

Agenda Ordinary Meeting

Thursday, 23 May 2024



BYRON
SHIRE
COUNCIL

Agenda Ordinary Meeting

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

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

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

Mark Arnold
General Manager

CONFLICT OF INTERESTS

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

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

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

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

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

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

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

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

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

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

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

Disclosure and participation in meetings

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

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

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

Non-pecuniary Interests - Must be disclosed in meetings.

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

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

RECORDING OF VOTING ON PLANNING MATTERS

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

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

OATH AND AFFIRMATION FOR COUNCILLORS

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

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

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

NOTICES OF MOTION

Notice of Motion No. 9.1 Mayor's Discretionary Allowance

File No: I2024/690

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I move that Council:

- 10
1. **Confirms the following donations from the Mayor's Discretionary Allowance 2023/2024:**
 - a) **\$500 – Brunswick Valley Landcare's Mother's Day Tree Planting Event**
 - b) **\$500 – Environmental prize for C.A.S.E's Postcard Event**
 - c) **\$500 – Sponsorship of Kaleido's Mullumbimby Laneways Event**
 - 15 2. **Advertises the donations in accordance with Section 356 of the Local Government Act 1993.**

Signed: Cr Michael Lyon

Councillor's supporting information:

20 Sponsorship of \$500 towards the environmental prize for C.A.S.E (contemporary art space and education)'s annual 'Post Card' art exhibition event in Mullumbimby.

A \$500 contribution towards Brunswick Valley Land Care's annual Mother's Day Tree Planting Event will support the planting of 1500 trees to contribute to regenerating the local environment and habitat for wildlife.

25 Kaleido Mullumbimby approached the Mayor for funding towards their free Mullumbimby Laneways Festival in May 2024. The funds would cover various costs such as entertainment, equipment and promotion.

Staff comments

by Esmeralda Davis, Director Corporate and Community Services:

30 Council's adopted 2023/24 budget includes two allocations under the Mayor's Discretionary Allowance:

- \$3500 Mayoral Fund program: allocated through an annual Expression of Interest (EOI) process post July each financial year.

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NOTICES OF MOTION

9.1

- \$1500 Unallocated: to be applied at the Mayor's discretion.

Sufficient funds are available in the 'unallocated' pool for making the nominated donations of \$1,500. If the motion is adopted staff will process accordingly.

- 5 It is recommended that the identified groups be informed of the Mayoral Fund program and other Council grant opportunities which are available through EOI processes to promote improved equity and transparency, and access to available funding.

Financial/Resource/Legal Implications:

In relating to the making of Section 356 Donations from Mayor – Discretionary Allowance, Council at its Ordinary meeting held on 14 May 2009 resolved as follows: -

- 10 "09-349 Resolved that Council confirm that all s356 donations, to be made from the budget allocation "Mayor – Discretionary Allowance", must be the subject of a resolution of the Council at Ordinary or Extraordinary meeting."

This Notice of Motion is to confirm the making of the listed Section 356 Donations.

- 15 The Section 356 Donations will be advertised and public notice of financial assistance provided in accordance with Section 356 of the Local Government Act 1993.

Is the proposal consistent with any Delivery Program tasks?

Yes

CSP Objective	CSP Strategy	DP Action
1: Effective Leadership	1.5: Empower community leadership through collaboration, capacity building, and cultivating community driven initiatives	1.5.1: Community grant programs - Provide financial assistance and grants to empower community groups and organisations to deliver priority projects

Notice of Motion No. 9.2 Byron LGA Conservation Trust

File No: I2024/691

5

I move that Byron Shire Council:

1. **Takes steps to establish a Conservation Trust whose task it is to identify and manage land with high ecological value within the LGA for the purpose of long-term habitat conservation, regeneration and rewilding.**
- 10 2. **Engages with local First Nations stakeholders including the Tweed Byron Local Land Council and Arakwal Corporation to inform the establishment of a Conservation Trust.**
3. **Engages with other key stakeholders including local members of state and federal parliaments to inform the establishment of a Conservation Trust.**
- 15 4. **Commits to facilitating the creation of a Conservation Trust to Council within 6 months of this Resolution, using a similar model to the Byron Shire Council-Led Land Trust including a company limited by guarantee structure.**

20 **Signed: Cr Mark Swivel**

Councillor's supporting information:

1. The recent experience regarding the Wallum Estate DA demonstrates the need for a proactive approach to the strategic management of the land within the Byron LGA.
- 5 2. International experience shows both the potential and the challenges of establishing models for the conservation of land with high ecological value.
3. The LGA has a long history of protesting various development projects with a wide range of results including notable successes and other less successful efforts.
4. The community at large has long discussed the possibility of land being purchased to achieve purposes including habitat conservation, regeneration and rewilding.
- 10 5. As with the recent work to establish a 'Council-Led Community Land Trust' [see *Report 13.4 Council (Planning) Meeting 8 February 2024 and Resolution number 24-020*], Byron Shire Council could play a key enabling role in establishing a [Council-Led] Conservation Trust.
- 15 6. The final model could see the Conservation Trust include representation on the trust from Council, including the Mayor, along with community members as trustees.
7. A key focus for the Conservation Trust would be identifying funding sources to achieve its aims from the public sector, philanthropic organisations and community including high net worth individuals.

Staff Comments

20 by Chris Larkin, Acting Director, Sustainable Environment and Economy:

This NoM calls for Council to establish a Conservation Trust whose task it is to identify and manage land with high ecological value within the LGA for the purpose of long-term habitat conservation, regeneration and rewilding, using a similar model to the Byron Shire Council Led Land Trust (Res. **24-020**) including a company limited by guarantee structure.

25 The Council report on the establishment of a Council Led Land Trust to the [8 February 2024 meeting](#) outlined the legislative, approval pathway and the key elements of a Council Trust. It is likely that this pathway is also appropriate for the establishment of the Conservation Trust, and further advice would be sought to confirm this if the NoM is successful.

30 The pathway outlined in the 8 February 2024 Council report for the establishment of a Council Led Land Trust are as follows:

- Section 358 of the Local Government Act 1993, requires the Minister for Local Government consent to create a legal entity. Council's application to the Minister is via the Office of Local Government (OLG).
- 35 • The OLG [Formation of Corporations and Entities \(Section 358\) Guideline \(nsw.gov.au\)](#) guide the application and establishment of a Trust. These guidelines

make it clear that a significant amount of work is needed to support an application to the Minister for Council to form an entity under Section 358 including justification documents, governance arrangements and public interest test.

Alternatives to a Byron Conservation Trust

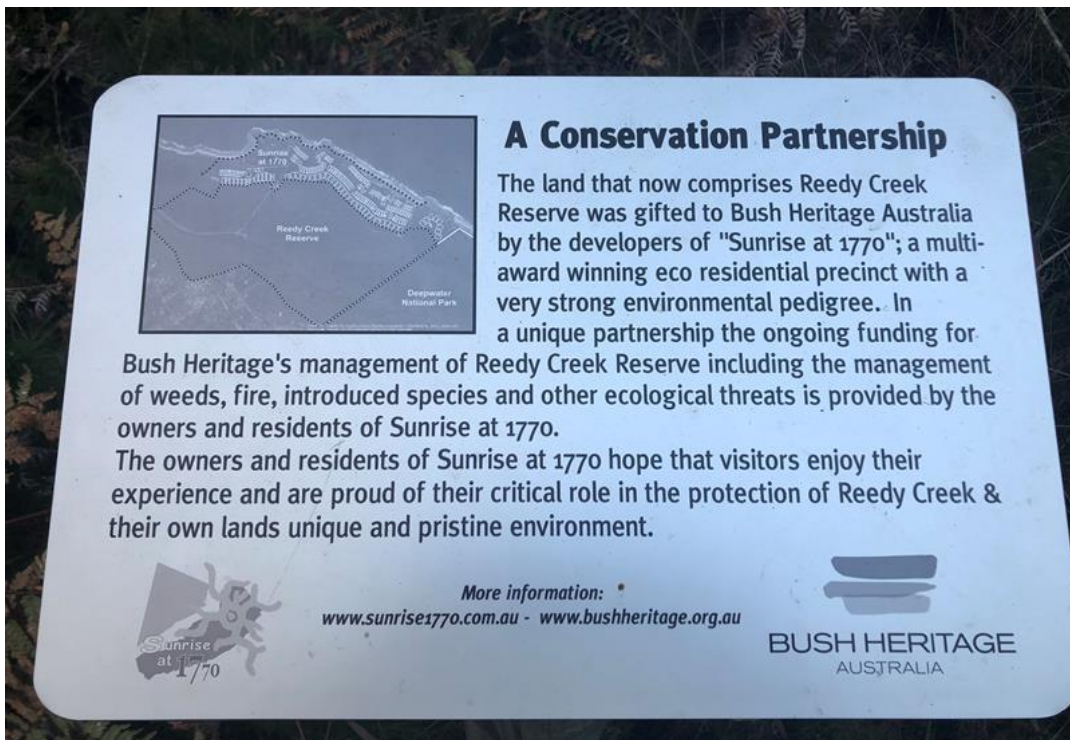
- 5 There are already conservations trusts established and operating in Australia. This includes [Bush Heritage Australia NSW Conservation Reserves - Bush Heritage Australia](#). Another alternative is the [NSW Government Biodiversity Conservation Trust](#). Exactly how these trusts work and operate has not been investigated in any detail.

Bush Heritage Australia state on their website:

- 10 Bush Heritage is a leading not-for-profit conservation organisation that protects ecosystems and wildlife across the continent. We use the best science, conservation and right-way knowledge to deliver landscape-scale impact.

The NSW Govt Biodiversity Conservation Trust state that there four strategic goals are to:

- increase private land conservation in areas of strategic biodiversity value
- 15 • deliver efficient, effective and strategic biodiversity offset outcomes
- support participating landholders to conserve biodiversity
- promote public knowledge, appreciation and understanding of biodiversity and the importance of conservation.




- 20 **Plaque at entrance to the Reedy Creek Reserve at Agnes Waters, Qld.**

5 It is noted there is no power to compel land owners to dedicate land to a trust, and such arrangements are usually by the land owners volunteering land accordingly or other co-operative arrangements. The Reedy Creek Reserve came about with the adjacent residential estate of Sunrise 1770 being developed. The following extract from the Bush Heritage website is provided below:

Reedy Creek

Established: 2004	Area: 475 ha	Location: 130km north-west of Bundaberg	Traditional Custodians: Bailai, Gooreng Gooreng, Gurang & Taribelang Bunda peoples
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Reedy Creek Reserve, near the town of Agnes Water, protects a very rare thing - intact Queensland coastal and riparian forest that has, elsewhere, been dramatically cleared for development.



The reserve was originally donated to us in 2004 by Michael Myer. It was part of a 600-hectare coastal strip, a quarter of which was kept for the [Sunrise@1770](#) beach front eco-estate and the rest donated to us as a nature reserve.

The land boasts rare **vine-forest communities**, riparian **melaleuca forests** and **corymbia woodlands**.

Reedy Creek itself forms a complex bird, freshwater fish and amphibian habitat that supports a range of species, including the **Grey Goshawk**. The reserve also provides a buffer for the adjacent coastal foreshore, which is an important nesting site for marine turtles.

For further details see [Reedy Creek Reserve - Bush Heritage Australia](#).

10 As an alternative, other options could be explored to encourage developers and land owners of significant holdings of environmentally biologically diverse land to consider approaching these trusts, as opposed to Council outlaying limited resources and budget replicating organisations that already exist. Considering these organisations appear to have the same goals, values and objectives as put forward in the Notice of Motion, this would appear to be a prudent way forward.

15 In terms of high net worth individuals and philanthropic groups contributing financially to the Trusts, it noted Bush Heritage Australia accept such donations as does the NSW Biodiversity Conservation Trust.

Financial/Resource/Legal Implications:

20 Staff time and other resources required to complete an application under Section 358 of the Local Government Act 1993, including legal advice are unknown at this time and may require additional budget.

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.2

The NoM requires Council to commit to facilitating the creation of a Conservation Trust to Council within 6 months. There is no capacity within staff workloads to progress the Conservation Trust in the next 6 months due to staff delivering on several time sensitive grant funded priority housing projects. This project include the Byron Bay Town Centre Urban Design Based Housing Density Study, Affordable Housing Contribution Scheme #2, and Saddle Rd Precinct which includes a Structure Plan, Infrastructure Priority Plan, Aboriginal Heritage and Environmental Sensitivities Study and amendments to Council's LEP and DCP. Current vacancies which are proving difficult to fill are compounding staff workloads.

10 Section 358 of the Local Government Act 1993:

358 Restrictions on formation of corporations and other entities

(1) A council must not form or participate in the formation of a corporation or other entity, or acquire a controlling interest in a corporation or other entity, except—

15 (a) with the consent of the Minister and subject to such conditions, if any, as the Minister may specify, or

(b) as provided by this Act.

(2) This section does not prevent a council from being a member of a co-operative society or a company limited by guarantee and licensed not to use the word "Limited" in its name.

20 (3) In applying for the Minister's consent under subsection (1)(a), the council is required to demonstrate, to the Minister's satisfaction, that the formation of, or the acquisition of the controlling interest in, the corporation or entity is in the public interest.

25 (3A) The regulations may make provision for or with respect to the matters to be taken into account by the Minister in deciding whether to grant consent under this section and the conditions that may or must be specified by the Minister under this section.

(4) In this section, entity means any partnership, trust, joint venture, syndicate or other body (whether or not incorporated), but does not include any such entity that is of a class prescribed by the regulations as not being within this definition.

Is the proposal consistent with any Delivery Program tasks?

30 No.

There is no activity in the Operational Plan for the establishment of a Conservation Trust.

Notice of Motion No. 9.3 Petria Thomas Pool Heating

File No: I2024/709

5

I move that Council:

1. Checks to see if the current electrical line could service a heat pump for the Mullumbimby Petria Thomas Swimming Pool, and if so,
- 10 2. Urgently explores the option of installing a heating system before the September season opening at the Mullumbimby Petria Thomas Swimming Pool as an interim solution to address the current need for a year-round pool facility.
- 15 3. Seeks funding from the State Government or other funding body for this important community project that could service the needs of the local and visitor population or alternatively, identify funding in the next quarterly review.
4. Explores options for making the pool more accessible as it is i.e. repairing hoists and working with the Access Consultative Working Group to see what could assist.
- 20 5. Continues to explore options for a year-round, all access solar heating swimming facility that will meet the needs of the whole community.

Attachments:

- 25 1 Mullumbimby Memorial Centre - Petria Thomas Swimming Pool - draft Feasibility Study, E2022/75479 

Signed: Cr Sarah Ndiaye

Councillor's supporting information:

30 The community have waited long enough. For years we have had active resolutions to pursue a year-round, solar heated, all access pool facility and I think that should continue. Given that after so many years we are realistically 5-10 years off achieving this and there are still many hurdles to overcome such as location and funding, I think it's time we utilised an interim option. There is room for the heat pumps, and they can be positioned above ground in a way that would be less impacted by major flood events.

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.3

Our previous studies have shown it is not possible to heat the pool using a solar array with the current roof space, but I have been advised by experts in the field that it is possible to do so with heat pumps. While this would use energy and contribute to emissions in the months it was in operation, it would reduce the amount of people needing to drive long distances to do squad training, learn to swim classes and recreational users.

It will unfortunately not meet everyone's needs and that is why we should continue with the current trajectory for an all abilities, year-round, solar heated facility in the longer term,

There are so many benefits, for example:

10 Community Well-being: The Mullumbimby Pool serves as a vital recreational and therapeutic facility for the residents of the Byron Shire. However, the absence of a heating system significantly restricts its use, particularly during the colder months. By installing a heating system, we can enhance the pool's accessibility and promote the health and well-being of our community members year-round.

15 The Open Space and Recreation Needs Study 2018 identified that 'our community wants recreation, sports and aquatic facilities to meet the Shire's needs' and while there may be some funding challenges to overcome this pool has a long history of being able to garner community support to make things happen. The first Chincogan Charge in 1960 was a fundraiser to build the swimming pool and the second race happened in 1967 to celebrate its opening. Since then, the community have also raised money for some of the upgrades and other refurbishments. Both the State and Federal Governments have also had a variety of rounds of funding that a project such as this could meet the criteria. Notes from the Recreational Study regarding the pool included:

25 *"The Petria Thomas Swimming Pool is the only 50 metre pool in the Shire. Open between October to March, some survey respondents indicated they are keen for the facility to be heated and open year-round. Council's Access Consultative Working Group advised that access into the facility is not currently provided, for example there is no disabled parking, kerb and guttering or all abilities pedestrian access, making access to utilise the facility difficult. It is recommended that the Access Consultative Committee Working Group, Mullumbimby High School and Petria Thomas Swimming Pool operators work with Council to review pedestrian movement to address these issues. In addition, while it is extremely expensive to add a ramp into the pool, any future retrofitting or redesign of the pool should consider the addition of a ramp, especially with an ageing community."*

40 The Mullumbimby Residents Association has long been interested in helping to make this vision a reality for our community and has previously collected signatures in support of the project and garner community interest. They have over 1,000 signatures on their petition, and we may have more in the coming weeks.

45 While discussions have gone on around the possibility of redeveloping the pool at Main Beach or building an aquatic centre at the Cavanbah Centre or something at a different location, there have been multiple challenges at both sites. Byron Bay is getting a huge investment in both the bike track from Suffolk Park to Byron as well as the multi-million-

dollar skate park that has been delivered to the area behind the YAC and the Byron Library. The Linda Vidler recreation park has also been successful in getting grants and has the well utilised pump track. This project would help service the needs of the broader community and add value to the experience of living in the hinterland and the northern parts of the Shire.

Increased Utilisation: A heated pool encourages increased utilisation by various demographics, including seniors, individuals with disabilities, and families with young children. This investment will result in higher attendance rates and greater community engagement, thereby maximizing the public benefits derived from the facility.

Economic Impact: A heated pool can have a positive economic impact on the local community. By attracting more visitors, including tourists seeking recreational options during cooler weather, the Mullumbimby Pool can become a revenue-generating asset for the Byron Shire Council and local businesses.

Health Benefits: Swimming in warm water offers numerous health benefits, such as improved circulation, muscle relaxation, and stress relief. By providing a heated pool, we support the physical and mental well-being of our residents, contributing to a healthier and happier community overall.

Interim Solution:

In recognition of the immediate need for heating facilities at the Mullumbimby Pool, I propose that the Council explore interim solutions, such as portable heaters or temporary enclosures, to provide limited heating until a permanent system can be installed. This temporary measure will ensure that the pool remains accessible and functional while the necessary arrangements are made for a more permanent solution.

Conclusion:

In conclusion, the installation of a heating system at the Mullumbimby Pool is essential to fulfill our commitment to community health, well-being, and engagement. By taking prompt action to address this issue, we demonstrate our dedication to providing quality recreational facilities for the benefit of all residents of the Byron Shire, whilst still pursuing the all access, solar facility our community needs.

We have been exploring this for many years and action needs to be taken. I urge my fellow council members to support this motion and prioritise the installation of a heating system at the Mullumbimby Pool as soon as possible.

Staff comments

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

In response to the 5 points tabled;

1. Initial review indicates that the existing electrical supply could service additional heat pumps for the Mullumbimby Petria Thomas Swimming Pool.

2. If requested, Staff can undertake detail design and costing of a heating system at the Mullumbimby Petria Thomas Swimming Pool, noting outcome will be extension of annual operation by an additional two months only.

5

3. Once detailed design and costing are complete, options to fund the capital costs of pool heating can be explored, along with options to fund increased operational and management costs.

10 4. Staff can engage with the Access Consultative Working Group regarding desire to see what short term options could assist with access, noting recommendations within previous consultation.

15 5. Options for a year-round, all access solar heated swimming facility that will meet the needs of the whole community are planned to be tabled to Council within Shire-wide Aquatic Facility Option Report in June.

20 Sustainability is key consideration around heating the 50m pool. Heat pumps are an efficient means of heating water, however powering the heat pumps may create significant costs to Council. It is critical that detail design is undertaken around any future installation to ensure ongoing sustainability.

Sourcing of funding will be the key constraint that impacts ability to deliver the requested project prior to the September 2024 pool season opening.

Background

25 • February 2020 (**20-061**) Council resolved to conduct a feasibility study into the financial viability of converting the Petria Thomas Swimming Pool in Mullumbimby into a year round, solar heated facility along with addition of a disability access ramp , a splash children’s pool and a rehabilitation pool.

30 • August 2022 (**22-422**) Council resolved that the Current Mullumbimby Memorial Centre – Petria Thomas Pool feasibility study be placed on hold pending consideration of Shire-wide Aquatic Facility requirements.

Mullumbimby Pool Feasibility Study 2022

Feasibility Study on the upgrade of the Mullumbimby Memorial Centre - Petria Thomas Pool was completed to draft stage and tabled for Council consideration August 2022 (attachment 1).

35 Options for a year-round, solar heated pool with an access ramp and a separate rehabilitation / hydrotherapy pool had been reflected within concept designs.

The study had been completed for a stand-alone facility without consideration of Shire-wide pool provision. Council resolved to place the draft on hold pending consideration of Shire-wide Aquatic Facility requirements.

Previous Consideration of Mullumbimby Pool Heating

As recognised in the Notice of Motion, in Mullumbimby there is a strong demand for a warm water pool with a high degree of accessibility to facilitate health and rehabilitation programs and instruction.

5 The term warm water pool is typically used when a public pool is required for programming, lessons, and exercise classes and for therapeutics activities. Pools classified as a hydrotherapy pool have higher staffing requirements than may be feasible in a public setting and are generally heated pools to around 32°C.

10 Residents support development of a warm water pool that is not fully enclosed. It is not typical to provide a warm water pool outdoors, as the energy cost of maintaining the water temperature can be excessive. A warm water swimming pool is generally maintained at approximately 25-28°C.

15 An outdoor warm water pool will be comfortable in the warm weather but will be less functional and flexible in use and expensive to heat. Council has a zero emissions policy that needs to be considered.

The alternative is to provide a separate warm water pool enclosed within a building which can be opened in warm weather and closed when raining, cold or stormy (or for some rehabilitation or single gender activities). By being able to manage the air temperature the efficiency and cost of heat will be considerably less.

20 **Sustainability**

Climate change places a new focus on ecological sustainability. Six green star aquatic facilities are now achievable with renewable energy sources and storage, and a heavy emphasis on insulated pools.

25 In recognition of the importance local government plays in addressing climate change, Byron Shire Council has been actively implementing emissions reduction actions and reporting on emissions since 2004.

Council has committed to:

- Achieving 100% net zero emissions for Council operations by 2025 in collaboration with Zero Emissions Byron.
- 30 • Sourcing 100% of Council's energy needs through renewable energy within 10 years (2027).
- Becoming certified under the Climate Active Carbon Neutral Standard by 2025/26.

35 The community benefits of swimming pools are significant; however, typically swimming pools are the greatest consumers of water and energy of any other type of building. Water and space heating can account for up to 80% of an aquatic centre's total energy costs and is the single most expensive operating cost after labour.

New facilities can reduce water use and energy losses through insulation, choice of materials and energy and water saving fittings. However, If Byron Shire wishes to build and operate a warm water pool and heat an outdoor 50m in Mullumbimby, a reliable and affordable renewable heating source is required with the least impact on emissions.

5 Power Source for Mullumbimby Pool Heating Options

Options were explored for energy sources to heat the Mullumbimby Pool within the Feasibility Study tabled in August 2022. These energy options included natural gas, geothermal and solar. Solar was determined the most appropriate source of energy for the pool.

- 10 The 2022 Feasibility considered a range of heating options and recommended using a combination of solar power and electric heat pumps as being likely to be the most effective and efficient option for Mullumbimby. Given the 24hr operation of pool circulation systems, solar generation with battery storage may allow more sustainable operation for pool, power.
- 15 It was identified within the Feasibility that further technical advice is needed through detailed design to confirm the details of the best heating option on this specific site, and the quantity of solar power that can be generated.

Year-Round Pool Facility

- 20 Currently the Mullumbimby Pool operates 9 months per year. Annual shutdown to allowed for programmed maintenance works is a requirement of all public pools and a four week annual closure would be required to allow essential pool maintenance works.

Upgrade to a warm water pool would extend the operational season by an additional two months.

- 25 Current Pool Management contracts are for a 9- month operational season only and allow for management .

Options for making the pool accessibility

A pool hoist is available at the Mullumbimby Pool. This has recently been serviced and is fully operational. Demand for use is very low, with only the one request for its use in the 2023/24 season.

- 30 The Feasibility Study identified benefit to accessibility from provision of ramp access to the pools, an accessible change room with adult change table and hoist providing direct access into pools, and a warm water pool.

- 35 The Mullumbimby Pool infrastructure is quite old and there is some risk of breaking into the pool wall to add an access ramp as it may cause structural failure. There are two options to address this issue. One is to reduce the dimensions of the pool and move the lanes over to put the ramp inside the pool shell. This option this would be much cheaper but will affect the pools usability and would not likely be acceptable to sport users.

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Alternatively, if the risk of breaking into the wall is considered high, then there is a cost of approximately \$5 million to replace the existing pool shell with a new pool that may be beneficial anyway, to provide a longer asset life.

Strategic Consideration

5 The adopted Recreation Needs Assessment (2018) identified that accepted provision rates for aquatic facilities by local governments are around 1:60,000 people. With the Byron Shire having a projected population of around 40,000 in by 2041, one quality aquatic facility could meet current, as well as long-term future demand, according to accepted standards of service. The current draft Options Report has determined that a single facility
10 will not provide an acceptable level of service to community, and two 50m pools are required.

Both Mullumbimby and Byron Bay pools are requiring significant upgrade. Redevelopment of both Mullumbimby and Byron pools will see these facilities effectively competing for users. Decision on upgrading one pool facility within the Shire has a long-term impact on
15 future decisions for wider aquatic recreation provision across the Shire.

To ensure that Council considered broader Shire-wide strategic planning for provision of public pools prior to committing substantial funding to upgrade of a single existing facility, Council resolved to place the Mullumbimby feasibility study on hold

20 Consultants were engaged to complete Strategic study into Shire-wide aquatic recreational needs. may be appropriate before This study encompasses future planning for the current Byron Bay Memorial Pool, as well as ensuring the needs of Suffolk Park, Ocean Shores and Bangalow are taken into consideration.

Financial/Resource/Legal Implications:

25 The draft Petria Thomas Swimming Pool Feasibility Study suggests upgrade to the existing pool facility at estimated cost of around \$10.2 million, with ongoing cost to Council of around \$400,000 per annum.

This estimate assumes the existing pool shell can be modified to include an access ramp. If the pool shell needs to be replaced this would be an additional \$5 million. These costs were subject to detail design and will have increased substantially over the interim period.

30 The documents tabled as part of the Notice of Motion contain proposal for Heat Pump supply and installation. Considering exclusions from the document tabled, full capital cost to install heat pumps as specified is estimated at around \$180,000. Increases to annual operational costs are estimated at around \$80,000. These initiatives are currently unbudgeted.

35 In order to advance this project there will be a need to follow Council Procurement Policy.

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Is the proposal consistent with any Delivery Program tasks?

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
5: Connected Infrastructure	5.4: Provide accessible community facilities and open spaces	5.4.4: Sporting facilities and swimming pools - Ensure ongoing maintenance and upgrade of inclusive sporting facilities and swimming pools	5.4.4.7	Pursue funding opportunities to allow implementation of adopted recommendations within Shire-wide aquatic recreation study
5: Connected Infrastructure	5.4: Provide accessible community facilities and open spaces	5.4.4: Sporting facilities and swimming pools - Ensure ongoing maintenance and upgrade of inclusive sporting facilities and swimming pools	5.4.4.8	Manage contracts for operation of Byron Bay and Mullumbimby Swimming Pools

Notice of Motion No. 9.4 Save Palestine

File No: I2024/710

5

I move that Council asks the Mayor to write to Australia's Prime Minister Anthony Albanese asking the latter to:

1. **Condemn recent terrorist and government aggression and slaughter in both Israel and Palestine.**
- 10 2. **Demand an immediate and permanent cease-fire in Gaza, and an end to restrictions on the import and/or production of essential goods, services and equipment there.**
- 15 3. **Be aware that the death toll since the so-called war in Gaza commenced, stands at about 35,000 and is the tip of an iceberg of suffering that commenced generations ago and could continue for many more generations unless violence stops.**
- 20 4. **Cease any support for Israel's aggression in Gaza. This includes ceasing export of weapons or weapon components to Israel or to any of its onward arms suppliers.**
5. **Terminate any military cooperation with Israel.**
6. **Consider boycotting trade with Israel beyond trade in weaponry.**
7. **Support cases brought to International Courts relating to Israel's aggression.**

25

Signed: Cr Duncan Dey

Councillor's supporting information:

When HAMAS attacked Israel in October 2023, retaliation was inevitable and most of the world saw little problem with it. Now, six months later, it appears that Israel's intentions go far beyond recovering hostages and a bit of payback. The world is aghast but continues to support the war.

This motion asks for Council to play its small part by adding its voice to the call for peace.

Wikipedia says the following about the State of Palestine:

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5 Palestine, officially the State of Palestine, is a country in the Southern Levant region of West Asia. It comprises two disconnected regions – the West Bank and the Gaza Strip. It shares borders with Israel to the north, west, and south, Jordan to the east and Egypt to the southwest. Palestine's combined land area is 6,020 square kilometres while its population exceeds five million people. Its proclaimed capital is Jerusalem while Ramallah serves as its administrative center and Rafah is currently its largest city. The official language is Arabic. The majority of Palestinians practice Islam while Christianity also has a significant presence.

10 As of May 2024, Palestine is recognized as a sovereign state by over 72% of member states of the United Nations. It has been a non-member observer state of the United Nations since 2012.

Staff comments

by Heather Sills, Manager Corporate Services, Corporate and Community Services:

15 Should the Notice of Motion be adopted officers will draft a letter accordingly for signature by the Mayor.

Financial/Resource/Legal Implications:

Not applicable.

Is the proposal consistent with any Delivery Program tasks?

20 No.

Notice of Motion No. 9.5 Building Heights Wategos

File No: I2024/712

5

I move that Council:

1. **Amends the LEP to reduce the building height limits in the Wategos residential area from 9m to 8m.**
- 10 2. **Undertakes appropriate consultation with residents in order to effect this change.**
3. **Receives a report on existing efforts to limit excessive excavation and any additional proposals to limit excavation that Councillors should consider.**

15 **Signed: Cr Asren Pugh**

Councillor's supporting information:

Wategos sits at the most easterly point of the Australian mainland, surrounded by State Conservation Area. It is a highly visible part of the coast, where visual impacts from buildings are high.

20 It has a unique topography, with extremely steep blocks that lead to very high buildings.

Wategos is a wealthy residential area, with larger and larger mansions being built, many with significant excavations and huge floor ratios. Most are single, or at most dual, dwellings.

25 The Wategos Beach Protection Association has brought this proposal to Council in the past. It is a reasonable proposal that will help limit the visual impact of the high floor space buildings and the significant excavation that is currently being undertaken in the area.

Given the types of buildings being constructed are single dwellings, limiting the height will have no impact on the housing supply.

Staff comments

30 **by Chris Larkin, Acting Director, Sustainable Environment and Economy**

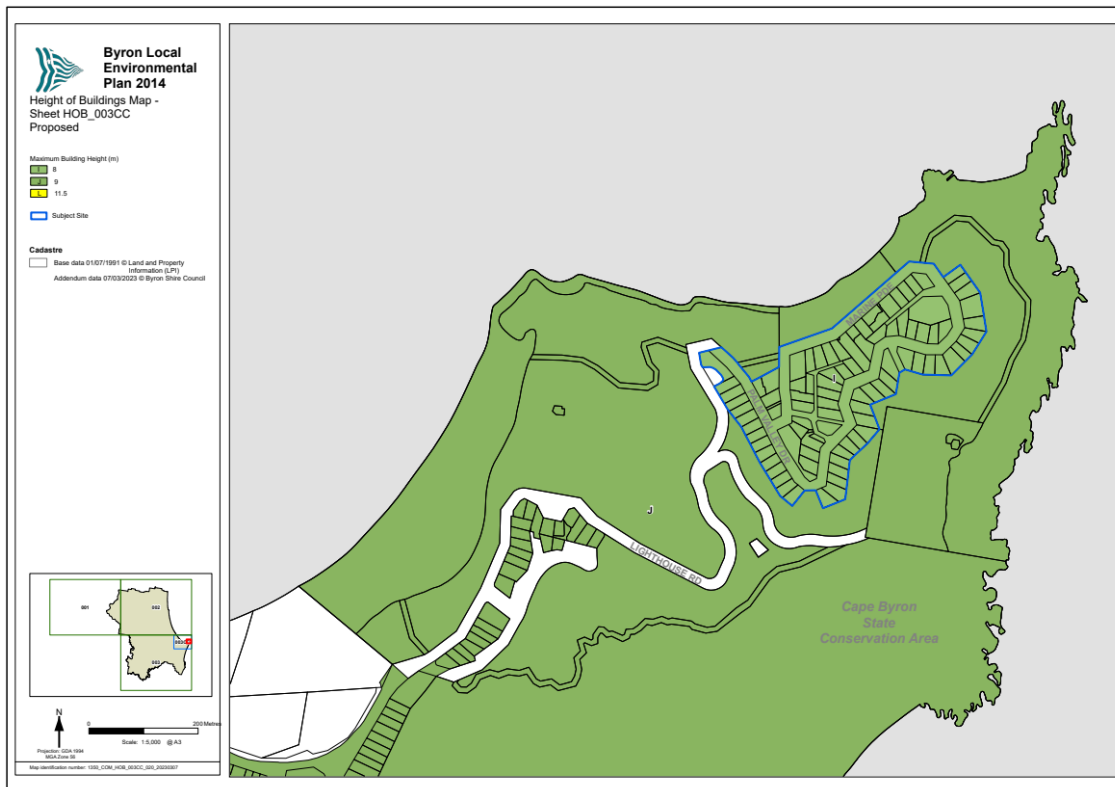
The matter to reduce heights was previously discussed by Council on 11 August 2023 when the LEP Housekeeping amendment 26.2022.11.1 was reported to the Planning Meeting of the same date. The LEP amendment was proposing to reduce the building

height limit to 8 metres for the Wategos Area. (See draft Height of Building map below). Council resolved not to change the building heights for Wategos, being Item 10 in the Planning Proposal being removed, as follows:

23-314 Resolved that Council:

1. Submits the planning proposal contained in Attachment 1 (E2022/117263) to the NSW Department of Planning and Environment for Gateway determination with the removal of item 10.
2. Subject to the Gateway determination, undertake public exhibition of the planning proposal and consult with government agencies as required by the Gateway determination; and
3. Receives a submissions report outlining the exhibition outcomes.
4. In relation to the amended clause 4.1C 'Boundary changes between lots in certain rural and conservation zones', prepares supporting DCP provisions to provide clearer guidance around interpretation of the term "altered" boundary and clause objectives.
5. Includes Item 9 FSR at New Brighton and Suffolk Park and Item 10 Reduce the height limit of buildings in the Wategos residential area, in the Agenda for a future Councillor Workshop for discussion. (Lyon/Westheimer)

The amendment was put to the vote and carried.
 Crs Pugh, Coorey, Ndiaye and Dey voted against the amendment.



