

Agenda Ordinary Meeting

Thursday, 15 August 2024



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 27 June 2024

8. RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS

9. NOTICES OF MOTION

- 9.1 Clothing Optional Beach in the Byron Shire..... 9
9.2 Brunswick Heads - Addressing Local Infrastructure and Land Management
Issues 13

10. MAYORAL MINUTE

11. PETITIONS

- 11.1 Outdoor Chess Board and Tables - Main Beach 23

12. DELEGATES' REPORTS

- 12.1 Australian Local Government Conference, Canberra 25

13. STAFF REPORTS

Corporate and Community Services

- 13.1 Grants June and July 2024 30
13.2 Integrating youth engagement across Council operations 34
13.3 Delivery Program 6-monthly Report and Operational Plan 2023/24 Quarter 4
Report - to 30 June 2024 42
13.4 Community Initiatives Program 2024-2025 Recommendations for Funding 50
13.5 Council Resolutions Quarterly Review - Q4 - 1 April to 30 June 2024..... 53
13.6 Carryovers for Inclusion in the 2024-2025 Budget..... 56
13.7 Budget Review - 1 April to 30 June 2024..... 61

Sustainable Environment and Economy

- 13.8 Draft Business Industry and Visitor Economy Strategy..... 71
13.9 Draft Events Strategy for public exhibition 79

BYRON SHIRE COUNCIL

13.10	PLANNING PROPOSAL - 26.2023.8.1 - Schedule 1 Additional Permitted Use (Restaurant or Cafe) – 24 & 26 Marvell Street, Byron Bay	88
13.11	PLANNING - NSW Employment Zones Reform - Planning Proposal: Additional permitted uses for Certain Lots within Zone E4 General Industrial, Centennial Circuit - Byron Arts and Industry Estate.....	110
13.12	Draft Plan of Management, Lot 22 DP 1073165, 156 Stuart Street Mullumbimby - endorsement for public exhibition	117
13.13	PLANNING - DA10.2024.58.1 - Subdivision 1 into 3 lots – 44 Wallum Place, Byron Bay	124
13.14	Sustainability Team - key project updates	133
13.15	Review of Planning Controls for Biodiversity, Tree and Vegetation Management.....	144
13.16	Sponsorship of Annual National Flying-fox Forum.....	160
13.17	Fee Waiver Request from Mullum SEED (Mullum Community Gardens 156 Stuart St site)	165

Infrastructure Services

13.18	Trades and Services Tender	171
13.19	Management Contract - First Sun & Suffolk Beachfront Holiday Park.....	177
13.20	New Brighton - Parking Improvements Investigation	182
13.21	Part Road Reserve Closure and sale adjoining Lot 6 DP 258071, 144 Jonson Street, Byron Bay, NSW 2481	191
13.22	Tyagarah Hangar Refurbishment & Office Repair	199
13.23	Part Road Reserve Closure and sale adjoining Lot 1 DP 246414, 134 Lighthouse Road, Byron Bay, NSW 2481	204
13.24	Bangalow Street Tree Succession Plan.....	212
13.25	Lawson Street Road and Drainage Upgrade Tender.....	222
13.26	Mullumbimby Water Supply Strategy.....	230

14. REPORTS OF COMMITTEES

Corporate and Community Services

14.1	Report of the Arts and Creative Industries Advisory Committee Meeting held on 20 June 2024	244
------	--	-----

Infrastructure Services

14.2	Report of the Infrastructure Advisory Committee Meeting held on 20 June 2024.....	249
14.3	Report of the Water and Sewer Advisory Committee Meeting held on 19 July 2024.....	252

15. QUESTIONS WITH NOTICE

15.1	Urban on-site sewage systems.....	256
------	-----------------------------------	-----

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 screen at the meeting.

NOTICES OF MOTION

Notice of Motion No. 9.1 Clothing Optional Beach in the Byron Shire

5 **File No:** I2024/1085

I move that Council:

- 10
1. **Supports the designation of at least one beach in Byron Shire as clothes optional.**
 2. **Receives a report on possible locations for a new legal clothes optional beach in the Shire.**

15

Signed: Cr Peter Westheimer

Councillor's supporting information:

Council has a long history now of supporting nude bathing in the shire and there continues to be quite a strong demand for this facility.

- 20
- It helps promote the shire as a tolerant place that thinks outside the square and overall supports health and nature tourism.

The most likely location will be somewhere between Belongil and Tyagarah BUT it could also be close to the First Sun caravan park which is close to town which may help to discourage inappropriate behaviour that is more likely to occur in isolated locations.

Staff comments

by Malcolm Robertson, Manager Open Space & Facilities, Infrastructure Services:

As we strive to portray Byron Bay as open, tolerant and liberating, the creation of designated areas for activities highlights a paradox: the need to structure and contain the very essence of liberation. Having created a designated area for specific freedoms, responsibility for managing behaviours within that area and impacts to wider community, both intended and unintended, comes back to Council.

Freedoms provided to a select few can negatively impact the freedom of others. The Tyagarah clothes optional area gave a section of community the freedom they desired, but also created a honeypot attraction for others with nefarious intent, many from well outside the Shire.

Council is aware of the impacts of the Tyagarah clothes optional area on residents, who speak of being afraid to attend the beach and not being able to let their children wander freely. The Tyagarah Community Association have reported impacts of the internet changing the culture of their area, with pornographic sites and videos available online causing Tyagarah to be known as a destination for casual public sex.

Naturists recognise the “behavioural issues” arising from a designated and promoted clothes optional area, but as reported in “The Echo” in March this year, they look to the land managers to create codes of ethics and practice for the designated area and enforce compliance with legal and environmental parameters.

Possible locations for a new clothes optional area

This matter has been investigated previously, including options between Belongil and Tyagarah. The Safe Beaches Committee looked for alternate areas in 2018 and most recently, following request from the Minister for the Environment, NSW National Parks and Wildlife Service undertook engagement with key stakeholders to investigate options for alternate locations to Tyagarah for clothes optional bathing.

NSW NPWS consultation included a workshop on 27 March 2024 attended by:

- NSW Police
- Byron Naturists
- Australian Nurtist Federation
- Cape Byron Marine Park
- Byron Shire Council
- Tyagarah Community Association
- Bundjalung of Byron Bay Aboriginal Corporation (Arakwal)
- the office of the Member for Ballina, Tamara Smith MP
- local business including Elements of Byron and Zephyr Horses.

Options within consideration in this forum included:

- Northern end of Seven Mile Beach Whites Beach
- Brays Beach
- Kings Beach

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.1

- Broken Head
- Tallow Beach (Suffolk Park end).
- Tallow Beach (Cosy Corner)
- Little Wategos
- 5 • Wategos
- Clarkes Beach
- Main Beach
- Belongil Beach
- North Belongil Beach
- 10 • Tyagarah Beach

Workshop discussions identified constraints at each of these locations, including:

- Inappropriate to be mingling with non-naturist family groups.
- Proximity to Holiday parks.
- 15 • Isolation.
- Lack of onsite parking.
- Lack of direct vehicle access.
- Lack of safety.
- Dangerous beach conditions.
- 20 • Remoteness.
- Female safety due to known predatory behaviours.
- Naturists not wanting to share an area with LGBTQIA+ community.
- Naturists not wanting to share an area with off leash dogs.
- Perceived community resistance.
- 25 • Push back from current user groups.
- Push back from local business.
- Issues with known inappropriate behaviours and illegal activities.

No beach area was able to be identified as appropriate.

- 30 A core consideration in beach areas within Byron Shire is the cultural significance of these areas to traditional owners. Arakwal people are the traditional owners and the Native Title holders of the Byron Bay area. This area is under Native Title Determination through the Cavanbah (Byron Bay) Arakwal Indigenous Land Use Agreement. The foreshore beach areas along with other sites on country are regarded with high cultural value to the Arakwal
- 35 people. Bundjalung of Byron Bay Aboriginal Corporation (Arakwal), board of directors have confirmed their position on clothing optional designation. BOBBAC are not supportive of a clothing optional designation within the Native Title determination area.

- Consideration of all the identified beach options within NSW NPWS jurisdiction was forwarded to the Minister for the Environment for consideration on options for the future
- 40 management of clothing optional areas. The Minister determined that on 30 August 2024, NPWS would remove signage permitting the use of the Tyagarah area as a clothes optional area due to safety concerns. No alternate area within NPWS tenure was approved. NPWS informed Council it is willing to participate in any future discussions where an identified parcel of land with potential to serve as a clothing optional area adjoins
- 45 NPWS estate.

Proposed Location between Belongil and Tyagarah

5 The suggestion that an area be designated between Belongil and Tyagarah, specifically near First Sun Holiday Park, is problematic. This section of beach is in various parts adjacent to residential or business operations, or areas already heavily used by families and community. Not all community are comfortable with public nudity. All officially designated nude beaches are deliberately not adjacent to residential areas as to avoid conflict.

10 This area was previously considered by the Safe Beaches Committee in 2018 and reconsidered within the NPWS conducted workshop. The area was rejected both times as inappropriate as naturists had identified it was not appropriate for naturists to be mingling with non-naturist families, and it was also considered inappropriate to designate an area near a family-oriented holiday park.

This beach area is also under Native Title Determination through the Cavanbah (Byron Bay) Arakwal Indigenous Land Use Agreement.

15 A decision by Council to designate clothes optional in this area would be in direct opposition to Bundjalung of Byron Bay Aboriginal Corporation preference.

Legal Implications:

20 The Local Government Amendment (Nude Bathing) Act 1996 (NSW) states that public nudity is not prohibited if the conduct occurs at one of the listed designated beaches. Section 633(6) of the Local Government Amendment (Nude Bathing) Act 1996 (NSW) Act, only lists five NSW beaches that have been “designated for the purposes of nude bathing.”

Local Government Act 1993. Section 633, subsection (2) of the Act states:

25 *A person who is in public view in the nude in any place referred to in subsection (1) - being a public bathing place under the control of a council, a river, a watercourse or tidal or non-tidal water, the sea adjacent to an area, or a public place adjacent to any of those places - is guilty of an offence unless a notice erected by the council at the place allows the use of the place (or part of the place) for the purposes of nude bathing.*

30 Subsection (4) of section 633 permits councils to erect a notice to allow the use of a place, or any part of a place, open to public view for the purposes of nude bathing.

Cavanbah (Byron Bay) Arakwal Indigenous Land Use Agreement applies over beach areas across Byron Shire. An act affects Native Title if it is otherwise wholly or partly inconsistent with their continued existence, enjoyment or exercise of the land.

Is the proposal consistent with any Delivery Program tasks?

35 There are no relevant activities around Clothes Optional areas identified in the current Operational Plan or Delivery Plan.

Prioritising staff resources to continue exploring this issue will require amendment of current Delivery Plan activities.

Notice of Motion No. 9.2 Brunswick Heads - Addressing Local Infrastructure and Land Management Issues

File No: I2024/1086

5

I move that Council:

- 10 1. Organises a meeting with representatives from each stakeholder organisation of Brunswick Heads.
2. Develops a shared understanding of the current mapping, landholders, and responsibilities.
3. Discusses and prioritises the issues outlined in Foreshore Maintenance Issue guide and others that are identified.
- 15 4. Formulates an action plan to address the identified concerns and improve community well-being.
5. Seeks to identify potential funding opportunities to address the issues.
6. Prepares a report for councillors about this in the first half of 2025.

Attachments:

20

- 1 Guided Tour of Foreshore Maintenance Issues, E2024/88366 

Signed: Cr Sarah Ndiaye

Councillor's supporting information:

25 Background:

I recommend council schedules and facilitates a meeting with the identified stakeholders to address the issues outlined, collaborate on solutions, and establish clear roles and responsibilities for each party. This meeting will aim to help facilitate better coordination and expedite actions to resolve the pressing challenges facing our community.

- 30 The Village of Brunswick Heads is renowned for its unique blend of natural beauty, vibrant community life, and historical significance. Nestled between pristine beaches, lush hinterlands, and the Brunswick River, this picturesque town attracts visitors and residents alike with its charm and relaxed lifestyle.

However, Brunswick Heads faces growing challenges as it experiences increased tourism and population pressure. The 2022 floods also significantly impacted the local infrastructure, exacerbating issues such as erosion, flooding, and infrastructure degradation. There are potentially serious health, safety and liability risks if these issues are not actively addressed.

As the town continues to grow and develop, and it has more pressure on it than ever, it is imperative that we address these challenges collaboratively and proactively to ensure the sustainability and liveability of this beloved village.

The village is in such a state of disrepair that it inadvertently invites neglect and misuse.

The current conditions create an environment where the community's and visitors' respect for the area may diminish, leading to further deterioration and abuse. Council has no plan to do a Masterplan for Brunswick Heads, but we can't leave it the way that it is. Identifying the key needs and the organisation responsible for them, collectively we may be able to work out a strategic approach to repairs and potentially apply for a significant grant or grants to address these issues.

This motion aims to bring together key stakeholders to develop a coordinated approach to managing the town's infrastructure, environmental concerns, and visitor impacts, ensuring that Brunswick Heads remains a vibrant and resilient community for future generations.

By scheduling a meeting with the identified stakeholders to address the above issues, the hope is that we can collaborate on solutions, and establish clear roles and responsibilities for each party. This meeting aims to facilitate better coordination and expedite actions to resolve the pressing challenges facing our community.

Pre-identified issues / discussion guide:

1. Context – Numerous Land Managers and Stakeholders:

- Byron Shire Council
- Crown Lands
- Reflections Holidays (formerly Reflection Holiday Parks)
- Transport for NSW (formerly Roads & Maritime Services)
- NSW National Parks and Wildlife Service
- Native Title Holders
- Marine Parks
- NSW Fisheries
- Police
- NSW Fire and Rescue
- Brunswick Community Groups such as the Brunswick Progress Association and The Brunswick Chamber of Commerce

2. Town at Crisis Point:

- Foreshore erosion, collapsing riverbanks, and rock walls; increasing informal access points.
- Current infrastructure (both built and natural) cannot support rising visitor numbers or planned population increases.

- Insufficient maintenance, particularly by Reflections, resulting in visible degradation.
- Neglect of South Beach Road/Torakina Precinct.
- Poor drainage and stormwater management leading to flooding.
- Non-compliance issues (illegal parking, camping, litter, off-lead dogs, etc.).
- Growing concerns of safety and respect for the town; increasing crime and vandalism.

3. Illegal Camping Issues:

- Persistent illegal camping at Torakina and in dunes, including issues with illegal fires, chainsaws, litter, and uncontrolled dogs.

4. Reflections and Foreshore Access:

- Need for unfettered public access to the foreshore, addressing long-standing promises.

5. Infrastructure and Visitor Management:

- Strategies to cope with current and future populations, including:
 - increased cycleways and public transport
 - formal entry points into rivers/creeks
 - unfettered public foreshore access from Ferry Reserve to Wallum
 - additional recreational space in new development areas
 - designation of a formal kayak launch site with parking
 - potential road speed limit reductions, especially on the bridge to Torakina
 - reduced speed limits for boats on the river
 - biannual meetings of land managers and stakeholders for better collaboration.

6. Heritage Conservation:

- Enhanced protection and conservation efforts for heritage and character areas.

7. Compliance on Planning Issues:

- Addressing illegal garage conversions and other planning issues affecting parking.

8. Increasing Crime and Safety Concerns:

- Addressing rising car thefts, break-ins, and the lack of a full-time police presence.

9. Parking Compliance:

- Improved compliance for timed and illegal parking, increased presence of parking inspectors, and potential identifying potential solutions introduction.

10. Promotion of Local Attractions:

- Support for the Brunswick Nature Sculpture Walk and other community events.

Supporting photos:

1. **Potholes at Massey Green:**



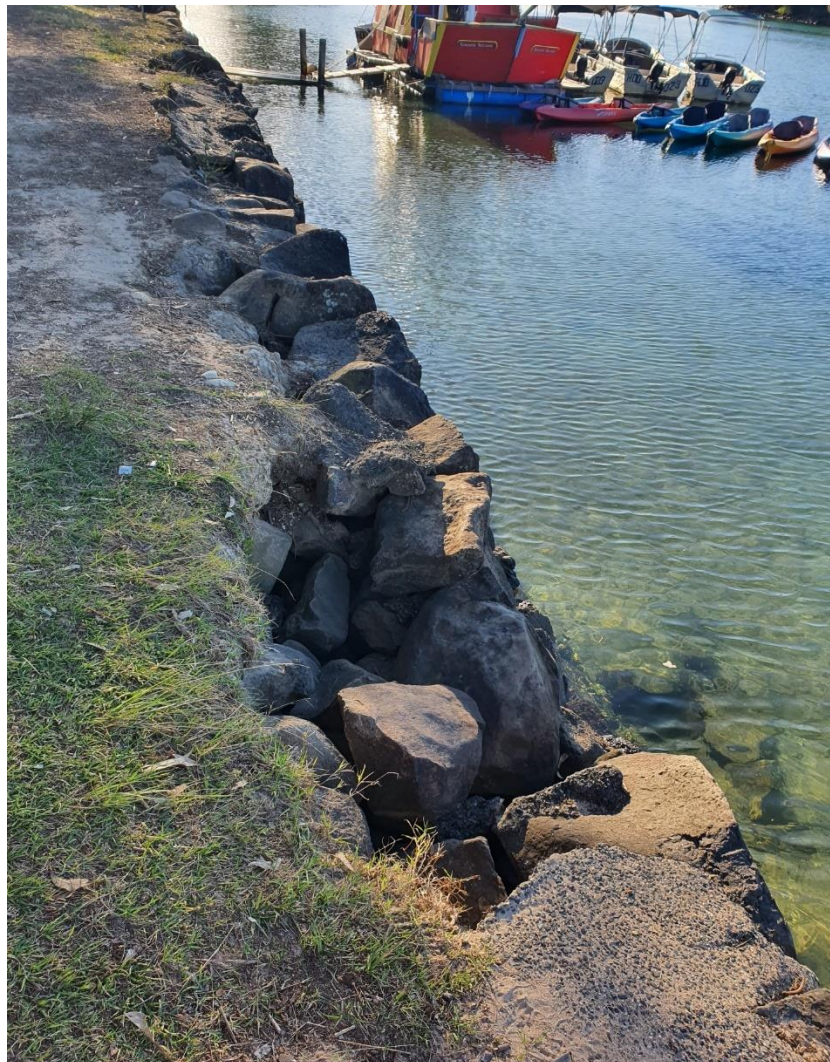
2. Erosion at the Scout Hall:



3. Erosion at the bridge:



4. **Collapsing sea wall:**



Staff comments

by Shannon Burt, Director, Sustainable Environment and Economy and Phil Holloway, Director Infrastructure Services:

5 Council staff are aware of, and have been working with relevant State Agencies, Police, Crown land managers, Bundjalung of Byron Bay Aboriginal Corporation (Arakwal) and Tweed Byron Aboriginal Land Council, and local community and business groups on the planning, infrastructure, environment, and anti-social behaviours in the Brunswick Heads Village formally and informally for some time.

10 The need for a more strategic approach to how this area is managed to protect community amenity, character and environment is acknowledged given the complexities of landownership and that issues continue to occur.

15 This Motion requests a meeting with the identified stakeholders to address pre identified issues. The meeting would seek to have stakeholders collaborate on solutions and establish clear roles and responsibilities for each party. An action plan is also sought from the meeting. It is envisaged that this action plan would be reported to and adopted by Council next year.

20 The above meeting and planning process ordinary is supported by Council through its Place Planning program. Brunswick Heads Village however is not funded this year for a Place Plan. Instead, Council has prioritised Oceans Shores, New Brighton, and South Golden Beach for a Place Plan 2024/2025. [Future Place Planning - Byron Shire Council \(nsw.gov.au\)](https://www.nsw.gov.au/future-place-planning-byron-shire-council)

Notwithstanding the above, Council could consider as an alternate to a stakeholder meeting for the Brunswick Village, a Community Opportunity Workshop (CoW).

25 The CoW could use the Asset Based Community Development approach which is about identifying and using what the community already has more efficiently and effectively to improve community life through impactful change.

30 The CoW is a useful social gathering that gains broad community interest, ideas, opinions, and involvement. It is normally structured and facilitated as a highly interactive event utilising 'Café Conversation' methodology. The process fosters meaningful discussion for community action and enables all stakeholder participants to share knowledge. The process normally occurs over 2-3 days.

A Community Action Plan (CaP) is developed from a CoW. The purpose of the CaP process is to identify and develop simple and sustainable strategies that lever local resources and assets.

35 The CaP's goals include empowerment, collaboration, inclusion, sustainability, and disaster resilience.

A CaP defines stakeholder responsibilities and provides avenues for funding and implementation of its actions. Noting that these do not always sit with state or local government.

Staff support the above CoW/CaP approach instead of the nominated stakeholder meeting. This is because one stakeholder meeting will not be able to address the issues raised in a meaningful way, with the staff alternate more likely to succeed in a CaP in shorter time frame.

5 Financial/Resource/Legal Implications:

A budget allocation and source will need to be identified to support this Notice of Motion being the meeting, workshop and action plan development now sought for Brunswick Heads Village.

A facilitated CoW and CaP would likely cost between \$10,000 to \$15,000.

- 10 A potential source of funding could be derived from the Brunswick Heads Paid Parking Scheme. (Council is still yet to receive a staff report in response to Res 24-131 (part 3a) for consideration of distribution of funds derived from the new scheme.)

Res 24-131

That Council:

- 15 3. *Receives further report;*
a) *discussing how the funds generated from the Brunswick Heads Pay Parking scheme could be distributed in Brunswick Heads and the Shire*

Other potential funding sources include Crown Land Reserve and Development Contribution Funds.

- 20 Potential funding options for the implementation of any CaP will also be required/identified through the annual Operational Plan and Budget process.

Is the proposal consistent with any Delivery Program tasks?

CSP Objective	CSP Strategy	DP Action
2: Inclusive Community	2.2: Enhance safety and contribute to the physical, mental, and spiritual health and wellbeing of the community	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	4.3: Promote and support the local economy	4.3.1: Diverse economy - Develop a Business and Visitor Economy Strategy to support a resilient and diverse economy
5: Connected Infrastructure	5.4: Provide accessible community facilities and open spaces	5.4.2: Parks and open spaces - Provide and maintain active and passive recreational community space that is accessible and inclusive for all

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.2

CSP Objective	CSP Strategy	DP Action
5: Connected Infrastructure	5.4: Provide accessible community facilities and open spaces	5.4.1: Community buildings - Ongoing maintenance and capital upgrades of community buildings with a focus on increasing accessibility
2: Inclusive Community	2.1: Foster opportunities to express, celebrate and participate in arts and cultural activity	2.1.3: Events and festivals - Support and enable arts & cultural activity, festivals, projects, and events
2: Inclusive Community	2.1: Foster opportunities to express, celebrate and participate in arts and cultural activity	2.1.5: Share and celebrate diverse stories including the built, natural, and cultural heritage of the Shire
2: Inclusive Community	2.2: Enhance safety and contribute to the physical, mental, and spiritual health and wellbeing of the community	2.2.1: Safety initiatives - Support community driven safety initiatives
4: Ethical Growth	4.1: Manage responsible development through effective place and space planning	4.1.3: Town / Village Masterplans - Develop, implement and update Place Plans that promote place-based forward planning strategies and actions
1: Effective Leadership	1.2: Engage and involve community in decision making	1.2.2: Communication - Provide timely information to the community about Council projects and activities through traditional and digital media

PETITIONS

Petition No. 11.1 Outdoor Chess Board and Tables - Main Beach

5 **Directorate:** Infrastructure Services

Report Author: Malcolm Robertson, Manager Open Space and Facilities

File No: I2024/1088

10 Council is in receipt of a petition containing 1,150 signatures (Attachment 1 - S2024/4471) from Peter Hanna from Byron Bay Chess Club which states:

15 *"We the undersigned, being residents of Byron Shire Council and having attained eighteen years of age, hereby petition Byron Shire Council to permit construction of a large, tiled chess board and outdoor chess tables in the vicinity of the Main Beach, Byron Bay."*

The project is to be maintained and supervised by members of the Byron Bay Chess Club with no fees for public use. For many years already park chess in Byron Bay has been extremely popular with residents and visitors."

Comments from Director Infrastructure Services:

20 The level of support for an outdoor chess facility is remarkable and there is clearly community desire for a facility in Byron Shire.

25 The Byron foreshore and Main Beach reserve is one of the community's most beloved places and attracts large numbers of visitors every year. To ensure that this space is appropriately developed, Council have initiated the Byron Foreshore Landscape project to establish an agreed direction for future foreshore improvements and embellishments and to ensure the space can continue to be enjoyed into the future.

30 The Byron Foreshore Landscape project is a natural progression from the Byron Bay Town Centre Masterplan, which outlined community vision for the Main Beach area to be established as a continuous foreshore park, catering for large events, spaces for hanging out, picnics, passive and active recreation.

Community engagement around concept designs for the Byron Foreshore closed on 31 July. Nearly 900 submissions have been received. These submissions are currently being collated and reviewed and the results will be reported back to Council.

35 Consideration of all community submissions will allow Council to determine future direction for the Byron Bay foreshore. Once that step is complete, an overall Plan of Management

BYRON SHIRE COUNCIL

PETITIONS

11.1

will be developed, and detail design of the parklands and associated infrastructure initiated. There will be opportunities to accommodate a range of recreational activities within the reserve, and additional community engagement around this detail design. Until this current planning process has been completed it would be premature to undertake installation of new infrastructure.

Given the level of support for outdoor chess, it is recommended that alternate options to locate this infrastructure within Byron Bay in a location other than Main Beach are investigated as an interim measure.

There are several potential locations within Byron that could accommodate a large, tiled outdoor chess board and outdoor chess tables.


Staff can work through these options with members of the Byron Bay Chess Club and provide a future report to Council on the outcomes.

RECOMMENDATION:

That Council: -

- 1. Notes the petition regarding the construction of a large outdoor chess board and outdoor chess tables be noted;**
- 2. Notes the current ongoing community engagement process around the Byron Foreshore Landscape Planning for Main Beach Reserve; and**
- 2. Requests staff to engage with the Byron Bay Chess Club to identify potential options for construction of a large outdoor chess board and chess tables within Byron Bay township.**

Attachments:

- 1 Confidential - Petition from Peter Hanna - Outdoor Chess Board and Tables - Main Beach, S2024/4471**
- 2 Petition from Peter Hanna - Outdoor Chess Board and Tables - Main Beach_REDACTED, E2024/88582 **

DELEGATES' REPORTS

Delegate's Report No. 12.1 Australian Local Government Conference, Canberra

5 **File No:** I2024/1087

Date: 2-4 July 2024

10 **Event:** 30th National General Assembly of Local Government (NGA)

Location: Canberra, Australia

Summary:

I had the privilege of attending the 30th National General Assembly of Local Government (NGA) in Canberra from 2-4 July 2024. This significant event brought together over 1,200 local government leaders from across Australia, providing a vital platform for networking and discussing the future of local governance.

The assembly commenced with a Welcome to Country by Ngunnawal, Kambri, and Ngambri custodian Paul Girrawah House, acknowledging the traditional custodians of the ACT and paying respects to their elders past, present, and emerging. This recognition underscored the commitment to inclusivity and respect for First Nations peoples.

Her Excellency the Honourable Ms. Sam Mostyn AC, Governor-General of the Commonwealth of Australia, delivered a thought-provoking opening address, her first ever as GG. She was emphasizing the importance of increasing civic engagement and fostering kindness and care in leadership.

Throughout the assembly, I was inspired by the opportunity to connect with councillors from across the country. I was particularly impressed by the success some councils have achieved with their youth councils, demonstrating innovative approaches to engaging and empowering young people within their communities. There are some social events and I sat at a table with councillors from Palm Island and Adelaide. It's so interesting to hear about the challenges and opportunities in other areas of the country.

The NGA featured a comprehensive program, including presentations on new local government financial sustainability research. This research highlighted the significant economic benefits of sustainable federal funding to councils, estimating a \$7 billion increase to Australia's GDP. The launch of the 2024 National State of the Assets report provided critical insights into the condition of public infrastructure managed by councils, emphasizing the urgent need to restore federal Financial Assistance Grants to at least one percent of Commonwealth taxation revenue. There was a very engaging presentation

BYRON SHIRE COUNCIL

DELEGATES' REPORTS

12.1

about changing demographics and what councils have to offer in a changing labour market.

5 Several sessions focused on building community trust and the integral role of local government in this process. New listening sessions addressed key topics such as housing and community infrastructure, emergency management, roads and transport, and energy transition, fostering valuable exchanges of ideas between councils, the federal public service, and other stakeholders. This was a great opportunity to ask key questions of ministers and key staff and is a welcome addition to the program.

10 The Mayor met with other mayors representing councils that are heavily impacted by holiday letting and together they proposed ALGA have a seat on the Ministerial Council for housing - a critical issue as platforms like AirBnB are heavily lobbying government at all levels (they were one of the major sponsors of the event).

15 The assembly also reviewed 160 motions submitted by councils, proposing various solutions for enhancing financial sustainability, supporting cost-of-living relief, facilitating affordable housing, maintaining local infrastructure, and closing the gap between Indigenous and non-Indigenous Australians.

20 As we approach the next federal election, ALGA will continue to advocate for the restoration of Financial Assistance Grants and the reestablishment of local government as a full voting member of National Cabinet. These actions are crucial for ensuring the ongoing sustainability and liveability of our communities.

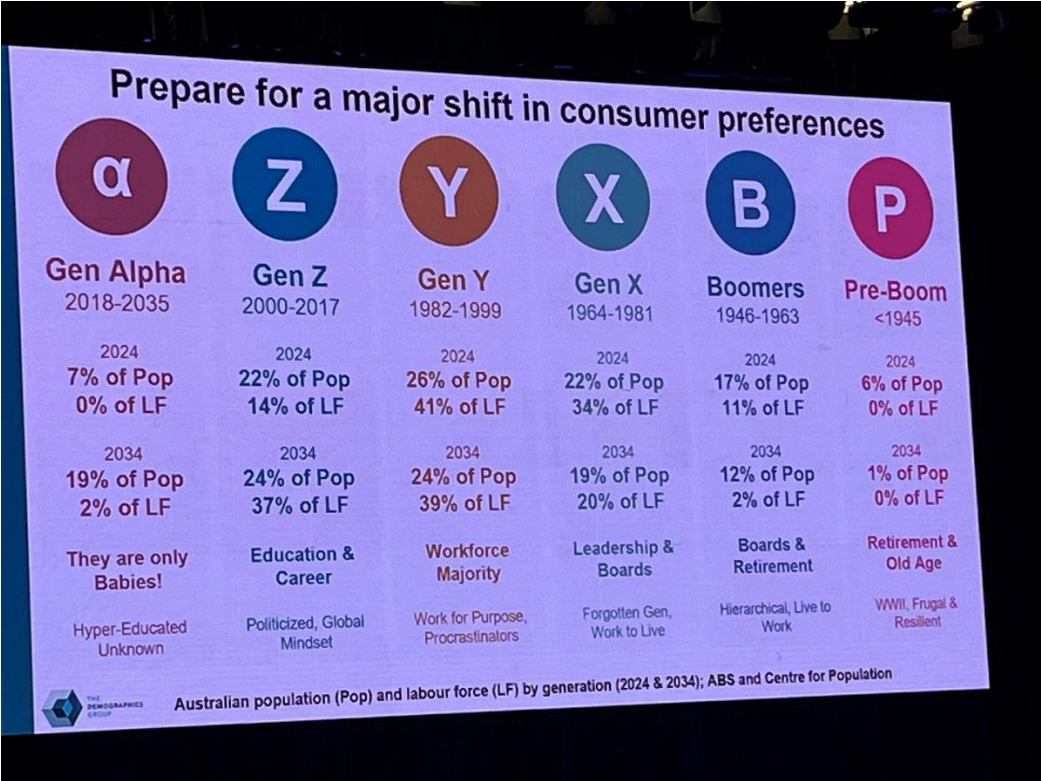
I would like to express my appreciation for the outgoing Chair, Linda Scott, whose remarkable leadership has greatly advanced the representation of local government at both state and federal levels. Her dedication and contributions have been truly inspiring, and I wish her all the best for the future.

25 The 2024 NGA was a great event that provided valuable insights and opportunities for collaboration. The discussions and connections made during this assembly will undoubtedly contribute to the continued progress and effectiveness of local government

across Australia. Thank you for the opportunity to attend.







Signed: Cr Sarah Ndiaye

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.1 Grants June and July 2024

Directorate: Corporate and Community Services

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

File No: I2024/607


Summary:

10 Council is waiting on determination of 22 grant applications which, if successful, would provide funding to enable the delivery of identified projects. This report provides an update on Grant applications.

RECOMMENDATION:

15 **That Council notes the grant submissions report for the months of June and July 2024 (Attachment 1 #E2024/87406).**

Attachments:

20 1 Grant submissions as at 31 July 2024, E2024/87406 

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.1

Report

Currently Council has 22 grant applications awaiting determination (refer to Grants Submissions as of 31 July 2024 - Attachment 1, E2024/87406).

Successful applications

Funding body	Project name	Total project value \$	Amount requested \$	Council \$
NSW Department of Planning and Environment	Billinudgel Rail Bridge options study	\$175,000	\$175,000	\$0
Transport for NSW - Get NSW Active 2024-25	Market Street Footpath - design	\$100,000	\$100,000	\$0

5 Unsuccessful applications

Funding body	Funding scheme	Project name	Total project value \$	Amount requested \$	Council \$
NSW Premiers Department	Community Building Partnerships 2023	Sandhills Childcare Centre – playground equipment	\$30,800	\$12,800	\$20,000
NSW Premiers Department	Community Building Partnerships 2023	Mullumbimb y Dog Park - agility equipment	\$58,024	\$29,012	\$29,012

Upcoming Grant opportunities

[Supporting Spontaneous Volunteers Program](#)

- 5 The Spontaneous Volunteers Support Program (SVSP) has been established in response to the 2022 NSW Flood Inquiry's recommendation that the NSW Government create a program to support better coordination of community efforts to save life and property during a disaster. The Program is also informed by the NSW Government Review of Emergency Volunteering (2023).
- 10 The SVSP will provide \$5 million in funding to projects across NSW to support communities and volunteers to be better prepared, supported, coordinated and mobilised to respond to disaster events.

Application due date extended to 30 August 2024.

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

15 Legal/Statutory/Policy Considerations

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

Financial Considerations

If Council is successful in obtaining the identified Grants, this would bring funding sought to approximately \$7.1 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:

	Funding applications submitted and awaiting notification (total value)	\$7,101,293
	Requested funds from funding bodies	\$6,891,595
10	Council contribution cash	\$305,903
	Council co-contribution in-kind	\$295,760
	Other contributions	\$0
Funding determined in June / July 2024:		
15	Successful applications	\$275,000 (total project value)
	Unsuccessful/withdrawn applications	\$88,824 (total project value)

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. 13.2 Integrating youth engagement across Council operations

Directorate: Corporate and Community Services

Report Author: Jessica Cutter, Governance Support Officer

5 **File No:** I2024/951

Summary:

10 Council's methods for youth engagement have been the subject of recent Council discussion and resolutions. In response, staff have conducted a review of youth engagement methods to determine the most effective and meaningful way for Council to engage with young people in the Byron Shire.

The review responds to specific requests in Resolution **21-344** (2021):

15 *3. Noting the request for a Youth Council in Res **21-242**, Council undertakes targeted engagement to determine the preferred model that can give young people an effective voice in raising issues of concern to young people.*

4. Receives a report regarding the outcomes of this youth engagement and the proposed forum for future youth engagement to commence in 2022.

20 The review included consultation with neighbouring councils, youth organisations, young people, and Council staff. It also included consideration of the findings of Council's 2022 Byron Youth Survey, the outcomes of the 2021 and 2023 YouthSay programs, and the results of the youth survey conducted as part of Community Strategic Plan (CSP) refresh.

25 It is recommended that Council integrates youth engagement across all operations to ensure the diverse needs and preferences of young people are included in projects and decision-making.

30 Further detail on the review and key actions proposed to enhance youth engagement is provided in this report.

RECOMMENDATION:

35 **That Council embeds youth engagement into the Community Engagement Strategy and implements the activities outlined in Table 1.**

Report

Currently, Council's core functions in community services include managing community facilities, administering grant opportunities, and focusing on key community development priorities such as homelessness, access and inclusion, Aboriginal engagement, arts and culture, and disaster recovery. In most cases, Council plays a capacity building role through advocacy, networking, coordination, collaboration, training and the provision of information, resources and funding to facilitate positive community outcomes.

Council has an obligation to ensure the specific needs, aspirations, and challenges of all community groups including young people are considered across infrastructure, planning, open spaces, and other service delivery areas. In the absence of a dedicated specialist youth staff member, Council teams share a responsibility to enable and support engagement of young people as members of the broader community.

History of youth engagement at Byron Shire Council

Council has previously undertaken a variety of youth engagement activities:

- 2001 – ongoing: Annual \$25,000 donation to Byron Youth Service for delivery of Street Cruise program
- 2003 – Byron Shire Youth Commitment
- 2004 – 2015: Youth Week activities supported by State Government funding
- 2005 – 2018: Employed two part-time Youth Activities Officers and Youth Activity Centre Coordinator
- 2010 – 2014: Youth Art Projects, including Youth Murals
- 2010 – 2016: Youth activities
- Since 2012: Subsidised rent and sub-lease arrangement with Byron Youth Service for the use of Mullumbimby War Widows Cottage
- 2012 – 2019: Various youth events including Summer Hits Suffo Skate, Cringe the Binge, Youth Week
- 2012 – 2019: Distributed Youth Week grant funding from New South Wales Government to organisations providing youth services
- 2013 – 2017: Facilitated a Youth Council
- 2013 – 2020: Small Change grant program for youth-led activities
- 2016 – 2020: Facilitated the Byron Shire Interagency
- 2016 – 2023: Supported Red Frogs to provide safety and support to young people during Schoolies
- 2017 – 2018: Delivered the Byron Young Innovators initiative
- 2021 – ongoing: Facilitated YouthSay program
- 2022: Conducted the Byron Youth Survey

Council continues to implement a variety of youth engagement models which suit different circumstances, needs, and resourcing levels. Each of these approaches present different opportunities and have inherent limitations. This is particularly evident regarding youth councils.

5 Youth councils as a method of engagement

10 The establishment of a youth council is identified in Resolution **21-344** (2021). Between 2013-2017 Council facilitated a youth council. Due to challenges with sustaining youth participation, ensuring diverse representation, the resource-intensive staffing required and concerns regarding the effectiveness of the model, the model of engagement was disbanded.

Youth councils in local government also face challenges that hinder their effectiveness. For instance, there is often a disconnect between youth councils and the decision-making processes, with young people's advice or recommendations not always being taken up by decision makers. This can lead to frustration and disengagement among youth members.

15 Moreover, youth councils do not adequately represent the diverse perspectives and needs of all young people in the community, particularly those from marginalised or underprivileged backgrounds. The young people who participate in youth councils are typically from privileged or higher socio-economic backgrounds. These individuals generally have better access to education, resources, and opportunities that enable them
20 to engage in such extracurricular activities. This lack of diversity can lead to a narrow focus on issues that do not resonate with the broader youth population, further diminishing the youth council's relevance and impact.

25 Lastly, there can be a lack of genuine understanding between the youth council and the role of local government, resulting in misaligned priorities and unmet expectations. While this may be overcome with enough time, the relatively short duration of youth councils and high levels of turnover often limit opportunities for sustained impact and continuity in initiatives.

30 Within the context of the Byron Shire, young people have indicated that they would prefer their voices to be heard via informal and flexible engagement methods. For example, feedback from young people in the 2022 Byron Youth Survey indicated that 69.6% of young people wanted to participate via surveys. In addition, 64% of young people consulted during the 2024 Community Strategic Plan Youth Survey also stated that they would like to be consulted by survey.

35 There are also several barriers to participation in a youth council that have been identified through youth surveys. The most significant barriers to participation identified through both the 2022 Byron Youth Survey and the 2024 Community Strategic Plan Youth Survey are a lack of access to transportation, followed by a lack of time to participate.

40 Many young people also indicated that they would like Council to visit schools or places of learning, or that they would like to be invited to Council. This was echoed during face-to-face engagement with students from Cape Byron Rudolf Steiner School, many of whom

said that they would like to be engaged via surveys and Council staff going to their school to speak with them directly.

Overall, this feedback indicates that there is no preference for a youth council in the Byron Shire and that young people believe other approaches can accommodate their needs and preferences, leading to more effective youth participation in Council activities.

As such, in response to the request put forward in Res **21-242**, it has been determined that establishment of a youth council is not an effective method of engagement to implement within the context of the Byron Shire. Instead, Council should pursue the implementation of other mechanisms as part of an integrated approach to youth engagement across the organisation.

Integrating youth engagement across Council

Council teams are responsible for planning engagement activities for their respective projects. To ensure youth engagement is adequately incorporated and the voices of young people are considered on matters that affect them the actions identified in Table 1 below will be implemented.

Activity	Description
Enhance youth engagement in the Community Engagement Strategy	<p>While Council's consultation approaches aim to reach all Shire residents, engagement with young people is not sufficiently tailored to reach a large segment of youth. Therefore, there are missed opportunities to include the perspectives and insights of young people in decision-making processes.</p> <p>The Community Engagement Strategy (CES) is currently due for review by December 2024. The CES must identify relevant stakeholder groups within the community and outline when, how and why each group will be able to provide input into council's long-term planning and decision making.</p> <p>The review of the CES should outline how and when Council will engage with young people, informed by the methodologies and tools in the IAP2 spectrum. This can be further supported through inclusion of requirements and suggestions in the Communication and Engagement Plan template to assist staff that are undertaking engagement activities.</p>
Commitment to authentic engagement through the Child Safe Policy	<p>Our engagement with children and young people has been further supported by the recent endorsement of the draft Child Safe Policy.</p> <p>Our empowerment approach states that:</p>

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.2

Activity	Description
	<ul style="list-style-type: none"> We recognise that participation and empowerment is important in child safe organisations and it helps keep children and young people safe. We respect and value children's voices and opinions. We will engage children and their families on matters that are important to them and with regard to equity and diversity. We will actively give opportunities for children to have their say and genuinely inform decision making. We will consider the needs and views of children when making decisions that affect them. Our two-way relationship will be built on trust and respect. We will inform and involve families and communities on relevant issues.
Incorporate youth priorities into existing internally and externally facing corporate plans and strategic documents	<p>The Community Strategic Plan includes a strategy to "Enrich lifelong learning and education and support services to help young people thrive."</p> <p>Council has further committed to a Delivery Program Priority specific to youth (2.4.2):</p> <p><i>"Increase engagement with young people and support and encourage programs that offer mentoring, leadership, and pathways to education and employment"</i></p> <ul style="list-style-type: none"> There is an opportunity to expand on this youth priority in all strategic documents, to enhance tailored youth engagement.
Develop a resource hub to support youth engagement by Council staff	<p>Establishing a centralised resource hub that includes key contact information, pathways for engagement and best practice guidance frameworks will establish a structured approach for staff, ensuring that youth engagement is consistently incorporated into all Council projects and engagement processes.</p>
Review the format of the YouthSay program	<p>YouthSay is currently a five-week program that provides an opportunity for students from Mullumbimby High School to connect with Council and discuss issues that affect young people.</p> <p>Council will seek to expand YouthSay into other high schools across the Byron Shire. The format can also be reviewed, to allow the flexibility to consider strategic priorities and key areas of interest, as well as whether it</p>

Activity	Description
	<p>would be more suitable for Council to deliver the program within schools, rather than in the Council office.</p> <p>This approach would enable more direct engagement with young people through schools, thereby responding to their preference for more face-to-face consultation. Consideration of other methods, such as surveys, could also be made during the review of YouthSay.</p>
Re-advertise the Citizen Lottery within the relevant forums	<p>The Citizen Lottery is an opportunity for residents of the Byron Shire to participate and provide feedback on a range of topics and projects. It is open to residents of all ages, however, out of the 477 registered community members, only five participants (1%) are under the age of 25.</p> <p>There is an opportunity to expand the existing Citizen Lottery to have greater buy-in from young people. This would provide an active list for Council staff to access when seeking to consult with young people on projects.</p>

Table 1: Key actions to integrate youth engagement

Rationale for the integrated approach to youth engagement

5 The integrated approach to youth engagement recognises that young people's interests intersect with various aspects of Council services. By integrating youth engagement into broader community engagement efforts, we can address the diverse needs and interests of young people within the context of overall community life.

Benefits:

- 10 • Responsibility for ensuring adequate engagement with young people is distributed.
- Guidance material would support a shared understanding of youth engagement approaches and foster accountability across the organisation.
- 15 • Integrating youth engagement with broader community engagement efforts allows young people to participate alongside other groups. This inclusivity enriches the engagement process and promotes a sense of community and belonging among young people.

Limitations:

- 20 • Integrating youth engagement into existing processes may pose challenges due to limited resources such as time, funding, and staff capacity, which could impact the effectiveness of engagement initiatives.
- Young people from marginalised or underrepresented groups may be harder to engage with due to existing barriers and may require targeted outreach approaches.

- The long-term sustainability of integrated youth engagement efforts may be uncertain if there is inconsistent commitment, resourcing, and a lack of accountability for implementing this approach.

- 5 Overall, this approach promotes efficiency by embedding youth engagement practices into existing structures and processes, rather than creating a separate, potentially isolated youth council or ad-hoc initiatives. It also enhances Council's responsiveness to the needs of young people and strengthens overall community engagement practices.

Strategic Considerations

10 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	2.4.2: Youth - Increase engagement with young people and support and encourage programs that offer mentoring, leadership, and pathways to education and employment	2.4.2.2	Propose preferred model of youth engagement based on youth consultation findings and good practice
1: Effective Leadership	1.2: Engage and involve community in decision making	1.2.1: Community-led decision making - Engage with community to inform Council decision making	1.2.1.1	Provide opportunities for the community to have input, comment and feedback to Council on projects and matters of interest

Recent Resolutions

- **24-061**
- **21-242**
- **21-344**

5 Financial Considerations

Activities will be implemented using existing operational budget from Council's 2024/2025 Operational Plan and Budget.

Consultation and Engagement

10 From January to April 2024, Council developed a project plan which involved consultation with internal and external stakeholders. Consultation occurred via two phases:

1. Youth survey:

A youth-specific survey was integrated into the Community Strategic Plan (CSP) survey. 22 responses were received. The survey was hosted online via Your Say.

15 Promotion of the survey was undertaken and included:

- An advertisement in the Echo
- Attendance at Mullumbimby Flea Market (held at Byron Community College)
- Inclusion in all high schools' end of term newsletter
- Direct engagement at Sandhills and Cape Byron Rudolf Steiner School

20 All high schools in the Northern Rivers (excluding Mullumbimby High School who were engaged with during the 2023 YouthSay program) were contacted to participate in an in-person consultation session.

25 2. Targeted interviews

Interviews were conducted with several neighbouring councils, Local Government New South Wales (LGNSW), the NSW Department of Communities and Justice, the Office for Regional Youth, and youth and community organisations. The purpose of the consultation was to gain an understanding of roles, community expectations and opportunities to
30 enhance practice. Internal stakeholders were also consulted to provide an overview of the work currently being undertaken across Council.

Report No. 13.3 Delivery Program 6-monthly Report and Operational Plan 2023/24 Quarter 4 Report - to 30 June 2024

Directorate: Corporate and Community Services

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

File No: I2024/1026

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 second '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.

