

Agenda Ordinary Meeting

Thursday, 27 October 2022



BYRON
SHIRE
COUNCIL

Agenda Ordinary Meeting

held at Conference Room, 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.

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BUSINESS OF ORDINARY MEETING

1. PUBLIC ACCESS
2. APOLOGIES
3. ATTENDANCE BY AUDIO-VISUAL LINK / REQUESTS FOR LEAVE OF ABSENCE
4. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY
5. TABLING OF PECUNIARY INTEREST RETURNS (CL 4.9 CODE OF CONDUCT FOR COUNCILLORS)
6. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS
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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

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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 State imposed land use planning changes for agritourism

5 **File No:** I2022/1485

I move that:

- 10 **Council urgently and strongly confirms to the NSW Department of Planning and Environment, that Byron Shire Council:**
1. **'Opts out' of the new provisions for agritourism and associated land uses until such time as we conduct our own review of where the provisions/ clauses could possibly be appropriate;**
 - 15 2. **Reaffirms its earlier resolutions 21-203 and 22-065;**
 3. **Objects to the land use terms 'Agritourism', 'Farm experience premises' and 'Farm gate premises' and 'Farm Stay accommodation' being made permissible with consent anywhere in our LEPs at this stage;**
 - 20 4. **Council receives a short report as soon as practical on the agritourism related land use planning changes being considered/pursued by the NSW Government following a meeting with the DPE.**

Attachments:

- 25
- 1 Council submission - Agritourism, E2022/100772 
 - 2 Council submission - Agritourism, E2021/57181 
 - 3 Mayor's letter to Minister Roberts - Agritourism, E2022/84944 
 - 4 Letter from LGNSW to Minister Planning about Agritourism, E2022/100762 

Background Notes:

- 30 Council has previously received two reports on land use changes proposed by the Department of Planning and Environment (DPE) as part of their agritourism reforms:
- [Agenda of Ordinary \(Planning\) Meeting - Thursday, 13 May 2021 \(infocouncil.biz\)](#) Report No. 13.10 PLANNING - State Government Planning Amendments for Agriculture

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[Agenda of Ordinary \(Planning\) Meeting - Thursday, 10 March 2022 \(infocouncil.biz\)](#) Report No. 13.01 State government reform: Agritourism option to nominate additional clauses in LEP

The 10 March 2022 report was in response to an email from DPE:

Reminder: nominate to adopt agritourism optional clauses

This is your council's chance to determine the zones where agritourism land uses can take place and adopt optional clauses for farm stay accommodation and farm gate activities without the need to submit a planning proposal.

The date to provide draft responses to the [Agritourism Nomination Form](#) is approaching fast. Please provide preliminary responses by **Friday 25 February 2022** and final responses, along with Council endorsement, by **Thursday 31 March 2022**.

Details are in the draft [Agritourism Order](#) and [Agritourism Order Information Sheet](#).

Contact the [project team](#) for more information.

For any [councils that have missed the invitation](#), please provide nominations using the [Agritourism Nomination Form](#) by **13 April** so the Department will be able to include Council in the amending SEPP (due to be made in June).

For any [councils that are aware of the nomination form](#), the department would appreciate if Council could **provide their nominations by 31 March**, as set out in the bulletins.

Kind regards,
The Northern Planning Team

Northern Region
NSW Department of Planning and Environment
Tamworth Office: 02 5778 1493
Grafton Office: 02 6643 6420

northern@planning.nsw.gov.au

5

The DPE has been advised of Council's position on their agritourism reforms (Attachment 1 and 2), most recent letter from staff dated March 2022.

From March 2022 to August 2022, no updates from DPE were provided to councils to suggest that their nominations had not been accepted.

10 16 August 2022 councils were invited to attend an agritourism council stakeholder briefing webinar. The purpose of the webinar was for DPE staff to provide *"an overview of the Agritourism and small-scale agriculture development revised proposals and what changes are expected to be made to LEPs"*.

15 During the webinar by DPE staff, it became apparent that the scope and nature of the original agritourism reforms had changed, and that councils were no longer being given the ability to nuance the controls for their local areas or opt out of the controls. This is contrary to the earlier position presented by DPE via the nomination process.

On 6 October 2022, the DPE announced the new rules to support agritourism on their web site.

20 [Agritourism and small-scale agriculture development \(nsw.gov.au\)](#)

Under a new Agritourism and Farm Stay Accommodation Code in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) outlined below the following is proposed:

25 • Exempt development pathways are available for 'Farm experience premises', Farm gate premises' and 'Farm stay accommodation' (essentially change of use) in rural zones, or

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zones that 'Agritourism' (new parent term), 'Extensive agriculture', 'Intensive livestock agriculture' and 'Intensive plant agriculture' is permissible with consent. This includes the RU1, RU2, C2 and C3 zones in Byron Shire.

- Exempt development pathway for 'Roadside stalls' in rural zones.

- 5 • Complying development pathways for 'Farm experience premises', 'Farm gate premises' and 'Farm stay accommodation' in rural zones.

The changes to the Codes SEPP, Standard Instrument LEP and Regulations, have been notified and will commence on 1 December 2022.

- 10 It appears that the new land use 'Agritourism' (including the terms 'Farm experience premises' and 'Farm gate premises') will now be permitted where 'agriculture' is permitted with consent.

What this means to Byron Shire for example, is that current planning controls that are in place to manage land uses like weddings, events, cellar door premises, and holiday accommodation on rural lands will be overridden by these new controls.

- 15 Exempt development can be carried out without the need for planning or building approval if it meets specified development standards and does not require any notification of council or neighbours.

- 20 Complying development is a fast-tracked approval process for straight-forward development where planning and building standards can be signed-off by the council or a registered certifier. As council is aware, we have been seeing an increase in complaints from community about complying development and its management by private certifiers.

It is questionable just how '*low impact or straightforward*' the land use types that the DPE has defined as exempt or complying agritourism development will be in Byron Shire.

- 25 Further, we know from experience that the enforcement burden for these land use changes will fall back onto council without any funds for the additional resourcing it is likely to require.

As stated above, none of this is not in line with earlier advice to the DPE about where and how we wanted these land uses to apply to Byron Shire.

I have already written to the Minister for Planning about this (Attachment 3) E2022/84944.

- 30 I understand that Ballina Shire and Tweed Shire Councils have raised similar concerns. Also, LGNSW has made a submission to the Minister for Planning on behalf of local government about same (Attachment 4).

None of the issues have been properly acknowledged or responded to by the DPE. The reform process is continuing regardless of the concerns raised by councils.

- 35 A further webinar by the DPE was held on 12 October 2022 about the reforms package, and to ask if councils wanted to further expand when the land uses applied. Councils were

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also invited to request a meeting with the Planning Legislation and Economic Policy team to discuss the reforms by Friday 14 October. A meeting request has been made by staff.

5 Notwithstanding the above, the DPE have advised that it will finalise the reforms by 23 December 2022. It is understood that any changes to Byron's LEPs will be made by the DPE in February 2023.

I do not accept that this has been a transparent or fair way to implement such a significant statewide planning policy, give the implications that these state-imposed land use changes will have on rural lands in Byron Shire.

Signed: Cr Michael Lyon

10

NOTICES OF MOTION

Notice of Motion No. 9.1 Civil Engineer Mentoring

File No: I2022/1447

5

I move that Council:

- 10
1. **Recognises a shortage of Civil Engineers to design and to supervise construction of works required within Byron Shire, as in neighbouring Shires, for flood recovery and especially for betterment of public infrastructure to withstand future impacts of natural forces (sometimes labelled a ‘natural disaster’).**

 - 15 2. **Considers during November harnessing local Civil Engineers whether retired or practising to help fill this gap by collaborating with Council-employed Engineers, on conditions that could include the following:**
 - a) **they be “members” or better of the Institution of Engineers Australia, including retired members;**

 - b) **they act as mentors of Council’s own Engineers; and**

 - 20 c) **Council provides support in relation to liabilities etc such that the mentor’s contribution, while voluntary, is at no cost to themselves.**

 - 25 3. **Makes contact with such engineers through networks including qualified members of Council’s Advisory Committees and via the local chapter of I E Australia.**

Signed: Cr Duncan Dey

Councillor’s supporting information:

30 Byron Shire and this region are home to experts in many fields, including that of Civil Engineering.

At the first meeting on 16 June of Council’s Infrastructure Advisory Committee, frank discussions took place as to delays that may frustrate the general public in the delivery of post-flood projects. Such projects may eventually mount to hundreds of \$millions spent, much of that on roads and related infrastructure. Reasons for delays include shortages of

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materials and competition with neighbouring flood affected communities. The shortages includes qualified Engineers.

5 The concept was put to the committee meeting in June of rapidly finding Civil Engineers overseas, via the s455 visa system. I do not support poorer communities suffering shortages in their experts just to fulfill our own first world needs. I do support an approach as described above and I greatly support the concept of mentoring, which enables experts with experience to guide and empower more newly qualified engineers to learn.

10 Mentoring would mean that ultimate control remains in the hands of Council employees, but advice is at their fingertips in areas like technical design, Standards, Tendering, Contract Supervision, etc.

Staff comments

by Phillip Holloway, Director Infrastructure Services

15 Following the February 2022 Declared Natural Disaster a significant staff resource deficiency has been identified across the Northern Rivers of suitably qualified project managers, technical/ engineering and civil construction staff.

It is understood that up to 27 additional Project Engineers alone are required to assist in the recovery effort on top of the existing resources within the Northern Rivers Councils.

20 The significant gap in resources is also compounded by loss of key staff to the private sector, stress on housing availability and the increase of the cost of living in the Northern Rivers.

Byron Shires current estimate of infrastructure recovery in addition to business as usual infrastructure works is in the order of \$200M. This is likely to increase as additional grant programs are released in response to the event.

25 Council's People & Culture staff identify that the notice of motion for Civil Engineering Mentoring is a concept worth exploring.

Points of further investigation.

- Consultation of staff and relevant unions.
- Determination of who would determine the expertise level of prospective mentors.
- Consider partnership with SCU, IPWEA, LGEA
- 30 • The mentoring program could be facilitated by a public expression of interest for Engineering mentoring from suitably qualified members within the community.
- Onboarding could be delivered like the process used for the engagement of section 355 committee members.

Risk areas

- If mentors have been out of the industry, skill sets would need to be determined to have current skill ability and knowledge of current legislation.
- Maintaining confidentiality and non-disclosure.
- 5 • Liability worn by a compromised decision.

Local Challenges:

- a) Impact of the March 2022 flood disaster recovery and response on Council operations.
- 10 b) Rising cost of living in Byron Shire and across the Northern Rivers, particularly housing availability and affordability.
- c) Skills shortages in professional areas and increased competition for talent.
- d) Challenges in attracting and retaining talent.

Workforce Impacts

15 Byron Shire Council is adopting a future-focused approach to the management of its human resources to ensure it is well positioned to meet future workforce requirements. The challenges and pressures faced by local governments as we transition to the new workplace of the future will:

- Require a different approach to attracting, retaining and engaging talent; and
- 20 • Require capacity building of core workforce and flexibility in accessing alternate resourcing options.

Resourcing

Adopt a planned resourcing approach to our workforce and balance the investment in our core workforce with flexible resourcing options to maintain employee costs.

Financial/Resource/Legal Implications:

25 If attendance on site is required, the appropriate levels of public liability will be required.

The preference is that no financial delegation or decision undertaking would be provided to the mentor and the cost of the administration to the onboarding and engagement would need to be funded by Council.

Is the proposal consistent with any Delivery Program tasks?

Yes

CSP Objective	CSP Strategy	DP Action
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.4: Enhance organisation capability through innovative practices and regional partnerships	1.4.3 Regional networks - Collaborate with regional partners to establish and contribute positively to regional goals and priorities

OR

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	1.2.1: Community-led decision making - Engage with community to inform Council decision making	1.2.1.1	Provide opportunities for the community to have input, comment and feedback to Council on projects and matters of interest.

5

Notice of Motion No. 9.2 Drainage capital works budget

File No: I2022/1448

5

I move that Council:

1. **Recognises the lack of overland flow routes in many of the Shire's urban areas, often served only by underground pipes to carry local stormwater.**
- 10 2. **Recognises the underground pipes generally carry 2-year to 5-year ARI stormwater flows and that excess stormwater often has to find its way through the area with no defined flow route.**
3. **Recognises that such overland flow routes sometimes cross public spaces that could be reshaped to better carry such stormwater, resulting in less flooding.**
- 15 4. **Notes that our annual budget for Drainage Capital Works is currently \$306,000, sourced from the annual Stormwater Levy.**
5. **Considers through this year's September Budget Review a budget to double that allocation with a matching amount from general revenue or from other sources.**
- 20 6. **Expedites and renames the "Stormwater Levy Program" to achieve those works on a quicker timeframe than is currently possible.**

Signed: Cr Duncan Dey

25 Councillor's supporting information:

A typical location impacted by lack of an overland flow route is the low point in Julian Rocks Drive. Draining that low point is a pipe in an easement 3m wide, running between Lots 103 and 104. There is a crest on that easement so local stormwater ponds in JRD over the stormwater grates, until the pipe system beneath them can relieve the situation.

- 30 Current design standards require an overland flow route relieve that pondage before it can enter buildings or create other problems. To facilitate development in the past, such 'safety' measures were not required. The current generation must retrofit good practice and the public purse must open to do that.

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Landholders of JRD are seeking safety from inundation, as are landholders in low-lying urban areas across the Shire. Being flooded by flood flows in major waterways is relatively unavoidable, other than by house-raising. Being flooded by local runoff is avoidable by local measures.

- 5 This motion seeks Council's support to accelerate an otherwise languishing program.

Staff comments

by Scott Moffett, Flooding and Drainage Engineer, Infrastructure Services and James Brickley, Manager Finance, Corporate and Community Services:

- 10 The need for Council to invest more funding into stormwater drainage is not disputed, however, the funding priorities of Council and available revenue to fund those priorities are competitive against other Council priorities.

- 15 Currently before finalisation of the 30 September 2022 Quarterly Budget Review, Council has a projected budget deficit position of \$207,000 for the 2022/2023 financial year. This deficit assumes accounting for all of Council's available revenue sources estimated for 2022/2023. Council also has no unrestricted cash presently due to the impacts on cash flow relating to expenditure on flood recovery as at 30 June 2022 even though Council has an adopted target of \$1million.

- 20 Part 4 to this Notice of Motion notes that Council's Drainage Capital Works budget is \$306,000 for the 2022/2023 financial year. This correlates to the funding available from the annual stormwater levy charge that has been in place since 2006 by State government regulation. No increase in the charge has been approved by State Government since its introduction seventeen years ago.

- 25 Council is investing significantly more than \$306,000 in the 2022/2023 budget. Following the adoption of Budget Carryovers from the 2021/2022 financial year by Council on 25 August 2022 plus what is in the original 2022/2023 budget, Council's drainage capital works program for 2022/2023 is \$1,524,000.

- 30 Part 5 to this Notice of Motion requests that Council consider an additional \$306,000 in funding through the 30 September 2022 Quarterly Budget Review through general revenue or other sources. Given the current budget position, it will be unlikely a further \$306,000 will be able to be found unless Council makes a decision to reduce a service levels elsewhere in the Council budget to identify the funding required.

- 35 Further, the overall Council capital works budget for 2022/2023 is currently \$95,453,000 before consideration of the 30 September 2022 Quarterly Budget Review. It is suggested capital works at this level is beyond Council's capacity to deliver this financial year and should be reviewed to reduce the level of works proposed.

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Part 6 to the Notice of Motion requests Council rename the 'Stormwater Levy Program'. Council is bound to track the 'Stormwater Levy Program' and must do distinct reporting on it in the Annual Report as per Section 217(1)(e) of the Local Government (General) Regulation 2021. Therefore, it is suggested Council not support Part 6.

5 **Financial/Resource/Legal Implications:**

Please refer to staff comments

Is the proposal consistent with any Delivery Program tasks?

Yes

The proposal is linked to Council's 10 year stormwater levy program

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
Community Objective 1: We have infrastructure, transport and services which meet our expectations	1.1: Provide a road network which is safe, accessible and maintained to an acceptable level of service	1.1.6: Provide stormwater infrastructure to manage flood mitigation, social and environmental outcomes	1.1.6.1	Review and update 10 year Stormwater Levy program

10

SUBMISSIONS AND GRANTS

Report No. 11.1 Grants September 2022

Directorate: Corporate and Community Services

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

File No: I2022/1463


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 (#E2022/99455) for Byron Shire Council's grant submissions as at 30 September 2022.**

Attachments:

20 1 Grant submissions as at 30 September 2022, E2022/99455 

Report

Currently Council has several grant submissions awaiting determination (refer to Grants Report September 2022 Attachment 1 E2022/99455).

Successful applications

5 Transport for NSW Get Active

Council has been advised that it has been successful for the following projects:

- Lismore Road (Bangalow) - \$97,900
- Raftons Road (Bangalow) - \$53,800
- 10 • Lighthouse Road (Byron) - \$80,000

The shared path projects funding is for design only and will include community consultation during 2023. When designs are completed, Council will be able to apply for construction funding in further rounds.

- 15 The Transport for NSW *Get NSW Active* funding program invests in projects that support safe, easy and enjoyable walking and cycling trips.

Unsuccessful / withdrawn applications

- 20 Council was advised that it was unsuccessful under the NSW Office of Responsible Gambling Grants for its \$180,000 application for the Byron Recreation Grounds Playground upgrade. Feedback provided was due to the over subscription of applications to the funding pool; only 8% of applications were awarded funding.

Applications submitted

The following applications were submitted during September 2022.

Funding Body	Funding scheme	Project name	Total project value \$	Amount requested \$	Council Contribution \$
NSW Department of Planning	Regional Housing Strategic Fund	Former Mullumbimby Hospital site	280,000	250,000	30,000
Regional NSW	Stronger Country Communities Fund#	Byron Community Hub	6,436,956	1,236,956	3,500,000
Transport for NSW	Fixing Local Roads R4	Left Bank Road rehabilitation	1,588,151	1,588,151	0

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SUBMISSIONS AND GRANTS

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Funding Body	Funding scheme	Project name	Total project value \$	Amount requested \$	Council Contribution \$
		program			
Transport for NSW	Fixing Local Roads R4	Suffolk Park reseal program	958,076	958,076	0
Transport for NSW	Fixing Local Roads R4	Bangalow reseal program	971,371	971,371	0
NSW Office of Sport	Sports Infrastructure Recovery Fund*	Various projects Shire wide	2,972,717	2,713,857	258,860

#Note: Funding requested support for the escalating building costs of the Byron Community Hub as a result of COVID-19 building boom and AGRN1012 flood disaster rebuilding.

5 *Note: The Sports Infrastructure Recovery Fund application relates to flood impacted only sports facilities. It was only open to local government, but applications could be made on behalf of other non-owned or managed Council facilities. There is a total Council allocation of \$1.5 million funding; however, submissions totalled just under \$3 million. Project nominations included Mullumbimby Recreation Grounds amenities and storage blocks, Linda Vidler Park drainage, Cavanbah Centre Netball Courts, Cavanbah Centre Car park repairs, Mullumbimby Recreation Cricket, Tom Kendall Sports Grounds, Tyagarah Fields Parachute Landing, Mullumbimby Rugby Leagues Club and Ocean Shores Country Club.

