

Agenda Ordinary Meeting

Thursday, 22 June 2023



BYRON
SHIRE
COUNCIL

Agenda Ordinary Meeting

held at Conference Room, Station Street, Mullumbimby
commencing at 9:00am

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

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

Mark Arnold
General Manager

CONFLICT OF INTERESTS

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

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

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

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

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

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

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

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

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

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

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

Disclosure and participation in meetings

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

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

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

Non-pecuniary Interests - Must be disclosed in meetings.

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

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

RECORDING OF VOTING ON PLANNING MATTERS

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

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

OATH AND AFFIRMATION FOR COUNCILLORS

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

BYRON SHIRE COUNCIL

BUSINESS OF ORDINARY MEETING

1. PUBLIC ACCESS
2. APOLOGIES
3. ATTENDANCE BY AUDIO-VISUAL LINK
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 25 May 2023
8. RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS
9. NOTICES OF MOTION
 - 9.1 Coastal Conference in Newcastle in late October 2023..... 9
 - 9.2 Waiver of Repayments for Mullumbimby Leagues Club During COVID Period 12
 - 9.3 Roll-out of funding to future-proof flooded premises 14
 - 9.4 Funding for road repairs in and near Prince Street..... 18
 - 9.5 Seek committee advice on Coastal Hazard Assessment..... 22
10. MAYORAL MINUTE
11. PETITIONS
12. DELEGATES' REPORTS
13. STAFF REPORTS
 - General Manager**
 - 13.1 Classification of newly acquired Council lot 27
 - 13.2 Lot 12 Bayshore Drive - Updated Valuation as per Resolution 21-188..... 30
 - Corporate and Community Services**
 - 13.3 Amendment to the Code of Conduct for Committee Members, Delegates of Council and Council Advisors 36
 - 13.4 Richmond Tweed Regional Library: Feedback from Member Councils - Overview for Proposed Sale of Vacant Land 40
 - 13.5 Tender - Electricity Procurement 44
 - 13.6 Public Exhibition of draft Arts and Culture Action Plan 2023-2026 47
 - 13.7 Growing Regions Program Round 1 - grant application..... 52

BYRON SHIRE COUNCIL

13.8	Adoption of Operational Plan 2023/24, including Budget, Statement of Revenue Policy, and Fees and Charges	66
13.9	Revised Delivery Program 2022-26	79
13.10	Council Investments - 1 May 2023 to 31 May 2023	85
13.11	Grants May 2023	93
13.12	Making of the 2023/24 Ordinary Rates, Charges, Fees and Interest Rate	98

Sustainable Environment and Economy

13.13	Changing the Net Zero Target to 2030 and Purchasing Carbon Offsets	106
13.14	Busking Policy Review.....	117
13.15	Car share expression of interest - project timeline update	121
13.16	Resolution 23-227 Toni Childs Music Video Shoot August 2023.....	124
13.17	Update Resolution 22-737 Former Mullumbimby Hospital Site Redevelopment Project	131
13.18	PLANNING - Report of the Planning Review Committee held 1 June 2023 ...	143

Infrastructure Services

13.19	Redevelopment of the old Byron Hospital into a new Community Hub	147
13.20	Project update - Additional Flow Path.....	153
13.21	2021-1145: Water Main Supply and Construction, Byron Bay and Mullumbimby.....	155

14. REPORTS OF COMMITTEES

Corporate and Community Services

14.1	Report of the Audit, Risk and Improvement Committee Meeting held on 18 May 2023.....	156
------	--	-----

Sustainable Environment and Economy

14.2	Report of the Coast and ICOLL Advisory Committee Meeting held on 16 May 2023.....	162
14.3	Report of the Climate Change and Resource Recovery Advisory Committee Meeting held on 18 May 2023.....	165

Infrastructure Services

14.4	Report of the Floodplain Management Advisory Committee Meeting held on 16 May 2023.....	167
14.5	Report of the Local Traffic Committee Meeting held on 26 May 2023	171

No table of contents entries found.

16. CONFIDENTIAL REPORTS

Sustainable Environment and Economy

16.1	CONFIDENTIAL - 57 Station Street, Mullumbimby.....	175
------	--	-----

BYRON SHIRE COUNCIL

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

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

NOTICES OF MOTION

Notice of Motion No. 9.1 Coastal Conference in Newcastle in late October 2023

5 **File No:** I2023/906

I move that Council:

- 10 1. **Recognises the value of Councillors attending conferences to expand and update their knowledge in fields relevant to Council's activities.**
2. **Supports the registration, travel and accommodation for Cr Dey and Cr to attend the joint *National Coast to Coast & NSW Coastal Conference 2023* in Newcastle from 30 October to 3 November 2023.**
- 15 3. **Registers these Councillors before the early-bird fee offer ends on 8 September 2023.**

Signed: Cr Duncan Dey

20 **Councillor's supporting information:**

This year the national and state coastal conferences are being held as a joint **National Coast to Coast & NSW Coastal Conference** in Newcastle over the week 30 October to 3 November 2023.

25 This conference website claims it will bring together over 250 delegates from a diverse range of fields, including: all aspects of coastal, estuarine and marine management, science and research, and education, planning, policy and law; and includes representatives from government, the private sector and community groups and the interested public.

Early-bird registration costs \$895 rather than \$995 after 8 September.

30 I will, as always when funded by the public, choose cheap accommodation and travel options.

Staff comments

by Amber Evans Crane, Governance Support Officer, Corporate and Community Services:

5 Councillor attendance at this Conference is subject to the [Councillor Expenses and Facilities Policy](#) which stipulates that Council will meet the reasonable cost of registration fees, transportation and accommodation associated with attendance. As per Clause 6.40, in assessing a Councillor request to attend a conference, the following factors should be considered:

- 10 1. Relevance of the topics and presenters to current Council priorities and business and the exercise of the Councillor’s civic duties
2. Cost of the event in relation to the total remaining budget.

15 *Regarding point 1*, the Conference program is yet to be released but will include workshops, field trips, presentations, and networking. The information provided on the [Conference website](#) states that it will: ‘bring together delegates from fields including coastal, estuarine and marine management, science and research, and education, planning, policy and law; and includes representatives from government, the private sector and community groups and the interested public’.

Regarding point 2, the registration and associated costs for the Conference are given below.

20 Costs: *(per delegate)*

Registration Fee (Early Bird until 8 September 2023)	\$ 895.00
Accommodation (5 nights)	\$ 1000.00*
Travel (Flights)	\$ 300.00*
Total:	\$2,195.00*

25 **Approximate*

This does not include meal allowances and additional travel expenses to and from the conference.

Registration fees will be refunded less a 25% cancellation fee prior to 5pm on Friday, 8 September 2023. After this date no refunds will be made.

Delegate report

Following the Conference, Councillor/s are requested to submit a delegate’s report in writing to an Ordinary Meeting of Council on the aspects of the conference, seminar, workshop, or function relevant to Council business and or the local community.

5 Financial Implications

As this Conference will take place in the next financial year the full budget allocated to Councillors attendance at Conferences and Professional Development will be available. The Draft 2023/24 Budget has this amount set at \$30,000.

Policy Considerations

10 [Councillor Expenses and Facilities Policy](#)

Is the proposal consistent with any Delivery Program tasks?

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

Notice of Motion No. 9.2 Waiver of Repayments for Mullumbimby Leagues Club During COVID Period

File No: I2023/910

5

I move that Council waives the repayments owing by the Mullumbimby Leagues Club for a period of two years to recognise the loss of income during this period.

10 **Attachments:**

- 1 Confidential - Mullumbimby Leagues Club - Copy of Profit and Loss Year Ending 30 September 2020, E2023/58753
- 15 2 Confidential - Mullumbimby Leagues Club - Copy of Profit and Loss Year Ending 30 September 2021, E2023/58747
- 3 Confidential - Mullumbimby Leagues Club - Summary of Grants Received, E2023/58742

Signed: Cr Michael Lyon

Councillor's supporting information:

20 Following representations from the Leagues club relating to their loss of revenue during COVID and given we have given similar relief to other organisations; I propose a waiver of two years of the 10 years of repayments due. These contributions came about due to the need to upgrade facilities in the campground and the subsequent ETs this created. I have sighted their financials, and over this period the club lost a significant amount of money.

25 **Staff comments**

by Dean Baulch, Principal Engineer Infrastructure Services:

The Mullumbimby Leagues Club has already received substantial financial concessions from Council in recent years.

30 Council considered the Club's same request for DA 10.2013.310.1 at the Ordinary Meeting held 20 November 2014 and resolved as follows:

RES 14-584 Resolved that Council levy s64 contributions due to be paid by the Mullumbimby Rugby League Club for DA 10.2013.310.1, but at the 2004 rate to be paid over a 10 year period.

35 The application of s64 contributions upon DA10.2016.125.1 has been consistent with the Water Management Act 2000, Water Management (General) Regulation 2011, Council's

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.2

Water Supply and Sewerage Developer Servicing Plan's and also the Equivalent Tenement Policy 2018.

5 The Mullumbimby Leagues Club Limited is a registered business, including a restaurant, a bar, a gymnasium, a social golf course and a camping ground and exists for the benefit of its members. It does not fall into a category for waiver of s64 contributions and should not be considered for any further waiver.

10 The Club also signed a legal agreement to pay s64 contributions as per the above-mentioned Council Resolution **14-584**. Legal Document L/DOC 2573 - 10.2016.125.1 - Deferral Agreement Between Byron Shire Council and Mullumbimby Rugby League Football Club Ltd not attached.

Financial/Resource/Legal Implications:

The COVID-19 Pandemic impacted negatively on the financial outcomes of Byron Shire Council.

15 As the Club were already under a deferral agreement if the motion was to be successful repayments would recommence in 2 years time (June 2024). Council may wish to consider deferral of the payment only (not a waiver) and extend the repayment period for a further 2 years.

Is the proposal consistent with any Delivery Program tasks?

Yes

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

20

Notice of Motion No. 9.3 Roll-out of funding to future-proof flooded premises

File No: I2023/913

5

I move that Council:

1. **Contacts the NSW Premier Chris Minns and our Member for Ballina, Tamara Smith, asking them to intervene in the roll-out of the \$700 million allocated last year under the Resilient Homes Program to assist owners of flood-prone premises in this region to reduce future flood risk via house-raising, wet-proofing and buy-back; and**
2. **Seeks intervention especially on the following aspects of the roll-out:**
 - (a) **to accelerate this financial assistance by, for example, engaging more assessors and/or by having that role handed to Councils, who know well their terrain and their community;**
 - (b) **to further accelerate the assistance by bringing the end date forward from the 5 years (to mid-2027) projected by the Northern Rivers Reconstruction Corporation to a more reasonable timeframe of 3 years (to mid- 2025);**
 - (c) **to broaden the eligibility criteria by including all premises flooded in 2022 to above their approved floor level;**
 - (d) **to further broaden the criteria by including all premises where flood water rose to within 300mm of an approved floor level; and**
 - (e) **to recognise that government may have to commit additional funding to achieve parts (c) and (d) but that this is a better approach than the current one of limiting eligibility.**

Signed: Cr Duncan Dey

30

Councillor's supporting information:

It is now over fifteen months since the worst known flood (28 February 2022) in the north of the Shire. It is over fourteen months since a second flood devastated coastal areas like Byron Bay (March 2022).

- 5 In October 2022 the NSW Government announced an \$800m package that includes \$700m for house-raising, wet-proofing and buy-back, across seven Council areas in our region.

10 This Program rolls out public money to the public but is moving at a snail's pace. An observer might think that the organisation running the project had an interest in keeping it going as long as possible. No aspect of flood recovery seems urgent. Council has still not published property by property data from which to quantify the needs of landholders for future-proofing.

15 Future floods of the same rarity as 2022 will be higher than 2022 under climate change, because rainfalls are increasing. And, although ocean was not a significant driver for the 2022 floods, its influence will also raise flood levels over time. Sea Levels Rise of about a metre is due at the end of this century.

20 Some 2022 flood victims have recovered financially under their own steam but many residents of Byron Shire are still sitting in a shell of what was once their *forever home*, or in a Pod waiting for claims to be processed, or in other forms of accommodation sometimes a long distance away from the community of which they are part.

25 Eligibility criteria for the Resilient Homes Program should be simpler, with support to future proof going to any premises flooded above its approved floor level. For buildings built prior to the setting of floor levels under government planning rules, a retrospective approach could be used. If the floor was at or above whatever level would have applied under the most recently adopted Floodplain Plan, it would be deemed eligible.

30 Flood mapping is another problem here, as well as the nature of Byron Shire's floodplains. In many places, the floodplains mapped in our various Floodplain Studies are smaller than the 2022 flood areas. For example, houses that flooded in 2022 in Jubilee Avenue Mullumbimby and need raising are not eligible for state funding because out-of-date Floodplain Plan maps show them as not flooding.

Staff comments

by Shannon Burt, Director, Sustainable Environment and Economy:

35 The Resilient Homes Fund (RHF) has been designed by the Northern Rivers Reconstruction Corporation (NRRC) to support homeowners in their recovery and to build resilience in the Northern Rivers community.

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.3

The Fund will provide \$800 million in flood recovery support to build housing resilience in the Northern Rivers LGAs.

The Fund will be delivered through two complementary programs:

- 5 1. the \$700 million Resilient Homes Program (RHP), co-funded by the Australian and NSW governments under the Disaster Recovery Funding Arrangements, and
2. the \$100 million Resilient Land Program (RLP), funded by the NSW Government.

The RHP is centred around helping homeowners and focuses on improving the flood resilience of residential properties in the Northern Rivers LGAs that were damaged by the Flood Event.

- 10 The motion talks specifically to the RHP program.

As published on the NRRC webpage [Resilient Homes Program – Program Guideline \(nsw.gov.au\)](https://www.nrrc.nsw.gov.au/Resilient-Homes-Program-Program-Guideline) has the following key dates for the program:

Key Dates

It is anticipated the RHP will be funded and delivered in phases over approximately five years.

Item	Time Period
Homeowner outreach commences - <ul style="list-style-type: none">• starting with highest flood-risk properties	From November 2022
Home Valuation / Home Assessment process commences - <ul style="list-style-type: none">• starting with highest flood-risk properties	From December 2022
Guidelines published online	January/February 2023
Continuing roll-out of Resilient Homes Program – <ul style="list-style-type: none">• homeowner outreach continues• arrangements made with homeowners for Home Valuation / Home Assessment process continues	2023 - 2027

- 15 Letters can be sent in accordance with the motion, without the support of staff for point (a) which seeks to have part of the RHP responsibility handed back to Council.

The RHP is the responsibility of the NRRC to administer and deliver not Council.

As such, any augmentation / acceleration of the RFP should be done by the NRRC not Council.

- 20 (a) ***to accelerate this financial assistance by, for example, engaging more assessors and/or by having that role handed to Councils, who know well their terrain and their community;***

Financial/Resource/Legal Implications:

Staff do not support part (a) of the motion, the RHP is the responsibility of the NRRC to administer and deliver not Council.

5 As such, any augmentation / acceleration of the RHP should be done by the NRRC not Council.

Is the proposal consistent with any Delivery Program tasks?

CSP Objective	CSP Strategy	DP Action
4: Ethical Growth We manage growth and change responsibly	4.5: Support a resilient community that can adapt and respond to change	4.5.2: Recovery - Support disaster recovery following the 2022 flood events

Notice of Motion No. 9.4 Funding for road repairs in and near Prince Street

File No: I2023/914

5

I move that Council:

1. **Approaches Resilience NSW or whichever state entity is responsible for damage due to construction over the last year or so in Prince Street Mullumbimby, to fund repairs to Prince and Poinciana Streets, to Morrison Avenue and to any related infrastructure such as stormwater systems and;**
2. **Requests that funding for as follows:**
 - a) **immediate patching;**
 - b) **on-going patching until part 3 as follows**
 - 15 c) **once heavy construction vehicles are no longer using these roads, reconstruction of the roads and related infrastructure to better than original condition.**

20 **Signed: Cr Duncan Dey**

Councillor's supporting information:

Prince and Poinciana Streets and Morrison Avenue on the floodplain of Mullumbimby have taken a beating over the last year. A heavy contributor to the deterioration has been the construction of a pod village in Prince Street.

25 The accompanying photo shows one of the many places on these streets where vehicles have to cross to the wrong side of the road to avoid churned up pieces of former roadway. This is dangerous.

Messaging to residents by Resilience NSW has stated that NSW Public Works are in discussion with Council about reconstruction of these three roads.

30 On 31 May 2023 Council emailed residents saying: *At this stage the roads, Prince, Poinciana and Morrison are not on a program for reconstruction. The roads have been inspected and are on a list for patching of the potholes but no date can be given as the crew are attending other sections of road in the shire that are in a worse state.*

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.4

Responsible development is that where impacts of the activity are made good by the developer. The fact that a developer is a government entity is no reason not to expect decent behaviour.

5 This motion suggests a way forward, rather than the current impasse of buck passing. It asks Council to take the lead in representing our community, in this case one that was deeply impacted by flooding and then by changes on the floodplain that had just flooded them and then by a year of construction including hundreds of heavy vehicles daily for many months.

10 That same community has been branded as anti-pods. That is not the case. They are fully sympathetic to the plight of those now able to occupy the pods. Many residents of this area are living in post-flood conditions that are still not resolved, sixteen months after the flood.



Staff comments

by Samuel Frumpui, Manager Works, Infrastructure Services:

Council Staff have been in discussions with NSW Public Works Advisory (PWA) regarding financial contributions to undertake road repairs on Prince Street.

- 5 A high-level estimate to undertake repairs to improve the pavement on Prince Street adjacent the access points to the affordable housing only (approx. 1,000m²) is approximately \$250k. These areas are in poor condition and have been impacted by truck movements serving the affordable housing within the rail corridor.

- 10 Council Officers are currently in discussions with PWA regarding possible opportunities for financial contributions to undertake road repairs on Poinciana Street and Morrison Avenue.

- 15 It is anticipated that if road repairs to improve the current road design be carried out on Poinciana Street, Morrison Avenue and Prince Street then the value of the works would be more than \$750k subject to the preferred pavement design. Geotechnical testing is recommended to help inform any pavement improvements; this represents an additional cost to Council. There may be options to have a reduced design, therefore represent a lower construction cost however this would likely negatively impact the life of the pavement.

Financial/Resource/Legal Implications:

- 20 The NSW government Election Commitment Grant (ECG) may be an option available to help fund pavement works adjacent the affordable housing access points. The remaining ECG funding is unlikely to be sufficient to fund full road repairs to Prince Street, Poinciana Street and Morrison Avenue without significant contribution from Public Works.

Council would be required to identify other funding sources if these works were to be carried out should Public Works be unable to provide a financial contribution.

- 25 Staff can provide a further report on funding options.

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.4

Is the proposal consistent with any Delivery Program tasks?

No.

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	5.1: Provide a safe, reliable, and accessible transport network	5.1.2: Road renewal and upgrades - Deliver road renewal and upgrade capital works program	5.1.2.18	Fixing Local Roads Renewals - Mullumbimby

Notice of Motion No. 9.5 Seek committee advice on Coastal Hazard Assessment

File No: I2023/915

5

I move that Council seeks advice from the Coast & ICOLL Advisory Committee, on the soon-to-be-released Coastal Hazard Assessment Study prior to adopting the Study.

10

Signed: Cr Duncan Dey

Councillor's supporting information:

THE ADVISORY COMMITTEE

- 15 As stated in the Constitution of Council's Coast & ICOLL Advisory Committee, the purpose of the Committee is to:
- a) advise Council in the development of Coastal Management Programs for the Shire's coast, estuary and ICOLLs.
 - b) advise on projects, plans and strategies related to the coast, estuary and ICOLLs.
 - 20 c) offer a platform and conduit for communication between stakeholders and community members and agencies.

The Committee is made up of Council staff, Councillors, community members and state agency representatives. It meets quarterly. The next scheduled meeting date is **15 August 2023**.

25 COASTAL PLANNING

Council is collaborating with the state government to create management documents for the Shire's coast, including our beaches, dunes, headlands, estuaries, and various human interventions into them. This is happening under the Coastal Management Act of 2016 which replaced earlier legislation that aimed to create Coastal Zone Management Plans. 30 We will now get Coastal Management Programs (CMPs).

“Coastal management programs are prepared by local councils in accordance with the coastal management manual and in consultation with their communities and relevant public authorities”

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.5

According to: <https://www.environment.nsw.gov.au/topics/water/coasts/coastal-management/programs> The CMP process has five stages. Stage 2 is to determine risks, vulnerabilities and opportunities. The *Coastal Hazard Assessment Study* is a major part of Stage 2.

- 5 There are seven coastal hazards defined under the *NSW Coastal Management Framework* including:
1. Beach erosion,
 2. Shoreline recession,
 3. Coastal lake or watercourse entrance instability,
 - 10 4. Coastal inundation,
 5. Coastal cliff or slope instability,
 6. Tidal inundation,
 7. Erosion and inundation of foreshores caused by tidal waters and the action of waves, including the interaction of those waters with catchment floodwaters.

15

COUNCILLOR PREVIEW 1 JUNE

At our Councillor Workshop on 1 June 2023, Councillors were briefed about the Study. It is the third of its kind. The first by the state's Public Works Department in 1978 is now considered rudimentary. Little, if any, monitoring preceded the Study but it did recognise historical storms and that century's shoreline recession. It was derived at a time when the Byron community had experienced huge storm events in the immediately preceding decades.

25 In the study of natural events, people remembering events is reliable for the previous 50 years or so. Now in 2023, long-term residents could be deemed to have witnessed events back to about 1970. Earlier events are only captured in photos or by similar recorded means, including the 1978 Study.

30 The second Coastal Hazard Assessment was presented to Council in 2013. I was on the Council that adopted that Study.

This third Assessment is near completion and is derived using a new **probabilistic** approach rather than the former **deterministic** approach. The same change occurred in flood hydrology decades ago. There are two reasons for the change: computer power and more intricate climatic records.

35

The current Assessment relies heavily on oceanographic and other data collected from 1986 onwards. It includes Wave Rider data recorded in 60 to 80m depth of ocean from 1976 onwards.

40

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.5

PLANNING HISTORY

5 To date, the Shire's planning has focussed mainly on the open coast and on 'erosion', due to the high risk of this hazard. Since the 1950s, there have been some twenty tropical cyclones and east coast lows that have had a significant impact on our coastline.

10 In recent decades there have been four attempts to create Management Plans for our coast. None achieved the Minister's assent. Many were derailed by lobbyists with land that the Plans said was so close to the coast that its development should be constrained. Limiting development in hazardous areas makes sense when one considers (i) that rescuers put their own lives at risk during severe weather to save others and are mostly volunteers, and (ii) that works undertaken outside of such weather events and aimed at mechanical 'protection' are expensive for the public purse, whether paid for directly or in terms of loss of public amenity (eg unattractive beaches).

15 Hard works to 'defend' human interventions into coastal hazard areas are futile, as well as costly. Sea Level Rise means that works designed for this century will not survive next century, and so on. Once the pathway of committing to hard protection works is entered, it becomes difficult at each subsequent weather event to call a halt and take the only sustainable pathway - Planned Retreat.

20 Society has already expressed its anguish at lack of direction on this, as proven by the failure of successive Coastal Zone Management Plans over the decades. When coastal habitation was limited to tents and shacks, there was little pain when nature said 'no'. Expensive buildings in the wrong place change that equation, however.

CURRENT ACTIVITY

There has always been contention about CZMP's. The new CMP will not likely be different. Open and transparent processes towards the Plan are the only pathway that will not "come a cropper".

30 Councillors were told on 1 June 2023 that Coastal Hazard Assessment Study will first go public in an Agenda to Council meeting in September, at which Councillors will be asked to adopt it. After adoption, it will be put up on Council's website and stakeholders will be consulted on its outcomes.

35 The idea that Councillors can determine the suitability of the Coastal Hazard Assessment Study 2023 without canvassing the views of our community flies in the face of transparency. The community of Byron Shire is deeply versed in 'coast'. I recommend a different approach, one where we listen to the views of our community (as diverse as those views might be).

Staff comments

by **Chloe Dowsett, Coast and Biodiversity Coordinator, Sustainable Environment and Economy**

5 There are several statements and comments in this Notice of Motion regarding the study, content, data, and methodology which are not entirely accurate. The staff comments below aim to offer guidance to the Councillors regarding the Study and the designated process for CMP preparation, rather than directly addressing the inaccuracies presented.

The CHA Study

10 The Byron Shire Coastal Hazard Assessment Study (CHA Study) by Bluecoast Consulting Engineers (June,2023) is a technical study which supports the preparation of Coastal Management Programs (CMPs) by Council for the Byron Shire coastline in accordance with the NSW Coastal Management Framework. It has been prepared in line with the *Coastal Management Act 2016* (CM Act), the NSW Coastal Management Manual (CM Manual) and associated Toolkit (i.e., the NSW Coastal Management Framework). It fulfills
15 the requirements set out in Council's study brief, the Funding Grant Terms and accords with Bluecoast's proposal document.

20 The study adopts a data driven approach to inform the detailed technical investigation which is based on sand movement to inform the Shire-wide coastal hazard assessment and understand the highly dynamic coastal environment. The study aims to quantify the coastal processes operating on the Byron Shire coastline and the nature and extent of exposure to coastal hazards and threats to public and private assets (both natural and built). The CHA Study is the third major investigation into coastal processes, sand movements and hazards in the Byron region.

25 The CHA Study report presents the methodology and outcomes for the definition of coastal hazards affecting the Byron Shire coastline including Shire-wide detailed probabilistic erosion and recession assessment determined by sediment transport assessment using various survey sources, local knowledge, previous reports and studies, analysis of photogrammetry data and modelling.

The technical study forms a major part of Stage 2 of the CMP preparation.

30 The outcomes of this report will be used to undertake a detailed risk assessment of hazards; to identify and evaluate management options and support decision-making in Stages 3 and 4 of CMP preparation.

Councillors were provided a workshop on the CHA Study on Thursday 1 June 2023.

35 The Coast and ICOLL Advisory Committee have been updated at quarterly meetings on the delivery of the study.

Public Comment

It is not statutorily required for 'consultation or public exhibition' during the staged process of CMP development. There are mandated requirements for consultation on draft CMPs in

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.5

accordance with the Act and Manual Guidelines. The CHA Study is a consultant's technical investigation and report, and it is not the function of the community nor members of Council's Coast and ICOLL Advisory Committee to try to influence the content of the study or change the report.

- 5 The draft report is presently being technically peer reviewed by a coastal expert and the Department of Planning and Environment. Review comments on the draft will be considered by Bluecoast, with the final report expected in July 2023.

- 10 The final report is expected to be reported to Council for adoption on the 14 September 2023. Once adopted, key stakeholder consultation will be undertaken, and the report will be provided on Council's website for public information.

Financial/Resource/Legal Implications:

The Study is grant funded by the Department of Planning and Environment through the Coast and Estuary Grants Program with 70% of the costs of the study covered by the Department (2:1 funding ratio).

- 15 Legal advice has been sought on the preparation of CMPs which has informed staff comments above.

Is the proposal consistent with any Delivery Program tasks?

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
3: Nurtured Environment We nurture and enhance the natural environment	3.3: Protect the health of our coastline, estuaries, waterways, and catchments	3.3.1: Coastal Management Program planning and implementation - Undertake Coastal Management Program planning and implementation	3.3.1.1	Identify coastal hazard risks to the Byron Shire coastline

STAFF REPORTS - GENERAL MANAGER

Report No. 13.1 Classification of newly acquired Council lot

Directorate: General Manager

5 **Report Author:** Matt Meir, Solicitor

File No: I2023/784

Summary:

This report asks Council to classify recently acquired land as operational land.

10 By Council Resolution **19-153**, Council granted development consent to an application for subdivision to create 32 lots as part of Tallowood Ridge (stage 7) at 77 Tuckerroo Avenue, Mullumbimby.

Condition 39 of Council's development consent required the transfer of Lot 194 in DP 1281667 to Council for utilities purposes.

15

RECOMMENDATION:

20 **That Council classifies Lot 194 in DP 1281667 as operational land under the *Local Government Act 1993*.**

Report

By Council Resolution **19-153**, Council granted development consent to an application for subdivision to create 32 lots as part of Tallwood Ridge (stage 7) at 77 Tuckerroo Avenue, Mullumbimby.

- 5 Condition 39 of Council's development consent required the transfer of lot 194 in DP 1281667 to Council:

39. Plan of Subdivision

The final plan of subdivision must be in accordance with the approved plan/s. A Deposited Plan Administration Sheet (original plus one (1) copy), two (2) copies of the plan of subdivision and any necessary section 88B instrument (original plus one (1) copy) are to be submitted with the application for a subdivision certificate.

An additional copy of the final plan of subdivision is to be submitted showing the location of all buildings and/or other permanent improvements including any fences, internal access driveways/roads, and where relevant effluent disposal areas and the 1 in 100 year flood and flood planning level extents on land within or adjacent to a flood planning area. Where the building/s or improvements are close to boundaries, offset distances are to be included on the additional copy of the plan. This plan must be endorsed by a Registered Surveyor. Any encroachments affecting new boundaries or the road reserve must be removed or relocated wholly within the allotment. The new boundaries must not cause any existing building/s to contravene the Building Code of Australia.

Page 12 of 21

Final plan of subdivision to indicate lots 193, 194 and 195 to be transferred to Council.

Lots 193 and 195 were transferred to Council by the registration of the subdivision plan because the lots were dedicated as drainage reserve and public reserve, respectively.

- 10 However, lot 194 was not dedicated to Council via the subdivision plan, and so needed to be transferred to Council.

This transfer was completed on 19 May 2023. The land was transferred for \$0.

- 15 Under the *Local Government Act 1993* (LG Act), land acquired by Council must be classified as operational land by Resolution within three months of the land being acquired.

The land is required for utilities purposes and should therefore be classified as operational land.

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	5.5: 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	5.5.1.3	Mullumbimby - Tuckeroo Ave Watermain Construction

Recent Resolutions

- **19-153** – development consent for 10.2018.305.1 required for land to be transferred.

5 Legal/Statutory/Policy Considerations

LG Act sections 25 and 26 require all public land to be classified as either operational or community.

LG Act section 31 provides for land to be classified as either operational or community land within three months of acquisition.

10 Financial Considerations

The land was acquired for \$0.

**Report No. 13.2 Lot 12 Bayshore Drive - Updated Valuation
as per Resolution 21-188**

Directorate: General Manager

5 **Report Author:** Matt Meir, Solicitor
 Christopher Soulsby, Development Planning Officer S94 & S64

File No: I2023/201

Summary:

10 This report asks Council to resolve a new proposed per square metre sale price for part lot 12 Bayshore Drive, Byron Drive, based on fresh land valuations.

