

# Agenda Ordinary Meeting

Thursday, 28 March 2024



**BYRON**  
SHIRE  
COUNCIL

# Agenda Ordinary Meeting

held at Council Chambers, Station Street, Mullumbimby  
commencing at 9.00am

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

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

**Mark Arnold**  
**General Manager**

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## CONFLICT OF INTERESTS

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

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

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

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

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

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

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

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

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

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

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

### Disclosure and participation in meetings

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

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

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

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

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

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

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## RECORDING OF VOTING ON PLANNING MATTERS

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

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

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## OATH AND AFFIRMATION FOR COUNCILLORS

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

# BYRON SHIRE COUNCIL

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### 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)

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## 15. QUESTIONS WITH NOTICE

Nil

## 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](http://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 screen at the meeting.***



## **Mayoral Minute No. 10.1 Cost Shifting onto Local Government**

5 **File No:** I2024/138

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**I move that:**

- 10 1. **Council receives and notes the findings of the Local Government New South Wales (LGNSW) Cost Shifting report for the 2021/2022 financial year; and**
2. **A copy of the cost shifting report be placed on Council's website so that our community can access it; and**
- 15 3. **Council writes to the Premier, the NSW Treasurer, and the NSW Minister for Local Government seeking that they urgently address these costs through a combination of regulatory reform, budgetary provision and appropriate funding.**

### **20 Background Notes:**

The pressure on councils to continue to provide services of an appropriate standard to our communities is extraordinary.

25 The unrelenting growth of cost shifting to councils, coupled with rate pegging, is increasingly eroding any possibility of financially sustainable local government, and risking the capacity of councils to deliver tailored, grassroots services to their communities and properly deliver and maintain vital local infrastructure.

Alarming, the latest research commissioned by LGNSW shows that the increase in cost shifting has been accelerated by various NSW Government policies.

30 As shown in the latest cost shifting report produced by independent consultants Morrison Low on behalf of LGNSW for the 2021/2022 financial year: [www.lgnsw.org.au/costshifting](http://www.lgnsw.org.au/costshifting), an amount of \$1.36 billion of expense has been passed on to councils to fund. This is an increase of \$540 million since the last report from the 2017/2018 financial year and represents lost services, lost opportunity and lost amenity for all our residents and businesses.

35 On average, this represents an additional cost of \$460.67 for every ratepayer across the state.

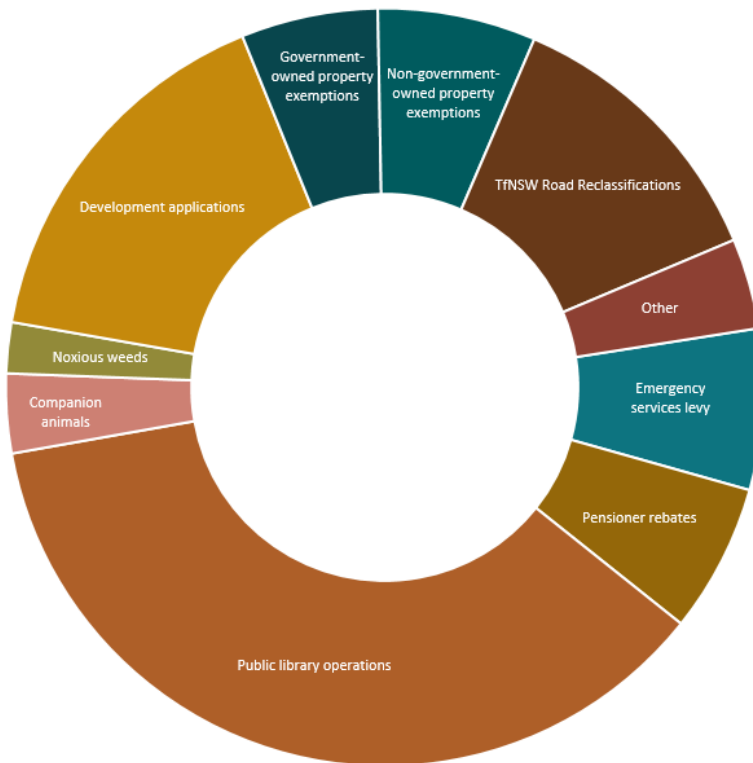
# BYRON SHIRE COUNCIL

## MAYORAL MINUTE

10.1

On a more local level, this cost shifting equates to approximately \$5,312,500 of unrecoverable costs, i.e. after subtracting the revenue generated from these services where appropriate.

Some of the largest cost shifts imposed on Byron Shire Council include:



Note: the 'other' category includes rural fire service obligations, contaminated land management, immigration and citizenship services, childcare, voluntary conservation agreements, community housing, waste management site license fee, additional committee governance, and crime prevention / policing.

25 With councils having to fund this ongoing subsidy for the State Government each and every year, it means our communities get less or go without. They go without better roads, they go without better parks, they go without important community services that only councils provide, and they and their ratepayers are effectively paying hidden taxes to other levels of government.

Our communities deserve better and this must stop. Prior to the most recent state election the then Minns Opposition wrote to LGNSW acknowledging that cost shifting had undermined the financial sustainability of the local government sector.

30 Now in 2024, it is important to councils and communities that the NSW Government urgently seek to address cost shifting through a combination of regulatory reform, budgetary provision and appropriate funding.

**Signed: Cr Michael Lyon**

PETITIONS

**Petition No. 11.1 Traffic Impacts of Proposed Development at Lot 14, 58-60 Bangalow Road**

5 **Directorate:** Infrastructure Services  
**Report Author:** James Flockton, Infrastructure Planning Coordinator  
**File No:** I2024/317

10 Council is in receipt of a Petition containing 30 signatures (Attachment 1 - E2024/20603) from Dr Jessica Milner Davis which states:

*“As long-term residents of the area around Cooper St and Bangalow Road, we write to express our urgent concern about safety with regard to the significant increase in traffic flow along Bangalow Road.*

15 *With each new development on lots abutting or adjacent to Bangalow Road between the Browning/Tennyson/Bangalow Road roundabout and the intersection of Bangalow Road with Old Bangalow Road, traffic flows along Bangalow Road during peak hours have been increasing in density. Turning into and out of residential side streets, including Cooper Street, is getting worse and leading to risky driving decisions. We have personally witnessed multiple*  
 20 *'near misses' as drivers suddenly accelerate into and out of the Cooper and/or Paterson St turns to try to squeeze into small gaps in the traffic flowing into and out of town.*

25 *We recognize that the developer of the proposal for 58-60 Bangalow Road has provided for community consultation on the proposed development and that their proposal includes a detailed "traffic plan". However, it is clear from the briefing sessions that this is limited to the intersection of Bangalow Road with Paterson Street (which is directly across the road from the new development) and does not extend to include the immediately adjacent intersection with*  
 30 *Cooper St.*

*We draw attention to the fact that this effectively 6-way junction is already a complex one for traffic on all three streets (Bangalow, Cooper and Paterson) and in both directions turning onto and off Bangalow Road, with very short turning reserved lanes which effectively run into each other, no roundabout, and*  
 35 *no lights.*

*We also note that the intensity of housing on Cooper St in particular has doubled or trebled over the past few years, as well as along Bangalow Road. The present development proposal is simply continuing a trend that is well*

# BYRON SHIRE COUNCIL

## PETITIONS

11.1

*established and which will undoubtedly continue, given the urgent need for more affordable housing in and around the town.*

5 *There are growing problems with this complex intersection, especially for residents, deliveries and visitors to houses all along Cooper St, Beachcomber Drive and even Pacific Vista, particularly with right hand turns into Cooper St from Bangalow Road and exiting right from Cooper St onto Bangalow Road towards the town.*

10 *We draw attention to the fact that residents are increasingly forced to take a complex "rat-run" from Pacific Vista via Shelley Drive to join up with Paterson St and eventually Ruskin St. This has many sharp turns and speed humps designed to slow traffic and to facilitate pedestrian access to a children's playground area on Shelley Drive near Mackellar Circuit. When obliged to take this route, people are often under time pressure to get to medical and other appointments in town and speeding is a concern. The consultants for the present development do not appear to have been aware of these issues and have confirmed that their traffic plan visuals and proposed solutions have not taken Cooper St and this back route into consideration. They have agreed to flag the that the issue should be raised to Council. They also stated that*  
15 *Bangalow Road is at a grade that involves State Government planning and*  
20 *funding.*

*Byron has only two access roads: Bangalow and Ewingsdale. The accessibility of both for local residents is equally vital to its life and safety, whether in normal times or in emergencies such as fire or flood - both an increasing risk for residents of the town as we have seen in the last two years.*

25 *Since we understand that this section of Bangalow Road is already a central artery and will only become more so as Byron further develops, we believe it is the responsibility of the State Government as well as Byron Shire Council to address the growing traffic impacts for local residents and the risk of unsafe driving decisions.*

### 30 **ACTION REQUESTED**

35 *We therefore ask that an urgent study be undertaken into the current and future state of traffic on the section of Bangalow Road between the Browning/Tennyson/Bangalow Road roundabout and the intersection of Bangalow Road with Old Bangalow Road, with particular attention to the 6-way traffic and 4-way bike intersections of Cooper, Paterson and Bangalow Road, and an appropriate proposal for mitigation of the impacts is developed and implemented.*

40 *Accordingly, we the undersigned address this petition to authorities at both local and state government level as the issues are larger than any one development proposal and require co-ordinated action to remedy before further injuries and accidents occur.*

**Comments from Director Infrastructure Services:**

Council currently provides \$30,000 per year in the Operational Budget for Traffic Counting. This is only sufficient to cover annual traffic counts which must be maintained to ensure we maintain these datasets.

- 5 Additional traffic counts above the annual counts (including specific intersection data collection) are not specifically funded unless they are part of an approved project or program.

- 10 Council has numerous and growing intersections with problems. The intersection subject to this petition is known as a growing problematic intersection that has been investigated by staff. However, data collection and modelling is needed to help understand the issues and solutions.

It is essential Council commence and maintain an ongoing data collection and modelling program across the shire to ensure we can respond to developer and community enquiries such as these and ensure we are prioritising the correct intersections for upgrade.

- 15 Until this time it is difficult for staff to advise Council if the subject intersection should be Council's highest priority intersection for upgrade or not.

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**RECOMMENDATION:**

- 20 1. **That the petition regarding the Traffic Impacts of Proposed Development at Lot 14, 58-60 Bangalow Road be noted.**
2. **That the petition be referred to the Director Infrastructure Services.**

**Attachments:**

- 25 1 Confidential - Petition from Dr Jessica Milner Davis - Traffic Study, E2024/20603  
2 Confidential - Petition from Dr Jessica Milner Davis - Traffic Study (REDACTED), E2024/20622

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

**Report No. 13.1 Grants February 2024**

**Directorate:** Corporate and Community Services

5 **Report Author:** Donna Johnston, Grants Coordinator

**File No:** I2023/1937

**Summary:**


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

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15 **RECOMMENDATION:**

**That Council notes the grant submissions report for the month of February 2024 (Attachment 1 #E2024/22133).**

**Attachments:**

20 1 Grant submissions as at 29 February 2024, E2024/22133 

**Report**

Currently Council has eleven grant applications awaiting determination (refer to Grants Submissions as of 29 February 2024 - Attachment 1, E2024/22133).

**Successful applications**

<b>Funding body</b>	<b>Funding scheme</b>	<b>Project name</b>	<b>Total project value \$</b>	<b>Amount requested \$</b>	<b>Council \$</b>
<b>NSW Department of Planning &amp; Environment</b>	<b>Regional Housing Strategic Planning Fund</b>	<b>Byron Town Centre Urban Design Based Housing Density Study</b>	<b>\$239,239</b>	<b>\$239,239</b>	<b>\$0</b>
<b>Foundation of Rural Regional Renewal</b>	<b>Strengthening Rural Communities — Small &amp; Vital</b>	<b>Young and Connected Youth library program</b>	<b>\$10,000</b>	<b>\$10,000</b>	<b>\$0</b>

**5 Unsuccessful applications**

No unsuccessful applications reported this month.

**Upcoming Grant opportunities**

[Flood Recovery and Resilience Grant Program | NSW Environment and Heritage](#)

10 In response to the catastrophic flooding in February and March 2022, the Australian Government has provided New South Wales (NSW) with \$40 million in funding to manage flood risk for 62 disaster declared local government areas.

15 This program will support the implementation of the NSW Flood Prone Land Policy, which aims to reduce the impacts of existing flooding and flood liability on communities and reduce private and public losses resulting from floods, using ecologically positive methods wherever possible.

The program is administered by the Department of Climate Change, Energy, the Environment and Water.

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.1

Support provided under the programs usually involves \$3 from government for every \$1 provided by the applicant. Byron Shire Council is not required to provide a contribution for the current round.

5 Applications currently being considered are priority actions from the [North Byron Floodplain Risk Management Study and Plan](#).

1. Federation Bridge debris implementation from options study  
Brief: Tree removal and weed control  
Cost Estimate: \$130,000
  
- 10 2. Billinudgel Rail Bridge options study  
Brief: Debris control measures  
Cost Estimate: \$200,000
  
- 15 3. Saltwater Creek upgrade assessment and mitigations option study  
Brief: Further detailed upgrade assessment and mitigation options for Mullumbimby, including influence of structures  
Cost Estimate: \$450,000
  
- 20 4. Avocado Court drainage options study  
Brief: Options study and issue for construction design documentation  
Cost Estimate: \$200,000

### Community Strategic Plan and Operational Plan

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

### Legal/Statutory/Policy Considerations

25 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.

30



# BYRON SHIRE COUNCIL

## Financial Considerations

5 If Council is successful in obtaining the identified Grants, this would bring funding sought to approximately \$14,444,965 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:

	<b>Funding applications submitted and awaiting notification (total value)</b>	<b>\$28,393,613</b>
10	Requested funds from funding bodies	\$14,444,965
	Council contribution cash	\$13,950,648
	Council co-contribution in-kind	\$0
	Other contributions	\$0
15	<b>Funding determined in February 2024 (total project value):</b>	
	Successful applications	\$249,239
	Unsuccessful/withdrawn applications	\$0

## Consultation and Engagement

20 Cross-organisational consultation has occurred in relation to the submission of relevant grants, and the communication of proposed grant applications.

**Report No. 13.2      Service Review - Outside School Hours Care (OSHC)**

**Directorate:** Corporate and Community Services

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

5 **File No:** I2023/1177

**Summary:**

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

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

A service review has been conducted on Council’s Outside School Hours Care services, being the subject of this report. This service review was reported to and endorsed by the Audit Risk and Improvement Committee at its meeting on 15 February 2024.

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

25 This report does not question the value of the service to families and community but deals only with the question of whether Council is best placed to be the Approved Provider for OSHC services.

30 In summary, to deliver Outside School Hours Care services which foster positive outcomes for children, Council must effectively navigate a challenging and heavily regulated environment and manage significant risks which are inherent to working with children. As such, operating within this sector requires specialist skills, knowledge and experience to effectively balance quality educational outcomes with strong governance and management that ensures service viability and sustainability. This is becoming increasingly challenging for Council.

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

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.2

A transition to a specialist service provider will have impacts on Council staff. As per the requirements of the Local Government (State) Award, staff have been notified of the potential transition. During consultation, staff indicated they were not supportive of the change due to the importance of established relationships, quality of care and positive feedback from families. This feedback has been considered and, while the professionalism and commitment of staff are acknowledged and commended, the feedback does not alter the root cause of the challenges to sustainable service delivery and the identified risks of continuing direct service delivery.

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### **RECOMMENDATION:**

#### **1. That Council notes:**

- 15 a) **the importance of Outside School Hours Care in delivering educational outcomes and care for primary school aged children**
- b) **that operating within this sector requires specialist skills, knowledge and experience to effectively balance quality educational outcomes with strong governance and management that ensures service viability and sustainability**
- 20 c) **that direct provision of children's services by councils in NSW has reduced significantly over time, and Byron Shire Council is one of only 13 Regional Councils with extensive involvement in childcare service delivery currently**
- d) **that the availability of external providers in this sector suggests a competitive market is available for the NSW Department of Education to select a provider from, to deliver OSHC services at Byron Bay and Brunswick Heads**
- 25 e) **the financial information provided in this report which demonstrates Council has been heavily subsidising the OSHC services for the past five years and is likely to continue to need to do so, unless a significant reduction in costs and/or increased income can be realised**
- 30

#### **2. That, based on the risks and benefits outlined in this report, Council:**


- 35 a) **notify the NSW Department of Education that it wishes to relinquish the current licences for Byron Bay and Brunswick Heads Outside School Hours Care and support a tender for a new provider to commence as soon as possible, aiming for no later than 1 July 2024**
- b) **continue to deliver services until a new provider is selected and operational, and work with them to support an effective transition**
- 40 c) **request staff to develop and implement a transition plan which includes communication of Council's decision to relevant stakeholders, including staff, families and the schools**

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.2

### **Attachments:**

- 1 OSHC Byron Tweed Lismore Ballina Spreadsheet with details - September 2023, E2024/1260 
- 5 2 Confidential - Estimated payroll costs of OSHC proposal to Council 28 March 2024, E2024/23228

### **Report**

10 Council is licenced by the NSW Department of Education (DoE) as the Approved Provider for two Outside School Hours Care (OSHC) services within the Shire which includes after school care and vacation care:

- Byron Bay Public School – licenced 50 places
- Brunswick Heads Public School – licenced 50 places

15 The DoE appointed an alternative Approved Provider for Mullumbimby OSHC following a decision by Director Corporate and Community Services to discontinue Council's provision of the service due to financial non-viability. Council and the new service provider (Rainbow Region Kids) finalised the transition, effective end of Term 4 2023. Councillors were kept informed via memos in July 2022, November 2022 and June 2023 and via email 2 October 2023.

20 The DoE licences for Byron Bay OSHC and Brunswick Heads OSHC are due for renewal and are currently on holding over terms (month to month). The standard licence term is 5 years + 3 year renewal option. DoE have requested that Council consider adding before school care to its offering for both services which, if this proceeds, will require further changes to staff resourcing.

25 These factors presented an opportunity to conduct a service review and consider Council's role as an Approved Provider for OSHC services, prior to making a future commitment.

This report does not question the value of the service to families and community but deals only with the question of whether Council is best placed to be the Approved Provider for OSHC services.

### **30 Key issues**

The OSHC services provide after school care and vacation care for primary aged students and operate under the curriculum framework of "My Time Our Place" which aims to provide children with opportunities to maximise their potential and develop a foundation for future success in life.

35 To deliver OSHC services which foster positive outcomes for children, Council must effectively navigate a challenging and heavily regulated environment and manage significant risks which are inherent to working with children. This is becoming increasingly challenging for Council.

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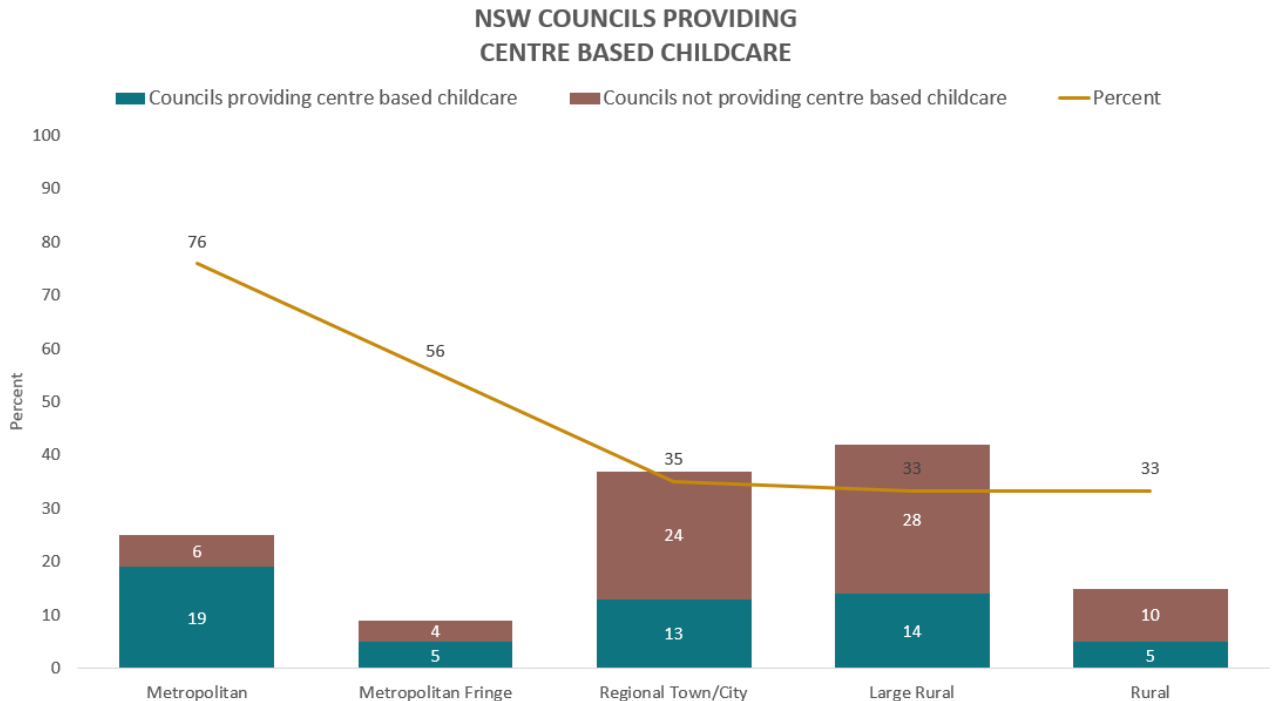
## Risk and Council's role

5 Council has been delivering children's services for over 25 years. During this time, the sector has changed markedly and is now highly regulated. Today, the children's services sector is highly complex and experiences regular shifts in policy and funding arrangements, including the childcare subsidy.

Operating within this sector requires specialist skills, knowledge and experience to effectively balance quality educational outcomes and experiences for children with strong governance and management that ensures service viability and sustainability.

10 Direct provision of children's services is no longer considered a core function of Council, as evidenced by the data below.

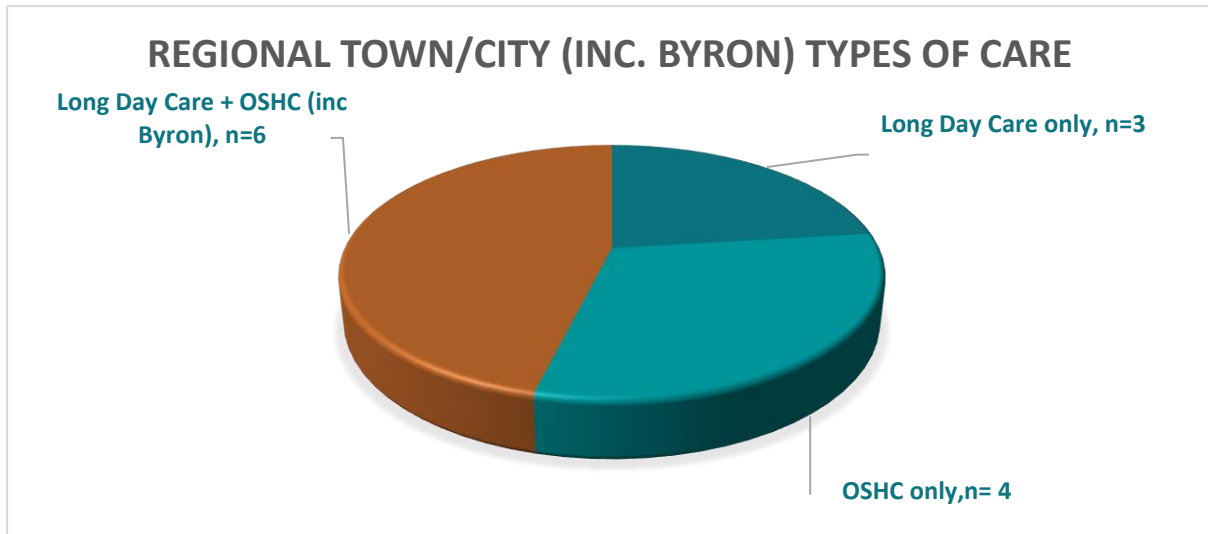
Of the 128 Councils in NSW, less than half provide centre based childcare (56) which may include OSHC, Long Day Care or both service types.



15 This graph illustrates that smaller Councils (Regional, Large Rural and Rural) are much less likely to provide centre based care than larger Councils (Metropolitan and Metropolitan Fringe) - 35%, 33% and 33% compared to 76% and 56% respectively.

Of the 56 Councils providing centre based care, 13 are in the Regional Town/City category (which includes Byron).

20 Of these 13 Regional Councils, 6 provide both Long Day Care and OSHC (which includes Byron) and the remainder, only one or the other as shown in the graph below:



Source: [National registers | ACECQA](#)

5 Therefore, amongst regional Councils, Byron Shire Council is one of the few who have extensive involvement in childcare service delivery. This number has dwindled over time with the availability of alternative service providers.

**Market considerations**

Byron LGA Market

10 This report is focused on the provision of OSHC services only, however the broader context is relevant. There are 27 organisations which provide centre based care in the Shire including Council, Not for Profit and Private organisations. Combined, these services provide over 1200 early childcare (0-5 years) places each day. Additional childcare places are provided through family day care.

15 In addition to its present role as service provider, Council supports the provision of centre based care in the Shire through other means including through the provision of land, buildings and subsidised lease arrangements.

Council has leases in place at eight locations, enabling more than 300 (of 1200) licensed places to be provided to the local community each day:

- 20 - Byron Bay Preschool Coogera Centre
- Byron Bay Preschool Cavanbah Centre
- Federal Community Children’s Centre
- Durrumbul Community Preschool
- Bangalow Community Children’s Centre
- Lilly Pilly Community Preschool
- 25 - Ocean Shores Preschool
- Mullumbimby Community Preschool

Attachment 1 (E2024/1260) provides a summary of some of the OSHC services operating in the region (Byron, Ballina, Tweed and Lismore shires) and includes a comparison of:

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- Care offered (before school, after school, vacation)
- Approved places
- Staff : Child ratios
- Hours of operation
- 5 - Fees
- Whether food is supplied

Note: this list is not exhaustive and may not include all the services available but gives a good indication of the range of offerings.

The following table provides a summary of Attachment 1:

Services (47)	Before School Care	After School Care	Vacation Care
Number of Services	36 (76.6%)	45 (95.7%)	42 (89.4%)
Staff : Child Ratio	41 (87.2%) operate on minimum ratio of 1:15 6 (12.8%) operate on higher ratio of 1:10 Council services operate on a ratio of 1:10		
Hours of operation	Varied Start ranges from 6:15am to 7:15am Finish ranges from 8:30am to 9:15am Council services: N/A	Varied Start ranges from 2:30pm to 3pm Finish ranges from 5:30pm to 6:30pm Council services: Varied ~ 3pm-6pm	Varied Start ranges from 6:30am to 8am Finish ranges from 5pm to 6:30pm Council services: 8am-6pm
Fees	Range from \$14 to \$30 per session Median: \$22 per session Council services: N/A	Range from \$20 to \$40 per session Median: \$32 per session Council services: \$37/session	Range from \$50 to \$125 per day Median: \$72.50 per session Council services: \$68/day
Food supplied	25 (70%) Council services: N/A	40 (88.9%) Council services: Yes	7 (16.7%) Council services: No

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### **OSHC Income**

5 The key sources of income for OSHC services are fees, subsidies (DoE, Child Care, Inclusion Support) and other grants which are usually one off, and therefore unpredictable, payments (e.g. Flood Recovery Grant, Job Keeper Payment during COVID).

Council OSHC Fees 2023/24: After school Care - \$37/session / Vacation Care - \$68/day

Fees for 2024/25 are under review and likely to be proposed to increase with the development of Council's 2024/25 budget documents.

10 Based on available median fee information in the region, it is expected another provider may be able to offer services for a similar or reduced fee. By way of example, the new provider fees for OSHC in Mullumbimby are lower:

Rainbow Region Kids: After school Care - \$32/session / Vacation Care - \$65/day

### **OSHC Expenses**

#### Employee Costs:

15 OSHC services are delivered by a combination of permanent part-time, temporary part-time, casual and labour-hire staff.

20 Regulatory ratio is 1 educator to 15 children (1:15) and, as demonstrated above, the vast majority of services operate at this minimum standard. However, Council's current position is to operate on a roster of minimum of two staff at all times and usually a 1:10 ratio to mitigate risks, thereby increasing staffing costs. Drawing from our experience, deviating from the position of minimum two staff members is not supported.

25 The hours of operation for OSHC vary slightly depending on the end of school time but staff are generally rostered 2-6pm. Vacation Care operates longer hours, usually 8am to 6pm during the school holiday periods. This is fairly standard across the sector as shown in the table above. The roster patterns and hours of operation for OSHC naturally result in a transient and casual workforce.

30 Council educators are paid under the *Local Government State Award* which provides higher rates of pay than the *Children's Services Award* used by other providers. In addition to creating higher costs for Council, Council salaries have the potential to outcompete the not-for profit and private operators vying for limited skilled workers. This places Council in a questionable position in a competitive marketplace.



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### Example salary costing scenarios for After School Care:

Rosters (per session)	Council	Other provider (minimum ratio)	Council Salary cost estimate (LG Award)	Other Salary cost estimate (Children's Services Award)
10 children	2 educators	1 educator	4 hrs @ \$41.74/hr \$333.92	4 hrs @ \$34.92/hr \$139.68
15 children	2 educators	1 educator	4 hrs @ \$41.74/hr \$333.92	4 hrs @ \$34.92/hr \$139.68
20 children	2 educators	2 educators	4 hrs @ \$41.74/hr \$333.92	4 hrs @ \$34.92/hr \$279.36
20-30 children	3 educators	2 educators	4 hrs @ \$41.74/hr \$500.88	4 hrs @ \$34.92/hr \$279.36

### Utilisation rates - Average Daily Attendance

		2019/20	2020/21	2021/22	2022/23
<b>Brunswick Heads</b>	Vacation Care	14.1	20.8	28.4	25.6
	After School Care	12	17	17.3	13.5
<b>Byron Bay</b>					
	Vacation Care	29.4	35.4	32	38
	After School Care	12.8	18	17.8	15.4

Note: Vacation Care operates on lower capacity on Fridays due to excursion caps which will reduce the average slightly. Monday to Thursday averages are 1-3 children extra.

- 5 Based on the current utilisation rates, staff to child ratios and differences in hourly rates, it is clear that Council carries a significant financial (salary) burden in delivering OSHC services, compared with other non-council providers.

### Other operating costs:

- 10 Additional service expenses include costs of crafts and consumables, food and drinks, excursions, rent and 'support service costs' (Council overheads for HR/Finance/IT etc.).

## **Options**

Two options are presented for Council's consideration below, including the risks and benefits of each.

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**Option 1- Renew Byron Bay and Brunswick Heads licences and continue direct service provision**

Key steps	Risks	Benefits
<ul style="list-style-type: none"> <li>• Advise DoE</li> <li>• Needs assessment for before school care services</li> <li>• Review staff resourcing if additional service required</li> <li>• Execute licences</li> </ul>	<p>Addition of Before School Care likely to be a DoE requirement if need is substantiated</p> <p>Ongoing financial loss or Council subsidy required to continue to operate which is likely to increase with provision of Before School Care (based on wages and ratios)</p> <p>Likely to require fee increases to offset increasing expenses</p> <p>Highly regulated environment - possibility of incidents which result in non-compliance and/or penalties for Council</p> <p>May require additional investment of resources to obtain improvements in service delivery and adequately manage risks</p>	<p>Retain current community confidence and satisfaction in services</p> <p>Avoid industrial implications for existing staff</p> <p>Opportunity to build on operational improvements which have been implemented in the past 6 months (e.g. policy reviews, improved school engagement, improved parent communication and engagement, improved programming and documentation)</p>

## BYRON SHIRE COUNCIL

### Option 2 - Relinquish licences and transition to another provider through DoE tender

Key steps	Risks	Benefits
<ul style="list-style-type: none"> <li>• Consult with staff and unions</li> <li>• Advise DoE Council does not want to continue and DoE to conduct tender</li> <li>• Advise families and schools</li> <li>• Liaise with new provider once appointed</li> <li>• Settle financial accounts</li> <li>• Relinquish licences</li> <li>• Relinquish service approvals</li> <li>• Update website</li> <li>• Determine appropriate disposal/reallocation of resources</li> </ul>	<p>Industrial implications for permanent staff</p> <p>Potential community/stakeholder concerns about loss of service quality and uncertainty about accessibility and affordability of service with DoE's selected provider</p> <p>Seamless transition process depends on new provider's willingness to engage in regular communication and collaboration with Council</p>	<p>Enables Council to focus resources on core functions and services</p> <p>May provide the opportunity for existing staff to be employed by the new provider (if there's mutual agreement to do so) providing continuity of employment for staff and continuity of care for families</p> <p>Provides opportunity to review Children's Services Management Structure – 1 service (Sandhills) vs 3 services (Sandhills + 2 x OSHC) which could result in salary savings to Council</p> <p>Opportunity for DoE to seek another provider who may offer reduced fees and better value for money for families through economies of scale in their business model</p> <p>Another provider may bring specialised expertise, experience, and resources to the delivery of services.</p> <p>Another provider may have the flexibility to adapt to changing market demands, implement innovative programs, and respond more quickly to community needs</p> <p>Provides cost saving</p>

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		<p>measure for Council while maintaining the service available to the community</p> <p>Alignment with Local Government sector which has progressively moved away from direct service provision in this sector</p>
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## Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
2: Inclusive Community	2.4: Enrich lifelong learning and education and support services to help young people thrive	2.4.3: Children's services - Provide high quality early childhood education and activities through Sandhills Early Childhood Centre and Out of School Hours Care services	2.4.3.2	Provide high-quality middle-childhood outside school hours care in line with National Quality Standards and with children and families at its core

## Recent Resolutions

5 Council has previously considered the viability of the Mullumbimby OSHC service RES 18-785 where it resolved to note the increase in enrolment, the support from the Mullumbimby Public School and renew its licence for 12 months from 1 January 2019.

## Legal/Statutory/Policy Considerations

### Local Government Act

10 Historically, the Local Government Act (1993) Section 8 outlined that council's charter required it "to promote and to provide and plan for the needs of children".

In terms of early childhood education and care, Council's role fell into two categories:

- Planning and regulatory requirements as they apply to facilities for children's services
- Provision of children's services including

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- Subsidised/free access to buildings for services (casual or permanent basis)
- Direct provision of children's services

5 This section of the Act has been amended and direct reference to early childhood education and care has been removed. The Act (s8A(1)(c)) now refers to "*Councils should plan ... for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.*"

Council's role as a service provider is therefore not a legislated requirement.

