

Agenda Ordinary Meeting

Thursday, 26 October 2023



BYRON
SHIRE
COUNCIL

Agenda Ordinary Meeting

held at Council Chambers, Station Street, Mullumbimby
commencing at 9:00am

Public access relating to items on this agenda can be made between 9:00 and 10:30 am on the day of the meeting. Requests for public access should be made to the General Manager or Mayor no later than 12:00 midday on the day prior to the meeting.

A handwritten signature in black ink, appearing to read 'Mark Arnold'.

Mark Arnold
General Manager

CONFLICT OF INTERESTS

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

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

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

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

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

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

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

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

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

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

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

Disclosure and participation in meetings

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

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

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

Non-pecuniary Interests - Must be disclosed in meetings.

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

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

RECORDING OF VOTING ON PLANNING MATTERS

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

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

OATH AND AFFIRMATION FOR COUNCILLORS

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

BYRON SHIRE COUNCIL

BUSINESS OF ORDINARY MEETING

1. PUBLIC ACCESS
2. APOLOGIES
3. ATTENDANCE BY AUDIO-VISUAL LINK
4. REQUESTS FOR LEAVE OF ABSENCE
5. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY
6. TABLING OF PECUNIARY INTEREST RETURNS (CL 4.14 CODE OF CONDUCT FOR COUNCILLORS)
7. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS
 - 7.1 Ordinary Meeting held on 28 September 2023
8. RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS
9. NOTICES OF MOTION
 - 9.1 Aboriginal Housing on Country 9
 - 9.2 Voting delegate review LGNSW Annual Conference 2023..... 19
10. MAYORAL MINUTE
11. PETITIONS
 - 11.1 Petition for the Repair of Large and Dangerous Potholes at 394 Ewingsdale Road Byron Bay..... 21
12. DELEGATES' REPORTS
 - 12.1 National Inaugural First Nations Dingo Forum..... 23
13. STAFF REPORTS
 - General Manager**
 - 13.1 Bangalow Heritage House 29
 - 13.2 Proposed lease extension - Council and TAFE NSW - Bayshore Drive, Byron Bay 35
 - Corporate and Community Services**
 - 13.3 Council Investments - 1 September to 30 September 2023 38
 - 13.4 Annual Report 2022/23..... 46
 - 13.5 Draft 2022/2023 Financial Statements..... 49
 - 13.6 Call for Nominations to Australian Coastal Councils Association (ACCA) Committee of Management 61
 - 13.7 Grants September 2023 64

BYRON SHIRE COUNCIL

13.8	Ocean Shores Art Expo - Request for Financial Assistance	69
------	--	----

Sustainable Environment and Economy

13.9	PLANNING - 26.2022.2.1 Gulgan North Planning Proposal - BILS Area 5.....	73
13.10	Update Resolution 23-056 Short Term Rental Accommodation Consent Conditions.....	94

Infrastructure Services

13.11	Draft Single-use Packaging and Materials Policy	99
13.12	Seven Mile Beach Road - Parking Management Options.....	107

14. REPORTS OF COMMITTEES

Sustainable Environment and Economy

14.1	Report of the Heritage Advisory Committee Meeting held on 31 August 2023	119
14.2	Report of the Housing and Affordability Advisory Committee Meeting held on 21 September 2023	121
14.3	Report of the Biodiversity Advisory Committee Meeting held on 21 September 2023	124

Infrastructure Services

14.4	Report of the Local Traffic Committee Meeting held on 19 September 2023 .	126
14.5	Report of the Floodplain Management Advisory Committee Meeting held on 19 September 2023	130
14.6	Report of the Infrastructure Advisory Committee Meeting held on 21 September 2023	133
14.7	Report of the Local Traffic Committee Meeting held on 15 August 2023.....	135

15. QUESTIONS WITH NOTICE

15.1	Infrastructure Capacities	140
15.2	Floor levels for Areas 1, 6, 8 near Mullumbimby	142

16. CONFIDENTIAL REPORTS

General Manager

16.1	CONFIDENTIAL - Negotiations to dispose of and acquire land interests	146
16.2	CONFIDENTIAL - Proposed sale of part lot 12 Bayshore Drive	148

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

BYRON SHIRE COUNCIL

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 Aboriginal Housing on Country

File No: I2023/1545

5

I move that Council:

1. Recognises:

- 10 a) The inherent right of Aboriginal and Torres Strait Islander People to live on Country.
- b) The importance of living on Country to the physical, social and cultural well-being of Aboriginal People.
- 15 c) That the housing crisis is disproportionately impacting Aboriginal People and has made living on Country even more difficult. This has been further exacerbated by the significant number of Arakwal, Widjabul Wia-bal and Minjungbal People impacted by the floods in Byron and neighbouring shires including Lismore, Tweed, and Ballina.
- 20 d) The expressed issues that stem from not living on Country including impacts on the ability of Aboriginal People to participate in consultation and governance functions, to create and enjoy their own art and cultural activities, the subsequent limitations on health service delivery and the limitations on the ability to also work on Country.
- 25 e) The work that Native Title Bodies Corporate and Local Aboriginal Land Councils do to deliver housing for their members and the broader Aboriginal community, which in the Byron Shire includes Bundjalung of Byron Bay Aboriginal Corporation (Arakwal) and Widjabul Wia-bal Corporation and the Tweed Byron, Ngulingah and Jali Local Aboriginal Land Councils.
- 30 f) That there are a variety of ways to deliver housing to facilitate living on Country beyond social housing.
2. Make strong representations to the Northern Rivers Reconstruction Authority that the land they have identified within Byron Shire under the Resilient Lands Program includes Aboriginal owned housing for Aboriginal people.

35

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.1

3. **Will engage, separately and together, the Byron Shire's Native Title Corporations, Local Aboriginal Land Councils, and other relevant bodies to ensure the development of Aboriginal and Torres Strait Islander Housing on Country by:**
- 5 a) **Wherever council has the power to, ensuring that the areas identified under the Resilient Lands Strategy within the Byron Shire includes Aboriginal owned housing for Aboriginal people.**
- 10 b) **Embedding the delivery of Aboriginal owned housing for Aboriginal people within the objectives and actions of Council's Residential Strategies, including the refresh currently on exhibition.**
- c) **Creating opportunities in the Byron Shire, and across the region, for housing on Country including for example:**
- **through the Strategies of the representative Aboriginal organisations and their existing projects and programs**
 - 15 • **on Council or State owned land, including possible transfer of title**
 - **through Council's Affordable Housing Contributions Scheme**
 - **through collective lobbying, negotiation and advocacy with NSW and Federal Governments**
- 20 d) **Using Indigenous Land Use Agreements and Aboriginal Land Agreements where appropriate.**
- e) **Potentially offsetting past and future Native Title compensation liability.**
- f) **Engaging with any other appropriate matters.**
- 25 4. **Ensuring wherever possible, that Aboriginal housing provided through these initiatives prioritises housing Native Title holders and their descendants (as they are known and recognised by the relevant Native Title organisation) to live on Country as the recognised First Nations peoples of the Byron Shire.**
- 30

Supporting comments

5 The Byron Shire community is facing a housing crisis, as stated in previous council resolutions. This crisis is felt all the more strongly by local Aboriginal and Torres Strait Islander people. Until recently there were only a very small number of Arakwal Native Title holders actually living on Country. This number has increased recently due to the temporary pod housing available in Brunswick Heads and Mullumbimby.

10 In meetings with Arakwal representatives, including the single MOU meeting that has been held this Council term, it has been expressed that the two most important issues facing Arakwal members are housing and jobs. Without housing on Country Arakwal members cannot effectively engage with the community or Council consultation processes, they cannot enjoy the public art they have created. Native Title holders have an intrinsic right to live on Country and we as a Council have a pivotal role to play in ensuring that happens.

15 While there are some initiatives and processes currently being undertaken by staff, this motion attempts to ensure that it is clear that this is a priority for Council and needs to be embedded within the housing discussions at all levels of government, including setting and achieving tangible goals and outcomes.

20 Our Residential strategy spends a lot of time talking about the importance of living on Country but includes no targets or mechanisms to make it happen, but rather focusses on consultation with Aboriginal people when people want to develop on their land. It also needs to be made clear that this is about the rights of Native Title Holders to live on Country, not just through programs designed for low-socio economic members of the community, but rather through their rights as the First Nations People of this land.

25 There are opportunities under the Resilient Lands Program to make living on Country a reality, particularly relevant given the impact of the floods on Aboriginal people in neighbouring Shires, including Cabbage Tree Island.

30 It is important that housing provided under these initiatives prioritise returning Native title holders and their descendants to live on Country, not necessarily those identified through social support programs. Native title holders and their descendants must be recognised as such by the relevant native title organisations, such as Jali Land council, Bundjalung of Byron Bay Aboriginal Corporation or the Widjabul Wia-bal Gurrumbil Aboriginal Corporation.

Signed: Cr Asren Pugh.

Staff comments

by Shannon Burt, Director Sustainable Environment and Economy, Es Davis, Director Corporate and Community Services and Shannon McKelvey, Executive Officer:

5 Council has been working with Arakwal and Local Aboriginal Lands Councils and understands the need for housing on Country, along with the need to address other Aboriginal community priorities. Most recently, with the Widjabul Wia-bal Native Title determination, Council has also reached out to start to work with their newly formed corporation. These representative Aboriginal organisations provide outstanding services
10 for their members and communities and are best placed to advise on needs, priorities and goals and to guide the design and delivery of programs to meet those goals. However, they cannot do all the work, particularly in the housing space, on their own and neither can Council.

15 Council has sought Arakwal's and Lands Councils', and will seek Widjabul Wia-bal Gurrumbil's, guidance on a collaboration group to look at key strategic priority matters, including Aboriginal Housing on Country. Bringing together Native Title owners and Local Aboriginal Lands Councils acknowledges how important it is that all levels of government deeply listen to Aboriginal People, acknowledge their experiences and rely on their expert knowledge to design solutions that will work for community. Staff support bringing together
20 representative Aboriginal organisations to advise on priority issues such as housing, and at the same time Council will also continue to engage one-on-one with each of the organisations on the matters that are specific to them and their members.

25 It should be noted that the Residential Strategy 2020 already contains principles and actions relevant to Aboriginal Housing on Country, which will be able to be updated during the refresh. This is consistent with other State and Regional plans, as outlined below:

The Housing 2041 Action Plan below includes a number of actions not limited to: to support the growth of the Aboriginal community housing sector; to introduce improved practices and processes that recognise and support Aboriginal interests in Crown land; to increase homeownership opportunities for Aboriginal communities.

30 The North Coast Regional Plan 2041 includes inter alia commentary on and actions around opportunities through strategic planning to give Aboriginal communities a genuine voice in determining how their land is utilised and for what purpose.

[Housing 2041 – 2021-22 Action Plan – NSW Housing Strategy](#)

[North Coast Regional Plan 2041 | Planning \(nsw.gov.au\)](#)

35 In terms of the Reconstruction Authority's Resilient Lands Strategy and Program, information can be found at [Northern Rivers Resilient Lands Strategy – Summary Report Summary Report \(nsw.gov.au\)](#) (exhibition version).

The documentation includes references to Connecting with Country (CWC) and Our Place on Country.

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.1

5 The CWC Framework contains a set of pathways and principles to help inform the design and delivery of built environment projects from an Aboriginal perspective of strengthening cultural understanding and connections. The CWC Framework was developed, in collaboration with key stakeholders and advisory experts, by the Government Architect NSW.

The Department of Regional New South Wales and Department of Planning and Environment released the Our Place on Country – Aboriginal Outcomes Strategy in 2020. A priority principle of the strategy is to recognise appropriate engagement and connection with Aboriginal people and Country as core to service delivery.

10 These two documents along with the NSW Housing Strategy 2041 and North Coast Regional Plan 2041 will inform the Reconstruction Authority's response to this issue.

Council can advocate to the Reconstruction Authority for the delivery of outcomes on the Resilient Lands Strategy land.

15 The motion supports a number of projects and initiatives focused on Aboriginal housing in the Shire that Council has been working with partners on. Below are just some examples specific to housing on Country:

- Action 20 of the Byron Residential Strategy 2020 to:

20 *“Work with the Bundjalung of Byron Bay (Arakwal) people to respect, recognise and safeguard culture through establishment and application of a Protocol framework for participatory working with the Aboriginal community ... including for assessing appropriate locations for housing”.*

Under this action, Council have/are for example:

- 25 - Working with Arakwal and Tweed Byron Lands Council to review zoning outcomes for their lands, as part of the Stage 4 C-zone review – this work is nearing conclusion with updates to Council and NSW planning anticipated in the new year.
- 30 - Reviewing the Residential Strategy, noting that the Housing Options Paper adopted for public engagement (must be consistent with the NSW Housing Strategy 2041, North Coast Regional Plan 2041 and in doing so) includes Connecting to Country guiding principles. Engagement with Arakwal and Lands Councils is to occur during this time.
- 35 - Identified in the Affordable Housing Contributions Scheme No 1 that unaffordability driving inability to live Country as a factor that compounds the impacts of dislocation for Aboriginal People. As previously indicated, a new Scheme 2 for those lands identified for an uplift in zoning in the Housing Options Paper is necessary to ensure dedication of land for affordable housing supply. A review of the Council's Affordable Housing Policy is also due, which will include an implementation framework and tenancy guideline to inform how affordable housing land/properties that Council may receive under the Scheme are

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.1

allocated and managed. This will provide a direct opportunity for Council to address Aboriginal Housing outcomes in a manner that best suits community.

- Arakwal and Lands Councils have been involved in planning the redevelopment of the former Mullumbimby Hospital site.

5 • Flood recovery actions:

- Supporting Arakwal to secure allocation of temporary housing on Country for flood affected members

- 10
- Working with Reconstruction Authority to investigate options to increase Aboriginal Housing on Country through their Recovery and Resilient Land programs.

• Native Title actions:

- Working with Arakwal in supporting exercise of their Native Title rights and interests in the Shire and in identifying and supporting Arakwal to pursue potential opportunities for economic and housing outcomes

- 15
- Arranging meetings with the newly formed Widjabul Wia-bal Corporation, and Native Title Services Corporation, to start working with them to support their Native Title rights and aspirations, including in relation to housing

- Advocacy and actions to facilitate living on Country outcomes for flood-affected Native Title owners and Aboriginal community members

20 • Community Development actions:

- Actively reviewing the Arakwal MoU to ensure it reflects current community and Council key objectives

- 25
- Working to bring together the network of Native Title owners and Lands Councils to work strategically on delivering priority outcomes for each stakeholder and for Aboriginal community, including to advise Council on outcomes, priorities and goals including for housing on Country

- Connecting Arakwal with Social Futures to identify opportunities to facilitate support through services that will be housed at the Byron Community Hub.

- 30
- Lobbying State Government and persistent advocacy for Aboriginal housing and broader services in the Shire.

- Advocacy to identify Arakwal projects in NSW government and regional strategic plans and to support applications for Arakwal grant funding applications

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.1

- Work with Crown Lands, Native Title owners and Lands Councils to:
 - Progress outstanding Aboriginal Land Claims in the Shire, with priority on those with potential to support Aboriginal housing outcomes both within the Shire and across the region
 - 5 - Implement actions from Indigenous Land Use Agreements, which include actions to facilitate housing on Country
 - Support the Closing the Gap team in Crown Lands to advocate for outcomes across all NSW state agencies
 - 10 - Review state land in the Shire to identify potential future opportunities for projects that could include or support housing on Country, or social and economic outcomes for Aboriginal community which, in turn, can support housing outcomes.
- Lobbying and advocacy: Aboriginal housing on Country is itself a priority but it is also part of the overall housing crisis. Local governments have little ability to influence either, compared to other levels of government. Despite this, Byron Council has stepped up to push for innovative solutions to the overall housing crisis, as well to increase Aboriginal housing on Country in the Shire. Some of the Council's achievements, such as the Affordable Housing Contributions Scheme and Short Term Rental Accommodation (STRA) regulations have been firsts in a regional area or, in some cases, first in the State. Some of this work involves delivery, e.g. STRA, but a lot of the work involves advocacy and lobbying. Advocacy work requires a lot of resourcing, it happens 'behind the scenes' and it takes time and persistence, so it is not easy to demonstrate outcomes from it. However, it is critical work to try to remove barriers and change attitudes and approaches at Federal and State government levels.
 - 15
 - 20
- 25 The intent of the motion supports Council's existing work to continue alongside the work of the Aboriginal organisations collaboration.

Financial/Resource/Legal Implications:

30 Bringing together the stakeholder group will require their agreement and allocation by them of resources, at a time when they are also very busy with their own organisational priorities. It will also require resources from across Council Directorates.

From Council, it will be resourced from within existing resources to the extent that it can be, however, that could influence the timeframes for this initiative and potentially impact the timeframes for delivery of other projects and OP actions.

35 It will be imperative, however, that this initiative does not delay Council meeting any of the commitments it has given to NSW Planning in Resolution **23-315** Housing Targets Commitment Department of Planning as they relate to and inform the Housing Options Paper and Residential Strategy Refresh process 28 September 2023.

In the event that this initiative can't be resourced without additional allocations, it can be reported back to Council.

Is the proposal consistent with any Delivery Program tasks?

Delivering Aboriginal and Torres Strait Islander Community outcomes is embedded across Council's projects and services. Some examples of DP tasks that are underway that support the proposed motion include:

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
2: Inclusive Community	2.3: Respect Aboriginal culture, value cultural knowledge, and acknowledge history	2.3.1: Aboriginal community and First Nations People - Develop strong and productive relationships that empower the Aboriginal community	2.3.1.3	Review Arakwal MOU with Arakwal Corporation Board and Executive
2: Inclusive Community	2.3: Respect Aboriginal culture, value cultural knowledge, and acknowledge history	2.3.2: Aboriginal cultural expression - Support First Nations cultural expression	2.3.2.1	Support First Nations cultural expression through capacity building and outcomes as guided by the needs of Aboriginal stakeholders
2: Inclusive Community	2.3: Respect Aboriginal culture, value cultural knowledge, and acknowledge history	2.3.1: Aboriginal community and First Nations People - Develop strong and productive relationships that empower the Aboriginal community	2.3.1.1	Continue working with Traditional owners on land management matters
2: Inclusive Community	2.3: Respect Aboriginal culture, value cultural knowledge, and acknowledge	2.3.1: Aboriginal community and First Nations People - Develop strong and productive	2.3.1.1	Continue working with Traditional owners on land management matters

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.1

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
	history	relationships that empower the Aboriginal community		
2: Inclusive Community	2.3: Respect Aboriginal culture, value cultural knowledge, and acknowledge history	2.3.1: Aboriginal community and First Nations People - Develop strong and productive relationships that empower the Aboriginal community	2.3.1.2	Collaborate with Aboriginal stakeholders to design and establish an Aboriginal engagement governance structure
2: Inclusive Community	2.3: Respect Aboriginal culture, value cultural knowledge, and acknowledge history	2.3.1: Aboriginal community and First Nations People - Develop strong and productive relationships that empower the Aboriginal community	2.3.1.3	Review Arakwal MOU with Arakwal Corporation Board and Executive
2: Inclusive Community	2.5: Create social impact and initiatives that address disadvantage	2.5.3: Rough sleepers - Work in partnership to reduce and end rough sleeping through community action	2.5.3.5	Review options for Homelessness Policy in accordance with good practice in Local Government.
3: Nurtured Environment	3.2: Deliver initiatives and education programs to encourage protection of the	3.2.3: Planning - Plan to improve the quality of the natural environment	3.2.3.5	Continue the E zone review program (Action No.9 from Rural Land Use Strategy)

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.1

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
	environment			
4: Ethical Growth	4.2: Enable housing diversity and support people experiencing housing insecurity	4.2.2: Partnerships and pilots to address housing needs - Investigate partnerships and pilots that deliver an innovative and affordable housing model for the Shire	4.2.2.1	Consider residential rezoning proposals, as identified within existing North Coast Regional Plan growth boundary and the Affordable Housing Contribution Scheme.
4: Ethical Growth	4.2: Enable housing diversity and support people experiencing housing insecurity	4.2.3: Legislation changes - Establish planning mechanisms and advocate for changes to legislation to support housing that meets the needs of our community	4.2.3.1	Prepare submission/s on draft changes to State government planning policy or legislative reforms
4: Ethical Growth	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	4.5.2.10	Support the NSW Government to deliver temporary housing in Byron Shire for flood and landslip impacted residents

Notice of Motion No. 9.2 Voting delegate review LGNSW Annual Conference 2023

File No: I2023/1557

5

I move that Cr Balson attend the LGNSW Annual Conference 2023 as a voting delegate.

10

Signed: Cr Sama Balson

Councillor's supporting information:

Not provided.

Staff comments

15 **by Amber Evans Crane, Corporate Planning and Improvement Coordinator, Corporate and Community Services:**

At the 24 August 2023 Ordinary Council Meeting, Cr Balson was authorised to attend the Local Government NSW Annual Conference 2023 as a non-voting delegate and Crs Ndiaye, Pugh, and Lyon as voting delegates (**Res 23-366**).

20 Council is entitled to a maximum of three voting delegates in the debating session. This number is determined by population - [2023 Annexure A](#).

To enable Cr Balson to attend the Conference, one of the councillors named in the above would need to relinquish their position as a voting delegate and swap with Cr Balson.

Financial/Resource/Legal Implications:

25 68% of the \$30,000 allocated to conferences and professional development in the 2023/24 budget has been spent to date, with \$9,550.50 remaining.

30 Cr Balson had previously been approved to attend the LGNSW Conference as a non-voting delegate (**Res 23-366**). However, later sought to attend a Dingo Forum in September 2023 and given the timing constraints was unable to obtain Council endorsement of this allocation of funds. Agreement was reached that she would effectively 'transfer' the prior approval of professional development budget and re-seek endorsement to attend the LGNSW Conference.

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.2

Costs associated with the Dingo forum were approximately \$2,300.

Costs associated with the LGNSW Conference are expected to be:

Expense	Cost
Accommodation	\$ 630.00
Registration – Early Bird Rate	\$1050.00
ALGWA Breakfast	\$ 80.00
Coach Transfers	\$ 80.00
Conference Dinner	\$ 209.00
Flights/Travel	\$ 500.00

- 5 As Cr Balson had previously been nominated as a non-voting delegate, there will be a fee of \$350 incurred if this registration is cancelled before 30 October 2023. The registration will be non-refundable after that date. The total cost estimated above is \$2,549.

Is the proposal consistent with any Delivery Program tasks?

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership	1.1: Enhance trust and accountability through open and transparent leadership	1.1.1: Leadership - Enhance leadership effectiveness, capacity, and ethical behaviour	1.1.1.2	Develop and deliver a professional development program for the Mayor and Councillors

PETITIONS

Petition No. 11.1 Petition for the Repair of Large and Dangerous Potholes at 394 Ewingsdale Road Byron Bay

5

Directorate: Infrastructure Services
Report Author: Malcolm Robertson, Manager Open Space and Facilities
File No: I2023/1538

10 Council is in receipt of a Petition containing 103 signatures (Attachment 1 – E2023/103078) from David Rowley, on behalf of the Management and Proprietors of Belongil Fields Caravan Park, Byron Bay.

The Petition states:

15 *“By signing this petition, I am requesting for the immediate action by Byron Bay Council, 70 Station Street Mullumbimby NSW 2482, to fill in all the dangerously large POT HOLES located on Council land, along the roadside and near the bus stop, at the front of Belongil Fields Caravan Park, 394 Ewingsdale Road Byron Bay NSW 2481.”*

Comments from Director Infrastructure Services:

20 The area in question is the driveway access to the Byron Bay Conference and Holiday Centre (Belongil Fields Caravan Park). As with all domestic and commercial properties across the Shire, the property owner is responsible for maintaining the driveway access to the property.

