

Notice of Meeting

Extraordinary Floodplain Management Advisory Committee Meeting

An Extraordinary Floodplain Management Advisory Committee Meeting of Byron Shire Council will be held as follows:

Venue	Conference Room, Station Street, Mullumbimby
Date	Friday, 12 July 2024
Time	10:00 AM

Phil Holloway
Director Infrastructure Services

I2024/1016
Distributed 05/07/24

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](#).

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 MEETING

1. APOLOGIES

2. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

3. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

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4. STAFF REPORTS

Infrastructure Services

- 4.1 Community Education Strategy and Review of Flood Options / North Byron
Flood Investigations - Projects Update 17

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

Report No. 3.1 Adoption of Minutes from Previous Meetings

5 **Directorate:** Infrastructure Services

File No: I2024/997

10 **RECOMMENDATION:**

That the minutes of the Floodplain Management Advisory Committee Meeting held on 14 May 2024 be confirmed subject to the following amendment:

15 **Removal of the recommendation for Report No. 4.5 ‘Community Education Strategy and Review of Flood Options / North Byron Flood Investigations - Projects Update’ and instead a note added to the minutes to say this item was deferred.**

20 **Attachments:**

1 Minutes 14/05/2024 Floodplain Management Advisory Committee, I2024/734 , page 10  

Report

The attachment to this report provides the minutes of the Floodplain Management Advisory Committee Meeting of 14 May 2024 .

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Report to Council

The minutes were reported to Council on 27 June 2024.

Comments

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In accordance with the Committee Recommendations, Council resolved the following:

24-001 Resolved that Council notes the minutes of the Floodplain Management Advisory Committee Meeting held on 14 May 2024. (Lyon/Westheimer)

24-002 Resolved that Council adopts the following Committee Recommendations:

Report No. 4.1 Amendments to Byron Shire DCP 2014 Chapter C2: Areas Affected by Flood - Draft for Exhibition

File No: I2024/661

Committee Recommendation 4.1.1

That Council:

1. Notes the committee received a presentation by BMT and as contained in the report attachments; and
2. Adds within the public exhibition version of the DCP, and note that the committee wishes to add the following sentence in C2.1.8 "Where a significant flood has occurred and studies require updating but that has not yet happened, flood data such as reported Flood Heights (where available) should be taken into account".
3. Notes that committee members are able to make submissions to the proposed amendments to Byron Shire DCP 2014, Chapter 'C2: Areas Affected by Flood', for Council's consideration prior to final adoption. (Lyon/Westheimer)

24-003 Resolved that Council adopts the following Committee Recommendation:

BYRON SHIRE COUNCIL

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

3.1

Report No. 4.2 Flood Levee Raising Investigation - South Golden Beach File No: I2024/161

Committee Recommendation 4.2.1

That Council, based on the reasons discussed in this report, it is recommended that raising the levee by either 300mm or 600mm is not undertaken. (Lyon/Westheimer)

24-004 Resolved that Council adopts the following Committee Recommendations:

Report No. 4.3 Flood Gate Upgrade Options Investigation - South Golden Beach File No: I2024/164

Committee Recommendation 4.3.1

That Council:

1. Notes that the committee was presented with the Floodgate Upgrade Options Investigation prepared by JB Pacific March 2024– Attachment 1 (E2024/47404).
2. Applies to the State for funding to carry out the recommendations contained in Section 4.2 and 5 of the report. (Lyon/Westheimer)

24-005 Resolved that Council adopts the following Committee Recommendation:

Report No. 4.4 Post 2022 Event Flood Behaviour Analysis - Brunswick River , Belongil Creek and Tallow Creek - NSW Department of Planning & Environment

File No: I2024/676

Committee Recommendation 4.4.1

That the Floodplain Management Advisory Committee notes that the Department of Climate Change, Energy, the Environment and Water (DCCEEW) have finalised and published Post 2022 Flood Analysis Assessments for the three (3) main catchments contained within Byron Shire Council. These include the North Byron/Brunswick River, Belongil Creek and Tallow Creek catchments. (Lyon/Westheimer)

24-006 Resolved that Council adopts the following Committee Recommendation:

Report No. 4.5 Community Education Strategy and Review of Flood Options / North Byron Flood Investigations - Projects Update

File No: I2024/677

BYRON SHIRE COUNCIL

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

3.1

Committee Recommendation 4.5.1

That Council requests the NSW Department of Planning & Environment (DPE) to commission animation graphic models of the 2022 flood event and provide to Council to assist in future community engagement, with an extended area to the north.