10

Upcoming grant opportunities

[Arts and Culture Priority Needs Program - Create NSW](#) – closes 30 November 2022.

15 The aim of this program is to prioritise funding to support assessment and planning and urgent small-scale repair and replacements for arts and cultural infrastructure assets most affected by the February – March 2022 floods.

Funding is available for:

- 20 • damage and risk assessments, feasibility studies, planning, design and options for repair, rebuild, replacement of arts and cultural infrastructure assets that consider flood mitigation strategies and supporting potential future resilience,
- protection and make safe works to ensure arts and cultural infrastructure assets are not further damaged; and

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- urgent small capital works on arts and cultural infrastructure assets to enable creative activity to continue.

5 Projects cannot be submitted if the works have already been covered or claimed under insurance or from other Australian or NSW government programs. Council's arts and culture buildings (Mullumbimby Civic Hall, Drill Hall and Kohinur Hall) impacted by the floods are currently covered by insurance. No application is anticipated to be submitted.

[Infrastructure Betterment Fund | NSW Government](#) – closes 15 December 2022.

10 The Australian and NSW governments are delivering a new approach to rebuilding disaster affected roads, bridges and other critical public infrastructure, making them more resilient and able to better withstand future natural disasters.

The \$200 million Infrastructure Betterment Fund *will promote rebuilding infrastructure in a way that reduces vulnerability to future disasters, provides continuity of essential services and lowers the risk of economic impact due to a natural disaster.*

15 The Infrastructure Betterment Fund will consider not only where but how essential public assets are being built. Better, stronger public assets mean that the risks associated with future natural disasters can be minimised.

Delivered by Department of Regional NSW.

Eligible Assets:

20 *Transport, Tourism, Water and Sewerage, Telecommunication and other public infrastructure assets*

Eligible Applicants:

Local Councils, Local Aboriginal Land Councils and NSW State agencies (the entities listed in the table on page 12)

Relevant disasters:

25 *Direct Damage from AGRN 871, 954, 960 or 1012*

Eligible impact area:

91 LGAs across NSW

Source: [Infrastructure Betterment Fund Guidelines](#) p. 7

30 [Regional Roads and Transport Recovery Package](#) (RRTRP) – closes 1 December 2022.

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RRTRP \$312.5 million funding is available for transport infrastructure resilience improvements (referred to as betterment activity). That is, resilience improvements that are in addition to the repair and reconstruction of damaged road and transport assets.

5 **Eligible Assets:**
Transport infrastructure assets

Eligible Applicants:
Local Councils and TfNSW

Relevant disasters:
Direct Damage from AGRN 1012

10 **Eligible impact area:**
26 Northern NSW LGAs

Source: [Infrastructure Betterment Fund Guidelines](#) p. 7

The funding is split as a 60:40 notional allocation for local assets and State assets respectively

15 Funding is available to Council's impacted by AGRN1012 February and March 2022 floods.

Delivered by Transport for NSW.

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

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
5 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 \$19.2 million which would provide significant funding for Council projects.
10 Some of the grants require a contribution from Council (either cash or in-kind) and others do not. Council's contribution is funded.

The potential funding is detailed below:

	Requested funds from funding bodies	\$19,169,466
	Council Contribution Cash	\$18,983,074
15	Council Contribution In-Kind	\$0
	Other contributions	\$0
	Funding applications submitted and awaiting notification (total value)	\$39,450,840

Consultation and Engagement

20 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 Community Engagement Strategy

Directorate: General Manager

5 **Report Author:** Annie Lewis, Media and Communications Coordinator

File No: I2022/1469

Summary:

The purpose of this report is to present the Draft Community Engagement Strategy to Council for endorsement to go on public exhibition for 28 days.

10 The updated Integrated Planning and Reporting Guidelines from the Office of Local Government requires every council in NSW to adopt a Community Engagement Strategy before the end of December 2022.

15

RECOMMENDATION:

1. That Council endorses the Draft Community Engagement Strategy to be placed on public exhibition for 28 days (Attachment 1 #E2022\100711).

2. That:

20 a) If no submissions are received, the Community Engagement Strategy is adopted.

b) If submissions are received, the Community Engagement Strategy and submissions are reported to Council for consideration, prior to adoption of the Strategy.

25 **Attachments:**

1 Draft Community Engagement Strategy, E2022/100711 

Report

In September 2021 the NSW Office of Local Government released its updated Integrated Planning and Reporting (IP&R) Guidelines. The Guidelines require that all NSW councils are to adopt a Community Engagement Strategy as part of their IP&R suite of documents by the end of December 2022.

The Community Engagement Strategy is an over-arching strategy to support the development of Council’s plans, policies, programs and key activities.

Using the information set out in the IP&R Guidelines, the draft Community Engagement Strategy (the Strategy) has been prepared to incorporate the mandated components and standards including the identification of stakeholders and tools Council uses to communicate with the community.

The IP&R Guidelines allow for a Council’s Community Engagement Strategy and its Community Participation Plan to be incorporated into one document or to exist as two separate documents. Council has taken the latter approach, keeping two documents separate. The Community Engagement Strategy acknowledges and reflects the principles of the CPP. However, Council’s [Community Participation Plan](#) outlines the specific requirements under the *Environmental Planning and Assessment Act* and is to be refreshed/renewed in 2023. There may be a preference at that time to incorporate it into the Community Engagement Strategy.

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	1.2.2: Communication - Provide timely information to the community about Council projects and activities through traditional and digital media	1.2.2.4	Develop a new Community Engagement Strategy to support the Community Strategic Plan

Legal/Statutory/Policy Considerations

Following is a summary of the requirements of [section 402A of the Local Government Act](#):

“A council must establish and implement a strategy for engagement with the local community (called its Community Engagement Strategy) when developing its plans, policies and programs, and for the purpose of determining its activities (other than routine administrative matters)”

The Integrated Planning and Reporting [Guidelines](#) and [Handbook](#) provide further guidance on the preparation of a *Community Engagement Strategy*.

Financial Considerations

Not applicable.

5 Consultation and Engagement.

A copy has been sent to the Communications Panel for consideration and a consultation and engagement plan will be prepared.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.2 Annual Community Awards Ceremony

Directorate: Corporate and Community Services

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

File No: I2022/1199

Summary:

10 Each year Council holds the Australia Day Awards as a community recognition program for Byron Shire residents. This report has been prepared to consider the appropriateness of holding the awards in conjunction with Australia Day.

15 At the 25 August 2022 Council Meeting, Council resolved to begin consultation with Byron Shire community stakeholders, particularly local Aboriginal community representatives, on a community recognition program with a view to discontinue the Australia Day Awards Ceremony and establish a more inclusive annual Byron Shire Community Awards program to be held at another time during the year.

20 This report presents the findings from consultation for consideration. The majority of survey participants were in favour of changing the date of the awards and indicated that this would increase their level of involvement in the awards. As such, it is recommended that Council replace the Australia Day Awards with a community awards program at another time of year and establish a working group to consult with on the event.

25 As the purpose of the awards is to recognise and celebrate members of the community, holding the Awards ceremony at another time of year would allow for this to be the focus of the event.

RECOMMENDATION:

That Council:

- 30
1. **Notes the feedback received from the community regarding replacing the Australia Day Awards ceremony with a more inclusive event at another time of year.**
 2. **Endorses the Australia Day Awards be replaced by a new award program, with an event to be held during Local Government Week (1-7 August).**
 - 35 3. **Establishes a project reference group to consult with on aspects of the awards program, membership is to consist of:**


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- a) Councillor _____
 - b) Former Australia Day Award recipients, such as the 2022 Citizen and Young Citizen of the Year
 - c) Two randomly selected survey respondents
- 5 4. Notes guidance from the Department of Prime Minister and Cabinet regarding flying flags at Council and on Council owned buildings at half-mast.

Attachments:

- 10 1 Australia Day Awards Your Say Survey Results, E2022/97348 

Report

Following a Notice of Motion submitted by Mayor Lyon, Council resolved (**22-431**) to:

- 5 1. *Begin consultation with Byron Shire community stakeholders, particularly local Aboriginal community representatives, on a community recognition program with a view to:*
 - a) *Discontinuing the Australia Day Awards Ceremony held by Byron Shire Council each year.*
 - b) *Establishing a more inclusive annual Byron Shire Community Awards program to be held at another time during the year.*
 - 10 c) *Considering the flying of all flags at Council and on Council owned buildings at half-mast on 26 January & on Sorry Day, 26 May*
 - d) *Considering any other relevant matters that pertain to Australia day.*
- 15 2. *That a report be provided back to Council on the outcomes of the consultation for decision.*

Background to the Australia Day Awards

20 The Australia Day Awards are a feature of Australia Day celebrations in many local governments across Australia. The Australia Day Council of NSW guides the awards and provides in-kind support through the provision of certificates for award recipients and by supporting the Australia Day Ambassador program.

Historically, the Awards have been Council's primary community recognition program in the Byron Shire.

25 Each year, the community are invited to nominate candidates for an award and a recipient is determined by an evaluation panel consisting of a councillor, council staff, and past award recipients. In recent years the Awards have been advertised via online, radio, and print media. The awards are typically held alongside a dinner event on the eve of Australia Day, with the exception of 2022 which was a virtual event owing to COVID-19 restrictions.

The 2022 Award categories were as follows:

- 30 1. Citizen of the Year
2. Senior Citizen of the Year
3. Young Citizen of the Year
4. Volunteer of the Year

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5. Sportsperson of the Year
6. Creative Artist of the Year
7. Community Event of the Year
8. Environmental Program of the Year

5 Key issues

Community sentiment in Byron Shire has highlighted the complexities of holding a celebratory event in conjunction with the 26th of January due to the history associated with the date.

- 10 Several councils have moved their celebratory award events to another time of the year. Examples of Councils which do not hold award ceremonies on or in conjunction with Australia Day include Inner West Council, Sydney NSW, and the Cities of Darebin, Merri-bek, and Yarra in Melbourne, VIC, as shown in the below table:

Council	2022 Date	Event	Award categories
Darebin City Council	24 March	Darebin Community Awards	<ul style="list-style-type: none"> • Citizen of the Year • Young Citizen of the Year • Aboriginal & Torres Strait Islander Community Leader of the Year • Community Leader of the Year • Aboriginal & Torres Strait Islander Emerging Young Community Leader of the Year • Young Community Leader of the Year • Community Group of the Year • Sustainability Award • Lifetime Achievement Award • CALD Emerging Community Leader of the Year • CALD Elder Community Leader of the Year
Inner West Council	20 May	Community Awards	<ul style="list-style-type: none"> • Citizen of the year • Amy Large volunteer Awards
Merri-bek City Council	18 October	Merri-bek Awards	<ul style="list-style-type: none"> • Community event of the year • Contribution to arts and culture • Collaborative partnerships • Contribution to sports • Youth contribution • Volunteer of the year • Environmental sustainability achievement • Lisa Belleard award for contribution to reconciliation activities

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Council	2022 Date	Event	Award categories
			<ul style="list-style-type: none"> • Honouring women in Merri-bek • Access and inclusion
Yarra City Council	16 November	Yarra Community Awards	<ul style="list-style-type: none"> • Citizen of the Year (aged 26 years or older) • Young Citizen of the Year (aged between 12 to 25 years) • Community Initiative of the Year • Contributions to Arts • Contributions to Sport • Contributions to Heritage • Contributions to Diversity and Inclusion

The association with Australia Day has raised concerns by some members of the community. In 2022, there was an example where a recipient declined to accept the award for Community Event of the Year out of respect for first nations people.

5 Alongside the opposition towards the date, engagement in the Awards has been declining. Fewer nominations have been put forward for each category in recent years despite widespread promotion. Some of the barriers to participation in the Awards that may be contributing to this are:

- a) The timing of the Awards, including when nominations are invited and the ceremony held, is during the summer holiday period, a busy time for many.
- 10 b) The Awards discourage non-citizens from being nominated and Byron Shire is renowned for attracting people from around the world. This requirement potentially excludes a portion of the community who may be worthy of an award due to their achievements and length of service despite their citizenship status.
- 15 c) The impacts of COVID-19 on participation in public events. The 2022 ceremony was held virtually which may have lessened the level of community involvement.

Taken together, these issues present an opportunity to revitalise the Awards into a more inclusive and accessible event that better reflects the community. Holding an awards ceremony at another time of the year would remove any political or other ties and ensure the focus of the event is on celebrating the achievements of the community.

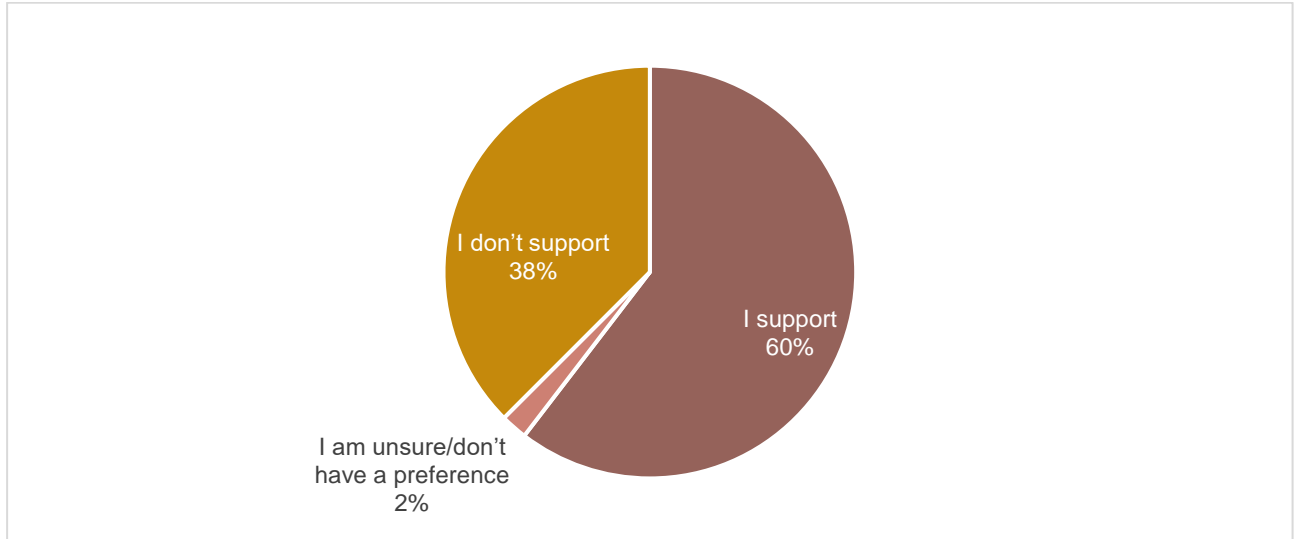
20 Residents were invited to have their say on whether the Awards should continue to be held in association with Australia Day or whether they should be replaced with a more inclusive event at another time of year. A relatively small number of responses (48) were received. This suggests that there is not a strong appetite to engage on this issue and may be further indicative of decreased engagement in the Awards program at large.

25 Feedback from consultation is summarised in the following section.

Feedback from the Community

Of the 48 survey respondents, 29 were in favour of changing the date of the awards ceremony. A slight majority at 60%.

Figure 1 gives a breakdown of the responses.



5

Figure 1: Survey responses indicating support for holding the Awards ceremony on another date

For those in favour of holding the Award ceremony on another date (29), 23 of the respondents indicated that they would be more likely to participate. Only one respondent was not interested in participating and the majority selected that they would be more inclined to participate in the awards if the date was changed. This is illustrated below:

10

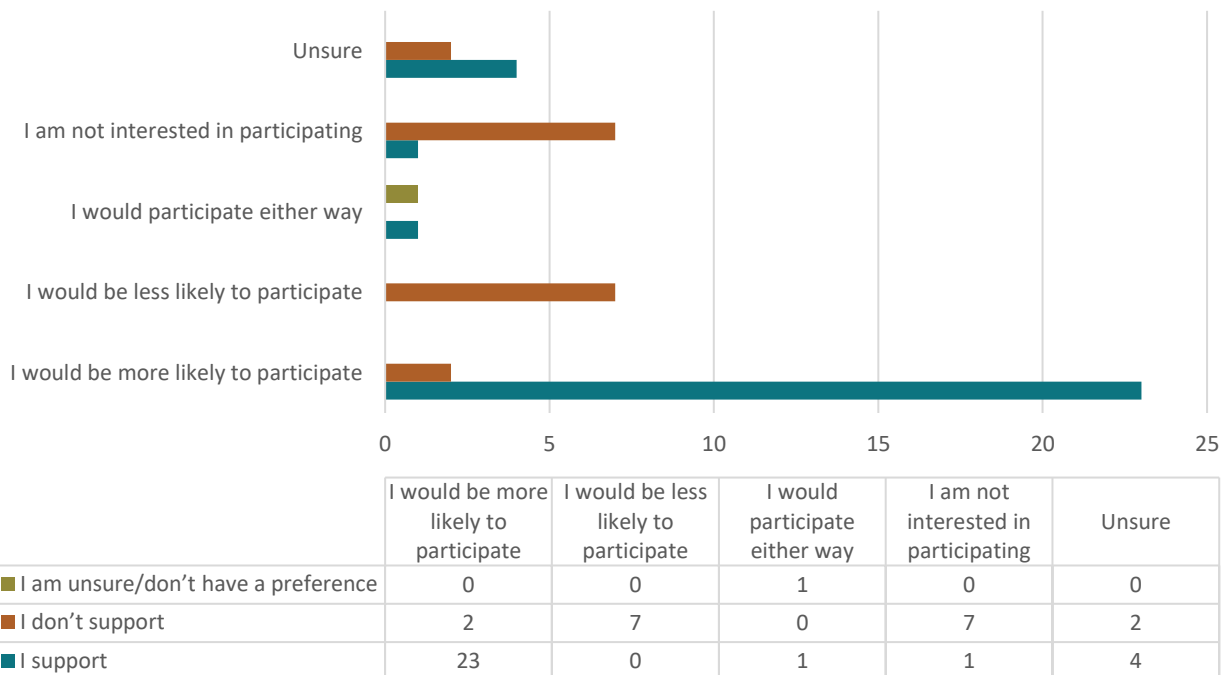


Figure 2: Survey responses indicating their willingness to participate in the Award ceremony, depending on their support

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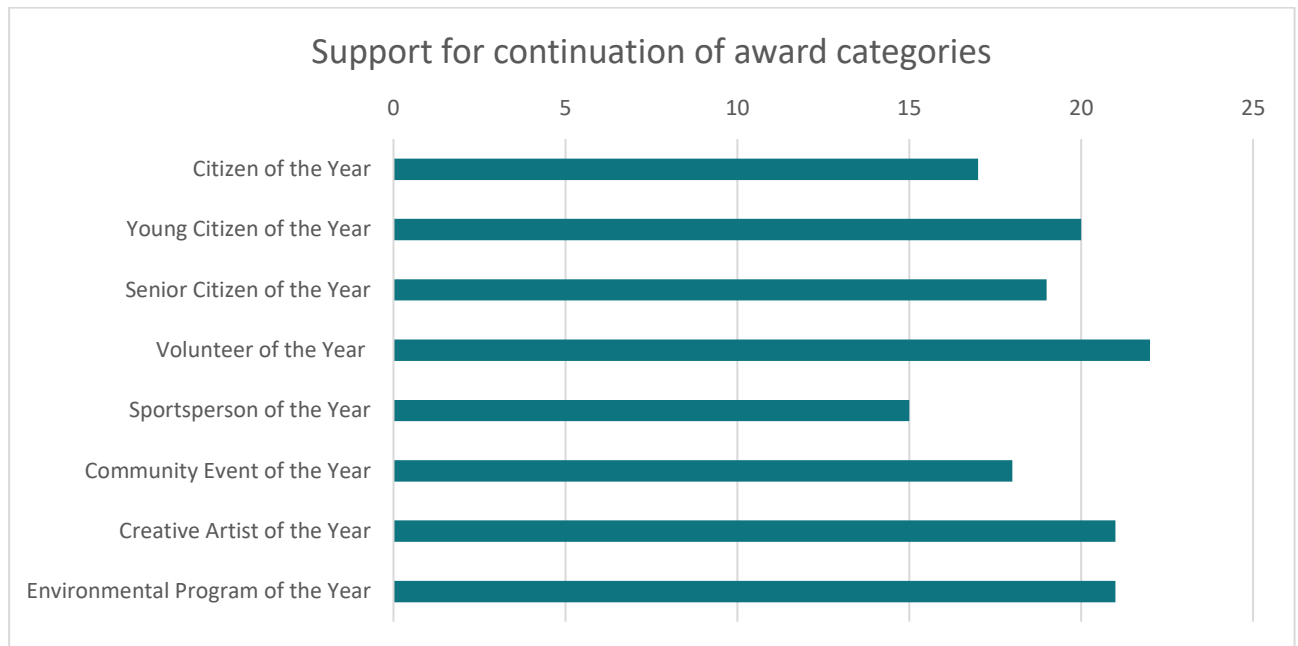
A much larger proportion of respondents who did not support changing the Awards selected that they were not interested in participating in the community awards regardless.