15 Council achieved 81.3% of the Operational Plan activities that were planned to be delivered in 2023/24.

20 **RECOMMENDATION:**

That Council notes the Delivery Program 6-monthly Report and 2023/24 Operational Plan Fourth Quarter Report for the period ending 30 June 2024 (Attachment 1 #E2024/84485).

Attachments:

25 1 Delivery Program 6-Monthly Report and Operational Plan Quarterly Report - Q4 - to 30 June 2024, E2024/84485 

Report

The Delivery Program and Operational Plan 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.

Achievement of 2023/24 Operational Plan Activities

- 25 As this is the last quarter report for the 2023/24 financial year, this report details Council's achievement of the activities in the 2023/24 Operational Plan. Overall, Council achieved 81.3% of planned activities against the measures in the Plan. This is a slight increase from 80.2% achievement during 2022/23.

11.6% of activities were substantially achieved, meaning they were significantly progressed but not finalised, while 4% were partially achieved, and 2.8% deferred. Details on the reason for the status of each activity are outlined in the attachment.

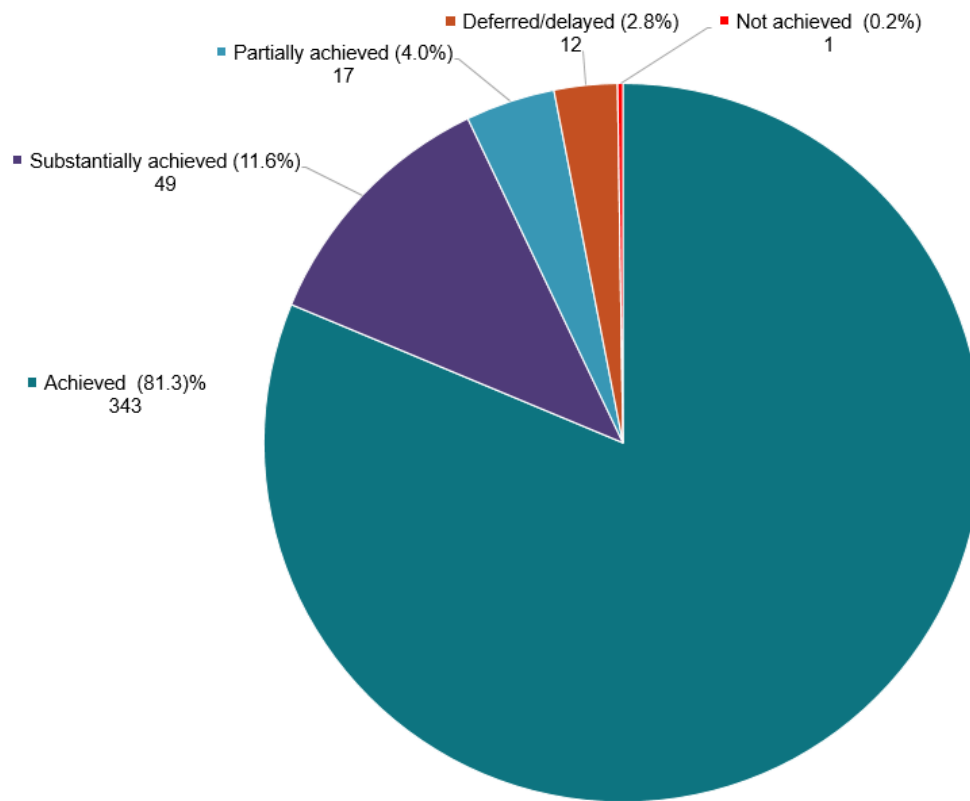


Figure 1. Achievement of Operational Plan Activities.

Strategic Objectives

- 5 The report (#E2024/84485) is structured by the five Byron Shire Community Strategic Plan 2032 objectives:
- Effective Leadership: We have effective decision making and community leadership that is open and informed
 - 10 • Inclusive Community: We have an inclusive and active community where diversity is embraced and everyone is valued
 - Nurtured Environment: We nurture and enhance the natural environment
 - Ethical Growth: We manage growth and change responsibly
 - 15 • Connected Infrastructure: We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable

Result by CSP Theme

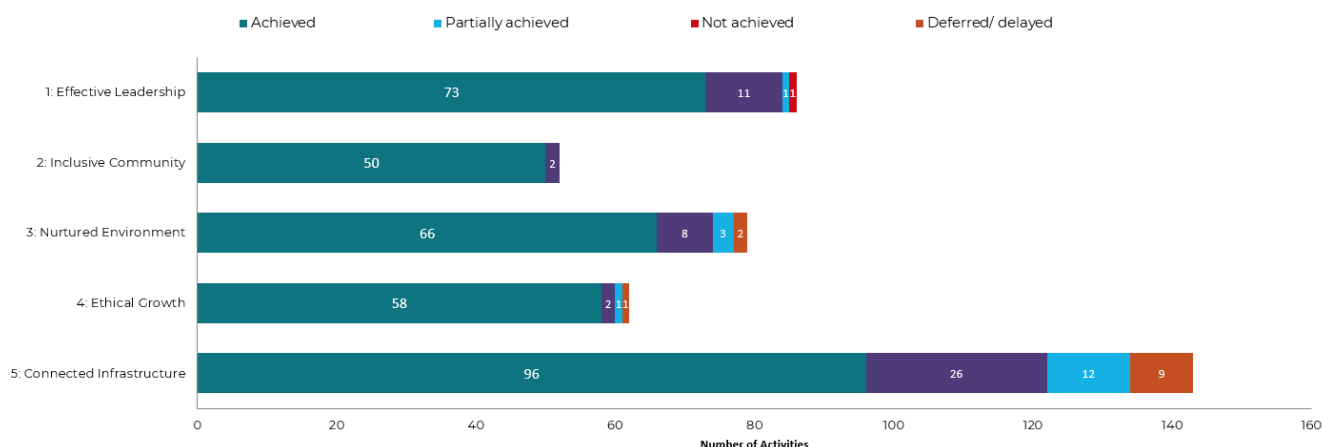


Figure 2 Results by CSP Theme

5 Report Details

The report details Council's achievement of the activities in the 2023/24 Operational Plan. It includes a status update on progress and notes any highlights or exceptions where actions were delayed or reprioritised.

Each section notes the progress against the activities including:

- 10 • Activity
- Responsible directorate
- Measure
- Timeframe
- Comments
- 15 • Status

The report also includes updated results for the newly developed 'indicators,' from the *Outcomes Measurement Framework* which is subject of a separate report to Council on the adoption of the revised Delivery Program 2022-26.

20 Summary of Achievements

Council achieved 81.3% of its actions during this period. Some activities were not fully achieved and/or were deferred. Further detail on individual activities and the impacts is provided in detail in the attachment.

Key achievements include:

25 *Effective Leadership*

- The Outcomes Performance Measurement Framework was embedded into the Delivery Program, strengthening Council's reporting and measurement (1.1.4.1)
- Council's Business Continuity Plan was reviewed and scored well above the state average (1.1.5.2)

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.3

- The Community Initiatives Program supported 11 not-for-profit community initiatives with a share of \$52,427 to carry out local projects that create positive social, cultural, and environmental outcomes (1.5.1.1)
- 5 • Council became a member of the Hidden Disabilities Sunflower Initiative as part of continued efforts to improve accessibility support for customers (1.2.3.1)
- Council's Your Say community feedback platform received 47,238 page views and was used to consult with the community on more than 40 projects (1.2.1.1)
- Substantial work completed on the redesign of the former Byron Hospital site to a community hub (1.5.2.2)
- 10 ***Inclusive Community***
 - The Annual Byron Shire Community Awards were established to celebrate people and groups for their positive contributions to Byron Shire (2.1.3.2)
 - Ten local events were sponsored with funding through the annual event and festivals sponsorship program (2.1.3.6)
 - 15 • The inaugural 'Furry Friends Festival' was held at Bangalow Showgrounds to deliver a community day of advice, education and fun centred around responsible pet ownership (2.2.4.3)
 - Enhanced dog management across the Shire through the installation of new signage, community education programs and public awareness campaigns (2.2.4.4)
 - 20 • Development of a new \$5,000 Climate Conversations Artists Commission Opportunity and supported exhibition at Lone Goat Gallery (2.1.1.1)
 - Event and festivals annual sponsorship program 2023-24 round delivered \$25,000 in funding to support ten events (2.1.3.6)
 - 25 • The opening of Mullumbimby's off-leash dog park provided a dedicated space for canine exercise (2.2.4.4)
 - The Youth Say Program was run with students from a local high school learning about Council and discussing the needs of young people (2.4.2.1)

Nurtured Environment

- 30 • Flying Fox Camp Management Plan reviewed with results from flying fox surveys and engagement with key stakeholders (3.1.1.5).
- Planting of 6 ha of koala habitat and restoration of 2 ha on 6 private properties (3.1.3.3)
- Council grant funded North-Coast Local Land Services (NCLLS) to rehabilitate the riverbank along the Brunswick River (3.1.3.4)

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.3

- A Carbon Offset Policy was developed and adopted by Council and staff continue to work on actions towards achieving net zero emissions (3.4.4.1)
- Comprehensive review of Council's entrance opening strategies for Belongil and Tallow Creek (3.3.2.2)
- 5 • A Single-use Packaging and materials Policy was developed and adopted by Council that contributes to supporting circular economy and waste hierarchy principles (3.5.1.3)

Ethical Growth

- 10 • Project scope endorsed for next place plan of New Brighton, Ocean Shores, and South Golden Beach (4.1.3.10)
- Exhibition of 415 development applications with feedback received from a total of 688 submissions (4.1.1.3)
- Revised and updated Residential Strategy adopted by Council (4.1.2.5)
- 15 • Design drawings for Burringbar Street renewal prepared and consulted on - priority action from Our Mullumbimby Masterplan (4.1.3.2)
- Supported NSW's Transport Asset Holding Entity (TAHE) through the Memorandum of Understanding (MOU) to progress towards delivering affordable housing, including public space and car parking on the Mullumbimby rail corridor (4.2.2.4)
- 20 • The Byron Farmers database is now at 440 members with regular updates delivered on training, workshops, events, grant funding and best practice sustainable agriculture (4.3.5.1)
- Local farmers were supported through implementation of welcome mailouts to new rural landholders, Farmers Feast event, 14 sustainable agriculture workshops and 3 farm field days (4.3.5.3)
- 25 • The Community Recovery Officer role delivered training, resourcing and capacity building to flood impact communities and partnered to hold resilience events including commemorating 2 years on from the floods (4.5.2.1.11).
- The Community Emergency Communications Project was undertaken to identify strategies to improve communications and resulted in the roll out of Starlink, backup power stations and portable solar to communities (4.5.2.12)
- 30

Connected Infrastructure

- Road resurfacing and renewal works carried out including Strand Avenue, New Brighton, Carlyle Street, Byron Bay, Station Street, Mullumbimby, and Bay Shore Drive, Byron Bay (5.1.1.12; 5.1.2.19; 5.1.29; 5.1.2.11)
- 35 • Damaged kerb and gutter replacements of 80m in Dalley Street Mullumbimby and 50m in Jubilee Street Mullumbimby (5.1.2.5)

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.3

- Bridge works and upgrades undertaken including Orana Bridge and Helen Street (5.1.2.21; 5.1.2.23)
- Options analysis, planning and design progressed for the Mullumbimby to Brunswick Heads on-road cycleway (5.1.3.3)
- 5 • Pedestrian Access and Mobility Plan and Bike Plan incorporated into the Active Transport Action Plan (5.1.3.6)
- Two-year flood damage road network repair program developed (5.1.5.1)
- Works program developed to undertake accessibility upgrades to bus shelters across the Shire (5.2.3.1)
- 10 • Permanent one-way traffic management delivered in Centennial Circuit Byron Bay (5.2.3.2)
- Investigation and community consultation into New Brighton Parking improvements (5.2.4.5)
- 15 • Construction of accessible changerooms and canteen for Suffolk Park Football grounds in Linda Vidler Park (5.4.1.2)
- Council Chambers restored and refurbished (5.4.1.3)
- Landscape master plan for Heritage Park Mullumbimby completed (5.4.2.4)
- Renewal of Mullumbimby Recreation Grounds Public Amenities completed (5.4.3.2)
- Accessible public amenities constructed at Denning Park (5.4.3.4)
- 20 • South Golden Beach drainage upgrade program progressed (5.5.3.8)

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.1: Enhance trust and accountability through open and transparent leadership	1.1.2: Governance - Ensure legislative compliance and support Councillors to carry out their civic duties

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.

- 5 *"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**"*

Financial Considerations

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

Consultation and Engagement

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

Report No. 13.4 **Community Initiatives Program 2024-2025 Recommendations for Funding**

Directorate: Corporate and Community Services

Report Author: Emily Fajerman, Community & Cultural Development
Coordinator

File No: I2024/1027

Summary:

The Community Initiatives Program provides funding to not-for-profit community organisations and community groups to deliver projects that create positive social, cultural, and environmental outcomes.

Council called for applications between 8 April and 30 June 2024 and 33 eligible applications were received. This report recommends 14 community projects are funded to the value of \$57,500 for the 2024-2025 financial year.

RECOMMENDATION:

That Council approves the recommended projects for the Community Initiatives Program as per Confidential Attachment 1, listed below and notes projects not recommended for funding:

1. (to be inserted following Council determination)

Attachments:

- 1 Confidential - Community Initiatives Program 2024-2025 - Assessment Panel Summary and Recommendations for Funding - for Council, E2024/85514

Report

Through the provision of grants, sponsorships and funding, Council works in collaboration with community groups to further the aims identified in the four-year Delivery Program and annual Operational Plan.

- 5 Each year incorporated not-for-profit organisations and community groups are eligible to apply for grants of up to \$5,000 through Council's Community Initiatives Program. The maximum amount available for the 2024-2025 program is \$57,500 and the total amount requested in applications was \$165,255.

- 10 On 8 April Council opened the Community Initiatives Program round for 2024-2025 and applications closed on 30 June 2024. This extended timeframe allowed for increased community participation and provided additional time for organisations to prepare applications.

- 15 Information about the Community Initiatives Program such as application dates, guidelines, eligibility, and criteria were made available on Council's website, Facebook page and via the Echo Newspaper. Email campaigns were also utilised to target interested stakeholders and networks.

A total of 33 eligible applications were received. Applications were assessed against defined criteria as well as the integrity of the proposed budget, project plan, partnerships, contributions, and connection to the local community.

- 20 Council's assessment panel included:

- Litter and Illegal Dumping Prevention Officer
- Acting Place Planning Coordinator
- Arts and Culture Officer
- Community and Cultural Development Coordinator

- 25 The panel recommends that Council funds 14 of the highest ranked community projects, detailed in Attachment 1 (E2024/85514), for a total value of \$57,500.

The selected community projects are geographically dispersed throughout the Shire and celebrate diversity, inclusivity, and connection. The projects prioritise sustainability and the environment, arts and culture and the importance of place.

- 30 All funding recipients will be required to sign a contract, detail project outcomes, and acquit their funding to Council by June 2025.

Next steps

Contracts will be entered into with all successful applicants, pending Council approval by resolution.

35

The contract management process will involve staff in the Community and Cultural Development team setting contract conditions for each approved project, establishing communications and information management, meeting with community stakeholders and reviewing project acquittals.

5 **Strategic Considerations**

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.5: Empower community leadership through collaboration, capacity building, and cultivating community driven initiatives	1.5.1: Community grant programs - Provide financial assistance and grants to empower community groups and organisations to deliver priority projects	1.5.1.1	Deliver annual Community Initiatives Program and associated funding and support

Legal/Statutory/Policy Considerations

10 The Community Initiatives Program (Section 356) Policy details the process and approach for delivering the funding. The Policy was reviewed in March 2022, resulting in changes to improve program delivery, and was adopted by Council on 25 March 2022 (Res 22-077).

Section 356 of the Local Government Act 1993 provides that a council may, in accordance with a resolution of the council, contribute money or otherwise grant financial assistance to persons for the purpose of exercising its functions.

The provisions of section 356 (2) have been complied with.

15 **Financial Considerations**

A total value of \$57,500 is recommended in this report and is provided in the 2024-2025 Community Development budget.

Report No. 13.5 Council Resolutions Quarterly Review - Q4 - 1 April to 30 June 2024

Directorate: Corporate and Community Services

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

File No: I2024/1045

Summary:

This report provides a quarterly update on the status of Council resolutions as at 30 June 2024.

150 resolutions were completed during the period 1 April to 30 June 2024.

91 resolutions remain active.




An additional completed resolution report has been included due to a reporting error that resulted in 216 resolutions not being reported as complete from 1 April 2023 to 31 March 2024.

RECOMMENDATION:

That Council:

- Notes the information provided in this report on active Council Resolutions in Attachment 1 (#E2024/75755).**
- Notes the completed Council Resolutions in Attachment 2 (#E2024/75753) and Attachment 3 (#E2024/75918).**
- Endorses the closure of Council Resolution 23-337 as identified in the Report.**

Attachments:

- Active resolutions as at 30 June 2024, E2024/75755 
- Completed resolutions as at 30 June 2024, E2024/75753 
- Completed resolutions not reported - 1 April 2023 to 31 March 2024, E2024/75918 

Report

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

5 Quarterly Report – 1 April 2024 to 30 June 2024.

Active Resolutions

10 The *Active Resolutions Report* (E2024/75755) provides an update to Council on all active resolutions up to 30 June 2024, with relevant commentary regarding the status of each resolution as at this date. There were 91 active resolutions at the time of preparing this report.

64 of the active resolutions were overdue by more than 60 days at the time the report was prepared. Resolutions could be overdue for a variety of reasons including budget constraints, re-prioritisation, staff resourcing, extended negotiations with stakeholders, or other reasons. Staff provide comments to address this.

15 Completed Resolutions

The *Completed Resolutions Report* (#E2024/75753) provides details of those resolutions that were completed during the period 1 April to 30 June 2024. 150 resolutions were completed during this period.

Resolutions for closure

20 There was one resolution identified as needing to be 'closed with no action':

Res No	Report Title	Meeting Date	Due Date
23-337	Basketball Court Art Project Proposal received from Laith McGregor & Art Courts Australia Report: I2022/1901 Directorate: Organisation Development Officer: No Action, Closed	24/08/2023	29/06/2024
Resolved that Council adopts the following Committee Recommendations:			
Report No. 4.1 Basketball Court Art Project Proposal received from Laith McGregor & Art Courts Australia File No: I2022/1901			
Committee Recommendation 4.1.1			
1. That the Committee supports the proposal progressing including consultation with relevant stakeholders.			
2. That the Committee recommends consideration of a broader review of the basketball and netball court areas for inclusion into an integrated activation plan.			
Mover: Sarah Ndiaye		Seconded: Cate Coorey	
Comments:			

30 Apr 2024 10:24am:

This project would need to be completed as a component of a broader upgrade of the whole of the Recreation Grounds. Until such time as this broader upgrade has been prioritised and funded the art court component cannot be completed. Council will endeavour to source funding for this project in the future.

Completed Resolutions not reported

- 5 A human error in the reporting of resolutions has been identified that resulted in some completed resolutions not being reported to Council in the Quarter 4 2022/23, and Quarters 1, 2 and 3 2023/24 completed Resolution Reports. The resolutions were removed from the active report but not reported as complete. The error has been resolved so as not to occur on future reports. These Resolutions are presented to Council for noting at Attachment 3 (E2024/75918).

Strategic Considerations

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	1.1.2.4	Deliver Council meeting secretariat – including agenda preparation, minutes and council resolutions monitoring

10 Recent Resolutions

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

Legal/Statutory/Policy Considerations

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

Financial Considerations

Several resolutions note that resource constraints limit completion of action required.

Consultation and Engagement

Not applicable.

Report No. 13.6 Carryovers for Inclusion in the 2024-2025 Budget

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

5 **File No:** I2024/1075

Summary:

10 This report is prepared for Council to consider and to adopt the carryover Budget allocations for works and services, either commenced and not completed, or not commenced but allocated in the 2023/2024 financial year for inclusion in the 2024/2025 Budget Estimates.


This report is also the subject of a report to the Finance Advisory Committee at its Meeting held on 8 August 2024.

15

RECOMMENDATION:

20 That Council approves the works and services (with respective funding) shown in Attachment 1 (#E2024/88511) to be carried over from the 2023/2024 financial year and that the carryover budget allocations be adopted as budget revotes for inclusion in the 2024/2025 Budget Estimates

Attachments:

- 25 1 Budget Carryovers - General, Water and Sewerage Fund for inclusion in 2024-25 Budget, E2024/88511 

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.6

Report

Each year Council allocates funding for works and services across all budget programs. For various reasons, some of these works and services are incomplete at the end of the financial year. The funding for these works and services is restricted or reserved at the end of the financial year to be carried over to the following year for completion.

This report identifies all the works and services proposed to be carried over to the 2024/2025 Budget Estimates and the respective funding of each, relating to works and services not completed during the course of the 2023/2024 financial year. The specific details including funding sources of all carryover works and services that are the subject of this report are outlined in Attachment 1.

The works and services are fully funded and have no impact on Council's Unrestricted Cash Result or the 2024/2025 Budget Estimates result.

There is a significant number of carryovers with the total for 2023/2024 amounting to \$18,460,300. This is a decrease when compared to the previous year following efforts as part of the 31 March 2024 Quarterly Budget Review to reduce the 2023/2024 Budget for works and services not likely to be completed at that time and include these in the Draft 2024/2025 Budget Estimates before they were adopted by Council.

Table 1 below outlines a comparison of carryovers from previous financial years:

Table 1 - Value of budget carryovers 2020/21 – 2024/25

Fund	2020/21 (\$)	2021/22 (\$)	2022/23 (\$)	2023/24 (\$)	2024/25 (\$)
General	7,875,500	10,719,000	17,539,200	15,578,200	14,708,400
Water	1,118,800	840,300	3,318,000	1,608,600	2,079,600
Sewer	1,129,200	1,695,500	4,042,400	2,479,300	1,672,300
Total	10,123,500	13,254,800	24,899,600	19,666,100	18,460,300

General Fund

The value of works carried over to 2024/2025 for the General Fund has decreased by approximately 6.5% from the 2023/2024 amount (\$869,800). Of the \$14,708,400 of General Fund carryovers, just over 51% (\$7,555,200) is attributable to Local Roads and Drainage projects not completed in 2023/2024 to be carried forward to 2024/2025. This percentage is more than the carryovers attributable to Local Roads and Drainage from 2023/2024 (42%). The extent of carryovers in the General Fund is also relevant to the

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.6

number of, and size of grant funded works. Of the General Fund carryovers, \$9,833,800 in funding is provided from unexpended or approved grants.

Major carryover items in General Fund greater than \$300,000 are as follows:

Item	Amount \$
Local Roads Reseals	434,400
Byron Bay Drainage Upgrade	546,800
Flood Pump Generator Power Supply – SGB	364,700
A&I Estate - Bayshore Drive Reconstruction	941,400
Rifle Range Rd Upgrade	2,004,700
Main Arm Valley Safety Works	365,200
Sandhills Wetlands Project	1,677,100
Cavanbah Centre Car Park Repair	412,200

Natural Disaster Budget Carryovers

- 5 The budget for Natural Disaster works in 2023/24 have not been carried over. Instead, there is a proposal to revise the 2024/25 Infrastructure Recovery Budget at the during the 30 September 2024 Quarterly Budget Review, based on proposed works subject to Essential Public Asset Restoration (EPAR) approval which are scheduled to take place in 2024/25. The rationale for this is not to necessarily create the budget amounting to the total cost of the EPAR, when the EPAR project extends beyond a year. It is a better outcome to identify an expected budget relevant to the level of work proposed to be completed in 2024/25 plus reconcile to approved EPARS.
- 10

Water and Sewer Funds

- 15 Carryovers for the Water Fund have increased by \$471,000 and decreased for the Sewer Fund by \$807,000 compared to the carryovers for the 2023/2024 financial year. Details of these carryovers are included in Attachment 1.

Major carryover items in Water Fund greater than \$100,000 are as follows:

Item	Amount \$
Fletcher Street Watermain Renewal	174,400
Bangalow Road upgrade - 710m DN100 - DN2	865,800
Old Mullumbimby Site - relocation of wat	576,900

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.6

Major carryover items in Sewerage Fund greater than \$100,000 are as follows:

Item	Amount \$
Inflow/Infiltration Reduction (except Mullumbimby)	384,900
Microwave Link for STP's	100,000
Mullumbimby Inflow/Infiltration Reduction	420,100
Ocean Shores SPS Renewal	266,300

This report is to be considered by the Finance Advisory Committee at its Meeting held on 8 August 2024.

Strategic Considerations

5 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	1.3.1.2	Provide Quarterly Budget Reviews to Council for adoption.

Legal/Statutory/Policy Considerations

Section 211 of the Local Government (General) Regulation 2021 outlines the requirements of Council relating to authorisation of expenditure. Specifically, Section 211 states:

- 10 (1) *A council, or a person purporting to act on behalf of a council, must not incur a liability for the expenditure of money unless the council at the annual meeting held in accordance with subclause (2) or at a later ordinary meeting:*
(a) has approved the expenditure, and
(b) has voted the money necessary to meet the expenditure.
- 15 (2) *A council must each year hold a meeting for the purpose of approving expenditure and voting money.*

In accordance with Section 211 of the Local Government (General) Regulation 2021, Council conducted an Ordinary Meeting to approve expenditure on 27 June 2024 via Resolution **24-328** to create the 2024/2025 Budget. The expenditure items that are the

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.6

subject of this report were not included in the 2024/2025 Budget Estimates, but now need to be. The intent of this report is to seek Council approval to revoke the carryovers from the 2023/2024 financial year and to adopt the budget carryovers for inclusion in the 2024/2025 Budget Estimates.

- 5 At its meeting held on 28 March 2013 the Strategic Planning Committee considered Report 4.3 on Council's financial position for the 2012/2013 financial year. The recommendations from this meeting were adopted by Council at its Ordinary Meeting held on 18 April 2013 through resolution **13-164**. Committee recommendation SPC 4.3 in part 5 included the following process to be applied to the consideration of any amount identified as a carryover to the 2013/14 and future Budgets and funded from general revenues:
- 10

That Council determines that any general revenue funded allocated expenditure, not expended in a current financial year NOT be automatically carried over to the next financial year before it is reviewed, and priorities established.

- 15 There are no proposed budget carryovers contained within this report subject to any general revenue funding.

Financial Considerations

- 20 The Financial implications of this report have been outlined above in that, should Council adopt the recommendation of the report, the 2023/2024 Budget result will not change, nor will the Unrestricted Cash Result. Each carryover item presented in Attachment 1 also identifies its respective available funding source(s).

Report No. 13.7 Budget Review - 1 April to 30 June 2024

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

File No: I2024/1076

5 Summary:

This report has been prepared to comply with Section 203 of the *Local Government (General) Regulation 2021* and to inform Council and the community of Council's estimated financial position for the 2023/2024 financial year, reviewed as at 30 June 2024.

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

15 The report also provides an indication of the financial position of Council at 30 June 2024. It should be noted that the figures provided are subject to completion and audit of the Council's Financial Statements for 2023/2024. Any major variances will be included as part of the report adopting the financial statements in October 2024.

This report is to be considered by the Finance Advisory Committee at its meeting held on 8 August 2024.

20



RECOMMENDATION:

1. **That Council authorises the itemised budget variations as shown in Attachment 2 (#E2024/89025) which include the following results in the 30 June 2024 Quarterly Review of the 2023/2024 Budget:**

- 25 a) **General Fund – \$429,000 movement to the Estimated Unrestricted Cash Result**
- b) **General Fund - \$54,423,800 increase in reserves**
- c) **Water Fund - \$2,734,400 increase in reserves**
- d) **Sewerage Fund - \$5,413,800 increase in reserves**

30 2. **That Council adopts the revised General Fund Estimated Unrestricted Cash Result of \$429,000 for the 2023/2024 financial year as at 30 June 2024.**

Attachments:

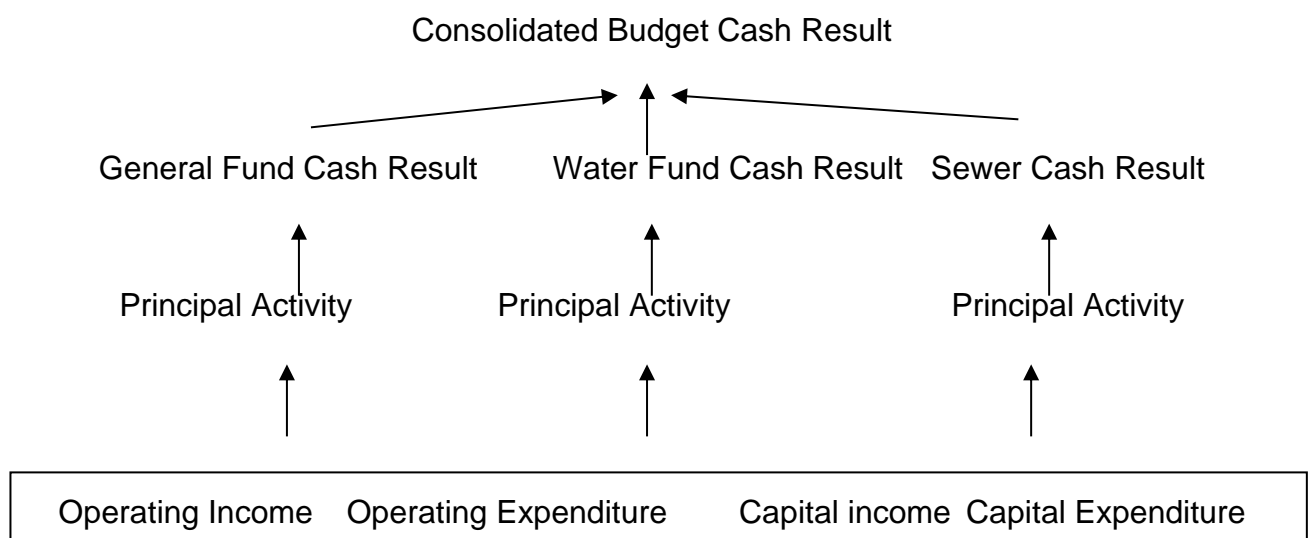
- 35 1 Budget Variations for General, Water and Sewerage Funds, E2024/89022 
- 2 Itemised Listing of Budget Variations for General, Water and Sewerage Funds, E2024/89025 

Report

Council adopted the 2023/2024 budget on 22 June 2023 via Resolution **23-280**. Council also considered and adopted the budget carryovers from the 2022/2023 financial year, to be incorporated into the 2023/2024 budget at its Ordinary Meeting held on 24 August 2023 via Resolution **23-414**. Since that date, Council has reviewed the budget taking into consideration the audited 2022/2023 Financial Statement results and progress through the 2023/2024 financial year. This report considers the June 2024 Quarter Budget Review.

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

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



The pages within Attachment 1 are presented (from left to right) by showing the original budget as adopted by Council on 30 June 2023 plus the adopted carryover budgets from 2022/2023 followed by adjustments prior to this QBR, and the revote (or adjustment for this review) and then the revised position projected for 30 June 2024.

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

There is also information detailing restricted assets (reserves) to show Council's estimated balances as at 30 June 2024 for all Council's reserves.

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

Office of Local Government Budget Review Guidelines:

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.7

On 10 December 2010, the Office of Local Government issued Quarterly Budget Review Guidelines via Circular 10-32. Reports to Council concerning Quarterly Budget Reviews normally provide statements in accordance with these guidelines as a separate attachment. Given that there is no statutory obligation for Council to produce a Quarterly Budget Review as at 30 June each financial year, the statements required by the guidelines have not been produced for this specific report.

CONSOLIDATED RESULT

The following table provides a summary of the overall Council budget on a consolidated basis inclusive of all Funds' budget movements for the 2023/2024 financial year projected to 30 June 2024.

2023/2024 Budget Review Statement as at 30 June 2024	Original Estimate (Including Carryovers) 1/7/2023	Adjustments to 30 June 2024 including Resolutions*	Proposed 30 June 2024 Review Revotes	Revised Estimate at 30/6/2024
Operating Revenue	117,955,300	(6,509,100)	14,657,000	126,103,200
Operating Expenditure	127,753,000	(7,131,000)	(2,552,700)	118,069,300
Operating Result – Surplus/Deficit	(9,797,700)	621,900	17,209,700	8,033,900
Add: Capital Revenue	155,394,600	(103,080,500)	20,771,100	73,085,200
Change in Net Assets	145,596,900	(102,458,600)	37,980,800	81,119,100
Add: Non Cash Expenses	20,523,000	0	0	20,523,000
Add: Non-Operating Funds Employed	10,487,100	(4,686,600)	(44,300)	5,756,200
Subtract: Funds Deployed for Non-Operating Purposes	(204,353,500)	119,251,100	25,064,500	(60,037,900)
Cash Surplus/(Deficit)	(27,746,500)	12,105,900	63,001,000	47,360,400
Restricted Funds – Increase / (Decrease)	(27,311,500)	11,670,900	62,572,000	46,931,400
Forecast Result for the Year – Surplus/(Deficit) – Unrestricted Cash Result	(435,000)	435,000	429,000	429,000

GENERAL FUND

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.7

In terms of the General Fund projected Unrestricted Cash Result the following table provides a reconciliation of the estimated position as at 30 June 2024:

Opening Balance – 1 July 2023	\$0
Plus original budget movement and carryovers	(435,000)
Council Resolutions July – September Quarter	185,000
September Quarterly Budget Review	0
Council Resolutions October – December Quarter	(1,200)
December Quarterly Budget Review	1,200
Council Resolutions January – March Quarter	0
Recommendations within this Review – increase/(decrease)	250,000
Council Resolutions April – June Quarter	0
Recommendations within this Review – increase/(decrease)	429,000
Estimated Unrestricted Cash Result Closing Balance – 30 June 2024	\$429,000

- 5 The General Fund financial position overall has increased as a result of this budget review, leaving the forecast unrestricted cash result for the year at \$429,000. The proposed budget changes are detailed in Attachment 1 and summarised further in this report below.

Council Resolutions

There were no Council resolutions that affected the budget result in the April to June quarter.

Budget Adjustments

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

Budget Directorate	Revenue Increase/ (Decrease) \$	Expenditure Increase/ (Decrease) \$	Unrestricted Cash Increase/ (Decrease) \$
General Manager	(78,000)	122,000	(200,000)
Corporate & Community Services	4,460,700	4,242,800	217,900
Infrastructure Services	24,454,500	24,146,000	308,500
Sustainable Environment & Economy	1,232,600	1,130,000	102,600
Total Budget Movements	30,069,800	29,640,800	429,000

Budget Adjustment Comments

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.7

General Fund budget adjustments are identified in detail at Attachment 1 and 2. More detailed notes on these are provided in Attachment 1 with the majority of budget revotes proposed to reflect actual results achieved.

- 5 The major consideration with this budget review is the reduction in expenditure associated with projects not completed and under-expenditure. Council will also be considering a report to this Ordinary Council Meeting regarding carryover items from the 2023/2024 financial year for work not completed to be added to the 2024/2025 Budget Estimates. This report also considers the implications of that report.

- 10 There were some significant budget movements in the last quarter of the financial year with some of these relating to Council receiving significant grant payments that have now been restricted including a further \$15.774million in advance payments associated with the AGRN 1012 Flood Recovery Works, \$4.200million for the Sandhills Wetlands Project, receipt of \$1.520million for finalisation of the AGRN 1012 IRW Claim. Council also
15 finalised new loan borrowings in June 2024 of \$5.800million that assisted in improving the cash position at year end. The NSW Grants Commission also paid Council 75% of the 2025 Financial Assistance Grant in advance on 28 June 2024 amounting to \$3.699million.

WATER FUND

- 20 After completion of the 2022/2023 Financial Statements the Water Fund as at 30 June 2023 had a capital works reserve of \$5,702,300 and held \$1,720,900 in section 64 developer contributions.

The estimated Water Fund reserve balances as at 30 June 2024, and forecast in this Quarter Budget Review, are derived as follows:

Capital Works Reserve

Opening Reserve Balance at 1 July 2023	\$5,702,300
Plus original budget reserve movement	(3,260,600)
Resolutions July - September Quarter – increase / (decrease)	(690,700)
September Quarterly Review Adjustments – increase / (decrease)	(1,208,600)
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	251,000
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	1,033,700
Resolutions April - June Quarter – increase / (decrease)	0
June Quarterly Review Adjustments – increase / (decrease)	2,208,900
Forecast Reserve Movement for 2023/2024 – Increase / (Decrease)	(1,666,300)
Estimated Reserve Balance at 30 June 2024	\$4,036,000

Section 64 Developer Contributions

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.7

Opening Reserve Balance at 1 July 2023	\$1,720,900
Plus original budget reserve movement	(2,193,300)
Resolutions July - September Quarter – increase / (decrease)	(917,900)
September Quarterly Review Adjustments – increase / (decrease)	2,291,800
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	31,400
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	288,100
Resolutions April - June Quarter – increase / (decrease)	0
June Quarterly Review Adjustments – increase / (decrease)	525,500
Forecast Reserve Movement for 2023/2024 – Increase / (Decrease)	25,600
Estimated Reserve Balance at 30 June 2024	\$1,746,500

Movements for Water Fund can be seen in Attachment 1 with a proposed estimated increase to reserves (including S64 Contributions) overall of \$2,734,400 from the 30 June 2024 Quarter Budget Review.

SEWERAGE FUND

- 5 After completion of the 2022/2023 Financial Statements the Sewer Fund as at 30 June 2023 had a capital works reserve of \$3,935,500 and plant reserve of \$896,200. It also held \$5,448,900 in section 64 developer contributions and a \$272,500 unexpended grant.

Capital Works Reserve

Opening Reserve Balance at 1 July 2023	\$3,935,500
Plus original budget reserve movement	(504,300)
Resolutions July - September Quarter – increase / (decrease)	(1,613,600)
September Quarterly Review Adjustments – increase / (decrease)	(666,600)
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	2,479,100
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	338,500
Resolutions April - June Quarter – increase / (decrease)	0
June Quarterly Review Adjustments – increase / (decrease)	3,305,900
Forecast Reserve Movement for 2023/2024 – Increase /	3,339,000

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.7

(Decrease)	
Estimated Reserve Balance at 30 June 2024	\$7,274,500

Plant Reserve

Opening Reserve Balance at 1 July 2023	\$896,200
Plus original budget reserve movement	0
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	0
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	0
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	0
Resolutions April - June Quarter – increase / (decrease)	0
June Quarterly Review Adjustments – increase / (decrease)	0
Forecast Reserve Movement for 2023/2024 – Increase / (Decrease)	0
Estimated Reserve Balance at 30 June 2024	\$896,200

It is proposed to create a reserve for Property Development -Temporary Housing funded from income received for temporary housing on Sewer Fund land.

5 Property Development Reserve – Temporary Housing

Opening Reserve Balance at 1 July 2023	\$0
Plus original budget reserve movement	136,200
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	0
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	0
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	0
Resolutions April - June Quarter – increase / (decrease)	0
June Quarterly Review Adjustments – increase / (decrease)	0
Forecast Reserve Movement for 2023/2024 – Increase / (Decrease)	136,200
Estimated Reserve Balance at 30 June 2024	\$136,200

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.7

Public Works – March 2022 Flood Event Grant

Opening Reserve Balance at 1 July 2023	\$272,500
Plus original budget reserve movement	0
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	0
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	0
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	211,300
Resolutions April - June Quarter – increase / (decrease)	0
June Quarterly Review Adjustments – increase / (decrease)	(230,700)
Forecast Reserve Movement for 2023/2024 – Increase / (Decrease)	253,100
Estimated Reserve Balance at 30 June 2024	\$253,100

Section 64 Developer Contributions

Opening Reserve Balance at 1 July 2023	\$5,448,900
Plus original budget reserve movement	(610,000)
Resolutions July - September Quarter – increase / (decrease)	(865,700)
September Quarterly Review Adjustments – increase / (decrease)	193,300
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	1,135,100
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	403,100
Resolutions April - June Quarter – increase / (decrease)	0
June Quarterly Review Adjustments – increase / (decrease)	2,338,600
Forecast Reserve Movement for 2023/2024 – Increase / (Decrease)	2,594,400
Estimated Reserve Balance at 30 June 2024	\$8,043,300

Movements for the Sewerage Fund can be seen in Attachment 1 with a proposed estimated overall increase to reserves (including S64 Contributions and unexpended grants) of \$5,413,800 from the 30 June 2024 Quarter Budget Review.

5

Legal Expenses

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.7

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

- 5 The table below indicates the allocated budget and actual legal expenditure within Council on a fund basis as at 30 June 2024. It is proposed to increase the Legal Services reserve by \$200,000 at this Quarterly Budget Review to cover any unexpected expenditure in the 2024/2025 financial years and beyond.

Total Legal Income & Expenditure as at 30 June 2024

Program	2023/2024 Budget (\$)	Actual (\$)	Percentage To Revised Budget
Income			
Legal Expenses Recovered	0	48,800	0%
Total Income	0	48,800	0%
Expenditure			
General Legal Expenses	210,000	308,050	147.69%
Total Expenditure General Fund	210,000	308,050	147.69%

10 Community Strategic Plan and Operational Plan

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

Legal/Statutory/Policy Considerations

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

- 15 (1) *Not later than 2 months after the end of each quarter (except the June quarter), the responsible accounting officer of a council must prepare and submit to the council a*

budget review statement that shows, by reference to the estimate of income and expenditure set out in the statement of the council's revenue policy included in the operational plan for the relevant year, a revised estimate of the income and expenditure for that year.

- 5 (2) *A budget review statement must include or be accompanied by:*
- (a) *a report as to whether or not the responsible accounting officer believes that the statement indicates that the financial position of the council is satisfactory, having regard to the original estimate of income and expenditure, and*
 - (b) *if that position is unsatisfactory, recommendations for remedial action.*
- 10 (3) *A budget review statement must also include any information required by the Code to be included in such a statement.*

Financial Implications

- 15 The 30 June 2024 Quarter Budget Review of the 2023/2024 Budget Estimates forecasts a stable outcome to the estimated budget attributable to the General Fund assuming all revotes of income and expenditure reported for Council's consideration are approved. Overall, the short term financial position still needs to be carefully monitored on an ongoing basis but the pleasing note is the projection of being able to end the financial year with \$429,000 in unrestricted cash in addition to setting aside \$200,000 in the legal services reserve.

- 20 Note that the financial outcomes outlined in this Budget Review should be considered in the context that they are indicative. Council is yet to finalise its financial statements for the year ended 30 June 2024 which will also be subject to external independent audit.

It is expected that Council will receive a report regarding the formal adoption of its financial statements for the year ended 30 June 2024 at its Ordinary Meeting in October 2024.

25

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.8 Draft Business Industry and Visitor Economy Strategy

5 **Directorate:** Sustainable Environment and Economy
Report Author: Lisa Richards, Industry Engagement Lead
File No: I2024/662

Summary:

10 Council resolved (Res **21-199**) at its 24 June 2021 meeting, to endorse a framework and process for a new whole of business industry strategy, which includes the visitor economy.

Following extensive engagement with businesses, various stakeholders and Council's Business and Industry Advisory Committee via workshops, discussions and survey, the Draft Business, Industry and Visitor Economy Strategy to 2035 (Attachment 1) has been prepared.

15 The Strategy's goal is for the economy to support the community and environment in a sustainable and balanced manner. It provides a clear direction for a resilient, adaptable and sustainable economy in response to COVID19, floods and a rapidly changing economy.

20 The Strategy recognises Council has specific roles to play in terms of business, industry, and the visitor economy:

- **Support:** to support important projects that can act as a catalyst and unlock future opportunities
- **Collaborate:** to partner with a range of organisations to facilitate positive outcomes in the region
- 25 • **Plan:** to provide a planning and regulatory environment that is conducive to positive economic outcomes
- **Advocate:** to advocate for State and Commonwealth investment into the region to address a variety of needs and issues
- 30 • **Promote:** to promote key messages and narratives about the future direction of the region's economy as well as providing information to local business to build future capacity.
- **Deliver:** to deliver a variety of services that will support local business retention and expansion.

This Strategy is based on three key themes:

- Foster Business Engagement
- Celebrate Our Business and Brand Identity
- Plan for a Sustainable Economy

- 5 Under each of these themes are a series of key initiatives describing how each theme will be pursued. These key initiatives will provide longer term direction for the Implementation Plan which supports this Strategy.

This report recommends that Council place the draft Strategy on public exhibition for a minimum of 28 days to invite feedback.

10


RECOMMENDATION:

That Council:

- 15
- 1. Endorses the public exhibition of the Draft Business, Industry and Visitor Economy Strategy to 2035 (Attachment 1, E2024/80929).**
 - 2. Receives a Submissions Report following the public exhibition period to finalise the Draft Business, Industry and Visitor Economy Strategy to 2035.**

Attachments:

20

- 1 Draft Business Industry and Visitor Economy (BIVE) Strategy - Council report version, 15 August 2024, E2024/80929 

Report

Council resolved (Res **21-199**) at its 24 June 2021 meeting, to endorse a framework and process for a new whole of business industry strategy, which includes the visitor economy.

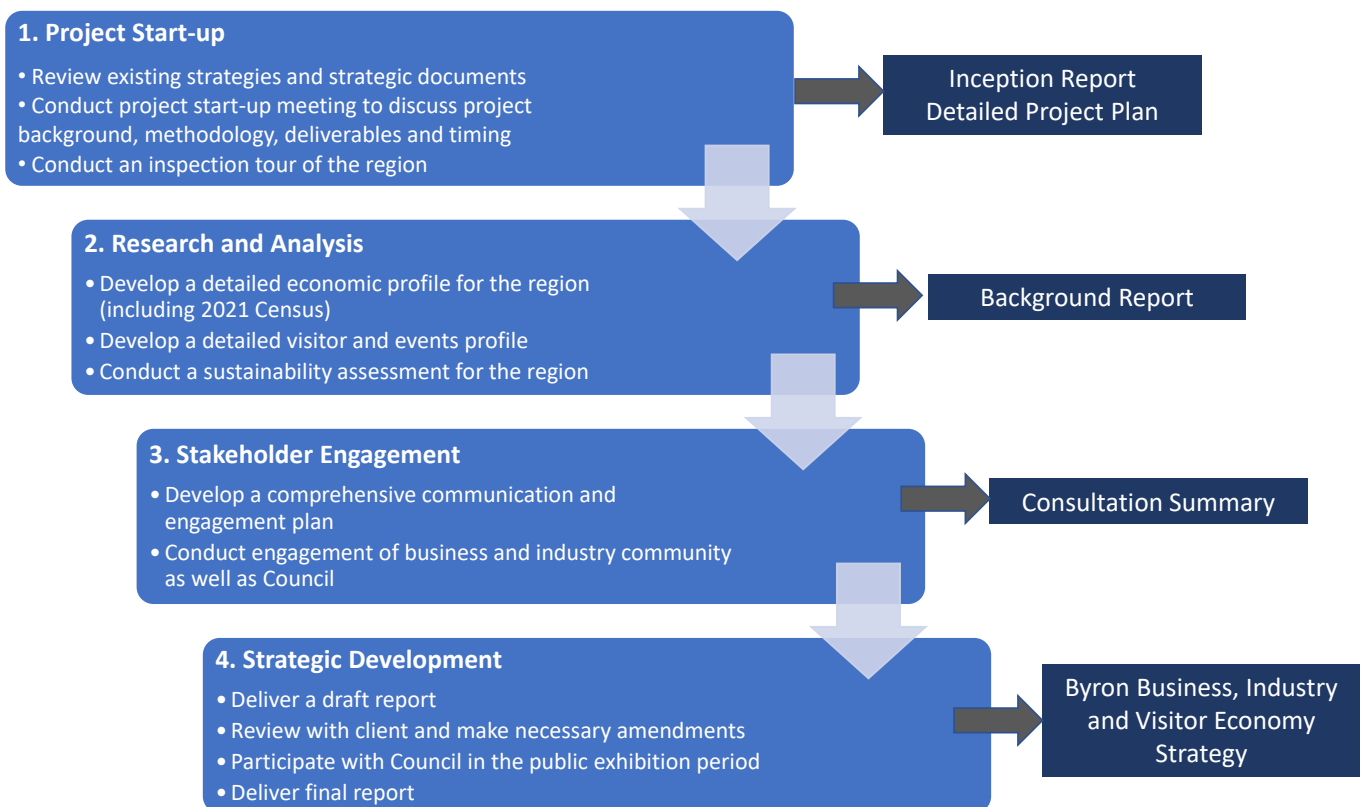
- 5 This report outlines the process used to develop the Strategy, presents the draft Business, Industry and Visitor Economy Strategy to 2035 for Council's consideration to publicly exhibit and outlines the next steps in the project delivery.

