

Agenda Ordinary Meeting

Thursday, 24 November 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.

BYRON SHIRE COUNCIL

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
 - 6.1 Ordinary Meeting held on 27 October 2022
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Sustainable Environment and Economy

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Sustainable Environment and Economy

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Infrastructure Services

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*To be provided in a supplementary agenda.

15. QUESTIONS WITH NOTICE

Nil

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

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

NOTICES OF MOTION

Notice of Motion No. 9.1 Backzoning Linnaeus

File No: I2022/1642

5

I move that:

- 10 1. Council requests staff to commence preparation of a planning proposal to rezone the Linnaeus site (Lot 1 DP1031848) from its current SP1 Mixed Use Development Zone to a C4 Environmental Living Zone, such that no additional development can be undertaken on the site other than the existing approved land uses;
2. Staff advise the landowners of point '1' above;
- 15 3. The landowners be requested to submit any required technical studies for the site to support the proposed rezoning and at a standard to Council's satisfaction, to enable an assessment to be undertaken by or before April 2023;
4. A gateway assessment report be presented to Council following completion of point '3';
- 20 5. Consultation for the planning proposal by Council will be undertaken following the issue of, and in accordance with the gateway determination.

Signed: Cr Michael Lyon

Councillor's supporting information:

- 25 Linnaeus is one of these legacy items that we were landed with in the last term of Council. We have had several goes at trying to draw a line under it without success. The latest DA approval from the Northern Rivers Planning Portal has created a use on the site that had not been approved under the 1988 LEP and was not envisioned as part of the transfer into the 2014 LEP.
- 30 The environmental values of the site are undisputed, as is the need to do everything we can to protect the unique biodiversity on this site and in the broader Broken Head area. The intention of the notice of motion is to again attempt to draw a line under this site at the current levels of approval and shift the zoning of the land to ensure this happens.

Whilst it is clear that there has been disagreement between various landowners and parties involved, both internal and external, it is my hope that a resolution can be reached such that future Councils are not burdened with trying to sort it out.

Staff comments

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

The Linneaus Site has a recent history of application and reports.

Council considered Report No 13.3 - PLANNING - 26.2018.2.1 The Linneaus Estate - Options for proceeding with Community Title Subdivision at its [Agenda of Ordinary \(Planning\) Meeting - 21 May 2020 \(infocouncil.biz\)](#) and resolved as follows:

10 Resolved 20-203:

1. That Council:

- a) Note the report PLANNING - 26.2018.2.1 The Linneaus Estate - Options for proceeding with Community Title Subdivision.
- 15 b) Support the preparation of an amended planning proposal for Lot 1 DP 1031848, Broken Head Road, Broken Head (The Linneaus Estate) that rectifies the issues noted in this report.
- c) Require the proponent to provide a current coastal hazard study that informs the amended planning proposal to Council's satisfaction.
- 20 d) Receive a further report that considers (i) proposed amendments to the planning proposal, (ii) the outcomes of the coastal hazard study, and (iii) submissions that were received during the public exhibition period.

2. That any planning proposal and/or development application consultation and engagement period reflects the Community Participation Plan namely that:

25 "Before the lodgement of a planning proposal and/or development application for community significant development, the applicant must:

- carry out a community meeting or workshop to be facilitated by Council;
- notify adjoining and surrounding landowners and known community groups; and
- 30 • ensure the community has adequate time to consider and comment on the proposal. "

3. That Council request the proponent to submit a current audit of buildings, structures and works on site to enable Council staff to review against existing consents and approvals to assess compliance. This audit is to be submitted within three months.

35 Council considered an update on the status of the above resolution at the [Agenda of Ordinary \(Planning\) Meeting - Thursday, 4 November 2021 \(infocouncil.biz\)](#) and resolved as follows:

21-495 Resolved that Council:

1. Notes the staff update on Resolution 20-203 The Linneaus Estate - Options for proceeding with Community Title Subdivision.

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9.1

2. In noting the site inspection findings (section 5 of the audit), understands that staff will do the follow up with the landowner (and do a site inspection if deemed necessary) to clarify the nature of the minor inconsistencies identified between some of the building forms on site as they appear in the various approval documentation on file.
- 5 **DA10.2021.170.1 (PPSNTH-83)** Mixed Use Development comprising Twenty-Seven (27) New Eco Tourist Facility Cabins, Seven (7) Ancillary Buildings including Wellness Facility, Refuges, Depot, Addition of Deck to Existing Centre and Associated Earthworks and Vegetation Removal, and Change of Use of Fourteen (14) Private Education Accommodation Units to Eco Tourist Facility Units was granted development consent by
10 the Northern Region Planning Panel on 8 November 2022.

[Mixed Use Development | Planning Portal - Department of Planning and Environment \(nsw.gov.au\)](#)

[Determination PPSNTH-83.pdf](#)

- 15 The way forward is for a Council initiated (or landowner initiated) planning proposal being progressed to rezone that part of the land zoned SP1 Mixed Use Development to a C4 Environmental Living zone and include an Additional Permitted Uses clause to manage land use. Consequential amendments will also be required to certain clauses in Byron LEP 2014 to provide for any community title subdivision sought thereafter as per the Rural Land Use Strategy 2017.
- 20 As the site has an area of deferred matter (DM) land also, a coastal study that informs the planning proposal for that part of the land will also be required. Work has significantly progressed on council's [Coastal Management Program Southern Coastline including Estuaries - Byron Shire Council \(nsw.gov.au\)](#) which can be used to inform the planning
25 proposal, and application of appropriate land use zones to it. It is anticipated that the planning proposal will as such include provisions that enable Council to manage future land use zoning and land use in accordance with the coastal erosion risks identified in the study.

Financial/Resource/Legal Implications:

- 30 If a Council initiated planning proposal it will be funded from the existing operational budget.

If a landowner-initiated planning proposal it will be subject to Council's fees and charges.

Is the proposal consistent with any Delivery Program tasks?

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
<p>4: Ethical Growth We manage growth and change responsibly</p>	<p>4.1: Manage responsible development through effective place and space planning</p>	<p>4.1.4: LEP & DCP - Review and update the Local Environmental Plan and Development Control Plans</p>	<p>4.1.4.1</p>	<p>Assess requests to amend Local Environmental Plans and/or Development Control Plans including maps in accordance with legislative requirements.</p>

Notice of Motion No. 9.2 Mayoral Fund 2022/2023 - Allocation of Funding

File No: I2022/1643

5

I move:

10 **That Council confirms the donations from the Mayor’s Discretionary Allowance 2022/2023 as per the recommendation in Confidential Attachment 1 (E2022/111103), including applications partially supported.**

Attachments:

1 Confidential - Mayoral Fund 2022/2023 Applications Received, E2022/111103

15 **Signed: Cr Michael Lyon**

Councillor’s supporting information:

One method that Council uses to support community groups, organisations and local schools is through the provision of funding by way of the “Mayor’s Discretionary Allowance”.

20 Following a review in March 2021 (**Res 21-075**) of how the Mayor’s Discretionary Allowance is considered and determined, community groups, organisations and local schools were invited to apply for funding, including justification for the request, with the Mayor’s decision to be reported to Council for confirmation in accordance with the Act and **Res 09-349**.

25 On 30 August 2022 Council announced the Mayoral Fund for 2022/2023 was open for applications via Council’s website, with applications closing on 7 October 2022. Seventeen applications were received with a total of \$18,799.00 funding requested. This year’s total available budget is \$3,900.00.

30 Applications received are for multiple locations across the Shire, including a variety of community groups, organisations, and local schools, and align with the following themes of the Community Strategic Plan:

- Community - We have an inclusive and active community where diversity is embraced and everyone is valued.
- Environment - We nurture and enhance the natural environment.

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- Infrastructure – We have connected infrastructure, transport, and facilities that are safe, and reliable.
- Leadership – We have effective decision making and community leadership that is open and informed.

5 **Staff comments**

by Esmeralda Davis, Director Corporate and Community Services:

There is sufficient funding available to allocate as per the recommendations in Confidential Attachment 1 (E2022/111103), including partial allocations for five of the requests. If the Notice of Motion is supported, staff will process accordingly.

10 **Financial/Resource/Legal Implications:**

The 2022/2023 Budget adopted by Council included an allocation of \$3,900 for budget item Mayor – Discretionary Allowance. Sufficient funds are available for making the nominated donations of \$3,900.

15 In relation to the making of Section 356 Donations from Mayor – Discretionary Allowance, Council at its Ordinary meeting held on 14 May 2009 resolved as follows:

“09-349 Resolved that Council confirm that all s356 donations, to be made from the budget allocation “Mayor – Discretionary Allowance”, must be the subject of a resolution of the Council at Ordinary or Extraordinary meeting.”

20 The Section 356 Donation will be advertised, and public notice of financial assistance provided in accordance with Section 356 of the Local Government Act 1993.

Is the proposal consistent with any Delivery Program tasks?

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

Notice of Motion No. 9.3 Support for the draft Bill to establish a Commonwealth Postal Savings Bank

File No: I2022/1644

5

I move:

1. That Council notes that:

- 10 a) Bank branch and ATM closures are leaving many communities without access to financial services, especially in regional Australia;
- b) Since 1975 the number of bank branches in regional Australia has fallen by more than 60 per cent, and there are more than 1,500 communities across Australia with no bank branches at all;
- 15 c) A large proportion of the population, including the elderly, disabled, small businesses, and local schools and charities, will always have a need for face-to-face financial services, despite advances in technology;
- d) For hundreds of communities, their only access to cash and financial services is through Bank@Post at their local post office;
- 20 e) Bank@Post is an essential service to all communities, but is vulnerable to commercial decision-making by the banks, which can choose to withdraw their participation, and charge excessive fees on transactions; and
- f) With four major banks controlling 80 per cent of the financial system, Australian consumers suffer from a lack of real banking competition.

25 2. That Council calls on the Commonwealth Parliament to pass the Commonwealth Postal Savings Bank Bill to establish a post office people's bank, fully guaranteed by the Commonwealth, as a dedicated postal savings bank, operating exclusively through Australia Post's corporate and licensed post offices, which will ensure basic banking services—including deposit-taking, business and personal lending, and access to cash—and be available to all Australians, and will contribute to Australia's national economic development.

30

35 3. That Council writes to our State and Federal Members of Parliament, to inform them of Council's desire to support the passage of the Commonwealth Postal Savings Bank Bill through Parliament.

4. That the Mayor, on behalf of Council, moves a resolution at Northern Rivers Joint Organisation (NRJO) as per the above to lend regional weight to the campaign.

Signed: Cr Michael Lyon

5 **Councillor's supporting information:**

10 We received correspondence regarding this last year and there have been follow-ups from Robert Barwick from the Australian Citizens Party recently. I had a chat with him and he has convinced me that this is a good initiative and it seems to have good support from many in Parliament. I would like us to add our weight to the campaign and take this to NRJO to do the same.

Further Background: Text of email received in October:

"Dear Mayor Lyon,

15 *I am writing to ask you and your Council for your support for the growing campaign for a public post office bank in Australia, like those which operate successfully in many countries around the world.*

As a local councillor, you would know the impact that the wave of closures of bank branches is having on communities, especially regional communities.

This impact is compounded by the reduction in bank lending into regional communities.

20 *The Australian Citizens Party is part of a nationwide campaign to establish a new government bank, like the original Commonwealth Bank, to operate in post offices, which would guarantee face-to-face financial services for all communities, and force the Big Four banks to compete on both cost and service.*

The post office bank would also:

- 25
- Guarantee deposits, because it is a government bank;*
 - Maintain cash payments and processing, which the private banks are trying to do away with;*
 - Increase lending to individuals and small businesses in regional communities;*
 - Invest in more infrastructure, including through local government.*

30 *Please note: This policy is different to the existing banking service in post offices, Bank@Post, because it is a dedicated postal bank that will increase competition, whereas Bank@Post is just an agency service for the existing banks which can withdraw any time. It is also different to community banks, which do an admirable job, but, again, they don't increase competition.*

BYRON SHIRE COUNCIL

NOTICES OF MOTION

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This campaign is supported by the Licensed Post Office Group (LPOG), which represents the interests of the almost 3,000 community post offices which are run as small businesses, the majority of the Australia Post network.

5 *And it is supported by Katter's Australian Party, One Nation, the Greens, senior members of the National Party, and members of the Liberal and Labor parties.*

10 *On 7 September, the LPOG hosted a public forum in Parliament House on the postal bank policy, which was attended by Member for Kennedy Bob Katter, Liberal Senator Gerard Rennick, Nationals Senator Ross Cadell, One Nation Senator Malcolm Roberts, and staffers representing MPs from all the parties in Parliament. You can view the entire forum at this link: <https://www.youtube.com/watch?v=yWizMx7BgJs>*

The featured speaker was former New Zealand Cabinet Minister Matt Robson, whose party started NZ's postal bank, called Kiwibank, in 2002.

15 *Mr Robson recounted Kiwibank's immediate success, including how New Zealanders flocked to open accounts, and how the private banks, suddenly having to compete, announced a moratorium on branch closures.*

A public postal bank would have a similar impact in Australia.

We are seeking local government support for this campaign, to send a message to Canberra that this policy is what local communities need to improve essential services and investment.

20 *The Citizens Party has produced the following short videos to explain benefits of the policy:*

25 *1. CREATE A PUBLIC POST OFFICE BANK! – The solution to the closure of local bank branches (<https://www.youtube.com/watch?v=eMiwrvvNnPO>). The major banks have closed more than 350 bank branches in the last two years and research shows that since 1975, regional Australia has lost 62% of its banks!*

30 *2. CREATE A PUBLIC POST OFFICE BANK! The solution to the financing needs of local government. This second video shows how a postal bank, because it is a public bank, could be a source of long-term, low-interest, flexible credit for local governments to meet their infrastructure responsibilities, as the Commonwealth Bank was when it started in post offices in 1912. (<https://www.youtube.com/watch?v=oNve8bPPNAM>)*

How Councils can support

35 *Bob Katter MP is preparing a bill to introduce into Parliament, called the Commonwealth Postal Savings Bank Bill.*

We are asking local Councils to pass motions to endorse the bill, and communicate the endorsement to your local federal Member of Parliament.

Five Councils have now passed motions:

1. *Narrabri Shire Council (NSW)*
2. *Banana Shire Council (QLD)*
3. *Yilgarn Shire Council (WA)*
- 5 4. *Cobar Shire Council (NSW)*
5. *Strathfield City Council (NSW)*

You can see the motions on our website: <https://citizensparty.org.au/campaigns/public-post-office-bank/post-bank-resolutions>.

- 10 *Alternatively, download a PDF of the five motions:*
<https://citizensparty.org.au/sites/default/files/2022-09/202209-Post-Office-Bank-PASSED-Council-Motions.pdf>

Please raise this policy for consideration by your council, with a view to passing a motion of support.

- 15 *I am available for a phone call and to address your council and answer questions on the policy. Please don't hesitate to contact me on the numbers below. Yours sincerely,*

Robert Barwick

Research Director

Australian Citizens Party"

Staff comments

- 20 **by Esmeralda Davis, Director Corporate and Community Services:**

This approach to Council has emerged from the Australian Citizen's Party '[Resolution Campaign](#)' to promote and build support for the Commonwealth Postal Savings Bank (CPSB).

- 25 It is open to Council to receive and debate the Motion and to resolve as moved or in some alternate form. If the motion is supported, staff can prepare the required correspondence.

Financial/Resource/Legal Implications:

Staff time.

Is the proposal consistent with any Delivery Program tasks?

No

30

DELEGATES' REPORTS

Delegate's Report No. 12.1 Far North Coast BFMC meeting 8 November 2022.

5 **File No:** I2022/1647

10 The meeting dealt with many issues within Byron Shire, one of the three Shires in this Bush Fire Management Committee's area. I attended via Teams, so my notes may be a bit wonky:

1. Community managed Dwarf Graminoid Heath at the eastern end of Ruskin Street (Frank Mills Lookout) Byron Bay - the burn was done, two months late due to wet weather.
- 15 2. Wategos Beach – the local community has received training and a small trailer mounted Fire Unit that it will operate. Factors for this local approach include that Wategos can get cut off by bushfire. Fire & Rescue NSW are considering other communities where such an approach might apply.
- 20 3. North Rocks Road fire trail was heavily damaged by landslip in the 2022 flood events, maintenance of this trail is shared between NPWS and Council, NPWS is now considering the strategic importance of the trail and whether reconstruction is justified.
- 25 4. Council bush regenerators are working in the reserve north of Tongarra Drive & Coomburra Crescent Ocean Shores. Farming ceased in the 1970's and regrowth in the reserve and its surrounds has included garden and weed species. Council's objectives are to encourage natural regeneration of local species while reducing volatile fuel loads, including those of exotic grasses and lantana.
5. Similar work is happening in Suffolk Park.
- 30 6. Bush at the end of Jones Road Yelgun has received annual treatments to ensure safe egress in this highly volatile and vulnerable area. Jones Road lies between North Byron Parklands and Billinudgel Nature Reserve.
7. Rural Fire Service's Federal-Goonengerry Brigade is proposing tank storage as a Static Water Supply (SWS) for events in the village. A 25,000-litre tank is proposed, to be topped up by solar-pumped water from Stony Creek to the south-west.

35 **Signed: Cr Duncan Dey**

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.1 Meeting Schedule 2023 - Council Meetings, Committee Meetings, and Councillor Workshops

5

Directorate: Corporate and Community Services
Report Author: Amber Evans Crane, Governance Support Officer
File No: I2022/1445

Summary:

10 This report seeks to determine the schedule of Ordinary and Planning Council Meetings and Councillor Workshops for the 2023 calendar year. The approximate pattern of committee meetings is also given prior to the detailed scheduled being reported to Council in December.

