event there have been suggestions that relocation of the Mullumbimby facility may be a preferred option rather than upgrade. Consideration of alternate locations for the Mullumbimby pool was not within scope of the current study. Relocation of the Mullumbimby pool should not be considered in isolation but will need to include assessment of Shire-wide requirements and impacts.
- 25 Decision on upgrading one pool facility within the Shire will have a long term impact on future decisions for aquatic recreation provision across the Shire. Strategic study on Shire-wide aquatic recreational needs may be appropriate before any decision on detail design on upgrade of a single facility is taken. This study would need to encompass future planning for the current Byron Bay Memorial Pool, as well as ensuring the needs of Suffolk Park, Ocean Shores and Bangalow are taken into consideration.
- 30 Should Council wish to consider broader Shire-wide strategic planning for provision of public pools it may be appropriate in the interim to place the Mullumbimby feasibility study on hold, with feedback in relation to public exhibition of the draft Feasibility Study may better inform the need for a future strategic plan.

Options

The next step in the Feasibility Study is for Council to endorse public exhibition of the draft. The document as attached will be edited before public exhibition to ensure that it meets accessibility requirements.

- 5 Detailed design and associated site investigations are currently dependant upon grant opportunities.

The options are;

- 10 1. Council endorses the current Feasibility Study being placed on public exhibition for a period of 28 days and any submissions received are reported back to Council, prior to adoption of the Feasibility Study *or*
2. Council places the current feasibility on hold pending identification of funds to allow a future study into Shire-wide aquatic recreation requirements.

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
5: Connected Infrastructure We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable	5.4: Provide accessible community facilities and open spaces	5.4.4: Sporting facilities and swimming pools - Ensure ongoing maintenance and upgrade of inclusive sporting facilities and swimming pools	5.4.4.7	Pursue funding opportunities to allow for implementation of adopted recommendations from Petria Thomas Swimming Pool Feasibility Study
5: Connected Infrastructure We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable	5.4: Provide accessible community facilities and open spaces	5.4.4: Sporting facilities and swimming pools - Ensure ongoing maintenance and upgrade of inclusive sporting facilities and swimming pools	5.4.4.5	Progress planning of renewal / upgrades of Byron Bay Pool

Recent Resolutions

20-061 February 2020 Resolved that Council:

- 5 1. Conduct a feasibility study into converting the Petria Thomas Swimming Pool in Mullumbimby into a year-round, solar heated facility that could service the needs of the local and visitor population, by adding a disability access ramp to the existing 50 metre pool, a splash children's pool and a rehabilitation / hydrotherapy pool, and that the feasibility also consider various water treatment options
- 10 2. In assessing feasibility, consider the public health and social benefits of such a facility
3. Research other council areas that have installed similar facilities such as Ballina Shire to see how these types of projects have worked in other similar communities.
- 15 4. Allocate the appropriate budget to conduct this study in the draft 2020/21 budget.
5. Identify potential funding sources including money from Council's own funds and appropriate grant opportunities and relevant timelines.

20-733 December 2020 Resolved:

- 20 1. That Council includes the actioning of resolution 20-061, Petria Thomas Swimming Pool in Mullumbimby - Conversion to year-round facility in the operational plan for 2020/21.
2. That staff look for a way to source the funds required within the budget.

Financial Considerations

25 The draft Feasibility Study suggests upgrade to the existing pool facility at estimated cost of around \$10.2 million, with ongoing cost to Council of around \$400,000 per annum. Progressing this initiative would be dependent on identifying an external funding source. This estimate assumes the existing pool shell can be modified to include an access ramp. If the pool shell needs to be replaced this would be an additional \$5 million.

30 The Feasibility Study takes this project to concept stage only. Cost estimates do not include any allowance for pre-construction investigations and design. Only once detailed design has been completed will the full cost of works be confirmed.