5

Draft Height of Building Map

In relation to consultation any draft Planning Proposal to amend the LEP will need to be placed on public exhibition for a minimum period of 28 days. Such consultation is open to the entire community to comment. As this is a specific area that is being affected by the reduction in heights proposed, should there be Council support to prepare a Draft Planning Proposal, Council could write directly to the ninety landowners affected to enable them to be fully informed of the amendments to the height controls that apply to their properties and make submission accordingly.

10

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5 In terms of excavation on land at Wategos, Council has amended its Development Control Plan 2014 Chapter E5 – Section E5.10 Wategos Beach as it became obvious that some developers were somewhat “gaming” the controls to get around the floor space ratio provisions. In this regard, basement storage areas are not considered floor area and are not counted in the Floor Space Ratio calculations. In this regard, the end use of some of these “basement storage areas” following the dwellings formal completion of works and issue of the Occupation Certificate could be found wanting in terms of compliance.

10 The DCP provisions as of 28 February 2023 now limit these basement garage storage areas to 50m² which will comfortably garage two vehicles plus allow for storage of surfboards, pushbikes, garden tools and implements and the like. For details on the DCP provisions see pages 66-67 in the following controls. [Byron-Shire-DCP-2014-Chapter-E5-Certain-locations-in-Byron-Bay-and-Ewingsdale-Adopted-18-April-2024-Effective-8-May-2024-26.2023.3.1.pdf](#)

Recommendations

15 Should there be support to amend the building height map for Wategos, Staff will include such an amendment into the next Housekeeping LEP amendment. This is likely to be prepared at the end of 2024 early 2025 and reported to Council accordingly.

Strategic Considerations

Community Strategic Plan and Operational Plan

20

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
4: Ethical Growth We manage growth and change responsibly	4.1: Manage responsible development through effective place and space planning	4.1.4: LEP & DCP - Review and update the Local Environmental Plan and Development Control Plans	4.1.4.2	Review and update LEP and DCP to reflect strategic land use priorities and/or legislative reforms

Recent Resolutions

- [23-314](#) (10 August 2023) Amendments to Byron Local Environmental Plan 2014

Legal/Statutory/Policy Considerations

25 This planning proposal will amend the Byron Local Environmental Plan 2014.

Financial Considerations

This would be a Council initiated planning proposal funded through the existing operational budget.

Consultation and Engagement

- 5 Should Council move to proceed to include an adjustment to the height limits in Wategos to 8 metres, this will be included in the next planning proposal for a House Keeping amendment. The Planning Proposal, once a gateway determination has been obtained, will be formally exhibited for a minimum 28 day period. In this instance should the height limit be proposed to be amended, the ninety land owners directly affected could be
- 10 advised formally in writing of the Planning Proposal and invited to make submission during the exhibition period.

Notice of Motion No. 9.6 Making Byron Shire a safer place for women and children/ Understanding Domestic Violence and coercive control/ Treating Violence as a Health Crisis

5

File No: I2024/714

10 I move that Council seeks additional Government support and funding to engage more effectively in creating safe places for women and children in the Byron Shire by:

- 15 1. Working with relevant stakeholders to ensure a dedicated space in Byron Shire for women and children to flee if they are impacted by Domestic Violence, coercive control, sexual violence other acts of abuse or violence.
2. Supporting the creation of a safe place for women to gather and share their stories and experiences of surviving violence and better access to local support services to assist those at risk of Domestic Violence, coercive control, and sexual violence.
- 20 3. Ensuring all Council led future housing projects are embedded in providing safe housing for everyone, including safe housing for women and children.
4. Supporting awareness and connections with law enforcement and health services for all people, including men, to easily access resources to assist in managing violence as a health crisis.
- 25 5. Raising awareness and promoting education about domestic violence and violence prevention and supporting services within the community.
6. Ensuring Councillors and Council staff have access to information and education about how Local Government can support the reduction and better management of Domestic Violence and other forms of violence within the community including, and not limited to, the Local Government New South
30 Wales (LGNSW) programme called: Domestic Violence - Councils Are Part Of The Solution

35 **Signed: Cr Sama Balson**

Councillor’s supporting information:

Women continue to be killed, raped, and abused by men throughout this country. We have a duty of care here in the Byron Shire to respond and make the community a safer, more educated place.

5

Australia is experiencing a pandemic of men’s violence against women. It must be treated as the health crisis it is, and we must prepare to take serious measures to promote safety and help put an end to this violence.

10 Councils have a role in providing a community with safety measures and support for those who are victims and perpetrators of violence. By treating violence as a health issue, other jurisdictions such as the United States and United Kingdom are seeing results, such as decreased crime and violence. Many stakeholders, and all genders, need to participate in ending men’s violence towards women, and that includes Local Governments.

15

At the LGNSW conference there was a workshop on how Councils can provide Domestic Violence prevention and support. This motion amalgamates that LGNSW conference workshop information with researched international studies to help create a rounded response to the violence pandemic.

20

Domestic Violence:

The Australian Bureau of Statistics (ABS) reports that in 2016, an estimated 2.2 million Australian women aged 18 and over had experienced physical or sexual violence from a current or former partner since the age of 15 (source: ABS Personal Safety Survey, 2016).

25

Intimate Partner Violence:

Intimate partner violence (IPV) refers to violence or abuse that occurs within an intimate relationship. According to ABS data, intimate partner violence is the leading contributor to death, disability, and ill-health in Australian women aged 15 to 44.

30

Sexual Violence:

Data from the Australian Institute of Health and Welfare (AIHW) indicates that around one in five Australian women (aged 18-64) have experienced sexual violence since the age of 15, and around one in six have experienced physical or sexual violence from a current or former partner.

35

Violence Against Indigenous Women:

Indigenous women in Australia are disproportionately affected by violence. According to the Australian Human Rights Commission, Indigenous women are 34 times more likely to be hospitalised due to family violence than non-Indigenous women.

40

Impact on Children:

Children are also significantly impacted by domestic violence. It's estimated that around one in four children in Australia have been exposed to domestic violence.

45

Treating Violence as a health crisis:

“When it comes to violence, the discussion is often underpinned by an assumption that this is an innate and immutable behaviour and that people engaging in it are beyond redemption. More often than not, solutions have been sought in the criminal justice system, such as through tougher sentencing.”

“The Violence Reduction Unit’s (VRU) strategy is described as a “public health” approach to preventing violence. This refers to a whole school of thought that suggests that beyond the obvious health problems that result from violence—the psychological trauma and physical injuries—the violent behaviour itself is an epidemic that spreads from person to person. One of the primary indicators that someone will carry out an act of violence is first being the victim of one. The idea that violence spreads between people, reproducing itself and shifting group norms, explains why one locality might see more stabbings or shootings than another area with many of the same social problems.”

Supporting articles:

<https://www.vice.com/en/article/3kydg5/these-cities-are-beginning-to-treat-violent-crime-as-a-public-health-issue>

<https://www.bbc.com/future/article/20180723-why-we-should-treat-violence-like-an-epidemic>

Link to Domestic Violence - Councils Are Part of The Solution training:

<https://lgsw.org.au/Public/Public/Events/Learning-and-Development/Courses/Prevent-Domestic-Violence.aspx?LCODE=DVCPTS>

NSW Government information about coercive control:

<https://www.nsw.gov.au/family-and-relationships/coercive-control>

Who should attend?

Community safety and crime prevention officers, community development officers, human resources, executives and councillors.

Content

The workshop is split over three sessions:

Session 1 – What is domestic violence

The prevalence and impact of domestic violence, drivers of gendered violence, and understanding primary prevention and key prevention settings.

Session 2 - Getting prepared

Supporting employees experiencing domestic violence, preparing for community initiatives and building a business case.

Session 3 - Taking action

Examples and case studies of local government initiatives
Process

The facilitator will use group discussions, council case studies and local government-oriented examples, to help you transfer your learning to the workplace.

Staff comments

5 **by Deborah Stafford, Manager Social and Cultural Planning, Corporate and Community Services:**

(Moves that Council) seeks additional Government support and funding to engage more effectively in creating safe places for women and children in the Byron Shire by:

10 **a) Working with relevant stakeholders to ensure a dedicated space in Byron Shire for women and children to a flee if they are impacted by Domestic Violence, coercive control, sexual violence, or other acts of abuse or violence.**

15 Domestic and Family Violence (DFV) is a serious and complex issue in Australia. In NSW, women and children escaping DFV can be referred to a range of relevant services including accommodation support through self-referral or contact with police, legal services, social services, and neighbourhood centres.

20 There is a range of state government-funded and faith-based women's shelters located across Northern NSW which specifically service women and children experiencing DFV. While no known women's shelters are located within Byron Shire, options are available in neighbouring areas including Tweed, Lismore, and Ballina Shire.

25 In addition to traditional women's shelters, the Department of Communities and Justice (DCJ) has initiated a Core and Cluster Program that combines the services and supports of a traditional refuge with the independent living facilities of transitional accommodation. While State Government funding was recently extended to further implement this model, no core and cluster accommodation has been funded in Byron Shire. A perceived lack of suitable, available, and affordable properties appears to be a limiting factor in the establishment of this crisis accommodation model in Byron Shire.

30 Other State Government housing programs may also be available to women and children experiencing DFV, including Temporary Accommodation (a broad program servicing people with short term housing needs) and housing products such as Rent Choice Start Safely (a rental subsidy program for people experiencing DFV).

35 Additionally, the NSW Government announced on 6 May that \$230 million will be allocated over four years as part of an emergency package to enhance support for domestic, family, and sexual violence (DFSV) victim-survivors, and expand programs that reduce the rate of violence against women and children.

40

b) Supporting the creation of a safe place for women to gather and share their stories and experiences of surviving violence and better access to local

support services to assist those at risk of Domestic Violence, coercive control and sexual violence.

Several NGOs operate in Byron Shire to assist women and children experiencing or at risk of DFV, including homelessness services, social services and specialist programs for DFV. Council staff are not aware of a place or program that enables women and children to gather and share their stories, though it is possible that this may occur within the context of a women's shelter or women's groups run by social service agencies.

There are local and regional models of service delivery with the dual purposes of providing safe, short-term accommodation for women alongside the provision of trauma informed supports on site.

In Byron Shire, the Mullumbimby and District Neighbourhood Centre (MDNC) run two NSW Government-funded programs for women and children experiencing DFV:

- Staying Home Leaving Violence – Working in cooperation with NSW Police, this program enables women and children to remain safe in their home by removing the violent partner. In Northern NSW, this program is only available in Tweed and Byron Shires.
- Integrated Domestic and Family Violence – Provides support for adults and children to escape and recover from DFV. In Northern NSW, this program is only available in Byron Shire.

Council staff understand that the client demand for these services exceeds the available resources.

MDNC may be well-placed to assess the need for, and benefit of, a space for women and children to gather and share their stories. If warranted, this type of program may be suited to funding through the State Government, such as through the Targeted Earlier Intervention program.

While the primary cause of DFV is gender inequality, there is a complex set of contributing factors including history of child maltreatment, alcohol and other drug use, mental health issues, educational and employment challenges, financial or personal stress (including poverty) and lack of social support. Protective factors are higher levels of education, experience of healthy parenting and supportive family (Australian Institute of Health and Welfare 2024).

Noting these complex factors, there is an array of support services that may be required to support women and children experiencing DFV. This would include for instance, legal aid, financial literacy and aid, counselling, and employment services, as well as specialised DFV case management support. With DFV being one of the most common reasons why people seek support from Specialist Homelessness Services (Australia's National Research Organisation for Women's Safety 2019), homelessness services are a critical part of this service system.

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Council is aware that recent challenges, including the pandemic, flood/landslip disasters, and economic pressures, appear to be contributing to an increase in DFV presentations. For instance, through a presentation to the Regional Health and Wellbeing Subcommittee (5 December 2022), Council presented MDNC's experience of a 48% increase in referrals across local DFV programs following the 2022 disaster events and suggested that further program support was warranted. Unless contributing pressures are alleviated or service system capacity is increased, the needs of people experiencing DFV cannot be adequately served.

10 The role of the Byron Shire Committee Against Family and Domestic Violence network is to ensure a collaborative and localised response to DFV. All stakeholders, including Council, are represented through this network, and have contributed to collective advocacy and action campaigns historically.

15 **c) Ensuring all Council led future housing projects are embedded in providing safe housing for everyone, including safe housing for women and children.**

Council's recently adopted Residential Strategy provides a long-term approach to the delivery of housing in the Byron Shire. The Strategy's vision is to enable opportunities for diverse housing to meet the needs of the Byron Shire community, which includes women and children, both now and in the future. Housing will be located on land that is suitable, safe and conscious of its environment with neighbourhoods being designed to engage communities.

25 The Strategy notes that Byron Shire's communities, both existing and future planned, are diverse. Having access to the type of housing that community members require, including women and children, is critical to maintaining healthy, safe communities.

30 The Strategy is informed by key challenges that face parents, families and young people in accessing safe and secure housing. It also speaks to considerations for Aboriginal and Torres Strait Islander people.

Specific liveability attributes are highlighted, including safe, integrated public space and safe travel.

35 Any Council-led housing project incorporates established Crime Prevention Through Environmental Design (CPTED) elements that enhance safety for all community members, including women and children. Additional design elements specific to safe housing for women and children could be considered in any future review of the Development Control Plan (DCP).

40 **d) Supporting awareness and connections with law enforcement and health services for all people, including men, to easily access resources to assist in managing violence as a health crisis.**

e) Raising awareness and promoting education about domestic violence and violence prevention and supporting services within the community.

45 Council recognises NSW Police and NSW Health as the lead agencies in law enforcement and health services respectively. Council also recognises the vital role of other health

partners including Healthy North Coast, Aboriginal Community Controlled Health Organisations and private healthcare providers.

5 Council is able to share information and campaigns provided by lead agencies through our communication platforms in order to raise awareness and promote education about DFV prevention and support services.

10 **f) Ensuring Councillors and Council staff have access to information and education about how Local Government can support the reduction and better management of Domestic Violence and other forms of violence within the community, including, and not limited to, the Local Government New South Wales (LGNSW) programme called: Domestic Violence - Councils Are Part Of The Solution**

Staff are supportive of exploring the opportunity provided through the proposed program, *Domestic Violence – Councils are part of the solution.*

15 Organisational training budgets for the remaining financial year are limited, with a strategic focus on critical, role-specific training. If training is identified as an urgent priority, it is proposed that two staff can attend within existing budget resources.

If this training is endorsed as priority for the next financial year, budget resourcing can enable further attendance.

20 Councillors can be provided with training opportunities, including this one, as part of their onboarding process.

It is important to acknowledge that, whilst vastly overrepresented, not all victims of DFV are women and children. It is estimated that 1 in 8 men (12%) in Australia experienced violence by an intimate partner or family member since the age of 15 years (ABS Personal Safety Survey 2021-22).

25 **Financial/Resource/Legal Implications:**

Costs for the Domestic Violence – Councils are part of the solution are \$693 per attendee (online).

If endorsed, staff can identify and apply for relevant funding as opportunities become available.

30

Is the proposal consistent with any Delivery Program tasks?

The Delivery Program includes safety related initiatives, however no current specific action is identified in the Operational Plan. If endorsed, staff will draft a specific OP activity for inclusion.

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
2: Inclusive Community	2.2: Enhance safety and contribute to the physical, mental, and spiritual health and well being of the community	2.2.1: Safety initiatives - Support community driven safety initiatives	-	-

5

Notice of Motion No. 9.7 Alleged anti-social behaviour and crime in Bangalow

File No: I2024/727

5

I move that Council:

1. **Notes resident's concerns about alleged anti-social behaviour and crime in Bangalow**
- 10 2. **Requests Police to facilitate a public meeting with residents of Bangalow and other relevant stakeholders to discuss their concerns and consider how to respond to the issues**

15 **Signed: Cr Sarah Ndiaye**

Councillor's supporting information:

20 There has been an increase in reports of theft and break-in's in Bangalow and a lot of community concerns. Members of the public have asked if a community meeting could be convened with police and Matt Kehoe has agreed to participate. There is a sense of urgency from the community as there is a perceived threat to the sense of safety and also a 'we'll take it into our own hands', attitude springing up.

A community meeting where police and councillors can hear from the community and vice versa, could help to ease community concerns and enable positive, proactive behaviour before things escalate.

25 **Staff comments**

by Esmeralda Davis, Director Corporate & Community Services:

Community concerns relating to anti-social behaviour and crime are a matter for NSW Police, and as such the facilitation of a community meeting by Detective Chief Inspector Matt Kehoe is appropriate and supported.

30 Should Council support this motion, staff resources may need to be allocated to coordinate the meeting, including booking a venue, distributing invitations/information and supporting other logistical elements.

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9.7

Councillors and community may also wish to consider making a submission to the NSW Legislative Assembly Committee on Law and Safety [Inquiry into Community Safety in Regional and Rural Communities](#) closing 31 May 2024.

5 Terms of Reference:

That the Committee on Law and Safety inquire into and report on:

- 10 (a) *the drivers of youth crime across regional and rural NSW, particularly since the COVID pandemic;*
- (b) *how a whole of government approach can reduce the drivers and root causes of youth crime in regional and rural NSW;*
- 15 (c) *the wraparound and diversionary services available for youth and families in the regions and rural areas and how they can be better matched to individuals, measured, improved and integrated into a coordinated approach to divert youth from crime, having regard to the NSW Government's commitment to working in partnership with Aboriginal people;*
- (d) *staffing levels and workforce issues, including police staffing, in regional and rural areas and how services can be improved to reduce youth crime in these areas;*
- 20 (e) *recidivism rates in regional and rural areas, and related impacts on the community, services and law enforcement;*
- (f) *the range of functions being performed by NSW police officers, including mental health assistance and youth welfare, on behalf of other agencies in regional and rural areas, and the supports required to assist police; and*
- 25 (g) *any other related matter.*

The inquiry will report back in February 2025.

Financial/Resource/Legal Implications:

30 Staff time – as above.

Hire of facility for up to 2 hours - \$200 approximately, which can be funded from Community Development budget.

Is the proposal consistent with any Delivery Program tasks?

CSP Objective	CSP Strategy	DP Action
2: Inclusive Community	2.2: Enhance safety and contribute to the physical, mental, and spiritual health and well being of the community	2.2.1: Safety initiatives - Support community driven safety initiatives

PETITIONS

Petition No. 11.1 Support for the return of Butler Street Precinct to a 60 night short term holiday let area in line with the rest of Byron Bay

Directorate: Sustainable Environment and Economy

Report Author: Chris Larkin, Manager Sustainable Development

File No: I2024/555

Council is in receipt of a Petition containing 49 signatures (Attachment 1 - E2024/37678) from Catherine Henniker which states:

“Support for the return of the Butler Street Precinct to a 60-night short term holiday let area in line with the rest of Byron Bay.”

Comments from Director Sustainable Environment and Economy:

The matter was discussed at the Ordinary Meeting on the 18 April 2024 where a Notice of Motion was brought forward by Councillor Dey to Diminish the STRA Precincts at Butler Street. (For details see page 8-14 of the [Agenda of Ordinary Meeting - Thursday, 18 April 2024 \(infocouncil.biz\)](#))

Staff recommendation from the Notice of Motion (Nom) in summary was not to make any changes to the STRA precincts, that the current pathways are acceptable and following implementation of the new regulations in September 2024 monitor and review the controls accordingly.

Council then moved on the Nom as follows:

Notice of Motion No. 9.1 Diminish STRA precinct at Butler Street

File No: I2024/471

Moved that Council:

1. *Acknowledges the Petition of 61 residents with three urban blocks inside the Short Term Rental Accommodation (STRA) Precinct at Butler Street Byron Bay, in which those residents ask for their sub-area to be extracted from the Precinct.*

BYRON SHIRE COUNCIL

PETITIONS

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2. *Contacts property owners within the urban blocks as shown below (west of Butler Street and south of Somerset Street) informing them in April of the above request and asking them to respond within 28 days on whether they wish to be included or excluded from the STRA Precinct.*

5

3. *Informs the NSW Department of Planning that Council is investigating this minor change with a view to asking for the sub-area's removal from the STRA Precinct.*

10

4. *Receives a report in June on the above consultation and asks for the change.*
(Dey/Balson)

The motion was put to the vote and declared lost.

Crs Coorey, Westheimer, Pugh, Lyon, Hunter and Ndiaye voted against the motion.


15 Having regards to the previous Notice of Motion on the matter it is recommended that Council note the Petition.

20 **RECOMMENDATION:**

That Council:

1. **Notes the petition regarding the return of the Butler Street precinct to a 60-night short term holiday let area.**
2. **Refers the petition to the Director Sustainable Environment and Economy.**

25 **Attachments:**

- 1 Confidential - Support for the return of Butler Street Precinct to a 60 night short term holiday let area in line with the rest of Byron Bay, E2024/37678
- 2 Support for the return of Butler Street Precinct to a 60 night short term holiday let area in line with the rest of Byron Bay_REDACTED, E2024/37848 

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STAFF REPORTS - GENERAL MANAGER

Report No. 13.1 In principle support for temporary accommodation lease extensions between Council and NSW Reconstruction Authority

5

Directorate: General Manager

Report Author: Esmeralda Davis, Director Corporate and Community Services

File No: I2024/729

Summary:

10 In May 2022 Council resolved to enter into lease arrangements with Resilience NSW, now established as the NSW Reconstruction Authority, for temporary accommodation sites at Tweed Street and Bayside in Brunswick Heads known as the “Pod Villages”.

15 These sites were established following the NSW Government announcement of a \$350 million investment in temporary modular housing to give people displaced by the February and March 2022 floods a place live, while they rebuilt their lives.

The term of the leases over both sites was an initial 3 years with 2 x 1 year renewal options.

20 The NSW Reconstruction Authority wrote to the General Manager on 8 May 2024, thanking Council for its ongoing support in making land available for temporary housing, and seeking in principle support for a lease extension to June 2026 on the Tweed Street site, thereby exercising the first of the one year renewal options (refer Attachment 1 E2024/54608).

25 Regarding the second lease for the site in Bayside, the NSW Reconstruction Authority advises discussions are currently on hold, and negotiations are expected to progress after August 2024. This site is located both on Council land and private land.

30 A third temporary accommodation site between Prince and Station streets in Mullumbimby on land owned by Transport Asset Holding Entity (TAHE). It is understood that a similar request has been made TAHE for in principle support for a lease extension to June 2026.

35 Formal extension of sites will be subject to the development of transition or decommissioning plans by the NSW Reconstruction Authority, and further decisions of government regarding program timelines and funding, expected by end of 2024.

BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

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RECOMMENDATION:

That Council:

- 5 1. **Authorises the General Manager to write to the NSW Reconstruction Authority confirming in principle support for the one year lease extension on the Tweed Street site (*Lot 1 in Deposited Plan 560486 - 125 Tweed Street Brunswick Heads*) until June 2026; and**
- 10 2. **Notes that discussions with landowners of the Bayside site (*Lots 51 and 69 in Deposited Plan 851902 - Excelsior Circuit and Torakina Road Brunswick Heads*) are on hold until after August 2024.**
3. **Authorises the General Manager, under delegation, to continue discussions with the NSW Reconstruction Authority on the transition plan for the Tweed Street site.**

Attachments:

- 15 1 Letter from NSW Reconstruction Authority - Extension of Tweed St Brunswick Heads Site - 8 May 2024, E2024/54608

Report

Background

5 In May 2022 Council resolved to enter into lease arrangements with Resilience NSW, now established as the NSW Reconstruction Authority, for temporary accommodation sites at Tweed Street and Bayside in Brunswick Heads known as the “Pod Villages”.

10 These sites were established following the NSW Government announcement of a \$350 million investment in temporary modular housing to give people displaced by the February and March 2022 floods a place live while they rebuilt their lives. The NSW Government led the delivery of temporary housing throughout the region with agreement and consultation from Councils. A community housing provider was appointed as site and tenancy manager with the NSW Reconstruction Authority as the land manager for the length of the lease.

Relevant extract of **Res 22-183** below:

- 15 1. *That Council provides its in principle support to the proposed leases over Lot 1 in Deposited Plan 560486 (125 Tweed Street Brunswick Heads) and Lots 51 and 69 in Deposited Plan 851902 (Excelsior Circuit and Torakina Road Brunswick Heads) to Resilience NSW.*
- 20 2. *That Council authorises the General Manager, under delegation, to negotiate the final form of a lease and enter into a lease with Resilience NSW (ABN 11 518 338 739) on the following terms:*
 - 25 a) *over Lot 1 in Deposited Plan 560486 (125 Tweed Street Brunswick Heads).*
 - b) *for a term of 3 years, with 2 x 1 year options to renew,*
 - c) *for rental of \$136,213 per year,*
 - d) *for the purpose of construction, maintenance, and operation of temporary housing, and making good the site at the end of the lease but providing that base eligibility criteria for the pop-up village pod allocation is to be expanded to include additional criteria - primary place of residence inaccessible, unusable, or unliveable as a result of the February and March 2022 flood events*
 - 30 e) *Lessee must, at its cost, be responsible for the following:*
 - i. *all outgoings payable in respect of the Land,*
 - ii. *providing a minimum \$20 million public risk insurance cover noting Byron Shire Council as an interested party, and*
 - f) *Lessee must, at its cost, remove all improvements from the Land and return the Land as vacant possession to the Lessor on the day the Lease.*
- 35 3. *That Council authorises the General Manager, under delegation, to negotiate the final form of a lease and to enter into a lease with Resilience NSW (ABN 11 518 338 739) on the following terms:*
 - 40 a) *over Lots 51 and 69 in Deposited Plan 851902 (Excelsior Circuit and Torakina Road Brunswick Heads).*
 - b) *for a term of 3 years, with 2 x 1 year options to renew,*
 - c) *for rental of \$19,459 per year,*
 - d) *for the purpose of construction, maintenance, and operation of temporary housing, and making good the site at the end of the lease but providing that base eligibility criteria for the pop-up village pod allocation is to be expanded to include additional criteria - primary place of residence inaccessible, unusable, or unliveable as a result of the February and March 2022 flood events*
 - 45 e) *Lessee must, at its cost, be responsible for the following:*
 - i. *all outgoings payable in respect of the Land,*

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STAFF REPORTS - GENERAL MANAGER

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- 5
- ii. *providing a minimum \$20 million public risk insurance cover noting Byron Shire Council as an interested party, and*
 - f) *Lessee must, at its cost, remove all improvements from the Land and return the Land as vacant possession to the Lessor on the day the Lease ends, unless a new lease is negotiated to commence on the day after the end of the Head Lease.*

10 The NSW Reconstruction Authority has advised that the NSW Government is considering options for the use of temporary sites beyond the current program timeframe. Due to the ongoing housing stress in the region, many residents will not be able to transition out of temporary housing before the end of the current lease terms, primarily due to the limited housing options available in the Northern Rivers. Therefore, an extension of some of the 'Pod Villages' will be required to support residents to secure long term alternative housing. The term of the initial leases over both sites was 3 years with 2 x 1 year renewal options.

15 The NSW Reconstruction Authority wrote to the General Manager on 8 May 2024, thanking Council for its ongoing support in making land available for temporary housing, and seeking in principle support for a lease extension to June 2026 on the Tweed Street site, thereby exercising the first of the one year renewal options (refer Attachment 1 E2024/54608).

20 Regarding the second lease for the site Bayside, the NSW Reconstruction Authority advises discussions are currently on hold, and negotiations are expected to progress after August 2024. This site is located both on Council land and private land.

25 A third temporary accommodation site between Prince and Station streets in Mullumbimby on land owned by Transport Asset Holding Entity (TAHE). It is understood that a similar request has been made TAHE for in principle support for a lease extension to June 2026.

30 Formal extension of sites will be subject to the development of transition or decommissioning plans, and further decisions of government regarding program timelines and funding, expected by end of 2024.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
4: Ethical Growth	4.5: Support a resilient community that can adapt and respond to change	4.5.2: Recovery - Support disaster recovery following the 2022 flood events	4.5.2.10	Support the NSW Government to deliver temporary housing in Byron Shire for flood and landslip impacted residents

Recent Resolutions

22-183

Legal/Statutory/Policy Considerations

Nil. Providing in principle support does not create a legally binding agreement between Council and NSW Reconstruction Authority.

Financial Considerations

- 5 Rent is payable to Council with the exercising of the one (1) year option to June 2026.

Consultation and Engagement

Discussions with Council staff, the Mayor and NSW Reconstruction Authority occurred in March, April and May of 2024.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.2 Grants April 2024

Directorate: Corporate and Community Services

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

File No: I2023/1938


Summary:

10 Council is waiting on determination of 17 Grant applications which, if successful, would provide funding to enable the delivery of identified projects. This report provides an update on Grant applications.

RECOMMENDATION:

15 **That Council notes the Grant Submissions Report for the month of April 2024 (Attachment 1 #E2024/50108).**

Attachments:

20 1 Grant submissions as at 30 April 2024, E2024/50108 

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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Report

Currently Council has 17 grant applications awaiting determination (refer to Grants Submissions as of April 2024 - Attachment 1, E2024/5008).

Successful applications

Funding body	Project name	Total project value \$	Amount requested \$	Council \$
World Wildlife Fund - Australia	Koala Tree Field Guide - design	\$5,000	\$5,000	\$5,000
NSW Dept of Climate Change, Energy, the Environment & Water	Koala Tree Field Guide - print	\$10,000	\$10,000	\$10,000
NSW Dept of Climate Change, Energy, the Environment & Water	Byron Wildlife Information Portal	\$10,000	\$10,000	\$10,000
NSW Dept of Climate Change, Energy, the Environment & Water	Byron Shire flying-fox camp habitat restoration	\$10,000	\$10,000	\$10,000
NSW Dept of Climate Change, Energy, the Environment & Water	Brunswick Catchment Booklet - revegetating streams	\$3,000	\$3,000	\$3,000

5 Unsuccessful applications

Funding body	Funding scheme	Project name	Total project value \$	Amount requested \$	Council \$
NSW Department of Planning & Environment	Habitat Action Grant	Riverbank Camphor removal	29/09/2023	\$80,000	\$40,000



Upcoming Grant opportunities

[Regional Precincts Partnership Fund](#)

5 Staff are continuing to work with neighbouring Councils to submit a partnership application for sections of the Northern Rivers Rail Trail within the Mullumbimby to Crabbes Creek and Lismore to Bangalow corridors.

[Floodplain management grants | NSW Environment and Heritage](#)

The Floodplain Management Program provides financial support to local councils and eligible public land managers to help them manage flood risk in their communities.

10 Council staff have reviewed options to support required funding co-contribution to enable applying to update for the North Byron Flood Study and associated Risk Study and Plan. Co-contribution is currently not available and therefore the application is not recommended to proceed.

[Transport for NSW – Towards Zero Safer Roads](#)

15 The NSW 2026 Road Safety Action Plan (RSAP or the Plan) seeks to continue the accomplishments of the Road Safety Plan 2021 and focuses on enhancing education and local engagement, transforming the safety of the road network, and accelerating safety features in vehicles.

Staff are currently considering applications for the following projects:

Project Name	Scope
Mullumbimby Road safety improvements – Manns Road to McAuleys Lane	Design and Construction
Clifford St / Broken Head Road intersection upgrade to traffic signals	Design and Construction
Goonengerry Public School Bus Stop Safety Improvements	Detailed Design and Construction
Bangalow Road Shared Path Crossing Upgrade	Detailed Design and Construction

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Mullumbimby High School Road Safety Improvements	Design and Construction
Mullumbimby Public School Road Safety Improvements	Design and Construction
Vehicle Activated Signage permanent locations x10	Design and Construction

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

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

Financial Considerations

- 10 If Council is successful in obtaining the identified Grants, this would bring funding sought to approximately \$30 million which would provide significant funding for Council projects. Some of the Grants require a contribution from Council (either cash or in-kind) and others do not. Council’s contribution is funded.

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STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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The potential funding is detailed below:

	Funding applications submitted and awaiting notification (total value)	\$29,861,947
	Requested funds from funding bodies	\$17,413,599
5	Council contribution cash	\$12,615,015
	Council co-contribution in-kind	\$0
	Other contributions	\$0

Funding determined in April 2024:

10	Successful applications	\$38,000 (total project value)
	Unsuccessful/withdrawn applications	\$80,000 (total project value)

Consultation and Engagement

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

**Report No. 13.3 Council Resolutions Quarterly Review - Q3 -
1 January to 31 March 2024**

Directorate: Corporate and Community Services

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

File No: I2024/356

Summary:

This report provides a quarterly update on the status of Council resolutions as at 31 March 2024.

10 38 resolutions were completed during the period 1 January to 31 March 2024.

103 resolutions remain active.



RECOMMENDATION:

15 **That Council:**

1. **Notes the information provided in this report on active Council Resolutions in Attachment 1 (#E2024/34179).**
2. **Notes the completed Council Resolutions in Attachment 2 (#E2024/34167).**

Attachments:

20

- 1 Active Resolutions as at 31 March 2024, E2024/34179 
- 2 Completed Resolutions as at 31 March 2024, E2024/34167 

25

Report

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

5 Quarterly Report – 1 January to 31 March 2024.

Active Resolutions

10 The *Active Resolutions Report* (E2024/34179) provides an update to Council on all active resolutions up to 31 March 2024, with relevant commentary regarding the status of each resolution as at this date. There were 103 active resolutions at the time of preparing this report.