15 A proposed schedule of dates, times, and places for the meetings in 2023 is recommended for adoption. Following Council endorsement, the meeting schedule will be publicly available to view on Council's website.

Where possible, consistency with the 2022 meeting schedule has been prioritised to minimise disruption.

20

RECOMMENDATION:

1. That Council endorses the meeting frequency and cycle to generally follow the monthly pattern of:

25

- 1st Thursday – Councillor Workshop & Planning Review Committee
- 2nd Thursday - Planning Meeting
- 3rd Tuesday – Committee meetings
- 3rd Thursday - Committee meetings
- 4th Thursday - Ordinary Meeting

30

- 5th Thursday (where applicable) – Committee meetings or Councillor Workshop

2. That Council continues to support a recess in January and July each year, where no meetings are scheduled.

35

3. That Council adopts the following schedule of Ordinary and Planning Council Meetings, Councillor Workshops, and Committee Meetings for 2023:

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STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.1

Date	Meeting/Workshop (Thursday & Tuesday)
Jan-23	RECESS
2-Feb-23	Workshop
9-Feb-23	Planning
14-Feb-23	Committee
16-Feb-23	Committee
23-Feb-23	Ordinary
02-Mar-23	Workshop
9-Mar-23	Planning
14-Mar-23	Committee
16-Mar-23	Committee
23-Mar-23	Ordinary
30-Mar-23	Committee
06-Apr-23	Workshop
13-Apr-23	Planning
18-Apr-23	Committee
20-Apr-23	Committee
27-Apr-23	Ordinary
04-May-23	Workshop
11-May-23	Planning
16-May-23	Committee
18-May-23	Committee
25-May-23	Ordinary
01-Jun-23	Workshop
08-Jun-23	Planning
13-Jun-23	Committee
15-Jun-23	Committee
22-Jun-23	Ordinary
29-Jun-23	Committee
Jul-23	RECESS
03-Aug-23	Workshop
10-Aug-23	Planning

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STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.1

15-Aug-23	Committee
17-Aug-23	Committee
24-Aug-23	Ordinary
31-Aug-23	Committee
07-Sep-23	Workshop
14-Sep-23	Planning
19-Sep-23	Committee
21-Sep-23	Committee
28-Sep-23	Ordinary
05-Oct-23	Workshop
12-Oct-23	Planning
17-Oct-23	Committee
19-Oct-23	Committee
26-Oct-23	Ordinary
02-Nov-23	Workshop
09-Nov-23	Planning
16-Nov-23	Committee
21-Nov-23	Committee
23-Nov-23	Ordinary
30-Nov-23	Workshop
07-Dec-23	Planning
12-Dec-23	Committee
14-Dec-23	Ordinary

4. That the Ordinary and Planning Council Meetings commence at 9.00am.
5. That Ordinary and Planning Council Meetings are held in the Conference Room, Mullumbimby, until the restoration and renovation of the Council Chambers is complete, at which point Meetings will resume being held in the Council Chambers.

Attachments:

- 1 2023 Council Meeting schedule - PDF attachment, E2022/99429 

Report

The proposed meeting schedule is based on the current structure of Ordinary and Planning Council Meetings, Councillor Workshops, and Committees.

- 5 Council meetings are generally held each Thursday, and Committees generally on Tuesdays and Thursdays. Meetings following an estimated monthly pattern of:
- 1st Thursday – Councillor Workshop and Planning Review Committee
 - 2nd Thursday - Planning Meeting
 - 3rd Tuesday – Committee Meeting

10

 - 3rd Thursday - Committee meetings
 - 4th Thursday - Ordinary Meeting
 - 5th Thursday (where applicable) – committee meetings or Councillor Workshop

- 15 It is recommended that both Ordinary and Planning Council Meetings commence at 9am. As a result, site inspections will be scheduled on the Tuesday before the meeting commencing at 3.30pm. This option was tested on 11 November 2022 and proved beneficial. This will also bring about consistency to starting times for Councillors and members of the public.

- 20 Following discussion with Councillors at the 3 November Councillor Workshop, an additional committee day is required to accommodate the number of committees that are required to meet quarterly. This is proposed for the 3rd Tuesday of each month, in the same week as the Thursday committee meetings. The committee meeting schedules are in development and will constitute a report to Council in December 2022.

25

Other considerations

The meeting schedule deviates from the usual pattern slightly for the month of December to accommodate the holiday period.

- 30 The schedule has also been prepared with consideration to events such as public holidays and conferences, noted impacts are:
- The Local Government NSW 2023 Annual Conference is scheduled to be held from 12 to 14 November 2023 in Parramatta. Committee meetings have been rescheduled to avoid a clash.

35

 - The 2023 National General Assembly of Local Government is scheduled to be held from 18 to 21 June 2023 in Canberra. Although there is no meeting during this time, there is an Ordinary Meeting scheduled the day after the Assembly.

Strategic Considerations

Community Strategic Plan and Operational Plan

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

Legal/Statutory/Policy Considerations

5 Clause 3.2 of Council’s *Code of Meeting Practice* states that “*The council shall, by resolution, set the frequency, time, date and place of its Ordinary meetings.*”

The setting of the 2022 meeting schedule complies with Council’s obligations under the various sections of the *Local Government Act 1993* that apply to meeting dates, namely:

- [Section 9](#) notes that a council must give notice to the public of the times and places of its meetings
- 10 • [Section 365](#) notes that Council is required to meet at least 10 times each year, each in a different month
- [Section 367](#) outlines the required notice period of business papers for Councillors.

Financial Considerations

There are no financial implications with this meeting schedule.

15 Consultation and Engagement

Public notice of the 2023 meeting schedule will be given on Council’s website.

Report No. 13.2 Annual Report 2021/22

Directorate: Corporate and Community Services

Report Author: Heather Sills, Manager Corporate Services

File No: I2022/1612

5 **Summary:**

Each NSW Local Government Authority is required under S428 of the *Local Government Act 1993* to prepare and submit to the Minister of Local Government an Annual Report.

10 The preparation of an Annual Report is an opportunity for a Council to provide feedback back to the community on how the Council has implemented its operational plan and delivered outcomes for the community.


Council is asked to note the Annual Report 2021/22 and its submission to the Minister for Local Government.

15 A separate report on the 2021/22 Financial Statements will be prepared for the consideration of Council.

RECOMMENDATION:

20 **That Council notes the Annual Report 2021/22 (#E2022/89378), included as Attachment 1 to this report, and its submission to the Minister for Local Government.**

Attachments:

25 1 Byron Shire Council Annual Report 2021/22, E2022/89378 

Report

Each Council in NSW has an obligation to prepare and submit an Annual Report. It is an opportunity to report back to the community on Council's progress.

5 The attached Annual Report has been prepared in accordance with the *Local Government Act 1993* and includes the information prescribed in the *Local Government (General) Regulation 2021*. Information that is required by the Local Government Act and Regulation, or any other legislative requirement is noted with reference to the relevant legislation in bold.

10 In addition to the prescribed information, this Annual Report is one of the key points of accountability between Council and our community. The Annual Report highlights some of our achievements in implementing the 2018-2022 Delivery Program over the last year and the ways in which these activities contribute to the overarching objectives in the Community Strategic Plan 2028:

- 15 • **INFRASTRUCTURE** - We have infrastructure, transport and services which meet our expectations
- **COMMUNITY** - We cultivate and celebrate our diverse cultures, lifestyle and sense of community
- **ENVIRONMENT** - We protect and enhance our natural environment
- **GROWTH** - We manage growth and change responsibly
- 20 • **GOVERNANCE** - We have community led decision making which is open and inclusive

25 This is the final year of reporting on the *Our Byron Our Future Community Strategic Plan 2028*. A new *Byron Shire Community Strategic Plan 2032* has been developed in consultation with community and Councillors following the 2021 Local Government election. The new plan will be the subject of future Annual Reports.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.1: Enhance trust and accountability through open and transparent leadership	1.1.2: Governance - Ensure legislative compliance and support Councillors to carry out their civic duties	1.1.2.5	Prepare and submit the 2021/22 Annual Report

Legal/Statutory/Policy Considerations

5 [Section 428](#) of the *Local Government Act 1993* requires Council to prepare an annual report within 5 months after the end of each year and to detail its achievements in implementing its delivery program and the effectiveness of the principal activities undertaken in achieving the objectives at which those principal activities are directed.

The *Local Government (General) Regulation 2021*

10 The report must include a copy of the council's audited financial reports prepared in accordance with the *Local Government Code of Accounting Practice and Financial Reporting* published by the Department, as in force from time to time, and such other information or material as the regulations or the guidelines under section 406 may require. A copy of the council's Annual Report must be posted on the council's website and provided to the Minister.

Financial Considerations

The preparation of the document was funded within existing budget allocations.

15 **Consultation and Engagement**

The Annual Report will be published on Council's website.

Report No. 13.3 Draft 2021/2022 Financial Statements

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

File No: I2022/1687

5 **Summary:**

The Draft 2021/2022 Financial Statements have been prepared, and at the time of writing, are subject to external audit still in progress, albeit close to finalisation. Council's file has been lodged with the NSW Audit Office for review and has been subject to audit review by the contracted auditor, Thomas Noble and Russell.



10 This report to Council recommends the adoption of the Draft 2021/2022 Financial Statements as prepared and the completion of the statutory steps outlined in Section 418 to 420 of the Local Government Act 1993.

15

RECOMMENDATION:

1. **That Council adopts the Draft 2021/2022 Financial Statements incorporating the General Purpose Financial Statements (#E2022/112363) and Special Purpose Financial Statements (#E2022/112364).**
- 20 2. **That Council approves the signing of the "Statement by Councillors and Management" in accordance with Section 413(2)(c) of the Local Government Act 1993 and Section 215 of the Local Government (General) Regulation 2021 in relation to the 2021/2022 Draft Financial Statements.**
- 25 3. **That the Audited Financial Statements and Auditors Report be presented to the public at the Ordinary Meeting of Council scheduled for 15 December 2022 in accordance with Section 418(1) of the Local Government Act 1993.**

30 **Attachments:**

- 1 Draft 2021-2022 General Purpose Financial Statements, E2022/112363 
- 2 Draft 2021-2022 Special Purpose Financial Statements, E2022/112364 

Report

The Draft 2021/2022 Financial Statements have been prepared, and at the time of writing this report, are subject to external audit still in progress, albeit close to finalisation. Council's file has been lodged with the NSW Audit Office for review and has been subject to audit review by the contracted auditor, Thomas Noble and Russell.

This report recommends to Council, following consideration, the adoption of the Draft 2021/2022 Financial Statements as prepared and the completion of the statutory steps outlined in Section 418 to 420 of the Local Government Act 1993. The Audit, Risk and Improvement Committee will also be considering the Draft 2021/2022 Financial Statements their Committee Meeting held on 17 November 2022 anticipated to be a late report.

The Financial Statements are a statutory requirement and provide information on the financial performance of Council over the previous twelve-month period.

The Draft 2021/2022 Financial Statements provided in the attachments are broken down into:

- General Purpose Financial Statements – Attachment 1
- Special Purpose Financial Statements – Attachment 2

As in previous years, Council produces Special Schedules that are not audited (except Permissible Income for General Rates). However, since the 2018/2019 financial year, they are no longer required to be published as part of Council's Financial Statements, except for the Special Schedules relating to Permissible Income for General Rates and Report on Infrastructure Assets. The Special Schedules are still produced and submitted to the Office of Local Government.

Brief explanations for each item follow:

General Purpose Financial Statements

These Statements provide an overview of the operating result, financial position, changes in equity and cash flow movement of Council as at 30 June 2022 on a consolidated basis with internal transactions between Council's General, Water and Sewerage Funds eliminated. The notes included with these reports provide details of major items of income and expenditure with comparisons to the previous financial year. The notes also highlight the cash position of Council and indicate which funds are externally restricted (i.e., may be used for a specific purpose only), and those that may be used at Council's discretion.

Special Purpose Financial Statements

These Statements are a result of the implementation of the National Competition Policy and relate to those aspects of Council's operations that are business oriented and compete with other businesses with similar operations. Mandatory disclosures in the Special Purpose Financial Reports are Water and Sewerage.

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Additional disclosures relate to Council business units that Council deems 'commercial'. In this regard Council has traditionally reported its caravan park operations, being Suffolk Beachfront Holiday Park and First Sun Holiday Park, on a combined basis. These financial reports must also classify business units in the following categories:

5

- Category 1 – operating turnover is greater than \$2million
- Category 2 – operating turnover is less than \$2million

10 All Council's business units are classed as Category 1 with all having operating turnover greater than \$2 million.

15 Another feature of the Special Purpose Financial Reports is to build taxes and charges, where not physically incurred, into the financial results in order that the results can be measured on a level playing field with other organisations operating similar businesses, who *are* required to pay these additional taxes and charges. These taxes and charges include:

- Land tax – Council is normally exempt from this tax, so notional land tax is applied.
- Income tax – Council is exempt from income tax and in regard to these reports, company tax. Any surplus generated has a notional company tax applied to it.
- Debt guarantee fees – Generally due to the low credit risk associated with Councils, Councils can often borrow loan funds at lower interest rates than the private sector. A debt guarantee fee inflates the borrowing costs by incorporating a notional cost between interest payable on loans at the interest rate borrowed by Council and one that would apply commercially.

25

The Special Purpose Financial Reports are prepared on a non-consolidated basis - in other words they are grossed up to include any internal transactions with the General Fund.

30

Specific Items relating to 2021/2022 Draft Financial Statements

35 Before consideration is given to actual financial outcome, it needs to be pointed out that the Office of Local Government restructured the Local Government Code of Accounting Practice and Financial Reporting from the 2020/2021 financial year onwards. This means that the notes to the General Purpose Financial Statements are now broken into Sections as follows:

- Section A – About Council and these Financial Statements
- Section B – Financial Performance
- Section C – Financial Position
- Section D – Council Structure
- Section E – Risks and Accounting Uncertainties
- Section F – People and Relationships
- Section G – Other Matters
- Section H – Additional Council Disclosures

45

Some line items previously within certain notes have been moved to other notes.

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The Draft 2021/2022 Financial Statement results have been impacted by the following items that require explanation:

5 • Overall Audit Outcome

Council for the 2021/2022 financial year will receive a 'modified' or 'qualified' audit opinion from the NSW Audit Office. This relates to the General Purpose Financial Statements and is due to the non-recognition of Rural Fire Service 'Red Fleet' assets by Council.

10 The Rural Fire Service (RFS) does not recognise 'Red Fleet' assets in their accounts as there is a provision in the Rural Fire Service Act 1997 that these assets 'vests' in Council. However, under Australian Accounting Standard AASB 116 "Property, Plant and Equipment" the Local Government Code of Accounting Practice, Council must assess
15 whether it is of the view it 'controls' these assets in order to recognise them in the Statement of Financial Position. Council has passed resolution **22-272** not to recognise these assets and provided a written response to the NSW Auditor General in June 2022 as to why it formed that view. This matter was also considered by the Audit, Risk and Improvement Committee at their 19 May 2022 Meeting where the Committee
20 recommended to Council not to recognise these assets.

Nevertheless, there is a distinct difference of opinion as to who 'controls' Rural Fire Service 'Red Fleet' assets and it is Council's adopted view it does not. From Council's perspective only, if it was to include them it would be mis-stating its financial position.
25 Whilst this view is not accepted by the Audit Office, Council reviewed assets data provided by the Rural Fire Service, given it has all the records regarding fleet assets as it purchases, maintains, uses and disposes of these assets without consultation with Council, and calculated the carrying value of these assets was around \$677,000. The carrying value of Council's overall assets at 30 June 2022 was \$1.278billion so the value
30 as a percentage has meant Council has not recognised assets equating to 0.05% of its overall infrastructure, property, plant and equipment assets carrying value.

The Audit Office has not accepted Council's assessment further because Council has not undertaken procedures to confirm the completeness, accuracy, existence or condition of
35 the Rural Fire Service assets or performed procedures to identify the value of assets vested in it during the year.

The issuance of a 'modified' or 'qualified' audit opinion is not unique to Byron Shire Council and as at 30 June 2022 Council is aware of at least twenty other Councils which received
40 the same outcome for non-recognition of RFS 'Red Fleet' assets. It is possible this will continue for future financial years whilst Council continues to not recognise the RFS 'Red Fleet' assets.

45 • Operating Result from Continuing Operations

The 2021/2022 financial year has seen a positive overall financial result. Council recorded a \$11.073million surplus compared to the \$9.468million surplus in 2020/2021. This result incorporates the recognition of capital revenues such as capital grants and contributions

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for specific purposes and asset dedications amounting to \$20.984 million, compared to \$23.130million in 2020/2021.

5 A more important indicator is the operating result before capital grants and contributions. This result was a deficit of \$9.911 million in 2021/2022 compared to a deficit of \$13.662million in 2020/2021, representing a decrease of \$3.751million between financial years. Whilst an improvement, this indicates on an ongoing basis Council's operating expenditures continue to exceed operating revenues. Whilst operating revenues, excluding capital grants and contributions, grew by \$13.872million, overall operating expenses grew by \$10.121million.