Methodology

- 10 We have been working with consultants from Lucid Economics to develop the new Business, Industry and Visitor Economy Strategy. There are several stages in the preparation of the Strategy, we are currently at phase 4. Strategic Development – deliver a draft report, refer below diagram.

Phases

Outputs



Context

- 15 The Strategy provides a clear direction for a resilient, adaptable and sustainable economy in response to COVID19, floods and a rapidly changing economy.

The most recent past has included a series of significant events that have impacted our economy (and community) greatly, including:

- COVID-19: the COVID-19 pandemic saw visitation to the Shire virtually cease as borders were shut down, significantly impacting many local businesses. Four years after the borders were closed, visitation is still slow to recover to pre-COVID levels.
- 5 • 2022 Floods: the flooding events of 2022 caused significant damage and displacement of residents. The flood events also impacted numerous businesses across the Shire and contributed to lower visitation levels.
- 10 • Housing crisis: while prices and rents have come off their recent peaks, housing in the Byron Shire is the most expensive in NSW (outside of Sydney). Beyond the unaffordability of housing in the Byron Shire there is a lack of housing, making it inaccessible for many. Based on 2021 Census data, some residents have relocated to surrounding local government areas (in pursuit of more accessible and affordable housing).
- 15 • Rising cost of living: together with the housing crisis, the rising cost of living and interest rate rises are placing further pressure on local residents and businesses.

Against this backdrop, the previous Enterprising Byron 2025 Economic Development Strategy was audited and set for renewal.

20 Prior to the COVID-19 Pandemic, Council undertook an extensive engagement program where it heard from over 1,500 residents, ratepayers, businesses, and visitors to inform the development of the Byron Shire Draft Sustainable Visitation Strategy 2020-2030. Given the significance of these recent events, combining the Economic Development Strategy and the Sustainable Visitation Strategy into this Business, Industry and Visitor Economy Strategy was identified as the best avenue forward.

Initial Conversations

25 In 2023, extensive engagement was conducted to support the development of the Strategy. We engaged with our business community to gain insights into the local economy, where we have competitive strengths and opportunities but also where we have challenges or barriers.

We researched, workshopped, and interviewed:

- 30 • Local businesses from various industry sectors
- Chambers of Commerce and Industry as well as networking groups
- Agency stakeholders
- Our Business and Industry Advisory Committee (including workshops with a number of invited businesses, stakeholders, elected members and the executive of
- 35 Council).

We asked for their thoughts on:

- The background research findings
- Economic advantages, challenges, and opportunities
- 40 • Council's role in economic development.

Engagement was undertaken in several formats, including:

- Nine industry focused workshops
- Two virtual workshops
- Internal and external stakeholder interviews
- 5 • Survey on Council's Your Say page

Finally, informal engagement with local businesses also took place throughout the project, including attending events held by Destination Byron and local Chambers of Commerce.

Relevant staff and the Executive Team have also been engaged to provide feedback on the draft strategy.

10 **Draft Business, Industry and Visitor Economy Strategy to 2035**

The draft Strategy has to date been informed by more than 100 key stakeholders. It represents the key inputs and themes from stakeholders and addresses key areas of concern and opportunity, while ensuring recommended actions are within Council's remit to the community.

- 15 The Strategy seeks to be in business for good. Being in business for good acknowledges the important role that the economy has to provide resources for the community and that in order to have a vibrant community, a strong economy is required. At the same time, it is important to protect and support the environment. Being in business for good is about striking a balance between the community, environment, and the economy.

- 20 The Strategy seeks to provide Council with specific guidance and direction to manage future economic growth in a sustainable and ethical manner.

- 25 It provides a framework for the economy to support the community and environment in a balanced and sustainable manner. This framework provides long-term direction to Council that is supported by a short-term implementation plan. In such a way, long-term direction to maintain the balance across the community, environment and economy can be sustained and at the same time, activities and tasks can remain flexible and adaptable to change over time.

The goal of the Strategy is:

Goal: the economy to support the community and environment in a balanced and sustainable manner.

- 30 This Strategy is based on three key themes:

- Foster Business Engagement
- Celebrate Our Business and Brand Identity
- Plan for a Sustainable Economy

Under each of these themes are a series of key initiatives describing how each theme will be pursued. These key initiatives provide longer term direction informing the Implementation Plan of the Strategy, Section 6 of Appendix 1.

- 5 The implementation plan will be monitored and reviewed, recognising the benefits or outcomes from each activity. Adjustments can then be made based on the effectiveness (or not) of the identified task. All actions are subject to funding and recognition in Council's Operational Plan.



Foster Business Engagement

- Bring businesses together
- Engage with businesses
- Encourage innovation and sustainability
- Support regional engagement



Celebrate Our Business and Brand Identity

- Define our visitor economy identity
- Promote our innovative and circular business environment
- Celebrate our towns and villages



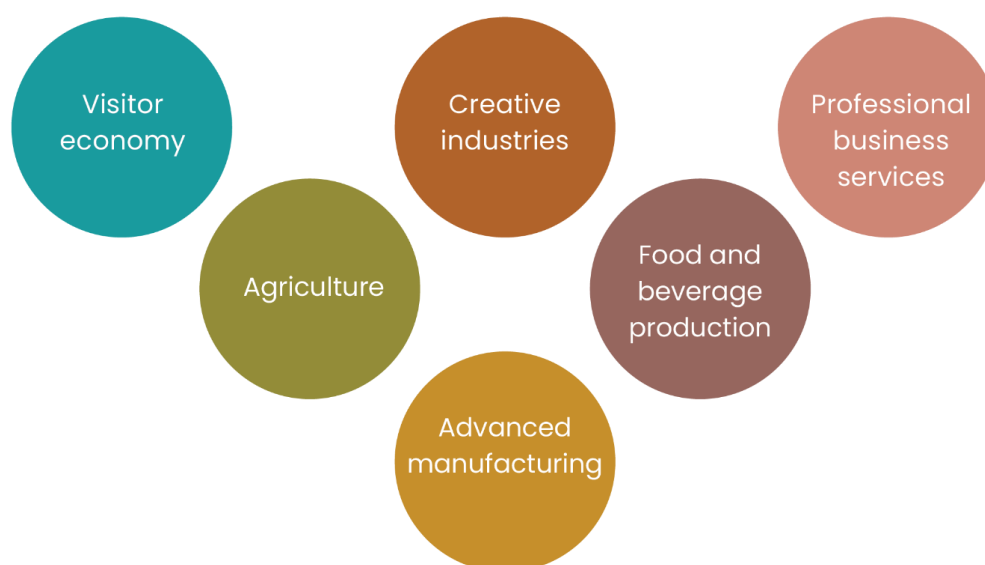
Plan for a Sustainable Economy

- Ensure spaces for businesses and residents
- Streamline regulatory processes
- Leverage major redevelopment sites
- Augment infrastructure

- 10 The Byron Shire economy is unique. While it may share some common traits with other regional destinations across Australia, its uniqueness is based on its high degree of innovation, creativity, and diversity, with a variety of sectors that complement each other to build a strong and diverse economy.

- 15 The following key industries have been defined by their current and future potential economic contribution, high value adding nature, export orientation and high levels of innovation. These key industries will help us be in business for good and include:

Key Industries



Next steps

- 5 The Draft Business, Industry and Visitor Economy Strategy will be placed on public exhibition for a minimum of 28 days and community feedback encouraged through media and engagement with local businesses and other key stakeholders.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
4: Ethical Growth	4.3: Promote and support the local economy	4.3.1: Diverse economy - Develop a Business and Visitor Economy Strategy to support a resilient and diverse economy	4.3.1.1	Develop a Business and Visitor Economy Strategy

Recent Resolutions

Resolution **21-199**

Legal/Statutory/Policy Considerations

The following documents were considered in the development of the Business, Industry and Visitor Economy Strategy:

State and Regional

- 5
 - Visitor Economy Strategy
 - Northern Rivers Regional Economic Development Strategy
 - North Coast Destination Management Plan
 - North Coast Regional Plan
 - State Environmental Planning Policy
- 10
 - Environmental Planning and Assessment Act

Byron Shire

- Community Strategic Plan 2023
- Enterprising Byron 2025
- 15
 - Draft Sustainable Visitation Strategy 2020-2030
 - Tourism Resilience Discussion Paper 2020
 - Arts and Culture Action Plan
 - Towards Zero Integrated Waste Strategy
 - Climate Change Adaptation Plan
- 20
 - Disability Inclusion Action Plan
 - Byron Local Environmental Plan
 - Residential Strategy
 - Business and Industrial Lands Strategy
 - Rural Land Use Strategy
- 25
 - Local Planning Strategy
 - Masterplans

Financial Considerations

- 30
 - The development of the Business, Industry and Visitor Economy Strategy was funded through the AGRN1012-Local Government Recovery Grants-Highly Impacted Councils-Storm and Flood Events- March 2022.

Report No. 13.9 Draft Events Strategy for public exhibition

Directorate: Sustainable Environment and Economy

Report Author: Arika McElroy, Project Support Officer
Sharyn French, Manager Environmental and Economic Planning

File No: I2023/36

Summary:

Council resolved (Res. **22-288**) at its 23 June 2022 meeting, to create an action plan to enable and encourage small and medium sized festivals to operate in Byron Shire.

Following 18 months of consultation with input from over 100 stakeholders in one-to-one discussions, focus group workshops and Findings Paper testing, the Draft Events Strategy (Attachment 2) has been prepared.

The draft Events Strategy supports small to medium size events. It defines small to medium size events based on attendee numbers; small 1,500- 5,000 attendees and medium 5,000-25,000 attendees.

The Strategy:

- outlines the types of events that will achieve the best economic, social and environmental outcomes for Byron Shire now and in the future
- identifies the resources and initiatives needed to ensure event success, and
- provides Council with a strategic framework to guide decision making on event support that maximises economic and social outcomes, optimises Council resources and increases the sustainability of local events.

The Strategy outlines the key priorities for Council in enabling and supporting small to medium events to flourish and the local community and environment to benefit in tandem. These are:

1. Identify and nurture events that align with our values
2. Enable socially, environmentally, and economically sustainable events
3. Ensure infrastructure facilitates event growth and development
4. Establish Byron Shire as an event friendly destination for the small and medium events
5. Enhance events' contribution to community wellbeing, the local environment and economy

The Strategy includes a range of actions to deliver on each of these key priorities. The actions can be found in Part C Activation Plan page 40 of Attachment 2.

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.9

The report recommends that Council place the draft Strategy on exhibition for a minimum of 28 days to invite community feedback.



5

RECOMMENDATION:

That Council:

1. **Endorses the public exhibition of the Draft Events Strategy 2035 (Attachment 2, E2024/80126).**
- 10 2. **Receives a Submissions Report following the public exhibition period to finalise the Events Strategy 2035.**

Attachments:

- 1 Events Strategy - Findings Paper, E2024/80383 
- 15 2 Draft Events Strategy, E2024/80126 

Report

At the 23 June 2022 Council meeting a Notice of Motion was considered on strengthening our festival culture. Council resolved (Res **22-288**) to create an action plan to enable and encourage small and medium sized festivals to operate in Byron Shire.

- 5 This report, outlines the process used to develop the plan, presents the draft Events Strategy for Council's consideration to publicly exhibit and outlines the next steps in the projects delivery.

The Tilma group were engaged to prepare the Strategy together with Council staff. There are several stages in the preparation of the Strategy, we are currently at the Draft Strategy stage, refer below diagram.

10



Initial Conversations & Findings Paper

- 15 To inform the development of the Strategy, extensive one-to-one discussions and focus group workshops were held with a range of stakeholders including council staff, event organisers, venue managers, tourism and community representatives and State tourism bodies. Table 1. Lists the key stakeholders engaged.

From the initial conversations, event stakeholders shared the types of events they see as appropriate for the Shire, the role they want Council to play in events and what they want events to deliver for the Shire.

- 20 The initial conversations, alongside a desktop review, also identified the current strengths, challenges and opportunities associated with events in the Shire.

The wealth of information received through this engagement was distilled into the Findings Paper (Attachment 1). The Findings Paper provides the key element of the conversations had with local event stakeholders about their aspirations for events in the Byron Shire.

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.9

To ensure the Findings Paper also captured the views of the wider community interested in events, it was tested through an open engagement process. The Paper was publicly exhibited, and a survey conducted to test the findings and capture any additional views and aspirations of the broader community.

- 5 The results of this rigorous engagement process underpins and informs the draft Events Strategy (Attachment 2).

Table 1: Stakeholders engaged to date

The following are those stakeholders invited to participate in the conversations to date.

Stakeholders	
Byron Shire Council	<ul style="list-style-type: none"> Arts and Culture Advisory Committee Council staff from various teams including: Events & Economic Development, Open Spaces & Facilities, Compliance & event approvals, Culture & Community Services, Place Planning, Resource Recovery and Sustainability
Mullumbimby Event Organisers	<ul style="list-style-type: none"> Renewfest Chincogan Charge Ingenuity Sculpture Festival Mullum Music Festival National Circus Festival,
Byron Bay Event Organisers	<p>Community</p> <ul style="list-style-type: none"> 1 Billion Rising, Day of the Dead World Naked Bike Ride Matsuri Byron Bay Soul Street New Years Eve Byron Multicultural <p>Commercial (homegrown)</p> <ul style="list-style-type: none"> Byron Music Festival Byron Surf Festival Caper A Day In The Bay Byron Comedy Festival Festival of the Stone BB International Film Festival <p>Sports</p> <ul style="list-style-type: none"> BJJ Aust Opens Byron Triathlon / Byron Lighthouse Run NX Sports Winter Whales Ocean Swim Classic Ballina Byron Coastal Charity Walk Northern Rivers Revolt Roller Derby AFL9s Invitational Byron Rugby 7s Byron Bay Lighthouse Run

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.9

Stakeholders	
Business & Community Event Venues	<ul style="list-style-type: none"> • Island Quarry & Mullum railway Station • North Byron Parklands • North Byron parklands • Beach Café • Brunswick Picture House • Byron Events Farm
Brunswick Heads Event Organisers	<ul style="list-style-type: none"> • Mullum2Bruns Paddle • Marine Rescue • Brunswick Visitor Info Centre • Bruns SLSC • Brunswick Nature Sculpture Walk • Old & Gold • Brunswick Valley Woodchop
Bangalow Event Organisers	<ul style="list-style-type: none"> • Bangalow Film Festival • Bangalow Billycart Derby • Sample Food Festival • Eat Street Foragers Market • Byron Writers Festival • Showground Manager
Markets Focus Group	<ul style="list-style-type: none"> • Byron & Bangalow Farmers Markets • Mullum & New Brighton Farmers Markets • Byron Markets • Brunswick Markets
Byron Events Industry Association (BEIA).	<ul style="list-style-type: none"> • Rockinghorse Studios
NSW National Parks / Cape Byron Marine Park Authority	<ul style="list-style-type: none"> • National Parks and Wildlife Service • Cape Byron Marine Parks Authority
Indigenous Stakeholders	<ul style="list-style-type: none"> • Bundjalung of Byron Bay Aboriginal Corporation (Arakwal) • Jali Local Aboriginal Land Council • Tweed Byron Local Aboriginal Land Council
Destination Network / DNSW	<ul style="list-style-type: none"> • General Manager, Destination North Coast NSW • Business Events Executive • Destination North Coast Business Events
Individual stakeholders	<ul style="list-style-type: none"> • Mullum Cares • Zero Emissions Byron • Cavanbah Centre • Northern Rivers Performing Arts • Margot Natoli Project Management Pty Ltd • Bewilderness • Byron Bay Coffee Festival

Draft Events Strategy

The Draft Events Strategy has to date been informed by more than 100 key stakeholders.

5 The Strategy represents the aspirations of the local events sector. It outlines key values and priorities, as well as achievable actions to refine Council's support for events and festivals in Byron Shire.

The vision for the Byron Shire community, as expressed in the Community Strategic Plan, is equally the vision for what events bring to the Shire over the next five years and beyond.

Vision

Byron Shire is a 'meeting place'.
where people can come together to connect, share,
grow, inspire and create positive change.

10 Values

These values are what is expected of events to ensure the vision is achieved. They form the basis for Council's assessment process when deciding on events to be approved on Council owned and managed land.

1. **Make a positive difference to our culture and community**

15 Events in the Shire connect, inspire and create positive change within our community in ways that are authentic, inclusive and celebrate Aboriginal voices and stories, and showcase cultural expression and creativity.

2. **Call to and inspire visitors that share our values**

20 Byron Shire has a diverse blend of events with a commonality of seeking visitors that respect the community's needs and natural environmental and have a desire to give back.

3. **Have a positive impact on our environment**

Council, community, event organisers and visitors are custodians of Byron's stunning natural environment which is a core part of or backdrop to events, why the locals live here and why visitors travel to be here.

25 4. **Provide creative and economic opportunities to the local community**

Part of Byron Shire's unique identity is the emerging and professional arts and creative industries that are involved or have an opportunity to be part of the delivery of a thriving program of events.

5. **Enable visitors and locals to experience our diverse communities**

30 Events allow the local communities to share Byron's eclectic villages and unique stories with visitors.

Key Priorities

The key priorities for Council in enabling and supporting small to medium events to flourish and the local community and environment to benefit in tandem are:

- 5 1. Identify and nurture events that align with our values
2. Enable socially, environmentally, and economically sustainable events
3. Ensure infrastructure facilitates event growth and development
4. Establish Byron Shire as an event friendly destination for the small and medium events
- 10 5. Enhance events' contribution to community wellbeing, the local environment and economy

Actions to deliver our key priorities are grouped under deliver, improve and grow. The actions can be found in Part C Activation Plan page 40 of Attachment 2.

Deliver: Current council services that support the events industry

- 15 **Improve:** Actions that may require additional resources to improve processes and create new opportunities

Grow: Aspirational actions that require significant resourcing

The draft Events Strategy (Attachment 2) is presented to Council for endorsement to proceed to public exhibition and further consultation.

20 **Next steps**

The Draft Events Strategy will be placed on public exhibition for a minimum of 28 days and community feedback encouraged through media and engagement with local events organisers and other key stakeholders.

- 25 Following the exhibition, the feedback will be considered in the revision of the Strategy to create a final document. The final Strategy will be reported to Council for consideration and adoption.

Strategic Considerations

Community Strategic Plan and Operational Plan

- 5 The Strategy fulfills actions in Council's Arts and Cultural Action Plan, the Community Strategic Plan 2032 and it aligns with the Business Industry and Visitor Economy Strategy being developed concurrently.

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	2.1.3: Events and festivals - Support and enable arts & cultural activity, festivals, projects, and events	2.1.3.10	Develop an Events Strategy

Recent Resolutions

- Res 22-288

Legal/Statutory/Policy Considerations

The following documents were considered in the development of the Events Strategy:

- 10 State
- NSW Visitor Economy Industry Action Plan 2030
 - State policy and legislation initiatives such as 'Bringing fun back to NSW'
- Regional
- North Coast NSW Destination Management Plan 2022-2030
- 15 • Northern Rivers Regional Economic Development Strategy 2018 -2022
- Byron Shire
- Community Strategic Plan 2023
 - Disability and Inclusion Action Plan
 - Arts and Culture Action Plan
- 20 • Single Use Plastic Policy
- Draft Business Industry and Visitor Economy Strategy
 - Event Guide 2020
 - Draft Sustainable Visitation Strategy 2020-2030
 - Tourism Resilience Discussion Paper 2020
- 25 • Byron Shire Development Control Plans and Plans of Management
- Byron Shire Open Space and Recreation Needs Assessment and Action Plan 2017-2036

Financial Considerations

The development of the Events Strategy was funded through the AGRN1012 - Local Government Recovery Grants - Highly Impacted Councils - Storm and Flood Events - March 2022.

5

**Report No. 13.10 PLANNING PROPOSAL - 26.2023.8.1 -
Schedule 1 Additional Permitted Use
(Restaurant or Cafe) – 24 & 26 Marvell
Street, Byron Bay**

5 **Directorate:** Sustainable Environment and Economy
Report Author: Greg Yopp, Planner
File No: I2024/998

Proposal:

PP No:	26.2023.8.1
Planning Portal ref	PP-2024-135
Proposal description:	Additional Permitted Use – Restaurant or Cafe
Property description:	LOT: 17 DP: 1249757 and LOT: 18 DP: 1249757
	24 Marvell Street BYRON BAY and 26 Marvell Street BYRON BAY
Parcel No/s:	269524 and 269525
Applicant:	BARKER RYAN STEWART
Owner:	24 Marvell Street BYRON BAY – Candace Co Limited 26 Marvell Street BYRON BAY – Ms L C Rettenmaier
Zoning:	R2 Low Density Residential
Planning Proposal Application submitted	23/01/2024
Summary:	<p>The Planning Proposal seeks to amend LEP 2014 Schedule 1 Additional Permitted Uses and LEP 2014 Additional Permitted Uses Map (Sheet APU_003CC) to include 24 and 26 Marvell Street Byron Bay to permit a restaurant or café with development consent. The Planning Proposal was also accompanied with an offer of a Voluntary Planning Agreement (VPA), pursuant to Part 7 Subdivision 2, of the EP& A Act 1979.</p> <p>A preliminary assessment of the Planning Proposal and associated Voluntary Planning Agreement has revealed several inconsistencies with the relevant plans, strategies and s9.1 Ministerial Directions as listed below.</p> <p>1. Inconsistent with LEP 2014 Clause 1.2(2)(l) Aims of Plan. The</p>

	<p>proposal is likely to increase land use conflict within the residential zone and decrease amenity of adjoining and nearby land uses.</p> <ol style="list-style-type: none"> 2. Inconsistent with the North Coast Regional Plan 2041 Objective 11, Strategy 11.3. The proposed restaurant or café is 120m away from edge of the commercial centre. The proposed restaurant or café will likely impact negatively on residential amenity. Other suitable restaurant sites are located in the nearby Zone E1. 3. Inconsistent with the Byron Bay Town Centre Master Plan 2016. The subject site is not within an area identified for more intensive business/commercial expansion. The Planning Proposal is inconsistent with the vision for the Western Residential Precinct. 4. Inconsistent with the Byron Shire Business and Industrial Lands Strategy 2020. The proposed restaurant or café, a commercial land use, will dilute the commercial significance of the existing Byron Bay commercial centre. Moreover, the strategy confirms the current surplus retail/commercial floor area capacity in the existing Byron Bay town centre, thus providing opportunities for additional restaurant or cafes within Zone E1 Local Centre. 5. Inconsistent with the Byron Shire Residential Strategy 2041. The encroachment of commercial land uses, such as the proposed restaurant or café, into a residential zone would reduce the opportunities to provide housing to meet the needs of the community both now and into the future. 6. Inconsistent with the North Coast Regional Plan 2041 'Housing and Place' Narrative due to the inconsistencies with a) the Byron Bay Town Centre Master Plan 2016; b) the Byron Shire Business and Industrial Lands Strategy 2020; and c) the Byron Shire Residential Strategy 2041. 7. Inconsistent with Local Strategic Planning Statement, Priority - 'A Liveable Shire' due to inconsistencies with the Byron Bay Town Centre Master Plan 2016. 8. Inconsistent with the Byron Shire Community Strategic Plan 2032 - Ethical Growth Community Desire "controlled development which is congruent with the existing local aesthetics of our towns and villages". The proposed restaurant or café is incongruent with the existing surrounding residential development. 9. Inconsistent with Ministerial Direction 1.1 Implementation of Regional Plans due to an inconsistency with the North Coast Regional Plan Objective 11, Strategy 11.3. The proposed restaurant is 120m away from edge of the commercial centre. The proposed restaurant will likely impact negatively on residential amenity. Other suitable restaurant sites are located in the nearby Zone E1. 10. Inconsistent with Ministerial Direction 6.1 Residential Zones as it fails to broaden the choice of housing types and locations in the
--	---

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.10

	<p>housing market.</p> <p>11. The proposed Voluntary Planning agreement is inconsistent with Byron Development Control Plan Section B4.2.10 Monetary Contributions. The subject site is not located within a main commercial area, nor is there a planned car park for Byron Bay included in the works schedule of the Byron Developer Contribution Plan 2012.</p>
--	--

NOTE TO COUNCILLORS:




- 5 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.

10 RECOMMENDATION:

That Council:

1. Does not support the Planning Proposal and Letter of Offer.
2. Notifies both the Applicant and the Department of Planning, Housing, and Infrastructure of Council's decision to not support the Planning Proposal.
- 15 3. Authorises staff to include the following additional R2 Low Density Residential Zone "Objective" in the next round of LEP Housekeeping Amendments:

Attachments:

- 1 26.2023.8.1 Planning Proposal, E2024/69115 
- 20 2 26.2023.8.1 Voluntary Planning Agreement - Letter of Offer, E2024/69120 
- 3 3 Special Disclosure of Pecuniary Interest Annexure, E2012/2815 

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.10

INTRODUCTION

History/Background

Historic details of land use applications associated with each of the two contiguous allotments are provided below.

5 24 Marvell Street Byron Bay

APPLICATIONS & REGISTERS

Application / Register No	Description	Status	Date
6.1989.2095.1 Building Applications	Swimming Pool	FINI	21/02/1989
6.1993.2458.1 Building Applications	Garage	APPD	26/08/1993
10.2004.535.1 Development Application	Home Industry - Carwashing of stored vehicles	WITH	03/02/2005
10.2012.390.1 Development Application	Boundary Adjustment, Additions & Alterations to Dwelling House,	APPR	14/12/2012
10.2012.390.2 Development Application	S96 to modify approved plans to include new skylight roof and	APPR	09/10/2014
10.2012.390.3 Development Application	S96 to modify plans to alter shape of pool & cabana, change carport to	APPR	03/05/2016
10.2012.390.4 Development Application	S96 for Modification of Garage and Cabana	APPR	10/10/2016
15.2012.390.1 Subdivision Certificate	Subdivision: Two (2) Lots	APPR	17/05/2018
26.2023.8.1 LEP & DCP Amendments	LEP Amendment to allow restaurants/cafes to be permissible uses on the	Pending	

26 Marvell Street Byron Bay

APPLICATIONS & REGISTERS

Application / Register No	Description	Status	Date
6.1989.2095.1 Building Applications	Swimming Pool	FINI	21/02/1989
6.1993.2458.1 Building Applications	Garage	APPD	26/08/1993
10.2004.535.1 Development Application	Home Industry - Carwashing of stored vehicles	WITH	03/02/2005
10.2012.390.1 Development Application	Boundary Adjustment, Additions & Alterations to Dwelling House,	APPR	14/12/2012
10.2012.390.2 Development Application	S96 to modify approved plans to include new skylight roof and	APPR	09/10/2014
10.2012.390.3 Development Application	S96 to modify plans to alter shape of pool & cabana, change carport to	APPR	03/05/2016
10.2012.390.4 Development Application	S96 for Modification of Garage and Cabana	APPR	10/10/2016
15.2012.390.1 Subdivision Certificate	Subdivision: Two (2) Lots	APPR	17/05/2018

An application for Planning Proposal 26.2023.8.1 was submitted on the NSW Planning Portal on 23/01/2024. A copy of the Planning Proposal is contained in Attachment 1.

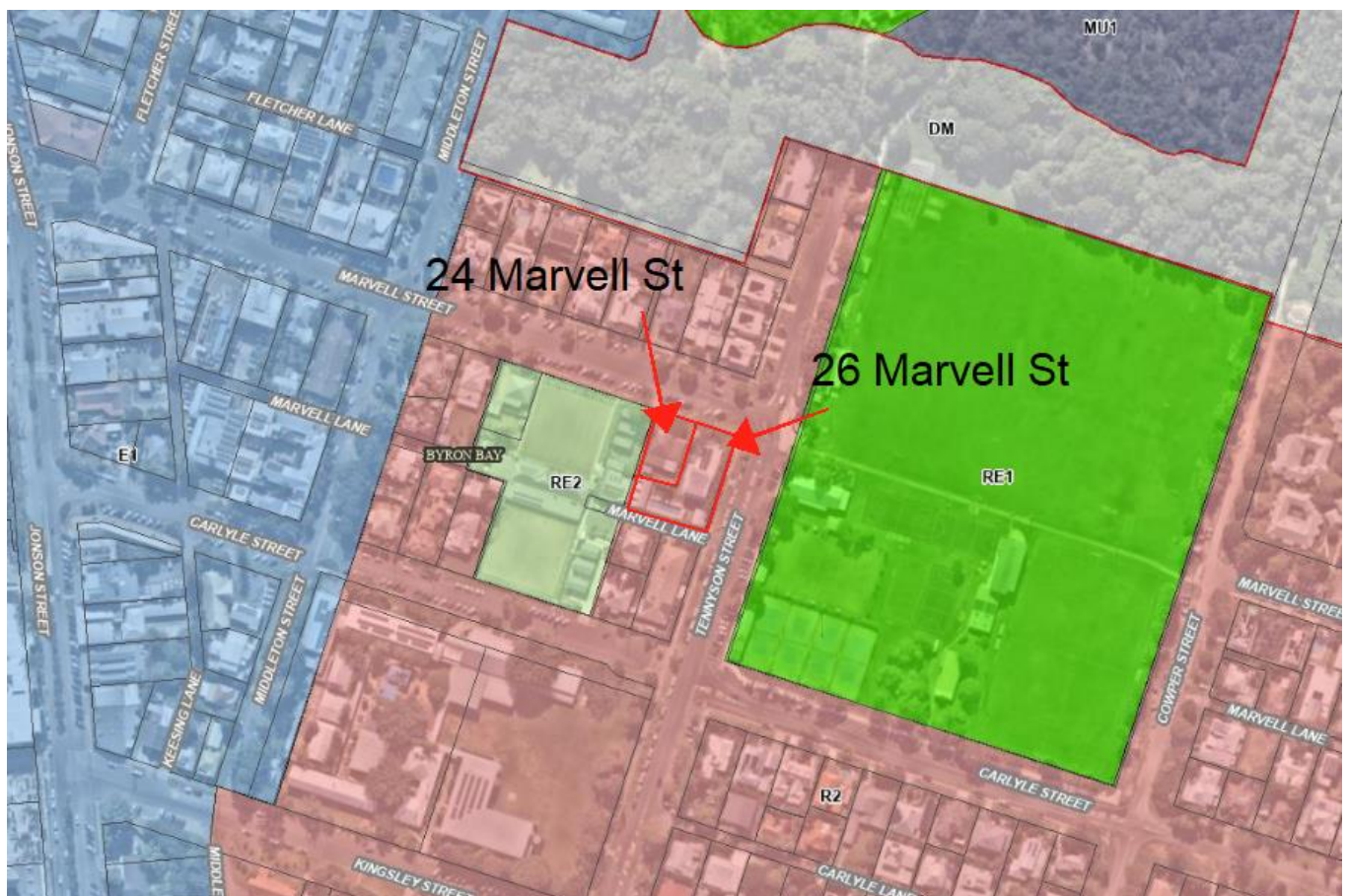
Description of the Planning Proposal

- 5 The Planning Proposal seeks to amend LEP 2014 Schedule 1 - Additional Permitted Uses and LEP 2014 Additional Permitted Uses Map (Sheet APU_003CC) to include 24 and 26 Marvell Street Byron Bay to permit a **restaurant or café** with development consent. The Planning Proposal was also accompanied with an offer to enter into a Voluntary Planning Agreement (VPA), pursuant to Part 7 Subdivision 2, of the EP& A Act 1979. Refer to Attachment 2 for letter of offer for a VPA. The VPA offers a financial contribution to make up for the short fall in onsite car parking.

Description of the site

- 10 Figure 1 provides an aerial view of the subject two allotments with a land zoning overlay.

Figure 1 – Aerial Site Plan with land zoning overlay



The site description and context are provided in Table 1.

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.10

Table 1 – Site Description and Context

Item	Description
Lot/DP	LOT: 17 DP: 1249757 and LOT: 18 DP: 1249757
Property address	24 Marvell Street BYRON BAY and 26 Marvell Street BYRON BAY
Land use zone	R2 Low Density Residential
Land area	24 Marvell Street – 668m ² 26 Marvell Street – 1356m ²
Site constraints	<ul style="list-style-type: none">• Partly within mapped 2100 Flood Planning Area• Mapped as Class 3 Acid Sulfate Soils
Surrounding development	<p><u>East</u> – Council owned sports fields and 250m beyond that additional residential land uses.</p> <p><u>West</u> – adjacent to Byron Bay Bowling and Recreation Club, which also includes seven ancillary tourist cabins approved under DA 10.2014.503.1. Beyond the club to the west there exists three more residential lots. Zone E1 Local Centre is located 150m to the west.</p> <p><u>North</u> – Residential land uses and 80m beyond that Crown Land with Skate park and Library.</p> <p><u>South</u> – Residential land uses and beyond that (87m south of southern boundary) Byron Bay Public School.</p>
Improvements on the subject lots	<p><u>24 Marvell Street</u></p> <p>Single storey timber clad dwelling with a metal roof and a caravan at the rear of the property.</p> <p><u>26 Marvell Street</u></p> <p>Two storey timber dwelling with a metal roof. The northern part of the dwelling is single storey with the double storey component located at the southern end of the dwelling. A single detached garage is located in the southeast of the lot. A swimming pool and pool house are located in the back yard (southern part of lot).</p>

SUMMARY OF INTERNAL REFERRALS

Referral comments are provided in Table 2 below.

Table 2 – Internal Referral Comments

Referral	Issue
Development Engineer	<p>Written Planning Advice provided to the proponent on 10/11/23 was limited to a car parking assessment undertaken by Council's Development Engineer.</p> <p>The WPA has been superseded by more recent Engineering referral comments dated 9/6/2024. A Traffic Impact Assessment Report, dated 21/3/2024, and a letter of offer to enter into a VPA were submitted as part of the Planning Proposal.</p> <p>The following is an extract from the Engineering referral comments (<i>blue italics</i>):</p> <p><u>Engineering comments</u></p> <ul style="list-style-type: none"> <i>A usable Restaurant/café GFA of 325m² within the residential zone in Marvell St requires 43 parking spaces in accordance with Chapter B4 BDCP 2014.</i> <i>The survey results found that available parking spaces are more utilised on weekends than weekdays. It is likely that residential uses in the surrounds are utilising the on-street parking spaces.</i> <i>The confidence of the parking supply availability in the survey results does not fully create the full picture of the parking availability in the surrounds due to the seasonal changes and on-street parking utilisation.</i> <p><u>Note:</u> <i>the parking survey was conducted on a single weekday and weekend only</i></p> <ul style="list-style-type: none"> <i>On-street parking spaces should not be utilised to meet the parking requirements of Chapter B4 of BDCP 2014, however it is acknowledged that this will complement the overflow parking of any residential and commercial uses in the surrounds.</i> <i>A carparking VPA of 43 spaces to form part of the planning proposal will meet the parking requirement in the Chapter B4 of DCP 2014.</i> <i>Figure 3.1 allocated land for possible 8 spaces within the development site. The access requirements to service these spaces adversely impact the on-street parking supply.</i> <p><i>On-street parking is made to supplement overflow parking from residential, commercial, and industrial uses and these are regularly lost by the construction of any services connection (e.g. driveways, pedestrian ramps and crossing).</i></p> <p><u>Conclusions and Recommendations</u></p> <p><i>The site is within the Byron Residential Zone and is outside the Byron Town Centre as mapped in Chapter E10 of BDCP 2014.</i></p> <p><i>The proposal to permit a 325m² GFA restaurants/cafes use of the site is supported subject to a Voluntary Planning Agreement of 43 spaces to form part of</i></p>

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.10

Referral	Issue
	<p><i>the Planning Proposal. The locality for the contribution rate of the Planning Agreement is Byron Bay CBD.</i></p> <p><u>Planning comments:</u></p> <p>It is noted that there is a very small sample space involved in the collection of the traffic data. Council's Development Engineer points out that traffic data was collected using a single weekday and weekend only, thus not accounting for seasonal fluctuations in visitor numbers.</p>
S7.11 / Contributions Planner / VPA	<p>VPA letter of offer sent to VPA referral officer. Refer to Attachment 2 for letter of offer. Referral advice was not received at the time of writing.</p> <p><u>Planning comments:</u></p> <p>The Planning Agreement offers to provide a monetary contribution to Byron Shire Council for the shortfall of 43 car parking spaces associated with the additional permitted use for the Site. The offer includes provision to adjust the monetary contribution should additional car parking spaces be provided within the site.</p> <p>The adjoining residential road network may be capable of accommodating 43 additional car parking spaces, however, the additional traffic, the time of the increased traffic, pedestrian movement and noise has the potential to negatively impact the residential amenity of the area.</p> <p>Moreover, DCP Chapter B4 – Traffic Planning, Vehicle Parking, Circulation and Access, Section 'B4.2.10 Monetary Contributions' only applies to land in Zone B2 Local Centre (now Zone E1 Local Centre). The DCP states 'In locations away from the main commercial areas, or where no public car parks are planned, on site car parking is to be provided with the development'. The site is neither in a commercial area and nor is there a public car park planned. (Note. There is no line item in the Developer Contribution Plan works schedule for a new car park in Byron Bay).</p> <p>In conclusion, the proposed Voluntary Planning Agreement is inconsistent with Byron Development Control Plan Section 'B4.2.10 Monetary Contributions'. The subject site is not located in a main commercial area, nor is there a planned car park for Byron Bay included in the works schedule of the Byron Developer Contribution Plan 2012.</p>

Assessment of Planning Proposal against Byron LEP 2014

Byron LEP 2014 – related matters

The aims of Byron LEP 2014 are provided in italics below.

5 **1.2 Aims of Plan**

(1) *This Plan aims to make local environmental planning provisions for land in Byron in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.*

(2) *The particular aims of this Plan are as follows—*

10 (aa) *to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*

(a) *to progressively respond to changes in the natural, social and economic environment in a way that is consistent with the following principles of ecologically sustainable development—*

15 (i) *the precautionary principle—this principle means that where there are threats of serious or irreversible damage to the community's ecological, social or economic systems, a lack of complete scientific evidence should not be used as a reason for postponing measures to prevent environmental degradation (In some circumstances this will mean actions will need to be taken to prevent damage even when it is not certain that damage will occur.),*

20

(ii) *the principle of intergenerational equity—this principle means that the present generation must ensure that the health, integrity, ecological diversity, and productivity of the environment is at least maintained or preferably enhanced for the benefit of future generations,*

25 (iii) *the principle of conserving biological diversity and ecological integrity—this principle aims to protect, restore and conserve the native biological diversity and enhance or repair ecological processes and systems,*

30 (iv) *the principle of improving the valuation and pricing of social and ecological resources—this principle means that users of goods and services should pay prices based on the full life cycle costs (including the use of natural resources at their replacement value, the ultimate disposal of any wastes and the repair of any consequent damage),*

35 (v) *the principle of eliminating or reducing to harmless levels any discharge into the air, water or land of substances or other effects arising from human activities that are likely to cause harm to the environment,*

(vi) *the principle of encouraging a strong, growing and diversified economy that promotes local self reliance, and recognises and strengthens the local community and its social capital in ways that safeguard the quality of life of future generations,*

40 (vii) *the principle of providing credible information in open and accountable processes to encourage and assist the effective participation of local communities in decision making,*

(b) *to integrate local planning provisions with applicable regional and State planning controls and policies,*

(c) *to provide a framework for land use management in Byron,*

45 (d) *to promote and coordinate the orderly and economic use and development of land,*

- (e) to build and sustain community resilience by encouraging a diversity of housing choice and affordable housing in appropriate localities,
- (f) to encourage development that contributes to a vibrant, socially-diverse community,
- (g) to encourage development that contributes to a strong, growing and diversified economy,
- 5 (h) to ensure the timely provision and coordination of community services and facilities,
- (i) to protect, manage and restore the natural environment and biodiversity of Byron,
- (j) to protect the cultural heritage of Byron, including the conservation of built heritage and Aboriginal heritage,
- 10 (k) to provide for public involvement and participation in environmental planning and assessment,
- (l) to minimise conflict between land uses within a zone and adjoining zones and ensure minimal impact of development on the amenity of adjoining and nearby land uses.

Regarding 1.2(2)(l) above — the Planning Proposal seeks a Schedule 1 listing (Byron LEP 2014) for a restaurant or café and an associated Voluntary Planning Agreement (VPA) that will enable up to 43 cars to park on the street within the surrounding residential and business zone areas. Notwithstanding the fact that the western boundary of the subject site adjoins a bowling club and associated restaurant, residential zoning surrounds the rest of the site, and the nearby land is generally occupied with dwellings.

The impact of introducing a restaurant on the subject land and the associated car parking/traffic demands on the surrounding residential street network is to increase land use conflict within what is a predominantly residential precinct. In addition to car parking/traffic impacts, other conflicts include patron and venue noise & lighting impacts, hours of operation, service delivery issues – all of which have potential for “commercial creep” including liquor licencing and live entertainment potential.

In this regard the Planning Proposal is inconsistent with LEP 2014 Clause 1.2(2)(l) Aims of Plan based on residential amenity impacts on adjoining and nearby residential land uses.

Zone R2 Low Density Residential

The zone objectives for R2 Low Density Residential are provided below:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

These R2 zone objectives above are mandatory in the [Standard Instrument LEP](#). Councils have the option of using additional zone objectives to suit the suite of plans, strategies and policies associated with the LGA. It is likely that strengthened zone objectives associated with the maintenance of residential amenity would decrease the risk of incongruous development within the R2 zone.

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.10

STAFF RECOMMENDATION

Consider introducing the following additional Zone R2 objective in the next round of LEP housekeeping amendments:

- 5 *To ensure that development is of a scale and intensity that is appropriate and compatible with the character of the area and preserves residential amenity.*

10 Whilst the R2 Low Density Residential Zone does permit certain non-residential uses (e.g. health consulting rooms) these are mainly of a low-scale/low-impact nature on surrounding residential amenity given use intensity and times.

Short Term Holiday Rental Accommodation precincts

15 From the 23 September 2024 Short Term Rental Accommodation (STRA) restrictions will be changed for Byron Bay under LEP 2014. Houses or units within this location cannot be used for non-hosted STRA for more than 60 days in a 365-day period unless the property is identified on the LEP STRA Area Map. The subject site is not within the 365-day STRA Area Map.

20 The objectives and outcomes of the STRA Planning Proposal involved the preservation of permanent housing; the maintenance of rental housing supply; amenity; local character; and community. The Planning Proposal is inconsistent with the desired outcomes of the Short-Term Rental Accommodation Planning Proposal which aims to consolidate housing in the R2 zone that surrounds the Town Centre.

LEP 2014 Schedule 1 – Additional permitted uses

25 The Planning Proposal seeks to include 24 & 26 Marvell Street Byron Bay in [Schedule 1 Additional permitted uses](#) for the purposes of a restaurant or café. This planning pathway can permit a land use with development consent that is otherwise prohibited in the zone.

30 A review of other residential zoned properties in the wider locality found that 10 – 12 Shirley Street Byron Bay is included in Schedule 1 for various additional land uses, including a restaurant or café. However, the circumstances surrounding 10 – 12 Shirley Street are significantly different to 24 & 26 Marvell Street. The table below provides a comparison between the two sites.

Land use planning considerations	10 - 12 Shirley Street	24 & 26 Marvell Street
Zone	R2 Low Density Residential	R2 Low Density Residential
Land use (existing)	Decommissioned Byron Bay District Hospital site	Dwelling house on each lot
Short Term Rental Accommodation - Within or adjoining the 365 day precinct	Yes (directly adjoins)	No – 150m away from mapped area
Byron Bay Town Centre Master Plan: - Directly adjacent to Town Centre expansion zone	Yes	No

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.10

There are no comparable precedents for introducing a restaurant or café as an addition permitted use in the surrounding residential areas of Byron Bay.

Assessment of Planning Proposal against North Coast Regional Plan and local strategies

5

Is the Planning Proposal a result of any strategic study or report?

10 No, the Planning Proposal is not a result of any strategic study or report. The proposal seeks to permit a single more intensive land use (restaurant or café), not permitted in Zone R2 Low Density Residential, by including the land in LEP 2014 Schedule 1 – Additional Permitted Uses. The eastern boundary of the site adjoins Zone RE2 Private Recreation within which is located the Byron Bay Bowls Club. Registered clubs and restaurants or cafes are permitted with consent in Zone RE2.

15 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Several possible options are provided in Table 3.

Table 3 – Planning Proposal Options

No.	Option	Comments
1	Include <u>all</u> of the subject site, 24 & 26 Marvell Street, Byron Bay, in LEP 2014 Schedule 1 – Additional permitted use for 'restaurant or café'.	Not supported (for reasons discussed above and below)
2	Include <u>part</u> of the subject site, 24 or 26 Marvell Street, Byron Bay, in LEP 2014 Schedule 1 – Additional permitted use for 'restaurant or café'.	Not supported (for reasons discussed above and below)
3	Rezone the site to E1 Local Centre.	Not supported (for reasons discussed above and below)
4	No change – maintain current planning controls.	Do not proceed with the Planning Proposal RECOMMENDED

20 Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or subregional strategy (including exhibited draft strategies)?

The relevant objective/goals of the North Coast Regional Plan 2041 are assessed in Table 4.