To assist in resolving this issue Council Works engineers will inspect the site and provide recommendations to the property owner to as to required maintenance.

25

RECOMMENDATION:

1. That the petition at Attachment 1 (E2023/103078) regarding the repair of large and dangerous potholes at 394 Ewingsdale Road Byron Bay be noted.
2. That the petition be referred to the Director Infrastructure Services.


30

BYRON SHIRE COUNCIL

PETITIONS

11.1

Attachments:

- 1 Petition received re 394 Ewingsdale Road Potholes - 103 signatures - Redacted, E2023/103078 
- 5 2 Confidential - Petition received re 394 Ewingsdale Road Potholes - 103 signatures - Unredacted, E2023/103024

DELEGATES' REPORTS

Delegate's Report No. 12.1 National Inaugural First Nations Dingo Forum

5 **File No:** I2023/1560

10 The National Inaugural First Nations Dingo Forum was an incredibly informative event. The forum opened with a Welcome to Country by Gimuy Walubara Yidinji and Yirrganydji Traditional Owners from Cairns & Far North Queensland.

We learned of the objectives & purpose of the forum Giringun Aboriginal Corporation Ganibarra and we watched the (Dingo) Film.

15 A workshop and sharing around the room took place regarding the Dingo and the importance and cultural significance of this animal to First Nations' Australians.

The Dingo through the Aboriginal timeline was presented by Giringun Aboriginal Corporation highlighting not only the Dingoes' importance in Songlines, Dreaming and Dreamtime story and as totems, but also considered the fact that the Dingo is considered as Kin by many First Nations people.

20 We heard from the Dingo Working Group panel; Sonya Takau, Phyllis Grant, Whitney Rassip, Chris Muriata & Troy Wyles Whelan.

We listened to presentations and heard from speakers about:

- The Importance of the Dingo in the natural environment and ecological significance Presented by Dr Barry Trail.
- 25 • Dingo DNA molecular biology and conservation genetics. Scientific research on the "Wild Dog" myth and the genomic identity of Dingoes Presented by Dr Kylie Cairns who highlighted that old DNA data only has 23 genetic markers to identify dingo DNA, this is from technology available in 1999. Current and modern updated DNA data analysis enables measures against 197,000 DNA markers and captures far
30 greater information, resulting in debunking the "wild dog" myth and highlighting that a vast majority of trapped, baited and shot "wild dogs" are being genetically identified as dingoes and dingo-hybrids through the latest science and technology.
- Dingo Management Trapping & Shooting Presented by Alix Livingstone highlighted the current ineffective and also disruptive methods that can increase predation
35 issues due to breaking up the family.

BYRON SHIRE COUNCIL

DELEGATES' REPORTS

12.1

- 5 • A presentation by Angus Emmott, addressed how landholders and farmers can work alongside Dingoes to reduce stock predation. This presentation was from a farmer who has changed practices to encourage and support dingoes returning to his farmland. This was very informative and inspiring story that would be beneficial to share with our local farming community in Byron Shire.
- 10 • Predator Smart Farming Presented by Louise Boronyak and Evan Quartermain introduced multiple non-lethal control practices that can be adopted by famers, including the use of Guardian Animals, light, sound and monitoring.
- 15 • The Dingo through legislative perspectives How the law protects (or doesn't) protect the Dingo Presented by Juliette King identified the current constraints at three levels of Government that would require revisal to enable better Dingo Management, the focus was on the QLD laws.
- 20 • Almost Ancestors: Our Stories. Our Vision Presented by Sheila Hollowhorn was a compelling short film and presentation by First Nations advocates from America who successfully secured legislative protection for the endangered Mexican Grey Wolf and highlighted the cultural significance of this animal, the social justice issues and links, including the right to practice religious freedom. The parallel was drawn between the Dingo and the Mexican Grey Wolf and how Indigenous voices can drive policy change on matters of profound cultural importance.
- 25 • Case Studies of successful dingo monitoring, tracking and observations were highlighted, such as the Dingo helping keep down the feral cat populations, improving biodiversity outcomes and policies where the Dingo is protected such as on K'garri. Case studies from around the country included presentations by:
 - 25 ○ The Arabana Rangers looking after Country Presented by Sam Stuart Arabana Aboriginal Corporation, South Australia.
 - What the Dingo means to Olkola People Presented by Ashley Ross Olkola Aboriginal Corporation, Queensland.
 - Case Study: Yamatji IPA (Indigenous Protected Area) Dingo Project Presented by Sam Stuart Arabana Aboriginal Corporation, South Australia
 - 30 ○ Country, culture and people obligations to advocate and advance work with stakeholders for the Dingo Discussion by Whitney Rassip and other Giringun Aboriginal Corporation Traditional Owner Dingo Working Group representatives lead the way towards meaningful discussion on the cross over points and importance of Dingoes across the nation by the groups who
 - 35 ○ Whitney Rassip/Chris Muriata with other Giringun Aboriginal Corporation Traditional Owner Dingo Working Group representatives. Official Signing Ceremony - The National First Nations Dingo Declaration was signed.

The forum resulted in a Declaration that was initiated by Indigenous Elders. The National First Nations' Dingo Declaration was resolved and passed as a result workshop.

The declaration is below:

National First Nations' Dingo Declaration

5 Dingoes are known by many names across Australia:

Binure, Buyubarra, Dwert Mooyel, Ganibarra, Jinabara/ Madla Yalpa, Mirragang, Ngalmu, Ngawa, Ngugum, Ngwangwal, Ootalkarra, Warrigal, Wartaji, Wabubarra, Wilkerr, Wetya, Wongari, and many others.

The Dingo is deeply sacred to Australia's First Nations peoples. They are family.

10 Dingoes are a part of our individual and collective identity, important for men and women, and our totems, Dreaming, lore/law and customs. They are embedded in our spirit through Storytelling, a part of our creation, rituals, ceremonies, art, dances, and songs. We are one being, spiritually connected from the Dreamtime to eternity.

15 The Dingo is a cultural icon representing a vital connection to Country whose significance cannot be put into words. As Creator and Dreamtime Beings they formed the lands, the waterways, and constellations. They mapped our ancestral Songlines across this continent. The Dingo is essential to keep our storylines, custom and culture alive.

20 Dingoes remain deeply embedded in the daily lives of First Nations peoples as companions, hunting partners, protectors, and family members. They share our same experience of atrocities and journey of survival.

Dingoes are the Boss of Country. They belong in the landscape. Their presence in the ecosystem ensures natural systems remain in balance. This role is greatly under-appreciated. The direct and indirect effects of the Dingo on native and pest species are clear and apparent.

25 Dingoes are genetically, physically, and behaviourally different to domestic dogs, and must not be treated as such. If it looks and behaves like a Dingo, it is Australia's Dingo.

We do not support the use of the term 'wild dog'. This term diminishes the Dingo. It is a deliberate misrepresentation to justify killing. It disrespects and disregards culture.

30 Colonisation has and still impacts our relationship with the Dingo. Since European colonisation and introducing livestock, assumptions around Dingoes have led to them being cruelly targeted by trapping, shooting, poisoning, exclusion fencing, desexing, and bounty programs across Australia. These practices seek to eradicate the Dingo from Country, and are inhumane, ineffective, unnecessary, and have devastating consequences.

35 We do not, and have never, approved the killing of Dingoes. Killing Dingoes is killing family. We demand an immediate stop to this 'management' across Australia. Lethal control should never be an option.

5 We advocate for a different model: caring for Dingoes on Country. This model sees Dingo recognised in legislation as—a culturally significant and protected native species. This model must use traditional knowledge, and evidence-based practice, focusing on peaceful co-existence between Dingoes and all stakeholders. This brings together cultural and western knowledges. We demand our rights to have our voice, and capacity to apply culture in all matters relating to the Dingo. We have the right as Traditional Custodians to be directly involved in decision-making in all legislation and management actions that impact Dingoes, across all levels of government.

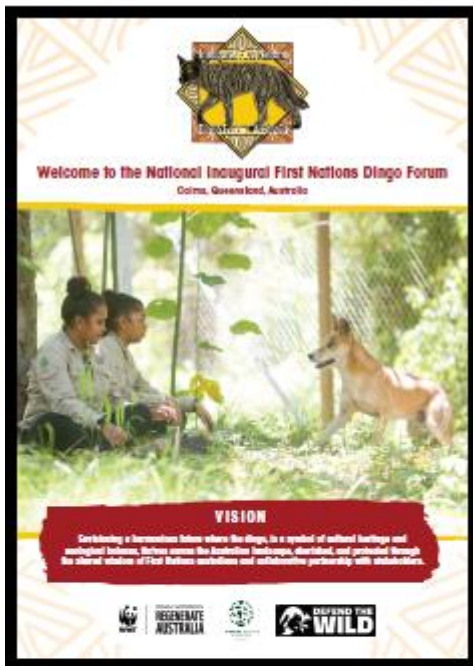
10 In 2009, Australia endorsed the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), but has yet to honour its commitment. In defence of our inherent sovereign rights and the preservation of the Dingo, we the undersigned, invoke UNDRIP articles 25 and 26.

15 To honour and revitalise our ancient relationships with Dingoes, we, the undersigned, collectively welcome Dingoes back to our care as our Creator Beings, companions, and kin. By doing so, we seek to uphold custodial responsibilities to restore balance across the lands and waters. We exist in a symbiosis. When you remove Dingoes, Country gets sick, we get sick. A healthy Country is essential for spiritual, physical, emotional and intellectual wellbeing.

20 We assert the truth of this statement as the basis to restore our cultural obligations and rights in alignment with our lore/law and custom. These are intrinsically connected to the Dingo as kin.

25 As the undersigned individuals from our respective Nations, together with our allies across society, we are determined in walking together to make real the demands of this Declaration. We commit to empowering people to effectively uphold cultural and environmental obligations, and aspirations, of protecting the Dingo.





Please find related agenda attached and articles and press following the forum below:

Articles:

- 5 National Indigenous Times - <https://nit.com.au/19-09-2023/7748/indigenous-groups-call-for-an-immediate-stop-to-dingo-culling>
- The Guardian - <https://www.theguardian.com/environment/2023/sep/18/first-nations-groups-demand-immediate-stop-to-killing-dingos-as-control-method>
- Queensland Country Life (Paywall) - [First Nations' voice in dingo management demanded in new declaration | Queensland Country Life | QLD](#)
- 10 North Queensland Register - [First Nations' voice in dingo management demanded in new declaration | North Queensland Register | QLD](#)

BYRON SHIRE COUNCIL

DELEGATES' REPORTS

12.1

Radio and TV:


7 News - <https://www.facebook.com/watch/?v=985091332743847>

NITV Radio SBS - <https://www.sbs.com.au/language/nitv-radio/en/podcast-episode/inaugural-national-dingo-forum-brings-first-nations-voices-back-in-the-dingos-story-and-its-management/zy9daxvtm>

5

Signed: Cr Sama Balson

Attachments:

10 1 Giringun Forum Agenda, E2023/105719 

STAFF REPORTS - GENERAL MANAGER

Report No. 13.1 Bangalow Heritage House

Directorate: General Manager

5 **Report Author:** Geeta Cheema, Manager Social & Cultural Planning

File No: I2023/1370

Summary:

10 The lease for the Premises known as Bangalow Heritage House expires 30 June 2024. The findings of an end of lease review were presented at a 7 September 2023 Councillor Workshop and options for future arrangements discussed.

Council has indicated interest in pursuing multi-purpose use of the Premises to optimise utilisation and meet community needs. Preliminary concepts include not-for-profit uses alongside a commercially operated café.

15 This report outlines next steps to further scope and pursue these multi-purpose uses. It recommends that Council endorse an Options Study, Expression of Interest and Request for Tender to make license and lease arrangements beyond the current lease term.

RECOMMENDATION:

1. That Council endorses:

- 20 a) **the allocation of \$12,000 from the Community Buildings budget (GL 2320.051) for the preparation of an Options Study to inform scoping and planning for multi-purpose use of the Premises;**
- b) **a call for Expressions of Interest to establish one or more licenses for not-for-profit organisation(s) to operate in part of the Premises; and**
- 25 c) **a Request for Tender to establish a lease for commercial café operations in part of the Premises.**

2. That Council receives a further report:

- 30 a) **with the outcome of the Options Study if the findings indicate that mixed use of the Premises by not-for-profit organisation(s) and commercial café operations is unfeasible or otherwise untenable; and**
- b) **with the outcome of the Expressions of Interest process in order to make a decision on the granting of a license(s) for not-for-profit use(s)**
- c) **with the outcome of the Request for Tender process in order to make a decision on the granting of a commercial lease for café operations**

Report

5 In 2019, Council resolved (19-162) to grant the Bangalow Historical Society Incorporated (**Society**) a five-year lease over the property known as Bangalow Heritage House (**Premises**), 4 Ashton Street Bangalow. Terms of the lease require that the Premises is used for a 'not-for-profit museum and tea house'. The lease expires on 30 June 2024. With no renewal provisions in the current lease, Council must identify the desired arrangements for the Premises from this date.

This report seeks endorsement to execute a direction for the future use of the Premises beyond the current leased term.

10 Land

The Premises is located on Folio 1/1249921 being Council-owned land classified as community land and categorised for general community use.

Plan of Management

The Plan of Management (**POM**) over the land:

- 15
- sets the predominant use of the Premises as a multi-purpose community facility, open for broad community access.
 - expressly authorises leasing and licensing of the Premises subject to conditions for example:
 - requirements to consult with community on proposed leases and licences; and
 - 20 - mandatory tender processes for some leases
 - limits on lengths of leases.

Any leases and licences must meet the objective of encouraging appropriate use and management of the facility, and the performance target to any agreement must encourage multi and shared use of facilities.

- 25 Provided it meets the objective and targets of the POM, commercial uses of the Premises are permitted by the POM.

Premises

30 The building known as the Bangalow Heritage House was built in Brunswick Heads in approximately 1920. Council purchased the building in 1993 and relocated it to its current site. Considerable building refurbishment ensued, with the Premises opened to the public as the Bangalow Heritage House museum in 1995. The building itself is not heritage listed, though the Lot is located within the Bangalow Heritage Conservation Area.

Use of the Premises was expanded in 2008 to include a restaurant/tearoom operated by the Bangalow Historical Society Section 355 Committee of Council. A successful 2017

5 Stronger Country Communities grant resulted in a new reading room being added to the Premises, a commercial kitchen installed, and Wi-Fi access upgraded. The Section 355 Committee was dissolved and a lease was offered to the Bangalow Historical Society Inc. in 2019. The Society is a not-for-profit community association (Incorporation Number Y1951904) and is a registered charity.

The Society closed the Premises to the public in May 2021. In March 2023 the Society re-opened the museum to the public during selected days/hours. The tearoom remains closed to the public.

10 Future use of the Premises was initially discussed at a Councillor workshop 1 September 2022. Outcomes of that workshop required staff to undertake a needs assessment to inform appropriate future use of the Premises. The needs assessment was accomplished through an end-of-lease review conducted June to August 2023.

End of lease review

15 The end of lease review was presented to Councillors at the 7 September 2023 Councillor workshop along with options for the future use of the Premises.

The end of lease review noted the key features of the site, considered lessee performance, identified related Council policies and plans, and shared the findings of preliminary community consultation. As the workshop outcome, Council expressed desire to scope not-for-profit community uses of the Premises alongside a commercial café.

20 Multi-purpose use of the Premises

Commercial café

25 The café is a desirable feature of the Premises which enables community members to gather and enjoy the surroundings and adjacent Parklands. To date, two approaches to café operations have been attempted without success: a) operation of the café by the lessee (who has acknowledged they are not able to sustain operations); and b) proposed operation of the café through another not-for-profit organisation as a social enterprise (concluding with no responses to Council's 2021 Expression of Interest process).

30 A commercial café operation may be viable at this location. Any commercial operation should utilise part of the Premises (including kitchen, lawns and potentially portions of the veranda) and should work in conjunction with non-commercial uses.

A competitive Request for Tender process is required to establish a lease with a commercial café provider.

Non-Commercial Uses

5 Not-for-profit community uses are favoured for the interior of the Premises (with exception of the kitchen). Non-commercial uses can respond to community demand for space and will promote utilisation of the Premises. More than one non-commercial tenant may potentially occupy the Premises at the same time depending on the proposed use and configuration of space.

An Expression of Interest process is proposed to solicit interested not-for-profit organisations and to establish license(s) for non-commercial uses in the Premises.

Planning Considerations

10 The land is zoned RE1 Public Recreation zone under the Byron Local Environmental Plan 2014. The objectives of the zone include to enable land to be used for recreational purposes and provide a range of recreational settings and activities and compatible land uses.

15 Permissible uses include as examples, centre-based childcare facilities, community facilities, emergency services facilities, entertainment facilities, function centres, information and education facilities, kiosks, markets, recreation areas and facilities, respite day care centres, restaurants or cafes etc.

Existing approvals and uses of the facility are for a museum and restaurant tearoom with the most recent consent issued under DA10.2017.598.1 on the 22 February 2018.

20 Planning approval pathways would need to be considered for other types of future uses and or additions and alterations to the building.

Any future development applications to Council will need to have regards to the constraints affecting the site being predominantly flooding, whilst also considering Councils various planning controls under Byron LEP 2014 and Byron DCP 2014.

25 In this regard the property is located within the Bangalow Heritage Conservation Area, so any further alterations and additions to the building should have regard to the heritage vernacular of Bangalow. Car parking for the site appears somewhat informal, reliant on parking in the public domain and in the adjacent park. Any proposal that is likely to increase demand on parking will need to address that issue and this could be
30 accomplished by formalising the surrounding parking for the site in the adjacent park.

Next steps

The following stages are recommended to pursue licence and lease arrangements for multi-purpose use of the Premises.

- 35
1. Condition Assessment Report, to establish the end-of-lease condition of the building and to identify costs for any required remediation.
 2. Options Study, to potentially include:

- feasibility of redesign/space reconfiguration and useability for preferred use
 - feasibility and cost of construction including any Building Code matters and kitchen fit out, as well as relevant upgrade,
- 5
- compliance with planning controls such as formalising car parking requirements, flooding,
 - planning approval pathways and time and cost of obtaining additional approvals, for example potential costs of meeting additional car parking or developer contributions, and
- 10
- Developer Contributions/ Water and Sewer Headworks Charges.
3. Calling for Expressions of Interest for not-for-profit use(s), leading to the establishment of one or more licenses for use if the proposed uses fall within existing approvals, or leading into separate planning approvals processes.
- 15
4. Calling a Request for Tender for commercial café operations, resulting in the establishment of a retail lease.

Discussions with the current lessee will continue to ensure clear communication about the next steps, the opportunity to respond to the EOI process for not-for-profit uses of the Premises after 30 June 2024, and any transition measures if required.

20 **Strategic Considerations**

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership	1.5: Empower community leadership through collaboration, capacity building, and cultivating community driven initiatives	1.5.2: Collaboration and capacity building - Collaborate with stakeholders to build community capacity	1.5.2.4	Support asset management to enable effective and appropriate utilisation of community buildings

Recent Resolutions

- 19-162

Legal/Statutory/Policy Considerations

5 Council's Leasing and Licensing Policy (2021) identifies the permissible selection process for a lease or license, noting this should occur by competitive process. Direct negotiation is allowable in accordance with ICAC Direct Negotiation Guidelines (but generally discouraged by ICAC because of the opportunities for dishonest and partial conduct). The Policy identifies that an NGO or charity must demonstrate: "use of the facility will meet a community or Council need", and "governance capacity and financial viability to hold a lease or license".

10 The Local Government Act (1993) mandates public consultation on all lease or licenses proposed over community land under sections 46 and 47. Minimum consultation requires a) 28-day submission period and b) letter box drop to all immediate neighbours and other interested persons regarding the submission period and c) advertisement on the land detailing the submission period. Council must consider all submissions received before determining whether to grant the lease or licence.

15 Financial Considerations

Estimated cost of the Options Study is \$10,000 - \$12,000. The Community Buildings budget (Urgent unplanned works 2320.051) has adequate funds for this expense and is suggested as the appropriate funding source.

Consultation and Engagement

20 Preliminary community engagement occurred as part of an end-of-lease review. 17 community members were invited to an interview with Council staff, including from key organisations in Bangalow, members of Council's Place Planning Collective who are residents of Bangalow, members of Section 355 Committees who manage community facilities in Bangalow, and individuals who had contacted Council in the prior 12 months
25 seeking operating space in Bangalow. Of the 17 invitees, 11 individuals accepted and participated in an interview.

Interviewees were asked the following questions: (1) Tell me about your knowledge and experience of Bangalow Heritage House; (2) What value does the Bangalow Heritage House building and property have for the community; (3) In your view, how might the
30 Bangalow Heritage House building and property be used to meet community needs; and (4) Is there any other information you want to share. The main findings of the preliminary community consultation were discussed at a Councillor Workshop.

The current lessee participated in the preliminary community engagement and has a direct and ongoing relationship with Council's asset sponsor for the building. The lessee has
35 been informed about Council's pending decisions towards the granting of any new lease. Any transition plan, if required, would occur in discussion with the current lessee.

The Local Government Act (1993) mandates public consultation on all lease or licenses proposed over community land under sections 46 and 47. Council must consider all submissions received before determining whether to grant the lease or licence.

**Report No. 13.2 Proposed lease extension - Council and
TAFE NSW - Bayshore Drive, Byron Bay**

Directorate: General Manager

Report Author: Matt Meir, Solicitor

5 **File No:** I2023/1469

Summary:

TAFE NSW seeks an extension to the future lease between it and Byron Shire Council from the current 20 years to 30 years regarding the land comprising TAFE's site in Bayshore Drive, Byron Bay.

10

RECOMMENDATION:

15 **That Council consents to the proposed extension of the future TAFE NSW lease of Council land at Bayshore Drive, Byron Bay, from 20 years to 30 years and delegates to the General Manager the authority to sign all documents necessary to give effect to the extension.**

Attachments:

20 1 Confidential - Letter - 7 September 2023 - TAFE NSW to Council - request to extend lease over part lot 12 Bayshore Drive, E2023/103023

Report

On 3 December 2021, Council and TAFE NSW entered an agreement for lease regarding TAFE's occupation of Council owned land at part lot 12 Bayshore Drive, Byron Bay.

- 5 Throughout 2022 and the first half of 2023, TAFE constructed its facility at the site while Council carried out works providing for site access from Bayshore Drive.

Both sets of works completed in late July 2023. TAFE has been operating from its building since then.

Under the current agreement for lease between Council and TAFE, the site's future lease will be for an initial term of 10 years, with two, five-year options.

- 10 By letter to Council dated 7 September 2023 (see CONFIDENTIAL attachment 1), TAFE has asked to amend the proposed lease to provide for an initial term of 10 years, with four, five-year options.

The change would increase TAFE's potential lease term from 20 to 30 years.

- 15 TAFE and Council have worked well together in getting TAFE onto Council's premises. As a State Government agency, TAFE is a low-risk tenant. And its long-term occupation of part of Bayshore Drive provides Council with regular income.

Since TAFE began operating the centre, it has been promptly paying a monthly licence fee (\$25,014.97) to Council.

- 20 This licence fee will turn into rent once the lease commences (see financial considerations note below).

The proposed lease will commence once Council has registered a legal lot for the land TAFE occupies. Council had two years from the start of TAFE's licence to register the site for lease. Staff are presently carrying out this work.

Next steps

- 25 If the proposed lease extension is endorsed by Council, TAFE and Council staff will update the relevant documents.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
2: Inclusive Community	2.4: Enrich lifelong learning and education and support services to help young people thrive	2.4.4: Vocational training - Support development of a vocational training precinct to provide high quality educational and vocational training in the Byron Shire	2.4.4.1	Progress Lot 12 Bayshore Drive Byron Bay future use

Recent Resolutions

- **20-697** – resolution authorising agreement for lease and lease.