10 With reference to the Income Statement to the General Purpose Financial Reports included at Attachment 1, the following table indicates the major changes between 2021/2022 and 2020/2021 by line item:

15

Item	Change between 2021/2022 and 2020/2021 \$'000	Change Outcome	Comment
<u>Income</u>			
Rates & Annual Charges	+\$2,586	Increase	Reflects imposition of the 2021/2022 rate peg of 2.3% and changes in annual charges from Council's adopted 2021/2022 Revenue Policy.
User Charges and Fees	-\$1,930	Decrease	A contributor to this change was a decline in holiday park and pay parking revenues. Further information is available in Note B2-2 to Attachment 1.
Other Revenues	-\$295	Decrease	The major decrease in this item relates to fine revenues.
Grants & Contributions – Operating	+\$13,796	Increase	Overall operating grants and contributions increased significantly due to 75% advance payment of Financial Assistance Grant, Flood recovery grants \$3.375million, \$1.7million from Public Works Advisory for clean up works for waste, water and sewerage from flood event along with \$5million from Transport for NSW for emergency repairs to flood damaged infrastructure were the main contributors. Further information is available in Note B2-4 to Attachment 1.
Grants &	-\$2,146	Decrease	Revenue decrease in this item mainly

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Item	Change between 2021/2022 and 2020/2021 \$'000	Change Outcome	Comment
Contributions – Capital			relates to the reduced developer contributions received. Further information is available in Note B2-4 to Attachment 1.
Interest and Investment Revenue	-\$316	Decrease	Interest rates during 2021-2022 have remained at historic lows, only starting to increase late in the financial year have reduced investment rates significantly, lowering the return on Council's investments. Cashflow around scale of works and recovering grant payments has also been an influence especially the flood recovery.
Other Income	+\$31	Increase	Principally relates to change in revenues from property leases.
Total Income Change	+11,726	Increase	
<u>Expenditure</u>			
Employee Benefits and Oncosts	+\$2,022	Increase	Increased leave entitlement expenses of \$420k reflect an emphasis on controlling leave balances and the impact of increasing interest rates on present value of liability calculations. A decrease of \$973k of employee costs capitalised on capital works in 2021/2022 compared to 2020/2021 and gross salary and wages increased \$712k. More information is provided at Note B3-1 to Attachment 1.
Borrowing Costs	-\$141	Decrease	Reduction due to ongoing repayment of existing loans and borrowing of new loans at good interest rates given current market conditions.
Materials & Services	+\$10,136	Increase	Materials and Services increased \$10,136k overall. Raw materials and consumables increased significantly due to expenditure on flood recovery. Further changes include a reduction of \$491K in legal expenses, increase of \$154k in insurance costs, increase of \$129k for IT software costs, increase of \$363k in waste contract costs, \$668k decrease in

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Item	Change between 2021/2022 and 2020/2021 \$'000	Change Outcome	Comment
			temporary employment costs. Other changes can be found at Note B3-2 to Attachment 1.
Depreciation	+\$1,605	Increase	Respective changes between asset classes are outlined at Note B3-4 to Attachment 1. Essentially major increase is due to the ongoing revaluation and indexation of assets each year now flowing through with increased depreciation expense.
Other Expenses	+\$433	Increase	Overall variations in line items as disclosed at Note B3-5 to Attachment 1. The major item is the fair value decrement on Council's investments. This is a changed disclosure.
Net Losses from Disposal of Assets	-\$3,934	Decrease	Reflects the written down value of assets disposed of at the end of financial year and is contingent upon the extent of assets disposed and their written down value at the time of disposal which can vary. For 2022/2023, Council has significantly more disposals than gains, including the disposal of infrastructure \$4,117k, reflecting the level of capital works and flood damage disposals with plant and equipment obtaining a \$600k gain. Further details can be found at Note B4-1 to Attachment 1
Total Expenditure Change	+\$10,121	Increase	
Change in Result	+\$1,605	Increase	Increase in overall surplus between financial years.

5 Following from the operating results, are the performance ratios at Note H1-1 to the General Purpose Financial Statements. These have been derived following the financial assessments undertaken by NSW Treasury Corporation on all NSW Councils in 2012 and are now incorporated into the latest update to the Code of Accounting Practice and Financial Reporting that determines the content of Council's Financial Statements.

These ratios present either a stable or improving result for Council except for the following:

5 Operating Performance Ratio reflects Council's operating result. The benchmark is to be greater than 0% but in 2021/2022 Council's ratio was -5.41% and in 2020/2021 it was -6.55%, a slight improvement. This ratio was impacted by expenditure associated with the flood recovery for which Council is yet to be reimbursed. The ratio will fluctuate with revenue recognition accounting standards now in place in that grant revenues cannot be matched against expenditure but only in accord with firstly grant approvals i.e. natural disaster funding and milestone achievement. Council needs to improve this result back towards the benchmark as it is a key financial sustainability indicator.

15 Outstanding, Rates and Annual Charges – Whilst still just within the industry benchmark, Council's ratio has increased to 9.60% in 2021/2022 from 8.33% in 2020/2021. The increase can be attributable to rates and charges increases, the impact of the COVID-19 pandemic in the first half of the financial year and then the February/March 2022 flood events. Through its assistance program to the community, Council has continued to offer ratepayers extended payment arrangements and suspended debt recovery for the whole financial year. It further set interest on outstanding rates and charges to 0% which was to end at the end of February 2022 but following the February/March flood events, this was extended to 30 June 2022. Whilst providing assistance to ratepayers, it also reduced the incentive for people to pay and as a consequence the rates and charges outstanding percentage has increased.

25 • Asset Revaluations

During 2021/2022, a revaluation of assets relating to Water and Sewerage Infrastructure was undertaken. These revaluations have increased Council's asset values by the following amounts:

- Water Infrastructure – a decrement or reduction of \$2.716million
- Sewerage Infrastructure – an increase of \$8.810million

35 In addition the water and sewerage revaluation identified assets described as 'found'. These were assets identified via inspection and development that had not previously been valued or recorded totalling \$5.191million being \$2.518million for water and \$2.673million for sewerage. As a result Council has been required to recognise a 'prior-period error' as these assets should have been disclosed but were not and details of this are provided at Note G3-1. Further disclosure is provided in the Special Purpose Financial Statements as Water and Sewerage functions are declared business units.

45 For the upcoming 2022/2023 financial year, Council does not need to do any specific asset class revaluation but may consider a revaluation of operational land given the significant indexation applied in 2021/2022 and valuation movements in the property market

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- Asset Recognition, Indexation and Impairment

As indicated at Note C1-7 to Council's financial statements, Council expended \$23.121million on asset renewals and \$7.902million on new assets. The extent of asset renewals is still significant and demonstrates ongoing commitment in that area. The depreciation expense of Council's assets for 2021/2022 was \$19.134million so it is pleasing to see that asset renewal was more than the financial depreciation of Council's assets.

The economic climate inclusive of inflationary pressures, low unemployment, supply chain issue and a booming property market prior to recent interest rate increases has meant Council needed to reassess the fair value of assets not subject to a specific revaluation. Consequently across all asset class excluding the revaluation of water and sewerage, indexation has added around \$169million to the value of Council's infrastructure, property, plant and equipment. Land overall increased by around \$110million with roads and bridges increasing close to \$29million and stormwater drainage nearly \$16million as major contributors. With the exception of land that is not depreciated, the indexation will inflate depreciation expense further in future reporting periods that will make the ability to reduce operational deficits especially in the General Fund harder to reduce.

The February/March 2022 flood events has also required Council to consider any impairment on its assets. Impairment is the reflection of writing down the fair value of an asset to reassess its value following events that have a negative impact on the asset's ability to deliver its economic benefits or perform its function completely. In terms of the February/March 2022 flood events, any Council infrastructure completely destroyed has been disposed of fully writing off any carrying value. Other assets that were damaged not totally destroyed were assessed for impairment which has meant Council has reduced the carrying value of its assets by \$2.157million ranging from buildings, roads, bridges, drainage, and swimming pool assets. These impairment charges will be reversed as and when the impaired assets are later repaired and restored.

- Cash and Investments

As at 30 June 2022 as detailed at Note C1-3 to the financial statements, Council has maintained no unrestricted cash and investments being a reduction of \$0.518million compared to 2020/2021. Council's goal of maintaining a \$1million unrestricted cash balance has not been able to be achieved which has been exacerbated by the impact of the February/March 2022 flood events and response to the recovery to 30 June 2022.

Council has established a flood recovery reserve, in an effort to track its expenditure for the recovery works. As at 30 June 2022, this reserve has a balance of negative \$6.3million and is indicative of expenditure incurred by Council that is yet to be reimbursed by the NSW Government through Natural Disaster funding. It needs to be clearly articulated, as it was when the 30 June 2022 Quarterly Budget Review was considered by the Finance Advisory Committee and subsequently recommended to Council, that in establishing this reserve the short term funding to the flood recovery has come from Council's overall internal reserve allocations and that no externally restricted funds have been used for this purpose. It is expected that the flood recovery reserve will cease to

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exist when Council has completed all flood recovery works and been reimbursed fully for natural disaster funding eligible expenditure over the next few years.

5 All other cash and investments totalling \$78.306million at 30 June 2022 are restricted for specific purposes. Overall, the cash and investment position of Council increased by \$5.833million during the year.

- Receivables and Contract Assets

10 As at 30 June 2022, as detailed at Note C1-4 and C1-6 to the financial statements, Council was due \$14.712million in receivables and contract assets. Of this amount \$3.465million was due from other levels of Government for grants, \$1.327million from the Commonwealth Government for Goods and Services Tax and \$0.740million in Government grants and subsidies. Outstanding rates and charges were \$5.701million. Overall receivables and contract assets increased by \$1.585million compared to the
15 2020/2021 financial year.

- Payables, Contract Liabilities and Provisions

20 At 30 June 2022, as detailed at Note C3-1 for payables, Note C3-2 for Contract Liabilities, Note C3-4 for Employee Benefit Provisions and Note C3-5 for Provisions, total payables by Council were \$13.276million including \$4.845million held in security bonds, deposits and retentions, \$1.497million in accrued expenses and \$6.200million payable to suppliers. In addition at 30 June 2022, Council has accrued employee leave entitlements valued at \$7.536million. Specific employee leave entitlements include \$3.070million for annual
25 2022 Council also had \$12.496million in contract liabilities relating to unexpended capital grants and advance bookings for its holiday parks. It has also made provisions of \$7.439million for the restoration of landfill and quarry assets. In comparison to 2020/2021, total liabilities have increased \$2.882million.

- Loan Borrowings

30 During 2021/2022 Council borrowed new loans of \$1.500million and continued to make normal loan repayments.

35 Council's outstanding loans as at 30 June 2022 are \$58.769million. Total loan expenditure for 2021/2022 included interest of \$2.891million and principal payments of \$3.789million. Total expenditure in 2021/2022 related to loan repayments was \$6.573million or 8.07% of Council's revenue, excluding all grants and contributions.

40 The outstanding loans by Fund totalling \$58.769million are as follows:

- General Fund \$23.100million
- Water Fund \$0 – Water Fund is debt free
- Sewerage Fund \$35.669million

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- New Accounting Standards

The 2021-2022 financial year did not require Council to implement any new accounting standards that impacted the financial statements.

5

- Liquidity

Council's Statement of Financial Position (balance sheet) indicates net current assets of \$47.928million. It is on this basis, in the opinion of the Responsible Accounting Officer, that the short term financial position of Council remains in a satisfactory position and that Council can be confident it can meet its payment obligations as and when they fall due. That is, there is no uncertainty as to Council being considered a 'going concern'. In addition, Council's cash expense cover ratio is at 8.89 months whereas the minimum benchmark is 3 months. Council exceeds this benchmark by nearly three times.

10

15

Council's Unrestricted Current Ratio improved to 3.52, demonstrating Council has \$3.52 in unrestricted current assets compared to every \$1.00 of unrestricted current liabilities. This exceeds the benchmark of \$1.50.

20

On a longer term basis Council will need to consider its financial position carefully. Nevertheless, in isolation, the financial results for 2021/2022 continue to present a 'stable' financial position especially given the initial impacts of COVID-19 in the first half of the financial year followed by the impact of the February/March 2022 flood events.

25

Effort is needed to manage the trend towards reducing operational deficits before capital grants and contributions. Furthermore, Council needs to commence restoration of the unrestricted cash balance back towards \$1million during the 2022/2023 financial year, which could not be achieved during 2021/2022. Council will especially need to carefully manage its cash flow obligations as it starts to commit further significant expenditure in the flood recovery for Essential Public Asset Restoration (EPAR) works and the time delay for reimbursement from the NSW Government via Natural Disaster funding for the AGRN 1012 event.

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Strategic Considerations

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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	1.3.1.3	Provide completion of Council's statutory annual financial statements for 2021/2022.

Legal/Statutory/Policy Considerations

5 Section 413(2)(c) of the Local Government Act 1993 and Section 215 of the Local Government (General) Regulation 2021 requires Council to specifically form an opinion on the financial statements. Specifically Council needs to sign off an opinion on the Financial Statements regarding their preparation and content as follows:

In this regard the Financial Statements have been prepared in accordance with:

- The Local Government Act 1993 (as amended) and the Regulations made thereunder.
- 10 • The Australian Accounting Standards and professional pronouncements.
- The Local Government Code of Accounting Practice and Financial Reporting.

And the content to the best of our knowledge and belief:

- 15 • Presents fairly the Council's operating result and financial position for the year.
- Accords with Council's accounting and other records.
- Management is not aware of any matter that would render the Financial Statements false or misleading in any way.

20 Section 416(1) of the Local Government Act 1993, requires a Council's annual Financial Statements to be prepared and audited within four (4) months of the end of that financial year i.e. on or before 31 October 2021. Given the impact of the February/March 2022 flood events, Council sought and was granted an extension to complete its financial statements by 15 December 2022. However, Council must lodge its Annual Report by 30
25 November 2022 that must include the Financial Statements so the effective date of the extension is 30 November 2022.

30 Section 417(4) of the Local Government Act 1993 requires, as soon as practicable after completing the audit, the Auditor must send a copy of the Auditor's Reports to the Departmental Chief Executive and to the Council.

35 Section 417(5) of the Local Government Act 1993 requires Council, as soon as practicable after receiving the Auditor's Reports, to send a copy of the Auditor's Reports on the Council's Financial Statements, together with a copy of the Council's audited Financial Statements, to the Departmental Chief Executive before 7 November 2022. For 2021/2022 this will be 7 December 2022 given the extension granted.

40 Section 418(1) of the Local Government Act 1993 requires Council to fix a date for the Meeting at which it proposes to present its audited Financial Statements, together with the Auditor's Reports, to the public, and must give public notice of the date so fixed. This requirement must be completed within five weeks after Council has received the Auditor's Reports.

Financial Considerations

5 There are no direct financial implications associated with this report as the report does not involve any future expenditure of Council funds but rather, advises on Council's draft financial outcomes during the 2021/2022 financial year, which are identified in this report and attachments. These financial outcomes are also still subject to final review by the NSW Audit Office at the time of report preparation and may change.

Consultation and Engagement

10 Section 420 of the Local Government Act 1993 requires Council to provide the opportunity for the public to submit submissions on the Financial Statements. Submissions are to be made within seven days of the Financial Statements being presented to the public. In the case of the 2021/2022 Financial Statements, the closing date for submissions is expected
15 to be 22 December 2022.

Report No. 13.4 2022/23 Operational Plan Report - Q1 - September 2022

Directorate: Corporate and Community Services

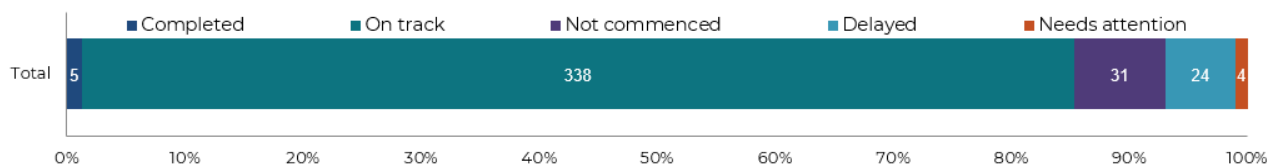
Report Author: Heather Sills, A/ Manager Corporate Services

5 **File No:** I2022/1550

Summary:

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

10 This report represents the progress toward the activities in the 2022/23 Operational Plan at the end of the first quarter, being 30 September 2022. A summary of the status is provided in the graph below:





15

RECOMMENDATION:

1. That Council notes the 2022/23 Operational Plan Quarter 1 Report for the period ending 30 September 2022 (Attachment 1 #E2022/102504).
- 20 2. That Council adopts the proposed amendments to the Operational Plan 2022/23 outlined in Attachment 2 (#E2022/84682).

Attachments:

- 25 1 Operational Plan 2022/23 - Quarterly Report - Q1 - 1 July to 30 September 2022, E2022/102504 
- 2 Quarter 1 Report - Proposed Amendments to Operational Plan 2022/23, E2022/84682 

Report

The Delivery Program and Operational Plan are two key corporate documents that establish Council’s goals and priorities for the term of the Council and the current financial year. The Delivery Program is supported by the annual Operational Plan, which identifies the individual projects and activities that will be undertaken for the year to achieve the commitments made in the Delivery Program.