### ***Policy***

10 Council's commitment to flexible and affordable care for families is underpinned by the Children's Services Policy, which was adopted in 2005.

This Policy does not commit Council to directly provide children's services. The Policy was developed to:

- 15 • enable Council to promote, plan and provide for the needs of early and middle childhood in an effective manner
- outline Council's commitment to support and partner with the community in response to identified needs for inclusive, quality Children's Services in the Byron Shire
- 20 • highlight considerations relevant to the planning of Children's Services in the Byron Shire
- specify considerations relevant to the planning of Early Childhood Education and Care services in the Byron Shire

### ***Regulatory environment***

25 In the past 30 years, the sector has experienced significant changes in policy and funding arrangements, including the childcare subsidy. It is a highly regulated environment, due to the high-risk nature of the roles and responsibilities for the care, welfare and development of children.

30 Councils providing services for children have compliance obligations under the *Children and Young Persons (Care and Protection) Act 1998 (NSW)*, the *Child Protection (Working with Children) Act 2012(NSW)* and the *Ombudsman Act 1974 (NSW)*.

The sector is regulated through the *National Quality Framework (NQF)* and in 2012 a new quality standard was introduced to improve education and care across Long Day Care, Family Day Care, preschool/kindergarten, and Outside School Hours Care.

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The quality standard includes:

- The National Law and National Regulations
  - The National Quality Standard
  - An assessment and quality rating process
- 5
- National learning frameworks

The NQF is a robust and evidence-based quality assurance system through independent assessment and rating.

Quality rating: Council's services are performing at a level rated as 'meeting' the National Quality Standard. This is in line with the majority of other services in NSW.

### 10 Financial Considerations

In its 2023/24 budget, Council subsidised the provision of Outside School Hours Care as its projected income does not fully cover its projected expenditure. At the time of adoption, the budget showed an overall loss of \$114,600 for the 2023/24 financial year for OSHC services however, end of year financial results may be different from this.

- 15 Council's main expenditure for OSHC includes staffing and resources, while income includes fees from parents plus Federal Government subsidies (Child Care Subsidy). One-off grants are obtained on an ad-hoc basis.

20 The data in the table below represents the financial position of the OSHC services over the past five years, which includes Mullumbimby. Council received Flood Recovery grants in 2022 – to ensure a more accurate representation of 'business as usual' these have not been included.

	FY 2018/19	2019/20	2020/21	2021/22	2022/23
<i>Operating Income</i>					
Fees	129,518	205,573	154,933	144,224	207,798
Subsidies	242,727	168,884	205,126	238,533	306,165
Other Grants (eg govt vouchers used by parents)			21,849	74,000	99,500
Total Operating income	372,245	374,457	381,908	456,757	613,463
<i>Expenditure</i>					
Employee Costs	323,217	372,673	438,393	331,009	501,941
Other Costs	64,343	58,798	57,489	60,508	95,984
Support Service Costs*	62,918	89,304	87,948	94,700	98,100
Total Operating Expenditure	450,479	520,776	583,830	486,217	696,025

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Operating Result	-78,234	-146,318	-201,923	-29,460	-82,562
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\**Support Service Costs* are Council's 'overheads' in delivering the service and include costs associated with Finance, IT, People and Culture, Insurance etc.

5 This financial data demonstrates that Council is subsidising the provision of OSHC services and has been for a number of years. As with many services, OSHC was impacted by COVID and lockdowns – Council continued to provide the service (with a minimum of two staff) with lower attendance and therefore lower income.

10 Council needs to consider if this is financially viable in the long term, without improvements to service efficiency and significant increase in fees.

15 Employee costs are the major expenditure item. Council operates at a minimum of two staff members despite the requirement being one staff per 15 children. This is a risk management approach. Due to the nature of the work, Council also utilises casual staff members – both direct with Council and labour hire – which increases staff costs. Furthermore, we have experienced challenging behaviours and increased need for supervision at one of the services and therefore additional staff are rostered to assist in managing these challenges.

20 Should Council determine to cease OSHC operations, there are currently two permanent staff members who may be impacted. All other staff are employed on a temporary or casual basis and have been consulted but are not subject to redeployment or redundancy provisions under the Local Government Award.

Confidential Attachment 2 provides an outline of the financial impact of this potential change, if a redeployment option is not identified for those two staff members. These costs would be partly paid from leave entitlements reserve and the Children's Services Reserve.

## 25 **Consultation and Engagement**

### Staff

30 Clause 42 of The Local Government (State) Award outlines the required notification consultation process with staff and unions where significant workplace changes are proposed and implemented. Ceasing of direct provision of OSHC services, should it proceed, would be considered a significant workplace change and trigger these requirements.

As such, staff and unions were notified of the proposed change and feedback sought through the mandatory 28 day consultation period, which ended on 4 March 2024.

35 Three submissions were received from OSHC staff in relation to the proposed changes, and none were supportive of the change. The key reasons cited were:

- the importance of established relationships with families and schools
- the perceived quality of care provided, in comparison with other providers

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- the positive parent feedback and support for Council services

5 This feedback has been considered and, whilst the professionalism and commitment of staff are acknowledged and commended, the feedback does not alter the root cause of the challenges to sustainable service delivery and the identified risks of continuing direct service delivery.

Once Council has made a decision, staff and unions will be formally notified as the final step in the process.

### Audit Risk and Improvement Committee

10 The Audit Risk and Improvement Committee considered this service review at its meeting on 15 February and was supportive of the proposed changes, recognising the risks and benefits of relinquishing the licences.

### Department of Education

Discussions have been held with the DoE assets team regarding the licences and the proposal to seek a Council decision relating to the ongoing provision of services.

### 15 Schools

School principals will be advised of this service review and proposal at the time of the agenda publication.

### Families

20 Families are engaged through a number of channels, including face to face conversations at drop off/pick up, emails about the program and regular surveys. In regard to Council's current services, families are positive about the program and staff and note how valuable it is for working parents. Council's recent community satisfaction survey (July 2023) indicated that "children's services" has a good performance rating of 85% and a lower importance level of 56% compared with other Council services.

25 It is anticipated that families may express a reluctance to move away from a Council delivered service, however there is no evidence to suggest a new Approved Provider would lead to a decline in the service quality (as noted in the accreditation and quality rating system) or a negative financial impact on families (as evidenced by service data across the region).

30 Families will be advised of this service review and proposal at the time of the agenda publication.

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**Report No. 13.3 National General Assembly of Local Government 2024**

**Directorate:** Corporate and Community Services

**Report Author:** Jessica Cutter, Governance Support Officer

5 **File No:** I2024/187

**Summary:**

10 The National General Assembly of Local Government incorporating the Regional Cooperation and Development Forum will be held from 2 - 4 July 2024 in Canberra. The Call for Motions Discussion Paper requires that motions from Councillors are to be lodged by Tuesday 30 April 2024.

15 This report is provided in accordance with Council's Policy Councillor Expenses and Facilities 2022, Clause 6.37 "A resolution of Council is required to authorise attendance of Councillors at...b) National General Assembly of Local Government as a voting delegate".

All councils and delegates intending to attend this event should familiarise themselves with the guidelines for motions contained in the [Call for Motions Discussion Paper](#).

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**RECOMMENDATION:**

**That Council:**

1. **Authorises Councillor \_\_\_\_\_ to attend as the voting delegate at the 2024 National General Assembly of Local Government incorporating the Regional Cooperation and Development Forum, to be held at the National Convention Centre in Canberra from 2 - 4 July 2024.**
2. **Considers endorsement of any motions for submission to the National General Assembly by the lodgement deadline with ALGA of Tuesday 30 April 2024.**

20

## Report

5 Council has received the registration details for the National General Assembly (NGA) of Local Government to be held in Canberra from 2 - 4 July 2024. The theme for the 2024 NGA is 'Building Community Trust' which aims to explore the importance of trust in and between governments, their institutions, and citizens.

Council is entitled to one voting delegate in the debating session in addition to non-voting delegate/s.

10 As per Clause 6.37 of the [Councillor Expenses and Facilities Policy 2022](#), "A resolution of Council is required to authorise attendance of Councillors at...b) National General Assembly of Local Government as a voting delegate".

In assessing a Councillor request to attend a conference, Clause 6.40 of the Policy asserts the following factors must be considered:

1. *relevance of the topics and presenters to current Council priorities and business and the exercise of the Councillor's civic duties*
- 15 2. *cost of the event in relation to the total remaining budget.*

In determining delegate attendance, it should be noted that the date of the NGA falls within the Council recess scheduled for July 2024.

## Conference Motions

20 NGA Conference motions are subject to Clause 6.41 of the [Councillor Expenses and Facilities 2022 Policy](#) which states that "Submission of motions to the ... National General Assembly for consideration by Council will be done by notice of motion, which can be considered during the year."

25 Motions to the NGA are to be received electronically by the Australian Local Government Association (ALGA) no later than 11:59pm on Tuesday 30 April 2024, and must first be endorsed by Council prior to submission. A memo was provided to Councillors on 4 February 2024 with this information.

Staff will submit any adopted motions to ALGA on behalf of Council prior to the deadline.

## Call for Motions

30 The NGA have indicated they are interested to hear ideas for new or expanded programs and key policy initiatives that could strengthen local governments and the delivery of services and infrastructure to local communities across the nation.

- The discussion paper identifies twelve key priority areas which motion/s should address one or more of: intergovernmental relations; financial sustainability; roads and infrastructure; emergency management; housing and homelessness; jobs and skills; community services; Closing the Gap and Aboriginal and Torres Strait Islander Reconciliation; data, digital technology and cyber security; climate change and renewable energy; environment; and circular economy.

The full discussion paper is available from the following link: [2024-Discussion-Paper-WEB-RGB.pdf \(alga.com.au\)](#).

### Next steps

- 10 To be eligible for inclusion in the NGA Business Papers, and subsequent debate on the floor of the NGA, Motions must meet the following criteria:
1. Be relevant to the work of local government nationally.
  2. Not be focused on a specific jurisdiction, location or region – unless the project or issue has national implications.
  - 15 3. Be consistent with the themes of the NGA.
  4. Complement or build on the policy objectives of ALGA and your state or territory local government association.
  5. Be submitted by a council which is a financial member of their state or territory local government association.
  - 20 6. Propose a clear action and outcome ie call on the Australian Government to act on something.
  7. Not be advanced on behalf of external third parties that may seek to use the NGA to apply pressure to Board members, or to gain national political exposure for positions that are not directly relevant to the work of, or in the national interests of, local government.
  - 25 8. Address issues that will directly improve the capacity of local government to deliver services and infrastructure for the benefit of all Australian communities.
  9. Not seek to advance an outcome that would result in a benefit to one group of councils to the detriment of another.
  - 30 10. Be supported by sufficient evidence to support the outcome being sought and demonstrate the relevance and significance of the matter to local government nationally.

Motions must commence with the following wording: '*This National General Assembly calls on the Australian Government to ...*' All motions require, among other things, a contact officer, a clear national objective, a summary of the key arguments in support of the motion, and endorsement by Council.

Motions should be lodged electronically using the online form available on the NGA website at: [www.alga.asn.au](http://www.alga.asn.au).

## Strategic Considerations

### Community Strategic Plan and Operational Plan

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

### Related Resolutions

Not applicable.

### 5 Legal/Statutory/Policy Considerations

In accordance with Council’s Policy Councillor Expenses and Facilities 2022 “*A resolution of Council is required to authorise attendance of Councillors at ...b) Australian Local Government Association National General Assembly as a voting delegate.*”

### Financial Considerations

- 10 The allocation to Conferences within the 2023/24 budget (2145.4) has approximately \$3000 remaining for the financial year.

Costs: *(per delegate)*

	Registration Fee (early bird received 7 June 2024)	\$ 945.00
	Registration Fee for Regional Forum	\$ 475.00
15	Accommodation <i>(approx.)</i> (3 nights)	\$ 850.00
	Travel <i>(approx.)</i>	\$ 550.00
	<b>Total:</b>	<b>\$2,820.00</b>

Virtual attendance has also been offered for 2024 at a cost of \$739.00. This option is available to all delegates, voting or non-voting.

- 20 NGA delegates will be eligible for a discounted fee (\$275.00) to the Regional Forum held in conjunction with the NGA should they lodge a successful motion to attend.

### Consultation and Engagement

Not applicable.

**Report No. 13.4 Council Investments - 1 February 2024 to 29 February 2024**

**Directorate:** Corporate and Community Services

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

5 **File No:** I2024/344

**Summary:**

This Report includes a list of investments and identifies Council's overall cash position for the period 1 February 2024 to 29 February 2024 for information.

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

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**RECOMMENDATION:**

15 **That Council notes the report listing Council's investments and overall cash position as of 29 February 2024.**

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### Report

Council has continued to maintain a diversified portfolio of investments. As of 29 February 2024, the average 90-day bank bill rate (BBSW) for the month was 4.34%. Council's performance for February 2024 was 4.64%.

5 The table below identifies the investments held by Council as at 29 February 2024.

### Schedule of Investments held as at 29 February 2024

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	Fossil Fuel	Type	Int. Rate	Current Value (\$)
15/11/18	1,000,000.00	NSW Treasury Corp (Green Bond)	N	AAA	15/11/28	N	B	3.00%	966,610.00
20/11/18	1,000,000.00	QLD Treasury Corp (Green Bond)	N	AA+	22/03/24	N	B	1.78%	1,009,101.00
28/03/19	1,000,000.00	National Housing Finance & Investment Corporation	Y	AAA	28/03/29	N	B	2.38%	934,350.00
21/11/19	1,000,000.00	NSW Treasury Corp (Sustainability Bond)	N	AAA	20/03/25	N	B	1.25%	974,280.00
27/11/19	500,000.00	National Housing Finance & Investment Corp	Y	AAA	27/05/30	N	B	1.52%	430,859.50
15/06/21	500,000.00	National Housing Finance & Investment Corp	Y	AAA	01/07/31	N	B	1.99%	502,310.95
06/09/21	1,000,000.00	Northern Territory TCorp	N	Aa3	15/12/26	N	B	1.40%	1,000,000.00
16/09/21	1,000,000.00	QLD Treasury Corp (Green Bond)	N	AA+	02/03/32	N	B	1.83%	814,180.00
30/10/23	850,000.00	Bank Australia Ltd	P	BBB	30/10/26	N	FRN	5.84%	851,326.93

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	Fossil Fuel	Type	Int. Rate	Current Value (\$)
21/02/24	1,000,000.00	Bank Australia Ltd	N	BBB	21/02/28	N	FRN	6.04%	1,000,000.00
27/11/23	1,000,000.00	Westpac Tailored	P	AA-	27/11/24	N	TD	5.40%	1,000,000.00
29/11/23	1,000,000.00	Bank of QLD	P	BBB+	02/04/24	N	TD	5.20%	1,000,000.00
04/12/23	2,000,000.00	Judo Bank	P	BBB-	07/03/24	N	TD	5.20%	2,000,000.00
04/12/23	2,000,000.00	Bank of QLD	N	BBB+	04/04/24	N	TD	5.20%	2,000,000.00
06/12/23	2,000,000.00	Beyond Bank	P	BBB	06/03/24	N	TD	5.10%	2,000,000.00
12/12/23	2,000,000.00	NAB	P	AA-	18/03/24	Y	TD	5.05%	2,000,000.00
18/12/23	2,000,000.00	NAB	N	AA-	18/03/24	Y	TD	5.05%	2,000,000.00
22/12/23	2,000,000.00	NAB	N	AA-	21/03/24	Y	TD	5.05%	2,000,000.00
03/01/24	2,000,000.00	Judo Bank	N	BBB-	03/04/24	N	TD	5.10%	2,000,000.00
04/01/24	1,000,000.00	Judo Bank	N	BBB-	04/04/24	N	TD	5.10%	1,000,000.00
08/01/24	2,000,000.00	NAB	N	AA-	08/04/24	Y	TD	5.05%	2,000,000.00
10/01/24	2,000,000.00	Judo Bank	N	BBB-	10/04/24	N	TD	5.10%	2,000,000.00
12/01/24	5,000,000.00	Judo Bank	N	BBB-	12/04/24	N	TD	5.10%	5,000,000.00
12/01/24	5,000,000.00	Bank of QLD	N	BBB+	13/05/24	N	TD	5.05%	5,000,000.00
12/01/24	5,000,000.00	NAB	N	AA-	10/07/24	Y	TD	5.10%	5,000,000.00
12/01/24	5,000,000.00	Heritage Bank	P	BBB	11/07/24	N	TD	5.00%	5,000,000.00
19/01/24	1,000,000.00	Judo Bank	N	BBB-	19/04/24	N	TD	5.05%	1,000,000.00
19/01/24	1,000,000.00	NAB	N	AA-	18/04/24	Y	TD	5.05%	1,000,000.00
19/01/24	1,000,000.00	Bank of QLD	N	BBB+	20/05/24	N	TD	5.05%	1,000,000.00
22/01/24	1,000,000.00	Bank of QLD	N	BBB+	22/05/24	N	TD	5.05%	1,000,000.00
25/01/24	2,000,000.00	Bank of QLD	N	BBB+	27/05/24	N	TD	5.05%	2,000,000.00
30/01/24	1,000,000.00	NAB	N	AA-	29/04/24	Y	TD	5.05%	1,000,000.00
07/02/24	1,000,000.00	Auswide Bank	P	BBB-	08/05/24	N	TD	5.05%	1,000,000.00
07/02/24	1,000,000.00	Auswide Bank	N	BBB	07/08/24	N	TD	5.15%	1,000,000.00

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.4

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	Fossil Fuel	Type	Int. Rate	Current Value (\$)
19/02/24	1,000,000.00	NAB	N	AA-	19/05/24	Y	TD	5.05%	1,000,000.00
29/02/24	1,000,000.00	MyState Bank	P	BBB	29/05/24	N	TD	5.00%	1,000,000.00
N/A	25,229,182.83	CBA Business Saver	P	AA-	N/A	Y	CALL	4.35%	25,229,182.83
N/A	1,158,832.07	CBA Business Saver – Tourism Infrastructure Grant	N	AA-	N/A	Y	CALL	4.35%	1,158,832.07
N/A	10,071,857.81	Macquarie Accelerator Call	N	A	N/A	Y	CALL	4.20%	10,071,857.81
<b>Total</b>	<b>97,309,872.71</b>						<b>AVG</b>	<b>4.64%</b>	<b>96,942,891.09</b>

**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. Fossil Fuel ADI**

N = No investment in Fossil Fuels

Y = Investment in Fossil Fuels

U = Unknown Status

**Note 3. Type Description**

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

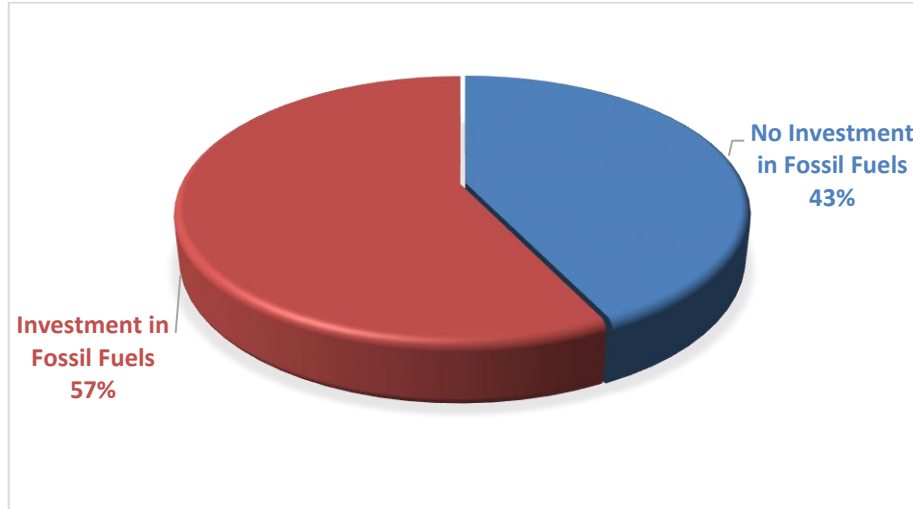
### Environmental and Socially Responsible Investing (ESRI)

An additional column has been added to the schedule of Investments to identify if the financial institution holding the Council investment has been assessed as a 'Fossil Fuel'



# BYRON SHIRE COUNCIL

investing institution. This information has been sourced through [www.marketforces.org.au](http://www.marketforces.org.au) and identifies financial institutions that either invest in fossil fuel related industries or do not. The graph below highlights the percentage of each classification across Council's total investment portfolio in respect of fossil fuels only.



5

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

10 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. When this occurs, the investment will be marked as no fossil fuels given the investment purpose.

15 During the month of November 2023 as an example, Council undertook an investment with Westpac Bank as a tailored deposit. The investment proceeds are utilised for environmental purposes as this investment in Climate Bond Certified.

20 With the lifting of the NSW Treasury Corporation loan borrowing covenant on Council's investments, growth has recommenced in acquiring investments not aligned with fossil fuels. Council's portfolio reached its lowest point in August 2023 at 15% but as at 29 February 2024, the portfolio has increased to 43%.

## Investment Policy Compliance

25 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).

Investment policy compliance		
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# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.4

% should not exceed the following			ACTUAL	
AAA to AA	A1+	100%	52%	Meets policy
A+ to A-	A1	60%	10%	Meets policy
BBB to NR	A2,NR	40%	38%	Meets policy

The investment portfolio is outlined in the table below by investment type for the period 1 February 2024 to 29 February 2024:

### Dissection of Council Investment Portfolio as at 29 February 2024

Principal Value (\$)	Investment Linked to:	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
52,000,000.00	Term Deposits	52,000,000.00	0.00
25,229,182.83	CBA Business Saver	25,229,182.83	0.00
1,158,832.07	CBA Business Saver – Tourism Infrastructure Grant	1,158,832.07	0.00
10,071,857.81	Macquarie Accelerator	10,071,857.81	0.00
8,850,000.00	Bonds/Floating Rate Notes	8,483,018.38	(366,981.62)
<b>97,309,872.71</b>	<b>Total</b>	<b>96,942,891.09</b>	<b>(366,981.62)</b>

5 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 February 2024 as follows:

### Dissection of Council's Cash Position as at 29 February 2024

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
<b>Investments Portfolio</b>			
Term Deposits	52,000,000.00	52,000,000.00	0.00
CBA Business Saver	25,229,182.83	25,229,182.83	0.00
CBA Business Saver – Tourism Infrastructure Grant	1,158,832.07	1,158,832.07	0.00
Macquarie Accelerator	10,071,857.81	10,071,857.81	0.00

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.4

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Bonds	8,850,000.00	8,483,018.38	(366,981.62)
<b>Total Investment Portfolio</b>	<b>97,309,872.71</b>	<b>96,942,891.09</b>	<b>(366,981.62)</b>
<b>Cash at Bank</b>			
Consolidated Fund	1,947,717.32	1,947,717.32	0.00
<b>Total Cash at Bank</b>	<b>1,947,717.32</b>	<b>1,947,717.32</b>	<b>0.00</b>
<b>Total Cash Position</b>	<b>99,257,590.03</b>	<b>98,890,608.41</b>	<b>(366,981.62)</b>

## Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership	1.3: Ethical and efficient management of resources	1.3.1: Financial Management - Ensure the financial integrity and sustainability of Council through effective financial management	1.3.1.6	Maintain Council's cash flow

### Legal/Statutory/Policy Considerations

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

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

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. 13.5 Proposed change to 2024 Council Meeting Schedule**

**Directorate:** Corporate and Community Services

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

5 **File No:** I2024/362

**Summary:**

Council has been advised of the date for the Local Government New South Wales (LGNSW) Rural and Regional Summit (the Summit), being Thursday 9 May 2024.

This date clashes with a scheduled Ordinary (Planning) Council Meeting.

10 Byron Shire Council has been invited to present to the Summit on its Short Term Rental Accommodation (STRA) journey.

This report seeks an amendment to the adopted meeting schedule to accommodate attendance at the Summit by the Mayor, General Manager, and Director of Sustainable Environment & Economy.

15

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**RECOMMENDATION:**

20 1. **That Meeting Schedule 2024 be amended to move the Ordinary (Planning) Meeting scheduled for Thursday 9 May 2024 to Thursday 16 May 2024.**

2. **That the Advisory Committee Meetings currently scheduled to be held on Thursday 16 May 2024 be moved to Thursday 9 May 2024:**

25 9:00am **Climate Change and Resource Recovery**  
11:30am **Audit, Risk, and Improvement Committee**  
2:00pm **Finance Advisory Committee**  
4:30pm **Biodiversity Advisory Committee**

30 3. **That Mayor Michael Lyon be authorised to attend the LGNSW Rural and Regional Summit on Thursday 9 May 2024.**

Report

The LGNSW Rural and Regional Summit provides an opportunity for representatives to deliberate on the pressing challenges facing rural and regional communities and is aimed at bolstering the socio-economic landscape of NSW's rural and regional areas.

- 5 The 2024 summit will be held on Thursday 9 May at the State Library of NSW. There is currently an Ordinary (Planning) Meeting scheduled on this date.

Byron Shire Council has been invited to present to the Summit on its Short Term Rental Accommodation (STRA) journey.

- 10 A change to the adopted Meeting Schedule 2024 is requested to accommodate attendance at the Summit by the Mayor, General Manager, and Director of Sustainable Environment & Economy. The proposed change involves swapping the Ordinary (Planning) Meeting scheduled for Thursday 9 May 2024 with the Advisory Committee Meetings currently scheduled for 16 May 2024.

The Advisory Committee Meetings that would be affected by this change are:

- 15
  - 9:00am Climate Change and Resource Recovery
  - 11:30am Audit, Risk, and Improvement Committee
  - 2:00pm Finance Advisory Committee
  - 4:30pm Biodiversity Advisory Committee

- 20 Should Council resolve to amend the meeting schedule, Advisory Committee members will be notified, and public notice will be given in the usual form.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership	1.1: Enhance trust and accountability through open and transparent leadership	1.1.2: Governance - Ensure legislative compliance and support Councillors to carry out their civic duties	1.1.2.4	Deliver Council meeting secretariat – including agenda preparation, minutes and council resolutions monitoring

Recent Resolutions

- [23-559](#) – Council endorsed the Meeting Schedule 2024 in November 2023

25 Legal/Statutory/Policy Considerations

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

### [Local Government Act 1993 s9 Public Notice of Meetings](#)

(1) A council must give notice to the public of the times and places of its meetings and meetings of those of its committees of which all the members are councillors.

[Councillor Expenses and Facilities Policy](#) clause 6.37:

- 5 A resolution of Council is required to authorise attendance of Councillors at:
- LGNSW Conference(s) as a voting delegate
  - National General Assembly of Local Government as a voting delegate
  - Overseas conferences
  - Any other discretionary conference, seminar, workshop or function.

## 10 **Financial Considerations**

There is nil effect on the budget regarding the proposed change to the Meeting Schedule 2024.

- 15 The allocation to Conferences within the 2023/24 budget (2145.4) has approximately \$3000 remaining for the financial year. Attendance by the Mayor can be accommodated within this budget.

Costs:

Registration Fee (early bird by 29 March 2024)	\$ 540.00
Travel and accommodation ( <i>approx.</i> )	\$ 600.00
<b>Total</b>	<b>\$ 1,140.00</b>

## 20 **Consultation and Engagement**

Public notice requirements in the *Local Government Act 1993* and the Code of Meeting Practice will be adhered to should the change to the meeting schedule proceed.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 13.6 Place Planning Collective Update**

**Directorate:** Sustainable Environment and Economy

5 **Report Author:** Stephanie McMurray, Place Liaison Officer

**File No:** I2024/139

**Summary:**

The Place Planning Collective (PPC) was established by Byron Shire Council on 19 September 2019.

10 The PPC currently has representatives for the completed place plans including Byron Arts and Industry Estate (BAIE), Bangalow, Federal and Mullumbimby.

The purpose of the PPC is to guide and promote implementation of Place Plan actions in these locations.

15 Note that the PPC does not encompass the Byron Town Centre Masterplan. This is overseen specifically by the Byron Town Centre Masterplan Group.

In 2023 the PPC provided strong advocacy for a range of infrastructure, open space and community development projects. Input from the PPC has influenced project scopes, community consultation plans, and project designs.

**PPC Priority Actions**

20 The Place Plans represented by the PPC (adopted between 2019 and 2022) have varying levels of detail and complexity in their action lists. To make implementation simpler, the Place Planning Collective maintains a refined list of priority actions.

There are currently 33 Council led actions that are being promoted as priorities for implementation by the PPC with support from Council's Place Planning team.

25 Details of these priority projects can be found in Attachment 1.

Positively, of these 33 actions, 78% (24) are underway with either design funding, construction funding or awaiting construction funding. However, 18% (6) are currently scoped but unfunded and do not have a pathway forward. The remaining 3 projects are to be scoped and a business case established before seeking a funding source.

30 **PPC Membership**

Community representatives have joined the Place Planning Collective at different stages. Eight of these are member's two-year tenure is ending in 2024.



# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.6

Staff are seeking to progress with an Expression of Interest (EOI) process to recruit new members. Existing members have the option to re-apply should they wish to.

### **PPC Charter**

5 The PPC Charter states that when selecting new members, “*Council seeks to maximise a diversity of interests and skills and achieve a mixed representation of the Shire’s community. Future members will be appointed to fill identified skill or representational gaps within the Collective.*”

10 This report also recommends some changes to the PPC Charter. Attachment 2 provides a copy of the Charter with marked changes recommended for endorsement.



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### **RECOMMENDATION:**

#### **That Council:**

- 15
- 1. Thanks the community members on the Place Planning Collective for their time and contributions made to date.**
  - 2. Notes the Place Plan priority actions (and their status) identified by the Place Planning Collective representatives as per Attachment 1 (E2024/14120).**
  - 3. Endorses an Expression of Interest process for Place Planning Collective community members in line with the Place Planning Collective Charter.**
  - 4. Endorses updates to the Place Planning Collective Charter as per Attachment 2 (E2024/11598)**
- 20

#### **Attachments:**

- 25
- 1 Place Planning Collective Priority Projects - February 2024, E2024/14120 
  - 2 Place Planning Collective Charter updated Feb 2024, E2024/11598 

## Report

### Place Planning Collective Update

The Place Planning Collective (PPC) was established by Byron Shire Council on 19 September 2019.

- 5 The PPC currently has representatives for the completed place plans including Byron Arts and Industry Estate (BAIE), Bangalow, Federal and Mullumbimby.

Its purpose of the PPC is to guide and promote implementation of Place Plan actions in these locations.

- 10 Note that the PPC does not encompass the Byron Town Centre Masterplan. This is overseen by the Byron Town Centre Masterplan Group.

In 2023 the PPC provided strong advocacy for a range of infrastructure, open space and community development projects. Input from the PPC has influenced project scopes, community consultation plans, and project designs.

- 15 Further information on the Place Planning Collective, its charter, members, and meeting minutes can be found on Council's website here:

<https://www.byron.nsw.gov.au/Council/Plans-Strategies/Masterplans-Place-Plans/Place-Planning-Collective>

- 20 The Place Plans represented by the PPC (adopted between 2019 and 2022) have varying levels of detail and complexity in their action lists. To make implementation simpler, the Place Planning Collective maintains a refined list of priority actions.

### Current PPC Priority Actions

There are currently 33 Council led actions that are being promoted as priorities for implementation by the PPC with support from Council's Place Planning team.

Details of these projects can be found in Attachment 1 (E2024/14120).

- 25 The following tables show how these 33 priority actions are split across the Place Plan locations and at what general project stage they are at.

- 30 Positively, of these 33 actions, 78% (24) are underway with either design funding, construction funding or awaiting construction funding. However, 18% (6) are currently scoped but unfunded and do not have a pathway forward. The remaining 3 projects are to be scoped and a business case established before seeking a funding source.

# BYRON SHIRE COUNCIL

Place Plan Location	Project unfunded	Design funded	Construction funded	Construction unfunded	To be scoped	Total
BAIE		4	1	1	2	8
Bangalow	1	6	2	1		10
Federal	3	3				6
Mullumbimby	2	2	4		1	9
Total	6	15	7	2	3	33

Definitions for these project phases are explained below:

Definitions:
<ul style="list-style-type: none"> <li>• Project unfunded: Project is scoped but funding is required before project can commence.</li> </ul>
<ul style="list-style-type: none"> <li>• Design funded: Project is funded (grants or internal budget) and either in progress or planned for commencement.</li> </ul>
<ul style="list-style-type: none"> <li>• Construction unfunded: Project design is complete and ready for construction; funding is required to commence works.</li> </ul>
<ul style="list-style-type: none"> <li>• Construction funded: Construction is fully funded and planned or in progress.</li> </ul>
<ul style="list-style-type: none"> <li>• To be scoped: Project is yet to be scoped, further work is required to understand funding and resource requirements. Responsibility sits primarily with PPC community reps.</li> </ul>

## PPC Charter updates

5 The PPC Charter was endorsed by Council in May 2020 (Res 20-217). Attachment 2 (E2024/11598) provides a copy of the Charter with marked changes recommended for endorsement.

The main changes are to improve the longevity of the document by removing specific references to the current Place Plans, and to update the requirements for new Collective members.

10 In relation to membership, it is proposed in the amendments to preference new members that represent a community group or similar. New members are encouraged to join the Collective to bring fresh perspective and ideas. However, it is proposed for membership renewal to be staggered to ensure that historical knowledge is transferred and retained.

**PPC Community Membership Renewal**

Community representatives have joined the Place Planning Collective at different stages. Eight current member's two-year tenure is ending in 2024.

- 5 Staff are seeking to undertake an Expression of Interest (EOI) process to recruit new members. Existing members have the option to re-apply should they wish to.

This EOI will be advertised for a period of 28 days on Council's website and social media platforms, through advertisements placed in the Echo and with Council staff directly advising community groups.

**Councillor Representatives**

- 10 The Charter provides for three Councillor representatives and outlines the role expectations of participants.

Current Councillor representatives are Mayor Michael Lyon, Deputy Mayor Sarah Ndiaye, Councillor Mark Swivel, and Councillor Duncan Dey (alternate).

- 15 Given that Council elections will take place later this year, Council will need to appoint new Councillor PPC representatives at this time.

**Next steps**

The PPC with the support of the Place Planning team will continue to promote and progress the priority actions summarised in this report.