35 It needs to be noted that cost estimates within the Feasibility Report are already 10 months old and in the interim period there have been significant increases in materials and labour costs. For this reason, an additional 40% contingency should be assumed on top of original estimates.

Any future works towards detail design or construction are dependent upon successful grant funding.

Consultation and Engagement

5 Identified stakeholders were engaged in the feasibility study process to date. Stakeholders included user groups, potential user groups, schools, and clubs and the DIAP reference group. Interviews and online survey were utilised to discuss requirements, potential usage, willingness to pay and implications of the development.

The next step is to take the draft Feasibility Study findings and recommendations to the broader community through a 28 day public exhibition process.

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

**Report No. 14.1 Report of the Arts and Creative Industries
Advisory Committee Meeting held on 30
June 2022**

Directorate: Corporate and Community Services

Report Author: Lynette Foley, Executive Assistant Corporate & Community
Services
Melitta Firth, Arts & Culture Officer

File No: I2022/851

Summary:

The Arts and Creative Industries Advisory Committee met on 30 June 2022 and attached are the minutes for noting by Council.

RECOMMENDATION:

1. That Council notes the minutes of the Arts and Creative Industries Advisory Committee Meeting held on 30 June 2022.

2. That Council adopts the following Committee Recommendation:

Report No. 3.1 Sandhills skate park and recreation precinct - art and cultural features

File No: I2022/728

Committee Recommendation:

That the committee note the arts and cultural features which have been commissioned for the Byron skate park and recreation precinct.

3. That Council adopts the following Committee Recommendation:

Report No. 3.2 Review Constitution of Arts and Creative Industries Advisory

BYRON SHIRE COUNCIL

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

14.1

Committee

File No: I2022/581

Committee Recommendation:

That the Arts and Creative Industries Advisory Committee recommends to Council to adopt the Constitution at Attachment 1 E2021/150507.

4. That Council does not adopt Committee Recommendation(s) 3.3 as shown in the attachment to this report, but instead adopts the Management Recommendation(s) as follows:


Report No. 3.3 Arts and Culture Overview

File No: I2022/582

Management Recommendations:

- 1. That the Arts and Creative Industries Advisory Committee notes the report.**
- 2. That instead of holding an Arts and Culture Summit as per Res 22-010, Council prioritise finalisation of the Arts and Culture Action Plan to provide a strategic framework for Council's activities and investments in arts and culture.**
- 3. That Councillors are briefed and provide input into the Arts and Culture Action Plan at an upcoming Councillor Workshop.**

5 Attachments:

- 1 Minutes 30/06/2022 Arts and Creative Industries Advisory Committee, I2022/759 

Report

The attachment to this report provides the minutes of the Arts and Creative Industries Advisory Committee Meeting of 30 June 2022 for determination by Council. The agenda for this meeting can be located on Council's website at:

5 [Arts and Creative Industries Advisory Committee Meeting of 30 June 2022](#)

The following items were considered by the Committee:

Report No. 3.1 Sandhills skate park and recreation precinct - art and cultural features

10 This report related to the arts and cultural features of the Byron skate park and recreation precinct, which begins construction in August 2022.

Report No. 3.2 Review Constitution of Arts and Creative Industries Advisory Committee

Attached is the draft Constitution for the Arts and Creative Industries Advisory Committee, for the Committee's review and recommendation for adoption.

15 **Report No. 3.3 Arts and Culture Overview**

This report provided an introduction and update on key arts and cultural priorities across Council including the proposed development of an Arts and Culture Action Plan.

Management Comments

20 Management provides an alternative to Committee recommendation 3.3 part 2 for the reasons given below and alternatively recommends:

1. **That the Arts and Creative Industries Advisory Committee notes the report.**
2. **That instead of holding an Arts and Culture Summit as per Res 22-010, Council prioritise finalisation of the Arts and Culture Action Plan to provide a strategic framework for Council's activities and investments in arts and culture.**
3. **That Councillors are briefed and provide input into the Arts and Culture Action Plan at an upcoming Councillor Workshop.**

30 In February 2022 Councillors voted to support a NoM to hold an Arts and Creative Industries Summit (Res **22-010**) in response to the impact of COVID-19 on the creative community. At this point in time, the full impact of the floods was not yet clear.