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

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

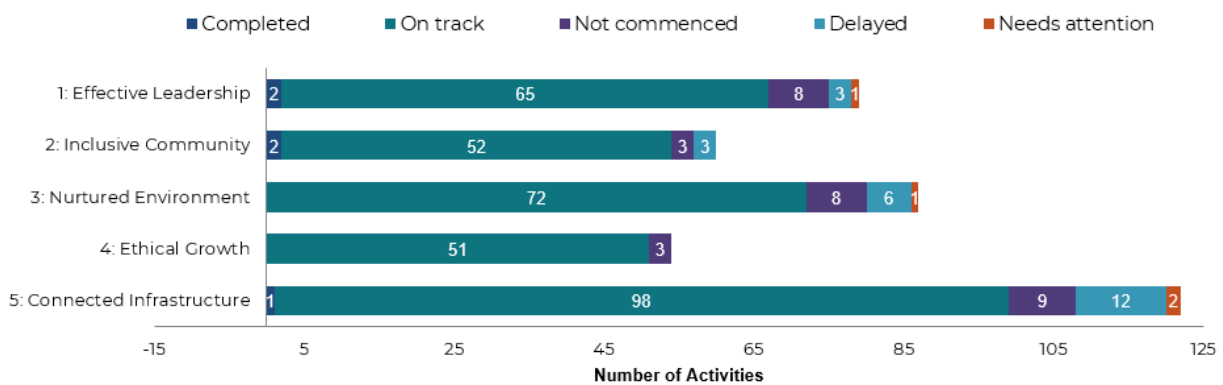
While the requirement is six monthly reporting, the Council is provided with a Quarterly Report on the activities in the Operational Plan, to promote effective and efficient reporting and decision making.

Strategic Objectives

The report (#E2022/102504) is structured by the five Community Objectives in the Byron Shire Community Strategic Plan:

- Effective Leadership: We have effective decision making and community leadership that is open and informed
- Inclusive Community: We have an inclusive and active community where diversity is embraced and everyone is valued
- Nurtured Environment: We nurture and enhance the natural environment
- Ethical Growth: We manage growth and change responsibly
- Connected Infrastructure: We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable

Q1 Status by Community Objective:



Report Details

The report details Council's progress toward the activities in the 2022/23 Operational Plan. It includes a status update on progress and commentary on the activities undertaken during the reporting period.

5 Each section notes the progress against the activities including:

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

✓ **Completed:** the activity has been completed in accordance with the prescribed measures

▶ **On Track:** progressing and on track, in accordance with the timeframe, measures, and budget

15 ⚠ **Needs Attention:** indicates that the scope of the activity may need to be reviewed in line with constraints such as timeframe/budget

|| **Delayed** - progressing but not currently on track with the timeframe, measures, or budget

– **Not Commenced** – not yet commenced or due to commence

20 **Proposed Amendments**

This is the first quarterly report of the 2022/23 Operational Plan. A number of required amendments have been identified and nine new activities proposed. These are provided in attachment 2 (E2022/84682) for Council's endorsement.

Strategic Considerations

25 **Community Strategic Plan and Operational Plan**

CSP Objective	CSP Strategy	DP Action
<p>1: Effective Leadership We have effective decision making and community leadership that is open and informed</p>	<p>1.1: Enhance trust and accountability through open and transparent leadership</p>	<p>1.1.4: Performance Measurement and Reporting - Embed a robust performance management system through the development of an outcomes measurement framework</p>

Legal/Statutory/Policy Considerations

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

Financial Considerations

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

Consultation and Engagement

10 The progress reports on the Operational Plan and Delivery Program are published on Council's website as a way of ensuring transparency around how Council is progressing activities and actions.

**Report No. 13.5 Budget Review - 1 July 2022 to 30
September 2022**

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

5 **File No:** I2022/1608

Summary:

10 This report has been prepared to comply with Section 203 of the *Local Government (General) Regulation 2021* and to inform Council and the community of Council's estimated financial position for the 2022/2023 financial year, reviewed as at 30 September 2022.

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

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




This report was considered by the Finance Advisory Committee at its Meeting held on 17 November 2022

20

RECOMMENDATION:

- 25 1. **That Council authorises the itemised budget variations as shown in Attachment 2 (#E2022/109971) which include the following results in the 30 September 2022 Quarterly Review of the 2022/2023 Budget:**
- a) **General Fund – \$0 movement to the Estimated Unrestricted Cash Result**
 - b) **General Fund - \$3,005,900 decrease in reserves**
 - c) **Water Fund - \$1,536,100 decrease in reserves**
 - d) **Sewerage Fund - \$278,600 decrease in reserves**
- 30 2. **That Council adopts the revised General Fund Estimated Unrestricted Cash Result of (\$207,000) for the 2022/2023 financial year as at 30 September 2022**

Attachments:

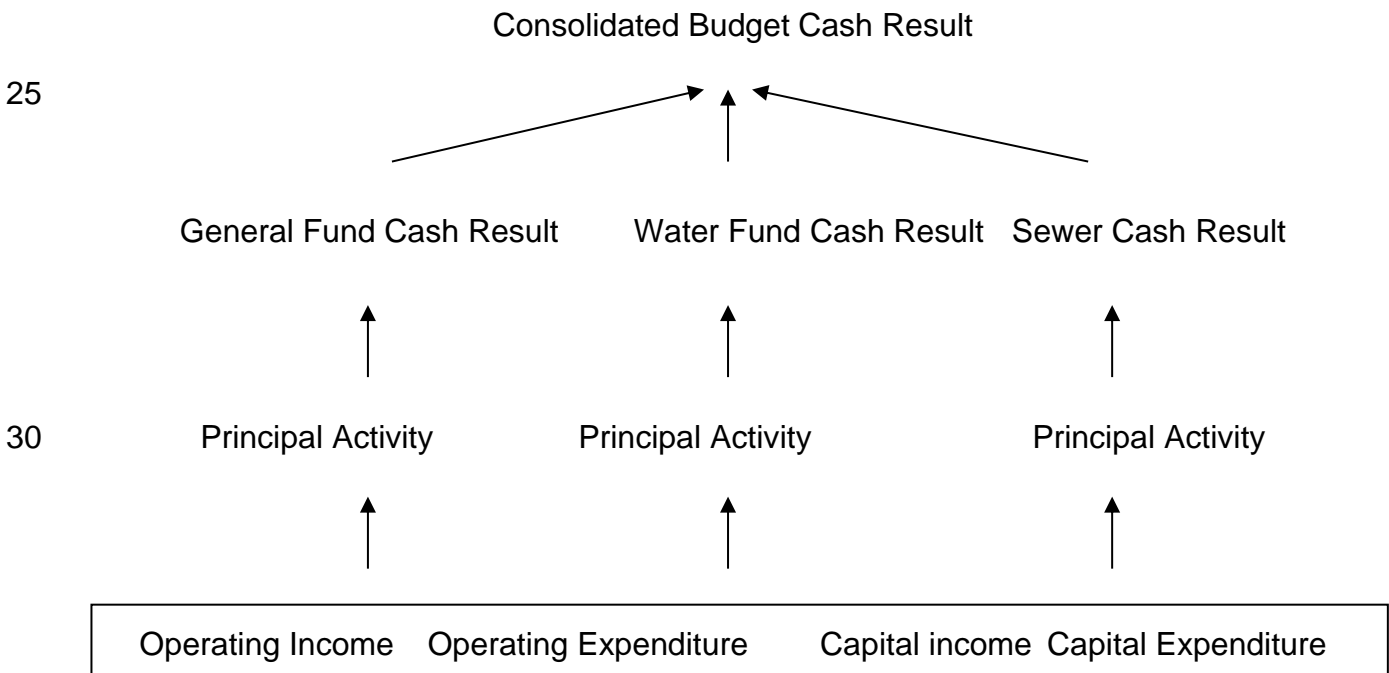
- 1 Budget Variations for General, Water and Sewerage Funds, E2022/109970 
- 2 Itemised Listing of Budget Variations for General, Water and Sewerage Funds, E2022/109971 
- 3 Integrated Planning and Reporting Framework (IP&R) required Quarterly Review Statements, E2022/109972 

Report

Council adopted the 2022/2023 budget on 30 June 2022 via Resolution **22-332**. Council also considered and adopted the budget carryovers from the 2021/2022 financial year, to be incorporated into the 2022/2023 budget at its Ordinary Meeting held on 25 August 2022 via Resolution **22-391**. Since that date, Council has reviewed the budget taking into consideration the unaudited 2021/2022 Financial Statement results and progress through the first quarter of the 2022/2023 financial year. This report considers the September 2022 Quarter Budget Review.

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

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



The pages within Attachment 1 are presented (from left to right) by showing the original budget as adopted by Council on 30 June 2022 plus the adopted carryover budgets from

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2021/2022 followed by the resolutions between July and September and the revote (or adjustment for this review) and then the revised position projected for 30 June 2023 as at 30 September 2022.

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

There is also information detailing restricted assets (reserves) to show Council's estimated balances as at 30 June 2023 for all Council's reserves.

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

Office of Local Government Budget Review Guidelines:

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

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

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

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

The above components are included in Attachment 3 and outlined below:

Income and Expenditure Budget Review Statement by Type

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

Capital Budget Review Statement

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

Cash and Investments Budget Review Statement

10 This statement reconciles Council's restricted funds (reserves) against available cash and investments. Council has attempted to indicate an actual position as at 30 September 2022 of each reserve to show a total cash position of reserves with any difference between that position and total cash and investments held as available cash and investments. It should be recognised that the figure is at a point in time and may vary greatly in future quarterly reviews depending on cash flow movements.

Key Performance Indicators (KPI's)

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

- 15 ○ **Debt Service Ratio** - This assesses the impact of loan principal and interest repayments on the discretionary revenue of Council.
- **Rates and Annual Charges Outstanding Ratio** – This assesses the impact of uncollected rates and annual charges on Councils liquidity and the adequacy of recovery efforts
- 20 ○ **Asset Renewals Ratio** – This assesses the rate at which assets are being renewed relative to the rate at which they are depreciating.

These may be expanded in future to accommodate any additional KPIs that Council may adopt to use in the future.

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

CONSOLIDATED RESULT

The following table provides a summary of the overall Council budget on a consolidated basis inclusive of all Funds' budget movements for the 2022/2023 financial year projected to 30 June 2023 but revised as at 30 September 2022.

2022/2023 Budget Review Statement as at 30 September 2022	Original Estimate (Including Carryovers) 1/7/2022	Adjustments to 30 Sept 2022 including Resolutions*	Proposed 30 Sept 2022 Review Revotes	Revised Estimate 30/6/2023 at 30/9/2022
Operating Revenue	98,653,200	0	4,046,400	102,699,600
Operating Expenditure	111,603,900	2,517,000	3,318,100	117,439,000

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2022/2023 Budget Review Statement as at 30 September 2022	Original Estimate (Including Carryovers) 1/7/2022	Adjustments to 30 Sept 2022 including Resolutions*	Proposed 30 Sept 2022 Review Revotes	Revised Estimate 30/6/2023 at 30/9/2022
Operating Result – Surplus/Deficit	(12,950,700)	(2,517,000)	728,300	(14,739,400)
Add: Capital Revenue	37,235,900	0	(6,137,900)	31,098,000
Change in Net Assets	24,285,200	(2,517,000)	(5,409,600)	16,358,600
Add: Non Cash Expenses	18,455,700	0	2,033,900	20,489,600
Add: Non-Operating Funds Employed	20,800,000	0	0	20,800,000
Subtract: Funds Deployed for Non-Operating Purposes	(99,493,500)	40,000	(1,444,900)	(100,898,400)
Cash Surplus/(Deficit)	(35,952,600)	(2,477,000)	(4,820,600)	(43,250,200)
Restricted Funds – Increase / (Decrease)	(35,747,600)	(2,475,000)	(4,820,600)	(43,043,200)
Forecast Result for the Year – Surplus/(Deficit) – Unrestricted Cash Result	(205,000)	(2,000)	0	(207,000)

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GENERAL FUND

In terms of the General Fund projected Unrestricted Cash Result the following table provides a reconciliation of the estimated position as at 30 September 2022:

Opening Balance – 1 July 2022	\$0
Plus original budget movement and carryovers	(205,000)
Council Resolutions July – September Quarter	(2,000)
Recommendations within this Review – increase/(decrease)	0
Forecast Unrestricted Cash Result – Surplus/(Deficit) – 30 June 2023	(207,000)
Estimated Unrestricted Cash Result Closing Balance – 30 June 2023	(\$207,000)

- 5 The General Fund financial position overall has not moved as a result of this budget review, leaving the forecast cash result for the year at an estimated deficit of \$207,000. The proposed budget changes are detailed in Attachment 1 and summarised further in this report below.

Council Resolutions

- 10 Resolution 22-361 relating to the Plan of Management for Bangalow Sportfields point 4 states 'That council support a workshop with Bowling Club stakeholders and a budget of up to \$2,000 be made available to support this workshop'. This has been added to the 2022/2023 Budget.

- 15 Council at the 27 October 2022 Ordinary Meeting considered Notice of Motion 9.2 Drainage Capital Works Budget. Through Resolution, 22-586 part 5, Council resolved '*Considers, through this year's September Budget Review, adding \$300,000 to Drainage Capital Works and notes this may have to come from other important activities.* In compiling the 30 September 2022 Quarterly Budget Review, the estimated budget deficit position has not been changed and at this stage the \$300,000 allocation has not been included due to funding and capacity but will be discussed with the Finance Advisory Committee at their Meeting to be held on 17 November 2022. Pending those discussions, further advice by way of Memo will be provided to Council before the 24 November 2022 Ordinary Meeting.

- 25 Council at the 29 September 2022 Ordinary Meeting Council resolved in relation to parking at Brunswick Heads to '*allocate \$140,000 in the September quarterly budget review to fund an updated parking study including expansion of the pay parking areas and assessment of current supply and demand, time limits....*' through resolution 22-534 part 1(a). The report to Council did not identify a funding source but this item has been included in the review with funding sourced from the Infrastructure Renewal Reserve – Non Byron.

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Budget Adjustments

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

Budget Directorate	Revenue Increase/ (Decrease) \$	Expenditure Increase/ (Decrease) \$	Accumulated Surplus (Working Funds) Increase/ (Decrease) \$
General Manager	0	0	0
Corporate & Community Services	37,000	43,300	(6,300)
Infrastructure Services	5,083,900	5,082,800	1,100
Sustainable Environment & Economy	490,800	485,600	5,200
Total Budget Movements	5,611,700	5,611,700	0

Budget Adjustment Comments

- 5 Within each of the Budget Directorates of the General Fund, are a series of budget adjustments identified in detail at Attachment 1 and 2. More detailed notes on these are provided in Attachment 1 but in summary the major additional items included are summarised below by Directorate and are included in the overall budget adjustments table above. Across the budget as a whole there has been a global review of anticipated depreciation following completion of the 2021-2022 financial statements and results from
- 10 indexation/revaluation of assets. Overall across all assets, depreciation expenses are estimated to increase by \$2.033million to be \$20.508million for 2022/2023.

Corporate and Community Services

- 15 • In the General Purpose Revenue program, it is proposed to increase income by \$13,300 as the final amount allocated to Council for the 2022/2023 Financial Assistance Grant (FAG) is more than the budget.
- 20 • In the Community Development program, it is proposed to decrease operating expenditure due to a decrease in the New Years' Eve (NYE) budget (\$30,000), an increase to the budget for an Arts & Cultural Summit (\$10,000) identified by resolution 22-010 and an increase to the Community Initiative Program (\$3,800).

Infrastructure Services

- 25 • In the Projects and Commercial Development Program it is proposed to decrease the salaries budget (3009.1) by \$50,000 as a result of savings in staff costs due to vacancies and redirect this to the Rail Corridor Activation (3012.6) associated with Resolutions 22-409 and 22-412. Further during the 2021/2022 financial year, Council sold part of lot 12 Bayshore Drive to the Sewerage Fund for provision of an easement

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5 in the amount of \$1,057,000. A reserve was created for Property Development – Lot 12 Bayshore Drive but the funds were not transferred to that reserve at year end. This had the effect of understating the reserve balance established for the flood recovery to represent outstanding funding due to Council not paid at financial year end. This budget adjustment is restating that reserve to reflect more accurately what was outstanding and to re-establish the Property Development Reserve for Lot 12 Bayshore Drive to reflect the 2022/2023 Budget and account for the sale proceeds.

- 10 • In the Depot Services program, it is proposed to increase capital expenditure by \$2,576,500 as the renewal of plant items has been reassessed as a result of the replacement program review and plant needs to assist in the February/March 2022 flood events recovery which has resulted in the need for additional plant items to be purchased. It is also proposed to increase operating income as \$53,500 has been transferred from the Sewer Fund to reimburse the plant reserve that purchased or upgraded sewer vehicles and expected income from the sale of plant (\$156,300).
- 15
- 20 • In the Local Roads and Drainage program, there are a number of adjustments outlined under Note 9 on pages 52 to 57 in the Budget Variations explanations section of Attachment 1. Further disclosure is included in the second and third pages of Attachment 2 under the budget program heading Local Roads and Drainage.
- 25 • In the Transport for New South Wales program (TfNSW), it is proposed to increase operating income by \$3,400,000 due to income received for the February 2022 flood events, transferring this to the Flood Recovery reserve, and decrease capital income and expenditure due works on regional roads that have been allocated to the Repair Program (4813.006) and will be duplicated if the budget remains.
- 30 • In the Open Space and Recreation program, there are a number of adjustments outlined under Note 11 on pages 57 and 58 in the Budget Variations explanations section of Attachment 1. Further disclosure is included in the fourth page of Attachment 2 under the budget program heading Open Space & Recreation.
- 35 • In the Cavanbah Centre program it is proposed to increase capital revenue and expenditure by \$20,000 due to a grant being approved for sheds at the Cavanbah Centre \$70,000 and a decrease for Stadium Cooling/Airflow \$50,000 as this project was previously completed and no longer required.
- 40 • In the Suffolk Park Holiday Park program, it is proposed to increase operating expenditure by \$53,400 to enable additional project resourcing to facilitate ongoing negotiations and liaison with dwelling owners to allow compliance and encroachment matters to be resolved. This can be funded through the Holiday park reserve.
- 45 • In the Facilities Management program, it is proposed to increase operating expenditure due a budget required for flood repair works at the Bangalow Showgrounds that is funded from an unexpended grant (\$45,000) and a budget required to treat rust on the awning at the Council Chambers (\$14,800). It is also proposed to increase capital works for the Apex park Exelooos (\$30,000) and decrease the budgets for the Middleton

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Street toilets (\$28,200) and Clarkes Beach public amenities (\$55,400) as these have been completed.

