

Agenda Ordinary Meeting

Thursday, 25 May 2023



BYRON
SHIRE
COUNCIL

Agenda Ordinary Meeting

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

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

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

Mark Arnold
General Manager

CONFLICT OF INTERESTS

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

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

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

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

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

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

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

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

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

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

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

Disclosure and participation in meetings

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

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

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

Non-pecuniary Interests - Must be disclosed in meetings.

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

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

RECORDING OF VOTING ON PLANNING MATTERS

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

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

OATH AND AFFIRMATION FOR COUNCILLORS

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

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BUSINESS OF ORDINARY MEETING

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15. QUESTIONS WITH NOTICE

Nil

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

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

NOTICES OF MOTION

Notice of Motion No. 9.1 Nature Repair Market Bill

File No: I2023/650

5

I move that Council:

- 10 1. **Notes that the Senate referred the provisions of the Nature Repair Market Bill 2023 and the Nature Repair Market (Consequential Amendments) Bill 2023 to the Environment and Communications Legislation Committee for inquiry and report by 1 August 2023 and that submissions are open until 1 June 2023.**
- 15 2. **Makes a submission in support of the Nature Repair Bill, with input from members of the Biodiversity Advisory Committee.**

15

Signed: Cr Peter Westheimer

Councillor's supporting information:

20 As a current Councillor and Chairperson of Byron Shire Council's Biodiversity Management Committee and member since the Committee started during my 2004 -2008 Councillor term including 18 months as Deputy Mayor, and as a private land holder who has significantly restored revegetation to what was previously cow paddocks, I was thrilled when I recently came across the details of the Nature Repair Market Bill through my local Brunswick Valley Land Care newsletter. This is potential legislation that I had been
25 lobbying for and considering for many years now as a support mechanism to support a paradigm of more sustainable land management.

30 Personally, I am fortunate to be an owner/custodian of 15 hectares [38 acres] of land 5 kilometres south of Mullumbimby and 20 minutes north west of Byron Bay. The land was purchased in 1997 and from 1998 onwards I've engaged in successful reforestation programme projects planting over 30,000 native plants especially along riparian areas and steep slopes, including a mixed native species 2.5-hectare farm forestry planting. I've been fortunate to obtain a number of Grants covering the cost of revegetation and importantly the essential maintenance work required and have dedicated a portion of the land on title to conservation in perpetuity.

35 The property's wildlife and regenerating native vegetation is now thriving with an exponential increase in new native trees and rapidly advancing understory plants and native grasses appearing and replacing traditional weeds. I would estimate that there now

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is a cascading effect happening where the numbers of self-regenerating natives are about 10 times the numbers of those plantings over the years. The satisfaction of assisting and witnessing this transformation of the property are immense and ongoing. It also makes me feel that I am walking my talk and has given me the ground truthing experience to understand revegetation projects.

However, I have needed to put up my own funds for about 3/4 of the costs of replanting and maintenance densely enough such that weed control is facilitated with canopy cover within approximately three to four years. This can require planting 3000-4000 trees per hectare.

So, I know through personal experience and membership of Landcare organisations over the last 25 years how much cost and maintenance is required to revegetate. As for an estimate of the current cost of revegetation in the Northern Rivers of NSW, the cost per tree to plant and then maintain for four years would likely be around the \$22 mark. To obtain canopy cover within four years a tree spacing of approximately 1.8 to 2 metres would be required such that each hectare would need 3000 to 4000 trees planted to capture the site.

I am acutely aware that approximately 50% of Byron Shire's land is basically cleared land that probably the majority of landholders have cattle managers or themselves run cows on the property to keep the grass under control and obtain a small profit from the periodic sale for slaughter of these animals. Besides the negative methane and carbon storage consequences this tends to be a poor usage of the land. Much better for society/the community would be reforestation with local climate resilient native species to repair riparian areas, minimise soil erosion and compaction and of course sequester carbon.

So I believe it's important that the biodiversity offsets to be created in the Nature Repair Bill incentivise revegetation by landholders to the extent or dollar amount such that land holders who are uncertain as to whether embrace a revegetation scheme would feel that they were minimally or not out of pocket for revegetation vs. compared to running cattle. Society is rapidly recognising the increasingly values of the sequestering potential of trees as well as obvious benefits to general biodiversity and a benefit to the value of the land from reforestation.

It is important that those wavering landholders are supported not just with offsets but with expert advice on how to replant their properties appropriately and successfully. Byron Shire Council already has one of our biodiversity staff addressing schools on the importance of flying foxes for seed dispersal and also an agricultural extension officer liaising regularly with landholders. Augmenting these programs could raise community awareness in schools, new landowners and traditional farmers as to what would be involved in changing the paradigm of running cattle versus planting trees.

I for example live on a rural road where 1 wealthy landowner owns 2 separate properties of approximately 30 hectares each which are hardly lived on and have no soil erosion control for the cattle. He agists his land and makes no attempt to repair or revegetate. He is essentially land banking. While he generally controls the grass with cows there is basically land degradation rather than improvement environmentally.

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So I welcome the possibility of the bill and suggest that the biodiversity offsets be of a value and integrity such that they will seriously encourage landowners to revegetate rather than graze cattle.

- 5 As a Councillor this is my top priority and I hope that the Bill will do exactly what we have been talking about but struggling to implement for many years now i.e., incentivise more sustainable land management.

Staff comments

by Shannon Burt, Director, Sustainable Environment and Economy:

- 10 On **30 March 2023**, the Senate referred the provisions of the Nature Repair Market Bill 2023 and the Nature Repair Market (Consequential Amendments) Bill 2023 to the Environment and Communications Legislation Committee for inquiry and report by **1 August 2023**.

The closing date for submissions is **1 June 2023**.

- 15 The Nature Repair Market Bill 2023 seeks to provide a framework for a voluntary national market that delivers improved biodiversity outcomes. Eligible landholders who undertake projects that enhance or protect biodiversity would be able to receive a tradeable certificate that will be tracked through a national register. Link below provided more details on the Bill.

- 20 [Nature Repair Market Bill 2023 and Nature Repair Market \(Consequential Amendments\) Bill 2023 \[Provisions\] – Parliament of Australia \(aph.gov.au\)](#)

The Biodiversity Advisory Committee, at its meeting 30 March 2023, discussed the Bill briefly and moved the following recommendation:

1. **That the Biodiversity Advisory Committee notes the report and thanks Gerard Wedderburn-Bisshop for his presentation.**
- 25 2. **That the Biodiversity Advisory Committee notes that the Nature Repair Market Bill 2023 and the Nature Repair Market (Consequential Amendments) Bill 2023 has been referred to the Federal Environment and Communications Legislation Committee for inquiry and report by 1 August 2023.**
- 30 3. **That the Biodiversity Advisory Committee supports a Notice of Motion on point 2 to the May Council Planning Meeting and seek stakeholder feedback to include in Council's submission prior.**

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[Labor plan for nature repair market rehashes old proposal and risks failure, experts say | Conservation | The Guardian](#)

[Landcare Australia's position on the Nature Repair Market Bill - Landcare Australia](#)

- 5 [Can a 'nature repair market' really save Australia's environment? It's not perfect, but it's worth a shot \(theconversation.com\)](#)

What is the Nature Repair Market?

- The aim of the Australian Government's proposed Nature Repair Market (NRM) is to encourage private sector investment in restoring Australia's natural environment.
- 10 • It is different to biodiversity offsets, where companies are forced under legislation to compensate for the damage they cause. The NRM is aimed at companies/investors that want to improve their green credentials and will pay to do this.
- The NRM will enable landholders (First Nations people, conservation groups, Governments and farmers) to undertake projects to enhance or protect existing habitat or to establish or restore habitat (e.g. weeding, fencing, planting, protecting threatened species habitat).
- 15 • Rather than landholders being issued credits (like carbon credits, where one credit is the equivalent of one unit), the scheme will issue landholders with a tradeable certificate for each individual biodiversity project. Certificates might be for a large, multi-hectare restoration project, or for a much smaller tree planting along a creek. i.e they may vary a lot. The certificate will contain standardised information (size of land repaired, type of work conducted, threatened species protected, length of time actions will continue), to help buyers understand what they're investing in – and allow them to compare and value projects.
- 20 • Regular project reports will be used to verify the environmental outcomes achieved by projects. Certificates and ownership of these will be on a public register, for transparency
- 25 • The market will operate in parallel with the carbon markets, so landholders can earn carbon credits and also get biodiversity certificates from carbon projects that create biodiversity. The Clean Energy Regulator will regulate the market to help align carbon and biodiversity markets and make participation in both schemes easier for landholders.
- 30

35 Several Council strategies and plans acknowledge the urgent need for wildlife habitat restoration and carbon sequestration in Australia, including the Biodiversity Conservation Strategy, the Climate Change Adaptation plan and the Coastal Koala Plan of Management and the Agriculture Action Plan. A nature repair market may help this by scaling up investment in on-ground habitat restoration and planting of native vegetation for carbon sequestration.

40 In developing the Nature Repair Market Bill, staff consider that the following issues should be considered:

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1. The Nature Repair Market must be clear and simple for private landholders. The complexity of existing markets, such as the carbon offsets scheme, inhibits landholders from getting involved. Many rural landholders in Byron Shire operate their farms as a secondary income stream (because income from farming is relatively low) and are still recovering from recent flood events. As such they may not have the capacity to enter into complex new land management arrangements.
2. Securing Biodiversity Certificates should be efficient. The very long establishment time taken for other land protection programs, such as BCT Conservation Agreements, has resulted in some landholders changing their minds and dropping out of this scheme.
3. It should be clear that the Nature Repair Market is different to the biodiversity offset market, and that developers and corporations are not enabled to use the market as part of their offset requirements. The more conservation-minded landholders in Byron Shire want to support net gains in biodiversity and are reluctant to restore their land as an offset, as they consider this is resulting in a biodiversity loss elsewhere.
4. Funding for biodiversity actions must be sufficient to cover costs of maintenance as well as initial work. Many tree planting and restoration projects fail due to inadequate resources for follow up maintenance. Generally follow up maintenance is required for at least 3-4 years.
5. Monitoring biodiversity outcomes on certified land must be robust and transparent, but also simple and easy to apply. Methodologies such as the BAM, which is used for Biodiversity Offsets, are too complex, and therefore costly for landholders, particularly those operating at smaller scales. For farmers to engage in this market, monitoring and reporting processes need to be designed with an understanding of the needs of farmers and farm operations.
6. The program needs to be applicable at small as well as large scales. The majority of rural land holdings in Byron Shire are less than 40 ha, and the largest land holding is only 400 ha. This has prevented many landholders from entering into other carbon or biodiversity markets that require larger properties for economies of scale. Options to aggregate properties can be useful in some circumstances, but depend on goodwill and like-mindedness between neighbours.
7. The free market alone may not facilitate rapid update of this scheme. We recommend the Federal Government kick-start the market by committing to purchasing certificates itself (as it previously with the carbon market).

Financial/Resource/Legal Implications:

N/A

Is the proposal consistent with any Delivery Program tasks?

Yes

Strategic Considerations

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
3: Nurtured Environment We nurture and enhance the natural environment	3.1: Partner to nurture and enhance our biodiversity, ecosystems, and ecology	3.1.1: Native species - Use best practice land management to improve ecological resilience and reduce threats to biodiversity	3.1.1.9	Seek funding to implement the Biodiversity Conservation Strategy, Coastal Koala Plan of Management and Flying Fox Camp Management Plan.

Notice of Motion No. 9.2 School/community tree-planting program on Council owned or managed land

File No: I2023/732

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I move that Council receives a report on the possibility and feasibility of large-scale tree plantings on land managed by Byron Shire Council such as:

- 10 1. **The Vallances Rd STP along the river and in the flood prone areas of the site.**
2. **Riverside Drive in Mullumbimby**
3. **Any other suitable land, particularly riparian land.**

15 **Signed: Cr Michael Lyon**

Councillor's supporting information:

 This opportunity arises from a request from a collaboration of community and business groups to explore options to potentially partner with Council to undertake important ecological restoration work coupled with environmental education. Any initiative would seek to build on and complement existing Council programs and works, including but not limited to the 'Bringing back the Bruns' project.

20

 Note that the background to this NOM is a request to help develop and deliver a potential planting program from the organisers of a project titled "Regeneration", which in 2022/2023 successfully ran a series of native seed propagation workshops in public schools as well as a free community festival at the Mullumbimby Community Garden. They also ran a multi-school tree-planting on Council land in Azalea Street, Mullumbimby. Regeneration is a community based not-for-profit collaboration of local community groups and businesses, including but not limited to the Big Scrub Rainforest Conservancy, Brunswick Valley Landcare, REDinc disability service provider, the Indigenous-owned Explore Byron Bay tourism and culture business, and Brookfarm. The 2022/2023 project was funded by the NSW Government, with support from Byron Shire Council. Survey data from that initiative, and feedback from the local school communities, demonstrates high levels of support for more of this ecological restoration work, including major school/community tree-plantings.

25

30

Staff comments

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

5 The proposal to facilitate ecological restoration work coupled with environmental education has significant merit. Council staff have previously worked with community project groups seeking to identify suitable planting areas.

The September 2022 proposal around Restore Fest, including project partners Brunswick Valley Landcare, Big Scrub Landcare, Envite, Red Ink, Brook Farm and Firewheel Nursery, resulted in the recommendation of the Azalea Street land for the desired revegetation planting.



10 To date no other community land in Mullumbimby outside the recommended Azalea Street area has been identified. Staff have encouraged opportunities for the use of private land be further explored.

15 It is noted that there are areas of Council managed land that are currently maintained via regular slashing or agistment that may have potential to undergo bush regeneration, however there are a range of factors that need to be assessed prior to any determination.

20 Of immediate concern, Council has found that enthusiastic community planting in some locations on Council land has made it difficult to service drains and ephemeral creeks. As a specific example, some waterways contain patches of Blue Taro that threaten flows and the most practical way of managing this weed is with a long-reach excavator, for which we need access.

25 Community planting programs have previously been proposed in open reserve area at Kamala Court reserve but were strongly opposed at that time by residents who believed it would impede water flows. This was prior to the 2022 flooding event, and it is recognised that community concerns about drainage and impacts on flooding are now more heightened than previously.

Many open space reserve areas around Mullumbimby are Council Managed Crown Lands. Prior to undertaking revegetation programs that would effectively change the use of the

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land there is a need to obtain Native Title Manager advice to fully understand Council's responsibilities to Native Title owners.

Council's Open Space staff are currently limited, due to the gap between desired levels of service and allocated resources and backlog of maintenance works required. The

5 Operational Plan action is to maintain each of the Council owned parks, reserves, and sports fields to agreed level of service, however there is no Policy direction as to what the agreed levels of service should be. Every year sees new open space assets being handed to Council, or existing assets upgraded. Minimal additional operational budget is allocated for new assets or new initiatives.

- 10 Previously Council's Asset Management team have completed a review of Levels of Service for Open Space resources, but this document has not been adopted by Council. There is intention within the 2023/24 financial year to conduct a review of the Open Space Levels of Service and to present this to Council for adoption. That document will allow better understanding of the maintenance cost implications and may lead to reconsideration
- 15 of current maintenance programs and priorities. It is anticipated that this process may identify areas where bush regeneration is a more cost-effective approach.

- It is staff's recommendation that that the requested report on the possibility and feasibility of large-scale tree plantings on land managed by Byron Shire Council be deferred until wider consideration of the current levels of service and associated costs can be
- 20 completed.

Financial/Resource/Legal Implications:

- Currently there is no Council staff resource to undertake feasibility study around identifying areas suited to large-scale tree plantings on land managed by Byron Shire Council. If this initiative was to be prioritised there would be a need for the existing planned works to be
- 25 reviewed.

- Consideration also needs to be made around the future management of the plantings. Council as the responsible land manager will have ultimate responsibility to ensure that weed control is maintained within planted areas. Council resources are fully utilised in existing programs designed to maintain and expand restoration of HEV sites on Council
- 30 owned or managed lands as part of the Council bush regeneration program. Any decision to facilitate new planting areas will require consideration of resources and funding to undertake ongoing maintenance of the regenerating areas.

- Council has an existing DP action to mentor volunteer community Landcare and Dune care groups to progress the Small Steps to Healthier Roadside Program. This program
- 35 has suffered through lack of resource. There needs to be caution about establishing community expectations through commitments where specific resource has not been identified in advance.

Is the proposal consistent with any Delivery Program tasks?

The proposal has alignment with existing activities to undertake Bush Regeneration within HEV sites and to mentoring of volunteer community Landcare and Dune care groups to progress the Small Steps to Healthier Roadside Program

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CSP Objective	CSP Strategy	DP Action	Code	OP Activity
3: Nurtured Environment We nurture and enhance the natural environment	3.1: Partner to nurture and enhance our biodiversity, ecosystems, and ecology	3.1.3: Habitat restoration - Restore degraded areas that provide high environmental or community value	3.1.3.6	Undertake bush regeneration activities to maintain and expand restoration of HEV sites on Council owned or managed lands forming part of the Council bush regeneration program
3: Nurtured Environment We nurture and enhance the natural environment	3.1: Partner to nurture and enhance our biodiversity, ecosystems, and ecology	3.1.3: Habitat restoration - Restore degraded areas that provide high environmental or community value	3.1.3.7	Continuation of mentoring of volunteer community Landcare and Dune care groups and progression of the Small Steps to Healthier Roadside Program

Notice of Motion No. 9.3 Setting the Shire's minimum rate

File No: I2023/724

5

I move that Council:

1. Notes the presentation on Pages 52 and 53 of 163 of Council's Agenda for 27 April 2023 (copy attached) where the impacts of changing the Shire's minimum rate are reported, using a scenario with the published minimum rate of \$1,014 versus using last year's minimum of \$969.
2. Sets the Shire's minimum rate for the 2023-24 financial year at \$1,000.
3. Prepares the 2024-25 budget using that same minimum.
4. Considers using that minimum for the 2025-26 budget and onwards.

Attachments:

15

- 1 Attachment to NoM - setting the Shire's minimum rate, E2023/46458 

Signed: Cr Duncan Dey & Asren Pugh

Councillor's supporting information:

- 20 We are facing not only a housing affordability crisis, but a broader cost of living crisis in our Shire with the cost of housing and inflation running rampant. There are many levers that can help ameliorate the impact on the household budgets of local residents. The impact of each is variable and by far the greatest impact that Council can achieve is by limiting the practice of short-term holiday let, which inflates the cost of housing by keeping dwellings empty for occasional occupation by visitors.
- 25

A small impact can also be achieved through Council's rate structure. The "minimum rate" raises the land rate paid on properties with low unimproved value (as set by the NSW Valuer General) to a threshold amount. The setting of that minimum rests with Council. The threshold is arbitrary.

- 30 During a cost of living crisis like we are facing now, it is reasonable to ask those with higher land values to contribute a little more while taking some pressure off those who can least afford the extra cost. This minor change will feed back into the housing market.

Part 2 of the motion seeks a smaller rise in the minimum rate than published for the upcoming financial year. Part 3 seeks to lock in the same rate for 2024-25. By

comparison with a status quo increase of 4.6% to match the Shire's 'rate peg' adjustment, that impact would be more significant.