(Lyon/Westheimer)

*The motions **24-321** to **24-326** were put to the vote and carried unanimously.*

Minutes of Meeting
Floodplain Management Advisory
Committee Meeting

Venue	Conference Room, Station Street, Mullumbimby
Date	Tuesday, 14 May 2024
Time	11.30am



BYRON SHIRE COUNCIL

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

3.1 - ATTACHMENT 1

BYRON SHIRE COUNCIL

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

3.1 - ATTACHMENT 1

BYRON SHIRE COUNCIL

FLOODPLAIN MANAGEMENT ADVISORY COMMITTEE MEETING MINUTES 14 MAY 2024

Minutes of the Floodplain Management Advisory Committee Meeting held on Tuesday, 14 May 2024

File No: I2024/734

PRESENT:

Councillors:	Cr M Lyon (Mayor)	In person
	Cr D Dey	In person
	Cr Coorey	Absent
Staff:	Phil Holloway	Apologies
	Samuel Frumpui (Manager Works)	In person
	James Flockton (Infrastructure Planning Coordinator)	In person
	Steve Twohill (Flood and Drainage Engineer)	In person
	Dominika Tomanek (Minute Taker)	In person
	Alex Caras	In person
Invited members:	Scott Moffett (Dept of Planning and Environment)	Apologies
	Peter Mair (State Emergency Service) – voting member	In person
	Jeremy Carpenter (SES)	Apologies
Community:	Karl Allen	Apologies
	Matthew Lambourne	In person
	Steven Harris	In person
	Catherine Lane	In person

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BYRON SHIRE COUNCIL

FLOODPLAIN MANAGEMENT ADVISORY COMMITTEE MEETING MINUTES 14 MAY 2024

	Robert Crossley	In person
Visitors:	Damion Cavanagh	In person

Cr Lyon (Chair) opened the meeting at 11:37 am and acknowledged that the meeting was being held on Bundjalung Country.

ATTENDANCE VIA AUDIO-VISUAL LINK:

APOLOGIES:

Scott Moffett

Karl Allen

Jeremy Carpenter (SES)

Phil Holloway

Absent:

Cr Coorey

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

There were no declarations of interest.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

Report No. 3.1 Adoption of Minutes from Previous Meeting
File No: I2024/682

Committee Recommendation:

That the minutes of the Floodplain Management Advisory Committee Meeting held on 13 February 2024 be confirmed.

BYRON SHIRE COUNCIL

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

3.1 - ATTACHMENT 1

BYRON SHIRE COUNCIL

FLOODPLAIN MANAGEMENT ADVISORY COMMITTEE MEETING MINUTES 14 MAY 2024

(Lyon/Lambourne)

The recommendation was put to the vote and declared carried.

BUSINESS ARISING FROM PREVIOUS MINUTES

Minutes of 13 February 2024 to be reported to Council meeting in May 2024.

PROCEDURAL MOTION

Committee Recommendation:

That Council change the order of business to deal with Reports 4.4 first on the Agenda.

The recommendation was put to the vote and declared carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 4.1 **Amendments to Byron Shire DCP 2014 Chapter C2: Areas Affected by Flood - Draft for Exhibition**

File No: I2024/661

Committee Recommendation:

That Council :

- 1. Notes the committee received a presentation by BMT and as contained in the report attachments; and**
- 2. Adds within the public exhibition version of the DCP, and note that the committee wishes to add the following sentence in C2.1.8 "Where a significant flood has occurred and studies require updating but that has not yet happened, flood data such as reported Flood Heights (where available) should be taken into account".**
- 3. Notes that committee members are able to make submissions to the proposed amendments to Byron Shire DCP 2014, Chapter 'C2: Areas Affected by Flood', for Council's consideration prior to final adoption.**

(Dey/Lambourne)

The recommendation was put to the vote and declared carried.

STAFF REPORTS - INFRASTRUCTURE SERVICES

5 **Report No. 4.1 Community Education Strategy and Review of Flood Options / North Byron Flood Investigations - Projects Update**

Directorate: Infrastructure Services

Report Author: Steve Twohill, Flood and Drainage Engineer

File No: I2024/677

10 **Summary:**

15 This report provides an update to the Floodplain Advisory Committee requested in their recommendation of Report 4.2 tabled at the Friday 8 December 2023 committee meeting. This recommendation has not been ratified with a council resolution. However, Council staff provide this report in good faith to keep the committee informed of the responses to these matters acknowledging that the Committee will end in September under this current Council term.

The list of items is as follows and is discussed in this report: -

- 20 1. **That the Floodplain Management Advisory Committee receive a further update on the 'Community Education Strategy and Review of Flood Options' project and a briefing on ways of further engaging community, for example with animations from existing and future flood models.**

25 Consultants JBP have progressed this assessment and project since the public meeting held on 6 December 2023 and the ensuing Christmas holiday period. Council staff have met with the Consultant JBP in late December 2023 and February 2024 to discuss ways of further engaging the community in relation to improved flood awareness to this region.

In addition, Council sought permission from the NSW Department of Planning & Environment (DPE) to provide and release the confidential 2022 Flood event review report that was presented to the committee late last year. DPE have agreed to that request in late December 2023, this information has been provided to JBP.

30 This project has budgetary constraints that are already committed with an agreed scope. Staff have negotiated with the consultant JBP to undertake a review of the DPE 2022 flood event review report and integrate outcomes where appropriate in this assessment. The report is well underway however too premature to release for this committee meeting.

35 Animation and graphical recreation of the flood event are supported, however that aspect is not included in the scope for this project. Given that DPE has commissioned this review by WMA Water and the fact that it is their report and work, we recommend that DPE

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

4.1

commission animation graphic models of the 2022 flood event and provide to Council to assist in future community engagement for this project.