- 20 Following the EOI process, a report will be provided to Council for selection of new PPC members.

## Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
4: Ethical Growth	4.1: Manage responsible development through effective place and space planning	4.1.3: Town / Village Masterplans - Develop, implement and update Place Plans that promote place-based forward planning strategies and actions	4.1.3.1	Facilitate the Place Planning Collective in order to promote and support implementation of actions from adopted town / village masterplans

### Recent Resolutions

- 5
- [22-059](#): Council Meeting 24 February 2022 - Place Planning Collective Update and Expression of Interest for Upcoming Vacancies
  - [21-188](#): Council Meeting 10 June 2021 – additional community members
  - [19-451](#): Council Meeting 19 September 2019 Resolution to establish the Collective

### Legal/Statutory/Policy Considerations

Nil

10 **Financial Considerations**

Nil

### Consultation and Engagement

As described within the report.

**Report No. 13.7 PLANNING - Post Exhibition Submissions Report - Planning Proposal - 26.2023.2.1 - Former Mullumbimby Hospital Site**

**Directorate:** Sustainable Environment and Economy

5 **Report Author:** Andrew FitzGibbon, Place Planning Coordinator

**File No:** I2024/242

**Summary:**

10 On 22 June 2023 Council considered and endorsed a Planning Proposal scope to amend Byron Shire Local Environmental Plan 2014 to enable housing and community facilities on the former Mullumbimby Hospital site. The proposed changes included:

- Change the zone of part of the site from SP2 Infrastructure (Health Services Facility) to R1 General Residential and a small area to C2 Environmental Conservation.
- Increase the height allowance from 9m to 11.5m for part of the site.
- 15 • Allow additional permitted uses for the site to support complimentary and site-specific uses.
- Capture the development area in the Affordable Housing Contributions Scheme.
- List the site in the Design Excellence provisions.
- Other minor amendments for consistency of the above throughout the LEP.

20 The Department of Planning & Environment (now Department Planning Housing and Infrastructure DPHI) issued a Gateway determination on 3 November 2023 and the Planning Proposal was placed on public exhibition from 22 December 2023 to 11 February 2024. Agency consultation was undertaken in accordance with the Gateway determination.

25 88 public submissions were received (refer Attachment 2). Key themes are summarised in this report and include topics such as transport, parking, and affordable / social housing. Submission comments have been categorised and responded to in detail in Attachment 3.

Six agency and organisation submissions were received (refer Attachment 4) and are discussed in this report.

30 This report recommends that the Planning Proposal be forwarded to the DPHI for finalisation with minor updates.







The proposed amendments to the Byron Shire Local Environmental Plan 2014 as detailed in the Planning Proposal set a platform for the future design and development of the site.

**RECOMMENDATION:**

**5 That Council:**

- 1. Adopts the Planning Proposal in Attachment 1 (E2024/21635) with amendments as highlighted in the document.**
- 2. Forwards the amended Planning Proposal to the NSW Department of Planning Housing and Infrastructure requesting finalisation.**

**10 Attachments:**

- 1 Planning Proposal - Post Exhibition Version - Former Mullumbimby Hospital Site  
26.2023.2.1, E2024/21635 
- 15 2 Public Submissions - Redacted - Former Mullumbimby Hospital Site Planning Proposal  
26.2023.2.1, E2024/22530 
- 3 Public Submissions Comment by Category - Former Mullumbimby Hospital Site Planning  
Proposal 26.2023.2.1, E2024/21681 
- 4 Agency Responses - Former Mullumbimby Hospital Site Planning Proposal 26.2023.2.1,  
E2024/22677 
- 20 5 Gateway determination - Former Mullumbimby Hospital Site Planning Proposal 26.2023.2.1,  
E2023/120964 
- 6 Template - Form of Special Disclosure of Pecuniary Interest, E2012/2815 

## **Report**

On 22 June 2023 Council considered and endorsed a Planning Proposal scope to amend Byron Shire Local Environmental Plan 2014 to enable housing and community facilities on the former Mullumbimby Hospital site. The proposed changes included:

- 5       • Change the zone of part of the site from SP2 Infrastructure (Health Services Facility) to R1 General Residential and a small area to C2 Environmental Conservation (refer Figures 3 and 4).
- Increase height allowance from 9m to 11.5m for part of the site (Figures 5 and 6).
- 10       • Allow additional permitted uses for the site to support complimentary and site-specific uses.
- Capture the development area in the Affordable Housing Contributions Scheme.
- List the site in the Design Excellence provisions.
- Other minor amendments for consistency of the above throughout the LEP.

15       A draft planning proposal and supporting technical studies were submitted in August 2023 to the then Department of Planning & Environment (now Department of Planning, Housing and Infrastructure) for the purpose of obtaining a Gateway determination.

The Department of Planning & Environment issued a Gateway determination on 3 November 2023 (refer Attachment 5).

20       The Planning Proposal was subsequently placed on public exhibition and this report summarises the public and agency submissions received.

The exhibited documents can be found on Council's website [here](#).

### **Other Project Elements**

25       The Planning Proposal is progressing alongside other project work including Site Concept Design (informed by an Enquiry by Design Workshop), Development Feasibility Assessment, and Development Control Plan measures.

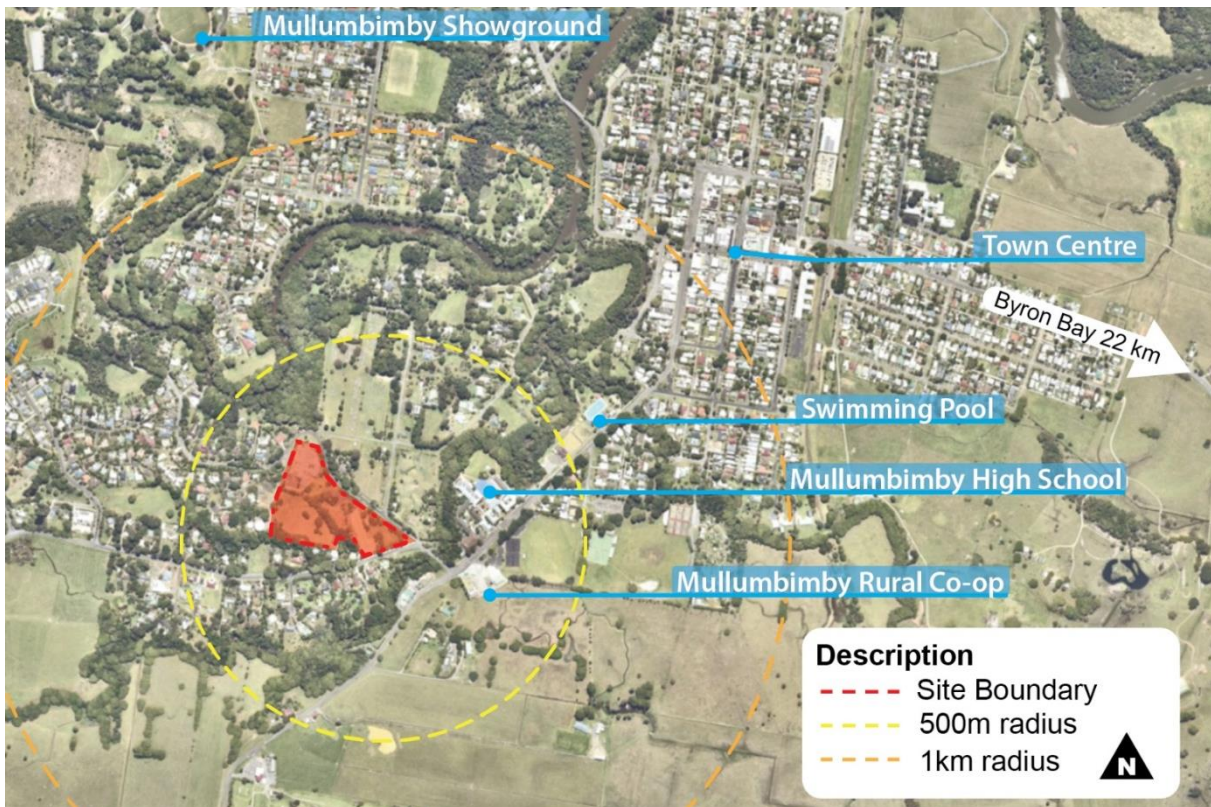
The diagram below illustrates the relationship between each of these processes.





**This report relates only to the Planning Proposal. The other processes are being progressed separately and will be reported to Council as required later in the year.**

Figure 1: Context Plan showing the site and its surrounds.



5

Figure 2: Subject Site Plan showing the site boundary and internal allotments.

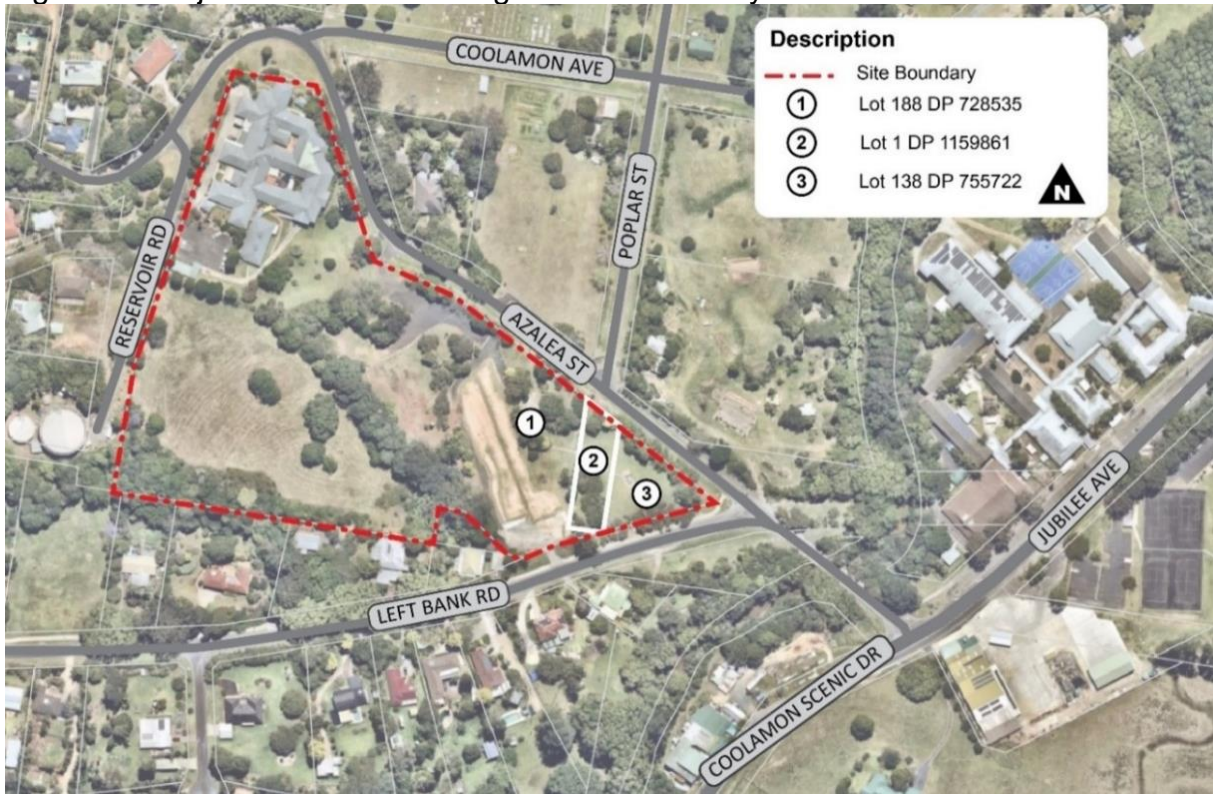


Figure 3 - Existing zoning\*

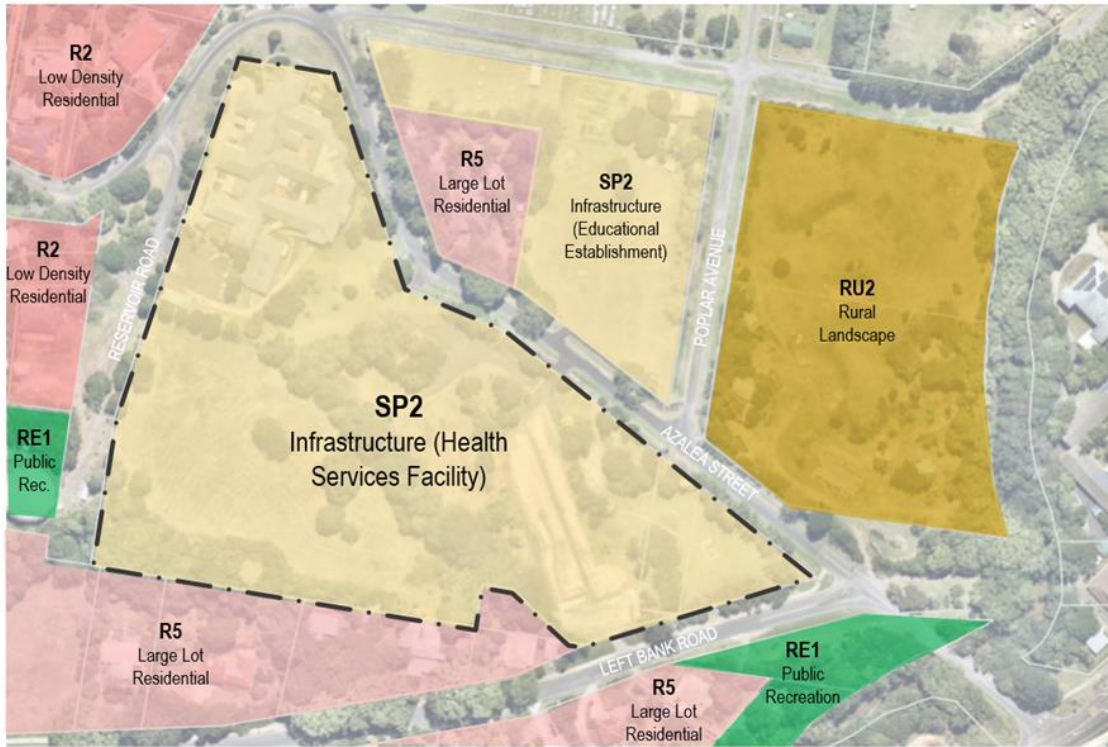
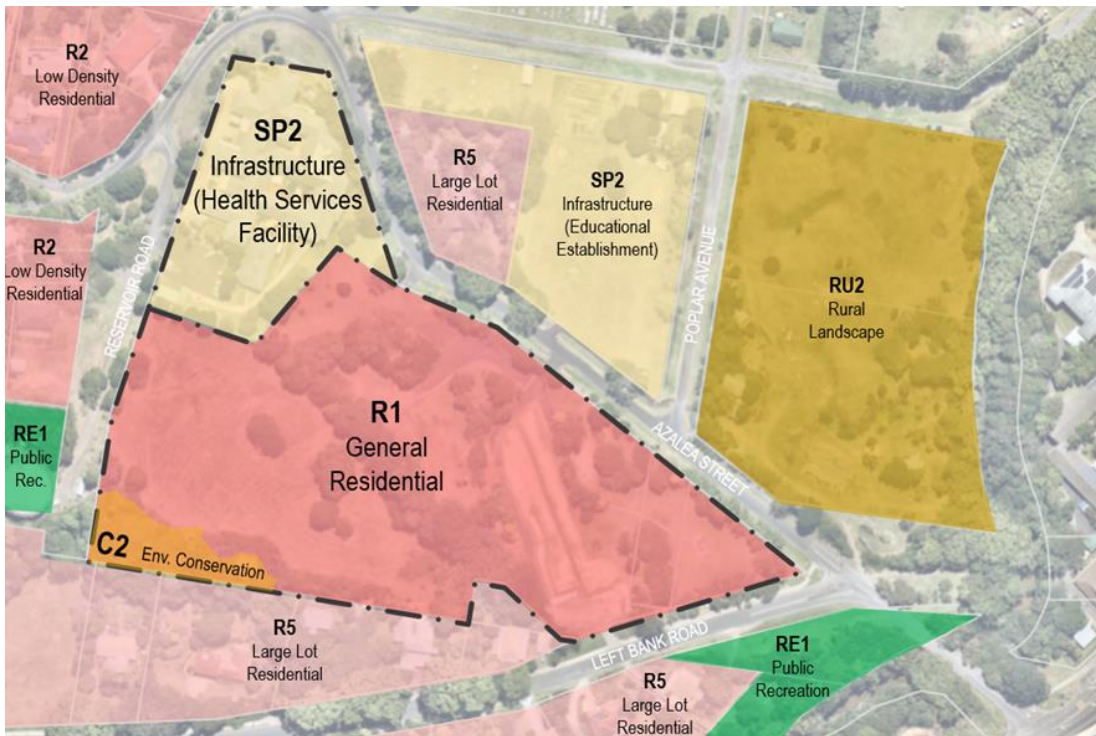


Figure 4 - Proposed zoning\*

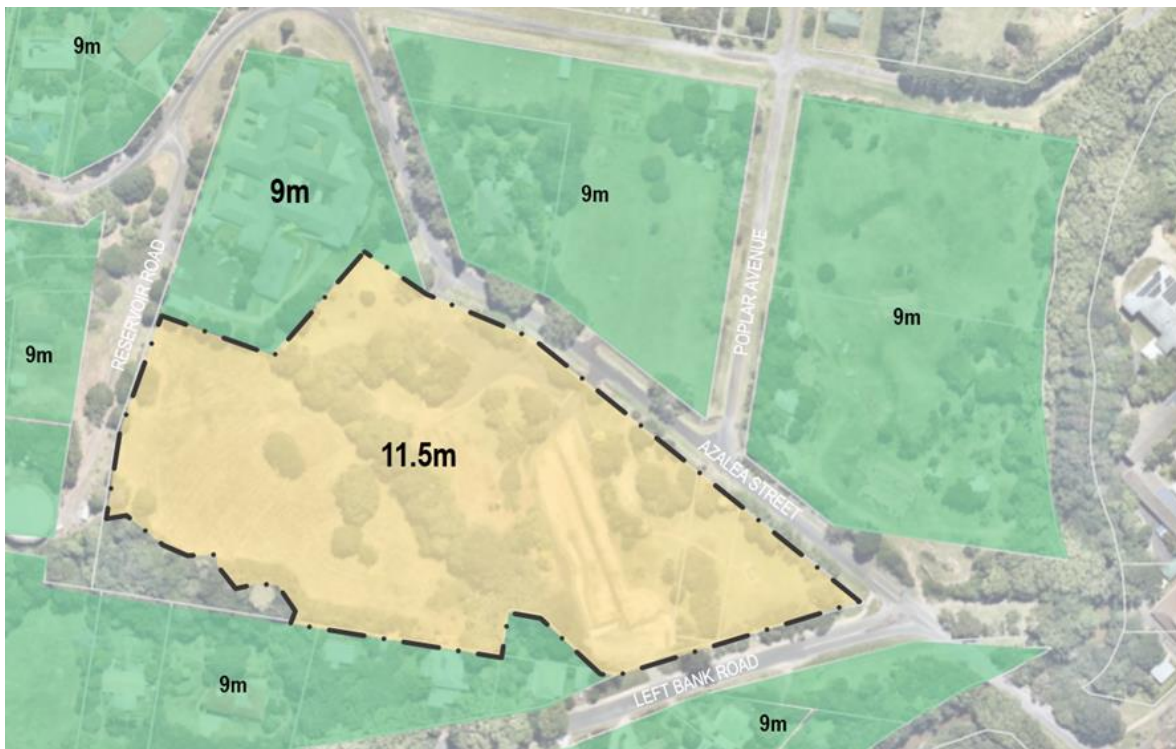


- 5 \*These maps are for illustrative purposes only. For proposed LEP maps refer to the Planning Proposal document.

Figure 5 – Existing Height of Buildings\*



Figure 6 – Proposed Height of Buildings\*



5 \*These maps are for illustrative purposes only. For proposed LEP maps refer to the Planning Proposal document.

## Exhibition

5 The Planning Proposal was placed on public exhibition from 22 December 2023 to 11 February 2024. Consultation was carried out in accordance with the Gateway determination (dated 3 November 2023, refer Attachment 5). It was also consistent with [LEP Making Guideline 2023](#) and Councils Community Participation Plan 2019.

The exhibited documents can be found on Council's website [here](#).

88 public submissions were received (refer Attachment 2). Key themes are summarised in this report. Key issues raised related to transport, parking, and affordable / social housing. Submission comments have been categorised and responded to in Attachment 3.

10 Six submissions were also received from the below agencies and organisations. These submissions are provided at Attachment 4 and are discussed in this report.

- Bundjalung of Byron Bay Aboriginal Arakwal Corporation (BOBBAC)
- Tweed Byron Local Aboriginal Land Council (TBLALC)
- 15 • NSW Department of Climate Change, Energy, the Environment and Water – Biodiversity, Conservation and Science Group (BCS)
- NSW Environment Protection Agency (EPA)
- NSW Rural Fire Service (RFS)
- NSW State Emergency Service (SES)

## Public submissions

### 20 Transport and Parking

The main concern raised by submitters related to transport and parking infrastructure. There were approximately 47 comments regarding this topic.

#### *Feedback summary:*

25 Concern about traffic gridlock during peak school hours and the need for a proper traffic management strategy and upgrades.

Some Tallwood residents fear traffic congestion from the development which may compromise their area's attractiveness for investment and living, as well as impacting access to shops and facilities.

30 Concerns about inadequate parking for proposed dwellings and scepticism about people wanting to walk to town from the site.

Opposition from some Azalea Street and surrounding residents based on current traffic problems, potential increased congestion, and the need for improved infrastructure and traffic management.

## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

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Concerns regarding the lack of footpaths, cycleways and public transport.

*Response to feedback:*

5 The [Transport Strategy](#) (date 9 August 2023) by PLANIT notes that the rezoning proposal would not result in significant adverse effects on traffic flows within the vicinity of the site and that impacts can be adequately mitigated.

The Transport Strategy notes that the roads in the vicinity of the site operate at the upper end of their capacities. However, the report also states that upgrading the Scenic Drive-Jubilee Avenue-Azalea Street intersection to a roundabout would result in small improvements in traffic flow.

10 It is hypothesised in the strategy that the root cause of the existing congestion is the school zone located north of the Scenic Drive-Jubilee Avenue-Azalea Street intersection.

15 The congestion in this area as flagged by the submissions is noted by Council as a priority for local residents and users. Council is advocating strongly via a current Infrastructure Audit being undertaken by state agencies (NSW Department of Planning Housing and Infrastructure and NSW Reconstruction Authority) to assist with planning for and funding infrastructure upgrades in key locations such as this. This intersection has been flagged as a priority work needed to support the delivery of much needed diverse and affordable housing for our community.

20 At the Development Application stage, a transport strategy will be required for any development on the site. This will be assessed against the relevant planning and transport requirements for development.

25 In relation to car parking, it is envisioned that parking demand shall be met through a combination of designated resident-only parking areas, private garages attached to occupancies and visitor parking via internal on-street parking throughout the site and designated visitor parking areas.

A transport strategy would be part of a future Development Application stage. This would consider inclusion of:

- A bus stop at the site;
- A suitable internal pedestrian circulation network;
- 30 • Continuation of pedestrian and cyclist networks external of the site;
- Carpooling/ rideshare provisions; and
- Suitable resident bicycle storage.

35 Council intends to make an amendment to the Byron Development Control Plan 2014 that will provide site specific design guidelines for the former Mullumbimby Hospital site. This DCP guidance will address transport and parking considerations.

**Housing**

There were approximately 35 comments relating to the type and quantum of housing proposed on the site. Approximately 13 of these comments sought a commitment to deliver social housing on the site.

5 *Feedback summary:*

Scepticism about whether the proposed affordable housing will actually be 'affordable'. Some emphasised the need for a higher percentage than the proposed 20-30% of affordable housing.

10 Disappointment from many submitters at the lack of social housing specified in the proposed plan.

Some feedback offered support for affordable housing options. Submissions noted importance of providing for small and single families, or for essential workers like nurses, care workers, teachers, childcare workers, and paramedics.

There were two comments relating to the need for a retirement village.

15 *Response to feedback:*

The site is subject to Council's Affordable Housing Contributions Policy and Scheme. These clarify and confirm Council's commitment to affordable housing on the site.

20 The planning proposal to amend the Byron LEP is seeking to enable a high quality residential and community precinct over the former Mullumbimby Hospital site. The proposed rezoning of the site sets the basis for future design and development.

Council is yet to make any decisions regarding specific development land uses. This is not necessary to define at the Planning Proposal stage. It will be part of a separate process run by Council which will examine site master planning, development feasibility and governance.

25 **Built Form**

There are approximately 17 comments objecting to the proposed increase in height of buildings development standard from 9m to 11.5m.

*Feedback summary:*

30 Feedback expressed opposition to raising the height limit from 9m to 11.5m, with concerns about the impact on the small-town feel, potential precedent-setting, and the irreversible change to Mullumbimby's character with 'high-density' residences. Some feedback suggests that the height increase would be out of character, an eyesore, and detrimental to the community's cherished village atmosphere.

*Response to feedback:*

35 It is proposed to proceed with the proposed increase as:

- 11.5m will still be a neighbourhood scale development that responds to the built and natural context of the site.
- 11.5m allowance will help to maximise the provision of housing on the site (and thereby support affordable housing).
- 5 • 11.5m helps to discourage single dwelling allotments and dual occupancy development which is seen as under development of the site.
- Any potential overshadowing or impacts on adjoining properties can be managed by Development Control Plan provisions.
- 10 • A high-quality built form is also supported by the proposal to include the site in the Byron LEP clause relating to Design Excellence.

### **Community Facilities**

There are approximately 10 comments relating to the type and size of community facilities and spaces on the site.

#### *Feedback summary:*

- 15 Concerns were raised about the lack of clarity regarding community facilities in the project. Some of the suggestions were for a community hub, community hall, nature reserves, community garden, youth centre, learning, health and community services. Some submitters emphasised the importance of preserving all or part of the land for community use, reflecting the initial donation of the land. Some sentiment revolves around prioritising
- 20 community facilities over housing.

#### *Response to feedback:*

- 25 The proposed zoning change to R1 General Residential would allow for these types of community uses. However, the Planning Proposal is not the right stage of the project to define specifically the type and amount of community facilities and spaces. This will be part of a separate process run by Council which will examine site master planning and development feasibility.

### **Governance**

There were approximately 12 comments relating to project and development governance.

#### *Feedback summary:*

- 30 The community feedback involves concerns regarding transparency, profit motives, and community benefit. Some express worries about the potential for developers to profit from the sale of housing on land originally donated for public use, emphasising the need for clarity on funding sources and a focus on community welfare. Others urge Council and community to retain control over the land and seek to avoid privatisation. Additionally,
- 35 there are calls for alternative models such as community trusts to ensure truly affordable housing and local governance over the site's development.



*Response to feedback:*

5 Council is yet to make any decisions regarding project and development governance. This is not necessary to define at the Planning Proposal stage. It will be part of a separate process run by Council which will examine site master planning, development feasibility and governance.

### **Concept Designs**

There were a few comments about the [draft concept designs](#) that were presented in the Planning Proposal, Appendix A. The concept designs were generated at the Enquiry By Design workshop on 13 and 14 November 2023.

10 *Feedback summary:*

All three comments received had a preference for Option 1.

*Response to feedback:*

This has been noted and can help inform the design process as it progresses.

### **Ecology**

15 There were a few comments specifically about protecting and enhancing the ecology on the site.

*Feedback summary:*

20 Concerns about the impact of development on wildlife and mature trees at the site. Questions were raised about the extent of land intended to be taken from wildlife, and specific emphasis was placed on protecting mature trees. One feedback supports the protection of identified High Environmental Vegetation in the southwest corner.

*Response to feedback:*

25 A [Biodiversity Assessment](#) was undertaken for the site by Earth Scapes Consulting (dated 17 April 2023). The assessment found that the vegetation on site is a mix of landscaping, planted trees, invasive species, and weeds. There is an area of subtropical rainforest in the south-east of the site which is proposed to be rezoned as C2 Environmental Conservation to ensure its ongoing protection.

30 The Planning Proposal is not the right stage of the project to define specifically the type and amount of vegetation to be retained or provided. This will be part of a separate process run by Council which will examine site master planning in more detail.

### **Stormwater and Flooding**

There were approximately 5 comments relating to stormwater and/or flooding.

*Feedback summary:*

## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

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5 Comments expressed concerns about stormwater management, calling for a clear strategy to mitigate peak flow during significant wet weather events. Criticism is directed at the unclear plan for stormwater mitigation, with fears about Mullumbimby Creek and potential flooding, especially during extreme conditions. Comments urge for serious drainage infrastructure improvements.

#### *Response to feedback:*

10 The [Flooding and Stormwater Assessment](#) (date 3 August 2023) by BMT identifies the key limitations for the site which will need to be considered at later stages of the design. These relate to overland flow paths, stormwater quality treatment systems, and stormwater quantity management (i.e. peak flow mitigation).

Council intends to make an amendment to the Byron Development Control Plan 2014 that will provide site specific design guidelines for the former Mullumbimby Hospital site. It is expected that this DCP guidance will address the points raised in the Flooding and Stormwater Assessment.

15 Additionally, any future Development Application over the site will need to meet existing flooding and stormwater requirements.

#### **Water and Sewer**

There were approximately 2 comments relating to water and sewer infrastructure.

#### *Feedback summary:*

20 One submitter thought a permanent water supply connection to the Rous County Council should not be considered a foregone conclusion. They asserted that a diversity of water sources, including maintaining provision from the Lavertys Gap weir on Wilsons Creek, provides a more robust, long-term solution.

25 Another submitter objected to the development unless the houses along Left Bank Road adjoining the hospital site to Chincogan Estate entrance, get sewerage.

#### *Response to feedback:*

30 The Planning Proposal is required to justify that future development can be adequately serviced by water and sewer infrastructure. [The Infrastructure Capability Audit](#) (date 15 August 2023) by PLANIT notes the following in relation to adequate water and sewer infrastructure.

- 35 • The existing water and sewer infrastructure the site can be readily serviced by both the existing water supply network and the existing gravity sewer network without the need to undertake any pipeline or network augmentations for an estimated development yield of approximately 130ET. Therefore, from a water and sewer servicing capacity we believe this site is suitable for the proposed development to proceed.
- This is subject to a satisfactory outcome being identified/agreed with Rous Water to address the overall Mullumbimby water supply capacity constraints.

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This has been confirmed by further water and sewer servicing modelling undertaken to support the updated Residential Strategy 2041. A 3-10 year development implementation timeframe is supported in the proposed Residential Strategy 2041 Development Sequencing Plan.

- 5 An Emergency Trunk Water Main will connect Mullumbimby to the Rous County Council bulk water supply system for the region. This is due to be completed in 2024.

Council is still working through a future water strategy for the Shire (in particular Mullumbimby) and there is a broader conversation at the Rous County Council level occurring.

- 10 In terms of the submission relating to sewer connections. The Planning Proposal does not need to consider sewer connections to adjoining properties.

### **Agency submissions**

Submissions were received from the following and are provided at Attachment 4.

- Bundjalung of Byron Bay Aboriginal Arakwal Corporation (BOBBAC)
- 15 • Tweed Byron Local Aboriginal Land Council (TBLALC)
- NSW Department of Climate Change, Energy the Environment and Water – Biodiversity, Conservation and Science Group (BCS)
- NSW Environment Protection Agency (EPA)
- NSW Rural Fire Service (RFS)
- 20 • NSW State Emergency Service (SES)

The key recommendations and staff response to agency submissions are summarised below.

### **Bundjalung of Byron Bay Aboriginal Arakwal Corporation (BOBBAC)**

<i>Recommendation Summary</i>	<i>Council Staff Response</i>
<p>As per any ground disturbance during construction, there will be a requirement for Cultural Heritage monitoring.</p> <p>If there is to be Aboriginal art in this space, it would require coming through the BOBBAC office.</p>	<p>Noted and to be considered at the appropriate future stages.</p>

# BYRON SHIRE COUNCIL

## **Tweed Byron Local Aboriginal Land Council**

<i>Recommendation Summary</i>	<i>Council Staff Response</i>
Supports the Planning Proposal. Supports consideration of the provision of Aboriginal housing.	Noted and to be considered at the appropriate future stages.