A draft Arts and Culture Action Plan has been developed and provided for Executive Team review. The draft Arts and Culture Action Plan will be provided for Councillor review and feedback at an upcoming Councillor Workshop, aiming for 1 September 2022. Arts and

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REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

14.1

cultural priorities, including any potential Summit, can be discussed with Councillors at the Workshop in the broader context of the Arts and Culture Action Plan.

Based on community feedback on the Arts and Cultural Policy, staff have drafted an Arts and Culture Action Plan for Byron Shire Council. Executive Team and Councillor endorsement is required for community consultation on the draft. The Action Plan is expected to provide a framework for Council's activities and investments in arts and culture. Community consultation is recommended to occur through an ongoing process open to multiple contributors over an advertised period, supplemented by in-person and industry specific consultation where required.

5
10 **The immediate prioritisation of the Arts and Culture Action Plan should occur for a number of reasons.**

The Action Plan will provide a strategic direction for all Arts and Culture activities in Byron Shire, thereby ensuring that all related investments can contribute to the priorities of communities, particularly as they have inevitably shifted following the two disaster events.

15 The finalised and endorsed Action Plan will enable Council to access State and Federal funding opportunities for creative recovery and new arts and cultural infrastructure development. These opportunities are time sensitive, with further disaster response grants being recently announced.

20 Arts Northern Rivers recently held a well-attended two-day Creative Recovery Summit including the arts and culture community across the region. This event was made possible through a \$90,000 grant received by Arts Northern Rivers for the event and related research. Council makes an annual contribution to Arts Northern Rivers and as financial contributors we benefit from the full support of their services from participation on council committees to the delivery of innovative projects that support community-wide participation in arts and cultural activity. Further information can be located on the [Arts Northern Rivers website](#).

30 By developing the Action Plan, Council will avoid potential duplication in hosting a Summit and will leverage ongoing arts and culture recovery activities in the region, as well as benefiting from the research findings in order to identify community needs and steer investment. As identified through the consultation process, the Arts and Culture Action Plan may potentially include events such as the Summit, subject to community needs and clearly identified outcomes.

35 Should the Summit progress in the absence of an Action Plan, Byron Shire Council risks negative community perception regarding duplication (with Arts Northern Rivers) and misplaced priorities following the double disaster. Furthermore, the funds committed to the Summit would preclude potentially more desired investments, such as mini-grants for artists or small projects. The cost vs benefit of the Summit has not been weighed against other ways to support the arts in the current environment.

40 The remainder of the Committee recommendations are supported by management and are provided in the attachment to this report.

Background on the Arts and Culture Action Plan

5 In 2020 Byron Shire Council conducted significant community consultation to develop an Arts and Cultural Policy (E2020/69370). Detailed community feedback and comment was received. Included in the feedback was the desire for a more specific action-focused document or strategy, as well as the initiation of an Arts and Culture Officer role in Council to provide arts and cultural expertise.

10 Council resolved (Res **18-256**) that a report be prepared outlining the process and associated costs to develop an Arts and Cultural Strategy. The report costed this project at \$60,000 – \$100,000 in 2018 (I2018/1066). Following this, Councillors voted to develop an Arts and Cultural Strategy (Res **21-542**) however associated funds were not allocated. Internal development of lean and agile action plan, over a costly strategy that will quickly be outdated, has been progressed instead of engaging external consultants.

Financial Implications

15 As per the reports listed within the Arts and Creative Industries Advisory Committee Meeting of 30 June 2022.

Statutory and Policy Compliance Implications

As per the reports listed within the Arts and Creative Industries Advisory Committee Meeting of 30 June 2022.

