

# Notice of Meeting

## Heritage Advisory Committee Meeting

A Heritage Advisory Committee Meeting of Byron Shire Council will be held as follows:

Venue	Conference Room, Station Street, Mullumbimby
Date	Thursday, 15 September 2022
Time	11.30am

Shannon Burt  
Director Sustainable Environment and Economy

I2022/1197  
Distributed 06/09/22



**BYRON**  
SHIRE  
COUNCIL

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## CONFLICT OF INTERESTS

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

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

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

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

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

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

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

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

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

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

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

### Disclosure and participation in meetings

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

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

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

**Non-pecuniary Interests** - Must be disclosed in meetings.

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

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

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## RECORDING OF VOTING ON PLANNING MATTERS

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

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

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## 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 MEETING

### 1. APOLOGIES

### 2. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

### 3. STAFF REPORTS

#### **Sustainable Environment and Economy**

3.1	Heritage Program Update.....	6
3.2	Heritage Advisory Committee Member Updates.....	12
3.3	Heritage colours.....	14

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 3.1      Heritage Program Update**

**Directorate:** Sustainable Environment and Economy

5 **Report Author:** Chris Larkin, Manager Sustainable Development

**File No:** I2022/1084

**Summary:**

This report provides an update on the status of (certain) heritage program actions progressed so far this financial year.

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**RECOMMENDATION:**

**That the Heritage Advisory Committee notes the heritage program update report.**

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**Attachments:**

- 1 Attachment 1 - Heritage Advisory Panel - 15 September - Deborah Wray - Heritage Referral - Proposed Heritage Listing 221 Coolamon Scenic Drive, E2022/75328 
- 20 2 Confidential - Attachment 2 - submission received Heritage Conservation Aea Brunswick Heads, E2022/85191

**Report**

25 **Heritage Advisory service**

Council was successful in receiving grant funding for FY 22/23 for the continuation of the Heritage Advisory Service. Activities in the Heritage Strategy will continue to be the focus of work for the Heritage Advisory service this year.

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[Heritage Strategy - Byron Shire Council \(nsw.gov.au\)](https://www.nsw.gov.au/heritage/heritage-strategy)

**Byron Shire Local Places Heritage Grants 2020-21**

35 Council was successful in receiving grant funding for FY 22/23 for the continuation of the Local Places Grants program.

[Local Heritage Places Funding 2022 to 2023 - Byron Shire Council \(nsw.gov.au\)](https://www.nsw.gov.au/heritage/local-places-grants)

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

3.1

The focus for this year's Local Heritage Places Grants is conservation works that enhance places, buildings and historic streetscapes that promote community and visitor appreciation of the Shire. This includes heritage conservation areas and heritage items.

- 5 For FY22/23 priority will be given to flood impacted towns and villages to assist landowners with the recovery process.

Grants between \$1,000 to \$3,000 are available, depending on how many applications are received. Successful applicants will need to contribute one dollar for every dollar provided by the grant.

- 10 The restoration work must be completed by 30 March 2023.

Applications closed on 31 August 2022.

Council received only one grant application to date, although several enquires have been fielded. Availability of builders and materials, and other cost of living factors are limiting the pool this year.

- 15 The grant period has been extended a further 4 weeks and contact made with owners of known heritage items from previous rounds in the interim to see if they are interested in applying again.

### **Proposed Local Environmental Plan amendments to list new heritage items**

Further report/s to Council for formal consideration will follow as required by the process.

Property	Status	Next steps
7 Leslie Street, Bangalow	Supported by previous landowner – need to confirm support with new landowner prior to listing  Heritage Assessment report completed	Inclusion in a future LEP amendment to progress this year
Carabine Ewingsdale Road, Ewingsdale	Supported by landowner  Heritage Assessment report completed	Waiting for Heritage Assessment report from landowner to support LEP amendment
40 Cowper Street, Byron	Supported by landowner  Heritage Assessment report	Inclusion in a future LEP amendment to progress this

## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

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	completed	year
Robinson Subdivision and group of cottages Lismore Road, Bangalow	SHI sheet for the Conservation Area has been updated	Individual property listing for inclusion in a future LEP amendment to progress this year
Longfield, 175 Wilsons Creek Road, Mullumbimby	Supported by landowner	Waiting for Heritage Assessment report from landowner to support LEP amendment
Mullumbimby 2 derelict houses nominated by BVHS	Under review by staff	Review to be completed and landowner/s contacted to confirm position on listing if with merit
221 Coolamon Scenic Drive, Coorabell	Supported by landowner – Heritage Assessment report completed	Inclusion in a future LEP amendment to progress this year

#### **Brunswick Heads proposed Heritage Conservation Area and property listings.**

5 Brunswick Heads proposed Heritage Conservation Area with several additional proposed heritage items was on public exhibition until 26 August 2022. This is an **informal consultation**, as requested by the Chamber of Commerce and Progress Association, prior to the matter being considered at Council for the formal listing process and Planning Proposal.

