

# Notice of Meeting

## Audit, Risk and Improvement Committee Meeting

An Audit, Risk and Improvement Committee Meeting of Byron Shire Council will be held as follows:

Venue	Conference Room, Station Street, Mullumbimby
Date	Thursday, 15 February 2024
Time	11.30am

Esmeralda Davis  
Director Corporate and Community Services

I2024/137  
Distributed 01/02/24



**BYRON**  
**SHIRE**  
**COUNCIL**

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## CONFLICT OF INTERESTS

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

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

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

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

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

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

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

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

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

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

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

### Disclosure and participation in meetings

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

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

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

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

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

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

**Committee members are reminded that they should declare and manage all conflicts of interest in respect of any matter on this Agenda, in accordance with the [Code of Conduct](#).**

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## RECORDING OF VOTING ON PLANNING MATTERS

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

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

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## OATH AND AFFIRMATION FOR COUNCILLORS

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

# BYRON SHIRE COUNCIL

## BUSINESS OF MEETING

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

### 3. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

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**BYRON SHIRE COUNCIL**

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

3.1

**ADOPTION OF MINUTES FROM PREVIOUS MEETINGS**

**Report No. 3.1      Minutes of the Audit, Risk and Improvement Committee Meeting held 16 November 2023**

5    **Directorate:**                      Corporate and Community Services

**File No:**                              I2024/16

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10    **RECOMMENDATION:**

**That the minutes of the Audit, Risk and Improvement Committee Meeting held on 16 November 2023 be confirmed.**

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## **Report**

This report provides the minutes of the Audit, Risk and Improvement Committee Meeting of 16 November 2023 for confirmation. The minutes are available for viewing here:

[Minutes ARIC Meeting 16 November 2023](#)

### **5 Report to Council**

The minutes were reported to [Council on 14 December 2023](#) and all Committee recommendations were adopted.

CONFIDENTIAL REPORTS - CORPORATE AND COMMUNITY SERVICES

**Report No. 5.1                      CONFIDENTIAL - Internal Audit Report Quarter 2  
2023-2024**

5    **Directorate:**                      Corporate and Community Services  
**Report Author:**                      Mila Jones, Governance and Internal Audit Coordinator  
**File No:**                                  I2024/50

**Summary:**

10    This report presents:

- The Internal Audit Recommendations Status Report for Quarter 2 2023-2024 including the Internal Auditor’s Summary Report.
- An Internal Audit Status Update from the internal auditors

15    This report does not include an audit report as there were no internal audits conducted since the November 2023 ARIC meeting.

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**RECOMMENDATION:**

- 20    1.    **That pursuant to Section 10A(2)(d)i of the Local Government Act, 1993, the Committee moves into Confidential Session to discuss the report Internal Audit Report Quarter 2 2023-2024.**
2.    **That the reasons for closing the meeting to the public to consider this item be that the report contains:**
- 25    a)    **commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it**
3.    **That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as the nature and content of internal audit reports is for operational purposes.**



# BYRON SHIRE COUNCIL

## CONFIDENTIAL REPORTS - CORPORATE AND COMMUNITY SERVICES

5.1

### **Attachments:**

- 1 Confidential - Internal Audit Recommendations Actions Status (including summary) - Quarter 2 2023-2024, E2024/6429
- 5 2 Confidential - Grant Thornton Internal Audit Status Update - February 2024, E2024/7397

**Report No. 5.2      CONFIDENTIAL - Service Review - Outside School Hours Care**

**Directorate:** Corporate and Community Services

**Report Author:** Esmeralda Davis, Director Corporate and Community Services

5 **File No:** I2024/40

**Summary:**

10 Council is the Approved Provider for 3 children’s educational services: Sandhills Early Childhood Centre (Long Day Care) and two Outside School Hours Care services (Byron Bay and Brunswick Heads) including after school and vacation care. The NSW Department of Education licences Council to provide these services.

15 Council operated the Mullumbimby Outside School Hours Care service until December 2023, and this service has transitioned to a new provider. Due to financial non-viability, Council made the operational decision to discontinue direct service provision. The licences for Byron Bay and Brunswick Heads services are due for renewal, presenting a timely opportunity for review.

A service review has been conducted on Council’s Outside School Hours Care services, being the subject of this report.

20 Based on the service review, this report outlines the key issues related to Council’s ongoing service provision including risk, market considerations, financial and industrial implications, and seeks the Committee’s consideration of whether to continue or opt-out of providing Outside School Hours Care services.