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

15 Completed Resolutions

The *Completed Resolutions Report* (#E2024/34167) provides details of those resolutions that were completed during the period 1 January to 31 March 2024. 38 resolutions were completed during this period.

Resolutions for closure

20 There were no actions identified as needing to be 'closed with no action.'

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

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

Legal/Statutory/Policy Considerations

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

Financial Considerations

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

Consultation and Engagement

- 10 Not applicable.

Report No. 13.4 Budget Review - 1 January 2024 to 31 March 2024

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

5 **File No:** I2024/612

Summary:

10 This report has been prepared to comply with Section 203 of the *Local Government (General) Regulation 2021* and to inform Council and the community of Council's estimated financial position for the 2023/2024 financial year, reviewed as at 31 March 2024.

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

15 Attachment 3 contains the Integrated Planning and Reporting Framework (IP&R) Quarterly Budget Review Statement (QBRS) as outlined by the Office of Local Government in circular 10-32.

20 This report was considered by the Finance Advisory Committee at its Meeting held on 9 May 2024.

RECOMMENDATION:




- 25 1. **That Council authorises the itemised budget variations as shown in Attachment 2 (#E2024/48670) which include the following results in the 31 March 2024 Quarterly Review of the 2023/2024 Budget:**
- a) **General Fund - \$250,000 increase to the Estimated Unrestricted Cash Result**
 - b) **General Fund - \$7,008,200 increase in reserves**
 - 30 c) **Water Fund - \$1,321,800 increase in reserves**
 - d) **Sewerage Fund - \$952,900 increase in reserves**
2. **That Council adopts the revised General Fund Estimated Unrestricted Cash of \$0 for the 2023/2024 financial year as at 31 March 2024.**

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STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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Attachments:

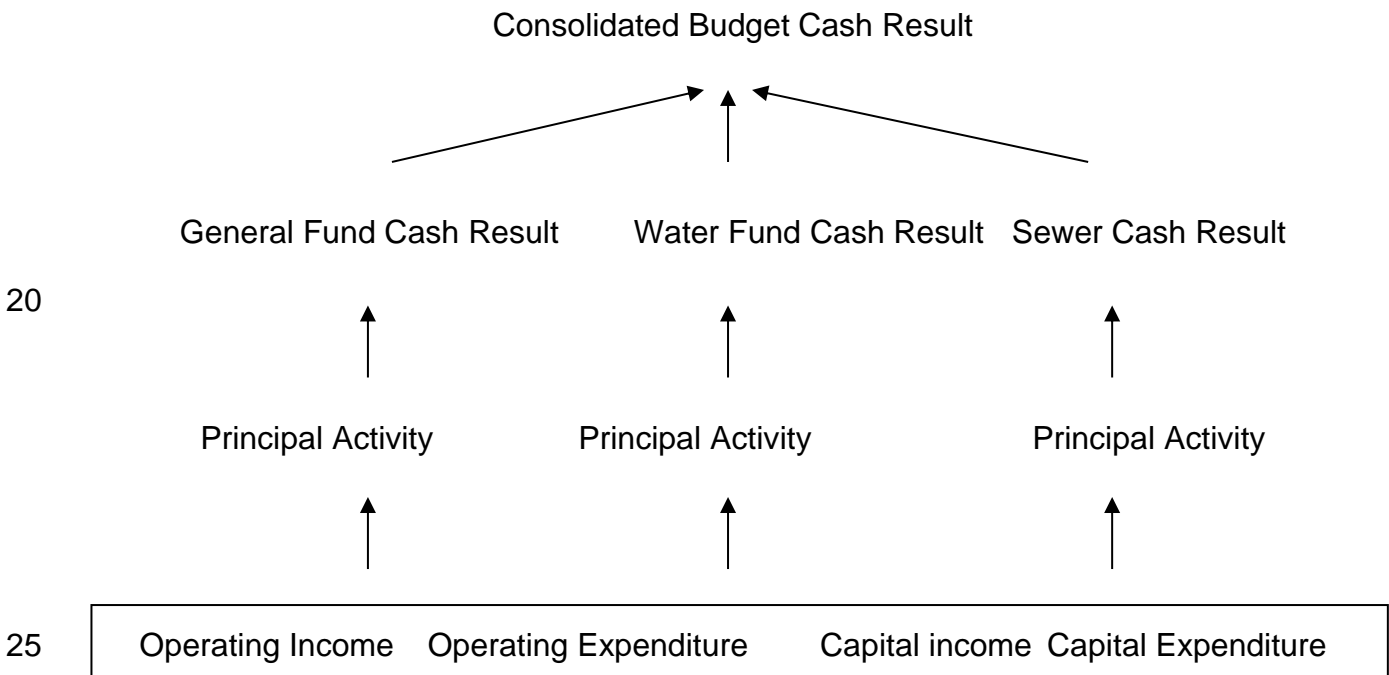
- 5
- 1 Budget Variations for General, Water and Sewerage Funds, E2024/48669 
 - 2 Itemised Listing of Budget Variations for General, Water and Sewerage Funds, E2024/48670 
 - 3 Integrated Planning and Reporting Framework (IP&R) required Quarterly Review Statements, E2024/48672 

Report

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

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

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



The pages within Attachment 1 are presented (from left to right) by showing the original budget as adopted by Council on 30 June 2023 plus the adopted carryover budgets from 2022/2023 followed by adjustments from July 2023 to December 2023 (including resolutions) and the revote (or adjustment for this review) and then the revised position projected for 30 June 2024 as at 31 March 2024.

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

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

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

Office of Local Government Budget Review Guidelines:

5 The Office of Local Government on 10 December 2010 issued the new Quarterly Budget Review Guidelines via Circular 10-32, with the reporting requirements to apply from 1 July 2011. This report includes a Quarterly Budget Review Statement (refer Attachment 3) prepared by Council in accordance with the guidelines.

10 The Quarterly Budget Review Guidelines set a minimum standard of disclosure, with these standards being included in the Local Government Code of Accounting Practice and Financial Reporting as mandatory requirements for Councils to address.

Since the introduction of the new planning and reporting framework for NSW Local Government, it is now a requirement for Councils to provide the following components when submitting a Quarterly Budget Review Statement (QBRs):

- 15
- A signed statement by the Responsible Accounting Officer on Council's financial position at the end of the year based on the information in the QBRs
 - Budget review income and expenses statement in one of the following formats:
 - Consolidated
 - By fund (e.g. General, Water, Sewer)
- 20
- By function, activity, program etc. to align with the management plan/operational plan
 - Budget Review Capital Budget
 - Budget Review Cash and Investments Position
 - Budget Review Key performance indicators
 - Budget Review Contracts and Other Expenses

25 The above components are included in Attachment 3 and outlined below:

Income and Expenditure Budget Review Statement by Type

This shows Council's income and Expenditure by type. This has been split by Fund. Adjustments are shown, looking from left to right. These adjustments are commented on through the last 13 pages of Attachment 1.

30 **Capital Budget Review Statement**

This statement identifies in summary Council's capital works program on a consolidated basis and then split by Fund. It also identifies how the capital works program is funded. As this is the first quarterly review for the reporting period, the Statement may not necessarily indicate the total progress achieved on the delivery of the capital works program.

35 **Cash and Investments Budget Review Statement**

This statement reconciles Council's restricted funds (reserves) against available cash and investments. Council has attempted to indicate an actual position as at 31 March 2024 of

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each reserve to show a total cash position of reserves with any difference between that position and total cash and investments held as available cash and investments. It should be recognised that the figure is at a point in time and may vary greatly in future quarterly reviews depending on cash flow movements.

5 Key Performance Indicators (KPIs)

At this stage, the KPIs within this report are:

- **Debt Service Ratio** - This assesses the impact of loan principal and interest repayments on the discretionary revenue of Council.
- **Rates and Annual Charges Outstanding Ratio** – This assesses the impact of uncollected rates and annual charges on Councils liquidity and the adequacy of recovery efforts.
- **Asset Renewals Ratio** – This assesses the rate at which assets are being renewed relative to the rate at which they are depreciating.

These may be expanded in future to accommodate any additional KPIs that Council may adopt to use in the future.

Contracts and Other Expenses - This report highlights any contracts Council entered into during the January to March quarter that are greater than \$50,000.

CONSOLIDATED RESULT

The following table provides a summary of the overall Council budget on a consolidated basis inclusive of all Funds' budget movements for the 2023/2024 financial year projected to 30 June 2024 but revised as at 31 March 2024.

2023/2024 Budget Review Statement as at 31 March 2024	Original Estimate (Including Carryovers) 1/7/2023	Adjustments to 31 March 2024 including Resolutions*	Proposed 31 March 2024 Review Revotes	Revised Estimate 30/6/2024 at 31/03/2024
Operating Revenue	117,955,300	(7,852,800)	1,343,700	111,446,200
Operating Expenditure	127,753,000	(6,170,800)	(910,500)	120,671,700
Operating Result – Surplus/Deficit	(9,797,700)	(1,682,000)	2,254,200	(9,225,500)
Add: Capital Revenue	155,394,600	(105,472,500)	2,392,000	52,314,100
Change in Net Assets	145,596,900	(107,154,500)	4,646,200	43,088,600
Add: Non Cash Expenses	20,523,000	0	0	20,523,000
Add: Non-Operating Funds Employed	10,487,100	1,200,000	(5,886,600)	5,800,500

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2023/2024 Budget Review Statement as at 31 March 2024	Original Estimate (Including Carryovers) 1/7/2023	Adjustments to 31 March 2024 including Resolutions*	Proposed 31 March 2024 Review Revotes	Revised Estimate 30/6/2024 at 31/03/2024
Subtract: Funds Deployed for Non-Operating Purposes	(204,353,500)	108,607,500	10,773,300	(84,972,700)
Cash Surplus/(Deficit)	(27,746,500)	2,653,000	9,532,900	(15,060,600)
Restricted Funds – Increase / (Decrease)	(27,311,500)	2,468,000	9,782,900	(15,060,600)
Forecast Result for the Year – Surplus/(Deficit) – Unrestricted Cash Result	(435,000)	185,000	250,000	0

GENERAL FUND

In terms of the General Fund projected Unrestricted Cash Result the following table provides a reconciliation of the estimated position as at 31 March 2024:

5

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

The General Fund financial position overall has increased by \$250,000 as a result of this budget review, leaving the forecast cash result for the year at an estimated balance of 0. The proposed budget changes are detailed in Attachment 1 and summarised further in this report below.

10

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Council Resolutions

There were no Council resolutions that impacted the unrestricted cash balance in the January 2024 to March 2024 quarter.

Budget Adjustments

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

Budget Directorate	Revenue Increase/ (Decrease) \$	Expenditure Increase/ (Decrease) \$	Unrestricted Cash Increase/ (Decrease) \$
General Manager	0	2,500	(2,500)
Corporate & Community Services	478,500	(134,500)	613,000
Infrastructure Services	(9,375,600)	(8,762,600)	(613,000)
Sustainable Environment & Economy	450,500	198,000	252,500
Total Budget Movements	(8,446,600)	(8,696,600)	250,000

Budget Adjustment Comments

- 10 Within each of the Budget Directorates of the General Fund, are a series of budget adjustments identified in detail at Attachment 1 and 2. More detailed notes on these are provided in Attachment 1 but in summary the major additional items included are summarised below by Directorate and are included in the overall budget adjustments table above.

- 15 In addition to the adjustments identified within this report, Council received \$19.968 million in advanced funding from TfNSW on 8 January 2024 for the Essential Public Asset Reconstruction Works (EPARs) related to the March 2022 Natural Disaster. Of this amount, \$2.168million of this has been used to decrease the negative Flood Recovery reserve within the 31 March 2024 Quarterly Budget Review. Although this is part of an advanced payment in lieu of actual EPAR approvals, the actual expenditure was incurred in the 2023 financial year. The remaining budget adjustments to EPARs will be
- 20 undertaken during the 30 June 2024 Quarterly Budget Review process so additional, approved advanced funding if received and further expenditure can be accounted for the whole financial year once clarified.

Corporate and Community Services

- 25
- In the General Purpose Revenues program, it is proposed to increase interest on investments by \$200,000 due to the continued high interest rates that Council is obtaining for investments. The current rates being utilised are substantially higher than what the budget was estimated from. It is proposed to transfer this \$200,000 to the IS

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STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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5 Carryover reserve to use as Councils' contribution to Transport for NSW (TfNSW) as an 'Opt-in' Council related to the latest Natural Disaster (AGRN 1119) that occurred in April 2024. It is also proposed to increase interest on developer contributions by \$257,200 due to the higher interest rates as mentioned above. This can be transferred to the relevant Developer Contribution reserves.

- 10 • In the Community Development program, it is proposed to decrease operating expenditure by \$640,000 due to splitting up grant funded works for the SGB Resilience program and moving them to the Local Roads & Drainage program for easier management. As part of the Local Government Recovery Grants - NSW Severe
15 Weather and Floods - \$1M Council support payments - AGRN 1012, \$140,000 was allocated to the SGB Resilience program. This comprised of 3 projects that engineers requested be separated with their own budgets in the Local Roads & Drainage program for easier management. Therefore, it is proposed to remove the \$140,000 from the
20 Community Development program and add \$50,000 for the Flood Pump Generator Power Supply, \$60,000 for the Flood Levy Raising Investigation and \$30,000 for the Flood Pump Inv for Western Levy to the Local Roads & Drainage program, below. As part of the Local Government Recovery Grant - Highly Impacted Councils, \$500,000 was allocated to the SGB Resilience Betterment program. Again, this comprised of 3
25 projects that engineers requested be separated with their own budgets in the Local Roads & Drainage program for easier management. Therefore, it is proposed to remove the \$500,000 from the Community Development program and add \$90,000 for the Rear Drainage Easements Upgrade, \$360,000 for the Flood Pump Generator Power Supply and \$50,000 for the Soakage Pits Upgrade to the Local Roads & Drainage program, below.

Infrastructure Services

- 30 • In the Depot and Fleet Services Program the main budget adjustment is the removal of \$3,672,100 from the plant replacement program that was to be funded via new loan borrowings in 2023/24. The replacement program is behind schedule plus long delivery times for major plant items indicates this funding will not be required as the expenditure will not be realised. It is proposed to move this expenditure and associated loan funding to the 2024/25 budget.
- 35 • In the Local Roads and Drainage program, there are a number of adjustments outlined under Note 8 on pages 54 to 57 in the Budget Variations explanations section of Attachment 1. Further disclosure is included in the first and second pages of Attachment 2 under the budget program heading Local Roads and Drainage.
- 40 • In the Infrastructure Recovery program, it is proposed to increase capital income and expenditure by \$1,917,200 due to advance funding received and funding agreements being approved for various EPARS. A breakdown of these are outlined under Note on page 57 to 58 in the Budget Variations explanations section of Attachment 1. It is also proposed to transfer a further \$2,166,300 to the Flood Recovery reserve. This reserve
45 was used to fund Natural disaster expenditure in 2023 for which Council has received some of the funding for these through the advance payments.

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- In the Open Space and Recreation program, there are a number of adjustments outlined under Note 10 on page 58 to 59 in the Budget Variations explanations section of Attachment 1. Further disclosure is included on the second page of Attachment 2 under the budget program heading Open Space & Recreation.
5
- In the Waste Management program, it is proposed to decrease operating income due to the Special Waste Collection contribution program not happening this financial year. It is proposed to decrease operating expenditure due to the Waste Management Strategy Implementation being moved to 2024/25 (\$100,000) and the Special Waste Collection contribution program expenditure not happening this financial year (\$5,000). It is proposed to increase capital works by \$215,600 with further comments outlined under note 11 in the Budget Variations explanations section of Attachment 1
10
- In the First Sun Holiday Park program, it is proposed to decrease capital expenditure by \$2,075,000 due to the land purchase of the rail corridor adjacent to the park not being completed this financial year. This has been added to the 2024/25 budget.
15
- In the Facilities Management program, it is proposed to increase operating income by \$101,900 due to income received from Public Works relating to damage to the Mullumbimby pool caused by the March 2022 natural disaster. This can be transferred to the negative Flood Recovery as this is what originally funded the expense. It is proposed to decrease operating expenditure due to decreases to the Corporate Access Control System Design (\$27,000), Marvel Hall works (\$125,000), Federal Pre-School (\$40,000) and moving budgets between Lilly Pilli pre-school roof and guttering to the Mullumbimby Civic Hall works (\$20,000).
20
25

Sustainable Environment and Economy

- In the Development & Certification program It is proposed to decrease operating income due to DA fees (\$121,700) and Construction Certificate Inspections (\$50,000) actual income being less than the budget. The number and value of DA's is significantly less than previous years. These can be offset by increases to the Certificate Registration Fee (\$4,000), Construction Certificates (\$100,000), Sundry Building Control Income (\$15,100) and Building Certificates – 149D (\$17,300) where the actual income is more than the budget in addition to a grant received for a Strong Start Planner Cadetship (\$25,000). It is proposed to increase operating expenditure due to the Strong Start Planner Cadetship grant (\$25,000) and funding required to support Planning Priority projects (\$133,800)).
30
35
- In the Planning Policy & Natural Environment program, it is proposed to increase operating income by \$69,100 due to grants received for the CMP for Byron Bay Embayment (\$11,100), Stage 2 - Southern Coastal Management Program (\$30,000), Revegetating Streams in the Brunswick Catchment Booklet (\$3,000), Middleton Flying Fox Camp Habitat Restoration (\$10,000) and the Koala Trees Field Guide (\$15,000).
40
- Operating expenditure decreased due to the budgets for the Byron Rural Settlement Strategy (\$51,000) and DCP Character Design Guidelines (\$23,300) not being required. These can be redirected to the increase to the Planning Priority Projects budget in the
45

BYRON SHIRE COUNCIL

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Development & Certification program, above. It is also proposed to decrease the budgets for the Comprehensive Koala Plan of Management (\$9,000) and Shire wide Flying fox Management Plan (\$14,000), restrict them in the Land and Natural Environment reserve and move to the 2024/25 'Review Shire wide Pest Management Plan' budget. The operating expenditure decrease is offset by increases to budgets related to the Southern Coastal Management Program (\$30,000), Revegetating Streams in the Brunswick Catchment Booklet (\$3,000), Middleton Flying Fox Camp Habitat Restoration (\$10,000) and the Koala Trees Field Guide (\$15,000) grants.

- 5
- 10
- 15
- In the Environment & Compliance program, it is proposed to increase operating income by \$347,800 due to actual income for fine revenue being substantially higher than the budget (\$312,500), actual income for On-Site Sewage-Operation & Installation Applications (\$40,000), DET Traineeships (\$6,300) and Section 735A Certificates (\$4,000) being higher than the budget and a decrease in Food/Health inspections income (\$15,000). It is proposed to increase operating expenditure due to increased collection fees paid on the increased fine income.

WATER FUND

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

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

Capital Works Reserve

Opening Reserve Balance at 1 July 2023	\$5,702,300
Plus original budget reserve movement	(3,254,300)
Resolutions July - September Quarter – increase / (decrease)	(690,700)
September Quarterly Review Adjustments – increase / (decrease)	(1,208,600)
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	251,000
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	1,033,700
Forecast Reserve Movement for 2023/2024 – Increase / (Decrease)	(3,368,900)
Estimated Reserve Balance at 30 June 2024	\$1,833,400

BYRON SHIRE COUNCIL

Section 64 Developer Contributions

Opening Reserve Balance at 1 July 2023	\$1,720,900
Plus original budget reserve movement	(2,199,600)
Resolutions July - September Quarter – increase / (decrease)	(917,900)
September Quarterly Review Adjustments – increase / (decrease)	2,291,800
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	31,400
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	288,100
Forecast Reserve Movement for 2023/2024 – Increase / (Decrease)	(506,200)
Estimated Reserve Balance at 30 June 2024	\$1,214,700

Movements for Water Fund can be seen in Attachment 1 with a proposed estimated increase to reserves (including S64 Contributions) overall of \$1,321,800 from the 31 March 2024 Quarter Budget Review.

5 SEWERAGE FUND

After completion of the 2022/2023 Financial Statements the Sewer Fund as at 30 June 2023 has a capital works reserve of \$3,935,300 and plant reserve of \$896,200. It also held \$5,448,900 in section 64 developer contributions and a \$272,500 unexpended grant.

Capital Works Reserve

Opening Reserve Balance at 1 July 2023	\$3,935,500
Plus original budget reserve movement	(504,300)
Resolutions July - September Quarter – increase / (decrease)	(1,613,600)
September Quarterly Review Adjustments – increase / (decrease)	(666,600)
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	2,479,100
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	338,500
Forecast Reserve Movement for 2023/2024 – Increase / (Decrease)	33,100
Estimated Reserve Balance at 30 June 2024	\$3,968,600

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Plant Reserve

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

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

Property Development Reserve – Temporary Housing

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

5 Public Works – March 2022 Flood Event Grant

Opening Reserve Balance at 1 July 2023	\$272,500
Plus original budget reserve movement	0
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	0
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	0

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Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	211,300
Forecast Reserve Movement for 2023/2024 – Increase / (Decrease)	483,800
Estimated Reserve Balance at 30 June 2024	\$483,800

Section 64 Developer Contributions

Opening Reserve Balance at 1 July 2023	\$5,448,900
Plus original budget reserve movement	(610,000)
Resolutions July - September Quarter – increase / (decrease)	(865,700)
September Quarterly Review Adjustments – increase / (decrease)	193,300
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	1,135,100
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	403,100
Forecast Reserve Movement for 2023/2024 – Increase / (Decrease)	255,800
Estimated Reserve Balance at 30 June 2024	\$5,704,700

Movements for the Sewerage Fund can be seen in Attachment 1 with a proposed estimated overall increase to reserves (including S64 Contributions) of \$952,900 from the 31 March 2024 Quarter Budget Review.

5 **Legal Expenses**

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

10 The table that follows indicates the allocated budget and actual legal expenditure within Council on a fund basis as at 31 March 2024.

Total Legal Income & Expenditure as at 31 March 2024

Program	2023/2024 Budget (\$)	Actual (\$)	Percentage To Revised Budget
Income			
Legal Expenses Recovered	0	32,000	0%
Total Income	0	32,000	0%
Expenditure			

BYRON SHIRE COUNCIL

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Program	2023/2024 Budget (\$)	Actual (\$)	Percentage To Revised Budget
General Legal Expenses	210,000	183,394	87.33%
Total Expenditure General Fund	210,000	183,394	87.33%

Note: This should continue to be monitored to ensure there is enough funding for future expenses.

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	1.3.1.2	Provide Quarterly Budget Reviews to Council for adoption.

5

Legal/Statutory/Policy Considerations

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

- 10 (1) *Not later than 2 months after the end of each quarter (except the June quarter), the responsible accounting officer of a council must prepare and submit to the council a budget review statement that shows, by reference to the estimate of income and expenditure set out in the statement of the council's revenue policy included in the*
- 15 *operational plan for the relevant year, a revised estimate of the income and expenditure for that year.*
- (2) *A budget review statement must include or be accompanied by:*
- (a) *a report as to whether or not the responsible accounting officer believes that the statement indicates that the financial position of the council is satisfactory, having regard to the original estimate of income and expenditure, and*
- 20 *(b) if that position is unsatisfactory, recommendations for remedial action.*
- (3) *A budget review statement must also include any information required by the Code to be included in such a statement.*

Financial Considerations

5 The 31 March 2024 Quarter Budget Review of the 2023/2024 Budget has improved the overall estimated budget result by \$250,000. This leaves the movement against the unrestricted cash balance attributable to the General Fund to balanced result for the year, leaving the unrestricted cash balance attributable to the General Fund at an estimated \$0 at 30 June 2024.

It is the view of the Responsible Accounting Officer that the short term financial position of the Council is satisfactory for the 2023/2024 financial year, having consideration of the original estimate of income and expenditure at the 31 March 2024 Quarter Budget Review.

- 10 This opinion is based on the estimated General Fund Unrestricted Cash Result position and that the current indicative budget position for 2023/2024 outlined in this Budget Review is further improved through the final quarterly budget reviews for the 2023/2024 financial year. Council must remember it has a short term financial goal of maintaining \$1,000,000 in unrestricted cash.
- 15 Council must also be mindful of its cash flow position as the financial year progresses given the ongoing expenditure on restoration of infrastructure from the February/May 2022 flood events whilst experiencing significant delays in claims approvals, processing and payments from the NSW State Government. This position will need continual close monitoring as Council is delivering business as usual plus the flood recovery.
- 20 Progress is slowly being made with Transport for NSW to deal with claims, application for payment advances and expenditures. The advance payment of \$19.968million in January 2024 has been of great assistance and Council has made application for a further \$15.4million yet to be determined under the Tripartite Agreement.

Report No. 13.5 2023/24 Operational Plan Report - Quarter 3 - March 2024

Directorate: Corporate and Community Services

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

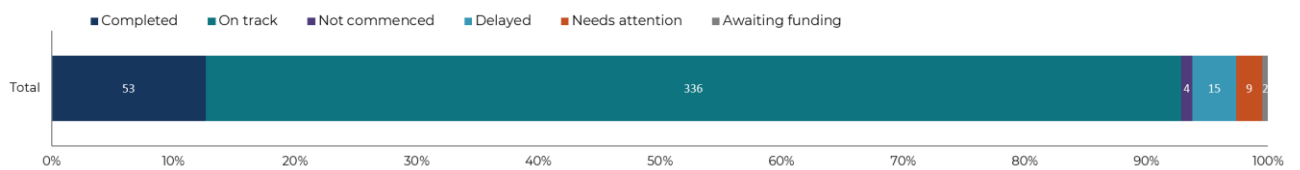
File No: I2024/653

Summary:

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

This report represents the progress toward the activities in the 2023/24 Operational Plan at the end of the first quarter, being 31 March 2024. A summary of the status is provided in the graph below.

Operational Plan activity status summary



RECOMMENDATION:

That Council:

- Notes the 2023/24 Operational Plan Quarter 3 Report for the period ending 31 March 2024 (Attachment 1 #E2024/35184).**
- Adopts the proposed amendments to the Operational Plan 2023/24 outlined in Attachment 2 (#E2024/12918).**

Attachments:

- Operational Plan 2023/24 - Quarterly Report - Q3 - 1 January to 31 March 2024, E2024/35184
- Quarter 3 Report - Q3 - Proposed Amendments to Operational Plan 2023/24, E2024/12918

Report

5 The Delivery Program and Operational Plan are two key corporate documents that establish Council's goals and priorities for the term of the Council and the current financial year. The Delivery Program is supported by the annual Operational Plan, which identifies the individual projects and activities that will be undertaken for the year to achieve the commitments made in the Delivery Program.

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

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

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

Strategic Objectives

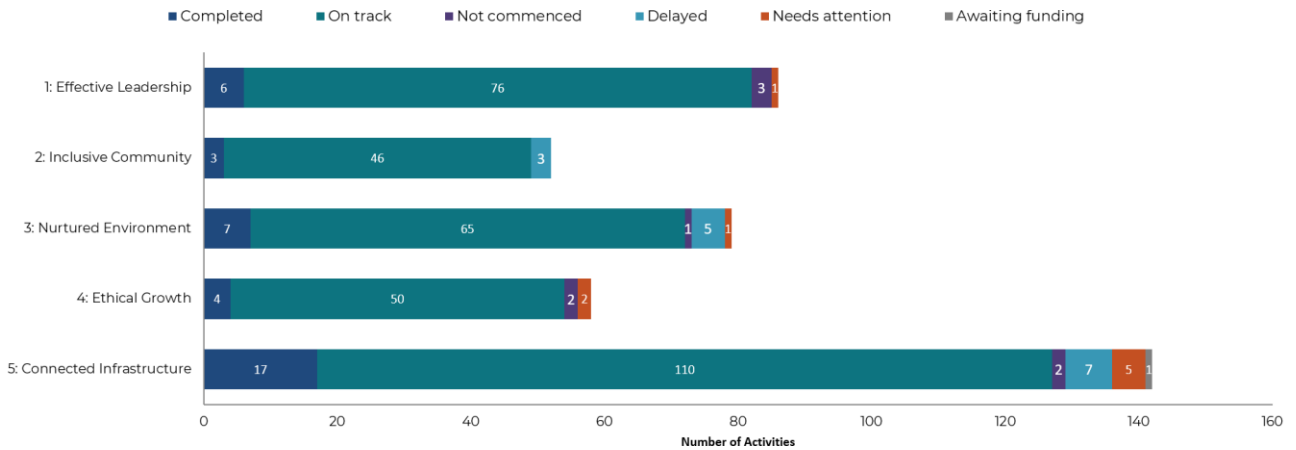
20 The report (#E2024/35184) is structured by the five Community Objectives in the Byron Shire Community Strategic Plan:

- Effective Leadership: We have effective decision making and community leadership that is open and informed
- 25 • Inclusive Community: We have an inclusive and active community where diversity is embraced and everyone is valued
- Nurtured Environment: We nurture and enhance the natural environment
- 30 • Ethical Growth: We manage growth and change responsibly
- Connected Infrastructure: We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable

35

40

Q3 Status by Community Objective:



Report Details

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

Each section notes the progress against the activities including:

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

As at 31 March 2024 there are:

- 53 activities completed
- 336 activities on track
- 15 activities delayed
- 9 activities need attention
- 4 activities not commenced
- 2 activities awaiting funding

Proposed Amendments

This is the third quarterly report of the 2023/24 Operational Plan and therefore the last opportunity for amendments. A number of required amendments have been identified and are provided in Attachment 2 (E2024/12918) for Council’s endorsement.

5 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	1.1.1: Leadership - Enhance leadership effectiveness, capacity, and ethical behaviour

Legal/Statutory/Policy Considerations

10 The General Manager is required under Section 404 (5) of the *Local Government Act 1993* to provide regular progress reports as to the Council’s progress with respect to the principal activities detailed in the Delivery Program/Operational Plan. Progress reports must be provided at least every six months.

Financial Considerations

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

15 Consultation and Engagement

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

Report No. 13.6 Council Investments - 1 April 2024 to 30 April 2024

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

5 **File No:** I2024/685

Summary:

This Report includes a list of investments and identifies Council's overall cash position for the period 1 April 2024 to 30 April 2024 for information.

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

RECOMMENDATION:

15 **That Council notes the report listing Council's investments and overall cash position as of 30 April 2024.**

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Report

Council has continued to maintain a diversified portfolio of investments. As of 30 April 2024, the average 90-day bank bill rate (BBSW) for the month was 4.36%. Council's performance for April 2024 was 4.63%.

5 The table below identifies the investments held by Council as at 30 April 2024.

Schedule of Investments held as at 30 April 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%	971,690.00
28/03/19	1,000,000.00	National Housing Finance & Investment Corporation	Y	AAA	28/03/29	N	B	2.38%	928,370.00
21/11/19	1,000,000.00	NSW Treasury Corp (Sustainability Bond)	N	AAA	20/03/25	N	B	1.25%	973,140.00
27/11/19	500,000.00	National Housing Finance & Investment Corp	Y	AAA	27/05/30	N	B	1.52%	434,937.50
15/06/21	500,000.00	National Housing Finance & Investment Corp	Y	AAA	01/07/31	N	B	1.99%	500,346.07
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%	813,490.00
30/10/23	850,000.00	Bank Australia Ltd	P	BBB+	30/10/26	N	FRN	5.84%	854,230.32
21/02/24	500,000.00	Bank Australia Ltd	N	BBB+	21/02/28	N	FRN	6.04%	503,768.22
27/11/23	1,000,000.00	Westpac Tailored	P	AA-	27/11/24	N	TD	5.40%	1,000,000.00
04/12/23	2,000,000.00	Bank of QLD	P	BBB+	04/10/24	N	TD	5.10%	2,000,000.00
12/01/24	5,000,000.00	Bank of QLD	N	BBB+	13/05/24	N	TD	5.05%	5,000,000.00

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	Fossil Fuel	Type	Int. Rate	Current Value (\$)
12/01/24	5,000,000.00	NAB	P	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
19/04/24	1,000,000.00	Judo Bank	P	BBB-	18/07/24	N	TD	5.00%	1,000,000.00
18/04/24	1,000,000.00	NAB	N	AA-	17/07/24	Y	TD	5.00%	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+	24/05/24	N	TD	5.05%	2,000,000.00
29/04/24	1,000,000.00	NAB	N	AA-	29/07/24	Y	TD	5.00%	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
19/02/24	1,000,000.00	NAB	N	AA-	20/05/24	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
06/03/24	2,000,000.00	Beyond Bank	P	BBB	05/06/24	N	TD	5.10%	2,000,000.00
07/03/24	2,000,000.00	Judo Bank	N	BBB-	05/09/24	N	TD	5.20%	2,000,000.00
08/03/24	2,000,000.00	Beyond Bank Australia	N	BBB	06/06/24	N	TD	5.05%	2,000,000.00
14/03/24	1,000,000.00	Bank of QLD	N	BBB+	16/09/24	N	TD	5.17%	1,000,000.00
18/03/24	2,000,000.00	NAB	N	AA-	18/06/24	Y	TD	5.05%	2,000,000.00
21/03/24	2,000,000.00	NAB	N	AA-	21/06/24	Y	TD	5.05%	2,000,000.00
27/03/24	1,000,000.00	Auswide Bank Ltd	N	BBB-	27/06/24	N	TD	5.00%	1,000,000.00
04/04/24	1,000,000.00	Judo Bank	N	BBB-	04/07/24	N	TD	5.00%	1,000,000.00
08/04/24	2,000,000.00	NAB	N	AA-	08/07/24	Y	TD	5.00%	2,000,000.00
10/04/24	2,000,000.00	Judo Bank	N	BBB-	10/07/24	N	TD	5.00%	2,000,000.00
12/04/24	5,000,000.00	Judo Bank	N	BBB-	11/07/24	N	TD	5.00%	5,000,000.00
N/A	23,394,071.74	CBA Business Saver	P	AA-	N/A	Y	CALL	4.35%	23,394,071.74
N/A	541,088.17	CBA Business Saver – Tourism Infrastructure Grant	N	AA-	N/A	Y	CALL	4.35%	541,088.17
N/A	10,142,316.68	Macquarie Accelerator Call	N	A	N/A	Y	CALL	4.20%	10,142,316.68

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	Fossil Fuel	Type	Int. Rate	Current Value (\$)
Total	92,427,476.59						AVG	4.68%	92,057,448.70

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

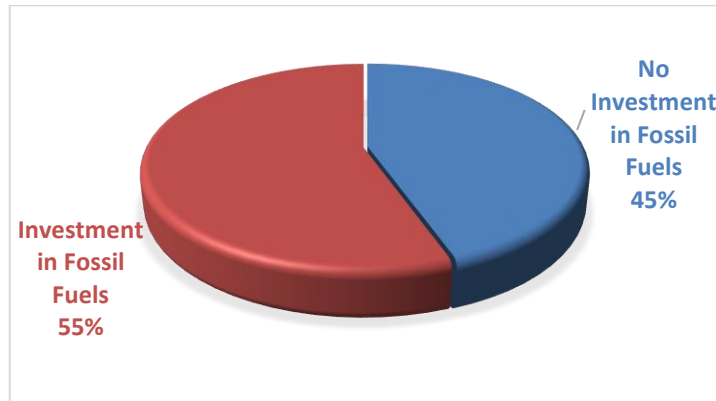
U = Unknown Status

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)

5 An additional column has been added to the schedule of Investments to identify if the financial institution holding the Council investment has been assessed as a 'Fossil Fuel' investing institution. This information has been sourced through www.marketforces.org.au and identifies financial institutions that either invest in fossil fuel related industries or do not. The graph below highlights the percentage of each classification across Council's total investment portfolio in respect of fossil fuels only.