5 Legal/Statutory/Policy Considerations

Council’s land at lot 12 is operational land under the *Local Government Act 1993*. Council is free to grant the proposed lease extension for this type of land.

Financial Considerations

- 10 Under the proposed lease, after the initial rent is determined, the rent will increase by the CPI each year of the initial term (10 years). At the start of each five-year option, the rent will be set at a market rent. In the intervening years of each option, the rent will increase by the CPI.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.3 Council Investments - 1 September to 30 September 2023

5 **Directorate:** Corporate and Community Services

Report Author: James Brickley, Manager Finance

File No: I2023/1535

Summary:

10 This Report includes a list of investments and identifies Council's overall cash position for the period 1 September 2023 to 30 September 2023 for information.

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 of 30 September 2023.

BYRON SHIRE COUNCIL

Report

Council has continued to maintain a diversified portfolio of investments. As of 30 September 2023, the average 90-day bank bill rate (BBSW) for the month was 4.06%. Council's performance for September 2023 was 4.20%.

- 5 Interest rates have been steady over the last two months, as a result of investments made when rates were higher, Council is performing above the average BBSW. The table below identifies the investments held by Council as at 30 September 2023.

Schedule of Investments held as at 30 September 2023

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%	948,980.00
20/11/18	1,000,000.00	QLD Treasury Corp (Green Bond)	N	AA+	22/03/24	Y	B	1.78%	993,810.00
28/03/19	1,000,000.00	National Housing Finance & Investment Corporation	Y	AAA	28/03/29	Y	B	2.38%	918,370.00
21/11/19	1,000,000.00	NSW Treasury Corp (Sustainability Bond)	N	AAA	20/03/25	Y	B	1.25%	957,780.00
27/11/19	500,000.00	National Housing Finance & Investment Corp	Y	AAA	27/05/30	Y	B	1.52%	425,175.00
15/06/21	500,000.00	National Housing Finance & Investment Corp	Y	AAA	01/07/31	Y	B	1.99%	502,645.00
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	1.83%	790,060.00

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.3

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Int. Rate	Current Value (\$)
04/01/23	2,000,000.00	NAB	P	AA-	01/04/24	N	TD	4.95%	2,000,000.00
05/01/23	2,000,000.00	NAB	N	AA-	04/12/23	N	TD	4.90%	2,000,000.00
01/02/23	2,000,000.00	NAB	N	AA-	30/10/23	N	TD	5.00%	2,000,000.00
14/02/23	2,000,000.00	NAB	N	AA-	12/12/23	N	TD	4.85%	2,000,000.00
21/02/23	2,000,000.00	NAB	N	AA-	19/12/23	N	TD	4.90%	2,000,000.00
23/02/23	2,000,000.00	Bank of QLD	P	BBB+	25/01/23	N	TD	4.85%	2,000,000.00
28/02/23	2,000,000.00	NAB	N	AA-	21/12/23	N	TD	4.90%	2,000,000.00
13/03/23	2,000,000.00	NAB	N	AA-	09/10/23	N	TD	5.05%	2,000,000.00
28/03/23	1,000,000.00	Police Bank	P	BBB	25/10/23	Y	TD	5.05%	1,000,000.00
04/04/23	2,000,000.00	Auswide Bank Ltd	P	BBB	03/10/23	Y	TD	5.40%	2,000,000.00
05/04/23	1,000,000.00	NAB	N	AA-	01/11/23	N	TD	5.20%	1,000,000.00
20/04/23	1,000,000.00	AMP Bank	P	BBB	19/10/23	N	TD	5.35%	1,000,000.00
27/04/23	1,000,000.00	AMP Bank	N	BBB	27/11/23	N	TD	5.25%	1,000,000.00
20/06/23	1,000,000.00	Bank of QLD	N	BBB	20/09/23	N	TD	5.05%	1,000,000.00
29/06/23	1,000,000.00	Judo Bank	P	BBB-	04/01/24	Y	TD	4.85%	1,000,000.00
26/07/23	1,000,000.00	Judo Bank	N	BBB-	25/10/23	Y	TD	5.10%	1,000,000.00
09/08/23	1,000,000.00	Auswide Bank	N	BBB	08/11/23	Y	TD	5.15%	1,000,000.00
23/08/23	1,000,000.00	NAB	N	AA-	20/11/23	N	TD	4.90%	1,000,000.00
31/08/23	1,000,000.00	NAB	N	AA-	29/11/23	N	TD	4.90%	1,000,000.00
04/09/23	2,000,000.00	NAB	N	AA-	04/12/23	N	TD	4.95%	2,000,000.00
05/09/23	2,000,000.00	Beyond Banking	P	BBB	06/12/23	Y	TD	4.95%	2,000,000.00
14/09/23	1,000,000.00	NAB	N	AA-	12/01/24	N	TD	4.90%	1,000,000.00
N/A	28,926,927.32	CBA Business Saver	P	AA-	N/A	N	CALL	4.20%	28,926,927.32

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.3

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Int. Rate	Current Value (\$)
N/A	3,147,964.74	CBA Business Saver – Tourism Infrastructure Grant	N	AA-	N/A	N	CALL	4.20%	3,147,964.74
N/A	10,462,763.74	Macquarie Accelerator Call	N	A	N/A	N	CALL	3.95%	10,462,763.74
Total	82,537,655.80						AVG	4.26%	82,074,475.80

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

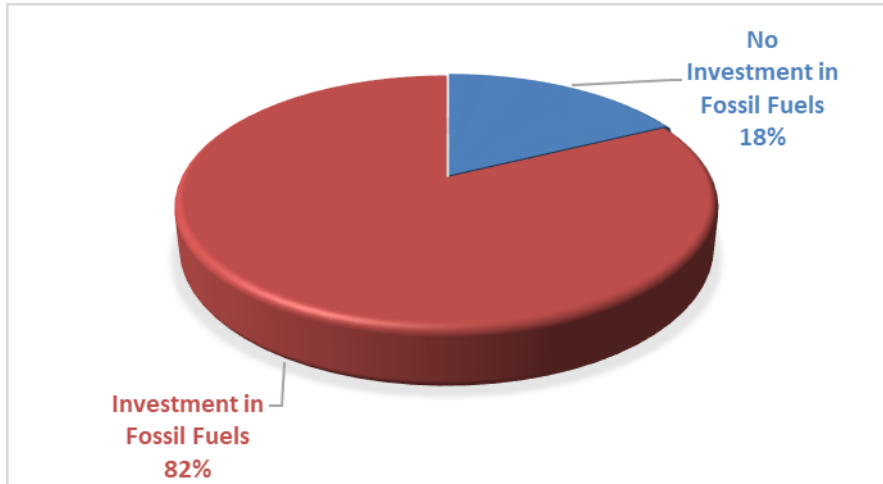
Call Account

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.



5 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 may from time to time have an investment with a financial institution that invests in fossil fuels but is nevertheless aligned with the broader definition of Environmental and Socially Responsible investments.

Investment Policy Compliance

10 The below table identifies compliance with Council's Investment Policy by the proportion of the investment portfolio invested with financial institutions, along with their associated credit ratings compared to parameters in the Investment Policy. The parameters are designed to support prudent short and long-term management of credit risk and ensure diversification of the investment portfolio. Note that the financial institutions currently offering investments in the 'ethical' area are still mainly those with lower credit ratings (being either BBB or not rated at all i.e., credit unions).

15

Investment policy compliance % should not exceed the following			ACTUAL	
AAA to AA	A1+	100%	71%	Meets policy
A+ to A-	A1	60%	13%	Meets policy
BBB to NR	A2,NR	40%	16%	Meets policy

NSW Treasury Corporation Compliance – Loan Borrowing Conditions

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

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.3

NSW Treasury Corporation has revised its investment parameters with regards to Councils current loan agreements, relaxing the requirement that majority of Council investments be in the A rated range and above. As a result, the table for TCorp compliance is no longer required to be included in the Investment Report.

- 5 The investment portfolio is outlined in the table below by investment type for the period 1 September 2023 to 30 September 2023:

Dissection of Council Investment Portfolio as at 30 September 2023

Principal Value (\$)	Investment Linked to:	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
33,000,000.00	Term Deposits	33,000,000.00	0.00
28,926,927.32	CBA Business Saver	28,926,927.32	0.00
3,147,964.74	CBA Business Saver – Tourism Infrastructure Grant	3,147,964.74	0.00
10,462,763.74	Macquarie Accelerator	10,462,763.74	0.00
7,000,000.00	Bonds	6,536,820.00	(463,180.00)
82,537,655.80	Total	82,074,475.80	(463,180.00)

- 10 Council's overall 'cash position' is not only measured by funds invested but also by the funds retained in its consolidated fund or bank account for operational purposes. The table below identifies Council's overall cash position for the month of September 2023 as follows:

Dissection of Council's Cash Position as at 30 September 2023

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Investments Portfolio			
Term Deposits	33,000,000.00	33,000,000.00	0.00
CBA Business Saver	28,926,927.32	28,926,927.32	0.00
CBA Business Saver – Tourism Infrastructure Grant	3,147,964.74	3,147,964.74	0.00
Macquarie Accelerator	10,462,763.74	10,462,763.74	0.00

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.3

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Bonds	7,000,000.00	6,536,820.00	(463,180.00)
Total Investment Portfolio	82,537,655.80	82,074,475.80	(463,180.00)
Cash at Bank			
Consolidated Fund	2,321,257.74	2,321,257.74	0.00
Total Cash at Bank	2,321,257.74	2,321,257.74	0.00
Total Cash Position	84,858,913.54	84,395,733.54	(463,180.00)

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership	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.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.3

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.

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

Financial Considerations

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

10

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Report No. 13.4 Annual Report 2022/23

Directorate: Corporate and Community Services

Report Author: Amber Evans Crane, Corporate Planning and Improvement Coordinator

5 **File No:** I2023/1537

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 Annual Report is an opportunity for a Council to communicate back to the community how the Council has implemented its operational plan and delivered outcomes for the community.


Council is asked to note the Annual Report 2022/23 and its submission to the Minister for Local Government.

15 A separate report on the 2022/23 Financial Statements will be prepared for the consideration of Council.

RECOMMENDATION:

20 **That Council notes the Annual Report 2022/23 at Attachment 1 (#E2023/84193) to this report, and its submission to the Minister for Local Government.**

Attachments:

25 1 Annual Report 2022/23, E2023/84193 

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 information required to comply with the above, the Annual Report serves as a key point of accountability between Council and our community. The Annual Report highlights some of Council's achievements in implementing the 2022 to 2026 Delivery Program over the last year. The Annual Report also demonstrates the ways in which these activities contribute to the five overarching objectives in the Community Strategic Plan 2032:

- 15 • 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.
- 20 • Ethical Growth: We manage growth and change responsibly.- We manage growth and change responsibly
- Connected Infrastructure: We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable.

25 This is the first year of reporting on our *Byron Shire Community Strategic Plan 2032* and a progress update is included.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership	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 2022/2023

Legal/Statutory/Policy Considerations

[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
- 5 • 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.
- 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
- 10 • Include a statement of the action taken by the council in relation to any issue raised by the Anti-slavery Commissioner during the year concerning the operations of the council and identified by the Commissioner as being a significant issue and steps taken to ensure that goods and services procured by and for the council during the
- 15 • Include a statement of the action taken by the council in relation to any issue raised by the Anti-slavery Commissioner during the year concerning the operations of the council and identified by the Commissioner as being a significant issue and steps taken to ensure that goods and services procured by and for the council during the year were not the product of modern slavery within the meaning of the Modern Slavery Act 2018.
- Include such other information or material as the regulations or the guidelines under section 406 may require.
- Post copy of the council's Annual Report on the council's website and provide a copy to the Minister.

20 The *Local Government (General) Regulation 2021*

[Clause 217](#) prescribes the required information to be included.

Financial Considerations

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

Consultation and Engagement

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

Report No. 13.5 Draft 2022/2023 Financial Statements

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

File No: I2023/1583

5 **Summary:**

The Draft 2022/2023 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 2022/2023 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 2022/2023 Financial Statements incorporating the General Purpose Financial Statements (#E2023/106411) and Special Purpose Financial Statements (#E2023/106410).
- 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 2022/2023 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 23 November 2023 in accordance with Section 418(1) of the Local Government Act 1993.

Attachments:

- 30 1 Draft 2022-2023 General Purpose Financial Statements, E2023/106411 
- 2 Draft 2022-2023 Special Purpose Financial Statements, E2023/106410 

Report

The Draft 2022/2023 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 2022/2023 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 2022/2023 Financial Statements at their Committee Meeting held on 19 October 2023.

Financial Statements

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

The Draft 2022/2023 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 as part of the annual financial data return.

Brief explanations for each item is as follows:

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 2023 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.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

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 2022/2023 Draft Financial Statements

35 Before consideration is given to the 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.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

The Draft 2022/2023 Financial Statement results have been impacted by the following items that require explanation:

5 • Overall Audit Outcome

Council for the 2022/2023 financial year will receive a 'unmodified' or 'clean' audit opinion from the NSW Audit Office. For both the General Purpose and Special Purpose Financial Statements.

10

• Operating Result from Continuing Operations

15 The 2022/2023 financial year has seen a positive overall financial result. Council recorded a \$31.581million surplus compared to the \$11.073million surplus in 2021/2022. This result incorporates the recognition of capital revenues such as capital grants and contributions for specific purposes and asset dedications amounting to \$29.560 million, compared to \$20.984million in 2021/2022.

20 A more important indicator is the operating result before capital grants and contributions. This result was a surplus of \$2.021 million in 2022/2023 compared to a deficit of \$9.911million in 2021/2022, representing an increase of \$11.932million between financial years. Whilst a significant improvement, this result is influenced more so by timing of events due to revenue recognition accounting standards for operating grants such as receipt of natural disaster emergency work and immediate repair work funding with expenditure incurred in the previous financial year and receipt of 100% of the 2023/2024 Financial Assistance Grant in advance.

25 With reference to the Income Statement to the General Purpose Financial Reports included at Attachment 1, the following table indicates the major changes between
30 2022/2023 and 2021/2022 by line item:

Item	Change between 2022/2023 and 2021/2022 \$'000	Change Outcome	Comment
<u>Income</u>			
Rates & Annual Charges	+\$3,506	Increase	Reflects imposition of the 2022/2023 rate peg of 2.3% and changes in annual charges from Council's adopted 2022/2023 Revenue Policy.
User Charges and Fees	+\$5,771	Increase	A contributor to this change was holiday park revenues +\$1.673million and pay parking revenues +\$1.966million. Further information is available in Note B2-2 to Attachment 1.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

Item	Change between 2022/2023 and 2021/2022 \$'000	Change Outcome	Comment
Other Revenues	+\$1,063	Increase	The major increase in this item relates to fine revenues.
Grants & Contributions – Operating	+\$5,225	Increase	Overall operating grants and contributions increased significantly due to 100% advance payment of Financial Assistance Grant and flood recovery grants Further information is available in Note B2-4 to Attachment 1.
Grants & Contributions – Capital	+\$8,576	Increase	Revenue increase in this item mainly relates to the revenue recognition for completing grant funded capital works milestones. Further information is available in Note B2-4 to Attachment 1.
Interest and Investment Revenue	+\$2,161	Increase	Interest rates during 2022-20223 have seen significant increases to curb inflation. This has increased the return on Council's investments. Council also received additional revenue on outstanding rates and charges.
Other Income	+\$413	Increase	Principally relates to change in revenues from property leases.
Total Income Change	+\$26,715	Increase	
Expenditure			
Employee Benefits and Oncosts	+\$321	Increase	Overall employee costs increased in gross terms by \$1.328million but there was also an increase of \$1.007million of employee costs capitalised on capital works in 2022/2023 compared to 2021/2022. This accounts for the much lower increase in employee costs expensed. More information is provided at Note B3-1 to Attachment 1.
Borrowing Costs	-\$27	Decrease	Reduction due to ongoing repayment of existing loans and not borrowing any new loans during the financial year.
Materials & Services	+\$5,520	Increase	Materials and Services increased \$5.520million overall. Raw materials and consumables increased \$3.240million significantly due to expenditure on flood

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

Item	Change between 2022/2023 and 2021/2022 \$'000	Change Outcome	Comment
			recovery works not capitalised. Further changes include an increase of \$184k in legal expenses, increase of \$177k in insurance costs, increase of \$142k for IT software costs, increase of \$989k in waste contract costs and \$483k increase in holiday park contract costs. Other changes can be found at Note B3-2 to Attachment 1.
Depreciation	+\$1,037	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	-\$302	Decrease	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 an ongoing changed disclosure but reflected a \$572k decrease.
Net Losses from Disposal of Assets	-\$342	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 \$3.560million, reflecting the level of capital works disposals with plant and equipment obtaining a \$419k gain. Further details can be found at Note B4-1 to Attachment 1
Total Expenditure Change	+\$6,207	Increase	
Change in Result	+\$20,508	Increase	Increase in overall surplus between financial years.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

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:

10 Outstanding, Rates and Annual Charges – Council's ratio has increased to 11.94% in 2022/2023 from 9.60% in 2021/2022. The increase can be attributable to rates and charges increases, the ongoing impact of the COVID-19 pandemic and the February/March 2022 flood events. Through its assistance program to the community up to 30 June 2022, Council has continued to offer ratepayers extended payment arrangements and suspended debt recovery. 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, this has also reduced the incentive for people to pay and as a consequence the rates and charges outstanding percentage has increased which has influenced the current result. Whilst there are cost of living pressures in the community, Council will need to look to increase debt recovery activity.

25 Pleasingly, Council met every other performance benchmark including the Operating Performance Ratio which it has not done so for a number of years. As a note of caution, this 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. However, Council needs to improve this result back towards the benchmark as it is a key financial sustainability indicator.

30 • Asset Revaluations

During 2022/2023, a revaluation of assets relating to Operational Land was undertaken. These revaluations have increased Council's asset values by the following amounts:

- 35 • Operational Land – an increase of \$29.641million

40 This represents a further significant increase and clarification was sought from the Valuer as to whether there was any potential subsequent reduction in valuation given interest rate increases but this is not the case. If anything, real estate pricing seems to be increasing again despite the interest rate environment.

• Asset Recognition, Indexation and Impairment

45 As indicated at Note C1-7 to Council's financial statements, Council expended \$42.348million on asset renewals and \$5.267million 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 2022/2023 was \$20.155million so it is

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

pleasing to see that asset renewal was more than the financial depreciation of Council's assets.

5 Council annually needs to reassess the fair value of assets not subject to a specific revaluation. Consequently across all asset classes, excluding the revaluation of Operational Land, indexation has added around \$99.219million to the value of Council's infrastructure, property, plant and equipment. With the exception of land which 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, more difficult.

15 The February/March 2022 flood events have 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 at 30 June 2022. These impairment charges will be reversed as and when the impaired assets are later repaired and restored. As a result at 30 June 2023 due to works to restore infrastructure, \$678k of the impairment cost recognised previously has been reversed.

25 • Cash and Investments

As at 30 June 2023 as detailed at Note C1-3 to the financial statements, Council has maintained no unrestricted cash and investments. Council's goal of maintaining a \$1million unrestricted cash balance has not been able to be achieved which has been exacerbated by the ongoing impact of the February/March 2022 flood events and response to the recovery to 30 June 2023.

35 Council has established a flood recovery reserve, in an effort to track its expenditure for the recovery works. As at 30 June 2023, this reserve has a balance of negative \$7.834million 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 for the 2021/2022 financial year, 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 exist when Council has completed all flood recovery works and been reimbursed fully for natural disaster funding eligible expenditure over the next few years.

45 All other cash and investments totalling \$71.955million at 30 June 2023 are restricted for specific purposes. Overall, the cash and investment position of Council decreased by \$6.351million during the year.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

- Receivables and Contract Assets

As at 30 June 2023, as detailed at Note C1-4 and C1-6 to the financial statements, Council was due \$24.197million in receivables and contract assets. Outstanding rates and charges were \$7.468million. Overall receivables and contract assets increased by \$9.585million compared to the 2021/2022 financial year.

- Payables, Contract Liabilities and Provisions

At 30 June 2023, 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 \$16.784million including \$4.935million held in security bonds, deposits and retentions, \$1.877million in accrued expenses and \$8.793million payable to suppliers. In addition at 30 June 2023, Council has accrued employee leave entitlements valued at \$8.018million. Specific employee leave entitlements include \$3.206million for annual leave, \$4.691million for long service leave and \$0.121million for gratuities. At 30 June 2023 Council also had \$8.197million in contract liabilities relating to unexpended capital grants and advance bookings for its holiday parks. It has also made provisions of \$8.119million for the restoration of landfill and quarry assets. In comparison to 2021/2022, total liabilities have increased \$0.371million excluding loan borrowings.

- Loan Borrowings

During 2022/2023 Council did not borrow any new loans and continued to make normal loan repayments.

Council's outstanding loans as at 30 June 2023 are \$54.207million. Total loan expenditure for 2022/2023 included interest of \$2.728million and principal payments of \$4.562million. Total expenditure in 2022/2023 related to loan repayments was \$7.290million or 7.62% of Council's revenue, excluding all grants and contributions.

The outstanding loans by Fund totalling \$54.207million are as follows:

- General Fund \$21.150million
- Water Fund \$0 – Water Fund is debt free
- Sewerage Fund \$33.057million

- New Accounting Standards

The 2022-2023 financial year did not require Council to implement any new accounting standards that impacted the financial statements.

- Liquidity

Council's Statement of Financial Position (balance sheet) indicates net current assets of \$47.179million. 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.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

That is, there is no uncertainty as to Council being considered a 'going concern'. In addition, Council's cash expense cover ratio is at 8.03 months whereas the minimum benchmark is 3 months. Council exceeds this benchmark by nearly three times.

- 5 Council's Unrestricted Current Ratio did decline to 2.52, demonstrating Council has \$2.52 in unrestricted current assets compared to every \$1.00 of unrestricted current liabilities. This exceeds the benchmark of \$1.50.

On a longer term basis Council will need to consider its financial position carefully.

- 10 Nevertheless, in isolation, the financial results for 2022/2023 continue to present a 'stable' financial position especially given Council is now in infrastructure recovery mode following the impact of the February/March 2022 flood events and is carrying significant debt on behalf of the NSW Government. This in itself is an ongoing and serious concern.
- 15 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 2023/2024 financial year, which could not be achieved during 2022/2023. Council will especially need to carefully manage its cash flow obligations as it starts to commit further significant expenditure in the
- 20 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 that has been to date a frustration.

Strategic Considerations

25

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership	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 2022/2023

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:

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

15 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 2023.

25 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.

30 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 2023.

35 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

40 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 2022/2023 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.

45

Consultation and Engagement

5 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 2022/2023 Financial Statements, the closing date for submissions is expected to be 1 December 2023.

Report No. 13.6 Call for Nominations to Australian Coastal Councils Association (ACCA) Committee of Management

Directorate: Corporate and Community Services

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

File No: I2023/1575

Summary:

10 The Australian Coastal Councils Association (ACCA) Committee consists of two representatives of the member councils in each State and is elected at each alternate Association Annual General Meeting for a period of two years.

Byron Shire Council is a financial member council and therefore has an opportunity to nominate one representative. Council is not required to nominate a representative to stand in the election.

Nominations close on Friday 10 November 2023.

15

RECOMMENDATION:

That Council nominates [insert name] to stand as a NSW representative on the Australian Coastal Councils Committee of Management.