RECOMMENDATION:

15 **That Council sets a price of \$_____per square metre (ex-GST) for the proposed sale of that part of lot 12 Bayshore Drive, Byron Bay, marked 'lot 1' in the subdivision plan to this report, based on the attached confidential land valuations (E2023/41766 and E2023/41768).**

Attachments:

- 20 1 Three Lot Subdivision (10.2022.107.1) DA Stamped Plans, E2022/124758 
- 2 Three Lot Subdivision (10.2022.107.1) Approval Notice of Determination, E2022/124753 
- 3 Lot 12 Masterplan Creative Capital, E2021/59395 
- 4 Land Acquisition and Disposal Policy, E2021/115541 
- 25 5 Confidential - Herron Todd White Valuation - Part of Lot 12 Bayshore Drive - 7 March 2023, E2023/41766
- 6 Confidential - Valuers Australia - Valuation - Part of Lot 12 Bayshore Drive - 17 March 2023, E2023/41768
- 7 Confidential - Lot 12 Valuations Summary March 2023, E2023/41773

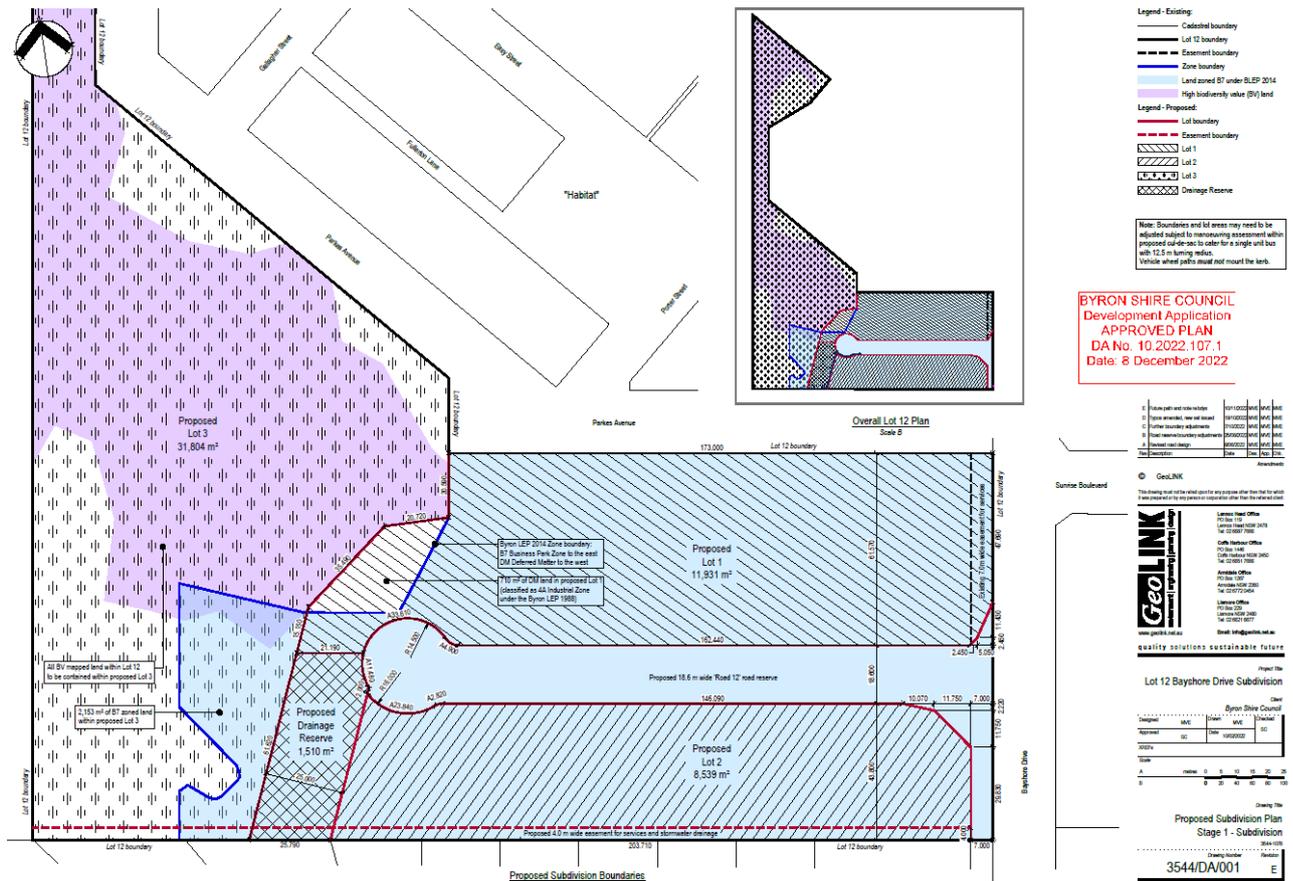
30

Report

Context

By a series of Council resolutions (see below for details), Council has been negotiating with Creative Capital regarding the sale of the Council land known as part of lot 12 Bayshore Drive, Byron Bay.

Figure below shows the Proposed Lot 1 on Bayshore Drive as per development application approved plan (dated 8 December 2022).



BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

13.2

Sale negotiations are subject to the elected Council's endorsement of the land's proposed sale price. This is due to Council resolution **21-188** ([linked here](#)) part 3:

Resolved that Council:

1. Endorses the revised masterplan prepared by Creative Capital (Attachment 1) alongside the Lot 12 Site Strategy and Urban Design Protocol as the basis for the Lot 12 Bayshore Drive future planning proposal and development applications.
2. Authorises staff to prepare and lodge a development application for a three (3) lot subdivision over Lot 12 Bayshore Drive, Byron Bay, as per the Lot 12 subdivision concept plan (refer Attachment 3 Concept Plan).
3. Authorises the sale of that part of Lot 12 in DP 1189646, being the land marked 'Lot 1' (Land) in the Concept Plan (refer Attachment 3) to Creative Capital, subject to Council endorsing the valuation determined by the process in part 4a) to determine the sale price, prior to commencing the process set out in part 4b) and upon reaching an agreement on sale price and terms with Creative Capital to reaching agreement on sale price and terms.
4. For the purposes of resolution part 3, authorises the General Manager to:
 - (a) obtain an acceptable valuation (consistent with Council's land acquisition and disposal policy) for the Land to determine its sale price;
 - (b) reach agreement with Creative Capital on price and terms for the sale;
 - (c) execute any document on Council's behalf necessary to complete the sale; and
 - (d) do anything else reasonably necessary to complete the sale.
5. Agrees to revenue derived from the above sale being quarantined to the Council reserve titled 'Property Development Reserve – Lot 12 Bayshore Drive'.
6. Notes that staff will prepare and forward a Lot 12 planning proposal as per the Masterplan to the Department of Planning Industry and Environment (DPIE) for the purpose of obtaining a gateway determination from DPIE, and that Council then exhibit the Planning Proposal as required by DPIE.
(Coorey/Lyon)

5 Following resolution **21-188**, Council resolution **21-447** provided a price range for the proposed sale between \$1,811 and \$1,860 per square metre.

The resolved price range was based on two land valuations (Council's land acquisition policy (attached to this report) requires two valuations for high-value land). Both valuations were issued in September 2021.

10 Considerable time has passed since the two 2021 valuations and as such it is recommended that they should no longer inform the proposed land sale price. The delay in negotiations is due to a combination of reasons: Council securing TAFE NSW at the Bayshore Drive site in the second half of 2021, the 2022 floods, Council obtaining development consent to create the sale lot, and Council and Creative Capital working cooperatively during negotiations.

15 As a result, staff have obtained two updated land valuations. Both valuations are confidentially attached to this report.

BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

13.2

Consistent with resolution **21-188**, staff recommend the elected Council provide an updated price range for the proposed sale, based on the latest valuations.

Valuations

5 The two valuers who undertook the 2021 valuations were engaged to provide the new valuations: Herron Todd White Todd (HTW; see confidential attachment 5) and Valuers Australia (VA; see confidential attachment 6).

A summary of the valuations is provided at Attachment 7.

The valuations both provide comment on the market for land in the Byron Arts and Industry Estate (see HTW pages 11-12 and VA pages 36-37):

10 *“Subject to there being no changes to current market conditions, the subject site will remain highly sought after due to its situation within an established precinct (being located opposite the West Byron Shopping Fair and within close proximity to the recently developed ‘Habitat’ and Elements of Byron Resort and Spa’.”* (HTW, page 12)

15 *“The subject property essentially comprises the last remaining sizable vacant development parcel, (available to the public), in the extremely sought after Byron Arts and Industry Estate. It is expected that if sold on the open market there would be demand for the site from a select pool of qualified buyers.”* (VA, page 37)

Next steps

20 If the revised price range is endorsed, staff will proceed with the project as per Resolution **21-188**.

25 At the time of writing, negotiations between Council and Creative Capital are progressing well. Council’s late 2022 receipt of development consent to subdivide the site has created more certainty for the parties. For instance, the consent conditions require Council to complete certain infrastructure works before further development can occur on the site.

Negotiations remain subject to the negotiation protocol the parties entered in June 2021. As part of this protocol, Council’s probity advisor OCM continues to oversee the sale negotiations.

30 Subject to the resolution stemming from this report, the parties are hopeful the contract for the proposed sale can be exchanged in the coming weeks.

Each party will then have various conditions to meet prior to the sale completing. Completion of the sale is not expected until mid to late 2025.

35 Given the estimated time between hoped-for exchange and completion, the proposed contract for sale includes a clause to adjust the final purchase price by the increase in the consumer price index over the relevant period.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.4: Enrich lifelong learning and education and support services to help young people thrive	2.4.4: Vocational training - Support development of a vocational training precinct to provide high quality educational and vocational training in the Byron Shire	2.4.4.1	Progress Lot 12 Bayshore Drive Byron Bay future use
4: Ethical Growth We manage growth and change responsibly	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	4.1.3.4	Implement actions from the Byron Arts and Industry Estate Precinct Plan

Recent Resolutions

Number	Meeting Date	Primary Subject Matter
20-161	16 April 2020	Request to develop Lot 12 development options
20-285	18 June 2020	Adoption of Byron Arts and Industry Estate Precinct Plan and request to refine development options for Lot 12
20-304	26 June 2020	Request to prepare a Site Strategy and Urban Design Protocol for Lot 12
20-446	31 August 2020	Adoption of Lot 12 Site Strategy and Urban Design Protocol and endorsement to undertake EOI process
20-664	26 November 2020	EOI outcomes, TAFE lease and planning proposal
20-697	17 December 2020	Authority to enter an agreement for lease with TAFE NSW
21-188	13 May 2021	Update on resolution 20-664
21-447	28 October 2021	Lot 12 Bayshore Drive - Valuation as per Resolution 21-188

Legal/Statutory/Policy Considerations

5 The Independent Commission Against Corruption (ICAC) issued a publication in September 2007 (still current) titled Corruption risks in NSW development approval processes – position paper. Recommendation 14 in this publication makes reference to the sale of land by Council and states that Councils disposing of their own land should consider using a competitive process for the sale of valuable land notwithstanding the absence of a statutory requirement to do so.

Consistent with the ICAC publication, Council selected Creative Capital as the proposed purchaser after a public expression of interest regarding Lot 12's redevelopment.

10 Financial Considerations

15 Part 5 of Resolution **21-188** adopted by Council at the 13 May 2021 Planning Meeting outlines that any revenue derived from the sale of part of Lot 12 Bayshore Drive or the proposed Lot 1 as indicated in this report be quarantined to a newly created reserve titled 'Property Development Reserve – Lot 12 Bayshore Drive'. The valuation range identified in this report, should it be accepted by Council, will assist in determining a sale price for the proposed Lot 1 once the area is formally determined. Should the sale be finalised, part 5 of Resolution **21-188** will be implemented.

Consultation and Engagement

20 Community consultation and engagement will take place at multiple future stages in accordance with Council's Community Participation Plan.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

**Report No. 13.3 Amendment to the Code of Conduct for
Committee Members, Delegates of Council
and Council Advisors**

5

Directorate: Corporate and Community Services

Report Author: Mila Jones, Governance and Internal Audit Coordinator

File No: I2023/749

Summary:

10 While assessing the requirements and structure of the Audit, Risk and Improvement
Committee (ARIC) due to the recently updated OLG *Guidelines for Risk Management and
Internal Audit for Local Government in NSW*, the requirement for ARIC members to
complete annual pecuniary interest returns was also reviewed. This review has resulted in
15 a proposed change to Council's *Code of Conduct for Council Committee Members,
Delegates of Council and Council Advisers* (the Code) to include ARIC members as
designated persons for the purpose of completing annual pecuniary interest returns.

20 **RECOMMENDATION:**

1. **That the draft amended Code of Conduct for Council Committee Members,
Delegates of Council and Council Advisers (Attachment 1) be placed on public
exhibition for a period of 28 days to allow for submissions:**

2. **That:**

25 a) **should there be no submissions received, then the updated Code is
endorsed from the date after the close of the exhibition period; and,**

b) **should submissions be received, the Code be reported back to Council
noting the submissions and any amendments made as a result of the
feedback received.**

30 **Attachments:**

1 DRAFT Code of Conduct for Council Committee Members, Delegates of Council and Council
Advisers, E2023/48343 

35

Report

5 While assessing the requirements and structure of the ARIC due to the recently updated Office of Local Government *Guidelines for Risk Management and Internal Audit for local Government in NSW*, the requirement for ARIC members to complete annual pecuniary interest returns was also reviewed.

10 Byron Shire Council's advisory committee members (other than s355 Hall Committees and Boards of Management*), including ARIC members, are not delegates of Council as they don't exercise their functions under a delegation from the Council and are therefore not designated persons. Our Committees make recommendations to Council to resolve matters, and therefore (under the Code) are not required to complete an annual return.

*(*Byron Shire Council's s355 Hall Committees and Boards of Management do have functions delegated to them, as per their "Delegations of Authority" documents. Therefore, annual returns are requested from these members.)*

15 However, the Office of Local Government has provided advice (received via another Council) which clarifies how an ARIC member could become a designated person. The advice provides:

20 *Members of Audit Risk and Improvement Committees (ARICs) are subject to councils' adopted codes of conduct through the operation of section 440(2)(a) of the Local Government Act 1993 and clause 180(2)(a) of the Local Government (General) Regulation 2005. Section 440(2)(a) states that the regulations may provide that the provisions of the model code of conduct relating to the disclosure of pecuniary interests are also to apply to members of ARICs. Clause 180(2)(a) states that for the purposes of section 440(2) of the Act, the provisions of current iteration of the Model Code of Conduct for Local Councils in NSW prescribed under the Regulation relating to the disclosure of pecuniary interests are also to apply to members of ARICs.*

30 *However, ... while ARIC members are required to disclose and manage pecuniary conflicts of interest they have in matters they deal with at meetings of the ARIC under clauses 4.18, 4.28 and 4.29 of the Model Code of Conduct, they are not required to submit returns of interests. Because they are not delegates of council (ie they do not exercise their functions under a delegation from the council) they cannot be "designated persons" for the purposes of the Model Code of Conduct.*

35 *Having said that, **there is nothing to prevent councils from amending their adopted codes of conduct to deem ARIC members to be "designated persons" should they choose to do so. This can be done by simply adding a paragraph (c) to clause 4.8 to identify members of the ARIC as "designated persons" for the purposes of that clause.** This will place ARIC members under an obligation to complete returns of interests. Councils are able to do this under section 440(6) of the Act which allows them to adopt more onerous requirements in their adopted codes of conduct than are prescribed under the Model Code of Conduct.*

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.3

5 The review was reported to the Executive Team in April 2023, seeking endorsement of a recommendation to Council, on whether the independent members of Council's ARIC should be deemed as designated persons for the purpose of completing annual pecuniary interest returns. At the Executive Team meeting, it was determined that the ARIC members should, based on the OLG advice, be deemed designated persons.

The reasons for members being deemed as such could include members having:

- 10 - functional oversight of Council's internal audit function meaning they assist the governing body to identify resources necessary for the functioning of internal audit, and setting the annual and four year strategic work plans for the internal audit function (pg 54 of the OLG [Guidelines for Risk Management and Internal Audit for local Government in NSW](#))
- direct and having unrestricted access to the Council resources and information necessary to fulfil its responsibilities (pg 32 of the OLG Guidelines)

15 Staff now seek endorsement from Council to amend the Code, as shown at attachment 1 to this Report, specifically the inclusion of new clause 4.8(c) to declare our ARIC members as designated persons:

20 *(c) a person (other than a member of the senior staff of the council) who is a member of the Audit, Risk and Improvement Committee, whose members are designated persons because the functions of the committee, in their exercise, could give rise to a conflict between the member's duty as a member of the committee and the member's private interest.*

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	1.2: Engage and involve community in decision making	1.2.4: Advisory Committees - Coordinate advisory committees to inform decision making on their areas of expertise	1.2.4.1	Coordinate and support Advisory Committees to assist with effective Council decision making
			1.2.4.2	Coordinate the Audit Risk and Improvement Committee and internal audit program including reporting

Recent Resolutions

25 Nil for this Report

Legal/Statutory/Policy Considerations

[section 440\(2\)\(a\) of the Local Government Act 1993](#)

[clause 180\(2\)\(a\) of the Local Government \(General\) Regulation 2021](#)

[section 440\(6\) of the Local Government Act 1993](#)

5 Financial Considerations

Nil for this Report

Consultation and Engagement

10 Staff consulted with the Local Government Governance Network (which included advice from the Office of Local Government, provided by another Council). Councils, such as Shoalhaven City Council, Bega Valley Shire Council, Cumberland City Council and City of Ryde Council, all require their ARIC members to complete annual pecuniary interest returns.

**Report No. 13.4 Richmond Tweed Regional Library:
Feedback from Member Councils - Overview
for Proposed Sale of Vacant Land**

Directorate: Corporate and Community Services

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

File No: I2023/789

Summary:

10 The purpose of this Report is to seek a formal position from Council, to be provided to the Richmond Tweed Regional Library (RTRL) Committee, regarding the proposed sale of RTRL vacant land (Lot 2 DP 1061931, 1 Lancaster Drive Goonellabah) adjoining the Support Services building, which is surplus to RTRL requirements.

15 **RECOMMENDATION:**

That Council considers the information provided in this report and

Option 1: advises the RTRL Committee that Council supports the sale of the vacant land, Lot 2 DP 1061931, 1 Lancaster Drive Goonellabah.

OR

20 **Option 2: advises the RTRL Committee that Council does not support the sale of the vacant land, Lot 2 DP 1061931, 1 Lancaster Drive Goonellabah, and outlines Council's concerns to the RTRL Committee.**

Attachments:

25 1 Confidential - Confidential - Valuation Report: Richmond Tweed Regional Library Vacant Land 1 Lancaster Drive Goonellabah Lot 2 DP 1061931, E2023/51080

Report

Background

5 The Richmond Tweed Regional Library (RTRL) service was established in 1973 and consists of four Member Councils including Lismore City Council, Tweed Shire Council, Ballina Shire Council and Byron Shire Council.

A Deed of Agreement forms the basis of the governance structure for the RTRL service, for which Lismore City Council is appointed the Executive Council responsible for the delivery of library services on behalf of Member Councils, including the employment of RTRL staff and undertaking various corporate functions.

10 The RTRL operates 11 libraries throughout the region, including three in the Byron Shire at Byron Bay, Brunswick Heads and Mullumbimby. The RTRL governance model includes a Senior Leadership Group (SLG), comprising of Senior Managers from each of the Councils, and the Regional Library Manager. The SLG are responsible for strategic and financial planning, policy development and reporting. This group reports to the RTRL
15 Committee, made up of Councillor representatives from each member Council. Cr Pugh and Cr Swivel are the current Byron Shire Council representatives.

RTRL assets are collectively owned by Member Councils and include the head office building located in Goonellabah, an adjoining vacant block of land, all library books and resources, a mobile library, and plant and fleet associated with the library operations. The
20 Deed of Agreement specifies that the Executive Council is not to sell or otherwise dispose of, or exchange or surrender, or lease or encumber any RTRL Land and Building Assets without the Approval of the RTRL Committee.

As part of the budget process for 2021/22, in recognition of the significant impact of COVID-19 on all member Councils, a decision was made to reduce the costs of member
25 contributions through accessing available funds within the reserves.

Throughout 2021/22, the SLG sought opportunities to further reduce costs without impacting service delivery for our communities. This included reviewing potential commercial lease options for part of the Support Services office (located at 2 Centenary Drive, Goonellabah) and the sale of vacant land (located at 1 Lancaster Drive,
30 Goonellabah).

In pursuing these two options, a Valuation Report on the vacant land was undertaken in August 2022 and is attached at Confidential Attachment 1 (E2023/51080).

The proceeds from the sale could be applied, in part, to fund required asset maintenance to the Support Services building and include commercial rental options (as an ongoing
35 revenue option), both of which are not quantified. It also may, in part, offset Member Council Contributions to RTRL.

It should be noted that Lismore City Council has expressed strong reservations regarding the divestment of land by RTRL and would seek further discussions prior to any divestment.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.4

The RTRL Committee is requesting feedback from Member Councils on the proposed sale of vacant land (Lot 2 DP 1061931, 1 Lancaster Drive Goonellabah) adjoining the Support Services building, which is surplus to RTRL requirements.

5 After considering a report on the Draft 2023/24 Budget and Fees & Charges at its 15 March 2023 meeting, the Richmond Tweed Regional Library (RTRL) Committee resolved:

RTRL 27356/23 RESOLVED that :

1. *the draft 2023/24 Budget and Fees & Charges is endorsed and forwarded to Member Councils recommending adoption.*
- 10 2. *if a Member Council requires a reduction in its Member Council Contribution, the Executive Council will provide a report on options including a decrease in services/service levels in the Member Council local government area.*
- 15 3. **Noting Lismore City Council concerns, seek feedback from Member Councils on the proposed sale of the vacant land adjacent to the Support Services Building, which is surplus to library service requirements.**
4. *Staff provide a report on the impacts of the changing financial environment on budgeted library services and patrons.*

(Councillors Swivel/Colby) (BP23/146)

The feedback should provide support or otherwise to the proposed sale and raise any concerns.

20 Considerations may include, but are not limited to:

Financial Implications: immediate financial gains or losses, the value of the land, potential revenue generation, and associated costs (e.g., legal fees) need to be carefully evaluated.

25 Social and Community: Community engagement and consultation are crucial to understanding and addressing potential historical, cultural, or social significance of the land. Furthermore, divestment decisions can generate public debate, particularly when they involve public lands or assets, and consultation is crucial for transparency.

Future Development and Land Use: Potential future use of the land and its compatibility with existing community plans, infrastructure, and services need to be considered.

Options

30 The options available are to:

Advise the RTRL Committee that Council supports the sale of the vacant land, Lot 2 DP 1061931, 1 Lancaster Drive Goonellabah.

OR

35 Advise the RTRL Committee that Council does not support the sale of the vacant land, Lot 2 DP 1061931, 1 Lancaster Drive Goonellabah outlining reasons and concerns.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.4: Enrich lifelong learning and education and support services to help young people thrive	2.4.1: Libraries - Provide modern library services in partnership with Richmond Tweed Regional Library services	2.4.1.1	Actively participate in the Richmond Tweed Regional Library (RTRL) Senior Leadership Group and provide support to RTRL Committee

Recent Resolutions

- 5 • Res 21-132
- Res 23-039

Legal/Statutory/Policy Considerations

10 Once feedback has been received from all Member Councils, it will be reported to the RTRL Committee and if the sale is endorsed by the RTRL Committee, it will then be reported to Lismore City Council, as the Executive Council, for approval.

Financial Considerations

Council's contribution to the RTRL for 2022/2023 is \$1,558,900 as per the adopted budget.

15 The sale of the vacant land could provide a saving to Council's future member contributions to the RTRL, however it is important to understand the sale of an asset typically provides a one-off saving only. The savings would be applied to all RTRL Member Councils.

The sale of the vacant land may also result in funds becoming available to maintain the Support Services building, and potentially include a renovation of this building to support a commercial lease option to provide an on-going revenue stream for the RTRL.

20 These considerations have not yet been quantified.

Consultation and Engagement

The proposed sale of the vacant land has not been the subject of community consultation.

Report No. 13.5 Tender - Electricity Procurement

Directorate: Corporate and Community Services

Report Author: Heather Sills, Manager Corporate Services

File No: I2023/796

5 **Summary:**

Council's retail electricity supply contract is due for review and renewal. Council's electricity contracts expire on 31 December 2023. Council currently holds three retail electricity contracts – large sites, small sites and unmetered streetlighting.

10 The de-regulation of the wholesale electricity market is destabilising the industry and thereby increasing the cost to consumers of electricity. It would be prudent to enter into an electricity supply contract well before 01 January 2024.

Council proposes to engage a consultant to ascertain the appropriate tender specifications for Council and to undertake the tender to go to market in order to secure the best priced electricity supply to meet our ongoing and future needs.

15 Due to the volatile electricity pricing, and very short timeframe offered by suppliers to customers to enter contracts, this report seeks a delegation from Council to the General Manager to accept the tender submission(s) that appear(s) to be the most advantageous, and to enter into the proposed contract on behalf of Council.

20

RECOMMENDATION:

25 **That Council endorses the procurement strategy for the retail electricity supply contract outlined in this report, and delegate authority to the General Manager to accept the tender(s) and enter into the proposed contract on behalf of Council, as provided for under Section 377 of the *Local Government Act 1993*.**

Report

The current electricity supply contract expires 31 December 2023.

5 Council currently holds three retail electricity contracts – large sites, small sites and unmetered streetlighting. Council has a number of requirements that any electricity retailer will need to be able to fulfil if they want to secure Council’s contract. Most importantly, the retailer will need to fulfil Council’s existing business requirements, including:

- Provide continuity of electricity supply for essential community services
- Support Council’s continued use of Azility program for monitoring and reporting
- 10 • Support Council in moving towards a low carbon/zero emissions future, including the ability for Council to purchase Green Power or renewable energy as well as consider local electricity trading opportunities
- Provide a minimal, or no, penalty for decreased electricity use over the term of the contract.

15 It is proposed that the procurement will be carried out by a third party with the required expertise in both the electricity market and procurement. Outsourcing the procurement to a third party will significantly decrease the probity risks.

The role of the electricity procurement consultant will be to lead and coordinate the procurement process on behalf of Council.

Acceptance of tenders

20 Due to the volatility of the electricity market, tender validity periods are generally very short. The tender validity period refers to the time within which a tender must be accepted after tenders close. Once the tender validity period expires, the offer lapses.

25 Electricity tenders typically have a tender validity period of only a few days (often only 72 hours). This means that it is not feasible for the elected Council to consider the tender submissions received at a Council meeting. It is recommended that Council delegate the acceptance of tenders, and the execution of the contract(s), to the General Manager in accordance with Section 377 of the *Local Government Act 1993*.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.3: Ethical and efficient management of resources	1.3.4: Procurement - Ensure Council's procurement framework is robust, efficient, and effective	1.3.4.1	Investigate and implement initiatives to build internal capacity in effective procurement and contract management

Legal/Statutory/Policy Considerations

5 The *Local Government Act 1993* and *Local Government (General) Regulations 2021* define the options available to Council. Relevant parts are provided below.

Local Government Act 1993:

[s55 Requirements for Tendering](#)

[s377 General Power of the council to delegate](#)

10 *Local Government (General) Regulations 2021:*

[Regs 177 and 178 Determination of a successful tenderer](#)

Financial Considerations

A budget allocation of \$30,000 has been included in the draft 2023/24 budget.

Consultation and Engagement

Not applicable.

15

Report No. 13.6 Public Exhibition of draft Arts and Culture Action Plan 2023-2026

Directorate: Corporate and Community Services

Report Author: Melitta Firth, Arts & Culture Officer

5 **File No:** I2023/892

Summary:

Council's Arts and Culture Action Plan articulates key arts priorities to be delivered over the next three years, in line with our Operational Plan and Delivery Program.

10 The Plan will also be used to attract funding and resources and demonstrate Council's commitment to a coordinated, whole-of-organisational approach to arts and cultural development. It has been developed following extensive consultation with arts professionals and creatives living and working in the Shire.

15 This report recommends placing the draft Arts and Culture Action Plan 2023-2026, subject to any amendments, on public exhibition for a minimum of 28 days.

RECOMMENDATION:

That:

- 20 1. **The Draft Arts and Culture Action Plan 2023-2026 (Attachment 1 #E2023/57998) be placed on public exhibition for a minimum of 28 days.**
2. a) **Should there be no submissions, the Draft Arts and Culture Action Plan 2023-2026 is endorsed from the date after the close of the exhibition period and;**
- 25 b) **Should submissions be received, the Draft Arts and Culture Action Plan 2023-2026 be reported back to Council noting the submissions and any amendments made as a result of the feedback received.**

Attachments:

- 30 1 Draft Arts and Culture Action Plan 2023-2026, E2023/57998 

Report

Background

5 In 2020 Byron Shire Council conducted significant community consultation to develop an Arts and Cultural Policy (E2020/69370). Detailed community feedback and comment was received. Included in the feedback was the desire for a more specific action-focused document or strategy, as well as the request for an Arts and Culture Officer role in Council to provide arts and cultural expertise.

10 Council resolved (Res **18-256**) for a report to be presented outlining the process and associated costs to develop an Arts and Cultural Strategy. The report estimated the cost to develop such a strategy at \$60,000 – \$100,000 in 2018 (I2018/1066).

Following this, Councillors voted to develop an Arts and Cultural Strategy (Res **21-542**).

A draft Arts and Culture Action Plan has been prepared internally. The Plan is presented as an action plan, rather than a strategy, to ensure Council remains action-oriented but also responsive and flexible.

15 Arts and Culture Action Plan

The purpose of the Arts and Culture Action Plan is to:

1. Prioritise our actions and investment in arts and cultural activity over the next three years.
- 20 2. Demonstrate our commitment to a coordinated, whole-of-organisational approach to arts and cultural development.
3. Attract funding and increased resources to the arts.
4. Highlight the diverse range of key stakeholders that contribute to supporting the creative life of the community.
5. Balance community aspirations and Council's current resourcing and capacity.

25 The Arts and Culture Action Plan is presented in several parts:

Our Context. Recognising the impressive scope and distinctive nature of arts and cultural activities already available, and the enormous contribution made by artists and creatives living and working across the Shire.

30 **Our Role.** We are at times an enabler, commissioner, custodian, regulator, collaborator, or advocate.

Vision and Priorities. Our vision is to be an artistic and creative capital of Australia, home to world class creativity and a sustainable and thriving arts community. Our priorities focus on:

- 5
- Inclusive creative experiences for the whole community,
 - Fostering a resilience creative sector committed to climate consciousness and ecological sustainability,
 - Nurturing, amplifying, and supporting our artistic and creative industries, makers, artists and communities and
 - Acknowledging and celebrating Aboriginal voices, stories, communities, cultural expression, and creativity.

10 **Actions.** The activities in the Plan are organised in four broad program areas that reflect Council's arts and cultural touchpoints, organisational structure, and Community Strategic Plan. These program areas are:

- Arts and Cultural Infrastructure
- Public Art and Creative Activation of the Public Domain
- Enabling Arts and Cultural Activity
- Supporting Festivals Events and Screen Industry Activity

15 Actions in the plan are categorised under deliver, improve, and grow.

- 20
- Deliver: indicates activities that we already do to support the arts and creative industries
 - Improve: activities that will require more time and allocation of resources
 - Grow: acknowledges that some activities will take time to deliver, these are larger items that we want to see happen in our community with significant external resourcing required

Reporting. The actions and achievements of the Plan will be monitored through the Operational Plan and Annual Report each year.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
2: Inclusive Community We have an inclusive and active community where diversity is embraced, and everyone is valued	2.1: Foster opportunities to express, celebrate and participate in arts and cultural activity	2.1.4: Artistic and creative industries - Build, support, and advocate for the artistic and creative industries of the Shire to inspire a thriving and sustainable arts community	2.1.4.2	Develop Arts and Culture Action Plan
2: Inclusive Community We have an inclusive and active community where diversity is embraced, and everyone is valued	2.1: Foster opportunities to express, celebrate and participate in arts and cultural activity	2.1.4: Artistic and creative industries - Build, support, and advocate for the artistic and creative industries of the Shire to inspire a thriving and sustainable arts community	2.1.4.3	Provide information and advice to internal and external stakeholders to support arts and cultural development and creative recovery

Recent Resolutions

5 Res 21-542 Notice of Motion No. 9.2: Drafting a Strategic Plan for Arts and Culture

Resolved:

1. That a briefing be provided to Councillors in March 2022, outlining progress thus far on development of a Strategic Plan for the Arts and Culture. This progress report to consider:
 - 10 a) Community and stake-holders engagement to date
 - b) Community needs and wants
 - c) What have we got, what's working for us, what's not?
 - d) Where do we want to take the arts and culture in this Shire (Vision)
 - e) Starting from what we've got, how might we reach our goals, over time.
- 15 2. That the Strategic Plan for the Arts and Culture be delivered by October 2022. (Hackett/Spooner)

Legal/Statutory/Policy Considerations

The requirements for Integrated Planning and Reporting are governed by [Sections 402-406](#) of the Local Government Act 1993.