Staff comments

by James Brickley, Manager Finance, Corporate and Community Services:

- 5 The levy of general land rates by a Council has to accord with the requirements of the Local Government Act 1993 and associated Regulation. As Byron Shire Council utilises the methodology prescribed in that Act of an ad valorem rate subject to a minimum, Council has historically set the minimum rate in accord with Section 548 of the Local Government Act 1993, specifically Section 548(5) where it has increased the previous
- 10 year's minimum rate for the following year by the approved rate peg issued by the Independent Pricing and Regulatory Tribunal (IPART). Council may also recall during the four years of the most recent Special Rate Variation approval from 2017 to 2021, the setting of the minimum rate for each of those four years was determined by IPART as part of the instrument of approval.
- 15 Council has placed on public exhibition a proposed general land rates structure for the 2023/2024 financial year seeking public submissions from the community. That structure proposed a minimum rate of \$1,014 that has been calculated based on the minimum rate of 2022/2023 \$969 plus a 4.6% increase as per the approved rate peg for Byron Shire Council by IPART. It is acknowledged the minimum rate is arbitrary and it is up to Council
- 20 to determine the minimum rate within the confines of Section 548.

Council can, if it chooses, set the minimum rate at \$1,000 for 2023/2024 as per part 2 of this Notice of Motion but should consider the following before doing so:

- Reducing the minimum rate does not reduce the amount of general land rates Council collects overall but will result in a slight redistribution within the residential rate category. What is proposed will have no impact on the business and farmland categories as the change is small within the rating structure at \$14.
- Making a determination at this Ordinary Meeting of Council is pre-empting the ability for Council to consider any submissions it may receive on the Statement of Revenue Policy currently on public exhibition. The opportune time for Council to consider the recommendations of this Notice of Motion would be at the 22 June 2023 Ordinary Council Meeting where it will be adopting the suite of Integrated Planning documents for the 2023/2024 financial year including the Statement of Revenue Policy after considering public submissions.
- The setting of general land rates is an annual process by specific Council resolution and has to be in accord with Sections 532 to 535 of the Local Government Act 1993. Council is at risk of not complying with these provisions if it decides on the minimum rate at the 25 May 2023 Ordinary Meeting, especially Section 532 which states: ' A council must not make a rate or charge until it has given public notice (in accordance with the regulations) of its draft operational plan for the year for which the rate or charge is to be made and has considered any matters concerning the draft operational plan (in accordance with the regulations).

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A revised general land rating structure outlined in this Notice of Motion has been modelled with the minimum rate set at \$1,000. This has also required slight revision upwards of the ad valorem rate especially in the residential category to cater for the proposed reduced minimum. This modelling indicates the following outcomes:

- 5 • The number of properties that will pay the minimum rate reduces from 7,555 to 7,317 if the minimum is set to \$1,000 – a reduction of 238 properties.
- Council will need to redistribute a total of \$103,847 in general land rate income to properties subject to the ad valorem rate.
- 10 • The ad valorem rate (cents in the dollar) for the residential rating category would need to change from \$0.1073 currently on public exhibition to \$0.1080.
- If the minimum rate is set at \$1,000 the land value threshold in the residential category reduces from \$945,014 to \$925,926 to pay that minimum rate.

15 The levy of general land rates is based on unimproved land value valuations provided by the NSW Valuer General. These land values therefore do not consider any structures or improvements made to the land to enhance the overall property value. This aside, the general land rating system Councils are legislatively required to use does not consider the financial circumstances of individual property owners but uses land value as the determinant of general land rates payable by each property. Therefore, it cannot be assumed that all properties with a lower land value are indicative that the property owner is less wealthy or has financial means below that of a property owner with a higher land value.

25 This rationale is supported in part by research of all properties (7,494) subject to the minimum rate and deriving a potential \$14 maximum reduction if the minimum rate as proposed by this Notice of Motion is reduced from the publicly exhibited \$1,014 to \$1,000 as follows:

- 2,493 or 33.3% are strata titled properties where there are multiple strata units on one parcel of rateable land. With these properties, the Valuer General provides one valuation for the land and the land value for each unit is determined on its lot entitlement in accord with the strata plan.
- 30 • 409 or 5.5% of these properties have been sold in the last three years where property prices have been at record levels and interest rates at low levels. It is acknowledged the reasons for selling a property can vary from no longer being affordable to maximising a capital gain.
- 35 • 1,999 or 26.7% of these properties could be potentially considered as 'investment properties' by their owners as the post code on the delivery address of the rate notice is different to the post code of the rateable property. Part 2 of the Notice of Motion could therefore potentially be granting a financial benefit to an 'investor'. This maybe in part opposite to the intent desired by this Notice of Motion.

40 It is recommended that Council not support parts three and four to this Notice of Motion at this time due to the legislative requirements of the Local Government Act 1993 to annually set general land rates and charges by specific resolution (Section 535) and the need to give public notice of such proposals annually (Section 532).

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.3

Whilst Council can, if it so chooses, propose what is outlined in parts three and four of this Notice of Motion, meeting the legislative requirements as they are currently written would require Council to do so in the lead up to the 2024/2025 financial year for part three and the 2025/2026 financial year for part four when preparing the Statement of Revenue

- 5 Policies related to those years, particularly given part three and part four could mean rate peg increases for two years are passed onto just over half the residential properties with the remainder seeing no increase for potentially two years.

Financial/Resource/Legal Implications:

- 10 There are no financial implications for Council as a result of this Notice of Motion as the outcome of the Notice of Motion whether successful or not does not change the overall general land rate Council will collect in 2023/2024 but it will slightly alter especially in the residential category the distribution.

Legal implications are discussed in the staff comment above in terms of setting Council general land rates.

- 15 Clause 4.6 b) of the [Code of Conduct for Councillors](#) provides that a Councillor does not have to disclose, in respect of a matter before the Council, their interest as a ratepayer or person liable to pay a charge.

Is the proposal consistent with any Delivery Program tasks?

- 20 Yes as it is related to the levy of Council rates and charges to partly derive some of Council's revenue to provide services to the Community.

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

**Notice of Motion No. 9.4 CONFIDENTIAL - Council-owned land in
Belongil**

File No: I2023/733

5

RECOMMENDATION:

1. That pursuant to Section 10A(2)(a) of the Local Government Act, 1993, Council resolves to move into Confidential Session to discuss the report Council-owned land in Belongil.
- 10 2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
 - a) personnel matters concerning particular individuals (other than councillors)
- 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:

Refers to an individuals property

**Notice of Motion No. 9.5 CONFIDENTIAL - Boundary adjustment
at Belongil**

File No: I2023/728

5

RECOMMENDATION:

1. That pursuant to Section 10A(2)(a) of the Local Government Act, 1993, Council resolves to move into Confidential Session to discuss the report Boundary adjustment at Belongil.
- 10 2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
 - a) personnel matters concerning particular individuals (other than councillors)
- 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:

Refers to an individuals property

PETITIONS

Petition No. 11.1 Illegal camping in Brunswick Heads

Directorate: Sustainable Environment and Economy

5 **Report Author:** Sarah Nagel, Manager Public and Environmental Services

File No: I2023/623

Council is in receipt of a Petition containing 18 signatures (Attachment 1) which states:

10 *"The illegal camping in Brunswick Heads is now a joke.*

We are long time rate payers and want our town cleaned up.

The usual van dwellers are NOT flood victims and choose this lifestyle, with many in expensive vans. The repeat offenders have been here for at least two years and rought the system to evade fines.

15 *Along Fawcett Street and Mona Lane to say the least is constantly housing vans. They now realize (sometimes) that council inspect these streets during the night, so they spend all day on park reserve in 4-hour time limit zones and then cross to the residential side to camp for the night. The one van now has a garage sale on riverbank adjacent to her van each day. She constantly tells people who get fines for illegal parking that they should fight it as the signage is inadequate. She invites other van dwellers to join her on the riverbank*
20 *for the whole day. Registration number is [redacted].*

Last night she took a man and set up a living camp in the bush between the Anzac memorial and the river. Today another has set up camp (young families visit this beach daily) and human waste has been found on path way.

25 *The residential stretch of parking is the only untimed area for our town workers and the campers are constantly hindering the parking. You can tell the campers, even disguised 4-wheel drives and sedans that have blacked out curtains are camping on residential side of street.*

30 *Please have your rangers address this situation in Brunswick Heads and the fines will more than cover further wages should you need to employee extra staff."*

Comments from Director Sustainable Environment and Economy:

Council is currently pursuing several strategies to respond to illegal camping and anti-social issues that have been reported in the Brunswick Heads area. The activities vary in nature and are occurring on numerous parcels of land which require responses from Council, as well as other state agencies.

Short term action

Council Enforcement Officers are conducting illegal camping patrols, animal enforcement patrols and parking enforcement patrols more than once daily. Council officers are aware they are infringing some individuals regularly (i.e. those individuals are not moving despite receiving infringements) and those individuals are issued with Court Attendance Notices.

Medium term action

Council recently coordinated an interagency meeting with local police, Reflections, Crown Lands and NPWS to progress inter-agency joint patrols and a joint enforcement approach. These joint agency patrols will be ongoing and will encompass a number of hot spots throughout Brunswick Heads. Action will involve Crown Lands/Police issuing move-on directions in addition to Council/NPWS issuing infringements and Court Attendance Notices. Connections to relevant services will also be provided by Council's Public Space Liaison Officers during the patrols for rough sleepers who are seeking assistance.

Long term action

Council's Infrastructure Services Directorate is progressing extended parking signage and infrastructure changes via the Traffic Management Committee to assist in reduction of opportunities to illegally camp as well as support enforcement of illegal camping.

RECOMMENDATION:

That Council notes the petition in Attachment 1 (E2023/42363) regarding illegal camping in Brunswick Heads.

Attachments:

- Petition Regarding Illegal Camping in Brunswick Heads [Redacted], E2023/42363 

DELEGATES' REPORTS

**Delegate's Report No. 12.1 Meeting Tommy Quick on
Saturday 6 May 2023**

5 **File No:** I2023/712

10 Tommy is riding around most of Australia, to publicise **stroke in young people**. He had a stroke in 2006 at 12 years of age. He says this changed his life forever, but did not end it. His website invites people to join him on the epic challenge of cycling 9000 km, to the four most extreme points of mainland Australia. Details are at:

<https://www.the4points.org/>

Tommy walked the Kokoda Trail in 2014.

15 The current cycling epic started in 2021 at Steep Point, south-west of Carnarvon in WA. I met him on his eastern-most stop, at Cape Byron lighthouse. The journey had been interrupted in 2021 with a car on bike accident. He's under way again now. His parents are his road crew and the route is flexible. I suggested the newly opened Rail Trail from Crabbes Creek but they may have gone inland.

20 Tommy is fit, affable and the message is clear. He says "I'm doing this to promote social inclusion and increase stroke awareness while raising money to help stroke survivors and improve stroke victim services".

Signed: Cr Duncan Dey

25

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.1 2022/23 Operational Plan Report - Q3 - March 2023

5 **Directorate:** Corporate and Community Services

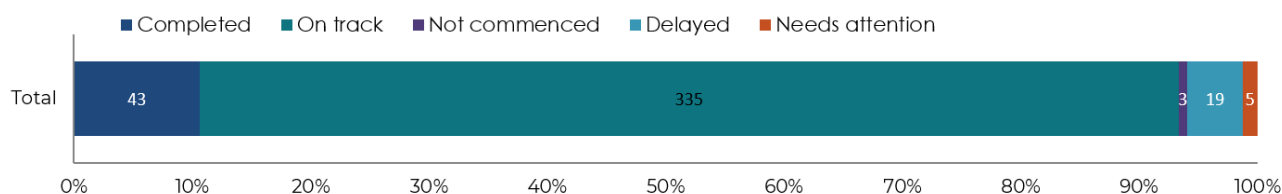
Report Author: Heather Sills, Manager Corporate Services

File No: I2023/439

Summary:

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

This report represents the progress toward the activities in the 2022/23 Operational Plan at the end of the third quarter, being 31 March 2023. A summary of the status is provided in the graph below:





RECOMMENDATION:

20 **That Council:**

1. **Notes the 2022/23 Operational Plan Quarter 1 Report for the period ending 31 March 2023 (Attachment 1 # E2023/44246).**
2. **Adopts the proposed amendments to the Operational Plan 2022/23 outlined in Attachment 2 (#E2023/35475).**

25 **Attachments:**

- 1 Operational Plan 2022/23 - Quarterly Report - Q3 - 1 January to 31 March 2023, E2023/44246 
- 2 Quarter 3 Report - Proposed Amendments to Operational Plan 2022/23, E2023/35475 

Report

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:

*"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**"*

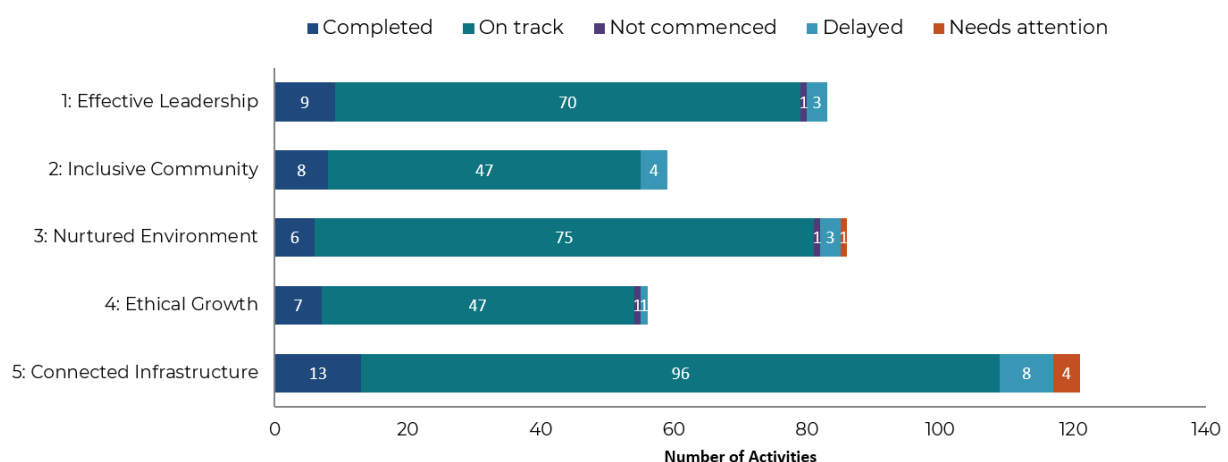
While the requirement is six monthly reporting, the Council is provided with a Quarterly Report on the activities in the Operational Plan, to promote effective and efficient reporting and decision making.

Strategic Objectives

The report (#E2022/102504) 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
- Inclusive Community: We have an inclusive and active community where diversity is embraced and everyone is valued
- Nurtured Environment: We nurture and enhance the natural environment
- Ethical Growth: We manage growth and change responsibly
- Connected Infrastructure: We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable

Q3 Status by Community Objective:



Report Details

The report details Council's progress toward the activities in the 2022/23 Operational Plan. It includes a status update on progress and commentary on the activities undertaken during the reporting period.

5 Each section notes the progress against the activities including:

- Activity
- Measure
- Timeframe
- Comments

10 • 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

15 ⚠ **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

20 Proposed Amendments

This is the third quarterly report of the 2022/23 Operational Plan. A number of required amendments have been identified. These are provided in attachment 2 (E2023/35475) for Council's endorsement.

Strategic Considerations

25 Community Strategic Plan and Operational Plan

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

Legal/Statutory/Policy Considerations

- 5 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.

Consultation and Engagement

- 10 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. 13.2 Council Resolutions Quarterly Review - Q3 -
1 January to 31 March 2023**

Directorate: Corporate and Community Services

Report Author: Heather Sills, Manager Corporate Services

5 **File No:** I2023/440

Summary:

This report provides an update on the status of Council Resolutions as at 31 March 2023.

112 Resolutions were completed during the period 1 January to 31 March 2023.

103 Resolutions remain active.



10

RECOMMENDATION:

That Council:

- 15
1. **Notes the information provided in this report on active Council Resolutions in Attachment 1 (#E2023/33527).**
 2. **Notes the completed Resolutions in Attachment 2 (#E2023/33528).**

Attachments:

- 20
- 1 Active Resolutions - as at 31 March 2023, E2023/33527 
 - 2 Completed Resolutions - 1 January to 31 March 2023, E2023/33528 

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 2023

Active Resolutions

10 The *Active Resolutions Report* (#E2023/33527) provides an update to Council on all active Resolutions up to 31 March 2023, 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.

50 of the active Resolutions were overdue by more than 60 days at the time the report was prepared. Resolutions could be overdue due to budget constraints, staff resourcing, extended negotiations with stakeholders, or other reasons.

Completed Resolutions

15 The *Completed Resolutions Report* (#E2023/33528) provides details of those Resolutions that were completed during the period 1 January to 31 March 2023. 112 Resolutions were completed during this period.

Resolutions Closed with No Action:

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

20 Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.1: Enhance trust and accountability through open and transparent leadership	1.1.2: 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

A number of Resolutions note that resource constraints limit completion of action required.

Consultation and Engagement

- 10 Not applicable.

Report No. 13.3 Budget Review - 1 January 2023 to 31 March 2023

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

5 **File No:** I2023/680

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 2022/2023 financial year, reviewed as at 31 March 2023.

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.

This report was considered by the Finance Advisory Committee at its Meeting held on 18 May 2023.

20

RECOMMENDATION:

That Council:




- 25 1. **Authorises the itemised budget variations as shown in Attachment 2 (#E2023/45418) which include the following results in the 31 March 2023 Quarterly Review of the 2022/2023 Budget:**
- a) **General Fund – \$205,000 increase to the Estimated Unrestricted Cash Result**
 - b) **General Fund - \$8,342,800 increase in reserves**
 - 30 c) **Water Fund - \$658,900 increase in reserves**
 - d) **Sewerage Fund - \$227,400 increase in reserves**
2. **Adopts the revised General Fund Estimated Unrestricted Cash Result of \$0 for the 2022/2023 financial year as at 31 March 2023**

BYRON SHIRE COUNCIL

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Attachments:

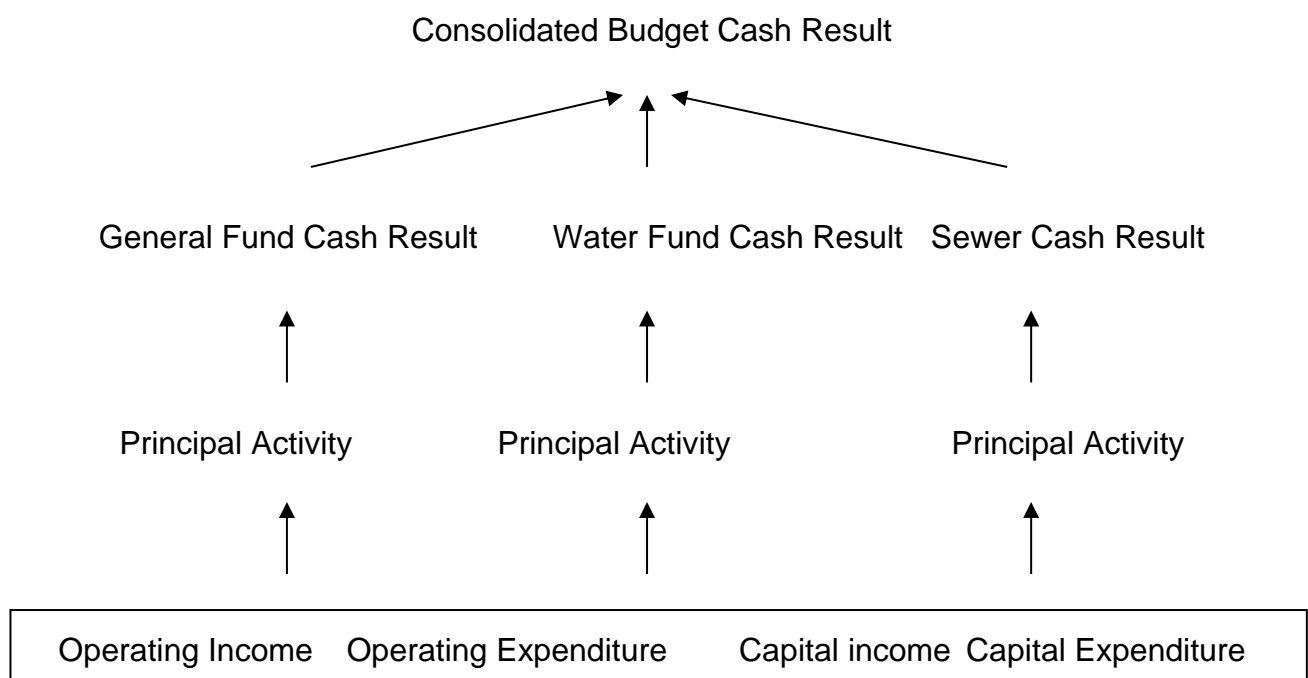
- 5
- 1 Budget Variations for General, Water and Sewerage Funds, E2023/45417 
 - 2 Itemised Listing of Budget Variations for General, Water and Sewerage Funds, E2023/45418 
 - 3 Integrated Planning and Reporting Framework (IP&R) required Quarterly Review Statements, E2023/45419 

Report

Council adopted the 2022/2023 budget on 30 June 2022 via Resolution **22-332**. Council also considered and adopted the budget carryovers from the 2021/2022 financial year, to be incorporated into the 2022/2023 budget at its Ordinary Meeting held on 25 August 2022 via Resolution **22-391**. Since that date, Council has reviewed the budget taking into consideration the audited 2021/2022 Financial Statement results and progress through the first three quarters of the 2022/2023 financial year. This report considers the March 2023 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 2022 plus the adopted carryover budgets from 2021/2022 followed by the resolutions between July and March and the revote (or adjustment for this review) and then the revised position projected for 30 June 2023 as at 31 March 2023.