10 <https://www.byron.nsw.gov.au/Your-Say-Byron-Shire/Heritage-Conservation-in-Brunswick-Heads>

18 submissions were received to the proposal predominately in support. Copies attached.

Next step, staff are reviewing the submissions and preparing a report on the planning proposal and informal consultation to date, which will be reported to Council to seek support to progress the listings as proposed or amended.

#### 15 **Heritage tools and information**

##### **State Heritage Inventory**



# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

3.1

The State Heritage Inventory is an online database containing more than 30,000 heritage items and places on statutory lists in NSW. A link for Panel members is provided below:

[State Heritage Inventory | Heritage NSW](#)

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### **Byron Shire Community Based Heritage Study**

10 Between 2004 - 2006, Council undertook a Community-Based Heritage Study that assessed and recommended places for inclusion on the schedule of places of local heritage significance in the Byron Shire Local Environment Plan.

15 The community-based study methodology was chosen because it ensures that the community is not only consulted about its heritage but is also actively involved in researching and nominating items and places of heritage significance, and in considering recommendations for their management and promotion.

20 The Community-Based Heritage Study was adopted by Council on 31 July 2008. Council included the study's heritage items and conservation areas when developing the Byron Shire LEP 2014.

A link to the CBHS and LEP is provide below:

[Community-Based Heritage Study - Byron Shire Council \(nsw.gov.au\)](#)

25 [Byron Local Environmental Plan 2014 - NSW Legislation](#)

## Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
<b>2: Inclusive Community</b> 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	2.1.5: Share and celebrate diverse stories including the built, natural, and cultural heritage of the Shire	2.1.5.1	Co-ordinate the Heritage Advisory Committee
<b>2: Inclusive Community</b> 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	2.1.5: Share and celebrate diverse stories including the built, natural, and cultural heritage of the Shire	2.1.5.2	Provide a heritage advisory service
<b>2: Inclusive Community</b> 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	2.1.5: Share and celebrate diverse stories including the built, natural, and cultural heritage of the Shire	2.1.5.3	Manage the Heritage Grants Program
<b>4: Ethical Growth</b> We manage growth and change	4.1: Manage responsible development through effective place	4.1.4: LEP & DCP - Review and update the Local	4.1.4.3	Stand-alone LEP 2014 amendment to introduce new heritage-listed properties

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

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responsibly	and space planning	Environmenta I Plan and Development Control Plans		
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### **Legal/Statutory/Policy Considerations**

N/A

### **Financial Considerations**

5 As discussed in the report.

### **Consultation and Engagement**

As discussed in the report.

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**Report No. 3.2**                      **Heritage Advisory Committee Member Updates**  
**Directorate:**                      Sustainable Environment and Economy  
**Report Author:**                      Chris Larkin, Manager Sustainable Development  
**File No:**                                      I2022/1085

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**Summary:**

10      The nominated Heritage Advisory Committee members are invited to provide a brief update on matters and activities undertaken by their respective group / organisation relevant to the Committee and its constitution.

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**RECOMMENDATION:**

**That the Heritage Advisory Committee notes the member updates.**

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**REPORT**

20      Member representatives from Brunswick Valley, Byron Bay, Bangalow, Mullumbimby Historical Societies, Bundjalung of Byron Bay Aboriginal Corporation (Arakwal) and the Tweed Byron Local Aboriginal Council. and community are invited to provide a brief update to the Panel on matters and activities undertaken by their group / organisation relevant to the Panel and its terms of reference. (These updates should be 10 minutes maximum).

25      The purpose of the Committee under the constitution is as follows:

The purpose of the Heritage Advisory Committee is to provide support and advice to Council to assist its operations on heritage matters.

Actions of the Heritage Advisory Committee that can assist to achieve this include:

- a) Assisting Council in the development of policies and strategies including the preparation of a Heritage Strategy and the management of natural and cultural heritage generally in Byron Shire local government area.
- b) Advising Council staff, the Heritage Adviser and the Council on matters relating to the ongoing implementation of the Heritage Strategy (once completed).
- c) Assisting Council to procure and allocate funding assistance and to recommend projects for which funding should be sought in line with the Heritage Strategy (once completed).
- d) Providing access to the general community to distribute information and for public input into heritage management, eg, to nominate additional properties for assessment of heritage significance.
- e) Advising Council on a range of heritage-related matters which are of interest to the community, in particular, by providing expertise, local knowledge and guidance on heritage matters and in relation to heritage assessments.

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## Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
<b>2: Inclusive Community</b> 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	2.1.5: Share and celebrate diverse stories including the built, natural, and cultural heritage of the Shire	2.1.5.1	Co-ordinate the Heritage Advisory Committee

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### Legal/Statutory/Policy Considerations

N/A

### Financial Considerations

10 N/A

### Consultation and Engagement

N/A

**Report No. 3.3      Heritage colours**

**Directorate:**                      Sustainable Environment and Economy

**Report Author:**                Chris Larkin, Manager Sustainable Development

**File No:**                            I2022/1088

**5      Summary:**


Feedback is sought from the Heritage Advisory Committee on the need for changes to the current wording of Development Control Plan (DCP) Chapter C1.4.5 Colours points 5,6 and 7 in response to community and Council interest about the colour palette available for external use on heritage buildings and in heritage conservation areas.