Relevant policies include:

- 5 • Arts and Culture Policy (2020)
- Public Art Guidelines (2019)
- Public Art Policy (2018)
- Public Art Strategy (2018)

Financial Considerations

- 10 The proposed actions in the draft Arts and Culture Action Plan will be delivered within the resourcing levels included in the operational and capital works budgets each financial year, subject to Council approval.

Actions included in the Plan are organised around three areas: deliver, improve, and grow.

- 15 Actions that require additional funding and resources to be progressed are classified as either improve or grow.

Consultation and Engagement

The Arts and Culture Action Plan has been informed by consultation and engagement with key stakeholders over the last five years, including:

- 20 • Community consultation and feedback received during the development of the Arts and Culture Policy in 2019 and 2020.
- Citizen's Lottery - comprised of 400 people who nominated to provide feedback and opinion on Council matters
- Consultation with Councillors at the June 2022 Strategic Workshop.
- 25 • Community consultation at the Arts and Culture Forum in November 2022. 116 industry professionals and creatives were in attendance.
- Arts and Creative Industries Advisory Committee Members and Public Art Panel Members.
- Staff consultation and collaboration across all Directorates.

- 30 The document will also be presented at the June 2023 Arts and Creative Industries Committee Meeting for discussion.

Prior to the adoption the Arts and Culture Action Plan, Council must consider any submissions received during the exhibition period.

Report No. 13.7 Growing Regions Program Round 1 - grant application

Directorate: Corporate and Community Services

Report Author: Donna Johnston, Grants Coordinator

5 **File No:** I2023/794

Summary:

The Australian Government's Growing Regions Program Round 1 (expression of interest) is opening on 5 July 2023. The report considers two potential project applications.

10

RECOMMENDATION:

That Council endorses the following applications for Growing Regions Program Round 1:

- 15
1. **Byron Bioenergy Facility**
 2. **Sandhills Wetlands Recreation Precinct – Stage 2**

Report

Information/Background:

Program **Growing Regions Program Round 1 - EOI**

5	Funding Body	Department of Infrastructure, Transport, Regional Development, Communications and the Arts
	Range:	\$500,000 and \$15 million (minimum \$1 million for local government)
	Pool:	\$300 million
	Open:	5 July 2023 – EOI Full application open 1 November 2023
10	Close:	1 August 2023 – EOI Full Application closes 12 December 2023
	Outcome:	September onwards – EOI Full application – not stated
	Completion by:	30 June 2026
15	Competitive:	Yes
	Contribution:	Yes – minimum 50%
	Web:	Growing Regions Program Department of Infrastructure, Transport, Regional Development, Communications and the Arts

Program Overview

20 The Growing Regions Program provides Grants of between \$500,000 and \$15 million to Local Government entities and not-for-profit organisations, for capital works projects that deliver community and economic infrastructure projects across regional and rural Australia.

25 The program will deliver community and economic benefits by investing in community-focused infrastructure which revitalises regions and enhances amenity and liveability throughout regional Australia.

The objectives of the program are:

- 30 ■ constructing or upgrading community infrastructure that fills an identified gap or need for community infrastructure
- contributing to achieving a wide range of community socio-economic outcomes
- is strategically aligned with regional priorities.

The intended outcomes of the program are:

- 5 ▪ delivery of community-focused infrastructure which contributes to local and regional priorities
- provision of infrastructure which benefits the community by improving equity and supports diverse social inclusion
- to contribute to the achievement of broader Government priorities such as net zero emissions, gender equity, and/or First Nations priorities
- growing local economies and enhancing amenity and liveability in the regions.

10 Growing Regions Program Round 1 will be delivered through a two-stage selection process.

Scoring for the EOI is based on *How strongly the project aligns with the regional priorities.*

A project must:

- 15 ▪ be aimed at constructing new community infrastructure or expanding or upgrading existing infrastructure for wider community benefit
- not have commenced construction
- not have received Commonwealth funding to undertake the same Grant activities
- have a minimum eligible expenditure of at least \$555,556 (group 1), \$714,286 (group 2) or \$1,000,000 (group 3) depending on co-funding requirements as outlined in section 3.1.

20 Eligible activities must directly relate to the project and must include at least one of the following:

- constructing new community infrastructure
- expanding or upgrading existing infrastructure for wider community benefit

Examples of these activities include but are not limited to:

- 25 ▪ community hubs and centres (youth centres, men's sheds)
- art galleries/libraries/museums/cultural facilities
- aquatic/sports centres
- social and community infrastructure which encourages economic and social liveability

30 All activities must be strategically aligned to regional priorities and benefit the wider community. This will need to be addressed through the assessment criteria.

Eligibility

To be eligible:

- 5 ▪ be a not-for-profit organisation with a current Australian Charities and Not-for-profits Commission’s (ACNC) registration or Office of the Registrar of Indigenous Organisations (ORIC) registration

or

- be a local government agency or body

Plus:

- 10 ▪ Recent quotes for major costs as part of your EOI and full application (if invited to apply)
- evidence that Council either owns the land/infrastructure being built/upgraded upon, or that has the landowner’s permission to use the land/infrastructure
- 15 ▪ evidence of a cash contribution from another source (for example State Government), the source must provide you with formal documentation confirming the cash contribution so you can attach it to your application

Multiple Expression of Interests can be presented; however, it is likely that only one (if any) would be awarded funding. The funding is competitive and awarded on merit.

Option 1

Project: **Byron Bioenergy Facility**

20 **Location:** Byron Bay STP

Project \$: \$25 million estimate

Grant \$: \$12 million

Council \$: \$13 million

Other \$: \$0

25 **Project Brief**

BIOENERGY BYRON will be Australia’s first dry anaerobic digestion system to produce 100% renewable biogas; this innovation leads the way for regional duplication and significant job creation for both the local and wider Australian economies.

30 BIOENERGY BYRON will use proven international technology to capture regional organic waste to produce 100% renewable energy – an Australian first.

The innovative project will collect Byron Bay Sewage Treatment Plant biosolids, residential food and garden organics, commercial food waste and fats, oil and grease, and place it into a dry anaerobic digestion system to produce biogas. BIOENERGY BYRON outcomes and benefits include:

- create green circular economy industry jobs
 - leverage regional investment via a replicable Australian reference/demonstration site
 - share knowledge and build capacity
 - reduce renewable energy costs and increase supply for industry
- 5
- reduce greenhouse emissions
 - reduce landfill
 - reduce grid dependency

10 BIOENERGY BYRON will manage over 28,000 tonnes per year of food organics, garden organics and other organic wastes. Currently, Byron Shire’s green bins Food Organics and Garden Organics waste is shipped, processed, and its by-products are on-sold up to 200 km interstate, at a high cost to Council ratepayers.

The project has not commenced construction and the DA was approved in May 2022 by the Northern Regional Planning Panel.

Background

15 Council had applied under the previous Federal Government’s Building Better Regions Program Round 5. Whilst the application was strongly marked, met the funding criteria requirements, and presented to the Ministerial Panel, it was not selected and awarded funding.

20 The project was also submitted under Round 6. Unfortunately, the funding program did not proceed under the new government and no projects were awarded funding.

The Growing Regions Program may be considered a replacement funding program for [Building Better Regions Fund \(BBRF\) | Department of Infrastructure, Transport, Regional Development, Communications and the Arts](#)

Project construction is currently not funded.

25

Strategic Alignment

Assessment criterion 1 – EOI	
To what extent is your project ready to proceed and how does it align to the program objectives (non-weighted)?	
a. how advanced the project designs are	✓ In partnership with Skala, Renew Organics and Bekon, Council has the indicative designs and project cost estimates ready for this leading project to be constructed.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.7

<p>b. how far you have progressed the tender process</p>	<ul style="list-style-type: none"> ✓ Early Contractor Involvement ✓ A detailed Schedule and Cost Estimate have been completed with independent QS validation ✓ Contracting is advanced and the project is shovel-ready
<p>c. the extent to which your project fills an identified gap or need for community infrastructure</p>	<p>Maximise efficiencies in infrastructure, waste management, innovation and energy recovery</p> <ul style="list-style-type: none"> ✓ Improved waste management - regional FOGO waste is currently being transported up to 200 kilometres ✓ Improved access and availability to waste services = improving certainty to communities and industry ✓ reduced landfill waste and emissions ✓ Zero net emission targets ✓ Circular waste economy ✓ Supports delivery of <i>Towards Zero Integrated Waste Strategy 2019-2029</i>
<p>d. the extent to which your project will contribute to achieving a wide range of community socio-economic outcomes.</p>	<ul style="list-style-type: none"> ✓ Increase access to renewable energy ✓ Job creation and economic growth ✓ Job diversification ✓ Increased use of organic fertilisers supporting rural economic development and food security ✓ Reduced dependence on fossil fuel ✓ Reduction in carbon emissions ✓ Knowledge sharing and potential for regional duplication ✓ Waste education – reduction in bin contamination ✓ Supports health outcomes = adheres to precautionary principle to protect human health and air quality

<p>Assessment criterion 2 – EOI</p> <p>How does your project align with regional priorities for the area</p>	
<ul style="list-style-type: none"> • which regional priorities are being addressed and how your project addresses these priorities. 	<p>Economic opportunities Planning (nsw.gov.au)</p> <ul style="list-style-type: none"> ✓ circular economy <p>Support the development of circular economy, hubs, infrastructure and activities and consider employment opportunities that may arise from circular economies and industries that harness or develop renewable energy technologies and will aspire towards an employment profile that displays a level of economic self-reliance, and resilience to external forces</p>
	<p>Energy from Waste Infrastructure Plan (nsw.gov.au)</p> <ul style="list-style-type: none"> ✓ The NSW Government supports thermal energy recovery as a residual waste management option where it can deliver positive outcomes for the community while protecting human health and the environment. ✓ Circular economy = maximises efficiencies ✓ Located near arterial transport route M1
	<p>NE Waste regional Waste Strategy 2022-2027</p> <ul style="list-style-type: none"> ✓ Diversion of organics from landfill ✓ Commercial waste reduction and business engagement ✓ Improving waste and resource recovery infrastructure
	<p>Northern Rivers Regional Economic Development Strategy – 2023 Update (nsw.gov.au)</p> <ul style="list-style-type: none"> ✓ Emerging industry -> renewable energy = energy security ✓ Enabler -> Develop and support the growth of emerging industries and the visitor economy. Monitor opportunities for innovation within emerging industries, including the renewable energy sector, and explore incentives to encourage investment attraction in the sector.
	<p>Regionalisation Ambition 2032</p> <p>Targets:</p>

	<p>✓ Productivity & Innovation</p> <p>Increase new business and innovation in regional Australia</p> <p>✓ Sustainability and Resilience</p> <p>Regional Australia is trending towards net zero emissions by 2050, unlocking new jobs and industry opportunities</p> <p>Impact</p> <ul style="list-style-type: none"> • Diversified regional economies that are ready to seize the • opportunities a new 'green' economy offers. • Regional Australia is more resilient in the face of the challenge • of a changing climate. • Regional Australia is a world leader in emissions reduction • and climate change adaption. • New job opportunities, innovation and investment <p>Actions:</p> <ul style="list-style-type: none"> ✓ Foster the growth of regional innovation ecosystems, adopting a systems-wide approach that encourages entrepreneurialism and corporate investment. ✓ Unlock the potential of net-zero emissions for Australia's regions through fostering key projects which accelerate the development of new industries as well as those which attract investment.
--	--

Full application criterion

1. Contribution to economic opportunity and social and community inclusion (40 points)
2. Alignment with broader Government and regional strategic priorities (20 points).
- 5 3. Capacity, capability and resources to deliver and sustain the project (40 points).

Past resolution

21-001 Resolved that Council:

- 10 For the reasons set out in point 2 below, resolves to directly negotiate contracts for the Design & Construction and/or Operations & Maintenance of the Bioenergy Facility with its preferred contractor Skala Australasia Pty Ltd pursuant to the exception under s.55(3)(i) of the *Local Government Act* 1993.
2. Is reasonably satisfied of the unavailability of competitive or reliable tenderers if Council were to re-invite tenders for this further contract as;

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.7

- 5 a) The preferred contractor Skala Australasia Pty Ltd. (Skala) represents in Australia the Bekon dry anaerobic digestion technology from Germany.
- b) Bekon and its parent company Eggersman are European and global leaders in the design, supply, construction and operation of dry anaerobic digestion and aerobic composting facilities used by Local Government Authorities world-wide for processing organic/green wastes.
- 10 c) Skala and Bekon competed, and were successful in winning, Council's public 2-Stage Expression of Interest (Request for Tender) contract no.2018-0068.
- d) Other overseas manufacturers of similar and related technologies declined to submit in that procurement process, mostly because they are not represented in Australia and could not complete this project remotely in a technically or economically feasible fashion; and
- e) Skala has substantial project knowledge and has delivered to Council high quality value-for-money services to date.
- 15 3. Increase the forecast upper limit contribution to the budget for the Bioenergy Facility project in accordance with the comments provided in the report by the Manager Finance, by increasing its budgeted loan borrowing requirement for the 2021/2022 financial year.
- 20 4. Authorise the General Manager to negotiate loan borrowing terms offered to Council that represents the best financial outcome amongst other loan offers received if required.
5. Commits as soon as practicably possible for staff and project consultants to meet with local environmental groups and neighbouring residents to enable discussion of outstanding concerns around the project.

25 **Option 2**

Project: Sandhills Wetlands Recreation Precinct – Stage 2

Location: Byron Bay

Project \$: \$7 million estimate

Grant \$: \$3.5 million

30 **Council \$:** \$500,000

Other \$: \$3,000,000 (NSW Public Spaces Legacy)

Project Brief

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.7

Stage 1 of the precinct has recently been completed with the delivery of the Sandhills Skate Park and Recreation Precinct. The application would provide additional funding for the Sandhills Wetlands Recreation Precinct project.

- 5 Sandhills Wetlands is an open space project located adjacent to the Byron Bay town centre; it will deliver constructed wetlands to alleviate flooding in the town centre and create a multigenerational space that supports recreation and environmental outcomes. Construction includes:
- a new series of three constructed wetlands including excavation, Water Sensitive Urban Design Planting (WSUD), inlet works and spillways.
 - 10 • A network of concrete, timber and compressed gravel pathways and shared path throughout the Sandhills Precinct interconnecting with the surrounding cycle/pedestrian infrastructure.

Background

15 Sandhills Wetlands project is due to commence construction in 2024 and also meets the Growing Region Program criterion.

\$3 million funding has been secured under the NSW Government's Public Spaces Legacy Program.

20 Council applied for additional grant funding back in October 2022 under the [Infrastructure Betterment Fund | NSW Government](#) and is still awaiting an outcome. As the NSW Government has changed since submission, there is the possibility that the funding program could not go ahead.

25 Council also applied, and was unsuccessful, seeking funding under the [Disaster Ready Fund | NSW Government](#) EOI. Feedback noted that further work was required on quantifying the reduced impacts on flooding in the town centre from the retention basin. Work currently being undertaken on the Byron Drainage Strategy will assist in future rounds.

If Grant funding is not secured, the additional \$ will need to be borrowed.

Assessment criterion 1 – EOI	
To what extent is your project ready to proceed and how does it align to the program objectives (non-weighted)?	
e. how advanced the project designs are	✓ Design completed ✓ Tenure negotiations on-going
f. how far you have progressed the tender process	✓ Can be achieved within funding timeframe
g. the extent to which your project fills an identified gap	✓ Activation of an unused site

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.7

<p>or need for community infrastructure</p>	<ul style="list-style-type: none"> ✓ Protecting and enhancing the traditional owner cultural values of the area. ✓ Improving the environmental performance of the space ✓ Improving stormwater treatments and weed management ✓ Providing a high-quality recreation space connected to the town centre, environmental zones, and existing facilities such as the YAC and the Library ✓ Discouraging anti-social behaviour within the space.
<p>h. the extent to which your project will contribute to achieving a wide range of community socio-economic outcomes.</p>	<ul style="list-style-type: none"> ✓ Jobs during construction and value add jobs post ✓ Health and wellbeing ✓ Improved environmental outcomes ✓ Improved flood resilience ✓ Tourism visitation

<p>Assessment criterion 2 – EOI</p> <p>How does your project align with regional priorities for the area?</p>	
<ul style="list-style-type: none"> • which regional priorities are being addressed and how your project addresses these priorities. 	<p>Economic opportunities Planning (nsw.gov.au)</p> <ul style="list-style-type: none"> ✓ Create a diverse visitor economy <p>Council strategic planning and local plans should consider opportunities to:</p> <ul style="list-style-type: none"> • enhance the amenity, vibrancy and safety of centres and township precincts • create green and open spaces that are accessible and well connected and enhance existing green infrastructure in tourist and recreation facilities • support the development of places for artistic and cultural activities
	<p>Visitor Economy Strategy 2030 Destination NSW</p> <ul style="list-style-type: none"> ✓ Show case our strength

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.7

	<ul style="list-style-type: none">• Ecotourism• Accessible products and places• Liveable, connected cities and region <p>✓ Facilitate growth</p> <ul style="list-style-type: none">• Improved access to visitor destination and visitor attractions <p>✓ Road to Recovery</p> <ul style="list-style-type: none">• Infrastructure planning and funding
	<p>North Coast Planning (nsw.gov.au)</p> <p>✓ Manage and improve resilience to shocks and stresses, natural hazards and climate change</p>
	<p>Northern Rivers Regional Economic Development Strategy – 2023 Update (nsw.gov.au)</p> <p>✓ Tourism (engine industry)</p> <ul style="list-style-type: none">• Enhance nature-based tourism through further activation of natural, cultural and heritage assets, and enhance collaboration between private land owners and government where natural assets are currently not accessible to the public.• A continued focus on conservation of the region's nature and heritage assets can help expand natural, cultural and active tourism offerings, supported by new investments.
	<p>Arakwal People of Byron Bay » Cultural Centre</p> <p>✓ Strong linkages with the proposed Arakwal Culture Centre</p> <p>✓ Strong acknowledgement of cultural significance</p>

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	5.3: Invest in renewable energy and emerging technologies	5.3.3: Green energy - Invest in green energy initiatives	5.3.3.1	Bio energy facility project development approval and grant application
5: Connected Infrastructure We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable	5.4: Provide accessible community facilities and open spaces	5.4.2: Parks and open spaces - Provide and maintain active and passive recreational community space that is accessible and inclusive for all	5.4.2.12	Complete detailed designs and implement the Sandhills Wetland Project

Financial Considerations

5 The Bioenergy Facility is currently unfunded for construction. If the application is successful, Council will need to fund an additional \$13 million and or continue to seek additional NSW Grant funding, should it become available.

10 The Sandhills Wetlands Activation project currently has \$3 million funding from the NSW Government. As funds have been expended in preparing the project to date, Council is only able to seek up to \$3 million in Australian Government funding. The remaining \$500,000 would need to be funded by Council.

Consultation and Engagement

Consultation has been undertaken during the development of the [Bioenergy facility - Byron Shire Council \(nsw.gov.au\)](https://www.nsw.gov.au) and is ongoing.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.7

The Sandhills Wetlands project was identified during consultation of the [Byron Bay Town Centre Masterplan](#). Further consultation will occur during the project implementation phase.

Report No. 13.8 Adoption of Operational Plan 2023/24, including Budget, Statement of Revenue Policy, and Fees and Charges

Directorate: Corporate and Community Services

5 **Report Author:** Heather Sills, Manager Corporate Services
James Brickley, Manager Finance

File No: I2023/889

Summary:

10 At its 27 April 2023 Ordinary Meeting, Council endorsed the draft Integrated Planning and Reporting documents for public exhibition, namely, the:

- Operational Plan 2023/24
- Detailed Budget Estimates 2023/24
- Statement of Revenue Policy 2023/24, including Fees and Charges

15 The preparation of these documents is regulated under the Integrated Planning and Reporting Framework requirements legislated by [s406](#) of the *Local Government Act 1993*.

Council received 22 submissions during the public exhibition period. This report provides consideration of those submissions as well as proposed administrative changes that arose during the public exhibition period. It recommends that Council adopts the revised documents.

20

RECOMMENDATION:

That Council:

- 25 1. **Notes the submissions received during the public exhibition period for the Operational Plan 2023/24 (including the Budget, Statement of Revenue Policy, and Fees and Charges) as outlined in Attachment 2 (#E2023/43184).**
2. **Adopts the following documents:**
- 30 a) **Operational Plan 2023/24 as amended, Attachment 1 (#E2023/56757).**
- b) **Statement of Revenue Policy 2023/24 including fees and charges as exhibited, with the amendments (included in Attachment 4 #E2023/58449)**

BYRON SHIRE COUNCIL

discussed in the report under the headings 'Draft General Land Rates and Charges (Statement of Revenue Policy)' and 'Draft Fees and Charges (Statement of Revenue Policy)'

- 5 d) **Budget Estimates 2023/24 as exhibited, with the amendments discussed in the report under the heading 'Draft 2023/24 Budget Estimates (Statement of Revenue Policy)' and included at Attachment 5 (#E2023/58291) along with the Draft 2023/24-2032/33 Long Term Financial Plan.**

Attachments:

10

- 1 Operational Plan 2023/24, E2023/56757 
- 2 Community Engagement Results - Summary of Submissions, E2023/43184 
- 3 Detailed Submissions Operational Plan and Budget, E2023/58156 
- 4 Draft Revenue Policy 2023/24, E2023/58449 
- 15 5 Draft 2023/24 Detailed Budget Estimates, E2023/58291 

Report

The Community Strategic Plan, the Delivery Program and the Operational Plan form part of the Integrated Planning and Reporting Framework which is a requirement under the *Local Government Act 1993*.

- 5 The annual Operational Plan spells out the detail of the Delivery Program, identifying the individual projects and activities that will be undertaken in a specific year to achieve the commitments made in the Delivery Program. The Operational Plan must include the Council's annual budget, along with Council's Statement of Revenue Policy, which includes the proposed rates, fees, and charges for that financial year.
- 10 The following documents were placed on public exhibition from 1 May to 29 May 2023:
- Operational Plan 2023/24
 - Detailed Budget Estimates 2023/24
 - Statement of Revenue Policy 2023/24, including Fees and Charges

15 Council received 22 submissions during this period (as outlined further in the Consultation and Engagement section of this report).

Operational Plan 2023/24

The Operational Plan actions detail the activities and projects Council will undertake in a financial year, resourced by the annual budget. It is grouped under the five Community Strategic Plan themes.

- 20 The Operational Plan must be prepared and adopted by 30 June for the year ahead. Each quarter we take the opportunity to review and amend the activities in the Operational Plan to provide a clear and accurate picture of what activities can be achieved with the available resources. The Operational Plan should therefore be seen as a 'live' document. All
- 25 changes must first be adopted by Council and are publicly shared with the community online in each [quarterly report](#).

The draft Operational Plan for 2023/24 is included at Attachment 1.

- 30 The Operational Plan presented to Council includes amendments based on the feedback from public exhibition particularly in relation to the budget outcomes as discussed later in this report as well as administrative amendments.

Draft 2023/24 Budget Estimates (Statement of Revenue Policy)

- 35 The Draft 2023/24 Budget Estimates are based on the 2022/23 budget reviewed at 31 March 2023 Quarter Budget Review with various changes to reflect the updated cost of service delivery across all programs developed from the input received from each Council Directorate.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.8

The Draft 2023/24 Budget Result on a Consolidated (All Funds) basis as placed on public exhibition forecasted a balanced budget result as outlined below at Table 1.

Table 1 – Forecast Budget Result 2023/24 Consolidated (All Funds)

Item	Amount \$
Operating Result	
Operating Revenue	115,290,100
Less: Operating Expenditure	(96,953,000)
Less: Depreciation	(20,523,000)
Operating Result – Surplus/(Deficit)	(2,185,900)
Funding Result	
Operating Result – Surplus/ (Deficit)	(2,185,900)
Add: Non-cash expenses – Depreciation	20,523,000
Add: Capital Grants and Contributions	147,024,800
Add: Loan Funds Used	4,630,000
Add: Asset Sales	0
Less: Capital Works	(170,061,700)
Less: Loan Principal Repayments	(4,098,400)
Funding Result – Surplus/(Deficit) (Cash Movement)	(4,168,200)
Reserves Movement – Increase/(Decrease)	(4,168,200)
Overall Budget Result – Surplus/(Deficit) (Operating + Funding)	0

5 Table 1 indicated a balanced budget position, and this relates to the General Fund. The forecast General Fund Unrestricted Cash Balance position based on the draft budget included at Table 1 and placed on public exhibition is outlined in Table 2 below:

BYRON SHIRE COUNCIL

Table 2 – Forecast General Fund Unrestricted Cash Balance

Item	\$
Forecast unrestricted cash balance to 30 June 2023 at 31 March 2023 Budget Review (proposed)	0
Add: Estimated initial draft 2023/24 budget result	0
Forecast unrestricted cash balance at 30 June 2024	0

During the public exhibition period, the Draft 2023/24 Statement of Revenue Policy incorporating the Draft 2023/24 Budget Estimates has been further reviewed. The revised budget position is summarised in Table 3 below:

- 5 Table 3 – Forecast Budget Result 2023/24 Consolidated (All Funds) revised during public exhibition period

Item	Amount \$
Operating Result	
Operating Revenue	114,352,800
Less: Operating Expenditure	(98,324,900)
Less: Depreciation	(20,523,000)
Operating Result – Surplus/(Deficit)	(4,495,100)
Funding Result	
Operating Result – Surplus/ (Deficit)	(4,495,100)
Add: Non-cash expenses – Depreciation	20,523,000
Add: Capital Grants and Contributions	150,939,900
Add: Loan Funds Used	10,487,100
Add: Asset Sales	0
Less: Capital Works	(185,980,100)

BYRON SHIRE COUNCIL

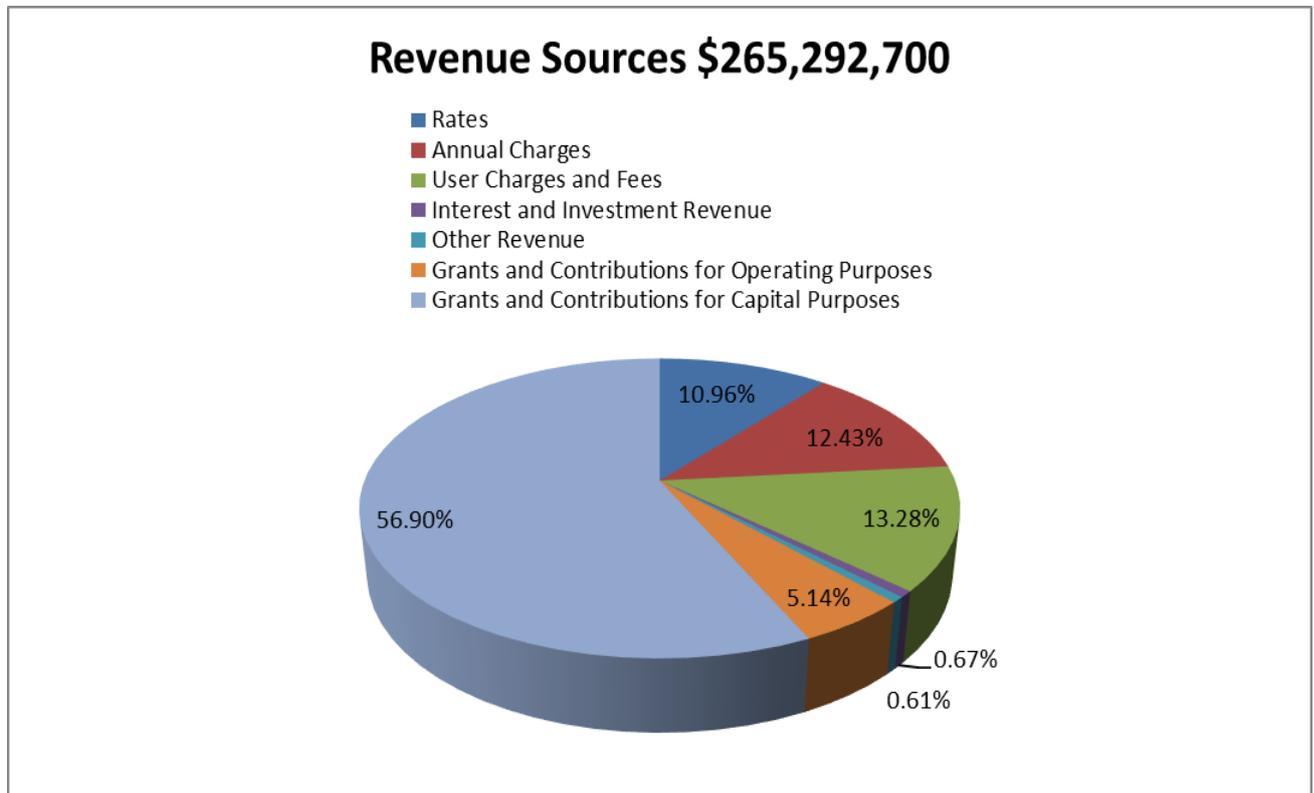
Less: Loan Principal Repayments	(4,084,600)
Funding Result – Surplus/(Deficit) (Cash Movement)	(12,609,800)
Reserves Movement – Increase/(Decrease)	(12,174,800)
Overall Budget Result – Surplus/(Deficit) (Operating + Funding)	(435,000)