On the far right of the Principal Activity, there is a column titled "Note". If this is populated by a number, it means that 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 2023 for all Council's reserves.

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

Office of Local Government Budget Review Guidelines:

- 10 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.

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.

- 15 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):-

- 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:
 - 20 ○ Consolidated
 - By fund (e.g. General, Water, Sewer)
 - By function, activity, program etc. to align with the management plan/operational plan
- Budget Review Capital Budget
- Budget Review Cash and Investments Position
- 25 • Budget Review Key performance indicators
- Budget Review Contracts and Other Expenses

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

Income and Expenditure Budget Review Statement by Type

- 30 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 14 pages of Attachment 1.

Capital Budget Review Statement

- 35 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.

Cash and Investments Budget Review Statement

- 5 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 2023 of 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.

Key Performance Indicators (KPI's)

At this stage, the KPI's within this report are:

- 10 ○ **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
- 15 ○ **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.

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

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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 2022/2023 financial year projected to 30 June 2023 but revised as at 31 March 2023.

2022/2023 Budget Review Statement as at 31 March 2023	Original Estimate (Including Carryovers) 1/7/2022	Adjustments to 31 Mar 2023 including Resolutions*	Proposed 31 March 2023 Review Revotes	Revised Estimate 30/6/2023 at 31/03/2023
Operating Revenue	98,653,200	17,691,500	3,446,500	119,791,200
Operating Expenditure	111,603,900	15,042,900	1,170,400	127,817,200
Operating Result – Surplus/Deficit	(12,950,700)	2,648,600	2,276,100	(8,026,000)
Add: Capital Revenue	37,235,900	(3,727,100)	(12,203,300)	21,305,500
Change in Net Assets	24,285,200	(1,078,500)	(9,927,200)	13,279,500
Add: Non Cash Expenses	18,455,700	2,033,900	0	20,489,600
Add: Non-Operating Funds Employed	20,800,000	1,200,000	(20,000,000)	2,000,000
Subtract: Funds Deployed for Non-Operating Purposes	(99,493,500)	(3,217,300)	39,361,300	(63,349,500)
Cash Surplus/(Deficit)	(35,952,600)	(1,061,900)	9,434,100	(27,580,400)
Restricted Funds – Increase / (Decrease)	(35,747,600)	(1,061,900)	9,229,100	(27,580,400)
Forecast Result for the Year – Surplus/(Deficit) – Unrestricted Cash Result	(205,000)	0	205,000	0

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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 2023:

Opening Balance – 1 July 2022	\$0
Plus original budget movement and carryovers	(205,000)
Council Resolutions July – September Quarter	(2,000)
September QBR – increase/(decrease)	0
Council Resolutions October – December Quarter	2,000
December QBR – increase/(decrease)	0
Council Resolutions January – March Quarter	0
Recommendations within this Review – increase/(decrease)	205,000
Estimated Unrestricted Cash Result Closing Balance – 30 June 2023	\$0

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

Council Resolutions

There were no Council resolutions that affected the budget result in the January to March quarter.

Budget Adjustments

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) \$	Accumulated Surplus (Working Funds) Increase/ (Decrease) \$
General Manager	224,200	224,200	0
Corporate & Community Services	858,300	593,600	264,700
Infrastructure Services	(10,868,800)	(10,790,800)	(78,000)
Sustainable Environment & Economy	258,600	240,300	18,300
Total Budget Movements	(9,527,700)	(9,732,700)	205,000

Budget Adjustment Comments

- 5 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.
- 10 **General Manager**
- In the General Managers program, it is proposed to increase operating expenditure by \$125,500 due to increased legal fee expenditure. This can be funded from legal fees recovered (\$25,500) and a transfer from the Legal Service Reserve of \$100,000.
- 15 • In the People & Culture program, it is proposed to increase operating income by \$98,700 due a rebate received from Statecover. This can be transferred to the People & Culture Reserve for future use.

Corporate and Community Services

- 20 • In the Councillor Services program, it is proposed to decrease operating expenditure due to various subscriptions costing less than the budgets allocated.
- 25 • In the General Purpose Revenue program, it is proposed to increase operating income due to the increased interest revenue that Council is receiving for investments due to increases in interest rates by the Reserve Bank. The budget can be increased by \$728,200, with \$261,000 of this attributable to developer contributions. It is also proposed to increase interest on the bank account by \$60,000 due to the increased

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rates as well. Of note here is also additional interest revenue being allocated to Reserve to repay in part a long outstanding liability to the Quarry Reserve.

- 5 • In the Financial Services program, it is proposed to decrease operating income as the actual income expected for section 603 certificates will be less than the budget due to a decrease in sales within the Shire. It is proposed to decrease operating expenditure due to actual Bank Charges being less than the budget (\$30,000) and an increase in sundry administrative costs that are slightly more than the budget due to the subscription costs for Eftsure (\$5,000).
- 10 • In the Corporate Services program, it is proposed to increase operating income and expenditure by \$27,400 due to income received from Councils' insurer to cover the costs to replace flood damaged CCTV. It is also proposed to increase operating expenditure by a further \$17,600 due to a slight increase in insurance premiums paid (\$11,800), an increase in fees payable for the Audit, Risk and Improvement Committee (ARIC) (\$10,000), an additional budget for the copyright licence subscription (\$5,800) and a decrease to the Youth Leadership Program which will not be undertaken this financial year (\$10,000).
- 15 • In the Community Development program, it is proposed to increase operating income and expenditure by \$127,700 due to a grant received from the Northern Rivers Joint Organisations (NRJO) to host flood anniversary events (\$91,700) and the reimbursement of costs for the Community Recovery Officer from NSW Reconstruction Authority (previously Resilience NSW) (\$36,000).
- 20 • In the Public Libraries program, it is proposed to increase operating expenditure due to a separate budget being added for building insurance that was previously charged to the Facilities Management Budget Program.
- 25 • In the Public Libraries program, it is proposed to increase operating expenditure due to a separate budget being added for building insurance that was previously charged to the Facilities Management Budget Program.

Infrastructure Services

- 30 • In the Supervision and Administration program, it is proposed to decrease operating expenditure due to the budget allocated for the Civil Construction Tender Panel no longer being required.
- 35 • In the Depot Services program, it is proposed to increase operating income as a contribution to the Plant reserve is required from the Waste (\$18,300) and Open Space (\$46,100) programs due to the Plant fund contributing to the costs for vehicles within those programs. There are offsetting costs in the Waste and Open Space programs. Operating expenditure increased due to a budget required for building insurance (\$18,500).
- 40 • In the Local Roads and Drainage program, there are a number of adjustments outlined under Note 16 on pages 53 to 57 in the Budget Variations explanations section of Attachment 1. Further disclosure is included in the second, third and fourth pages of Attachment 2 under the budget program heading Local Roads and Drainage.
- 45 • In the Local Roads and Drainage program, there are a number of adjustments outlined under Note 16 on pages 53 to 57 in the Budget Variations explanations section of Attachment 1. Further disclosure is included in the second, third and fourth pages of Attachment 2 under the budget program heading Local Roads and Drainage.

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- In the Open Space and Recreation program, there are a number of adjustments outlined under Note 18 on pages 57 to 59 in the Budget Variations explanations section of Attachment 1. Further disclosure is included in the fourth page of Attachment 2 under the budget program heading Open Space & Recreation. Of note here also is funds received from Public Works Advisory for flood recovery expenditure incurred last financial year and their treatment.
- In the Waste & Recycling program, it is proposed to increase operating income due to a grant received for Clean Energy. It is proposed to decrease operating expenditure due to a decrease in costs associated with the properties at 3 and 29 Manse Road (\$50,000) as the majority of works this budget was intended for have been included as capital expenditure in the 2024 financial year, a decrease in support service costs (\$1,200), an increase in building insurance (\$2,300), and an increase in the purchase of plant due to a contribution for the purchase of a new vehicle (\$18,800). It is proposed to decrease capital expenditure due to the Rehabilitation of Myocum Landfill (\$42,600), the On-Site Leachate Management Project (\$200,000), Upgrade and renewal at the BRRC + MQRRC (\$106,500) and the Stormwater Management Plan (\$100,000) not being completed this financial year and being moved to 2023/04.
- In the Cavanbah Centre program, it is proposed to increase operating income and expenditure by \$27,000 due to the 2023 Active Fest being held at the centre. It is also proposed to increase operating expenditure by a further \$12,500 due to building insurance costs
- In the First Sun Holiday Park program, it is proposed to increase operating expenditure due to an increase in building insurance costs (\$18,900) and a support service cost adjustment (\$100). It is proposed to decrease capital expenditure due to the rail corridor land purchase not expected to occur this financial year (\$1,500,000) and a decrease against cabins (\$80,000) and lodgings (\$150,000) due to upgrades that will be programmed to occur across the park at a later date.
- In the Suffolk Park Holiday Park program, it is proposed to increase operating expenditure due to an increase in building insurance costs (\$8,500) and a support service cost adjustment (\$100). It is proposed to add a budget of \$158,000 due to the purchase of a permanent site within the park.
- In the Facilities Management program, it is proposed to decrease operating expenditure due to the budgets for the Mullumbimby Hospital maintenance (\$38,000) and remediation (\$360,000) being moved to the 2023/24 financial year. This is offset by an increase in building insurance (\$51,200), an increase to the works to be undertaken at Durrumbul Hall (\$90,000) where costs for the flooring replacement exceed the existing budget, adjustments to bring the budgets of various community building reserve funded works to match actuals (\$200) and a support service cost decrease of \$200. It is proposed to decrease capital expenditure due to the Byron Community Hub (\$5,873,000) and the Airfield Building Renewals (\$171,600) being moved to the 2023/24 financial year and increasing the budgets for the Brunswick Valley Community Centre roof replacement (\$70,000) and Brunswick Heads Memorial Hall ramp upgrade (\$35,900) where the actual cost of the works exceeds the existing budget.

Sustainable Environment and Economy

- 5 • In the Development & Certification program, it is proposed to decrease operating income due to actual income for DA's being considerably less than the budget (\$250,000) as a result of less applications. It is proposed to increase operating income by \$100,000 due to increased fees received for footpath dining which can be transferred to the footpath dining reserve
- 10 • In the Planning Policy & Natural Environment program, it is proposed to increase operating income and expenditure by \$185,000 due to a grant received for Solar LED Signs for Koala Road Strike Mitigation. It is proposed to decrease operating expenditure by \$44,500 due to the Mullumbimby Masterplan Project Plan (\$13,000), the Bangalow Village Plan (\$14,000) and Lot 12 and Lot 107 Bayshore Dr (\$17,500) budget being moved to 2023/24.
- 15 • In the Environment & Compliance program, it is proposed to increase operating income due to actual fine income being higher than the budget (\$265,600). It is proposed to increase operating income and expenditure by \$2,500 due to income derived from a fine received for tree removal that is to be expended on bush regeneration. It is also proposed to increase operating expenditure due to building insurance (\$1,400).

20 WATER FUND

After completion of the 2021/2022 Financial Statements the Water Fund as at 30 June 2022 has a capital works reserve of \$8,953,800 and held \$1,844,900 in section 64 developer contributions.

- 25 The estimated Water Fund reserve balances as at 30 June 2023, and forecast in this Quarter Budget Review, are derived as follows:

Capital Works Reserve

Opening Reserve Balance at 1 July 2021	\$8,953,800
Plus original budget reserve movement	(4,874,800)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	(1,036,100)
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	(279,100)
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	580,600
Forecast Reserve Movement for 2022/2023 – Increase / (Decrease)	(5,609,400)
Estimated Reserve Balance at 30 June 2023	\$3,344,400

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Section 64 Developer Contributions

Opening Reserve Balance at 1 July 2022	\$1,844,900
Plus original budget reserve movement	(1,120,100)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	(500,000)
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	70,900
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	78,300
Forecast Reserve Movement for 2022/2023 – Increase / (Decrease)	(1,470,900)
Estimated Reserve Balance at 30 June 2023	\$374,000

Movements for Water Fund can be seen in Attachment 1 with a proposed estimated increase to reserves (including S64 Contributions) overall of \$658,900 from the 31 March 2023 Quarter Budget Review.

5 SEWERAGE FUND

After completion of the 2021/2022 Financial Statements the Sewer Fund as at 30 June 2022 has a capital works reserve of \$2,701,600 and plant reserve of \$896,200. It also held \$7,180,100 in section 64 developer contributions and a \$766,900 unexpended grant.

Capital Works Reserve

Opening Reserve Balance at 1 July 2022	\$2,701,600
Plus original budget reserve movement	(926,200)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	(653,600)
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	(257,500)
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	452,300
Forecast Reserve Movement for 2022/2023 – Increase / (Decrease)	(1,385,000)
Estimated Reserve Balance at 30 June 2023	\$1,316,600

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Plant Reserve

Opening Reserve Balance at 1 July 2022	\$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 2022/2023 – Increase / (Decrease)	0
Estimated Reserve Balance at 30 June 2023	\$896,200

Section 64 Developer Contributions

Opening Reserve Balance at 1 July 2021	\$7,180,100
Plus original budget reserve movement	(4,591,700)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	375,000
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	(40,000)
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	542,000
Forecast Reserve Movement for 2022/2023 – Increase / (Decrease)	(3,714,700)
Estimated Reserve Balance at 30 June 2023	\$3,465,400

Unexpended Grants

Opening Reserve Balance at 1 July 2021	\$766,900
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

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December Quarterly Review Adjustments – increase / (decrease)	0
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	(766,900)
Forecast Reserve Movement for 2022/2023 – Increase / (Decrease)	0
Estimated Reserve Balance at 30 June 2023	\$0

Movements for the Sewerage Fund can be seen in Attachment 1 with a proposed estimated overall increase to reserves (including S64 Contributions and unexpended grants) of \$227,400 from the 31 March 2023 Quarter Budget Review.

Legal Expenses

- 5 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.

The table that follows indicates the allocated budget and actual legal expenditure within Council on a fund basis as at 31 March 2023.

10 Total Legal Income & Expenditure as at 31 March 2023

Program	2022/2023 Budget (\$)	Actual (\$)	Percentage To Revised Budget
Income			
Legal Expenses Recovered	0	25,500	0%
Total Income	0	25,500	0%
Expenditure			
General Legal Expenses	202,600	191,444	94.49%
Total Expenditure General Fund	202,600	191,444	94.49%

Note: At the time of preparing this report, Council has expended and committed additional expenditure of \$95,867 that brings the total legal expenditure for 2022/23 to \$287,311. Taking into account the income of \$25,500, the Legal Services budget is currently \$59,211 over budget. It is proposed to transfer \$100,000 from the Legal Services reserve within this review to cover the shortfall and any further expenditure this financial year.

15

Strategic Considerations

Community Strategic Plan and Operational Plan

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

Legal/Statutory/Policy Considerations

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

20 Financial Considerations

25 The 31 March 2023 Quarter Budget Review of the 2022/2023 Budget has increased the budget position by \$205,000. This leaves the movement against the unrestricted cash balance attributable to the General Fund to an estimated surplus of \$205,000 for the year, leaving the unrestricted cash balance attributable to the General Fund at an estimated \$0 at 30 June 2023.

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It is the view of the Responsible Accounting Officer that the short term financial position of the Council is still satisfactory for the 2022/2023 financial year, having consideration of the original estimate of income and expenditure at the 31 March 2023 Quarter Budget Review.

- 5 This opinion is based on the estimated General Fund Unrestricted Cash Result position and that the current indicative budget position for 2022/2023 outlined in this Budget Review is further improved through the remaining quarterly budget review for the 2022/2023 financial year. Council must remember it has a short term financial goal of maintaining \$1,000,000 in unrestricted cash.

- 10 Of particular concern to Council is the ongoing cash flow issues around the flood recovery and the timing of receiving Natural Disaster Funding from the NSW State Government. In the lead up to 30 June 2023, Council must endeavour to recover as much outstanding payments via claims to improve the cash position and funding of reserves given the forecast position of no unrestricted cash balance. Currently Council is due approximately \$4.6million in outstanding flood recovery expenditure through the NSW Reconstruction
- 15 Authority, Public Works Advisory and Transport for NSW. This Budget Review is assuming this funding will be mostly recovered before 30 June 2023.

Report No. 13.4 Council Investments - 1 April 2023 to 30 April 2023

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

5 **File No:** I2023/689

Summary:

This report includes a list of investments and identifies Council's overall cash position for the period 1 April 2023 to 30 April 2023 for information.

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

15 **RECOMMENDATION:**

That Council notes the report listing Council's investments and overall cash position as of 30 April 2023.

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Report

Council has continued to maintain a diversified portfolio of investments. As of 30 April 2023, the average 90-day bank bill rate (BBSW) for the month was 3.66%. Council's performance for April 2023 was 3.59%.