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**NSW Department of Climate Change, Energy the Environment and Water –  
Biodiversity, Conservation and Science Group (BCS)**

<i>Recommendation Summary</i>	<i>Council Staff Response</i>
<p>As part of the first development application for subdivision of the planning area, a Biodiversity Management Plan or Vegetation Management Plan be prepared to manage the area comprising the Lowland Rainforest in the NSW North Coast and Sydney Basin Bioregions threatened ecological community, which considers increasing the current extent of the community by 5m through restoration.</p>	<p>Noted. This can be considered as part of the first development application. Additionally, reference can be made to this in a site-specific Development Control Plan amendment for the site which is expected to follow the Planning Proposal.</p>
<p>As part of the first development application for subdivision of the planning area, the coolamon (<i>Syzygium moorei</i>) trees south of the aged care facility be retained and included within an aged care facility lot.</p>	<p>A subdivision approval has been granted (DA 10.2021.557.1, dated 23/2/2022) to create a separate lot for the aged care facility. This new lot includes the coolamon trees along the southern boundary.</p>
<p>As part of the planning proposal, the Byron Shire Council considers securing the matters above through a planning agreement.</p>	<p>Recommendation for a Biodiversity Management Plan or Vegetation Management Plan is noted. It is not considered necessary at this stage to require this through a planning agreement as it will be addressed as part of the first development application.</p> <p>Additionally, reference can be made to this in a site-specific Development Control Plan amendment for the site which is expected to follow the Planning Proposal.</p>
<p>As the landholder, the Byron Shire Council considers agreeing to extending the C2 Environmental Conservation zone over an additional area comprising 5m beyond the current extent of the Lowland Rainforest in the NSW North Coast and Sydney Basin Bioregions threatened ecological community in the planning area.</p>	<p>The request to increase the C2 zone by 5m assumes that the ecological buffer will be 30m. While this may be the case, this will be determined at the Development Application stage. It is also noted that Byron Shire Council Chapter B1 Biodiversity which includes the setback provisions is currently under review by Council (refer resolution 23-585 from Council meeting on 7 December 2023). As such, it is considered to be premature to</p>

# BYRON SHIRE COUNCIL

	make any increases to the C2 zone at this stage.
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## NSW Environment Protection Agency (EPA)

<i>Recommendation Summary</i>	<i>Council Staff Response</i>
<p>That Council should consider a more restrictive zoning of the asbestos capping management area as a more effective strategy for managing the potential future health risks from exposure to this area. The risk of excavation from future contracting penetrating the soft capping remains a legitimate risk of exposure in the long term unless appropriate development controls are in place to limit what can occur within this area.</p>	<p>The site has been remediated and signed off with a Site Audit Statement as outlined in the Contamination Assessment Summary. An Environmental Management Plan has been endorsed for the site which outlines a range of management actions. The management actions do not include having a specific land use zoning as recommended by the EPA.</p> <p>It is considered that the Environmental Management Plan prepared specifically for this site provides adequate measures to guide the safe future development and use of the site.</p>
<p>Recommend maintaining the asbestos capping management area under one ownership and limiting the permissible uses within this area for effective ongoing management of the capping.</p>	<p>This recommendation is noted and will be considered as part of the detailed design and governance decision making by Council.</p> <p>It will also be considered as part of the first Development Application.</p>
<p>That the capacity of the current water and sewer infrastructure is considered adequately to sustainably manage the increased volumes being proposed by the BSC proposal.</p>	<p>Based on the Infrastructure Capability Audit report (date 15 August 2023, by PLANIT), the site can be readily serviced by both the existing water supply network and the existing gravity sewer network without the need to undertake any pipeline or network augmentations for an estimated development yield of approximately 130ET.</p> <p>This has been confirmed by further water and sewer servicing modelling undertaken to support an updated Residential Strategy 2041. The 3-10 year development implementation timeframe is supported in the proposed Residential Strategy 2041</p>

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

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	<p>Development Sequencing Plan.</p> <p>An Emergency Trunk Water Main will connect the town to the Rous County Council bulk water supply system for the region. This is due to be completed in 2024.</p>
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### NSW Rural Fire Service (RFS)

<i>Recommendation Summary</i>	<i>Council Staff Response</i>
<p>Future built forms including public road patterns are to satisfy the requirements of Planning for Bushfire Protection guidelines.</p>	<p>This recommendation is noted and will be considered as part of detailed design and at the Development Application stage.</p>

### NSW State Emergency Service (SES)

<i>Recommendation Summary</i>	<i>Council Staff Response</i>
<p>Recommend careful consideration of the risks to life and property as the site becomes a High Trapped Perimeter Area once the Federation Bridge gauge height reaches 4mAHD, which will occur in at least the 5% Annual Exceedance Probability (AEP) event and rarer events, which restricts emergency access and egress.</p>	<p>As per the <a href="#">Flooding and Stormwater Assessment</a> (date 3 August 2023) by BMT, the site has a low propensity for regional flooding in frequent or rare events and is only partly inundated during the Probable Maximum Flood (PMF) event in the mostly easterly extent of the site.</p> <p>The site will be isolated from the Mullumbimby township during rare and extreme flood events. The duration of the isolation may extend from around 12 to 20 hours. This is unlikely to be a major concern to healthy able-bodied residents who reside in their homes for the duration of the event.</p> <p>However, there may still be a need for some residents to evacuate prior to the onset of flooding to assist others, or to access personal supports as this time of isolation may be of concern. There are multiple rainfall and water level gauges in the region and in the vicinity of the site, that may assist in the early provision of data to</p>

# BYRON SHIRE COUNCIL

	assist in this activity.
Recommend seeking additional advice from NSW Reconstruction Authority with regard to development in the Brunswick River catchment, as the development increases the population at risk.	The NSW Reconstruction Authority is aware of the Planning Proposal. Consideration of development in the Brunswick River catchment will need to be considered holistically by all state and local agencies as part of addressing the recommendations of the 2022 Flood Inquiry.
Emphasise that NSW SES is opposed to development strategies that transfer residual risk, in terms of emergency response activities, to NSW SES and/or increase capability requirements of the NSW SES.	Noted. Again, this will need to be considered holistically by all state and local agencies as part of addressing the recommendations of the 2022 Flood Inquiry.
Recommend ensuring essential services are available above the PMF, to reduce the potential for secondary risks.	The detailed design for the site will consider location of essential services such as power, water, sewerage, and telecommunication.

## Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
4: Ethical Growth	4.1: Manage responsible development through effective place and space planning	4.1.3: 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

## Recent Resolutions

- 5 • [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](#)
- [Resolution 22-737](#) (15 December 2022) Endorsement of [Site Strategy and Urban Design Protocol](#)
- 5 • [Resolution 23-298](#) (22 June 2023) Resolution to take Planning Proposal to Gateway
- [Resolution 23-665](#) (14 December 2023) Planning Proposal update, technical studies and Enquiry by Design report

### Legal/Statutory/Policy Considerations

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

### Financial Considerations

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

15 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. In this regard, given that Council, at end of February 2024, has expended over \$5.9million including committed costs, it is recommended that outcomes on the site also need to consider the potential to return a suitable amount to Council. It is noted that the initial view to return all costs would  
20 have been made without the full knowledge and extent of demolition/remediation required on the site due to the extent of contamination from its previous use.

### Consultation and Engagement

The Planning Proposal was placed on public exhibition from 22 December 2023 to 11 February 2024.

25 Consultation was carried out in accordance with the Gateway determination (dated 3 November 2023, refer Attachment 5). It was also consistent with [LEP Making Guideline 2023](#) and Councils [Community Participation Plan 2019](#).

Notice of the planning proposal exhibition included:

- public notice on Council website
- 30 • in writing to affected and adjoining landowners
- on the Planning Portal
- advertisement in the local newspaper
- email notification to local community and business groups

## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.7

- social media posts
- media release

Submissions received are described in the report and attachments.

**Report No. 13.8 PLANNING - 10.2020.109.4 - Section 4.55 to Stage 9 for Removal of Existing Exotic and Native Trees to Allow for Construction of Approved Roads and Earthworks, Relocation of Inter-allotment Drainage and Sewer Services and Easement Modifications and Deletion of Local Open Space and Recreation S7.11 Contributions - 86 Tuckeroo Avenue Mullumbimby**

5

10 **Directorate:** Sustainable Environment and Economy  
**Report Author:** Christopher Soulsby, A/ Manager Assets & Major Projects  
**File No:** I2024/250

**Proposal:**

<b>Modification No</b>	10.2020.109.4
<b>Planning Portal Ref</b>	PAN-317313
<b>Proposed modification</b>	S4.55 to Stage 9 for Removal of Existing Exotic and Native Trees to Allow for Construction of Approved Roads and Earthworks, Relocation of Inter-allotment Drainage and Sewer Services and Easement Modifications and Deletion of Local Open Space and Recreation S7.11 Contributions
<b>Original Development</b>	Stage 9 Tallowood Ridge Estate Subdivision to Create Forty-Eight (48) Residential Lots, of which Seven (7) of these Lots are a Community Title subdivision, and a Community Title common Property Lot
<b>Type of modification sought</b>	4.55(2) Other modifications
<b>Property</b>	LOT: 196 DP: 1281667

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.8

<b>description</b>	86 Tuckeroo Avenue MULLUMBIMBY
<b>Parcel No/s</b>	271058
<b>Applicant</b>	CivilTech Consulting Engineers
<b>Owner</b>	Gainsplay Pty Ltd
<b>Zoning</b>	C2 Environmental Conservation / C3 Environmental Management / R2 Low Density Residential / RU1 Primary Production / RU2 Rural Landscape
<b>Date received</b>	12 April 2023
<b>Original DA determination date</b>	14 October 2021
<b>Integrated Development</b>	Yes
<b>Public notification or exhibition</b>	<ul style="list-style-type: none"><li>- Level 2 advertising under the Byron Shire Council Community Participation Plan.</li><li>- Exhibition period: 25/4/2023 to 8/5/2023</li><li>- Submissions received: 22</li></ul>
<b>Planning Review Committee</b>	Meeting date 1/6/2023 Report to Council
<b>Delegation to determination</b>	Council
<b>Issues</b>	<ul style="list-style-type: none"><li>• Contributions</li></ul>

**Summary:**

Council deferred this matter to enable a workshop to be carried out with Councillors. The issues on the requirements to offset contributions and the wording of the original conditions were presented to Councillors at the workshop of 7 March 2024. Based on this workshop staff have made no changes to the recommendation or report.

The section 4.55 application seeks approval for the modification of the approved Stage 9 subdivision, being for the removal of existing exotic and native trees to allow for the construction of approved roads and earthworks, relocation of the inter-allotment drainage and sewer services and easement modifications, and the deletion of local open space and recreation section 7.11 contributions.

The Report on the application was considered at the Council (Planning) meeting of 9 November 2023. At that meeting, Council resolved to defer the matter to a future meeting to be able to obtain a preliminary land valuation or appraisal of Lot 281 as proposed, and that it be provided to Council in confidence. The resolution states:

**Resolved** that Council:

1. Pursuant to Section 4.55 of the Environmental Planning & Assessment Act 1979, that Application No. 10.2020.109.4, for S4.55 to Stage 9 for Removal of Existing Exotic and Native Trees to Allow for Construction of Approved Roads and Earthworks, Relocation of Inter-allotment Drainage and Sewer Services and Easement Modifications and Deletion of Local Open Space and Recreation S7.11 Contributions, defers this matter to a future meeting of Council.
2. **Obtains a preliminary land valuation or appraisal of Lot 281 as proposed, and that it be provided to Council in confidence.**

The Applicant has submitted a Valuation Report, which is included as confidential **Attachment 4** to this Report. The Applicant has indicated that the value of the land is more than the amount of Local Open Space Contributions in Stage 9.

The proposal is considered satisfactory having regard to relevant matters for consideration and the section 4.55 application is recommended for approval subject to the Recommended Modifications in Attachment 1 to this Report. The valuation does not change the Recommendation of staff; hence the attached recommended modifications are the same as those which were attached to the Report considered at the Council meeting dated 9 November 2023. (see item 13.7 in [Agenda of Ordinary \(Planning\) Meeting - Thursday, 9 November 2023 \(infocouncil.biz\)](#))

The modified plans attached to the previous Council report actually showed the originally approved Lot 282 as a mix of Lot 281 and 282. These have now been corrected in red to show the entire lot as Lot 282 as per the original plans and the contributions condition number 48 of the consent. The corrected Modified Plans are included as Attachment 2 to this report and the Biodiversity Assessment is Attachment 3.

NOTE TO COUNCILLORS:

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.8




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

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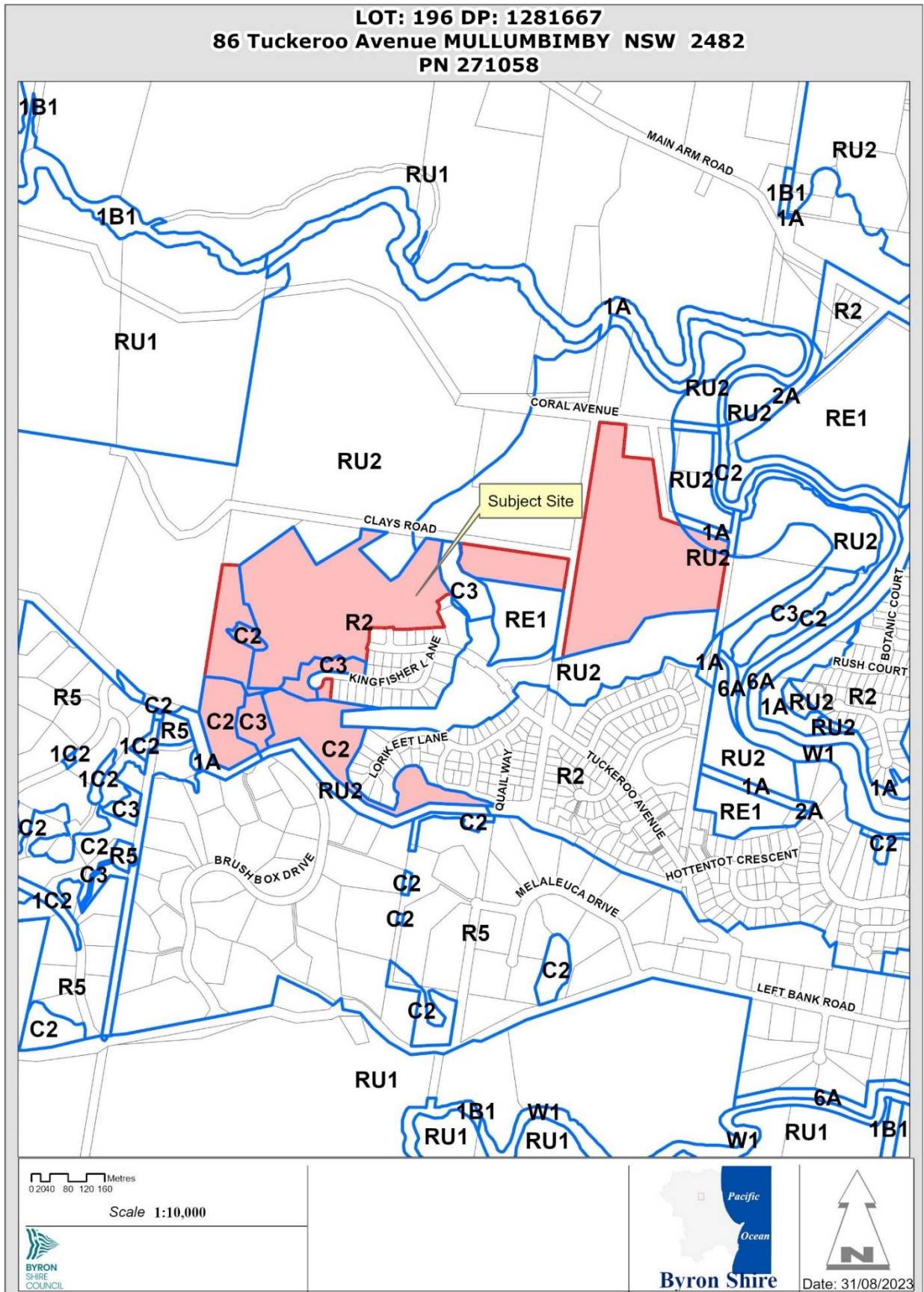
### **RECOMMENDATION:**

10 **That pursuant to Section 4.55 of the Environmental Planning & Assessment Act 1979, that Application No. 10.2020.109.4, for S4.55 to Stage 9 for Removal of Existing Exotic and Native Trees to Allow for Construction of Approved Roads and Earthworks, Relocation of Inter-allotment Drainage and Sewer Services and Easement Modifications and Deletion of Local Open Space and Recreation S7.11**  
15 **Contributions, be approved by modifying Development consent number 10.2020.109.1 in accordance with Attachment 1 Recommended Amended Conditions of Consent.**

### **Attachments:**

- 20 1 10.2020.109.4 - Recommended Amended Conditions of Consent, E2023/105246 
- 2 10.2020.109.4 - Modified Plans, E2023/105245 
- 3 10.2020.109.4 - Biodiversity Assessment, E2023/105244 
- 4 Confidential - 10.2020.109.4 - CONFIDENTIAL - Applicant's Land Valuation, E2023/130384

# BYRON SHIRE COUNCIL



## Assessment:

### 1. INTRODUCTION

#### 1.1. History/Background

5 At the Council (Planning) Meeting on 9 November 2023, Council considered a report on the section 4.55 application. It was **resolved** that Council:

1. Pursuant to Section 4.55 of the Environmental Planning & Assessment Act 1979, that Application No. 10.2020.109.4, for S4.55 to Stage 9 for Removal of Existing Exotic and Native Trees to Allow for Construction of Approved Roads and Earthworks, Relocation of Inter-allotment Drainage and Sewer Services and Easement Modifications and Deletion of Local Open Space and Recreation S7.11 Contributions, defers this matter to a future meeting of Council.
- 10
- 15
- 20
2. **Obtains a preliminary land valuation or appraisal of Lot 281 as proposed, and that it be provided to Council in confidence.**

The Applicant has submitted a Valuation Report and indicated that the value of the land is more than the amount of Local Open Space Contributions in Stage 9. The proposal is considered satisfactory having regard to relevant matters for consideration and the section 4.55 application is recommended for approval subject to the Recommended Modifications in Attachment 1 to this Report. The valuation does not change the Recommendation of staff; hence the attached recommended modifications are the same as those which were attached to the Report considered at the Council meeting dated 9 November 2023.

#### **Section 7.11 Developer Contribution Implications**

The applicant under the current consent has been levied some \$561,000 in local open space contributions. Considering the valuation of the land this would be deleted from the amount to be levied, consistent with condition 48 of the consent which states:



**48) Developer Contributions to be paid**

Contributions set out in the schedule below are to be paid to Council prior to the release of a subdivision certificate. Contributions are levied in accordance with the Byron Shire Developer Contributions Plan 2012 (as amended). The Plan may be viewed on line at [www.byron.nsw.gov.au](http://www.byron.nsw.gov.au) or during office hours at the Council Offices located at Station Street, Mullumbimby. These contributions are to fund public amenities and services as listed in the schedule. Additional details on the specific amenities are to be found in the Byron Shire Developer Contributions Plan 2012 (as amended).

The contributions as set out in the schedule may either be paid in full or they may be paid in stages on a proportional basis dependent on the number of lots to be released in the subdivision certificate. The first credit for a site will be retained on the residual lot. Any additional credits over one (1) will be allocated at the first stage(s).

The local open space contributions have been reduced to take in to account the by the value land dedications and works in kind from the following development applications:

- 10.2009.314.4;
- 10.2013.549.1;
- 10.2015.686.1;
- 10.2016.161.1;
- 10.2017.402.3
- 10.2020.97.2

The local roads contributions may be reduced by the residual value of the roadworks required by condition 19 a) of development consent 10.2020.97.1 where the value of works was not fully utilised to offset the roadworks contributions required by condition 65 of that consent. Council will offset up to the full value of these contributions based on the contract price for the works or a statement from a quantity surveyor. Should the value of these works be greater than the roadworks contributions then any residual value will be held in credit against future stages as required by section 7.11(6) of the Environmental Planning and Assessment Act.

Council will offset up to the full value of the open space contributions based on the value of the land to be dedicated as lot 282. A valuation prepared by a registered valuer shall be submitted to and agreed to by Council.

The contributions in the schedule are current at the date of this consent. The contributions payable will be adjusted in accordance with the relevant plan and the **amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.** The schedule contains a date for which the schedule remains valid, after this date you will have to contact Council for an updated schedule.

5 It is noted that the land that was to be dedicated to Council is not listed in any developer contribution plans and is surplus to any specific open space needs of the Shire. The requirement for its dedication came about as a result of Resolution 20-720 in response to the NOM 9.2 - Tallowood Ridge Reserve on 17 Dec 2020. (for details see notice of Motion 9.2 Agenda of Ordinary Meeting - Thursday, 17 December 2020 ([infocouncil.biz](http://infocouncil.biz)))

The Council resolution states:

**20-720 Resolved that Council:**

10 *1. Enter negotiations with the relevant landowners and/or developer to seek the gifting of the land outlined in the map in the report for the management of Council in conjunction with the community in perpetuity.*

*2. Ensure that these negotiations stipulate that this is not instead of any other previous environmental agreement.*

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

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3. Acknowledge that if negotiations are successful, staff will take the appropriate steps to prepare a Plan of Management (Ndiaye/Richardson)

5 It is noted that staff advised Council in response to this NOM re: the land dedication (which was previously proposed as common property for an 8-lot community title subdivision within Stage 9) the following:

10 *The site is proposed to be managed by the community association in the long term. Such an arrangement ensures the protection and management of the vegetation without the financial burden of bringing the land into public ownership. To date Council has resisted effort by developers to dedicate land that has no development potential. This has occurred at the West Byron development and here at Tallowood.*

15 **Financial/Resource/Legal Implications:**  
*If the land is gifted to Council, Council will need to establish a Plan of Management and manage the land in accordance with this plan. In the long-term Council ad hoc acquisitions of land may adversely impact upon Council's ability to manage all of the open space land to levels that meet community expectations / desirable levels of service in its portfolio.*

20 Should Council no longer want the subject land having regards to the financial implications to the S7.11 Contribution Plans, an alternate recommendation would need to be drafted and debated during the Council meeting. That alternate recommendation in brief would amend the consent so that Lot 282 is not to be dedicated to Council and that it is to be consolidated with the common property Lot C8 as part of the 8-lot community title subdivision, with condition 48 also being amended to remove the references to Lot 282  
25 being offset to the full value of the open space contributions. As such Staff will be guided by the elected Council on the matter. It is noted that regardless of ownership the land will need to be embellished and rehabilitated in accordance with the approved Biodiversity Conservation Management Plan with a range of works required prior to the issue of any subdivision certificate (Condition 49) and ongoing management of the land for a period of  
30 up to 10 years (Condition 66).

The dedication of this land is to be offset against the value of developer contributions plus any remaining credit that the developer retained through previous land dedications, works in kind, and material public benefit works that the developer has undertaken in all previous consents.

35 The developer has credit of \$220,697.48 remaining from the roadwork undertaken in Clays Road.

The nominal value of Lot 282 is \$600,000. This gives a remaining credit for the developer of \$820,697.48.

40 Condition 48 of the consent allows the developer to offset these amounts from the remaining developer contributions.

When the schedule of contributions to condition 48 is indexed into today's dollars the contributions owing would be \$940,000. Subtracting the credit leaves a total amount of contributions payable of \$119,302.45. This is shown in an amended schedule of contributions to condition 48 in Attachment 1. Consequential amendments to condition 48

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

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have also been made to recognize the known value of the credits as also recommended in Attachment 1.

### **2. CONCLUSION**

5 The section 4.55 application is recommended for approval subject to the Recommended Modifications in Attachment 1.

**Report No. 13.9      Bangalow Streetscape Materials Design Guide - Submissions Report**

**Directorate:**                      Sustainable Environment and Economy

**Report Author:**                Kristie Hughes, Natural Disaster Policy Planner

5    **File No:**                        I2024/325

**Summary:**

10    The Bangalow Streetscape Materials Design Guide (the Design Guide) aims to facilitate a cohesive, consistent approach to upgrades within the public realm of Bangalow. Bangalow is a celebrated heritage village within the Byron Shire. This project aims to identify, preserve, and enhance the local character and heritage elements that make Bangalow village special.

It will be useful for both Council led infrastructure projects, and privately funded Development Application related works in the road reserve.

15    It provides guidelines to inform future streetscape treatments, village entry statements and planting for use in public domain projects.

The Design Guide provides example materials and treatments. These are indicative and will support Council and developers to make considerate design choices in the public realm.

20    At the Planning Meeting of 9 November 2023, Council resolved (Res **23-514**) to proceed with the public exhibition of the Draft Design Guide and proposed accompanying amendment to the Byron Development Control Plan 2014, Part E, Chapter E2 Bangalow.

14 submissions were received during the exhibition period from 1 December 2023 until 19 January 2024. The majority of submissions were supportive of the document, with comments received primarily around tree plantings in the streetscape.





25    This report presents the exhibition outcomes and recommends that Council adopt the Bangalow Streetscape Materials Design Guide (and accompanying amendment to the Byron Development Control Plan 2014, Part E, Chapter E2 Bangalow).

30    Minor changes to wording have been made to the Design Guide following feedback received in the exhibition period.

**RECOMMENDATION:**

5 **That Council adopts the Bangalow Streetscape Materials Design Guide (Attachment 1, E2023/95853) and proposed accompanying amendment to the Byron Development Control Plan 2014, Part E, Chapter E2 Bangalow (Attachment 2, E2023/109098).**

**Attachments:**

- 10
- 1 Bangalow Streetscape Materials Design Guide - Post Exhibition Version, E2024/22870 
  - 2 Draft Byron Shire DCP 2014 Chapter E2 Bangalow - Draft Version for adoption, E2023/109098 
  - 3 Redacted combined submissions - Bangalow Streetscape Materials Palette, E2024/6564 
  - 15 4 Form of Special Disclosure of Pecuniary Interest, E2012/2815 

## **Report**

The Bangalow Streetscape Materials Design Guide (the Design Guide) provided at Attachment 1 has been developed to ensure consistency in streetscape works being carried out in the public realm.

- 5 The Design Guide will be an important reference for both Council led infrastructure projects, and privately funded Development Application related works in the road reserve.

It provides guidelines to inform future streetscape treatments, village entry statements and planting for use in public domain projects.

- 10 Example materials and treatments are presented in the Design Guide, these are indicative and will support Council and developers to make considerate design choices for future projects.

- 15 At the Planning Meeting of 9 November 2023, Council resolved (**Res. 23-514**) to proceed with the public exhibition of the draft Bangalow Streetscape Materials Design Guide (the Design Guide) and proposed accompanying amendment to the Byron Development Control Plan 2014, Part E, Chapter E2 Bangalow.

The Design Guide was placed on exhibition from 1 December 2023 until 19 January 2024. During exhibition 14 submissions were received from members of the public.

Key issues raised in the submissions are summarised and addressed in this report. A copy of all submissions received is contained in Attachment 3.

- 20 This report recommends that Council adopt the Bangalow Streetscape Materials Design Guide (Attachment 1) and accompanying amendment to the Byron Development Control Plan 2014, Part E, Chapter E2 Bangalow (Attachment 2).

### **Summary of the public submissions and staff responses**

- 25 Overall, the submissions supported the Design Guide, some comments are provided below, with the remainder of comments compiled under themed headings.

- The design guide by Plummer and Smith has been thoughtfully prepared and beautifully presented to convey the design context, concepts and materials and the work is to be commended.
- 30 • The proposed colour and material palette has carefully considered the heritage context of this village, and its rural / agricultural surroundings.
- 35 • The document is succinct, well presented and has identified the key elements of consideration. It lays out the materials already present in the town, in keeping with the heritage context. I believe we can continue with preserving and enhancing the character of Bangalow, expanding on what is already attractive while adding to the appeal of the streetscape with more (native) trees and appropriate (heritage style)

lighting and furniture. Thank you for the opportunity to comment on the Bangalow Streetscape.

**Theme: Paths, surface materials and accessibility**

Submission Comment	Staff comment
<p>Materials for Byron Street for pavement, the proposed brick pavement on a concrete slab would be less maintenance. I agree with the design for both sides of the Byron Street. Herringbone pattern, B brick pattern for outer edge to the kerb with planting.</p>	<p>Noted. Images are demonstrative of style and are indicative only.</p>
<p>A safe crossing for residents and children to cross over Byron Street would be very welcome or an extension on the other side of the Snows bridge. The crossing at Feros village is not suitable for what will become an extremely busy intersection.</p>	<p>Outside the scope of this project. Several funded projects are underway, with others planned for the future or awaiting funding opportunities. Byron Street is among these and is a high priority project.</p> <p>The following link is also a useful resource to check priorities.</p> <p><a href="https://www.nsw.gov.au/transport-and-infrastructure/infrastructure-planning-and-delivery/infrastructure-planning-and-delivery">Map of existing and proposed cycling infrastructure - Byron Shire Council (nsw.gov.au)</a></p>
<p>There is no footpath at all on Station Street from the church to the bottle shop on the corner of Byron Street. As a commercially zoned street council should provide a safe footpath.</p>	<p>Outside the scope of this project. Additional footpaths can be considered as streetscape projects occur.</p>
<p>Any changes to assist with accessibility for people in wheelchairs and those that may be vision impaired would be a good thing.</p>	<p>As streetscape projects emerge accessibility will be improved.</p>

**Theme: Seating and streetscape elements**

Submission Comment	Staff comment
<p>Council regulations mean some outdoor shop seating has been withdrawn. Seating is now the Council only bench ones and they are at a premium. Could lots more of these seats be added, they provide much needed respite.</p>	<p>Outside the scope of this project. Additional seating can be considered as streetscape projects occur.</p>
<p>We will need much more street seating (in the heritage design) in Station Street. With the Writers Festival and other events using the A&amp;I Hall and Showgrounds, and the increase in foot traffic in Station Street, we need a lot more replanted street trees (for shade), more seating, and more BSC rubbish bins in Station Street. Currently there is not enough to address the current or future needs of Station Street.</p>	<p>Outside the scope of this project. Additional seating and bins can be considered as streetscape projects occur.</p>
<p>The proposed stone surrounds or retaining walls which double as seating is an excellent idea for the tree planters.</p>	<p>Noted. This design is complementary to existing character elements.</p>
<p>Regarding the proposed bollards, 'Woodland Grey' is preferred as it has a green hint, or perhaps a greener hue could also be considered, as the selected seating and bin covers are dark green. It is noted it needs to be visible with enough contrast. 'Monument' portrays a more urban aesthetic and looks less harmonious in the village context, e.g., near St Pauls church corner.</p>	<p>Noted. There is community agreement around the preference for green tones over black or dark grey. This change has been made in the final Design Guide.</p>
<p>The heritage green waste bins stand out, would a coat of black paint be possible?</p>	<p>As noted above, Heritage green and green elements have been intentionally selected in the past and is generally preferred by the community and heritage consultants.</p>
<p>The steel barrier for the bike path is a difficult element to integrate, and this matter has been discussed prior with Civil Services from a</p>	<p>Noted.</p>



Submission Comment	Staff comment
<p>heritage perspective. The local community preferred an uncoloured metal like the wire fences above. A dark green powder coated finish would also be recessive but there were concerns it would gradually wear off.</p>	
<p>The existing Bangalow seats and bins must be kept and any others to be the same design. The handrail/balustrade design leaves a lot to be desired. The heritage style lighting will suit beautifully.</p>	<p>The preference for these items is noted. The balustrade is indicative only, as are all the designs.</p>
<p>It has been requested by a few older residents that a copy of the original Horse Hitching Posts be placed in front of this building, as they were located there originally. Should this be considered, I have copies of old photographs showing the design and location.</p>	<p>Outside the scope of this project. This feedback has been shared with the Open Spaces and Place Planning teams who will have oversight of future projects in this area.</p>

**Theme: Street Trees**

Submission Comment	Staff comment
<p>Trees are understandably a dominant feature throughout the document due to the Shire focus on their environmental value and public health benefit, but trees also deliver an important visual setting for Bangalow. Much public comment is unaware of streetscape regulation referenced by Byron DCP Chapters B2 Tree and Vegetation Management, and B9 Landscaping. Appropriately, Byron and Station Streets are considered individually, and indigenous tree varieties are recommended for these main streets.</p>	<p>Noted.</p>
<p>There is no mention of maintaining the Heritage Tibouchina trees along Station Street, which were specially developed as a gift to Bangalow, and can be easily maintained and add great colour and charm to the street.</p>	<p>As these trees are not native and do not have the size or presence required of a street tree, they are not considered an appropriate option.</p>

Submission Comment	Staff comment
<p>Trees in the showground, Camphor Laurels of immense age, need a protection order as constant parking under them is going to kill them. There was a plan some time ago, to put circular wooden seating around the bases as protection and amenity for visitors. And a further mention should be made of trees along the railway corridor, one of which is a rare Bunya of significant age which is a great asset to the town. The other trees there also should be preserved, whatever the future of this space.</p>	<p>Trees within the showground are outside the scope of this project, however these comments have been shared with the Open Spaces team.</p>
<p>No mention is made of the many locally historic tibouchina trees in the area. These should remain and possibly more added.</p>	<p>As these trees are not native and do not have the size or presence required of a street tree, they are not considered an appropriate option.</p>
<p>Another topic of need is the tree plantings, Byron and Station Streets. This has been referred to in the document. We need to remove the old trees, esp the leopard trees and aging trees in Station Street, and replant corridors of trees for shade and visual amenity along both Byron Street &amp; Station Streets.</p>	<p>Development of a streetscape succession plan is an action in the current operational plan.</p>
<p>The existing leopard trees look lovely; however they have caused ongoing problems with the pavement and existing buildings, particularly the heritage buildings. Therefore, the removal of these trees would be a vast improvement. I note that there is mention of Plan of management including succession planting plan for these and other trees in the design guide to be implemented.</p>	<p>Development of a streetscape succession plan is an action in the current operational plan.</p>
<p>One of the areas not covered street plantings is the Bangalow Palm. Over the past 15 years, many of the mature palms on both sides of the street that have died over the past decade haven't been replaced. I believe these are essential for historic tropical character for Byron St.</p>	<p>Bangalow Palms are problematic over a sloping pedestrian footpath due to seeds creating slip hazards. Locations in adjacent parks are preferred.</p>

Submission Comment	Staff comment
<p>My comments in relate to the existing Trees in Byron St, and in the Fire Park next door.</p> <p>The Post Office building was built in the early 1930's, the building catches any leaves that drop on the roof which become "trapped" behind the tall parapets. This requires significant ongoing maintenance to clean out the guttering and has resulted in internal damage to the roof.</p> <p>Any future tree planting in this area, including the Fire Park next door, needs to consider this issue.</p>	<p>Development of a streetscape succession plan is an action in the current operational plan. These comments have also been shared with the Open Spaces team.</p>

**Theme: Parking**

Submission Comment	Staff comment
<p>This is regarding the small strip of unofficial parking at the top of Leslie Street, where it intersects with Granuaille Rd. Currently, it's just grass, no curb. There's space for approximately 5 or 6 cars to park and walk the short distance into town which need to remain.</p>	<p>Parking is outside the scope of this project. These comments have been shared with Infrastructure Services.</p>

**Theme: Localities & distinctive places**

Submission Comment	Staff comment
<p>Station St has a distinct landscape character compared to the retail section of Byron Street. The retention of green edges and landscaping is very important to this streetscape. This is outlined in DCP C1 page 34-36.</p>	<p>Noted.</p>
<p>Station Street would suit a footpath on both sides, concrete and brick, in a similar brick pattern to Byron Street, with suitable plantings interspersed.</p>	<p>Outside the scope of this project.</p> <p>As changes occur in Station Street</p>

Submission Comment	Staff comment
<p>The focal point of the A&amp;I hall must be kept.</p> <p>A large bricked paved area at the top of the street in front of the A&amp;I hall could become an extension of this entertainment area for some events when crowds overflow into this area. A bike rack on this street would be beneficial.</p> <p>The stone seating around the liquidambar trees at the cellars would complement the rock wall on the opposite corner and stone wall around the trees near Abracadabra.</p>	<p>footpath additions will be considered.</p> <p>This feedback has been shared with the Open Spaces and Place Planning teams who will have oversight on projects in this area.</p>
<p>Heritage fire station Park – Replace the leaf design steel structure, it does not fit in this environment and does nothing to protect from the elements. Something in a more modern heritage design that gives protection from sun and rain would improve the look of the park along with a tidy up of the existing plantings.</p>	<p>Outside the scope of this project. This feedback has been shared with the Open Spaces and Place Planning teams who will have oversight on projects in this area.</p>
<p>Rail corridor; Keep this area as an open space and recreation as stated. A place for the community. This area has future potential – re rail trail. Potential for the old buildings to be renovated or for new heritage style small buildings to accommodate café and other relevant.</p>	<p>Agreed. This feedback has been shared with the Open Spaces and Place Planning teams who will have oversight on projects in this area.</p>

**Theme: Gateways and entry points**

Submission Comment	Staff comment
<p>Agree with the identification in the Document of the Entry Points to Bangalow to be landscaped (beautified) so as to be welcoming and attractive for locals and visitors alike. Low key, Heritage friendly signs of Welcome to Bangalow would be appropriate.</p>	<p>Noted. This feedback has been shared with the Open Spaces and Place Planning teams who will have oversight on projects in this area.</p>
<p>I agree with A. North and B. East and D. West.</p> <p>B. East is a preferred site for a ‘Welcome to Bangalow’ sign. A sign here is the obvious place to locate it, and as stated extending the planting to the south would vastly improve the feel and look of the town welcome. The current ‘new’ plantings on the south side of the exit ramp/Hinterland Way embankment would complement this sign.</p> <p>C. Village Centre – East. This area will become a very busy intersection in the future if the plan for the 500 houses up the end of old Ballina Road goes ahead. A Moreton Bay fig here would need to be planted away from the intersection and buildings. I don’t agree with this choice of tree as it will grow into a huge tree that drops leaves and figs, could I suggest a hoop pine here instead, it can be crowned up if visibility becomes an issue. It also is a nod to the local farm landscapes.</p>	<p>Noted. This feedback has been shared with the Open Spaces and Place Planning teams who will have oversight on projects in this area.</p>

**Theme: DCP comments**

Submission Comment	Staff comment
<p>Proposed DCP minor typo– ‘complimentary’ should be ‘complementary.’ There are a couple of other references on page 14 and 17 which can be corrected.</p>	<p>Noted and amended.</p>

Submission Comment	Staff comment
<p>Our two 110 year-old houses have always been within the Bangalow Heritage Conservation Area and are so defined correctly in the Streetscape Materials Design Guide, section 1.1 as being within the Heritage Conservation Area, identified in yellow. However the Draft Public Exhibition Version of the Development Control Plan 2014 Chapter E2 Bangalow, incorrectly shows our houses as being outside the Heritage Conservation Area, in Pocket C1, when they should be in Pocket A, consistent with the Heritage Conservation Area.</p>	<p>Noted. The purpose of the ‘pockets’ is to provide an overview of the different character narratives in Bangalow at a higher level. Whilst it does include the Heritage Conservation Area, as stated in the DCP Chapter E2 Bangalow, the exact area is defined with applicable planning controls in both the Byron LEP 2014 and DCP Chapter C1 Non-Indigenous Heritage.</p>

**Community Strategic Plan and Operational Plan**

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
<p>5: Connected Infrastructure</p>	<p>5.4: Provide accessible community facilities and open spaces</p>	<p>5.4.2: Parks and open spaces - Provide and maintain active and passive recreational community space that is accessible and inclusive for all</p>	<p>5.4.2.6</p>	<p>Provide programmed maintenance and asset renewal programs to towns and villages streetscapes across the Shire</p>

**Recent Resolutions**

- [23-514](#) - Bangalow Streetscape Materials Design Guide for Public Exhibition

**Legal/Statutory/Policy Considerations**

- 5 If adopted this will amend Byron Development Control Plan 2014 Part E, Chapter E2 Bangalow.