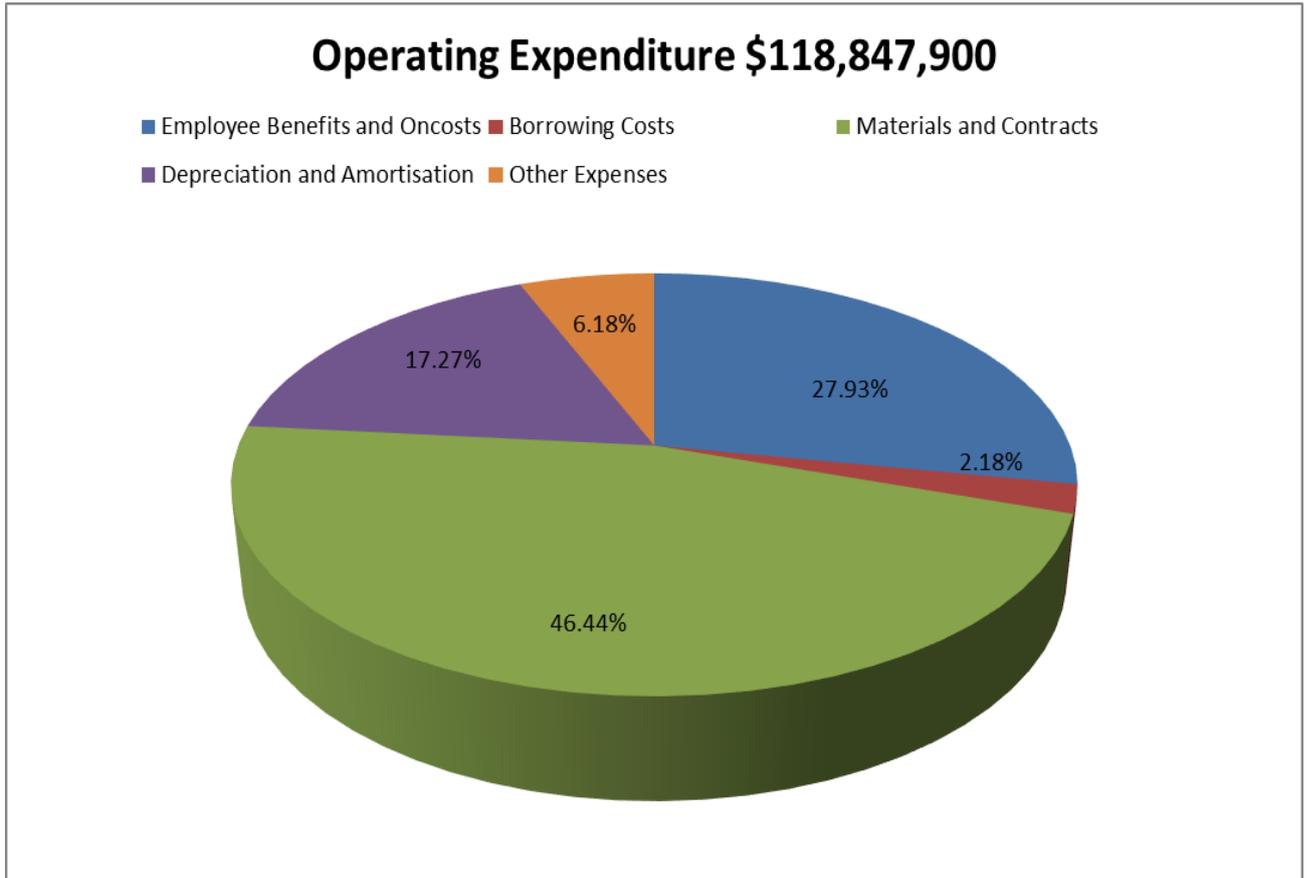
The forecast General Fund Unrestricted Cash Balance position based on the draft budget included at Table 3 is outlined in Table 4 below:

Table 4 – Forecast General Fund Unrestricted Cash Balance

Item	\$
Forecast unrestricted cash balance to 30 June 2023 at 31 March 2023 Budget Review	0
Add: Estimated initial draft 2023/24 budget result	(435,000)
Forecast unrestricted cash balance at 30 June 2024	(435,000)

5 The revised Draft 2023/24 Budget Estimates indicate that Council’s overall revenue and operational expenses are expected to be derived from the following sources and allocated respectively as outlined in the graphs below:

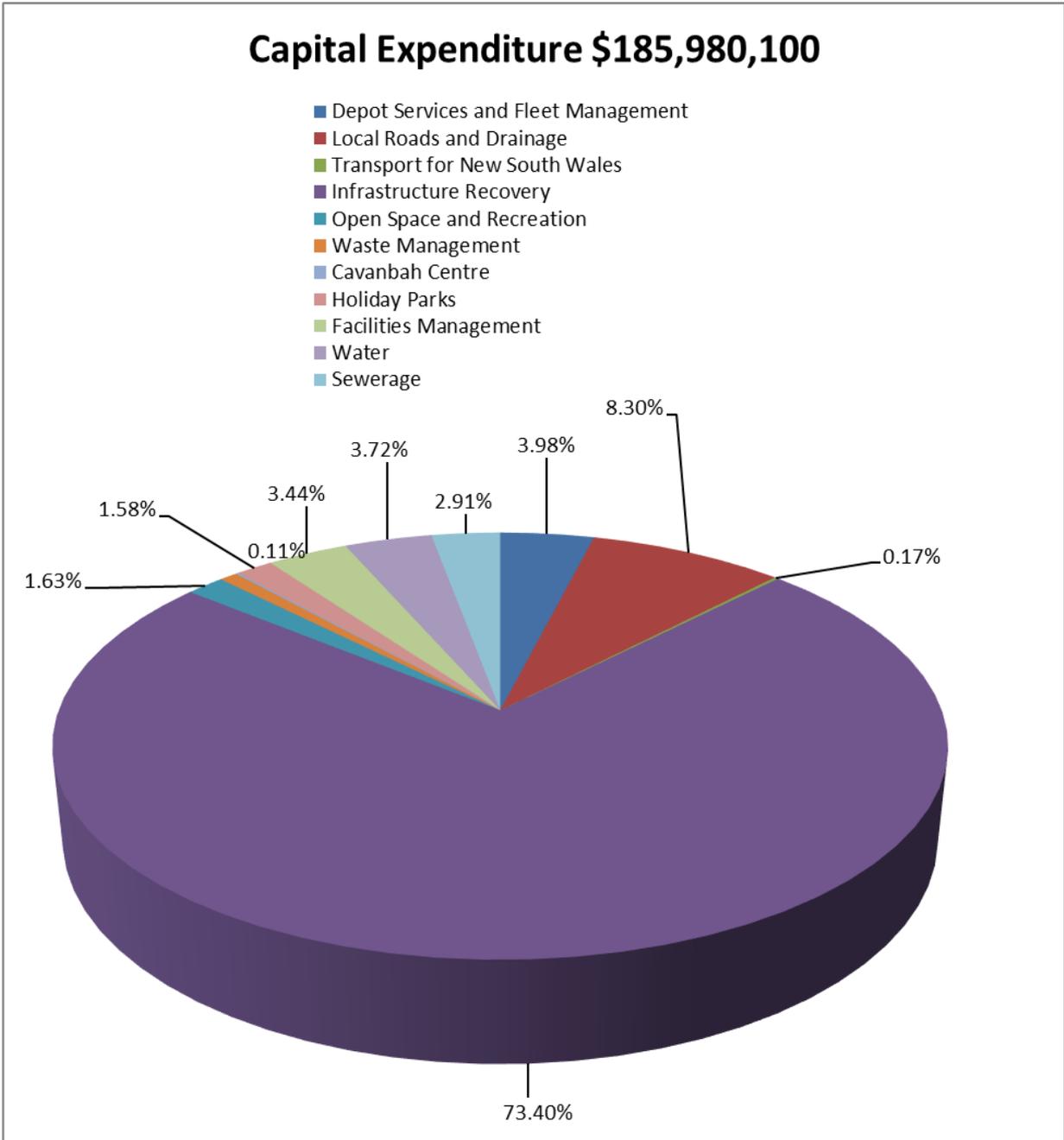




In addition to the operational aspects of the proposed Draft 2023/24 Budget Estimates as revised during the public exhibition period, Council is proposing a capital works program of \$185.980million. This specifically includes an estimated \$143.1million in proposed infrastructure recovery works following the February/March 2022 flood events.

By Fund, the projected capital works are:

- General Fund \$173.651 million
- Water Fund \$6.915 million
- Sewerage Fund \$5.414 million



The Draft 2023/24 Budget Estimates also propose new loan borrowings of \$10.487 million to fund the following projects:

- 5 • First Sun Holiday Park Land Purchase \$2.075 million
- Shire wide replacement of street lights to LED \$700,000
- Former Byron Bay Hospital Redevelopment \$3.500 million
- Suffolk Beachfront Holiday Park compliance works and caravan replacements \$540,000
- Plant replacement – fleet upgrades for major plant \$3.672 million

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.8

The amount of actual loan funds Council will need to borrow may be reduced pending how the above projects proceed and Council decision to proceed formally.

5 Should Council need to borrow the full \$10.487 million or less, this will be subject to lending approval and it will be necessary for all projects to be financially viable to generate sufficient return to fund their future loan repayments.

The loan borrowings for First Sun Holiday Park and the Shire wide replacement of street lights were principally proposed to be borrowed in 2022/23 financial year but these projects may now be finalised in 2023/24 so the borrowings amounts in 2022/23 has been deferred.

10 **Proposed Draft 2023/24 Budget adjustments following public exhibition**

The major changes proposed to the Draft 2023/24 Budget Estimates following public exhibition are:

- 15 • Inclusion of projects that are not to be completed in the 2022/23 financial year and were removed from the 2022/23 budget as part of the 31 March 2023 Quarterly Budget Review adopted by Council at the Ordinary Meeting held on 25 May 2023. All of these adjustments have corresponding funding and have not impacted the budget result.
- 20 • Provision of additional budget for Mayor and Councillor Fees plus superannuation following determination of the increase and reclassification of Byron Shire Council by the Local Government Remuneration Tribunal and endorsement of the maximum fee payable by Council at the 25 May 2023 Ordinary Meeting. This has a budget cost impact of \$66,000.
- 25 • Advice from Revenue NSW as to Council's increased contribution in 2023/2024 for the Emergency Services Levy (ESL) including the loss of the Emergency Services Levy subsidy. This has a budget cost impact of \$219,300.
- 30 • Provision of additional budget for the Compliance Priorities Action Program – Option 1 adopted by Council at the Ordinary Meeting of 25 May 2023. This has a budget cost impact of \$250,000.
- 30 • Savings in loan repayments budgeted for loan repayments for the conversion of street lighting to LED in 2023/2024 assuming the loan will be borrowed in 2022/2023. This has been deferred with the borrowing now proposed in 2023/24 meaning loan repayments will not commence until 2024/25. This has a budget saving impact of \$100,300.

35 The result of the proposed changes above have an overall budget impact of \$435,000 increasing the proposed budget result from a balanced result to a deficit of \$435,000. It will be important during the course of the 2023/2024 financial year for Council to attempt to recover the projected budget deficit via the Quarterly Budget Review process.

40 In addition to Table 3 above, budgeted financial statements incorporating an Operating Statement and Cash Flow Statement have been produced. These financial statements, replicating the format of Council's Annual Financial Statements, are included in Attachment 1 as part of the Operational Plan, along with a one-page summary of all Council budget programs.

5 The immediate financial forecast of the General Fund for 2023/24 has been outlined in this report, however it is suggested Council should consider its longer-term financial position. The budget projections demonstrate the difficulty Council has absorbing additional costs without corresponding revenue increases. Council must carefully consider the long-term implications on its finances when it is considering the addition of a new asset or service or current service expansion.

The Draft Detailed 2023/24 Budget Estimates are provided at Attachment 5 reflective of the summarised budget outcomes identified in Table 3 and the graphs above.

Draft 2023/24-2032/33 Long Term Financial Plan

10 At the time of preparing this report and agenda distribution, the new Draft 2023/24-2032/33 Long Term Financial Plan is still being compiled and will be provided to Council separately. This plan projects a 10 year forecast of Council's financial position and will include a base case as business as usual and a second scenario inclusive of the infrastructure recovery works proposed resulting from the damage caused by the February/March 2022 flood
15 events declared as natural disaster AGRN 1012. Council will need also to adopt this plan and it will contain the financial challenges facing Council.

Draft General Land Rates and Charges (Statement of Revenue Policy)

20 The Draft 2023/24 Revenue Policy includes the proposed rating structure, consistent with the structure revised by Council for the 2017/18 financial year. This is outlined in Attachment 4.

The rating structure incorporates the approved rate peg of 4.60% determined by the Independent Pricing and Regulatory Tribunal (IPART) representing the standard rate peg of 3.70% plus a population increase factor of 0.90%.

25 Council has been notified of the new land values to apply for rating purposes as of 1 July 2023 by the NSW Valuer General. In regard to the new land values the following comments can be made:

- The overall average increase of 98.5% across the Council area in land values does not mean additional general land rate income for Council, aside from the amount granted by the approved IPART rate peg of 4.6%.
- 30 • The land values are the methodology used to distribute the general land rates to ratepayers, aside from those subject to the minimum rate. Some ratepayers will see increases but other ratepayers will see decreases, depending on individual land value relative to others.
- 35 • Council did not set the land values, it not responsible for them but must by legislation use them for the purposes of levying general land rates.

40 Council, at the Ordinary Meeting held on 25 May 2023, considered a Notice of Motion and resolved to consider applying a minimum rate of \$1,000 for 2023/24 compared to the publicly exhibited minimum rate of \$1,014. In accord with resolution **22-196 part 2** a separate report is provided for Council to resolve on this matter, as Council must make the ordinary rates and charges (Section 534 and 535 Local Government Act 1993). The Draft

2023/24 Revenue Policy provided at Attachment 4 contains the proposed rating structure including the minimum at \$1,014. Should Council resolve to set the minimum rate at \$1,000 the 2023/24 Statement of Revenue Policy will be updated with corresponding minimum rates and ad valorem rates prior to final publication.

5 In respect of other charges, the Draft 2023/24 Revenue Policy includes:

- Waste Charges – increase of up to 15.00%. Council is facing increased costs for waste transportation and disposal.
- Water access charges and usage charges - increasing by 7.00% (access) and 11.00% (consumption) due to increased Rous County Council bulk water charges.
- 10 • Sewerage charge - increased by 7.00%.
- The stormwater charge has not increased. It is a regulated charge that has not changed over the last sixteen years.

15 For the average residential ratepayer, the increases proposed to rates and charges for 2023/24 will see an overall increase of \$304.00 or 7.2% for 2023/24 compared to 2022/23.

Draft Fees and Charges (Statement of Revenue Policy)

The Draft 2023/24 Fees and Charges have been reviewed by the respective program managers and included at Attachment 4 as part of the Statement of Revenue Policy. Where possible, fees have been altered/increased to reflect the following:

- 20 • Increases in the Consumer Price Index (CPI)/Indexation - assumed at 7.00%.
- Review of fees and charges including benchmarking/cost of service provision and where possible, introduction of new fees to assist Council to generate additional/enhanced revenue.
- Regulated fees updated to reflect latest changes in legislative regulations.

25 Proposed Amendments

It is proposed to further amend the 2023/24 Fees and Charges placed on public exhibition with the following changes:

- 30 • Planning Services fees - Council has received notification from NSW Department of Planning and Environment (DPE) that the fee unit for planning services will be increased to reflect movements in the consumer price index (CPI). The 2022/23 fee unit is \$100. In 2023/24 it will be \$107.27. Planning services fees, that include development application, planning certificate and other regulated fees contained in [Schedule 4 of the Environmental Planning and Assessment Regulation 2021](#) will be subject to this increase. DPE are preparing an amendment to the Environmental Planning and Assessment Regulation 2021 to ensure the new fee is applied from 1 July 2023. It is proposed to amend the fees formally in the Statement of Revenue Policy when the amendment to the Regulation is released to ensure the fees are correctly published.
- 35

- Amendment of fees for Community facilities following feedback and/or submissions from Section 355 Committees for Bangalow A&I Hall, Suffolk Park Community Hall, Brunswick Valley Memorial Hall, and Durrumbul Hall. These have been updated in the Draft 2023/24 Revenue Policy provided at Attachment 4.

5

- The Office of Local Government have set the fees for Section 603 Certificates at \$95.00 and the maximum interest rate to be charged for overdue rates and charges at 9% as per Circular 23-02 issued on 8 May 2023. These have been updated in the Draft 2023/24 Revenue Policy provided at Attachment 4.

10 **Strategic Considerations**

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.1: Enhance trust and accountability through open and transparent leadership	1.1.1: Leadership - Enhance leadership effectiveness, capacity, and ethical behaviour	1.1.1.3	Develop 2023/24 Operational Plan

Recent Resolutions

- Endorsement of draft plans for public exhibition - **23-205**

Legal/Statutory/Policy Considerations

15 The requirements for Integrated Planning and Reporting are governed by [Sections 402-406](#) of the Local Government Act 1993.

20 [Section 403](#) requires that a council must have a long-term resourcing strategy for the provision of the resources required to perform its functions. The resourcing strategy includes the long term financial plan, asset management strategy, and workforce management strategy.

[Section 404](#) requires that a council must have a 4-year delivery program detailing the principal activities to be undertaken within available resources.

[Section 405](#) outlines the Operational Plan requirements including public exhibition and timeframes.

25 Detailed requirements are outlined in the Integrated Planning and Reporting [Guidelines](#) and [Handbook](#).

Financial Considerations

The Operational Plan includes the annual budget required to fund the projects and services delivered as part of the Plan. The financial implications are outlined in the body of this report.

5 Consultation and Engagement

The Draft 2023/24 Operational Plan and Budget have been prepared based on the strategic priorities in the draft Community Strategic Plan. The Draft Operational Plan and Budget were subject to 28 days' public exhibition, from 1 May to 29 May 2023.

10 Two community conversations were held on 2 May (in-person) and 10 May (online) 23 as part of the exhibition period for the draft plans.

Community feedback was sought online via www.byron.nsw.gov.au/op-budget-24 and an information booth in the Mullumbimby Office front foyer. Emails, public notices, and media releases were distributed to reach the widest population possible and provide the community with information and links to engage with Council.

15 A detailed report of the outcomes of this consultation and engagement is provided at Attachment 2 and the recommended amendments as per the public exhibition are outlined in this report.

Submissions received:

20 Council is required to consider any submissions received during the exhibition period prior to the Council's endorsement and/or adoption of these documents.

The submissions have been considered and the proposed changes are outlined in this report. A summary of the 22 submissions received and responses are provided in the comprehensive feedback document at Attachment 2.

Report No. 13.9 Revised Delivery Program 2022-26**Directorate:** Corporate and Community Services**Report Author:** Heather Sills, Manager Corporate Services**File No:** I2023/901**5 Summary:**

In September 2021, the NSW Office of Local Government (OLG) published revised guidelines for Integrated Planning and Reporting (IP&R). The revised guidelines included requirements for all Councils with regard to performance measurement and service reviews.

- 10
- Council endorsed a set of ‘indicators’ developed alongside the Community Strategic Plan and Delivery Program in June 2022. Since that time, further work has been undertaken to prepare the associated performance measurement framework to accompany the Delivery Program, entitled the *Outcomes Measurement Framework* (Attachment 2). The *Outcomes Measurement Framework* has been considered by

15

the Audit, Risk, and Improvement Committee on 18 May (see separate report before this meeting).

 - A service review is a systematic evaluation of an identified service, for the purposes of assessing the efficiency, effectiveness, and quality of the service, and to identify opportunities for improving service delivery and outcomes for the community. The
- 20
- first step had been taken to define the services for inclusion in the Delivery Program. Work will continue in 2023/24 to prepare a service review program, as required by the IP&R Guidelines.

The Delivery Program has been amended (Attachment 1) to include additional information taken from the *Outcomes Measurement Framework* and to provide the list of ‘services’ as

25

the basis for the future development of a service review framework.

This Report is prepared in accordance with Clause 4.13 of the [Integrated Planning and Reporting Guidelines](#) which requires that:

- 30
- 4.13** *Where an amendment to the Delivery Program is proposed, it must be included in a council business paper which outlines the reasons for the amendment. The matter must be tabled and resolved to be noted at that meeting, must be and considered by the council at its next meeting (i.e. time must be set aside for the amendment to be considered).*
- 35

RECOMMENDATION:

- 5 **That Council notes the revised Delivery Program 2022-26 for consideration and endorsement at the 24 August 2023 Ordinary Council Meeting.**

Attachments:

- 10 1 Revised Delivery Program - 2022-26, E2023/40277 
- 2 Corporate Performance Measures - Outcomes Measurement Framework - Final, E2022/126119 

Report

5 In September 2021, the NSW Office of Local Government (OLG) published revised guidelines for Integrated Planning and Reporting (IP&R). The revised guidelines included requirements for all Councils with regard to performance measurement and service reviews.

The Delivery Program 2022-26 has been amended (Attachment 1) to include additional information taken from the *Outcomes Measurement Framework* and to provide the list of 'services' as the basis for the future development of a service review framework. Each of these elements is explained in detail in this report.

10 Outcome Measurement Framework

15 In partnership with the Centre for Social Impact, UNSW (CSI) Council has developed an outcomes measurement framework to embed meaningful, robust measurement practices, as is now required of local government through IP&R legislation (Local Government Act s406). The framework was developed through a collaborative partnership between Council and the Centre for Social Impact (CSI)/University of NSW.

The 'indicators' were endorsed by Council in 2022 with the Community Strategic Plan and Delivery Program and were designed to evaluate success and priorities for Council between 2022-26. The indicators measure Council's effectiveness in bringing about positive change and its delivery of the desired outcomes identified by the community.

20 A NSW Audit Office report [Council Reporting on Service Delivery](#) (2018) demonstrated that the methodology of a performance measurement framework needs to be robust, with clearly defined measures, data sources, baselines, targets and above all, consistency. The measures and results should be publicly available to enhance accountability and designed in such a way that both inform decision-making and help communities understand how efficiently and effectively services are being delivered.

30 Work has been undertaken to refine the indicators and develop the corresponding *Outcomes Measurement Framework* with provides additional information such as the indicator definition, data source, reporting frequency, baseline result, target, and alignment with the UN Sustainable Development Goals. The Delivery Program has been amended to include some of this extra detail, as provided in the below example.

Indicator	Definition	Baseline Result	Target
Community consultation/ engagement	Residents' level of satisfaction with community consultation/ engagement	3.06 (2020)	✓
Participation in Council decision making	Residents' level of satisfaction with opportunities to participate in Council decision making	2.86 (2020)	↑
Digital platform engagement – Byron Shire website	Number of visits to Byron Shire Council website	257,569 (FY22Q1)	✓
Digital platform engagement Your Say Byron Shire	Number of visits to Your Say Byron Shire platform	8,657 (FY22Q1)	✓
Customer service satisfaction rating	Residents' level of satisfaction with the way their contact with Council was handled	3.52 (2020)	↑

Monitoring and Reporting on the Outcomes Measurement Framework

5 The General Manager is required to provide six monthly progress reports to the Council on the progress toward the Delivery Program, in accordance with clause 4.9 of the Integrated Planning and Reporting Guidelines: *“The general manager must ensure that progress reports are provided to the council, with respect to the principal activities detailed in the Delivery Program, at least every 6 months.”*

10 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. The Q2 and Q4 Reports contain an additional level of reporting, providing an update on progress toward the priorities in the Delivery Program. Reporting on the Outcome Measurement Framework will be included in this 6-monthly Delivery Program Report.

15 The outcome measures, also be included in the Annual Report, provides an overview of the work undertaken by Council in a given year to deliver on the commitments of the Delivery Program via that year’s Operational Plan.

Service Reviews

The focus on continuous improvement and ways to better meet the community’s expectations around priorities and service levels is a requirement under Essential Element 4.3 of the revised [IP&R Guidelines](#), which states that:

20 *“To encourage continuous improvement across the council’s operations, the Delivery Program must identify areas of service that the council will review during its term, and how the council will engage with the community and other stakeholders to determine service level expectations and appropriate measures.”*

25 Council is committed to continually improving how services are delivered within available resources. In accordance with the above requirements, this process is being formalised through the Operational Plan 2022/23 activity to *“identify and scope services delivered by Council to inform opportunities for achieving efficiencies”*. This work has been progressing and a list of Council services has been developed. The scope of each service will be
30 further defined throughout the service review process.

The service list and outline of the process for development of the framework has been incorporated into the Delivery Program 2022-26.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.1: Enhance trust and accountability through open and transparent leadership	1.1.4: Performance Measurement and Reporting - Embed a robust performance management system through the development of an outcomes measurement framework	1.1.4.1	Use the outcomes measurement framework to strengthen the Delivery Program reporting

Recent Resolutions

- **22-332** – adoption of the Delivery Program 2022-26
- 5 • **22-335** - adoption of the [Byron Shire Community Strategic Plan 2032](#)

Legal/Statutory/Policy Considerations

The requirements for Integrated Planning and Reporting are governed by [Sections 402-406](#) of the Local Government Act 1993.

10 [Section 404](#) requires that a council must have a 4-year delivery program detailing the principal activities to be undertaken within available resources.

Detailed requirements are outlined in the Integrated Planning and Reporting [Guidelines](#) and [Handbook](#).

The relevant clauses are:

15 **4.12** *The council must review its Delivery Program each year when preparing the Operational Plan.*

4.13 *Where an amendment to the Delivery Program is proposed, it must be included in a council business paper which outlines the reasons for the amendment. The matter must be tabled and resolved to be noted at that meeting, must be and considered by the council at its next meeting (i.e. time must be set aside for the amendment to be considered).*

20 **4.14** *Where significant amendments are proposed, the Delivery Program must be re-exhibited as per Essential Element 4.10.*

Financial Considerations

The project was delivered within budget.

Consultation and Engagement

The amendments to the Delivery Program are not considered significant, therefore are not required to be placed on public exhibition. The Delivery Program is to be noted by Council with further consideration at the next Ordinary Council Meeting on 24 August.

5

Report No. 13.10 Council Investments - 1 May 2023 to 31 May 2023

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

5 **File No:** I2023/879

Summary:

This Report includes a list of investments and identifies Council's overall cash position for the period 1 May 2023 to 31 May 2023 for information.

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

15 **RECOMMENDATION:**

That Council notes the Report listing Council's investments and overall cash position as of 31 May 2023.

BYRON SHIRE COUNCIL

Report

Council has continued to maintain a diversified portfolio of investments. As of 31 May 2023, the average 90-day bank bill rate (BBSW) for the month was 3.80%. Council's performance for May 2023 was 3.90%.

- 5 The increased interest rates from new investments is realised and as a result Council is performing above the average BBSW. The table below identifies the investments held by Council as at 31 May 2023.

Schedule of Investments held as at 31 May 2023

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Int. Rate	Current Value (\$)
15/11/18	1,000,000.00	NSW Treasury Corp (Green Bond)	N	AAA	15/11/28	Y	B	3.00%	961,410.00
20/11/18	1,000,000.00	QLD Treasury Corp (Green Bond)	N	AA+	22/03/24	Y	B	1.78%	992,310.00
28/03/19	1,000,000.00	National Housing Finance & Investment Corporation	Y	AAA	28/03/29	Y	B	2.38%	931,010.00
21/11/19	1,000,000.00	NSW Treasury Corp (Sustainability Bond)	N	AAA	20/03/25	Y	B	1.25%	955,720.00
27/11/19	500,000.00	National Housing Finance & Investment Corp	Y	AAA	27/05/30	Y	B	1.52%	431,430.00
15/06/21	500,000.00	National Housing Finance & Investment Corp	Y	AAA	01/07/31	Y	B	1.99%	503,830.00
06/09/21	1,000,000.00	Northern Territory TCorp	N	Aa3	15/12/26	Y	B	1.40%	1,000,000.00
16/09/21	1,000,000.00	QLD Treasury Corp (Green Bond)	N	AA+	02/03/32	Y	B	1.83%	805,020.00

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.10

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Int. Rate	Current Value (\$)
04/01/23	2,000,000.00	NAB	P	AA-	01/09/23	N	TD	4.60%	2,000,000.00
05/01/23	2,000,000.00	NAB	N	AA-	04/09/23	N	TD	4.60%	2,000,000.00
01/02/23	2,000,000.00	NAB	N	AA-	31/07/23	N	TD	4.35%	2,000,000.00
14/02/23	2,000,000.00	NAB	N	AA-	14/06/23	N	TD	4.20%	2,000,000.00
21/02/23	2,000,000.00	NAB	N	AA-	21/06/23	N	TD	4.24%	2,000,000.00
23/02/23	2,000,000.00	Bank of QLD	P	BBB+	23/06/23	N	TD	4.30%	2,000,000.00
28/02/23	2,000,000.00	NAB	N	AA-	28/06/23	N	TD	4.31%	2,000,000.00
03/03/23	1,000,000.00	Macquarie Bank Ltd	P	AA-	01/06/23	N	TD	4.27%	1,000,000.00
13/03/23	2,000,000.00	NAB	N	AA-	13/06/23	N	TD	4.30%	2,000,000.00
16/03/23	1,000,000.00	AMP Bank	P	BBB	15/06/23	N	TD	3.95%	1,000,000.00
23/03/23	1,000,000.00	Macquarie Bank Ltd	N	AA-	22/06/23	N	TD	4.43%	1,000,000.00
23/03/23	1,000,000.00	Macquarie Bank Ltd	N	AA-	29/06/23	N	TD	4.43%	1,000,000.00
28/03/23	1,000,000.00	Police Bank	P	BBB	26/07/23	Y	TD	4.35%	1,000,000.00
04/04/23	2,000,000.00	Auswide Bank Ltd	P	BBB	04/07/23	Y	TD	4.55%	2,000,000.00
05/04/23	1,000,000.00	NAB	N	AA-	04/07/23	N	TD	4.35%	1,000,000.00
11/04/23	2,000,000.00	NAB	N	AA-	11/07/23	N	TD	4.35%	2,000,000.00
19/04/23	1,000,000.00	Bank of QLD	N	BBB+	14/07/23	N	TD	4.45%	1,000,000.00
20/04/23	1,000,000.00	AMP Bank	N	BBB	20/07/23	N	TD	4.50%	1,000,000.00
26/04/23	1,000,000.00	Macquarie Bank Ltd	N	AA-	26/07/23	N	TD	4.42%	1,000,000.00
27/04/23	1,000,000.00	AMP Bank	N	BBB	20/07/23	N	TD	4.45%	1,000,000.00
N/A	24,575,506.93	CBA Business Saver	P	AA-	N/A	N	CALL	3.95%	24,575,506.93

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.10

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Int. Rate	Current Value (\$)
N/A	663,364.30	CBA Business Saver – Tourism Infrastructure Grant	N	AA-	N/A	N	CALL	3.95%	663,364.30
N/A	10,330,518.71	Macquarie Accelerator Call	N	A	N/A	N	CALL	3.70%	10,330,518.71
Total	72,569,389.94						AVG	3.90%	72,150,119.94

Note 1. CP = Capital protection on maturity

N = No Capital Protection

Y = Fully covered by Government Guarantee

P = Partial Government Guarantee of \$250,000 (Financial Claims Scheme)

Note 2. **No Fossil Fuel ADI**

Y = No investment in Fossil Fuels

N = Investment in Fossil Fuels

U = Unknown Status

Note 3. **Type Description**

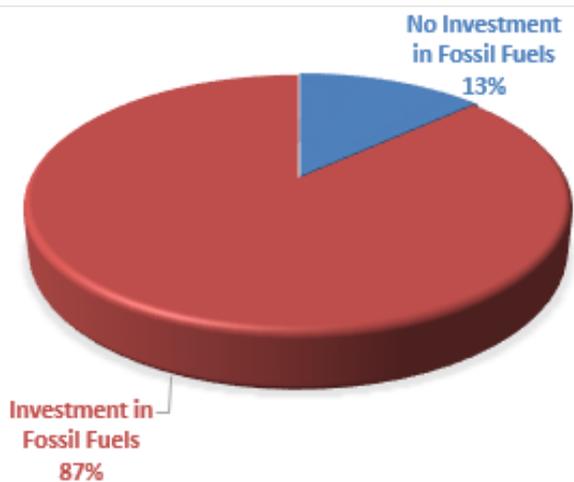
B	Bonds	Principal can vary based on valuation, interest payable via a fixed interest, payable usually each quarter.
FRN	Floating Rate Note	Principal can vary based on valuation, interest payable via a floating interest rate that varies each quarter.
TD	Term Deposit	Principal does not vary during investment term. Interest payable is fixed at the rate invested for the investment term.
CALL	Call Account	Principal varies due to cash flow demands from deposits/withdrawals. Interest is payable on the daily balance.