20 **Attachments:**

1 Nomination form - Association Committee of Management 2023-25, E2023/106412 

Report

The Australian Coastal Councils Association Inc (ACCA). is a national organisation which represents the interests of coastal councils and their communities. Byron Shire Council is a financial member.

- 5 The role of the ACCA is to advocate on behalf of coastal councils. It also commissions research on behalf of councils in relation to issues including:
- Coastal erosion and the projected impacts of sea level rise
 - The shortfall in resources to meet increasing demand for infrastructure and services
 - Legal risks faced by coastal councils in relation to planning for climate change
- 10 The Committee consists of two representatives of the member councils in each State and is elected at each alternate Association Annual General Meeting for a period of two years.

The election of representatives to the Committee of Management for 2023 to 2025 will be held at the conclusion of the 2023 Association Annual General Meeting, at 12 noon Eastern Daylight Time, Monday 27 November. The AGM is to be held via Zoom.

- 15 Nominations must be lodged by email to the Association's office by close of business on Friday 10 November 2023.

Nominations will only be accepted from representatives of Association member councils that are financial members of the Association for 2023-24.

- 20 Under the Rules of the organisation only one nomination will be accepted from any member council. In the event that more than one nomination from Councillors is received a ballot may be held.

A nomination form for the election of representatives of each State to the Association's Committee of Management for the period 2023-25 is provided as an attachment to this report.

Strategic Considerations

- 25 **Community Strategic Plan and Operational Plan**

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

Legal/Statutory/Policy Considerations

As outlined in the report.

Financial Considerations

- 5 Costs incurred by a Councillor elected onto this committee may be reimbursement under the [Councillor Expenses and Facilities Policy](#).

Consultation and Engagement

Should the ACCA receive more than two nominations from NSW councils, a ballot will be held. Council will have an opportunity to review the nominations and vote for their two preferred candidates.

10

Report No. 13.7 Grants September 2023

Directorate: Corporate and Community Services

Report Author: Donna Johnston, Grants Coordinator

File No: I2023/1568

5 **Summary:**

Council is waiting on determination of eleven Grant applications which, if successful, would provide funding to enable the delivery of identified projects. This report provides an update on Grant applications.

10

RECOMMENDATION:

That Council notes the grant submissions report for the month of September 2023 (Attachment 1 #E2023/106117).

15 **Attachments:**

1 Grant submissions as at 30 September 2023, E2023/106117 

BYRON SHIRE COUNCIL

Report

Currently Council has eleven grant applications awaiting determination (refer to Grants Submissions as at 30 September 2023 - Attachment 1, E2023/106117).

Successful applications

5 Successful grants announced:

Funding body	Funding scheme	Project name	Total project value \$	Amount requested \$	Council \$
Department of Regional NSW	Community Assets Program	Mullumbimby Pool - new filters	\$187,386	\$187,386	\$0
Department of Regional NSW	Community Assets Program	Mullumbimby Heritage Park - concrete path	\$500,000	\$500,000	\$0
Department of Regional NSW	Community Assets Program	Mullumbimby Recreation Grounds - car park asphalt rehabilitation	\$903,594	\$903,594	\$0
Department of Regional NSW	Community Assets Program	Cavanbah Centre - south car park asphalt rehabilitation	\$437,341	\$437,341	\$0
Department of Regional NSW	Infrastructure Betterment Fund	Byron Bay drainage - stage 1	\$8,929,880 Awarded \$7 million	\$8,929,880	\$0

BYRON SHIRE COUNCIL

Unsuccessful applications

Funding body	Funding scheme	Project name	Total project value \$	Amount requested \$	Council \$
Department of Regional NSW	Growing Regional Economies Fund	Lot 12 Bayshore Drive roundabout	\$3,186,418	2,389,813	796,605
<p>Feedback: Growing Regional Economies Program has been discontinued by the NSW Government and will no longer proceed. The program will be replaced by a \$250 million Working Regions Fund.</p>					
Department of Regional NSW	Infrastructure Betterment Fund	Sandhills Wetlands stormwater retention basin	\$7,090,500	\$4,090,500	\$0
Department of Regional NSW	Infrastructure Betterment Fund	Avocado Court & New City Road Mullumbimby drainage	\$1,728,264	\$1,728,264	\$0
Department of Regional NSW	Infrastructure Betterment Fund	Automated Flood Signage	\$3,697,612	\$3,697,612	\$0
<p>Feedback: Funding allocation was restricted per Shire. The Byron Drainage Strategy Stage 1 implementation works was selected as the preferred project.</p>					
Department of Regional NSW	Community Assets Program	Council Chambers betterment program	\$802,226	\$469,871	\$0
<p>Feedback: No feedback currently available. A potential \$2 million was available for Byron Shire. The Chambers project was above the nominal \$ 2 million allocation.</p>					

Upcoming Grant opportunities

[Local Roads and Community Infrastructure Program](#) – Phase 4

5 The Australian Government Local Roads and Community Infrastructure (LRCI) Program supports Australian councils to deliver priority local road and community infrastructure projects in their region, creating jobs and long-lasting benefits for communities.

Council has been allocated \$1,151,190 (Exc GST). Staff are preparing a nomination to complete the new road connection between Tennyson Street and Gilmore Crescent, Byron Bay. The project will include pathway and parking. It is estimated the road infrastructure works will cost \$1.7 million. Works need to be completed by 30 June 2025.

10 [Black Spot Program | Infrastructure Investment Program](#)

An Australian Government program targeting road infrastructure with a proven history of crashes. Staff are preparing an application for intersection pedestrian upgrade for Lawson/Jonson Streets, Byron Bay. This site fits the funding parameters due to crash history and near misses. Estimated cost is \$240,000 (Exc GST).

15 [NSW Government's Holiday Break Program](#)

\$15,000 and \$7,000 is available for youth activities during the Christmas and end Term 1 school breaks (encompasses Youth Week) respectively. An application is being considered for the Lone Goat Gallery to host an activity.

Strategic Considerations

20 **Community Strategic Plan and Operational Plan**

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

Legal/Statutory/Policy Considerations

Under section 409 3(c) of the *Local Government Act 1993* Council is required to ensure that 'money that has been received from the Government or from a public authority by way

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.7

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

- 5 If Council is successful in obtaining the identified Grants, this would bring funding sought to approximately \$25 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:

10	Funding applications submitted and awaiting notification (total value)	\$25,638,601
	Requested funds from funding bodies	\$13,174,038
	Council contribution cash	\$12,484,563
	Council co-contribution in-kind	\$4,500
15	Other contributions	\$0

Funding determined in September 2023:

Successful applications	\$9,028,321 (total project value)
Unsuccessful/withdrawn applications	\$16,505,020 (total project value)

20 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. 13.8 Ocean Shores Art Expo - Request for
Financial Assistance**

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

5 **File No:** I2023/1584

Summary:

10 This report is provided to Council to consider the level of financial support, if any, Council may want to provide for the Ocean Shores Art Expo proposed to be held from 3 to 6 November 2023 following a written request to Council from the President of the organisation.

RECOMMENDATION:

15 **That Council determines the level of financial support, if any, it is prepared to make towards the 2023 Ocean Shores Art Expo.**

Report

Council on 24 September 2023 received an email from the President of the Ocean Shores Art Expo that reads as follows:

5 *This year the **Ocean Shores Art Expo (OSAE)** will be celebrating **20 years** of the Expo with the theme: **Celebration**. The Expo with up to 500 art works on display including Primary & Secondary Schools, and OPEN category art works, will be held at the **Ocean Shores Community Centre (OSCC)** from the 3rd to 5th November, 2023. During this weekend, there are added cultural events from schools and local organisations involving, dance choirs, poetry and musical experiences. The Expo is a non-profit organisations serviced by volunteers and is one of the few cultural events in Ocean Shores.*

The OSAE Committee requests the BSC waive the weekend hire fee for the Hall and the associated insurance that can be covered by Council Insurance. Without this assistance, it is unlikely the Expo can continue.

15 *With the many challenges in our community over the last few years with Covid, followed by extreme flooding, higher interest rates and a more costly standard of living, the local business community has suffered. We rely on the business community to provide the funds for the Awards at the Expo. This usually amounts to approximately \$15,000 each year, however this year we have only received about 50% of our usual support. Business have repeatedly stated they are not in the position to assist financially this year, though hope the to do so next year.*

25 *The OSAE supports the Byron Shire by returning profits made from the Expo to the community. Last year we provided \$2,000 for Art Therapy classes for flood impacted residents. This year we have provided the 3 schools heavily impacted by the floods with over \$2,000 worth of additional art supplies not provided by the government. Mullumbimby High School purchased banding wheels for the ceramic students and 2 additional easels for the senior students. Mullumbimby Primary School purchased individual art easels for their art classes that can be used outside the classroom - plein air painting. Main Arm Primary School purchased high quality art supplies which require regular replenishment so students can explore their creativity and artistic abilities further.*

30 *Even though we have made applications for the Mayoral Fund with Michael Lyon over the last few years, we have not received support. After 20 years of servicing the community with this cultural event, the OSAE committee requests your assistance and response as soon as possible to determine on-going strategies.*

The request above is asking Council to financially support this event in two ways being:

- 35
- Waive the fees for the weekend hire of the Ocean Shores Community Centre.
 - Council provide insurance coverage for the event through its insurance.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.8

Fee waiver:

5 Based on Council's fees and charges for the 2023/24 financial year, the hire of Ocean Shores Community Centre as a special event for a full day is \$350.00 per day or in the case of the Art Expo over three full days assumed is a minimum of \$1,050.00. If Council determines to waive the applicable hire fees, it will have an adverse impact on the income of the Ocean Shores Community Centre S355 Management Committee.

Insurance cover:

10 In regard to the request for public liability insurance, Council has received advice from its insurer Statewide Mutual that only Council itself is covered. The coverage does not extend to participants, stallholders, non-Council employees, non-Council volunteers or outside organisations.

15 If Council wishes to financially support insurance coverage, it could consider reimbursing the cost of the insurance premium. There are several providers of insurance which may be suitable for the nature of this event (for example Local Community Insurance Services <https://www.localcommunityinsurance.com.au/>) which Ocean Shores Arts Expo could consider. Council's insurer recommends that third parties hold \$20,000,000 Public Liability cover to ensure appropriate cover in the event of a claim. It is not known without completing an on-line application what the cost of the insurance coverage is and that would be best done by event organisers to ensure the insurance coverage is tailored to their specific event.

20

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
2: Inclusive Community	2.1: Foster opportunities to express, celebrate and participate in arts and cultural activity	2.1.1: Public Art - Increase creativity in public spaces and build public art opportunities	2.1.1.1	Support art and creative industries in the shire through advice, facilitation or coordination of policy, plans and projects

Financial Considerations

5 Council has various processes in place to provide financial assistance to Community organisations including the Mayoral Discretionary Fund, Community Initiatives Program and Events funding. Each of these has their respective application process and timing, and applications via these opportunities are encouraged to ensure an equitable and merit based process and allocation of funding. Outside of these established processes, it is a matter for Council whether it wishes to provide funding towards this event and how much it would like to provide, if any.

10 Historically the Ocean Shores Arts Expo received funding from Council as either sponsorship or through the Mayoral Discretionary Fund between \$250 to \$300 each year from the 2013/2014 to 2021/2022 financial years. The last donation made by Council was on 9 December 2021.

15 It is acknowledged this is the 20th anniversary of the Arts Expo and the support that this event has provided to others. As a guide, a donation of up to \$2,000 to Ocean Shores Art Expo, may potentially cover the hire of the Community Centre and provide a contribution towards insurance coverage the Ocean Shores Art Expo would need to purchase.

If Council determines to provide financial assistance, funding for a donation of up to \$2,000.00, could be identified in a future Quarterly Budget Review.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 13.9 PLANNING - 26.2022.2.1 Gulgan North
Planning Proposal - BILS Area 5**

5 **Directorate:** Sustainable Environment and Economy
Report Author: Steve Daniels, Project Officer - Planning Reforms
File No: I2023/142

Summary:

10 The purpose of this report is to present to Council an owner-initiated Planning Proposal (Attachment 1) for the land known as 66 The Saddle Road, Brunswick Heads, described as Lot 2 DP1159910. The subject land is identified as Area 5 in the Byron Shire Business and Industrial Lands Strategy.

15 The objective of the Planning Proposal is to enable the future subdivision of part of the subject land to create a combination of work/live employment land and a separate precinct for light industrial uses. The Planning Proposal also seeks rezone some rural areas for environmental conservation and management.

20 A 'letter of offer' (Attachment 10) has been submitted by the proponent to enter into a planning agreement to fund works associated with a proposed roundabout on Gulgan Rd, which will allow vehicle access to the site. Legal drafting of the planning agreement will take place prior to public exhibition.

Prior to requesting Gateway, Council must obtain an 'in-principle' agreement from Transport for NSW to reduce the speed zone on approach to the roundabout from 80km/h to 60km/h.

25 If the Planning Proposal proceeds, a site specific DCP will be prepared and exhibited concurrently with the Planning Proposal and Planning Agreement.

The planning proposal is consistent with the Business & Industrial Lands Strategy and the North Coast Regional Plan.

30 It is recommended that the submitted planning proposal be amended to include changes recommended in this report and forwarded to the Department of Planning and Environment for a Gateway Determination.

NOTE TO COUNCILLORS:

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

5

RECOMMENDATION:

That Council:











- 10 1. **Notes the current deficit of available zoned and fit for purpose 'Business and Industrial Land' in Byron Shire, and that the Planning Proposal for Area 5 Gulgan North partly addresses this.**
- 15 2. **Notes that the Planning Proposal provides for a mix of uses compatible to the site opportunity and constraints, including a new sub land use category of 'Work-Live' dwelling.**
- 15 3. **Accepts the applicant's letter of offer to enter into a Planning Agreement (Attachment 10 E2023/102502) with Council as part of this planning proposal and require that a draft Planning Agreement be prepared in accordance with the letter of offer.**
- 20 4. **Amends the Planning Proposal land use zone mapping to accord with Figure 5 of this report.**
- 20 5. **Amends the Planning Proposal to identify the subject land on a Local Clauses Map, with that portion of the subject land proposed to be zoned E3 Productivity Support identified as a 'Work-Live precinct'.**
- 25 6. **Prior to requesting a Gateway determination:**
 - 25 a) **requires the proponent to submit an updated Cultural Heritage Assessment,**
 - 30 b) **forwards the draft planning proposal and relevant studies to Transport for NSW to obtain an 'in-principle' agreement to a speed zone reduction at the approach to the proposed roundabout,**
 - 30 c) **forwards the draft planning proposal and relevant to studies to the Biodiversity Conservation Division of the NSW DPE for comment and any necessary changes to the Planning Proposal**
- 35 7. **Pending completion of '6, finalise and forward the planning proposal and supporting documents for the land known as Area 5 Gulgan North (informed by the Byron Shire Business and Industrial Lands Strategy) to the Department of Planning and Environment for the purpose of obtaining a Gateway Determination, and that Council exhibit the Planning Proposal in accordance with the Gateway Requirements.**

BYRON SHIRE COUNCIL

8. Notes that a draft Development Control Plan to support the Planning Proposal will be prepared to manage building design and general site requirements and be exhibited alongside the Planning Proposal.

5 9. Notes that legal drafting of the draft Planning Agreement will be prepared and exhibited alongside the Planning Proposal.

Attachments:

- 1 26.2022.2.1 Updated Gulgan Planning Proposal reduced_PP-2021-7471 (1) 230928, E2023/102500 
- 10 2 26.2022.2.1 Ecological Assessment_PP-2021-7471 Oct 23, E2023/102499 
- 3 26.2022.2.1 BUSHFIRE ASSESSMENT_PP-2021-7471, E2023/104135 
- 4 26.2022.2.1 TRAFFIC IMPACT STUDY by INGEN Rev I ref J1143_PP-2021-7471 230420, E2023/102501 
- 5 26.2022.2.1 CIVIL ENGINEERING Report PP-2021-7471, E2023/104136 
- 15 6 26.2022.2.1 Preliminary site contamination investigation report_PP-2021-7471, E2023/104137 
- 7 26.2022.2.1 Dip Exclusion Zone Assessment_PP-2021-7471, E2023/104139 
- 8 26.2022.2.1 LUCRA Gulgan Rd North Planning Proposal_final_PP-2021-7471, E2023/104140 
- 20 9 26.2022.2.1 Gulgan Road Industrial Estate - Agricultural report FINAL_PP-2021-7471, E2023/104142 
- 10 10 26.2022.2.1 Gulgan North VPA COMMITMENT LETTER_PP-2021-7471 (1) 230919, E2023/102502 

25

Report

Background

Council adopted its Business and Industrial Lands Strategy (BILS) in October 2020.

5 [Final-STRATEGY-Business-and-Industrial-Lands-Strategy-October-2020-revision-of-E2019-64471-as-per-DPIE-approval-letter-E2020-78957 \(16\).pdf](#)

Business and Industrial land strategies provide the basis for future land use and infrastructure planning actions required to meet projected growth and provide for future local jobs in an LGA.

10 They are produced in the context of the relevant regional plans and translate the broader strategic context into a clear rationale to either continue or change the business and industrial zoning applied to different areas of land in an LGA.

The Department of Planning subsequently endorsed the Byron Shire BILS September 2020. This endorsement enabled the lodgement of Planning Proposals for individual sites as per the Actions and sites contained in the Strategy.

15 BILS Area 5, known as North Gulgan, is shown below in Figure 1.

Area Number	5.
Description	Part of Lot 2 DP 1159910 66 The Saddle Road, Brunswick Heads
Image of investigation area	

Figure 1 – BILS Area 5, North Gulgan

This Area is the subject of an owner-initiated Planning Proposal as discussed in this report.

- 5 The preferred role for this Area includes a business park type development and a traditional industrial estate.

The BILS identified certain planning matters requiring investigation for the purposes of this Planning Proposal. Those matters have been addressed in the Planning Proposal submission and associated documents by the proponent. Relevant commentary is provided below.

The Planning Proposal

The Planning Proposal (Attachment 1) relates to a single lot located at 66 The Saddle Road, Brunswick Heads, described as Lot 2 DP1159910 (Figure 2).

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.9

A Planning Proposal is a document that explains the intended effect and justification of a proposed amendment to a LEP.

A number of technical studies/reports required to support the Planning Proposal have also been provided.

5 These studies/reports include:

- Ecological Assessment (Attachment 2)
- Bushfire Assessment (Attachment 3)
- Traffic Impact Assessment (Attachment 4)
- Civil Engineering Assessment (Attachment 5)

10

- Contaminated Land Assessment (Attachment 6)
- Dip Exclusion Zone Assessment (Attachment 7)
- Land Use Conflict Risk Assessment (Attachment 8)
- Agricultural Assessment (Attachment 9)
- Culture & Heritage Assessment (to be finalised prior to Gateway)

15 Prior to requesting a Gateway determination, the following studies will be referred to relevant agencies for comment:

- Traffic Impact Assessment: comment required from Transport for NSW (TfNSW) to provide an 'in principle' agreement to reduce the speed zone on Gulgan Rd from 80km/h to 60km/h on approach to the proposed roundabout.

20

- Ecological Assessment: general comment required from DPE Biodiversity Conservation Division (BCD).

25 A cultural Heritage assessment was undertaken for the site in 2019. The proponent is finalising an update to the assessment to include more recent consultation with relevant stakeholders. It is recommended that the Cultural Heritage Assessment be finalised prior to seeking Gateway and the planning proposal be amended to reflect the findings of the assessment if necessary.

Recommendation:

The Proponent provides Council with an update to the Cultural Heritage Assessment prior to requesting a Gateway determination. Staff are authorised to make any consequential changes to the Planning Proposal that result from the update.

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.9

Following a Gateway determination, all studies will be exhibited with the planning proposal and referred to relevant public agencies for comment as per the statutory Gateway requirement.

- 5 The following table provides a summary of the LEP amendments proposed to support achieving the BILS objectives and intent for this site.

LEP Amendment	Explanation of Provisions
Zoning	<p>Rezoning the BILS Area 5 - Precinct A to Zone E3 Productivity Support and Precinct B to E4 General Industrial Zone (as per Figure 5 below).</p> <p>Increase (by some 215%) the extent of land zoned C2 Environmental Conservation and C3 Environmental Management in the proposed BILS Community Title precinct.</p>
Building Height	<p>Amending the maximum building height to 11.5m for only parts of the site to be used for E3 Productivity Support and E4 General Industrial Zones to support optimisation of the BILS precinct land use.</p>
Floor Space Ratio	<p>Introducing a Floor Space Ratio Map to provide a 0.9:1 Floor Space Ratio specific to BILS Precincts consistent with the typical Floor Space Ratios applying in the Byron Arts and Industry Estate locality.</p>
Lot Size	<p>Amending the Lot Size Map in relation to the applicant's land on both sides of the Pacific Motorway to facilitate the creation of a Community Title precinct for the BILS land and environs (as per Figure 6 below).</p> <p>Define the Minimum area of Torrens Title subdivision for the E3 and E4 zoned land to be 2000m².</p>
Local Clause	<p>Providing for work-live accommodation in the E3 precinct to support the employment land uses.</p>



Figure 2 – Subject Land

The subject land:

- 5 • has a total area of 52.45 ha
- has frontage and existing vehicular driveway access to Gulgan Rd and The Saddle Rd
- is largely cleared and contains areas of remnant vegetation

10 The objective of the Planning Proposal is to enable the future subdivision of part of the subject land to create a combination of work-live employment land and a separate precinct for light industrial uses. The Planning Proposal also designates areas for environmental conservation and management.

The total area of land proposed to be rezoned consists of 4 areas identified below in Figure 3.