- 5 As investments mature Council should begin to see increased rates due to the recent Reserve bank increase in cash rates. The table below identifies the investments held by Council as at 30 April 2023

Schedule of Investments held as at 30 April 2023

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Int. Rate	Current Value (\$)
15/11/18	1,000,000.00	NSW Treasury Corp (Green Bond)	N	AAA	15/11/28	Y	B	3.00%	974,750.00
20/11/18	1,000,000.00	QLD Treasury Corp (Green Bond)	N	AA+	22/03/24	Y	B	1.78%	996,110.00
28/03/19	1,000,000.00	National Housing Finance & Investment Corporation	Y	AAA	28/03/29	Y	B	2.38%	935,660.00
21/11/19	1,000,000.00	NSW Treasury Corp (Sustainability Bond)	N	AAA	20/03/25	Y	B	1.25%	960,860.00
27/11/19	500,000.00	National Housing Finance & Investment Corp	Y	AAA	27/05/30	Y	B	1.52%	434,200.00
15/06/21	500,000.00	National Housing Finance & Investment Corp	Y	AAA	01/07/31	Y	B	1.99%	503,190.00
06/09/21	1,000,000.00	Northern Territory TCorp	N	Aa3	15/12/26	Y	B	1.40%	1,000,000.00
16/09/21	1,000,000.00	QLD Treasury Corp (Green Bond)	N	AA+	02/03/32	Y	B	1.83%	805,020.00

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Int. Rate	Current Value (\$)
04/01/23	2,000,000.00	NAB	P	AA-	04/05/23	N	TD	3.97%	2,000,000.00
05/01/23	2,000,000.00	NAB	N	AA-	05/05/23	N	TD	4.07%	2,000,000.00
01/02/23	2,000,000.00	NAB	N	AA-	02/05/23	N	TD	3.95%	2,000,000.00
14/02/23	2,000,000.00	NAB	N	AA-	14/06/23	N	TD	4.20%	2,000,000.00
14/02/23	1,000,000.00	Macquarie Bank Ltd	P	AA-	16/05/23	N	TD	4.10%	1,000,000.00
21/02/23	1,000,000.00	Macquarie Bank Ltd	N	AA-	23/05/23	N	TD	4.21%	1,000,000.00
21/02/23	2,000,000.00	NAB	N	AA-	21/06/23	N	TD	4.24%	2,000,000.00
23/02/23	1,000,000.00	Macquarie Bank Ltd	N	AA-	25/05/23	N	TD	4.21%	1,000,000.00
23/02/23	2,000,000.00	Bank of QLD	P	BBB+	23/06/23	N	TD	4.30%	2,000,000.00
28/02/23	2,000,000.00	NAB	N	AA-	28/06/23	N	TD	4.31%	2,000,000.00
03/03/23	1,000,000.00	Macquarie Bank Ltd	N	AA-	01/06/23	N	TD	4.27%	1,000,000.00
13/03/23	2,000,000.00	NAB	N	AA-	13/06/23	N	TD	4.30%	2,000,000.00
16/03/23	1,000,000.00	AMP Bank	P	BBB	15/06/23	N	TD	3.95%	1,000,000.00
23/03/23	1,000,000.00	Macquarie Bank Ltd	N	AA-	22/06/23	N	TD	4.43%	1,000,000.00
23/03/23	1,000,000.00	Macquarie Bank Ltd	N	AA-	29/06/23	N	TD	4.43%	1,000,000.00
28/03/23	1,000,000.00	Police Bank	P	BBB	26/07/23	Y	TD	4.35%	1,000,000.00
04/04/23	2,000,000.00	Auswide Bank Ltd	P	BBB	04/07/23	Y	TD	4.55%	2,000,000.00
05/04/23	1,000,000.00	NAB	N	AA-	04/07/23	N	TD	4.35%	1,000,000.00
11/04/23	2,000,000.00	NAB	N	AA-	11/07/23	N	TD	4.35%	2,000,000.00
19/04/23	1,000,000.00	Bank of QLD	N	BBB+	14/07/23	N	TD	4.45%	1,000,000.00
20/04/23	1,000,000.00	AMP Bank	N	BBB	20/07/23	N	TD	4.50%	1,000,000.00

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Int. Rate	Current Value (\$)
26/04/23	1,000,000.00	Macquarie Bank Ltd	N	AA-	26/07/23	N	TD	4.42%	1,000,000.00
27/04/23	1,000,000.00	AMP Bank	N	BBB	20/07/23	N	TD	4.45%	1,000,000.00
N/A	21,505,171.16	CBA Business Saver	P	AA-	N/A	N	CALL	3.25%	21,505,171.16
N/A	661,155.32	CBA Business Saver – Tourism Infrastructure Grant	N	AA-	N/A	N	CALL	3.70%	661,155.32
N/A	10,298,033.87	Macquarie Accelerator Call	N	A	N/A	N	CALL	3.35%	10,298,033.87
Total	72,464,360.35						AVG	3.59%	72,074,150.35

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Note 1. CP = Capital protection on maturity

N = No Capital Protection

Y = Fully covered by Government Guarantee

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

Note 2. No Fossil Fuel ADI

Y = No investment in Fossil Fuels

N = Investment in Fossil Fuels

U = Unknown Status

Note 3.	Type	Description	
	B	Bonds	Principal can vary based on valuation, interest payable via a fixed interest, payable usually each quarter.
	FRN	Floating Rate Note	Principal can vary based on valuation, interest payable via a floating interest rate that varies each quarter.
	TD	Term Deposit	Principal does not vary during investment term. Interest payable is fixed at the rate invested for the investment term.
	CALL	Call Account	Principal varies due to cash flow demands from deposits/withdrawals. Interest is payable on the daily balance.

Environmental and Socially Responsible Investing (ESRI)

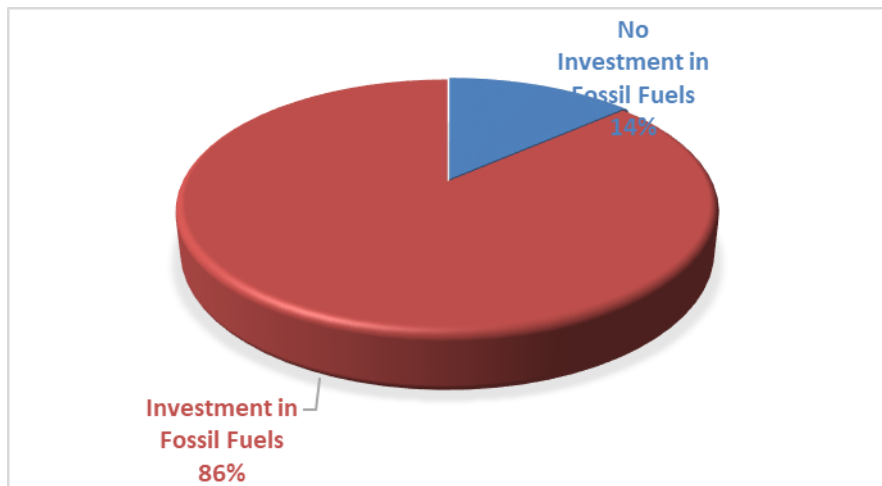
An additional column has been added to the schedule of Investments to identify if the financial institution holding the Council investment has been assessed as a 'No Fossil Fuel' investing institution. This information has been sourced through

5 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.

10 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.

15



Investment Policy Compliance

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%	69%	Meets policy
A+ to A-	A1	60%	26%	Meets policy
BBB to NR	A2,NR	40%	6%	Meets policy

NSW Treasury Corporation Compliance – Loan Borrowing Conditions

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

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

Tcorp compliance						
% should not exceed the following			Counterparty Limit	Tenor	ACTUAL	Variance
Tcorp	100%	100%	100%	N/A	0%	Meets policy
AAA	100%	100%	100%	N/A	6%	Meets policy
AA+ to AA-	100%	100%	100%	5Y	63%	Meets policy
A+ to A	100%	100%	100%	3Y	25%	Meets policy
A-	40%	40%	40%	3Y	0%	Meets policy
BBB+	30%	10% 3 Years	3Y	3Y	3%	Meets policy
BBB		5% 12 Months	1Y	1Y	3%	Meets policy
BBB- and below (local ADI'S)	5%	5% 12 Months	1Y	1Y	0%	Meets policy
BBB- and below (other)		250,000	1Y	1Y	0%	Meets policy

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

- 10 Meeting the NSW Treasury Corporation compliance means Council will be limited in taking up investments that may be for purposes associated with Environmental and Socially Responsible outcomes. Investments which do not comply with NSW Treasury Corporation requirements and investments with financial institutions that do not support fossil fuels will have to be decreased due to their credit rating status or lack of credit rating.
- 15 The investment portfolio is outlined in the table below by investment type for the period 1 April 2023 to 30 April 2023:

Dissection of Council Investment Portfolio as at 30 April 2023

Principal Value (\$)	Investment Linked to:	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
33,000,000.00	Term Deposits	33,000,000.00	0.00
21,505,171.16	CBA Business Saver	21,505,171.16	0.00
661,155.32	CBA Business Saver – Tourism Infrastructure Grant	661,155.32	0.00
10,298,033.87	Macquarie Accelerator	10,298,033.87	0.00
7,000,000.00	Bonds	6,609,790.00	(390,210.00)
72,464,360.35	Total	72,074,150.35	(390,210.00)

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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 2023 as follows:

Dissection of Council's Cash Position as at 30 April 2023

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Investments Portfolio			
Term Deposits	33,000,000.00	33,000,000.00	0.00
CBA Business Saver	21,505,171.16	21,505,171.16	0.00
CBA Business Saver – Tourism Infrastructure Grant	661,155.32	661,155.32	0.00
Macquarie Accelerator	10,298,033.87	10,298,033.87	0.00
Bonds	7,000,000.00	6,609,790.00	(390,210.00)
Total Investment Portfolio	72,464,360.35	72,074,150.35	(390,210.00)
Cash at Bank			
Consolidated Fund	2,628,305.96	2,628,305.96	0.00
Total Cash at Bank	2,628,305.96	2,628,305.96	0.00
Total Cash Position	75,092,666.31	74,702,456.31	(390,210.00)

Strategic Considerations

Community Strategic Plan and Operational Plan

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

Legal/Statutory/Policy Considerations

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

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

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

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

Financial Considerations

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

25

Report No. 13.5 Grants March 2023

Directorate: Corporate and Community Services

Report Author: Donna Johnston, Grants Coordinator

File No: I2023/742

5 **Summary:**


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

10

RECOMMENDATION:

That Council notes the Report and Attachment 1 (#E2023/47683) for Byron Shire Council's Grant submissions as at 30 April 2023.

15 **Attachments:**

- 1 Grant submissions as at 30 April 2023, E2023/47683 

Report

Currently Council has eighteen Grant applications awaiting determination (refer to Grants Submissions as at 30 April 2023 - Attachment 1, E2023/47683).

Successful applications

- 5 There were no successful notifications in April.

Unsuccessful / withdrawn applications

There were no unsuccessful notifications in April.

Applications submitted

The following applications were submitted during April 2023.

Funding Body	Funding scheme	Project name	Total project value \$	Amount requested \$	Council Contribution \$
NSW EPA	Litter Prevention Grant Program	Litter Prevention Plan and Roadmap	\$94,500	\$94,500	\$4,500 (in-kind)
Department of Planning and Environment	Floodplain Management 2023	Saltwater Creek - Mullumbimby upgrade assessment and mitigation options (design)	\$120,000	\$79,998	\$40,002

10

Upcoming Grant opportunities

[Arts and Cultural Assets Program \(ECAP Arts\) - Create NSW](#) – closes 22 May 2023.

- 15 The Community Local Infrastructure Recovery Package – Arts and Cultural Assets Program (ECAP Arts) supports the medium-long term recovery of the arts and cultural sector by providing funding for the restoration, replacement and betterment of directly damaged arts and cultural infrastructure most impacted by the severe weather and flood events of February and June 2022. The funding supports arts and cultural organisations to rebuild and recover and provide arts and cultural experiences that are crucial to community wellbeing.

Applications are being prepared for:

1. Public Art EOI project to replace the deteriorating Lawson Street mosaic roundabouts.

5

The public art would be commissioned by an EOI process and located within the Byron town Centre CBD. It would not be located on the roundabouts; the art on the roundabout infrastructure would be decommissioned. A report is being prepared to the Arts & Creative Industries Advisory Committee on this project.

2. Kohinur Hall Betterment

10

Installation of solar, batteries and landscaping at Kohinur Hall to support community arts and cultural facility to maintain and/or return to operations following the natural disaster event.

[Growing Regional Economies Fund | NSW Government](#) – EOI closes 23 May 2023

15

The \$175 million Growing Regional Economies Fund is part of the NSW Government's \$3.3 billion Regional Growth Fund and is designed to deliver economic growth and productivity across regional NSW.

Council has endorsed an application for the access roundabout for Lot 12 Bayshore Drive.

[Growing Regions Program Round 1 | business.gov.au](#) – EOI closes 5 July 2023

20

The Australian Government's Growing Regions Program – Round 1 will deliver Grants up to a maximum of \$15,000,000 over 3 years to deliver community infrastructure projects. 50% co-contribution is required.

The programs aim to deliver community and economic benefits by investing in community-focused infrastructure which revitalises regions and enhances amenity and liveability throughout regional Australia.

The objectives of the program are:

25

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

30

Council will receive a report in June 2023 on a potential project nomination, including Bioenergy.

Strategic Considerations

Community Strategic Plan and Operational Plan

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

Legal/Statutory/Policy Considerations

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

Financial Considerations

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

The potential funding is detailed below:

15	Funding applications submitted and awaiting notification (total value)	\$26,193,758
	Requested funds from funding bodies	\$22,742,141
	Council contribution cash	\$55,002
	Council co-contribution in-kind	\$153,746
20	Other contributions	\$3,257,369

Funding determined in April 2023

Successful applications	\$0 (total project value)
Unsuccessful/withdrawn applications	\$0 (total project value)

Consultation and Engagement

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

Report No. 13.6 Mayor and Councillor Remuneration 2023/24

Directorate: Corporate and Community Services

Report Author: Heather Sills, Manager Corporate Services

File No: I2023/734

5 Summary:

The Local Government Remuneration Tribunal has handed down its report and determination on fees for Councillors and Mayors for the 2023/24 financial year. A copy of the report is provided in attachment 1 (E2023/47022).

10 The Tribunal determined a 3% per annum increase in the minimum and maximum fees applicable to each category, effective 1 July 2023 and 26 councils were recategorized into a higher existing category or placed in a new category.

Byron Shire Council's request to be reclassified from the current category of Regional Rural into Regional Centre was successful. From 1 July, Byron Shire Council will be reclassified to Regional Centre and a new fee range will apply.

15 This report outlines the Tribunal's fee range and the proposed Mayor and Councillor fees for 2023/24, including the option to pay Councillors a superannuation payment.

20 RECOMMENDATION:

That Council:

1. Fixes the fee payable to each Councillor under section 248 of the *Local Government Act 1993* for the period 1 July 2023 to 30 June 2024 at \$26,070.
- 25 2. Fixes the fee payable to the Mayor under section 249 of the *Local Government Act 1993*, for the period from 1 July 2023 to 30 June 2024 at \$64,390.
3. Not determine a fee payable to the Deputy Mayor, in accordance with current practice.

Attachments:

- 30 1 Local Government Remuneration Tribunal - Determination 2023, E2023/47022 

Report

Each year the Local Government Remuneration Tribunal (Tribunal) must determine, in each of the categories determined under section 239 of the *Local Government Act 1993* the maximum and minimum amounts of fees to be paid during the following year to councillors and mayors.

The Tribunal has released its 2023/24 Determination, in summary:

- a **3% per annum increase** in the minimum and maximum fees will apply to each category, effective 1 July 2023
- twenty six (26) councils have been recategorised into a higher existing category or placed in a new category

Byron Shire Council requested to be reclassified from the current category of Regional Rural into Regional Centre (**22-700**). The Tribunal supported this request and from 1 July, Byron Shire Council will be reclassified to Regional Centre and a new fee range will apply.

The Tribunal was of the view that non-resident population criteria should be included in their determination of categories. Accordingly, Byron Shire, which was on the cusp of the 40,000 population threshold now satisfies this criteria. This recategorisation places Council in the same category as Ballina and Lismore.

The Remuneration Tribunal has determined the maximum and minimum amounts of fees to be paid during the 2023/24 financial year. As Byron Shire Council is to be categorised as a Regional Centre, and the appropriate fee range is as follows:

Category	Councillor/Member Annual Fee (\$) effective 1 July 2023		Mayor/Chairperson Additional Fee* (\$) effective 1 July 2023	
	Minimum	Maximum	Minimum	Maximum
Regional Centre	14,810	26,070	30,820	64,390

**This fee must be paid in addition to the fee paid to the Mayor/Chairperson as a Councillor/Member (s.249(2) of the Local Government Act 1993).*

Currently the annual fees payable to Councillors and the Mayor for the 2022/23 financial year are the maximum fee fixed at \$21,100 per annum for a Councillor, and an additional fee of \$46,040 for the Mayor.

In making its determination, the Remuneration Tribunal reviewed the key economic indicators, including the Consumer Price Index and Wage Price Index, and determined a 3 per cent increase. The 3 per cent increase will apply to the minimum and maximum of the ranges for all existing categories.

A full version of the determination is provided in Attachment 1.

Strategic Considerations

Community Strategic Plan and Operational Plan

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

Recent Resolutions

5 **22-222** - resolved to make a superannuation contribution payment to its councillors in accordance with section 254B of the Act.

22-070 - endorsed the submission to the Local Government Remuneration Tribunal on the fees payable to Mayors and Councillors in 2023/24 and sought recategorisation to 'Regional Centre,'

Legal/Statutory/Policy Considerations

10 [Section 248](#) of the *Local Government Act 1993* states:

- (1) A council must pay each councillor an annual fee.
- (2) A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.
- (3) The annual fee so fixed must be the same for each councillor.
- 15 (4) A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.

[Section 249](#) of the *Local Government Act 1993* further states:

- (1) A council must pay the mayor an annual fee.
- (2) The annual fee must be paid in addition to the fee paid to the mayor as a councillor.
- 20 (3) A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.
- (4) A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.
- 25 (5) A council may pay the deputy mayor (if there is one) a fee determined by the council for such time as the deputy mayor acts in the office of the mayor. The amount of the fee so paid must be deducted from the mayor's annual fee.

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[Section 250](#) of the *Local Government Act 1993* states that fees are payable monthly in arrears for each month (or part of a month) for which the councillor holds office.

[Section 254B](#) of the *Local Government Act 1993* relates to the payment of a superannuation contribution, which came into effect on 1 July 2022.

5 Financial Considerations

The draft 2023/24 Budget was prepared prior to the determination by the Tribunal and includes a total allocation of \$240,600 for Councillor Fees and the Mayoral Allowance, and \$25,300 for superannuation payments. Council's determination in respect of fees payable to Mayor and Councillors will be incorporated into the draft budget prior to being reported to Council in June 2022.

Councillors and Mayoral fees currently paid:

	\$21,100 each x 9	=	\$189,900
	Plus Mayor additional fee	=	\$ 46,040
15	Total Paid		\$235,940

Councillors and Mayoral fees 2023/24 increased to maximum set by the Tribunal*:

	\$26,070 each x 9	=	\$234,630
	Plus Mayor additional fee	=	\$ 64,390
20	Total Paid		\$299,020

Superannuation contribution payments:

Council resolved (22-222) to make a superannuation contribution payment to its councillors in accordance with section 254B of the Act. In 2023/24 this will be payable at the rate of 11%, which is equivalent to amount under the Commonwealth superannuation legislation if the councillor were an employee of the Council. The rate increases by 0.5% percent each year until 1 July 2025 when it reaches 12%. This payment is in addition to Councillor fees.

$$11\% \times \$299,020^* = \mathbf{\$32,892}$$

*based on the assumption that councillors will determine to receive the full contribution.

Councillors are required nominate a superannuation account or if they do not wish to receive a superannuation contribution payment, may agree in writing to forgo or reduce the payment.