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.10

Table 4 – NCRP Assessment

Objectives/Goals/Directions	Comments
North Coast Regional Plan 2041	
Goal 1 – Liveable, sustainable and resilient	
Objective 1 – Provide well located homes to meet demand	Not applicable. Established dwellings.
Objective 2 – Provide for more affordable and low-cost housing	Not applicable. The proposed development does not relate to affordable or low-cost housing.
Objective 3 – Protect regional biodiversity and areas of high environmental value	Complies. No HEV assets.
Objective 4 – Understand, celebrate, and integrate Aboriginal culture	Complies. If Planning Proposal proceeds consultation will be undertaken with LALC.
Objective 5 – Manage and improve resilience to shocks and stresses, natural hazards, and climate change	Complies. The site is neither bush fire prone nor is it within a coastal erosion zone. The allotment is within the 2100 flood planning area – Existing LEP/DCP flood controls apply.
Goal 2 – Productive and connected	
Objective 11 – Support cities and centres and coordinate the supply of well-located employment land	Inconsistent. Objective 11 Strategy (part) 11.3 is provided below. <i>Focus future commercial and retail activity in existing commercial centres, unless there is no other suitable site within existing centres, there is a demonstrated need, or there is positive social and economic benefit to locate activity elsewhere.</i> The Planning Proposal is inconsistent with the North Coast Regional Plan 2041 Objective 11, Strategy 11.3. The proposed restaurant is 120m away from edge of the commercial centre. The proposed restaurant will likely impact negatively on residential amenity. Other suitable restaurant sites are located in the nearby Zone E1.
Objective 12 – Create a diverse visitor economy	Not applicable. While Strategy 12.1 does include “support appropriate growth of the nighttime economy”, it is contended that this does not necessarily

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.10

Objectives/Goals/Directions	Comments
	apply to a residential zone.
Goal 3 – Growth change and opportunity Not applicable	
Byron Narrative	Inconsistent. The Byron Narrative – Housing and Place provides objectives and outcomes including: <i>Deliver Place Plans for villages, towns and key precincts that define the community's vision and the priority projects that work towards that aspiration.</i> The Planning Proposal is inconsistent with the North Coast Regional Plan 2041 'Housing and Place' Narrative due to the inconsistencies with a) the Byron Bay Town Centre Master Plan 2016; b) the Byron Shire Business and Industrial Lands Strategy 2020; and c) the Byron Shire Residential Strategy 2041.

Is the Planning Proposal consistent with the local Council's community strategic plan or other local strategic plan?

- 5 Byron Shire Council strategic planning documents relevant to the Planning Proposal include:
- Byron Shire Local Strategic Planning Statement 2020
 - Byron Bay Town Centre Master Plan 2016
 - Byron Shire Business and Industrial Lands Strategy 2020
 - Byron Shire Residential Strategy 2041
- 10 • Byron Shire Community Strategic Plan 2032

Byron Shire Local Strategic Planning Statement 2020

Table 5 provides an assessment of the proposal against the LSPS.

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.10

Table 5 – LSPS Assessment

Byron Local Strategic Planning Statement 2020	
A – A Sustainable Shire	
Not applicable	
B – A Liveable Shire	
Creating great places that support and encourage an active, connected community	<p>Inconsistent</p> <p>The LSPS states that Place Plans, including Byron Bay Town Centre Master Plan, are principles that create more liveable places for people.</p> <p>The Planning Proposal is inconsistent with Local Strategic Planning Statement, Priority - 'A Liveable Shire' due to inconsistencies with the precinct principles contained in the Byron Bay Town Centre Master Plan 2016 (see p88 – Precinct 10).</p>
Support housing diversity and affordability with housing growth in the right locations.	Inconsistent (for reasons discussed above)
C – A Thriving Shire	
Growing a strong sustainable economy	<p>Not applicable.</p> <p>It is contended that business and jobs growth promotion is not intended to promote more intensive land uses in a residential zone.</p>
Promote and support local business development and employment opportunities	<p>Not applicable.</p> <p>This section of the LSPS focuses on employment zones.</p>

Byron Bay Town Centre Master Plan 2016

A summary of the Planning Proposal assessed against the Byron Bay Town Centre Master Plan 2016 is provided below.

- The site is outside of the identified 'town centre heart'.
- Located in the 'periphery of town centre'.
- The subject site is not within a strategic development area (page 67).
- The subject site is not within an area listed for 'heart of centre' expansion (page 71).
- The subject site is located within precinct 10 (page 88) and the priorities for the area follow:

10. Western Residential Precinct

The western residential precinct should retain its role as an area for residential living ensuring a local living population within the town centre. Existing streetscapes should be improved through low maintenance surface treatments, passive stormwater treatment, cycle lanes and large grass verges to retain the natural character of the precinct.

The Planning Proposal is inconsistent with the Byron Bay Town Centre Master Plan 2016 as:

- the subject site is not within an area identified for more intensive business/commercial expansion; and
- inconsistent with the vision for the Western Residential Precinct.

Byron Shire Business and Industrial Lands Strategy 2020

The Byron Shire Business and Industrial Lands Strategy (BILS) provides for planned business and industrial centres in specific locations and the proposed restaurant or café, a commercial land use, in a residential area is inconsistent with this adopted approach.

The aim of the BILS is provided below:

The aim of this strategy is to ensure that the Byron Shire has business centres and industrial areas that work for people, commerce and the environment.

Dispersing commercial land uses into residential zones will dilute the commercial significance of existing commercial centres and is inconsistent with the BILS aims.

Table 4 of the BILS indicates that Byron Bay has an oversupply of 5,000m² of retail/commercial floor space. It is contended that the existing Zone E1 Local Centre area in Byron Bay currently has adequate capacity for expansion of commercial land uses without the need to facilitate such development in nearby residential areas.

The BILS refers the Byron Bay Town Centre Master Plan 2016 and its role in developing a framework for change in the town centre. The proposed restaurant or café at 24 & 26 Marvell Street Byron Bay is inconsistent with the Byron Bay Town Centre Master Plan 2016 as:

- the subject site is not within an area identified for more intensive business/commercial expansion; and
- inconsistent with the vision for the Western Residential Precinct.

Byron Shire Residential Strategy 2041

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.10

The vision of the Byron Shire Residential Strategy 2041 (BSRS) is provided below:

To enable opportunities for diverse housing to meet the needs of the Byron Shire community, both now and in the future. Housing will be located on land that is suitable, safe and conscious of its environment with neighbourhoods being designed to engage their communities and reflect the character of its locality.

In accordance with the Implementation and Delivery Plan (Appendix A of the BSRS) Council is undertaking a 'Residential Density Design Study' for existing residential areas around the Byron Bay Town Centre. The study has been funded by the NSW State Government under the 'Regional Housing Initiatives Grant' (approximately \$240,000) and will assist in achieving the vision of the BSRS.

The encroachment of commercial land uses, such as the proposed restaurant or café, into a residential zone would reduce opportunities to provide housing to meet the needs of the community.

Byron Shire Community Strategic Plan 2032

The Community Strategic Plan outlines the vision, community objectives and supporting strategies which guide Council's long-term decision making. The Community Strategic Plan identifies the following community objectives:

- Effective Leadership
- Inclusive Community
- Nurtured Environment
- Ethical Growth
- Connected Infrastructure

The Planning Proposal is inconsistent with the Byron Shire Community Strategic Plan 2032 - Ethical Growth, which identifies "controlled development which is congruent with the existing local aesthetics of our towns and villages" among the Community Desires (p43). The proposed use of the site for a restaurant or café is incongruent with the existing surrounding residential development.

Assessment of Planning Proposal against SEPPs and S9.1 Ministerial Directions

Is the Planning Proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

- 5 Table 6 provides an assessment of the Planning Proposal against the relevant SEPPs. Considering the scale of the proposal most of the SEPPs are not applicable.

Table 6 – SEPPs Assessment

SEPP	Comment
SEPP (Biodiversity and Conservation) 2021	Consistent No koala habitat. No tree removal.
SEPP (Exempt and Complying Development Codes) 2008	<p>Consistent</p> <p><u>LEP 2014 definition restaurant or cafe</u></p> <p><i>restaurant or cafe</i> means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided, but does not include the preparation and serving of food and drink to people that occurs as part of—</p> <p>(a) an artisan food and drink industry, or</p> <p>(b) farm gate premises.</p> <p>It is worth noting that the definition includes entertainment. Acoustic and, in particular, amplified music or entertainment would further exacerbate the negative impact on residential amenity.</p> <p>SEPP (Exempt and Complying Development Codes) 2008 provides for certain development to be exempt, including live music, as long as it is not in a residential zone. Refer to the relevant provisions below.</p> <p><i>Subdivision 15AB Entertainment associated with existing premises</i></p> <p><i>2.30AC Specified development</i></p> <p><i>Low impact performance of live music or arts is development specified for this code if it is not carried out in a residential zone.</i></p> <p>Whilst the Planning Proposal is not inconsistent</p>

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.10

SEPP	Comment
	with the SEPP, as development consent would be required for a restaurant or café Schedule 1 listing, the provisions of the SEPP acknowledge that a restaurant or café, with entertainment, would likely be incongruous with residential land uses.
SEPP (Housing) 2021	Not applicable
SEPP (Industry and Development) 2021	Not applicable
SEPP (Resilience and Hazards) 2021	Consistent The site is currently being used for residential purposes. No further investigation warranted.
SEPP (Transport and Infrastructure) 2021	Not applicable

Is the Planning Proposal consistent with applicable Ministerial Directions (S117 Directions)?

5 Table 7 provides an assessment of the Planning Proposal against the relevant Ministerial Directions.

Table 7 – Ministerial Directions Assessment

Ministerial Direction	Comment
Focus Area 1: Planning Systems	
1.1 Implementation of Regional Plans	Inconsistent The Planning Proposal is inconsistent with Ministerial Direction 1.1 Implementation of Regional Plans due to an inconsistency with the North Coast Regional Plan Objective 11, Strategy 11.3. The proposed restaurant is 120m away from edge of the commercial centre. The proposed restaurant will likely impact negatively on residential amenity. Other suitable restaurant sites are located in the nearby Zone E1.
1.3 Approval and Referral Requirements	Consistent No concurrence, consultation, or referral requirements.
1.4 Site Specific Provisions	Consistent No additional development standards proposed for inclusion in Schedule 1. No reference to drawing proposed for Schedule

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.10

Ministerial Direction	Comment
	1.
Focus Area 3: Biodiversity and Conservation	
3.1 Conservation Zones	Not applicable
3.2 Heritage Conservation	Consistent The site does not contain a proposed or listed heritage item nor is it adjacent to or in the vicinity of a heritage item. The site is not within a Heritage Conservation Area. No negative impact on heritage items or places.
3.10 Water Catchment Protection	Not applicable The subject site is not within a water catchment area.
Focus Area 4: Resilience and Hazards	
4.1 Flooding	Inconsistent Minor inconsistency considered to be negligible considering proposal involves additional permitted use for existing buildings
4.2 Coastal Management	Not applicable The land is not within the coastal zone as defined in the <i>Coastal Management Act 2016</i> .
4.3 Planning for Bushfire Protection	Not applicable The land is not bushfire prone.
4.4 Remediation of Contaminated Land	Consistent The land is currently used for residential purposes within a residential zone. No further investigation is required.
4.5 Acid Sulfate Soils	Consistent Whilst there was no Acid Sulfate Soils assessment submitted with the Planning Proposal, such a report could be requested post Gateway if the Planning Proposal had merit.
4.6 Mine Subsidence and Unstable Land	Not applicable
Focus Area 5: Transport and Infrastructure	
5.1 Integrated Land Use and Transport	Consistent The proposal is consistent with Improving

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.10

Ministerial Direction	Comment
	Transport Choice – Guidelines for planning and development (DUAP 2001); and The Right Place for Business and Services (Planning Policy (DUAP 2001)
Focus Area 6: Housing	
6.1 Residential Zones	Inconsistent The Planning Proposal is inconsistent with Ministerial Direction 6.1 Residential Zones as it fails to broaden the choice of building types and locations in the housing market.
Focus Area 7: Industry and Employment	
7.1 Employment Zones	Not applicable
Focus Area 8: Resources and Energy	
8.1 Mining, Petroleum Production and Extractive Industries	Not applicable
Focus Area 9: Primary Production Not applicable	

CONCLUSION

Based on the above assessments, it is recommended that Council not support the Planning Proposal and Letter of Offer.

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	4.1.2: Growth Management Strategies - Implement Local Growth Management Strategies	4.1.2.5	Revise and update Residential Strategy

Recent Resolutions

- 5 There are no recent resolutions relating to the matter as it is the first time that the proposal has been reported to Council.

Legal/Statutory/Policy Considerations

The Planning Proposal has been assessed against the relevant provisions of the following legislation, plans, strategies and policies and the outcome of this assessment is provided in the summary of this report.

- 10
- Byron Local Environmental Plan 2014
 - Byron Development Control Plan 2014
 - North Coast Regional Plan 2041
 - Byron Shire Local Strategic Planning Statement 2020
 - Byron Bay Town Centre Master Plan 2016
- 15
- Byron Shire Community Strategic Plan 2032
 - Environmental Planning and Assessment Act 1979 Section 9.1 Ministerial Directions
 - State Environmental Planning Policies

Financial Considerations

- 20 This is a proponent-initiated Planning Proposal and is subject to Byron Shire Council's schedule of Fees and Charges.

Consultation and Engagement

This is a pre-Gateway assessment report of a Planning Proposal. Consultation and Engagement is undertaken post-Gateway Determination.

Report No. 13.11 PLANNING - NSW Employment Zones Reform - Planning Proposal: Additional permitted uses for Certain Lots within Zone E4 General Industrial, Centennial Circuit - Byron Arts and Industry Estate

Directorate: Sustainable Environment and Economy

Report Author: Kristie Hughes, Natural Disaster Policy Planner

File No: I2024/966

Summary:

This report seeks Council's authorisation to prepare and submit a planning proposal to allow Additional Permitted Uses on certain lots within Zone E4 General Industrial, located on Centennial Circuit in the Byron Arts and Industry Estate.

In 2022 the Department of Planning, Housing, and Infrastructure (DPHI) implemented employment zone reforms. The updated framework replaced existing business and industrial zones with consolidated employment zones, utilising savings, and transitional provisions to assist with managing the change and allowing existing land use permissibility to remain in place until April 2025. A number of Councils are undertaking similar planning proposals to address missing land uses in the new zones during the savings provision period.

The planning proposal will allow five (5) additional land uses that were previously permitted on land permitted zoned B7 Business Park, but not included in the E4 General Industrial zone that currently applies to the land. This change will better align with the existing land uses in this precinct and responds to submissions received in response to DPHI's public exhibition of the 'Employment Zones.

Pending positive Gateway determination, the planning proposal will be exhibited in accordance with the determination requirements. A Submissions report post-exhibition will be presented to Council that includes any recommended changes to the planning proposal for final adoption.

NOTE TO COUNCILLORS:


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

RECOMMENDATION:

That Council:

- 5 1. **Authorises staff to prepare and submit a Planning Proposal to allow additional permitted land uses on certain lots within Zone E4 General Industrial, located on Centennial Circuit of the Byron Arts and Industry Estate and as shown in Figure 1 of this report.**
- 10 2. **Pending a positive Gateway determination, exhibits the Planning Proposal in accordance with the determination requirements.**
3. **Receives a Submissions report post-exhibition that includes any recommended changes to the Planning Proposal for final adoption.**

Attachments:

- 15 1 **Form of Special Disclosure of Pecuniary Interest, E2012/2815** 

Background and Report

In 2022, the NSW Department of Planning, Housing and Infrastructure (DPHI) introduced [employment zones reform](#) to all local government areas in NSW. The new employment zones replaced the business and industrial zones in the Byron LEP 2014.

- 5 In late 2021, Councils across NSW were asked to provide feedback on specific zone and land use reforms that would apply to their respective local government areas. Council staff reviewed the proposed changes and provided feedback to the department in early 2022, holding a Strategic Planning Workshop with Councillors to discuss the new framework which was [adopted](#) (**Res. 22-169**) at the Council meeting of [28 April 2022](#).
- 10 The new employment zones came into effect in April 2023, including savings and transitional provisions to maintain existing land use permissibility until April 2025, providing Councils with a two-year period to finalise the required amendments to their LEPs.

Reason for the reforms

- 15 The rationale for the DPHI employment zones reform is to support long-term economic recovery through job creation and to encourage increased productivity in NSW. The simplified employment zones framework is designed to be more compatible with the future of work, while facilitating the delivery of strategic plans and planning priorities. In general, the reforms provide for greater land use flexibility, particularly in industrial zones.

- 20 A principle underpinning the employment zones reform is that land uses permitted under the previous zoning should continue to be permitted for a two-year “transition period” following the introduction of the new employment zones.

Changes to Byron LEP 2014

The reforms introduced the following changes to planning controls in Byron LEP 2014:

- 25
 - The repeal of 6 previous business zones, replaced by 4 consolidated employment zones.
 - Updated zoning maps to reflect the new land use zones.
 - New land use tables to govern the objectives and permitted/prohibited uses for each new zone.

- 30 Councils were tasked with reviewing the proposed translation of zone objectives and land use controls from the previous zones into the proposed zones, to minimise the loss of land use permissibility. Meaning land uses in each location that were previously permitted with consent should generally remain as ‘permitted with consent’ wherever possible to maintain consistency.

- 35 Following the above changes to Byron LEP 2014 and noting the savings and transitional provisions will expire in April 2025, staff undertook a review of land use permissibility on lots that were previously zoned B7 Business Park, and are now E4 General Industrial, in the Byron Arts and Industry Estate.

This review relates to the area of E4 General Industrial Zone (previously B7 Business Park) shown with a yellow border in Figure 1.



Figure 1: Employment Zones in the Byron Arts and Industry Estate.

5 Planning Proposal to include additional permitted uses on certain lots within the Byron Arts and Industry Estate

Parts of the Industrial Estate that were previously zoned [B7 Business Park](#) have been replaced with [Zone E4 General Industrial](#) (as shown in Fig 1 above), due to the existing uses in the precinct being most suited to this zone. However, there are existing land uses, that are not permitted in the E4 Zone but continue to operate within the previous permissions under the B7 Zone. To address this, an LEP amendment to introduce additional permitted land uses on lots that were previously in the B7 Business Park, but have since transitioned to the E4 General Industrial, is proposed to better align with the existing land uses in this precinct.

15 It is considered that 'Hazardous Industries' and 'Offensive Industries' remain prohibited (as part of the 'Industries' group) in within land use table due to potential land use conflicts.

Specifically, the planning proposal will update [Schedule 1 Additional permitted uses](#) and the corresponding [Additional Permitted Uses Map](#) in LEP 2014 to include the proposed uses highlighted **red** in the table below

20 The lots bordered in yellow in Figure 1 will be added to the Additional Permitted Uses Map.

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.11

Table 1. Current and Proposed Additional Permitted Land Uses Zone E4 General Industrial.

Current: Zone E4 General Industrial	Proposed: Zone E4 General Industrial (Additional permitted uses highlighted in red)
2. Permitted without consent Environmental protection works	2. Permitted without consent Environmental protection works
3. Permitted with consent Depots; Freight transport facilities; Garden centres; General industries; Goods repair and reuse premises; Hardware and building supplies; Industrial retail outlets; Industrial training facilities; Landscaping material supplies; Light industries; Liquid fuel depots; Local distribution premises; Markets; Neighbourhood shops; Oyster aquaculture; Plant nurseries; Rural supplies; Specialised retail premises; Take away food and drink premises; Tank-based aquaculture; Timber yards; Vehicle sales or hire premises; Warehouse or distribution centres; Any other development not specified in item 2 or 4	3. Permitted with consent Business premises; Depots; Freight transport facilities; Garden centres; General industries; Goods repair and reuse premises; Hardware and building supplies; Health services facilities; Industrial retail outlets; Industrial training facilities; Landscaping material supplies; Light industries; Liquid fuel depots; Local distribution premises; Markets; Neighbourhood shops; Office Premises; Oyster aquaculture; Passenger transport facilities; Plant nurseries; Recreation areas; Rural supplies; Specialised retail premises; Take away food and drink premises; Tank-based aquaculture; Timber yards; Vehicle sales or hire premises; Warehouse or distribution centres; Any other development not specified in item 2 or 4
4. Prohibited Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Commercial premises; Correctional centres; Eco-tourist facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Health services facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home-based child care; Home businesses; Home occupations; Home occupations (sex services); Industries; Jetties; Marinas; Mooring pens; Moorings; Open cut mining; Passenger transport facilities; Recreation areas; Recreation facilities (major); Recreation facilities (outdoors);	4. Prohibited Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Commercial premises; Correctional centres; Eco-tourist facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Health services facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home-based child care; Home businesses; Home occupations; Home occupations (sex services); Industries; Jetties; Marinas; Mooring pens; Moorings; Open cut mining; Passenger transport facilities; Recreation areas; Recreation facilities (major); Recreation facilities

Registered clubs; Research stations; Residential accommodation; Rural industries; Sex services premises; Tourist and visitor accommodation; Truck depots; Water recreation structures; Water supply systems; Wharf or boating facilities	(outdoors); Registered clubs; Research stations; Residential accommodation; Rural industries; Sewage treatment plants; Tourist and visitor accommodation; Truck depots; Water recreation structures; Water supply systems; Wharf or boating facilities
--	--

- 5 The proposed additional permitted land uses (in **red**) were previously permitted with consent in B7 Business Park zone, and are now prohibited under the current [E4 General Industrial Zone](#). Some of these uses were identified in submissions received in response to DPHI's public exhibition of the 'Employment Zones Implementation Explanation of Intended Effect' (EIE) and LEP translation detail.

Conversely, the proposed omissions (in **black-strikethrough**) from the prohibited uses table above correspond to those land uses being previously permitted with consent in the B7 zone.

Recommendation and Next steps

- 10 This report seeks Council's authorisation for staff to prepare and submit a planning proposal to allow Additional Permitted Land Uses on certain lots within Zone E4 General Industrial located on Centennial Circuit in the Byron Arts and Industry Estate, to better align with the existing land uses in this precinct.
- 15 Pending positive Gateway determination, the planning proposal will be exhibited in accordance with the determination requirements, followed by a Submissions report post-exhibition that includes any recommended changes to the planning proposal for final adoption.

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	4.1.4.2	Review and update Local Environmental Plan and Development Control Plans to reflect strategic land use priorities and/or legislative reforms

Recent Resolutions

- [22-169](#) - NSW Employment Zones Reform

Legal/Statutory/Policy Considerations

- 5 The Planning Proposal will amend the Additional Permitted Uses map and Schedule 1 within the Byron Shire Local Environmental Plan 2014 in accordance with the relevant legislative requirements.

Consultation and Engagement

- 10 This is a minor amendment following the Employment Zones Reform for which DPHI conducted consultation and engagement. Consultation for the planning proposal will be undertaken in accordance with a Gateway determination.

Report No. 13.12 Draft Plan of Management, Lot 22 DP 1073165, 156 Stuart Street Mullumbimby - endorsement for public exhibition

Directorate: Sustainable Environment and Economy

5 **Report Author:** Sharyn French, Manager Environmental and Economic Planning

File No: I2024/217

Summary:

10 Lot 22 DP 1073165 was purchased by Council in 2002 using s94 funds. In 2008, a Plan of Management (PoM) was prepared for Lot 22 DP 1073165 in 2008. The PoM provided for a sports field, affordable housing, and community garden.

15 The need for sports fields on Lot 22 was considered in Council's Open Space and Recreation Needs Assessment and Action Plan. This plan determined that there is no longer a need for further sports field. As such Council explored the use of part of the land categorised as a 'sportsground' for affordable housing. Post the 2022 floods, Council is not progressing this option (**Res. 22-247**).

20 An Enterprise Garden (a form of Community Garden) has now been established under a lease with Mullum SEED. The garden extends beyond the area allocated in the PoM and this is causing difficulties in assessing development applications for uses on this portion of land.

At the 9 November 2023 Council meeting, Council considered a development application for men's shed structures. Council resolved (**Res 23-528** (part 3), that the PoM be amended as a priority to reflect the intended use of the site, i.e., to map the full extent of the Enterprise Garden.

25 Consultants ROSS Planning have reviewed the PoM. The PoM has been reformatted and refreshed to ensure it complies with and acknowledges current legislation, policies and strategies. The draft PoM is included in Attachment 1 and will supersede the previous PoM for this site.

The draft PoM proposes to:

- 30
- adjust the boundary of the Enterprise Garden to align with their lease boundary
 - re-categorise this section of land from Sportsground to General Community Use
 - retain Sportsground category for the remainder of the land
 - retain the Natural Area - Watercourse category for Saltwater Creek
 - categorise the HEV vegetation on the northern boundary as Natural Area -
- 35
- Bushland
 - remove references to affordable housing
 - include the location of the dog park

The draft PoM is included in Attachment 1.

5 Preliminary consultation with Mullum SEED and council staff was held to inform the PoM review. Further consultation will be undertaken with key stakeholders and the wider community during the PoMs exhibition. A public hearing will be held during the exhibition period as required under the LG Act when re-categorising land.

The draft Plan of Management for Lot 22 DP 1073165 is presented to Council for consideration for public exhibition.


10

RECOMMENDATION:

That Council endorses the public exhibition of the draft Plan of Management for Lot 22 DP 1073165, 156 Stuart Street Mullumbimby (Attachment 1 – E2024/79827).

Attachments:

15

- 1 Draft Mullumbimby Plan of Management - Council Report version, 15 August 2024, E2024/79827 

Report

Lot 22 DP 1073165 was purchased by Council in 2002 using s94 funds. In 2008, a Plan of Management (PoM) for Community Land at Mullumbimby Sports Fields (Lot 22 DP 1073165) was developed. In addition to sports fields the PoM provided for a community garden (2ha) and affordable housing (3.4ha).

As determined by an open space needs assessment, there is no longer a need for the sports field. As such, Council explored the use of part of the more flood free land categorised as a 'sportsground' for affordable housing. A planning proposal was prepared and exhibited to amend the lands zone and classification for part of the site in Byron LEP 2014. Post the 2022 floods, Council is not progressing the planning proposal until any further potential natural disasters are understood on the suitability of this land for future development (**Res. 22-247**).

An Enterprise Garden (a form of Community Garden) has now been established under a lease with Mullum SEED. The garden extends beyond the area allocated in the PoM and this is causing difficulties in assessing development applications for uses on this portion of land.

At the 9 November 2023 Council meeting, Council considered a development application for men's shed structures. Council resolved (**Res. 23-528** (part 3), that the PoM be amended as a priority to reflect the intended use of the site, i.e., to map the full extent of the Enterprise Garden.

A Councillor Workshop was held on 7 March 2024 to discuss the proposed changes to the PoM. A question was raised as to whether the changes would impact the opportunity for the site to provide for tiny homes/caravan park in the future.

Of relevance to this is the report to the [4 November 2021 Council meeting](#) that provided planning advice on the provision of Transitional Supported Accommodation on part of Lot 22.

Transitional Supported Accommodation is a term used in a range of circumstances to describe places where people can live for a period until a more permanent option becomes available. Transitional Supported Accommodation is not a term specifically defined in NSW planning instruments (such as LEPs) and depending on the style of Transitional Supported Accommodation proposed, it would normally be characterised as a residential use.

Within the RE1 Public Recreation zone on Lot 22, residential accommodation is a prohibited use, but caravan parks (which includes moveable dwellings) are permitted with Council consent.

Council engaged an independent planning consultant to prepare the planning advice. In summary the consultant's report found:

- An application for Transitional Supported Accommodation could be prepared for the subject land, but only in the form of a caravan park that includes permanent sites.
- However, the subject land is highly constrained and as little as 1 hectare of the 3.4-hectare site is likely to be able to be used as a caravan park.

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.12

- By comparison, the Glen Villa Resort in Byron Bay is located on a 5.5-hectare site with approximately 2.5 hectares allocated to cabins.
- Moveable dwelling sites are required to be a minimum of 80m². With fire separation distances and the need for roads, landscaping and other infrastructure, the actual yield is likely to be as low as 40 sites.
- The cost of extending services to the sites as well as the cost of filling and achieving a flood resilient access across the railway line and back to Stuart Street are likely to be excessive and difficult to balance against the low yield while still achieving low-cost accommodation.
- It is not certain that access across the rail line would be provided by the NSW government.
- A development application for a caravan park to be used for Transitional Supported Accommodation on part Lot 22 would take a long time to prepare and would be expensive. It would have a low probability of success and be expensive to construct and service if it were approved.

Council resolved (**Res. 21-496**), amongst other things, to suspend the preparation of a development application for Transitional Supported Accommodation on part of Lot 22, and continue to look for more appropriate, less constrained sites for this type of development.

- Council considered a report at the 27 June 2024 Council meeting on the Shire Wide Aquatic Strategy. The Strategy proposes two new pool facilities with one being considered on Lot 22 DP 1073165. Council resolved (**Res. 24-336**) to place the concept designs on public exhibition and that the Final Options Report to be returned to a future meeting of Council with consideration of community feedback.

Draft PoM

- The draft PoM proposes to:
- adjust the boundary of the Enterprise Garden to align with their lease boundary
 - re-categorise this section of land from Sportsground to General Community Use
 - retain Sportsground category for the remainder of the land
 - retain the Natural Area - Watercourse category for Saltwater Creek
 - categorise the HEV vegetation on the northern boundary as Natural Area - Bushland
 - remove references to affordable housing
 - include the location of the dog park

- The draft PoM has also been reformatted and refreshed to ensure it complies with and acknowledges current legislation, policies and strategies.

The draft PoM is included in Attachment 1 and will supersede the previous PoM for this site.

- The changes to the PoM do not consider the proposed swimming pool for the site, (**Res. 24-336**, Aquatic Options Report). This is because the project is in the early stages of consideration with public feedback to be sought on the concept design.

BYRON SHIRE COUNCIL



STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.12

If developments, such as the pool, are advanced for the site further revisions of the PoM can occur. Council is also currently reviewing the 2017 Open Space and Recreation Needs Assessment and its findings will be used to inform any future PoM reviews.

- 5 The lands classification is not being changed; it will remain as community land. The lands current land use zones are not changing and will remain as RE1 Public Recreation with a band along Saltwater Creek zoned 7b Coastal Habitat. (This will eventually transfer to C3 Environmental Management under Council's C Zone review).

The figures below show the existing and proposed land categories.

Land Categories in 2008 PoM	Proposed Land Categories
	 <p>Legend</p> <ul style="list-style-type: none">General Community UseNatural Area - BushlandNatural Area - WatercourseSportsground

Public exhibition

- 10 The draft PoM will be publicly exhibited for a period of no less than 42 days.
- Under the LG Act, the minimum period for the public exhibition is 28 days and Council must also provide a minimum 42 days after the date on which the draft plan is placed on public exhibition during which submissions may be made to Council.
- 15 The proposed changes to the land's categorisation triggers the requirement for a public hearing. This will be held during the exhibition period.
- The timing of the exhibition period will consider the upcoming local government elections and will commence post elections.

Next steps

- Public exhibition, September/October
- Public hearing, October
- Report to Council to finalise and adopt the PoM, first meeting 2025

5 Strategic Considerations

Community Strategic Plan and Operational Plan

The following new action is included in the Operational Plan to acknowledge the work required of Res. 23-528:

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
5: Connected Infrastructure	5.4: Provide accessible community facilities and open spaces	5.4.2: Parks and open spaces - Provide and maintain active and passive recreational community space that is accessible and inclusive for all	5.4.2.16	Prepare a Plan of Management for Lot 22 DP 1073165, Mullumbimby

Recent Resolutions

- 10 • Res 23-528

Legal/Statutory/Policy Considerations

Council prepares plans of management under the Local Government Act 1993 for land that Council owns which is classified as 'community land'.

- 15 Council must follow the process and requirements set out in the Local Government Act 1993 for preparing and adopting a plan of management. This legislation requires Council to publicly exhibit the draft plan of management for a minimum of 28 days and allow for at least 42 days for submissions.

Together with the draft plan, Council must exhibit any other material which it considers appropriate or necessary for the draft plan and its implications to be understood.

20 Financial Considerations

This work is funded from existing budgets.

Consultation and Engagement

Preliminary consultation was held with Mullum SEED and council staff in the preparation of the draft PoM. Further consultation and a public hearing will be undertaken during the public exhibition period.

5

Report No. 13.13 PLANNING - DA10.2024.58.1 - Subdivision 1 into 3 lots – 44 Wallum Place, Byron Bay

Directorate: Sustainable Environment and Economy

Report Author: Jordan Vickers, Planner

5 **File No:** I2024/1028

Proposal:

DA No:	10.2024.58.1		
Planning Portal ref	PAN-417191		
Proposal description:	Subdivision of 1 lot (being Proposed Lot 2 as approved under DA10.2021.234.1) into 3 lots to facilitate future light industrial land uses		
Property description:	LOT: 12 DP: 1189646		
	44 Wallum Place, BYRON BAY		
Parcel No/s:	267109		
Applicant:	Planit Consulting		
Owner:	Byron Shire Council		
Zoning:	E3 Productivity Support Byron LEP 2014		
Date received:	05/3/2024		
Integrated / Designated Development:	<input type="checkbox"/> Integrated	<input type="checkbox"/> Designated	<input checked="" type="checkbox"/> Not applicable
Public notification or exhibition:	<ul style="list-style-type: none"> – Level 2 advertising under Council's Community Participation Plan. Exhibition period: 3 May – 16 May 2024 – No Submissions were received. 		
Variation request to Development Standards under an EPI (eg clause 4.6)	Not applicable – no variations sought		
Estimated cost	\$20,000.00		
Delegation to determine	Council – Council related DA		

Summary:

This application seeks consent for a three (3) lot Torrens-title subdivision at 44 Wallum Place, Byron Bay on land zoned E3 Productivity Support Byron LEP 2014. The three lot comply with the minimum lot size provisions of 1000 m² have the following areas:

- 5 • Lot 1 3502m²
- Lot 2 3727m² (TAFE Lot)
- Lot 3 1309m²

10 The property is currently improved by the Byron Bay TAFE building and vehicle parking area which will be located on proposed Lot 2. Vacant land parcels will remain on the east (Lot 1) and west (Lot 3) of the TAFE allotment. The subdivision relies upon the current approved subdivision as approved under DA10.2022.107.1 being completed.

The application was publicly notified, no submissions were received.

15 The proposal raises no issues in terms of environmental impacts and the site being a serviced property is considered suitable for the development. The application is recommended for approval subject to conditions of consent.



NOTE TO COUNCILLORS:

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

RECOMMENDATION:

25 **That pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2024.58.1 for Subdivision of 1 lot into 3 lots to facilitate future light industrial land uses, be granted consent subject to the conditions of approval at the end of this report**

Attachments:

- 30 1 DA10.2024.58.1 - Subdivision Plans, E2024/77804 
- 2 DA10.2024.58.1 - Conditions of Consent, E2024/78004 

Assessment:

1. INTRODUCTION

History/Background

A search of Council records indicates the following relevant site history:

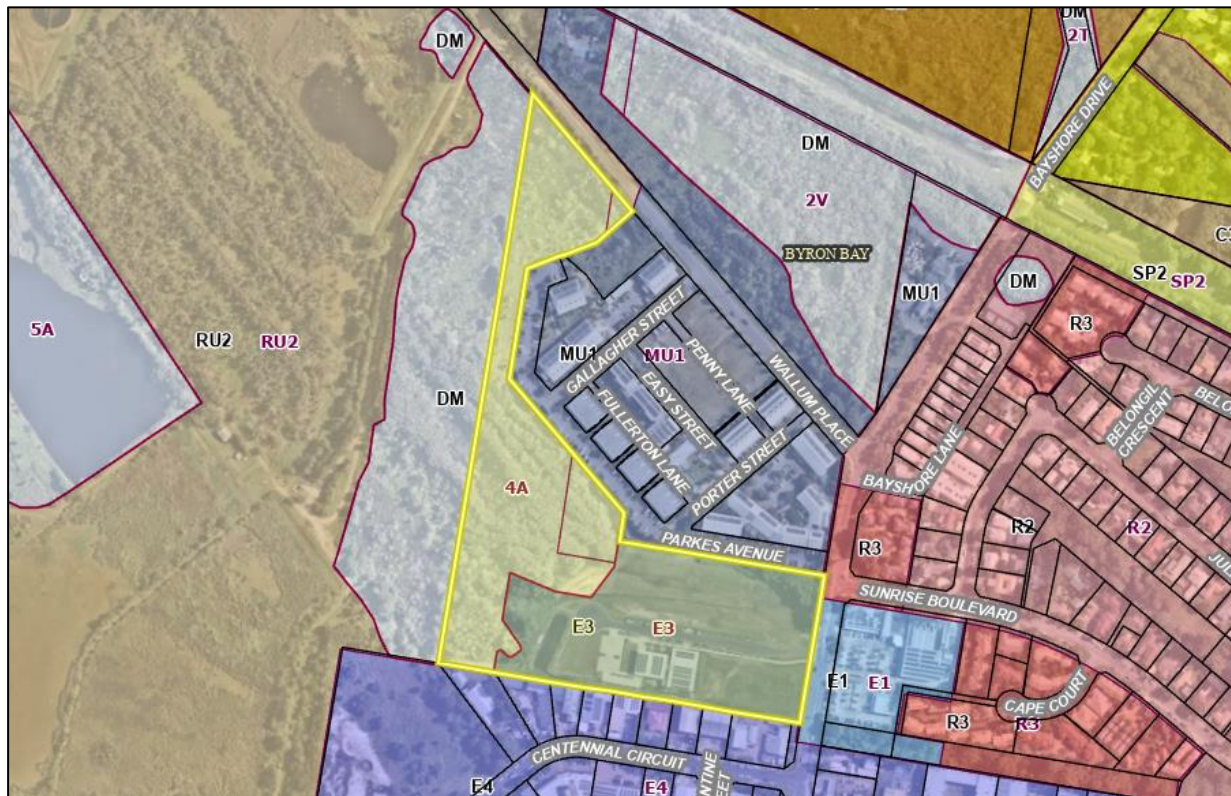
DA No.	Description	Outcome	Date
10.2015.10.1	Tree removal/lopping	Rejected	13/01/2015
10.2015.177.1	Tree removal	Approved	17/6/2015
10.2021.234.1	Educational Establishment (TAFE)	Approved	29/11/2022
10.2022.107.1	Subdivision one (1) into three (3) lots	Approved	29/11/2021
10.2022.107.2	S4.55 to Subdivision one (1) into three (3) lots	Approved	14/03/2024
10.2022.107.3	S8.2 review: Subdivision one (1) into three (3) lots	Approved	27/06/2024

5

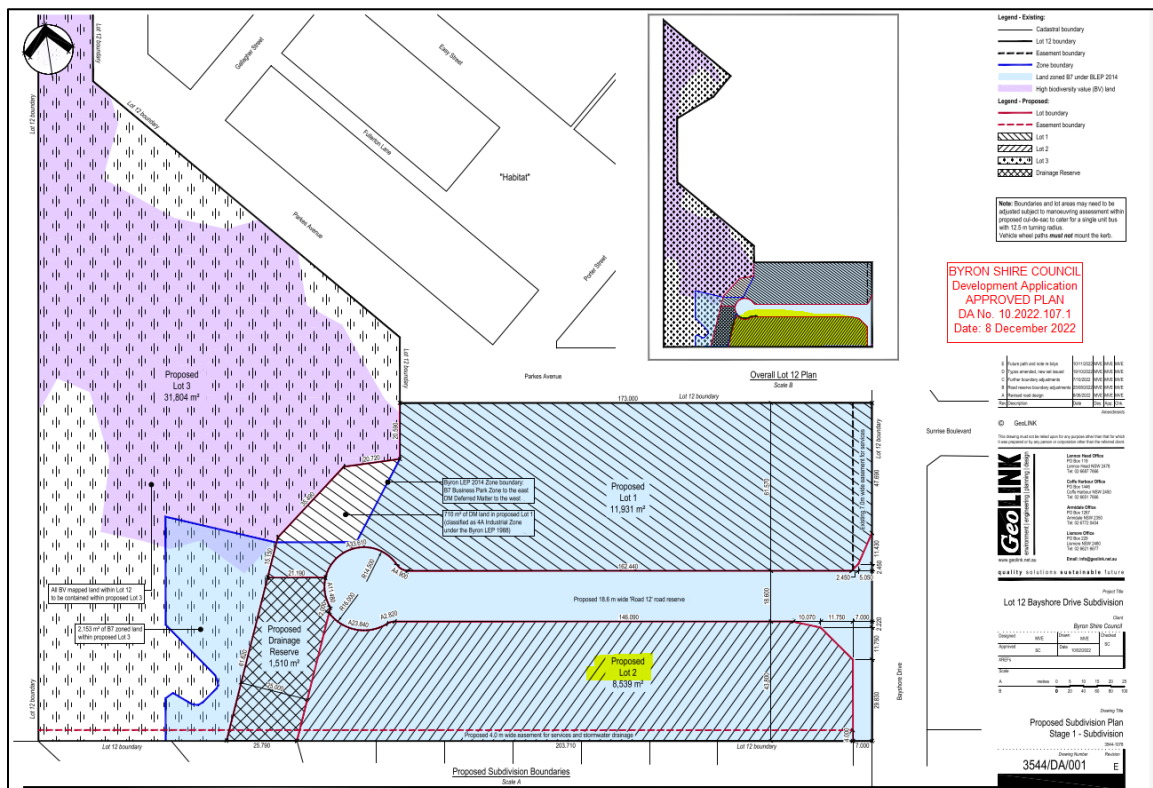
Description of the site

10 The entire site known as 44 Wallum Place, Byron Bay and legally described as Lot 12 on DP1189646 has an area of 5.185ha and is located partly within the Industry (4a) zone of the Byron LEP 1988 and Productivity Support (E3) zone of the Byron LEP 2014. This parcel has been approved under DA10.2022.107.1 (as modified to be subdivided into 3 lots. The subdivision is yet to be finalised, however this development application relates to proposed Lot 2 within that approval as shown below.

15 The land is currently improved by the existing TAFE building with access provide from Bayshore Drive and a stormwater drainage reserve located to the east. The area to be further subdivided by this application is zoned Productivity Support E3 under Byron LEP 2014.



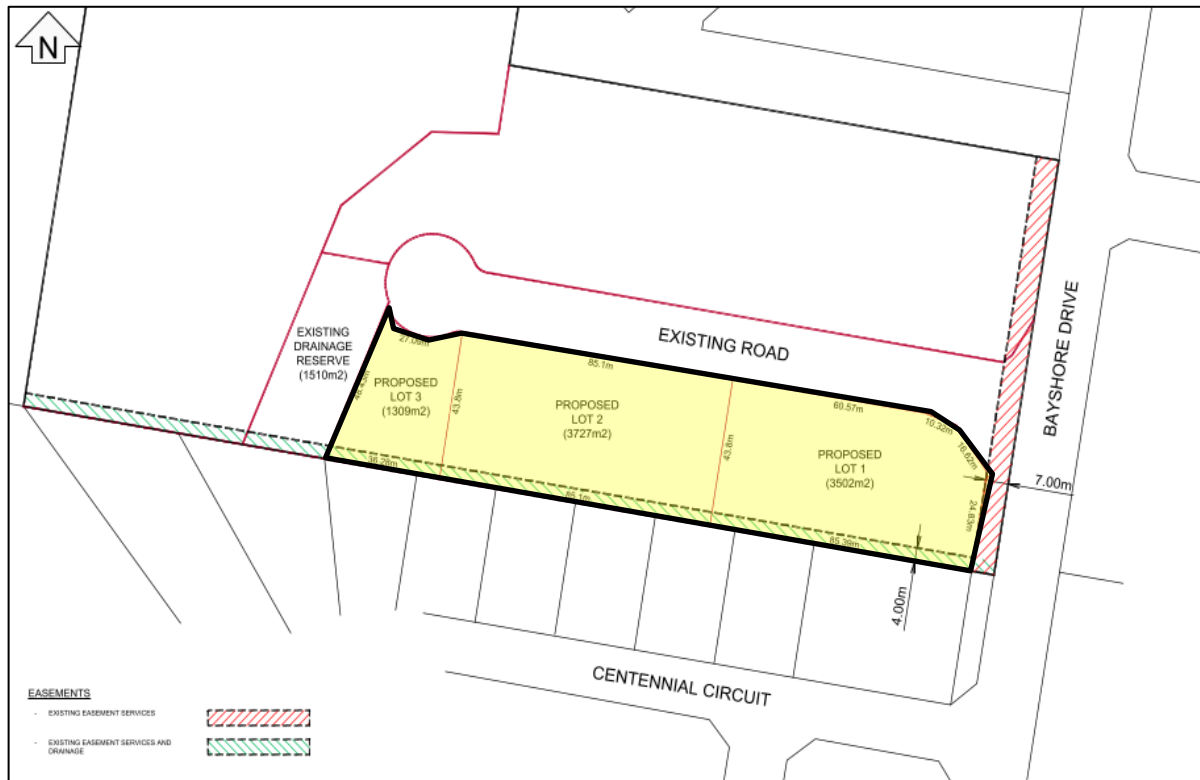
LEP Mapping Extract



Extract of Approved Subdivisions Plans

Description of the proposed development

This application seeks approval for Subdivision of 1 lot into 3 lots to facilitate future light industrial land uses with the following areas Lot 1: 3502m², Lot 2: 3727m², and Lot 3: 1309m², as depicted in the image below:



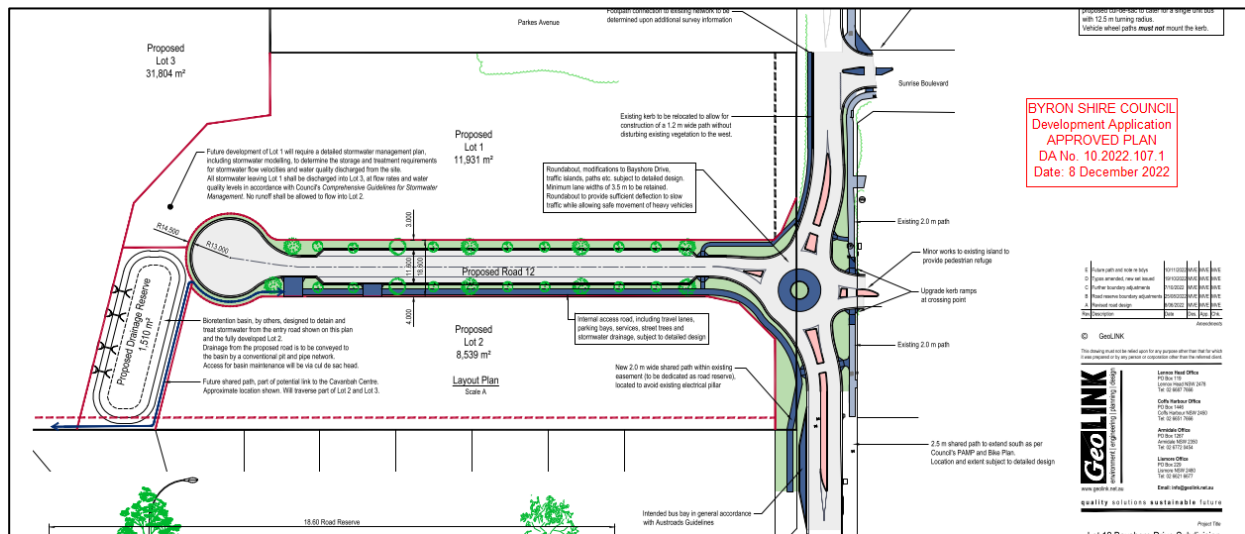
Extract of Proposed Subdivision Plan

2. SUMMARY OF REFERRALS

Referral	Issue
Development Engineer	No objections subject to conditions.
S64 / Systems Planning Officer	No objections subject to conditions.
S7.11 / Contributions Planner	No objections subject to conditions.

Issues: DA10.2022.107.1 approved the creation of the property to be subdivided which included conditions of consent requiring a roundabout to be constructed at the intersection with Bayshore Drive. Engineering plans are currently being assessed by Staff for the roundabout to be approved and for construction to commence. Conditions of consent will

be applied requiring that the initial subdivision is completed to ensure the roundabout is constructed.



Extract of approved DA plans showing roundabout to be constructed

3. SECTION 4.15C – MATTERS FOR CONSIDERATION – DISCUSSION OF ISSUES

Having regard to the matters for consideration detailed in Section 4.15(1) of the Environmental Planning & Assessment Act 1979 (EP&A Act), the following is a summary of the evaluation of the issues.