- 15 • Area A – 4.63 ha Zone E3 Productivity Support (work-live) (previously B7 Business Park)
- Area B – 0.99 ha Zone E4 General Industrial (previously IN2 Light Industrial)
- Area C – 0.88 ha Zone E4 General Industrial
- Area D – 11.77 ha Mix of Rural & Environmental Zones

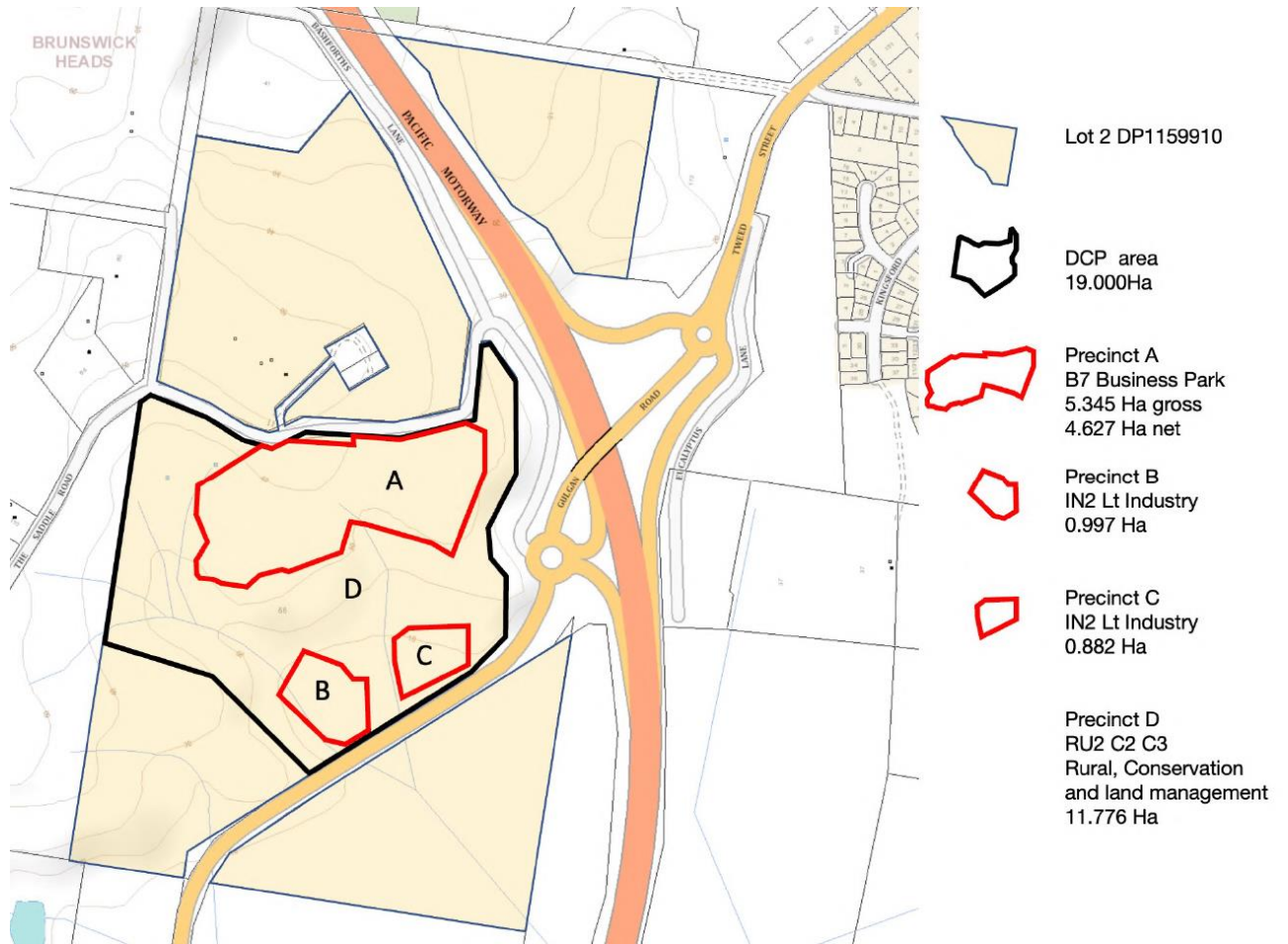


Figure 3 – Development Precincts

Current Zones and Controls

The subject land is mapped under the BLEP 2014 as follows and shown in Figure 4:

- 5
 - (Part) RU2 – Rural Landscape Zone
 - (Part) C2 – Environmental Conservation Zone
 - (Part) C3 – Environmental Management Zone
 - (Part) DM – Deferred Matter - Zone 1(a) under Byron LEP 1988
- 10
 - 9m maximum building height
 - 40ha minimum lot size

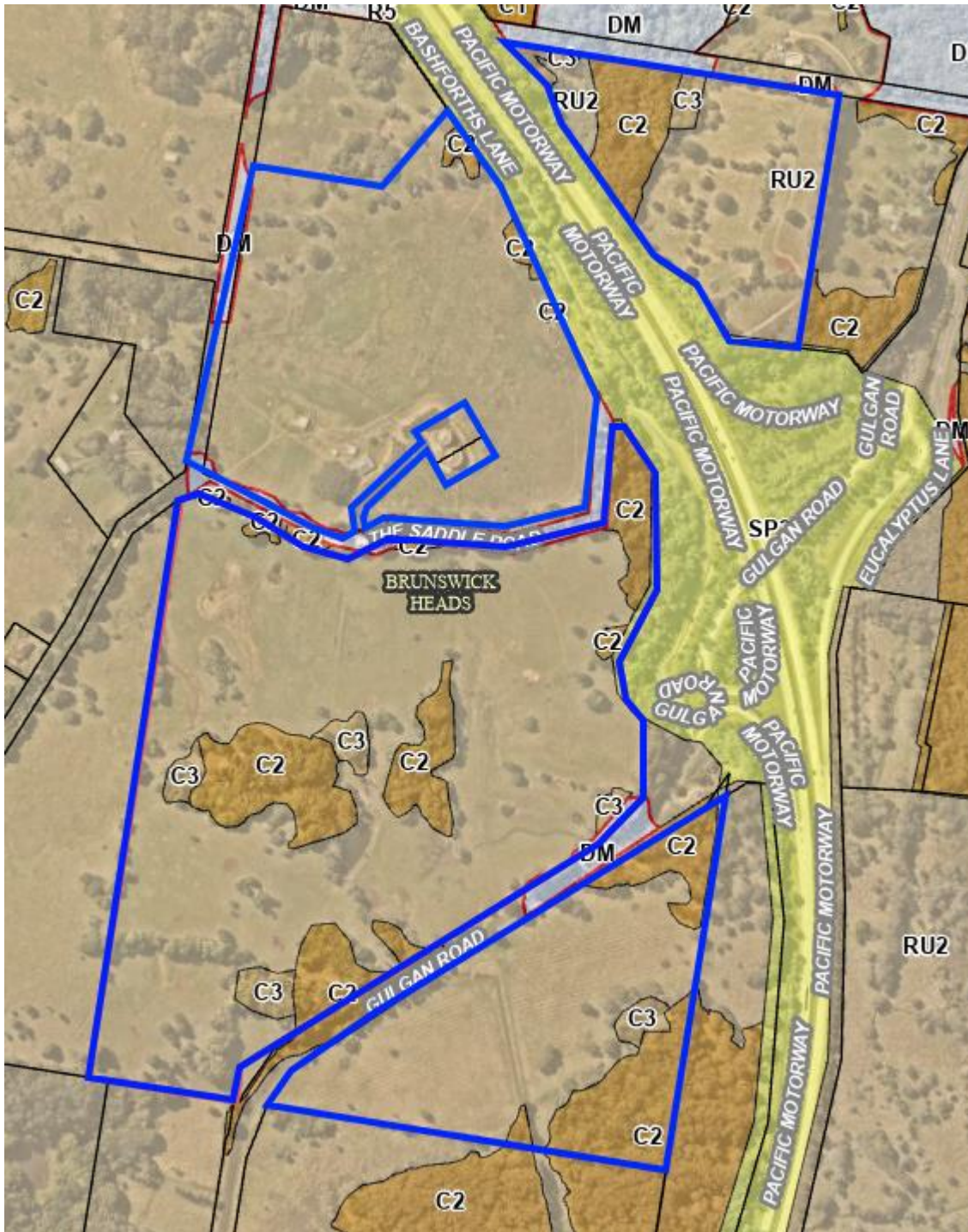


Figure 4 – Current BLEP 2014 Zone Map

Proposed Zones and Controls

The planning proposal will rezone the Areas as per Table 1 and Figure 5 below.

5 **Table 1 – Planning Controls**

BYRON SHIRE COUNCIL

Area	Existing BLEP 2014 Controls	Proposed BLEP 2014 Controls
Area A	Zone RU2 Rural Landscape	Zone B7 Business Park
	Minimum Lot Size - 40 ha	Minimum Lot Size – 2000m2
	Height of Buildings Limit – 9m	Height of Buildings Limit – 11.5m
	Not Applicable	Floor Space Ratio – 0.9:1
	Not Applicable	Work / Live Local Clause & Local Clauses Map
Area B	Zone RU2 Rural Landscape	Zone IN2 Light Industrial
	Minimum Lot Size - 40 ha	Minimum Lot Size – 2000m2
	Height of Buildings Limit – 9m	Height of Buildings Limit – 11.5m
	Not Applicable	Floor Space Ratio – 0.9:1
Area C	Zone RU2 Rural Landscape	Zone IN2 Light Industrial
	Minimum Lot Size - 40 ha	Minimum Lot Size – 2000m2
	Height of Buildings Limit – 9m	Height of Buildings Limit – 11.5m
	Not Applicable	Floor Space Ratio – 0.9:1
Area D	Zone RU2 Rural Landscape	Proposed additions to:
	Zone C2 Environmental Conservation	Zone C3 Environmental Management
	Zone C3 Environmental Management	Zone C2 Environmental Conservation

BYRON SHIRE COUNCIL

Area	Existing BLEP 2014 Controls	Proposed BLEP 2014 Controls
	DM – Deferred Matter - Zone 1(a) under Byron LEP 1988	
	Minimum Lot Size - 40 ha	Minimum Lot Size - 10 ha
Consequential amendments to Residual Land	Minimum Lot Size – 40 ha	<p>Minimum Lot Size – 5 ha and 10 ha in relation to the residual rural and environmental protection zoned land; and</p> <p>Minimum Lot Size – 10ha in relation to land that will form part of the common lot under a Community Title Scheme (Area D).</p>

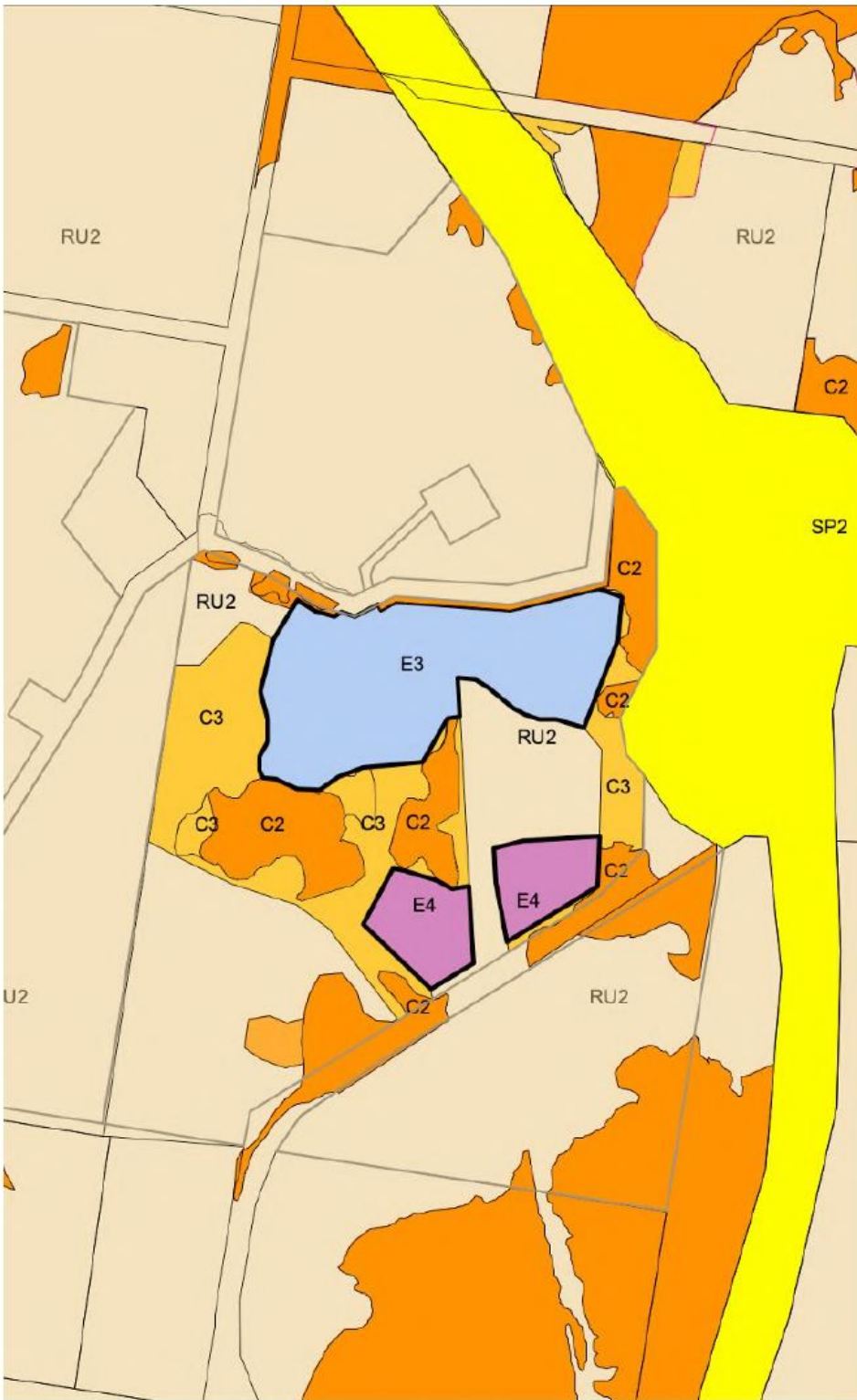


Figure 5 – Proposed BLEP 2014 Zone Map

Zoning Considerations

The Business Park (Area A) is proposed to be zoned E3 Productivity Support. Areas B & C are proposed to be zoned E4 to reflect the industrial use.

- 5 The proposal includes a significant increase in areas zoned C3 Environmental management within Area D. Area D will fall under the Community Title Scheme to secure a better management outcome.

NOTE: The submitted planning proposal (Attachment 1) has not mapped the existing C2 and C3 zoned land to the south of Area D. The planning proposal mapping will need to be amended to reflect the zoning scheme in Figure 5 above.

Recommendation:

Council amends the Planning Proposal mapping to show the existing C2 and C3 zoned land to the south of Area D as per Figure 5.

10

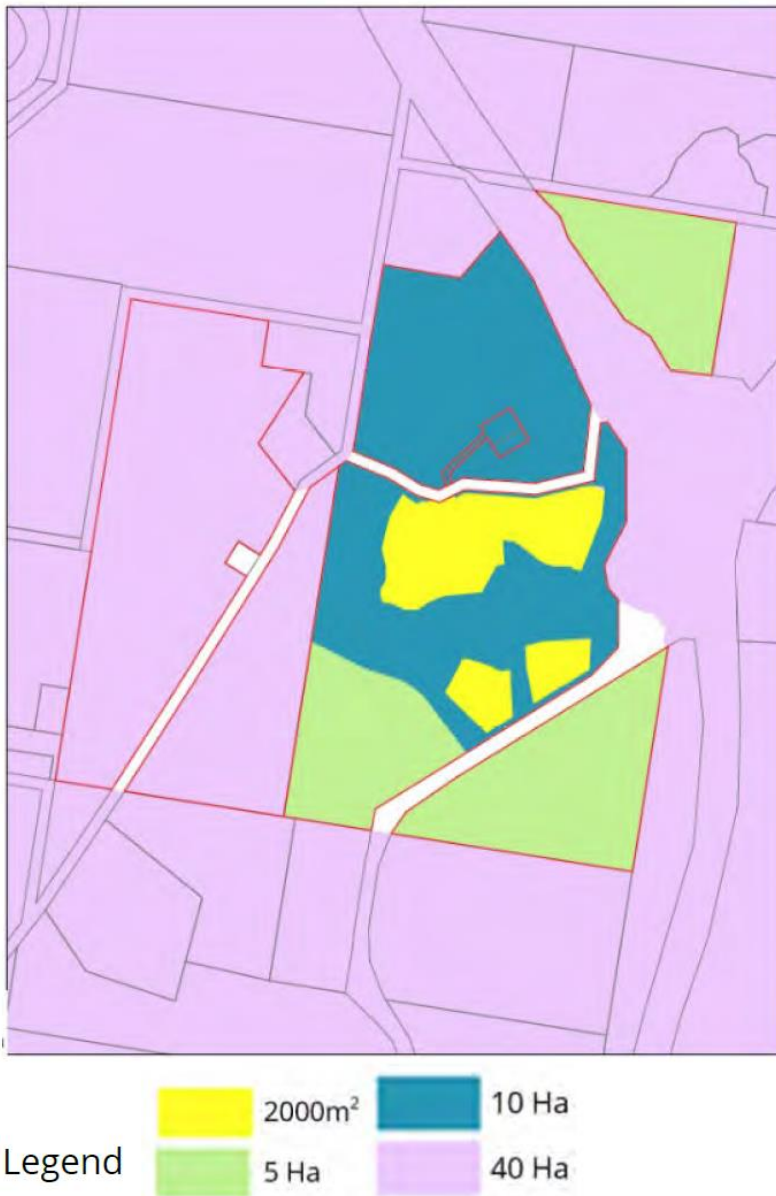


Figure 6 – Proposed BLEP 2014 Minimum Lot Size Map

Minimum Lot Size Considerations

5 The minimum lot sizes will inform a subdivision by way of a Community Title Scheme for Areas A, B, C, & D.

The residual areas outside of the CT Scheme have a 5ha and 10ha MLS. This allows these areas to be subdivided away from Area D but will not allow for any further subdivision.

Height of Buildings Considerations

10 As noted in Table 1, an 11.5m building height limit is proposed for Areas A, B and C.

The reason for this height is to facilitate and optimise the density of permitted development types on those areas zoned through flexible and site-specific design responses.

For example.

5 Light industrial buildings located in Areas B & C are proposed to feature surface level 'undercroft' car parking, enabled via the 11.5m height limit. Given the relatively small developable area, this arrangement would allow the employment generating floor space to be maximised while also providing greater flexibility when locating buildings, public spaces and responding to environmental constraints. Site specific DCP provision will be required to manage building design outcomes. The impact on visual amenity for Areas B & C is considered minor given that there are no neighbouring buildings for which overshadowing would be a concern, and tree planting/vegetation screening to Gulgan Rd could be incorporated via site specific DCP requirements.

15 Work-live buildings located in Area A will be constructed on sloping land. In accordance with Byron DCP 2014, building heights are measured from the lowest ground surface level. To accommodate a 2-storey building under the existing 9m height limit, the developer would need to cut into the sloping land to create a flat ground surface from which the measurement would be taken. However, by increasing the height limit to 11.5m, the need for earthworks would be minimised and the buildings could be constructed on poles that extend out from the sloping land. The buildings themselves would remain as 2 storeys with design considerations managed via site specific DCP provisions. The impact on visual amenity would be negligible.

Recommendation:

The Proponent prepares and submits to Council a site-specific Draft DCP to manage building design and general site requirements. Staff to assess the DCP once submitted.

Proposed Work-Live BLEP 2014 Provisions

25 Part (1) of the proposed clause below seeks to enable a work-live precinct on land proposed to be zoned E3 (Area A). The applicable area will be identified on the Local Clauses Map. The intention of the clause is to enable workers to both live and work in the same building.

Part (2) of the proposed clause relates to the entire site. It seeks to ensure that the wider road network is not impacted by any future development. Further detail is provided below in the 'Key Issues' discussion with respect to the Traffic Impact Assessment.

30 Proposed clause drafting (which will be subject to Parliamentary Counsel review post Gateway Determination):

The clause applies to land at 66 The Saddle Road, Brunswick Heads, being Lot 2 DP 1159910, identified on the Local Clauses map.

(1) For that part of the land identified as 'work live precinct' on the local clauses map, development for the purposes of attached dwellings, multi dwelling housing and residential flat buildings is permitted with consent only where:

(a). the 'dwelling':

- 5 (i) combines a workspace and living area within a single contiguous area dedicated to a type of work, use or industry permitted in the E3 Productivity Zone; or
- 10 (ii) each living area floor contains a shared workspace area or has direct access to a single contiguous workspace area dedicated to a type of work, use or industry permitted in the E3 Productivity Zone; and

(b) the ratio of living area is equal to, less than, or combined with the workspace area such that it remains subservient to the dominant work, use or industry permitted in the E3 Productivity Zone; and

15 (c) the living area is occupied and used by the proprietor or lessee undertaking the type of work, use or industry permitted in the E3 Productivity Zone, or the proprietor or lessee's employee/s, and or that person's household; and

(d) the uses do not compromise the objectives of the E3 Productivity zone.

20 (2) Development consent must otherwise not be granted to development for the purposes of subdivision unless the consent authority is satisfied that vehicular access to and from the site will not unreasonably impact pedestrian, cyclist or vehicular traffic movements on Gulgan Rd, Brunswick Heads.

Recommendation:

Council amends the Planning Proposal to identify the subject land on a Local Clauses Map, with that portion of the subject land proposed to be zoned E3 Productivity Support identified as a 'Work-live precinct' on the local clauses map.

Key issues

- Traffic Impact Assessment
- 25 ▪ Planning Agreement
- Ecological Assessment

Traffic Impact Assessment

'in-principle' agreement must be obtained before requesting a Gateway determination.

Planning Agreement

5 The applicant has submitted a 'letter of offer' (Attachment 10) to enter into a Planning Agreement to fund the required works to deliver the roundabout (access option B) described above. The planning agreement is a voluntary offer and subject to mutual agreement.

The letter of offer precedes the drafting of a planning agreement between the landowner and Council. Once drafted, the planning agreement will be exhibited concurrently with the planning proposal.

Recommendation:

Council accepts the letter of offer and require the drafting of a Planning Agreement prior to public exhibition of the Planning Proposal. If the planning proposal progresses to public exhibition, it is recommended that the Planning Agreement be exhibited concurrently with the Planning Proposal.

Ecological Assessment

- 10 The Planning Proposal area has been designed as part of the Byron Shire BILS (2020) to largely avoid impacts on ecological features. That is, the Planning Proposal area has prioritised rezoning of exotic grassland areas (currently grazing paddocks) and largely avoids EECs, HEV vegetation, other patches of native vegetation, and significant habitat areas. Ecological buffers will be developed and assessed at the DA stage.
- 15 The landowner intends to revegetate and repair large tracts of land (i.e., the existing conservation zoned land and the proposed additional conservation land) that provide opportunities for revegetation to support rainforest, wet eucalypt forest, or forested wetlands. Such proposals will form part of the DA Vegetation and Riparian Zone Management Plan commitments of the proponent.
- 20 Vegetation removal will be required to facilitate future development. Such removal will likely include:
- Removal of a small number of native trees across the site – mostly standalone paddock trees.
 - Removal of a portion of the disturbed wetland area in west of Precinct B
- 25 The small artificial drainage line through Precinct C will likely need to be either piped or realigned to facilitate development. This change is considered a minor in relation to the wider ecological values across the site. The associated impacts can be addressed during the DA phase of any future project.

Ongoing management of the land will take place under the community title scheme, with a detailed assessment and Plan of Management required at the DA stage. Prior to seeking gateway, comment should be sought from NSW DPE Biodiversity Conservation Division.

Recommendation:

Council forwards the Planning Proposal and relevant studies to the DPE Biodiversity Conservation Division for comment before requesting a Gateway determination. Staff are authorised to make any required changes to the Planning Proposal provisions that result from the feedback.

Next Steps

- 5
 - Receive an updated Cultural Heritage Assessment
 - Obtain agency comment from TfNSW and BCD and make any consequential changes to the studies and/or planning proposal.
 - Submit the planning proposal and studies to DPE for a Gateway determination.
 - Following Gateway, prepare a site-specific draft DCP.
- 10
 - Following Gateway, prepare a draft planning agreement for provision of a roundabout.
 - Publicly exhibit the planning proposal, DCP and planning agreement as per the statutory requirements.
- 15
 - Council report to consider the outcomes of public exhibition and agency consultation.

Strategic Considerations

Community Strategic Plan and Operational Plan

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

Recent Resolutions

- N/A

Legal/Statutory/Policy Considerations

- 5 Requirements under the Environmental Planning and Assessment Act and Regulation as applicable.

Financial Considerations

Owner initiated Planning Proposals are subject to full cost recovery via Council's Fees and Charges.

Consultation and Engagement

- 10 Pre-lodgement meetings held with DPE on technical studies/reports, agency referrals and draft Planning Proposal content.

All other Consultation will be carried out in accordance with Council's [Community Participation Plan 2019](#) and as directed by any future gateway determination from the Department of Planning and Environment

15

Report No. 13.10 Update Resolution 23-056 Short Term Rental Accommodation Consent Conditions

Directorate: Sustainable Environment and Economy

Report Author: Sarah Nagel, Manager Public and Environmental Services

5 **File No:** I2023/1137

Summary:

Council at the Ordinary Planning Meeting 9 March 2023 resolved **23-056**:

1. Enforces consent conditions which prohibit the use of a property as short term rental accommodation.
- 10 2. Continues to prohibit the use of short-term rental of housing in new approvals, including but not limited to secondary dwellings, standard homes in the residential areas and business zones of the Shire.
3. Puts out a media release to inform the public of this decision.
4. Receives a report back every 6 months on the status of 1 and 2.
- 15 This report provides the six-month status on items 1 and 2 of the resolution.