Allowance for Deputy Mayor

Section 249 (Clause 5) of the *Local Government Act 1993* states that:

A council may pay the deputy mayor (if there is one) a fee determined by the council for such time as the deputy mayor acts in the office of the mayor. The amount of the fee so paid must be deducted from the mayor's annual fee.

- 5 As stated in the above clause, Council is not bound to set a fee, but if it so chooses must deduct that sum from the amount available under the Mayoral allowance.

- 10 Current practice is that the payment of a fee for an acting period by Deputy Mayor undertaking the role of Mayor, would apply only in instances where the Mayor has leave of absence endorsed by Council, and any pro rata fees would be deducted from the Mayoral allowance, where agreed on a case by case basis in accordance with section 249 of the *Local Government Act 1993*.

Consultation and Engagement

- 15 The Remuneration Tribunal consults with local governments to arrive at its determination. Byron Shire Council made a submission to the Remuneration Tribunal requesting recategorisation. Council has an adopted view that the current maximum fees for Councillors and Mayors are inadequate for the roles and responsibilities.

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Report No. 13.7 Proposed Wildlife Protection Area - 'Old New Brighton Road, Ocean Shores'

5 **Directorate:** Sustainable Environment and Economy

Report Author: Sarah Nagel, Manager Public and Environmental Services

File No: I2023/625

Summary:

Council resolved to place the proposed Wildlife Protection Area on public exhibition.

10 The public exhibition period was for six weeks, during which no submissions were received.

Council resolved to receive a submission report following the public submission period.

This report recommends that Council resolves to implement the proposed Wildlife Protection Area without amendment.

15

RECOMMENDATION:

20 **That Council implements the proposed Wildlife Protection Area – 'Old New Brighton Road, Ocean Shores'**

Report

- 5 Council resolved via **22-703** that the proposed Wildlife Protection Area – ‘Old New Brighton Road, Ocean Shores’ (“the WPA”) be placed on public exhibition for six weeks to allow for submissions and that a submissions report be provided following that public exhibition period [Minutes of Ordinary Meeting - Thursday, 15 December 2022 \(infocouncil.biz\)](#)

The WPA was placed on public exhibition for a period of six weeks, ending 26 April 2023. During that period, Council received no submissions.

Strategic Considerations

10 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	2.2.4: Companion animals - Promote awareness of the requirements of the Companion Animals Act with respect to the ownership of companion animals	2.2.4.4	Develop Dogs in Public Space Strategy

Recent Resolutions

- Resolution **18-362**
- Resolution **20-727**
- Resolution **22-208**
- 15 • Resolution **22-420**
- Resolution **22-738**
- Resolution **22-703**

Legal/Statutory/Policy Considerations

- Biodiversity Conservation Act 2016
- 20 • Companion Animals Act 1998

- Environment Protection and Biodiversity Conservation Act 1999
- Byron Coast Comprehensive Koala Plan of Management 2016
- Dogs in Public Space Strategy
- Guide to Dog Areas in the Byron Shire

5 Financial Considerations

None relevant to this report.

Consultation and Engagement

Public consultation and engagement as outlined in the body of this report.

Report No. 13.8 Compliance Priorities Program Report 2022

Directorate: Sustainable Environment and Economy

Report Author: Sarah Nagel, Manager Public and Environmental Services

File No: I2023/57

5 Summary:

This report details activities undertaken between **1 January 2022 and 31 December 2022** to meet the adopted 2022 Compliance Priorities Program.

A discussion regarding Council's 2023 Compliance Priorities Program and resourcing attached to it is provided in a separate report to this Council meeting.

10

RECOMMENDATION:

15 That Council notes the report on activities and achievements of staff undertaken to meet the Compliance Priorities Program 2022.

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Report

Between **1 January 2022 and 31 December 2022** (“the reporting period”), the Animal Enforcement Officers, Community Enforcement Officers, Parking Enforcement Officers and Environmental Health Officers (“the Team”) received **3,624** Customer Request Management (“CRMs”). This was a reduction from **4,117** in the 2021 year.

The 2022 CRMs are broken down into categorises below:

MAJOR CATEGORY	MINOR CATEGORY	2022	2021	Finalised 2022
ANIMALS	Dogs	721	653	696
	Cats	36	40	34
	Livestock	34	39	34
	Unregistered	17	26	16
	Poultry	16	7	16
	Deceased	1	6	0
	Rabbits	1	1	1
Total		826	772	797
BUSKERS	No Permit	20	7	20
Total		20	7	20
CAMPING	Camping	420	520	400
Total		420	520	400
FIRE	Hazard	1	4	0
	Fire Safety	1	0	1
TOTAL		2	4	1
HEALTH	Food Premises	26	30	24
	Other	8	7	4
	Asbestos	4	7	3
	Chem Spray	4	1	2
	Food Poisoning	4	6	3
	Water Quality	4	3	2
	Odour	2	0	0
	General	2	2	2

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MAJOR CATEGORY	MINOR CATEGORY	2022	2021	Finalised 2022
	Mosquito	2	7	1
	Building	0	2	2
	Covid	0	39	0
TOTAL		56	104	43
Illegal Works	Building	301	259	204
	Development	133	295	97
	Land Use	92	114	73
	Clear Land	71	89	63
	Business	60	74	49
	Earthworks	59	21	49
	Holiday Letting	17	11	11
	Swimming pool	7	6	2
	Fire Safety	4	3	1
	Wedding	1	0	1
TOTAL		745	872	550
Pollution	Noise	176	195	154
	Air	42	40	38
	Water	26	28	19
	Land	19	13	18
	Light	4	13	3
	Odour	4	9	3
TOTAL		271	298	235
Vehicles	Parking	665	758	650
	Abandoned	484	396	448
	For Sale	10	7	10
TOTAL		1159	1161	1108

Note: Some CRMs were carried over from the previous reporting period and completed in this period.

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In the last reporting period, the **illegal dumping** team and the enforcement team entered into a formal service level agreement. Under this agreement the Resource Recovery Department remain primarily responsible for Council's response to illegal dumping incidents. This includes education and awareness, prevention, infrastructure, and evaluation activities. Whereas, the enforcement team undertakes all necessary enforcement activities, where enough evidence is available and enforcement measures are deemed necessary by the Waste Education and Compliance Officer in the Resource Recovery Department.

The team also continues to expand in relation to the engagement and provision of referrals to appropriate support and housing services for **people experiencing homelessness and rough sleeping**.

The vast majority of the team's work was again dominated by **vehicle, illegal works, animals, and camping**. Complaints received in relation to camping and illegal works have reduced in the last twelve months. Complaints relating to vehicles were similar to the previous year and animal complaints increased.

By way of general comment for the period:

- the team has maintained an ongoing public presence since the pandemic and during the two natural disasters to support the delivery of council operations and maintain community safety standards;
- the team has displayed resilience and adaptability by their ability to frequently alter their approach and response depending on the circumstances and challenges in the field whilst also supporting the community;
- the team was enhanced with the addition of an Animal Education & Enforcement Officer by way of grant funding for flood impacted councils;
- the amended illegal camping fine strategy (commenced in 2019) continued to prove more effective in relation to officer safety (particularly during COVID-19), higher number of fines issued, higher payment of fines, less Court appeals, reduced CRMs and a more effective deterrent of illegal camping in hot spot areas. The team continued to work effectively with Infrastructure Services to identify further areas that will benefit from early morning parking restrictions.

The enforcement team continues to make best endeavours to respond to all manner of compliance priority duties across the whole of the Shire. This is undertaken in the context of a rotating roster. The start and finish times on the roster, as well as the days, are continuously varied to accommodate the need to patrol numerous places in towns, villages and the coast and due to time of year. This is balanced against the requirement for the roster to also observe State Award and Workplace Health and Safety requirements for officers. Patrols and rostering also considers requests by Police and State Agencies for periodic joint activities in the field.

CRMs will otherwise continue to be responded to as per the adopted Priorities Program and/or as resources permit their re-prioritisation.

Year end results

The following information is provided on the implementation and specific actions taken in relation to the adopted 2022 Compliance Priorities Program.

Very High Priorities:

- 5 **1.1 Developments, actions, works, activities or uses that places people's lives at immediate risk or that cause or are likely to cause a significant risk of environmental harm or pollution.**

In the reporting period Council received **745** CRMs relating to illegal works which was a reduction from **811** in the previous reporting period.

- 10 Not all of those CRMs fell into this priority although the percentage concluded is accurate for this priority. Developments, actions, works, activities or uses that places people's lives at immediate risk or that cause or are likely to cause a significant risk of environmental harm or pollution were generally actioned within 24 hours.

- 15 Under the terms of the *Environmental Planning and Assessment Act 1979*, Council served **210** notices of entry to inspect premises in relation to unauthorised building works, activities and uses. This was a reduction from **270** in the previous reporting period, consistent with the reduced CRMs received.

1.2 Significant environmental and public health incidents.

In the reporting period Council:

- 20 • issued **222** notices and orders under the *Local Government Act 1993*, *Environmental Planning and Assessment Act 1979* and *Protection of the Environment Operations Act 1997*. This was a significant increase from **167** in the previous reporting period and **53** in the period prior to that.
- 25 • issued **15** penalty infringement notices under the *Environmental Planning and Assessment Act 1979* with a total value of \$66,000. Whilst the number of penalty infringement notices decreased, the value of the infringements increased by \$40,250 compared to the previous reporting period.
- 30 • issued **4** pollution and littering related penalty infringement notices under the *Protection of the Environment Operations Act 1997*, with a total value of \$1,200. There were **5** issued in the previous reporting period.
- 35 • finalised **2** *Environmental Planning and Assessment Act 1979* court elected penalty notices in the Local Court for development without consent. Fines and costs were imposed totalling \$75,000. Whilst this was less than **5** in the previous reporting period, fines and costs were \$39,500 more in this reporting period.
- 35 • successfully finalised **4** Land and Environment Court matters (relating to appeals from Orders issued). This appears to be significantly less than the **14** in the previous reporting period however, the reported 14 included development consent appeals (unrelated to compliance).

1.3 Dangerous and/or menacing dogs.

In the reporting period, there were **721** customer requests made in relation to dogs. An increase from **649** in the previous period. These included:

Customer Request Management Received	2022 (comparison to 2021)
Dogs Attacks	110 (101)
Dogs Barking	177 (128)
Dogs Found	117 (123)
Dogs Nuisance	312 (292)
Dogs Restricted	5 (5)
TOTAL	721 (649)

5 In the reporting period Council:

- served **19** Intentions to Declare a Menacing or Dangerous Dog and issued **17** Orders relating to Menacing or Dangerous Dogs under the *Companion Animals Act 1998*. This totalled **26** intentions and orders, an increase from **20** in the previous period.
- completed daily patrols and issued **100** Companion Animal related penalty infringement notices to the value of \$42,655. This was a substantial increase from **57** in the previous reporting period to the value of \$23,115.
- successfully finalised **14** Local Court prosecutions in relation to a dog. Fines and costs were awarded to Council totalling \$17,500. The number of prosecutions were double to that of the previous reporting period (**7** prosecutions previously) and the financial amount of fines and costs was nearly five times more than the previous reporting period (\$3,645 previously).

1.4 Livestock on public roads

In the reporting period Council:

- received **34** customer requests in relation to cattle on public roads. This was consistent with the previous reporting period.
- issued **1** order requiring a cattle owner to fence their property to ensure cattle do not escape onto public roads (consistent with the previous reporting period).

1.5 Traffic, parking and unapproved camping activity. Camping enforcement with an emphasis on environmentally sensitive areas.

Although fines in this category were restricted during the immediate period after the natural disasters, in the reporting period Council:

- 5 • issued **964** camping related penalty infringement notices with a total value of \$112,752. This was approximately three times that of the previous reporting period which was **332** with a total value of \$38,753.
- issued **10,869** penalty infringement notices in relation to parking with a total value of \$1,910,067. This was an increase from **10,467** in the previous reporting period.
- 10 • obtained **5** convictions in the Local Court in relation to traffic, parking and unauthorised camping offences. In total Council was awarded fines and costs of \$12,549. This was a reduction from **64** in the previous reporting period. This may be linked to the amended approach of issuing parking fines for camping incidents, instead of illegal camping fines. Council also finalised one *Roads Act 1993*
- 15 prosecution in the Local Court and was awarded fines and costs of \$500.
- issued **26** penalty infringement notices in relation to abandoned vehicles with a total value of \$17,380. This was not dissimilar to the previous reporting period.
- completed coordinated patrols and inter-agency working groups with Police, NPWS, Crown Lands and Reflections Holiday Parks on various coastal lands where camping
- 20 and camps were known to be causing community and environmental impacts. This included continued inter-agency action at the Brunswick Heads and Seven Mile Beach areas.

1.6 Asbestos containing material (ACM) being illegally dumped on public land (waste compliance).

- 25 In the reporting period there were **4** reports of asbestos dumping on public land. There were none in the previous reporting period.

High Priorities:

- 30 **2.1 Unauthorised events, wedding receptions, parties, 'doof and rave' parties where significant environmental harm or risk to people's lives.**

Officers have continued to attend to reports of unauthorised events in conjunction with local Police, where necessary. This included **2** 'doof' parties during the Christmas period and **6** during the remainder of the year.

- 35 **2.2 Breaches of the NSW Fair Trading's 'Code of Conduct for the Short-Term Rental Accommodation Industry' where the breach falls within the jurisdiction of Council's enforcement powers.**

Breaches of the NSW Fair Trading's 'Code of Conduct for the Short-Term Rental Accommodation Industry' (where the breach falls within the jurisdiction of Council's

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enforcement powers) was added as a High Priority at 2.2 of the 2022 Compliance Priorities Program.

Under the NSW Government rules for short-term rental accommodation ("STRA"), Councils have a limited role, as most houses/apartments are legally able to operate for STRA without specific approval for the accommodation use.

However, Council can respond to breaches of the Code regarding failure to register a premises on the premises register and use of a premises for a period exceeding the days permitted; in addition to compliance issues that have historically fallen within the jurisdiction of Council including (but not limited to) fire safety, noise, parking, dog issues, neighbourhood amenity issues and other breaches of the State Environmental Planning Policies.

11 STRA complaints were received by Council and responded to during the reporting period.

In addition to monitoring the STRA Register, the team monitored CRMs in relation to recurring issues raised by the operation of STRA. The team continued to respond to compliance issues within the jurisdiction of Council's enforcement powers but did not undertake or report any formal compliance action to NSW Fair Trading (who enforce the 'Code of Conduct for the Short-Term Rental Accommodation Industry') during the reporting period as the circumstances did not arise.

Currently, there are existing consent conditions imposed on some residential properties within the Shire that plainly prohibit use of the property as holiday or tourist and visitor accommodation. Whilst not specifically incorporated under the definition of "tourist and visitor accommodation" under the *Byron Local Environmental Plan 2014* ("Byron LEP 2014"), STRA would fit under that definition (it is "short term accommodation on a commercial basis").

As a consequence of the operation of section 4.2 of the *Environmental Planning and Assessment Act*, it is not lawful to operate a residence as STRA if the residence has an existing consent condition prohibiting that use, as it is contrary to a condition of development consent.

Council resolved via **23-056** [Minutes of Ordinary \(Planning\) Meeting - Thursday, 9 March 2023 \(infocouncil.biz\)](#) to undertake enforcement of these consent conditions.

Monitoring of CRMs and the STRA Register will continue and may assist Council in capturing sufficient data and evidence to identify if significant land use conflict is occurring in particular localities. Council might then use this data to inform the appropriate State Government agencies directly responsible with this legislation and hence assist in developing future compliance or educational material and programs.

2.3 Responses to complaints about recurring noise disturbance, public nuisance from premises, maintenance of alcohol-free zones.

In the reporting period, **176** noise complaints were received and responded to, a slight reduction from **195** in the previous reporting period.

- 5 The team continued to work closely with local police and Infrastructure Services to maintain no-alcohol signage in hot spot areas and/or during events.

2.4 Uncontrolled dogs and/or cats including those kept on land where Policy or Development Consent prohibits it.

- 10 During the reporting period, notifications of uncontrolled dogs and or cats were actioned on a case-by-case basis and reported as CRMs. During the period, the team concluded the 'Dogs in Public Spaces Strategy' and clarified dog prohibited areas within the Shire via the 'Guide to Dog Areas in the Byron Shire'. The team also continued participation in the 'Keeping Cats Safe at Home' project, in conjunction with the RSPCA.

Medium Priorities:

- 15 **3.1 Development or activities without consent, or non-compliance with consent, permit or licence conditions where these appear to pose no immediate threat to life, property, public health or the environment;**

- 20 In the reporting period, non-compliance with consent conditions were routinely responded to during the course of the abovementioned **210** formal inspections in relation to unauthorised building works, activities and uses.

3.2 Non-compliant signage (07-550, 06-204).

In the reporting period, Council impounded **43** unauthorised banners and signs. This was the same as in the previous reporting period.

25 **Routine Priorities:**

- (a) Companion Animals with a high emphasis on high visibility enforcement and public education (15-465 and 22-208).
 - (b) Seasonal public health issues and community preparedness including issuing a minimum of two media releases.
 - 30 (c) Tourist and visitor accommodation swimming pool safety, including legislative requirements.
 - (d) Onsite sewage management systems (including CERC project).
 - (e) Food Safety Inspections.
 - (f) Awareness of current public health requirements.
- 35 Animal Enforcement Officers undertook a daily proactive and highly visible enforcement and education approach to dog exercise areas within the Shire. The focus on continued increase of public presence, compared to previous reporting periods, was supported by the introduction of an Animal Education & Enforcement Officer.

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During the reporting period **113** swimming pools were inspected (**105** in the previous reporting period). **70** were satisfactory and **43** were unsatisfactory, requiring reinspection. This included **81** dwellings with **7** in the category of short-term-rental-accommodation, **5** tourist facilities and **7** multi-dwelling properties. In the period, **69** swimming pool compliance certificates were issued and **16** non-compliant swimming pool certificates.

In the reporting period, **295** inspections of fixed food premises, **120** inspections of temporary food premises and **69** inspections of mobile food premises were conducted. Festivals/events/markets significantly recommenced within the Shire since February 2020 (due to COVID-19) but were also impacted by natural disasters.

During the reporting period, Council issued **2** penalty infringement notices under the Food Act with a total value of \$1,760.00. This was consistent with the previous reporting period.

All other customer requests that did not fall within the very high priority category were dealt with via routine advisory correspondence or direct contact with the customer as time permitted.

Homelessness and rough sleepers

During the reporting period the Public Space Liaison Officers engaged with **805** people, being less than the previous reporting period (**999**). They made **115** referrals (**208** in previous period), provided **526** people with information (**679** in previous period), provided **75** people with material aid (**36** in previous period), undertook **126** joint patrols with various services (**147** in previous period), organised **4** clean-ups (**26** in previous period), made **12** temporary accommodation referrals to the Department of Communities and Justice (**39** in previous period) and added **6** people to the 'By Name List' (which was not formalised in the previous reporting period). The Officers participated in **51** local meetings. The reduction in numbers during this reporting period may have been a result of disrupted staffing during the period.

Overall achievements 2022

- The team took an active public-facing role in the immediate aftermath of the natural disasters – being present in the community, responding to community concerns, supporting other staff, supporting the community, and quickly adapting to changes.
- All officers displayed a high-level degree of discretion and resilience dealing with the effects of the disasters, managing their workloads, and altering their responses to members of the public who were/still are affected by disaster.
- The Public Space Liaison Officers worked closely with the Fletcher Street Cottage opening and continued working closely to support operational improvements.
- The Public Space Liaison Officers have developed a strong presence in the Byron Shire community and within Council. They continue to receive positive feedback through engagement with several local services including Fletcher Street Cottage, Homeless Health Outreach Team, Orange Sky, Social Futures, Mullumbimby District

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Neighbourhood Centre and Bruns Brekkie. The Officers continue to build rapport with service users through their ongoing presence in community.