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](#).

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.

10 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.

15 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 30 April 2024, the portfolio has increased to 45%.

Investment Policy Compliance

20 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 % should not exceed the following			ACTUAL	
AAA to AA	A1+	100%	48%	Meets policy
A+ to A-	A1	60%	24%	Meets policy
BBB to NR	A2,NR	40%	28%	Meets policy

25

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The investment portfolio is outlined in the table below by investment type for the period 1 April 2024 to 30 April 2024:

Dissection of Council Investment Portfolio as at 30 April 2024

Principal Value (\$)	Investment Linked to:	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
51,000,000.00	Term Deposits	51,000,000.00	0.00
23,394,071.74	CBA Business Saver	23,394,071.74	0.00
541,088.17	CBA Business Saver – Tourism Infrastructure Grant	541,088.17	0.00
10,142,316.68	Macquarie Accelerator	10,142,316.68	0.00
7,350,000.00	Bonds/Floating Rate Notes	6,979,972.11	(370,027.89)
92,427,476.59	Total	92,057,448.70	(370,027.89)

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 April 2024 as follows:

Dissection of Council's Cash Position as at 30 April 2024

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Investments Portfolio			
Term Deposits	51,000,000.00	51,000,000.00	0.00
CBA Business Saver	23,394,071.74	23,394,071.74	0.00
CBA Business Saver – Tourism Infrastructure Grant	541,088.17	541,088.17	0.00
Macquarie Accelerator	10,142,316.68	10,142,316.68	0.00
Bonds	7,350,000.00	6,979,972.11	(370,027.89)
Total Investment Portfolio	92,427,476.59	92,057,448.70	(370,027.89)
Cash at Bank			
Consolidated Fund	3,681,202.93	3,681,202.93	0.00
Total Cash at Bank	3,681,202.93	3,681,202.93	0.00
Total Cash Position	96,108,679.52	95,738,651.63	(370,027.89)

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. 13.7 Revised 2023/24 Loan Borrowing Program
and Loan Refinancing**

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

5 **File No:** I2024/701

Summary:

Council at the 24 August 2023 Ordinary Meeting received a report regarding Council's loan borrowing requirements for the 2023/24 financial year. Council adopted the recommendations in that report through resolution **23-331**.

- 10 As the 2023/24 financial year is ending, this report is presented to Council to
- a) further revise the 2023/24 loan borrowing program now that borrowing requirements are clearer;
 - b) authorise the refinancing of two existing loans associated with the former Mullumbimby Hospital site and;
 - 15 c) include new loan borrowings in the 2024/25 Budget.

RECOMMENDATION:

- 20 **That Council:**
- 1. **Authorises the revised 2023/24 loan borrowing program of \$10,634,500 for the purposes outlined in this report including \$5,800,500 in new borrowings and \$4,834,000 in refinanced borrowings.**
 - 25 2. **Delegates to the General Manager to undertake loan borrowings for the purposes outlined in recommendation 1 and accept loan borrowing terms on behalf of Council that represent the best financial outcome amongst other loan offer(s) received.**
 - 3. **Authorises the affixing of the Council seal to all documents that may require it, in regard to the 2023/24 loan borrowing program.**
 - 30 4. **Includes in the 2024/25 Budget new loan borrowings for Plant Replacement Program \$3,672,000 and First Sun Holiday Park Land Purchase \$2,075,000 not borrowed in the 2023/24 financial year.**

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Report

Council at the 24 August 2023 Ordinary Meeting received a report regarding Council's loan borrowing requirements for the 2023/24 financial year. Council adopted the recommendations in that report through resolution **23-331** as follows:

1. *Authorises the 2023/2024 loan borrowing program of \$11,687,000 for the following purposes outlined in this report.*
2. *Delegates to the General Manager to undertake loan borrowings for the purposes outlined in recommendation 1 and accept loan borrowing terms on behalf of Council that represents the best financial outcome amongst other loan offer(s) received.*
2. *Authorises the affixing of the Council seal to all documents that may require it, in regard to the 2023/24 loan borrowing program.* (Ndiaye/Coorey)

The proposed loan borrowing purposes for 2023/24 amounting to \$11,687,000 outlined in resolution **23-311** were as follows:

Loan Purpose	Loan Amount (\$)
Plant Replacement	3,672,000
Bulk LED Street Lighting Upgrade	700,000
Land Acquisition for First Sun Holiday Park	2,075,000
Suffolk Beachfront Holiday Park Compliance Works and Caravan Replacements	540,000
Redevelopment of the for Byron Hospital (Byron Community Hub)	3,500,000
Lot 12 Bayshore Drive Detention Basin Works (Res 22-659)	1,200,000
Total loan borrowings 2023/2024	\$11,687,100

- As the 2023/24 financial year has progressed, not all of the loan borrowings outlined above are required. Contained in a further report to this Ordinary Council Meeting is a report concerning the 31 March 2024 Quarterly Budget Review, which includes proposals to not borrow for the Plant Replacement program and the Land Acquisition for First Sun Holiday Park this financial year but include these borrowings as part of the 2024/2025

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Budget. Further the Bulk LED Street Lighting Upgrade has been completed at a lower cost reducing the original \$700,000 borrowing requirement to \$560,500, a reduction of \$139,500.

5 The new loan borrowing program for 2023/24 as reflected in the 31 March 2024 Quarterly Budget Review is now as follows:

Loan Purpose	Loan Amount (\$)
Bulk LED Street Lighting Upgrade	560,500
Suffolk Beachfront Holiday Park Compliance Works and Caravan Replacements	540,000
Redevelopment of the for Byron Hospital (Byron Community Hub)	3,500,000
Lot 12 Bayshore Drive Detention Basin Works (Res 22-659)	1,200,000
Total loan borrowings 2023/2024	\$5,800,500

Loan Refinancing

Council over time has borrowed two loans to complete the remediation of the former Mullumbimby Hospital site. The loans details are as follows:

- 10
- Loan 70 - \$3,334,000 borrowed on 27 June 2019 for a period of five years maturing on 27 June 2024. This borrowing was made with NSW Treasury Corporation on an interest only repayment basis, at an interest rate of 1.86% fixed for five years.
 - Loan 74 - \$1,500,000 borrowed on 30 June 2022 for a period of two years maturing on 28 June 2024. This borrowing was made with the Commonwealth Bank on an interest only repayment basis, at an interest of 4.53% fixed for two years.

15 The intent of the borrowings for the former Mullumbimby Hospital remediation was to have the loans mature at the same time to allow the debt to be cleared based on the site having generated sufficient funds in that period to do so. This has not happened, and the loans will need to be refinanced over a longer period with Council funding the loan repayments while options for the site are progressed.

20 No principal on loan 70 and 74 has been repaid meaning \$4,834,000 would need to be refinanced. However, Council currently has \$421,800 of Loan 74 unexpended, which will be held in Reserve. Options available to Council with these funds are to:

1. Make a one off payment of \$421,800 upon loan refinancing, reducing the refinanced loan amount to \$4,412,200, or

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2. Keep all or part of the unexpended loan funds to assist with funding towards future site options/works.

5 Given Council still needs to consider what outcomes are going to be proposed for this site, it might be prudent to keep all of the funds in reserve to assist with whatever may eventuate. This option is included in the recommendation to Council.

The refinancing will require higher loan repayments given Council will need to start repaying the original \$4,834,000 debt plus interest, as higher interest rates apply than those of the original loans - Loan 70 and 74.

Proposed borrowing methodology

10 Council's policy for loan borrowings is to borrow loans that more closely match the life of the asset. Given the maximum fixed term Council can borrow is for twenty years, the loan borrowing program will need to be broken into different loans with different terms. The current interest rate environment is also uncertain with recent interest rate increases of 0.50% over a two week period for Council borrowings. Inflation remains an issue in the
15 Australian economy, along with a lower Australian dollar is creating price pressures so the outlook for interest rates being reduced in 2024 is not as certain. There may be potential for interest rate increase given the growth in the Australian population is also having inflationary impacts.

20 These issues will be considered when a process for loan borrowings is conducted in early June 2024 via market testing but it may mean Council could be best served by borrowing short term i.e. 2 years, and then refinancing after that time in the hope that interest rates have reduced by a substantial amount. As an example, latest predictions by the Commonwealth Bank suggest a 0.25% reduction by the end of 2024 and a full 1.00% reduction during 2025.

25 The recommendation included in this report to delegate to the General Manager to accept loan borrowing outcomes in the best financial interests of Council will ensure this is considered when considering loan offers received.

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	1.3.1.4	Financial reporting as required provided to Council and management
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

Council has adopted Policy 2009/006 regarding loan borrowings.

- 5 Section 55(1)(f) of the Local Government Act 1993 provides that Council does not need to call tenders for a contract relating to loan borrowings.

10 Section 377(1)(f) of the Local Government Act 1993 stipulates that a Council may by resolution delegate to the General Manager or any other person or body (not including another employee of the Council any of the functions of the Council except the borrowing of money.

Section 621 to 624 of the Local Government Act 1993 provides:

- That Council can borrow at any time for purposes allowed under the Local Government Act 1993,
 - That Council may borrow by way of overdraft or loan or by other means approved by the Minister.
 - That Council may give security for any borrowings in such manner as may be prescribed by the regulations with such securities ranking on equal footing despite any other Act.
- 15

20 The Minister may, from time to time, impose limitations or restrictions on borrowings by a particular Council, or Councils generally despite the other provisions of this Part.

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Section 229 of the Local Government (General) Regulation 2021 provides the repayment of money borrowed by a Council (whether by way of overdraft or otherwise), and the payment of any interest on that money, is a charge on the income of the Council.

5 Section 230 of the Local Government (General) Regulation 2021 provides that the General Manager must notify the Secretary within 7 days of the borrowing of loan funds that the borrowing has occurred.

10 Section 400(4) of the Local Government (General) Regulation 2021 provides the seal of a Council must not be affixed to a document unless the document relates to the business of the Council and the Council has resolved by resolution specifically referring to the document that the seal be so affixed.

The Minister for Local Government issued a revised Borrowing Order for Councils in New South Wales on 13 May 2009. The stipulation in the Borrowing Order is that Councils are not to borrow from any source outside the Commonwealth of Australia or in any other currency other than Australian currency.

15 **Financial Considerations**

20 Loan repayments following borrowing of this program would not commence until the 2024/2025 financial year and have been incorporated into that draft budget currently on public exhibition plus future budgets to the extent of loan term. If the purposes of this loan borrowing program are considered, it is suggested the loan repayments should generally be self-financing for the following reasons:

- Plant replacement for 2024/25 – proposed loan repayments recovered through plant hire charges to Council works and Natural Disaster works.
- Bulk LED Streetlighting – proposed loan repayments recovered through savings in street lighting expenditure due to reduced electricity consumption.
- 25 • Proposed loan repayments for First Sun Holiday Park for 2024/25 and Suffolk Beachfront Holiday Park to be funded from revenue of both Parks and the Holiday Park Reserve.
- Former Byron Hospital (Byron Community Hub) - proposed loan repayments recovered through revenues from tenancies via Social Futures once the tenancies are in place.
- 30 • Lot 12 Bayshore Drive – proposed loan repayments recovered from possible future sale proceeds.

Report No. 13.8 Bangalow Heritage House Options Study

Directorate: Corporate and Community Services

Report Author: Geeta Cheema, Manager Social & Cultural Planning

File No: I2024/689

5 Summary:

The Bangalow Heritage House Options Study was commissioned in January 2024 to further scope multi-purpose use of the premises, specifically a commercial café alongside not-for-profit use(s) (i.e., the proposed uses).

This was actioned in response to an earlier resolution of Council:

Res 23-582 that Council:

1. *Endorses the allocation of \$12,000 from the Community Buildings budget (GL 2320.051) for the preparation of an Options Study to inform scoping of potential multi-purpose uses of the Premises; and*
2. *Receives a further report with the outcome of the Options Study, to inform a decision regarding appropriate future lease or license arrangements.*

10 Completed in April 2024, the Options Study presents two options to achieve the proposed uses, each including an indoor kitchen and use of the verandah as the main café seating.

Option 1 retains the existing configuration of the building. A serving accessway from the existing kitchen to the verandah would be achieved through creation of a doorway entering the hall, at a cost of \$600.

15 Option 2 relies on relocation of the kitchen to the western side of the building, adjacent the verandah, offering more scope for a fit-for-purpose solution for food/drink preparation and serving. While the estimated cost of the kitchen relocation is \$265,000, this can be partially offset if a commercial tenant agrees to contribute to the kitchen fit out.

20 Baseline disability access and safety upgrades, including ramp alterations, an additional ramp, widened access doors and lighting are expected to cost approximately \$185,000.

Cost estimates are exclusive of additional planning costs and contributions.

This report recommends progressing the exploration of Option 2 which will provide additional information on the feasibility of the commercial café operations, in order to enable Council to make an informed decision on future lease or license arrangements.

25 Under the terms of the current lease, the Lessee, Bangalow Historical Society, can continue to occupy the premises post 30 June 2024, under monthly holding over provisions.


RECOMMENDATION:

That Council:

- 5
1. **Enables the Lessee, Bangalow Historical Society, to continue to occupy the Premises after the expiry of the current lease on 30 June 2024, under the allowable monthly holding over tenancy provisions, and**
 2. **Receives a further report on the financial viability of Option 2 Kitchen Relocation, to include rental valuation of the proposed commercial café.**

10

Attachments:

- 1 Preliminary Plans Bangalow Heritage House Options Study 2024, E2024/52265 

15

Report

Background to the Options Study

Noting the lease expiry on 30 June 2024, future use Bangalow Heritage House (the Premises) was initially discussed at a Councillor workshop on 1 September 2022.

- 5 Outcomes of that workshop required staff to undertake a needs assessment to inform potential future use of the Premises. This was accomplished through an end-of-lease review conducted June to August 2023 which was presented to Councillors at the 7 September 2023 Councillor workshop.

- 10 The end of lease review noted the key features of the site, considered lessee performance, identified related Council policies and plans, and shared the findings of preliminary community consultation.

As the workshop outcome, Council expressed desire to scope not-for-profit community uses of the Premises alongside a commercial café, noting that this could potentially contribute to activation of the Premises and surrounding precinct.

- 15 At the 7 December 2023 Council Planning meeting, Council endorsed the development of an Options Study to further scope multipurpose use of the Premises including a commercial café.

Options Study findings

Drawings of Option 1 and Option 2 are provided in the attachment (E2024/52265).

- 20 **Upgrades for disability access and safety (estimated cost: \$185,000)**

The Options Study identified the need for disability access and safety upgrades to fulfill relevant standards including adherence to Disability Discrimination Act, Building Code of Australia and Australian Standards.

- 25 Upgrades are required to doorways, fire exits, lighting, the ramp and parking spaces. An additional disability compliant ramp is required which will necessitate changes to the verandah roof. Excluding additional planning costs, these upgrades are expected to cost \$185,000.

Council will pursue grant opportunities to support these upgrades which should occur regardless of other changes in use.

- 30 **Option 1: Create serving access through hallway (estimated cost: \$600)**

The Options Study provides a low-cost option to enable dual use of the Premises for a commercial café and a not-for-profit tenant.

- 35 With the kitchen and verandah (i.e., proposed café seating area) located on opposite sides of the building, Option 1 proposes installation of a door into the existing hallway to connect these two areas.

Option 1 is not the preferred option due to its reliance on a shared hallway used by both potential tenants. Whilst governance and leasing arrangements can be designed to enable shared use of the hallway, utilisation as a serving corridor poses visibility and traffic challenges that may inconvenience both tenants.

5 **Option 2: Relocate kitchen (estimated cost: \$265,000)**

Option 2 presents a more viable option for use of the Premises by dual tenants. By relocating the kitchen (with an additional storeroom) to a position adjacent to the verandah, the café operations are segregated to one side of the building. Shared areas are limited to outdoor toilets, front and eastern verandahs, and disability access ramps.

10 The cost estimate provided for this Option does not account for the potential financial contribution from a commercial operator. If Council provides a long-term lease, a commercial café operator may be willing to fit out the kitchen thereby significantly reducing the estimated Council costs of Option 2.

15 To further scope the viability of Option 2, a rental valuation and preliminary market sounding should occur for further reporting to Council.

Land Use and Planning Considerations

Bangalow Heritage House (the Premises) is a Council-owned property on Council land at 4 Ashton Street Bangalow (Folio 1/1249921).

20 Classified as Community Land, the zoning is RE1 Public Recreation under the Byron Local Environmental Plan 2014. The Generic Plan of Management for Community Land Categorised for General Community Use was adopted 24 February 2005 (DM653083).

25 In accordance with the Local Government Act 1993 No 30, “the core objectives for management of community land categorised as general community use are to promote, encourage and provide for the use of the land, and to provide facilities on the land, to meet the current and future needs of the local community and of the wider public”.

Permissible uses (with consent) include, as examples, centre-based childcare facilities, community facilities, emergency services facilities, entertainment facilities, function centres, information and education facilities, kiosks, markets, recreation areas and facilities, respite day care centres, restaurants or cafes.

30 The Bangalow Historical Society has held the lease for the Premises since 1 July 2019. Existing approvals and uses of the facility are for a museum and tearoom with the most recent consent issued under DA10.2017.598.1 on 22 February 2018. Other uses of the Premises such hire of space or the operation of commercial activities are not currently permitted and require Council consent, potentially including Events applications and
35 Development Consent.

Planning approval pathways would need to be considered for other types of future uses and or additions and alterations to the building.

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Any future development applications to Council will need to have regards to the constraints affecting the site being predominantly flooding, whilst also considering Councils various planning controls under Byron LEP 2014 and Byron DCP 2014.

5 The property is located within the Bangalow Heritage Conservation Area, so any further alterations and additions to the building should have regard to the heritage vernacular of Bangalow.

10 Car parking for the site appears somewhat informal, reliant on parking in the public domain and in the adjacent park. Any proposal that is likely to increase demand on parking will need to address that issue and this could be accomplished by formalising the surrounding parking for the site in the adjacent park.

History

15 The building known as the Bangalow Heritage House was built in Brunswick Heads in approximately 1920. Council purchased the building in 1993 and relocated it to its current site. Considerable building refurbishment ensued, with the Premises opened to the public as the Bangalow Heritage House museum in 1995. The building itself is not heritage listed, though the Lot is located within the Bangalow Heritage Conservation Area.

A Section 355 Committee of Council operated the facility from 2000 to 2019. Use of the Premises was expanded in 2008 to include a not-for-profit tearoom.

20 A successful 2017 Stronger Country Communities grant resulted in a new reading room being added to the Premises, a commercial-grade kitchen installed, and Wi-Fi access upgraded. The cost of these upgrades was approximately \$300,000.

The Section 355 Committee was dissolved in 2019 and a lease was offered to the Bangalow Historical Society Inc (the Society). The Society is a not-for-profit community association (Incorporation Number Y1951904) and is a registered charity.

25 The Society closed the Premises to the public in May 2021. In March 2023 the Society re-opened the museum to the public during selected days/hours. The tearoom remains closed to the public.

Potential benefits of multi-purpose use of the Premises

30 A combination of commercial and not-for-profit uses may support optimal activation of the site and adjacent Parklands.

Commercial operations would enable Council to collect commercial rent for the tenancy. This would offset the high cost of community buildings maintenance and upgrades.

35 To date, two approaches to café operations have been attempted at the Premises without success: (a) operation of the café by the Lessee (who has acknowledged they are not able to sustain operations); and (b) proposed operation of the café through another not-for-profit organisation as a social enterprise (concluding with no responses to Council's 2021 Expression of Interest process).

Uses by a not-for-profit organisation or group should respond to community needs and should promote utilisation of the Premises.

Council expenditure on maintenance

5 In accordance with the terms of the lease, the Lessee has obligations towards the repair and maintenance of the leased Premises.

10 Council is responsible for improvements, structural defects and repairing fair wear and tear. Council pays for annual property rates and fixed water and sewer charges, annual fire safety requirements and upgrades, all structural building repairs to the building, maintenance of all essential services (air conditioning, hot water services, toilet facilities and alike).

Since the commencement of the Society’s lease on 01/07/2019, Council has expended at least \$40,948.88 on maintenance, upgrades to water and sewerage at the Premises.

The Lessee’s rent is \$490 per annum, which requires considerable subsidy from Council to maintain the building.

15 **Strategic Considerations**

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership	1.5: Empower community leadership through collaboration, capacity building, and cultivating community driven initiatives	1.5.2: Collaboration and capacity building - Collaborate with stakeholders to build community capacity	1.5.2.4	Support asset management to enable effective and appropriate utilisation of community buildings

Recent Resolutions

Res 23-582

Legal/Statutory/Policy Considerations

20 The current lease terms do not include an option for renewal. The lease offers holding over terms to enable monthly occupancy beyond the end date of the lease. Any additional terms would require a new lease.

Council’s Leasing and Licensing Policy (2021) identifies the requirement for consistency and transparency in the granting of new leases.

The Local Government Act (1993) mandates public consultation on all lease or licenses proposed over community land under sections 46 and 47. Council must consider all submissions received before determining whether to grant the lease or licence.

5 Council may grant a lease and license by direct negotiation only if permitted by the Independent Commission Against Corruption (ICAC) Direct Negotiation Guidelines (2018). The ICAC guideline states that “Direct negotiations should generally be avoided” noting the desirability of a competitive process. ICAC provides criteria for undertaking direct negotiations including: (i) exemption by statute or government policy (ii) uniqueness; (iii) 10 monopoly (iv) intellectual property rights (v) real property rights (vi) interface with existing facility or product (vii) transactions that derive from an earlier competitive process (viii) to avoid damaging the public interest (ix) emergency circumstances (x) competitive process too expensive (xi) competitive process not successful (xii) maintaining a temporary source of supply (xiii) sponsorships and (xiv) other legal rights.

15 Council applies an Expression of Interest process to solicit interested not-for-profit organisations and to establish a lease for non-commercial uses.

Council is required to apply a competitive Request for Tender process to establish a lease with a commercial provider.

Financial Considerations

20 Funding will be required to progress exploration of Option 2 including a rental valuation. Initial estimates indicate this will cost approximately \$3,000 which can be funded through unexpended funds allocated to the Options Study. Funds required for disability access and safety upgrades will be sought through grant opportunities.

25 Financial information pertaining to the operations of the Bangalow Historical Society is publicly available through the Australian Charities and Not For Profits Commission (ACNC) at [Bangalow Historical Society Inc | ACNC](#).

Consultation and Engagement

Consultation with a sample of relevant stakeholders occurred during the end of lease review process as outlined in this report.

30 On 21 March 2024, Council staff informed the Lessee, Bangalow Historical Society, about the expected timing for the Options Study and the potential holding over provisions that could be invoked to enable continuing occupancy beyond the term of the lease.

Report No. 13.9 Bluesfest - 35 Yarun Road, Tyagarah - Compliance with Condition 53 - Small Events Noise limitations under DA10.2014.753.1

5

Directorate: Sustainable Environment and Economy

Report Author: Chris Larkin, Manager Sustainable Development

File No: I2024/482

10 **Summary:**

15

The Bluesfest Site has approval under Development Consent DA10.2014.753.1 for events totalling 120 days per annum. Of those, 100 days are approved as small events of up to 2000 people. The number of amplified events for small events is limited to just 10 per year, but Condition 53 of the consent enables this to be reviewed after 6 small events to expand the number of events with amplified music.

The applicant has submitted detail addressing the condition which was reported to Council on 8 June 2023, whereby Council resolved:

23-243

20

1. *Not support an increase in amplified music to 100 days per annum as per Condition 53 of Development Consent 10.2014.753.1 (as amended).*
2. *Notify the applicant to satisfy Condition 53, a further five small trial events are to be noise tested and monitored and surrounding land owners are to be notified under Condition 73 of such events prior to these additional events and further detail to be submitted back to Council for consideration with recommendations in support from the RWG. (Dey/Coorey)*

25

Further detail has been submitted by Bluesfest in relation to the second part of the resolution whereby further testing was carried out for a further 5 events and notice given to surrounding landowners via the Tyagarah Progress Association. The Regulatory working group have also advised no objection for the additional amplified music events as proposed.

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In summary it is considered small events at the site with amplified music do not have a detrimental impact on the surrounding area. In particular, such events are generally held within the permanent tent structure (known as “The Green Room”) near the central office on the site and not near adjoining property boundaries. It is also noted amplified music from the site for small events is likely to be competing with background noise including that coming from the Pacific Motorway to the west of the site, and on other occasions the Pacific Ocean to the east of the site. As a general comment and as discussed in this

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5 report, there would appear to be economic and financial reason for the operators of the site to diversify away from just large events, based on the challenges such large events are facing. It is noted that amplified small events on the site are not just limited to rock and roll music events and the operators of the Bluesfest Site are using the Green Room for other events such as Conference and the like.


As such it is recommended that Council extend the approval of amplified music to 100 days per annum on a permanent basis as applied for by the applicant.

10

RECOMMENDATION:

That Council grants approval to an increase in amplified music to 100 days per annum as per Condition 53 of Development Consent 10.2014.753.1 (as amended) and confirms such approval in writing to the Applicant.

15 Attachments:

1 Summary Noise Report Letter Dec 23 - Biggsound Production, E2024/51760 

20

Report

5 The Bluesfest Site has approval under Development Consent DA10.2014.753.1 for events totalling 120 days per annum. Of those, 100 days are approved as small event days of up to 2000 people. The applicant’s vision for small events includes a range of activities from music events, conferences, weddings, trade shows, workshops and other community events. Hours of operations for such activities would be varied with not all small events running for the full extent of the hours that are permissible throughout the day being 8am to midnight with no amplified music prior to 10am as per conditions within the consent.

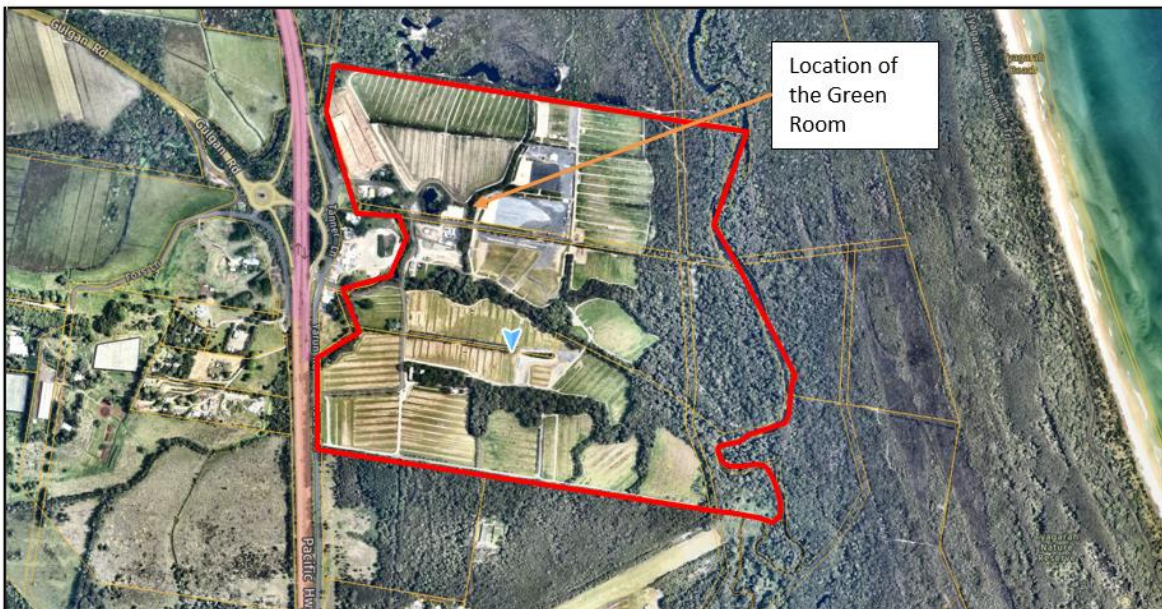
10 The consent limits the number of amplified events for small events to just 10 per year, with condition 53 of the consent enabling this to be reviewed after 6 small events to be extended. The condition states:

53. Small Events

Where after 6 amplified small events it can be demonstrate to Council through:

- Performance Reporting,
- a review of complaints received by Council and the proponents complaints register;
- and if recommended by the Regulatory Working Group,

amplified music for small events can be extended to 12 midnight and or the number of small event days with amplified music can be extended with Council approval. Such approval may be issued on a temporary basis or permanent basis. Details to be submitted to Council for any extension for small events.



Bluesfest Property – Green Room

15 Small events are generally held within the permanent tent structure called the Green Room near the central office on the site and not near adjoining property boundaries. It is also noted such amplified music is likely to compete with background noise including that coming from the Pacific Motorway to the west of the site and on other occasions the Pacific Ocean to the east of the site.

The applicant originally submitted details addressing the condition and the matter was reported to Council on 8 June 2023. See Report 13.8 for details - [Agenda of Ordinary \(Planning\) Meeting - Thursday, 8 June 2023 \(infocouncil.biz\)](#)

5 Although staff supported approval for the extension to 100 days, it was resolved that further testing be required for another 5 events with surrounding land owners be notified and the Regulatory Working group provide a further recommendation in support.

10 Further testing and detail was carried out by Biggsounds Production for additional small events on 9 March 2023, 23 September, 2023, 21 October 2023, 1 November 2023 and 11 November 2023. A copy of the summary letter is attached to this report. The events were held in the Green Room and accommodated the following:

- Ziggy Alberts Concert: 6 pm to 10pm – 1421 patrons
- The Cat Empire Concert: 6.30pm to 11.30pm – 522 patrons
- WildAid fundraiser with the Cruel Sea: 5.00pm to 11pm – 805 patrons
- Om Festival over 4 day period: Latest closing 10pm – max 1000 patrons (Wed)
- 15 • Re:Connection For Farmers Footprint Conference: 1pm to 9.30 pm – 643 patrons

Environmental Health Comments

Councils EHO's have considered the additional detail and provide the following comments for Councils consideration:

20 *The Environmental Health Team confirm that the performance report submitted is deemed satisfactory. The performance report identified that a single noise complaint was received by the proponent for the event held on 21 October 2023. The report states that in response to the complaint, the noise consultant undertook a noise reading, noise levels were compliant with relevant conditions and the complainant advised accordingly. This complaint correlates with the single complaint received by Council.*

25 *Along with reviewing the performance report, the Environmental Health team have also reviewed the noise reports and additional documentation and can confirm that the small events have operated generally in accordance with the relevant noise criteria of Development Consent 10.2014.753.7. In addition, submission of the email and attached supporting information has generally demonstrated **compliance with condition 53 of***
30 ***Development Consent 10.2014.753.7.***

As to the RWG, an email as received from the Chair Peter Ryan who advised:

“ the RWG has considered the issue of increased amplified small events and members are in support of the amendment to increase to 100 days.”

35 In relation to further community notification, condition 73 of the consent requires for small events the following:

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Small events are to be advertised at least one week prior to the event as follows: i) on the Bluesfest website, other relevant websites, if any, and social media; and ii) Email notification to be sent to the Tyagarah Community Association. All costs are to be borne by the applicant.

- 5 The management of the Bluesfest site have advised that they undertook that notification accordingly.

General Comments

- 10 It should be noted that amplified small events are not all “rock and roll affairs”. The site is available for a range of small events and it noted that part of the additional testing, one event was for a conference called “ReConnection for Farmers Footprint” and the other a mediation event called the “Om Festival”. The applicants have provided the following on these events:

Re:Connection for Farmers Footprint

On 11th November 2023, The Green Room hosted Re:Connection for Farmers Footprint. This was a sustainability and regenerative conference combining topics of farming, food, health and culture with 11 local and international speakers, as well as local music artists during the breaks.

Doors open: 12pm Show start: 1pm Event finish: 9.30pm All patrons departed the venue by 10pm

The event had 738 tickets sold, with a scanned in attendance of 643 pax.

All management plans including Alcohol, Waste, Traffic, Security, Noise, and Emergency and Evacuation were provided to council prior to the event.

The organisers are happy to advise there were ZERO noise complaints, and the event overall was a big success.

OM Festival

Over a 4-day period (1st – 4th November 2023, The Green Room hosted Om Fest 2023. Beginning on a Wednesday evening with live music by Krishna Das (USA) followed by 3 days of music, mantra, movement and meditation. Om Fest was an alcohol-free event – no bars.