We anticipate that the Final report will be presented to the committee at the next scheduled meeting in May 2024.



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RECOMMENDATION:

That the Floodplain Management Advisory Committee:-

- 10
- 1. Note the update on the ‘Community Education Strategy and Review of Flood Options’ project which focusses on the Northern Byron Shire communities; and**
 - 2. Recommend that the NSW Department of Planning & Environment (DPE) be requested to commission animation graphic models of the 2022 flood event and provide to Council to assist in future community engagement.**
- 15

Attachments:

- 1 JBP-Review Of Flood Studies North Byron Study Region - Draft Report - Feb 2024, E2024/47658 , page 22 [↓](#) 
- 20 2 JBP-Executive Summary-Review Of Flood Studies North Byron Region - Draft - March 2024, E2024/47660 , page 36 [↓](#) 

Report

This report provides an update to the Floodplain Advisory Committee requested in their recommendation of Report 4.2 tabled at the Friday 8 December 2023 committee meeting.

- 5 This recommendation has not been ratified with a council resolution. However, Council staff provide this report in good faith to keep the committee informed of the responses to these matters acknowledging that the Committee will end in September under this current Council term.

- 10 Background to this project is contained in the previous report table at the 8 December 2023 meeting – refer File I2023/1607.

Consultants JBP have progressed this assessment and project since the public meeting held on 6 December 2023 and the ensuing Christmas holiday period. Council staff have met with the Consultant JBP in late December 2023 and February 2024 to discuss ways of further engaging the community in relation to improved flood awareness to this region.

- 15 Attachments 1 & 2 are provided for the committee's information.

In addition, Council sought permission from the NSW Department of Planning & Environment (DPE) to provide and release the confidential 2022 Flood event review report that was presented to the committee late last year. DPE have agreed to that request in late December 2023, this information has been provided to JBP.

- 20 This project has budgetary constraints that are already committed with an agreed scope. Staff have negotiated with the consultant JBP to undertake a review of the DPE 2022 flood event review report and integrate outcomes where appropriate in this assessment. The report is well underway however too premature to release for this committee meeting.

- 25 Animation and graphical recreation of the flood event are supported, however that aspect is not included in the scope for this project. Given that DPE has commissioned this review by WMA Water and the fact that it is their report and work, we recommend that DPE commission animation graphic models of the 2022 flood event and provide to Council to assist in future community engagement for this project.

- 30 There are eight (8) interrelated flood related investigations in this study area that will be nearing completion. These other projects include: -

PM22_30091 - AGRN1012 - Local Government Recovery Grant Program

PM22_1486 - Flood Warning Systems (Gauges) Upgrade - Shire Wide

PM23_1513 - Flood Pump Generator Power Supply - South Golden Beach

PM23_1514 - Rear Drainage Easements Upgrade - South Golden Beach

- 35 PM23_1516 - Flood Pump Investigation for Western Levee - South Golden Beach

PM23_1517 - Drainage Easement Maintenance Access Upgrade - Narooma Drive

PM23_1519 - Flood Gate Upgrade Options Investigation - South Golden Beach

PM23_##### - Sky Pump Feasibility Investigation - South Golden Beach Canal system

5 Once all these investigations are complete, there is an opportunity to report all of these projects in a consolidated and integrated manner to the community June/July 2024.

Next steps

The Floodplain Advisory Management Committee will be updated as the project progresses. Committee members will be provided an opportunity to be further involved during the later stage of the project at an options workshop (date not yet confirmed).

10 **Strategic Considerations**

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
3: Nurtured Environment	3.3: Protect the health of coastline, estuaries, waterways, and catchments	3.3.2: Floodplain management - Mitigate the impact of flooding on private and public property	3.3.2.3	Floodplain Risk Management Committee coordination

Legal/Statutory/Policy Considerations

15 The study will align with the framework established by the NSW Floodplain Development Manual and national best practice as outlined in the Australian Institute for Disaster Resilience Handbook 7: Managing the floodplain: best practice in flood risk management in Australia (AIDR, 2017).

Financial Considerations

This is a grant funded project comprising consultancy fees only of \$37,940 (excl. GST).

Consultation and Engagement

20 A Community and Stakeholder Engagement Plan (CSEP) has been developed for the project for implementation. The CSEP aims to collate community and stakeholder concerns and ideas and address all concerns after reviewing management options and data. The CSEP considers different approaches to communications and engagement,

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STAFF REPORTS - INFRASTRUCTURE SERVICES

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following the IAP2 Public Participation Spectrum. The key outcomes of the project is improved community and stakeholder understanding and education on flood risk and flood risk management, as such the below is proposed:

- Council Staff/DPE representatives are given a steering role (Empowered).
- 5 • Council's Advisory Committees are *Involved*
- The community is *Involved* within the project. This is deliberately not at a level that would allow their request for new mitigation scenarios to be tested without checks from flood engineers to ensure they are viable; however, it will ensure they are a focus on this project.

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