3.1 State Environmental Planning Policies (SEPP)

Considerations	Satisfactory	Unsatisfactory
<p><i>Resilience and Hazards SEPP 2021</i></p> <p>Consideration: The property is not on Council's Contaminated Land Register and a preliminary site contamination report has been assessed by Council (10.2022.107.1 as modified), with the property considered as low risk by councils EHO's. No further investigation or remedial action was considered warranted.</p>	☒	☐

3.2 Byron Local Environmental Plan 2014 (LEP 2014)

In accordance with LEP 2014 clauses 1.4 and 2.1 – 2.3:

- (a) The proposed development is defined in the LEP 2014 Dictionary as subdivision;
- (b) The land is within the E3 Productivity Support according to the Land Zoning Map;
- (c) The proposed development is permitted with consent; and
- (d) Regard is had for the Zone Objectives as follows:

Zone Objective	Consideration
<ul style="list-style-type: none"> • To provide a range of facilities and services, light industries, warehouses and offices. • To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres. • To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity. • To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones. • To provide opportunities for new and emerging light industries. • To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured on-site. 	<p>The proposal considers subdivision about existing buildings and expected allotments that remain compatible with surrounding land uses.</p> <p>The proposed lot sizes are in keeping with the minimum lot size of the LEP.</p> <p>The proposal will provide opportunities for new and emerging light industries, services, warehouses and/or offices.</p>

Clause 4.1 Minimum Subdivision Lot Size

The proposed subdivision complies with the minimum lot size provisions of 1000m².

3.3 Any proposed Instrument that has been the subject of public consultation and has been notified to the consent authority

There are no proposed Environmental Planning Instruments relevant to the proposal.

3.4 Byron Shire Development Control Plan 2014 (DCP 2014)

The proposed subdivision raises no issues under the DCP in terms of the relevant provisions that apply for servicing, access, waste management and the like. Conditions of consent to apply.

3.5 Environmental Planning and Assessment Regulation 2021 considerations

Environmental Planning and Assessment Regulations 2021	Applicable to the proposal:	Considered the control as it relates to the proposal:	If this control is applicable, does the proposal comply?
Section 61 - Additional matters that consent authority must consider	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Section 62 - Consideration of fire safety	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Section 64 - Consent authority may require upgrade of buildings	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Section 63 - Considerations for erection of temporary structures	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA

3.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

5

Impact on:	Likely significant impact/s?
Natural environment	No. The proposal will not have a significantly adverse impact on the natural environment of the locality.
Built environment	No. The proposal will not have a significantly adverse impact on the built environment of the locality.
Social Environment	No. The proposal will not have a significant social impact on the locality.
Economic impact	No. The proposal will not have a significant economic impact on the locality.
Construction Impacts	No. The development will generate minor impacts during its construction. Conditions of consent recommended to control hours of work, builders waste, construction noise, installation of sedimentation and erosion control measures and the like to

	ameliorate such impacts.
--	--------------------------

3.7 The suitability of the site for the development

The site is a serviced, unconstrained property and is suitable for the proposed development.

3.8 Submissions made in accordance with this Act or the regulations

The development application was publicly notified. No submissions were received.

3.9 Public interest

The proposed development is unlikely to prejudice or compromise the public interest or create an undesirable precedent.

4. DEVELOPER CONTRIBUTIONS

4.1 Water & Sewer Levies

Section 64 levies will be payable.

4.2 Developer Contributions

Section 7.12 Levy will be payable.

5. DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

Disclosure details	Response
Has a Disclosure Statement been received in relation to this application? If Yes, Provide Disclosure Statement register reference: 91.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Have staff received a 'gift' from anyone involved in this application that needs to be disclosed.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

6. CONCLUSION

The proposed 3 lot Subdivision to facilitate future light industrial land uses is permissible with consent and is satisfactory having regard to the relevant environmental planning instruments and planning controls applicable to the site. The proposal raises no significant issues in terms of environmental impacts which cannot be managed. The site is a serviced, unconstrained property and is considered suitable for the proposed development.

The application is recommended for approval subject to conditions of consent.

Report No. 13.14 Sustainability Team - key project updates

Directorate: Sustainable Environment and Economy

Report Author: Shane Melotte, Sustainability Team Leader
Hayley Briggs, Sustainability Officer
Rachel Thatcher, Sustainability Officer

File No: I2024/1065

Summary:

This report provides an update on the Sustainability Team's key projects.

Updates are provided on the following projects:

- Urban Cooling / Heat Resilience Plan
- Grant applications underway
- Climate Conversations
- Community gardens – education and membership support
- "Speaking 4 the Planet" competition for high schools in the Byron Shire

The report is provided for Council's information in accordance with Operational Plan action 3.4.3.3 Report annually on sustainability partnerships.

RECOMMENDATION:

That Council notes the update on the Sustainability Team key projects.

Attachments:

- 1 Stakeholder Engagement HeatResilience, E2024/85109 
- 2 Heat Resilience Actions Table_v3, E2024/85108 

Report

This report will provide updates on the following Sustainability Team key projects:

- Urban Cooling / Heat Resilience Plan
- Grant applications underway
- Climate Conversations
- Community gardens – education and membership support
- “Speaking 4 the Planet” competition for high schools in the Shire

Urban Cooling / Heat Resilience Plan

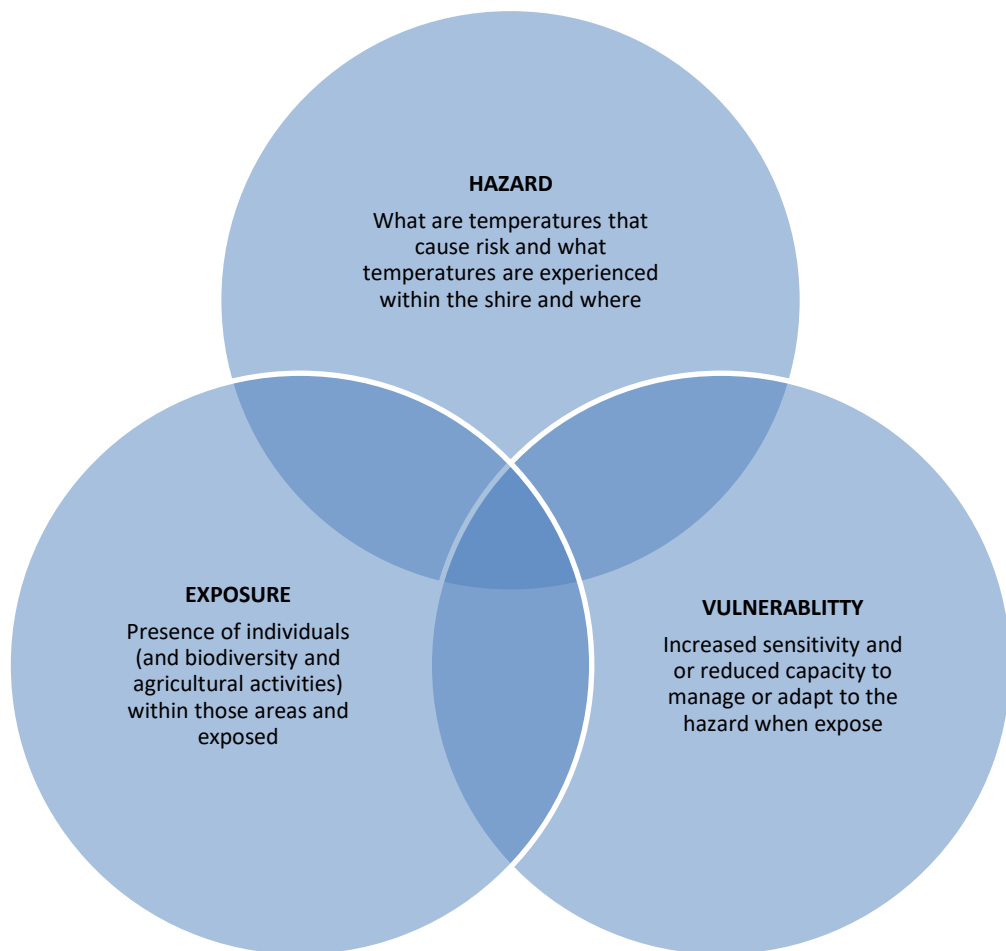
Staff have continued their research into the development of an urban cooling heat resilience plan. Listed as an Adaptation Action in Council’s Climate Change Adaptation Plan, the plan will focus largely on the risks of extreme heat to human health but will also continue exploring agricultural and biodiversity risks.

To date staff have undertaken extensive preliminary investigations to better understand the risks, the key potential measures that can assist with mitigating these risks, and the key stakeholders involved in implementing these measures. This work has included collaboration with Monash University and the City of Sydney, and further plans to collaborate with Living Lab Northern Rivers on a potential community engagement project (to be confirmed).

The key outcomes from this research and analysis are summarised below.

Analysis of risks:

Through desktop analysis and stakeholder engagement staff have completed a preliminary assessment of the risks for the Shire and identified where there are information/data gaps to fully understand the risk. The heat risk is defined by the intersection of hazard, exposure and vulnerability as shown in the Venn diagram below.



Hazard:

Levels of heat that pose risks to human health can vary depending on factors such as humidity and duration. Critically, staff identified that humidity can significantly increase the impact of ambient temperatures. When temperatures exceed 25°C combined with high humidity, people can experience heat stress depending on their exposure and vulnerability. The perceived temperature also known as heat index is the combination of ambient heat and humidity. For example, where temperatures are above 27°C and humidity is above 65% (commonly experienced in the shire) the perceived temperature or heat index is 34°C and as ambient temperatures and humidity increase so does the heat index.

Four warning levels based on perceived heat above 27°C were developed: caution, extreme caution, danger and extreme danger, each associated with potential heat-related disorders (NOAA, 2023) (Extract from Monash University Collaboration with Byron Shire Council)

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.14

Category	Heat Index	Temperature range	Relative humidity (%)	Possible heat disorders for high-risk groups
Extreme danger	54°C or higher	Min: 32°C Max: 43°C	From 90% and higher From 40% and higher	Heat stroke or sunstroke is probable
Danger	41°C – 54°C	Min: 30°C Max: 37°C	From 90% and higher From 40% and higher	Sunstroke, muscle cramps, and heat exhaustion are likely. Prolonged exposure or physical activity could result in heatstroke.
Extreme caution	32°C – 41°C	Min: 28°C Max: 36°C	From 85% and higher From 40% and higher	Prolonged exposure or physical activity can lead to sunstroke, muscle cramps, and heat exhaustion.
Caution	27°C – 32°C	Min: 27°C Max: 31°C	From 85% and higher From 40% and higher	Fatigue may occur with extended exposure or physical activity.

Staff extracted historical temperature and relative humidity data for the Shire from the Bureau of Meteorology (BOM) over the past 20 years and discovered the following key findings:

- 5
 - The maximum ambient temperature across the Shire has not exceeded 35°C (extreme heat that poses a high risk to human health) in the last 20 years.
 - It is common for temperatures to exceed 27°C during summer.
 - Mean relative humidity levels can average above 65% - 82% for the year. However, there is no daily data publicly available.
- 10
 - Importantly, BOM data for the Shire is taken from the weather station located at Cape Byron Lighthouse and as such does not represent the true temperature and humidity levels across the Shire.

15 On this basis, staff recommend exploring the resources required to undertake a heat and humidity measurement project this summer in targeted locations. This would provide more specific data on heat, humidity and risks across the Shire and ultimately enable a more targeted/prioritised approach toward implementing mitigation measures.

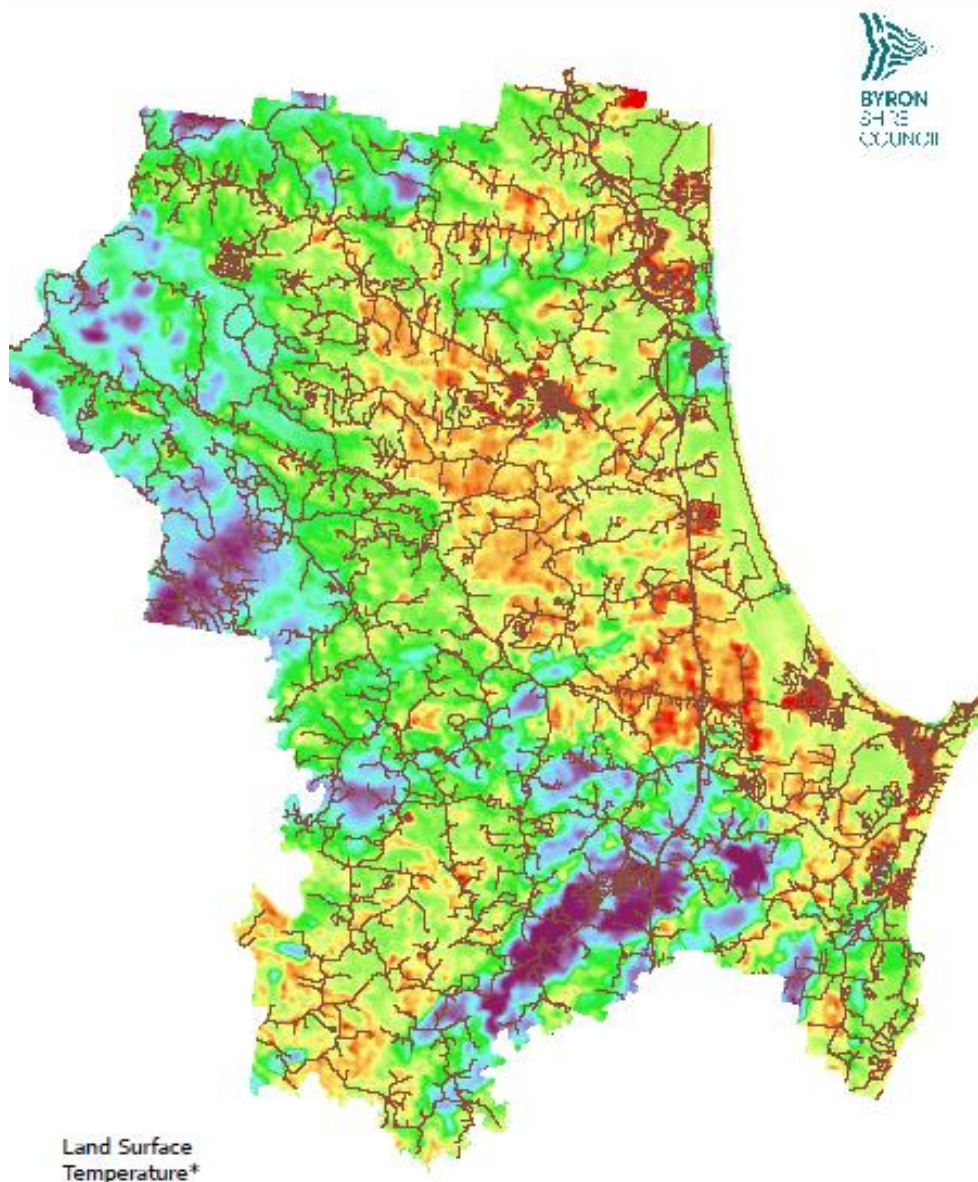
20 The current best practice ambient temperature measurement methodology was developed by Professor Sebastian Pfautsch at Western Sydney University. It involves deploying a large number of sensors across the target area over a 3-month summer period. Staff have connected with Dr Pfautsch and are investigating further the potential value in deploying this technology or alternative measurement solutions at targeted locations across the shire. Staff are seeking to ensure that both ambient temperatures and relative humidity (or an alternative measure known as web bulb temperature measurement) are measured to provide better insight into the heat index and therefore heat risks across the shire.

25 It is considered cost prohibitive and unnecessary to take a blanket approach to measuring heat at such a granular level across the entire Shire. Instead, staff will use the below heat exposure map and insights from community and stakeholder engagement, once complete, to determine where this methodology should be deployed to enhance Councils heat resilience strategy and mitigation measures most effectively.

This data will be synthesised with BOM data and any other data that becomes available through work being undertaken at the Federal and State Government level such as the NARClIM 2.0 data soon to be released by Adapt NSW.

Exposure:

- 5 Staff sought to develop a heat map for the Shire to understand the hazard from a visual mapping perspective. Council's GIS Officer deciphered how to develop a heat map for the Shire using land surface temperature data collected by satellites (Landsat Surface Temperature). An example of this heat map (for demonstration purposes only) is provided below. This mapping provides surface temperatures which are a reasonable proxy for ambient air temperatures. There are no Landsat datasets available that correlate with a significant historical heatwave event within the Shire, as temperatures are only collected once a month by Landsat satellites. To this end, this data serves as a useful high-level indicator of "hot spots" across the shire but are not a specific representation of peak summer heat risks.
- 10



Vulnerability:

Some of the key risk factors that increase vulnerability to extreme heat include the following:

- 5 • **Age:** Elderly individuals and young children are more susceptible to heat-related illnesses due to decreased ability to regulate body temperature.
- **Health Status:** People with chronic illnesses (e.g. cardiovascular disease, diabetes) or those taking certain medications are at higher risk.
- 10 • **Socio-economic Factors:** Low-income individuals may lack access to air conditioning or adequate housing insulation, increasing exposure to extreme temperatures.
- **Living Conditions:** Urban areas with high population density and limited green spaces may experience higher temperatures (due to the urban heat island effect), in addition to people sleeping rough or living in poor housing conditions.
- 15 • **Lack of Awareness:** Insufficient knowledge about heat-related risks and preventative measures can lead to inadequate preparation and resilience.
- **Isolation:** Social isolation and lack of social support networks can hinder access to assistance during heatwaves.
- **Occupational Exposure:** Workers in outdoor or poorly ventilated environments, such as construction workers and agricultural laborers, face increased risk.
- 20 Staff collaborated with the City of Sydney Sustainability and Resilience team who are supporting Council to replicate their development of a Heat Vulnerability Index map for Byron Shire Council. The heat vulnerability index uses a range of ABS spatial data such as housing tenure and health risks to provide guidance on which parts of the community will be at greatest risks to increasing heat projections. Staff have produced a preliminary Heat
- 25 Vulnerability Map to pilot the methodology and are in the process of acquiring and adding further datasets to the map.

This map will serve as just one tool to assess vulnerability and will be combined with several other activities underway including the following:

Community Resilience Network:

- 30 The Sustainability Team will begin attending the Community Resilience Network meetings quarterly to communicate our findings around heat risks and mitigation opportunities as they continue to develop and assist with integrating these risks into existing and emerging resilience-building projects being undertaken across the Shire.

Collaboration with Councils team working on homelessness:

- 35 The Sustainability Team will continue to collaborate with Council's team working with people experiencing homelessness. This will assist with further assessing vulnerability, existing actions that are being implemented and where to target further analysis and potential mitigation measures.

Living Lab Northern Rivers (LLNR) collaboration:

Living Lab Northern Rivers are developing a review of approaches for strategic engagement in the context of disaster affected communities. This work will analyse the strategic engagement approaches which have been adopted by related disaster adaptation plans and strategies across Australia and globally. The review seeks to conceptualise the best approach to strategic engagement in the specific communities and audiences of the Northern Rivers, leveraging the experiences of LLNR engagements to date. LLNR will investigate relevant precedents for engaging with communities to deeply understand the impacts of disasters and climate change on their lives. The second phase of this work (not within current project scope) would be to test these methodologies with communities within the Northern Rivers. Byron Shire has been identified as a potential pilot site. In partnership with Council, LLNR would explore heat as a hazard in relation to homelessness.

Ongoing stakeholder engagement:

Stakeholder engagement completed for this heat resilience project involved diverse outreach, including state government agencies, healthcare providers, and community organisations. This included meetings and attendance at various facilitated workshops and discussions regarding heat risks, vulnerabilities, and mitigation strategies. Feedback from stakeholders helped informed heat risks and provided insights into measures that would be potentially suitable for the shire.

This includes the development of actionable measures, such as early warning systems, cooling centres and infrastructure, green space, and public education campaigns. Collaborative efforts ensured inclusivity, addressing concerns of vulnerable populations like people sleeping rough and low-income groups.

This engagement has strengthened relationships with key stakeholders to enable Council to further enhance its existing heat resilience activities, collaborate on further projects and develop additional heat resilience measures. Staff will continue to work with these stakeholders to deepen our understanding of heat vulnerability across the Shire. A summary of the preliminary stakeholder engagement outcomes completed to date is provided in Attachment 1.

Analysis of mitigation measures and collaboration with students from Monash University:

Preliminary analysis of existing and potential mitigation measures was undertaken through reviewing existing examples of heat resilience plans, internal and external engagement and also through a 12-week collaboration with Monash University Students.

Students from Monash University worked with staff to undertake a research project on heat resilience in the region. The key outcomes from this process were detailed in a report prepared by the students. The report integrated feedback from staff and was also structured around the requirements of the student's curriculum. Several of the recommendations of this report will be integrated into a final options paper for the project.

Staff have compiled the key relevant heat resilience mitigation measures identified through the preliminary analysis in Attachment 2. This list details several existing and potential future mitigation measures that are immediately actionable or actionable based on further targeted research and analysis.

Key next steps:

- 5 • Determine the feasibility of measuring heat and humidity across targeted areas of the Shire with the goal of deploying field-based measurement equipment for this upcoming summer. This may include exploring citizen scientist opportunities to host heat and humidity measurement devices.
- 10 • Ongoing participation in the Community Resilience Network meetings and activities to continue to integrate findings on heat risk and resilience through ongoing data synthesis and stakeholder engagement and collaboration.
- 10 • Complete the heat vulnerability assessment map in collaboration with the City of Sydney as further data becomes available.
- 15 • Where possible, contribute to the preparation of the Northern Rivers Disaster Adaptation Plan as necessary and where relevant to heat.
- 15 • Collaborate with Living Lab Northern Rivers to pilot the outcomes of their research into strategic engagement approaches exploring heat as a hazard in relation to homelessness (should the project proceed to this phase).
- 20 • As appropriate, continue to support the National Heat Observatory on the development of datasets and tools require to report and measure the heat vulnerability issues and cooling potential of Australian Cities.
- 20 • Investigate the requirements and feasibility of a seasonal education and capacity-building program to inform community of heat risks on biodiversity and agriculture, including measures to take to mitigate risk.

25 Based on the above outcomes, the Sustainability Team will then assess the need for a Heat Resilience options paper that will encompass human, biodiversity and agricultural risks, and integrate the mitigation measures from the above into a Heat Resilience plan for Council.

Grant applications underway

NSW Government Electric Vehicle Destination Charger Grants:

30 Staff have been successful in an application to the NSW Electric Vehicle Destination Charger grants. The grant funds will fund approximately 75% of the hardware and installation costs, and 75% of the initial year's software subscription cost for up to four charging ports.

35 The two selected sites for the chargers are Council Administration building carpark in Mullumbimby and Lawson Street North carpark in Byron Bay. Staff have preselected a contractor to deliver the work through an expression of interest and will now formally engage the contractor to deliver the works. Staff will keep Council updated on the progress of the installation of the Chargers.

Byron Shire is currently the leading regional Council in NSW in terms of electric vehicle uptake and staff are exploring several options to enable additional charging infrastructure across the Shire to meet this growing demand.

Community Energy Upgrade Funding:

Staff applied to the Federal Community Energy Upgrade Fund (CEUF) grant program. The CEUF is a targeted, competitive grant program that provides co-funding for energy upgrades at existing local government facilities. The team are proposing two project concepts under a single application for the following:

- Cavanbah Centre Solar and Smart Energy Storage

Solar and Smart Battery Energy Storage System at Council's key recreation centre will provide load shifting and flexibility of services and electricity during short term power network outages. This will reduce energy costs and grid reliance and improve the energy resilience of the precinct which is also a major evacuation centre for the Shire. It will assist with aligning energy demand with wholesale renewable energy generation, which also supports reducing carbon emissions. The system will also function as a virtual power plant where any excess generation will be netted off against Council's total electricity demand through our Electricity Supply/PPA agreement with Council's energy retailer.

- Byron Shire Council Administration Building or Depot Smart Electric Vehicle Charging

Smart EV Chargers at Council's Administration Building will allow EV charging loads to be managed based on grid demand, energy costs and grid energy carbon intensity. This will demonstrate the capacity for destination charging at community and commercial facilities to support the transition to electric vehicles and 100% renewables in the grid.

The grant criteria include details of Council's efforts to make facilities more efficient, reduce energy bills and greenhouse gas emissions, and capacity building/information sharing associated with the project. Announcement of successful projects is expected in September 2024.

Climate Conversations

At the February Climate Change and Resource Recovery Advisory Committee meeting staff reported on the highly successful outcomes of the biennial Climate Conversations project, held for the first time in 2023. This project involved community-focused talks, interactive sessions, and art exhibitions. Staff have recently released a call for applications from artists to support the 2025 Climate Conversations project. The theme for this year's Climate Conversations project is 'Rising'.

"Amidst soaring temperatures, swelling oceans, and escalating natural disasters, Earth's fragile equilibrium hangs in the balance. Rising reflects the need to embrace our role as environmental stewards and unite in collective action."

Northern Rivers artists have been invited to respond to the theme of 'Rising' and propose a collaborative community focused art project and exhibition. The successful artist or artists will receive a fee of \$5,000 to develop new work, with additional funds up to \$2,000 for public programs, and a one-month exhibition at Lone Goat Gallery, Byron Bay, in 2025. Applications for Climate Conversations 2025 are now open and close 1 November 2024.

Community Gardens

5 The Sustainability Team has been discussing options to increase community garden awareness and membership following the impacts of the floods, Covid-19 and cost of living challenges. The gardens serve as invaluable community assets to promote community wellbeing through access to fresh food, social connections, and physical activity.

10 Staff are proposing to run an EOI for existing community gardens to propose activities and events to promote awareness of the gardens and increase membership. Specifically, the EOI will seek proposals for projects that will support the achievement of Step 7 “Thrive” of the Byron Shire Community Gardens Guidelines (available online) or add to physical assets (that do not require Development Approval) that support the ongoing achievement of Step 7. Council will support the proposed activities through in-kind efforts and small financial contributions distributed equitably through the EOI process.

15 Staff will ensure all activities are compliant with the Byron Shire Community Gardens Guidelines 2020 – 2025 and Community Gardens Policy 2020. The EOI is expected to be released in late August for projects to be delivered by the end of the financial year. The outcomes from this project will be reported to Council.

“Speaking 4 the Planet” competition for high schools in Byron Shire

20 Council has subsidised the participation of high school students within the Shire in the ["Speaking 4 the Planet" competition](#). Speaking 4 the Planet is an “arts-based approach to youth advocacy for a sustainable world”. The topic for the competition is *Trees, the Guardians of Life* and the deadline is Friday 26 July 2024. Staff have promoted the competition to high schools in the Shire.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
3: Nurtured Environment	3.2: Deliver initiatives and education programs to encourage protection of the environment	3.2.4: Sustainability projects - Support community led environmental and sustainability projects	3.2.4.1	Continue to support community gardens
3: Nurtured Environment	3.4: Support and empower the community to adapt to, and mitigate the impact on climate change	3.4.3: Monitoring and reporting - Monitor and report on actions that aim to address climate change	3.4.3.3	Report annually on sustainability partnerships
3: Nurtured Environment	3.4: Support and empower the community to adapt to, and mitigate the impact on climate change	3.4.4: Net Zero - Work towards achieving Council's 100% net zero-emissions target	3.4.4.2	Participate in regional sustainability working groups and initiatives

Recent Resolutions

N/A

5 Legal/Statutory/Policy Considerations

N/A

Financial Considerations

N/A

Consultation and Engagement

10 N/A

Report No. 13.15 Review of Planning Controls for Biodiversity, Tree and Vegetation Management

Directorate: Sustainable Environment and Economy

5 **Report Author:** Liz Caddick, Biodiversity Officer

File No: I2024/1071

Summary:

10 At the Planning Meeting of 7 December 2023, Council resolved to publicly exhibit draft amendments to the Byron Development Control Plan 2014 relating to biodiversity, tree and vegetation management (Attachments 1-3). The amendments pursued intend to improve and coordinate planning considerations of biodiversity within Development Applications. In addition, the amendments also refine processes for when Tree Removal Permits are sought outside of a Development Application process. Key changes within the draft amendments include:

- 15 • Removal of areas mapped in Council's Wildlife Corridor System as an ecological red flag.
- Specific provisions for Infill Development in urban zones.
- Expansion of Offset Planting Requirements.
- Changes to the Document Structure.

20 To facilitate community engagement, the following draft sections of the Byron Development Control Plan 2014 were placed on public exhibition from 11 April until 10 May 2024:

- Part A Preliminary – updated to include information previously contained in Chapter B1 (Attachment 1),
- 25 • Chapter B1 Biodiversity (Attachment 2), and
- Chapter F1 Tree and Vegetation Management - Previously named Chapter B2 Tree and Vegetation Management (Attachment 3),

30 To assist community engagement, the 3x draft chapters, as well as associated Council reports and mapping viewers were hosted on a dedicated 'Your Say Byron' project webpage. Notification occurred via website and social media, and landholders who had raised planning concerns during previous public exhibition of the wildlife corridor map were contacted via letter.

35 During the public exhibition period a total of 5x submissions were received. All submissions received objected to the changes sought to Chapter B1 Biodiversity, primarily raising concerns in relation to:

- The removal of prescribed ecological setbacks for infill development types.
- Vegetation Management Plan provisions for infill development types.

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.15

- Provisions where vegetation has been voluntarily planted.

No objections were raised in relation to draft Part A or Chapter F1.

Further review has occurred by biodiversity and planning staff on the matters raised, including reviewing the updated DCP against relevant local case studies. Consideration of the matters raised has identified a small suite of housekeeping amendments to improve document clarity and certainty of outcomes, however no further changes to the core policy intent are recommended.

The updated draft DCP chapters are considered to positively contribute towards a clearer biodiversity planning framework for the Byron LGA, making it easier for landholders and planners to apply and adhere to biodiversity conservation provisions. Part A Preliminary (Attachment 1) and Chapter F1 Tree and Vegetation Management (Attachment 3) are identified as suitable for adoption in their current form. Chapter B1 Biodiversity (Attachment 3) is identified as suitable for adoption with minor amendments to ecological setbacks and protection of HEV vegetation. In doing so, Actions 1.1 and 1.2 of the Byron Shire Biodiversity Conservation Strategy 2020-2030 are advanced, and an improved framework for biodiversity provisions implemented.

NOTE TO COUNCILLORS:

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

RECOMMENDATION:

That Council:






1. **Adopts the amended Draft Byron Development Control Plan 2014 Part A, Chapter B1 and Chapter F1, as described in Attachments 1 – 3 (E2023/119570, E2023/119568 and E2023/119572), with amendments to Chapter B1 as described in Table 1.**
2. **Publishes the amendments on Council's website in accordance with Clause 14 of the *Environmental Planning and Assessment Regulation 2021*.**

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.15

Attachments:

- 1 Draft Byron Shire DCP 2014 Part A Preliminary amendments - public exhibition version, E2023/119570 
- 5 2 Draft Byron Shire DCP 2014 Chapter B1 Biodiversity draft amendments - public exhibition version, E2023/119568 
- 3 Draft Byron Shire DCP 2014 Chapter F1 (previousy Chapter B2) - Tree and Vegetation Management draft amendments - public exhibition version, E2023/119572 
- 10 4 Report 07/12/2023 Council (Planning) PLANNING - Review of Development Control Plan (DCP) 2014 planning controls for Biodiversity, Tree and Vegetation Management, I2023/1819 
- 5 5 Combined Submissions - Public exhibition of Chapters A, B1, F1 - pdf version - 25/7/24, E2024/85372 

15

Report

Purpose

5 The purpose of this report is to provide Councillors with an update on the review of the planning controls for biodiversity, tree and vegetation management, as expressed within the Byron Development Control Plan 2014 (DCP). These provisions, namely Part A Preliminary, Chapter B1 Biodiversity, and Chapter F1 Tree and Vegetation Management (currently Chapter B2) were publicly exhibited for a period of 30 days, from 11 April to 10 May 2024.

10 Within this update, a summary of the public exhibition period is provided, including objections raised and corresponding planning commentary.

Acknowledging the feedback received and further planning analysis, it is recommended that the draft Byron DCP 2014 Part A, Chapter B1: Biodiversity, and Chapter F1 Tree and Vegetation Management are adopted with further minor housekeeping amendments outlined in this report.

15 Background

At the Planning Meeting of 11 August 2022, Council resolved to endorse the Byron Shire Wildlife Corridor System for public exhibition, and to update DCP Chapter 'B1 – Biodiversity' to reflect the adopted Wildlife Corridor Map and any additional supporting amendments. The scope of this update was subsequently augmented to include Actions 20 1.1 and 1.2 of the Byron Shire Biodiversity Conservation Strategy 2020-2030, which prescribe as follows:

1.1 Update Council's DCP 2014 to include a Biodiversity, Vegetation and Habitat Management Chapter that:

- *Reflects current legislation;*
- 25 • *Aligns with the Byron Shire Rural Land Use Strategy 2017.*
- *Reflects updates to local and regional vegetation mapping;*
- *Provides standards and controls to ensure planning of new development maintains or improves ecological values & ecological function;*
- 30 • *Incorporates clear planning controls for protection of Koala Habitat, within the Byron Coastal Koala Management Area, and other rural koalas habitat areas.*
- *Aligns with the Guiding Principles of this Biodiversity Conservation Strategy*

1.2 Amend existing Council DCP chapters to reflect current NSW environmental legislation and Council's Biodiversity DCP chapter.

35 In accordance with previous Council resolutions and policy action plans, a review of Council's current planning guidelines for Tree and Vegetation Management, as well as Biodiversity has been pursued. The review focussed on the provisions within the DCP, namely Chapter B1 Biodiversity and Chapter B2 Tree and Vegetation Management. The detail of which was reported to Council's meeting of 7 December 2023 (Attachment 4).

The 2 Chapters serve different, biodiversity-based functions, namely:

- 5 • Chapter B1 Biodiversity applies to Development Applications that involve the removal of vegetation, and/or on land with sensitive attributes, such as waterways, ecological features, or cultural heritage. Chapter B1 implements an avoidance led approach, prescribing minimum setbacks of variable size, dependant on the sensitivity of the site constraint. Chapter B1 also provides guidance on other matters, including but not limited to the management of ecological buffers, the interface with development and provides additional guidance beyond the statutory provisions of the *Biodiversity Conservation Act 2016*. Chapter B1 has been operational since December 2020.
- 10 • Chapter B2 Tree and Vegetation Management applies where vegetation removal is sought outside of a Development Application process. As per *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter B2 declares vegetation on non-rural land which requires a permit, granted by Council, to be removed. Permit applications made under Chapter B2 are assessed by Council's arborist, and if
- 15 approved, involve offset planting requirements to maintain biodiversity, social and amenity values. Chapter B2 has been effective since March 2021, however, has formed part of Council's policy framework for an extended period, including previous reference as a Tree Protection Order. This report proposes to rename Chapter B2 as Chapter F1 to better align with the structure of the Byron Development Control Plan
- 20 2014 as it relates to Development Applications.

Primary amendments to the DCP Chapters as exhibited included:

- Removal of areas mapped in Council's Wildlife Corridor System as an ecological red flag.
- Specific provisions for Infill Development in existing urban zones.
- 25 • Expansion of Offset Planting Requirements.
- Changes to the Document Structure.

Public Exhibition

30 As per Council's resolution of 7 December 2023, the 3x components of the Byron DCP 2014 were publicly exhibited from 11 April to 10 May 2024. To assist community engagement, the 3x draft chapters, as well as associated Council reports and mapping viewers were hosted on a dedicated 'Your Say Byron' project webpage. Notification occurred via website and social media, and landholders who had raised planning concerns during previous public exhibition of the wildlife corridor map were contacted.

35 During the public exhibition period a total of 5x submissions were received (Attachment 5). All submissions received objected to the changes sought to Chapter B1 Biodiversity, primarily raising concerns in relation to:

- The removal of prescribed ecological setbacks for infill development types.
- Vegetation Management Plan provisions for infill development types.
- Provisions where vegetation has been voluntarily planted.

A detailed summary of the matters raised within the submissions, and responding planning commentary is provided below. No objections were raised in relation to draft Part A or Chapter F1.

5 ***Concern #1 The removal of prescribed ecological setbacks for infill development types and inclusion of specific performance criteria for infill development types.***

To summarise, all 5x submissions received objected to the draft policy change to exempt infill development from providing the otherwise prescribed ecological setbacks. To clarify, draft Chapter B1 (B1.1.2, Note 3) defines Infill Development as:

10 *development, other than subdivision, on land zoned other than RU1, RU2, C1 – C4, W1 and W2 where the lot size is less than 2,500m².*

Accordingly, ‘infill development’ is largely confined to residential and employment zones, and is not applicable in rural, conservation or waterway settings.

15 Whilst several submissions commented that exemptions may be appropriate to accommodate single dwelling houses on existing residential zoned lots, concern was directly raised regarding more intensive residential formats occurring at the expense of biodiversity. The concerns were expressed by way of both direct impacts, such as clearing of native vegetation to accommodate development itself; and indirect impacts, such as damage to native vegetation from future occupants, pets, stormwater runoff, weeds, litter and the like.

20 Submissions received also raised concerns in relation to future prospects, such as strategic planning for increased densities.

Planning Response

By way of background, development controls for infill development have been a primary consideration of the draft DCP provisions. The draft provisions prescribe:

- 25
- Retention of High Environmental Value (HEV), as per B1.2.1 Development Envelope Controls, Prescriptive measures 1 and 2, and
 - Avoidance of HEV as a primary step within Context and Site Analysis, as per B1.2.1 Development Envelope Controls, Performance criteria 1(b).

30 The need for specific provisions for infill development was identified by DA assessment staff as achieving the ecological setbacks cannot physically be achieved on small sized lots usually allocated for residential development. Specifically:

- 35
- Desktop review of urban zoned land within the Byron Shire identified the vast majority of lots being below 1,000m² in residential areas, and below 2,400m² in employment areas.
 - Ecological setbacks prescribed for HEV types are often 20 – 30m, and when applied can exclude 1,256m² - 2,826m² of site area from development.

This creates a contradiction where DAs responding to the ‘zoned’ intention for these sites (i.e., Low Density Residential) are not physically able to accommodate both a building

envelope and the setbacks prescribed. In Byron LGA there are many locations where urban lots adjoin HEV land, and therefore many locations where this conflict may occur. Figure 1 shows the overlap between existing urban settlement, HEV mapping (light green) and National Parks (dark green) in South Golden Beach and is indicative of many settlements in Byron LGA.



Figure 1 – Application of High Environmental Value mapping in South Golden Beach

In considering the matters raised in submissions, further workshopping, and review of the DCP chapter has occurred. Key matters identified through this review include:

- 10 • Removing ecological setbacks for infill development will not allow landowners to increase the density of development above the density that is currently facilitated within the Byron Local Environmental Plan 2014. The density of development enabled is not governed by the presence of HEV, but the combination of:
 - Land Use Zoning
 - Minimum Lot Sizes for Certain Residential Accommodation,
- 15

- Maximum Building Height, and
 - Maximum Floor Space Ratio.
- 5

 - Rigid application of the ecological setbacks on sites less than 2,800m² in size can result in no land within a site being available for a development envelope. This is not identified as an appropriate outcome within an urban context.
- 10

 - The draft Biodiversity DCP provisions do not facilitate increased clearing within existing vegetation, and preventing the degradation or loss of ecological values and biodiversity remains the primary objective of the DCP (B1.1.1). The draft Chapter B1 maintains the 'avoid, minimise, offset' hierarchy enshrined within the Biodiversity Conservation Act 2016 and applied by the NSW Land and Environment Court.
- 15

 - Minor amendments to Chapter B1 are proposed to ensure the size and location of the development envelope is designed to avoid tree protection zones and other ecological red flags in infill development sites, as follows:
 - **Note 3** updated to include the text: *'For **infill development**, the **development envelope** must be set back at least 3 meters from the nearside trunk of any HEV tree, or outside of the Tree Protection Zone of HEV vegetation, whichever is the greater.'*
 - **B1.2.1 Objective 5** added, to read: *'Encourage alternative and innovative design to maintain and improve biodiversity values, such as modular housing and construction techniques that complement existing biodiversity features.'*
 - **B1.2.1 Prescriptive Measure 2** amended to read: *'The **ecological setbacks** prescribed in Table 3 are not applicable to **infill development** due to lot size constraints. However, **infill development** must clearly demonstrate how the **development envelope** has been sized and sighted to avoid and minimise impacts to red flags listed in Table 3. Refer also to Note 3 regarding tree setbacks applicable to HEV vegetation.'*
- 20

 - The performance criteria within draft Section B1.2.1 ensure that, where vegetation removal is proposed, the onus is on applicants to demonstrate:
 - How the proposal has avoided biodiversity impact?
 - How the proposal has minimised biodiversity impact?
 - Then as a last resort, how the proposal offsets any impact created?
- 25

Through its role as the consent authority, Council (being the elected body or staff via delegations) will determine the appropriateness of any proposal.
- 30

 - The opportunity to consider performance-based outcomes is identified as essential within the context of DA assessment. Whilst biodiversity forms a highly important component of assessment, competing priorities often occur with other constraints such as bushfire, flooding, transport and the like. By their nature, bushfire and biodiversity considerations often co-exist and their requirements can be conflicting.
- 35
- 40

For example, in many infill development scenarios where HEV is located, the provisions of Planning for Bushfire Protection 2019 will require:

- Vegetation pruning and/or removal,
- Limitations to the canopy cover of vegetation relative to site area.

5

- Including performance criteria that allow for a range of performance-based outcomes can help to identify compromises between competing constraints in a consistent and transparent way. For example, different house designs, modular housing and building materials may be used to reduce requirements for vegetation clearing prescribed under the provisions of Planning for Bushfire Protection 2019. To address this, additional objectives have been added to require integrated assessment of biodiversity and bushfire constraints, and building design that maintains and improves biodiversity values (Table 1 below). Existing provisions in Chapter B1 that ensure conflicts between biodiversity and bushfire are clearly identified and managed in DAs include:

10

15

- Figure 5: Recommended Methodology for Development Preparation
- B1.2.1 Objective 4. *Ensure any offsetting maintains or improves the biodiversity value of the site and is compatible with other site influences, such as bushfire.*
- B1.2.1 Performance Criteria 2. *Maintain and improve biodiversity without undermining holistic responses to other development influences, such as bushfire threat.*

20

25

- Specific concerns were raised regarding the impact of increased development density on land adjoining HEV, such as National Park, Public Reserves and the like. Again, it is important to note that the density of development permitted is not governed by the presence of HEV, but by provisions within the Byron Local Environmental Plan. A desktop review identified that existing lot sizes at urban/environmental interfaces are generally below the minimum lot size to facilitate medium density development. Notwithstanding, where such instances may arise (i.e. specific sites, or through lot amalgamation), the draft DCP enforces the abovementioned integrated 'avoid, minimise, offset' considerations, along with merit assessment by staff.

30

35

- In the instance of Complying Development Certificates (where Development Applications are not required), proposals must meet State-based legislation and neither the current, nor the draft DCP are applicable.

40

- Should scenarios arise whereby land is not appropriate to facilitate urban land uses due to HEV, a conservation zoning, as per the State Government's Northern Council's E-Zone Final Recommendations Report can be pursued. Whilst this process can be protracted, a clear methodology for protecting HEV types through land use zoning (e.g. C2 Environmental Conservation) has been established where higher levels of protection are essential.

45

- The purpose of the DCP Chapter is to guide the assessment of Development Applications. Whilst concerns were raised that strategic planning, such as the Byron Shire Residential Strategy 2041, may increase the quantity of infill development opportunities, and in-turn, increase pressure on HEV values, such processes are governed by other biodiversity provisions. In this regard, amending the draft DCP is not identified as appropriate or necessary.

In summary, a review of the draft DCP provisions following public exhibition and review of submissions received has not identified direct policy changes as necessary. However, a number of minor amendments are proposed to reinforce the intent and application of the DCP provisions for infill development and are summarised in Table 1 below.

Table 1 – Summary of proposed minor amendments to Draft Byron Shire Development Control Plan 2014 Chapter B1 Biodiversity

Section	Amendment proposed	Reason
B1.1.1	New Objective , inserted after the current Objective 7 to read: <i>‘Integrates the assessment of biodiversity with other applicable constraints, such as bushfire.’</i>	To ensure that ecological and bushfire assessments ‘talk’ to each other and clear outcomes are detailed through DAs.
B1.1.2	Adjust Note 2 to reference Chapter F1 (as opposed to B2).	Updated Chapter references to reflect the role of F1/B2 being outside of a DA process.
B1.1.2	Augment Note 3 to also include (after the Infill Development definition): <i>‘For infill development, the development envelope must be set back at least 3 meters from the nearside trunk of any HEV tree, or outside of the Tree Protection Zone of HEV vegetation, whichever is the greater.’</i>	Inclusion of this note will assist baseline determination of avoidance. Likewise, ensures that trees ‘avoided’ through any DA cannot be automatically removed without a permit post approval.
B1.2.1	New Objective , insert after the current Objective 4 to read: <i>‘#. ‘Encourage alternative and innovative design to maintain and improve biodiversity values, such as modular housing and construction techniques that complement existing biodiversity features.’</i>	Provide additional encouragement to parties to explore outcomes, such as modular housing, construction techniques and expanded dwellings, to work with existing biodiversity features.
B1.2.1	Amend Prescriptive Measure 2 to read: <i>‘The ecological setbacks prescribed in Table 3 are not applicable to infill development due to lot size constraints. However, infill development must clearly demonstrate how the development</i>	To clarify levels of protection and impact avoidance and minimisation required for infill development.

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.15

Section	Amendment proposed	Reason
	<i>envelope has been sized and sighted to avoid and minimise impacts to red flags listed in Table 3. Refer also to Note 3 regarding tree setbacks applicable to HEV vegetation.'</i>	
B1.3.1	Prescriptive Measure 1 , change reference from B1.2.4 Ecological Assessment to A14.1 g).	Reference B1.2.4 Ecological Assessment is to be deleted.

With the inclusion of the amendments listed in Table 1 above, the draft DCP is identified as appropriate for adoption and to guide Development Applications in the Byron LGA. As expressed above, the draft provisions are not to facilitate increased clearing within the LGAs existing communities and contains provisions to underpin avoidance of HEV. The draft DCP acknowledges that avoidance will not always be practical due to urban lot sizes and other constraints. In those instances, the draft DCP affords a performance-based approach for staff to assess on merit. Accordingly, the draft provisions appropriately calibrate the balance between biodiversity, character, risk and resilience by facilitating a framework for pragmatic siting, design and decision-making.

10 **Concern #2 Vegetation Management Plan provisions for infill development types**

Concern was raised within multiple submissions that the preparation of Vegetation Management Plans (VMP) at Council's discretion for infill development is inadequate. For clarity, Section B1.2.5 Vegetation Management Plans & Biodiversity Conservation Management Plans of the draft DCP prescribes as follows:

15 *Prescriptive measures*

1. Where red flagged areas are impacted by infill development, Council may, at its discretion, require the preparation of a Vegetation Management Plan (VMP)

Submissions received detailed that the preparation of a VMP should form a mandatory requirement to DAs where HEV vegetation is present (on-site or adjoining land).

20 Planning Response

No amendment recommended.