- 5 The survey also captured suggestions from the community for an alternative date and additional award categories that could be incorporated into the Award program. These suggestions are listed in the below table.

<p>Suggestions for alternative date</p>	<ul style="list-style-type: none"> • Same day as Citizenship Day • October • Any time that is not associated with Australia Day • May 8th • Anzac Day • Away from other significant events. A date of its own. • 28 July • At the conclusion of each year • Maybe this could take place on or around harmony day • Doesn't have to be a public holiday • 30 January • On a date that is not offensive to anyone • May along with celebrating volunteers in that month • Solstice or Equinox • A neutral date significant to our Shire • Not January • Another day in January
<p>Suggestions for alternative Awards categories</p>	<ul style="list-style-type: none"> • Science and/or innovation-based award • Inclusivity and accessibility award • Community Group of the year • Community Initiative of the year • Local Business of the year • Local charity of the year • Neighbourhood Hero • Indigenous names for awards • Socially minded business of the year • Best New Business of the year • Best Not-For-Profit Organisation of the year • Best Community Project of the year • Advocacy Program of the year • Advocate of the year • Social impact program of the year • Change language away from 'citizen' • Nursing home of the year • Volunteer organisation of the year • First nation history and culture focus • Activist of the year • Lifetime achievement by a person or organisation

	<ul style="list-style-type: none"> • Charity of the year • Good Neighbour
--	---

5 Survey participants were also asked for their views on continuing the current awards categories. The below chart illustrates that there was variation in the level of support for continuing each of the Award categories. Continuing the 'Volunteer of the Year Award' was the most voted for by survey respondents.



Feedback from Stakeholders representing the local Aboriginal community

10 Direct consultation was undertaken with local Aboriginal stakeholders, including Arakwal Corporation and Tweed Byron Local Aboriginal Land Council. The feedback from these groups indicated that there is no unified position regarding holding an awards ceremony on Australia Day, rather there is a diverse range of opinions.

15 A number of suggestions have been put forward as to how an awards event could embrace elements of Aboriginal culture. This includes a traditional welcome and incorporating native bush tucker into the menu design.

20 Consultation with Aboriginal stakeholders regarding other issues pertaining to Australia Day is ongoing and involves complex issues unlikely to be resolved in the short term. Furthermore, there was an expressed desire for greater attention to be given to NAIDOC Week as a celebration of Aboriginal culture.

25 Local Government Week (1-7 August)

While there were many suggestions for alternative dates to hold the Award ceremony on, there was not overwhelming support for one particular date.

Local Government Week is held annually over the first week in August. The purpose of Local Government Week is to showcase the work councils do in their local communities, including the wide variety of services they provide. This is an opportune time to also celebrate the remarkable contributions by the community.

5 This is currently the recommended alternative date. The working group (see below) will consider which day will achieve the greatest community participation and timing of the event (for example day / night).

10 **Implications of discontinuing the Australia Day Awards**

Replacing the Awards with a ceremony at another time of the year would not have any bearing on other Australia Day activities that may be held in the Byron Shire. For example, a Citizenship Ceremony will continue to take place in a respectful and considered manner on Australia Day as per Department of Home Affairs guidelines. Council would continue to seek the allocation of an Australia Day Ambassador to attend the Citizenship Ceremony and any other community led events that may be held on the day.

20 **Flying Council owned flags at half mast**

Resolution **22-431** further requested that the consultation:

- c) *Consider[s] the flying of all flags at Council and on Council owned buildings at half-mast on 26 January & on Sorry Day, 26 May*

25 The Australian National flag is subject to the [Department of Prime Minister and Cabinet flag protocols](#). Council follows these regulations when determining whether to fly the flags at half-mast.

30 Stakeholders representing Aboriginal communities have also requested consistency between the Aboriginal and Torres Strait Islander flags and the Australian National Flag. Specifically, that if the Australian National Flag is not at half mast, the Aboriginal and Torres Strait Islander flags should not be either.

Project Reference Group

35 Following Council decision on how to proceed with the community awards, planning and consideration for the event will begin.

40 Given the wide range of feedback, it is proposed that a project reference group be established to consider the ideas and suggestions and to help develop the inaugural Byron Shire Community Awards program. The project reference group membership is proposed to consist of:

- One Councillor
- Former Australia Day Award recipients, such as the 2022 Citizen and Young Citizen of the Year
- 45 • Two randomly selected survey respondents

Other survey participants who expressed interest in ongoing consultation will be further consulted as part of this process.

- 5 The aim of the project reference group will be to develop an award ceremony program that is inclusive, cohesive, and community centred. The reference group will be consulted at various points as the project progresses, for example on the format of the timing of the event (weekday / weekend, daytime / evening), the format of the event and opportunities to bring more inclusive elements into the program, and the award categories.

Strategic Considerations

10 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	2.1: 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	2.1.3.2	Develop a community awards program with a view to holding the inaugural event in early 2023

Recent Resolutions

- **22-431** – Community Awards Ceremony

Legal/Statutory/Policy Considerations

[Flags Act 1953](#)

15 Financial Considerations

Council allocates approximately \$13,000 annually to fund the Australia Day program. The portion of this budget that would ordinarily be used to fund the Award Ceremony will continue to be used to fund the Award ceremony, irrespective of what date it is held.

- 20 The funding provided to Council from the National Australia Day Council of approximately \$20,000 in each of the last two years is not guaranteed. The guidelines were recently released, with up to \$20,000 funding available for Australia Day event hosts to deliver events that use the NADC’s ‘Reflect. Respect. Celebrate. We’re all part of the story’ branding and is inclusive of all Australians. Furthermore, an additional \$10,000 is available
- 25 to incorporate activities that reflect and respect the history of local Aboriginal people. Council will investigate whether this funding may be suitable to support the Citizenship Ceremony that will be held on 26 January.

Consultation and Engagement

Consultation with local Aboriginal community representatives

Council invited the Arakwal Corporation and Tweed Byron Local Aboriginal Land Council to consult on this project.

5 *Community consultation*

A YourSay survey was launched on 13 September 2022 on the Byron Shire Council website. The Survey was advertised in the 21 September edition of the 'Echo' Newspaper and promoted on Councils social media account. A number of local community groups and organisations were also invited to participate in the survey via email.

10 In total, there were 48 surveys responses received (Attachment 1).

The survey included two mandatory questions which were:

- a) How do you feel about replacing our current Australia Day Awards Ceremony with an annual Byron Shire Community Awards Ceremony on another date?
- b) How would changing the date affect your involvement in the community awards?

15 Other questions asked for suggestions on awards categories and alternative dates to hold community awards. A series of demographic questions were included to test the representativeness of the findings.

20 The Access Consultative Working Group were consulted on their views regarding the inclusivity and the accessibility of the event. They suggested the inclusion of an 'Inclusivity and accessibility award.' Their feedback has been included in the suggestions presented in the report and will be considered in the planning of the event.

Report No. 13.3 Termination of Brunswick Valley Community Centre Section 355 Management Committee

Directorate: Corporate and Community Services

5 **Report Author:** Pamela Durkin, Social and Cultural Support Officer, CACS - Social & Cultural Planning

File No: I2022/1284

Summary:

10 In August 2022 the framework for the management of the Brunswick Valley Community Centre was transferred from a Section 355 Management Committee to lease agreement with Byron Respite Services, Confidential Attachment 1 (E2022/78867). Byron Shire Respite Service Incorporated (ABN 80 199 561 418) has signed a five-year lease for the Brunswick Valley Community Centre, with an option of three by five-year renewals to total a twenty-year lease and as a Lessee, now manages all bookings, enquiries and payments related to the use of the facility.

15 Resolution **21-310** dated 26 August 2021, item 4 resolved to dissolve the s355 Committee:

4. 'That Council terminates the Delegated Authority under Section 377 of the Local Government Act 1993 for a Brunswick Valley Community Centre Section 355 Management Committee and authorises the winding-up of the section 355 Committee on the commencement date of the proposed lease.'

20 Subsequently, the associated fees and charges now need to be also rescinded.

RECOMMENDATION:

25 1. **That Council rescinds adopted fees and charges as set in Council's 'Revenue Policy including Fees and Charges 2022 to 2023' for the Brunswick Valley Community Centre.**

Attachments:

30 1 Confidential - Completed Lease between Byron Shire Council and Byron Shire Respite Service Incorporated commenced 15 August 2022 for 5-years., E2022/78867

Report

In August 2022 the framework for the management of the Brunswick Valley Community Centre was transferred from a Section 355 Management Committee to lease agreement with Byron Respite Services, Confidential Attachment 1 (E2022/78867). Byron Shire Respite Service Incorporated (ABN 80 199 561 418) has signed a five-year lease for the Brunswick Valley Community Centre, with an option of three by five-year renewals to total a twenty-year lease and as a Lessee, now manages all bookings, enquiries and payments related to the use of the facility.

Resolution **21-310** dated 26 August 2021, item 4 resolved to dissolve the s355 Committee:

4. *‘That Council terminates the Delegated Authority under Section 377 of the Local Government Act 1993 for a Brunswick Valley Community Centre Section 355 Management Committee and authorises the winding-up of the section 355 Committee on the commencement date of the proposed lease.’*

Subsequently, the associated fees and charges now need to be also rescinded.

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	1.5.3: s355 Committees - Support the management of community halls to delegated s355 committees	1.5.3.1	Support Council volunteers with the delivery and management of community halls

Recent Resolutions

Resolution **21-310**: Lease to Byron Shire Respite Service Incorporated

Resolution **22-029**: Establishment and Delegation to Section 355 Committees

- Resolution **22-093**: Appointment of Committee members to Section 355 Committees and Boards

Legal/Statutory/Policy Considerations

N/A

Financial Considerations

5 Resolution **21-310**: Council issued the lease to Byron Shire Respite Service Incorporated in accordance with s47 and s47A of the Local Government Act and dissolved the former s355 Committee.

Council needs to formally resolve to rescind associated fees and charges.

Consultation and Engagement

10 28-day public notice of the lease with Byron Shire Respite Service Inc was undertaken in accordance with resolution (**21-310**) and the Local Government Act. No submissions were received.

Report No. 13.4 Council Investments - 1 September 2022 to 30 September 2022

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

5 **File No:** I2022/1397

Summary:

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

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

RECOMMENDATION:

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

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STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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Report

Council has continued to maintain a diversified portfolio of investments. As of 30 September 2022, the average 90-day bank bill rate (BBSW) for the month was 2.72%. Council's performance for September 2022 was 2.31%.

- 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 September 2022:

Schedule of Investments held as at 30 September 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%	935,630.00
20/11/18	1,000,000.00	QLD Treasury Corp (Green Bond)	N	AA+	22/03/24	Y	B	1.78%	991,340.00
28/03/19	1,000,000.00	National Housing Finance & Investment Corporation	Y	AAA	28/03/29	Y	B	2.38%	895,320.00
21/11/19	1,000,000.00	NSW Treasury Corp (Sustainability Bond)	N	AAA	20/03/25	Y	B	1.25%	939,680.00
27/11/19	500,000.00	National Housing Finance & Investment Corporation	Y	AAA	27/05/30	Y	B	1.52%	408,115.00
15/06/21	500,000.00	National Housing Finance & Investment Corporation	Y	AAA	01/07/31	Y	FRN	1.99%	501,740.00
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	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 (\$)
		Bond)							
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
20/05/22	2,000,000.00	NAB	N	AA-	16/11/22	N	TD	2.05%	2,000,000.00
07/06/22	2,000,000.00	NAB	N	AA-	05/12/22	N	TD	3.05%	2,000,000.00
15/06/22	2,000,000.00	NAB	N	AA-	12/12/22	N	TD	3.25%	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
04/07/22	2,000,000.00	NAB	N	AA-	04/10/22	N	TD	2.32%	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
28/07/22	2,000,000.00	NAB	N	AA-	26/10/22	N	TD	2.60%	2,000,000.00
02/08/22	2,000,000.00	NAB	N	AA-	30/11/22	N	TD	2.90%	2,000,000.00
04/08/22	2,000,000.00	AMP Bank	P	BBB	03/11/22	N	TD	2.95%	2,000,000.00
23/08/22	2,000,000.00	AMP Bank	N	BBB	23/02/23	N	TD	3.70%	2,000,000.00
25/08/22	1,000,000.00	Auswide Bank	P	BBB+	24/11/22	P	TD	2.95%	1,000,000.00
29/08/22	1,000,000.00	NAB	N	AA-	27/12/22	N	TD	3.11%	1,000,000.00
29/08/22	2,000,000.00	NAB	N	AA-	28/11/22	N	TD	2.95%	2,000,000.00
30/08/22	2,000,000.00	NAB	N	AA-	28/12/22	N	TD	3.15%	2,000,000.00
01/09/22	1,000,000.00	Macquarie Bank Ltd	P	A	01/12/22	N	TD	3.20%	1,000,000.00
06/09/22	2,000,000.00	MyState Bank	P	BBB	05/01/23	Y	TD	3.30%	2,000,000.00
06/09/22	1,000,000.00	Macquarie Bank Ltd	N	A	06/12/22	N	TD	3.26%	1,000,000.00
09/09/22	1,000,000.00	Macquarie Bank Ltd	N	A	08/12/22	N	TD	3.43%	1,000,000.00
09/09/22	2,000,000.00	NAB	N	AA-	09/01/23	N	TD	3.32%	2,000,000.00

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Int. Rate	Current Value (\$)
14/09/22	1,000,000.00	Macquarie Bank Ltd	N	A	14/12/22	N	TD	3.43%	1,000,000.00
29/09/22	2,000,000.00	AMP Bank	N	BBB	27/01/23	N	TD	3.95%	2,000,000.00
N/A	6,584,099.98	CBA Business Saver	P	AA-	N/A	N	CALL	2.45%	6,584,099.98
N/A	4,658,589.89	CBA Business Saver – Tourism Infrastructure Grant	N	AA-	N/A	N	CALL	2.45%	4,658,589.89
N/A	18,119,186.39	Macquarie Accelerator Call	N	A	N/A	N	CALL	1.60%	18,119,186.39
Total	77,361,876.26						AVG	2.31%	76,961,881.26

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)

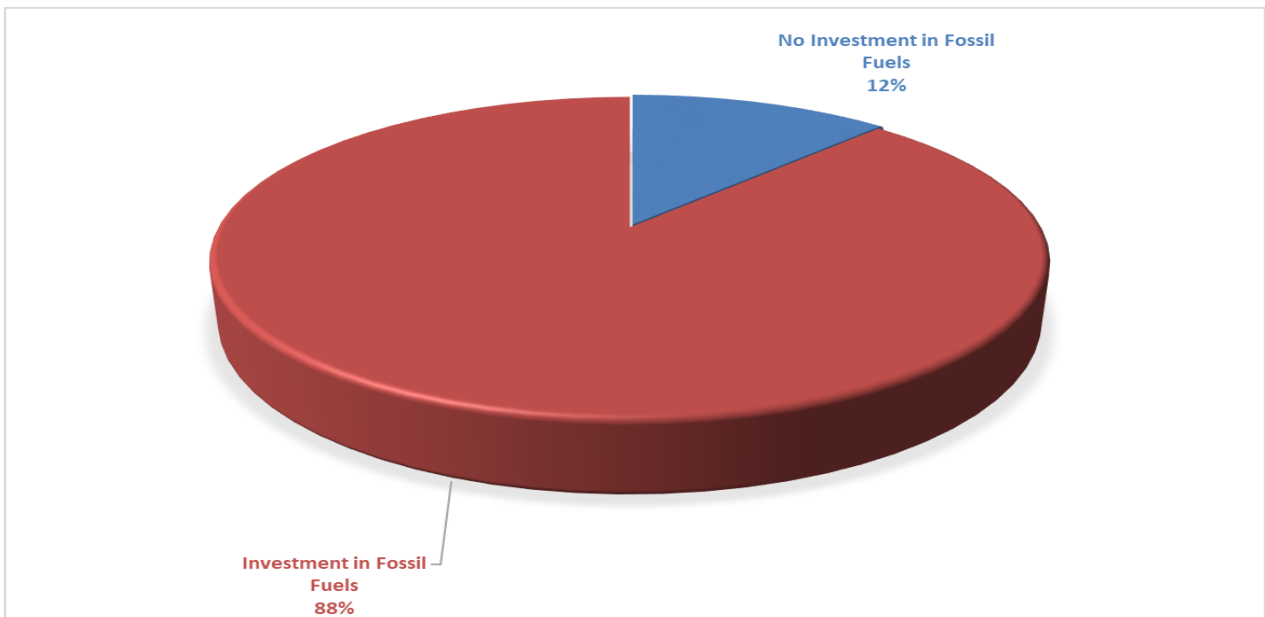
An additional column has been added to the schedule of Investments to identify if the financial institution holding the Council investment has been assessed as a ‘No Fossil Fuel’ investing institution. This information has been sourced through

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.