25 In summary, to deliver Outside School Hours Care services which foster positive outcomes for children, Council must effectively navigate a challenging and heavily regulated environment and manage significant risks which are inherent to working with children. As such, operating within this sector requires specialist skills, knowledge and experience to effectively balance quality educational outcomes with strong governance and management that ensures service viability and sustainability. This is becoming increasingly challenging for Council, as evidenced by two recent compliance incidents and Council’s financial  
30 subsidisation of OSHC services for many years, a position which is not financially sustainable.

35 Based on the assessment of risks and benefits, it is recommended that Council work with the NSW Department of Education to transition the Outside School Hours care services at Byron Bay and Brunswick Heads to a specialised service provider. It is proposed that Council continue to deliver services until the handover is finalised, to ensure continuity of care for families utilising the services.

**RECOMMENDATION:**

- 5
1. That pursuant to Section 10A(2)(a) of the Local Government Act, 1993, Council resolves to move into Confidential Session to discuss the report Service Review - Outside School Hours Care.
  2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
    - 10 a) personnel matters concerning particular individuals (other than councillors)
  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:

15 Service review makes recommendations which, if accepted, will impact a number of staff directly. Staff and unions are being consulted as per the requirements of the Local Government Award, and until feedback has been considered and applied to this proposal, it should remain confidential.

**Attachments:**

- 20
- 1 OSHC Byron Tweed Lismore Ballina Spreadsheet with details - September 2023, E2024/1260

**Report No. 5.3      CONFIDENTIAL - 2023 Year End Management Letter**

**Directorate:** Corporate and Community Services

**Report Author:** James Brickley, Manager Finance

5 **File No:** I2024/77

**Summary:**

10 Council has received the 2023 Year End Audit Management Letter from the External Auditor, the Audit Office of NSW, relating to the 2022/2023 financial year audit. The Year End Audit Management Letter details five new items for management to consider and provides recommendations to improve internal controls and financial reporting processes.

Each of the audit matters raised in the 2023 Year End Audit Management Letter has been identified in this report for consideration by Council and the Audit, Risk and Improvement Committee.

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**RECOMMENDATION:**

1. That pursuant to Section 10A(2)(f) of the Local Government Act, 1993, Council resolves to move into Confidential Session to discuss the report 2023 Year End Management Letter.
- 20 2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
  - a) matters affecting the security of the council, councillors, council staff or council property
- 25 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:

**Nature and content of audit reports is for operational purposes and report details information about Council systems, controls and processes**

**Attachments:**

- 30 1 Confidential - 2023 Year End Audit Management Letter received From Audit Office of NSW, E2024/6693

**Report No. 5.4      CONFIDENTIAL - Risk Report**

**Directorate:** Corporate and Community Services

**Report Author:** Amber Watt, Strategic Risk Coordinator

**File No:** I2024/87

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**Summary:**

Council is committed to an integrated, consistent, and sustainable approach to risk management to support the achievement of its strategic and operational objectives and to maximise opportunities for improvement.

10 As the Risk Report was deferred at the November ARIC meeting, the following report provides an outline of risk initiatives and updates from September 2023 - present.

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**RECOMMENDATION:**

- 15
1. That pursuant to Section 10A(2)(f) of the Local Government Act, 1993, Council resolves to move into Confidential Session to discuss the report Risk Report.
  2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
    - a) matters affecting the security of the council, councillors, council staff or council property
  - 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:

**Risk Information**

**Attachments:**

25

- 1 Revised Strategic Risks, E2024/5402

**FOR INFORMATION ONLY**

**Report No. 7.1      CONFIDENTIAL - Cyber Security and System Outages Quarterly Update**

5    **Directorate:**                      Corporate and Community Services  
**Report Author:**                  Colin Baker, Manager Business Systems and Technology  
**File No:**                              I2024/54

**Summary:**

10    This report provides a summary of cyber security activities and IT service outages during the reporting period from 1 October 2023 to 31 December 2023

One cyber incident occurred in the past quarter resulting in no unauthorised access or loss of data. A handful of staff responded to a fraudulent email to confirm account credentials. Existing cyber controls prevented any unauthorised access.