Sustainable Environment and Economy

- 5 • In the Planning Policy & Natural Environment program, it is proposed to increase operating income and expenditure by \$26,600 due to a grant received for Koala VMS Signs (\$15,400) and the second instalment for the Byron Arts & Industrial Estate Pocket Park project (\$11,200). Operating expenditure increased by a further \$97,000 due to Council paying back the unexpended part of the Communities Combating Pests and Weeds grant (\$45,200) and allocating a budget for Short Term Rental Accommodation 10 (\$51,800).
- In the Environment & Compliance program, it is proposed to increase operating income due to an increase in actual income received for Notices and Orders.
- 15 • In the Economic Development program, it is proposed to increase operating income and expenditure due to a grant of \$362,000 being approved through the Reconnecting Regional NSW - Communities Community Events Program.

WATER FUND

20 After completion of the 2021/2022 Financial Statements the Water Fund as at 30 June 2022 has a capital works reserve of \$8,953,800 and held \$1,844,900 in section 64 developer contributions.

The estimated Water Fund reserve balances as at 30 June 2023, and forecast in this Quarter Budget Review, are derived as follows:

Capital Works Reserve

Opening Reserve Balance at 1 July 2021	\$8,953,800
Plus original budget reserve movement	(4,874,800)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	(1,036,100)
Forecast Reserve Movement for 2022/2023 – Increase / (Decrease)	(5,910,900)
Estimated Reserve Balance at 30 June 2023	\$3,042,900

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Section 64 Developer Contributions

Opening Reserve Balance at 1 July 2022	\$1,844,900
Plus original budget reserve movement	(1,120,100)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	(500,000)
Forecast Reserve Movement for 2022/2023 – Increase / (Decrease)	(1,620,100)
Estimated Reserve Balance at 30 June 2023	\$224,800

Movements for Water Fund can be seen in Attachment 1 with a proposed estimated decrease to reserves (including S64 Contributions) overall of \$1,313,100 from the 30 September 2022 Quarter Budget Review.

5 SEWERAGE FUND

After completion of the 2021/2022 Financial Statements the Sewer Fund as at 30 June 2022 has a capital works reserve of \$2,701,600 and plant reserve of \$896,200. It also held \$7,180,100 in section 64 developer contributions and a \$766,900 unexpended grant.

Capital Works Reserve

Opening Reserve Balance at 1 July 2022	\$2,701,600
Plus original budget reserve movement	(926,200)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	(653,600)
Forecast Reserve Movement for 2022/2023 – Increase / (Decrease)	(1,579,800)
Estimated Reserve Balance at 30 June 2023	\$1,121,800

10 Plant Reserve

Opening Reserve Balance at 1 July 2022	\$896,200
Plus original budget reserve movement	0
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	0
Forecast Reserve Movement for 2022/2023 – Increase / (Decrease)	0
Estimated Reserve Balance at 30 June 2023	\$896,200

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Section 64 Developer Contributions

Opening Reserve Balance at 1 July 2021	\$7,180,100
Plus original budget reserve movement	(4,591,700)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	375,000
Forecast Reserve Movement for 2022/2023 – Increase / (Decrease)	(4,216,700)
Estimated Reserve Balance at 30 June 2023	\$2,963,400

Movements for the Sewerage Fund can be seen in Attachment 1 with a proposed estimated overall decrease to reserves (including S64 Contributions) of \$278,600 from the 30 September 2022 Quarter Budget Review.

5 Legal Expenses

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

10 The table that follows indicates the allocated budget and actual legal expenditure within Council on a fund basis as at 30 September 2022.

Total Legal Income & Expenditure as at 30 September 2022

Program	2022/2023 Budget (\$)	Actual (\$)	Percentage To Revised Budget
Income			
Legal Expenses Recovered	0	0	0%
Total Income	0	0	0%
Expenditure			
General Legal Expenses	202,600	9,246	4.56%
Total Expenditure General Fund	202,600	9,246	4.56%

Note: At the time of writing this report in October, Council has incurred additional expenditure that brings the total legal expenditure for 2022/23 to \$12,705. This should continue to be monitored to ensure there is enough funding for future expenses.

Strategic Considerations

Community Strategic Plan and Operational Plan

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

Legal/Statutory/Policy Considerations

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

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

20 Financial Considerations

25 The 30 September 2022 Quarter Budget Review of the 2022/2023 Budget has left the overall estimated budget result at zero. This leaves the movement against the unrestricted cash balance attributable to the General Fund to an estimated deficit of \$207,000 for the year, leaving the unrestricted cash balance attributable to the General Fund at an estimated \$207,000 at 30 June 2023.

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It is the view of the Responsible Accounting Officer that the short term financial position of the Council is still satisfactory for the 2022/2023 financial year, having consideration of the original estimate of income and expenditure at the 30 September 2022 Quarter Budget Review.

- 5 This opinion is based on the estimated General Fund Unrestricted Cash Result position and that the current indicative budget position for 2022/2023 outlined in this Budget Review is further improved through the remaining quarterly budget reviews for the 2022/2023 financial year. Council must remember it has a short term financial goal of maintaining \$1,000,000 in unrestricted cash.
- 10 The 2022/2023 budget estimates are at a stage where it is a real issue for Council in terms of physical capacity to deliver works programs, operational plan activities and the ongoing flood recovery. It is suggested that Council look closely to the remainder of 2022/2023 and consider what is likely to be achieved and start to remove from the budget and operational plan, items that will not be delivered/completed.

15

**Report No. 13.6 Council Resolutions Quarterly Review - Q1 -
1 July to 30 September 2022**

Directorate: Corporate and Community Services

Report Author: Heather Sills, Manager Corporate Services

5 **File No:** I2022/1611

Summary:

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


105 resolutions were completed during the period 1 July to 30 September 2022.

10 142 resolutions remain active.

RECOMMENDATION:

- 15
1. That Council notes the information provided in this report on active Council Resolutions in Attachment 1 (#E2022/95661).
 2. That Council notes the completed Resolutions in Attachment 2 (#E2022/95738).
 3. That Council endorses the closure of Resolutions 22-001 and 22-120 as identified in Table 1: Council resolutions that are to be closed; and included in the completed Resolutions in Attachment 2 (#E2022/95738).

20 **Attachments:**

- 1 Active Resolutions Report - as at 30 September 2022, E2022/95661 
- 2 Completed Resolutions Report - 1 July to 30 September 2022, E2022/95738 

25

Report

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

5 **Quarterly Report – 1 July to 30 September 2022**

Active Resolutions

10 The *Active Resolutions Report* (#E2022/95661) provides an update to Council on all active resolutions up to 30 September 2022, with relevant commentary regarding the status of each resolution as at this date. There were 142 active resolutions at the time of preparing this report.

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

Completed Resolutions

15 The *Completed Resolutions Report* (#E2022/95738) provides details of those resolutions that were completed during the period 1 July to 30 September 2022. 105 resolutions were completed during this period.

Resolutions for closure

20 Council resolutions that are no longer relevant or have been superseded either by other resolutions, legislative change, or other matters, may be endorsed by Council for closure.

Table 1: Council resolutions that are to be closed

Res	Report Title	Reason for closure
22-001	EV charging station in Station Street	Consultant Engineer required to undertake design for gutter and drainage. Original design of roof does not allow for traditional gutter systems as the solar panels are also the self-supporting roof panels. It is recommended that no further action be taken at this time and the resolution be completed.
22-120	Byron Shire Council and Landcom Project Agreement for an Affordable Housing Development on 57 Station Street Mullumbimby	Superseded by Resolution 22-413

Strategic Considerations

Community Strategic Plan and Operational Plan

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

Recent Resolutions

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

Legal/Statutory/Policy Considerations

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

Financial Considerations

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

Consultation and Engagement

Not applicable.

Report No. 13.7 Council Investments - 1 October 2022 to 31 October 2022

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

5 **File No:** I2022/1613

Summary:

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

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

15 **RECOMMENDATION:**

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

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Report

Council has continued to maintain a diversified portfolio of investments. As of 31 October 2022, the average 90-day bank bill rate (BBSW) for the month was 3.09%. Council's performance for October 2022 was 2.09%.

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

Schedule of Investments held as at 31 October 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

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Int. Rate	Current Value (\$)
15/06/21	500,000.00	National Housing Finance & Investment Corporation	Y	AAA	01/07/31	Y	FRN	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 Bond)	N	AA+	02/03/32	Y	B	1.50%	928,180.00
04/11/21	2,000,000.00	NAB	P	AA-	04/11/22	N	TD	0.45%	2,000,000.00
17/12/21	2,000,000.00	NAB	N	AA-	19/12/22	N	TD	0.72%	2,000,000.00
20/01/22	1,000,000.00	Westpac (Tailored)	P	AA-	20/01/23	N	TD	0.79%	1,000,000.00
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-	01/11/22	N	TD	2.52%	2,000,000.00
11/07/22	2,000,000.00	NAB	N	AA-	08/11/22	N	TD	2.68%	2,000,000.00
28/07/22	2,000,000.00	NAB	N	AA-	01/11/22	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

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Int. Rate	Current Value (\$)
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
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
04/10/22	2,000,000.00	NAB	N	AA-	01/02/23	N	TD	3.75%	2,000,000.00
21/10/22	1,000,000.00	AMP Bank	N	BBB	21/10/23	N	TD	3.90%	1,000,000.00
26/10/22	1,000,000.00	AMP Bank	N	BBB	23/02/23	N	TD	3.85%	1,000,000.00
26/10/22	1,000,000.00	NAB	N	AA-	24/01/23	N	TD	3.68%	1,000,000.00
N/A	9,101,459.02	CBA Business Saver	P	AA-	N/A	N	CALL	2.45%	9,101,459.02
N/A	4,669,145.10	CBA Business Saver – Tourism Infrastructure Grant	N	AA-	N/A	N	CALL	2.45%	4,669,145.10
N/A	10,144,916.55	Macquarie Accelerator Call	N	A	N/A	N	CALL	1.60%	10,144,916.55
Total	74,915,520.67						AVG	%	74,515,525.67

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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)

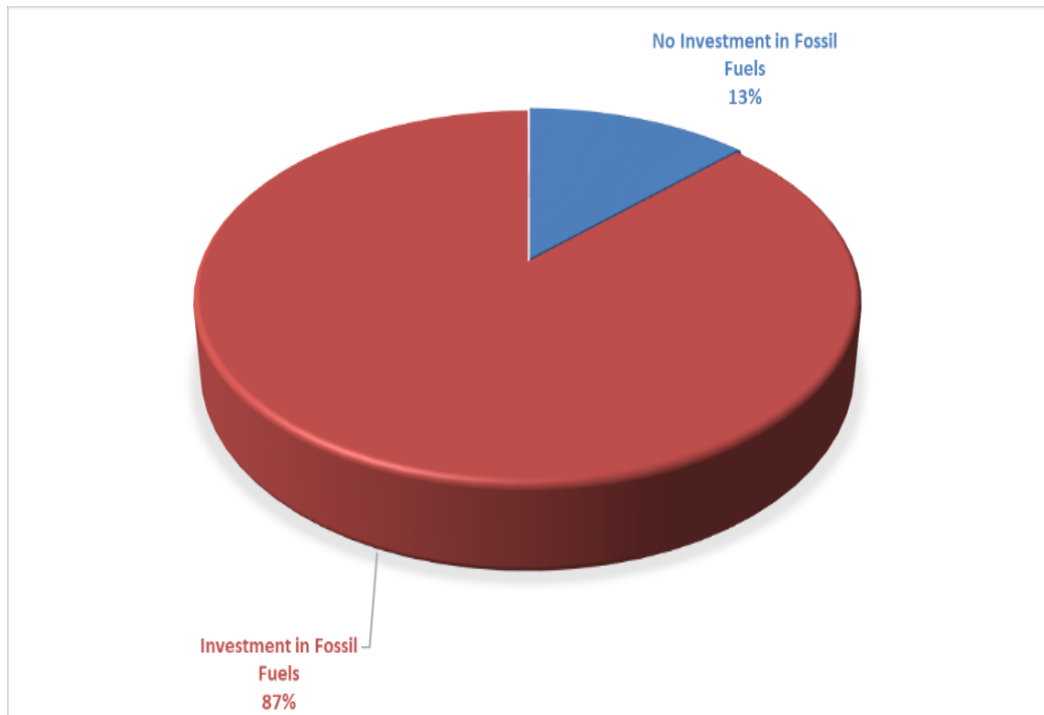
An additional column has been added to the schedule of Investments to identify if the financial institution holding the Council investment has been assessed as a 'No Fossil Fuel' investing institution. This information has been sourced through

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).
- 10

Investment policy compliance			ACTUAL		
% should not exceed the following					
AAA to AA	A1+	100%	60%		Meets policy
A+ to A-	A1	60%	29%		Meets policy
BBB to NR	A2,NR	40%	11%		Meets policy

NSW Treasury Corporation Compliance – Loan Borrowing Conditions

- 15 Council has borrowed loans through NSW Treasury Corporation under the Local Government Low Cost Loans Initiative. As part of these loan borrowings, NSW Treasury Corporation has placed restrictions on where Council can invest based on the credit rating of the financial institution, the term of the investment and counterparty limit.

NSW Treasury Corporation has reviewed Council’s Investment Portfolio and reminded Council it needs to remain within the investment parameters outlined in the accepted loan

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

Tcorp compliance		Counterparty Limit	Tenor	ACTUAL	Variance
% should not exceed the following					
Tcorp	100%	100%	N/A	0%	Meets policy
AAA	100%	100%	N/A	6%	Meets policy
AA+ to AA-	100%	100%	5Y	54%	Meets policy
A+ to A	100%	100%	3Y	29%	Meets policy
A-	40%	40%	3Y	0%	Meets policy
BBB+	30%	10% 3 Years	3Y	4%	Meets policy
BBB		5% 12 Months	1Y	7%	Does not meet policy
BBB- and below (local ADI'S)	5%	5% 12 Months	1Y	0%	Meets policy
BBB- and below (other)		250,000	1Y	0%	Meets policy

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

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

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

15 Dissection of Council Investment Portfolio as at 31 October 2022

Principal Value (\$)	Investment Linked to:	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
44,000,000.00	Term Deposits	44,000,000.00	0.00
1,500,000.00	Floating Rate Note	1,493,080.00	(6,920.00)
9,101,459.02	CBA Business Saver	9,101,459.02	0.00
4,669,145.10	CBA Business Saver – Tourism Infrastructure Grant	4,669,145.10	0.00
10,144,916.55	Macquarie Accelerator	10,144,916.55	0.00
5,500,000.00	Bonds	5,106,925.00	(393,075.00)
74,915,520.67		74,515,525.67	(399,995.00)

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

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

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Investments Portfolio			
Term Deposits	44,000,000.00	44,000,000.00	0.00
Floating Rate Note	1,500,000.00	1,493,080.00	(6,920.00)
CBA Business Saver	9,101,459.02	9,101,459.02	0.00
CBA Business Saver – Tourism Infrastructure Grant	4,669,145.10	4,669,145.10	0.00
Macquarie Accelerator	10,144,916.55	10,144,916.55	0.00
Bonds	5,500,000.00	5,106,925.00	(393,075.00)
Total Investment Portfolio	74,915,520.67	74,515,525.67	(399,995.00)
Cash at Bank			
Consolidated Fund	3,764,195.11	3,764,195.11	0.00
Total Cash at Bank	3,764,195.11	3,764,195.11	0.00
Total Cash Position	78,679,715.78	78,279,720.78	(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.

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

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

Financial Considerations

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

25

Report No. 13.8 Grants October 2022

Directorate: Corporate and Community Services

Report Author: Donna Johnston, Grants Coordinator

File No: I2022/1621

5 **Summary:**


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.

10

RECOMMENDATION:

1. **Council notes the report and Attachment 1 (#E2022/107655) for Byron Shire Council's grant submissions as at 31 October 2022.**
- 15 2. **Council endorses the following project applications under the NSW Government Infrastructure Betterment Fund:**
 - a) **Sandhills Wetlands Stormwater Retention Basin**
 - b) **Byron Bay Drainage Implementation – Stage 1**
 - c) **Shire-wide automated flood signage**
 - 20 d) **New City Road and Avocado Court Drainage Betterment Program**
3. **Council endorses the following project applications under the Regional Roads Transport Recovery**
 - a) **Betterment of Mullumbimby Road**
 - b) **Betterment of Wilsons Creek Road**
 - 25 c) **Main Arm Road Flood Resilience Upgrade**

Attachments:

- 1 Grant submissions as at 31 October 2022, E2022/107655 

30

Report

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

Successful applications

5 Sport Infrastructure Recovery Fund

Council has been advised that it has been awarded \$1,618,260 funding under the successful for the following projects:

- Mullumbimby Recreation Grounds - \$372,000
- 10 • Linda Vidler Park drainage - \$495,633
- Cavanbah Centre Netball Courts - \$150,637
- Mullumbimby Recreation Grounds Cricket - \$68,560
- Tom Kendall Sports Ground - \$75,000
- Tyagarah Fields Parachute Landing - \$39,000
- 15 • Mullumbimby Leagues Club Sports Fields - \$350,000

[Sport Infrastructure Recovery Fund 2022 Grant Recipients | NSW Government](#)

20 The Sport Priority Needs Program purpose was to prioritise funding to support LGAs whose sport and recreation facilities are considered most impacted by the NSW floods in February-March 2022.