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 14.2 Report of the Coastal and ICOLL Advisory Committee Meeting held on 30 June 2022

5 **Directorate:** Sustainable Environment and Economy
Report Author: Michelle Chapman, Project Support Officer
File No: I2022/845

Summary:

10 This report provides the minutes of the Coastal and ICOLL Advisory Committee Meeting of 30 June 2022 for determination by Council.

Amendments to the constitution are recommended for adoption, including a change to the name of Committee.

15

RECOMMENDATION:

1. That Council notes the minutes of the Coastal and ICOLL Advisory Committee Meeting held on 30 June 2022.
2. That Council adopts the following Committee Recommendations:

Report No. 3.1 Update on the development of Coastal Management Programs (CMPs) for the Byron Shire Coastline

File No: I2022/61

Committee Recommendation 3.1.1

That the Coastal and ICOLL Advisory Committee:

1. Notes the legislated process and associated extended timeframes associated with preparing Coastal Management Program(s) under the NSW Coastal Management Framework.
2. Advises Council that a particular hazard at Belongil namely end of wall effect on estuary opening needs consideration in the Stage 2 Coastal

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REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY 14.2

Hazard Assessment Study.

3. **Advises Council that there is a need to recognise 'coastal squeeze' as a threat on both the coast and in the estuaries.**
4. **Advises Council that there is a need to recognise the important shorebird breeding, feeding and roosting area at Belongil and Marshalls Creek.**

3. That Council adopts the following Committee Recommendations:

Report No. 3.4 Review Constitution of Coastal and ICOLL Advisory Committee
File No: I2022/682

Committee Recommendation 3.4.1

1. **That the Coastal and ICOLL Advisory Committee recommends to Council to adopt the constitution at Attachment 1 (E2022/11708) with the following changes:**
 - a) **Amend the name of the committee to Coast and ICOLL Advisory Committee.**
 - b) **Amend 2a. Purpose to:**

Advise Council in the development of Coastal Management Programs for the Shire's coast, estuary and ICOLLs
 - c) **Amend 2b. Purpose to:**

Advise on projects, plans and strategies related to the coast, estuary and ICOLLs.
 - d) **Update 5. Membership to read:**

"Membership is to include:

 - **2 Councillors**
 - **6 relevantly qualified community representatives**

Representatives from:

 - **Department of Planning and Environment**
 - **DPI Fisheries - Cape Byron Marine Park**
 - **National Parks and Wildlife Service**
 - **Crown Lands**
 - **State Emergency Services**
 - **Transport for NSW**
 - **Bundjalung of Byron Bay Aboriginal Corporation (Arakwal)**

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REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY 14.2

- Jali Local Aboriginal Land Council
- Tweed Byron Local Aboriginal Land Council
- Byron Shire Council General Manager (or staff member delegate)''

Note: Staff members and state agency representatives participating on the Committee do not have any voting entitlements.

e) Amend 7. Quorum to:

A quorum is to constitute at least half the number of community members and Councillors plus one (resulting half numbers go down), one of which is to be a Councillor.

The General Manager or delegate, who must be a member of staff, is to attend the committee meeting and is not counted in the quorum for the meeting.

State government and indigenous organisation representatives do not form part of the quorum.

f) Amend 10a. Voting to:

Each member of the Committee (with the exception of Council staff and state government agency representatives) is to have one vote, with the Chairperson to have the casting vote in addition to a deliberate vote.

g) Amend 10 Voting to include:

Representatives of Bundjalung of Byron Bay Aboriginal Corporation (Arakwal), Jali Local Aboriginal Land Council and Tweed Byron Local Aboriginal Land Council can elect to have voting rights.