- 5 • The Public Space Liaison Officers participated in collaborative work across Council, including the Service Coordination Group through End Street Sleeping Collaboration. They attended the Australian Zero Homelessness Summit and AHURI National Homelessness Conference.
- 10 • In February 2022, the Public Space Liaison Officers, with the support of Enforcement Officers, participated in Department of Communities and Justice's Street count.
- 10 • The Environmental Health Officers provided assistance to food businesses, particularly mobile food/markets returning to the Shire following COVID-19 restrictions and to fixed food premises during flood recovery.
- 15 • In the aftermath of the natural disasters, the Environmental Health Officers undertook expanded monitoring and reporting of recreational water quality.
- 15 • The Environmental Health Officers extended their working relationship with NSW Public Health and commenced the introduction of a number of services that were previously not undertaken by Council; including inspections of: public swimming pools, skin penetration businesses, cooling towers and UPSS in addition to increased surveillance for the JEV programme (mosquito trapping).
- 20 • There was a continued focus on carrying out well planned targeted operations in relation to unauthorised camping, littering, alcohol free zones, parking enforcement, unauthorised activities and development. This included continued inter-agency working groups in relation to Seven Mile Beach and Brunswick Heads; as well as joint-division projects in relation to illegal dumping and alcohol-free zones. The officers also undertook joint inspections with Local Police, Liquor Licencing and NSW
- 25 Public Health.
- The management of a signage and regulatory infrastructure process between Infrastructure Services and the Enforcement Team continued.
- Ongoing coordination between the Enforcement Team and the Events Team ensured that the highest and best use of enforcement resources supported returning events
- 30 within the Shire.
- The Parking Team continued to prioritise the safety of local schools by attending and addressing compliance issues for school zones throughout the Shire.
- The Parking Team continued educating the community and improving parking compliance via the implementation of several information brochures and providing
- 35 information in hot spots and/or changing locations.
- The team completed the 'Dogs in Public Spaces Strategy' and the "Guide to Dogs in the Byron Shire" and began its implementation.

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- An Animal Education & Enforcement Officer commenced in the team and launched a Shire wide audit of dog signs, preparation of various community education packages, identified organisations to support education events and undertook an inspection of dog 'hot spots'.
- 5 • The team continued its participation in the RSPCA's 'Keeping Cats Safe at Home' project.
- Staff attended various training sessions to develop skills and competencies within the team. The team also strengthened collaboration with neighbouring Councils and other government agencies.
- 10 • The team progressed reviews of Management of Contaminated Land Policy, On-site Sewage Management Systems in Reticulated Areas Policy, Busking Policy, Commercial Use of Road Reserve Policy, Road Air Space Policy, Footpath Dining Policy, Fundraising Community Organisations Policy, and Companion Animals Exercise Areas Policy.
- 15 • Staff are working in partnership with NPWS to implement an additional Wildlife Protection Area in Ocean Shores.
- The team continued the ongoing review of short-term-rental-accommodation register, complaints, and responses.
- 20 • Officers significantly increased proactive companion animal patrols within dog exercise areas, dog prohibited areas and dog on lead compliance within public spaces, coupled with an increased enforcement approach.
- The Animal Enforcement Officers undertook regular compliance inspections of all menacing/dangerous dogs within the Shire to ensure legislative requirements being observed.
- 25 • PES Administrative staff completed the PETREGISTRY pound survey and enacted new requirements for registrations and delayed desexing requirements.
- PES Administrative staff processed approximately 240 food permits for Splendour, Blues Festival, Falls Festival, Sample Festival and the Byron Writers' Festival.

Other key observations

- 30 • Officers and administrative staff are still managing appropriate responses to several recurrent complainants who provide unsubstantiated and repeated complaints on a variety of lower priority matters, or issues outside of Council's control, which continues to greatly impact resources.
- 35 • The team maintains a close relationship with neighbouring Councils, local Police, NPWS, Crown Lands, Reflections Holiday Parks, NSW Public Health, Marine Parks, Department of Fisheries, Liquor Licencing and Local Land Services to provide cross-

agency responses to various issues. The agencies are also investigating changes to cross-agency infrastructure and signage to assist in proactively managing hot spots.

- 5 • Due to the restrictions of the Public Health Orders and the impacts of the natural disasters, annual companion animal education days were again postponed. However, free cat desexing and microchipping was undertaken via partnership with a local veterinary practice and NSW RSPCA. The new Animal Education & Enforcement Officer will recommence these education activities throughout 2023.

10 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	2.2.2: Public health - Protect, promote and control risks to public health	2.2.2.1	Deliver environmental and public health education programs to the community
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.2: Enhance safety and contribute to the physical, mental, and spiritual health and well being of our people	2.2.2: Public health - Protect, promote and control risks to public health	2.2.2.2	Provide 'I'm Alert' online food education training
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.2: Enhance safety and contribute to the physical, mental, and spiritual health and well being of our people	2.2.2: Public health - Protect, promote and control risks to public health	2.2.2.3	Participate in Beach Watch program from December to April

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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	2.2.2: Public health - Protect, promote and control risks to public health	2.2.2.4	Monitor, investigate and respond to public and environmental health matters through proactive inspections and surveillance programs
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.2: Enhance safety and contribute to the physical, mental, and spiritual health and well being of our people	2.2.2: Public health - Protect, promote and control risks to public health	2.2.2.5	Assist local Public Health Unit in mosquito trapping (JEV surveillance)
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.2: Enhance safety and contribute to the physical, mental, and spiritual health and well being of our people	2.2.2: Public health - Protect, promote and control risks to public health	2.2.2.6	Deliver the Food Premises inspection program
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	2.2.3.1	Undertake proactive camping patrols of streets and public places throughout the Shire
2: Inclusive	2.2: Enhance	2.2.3:	2.2.3.2	Respond to and

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CSP Objective	CSP Strategy	DP Action	Code	OP Activity
Community We have an inclusive and active community where diversity is embraced and everyone is valued	safety and contribute to the physical, mental, and spiritual health and well being of our people	Regulatory controls and compliance - Enhance public safety, health and liveability through the use of Council's regulatory controls and services		investigate complaints against building standards
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	2.2.3.3	Conduct Swimming Pool fence inspections in accordance with relevant legislation
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	2.2.3.4	Conduct Fire Safety inspections in accordance with relevant legislation
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is	2.2: Enhance safety and contribute to the physical, mental, and spiritual health and well being of our people	2.2.4: Companion animals - Promote awareness of the requirements of the Companion Animals Act with	2.2.4.1	Undertake proactive patrols of community parks and open spaces to monitor safe use by dogs and their owners

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CSP Objective	CSP Strategy	DP Action	Code	OP Activity
valued		respect to the ownership of companion animals		
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	2.2.4: Companion animals - Promote awareness of the requirements of the Companion Animals Act with respect to the ownership of companion animals	2.2.4.2	Provide companion animal management services
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	2.2.4: Companion animals - Promote awareness of the requirements of the Companion Animals Act with respect to the ownership of companion animals	2.2.4.3	Facilitate companion animals education
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	2.2.4: Companion animals - Promote awareness of the requirements of the Companion Animals Act with respect to the ownership of companion animals	2.2.4.4	Develop Dogs in Public Space Strategy

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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	2.5: Create social impact and initiatives that address disadvantage	2.5.3: Rough sleepers - Work in partnership to reduce and end rough sleeping through community action	2.5.3.1	Respond to people experiencing homelessness and rough sleepers through engagement and referrals to appropriate support and housing services
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.5: Create social impact and initiatives that address disadvantage	2.5.3: Rough sleepers - Work in partnership to reduce and end rough sleeping through community action	2.5.3.2	Partner with Byron Community Centre to deliver Fletcher Street Cottage (homelessness hub)
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.5: Create social impact and initiatives that address disadvantage	2.5.3: Rough sleepers - Work in partnership to reduce and end rough sleeping through community action	2.5.3.3	Coordinate the Ending Rough Sleeping Byron Shire Collaboration
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.5: Create social impact and initiatives that address disadvantage	2.5.3: Rough sleepers - Work in partnership to reduce and end rough sleeping through community action	2.5.3.4	Facilitate cross-directorate working group on homelessness to strengthen internal collaboration, knowledge exchange, advocacy, and planning

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CSP Objective	CSP Strategy	DP Action	Code	OP Activity
3: Nurtured Environment We nurture and enhance the natural environment	3.2: Deliver initiatives and education programs to encourage protection of our environment	3.2.1: Compliance - Encourage compliance with environmental planning regulations	3.2.1.1	Monitor, investigate and respond to unauthorised land use, development and environment complaints
5: Connected Infrastructure We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable	5.2: Connect the Shire through integrated transport services	5.2.4: Parking - Manage parking through effective controls that support Movement and Place Plans and are coordinated with other initiatives such as park and ride	5.2.4.1	Undertake regular and frequent parking patrols to increase availability and turnover in the Town and Village centres

Recent Resolutions

- 2022-078
- 2022-208
- 2022-232
- 2023-056

5

Legal/Statutory/Policy Considerations

There are a number of Acts which give local government regulatory powers. They include:

- Local Government Act 1993
- Environmental Planning & Assessment Act 1979
- Protection of the Environment Operations Act 1997
- Companion Animals Act 1998
- Roads Act 1993

10

- Road Rules 2014
 - Road Transport Act 2013
 - Public Spaces (Unattended Property) Act 2021
 - Food Act 2003
- 5
- Public Health Act 2010
 - Swimming Pools Act 1992

Compliance action is considered and determined through Council's adopted Enforcement Policy 2020 and the NSW Ombudsman Enforcement Guidelines for Councils.

Financial Considerations

- 10 The priorities program is managed within the existing operational budget allocation.

Consultation and Engagement

Not relevant to this report.

Report No. 13.9 Compliance Resourcing and Priorities

Directorate: Sustainable Environment and Economy

Report Author: Sarah Nagel, Manager Public and Environmental Services

File No: I2023/713

5 Summary:

This report responds to Council Resolution **23-139** requiring a report on the allocation of compliance resources for unauthorised camping patrols, parking patrols and animal enforcement and education programming.

10 This report also seeks adoption of an updated and renamed Compliance Priorities Program as the Environment and Safety Priorities Program for 2023.

RECOMMENDATION:

15 That Council:

1. Notes the report on compliance resourcing and priorities as per Resolution 23-139;
2. Adopts Option 1 OR Option 2 as their preferred compliance resourcing option;
- 20 3. Adopts the proposed 'Environment and Safety Priorities Program' for 2023 as provided below to support the adopted compliance resourcing approach:

Council's Public & Environmental Services prioritises its response to all matters in accordance with the following categories:

- 25 1. *High risk activities which require an urgent and immediate response. (high risk activities are defined as activities that places people's lives at immediate risk or that cause or are likely to cause a significant risk of environmental harm or pollution); and*
2. *Other activities which require a routine response during strategic/regular duties.*
- 30 4. Supports an ongoing media and communications campaign to support the adopted Environment and Safety Priorities Program 2023

Report

Enforcement Resourcing

Council resolution **23-139** ([Minutes of Ordinary Meeting - Thursday, 27 April 2023 \(infocouncil.biz\)](#)), included to separately receive a report at Council's 25 May 2023

- 5 Ordinary meeting titled "Compliance Priorities Program Report 2022". That report is also included in this meeting's agenda.

10 The Compliance Priorities Program and the allocation of resources was workshopped by Councillors in early May 2023. Staff understand that Councillors are seeking further details on compliance resourcing, particularly relating to unauthorised camping and parking patrols, animal enforcement and education programming.

15 The outcome of this process may have an impact on both the Operational Plan and Budget, when considered by Council in June, which could include the reallocation of existing resources and/or the allocation of new resources. This process will run along-side the exhibition process of the draft 2023/24 Operational Plan, Budget and Revenue Policy to enable Council to respond to a number of enforcement issues currently being raised with Council by the community.

20 In response to the resourcing request staff have investigated the costs and impacts of two extended resourcing options. The options below aim to provide the most cost-effective extended coverage and presence of unauthorised camping and parking patrols, animal enforcement and education programming throughout the Shire.

Option 1

Option one is the employment of additional Community Enforcement Officers or Parking Enforcement Officers to increase the Enforcement Team's capacity to undertake patrols.

25 This would require an additional enforcement vehicle for every two further Community Enforcement Officers employed. No further parking vehicle would be required for the addition of up to two Parking Enforcement Officers.

30 Employment of further officers would extend current patrol operations, as well as fill rostering gaps which occur due to staff disruptions, annual leave or unexpected leave (such as sick leave). This option would provide a permanent response to resourcing concerns.

The current estimated cost of employing a Community Enforcement Officer is \$90,000.

The current estimated cost of an addition enforcement vehicle is \$45,000.

The current estimated costs of employing a Parking Enforcement Officer is \$77,000.

35 Employment of further parking enforcement officers would also result in a reduction of casual driver costs (managed with the current budget).

Option 1 has an estimated cost of up to \$250,000 to employ 2 additional staff and purchase an additional enforcement vehicle.

Option 2

5 Option two is the extension of rostered patrol hours using current staff, resulting in increased payment of penalty rates and the engagement of up to three casual drivers.

This approach would require current officers to undertake earlier and later illegal camping and dog patrols. It may reduce capacity to fully manage dog education. It would also require current parking officers to extend their daily hours over a larger geographical area.

10 This approach would not resolve operations being impacted by staff leave or staff disruptions. This option does not create a permanent solution to resourcing concerns.

Option 2 has an estimated cost of \$150,000 which would provide for extending rostered hours and employing up to three casual drivers.

2023 Compliance Priorities Program

15 To accommodate the impact of a focus on extended unauthorised camping and parking patrols, animal enforcement and education programming, it is recommended that Council reduce the compliance priorities program to two response categories.

20 To recognise the expanded nature of the services provided by the team (i.e. that they are no longer simply compliance matters but also include services such as homelessness support), it is also recommended that the 'Compliance Priorities Program' be re-titled to the 'Environment and Safety Priorities Program'.

It is acknowledged that the Public & Environmental Services Department manages Council's response to the below matters:

- 25 • Developments, actions, works, activities or uses that places people's lives at immediate risk or that cause or are likely to cause a significant risk of environmental harm or pollution;
- Significant environmental and public health incidents;
- Dangerous and/or menacing dogs;
- Livestock on public roads;
- 30 • Traffic, parking and unapproved camping activity. Camping enforcement, with an emphasis on environmentally sensitive areas;
- Asbestos containing material ("ACM") being illegally dumped on public land (waste compliance).
- Engagement and referrals to appropriate support and housing services for people experiencing homelessness and rough sleeping;
- 35 • Unauthorised events, wedding receptions, parties, 'doof and rave' parties where significant environmental harm or risk to people's lives;

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- Enforcement of consent conditions which prohibit the use of a property as short-term-rental-accommodation (**23-056**);
- Breaches of the NSW Fair Trading's 'Code of Conduct for the Short-Term Rental Accommodation Industry' where the breach falls within the jurisdiction of Council's enforcement powers;
- Responses to complaints about recurring noise disturbance, public nuisance from premises, maintenance of alcohol free zones;
- Uncontrolled dogs and/or cats including those kept on land where Development Consent prohibits it.
- Development or activities without consent, or non-compliance with consent, permit or licence conditions where these appear to pose no immediate threat to life, property, public health or the environment;
- Non-compliant signage (**07-550, 06-204**).
- Companion animals with a high emphasis on high visibility enforcement and public education (**15-465** and **22-208**);
- Seasonal public health issues and community preparedness including issuing a minimum of two media releases;
- Tourist and visitor accommodation swimming pool safety, including legislative requirements;
- Onsite sewage management systems (including CERC project);
- Food Safety Inspections;
- Awareness of current public health requirements.

In managing its response, it is recommended that Council prioritise matters in accordance with the following categories:

1. High risk activities which require an urgent and immediate response. High risk activities are defined as activities that places people's lives at immediate risk or that cause or are likely to cause a significant risk of environmental harm or pollution.
2. Other activities which require a routine response during strategic/regular duties.

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	2.2.2: Public health - Protect, promote and control risks to public health	2.2.2.1	Deliver environmental and public health education programs to the community
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.2: Enhance safety and contribute to the physical, mental, and spiritual health and well being of our people	2.2.2: Public health - Protect, promote and control risks to public health	2.2.2.2	Provide 'I'm Alert' online food education training
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.2: Enhance safety and contribute to the physical, mental, and spiritual health and well being of our people	2.2.2: Public health - Protect, promote and control risks to public health	2.2.2.3	Participate in Beach Watch program from December to April
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is	2.2: Enhance safety and contribute to the physical, mental, and spiritual health and well being of our people	2.2.2: Public health - Protect, promote and control risks to public health	2.2.2.4	Monitor, investigate and respond to public and environmental health matters through proactive inspections and surveillance programs

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CSP Objective	CSP Strategy	DP Action	Code	OP Activity
valued				
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.2: Enhance safety and contribute to the physical, mental, and spiritual health and well being of our people	2.2.2: Public health - Protect, promote and control risks to public health	2.2.2.5	Assist local Public Health Unit in mosquito trapping (JEV surveillance)
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.2: Enhance safety and contribute to the physical, mental, and spiritual health and well being of our people	2.2.2: Public health - Protect, promote and control risks to public health	2.2.2.6	Deliver the Food Premises inspection program
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	2.2.3.1	Undertake proactive camping patrols of streets and public places throughout the Shire
2: Inclusive Community We have an inclusive and	2.2: Enhance safety and contribute to the physical,	2.2.3: Regulatory controls and compliance -	2.2.3.2	Respond to and investigate complaints against building standards

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CSP Objective	CSP Strategy	DP Action	Code	OP Activity
active community where diversity is embraced and everyone is valued	mental, and spiritual health and well being of our people	Enhance public safety, health and liveability through the use of Council's regulatory controls and services		
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	2.2.3.3	Conduct Swimming Pool fence inspections in accordance with relevant legislation
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	2.2.3.4	Conduct Fire Safety inspections in accordance with relevant legislation
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	2.2.4: Companion animals - Promote awareness of the requirements of the Companion Animals Act with respect to the ownership of companion	2.2.4.1	Undertake proactive patrols of community parks and open spaces to monitor safe use by dogs and their owners

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CSP Objective	CSP Strategy	DP Action	Code	OP Activity
		animals		
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	2.2.4: Companion animals - Promote awareness of the requirements of the Companion Animals Act with respect to the ownership of companion animals	2.2.4.2	Provide companion animal management services
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	2.2.4: Companion animals - Promote awareness of the requirements of the Companion Animals Act with respect to the ownership of companion animals	2.2.4.3	Facilitate companion animals education
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	2.2.4: Companion animals - Promote awareness of the requirements of the Companion Animals Act with respect to the	2.2.4.4	Develop Dogs in Public Space Strategy

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CSP Objective	CSP Strategy	DP Action	Code	OP Activity
		ownership of companion animals		
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.5: Create social impact and initiatives that address disadvantage	2.5.3: Rough sleepers - Work in partnership to reduce and end rough sleeping through community action	2.5.3.1	Respond to people experiencing homelessness and rough sleepers through engagement and referrals to appropriate support and housing services
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.5: Create social impact and initiatives that address disadvantage	2.5.3: Rough sleepers - Work in partnership to reduce and end rough sleeping through community action	2.5.3.2	Partner with Byron Community Centre to deliver Fletcher Street Cottage (homelessness hub)
2: Inclusive Community We have an inclusive and active community where diversity is embraced and everyone is valued	2.5: Create social impact and initiatives that address disadvantage	2.5.3: Rough sleepers - Work in partnership to reduce and end rough sleeping through community action	2.5.3.3	Coordinate the Ending Rough Sleeping Byron Shire Collaboration

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.9

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	2.5: Create social impact and initiatives that address disadvantage	2.5.3: Rough sleepers - Work in partnership to reduce and end rough sleeping through community action	2.5.3.4	Facilitate cross-directorate working group on homelessness to strengthen internal collaboration, knowledge exchange, advocacy, and planning
3: Nurtured Environment We nurture and enhance the natural environment	3.2: Deliver initiatives and education programs to encourage protection of our environment	3.2.1: Compliance - Encourage compliance with environmental planning regulations	3.2.1.1	Monitor, investigate and respond to unauthorised land use, development and environment complaints
5: Connected Infrastructure We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable	5.2: Connect the Shire through integrated transport services	5.2.4: Parking - Manage parking through effective controls that support Movement and Place Plans and are coordinated with other initiatives such as park and ride	5.2.4.1	Undertake regular and frequent parking patrols to increase availability and turnover in the Town and Village centres

Recent Resolutions

- 2022-078
- 2022-208
- 2022-232
- 2023-056
- 2023-139

5

Legal/Statutory/Policy Considerations

There are a number of Acts which give local government regulatory powers. They include:

- Local Government Act 1993
- 5 • Environmental Planning & Assessment Act 1979
- Protection of the Environment Operations Act 1997
- Companion Animals Act 1998
- Roads Act 1993
- Road Rules 2014
- 10 • Road Transport Act 2013
- Public Spaces (Unattended Property) Act 2021
- Food Act 2003
- Public Health Act 2010
- Swimming Pools Act 1992
- 15 Compliance action is considered and determined through Council's adopted Enforcement Policy 2020 and the NSW Ombudsman Enforcement Guidelines for Councils.