Funding allocation was limited to \$1.5 million, and Council submitted projects with a total value of \$2.7 million.

Unsuccessful / withdrawn applications

25 The Australian Government advised on 24 October 2022 that the Building Better Regions Round 6 is not proceeding and no further funding is available. Withdrawal of this funding program impacts Council's Bioenergy Facility application.

A new upcoming funding program has been announced as a replacement: [Growing Regions Program](#).

30 *The Australian Government has committed to establish the new Growing Regions Program to deliver investment in regional infrastructure and community projects.*

35 *This will help drive regional economic prosperity by providing access to funding for capital works for community and economic infrastructure across our rural and regional areas.*

The program will be open and competitive with grants awarded on a merit basis. Administered funding for the program will be provided over three years. The program will be open to local government entities, state and territory governments and not-for-profit organisations, and

partnerships between smaller organisations and local government entities. The program will exclude private enterprise and for-profit entities.

5 *Information on program guidelines, eligibility criteria and the application process will be provided in due course.*

Source: [Growing Regions Program](#)

Applications submitted

The following application was submitted during October 2022.

Funding Body	Funding scheme	Project name	Total project value \$	Amount requested \$	Council Contribution \$
Department of Planning, Industry and Environment	Boating Now Round 4	Brunswick River Light Craft Launching Ramp Plan	55,000	40,000	15,000

10 **Upcoming grant opportunities**

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

The Australian and NSW Government 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.

15 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.*

Infrastructure betterment is considered:

20 *“...repairing or building-back an asset that can better withstand future natural disasters while delivering benefits associated with improved resilience and generating productivity, economic and social outcomes.*

Betterment is made up of the following core values:

25 *1. Resilience – Reduce the risk of impact to an asset over its lifecycle to better withstand natural disasters, and improve the ability to respond, recover and adapt after asset disruption*

- 5
2. *Productivity – Maintain or improve the level of service and sustainable function that an asset provides*
 3. *Economic – Achieve net benefits across the asset lifecycle based on the betterment value proposition and provide a return on investment*
 4. *Social – Maintain or improve a community’s ability to function during and after a disruption to an asset.”*

Source: [Natural Disaster Infrastructure Betterment in NSW](#), p.2

10 The Infrastructure Betterment Fund will consider not only where, but how, essential public assets are being built. Delivered by Department of Regional NSW.

Eligible Assets:

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

Eligible Applicants:

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

Relevant disasters:

Direct Damage from AGRN 871, 954, 960 or 1012

Eligible impact area:

20 *91 LGAs across NSW*

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

Staff are currently preparing applications for the following projects:

1. Sandhills Wetlands Stormwater Retention Basin

25 Funding request to construct the stormwater treatment wetlands and retention basin to support flood mitigation within Byron town centre.

Estimate: \$2.5 million to \$3 million

2. Byron Bay Drainage Implementation – Stage 1

30 Funding request to deliver outcomes from the Australian Government and Council funded Byron Drainage Strategy and connect stage 1 to the Sandhills Wetlands.

Estimate: \$5 million to \$10 million

3. Shire-wide automated flood signage

Automated flood signage and cameras in identified flood impacted areas. Follow-on project from the Resilience NSW Disaster Risk Reduction Funding application to develop a pilot program for automated signage.

5

Should this project be successful, maintenance funding will be required to ensure ongoing operation of the signage. This is likely to occur from FY2025.

Estimate: \$2.5 million to \$3 million

4. New City Road and Avocado Court Drainage Betterment Program

10 Design and construction of drainage betterment to mitigate flooding and stormwater within the areas of New City Road and Avocado Court, Mullumbimby.

Estimate: \$2 million to \$4 million (high level – estimate needs more development)

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

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

Eligible Assets:

Transport infrastructure assets

20

Eligible Applicants:

Local Councils and TfNSW

Relevant disasters:

Direct Damage from AGRN 1012

Eligible impact area:

25

26 Northern NSW LGAs

Source: [Regional Roads and Transport Recovery Package Guidelines - October 2022 \(nsw.gov.au\)](#) p. 6

Projects will be prioritised for funding based on the ability to deliver against the following:

30

- *Strategic – A project’s alignment with the RRTRP’s objective and relevant government strategies.*
- *Resilience – The extent of risk avoidance/ mitigation expected, and the additional benefit of the betterment activity.*

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- *Viability – The deliverability and affordability of the project.*
- *Economic – The quantification and/or qualification of the economic benefit(s) a project will deliver.*

5 Source: [Regional Roads and Transport Recovery Package Guidelines - October 2022 \(nsw.gov.au\)](#) p. 6

The funding is split as a 60:40 notional allocation for local assets and State assets respectively. Only three applications can be submitted.

Funding is available to Council's impacted by AGRN1012 February and March 2022 floods. Funding program is delivered by Transport for NSW.

10 There will be future funding rounds and Councils can stage their applications.

Staff are currently preparing applications for the following projects which are subject to eligibility criteria:

Betterment of Mullumbimby Road

15 Mullumbimby Road betterment to improve evacuation routes, access and traffic movement on the main road into and out of Mullumbimby.

20 Project will consider raising and widening of road, improved drainage, improved retaining structures, raising and widening of bridge over Kings Creek. From Brunswick Heads interchange to Station Street, Mullumbimby.

Estimate: To be confirmed – currently in development

Betterment of Wilsons Creek Road

Technical investigation and design of Wilson Creek Road to improve evacuation route, access and traffic movement.

25 Estimate: To be confirmed – currently in development

Construction stage to be submitted under future funding rounds.

Main Arm Road Flood Resilience Upgrade

30 Project will consider raising the road and concrete low-lying sections to reduce flooding impacts and improve emergency access. Access road from Mullumbimby township to Main Arm Village. From intersection with Murwillumbah Road to Main Arm village.

Estimate: To be confirmed – currently in development

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[Fixing Local Roads Pothole Repair Round - Grant programs - Local Government Relations - Partners & suppliers - Business & Industry - Roads and Waterways – Transport for NSW](#) – closed 8 November

- 5 The \$50 million Fixing Local Roads Pothole Repair Round will supplement existing funding and support additional efforts by local councils in the short-term repair of priority potholes and road repairs on local and regional roads.

Funding will be awarded via allocation based on road kilometres.

[Female Friendly Community Sport Facilities and Lighting Upgrades Grant Program | NSW Government](#) – closes 23 November

- 10 The NSW Government has committed up to \$25 million to the Female Friendly Community Sport Facilities and Lighting Upgrades Grant Program (the Program). The Program investment will revive sport facilities by providing new and redeveloping existing sport facility bathrooms and change rooms. Funding will also support the provision of new and upgraded lighting that will enable more women and girls to train and compete in sport in a safe and inclusive environment.
- 15

Staff are currently preparing an application to support the facility lighting of the new Byron Skate Park.

Estimate: \$150,000

[Places to Swim | NSW Dept of Planning and Environment](#) – closes 21 November

- 20 The Places to Swim program supports the creation of great places for people to enjoy inland places like rivers, lakes, dams and inland waterways. We are working with all councils, eligible state agencies to improve access to water. allowing people to get, in, on and around water.

- 25 Places to Swim is more than just swimming, it is also about improving access for recreational engagement with waterways, such as kayaking and paddle boarding or walking and being around water.

Staff are currently considering possible applications within resourcing capacity to deliver.

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

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

Financial Considerations

10 If Council is successful in obtaining the identified grants, this would bring funding sought to approximately \$15.6 million which would provide significant funding for Council projects. Some of the grants require a contribution from Council (either cash or in-kind) and others do not. Council’s contribution is funded.

The potential funding is detailed below:

15	Successful applications	\$1,618,260
	Unsuccessful/withdrawn applications	\$9,995,597
	Requested funds from funding bodies	\$7,273,909
	Council Contribution Cash	\$3,393,309
	Other contributions	\$1,710,000
20	Funding applications submitted and awaiting notification (total value)	\$12,636,078

Consultation and Engagement

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

Report No. 13.9 Recovery Action Plan

Directorate: Corporate and Community Services

Report Author: Geeta Cheema, Manager Social & Cultural Planning

File No: I2022/1617

5 **Summary:**

As a result of extreme weather events, in February and March 2022, the Northern Rivers region experienced unprecedented flooding and landslips. The disaster events have had significant negative impacts for residents in Byron Shire, and it will take many years to recover.

10 In response to community needs, Byron Shire Council has been working on disaster recovery for many months. The Recovery Action Plan describes the whole-of-Council approach to disaster recovery and describes what Council will deliver to support recovery and build disaster resilience.

15 The Recovery Action Plan was developed to communicate our approach to other levels of government and to our communities. The identified actions will be embedded in Council's annual Operational Plan and can be revised as required, in response to emerging community needs.

20

RECOMMENDATION:

That Council adopts the Recovery Action Plan 2022-2024 in Attachment 1 (E2022/92056).

25 **Attachments:**

1 Draft Recovery Action Plan 2022-2024, E2022/92056 

Report

The Recovery Action Plan communicates what Council will deliver in 2022 to 2024 in response to the February and March disaster events in the Byron Shire.

The purpose of the Recovery Action Plan is:

- 5 1) To convey our understanding of the disaster events in Byron Shire and community needs as the basis of our continuing work;
- 2) To describe the considerable recovery activities we have undertaken since the disaster events;
- 10 3) To identify the actions that we can take to support recovery in the next two years in line with Council's designated roles;
- 4) To provide a basis upon which to communicate our recovery efforts to other affected Local Governments, and to State and Federal Government agencies, in order to support joint effort, clarity in respective roles, and appropriate resourcing; and
- 15 5) To communicate to our communities, including how we will work with community members and groups on recovery efforts.

The Recovery Action Plan is presented in three parts:

20 **Part I: Our recovery framework.** This is our approach to recovery planning, including the purpose and scope of the plan, Council's legislative roles and the key focus areas (domains) for recovery.

Part II: From disaster to recovery. We offer an account of the disaster events and recovery experience to date as the basis of understanding and responding to community needs.

25 **Part III: Actions.** We identify the actions we've committed to undertake as part of our Shire's recovery.

Actions in the Recovery Action Plan are presented across five domains of recovery: Built Environment; Natural Environment; Economic Recovery; Community Wellbeing and Emergency Arrangements. Appropriate community participation is key to achieving recovery outcomes across all of Council's activities.

30 Next steps

Following adoption by Council, the Recovery Action Plan will be communicated publicly and will be made available to the Regional Recovery Officer (Resilience NSW). Actions in the plan will be added to Council's Operational Plan for regular monitoring and reporting.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action
3: Nurtured Environment We nurture and enhance the natural environment	3.1: Partner to nurture and enhance our biodiversity, ecosystems, and ecology	3.1.1: Native species - Use best practice land management to improve ecological resilience and reduce threats to biodiversity
3: Nurtured Environment We nurture and enhance the natural environment	3.1: Partner to nurture and enhance our biodiversity, ecosystems, and ecology	3.1.2: Pest and weed management - Use best practice land management to improve ecological resilience and reduce threats to biodiversity
3: Nurtured Environment We nurture and enhance the natural environment	3.1: Partner to nurture and enhance our biodiversity, ecosystems, and ecology	3.1.3: Habitat restoration - Restore degraded areas that provide high environmental or community value
3: Nurtured Environment We nurture and enhance the natural environment	3.3: Protect the health of our coastline, estuaries, waterways, and catchments	3.3.2: Floodplain management - Mitigate the impact of flooding on private and public property
3: Nurtured Environment We nurture and enhance the natural environment	3.3: Protect the health of our coastline, estuaries, waterways, and catchments	3.3.3: Catchment health - Investigate and support catchment health improvement initiatives
3: Nurtured Environment We nurture and enhance the natural environment	3.4: Support and empower our community to adapt to, and mitigate our impact on climate change	3.4.2: Climate change adaptation - Enhance community resilience and ability to adapt before, during, and after climate events
4: Ethical Growth We manage growth and change responsibly	4.2: Enable housing diversity and support people experiencing housing insecurity	4.2.1 People experiencing housing insecurity - Seek opportunities that provide fair, appropriate, and

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CSP Objective	CSP Strategy	DP Action
		affordable housing for people experiencing housing insecurity
4: Ethical Growth We manage growth and change responsibly	4.3: Promote and support our local economy	4.3.5: Regenerative agriculture - Develop and implement strategies to support regenerative agriculture, agri-business and farmers
4: Ethical Growth We manage growth and change responsibly	4.5: Support a resilient community that can adapt and respond to change	4.5.1: Emergency management and response - Support and participate in local emergency management
4: Ethical Growth We manage growth and change responsibly	4.5: Support a resilient community that can adapt and respond to change	4.5.2: Recovery - Support disaster recovery following the 2022 flood events
4: Ethical Growth We manage growth and change responsibly	4.5: Support a resilient community that can adapt and respond to change	4.5.3: Disaster preparedness - Support and coordinate disaster prevention, preparedness, response and recovery activities
5: Connected Infrastructure We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable	5.1: Provide a safe, reliable, and accessible transport network	5.1.5: Restore road network - Restore the affected parts of the road network that were impacted by the 2022 flood events
5: Connected Infrastructure We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable	5.3: Invest in renewable energy and emerging technologies	5.3.4 Telecommunications - Advocate for more disaster resilient communication networks

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CSP Objective	CSP Strategy	DP Action
<p>5: Connected Infrastructure We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable</p>	<p>5.4: Provide accessible community facilities and open spaces</p>	<p>5.4.1: Community buildings - Ongoing maintenance and capital upgrades of community buildings with a focus on increasing accessibility</p>

Financial Considerations

Comment from Manager Finance

5 The financial impact of this natural disaster on Council finances will be significant. It is estimated that between \$180 million to \$200 million will be required to repair/restore damaged infrastructure and landslips.

Council relies on other levels of government for grants and financial support for recovery activities. Council is tracking the expenditure it has incurred relating to the immediate aftermath of the February/March 2022 flood events, undertaking immediate clean up, repair works and now moving into Essential Public Asset Restoration (EPAR) works.

10 Up to the end of October 2022, Council had expended and/or committed a total of \$23.9 million in responding to the flood events from 28 February 2022. The flood recovery work is impacting Council's finances especially in terms of cash flow. This is because Council is meeting its payment obligations immediately, while awaiting funding from other levels of government via expenditure claims that are onerous and extremely detailed, to be
15 reimbursed.

As the recovery got underway, Council was fortunate to have received advance payments from Transport for NSW which totalled \$8.4 million but there has not been any further payment received since July, although Council is aware another \$4.94 million has been approved but not yet received. Council has received a payment from Public Works
20 Advisory relating to repair of water and sewerage infrastructure plus initial betterment funding of \$1.2 million. Council has also received \$1.246 million so far for costs associated with kerbside collection of waste related to the flood events. At this point Council has received \$10.846 million in funding associated with clean up and emergency repair works.

25 Council has also received two further grants from the NSW Government responding to the flood event being a grant of \$1,000,000 and a further grant of \$2,375,000. Council has received both of these grants and endorsed a program of works/activities for both of these grants but is still awaiting approval from the Office of Local Government that the Council endorsed programs are approved.

As the recovery continues it will be paramount for Council to keep on top of expenditure claims to minimise cash flow impacts as much as possible, as there is the potential for Council to have significant cash flow issues when the EPAR works are occurring, and that Council may only initially receive 75% of amounts claimed.

- 5 A worst case scenario is that Council could need to carry a shortfall of some \$45 million to \$50 million which is simply beyond its capacity, if it wishes to deliver other projects, programs and services beyond flood recovery. Council will need to seek some alternative arrangement from either the State or Commonwealth Governments to assist with the potential cash flow impacts as the recovery response continues.

10 **Consultation and Engagement**

The Recovery Action Plan has been developed with cross-Directorate Council staff input and has been reviewed by the Local Recovery Committee and Executive Team. The Tweed Byron Local Emergency Management Committee has been informed about the Plan, and Councillors received a briefing at the Councillor Workshop on 3 November 2022.

- 15 Actions in the Plan are informed by community needs, as outlined in the plan, can be adjusted in accordance with emerging community needs.

Report No. 13.10 Refinance of Waste Loan No 66

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

File No: I2022/1652

5 **Summary:**

Council on 4 December 2012 executed a loan (Loan No 66) to purchase land at Dingo Lane as a buffer to the Myocum Landfill site. The loan borrowing was for \$2,800,000 borrowed over a twenty year term with a fixed interest rate of 5.89% for ten years.

10 This loan is about to expire its fixed interest period on 4 December 2022 and Council needs to determine how it will manage the remaining loan balance.

This report provides Council with a recommended course of action for consideration.