By way of background, Vegetation Management Plans (VMPs) are site-specific documents that provide guidance on the restoration and ongoing management of vegetation and habitat utilised by native flora and fauna. Further, existing Council Guidelines acknowledge that the level of detail provided in a VMP will vary depending on the scale and complexity of the work required.

As detailed throughout this report, within infill development scenarios, development and biodiversity will coexist on individual sites. In accommodating development improvement and achieving compliance with other planning provisions, such as Planning for Bushfire Protection 2019, removal of vegetation to maintain appropriate protection of life and assets

is anticipated. The interface of these matters is magnified where less land is available to accommodate setbacks to bushfire threat. Enforcing a VMP on smaller lot sizes may often not be appropriate, and result in conflict with competing and/or overriding legislation. Accordingly, flexibility of application by Council staff is of critical importance to ensure appropriate outcomes.

The draft DCP does not approach these scenario's bluntly, rather, facilitates a framework for Council's assessment staff to determine a fit for purpose approach, which acknowledges the nature of the constraints in any given scenario. Similar to any other provisions within the DCP, appropriate and consistent application of this discretion will be monitored by management through their delegations. Acknowledging the scope of infill development, mandating preparation of a VMP to restore and provide ongoing management of vegetation as a blanket approach is not considered appropriate. Enabling assessing officers to exercise discretion will enable a fit for purpose response and negate occasions where low impact/suburban development is imposed with ongoing management regimes.

Concern #3 Provisions where vegetation has been voluntarily planted.

Several of the submissions received raised concerns that whilst vegetation may have been voluntarily planted (or ultimately forms regrowth), its value is not diminished. Accordingly, the submissions conclude it is not appropriate to waive the prescriptive measure for ecological setbacks where vegetation has been voluntarily planted by the property owner. Further concern was raised in one submission regarding the impact this provision may have on reducing or fragmenting wildlife corridors.

Planning Response

No amendment recommended.

The draft DCP provisions prescribe as follows:

" Where evidence confirms that red flag vegetation types have been voluntarily planted (i.e. not required by a condition of consent, or via public funding), the ecological setbacks prescribed in Table 3 are not applicable."

As per the drafting, the onus is firstly on any proponent to demonstrate that the vegetation was voluntarily planted. This step is generally anticipated to incorporate compiling corroborating evidence, such as Statutory Declarations, aerial photography and the like to confirm validity. Where demonstrated as voluntarily planted, the provision negates the need for specific ecological setbacks to be achieved. The draft provisions do not give licence to remove or damage to the vegetation, nor does it negate the consideration of the vegetation within the site analysis and design response. To confirm, any DA on land which involves voluntarily planted vegetation will be assessed against the 'avoid, minimise, offset' hierarchy, however, the imposition of an ecological buffer as a direct means of 'avoiding' is not specifically prescribed.

This approach has been identified as providing a suitable framework to encourage landowners to voluntarily improve the biodiversity values whilst minimising previously expressed concerns that in doing so there may be a significant restriction to construct built improvements (such as a shed, dwelling, or secondary dwelling) in future.

Additional Concerns

In addition to the primary and consistent matters of concern, additional but sporadic concerns were raised, as detailed in Table 2 below.

Table 2 – Additional concerns raised in submissions

Issue Raised	Planning Commentary
<p>Wildlife Corridors. An objection was raised to the removal of ecological setbacks to mapped wildlife corridors, namely that in doing so reduced protection and regeneration opportunities are afforded, reducing their ability to protect wildlife, particularly koalas.</p>	<p>No amendment recommended.</p> <p>As identified within previous reporting to Council's 7 December meeting, wildlife corridor mapping is:</p> <ul style="list-style-type: none"> • A model that is generally strategic in nature (i.e. does not purely represent current environment conditions and shows a potential corridor network rather than wildlife corridors identified by on-ground survey), • Typically prepared at a broad, 'whole of LGA' level, and • Range in width from 200m and above to in excess of 1km. • Not intended to be used as a planning tool for Development Assessment. <p>If enforced rigidly, identifying wildlife corridors as a strict bar to any development would sterilise significant areas of land within the LGA, particularly agricultural land. As per Council's resolution to endorse the wildlife corridor mapping as a tool to support and encourage wildlife habitat restoration, staff recommend utilising the strategic wildlife corridor mapping to incentivise proactive and positive environmental outcomes, as opposed to mandating avoidance and buffering of proposed wildlife corridors, particularly where avoidance is not possible.</p>
<p>Document references and extent of content. Objection was raised in relation to ancillary content (such as references to other State policy and Council processes) being removed from Chapter B2 and consolidated into Part A, or deleted entirely. The submission received expressed that the DCP Chapter should be holistic so that related content</p>	<p>No amendment recommended.</p> <p>Specific reference and/or inclusion of State Environmental Planning Policies (SEPPs) and other State-based policy within the DCP Chapter is not necessary. Consideration of these instruments forms a legislative requirement under section 4.15(1)(a)(i) of the <i>Environmental Planning and Assessment Act 1979</i>. Further, inclusion of SEPP references and/or their content within the DCP often results in outdated references and content as policies are updated by their 'owners'. By way of example, both of the SEPPs currently referenced in the DCP Chapter have since been repealed.</p> <p>Similarly, the Byron Development Control Plan 2014 is prepared and applied as a whole. Accordingly, there is not</p>

Issue Raised	Planning Commentary
cannot be overlooked.	an identified need to replicate content across Chapters. Whilst duplication is often cited as being more ‘user-friendly’, doing so adds considerable bulk to the DCP and has been identified as reducing its usability. In this regard, a consolidated and integrated approach has been pursued by bolstering Part A and its site analysis process.
Ecological Assessments. An objection was received that Chapter B1 should prescribe that ‘a site requires assessment by an ecologist in all cases where native vegetation occurs onsite.’	No amendment recommended. It is not considered appropriate to mandate assessment by an ecologist where Chapter B1 applies. The draft wording enables and encourages a fit for purpose assessment relative to the potential to impact on biodiversity values.
Offset Ratios. Objection was raised that by identifying offset ratios, this approach is incentivised above avoiding vegetation. Further, concern was raised regarding the limitations and appropriateness of offsetting existing biodiversity values	No amendment recommended. As detailed earlier in this report, the drafting of Chapter B1, as expressed through its Objectives, Performance Criteria and Prescriptive Measures, reflects the ‘avoid, minimise, offset’ hierarchy embodied within the <i>Biodiversity Conservation Act 2016</i> . Specifically, the Chapter does not directly facilitate the clearing of HEV. Notwithstanding, Chapter B2 acknowledges that should vegetation removal be proposed, an appropriate framework to offset any removal should be in place. In doing so, consistent provisions are in place, providing transparency to proponents and the community. Accordingly, the draft Chapter includes offset plantings requirements, based on low, medium or high environmental value, to ensure the maintenance and improvement of biodiversity values in the LGA.

Conclusion

The draft DCP provisions are considered to positively contribute towards a streamlined and simplified biodiversity and planning framework for the Byron LGA. The draft DCP provisions uphold the importance of biodiversity, as well as its value as expressed by the community.

Community and industry feedback has been obtained through a formal public exhibition process. Further, a series of investigations with technical staff has been pursued to develop the guideline provisions. From these processes, a small suite of minor amendments have been incorporated into draft Chapter B1 Biodiversity. Copies of each draft DCP Chapter can be found as attachments to this report for ease of reference, which are now identified for endorsement and integration into the Byron DCP 2014 framework.

- 5 The Byron LGA has long been identified as a biodiversity hotspot and subject to ongoing demand for urban development. The DCP Chapters are identified as critical in rationalising these competing demands and achieving responsible and balanced outcomes, which uphold the Shire's valued character. Accordingly, this report recommends Council resolve adopt the DCP amendments, as per sections 14 and 16 of the Environmental Planning and Assessment Regulations 2021.

If adopted, the DCP provisions will come into effect once uploaded to Council's website.

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	4.1.4.2	Review and update Local Environmental Plan and Development Control Plans to reflect strategic land use priorities and/or legislative reforms

10 Recent Resolutions:

- 23-585
- 23-594

Legal/Statutory/Policy Considerations

- 15 The updated planning controls will be used to inform future Development Applications and assessment of Tree Removal Permit applications. The updated planning controls ensure a coordinated planning framework, balancing the LGAs significant biodiversity with investment and growth planning.

Financial Considerations

Review work funded by existing operational budget.

Consultation and Engagement

Consultation and engagement for the proposed DCP amendments was undertaken in accordance with the Community Participation Plan and the Environmental Planning and Assessment Regulation 2021. Submissions received are detailed in this report

5 (Attachment 5), along with planning commentary related to the matters raised.

Report No. 13.16 Sponsorship of Annual National Flying-fox Forum

Directorate: Sustainable Environment and Economy

Report Author: Claudia Caliar, Biodiversity Projects Officer

5 **File No:** I2024/1072

Summary:

The Annual National Flying-fox Forum aims to facilitate a coordinated approach to flying-fox conservation and management in Australia.

10 Ecosure has facilitated and led eight successful annual forums, which have been attended by experts in the field and delegates from local, state and federal government, research institutions, NRM groups, NGOs, wildlife care organisations and conservation groups.

The forum has become a successful industry event in Australia bringing together >150 delegates in-person and online for the 2022 and 2023 hybrid events from a diverse range of environmental and conservation fields.

15 The next Annual National Flying-fox Forum is on 10-12 October at Twin Waters, Sunshine Coast. Ecosure seeks financial support to plan and convene the 2024 Forum.

Sponsorship of \$1000 for Bronze Support Level is requested to be sourced from the 2605.114 'Flying Fox Camp Management Plan. This will be the first forum Council has sponsored. This represents 6.7% of our Flying-fox annual budget.

20

RECOMMENDATION:

That Council:

- 25
1. **Supports sponsorship of the Annual National Flying-fox Forum in October 2024 under Section 356 of the Local Government Act 1993.**
 2. **Sponsors to the value of \$1,000 for Bronze Support Level and is funded from the 2605.114 'Flying Fox Camp Management Plan budget.**

30

Report

5 The National Flying-fox Forum is an annual initiative to facilitate a national, coordinated approach to flying-fox conservation and management in Australia. Ecosure has facilitated and lead eight successful annual forums, which have been attended by experts in the field and delegates from local, state and federal government, research institutions, NRM groups, NGOs, wildlife care organisations and conservation groups.

Council staff have attended in 2019, 2022 and 2023.

The forum has become a successful industry event in Australia bringing delegates from a diverse range of environmental and conservation fields.

10 This gathering has been an invaluable resource for networking and knowledge sharing because it brings together the most renowned scientists, land managers and wildlife rescuers to find better solutions for managing flying-fox populations. It provides opportunity to discuss current local issues with other specialists.

15 Council staff have presented the “No Bat No Me” preliminary findings at last’s year’s event which was praised by participants. Through the forums network of attendees, Council was able to access technical resources and relevant flying-fox imagery free of costs for the development of the ‘No Bat No Me’. This year council staff plan to submit a presentation on Council’s new Flying-fox Camp Management Plan.



20 Picture 1: “No Bat No Me” project presented at Flying-fox Forum 2023.

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.16

Previous Forums (flyingfoxforum.com) have been well attended: 75 delegates in Brisbane (2016), 96 delegates in Sydney (2017), 84 delegates in Cairns (2018), and 90 delegates in Canberra (2019) for these in-person meetings. More than 100 delegates attended the 2020 and 2021 online conferences. More recently, more than 150 delegates attended in-person and online for the 2022 and 2023 hybrid events.

Delegates come from all levels of government, research institutions, NRM, rescue and conservation groups, NGOs, and environmental consultancies. This broad range of experience and perspectives has facilitated sharing of the most up-to-date national and local insights into the management and conservation of flying-foxes and their habitat.

- 10 The next Annual National Flying-fox Forum on 10-12 October at Twin Waters, Sunshine Coast. Ecosure seeks financial support to plan and convene the 2024 Forum.

This support ensures that the ticket price remains reasonable for delegates. Ecosure has contributed over \$90,000 in-kind to previous Forums and is seeking sponsorship to ensure we can proceed with another successful Forum. Sponsorship options available include:

Offer	Support Level			
	Bronze \$1000	Silver \$2500	Gold \$5000	Platinum \$7500
Acknowledgement as Forum Sponsor				
Placement of your logo on all Forum marketing				
Complimentary registration to the Forum	 <i>2 Ticket</i>	 <i>3 Tickets</i>	 <i>4 Tickets</i>	 <i>5 Tickets</i>
Input into the Forum program				
An invitation to provide a presentation				
Opportunity to choose a workshop topic				
A trade display area / partner banners				
Free post-Forum access to recordings				

- 15 Sponsorship of \$1,000 for Bronze Support Level is requested to be sourced from the 2605.114 'Flying Fox Camp Management Plan. This will be the first forum Council has sponsored.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
3: Nurtured Environment	3.1: Partner to nurture and enhance biodiversity, ecosystems, and ecology	3.1.1: Native species - Use best practice land management to improve ecological resilience and reduce threats to biodiversity	3.1.1.5	Review Flying Fox Camp Management Plan
3: Nurtured Environment	3.1: Partner to nurture and enhance biodiversity, ecosystems, and ecology	3.1.1: Native species - Use best practice land management to improve ecological resilience and reduce threats to biodiversity	3.1.1.7	Complete quarterly National Flying Fox census
3: Nurtured Environment	3.1: Partner to nurture and enhance biodiversity, ecosystems, and ecology	3.1.1: Native species - Use best practice land management to improve ecological resilience and reduce threats to biodiversity	3.1.1.9	Seek funding to implement the Biodiversity Conservation Strategy, Coastal Koala Plan of Management, Pest Animal Management Plan and Flying Fox Camp Management Plan

Recent Resolutions

- 24-330
- 23-617

Legal/Statutory/Policy Considerations

Local Government Act 1993, section 356:

Can a council financially assist others?

- 5 (1) A council may, in accordance with a resolution of the council, contribute money or otherwise grant financial assistance to persons for the purpose of exercising its functions.

Financial Considerations

Sponsorship of \$1,000 for Bronze Support Level is available in the 2605.114 'Flying Fox Camp Management Plan budget.

10 **Consultation and Engagement**

The forum provides an inclusive engagement event for attendees to participate and share knowledge.

- 15 Should Council support the recommendation to provide under S356, financial support of \$1,000 for Bronze Support Level for the event, then this support will be advertised in accordance with the requirements of S356 of the Local Government Act.

**Report No. 13.17 Fee Waiver Request from Mullum SEED
(Mullum Community Gardens 156 Stuart St
site)**

Directorate: Sustainable Environment and Economy

5 **Report Author:** Shannon Burt, Director Sustainable Environment and Economy

File No: I2024/1083

Summary:

10 A fee waiver request has been received from Mullum SEED (Mullum Community Gardens)
for certain fees associated with Development Application DA 10.2022.538.1 Alterations
and Additions to existing Food Co-Op structure, New Cool Room, New Workshop, and
storage shed associated with existing Men's Shed, New shade structure and use of
multiple existing structures at 156 Stuart Street Mullumbimby.

15 The fee waiver is sought for the '*S64 and Building Information Certificate fee /Building
certificate CC fee on the basis of Mullum SEED being with 'not for profit and charitable
status and the significant and wide range of contributions that the site at 156 Stuart St
makes to the community'.*

Two separate Council Policies apply in relation to this request and are discussed in more
detail in the report.

20

RECOMMENDATION:

That Council:

25 1. **Provides authority to the General Manager or the General Manager's delegate to
negotiate a deferral and/or payment of the water developer contributions
associated with the approved development DA 10.2022.538.1 Alterations and
Additions to existing Food Co-Op structure, New Cool Room, New Workshop,
and storage shed associated with existing Men's Shed, New shade structure and
use of multiple existing structures at 156 Stuart Street Mullumbimby.**

30


2. **Notes that the Building Information Certificate Costs are not eligible for a
'donation' under the applicable Policy, being Council's Community Initiatives
Program Section 356 Policy.**

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.17

Attachments:

- 5 1 10.2022.538.1 - Developer Fee Waiver Request from Mullum SEED (Mullum Community
Gardens) - 156 Stuart Street Mullumbimby, E2024/87614 

Report

Staff received an email (Attachment 1) seeking a fee waiver from Mullum SEED (Mullum Community Gardens) for certain fees associated with Development Application 10.2022.538.1.

- 5 Report No. 13.6 PLANNING - DA 10.2022.538.1 - Use of, and Alterations and Additions to, existing Food Co-Op structure and Use of associated shade structures, New Cool Room, Use of, 5 and New, shade structures, Men's Shed Additions, Use of existing sheds and Use of existing nursery structures associated with Reforest Now– 156 Stuart Street Mullumbimby [Agenda of Ordinary \(Planning\) Meeting - Thursday, 9 November 2023 \(infocouncil.biz\)](https://infocouncil.biz)

10 The fee waiver is sought for Water payments under the Water Management Act 2000 (under Condition 9 and Schedule 4 Note) and Building Information Certificate Costs (under Deferred Commencement Consent Condition) on the basis of Mullum SEED being with not for profit and charitable status and the significant and wide range of contributions that the site at 156 Stuart St makes to the community.

Specific fees for which a fee waiver is sought total \$31,017.76 and are broken down as follows:

1. Water payments under the Water Management Act 2000 (Section S64 Water Contributions) - \$26,476.76.
- 20 2. Building Information Certificate Costs - \$4,541.00

Two separate Council Policies apply in relation to this request and are discussed below.

1. Section 64 Water Contributions under Development Servicing Plans for Water Supply and Sewerage

25 In accordance with NSW Water Directorate Guidelines and Council's Equivalent Tenement Policy, the water contributions for the community gardens were assessed for DA 10.2022.538.1 as:

Water	902	2.34 ET @ \$11,314.00	=	\$26,474.76
--------------	-----	-----------------------	---	-------------

30 From Council Water & Sewer Developer Servicing Plan:

2.7 Exemption

35 Under section 306 (4) and (5) of the *Water Management Act 2000*, the Minister for Planning may make a determination in regard to developer charges levied on Crown development. Crown developments for essential community services (education, health, community services, and law and order) are exempt from general developer charges. Water utilities may charge these developments only for that portion of the direct connection cost (e.g. for a lead-in main) relating to Crown development.

BSC may waive developer contributions where the proponent demonstrates to Council's satisfaction that it is a non-profit and charitable organisation, which by virtue of carrying out such development,

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.17

is considered to be making a significant and positive contribution to the community and is unable to recover the charge from the end user.

Link to Charitable status of Mullum SEED: [Mullum Sustainability Education and Enterprise Development Incorporated \(Mullum SEED inc\) | ACNC](#)

- 5 There have been recent examples of this type of fee deferral/waiver for both SHIFT and Beacon Laundry operations based on their not for profit and charitable status.

The basis or maintenance of any deferral/waiver of developer contributions under the Plan include that the proponent:

- 10
- Maintains the approved Water Equivalent Tenement load
 - Maintains its charitable tax status registered with
 - There is no change in ownership of the business or the operation.

- 15 These would be necessary preconditions for any deferral/waiver of the water contributions for Mullum SEED if supported by Council.

Note: Rous Water does not come into play for this development.

20 **2. Building Information Certificate Costs under Community Initiatives Program Section 356 Policy**

The [Community Initiatives Program Section 356 Policy](#) is the applicable policy. Fees are now considered overall as a donation to the value of \$5,000.

- 25 However, as the Building Information Certificate Costs are to authorise “illegal” works undertaken without prior approval as discussed in the Council report link (above) –under (i) this request is not an eligible activity for consideration under this Policy.

Policy acronym	Definition
Donation	A grant from Council to an organisation or group and includes 'financial assistance', 'in-kind assistance', 'sponsorship' and 'waiving of fees and charges'.

4.2 Requests for assistance – eligible activities

Applicants can apply for a maximum of \$5,000 per project.

All funding is allocated at the discretion of Council and subject to budgetary constraints. No application is guaranteed funding support.

All donations require the prior approval of Council. Council will not make retrospective donations (except in the case of reimbursement of Council fees). Donation applications can only be received during the specified period for that round of applications and projects must be completed within 12 months of the funding being granted, preferably acquitted prior to 30 June in the relevant financial year.

Donation requests which do not meet the assessment criteria of this Policy will be declined without report to Council for consideration.

Council will not approve financial assistance for

- a) Community initiatives or events that generate financial profits for commercial companies and/or individuals
- b) A core activity of the applicant organisation
- c) Ongoing operational or administration expenses of an organisation with the exception of donations for rates, water and sewerage charges in accordance with Policy 12/008. Examples of ongoing operational organisation administration expenses include funding an ongoing staff position, insurance, utility expenses (electricity, phone, etc), rent or debt payments
- d) An initiative that duplicates existing available services to an identical target group within the same geographical location
- e) Activities that are the primary responsibility of other funding agencies or government departments
- f) For capital works and major building repairs (as opposed to minor maintenance and upkeep where there is a clear demonstrated community outcome)
- g) There is a preference that donations will not continue beyond 3 consecutive years for the same activity
- h) Where applicants are in a position to self-fund the project
- i) For a project which includes illegal activities
- j) If the organisation or group received funding in the previous financial year and did not submit an acquittal report

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
3: Nurtured Environment	3.2: Deliver initiatives and education programs to encourage protection of the environment	3.2.4: Sustainability projects - Support community led environmental and sustainability projects	3.2.4.1	Continue to support community gardens

Legal/Statutory/Policy Considerations

As discussed in the report.

5

Should Council adopt the proposed recommendation to this report, it will forgo a total of \$26,476.76 in developer contributions for water.

10

In doing so it will be the third such deferral/waiver in the past 5 years for water/sewer developer contributions.

15

Council previously waived s64 sewer contributions for another social enterprise a laundry operation known as Linen SHIFT via Resolution **19-401** on 23 August 2019. The total sewer contribution waived for this laundry was for four washing machines [\$31,074.92].

20

More recently Council waived s64 sewer contributions for Beacon Laundry via Resolution **23-643** above \$200,000 for the approved development and that the remaining \$200,000 be payable in 10 equal annual payments of \$20,000.

It is unclear how much capacity the Water/Sewer budget has to accommodate these requests ongoing without having a knock-on impact to the 30-year Strategic Business Plan and capital works program.

Financial Considerations

As discussed in the report.

25

Consultation and Engagement

N/A.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.18 Trades and Services Tender

Directorate: Infrastructure Services

5 **Report Author:** Len Reilly, Property Maintenance Coordinator

File No: I2024/745

Summary:

On the 13 May 2024 the General Manager, under delegated authority, approved the use of the open tender method to call for tenders for Contract 2024-2253, Trades and Services.

10 The Request for Tender was advertised from 30 May 2024 to 20 June 2024. Tenders were received from the following organisations:

1. ARC FACILITIES PTY LTD / VPR722363
2. BALLY PLUMBING PTY LTD / VPR722494
3. BARDEN CONSTRUCTIONS AUST PTY LTD / VPR718236
- 15 4. BISHTON GROUP PTY LTD / VPR722473
5. CAPE BYRON PLUMBING / VPR720172
6. CIRCL GROUP PTY LTD / VPR722354
7. CNS AIR CONDITIONING PTY LTD / VPR722489
8. CONCEPT ENGINEERING SERVICES PTY LTD / VPR722245
- 20 9. CONNECT BUILDERS PTY LTD / VPR722227
10. CURTIS ELECTRICAL AUST / VPR721007
11. HEIGHT SAFETY ENGINEERS / VPR722667
12. HUDKO PLUMBING PTY LIMITED / VPR722178
13. MOONEY CONSTRUCTIONS PTY LTD / VPR722104
- 25 14. O'BRIEN ELECTRICAL & PLUMBING LISMORE / VPR722666
15. PANDANUS COASTAL PROJECTS / VPR722147 -
16. PATTERSONS BUILD GROUP / VPR722704
17. PLUMBTRAX PTY LTD / VPR720692
18. POEL CORP PTY LTD / VPR721634
- 30 19. RJ FULLER ELECTRICAL / VPR722626
20. TESTEL AUSTRALIA PTY LTD / VPR722701
21. THE TRUSTEE FOR THE J & J THEARLE FAMILY TRUST / VPR720072
22. WATER & EARTH SERVICES PTY LTD / VPR718131 - -

35 Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulations 2021. This report summarises the background and assessment of the tenders and provides a recommendation to award the tender for Contract 2024-2253.

RECOMMENDATION:

1. That Council award Tender 2024-2253 to the preferred suppliers identified in the Tender Evaluation Report.
- 5 2. That Council makes public its decision, including the name and amount of the successful Tenderer, in accordance with Clause 179(b) of the Local Government (General) Regulation 2021.

Attachments:

- | | | |
|----|---|--|
| 10 | 1 | Confidential - Request for Tender 2024-2253 - Evaluation Report, E2024/71018 |
| | 2 | Confidential - VP414153 - Multi party evaluation report (1), E2024/79585 |

Report

On 13 May 2024 the General Manager, under delegated authority, approved the use of the open tendering method to call for tenders for Contract 2024-2253 Trades and Services.

- 5 The contract is required to enable council staff use of approved contractors for Electrical, Plumbing and General Building Maintenance services for operational purposes for all of council owned and managed buildings.

- 10 The Request for Tender sought responses from proponents to provide reactive & planned maintenance for Buildings, Facilities and Parks. For urgent works the contractor must be able to supply staff within a 60-minute window from time of request by Council. General non urgent works can be programmed and scheduled within a reasonable period provided operations are not required to be closed whilst waiting for works to proceed.

The Contract is expected to commence in August 2024 for a period of Three (3) years with the option of 2 x one-year extensions at the discretion of council.

The Contract will be managed by the Property Maintenance Coordinator.

- 15 Tenders were advertised as follows:

- VendorPanel Online: 13 May 2024 to 20 June 2024
- Council website: 13 May 2024 to 20 June 2024

An Evaluation Panel comprising of three (3) Council staff members was formed.

- 20 Tenders closed on 20 June 2024 and tenders were received from the following proponents:

1. ARC FACILITIES PTY LTD / VPR722363
2. BALLY PLUMBING PTY LTD / VPR722494
3. BARDEN CONSTRUCTIONS AUST PTY LTD / VPR718236
4. BISHTON GROUP PTY LTD / VPR722473
- 25 5. CAPE BYRON PLUMBING / VPR720172
6. CIRCL GROUP PTY LTD / VPR722354
7. CNS AIR CONDITIONING PTY LTD / VPR722489
8. CONCEPT ENGINEERING SERVICES PTY LTD / VPR722245
9. CONNECT BUILDERS PTY LTD / VPR722227
- 30 10. CURTIS ELECTRICAL AUST / VPR721007
11. HEIGHT SAFETY ENGINEERS / VPR722667
12. HUDKO PLUMBING PTY LIMITED / VPR722178
13. MOONEY CONSTRUCTIONS PTY LTD / VPR722104
14. O'BRIEN ELECTRICAL & PLUMBING LISMORE / VPR722666
- 35 15. PANDANUS COASTAL PROJECTS / VPR722147 -
16. PATTERSONS BUILD GROUP / VPR722704
17. PLUMBTRAX PTY LTD / VPR720692
18. POEL CORP PTY LTD / VPR721634
19. RJ FULLER ELECTRICAL / VPR722626

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.18

20. TESTEL AUSTRALIA PTY LTD / VPR722701
21. THE TRUSTEE FOR THE J & J HEARLE FAMILY TRUST / VPR720072
22. WATER & EARTH SERVICES PTY LTD / VPR718131 - -

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

Mandatory criteria:

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

Qualitative criteria:

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

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

Financial Considerations

The price basis for the contract is a schedule of rates.

Council spends over \$400,000 per year on Maintenance services for all of council including Electrical, Plumbing and General Building Maintenance.

- 5 There is sufficient funding for the proposed contract in the current operations budget.

Statutory and Policy Compliance Consideration.

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

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

Local Government (General) Regulation 2021 - Reg 178

178 Acceptance of tenders

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

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.18

- 5
- (c) *invite, in accordance with section 168, fresh applications from persons interested in making a tender submission for the proposed contract,*
 - (d) *invite, in accordance with section 169, fresh applications from persons interested in making a tender submission for contracts of the same kind as the proposed contract,*
 - (e) *by resolution of the council, enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender,*
 - (f) *carry out the requirements of the proposed contract itself.*
- 10
- (4) *If a council resolves to enter into negotiations as referred to in subsection (3)(e), the resolution must state the following—*
- (a) *the council's reasons for declining to invite fresh tender submissions or applications as referred to in subsection (3)(b)–(d),*
 - (b) *the council's reasons for determining to enter into negotiations with the person or persons referred to in subsection (3)(e).*
- 15

Council's endorsement of the recommendation to award the tender as recommended in the attached Evaluation Report is sought.

Report No. 13.19 Management Contract - First Sun & Suffolk Beachfront Holiday Park

Directorate: Infrastructure Services

Report Author: Pattie Ruck, Open Space Facilities Coordinator

5 **File No:** I2024/868

Summary:

On 2 May 2024, the General Manager, under delegated authority, approved the use of the open tender method to call for tenders for Contract 2024-2230 Management Contract – First Sun & Suffolk Beachfront Holiday Park.

- 10 The Request for Tender was advertised from 30 May 2024 to 4 July 2024. Tenders were received from the following organisations:
- Ace Park Management
 - Belgravia Leisure
 - Karaway Family Trust
 - 15 • NRMA Park & Resorts

Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulations 2021. This report summarises the background and assessment of the tenders and provides a recommendation to award the tender for Contract 2024-2230.

20

RECOMMENDATION:

1. That Council award Tender Management Contract – First Sun & Suffolk Beachfront Holiday Park to the preferred supplier identified in the attached tender evaluation report.
- 25 2. That Council makes public its decision, including the name and amount of the successful tenderer, in accordance with Clause 179(b) of the Local Government (General) Regulation 2021.

Attachments:

- 30 1 Confidential - 2024-2230 First Sun & Suffolk Beachfront Holiday Park Management Contract - Evaluation Panel Recommendation Report, E2024/66624

Report

5 On 2 May 2024, the General Manager, under delegated authority, approved the use of the open tendering method to call for tenders for Contract 2024-2230 Management Contract – First Sun & Suffolk Beachfront Holiday Park.

The management contract for Council's holiday parks is due to expire on the 30 September 2024. Both holiday parks require management for the new tender period.

The Request for Tender sought responses from proponents to engage a suitably experienced manager to undertake the management of the Facilities which: -

- 10
1. Is comprehensive, professional and customer focused.
 2. Is considered best practice within the industry.
 3. Incorporates new innovations and methodologies.
 4. Encourages cost savings.
 5. Maintains Park amenities and assists to oversees capital works programs.
- 15 The Contract is expected to commence in October 2024 for a period of 3 years with an option to extend for a further 2 years at the discretion of Council.

The Contract will be managed by Facilities Coordinator.

Tenders were advertised as follows:

VendorPanel Online: 30 May 2024 – 4 July 2024.

- 20 Council website: 6 June 2024 – 4 July 2024.

A mandatory site inspection was held at First Sun Holiday Park followed by Suffolk Beachfront Holiday Park on Thursday 6 and Wednesday 19 June 2024 at 10am. Initial site visit was attending by three contractors and the second site visit attended by two contractors.

- 25 An Evaluation Panel comprising of four Council staff members was formed.

Tenders closed on 4 July 2024 and tenders were received from the following proponents:

- Ace Park Management
- Belgravia Leisure
- Karaway Family Trust
- 30 • NRMA Park & Resorts

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.19

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

Mandatory criteria:

- a) Attended a site visit.
- 5 b) Compliance with and completion of actual percentage of gross revenue offered.
- c) Compliance with all necessary licences and registrations.
- d) Compliance with the provision of complete and conforming information Part 3 - Section 1-20.
- e) Tenderer must have a valid Australian Business Number.
- 10 f) Substantial conformance to Conditions of Contract and Statement of Requirements.
- g) Workers compensation insurance for all employees.
- h) Holds, or is willing to obtain, the insurances as specified in the Statement of Requirements.
- i) Satisfactory Work Health and Safety practices.
- 15 j) Commitment to ethical business practice principles.
- k) Financial capacity to undertake the contract.
- l) Tenderer confirms no ties to Bravus Mining previously Adani Mining, no ties with Carmichael mine and no involvement with offshore detention centres.
- 20 m) Respondent has confirmed they, and their supply chains, do not engage in Modern Slavery practices.
- n) Responses have been provided to other social enterprise questions (eg sustainability, disability employment organisation).

Qualitative criteria:

Criteria	Elements
Profile and relevant experience	Tenderer profile
	Previous relevant experience
	Environmental practices
	Opportunities for disadvantaged people
	Local employment opportunities

Criteria	Elements
Quality and availability of resources	Proposed key personnel
	Proposed staff
	Use of subcontractors
	Vehicles, plant and equipment
Delivery Plan	Goods/services standards and methodology
	Implementation plan
	Product sustainability
	Supporting local business, social enterprise and Indigenous business
Price	Total contract percentage

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

Financial Considerations

- 5 The price basis for the contract is a fixed percentage for the term of the contract.

There is sufficient funding for the proposed contract in the current and future budgets.

Statutory and Policy Compliance Considerations

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

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

Local Government (General) Regulation 2021 - Reg 178

[Acceptance of tenders](#)

- 15 178 *Acceptance of tenders*

- (1) *After considering the tender submissions for a proposed contract, the council must either—*

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.19

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

Council's endorsement of the recommendation to award the tender as recommended in the attached Evaluation Report is sought.

Report No. 13.20 New Brighton - Parking Improvements Investigation

Directorate: Infrastructure Services

Report Author: Isabella Avelino Gianelli, Project Engineer

5 **File No:** I2024/897

Summary:

This report details actions and outcomes against Resolution **24-225**, items 1-4 below, and provides reasoning for the recommendations provided.





10

RECOMMENDATION:

That Council:

- 15
1. Notes that staff have provided comments and documented the suggestions received in Public Access at Council's meeting on 23 May 2024 by Vivienne Pearson. Attachment 1 (E2024/60678).
 2. Notes that staff are still progressing with detail design of re-prioritisation at the intersection of The Esplanade and The Strand Avenue and the way finding signage across New Brighton and South Golden Beach.

20 **Attachments:**

- 25
- 1 Public Access Submission 23 May 2024 - Item 13.18, New Brighton - Parking Improvements Investigation, Vivienne Pearson, E2024/60678 
 - 2 Final New Brighton, The Esplanade parking, etc - Planning Advice 27.03.2023, E2023/35699 
 - 3 North Head Road - Parking Draft Design, E2024/23224 
 - 4 New_Brighton_The_Esplanade, E2024/23226 

30

Report

This report details actions and outcomes against Resolution **24-225**, items 1-4 below, and provides reasoning for the recommendations provided.

Resolution **24-225** from last Council meeting held on 23 May, as follow:

- 5 1. *Does not proceed with any further parking investigations or designs in New Brighton until the Master Plan for the Ocean Shores area has been completed.*
2. *Re-prioritises traffic flow at the intersection of The Esplanade and The Strand Avenue and installs signage accordingly, as per concept drawing attachment 3 (E2024/23226).*
- 10 3. *Installs way finding signage across the New Brighton and South Golden Beach areas to direct visitors to existing parking and beach accesses.*
4. *Receives a report that considers:*
 - a) *Limits to parking such as bollards on the western side of River Street New Brighton to stop erosion and sediment movement into Marshalls Creek, which is part of the Marine Parks estate.*
 - 15 b) *The suggestions received in Public Access at Council's meeting on 23 May 2024 and listed under areas 1 to 7. (Lyon/Westheimer)*
- The amendment was put to the vote and declared a tie.*
- Crs Hunter, Balson, Ndiaye and Dey voted against the amendment.*
- 20 *The Mayor used his casting vote to declare the amendment carried.*
- The amendment upon becoming the substantive motion was put to the vote and declared carried.*

Following resolution, staff have been progressing with:

- 25 The detail design to re-prioritise traffic flow at the intersection of The Esplanade and The Strand Avenue, and to install way finding signage across New Brighton and South Golden Beach. Due to ongoing commitments made by Council on existing Capital works program, resources for this project will be available later in the year.

Regarding Item 4:

- 30 a) *Limits to parking such as bollards on the western side of River Street New Brighton to stop erosion and sediment movement into Marshalls Creek, which is part of the Marine Parks estate.*

- 35 **Staff comment:** From review of report I2024/1054, site investigation was undertaken on Monday 22 July 2024, to assess the current state of the riverbank. As noted within this report, significant erosion of the riverbank has undermined existing vegetation. Installation of bollards at this location would hinder access to stabilise the riverbank and would likely have to be removed in the future.

- 40 Prevention of parking access on the western side of River Street would need to be considered within the context of the Ocean Shores masterplan. It is understood that traffic operations and particularly parking at this location needs further investigation to allow informed decisions, however as mentioned in item 1 of this resolution staff are not

proceeding with any further parking investigations or designs in New Brighton until the Master Plan for the Ocean Shores area has been completed.

- 5 b) *The suggestions received in Public Access at Council's meeting on 23 May and listed under areas 1 to 7. Attachment 1, document number E2024/60678, from Vivienne Pearson in support of her Public Access on 23 May 2024 Council meeting.*

1. Corner of The Strand and The Esplanade

10 South end of The Esplanade (no through road section): Fix the potholes and revert parks to 90-degree front-in parking like they used to be - so that there are both more parks but so drivers don't have to undertake 12-point turns to get in or out.

Staff comment: Council staff have consulted with Principal Planner, Mike Svikis to assess the planning pathways of this location late last year, attachment 2.

15 Any proposed layout in this location is likely to have a significant impact of the environment as the subject land is identified by Council as an area of High Environmental Value (Figure 1) with a vegetation community described as Littoral Rainforest (Figure 2), it is also mapped as an immediate hazard area (Figure 3) and Bush regeneration and landcare area (Figure 4).

Note key points below taken from attachment 2:

It is an area where Council policy (as contained in its 2010 DCP) states:

20 *Element – Precinct 1 - from the Beach Escarpment to the Immediate Impact Line*

Element Objective

To ensure the impact of coastal processes on potential development is minimised by limiting development and ensuring any development is only temporary.

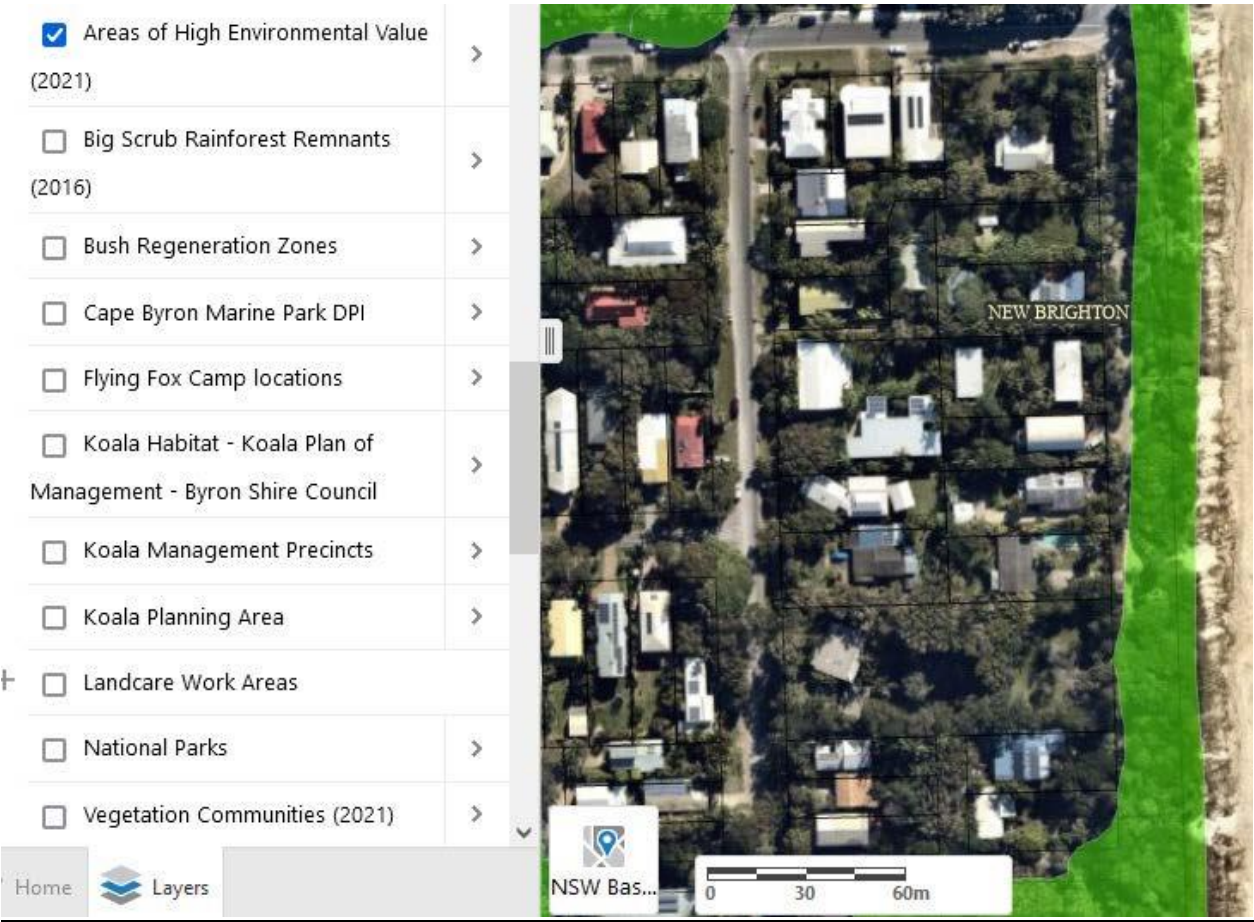
Performance Criteria

25 *New buildings or works are to be temporary and able to be readily removed in the event of coastal erosion.*

Development that is of a community nature, which relates to the use of the beachfront, may be considered, provided that any building is easily removable and does not require a major extension to a service main.

30 *Works such as widening the road and removal of mature, native vegetation that has been planted to protect and stabilise the dune are not temporary or readily removed and it would go against Council policy.*

Figure 1: BSC Area of High Environmental Value



5

10

Figure 2: BSC Vegetation Community mapping



Figure 3: Current Hazard lines

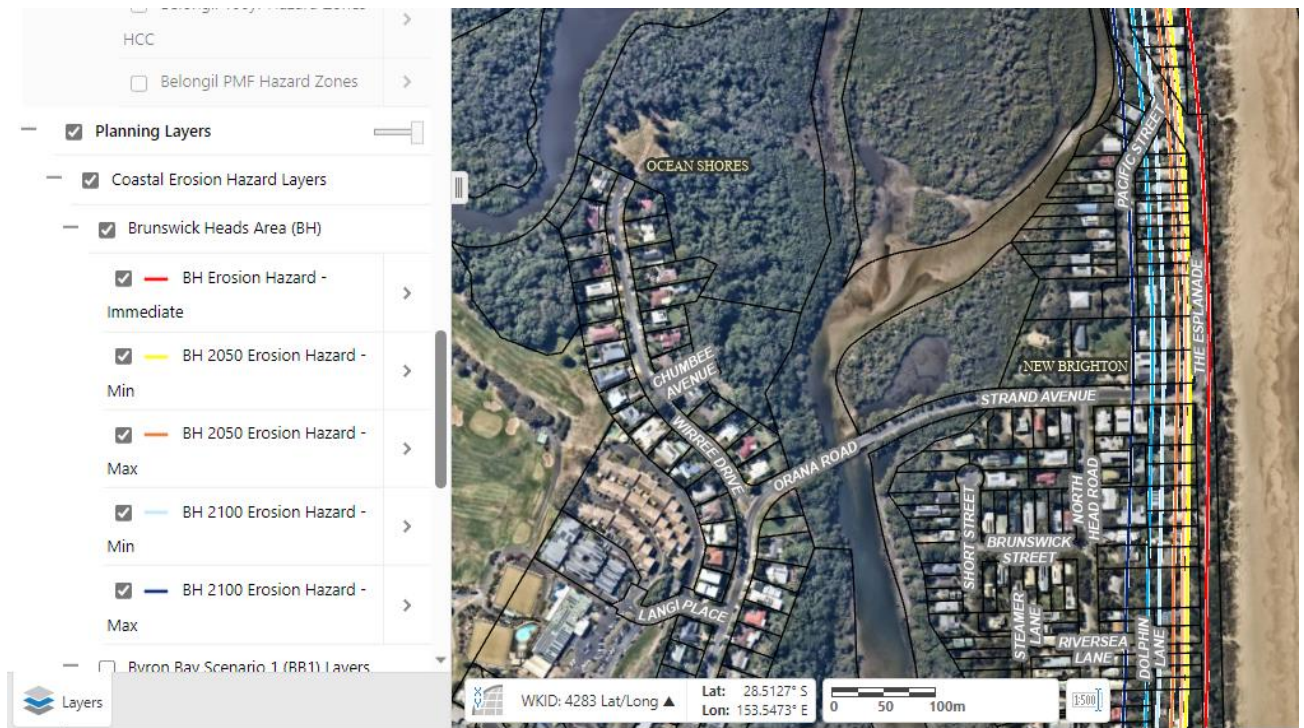
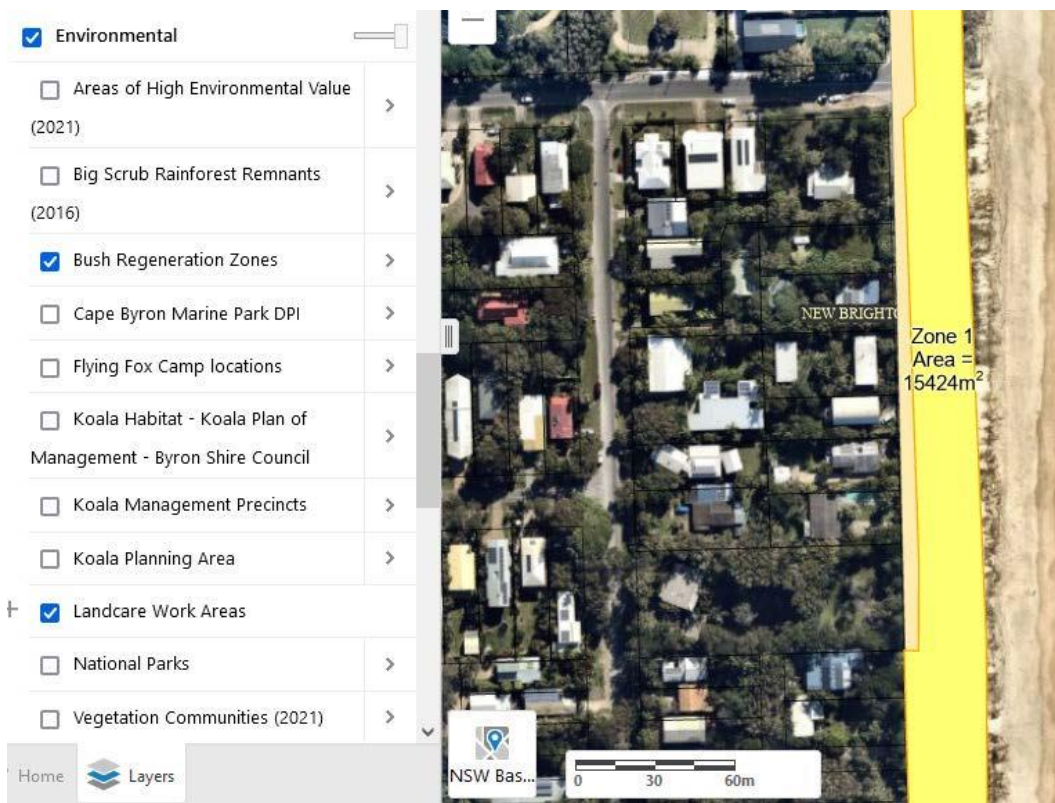


Figure 4: BSC bush regeneration and landcare areas



2. North Head Road carpark

North Head Road carpark entrance: Fix the potholes at-the entrance and, at the beach access end, prevent parking across the beach access path entrance way AND the shower (a valuable piece of public infrastructure). Install a bike rack.