**Financial Considerations**

The Bangalow Streetscape Materials Design Guide does not initiate new project work. It will inform future infrastructure and development application projects in Bangalow.

**10 Consultation and Engagement**

Preliminary consultation included multiple site visits with Council Staff, Place Planning Collective Members and key community stakeholders walking through the village with the consultant.

Plummer and Smith presented key findings to broader stakeholder groups and community members at a local information session to stimulate further discussion and ideas. Council staff from Infrastructure Services, Open Spaces and Land Use Planning were also consulted at multiple project stages.

- 5 Advice was sought from the Land Use Planning Coordinator and the Manager of Sustainable Development for where this document should sit within the hierarchy of Council Strategic Planning documents. If adopted, the document will be referenced within Byron Shire Development Control Plan 2014, Part E: Further Controls Applying to Specific Localities, Chapter E2 Bangalow.
- 10 The draft document has been reported to Council's Executive Team and Council and public exhibition has taken place.

**Report No. 13.10 PLANNING - DA 10.2023.266.1 Permanent Group Home, Ancillary Building and Associated Works at 66 The Saddle Road BRUNSWICK HEADS 2483**

5 **Directorate:** Sustainable Environment and Economy  
**Report Author:** Patricia Docherty, Planner  
**File No:** I2024/363

**Proposal:**

**Proposal description:** Permanent Group Home, Ancillary Building and Associated Works

**Property description:** LOT: 2 DP: 1159910  
66 The Saddle Road BRUNSWICK HEADS

**Parcel No/s:** 241380

**Applicant:** Planners North

**Owner:** Gulgan Road Property Pty Ltd

**Zoning:** PART C2 Environmental Conservation / PART C3 Environmental Management / PART RU2 Rural Landscape (all works in RU2)

**Date received:** 21 August 2023

**Integrated / Designated Development:**  Integrated  Designated  Not applicable

**Concurrence required** Yes – Enter CNR No. 59155

**Public notification or exhibition:** – Level 2 advertising under Council’s Community Participation Plan. Exhibition period from: 30 August 2023 To 12 September 2023.  
– No Submissions Received.

**Planning Review Committee** 1 February 2024 – Report to Council  
Perceived public significance of the application



# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

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<b>Estimated cost</b>	\$1,730,985.00
<b>Delegation to determine</b>	Council
<b>Issues</b>	No issues of significance that cannot be addressed by recommended conditions of development consent.

### Summary:

The DA proposes a Permanent Group Home, Ancillary Building and Associated Works.

5 The group home is proposed to be located in the northwest corner of the land parcel to the north of The Saddle Road, with new vehicular access from Bashforths Lane. A full set of plans is attached to this report.

The application states that the proposal is to build a permanent group home and the '*aim is to specifically target the accommodation needs of women and children in housing stress*'.

10 The application explains that the '*Group Home proposal is the first initiative of the [Byron Shire Community Land Trust] BSCLT ... a not-for-profit organisation with the singular purpose of creating modest (though well-designed) rental accommodation*'.

15 An ecological assessment undertaken by the applicant advises that the "*majority of the area within the proposed project footprint is degraded grazing land comprising exotic grasses and forbs, and to avoid ecological impacts, the project has intentionally been sited within the existing paddock areas*" and "*will not result in unreasonable or significant impacts to ecological matters, whilst a Biodiversity Development Assessment report and the associated Biodiversity Offset Scheme established under the Biodiversity Conservation Act 2016 will not be triggered. A net conservation outcome will also be realised through landscaping and weed management of the existing vegetation adjacent to the proposed buildings*".

20 All works are located on land zoned RU2 Rural Landscape under Byron Local Environmental Plan 2014 and the proposal is permissible with development consent. No trees are proposed to be removed to facilitate the construction of the group home, ancillary building, and associated works.

25 Aboriginal cultural assessments have been undertaken in consultation with Bundjalung of Byron Bay Aboriginal Corporation (Arakwal) and additional investigations prior to issue of a construction certificate are recommended in the conditions of consent.

The Rural Fire Service has assessed the proposal as integrated development and has issued General Terms of Approval under section 100B of the Rural Fires Act 1997.

30 The application appropriately addresses the relevant constraints applying to the site and is recommended for approval subject to the recommended conditions of consent attached to this report.

NOTE TO COUNCILLORS:

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

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

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### RECOMMENDATION:

10 That pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2023.266.1 for a Permanent Group Home, Ancillary Building and Associated Works at 66 The Saddle Road, Brunswick Heads, be granted consent subject to the conditions in Attachment 2 to this report (Council Doc # E2024/24695).

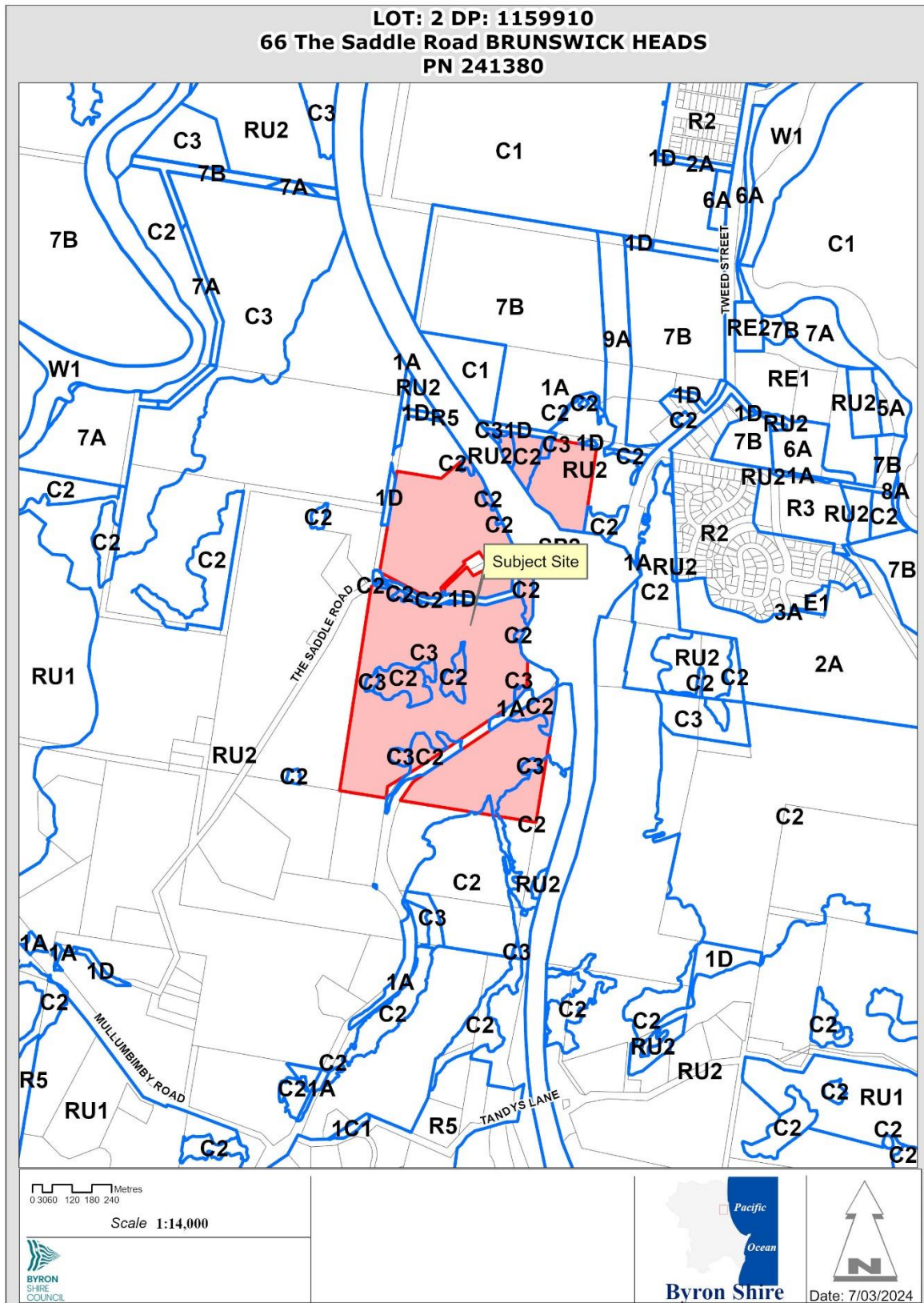
### Attachments:

- 15
- 1 10.2023.266.1 - Architectural and Civil Plan Set, E2024/24167 
  - 2 10.2023.266.1 - Recommended Conditions of Consent Permanent Group Home, E2024/24695 

20

BYRON SHIRE COUNCIL

Report



Assessment:

1. INTRODUCTION

History/Background

5 A search of Council Authority records provides the following approvals history on the current parcel number 241380:

6.1995.2625.1 Rural Shed, Approved 16 November 1995

10.1998.581.1 Sign, Approved 23 December 1998

10 There is an existing dwelling on the lot located to the south of the proposed group home site location and west of the Byron Shire Council Water Reservoir. The land has a dwelling entitlement.

Description of the proposed development

15 This application seeks approval for Permanent Group Home, Ancillary Building and Associated Works. The group home is proposed to be located in the north west corner of the land parcel to the north of The Saddle Road, with new vehicular access from Bashforths Lane shown in Figure 1.

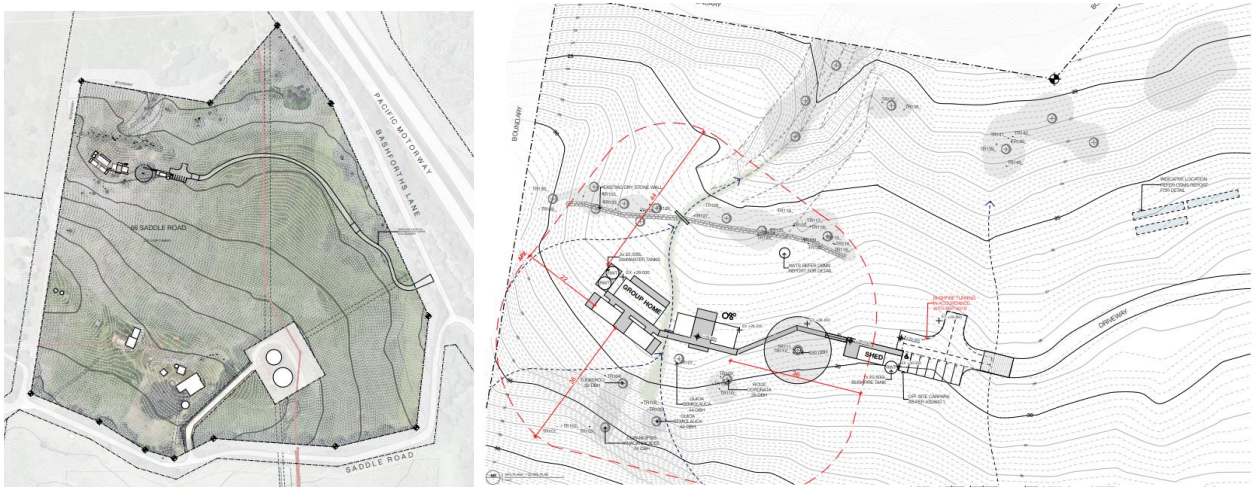


Figure 1: Site Plans

A full set of plans is attached to this report. The following details provided with the application relate to the background and proposed operation of the group home:

20 "Creative Capital & The Northern Rivers Community Foundation have established the Byron Shire Community Land Trust (BSCLT). The BSCLT is a not-for-profit organisation with the singular purpose of creating modest (though well-designed) rental accommodation... Properties held within the Trust will be used as security to borrow money to create more housing within the BSCLT, but properties held within the Trust will never be  
25 sold on the open market...

This Group Home proposal is the first initiative of the BSCLT. Its aim is to specifically target the accommodation needs of women and children in housing stress...

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Development consent is sought to build a permanent group home. The Byron Local Environmental Plan 2014 definition for this use is:

**"group home (permanent) or permanent group home means a dwelling—**

(a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and

(b) that is used to provide permanent household accommodation for people with a disability or people who are socially disadvantaged,

but does not include development to which State Environmental Planning Policy (Housing) 2021, Chapter 3, Part 5 applies."

The proposed group home building has a total floor area of 176.8m<sup>2</sup> and contains a kitchen, lounge room, living, 5 adult and 2 children's bedrooms, bathrooms for each of the bedrooms and laundry. Supporting this use is a separate building with storeroom, toilet and 49m<sup>2</sup> office. The structures are single story [sic] in height and 4.1m tall.

Vehicular access is from Bashforths Lane with parking for six vehicles (including a disabled parking space). Drinking water storage, on-site wastewater treatment facilities and waste storage and composting facilities are provided with the development.

A footpath between the proposed carpark and buildings traverses under the canopy of a large fig; and site landscaping that includes provision for appropriate Asset Protection Zone (APZ) as well as the restoration of a gully to the east of the proposed buildings; rainforest revegetation to the north of the proposed buildings along a north-flowing gully; planting of an understory as landscaping underneath the large fig tree; weed management the provision of a native meadow (e.g. native grasses, forbs and lomandra) to the south of the proposed buildings.

An arborist report submitted with the development application advises that "construction of the new development will not require removal of any trees.

### Description of the site

Land is legally described	LOT: 2 DP: 1159910
Property address	66 The Saddle Road BRUNSWICK HEADS
Land is zoned:	C2 Environmental Conservation / PART C3 Environmental Management / PART RU2 Rural Landscape  Note overlay of zoning with the site plan and works demonstrates the location of all works are on land zoned RU2 Rural Landscape (Figure 3).
Land area is:	52.13 ha
Property is constrained by:	Bushfire prone land – Section 100B approval provided by NSW Rural Fire Service.  High Environmental Value (Figure 4) – Vegetation on the

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	<p>property includes isolated patches of degraded sub-tropical rainforest, and some areas of exotic flora. Most of the mapped vegetation in the vicinity of the proposed development footprint qualifies as High Environmental Value (HEV) although no actual HEV vegetation is proposed to be impacted by the development. Restoration works are proposed. The Ecological Assessment provided with the application identifies that “<i>one threatened species was observed on the property: Cryptocarya foetida. This species was found in two places, both of which are well away from the proposed development. The proposed development is not expected to have any impact on these plants.</i>”</p> <p>Mosquito risk zone – standard conditions for window and door screening recommended.</p> <p>Dip sit buffer – There is a known dip site located over 300 metres to the south of the permanent group home site on the south side of The Saddle Road. The proposal is located outside the dip site buffer.</p> <p>The wider lot is affected by the following constraints on the other side of the Pacific Motorway. The proposal including all associated works is not located in any of these areas:</p> <p>Flood Liable Land</p> <p>Acid Sulfate Soils Class 3</p>	
	Is a BDAR required due to the location of the proposed development?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Are there any easements in favour of Council affecting the site?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Is there a Vegetation Management Plan which might affect the proposal?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Is there a Voluntary Planning Agreement which might affect the proposal?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

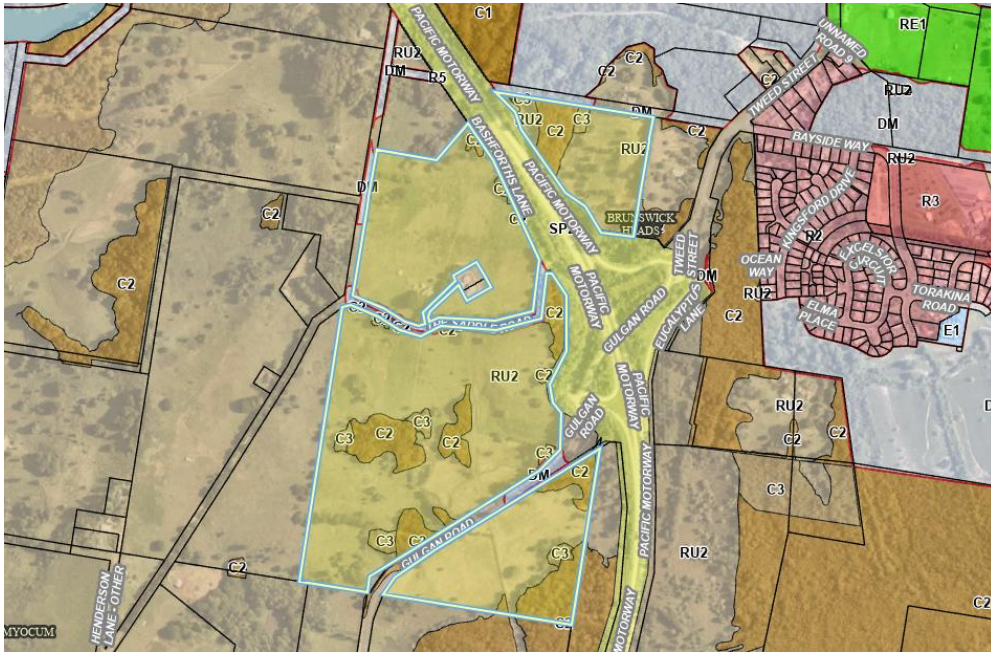


Figure 2: Zoning

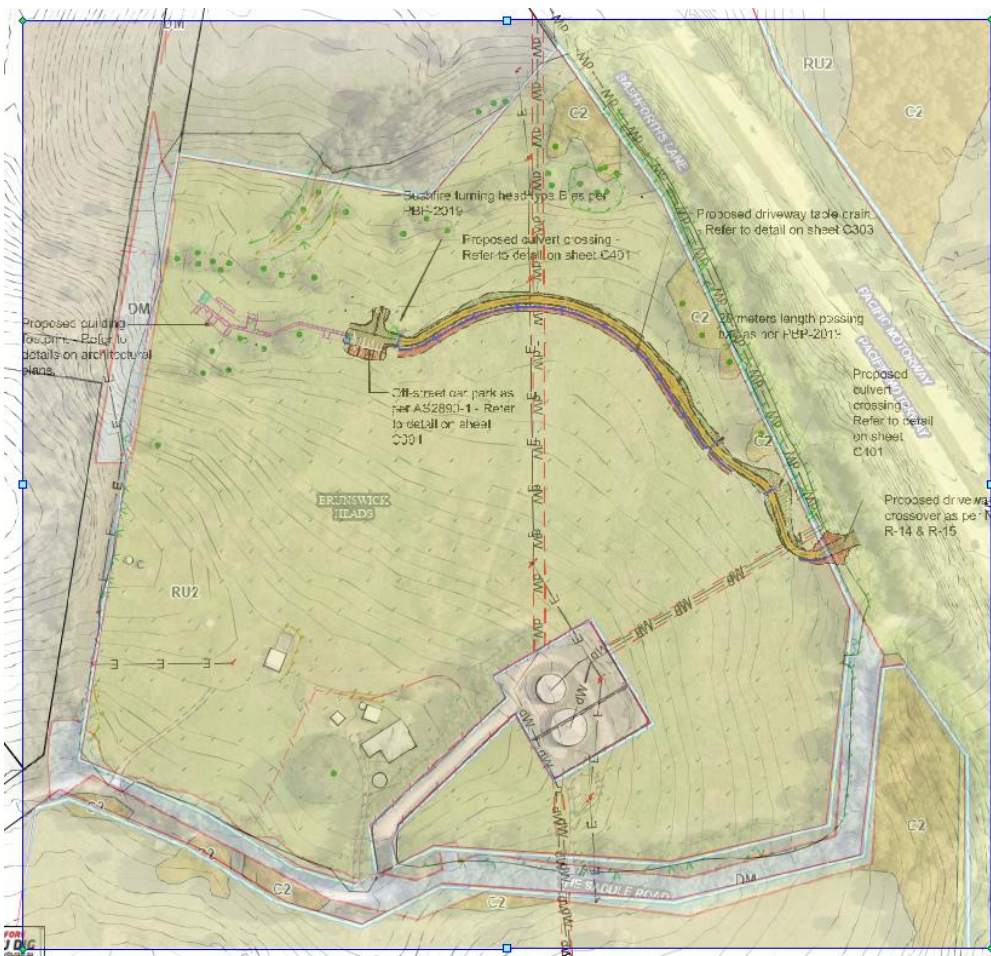


Figure 3: The location of all works on land zoned RU2 Rural Landscape



**Figure 4:** High Environmental Value Mapping

## **2. SUMMARY OF REFERRALS**

<b>Referral</b>	<b>Issue</b>
Environmental Health	No objections subject to conditions.
Development Engineer	No objections subject to conditions.
Building Certification	No objections subject to conditions.
S7.11 / Contributions	No objections subject to conditions.
Rural Fire Service (100B)	No objections subject to conditions.
Essential Energy	No objections subject to conditions.
Bundjalung (Arakwal)	No objections subject to conditions.
Tweed Byron Land Council	No objections subject to conditions.
ET Systems / Utilities	No objections subject to conditions.
Rous County Council	No objections subject to conditions.



### **3. SECTION 4.14 – BUSH FIRE PRONE LAND**

This development consent requires an Integrated development approval under Sections 4.46 and 4.47 of the Environmental Planning and Assessment Act 1979 and must ensure that the development complies with the document ‘Planning for Bush Fire Protection 2006’.

5 The site is bush fire prone land and the proposed use as a group home is a type of Special Fire Protection Purpose, which requires approval by the NSW Rural Fire Service. The development application was referred to the NSW Rural Fire Service as Integrated Development, which provided a Bushfire Safety Authority and conditions of consent in accordance with section 100B of the Rural Fires Act 1997, which are reflected in the  
10 Recommendation of this Report below.

Effect of 10/50 rule on significant vegetation – Nil.

### **4. SECTION 4.15C – MATTERS FOR CONSIDERATION – DISCUSSION OF ISSUES**

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

#### **4.1 State Environmental Planning Policies (SEPP)**

<b>Considerations</b>	<b>Satisfactory</b>
<p><i>Biodiversity and Conservation SEPP 2021</i></p> <p>Chapter 3 Koala Habitat Protection</p> <p>Consideration: There are no koala food trees or habitat proposed to be removed. The application considers that there will be no impact on preferred or potential koala habitats, as follows:</p> <p><i>“While a small area of Potential Koala Habitat exists on site (, as defined in the Byron Coast Comprehensive Koala Plan of Management (BCKKPoM)... no evidence of koala was observed during surveys and no preferred koala trees will be impacted by the proposed works. The site is not considered to represent “core koala habitat”. Despite the lack of evidence of koalas on site, there are many records of koalas in the local area.... BioNet koala records within 5 km of the property, and the date associated with each record. The majority of records span the last 20 years, with the earliest record from 1949 and the latest available nearby records from 2021. The status of the local population in this area is not known, however it is likely that a small number of koalas persist in the local area”</i></p>	<input checked="" type="checkbox"/>
<p><i>Housing SEPP 2021</i></p> <p>Consideration: The statutory provisions of Chapter 3 Diverse Housing, Part 2 Group homes of the Housing SEPP are considered to be met.</p>	<input checked="" type="checkbox"/>

<b>Considerations</b>	<b>Satisfactory</b>
<p>The applicable provisions of the Housing SEPP 2021 are:</p> <p><b>60 Definitions</b></p> <p>In this Part—</p> <p><i>prescribed zone</i> means the following—</p> <p>(a) the following land use zones or an equivalent land use zone—...</p> <p>(b) another zone in which development for the purposes of dwelling houses or multi dwelling housing may be carried out with or without consent under an environmental planning instrument.</p> <p><b>61 Development in prescribed zones</b></p> <p>(1) Development for the purposes of a permanent group home or a transitional group home on land in a prescribed zone may be carried out—...</p> <p>(b) otherwise—with consent...</p> <p><b>62 Determination of development applications</b></p> <p>(1) A consent authority must not—</p> <p>(a) refuse consent to development for the purposes of a group home unless the consent authority has made an assessment of the community need for the group home, or</p> <p>(b) impose a condition on a consent granted for a group home only because the development is for the purposes of a group home.</p> <p>(2) This section applies to development for the purposes of a group home that is permissible with consent under this or another environmental planning instrument.</p> <p>The use as a permanent group home is permissible with consent under the SEPP and Byron Local Environmental Plan (BLEP) 2014. There are no specific provisions or development standards for group homes in BLEP 2014.</p>	
<p><i>Resilience and Hazards SEPP 2021</i></p> <p>Consideration:</p> <p>Chapter 4 Remediation of Land</p> <p>Preliminary Site Investigation prepared by Tim Fitzroy &amp; Associates Ref: 87/2022 dated 23 June 2023 provides that soil sampling results were below the Health Investigation Levels (HIL) in accordance with NEPM (2013) Table 1 A (1) Column A – ‘Standard’ Residential with garden/accessible soil (home grown produce &lt;10% fruit and vegetable intake (no poultry), also includes childcare centres, preschools and primary schools. Reporting was conducted in accordance NSW EPA</p>	<input checked="" type="checkbox"/>

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<b>Considerations</b>	<b>Satisfactory</b>
<p><i>Consultants Reporting on Contaminated Land – Contaminated Land 2020.</i> No further investigation or action is deemed to be warranted; the site is considered to be suitable for the proposed development.</p>	
<p><i>Primary Production SEPP 2021</i></p> <p>Consideration:</p> <p>The location and siting of the group home on land zoned RU2 Rural Landscape on the periphery of land mapped as important farmland under the North Coast Regional Plan 2041 is not inconsistent with the relevant aims of Chapter 2 Primary production and rural development:</p> <p>(a) to facilitate the orderly economic use and development of lands for primary production,</p> <p>(b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources,</p> <p>(c) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations...</p>	☒
<p><i>Transport and Infrastructure SEPP 2021</i></p> <p>Consideration: The application was referred to Essential Energy in accordance with Section 2.48 of the SEPP related to civil works for the proposed driveway located under overhead powerlines. Conditions of consent are recommended to address electrical safety requirements during construction.</p> <p>A Noise Impact Assessment prepared by Tim Fitzroy &amp; Associates Ref: 09/2023 dated 23 June 2023 considers the impact of traffic noise generated by the M1 to address Section 2.120 of the SEPP. This provides that internal building noise can be satisfactorily managed without the provision of building attenuation or any other standard controls. General conditions have been recommended for the control of construction and operational noise.</p>	☒
<p><i>Sustainable Buildings SEPP 2022</i></p> <p>Consideration: A valid BASIX Certificate was submitted with the application and is recommended for approval in the conditions of consent attached to this report.</p>	☒

## 4.2 Byron Local Environmental Plan 2014 (LEP 2014)

LEP 2014 is an applicable matter for consideration in the assessment of the subject development application in accordance with subsection 4.15(1) of the EP&A Act because it applies to the subject land and the proposed development. The LEP 2014 clauses that are checked below are of relevance to the proposed development:

5

Part 1	<input checked="" type="checkbox"/> 1.1   <input checked="" type="checkbox"/> 1.1AA   <input checked="" type="checkbox"/> 1.2   <input checked="" type="checkbox"/> 1.3   <input checked="" type="checkbox"/> 1.4   <input checked="" type="checkbox"/> Dictionary   <input checked="" type="checkbox"/> 1.5   <input checked="" type="checkbox"/> 1.6   <input checked="" type="checkbox"/> 1.7   <input checked="" type="checkbox"/> 1.8   <input type="checkbox"/> 1.8A   <input checked="" type="checkbox"/> 1.9
Part 2	<input checked="" type="checkbox"/> 2.1   <input checked="" type="checkbox"/> 2.2   <input checked="" type="checkbox"/> 2.3   <input checked="" type="checkbox"/> Land Use Table
Part 4	<input checked="" type="checkbox"/> 4.3
Part 5	<input checked="" type="checkbox"/> 5.16
Part 6	<input checked="" type="checkbox"/> 6.2   <input checked="" type="checkbox"/> 6.6

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

- (a) The proposed development is defined in the LEP 2014 Dictionary as permanent group home;
- (b) The land the subject of the proposed development is within the RU2 Rural Landscape according to the Land Zoning Map;
- (c) The proposed development is permissible with consent; and
- (d) Regard is had for the Zone Objectives as follows:

10

<b>Zone Objective</b>	<b>Consideration</b>
<ul style="list-style-type: none"> <li>• To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.</li> </ul>	The provision of a permanent group home on land zoned RU2 Rural Landscape is not inconsistent with the objectives of the zone and will maintain the scenic landscape character of the land and is compatible with the current use of the land.
<ul style="list-style-type: none"> <li>• To maintain the rural landscape character of the land.</li> </ul>	
<ul style="list-style-type: none"> <li>• To provide for a range of compatible land uses, including extensive agriculture.</li> </ul>	
<ul style="list-style-type: none"> <li>• To enable the provision of tourist accommodation, facilities and other small-scale rural tourism uses associated with primary production and environmental conservation consistent with the rural character of the locality.</li> </ul>	
<ul style="list-style-type: none"> <li>• To protect significant scenic landscapes and to minimise impacts on the scenic quality</li> </ul>	

of the locality.	
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Consideration: BLEP 2014 does not provide any specific controls related to a group home. A group home has a separate definition to dwelling house, dual occupancy etc, whilst it is a type of dwelling. The current BLEP 2014 controls applicable to dwellings in general have been considered to the extent applicable.

**5 Clause 4.3 Height of buildings**

- (1) The objectives of this clause are as follows—
  - (a) to achieve building design that does not exceed a specified maximum height from its existing ground level to finished roof or parapet,
  - 10 (b) to ensure the height of buildings complements the streetscape and character of the area in which the buildings are located,
  - (c) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).

15 Consideration: the single storey permanent group home and ancillary building are well below the 9 metre maximum permissible height limit, being 4.13 and 3.433 metres respectively.

**Clause 5.16 Subdivision of, or dwellings on, land in certain rural, residential or conservation zones**

- 20 (1) The objective of this clause is to minimise potential land use conflict between existing and proposed development on land in the rural, residential or conservation zones concerned (particularly between residential land uses and other rural land uses).
- (2) This clause applies to land in the following zones—
  - (b) Zone RU2 Rural Landscape,...
- 25 (3) A consent authority must take into account the matters specified in subclause (4) in determining whether to grant development consent to development on land to which this clause applies for either of the following purposes—...
  - (b) erection of a dwelling.
- (4) The following matters are to be taken into account—
  - 30 (a) the existing uses and approved uses of land in the vicinity of the development,
  - (b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,
  - (c) whether or not the development is likely to be incompatible with a use referred to in
    - 35 paragraph (a) or (b),

- (d) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c).

5 Consideration: The land has a dwelling entitlement and contains an existing dwelling to the south of site of the proposed permanent group home. The proposed development is not incompatible with the existing uses and approved uses of land in the vicinity. The proposed group home is a small-scale use that is not likely to have a significant impact on preferred or predominant land uses in the vicinity of the development. The constraints of the site have been considered in this assessment and the site is suitable for the proposed development.

10 **Clause 3.2 Earthworks**

- (1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.
- 15 (2) Development consent is required for earthworks unless the earthworks are exempt development under this Plan or another applicable environmental planning instrument.
- (3) In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—
- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
- 20 (b) the effect of the development on the likely future use or redevelopment of the land,
- (c) the quality of the fill or the soil to be excavated, or both,
- (d) the effect of the development on the existing and likely amenity of adjoining properties,
- (e) the source of any fill material and the destination of any excavated material,
- (f) the likelihood of disturbing relics,
- 25 (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

30 Consideration: Council engineering and planning staff assessed the extent of earthworks and conditions of consent are recommended to ensure that works will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

**Clause 6.6 Essential Services**

35 Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—

- (a) the supply of water,
- (b) the supply of electricity,

- (c) the disposal and management of sewage,
- (d) stormwater drainage or on-site conservation,
- (e) suitable vehicular access.