15 **RECOMMENDATION:**

That Council:

1. **Refinances Loan No 66 with a principal value of \$1,000,000 over the remaining ten year loan term and delegate to the General Manager to accept a loan finance offer based on these terms.**
- 20 2. **Authorises a one off additional loan principal repayment of \$603,000 funded from the Other Waste Reserve on the maturity date of Loan No 66.**
3. **Increases the overall Council loan principal repayment budget by \$603,000 from \$4,089,300 to \$4,692,300 for the 2022/2023 financial year.**
- 25 4. **Authorises the affixing of the Council seal to all documents that may require it, in regard to this loan refinancing.**

Report

Council on 4 December 2012 executed a loan to purchase land at Dingo Lane as a buffer to the Myocum Landfill site. The loan borrowing was for \$2,800,000 borrowed over a twenty year term with a fixed interest rate of 5.89% for ten years.

- 5 This loan is about to expire its fixed interest period on 4 December 2022 and Council needs to determine what it would like to do with the remaining loan balance. Council has the following options:
- Pay out the remainder of the loan balance with no penalty for early repayment.
 - Undertake a one off additional loan principal repayment and refinance any residual loan over the remaining loan term of 10 years.
 - Refinance the loan with the current outstanding balance at the end of the fixed interest period over the remaining loan term of 10 years.

15 At the time of loan maturity, Council will have an outstanding loan balance of \$1,603,000. Since the loan was originally drawn down, Council has been making annual repayments inclusive of interest and loan principal of \$254,614 per annum. The financing of the loan repayments for this loan have been via Council's Waste Budget Program and the Other Waste Reserve.

20 An assessment has been undertaken given the opportunity to refinance this loan, the current position of Waste Reserves and potential future expenditure obligations i.e. remediation and closure of the Myocum landfill site. With this in mind there is the opportunity for Council to not fully repay the loan but make a one off extra repayment of \$603,000, reducing the loan to \$1,000,000 and refinancing that over the remaining 10 years. The Other Waste Reserve has funding capacity to provide for the \$603,000 one off extra repayment.

25 Indicative borrowing rates for Council for a ten year loan at a fixed interest rate are currently around 4.87% per annum at the time of preparing this report. The following comparison is provided to illustrate indicative annual and total loan repayments if the loan was refinanced at 4.87% under available options:

- 30
- Council refinance Loan No 66 for \$1,603,000 over 10 years without making a once off extra repayment of \$603,000 will result in annual repayments estimated at \$206,287 per annum or \$2,062,873 over ten years.
 - Council refinance Loan No 66 for \$1,000,000 over 10 years by making a once off extra repayment of \$603,000 will result in annual repayments estimated at \$128,883 per annum or \$1,286,883 over ten years.

35 The comparison above demonstrates the impact of the \$603,000 once off extra loan repayment at the time of refinancing by reducing annual loan repayments by \$77,600 per annum and saving a total of \$775,990 over ten years. Given this result would have a positive longer term financial outcome for the Waste Management Budget Program and

5 the Other Waste Reserve has capacity to provide the additional once off extra repayment of \$603,000, it is recommended that Council consider refinancing Waste Loan No 66 as recommended in this report. The savings potentially generated post loan refinancing should the recommendations to this report be approved will need to be contained within the Waste Management Budget Program. The final actual outcome Council may achieve will be contingent upon the interest rate Council receives in the refinancing offer.

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	1.3.1.4	Financial reporting as required provided to Council and Management.

Legal/Statutory/Policy Considerations

10 Council has adopted Policy 2009/006 regarding loan borrowings.

Section 55(1)(f) of the Local Government Act 1993 provides that Council does not need to call tenders for a contract relating to loan borrowings.

15 Section 377(1)(f) of the Local Government Act 1993 stipulates that a Council may by resolution delegate to the General Manager or any other person or body (not including another employee of the Council any of the functions of the Council except the borrowing of money.

Section 621 to 624 of the Local Government Act 1993 provides:

- That Council can borrow at any time for purposes allowed under the Local Government Act 1993,
- 20 • That Council may borrow by way of overdraft or loan or by other means approved by the Minister.
- That Council may give security for any borrowings in such manner as may be prescribed by the regulations with such securities ranking on equal footing despite any other Act.

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STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.10

- The Minister may, from time to time, impose limitations or restrictions on borrowings by a particular Council, or Councils generally despite the other provisions of this Part.

5 Section 229 of the Local Government (General) Regulation 2021 provides the repayment of money borrowed by a Council (whether by way of overdraft or otherwise), and the payment of any interest on that money, is a charge on the income of the Council.

Section 230 of the Local Government (General) Regulation 2021 provides that the General Manager must notify the Secretary within 7 days of the borrowing of loan funds that the borrowing has occurred.

10 Section 400(4) of the Local Government (General) Regulation 2021 provides the seal of a Council must not be affixed to a document unless the document relates to the business of the Council and the Council has resolved by resolution specifically referring to the document that the seal be so affixed.

15 The Minister for Local Government issued a revised Borrowing Order for Councils in New South Wales on 13 May 2009. The stipulation in the Borrowing Order is that Councils are not to borrow from any source outside the Commonwealth of Australia or in any other currency other than Australian currency.

Financial Considerations

As outlined in the report above.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.11 Byron Shire Local Heritage Grants Program 2022-23

5 **Directorate:** Sustainable Environment and Economy
Report Author: Shannon Burt, Director Sustainable Environment and Economy
File No: I2022/1551

Summary:

10 This report seeks Council endorsement of the funding allocation for the Byron Shire Local Places Heritage Grants Program 2022-23.

15 **RECOMMENDATION:**

1. **That Council endorses the recommended funding allocations of the Byron Shire Local Places Heritage Grants Program 2022-23 for landowners to complete building repairs, enhancements, and maintenance to prominent local heritage items in main towns as follows:**
 - 20 a) **The applications in Attachments 2 and 3 to receive \$4,500 each;**
 - b) **The Application in Attachment 1 to receive \$3,000;**
2. **That the grant applicants be notified of Council's decision.**

25 **Attachments:**

- 1 Confidential - Local Heritage Places Funding Application 2022_23 93 Station Street Mullumbimby, E2022/105190
- 2 Confidential - Local Heritage Places Funding Application 2022_23 26 Carlyle Street Byron Bay, E2022/105192
- 3 Confidential - Local Heritage Places Funding Application 2022_23 21 Granuaille Road Bangalow, E2022/105194
- 4 Confidential - Summary Report prepared by Deborah Wray, E2022/105530

35

Report

5 The Local Heritage Places Grants program is jointly funded by Council and the NSW Heritage Division as part of its commitment to heritage management and tourism within Byron Shire. The purpose of the fund is to provide small grants to support owners of heritage items or draft heritage items in maintaining their heritage property.

10 There is an amount of up to \$12,000.00 in the 2022-23 fund made up of a grant from the Heritage Division of the NSW Office of Environment of up to \$5,500.00 and \$6,500.00 from Council.

15 Up to \$3,000 is the maximum normally available for each project from the total funding pool. The main conditions are that property owners need to provide one dollar for every dollar contributed jointly by Council and the Heritage Division and that the work must be completed before or by March 2023.

20 Due to the impact COVID restrictions, lockdowns and the 2022 Flood events has had on our community; it is believed that applications are down on previous years. Only three applications were received this year.

Each proposal was assessed by Council’s Heritage Advisor against the required Heritage Division criteria. [Local Heritage Places Funding - Byron Shire Council \(nsw.gov.au\)](https://www.nsw.gov.au/heritage/local-heritage-places-funding-byron-shire-council)

The grant applications are confidential Attachments 1-3. A summary of each is provided below.

ITEM	PROPOSAL
<p>93 Station Street, Mullumbimby – Heritage item I154</p> <p>“A grand Edwardian weatherboard house with gardens and intact stables/garages at the rear standing on an oversize block. The building is significant to the Mullumbimby town precinct being more elaborate and being built to a higher standard than most. Each of the rooms is lined with local and exotic timber species that were chosen to create a rich and diverse interior finish. The house is also connected to two of the pioneer settlers of the district, whose civic and commercial dealings were important to the development of the town. It is situated opposite the site of the former saw mill.”</p>	<p>Remove existing 1970 brick fence and replace with a period correct fence.</p>

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STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.11

	
<p>26 Carlyle Street, Byron Bay (Within Kingsley HCA)</p> <p>This is a contributory traditional inter war weatherboard dwelling within the Kingsley Street Conservation Area. It is a corner property with high public visibility. The triple gabled Californian bungalow style dwelling is aesthetically and historically significant showing growth during the boom of the dairying industry and Norco operations in Byron Bay.</p> 	<p>Repair/restore and repaint various building elements to period correct and asbestos removal.</p>
<p>21 Granuaille Road, Bangalow (Within Bangalow HCA)</p> <p>This is a contributory turn of the 1920s era timber and iron traditional dwelling located on the main town entry into Bangalow with high public visibility. It sits nearby other traditional homes which collectively demonstrates the historic origins of Bangalow's development</p>	<p>Reroof existing roof with galvanised roof in keeping with heritage era, replace bronze aluminium windows with new timber style windows, reinstate original wrap around verandah to front of house.</p>



5 The focus for the 2022-2023 Local Heritage Grants Program is conservation works that enhance individual places, buildings and historic streetscapes including buildings in conservation areas that will promote and foster community appreciation of the history of the Shire.

10 This year priority will be given to applicants from areas that have been impacted by the 2022 floods with the aim being that it might provide some financial help with the recovery process.

After consideration by the Council's Heritage Adviser and the Director Sustainable Environment and Economy, it was agreed the 3 projects meet the criteria and are recommended to Council for funding this year. Confidential Attachment 4.

15 In summary, two applications will each receive \$4,500 and one \$3,000 this is based on the scope and costs of works relative to the grant funding available. This is an additional amount to that advertised but given the limited number of applications and merit of each received is reasonable and acceptable to do this.

20 The funding of these projects will support over \$233,000 worth of work to be carried out in this financial year on heritage property restoration.

Strategic Considerations

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	2.1.5: Share and celebrate diverse stories including the built, natural, and cultural heritage of the Shire	2.1.5.3	Manage the Heritage Grants Program

Legal/Statutory/Policy Considerations

Grant funding guidelines and requirements.

5 Financial Considerations

Council will deliver the Local Heritage Grants Program with the aid of a grant from the Heritage Division of the NSW Office of Environment and Heritage with Council providing at least \$6,500 to qualify for up to \$5,500 from the Heritage Division of the Office of Environment and Heritage.

10 Consultation and Engagement

The Local Heritage Grants program is a key action task in the Byron Shire Heritage Strategy 2020-2024.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.12 Byron Shire Natural Burial Ground - Next Steps

5 **Directorate:** Infrastructure Services
Report Author: Joshua Winter, Capital Works Engineer
Cameron Clark, Manager Works
File No: I2022/1429

Summary:

10 Council is investigating the implementation of a Natural Burial Ground in the Byron Shire. The previously supported location of Vallances Road has been investigated and for various reasons outlined in this report, is no longer supported.

15 There are sites available at both the Clunes cemetery and potentially the Mullumbimby cemetery that may support a Natural Burial Ground without constraints. These need to be investigated and reported to Council to potentially adopt a location and proceed with implementation.

20 **RECOMMENDATION:**

1. **That Resolution 21-250 point 2 be rescinded and that a Natural Burial Ground no longer be supported at Vallances Road.**
 2. **That further investigations for a Natural Burial Ground at the Clunes and Mullumbimby cemeteries be undertaken and reported to Council in the first quarter of 2023.**
- 25

Attachments:

- 1 Vallances Road and Clunes Soils Report - Natural Burial Sites, E2022/106578 
- 30

Report

5 Council has been investigating the implementation of a Natural Burial Ground at Vallances Road in the Brunswick Valley in line with previous resolutions. There are a number of projects intended for this location, with the Natural Burial Ground under Res **21-250** being one of them. Investigations have been made and a brief summary is provided within this report.

10 A linked report is also being reported to Council specifically for the development of the Vallances Road site which includes consideration of the requirements of developing for a Natural Burial Ground. However, it is recommended to consider only the other uses investigated in that report.

The key issues present for the Vallances Road site were as follows (Clunes is referenced as a comparison);

- 15 1. The broader site is vastly a flood prone zone. A small area was available at approximately 2,000m², which would have a finite length of time that it could sustain the use for the community. Comparatively, Clunes has well over 50,000m² available, flood free.
- 20 2. The site is owned by Council's Sewer Fund and would need to be purchased by or leased to the General Fund. A cemetery is not a valid function for the Sewer Fund. Clunes is Council managed Crown Land, which is available for use as a cemetery.
- 25 3. Site access is constrained and requires upgrades. There is a black spot at its access to Coolamon Scenic Drive, which could be dealt with, but is not a constraint at Clunes.
- 30 4. The site at Vallances has a number of other uses that Council is hoping to achieve. No other uses other than cemeteries are currently intended at the Clunes or Mullumbimby locations.
5. The soils are heavy clays that do not align with the vision of a natural burial ground, where bodies return to nature. Scarring of graves would be evident for years, and for nutrient take-up, significant site rehabilitation would be required. Clunes is outstanding red soils that had roots evident up to 2.2m depth, nutrients would be taken up very quickly and bodies decomposed far easier.
6. Revegetation at Vallances Road site would be far more difficult, with the harder clay ground. This also translates to a higher degree of effort required and higher emissions in digging graves (>4-5 times the amount of time taken at Clunes).

35 In light of this information, Clunes is recommended as the more suitable site for the purpose, but acknowledged it is at the boundary/limits of the Byron Shire. Therefore, staff should investigate the viability of the Clunes and Mullumbimby cemeteries to allocate a section for natural burials, potentially at both locations.

These investigations should include consideration of an appropriate landscape plan for the section itself to better delineate it from the traditional cemeteries at the location, as well as a continual revegetation plan for implementation as burials are made.

Strategic Considerations

5 Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
5: Connected Infrastructure We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable	5.4: Provide accessible community facilities and open spaces	5.4.2: Parks and open spaces - Provide and maintain active and passive recreational community space that is accessible and inclusive for all	5.4.2.2	Operate and Maintain Cemeteries across the Shire

Recent Resolutions

- **20-669**
- **21-250 Resolved:**
 1. *Adopts the 2021 Brunswick Valley – Vallances Rd Vision and Roadmap (Attachment 1 – E2021/60116) with an amendment to change the recommendation for the Natural Burial Ground to be a supported use at this location at Area A on map (E2021/84442)*
 2. *Declares Area A as Byron Shire’s first natural burial ground.*
 3. *Requests staff to collaborate and guide members of the community-based Natural Burial Committee with their onsite investigations and other reports that may be required to support their development application for a natural burial ground on Area A for lodgement with Council.*
 4. *Allocates the \$15,000 in the 2021/22 budget mentioned in the staff report to assist staff with enabling the ongoing governance of the Natural Burial Ground by the current Natural Burial Committee.*
 5. *Proceeds with development of a scope for a plant nursery and environmental education facility at the Vallances Road site.*
 6. *Receives a further report on the outcome of items 3,4 and 5 above.*
- **22-102**
- **22-225**

Report No. 13.13 Vallances Road Options and Next Steps

Directorate: Infrastructure Services

Report Author: Joshua Winter, Capital Works Engineer
Cameron Clark, Manager Works

5 **File No:** I2022/1430

Summary:





10 Council adopted the 2021 Brunswick valley – Vallances Road Vision and Roadmap as part of Resolution **21-250**. This vision included a number of key projects that were investigated specifically in relation to planning advice and access constraints, which are now being presented to Council for consideration.

15 The main uses that were assessed as part of the advice were a Nursery, Natural Burial Ground (no longer recommended – see separate Council report to this meeting, I2022/1429), Affordable Housing, Sustainability Centre for Education, and the Brunswick Valley Sewer Treatment Plant expansion.

RECOMMENDATION:

- 20
1. **That Council considers the planning advice and access constraints presented in this report and nominates project/s to proceed for further investigation/design.**
 2. **That Council allocates funding for the further investigation of the selected projects and sets a new Operational Plan activity for tracking and reporting on this resolution.**

25 **Attachments:**

- 30
- 1 Vallances Road Development - Concept Options Report, E2022/106695 
 - 2 Vallances Road Development - Planning Report, E2022/106697 
 - 3 Vallances Road Development - Traffic Impact Assessment, E2022/106696 
 - 4 Vallances Road Development - Road Design Options, E2022/106699 

Report

5 Council's Sewer Fund owns a substantial portion of land at Vallances Road in the Brunswick Valley, on which Council has proposed a number of potential development intentions. Staff have obtained planning advice and concept options presented as part of this report.

The advice has covered the following uses; Nursery, Natural Burial Ground (no longer recommended – see separate Council report at this meeting, I2022/1429), Affordable Housing, Sustainability Centre for Education, and the Brunswick Valley Sewer Treatment Plant expansion.

10 There are a number of other uses outlined in the Brunswick Valley – Vallances Road Vision and Roadmap, however the uses identified are the highest priority. Each use has its own potential requirements regarding traffic generation and subsequent access upgrade requirements, and in some cases it is only when uses are combined that upgrades are required.

15 Council's consultant has prepared a matrix of uses within the attached reports, copied below, that shows the relationship to the required road widths. Further reading and explanation of the attached reports is likely required to understand the relationships between the uses and their requirements.

20 Specifically in relation to access constraints, there is a black spot at the intersection of Coolamon Scenic Drive and Vallances Road. Upgrade options for this intersection have also been presented in the attachments, with varying degrees of cost, environmental and amenity impacts.

25 It should be highlighted that Council needs to consider how the proposed development option/s would be impacted by the ownership of the land currently being the Sewer Fund. For example, affordable housing is not a normal function of the Sewer Fund, therefore the General Fund would need to purchase the land, or the land could be sold or otherwise transferred or leased for that use, but the income would be to the Sewer Fund, if the land is not purchased by the General Fund prior to any such arrangement.