- 5 **Staff comment:** To achieve parking compliance, the preferred option would be implementation of formalised parking with line marking and signage. Attachment 3, the proposed concept design for North Head Rd car park, was presented at the public consultation in April 2024, with the proposed design aligning with the comments received from Vivianne. However, staff is not proceeding with any further parking investigations or designs in New Brighton until the Master Plan for the Ocean Shores area has been completed.

Newy Store / Salty Mangrove / River/ Soccer fields

3. Ocean Avenue shop end:

- 15 Fill in the existing dipped-down and mud-prone parking between the Salty Mangrove and the playground, allowing cars to park fully in rather than hanging their butts out into the road. Remove the 2 parks alongside Salty Mangrove (or reserve for Disabled Parking only) to improve amenity and allow pedestrian access along one side of road. Sign this as 10km/hour shared zone.
- 20 **Staff comment:** It could be achieved. However, Transport for NSW guidelines has established high pedestrian activity areas (HPAA) to be 30km/h shared zone, with an application submitted to TfNSW to request any changes to regulatory speed zone. In addition, survey and detail design would be needed. Staff is not proceeding with any further parking investigations or designs in New Brighton until the Master Plan for the Ocean Shores area has been completed.

4. Ocean Avenue beach end:

- 30 Prevent parking across the beach-access path so that walkers, including those with surfboards, kids and dogs don't have to squeeze between the mirrors of cars to get through to the beach. Add a bike rack.

Staff comment: To force parking compliance, the best way is to have a formal carpark with line marking and signage, but staff is not proceeding with any further parking investigations or designs in New Brighton until the Master Plan for the Ocean Shores area has been completed.

35 **5. Creek side of River Street opposite the Newy Store:**

- 40 Prevent cars from parking on this precious piece of parkland with picnic tables and creek access. These informal car spots create muddy potholes, impinge on enjoyment of the river and make it even more dangerous when crossing the road from the Newy Store to the creek.

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.20

Staff comment: It could be achieved, possibly installing bollards. However, staff is not proceeding with any further parking investigations or designs in New Brighton until the Master Plan for the Ocean Shores area has been completed.

Areas not included in maps, despite being existing parking in New Brighton:

5 6. The Esplanade beach-side off-road carparks (just south of Pacific Street).

Prevent people from parking on the shared footpath/bike path near the 3-4 off-street carparks that are there. So that walkers and riders are not forced onto the road.

10 **Staff comment:** May need to close parking to install bollards, mark path clearer, keep path clear with maintenance and have compliance checks to fine wrongdoing. Survey and detail design would be needed. However, staff is not proceeding with any further parking investigations or designs in New Brighton until the Master Plan for the Ocean Shores area has been completed.

7. Outside Newy Store:

15 Put in an 'Amsterdam style' path hard against the Newy Store so that users of the shared walking/bike path are not forced into the middle of a carpark (which, again, oddly for a consultation about car parking, also doesn't even feature on the maps).

20 **Staff comment:** It needs more investigation but could possibly be achieved. Survey and detail design would be needed. However, staff is not proceeding with any further parking investigations or designs in New Brighton until the Master Plan for the Ocean Shores area has been completed.

Next steps

25 Complete the re-prioritisation of traffic flow at the intersection of The Esplanade and The Strand Avenue, and the installation of way finding signage across New Brighton and South Golden Beach.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
5: Connected Infrastructure We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable	5.4: Provide accessible community facilities and open spaces	5.4.1: Community buildings - Ongoing maintenance and capital upgrades of community buildings with a focus on increasing accessibility	5.4.1.1	Deliver accessibility outcomes within Capital Works and infrastructure renewal programs

Recent Resolutions

- Resolution 24-225
- Resolution 23-217
- Resolution 23-604
- 5 • Resolution 24-064

Legal/Statutory/Policy Considerations

Council Development Control Plan –

Element – Precinct 1 - from the Beach Escarpment to the Immediate Impact Line

Element Objective

- 10 *To ensure the impact of coastal processes on potential development is minimised by limiting development and ensuring any development is only temporary.*

Performance Criteria

- 15 *New buildings or works are to be temporary and able to be readily removed in the event of coastal erosion. Development that is of a community nature, which relates to the use of the beachfront, may be considered, provided that any building is easily removable and does not require a major extension to a service main.*

Financial Considerations

The budget is being used to complete detail design and on ground works of the below:

- 20 1. re-prioritise traffic flow at the intersection of The Esplanade and The Strand Avenue and install signage accordingly, as per concept drawing attachment 4 (E2024/23226).
2. install way finding signage across the New Brighton and South Golden Beach areas to direct visitors to existing parking and beach accesses.

Consultation and Engagement

Consultation with public was done in April 2024.

25

Report No. 13.21 Part Road Reserve Closure and sale adjoining Lot 6 DP 258071, 144 Jonson Street, Byron Bay, NSW 2481

Directorate: Infrastructure Services

5 **Report Author:** Tracy Armstrong, Roads & Property Officer

File No: I2024/915

Summary:

This report is being presented to Council to endorse the closure of Council's Road Reserve adjoining Lot 6 DP 258071.

10 As per Crown Land determination the road/land will vest in Council upon closure, and it is proposed to sell the land to the adjoining landowners of Lot 6 DP 258071.

Land size is approximately 43.76m².

15

RECOMMENDATION:

That:

1. Council endorses the closure of Part Road Reserve adjoining Lot 6 DP 258071 as detailed in the report.
- 20 2. Council accepts the valuation as per *Attachment 1 E2024/66618*, that has been agreed upon by the landowners.
3. The applicant pays all remaining costs associated with the part road closure and consolidation:
 - 25 a) Council application fees;
 - b) Council's surveyor's fees and survey, valuation, and legal costs;
 - c) All registration fees; and
 - d) Legal costs.
4. The allotments created by the part road closure to be consolidated into existing Parcel No 34770 Lot 6 DP 258071.
- 30 5. Council authorises the General Manager to execute all documents necessary to affect the road closure, sale, transfer, and consolidation of the part closed road.

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.21

Attachments:

- 1 Confidential - Valuation of Road Reserve adjoining 144 Jonson Street Byron Bay Lot 6 DP 258071, E2024/66618
- 5 2 Confidential - Email Responses Authorities_ Road Reserve Closure and sale adjoining Lot 6 DP 258071_June 2024, E2024/66635

Report

Council was approached by the owners of Lot 6 DP 258071, 144 Jonson Street, Byron Bay for closure and sale of Council Road Reserve adjoining their property (Image 1). This road reserve closure and sale is to realign the boundary to include the southern wall of the building in the Browning Street Road reserve not currently within property boundaries (Image 2 & 3). The survey plan (Image 3) shows the proposed 43.76m² of Road Reserve adjoining part Lot 6 DP 258071.

There are no likely impacts from closure of this section of Council Road Reserve (Table 1). A valuation was carried out and agreed upon by the landowners (*Attachment 1 E2024/66618*).

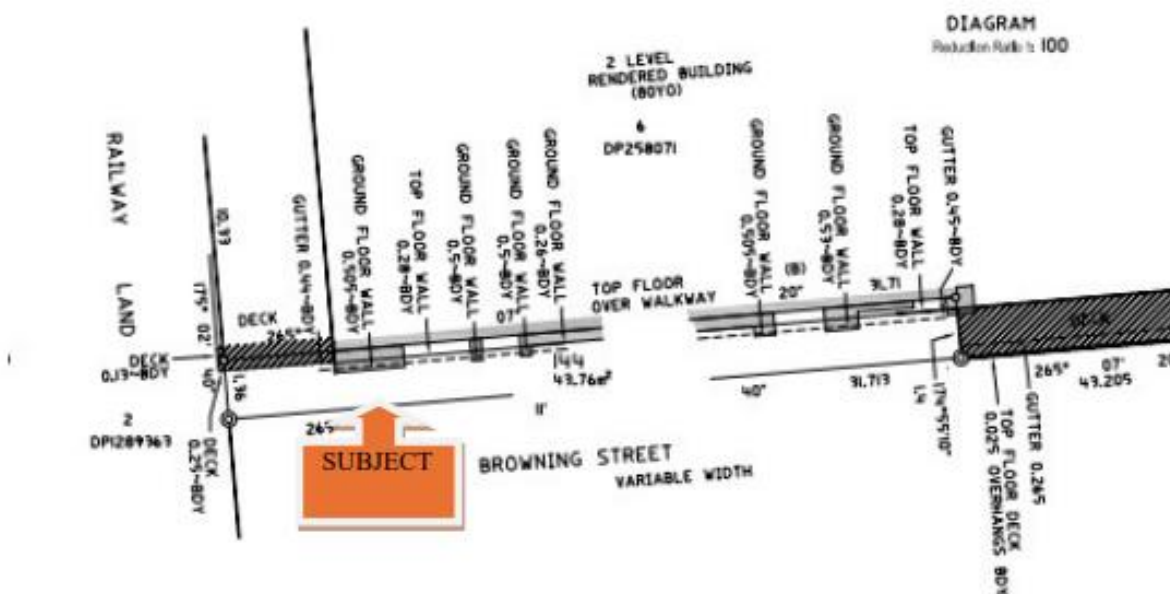


Red indicates section of Road Reserve to be closed.

Image 1 Location of the proposed road closure adjoining Lot 6 DP 258071



Image 2 – Arrow indicates southern wall of building within road reserve.



5

Image 3 – Arrow indicates boundary realignment adjoining Lot 6 DP 258071.



Typical Risk Area	Likely Impacts
Waste Collection	None
Road Assets (e.g. kerb, gutter, roadside barriers, etc)	None
Stormwater Drainage	None
Water Supply Assets	None
Sewer Assets	None
Public Transport (e.g. bus stops, pedestrian crossings, school buses, etc)	None
Community / Operational Land	None
Services (e.g. Rural Fire Service, power, water, Crown lands)	None
Future Infrastructure upgrades	None
Future Council needs in general	None
Non-Council utilities	Minimal
Emergency services	None

Table 1 - Likely impacts from closure of this section of Council Road Reserve.

Road Closure Process:

- 10 Council identified as per the **Roads Act 1993** (*Part 4 Division 3 Closing of council public roads by council 38A When council may close council public road*), that this part road area would not be reasonably required as a road for public use. This part road area is not required to provide continuity for an existing road network, and the part road does not impede vehicular access to a particular land.
- 15 A Notice was placed in The Byron Shire Echo on 25 April 2024 and could be viewed on Council website. Notifications went out to adjoining landowners and all authorities advising closure of the section of road reserve off Coolamon Scenic Drive outlined in Image 1 highlighted red as per **Roads Act 1993 Part 4 Division 3 Closing of council public roads by council 38B Notification of proposal to close council public road**.

There was a 28-day submission period with no submissions for objection by authorities *Attachment 2 (E2024/66635)*. There were no submissions by the community.

- 5 A resolution of Council is required to finalise the road closure and sale process. The final plans when completed, will be registered with Land Registry Services (LRS). A plan of consolidation will also be drawn up and registered with LRS.

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	1.3.3: Asset Management - Maximise asset service delivery potential and take a proactive approach to lifetime asset maintenance	1.3.3.8	Provide ongoing detailed road assessment and valuation for the purposes of purchase, closure and land sale as required

10

Legal/Statutory/Policy Considerations

Roads Act 1993

Part 4 Closing of public roads

15 *Division 3 Closing of council public roads by councils*

38A When council may close council public road

A council may propose the closure of a council public road for which it is the roads authority if:

- 20 (a) the road is not reasonably required as a road for public use (whether for present or future needs), and
- (b) the road is not required to provide continuity for an existing road network, and
- (c) if the road provides a means of vehicular access to particular land, another public road provide lawful and reasonably practicable vehicular access to that land.

25 *38B Notification of proposal to close council public road*

(1) A council that is proposing to close a council public road must cause notice of the proposal:

- (a) to be published in a local newspaper, and
- (b) to be given to:

- (i) all owners of land adjoining the road, and
- (ii) all notifiable authorities, and
- (iii) any other person (or class of person) prescribed by the regulations.

(2) The notice:

- 5 (a) must identify the road that is proposed to be closed, and
- (b) must state that any person is entitled to make submissions to the council with respect to the closing of the road, and
- (c) must indicate the manner in which, and the period (being at least 28 days) within which, any such submission should be made.

10

38C Public submissions and formal objections

(1) Any person may make submissions to the council with respect to the closing of the road in the manner and within the period specified in the notice published under section 38B.

- 15 (2) Without limiting subsection (1), a notifiable authority in relation to the road may include a statement in the authority's submission to the effect that the authority formally objects to the closing of the road. The authority may withdraw the objection any time by written notice given to the council.

Note.

- 20 If a formal objection is made, section 38D (2) provides that the road may not be closed until the objection is withdrawn by the authority or set aside by the Land and Environment Court under this section.

(3) The council may appeal to the Land and Environment Court against a formal objection made by a notifiable authority against the closing of the road.

- 25 (4) On any such appeal, the Land and Environment Court may:

- (a) affirm the objection, or
- (b) set aside the objection.

(5) In deciding whether to affirm or set aside the objection, the Land and Environment Court must have regard to the public interest.

30 **38D Decision of proposal**

(1) After considering any submissions that have been duly made with respect to the proposal, the council may, by notice published in the Gazette, close the public road concerned.

(2) However, a council public road may not be closed:

- 35 (a) in the case of a classified road—unless RMS consents to the closure of the road, or
- (b) in the case where a notifiable authority has formally objected under section 38C to the closing of the road—until the objection is withdrawn by the authority or set aside by the Land and Environment Court under that section.

38E Effect of notice of closure

- 40 (1) On publication of the notice closing the council public road concerned:

- (a) the road ceases to be a public road, and
- (b) the rights of passage and access that previously existed in relation to the road are extinguished.

(2) The land comprising a former road:

- 45 (a) in the case of a public road that was previously vested in a council (other than a public road in respect of which no construction has ever taken place)—remains vested in the council, and

(b) in any other case—becomes (or, if previously vested in the Crown, remains) vested in the Crown as Crown land.

38F Appeals to Land and Environment Court against closure decision

- 5 (1) A person referred to in section 38B (1) (b) may appeal to the Land and Environment Court against the closure of a council public road by a council.
- (2) On any such appeal, the Land and Environment Court may:
- (a) affirm the closure, or
- (b) set aside the closure.
- 10 (3) Section 38E is taken never to have applied to a closure that is set aside.
- (4) To avoid doubt, an appeal under section 38C does not prevent an appeal under this section.

Financial Considerations

The costs associated with this road closure be paid for by the adjoining landowners.

Consultation and Engagement

- 15 As per the Roads Act 1993 requirements, the necessary notices and submissions period was undertaken, and zero objections were received.

Report No. 13.22 Tyagarah Hangar Refurbishment & Office Repair

Directorate: Infrastructure Services

Report Author: Pattie Ruck, Open Space Facilities Coordinator

5 **File No:** I2024/989

Summary:

On 27 June 2023, the General Manager, under delegated authority, approved the use of the open tender method to call for tenders for Contract 2023-1574 Tyagarah Hangar Refurbishment & Office Repair.

10 The Request for Tender was advertised from 15 April 2024 to 4 June 2024. Tenders were received from the following organisations:

- Bouman Pty Ltd
- Circl Group Pty Ltd
- Greg Clark Building Pty Ltd
- 15 • Murphys Remedial Builders Pty Ltd
- Pattersons Build Group

20 Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulations 2021. This report summarises the background and assessment of the tenders and provides a recommendation to award the tender for Contract 2023-1574.

RECOMMENDATION:

That Council:

- 25 1. **Awards Tender Tyagarah Hangar & Office Repairs to the preferred supplier identified in the tender evaluation report. (Confidential Attachment 1 – #E2023/56521).**
2. **Makes public its decision, including the name and amount of the successful tenderer, in accordance with Clause 179(b) of the Local Government (General) Regulation 2021.**

30 Attachments:

- 1 Confidential - RFT 2023-1574 - Evaluation Report- Confidential, E2023/56521

Report

On 27 June 2023, the General Manager, under delegated authority, approved the use of the open tendering method to call for tenders for Contract 2023-1574 Tyagarah Hangar Refurbishment & Office repairs.

- 5 Works are required to refurbish hangar and repair attached Office (Aeroclub) at Tyagarah to make safe and compliant for the space to be leased.

The Request for Tender sought responses from proponents to provide a refurbishment works program addressing engineer drawings detailing the scope for repair items.

- 10 The Contract is expected to commence in August 2024 for a period of 3 months. The Contract will be managed by the Open Space Facilities Project Officer.

Tenders were advertised as follows:

- VendorPanel Online: 15 April 2024 – 4 June 2024
- Council website: 15 April 2024 – June 2024

- 15 A non-mandatory site inspection was held at 10am on 23rd April 2024 and again on 14 May 2024 at Tyagarah airfield hangar. Six companies were present for the initial site visit and two for the additional site visit.

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

Tenders closed on 4 June 2024 at 2pm and tenders were received from the following proponents:

- 20
- Bouman Pty Ltd
 - Circl Group Pty Ltd
 - Greg Clark Building Pty Ltd
 - Murphys Remedial Builders Pty Ltd
 - Pattersons Build Group

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

Mandatory criteria:

- a) Tender lodged on time, in accordance with the Conditions of Tender.
- b) Tenderer must have a valid Australian Business Number.
- 30 c) Substantial conformance to Conditions of Contract and Statement of Requirements.

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.22

- d) Workers compensation insurance for all employees.
- e) Holds, or is willing to obtain, the insurances as specified in the Statement of Requirements.
- f) Satisfactory Work Health and Safety and environmental compliance practices.
- 5 g) Commitment to ethical business practice principles.
- h) Financial capacity to undertake contract.
- i) Tenderer confirmed no ties to Adani.
- j) Respondent can confirm steps to comply with the elimination of Modern Slavery from their supply chain.

10

Qualitative criteria:

Criteria	Elements
Profile and relevant experience	Tenderer profile
	Previous relevant experience
	Environmental practices
Quality and availability of resources	Proposed key personnel
	Proposed staff
	Use of subcontractors
Delivery Plan	Goods/services standards and methodology
	Implementation plan
Social Procurement	Opportunity for people experiencing disadvantage
	Product Sustainability
Local Economic Opportunities	Local and Indigenous employment opportunities

	Support for local and Indigenous business
Price	Total contract price

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

Financial Considerations

- 5 The price basis for the contract is a lump sum.

Council has budgeted funds for the required works within GL4835.302 and GL3321.11.

There is sufficient funding for the proposed contract and other associated costs in the current budget.

Statutory and Policy Compliance Considerations

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

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

15 Local Government (General) Regulation 2021 - Reg 178

[Acceptance of tenders](#)

178 Acceptance of tenders

- (1) *After considering the tender submissions for a proposed contract, the council must either—*
- 20 (a) *accept the tender submission that, having regard to all the circumstances, appears to it to be the most advantageous, or*
- (b) *decline to accept any of the tender submissions.*
- (1A) *Without limiting subsection (1), in considering the tender submissions for a proposed contract for the performance of domestic or other waste management services, the*
- 25 *council must take into account whether or not existing workers (within the meaning of section 170) will be offered employment or engagement on terms and conditions comparable to those applicable to the workers immediately before the tender submissions.*
- (2) *A council must ensure that every contract it enters into as a result of a tender*
- 30 *submission accepted by the council is with the successful tenderer and in*

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.22

accordance with the tender (modified by any variation under section 176). However, if the successful tender submission was made by the council (as provided for in section 55(2A) of the Act), the council is not required to enter into any contract in order to carry out the requirements of the proposed contract.

- 5 (3) *A council that decides not to accept any of the tender submissions for a proposed contract or receives no tender submissions for the proposed contract must do one of the following—*
- 10 (a) *postpone or cancel the proposal for the contract,*
- (b) *invite, in accordance with section 167, 168 or 169, fresh tender submissions based on the same or different details,*
- (c) *invite, in accordance with section 168, fresh applications from persons interested in making a tender submission for the proposed contract,*
- 15 (d) *invite, in accordance with section 169, fresh applications from persons interested in making a tender submission for contracts of the same kind as the proposed contract,*
- (e) *by resolution of the council, enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender,*
- (f) *carry out the requirements of the proposed contract itself.*
- 20 (4) *If a council resolves to enter into negotiations as referred to in subsection (3)(e), the resolution must state the following—*
- (a) *the council's reasons for declining to invite fresh tender submissions or applications as referred to in subsection (3)(b)–(d),*
- 25 (b) *the council's reasons for determining to enter into negotiations with the person or persons referred to in subsection (3)(e).*

Council's endorsement of the recommendation to award the tender as recommended in the attached Evaluation Report is sought.

Report No. 13.23 Part Road Reserve Closure and sale adjoining Lot 1 DP 246414, 134 Lighthouse Road, Byron Bay, NSW 2481

Directorate: Infrastructure Services

5 **Report Author:** Tracy Armstrong, Roads & Property Officer

File No: I2024/1034

Summary:

This report is being presented to Council to endorse the closure of Council's Road Reserve adjoining Lot 1 DP 246414 (134 Lighthouse Road, Byron Bay).

10 As per Crown Land determination the road/land will vest in Council upon closure, and it is proposed to sell the land to the adjoining landowners of Lot 1 DP 246414.

Land size is approximately 31.84m².

15

RECOMMENDATION:

That:

1. Council endorses the closure of Part Road Reserve adjoining Lot 1 DP 246414 as detailed in the report.
- 20 2. Council accepts the valuation as per *Attachment 1 E2024/84984*, that has been agreed upon by the landowners.
3. The applicant pays all remaining costs associated with the part road closure and consolidation, including:
 - 25 a) Council application fees
 - b) Council's surveyor's fees and survey, valuation, and legal costs
 - c) All registration fees
 - d) Legal costs
4. The allotments created by the part road closure to be consolidated into existing Parcel No 44850 Lot 1 DP 246414.
- 30 5. Council authorises the General Manager to execute all documents necessary to affect the road closure, sale, transfer, and consolidation of the part closed road.

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.23

Attachments:

- 1 Confidential - Page from E2024 83920 Valuation_ Proposed Road Closure adjoining Lot 1 DP 246414_134 Lighthouse Road Byron Bay, E2024/84984
- 5 2 Confidential - Authorities submissions_Proposed Road Closure_ Lot 1 DP 246414 adjoin 134 Lighthouse Road_Byron Bay NSW 2482_July 2024_001, E2024/83968

Report

Council was approached by the owners of Lot 1 DP 246414, 134 Lighthouse Road, Byron Bay for closure and sale of Council Road Reserve adjoining their property (Image 1). This road reserve closure and sale is to rectify building (feature stone wall & rendered block wall) encroachments (Image 2 & 3). The survey plan (Image 4) shows the proposed closure of 31.84m² of road reserve adjoining Lot 1 DP 246414.

There are no likely impacts from closure of this section of Council Road Reserve (Table 1). A valuation was carried out and agreed upon by the landowners (*Attachment 1 E2024/84984*).



Blue indicates section of road reserve to be closed.

Image 1 Location of the proposed road closure adjoining Lot 1 DP 246414



Image 2 – Arrow indicates location of encroachments adjoining Lot 1 DP 246414



Image 3 – Rock wall encroachment on road reserve adjoining Lot 1 DP 246414

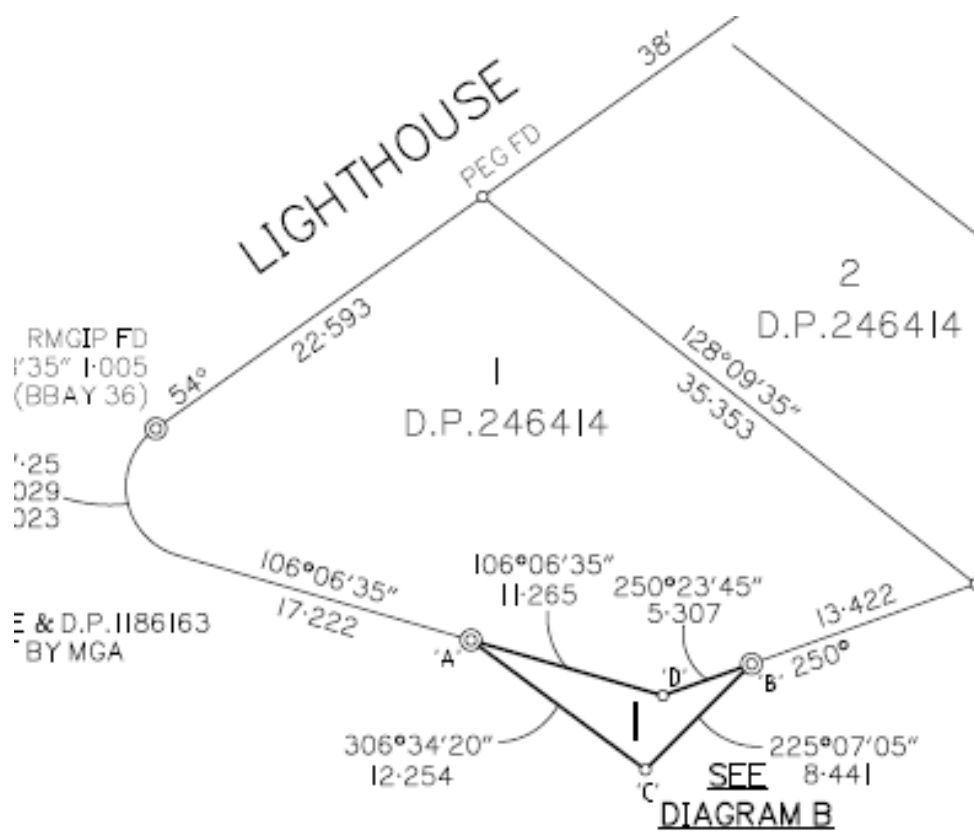


Image 4 - Survey of Part of Road Reserve adjoining Lot 1 DP 246414

Typical Risk Area	Likely Impacts
Waste Collection	None
Road Assets (e.g. kerb, gutter, roadside barriers, etc)	None
Stormwater Drainage	None
Water Supply Assets	None
Sewer Assets	None
Public Transport (e.g. bus stops, pedestrian crossings, school buses, etc)	None
Community / Operational Land	None
Services (e.g. Rural Fire Service, power, water, Crown lands)	None
Future Infrastructure upgrades	None
Future Council needs in general	None
Non-Council utilities	None
Emergency services	None

5 **Table 1 - Likely impacts from closure of this section of Council Road Reserve.**

Road Closure Process:

10 Council identified as per the **Roads Act 1993** (Part 4 Division 3 Closing of council public roads by council 38A When council may close council public road), that this part road area

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.23

would not be reasonably required as a road for public use. This part road area is not required to provide continuity for an existing road network, and the part road does not impede vehicular access to a particular land.

- 5 A notice was placed in The Byron Shire Echo on 28 June 2024 and could be viewed on Council website. Notifications went out to adjoining landowners and all authorities advising closure of the section of road reserve off Lighthouse Road as outlined in Image 1 highlighted blue as per **Roads Act 1993 Part 4 Division 3 Closing of council public roads by council 38B Notification of proposal to close council public road**.
- 10 There was a 28-day submission period with no submissions for objection by authorities *Attachment 2 (E2024/83968)*. There were no submissions by the community.

- 15 A resolution of Council is required to finalise the road closure and sale process. The final plans when completed, will be registered with Land Registry Services (LRS). A plan of consolidation will also be drawn up and registered with LRS.

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	1.3.3: Asset Management - Maximise asset service delivery potential and take a proactive approach to lifetime asset maintenance	1.3.3.8	Provide ongoing detailed road assessment and valuation for the purposes of purchase, closure and land sale as required

Legal/Statutory/Policy Considerations

Roads Act 1993

Part 4 Closing of public roads

5 *Division 3 Closing of council public roads by councils*

38A When council may close council public road

A council may propose the closure of a council public road for which it is the roads authority if:

- 10 (a) the road is not reasonably required as a road for public use (whether for present or future needs), and
- (b) the road is not required to provide continuity for an existing road network, and
- (c) if the road provides a means of vehicular access to particular land, another public road provide lawful and reasonably practicable vehicular access to that land.

15 **38B Notification of proposal to close council public road**

(1) A council that is proposing to close a council public road must cause notice of the proposal:

- (a) to be published in a local newspaper, and
- (b) to be given to:
 - 20 (i) all owners of land adjoining the road, and
 - (ii) all notifiable authorities, and
 - (iii) any other person (or class of person) prescribed by the regulations.
- (2) The notice:
 - (a) must identify the road that is proposed to be closed, and
 - 25 (b) must state that any person is entitled to make submissions to the council with respect to the closing of the road, and
 - (c) must indicate the manner in which, and the period (being at least 28 days) within which, any such submission should be made.

38C Public submissions and formal objections

- 30 (1) Any person may make submissions to the council with respect to the closing of the road in the manner and within the period specified in the notice published under section 38B.
- (2) Without limiting subsection (1), a notifiable authority in relation to the road may include a statement in the authority's submission to the effect that the authority formally objects to the closing of the road. The authority may withdraw the objection any time by written notice given
- 35 to the council.

Note.

If a formal objection is made, section 38D (2) provides that the road may not be closed until the objection is withdrawn by the authority or set aside by the Land and Environment Court under this section.

- 40 (3) The council may appeal to the Land and Environment Court against a formal objection made by a notifiable authority against the closing of the road.
- (4) On any such appeal, the Land and Environment Court may:
 - (a) affirm the objection, or
 - (b) set aside the objection.
- 45 (5) In deciding whether to affirm or set aside the objection, the Land and Environment Court must have regard to the public interest.

38D Decision of proposal

(1) After considering any submissions that have been duly made with respect to the proposal, the council may, by notice published in the Gazette, close the public road concerned.

(2) However, a council public road may not be closed:

- (a) in the case of a classified road—unless RMS consents to the closure of the road, or
- (b) in the case where a notifiable authority has formally objected under section 38C to the closing of the road—until the objection is withdrawn by the authority or set aside by the Land and Environment Court under that section.

38E Effect of notice of closure

(1) On publication of the notice closing the council public road concerned:

- (a) the road ceases to be a public road, and
- (b) the rights of passage and access that previously existed in relation to the road are extinguished.

(2) The land comprising a former road:

- (a) in the case of a public road that was previously vested in a council (other than a public road in respect of which no construction has ever taken place)—remains vested in the council, and
- (b) in any other case—becomes (or, if previously vested in the Crown, remains) vested in the Crown as Crown land.

38F Appeals to Land and Environment Court against closure decision

(1) A person referred to in section 38B (1) (b) may appeal to the Land and Environment Court against the closure of a council public road by a council.

(2) On any such appeal, the Land and Environment Court may:

- (a) affirm the closure, or
- (b) set aside the closure.

(3) Section 38E is taken never to have applied to a closure that is set aside.

(4) To avoid doubt, an appeal under section 38C does not prevent an appeal under this section.

Financial Considerations

The costs associated with this road closure be paid for by the adjoining landowners.

Consultation and Engagement

As per the Roads Act 1993 requirements, the necessary notices and submissions period was undertaken, and zero objections were received.

Report No. 13.24 Bangalow Street Tree Succession Plan

Directorate: Infrastructure Services

Report Author: Malcolm Robertson, Manager Open Space and Facilities
Andrew Erskine, Open Space Technical Services Officer

5 **File No:** I2024/1035

Summary:

Community safety and the structural integrity of Heritage listed buildings within the Bangalow Heritage Conservation precinct are being impacted by strong and invasive roots from several non-native trees planted in the 1990s.

10 Options to mitigate impact of the roots have not been successful. A long-term succession plan to replace the existing trees with more appropriate species has been developed.







Council approved the proposed Succession Plan for Trees in Bangalow Village Streetscape to be placed on public exhibition. This report outlines submissions received and presents the final Succession Plan for consideration.

15

RECOMMENDATION:

20 **That Council adopts the amended Succession Plan for trees in the Bangalow Village Streetscape.**

Attachments:

- 25
- 1 Correspondance regarding Succession Plan_Redacted, E2024/82942 
 - 2 Reasons Not Supporting Succession Plan, E2024/82949 
 - 3 Comments Supporting Bangalow Succession Plan, E2024/83088 
 - 4 Bangalow Post Office Heritage Impact Statement, E2024/84477 
 - 5 Leopard Tree Impacts on Heritage Listed Bangalow Post Office Building, E2024/84491 
 - 6 Succession Plan for Trees in Bangalow Streetscape, E2024/67609 

30

Background

During the 1990's Bangalow was bypassed by the Hinterland Way. Street trees were subsequently planted as a community initiative in the upper section of Byron Street, including Brazilian Leopard Trees (*Caesalpinia ferrea*).

- 5 Leopard Tree roots are strong and invasive, and it is not recommended they are planted in proximity to house foundations, underground cables, or sewer systems. Plantings were made near buildings now listed within the Byron LEP 2014 Heritage Schedule.

- 10 Root systems, including core structural roots, are now extending under buildings including the Commercial Banking Company of Sydney building at 18-20 Byron Street, constructed in 1912, the Bangalow Post Office at 30 Byron Street, constructed in 1935 and the former Bank of NSW building at 16 Byron Street, constructed in 1940.

The impacted buildings are significant local heritage items within the Bangalow Heritage Conservation area. Bangalow character arises from individual elements within the township, including the historic buildings of high integrity on both sides of the street.

- 15 In order to remove impact on heritage buildings, and ensure that a green, shady streetscape could be maintained, a succession plan was developed that identifies the following trees to be removed and replaced over a period of around six years:

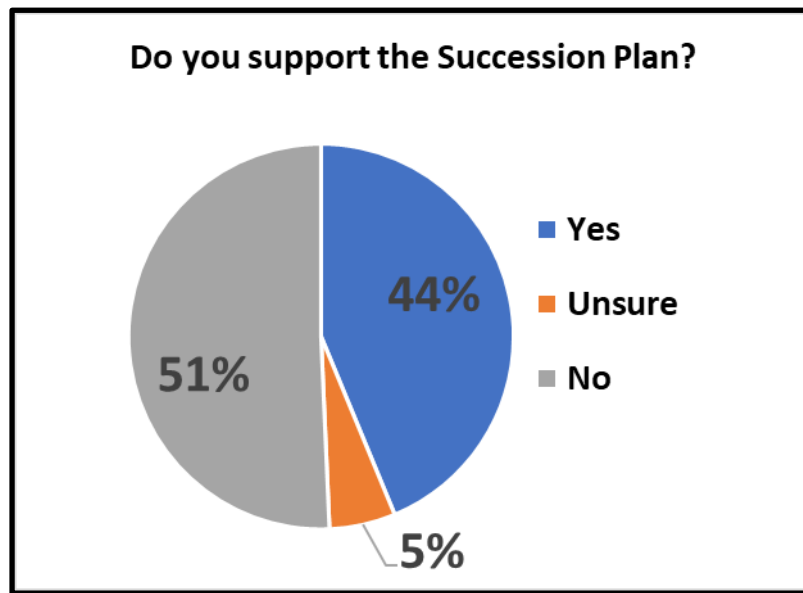
- Five mature Leopard Trees on Byron Street
- Seven Bangalow Palms on the southern side of Byron Street
- 20 • Two Liquidambar trees on the eastern side of Station Street.

Report

- 25 The succession plan for Bangalow was promoted to the public in a manner designed to remove any doubt that trees were proposed to be removed. Community were invited to comment on the plan between 14 June and 14 July 2024. The plan was promoted on Council's website and with full page advertisement in the Bangalow Herald and 144 community members provided feedback on the proposed plan.

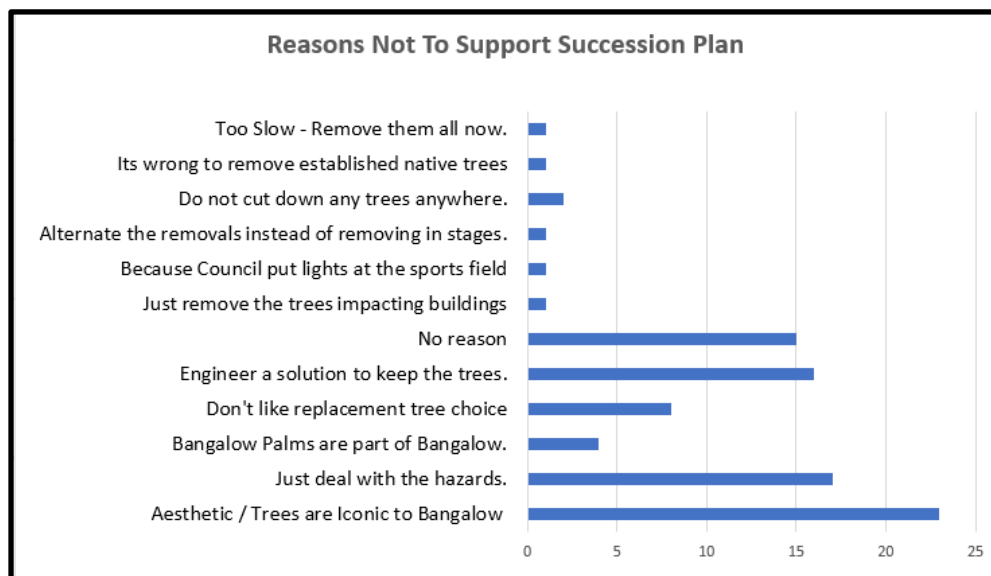
Of the respondents, 63 supported the proposed succession plan, with 73 against the plan and 8 respondents undecided.

Figure 1: Feedback on Succession Plan



Of those that did not support the plan, the primary reasons are shown in figure 2.

Figure 2: Reasons Community did not support proposed succession plan



5

10

- 23 people stated that they were against the succession plan because they believed that the Leopard trees are iconic, beautiful and a significant part of Bangalow's Heritage. Many advised that it was wrong to be cutting down any mature tree.
- 17 people advised that we should just deal with the hazards and leave the trees alone. That approach creates risk for both community and Council and does not reflect Council's Safety First approach.
- 16 people stated that Council should engineer a solution rather than removing the trees. Suggestions included rubber surfacing, ramps or boardwalks over the roots.

Above ground solutions would negatively impact accessibility without resolving underground impacts on infrastructure. Structural root zones of the Leopardwood trees extend beneath adjacent buildings. Any attempts to cut back the roots will impact stability of the trees.

- 5 Responses from community that supported the plan tended to have a focus on the desired species to be planted. Several suggestions on alternate plantings were made, and these are detailed below.

- 10 There were some concerns expressed about removal of Bangalow Palms, however it needs to be noted that there will be around 120 Bangalow Palms remaining in the upper section of Byron Street following removal of the seven Bangalow palms. Palms flagged for removal are in the majority currently embedded within the canopies of the Leopardwood trees.

Key issues

- 15 Council recognises all the positive benefits of street trees and have a strong desire to keep large shady native trees within the Bangalow streetscape. There is no denying that the Leopard trees are looking spectacular and add much to the streetscape, however Council also need to consider the impacts of these trees on heritage listed buildings.

- 20 Bangalow heritage listed buildings provide the distinct character of the village. The historical significance of Bangalow's main street does not lie with the recently planted exotic trees, but with the identified historic buildings. Many of these buildings were constructed 80-90 years before the Leopard Trees were planted in the mid 1990's.

Community has previously supported Council in adopting a Heritage Strategy designed to protect significant historical areas, including developing measures for the protection and enhancement of main streets within Byron Shire.

- 25 The Leopard trees are not native to Australia and invasive roots are damaging heritage buildings and underground services. They are the wrong tree for Bangalow. It is possible to take steps to ensure both appropriate large shady trees and historic buildings can be accommodated in Bangalow. If we take the current approach of ignoring the issues, key buildings such as the heritage listed Bangalow Post Office may be irreparably damaged.

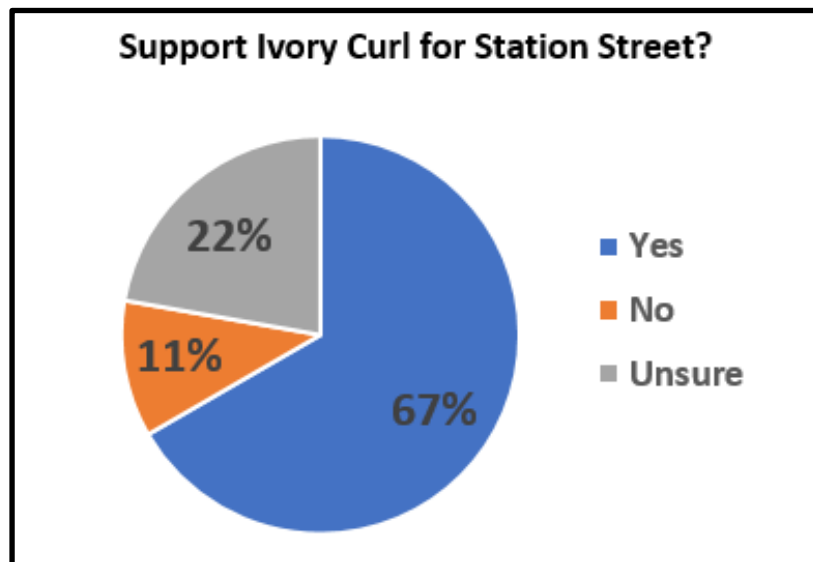
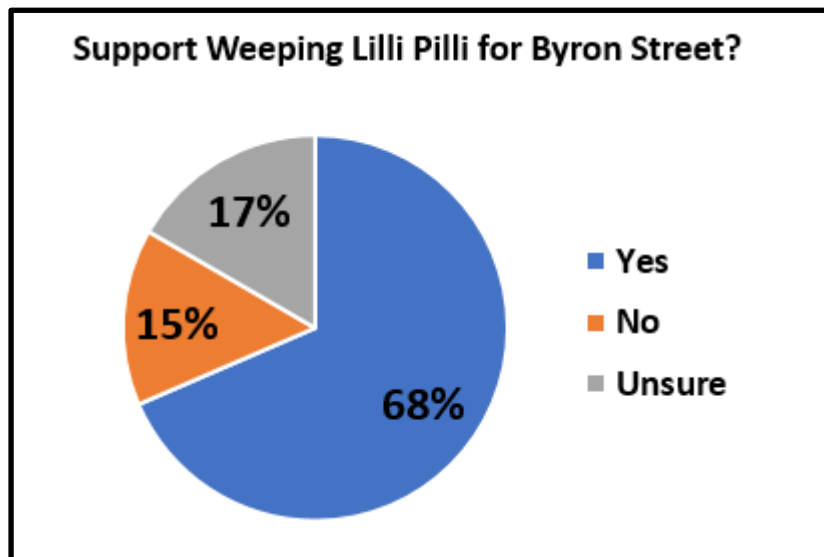
- 30 The succession plan proposes gradually replacing the existing trees with a more appropriate large, shady, native species. The new trees would be planted within specially designed root containment structures to ensure the current issues are avoided. Semi-advanced native trees, at a height of around 4 metres, will be planted in dedicated root containment pits before new footpaths are laid.

- 35 As each staged cohort of trees have established canopy above awning level, the next stage of replacements will be initiated, and new trees planted.

Tree Species Selection

5 Selection of street trees was the matter that most engaged community. Not surprisingly, those community members who do not support the proposed succession plan were also strongly against the suggested tree species. Only 4% of community that did not support the plan indicated support for the suggested tree species. In the non-supporters there were 8 that put not liking the replacement choice as a reason.

Within the community that were supportive of the proposed succession plan there was general support for the recommended species, as shown below.



10

Community also provided a number of alternative recommendations for street trees, considered response to these suggestions is as follows.

- ***Stenocarpus sinuatus*** – Firewheel Tree

Five respondents suggested *Stenocarpus*, which is recognised as a magnificent local tree, and appears amongst the list of suggested alternatives. The main hesitation in using this species is uncertainty around the shape they will develop as they mature. Some trees are columnar which would be ideal, however others like the ones at Mullumbimby Pool are more rotund, which would not suit the constraints of Byron St. The Firewheel tree remains a potential good option for Station Street. One suggestion was received for each of the following trees;

- ***Orites excelsa*.**

There is no hesitation in planting this tree in a park but its performance as a street tree in a high-use area is unknown, and it is unlikely to be available in advanced pot size.

- ***Cryptocarya*** genus such as Three Veined Laurel.

Three-veined Laurel (*Cryptocarya triplinervis*) is a handsome and hardy local tree. It is however slow growing and could develop a shape not suited to the location. In a quick internet search we could not readily find a source of advanced *Cryptocarya triplinervis*. The Pepperberry, (*Cryptocarya obovata*) is a related species but considered too large for this situation.

- Python Tree ***Gossia bidwillii*.**

This is a lovely tree to encounter in the local rainforest but does not appear to be available in advanced pot size. If a small tree was used it would take many years for the trunk to develop the burnished glow that is the main feature of this species. It is not possible to comment on its suitability to use as a street tree as they have only been seen in the wild.

- ***Acmena hemilampra*.** (Broad-leaved Lilli Pilli).

This is also a lovely tree to encounter in the local rainforest and is available in advanced pot size, but it is not possible to comment on suitability to use as a street tree as they have only been witnessed by the author in the wild. Nurseries do stock close relatives such as *Acmena smithii* (Lilli Pilli) or *Syzygium leuhmannii* (Riberry) in advanced size but the sometimes prolific, fleshy fruit encasing a hard, round seed could prove to be a problem on sloping pavements.

- **Bottlebrush or Grevillia.**

These are better in an open situation. Both species attract bees when flowering and Grevillia can cause an allergic reaction in some people when brushing against them. The proposed *Buckinghamia* is closely related to Grevillias, with the suggested location in Station St allowing some separation from pedestrians.

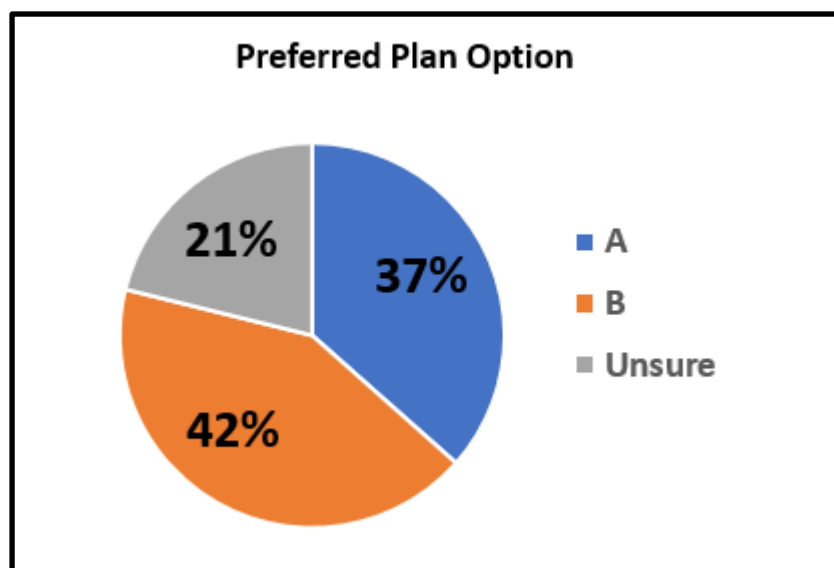
- **Japanese Acer Mapel** for Station Street. Byron Shire Councils Development Control Plan currently supports the use of local native species in sanctioned landscape works.