Environmental and Socially Responsible Investing (ESRI)

5 An additional column has been added to the schedule of Investments to identify if the financial institution holding the Council investment has been assessed as a 'No Fossil Fuel' investing institution. This information has been sourced through www.marketforces.org.au and identifies financial institutions that either invest in fossil fuel related industries or do not. The graph below highlights the percentage of each classification across Council's total investment portfolio in respect of fossil fuels only.

The notion of Environmental and Socially Responsible Investing is much broader than whether a financial institution as rated by 'marketforces.org.au' invests in fossil fuels or not. Council's current Investment Policy defines Environmental and Socially Responsible Investing at Section 4.1 of the Policy which can be found on Council's [website](#).

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



Investment Policy Compliance

- 10 The below table identifies compliance with Council's Investment Policy by the proportion of the investment portfolio invested with financial institutions, along with their associated credit ratings compared to parameters in the Investment Policy. The parameters are designed to support prudent short and long-term management of credit risk and ensure diversification of the investment portfolio. Note that the financial institutions currently offering investments in the 'ethical' area are still mainly those with lower credit ratings (being either BBB or not rated at all i.e., credit unions).
- 15

Investment policy compliance % should not exceed the following			ACTUAL		
AAA to AA	A1+	100%	68%		Meets policy
A+ to A-	A1	60%	20%		Meets policy
BBB to NR	A2,NR	40%	12%		Meets policy

NSW Treasury Corporation Compliance – Loan Borrowing Conditions

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

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.10

NSW Treasury Corporation has reviewed Council's Investment Portfolio and reminded Council it needs to remain within the investment parameters outlined in the accepted loan agreements. Council currently complies with T Corp Borrowing conditions as indicated in the table below:

Tcorp compliance		Counterparty Limit	Tenor	ACTUAL	Variance
% should not exceed the following					
Tcorp	100%	100%	N/A	0%	Meets policy
AAA	100%	100%	N/A	6%	Meets policy
AA+ to AA-	100%	100%	5Y	62%	Meets policy
A+ to A	100%	100%	3Y	20%	Meets policy
A-	40%	40%	3Y	0%	Meets policy
BBB+		10% 3 Years	3Y	4%	Meets policy
BBB	30%	5% 12 Months	1Y	8%	Does not meet policy
BBB- and below (local ADI'S)		5% 12 Months	1Y	0%	Meets policy
BBB- and below (other)	5%	250,000	1Y	0%	Meets policy

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

- 10 Meeting the NSW Treasury Corporation compliance means Council will be limited in taking up investments that may be for purposes associated with Environmental and Socially Responsible outcomes. Investments which do not comply with NSW Treasury Corporation requirements and investments with financial institutions that do not support fossil fuels will have to be decreased due to their credit rating status or lack of credit rating.
- 15 The investment portfolio is outlined in the table below by investment type for the period 1 May 2023 to 31 May 2023:

Dissection of Council Investment Portfolio as at 31 May 2023

Principal Value (\$)	Investment Linked to:	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
30,000,000.00	Term Deposits	30,000,000.00	0.00
24,575,506.93	CBA Business Saver	24,575,506.93	0.00
663,364.30	CBA Business Saver – Tourism Infrastructure Grant	663,364.30	0.00
10,330,518.71	Macquarie Accelerator	10,330,518.71	0.00
7,000,000.00	Bonds	6,580,730.00	(419,270.00)
72,569,389.94	Total	72,150,119.94	(419,270.00)

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.10

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

Dissection of Council's Cash Position as at 31 May 2023

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Investments Portfolio			
Term Deposits	30,000,000.00	30,000,000.00	0.00
CBA Business Saver	24,575,506.93	24,575,506.93	0.00
CBA Business Saver – Tourism Infrastructure Grant	663,364.30	663,364.30	0.00
Macquarie Accelerator	10,330,518.71	10,330,518.71	0.00
Bonds	7,000,000.00	6,580,730.00	(419,270.00)
Total Investment Portfolio	72,569,389.94	72,150,119.94	(419,720.00)
Cash at Bank			
Consolidated Fund	5,246,345.49	5,246,345.49	0.00
Total Cash at Bank	5,246,345.49	5,246,345.49	0.00
Total Cash Position	77,815,735.43	77,396,465.43	(419,720.00)

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.3: Ethical and efficient management of resources	1.3.1: Financial Management - Ensure the financial integrity and sustainability of Council through effective financial management	1.3.1.6	Maintain Council's cash flow

Legal/Statutory/Policy Considerations

5 In accordance with Section 212 of the *Local Government (General) Regulation 2021*, the Responsible Accounting Officer of Council must provide Council with a monthly report detailing all monies it has invested under section 625 of the *Local Government Act 1993*.

10 The Report must be presented at the next Ordinary Meeting of Council after the end of the month being reported. The current Council Meeting cycle does not always allow this to occur, especially as investment valuations required for the preparation of the report are often received after the deadline for the submission of reports. Endeavours are being made to achieve a better alignment and for some months this will require reporting for one or more months.

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

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

Financial Considerations

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

25

Report No. 13.11 Grants May 2023

Directorate: Corporate and Community Services

Report Author: Donna Johnston, Grants Coordinator

File No: I2023/891

5 **Summary:**

Council has submitted twenty Grant applications which, if successful, would provide funding to enable the delivery of identified projects. This report provides an update on Grant applications.

10

RECOMMENDATION:

That Council notes the Report and Attachment 1 (#E2023/56813) for Byron Shire Council's Grant submissions as at 30 May 2023.

15 **Attachments:**

1 Grant submissions as at 30 May 2023, E2023/56813 

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.11

Report

Currently Council has twenty Grant applications awaiting determination (refer to Grants Submissions as at 30 May 2023 - Attachment 1, E2023/56813).

Successful application

Funding body	Funding scheme	Project name	Total project value \$	Amount requested \$	Council co-contribution \$
Transport for NSW	Local Government Road Safety Program 2022/23	Byron Road Safety Officer salary support	\$52,722	\$24,722	\$27,999

5 Unsuccessful / withdrawn applications

Funding body	Funding scheme	Project name	Total project value \$	Amount requested \$	Council co-contribution \$
Australian Government - Dept of Agriculture, Fisheries and Forestry	Extension and Adoption of Drought Resilience Farming Practices Grants Program	Increasing drought resilience in Byron Shire through Regenerative Agriculture	\$177,140	\$177,140	0

No feedback was provided.

Applications submitted

The following applications were submitted during May 2023.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.11

Funding Body	Funding scheme	Project name	Total project value \$	Amount requested \$	Council Contribution \$
Department of Regional NSW	Growing Regional Economies	Lot 12 Bayshore Drive roundabout	\$3,186,418	2,389,813	796,605
Create NSW	Community Local Infrastructure Recovery Package - Arts and Cultural Assets Program	Iconic Byron Bay Public Art Betterment Project - Lawson Street roundabouts	\$270,408	270,408	0
Create NSW	Community Local Infrastructure Recovery Package - Arts and Cultural Assets Program	Kohinur Hall Betterment - solar & battery	\$79,573	\$79,573	0

Upcoming Grant opportunities

[Growing Regions Program Round 1 | business.gov.au](https://www.business.gov.au) – EOI closes 5 August 2023

A separate report will be provided to Council at 22 June 2023 Ordinary meeting.

Strategic Considerations

Community Strategic Plan and Operational Plan

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

Legal/Statutory/Policy Considerations

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

Financial Considerations

10 If Council is successful in obtaining the identified Grants, this would bring funding sought to approximately \$26 million which would provide significant funding for Council projects. Some of the Grants require a contribution from Council (either cash or in-kind) and others do not. Council’s contribution is funded.

The potential funding is detailed below:

15	Funding applications submitted and awaiting notification (total value)	\$28,588,462
	Requested funds from funding bodies	\$24,340,240
	Council contribution cash	\$851,607
	Council co-contribution in-kind	\$73,260
20	Other contributions	\$3,000,000

Funding determined in May 2023

Successful applications	\$52,722 (total project value)
Unsuccessful/withdrawn applications	\$177,140 (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. 13.12 Making of the 2023/24 Ordinary Rates, Charges, Fees and Interest Rate

Directorate: Corporate and Community Services

Report Author: Stephen Ansoul, Revenue Coordinator

5 **File No:** I2023/908

Summary:

Each year Council is required to make the ordinary rates and charges pursuant to sections 533, 534 and 535 of the Local Government Act 1993 (LGA), with section 543 of the LGA requiring Council to make a short separate name for each rate and charge it makes.
10 Council is also required to set the rate of interest charged on overdue rates and charges in accordance with section 566 (3) of the LGA.

This report satisfies these legislative requirements for the 2023/24 financial year.

15

RECOMMENDATION:

That Council:

1. **Makes the ordinary rates for 2023/24 in accordance with Sections 533, 534, 535, 543 and 566 of the Local Government Act 1993 (LGA) by selecting one of the two options listed in the ordinary rates tables within this report being;Option 1: Ordinary Rates – Minimum Rate of \$1,014.00**
20

OR

Option 2: Ordinary Rates – Minimum Rate of \$1,000.00
25 2. **Makes the charges, makes the fees and sets the interest rate to be charged on overdue rates and charges for 2023/24 in accordance with Sections 533, 534, 535, 543 and 566 of the Local Government Act 1993 (LGA) as listed in the tables within this report.**

30

Report

Council placed the Draft 2023/24 Statement of Revenue Policy comprising the Budget Estimates, Rates and Charges, Borrowings and Fees and Charges on public exhibition for twenty-eight days following consideration of Report No.13.3 Public Exhibition of draft
5 2023/24 Operational Plan, Budget, and Revenue Policy at the Council Meeting held on 27 April 2023 (Council resolution **23-139**).

The Statement of Revenue Policy provides a detailed description of the rating structure for ordinary land rates, charges and fees that Council will levy on the 2023/24 Rates and Charges Notice and describes the circumstances of a property to which a specific ordinary
10 rate, charge, interest or fee will apply. It also lists relevant sections of legislation that allow for the levy of each rate, charge or fee to be made.

The public exhibition period seeking submissions on the draft documents closed on 29 May 2023, with details of those submissions being the subject of another report to this Ordinary Meeting.

15 Council has applied the maximum 4.6% rate pegging increase to its 2023/24 permissible general income as advised by the Independent Pricing and Regulatory Tribunal (IPART) on 29 September 2022.

The permissible notional income has not been re-calculated since Council publicly exhibited the Draft 2023/24 Statement of Revenue Policy.

20 Updated 2022 base date land valuations from the NSW Valuer General will be used to calculate the next three rating year's ordinary land rates commencing from 2023/24.

The Office of Local Government advised via Circular 23-02 on 8 May 2023, that the maximum 2023/24 interest rate on overdue rates and charges is to be 9.0%. Council has traditionally adopted the maximum permissible interest rate for overdue rates and charges.
25 The exception to this being when Council periodically waived interest charges to provide ratepayers with financial assistance due to the impact of COVID-19 and the February/March 2022 flood events. This interest waiving period expired on 30 June 2022.

In accordance with Sections 533, 534, 535, 543 and 566 of the Local Government Act 1993 (LGA), it is recommended that Council makes the ordinary rates, makes the charges,
30 makes the fees and sets the interest rate to be charged on overdue rates and charges for 2023/24 as listed in the following tables.

Two ordinary rate structures have been included in this report for Council's consideration. Council must choose between option 1 being a \$1,014.00 minimum rate and option 2 being a \$1,000.00 minimum rate. These options have been provided in accord with
35 Council resolution **22-196 part 2** from the 25 May 2023 Ordinary Meeting where Council resolved to:

Considers, before adopting the Shire's Integrated Planning documents for the 2023/2024 financial year including the Statement of Revenue Policy but after considering public

BYRON SHIRE COUNCIL

submissions (both likely on 22 June), setting the Shire’s minimum rate for the 2023/2024 financial year at \$1,000.

The above choice must reflect the same choice made to adopt the 2023/24 Statement of Revenue Policy – the subject of a separate report in this Ordinary Meeting.

5 Option 1: Ordinary Rates – Minimum Rate of \$1,014.00

Name of Ordinary Rate (Rate Notice short name)	*Rate in the Dollar or Ad-Valorem amount (\$)	Minimum Rate (\$)
Ordinary Rate Residential	0.1073	1,014.00
Ordinary Rate Residential Flood/Coastal	0.1073	507.00
Ordinary Rate Business	0.1979	1,014.00
Ordinary Rate Business Byron CBD	0.2894	1,014.00
Ordinary Rate Mining	0.1979	1,014.00
Ordinary Rate Farmland	0.0828	1,014.00
Ordinary Rate Farmland Flood/Coastal	0.0828	507.00
<i>*Applied to 2022 base date land valuation</i>		

Option 2: Ordinary Rates – Minimum Rate of \$1,000.00

Name of Ordinary Rate (Rate Notice short name)	*Rate in the Dollar or Ad-Valorem amount (\$)	Minimum Rate (\$)
Ordinary Rate Residential	0.1080	1,000.00
Ordinary Rate Residential Flood/Coastal	0.1080	500.00
Ordinary Rate Business	0.1983	1,000.00
Ordinary Rate Business Byron CBD	0.2895	1,000.00
Ordinary Rate Mining	0.1983	1,000.00
Ordinary Rate Farmland	0.0828	1,000.00
Ordinary Rate Farmland Flood/Coastal	0.0828	500.00
<i>*Applied to 2022 base date land valuation</i>		

10

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.12

Domestic Waste Management Charges

Name of Domestic Waste Collection Charge (Rate Notice short name)	Annual Charge (\$)
Domestic Waste 80L 3 Bin Collection	219.00
Domestic Waste 140L 3 Bin Collection	460.00
Domestic Waste 240L 3 Bin Collection	681.00
Domestic Waste 140L Week Collect 3 Bins	1,203.00
Domestic Waste 240L Week Collect 3 Bins	1,532.00
Domestic Waste 140L 2 Bin Rural Service	328.00
Domestic Waste 240L 2 Bin Rural Service	490.00
Domestic Waste Vacant Land Charge Urban	45.00
Domestic Waste Vacant Land Charge Rural	45.00
Domestic Waste Exempt Collection Charge	89.00
Domestic Recycling Additional Bin	153.00
Domestic Organics Additional Bin	176.00
Domestic Waste 80L 3Bin Multi Unit Serv	219.00
Domestic Waste 140L 3Bin Multi Unit Serv	460.00
Domestic Waste 240L 3Bin Multi Unit Serv	681.00
Domestic Waste 140L 3Bin Multi Unit Week	1,203.00
Domestic Waste 240L 3Bin Multi Unit Week	1,532.00
Domestic Waste 80L 2Bin Multi Unit Serv	219.00
Domestic Waste 140L 2Bin Multi Unit Serv	460.00
Domestic Waste 240L 2Bin Multi Unit Serv	681.00
Domestic Waste 140L 2Bin Multi Unit Week	571.00
Domestic Waste 240L 2Bin Multi Unit Week	728.00
Domestic Waste Strata 2Bin Share Service	364.00
Domestic Waste Strata 3Bin Share Service (fortnightly)	364.00
Domestic Waste Strata 3Bin Share Service (weekly)	728.00

5 Waste Management Charges (Non-Domestic)

Name of Waste Management Charge (Rate Notice short name)	Annual Charges (\$)
Commercial 140L Waste & Recycle Service	822.00
Commercial 240L Waste & Recycle Service	1,054.00
Commercial Waste 140L Bin Collection	822.00
Commercial Waste 240L Bin Collection	1,054.00
Commercial Rural Waste & Recycle Service	857.00
Commercial Recycling 240L Bin Collection	191.00
Commercial Organics 240L Bin Collection	177.00
Waste Operations Charge Residential	127.00
Waste Operations Charge Non-Residential	132.00

Bin Changeover Fee

Fee	Charges (\$)
Bins – Size and General Changeover Fee	73.00

10

BYRON SHIRE COUNCIL

Stormwater Management Service Charges

Name of Stormwater Management Service Charge (Rate Notice short name)	Annual Charges (\$)
Stormwater Charge Residential	25.00
Stormwater Charge Residential Strata	12.50
Stormwater Charge Business Strata	\$25.00 per 350m ² of the land area occupied by the strata scheme (or part thereof), proportioned by the unit entitlement of each lot in the strata scheme, minimum charge \$5.00
Stormwater Charge Bus/Mixed Strata Min	12.50
Stormwater Charge Business	\$25.00, plus an additional \$25.00 for each 350m ² or part thereof by which the area of the parcel of land exceeds 350m ²

Water Charges

5

Name of Water Charge (Rate Notice short name)	Annual Charges (\$)
Water Access Charge 20mm Residential	217.00
Water Access Charge 20mm Non-Residential	217.00
Water Access Charge 25mm Residential	340.00
Water Access Charge 25mm Non-Residential	340.00
Water Access Charge 32mm Residential	559.00
Water Access Charge 32mm Non-Residential	559.00
Water Access Charge 40mm Residential	869.00
Water Access Charge 40mm Non-Residential	869.00
Water Access Charge 50mm Residential	1,359.00
Water Access Charge 50mm Non-Residential	1,359.00
Water Access Charge 65mm Residential	2,296.00
Water Access Charge 65mm Non-Residential	2,296.00
Water Access Charge 80mm Residential	3,478.00
Water Access Charge 80mm Non-Residential	3,478.00
Water Access Charge 100mm Residential	5,433.00
Water Access Charge 100mm Non-Residential	5,433.00
Water Access Charge Vacant Residential	109.00
Water Access Charge Vacant Non-Residential	109.00
	Usage Charges (\$)
Water Usage Charge Residential	3.31 per KL
Water Usage Charge Residential – Non-Compliant	6.63 per KL
Recycled Water Usage Charge Residential	0.01 per KL
Water Usage Charge Non-Residential	3.31 per KL
Water Usage Charge Non-Residential - Non-Compliant	6.63 per KL
Recycled Water Usage Charge Non-Residential	0.01 per KL

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.12

Wastewater (sewer) Charges and On-Site Sewage Management System Fee

Name of Wastewater (sewer) Charge or Fee (Rate Notice short name)	Annual Charges or Fee (\$)
Wastewater (sewer) Access 20mm Res	1,434.00
Wastewater (sewer) Access 20mm Non-Res	968.00
Wastewater (sewer) Access 25mm Res	2,241.00
Wastewater (sewer) Access 25mm Non-Res	1,514.00
Wastewater (sewer) Access 32mm Res	3,671.00
Wastewater (sewer) Access 32mm Non-Res	2,478.00
Wastewater (sewer) Access 40mm Res	5,735.00
Wastewater (sewer) Access 40mm Non-Res	3,873.00
Wastewater (sewer) Access 50mm Res	8,961.00
Wastewater (sewer) Access 50mm Non-Res	6,052.00
Wastewater (sewer) Access 65mm Res	15,145.00
Wastewater (sewer) Access 65mm Non-Res	10,229.00
Wastewater (sewer) Access 80mm Res	22,941.00
Wastewater (sewer) Access 80mm Non-Res	15,496.00
Wastewater (sewer) Access 100mm Res	35,846.00
Wastewater (sewer) Access 100mm Non-Res	24,211.00
Wastewater (sewer) Access Vacant Res	718.00
Wastewater (sewer) Access Vacant Non-Res	718.00
Wastewater (sewer) Access – Pump Res	1,405.00
Wastewater (sewer) Access – Pump Non-Res	941.00
On-Site Sewage Management System Fee (OSMS)	58.00
	Usage Charges (\$)
Wastewater (sewer) Usage Charge Non-Residential	*SDF x 3.19 per KL

*SDF = Individual Property Sewer Discharge Factor (%)

5

Liquid Trade Waste Charges

Name of Liquid Trade Waste Charge (Rate Notice short name)	Annual Charges (\$)
Liquid Trade Waste – Category 1	160.00
Liquid Trade Waste – Category 2	267.00
Liquid Trade Waste – Category 2S	267.00
Liquid Trade Waste – Category 3	757.00
	Usage Charges (\$)
Liquid Trade Waste Usage Charge	**TWDF x 2.34 per KL
Liquid Trade Waste Usage Charge – Non-Compliant Cat 1	**TWDF x 3.87 per KL
Liquid Trade Waste Usage Charge – Non-Compliant Cat 2/2S	**TWDF x 19.50 per KL
Liquid Trade Waste Usage Charge – Non-Compliant Pump Stn	**TWDF x 3.87 per KL

*TWDF = Individual Property Trade Waste Discharge Factor (%)

10

Interest Rate on Overdue Rates and Charges

Name of Interest Rate (Rate Notice short name)	Rate (%)
Interest	9.0%

Next steps

- 5 Should Council adopt the recommendations in this report, 2023/24 levying of rates, charges and fees via issuing of the 2023/24 Rates and Charges Notice is scheduled for mid-July 2023.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
<p>1: Effective Leadership We have effective decision making and community leadership that is open and informed</p>	<p>1.3: Ethical and efficient management of resources</p>	<p>1.3.1: Financial Management - Ensure the financial integrity and sustainability of Council through effective financial management</p>	<p>1.3.1.5</p>	<p>Issue annual/quarterly billing of rates and other charges</p>

Legal/Statutory/Policy Considerations

- 10 Council is required to make the rates and charges and set the interest rate for 2023/24 pursuant to sections 533, 534, 535,543 and 566 of the Local Government Act 1993 (LGA). The relevant sections or sub-sections of the LGA are summarised below:

Section 533 Date by which a rate or charge must be made

- 15 A rate or charge must be made before 1 August in the year for which the rate or charge is made or before such later date in that year as the Minister may, if the Minister is of the opinion that there are special circumstances, allow.

Section 534 Rate or charge to be made for a specified year

Each rate or charge is to be made for a specified year, being the year in which the rate or charge is made or the next year.

- 20 **Section 535** Rate or charge to be made by resolution

A rate or charge is made by resolution of the council.

Section 543 Each form of a rate and each charge to have its own name

Council must, when making an ordinary rate or charge, give a short separate name for each amount of the ordinary rate or charge.

Section 566 Accrual of interest on overdue rates and charges

5 The rate of interest is that set by the council but must not exceed the rate specified for the time being by the Minister by notice published in the Gazette.

Financial Considerations

10 The 2023/24 budget including proposed works and services to be adopted by Council at this Ordinary Meeting is the subject of another report. The Draft 2023/24 Budget Estimates are based on the maximum 4.6% general permissible income increase as approved by IPART.

Charges proposed for water, wastewater (sewer), stormwater and waste services are based on the works and maintenance requirements of those areas and in conjunction with legislative requirements of the LGA to establish such charges.

Consultation and Engagement

15 The rates, charges, fees and interest rate included within this report are contained within the Draft 2023/24 Statement of Revenue Policy comprising the Budget Estimates, Rates and Charges, Borrowings and Fees and Charges that was placed on public exhibition for twenty-eight days following consideration of Report No.13.3 Public Exhibition of draft
20 2023/24 Operational Plan, Budget, and Revenue Policy at the Council Meeting held on 27 April 2023 (Council resolution **23-139**).

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.13 Changing the Net Zero Target to 2030 and Purchasing Carbon Offsets

5 **Directorate:** Sustainable Environment and Economy
Report Author: Julia Adams, Sustainability Team Leader
Sharyn French, Manager Environmental and Economic Planning
File No: I2023/403

10 **Summary:**

Council has less than three years to achieve its net zero emissions target (Res **17-086**) and Climate Active certification (Res **19-634**) for council operations by 2025. Staff have been working on important milestones within our net zero journey.

This report unpacks the following:

- 15
1. Complexities of claiming ‘net zero’ status, and recommendation to realign the target date to 2030,
 2. Timeline and requirements to achieve Climate Active target in 2025, and
 3. Draft Carbon Offset Procurement Policy for Council operations.

20 Council is making progress reducing its operational emissions each year. However, staff have established that Council cannot achieve net zero emissions in 2025. This is because industry advice states that net zero emissions can only be achieved if we first reduce our emissions ‘as much as possible’, and then only purchase carbon offsets as a last resort.

25 For Byron Shire Council, net zero is a long-term goal that can only be achieved with the continued introduction of new technologies, such as electric vehicles and sustainable asphalt, and a decrease in their costs. This is why we should aim for carbon neutrality in 2025 using the highly regarded Climate Active certification, not net zero. Doing so will enable Council to strike a balance between vital climate action and maintaining an ethically and fiscally responsible organisation that can continue to deliver important services to our community.

30 Realigning our net zero target to 2030 will allow us to collaborate regionally with other Northern Rivers Councils that have the same goal, including Tweed and Ballina, and to leverage our joint capabilities to achieve emissions reduction and offsetting milestones that we would not be able to otherwise.

35 To achieve carbon neutrality in 2025 using the Climate Active certification Council will need to purchase carbon offsets. Staff present a draft Carbon Offset Procurement Policy (see Attachment 1, E2023/54559) for endorsement and public comment.

RECOMMENDATION:

- 5 1. **That Council notes the definitions of net zero and carbon neutrality, and endorses the revised net zero target date of 2030.**
2. **That Council endorses the draft Carbon Offset Procurement Policy (Attachment 1, E2023/54559) and supports it being made available for public comment for 28 days.**
- 10 3. **Following this period, Council receives a further report if submissions have been received. If there are no submissions at the end of the 28-day period, Council receive no further report and adopt the draft Carbon Offset Procurement Policy in Attachment 1 (E2023/54559).**
4. **That Council notes the pathway and steps to achieving carbon neutrality using the Climate Active Standard.**
- 15 5. **That Council notes the financial implications of achieving both carbon neutrality in 2025 and net zero in 2030.**

Attachments:

- 20 1 DRAFT Carbon Offset Procurement Policy, E2023/54559 

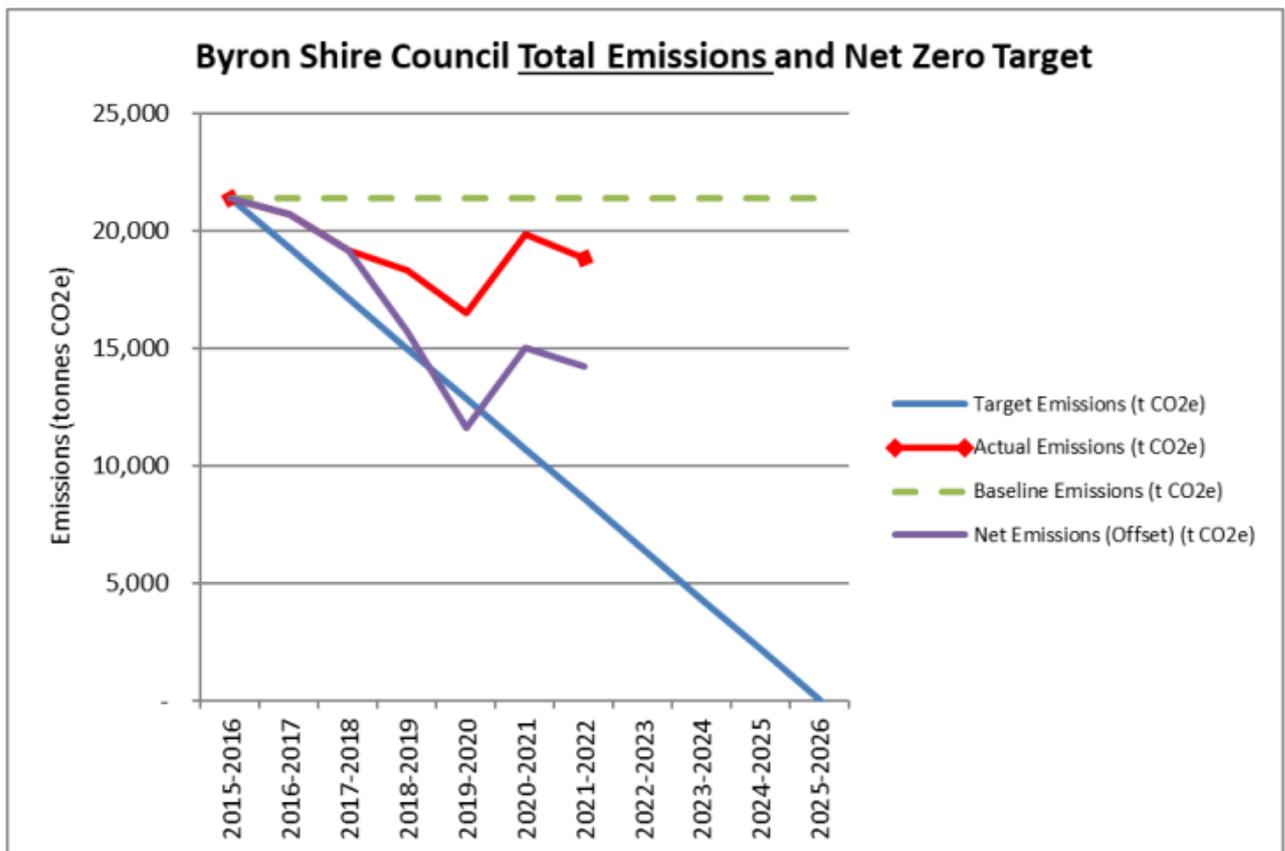
Report

In 2017, Council resolved (Res **17-086**) to commit to achieving 100% net zero emissions by 2025.

5 In 2019, Council resolved (Res **19-634**) to become carbon neutral certified in 2025 using the Climate Active Standard (previously known as National Carbon Offset Standard, NCOS).

Staff report annually on Council’s operational emissions and progression towards these targets. The latest report on the 2021/22 Annual Emissions Inventory was tabled and noted at the [March 2023 Council meeting](#).

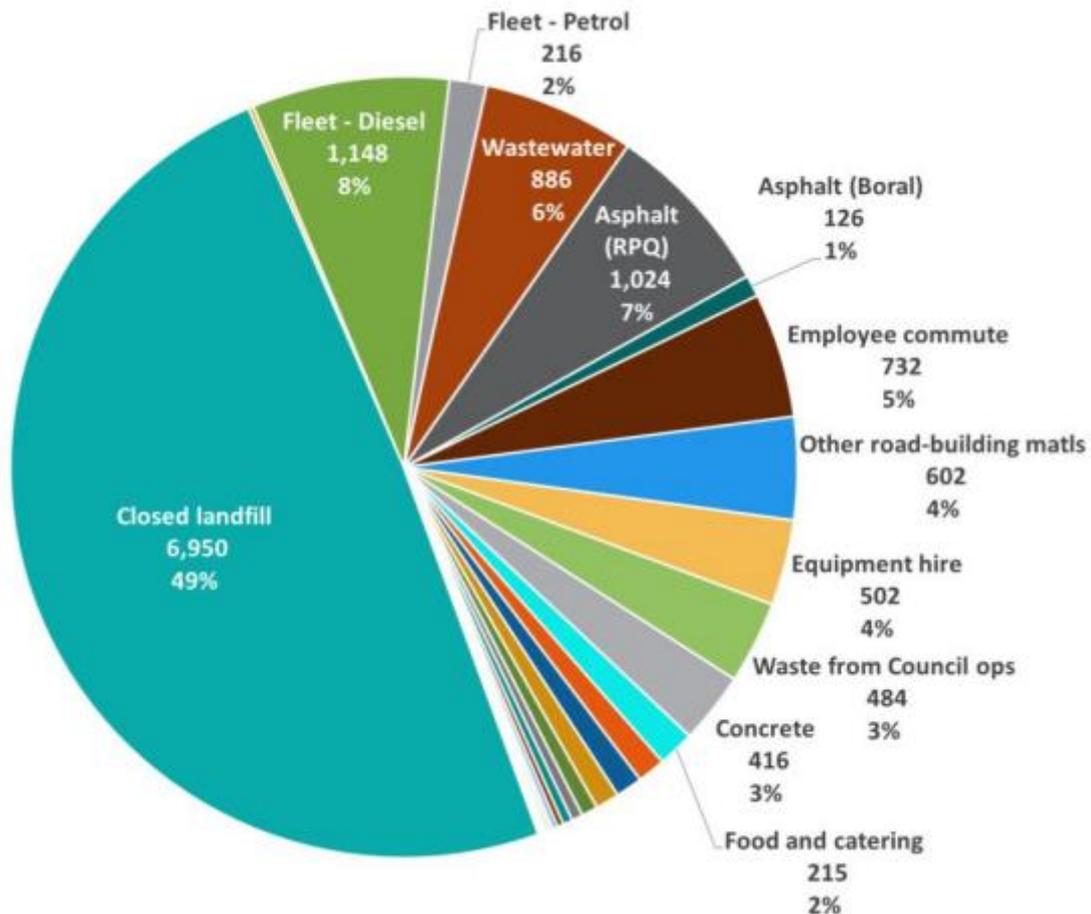
10 With the addition of scope 3 emission sources in 2020/21, Council’s overall emissions are higher than reported in 2019/20. However, the overall trajectory of Council’s emissions is towards zero (see Figure 1).