Financial Considerations

Both Option 1 and Option 2 put the proposed 2023/24 Budget into deficit.

Consultation and Engagement



- 20 Not relevant to this report.

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.10

Attachments:

- 1 24.2010.22.2 Sth Byron STP - FINAL Site Audit Statement L003 (SAS South Byron STP Remediation Rev 0) with LTEMP JBS&G Andrew Lau, E2022/49809 
- 5 2 PM1172 Sth Byron Ponds - FINAL 221573_Sth_Byron_STP_Design_Report_[C]_23.03.03 Australian Wetlands Consulting AWC, E2023/35619 

Report

Report No. 13.18 discussed the anticipated July 2021 completion of that Stage 2B remediation works for the land portion of the former South Byron STP. The works were completed in December 2021 with a further 10 weeks on-maintenance period for landscaping establishment.

A Long Term Environmental Management Plan (LTEMP) governing the future management of site has since been completed, along with the final element of the project: the Auditor's "sign-off" in the form of a:

- Site Audit Statement (see Attachment 1) which certifies the site for future use and specifies the types of development permitted on the remediated land; and
- Site Audit Report which includes the LTEMP.

Historical Context

The South Byron Sewage Treatment Plant was decommissioned in 2007 when flows were diverted to the newly upgraded West Byron Sewage Treatment Plant. Detailed site investigations followed to ascertain the level of contamination present within the related land parcels and facilitate remediation of the site.

Council resolved to retain ownership of the parcels of land in 2017. A number of project stages followed to resolve public safety and move towards full remediation. This included the following stages:

- Demolition;
- Remediation of the former nightsoil disposal area; and
- Remediation of the land-based portion of site.

The level to which remediation was undertaken focussed on enabling the highest and best future uses possible. This was achieved as provided for in the resultant Site Audit Statement.

STP Pond Investigations

The former sewage treatment ponds (herein referred to as "the ponds") are located to the east of the site on Lot1 DP573835 and formerly discharged to Tallow Creek. Council completed remediation of the land-based portion of the former STP site but the ponds were retained at the request of various stakeholders due to their ecological benefit and sensitivity, being still fresh-water bodies located adjacent to the Tallow Creek ICOLL.

The retention of the ponds currently presents some public safety risks. The ponds are located next to a popular cycleway connecting Suffolk Park and Byron Bay and the path also provides beach access for dog walkers. Patrons of the neighbouring holiday park also pass by the ponds to access the beach and have been known to trespass between the ponds despite signage prohibiting entry. Pond hazards include obscured edges,

hazardous dimensions (steep of vertical embankments to 3m depth), retained infrastructure within and surrounding the ponds, and sediment contamination.

- 5 A consultant was engaged to obtain a detailed understanding of the contamination status of the pond's sediments, surface water, ground water and land surrounding the ponds (within the fenced area). An options assessment for retaining the ponds as a passive recreation and environmental feature while mitigating risks to the public and environment was also part of the scope.

Treatment Pond Detailed Site Investigation

- 10 The detailed site investigation undertaken by Cavvanba Consulting confirmed that contaminants (mostly heavy metals) are present in the sediments of the pond but are not of concern in surface or ground waters.

The report recommended that the sediments of the ponds not be disturbed to avoid transference of contaminants to the water. Therefore they did not recommend recreational use of the ponds, nor remediation of the ponds themselves due to the remediation:

- 15 - *“posing a direct impact by removing all existing benthic organisms that are currently in the area, and upon which higher organisms rely;*
- *disturbing the sediments has the potential to spread contamination due to resuspension and desorption/absorption processes as material is moved around; and*
- 20 - *disturbing the sediment is therefore the most likely activity to increase the risk posed by the sediments and porewater...”*

Options Assessment

Australian Wetlands Consulting completed an options assessment and recommended a preferred design and plan to mitigate risks of the ponds being retained as a public open space environment. The design report is provided in Attachment 2.

- 25 The three options considered were:

1. Naturalisation of ponds;
2. Fill pond and reclaim land; and
3. Retain ponds with safety mitigation and bird hide.

Option 3 is the preferred option as depicted in Figure 1 below:

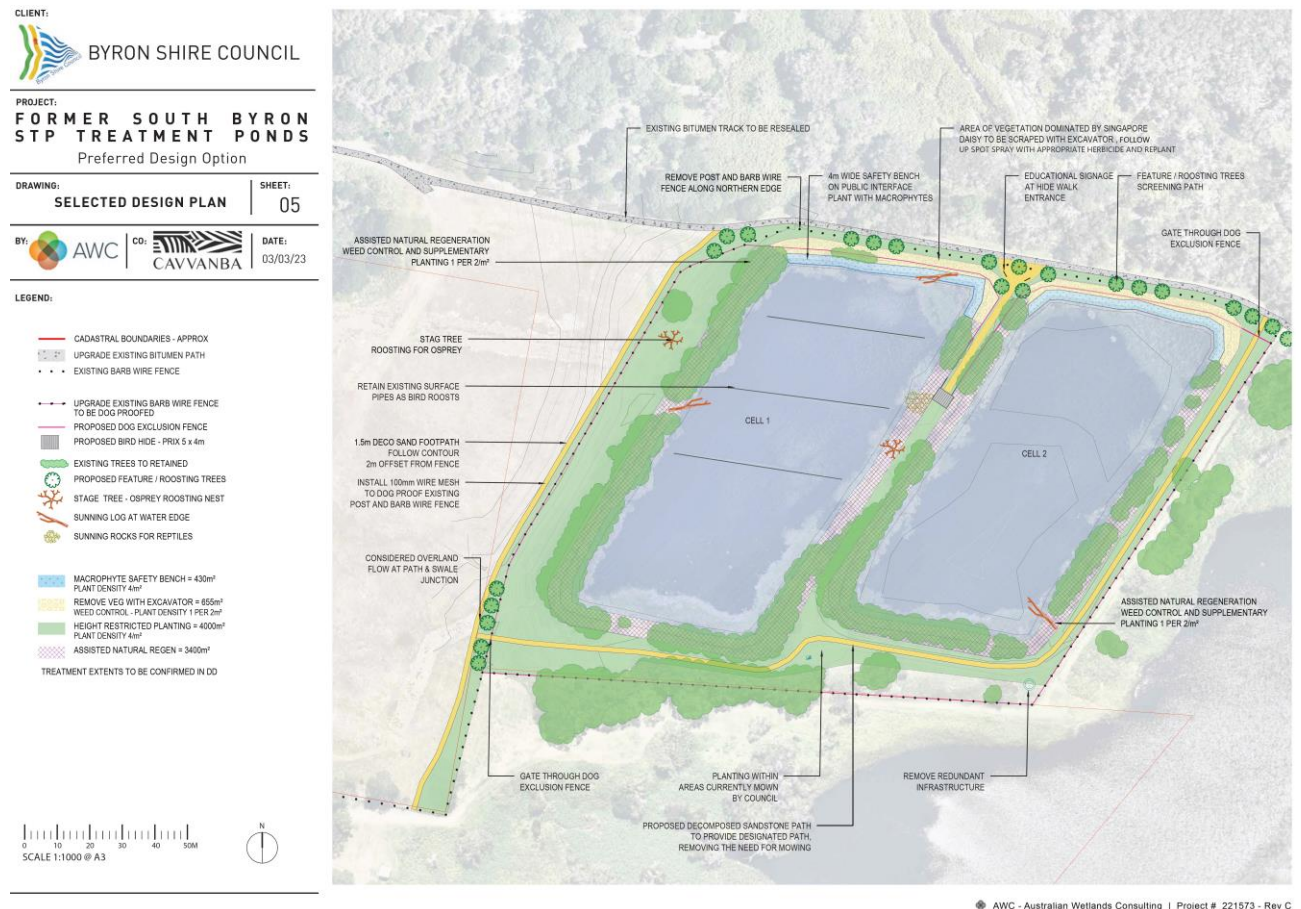


Figure 1 – Recommended Design Plan

The design summary is as follows:

- 5 “...The presence of contaminated sediments means minimal disturbance of the ponds is the recommended approach in light of potential risks and likely costs. Therefore minimal earthworks are proposed on the northern side of the ponds to address identified risk through the creation of macrophyte safety benches. This bench will partially be created from cut within the bank, further minimising disturbance to sediments. A silt curtain may be required as part of the sediment management of the process. The earthworks will continue
- 10 toward the path scraping existing vegetation from the pond batter, controlling the presents of the noxious weed Singapore Daisy.

- 15 In conjunction with weed control in the perimeter vegetation it is expected this species can be eradicated from site. Dense, low plantings are proposed in the northern area interfacing the existing path and the ponds. Further planting will be installed around the perimeter track to stop current mowing regime undertaken by Ingenia Holiday Park. A formal access path running along the west side of the ponds will link the Holiday Park with the existing bitumen access track leading to Tallows Beach.

- 20 A secondary decomposed sandstone track will traverse the back of the ponds. On the northern most high-profile side of the park, a small dog exclusion fence will be installed and screened by vegetation while the remaining perimeter fence will be retrofitted

to make it dog proof. This will form a dog exclusion area surrounding the ponds. At each entrance to the ponds a self-closing gate will be installed and signage enforcing the dog exclusion / wildlife habitat area.

- 5 *A bird hide is proposed on the internal berm toward the northern side, in a location to best view each pond, whilst minimising impacts to existing vegetation. A combination of screening, dog exclusion fencing and dense vegetation will be included in this area.*

- 10 *Water quality and depths have been stable through the prolonged dry periods around 2019, probably due to interaction with the water table. As this is a closed system with small, localised catchment, existing recycled water (RW) pipes from the current West Byron STP will remain. In the event of an algal bloom it is proposed that recycled water can be used to flush the system. Other redundant and degrading infrastructure will be removed in the rectification process.*

- 15 *The introduction of habitat features will also be included as part of the works, and include habitat logs within the water, installation of stag trees for Osprey nesting and sunning rocks for birds and reptiles. These features will be positioned in locations best viewed from the proposed bird hide. The existing pipes exposed irrigation pipes within Pond 1 are proposed to be retained for roosting and as a reminder of the sites former use."*

- 20 The indicative costs for the Option 3 works with contingency (but without project management costs and detailed design) is estimated to be \$469,493.75. This is considered to be the lowest cost option of the three options assessed.

An option also exists to install an exclusion/security fence to reduce public risk by preventing any access to the ponds. However this option is not recommended due to the negative impacts of such a fence including:

- loss of public visual and passive recreational amenity;
- 25 - loss of environmental amenity and function;
- potentially not being in accordance with Council's review of barbed wire fences if the security fence is to be topped with barbed wire;
- a likely reduction in the value of the adjacent developable remediated land; and
- an ongoing cost and operational burden of maintaining the fence.

30 **Next steps**

The next steps are to:

1. Proceed with the recommended pond rectification option which involves:
 - Detailed design
 - Tender/procurement process

- Works and vegetation establishment period
- 2. Consider the future use of the South Byron Sewage Treatment Plant as a matter for review at a future Councillor Workshop.

5 Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
3: Nurtured Environment We nurture and enhance the natural environment	3.1: Partner to nurture and enhance our biodiversity, ecosystems, and ecology	3.1.3: Habitat restoration - Restore degraded areas that provide high environmental or community value		
3: Nurtured Environment We nurture and enhance the natural environment	3.3: Protect the health of our coastline, estuaries, waterways, and catchments	3.3.1: Coastal Management Program planning and implementation - Undertake Coastal Management Program planning and implementation	3.3.1.2	Identify risks to cultural and ecological values and assets in Tallow and Belongil Creek ICOLLs
3: Nurtured Environment We nurture and enhance the natural environment	3.3: Protect the health of our coastline, estuaries, waterways, and catchments	3.3.1: Coastal Management Program planning and implementation - Undertake Coastal Management Program planning and implementation	3.3.1.3	Identify ICOLL water quality pollution sources
5: Connected Infrastructure We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable	5.5: Provide continuous and sustainable water and sewerage management	5.5.2: Wastewater management - Manage effluent in an ecologically sustainable way that ensures public health and protects and enhances the natural environment	5.5.2.4	Shire Wide STP - Asset Management/Renewals

Recent Resolutions

- 21-224

Report No. 13.18 **Former South Byron Sewage Treatment Plant - Sewage Treatment Ponds and Stage 2B Remediation Completion**

File No: I2021/640

Resolved:

1. That the following studies be undertaken for the former South Byron Sewage Treatment Plant tertiary ponds:
 - a) A detailed site investigation for the sewage ponds to characterise the contamination risk; and
 - b) An options and cost-benefit assessment to mitigate risks associated with retaining the sewage ponds.
2. That the recommendations from the above studies be reported to Council.
(Lyon/Cameron)

Legal/Statutory/Policy Considerations

- 5 The remediation of the former treatment plant site has been undertaken with the guidance of the relevant environmental, safety and public liability legislation, regulations, and guidelines. The improvements proposed for the treatment ponds seeks to finalise the site with respect to these obligations.

10 Financial Considerations

Comment from Manager Finance

The indicative cost to complete the preferred option for the pond rectification is \$600,000, Including an average 7.5% project management and \$20,000 for detailed design.

- 15 It is considered that in the long term, this investment will be recouped through improving the value and market appeal of the adjacent remediated land.

As the land involved with this project is owned by the Sewerage Fund, any potential future benefit from an alternate use of the site would also benefit the Sewerage Fund so it should fund any further works subject of this report as it has also funded past remediation works on this site.

- 20 Should Council endorse the recommendation to this report, the cost of \$600,000 would need to be funded from the Sewerage Capital Works Reserve. Given the indicative financial position of the Sewerage Fund Capital Works Reserve, if this project becomes a priority via a Resolution, then it may be necessary to adjust other capital works proposed in the Sewerage Fund for the 2023/24 financial year.

25

Consultation and Engagement

External community groups, neighbours, relevant Council staff and Councillors have been consulted with throughout the delivery of the South Byron Sewage Treatment Plant Remediation series of works and programs.

- 5 Most recently stakeholders have been kept informed of the Treatment Ponds site investigation and options assessment project being underway and key environmental stakeholders were consulted by Australian Wetlands Consulting in their options development. The external stakeholder groups included: Bundjalung of Byron Bay Aboriginal Corporation (Arakwal), NSW National Parks, NSW Marine Parks, Byron Bird Buddies, Friends of Tallow Creek, Byron Residents' Group, Suffolk Park Progress Association, and neighbours. Informing stakeholders of the preferred option is pending Council Resolution.
- 10

Report No. 13.11 Implications of excising the dog exercise area from Heritage Park, Mullumbimby

Directorate: Infrastructure Services

Report Author: Malcolm Robertson, Manager Open Space and Facilities

5 **File No:** I2023/674

Summary:

This report outlines the implications of excising the current off-lead dog exercise area from Heritage Park, Mullumbimby. This question was raised in response to the draft Landscape Masterplan for Heritage Park, Mullumbimby.

- 10 Following extensive community engagement, Council in December 2022 (**22-738**) adopted the Dogs in Public Spaces Strategy (DiPS) and associated Guide to Dog Areas in the Byron Shire (with updated mapping of dog prohibited, dog on-lead and dog off-leash areas) and Companion Animal Exercise Area Policy. Council staff are currently rolling out clearer information around on-lead / off-lead areas, promoting the adopted DiPS and
- 15 Guide to Dog Areas, and getting out to speak to people about their responsibilities as dog owners.

There is currently only one Council controlled designated off-lead area for dogs in Mullumbimby, within Heritage Park. The adopted DiPS recommended that no changes be made to existing off-lead areas until additional areas were developed and usage could be

20 reviewed.

RECOMMENDATION:

25 **That Council:**

1. **Notes the implications of excising the Heritage Park off-lead exercise area detailed in this Report.**
 2. **Delays any consideration around the future use of the Off-Lead dog area within Heritage Park until the impact of additional availability of areas within**
- 30 **Mullumbimby can be assessed.**

Report

Council resolved December 2022 (**22-738**) to adopt the Dogs in Public Spaces Strategy (DiPS). This strategy is intended to provide a balanced policy approach to managing dogs in public areas within Byron Shire over the next ten years.

- 5 The DiPS was developed through extensive engagement with community including a Community Working Group (CWG) to represent diverse interests across the Shire. The CWG worked closely with Council staff and project consultants to provide meaningful, representative input and feedback on key policy issues about the management of dogs in public spaces, including exploring:
- 10
- required changes to existing off-leash areas
 - need for new dog exclusion zones or off-leash areas
 - suitability of existing dog exercise areas and associated infrastructure

- 15 Wider community engagement was completed through online survey to gain broader views from the residents and visitors about dogs in public spaces, and face-to-face drop-in sessions and site visits at popular dog exercise areas and a 'main street' locations aimed at capturing diverse views. Information received from community helped inform and guide the preparation of the Dogs in Public Spaces Strategy.

- 20 In relation to this specific question regarding excising the Heritage Park off-led area from the current DiPS, a core theme arising from community input was the need to explore existing dog exercise spaces so as to balance the needs of dog owners and other public space users. Key themes within the strategy included;

- 25
- Strategic direction 12 – Redefine boundaries of selected existing off-lead areas.
 - Strategic direction 13 – Clarify and map dog prohibited areas.
 - Strategic direction 14 – Develop new enclosed dog off-lead areas.
 - Strategic direction 16 – Remove existing designated on-lead areas.