4. That Council adopts the following Committee Recommendations:

Report No. 3.5 Consideration of Dredging of Capricornia Canal and Marshalls Creek and the Removal of the Marshalls Creek Training Walls

File No: I2022/699

Committee Recommendation 3.5.1

That the Coast and ICOLL Advisory Committee:

- 1 Notes the report and outline of the issue.**
- 2. Notes that the Floodplain Advisory Committee will receive a further report with a proposed scope that includes recommendations received from the Committee.**
- 3. Advises Council as part of the review of the 2022 Floods, again consider**

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REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY 14.2

**options of (i) dredging Capricornia Canal and Marshalls Creek, and
(ii) removing rockwalls at the south end of Readings Bay, as to:**

- a) what benefit would have resulted for the 2022 flood (lower flood levels);**
- b) what costs may be incurred (financial, environmental, social),**
- c) what prohibitions may be in place (eg disturbing seagrass in a Marine Park); and**
- d) what approvals would need to be sought; and**
- e) that the findings be shared with the public, including visually by way of representative creek cross sections for the dredging option.**

Attachments:

- 1 Minutes 30/06/2022 Coastal and ICOLL Advisory Committee, I2022/758 

Report

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

Financial Implications

- 5 As per the Reports listed within the Coastal and ICOLL Advisory Committee Meeting of 30 June 2022.

Statutory and Policy Compliance Implications

As per the Reports listed within the Coastal and ICOLL Advisory Committee Meeting of 30 June 2022.

Report No. 14.3 Report of the Strategic Business Advisory Committee Meeting held on 30 June 2022

Directorate: Sustainable Environment and Economy

Report Author: Michelle Chapman, Project Support Officer

5 **File No:** I2022/846

Summary:

This report provides the minutes of the Strategic Business Advisory Committee meeting, held 30 June 2022.

- 10 Amendments to the constitution are recommended for adoption, including a change to the name of Committee and a key objective.

RECOMMENDATION:

- 15 1. That Council notes the minutes of the Strategic Business Advisory Committee Meeting held on 30 June 2022.

2. That Council adopts the following Committee Recommendations:

Report No. 3.1 Review Constitution of Strategic Business Advisory Committee
File No: I2022/469

Committee Recommendation 3.1.1

1. That the Strategic Business Advisory Committee recommend to Council to adopt the constitution at Attachment 1 (E2021/148723), with amendments to:
 - a) the number of Councillors required for quorum to be one, at Point 7.
 - b) Point 5 Membership, to include four members of the business community from a range of industry sectors.
 - c) Key Objective 2. to 'Where appropriate take a leadership role to encourage new and emerging sectors to flourish'
 - d) the name of the committee to the Business and Industry Advisory

BYRON SHIRE COUNCIL

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY 14.3

Committee.

2. That the Strategic Business Advisory Committee recommend to Council to call for nominations for representatives from the business community from a range of business sectors.

Attachments:

- 1 Minutes 30/06/2022 Strategic Business Advisory Committee, I2022/757 

5

Report

The attachment to this report provides the minutes of the Strategic Business Advisory Committee Meeting of 30 June 2022 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 https://byron.infocouncil.biz/RedirectToDoc.aspx?URL=Open/2022/06/SB_30062022_AGN_1531_AT_EMBEDDED.PDF

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

Financial Implications

- 10 As per the Reports listed within the Strategic Business Advisory Committee Meeting of 30 June 2022.

Statutory and Policy Compliance Implications

As per the Reports listed within the Strategic Business Advisory Committee Meeting of 30 June 2022.

15

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.4 Report of the Infrastructure Advisory Committee Meeting held on 16 June 2022

- 5 **Directorate:** Infrastructure Services
- Report Author:** Shelley Flower, Executive Assistant IS
- File No:** I2022/857

Summary:

- 10 The attachment to this report provides the minutes of the Infrastructure Advisory Committee Meeting of 16 June 2022 for determination by Council.