- 5
- **Japanese Elms** for Byron Street. Byron Shire Councils Development Control Plan currently supports the use of local native species in sanctioned landscape works.

- 10
- **Lasiandra**. Byron Shire Councils Development Control Plan currently supports the use of local native species in sanctioned landscape works. While some species are native, they are not well suited to Byron St with their fleshy, slippery flowers that will be shed onto the pavement.

Preferred Plan

15 There was no clear preference on approach for rollout of the succession plan, with opinion evenly divided. What was clear was that there was concern amongst many in the community about the outcomes being beneficial for Bangalow in the long term, and immediate concerns in relation to the 1935 Bangalow Post Office.



20 To reduce the immediate impact, and to allow community time to better understand the intended results, it is recommended that the proposed succession plan be slightly amended. Rather than a two-stage approach, the replacements are now proposed over three stages.

25 Stage 1: Remove lower section of trees (1, 2 and 3). Install root containment pits and new trees. In alignment with these works, footpath treatments will be upgraded from station street to Fire Station Park. This approach will allow a demonstration of the plantings proposed within the overall succession plan and will also allow an initial rollout of the material guide as specified within the adopted Bangalow Streetscape Materials Design Guide.

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.24

5 Stage 2: When stage 1 plantings are established to around 6m, replacement of trees 4, 7 and 8 on Byron Street and the two Liquidambar on Station Street will occur, with proximal pavement upgrades. It is anticipated that second stage will be 2-4 years after the first stage works. Final positioning of replacement trees will be confirmed following detailed investigation into underground services.

Stage 3: When the stage 2 plantings are established to around 6m, replacement of trees 5 and 6 will occur. Consideration of the Leopard Tree at Fire Station Park and requirements in front of Post Office building will be taken at this time.

Figure 3: Identified Trees for Replacement



10 The Leopard tree in front of Fire Station Park, is not believed to be providing immediate impact to heritage buildings, and removal is therefore not as urgent.

Forward budgets will seek funds to allow for footpath upgrades in alignment with each stage of works.

Figure 4: Byron Street Footpath Treatments - Streetscape Materials Design Guide.



Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
5: Connected Infrastructure	5.4: Provide accessible community facilities and open spaces	5.4.2: Parks and open spaces - Provide and maintain active and passive recreational community space that is accessible and inclusive for all	5.4.2.16	Deliver street tree succession plan for Byron Street, Bangalow

Recent Resolutions

24-158 - Council:

- 5
1. Approves for the proposed Succession Plan for Trees in Bangalow Village Streetscape to be placed on public exhibition, as detailed in this report with Option 2 as the preferred Council option; and.
 2. Receives a further Report to consider any submissions received from the community during the exhibition period.
- 10

24-097 – Council:

Adopts the Bangalow Streetscape Materials Design Guide and proposed accompanying amendment to the Byron Development Control Plan 2014.

Legal/Statutory/Policy Considerations

- 15
- Byron Shire Heritage Strategy 2020-24.
 - Bangalow Streetscape Materials Design Guide identifies the need for succession planning of streetscape trees and provides direction for footpath treatments.

Financial Considerations

20 Planning for this project arose from an Operational Plan action to deliver a street tree plan for Bangalow main street and village entries (action from the Bangalow Village Plan).

Stage 1 works are funded through \$15,000 for plantings as per action from the Bangalow Village Plan with an additional \$70,000 of S94 funds.

Consultation and Engagement

Community were invited to comment on the proposed succession plan between 14 June and 14 July. The plan was promoted on Council's website and with full page advertisement in the Bangalow Herald. All submissions received are included as

5

attachments to this report.

Report No. 13.25 **Lawson Street Road and Drainage Upgrade Tender**

Directorate: Infrastructure Services

Report Author: Christopher Soulsby, A/ Manager Assets & Major Projects

5 **File No:** I2024/1064

Summary:

On 13 June 2024, the General Manager, under delegated authority, approved the use of the open tender method to call for tenders for Contract 2024-2272 – **RFT Principal Contractor BSC Lawson Street Road and Drainage Upgrade**.

10 The Request for Tender was advertised from 14 June 24 to 9 July 24. Tenders were received from the following organisations:

- Civilmart Rocla- Precast supply only
- Kingsline Pty Ltd
- Rcc Eathworks Pty Ltd
- 15 • Roseberry Creek Develepments Pty Ltd

Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulations 2021. This report summarises the background and assessment of the tenders and provides a recommendation to award the tender for Contract 2024-2272.

20

RECOMMENDATION:

That Council:

1. **Awards Tender 2024-2272 Lawson Street Road and Drainage Upgrade to the preferred tenderer as set out in the confidential Evaluation Panel Recommendation Report 2024-2272, #E2024/82597**
2. **Makes public its decision, including the name and amount of the successful tenderer, in accordance with Clause 179(b) of the Local Government (General) Regulation 2021.**
3. **Awards Tender for pavement type 1 (higher amount- \$915,943) to ensure either pavements types can be directed during the contract and once onsite testing has been inspected and completed, the most suitable pavement can be confirmed.**

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.25

Attachments:

- 1 Confidential - Evaluation Panel Recommendation Report Lawson Street 2024-2272
construction contract-, E2024/82597

5

Report

On the 13 June 2024, the General Manager, under delegated authority, approved the use of the open tender method to call for tenders for Contract 2024-2272 Lawson street road and drainage upgrade

- 5 Byron Shire Council (BSC) intends to carry out the construction of an upstream portion of the Town centre stage1 North Eastern drainage plan, new road pavement, kerb, footpath and landscaping.

The Request for Tender sought responses from proponents to supply and/or construct:

- 10
- Preliminaries Management Plans – Workplace Health and Safety, Construction and Environmental, Quality (including Inspection and Test Plans, allowance for WP and HP inspections) and Traffic
 - Detailed Works Program
 - Site access and traffic management
 - Site temporary environmental controls
- 15
- Demolition and Removal of applicable existing infrastructure
 - Earthworks
 - Stormwater Drainage
 - Surfacing (road, trafficable, median, footpath)
 - Trafficable surfacing
- 20
- Landscaping and Revegetation works

The Contract is expected to be awarded in August 2024 and commencement onsite during September for a period of 2-3 months.

The Contract will be managed by Sean Hammill Project Officer.

Tenders were advertised as follows:

- 25 VendorPanel Online: 14th June until 9th of July 2024

An optional briefing and site inspection was held at 18/06/2024 on Lawson Street, the following contractors attended the meeting.

- Civilcs
 - RCC Civil
- 30
- Hazell Bros Group

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.25

The briefing/site inspection was included in a VendorPanel and addendum 1 was issued via vendor panel. The purpose of the briefing/site inspection was to familiarise contractors with the site conditions and constraints.

A secondary site meeting was held due to commitment with

- 5 • Roseberry Creek Developments

An Evaluation Panel comprising of two Council staff and one consultant (BASEC) was formed.

Tenders closed on the 9th of July 2024 and tenders were received from the following proponents:

- 10 • Civilmart Rocla- Precast supply only
 • Kingsline Pty Ltd
 • Rcc Eathworks Pty Ltd
 • Roseberry Creek Develepments Pty Ltd

CLARIFICATIONS

- 15 Clarifications were sent to two potential contractors to resolve issues with submitted offers on Friday 12th and closed Wednesday 17th July. This resulted in **\$60,000** savings to potentially awarded contract and Council.

PAVEMENT OPTIONS

Pavement type 1 – Deep lift Asphalt

- 20 Design- 180mm of asphalt constructed on existing granular material.

Pavement type risk – It is unknown if there is have enough granular pavement in the parking lane adjacent to the kerb. If there is insufficient existing pavement depth then further granular pavement would be needed able to construct this design. This extra work would be an additional cost.

- 25 Benefit- This construction method is quicker compared to traditional granular construction and less prone to moisture issues during the build in relation to seals between layers. This option has in increased asset life. There is little to no benefit listed on the program timeframe from the recommended tender.

Cost- \$200,000 more expensive than pavement option 2.

- 30 **Pavement type 2 – Granular pavement**

Design- 200mm granular pavement constructed and 30mm of asphalt

Pavement type risk- If rain events occur during the build of the construction, progress may slow. Critical tasks are exposed to potential rain periods for a greater time than compared

to option 1. There is an increased risk of delays pushing the project construction into the holiday period.

Benefit- Does not rely on existing granular pavement to be in good condition.

Cost- \$200,000 less expensive than pavement option 1.

5 Pavement recommendation

The recommendation is to approve the tender at the higher cost pavement option 1 and evaluate the subgrade and pavement conditions once the road is opened up.

TRAFFIC IMPACTS

10 The original proposal was for half road closure to limit the impact to community and businesses. This methodology would extend the construction into December 2024 and potentially into January 2025.

15 The proposal is now to opt for a full road closure with detours and provide controlled vehicle access to local business and residents. Pedestrian access will still be maintained. Through traffic will be detoured around the site. This should enable to the project to be completed before December, weather permitting.

The Project Manager and Project Liaison Officer will discuss the individual requirements with affected stakeholders on Lawson Street.

The contractor will be required to submit a Traffic Management Plan and Traffic Guidance Scheme to Council for approval prior to commencing onsite.

20 EVALUATIONS

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

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

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.25

Tenders will be scored against the qualitative criteria listed below.

Criteria	Elements	Schedule	Assigned Weighting
Profile & Relevant Experience	Tender Profile	Part B.4.1.1	30%
	Previous relevant experience	Part B.4.1.2	
Quality and Availability of Resources	Proposed Key Personnel	Part B.4.2.1	20%
	Proposed Staff	Part B.4.2.3	
	Use of subcontractors	Part B.4.2.5	
Delivery Plan	Goods/services standards and methodology, and timeframe and Management Plans	Part B.4.3.1 and Part B.4.3.2	35%
	Implementation Plan/ Program of Works	Part B.4.3.2	
Social Procurement	Opportunities for people experiencing disadvantage	Part B.4.1.5	5%
	Employment opportunities, Aboriginal and Torres Strait Islander business	Part B.4.3.3 and Part B.4.3.4	
	Product sustainability	Part B.4.3.5	
Sustainable Practices	Environmental Practices	Part B.4.1.4	5%
Local Industry	Supporting local business	Insert Schedule i.e.4.3.3	5%

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

Financial Considerations

The price basis for the contract is a lump sum.

Council has budgeted **\$ 1,920,428** for this project.

\$1,335,987 Betterment funding

5 *\$584,441 Election Commitment Grant funding (ECG)*

There is sufficient funding for the proposed contract in the current budget. The forecast total cost would be \$1,400,000 including allowance for

- \$360,000 cost to date
- allowance for acid sulphate treatment,
- 10 • electricity pole support,
- commercial awing footings,
- increase service relocation for water mains and
- provisional amount held until completion of construction works.
- Pavement type 2 (lower cost)
- 15 • External construction management, contract management and supervision

Council would still have the required budget if pavement type 1 was required and issued for construction.

20 If there savings in the pavement construction are realised then the ECG funding may be redirected to other asset renewal projects. The savings in the Betterment Program must be retained in the Byron Bay town centre drainage program.

Statutory and Policy Compliance Considerations

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

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

Local Government (General) Regulation 2021 - Reg 178

Acceptance of tenders

178 Acceptance of tenders

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

Council's endorsement of the recommendation to award the tender as recommended in the attached Evaluation Report is sought.

Report No. 13.26 Mullumbimby Water Supply Strategy

Directorate: Infrastructure Services

Report Author: Cameron Clark, Manager Utilities

File No: I2024/1080

5 Summary:

Council engaged Hydrosphere Consulting to investigate options for the future delivery of Mullumbimby's water and provide a recommendation for giving residents and businesses reliable access to clean water at a reasonable price.

10 The Hydrosphere report, Mullumbimby Water Supply Strategy (December 2021), identified four scenarios for Mullumbimby's future water supply:

1. Keep using current source (Lavertys Gap weir) with no new water source. System upgrades and a new water treatment plant (WTP) needed and beyond 2027 water restrictions may increase
- 15 2. Build an off-stream reservoir to store high flows that overtop the weir. System upgrades and new WTP will also be required
3. Permanent connection to the Rous County Council-operated regional water supply that supplies the rest of Byron Shire
4. Supplement the Lavertys Gap supply with a new groundwater source. Investigations needed to identify a viable source and a new WTP required

20 Scenario 3 - permanent, full connection to the Rous regional water supply - is the option recommended by the consultant and Council staff, based on the environmental, economic and social assessment criteria.

In June 2024, Council conducted public consultation to measure community opinion about the report findings and recommendation. A community survey gathered 411 valid
25 responses, with the majority of responses indicating support for retaining a local water supply.

Council resolved at its Planning Meeting on 1 August 2022 (Res **24-366**) the following: -

30 ***Resolved*** that Council receives a report prior to the Ordinary Council meeting on 15 August 2024 which updates the costings in the Hydrosphere report from 2021 so that a more current NPV comparison can be obtained between the off-stream storage/new water treatment plant, and connecting to Rous options.

This report provides a response to Res 24-366 (above) and provides supplementary information in relation to the results of the consultation process that was reported to the 19 August 2024 Extraordinary Water and Sewer Advisory Committee (Minutes are provided
35 separately in this agenda).




At the time of compiling this report the revised NPV (as per Res 24-366) was not available and will be provided separately prior to the meeting of 15 August 2024.

RECOMMENDATION:

5 That Council:

- 1) Note the outcomes of the public consultation on Mullumbimby Future Water Strategy (Attachment 1 and 2);**
- 2) Notes the revised NPV comparison analysis for the Water Supply Options for Scenarios 2 and 3;**
- 10 3) Adopt Scenario 3 - permanent, full connection to the Rous Regional water supply;**
- 4) Request staff to investigate and report back to Council options for Laverty Gap water treatment infrastructure and associated land use; and**
- 15 5) Request staff to undertake an Engineering Options Analysis for the rural properties attached to the trunk main between the water treatment plant and Mullumbimby reservoirs.**

Attachments:

- 20 1 Mullumbimby water supply strategy final draft Rev 2 public exhibition, E2024/62586** 
- 2 Mullumbimby Water Supply Strategy Public Consultation Report July 2024, E2024/80095** 
- 3 Resolutions - Future Water Strategy, E2024/90257** 

Report

Introduction

- 5 Council engaged Hydrosphere Consulting in 2020 to consider options for securing Mullumbimby's water supply up to 2050 and beyond. Draft outcomes of the study were presented to Council staff and the Executive Team prior to presentation to the Water and Sewer Advisory Committee in April 2021.

The study was also discussed at subsequent meetings of the Committee in September 2022, June 2023 and a Council workshop in November 2023.

- 10 The findings and recommendations of Hydrosphere's report, Mullumbimby Water Supply Strategy (December 2021) are presented in summary here. (Attachment 1)

Background

- Mullumbimby's demand for water is increasing with development and population growth.
- 15 • The existing source of the town's water, Lavertys Gap weir, cannot meet forecast demand without the potential for more frequent and severe water restrictions.
- A new water source is needed to provide water security for the town in the near future.
- 20 • If the raw water supply is not augmented, restrictions are likely to be more frequent, and the weir supply will be depleted in a prolonged drought.
- If the weir supply continues to be used, upgrades are needed for the raw water transfer channel between the weir and Water Treatment Plant, with the channel at risk of failure.
- The Mullumbimby Water Treatment Plant is ageing and requires replacement.

25 Overview

- Hydrosphere Consulting prepared a long-term strategy for the Mullumbimby water supply. The key issue addressed is water supply security (servicing existing customers and future development over the long-term). The current demand for water is similar to the secure yield at Lavertys Gap Weir and if the worst drought on record were to repeat, the current supply would not meet demand. Council has prepared growth management strategies for urban land, rural areas and business/industrial land which include future development that will increase the demand for potable water.
- 30

The strategy also considers:

- Asset condition and performance (see reference to raw water channel and WTP above)
 - Drought management and emergency response.
- 5 • Heritage considerations and management obligations - Lavertys Gap Weir and channel (as part of the Mullumbimby hydro-electric power complex) are listed on the NSW State Heritage Register and the WTP has local heritage significance.

Scenarios and recommendations

10 The Mullumbimby Water Supply Strategy identifies four viable scenarios for providing water to the town into the future.

No local options have been identified that do not require major infrastructure solutions. Supply scenarios have been developed from combinations of options that achieve the required secure yield over the long-term (754 ML/a, an increase of 377 ML/a at 2050). All scenarios include the following common components in the short-term:

- 15 • Continued use of the weir supply and Mullumbimby WTP
- Short- term WTP upgrades to ensure consistent supply of microbially safe water
 - Extension of the RCC emergency bulk water supply connection to service all Mullumbimby water supply customers to be used as a secure emergency response measure when required to supplement the weir supply

20 **SCENARIOS IDENTIFIED IN REPORT (Attachment 1):**

Scenario 1 - Keep drawing water from Lavertys Gap weir with no new water sources

25 Continuing to use Laverty's Gap weir will require upgrades of the existing raw water transfer system, a new water treatment plant (WTP) and emergency connection to the regional supply operated by Rous County Council (RCC). Mullumbimby's current supply is expected to be secure until 2027, assuming emergency supply is available and water loss management measures are successful.

30 If Laverty's Gap weir cannot meet the water demand, water restrictions would be required. Temporary emergency responses would include use of the emergency connection to the Rous County Council regional water supply, water carting, accessing "dead storage" in Laverty's Gap Weir and establishing a new groundwater bore as an emergency source.

Whilst this option provides the lowest cost, it cannot be progressed due to the unavoidable risk of not being able to meet the future water supply needs of Mullumbimby.

Scenario 2 – Off-stream storage

- 5 Building a new off-stream water reservoir between Lavertys Gap weir and the town to store high river flows that would normally overtop the weir. This scenario will require improvements to the existing raw water transfer system, a new WTP and full emergency connection to the RCC regional supply. This scenario could provide a secure water supply until about 2060, depending on the size of the storage.

A 200 ML storage is expected to be required. This option is not recommended due to the high cost and the need for a replacement WTP.

Scenario 3 – Full connection to Rous County Council regional supply

- 10 The RCC regional supply provides water for Byron Bay, Bangalow, Brunswick Heads, Ocean Shores and surrounding areas, as well as Ballina, Lismore and Richmond Valley shires.

- 15 Permanent connection to the regional water supply would mean that water is no longer sourced from Lavertys Gap weir and there would be no need to build a new WTP at Mullumbimby.

Permanent, full connection to the regional water supply is the option recommended by the consultants and Byron Shire Council staff based on the environmental, economic and social assessment.

Scenario 4 – Groundwater

- 20 This option involves supplementing Mullumbimby's existing water supply from Lavertys Gap weir with a new groundwater source pumped directly to the WTP for treatment or to the weir storage, depending on the location of the bore supply and future location of a new WTP.

- 25 If groundwater is pursued, further investigation of potential bore locations will need to consider land ownership and acquisition, heritage constraints, local geology and environmental constraints. Once potential bore locations have been identified, test bores need to be established and samples taken to determine the yield, salinity and other parameters of concern for drinking water supply.

- 30 This scenario ranked second in the environmental, economic and social assessment but would require significant additional investigation and lead-time.

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.26

Comparison of Supply Scenarios (*Hydrosphere report page VI*)(Attachment 1)

Scenario	Security of supply	Capital cost (2021\$) ¹	30-year operation and maintenance cost (2021\$) ¹
S1: Base case: Improvements to the existing raw water transfer system, a new WTP and full emergency connection to the regional supply and new WTP.	Secure until 2027. Beyond 2027, restrictions may become more frequent and/or more severe.	\$14,430,000 (weir supply, WTP, emergency supply)	\$4,862,000 (operation of weir supply)
S2: Off-stream storage: Improvements to the existing raw water transfer system, full emergency connection to the regional supply, construction of a 200 ML off-stream storage and new WTP.	A 200 ML storage is expected to provide a secure supply until approximately 2060.	\$35,830,000 (weir supply, WTP, emergency supply, 200 ML storage)	\$5,363,000 (operation of weir supply)
S3: Permanent connection to RCC regional supply: Mullumbimby would form part of the RCC regional supply network with bulk treated water transferred to the Azalea Street reservoirs.	The secure yield would be determined by the RCC bulk supply system, as with the remainder of Byron Shire.	\$4,264,000 (emergency supply, pipeline duplication)	\$20,910,000 (purchase of water)
S4: Supplementary groundwater: Improvements to the existing raw water transfer system, new WTP, full emergency connection to the regional supply, construction of new bores to the south-west of Mullumbimby with raw water transferred either to the weir or the new WTP for treatment and distribution to the township.	A supplementary groundwater supply with a yield of 1.1 ML/d is expected to provide a secure supply until 2050. Higher groundwater yields would reduce reliance on the weir supply and increase the security of the groundwater option.	\$18,149,000 (weir supply, groundwater bores, WTP, emergency supply)	\$5,497,000 (operation of weir and groundwater supply)

1. The costs do not include current operating costs, staff costs or costs of infrastructure modifications for heritage preservation as these are common to all scenarios.

Preferred Scenario

5 Based on the Triple Bottom Line assessment, the most favourable scenario is S3: Full connection to the RCC regional supply. This scenario would have minimal incremental environmental impact and the security of supply is only limited by the security of the RCC regional supply.

10 The addition of Mullumbimby to the regional supply is unlikely to affect RCC's overall bulk supply strategy and the major environmental impacts associated with the regional scheme are fixed regardless of the inclusion of Mullumbimby in the regional scheme.

When factors such as energy consumption, infrastructure modifications and required investment are considered, the regional supply has significant benefit over the local scenarios.

The original Net Present Value Cost (NPV) of the regional scenario is the lowest of all scenarios. There are significant capital cost savings in avoiding the need to replace the Mullumbimby WTP, upgrade the weir supply and construction of new infrastructure, however the ongoing costs of a regional supply are higher than local scenarios.

- 5 The benefits of centralisation of water supplies and regional interconnection have been recognised in a previous study undertaken by the Northern Rivers Regional Organisation of Councils (now Joint Organisation) including improved financial outcomes through economies of scale, access to a wider range of options to improve efficiency, system resilience and operational flexibility. Financial benefits would result from regional
- 10 opportunities for staging of water source development, increased flexibility in scheme development, reduced duplication of infrastructure and sharing of costs over a larger customer base. There is also the potential to reduce the risk of supply shortage in the region through supply diversity, supply redundancy, climate resilience and system flexibility. A regional scheme also allows access to a wider range of options to improve
- 15 environmental and social outcomes than a local scheme.

Key issues

- 20 - Trunk main customers – Approximately 13 customers on Wilsons Creek Road are connected to the trunk water main running from the Water Treatment Plant. The Hydrosphere report identified that future servicing of trunk main-connected customers would need to be resolved dependent on the preferred scenario.
- 25 - Dunoon Dam – Comments received during the public exhibition period expressed concern that connecting Mullumbimby to the Rous regional water supply would support the case for construction of Dunoon Dam. Byron Shire Council has advice from Rous County Council that there would be no requirement to augment its supply to connect Mullumbimby to the regional network. This information was made public during the exhibition period.
- 30 - Concerns raised by Committee members and community in relation 1) to costings provided in the Hydrosphere report being outdated as these costing were based on industry figures from 2021; and 2) Discount rates and inflation rates.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
5: Connected Infrastructure	5.5: Provide continuous and sustainable water and sewerage management	5.5.1: Water supply - Provide a continuous water supply that is maintained in accordance with NSW Health guidelines	5.5.1.20	Report to Council on the future water strategy for Mullumbimby

Recent Resolutions

Complete detailed resolutions can be found in *appendix 3 Resolutions - Future Water Strategy, E2024/90257*

5

RES NO	MEETING DATE	TITLE	REPORT
24-366	01/08/2024	Costing Update for 2021 Hydrosphere Report	I2024/1080
24-162	18/04/2024	Response to Questions – Future Water Strategy	I2024/435
23-120	27/04/2023	Mullumbimby Water Supply Strategy – Members’ Motions	I2023/345
22-498	29/09/2022	Report No 4.3 – Safe and Secure Yield	I2022/583
21-271	05/08/2021	Rous Future Water	I2021/1181
21-239	24/06/2021	Mullumbimby Future Water Strategy	I2021/781
21-251	27/05/2021	Mullumbimby Future Water Strategy	I2021/478

Financial Considerations

The quoted financial comments below in this report for each scenario are based on 2021 estimates. It is proposed that updated estimated costs will be provided as early as possible prior to the 15 August 2024.

5

Water capital works reserve projected at 30 June 2024 stands at \$4,036,010.00.

10 The Water Fund has planned budgeted capital works for the 2024/2025 financial year of \$2,487,200.00 with carry overs from the 2023/24 financial year of \$1,516,300.00 (yet to be approved and subject of another report to this Ordinary Council Meeting). This provides an estimated balance as at 30 June 2025 of \$32,510 in the Water capital works reserve should the budget carryovers be approved. There is a further \$793,400 available in Section 64 Contributions for Mullumbimby as at 30 June 2024 but confirmation would be needed as to how much of these funds could be utilised for any of the scenarios in this report. Irrespective of this, there is not sufficient available funds on hand.

15

Therefore, any option that sits outside of permanent connection to Rous (Scenario 3) would require 100% borrowing for the capital costs or consideration of selling off some Water Fund property assets as an alternate to some generate funding.

20

Cost estimates have been provided by Hydrosphere for each of the four scenarios identified. Common to all scenarios are the short-term costs associated with necessary upgrade work of the Mullumbimby WTP. Allowances but not estimates have been provided for land acquisition costs, siteworks and engineering associated with scenarios one, two and four.

25

Total capital cost, total operating cost, 30-year whole-of-life cost and a 30-year Net Present Value (NPV) cost discounted at 5%, are identified in 2021 dollars for each scenario. Those costs are listed in Table 58 (*Hydrosphere report, page 157*), which is included below.

30

Scenario 3 is identified as having the lowest capital cost and lowest NPV of all scenarios (noting that Scenario 1 is included as a base case only).

Contributing to this result are the significant capital cost savings achieved in avoiding the need to replace the Mullumbimby WTP and upgrade the weir supply in addition to constructing new infrastructure.

35

The ongoing water supply cost is higher under Scenario 3 than local supply scenarios and this is accounted for under the NPV estimate.

40

As noted in the Hydrosphere report, the benefits of centralisation of water supplies and regional interconnection have been recognised in a previous study undertaken by the Northern Rivers Regional Organisation of Councils (now Joint Organisation), with benefits including improved financial outcomes through economies of scale, access to a wider range of options to improve efficiency, system resilience and operational flexibility.

Financial benefits would result from regional opportunities for staging of water source development, increased flexibility in scheme development, reduced duplication of

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.26

infrastructure and sharing of costs over a larger customer base. It may be more likely that grant funding opportunities may be available on a regional basis which Scenario 3 could facilitate.

- 5 A summary of capital costs and NPV for each scenario is provided here from the original Hydrosphere Report (Attachment 1):

Scenario 1 - Keep drawing water from Lavertys Gap weir with no new water sources

(Note: Included as a base case scenario)

Total Capital Cost: \$14,430,000

Total Operating Cost: \$4,862,000

- 10 Whole of life cost (30 year): \$19,296,000

NPV: \$13,410, 000

Scenario 2 – Off-stream storage

Total Capital Cost: \$35,830,000

Total Operating Cost: \$5,363,000

- 15 Whole of life cost (30 year): \$41,197,000

NPV: \$29,538,000

Scenario 3 – Full connection to Rous County Council regional supply

Total Capital Cost: \$4,264,000

Total Operating Cost: \$20,910,000

- 20 Whole of life cost (30 year): \$25,174,000

NPV: \$13,748,000

Scenario 4 – Groundwater

Total Capital Cost: \$18,149,000

Total Operating Cost: \$5,497,000

- 25 Whole of life cost (30 year): \$23,646,000

NPV: \$15,792,000

A timeline comparison of the expenditure profile Council must contemplate for each scenario (Figure 74, page 160), shows a substantial early years outlay under Scenario 2 (approx. \$17 million

in 2027) compared with other scenarios. This is associated with an estimated \$20,680,000 cost of construction for an off-stream storage (*Hydrosphere report Table 58, page 157 and reproduced below*).

- 5 Table 58 shows a total operating cost of \$20,910,000 for Scenario 3. This is associated with the ongoing cost of purchasing bulk water from the regional supplier.

As mentioned earlier in the report, whilst Scenario 1 provides the lowest cost, it cannot be progressed due to the unavoidable risk of not being able to meet the future water supply needs of Mullumbimby.

- 10 Further to the original NPV Council through a Mayoral Minute resolved at its Planning Meeting on 1 August 2022 (Res 24-366) the following: -

Resolved that Council receives a report prior to the Ordinary Council meeting on 15 August 2024 which updates the costings in the Hydrosphere report from 2021 so that a more current NPV comparison can be obtained between the off-stream storage/new water treatment plant, and connecting to Rous options.

- 15 At the time of compiling this report the revised NPV (as per Res 24-366) was not available and will be provided separately prior to the meeting of 15 August 2024. The NPV being prepared by the consultant will be peer reviewed by Council's Manager Finance and Business Analyst

- 20 Preliminary assessment indicates that the NPV outcomes do not change managements recommendation to adopt Scenario 3.

Consultation and Engagement

The full consultation report can be found in *appendix 2 Mullumbimby Water Supply Strategy Public Consultation Report July 2024, E2024/80095*

- 25 In April 2024, Council retained an external communications consultant to undertake community consultation on the findings of the 2021 Hydrosphere Consulting report ahead of a decision by Council at its 15 August, 2024 meeting.

A stakeholder engagement plan and communications campaign were developed and a community survey was created to provide an opportunity for feedback.

- 30 Detailed information about the report and recommendations was published on the Your Say section of Council's website and the survey was open from June 3 to June 30, 2024. The public exhibition and survey were promoted via Council newsletter, social media, print and radio advertising, media releases, market stalls and public information sessions. Stakeholder engagement included media interviews, public information sessions and meetings with representatives of the Mullumbimby Residents' Association and Water
35 Northern Rivers.

Public information sessions and market stalls

Attendance was low at public information sessions held at Council chambers, with 11 people across two sessions on June 18 (12pm and 5.30pm) and 11 people on June 26

(5.30pm). Information stalls were held at Mullumbimby Farmers Market on June 14 and 28 with information given to 90 people.

Results of community survey

5 The survey asked participants to respond to five questions and provided two free text fields for further comments. A total of 411 valid submissions were received.

NOTE: The Mullumbimby Residents' Association (MRA) produced a Submission Guide for completing the survey to advocate for Scenario 2. The guide was hosted on the Water Northern Rivers website and distributed in hard copy. A significant proportion of the survey responses to each question align with the responses suggested in the guide.

10 A copy of the submission guide is included as an appendix in the Public Consultation Report for information.

The questions and responses (in italics) for the online survey were:

- 1) How important is it to you that the town remains on a separate local water supply? (ranked from Not at all important to Extremely important)

15 *For Question 1, of 411 responses, 372, or 91%, ranked remaining on a local water supply as extremely important.*

- 2) Which issues are most important for you when considering Mullumbimby's future water supply – security of supply, environmental outcome, economic outcome (ranked from Not at all important to Extremely important)

25 *For Question 2, security of water supply and environmental outcome ranked similarly, with more than 70% of responses ranking them extremely important. Economic outcome was ranked: Extremely important – 25.3%; Moderately important – 24.5%; Neutral – 37.9%; Slightly important – 7.5%; Not at all important – 4.6% (results rounded)*

- 3) Please indicate your support for the following options for meeting this cost – higher water rates in Mullumbimby, cost shared equally across Byron Shire (ranked from Strongly oppose to Strongly favour)

30 *Question 3 sought an indication of how the community wished to meet the cost of a separate water supply for Mullumbimby in the event a local supply was the chosen scenario. The most common response was "Neutral", which aligns with the suggested response in the MRA Submission Guide. The Submission Guide described Q3 as "fear-based questions" and recommended answering "Neutral" to both.*

- 4) Do you support the recommendation to connect Mullumbimby to the regional water supply operated by Rous County Council? (options: Yes, Unsure/Neutral, No).

40 *Of 411 responses, 366, or 89 percent, did not support the recommendation.*

A free text field was provided with the request: "Please add any comments to explain your answer".

- 5) Please rank the scenarios listed below in order of preference (Scenarios ranked from 1 to 4).

Question 5 asked respondents to rank the four scenarios in order of preference, from 1 for most preferred, to 4 for least preferred. Scenario 2 gathered the highest number of first preference rankings. Scenario 3 gathered the highest number of fourth preference rankings.

A free text field was provided to respond to the question: "Once a preferred approach has been identified, we will do detailed investigations and design to implement a secure water supply for Mullumbimby. Is there anything else you wish Council to consider?"

Summary of free text responses to Q4

There were 307 comments left in the free text field for Q4.

Comments were predominantly in favour of Mullumbimby retaining an independent water supply. Common responses included the phrase "we value our autonomy", a preference for water from Lavertys Gap vs the regional network on quality/taste grounds, a belief that more sources (Lavertys Gap plus emergency connection and/or offstream storage) will increase supply resilience, concern that Rous has insufficient water supplies and concern that connecting Mullumbimby would support the case for Dunoon Dam.

Summary of free text responses to Q5

There were 210 comments in free text responses to Q5. Common themes were concern that connection to the regional supply would support the case for Dunoon Dam, a desire for water security, support for an independent water source or diverse sources, concern about fluoride in the water supply and calls for increased use of water tanks.

A note on common themes in comments and responses offered to common questions is included on page 18 of the Public Consultation Report.

Location of respondents

Survey respondents were asked to indicate their suburb or village. The location breakdown is listed below.

Bangalow 1

Billinudgel 2

Binna Burra 1

Broken Head 1

Brunswick Heads 23

Byron Bay 17

Coopers Shoot 1

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.26

	Coorabell	1	
	Ewingsdale	3	
	Federal	3	
	Goonengerry	4	
5	Huonbrook	4	
	Main Arm	11	
	Montecollum	2	
	Mullumbimby	225	
	Mullumbimby Creek	25	
10	Myocum	12	
	New Brighton	1	
	Newrybar	1	
	Ocean Shores	16	
	Possum Creek	1	
15	Rosebank	1	
	South Golden Beach	4	
	Suffolk Park	4	
	Tyagarah	2	
	Upper Coopers Creek	1	
20	Upper Main Arm	2	
	Upper Wilsons Creek	3	
	Wanganui	2	
	Wilsons Creek	32	
	Wooyung	1	
25	No location given	4	
	Total	411	

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

**Report No. 14.1 Report of the Arts and Creative Industries
Advisory Committee Meeting held on 20
June 2024**

5

Directorate: Corporate and Community Services

File No: I2024/970

Summary:

- 10 The Arts and Creative Industries Advisory Committee met on 20 June 2024. The Minutes of this meeting are attached for noting by Council.

RECOMMENDATION:

- 15 1. That Council notes the minutes of the Arts and Creative Industries Advisory Committee Meeting held on 20 June 2024.

2. That Council adopts the following Committee Recommendation:

**Report No. 3.1 Adoption of Minutes of the Arts and Creative Industries
Advisory Committee Meeting held 29 February 2024**

File No: I2024/338

Committee Recommendation 3.1.1

**That the minutes of the Arts and Creative Industries Advisory Committee
Meeting held on 29 February 2024 be confirmed.**

3. That Council adopts the following Committee Recommendation:

Report No. 4.1 DCP Public Art Plan Referral, 139 Jonson Lane DA 10.2019.616.5

File No: I2024/914

Committee Recommendation 4.1.1

That the Committee approves and provides the following feedback to Council's Assessment Officer on the public art proposal for the development at 139 Jonson Street, Byron Bay DA 10.2019.616.5 being:

- a. There were a variety of opinions expressed by the Committee.**
- b. There was a high level of support for the materials, location and scale.**
- c. There was a general desire for a more contemporary or courageous piece.**
- d. There was some feedback around the potential objectification and controversy around the subject.**

4. That Council adopts the following Committee Recommendations:

Report No. 4.2 DCP Public Art Design Guidelines and Criteria

File No: I2024/450

Committee Recommendation 4.2.1

- 1. That the Arts and Creative Industries Advisory Committee reviews the design selection criteria included in Chapter B15 Public Art of the Byron Shire Council Development Control Plan 2014 and provides any feedback to Council.**
- 2. That Council encourages the Developer to connect with the Council Arts & Culture Officer for guidance on curatorial support prior to the artwork choice being made.**
- 3. The Arts & Culture Officer be invited to the Development Advisory Panel meeting when public art is triggered.**

5. That Council adopts the following Committee Recommendation:

Report No. 6.2 Arts and Creative Industries Advisory Committee Term

Summary

File No: I2024/434

Committee Recommendation 6.2.1


That the Arts and Creative Industries Advisory Committee hold an extraordinary meeting on 22 August 2024 to discuss future arts strategies.

BYRON SHIRE COUNCIL

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

14.1

Attachments:

- 1 Minutes 20/06/2024 Arts and Creative Industries Advisory Committee, I2024/936 

5

Report

The attachment to this report provides the minutes of the Arts and Creative Industries Advisory Committee Meeting of 20 June 2024 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 [Agenda of Arts and Creative Industries Advisory Committee Meeting - Thursday, 20 June 2024](#)

The following items were considered by the Committee:

Report No. 4.1 DCP Public Art Plan Referral, 139 Jonson Lane DA 10.2019.616.5

- 10 A Public Art Plan has been submitted for 139 Jonson Street (Jonson Lane), Byron Bay - DA 10.2019.616.5. In accordance with the requirements in the Development Control Plan (DCP), this plan was referred to the Arts and Creative Industries Committee for comment and feedback.

Report No. 4.2 DCP Public Art Design Guidelines and Criteria

- 15 The Committee requested the opportunity to review and suggest changes to the design selection criteria outlined in Chapter B15 Public Art of the Development Control Plan 2014. The purpose of the report was to enable the Committee to make recommendations to Council regarding potential amendments to these criteria.

Report No. 6.1 103 Yagers Lane Development Public Art Plan - DA 10.2024.24.1

- 20 This report provided a Public Art Plan to the Committee submitted as part of a Development Application for a restaurant and artisan food and drink area, at 103 Yagers Lane, Skinner Shoot, DA 10.2024.24.1. This Report was a "For Information Only" Report and as such no recommendation to Council was made.

Report No. 6.2 Arts and Creative Industries Advisory Committee Term Summary

- 25 This report highlights key arts and culture achievements completed during the Arts and Creative Industries Advisory Committee's term. The achievements are presented across four action areas, as per the Arts and Culture Action Plan on Arts and Cultural Infrastructure; Public Art and Creative Activation of the Public Domain; Enabling Arts and Cultural Activity; and Supporting Festivals, Events & Screen Industry Activity.
- 30 Further discussion on this item is needed. The Committee have requested an Extraordinary Meeting on 22 August 2024 to finalise.

Report No. 6.3 Status Update on Development Applications Triggering Public Art Requirements in the Development Control Plan

- 35 The purpose of this report was to update the Committee on development applications that trigger public art requirements through the Development Control Plan (DCP), and the outcomes of those developments and projects. This Report was a "For Information Only" Report and as such no recommendation to Council was made.

Financial Implications

As per the Reports listed within the Arts and Creative Industries Advisory Committee Meeting of 20 June 2024.

Statutory and Policy Compliance Implications

- 5 As per the Reports listed within the Arts and Creative Industries Advisory Committee Meeting of 20 June 2024.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

**Report No. 14.2 Report of the Infrastructure Advisory
Committee Meeting held on 20 June 2024**

5 **Directorate:** Infrastructure Services

File No: I2024/981

Summary:

10 The attachment to this report provides the minutes of the Infrastructure Advisory
Committee Meeting of 20 June 2024 for determination by Council.

RECOMMENDATION:

15 1. That Council notes the minutes of the Infrastructure Advisory Committee
Meeting held on 20 June 2024.

2. That Council adopts the following Committee Recommendation:

Report No. 3.1 Adoption of Minutes from Previous Meetings
File No: I2024/873

Committee Recommendation 3.1.1

That the minutes of the Infrastructure Advisory Committee Meeting held on 29
February 2024 be confirmed.

3. That Council adopts the following Committee Recommendations:

Report No. 4.1 Kerb and Gutter Review
File No: I2024/708

Committee Recommendation 4.1.1

That Council:

1. Notes the need to improve the availability of kerb and gutter across the
shire and the cost to do so is significant and difficult for Council to

achieve with current funding availability.

- 2. Supports the Kerb and Gutter Upgrade Review (attachment 1) being developed into a prioritised implementation program that is considered as part of the annual budget and 10 year program development, subject to funding availability.**

Attachments:

- 1 Minutes 20/06/2024 Infrastructure Advisory Committee, I2024/927 

5

Report

The attachment to this report provides the minutes of the Infrastructure Advisory Committee Meeting of 20 June 2024 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, 20 June 2024](#)

The following items were considered by the Committee:

Report No. 4.1 Kerb and Gutter Review

This report summarises the Kerb and Gutter Upgrade across the Byron Shire and the implementation of the program.

10 Committee Recommendation

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

Financial Implications

- 15 As per the Reports listed within the Infrastructure Advisory Committee Meeting of 20 June 2024.

Statutory and Policy Compliance Implications

As per the Reports listed within the Infrastructure Advisory Committee Meeting of 20 June 2024.

**Report No. 14.3 Report of the Water and Sewer Advisory
Committee Meeting held on 19 July 2024**

Directorate: Infrastructure Services

File No: I2024/1066

5

Summary:

The attachment to this report provides the minutes of the Extraordinary Water and Sewer Advisory Committee Meeting of 19 July 2024 for determination by Council.

10

RECOMMENDATION:

1. That Council notes the minutes of the Water and Sewer Advisory Committee Meeting held on 19 July 2024.

2. That Council adopts the following Recommendation:

Report No. 3.1 Adoption of Minutes from Previous Meetings
File No: I2024/984

Committee Recommendation 3.1.1

That the minutes of the Water and Sewer Advisory Committee Meeting held on 30 May 2024 be confirmed.

15

3. That Council adopts the following Recommendation:

**Report No. 4.1 Mullumbimby Water Supply Strategy
Public Consultation Report**
File No: I2024/1032

Committee Recommendation 4.1.1

That Council:

1. Publicly thanks the community for its participation in making more than 433 Your-Say submissions during June 2024 on Mullumbimby's future

water supply;

- 2. Acknowledges that 89% of 411 valid Your-Say respondents oppose abandoning the Wilsons Creek source (Lavertys Gap), while 6% are neutral and 5% support;**
- 3. Notes that Hydrosphere's report "Mullumbimby Water Supply Strategy" of December 2021 does not investigate Option 2 (adding off-stream storage and retaining the Wilsons Creek source) to the extent suggested in Council's Resolution 23-120 and that it assesses Option 3 (Rous only) without Dunoon Dam which is now included in Rous's forward water source planning;**
- 4. Notes the following extract from the North Coast Enabling Regional Adaptation, North Coast Region Report (NSW Office of Environment and Heritage, 2019) which states on page 15:**

"Under a transformed system for infrastructure [,] water systems are smaller, localised and decentralised with multiple redundancies providing tailored and integrated solutions"
- 5. Proceeds with the investigations previously outlined in Parts 7 and 8 of Resolution 23-120 with some additions in 8b and 8c, namely:**
 - 7. Investigates a strategy for Mullumbimby's long term water supply based on the following concept:**
 - a) Lavertys Gap as the source during flows in excess of environmental requirements;**
 - b) water stored off-stream between the source and Mullumbimby;**
 - c) water treated at a new location between the storage and Mullumbimby;**
 - d) water delivered to Mullumbimby and possibly beyond; and**
 - e) maximising demand management, including the harvesting of roof water.**
 - 8. Includes in this investigation:**
 - a) the topography of the terrain between Lavertys Gap and Mullumbimby, to identify potential dam sites;**
 - b) the hydrology of Wilsons Creek and its capacity to supply, including**
 - (i) seasonality,**
 - (ii) establishing environmental flows for future EPA licensing;**
 - c) the impact of climate change on supply and on demand (using up-to-date CC data and methodologies in the pilot phase for local water supply through DPE, and applied in Regional Water Strategies);**
 - d) infrastructure needs including offtake, storage, treatment and linkages to the town's reservoirs;**
 - e) environmental assessments for the creation and operation of that infrastructure, including greenhouse gas emissions;**

- f) **assessment of the weir at Lavertys Gap including**
 - (i) structural integrity;**
 - (ii) means of creating fish passage; and**
 - (iii) how this proposal enhances its heritage and preservation;**
 - and**
 - g) **economic assessment.**
- 6. **Notes the successful upgrade to Kyogle's water supply which included off stream storage and creation of fish passage on the existing weir in the Richmond River.**
- 7. **Supports Council consulting with landowners of properties currently supplied from the pressure line between the Water Treatment Plant at Lavertys Gap and the reservoir near Azalea Street, by:**
 - a. **Listening to their wishes, and**
 - b. **Considering outcomes including a reticulation pipeline returning from Azalea Street reservoir to those properties.**

Attachments:

- 1 Minutes 19/07/2024 Water and Sewer Advisory Committee Extraordinary, I2024/1042 

Report

The attachment to this report provides the minutes of the Water and Sewer Advisory Committee Meeting of 19 July 2024 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 [Agenda of Extraordinary Water and Sewer Advisory Committee Meeting - Friday, 19 July 2024](#)

The following items were considered by the Committee:

Report No. 4.1 Mullumbimby Water Supply Strategy Public Consultation Report

- 10 This report provides a summary of the Water Supply Strategy Public Consultation and analyses the community feedback received.

Committee Recommendation

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

Financial Implications

- 15 As per the Reports listed within the Water and Sewer Advisory Committee Meeting of 19 July 2024.

Statutory and Policy Compliance Implications

As per the Reports listed within the Water and Sewer Advisory Committee Meeting of 19 July 2024.

20

QUESTIONS WITH NOTICE

Question with Notice No. 15.1 Urban on-site sewage systems

File No: I2024/1082

5

Cr Dey asks the following question:

10 *During Council's past, especially in the nineties and noughties, flows to some of the Shire's Sewage Treatment Plants (STPs) exceeded the capacity of the plant. Some developers turned to on-site sewage management so that their property could increase its sewage production without increasing its load to sewer. Woolworths in Station Street Mullumbimby is an example, from about 2005.*

15 *The moratoriums were subsequently lifted as STP's were upgraded. Some of these on-site sewage systems were decommissioned in favour of a connection to the town's sewer system. It appears others remain. Some of those are getting old.*

1. *How many on-site sewerage systems remain active in urban areas of the Shire where town sewer is now available?*
2. *Are those systems being inspected as required and is maintenance on them*
- 20 *satisfactory?*
3. *Are they being decommissioned as they reach their end-of-life?*
4. *Are there any that have been found to have been bypassed, with illegal connections to sewer?*
5. *Could these matters be reported to Council?*

25 **Response Director Sustainable Environment and Economy:**

1. There are twenty, of which some are connected to sewer but also have a compost toilet so remain on Council's on-site sewerage system ("OSMS") register.
2. Yes. If identified as unsatisfactory during inspection, processes are applied to upgrade to satisfactory.
- 30 3. Where a system is within 75m of a sewer, Council recommends they are decommissioned in favour of a connection to the town's sewer system.
4. None have been identified in the last 12 months.
5. Staff report annually on the inspection program via the Environmental & Safety Program report.