15    Cyber improvement activities and regular testing/assessment reviews of both Council and key vendors are ongoing.

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**RECOMMENDATION:**

- 20    1.    **That pursuant to Section 10A(2)(f) of the Local Government Act, 1993, Council resolves to move into Confidential Session to discuss the report Cyber Security Quarterly Update.**
2.    **That the reasons for closing the meeting to the public to consider this item be that the report contains:**
- 25        a)    **matters affecting the security of the council, councillors, council staff or council property**
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:**

**Exposes information security risks and vulnerabilities that could assist unauthorised threats to Council's information and systems.**

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**Report No. 7.2 Service Review Framework**

**Directorate:** Corporate and Community Services  
**Report Author:** Amber Watt, Strategic Risk Coordinator  
**File No:** I2024/78

**5 Summary:**

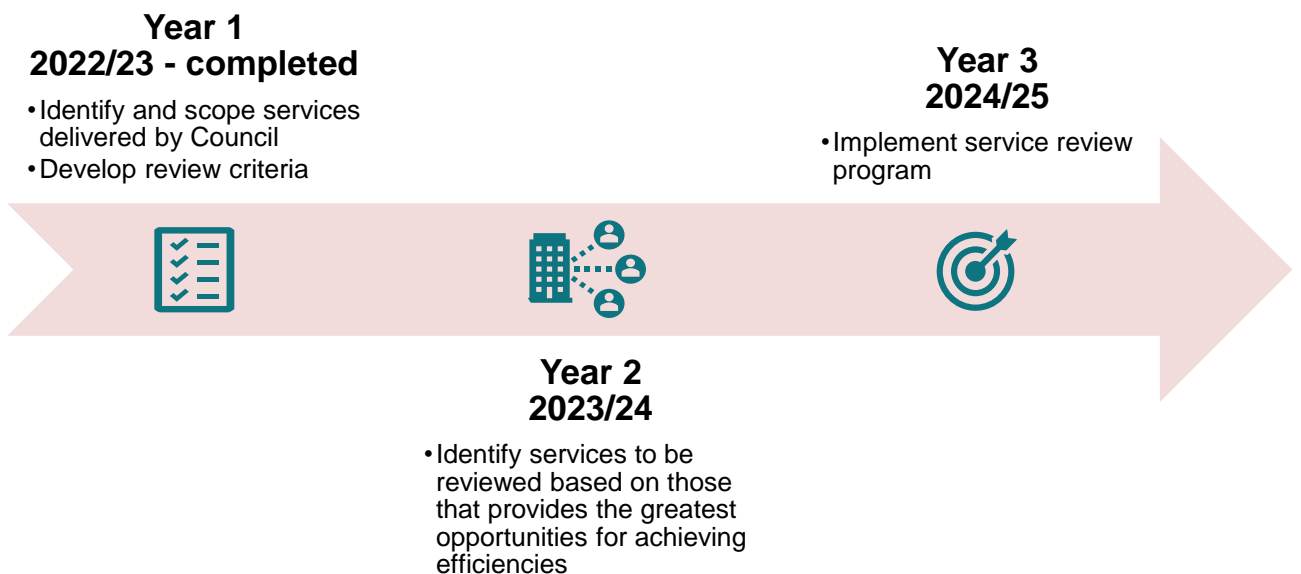
In September 2021, the NSW Office of Local Government (OLG) published revised guidelines for Integrated Planning and Reporting (IP&R), which included a new requirement for all Councils to have an annual program of service reviews.

10 The following report provides an update on the steps completed to ensure Council meets its obligations in relation to the revised guidelines.

**Report:**

15 The requirement to have an annual program of service reviews was first reported to the Audit, Risk, and Improvement Committee in May 2023, which included a list of Council services for review and endorsement. The list was endorsed and consequentially included in the [Delivery Program 2022-26](#).

The first phase to fulfill the service review requirements as outlined in the Operational Plan has been completed with the development of the Service Review Framework and Service Review Prioritisation Template, with both documents endorsed by the Executive Team at the Operational Meeting 17 January 2024.



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# BYRON SHIRE COUNCIL

FOR INFORMATION ONLY

7.2

The Service Review Framework has been developed to guide a systematic review of Council services. The framework outlines the guiding principles, objectives and proposed processes to achieve a consistent approach to service reviews.

The benefits of implementing a service review framework are realised through:

- 5
- Improved service quality and user satisfaction
  - Increased efficiency and effectiveness of Council services
  - Enhanced accountability and transparency in service delivery
  - Better outcomes for the community as a whole

10 The annual program of service reviews will be developed using a prioritisation methodology with input from the Executive Team, Managers and recommendations from the Audit, Risk and Improvement Committee.

## Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
<b>1: Effective Leadership</b> We have effective decision making and community leadership that is open and informed	1.3: Ethical and efficient management of resources	1.3.5: Resourcing - Identify and investigate resourcing to meet future needs	1.3.5.7	<b>2023/24 OP Activity</b> Develop a service review framework to plan for and deliver opportunities for achieving efficiencies

### 15 Legal/Statutory/Policy Considerations

Service reviews are guided by:

- s428A(2)(g) and s428A(3) of the Local Government Act
- [Guidelines for Risk Management and Internal Audit for Local Government](#)
- [Integrated Planning & Reporting Guidelines](#)

### 20 Alignment with ARIC Responsibilities

This report has been prepared to support the committee in fulfilling the following responsibilities as set out in the ARIC Constitution:

#### 5.7. Service Reviews

- 25 a) Review the effectiveness of the service review program in improving service delivery performance.





## Financial Considerations

5 Resourcing for implementation of the Service Review Framework is the subject of a report to the Executive Team on 7 February. The report considers both internal and external options.

## Consultation

10 The Audit, Risk and Improvement Committee will be updated on the implementation of the Service Review Framework and will have the opportunity to provide feedback at key stages of the process.

## Attachments:

- 15 1 Service Review Framework, E2024/2560   
2 Service Review Prioritisation Template, E2024/2812 

**Report No. 7.3 Delivery Program 6-monthly Report and Operational Plan 2023/24 Quarter 2 Report - to 31 December 2023**

**Directorate:** Corporate and Community Services

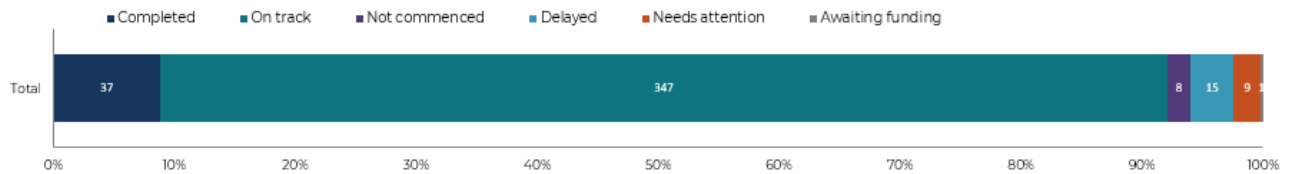
5 **Report Author:** Amber Evans Crane, Corporate Planning and Improvement Coordinator

**File No:** I2024/96

**Summary:**

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

This report represents the progress toward the activities in the 2023/24 Operational Plan at the end of the second quarter, being 31 December 2023. A summary of the status is provided in the graph below:



15

This report also represents the ‘6-monthly edition’ of the Quarterly Report, providing an additional reporting layer regarding the Council’s progress toward the higher-level actions of the Delivery Program and progress toward performance measures in the Outcomes Measurement Framework.

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**Attachments:**

1 Operational Plan 2023/24 - Quarterly Report - Q2 - 1 October to 31 December 2023, E2024/6355 

25

## Report

The Delivery Program (DP) and Operational Plan (OP) are two key corporate documents that establish Council’s goals and priorities for the term and the current financial year.

5 The Delivery Program (4-year) outlines the principal activities to be undertaken to implement the strategies established by the Community Strategic Plan (10-year), within the resources available under the Resourcing Strategy. All plans, projects, activities, and funding allocations must be directly linked to this program.