RECOMMENDATION:

- 20 **That Council notes the update provided on Resolution 23-056 Short Term Rental Accommodation Consent Conditions.**

25

Report

Notice of Motion No. 9.3 Short Term Rental Accommodation Consent Conditions was presented at the [Agenda of Ordinary \(Planning\) Meeting - Thursday, 9 March 2023 \(infocouncil.biz\)](#) where Council resolved via **23-056** to receive a report every six months on the status of:

- 5 1. Enforcement of consent conditions which prohibit the use of a property as short term rental accommodation.
- 10 2. The continuing prohibition of the use of short-term rental of housing in new approvals, including but not limited to secondary dwellings, standard homes in the residential areas and business zones of the Shire.

A staff update follows.

Point 1

On 14 June 2023, staff wrote to 824 property owners who were recorded as obtaining approval for a secondary dwelling between 2011 and 2019. The letters stated:

- 15 *Between 2011 and 2019, Council provided property owners with financial incentives to develop secondary dwellings on their properties as a way of providing more affordable housing throughout the Shire. It is now evident that some property owners chose to utilise those dwellings for holiday letting and as a result, have not contributed to increased housing stock.*
- 20 *To respond to this issue, Council resolved (resolution 23-056) to enforce consent conditions for existing properties that were approved for affordable housing and do not have approval for short-term accommodation.*

25 *Council is aware that a condition may have been imposed on your secondary dwelling which prohibits use for short-term rental accommodation. This letter serves to alert you that Council now intends to enforce consent conditions which prohibit such use.*

Enforcement action may include:

- *Environmental Planning & Assessment Act notices and orders,*
- *Penalty infringement notices, and/or*
- *Court attendance notices.*

- 30 *If you have concerns or queries relating to the unauthorised use of a property as short term holiday accommodation, please report these to Council via the online form at <https://www.byron.nsw.gov.au/STRAcontact>.*

35 *Further information regarding short term holiday accommodation is located at <https://www.byron.nsw.gov.au/Services/Building-and-development/Do-I-need-approval/Short-term-rental-accommodation>*

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.10

As a result of the correspondence approximately 28 property owners contacted Council to advise that they did not utilise a secondary dwelling as short-term-rental-accommodation ("STRA").

- 5 A small number of property owner attempted to lodge modifications to remove the condition prohibiting use of a dwelling as STRA. The applications have been refused or returned.

From responses to the above letter, enforcement staff have commenced formal investigations into the possible prohibited use of two secondary dwellings.

- 10 In addition to the above, enforcement staff have issued four Notice of Proposed Orders to cease use of a dwelling as STRA. All four property owners have agreed to cease use of the properties as STRA, and staff will monitor this outcome.

Staff are also progressing a possible legal action against one property owner of a STRA property for prohibited use, with the assistance of legal counsel.

Point 2

- 15 Specific conditions continue to be included in relevant development consents to prohibit STRA use.

Staff will provide a further update report to Council on Points 1 and Point 2 in six months.

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	2.2: Enhance safety and contribute to the physical, mental, and spiritual health and well being of our people	2.2.3: Regulatory controls and compliance - Enhance public safety, health and liveability through the use of Council's regulatory controls and services		
4: Ethical Growth We manage	4.2: Enable housing diversity and	4.2.1 People		

growth and change responsibly	support people experiencing housing insecurity	experiencing housing insecurity - Seek opportunities that provide fair, appropriate, and affordable housing for people experiencing housing insecurity		
4: Ethical Growth	4.1: Manage responsible development through effective place and space planning	4.1.4: LEP & DCP - Review and update the Local Environmental Plan and Development Control Plans	4.1.4.7	Progress Short Term Rental Accommodation planning proposal

Recent Resolutions

- 23-056

Legal/Statutory/Policy Considerations

5 Legal advice supports the approach discussed in the report. It should be noted that legal matters like STRA can be resource intensive, take considerable time and be costly to pursue. As such, Council has discretion in deciding whether to take enforcement action on the basis of the available evidence and the circumstances of the individual case.

10 Changes for non-hosted STRA were endorsed by the NSW Government in September 2023. There will be a 12-month transition period for the community and industry to prepare. New day caps for unhosted STRA will take effect on 23 September 2024.

The changes are:

- A house or unit cannot be used for non-hosted STRA for more than 60 days in a 365-day period, for most of the Shire.
- 15 Some areas in Byron Bay and Brunswick Heads will be able to operate without a cap on holiday letting, for 365 days per year. Maps of these areas are available on the NSW Department of Planning portal website.

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.10

The changes do not affect hosted STRA where the host lives on the premises.

5 The above local planning changes and Council resolution align with IPC Advice Report on Byron Shire STRA recommendation 2 *'Utilise the available regulatory regime to support Byron Shire Council to plan for and manage local impacts from the conversion of existing and future housing stock to non-hosted STRA...'*

As a result of the above, during the transition period, staff will be developing a Monitoring and Compliance Strategy specific to the new day caps for non-hosted STRA in Byron to be implemented after 23 September 2024.

10 Evaluation and Monitoring of STRA is addressed in IPC Advice Report on Byron Shire STRA recommendations 10,11 and 12.

A wider review of STRA has also been announced by the Minister for Planning. There are no details as yet. It will ostensibly address the remaining recommendations of the IPC report outside of the Byron Shire Planning Proposal decision (Recommendations 1 and 2) and also the NSW STRA framework more generally.

15 **Financial Considerations**

Staff time and resourcing to STRA in Byron Shire is currently funded by the current enforcement program budget of the Operational Plan. This may change the result of the Monitoring and Compliance Strategy development.

20 Funding to support local community benefits and also enforcement is addressed in IPC Advice Report on Byron Shire STRA recommendations 8 and 9.

Consultation and Engagement

Not required.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.11 Draft Single-use Packaging and Materials Policy

5 **Directorate:** Infrastructure Services
Report Author: Danielle Hanigan, Manager Resource Recovery
File No: I2023/1452

Summary:

10 The Draft Single-use Packaging and Materials Policy upholds Byron Shire Council's commitment to reducing the consumption of products from non-renewable resources and protecting our natural environment. The Policy outlines the principles and decision-making framework for Council, the community and businesses to phase out single-use and disposable materials in all Council business, on Council owned and managed lands, and in Council buildings and facilities.

15 The Policy addresses items, packaging and materials that are intended to be disposable, through disallowing their use. This refers to items that are designed for a single-use after which they are disposed of as solid waste. The Policy specifies a list of items that will not be able to be procured, used, sold or distributed as part of Council business, on Council owned and managed lands, or in Council buildings and facilities.

20 The report recommends that Council place the draft Policy on exhibition for 28 days and public comment invited.

25

RECOMMENDATION:

That:

1. **The Draft Single-use Packaging and Materials Policy (Attachment 1 E2023/32923) be placed on public exhibition for a minimum of 28 days.**
- 30 2. a) **Should there be no submissions, the Draft Single-use Packaging and Materials Policy is endorsed from the date after the close of the exhibition period and;**
b) **Should submissions be received, the Draft Single-use Packaging and Materials Policy be reported back to Council noting the submissions and**
35 **any amendments made as a result of the feedback received.**


BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.11

3. a) Council writes to the NSW government to lobby that they expand the list of banned single-use plastics under the *Plastic Reduction and Circular Economy Act 2021* in a timely manner.
- 5 b) Council distributes the adopted Policy to other Councils within the region for their information.

Attachments:

- 10 1 DRAFT Single-use Packaging and Materials Policy 2023 - October 2023, E2023/32923 

Report

Background

The NSW Waste and Sustainable Materials Strategy 2021-2027 (WASM) sets the framework for NSW to transition to a circular economy over the next 20 years.

- 5 Circular economy is defined as an economic system aimed at designing out waste and promoting the continual reuse of resources. A circular economy aims to keep products, equipment and infrastructure in use for longer, thus improving the productivity of these resources. This approach contrasts with the traditional linear economy, which has a 'take, make, dispose' model of production.
- 10 We can create a circular economy through;
- designing out materials that end up in landfill or as litter,
 - reusing or repairing products before they are thrown out,
 - and recycling material so it can be used multiple times in manufacturing or building.

To support this, the NSW government has set the following targets:

- 15
1. reduce total waste generated by 10% per person by 2030
 2. phase out problematic and unnecessary plastics by 2025

20 To achieve these targets, all levels of government need to make a concerted effort to drive behaviour change and support systems and innovation that create a circular economy. As an organisation we have an opportunity to demonstrate the necessary leadership to do this.

Information

25 The Draft Single-use Packaging and Materials Policy supports the delivery of the NSW government waste reduction targets, as well as key objectives within Council's *Towards Zero: Integrated Waste Management and Resource Recovery Strategy*. This Policy sets a standard, and encourages industry, business and the broader community working with Council to design and implement aligning values and practices.

The Policy will:

- Reduce pollution on our beaches, open spaces, road reserves
and waterways
- 30 • Mitigate impacts to our natural environment and wildlife caused by litter
- Reduce carbon emissions caused by producing, transporting, recycling and
disposing of single-use materials

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.11

- Preserve natural resources and reduce the need to mine raw materials
- Minimise the amount of valuable resources going to landfill
- Increase community pride and encourage leadership in environmental stewardship
- Work to change behaviour and normalise the use of reusables throughout our
5 community
- Provide confidence for industry to invest in infrastructure to support circular
economy initiatives
- Increase the sustainability of Council's internal practices and lead by example to
10 achieve our goal of zero-waste to landfill by 2029
- Support State and Federal waste reduction targets
- Reduce financial cost to Council and community

15 Single-use and takeaway packaging contributes to over 50% of the materials in our public place bins. There has been 40% increase in the amount of "takeaway" litter found in our environment over the past 4 years, whilst other litter categories have decreased. The cost of managing this stream falls largely on Council, at an estimated \$1.7 million per annum, a cost that is inevitably worn by our community. Through establishing a Policy such as this we aim to shift behaviour and decrease these costs by reducing this waste stream.

20 This packaging includes items defined as "compostable" or "biodegradable" most of which cannot be composted in industrial systems and generate emissions in their production, transport and disposal. It has also been identified that much of this packaging contains harmful chemicals such as PFAS. For these reasons, The NSW Environmental Protection Authority (EPA) has advised that no packaging – regardless of whether it is deemed as "compostable" or otherwise is allowable in the organic waste stream – this is only for food and garden waste, meaning this packaging is destined for landfill.

25 Many of these items could be easily replaced by a circular system whereby reusable items are used, washed and redistributed indefinitely. A comprehensive life cycle assessment conducted by *Upstream* demonstrates that reuse achieves better outcomes over single-use in terms of water use, emissions, and cost to business with varying break-even points depending on the number of times an item is reused.

30 The Policy addresses items, packaging and materials that are intended to be disposable, through disallowing their use. This refers to items that are designed for a single-use after which they are disposed of as solid waste.

Specific items that are not to be procured, used, sold or distributed under the Policy are listed in Table 3.3.1 of Attachment 1 (E2023/32923).

Who does the Policy apply to?

The Policy stipulates that single-use items, as identified within the Policy are not permitted to be procured, used, sold or distributed by the following groups or individuals:

- 5 • All Council business and operations (Councillors, Staff, Committees, Contractors, Volunteers) where single-use, disposable materials may be used such as, but not limited to, purchasing, packaging, merchandise, catering, workshops and events.
- All Council sponsored and funded activities and events
- 10 • All individuals, groups, or organisations planning to use, hire and/or lease Council owned or managed sites (buildings, facilities and land) that require Council's approval, formal notification or a permit to conduct an activity. This includes, but is not limited to, events, markets, information sessions, workshops, filming activities, meetings, parties, festivals or club activities.
- 15 • The use of balloons and decorations will not be permitted by an individual, group, or organisation, on any Council owned or managed sites (buildings, facilities and land) or road reserves.

Implementation

Implementation of this Policy will be staged to allow for appropriate stakeholder engagement and ensure Council operations are not negatively impacted.

Implementation of the Single-use Packaging and Materials Policy will occur as follows:

20 **Effective 6 months from adoption:**

Items listed in Table 3.3.1 as per Attachment 1 (E2023/32923) are not permitted to be purchased, sold or distributed by Council Staff, Councillors, Committees, Contractors, volunteers and/or other representatives of Council and Council sponsored and/or funded activities and events.

- 25 In addition, items 16 (Balloons) and 17 (Decorations) in Table 3.3.1 are not to be used or displayed by any individual (including members of the general public), group or organisation on Councils managed land, buildings, facilities or road reserves.

Effective 12 months from adoption:

- 30 Items listed in Table 3.3.1 are not to be purchased, sold or distributed by individuals, groups, or organisations planning to use, hire and/or lease Council owned or managed sites (buildings, facilities and land) that require Council's approval, formal notification or a permit to conduct an activity, either directly through Council or via a Section 355 Committee.

- 35 This includes, but is not limited to halls, events, markets, information sessions, workshops, filming activities, meetings, parties, weddings, festivals or sporting club activities.

Effective 24 months from adoption:

Or at renewal, whichever comes first, the Policy will apply to all private lease or licences within Council owned buildings, facilities or lands.

5 To support this Policy, Council’s infrastructure will be audited to identify gaps and investment made where required. External funding will be sought to support necessary infrastructure upgrades, with funding submissions bolstered by this Policy.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
3: Nurtured Environment	3.5: Minimise waste and encourage recycling and resource recovery practices	3.5.1: Waste management and resource recovery strategy - Implement Integrated Waste Management and Resource Recovery Strategy - Towards Zero	3.5.1.3	Improve management of Council generated waste through development and implementation of a policy that supports circular economy and waste hierarchy principles by eliminating single use packaging and materials
3: Nurtured Environment	3.5: Minimise waste and encourage recycling and resource recovery practices	3.5.2: Recycling - Work with business and tourism sector to reduce waste to landfill	3.5.2.2	Expand reusable networks in the takeaway food sector and decrease single use, disposable packaging
3: Nurtured Environment	3.5: Minimise waste and encourage recycling and resource recovery practices	3.5.2: Recycling - Work with business and tourism sector to reduce waste to landfill	3.5.2.5	Develop and implement Zero Waste Event processes and policies
3: Nurtured	3.5: Minimise	3.5.4:	3.5.4.3	Develop and support

Environment	waste and encourage recycling and resource recovery practices	Education - Empower the community to increase avoidance, reuse, and recycling activities		community-based sustainability and circular economy initiatives that increase reuse, repair and upskilling
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Recent Resolutions

Nil

Legal/Statutory/Policy Considerations

As outlined in Attachment 1 (E2023/32923)

5 Financial Considerations

Implementation of the Policy will be funded via the Waste Reserve – Strategy Implementation budget as adopted by Council.

Grant funding will also be sought to support identified infrastructure upgrade needs.

10 As an organisation, Council spends approximately \$230,000 per annum on internal waste management costs across its administration buildings and facilities. Through implementing Polices such as this, in combination with other waste reduction initiatives, Council aims to reduce this amount by 30% over the next two years.

Consultation and Engagement

15 Resource Recovery staff will continue to work with all stakeholders and user groups to support the transition away from single-use and help to set up systems that will be efficient and user friendly. Implementation will be supported by an extensive education campaign, toolkits and guidelines to assist a variety of user groups. It is acknowledged that the Policy will require a cultural shift from the linear throwaway model most are used to, and this will take a concerted effort from staff across the organisation.

20 Several staff have been consulted on the Policy and there has been widespread support and useful feedback, which has assisted in Policy development.

Internal staff engagement has occurred across the organisation to date, which includes;

April 2023: ET endorsement

25 June 2023: Climate Change and Resource Recovery Advisory Committee – presentation and opportunity to provide feedback to draft Policy

June 2023: IS Managers Meeting - presentation and Policy discussion

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.11

August 2023: Managers meeting – Managers briefed on Policy

September 2023: All Staff Forum Presentation

October 2023: Workshop with Councillors

5 September 2022 - October 2023: One on one discussions with staff across the organisation as well as team meetings have occurred with feedback provided.

Discussions with a number of key event organisers and market organisers on transitioning from single use to reusables have occurred, with further engagement planned through the public exhibition and phased implementation phases.

10

Report No. 13.12 Seven Mile Beach Road - Parking Management Options

Directorate: Infrastructure Services

5 **Report Author:** James Flockton, Infrastructure Planning Coordinator
Judd Cornwall, Traffic & Transport Engineer

File No: I2023/1556

Summary:


10 The purpose of this report is to discuss and update Council on the final stage of the parking improvements on Seven Mile Beach Road. This includes road sealing, parking and signage alternatives and paid parking at Seven Mile Beach Road following formalisation/rationalisation of parking bays at Brays Beach, Whites Beach and Seven Mile Beach carparks.

15

RECOMMENDATION:

That Council does not implement Pay Parking or Parking Wayfinding for Seven Mile Beach Road.

20 **Attachments:**

1 Traffic Count-Seven Mile Beach Rd, E2023/105788 

Report

Council previously resolved: 'Report No. 13.27 – Seven Mile Beach Road & Broken Head Reserve Road – Update' August 2020, Res – 20-424. With regard to Seven Mile Beach Council resolved as follows.

- 5 *That Council:*
- a) *for Seven Mile Beach Road:*
- (i) *develop a delivery program and communicate program with resident group.*
- (ii) *detail design of works in consultation with identified stakeholders.*
- 10 (iii) *undertake business case in consultation with Council's Finance team and DCA to confirm the financial viability of pay parking and parking technology requirements in the area.*
- (iv) *Analyse compliance car counts to investigate the appropriateness and extent of pay parking.*
- 15 (v) *Request NPWS to formalise and seal the Kings Beach Carpark and that this work be integrated into or undertaken in conjunction with the sealing works on Seven Mile Beach Road.*
- (vi) *approach NPWS with the proposal to manage and patrol their car parking scheme at Kings Beach. This would allow the whole Broken Head and Seven Mile Beach Rd plans to be integrated and managed as a whole.*
- 20 (vii) *consider a later report to Council and recommendation to give staff authority and permission to approach Transport for NSW for consent to apply paid parking.*
- (viii) *complete design investigations and documentation for the delivery of sealing works, signage, intersection treatment and traffic management facilities ensuring these integrate and complement any planned works in Broken Head Reserve Road whilst ensuring project delivery within agreed grant milestones.*
- 25

Update on actions completed

Item (i) was completed as part of the Construction works that completed Items (ii) and (viii) Work are now completed on Brays Beach, Whites Beach & Seven Mile Beach Road carparks.

- 30 Works involved the sealing, formalisation, rationalisation and delineation of parking spaces with obstacles/obstructions (large boulders) placed in illegal parking locations to prevent illegal parking.

Upon completion of these works, a noticeable reduction in complaints regarding illegal parking and three point turns in driveways has been observed by Council staff.

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.12

Item (v) has now been completed by the National Parks and Wildlife Service.

Item (vi) discussions are currently taking place with National Parks and Wildlife Service regarding this item and pay parking within Broken Head Reserve Road, this will be reported separately.

- 5 Item's (iii), (iv) and (vii) remain and the following discusses these items.

Item (iii) - undertake business case in consultation with Council's Finance team and DCA to confirm the financial viability of pay parking and parking technology requirements in the area.

- 10 Council staff have undertaken consultation with Pay Parking contractor Database Consultants Australia (DCA) to confirm the viability of pay parking and the pay parking requirements in this area. The outcomes of this are discussed in the key issues section.

Item (iv) - Analyse compliance car counts to investigate the appropriateness and extent of pay parking.

- 15 Based on enforcement data and observation it is obvious that there is a significant short fall in formalised parking with a 100 per cent occupancy during typical times of inspection.

During these times drivers are still willing to park outside the designated parking areas including no stopping/parking areas (>30 vehicles). It must be considered that this road is typically enforced on a complaint basis, or during peak holiday periods (busy times), due to Staff resourcing. Table 1 shows infringement counts for two months as an example.

20

Inspection Month	Parking Infringements
September 2023	12
October 2023 at this time	34 (inc. long weekend)

Table 1: Recent infringement data Seven Mile Beach Road

It is considered unlikely the implementation of pay parking will impact driver behaviour along Seven Mile Beach Road when considering the current situation at Wategos and Tallows Beach.

- 25 The best way for such as scheme to work would involve timed parking with sensors that require solid communications (3G/5G). Seven Mile Beach Road does not provide an adequate level of coverage for this type of scheme. The requirement of sensors would be necessary from an enforcement standpoint in that they (sensors) would alert officers of overstay in real time. There is also a possibility that any time restrictions would increase vehicle turnover and exacerbate the current traffic volume concerns.
- 30

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.12

It is also considered that as residents do not pay for parking, and that visitors are generally willing to pay to park, the scheme (pay parking) will potentially have no impact on vehicle volumes.

- 5 Item (vii) - consider a later report to Council and recommendation to give staff authority and permission to approach Transport for NSW for consent to apply paid parking.

Given the outcomes discussed under item (iii), this action is no longer consider current and is not proposed to happen for Seven Mile Beach Road.

Key issues

- 10 Pay Parking

Council Pay Parking contractor Database Consultants Australia (DCA) have advised that communications between terminals and the DCA cloud would be difficult due to poor network coverage in the area. DCA have advised that Council are best to use a product called a 'relay station' (see image below). This is not the latest technology from DCA, however the latest technology cannot be utilised in this area due to poor network connectivity. DCA were unable to advise on an uptime of the technology.

Further to this, additional signage would need to be installed, as the relay stations must be attached to a sign.

- 20 Council staff have already received several complaints in this area due to sign proliferation and believe the addition of signage would lead to a negative community perception of the project. Further to this, the signs would have no compliance purposes.

Lastly, due to the network connectivity issues of the system, only cash transactions would be accepted.

- 25 Council staff have assessed other network connectivity options such as underground cable and signal boosters. However, have concluded that the extremely costly exercise of boosting network connection in the location would be perceived as outside the council's scope of works (such as, using Council funds to provide the community with cost-effective infrastructure, leading to safer commutes).

- 30 Due to communication constraints the uptime of the terminals is expected to be severely lessened, without the installation of cables. Leading to risks of; increased maintenance costs, negative public opinion, non-usable infrastructure and an inability to issue fines.

Given the above assessment staff believe pay parking is not a viable option in this locality, based on the isolated nature of the area and the infrastructure required to implement it.

Automated signage at Brays Beach, Whites Beach & Seven Mile Beach car parks

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.12

Staff have investigated the current technology available to advise drivers how many car parking spaces are free at Brays Beach, Whites Beach & Seven Mile Beach car parks. The goal being to reduce traffic volumes on Seven Mile Beach Road.

5 As part of these investigations staff considered three typical examples to understand how the signage would work and its likely success. The three typical example scenarios are provided below.

If the signage were to show:

- More than One Free Parking Space: Driver(s) would proceed down Seven Mile Beach Road as they would expect to easily find a park.
- 10 • One Free Parking Space: Driver(s) would proceed down Seven Mile Beach Road as a space is free. However, the driving time between Broken Head Road and Whites Beach is approximately nine minutes. Throughout that nine-minute interval, there is potential for more than one vehicle to already be on Seven Mile Beach Road and take that one space. Users would then reach their destination and find no parks or
15 multiple parks. It wouldn't take long for users to stop trusting the information provided at the start of the road and result in current behaviour continuing.
- No Free Parking Space: Driver(s) would do one of two things; 1, turn around because there are no spaces or 2, still proceed down Seven Mile Beach Road in the
20 hope of finding a space that somebody is leaving given the travel times scenario above. 2 is considered to be the more likely outcome and therefore result in no change in behaviour.