5 Consideration: The site has provision for access to all essential services and is capable of  
accommodating on site management of sewage. On-site Wastewater Management Report  
No. 87/2022\_OSMS prepared by Tim Fitzroy & Associates Ref: 09/2023 dated 23 June  
2023 demonstrates that wastewater generated by the development can be adequately  
10 managed via an aerated wastewater treatment system with disposal to land via  
evapotranspiration beds. The applicant has not applied to install the system and therefore  
a condition has been imposed requiring that prior to the issue of a construction certificate  
for the development an approval to install the system must be obtained from Council  
pursuant to Section 68 of the Local Government Act (1993).

### 4.3 Any proposed Instrument that has been the subject of public consultation and has been notified to the consent 15 authority

The proposed development is not affected by any draft proposed instruments.

## 4.4 Byron Shire Development Control Plan 2014 (DCP 2014)

### **Chapter B1 Biodiversity**

20 *Consideration: Ecology report Bower Ecology 04/07/2023 provides a detailed assessment  
to satisfy the provisions of Chapter B1. It is considered that the proposed development  
makes reasonable efforts to avoid biodiversity impacts.*

### **Chapter B3 Services & Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access**

25 *Consideration: The site is capable of providing for all services to the site as detailed in  
section 4.2 above related to BLEP 2014 Clause 6.6 Essential Services.*

### **Chapter B5: Provision for Cycling**

*Consideration: The proposed ancillary building provides storage details for six bicycles.*

### **Chapter B6: Buffers and Minimising Land Use Conflicts**

*Consideration: There are no land use conflicts evident.*

### 30 **Chapter B7: Mosquitos and Biting Midges**

*Consideration: Standard conditions are recommended to provide suitable screening of  
windows etc.*

### **Chapter B8: Waste Minimisation and Management**

35 *Consideration: The scale of the proposed permanent group home is not expected to  
generate a significant amount of waste based on the number of bedrooms. Standard  
conditions are recommended to comply with the DCP.*

### **Chapter B9: Landscaping**

*Consideration: detailed planting and restoration plans are included in the architectural plans recommended for approval.*

**Chapter B13: Access and Mobility**

5 *Consideration: the development satisfies the DCP provisions. The application was considered by a council building inspector because a performance solution has been identified as being required to satisfy Part D4D3 of the Building Code of Australia. This requires an accessible entrance from the main point of pedestrian entry at the allotment boundary. Due to the proposed development being on a rural property a performance solution will likely be issued for this small variation to the deemed to satisfy provisions.*

10 **Chapter B14: Excavation and Fill**

*The development is capable of addressing the requirements of the DCP as detailed in section 4.2 above related to BLEP 2014 Clause 6.2 Earthworks.*

**Chapter D2: Residential Accommodation and Ancillary Development in Rural Zones**

15 *There are no specific provisions related to group homes or affordable housing generally in Chapter D2. The general controls relating to dwellings and ancillary development have been considered. The proposal is consistent with the following:*

*D2.1.1 Aims of this Chapter*

*D2.2.1 Location and Siting of Residential Accommodation and Other Buildings*

*D2.2.2 Setbacks from Boundaries*

20 *D2.2.3 Character and Visual Impact*

*D2.7.2 Farm buildings, Sheds and Other Structures*

*The proposed permanent group home and ancillary building are consistent with the relevant Aims of this Chapter:*

25 *1. To promote a high standard of design for development in rural lands that is sensitive to and enhances the natural and physical environment and the social fabric particular to Byron Shire.*

*2. To accommodate a variety of residential forms and dwelling sizes to reflect the growing diversity of household types, sizes, incomes, lifestyles and needs.*

30 *3. To promote energy efficiency and consideration of the Shire’s climatic characteristics in the design process.*

*4. To promote sustainable food and agriculture production.*

*5. To minimise conflict between developments, including conflict with agricultural activities in farming lands.*

35 *6. Where possible to limit potential for additional traffic on the road system and to reduce car dependence through facilitation of public transport, cycling and walking.*

**4.5 Environmental Planning and Assessment Regulation 2021 considerations**

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

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

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

### 5 4.6.1 Marine Estate Management Act 2014

The development is unlikely to have an effect on the plants or animals within the Cape Byron Marine Park or their habitat.

#### 4.6.2 Council Policies applicable to the proposed development

Council Policies applicable to the proposed development have been considered during assessment.

### 4.7 The suitability of the site for the development

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

### 4.8 Submissions made in accordance with this Act or the regulations

- 10 The development application was publicly exhibited. There were **no** submissions made on the development application.

### 4.9 Public interest

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

## 5. CONTRIBUTIONS

### 15 5.1 Water & Sewer Levies

- No Section 64 levies will be required to be paid to Council. **Note:** Rous County Council is the Water Supply provider for the location of the subject development. The applicant must organise the provision of a water service to the development with Rous County Council and provide a Certificate of Compliance from Rous County Council to this Council. Rous County council advise that to obtain the Certificate of Compliance there will be development contributions payable of 2.31ET (which equates to \$23,873.85 per 2023/24 fees and charges).

### 5.2 Developer Contributions

No Developer Contributions will be required.

### 25 Exemptions for Private Boarding Houses, Group Homes and Affordable Housing

Unless superseded by legislation or direction, in the case of private developments such as hostels, group homes and boarding houses, this type of development may be able to justify a case for an exemption so long as it meets State Government criteria for a tax exemption for low-cost residential accommodation.

- 30 An applicant may as part of their development application make application for the suspension of contributions. An applicant must comprehensively argue the case for suspension including the specific circumstances that would distinguish the subject proposal's merit case from others.

Applications for merit suspension will be referred to Council for formal determination and accompanying submissions will be made public as part of that process. Applicants should liaise with Byron Shire Council in relation to Development Applications of this nature.

- 5 The SEE does not reference this provision of the contributions plan. It would be exceptional if the developer did not wish to avail itself of this provision. A condition of consent should be imposed that defers the payment of contributions. Recommended in the attached conditions of consent.

## 6. DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

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

## 10 7. CONCLUSION

The DA proposes Permanent Group Home, Ancillary Building and Associated Works.

- 15 The proposed development is satisfactory having regard to the relevant environmental planning instruments and planning controls applicable to the site. The proposal raises no significant issues in terms of environmental impacts which cannot be managed. The site is a serviced, unconstrained property and is considered suitable for the proposed development.

The application appropriately addresses the relevant constraints applying to the site, and is recommended for approval subject to the conditions listed in the Recommendation of this Report below.

20

**Report No. 13.11 Status report on Development Applications (DAs) with bodies like the Northern Regional Planning Panel (NRPP)**

**Directorate:** Sustainable Environment and Economy

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

**File No:** I2024/366

**Summary:**

10 At the Council (Planning) Meeting of 12 October 2023 it was resolved as part of **23-461** that Council: *Receives status reports monthly to each Ordinary (Planning) Meeting on all DA's that are being processed by Council for determination by other bodies such as the Northern Regional Planning Panel or the Independent Planning Commission.*

15 **Resolution 22-559** further requires: *That Councillors receive, as a standard procedure, a copy of the Assessment Report prepared by Council staff for any DA that is to be determined by the Northern Regional Planning Panel on the next working day after it is lodged on the Planning Portal.*

The monthly status report did not make the Ordinary Planning meeting agenda in March and is presented at the Ordinary Council Meeting in March instead.

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**RECOMMENDATION:**

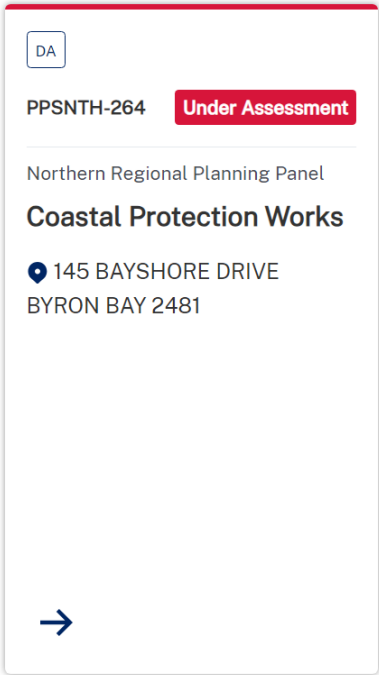
**That Council notes the status report on Development Applications (DAs) with bodies like the Northern Regional Planning Panel (NRPP).**

25

# BYRON SHIRE COUNCIL

## Report

5 The following applications are a matter for determination by the Northern Regional Planning Panel in accordance with the Sydney District & Regional Planning Panels Operational Procedures. There are no matters currently with the Independent Planning Commission.

Planning Authority	Application Description and link	Status
Northern Regional Planning Panel	 <p><a href="#">Coastal Protection Works   Planning Portal - Department of Planning and Environment (nsw.gov.au)</a></p> <p>Link to DA tracker for DA 2023.287.1 information and documents here:</p> <p><a href="#">Byron Shire Council - Application Tracker</a></p>	Under assessment

# BYRON SHIRE COUNCIL

Planning Authority	Application Description and link	Status
<p>Northern Regional Planning Panel</p>	<div style="border: 1px solid #ccc; padding: 10px; margin-bottom: 10px;"> <div style="display: flex; justify-content: space-between; align-items: center;"> <span>DA</span> <span style="background-color: #e91e63; color: white; padding: 2px 5px; font-weight: bold;">Under assessment</span> </div> <p>PPSNTH-267</p> <hr/> <p>Northern Regional Planning Panel</p> <p><b>The Harvest Estate</b></p> <p>📍 342 EWINGSDALE ROAD              BYRON BAY 2481, EWINGSDALE ROAD BYRON BAY              2481, EWINGSDALE ROAD BYRON BAY 2481, 22B              MELALEUCA DRIVE BYRON BAY 2481, 22A MELALEUCA DRIVE              BYRON BAY 2481, MELALEUCA DRIVE BYRON BAY 2481</p> <p style="text-align: center;">➔</p> </div> <p style="text-align: center;"><a href="#">The Harvest Estate   Planning Portal - Department of Planning and Environment (nsw.gov.au)</a></p> <p>Link to DA tracker for DA 2017.201.3 information and documents here:</p> <p style="text-align: center;"><a href="#">Byron Shire Council - Application Tracker (nsw.gov.au)</a></p>	<p style="text-align: center;">Under assessment</p>

# BYRON SHIRE COUNCIL

Planning Authority	Application Description and link	Status
<p>Northern Regional Planning Panel</p>	<div style="border: 1px solid #ccc; padding: 10px; margin-bottom: 10px;"> <div style="display: flex; justify-content: space-between; align-items: center;"> <span>DA</span> <span style="background-color: #e91e63; color: white; padding: 2px 5px; font-weight: bold;">Under assessment</span> </div> <p>PPSNTH-285</p> <hr/> <p>Northern Regional Planning Panel</p> <p><b>Community Title Subdivision</b></p> <p>📍 53 MCAULEYS LANE MYOCUM 2481</p> <p style="text-align: center; margin-top: 20px;">→</p> </div> <p style="text-align: center; color: #000080;"> <a href="#">Community Title Subdivision   Planning Portal - Department of Planning and Environment (nsw.gov.au)</a> </p> <p>Link to DA tracker for DA 2023.454.1 information and documents here:</p> <p style="text-align: center; color: #000080;"> <a href="#">Byron Shire Council - Application Tracker (nsw.gov.au)</a> </p>	<p style="text-align: center;">Under assessment</p>

## Strategic Considerations

### Community Strategic Plan and Operational Plan

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

### Recent Resolutions

- 23-461

### 5 Legal/Statutory/Policy Considerations

The Planning Panels determine regionally significant development applications (DAs), certain other DAs and s4.55(2) and s4.56 modification applications including:

- Regionally significant development, as outlined in Schedule 6 of the *State Environmental Planning Policy Planning Systems 2021*
- 10 • Regionally significant development relating to Aboriginal land, as outlined in Chapter 3 of the *State Environmental Planning Policy Planning Systems 2021*
- Development with a capital investment value (CIV)\* over \$30 million.
- Development with a CIV\* over \$5 million which is:
  - Council related
  - 15 ○ lodged by or on behalf of the Crown (State of NSW)
  - private infrastructure and community facilities
  - eco-tourist facilities
  - extractive industries, waste facilities and marinas that are designated development
  - 20 ○ certain coastal subdivisions and
  - certain coastal protection works.

\*Capital investment value is calculated at the time of lodgement of the DA for the purpose of determining whether an application should go to a Planning Panel - refer to Planning Circular PS 10-008.

- 25 Section 10 of the Sydney District & Regional Planning Panels Operational Procedures talks to *Roles of councils and other panels.*



## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.11

10.1 states the elected Council and Council staff have different roles in the assessment of DAs. Under the Local Government Act 1993, the independence of Council staff is protected in the preparation of advice and recommendations. Staff members are not subject to direction by the Council or by a Councillor as to the content of any advice or recommendation made by the staff member. Equally, a Council or Councillor is not bound by the advice or recommendation made by a member of staff.

10.3 states historically, one of the roles of an elected Council has been to determine or make decisions on DAs in their capacity as a consent authority. There are occasions, however, where the determination role is performed by other people or bodies, either because the Council has delegated that function, or because it has been conferred upon another person or body. For example, where local planning panels have been introduced, elected Councils no longer determine DAs (see section 2.17 of the EP&A Act). The Panel for the area in which the development is to be carried out is the consent authority for regionally significant development (see section 4.5 of the EP&A Act).

10.4 states Council staff are responsible for post-determination functions including:

- notifying Panel determinations on DAs (see sections 4.7(2)(e), 4.18 and 4.59 of the EP&A Act),
- registering Panel development consents on the NSW Planning Portal (see sections 4.7(2)(e) and 4.20 of the EP&A Act), and
- monitoring and enforcing compliance with conditions of the development consent.

The notice of determination should be issued once Council receives a copy of the endorsed and final determination from the Panel. The notice of determination must include all conditions imposed by the Panel, including any additional or amended conditions.

*The Council has no power to amend conditions or include additional conditions following the Panel's determination.*

Council will advise any person who made a submission on the DA of the determination.

The Council continues to be responsible for the monitoring of, and enforcing compliance with, any conditions of the development consent.

Where an application has been approved subject to a 'deferred commencement' condition Council is responsible for determining whether the requirements of the condition have been met (see section 4.16(3) of the EP&A Act). Council advises the chair of the Panel in writing when the matter specified in the condition has been satisfied (see section 277(2) of the EP&A Regulation)

[Microsoft Word - Att C - Amended RPP Operational Procedures.docx \(amazonaws.com\)](#)

11.13 talks to *Council representation to the Planning Panel.*

An elected Council may make a submission on a DA within their LGA that is to be determined by a Panel up to seven days before the Panel meeting. After the assessment report is sent to the Secretariat, it may be given to the elected Council to assist in its decision as to whether it will be making a submission to the Panel. The elected Council's submission should not be prepared by persons involved in the assessment of the application but could be prepared by another Council officer, or a consultant.

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.11

5 A Council submission should not be specifically referenced in the assessment report or recommendations prepared by the Council staff. If Council makes a submission, a staff representative or individual Councillors may register to address the Panel at the meeting to express the views of Council. Councillors who are also Panel members have an independent role because they have been nominated by their Council as its nominee to the Panel.

A Code of Conduct also applies to members of the Planning Panels.

[Microsoft Word - Sydney and Regional Planning Panels Code of Conduct formatted-accessible August 2020.docx \(shared-drupal-s3fs.s3-ap-southeast-2.amazonaws.com\)](#)

### 10 Appeals from Planning Panel determinations

Section 8.15(4) of the EPA Act was introduced on 1 March 2018. It provides relevantly:

15 ***If the determination or decision appealed against under this Division was made by a Sydney district or regional planning panel or a local planning panel, the Council for the area concerned is to be the respondent to the appeal but is subject to the control and direction of the panel in connection with the conduct of the appeal. The Council is to give notice of the appeal to the panel.***

In respect of the conduct and potential resolution of appeals, Councils are subject to the direction and control of planning panels in respect of decisions they make after 1 March 2018.

20 The Land and Environment Court has said that in circumstances where the panel and Council have conflicting views on a development, the appropriate approach would be for the panel to apply to be joined as a party to the appeal proceedings.

## **Financial Considerations**

None relevant to this report.

### 25 **Consultation and Engagement**

Applications are exhibited as per the Council's Community Participation Plan.

Otherwise, consultation, engagement and reporting must be in accordance with the Planning Panels Operations Procedure and Code of Conduct.

STAFF REPORTS - INFRASTRUCTURE SERVICES

**Report No. 13.12 Brunswick Heads Pay Parking - Implementation**

5 **Directorate:** Infrastructure Services  
**Report Author:** James Flockton, Infrastructure Planning Coordinator  
**File No:** I2024/373

**Summary:**

Council have resolved to implement Pay Parking into Brunswick Heads.

10 This report responds to the resolutions and provides a delivery plan for the pay parking implementation.

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15 **RECOMMENDATION:**

**That Council:**

1. **Endorses for inclusion in the draft 2024/25 Fees and Charges, a fee of \$4 per hour for the Brunswick Heads Pay Parking scheme.**
- 20 2. **Supports Brunswick/ Heads Pay Parking scheme using Pay by Plate cashless parking meters; and Fees**
3. **Receives a further report on how the funds generated from the Brunswick Heads Pay Parking scheme will be distributed in the shire.**

**Attachments:**

- 25 1 Final\_Brunswick Heads Parking Study Report\_15 January 2024, E2024/3883 

## Report

Council have endorsed the implementation of Brunswick Heads pay parking scheme as per scenario 4 (extended boundary) contained within attachment 1.

5 The purpose of this report is to update Council on actions and concerns relating to the Brunswick Heads Pay Parking Scheme and Resolution **23-652**, as detailed below.

*That Council:*

1. *Notes the consultant's report provided in Attachment 1 (E2023/1203356);*
2. *Endorses the implementation of Brunswick Heads pay parking regime scenario 4 (extended boundary) contained within this report as recommended by staff and Bitzios Consulting.*
3. *Endorses the use of parking sensors on a trial basis within the core commercial centre of town on:*
  - a) *the eastern side of Park Street, between Fingal Street and Mullumbimbi Street,*
  - b) *the northern side of Fingal Street, between Park Street and Brunswick Tce,*
  - 15 c) *the western side of Brunswick Tce, between Fingal Street and Mullumbimbi Street*
  - d) *the southern side of Mullumbimbi Street, between Park Street and Brunswick Tce.*
4. *Receives further reports:*
  - 20 a) *detailing the implementation, resourcing and funding plan to deliver and operate the Brunswick Heads pay parking scheme.*
  - b) *considering an increase in the residential parking scheme area across a larger part of Brunswick Heads due to potential impacts of an overflow from those wanting to avoid pay parking charges in the scheme area*
  - 25 c) *on the impact on potential revenue across the whole scheme of enabling a system whereby residents with cars registered in the NRJO area (Tweed, Ballina, Lismore, Kyogle, Richmond Valley and Clarence LGAs) were to receive a 50% discount on the hourly rate*
  - d) *On the impact of hourly rates of \$3, \$4 and \$5*
- 30 5. *Updates the fees and charges to change the 'Shire Resident or Ratepayer Exemption, or Resident Interim Parking Permit' from \$55 to \$0 at the time that the scheme becomes operational in Brunswick Heads.*

**Key Issues**

Staff have considered Resolution 23-652 and raise the following issues for further consideration by Council:

- 5           **a) Impacts from an increase in the residential parking scheme area across a larger part of Brunswick Heads due to potential impacts of an overflow from those wanting to avoid pay parking charges in the scheme area:**

10           There isn't a simple answer to this question. Currently due to parking demand on a good sunny day in Brunswick Heads people can't park in the proposed scheme area, they need to overflow to residential areas, hence the need for Pay Parking. The pay parking scheme is aimed at improving parking accessibility and therefore potentially reduce overflow if some people choose to walk or ride or carpool.

              However, there is still potential for overflow to occur. This risk is unavoidable with the implementation of a pay parking scheme that is designed to resolve parking issues in the scheme area.

15           Similar concerns would have been raised prior to the implementation of the Byron Bay pay parking scheme. Whilst overflow does occur at key locations, the impact is generally minimal, seasonal, and weather dependent. At the current time staff do not receive complaints about overflow in Byron Bay. Parking complaints are generally camping related.

- 20           **b) The impact on potential revenue across the whole scheme of enabling a system whereby residents with cars registered in the NRJO area receive discounted parking:**

25           The impact on potential revenue across the whole scheme of enabling a system whereby residents with cars registered in the Northern River Joint Organisation (NRJO) area (Tweed, Ballina, Lismore, Kyogle, Richmond Valley and Clarence LGAs) were to receive a 50% discount on the hourly rate is difficult to quantify accurately as well as difficult to implement.

30           The addendum to the report found at Attachment 1, highlights the substantial and time-intensive nature of gathering the necessary data for evaluating the impact of a parking discount for NRJO member residents.

35           The recommendation is to undertake an assessment before implementing the proposed reduced cost permits. This enables a comprehensive review of all fee and charge modifications. This approach ensures that we incorporate real data from both the new and existing pay parking schemes in Brunswick and Byron Bay, enhancing the overall effectiveness of our analysis.

              This will also ensure more accurate guidance on the financial and parking availability impact the proposal will have. This proposal has the potential impact the success of both parking schemes and therefore requires appropriate investigation before implementation.

**c) Updating the fees and charges to change the 'Shire Resident or Ratepayer Exemption, or Resident Interim Parking Permit' from \$55 to \$0 at the time that the scheme becomes operational in Brunswick Heads:**

5 Council has resolved to update the fees and charges to change the 'Shire Resident or Ratepayer Exemption, or Resident Interim Parking Permit' from \$55 to \$0 at the time that the scheme becomes operational in Brunswick Heads. It is considered that this will have a significant impact on the operation and success of the existing scheme.

10 Staff are already at capacity processing and administrating the existing permit scheme with only 30 percent of residents opting to purchase a permit. With the removal of the fee, it is assumed that all residents or a majority would take the opportunity to obtain a permit. This will more than double the system administration needs and therefore require a number of additional staff to cover this increase.

15 While free permits are a positive initiative to support the community, there are several other potential issues and challenges that should be considered:

20 • Free parking permits will lead to increased demand for parking spaces, resulting in a potential return to prepay parking scenarios, limited availability of parking and likely failure of the pay parking schemes success. This will be particularly problematic in Byron Bay. Currently, there is opportunity in the long term (>4P) parking areas to get a park near the beach. Plus, Byron locals are probably willing to ride in for a surf or swim rather than pay any additional fees. Without the fee, the convenience of a car will likely become preferable.

25 • There's a risk of abuse in the system, non-residents might try to obtain or misuse the free permits, leading to increased competition for parking spaces among actual residents.

• Depending on how the permit system is structured, there may be concerns about equity. For example, some residents may not own a vehicle and might feel unfairly excluded from the benefits of free parking.

30 • Offering free parking may discourage the use of alternative transportation modes, such as public transit, cycling, or walking, which can have negative environmental and congestion implications. Permanent residents in the community are the most likely people to avoid driving when they live close by.

• The current system is working well in Byron Bay, change has a high risk of bringing back old problems and scheme failure.

35 Based on the concerns raised above, staff advise that the existing paid permit system remain in place.

Financially a potential higher uptake in resident parking permits will impact on the potential revenue generated. The current revenue generated from the existing 9,341 resident permits generates roughly \$514,000 per year. The further 70 percent of a residents

without a permit are likely paying when they occasionally need to park in Byron Bay. This value is hard to quantify, however, a conservative estimate could be \$250,000 per year.

5 Therefore financially the scheme could see a loss of \$750,000 per year, plus the need to employ additional staff to administer the additional permit applications may take the total cost to the scheme as high as \$1 million.

**d) Unsealed Parking Areas:**

It is noted that Council will have some areas within the scheme footprint that are not sealed and line marked. Sealing and line marking is important with pay parking schemes.

10 Legally, a motorist needs to have certainty about what they are paying for, which includes an exact understanding of their pay parking bay. In the event of an infringement notice being issued it should be clear as to what area (parking bay) the ticket was issued. If the infringement notice cannot clearly indicate this, it opens up issues related to enforceability.

Sealing and line marking of the whole scheme area will need to be a priority action with the initial income from the scheme.

15 **Options**

Parking Meter Options

Council need to agree upon the payment method at the meter; cash, card and app, card and app or app only. Cashless (card only) and app is proposed as this is the desired direction for all pay parking schemes for the following reasons:

- 20
- the cashless meters are \$2,000 cheaper per unit, saving \$142,000 in set up costs
  - cash payment processes create extra annual operational costs (see note below), removing cash saves \$30,000-40,000.
  - cash collection costs will be removed, saving up to \$100,000 per year
  - reduction of cash related issues resulting in complaints to Council

25 Transport for NSW (TfNSW) have advised that the choice between cash or cashless is a matter for Council and must be decided based on the demands and demographics of a community. While cashless meters are more convenient, easier and cheaper, there may be some sections of the community still dependent on using coins/notes and therefore their access to paid parking might be cut off if Council progress with cashless payment  
30 options only.

Previously NSW Pay Parking Guidelines only recognised implementation of any cashless metered or ticket pay parking scheme on a trial basis only and with TfNSW approval. Staff believe this has now changed but have sought further clarification. It is noted Brisbane City Council has gone cashless with their meters without any significant issues and some  
35 NSW Council's already have partial cashless meter areas and/or are looking into trials of app only pay parking. Blue Mountains are predominantly cashless.

# BYRON SHIRE COUNCIL

## STAFF REPORTS - INFRASTRUCTURE SERVICES

13.12

Note:

In Byron Bay roughly 30-40% of meter maintenance is related to the cash payments. This is due to people jamming items into the coin slots or gluing them closed or general buildup causing coins to jam. These costs could be removed completely with a card and app payment method. Likely using next generation Pay by Plate parking meters. Byron Bay already uses Pay by Plate, but with the cash option.

### *Hourly Rate Options*

Council resolved to adopt Scenario 4. The proposed hourly charge for this scenario was \$3, however Council also wanted to assess the impact of a rate increase of \$4 and \$5 per hour.

Testing for these hourly rates has taken place assuming the residential parking permit is free as resolved in resolution number 23-652. The testing that took place for these rate scenarios was conducted using the projects (Brunswick Heads Parking Study) parking financial model. For further details on these tests please refer to Attachment 1, Addendum: Scenario 4 Sensitivity Tests and Council Outcomes Advice for Further Investigations.

It should be noted that this model does not use data/costs from Councils current contracted administrator. The model used is indicative of industry standards and Council will need to refine and prepare more detailed estimates on costs for the management and administration of a pay parking scheme based on existing contracts with parking technology providers, cash collection contractors, and Council officers' resourcing needs.

**Table 1: Summarised scenario rate change outcomes**

Option	Hourly parking rate	Five-year Operational Costs	Five-year projected revenue
A	\$3 (No resident permit fee)	\$2,634,689	\$9,008,843
B	\$4 (No resident permit fee)	\$2,703,250	\$11,294,191
C	\$5 (No resident permit fee)	\$2,787,956	\$14,117,739
D	\$3 (\$55 resident permit fee)	\$2,783,042	\$13,953,942

A \$3/hour charge could be implemented in the initial implementation of a pay parking scheme for Brunswick Heads (with or without a parking permit fee). While there is expected to be little change in visitation, keeping the charge to a minimum could help



# BYRON SHIRE COUNCIL

## STAFF REPORTS - INFRASTRUCTURE SERVICES

13.12

reduce the likelihood of any initial impact and ensure that parking demand normalises earlier.

Staff recommendation is a \$4/hour charge. Byron Bay used a rate of \$3/hour initially a number of years ago, then increased to \$4/hour before being increased to \$5/hour.

- 5 \$4/hour is suitable with current day costs and is closer to the current scheme in Byron Bay. This rate will make it quicker and simpler to bring both schemes in line in 12 months' time.

The existing fees and charges related to the hourly charge, for pay parking with or without a fee for the resident permit is shown in Table 2.

- 10 The proposed fees and charges related to the hourly charge, for pay parking with or without a fee for the resident permit is shown in Table 3 below.

**Table 2: (below) Current fees and charges from Councils adopted revenue policy**

Per hour	\$5.00	1722	Y	F
<i>4P zones capped at \$15, P zones capped at \$25 per day Increased fee of \$5.00 applicable from early August 2022</i>				

**Table 3: (below) Proposed hourly rate fees and charges.**

Per hour (Byron Bay)	\$5.00
<i>4P zones capped at \$15, P (all day) zones capped at \$25 per day (Increased fee of \$5.00 applicable from early August 2022)</i>	
Per hour (Brunswick Heads)	\$4.00
<i>4P zones capped at \$9, P (all day) zones capped at \$15 per day 4P zones capped at \$12, P (all day) zones capped at \$20 per day</i>	

### 15 Next steps

Council have engaged consultant Bitzios who completed the Parking Study for Brunswick Heads as the Project Management consultant to deliver the Pay Parking scheme because Council staff do not have the resources to implement and manage business as usual activities.

- 20 The program to bring the scheme to an operational status is provide in table 4 below.

## BYRON SHIRE COUNCIL

### STAFF REPORTS - INFRASTRUCTURE SERVICES

13.12

**Table 4: Delivery Program**

Stage	Action	Delivery Date
1	Fund all required elements as per table above.	April
2	Place parking meter order	April
3	Start mapping out the community & stakeholder engagement as part of the communication plan	April
4	Set up agreement for the inclusion of Reflections Torikina and Mullumbimbi Street car park areas in the pay parking scheme.	May
5	Map and design all parking signage in consultation with the Parking Enforcement Team,	April / May
6	Report parking signage to LTC	May
7	Map and design all parking meter locations in consultation with the Parking Enforcement Team	May
8	Expand existing Pay Parking management contract with Orikan to include Brunswick Heads Scheme	June
9	Council endorse LTC report for parking signage	June
10	Prepare communications plan	June / July
11	Install all signage and parking meters (dependent upon meter availability)	August / September
12	Implement communications plan, advertising and Variable Message Signs to ensure users are prepared for when the Pay Parking system is switched on.	August / September
13	System fully operational	September

## Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
5: Connected Infrastructure	5.2: Connect the Shire through integrated transport services	5.2.4: Parking - Manage parking through effective controls that support Movement and Place Plans and are coordinated with other initiatives such as park and ride	5.2.4.1	Undertake regular and frequent parking patrols to increase availability and turnover in the town and village centres and compliance with mobility parking

## 5 Recent Resolutions

- 23-652

### Legal/Statutory/Policy Considerations

Council and Council's Local Traffic Committee have endorsed Pay Parking being implemented into Brunswick Heads.

- 10 However, Council and Council's Local Traffic Committee will still need to endorse the new sign layouts required to enforce the parking scheme.

# BYRON SHIRE COUNCIL

## Financial Considerations

Table 5 below provides the expenditure that will be required to implement the pay parking scheme. The funding sources are included in the table. These costs will be spread between the current and next financial years.

5 **Table 5: Funding / Expenditure summary**

Item	Cost (excl GST)	Funding Source
Project Management to implement Brunswick Heads Pay Parking Scheme	\$80,000	Byron Bay Pay Parking scheme income or debtor to be repaid by Brunswick Heads Pay Parking scheme income
Parking Meter purchase and installation for Brunswick Heads Pay Parking Scheme	\$584,000	Byron Bay Pay Parking scheme income or debtor to be repaid by Brunswick Heads Pay Parking scheme income
Parking Meter Operational Costs	\$73,000 year one \$146,000 onwards	Byron Bay Pay Parking scheme income or debtor to be repaid by Brunswick Heads Pay Parking scheme income
Pay by Phone App	\$46,513	Byron Bay Pay Parking scheme income or debtor to be repaid by Brunswick Heads Pay Parking scheme income
Cash Collections (if cash is used)	\$100,000	Byron Bay Pay Parking scheme income or debtor to be repaid by Brunswick Heads Pay Parking scheme income
Other administration and contract costs for online systems	\$100,000	Byron Bay Pay Parking scheme income or debtor to be repaid by Brunswick Heads Pay Parking scheme income
Installation of signs and lines as required to implement Brunswick Heads Pay Parking	\$50,000	Byron Bay Pay Parking scheme income or debtor to be repaid by Brunswick Heads Pay Parking scheme income
Communications, mapping and other supporting documentation	\$50,000	Byron Bay Pay Parking scheme income or debtor to be repaid by Brunswick Heads Pay Parking scheme income

Staff will present a further report for Council to consider how the funds generated from Brunswick Heads Pay Parking scheme will be distributed in the shire.

This will include any changes or impacts to the current distribution from the Byron Bay Pay Parking scheme.

**5 Consultation and Engagement**

Bitzios Consulting was engaged by Council to undertake an on-street car parking capacity and management review to identify improvements to maximise the efficiency of available on-street parking.

10 This study built upon previous parking studies that were conducted (by others) of behalf on Council in 2018-2020.

These processes involved community consultation and meetings with representatives the Brunswick Heads Chamber of Commerce, Brunswick Heads Progress Association and Brunswick Heads Public School on 5 December 2023 to provide advice of the findings of the study.

15 Further communications will happen with the roll out of the pay parking scheme to ensure users are aware of the system.

**Report No. 13.13 Sandhills Wetland Construction 2023-1904**

**Directorate:** Infrastructure Services

**Report Author:** Christopher Soulsby, A/ Manager Assets & Major Projects

**File No:** I2024/66

5 **Summary:**

At the 23 November 2023 Ordinary meeting, Council considered a report on the Selective Tender Assessment on Expression of Interest to Construct Sandhills Wetlands and resolved 23-569:

10 That Council invites the following entities to tender for Contract 2023-1904 Sandhills Wetland Construction:

- Durack Civil
- Rugendyke & Bashforth
- Synergy Resource Management
- Winslow iLH Australia

15 The Selective Tender was issued on 27 November 2023 and closed on 16 December 2023. Tenders were received from all four companies.

Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulations 2021. This report summarises the background and assessment of the tenders and provides a recommendation to award the tender for Contract 2023-1904.