Doors open: Wed 1/11/23 5:30pm, Thurs 2/11/23 - Sat 4/11/23 9am. Show start: Wed 1/11/23 7pm, Thurs 2/11/23 - Sat 4/11/23 9am. Show finish: Wed 1/11/23 10pm, Thurs 2/11/23 - Fri 3/11/23 7pm, and Sat 4/11/23 10pm. All patrons departed the venue each event day by 30mins post-show finish.

Tickets sold per day are as follows: Wednesday 1/11/23 1000pax, Thursday 2/11/2023 698 pax, Friday 3/11/2023 667pax, and Saturday 4/11/2023 769pax.

All managements plans including Alcohol, Waste, Traffic, Security, Noise, and Emergency and Evacuation were provided to council prior to the event.

The organisers are happy to advise there were ZERO noise complaints, and the event overall was a big success.

- 15 As both of these events were amplified, it theoretically utilised 5 of the amplified small event music days under the consent. In this regards, discussions with the event operators

of the site have expressed a desire to be able to continue to use the site for more than a live music event site. This could include other events such as:

- Live Theatre
- School performances
- 5 • Weddings and celebrations
- Promotional Marketing events
- Conferences
- Artisan markets
- Art exhibitions
- 10 • Sport Retreats

Noting recent publicity concerning the financial viability of large music events in the press and elsewhere, smaller events may well be the way forward for event operators.

[Australia's music festival 'crisis': What big events learn from smaller ones | SBS News](#)

[Why are Australia's mega music festivals failing to sell out? - ABC News](#)

- 15 [Australia's music festivals are in crisis, as young people fall out of the habit \(smh.com.au\)](#)

Without having specific details from the operators of the Bluesfest Site it would seem there is financial imperative as such to diversify accordingly. On face value, this provides an additional income source for the ongoing maintenance and upgrades to the Bluesfest Site and offset other costs associated with running the property and larger events, having 20 regards to weather events, covid, rising costs of running events and the general level of disposal income of music event patrons.

Conclusion

25 The noise monitoring reports have been considered by Council's Environmental Health Officers and in conclusion, it is considered small events at the site, based on those events to date, with amplified music do not have a detrimental impact on the surrounding area. Should there be unintended noise issues that arise from a greater frequency of events, compliance action if needed can be instigated by Council under the POEO Act 1997 and or through the NSW Police via liquor licensing.

30 Considering the size of the site (approximately 120 hectares), its location adjacent to the Pacific Motorway and the ability for the operators of the site to manage and monitor noise issues directly, there remains no objection to the increased in amplified small events.

As such it is recommended that Council extend the approval of amplified music to 100 days per annum on a permanent basis as requested by the applicant.

Report No. 13.10 2022/23 Annual Inventory of Council's Greenhouse Gas Emissions and progress update on Net Zero 2025 Target

Directorate: Sustainable Environment and Economy

5 **Report Author:** Hayley Briggs, Sustainability Officer
Shane Melotte, Sustainability Team Leader

File No: I2024/335

Summary:

10 As part of Council’s Operational Plan, OP Activity 3.4.3.2 states “Prepare Annual Emissions Inventory to determine progress towards 2025 Net Zero Emissions Target”. This report outlines the annual inventory of greenhouse gas emissions for the 2022/23 financial year for Council operations (Attachment 1) and provides a progress update on meeting the net zero emissions 2025 and Climate Active 2025/26 targets.

15 Council experienced a 12,611.8 tCO₂e, or 88.9% increase in organisational carbon emissions in FY23 compared to the previous year. This increase is almost entirely due to an increase in scope 3 emissions related to the flood recovery construction and repair activities. There were also some minor fluctuations in emissions resulting from a new consultant using a more robust calculation and classification methodology and changes to data accuracy. Council’s electricity contracts were 100% offset (GreenPower for small sites and retired Large Generation Certificates for large sites) in FY23, so fluctuations electricity and streetlighting sector energy consumption did not impact on the increase.

25 At the 22 June 2023 Council Meeting a revised net zero target date of 2030 was recommended. Council resolved (**Res 23-295**) to receive a further report on whether meeting the proposed revised net zero target date of 2030 is achievable and how this might be achieved, with regard to the proposed pathways in the staff report and utilising the Climate Active Standard. This will be the subject of a future report to Council.

RECOMMENDATION:

30 **That the Council notes the 2022/23 Annual Emissions Inventory (Attachment 1 - E2024/22651).**

Attachments:

35 1 2022-23 Annual inventory of Council’s greenhouse gas emissions profile FINAL, E2024/22651 

Report

Council has been annually reporting on its greenhouse gas emissions since baseline year 2015/16. Council has resolved to be net zero emissions for its operations by 2025, to source 100% of its energy through renewable sources by 2027 (**Res 17-086**). Council also
5 resolved (**Res 19-634**) to become certified carbon neutral under the Climate Active standard commencing in financial year 2025/26.

At the 22 June 2023 Council Meeting a revised net zero target date of 2030 was recommended by staff. Council resolved (**Res 23-295**) to receive a further report on whether meeting the proposed revised net zero target date of 2030 is achievable and how
10 this might be achieved, with regard to the proposed pathways in the staff report and utilising the Climate Active Standard (this will be the subject of a future report to Council).

The *Net Zero Emissions Action Plan for Council Operations 2025* (the Action Plan) was adopted by Council in 2020 (**Res 20-628**) and maps a path for future activities that Council will undertake to reduce emissions from Council operations.

15 In anticipation of purchasing offsets under Climate Active, the *Carbon Offset Procurement Policy* was adopted in 2023 (**Res 23-442**). No international offsets are to be purchased until staff review the Policy following the release of new information from the Australian Government on the Climate Active program and the Senate enquiry into greenwashing, due to be handed down in 2024.

20 Part A of this report presents the 2022/23 Annual Inventory of Council's Greenhouse Gas Emissions. Part B of this report provides a progress update on meeting the net zero emissions 2025 and Climate Active 2025/26 targets.

Part A: 2022/23 Annual Inventory of Council's Greenhouse Gas Emissions

25 Byron Shire Council experienced a 12,611.8 tCO₂e, or 88.9% increase in organisational carbon emissions in FY23 compared to the previous year. This was predominantly due to an increase in scope 3 Construction and Repair Services of 10,592 tCO₂e, representing a year-on-year increase 1,716.8% or 85% of the total increase in emissions. The increase in this emissions source is attributed primarily to increased post-flood construction and repair works. A change in the consultant undertaking the calculations (resulting in different
30 classification and calculation methods) and changes to data accuracy had a minor impact on the increase. Council's electricity contracts were 100% offset (GreenPower for small sites and retired Large Generation Certificates for large sites) in FY23, so fluctuations in energy consumption in the electricity and streetlighting sectors did not have an impact on the overall increase in emissions.

35 FY23 is the second year that that Council has produced an annual emissions report inclusive of all scopes 1, 2 and 3, i.e., Council's full Climate Active-compliant emissions boundary. Emissions reports prior to FY22 were done in-house and identified six scope 1 and 2 emission sources. In FY22 with the assistance of consultant 100% Renewables Council added another 26 scope 3 emission sources (these additional sources were also
40 retrospectively added to FY21 as a benchmark for variances).

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An alternate consultant, Pangolin Associates, was used to compile the FY23 boundary. Pangolin's boundary identification and calculation methods are different to those of Council and 100% Renewables. Pangolin identified 17 emissions categories and 51 relevant items/services within those categories, 46 of which are scope 3 or have a scope 3 component (not all items/services had emissions associated with them and some were a further disaggregation of previously identified sources). The change in consultant and resulting change in source identification and calculation has contributed a minor part to significant overall increase in emissions in FY23 from FY22.

5

10 Table 1 and Figure 1 show actual and net emissions since baseline year 2015/16 and how Council is tracking towards the net zero 2025 target.

Table 1 – Total actual and net emissions since baseline year FY16

Financial Year	Actual Emissions (tCO2e)	Net Emissions (Offset) (tCO2e)
2016	21,389	21,389
2017	20,701	20,701
2018	19,122	19,122
2019	18,325	15,700
2020	16,442	11,618
2021* (all scopes)	19,810	14,998
2022* (all scopes)	18,176	14,190
2023* (all scopes)	30,086	26,802

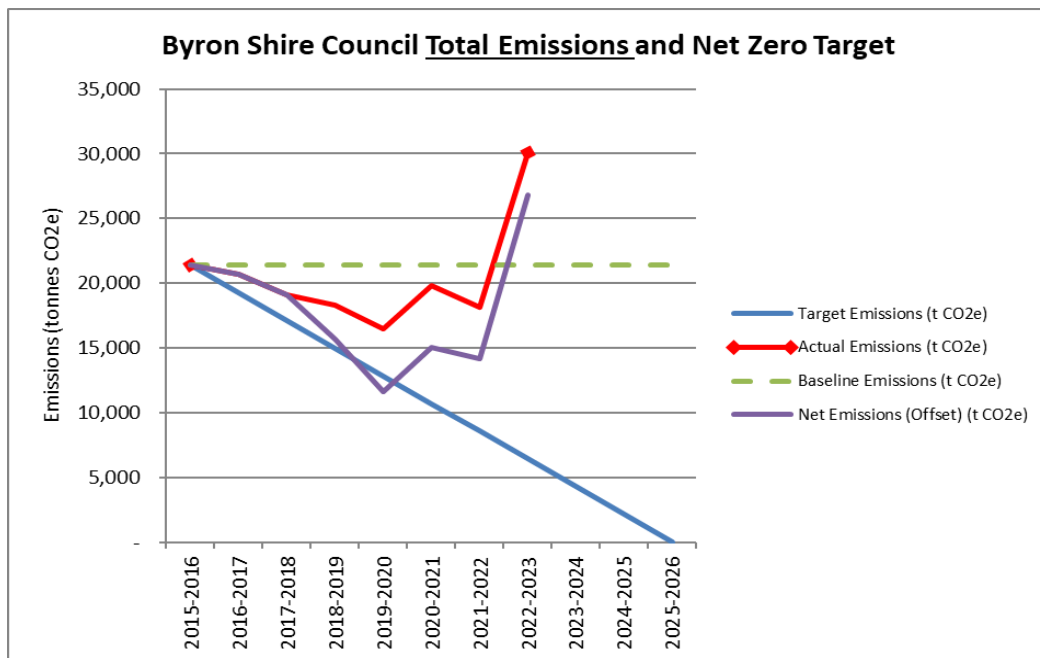


Figure 1 – Total Council emissions tracking towards 2025 target (note all scopes included from FY21)

15 A detailed analysis of each sector is provided in the *2022-23 Annual Inventory of Council's Greenhouse Gas Emissions Profile* (Attachment 1). Table 2 gives a brief overview of the changes in each category since the previous year.

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Table 2 – Summary of Emissions Sectors and Changes

Summary of Emissions Categories		
	Highlights	Emissions Change (tCO ₂ e)
Stationary fuels		
Bottled Gas (LPG)	<ul style="list-style-type: none"> The minimal nature of emissions from bottled gas compared to other categories (0.2% of total emissions in FY23) does not warrant further action at this stage. Usage increased by 31% (5,768L). 	+20.6
Transport fuels		
Light vehicle fleet and bulk fuel	<ul style="list-style-type: none"> Accounts for 6.3% of Council's FY23 emissions. 5% increase in fuel consumption. The price of petrol and diesel remained high this year due to higher world demand of fuel post the COVID-19 travel restrictions, and current international market volatility. 41% of fuel used in light (passenger) vehicle fleet and 59% used in heavy plant and equipment. Significant action is required to reduce fleet sector emissions. 	+328
Electricity		
General electricity	<ul style="list-style-type: none"> As of 1 January 2022, Council achieved its goal of sourcing 100% of its operational electricity from renewable energy sources (five years ahead of the 2027 target). Small sites with retailer Origin (40% of load) were certified GreenPower, and large sites with retailer Iberdrola (60% of load) were supplied by the Collector Windfarm in Cullerin, NSW. 4% (216 MW) reduction in electricity use. 	-702 (net emissions is zero)
Streetlights	<ul style="list-style-type: none"> Contract with Iberdrola provided 100% renewable electricity. Usage reduced by 11% (73 MWh) due to the bulk replacement program of fluorescent lamps with LED lamps. 	-125 (net emissions is zero)
Waste		
Closed landfill (fugitive emissions)	<ul style="list-style-type: none"> Accounts for 24% of Council's FY23 emissions. 7.2% reduction in overall emissions for waste. 7.4% natural decline of emissions in landfill. Composting emissions increased compared to the previous year by 53%. The gas flare Australian Carbon Credit Unit (ACCU) contract with the Clean Energy Regulator was completed in March 2023. 	-503
Landfill, organic waste & recycling	<ul style="list-style-type: none"> Accounts for 2% of Council's FY23 emissions. Council contracts its waste collection service for general waste (landfill), recycling and food & garden organics to Solo Resource Recovery. Solo transports the waste to facilities outside of the Shire to be processed. 0.3t decrease in landfill waste. 	+1.2

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Water & Wastewater		
Wastewater	<ul style="list-style-type: none"> Accounts for 3% of Council's FY23 emissions. 22% decrease in wastewater fugitive emissions. 701 ML (17%) decrease in flow, mostly due to the drier conditions during FY23 and lower visitor numbers post-COVID-19. The annual flow was higher than average in FY21 and FY22. The FY23 annual flow is on par with the average flow over the five years from FY16 – FY20. Wastewater emissions will continue to fluctuate across years as the Shire experiences different conditions (drought and rain) and different operational aspects (like reduced or increased biosolids inventories land application). 	-191
Water	<ul style="list-style-type: none"> Accounts for 1% of Council's FY23 emissions. Council purchases water from Rous Country Council and supplies its own water from the Laverty Gap Weir. Water supplied by Rous has emissions related to its collection, transfer and treatment, mainly due to the electricity associated with it. Water usage increased by 26ML. 	+39
Construction & Repair Services		
Construction, repair & maintenance and vehicle repairs	<ul style="list-style-type: none"> Accounts for 41.8% of Council's FY23 emissions. 1,716% emissions increase in this category in FY23, mostly due to a \$17.5 million increase in expenditure on construction. Significant expenditure increase attributed to: <ol style="list-style-type: none"> 1. Post-2022-flood construction works that have continued through FY23 and are well beyond budgeted amounts, and 2. Potential overestimation of emissions due to using expenditure-based data (see attached Inventory Report for details). 	+10,593
Products, Material & Equipment		
Construction materials, machinery & equipment hire and motor vehicle parts	<ul style="list-style-type: none"> Accounts for 16.3% of Council's FY23 emissions. Construction materials include asphalt, concrete, cement, and other building materials. 111% emissions increase in this category in FY23, due to increased expenditure on asphalt (\$5.5 million) and industrial machinery & equipment (\$7 million). Expenditure increase attributed to: <ol style="list-style-type: none"> 1. Post-2022-flood construction works that have continued through FY23 and are well beyond budgeted amounts, and 2. Potential overestimation of emissions due to using expenditure-based data (see attached Inventory Report for details). 	+2,293
Employees		

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Employee commute & working from home	<ul style="list-style-type: none"> • Accounts for 3.7% of Council's FY23 emissions. • Comprehensive survey of all staff was conducted to determine normal commuting behaviour and working from home habits. Survey response rate was 21%. 	+263
Corporate Governance and Services		
<ul style="list-style-type: none"> • Advertising & Marketing Services • Business Travel • Food & Beverage • ICT Equipment • ICT Services • Office Supplies & Services • Postage, Courier & Logistics • Professional Services 	<ul style="list-style-type: none"> • These categories are expenditure-based and account for 684 tCO2e or 2.6% of Council's FY23 emissions. 	-251

Part B: Progress update on meeting the net zero emissions 2025 and Climate Active 2025/26 targets

At the 22 June 2023 Council Meeting an update on meeting the net zero emissions 2025 **(Res 17-086)** and Climate Active 2025/26 **(Res 19-634)** targets was provided, and staff recommended a revised net zero target date of 2030.

The report established that Council will be unable to reasonably claim to achieve net zero emissions in 2025. This is because industry advice states that net zero emissions can only be achieved if we first reduce our emissions 'as much as possible', and then only purchase carbon offsets as a last resort. Council will not be able to reduce its emissions 'as much as possible' by 2025, therefore the target will not be reached. Council resolved **(Res 23-295)** to receive a further report on whether meeting the proposed revised net zero target date of 2030 is achievable and how this might be achieved, with regard to the proposed pathways in the staff report and utilising the Climate Active Standard.

Since then, staff have engaged consultant Pangolin Associates to provide advice on different target options and decarbonisation pathways, and the benefits and drawbacks of becoming Climate Active certified. Pangolin will present their advice and facilitate a discussion at a future Councillor Workshop.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
3: Nurtured Environment	3.4: Support and empower the community to adapt to, and mitigate the impact on climate change	3.4.3: Monitoring and reporting - Monitor and report on actions that aim to address climate change	3.4.3.1	Monitor performance of solar assets and report annually
3: Nurtured Environment	3.4: Support and empower the community to adapt to, and mitigate the impact on climate change	3.4.3: Monitoring and reporting - Monitor and report on actions that aim to address climate change	3.4.3.2	Prepare annual operational emissions inventory to determine progress towards 2025 Net Zero Emissions Target

Recent Resolutions

- 5 • **Res 17-086:** To achieve net zero emissions for Council operations by 2025; and to source 100% of its energy through renewable sources within ten years (by 2027).
- **Res 19-268:** Adoption of Net Zero Emissions Strategy for Council Operations 2025.
- **Res 19-634:** To become certified carbon neutral under the Climate Active standard (formerly the National Carbon Offset Standard, or NCOS) commencing in financial year 2025/26.
- 10 • **Res 20-628:** Adoption of Net Zero Emissions Action Plan for Council Operations 2025.
- **Res 23-295:** To receive a further report on whether meeting the proposed revised net zero target date of 2030 is achievable and how this might be achieved, with regard to the proposed pathways in the staff report and utilising the Climate Active Standard.
- 15 • **Res 23-442:** Adoption of Carbon Offset Procurement Policy (no international offsets are to be purchased until staff review the Policy following the release of new information from the Australian Government on the Climate Active program and the Senate enquiry into greenwashing, due to be handed down in 2024).

Legal/Statutory/Policy Considerations

None relevant to this report.

20

Financial Considerations

None relevant to this report.

Consultation and Engagement

None relevant to this report.

5

Report No. 13.11 Burringbar Street Mullumbimby - Concept Design - Submissions and Directions Report

Directorate: Sustainable Environment and Economy

Report Author: Andrew FitzGibbon, Place Planning Coordinator

5 **File No:** I2024/388

Summary:

The [Our Mullumbimby Masterplan](#) 2019 identifies refreshing the main street as the priority project for Mullumbimby.

10 A Draft Burringbar Street Concept Design has been prepared (refer Attachment 1). The project aim is for the main street to be more safe, inclusive, beautiful, vibrant and enjoyable place to be.

The design was placed on public exhibition from 26 February to 24 March 2024. Over 500 submissions were received and stakeholder meetings were held during this period.

15 The proposed reduction in car parking spaces and the proposed replacement of existing palm trees with better shade trees were key concerns for the majority of submitters.

In consideration of all comments received, a list of design directions is recommended as per Attachment 5. These design directions are intended to inform the next level of design for this project. The following design directions are highlighted due to the level of public interest in these topics. The full list is provided at Attachment 5.

- 20 • *Design Direction 1:* Incorporate or reuse existing palms as much as possible in the street, while also adding new shade trees. Selection of additional shade trees to be carried out in collaboration with experienced community representatives.
- 25 • *Design Direction 2:* Limit the loss of car parking as much as possible. Items that may assist include relocating bus stop outside of main street; public and outdoor space outside of IGA and the Middle Pub could be prioritised for parking; EV charging bays could be moved out of centre. It is still expected there will be some loss of carparking in the project area.
- 30 • *Design Direction 7:* Incorporate laneways into the project scope as they are critical to functioning of the town centre. Consider option to change lanes to one-way off Burringbar Street and measures to limit illegal parking at throat of lanes where they meet Burringbar Street.
- *Design Direction 9:* Potential relocation of bus stop and buses out of main street area to be discussed with Transport for NSW.
- *Design Direction 13:* Proceed with design to incorporate cyclists into traffic lanes.

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- *Design Direction 19 & 20*: Incorporate planning for events, public art, story-telling and design statements along the street that contribute to the character of Mullumbimby and connection to community and place.

5 The potential loss of car parking and car parking management in the town centre was a key concern with submitters. The following projects are contextually important regarding car parking:

- Council has applied for licences with Transport for NSW for the use of parts of the rail corridor in Mullumbimby for car parking supply.
- There is a proposed action in the 2024/25 Draft Operational Plan to 'review and provide detailed study report of pay parking in Mullumbimby' (Action 5.2.4.8).

10 It is recommended that Council progress these projects prior to further refinement of the Burringbar Street design.





15

RECOMMENDATION:

That Council:

1. **Notes the publicly exhibited Draft Concept Design (Attachment 1, E2024/32105) and Exhibition Report (Attachment 2, E2024/3881).**
- 20 2. **Thanks the over 500 submitters who made comment on the Draft Concept Design.**
3. **Progresses projects relating to car parking supply, future needs and management in Mullumbimby, prior to further refinement of the Burringbar Street design.**
- 25 4. **Endorses the Design Directions (Attachment 5, E2024/46979) to be used to inform the drafting of a preliminary engineering design at a later date.**
5. **Notes that a budget for preliminary engineering design will need to be considered at a later date following completion of point 3 above.**

Attachments:

- 30 1 Exhibition Plans - Burringbar Street Mullumbimby - Concept Design, E2024/32105 
- 2 Draft Burringbar Street Mullumbimby Concept Design - Exhibition Report, E2024/3881 
- 3 Survey Data Summary - Burringbar Street Mullumbimby - Concept Design, E2024/46978 
- 4 Confidential - Burringbar Street Draft Concept Design - Combined survey and email
35 submissions - confidential attachment to post exhibition report to Council, E2024/48465
- 5 Design Directions following Public Consultation - Burringbar Street Mullumbimby - Concept
Design, E2024/46979 

Report

The [Our Mullumbimby Masterplan](#) 2019 identifies refreshing the main street as the priority project for the town. It states: “Turn Burringbar Street into a ‘talking street’ that encourages social, cultural, environmental and economic sustainability.”

- 5 In line with the Our Mullumbimby Masterplan, Council’s Operational Plan Action 4.1.3.2 states: Prepare design drawings for Burringbar Street renewal (priority action from Our Mullumbimby Masterplan).

10 The aim of the project is to establish a concept design that creates a shared vision for a main street that is a more safe, inclusive, beautiful, vibrant and enjoyable place to be. A centre fit for the colourful, diverse and active community of Mullumbimby.

The project scope area is shown below:



The project objectives are:

1. To prioritise pedestrian safety and connectivity
- 15 2. To improve accessibility for all users
3. To include place making initiatives that support social and commercial life
4. To consider impacts on key elements in the street such as car parking
5. To support safer active travel – especially for cyclists
6. To support a green street and sustainable or climate adaptation initiatives
- 20 7. To set the basis for a design that celebrates the cultural landscape
8. To develop a design that is implementable – especially in terms of budget

The design also aims to support another key project of the Our Mullumbimby Masterplan – for traffic to move around the main street, primarily utilising Station Street, Fern Street, Tincogan Street and Dalley Street.

This objective has been supported recently with the completion of intersection priority changes along Tincogan Street. Road and footpath upgrades are also imminent for Station Street and Fern Street.

5 The image below shows the desired route for vehicle moments (black arrows) around the main street (orange dashed line).



Project Program

The project to date has included the following major steps.

- Site Analysis – August 2023
- 10 • Community Survey – 4 September to 2 October 2023
- Stakeholder Briefings – October 2023
- Stakeholder Design Workshop – 13 October 2023
- Public Display of Draft Concept Design – 26 February to 24 March 2024
- Submissions and Directions Report to Council (this report)

15 **Draft Concept Design**

A Draft Concept Design can be found at Attachment 1.

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The Exhibition Report provided at Attachment 2 fully describes the project background, objectives and consultation and design steps.

The concept essentially involves a full rebuild of the street.

The key elements of the Draft Concept Design were:

- 5
 - Replacement of existing palm trees with local species that provide better shade
 - Loss of approximately 10 car parks in the project area
 - Footpath widths increased from 3.5 meters to 5.1 meters
 - Retention of two vehicle lanes for traffic in both directions – but lanes narrowed
- 10
 - Station and Burringbar Street intersection vehicle priority change allowing unrestricted movement on Station Street
 - Raised 10km/hr shared zone at Burringbar and Stuart Street intersection where people have priority to cross in any direction
 - New pedestrian crossing on Dalley Street
 - All pedestrian crossings raised
- 15
 - Relocation of the bus stop currently on Stuart Street
 - Bicycle lanes removed – bikes to share the vehicle lane in low speed environment
 - Alfresco dining areas in front of some cafes and restaurants
 - Additional public space near intersections and outside the IGA

Consultation Period

- 20 The design was placed on public exhibition from 26 February to 24 March 2024.

Meetings were held with various business owners, Transport for NSW, Mullum Bus lines, Mullumbimby High School student representatives, Creative Mullumbimby, Place Planning Collective, Moving Byron Committee and Local Traffic Committee.

Over 30 people also attended one of two drop-in sessions that were offered.

- 25 Over 500 submissions were received through the online survey and email or letter correspondence.

- 30 Of the submissions received, 492 were from people who completed the online survey. The quantitative questions presented in the survey asked respondents if they agreed with the proposed improvements relating to a topic such as 'pedestrian safety' or 'accessibility' etc. The results of this section of the survey are presented below.

Topic	Yes	Neutral	No	Blank
Pedestrian safety	185 (38%)	95 (19%)	208 (42%)	4 (1%)
Accessibility	209 (42%)	77 (16%)	198 (40%)	8 (2%)
Place-making	218 (44%)	68 (14%)	195 (40%)	11 (2%)
Car parking and service bays	91 (19%)	65 (13%)	331 (67%)	5 (1%)
Active transport	191 (39%)	107 (22%)	187 (38%)	7 (1%)
Street trees and sustainability	93 (19%)	42 (9%)	348 (71%)	9 (2%)

Of the 492 people who filled in the online survey, 83 (17%) did not agree with any change proposed (that is, they selected 'no' for every category).

A summary of the survey data is provided at Attachment 3. The submissions have been included in full at Attachment 4. Further information about the consultation period is provided at the end of this report.

5

Design Directions

In consideration of the comments received during the consultation period, a list of design directions is recommended as per Attachment 5. These design directions are intended to inform the next level of design for this project.

10 The following design direction recommendations (as per Attachment 5) are highlighted due to the level of public interest in these topics.

- *Design Direction 1:* Incorporate or reuse existing palms as much as possible in the street, while also adding new shade trees. Selection of additional shade trees to be carried out in collaboration with experienced community representatives.

15 • *Design Direction 2:* Limit the loss of car parking as much as possible. Items that may assist include relocating bus stop outside of main street; public and outdoor space outside of IGA and the Middle Pub could be prioritised for parking; EV charging bays could be moved out of centre. It is still expected there will be some loss of carparking in the project area.

20 • *Design Direction 7:* Incorporate laneways into the project scope as they are critical to functioning of the town centre. Consider option to change lanes to one-way off Burringbar Street and measures to limit illegal parking at throat of lanes where they meet Burringbar Street.

- *Design Direction 9:* Potential relocation of bus stop and buses out of main street area to be discussed with Transport for NSW.
- *Design Direction 13:* Proceed with design to incorporate cyclists into traffic lanes.
- 5 • *Design Direction 19 & 20:* Incorporate planning for events, public art, story-telling and design statements along the street that contribute to the character of Mullumbimby and connection to community and place.

Full list of design directions are provided at Attachment 5.

Project Implications

Car Parking in Mullumbimby Town Centre

- 10 The potential loss of car parking and car parking management in the town centre was a major concern with submitters.

The following projects are contextually important regarding car parking:

- Council has applied for licences with Transport for NSW for the use of parts of the rail corridor in Mullumbimby for car parking supply.
- 15 • There is a proposed action in the 2024/25 Draft Operational Plan to ‘review and provide detailed study report of pay parking in Mullumbimby’ (Action 5.2.4.8).

It is recommended that Council progress this work relating to car parking supply, future needs and management in Mullumbimby, prior to further refinement of the Burringbar Street design.

20 **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	4.1.3.2	Prepare design drawings for Burringbar Street renewal (priority action from Our Mullumbimby Masterplan)

Recent Resolutions

- 5
- Council Resolution [22-312](#) (23 June 2022) point three: “Council endorses the drafting and release of a Request for Quotation to design a more permanent solution for the street – implementing the principles of the trial – including narrowing the central intersection of Burringbar and Stuart Streets”.

Legal/Statutory/Policy Considerations

NA

Financial Considerations

10 A budget for the next stage of design will be reported at a later date to Council in line with the recommendation.

Consultation and Engagement

The design was placed on public exhibition from 26 February to 24 March 2024.

The documents placed on public exhibition are as per Attachment 1 and Attachment 2.

The main ways people were able to give feedback were:

- 15
- Online survey (492 responses)
 - Direct email and letters
 - Drop-in design sessions on 5 March and 6 March 2024 (30 plus attendees)

20 Meetings were also held with various business owners, Transport for NSW, Mullum Bus lines, Mullumbimby High School student representatives, Creative Mullumbimby, Place Planning Collective, Moving Byron Committee and Local Traffic Committee.

The consultation period was promoted on Council’s website, media release, community enews, social media, mail out to owners of businesses, advertisement in the Echo, posters around town, letter drop to businesses, business enews, and emails to community groups and representatives.

25 Previous Engagement

A considerable amount of engagement was also conducted prior to the preparation of the draft concept design. This included:

- 30
- Community Survey – 4 September to 2 October 2023 (over 200 respondents)
 - On Street Discussion – 28 September 2023
 - Stakeholder Briefings (Transport NSW, NSW Police, Access Consultative Working Group, Mullumbimby Business Chamber Executive) – October 2023
 - Stakeholder Design Workshop – 13 October 2023

Report No. 13.12 Update Resolution 23-056 Short Term Rental Accommodation Consent Conditions

Directorate: Sustainable Environment and Economy

Report Author: Sarah Nagel, Manager Public and Environmental Services

5 **File No:** I2024/549

Summary:

Council at the Ordinary Planning Meeting 9 March 2023 resolved **23-056** that it:

1. Enforces consent conditions which prohibit the use of a property as short term rental accommodation.
- 10 2. Continues to prohibit the use of short-term rental of housing in new approvals, including but not limited to secondary dwellings, standard homes in the residential areas and business zones of the Shire.
3. Puts out a media release to inform the public of this decision.
4. Receives a report back every six months on the status of 1 and 2.
- 15 Council at the Ordinary Meeting 26 October 2023 resolved **23-500** to receive a report back every three months on the status of 1 and 2.

This report provides the three-month status on items 1 and 2 of the resolution.

20

RECOMMENDATION:

That Council notes the update provided on Resolution 23-056 Short Term Rental Accommodation Consent Conditions.

25

Report

Notice of Motion No. 9.3 Short Term Rental Accommodation Consent Conditions was presented at the [Agenda of Ordinary \(Planning\) Meeting - Thursday, 9 March 2023 \(infocouncil.biz\)](#) where Council resolved via **23-056** to receive a report every six months on the status of:

5

1. Enforcement of consent conditions which prohibit the use of a property as short term rental accommodation.
2. The continuing prohibition of the use of short-term rental of housing in new approvals, including but not limited to secondary dwellings, standard homes in the residential areas and business zones of the Shire.

10

At the Ordinary Meeting 26 October 2023, Council resolved via **23-056** to receive a report back every three months.

A staff update follows.

Point 1

15 The history of Council's enforcement of consent conditions which prohibit the use of a property as short term rental accommodation enforcement action since 9 March 2023 was outlined in Report to Council 13.13 [Agenda of Ordinary Meeting - Thursday, 22 February 2024 \(infocouncil.biz\)](#).

20

Since 22 February 2024, Council has continued to respond to complaints relating to STRA properties. This included four general STRA complaints, one illegal development STRA complaint, one animal related STRA complaint and two STRA related noise complaints. All complaints have been investigated and have been resolved without formal enforcement action.

25

Staff are continuing to work with Department of Fair Trading to finalise their formal enforcement action against one property owner of a STRA property for two periods of prohibited use, following Council issuing two penalty infringement notices.

Staff are also drafting a proactive investigation program to review properties with conditions prohibiting STRA once further restrictions day caps take effect on 23 September 2024.

30

Point 2

Specific conditions continue to be included in relevant development consents to prohibit STRA use.

Staff will provide a further update report to Council on Points 1 and Point 2 in three (3) months.

35

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.2: Enhance safety and contribute to the physical, mental, and spiritual health and well being of our people	2.2.3: Regulatory controls and compliance - Enhance public safety, health and liveability through the use of Council's regulatory controls and services		
4: Ethical Growth We manage growth and change responsibly	4.2: Enable housing diversity and support people experiencing housing insecurity	4.2.1 People experiencing housing insecurity - Seek opportunities that provide fair, appropriate, and affordable housing for people experiencing housing insecurity		
4: Ethical Growth	4.1: Manage responsible development through effective place and space planning	4.1.4: LEP & DCP - Review and update the Local Environmental Plan and Development Control Plans	4.1.4.7	Progress Short Term Rental Accommodation planning proposal

Recent Resolutions

- 23-056
- 5 • 23-500
- 24-063

Legal/Statutory/Policy Considerations

5 Legal advice supports the approach discussed in the report. It should be noted that legal matters like STRA can be resource intensive, take considerable time and be costly to pursue. As such, Council has discretion in deciding whether to take enforcement action on the basis of the available evidence and the circumstances of the individual case.

Changes for non-hosted STRA were endorsed by the NSW Government in September 2023. There will be a 12-month transition period for the community and industry to prepare. New day caps for unhosted STRA will take effect on 23 September 2024.

The changes are:

- 10
- A house or unit cannot be used for non-hosted STRA for more than 60 days in a 365-day period, for most of the Shire.
 - Some areas in Byron Bay and Brunswick Heads will be able to operate without a cap on holiday letting, for 365 days per year. Maps of these areas are available on the NSW Department of Planning portal website.