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

Council has 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.:

- 15 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

5 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).

Investment policy compliance			ACTUAL		
% should not exceed the following					
AAA to AA	A1+	100%	61%		Meets policy
A+ to A-	A1	60%	28%		Meets policy
BBB to NR	A2,NR	40%	12%		Meets policy

10 **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.

15 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%	100%	N/A	0%	Meets policy
AAA	100%	100%	100%	N/A	6%	Meets policy
AA+ to AA-	100%	100%	100%	5Y	54%	Meets policy
A+ to A	100%	100%	100%	3Y	30%	Meets policy
A-	40%	40%	40%	3Y	0%	Meets policy
BBB+	30%	10% 3 Years	3Y	3Y	4%	Meets policy
BBB		5% 12 Months	1Y	1Y	7%	Does not meet 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

20 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.

25 Meeting the NSW Treasury Corporation compliance means Council will be limited in taking up investments that may be for purposes associated with Environmental and Socially Responsible outcomes. 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.

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The investment portfolio is outlined in the table below by investment type for the period 1 September 2022 to 30 September 2022:

Dissection of Council Investment Portfolio as at 30 September 2022

Principal Value (\$)	Investment Linked to:	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
41,000,000.00	Term Deposits	41,000,000.00	0.00
1,500,000.00	Floating Rate Note	1,493,080.00	(6,920.00)
6,584,099.99	CBA Business Saver	6,584,099.98	0.00
4,658,589.89	CBA Business Saver – Tourism Infrastructure Grant	4,658,589.89	0.00
18,119,186.39	Macquarie Accelerator	18,119,186.39	0.00
5,500,000.00	Bonds	5,106,925.00	(393,075.00)
77,361,876.27		76,961,881.26	(399,995.00)

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

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

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Investments Portfolio			
Term Deposits	41,000,000.00	41,000,000.00	0.00
Floating Rate Note	1,500,000.00	1,493,080.00	(6,920.00)
CBA Business Saver	6,584,099.98	6,584,099.98	0.00
CBA Business Saver – Tourism Infrastructure Grant	4,658,589.89	4,658,589.89	0.00
Macquarie Accelerator	18,119,186.39	18,119,186.39	0.00

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Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Bonds	5,500,000.00	5,106,925.00	(393,075.00)
Total Investment Portfolio	77,361,876.26	76,961,881.26	(399,995.00)
Cash at Bank			
Consolidated Fund	2,798,005.03	2,798,005.03	0.00
Total Cash at Bank	2,798,005.03	2,798,005.03	0.00
Total Cash Position	80,159,881.29	79,759,886.29	(399,995.00)

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.

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*

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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.

5 **Financial Considerations**

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

10

15

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.5 26.2021.1.1 McAuleys Lane Planning Proposal - Post Exhibition Submissions Report

5

Directorate: Sustainable Environment and Economy
Report Author: Steve Daniels, Project Officer - Planning Reforms
File No: I2022/1185

Summary:

10 This report considers submissions associated with the public exhibition of a Planning
Proposal (Attachment 1) to rezone land located at 53 McAuleys Lane, Myocum, described
as Lot 8 DP 589795. The exhibited Planning Proposal seeks to rezone part of the land to
R5 Large Lot Residential (with consequential amendments to minimum lot sizes) and to
15 identify a portion of the land on the community title map. Areas currently zoned C2
Environmental Conservation will remain unchanged.

The planning proposal was placed on public exhibition from 6 September to 4 October
2022. Agency consultation was undertaken in accordance with the Gateway
determination.

20 A site visit and subsequent submission made by the NSW Department of Planning and
Environment (DPE) Biodiversity Conservation Division (BCD) identified areas containing
threatened ecological communities (TEC's) that had not been previously identified. Staff
discussions with BCD, DPE and the Landowner arrived at an option to amend the
exhibited planning proposal to identify the entire site as a community title area. This
25 outcome would enable the TEC's to be located within the community title association
property lot, thus enabling a shared conservation and management outcome under the
community title scheme. All parties were satisfied with this proposed outcome.

30 The submission received by Transport for NSW noted that more recent crash data is
available and that the Traffic Impact Assessment (TIA) should be updated to utilise more
recent traffic data. This was also reflected in public submissions. The TIA has been
amended (Attachment 4) accordingly and updated SIDRA modelling of the intersection
concept plan found that a desirable level of service is maintained.

35 In general, public submissions tended to confuse matters considered at the planning
proposal stage with matters that are normally considered at DA stage. This was
particularly the case in relation to the intersection concept plan, as well as the shared
pathway provision included in the Planning Agreement.

In accordance with Res **22-362**, staff considered the issues around traffic heading East on
Mullumbimby Road and traffic heading West from the entrance of the property onto

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5 McAuleys Lane. These and other issues were discussed at the 6 October councillor workshop and no changes to the concept plan are recommended. In relation to the Planning Agreement with the developer, it was concluded that upgrades to the west along McAuleys Lane are the responsibility of Council as there is a limited nexus to the future development of the site.

RECOMMENDATION:

10 That Council:

1. Amends the exhibited Planning Proposal (Attachment 1 E2022/78774) to:
 - 15 a) Identify the entire site on the Byron LEP 2014 Multiple Occupancy / Community Title Map, with a maximum yield of 39 neighbourhood community title lots; and
 - b) Maintain the existing 40ha Minimum Lot Size for the entire site.
2. Amends the exhibited Planning Agreement (Attachment 6 E2022/85916) to:
 - 20 a) Refer to the updated version of the Traffic Impact Assessment (Attachment 4 E2022/98532); and
 - b) Note that further safety considerations are to be addressed at the detailed design stage
3. Forwards the amended Planning Proposal and supporting information to the NSW Department of Planning & Environment and requests finalisation of the plan.
- 25 4. Undertakes a further legal review of the Planning Agreement and administer the registration of the Agreement.








Attachments:

- 30 1 26.2021.1.1 Planning Proposal No. 53 McAuleys Lane Myocum - Exhibition Version, E2022/78774 
- 2 26.2021.1.1 Gateway determination_McAuleys Lane Planning proposal 1/11/21, E2021/135083 
- 3 26.2021.1.1 VPA letter of offer, E2021/114600 
- 35 4 26.2021.1.1 Traffic Impact Assessment_Revision 4_53 McAuleys Ln Planning Proposal, E2022/98532 
- 5 26.2021.1.1 Planning Proposal - Appendix L - 53 McAuleys Lane - Intersection Design RSA Prepared by Geolink, E2022/67766 
- 6 26.2021.1.1 Draft Planning Agreement - McCauleys Lane, Myocum - Draft 4.7.22, E2022/85916 

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- 7 26.2021.1.1 BCD Submission - Planning Proposal 53 McAuleys Lane Myocum (includes revised attachment 2), E2022/98598 
- 8 26.2021.1.1 Staff correspondence with BCD RE Planning Control Options, E2022/98543 
- 9 26.2021.1.1 TfNSW Submission - 53 McAuleys Lane Planning Propoal, E2022/98552 
- 5 10 26.2021.1.1 DPI Submission - 53 McAuleys Lane Planning Proposal, E2022/98561 
- 11 26.2021.1.1 Public Submission Summary and Staff Response_Submissions Report_53 McAuleys Ln Planning Proposal, E2022/99030 
- 12 26.2021.1.1 Combined redacted submissions public version for attachment to Council report, E2022/98376 
- 10 13 Template - Form of Special Disclosure of Pecuniary Interest - IF YOU EDIT THIS, THE TEMPLATE IN BSC TEMPLATES MUST ALSO BE UPDATED, E2012/2815 

Report

Background

5 On 10 June 2021 Council considered a planning proposal to rezone land located at 53 McAuleys Lane, Myocum, described as Lot 8 DP 589795 [Agenda of Ordinary \(Planning\) Meeting - Thursday, 10 June 2021 \(infocouncil.biz\)](#). The subject land (Figure 1):

- is currently zoned RU2 Rural Landscape and C2 Environmental Conservation
- is generally rectangular in shape with overall dimensions of approx. 460m x 750m and area of 34.82ha
- 10 • has a frontage of 104.045m to McAuleys Lane with vehicular access being via an existing driveway
- contains a dwelling house and associated improvements/structures
- is largely cleared, however areas of remnant vegetation and identified threatened ecological communities are present on the site.

15 The objective of the exhibited Planning Proposal is to rezone part of the land to R5 Large Lot Residential (with consequential amendments to minimum lot sizes) and to identify a portion of the land on the 'Multiple Occupancy and Community Title' map. Areas currently zoned C2 Environmental conservation are not proposed to be rezoned.

This would enable the future subdivision of the subject land to create a combination of large lot residential and community title lots (and the construction of future dwellings).

20 Subject to further assessment at the development application stage, it is anticipated that the exhibited planning proposal (Attachment 1) would enable approximately:

- 33 Torrens title lots; and
- 6 neighbourhood community title lots and 1 community title association property lot

25 The planning proposal is supported by a Planning Agreement requiring the applicant to deliver infrastructure upgrades needed to accommodate future development. This includes safety upgrades to part of McAuleys Lane, pedestrian and cycle links via a shared pathway to Mullumbimby Rd, as well as an upgrade of the McAuleys Lane / Mullumbimby Rd intersection.



Figure 1 – Subject Land

Following consideration of the 10 June 2021 Council report, Council resolved (Res **21-181**) to:

- 5 1. *Accept the applicant's letter of offer to enter into a Voluntary Planning Agreement (VPA) (Attachment 6 E2021/69988) with Council as part of this planning proposal subject to the letter of offer being amended to include:*
 - a) *Safety upgrades to accommodate pedestrian and cycle links from the development site to Mullumbimby Road.*
 - 10 b) *Integration of pedestrian and cycle links with the proposed McAuleys Lane / Mullumbimby Road intersection upgrade.*
 - c) *provision of a slip lane for turning into Saddle Road from Mullumbimby Road that provides better safety and access for cyclists, pedestrians, and all road users.*
- 15 2. *Require that a draft VPA be prepared in accordance with the amended letter of offer.*
3. *Amend the Planning Proposal (Attachment 1 E2021/72620) to reflect the recommendations contained in this report and as shown below:*

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- a) *Reposition the northern boundary of the proposed R5 zone to ensure no encroachment within the required ecological setback areas for the riparian zone and freshwater wetland in the north of the site (i.e. 20m from the top of the stream bank or wetland edge); and*
- 5 b) *Make consequential amendments to the minimum lot size map and subdivision concept plan.*
4. *Forward the amended planning proposal to the NSW Department of Planning, Industry and Environment for a Gateway determination.*
- 10 5. *Prior to public exhibition, update the stormwater and onsite waste management assessment reports to reflect maximum development that assumes dual occupancy dwellings on proposed lots.*

Following amendments to the planning proposal (as required above), a Gateway determination (Attachment 2) to proceed to public exhibition was issued by the NSW Department of Planning and Environment (DPE) on 1 November 2021. In addition to public exhibition requirements, the Gateway determination required minor mapping amendments.

Regarding the Planning Agreement:

- An amended letter of offer was submitted by the developer (Attachment 3).
 - Council worked with the developer to update the Traffic Impact Assessment and associated intersection concept plan to address the above resolution (most recent update in Attachment 4).
 - A road safety audit was undertaken to assess the proposed design (Attachment 5).
 - A draft Planning Agreement was prepared once Council engineers were satisfied with the proposed outcome (Attachment 6).
- 25 Council then considered a further report on 11 August 2022 seeking support for the Planning Agreement ahead of public exhibition.

Notably, an engineering review of Res **21-181 Item 1(c)** found that the provision of a slip lane to Saddle Rd would diminish the line-of-sight for vehicles exiting Saddle Rd. This would have an overall negative effect on road safety. Therefore, the updated concept plan excludes this outcome and instead provides for curb delineation at Saddle Rd making it clear where vehicles are to perform a turn. The efficacy of this outcome was supported by the subsequent Design Road Safety Audit (Attachment 5).

Following consideration of the 11 August 2022 Council report, Res **22-362** resolved that Council:

- 35 1. *Endorses the draft Voluntary Planning Agreement (as contained in Attachment 1 to this report) for exhibition with the corresponding planning proposal for the subject land; and*

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2. *Receives a submissions report following public exhibition to consider key issues raised.*
3. *Requests staff to consider the issues around traffic heading East on Mullumbimby Road and also traffic heading West from the entrance of the property onto McAuleys Lane.*

5

Other traffic considerations under Res 22-362 (Item 3)

3. *Requests staff to consider the issues around traffic heading East on Mullumbimby Road and also traffic heading West from the entrance of the property onto McAuleys Lane.*

10 As a background to staff consideration of these issues, it is important to understand the difference between:

- An Intersection Concept Plan at the Planning Proposal / Planning Agreement stage; and
- a Detailed Design Plan of the intersection at DA stage.

15 Table 1 below seeks to outline these distinctions with respect to the subject intersection upgrade. The list is not exhaustive and is a general guide.

Table 1: Concept Plan vs Detailed Design Plan considerations

INTERSECTION <u>CONCEPT</u> PLAN (We are here)	DETAILED INTERSECTION DESIGN PLAN
Planning Proposal Stage Intersection Concept plan informs the Planning Agreement	Development Application Stage
<u>Considerations</u> <ul style="list-style-type: none"> • General intersection treatment, i.e., seagull intersection, roundabout, traffic lights etc. • Projected traffic volumes and carrying capacity of the proposed concept. • Adequacy of sight distances. • Level of service, i.e., projected traffic flow and potential for efficiency disruption and compromised safety 	<u>Considerations</u> <ul style="list-style-type: none"> • Detailed assessment and design of all items considered in the concept plan and noted in Column 1. • Position of line markings • Shoulder widths / road reserve • Bus movements and positioning of bus stops. • Pedestrian and cycle movements,

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<p>INTERSECTION <u>CONCEPT</u> PLAN (We are here)</p> <p>Planning Proposal Stage</p> <p>Intersection Concept plan informs the Planning Agreement</p>	<p>DETAILED INTERSECTION DESIGN PLAN</p> <p>Development Application Stage</p>
<ul style="list-style-type: none"> • Channelised turn warrants, i.e., need for merge lanes and slip lanes • Safety assessment via an accredited Road Safety Audit 	<p>including:</p> <ul style="list-style-type: none"> - Integration of the proposed shared pathway - Pedestrian access to bus stops on the northern and southern sides of Mullumbimby Rd. <p><u>Additional DA level assessment and referrals</u></p> <ul style="list-style-type: none"> • Detailed Design Road Safety Audit • Section 138 Roads Act Approval • Referral to the Local Traffic Committee • Referral to Transport for NSW

Traffic heading East on Mullumbimby Road

5 The key issue of debate with respect to traffic heading east on Mullumbimby Rd focussed on traffic interaction with Saddle Rd. As noted previously, the provision of a slip lane to Saddle Rd would exacerbate the existing line of sight deficiency and hence have an overall negative effect on road safety.

Questions were also raised regarding the deflection of traffic to the north due to the proposed chevron in the centre of the road, and the resulting potential for collision with cars sitting at the Saddle Rd intersection. Engineering staff advise that:

- 10
- The Design Road Safety Audit notes a neutral outcome for Saddle Rd, i.e., existing safety issues are not exacerbated as a result of the proposed concept.
 - Safety considerations related to the deflection of traffic due to the chevron are appropriate to address as part of the Detailed Design at DA stage. Important to stress that this is a higher order concept plan and the exact position of the line markings and
- 15 or other design features can be altered if necessary.

- The planning agreement should note that further safety considerations are to be addressed at detailed design stage.
- A Road Safety Audit of the Detailed Design will be required at DA stage.
- Section 138 Roads Act Approval will be required at DA stage.
- 5 • Referral to the Local Traffic Committee will be required at DA stage.
- Detailed Design at DA stage will be referred to TfNSW who will be the ultimate arbiter of road safety requirements.

Based on the above advice, no changes are required to the proposed concept plan.

Recommendation:

- 10 • **Update the Planning Agreement to note that further safety considerations are to be addressed at the detailed design stage.**

Traffic heading west (left) from the entrance of the property onto McAuleys Lane

15 The Planning Agreement requires safety upgrades to a section of McAuleys Lane between the development site and Mullumbimby Rd. However, it is noted in the Road Safety Audit undertaken by Ardill Payne & Partners that safety issues exist along McAuleys Lane to the west (left) of the development site towards Myocum Rd.

For this part of McAuleys Lane, the key question to answer is what upgrades are reasonable to require of the developer as a commitment in the Planning Agreement, versus what upgrades should be the responsibility of Council?

20 The Department of Planning & Environment Practice Note titled 'Planning Agreements', establishes fundamental principles for the use and negotiation of Planning Agreements. These principals note that:

- Planning agreements should not be used as a means of general revenue raising or to overcome revenue shortfalls.
- 25 • Planning agreements must not include public benefits wholly unrelated to the particular development.

30 It is deemed an undesirable exercise of probity whereby a planning authority takes advantage of an imbalance of bargaining power between the planning authority and developer, for example by improperly relying on its statutory position in order to extract unreasonable public benefits under a planning agreement.

Regarding traffic heading west (left) from the development site on McAuleys Lane, the measure of what is a reasonable public benefit is derived from the engineering assessment of traffic generation by the development that can be reasonably expected to travel in this direction during peak hour.

35 Engineering staff advise that:

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- The volume of traffic generated by the development is based on [NSW Transport Technical Direction TDT 2013/04](#). This is the best information available in Australia and New Zealand and notes a regional vehicle trip rate of 0.78 vehicles per dwelling during the evening peak hour (0.71 in the morning).
- 5 • Traffic Distribution accounted for 5% of development traffic turning left onto McAuleys Lane and heading west to Myocum Rd. This assumption is realistic considering most traffic (95%) will head to the M1 Motorway, Byron Bay, Brunswick Heads and Mullumbimby townships during peak traffic to go to work, school, and other daily activities. Other development traffic heading west towards Myocum Rd will fall outside
10 peak traffic whereby the road network will experience free flowing traffic conditions.
- 5% of traffic equates to approximately 1.6 peak hour vehicle trips under a lot yield scenario of 39 lots. Assuming a maximum development dual occupancy outcome on every lot, this figure increases to 3.2 vehicle trips.
- 15 • Therefore, any road upgrading to McAuleys Lane heading west to Myocum Rd will be the responsibility of Council as there is a limited nexus to the future development of the site.

It should be noted that improvements to McAuleys Lane heading west may be subject to further consideration at DA stage subject to the requirements of DCP Chapter B4.2.1.

- 20 Based on the above advice no changes are required to the proposed concept plan or Planning Agreement.

Public Exhibition

- 25 In accordance with the Gateway determination, the Planning Proposal was placed on public exhibition for a minimum of 28 days from 6 September to 4 October 2022. The Planning Agreement was exhibited concurrently with the Planning Proposal. A total of 21 public submissions were received.