In all three scenarios the system is unlikely to achieve its goal of reducing traffic volumes on the road.

25 Further to the above constraints, the same constraints on communications technology discussed for Pay Parking will also exist for this technology. This can be solved, but all options are difficult.

Additionally, as noted above multiple complaints have been received from residents regarding sign proliferation in this natural environment. However, to make this project viable, multiple signs will need to be installed for this technology.

30 Following the above investigations staff believe automated signage would be difficult to implement due to the communication issues, expensive to maintain due to the delicate nature of the technology plus the system is unlikely to deter drivers from proceeding down Seven Mile Beach Road. Therefore, the system is unlikely to achieve its goal.

Road Conditions

35 Staff have received reports of people driving on wrong side of the road to avoid potholes, Koala's at risk and water carriers not willing to cart water on Seven Mile Beach Road.

Seven Mile Beach Road has a default speed limit that requires drivers to drive to the road conditions. If drivers are choosing to negotiate potholes by encroaching onto the wrong

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.12

5 side of the road and in dangerous locations this is considered a behavioural issue and will not be resolved by sealing a road that may also; in time develop potholes. Pre-COVID traffic survey data indicates that the Annual Average 85th percentile speeds on Seven Mile Beach are below 40km/h. This indicates that most drivers are willing to drive at an acceptable speed (attachment 1).

At the times that officers have driven the road where a driver has needed to pass where there are potholes present it was observed that you can do so when exercising due care and attention.

10 Potholes are managed through a prioritised maintenance program, and Seven Mile Beach Road will continue to be monitored for any increase in safety issues and programmed accordingly. Notwithstanding, the Works Operational Team will investigate improved levels of service on the existing gravel road.

15 Managing speeds on Seven Mile Beach Road, if it were to be sealed would be difficult without some form of physical intervention. Local Area Traffic Management Devices such as speed humps would not be recommended due to possible environmental issues such as noise, impacts on emergency services. A slow point scheme would be hard to implement due to sight distance constraints between the devices.

20 Based on the traffic survey data it would be difficult to validate koala strike risk reduction by sealing a road. Traffic speeds typically increase when a road is sealed, and vehicle speeds are already operating at less than 40km/h. Physical separation is likely the only treatment that would have any impact on the likelihood of koala vehicle strike. Vehicle separation would be difficult to achieve with existing road width, therefore, tree removal may be required to achieve separation.



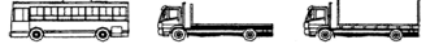









25 The traffic survey data as it relates to water truck deliveries also indicates that when the road conditions are at an acceptable level Heavy Vehicles are willing to use the road (five, class 3 heavy vehicles per day).

Figure 1: Traffic Survey Data, vehicle classes

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

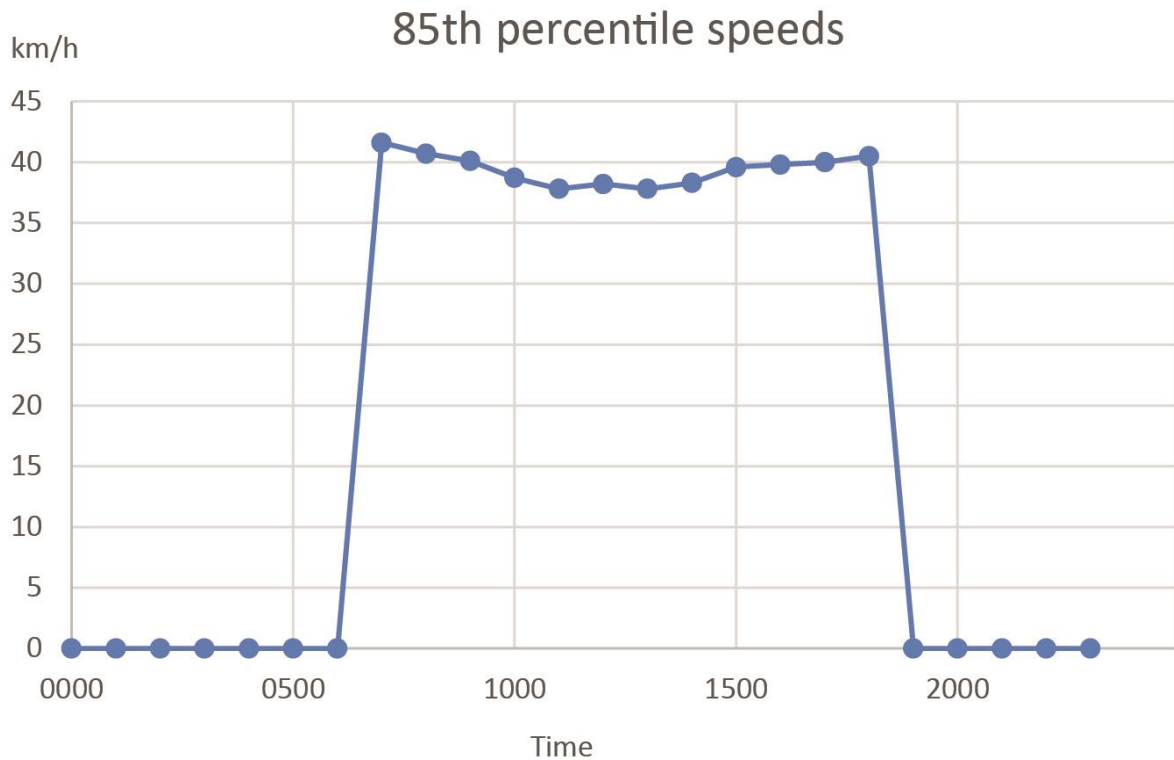
13.12

AUSTROADS Vehicle Classification System							
Level 1 Length (indicative)	Level 2 Axles and Axle Groups		Level 3 Vehicle Type	AUSTROADS Classification			
Type	Axles	Groups	Typical Description	Class	Parameters	Typical Configuration	
LIGHT VEHICLES							
Short up to 5.5m		1 or 2	Short Sedan, Wagon, 4WD, Utility, Light Van, Bicycle, Motorcycle, etc	1	d(1) ≤ 3.2m and axles = 2		
Medium 5.5m to 14.5m	3, 4 or 5	3	Short - Towing Trailer, Caravan, Boat, etc	2	groups = 3 d(1) ≥ 2.1m, d(1) ≤ 3.2m, d(2) ≥ 2.1m and axles = 3, 4 or 5		
	HEAVY VEHICLES						
		2	2	Two Axle Truck or Bus	3	d(1) > 3.2m and axles = 2	
		3	2	Three Axle Truck or Bus	4	axles = 3 and groups = 2	
	> 3	2	Four Axle Truck	5	axles > 3 and groups = 2		
Long 11.5m to 19.0m		3	Three Axle Articulated Three axle articulated vehicle, or Rigid vehicle and trailer	6	d(1) > 3.2m, axles = 3 and groups = 3		
		4	Four Axle Articulated Four axle articulated vehicle, or Rigid vehicle and trailer	7	d(2) < 2.1m or d(1) < 2.1m or d(1) > 3.2m axles = 4 and groups > 2		
		5	Five Axle Articulated Five axle articulated vehicle, or Rigid vehicle and trailer	8	d(2) < 2.1m or d(1) < 2.1m or d(1) > 3.2m axles = 5 and groups > 2		
		≥ 6	> 2	Six Axle Articulated Six axle articulated vehicle, or Rigid vehicle and trailer	9	axles = 6 and groups > 2 or axles > 6 and groups = 3	
Medium Combination 17.5m to 36.5m		> 6	B Double B Double, or Heavy truck and trailer	10	groups = 4 and axles > 6		
		> 6	Double Road Train Double road train, or Medium articulated vehicle and one dog trailer (M.A.D.)	11	groups = 5 or 6 and axles > 6		
Large Combination Over 33.0m		> 6	Triple Road Train Triple road train, or Heavy truck and three trailers	12	groups > 6 and axles > 6		

Definitions: Group: Axle group, where adjacent axles are less than 2.1m apart
 Groups: Number of axle groups
 Axles: Number of axles (maximum axle spacing of 10.0m)

d(1): Distance between first and second axle
 d(2): Distance between second and third axle

Figure 2: Below, traffic survey data (six month)



Options

Option 1 – Parking Sensors and Wayfinding

- 5 Option 1 is based around the use of in ground parking sensors, solar powered digital wayfinding signage, PayStay phone app for pay parking payments and parking meters.

10 Inground sensors can be deployed across the 66 spaces along Seven Mile Beach Road. Data from these sensors can be relayed back to a digital sign at the entrance of Seven Mile Beach Road to let people know how many spaces are free at each car park along the road. The purpose is to help reduce traffic volumes along the road if people can see all the car parks are full when they reach the Seven Mile Beach Road intersection.

One challenge is that the road is 4.5km long requiring consideration on how to relay the in-ground sensor data back to the road entrance.



If time limits and pay parking are introduced, then sensor data can be monitored via an online dashboard to see occupancy rates and any cars that have over stayed time limits.

Sensors can also be placed in areas prone to illegal parking to alert staff.

- 5 In addition, one cashless parking meter may be deployed at each car park in combination with the PayStay phone payment app. A cashless meter is recommended due to the isolated nature of the area and potential for vandalism with people trying to steal money.

The image below shows what the 1.5m high cashless meter would typically look like.



- 10 This option relies upon a solid 3G/5G communication network, that is not available without significant cost.

Option 2 – Smart Speed Humps and Way Finding

Option 2 is based around “smart” speed humps, solar powered wayfinding signage, PayStay phone app and cashless parking meters.

- 15 Smart speed humps act like traffic counters. When a car hits one side of the hump it counts the car and registers what direction it is going. When a car turns around and hits the other side of the hump it again counts the car and registers the car is travelling in the other direction.

The smart speed humps could then be placed at the entrance to Kings Beach Car Park and at either end of Brays Beach, Whites Beach and Seven Mile Beach car parks. As cars enter and leave Kings beach the smart speed hump can count how many cars remain in the car park. As a car enters the Brays Beach car park it hits the speed hump and is registered as being in the car park. If the car continues through the car park and hits the smart hump on the other side, it is registered as leaving the car park. A similar system can be established for Whites car park and Seven Mile Beach car parks.

In addition, one cashless parking meter may be deployed at each car park in combination with the PayStay phone payment app. A cashless meter is recommended due to the isolated nature of the area and potential for vandalism with people trying to steal money.

This option relies upon a solid 3G/5G communication network, that is not available without significant cost.

Option 3 – Parking Meters and supporting Boom Gate at Entrance to Seven Mile Beach Road

A pay on exit scheme would basically be a tolling system with or without a physical gate. Tolling a road can be problematic for several reasons, and the issues associated with road tolls can vary depending on the specific context and implementation. Common problems and concerns associated with road tolling:

1. Equity and Social Impact: Toll roads can place a financial burden on visiting low-income individuals and communities.
2. Administrative Costs: Establishing and maintaining toll collection systems can be expensive. The costs associated with toll booths, electronic toll collection infrastructure, and administrative staff can be significant. These costs may not always be outweighed by the revenue generated from tolls.
3. Privacy Concerns: Electronic toll collection systems, such as RFID tags or license plate recognition, can raise concerns about privacy and data security. Collecting and storing data on the movements of vehicles can be seen as an invasion of privacy.
4. Implementation Challenges: Implementing tolls can be a complex process, involving legal, technical, and logistical challenges. Planning and building toll infrastructure can take time and resources, and public resistance or opposition can further complicate the process.
5. Maintenance and Funding Issues: While tolls can generate revenue for road maintenance and improvements, there is the risk that funds are diverted to other purposes or that they are insufficient to cover necessary infrastructure maintenance.

- 6. Enforcement and Evasion: Enforcing toll payments can be a challenge. Some drivers may evade tolls, leading to revenue loss. Implementing effective enforcement mechanisms can be costly and may result in privacy concerns.
- 5 7. Complex Pricing Structures: The complexity of toll pricing structures can be confusing for drivers. Variable pricing based on time of day, vehicle type, or other factors can be difficult to understand and can lead to unexpected costs.
- 10 8. Infrastructure damage: given the remote nature of the location, even near the entrance of Seven Mile Beach Road, there is a risk of regular damage to the system with the aim of preventing it from working and therefore evading tolls.
- 15 9. Residents should not have to pay to utilise a public road within the Shire and visitors will likely be willing to pay.

As noted throughout this report any form of a pay parking or wayfinding solution for Seven Mile Beach Road will be very hard to implement and have a low chance of success in meeting it's goal of reduced traffic volumes on this road. Unless the parking fees were exorbitantly expensive to allow them to cover system set up and operational costs and act as a deterrent in them self.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
5: Connected Infrastructure	5.1: Provide a safe, reliable, and accessible transport network	5.1.2: Road renewal and upgrades - Deliver road renewal and upgrade capital works program	5.1.2.17	Deliver Seven Mile Beach Road traffic control works

Recent Resolutions

- 15/679, 16/680, 17/551, 18/554, 18/803, 19/486, 19/486, 19/609, 19/663 19/695, 20/080, 20/424, 21/161, 21/454.

Legal/Statutory/Policy Considerations

Installation of Pay Parking is subject to support from TfNSW and NPWS.

5 In an era of depleting natural resources, climate change and increasing financial, environmental and community costs, Byron Shire Council aim is:

10 To develop and support an effective, convenient, efficient, equitable and integrated shire-wide transport network and management approach that improves mobility, accessibility and choice for all users, especially the transport disadvantaged, while reducing use of non-renewable energy and improving sustainability, amenity and opportunities for individual, community and environmental health, wellbeing and interaction.

15 This will be achieved by delivering an integrated and partnership approach of developing, managing, constructing and/or maintaining all facets of the multi-modal transport mix to meet the above objectives; the attainment, responsibility and measurement of which will be subject to the transport strategy and its subsequent actions.

Staff will continue to monitor and prioritise road upgrades as required. All upgrades will consider the Shires internal Road Access Safety Principles and alignment with the Safe Systems towards zero principles.

20 Staff recognise challenges in treating behavioural road safety issues versus the ability to treat actual road operational deficiencies.

Financial Considerations

Council has limited resources and has to ensure these limited resources are targeted appropriately. Staff do not consider further works and investigations into these issues to be a priority for Councils financial and staff resources at this time.

25 Consultation and Engagement

Substantial community consultation has been an ongoing component of these issues with both local residents and the wider shire community being engaged.

No consultation has occurred recently with regard to this report update.

Report No. 14.1 Report of the Heritage Advisory Committee Meeting held on 31 August 2023

5 **Directorate:** Sustainable Environment and Economy

File No: I2023/1444

Summary:

10 This report provides the minutes of the Heritage Advisory Committee Meeting held on 31 August 2023

RECOMMENDATION:

15 That Council notes the minutes of the Heritage Advisory Committee Meeting held on 31 August 2023.

Attachments:

20 1 Minutes of Heritage Advisory Committee Meeting held 31 August 2023, I2023/1319 

BYRON SHIRE COUNCIL

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY 14.1

Report

The attachment to this report provides the minutes of the Heritage Advisory Committee Meeting of 31 August 2023 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/2023/08/HER_31082023_A_GN_1665_AT.PDF

Summary of Reports

The following items were considered by the Committee:

Report No. 4.1 Heritage Advisory Committee Member Updates

- 10 That the Heritage Advisory Committee notes the member updates in Attachment 1.

Report No. 4.2 Heritage Program Update

That the Heritage Advisory Committee:

1. Notes the Heritage Program update report.
- 15 2. Requests a response from staff at the next available Committee meeting on matters raised by members in their discussions of Report 4.1 (& Attachment 1) in the Future items report.
- 20 3. Requests staff prepare a report on the options for introducing dual language place names and street sign and interpretative signage where possible to acknowledge and celebrate Bundjalung culture. This report will need to be prepared in collaboration with other Directorates of Council.

Financial Implications

As per the Reports listed within the Heritage Advisory Committee Meeting of 31 August 2023.

Statutory and Policy Compliance Implications

- 25 As per the Reports listed within the Heritage Advisory Committee Meeting of 31 August 2023.

**Report No. 14.2 Report of the Housing and Affordability
Advisory Committee Meeting held on 21
September 2023**

Directorate: Sustainable Environment and Economy

5 **File No:** I2023/1458

Summary:

This report provides the minutes of the Housing and Affordability Advisory Committee Meeting held on 21 September 2023.

10

RECOMMENDATION:

That Council notes the minutes of the Housing and Affordability Advisory Committee Meeting held on 21 September 2023.

15

Attachments:

1 Minutes 21/09/2023 Housing and Affordability Advisory Committee, I2023/1412 

20

Report

The attachment to this report provides the minutes of the Housing and Affordability Advisory Committee Meeting of 21 September 2023 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/2023/09/HAAAC_21092023_AGN_1669_AT.PDF

The following items were considered by the Committee:

Report No. 3.1 Adoption of Minutes from Housing and Affordability Advisory Committee

- 10 That the minutes of the Housing and Affordability Advisory Committee Meeting held on 18 May 2023 be confirmed.

Report No. 4.1 Presentation on Housing Options Paper by Locale Consulting

The Committee:

- 15
1. Thanked Cinnamon Dunsford from Locale Consulting for the presentation on the Housing Options Paper for Byron Shire.
 2. Noted a full report on the Housing Options Paper and Residential Strategy Refresh is on the Agenda for the 28 September 2023 Ordinary meeting of Council.

Report No. 4.2 Housing Initiatives and Project Updates Report

- 20 The Committee noted the update on current initiatives and projects being progressed by Council staff.

Report No. 4.3 Future Discussion Items for Housing and Affordability Advisory Committee

The Committee:

- 25
1. Agreed to discuss exploring ways that the Housing and Affordability Advisory Committee (HAAC) can be more proactive and interactive at a future meeting.
 2. Noted that re-use of existing buildings for affordable housing purposes and exploration of lot sizes and purpose will be investigated as part of the Residential Strategy refresh.
 - 30 3. Discusses at the next Committee meeting what options Council can proceed with immediately to provide for temporary accommodation to support those experiencing housing insecurity, displacement and homelessness in the Shire that fall outside of the current state funded programs.
 4. Invites Dr. Michael Klein to present to the Committee on the Build to Rent - Kohlenrutsche, Vienna model.

BYRON SHIRE COUNCIL

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY 14.2

Financial Implications

As per the Reports listed within the Housing and Affordability Advisory Committee Meeting of 21 September 2023.

Statutory and Policy Compliance Implications

- 5 As per the Reports listed within the Housing and Affordability Advisory Committee Meeting of 21 September 2023.

Report No. 14.3 Report of the Biodiversity Advisory Committee Meeting held on 21 September 2023

Directorate: Sustainable Environment and Economy

5 **File No:** I2023/1459

Summary:

This report provides the minutes of the Biodiversity Advisory Committee Meeting held on 21 September 2023.

10

RECOMMENDATION:

1. **That Council notes the minutes of the Biodiversity Advisory Committee Meeting held on 21 September 2023.**

15


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

Report No. 4.1 Identifying Open Forest Ecosystems for Ecological Restoration
File No: I2023/386

Committee Recommendation

That Council explores the option of comparative mapping between the open forest mapping and Council's bush fire prone land mapping.

Attachments:

1 Minutes 21/09/2023 Biodiversity Advisory Committee, I2023/1410 

20

BYRON SHIRE COUNCIL

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY 14.3

Report

The attachment to this report provides the minutes of the Biodiversity Advisory Committee Meeting of 21 September 2023 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/2023/09/BAC_21092023_A_GN_1642_AT.PDF

The following items were considered by the Committee:

Report No. 3.1 Confirmation of minutes from the 17 August meeting

The Committee determined:

- 10 That the minutes of the Biodiversity Advisory Committee Meeting held on 17 August 2023 be confirmed.

Report No. 4.1 Identifying Open Forest Ecosystems for Ecological Restoration

The Committee determined:

- 15 1. That the Biodiversity Advisory Committee welcomes the report and Attachment 1 (E2023/26821) and notes the importance of restoring eco-cultural burning practices.
2. That Open Ecosystem Restoration Potential mapping is added to Council's online mapping tool.
3. That Council explores the option of comparative mapping between the open forest mapping and Council's bush fire prone land mapping.

20 Report No. 4.2 Update on Work Carried Out by Byron Council's Bush Regeneration Team

The Committee applauds the work that has been carried out by Byron Council's Bush Regeneration Team and notes the report and presentation.

25 Report No. 4.3 Future Discussion Items for Biodiversity Advisory Committee

The Committee noted the report.

Financial Implications

As per the Reports listed within the Biodiversity Advisory Committee Meeting of 21 September 2023.

30 Statutory and Policy Compliance Implications

As per the Reports listed within the Biodiversity Advisory Committee Meeting of 21 September 2023.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.4 Report of the Local Traffic Committee Meeting held on 19 September 2023

5 **Directorate:** Infrastructure Services
File No: I2023/1450

Summary:

10 The attachment to this report provides the minutes of the Local Traffic Committee Meeting held on 19 September 2023 for determination by Council.

Council's action on the LTC advice will be:

- 15 a) If Council is in agreement with the LTC unanimous support then the proposal may be approved. In these cases there is no conflict between Council and the advice of the LTC, consequently there is no need for Council to inform TfNSW or the NSW Police representatives of the decision.
- b) If Council is in agreement with the LTC unanimous support, but no longer wants to proceed, the proposal may still be rejected.
- 20 c) If Council is in agreement with the LTC unanimous decline then the proposal may be rejected. Again there is no conflict between Council and the advice of the LTC. Consequently there is no need for Council to inform TfNSW or the NSW Police representatives of the decision.
- 25 d) If Council decides to proceed with a proposal where the advice of the LTC is not unanimous support, then the Council must first advise the TfNSW and the NSW Police representatives in writing of their intention to approve the proposal. TfNSW or the NSW Police may then lodge an appeal to the Regional Traffic Committee (RTC).
- 30 e) If Council decides to proceed with a proposal where the advice of the LTC is a unanimous decline, then the Council must first advise the TfNSW and NSW Police representatives in writing of their intention to approve the proposal. TfNSW or the NSW Police may then lodge an appeal to the RTC.

Due to the fact that the TfNSW and the NSW Police have the power to appeal certain decisions of the Council, the LTC cannot provide its advice to Council until both TfNSW and the NSW Police have provided their vote on the issue.

RECOMMENDATION:

- 5 1. That Council notes the minutes of the Local Traffic Committee Meeting held on 19 September 2023.

2. That Council adopts the following Committee Recommendation:

Report No. 6.1 New Road Barriers for Riverside Crescent, Brunswick Heads
File No: I2023/1074

Committee Recommendation 6.1.1

That the Local Traffic Committee approves installation of semi-permanent fixed signage and precast concrete islands to replace the temporary water filled barriers on the north bound leg of Riverside Crescent roundabout in Brunswick Heads.

3. That Council adopts the following Committee Recommendation:

Report No. 6.2 No stopping signage for sewage pump station access (Shire-wide)
File No: I2023/1371

Committee Recommendation 6.2.1

That the Local Traffic Committee endorses the installation of parking restrictions at the two locations figures 1 & 2 being;

1. Location 1: Kingsford Drive, Brunswick Heads between property number 23 & 25.
2. Location 2: Kingsford Drive, Brunswick Heads opposite property number 87.

4. That Council adopts the following Committee Recommendation:

**Report No. 6.3 Bayshore Dr / Ewingsdale Rd Roundabout Linemarking
Improvements**

File No: I2023/1372

Committee Recommendation 6.3.1

That the Local Traffic Committee endorses the proposed spiral treatment at the roundabout intersection of Ewingsdale Road / Bayshore Drive, Byron Bay.