15 The changes do not affect hosted STRA where the host lives on the premises.

The above local planning changes and Council resolution align with IPC Advice Report on Byron Shire STRA recommendation 2 *'Utilise the available regulatory regime to support Byron Shire Council to plan for and manage local impacts from the conversion of existing and future housing stock to non-hosted STRA...'*

20 As a result of the above, during the transition period, staff will be developing a Monitoring and Compliance Strategy specific to the new day caps for non-hosted STRA in Byron to be implemented after 23 September 2024.

Evaluation and Monitoring of STRA is addressed in IPC Advice Report on Byron Shire STRA recommendations 10,11 and 12.

25 A wider review of STRA has also been announced by the Minister for Planning. There are no details as yet. It will ostensibly address the remaining recommendations of the IPC report outside of the Byron Shire Planning Proposal decision (Recommendations 1 and 2) and also the NSW STRA framework more generally.

Financial Considerations

30 Staff time and resourcing to STRA in Byron Shire is currently funded by the current enforcement program budget of the Operational Plan. This may change the result of the Monitoring and Compliance Strategy development.

Funding to support local community benefits and also enforcement is addressed in IPC Advice Report on Byron Shire STRA recommendations 8 and 9.

35 Consultation and Engagement

Not required.

Report No. 13.13 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: I2024/559

Proposal:

Modification No	10.2020.109.4
Planning Portal Ref	PAN-317313
Proposed modification	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
Original Development	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
Type of modification sought	4.55(2) Other modifications
Property	LOT: 196 DP: 1281667

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.13

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

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.

5 Council then deferred this matter again to enable the following issues to be considered:

24-135 Resolved that determination of Development Application No. 10.2020.109.4 be deferred until 18 April 2024 to enable the following outstanding matters to be addressed:

a) More information on the feasibility of the C3 portion of Lot 282 providing two dwellings

b) Consultation with the local group who wish the land to go into public ownership

10 c) Further information on the impacts on native wildlife habitat. (Ndiaye/Lyon)

In the intervening time staff has sought an independent valuation of the land to be dedicated. This is provided as attachment 5. The recommended conditions of consent now take this independent valuation into consideration for the offset of the developer contributions. The recommended conditions of consent have been updated to reflect this.

15 It has also been identified that the footpath / access from Fantail Place up to Brushbox Drive crosses through one of the community title lots and this needs to be corrected.

The information on the feasibility of placing dwellings on the C3 zoned land is addressed in the body of the report.

20 The impacts on habitat had previously been addressed in the page 78 of report 13.7 that went to the November 2023 meeting [Agenda of Ordinary \(Planning\) Meeting - Thursday, 9 November 2023 \(infocouncil.biz\)](#).

25 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.

30 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:

- 35 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.

BYRON SHIRE COUNCIL

2. Obtains a preliminary land valuation or appraisal of Lot 281 as proposed, and that it be provided to Council in confidence.

5 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. Staff have sought an independent valuation and this is provided as attachment 5. This valuation is \$180,000 less than the developers.

10 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 independent valuation does not change the recommendation of staff but the contributions schedule has been amended to reflect this.

15 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.

In conclusion the Section 4.55 application is recommended for approval.

NOTE TO COUNCILLORS:





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

25

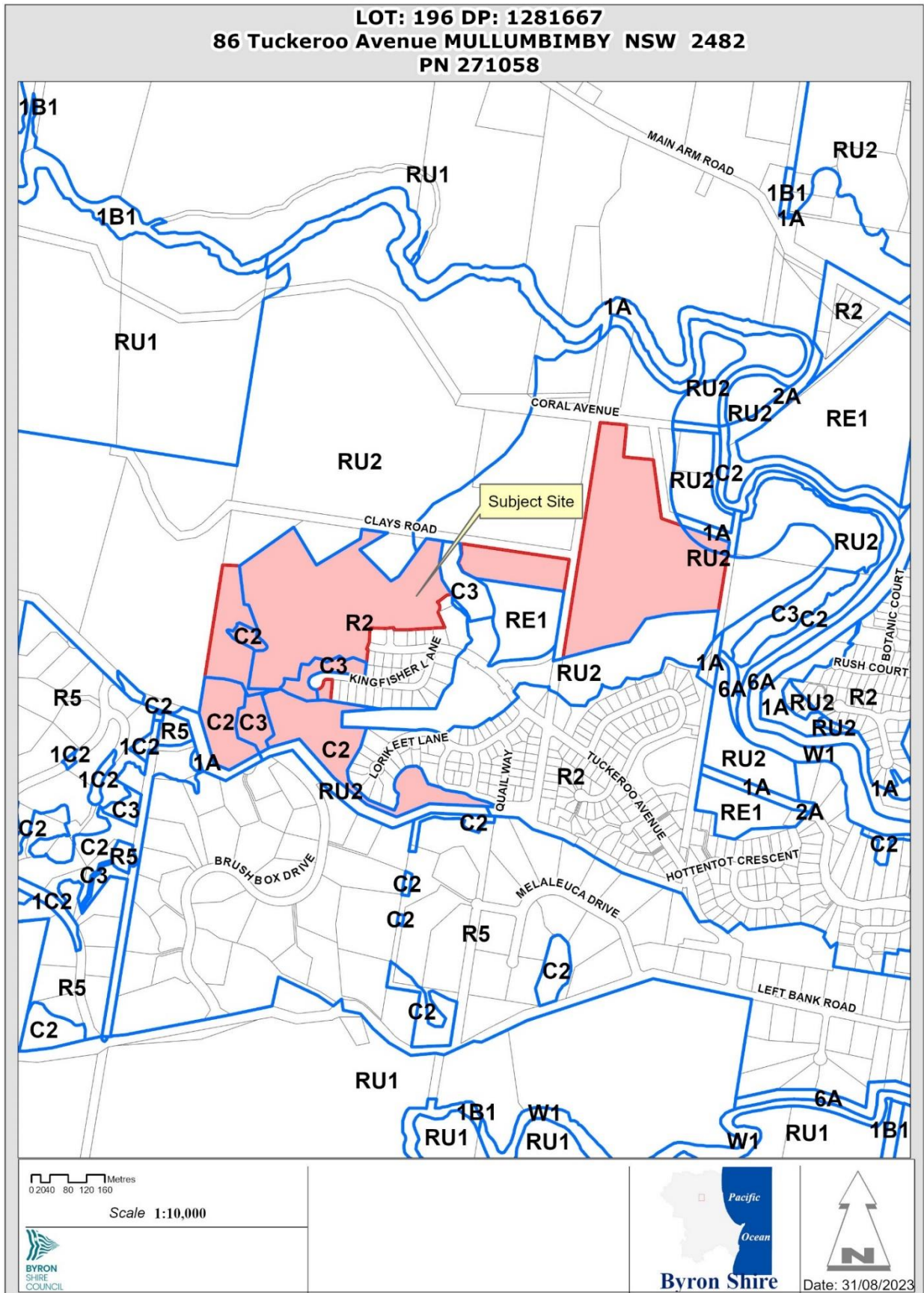
RECOMMENDATION:

30 **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 Contributions, be approved by modifying Development consent number**
35 **10.2020.109.1 in accordance with Attachment 1 Recommended Amended Conditions of Consent.**

Attachments:

- 1 10.2020.109.4 - Recommended Amended Conditions of Consent, E2023/105246 
- 2 10.2020.109.4 - Modified Plans, E2023/105245 
- 40 3 10.2020.109.4 - Biodiversity Assessment, E2023/105244 
- 4 Confidential - 10.2020.109.4 - CONFIDENTIAL - Applicant's Land Valuation, E2023/130384
- 5 VA1508-CP24 - Tallowood Ridge Estate, Mullumbimby - Open Space, E2024/52567 

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
2. **Obtains a preliminary land valuation or appraisal of Lot 281 as proposed, and that it be provided to Council in confidence.**

15 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. An independent valuation has been received and this is less than the applicant's valuation. Staff are recommending that the independent valuation be used to determine the offset of the developer contributions.

20 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.

25 The attached recommended modifications are the same as those which were attached to the Report considered at the Council meeting dated 9 November 2023 with the exception of an additional condition to require the additional dedication of an area of land shown as an asset protection zone upon which there is a water main and access to Brushbox Drive and an amended contributions schedule to reflect the changed valuation of the land.

Section 7.11 Developer Contribution Implications

30 The applicant under the current consent has been levied some \$561,000 in local open space contributions. Considering the independent valuation of the land and the value of the road works previously undertaken 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 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))

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

13.13

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 independent valuation set the value of lot 282 at \$420,000 and the developers valuation is of Lot 282 is \$600,000. Staff are recommending that the independent valuation is to be preferred and this will give a remaining credit for the developer of \$ \$640,697.

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 \$884,851.00 less the credit leave a contributions schedule totalling \$244,153.

Dwelling potential on the C3 Zoned land.

Dwellings are a permissible use in the C3 zone.

5 There would be a process to be undertaken to enable a development application to be lodged. This land is to be dedicated as a public reserve and would need a plan of management under
10 Division 2 of the Local Government Act 1993. The development would need to be consistent with the plan of management for the public reserve. Public reserves such as this are designated as community land and will generally have a sub category allocated to them relevant to their purpose such as sports fields, park or general community use. If Council wishes to proceed with an option to put dwellings on the site then it should resolve to categorise the land as general community use under the provisions of section 36L of the Local Government Act.

There are some constraints on the land that may make approval of a dwelling or dwellings difficult. These are:

- 15 1. It is inconsistent with the approved Biodiversity Conservation Management plans for the site and the area of C3 is being or has been rehabilitated with trees, weeding and re-plantings with Management zones 7b and 7a protruding into the area zoned C3.
2. The developer has constructed a public walkway down the centre of the cleared area between the two management zones as approved by Council;
- 20 3. Bushfire hazard reduction would potentially require clearing in the C2 Zone and or koala food trees/ habitat in the C3 Zone.

Without a comprehensive assessment of the impacts of these constraints on a dwelling it is beyond the scope of this report to advise on the likelihood of success of a development application lodged for a dwelling.

25 **2. CONCLUSION**

The dedication of the land must be offset against the developer contributions. An independent valuation has been sought and it is appropriate to apply this valuation to the offset of the contributions.

30 The area of the public reserve should be increased to take in the access track that is currently on the community title lot and asset protections zone (APZ) for ease of maintenance. This is addressed by a new condition 1A in attachment 1.

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

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.14 Investigation into Natural Burial Grounds

Directorate: Infrastructure Services

5 **Report Author:** Malcolm Robertson, Manager Open Space and Facilities

File No: I2024/117

Summary:

10 Council resolved that staff develop an Expression of Interest (EOI) to be advertised seeking private land for a Natural Burial Ground in Byron Shire. No responses were received. Options to incorporate a Natural Burial Ground within existing cemeteries have been explored but are not recommended.

The Natural Burial Ground Steering Committee previously formed to guide development of a Natural Burial Ground has not been active and intended outputs from that committee have yet to be realised.

15 Council is facing increasing costs to maintain existing cemeteries and is faced with limited land for future expansion of cemeteries. Based on experience of Natural Burials in Lismore, take up in Byron Shire is estimated at no more than 3 plots per annum.



20 It is recommended that prior to further expansion of cemeteries portfolio, sustainability of current operations is addressed.

RECOMMENDATION:

25 **That Council:**

1. **Notes the lack of response to the second round of advertisement seeking private land for a Natural Burial Ground in Byron Shire;**
2. **Notes limitations within available Council Cemetery land and budgets to develop a Natural Burial Ground; and**
- 30 3. **Adopts amended Fees and Charges to incorporate the new Statutory Fees contained within the body of this report.**

Attachments:

- 35 1 Strategic Approach to Cemetery Operations REPORT July 2018, E2021/117584 
- 2 Byron Children's Cemetery- preliminary concept, E2021/117788 

Background

In late 2016 a group of local residents initiated investigations into a Natural Burial Ground for Byron Shire.

5 Initial investigations were unable to identify suitable Council land for the proposed new cemetery. Council subsequently resolved (20-669) to investigate the use of the Vallances Road site for a natural burial ground, as well as creating a Natural Burial Ground Steering Committee of community members to oversee the process of:

- Naming of the Natural Burial Ground
- Future governance of the Natural Burial Ground
- 10 • Drafting rules and regulations for the Natural Burial Ground
- Determining the layout of the grounds
- Funding of the infrastructure requirements
- Undertaking consultation with the relevant traditional owners through the appropriate staff
- 15 • Selection of appropriate sites for burial plots, ceremonial space and regeneration outcomes.

The investigation of Vallances Road land considered the use of the site for a natural burial cemetery against predetermined criteria and Council's commitment to co-creating an equitable, accessible and inclusive community, as per Council's Community Strategic Plan and Disability I

20

Investigations identified that the proposed use of the Vallances Road land for a natural burial ground was not considered appropriate due to significant site constraints and costs to support an inclusive and accessible cemetery.

25 Council in 2019 Resolved (**19-607**) to Call for Expressions of Interest from landholders within Byron Shire to provide a space for a Natural Burial Ground, and to report back to Council on any protocols required from Council to implement such a project.

The EOI was advertised in July 2020 and no responses were received. Because of the lack of community response previously, it is recommended that current actions to investigate options within Mullumbimby and Clunes Cemeteries were undertaken as a first step.

30

Council subsequently resolved (**21-250**) to declare an area of Vallances Road land as Byron Shire's first natural burial ground, and for staff to collaborate and guide members of the community-based Natural Burial Committee with onsite investigations and reports that may require to support a development application for a natural burial ground.

35 Following completion of soil testing it was identified that the site at Vallances Road, Mullumbimby has constraints that make it sub-optimal for use as a natural burial ground. The unstructured heavy clay soils at the site present a risk of anaerobic (waterlogged) conditions in graves for extended periods following high rainfall. Anaerobic conditions would lead to impaired decomposition and potential odour at the surface. Without

40 remediation of soil conditions and the establishment of more deep-rooted vegetation, uptake of nutrients from the graves will be limited.

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Council Resolved November 2022 (**22-657**) to rescind resolution 21-250 and no longer support a Natural Burial Ground at Council's Vallances Road site.

5 Council on 13 February 2023 (**23-010**) resolved that staff again develop an Expression of Interest to be advertised seeking acquisition by donation or by purchase of private land for a Natural Burial Ground in Byron Shire.

Report

10 Byron residents were encouraged by the Lismore Council 'Bush Burial' grounds established in 2008 as part of the Lismore Memorial Gardens. The Lismore Bushland cemetery allows for both burials and the interment of ashes and is dedicated to the conservation of local flora and fauna.

Following engagement with a representative of the Natural Burial Committee, Council in 2023 again advertised seeking expressions of interest from people interested in selling or donating land for a natural burial site. Advertisement was placed on Council public notices, and into the Byron Echo on 18 and 25 October 2023.

15 The land was required to meet a range of requirements such as:

- Zoned RU2
 - Minimal vegetation, but near bushland, so that bush regeneration could follow burial in open ground;
 - Road access is or can be made convenient and safe, including traffic and parking requirements.
- 20

No submissions or enquiries in response to the expression of interest were received.

Background

Natural Burial Grounds

25 Natural burial refers directly to the burial process itself, as opposed to any processes that take place in preparation. Grave sites in natural burials are often initiated by hand, however due to WHS considerations, must be completed with heavy machinery in a similar fashion to standard bodily interments.

30 Natural burial involves low-impact burial processes, though actual practices range widely. Generally, natural burial involves burial without embalming using a biodegradable casket, simple shroud, biodegradable clothing and generally in a more natural setting than a lawn cemetery. Burials with headstones are not considered customary in natural burials, but there are many variations on this.

35 The reduced use of chemicals and other inputs in natural burial and shallower grave depths is expected to reduce soil and groundwater contamination. With a natural casket, lack of a burial vault, and lack of embalming, the body will break down more rapidly than in conventional burial, allowing nutrients to be reabsorbed into the soil more quickly.

Natural burials can either take place in hybrid burial grounds (conventional cemeteries with designated natural burial areas) or in specified natural burial grounds. As occurred at

5 Lismore, there is potential for natural burials to utilise spaces in or around lawn cemeteries that are unsuitable for conventional burials. Another example is Enfield cemetery in South Australia where a 30m-wide vegetated ring around the perimeter of the cemetery is retained to protect views and amenity and has recently been used to facilitate natural burials.

Lismore Bushland Cemetery

10 Since 2006, Lismore City Council's Lismore Memorial Gardens has been restoring and managing a 1.5ha patch of regrowth Forest Red Gum grassy open forest in Goonellabah, primarily for use as a bushland cemetery. The site is part of a registered corridor for Koalas and was in a highly weedy condition prior to the commencement of the project. Bush regeneration treatments over six years converted the weed-dominated site to a recognisable Forest Red Gum grassy open forest with a diverse understorey.

15 Lismore Bushland Cemetery is 50 minutes from Mullumbimby and offers opportunity for burial in a shallow grave in a natural environment. Biodegradable coffins are used along with materials made from natural fibres to allow remains to return to the earth to decompose naturally. Graves are still machine dug, and the surrounding grassland mown for safety during the service but following interment the area is allowed to naturally regenerate.

Existing Byron Shire Cemetery Use for Natural Burials

20 It was suggested that either Clunes or and Mullumbimby cemeteries may accommodate a Natural Burial Ground.

Clunes Cemetery

25 Clunes was not initially favoured by community as a location due to the distance from Mullumbimby. The site at Clunes cemetery has no soil constraints that make it unsuitable for use as a natural burial ground. It is a fertile site, promising for the establishment of native plants, decomposition and integration of nutrients from decomposition into the soil & plant system.

30 Clunes has well-structured soils present minimal risk of sustained anerobic conditions in graves. There is low risk of leachate movement beyond the immediate vicinity of the grave because of the loam texture. Soil pH is in a suitable range, although the inclusion of liming material within graves could still have some benefits. The presence of plant roots to well below the proposed burial depth of 1 m makes plant uptake of nutrients from the graves likely.

35 The rural location creates some access and maintenance issues, with pest control of rabbits an ongoing problem. The area has limited native bushland to assist in facilitating bush regeneration.

Mullumbimby Cemetery

40 Bushland areas to the west (riverside) of the Mullumbimby Cemetery had been suggested as holding potential for natural burials. Representative of Brunswick Valley Landcare inspected the site and did not believe the area would be suitable. There are large trees

(mostly Camphor) with large root systems that would need to be cleared out and a heavy understorey of weeds. The site is also steeply sloping, with lower sections flood prone.

Resource Implications

5 In 2021 an independent review of Cemeteries Operations within Byron Shire was completed (attachment 1). Many of the recommendations within the report have yet to be implemented.

10 The report included comparison with similar sized Councils. Council currently manage four cemeteries and Tweed Council was seen as directly comparable, with three operational lawn Cemeteries. At the time of the report, Tweed Council employed five full time staff and two casual staff to look after cemetery administration, burials, cremations, and garden maintenance across the three Lawn Cemeteries. Maintenance on the remaining Tweed General Cemeteries was completed by contractors.

15 In comparison Byron Council has three staff responsible for all Cemeteries operations, being one administration staff member and two grounds staff. Cemeteries administration within Byron Shire is significantly under resourced.

20 An Operational Initiative sat within the 2023/24 Operational Plan to investigate and implement cemetery data management to improve records management, reduce administrative time and improve customer service. Specialised software would ensure that burial records are more accurately maintained, more easily accessed and could directly link to digital mapping.

Implementation of specialised software would enable improved online services for community and reduce administrative burden on staff. Due to budget limitations this initiative has not to date been realised, with resulting impacts upon staff time.

25 The NSW Government has also recently introduced the Interment Industry Scheme as part of the Cemeteries and Crematoria Regulation 2022 – a licensing system for cemetery and crematorium operators. All operators of cemeteries in NSW are now required to be licenced under the *Cemeteries and Crematoria Act 2013* ('the Act') and *Cemeteries and Crematoria Regulation 2022* ('the Regulation').

30 Key licence conditions have also introduced additional administrative workloads to develop required processes. Consumer contracts iteming all elements of pricing from administration costs and salaries through fleet and machinery equipment through to land values,

35 Identifying a suitable location for a Natural Burial Cemetery is only the first step. Management processes to guide both community expectations and actual practices will need to be developed and adopted. These processes will need to include details such as types of memorials permitted, and specify the requirements around use of embalming chemicals, coffins, caskets or shrouds.

40 Operational manuals will also need to be developed to ensure clarity around aspects such as the means of grave digging permitted, depth and dimensions of graves, permissible lowering devices, location and mapping of sites etc.

These elements will impact the final layout and capacity of a Natural Burial site and will allow development of a landscape plan and continual revegetation plan for implementation as burials are made and the landscape evolves.

Strategic Considerations

5 NSW is home to a diverse multi-cultural community, with over 200 languages spoken, 125 religions represented and with residents descended from over 300 ancestries. Despite wide ranging desires for burial options, from special allocation for religious groups to unique interment techniques, a small regional Council cannot be all things to all people.

10 Population increase is advancing faster than anticipated, having by June 2023 already passed the 37,000 residents that had been forecast for 2036. The region is also following the broader Australian trend with population both aging and experiencing longer life expectancy.

15 If the average death rate of 6 per 1000 is applied, that 37,000 would equate to around 230 deaths per year. Trends show an Australian-wide increase in cremation rates over burials, with a cremation rate of around 80%. If the anticipated cremation rate is maintained, the residual 20% would require interment within Council cemeteries, which would equate to only 46 interments of bodily remains occurring per annum.

20 Lismore has 11 cemeteries and an average of 250 interments per annum. Since the Bushland Cemetery was introduced in 2008, Lismore has seen an average of 8.5 interments in the Bushland area per annum. In the last three years Bushland interments have equated to around 4% of overall Lismore burials.

25 Byron Shire currently has higher than average interments for the population with an average of 80 interments per annum across 4 cemeteries. If take up of Natural Burials in Byron reflected the Lismore experience, around 3 Natural Burials would be anticipated each year in Byron.

30 Prior to initiating investment into a new cemetery, it would be wise to ensure that current cemetery operations are sustainable in the long term. If there are community groups are seeking unique cemetery space outside Council's available levels of service, a proactive approach would be to assist the group with the establishment of a specialist cemetery as a private enterprise. This would ensure that the group would be taking responsibility for its perpetual maintenance, rather than increasing the intergenerational cost to ratepayers.

If individuals require a specific service that Byron Council cannot provide, it would be appropriate to assist those individuals in locating a cemetery that allowed for their specific needs.

35 Council undertook Strategic Review of Cemeteries Operations in 2018. Many recommendations within that review were focused on improving sustainability of current operations. Advancement of the following recommendations needs to be prioritised;

- 40 • Additional resources be made available to facilitate the documentation of all cemetery processes and procedures, and to implement the actions needed to ensure compliance with the Cemeteries & Crematoria Act and Regulations.

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- Contents of the existing cemetery register be examined and adjusted to ensure compliance with the Cemeteries & Crematoria Act.
- That BSC consider the extent to which it is prepared to subsidise cemetery operations as a service and determine its general approach to cemetery fee adjustments accordingly.
- Future fee setting processes take more account of the attributes of individual cemeteries and the interment locations within them.
- Guidelines for bequests be developed, along with suitable projects to align with bequest funding.
- That areas within all sites where access ways or little used roads can be converted into future graves, be identified and designated as such, on cemetery plans.
- All rows and sections within cemeteries be non-denominational, rather than designated by religion.
- Cemetery signage is improved and incorporated within BSC corporate guidelines.
- Rejuvenation of children's section at Byron.

Recommendation that areas within Mullumbimby cemetery be developed as cremated remains interment locations is being progressed currently.

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	5.4.2.2	Investigate and implement cemetery data management to improve records management, reduce administrative time and improve customer service
5: Connected Infrastructure We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable	5.4: Provide accessible community facilities and open spaces	5.4.2: Parks and open spaces - Provide and maintain active and passive recreational community space that is accessible and inclusive for all	5.4.2.2	Operate and Maintain Cemeteries across the Shire

Recent Resolutions

- November 2019 (19-607)
- November 2020 (29-669)
- June 2021 (21-250)
- 5 • November 2022 (22-657)
- February 2023 (23-010)

Legal/Statutory/Policy Considerations

- 10 The Interment industry in NSW is governed by the *Cemeteries and Crematoria Act 2013*, *Cemeteries and Crematoria Regulation 2022* and the *NSW Health Act* and its regulations.

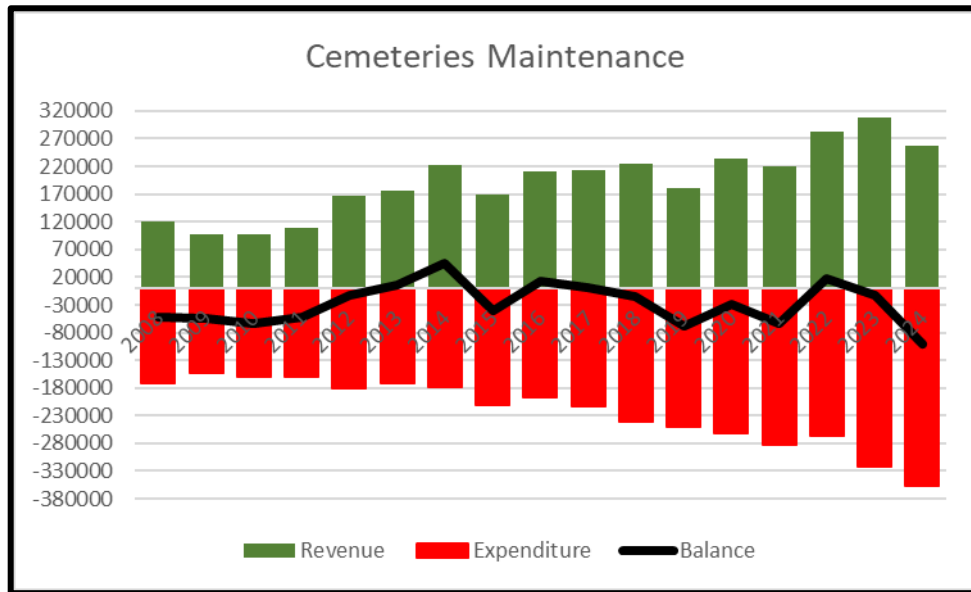
Financial Considerations

There is currently no budget specified for detailed Natural Burial Ground investigations. Identification of funding would enable external consultants to be engaged which would assist in expediting an outcome if this was to remain a priority.

- 15 Community supporters of the Natural Burial Ground have previously indicated that funding for this project could come from various sources, including crowd funding, donations or bequests received through campaigns run by stakeholders. Land was also proposed to be made available through donation or sale at a peppercorn consideration. Neither of these options have been realised.
- 20 Establishment and ongoing maintenance of a natural burial ground has also been suggested as a task that Brunswick Valley and care could assist with. It has been confirmed by BLV that they have not been involved in those discussions to date and as a result no consideration of available resources or budget has been made. Should a block of land be confirmed, BLV are willing to assess the requirements, but any assistance would
- 25 be subject to available budget.

Lismore Council advise annual maintenance costs of the established Bushland cemetery at around \$20,000 per annum. A key advantage is that the Lismore Bushland cemetery is immediately adjacent to the Lismore Memorial Gardens, with maintenance equipment and staff already on site.

- 30 Cemeteries revenue does not currently reflect the cost of maintenance. Council subsidises cemeteries on average \$25,000 per annum, with costs of major capital works and administrative overheads on top of this figure. Byron Shire cemeteries create significant intergenerational costs for ratepayers with all interments in perpetuity.



There is a need for capital works to be prioritised at all four of Council existing cemeteries to ensure ongoing capacity and to maintain presentation to community expectations. Currently unfunded capital works include:

- 5
 - Byron Cemetery children’s playground upgrade (Attachment 2)
 - Bangalow Cemetery accessibility, lawn beams and columbarium wall
 - Mullumbimby Cemetery Columbarium Walls and memorial garden (Design being drafted)
 - Mullumbimby maintenance shed demolition and replacement.
- 10
 - Clunes Cemetery access road upgrade.



Figure 1: Mullumbimby Columbarium Walls

Byron Council also currently lack a range of standard cemetery equipment such as casket lowering equipment and graveside shelter that would make the burial process smoother and safer.

Changes enacted under the *Cemeteries and Crematoria Act 2013* (NSW) have introduced a mandatory code and interment industry scheme that has also introduced an additional layer of cost and administration to Council cemeteries.

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5 Each Licensed Cemetery Operator will also soon be required to establish a perpetual maintenance fund and contribute 15 - 20% of burial plot costs to that perpetual maintenance fund. The implications to Council maintenance budget of losing around \$50,000 of revenue per annum is significant and introduces a need for review of Fees and Charges to ensure that they are reflecting the services provided.

10 Council must now also contribute an estimated 3 to 5% of total operator revenue to Cemeteries & Crematoria NSW (CCNSW) to cover the cost of CCNSW overseeing the interment industry scheme. Roll out of this scheme has now been initiated for the 2024/25 financial year, with introduction of a Statutory Fee and resulting in the requirement to incorporate this Statutory Fee into Council adopted Fees and Charges to ensure cost recovery.

CCNSW Statutory Fees are:

- \$171.60 (incl. GST) per burial interment
- \$69.30 (incl. GST) per ash interment.

15 To accommodate the additional costs to Council of the interment levy, Fees and Charges are requested to be amended to include the above.

Consultation and Engagement

Engagement with a representative of the Natural Burial Committee guided development of the scope for required land sought within the expression of interest.

20 Advertisement was promoted on Council public notices for a period of six weeks and was placed within the Byron Echo on 18 and 25 October 2023.

Report No. 13.15 RFT2023-2037 Marvell Hall - Capital Works + Asbestos Removal

Directorate: Infrastructure Services

Report Author: Jamie Steel, Project Officer Open Space & Facilities

5 **File No:** I2024/428

Summary:

On 11 December 2023, the General Manager under delegated authority approved use of the open tender method to call for tenders for Contract 2023-2037 Marvel Hall Access Ramp, Asbestos Removal, Kitchen & Storeroom Upgrade.

10 The Request for Tender was advertised from 3 April 2024 to 30 April 2024.

Tenders were received from the following organisations:

- BISHTON GROUP PTY LTD
- BOUMAN PTY LTD
- CIRCL GROUP PTY LTD
- 15 • MOONEY CONSTRUCTION PTY LTD
- MURPHY'S REMEDIAL BUILDERS PTY LTD
- QUADRACON BUILDING PTY LTD

20 Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulations 2021. This report summarises the background and assessment of the tenders and provides a recommendation to award the tender for Contract 2023-2037 works to Marvell Hall.

RECOMMENDATION:

That Council:

- 5 1. **Awards Tender 2023-2037 Marvell Hall Accessible Ramp, Asbestos Removal, Kitchen & Storeroom Upgrade Project to the preferred supplier identified in the tender evaluation report.**
- 10 2. **Makes public its decision, including the name and amount of the successful tenderer, in accordance with Clause 179(b) of the Local Government (General) Regulation 2021.**

Attachments:

- 15 1 Confidential - Signed Multi Party Evaluation Report 2023-2037 Marvell Hall Project, E2024/52559

Report

On 11 December 2023 the General Manager, under delegated authority, approved the use of the open tendering method to call for tenders for Contract 2023-2037 , works to Marvell Hall.

20 Marvell Hall was built approximately 70 years ago. Various additions/upgrades have been completed over time including new toilet facilities, enclosing the foyer area, and renovations to the Lawson Room.

25 The majority of the building (kitchen, dining, main hall and parts of foyer, still has extensive asbestos containing materials (ACM) on walls and ceilings, external claddings, eaves, and window surrounds.

The existing kitchen needs renewal and upgrade due to its age in order to bring the facility up to current standards. An additional room will be added to rear of kitchen to aid the facility with a storage area.

30 Accessibility is not compliant to AS1428 and to address this addition of a new AS1428 accessible ramp and stairs forms part of the scope of works.

The Request for Tender sought responses from proponents to provide:

- Safe removal/demolition of all remaining ACM and existing kitchen from the site and subsequent disposal, re-sheeting/lining of all areas both internal/external with appropriate linings
- 35 • Provision of new electrical wiring throughout as per requirements listed in RFT documentation.

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- Demolition of existing access ramp and replacement as per supplied architectural/engineering plans provided for tender.
- A complete re-paint of all internal areas
- New stainless-steel semi commercial kitchen
- 5 • New lighting as per documentation
- Re-sand and finish of the existing Main Hall timber flooring and stage areas
- Provision of wiring for future air conditioning.

10 The Contract is scheduled to commence in the first week of July 2024 for a period of 4 months (October 2024) with a defects liability period commencing upon completion of works of 6 months (April 2025).

The Contract will be managed by Jamie Steel – Project Officer Open Spaces & Facilities.

Tenders were advertised as follows:

- VendorPanel Online: 3/4/2024 – 30/4/2024
 - Council website: 3/4/2024 – 30/4/2024
- 15 A Mandatory Site meeting was held onsite at 1.45pm 11/4/2024 with the following attendees:
- BLAZE CONSTRUCTIONS PTY LTD
 - PATTERSONS INSUREBUILD PTY LTD
 - MURPHY'S REMEDIAL BUILD GROUP PTY LTD
 - 20 • BISHTON GROUP PTY LTD
 - CIRCL GROUP PTY LTD
 - BARDEN CONSTRUCTIONS PTY LTD
 - QUADRACON BUILDING PTY LTD
 - ANTHONY MARTIN
 - 25 • BOUMAN PTY PTD
 - MOONEY CONSTRUCTIONS PTY LTD
 - NORTHERN RIVERS DEMOLITION
 - GET GLOSSED PAINTING

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- CAPE BYRON PLUMBING
- NORTHERN RIVERS FLOORING

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

Tenders closed on 30/4/24 and tenders were received from the following proponents:

- 5 • BISHTON GROUP PTY LTD
- BOUMAN PTY LTD
- CIRCL GROUP PTY LTD
- MOONEY CONSTRUCTIONS PTY LTD
- MURPHY'S REMEDIAL BUILD GROUP PTY LTD
- 10 • QUADRACON PTY LTD

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

Qualitative criteria:

Criteria	Elements
Profile and relevant experience	Tenderer profile
	Previous relevant experience
	Environmental practices
	Opportunities for disadvantaged people
	Local employment opportunities
	Proposed key personnel

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of resources	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.