The Planning Proposal and Planning Agreement were also referred to the following agencies for comment:

- NSW Rural Fire Service (RFS)
- 30 • NSW Department of Planning, Industry and Environment – Biodiversity and Conservation Division (BCD)
- NSW Department of Primary Industries – Agriculture
- Transport for NSW (TfNSW)
- NSW Department of Natural Resources Access Regulator (NRAR)
- 35 • Arakwal and Tweed-Byron Local Aboriginal Land Council

Agency Submissions

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Submissions were received by the NSW Department of Planning, Industry and Environment – Biodiversity and Conservation Division (BCD), NSW Department of Primary Industries – Agriculture and Transport for NSW. The key issues and staff response to these are summarised below

- 5 Arakwal representatives undertook a site visit on 26 September 2022 however no submission was received. Additionally, submissions were not received from the Local Aboriginal Land Council, NSW Rural Fire Service (RFS) and NSW Department of Natural Resources Access Regulator (NRAR).

10

DPE Biodiversity and Conservation Division (BCD) Submission (Attachments 7 & 8)		
Item #	Issues Raised	Council Staff Response
1.	<p>BCD undertook a site visit attended by Council staff and the developer.</p> <p>BCD identified three Scrub Turpentine and regenerating lowland rainforest in area 'A' shown in Figure 6 of Attachment 7. The recommendation sought to expand the community title Association Property lot to capture this area.</p>	<p>The exhibited planning proposal includes all of area 'A' within the proposed Community Title area.</p> <p>Therefore, the recommendation to expand the community title Association Property lot (i.e. common lot) to capture this area is achievable under the exhibited planning proposal provisions.</p> <p>The location and extent of the Association Property lot will be determined at the DA subdivision stage.</p>

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DPE Biodiversity and Conservation Division (BCD) Submission (Attachments 7 & 8)		
Item #	Issues Raised	Council Staff Response
2.	<p>BCD identified two threatened ecological communities (TEC's) within Areas B and C shown in Figure 6 of Attachment 7. The recommendation sought to exclude residential development from these areas via the application of a C2 Environmental Conservation zone, and/or by maintaining these areas within a single lot with a 40ha minimum lot size.</p>	<p>Staff held further discussions with the DPE, BCD and the developer regarding available planning controls to deliver an optimal outcome for protection and management of these areas.</p> <p>Written advice from staff and the response from BCD is provided in Attachment 8.</p> <p>BCD supported either of the following options:</p> <ul style="list-style-type: none"> • Applying Community Title for the entire site, with C2 Environmental Conservation zones applied in areas B and C. These areas would fall within the Community Title Association Property lot at subdivision stage. <p>This option would require the landowner to agree to the application of C2 zones as per the DPE Northern Councils E Zone Review – Final Recommendations Report.</p> <p>Alternatively:</p> <ul style="list-style-type: none"> • Community title is applied to the entire site, however C2 zones are not applied in areas B and C. These areas would fall within the Community Title Association Property lot at subdivision stage. <p>BCD and DPE indicated support for this outcome if C2 zones could not be achieved by way of landowner agreement.</p>

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DPE Biodiversity and Conservation Division (BCD) Submission (Attachments 7 & 8)		
Item #	Issues Raised	Council Staff Response
		<p>Both options require a 40ha minimum lot size for the entire site to ensure that the land can only be subdivided under a community title scheme.</p> <p>The landowner did not agree to the application of additional C2 Environmental Conservation Zones on the site but was agreeable to proceeding with the second option above.</p>
	<p>Recommendation</p> <ul style="list-style-type: none"> - Amend the exhibited Planning Proposal to identify the entire site on the Byron LEP 2014 Multiple Occupancy / Community Title Map, with a maximum of 39 neighbourhood lots and 1 Association Property lot. - Amend the exhibited Planning Proposal to retain the existing 40ha minimum lot size for the entire site. 	

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Transport for NSW (TfNSW) Submission (Attachment 9)		
Item #	Issues Raised	Council Staff Response
3.	<p>The Traffic Impact Assessment (TIA), prepared by Ardill Payne & Partners and dated November 2022 has adopted traffic data for McAuleys Lane from 2016/2017 and crash data for the site area for the 5 year period (2016 to 2020), where more recent data is available.</p> <p>TfNSW recommends that Council obtain an updated TIA adopting more recent data to accurately address impacts on access, road safety and traffic to accurately inform the intersection treatment required to be included in the draft voluntary planning agreement.</p>	<ul style="list-style-type: none"> • The TIA has been updated (Attachment 4) to include the most recent TfNSW crash data. It is noted that a crash resulting in moderate injury occurred in 2021 that had not been previously accounted for. The crash occurred under existing intersection conditions and it is noted that the proposed intersection upgrade will provide for safer driving conditions. • The TIA (Attachment 4) has been updated based on traffic data collected in November 2021 (Mullumbimby Rd) and September 2020 (McAuleys Lane). <p>The data has been extrapolated with an opening date of 2024 and an ending date of 2034.</p> <p>A 2.5% baseline annual compound growth rate has been applied to 2034.</p> <p>Data collected within 5 years is considered current.</p>
4.	<p>TfNSW recognises that any upgrade works on Mullumbimby Road would require Section 138 Roads Act consent from Council and concurrence from TfNSW. As such, the works are to be designed in accordance with the current version of Austroads Guide to Road Design and relevant Australian Standards (with TfNSW supplements) and to the satisfaction of both TfNSW and Council.</p>	<p>Noted.</p> <p>These matters will be addressed at DA stage.</p>

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Transport for NSW (TfNSW) Submission (Attachment 9)		
Item #	Issues Raised	Council Staff Response
5.	In the interests of maintaining road safety and traffic efficiency it is typical to adopt channelised right-turn and/or auxiliary left-turn treatments, and where an acceptable level of treatment cannot be provided in a given location, then further consideration must be given to either a higher order treatment and/or relocating the intersection to achieve an acceptable outcome.	<p>Noted.</p> <p>These treatments have been adopted in the proposed Concept Plan and SIDRA modelling has demonstrated a desirable level of service – see Traffic Impact Assessment (Attachment 4) Table 11.</p> <p>Further consideration will be given at DA stage as part of the Detailed Design.</p>
6.	Council should have consideration for appropriate sight line distances in accordance with Section 3 of the Austroads Guide to Road Design Part 4A (Unsignalised and Signalised Intersections) and the relevant Australian Standards (i.e. AS2890:1:2004) and should be satisfied that any upgrade of McAuleys Lane / Mullumbimby Road intersection promotes safe vehicle movements. Consideration should also be given to an intersection control treatment if sight distance triggers the Give Way warrant.	<p>Noted.</p> <p>Consideration of appropriate sight line distances in accordance with these guidelines/standards has been applied to the proposed Concept Plan.</p> <p>Council is satisfied that the proposed upgrade of the McAuleys Lane / Mullumbimby Road intersection promotes safe vehicle movements.</p> <p>Further consideration will be given at DA stage as part of the Detailed Design.</p>

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Transport for NSW (TfNSW) Submission (Attachment 9)		
Item #	Issues Raised	Council Staff Response
7.	TfNSW supports opportunities to reduce private car travel and improve mode choice for future residents. Further consultation should be undertaken with relevant Bus Service Providers and TfNSW to identify the route coverage of existing bus services and the potential for additional route/s within the study area to ensure future service planning can support any expected uplift in public transport demand.	Noted. Further consideration of bus services/routes will be given at DA stage as part of the Detailed Design.
<p><u>Recommendation:</u> No changes required</p>		

NSW Department of Primary Industries – Agriculture (DPI) Submission Attachment 10		
Item #	Issues Raised	Council Staff Response
8.	Given the strategic justification for the proposal and the distance between the subject land and existing agricultural production areas, no objection to the Planning Proposal is provided. It is understood that land use conflict risk between the proposal and surrounding land uses will be further considered at the development application stage.	Noted.
<p><u>Recommendation:</u> No changes required.</p>		

Public Submissions

A total of 21 public submissions were received during the exhibition period. A summary of key issues raised, and staff response is provided in Attachment 11. Issues raised have been grouped by general submission theme.

- 5 No changes are required as a result of the issues raised.

Next steps

- Amend the Planning Proposal and Planning Agreement as recommended in this report.
- Forward the planning proposal to the DPE and request finalisation of the plan.
- 10 • Undertake a legal review of the Planning Agreement and administer the registration of the agreement.

Please note that the Gateway timeframe for the planning proposal expires on 1 December 2022. If the planning proposal is not finalised in this timeframe for any reason, including DPE administrative delays, then the applicant will be required to resubmit the planning proposal and seek a new Gateway determination.

15 **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	4.1.4.1	Assess requests to amend Local Environmental Plans and/or Development Control Plans including maps in accordance with legislative requirements.

Recent Resolutions

- Res 21-181
- 20 • Res 22-362

Legal/Statutory/Policy Considerations

The relevant policy considerations are addressed above and in the Planning Agreement attached to this report.

Financial Considerations

- 5 If Council chooses to finalise the Planning Proposal and Register the Planning Agreement, it will be at the proponent's expense as part of a landowner-initiated planning proposal.

Consultation and Engagement

Consultation has been undertaken in accordance with the Gateway determination. The outcome of consultation is detailed in the report and supporting attachments.

Report No. 13.6 Former Mullumbimby Hospital - Land Use Planning Update

Directorate: Sustainable Environment and Economy

Report Author: Andrew FitzGibbon, Place Planning Coordinator

5 **File No:** I2022/1312

Summary:

This report provides an update on the land use planning for the former Mullumbimby Hospital site (1 Azalea Street, Mullumbimby). It focuses on the future of the vacant land (not the aged care facility).

10 A community feedback period is proposed to discuss the vision, objectives and urban design principles for the site as presented in the draft Site Strategy and Urban Design Protocol.

15 The draft Site Strategy and Urban Design Protocol has been developed by Council and relies heavily on the endorsed recommendations by the Mullumbimby Hospital Project Reference Group in 2018.

The community feedback period will provide a strong basis for the drafting of a Planning Proposal and DCP amendments in the next stages.


It is timely to engage with the community in this way while we await the formal finalisation of the remediation process.

RECOMMENDATION:

5 **That Council:**

1. **notes the draft Site Strategy and Urban Design Protocol (refer Attachment 1 E2022/93131) for the former Mullumbimby Hospital site as a document that will inform the next steps of planning control amendments;**
- 10 2. **undertakes a pre-planning proposal community feedback period of the draft Site Strategy and Urban Design Protocol for a minimum of 14-days;**
3. **receives a report on the outcomes of the community feedback period and a draft planning proposal recommending amendments to the planning controls to support the redevelopment of the site;**
- 15 4. **notes that the planning proposal can only be submitted to the Department of Planning Industry and Environment after the site auditor concludes the remediation process with the issue of a formal Site Audit Statement.**

Attachments:

- 20 1 Site Strategy and Urban Design Protocol - Former Mullumbimby Hospital Site, E2022/93131


Report

The former Mullumbimby Hospital Site (1 Azalea Street, Mullumbimby) is a 4.4ha parcel of Council owned land located near the centre of town and close to regional schools and services. It is rare flood-free land in Mullumbimby that has the potential to deliver between 100-129 dwellings and supporting community infrastructure.

This is critically needed given the context of the declared housing crisis in the shire, the recent flood events that heavily impacted Mullumbimby, and the limited supply of dwellings in the town currently (1,800).

Statutory planning amendments to the Byron Local Environmental Plan 2014 (LEP) and Byron Development Control Plan 2014 (DCP) are required to enable this strategic housing project.

To underpin these planning amendments, a draft Site Strategy and Urban Design Protocol (SSUDP) has been prepared that defines the vision, objectives and urban design principles for the site. This document relies heavily on the work and process previously undertaken by the Mullumbimby Hospital Project Reference Group.

The SSUDP is provided as Attachment 1 and is proposed to use this document as a basis to discuss the vision, objectives and urban design principles with the community as a pre-planning proposal community feedback period.

It is timely to engage with the community in this way while we await the finalisation of the remediation processes – expected to be completed by the end of 2022. The final Site Audit Statement from the auditor is required before a planning proposal can formally proceed.

Image below shows the site context and site marked in red:



Background

Site purchase

The former Mullumbimby Hospital site was purchased by Byron Shire Council from the NSW State Government in 2017.

5 Project Reference Group

Council resolved to establish a Project Reference Group (PRG) comprised of 15 representatives from Mullumbimby stakeholder groups to propose and consider potential future uses for the site. The PRG completed a 12-month best practice participatory planning process and prepared recommendations for the best future use of the site – which were endorsed by Council ([22 November 2018](#)).

The SSUDP relies heavily on the work and process previously undertaken by the Mullumbimby Hospital Project Reference Group.

Remediation works

Site remediation works have been ongoing following the demolition and removal of the asbestos contaminated hospital buildings, and discovery of additional contamination areas on the site. The primary aspect of the site Remediation Action Plan (RAP) is the capping of part of the property primarily where the former hospital buildings were located.

Although the RAP works have now been completed – it is important to note that this is not the end of the remediation process which is directed and ultimately concluded by the Auditor.

The validation of the RAP will comprise a site survey to confirm compliance with the technical specifications of the capping containment structure and the outcomes of RAP process will be addressed in an Environmental Management Plan (EMP) for the future management of the site.

The EMP will ensure the integrity of the encapsulation of the underlying asbestos contamination. Following endorsement of the EMP, the auditor concludes the remediation process with a formal Site Audit Statement.

This auditing and reporting process is currently expected to be completed by the end of 2022.

A planning proposal process will not be able to proceed until the auditor concludes the remediation process with a formal Site Audit Statement.

Note that an interim site audit advice (21 Oct 2021) has indicated that residential use of the capped area will be possible in a managed form that does not allow any possibility of private excavation. However, to minimise risk, Council will be looking for the final Site Audit Statement to provide clear and definitive advice of appropriate land uses on the site.

Photo below overlooks the site and shows the capping works



Site Strategy and Urban Design Protocol

5 A draft Site Strategy and Urban Design Protocol (SSUDP) has been prepared that outlines a concept structure plan and describes the history, vision, objectives, and urban design principles for the site.

This draft SSUDP relies heavily on the work and process previously undertaken by the Mullumbimby Hospital Project Reference Group.

The purpose of the draft SSUDP is to:

- confirm the vision and objectives for the development of the site;
- 10 • outline the design aspirations for the site;
- inform the scope of a Planning Proposal over the site; and,
- provide a basis for a staging and delivery plan.

The document can be found at Attachment 1.

Figure 1: Concept structure plan from the SSUDP



Land use

5 The Project Reference Group made the following comments in relation to the desired land uses and this is reflected in the SSUDP.

In broad terms, a mix of uses is proposed at a neighbourhood scale that does not compete with the town centre but creates synergy given the site’s strategic location, its topography and its neighbours.

- 10 • The substantial proportion (60% or more) should be residential development.
- Within the residential development, an integrated mix of types and tenures provides, and continues to provide, in perpetuity:
 - housing that is affordable, accessible and appropriate for older people across a range of household income levels; and
 - 15 ○ housing that is affordable, accessible and appropriate for households with very low, low and moderate income in response to Brunswick Valley community needs.
- The housing is supported by and supports an innovative neighbourhood scale multipurpose facility that is designed to allow multiple uses, for people of all ages and income levels.
- 20 • The multipurpose facility includes space(s) for consultation and may potentially include spaces for work, education, gathering, recreation, and a café, all intended to support

residents and community, encourage social contact and develop with neighbours new relationships and opportunities.

- Be nested in the broader Mullumbimby Master Plan to contribute to an integrated approach to local development.

5 Planning proposal scope

The draft SSUDP plays a key role in informing the LEP and DCP amendments that will be required in the next steps of this project.

The draft SSUDP notes the following potential changes to the Byron LEP in relation to zoning and key development standards.

- 10 These potential changes would be discussed with the community as part of the proposed consultation of the draft SSUDP.

<p>Zoning – Existing</p> <p>SP2 Infrastructure (Health Services Facility)</p>	<p>Zoning – Proposed</p> <p>SP2 Infrastructure (Health Services Facility) over aged care site and R1 General Residential over the remainder of the site. R1 zoning will allow for the diversity of residential and community uses desired for the site.</p>

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Building Heights – Existing: 8.5m	Building Heights – Proposed: 11.5m
	
Floor Space Ratio – Existing: No Provision	Floor Space Ratio: No change proposed
Minimum Lot Size – Existing: No Provision	Minimum Lot Size: No change proposed

Next steps – indicative timeline only of statutory processes

Project Stage	Description	Timeline
Pre-planning Proposal Community Feedback Period	Community feedback period for the draft SSUDP and reporting back to Council	Nov - Dec 2022
Planning Proposal and DCP Preparation	Preparation of reports, consultant reports, and design work to support Planning Proposal and DCP amendment	Jan – April 2023
Planning Proposal Submission and Assessment	Submission of Planning Proposal and assessment period by NSW Department of Planning and Environment leading to a Gateway Determination	May – June 2023
Post Gateway Determination	Undertaking any further studies as outlined in the Gateway Determination	June – Sept 2023

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Public Exhibition and Review of Submissions	Undertaking community consultation (as outlined in the Gateway Determination for the LEP) and as per Councils Community Participation Plan (for the DCP)	Sept – Oct 2023
Reporting to Council and Finalisation	Council reports and LEP and DCP making process	Oct – Dec 2023

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	4.1.3.7	Amend Local Environmental Plan and Development Control Plan in accordance with Mullumbimby Hospital Precinct Plan

5 Recent Resolutions

- **18-721** (22 November 2018) Mullumbimby Hospital Site Project Reference Group Recommendations: future use of the site

Legal/Statutory/Policy Considerations

As discussed in the report.

10

Financial Considerations

The pre-planning proposal consultation recommended can be carried out by staff with minor ancillary costs.

- 5 The next report to Council will provide an update the financial considerations for the planning proposal moving forward.

Consultation and Engagement

The pre-planning proposal community feedback period of the draft Site Strategy and Urban Design Protocol is proposed for a minimum of 14-days.

This feedback period will include the following promotion and engagement activities.

- 10
- Public notice on Council website
 - Advertisement in the Echo
 - Email notification to relevant community and business groups
 - Email notification to previous members of the PRG and to the Mullumbimby Hospital Action Group
- 15
- Local social media posts
 - A drop-in session at Council offices
 - A presentation to the Housing and Affordability Advisory Committee
 - Discussion with Department of Planning, Industry and Environment
 - Seeking input from the Tweed/Byron Local Aboriginal Land Council
- 20
- A Your Say form to gather feedback

Report No. 13.7 PLANNING - Supplementary Report res 22-248 10.2021.470.1 Mullumbimby Ex Services Club at Dalley Street Mullumbimby

Directorate: Sustainable Environment and Economy

5 **Report Author:** Patricia Docherty, Planner

File No: I2022/1315

Summary:

10 Council considered a Report No. 13.4 PLANNING - 10.2021.470.1 Alterations & Additions to Mullumbimby Ex Services Club at Dalley Street Mullumbimby at the [Ordinary \(Planning\) meeting of Council on 8 September 2022](#). Council resolved as follows:

(RESOLUTION NUMBER: **22-458**)

15 **Resolved** that Development Application No. 10.2021.470.1 for Alterations and Additions to the Mullumbimby Ex-Services Club Ltd, be deferred, and the applicant requested to enter into a Planning Agreement with Council for a financial contribution towards the on-site car parking shortfall instead of providing these car spaces on street (Tincogan Street) as a street upgrade. (Dey/Hunter)

The motion was put to the vote and declared carried.