Attachments:

5

1 Minutes 19/09/2023 Local Traffic Committee, I2023/1440 

Report

The attachment to this report provides the minutes of the Local Traffic Committee Meeting of 19 September 2023 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 [Agenda of Local Traffic Committee Meeting - Tuesday, 19 September 2023 \(infocouncil.biz\)](https://infocouncil.biz)

This report contains the recommendations of the Local Traffic Committee (LTC) meeting held on 19 September 2023.

Committee Recommendation

- 10 As per the Reports listed within the Local Traffic Committee Meeting of 19 September 2023.

Financial Implications

As per the Reports listed within the Local Traffic Committee Meeting of 19 September 2023.

- 15 **Statutory and Policy Compliance Implications**

As per the Reports listed within the Local Traffic Committee Meeting of 19 September 2023.

**Report No. 14.5 Report of the Floodplain Management
Advisory Committee Meeting held on 19
September 2023**

Directorate: Infrastructure Services

5 **File No:** I2023/1454

Summary:

The attachment to this report provides the minutes of the Floodplain Management
Advisory Committee Meeting of 19 September 2023 for determination by Council.

10

RECOMMENDATION:

1. **That Council notes the minutes of the Floodplain Management Advisory
Committee Meeting held on 19 September 2023.**

15

2. **That Council does not adopt Committee Recommendation(s) 4.2 as shown in
the attachment to this report, but instead adopts the Management
Recommendation(s) as follows:**

Report No. 4.2 Byron Bay Drainage Upgrade - Project Update
File No: I2023/980

Committee Recommendation 4.2.1

**That the Council notes the update on the Byron Drainage Upgrade Strategy and
recommend that a scenario be examined with gravity system with flood gates
instead of pumps.**

Management Recommendation

That the Council notes the update on the Byron Drainage Upgrade Strategy.

BYRON SHIRE COUNCIL

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

14.5

Attachments:

- 1 Minutes 19/09/2023 Floodplain Management Advisory Committee, I2023/1442 

5

Report

The attachment to this report provides the minutes of the Floodplain Management Advisory Committee Meeting of 19 September 2023 for determination by Council. The agenda for this meeting can be located on Council's website at:

5 byron.infocouncil.biz/Open/2023/09/FLOOD_19092023_AGN_1740_AT.PDF

The following items were considered by the Committee:

Report No. 4.1 Community Education Strategy and Review of Flood Options - Project Introduction

10 The purpose of this report is to introduce the project to the committee and gain feedback from the committee on project elements, data, stakeholders and community engagement.

Report No. 4.2 Byron Bay Drainage Upgrade - Project Update

This report provides a status update for the project.

Committee Recommendation

Management Comments

15 Management do not agree with the Committee recommendation for **Report No. 4.2 Byron Bay Drainage Upgrade - Project Update** for the reasons given below and alternatively recommend that Council:

That the Council notes the update on the Byron Drainage Upgrade Strategy.Financial Implications

20 As per the Reports listed within the Floodplain Management Advisory Committee Meeting of 19 September 2023.

Statutory and Policy Compliance Implications

As per the Reports listed within the Floodplain Management Advisory Committee Meeting of 19 September 2023.

25

**Report No. 14.6 Report of the Infrastructure Advisory
Committee Meeting held on 21 September
2023**

Directorate: Infrastructure Services

5 **File No:** I2023/1463

Summary:

The attachment to this report provides the minutes of the Infrastructure Advisory
Committee Meeting of 21 September 2023 for determination by Council.

10

RECOMMENDATION:

1. **That Council notes the minutes of the Infrastructure Advisory Committee
Meeting held on 21 September 2023.**

15

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

Report No. 4.1 Shire Wide Pedestrian Crossing Upgrades
File No: I2023/1142

Committee Recommendation 4.1.1

**That Council endorses the proposed upgrade program for Byron Shire zebra
crossings, subject to funding availability.**

Attachments:

20 1 Minutes 21/09/2023 Infrastructure Advisory Committee, I2023/1441 

Report

The attachment to this report provides the minutes of the Infrastructure Advisory Committee Meeting of 21 September 2023 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 [Agenda of Infrastructure Advisory Committee Meeting - Thursday, 21 September 2023 \(infocouncil.biz\)](https://www.infocouncil.biz)

The following items were considered by the Committee:

Report No. 4.1 Shire Wide Pedestrian Crossing Upgrades

- 10 This report provides recommendations for staged upgrade of shire wide pedestrian crossings for review by Council.

Report No. 4.2 Report of the Infrastructure Advisory Committee Meeting held on

Reports provides an updated on the 2023/2024 reseal, resheeting/grading and stormwater drainage programs. Committee noted the report.

Report No. 4.3 Capital Works Program 2023/24

- 15 This report presents an update on the progress of the 2023/24 Capital Works Program in conjunction with the (10) year Capital Works Program. Committee noted the report.

Committee Recommendation

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

20 Financial Implications

As per the Reports listed within the Infrastructure Advisory Committee Meeting of 21 September 2023.

Statutory and Policy Compliance Implications

- 25 As per the Reports listed within the Infrastructure Advisory Committee Meeting of 21 September 2023.

Report No. 14.7 Report of the Local Traffic Committee Meeting held on 15 August 2023

Directorate: Infrastructure Services

Report Author: Shelley Flower, Road Safety Officer

5 **File No:** I2023/1225

Summary:

10 The attachment to this report provides the minutes of the Local Traffic Committee Meeting held on 15 August 2023 for determination by Council.

Council's action on the LTC advice will be:

- 15 a) If Council is in agreement with the LTC unanimous support then the proposal may be approved. In these cases there is no conflict between Council and the advice of the LTC, consequently there is no need for Council to inform TfNSW or the NSW Police representatives of the decision.
- b) If Council is in agreement with the LTC unanimous support, but no longer wants to proceed, the proposal may still be rejected.
- 20 c) If Council is in agreement with the LTC unanimous decline then the proposal may be rejected. Again there is no conflict between Council and the advice of the LTC. Consequently there is no need for Council to inform TfNSW or the NSW Police representatives of the decision.
- 25 d) If Council decides to proceed with a proposal where the advice of the LTC is not unanimous support, then the Council must first advise the TfNSW and the NSW Police representatives in writing of their intention to approve the proposal. TfNSW or the NSW Police may then lodge an appeal to the Regional Traffic Committee (RTC).
- e) If Council decides to proceed with a proposal where the advice of the LTC is a unanimous decline, then the Council must first advise the TfNSW and NSW Police representatives in writing of their intention to approve the proposal. TfNSW or the NSW Police may then lodge an appeal to the RTC.

30 Due to the fact that the TfNSW and the NSW Police have the power to appeal certain decisions of the Council, the LTC cannot provide its advice to Council until both TfNSW and the NSW Police have provided their vote on the issue.

RECOMMENDATION:

5 1. That Council notes the minutes of the Local Traffic Committee Meeting held on 15 August 2023.

2. That Council adopts the following Committee Recommendation:

Report No. 6.1 Gilmore Crescent, Byron Bay - Regulatory Signage, new carpark.

File No: I2023/907

Committee Recommendation 6.1.1

That this report be noted as it was considered at the previous Local Traffic Committee held on 21 July 2023..

3. That Council adopts the following Committee Recommendation:

Report No. 6.2 Bayshore Drive - Parking Signage Exception For Permit Holders.

File No: I2023/909

Committee Recommendation 6.2.1

That the Local Traffic Committee endorse the permit holder exception from 1am – 6am on Bayshore Drive, between Wallum Place and the railway tracks to the north.

4. That Council adopts the following Committee Recommendation:

Report No. 6.3 544 Coolamon Scenic Drive - Regulatory Signage & Line Marking for upgrade driveway crossovers - Road Safety Audit

File No: I2023/1125

Committee Recommendation 6.3.1

That the Local Traffic Committee endorse the proposed regulatory signage and line marking within Coolamon Scenic Drive, Coorabell as per attachment 1 (#E2023/63902).

5. That Council adopts the following Committee Recommendation:

Report No. 6.4 No Parking Area - Booyun Street, Car Park (CWA and Brunswick Heads Public School)

File No: I2023/1139

Committee Recommendation 6.4.1

That the Local Traffic Committee supports the No Parking restrictions shown in figure 1, contained within this report.

6. That Council adopts the following Committee Recommendation:

Report No. 6.5 Proposed BAR type intersection on Bangalow Road

File No: I2023/1188

Committee Recommendation 6.5.1

That the Local Traffic Committee support the line markings associated with the Bangalow Road intersection works, as shown in Attachment 1 (E2023/81016).

7. That Council adopts the following Committee Recommendation:

Report No. 6.6 South Beach Road, Parking Area

File No: I2023/1198

Committee Recommendation 6.6.1

That the Local Traffic Committee endorse the proposed No Parking Area scheme for South Beach Road and South Beach Lane, Brunswick Heads.

8. That Council adopts the following Committee Recommendations:

**Report No. 7.1 Road Safety Improvements to Warrambool Road and
Coomburra Crescent Intersection Ocean Shores**

File No: I2023/780

Committee Recommendation 7.1.1

That the Local Traffic Committee support:

- 1. The concept for further development and reporting to future committee meeting.**
- 2. Council seeking funding for these changes.**

Attachments:

- 1 Minutes 15/08/2023 Local Traffic Committee, I2023/1194 

5

Report

The attachment to this report provides the minutes of the Local Traffic Committee Meeting of 15 August 2023 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 https://byron.infocouncil.biz/Open/2023/08/LTC_15082023_AGN_1686_AT_WEB.htm

This report contains the recommendations of the Local Traffic Committee (LTC) meeting held on 15 August 2023.

Committee Recommendation

As per the Reports listed within the Local Traffic Committee Meeting of 15 August 2023.

10 Financial Implications

As per the Reports listed within the Local Traffic Committee Meeting of 15 August 2023.

Statutory and Policy Compliance Implications

As per the Reports listed within the Local Traffic Committee Meeting of 15 August 2023.

QUESTIONS WITH NOTICE

Question with Notice No. 15.1 Infrastructure Capacities

File No: I2023/1558

5

Cr Dey asks the following question:

10 The Housing Options Paper on public exhibition for four weeks from 9 October 2023 is a prelude to a formal *Residential Strategy* which will lead to rezoning i.e. ‘upzoning’ land so that it can be subdivided for new housing. The Paper indicates a possible increase in Mullumbimby of 1,640 new houses by 2043 and in Brunswick Heads of 2,009 new houses (mostly in the Saddle Road area).

15 The Paper states at Page 14 that:

“in July 2023, Council completed an infrastructure capacity review for Mullumbimby and Brunswick Heads to assess the water and sewer infrastructure required to support future housing supply”.

1. Is this review available to the public and, if so, where?
- 20 2. When will it be presented to Council’s Water & Sewer Advisory Committee for its information?
3. Does the Brunswick Valley STP have capacity for these increases in urban populations and for the addition of sewer loads from Ocean Shores?
- 25 4. If not, when will investigations commence on the capacity of the Brunswick River Estuary to accept the increased loading to it of liquid, nutrients, contaminants, pharmaceuticals, and all other factors?

Response Director Sustainable Environment and Economy and Director Infrastructure Services:

1. Is this review available to the public and, if so, where?
- 30 Technical review documents to support strategy work are for internal use only, and not available to the public.
2. When will it be presented to Council’s Water & Sewer Advisory Committee for its information?

BYRON SHIRE COUNCIL

QUESTIONS WITH NOTICE

15.1

Technical review documents to support strategy work are for internal use only, and not available to the public.

3. Does the Brunswick Valley STP have capacity for these increases in urban populations and for the addition of sewer loads from Ocean Shores?
- 5 Yes, it is understood from the review there is capacity in the Brunswick Valley STP to support the Housing Options Paper future housing scenarios.
4. If not, when will investigations commence on the capacity of the Brunswick River Estuary to accept the increased loading to it of liquid, nutrients, contaminants, pharmaceuticals, and all other factors?
- 10 Investigations commence only when required.

Question with Notice No. 15.2 Floor levels for Areas 1, 6, 8 near Mullumbimby

File No: I2023/1559

5 Cr Dey asks the following question:

The Housing Options Paper on public exhibition for four weeks from 9 October 2023 is a prelude to a formal *Residential Strategy* which will lead to rezoning i.e. 'upzoning' land so that it can be subdivided for new housing. The Paper includes 'maps' like the accompanying one for Mullumbimby.

10 On the map are several "greenfield" Areas that lie within the floodplain of the Brunswick River. They are a legacy of the previous Residential Strategy, which was derived before the 2022 floods and did not recognise the importance of flood as a knock-out issue for future housing.

15 After the Floods we recognise that flooding makes many low flat areas unsuitable for human habitation, especially when there is high dry ground available nearby. Submissions to Council's "After the Floods" discussion often made that very point.

I therefore ask:

1. Is the inclusion of Areas 1, 6 and 8 on the periphery of Mullumbimby based on current scenario 1%AEP (100-year) mapping or on future scenario mapping that includes climate change?
20
2. On each of four corners of each of Areas 1, 6 and 8 what are the ground levels in metres AHD?
3. At the same dozen locations, what would be the Minimum Floor Levels in metres AHD required under a current-day flood scenario? Is this the 1%AEP flood level as determined for the North Byron Floodplain Risk Management Study and Plan, plus 0.5m freeboard?
25
4. At the same dozen locations, what would be the Minimum Floor Levels in metres AHD required for a new development, ie the DCP requirement of a 2100 scenario approach?
- 30 5. At or near the same dozen locations, do we know what peak flood levels were reached in the 2022 flood, in metres AHD?

BYRON SHIRE COUNCIL

QUESTIONS WITH NOTICE

15.1

Response Director Sustainable Environment and Economy and Director Infrastructure Services:

- 5 1. Is the inclusion of Areas 1, 6 and 8 on the periphery of Mullumbimby based on current scenario 1%AEP (100-year) mapping or on future scenario mapping that includes climate change?

10 **Comment:** The flood hazard layer used in the constraint mapping for the Residential Strategy removes land that is identified as “intermediate” and “high” flood hazard under a 2100 scenario. The 2100 FPL includes climate change parameters of increased rainfall intensity by 20% with a 0.9m sea level rise. The three sites selected were not excluded based on that constraint mapping.

The appropriateness of these three sites in terms of rezoning will be further considered as part of a detailed flood assessments, noting that it appears Areas 6 and 8 have parts of those property’s above the 2100 FPL, whilst Area 1 appears to be not subject to the 2100 FPL at all.

- 15 2. On each of four corners of each of Areas 1, 6 and 8 what are the ground levels in metres AHD?

Comment: The following table provides a range of levels and flood heights relative to the three areas and with answers to questions 3, 4 and 5 as well.

<u>Area 1</u>				
Location	Ground Level	2050 FPL	2100 FPL	2022 flood level
	m AHD	m AHD	m AHD	m AHD
NW Corner	8.8	n/a	n/a	n/a
NE Corner	7.3	n/a	n/a	n/a
SE Corner	7.8	n/a	n/a	n/a
SW Corner	8.7	n/a	n/a	n/a
Area 1 generally located above 2050 and 2100 FPL – no records from 2022 flood near site				
<u>Area 6</u>				
Location	Ground Level	2050 FPL	2100 FPL	2022 flood level
	m AHD	m AHD	m AHD	m AHD
NW Corner	5.3	5.55	5.59	4.87
NE Corner	4.2	4.87	4.93	n/a
SE Corner	3.4	4.33	4.45	n/a
SW Corner	4.4	5.34	5.36	n/a
<u>Area 8</u>				
Location	Ground Level	2050 FPL	2100 FPL	2022 flood level
	m AHD	m AHD	m AHD	m AHD
NW Corner	3.6	4.37	4.43	n/a

BYRON SHIRE COUNCIL

QUESTIONS WITH NOTICE

15.1

NE Corner	2.2	4.01	4.13	3.74
SE Corner	2.9	4.02	4.14	n/a
SW Corner	2.8	4.53	4.57	4.24

3. At the same dozen locations, what would be the Minimum Floor Levels in metres AHD required under a current-day flood scenario? Is this the 1%AEP flood level as determined for the North Byron Floodplain Risk Management Study and Plan (NBFRRMS&P), plus 0.5m freeboard?

Comment: The minimum floor level is currently the 2050 flood planning level (2050 FPL), which is the level of a 1% AEP flood event plus 0.5 metres freeboard plus projected climate changes allowances with 10% increase in rainfall intensity with a 0.4m seal level rise as adopted in the NBFRRMS&P. See table above for levels.

4. At the same dozen locations, what would be the Minimum Floor Levels in metres AHD required for a new development, i.e. the DCP requirement of a 2100 scenario approach?

Comment: The minimum floor level following a rezoning is currently the 2100 flood planning level (2100 FPL), which is the level of a 1% AEP flood event plus 0.5 metres freeboard plus projected climate changes allowances for the year 2100 as adopted in the NBFRRMS&P. See table above for levels.

5. At or near the same dozen locations, do we know what peak flood levels were reached in the 2022 flood, in metres AHD?

Comment: The recorded 2022 Flood levels are yet to be properly analysed and calibrated as to their accuracy and are not publicly available at this point in time. The following with reference to the table above is provided for the purpose of the question.

Area 1

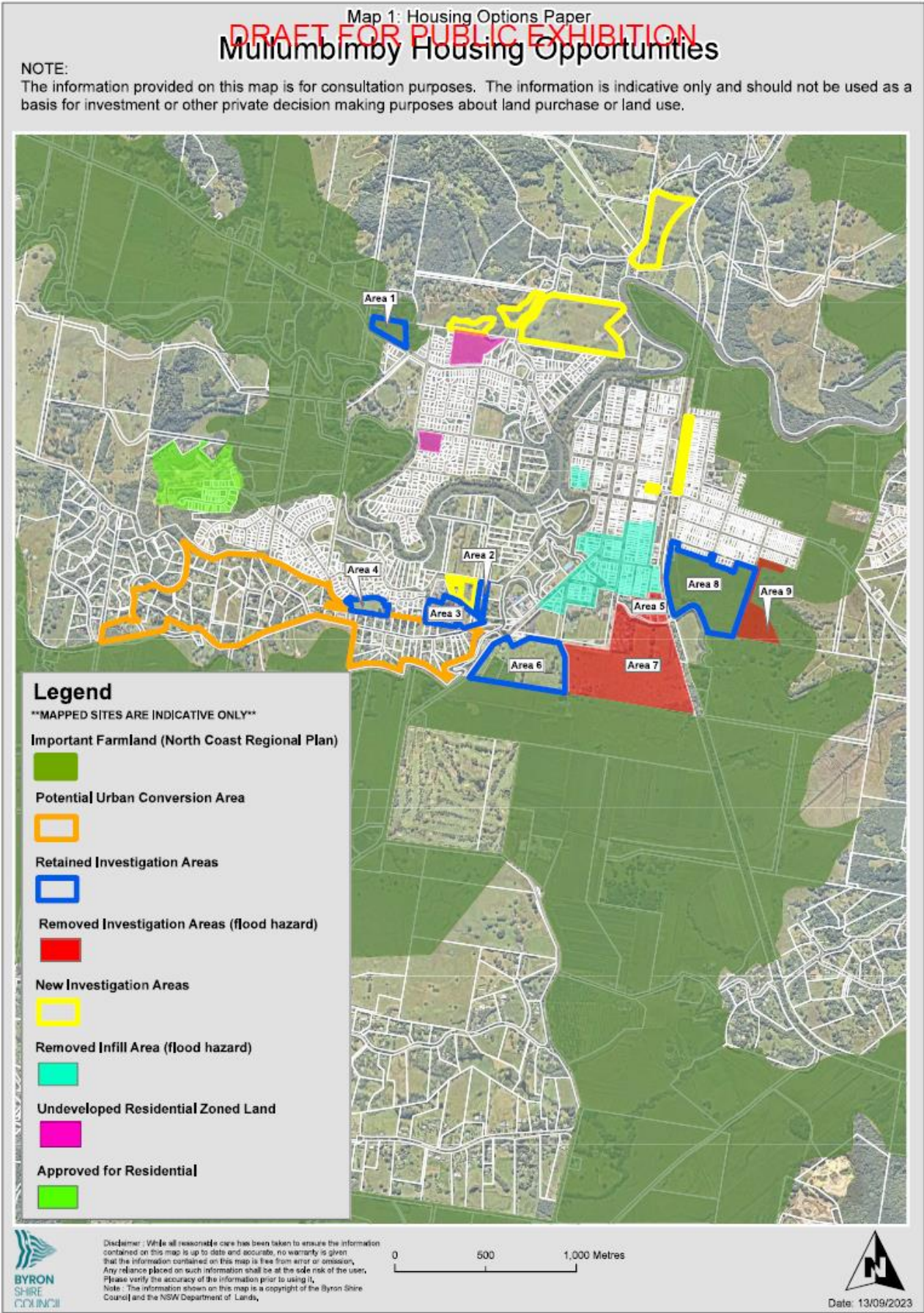
No recorded flood levels relevant to that location.

Area 6

The nearest recorded flood level for the Feb 2022 event is 4.87m AHD at the Mullum Co-Op near intersection of Jubilee Ave and Azalea St (i.e. near the NW Corner of Area 6).

Area 8

The nearest recorded flood levels for the Feb 2022 event is 3.74m AHD at the intersection of Ann and King Streets (i.e. near the NE Corner of Area 8) and 4.24m AHD at end of Station Street (i.e. near the SW Corner of Area 8).



CONFIDENTIAL REPORTS - GENERAL MANAGER

Report No. 16.1 CONFIDENTIAL - Negotiations to dispose of and acquire land interests

5 **Directorate:** General Manager
Report Author: Shannon McKelvey, Executive Officer
File No: I2023/1534

Summary:

10 Council has been in negotiations to try to resolve some long outstanding encroachment and land management matters. Previous attempts to reach resolution have failed and in one case, the matter is before the Land and Environment Court. The most recent potential options are outlined in the confidential report.

15 Council resolutions are required to inform the direction of the without prejudice negotiations, however, the outcome of the negotiations remains uncertain and it is necessary to protect Council's commercial interests and position in the negotiations, by maintaining confidentiality until final agreements are reached or the Court case is determined.

20

RECOMMENDATION:

1. **That pursuant to Section 10A(2)(c), (d)i and (d)ii of the Local Government Act, 1993, Council resolves to move into Confidential Session to discuss the report Negotiations to dispose of and acquire land interests.**

- 25 2. **That the reasons for closing the meeting to the public to consider this item be that the report contains:**
 - a) **information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business**
 - 30 b) **commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it**
 - c) **information that would, if disclosed, confer a commercial advantage on a competitor of the council**

BYRON SHIRE COUNCIL

3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:

5 the report contains information about without prejudice negotiations which would, if disclosed, compromise Council's interests in those negotiations, to Council's detriment and to the potential advantage of others. The report also contains confidential information supplied by parties to Court proceedings with who Council proposes to conduct business, which would, if disclosed, jeopardise their willingness to engage in further negotiations with Council, to the detriment of Council.

10

**Report No. 16.2 CONFIDENTIAL - Proposed sale of part lot 12
Bayshore Drive**

Directorate: General Manager

Report Author: Matt Meir, Solicitor

5 **File No:** I2023/1488

Summary:

This report is about the proposed sale price of Council land at lot 12 Bayshore Drive, Byron Bay.

10

RECOMMENDATION:

- 15
1. That pursuant to Section 10A(2)(d)i of the Local Government Act, 1993, Council resolves to move into Confidential Session to discuss the report Proposed sale of part lot 12 Bayshore Drive.
 2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
 - a) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
 - 20 3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:

Council and Creative Capital in negotiations regarding proposed sale of part lot 12, Bayshore Drive

25 **Attachments:**

- 1 Lot 12 subdivision approved (but unregistered) subdivision plan, E2022/124758
- 2 Creative letter to Council 13 September, E2023/95958