RECOMMENDATION:

- 15 1. **That Council notes the minutes of the Infrastructure Advisory Committee Meeting held on 16 June 2022.**

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

Report No. 3.1 Election of Chair and Committee Constitution
File No: I2022/565

Committee Recommendation 3.1.1

That Council supports the following:

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

3. That Council adopts the following Committee Recommendation:

Report No. 3.2 Mullum to Bruns/Ocean Shores Cycleway - Route Options
File No: I2022/631

Committee Recommendation 3.2.1

That Council note that the Infrastructure Advisory Committee noted the Mullum to Bruns Cycleway – Route Options Report.

4. That Council adopts the following Committee Recommendations:

Report No. 3.3 Myocum Quarry DA Compliance and Options Report
File No: I2022/656

Committee Recommendation 3.3.1

That Council support:

1. The actions as recommended in the report “DA Compliance and Options Assessment for Myocum Quarry” (E2021/155252) in response to resolution 21-098 and including preparation of a section 4.55(2) modification to the original development consent.
2. The provision of six monthly updates to the Infrastructure Advisory Committee.
3. The first six monthly update to include consideration of budget implications.

Attachments:

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- 1 Minutes 16/06/2022 Infrastructure Advisory Committee, I2022/698 

Report

The attachment to this report provides the minutes of the Infrastructure Advisory Committee Meeting of 16 June 2022 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 https://byron.infocouncil.biz/Open/2022/06/IAC_16062022_AGN_1536_AT_EMBEDDED.PDF

Committee Recommendation

That Council notes the minutes of the Infrastructure Advisory Committee Meeting held on 16 June 2022.

10 Financial Implications

As per the Reports listed within the Infrastructure Advisory Committee Meeting of 16 June 2022.

Statutory and Policy Compliance Implications

- 15 As per the Reports listed within the Infrastructure Advisory Committee Meeting of 16 June 2022.

Report No. 14.5 Report of the Local Traffic Committee Meeting held on 14 July 2022

Directorate: Infrastructure Services

Report Author: Shelley Flower, Executive Assistant IS

5 **File No:** I2022/1039

Summary:

The attachment to this report provides the minutes of the Local Traffic Committee Meeting held on 14 July 2022 for determination by Council.

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

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

RECOMMENDATION:

1. That Council notes the minutes of the Local Traffic Committee Meeting held on 14 July 2022.

2. That Council adopt the following Committee Recommendations:

Report No. 6.1 New Intersection on Bangalow Road
File No: I2022/840

Committee Recommendation 6.1.1

That the Local Traffic Committee:

1. Endorses the proposed intersection plans as per marked up plan and comments provided by Transport for NSW.
2. The conditions of approval for the Roads Act Consent include provisions for a reseal of the area to be line marked for safety reasons.

5

3. That Council note the following Committee Recommendations:

**Report No. 6.2 Traffic Management Plan - Splendour in the Grass Campground
at Bluesfest, 35 Yarun Road, Tyagarah**
File No: I2022/858

Committee Recommendation 6.2.1

1. That Council endorses the regulatory traffic management facilities and devices, including signs and traffic controller provisions proposed for the Council controlled public road network as outlined in attachments 1 (E2022/62160), for the use of the Bluesfest site as a Camp Ground and for park and ride in association with the Splendour in the Grass 2022 event from Wednesday 20 July 2022 to Tuesday 26 July 2022, subject to:
 - a) Separate approvals by NSW Police and TfNSW being obtained, noting that the event is on a state road or may impact the state road network;
 - b) The event be held through the implementation of the events Traffic Management Plan and Traffic Control Plan(s) as per attachments 1 (E2022/62160);
 - c) The Traffic Management Plan and the Traffic Control Plan(s) to be implemented by those with relevant and current TfNSW accreditation;
 - d) Traffic camera data recorders or similar be used to obtain an accurate

record of traffic impacts at KPI queue locations;

2. That the event organiser:

- i) inform community and businesses that are directly impacted (e.g. adjacent to the Bluesfest Site) via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised;
- ii) arrange for private property access and egress affected by the use of the proposed Bluesfest site from camping and Park and Ride;
- iii) liaise with bus and taxi operators and ensuring arrangements are made for provision of services during conduct of the event;
- iv) consult with emergency services and any identified issues be addressed;
- v) holding \$20m public liability insurance cover which is valid for the period of Camping and Park and Ride from the Bluesfest Site.