30 Furthermore, the proposed expansion of the Brunswick Valley STP must be taken into consideration with any development of the site, as there are buffer zone requirements around an STP that must be maintained.

A large portion of the site is also impacted by flooding, however there is still ample room to implement development in the flood free areas.

35 This information is being presented to Council to assist in their decision in guiding policy of which uses should be investigated and progressed further.

The highest priority projects investigated could be the basis for the selection, and again included; Nursery, Affordable Housing, Sustainability Centre for Education, and the Brunswick Valley Sewer Treatment Plant expansion. The STP expansion is already being investigated separately.

Figure 1: Road Width scenarios.

Table 6-8 Combined Carriageway Requirements for Each Scenario.

	Existing Scenario	Retail Garden Centre	Wholesale Plant Nursery	Natural Burial Ground	Affordable Housing	Sustainability Centre	STP	Total AADT	Road Width (m)	Shoulder Width (m)
AADT	50.4	128.5	69.7	3.0	14.8	8.6	6.0			
Scenario 1	✓	✓		✓	✓	✓	✓	211.2	6m	1m
Scenario 2	✓		✓	✓	✓	✓	✓	152.5	6m	1m
Scenario 3	✓	✓		✓	✓		✓	202.6	6m	1m
Scenario 4	✓		✓	✓	✓		✓	143.9	6m	0.5m
Scenario 5	✓			✓	✓	✓	✓	82.8	6m	0.5m
Scenario 6	✓	✓			✓	✓	✓	208.2	6m	1m
Scenario 7	✓		✓		✓	✓	✓	149.5	6m	0.5m
Scenario 8	✓	✓		✓		✓	✓	196.4	6m	1m
Scenario 9	✓		✓	✓		✓	✓	137.7	6m	0.5m
Scenario 10	✓	✓		✓			✓	187.8	6m	1m
Scenario 11	✓		✓	✓			✓	129.1	6m	0.5m
Scenario 12	✓			✓	✓		✓	74.2	3.7m	2.5m or 0.5m
Scenario 13	✓				✓	✓	✓	79.8	6m	0.5m
Scenario 14	✓	✓				✓	✓	193.4	6m	1m
Scenario 15	✓		✓			✓	✓	134.7	6m	0.5m
Scenario 16	✓	✓			✓		✓	199.7	6m	1m
Scenario 17	✓		✓		✓		✓	140.9	6m	0.5m
Scenario 18	✓			✓		✓	✓	68.0	3.7m	2.5m or 0.5m
Scenario 19	✓	✓					✓	184.9	6m	1m
Scenario 20	✓		✓				✓	126.1	6m	0.5m
Scenario 21	✓			✓			✓	59.4	3.7m	2.5m or 0.5m
Scenario 22	✓				✓		✓	71.2	3.7m	2.5m or 0.5m
Scenario 23	✓					✓	✓	65.0	3.7m	2.5m or 0.5m
Scenario 24	✓						✓	56.4	3.7m	2.5m or 0.5m

The upgrade to Vallances Road is limited to the first ~700m section of road, up to the intersection with the Old Nursery Road. No upgrade is required for the following ~1km section of road to the BVSTP, as all the proposed development uses, bar the STP, are accessed from the Old Nursery Access Road. Additionally, all upgrade treatments are applied to both Vallances Road and the Old Nursery Access Road.

Strategic Considerations

Community Strategic Plan and Operational Plan

- There is no current Operational Plan activity. Council should consider the addition of such an activity to track this resolution’s implementation.

Recent Resolutions

- 21-250
- 22-102

Report No. 13.14 Detention Basin Lot 12 Bayshore Drive

Directorate: Infrastructure Services

Report Author: Phil Warner, Manager Assets and Major Projects
James Brickley, Manager Finance

5 **File No:** I2022/1514

Summary:

On 5 August 2022, the General Manager, under delegated authority, approved the use of the open tender method to call for tenders for Contract 2022-1385 – Lot 12 Bioretention Basins & Swales.

10 The Request for Tender was advertised from 12 August to 8 September 2022. Tenders were received from the following organisations:

- Global Synthetics
- RCC Earthworks

15 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 decline to accept any of the tenders as the values significantly exceeded estimates and, in accordance with 178(3)(e), enter negotiations with a view to entering a contract in relation to the detention basin and access road reflecting the urgent need to complete these works to open the TAFE Community
20 Learning Centre and for the reasons of economies of scale, construction efficiencies, and timeliness of delivery.

RECOMMENDATION:

That Council:

- 5 1. Declines to accept any of the tenders as the values significantly exceeded estimates.
- 10 2. In accordance with Clause 178(3)(e) of the Local Government (General) Regulation 2021, enter negotiations with a view to entering a contract in relation to the detention basin and access road reflecting the urgent need to complete these works prior to the opening of the TAFE Community Learning Centre and for the reasons of economies of scale, construction efficiencies, and timeliness of delivery.
- 15 3. 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.
- 20 4. Approves an additional budget of \$1,200,000 to a total budget of \$2,257,000 necessary to complete the works subject of this report.
- 25 5. Increases its loan borrowing requirement for the 2022/2023 financial year by \$1,200,000 in the 2022/2023 financial year to fund the works subject of this report.
6. Authorises the General Manager to accept loan borrowing terms offered to Council that represent the best financial outcome amongst other loan offers received.
7. Authorises the affixing of the Council Seal (if required) to any documents to execute the loan borrowings outlined in this report.

Attachments:

- 30 1 Confidential - RFT 2022-1385 - Lot 12 Biobasins Swales - Evaluation Report, E2022/107490

Report

On 5 August 2022, the General Manager, under delegated authority, approved the use of the open tendering method to call for tenders for Contract 2022-1385- Lot 12 Bioretention Basins & Swales.

- 5 The tender sought the construction of the stormwater infrastructure upgrade required for the subdivision of the land known as Lot 12, on Bayshore Drive in Byron Bay NSW.

The Request for Tender was advertised on Vendorpanel and subsequently Council's website during the tender period, that being 12 August – 8 September 2022.

- 10 An optional briefing/site inspection was held at 10:00am on 18 August 2022 onsite at Bayshore Drive, Byron Bay, NSW 2481. The following organisations attended the briefing/site inspection:

- CCA Winslow
- Symal
- Synergy Resource Management

- 15 The purpose of the briefing/site inspection was to familiarise the tenderers with the site in question, and to point out and discuss key aspects and constraints of the site in person.

An Evaluation Panel comprising of a Council staff and two officers from Planit Consulting was formed.

- 20 Tenders closed on 8 September 2022 and tenders were received from the following proponents:

- Global Synthetics
- RCC Earthworks

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

- 25 *Mandatory criteria:*

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

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Qualitative criteria:

Criteria	Elements
Profile and relevant experience	Tenderer profile
	Previous relevant experience
	Environmental practices
	Opportunities for disadvantaged people
	Local employment opportunities
Quality and availability of resources	Proposed key personnel
	Proposed staff
	Use of subcontractors
	Vehicles, plant and equipment
Delivery Plan	Goods/services standards and methodology
	Implementation plan
	Product sustainability
	Supporting local business, social enterprise and Indigenous business
Price	Total contract price

Following the evaluation, it was not necessary to conduct referee and financial checks as there was no preferred tenderer.

Key issues

The stormwater detention basin and access road must be completed for TAFE to occupy the new Community Learning Centre in accordance with the requirements of the approved DA.

5 Options

Combining the detention basin and access road into one civil package of work for procurement could provide economies of scale and an improved construction methodology.

Next steps

- 10 Council will advise tenderers of the decision to decline all tenders. In accordance with the recommendation of this report, Council will invite, in accordance with section 167, 168 or 169, fresh tenders based on the same or different details.

Financial Considerations

- 15 Council has allocated a current budget of \$1,057,000 in the 2022/2023 budget for Lot 12 Bayshore Drive works. Current expenditure at the date of compiling this report is \$178,535 for this project.

- 20 Cost estimates for combining the construction of the detention basin and access road indicate the current approved budget in 2022/23 needs to be increase by an estimated \$1,200,000 for a total budget of \$2,257,000 to incorporate the works and current expenditure incurred.

- 25 It is necessary for these works to be completed and this is likely to occur prior to any finalisation of sale for the remainder of the Lot 12 site that Council has agreed to. Essentially Council needs to find an interim or bridging funding source for the civil works to be completed whilst and the suggestion is that Council borrow by way of external loan to fund and finalise the works identified in this report.

- 30 The proposed external loan borrowing would be on the basis of a short-term loan, of no more than two years in term, on an interest only basis. This type of loan should provide the space for Council to fund the works and then should the sale of the remaining part of Lot 12 occur, utilise part of the sale proceeds to repay the loan and fund any interest costs incurred when it becomes due.

At this stage Council has identified the current loan borrowings for the 2022/2023 financial year totalling \$20,800,000 for the following items:

- Bio-Energy Project \$15,000,000
- First Sun Holiday Park Land Purchase \$1,500,000
- 35 • LED Street Lighting Replacement \$800,000

- Byron Community Hub redevelopment \$3,500,000

5 Should Council approve the recommendations to this report, the amount of borrowings currently required will increase to a total of \$22,000,000 for the 2022/2023 financial year. Before any borrowings subject of this report is undertaken, Council will need to update its borrowing limit with the Office of Local Government via NSW Treasury Corporation for the current financial year and undertake an expression of interest process to ascertain the best loan funding value for Council when the funds are required.

Statutory and Policy Compliance Considerations

10 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.

Local Government (General) Regulation 2021 - Reg 178

15 [Acceptance of tenders](#)

178 *Acceptance of tenders*

(1) *After considering the tenders submitted for a proposed contract, the council must either—*

20 (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.*

25 (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.*

30 (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 of the proposed contract.*

35 (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,*

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- (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,*
- 5 (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,*
- 10 (f) *carry out the requirements of the proposed contract itself.*
- (4) *If a council resolves to enter into negotiations as referred to in subsection (3)(e), the resolution must state the following—*
- (a) *the council's reasons for declining to invite fresh tenders or applications as referred to in subsection (3)(b)–(d),*
- 15 (b) *the council's reasons for determining to enter into negotiations with the person or persons referred to in subsection (3)(e).*

Council's endorsement is sought of the recommendation to decline to accept any of the tenders as recommended in the attached Evaluation Report and in accordance with 178(3)(e), enter negotiations with a view to entering a contract in relation to the detention basin and access road reflecting the urgent need to complete these works to open the TAFE Community Learning Centre and for the reasons of economies of scale, construction efficiencies, and timeliness of delivery

20

In respect of loan borrowings, Section 377 of the Local Government Act 1993 outlines the general power of Council to delegate.

- 25
- Section 377(1)(f) concerns the delegation power in respect of loan borrowings:*
- (1) *A council may, by resolution, delegate to the general manager or any other person or body (not including another employee of the council) any of the functions of the council under this or any other Act, other than the following:*
- 30 (f) *the borrowing of money,*

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

Report No. 14.1 Report of the Arts and Creative Industries Advisory Committee Meeting held on 20 October 2022

5

Directorate: Corporate and Community Services

Report Author: Melitta Firth, Arts & Culture Officer

File No: I2022/1528

10 **Summary:**

The Arts and Creative Industries Advisory Committee met on 20 October 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 20 October 2022.

2. That Council adopts the following Committee Recommendation:

Report No. 4.2 Proposal for Public Art at South Golden Beach

File No: I2022/1320

Committee Recommendation 4.2.1

That the Committee notes the request for public art at South Golden Beach and recommends that the Association meet with Council's Arts and Culture Officer and other relevant staff for the purpose of developing a robust proposal suitable for consideration.

20

Attachments:

1 Minutes 20/10/2022 Arts and Creative Industries Advisory Committee, I2022/1458 

5

Report

The attachment provides the minutes of the Arts and Creative Industries Advisory Committee Meeting of 20 October 2022 for determination by Council.

The agenda and minutes for this meeting can be located on Council's website at:

10 Arts and Creative Industries Committee Meeting October 2022 [Agendas and Minutes - Byron Shire Council \(nsw.gov.au\)](https://www.byronshire.nsw.gov.au/agendas-and-minutes)

The following items were considered by the Committee:

Report No. 4.1 Lone Goat Gallery Update

15 This report provided an update on Gallery activity and upcoming gallery programming to the Committee.

Report No. 4.2 Proposal for Public Art at South Golden Beach

This report outlined a request for support from the South Golden Beach Community Association for new Public Art.

Report No. 4.3 Arts and Creative Industries Forum Update

20 A draft agenda for the Arts and Culture Forum was provided to the Committee for feedback.

Report No. 4.4 Pocket Park

25 This report updated the Committee on the Pocket Park at Bayshore Drive, associated creative activations and the proposal received for a new mural installation. Feedback was provided to staff.

Financial Implications

As per the Reports listed within the Arts and Creative Industries Advisory Committee Meeting of 20 October 2022.

Statutory and Policy Compliance Implications

30 As per the Reports listed within the Arts and Creative Industries Advisory Committee Meeting of 20 October 2022.

Report No. 14.2 Report of the Coast and ICOLL Advisory Committee Meeting held on 20 October 2022

5 **Directorate:** Sustainable Environment and Economy
Report Author: Michelle Chapman, Project Support Officer
File No: I2022/1533

Summary:

10 This report provides the minutes of the Coast and ICOLL Advisory Committee Meeting of 20 October 2022 for determination by Council.

RECOMMENDATION:

15 **That Council notes the minutes of the Coast and ICOLL Advisory Committee Meeting held on 20 October 2022.**

Attachments:

20 1 Minutes 20/10/2022 Coast and ICOLL Advisory Committee, I2022/1443 

Report

The attachment to this report provides the minutes of the Coast and ICOLL Advisory Committee Meeting of 20 October 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/2022/10/CICOL_20102022_AGN_1510_AT.PDF

Summary of Reports

Report 4.1 - Council's Integrated Management System (IMS) and ICOLLs - presentation on ICOLL management and flooding

- 10 The Committee noted the presentation and support the ongoing development of the Integrated Management System.

Report 4.2 - Update on the development of Coastal Management Programs (CMPs) for the Byron Shire Coastline

- 15 The Committee noted the update of the development of CMPs and CMP projects for the Byron Shire coastline, issues being encountered, recommended pathway forward and next steps for CMP preparation.

Report No. 4.3

- 20 The Committee noted the update on the Bringing Back the Bruns project. The report provided an update on the various projects to improve the health of the Brunswick River catchment in an on-going and continuous effort to 'Bringing Back the Bruns'.

Report No. 4.4

The Committee noted the update of the constitution and new members.

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

25 Financial Implications

As per the Reports listed within the Coast and ICOLL Advisory Committee Meeting of 20 October 2022.

Statutory and Policy Compliance Implications

- 30 As per the Reports listed within the Coast and ICOLL Advisory Committee Meeting of 20 October 2022.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.3 Report of the Water and Sewer Advisory Committee Meeting held on 20 October 2022

- 5 **Directorate:** Infrastructure Services
- Report Author:** Dominika Tomanek, Executive Assistant Infrastructure Services
- File No:** I2022/1605

Summary:

- 10 The attachment to this report provides the minutes of the Water and Sewer Advisory Committee Meeting of 20 October 2022 for determination by Council.

RECOMMENDATION:

- 15 1. That Council notes the minutes of the Water and Sewer Advisory Committee Meeting held on 20 October 2022.

2. That Council adopts the following Committee Recommendations:

Report No. 4.1 Review of Council's Onsite Sewage Management Strategy 2001 and Onsite Sewage Management Guidelines 2004

File No: I2022/934

Committee Recommendation 4.1.1

1. That Council notes that staff are preparing a new Onsite Sewage Management Strategy and Onsite Sewage Management Guidelines with the view to putting them on public exhibition;
2. That the committee requests that staff take onboard feedback and also consider the following further amendments to the documents;
 - a) a commitment to evapo- transpiration methods, or better beneficial reuse;
 - b) approach for systems bigger than 10 EP, and for commercial uses;

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c) clear pathways in relation to multiple occupancy, community title and dual occupancy.

3. That Council adopts the following Committee Recommendations:

Report No. 4.2 Management of Bamboo at Bangalow STP

File No: I2022/1285

Committee Recommendation 4.2.1

That Council:

- a) seeks the highest value outcome for the bamboo; and**
- b) prepares a Master Plan for the Bangalow STP lands.**

Attachments:

- 1 Minutes 20/10/2022 Water and Sewer Advisory Committee, I2022/1486 

5

Report

The attachment to this report provides the minutes of the Water and Sewer Advisory Committee Meeting of 20 October 2022 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 [Agenda of Water and Sewer Advisory Committee Meeting - Thursday, 20 October 2022 \(infocouncil.biz\)](http://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 Water and Sewer Advisory Committee Meeting of 20 October 2022.

Statutory and Policy Compliance Implications

- 15 As per the Reports listed within the Water and Sewer Advisory Committee Meeting of 20 October 2022.

**Report No. 14.4 Report of the Local Traffic Committee
Meeting held on 15 November 2022**

Directorate: Infrastructure Services

Report Author: Amber Evans Crane, Governance Support Officer

5 **File No:** I2022/1693

10 This report will be provided in a supplementary agenda. Once published, the report will be available to view on the 'Agenda and Minutes' page of Council's website - [Agendas and Minutes - Byron Shire Council \(nsw.gov.au\)](https://www.nsw.gov.au/agendas-and-minutes)