Crs Hunter, Lyon, Ndiaye, Dey, Swivel, Westheimer and Balson voted in favour of the motion.

20 *Nil voted against the motion.*

Crs Coorey and Pugh were not present for the vote.

This report responds to Council Resolution **22-458**.




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:

- 5 1. That Council considers the written offer signed by the Mullumbimby Ex Services Club pursuant to S7.7 (3) of the Environmental Planning and Assessment Act for a specified dollar (\$) amount of \$54,499.66 in lieu of 6.30 on site car spaces @ \$ 8,650.74 per space in accordance with Byron DCP 2014 Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access - Section B4.2.10 Monetary Contributions.
- 10 2. That Pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2021.470.1 for Alterations and Additions to the Mullumbimby Ex-Services Club Ltd, be granted consent subject to the conditions of approval attached to this report.

15 **Attachments:**

- 1 Letter of Offer to Enter Planning Agreement L-BSC-6Oct22-DA2021-470-VPA, E2022/97003 
- 20 2 10.2021.470.1 Recommended Conditions of Consent (updated with Planning Agreement), E2022/96599 
- 3 10.2021.470.1 Architectural Plans Compete Set, E2022/76498 

Report

5 Resolution **22-458** deferred Development Application No. 10.2021.470.1 for Alterations and Additions to the Mullumbimby Ex-Services Club Ltd (the Club), and requested the applicant to enter into a Planning Agreement with Council for a financial contribution towards the on-site car parking shortfall instead of providing these car spaces on street (Tincogan Street) as a street upgrade.

Council staff communicated with the applicant representing the Club to advise on the details and procedures required to make a written offer to enter a Planning Agreement. The on-site parking shortfall is 6.30 spaces.

10 As such, the applicant was advised that if the Club intends to make a monetary contribution in lieu of on-site parking in accordance with [Byron DCP 2014 Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access](#) - Section B4.2.10 Monetary Contributions; a written offer to enter a Planning Agreement must be signed by the Club pursuant to [S7.7 \(3\) of the Environmental Planning and Assessment Act](#) for a specified
 15 dollar (\$) amount of \$54,499.66 in lieu of 6.30 on site car spaces @ \$ 8,650.74 per space. To assist the applicant, Council staff provided current applicable parking contribution rates, as follows:

Contributions Rate Per Car Space for a Planning Agreement		
Locality	Per Space at June 2015	Per Space Today
Byron Bay CBD	38,000.00	43,684.80
Brunswick Heads CBD	61,690.00	70,918.82
Bangalow	5,600.00	6,437.76
Mullumbimby CBD	7,525.00	8,650.74
	Spaces	6.30
	Total	54,499.66

(Source: 2012 Contributions Plan Amendment 4 with 20000 cap calculator V1.1 Doc #E2021/99005. Adopted by Council Resolution No. 15-338. Report Doc #I2015/500)

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5 The applicant was also advised that subject to approval of DA 10.2021.470.1, Council can impose a condition of consent to require that the Club enter into a formal Planning Agreement prior to issue of a Construction Certificate, if it is in the terms of a written offer that they have made as per section 7.7 (3) of the Act. The written offer from the applicant on behalf of the Club to enter a Planning Agreement in the form required by the Act is in Attachment 1 of this report.

10 During discussions with the applicant and the Club, it is proposed that the recommended conditions be drafted to give the Club the flexibility to either undertake the works on the road reserve as originally proposed in the draft conditions or they enter into the Planning Agreement in accordance with the terms of the written offer prior to issue of a Construction Certificate (CC).

15 In accordance with Byron DCP 2014 Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access, either of these options are available to any applicant where parking demand cannot be met on site in the B2 Local Centre zone. Section B4.2.10 Monetary Contributions allows for a financial contribution to be made under a Planning Agreement and Section B4.2.7 7. provides for provision of On Street parking as follows:

Council will consider proposals to increase on street parking capacity for the provision of some or all customer car parking spaces by increasing on street parking capacity where there is a material public benefit, and where:

- 20 a) *The net increase in formalised (i.e. paved &/or line marked) on street parking is 25% greater than the number otherwise required on site;*
- b) *The resulting streetscape conforms with the principles of good urban design;*
- c) *The level of pedestrian, cycle and traffic amenity on the street is maintained; and*
- d) *The proposal is not detrimental to utility services.*

25 The cost of the planning agreement is known. If the Club can undertake the on street works at less expense, then they can take that option.

Amended recommended conditions of consent are in Attachment 2 of this report.

30 The previous recommended condition for works to be undertaken in Tincogan Street has been amended to enable the applicant to undertake this option or otherwise they are required to enter the Planning Agreement. The amended recommended conditions are number 12 (to be undertaken prior to issue of a construction certificate) and number 39 (prior to issue of an occupation certificate) which have been redrafted to reflect the options outlined in this report.

35

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	4.1.1: 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

Recent Resolutions

- 22-458

5 Legal/Statutory/Policy Considerations

Not applicable.

Financial Considerations

Not applicable.

Consultation and Engagement

- 10 As discussed in the original DA report.

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Report No. 13.8 Traffic Calming in Brandon Street, Suffolk Park

5 **Directorate:** Infrastructure Services
Report Author: Judd Cornwall, Traffic & Transport Engineer
File No: I2022/867

Summary:

10 The purpose of this report is to investigate issues expressed in the community petition (refer Attachment 1) regarding road safety in Brandon St, Suffolk Park. The petition received 123 signatures.

15 *“Some of the traffic in Brandon Street is far too fast and pedestrian traffic that it carries there is no foot paths and many people are on the road walking with children and all the dogs especially with the dog friendly beach so close by in addition there are cyclist and all ages using the street as a motorised wheelchair as traffic is furthermore heavier than necessary with people using Brandon Street turn right into Wareham Street at the northern end the Jarman and Brandon Street beach access needs to at the very least an additional speedbump to slow down visitors and locals alike who are extending the 50 K speed limit this petition is seeking to improve the safety of all.”*

20

RECOMMENDATION:

That in relation to traffic calming in Brandon Street, Suffolk Park, Council:

- 25
- 1. Approves the installation of an additional road hump/cushion on Brandon Street, funded under the Local Area Traffic Management Program, GL 3161.13**
 - 2. Informs the community of the proposed road humps and locations and allow at least 28 days for members of the community to respond.**

Attachments:

- 30 1 REDACTED Petition Regarding More Traffic Calming Measures in Brandon Street SUFFOLK PARK - 123 

Report

On 25 November 2021 Council resolved as follows (Resolution **21-541**):

1. That Council notes the petition regarding traffic measures in Brandon Street, Suffolk Park.
- 5 2. That the petition be referred to the Director Infrastructure Services for reporting back to Council. (Lyon/Cameron)

The motion was put to the vote and declared carried.

The petition is provided in Attachment 1.

Existing situation



Figure 1: Locality map

Brandon Street has been observed to be the preferred link for vehicles travelling between Clifford Street and the residential catchment to the north of Wareham Street.

Brandon Street has a posted speed limit of 50km/h, the most recent traffic survey (September 2022) has indicated that the 85th percentile speeds along the road (Brandon

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Street) midblock between McLean Street and Wareham Street were recorded at 45.7km/h (refer Table 1).

- 5 Alcorn Street, which runs parallel to Brandon Street between Wareham Street and Clifford Street, has had additional local area traffic management (LATM) devices installed (i.e. road cushions) and traffic may be using Brandon Street to avoid these devices. It should be noted that the existing road cushions on Alcorn Street are badly damaged and will need to be repaired or replaced (refer Figure 2 on following page).

Table 1: Traffic survey data speed summary

Average Speed Data (Km/h)	
85th percentile speed	45.7
Mean	36.8
Maximum	71

10

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Location 1 (refer to the below)



Location 2 (refer to the below)



Figure 2: Existing road cushions on Alcorn Street, Suffolk Park

Conclusion

Traffic survey data for the week surveyed does not indicate a prominent speeding issue on Brandon Street, however there were isolated instances of speeding that were significantly above the 85th percentile speed.

- 5 The existing LATM treatments (flat-top road humps) within Brandon Street only cover half the length of the street. Flat-top road humps are recommended to be used as a whole-of-street treatment and more than one device may be needed where speed reduction is required over the entire length of the street.

- 10 It is recommended that rubber road cushions and accompanying signage be installed on Brandon Street on the southbound approach to Jarman Street to help mitigate dangerous speeding behaviour and to discourage stop loss speeding behaviour when departing the existing LATM devices. These devices may also help slow traffic down at the pedestrian crossing points where the Jarman Street access lane intersects.

- 15 The location for the road cushion/s, as proposed in the community petition, is shown in Figure 3. It should also be noted that one of the petition signatories resides adjacent the proposed location (considering possible noise complaints).



Figure 3: Proposed location for road cushions

Strategic Considerations

Community Strategic Plan and Operational Plan

This activity has been missed in the original OP activity and will be amended within the next quarterly review (draft OP activity shown 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	5.2: Connect the Shire through integrated transport services	5.2.3: Traffic management and reduced car dependence - Develop transport infrastructure and services that are accessible to all and meet a diverse range of needs and community expectations		Annual Local Area Traffic Management Facilities

5 Recent Resolutions

Resolution number 21-541:

1. *That Council notes the petition regarding traffic measures in Brandon Street, Suffolk Park.*
2. *That the petition be referred to the Director Infrastructure Services for reporting back to Council.* *(Lyon/Cameron)*

10

Financial Considerations

The installation of the rubber road cushions can be funded through the Local Area Traffic Management budget (GL 3161.13). The estimated cost for the supply and installation of this treatment, should it be endorsed, is approximately \$4,500. There are sufficient funds available against this GL.

15

Report No. 13.9 Byron Bay Drainage Strategy

Directorate: Infrastructure Services

Report Author: Scott Moffett, Drainage & Flood Engineer, IS - Works -
Infrastructure Planning

5 **File No:** I2022/1407

Summary:

On 23 May 2022 the General Manager, under delegated authority, approved the use of the open tender method to call for tenders for Contract RFT 2022-1366 Byron Bay Drainage Upgrade Design.

10 The Request for Tender was advertised from 24 June to 5 August 2022. Tenders were received from the following organisations:

- ALLUVIUM
- Arcadis Australia Pacific Pty Limited
- Barker Ryan Stewart
- 15 • Burchills Engineering Solutions
- Engeny Water Management
- GHD Pty Ltd
- JJ Ryan Consulting Pty Ltd
- Knobel Engineers (part of OSKA Consulting Group)

20 Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulations 2021. This report summarises the background and assessment of the tenders and provides a recommendation to award the tender for Contract 2022-1366.

25

RECOMMENDATION:


1. **That Council awards the Contract 2022-1366 - Byron Bay Drainage Upgrade Design to the preferred supplier identified in the tender evaluation report (Attachment 1 #E2022/90190).**
2. **That Council makes public its decision, including the name and amount of the successful tenderer, in accordance with Clause 179(b) of the Local Government (General) Regulation 2021.**

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Attachments:

- 5 1 Request for Tender - Evaluation Report - Byron drainage upgrade design, E2022/90190 

Report

On 23 May 2022 the General Manager, under delegated authority, approved the use of the open tendering method to call for tenders for Contract RFT 2022-1366 Byron Bay Drainage Upgrade Design.

- 5 The Request for Tender sought responses from proponents to provide confirmation of a preferred town centre flood mitigation plan and the prioritisation of stormwater drainage infrastructure.

10 The strategy will include a comprehensive technical assessment to provide options and pathways to inform future investments that mitigate risks and build resilience within the Byron Bay town centre. It will achieve this by undertaking detailed flood modelling, understanding, and resolving social and environmental conflicts, key stakeholder inputs, and enable Council to develop detailed design and construction documentation.

15 The Strategy will detail a drainage system adaptable to future projected sea-level rise, ocean storm surges and increased rainfall intensities associated with climate change. It will also provide updated information to the NSW State Emergency Service to effectively prepare and implement local flood plans to deal with flood emergency response within the Byron Bay town centre.

The Contract is expected to commence in November 2022 for a period of up to three years.

- 20 The Contract will be managed by Council's Flooding and Drainage Engineer (Scott Moffett)

Tenders were advertised as follows:

Tenders Online (Vendor Panel): 24 June to 5 August 2022

An Evaluation Panel comprising of three Council staff members was formed.

- 25 Tenders closed on 5 August 2022 and tenders were received from the following proponents:

- ALLUVIUM
- Arcadis Australia Pacific Pty Limited
- Barker Ryan Stewart
- 30 • Burchills Engineering Solutions
- Engeny Water Management
- GHD Pty Ltd
- JJ Ryan Consulting Pty Ltd
- 35 • Knobel Engineers (part of OSKA Consulting Group)

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Tenders were evaluated by the Evaluation Panel in accordance with the following evaluation criteria:

- a) Tenderer must have a valid Australian Business Number.
- b) Substantial conformance to Conditions of Contract and Statement of Requirements.
- 5 c) Workers compensation insurance for all employees.
- d) Holds, or is willing to obtain, the insurances as specified in the Statement of Requirements.
- e) Satisfactory Work Health and Safety practices.
- f) Commitment to ethical business practice principles.

10

Criteria	Elements
Profile and relevant experience	Tenderer profile
	Previous relevant experience
	Environmental practices
Quality and availability of resources	Proposed key personnel
	Proposed staff
	Use of subcontractors
Delivery Plan	Goods/services standards and methodology
	Implementation plan
	Product sustainability
Price	Total contract price

Following the evaluation, the Evaluation Panel conducted referee and financial checks on the preferred tenderer. The results of these checks were deemed by the Evaluation Panel to be satisfactory as detailed in the attached Evaluation Report.

Key Issues

5 The provisional item for detailed design stage was included as there are significant project risks due to the high degree of uncertainty regarding the environmental/cultural heritage constraints, capacity of existing electrical infrastructure to supply pumps and the lifecycle costs of the proposed drainage infrastructure upgrades.

The recommendation is to include the following stages/milestones in the contract:

1. Drainage Strategy Review and Data Collection Stage
2. Detailed Site Survey Stage
3. Concept Design Stage
- 10 4. Detailed Design Stage

Next steps

Commission preferred tenderer and conduct an inception and site meeting

Financial Considerations

The price basis for the contract is a lump sum.

15 Council has budgeted \$1.282 million for this project.

This is made up of \$200,000 from Council and \$1,082,000 from an approved State grant.

There is sufficient funding for the proposed contract in the current budget for all project stages.

Statutory and Policy Compliance Considerations

20 The tendering process has been undertaken in accordance with Council's Purchasing and Procurement Policy, and the provisions of the Local Government (General) Regulation 2021.

The Local Government (General) Regulations 2021 define the options available to Council. An extract is provided below.

25

Local Government (General) Regulation 2021 - Reg 178

Acceptance of tenders

178 *Acceptance of tenders*

- 5 (1) *After considering the tenders submitted for a proposed contract, the council must either—*
- (a) *accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or*
- (b) *decline to accept any of the tenders.*
- 10 (1A) *Without limiting subsection (1), in considering the tenders submitted for a proposed contract for the performance of domestic or other waste management services, the council must take into account whether or not existing workers (within the meaning of section 170) will be offered employment or engagement on terms and conditions comparable to those applicable to the workers immediately before the tender was submitted.*
- 15 (2) *A council must ensure that every contract it enters into as a result of a tender accepted by the council is with the successful tenderer and in accordance with the tender (modified by any variation under section 176). However, if the successful tender was made by the council (as provided for in section 55(2A) of the Act), the council is not required to enter into any contract in order to carry out the requirements*
- 20 *of the proposed contract.*
- (3) *A council that decides not to accept any of the tenders for a proposed contract or receives no tenders for the proposed contract must, by resolution, do one of the following—*
- (a) *postpone or cancel the proposal for the contract,*
- 25 (b) *invite, in accordance with section 167, 168 or 169, fresh tenders based on the same or different details,*
- (c) *invite, in accordance with section 168, fresh applications from persons interested in tendering for the proposed contract,*
- 30 (d) *invite, in accordance with section 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract,*
- (e) *enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender,*
- (f) *carry out the requirements of the proposed contract itself.*
- 35 (4) *If a council resolves to enter into negotiations as referred to in subsection (3)(e), the resolution must state the following—*

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13.9

- (a) *the council's reasons for declining to invite fresh tenders or applications as referred to in subsection (3)(b)–(d),*
 - (b) *the council's reasons for determining to enter into negotiations with the person or persons referred to in subsection (3)(e).*
- 5 Council's endorsement of the recommendation to award the tender as recommended in the attached Evaluation Report is sought.

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

Report No. 14.1 Report of the Arts and Creative Industries Advisory Committee Meeting held on 15 September 2022

5

Directorate: Corporate and Community Services

Report Author: Melitta Firth, Arts & Culture Officer

File No: I2022/1456

10 **Summary:**

The Arts and Creative Industries Advisory Committee met on 15 September 2022 and attached are the minutes for noting by Council.

15 **RECOMMENDATION:**

1. That Council notes the minutes of the Arts and Creative Industries Advisory Committee Meeting held on 15 September 2022.

2. That Council adopts the following Committee Recommendations:

Report No. 3.4 Hoop Pine Plantings acknowledging Elders


File No: I2022/954

Committee Recommendation 3.4.1

That the Committee:

- a) Notes the proposed project and recommends further consultation with Arakwal be undertaken.
- b) Requests staff continue to explore further funding opportunities to support this project.

Attachments:

1 Minutes 15/09/2022 Arts and Creative Industries Advisory Committee, I2022/1246 

5

Report

The attachment to this report provides the minutes of the Arts and Creative Industries Advisory Committee Meeting of 15 September 2022 for determination by Council. The agenda for this meeting can be located on Council's website at:

10 [Minutes of Arts and Creative Industries Advisory Committee Meeting - Thursday, 15 September 2022 \(infocouncil.biz\)](https://www.infocouncil.biz/minutes-of-arts-and-creative-industries-advisory-committee-meeting-thursday-15-september-2022)

The Committee recommendations are supported by management and are provided in the attachment to this report.

Summary of Reports

15 Report 3.1

The Committee noted a report on the arts and cultural features of the Reconnecting Regional Communities Funding.

Report 3.2

20 The Committee noted on a new collaborative arts project, *Climate Conversations*, to replace the Sustainability Awards. *Climate Conversations* will invite Northern Rivers artists to collaborate with community and explore ways we can adapt, reorganise, and evolve in the face of climate change through the arts.