10      Any changes recommended by the Heritage Advisory Committee will need to be separately reported to Council as a proposed amendment the provisions of the Byron Development Control Plan (DCP) 2014.

**15      RECOMMENDATION:**

**That the Heritage Advisory Committee notes the staff report on heritage colours and provides feedback on Byron Development Control Plan 2014 Chapter C1.4.5 Colours.**

**20      Attachments:**

1      Colour schemes for Historic Buildings and Conservation Areas, E2022/85204 

## Report

Demolition, moving, or altering the exterior of a heritage item or any property in a Conservation Area requires consent under Clause 5.1 of Byron LEP 2014.

- 5 Notwithstanding the above, there are limited types of development which may be carried out as Exempt Development. Those that are permissible in relation to Heritage Items or within a Heritage Conservation Area are generally in the rear yard of the property and can include water tanks, access ramps, pergolas, and shade structures

- 10 Maintenance and work of a minor nature may also be permitted in relation to Heritage Items or within a Heritage Conservation Area through a no fee, 'Minor Works and Maintenance' Application' under clause 5.10(3) subject to the following:

- The applicant must notify Council in writing of the proposed work, and Council must provide a written reply before work is commenced, advising that it is satisfied that the proposal is for maintenance or of a minor nature, and would not adversely affect the significance of the heritage item or the Conservation Area
- The Minor Works and Maintenance application should be used to seek prior approval for proposed alterations to Fabric, Finish and Appearance such as re-roofing, and re-painting schemes, removal of any trees, appropriate fences in front setback areas, minor alterations including reinstatement of missing details as evidenced by old photos, and removal of unsympathetic additions such as enclosed elements on verandahs. **Appropriate colour schemes must be used for Heritage Items and within Heritage Conservation Areas. Council's Development Control Plan policies restrict the use of bold, vivid, intense and neon colours.** For details on heritage colours, see DCP 2014 Chapter C1 – Non-Indigenous Heritage.

Extract of the Chapter C1 – Non-Indigenous Heritage below:

## C1.4.5 Colours

### Objectives

1. To ensure that the selection of colours for **Heritage items** and components of a **Heritage Conservation Area** is based on an understanding of the original finishes.
2. To ensure that colours employed in new development are compatible with the significance and character of the **Heritage item** they adjoin or of development in the street or **Heritage Conservation Area**.
3. To avoid the use of colours that are inappropriate or incompatible with the heritage character of **Heritage items** or **Heritage Conservation Areas**.

### Performance Criteria

1. **Heritage items** may be painted in traditional colour schemes based on photographic, physical or documentary evidence. Where this is not available a colour scheme appropriate to the particular style of the building may be used. Advice on this subject is available from Council, paint companies and numerous books. The information in Appendix C1.3 may also assist with colour selection.
2. Colour schemes must respect and enhance the individual architectural details of the building.
3. Use traditional colour schemes and contrasting tones for alterations and additions. Variations to traditional colour schemes may be appropriate for new development provided the scheme maintains light colours for walls and roof with dark colours for trims and remains harmonious in the heritage landscape of the locality.
4. Face brickwork, stone, tiles or shingles must not be painted or rendered, as this will compromise the original character of the building. It will also create an ongoing maintenance requirement. Existing unpainted brickwork must remain unpainted except if part of an unsympathetic infill or addition.
5. Variations to traditional colours that will be harmonious in the streetscape may be used for new development.
6. Bold primary colours, black, white or textured paint finishes must not be used on external surfaces.
7. Where possible additions and alterations must reinstate traditional colour schemes.

### Prescriptive Measures

There are no Prescriptive Measures.

- 5 Feedback is sought from the Heritage Advisory Committee on the need for changes to the current wording of Development Control Plan (DCP) Chapter C1.4.5 Colours points 5,6 and 7 in response to community and Council interest about the colour palette available for external use on heritage buildings and in heritage conservation areas.

Any changes recommended by the Heritage Advisory Committee will need to be separately reported to Council as a proposed amendment to the provisions of the DCP. Council's Heritage Advisor has prepared some information on heritage colour schemes which is attached to the report.

- 10 Some examples of guidelines on heritage colours provided below:



[Exterior-Paint-Colours.pdf \(nationaltrust.org.au\)](#)

[Heritage Authentic Colours - Haymes Paint](#)

[Heritage-Design-Manual.pdf](#)

[Section A18 - Heritage \(nsw.gov.au\)](#)

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## Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
<b>2: Inclusive Community</b> 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	2.1.5: Share and celebrate diverse stories including the built, natural, and cultural heritage of the Shire	2.1.5.1	Co-ordinate the Heritage Advisory Committee

## 10 Legal/Statutory/Policy Considerations

N/A

## Financial Considerations

N/A

## Consultation and Engagement

15 N/A