15 **Figure 1.** FY2021/22 Total Council emissions tracking towards 2025 target (note – all scopes included from FY2020/21).

20 The recent inclusion of scope three emissions into Council’s operational emissions boundary (such as employee commute, construction materials, and equipment hire - see Figure 2) presents the organisation with further challenges in reducing its emissions output. To affect change in the most carbon-intensive areas, Council will need to rely on

improving technologies and partnering with our suppliers to collectively improve our sustainable procurement practices.



5 **Figure 2.** Council's 2021/22 detailed contribution of emissions sources to the inventory. Note the largest contributors are the closed Myocum landfill site, Council's fleet, and asphalt.

10 **1. The complexities of net zero and carbon neutrality, and realigning the net zero target date to 2030**

In light of these challenges and the impending target year, the sustainability team has been working with Councillors, internal staff and consulting with industry professionals to determine if we can achieve our net zero emissions target by 2025, and the different pathways available to us.

15 The widely used definitions of net zero and carbon neutral are:

Net zero is achieved when we reduce our CO2e- emissions to the lowest amount before balancing our residual CO2e- emissions, by purchasing carbon removal offsets only (also called credits), as a last resort.

If we've achieved net zero, we've also achieved carbon neutrality.

Carbon neutrality is achieved when all our CO2e- emissions are balanced by purchasing standard carbon offsets (also called credits). Reducing emissions is not required.

Climate Active is a carbon neutral certification.

Carbon removal offsets are generally more expensive due to the nature of the project and high global demand. To be net zero you must purchase this calibre of credits.

5 Standard carbon offsets are generally cheaper by nature of the projects e.g. renewable energy projects. They are also called 'carbon avoidance offsets' as you are not investing in projects that take carbon out of the atmosphere.

10 As demonstrated in Figure 1, Council is making progress reducing its operational emissions each year. However, in accordance with these definitions, staff have established that Council cannot achieve net zero emissions in 2025. This is because industry advice states that net zero emissions can only be achieved if we first reduce our emissions 'as much as possible', and then only purchase carbon offsets as a last resort.

When Council declared to be 'net zero emissions in 2025' this was a relatively new concept. In the five years since, the term has evolved and matured in the international community into a multi-faceted concept. We as a community have also learnt there is no silver bullet and that reducing our emissions is difficult and takes planning and time.

15 For Byron Shire Council, net zero is a long-term goal that can only be achieved with the continued introduction of new technologies, such as electric vehicles and sustainable asphalt, and a decrease in their costs. This is why we should aim for carbon neutrality in 2025 using the highly regarded Climate Active certification, not net zero. Doing so will enable Council to strike a balance between vital environmental action and maintaining an ethically and fiscally responsible organisation that can continue to deliver important services to our community.

25 Realigning our net zero target to 2030 will allow us to collaborate regionally with other Northern Rivers councils that have the same goal, including Tweed and Ballina, and to leverage our joint capabilities to achieve emissions reduction and offsetting milestones that we would not be able to otherwise.

2. Climate Active Project Timeline

Council resolved to become Climate Active in 2019 in order to provide a transparent and independently audited framework for it to calculate and track emissions reduction and progress towards our net zero target.

30 As there are no State or Federal guidelines in this space, the Climate Active Standard has proved to be very useful in helping us to understand what emissions we should be

tracking, how to calculate them and what steps we should be taking to improve our climate mitigation activities.

5 The Standard also helps Council to balance our fiscal and ethical responsibilities with progressive environmental action. It also provides us with a pathway to send a message to our community that Council is committed to reducing carbon emissions, using a transparent and regulated method.

Figure 3 below outlines the high-level steps that Council must follow to achieve successful Climate Active certification. We already complete steps two and three on an annual basis, as outlined in the Operational Plan, and are now getting ready to start steps one and four.

10

Getting & staying certified.

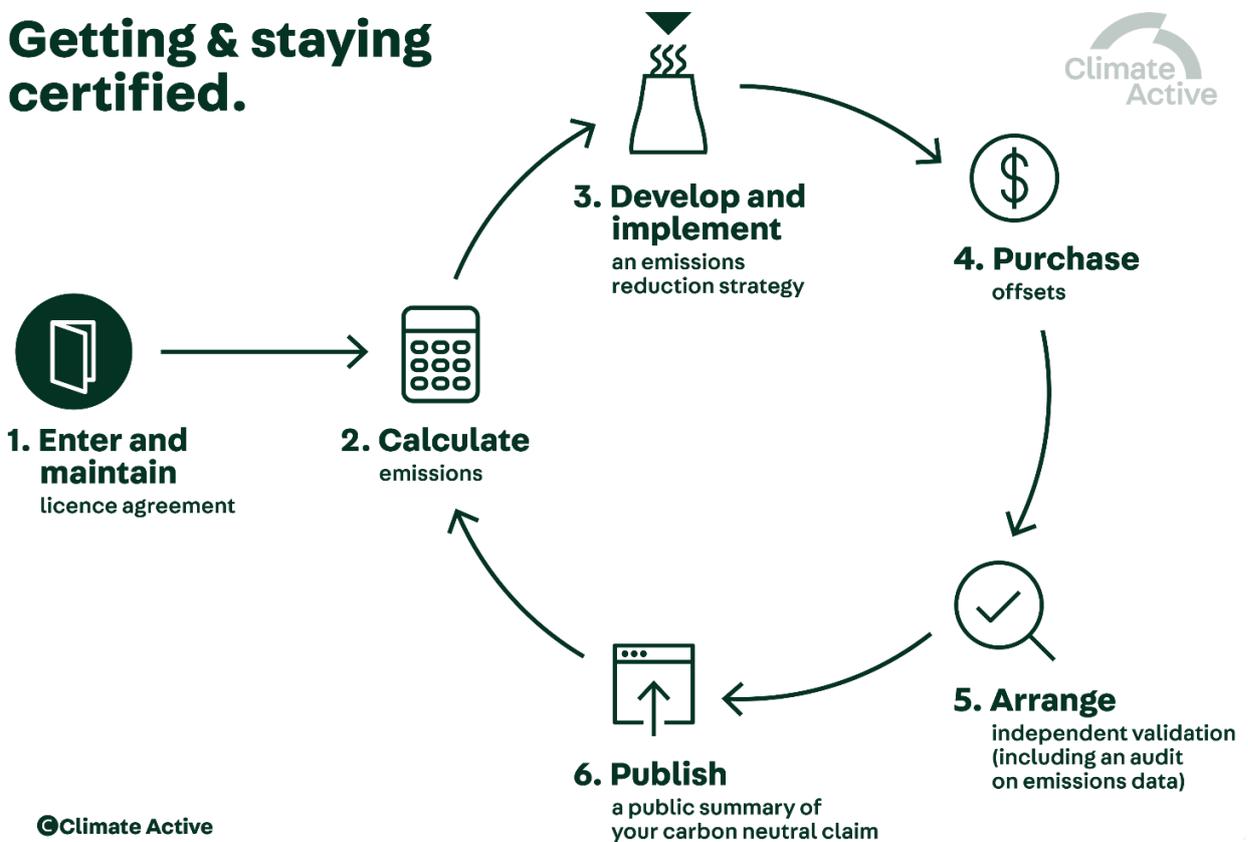


Figure 3. The high-level steps Council will follow to achieve Climate Active carbon neutral certification. Source: [Climate Active website](#).

15 Staff have developed a 'carbon neutral' project timeline for Council so we can become certified by our 2025 deadline. Figure 4 below shows the high-level steps that will be required over the next few years in order for us to achieve carbon neutrality.

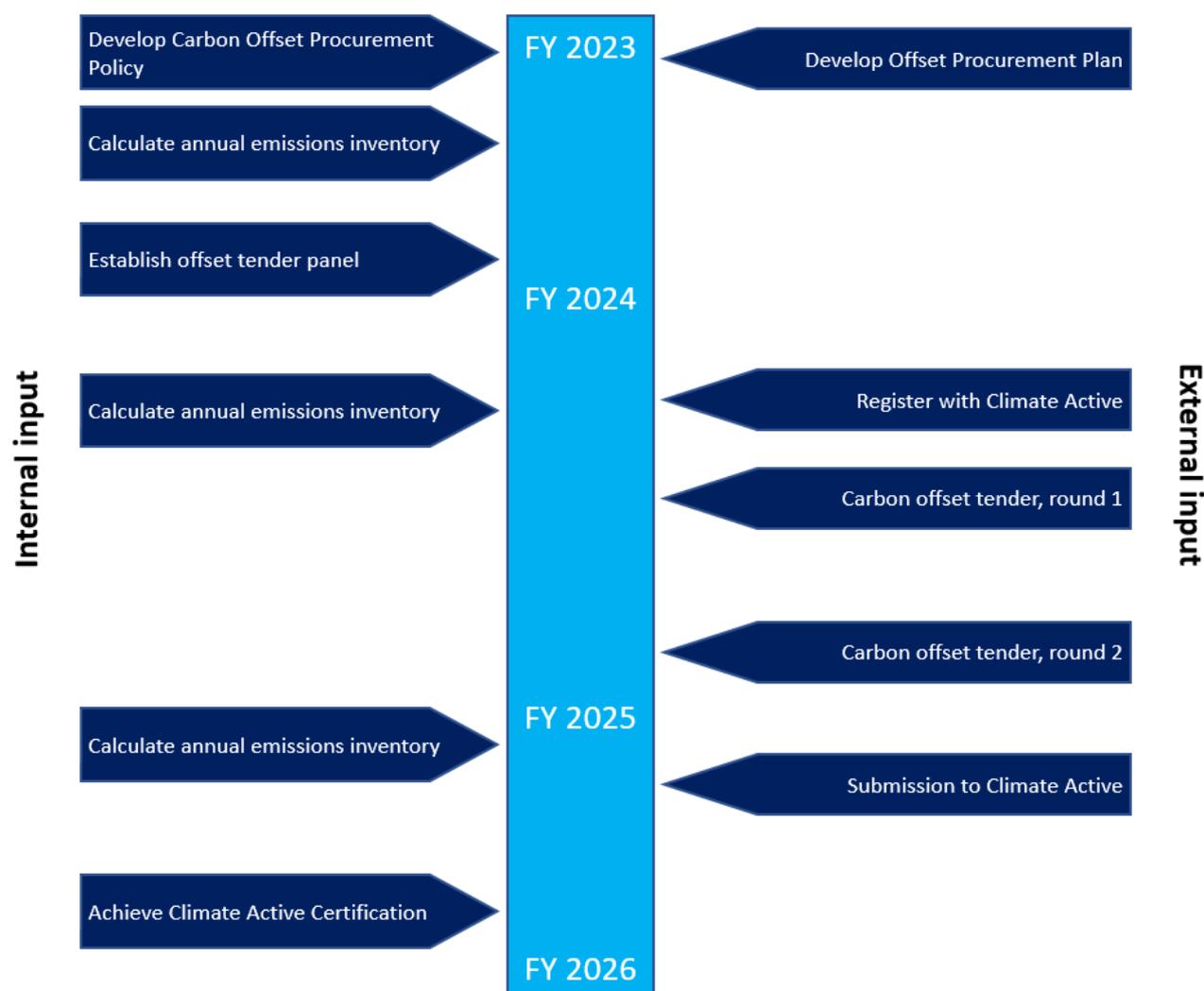


Figure 4. Approximate timeline of major steps for Council to achieve Climate Active certification by December 2025.

5 To achieve carbon neutrality using the Climate Active certification Council will need to purchase carbon offsets. Staff present a draft Carbon Offset Procurement Policy (see Attachment 1, E2023/54559) for endorsement and public comment.

3. Draft Carbon Offset Procurement Policy

10 Part of Climate Active certification (and achieving net zero) is the purchasing of eligible carbon offsets. Accordingly, staff have been progressing FY22/23 Operational Plan activity 3.4.4.1 – *Develop a carbon offset policy and procedure for Council in order to achieve net zero emissions.*

This is important as it will be the most expensive recurring component of the ‘net zero project’ and therefore we need to start planning now in order to understand our future budget requirements.

BYRON SHIRE COUNCIL

To understand how others have been managing these costs and commitments, staff have been engaging with other councils who have similar net zero targets and have achieved Climate Active carbon neutrality.

Lessons learnt include:

- 5
 - All Councils purchase a combination of offsets, with only a small percentage being Australian offsets (ACCUs) (see Table 1). This is due to cost and availability. ACCUs are in high demand.
 - Purchasing offsets is a complicated tender process that often requires a broker to access the environmental market.
- 10
 - A long-term procurement plan is recommended to assist the Finance and Sustainability teams.
 - New environmental and landfill levies are often introduced to pay for offset purchases.

15 To mitigate financial and reputational risk, staff recommend purchasing a combination of Australian and international offsets. Table 1 outlines what blend of offsets have been purchased by other Climate Active councils and governmental organisations.

Table 1. Sample of Climate Active certified governmental organisations and their carbon offset portfolios.

Council/ Organisation	Carbon Offset Purchases (%)			
	ACCUs	Verified Carbon Units (VCUs)	Verified Emission Reductions (VERs)	Certified Emission Reductions (CERs)
Brisbane	8.7	91.3		
Darebin		96.4	3.6	
Sydney	9	91		
Yarra		100		
Landcom	93	7		
Mornington Peninsula	10	90		
Surf Coast Shire	5	3		92
Taronga Zoo		100		

20 Consequently, we have developed a draft Carbon Offset Procurement Policy (see Attachment 1, E2023/54559) that identifies our priorities and values when purchasing offsets, to guide staff in future requests for tenders.

The purpose of the Policy is to provide a framework for Council to purchase verified carbon offsets in order to achieve its climate change mitigation commitments, whilst having due consideration of financial risk, reputation and environmental responsibility.

The draft Policy's objectives are to:

- Ensure that Council's decision-making regarding the purchase of carbon offsets considers relevant verification standards, additionality, permanence, measurability, transparency, and other co-benefits.
- 5
- Demonstrate leadership in Council's own decision-making in responding to climate change on a corporate level and continue to be a progressive and transparent environmental leader.

Council will use the following principles in order to achieve the objectives:

- 10
- Purchase carbon offsets in alignment with its environmental, economic, and social values, as described in the Community Strategic Plan;
 - Prioritise local and Australian carbon offsets over international offsets where possible, and proportionally aim to purchase at least 10% Australian carbon offsets;
 - Ensure it purchases high quality offsets that have undergone a thorough due diligence process;
- 15
- Consider local offsetting options as the market becomes more viable; and
 - Make these purchases in a fiscally responsible manner, meaning the offset types may change from year to year.

20

Staff also plan to engage external consultants next financial year in order to project future market trends and advise us on what is required to purchase carbon offsets over the next few years. There is an allocation of \$10,000 for this work in the FY23/24 operational budget.

The draft Policy objectives and principles were presented to the Climate Change and Resource Recovery Advisory Committee in May and were supported by all members ([CCRAC May 2023 meeting minutes](#)).

25

Next steps

Following the resolution of this report, staff will update the [Net Zero Emissions Action Plan for Council Operations](#) accordingly.

30

In FY2023/24 staff will be focusing on emissions reduction activities that will reduce our scope 1 and scope 3 emissions, particularly in our light fleet and scope 3 sectors. This will include developing an Electric Vehicle Transition Plan and working with our suppliers to improve our sustainable procurement practices.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
3: Nurtured Environment We nurture and enhance the natural environment	3.4: Support and empower our community to adapt to, and mitigate our impact on climate change	3.4.3: Monitoring and reporting - Monitor and report on actions that aim to address climate change	3.4.3.2	Prepare Annual Emissions Inventory to determine progress towards 2025 Net Zero Emissions Target.
3: Nurtured Environment We nurture and enhance the natural environment	3.4: Support and empower our community to adapt to, and mitigate our impact on climate change	3.4.4: Net Zero - Work towards achieving Council's 100% net zero-emissions target	3.4.4.1	Develop a carbon offset policy and procedure for Council in order to achieve net zero emissions.

Recent Resolutions

- Resolution 17-086
- 5 • Resolution 19-634

Legal/Statutory/Policy Considerations

Byron Shire Council Net Zero Emissions Strategy for Council Operations 2025

Byron Shire Council Net Zero Emissions Action Plan for Council Operations 2025

10 The subject of this Council report is the DRAFT Carbon Offset Procurement Policy (Attachment 1).

Financial Considerations

15 Staff intend to engage external consultants in FY23/24 to project future market trends and advise staff on what is required to purchase carbon offsets over the next few years. There is an allocation of \$10,000 for this work in the FY23/24 operational budget. Requests for quotation will be sought and if additional budget is required then this will be recommended in a quarterly budget review.

Consultation and Engagement

The Draft Carbon Offset Procurement Policy has been reviewed internally by staff from the Corporate Services, Finance, and Sustainability team, as well as being supported in principle by the Executive Team.

- 5 The Policy's principles were presented to and supported by the Climate Change and Resource Recovery Advisory Committee at the 18 May 2023 meeting, as referred to earlier in this report.

- 10 Staff have been in consultation with Councillors regarding the net zero target date for over one year. There have been three Councillor Workshops on the net zero target and the feasibility of achieving it by 2025. The results of this consultation process are presented in this report.

Report No. 13.14 Busking Policy Review

Directorate: Sustainable Environment and Economy

Report Author: Dylan Johnstone, Development Investigations Lead

File No: I2023/783

5 **Summary:**

The purpose of this report is to seek Council support to publicly exhibit the draft Byron Shire Busking Policy prepared in accordance with Resolution **22-727** adopted at the Ordinary Meeting held on 15 December 2022.

10

RECOMMENDATION:

That Council:

- 15
- 1. Endorses the Draft Busking Policy in Attachment 1 (E2023/56924) and places the document on public exhibition for a minimum period of 28 days.**
 - 2. Following exhibition, receives a further report detailing submissions made. Should there be no submissions as of the close of the exhibition period, that Council adopts the Draft Busking Policy in Attachment 1 (E2023/56924).**

Attachments:

- 20
- 1 Draft Busking Policy 2023, E2023/56924 
 - 2 Policy: Busking Policy (adopted 20/2/2012 after close of exhibition Res 12-939 6/12/2012) (Current_Policies), E2013/12293 

25

Report

Council resolved via **22-727** that Council addresses issues with busking in the town centre of Byron Bay, specifically the use of large speaker systems and busking in non-designated areas, by revising the policy and providing better guidance for the benefit of all concerned.

- 5 It is also noted that Council resolved via **18-361** that Council's Busking Policy be amended to include the Byron Visitors Centre leased site as a designated busking site.

Proposed amendments

Council's Busking Policy was first adopted in 2001 and has been amended on several occasions with the most recent amendment occurring in 2013 (see Attachment 2).

- 10 Proposed changes to the current Busking Policy included in the Draft attached to this report include:
- Restriction of amplified busking so that it may only take place during specified hours and at designated sites in Byron Bay and during specified hours in all other areas of the shire.
 - 15 • Clear conditions that busking must not be repetitive in nature and must not result in offensive noise
 - Prohibition of the use of dangerous materials and implements which are defined as materials and implements that pose a risk, hazard or uncertain outcomes for people.
 - 20 • Requirement for buskers to obtain public liability insurance of a minimum \$20 million to indemnify Council against any liability arising from busking activities and to demonstrate this when making an application.
 - Inclusion of the Byron Visitor Centre as a designated busking site.
 - 25 • Removal of two sites currently identified as designated sites in Jonson Street as per Annexure 4 of the current Policy. These sites are proposed to be removed as staff are of the view that the percussion and circle busking acts currently permitted in these locations are more appropriate to be located in Apex Park, Railway Park and the Byron Visitor Centre.
 - 30 • Inclusion of a condition for busking that encourages informal self-regulation by individual buskers and the busking industry to ensure that compliance with the Policy is achieved at all times.
 - Requirement for buskers to submit a passport-sized identification photograph when making application for a permit and to display the photograph while busking so that authorised officers are able to identify that the person busking is the holder of a permit.
 - 35 • Requirement for a busking group to be limited to a maximum of four (4) performers.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.1: Enhance trust and accountability through open and transparent leadership	1.1.1: Leadership - Enhance leadership effectiveness, capacity, and ethical behaviour	1.1.1.1	Coordinate Council's annual policy review program, update and publish adopted policies
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.2: Enhance safety and contribute to the physical, mental, and spiritual health and well being of our people.	2.2.2: Public health – Protect, promote and control risks to public health	2.2.2.4	Monitor, investigate and respond to public and environmental health matters through proactive inspections and surveillance programs.

Recent Resolutions

- Resolution **18-361**
- 5 • Resolution **22-727**

Legal/Statutory/Policy Considerations

- Local Government Act 1993
- Protection of the Environment Operations Act 1997

Financial Considerations

10 None relevant to this report.

Consultation and Engagement

Council must give public notice of a draft Policy after it is prepared under the *Local Government Act 1993* – Section 160 Public notice and exhibition of draft local policy.

- 5 Under the *Local Government Act 1993* – Section 160 the period of public exhibition must be not less than 28 days.

Report No. 13.15 Car share expression of interest - project timeline update

Directorate: Sustainable Environment and Economy

Report Author: Hayley Briggs, Sustainability and Emissions Reduction Officer

5 **File No:** I2023/815

Summary:

Council has been facilitating car share program in the Shire since June 2018. Car share provider Popcar has held an agreement with Council for the right to occupy the car share spaces since project inception. Their current permits expire on 29 July 2023.

10 Council resolved (**21-200**) to invite car share operators to respond to a competitive expression of interest in 2022/23 for the 14 existing car share parking bays in the Shire for a three-year contract commencing in 2023/24.

The expression of interest was open from Friday 28 April – Monday 22 May 2023. Two submissions were received.

15 Staff had planned to make a recommendation regarding a new provider to the 22 June Ordinary Council meeting. However, due to the complex nature of submissions, it will take longer than expected to evaluate them.

20 Staff recommend that Council extends Popcar’s current permits for an extra two months, until 29 September 2023. This would allow staff sufficient time to research and evaluate the submissions, report the recommendations the 24 August 2023 Ordinary Council meeting, and implement the resulting resolution.

25 **RECOMMENDATION:**

That Council:

1. **Notes that the evaluation of the car share expression of interest will be reported to the 24 August 2023 Ordinary Council meeting.**
 2. **Resolves to extend the current car share provider’s (Popcar’s) annual permits by two months, with an expiry date of 29 September 2023.**
- 30

Report

Background

5 Car share schemes are privately operated, membership-based services which provide access to conveniently located passenger vehicles. Rental costs include vehicle maintenance, fuel costs and roadside assistance. Residents, tourists and businesses can become members of a car share scheme and vehicles can be rented for the hour or by the day, on demand.

10 In 2018, Council resolved (Res **18-115**) to support a 12-month car share pilot. Expressions of interest were sought from car share companies and Popcar was selected (Res **19-009**). Popcar launched their services in Byron Shire on June 5, 2019 with 8 share cars available in Byron and 2 in Mullumbimby.

In 2020, Council resolved (Res **20-271**) to continue to lease the 10 dedicated bays to Popcar and for staff to liaise with Popcar and the Local Traffic Committee about possible expansion of car parking spaces.

15 In 2021, Council resolved (Res **21-200**) to continue to lease the 10 bays to Popcar and noted that (a) the cost of applications and bay permits would be reviewed as part of the 2022/23 budget process and (b) car share operators would be invited to respond to a competitive expression of interest in 2022/23 for the existing car share parking bays in the Shire for a three-year contract commencing in 2023/24. The Local Traffic Committee and
20 Council approved 4 additional parking bays in Byron Bay (Res **21-358**).

Expression of interest – more evaluation time required

Staff ran the expression of interest from Friday 28 April – Monday 22 May 2023. A public notice was placed on Council's website to advertise that it was open, and staff identified and directly emailed 6 potential car share providers to invite them to apply.

25 Two submissions were received, one from current car share provider Popcar and one from local solar project manager Juno Energy.

30 Given the limited number of existing car share providers in Australia and based on the level of interest communicated by the identified providers prior to the EOI, staff anticipated that evaluation of the submissions would be straightforward. Staff had aimed to recommend a provider to Council at the June meeting. This would have allowed sufficient time to enter a new agreement before the expiry of Popcar's current annual permits on 29 July 2023.

35 However, initial review of the submissions has shown that the evaluation process will be more complex than expected. Staff need to liaise with internal and external stakeholders. Details of the applications are unable to be discussed in a public report.

Given this, more time is required before a recommendation can be made. Popcar has confirmed in writing that they agree to extend their current permits for two months (until 29 September 2023) while a Council decision is reached. Council's Legal Team have advised that extending the permits for two months presents no legal issues provided that both

parties agree to the extension in writing. The fee for the extended permits would be calculated on a pro rata basis, based on the updated fees as per Council's 2023/24 Fees and Charges.

Strategic Considerations

5 Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
3: Nurtured Environment We nurture and enhance the natural environment	3.4: Support and empower our community to adapt to, and mitigate our impact on climate change	3.4.1: Climate change mitigation - Mitigate the risk of climate impacts through actions within Council's control	3.4.1.1	Invite car share operators through an expression of interest process to provide a car share service for the 14 designated parking bays in Byron Shire.

Recent Resolutions

- 18-115
- 19-009
- 20-271
- 10 • 21-200
- 21-358

Legal/Statutory/Policy Considerations

Car Share Policy 2022

Financial Considerations

- 15 Popcar will be charged a pro rata amount for the two-month extension to their permits, based on the updated permit fees as per Council's 2023/24 Fees and Charges.

Consultation and Engagement

- 20 Legal team were consulted in relation to the legality of extending the permits by two months. The advice given was that extending the permits for two months presents no legal issues provided that both parties agree to the extension in writing.

Report No. 13.16 Resolution 23-227 Toni Childs Music Video Shoot August 2023

Directorate: Sustainable Environment and Economy

5 **Report Author:** Shannon Burt, Director Sustainable Environment and Economy
Phillip Holloway, Director Infrastructure Services

File No: I2023/821

Summary:

10 At the 25 May 2023 Ordinary Meeting, Council **Resolved 23-227** to receive a further report on the proposed Toni Childs Music Video Production scheduled for 7 August in Byron Bay.

RECOMMENDATION:

That Council:

- 15
1. **Notes the responses provided to Resolution 23-277.**
 2. **Advises the Music Video Production Team that it will not support a road closure application under section 138 Road Act 1993, for a video shoot to be held on Monday 7 August 2023 - Jonson Street, Byron Bay – the section between Lawson Street and Byron Street – between 6am and 2pm (8 hours).**

20

 3. **Invites the Music Video Production Team to submit an alternate proposal (location and time) for this film shot.**

Report

The Local Traffic Committee considered [Report No. 8.1 Toni Childs Music Video Shoot Byron Bay August 2023 at its meeting on 16 May 2023.](#)

5 Report No. 8.1 Toni Childs Music Video Shoot Byron Bay August 2023 at its meeting on 16 May 2023.

The Video Shoot is proposed to be held on Monday 7 August 2023. With the intention to close off part of Jonson Street, Byron Bay – the section between Lawson Street and Byron Street – between 6am and 2pm (8 hours).

The Committee made the following recommendation to Council:

- 10 1. **That Council supports the Toni Childs Music Video Production to be held on Monday 7 August 2023.**
2. **That Council support in Part 1 is subject to:**
- 15 a) **separate approvals by NSW Police and TfNSW being obtained;**
- b) **the event organiser providing council with an updated Traffic Management Plan and Traffic Guidance Scheme/s for the film shoot;**
- 20 c) **development and implementation of a Traffic Management Plan and Traffic Guidance Scheme/s by those with appropriate TfNSW accreditation and the holding of current and appropriate levels of insurance and liability cover;**
- d) **the impact of the film shoot be advertised, and charged at cost to the organisers, via a notice in the local weekly paper and Variable Message Signage near the site, a minimum of one week prior to the operational impacts taking effect, noting it must include the film shoot name, specifics of any traffic impacts or road closures and times, alternative route arrangements, Production Team, a personal contact name and a telephone number for all event related enquiries or**
- 25 **complaints;**
- e) **the film shoot be notified on Council’s web page with the event organiser supplying Council with the relevant information.**
3. **That Council requires the Production Team to:**
- 30 a) **inform the community and businesses that are directly impacted (e.g., within road closure zones) via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised;**
- b) **arranging for private property access and egress affected by the film shoot;**
- 35 c) **liaising with bus, taxi and waste operators and ensuring arrangements are made for provision of services during conduct of the film shoot;**
- d) **consulting with emergency services and any identified issues be addressed;**

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.16

- e) holding \$20m public liability insurance cover which is valid for the film shoot;
- f) paying Council's Road Event Application Fee prior to the film shoot;
- g) not place any signage on the road related area of the Pacific Highway;
- h) apply/receive consent by the relevant road authority under section 138 of the NSW road act (1993) and pay any associated fees and charges within this process.

5
4. That Council:

- a) gives consideration to the impacts on businesses in this locality for this length of time and the precedent that this may set.

- 10 b) receives a report on Council's obligations under filming legislation.

The minutes of the Local Traffic Committee were presented to Council at the Ordinary Meeting 25 May 2023 where it **Resolved 23-227**:

That Council receives a report to the 22 June 2023 Ordinary Council Meeting on:

- 15 a) *the impacts of street closure on Monday 7 August 2023 for the Toni Childs Music Video Production on businesses in this locality for this length of time and the precedent that this may set.*
- b) *Council's obligations under filming legislation.*
- c) *Options for a more streamlined process in the future.*

Discussion on relevant parts of **Resolution 23-227** follow:

- 20 a) **the impacts of street closure on Monday 7 August 2023 for the Toni Childs Music Video Production on businesses in this locality for this length of time and the precedent that this may set.**

25 There would be impacts to local businesses including ability to trade, and receive scheduled delivery services, disruption to residents, workers, and visitors needing access to and through the main street of the town centre.

While the production will allow pedestrian access on road through the closure, business-as-usual trading within the site will be hard to achieve with filming occurring on the footpath.

30 In this regard Council needs to consider the (BAU) impacts from the loss of kerbside parking adjacent the shopfronts from pay parking revenue and associated impacts this has on those businesses trading.

There may also be issues with clearing vehicles the night before the event to ensure they are not caught within the site during the filming. Council would not support escorting trapped vehicles within site while mixing with the displaced pedestrians.

Extract from TMP below shows extent of road closure proposed.