Report 3.3

25 The Committee noted information about Indigenous Cultural Protocol, Native Title considerations.

Report 3.4

30 The committee noted the Brunswick Nature Sculpture Walk's (BNSW) proposal to plant native Hoop Pine trees, install interpretative signage and organise an event acknowledging Aboriginal Custodianship and Traditional Owners at Brunswick Heads. BNSW have requested Council support to progress and finance some aspects of the project. The Arakwal Corporation have provided in-principal support; their ongoing involvement will be key to the success of this project.

The Committee have provided a recommendation to Council on this report.

Report 3.5

The Committee noted the information provided about the Arts and Creative Industries Recovery Forum held by Arts Northern Rivers in July 2022.

Report 3.6

- 5 The Committee noted a report on the Arts and Creative Industries Summit and will provide feedback on proposed focus areas for the event.

Financial Implications

As per the Reports listed within the Arts and Creative Industries Advisory Committee Meeting of 15 September 2022.

10 **Statutory and Policy Compliance Implications**

As per the Reports listed within the Arts and Creative Industries Advisory Committee Meeting of 15 September 2022.

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 14.2 Report of the Heritage Advisory Committee Meeting held on 15 September 2022

- 5 **Directorate:** Sustainable Environment and Economy
Report Author: Chris Larkin, Manager Sustainable Development
File No: I2022/1279

Summary:

- 10 The attachment to this report provides the minutes of the Heritage Advisory Committee Meeting of 15 September 2022

RECOMMENDATION:

- 15 1. **That Council notes the minutes of the Heritage Advisory Committee Meeting held on 15 September 2022.**

2. **That Council adopts the following Committee Recommendations:**

Report No. 3.1 Heritage Program Update
File No: I2022/1084

Committee Recommendation 3.1.1

That the Heritage Advisory Committee:

1. **Notes the heritage program update report.**
2. **Supports a report being prepared to Council to progress a Planning Proposal for the following six properties to be included into the Byron LEP 2014:**
 - **7 Leslie Street, Bangalow**
 - **Carabene Ewingsdale Road Ewingsdale**
 - **40 Cowper Street, Byron Bay**
 - **Robinson Subdivision and group of cottages Lismore Road, Bangalow**
 - **Longfield, 175 Wilsons Creek Road, Mullumbimby**

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REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY 14.2

- 221 Coolamon Scenic Drive, Coorabell

3. That Council adopts the following Committee Recommendations:

Report No. 3.3 Heritage colours

File No: I2022/1088

Committee Recommendation 3.3.1

That the Heritage Advisory Committee:

1. **Notes the staff report on heritage colours and provides feedback on Byron Development Control Plan 2014 Chapter C1.4.5 Colours.**
2. **Requests Council to clarify the existing preferred heritage colour range and conduct community consultation in reference to Council resolution 22-455 point 3.**

Attachments:

- 5 1 Minutes Heritage Advisory Committee held 15 September 2022, I2022/1248 

Report

The attachment to this report provides the minutes of the Heritage Advisory Committee Meeting of 15 September 2022 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 [Agenda of Heritage Advisory Committee Meeting - Thursday, 15 September 2022 \(infocouncil.biz\)](https://infocouncil.biz)

Financial Implications

As per the Reports listed within the Heritage Advisory Committee Meeting of 15 September 2022.

10 **Statutory and Policy Compliance Implications**

As per the Reports listed within the Heritage Advisory Committee Meeting of 15 September 2022.

Report No. 14.3 Report of the Biodiversity Advisory Committee Meeting held on 15 September 2022

Directorate: Sustainable Environment and Economy

5 **Report Author:** Michelle Wilde, Project Support Officer

File No: I2022/1292

Summary:


10 This report provides the minutes of the Biodiversity Advisory Committee held on 15 September 2022 for determination by Council.

RECOMMENDATION:

15 **That Council notes the minutes of the Biodiversity Advisory Committee Meeting held on 15 September 2022.**

20

25 **Attachments:**

1 Minutes 15/09/2022 Biodiversity Advisory Committee, I2022/1247 

BYRON SHIRE COUNCIL

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY 14.3

Report

The attachment to this report provides the minutes of the Biodiversity Advisory Committee Meeting of 15 September 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/2022/09/BAC_15092022_A_GN_1504.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 Biodiversity Advisory Committee Meeting of 15 September 2022.

Statutory and Policy Compliance Implications

As per the Reports listed within the Biodiversity Advisory Committee Meeting of 15 September 2022.

15

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.4 Report of the Water and Sewer Advisory Committee Meeting held on 28 September 2022

5

Directorate: Infrastructure Services

Report Author: Dominika Tomanek, Executive Assistant Infrastructure Services

File No: I2022/1415

10 **Summary:**

The attachment to this report provides the minutes of the Water and Sewer Advisory Committee Meeting of 28 September 2022 for determination by Council.

15 **RECOMMENDATION:**

1. That Council notes the minutes of the Water and Sewer Advisory Committee Meeting held on 28 September 2022.

2. That Council adopts the following Committee Recommendation(s):

Report No. 3.1 Adoption of Minutes for Previous Meeting

File No: I2022/1309

Committee Recommendation 3.1.1

That the minutes of the Water and Sewer Advisory Committee Meeting held on 18 August 2022 be confirmed.

3. That Council adopts the following Committee Recommendation(s):

Report No. 4.1 Safe and Secure Yield

File No: I2022/1281

Committee Recommendation 4.1.1

- 1. That Council:**
 - a) Notes the report; and**
 - b) Defers the report to next committee meeting and invite the Rous representatives to discuss regarding future water supply.**

- 2. That the committee receives report on integrated water cycle management in the shire.**

5 Attachments:

- 1 Minutes 28/09/2022 Water and Sewer Advisory Committee Extraordinary, I2022/1319 

Report

The attachment to this report provides the minutes of the Water and Sewer Advisory Committee Meeting of 28 September 2022 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 https://byron.infocouncil.biz/Open/2022/09/WSAC_28092022_AGN_1563_AT_EXTRA.PDF

Committee Recommendation

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 Water and Sewer Advisory Committee Meeting of 28 September 2022.

Statutory and Policy Compliance Implications

As per the Reports listed within the Water and Sewer Advisory Committee Meeting of 28 September 2022.

15

**Report No. 14.5 Report of the Infrastructure Advisory
Committee Meeting held on 7 October 2022**

Directorate: Infrastructure Services

Report Author: Dominika Tomanek, Executive Assistant Infrastructure Services

5 **File No:** I2022/1452

Summary:

The attachment to this report provides the minutes of the Infrastructure Advisory
Committee Meeting of 7 October 2022 for determination by Council.

10

RECOMMENDATION:

1. **That Council notes the minutes of the Infrastructure Advisory Committee
Meeting held on 7 October 2022.**

15

2. **That Council adopts the following Committee Recommendation:**

Report No. 3.1 Adoption of Minutes from Previous Meeting

File No: I2022/1334

Committee Recommendation 3.1.1

**That the minutes of the Infrastructure Advisory Committee Meeting held on 16
June 2022 be confirmed.**

3. That Council adopts the following Committee Recommendation):

Report No. 4.1 Mullum Traffic Investigations

File No: I2022/596

Committee Recommendation 4.1.1

The Infrastructure Advisory Committee recommends that Council:

1. **Notes the Draft Mullumbimby Traffic and Transport Report (attachment 1 of Report 4.1 to Floodplain Management Advisory Committee Agenda-E2022/90532).**
2. **Endorses the preferred Heavy Vehicle routes proposed in attachment 1.**
3. **Supports the Station Street/ Fern Street upgrade and Station Street/ Tincogan Street upgrade designs being finalised with allowance for Heavy Vehicle movements.**
4. **Receives a report in relation to intersection layouts for the designs in point 3 above**
5. **Supports options around the Tincogan Street Intersection priority changes being drafted and brought back to next meeting Infrastructure Advisory Committee for approval, with options including pedestrian refuges and a dedicated right-turn lane for vehicles travelling east on Tincogan Street towards Dalley Street.**
6. **Supports the concept layout to change the priority at the Burringbar / Station Street intersection and refer it to the Local Traffic Committee for advice.**
7. **Consults with the Mullumbimby Chamber of Commerce, Place Planning Committee, Mullumbimby Residents Association and Main Arm Rural Residents Association about the Mullumbimby Traffic and Transport Draft Report (attachment 1) and this recommendation.**

4. That Council adopts the following Committee Recommendations:

Report No. 4.2 Application of Road Access and Safety Principles
File No: I2022/865

Committee Recommendation 4.2.1

The Infrastructure Advisory Committee recommend that Council:

- 1. Places the Draft Road Access and Safety Principles Policy (attachment 1 of Report 4.2 to Floodplain Management Advisory Committee Agenda E2021/47301) on public exhibition in accordance with Council policy.**
- 2. Supports development of the Road Access and Safety Principles through a Road Safety Plan that is prepared once the Byron Integrated Transport Strategy (Moving Byron) is formally adopted.**

5. That Council adopts the following Committee Recommendations:

Report No. 4.3 Paterson Street Road Safety Concerns Petition
File No: I2022/864

Committee Recommendation 4.3.1

That Council investigates a footpath linking the existing BB022 shared footpath on Massinger Street, between Lawson Street and Marvel Street extending to Bangalow Road via Paterson Street as part of a future review of footpaths and priorities in Council's Pedestrian Access and Mobility Plan.


6. That Council adopts the following Committee Recommendation:

Report No. 4.4 Belongil Parking Scheme Review - New Parking limits
File No: I2022/1222

Committee Recommendation 4.4.1

That Council supports, subject to Local Traffic Committee approval, the proposed short and long term actions for Belongil Beach on Childe Street, Kendall Street and Border Street included in the attached drawings (attachment 1 of Report 4.4 to Floodplain Management Advisory Committee Agenda - E2022/89910).

Attachments:

- 5 1 Minutes 07/10/2022 Infrastructure Advisory Committee, I2022/1423 

Report

10 The attachment to this report provides the minutes of the Infrastructure Advisory Committee Meeting of 7 October 2022 for determination by Council. The agenda for this meeting can be located on Council's website at:

https://byron.infocouncil.biz/Open/2022/10/IAC_07102022_AGN_1568.PDF

Committee Recommendation

The committee recommendations are supported by management and are provided in the attachment to this report.

15 **Financial Implications**

As per the Reports listed within the Infrastructure Advisory Committee Meeting of 7 October 2022.

Statutory and Policy Compliance Implications

20 As per the Reports listed within the Infrastructure Advisory Committee Meeting of 7 October 2022.

**Report No. 14.6 Report of the Floodplain Management
Advisory Committee Meeting held on 11
October 2022**

Directorate: Infrastructure Services

5 **Report Author:** Dominika Tomanek, Executive Assistant Infrastructure Services

File No: I2022/1478

Summary:

10 The attachment to this report provides the minutes of the Floodplain Management
Advisory Committee Meeting of 11 October 2022 for determination by Council.

RECOMMENDATION:

15 1. **That Council notes the minutes of the Floodplain Management Advisory
Committee Meeting held on 11 October 2022.**

2. **That Council adopt the following Committee Recommendation:**

Report No. 3.1 Adoption of Minutes from Previous Meeting
File No: I2022/1399

Committee Recommendation 3.1.1

**That the minutes of the Floodplain Management Advisory Committee Meeting
held on 16 June 2022 be confirmed.**

3. That Council adopt the following Committee Recommendations:

Report No. 4.1 Report in response to Res 22-461 Outcome of NSW Flood Inquiries

File No: I2022/1260

Committee Recommendation 4.1.1

1. That the Committee notes the recommendations of the two NSW Flood Inquiry reports and that staff have commenced work to identify relevant actions to be pursued through Local, State and Federal avenues.
2. That Council support staff also working to support the following recommendations of the Parliamentary Inquiry:
 - a) Recommendation 10 - Work with the community broadcasting sector to identify ways in which community broadcasters could be better supported to provide critical services during natural disasters, with a view to providing them adequate long term funding.
 - b) Recommendation 15 - . Ensure that the current review of evacuation centres considers the role, accreditation and support of community evacuation centres, with the outcomes of this review to be made public and incorporated into the update of state emergency plans.
 - c) Recommendation 19 - Establish a standing workforce from within the public service to staff evacuation and recovery centres, with this workforce to be trained ahead of time and mobilised as soon as a natural disaster occurs.

4. That Council adopt the following Committee Recommendations:

Report No. 4.2 Resolution 22-360 - Decreasing risk on the Shire's floodplain

File No: I2022/1100

Committee Recommendation 4.2.1

That the Floodplain Management Advisory Committee:

1. Notes the report on Resolution 22-360 and that Council staff continue to undertake technical work and receive reports from various sources to assist our community's flood event recovery and reconstruction actions.

- 2. Notes that updates to the Committee and Council will be provided periodically on this work.**

- 5. That Council adopt the following Committee Recommendation:**

**Report No. 4.3 Flood Levee Repair and Maintenance Program-Department
Regional NSW**

File No: I2022/1256

Committee Recommendation 4.3.1

The Floodplain Management Advisory Committee recommends that Council note the current Flood Levee Repair and Maintenance Program-Department Regional NSW.

- 6. That Council adopt the following Committee Recommendation:**

Report No. 4.4 Byron Shire Post 2022 Flood Analysis Update

File No: I2022/1261

Committee Recommendation 4.4.1

That the Floodplain Management Advisory Committee recommends that Council note the report and further report be presented at the next Floodplain Management Advisory Committee meeting.

7. That Council adopt the following Committee Recommendation:

Report No. 4.5 Capricornia Canal and Marshalls Creek

File No: I2022/1262

Committee Recommendation 4.5.1

Council notes that the actions proposed in Attachment 2 to the report 4.5 of Floodplain Management Advisory Committee Agenda (E2022/70063) will be completed prior to Council further considering the funding and completion of the scope of works provided in Attachment 1 to the report 4.5 of Floodplain Management Advisory Committee Agenda (E2022/77663).

8. That Council adopt the following Committee Recommendations:

Report No. 4.6 Byron Bay Drainage Upgrade Project

File No: I2022/1263

Committee Recommendation 4.6.1

That Council:

- 1. Notes the current progress of the Byron Bay Drainage Strategy.**
- 2. Support the project team in commencing development of a Communications Plan with Council's Communications Team.**

9. That Council adopt the following Committee Recommendation(s):

Report No. 4.7 Byron Shire Council Flood Risk Management Plan-Actions and Accomplishments

File No: I2022/1264

Committee Recommendation 4.7.1

The Floodplain Management Advisory Committee recommend that Council endorse the updated Byron Shire Council Flood Mitigation Program, Attachment 1 to the report 4.7 of Floodplain Management Advisory Committee

BYRON SHIRE COUNCIL

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

14.6

Agenda (E2022/89966).

Attachments:

5

1 Minutes 11/10/2022 Floodplain Management Advisory Committee, I2022/1412 

Report

The attachment to this report provides the minutes of the Floodplain Management Advisory Committee Meeting of 11 October 2022 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 [Agenda of Floodplain Management Advisory Committee Meeting - Tuesday, 11 October 2022 \(infocouncil.biz\)](https://infocouncil.biz)

Committee Recommendation

The committee recommendations are supported by management and are provided in the attachment to this report.

10 Financial Implications

As per the Reports listed within the Floodplain Management Advisory Committee Meeting of 11 October 2022.

Statutory and Policy Compliance Implications

- 15 As per the Reports listed within the Floodplain Management Advisory Committee Meeting of 11 October 2022.

Report No. 14.7 Report of the Local Traffic Committee Meeting held on 11 October 2022

Directorate: Infrastructure Services

Report Author: Shelley Flower, Traffic and Parking Systems Officer

5 **File No:** I2022/1481

Summary:

10 The attachment to this report provides the minutes of the Local Traffic Committee Meeting held on 11 October 2022 for determination by Council.

Council's action on the LTC advice will be:

- 15 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.
- 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.
- 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).
- 25 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.

30 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 11 October 2022.

5

2. That Council adopts the following Committee Recommendations:

Report No. 6.1 JHR- McAuleys Lane Overbridge Repairs works- Road Closure
File No: I2022/856

Committee Recommendation 6.1.1

That:

1. The Local Traffic Committee note the road closures of McAuley’s Lane which includes the following temporary road closures dates & times below:

<p>McAuley’s Lane – Road Overbridge</p>	<p>Construction Hours:</p> <p>Roster 1: 0700hrs to 1700hrs from Tuesday Morning 25th October through to Tuesday Afternoon 1st November 2022. Including Saturdays & Sunday (Full Rd Closures Required for 8 days) Detour route Via/ TGS used prior (Please view attached image)</p> <p>Road open (between rosters) for 6 days</p> <p>Roster 2: 0700hrs to 1700hrs from Tuesday Morning 8th November through to Tuesday Afternoon 15th November 2022. Including Saturdays & Sunday (Full Rd Closures Required for 8 days)</p> <p>Road open (between rosters) for 5 days</p> <p>Roster 3: 0700hrs to 1700hrs from Tuesday Morning 22nd November through to Tuesday Afternoon 29th November 2022. Including Saturdays & Sunday (Full Rd Closures Required 8 days)</p>
---	---

2. The approval provided in Part 1 is subject to:
 - a) implementation of the Traffic Guidance Scheme by those with appropriate TfNSW accreditation and the holding of current and

appropriate levels of insurance and liability cover;

b) the Road closure be notified on Council's web page;

c) That the UGL Regional Linx:

- inform the community and businesses that are directly impacted (eg with driveway access to McAuleys within 500m of Rail over bridge via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised;**
- liaising with bus, taxi and waste operators and ensuring arrangements are made for provision of services during conduct of the event;**
- consulting with emergency services and any identified issues be addressed;**
- holding \$20m public liability insurance cover which is valid for the event;**
- Road closures not occur during NSW School Holiday periods.**

3. The approval extend to include the signs and devices necessary to effect the temporary road closures.

3. That Council adopts the following Committee Recommendation:

**Report No. 6.2 Durrumbul Pre-School Road Safety Improvements
File No: I2022/1290**

Committee Recommendation 6.2.1

That Council:

Endorses the installation for 'No Stopping' signage to be installed as shown in the signage installation plan - Figure 3 in document I2022/1290, subject to changes as discussed.