20

**RECOMMENDATION:**

1. That Council declines to accept any of the tender submissions.
- 5 2. That Council enters into negotiations with the suppliers identified on in part 3 of the Evaluation Panel Recommendations Report (Attachment 1 E2024/8435) with a view to entering into a contract in relation to the subject matter of the tender.
3. That Council notes that:
  - 10 a) The reason for declining to invite fresh tenders is that outstanding approvals have created a delay in the program.
  - b) The reason for determining to enter into negotiations with those suppliers is that these tenders have been evaluated as best value for money tenders and there is a genuine prospect of negotiating an agreed contract with a program reflecting the delay due to the outstanding approvals.
- 15 4. That Council delegates to the General Manager to enter into a negotiated contract within the approved/funded project budget
- 20 5. That Council makes public its decision, in accordance with Clause 179(a) of the Local Government Regulation 2021.

**Attachments:**

- 1 Confidential - Evaluation Panel Recommendation Report Sandhills Wetland Construction 23-1904, E2024/8435
- 25

## **Report**

At the 23 November 2023 meeting, Council considered a report on the Selective Tender Assessment on Expression of Interest to Construct Sandhills Wetlands and resolved 23-569:

5 That Council invites the following entities to tender for Contract 2023-1904 Sandhills Wetland Construction:

- Durack Civil
- Rugendyke & Bashforth
- Synergy Resource Management

10 • Winslow iLH Australia

The Selective Tender was issued on the 27 November 2023 and closed on 14 December 2023. Tenders were received from all four companies.

15 Council's vision for the Sandhills Estate, consistent with the Byron Bay Town Centre Masterplan (2016), is to provide a public space that combines ecological and cultural values with circulation routes and recreation activities, as well as improved stormwater outcomes.

The Request for Tender sought responses from proponents to provide:

- Three connected artificial wetlands, including permanent open water zones, for stormwater management and water quality improvement; and
- A series of circulation pathways, for pedestrian and bicycle access.

20 The establishment of the wetlands and pathways will require the excavation, treatment, and removal of approximately 15,000m<sup>3</sup> of ASS material, associated vegetation removal, drainage works and detailed landscaping.

25 The Contract is expected to commence in April/ May 2024 for a period of two years including the maintenance period.

The Contract will be managed by a Project Officer.

The Request for Tender was published as follows:

- Public Notice on Council's website via VendorPanel from 24 November 2023 to 14 December 2023.

30



**Briefing Session / Site Inspection**

An optional tender briefing and site inspection was held at the construction site during the EOI process (21 September 2023) and was attended by all contractors invited to proceed in the formal tender process. No further briefing or site inspections were required. A full list of the companies attending the tender briefing (EOI) is as follows:

- 5
- 1) Australian Wetlands Consulting
  - 2) Civil Mining & Construction (CMC)
  - 3) RCC Earthworks
  - 4) Winslow
  - 10 5) ENV Solutions
  - 6) Synergy
  - 7) Rugendyke & Bashforth
  - 8) Tallowwood

15 The briefing/site inspection was included in a Vendor Panel notice. The purpose of the briefing/site inspection was to familiarise contractors with the site conditions and constraints.

An Evaluation Panel comprising of three Council staff members was formed.

Tenders closed on 14 December 2023 and tenders were received from all four invited companies.

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

*Mandatory criteria:*

- a) Tenderer must have a valid Australian Business Number.
- b) Substantial conformance to Conditions of Contract and Statement of Requirements.
- 25 c) Workers compensation insurance for all employees.
- d) Holds, or is willing to obtain, the insurances as specified in the Statement of Requirements.
- e) Satisfactory Work Health and Safety practices.
- f) Commitment to ethical business practice principles.

30

# BYRON SHIRE COUNCIL

## STAFF REPORTS - INFRASTRUCTURE SERVICES

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*Qualitative criteria:*

Criteria	Elements
Profile and relevant experience	Tenderer profile
	Previous relevant experience
	Environmental practices
	Opportunities for disadvantaged people
	Local employment opportunities
Quality and availability of resources	Proposed key personnel
	Proposed staff
	Use of subcontractors
	Vehicles, plant and equipment
Delivery Plan	Goods/services standards and methodology
	Implementation plan
	Product sustainability
	Supporting local business, social enterprise and Indigenous business
Price	Total contract price

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

### 5 Key issues

An Environmental Impact Statement (EIS) has been prepared for the Sandhills Wetlands Construction Project.

## BYRON SHIRE COUNCIL

### STAFF REPORTS - INFRASTRUCTURE SERVICES

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The project program notes that the outcome of the Environment Protection and Biodiversity Conservation (EPBC) referral and the operational Aboriginal Heritage Impact Permit (AHIP) are outstanding. Construction cannot commence without these approvals.

- 5 In view of the delay to the program and the impact on tenders, the recommendation of this report is that Council decline to accept any of the tender submissions and enter into negotiations as outlined in part 3 of the attached Evaluation Panel Recommendations Report with a view to entering into a contract in relation to the subject matter of the tender.

#### **Next steps**

The next steps are as follows:

- 10 That Council decline to accept any of the tender submissions.

That Council enter into negotiations with the suppliers identified in part 3 of the Evaluation Panel Recommendations Report with a view to entering into a contract in relation to the subject matter of the tender.

- 15 The reason for declining to invite fresh tenders is that while outstanding approvals have created a delay in the program this should not significantly alter the price.

The reason for determining to enter into negotiations with those suppliers is that these tenders have been evaluated as superior tenders and there is a genuine prospect of negotiating an agreed contract with a program reflecting the delay due to the outstanding approvals.

- 20 That Council delegate to the General Manager to enter into a negotiated contract within the approved project budget.

#### **Financial Considerations**

The price basis for the proposed negotiated contract is a lump sum.

- 25 The project is 100% grant funded from the NSW Government Open Spaces Legacy Fund and by the Australian Government with the Emergency Response Fund - Northern Rivers Recovery and Resilience Program 2022-23: BY29 Preferred Byron Drainage Strategy Construction grant. There is sufficient funding in both of these grants to fund the whole project.

- 30 This report is seeking that Council delegate to the General Manager to enter into a negotiated contract within the approved project budget.

The total project cost if the higher of the two bids is accepted following successful negotiations is \$6,052,000. This total includes Council's project management, site superintendent and an allowance for contingency.

- 35 Council has currently budgeted \$2,083,900 for this project in the 2023/24 financial year funded from the residual Open Spaces Legacy Fund unexpended grant.

Of this amount, at the time of preparing this report, \$394,400 has been expended/omitted this financial year. There then is \$1,689,500 available for the remainder of the 2023/24 financial year. Coupled with the Australian Government funding for the Byron Drainage Strategy Construction, there is sufficient funding for the proposed contract from grant funds. The draft 2024/25 Budget contains \$5,000,000 funding from the Byron Drainage Strategy Construction grant in accord with the funding agreement.

## Statutory and Policy Compliance Considerations

The tendering process has been undertaken in accordance with Council's Purchasing and Procurement Policy, and the provisions of the Local Government (General) Regulation 2021.

The Local Government (General) Regulations 2021 define the options available to Council. An extract is provided below.

### Local Government (General) Regulation 2021 - Reg 178

#### Acceptance of tenders

178 *Acceptance of tenders*

(1) *After considering the tender submissions for a proposed contract, the council must either—*

(a) *accept the tender submission that, having regard to all the circumstances, appears to it to be the most advantageous, or*

(b) *decline to accept any of the tender submissions.*

(1A) *Without limiting subsection (1), in considering the tender submissions for a proposed contract for the performance of domestic or other waste management services, the council must take into account whether or not existing workers (within the meaning of section 170) will be offered employment or engagement on terms and conditions comparable to those applicable to the workers immediately before the tender submissions.*

(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.*

(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,*

## BYRON SHIRE COUNCIL

### STAFF REPORTS - INFRASTRUCTURE SERVICES

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- 5
- (c) *invite, in accordance with section 168, fresh applications from persons interested in making a tender submission for the proposed contract,*
  - (d) *invite, in accordance with section 169, fresh applications from persons interested in making a tender submission for contracts of the same kind as the proposed contract,*
  - (e) *by resolution of the council, enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender,*
  - (f) *carry out the requirements of the proposed contract itself.*
- 10
- (4) *If a council resolves to enter into negotiations as referred to in subsection (3)(e), the resolution must state the following—*
- (a) *the council's reasons for declining to invite fresh tender submissions or applications as referred to in subsection (3)(b)–(d),*
  - (b) *the council's reasons for determining to enter into negotiations with the person or persons referred to in subsection (3)(e).*
- 15

Council's endorsement of the recommendation to determine the tender as recommended in the attached Evaluation Report is sought.

**Report No. 13.14 Part Road Reserve Closure and sale adjoining Lot 1 DP 841372, 305 Main Arm Road, Main Arm, NSW 2482**

**Directorate:** Infrastructure Services

5 **Report Author:** Tracy Armstrong, Roads & Property Officer

**File No:** I2024/314

**Summary:**

This report is being presented to Council to endorse the closure of Council's Road Reserve adjoining Lot 1 DP 841372.

10 As per Crown Land determination the road/land will vest in Council upon closure, and it is proposed to sell the land to the adjoining landowners of Lot 1 DP 841372.

Land size is approximately 1.31ha

15

---

**RECOMMENDATION:**

1. That Council endorses the closure of Part Road Reserve adjoining Lot 1 DP 841372 as detailed in the report.
- 20 2. That Council accepts the valuation as per *Attachment 1 E2024/20508*, that has been agreed upon by the landowners.
3. That the applicant pays all remaining costs associated with the part road closure and consolidation.
  - 25 a) Council application fees
  - b) Council's surveyor's fees and survey, valuation, and legal costs
  - c) All registration fees
  - d) Legal costs
4. The allotments created by the part road closure to be consolidated into existing Parcel No 195760 Lot 1 DP 841372.
- 30 5. That Council authorises the General Manager to execute all documents necessary to affect the road closure, sale, transfer, and consolidation of the part closed road.

# BYRON SHIRE COUNCIL

## STAFF REPORTS - INFRASTRUCTURE SERVICES

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### **Attachments:**

- 1 Confidential - Valuation Document Road Reserve Closure & Sale 305 Main Arm Road Main Arm\_Lot 1 DP 841372\_Page from Valuation\_1492, E2024/20508
- 5 2 Confidential - Authorities & Submission Responses\_Road Reserve Closure adjoining Lot 1 DP841372 305 Main Arm Road, Main Arm, E2024/21548

## Report

Council was approached by the owners of Lot 1 DP 841372, 305 Main Arm Road, Main Arm for closure and sale of Council Road Reserve adjoining their property (Image 1, 2 & 3). The survey plan (Image 4) shows the proposed 1.31ha of Road Reserve adjoining part  
5 Lot 1 DP 841372. This road reserve closure is purely to close a paper road and consolidate within the adjoining lot.

There are no likely impacts from closure of this section of Council Road Reserve (Table 1). A valuation was carried out and agreed upon by the landowners (Attachment 1 E2024/20508).



10

**Red** indicates section of Road Reserve to be closed.



**BYRON SHIRE COUNCIL**

**STAFF REPORTS - INFRASTRUCTURE SERVICES**

**13.14**

**Image 1 location of the proposed road closure adjoining Lot 1 DP 841372**



**Image 2 Part of Road Reserve adjoining Lot 1 DP 841372**



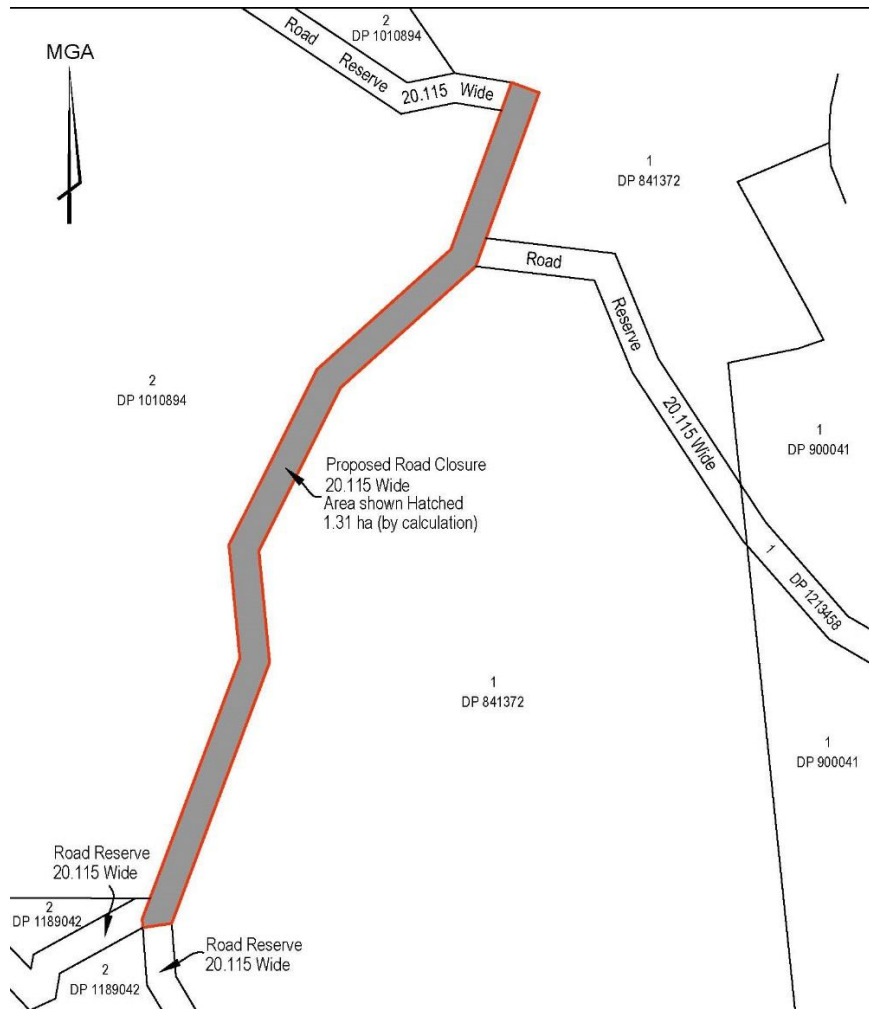
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**Image 3 Part of Road Reserve adjoining Lot 1 DP 841372**

# BYRON SHIRE COUNCIL

## STAFF REPORTS - INFRASTRUCTURE SERVICES

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**Image 4 Proposed road closure adjoining Lot 1 DP 841372**

Typical Risk Area	Likely Impacts
Waste Collection	None
Road Assets (e.g. kerb, gutter, roadside barriers, etc)	None
Stormwater Drainage	None
Water Supply Assets	None
Sewer Assets	None
Public Transport (e.g. bus stops, pedestrian crossings, school buses, etc)	None
Community / Operational Land	None
Services (e.g. Rural Fire Service, power, water, Crown lands)	None
Future Infrastructure upgrades	None
Future Council needs in general	None
Non-Council utilities	None
Emergency services	None

**Table 1 Likely impacts from closure of this section of Council Road Reserve.**

**Road Closure Process:**

5 Council identified as per the **Roads Act 1993** (*Part 4 Division 3 Closing of council public roads by council 38A When council may close council public road*), that this part road area would not be reasonably required as a road for public use. This part road area is not required to provide continuity for an existing road network, and the part road does not impede vehicular access to a particular land.

10 A Notice was placed in The Byron Shire Echo on 31 January 2024 and could be viewed on Council website. Notifications went out to adjoining landowners and all authorities advising closure of the section of road reserve off Main Arm Road outlined in Image 1 highlighted red as per **Roads Act 1993 Part 4 Division 3 Closing of council public roads by council 38B Notification of proposal to close council public road**.

15 There was a 28-day submission period with no submissions for objection by authorities and adjoining landowners. All submissions *Attachment 2 E2024/21548*.

20 A resolution of Council is required to finalise the road closure and sale process. The final plans when completed, will be registered with Land Registry Services. A plan of consolidation will also be drawn up and registered with Land Registry Services.

**Strategic Considerations**

**Community Strategic Plan and Operational Plan**

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership	1.3: Ethical and efficient management of resources	1.3.3: Asset Management - Maximise asset service delivery potential and take a proactive approach to lifetime asset maintenance	1.3.3.8	Provide ongoing detailed road assessment and valuation for the purposes of purchase, closure and land sale as required

## Legal/Statutory/Policy Considerations

### *Roads Act 1993*

#### *Part 4 Closing of public roads*

#### 5 *Division 3 Closing of council public roads by councils*

#### **38A When council may close council public road**

A council may propose the closure of a council public road for which it is the roads authority if:

- 10 (a) the road is not reasonably required as a road for public use (whether for present or future needs), and
- (b) the road is not required to provide continuity for an existing road network, and
- (c) if the road provides a means of vehicular access to particular land, another public road provide lawful and reasonably practicable vehicular access to that land.

#### 15 **38B Notification of proposal to close council public road**

(1) A council that is proposing to close a council public road must cause notice of the proposal:

- (a) to be published in a local newspaper, and
- (b) to be given to:
- 20 (i) all owners of land adjoining the road, and
- (ii) all notifiable authorities, and
- (iii) any other person (or class of person) prescribed by the regulations.
- (2) The notice:
- (a) must identify the road that is proposed to be closed, and
- (b) must state that any person is entitled to make submissions to the council with respect to
- 25 the closing of the road, and
- (c) must indicate the manner in which, and the period (being at least 28 days) within which, any such submission should be made.

#### **38C Public submissions and formal objections**

30 (1) Any person may make submissions to the council with respect to the closing of the road in the manner and within the period specified in the notice published under section 38B.

(2) Without limiting subsection (1), a notifiable authority in relation to the road may include a statement in the authority's submission to the effect that the authority formally objects to the closing of the road. The authority may withdraw the objection any time by written notice given

35 to the council.

#### **Note.**

If a formal objection is made, section 38D (2) provides that the road may not be closed until the objection is withdrawn by the authority or set aside by the Land and Environment Court under this section.

40

(3) The council may appeal to the Land and Environment Court against a formal objection made by a notifiable authority against the closing of the road.

(4) On any such appeal, the Land and Environment Court may:

(a) affirm the objection, or

45 (b) set aside the objection.

(5) In deciding whether to affirm or set aside the objection, the Land and Environment Court must have regard to the public interest.

**38D Decision of proposal**

- 5 (1) After considering any submissions that have been duly made with respect to the proposal, the council may, by notice published in the Gazette, close the public road concerned.
- (2) However, a council public road may not be closed:
- 10 (a) in the case of a classified road—unless RMS consents to the closure of the road, or
- (b) in the case where a notifiable authority has formally objected under section 38C to the closing of the road—until the objection is withdrawn by the authority or set aside by the Land and Environment Court under that section.

**38E Effect of notice of closure**

- 15 (1) On publication of the notice closing the council public road concerned:
- (a) the road ceases to be a public road, and
- (b) the rights of passage and access that previously existed in relation to the road are extinguished.
- (2) The land comprising a former road:
- 20 (a) in the case of a public road that was previously vested in a council (other than a public road in respect of which no construction has ever taken place)—remains vested in the council, and
- (b) in any other case—becomes (or, if previously vested in the Crown, remains) vested in the Crown as Crown land.

25 **38F Appeals to Land and Environment Court against closure decision**

- (1) A person referred to in section 38B (1) (b) may appeal to the Land and Environment Court against the closure of a council public road by a council.
- (2) On any such appeal, the Land and Environment Court may:
- 30 (a) affirm the closure, or
- (b) set aside the closure.
- (3) Section 38E is taken never to have applied to a closure that is set aside.
- (4) To avoid doubt, an appeal under section 38C does not prevent an appeal under this section.

**Financial Considerations**

The costs associated with this road closure be paid for by the adjoining landowners.

35 **Consultation and Engagement**

As per the Roads Act 1993 requirements, the necessary notices and submissions period was undertaken, and zero objections were received.

**Report No. 13.15 Environmental Impact Statement Sandhills Stormwater Management System Project**

**Directorate:** Infrastructure Services

**Report Author:** Christopher Soulsby, A/ Manager Assets & Major Projects

5 **File No:** I2024/389

**Summary:**

The purpose of this report is to seek an activity approval from Council for the Sandhills Wetlands project.

10 This report will address the matters under Part 5 of the Environmental Planning and Assessment Act that a determining authority must consider.

An Environmental Impact Statement (EIS) for the project has been prepared and publicly exhibited.

The project is for the construction of a stormwater management system including:

- 15 • three connected artificial wetland cells, including permanent open water zones and macrophyte zones, for stormwater management and water quality improvement;
- a network of paths, providing access through the site and circulation around the wetlands;
- seating nodes along the paths, designed to promote social gathering and passive recreation; and
- 20 • associated works.



















The EIS and sub reports demonstrate that the Sandhills Wetlands project warrants an activity approval. The appropriate controls and actions to mitigate the impacts of the activity are detailed in the EIS and sub reports attached.

---

**RECOMMENDATION:**

- 5 **That Council under Part 5 of the Environmental Planning and Assessment Act 1979 approve the activity of the construction of the Sandhills Wetlands project.**

**Attachments:**

- 1 Sandhills Wetland Detailed Design Package, E2023/132174 
- 10 2 Sandhills Wetland Detailed Design Report, E2023/132175 
- 3 Sandhills Wetland Basis of Design Report, E2023/132176 
- 4 Sandhills Wetland Design Response to SEARs, E2023/132177 
- 5 Biodiversity Development Assessment Report (BDAR) - Contents, E2023/132185 
- 6 Biodiversity Development Assessment Report (BDAR) - Appendices, E2023/132184 
- 15 7 Aboriginal Cultural Heritage Assessment, E2023/133750 
- 8 Historical Heritage Assessment, E2023/133751 
- 9 Construction Water Management Plan, E2023/132770 
- 10 Acid Sulfate Soils Management Plan, E2023/132771 
- 11 Construction Air Quality Impact Assessment, E2023/132179 
- 20 12 Sandhills Stormwater Management System - Coastal\_Hazard\_Impacts, E2023/132180 
- 13 Sandhills Stormwater Management System - Flood Impact Assessment, E2023/132171 
- 14 Detailed Site Investigation, E2023/132773 
- 15 Construction Noise and Vibration Management Plan, E2023/133765 
- 16 Construction Traffic Management Plan, E2023/132172 
- 25 17 Waste Management Plan, E2023/132774 
- 18 Sandhills Wetlands Submissions Report February 2024, E2024/20329 

## **Report**

The strategic basis Sandhills Wetlands project is in the following documents:

1. Byron Bay Town Centre Masterplan (Macgregor Coxall, 2015); and
2. Preferred Byron Bay Drainage Strategy;
- 5 3. Belongil Creek Floodplain Risk Management Plan (WBM BMT, 2015)
4. Byron Shire Council Memorandum of Understanding with Bundjalung of Byron Bay Aboriginal Corporation (Arakwal).

10 Specifically, the project will support delivery of key actions from the Byron Shire Council Memorandum of Understanding with Bundjalung of Byron Bay Aboriginal Corporation (Arakwal), Belongil Creek Floodplain Risk Management Plan (WBM BMT, 2015) and Byron Bay Town Centre Masterplan (Macgregor Coxall, 2015).

The project is a result of extensive consultation with NSW Crown Lands, Tweed Byron Local Aboriginal Land Council and the Bundjalung of Byron Bay Aboriginal Corporation (Arakwal).

- 15 The project is for the construction of a stormwater management system including:
- three connected artificial wetland cells, including permanent open water zones and macrophyte zones, for stormwater management and water quality improvement;
  - a network of paths, providing access through the site and circulation around the wetlands;
  - 20 • seating nodes along the paths, designed to promote social gathering and passive recreation; and
  - associated works.

A full set of the design plans is provided as attachment 1.

Attachments 2 and 3 are a detailed design report and the basis of design respectively.



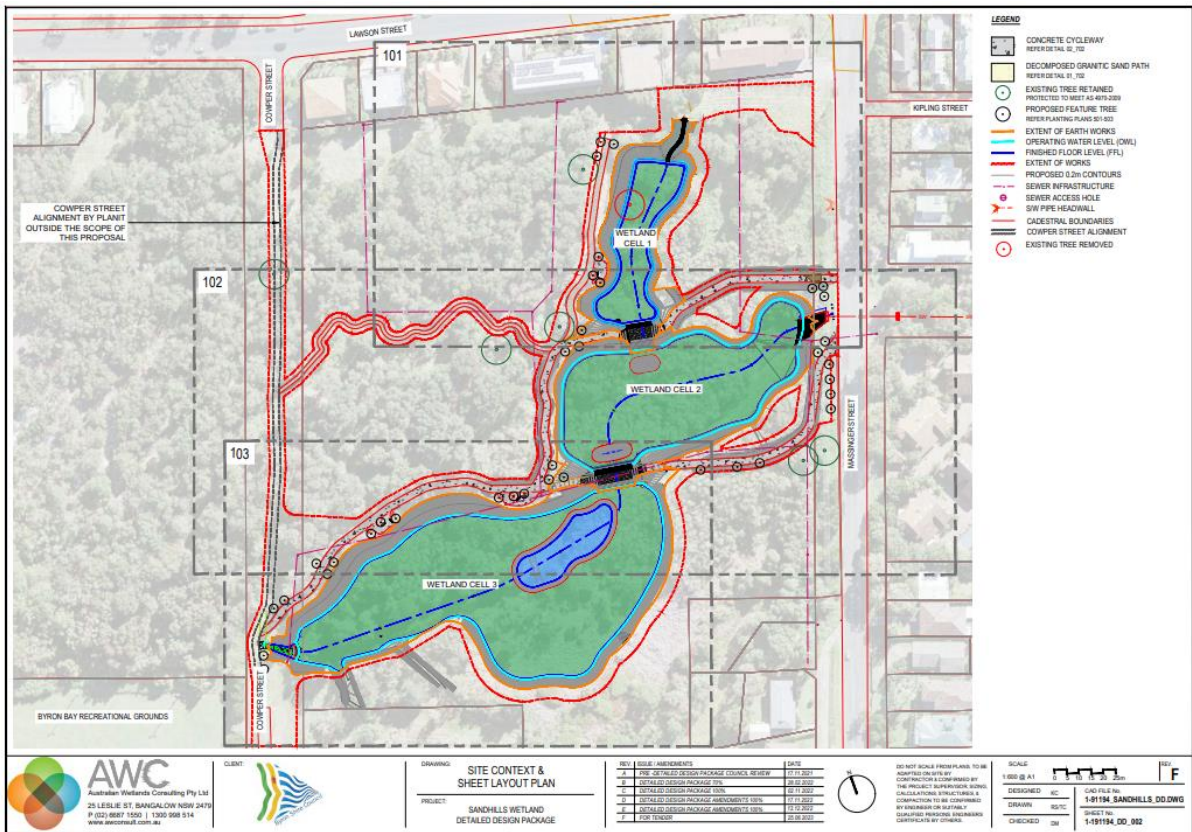


Figure 1 Site Layout Plan

In addition to the strategic basis of the project the other objectives are:

- 5
  - Improve local stormwater quality, including at the stormwater outlet to Clarkes Beach;
  - Improve flood storage to assist in mitigating flooding within the Byron Bay Town Centre;
  - Acknowledge and protect Aboriginal cultural values of this landscape and deliver a design that is based on connecting with Country principles;
- 10
  - Protect and enhance environmental and biodiversity values at the site;
  - Reflect best practice water sensitive urban design;
  - Improve visual and environmental amenity of the site;
  - Provide an accessible pedestrian link to the future Arakwal Cultural Heritage Centre site;
- 15
  - Provide an accessible open space recreational area that supports passive activation, social connection and community wellbeing.

# BYRON SHIRE COUNCIL

## STAFF REPORTS - INFRASTRUCTURE SERVICES

13.15

In 2021 Council requested the Planning Secretary's Environmental Assessment Requirements (SEARs) for the preparation of an Environmental Impact Statement (EIS) for the project. The SEARs are the foundation of the EIS.

The SEARs required Council to consult with the following parties:

- 5       • Department of Planning and Environment, specifically the: Environment, Energy and Science Group - Water Group
- Department of Primary Industries;
- Environment Protection Authority;
- National Parks and Wildlife Services;
- 10       • Crown Lands;
- Heritage NSW;
- Department of Regional NSW;
- Department of Primary Industries Agriculture;
- Regional NSW Group Regional Growth & Development Corporation;
- 15       • Local Land Services;
- NSW Health;
- NSW Rural Fire Service;
- SafeWork NSW;
- Department of Primary Industry – Fisheries;
- 20       • Tweed Byron Local Aboriginal Land Council;
- The surrounding landowners and occupiers that are likely to be impacted by the proposal.

The outcome of these consultations was then incorporated into the EIS.

25       Each of the components of the SEARs is addressed in the EIS and in more detail in the sub reports provided as attachments 4 to 17.

30       The EIS provides the information required to assist Council, as the proponent and determining authority, to fulfil its duty to consider the environmental impacts of the project, in accordance with Section 5.5 of the Act.

Section 5.5 is set out as follows:

### 35       **5.5 Duty to consider environmental impact** (cf previous s 111)

40       *(1) For the purpose of attaining the objects of this Act relating to the protection and enhancement of the environment, a determining authority in its consideration of an activity shall, notwithstanding any other provisions of this Act or the provisions of any other Act or of any instrument made under this or any other Act, examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of that activity.*

45       Clause 171 of the Regulation sets out the environmental factors that need to be considered when assessing environmental impact under Part 5 of the EP&A Act. The following is the commentary extracted from pages 24 to 26 of the EIS with respect to the

clause 171 factors. The clause 171 factors are analogous to the section 4.15 Evaluation (cf previous s 79C) when Council assesses a development application.

**Any environmental impact on a community?**

5 The proposal may have minor short term negative impacts associated with construction (noise, convenience of access). However, the activity will ultimately have a positive impact by improving stormwater quality at Clarkes Beach, mitigating local flooding, improving site amenity and access across the site and delivering positive cultural and social outcomes.

10 **Any transformation of a locality?**

Transformation of part of the subject site will occur as a result of the project, replacing the current degraded drains and terrestrial vegetation within the project footprint with a managed wetland system and ancillary recreation areas (pathways and seating). On completion of construction and planting, the area will retain a natural setting that is  
15 complementary to the locality.

**Any environmental impact on the ecosystems of the locality?**

The Biodiversity Development Assessment Report (BDAR) submitted in support of the proposal contains an assessment of ecosystem impacts, demonstrating actions  
20 undertaken to avoid and minimise ecological impacts. The project will restore degraded terrestrial vegetation and biodiversity offsets are required for the residual unmitigated impacts.

25 **Any impact on the aesthetic, recreational, scientific or other environmental quality or value of a locality?**

The activity will improve the site for recreation purposes, whilst no substantial change of note is anticipated regarding scientific or environmental values. The project will have a positive impact on the aesthetic values of the site, providing a natural setting of a wetland ecosystem.  
30

**Any effect on a locality, place or building having aesthetic, anthropological, archaeological, architectural, cultural, historical, scientific or social significance or other special value for present or future generations?**

The design of the project was undertaken in consultation with Bundjalung of Byron Bay  
35 Aboriginal Corporation (Arakwal) and Tweed Byron Local Aboriginal Land Council using Connecting with Country principles. In consultation with local Aboriginal representative, areas and vegetation of high cultural value were avoided by minimizing the disturbance footprint. The activity is not likely to have an adverse impact on the locality. The  
40 Aboriginal Cultural Heritage and Historical Heritage Assessment reports submitted in support of the EIS (Niche, 2023) provide an assessment of the potential effects on Aboriginal cultural and historical values of the locality.

**Any impact on the habitat of protected animals (within the meaning of the Biodiversity Conservation Act 2016)?**

45 The proposed activity will not have any adverse impacts on the habitat of protected animals. See BDAR report submitted in support of this EIS.

**Any endangering of any species of animal, plant or other form of life, whether living on land, in water or in the air?**

The proposed activity will not cause the endangering of any species of animal, plant or other form of life. See BDAR report submitted in support of this EIS.

5

**Any long-term effects on the environment?**

The proposal is not considered to have any long-term effects on the environment. A number of the supporting studies have addressed the potential long-term impacts, including:

10

- Construction Water Management Plan (ENV, 2023)
- Acid Sulfate Soils Management Plan (ENV, 2023)
- Coastal Impact Assessment (BMT, 2022)
- Flood Impact Assessment (BMT, 2023)

15

The assessments documented in these studies demonstrate that the construction and ongoing operation of the wetland system will not result in any detrimental long-term environmental impacts.

**Any degradation of the quality of the environment?**

20

The proposed activity will not cause any degradation of the environment as it is located on disturbed and modified land. As above, detailed environmental studies have been undertaken to confirm that the construction and ongoing operation of the wetland system will not result in any detrimental long-term environmental impacts.

25

**Any risk to the safety of the environment?**

Construction of the proposed activity will not result in a risk to the safety of the environment. All proposed works are temporary and contained on highly disturbed and modified land. The following studies confirm that construction activities can be managed in way that protects the environment:

30

- Construction Water Management Plan (ENV, 2023)
- Construction Air Quality Impact Assessment (EMM, 2023)
- Construction Noise and Vibration Management Plan (Acousticworks, 2023)
- Construction Traffic Management Plan (Planit, 2023)
- Waste Management Plan ENV, 2023)

35

Post construction, the works will reduce risk to the safety of the environment by improving the quality of stormwater being discharged into the marine environment.

**Any reduction in the range of beneficial uses of the environment?**

40

The proposed activity introduces a range of beneficial uses of the environment through improvements in stormwater quality and additional flood storage.

**Any pollution of the environment?**

45

Construction methods will ensure there is no pollution of the environment and all waste will be disposed of correctly. Post construction, the works will reduce pollution of the environment by improving the quality of stormwater being discharged into the marine environment.

**Any environmental problems associated with the disposal of waste?**

5 Waste from construction of the project will primarily consist of cleared vegetation, which, except for exotic weeds, will be mulched and reused on site, and excavated soil, which will be tested and treated in accordance with the Acid Sulfate Soils Management Plan (ENV, Oct, 2023). Disposal of any of this material will be undertaken in accordance with relevant standards and legislative requirements to ensure that no environmental impacts result.

**Any increased demands on resources (natural or otherwise) that are, or are likely to become, in short supply?**

10 The proposal will not increase demands on resources that are, or are likely to become, in short supply.

**Any cumulative environmental effect with other existing or likely future activities?**

15 The proposal is unlikely to cause any cumulative environmental impacts given the proposed works are on highly disturbed and modified land.

**Any impact on coastal processes and coastal hazards, including those under projected climate change conditions?**

20 The proposal will not impact on coastal processes or coastal hazards. See Coastal Impact Assessment submitted in support of this EIS (BMT, 2022).