Project Information	Details
Road Cross Section (i.e. 2 lane/2 way)	2 lane/2 way
Sign Posted Speed Limit	50km/h
Pavement Type and Condition	Asphalt/Good
Horizontal Alignment (straights/curves)	Straight
Vertical Alignment (sags/crests)	N/A
Bicycle Facilities	No
Pedestrian Facilities	Yes
Bus Facilities	No
Traffic Signs	Yes
Intersections	Yes
Traffic Signals	No
Accesses	Residential/business
Significant Traffic Generators	Local shops
Other	

5 Under the NSW Government Local Government Filming Protocol 2009, the Production team is only required to notify all community (business/resident) that would be affected by the closure and liaise with them directly to overcome any concerns or issues.

10 “Local community notification: Filmmakers need to do a letter drop to residents and the local community with the details of the filming, with a copy to council for information. The letters should be delivered with enough lead time for people to make further inquiries. The letter should indicate the times and nature of the shoot, conditions of council approval, and

BYRON SHIRE COUNCIL

provide a contact name and number for the production. The production should have a strategy for managing community concerns and/or complaints. If filming permission is sought at especially short notice, for example for a production contracted at short notice or for a sudden schedule change, additional time and effort may be needed”.

- 5 The Protocol does not require a social or economic impact assessment for filming activities.

No compensation under the Protocol is payable to affected ‘community’ the result of impacts/disruption associated with filming activities.

b) Council’s obligations under filming legislation.

- 10 The NSW Government Local Government Filming Protocol 2009 remains the relevant Protocol that local councils are to comply with when determining applications or setting fees for filming activities.

- 15 Under the legislation, councils can only opt out of this Protocol by adopting a satisfactory alternative policy with the approval of the Director-General of the Department of Local Government.

The act of filming does not of itself require an approval by councils, nor is it subject to fees.

Extract from the Protocol – filming categories:

Ultra Low	Low	Medium	High
No more than 10 crew	11-25 crew	26-50 crew	> 50 crew
No disruption is caused to the Council's stakeholders, retailers or motorists or other events in the vicinity of the activities	No more than 4 trucks/vans	No more than 10 trucks	> 10 trucks
Activities are contained to footways or public open space areas only	No construction	Some construction	Significant construction
Public safety is maintained at the locations at all times during the conduct of the activities	Minimal equipment/lighting	Equipment used for example, dolly, trucks, medium-sized cranes, jibs	Extensive equipment
Vehicles associated with the conduct of the activities are legally parked at all times and are not driven onto footways, parks or plaza areas	Small or no unit base required	Unit base required	Large unit base required
	Usually 1-2 locations	No more than 4 locations	> 4 locations
\$0	\$0 - \$150	\$0 - \$300	\$0 - \$500

What may require approval, and attract fees, are activities associated with filming where approval is required under legislated or regulatory authority or services are provided to the filmmaker. Such as road closures.

- 5 Under the Protocol there is a 'Presumption of Approval: Councils are expected to grant approvals and, where appropriate, any necessary lease or licence over Council owned or Council controlled land for filming, unless there are exceptional circumstances.'

10 As such councils are to ensure that requests for location film productions can occur unless there are exceptional circumstances or legislation requires the council to refuse to grant the approval.

Council as an approval authority, can address concerns about the impacts/disruption associated with filming activities on 'community' as follows.

- 15 **Traffic Management:** ...If filming takes place on roads or interferes with traffic flow it will often be necessary to submit a TMP to Council ...Council should co-operate with filmmakers to approve traffic plans promptly – the traffic committee may need to meet by phone' **'A request by a film production may not be reasonable, for example, to close a busy road during peak hour. Even where a council believes exceptional circumstances apply, negotiations with the film production over relocation, alternative times, or the imposition of appropriate conditions should be considered.'**

- 20 **Community Concerns: Councils should usually be able to deal with community concerns by imposing conditions on approvals.** For example, there may be restrictions on noise or hours of operation, a requirement for environmental protection, or a requirement that the filmmakers advise neighbours about the activity...

25 For this particular filming production, Council can refuse to grant approval to the road closure under section 138 Road Act 1993 (**23-277 3h**).

c) Options for a more streamlined process in the future.

There are no alternate options to the NSW Government Local Filming Protocol 2009 for filming in local areas. Requests for a review of the Protocol by Council have not been actioned by the State Government and remain outstanding.

- 30 Previous reports and resolutions on the Protocol and a local response to filming as a result also remain outstanding (**21-254**).

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.1: Foster opportunities to express, celebrate and participate in arts and cultural activity	2.1.3: Events and festivals - Support and enable arts & cultural activity, festivals, projects, and events	2.1.3.8	Administer licences for weddings, events, activities and filming on council and crown land

Recent Resolutions

- **23-227**

5 Legal/Statutory/Policy Considerations

As per NSW Government Local Government Filming Protocol 2009.

If a filmmaker is dissatisfied with the conditions of approval or a decision to refuse an application, they should in the first instance speak with the relevant approving authority or other relevant Government agency where it is the landowner.

- 10 They may subsequently seek mediation through the NSW Film and Television Office who may seek support from other relevant agencies such as the Department of Premier and Cabinet.

Financial Considerations

As per NSW Government Local Government Filming Protocol 2009.

15 Consultation and Engagement

As per NSW Government Local Government Filming Protocol 2009.

Report No. 13.17 Update Resolution 22-737 Former Mullumbimby Hospital Site Redevelopment Project

Directorate: Sustainable Environment and Economy

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

File No: I2023/885

Summary:

10 Council considered **Report No. 13.16 Former Mullumbimby Hospital - Land Use and Development Planning Update** at [Agenda of Ordinary Meeting - Thursday, 15 December 2022 \(infocouncil.biz\)](#) and resolved as follows:

Resolved 22-737 that Council:

1. Thanks all community members who gave feedback during the consultation period on the draft Site Strategy and Urban Design Protocol.
- 15 2. Notes that submissions have been used to improve the exhibited document and will be used as inputs into future planning and design stages.
3. Endorses the revised Site Strategy and Urban Design Protocol (Attachment 1 E2022/113329) for the former Mullumbimby Hospital site to be used as a guiding document for the project.
- 20 4. Requests staff to prepare a draft planning proposal informed by the Site Strategy and Urban Design Protocol and any required Baseline Studies and Advice and report this to Council for consideration prior to seeking a gateway determination.
5. Requests staff to arrange an Enquiry by Design process (inclusive of community, industry and Councillor engagement) to underpin Concept Masterplan and Development Control Plan drafting.
- 25 6. Requests staff to report the Concept Masterplan, Development Control Plan, and associated development options to Council.
7. Requests that an arts facility / hub or artist in residence program be integrated as a core part of the community facilities.

30 The purpose of this report is to provide Council with an update on the status of the former Mullumbimby Hospital Site as per relevant parts of **Resolution 22-737**.

RECOMMENDATION:

5 **That Council:**

1. **Notes the update on Resolution 22-737 Former Mullumbimby Hospital Site.**
- 10 2. **Authorises staff to finalise and forward a planning proposal (informed by the Site Strategy and Urban Design Protocol and technical studies) to the Department of Planning and Environment for the purpose of obtaining a Gateway Determination, and that Council exhibit the Planning Proposal in accordance with the Gateway requirements.**
- 15 3. **Notes that an Enquiry by Design Workshop, Development Feasibility Assessment, and draft Development Control Plan for the Former Mullumbimby Hospital Site will progress along with the Planning Proposal to enable completion of these by early 2024.**

Attachments:

- 1 Former Mullumbimby Hospital Site Strategy Urban Design Protocol (SSUDP) - Adopted Version 8 Dec 2022 Res 22-678, E2022/113329 
- 20 2 Proposed LEP Clause Updates - Former Mullumbimby Hospital Site, E2023/48015 

Report

Discussion on the relevant parts of **Resolution 22-737** follows:

- 5 **3. Endorses the revised Site Strategy and Urban Design Protocol (Attachment 1 E2022/113329) for the former Mullumbimby Hospital site to be used as a guiding document for the project.**

As Council would be aware, due to site contamination issues, and a protracted site remediation process, strategic planning for the Mullumbimby Hospital site has been significantly delayed. There were several reports to Council, during 2021 and 2022 about this.

- 10 Notwithstanding the above, in parallel with the site remediation works program, staff advanced the strategic planning work required to inform the future development of the site in the form of a [Site Strategy and Urban Design Protocol](#) which was adopted at the 15 December 2022 Council meeting.

- 15 This document defines the vision, objectives and urban design principles for the site and relies heavily on the work and process previously undertaken by the Mullumbimby Hospital Project Reference Group (PRG).

The following planning and design objectives have been identified for the site as per the [Site Strategy and Urban Design Protocol](#).

Land Use Objectives

- 20
 - To enable a vibrant mixed-use neighbourhood with diverse housing, community facilities and appropriate supporting services and environments.
 - To provide a range dwelling types, including affordable, attainable and accessible housing.
 - 25 • To support provision of community facilities and public spaces where the local community comes to meet, create, reflect and celebrate together.
 - To support provision of facilities that support local initiatives, art and culture, work and education needs.

Environmental Objectives

- 30
 - To support a beautiful, green neighbourhood with a rich character that draws inspiration from the local Mullumbimby culture and the special history of the site.

Built Form and Development Intensity Objectives

- To support neighbourhood scale development that responds to the built and natural context of the site.

- To maximise the provision of housing on the site (and thereby affordable housing).
- To discourage single dwelling allotments and dual occupancy development which is seen as under development of the site.
- 5 • To be of exemplary, high-quality design, especially architectural, landscape and urban design.
- Other Sustainability Objectives
- To ensure remediated land is developed safely in accordance with the Environmental Management Plan for the site.
- 10 • To support sustainability and resilience principles that are central values to the Byron Shire community.
- To support a well-connected precinct with bus, bicycle routes and walking paths to the centre of town, nearby schools, recreation spaces and community facilities.
- To have an appropriate level of public space that is high-quality, varied and adaptable.
- 15

This [Site Strategy and Urban Design Protocol](#) have been used to guide the development of the Planning Proposal to amend the Byron Local Environmental Plan (LEP) 2014.

- 20 **4. Requests staff to prepare a draft planning proposal informed by the Site Strategy and Urban Design Protocol and any required Baseline Studies and Advice and report this to Council for consideration prior to seeking a gateway determination.**

In line with (3), staff have progressed the drafting of a Planning Proposal document that meets strategic and statutory requirements.

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

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

These studies/reports include:

- Biodiversity assessment
- 30 • Bushfire assessment
- Infrastructure servicing strategy
- Stormwater management strategy and flooding review

BYRON SHIRE COUNCIL

- Traffic and transport strategy
- Contaminated Land assessment (Site Audit Statement)
- Aboriginal Cultural Assessment

5 Each of the studies/reports are at various stages of completion, noting that Council only received a Site Audit Statement in late April 2023, which is a key prerequisite to preparing a Planning Proposal.

10 Staff advice is that those studies/reports that have been completed, and those in progress have not raised any significant concerns about the draft Planning Proposal objectives and land use intent or controls as discussed below. The strategic and statutory requirements for the Planning Proposal under the Act can be met.

However, at the time of drafting this report, a Planning Proposal document and attachments were not in final form and as such not attached to the report.

Instead, the following provides a summary of the LEP amendments proposed to support achieving the [Site Strategy and Urban Design Protocol](#) objectives.

	Explanation of Provisions	Report Reference
Zoning	<p>Change the land use zone for the approximately 3.5ha of the site to R1 General Residential. This would be a new zone for the Byron Shire LEP and would enable the residential and community uses that are desired for the site and would likely be appropriate in other future R1 locations.</p> <p>Change approximately 0.21ha of the site to C2 Environmental Conservation to project high environmental value vegetation.</p>	<p>Figure 1a,1b</p> <p>Attachment 2 for R1 Land Use Table</p> <p>No change to C2 Land Use Table in LEP 2014</p>
Additional Permitted Uses	<p>Introduce Additional Permitted Uses to enable other uses for this site specifically. This will provide Council the necessary flexibility needed at this point prior to defining specific land use outcomes in more detail.</p>	<p>Attachment 2 for APU clause</p> <p>Figure 4</p>
Building Height	<p>Change the Height of Buildings development standard over part of the site from 9m to 11.5m.</p>	<p>Figure 2a, 2b</p>
Affordable	<p>As required by the Byron Shire Affordable Housing Contributions Scheme, introduce an Affordable Housing</p>	<p>Figure 3</p>

BYRON SHIRE COUNCIL

	Explanation of Provisions	Report Reference
Housing	Contributions Map over the development area of the site that links to the Byron Shire Affordable Housing Contributions Scheme, which targets a 20% contribution.	
Design Excellence	Amend Clause 6.13 relating to Design Excellence so that it applies to the site. This is also supported by identifying the site on the design excellence map.	Attachment 2

There will also be minor consequential LEP amendments needed to align with the above (for example to Clause 2.1; 4.1E; 6.9; 6.17; Schedule 2).

There is no proposal to introduce a Minimum Lot Size or Floor Space Ratio to the site.

- 5 At this stage it is envisioned that built form controls can be adequately managed through design provisions developed via the Enquiry by Design workshop and Structure Plan. Ultimately, these informing a site-specific Development Control Plan chapter.

Figure 1a - Existing zoning

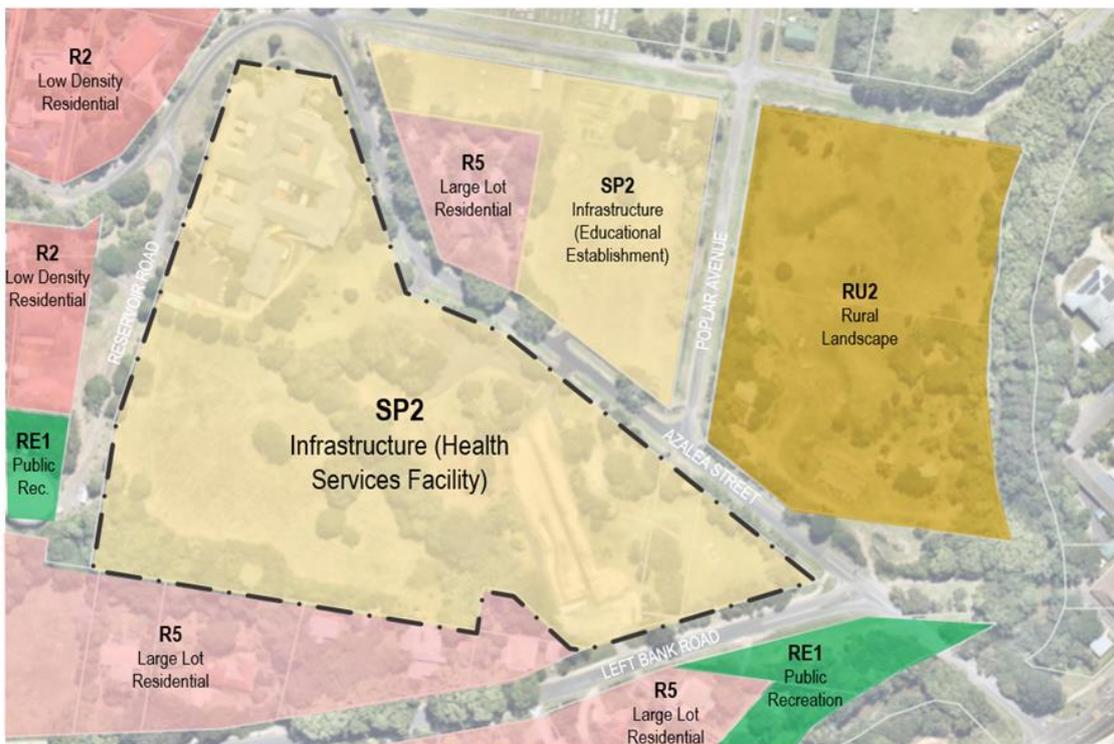


Figure 1b – Proposed zoning (approximate - to be refined in final proposal maps)

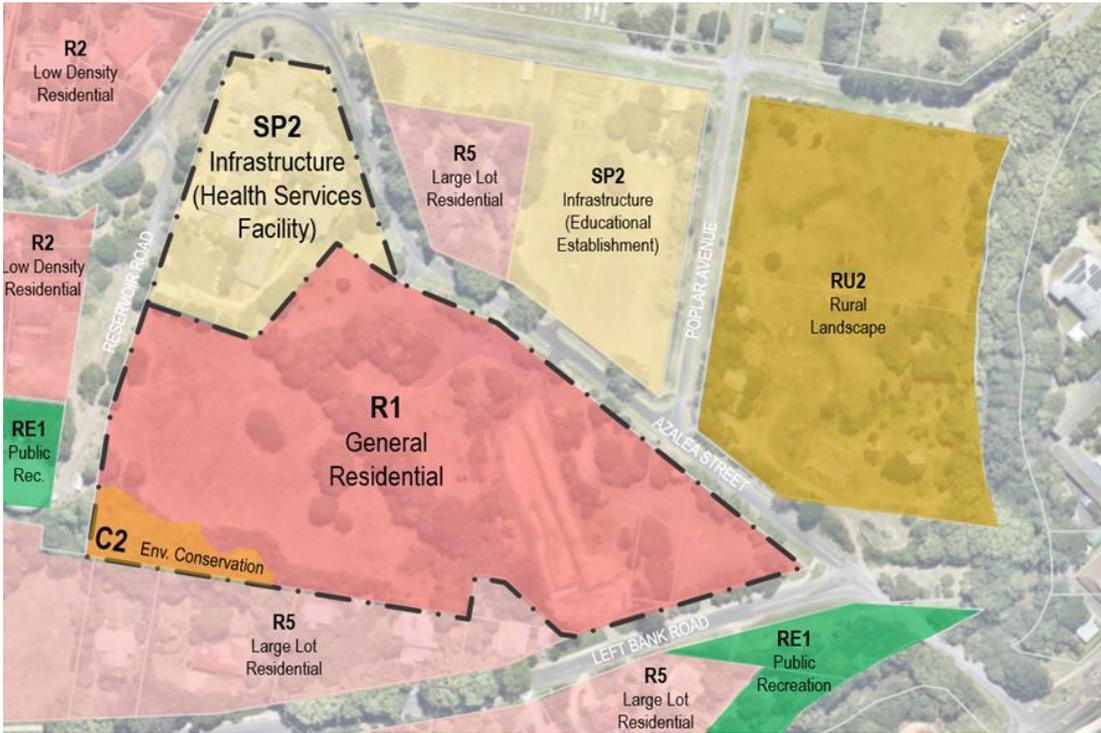


Figure 2b – Existing Height of Buildings allowed



Figure 2b – Proposed Height of Buildings allowed (approximate – to be refined in final proposal maps)

5

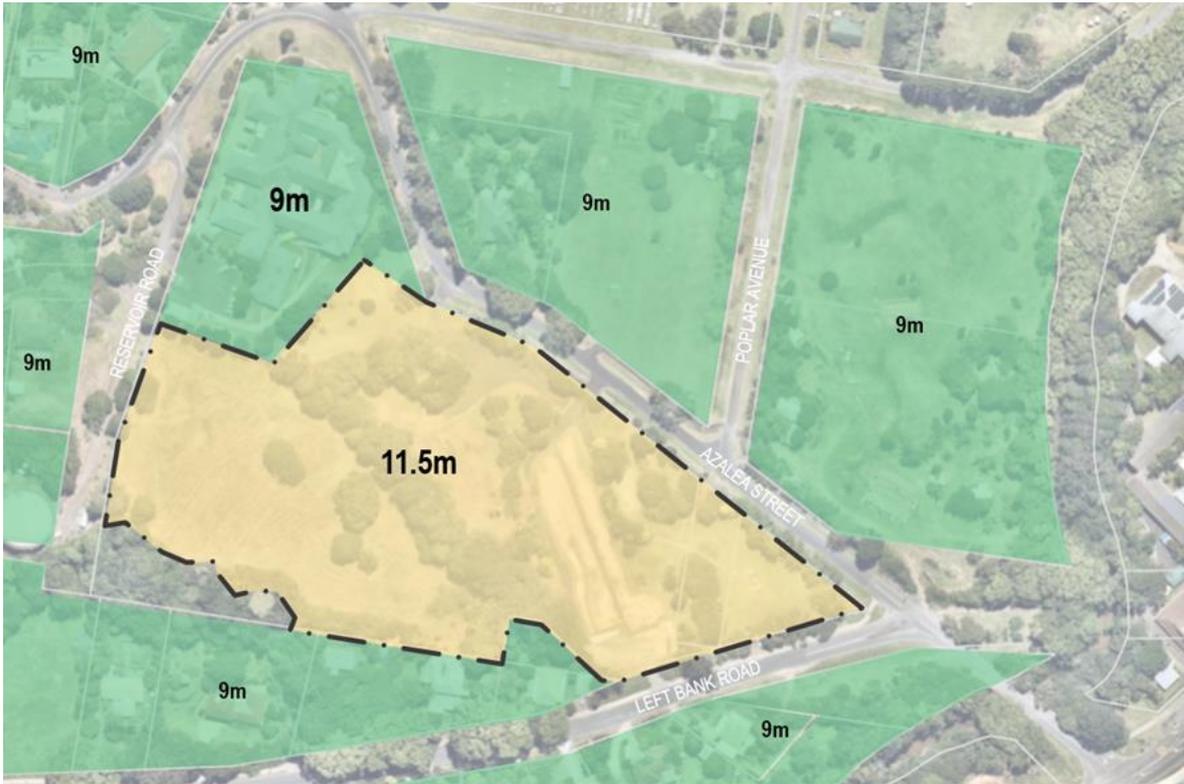
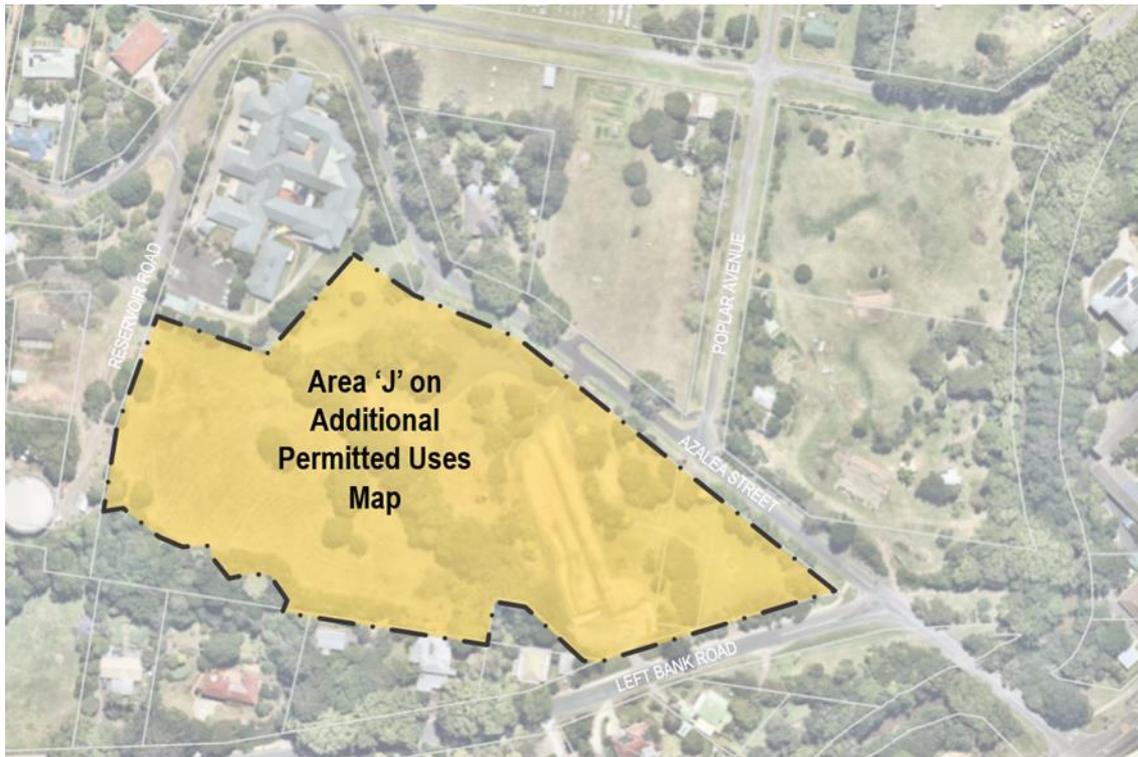


Figure 3 – Proposed Affordable Housing Contributions Scheme Map area (approximate only, to be refined in final proposal maps)



5 Figure 4 – Proposed Additional Permitted Uses Map area (approximate only, to be refined in final proposal maps)



The Mullumbimby Hospital site Planning Proposal falls within the Department of Planning and Environment (DPE) [LEP Guideline](#) as 'standard category'.

5 For a standard category Planning Proposal to complete the 6 stages of LEP making, the benchmark set by the DPE is: end to end 320 days.

Knowing the importance of the Mullumbimby Hospital site redevelopment to Council and community, and project delivery delays to date, staff seek Council authorisation to finalise the drafting of the Planning Proposal document on the basis of the information in the report and forward it to the DPE for Gateway Determination.

10 The purpose of this is to reclaim time lost from the site remediation process and enable the Planning Proposal and Enquiry by Design (5) processes to be completed along with the preparation of a structure plan and draft DCP (6) chapter for the site by early 2024.

15 Early discussions with the DPE and Northern Rivers Reconstruction Corporation about the Mullumbimby Hospital Site have also occurred in relation to supporting the Planning Proposal process and potential future funding for infrastructure needs.

5. Requests staff to arrange an Enquiry by Design process (inclusive of community, industry and Councillor engagement) to underpin Concept Masterplan and Development Control Plan drafting.

20 An Enquiry by Design workshop to encapsulate (5) is under development and needs a Request for Quotation (RFQ) to engage suitable consultants to work alongside staff to deliver it.

5 An Enquiry typically occurs over several days (non-consecutive). It will include a technical team and stakeholder consultation group comprising representatives selected from a range of community groups, associations, Council committees, traditional landowners, and councillors. The technical and stakeholder consultation group selection process is to be confirmed once a consultant is selected via the RFQ process.

There will be wider community input also sought as part of the Enquiry.

10 The purpose of the Enquiry for the Former Mullumbimby Hospital is not to reinvent the work that has already been done to determine development parameters for the site, but to value add to it in the form of more detailed Concept Plan options for its future development.

Following the Enquiry process, the preferred Concept Plan/s will undergo a Development Feasibility Assessment to test and cost the implementation of it. This is a technical report prepared independent of the Enquiry and Council.

15 As Council is aware to date the demolition of the former hospital buildings, site remediation, planning and holding costs have reached \$5,106,085 since the 2017/2018 financial year to date. Specially Council has borrowed two loans totalling \$4,834,000 to fund building demolition and site remediation works on an interest only basis. Both loans mature on 30 June 2024 and will likely need to be refinanced given Council has been unable to this point in time generate any revenue from the site to repay the loans at maturity.

20 One of the key objectives from the original PRG recommendations was that the *development of the site generate no or very limited current or future cost to local people and Council*. As such a robust Development Feasibility Assessment is important to ensure that any preferred Concept Plan for the site can address this objective.

25 The final preferred Concept Plan as endorsed by Council (6) will form the basis of a Structure Plan and DCP chapter for the site.

The Enquiry, Feasibility Assessment, Structure Plan and DCP work can occur along with the Planning Proposal process.

The diagram below illustrates the relationship between each of these processes:



30

6. Requests staff to report the Concept Masterplan, Development Control Plan, and associated development options to Council.

Timing dependant on 4 and 5.

5 7. Requests that an arts facility / hub or artist in residence program be integrated as a core part of the community facilities.

7 to be considered as part of the Enquiry by Design workshop and subsequent Development Feasibility Assessment and Structure Plan for the site.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
4: Ethical Growth We manage growth and change responsibly	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	4.1.3.7	Amend Local Environmental Plan and Development Control Plan in accordance with Mullumbimby Hospital Precinct Plan

10 Recent Resolutions

- [Resolution 18-721](#) (22 November 2018) Mullumbimby Hospital Site Project Reference Group [Recommendations: future use of the site](#)
- [Resolution 22-571](#) (27 October 2022) Endorsement to [exhibit Draft Site Strategy and Urban Design Protocol](#)

- 15 • [Resolution 22-737](#) (15 December 2022) Endorsement of Site Strategy and Urban Design Protocol (Refer Attachment 1)

Legal/Statutory/Policy Considerations

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

20 Financial Considerations

Land Use Planning and Development Assessment for council owned land is funded through an operational budget allocation.

In terms of the overall cost of the Mullumbimby Hospital Site, it was premised when Council took on ownership of the site that whatever funds Council expends on the site are

to be fully reimbursed from the eventual site redevelopment outcomes. In this regard given Council at the time of preparing this report has expended over \$5.1million, it is recommended that outcomes on the site also need to consider the potential to return this amount to Council.

5 **Consultation and Engagement**

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

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

10

Report No. 13.18 PLANNING - Report of the Planning Review Committee held 1 June 2023

Directorate: Sustainable Environment and Economy

Report Author: Chris Larkin, Manager Sustainable Development

5 **File No:** I2023/904

Summary:

This report provides the outcome of the Planning Review Committee held on 1 June 2023.

NOTE TO COUNCILLORS:

10 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.

15

RECOMMENDATION:

That Council endorses the outcomes of the Planning Review Committee meeting held on 1 June 2023.

20

BYRON SHIRE COUNCIL

Report

The Planning Review Committee meeting was held on 1 June 2023. The meeting commenced at 4:10pm and concluded at 4:30pm.

Councillors: Mayor Cr M Lyon, Cr P Westheimer, Cr D Dey.

5 **Apologies:** Cr Balson, Cr C Coorey, Cr S Ndiaye, Cr A Hunter,

Staff: Chris Larkin (Manager Sustainable Development)

Conflicts of Interest: Nil

The following development applications were reviewed with the outcome shown in the final column.

DA No./ Applicant	Property Address/ Proposal	Consultation/ Submissions	Reason/s Outcome
10.2023.63.1 Mr Edward Davis	20 Fig Tree Lane Myocum New dwelling to create dual occupancy, Recreation Building and Tennis	Level 2 5/4/203 to 20/4/23 2 objections	The validity of the matters raised in the public submissions The perceived public significance of the application Council

10 Council determined the following original development applications. The S.4.55 applications to modify those consents were referred to the Planning Review Committee to decide if the modification applications can be determined under delegated authority with the outcome shown in the final column.

DA No. / Applicant	Property Address / Proposal	Consultation / Submissions	Reason/s / Outcome
10.2021.470.2 Malcolm Scott	Ex Serviceman Club 58 Dalley Street Mullumbimby Determination of modifications. Please note this DA originally went to the PRC due to a Planning Agreement for Car	Level 0 0 submissions	Staff Delegation

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.18

DA No. / Applicant	Property Address / Proposal	Consultation / Submissions	Reason/s / Outcome
	Parking. The modifications proposed do not warrant any additional parking as confirmed by Renan's completed Engineering referral A2023/11994.		
10.2020.574.2 Matthew O'Reilly	219 The Saddle Rd Brunswick Heads Modification to vary vehicular access and vegetation management plan requirements. Remove condition 72.		Application still on exhibition, report back to next PRC
10.2020.109.3 Wade Fletcher	86 Tuckeroo Ave Mullumbimby Modification – To Expand the Area of Approved Management Zone 8 according to Condition 5 of the Stage 9 Tallowood Ridge Estate Subdivision Consent	Level 0 0 submissions	Staff Delegation
10.2020.109.4 Wade Fletcher	86 Tuckeroo Ave Mullumbimby Modification – To Stage 9 Tallowood Ridge Estate Subdivision Development Consent to Allow Removal of Existing and Native Trees for the Construction of Approved Roads, Earthworks and Services (with amendment to Condition 4), to Provide Compensatory Planting, to Modify the Approved Location of Some Sewer Services,	Level 2 25/4/23 to 8/5/23 22 objections	The number of public submissions Council

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.18

DA No. / Applicant	Property Address / Proposal	Consultation / Submissions	Reason/s / Outcome
	Interallotment Drainage and Easement to Avoid Native Trees (Amendment of plans in Conditions 1, 5c, 12a, 12b & 13) and Modification of Condition 48 and Contributions Table to Delete the Required Local Open Space and Recreations Contributions		

RECOMMENDATION:

That Council:

- 5 1. In accordance with clause 178 (a) of the Local Government Regulation, accept the tender from Blaze Projects at a price of \$6,531,578.78.2. 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.
- 10 3. Increases the project budget by \$650,000 to be funded from Developer Contributions Community Facilities Shire Wide reserve.