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

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

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

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

## Community Objectives

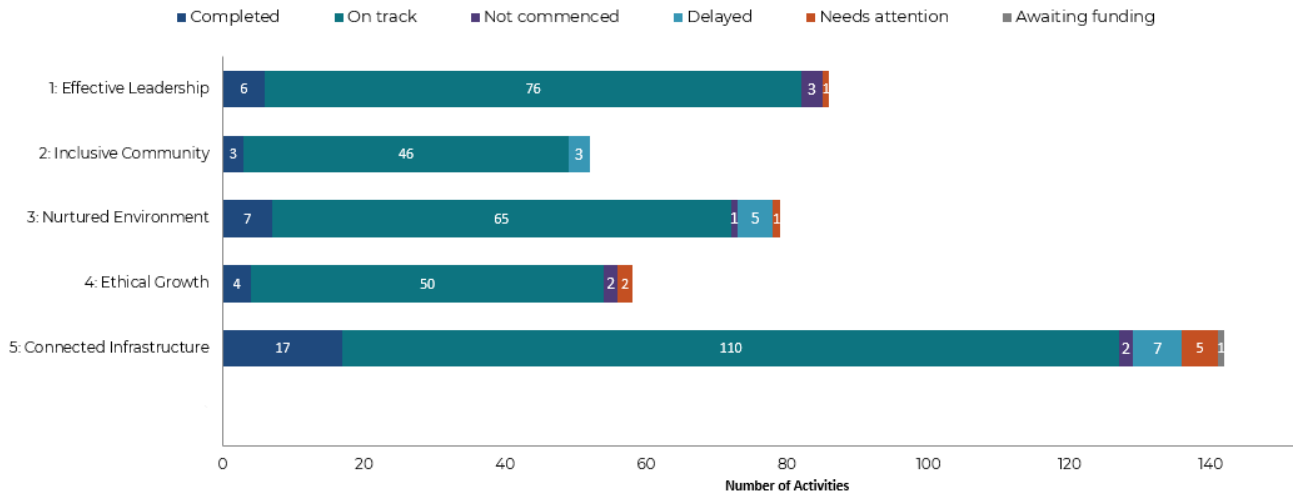
The OP and DP Report (#E2024/6355) is structured by the five Community Objectives in the Byron Shire Community Strategic Plan:

- 25
- 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

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

**Q2 Status by Community Objective:**



**How to read the Report:**

5 The Report (#E2024/6355) details Council’s progress toward the activities in the 2023/24 Operational Plan. It includes a status update on progress and commentary on the activities undertaken during the reporting period.

Each section notes the progress against the activities including:

- Activity
- Measure
- 10 • Timeframe
- Comments
- Status
  - ✓ **Completed:** the activity has been completed in accordance with the prescribed measures
  - 15 ▶ **On Track:** progressing and on track, in accordance with the timeframe, measures, and budget
  - ⊗ **Needs Attention:** indicates that the scope of the activity may need to be reviewed in line with constraints such as timeframe/budget
  - 20 || **Delayed** - progressing but not currently on track with the timeframe, measures, or budget
  - **Not Commenced** – not yet commenced or due to commence

25 Performance indicators are provided for each of the five Community Objectives of the Byron Shire Community Strategic Plan 2032. The progress indicators support Council to report on progress toward the Community Strategic Plan Objectives and Delivery Program priorities using sound measurement and reliable data. This enables Council to measure the impact of its actions on the Byron Shire community and demonstrates our commitment to implementing actions that achieve social progress and contribute to the Sustainable Development Goals.

# BYRON SHIRE COUNCIL

FOR INFORMATION ONLY

7.3

Components and definitions of the Delivery Program Report is given in the table below:

Indicator	Definition	Baseline Result	Target	Q2 Result
Selected data point used to indicate whether the delivery program priorities have been realised	Description of the indicator and how it is measured	The most recent measurement at or before the beginning of the Delivery Program period (July 2022).	The desired trend or specific 'ideal outcome' ↓ Indicator decreases over the Council term ↑ Indicator increases over the Council term ✓ Indicator target is reached over the Council term or remains stable	Most recent result for the reporting period

NB. Where Community Survey is used as an indicator, satisfaction is measured on a 1-5 scale (where 1=not at all satisfied, 5=very satisfied), and reported as an average of scores.

## Strategic Considerations

### 5 Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action
1: Effective Leadership	1.1: Enhance trust and accountability through open and transparent leadership	1.1.4: Performance Measurement and Reporting - Embed a robust performance management system through the development of an outcomes measurement framework

## Legal/Statutory/Policy Considerations

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

### 10 Financial Considerations

Council's financial performance for the reporting period is addressed in the Quarterly Budget Review.

## **Consultation and Engagement**

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

### **5 Alignment with ARIC Responsibilities**

This report has been prepared to support the committee in fulfilling the following responsibilities as set out in the ARIC Constitution:

#### **5.5. Governance**

- 10      b) Review whether appropriate processes and systems are in place to govern day to day activities and decision making.

#### **5.6. Implementation of the Strategic Plan, Delivery Program and Strategies**

- 15      a) Review whether Council is achieving the objectives and goals it set out in its Community Strategic Plan and successfully implementing its Delivery Program, Operational Plan and other strategies.

#### **5.8. Collection of Performance Measurement Data by Council**

- a) Review whether management has adequate performance indicators and data to measure performance.