4. That Council adopts the following Committee Recommendations:

Report No. 7.1 Event - Falls Festival 2022/23

File No: I2022/1294

Committee Recommendation 7.1.1

1. That the Local Traffic Committee support Falls Festival 2022-23 to be held from 31 December 2022 to 2 January 2023 (with campers arriving from 29th December 2022 and allowed to depart no later than 3rd January 2023).
2. That the Local Traffic Committee's support in Part 1 is subject to:
 - a) Approval from NSW Police and TfNSW respectively;
 - b) The development of a Traffic Management Plan and Traffic Control Plan(s) by those with relevant TfNSW accreditation. These plans are to be submitted to Byron Shire Council at least 2 months prior to the event for approval of traffic regulation on roads under Byron Shire control;
 - c) The Traffic Management Plan and the Traffic Control Plan to be implemented by those with relevant and current TfNSW accreditation;
 - d) The temporary 'No Stopping' where applied, including on Brunswick Valley Way and Tweed Valley Way (between Shara Boulevard and north to the Shire boundary), is implemented prior to the event and in accordance with relevant state requirements and Australian Standards;
 - e) A communications protocol be developed and maintained by those involved in the implementation of traffic management, including monitoring during the event and ability to implement contingency plans as and when directed;
 - f) Monitoring of vehicle volumes that arrive and depart the festival site and on the local road network;
 - g) The holding of an event debrief within the month following the festival which should include but not be limited to Council, TfNSW and Police.
3. The event organiser is to:
 - a) advertise the impact of the event via a notice in the local weekly paper a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints;

- b) provide a copy of the advert to Council for the Council website;
 - c) give consideration to any submissions received;
 - d) inform the community and businesses that are directly impacted (e.g. adjacent to the event) via written information which is delivered to the property in a timely manner. Document, consider and respond to any concerns raised;
 - e) arrange for private property access and egress affected by the event;
 - f) liaise with bus and taxi operators and ensure arrangements are made for provision of services during the event;
 - g) consult with emergency services and address any identified issues;
 - h) hold \$20m public liability insurance cover which is valid for the event; and
 - i) pay Council's Road Event Application Fee and Local Traffic Committee Fee prior to the event.
4. The approval extend to include the signs and devices necessary to effect the changed traffic conditions.
5. That Council adopts the following Committee Recommendations:

Report No. 7.2 DA10.2022.372.1 - North Byron Hotel Traffic Management Plan - Byron Bay Craft Beer and Cider Festival/ Caper Event

File No: I2022/1338

Committee Recommendation 7.2.1

- 1. That Council endorses the submitted Traffic Management Plan and Traffic Guidance Scheme for the Byron Bay Craft Beer and Cider Festival/ Caper Byron Festival at the North Byron Hotel on 11 – 13 November 2022.
- 2. That the approval is subject to:
 - a) Separate approvals by NSW Police and Transport for NSW being obtained.
 - b) The Traffic Management Plan be amended to document, the persons who are authorised to change the TGS on the day for unforeseen circumstances.
 - c) The Traffic Guidance Scheme to be implemented by those with relevant and current Transport for NSW accreditation.

- 3. That the event organiser must:**
 - a. Advertise the impact of the event via a notice in the local weekly paper a minimum of one week prior to the operational impacts taking effect. The notification must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints,**
 - b. Notify the public of event details on Council's webpage. Details to be supplied to Council by the event organisers,**
 - c. Undertake consultation with community and affected businesses including adequate response/action to any concerns raised,**
 - d. Undertake consultation with emergency services and any identified issues addressed,**
 - e. Hold \$20m public liability insurance cover which is valid for the event.**
- 4. The approval extend to include the signs and devices necessary to effect the changed traffic conditions.**

Attachments:

- 1 Minutes 11/10/2022 Local Traffic Committee, I2022/1435 

5

Report

The attachment to this report provides the minutes of the Local Traffic Committee Meeting of 11 October 2022 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 https://byron.infocouncil.biz/Open/2022/10/LTC_11102022_AGN_1525_AT.PDF

This report contains the recommendations of the Local Traffic Committee (LTC) meeting held on 11 October 2022.

Committee Recommendation

As per the Reports listed within the Local Traffic Committee Meeting of 11 October 2022.

10 Financial Implications

As per the Reports listed within the Local Traffic Committee Meeting of 11 October 2022.

Statutory and Policy Compliance Implications

As per the Reports listed within the Local Traffic Committee Meeting of 11 October 2022.

QUESTIONS WITH NOTICE

Question with Notice No. 15.1 Regional waste incinerator

File No: I2022/1449

5

Cr Dey asks the following question:

- 10 1. *is Council in discussion within the region about a Northern Rivers “energy to waste” incinerator, including one made possible recently in the “Richmond Valley Regional Jobs Precinct” near Casino under The Protection of the Environment Operations (General) Amendment (Thermal Energy from Waste) Regulation 2022?*
- 15 2. *if so, are contracts or service agreements being considered between waste supplier Councils like ours and the receiver Council (Richmond Valley) and is Council providing estimates of its likely take up of such a service?*
3. *and if so, are private companies (potential constructors or ongoing service providers) involved in concept design?*
4. *has the matter of a regional incinerator been presented to or discussed by Council’s Climate Change and Resource Recovery Committee?*
- 20 5. *are other options also being considered, other than Council’s own Bioenergy facility, for regional waste management or are other locations for a Bioenergy facility being considered?*

Response Director Infrastructure Services:

- 25 1. *is Council in discussion within the region about a Northern Rivers “energy to waste” incinerator, including one made possible recently in the “Richmond Valley Regional Jobs Precinct” near Casino under The Protection of the Environment Operations (General) Amendment (Thermal Energy from Waste) Regulation 2022?*

30 Byron Shire Council is one of 13 Councils in the NSW North Coast region participating in the North Coast Waste Investment Review Project which commenced in 2019. The Project has considered options to develop regional responses to collective waste challenges, including infrastructure to divert residual waste (the waste left after resource recovery and recycling) from landfill, to enhance resource recovery rates and to support the security and local opportunity of the recovered materials supply chain through to end markets.

35

The project has been driven by Richmond Valley Council with support and expertise from Council Resource Recovery and Waste staff and General Managers from all participating Councils. This is in accordance with Councils adopted strategies;

- **Towards Zero: Integrated Waste Management and Resource Recovery Strategy** - Key Goal to: determine the feasibility of pursuing a regional Alternative Waste Treatment (AWT) Solution.
- **Delivery Plan and Operational Plan** Activity 3.5.3.2: Support the progression of a regional; alternative waste treatment facility in alignment of the adopted strategy and relevant resolutions.

Thus far the Project has delivered a Waste Stocktake Analysis, and the North Coast Regional Waste Investment Review Report.

These reports provided the information basis for Councils to test the market for Alternate Waste Treatment (AWT) solutions for all waste streams that are environmentally, economically and socially acceptable to North Coast communities. Modelling included financial analysis, carbon profiling and also described opportunities to support the emergence of a local circular economy.

In the second stage of the Project, 9 of the original 13 Councils committed to participation in a Market Sounding and Expression of Interest (EOI), for the establishment of regional waste facilities with a focus on alternative waste treatment solutions for both residual and recyclable waste streams. Consultants MRA were engaged to undertake the EOI process on behalf of the 9 Councils. This allows companies who have the suitable technology to deal with the volume and classifications of waste within the region to put forward a proposal, and for these proposals to be assessed transparently. Richmond Valley Council have received submissions to the Expressions of Interest that was put to the market. Responses covered residual, recycle and food organic/green organic streams. A wide range of technologies have been put forward, including energy from waste facilities. Submissions have been assessed using the methodology outlined in the EOI documents. MRA has assisted Richmond Valley Council with the EOI process and assessment. The EOI process has demonstrated that there is strong market interest in establishing alternative waste technologies on the North Coast.

Concurrently, the NSW Government has released the *Energy from Waste Infrastructure Plan* to support the NSW Waste and Sustainable Materials Strategy 2041. The *Plan* recognises that thermal treatment of waste will form part of the future solution for managing residual waste in NSW, providing an opportunity to replace less environmentally sound energy sources, such as coal-fired power stations, and avoid methane emissions from landfill. Alternate waste treatment will not be prioritised over reduction and reuse.

In July 2022 the NSW Government put in place new energy from waste regulation - The Protection of the Environment Operations (General) Amendment (Thermal Energy from Waste) Regulation 2022 which put into law the Government's *Energy from Waste Infrastructure Plan* to strategically locate energy from waste in four designated locations in NSW to maximise efficiencies in infrastructure, waste

management, innovation and energy recovery. The Richmond Valley Regional Job Precinct has been identified as one of these four locations.

5 The *Energy from Waste Infrastructure Plan* takes a precautionary approach to ensure that social and human health risks are addressed and that facilities are located strategically to meet future waste management demand. Any proposals within the priority infrastructure areas would be required to comply with current planning and environmental legislation and policies, including the NSW Government's Policy Statement on Energy from Waste Facilities. This policy statement, released in June 2021, provides for extensive community consultation and includes some of the most rigorous environmental controls in the world.

Under the Policy, proposals must:

- 15
- Meet current international best practice techniques, including emissions controls
 - Use technologies that are proven, well understood and capable of handling the waste inputs
 - Meet technical, thermal efficiency and resource recovery criteria
 - Undertake monitoring with real-time feedback.

20 Furthermore, such facilities will only be supported where they are used to manage residual waste, not as an alternative to recycling.

2. *if so, are contracts or service agreements being considered between waste supplier Councils like ours and the receiver Council (Richmond Valley) and is Council providing estimates of its likely take up of such a service?*

25 No. The Project is not at the stage of contracts or service agreements.

30 Whilst individual Councils have committed to being a part of the Market Sounding and EOI process, this does not commit to continuation in the project overall. Council's participation will be determined by the opportunities presented through this process and a rigorous assessment process which includes consultation with Councillors and alignment with Councils Strategies which outline preference of Circular Economy and Resource Recovery Initiatives above disposal.

35 3. *and if so, are private companies (potential constructors or ongoing service providers) involved in concept design?*

40 Private companies have made submissions via the EOI process. The details of these submissions have not yet been made available to the participating Councils, and there are several other steps required before the Project would proceed to this stage if at all. Richmond Valley Council has provided the following with regards to next steps;

To further consider the possibilities of an Alternate Waste Treatment solutions for the North Coast, the following next steps are proposed:

- *Confirming the depth of support from the State Government and any funding that may be available for Alternate Waste Treatment facilities*

BYRON SHIRE COUNCIL

QUESTIONS WITH NOTICE

15.2

- *Exploring the process by which the Parkes Energy from Waste facility is being procured, and how proposals in Lithgow and Goulburn are progressing*
- *Exploring the contractual arrangements underpinning the Energy from Waste facilities that have been developed in Western Australia*
- 5 • *Developing relationships with potential advisors • Developing a communications strategy to inform the community on all options • Developing potential procurement strategies for the different options*
- *Continued liaison and partnering with North Coast councils*

10 4. *has the matter of a regional incinerator been presented to or discussed by Council's Climate Change and Resource Recovery Committee?*

15 A meeting of the newly formed Climate Change and Resource Recovery Committee is yet to be held, with meetings to date having to be cancelled. A report providing an overview of Resource Recovery Projects and operations has been submitted to the Committee, which notes the North Coast Waste Investment Review Project. The Project, and Council's involvement will be discussed further at the upcoming meeting on 21 October 2022.

20 Reports on the North Coast Waste Investment review Project were provided to the August 2021 Meeting of the Waste, Water and Sewer Advisory Committee meeting.

20 The CCRRAC will continue to be updated should new information come to hand in relation to the Project, as well as any updates provided by Richmond Valley Council, and any changes to NSW legislation.

25 5. *are other options also being considered, other than Council's own Bioenergy facility, for regional waste management or are other locations for a Bioenergy facility being considered?*

30 Yes. The intent of the North Coast Waste Investment Review Project, from Councils point of view was to determine the volume and types of materials we are dealing with as a region, the possible solutions for avoidance, reuse, recycling, recovery and as a last resort energy recovery and disposal. Through working with neighbouring Councils, solutions for a range of waste streams have been discussed, with a move to a Circular Economy model at the forefront.

35 The NSW government has put in place regulation and policy around Energy from Waste and stipulated locations in which it would allow this to occur, and this is being explored by Richmond Valley Council. This is one of four locations flagged by the NSW government as well as Parkes, Lithgow and Goulburn for this type of facility.

40 Councils are simultaneously looking at a range of options which include Projects to process construction and demolition waste and keep it in circulation, further food and garden processing facilities, recycling through Materials Recovery Facilities and plastics processing. Future projects aim to assist in designing out waste at the source, implementing reuse programs to eliminate single use materials and ensuring recycled content materials are pulled through supply chains, decreasing the need for disposal options.

Question with Notice No. 15.2 Upgrades on Main Arm Road

File No: I2022/1450

5

Cr Dey asks the following question:

A press release on 9 September 2022 announced:

“Major roadworks on Main Arm Road are due to start on 12 September 2022.

10 *“Council has received \$3.45 million in grant funding from Transport for NSW to improve safety for people travelling on Main Arm Road, especially the section from Mullumbimby to Sherrys Bridge.*

15 *“Additional funding of \$1.3 million from the NSW Government will allow for reconstruction work on the one-kilometre section of Main Arm Road, west of Sherrys Bridge. This work will commence early in 2023, weather permitting”.*

More details can be found at:

<https://www.byron.nsw.gov.au/Services/Roads-and-parking/Road-works-and-closures/Main-Arm-road-improvements>

20 *While these road works are very welcome, they are not flood related. There remain important flood-proofing matters that need attention on Main Arm Road:*

1. *at what stage will the inadequacy of the waterway opening beneath Williams Bridge to withstand the 2022 flood be reported to higher authorities, who must then ensure the waterway is enlarged before a repeat flood causes a repeat washout of the approach embankments?*
- 25 2. *what is the deadline by which Council must expend the \$1.3million grant for reconstructing the flood-prone section of Main Arm Road west of Sherrys Bridge?*

Response Director Infrastructure Services

30 **Point 1** – Staff will be reviewing the adequacy of the abutment that was impacted during the flood. The adequacy of the abutment will need to be assessed to ascertain the predesign standard and post flood emergency repairs in terms of adequacy. The AGRD guide to Bridge Technology Part 8 recommends in chapter 2.1 to design waterways to pass floods with ARIs up to 50 or 100 years. It is understood that the flood event in February 2022 was significantly higher than this.

BYRON SHIRE COUNCIL

QUESTIONS WITH NOTICE

15.2

Following the February 2022 flood event, the damage on Williams Bridge was reported to TfNSW and approval and funding for emergency works was approved.

- 5 Repair works on abutments were completed following recommendations of geotechnical engineer regarding grading of rip rap protection, installation methodology, interface drainage and compaction effort. Construction was completed following strict guidelines stated in Australian and TfNSW Standards. Council crews made an extraordinary effort to complete works safely and as quick as possible to restore access to all Main Arm residents.

- 10 The attached link below provides an image of the construction methodology.
<https://photos.app.goo.gl/9mfK5WmUtaqp2R3FA>

Rip rap protection on both embankments use 1 to ½ Ton rock to support water velocities up to 5.1m/s which (AGRD Bridge Technology Part 8 Table 5.11) is equivalent to the velocity expected in the 100 year event.

Bridge structure had been assessed as condition 3 on the 17-Feb-2022 (fair condition)

- 15 **Point 2**, Deadline is Aug-2023. Funding is part of NSW Govt Election Commitment Grant

Question with Notice No. 15.3 Flood report on fill in Mullumbimby

File No: 12022/1451

5

Cr Dey asks the following question:

10 *Residents near the land (Prince Street Mullumbimby) were notified a day or two before work began on 11 July 2022 that the corridor near them would be prepared for pods to accommodate flood-displaced people. The site and its surrounding neighbourhood was flooded in the same flood that displaced those needing temporary housing in the pods. The work included importing fill onto this floodplain and placing it at heights between 0.8m and 1.5m above existing ground levels.*

15 *Council resolved on 23 June to note via Part 1 a) and b) of Resolution **22-290**, the many reasons why floodplains require special attention to avoid filling. Those reason included that:*

- 20
- a) *fill can prevent the passage of floodwater during major floods and may thus raise flood levels upstream of the fill site;*
 - b) *fill occupies airspace that would otherwise attenuate flooding further downstream.*

It is widely accepted that the fill at Prince Street will raise flood levels downstream of that location.

Authorities have undertaken to have this matter investigated by hydrologic experts, to determine the quantum of that rise.

25 *This report was due months ago but has not been made public, despite that having been promised many times.*

- 1. *has Council received or viewed the hydrologic report that considers the impact of the fill at Prince Street on future catchment flood levels in the neighbourhood?*
- 2. *if so, when will it be shared with the public?*
- 30 3. *if not, will Council again ask for it to be shared?*
- 4. *if that is not possible, will Council at least announce the findings of the report?*

Response Director Sustainable Environment and Economy:

Staff responses below:

- 35 1. *has Council received or viewed the hydrologic report that considers the impact of the fill at Prince Street on future catchment flood levels in the neighbourhood?*

BYRON SHIRE COUNCIL

QUESTIONS WITH NOTICE

15.3

Resilience NSW commissioned the report and a draft version of it has been shared with Council staff.

2. *if so, when will it be shared with the public?*

5 This is a matter for Resilience NSW. It is unclear when and in what format the findings of the report will be released by them. It is Council's understanding based on conversations with Resilience that the findings of the report will be released by them.

3. *if not, will Council again ask for it to be shared?*

10 This is a matter for Resilience NSW. We will continue to ask them to publicly release it if it's not forthcoming. Council has made multiple requests for this document to become public. It is Council's understanding based on conversations with Resilience that the findings of the report will be released by them.

4. *if that is not possible, will Council at least announce the findings of the report?*

15 This is a matter for Resilience NSW. It is Council's understanding based on conversations with Resilience that the findings of the report will be released by them. It is unclear when and in what format the findings of the report will be released by them.

CONFIDENTIAL REPORTS - GENERAL MANAGER

Report No. 16.1 CONFIDENTIAL - Annual Review of GM's Performance

5 **Directorate:** General Manager
Report Author: Kylie Armstrong, Manager People and Culture
File No: I2022/1400

Summary:

10 On 26 August 2022, the General Manager's annual performance review for the 2021/2022 financial year was conducted by a performance review panel, in accordance with the Guidelines for the Appointment and Oversight of General Managers issued by the Division of Local Government, Department of Premier and Cabinet (the 'Guidelines').

15 The performance review panel consisted of the Mayor Cr Michael Lyon, Cr Sarah Ndiaye, Cr Alan Hunter and Cr Duncan Dey, assisted by an external facilitator, Ms Sandra Wood from Sandra Wood Consulting.

A performance agreement for the 2022/2023 financial year has been developed by the General Manager and Mayor Cr Michael Lyon, with input from the other review panel members.

20 On 8 July 2022, the General Manager wrote to the Mayor, Cr Michael Lyon seeking re-appointment to the position of General Manager. The termination date of the General Manager's current Contract of Employment is 1 July 2023.

25 **RECOMMENDATION:**

1. **That pursuant to Section 10A(2)(a) of the Local Government Act, 1993, Council resolve to move into Confidential Session to discuss the report Annual Review of GM's Performance.**
 2. **That the reasons for closing the meeting to the public to consider this item be that the report contains:**
 - a) **personnel matters concerning particular individuals (other than councillors)**
- 30

BYRON SHIRE COUNCIL

CONFIDENTIAL REPORTS - GENERAL MANAGER

16.1

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:

The report contains confidential information about performance.

5 **Attachments:**

- 1 Confidential - Attachment 1 - CONFIDENTIAL - GM Performance Review REPORT - period ending June 2022, E2022/97969
- 2 Attachment 2 - Confidential - GM Performance Agreement - 01 July 2022 to 30 June 2023 (to be distributed under separate cover)
- 3 Confidential - Attachment 3 - Application for renewal of contract, E2022/64282