Management Recommendation

That this item has been approved by Council's General Manager under his Council delegated authority as per resolution 22-325 (refer Attachment 2).

4. That Council adopt the following Committee Recommendation:

Report No. 7.1 Tennyson Street - No Parking Area Extension

File No: I2022/721

Committee Recommendation 7.1.1

That the Local Traffic Committee supports the No Stopping areas proposed in Attachment 1 (E2022/55546) associated with the new pedestrian crossing on Tennyson Street adjacent to Ruskin Lane in accordance with Technical Note 2011/01A.

Attachments:

- 5 1 Minutes 14/07/2022 Local Traffic Committee Extraordinary, I2022/871 
- 2 Memo to GM - Splendour in the Grass Festival 2022 Approval, E2022/66459 

Report

The attachment to this report provides the minutes of the Local Traffic Committee Meeting of 14 July 2022 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 https://byron.infocouncil.biz/Open/2022/07/LTC_14072022_AGN_1555_AT_EXTRA.PDF

This report contains the recommendations of the Local Traffic Committee (LTC) meeting held on 14 July 2022.

Committee Recommendation

As per the Reports listed within the Local Traffic Committee Meeting of 14 July 2022.

10 Financial Implications

As per the Reports listed within the Local Traffic Committee Meeting of 14 July 2022.

Statutory and Policy Compliance Implications

As per the Reports listed within the Local Traffic Committee Meeting of 14 July 2022.

QUESTIONS WITH NOTICE

Question with Notice No. 15.1 Agendas for Councillor Workshops

5 File No: I2022/1007

Cr Dey asks the following question:

10 *Agendas for our monthly Councillor Workshops are marked as Confidential.*

Confidentiality is a necessary step on occasions where for example exposure could lead to harm to individuals (physical, reputational, or other) or to organisations, or where financial secrecy could be advantageous to Council. Recent agendas contained many topics that were quite innocuous. Confidentiality limits me to not list them.

- 15 1. *by what assessment process is the whole Agenda for Councillor Workshops deemed Confidential?*
2. *could this approach be relaxed so that the public get to know what Councillors know, at least by topic if not by actual content?*

Response Director Corporate and Community Services:

20 Councillor Workshops are established by the [Code of Meeting Practice](#), set out in clauses 3.29-3.33:

3.29 *Prior to each ordinary meeting of the council, the general manager may arrange a Councillor Workshop to brief Councillors on business to be considered at the meeting. Councillor Workshop may also be held for planning meetings and for extraordinary meetings of the council and meetings of committees of the council.*

25

3.30 *Councillor Workshops are to be held in the absence of the public.*

3.31 *The Mayor or in the absence of the Mayor, a Councillor appointed by those Councillors present, is to preside at Councillor Workshops.*

3.32 *Councillors must not use Councillor Workshop to make preliminary decisions on items of business they are being briefed on. Decision-making must be left to the formal council or committee meeting at which the item of business is to be considered.*

30

3.33 *Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of a briefing at a Councillor Workshop, in the same way that they are required to do so at a council or*

committee meeting. The council is to maintain a written record of all conflict of interest declarations made at Councillor Workshops and how the conflict of interest was managed by the Councillor who made the declaration.

5 **1. *by what assessment process is the whole Agenda for Councillor Workshops deemed Confidential?***

A Councillor Workshop agenda is prepared for information and for the convenience of Councillors. Where possible, Councillors are provided with the background information in advance of the meeting to facilitate discussion. The agenda is not required or prepared for public consumption, such that it is for a workshop *“to be held in the absence of the public.”*

10 That the meeting is *“held in the absence of the public”* infers that the whole of the workshop including workshop agenda and papers are absent the public. It would be contrary to the intent and spirit of the Code of Meeting Practice if any actions were taken to open any part of the workshop to the public.