Attachments:

- 1 Request for Tender - Evaluation Report Byron Hospital redevelopment, E2023/53686 

15 **Report**

On 15 February 2023, the General Manager, under delegated authority, approved the use of the open tender method to call for tenders for Contract 2023-1583, BYRON COMMUNITY HUB REDEVELOPMENT

20 The acquisition of the old hospital requires major refurbishment to create a community hub that was requested by the community.

The Request for Tender sought responses from proponents to provide Byron Council with a repurposed building for community spaces to the northern end. The southern end will be internally developed by the tenant separately for educational use.

25 The Contract is expected to commence in July 2023 until the end of April 2024 for the completion of construction refurbishment ready for tenant fit out.

The Contract will be managed by Council's Project Officer within the Assets and Major Projects Team.

Tenders were advertised as follows:

VendorPanel Online: 16 March 2023 to 28 April 2023

30 Council website: 16 March 2023 to 28 April 2023

Site briefings were undertaken by the three compliant tenderers over several day during the tender period to gather a complete understanding of the works required.

An Evaluation Panel comprising of 3 Council staff members was formed and one external consultant.

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.19

Tenders closed on 9 May 2023 and tenders were received from the following proponents:

- Alder Constructions
- Apollo Property Group
- Blaze Projects
- 5 • Patterson Building Group
- Terra Ferma

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

Mandatory criteria:

- 10 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.
- d) Holds, or is willing to obtain, the insurances as specified in the Statement of Requirements.
- 15 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

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.19

	Implementation plan
	Product sustainability
	Supporting local business, social enterprise and Indigenous business
Price	Total contract price

Following the evaluation, the Evaluation Panel conducted referee and financial checks on two preferred tenderers. The results of these checks were deemed by the Evaluation Panel to be satisfactory as detailed in the attached Evaluation Report.

Key issues

- 5 All compliant tenders were over the initial budget. The evaluation panel recommended that Alder Constructions be selected as the preferred respondent. Due to the closeness of the tender with Blaze Projects, and both respondents over budget the evaluation panel also recommend that they both be engaged in any negotiations on scope and pricing.

- 10 It is not recommended that Council adopt the recommendation of the evaluation panel. The reasons for not accepting the recommendation of the panel is that with the increase in budget by using developer contributions there is no need to reject all tenders and negotiate with Blaze Projects and Alder Constructions.

- 15 The completion of the project is required to be completed by the 30 April 2024 due to Grant funding. A review of the programs provided by the two preferred tenderers show that there is insufficient time to further negotiate and complete the project to satisfy the Grant deadline. It is noted the Alder Constructions would have the occupation certificate for the building after the deadline for the Grant.

The tender from Blaze Projects is in the order of \$25,000 cheaper than the tender from Alder Constructions.

- 20 As Blaze Projects is fractionally cheaper, scored almost identically on value for money, and can complete the project within the grant deadline it will be recommended to award the tender to Blaze Projects.

- 25 This is a very tight construction program and carries significant risk with respect to meeting the Grant deadline. Other risks associated with the project are the potential for unforeseen variations caused by building defects that are not immediately visible until construction has commenced.

Options

The Council may reject all tenders and choose to negotiate or award the tender to either Blaze Projects or Alder Constructions.

If Council rejects and negotiates this will delay commencement and place the grant funding at significant risk.

Financial Considerations

The price basis for the contract is a lump sum.

- 5 The current development budget is split at \$400,000 for 2022/2023 and \$5,837,000 proposed for 2023/2024 (subject to Council adoption on 22 June 2022) totalling \$6,237,000. Depending upon where the committed costs land there may still be some carryover from 2022/2023 which will be determined when the 30 June 2023 QBR is done and will be carried forward in August 2023 when Council considered the carryovers. The
- 10 \$650,000 from held developer contributions would need a resolution of Council to add to the budget for 2023/24. This has been addressed in the recommendation.

Adding the developer contributions to the project budget brings the total to \$6,887,000.

- 15 If the tender is awarded to Blaze Projects then this allows for approximately \$355,421 in project management costs and contingency. Council has the budget to award the tender but should be cognisant of the fact that the allowance for project management and contingency is likely to be insufficient.

Statutory and Policy Compliance Considerations

- 20 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](#)

- 25 178 *Acceptance of tenders*

(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*

- 30 (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 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*

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.19

comparable to those applicable to the workers immediately before the tender submissions.

- 5 (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.*
- 10 (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,*
- (b) *invite, in accordance with section 167, 168 or 169, fresh tender submissions based on the same or different details,*
- 15 (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,*
- 20 (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.*
- 25 (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).*
- 30 Council is requested to not adopt the recommendation of the evaluation panel and instead award the tender to Blaze Projects.

Report No. 13.20 Project update - Additional Flow Path

Directorate: Infrastructure Services

Report Author: Pablo Orams, Integrated Water Management Officer

File No: I2023/874

5 Report

This Report aims to address the Notice of Motion put forward by Councillors on 12 April 2023 regarding the progress of the Additional Flow Path (AFP) project, which includes the following questions:

1. *How often it is used and in what conditions, i.e., wet weather and dry weather.*
- 10 2. *The amount of water transferred down it from the STP under various conditions, including as a percentage of total out flows.*
3. *Any filling that has been done to grade the drain toward west Byron and its effectiveness.*
4. *Performance relative to initial project objectives.*
- 15 5. *Impact on the amount of water leaving the STP through the drain on the Flick's property.*

The Utilities team has produced and compiled documentation to clarify the status of the AFP and its commissioning and provide insight to Council about the complex operational and strategic environment within this system is to perform. This documentation includes:

- 20 - **Technical memo – Additional Flow Path status (E2023/54593):** Provides an overview of the AFP project status, performance objectives, operational protocols, monitoring and evaluation approach, program for finalising AFP commissioning, and knowledge gaps and risks.
- 25 - **Draft operating manual and functional specification – Byron Bay Sewer Treatment Plant Additional Flow Path & distribution pit (E2023/54928):** Describes the current operational strategy to distribute effluent via the AFP and the Byron Bay Integrated Water Management Reserve (BBIWMR).
- 30 - **Byron Bay Integrated Water Management Reserve (BBIWMR) surface and ground water review (E2023/19414):** This report reviews and analyses BBIWMR monitoring data and previous investigations to determine if the BBIWMR is the cause of the perceived increase in waterlogging on adjacent properties, or if other external factors are the cause.

These documents have been attached for detailed review if required. The high-level message to Council is that:

- 35 - The AFP has been constructed and work is underway to establish the required monitoring network to manage the release of effluent in a way that caters for the various strategic objectives related to the AFP and the BBIWMR (reduction effluent

discharge, effluent reuse, management of ASS and peat fires, environmental flows for biodiversity, etc.)

- 5 - AFP commissioning will be done via a staged and incremental approach to release effluent. This will allow for monitoring and assessment of system performance under a range of conditions. Effluent release trials are scheduled for late June 2023.
- 10 - Careful interpretation and analysis of available information suggests that increase in surface water levels within the Farm Drain and Upper Union Drain correspond with recent La Niña conditions, with rainfall being the strongest driver for changes in water levels. It is also suggested that water logging in low lying areas may be due to insufficient conveyance capacity / constrains in the drainage network. Also, further monitoring infrastructure is required to better understand groundwater dynamics across and around the BBIWMR site and surrounding areas.
- 15 - The interphase between treated effluent disposal systems (e.g. AFP and BBIWMR) and catchment hydrology (e.g. drainage / stormwater networks) is a complex area of work that requires adequate coordination across the various Council departments involved in this issue (Utilities, Works, Environmental and Economic Planning). There are opportunities for improved efficiency, clarity on roles/responsibilities and funding arrangement across these departments to better operate, maintain and
20 monitor performance of drainage / stormwater networks.

25 **RECOMMENDATION:**

That Council notes the Additional Flow Path (AFP) project updates in the report.

Attachments:

- 30 1 Technical memo - Additional Flow Path status, E2023/54593 
- 2 Draft operation manual and functional specification - Byron Bay Sewer Treatment Plant Additional Flow Path & distribution pit, E2023/54928 
- 3 Byron Bay Integrated Water Management Reserve (BBIWMR) surface and ground water review, E2023/19414 

35

Report No. 13.21 2021-1145: Water Main Supply and Construction, Byron Bay and Mullumbimby

Directorate: Infrastructure Services

Report Author: Dean Baulch, Principal Engineer, Systems Planning

5 **File No:** I2023/890

Summary:

This Report will be published in a Supplementary Agenda to the 22 June 2023 Ordinary Council Meeting and distributed as a late Report.

10 The late report will include the Tender Assessment Report for tender 2021-1145, which closes on 08 June 2023, and includes a construction package of four water mains:

- Fletcher Street, Byron Bay
- Bangalow Rd, Byron Bay
- 15 • Carlyle Street, Byron Bay (currently scheduled for August 2023 and will undertaken in conjunction with drainage and road reconstruction in the same zone.)
- Azalea Street, Mullumbimby

20 The late Report is being prepared to award the Tender, as there is no meeting in July 2023 and with the next Ordinary meeting not scheduled until 24 August 2023.

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

Report No. 14.1 Report of the Audit, Risk and Improvement Committee Meeting held on 18 May 2023

- 5 **Directorate:** Corporate and Community Services
- Report Author:** Mila Jones, Governance and Internal Audit Coordinator
- File No:** I2023/803

Summary:

- 10 This report provides the minutes of the Audit, Risk and Improvement Committee Meeting of 18 May 2023 for determination by Council.
-

RECOMMENDATION:

- 15 1. That Council notes the minutes of the Audit, Risk and Improvement Committee Meeting held on 18 May 2023.
2. That Council adopts the following Committee Recommendation:
- Report No. 4.1 Implementation of the OLG Guidelines for Risk Management and Internal Audit for Local Government in NSW**
File No: I2023/387
- Committee Recommendation 4.1.1**
1. That the Audit, Risk and Improvement Committee notes the status of the implementation of the OLG Guidelines for Risk Management and Internal Audit Framework for Local Councils in NSW.
2. That Council adopts the draft Internal Audit Charter (Attachment 1 E2022/127884).

3. That Council adopts the following Committee and Management Recommendations:

Report No. 4.4 Fraud and Corruption Control Policy
File No: I2023/385

Committee Recommendation 4.4.1

- 1. That Council adopts the draft revised Fraud and Corruption Control Policy.**
- 2. That the Fraud and Corruption Framework Review be included in the draft FY2025 Internal Audit Program.**

Management Recommendation

- 3. That:**
 - a) Council endorses the draft revised Fraud and Corruption Control Policy be placed on public exhibition for a minimum period of 28 days and, should there be no submissions received, the Policy is endorsed from the date after the close of the exhibition period; and**
 - b) should submissions be received on the Policy, it be reported back to Council noting the submissions and any amendments made as a result of the feedback received.**

4. That Council adopts the following Committee and Management Recommendations:

Report No. 4.5 Draft Risk Management Policy and Risk Management Strategy
File No: I2023/591

Committee Recommendation 4.5.1

- 1. That Council adopts the draft revised Risk Management Policy (E2023/31169).**
- 2. That the Audit, Risk, and Improvement Committee endorses the draft Risk Management Strategy (E2023/31170).**

Management Recommendation

3. That:

- a) Council endorses the draft revised Risk Management Policy be placed on public exhibition for a minimum period of 28 days and, should there be no submissions received, the Policy is endorsed from the date after the close of the exhibition period; and,
- b) should submissions be received on the Policy, it be reported back to Council noting the submissions and any amendments made as a result of the feedback received.

5. That Council adopts the following Committee Recommendations:

Report No. 5.2 Internal Audit Report Quarter 3 2022-2023 including Food Safety and Swimming Pools Review

File No: I2023/370

Committee Recommendation 5.2.1

That Council notes:

1. The Audit, Risk and Improvement Committee notes the Internal Auditors Summary of Internal Audit Recommendations for Quarter 3 2022-2023 at Attachment 1 (E2023/39723) and their Internal Audit Status Update May 2023 at Attachment 4 (E2023/39739).
2. The Audit, Risk and Improvement Committee endorses the recommendations from the Executive Team to close off 16 internal audit recommendations from Quarter 3 2022-2023 as listed in Table 1 of this report (a summary from Attachment 2 E2023/34738).
3. The Audit, Risk and Improvement Committee endorses that Management implement the recommendations made in the Internal Audit of Food Safety and Swimming Pools (March 2023) (Attachment 3 E2023/31211) subject to the administrative correction.
4. The Internal and external auditors and management develop a scope for review of monitoring and control of caravan park revenue as an extra audit item for FY2024 and the review includes a comparison of industry benchmarks for return on investment.

BYRON SHIRE COUNCIL

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

14.1

6. That Council adopts the following Committee Recommendation:

Report No. 5.3 2022-2023 External Audit Engagement Plan

File No: I2023/399

Committee Recommendation 5.3.1

That Council notes the External Audit Engagement Plan prepared by the Audit Office of New South Wales for the year ended 30 June 2023 as outlined in Confidential Attachment 1 (#E2023/21582).

Attachments:

- 5 1 Minutes 18/05/2023 Audit, Risk and Improvement Committee, I2023/748 
- 2 Confidential - Internal Auditors Summary of Recommendations - Quarter 3 2022-2023, E2023/39723
- 3 Confidential - Internal Audit Recommendations Status for Quarter 3 2022-2023, E2023/34738
- 10 4 Confidential - Food Safety and Swimming Pools Review - Internal Audit Report Q3 2022-2023 FINAL (Grant Thornton), E2023/31211
- 5 Confidential - Internal Audit Status Update - May 2023 from Grant Thornton, E2023/39739
- 6 DRAFT Internal Audit Charter - February 2023, E2022/127884 
- 7 Draft Fraud and Corruption Control Policy 2023, E2022/121613 
- 15 8 Draft Risk Management Policy 2023, E2023/31169 

Report

Attachment 1 to this Report provides the minutes of the Audit, Risk and Improvement Committee Meeting of 18 May 2023 for determination by Council. The agenda for this meeting can be located on Council's website at:

5 [Audit, Risk and Improvement Committee Meeting Agenda 18 May 2023](#)

The attachment numbers included in the recommendations to this Report follows the numbering of the Audit, Risk and Improvement Committee Meeting Agenda. Confidential attachments from that Agenda have been included with this report for Council's information. The non-confidential attachments are available at the link provided above.

10 Confidential attachments included in this report:

- Report 5.2 Attachments 1, 2, 3, 4 - These have been included as Attachment 2, 3, 4, 5 to this report

Note: Report 5.3 Attachment 1 and Report 5.4 Attachment 1 - These have not been included with this report as they are available to the Committee only.

15 Other attachments included in this report:

Documents that are to be endorsed or adopted by Council have also been attached to this Report for ease of access as follows

- Report 4.1 Attachment 1 – This has been included as Attachment 6 to this report
- Report 4.4 Attachment 1 – This has been included as Attachment 7 to this report
- 20 • Report 4.5 Attachment 1 and 2 – These have been included as Attachment 8 and 9 to this report

Committee Recommendation

25 The recommendations in this Report to Council list only those Committee recommendations that require endorsement by Council e.g. items the Committee simply noted have not been included in this Report (Reports 4.2, 4.3, 5.1 and 5.4). The remainder of the Committee Recommendations are included in the attached minutes.

Further, five reports were provided to the Committee for information only and required no recommendations to Council. These are listed in the Agenda and in the Minutes at Reports 7.1 to 7.5.

30 Management Comments

As the committee recommendations include policies to be adopted by Council, management have included extra recommendations at reports 4.4 and 4.5 to allow the draft policies to be placed on public exhibition.

BYRON SHIRE COUNCIL

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

14.1

Financial Implications

As per the Reports listed within the Audit, Risk and Improvement Committee Meeting of 18 May 2023.

Statutory and Policy Compliance Implications

- 5 As per the Reports listed within the Audit, Risk and Improvement Committee Meeting of 18 May 2023.

Report No. 14.2 Report of the Coast and ICOLL Advisory Committee Meeting held on 16 May 2023

5 **Directorate:** Sustainable Environment and Economy
Report Author: Michelle Wilde, Project Support Officer
File No: I2023/773

Summary:

10 This report provides the minutes of the Coast and ICOLL Advisory Committee Meeting held on 16 May 2023.

15 **RECOMMENDATION:**

1. That Council notes the minutes of the Coast and ICOLL Advisory Committee Meeting held on 16 May 2023.

2. That Council adopts the following Committee and Management Recommendations:

Report No. 4.1 Future Discussion Items for the Coast and ICOLL Advisory Committee

Committee Recommendation 4.1.1

1. That Council provides a brief summary of the methodology of the Coastal Hazard Assessment to the next available Committee meeting, with a draft earlier to be made available to committee members.
2. That Council receives a report on the following in relation to Belongil Estuary at the next available committee meeting:
 - a. fate of STP effluent including when the STP must be upgraded later this decade (STP capacity is 6.95 ML/day dry weather flow);

BYRON SHIRE COUNCIL

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY 14.2

- b. waterlogging on farmlands, commitment to directing effluent away from the Estuary and the non-use of the Additional Flowpath;
 - c. potential changes to the ICOLL Opening Strategy;
 - d. any other related matters.
 3. That Council notes that some water quality data for Tallow and Belongil Creek estuaries will be provided to the Committee but is not for onward distribution.
5. That Council adopts the following Committee and Management Recommendation:

Report No. 4.3 Presentation on the outcomes of the Main Beach Shoreline Project - Technical Assessment

Committee Recommendation 4.3.1

That Council notes that members of the committee have been directed to this technical assessment report for their own perusal in the agenda for the Council meeting dated 27 April 2023 Agenda item no. 13.6 in lieu of the presentation.

Attachments:

- 5 1 Minutes 16/05/2023 Coast and ICOLL Advisory Committee, I2023/722 

BYRON SHIRE COUNCIL

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY 14.2

Report

The attachment to this report provides the minutes of the Coast and ICOLL Advisory Committee Meeting of 16 May 2023 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 https://byron.infocouncil.biz/RedirectToDoc.aspx?URL=Open/2023/05/CICOL_16052023_AGN_1652_AT.PDF

Summary of Reports

Report No. 4.2 Update on the development of Coastal Management Programs (CMPs) for the Byron Shire Coastline

- 10 1. *The Committee noted the update of the development of CMPs and CMP projects for the Byron Shire coastline and next steps.*

Financial Implications

As per the Reports listed within the Coast and ICOLL Advisory Committee Meeting of 16 May 2023.

15 **Statutory and Policy Compliance Implications**

As per the Reports listed within the Coast and ICOLL Advisory Committee Meeting of 16 May 2023.

Report No. 14.3 Report of the Climate Change and Resource Recovery Advisory Committee Meeting held on 18 May 2023

Directorate: Sustainable Environment and Economy

5 **Report Author:** Michelle Wilde, Project Support Officer

File No: I2023/774

Summary:

10 This report provides the minutes of the Climate Change and Resource Recovery Advisory Committee Meeting held on 18 May 2023.

RECOMMENDATION:

- 15 1. **That Council notes the minutes of the Climate Change and Resource Recovery Advisory Committee Meeting held on 18 May 2023.**

Attachments:

- 20 1 Minutes 18/05/2023 Climate Change and Resource Recovery Advisory Committee, I2023/739 

Report

The attachment to this report provides the minutes of the Climate Change and Resource Recovery Advisory Committee Meeting of 18 May 2023 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 https://byron.infocouncil.biz/RedirectToDoc.aspx?URL=Open/2023/05/CCRR_18052023_AGN_1648_AT.PDF

Summary of Reports

Report No. 4.1 Future Discussion Items for Climate Change and Resource Recovery Advisory Committee

- 10
1. *The Committee noted the report.*
 2. *The Committee noted that a potential demonstration house at Bangalow Heritage House be discussed at a future meeting.*
 3. *The Committee noted that Mullum Care is embarking on a collaboration with Global Ripple Op Shop to be discussed at a future meeting.*
- 15

Report No. 4.2 Net Zero target and Carbon Offsets

1. *That Committee noted the proposed revised net zero target date to 2030.*
 2. *The Committee noted the principles of the draft Carbon Offset Procurement Policy.*
 3. *The Committee noted the pathway and steps to achieving carbon neutrality using the Climate Active Standard.*
- 20

Report No. 4.3 Update on Resource Recovery and Waste Streams

1. *The Committee noted the report.*
- 25

Report No. 4.4 Regional Waste Strategy and Waste to Energy

1. *The Committee noted the report and will discuss further at the next meeting.*
- 30

Financial Implications

As per the Reports listed within the Climate Change and Resource Recovery Advisory Committee Meeting of 18 May 2023.

Statutory and Policy Compliance Implications

- 35 As per the Reports listed within the Climate Change and Resource Recovery Advisory Committee Meeting of 18 May 2023.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

5

Report No. 14.4 Report of the Floodplain Management Advisory Committee Meeting held on 16 May 2023

Directorate: Infrastructure Services

Report Author: Dominika Tomanek, Executive Assistant Infrastructure Services

File No: I2023/782

10

Summary:

The attachment to this Report provides the Minutes of the Floodplain Management Advisory Committee Meeting of 16 May 2023 for determination by Council.

15

RECOMMENDATION:

1. **That Council notes the minutes of the Floodplain Management Advisory Committee Meeting held on 16 May 2023.**

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

Report No. 4.2 North Byron Sky Pump Proposal

File No: I2023/652

Committee Recommendation 4.2.1

That the Flood Advisory Committee recommends Council support the scope of the North Byron Sky Pumps Proposal with the following changes:

1. That there be four scenarios namely:

- a) **100-year rainfall with 20-year ocean level;**
- b) **20-year rainfall with 100-year ocean level;**

- c) **20-year rainfall with 20-year ocean level;**
- d) **100-year rainfall plus 100-year Climate change with 20-year ocean level plus 100-year Climate Change**

2. That the locations change:

- a) **North of sports field at New Brighton (153.5503, -28.5063).**
- b) **South of levee at SGB (154.5499, -28.4984).**
- c) **Remnant dredged channel from 1970s in Billinudgel Nature Reserve (intersects remnant channels) (153.5506, -28.4856).**

Management Recommendation

The above scenarios a) to d) do not allow for a potential east coast low that could hit the region bringing 100 year rain with 100 year ocean levels. Further scenario c) is a minor event when compared to 100 year events and is not really relevant to this investigation.

It is recommended that scenario c be changed to '100-year rainfall with 100-year ocean level;'

Recommended resolution:

That Council support the scope of the North Byron Sky Pumps Proposal with the following changes:

1. That there be four scenarios namely:

- a) **100-year rainfall with 20-year ocean level;**
- b) **20-year rainfall with 100-year ocean level;**
- c) **100-year rainfall with 100-year ocean level;**
- d) **100-year rainfall plus 100-year Climate change with 20-year ocean level plus 100-year Climate Change**

2. That the locations change:

- a) **North of sports field at New Brighton (153.5503, -28.5063).**
- b) **South of levee at SGB (154.5499, -28.4984).**
- c) **Remnant dredged channel from 1970s in Billinudgel Nature Reserve (intersects remnant channels) (153.5506, -28.4856).**

3. That Council adopts the following Committee Recommendations:

Report No. 4.4 Byron Shire Post 2022 Flood Analysis Update

File No: I2023/654

Committee Recommendation 4.4.1

That the Floodplain Management Advisory Committee recommends:

- 1. Council notes the report, the update by DPE and the Floodplain Management Advisory Committee minutes;**
- 2. Council expresses its concern at how long this project is taking;**
- 3. Council makes the Post-Event Flood Level Survey public, so that:**
 - a) It gets checked by those who provided the information, or were flooded, and**
 - b) It can be amended where necessary prior to the expensive task of flood modelling;**
- 4. Council thanks DPE for funding all the post-event technical analyses; and**
- 5. Council asks DPE to share draft reports as soon as possible with this Floodplain Advisory Committee, including via an Extraordinary Meeting if necessary.**

5

Attachments:

- 1 Minutes 16/05/2023 Floodplain Management Advisory Committee, I2023/718 

10

Report

The attachment to this Report provides the minutes of the Floodplain Management Advisory Committee Meeting of 16 May 2023 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 [Agenda of Floodplain Management Advisory Committee Meeting - Tuesday, 16 May 2023 \(infocouncil.biz\)](https://infocouncil.biz)

The following reports are included in the minutes:

Report No. 4.1 Federation Bridge Debris Control Measures

- 10 Byron Shire Council (BSC) has commissioned Arcadis to undertake an assessment of possible control measures (structural or otherwise) to resolve the issues associated with accumulation of debris under Federation Bridge.

Report No. 4.2 North Byron Sky Pump Proposal

This report addresses Resolution 23-092 and other actions requested by the committee.

Report No. 4.3 Byron Drainage Upgrade Strategy

- 15 This report provides a status update for the project.

Report No. 4.4 Byron Shire Post 2022 Flood Analysis Update

This report provides a summary of actions and ongoing activities for discussion by the Floodplain Management Advisory Committee (FMAC)

Financial Implications

- 20 As per the Reports listed within the Floodplain Management Advisory Committee Meeting of 16 May 2023.

Statutory and Policy Compliance Implications

As per the Reports listed within the Floodplain Management Advisory Committee Meeting of 16 May 2023.

25

Report No. 14.5 Report of the Local Traffic Committee Meeting held on 26 May 2023

Directorate: Infrastructure Services

Report Author: Shelley Flower, Road Safety Officer

5 **File No:** I2023/878

Summary:

10 The attachment to this Report provides the Minutes of the Local Traffic Committee Meeting held on 26 May 2023 for determination by Council.

Council's action on the LTC advice will be:

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

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

RECOMMENDATION:

5 1. That Council notes the minutes of the Local Traffic Committee Meeting held on 26 May 2023.

2. That Council notes the following Committee Recommendations which were approved by the General Manager on 31 May 2023 under his delegated authority (refer Attachment 2):

Report No. 6.1 Byron Music Festival 17 June 2023

File No: I2023/802

Committee Recommendation 6.1.1

1. That the Local Traffic Committee support the Byron Music Festival to be held on 17 June 2023.
2. That the support in part 1 is subject to:
 - a) Separate approvals by NSW Police and TfNSW being obtained;
 - b) The event organiser providing Council with a Traffic Management Plan and Traffic Guidance Scheme/s for the event which conforms to the sketches shown above on pages 6 & 7 as a minimum requirement. Noting that, in future, for these type of events the TfNSW sketch in the Committee Comments section above would be the minimum requirement and the preferred option.
 - c) Development and implementation of a Traffic Management Plan and Traffic Guidance Scheme/s by those with appropriate TfNSW accreditation and the holding of current and appropriate levels of insurance and liability cover;
 - d) The impact of the event be advertised, and charged at cost to the organisers, via a notice in the local weekly paper and Variable Message Signage (VMS) a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints;
 - e) The event be notified on Council's web page and social media with the event organiser supplying Council with the relevant information;

BYRON SHIRE COUNCIL

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

14.5

- f) **The Section 138 Application to be submitted by the Event organiser (or their consultants) to include amended details in TGS for the Alternate Pedestrian Route with traffic control in Bay and Middleton Street and set down drop off area and accessible parking in Lawson Street with regulatory signage.**

3. The event organiser to:

- a) **Inform the community and businesses that are directly impacted (e.g. within road closure zones) via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised;**
- b) **Arranging for private property access and egress affected by the event;**
- c) **Liaising with bus, taxi and waste operators and ensuring arrangements are made for provision of services during conduct of the event;**
- d) **Consulting with emergency services and any identified issues be addressed;**
- e) **Holding \$20m public liability insurance cover which is valid for the event;**
- f) **Not place any signage on the road related area of the Pacific Highway;**
- g) **Payment of fees associated with the event in accordance with Councils adopted Fees and Charges for the S138 Application and for use of Council managed car parking spaces in Bay, Middleton and Lawson Streets.**

Attachments:

- 1 Minutes 26/05/2023 Local Traffic Committee, I2023/811 
- 5 2 GM Approval - Byron Music Festival 2023, E2023/53790 

Report

The attachment to this report provides the Minutes of the Local Traffic Committee Meeting of 26 May 2023 for determination by Council. The Agenda for this meeting can be located on Council's website at:

- 5 [Agenda of Local Traffic Committee Meeting - Friday, 26 May 2023 \(infocouncil.biz\)](https://www.infocouncil.biz)

This Report contains the recommendations of the Local Traffic Committee (LTC) meeting held on 26 May 2023.

Committee Recommendation

As per the Reports listed within the Local Traffic Committee Meeting of 26 May 2023.

10 Financial Implications

As per the Reports listed within the Local Traffic Committee Meeting of 26 May 2023.

Statutory and Policy Compliance Implications

As per the Reports listed within the Local Traffic Committee Meeting of 26 May 2023.

Report No. 16.1 CONFIDENTIAL - 57 Station Street, Mullumbimby

Directorate: Sustainable Environment and Economy

5 **Report Author:** Shannon Burt, Director Sustainable Environment and Economy
Esmeralda Davis, Director Corporate and Community Services

File No: I2023/818

Summary:

10 Council considered Report No. 13.8 Outcome of Request for Proposal: Affordable Housing - 57 Station Street, Mullumbimby at [Agenda of Ordinary Meeting - Thursday, 27 April 2023 \(infocouncil.biz\)](#) and resolved as follows:

23-148 Resolved that Council:

- 15 1. **Declines to award the Tender for a Community Housing Provider to deliver the Affordable Housing project at 57 Station Street Mullumbimby as per the attached Evaluation Report at Confidential Attachment E2023/37998, noting the significant changes to the market since this process was commenced which has been pivotal in the recommendation.**
- 20 2. **Notes that a further briefing to discuss future options in relation to this project will be provided to Councillors with a representative from Landcom at the May Councillor Workshop.**
- 25 3. **Notes that, following the Councillor Workshop briefing, a further report will be provided to Council with a recommendation for next steps regarding the Affordable Housing project at 57 Station Street Mullumbimby.**

25 The purpose of this report is to respond to the relevant parts of **Resolution 23-148.**

RECOMMENDATION:

- 30 1. **That pursuant to Section 10A(2)(c), (d)i and (d)ii of the Local Government Act, 1993, Council resolves to move into Confidential Session to discuss the report 57 Station Street, Mullumbimby.**
2. **That the reasons for closing the meeting to the public to consider this item be that the report contains:**

BYRON SHIRE COUNCIL

- 5
- a) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
 - b) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
 - c) information that would, if disclosed, confer a commercial advantage on a competitor of the council
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:
- 10 It contains commercial in confidence information.

Attachments:

- 15
- 1 Confidential - Attachment 1 Project Agreement /Terms Sheet dated May 2022, E2022/67507
 - 2 Confidential - Attachment 2 Information Memorandum for Request for Proposal Sept 2022, E2023/58525