Financial Considerations

- 5 The price basis for the contract is a lump sum.

Council has budgeted for this project (ex GST):

- GL 2320.151 Asbestos Removal Program \$ 270,883
- GL 2320.172 Marvel Hall Accessibility Ramp \$ 189,300
- 2024/2025 Community Buildings Renewals \$ 210,000

10 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.

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

Local Government (General) Regulation 2021 - Reg 178

Acceptance of tenders

178 *Acceptance of tenders*

- 5 (1) *After considering the tender submissions for a proposed contract, the council must either—*
- (a) *accept the tender submission that, having regard to all the circumstances, appears to it to be the most advantageous, or*
 - (b) *decline to accept any of the tender submissions.*
- 10 (1A) *Without limiting subsection (1), in considering the tender submissions for a proposed contract for the performance of domestic or other waste management services, the council must take into account whether or not existing workers (within the meaning of section 170) will be offered employment or engagement on terms and conditions comparable to those applicable to the workers immediately before the tender submissions.*
- 15 (2) *A council must ensure that every contract it enters into as a result of a tender submission accepted by the council is with the successful tenderer and in accordance with the tender (modified by any variation under section 176). However, if the successful tender submission was made by the council (as provided for in section 55(2A) of the Act), the council is not required to enter into any contract in*
- 20 *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,*
 - 25 (b) *invite, in accordance with section 167, 168 or 169, fresh tender submissions based on the same or different details,*
 - (c) *invite, in accordance with section 168, fresh applications from persons interested in making a tender submission for the proposed contract,*
 - 30 (d) *invite, in accordance with section 169, fresh applications from persons interested in making a tender submission for contracts of the same kind as the proposed contract,*
 - (e) *by resolution of the council, enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender,*
 - 35 (f) *carry out the requirements of the proposed contract itself.*
- (4) *If a council resolves to enter into negotiations as referred to in subsection (3)(e), the resolution must state the following—*

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- (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).*
- 5 Council's endorsement of the recommendation to award the tender as recommended in the attached Evaluation Report is sought.

Report No. 13.16 Part Road Reserve Closure and sale adjoining Lot 100 DP 836091, 235 Skinners Shoot Road, Skinners Shoot, NSW 2481

Directorate: Infrastructure Services

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

File No: I2024/536

Summary:

This report is being presented to Council to endorse the closure of Council's Road Reserve adjoining Lot 100 DP 836091.

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 100 DP 836091.

Land size is approximately 524m².

15

RECOMMENDATION:

That:

1. Council endorses the closure of Part Road Reserve adjoining Lot 100 DP 836091 as detailed in the report.
- 20 2. Council accepts the valuation as per *Attachment 1 E2024/40477*, that has been agreed upon by the landowners.
3. The applicant pays all remaining costs associated with the part road closure and consolidation.
 - 25 a) Council application fees
 - b) Council's surveyor's fees and survey, valuation, and legal costs
 - c) All registration fees
 - d) Legal costs
4. The allotments created by the part road closure to be consolidated into existing Parcel No 199900 Lot 100 DP 836091.
- 30 5. Council authorises the General Manager to execute all documents necessary to affect the road closure, sale, transfer, and consolidation of the part closed road.

Attachments:

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- 1 Confidential - Page from Valuation of Closed Road Adjoining 235 Skinners Shoot Road Skinners Shoot, E2024/40477
- 2 Confidential - Authorities Responses to close Part Skinners Shoot Road adjoining 235 Skinners Shoot Road Skinners Shoot Lot 100 DP 836091, E2024/36731
- 5 3 Confidential - Community Responses to close Part Skinners Shoot Road adjoining 235 Skinners Shoot Road Skinners Shoot Lot 100 DP 8360, E2024/49209

Report

5 Council was approached by the owners of Lot 100 DP 836091, 235 Skinners Shoot Road, Skinners Shoot for closure and sale of Council Road Reserve adjoining their property (Image 1). This road reserve closure and sale is to rectify building encroachments (Image 2 & 3). The survey plan (Image 4) shows the proposed 524m² of Road Reserve adjoining part Lot 100 DP 836091.

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 E2024/40477*). A second valuation was undertaken but did not increase the sale price.



10

Blue indicates section of Road Reserve to be closed.

Image 1 location of the proposed road closure adjoining Lot 100 DP 836091



Image 2 – Arrow indicates location of encroachments adjoining Lot 100 DP 836091



Image 3 – Building encroachments on road reserve adjoining Lot 100 DP 836091

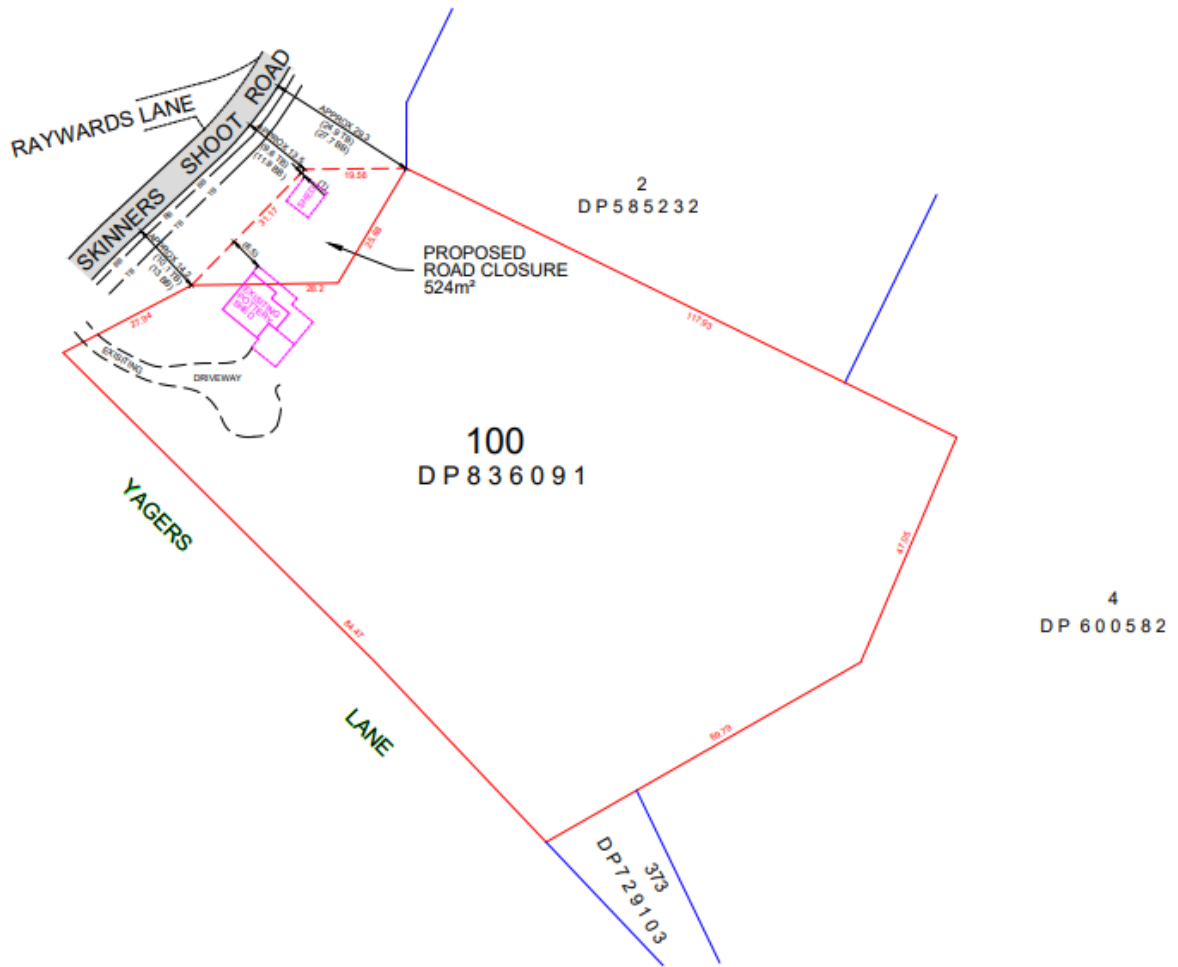


Image 4 - Survey of Part of Road Reserve adjoining Lot 100 DP 836091

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

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

Road Closure Process:

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.

A Notice was placed in The Byron Shire Echo on 15 March 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**.

There was a 28-day submission period with no submissions for objection by authorities *Attachment 2 (E2024/36731)*. One (1) submission was received by the community requesting access and use be conditional to the sale *Attachment 3 (E2024/49209)*. This road closure and sale is not endorsing any future use or construction on this land transfer.

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

Strategic Considerations

Community Strategic Plan and Operational Plan

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

Legal/Statutory/Policy Considerations

Roads Act 1993

Part 4 Closing of public roads

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

38A When council may close council public road

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

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

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

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

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

38C Public submissions and formal objections

- 30 (1) Any person may make submissions to the council with respect to the closing of the road in the manner and within the period specified in the notice published under section 38B.
- (2) Without limiting subsection (1), a notifiable authority in relation to the road may include a statement in the authority's submission to the effect that the authority formally objects to the closing of the road. The authority may withdraw the objection any time by written notice given
- 35 to the council.

Note.

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

- 40 (3) The council may appeal to the Land and Environment Court against a formal objection made by a notifiable authority against the closing of the road.
- (4) On any such appeal, the Land and Environment Court may:
- (a) affirm the objection, or
- (b) set aside the objection.
- 45 (5) In deciding whether to affirm or set aside the objection, the Land and Environment Court must have regard to the public interest.

38D Decision of proposal

(1) After considering any submissions that have been duly made with respect to the proposal, the council may, by notice published in the Gazette, close the public road concerned.

5 (2) However, a council public road may not be closed:

- (a) in the case of a classified road—unless RMS consents to the closure of the road, or
- (b) in the case where a notifiable authority has formally objected under section 38C to the closing of the road—until the objection is withdrawn by the authority or set aside by the Land and Environment Court under that section.

10

38E Effect of notice of closure

(1) On publication of the notice closing the council public road concerned:

- (a) the road ceases to be a public road, and
- (b) the rights of passage and access that previously existed in relation to the road are extinguished.

15

(2) The land comprising a former road:

- (a) in the case of a public road that was previously vested in a council (other than a public road in respect of which no construction has ever taken place)—remains vested in the council, and

20

- (b) in any other case—becomes (or, if previously vested in the Crown, remains) vested in the Crown as Crown land.

38F Appeals to Land and Environment Court against closure decision

(1) A person referred to in section 38B (1) (b) may appeal to the Land and Environment Court against the closure of a council public road by a council.

25

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

- (a) affirm the closure, or
- (b) set aside the closure.

(3) Section 38E is taken never to have applied to a closure that is set aside.

30

(4) To avoid doubt, an appeal under section 38C does not prevent an appeal under this section.

Financial Considerations

The costs associated with this road closure be paid for by the adjoining landowners.

Consultation and Engagement

As per the Roads Act 1993 requirements, the necessary notices and submissions period was undertaken, and zero objections were received.

35

Report No. 13.17 Renaming Hottentot Crescent, Mullumbimby

Directorate: Infrastructure Services

Report Author: Tracy Armstrong, Roads & Property Officer

File No: I2024/542

5 **Summary:**

That Council endorse the renaming of Hottentot Crescent (Image 1) and submit the chosen name to the NSW Geographical Names Board (GNB) for concurrence and Gazettal.



10

RECOMMENDATION:

That:

- 15
1. **Council endorses the renaming of Hottentot Crescent, Mullumbimby to “Moonlight Close”.**
 2. **The endorsed name be submitted to the NSW Geographical Names Board for concurrence, advertising, and Gazettal in accordance with regulation requirements.**
 - 20 3. **New street name signs be erected and funded from the General Fund Budget for Sign Maintenance.**

Attachments:

- 25
- 1 Submission Letter to the residents_Renaming Hottentot Crescent, Mullumbimby_ March 2024, E2024/36261 
 - 2 Echo Advertising_ Proposal for Renaming Hottentot Crescent Mullumbimby, March 2024, E2024/29163 
 - 3 Confidential - Emailed Name Change Submissions_Hottentot Crescent Mullumbimby_April 2024, E2024/46694

30

35

Report

Council resolved at the 23 November 2024 meeting as follows:

Report No. 13.23 **Possible change of road name Hottentot Crescent,
Mullumbimby**

File No: *12023/1755*

23-548 **Resolved:**

*That Council commences the name change process for Hottentot Crescent,
Mullumbimby.*

(Lyon/Westheimer)

5

Council commenced the renaming process in consultation with Geographical Names Board (GNB) regulations.

Staff proposed two names in recognition of the local flora theme in the area. A third name was proposed by the local community. All three (3) names were pre-approved by the GNB.

10

Image 1 – Location of Hottentot Crescent, Mullumbimby.



5 **Consultation and Engagement**

Residents affected directly by the renaming were sent letters informing them of three (3) potential names and were requested to forward submissions *Attachment 1 (E2024/36261)*.

10 The renaming proposal was advertised in both the Byron Echo on 15 March 2024, and Council notices *Attachment 2 (E2024/29163)*.

Throughout the 28-day consultation period fourteen (14) submissions *Attachment 3 (E2024/46694)* were received with Option 2 receiving the highest nomination.

15	Option 1 – Tussock Court	3
	Option 2 – Moonlight Close	5
	Option 3 – Drunken Parrot Place	1

20 Three (3) submissions were received from residents suggesting five (5) additional names.

- 1. Macaranga
- 2. Quandong
- 3. Finger lime
- 4. Parrot Tree

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5. Currawong

All five (5) suggested additional names were rejected by the GNB due to:

- 5 1 & 3 – similar sounding names located within a 30km radius.
- 2 – duplication of the name located within a 30km radius.
- 4 & 5 – names already existing within Byron Shire.

One (1) submission received requested the existing name remain.

10

One (1) submission received did not choose any options or suggest a legible option.

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

15 Byron Shire Council Street Name Register.

Council is able to name roads in accordance with the authority provided in Part 10, Division 4, Section 162 of the *Roads Act 1993*.

20 The procedure of naming roads, is dictated by Sections 7 to 10 within Part 2, Division 7 of the *Roads Regulation 2018*, which is available in detail at:

<https://www.legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2018-0512>

25 Council is the authority to name this road and has done so in line with the below regulations:

- *Road Regulations 2018* - Part 2 - Division 1 - Section 7 – Procedure for naming roads
- *Roads Act 1993* - Division 4 - Section 162 - Naming of public roads
- New South Wales Address Policy – March 2015
- 30 • New South Wales Addressing User Manual – September 2016
- New South Wales Online Naming System – Geographical Names Board of New South Wales – June 2015

Financial Considerations

The funds for the erection of the sign/s will come from the General Fund Budget allocation for Sign Maintenance.

- 5 Council will be required to pay for amendments to street name signage from the existing budget – approximately \$500.

Report No. 13.18 New Brighton - Parking Improvements Investigation

Directorate: Infrastructure Services

5 **Report Author:** Isabella Avelino Gianelli, Project Engineer
Honey Ayres, Project Support Officer

File No: I2024/552

Summary:

10 This report details the feedback collected from the extensive community consultation to understand residents, and visitor’s experiences regarding parking in the New Brighton area.

The report also provides a summary of the Customer Request and infringements over the last 3 years in New Brighton area.




15

RECOMMENDATION:

That Council:

1. **Does not proceed with any further parking investigations or designs in New Brighton until the Master Plan for the Ocean Shores area has been completed.**
- 20 2. **Re-prioritises traffic flow at the intersection of The Esplanade and The Strand Avenue and installs signage accordingly, as per concept drawing attachment 3 (E2024/23226).**
3. **Installs way finding signage across the New Brighton and South Golden Beach areas to direct visitors to existing parking and beach accesses.**

25 **Attachments:**

- 1 All comments received - Feedback Register New Brighton Parking.docx, E2024/47662 
- 2 PRINTABLE SURVEY Proposed changes to parking at New Brighton, E2024/46358 
- 30 3 New_Brighton_The_Esplanade, E2024/23226 

Report

On 27 February 2023 at the Ordinary Council meeting Council Resolved 24-064 as below

That Council:

- 5 1. *Endorses the New Brighton Parking Community Consultation Plan and to provide community feedback on the proposed parking options in New Brighton as detailed in the report and takes into consideration future parking schemes;*
2. *Staff analyse and compile the feedback from the consultation into a recommendation for Council with a proposed works program and timetable; and*
- 10 3. *Provide a recommendation to Council with the works program and timeline at the May Ordinary meeting. (Hunter/Ndiaye)*

A community consultation process has now been undertaken to understand residents, and visitors' experiences regarding parking improvements in New Brighton. The consultation was undertaken through a Your Say survey (see attachment 2), which was accessible for four weeks on the Byron Shire Council website.

- 15 Residents were notified of the survey through a letterbox drop of over 2000 letters through New Brighton and Ocean Shores, advertising in local media outlets. Staff also had stall at the New Brighton Farmers Market to provide the community with an opportunity to talk to staff.

- 20 The uptake of the survey by the community was robust, with 232 your say entries, and numerous emails and phone calls received regarding the proposed changes to parking in New Brighton.

Comments received from Your-Say survey, phone calls, emails and Farmers Market are provided at attachment 1.

Key Issues

- 25 Overall, while there are differing opinions within the community, the general consensus is that the community is against extensive changes that would significantly alter the unique charm and lifestyle of New Brighton.

- 30 While some members of the community express support for improvements such as better traffic signage and organised parking arrangements, the majority would prioritise pedestrians and bike rider safety, drainage related issues and road maintenance over parking enhancements.

Options

- 35 Council could proceed to design upgrades to car parks in various areas (all designs would and always were planned to have drainage and active transport upgrades included to ensure they worked for the community), however, following this consultation process that would be against the communities desires.

Requests to prioritise pedestrians and bike rider safety should be dealt with via the Active Transport Plan that is being consulted with the community separately.

5 Given the results of the community consultation process staff recommend that the best way forward would be to not proceed with any further parking investigations in New Brighton and instead, treat it as a bigger multi department project including infrastructure, place planning and open spaces, adopting a holistic design process that will take into consideration the community feedback received in this consultation, once funds become available.

The remaining budget should be used to complete two pieces of on ground works:

- 10
1. re-prioritise traffic flow at the intersection of The Esplanade and The Strand Avenue and install signage accordingly, as per concept drawing attachment 3 (E2024/23226).
 2. install way finding signage across the New Brighton and South Golden Beach areas to direct visitors to existing parking and beach accesses.

15 **Strategic Considerations**

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
5: Connected Infrastructure We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable	5.4: Provide accessible community facilities and open spaces	5.4.1: Community buildings - Ongoing maintenance and capital upgrades of community buildings with a focus on increasing accessibility	5.4.1.2	Deliver accessibility outcomes within Capital Works and infrastructure renewal programs

Recent Resolutions

24-064, 18-734, 21-349, 23-217, 23-604

Legal/Statutory/Policy Considerations

20 Council Development Control Plan

Element – Precinct 1 - from the Beach Escarpment to the Immediate Impact Line

Element Objective

To ensure the impact of coastal processes on potential development is minimised by limiting development and ensuring any development is only temporary.

Performance Criteria

5 New buildings or works are to be temporary and able to be readily removed in the event of coastal erosion. Development that is of a community nature, which relates to the use of the beachfront, may be considered, provided that any building is easily removable and does not require a major extension to a service main.

Financial Considerations

The costs associated to complete recommended actions 2 & 3 in the reports recommendation is estimated to be \$43,000. Current available budget is \$41,495.

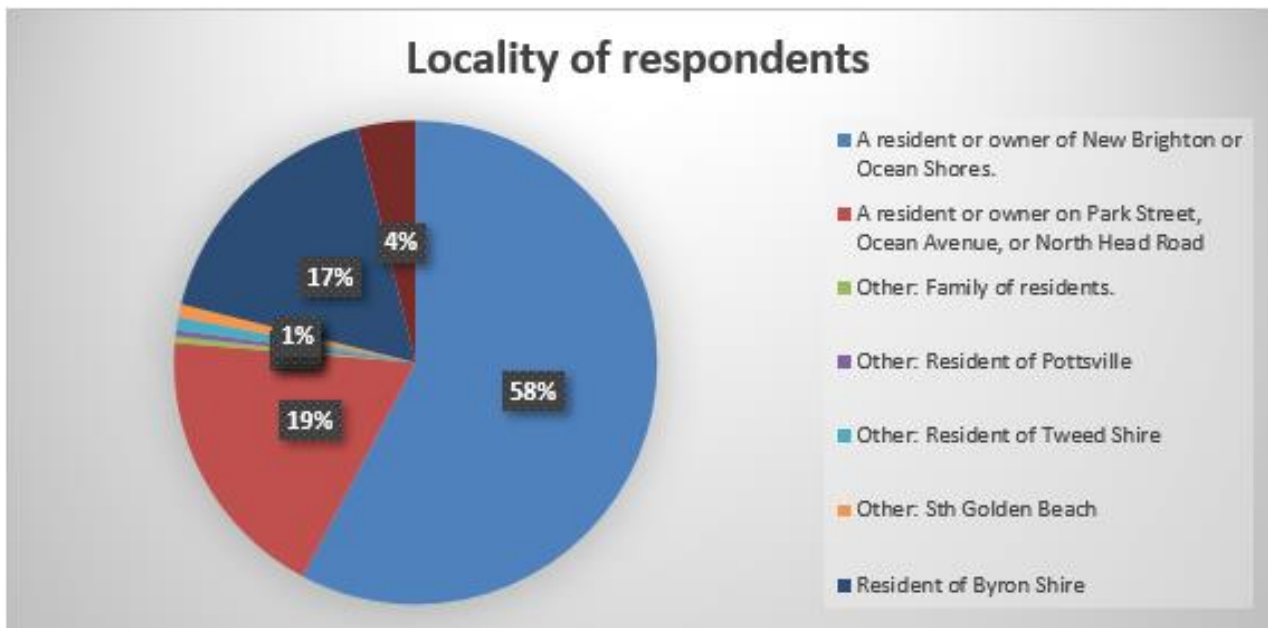
Consultation and Engagement

10 Survey responses are presented below:

Question 1. Survey Respondents locality

58% of respondents are a resident and/or owner in Ocean Shores or New Brighton.

19% of respondents, are a resident and/or owner on Park Street, Ocean Avenue or North Head Road, New Brighton.



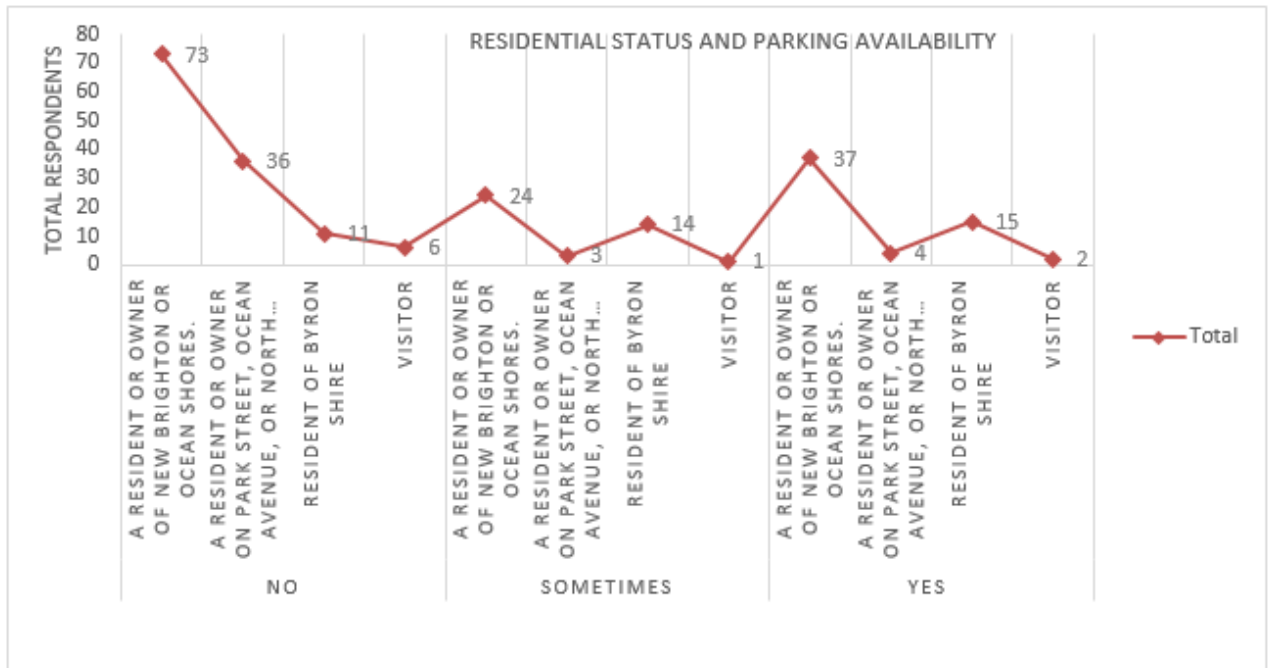
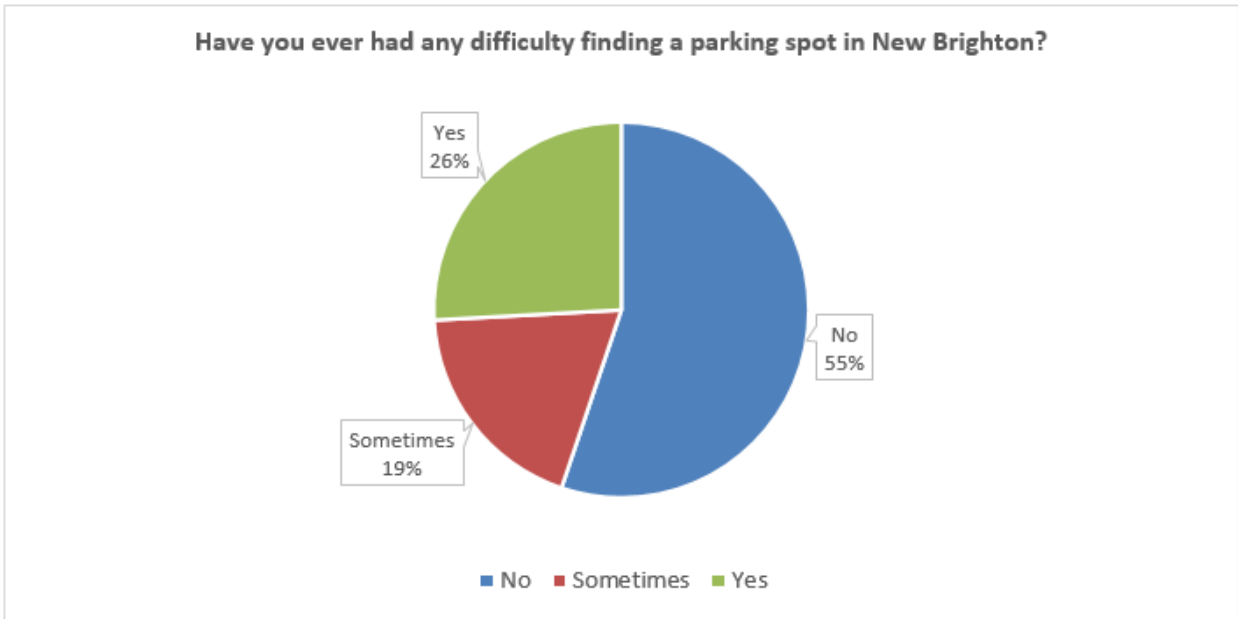
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Question 2. Have you ever had any difficulty finding a parking spot in New Brighton?

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Question 3. Please add any comments about parking in New Brighton (free text field)

The comments received are registered in attachment 1.

5

Question 4. If you are using your car in the New Brighton area, is it for? Tick all that apply. (Select 1 or more options)

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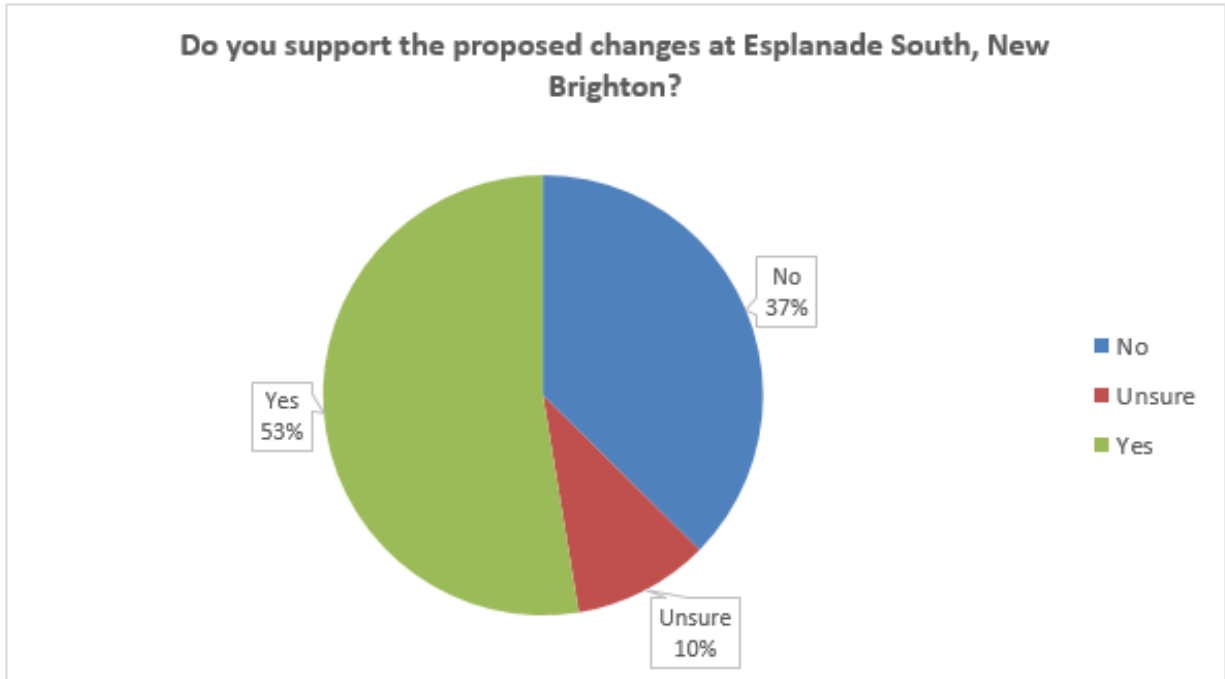
Access to Marshalls Creek	66
Activities on the sports field or Tom Kendall park	33
Going to The Salty Mangrove	58
The beach	106
The farmers' market	90
Visiting	33
Work	14

Question 5. The Esplanade South The proposal is to:

- Seal and mark the existing six parking bays.
 - Install signage.
 - Re-prioritise traffic flow at the intersection of The Esplanade and The Strand Avenue.
- 5
- Install a Give Way sign at The Esplanade south.



Do you support what is being proposed?