15 Confidentiality applies to the discussion of confidential information during the workshop, per the [Code of Conduct](#):

8.11 g) not disclose any confidential information discussed during a confidential session of a council or committee meeting or any other confidential forum (such as, but not limited to, workshops or briefing sessions).

20 **2. *could this approach be relaxed so that the public get to know what Councillors know, at least by topic if not by actual content?***

The approach could not be relaxed unless and until the Code of Meeting Practice is amended.

25

Question with Notice No. 15.2 Biobanking for the Byron Bypass

File No:

I2022/1010

5

Cr Dey asks the following questions:

1. *Which Conditions of Consent for the Byron Bypass require Biobanking?*

2. *Are monitoring and reporting included in those requirements?*

10

3. *Whether they are or not, could Council receive an update on the Biobanking? In particular, have the compensatory sites yet been established?*

4. *Where is this activity located within the Delivery and Operational Plans?*

15 **Response Director Infrastructure Services:**

1. The Byron Bay Bypass project required some clearing of vegetation, impacting the local environment. The pathway for offsetting this impact was the Biobanking scheme, which is an approved state government managed scheme to offset the environmental impacts of projects. The project approval relied upon the fact an approved BioBanking Statement and approved BioBanking Site Agreements were in place.

20

2. Yes. Both the Lilli Pilli and Wallum sites are monitored, and annual reports prepared.

25

3. Yes. An update on the Biobanking outcomes can be provided.

4. Council committed to offset the environmental impacts of projects through the Biobanking Scheme and is continuing to passively manage the sites in perpetuity. There is not a single Operational Plan activity to this level of detail, however it is related to the following Delivery Program priority:

30

BYRON SHIRE COUNCIL

QUESTIONS WITH NOTICE

15.2

CSP Objective	CSP Strategy	DP Action
3: Nurtured Environment We nurture and enhance the natural environment	3.1: Partner to nurture and enhance our biodiversity, ecosystems, and ecology	3.1.3: Habitat restoration - Restore degraded areas that provide high environmental or community value

More specifically, maintenance of the sites is managed through Operational Plan activity:

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
5: Connected Infrastructure We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable	5.4: Provide accessible community facilities and open spaces	5.4.2: Parks and open spaces - Provide and maintain active and passive recreational community space that is accessible and inclusive for all	5.4.2.1	Implement Open Space maintenance and capital programs in accordance with the adopted budgets and Open Space Asset Management Plan.

CONFIDENTIAL REPORTS - CORPORATE AND COMMUNITY SERVICES

**Report No. 16.1 CONFIDENTIAL - Insurance Update regarding
Council Assets - February 2022 Flood Event**

5 **Directorate:** Corporate and Community Services

Report Author: Alexandra Keen, Strategic Contracts & Procurement
 Coordinator
 Janelle Boland, Insurance Officer
10 James Brickley, Manager Finance
 Malcolm Robertson, Manager Open Space and Facilities

File No: I2022/917

Summary:

15 To provide an update to Council on the status of repairs to flood affected community buildings owned or managed by Council, and to seek approval for proposed next steps to minimise any further delays.

RECOMMENDATION:

- 20 1. That pursuant to Section 10A(2)(c) and (d)ii of the Local Government Act, 1993, Council resolve to move into Confidential Session to discuss the report Insurance Update regarding Council Assets - February 2022 Flood Event.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
- 25 a) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business
- b) information that would, if disclosed, confer a commercial advantage on a competitor of the council
- 30 3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:

insurance claims and proposed processes which may prejudice Council's policy coverage, and commercial information in the form of quotes

Attachments:

- 1 PWA Fact Sheet Sub-categories for Restoration, E2022/72840
- 5 2 PWA Fact Sheet Restoration Process, E2022/72839
- 3 Public Asset Restoration Guidelines, E2022/72859