**Conclusion of review of the environmental factors**

25 Having regard for the commentary on the clause 171 factors Council can be satisfied that with the ameliorative measures outlined in the sub reports there are no adverse environmental impacts that would warrant declining to approve the activity approval.

**Outstanding issues**

There are three outstanding matters on the critical path to commence construction on the project should Council approve the activity. These are:

- (1) Operational Aboriginal heritage impact permit (AHIP); and
- 30 (2) Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) referral; and
- (3) Licence to construct the project on Crown Lands under the Crown Land Management Act 2016.

**Operational Aboriginal heritage impact permit (AHIP)**

35 An Aboriginal Heritage Impact Permit (AHIP) is a legal document that gives permission to harm Aboriginal objects or places and sets out conditions to comply with.

40 Council had applied to Heritage NSW for an AHIP to test under s.90 of the NPW ACT 1974 to allow harm to Aboriginal objects by archaeological testing. The AHIP to test application included mitigation strategies, as well as a methodology for an archaeological testing program to further investigate the potential for intact Aboriginal objects and human remains in accordance with Requirement 14 of the DECCW (2010a) Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales. The test

# BYRON SHIRE COUNCIL

## STAFF REPORTS - INFRASTRUCTURE SERVICES

13.15

excavation methodology was developed in consultation with the Registered Aboriginal Parties (RAPs).

The outcomes of the test pit investigations from the first AHIP is covered in attachment 7 Aboriginal Cultural Heritage Assessment.

- 5 This report recommends that an operational AHIP is required for the construction phase of the project.

10 **Recommendation 4:** *Application for operational AHIP An application for an operational AHIP will be required for the Subject Area. Conditions of this AHIP should include monitoring of the works and community collection by representatives of the RAPs. A Care and Control Agreement undertaken in collaboration with the RAPs will be required to determine the keeping place of Aboriginal objects collected during the monitoring/cultural collections.*

Council had applied to Heritage NSW for Operational AHIP on 10 January 2024.

- 15 On 5 February 2024, Heritage NSW returned the application with the following commentary:

*“An initial completeness check of the application has identified that this application cannot be completed at this time as the Environmental Impact Statement (EIS) has not yet been approved.*

- 20 *As your application is for harm to certain Aboriginal objects through proposed works, an approval is required by way of an approved development consent or determined Review of Environmental Factors or in this case the EIS.”*

- 25 Based on this commentary Council cannot apply for the operational AHIP until the activity approval and EIS is approved. Subject to approval of the activity the operational AHIP will be resubmitted.

NSW Heritage have up to 60 days to process the operational AHIP. This may cause delays in delivery of the project.

### **Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)**

- 30 The EPBC is federal legislation. A person must not take an action that has, will have or is likely to have a significant impact on any of the matters of national environmental significance without approval from the Australian Government Minister for the Environment (the Minister).

An action is a project, a development, an undertaking, an activity or a series of activities, or an alteration of any of these things.

- 35 A person (Council) may self assess that there is not a significant impact or may refer the project to the Department of Climate Change, Energy, the Environment and Water. Council has opted to refer the project and is now awaiting a determination that the project

is not a controlled activity. Construction cannot commence until there is a determination of the EPBC referral.

5 The approval of the activity for the project and EIS is not dependant on the determination of the EPBC referral. Construction cannot commence until there is a determination of the EPBC referral.

**Licence to construct the project on Crown Lands under the Crown Land Management Act 2016**

10 Construction cannot commence until Council has received a licence from Crown Lands. The application for the licence has been submitted. As with the other two items above the EIS and activity may be approved without this licence in place.

**Options**

Council may approve the activity or refuse the activity.

15 It is to be noted that this is an activity under Part 5 of the Act and not development under the provisions of Part 4. The requirements for assessment of a development application do not apply to this activity.

The act defines a Part 5 activity approval as:

20 ***approval includes—***

(a) *a consent, licence or permission or any form of authorisation, and*

25 (b) *a provision of financial accommodation by a determining authority to another person, not being a provision of such financial accommodation, or financial accommodation of such class or description, as may be prescribed for the purposes of this definition by a determining authority so prescribed.*

The EP & A Act does not specifically make provision for the imposition of conditions on a Part 5 activity approval. There is no need for conditions as all the ameliorative measures are contained within the EIS and sub reports. This is an activity approval and not a development application so the requirements for extensive conditions do not apply.

30 Despite the environmental commitments and ameliorative measures being contained in the EIS and form part of the activity approval Council may impose conditions or require the EIS or project to be amended. If it forms the view that the ameliorative measure are not satisfactory then this would be a trigger to impose a condition to undertake further ameliorative measures to protect the environment.

35 **Next steps**

After the approval of the activity and EIS Council may consider the tender report for the construction of the project. Should Council not approve the EIS then the Council should reject all tenders.

## Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
5: Connected Infrastructure	5.4: Provide accessible community facilities and open spaces	5.4.2: Parks and open spaces - Provide and maintain active and passive recreational community space that is accessible and inclusive for all	5.4.2.12	Complete environmental assessment and achieve project approval for the Sandhills Wetland Project

### Legal/Statutory/Policy Considerations

5 The statutory requirements for the determination of the activity approval have been addressed above.

### Financial Considerations

The budget for the project is addressed in the tender report.

### Consultation and Engagement

#### Public Exhibition

10 The minimum public exhibition period for an EIS under Division 5.1 is 28 days. The Sandhills Wetlands EIS was placed on public exhibition from 18 December 2023 to 19 February 2024, a period of 43 days (not including the Christmas/New Year exclusion period) exceeding the minimum requirements.

15 Also promoting the public exhibition and opportunity to make submissions, the following newspapers published online and/or print articles about it:

- the Northern Rivers Times:
  - o 9 January 2024, *“EIS for major Byron Bay wetland project now on exhibition”*
- the Echo Newspaper:
  - o 17 January 2024, *“Byron Bay wetland EIS now on exhibition”*,
  - o 23 January 2024 *“Byron Bay wetland EIS now on exhibition”*, and

20



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13.15

- 8 February 2024 “A peek inside what is planned for Sandhills wetland”.

During the exhibition period, the EIS and all supporting documents were available for inspection online, as well as in person at Council and at the community information session.

- 5 Attachment 17 Sandhills Wetlands Submissions Report is a comprehensive assessment of the written submissions made during the exhibition. This report also addresses the verbal submissions made during the community information session was held at Marvel Hall Byron Bay, adjacent to the Wetlands Project site, on 31 January 2024.
- 10 There are no matters raised in the submissions that are of such significance that warrant amendment of the EIS or a refusal to approve the activity.

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

**Report No. 14.1 Report of the Arts and Creative Industries  
Advisory Committee Meeting held on 29  
February 2024**

5

**Directorate:** Corporate and Community Services

**File No:** I2024/336

**Summary:**

10 The Arts and Creative Industries Advisory Committee met on 29 February 2024. The Minutes of this meeting are attached for noting by Council.

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**RECOMMENDATION:**

15 1. That Council notes the minutes of the Arts and Creative Industries Advisory Committee Meeting held on 29 February 2024.

2. That Council adopts the following Committee Recommendation:

**Report No. 3.1 Adoption of Minutes of the Arts and Creative Industries  
Advisory Committee Meeting held 19 October 2024**

File No: I2024/68

**Committee Recommendation 3.1.1**

**That the minutes of the Arts and Creative Industries Advisory Committee Meeting held on 19 October 2023 be confirmed.**

3. That Council adopts the following Committee Recommendations:

**Report No. 4.1 DCP Public Art Plan Referral, 119 - 123 Jonson Street DA  
2023.235.1**

File No: I2024/58

**Committee Recommendation 4.1.1**

**That the Arts and Creative Industries Advisory Committee:**

1. **Supports the proposed public art proposal for the development at 119-123 Jonson Street, Byron Bay DA 2023.235.1; and**
2. **Provides feedback to Council's Assessment Officer that:**
  - a. **There were a variety of opinions expressed by the Committee.**
  - b. **There was a high level of support for the materials, location and scale.**
  - c. **There was an appreciation for the landscaping and seating.**
  - d. **There was a general desire for a more contemporary or courageous piece.**
  - e. **There was some feedback around the potential objectification and controversy around the subject.**
  - f. **Recommend they explore the potential for increased curtilage.**

4. That Council adopts the following Committee and Management Recommendation as follows:

**Report No. 4.2 Updated Proposal: Brunswick Nature Sculpture Walk Triennial  
Event and Award 2024**

File No: I2024/204

**Management Recommendation**

**That Council supports a financial contribution for the Brunswick Nature Sculpture Walk Triennial Event and Award 2024, funded from the existing Public Art Budget, for:**

1. **\$10,000: Council-sponsored Award;**
2. **\$5,000: contribution to rental fees for 10-day installation of Hiromi Tango's artwork; and**
3. **\$5,000: for community workshops.**

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

**Report No. 4.3 Byron Clock Tower - Public Art Proposal**

File No: I2024/132

**Committee Recommendation 4.3.1**

**That the Committee does not support the proposal for public art on the Byron Bay clock tower and makes a recommendation to staff to review its maintenance plan.**

**Attachments:**

- 5 1 Minutes 29/02/2024 Arts and Creative Industries Advisory Committee, I2024/274 

## Report

The attachment to this report provides the minutes of the Arts and Creative Industries Advisory Committee Meeting of 29 February 2024 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 [Agenda of Arts and Creative Industries Advisory Committee Meeting - Thursday, 29 February 2024](#)

The following items were considered by the Committee:

**Report No. 3.1 Adoption of Minutes of the Arts and Creative Industries Advisory Committee Meetings held 19 October 2023**

- 10 This Report was noted by the Committee with no recommendations made to Council. The previous meetings minutes were confirmed.

**Report No. 4.1 DCP Public Art Plan Referral, 119 - 123 Jonson Street DA 2023.235.1**

- 15 A Development Application (DA) has been submitted for 119-123 Jonson Street, Byron Bay. The applicant prepared a Public Art Plan integrating public art into the development for DA 2023.235.1. The Committee:

- “1. Supports the proposed public art proposal for the development at 119-123 Jonson Street, Byron Bay DA 2023.235.1; and
2. Provides feedback to Council's Assessment Officer that:
- 20 a. There were a variety of opinions expressed by the Committee.
- b. There was a high level of support for the materials, location and scale.
- c. There was an appreciation for the landscaping and seating.
- d. There was a general desire for a more contemporary or courageous piece.
- 25 e. There was some feedback around the potential objectification and controversy around the subject.
- f. Recommend they explore the potential for increased curtilage.”

**Report No. 4.2 Updated Proposal: Brunswick Nature Sculpture Walk Triennial Event and Award 2024**

- 30 Following feedback from the Arts and Creative Industries Advisory Committee and Council staff, Brunswick Nature Sculpture Walk submitted a second proposal for financial support for the fourth triennial Brunswick Nature Sculpture Walk Festival and Award 2024. The Committee recommended:

- “That Council supports a financial contribution for the Brunswick Nature Sculpture Walk Triennial Event and Award 2024 for:
- 35 1. \$10,000: Council-sponsored Award;

# BYRON SHIRE COUNCIL

## REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

14.1

2. \$5,000: contribution to rental fees for 10-day installation of Hiromi Tango's artwork; and
3. \$5,000: for community workshops."

### **Management Comments – Report 4.2**

5 Management agrees with the Committee recommendation, however, included the words "*funded from the existing Public Art Budget*" to identify the budget line for the disbursement of funds. The first sentence is therefore updated to (with the balance of the recommendation to remain as recommended by the Committee):

10 *"That Council supports a financial contribution for the Brunswick Nature Sculpture Walk Triennial Event and Award 2024, funded from the existing Public Art Budget, for ..."*

### **Report No. 4.3 Byron Clock Tower - Public Art Proposal**

15 Council has received a proposal for artwork to be added to the Byron Bay town clock from Rotary Club of Byron Bay. The clock tower is a Council owned and managed asset. The Committee determined:

*"That the Committee does not support the proposal for public art on the Byron Bay clock tower and makes a recommendation to staff to review its maintenance plan."*

### **Report No. 6.1 Climate conversations Outcomes Summary**

20 This Report was for information only and provided the Committee with a summary of feedback and outcomes from the inaugural Climate Conversations project held in collaboration with Lone Goat Gallery in August 2023 and notes its recommendation as a permanent biennial event. No recommendation was required.

### **Financial Implications**

25 As per the Reports listed within the Arts and Creative Industries Advisory Committee Meeting of 29 February 2024.

### **Statutory and Policy Compliance Implications**

As per the Reports listed within the Arts and Creative Industries Advisory Committee Meeting of 29 February 2024.

**Report No. 14.2 Report of the Finance Advisory Committee Meeting held on 15 February 2024**

**Directorate:** Corporate and Community Services

**File No:** I2024/252

5

**Summary:**

The Finance Advisory Committee met on 15 February 2024. The Minutes are attached for noting by Council.

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**RECOMMENDATION:**

1. That Council notes the minutes of the Finance Advisory Committee Meeting held on 15 February 2024.

2. That Council adopts the following Committee Recommendations:

**Report No. 3.1 Budget Review - 1 October 2023 to 31 December 2023**

File No: I2024/60

**Committee Recommendation 3.1.1**

**That Council:**

1. Authorises the itemised budget variations as shown in Attachment 2 (#E2024/4306) which include the following results in the 31 December 2023 Quarterly Review of the 2023/2024 Budget:
  - a) General Fund – \$1,200 increase to the Estimated Unrestricted Cash Result
  - b) General Fund - \$2,772,500 increase in reserves
  - c) Water Fund - \$282,400 increase in reserves
  - d) Sewerage Fund - \$3,614,200 increase in reserves
2. Adopts the revised General Fund Estimated Unrestricted Cash Deficit of \$250,000 for the 2023/2024 financial year as at 31 December 2023.

15

# BYRON SHIRE COUNCIL

## REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

14.2

### **Attachments:**

- 1 Minutes 15/02/2024 Finance Advisory Committee, I2024/198 

5



## **Report**

The attachment to this report provides the minutes of the Finance Advisory Committee Meeting of 15 February 2024 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 [Minutes of Finance Advisory Committee Meeting - Thursday, 15 February 2024](#)

The following items were considered by the Committee:

### **Report No. 3.1      Budget Review - 1 October 2023 to 31 December 2023**

- 10 This Report was prepared to comply with Section 203 of the Local Government (General) Regulation 2021 and to inform Council and the community of Council's estimated financial position for the 2023/2024 financial year, reviewed as at 31 December 2023.

### **Report No. 3.2      2024/25 Budget Parameters**

This report was noted by the Committee with no recommendation made to Council. The report was provided to the Finance Advisory Committee to consider the proposed parameters and structural issues impacting the preparation of the 2024/2025 budget.

## **15 Financial Implications**

As per the Reports listed within the Finance Advisory Committee Meeting of 15 February 2024.

### **Statutory and Policy Compliance Implications**

- 20 As per the Reports listed within the Finance Advisory Committee Meeting of 15 February 2024.

**Report No. 14.3 Report of the Audit, Risk and Improvement Committee Meeting held on 15 February 2024**

**Directorate:** Corporate and Community Services

5 **File No:** I2024/345

**Summary:**

This report provides the minutes of the Audit, Risk and Improvement Committee Meeting of 15 February 2024 for determination by Council.

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**RECOMMENDATION:**

1. **That Council notes the minutes of the Audit, Risk and Improvement Committee Meeting held on 15 February 2024.**

15

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

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

File No: I2024/50

**Committee Recommendation 5.1.1**

**That Council:**

1. **Notes the Internal Audit Recommendations Status Report for Quarter 2 2023-2024 and the Internal Auditors Summary (Attachment 1 E2024/6429)**
2. **Notes the Internal Audit Status Update from the internal auditors (Attachment 2 E2024/7397).**
3. **Endorses the closure of five internal audit recommendations from Quarter 2 2023-2024 as listed in Table 1 of this report (a summary from Attachment 1).**

3. That Council adopts the following Committee Recommendation:

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

File No: I2024/40

**Committee Recommendation 5.2.1**

That, based on the risks and benefits outlined in this report, the Audit Risk and Improvement Committee recommends to Council that it:

- a) notifies the NSW Department of Education that it wishes to relinquish the current licences for Byron Bay and Brunswick Heads Outside School Hours Care and support a tender for a new provider to commence as soon as possible, aiming for no later than 1 July 2024.
- b) continues to deliver services until a new provider is selected and operational, and work with them to support an effective transition.
- c) requests staff to develop and implement a transition plan which includes communication of Council's decision to relevant stakeholders, including staff, families and the schools.

4. That Council adopts the following Committee Recommendation:

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

File No: I2024/77

**Committee Recommendation 5.3.1**

That the comments provided by Management in response to issues raised in the 2023 Year End Audit Management Letter (#E2024/6693) be noted by Council and the Audit, Risk and Improvement Committee.

5. That Council adopts the following Committee Recommendation:

**Business Arising 8.1 Water and Sewerage Mains in the Mullumbimby CBD**

**Committee Recommendation 8.1:**

The Committee requests:

- 5 1. A report be returned to the Audit Risk and Improvement Committee on investigations into the inflow and outflow meter at the Brunswick Valley STP; and
- 10 2. An independent peer review report at the completion of the Inflow and Infiltration Program be provided to the Audit Risk and Improvement Committee.

## **Report**

This report provides the minutes of the Audit, Risk and Improvement Committee Meeting of 15 February 2024 for determination by Council.

The minutes for this meeting can be located on Council's website at:

- 5 [ARIC Meeting Minutes 15/02/2024](#)

The agenda for this meeting can be located on Council's website at:

[ARIC Meeting Agenda 15/02/2024](#)

- 10 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 are available to Councillors by viewing the agenda on the Hub.

## **Committee Recommendations**

- 15 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 (ie Report 5.4). The remainder of the Committee Recommendations are included in the attached minutes.

Further, three reports were provided to the Committee for information only, all of which required no recommendations to Council. These are listed in the Agenda and in the Minutes at Reports 7.1 to 7.3.

- 20 A recommendation has resulted from business arising at item 8.1 relating to Water and Sewerage Mains in Mullumbimby CBD which was raised by Cr Hunter.

## **Financial Implications**

As per the Reports listed within the Audit, Risk and Improvement Committee Meeting of 15 February 2024.

- 25 **Statutory and Policy Compliance Implications**

As per the Reports listed within the Audit, Risk and Improvement Committee Meeting of 15 February 2024.

# BYRON SHIRE COUNCIL

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY 14.4

## REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY

### Report No. 14.4 Report of the Climate Change and Resource Recovery Advisory Committee Meeting held on 15 February 2024

5

**Directorate:** Sustainable Environment and Economy

**File No:** I2024/281

#### Summary:


10 This report provides the minutes of the Climate Change and Resource Recovery Advisory Committee meeting held on 15 February 2024.

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#### RECOMMENDATION:

15 **That Council notes the minutes of the Climate Change and Resource Recovery Advisory Committee Meeting held on 15 February 2024.**

#### Attachments:

20 1 Minutes 15/02/2024 Climate Change and Resource Recovery Advisory Committee, I2024/199 

# BYRON SHIRE COUNCIL

## REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY 14.4

### Report

The attachment to this report provides the minutes of the Climate Change and Resource Recovery Advisory Committee Meeting of 15 February 2024 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/2024/02/ARIC\\_15022024\\_A\\_GN\\_1841.PDF](https://byron.infocouncil.biz/RedirectToDoc.aspx?URL=Open/2024/02/ARIC_15022024_A_GN_1841.PDF)

The following items were considered by the Committee:

#### **Report No. 3.1 - Confirmation of Minutes of 21 September 2023 meeting**

The Committee confirmed the minutes.

#### 10 **Report No. 4.1 - Resource Recovery Update**

- The report provided an update on projects, programs and operational activities being undertaken within the Resource Recovery Department in accordance with the Towards Zero Integrated Waste Strategy 2019 to 2029. The report included updates on the Single-Use Packaging and Materials Policy, Litter and Illegal Dumping Prevention Strategy, Education and engagement activities, capital projects, new recycling programs introduced at the Resource Recovery Centre and regional projects.

The Committee noted the report.

#### **Report No. 4.2 - Sustainability Team Project Updates**

- 20 This report provided updates on Sustainability Team Projects - Climate Change Adaptation Plan, Planning Provisions and Biodiversity Protection; FY23 Greenhouse Gas Emissions Inventory; outcomes of the Climate Conversations Exhibitions held at Lone Goat Gallery July/August 2023; Urban Cooling/Heat Resilience Plan Scoping and two Grant applications currently under development.

The Committee noted the report.

#### 25 **Report 4.3 - Future Discussion Items for Climate Change and Resource Recovery Advisory Committee**

The Committee noted the report and recommended to:

- receive further information on disaster related waste and emergency recovery from Sasha Mainsbridge and Bronwyn Elliot.
- receive an update on the future of the Library of Stuff from Sasha Mainsbridge.
- receive an update from staff on the electrification of homes.

## BYRON SHIRE COUNCIL

### REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY 14.4

#### **Financial Implications**

As per the Reports listed within the Climate Change and Resource Recovery Advisory Committee Meeting of 15 February 2024.

#### **Statutory and Policy Compliance Implications**

- 5 As per the Reports listed within the Climate Change and Resource Recovery Advisory Committee Meeting of 15 February 2024.

**Report No. 14.5 Report of the Biodiversity Advisory Committee Meeting held on 29 February 2024**

**Directorate:** Sustainable Environment and Economy

5 **File No:** I2024/330

**Summary:**

This report provides the minutes of the Biodiversity Advisory Committee meeting held on 29 February 2024.

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**RECOMMENDATION:**

**That Council notes the minutes of the Biodiversity Advisory Committee Meeting held on 29 February 2024.**

15

**Attachments:**

1 Minutes 29/02/2024 Biodiversity Advisory Committee, I2024/269 

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## Report

The attachment to this report provides the minutes of the Biodiversity Advisory Committee Meeting of 29 February 2024 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/2024/02/BAC\\_29022024\\_AGN\\_1844\\_AT.PDF](https://byron.infocouncil.biz/RedirectToDoc.aspx?URL=Open/2024/02/BAC_29022024_AGN_1844_AT.PDF)

The following items were considered by the Committee:

### **Report No. 3.1 - Confirmation of minutes from the meeting held on 16 November 2023**

- 10 The Committee confirmed the minutes.

### **Report No. 4.1 - Biodiversity and Agriculture Projects and Operations Update**

- 15 This report provides the Biodiversity Advisory Committee with an update on current key projects and programs being undertaken by the Biodiversity and Agriculture team, in accordance with Council's Operational Plan, Biodiversity Conservation Strategy, Agriculture Action Plan, Koala Plan of Management, Pest Animal Management Plan and Flying Fox Camp Management Plan.

The committee noted the update on current projects and programmes being undertaken by Council staff.

- 20 **Report No. 4.2 - Brunswick Valley Landcare Support Officer quarterly report, October to December 2023**

This report tables the activities of the Landcare Support Officer quarterly report, from October to December 2023.

- 25 The committee noted the report and requested an update on the Tallowood Development on options for protection and management of the Tallowood Ridge Track and associated areas.

### **Report No. 4.3 - Future Discussion Items for Biodiversity Advisory Committee**

- 30 This report summarises reports and information requested by the Biodiversity Advisory Committee. These requests, resourcing and alignment with Council's Operational Plan are tabled for discussion by the committee, to resolve whether these requests are taken to Council for consideration for inclusion in a future Council OP and budget.

That the Biodiversity Advisory Committee notes the report and the report from David Milledge will be carried over to the next meeting.

# BYRON SHIRE COUNCIL

## REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY 14.5

### **Report No. 6.1 - 2024 Meeting dates for Biodiversity Advisory Committee meetings**

This report provides the dates for the Committee's meetings for 2024, noting no meetings have been scheduled for the last quarter of the year, following the September 2024 Council election.

- 5 The committee requested an update from staff following exploration of the potential for an additional meeting at the beginning of June.

### **Financial Implications**

As per the Reports listed within the Biodiversity Advisory Committee Meeting of 29 February 2024.

### **10 Statutory and Policy Compliance Implications**

As per the Reports listed within the Biodiversity Advisory Committee Meeting of 29 February 2024.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

**Report No. 14.6 Report of the Infrastructure Advisory Committee Meeting held on 29 February 2024**

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**Directorate:** Infrastructure Services

**File No:** I2024/337

**Summary:**

10 The attachment to this report provides the minutes of the Infrastructure Advisory Committee Meeting of 29 February 2024 for determination by Council.

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**RECOMMENDATION:**

15 1. That Council notes the minutes of the Infrastructure Advisory Committee Meeting held on 29 February 2024.

2. That Council adopts the following Committee Recommendations:

**Report No. 4.3 Deficient Inspection Budget- Australian Defence Force Modular Steel Bridge**

File No: I2024/200

**Committee Recommendation 4.3.1**

That Council notes and takes into consideration funding considerations for the 2024/25 Budget for Australian Defence Force bridge inspections to ensure the safety of road users and the longevity of the structures:

- a) scheduled monthly, six-monthly, yearly and five yearly inspections
- b) live structural health monitoring investigation
- c) allowable cycle loading to determine expected design life.

**Attachments:**

- 1 Minutes 29/02/2024 Infrastructure Advisory Committee, I2024/267 

5

## Report

The attachment to this report provides the minutes of the Infrastructure Advisory Committee Meeting of 29 February 2024 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 [byron.infocouncil.biz/Open/2024/02/IAC\\_29022024\\_AGN\\_1753\\_AT.PDF](https://byron.infocouncil.biz/Open/2024/02/IAC_29022024_AGN_1753_AT.PDF)

The following items were considered by the Committee:

### Report No. 4.1 Myocum Quarry Precinct Update

This report provide update addresses status of projects and the allocation of resources relating to the Myocum Quarry Precinct.

- 10 Committee notes the report.

### Report No. 4.2 Capital Works Program 2023/24

Report provides the Committee a status report on the progress of the 2023/24 Capital Works Program in conjunction with the (10) year Capital Works Program.

Committee notes the report.

- 15 **4.3 Deficient Inspection Budget- Australian Defence Force Modular Steel Bridge**

The report informs about the state of five modular steel bridges: Booyong Bridge, Parker Bridge, O'Mearas Bridge, James Bridge and Scarrabelottis Bridge.

### Report No. 4.4 Operations and Maintenance Works Update

- 20 The report provides the Committee a status report on the works being carried by Council Operations and Maintenance Teams.

Committee notes the report.

## Management Comments

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

- 25 **Financial Implications**

As per the Reports listed within the Infrastructure Advisory Committee Meeting of 29 February 2024.

## Statutory and Policy Compliance Implications

- 30 As per the Reports listed within the Infrastructure Advisory Committee Meeting of 29 February 2024.

**Report No. 14.7      Report of the Local Traffic Committee Meeting held on 12 December 2023**

**Directorate:**                      Infrastructure Services

**File No:**                              I2024/359

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**Summary:**

The attachment to this report provides the minutes of the Local Traffic Committee (LTC) Meeting held on 12 December 2023 for determination by Council.

- 10 Council's action on the LTC advice will be:
- 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.
  - 15 b) If Council is in agreement with the LTC unanimous support, but no longer wants to proceed, the proposal may still be rejected.
  - 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  
20 representatives of the decision.
  - 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).
  - 25 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:**

1. That Council notes the minutes of the Local Traffic Committee Meeting held on 12 December 2023.

2. That Council adopts the following Committee Recommendation:

**Report No. 6.1 McGettigans Ln/Ewingsdale Dr - Intersection Safety Improvements**

File No: I2023/1542

**Committee Recommendation 6.1.1**

That the Local Traffic Committee support the interim safety improvement treatments proposed at the intersection of Ewingsdale Road / McGettigans Lane.

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3. That Council adopts the following Committee Recommendation(s):

**Report No. 6.2 Potential Pay Parking Scheme - Brunswick Heads**

File No: I2023/1947

**Committee Recommendation 6.2.1**

That the Local Traffic Committee: -

1. Endorses the proposed of Brunswick Heads pay parking regime in principle (only) as scenario 4 (extended boundary) contained within this report.
2. Notes that the implementation of this regime is still subject to Council approval.

4. That Council adopts the following Committee Recommendation:

**Report No. 6.3 Somerset Street, Byron Bay - Permit Holder Exception**

File No: I2023/1948

**Committee Recommendation 6.3.1**

That the Local Traffic Committee endorses the permit holder exception for the current "No Parking" area on the northern side of Somerset Street, Byron Bay (between Butler Street and Wordsworth Street).

**5. That Council adopts the following Committee Recommendation(s):**

**Report No. 7.1 Jubilee Avenue, School Traffic Operations - Potential Improvements**

File No: I2023/1867

**Committee Recommendation 7.1.1**

**That the Local Traffic Committee endorses the safety upgrade treatments for the School Bus Turnaround and the Pedestrian Crossing adjacent to the Mullumbimby High School (figures 6 and 7) in principle for further discussions with the Department of Education.**

**Attachments:**

- 5 1 Minutes 12/12/2023 Local Traffic Committee, I2023/1964 



## Report

The attachment to this report provides the minutes of the Local Traffic Committee Meeting of 12 December 2023 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 [Agenda of Local Traffic Committee Meeting - Tuesday, 12 December 2023 \(infocouncil.biz\)](#) This report contains the recommendations of the Local Traffic Committee (LTC) meeting held on 12 December 2023.

## Financial Implications

- 10 As per the Reports listed within the Local Traffic Committee Meeting of 12 December 2023.

## Statutory and Policy Compliance Implications

As per the Reports listed within the Local Traffic Committee Meeting of 12 December 2023.

**Report No. 14.8 Report of the Local Traffic Committee Meeting held on 12 March 2024**

**Directorate:** Infrastructure Services

**File No:** I2024/381

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**Summary:**

The attachment to this report provides the minutes of the Local Traffic Committee Meeting held on 12 March 2024 for determination by Council.

- 10 Council's action on the LTC advice will be:
- 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.
  - 15 b) If Council is in agreement with the LTC unanimous support, but no longer wants to proceed, the proposal may still be rejected.
  - 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  
20 representatives of the decision.
  - 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).
  - 25 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:**

1. That Council notes the minutes of the Local Traffic Committee Meeting held on 12 March 2024.

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2. That Council adopt the following Committee Recommendation:

**Report No. 6.1 375 Coorabell Road Intersection Upgrade**  
File No: I2024/261

**Committee Recommendation 6.1.1**

That the Local Traffic Committee supports the signage and line markings associated with the Coorabell Road intersection works, as shown in Attachment 1 (E2024/18185), with the duplication of a Give Way sign on the right and a Give Way Ahead added on the approach to the intersection.

3. That Council adopt the following Committee Recommendation:

**Report No. 6.2 Bayshore Drive Upgrade**  
File No: I2024/262

**Committee Recommendation 6.2.1**

That the Local Traffic Committee supports the signage, line markings, bus stops and traffic control devices associated with the Bayshore Drive works as shown in Attachment 1 (E2023/127977), with the addition of 2P parking signs on the eastern/depot side of Bayshore Drive and all signs on the western side indicating "Front to Kerb" parking.

4. That Council adopt the following Committee Recommendation:

**Report No. 6.3 Council Depot Bayshore Drive - Permit Holders Only Parking  
Signage For Staff Parking**  
File No: I2024/351

**Committee Recommendation 6.3.1**

That the Local Traffic Committee endorse the permit holder only exception for Depot Staff and Visitors at Council Depot on Bayshore Drive, noting that these signs are at the entry of the carpark, R5-81, in the carpark, R5-82, at the exit of the carpark, R5-83.

5. That Council adopt the following Committee Recommendation:

**Report No. 7.1 Belongil - Kendall Street to Childe Street Local Traffic Management**

File No: I2024/226

**Committee Recommendation 7.1.1**

That the Local Traffic Committee endorse the line-marking traffic management treatments proposed in attachment three (E2024/20677) of this report for installation.

6. That Council adopt the following Committee Recommendation:

**Report No. 7.2 Police Station Street Parking- Bangalow**

File No: I2024/276

**Committee Recommendation 7.2.1**

That the Local Traffic Committee support the installation of signage and line marking required to provide two on streetcar parking spaces allowing police to have parking available on Byron Street.

7. That Council adopt the following Committee Recommendation:

**Report No. 7.3 Bangalow Weir Parklands - Illegal Camping**

File No: I2024/279

**Committee Recommendation 7.3.1**

That the Local Traffic Committee support the installation of no camping and no parking signs (between 1am-6am) within the Bangalow Weir Parklands Carpark to allow enforcement officers to fine/move on illegal camping.

**8. That Council adopt the following Committee Recommendation:**

**Report No. 7.4 Burringbar Street Draft Concept Design**

File No: I2024/323

**Committee Recommendation 7.4.1**

**That the Local Traffic Committee note the Draft Concept Design (E2024/16870) and Street Sections for Burringbar Street and provide advice.**

**9. That Council adopt the following Committee Recommendation:**

**Report No. 8.1 Mullum Laneways 2024 - Kaleido Mullumbimby**

File No: I2024/135

**Committee Recommendation 8.1.1**

- 1. That the Local Traffic Committee recommends that Council support Mullum Lane Ways Festival to be held 5 May 2024 10am to 10.00pm.**
- 2. That Council support in Part 1 is subject to:**
  - 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 event;**
  - 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 appropriate variable message signage 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 with the event organiser supplying Council with the relevant information.**
- 3. The event organiser to:**

# BYRON SHIRE COUNCIL

## REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

14.8

- 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) **paying Council's Road Event Application Fee prior to the event;**
  - g) **not place any signage on the road related area of the Pacific Highway.**
  - h) **road blockades are to use Anti-Terrorism Level devices.**
4. **That provisions are made for safe access for heavy vehicles at the intersections of Stuart Street/Burringbar Street, and Stuart Street/Tincogan Street.**

### **Attachments:**

- 5 1 Minutes 12/03/2024 Local Traffic Committee, I2024/360 

## Report

The attachment to this report provides the minutes of the Local Traffic Committee Meeting of 12 March 2024 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 [Agenda of Local Traffic Committee Meeting - Tuesday, 12 March 2024 \(infocouncil.biz\)](https://infocouncil.biz)

This report contains the recommendations of the Local Traffic Committee (LTC) meeting held on 12 March 2024.

## Financial Implications

As per the Reports listed within the Local Traffic Committee Meeting of 12 March 2024.

## 10 Statutory and Policy Compliance Implications

As per the Reports listed within the Local Traffic Committee Meeting of 12 March 2024.