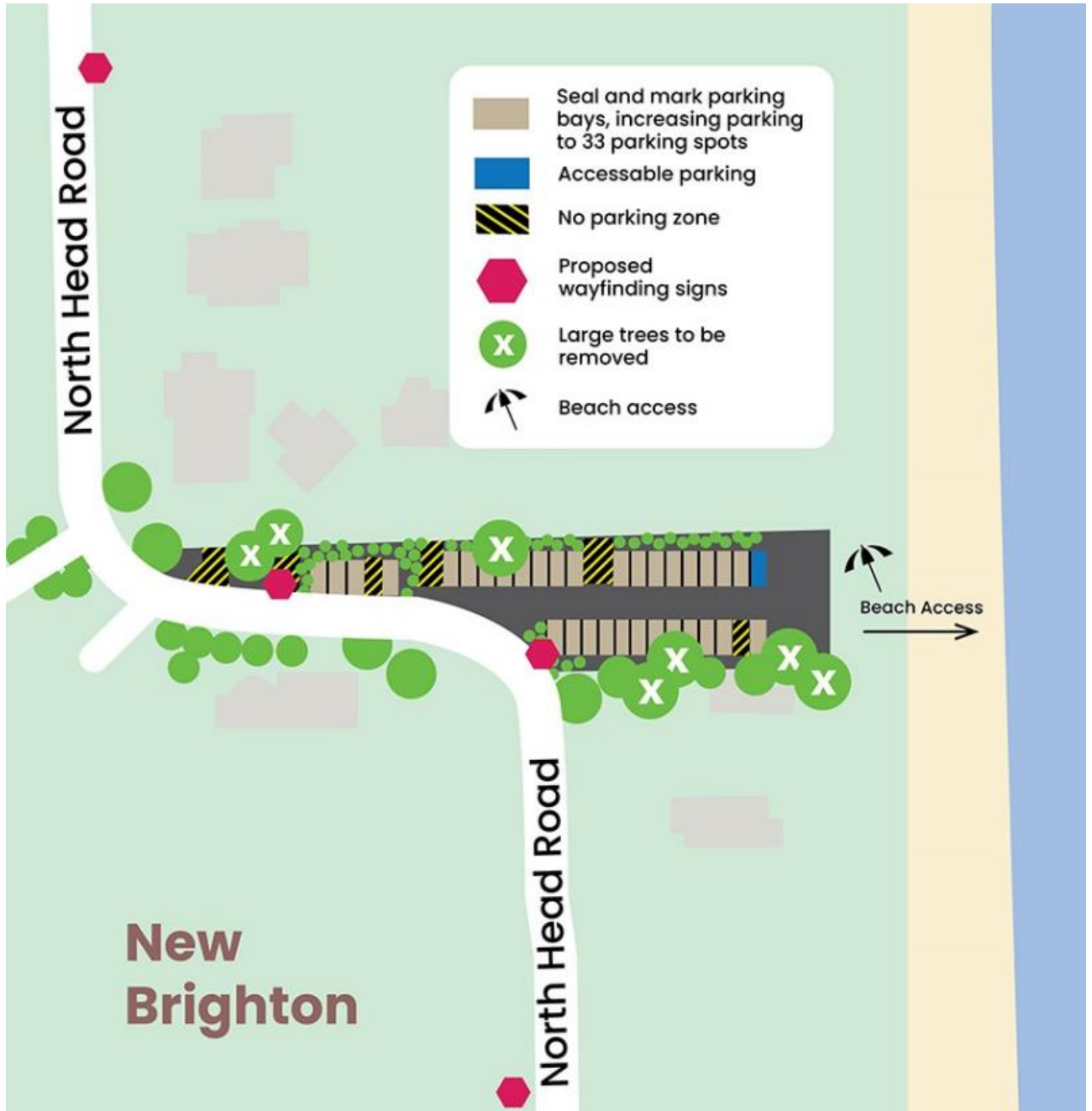


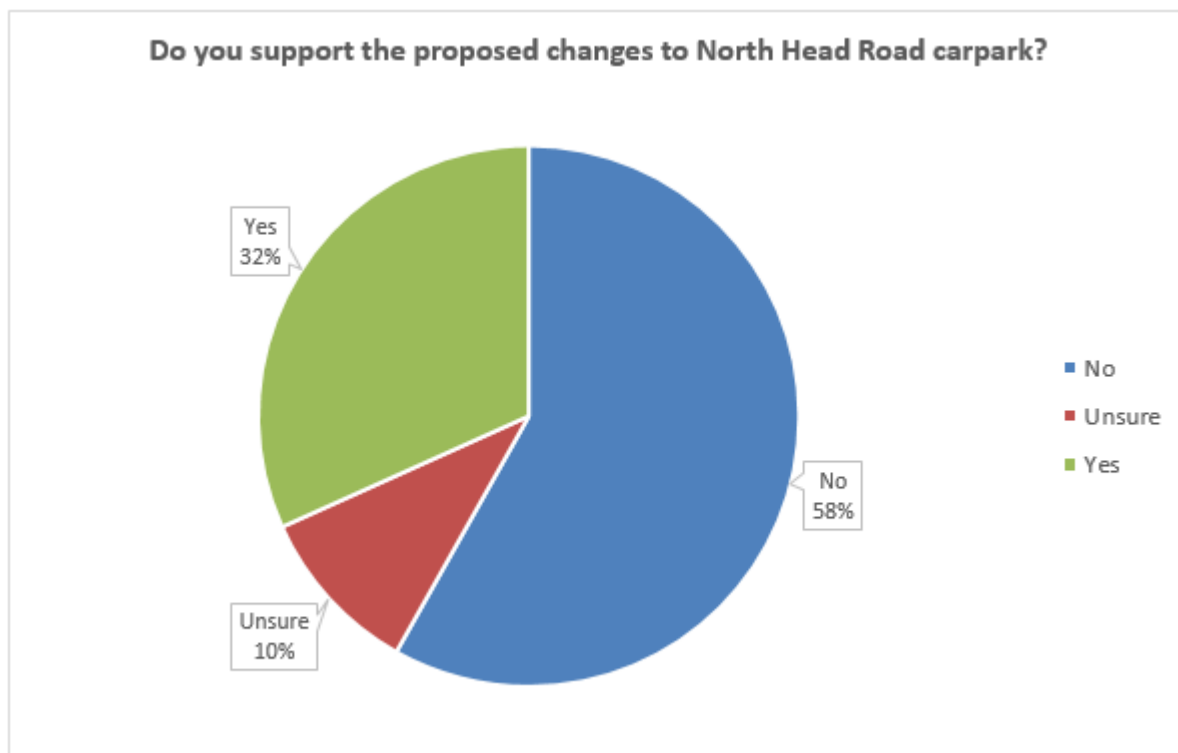
We have received 138 comments, as registered in attachment 1.

5

Question 6. North Head Road Carpark The proposal is to:

- Seal and mark the existing carpark to create approximately 33 parking spots.
- It includes the removal of approximately seven large native trees.
- Installation of signage.





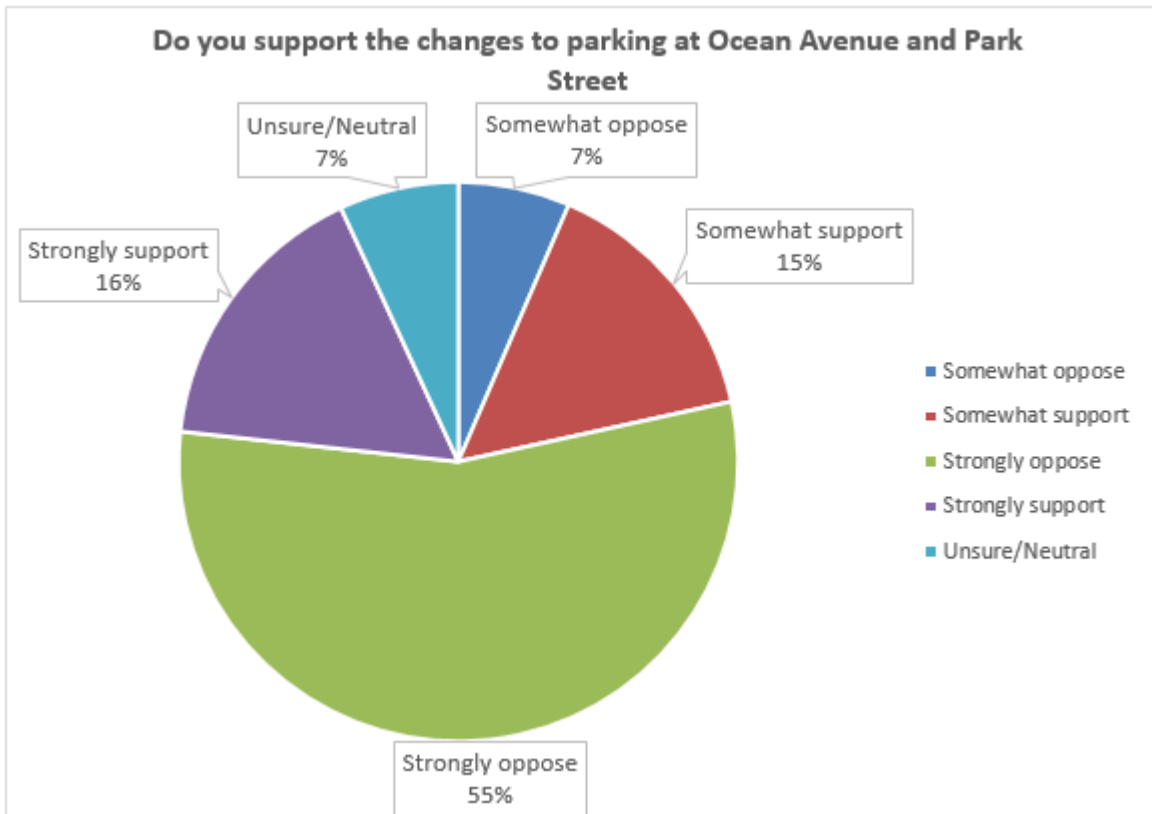
The comments received are registered in attachment 1.

Question 7. Ocean Avenue and Park Street

The proposal is to create the maximum amount of parking. It involves:

- Widening the streets and sealing to create approximately 138 parking bays (90-degree angle) on both sides of Ocean Avenue and Park Street.
- 5
- Installation of bollards and signage.

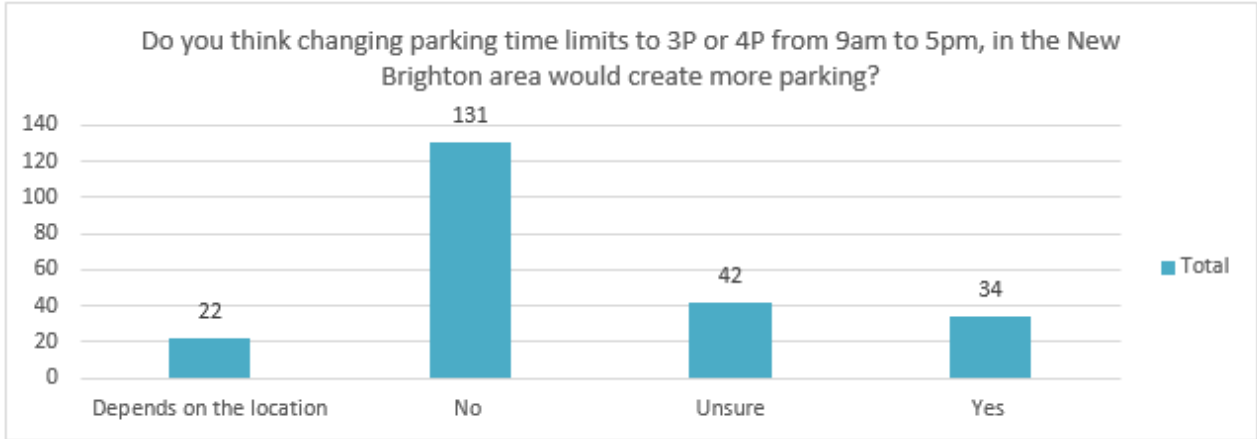




Comments received from the community regarding Ocean Avenue and Park Street, as per attachment 1.

Question 8. Parking in other areas of New Brighton

Do you think changing parking time limits to 3P or 4P, from 9am to 5pm, in the New Brighton area would create more parking? (Select 1 option)



5 **Question 9. Do you have any comments about parking in other areas of New Brighton including River Street, New Brighton Road or Byron Street?**

Comments received as registered in attachment 1.

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Customer Requests and Infringements summary over the past 3 years

INFRINGEMENTS

LOCATION	2021	2022	2023	2024	Grand Total
NORTH HEAD RD	1				1
Park so as to obstruct vehicles/pedestrians	1				1
OCEAN AVE		2	1		3
Park so as to obstruct vehicles/pedestrians		2			2
Stand unregistered registrable Class A motor vehicle on road			1		1
PARK ST			2		2
Not parallel park in direction of travel (road related area)			2		2
THE ESPLANADE	36	36	53	8	133
Disobey no stopping sign	8	10	29	5	52
Fail to comply with terms of notice erected by council (driving/parking/use of vehicle)			1		1
Not angle park as on parking control sign or road marking	3	1			4
Not parallel park in direction of travel	2				2
Not parallel park in direction of travel (road related area)	5	3	15		23
Not parallel park near left	18	19			37
Not parallel park near roadside		2			2
Not park wholly within parking bay			2		2
Park so as to obstruct vehicles/pedestrians		1			1
Stop at side of road with continuous yellow edge line			2		2
Stop on path/strip in built-up area			3	3	6
Stop on/across driveway/other access to/from land			1		1
Totals	37	38	56	8	139

Customer Requests

LOCATION	2021	2022	2023	2024	Grand Total
NEW BRIGHTON	17	9	13	14	53
NORTH HEAD RD	10	7	1	3	21
OCEAN AVE	4	0	4	4	12
PARK ST	0	3	0	2	5
THE ESPLANADE	3	6	8	5	22
Totals	17	16	13	14	60

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Customer Requests Overview

Year	Street	Suburb	Issue	Incidences
2024	Ocean Avenue	New Brighton	Illegally dumped shipping container in parking spaces. A resident has placed large rocks and trees outside of their property to prevent parking outside of their house.	4
2024	The Esplanade	New Brighton	Several reports of illegal camping and parking.	5
2024	North Head Road	New Brighton	illegally parked vehicles, and report of illegal camping with several people illegal camping overnight.	3
2024	Park Street	New Brighton	Two reports of illegal camping for several days.	2
2023	The Esplanade	New Brighton	Illegal Parking, including cars parked on the verge, in no stopping zones, and parked across residents' driveways where they have been unable to exit their residence.	8
2023	Ocean Avenue	New Brighton	Illegal camping, Illegal parking in front of a resident's property where they have not been able to exit their residence. Reports of illegal campers using public spaces as toilets.	4
2023	North Head Road	New Brighton	Illegal parking and camping across emergency beach access point on North Head Road	1
2022	The Esplanade	New Brighton	General illegal parking and camping concerns, including residents being parked into driveways.	6
2022	North Head Road	New Brighton	Issues such as abandoned vehicles, and vehicles parked across emergency access point.	7
2022	Park Street	New Brighton	Parking across footpaths forcing people with prams to walk on the road, abandoned vehicles.	3
2021	The Esplanade	New Brighton	Reports of numerous cars illegally parked in the no stopping zones, and issues with residents access their properties dues to illegal parking across their driveways.	3
2021	Ocean Avenue	New Brighton	Reports of neighbours parking across other neighbours' driveways, and neighbouring properties planting illegal gardens and cordoning off spaces for parking. One report of illegal camping next to the playground.	4
2021	North Head Road	New Brighton	Reports of illegal parking/camping, with semi-permanent caravan set up in place, other reports detailing emergency access to the beach compromised from the illegal parking and camping. A resident has reported recurring issues with their fence being damaged, from the illegal parking, and ongoing concerns with illegal parking blocking emergency access to the beach.	10

Report No. 13.19 Coastal Light Management Plan

Directorate: Infrastructure Services

Report Author: Malcolm Robertson, Manager Open Space and Facilities

File No: I2024/558

5 **Summary:**

A Byron Shire Coastal Light Management Plan has been prepared in accordance with the State Government's *National Light Pollution Guidelines for Wildlife* (DCCEEW, 2023).

10 This plan assesses the impact of artificial light from Council managed infrastructure within Council managed lands immediately adjacent to the coastline on state and federally listed threatened and migratory coastal fauna species and sets in place a prioritised action plan for the mitigation of identified issues. The Plan also extends its scope to consider other land tenures where opportunities exist for enhancing design and mitigating light pollution in urban areas.

15

RECOMMENDATION:

That Council adopts the Byron Shire Coastal Light Management Plan (#E2024/37323).

20 **Attachments:**

- 1 ReconEco_FINAL Byron Shire Coastal Light Management Plan 09042024, E2024/37323 

Report

Artificial light has the potential to significantly disrupt coastal ecosystems, including stalling the recovery of threatened species, and compromising the ability of migratory species to undertake long-distance migrations.

- 5 Byron Shire Council was the recipient of a 'Reducing Light Pollution in Coastal Communities Grant' from the Australian Government Department of Climate Change, Energy, the Environment and Water (DCCEEW). The grant was awarded to Council to develop a Coastal Light Management Plan to assess the impacts of light pollution on wildlife and provide guidance on managing artificial light within Byron Shire.
- 10 The attached Plan has been developed in accordance with the *National Light Pollution Guidelines for Wildlife* (DCCEEW, 2023). The scope of the Plan is to evaluate lighting infrastructure within Council managed lands in proximity to the Byron coastline and assess its impact on threatened and/or migratory fauna species listed in the Environment Protection and Biodiversity Conservation Act 1999 and/or Biodiversity Conservation Act
- 15 2016, for which artificial light has been demonstrated to affect behaviour, survivorship, or reproduction.

The Plan includes a prioritised action plan, subject to available funding, for the mitigation of identified issues, including:

- 20
- Upgrading, replacing/retrofitting Council managed lighting infrastructure;
 - Providing barriers between artificial light at night and the beach; and
 - Managing the need for lighting as a public safety requirement.

The Plan also extends its scope to consider other land tenures where opportunities exist for enhancing design and mitigating light pollution in urban areas.

25 Next steps

If adopted, this Plan will be a reference for future Council lighting installations, renewal or upgrade adjacent to beach foreshore areas. It is also intended that relevant outcomes, considerations and/or actions in this Plan will be incorporated into the development of Coastal Management Programs for the Byron Shire Coastline.

30 Plans currently being developed for the Main Beach foreshore and the Sandhills areas will reference this Plan and incorporate recommended lighting design to ensure avoidance, minimisation, or elimination of artificial illumination of the beach, ocean or HEV vegetation at night.

35 Recommended actions will include:

- Minimising the use and intensity of outside lighting required to achieve compliance and/or purpose.
- Use of light fitting types that are amber or reduced UV LED fittings where appropriate.

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- Installation of lighting fixtures that are shielded from the beach, ocean, waterways or HEV vegetation.
 - Mounting lighting as low as reasonably practical to avoid direct horizontal light or downwards glare onto the beach, ocean, waterways or HEV vegetation.
- 5
- Use of bollard lighting along pathways where appropriate, directed downwards or

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
3: Nurtured Environment	3.3: Protect the health of coastline, estuaries, waterways, and catchments	3.3.1: Coastal Management Program planning and implementation - Undertake Coastal Management Program planning and implementation	3.3.1.5	Research the effects of recreational uses on coastal biodiversity and habitats
3: Nurtured Environment	3.3: Protect the health of coastline, estuaries, waterways, and catchments	3.3.1: Coastal Management Program planning and implementation - Undertake Coastal Management Program planning and implementation	3.3.1.7	Develop concept plans for upgrades of Byron Bay Main Beach foreshore from Belongil to Clarke's Beach
3: Nurtured Environment	3.3: Protect the health of coastline, estuaries, waterways, and catchments	3.3.1: Coastal Management Program planning and implementation - Undertake Coastal Management Program planning and implementation	3.3.1.8	Identify and evaluate management options and opportunities for addressing threats to the Byron Shire coastal zone and prepare Coastal Management Programs

Legal/Statutory/Policy Considerations

As detailed within Tables 1 and 2 of the attached Byron Shire Coastal Light Management Plan, consideration was given to the function of relevant environment and planning legislation and policy concerning the management of the coastal and marine environments, the protection of wildlife from artificial light, and the standards and requirements for lighting for the purpose of human safety and amenity.

The DCCEEW (2023) '*National Light Pollution Guidelines for Wildlife*' provide technical information to guide the management of artificial light for Commonwealth (EPBC Act) listed threatened and migratory species, species that are part of a listed ecological community, and species protected under state or territory legislation for which artificial light has been demonstrated to affect behaviour, survivorship, or reproduction.

Regulatory considerations for the management of artificial light around wildlife have been considered including the relevant Federal and State Acts concerning biodiversity in coastal or marine areas, and local policies and provisions including those concerning biodiversity, coastal zones, infrastructure, development and planning.

Light pollution can be managed in part through the Development Assessment Process in circumstances where development consent is required. Council has commenced the preparation of CMPs for its coastline. The outcomes of this Coastal Light Management Plan will be used to inform CMP preparation.

20 Financial Considerations

Implementation of recommended management actions within the Plan is reliant on funding allocation. Grant opportunities will be explored to assist with upgrade of light fixtures, installation of shields or other recommended mitigation strategies to reduce sources of artificial light from Council managed lands.

25 Consultation and Engagement

Stakeholder input to assess the impacts of artificial light on sensitive coastal environments was sought in the development and review phase of this Plan. Stakeholders including NSW National Parks and Wildlife Service (NPWS), Australian Seabird & Turtle Rescue, Cape Byron Marine Park Authority (DPI), Byron Bird Buddies, Arakwal Corporation and Plummer & Smith landscape architects were invited to provide input into the Plan.

Online meetings were held and participants who were unavailable to join the meetings provided input by phone. A draft version of this Plan was shared with stakeholders to provide comment in January 2024.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.1 Report of the Floodplain Management Advisory Committee Meeting held on 13 February 2024

5

Directorate: Infrastructure Services

File No: I2024/268

Summary:

10 The attachment to this report provides the minutes of the Floodplain Management Advisory Committee Meeting of 13 February 2024 for determination by Council.

RECOMMENDATION:

- 15
1. That Council notes the minutes of the Floodplain Management Advisory Committee Meeting held on 13 February 2024.
 2. That Council does not adopt Committee Recommendations 4.1 as shown in the attachment to this report, but instead adopts the Management Recommendation(s) as follows:

Report No. 4.1 Floodplain Management Advisory Committee Goals for 2024
File No: I2024/129

Management Recommendation

That:

1. The Floodplain Management Advisory Committee notes the report.
2. Council includes an assessment of an option which is the removal of Myokum Street embankment, and increase of Jubilee Avenue culvert capacity, in the technical brief of the future North Byron Flood study, and associated risk management study and plan. (This is part of item 12 in the action list).

3. That Council adopts the following Committee and Management Recommendations:

Report No. 4.2 Community Education Strategy and Review of Flood Options - Project Update

File No: I2024/157

Committee Recommendation 4.2.1

That the Floodplain Management Advisory Committee:

1. Notes the update on the 'Community Education Strategy and Review of Flood Options' project which focusses on the Northern Byron Shire communities.
 2. Recommends that the DCCEEW be requested to commission animation graphic models of the 2022 flood event and provide to Council to assist in future community engagement.
4. That Council does not adopt Committee Recommendation 4.3 as shown in the attachment to this report, but instead adopts the Management Recommendation(s) as follows:

Report No. 4.3 Post 2022 Event Flood Behaviour Analysis - Brunswick River - Final Draft Report - September 2023-NSW Department of Planning & Environment

File No: I2024/178

Management Recommendation

That The Flood Advisory Committee notes that DCCEEW has issued its "Post 2022 Event Flood Behaviour Analysis - Brunswick River - Final Report".

5. That Council adopts the following Committee and Management Recommendations:

Additional Recommendation

That:

- 1. Council acknowledges that Rebecca Brewin and Ziwat Sattouf have resigned from the Committee effective immediately.**
- 2. The Committee has decided not to advertise the position.**

Attachments:

- 5 1 Minutes 13/02/2024 Floodplain Management Advisory Committee, I2024/181 

Report

The attachment to this report provides the minutes of the Floodplain Management Advisory Committee Meeting of 13 February 2024 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 [Agenda of Floodplain Management Advisory Committee Meeting - Tuesday, 13 February 2024 \(infocouncil.biz\)](#)

The following items were considered by the Committee:

Report No. 4.1 Floodplain Management Advisory Committee Goals for 2024

- 10 This report addresses the Floodplain Advisory Committee recommendations of Report 4.1 tabled at the Friday 8 December 2023 committee meeting.

Report No. 4.2 Community Education Strategy and Review of Flood Options - Project Update

This report provide update on Community Education Strategy and Review of Flood Options Project.

- 15 **Report No. 4.3 Post 2022 Event Flood Behaviour Analysis - Brunswick River - Final Draft Report - September 2023-NSW Department of Planning & Environment**

The purpose of the report is to discuss in detail the Committee's concerns of Post 2022 Flood Event Development Controls and provides an update on Post 2022 Event Flood Behaviour Analysis - Brunswick River - Final Draft Report.

20 **Management Comments**

Management do not agree with the following Committee recommendation for the reasons given below and have provided alternative recommendations above:

Committee Recommendation 4.1.3 is not supported for the following reasons.

- 25 Council has been providing flood information certificates for some time, as per Council's fees and charges. The purchase of the program and staff time to manage the process being covered by the fees.

[Flood Information Certificate - Byron Shire Council \(nsw.gov.au\)](#)

- 30 2022 Flood impacted property owners looking to house raise or retrofit, however have been able to apply for and receive flood information certificates on a request basis, without charge. The cost for this allocated in the operational budget as part of flood recovery.

The usual fees for provision of the flood information certificates to the wider community, prospective house purchasers and landowners still remain in place as per the link above and in the fees and charges.

BYRON SHIRE COUNCIL

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

14.1

This request to make flood information certificates free and open, is not simple, is without clear parameters of what it is and who is responsible for managing it, and is problematic for staff to implement.

5 The potential legal implications of having property owners floor levels freely available online also needs further consideration on approach and caveats re the date of information and basis for it.

10 Currently staff review each application before release to ensure it provides the best and most current information. If we are to provide flood information certificates for every 'dwelling' online there would be a significant staff or consultant resource requirement to prepare every flood information certificate, check it for currency and then publish.

Following this each flood information certificate would require this process again to update when a Floodplain Management Plan is updated. This cost needs further reporting to Council.

Committee Recommendation 4.3.1 is not supported for the following reasons.

15 Using a historic single flood event to guide the production of a Flood Planning Level is not supported because it carries risks to Council, is not best practice and is not supported in the 2005 or 2023 Floodplain Development Manual, which guides how all NSW Council's manage flood risk.

20 Council is recommended to derive all Flood Planning Level's from a floodplain risk management process, i.e a Council adopted Floodplain Management Plan.

Single events have many localised impacts like blockages that can impact flood levels making them potentially not a true representation of a design flood event.

25 Staff have reviewed mapping of the 2022 flood event against Council's Flood Planning Level. The 2022 flood event peak did not exceed Council's existing Flood Planning Level, this shows the suitability of the current mapping as being fit for purpose.

The Post 2022 Event Flood Behaviour Analysis - Brunswick River recommends Council complete a North Byron flood study and plan update, which includes new modelling, model calibration, event mapping and flood mitigation options.

30 Staff plan to seek funding in April 2024 to commence this work in late 2024. This work will follow the process detailed in the 2023 Floodplain Development Manual to develop an updated Flood Planning Level and is therefore the appropriate process for Council to follow when updating this mapping.

Further The North Coast Settlement Planning Guidelines 2019 provides two types on constraints to development in the region:

Primary constraints are considered to include Land within the 1:100-year floodplain and land where there is no available safe evacuation route in the event of flood or bushfire.

- 5 However, under Manageable constraints the guideline notes 'where a council proposes urban development on flood prone land it must have an adopted and approved Floodplain Risk Management Plan that is not more than 5 years old which covers the land.'

10 Therefore, the guidance in this guideline is not a clear no to development within the floodplain as noted in the committee recommendation. There is an allowance to develop this land where studies find it to be appropriate.

For this reason, is it recommended that Council continue to follow the processes detailed in the NSW 2023 Floodplain Development Manual to update flood planning requirements for the shire and proceed with any urban development as guided by the updated and adopted Floodplain Risk Management Plan's.

15 **Financial Implications**

As per the Reports listed within the Floodplain Management Advisory Committee Meeting of 13 February 2024.

Committee Recommendation 4.1.3 has a cost that needs investigating and further reporting.

20 **Statutory and Policy Compliance Implications**

As per the Reports listed within the Floodplain Management Advisory Committee Meeting of 13 February 2024.

**Report No. 14.2 Report of the Moving Byron Advisory
Committee Meeting held on 11 April 2024**

Directorate: Infrastructure Services

File No: I2024/576

5

Summary:

The attachment to this report provides the minutes of the Moving Byron Advisory Committee Meeting of 11 April 2024 for determination by Council.

10

RECOMMENDATION:

1. **That Council notes the minutes of the Moving Byron Advisory Committee Meeting held on 11 April 2024.**

15

2. **That Council adopts the following Committee Recommendation(s):**

Report No. 4.1 Burringbar Street Draft Concept Design
File No: I2024/326

Committee Recommendation 4.1.1

1. **That the Moving Byron Committee, note the Draft Concept Design – Attachment 1 (E2024/16870) and Street Sections for Burringbar Street.**
2. **That Council commence the processes towards heavy vehicle and all vehicle bypass routes through Mullumbimby.**

3. That Council adopts the following Committee Recommendation(s):

Report No. 4.2 Infrastructure Services Projects Update

File No: I2024/457

Committee Recommendation 4.2.1

- 1. That the committee notes the report, and notes that the design for the second grant application, recognises that from Mullumbimby to Byron Bay, the rail trail will be off formation (in accordance with resolution 23-360).**
- 2. That Council makes a submission to the Gold Coast Airport to include the following point: the masterplan should incentivise ground transport that preferences collective travel including public transport to and through Byron Shire.**
- 3. That Council asks NRJO, to make a submission on behalf of the Northern Rivers region regarding public transport options south of the Gold Coast airport.**
- 4. That Council recognises the value in identifying evacuation centres, prior to planning evacuation routes.**

4. That Council adopts the following Committee Recommendation(s):


Report No. 4.3 Active Transport Plan Update

File No: I2024/533

Committee Recommendation 4.3.1

That the Moving Byron Advisory Committee support the Active Transport Plan and Active Transport mapping being released for community consultation.

5 Attachments:

- 1 Minutes 11/04/2024 Moving Byron Advisory Committee, I2024/539 **

Report

The attachment to this report provides the minutes of the Moving Byron Advisory Committee Meeting of 11 April 2024 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 byron.infocouncil.biz/Open/2024/04/MBAC_11042024_AGN_1850_AT.PDF

The following items were considered by the Committee:

Report No. 4.1 Burringbar Street Draft Concept Design

- 10 This report provides an update on the Draft Burringbar Street Concept Design. The project aim is for the main street to be more safe, inclusive, beautiful, vibrant and enjoyable place to be. The design was placed on public exhibition from 26 February to 24 March 2024. Over 500 submissions were received and stakeholder meetings were held during this period.

Report No. 4.2 Infrastructure Services Projects Update

- 15 This report provides updates on several Infrastructure Services Projects related to Moving Byron Committee matters including: M1/MR545; Kolara Way; New Brighton Parking; Brunswick Heads Parking; Mullumbimby to Brunswick Heads Cycleway; Rail Trail/Multi Use of the Corridor; TfNSW Workshop - North Coast Customer Journey Resilience Plans and RA Workshop – Regional Evacuation Routes.

Report No. 4.3 Active Transport Plan Update

- 20 This report provides an update on the progress of developing the new Active Transport Plan as outlined in Council resolution 23-422 and Operational Plan action 5.1.3.6.

Committee Recommendation

Management Comments

- 25 The committee recommendations are supported by management and are provided in the attachment to this report.

Financial Implications

As per the Reports listed within the Moving Byron Advisory Committee Meeting of 11 April 2024.

Statutory and Policy Compliance Implications

- 30 As per the Reports listed within the Moving Byron Advisory Committee Meeting of 11 April 2024.

Report No. 16.1 CONFIDENTIAL - Expenditure on Consultants & Conflicts of Interest

5 **Directorate:** Corporate and Community Services
Report Author: Heather Sills, Manager Corporate Services
File No: I2024/646

Summary:

10 This report has been prepared in response to Council resolution **23-381**:

“That Council discusses at the next available Councillor Workshop reporting that could be received on the following:

- 15 a) *The amounts Council spends in the second & third quarters of the 2023-24 financial year (for the May report) and in the fourth & first quarters of 2023-24 and 2024-25 respectively (for the November report) on consultants, including but not limited to*
- 20 *i) contractors retained in-house;*
 - ii) technical, legal and financial advice received;*
 - iii) assistance in court or on threats of legal action;*
 - iv) planning assessment;*
 - v) etc.*
- b) *Opportunities to retain such capabilities in-house.*
- c) *The advantages & disadvantages of external advice over internal.*
- 25 d) *What measures could Council take to improve its management of consultants’ potential Conflicts of Interest and related matters.*
- e) *Consideration of whether Council could publish the brief that was given to any consultant as part of a Council report that includes the consultant’s report.”*

RECOMMENDATION:

- 5
1. That pursuant to Section 10A(2)(c) of the Local Government Act, 1993, Council resolves to move into Confidential Session to discuss the report Expenditure on Consultants & Conflicts of Interest.
 2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
 - 10 a) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
 3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:

15 the report and attachments contain information about arrangements with, and management of, consultants engaged by council

Attachments:

- 20
- 1 Confidential - Consultancy Spend - 1 Octboer 2023 to 31 March 2024, E2024/50179

BYRON SHIRE COUNCIL

RECOMMENDATION:

1. That pursuant to Section 10A(2)(c), (d)i and (d)ii of the Local Government Act, 1993, Council resolves to move into Confidential Session to discuss the report 57 Station Street, Mullumbimby.
- 5 2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
 - a) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
 - 10 b) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
 - c) information that would, if disclosed, confer a commercial advantage on a competitor of the council
- 15 3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:

It contains commercial in confidence information.

CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES

Report No. 16.3 **CONFIDENTIAL - Exemption from Tender and Extension of Contract 2019-0009 - Processing of Comingled Recyclables**

5

Directorate: Infrastructure Services

Report Author: Mila Jones, Governance and Internal Audit Coordinator
Jenny Hellyer, Resource Recovery Contracts Management Officer

10 **File No:** I2024/587

Summary:

15 This report is to provide details on the current Processing of Comingled Recyclables contract with Re.Cycle Operations previously trading as Polytrade Pty Ltd, and seek approval to extend the contract for one additional term of 12 months.

Byron Shire Council procured the Processing of Comingled Recyclables Contract on behalf of other participating local government councils including Ballina Shire Council and Richmond Valley Council in a collective tender process in 2019, with Richmond Valley Council choosing not to undertake a contract under the collective tender process.

20 On 27 June 2019, Council resolved to engage Polytrade Pty Ltd (now Re.Cycle Operations) for the processing of comingled recyclables. The contract commenced 31 July 2019 and will expire 31 July 2024, including all available extension options.

25 The current recycle market has a very limited amount of recyclable processing options currently available. Re-Group operates two material recovery facilities (MRFs) in Northern New South Wales – Chinderah and Grafton. The Chinderah MRF is Council's current nominated facility, with Grafton nominated as the contingency MRF. Re.Cycle Operations plays an important role in resource recovery for the shire, and assists Council to meet our waste reduction targets.

30 Discussions with Ballina Shire Council have confirmed their position to remove themselves from the collective contract upon completion due to provision of the contractor becoming the owner of the recyclable material within their new kerbside collections contract. Richmond Valley Council selected to join Lismore City Council for the collective tender process.

35 Council's Resource Recovery Section identified the unavailability of competitive or reliable tenderers has created unfavourable market conditions that may result in financial inefficiencies if Council approach the market to procure another contact. Council's research also indicated that the consolidation of kerbside collection services with the

processing of comingled recyclables contracts will provide better value for money for Council.

5 The requirement for a further 12 month contract extension is to align this contract with Contract 2014-0011 Waste and Resource Recovery Collection Service. The kerbside collections contract commenced 4 August 2015 for seven (7) years, with one x three (3) year extension to 4 August 2025.

10 Extending the contract for 12 months ensures Council's collection contracts and processing of recyclables contracts align with their completion dates. This will then facilitate establishing the new kerbside collection tender with the option for the contractor to have ownership of the recycled material.

This report recommends that Council grant an exemption from tender to extend the term of the existing contract for one additional term of 12 months to allow this contract to align with contract 2014-0011 Waste and Resource Recovery Collection.

15

RECOMMENDATION:

1. That pursuant to Section 10A(2)(c) and (d)i of the Local Government Act, 1993, Council resolves to move into Confidential Session to discuss the report Exemption from Tender and Extension of Contract 2019-0009 - Processing of Comingled Recyclables.
20
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
 - a) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
25
 - b) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:
30 it would compromise Council's ability to negotiate fairly and commercially to achieve the best outcome for its ratepayers.