A draft DiPS was placed on public exhibition for six weeks, during which 120 submissions were received. As a result of the submissions received, the Draft DiPS was amended prior to adoption. Within the changes to the draft DiPS was removal of the Mullumbimby Arboretum walking path as dog on-lead areas (returned to no-dog areas).

- 30 The DiPS identified several potential sites across the Shire for a new enclosed dog park. In response to Resolution **20-727**, a new site for an Off Leash Dog Park in Mullumbimby was identified on Council owned vacant land within Lot 22. A grant funded fully fenced off-lead dog area is now in the process of construction within Lot 22 and will be completed by December 2023.

Key issues

Management of dogs in the Byron Shire is complicated by a number of constraints:

- Availability of space and competing uses;
- 5 • Limited opportunity to change the boundaries of existing off-lead areas due to environmentally sensitive areas;
- Off-lead areas on beach constrain use by non-dog owners – therefore additional areas very difficult to identify; and
- Large areas of public space are scarce and developing new off-lead areas away from the beach in major towns and villages is very difficult.
- 10 • Two, sometimes opposing, views – dog lovers vs dog haters.

Consultation around the DiPS found 86% of community believe Council should protect wildlife and habitat, but at the same time 68% of community strongly enjoyed their dog being able to move freely off lead. Dog owners want clarity on where they can take their dogs on-lead and off-lead and it falls to Council to balance the public space needs of both dog owners and the wider community.

In order to ensure a balanced approach, it is essential that Council has a clear strategic direction. Council in December 2022 adopted a new strategy in place and staff are now rolling this out. Staff are providing clearer information around on-lead / off-lead areas and are getting out to speak to people about their responsibilities as dog owners.

20 There is risk that Council initiating changes to the DiPS within six months of adoption may dilute the messaging, reduce community acceptance for the overall strategic approach and create potential for ongoing piecemeal review of the adopted strategy on a reactive basis.

Mullumbimby Dog Exercise Opportunities

25 As at 12 October 2022, the total number of dogs formally registered in the Byron Shire was 10,394. A further 3,290 were initially microchipped in the Shire but not registered in the Byron Shire (data is unable to indicate if those dogs are still present in the Shire or not). 699 Dogs were registered to addresses within Mullumbimby village over the last decade.

30 There is currently only one designated off-lead area for dogs in Mullumbimby village on Council land, in Heritage Park (Image below). The Mullumbimby Showgrounds Association allow the Jarrett Arena to be used for dogs off lead when horses are not present, or the area is not being used for showground purposes.

1: Council Off-lead Dog Exercise Area Heritage Park



Heritage Park Dog Exercise Area

Out of the 120 submissions to the DiPS, three submissions raised concern regarding the Heritage Park area. Those concerns were;

1. Maslen Arboretum should be dogs prohibited area
2. Dogs off leash in public areas should be confined in a fenced area
3. Sensitive riparian zone which requires environmental protection and is not suitable for off-lead dog exercise.
4. Unleashed dogs within ten metres of the playground.

The DiPS was amended to reflect these concerns. The pathway through the Maslen Arboretum is now a Dogs Prohibited area and improved signage as identified in Strategic Direction 10 of the DiPS will assist in clarifying prohibited areas, such as playgrounds.

The Heritage Park Landscape Masterplan is silent on Dogs in Public Spaces, rather allowing for flexible Open Space / passive recreational areas, which can accommodate dog exercise if authorised.

The draft Landscape Masterplan recommends improved pathway connections for accessibility through Heritage Park, including through the Arboretum area. As part of the revised DiPS the Mullumbimby Heritage Park Arboretum walking path was removed as a dogs on-lead area and the Arboretum designated dogs prohibited. Access along the main arterial pathway running the length of Heritage Park is now severely constrained for dogs on-lead. Any review of the DiPS would need to consider the implications of this change.

New Fenced Dog Park - Mullumbimby

The DiPS identified several potential sites across the Shire for an enclosed dog park. Investigation confirmed that Lot 22, Mullumbimby was a viable location and grant funding has now enabled that project to progress. Completion is planned for December 2023.

5 2. Fenced off-lead dog park – Lot 22 Mullumbimby



The DiPs identified that once new dedicated off-lead areas were developed, consideration could be given to the future use of other existing areas, should they be determined as not fit for purpose.

Strategic Considerations

Current strategic direction in support of adopted DiPS includes action to:

- 1) Educate dog owners about their responsibilities (Strategy direction 6). Education program being rolled out in schools.
- 5 2) Provide certainty for dog owners about where on-lead and off-lead areas are.
- 3) Educate residents and visitors about the environmental impact of dogs
- 4) Develop education material specifically for visitors, accommodation providers and the tourism industry.
- 5) Proactively enforce on-lead areas and promote this work.
- 10 Digital maps of on-lead and off-lead areas, graphics and educational content / information have been developed that are user-friendly and accessible via mobile phone. A new suite of public spaces signage clarifying on-lead and off-lead areas is also in development.

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	2.2.4: Companion animals - Promote awareness of the requirements of the Companion Animals Act with respect to the ownership of companion animals	2.2.4.4	Develop Dogs in Public Space Strategy
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	2.2.4: Companion animals - Promote awareness of the requirements of the Companion Animals Act with respect to the ownership of companion animals	2.2.4.1	Undertake proactive patrols of community parks and open spaces to monitor safe use by dogs and their owners
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	5.4.2.4	Complete Landscape Master planning for Heritage Park, Mullumbimby and seek funding opportunities for implementation

Recent Resolutions

- Resolution **18-362**
- Resolution **20-727**
- Resolution **22-208**
- 5 • Resolution **22-420**
- Resolution **22-738**

Legal/Statutory/Policy Considerations

Companion Animals Act 1998
Companion Animal Exercise Area Policy

10 Financial Considerations

Prior to initiating review of the DiPS and Guide to Dogs areas there would be a need to identify budget. This budget will also need to allow for reprinting of collateral developed in support of the current DiPS strategies.

Consultation and Engagement

- 15 Extensive community engagement was undertaken around the adopted DiPS which is guiding current strategic direction. Should a significant change to the DiPS be proposed there would be a need to take the DiPS and associated Guide to Dogs Areas back out on public consultation. Community input would assist in determining Council's position around factors which may include;
- 20 • Keeping the Heritage Park off-lead dog exercise area in the current location.
- Changing the current Heritage Park off-lead exercise area to on-lead.
 - Constructing a fenced off leash area within Heritage Park
 - Amending key access pathways through dogs prohibited areas to on-lead.
 - Removing the Heritage Park off-lead area and prohibiting dogs from the whole park.

25

Report No. 13.12 Bioenergy Facility Project - OLG PPP Assessment

Directorate: Infrastructure Services

Report Author: John Hart, Senior Project Manager

5 **File No:** I2023/316

Summary:

10 Council has conducted extensive progressive planning, technical, commercial and financial analysis on the Byron Shire Bioenergy Facility project (**BEF Project**) to use organic wastes to generate renewable energy for the Byron Bay Sewage Treatment Plant and compost for local use. The Development consent for the BEF Project has been granted. Due to global economic conditions since 2020, the forecast project budget is now \$23 million. If Council wholly debt-financed the project, the debt will encumber Council's future borrowing capacity.

15 Council staff recommend seeking NSW Office of Local Government approval to proceed with the BEF Project as a Public Private Partnership (**PPP**) pursuant to the Local Government Act (**Act**), Local Government Regulations and the PPP guidelines issued by the Office of Local Government under s.400C of the Act. Approval will allow Council to seek private sector financing for the BEF Project and/or to supplement Council debt and any incoming Grant funding.

20 However, OLG approval will not bind Council to undertaking the BEF Project as a PPP. If Council later forms the view and changing circumstances mandate that the BEF Project should not proceed as a PPP, or that it should proceed in some other way (or not proceed at all), then before entering into binding contracts, Council's ability to revisit its position will not be fettered and alternate paths may be resolved to be pursued.

25




RECOMMENDATION

- 30 That Council, noting the requirements in section 11.2.2 of the OLG *Public Private Partnership Guidelines* about Council resolutions for Public Private Partnerships (PPPs), resolves to:
1. Agree with and adopt the outcomes and deliverables for the Bioenergy Facility Project as described in this Report at section 4 and in DA 10.2021.364.1 (refer 35 E2021/88382; E2022/41826; E2022/50991).
 2. Proceed with the Bioenergy Facility Project as a Public Private Partnership as defined in s.400B of the Local Government Act 1993 (the Act) and authorises

the General Manager to submit a proposal for the Bioenergy Facility Project to the Office of Local Government for “Initial Assessment.”

- 5 3. Instruct the General Manager to provide to Council, as necessary, status updates on the BEF project and the NSW OLG “Initial Assessment,” whether a PPP remains the preferred execution model for the BEF Project, or whether alternative execution models have evolved with changing circumstances.

Attachments:

- 10 1 Byron Shire Council - 10.2021.364.1 - Notice of Determination and Statement of Reasons - Approval, E2022/50991 
- 2 10.2021.364.1 - NRPP Report Attachment 2 - Response to Submissions Report, E2022/41826 
- 3 10.2021.364.1 - EIS-45 Wallum PI Byron Bay_PAN-109009, E2021/88382 

15

Report

1. Key issues

Background

5 Council wishes to procure the design and construction ('**D&C**'), and the operation and maintenance ('**O&M**') of the Byron Shire Bioenergy Facility project ('**BEF Project**'). The BEF Project will be sited at the location of the Byron Bay Sewage Treatment Plant ('**Byron Bay STP**'), which is accessed via the cul-de-sac end of Wallum Place in the Byron Bay Arts and Industrial Estates.

10 Since 2013, Council has facilitated and participated in the preparation of many deliverables for the BEF Project, including incremental planning efforts, community consultation exercises, progressive feasibility studies, engineering designs, Development Application studies and reports, business case assessments and financial modelling.

15 A Bioenergy Facility, employing a dry anaerobic digestion process, was identified as a key project for Council to deliver because it aligns with Community Strategic Plan and Operational Plan, it is a practical investment leading to an asset that Council will eventually own, and it will generate green fully renewable energy for use behind the meter at the Byron Bay STP.

Project Drivers and Benefits

20 In its vision towards achieving Net Zero Emissions and the promotion of sustainable development tenants, Council has shown distinctive local government leadership by pursuing the BEF Project; it touches on many aspects of Byron Shire Council's strategic objectives regarding:

- Regional airshed and Council greenhouse gas ('GHG') emission reductions from:
 - Reduced truck movements to Queensland organic waste management facilities.
 - Removing the Byron Bay STP from the use of grid electrical energy.
- Sustainable management of the Byron Bay STP waste biosolids.
- Increasing the percentage of organic waste diverted from red bins and away from landfilling.
- 30 • Provision of high-nutrient-value compost for local residential and agricultural use.

State and Commonwealth waste management and resource recovery policies strongly support projects like the BEF Project; however, senior government support at this time is focused mostly on establishing 3-bin systems in NSW LGAs to divert organic wastes away from landfilling.

35

Organic Waste Feedstock

The approved BEF Project will accept a variety of local organic waste feedstocks, for example:

- 5
 - Byron Bay STP waste biosolids.
 - Kerbside green bin food organics and garden organics ('FOGO').
 - Grease trap fats oils and grease ('FOG').
 - Coppice energy crops grown with recycled water irrigation and compost or biosolids soil amendments.
 - Commercial food waste that is presently going to landfill.
- 10 Note that Council has never contemplated any biomass feedstocks sourced from forestry or milling activities.

Grant Funding

Council has sought Grant funds for this project from several agencies.

- 15 As previously mentioned, senior government Grant funding related to organic waste management appears directed mostly on establishing 3-bin systems in larger NSW metropolitan LGAs to firstly divert more organic wastes away from landfilling. Byron Shire Council is ahead of these positions with its mature 3-bin system that has strong community support and uptake.
- 20 Grant funding streams that are focused on renewable energy projects appear to favour projects requiring Grant funding to achieve break-even financial positions, while the BEF Project business case and financial modelling forecast that the project is viable under Council's existing waste management framework, albeit with long payback periods for the high initial capital investment.
- 25 Council understands that the Federal Government has plans for two new infrastructure Grant funds in 2023; however, since initial announcements have not been made and because, even if Council was successful in securing Grant funding, these Grants have long intake and review periods, and funds will not be forthcoming until 2024 at the earliest.

Work Completed, Achievements and Status

- 30 To date, there has been strong community support for the concept of renewable bioenergy. The principal project work streams, deliverables and achievements in the recent past include the following:
 - Feasibility studies – 2018-19
 - Grant funding applications – 2020-22
 - Early Contractor Involvement – 2021-22

- Financial modelling completed – 2021-22
- In-principle feedstock supply agreements with neighbouring Councils – 2021-22

The above-noted work outputs culminated in the major milestone of the Development Application consent approval from the Northern Regional Planning Panel in 2022. Of importance, note that the consent included the in-principle approvals from NSW EPA for the Environmental Protection Licence and for the Resource Recovery Orders & Exemptions for the BEF Project.

2. Financial Considerations

The facility's business cases have always been modelled on the basis that there will be no increase in rates or fees because of this project.

Notwithstanding the potential benefits to Council of a Bioenergy Facility, Council needs to consider the impact of the upfront capital investment that is required from Council; it could take up to 25 years to recover the initial investment if it had no alternative funding partner.

At 30 June 2022, Council had \$58.77 million owing in loans. Of this amount, \$35.70million relates to the Sewerage Fund and \$23.07million relates to the General Fund with the Water Fund being debt free. The debt position for the 2022/2023 financial year is yet to be finalised and whether the current budgeted new borrowings of \$2.00million are, in fact, required. In recent years, Council has been borrowing to address its infrastructure backlog and has successfully done this by leveraging with available Grant funding. This scenario (i.e., borrowing leverage) is also an option that may be available to the Bioenergy Facility. Council borrowings are considered as the Council as a whole, and irrespective of whether and not on a General, Water or Sewerage Fund basis. Alternative forms of financing, e.g., a NSW OLG PPP approval giving Council the option (but not a commitment) to accept financing contributions from the private sector, should be pursued to insulate Council from debt risk.

The level to which the BEF Project may increase Council's debt levels depends upon whether, for example, other funding is available from a potential partner, should Council proceed on this basis, subject to approval and successfully finding a partner. To minimise the impact on future borrowing for other purposes, Council needs to be mindful of the affordability of any upfront contribution to this project (if required) and the impact on its ability to pursue other projects.

Council may determine where it allocates its financial resources, but the size of the financial contribution required by Council to the BEF Project is considerable and has the potential to significantly increase Council's debt position if it chooses to deliver this project without any private sector financing via an approved PPP.

3. Project Delivery Options

Staff recommend consideration of the following options:

1. Council Debt Financing:

Schedule: Proceed now.

Ownership: Council.

Operations: Private contractor.

Financing: 100% Council debt.

Comments: The borrowings required for this project are infeasible for Council since this is a discretionary project and will encroach on Council ability to borrow for delivery of core services.
Staff do not recommend this option.

2. Grant Funding:

Schedule: Wait; proceed if/when Grant funding is received.

Ownership: Council.

Operations: Private contractor.

Financing: Grant funding, likely with ~50% or more from Council debt.

Comments: This is a viable option; however, at present Staff do not recommend this as the preferred option since the timelines are uncertain and uncontrollable, and still requires Council debt in any event.

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.12

3. Public Private Partnership:

Schedule: Approximately 18 to 24 months for: NSW OLG PPP approvals; conducting Request for Expression of Interest; and contracting a preferred project developer.

Ownership: Private via long-term lease of land, then transfer asset to Council after a pre-determined duration, e.g., ~25 years.

Operations: Private; likely same entity as owner.

Financing: Private equity, with or without Council debt and/or Grant funding.

Comments: The objective of this Option#3 is to generate additional possible sources of financing for the BEF Project, to minimise the risk to Council and to reduce as able the amount of debt Council must take on debt.
Council can still seek Grant funding and may borrow/take-on debt to supplement private equity, if required or if it so chooses.
This Option #3 requires NSW Office of Local Government "Initial Assessment (i.e., pre-approval) for Council to then conduct a Request for Expressions of Interest.

Private sector Operations & Maintenance is the planned route under all scenarios, either directly under private ownership or under contract if Council owns the asset.

A qualitative analysis of these three options is presented in the figure below, where traffic light colour-code staff's view of the order of preference of each option:

	1. Council 100% Debt	2. Council Debt & Grants	3. Public Private Partnership
Ownership structure: Council or Private	Council	Council	Private (& transfer)
Soonest delivery of project			
Community acceptance			
Flexibility to accept Grant Funding			
Flexibility to accept private financing			
Effect of debt on Council borrowing limit			
Certainty of Operational control			
OVERALL FINANCIAL & OPERATING RISK	3	2	1 - PREFERRED

Council staff recommend Option #3, proceeding with a submission to the NSW OLG for its "Initial Assessment" for conducting the BEF Project as a PPP. Option #3 accelerates the delivery schedule, reduces Council's financial exposure from debt, and also reduces Council's risk exposure from the BEF facility Operations & Maintenance.

If Council rejects Option #3, then the default position will be Option #2, that is, waiting and relying on future State and Commonwealth Grant programs. Recall that Option #3 also allows Council to seek Grant funding for the BEF Project.

Under a PPP, Council will still have full authority over whether it chooses to proceed with the BEF Project as a PPP, and over relative composition of financing sources, i.e., Council debt, Grants, and private funds. Furthermore, private sector developers may seek Clean Energy Finance Corporation's preferential financing for bioenergy projects, which will also be of benefit for this project under a PPP delivery model.

4. Legal/Statutory/Policy Considerations

The BEF Project is characterised as a "PPP" under section 400B of the Local Government Act 1993 (NSW) (**Act**). This is because the BEF Project will be an arrangement:

1. between a council and a private person to provide public infrastructure or facilities (being infrastructure or facilities in respect of which the council has an interest, liability or responsibility under the arrangement), and
2. in which the public infrastructure or facilities are provided in part or in whole through private sector financing, ownership or control.

There are also no applicable section 400B exclusions under the Local Government (General) Regulation 2021 for the BEF Project. This means that the Act (through section 400E) requires:

1. (**section 400E(1)**) the BEF Project to be entered into and carried out in accordance with Part 6 of Chapter 12 of the Act (rather than through the tendering requirements in section 55 of the Act); and
2. (**section 400E(2)**) council to comply with the PPP Guidelines issued by the Office of Local Government (**OLG**) at all times while carrying out the BEF Project under a PPP.

The PPP Guidelines require Council to follow a range of procedures, including an Initial Assessment of the BEF Project by OLG (before an EOI process is commenced for the BEF Project). As part of that Initial Assessment, Council is required to submit a range of documentation to OLG relating to the BEF Project, including Council Resolutions to agree on outcomes and deliverables of the project (**Resolution 1**), and to proceed with the BEF Project as a PPP (**Resolution 2**). A further assessment of the BEF Project by the OLG (a "Full Assessment") will also be required after the EOI process is completed and prior to Council's entry into any contract(s) for the BEF Project.

These two Council Resolutions are required as procedural steps before the OLG will undertake its Initial Assessment under the PPP Guidelines. Importantly, resolving as per the recommended two Council Resolutions does not bind Council to enter into any contracts or restrict Council to ultimately undertaking the BEF Project as a PPP; rather, it is a statement of intention to proceed as a PPP. For example, if after undertaking the EOI, Council forms the view that the circumstances indicate that the BEF Project should not proceed as a PPP, or that it should proceed in some other way (or not proceed at all), then provided Council has not yet entered into binding contracts, Council will have the power to make those decisions through alternate Council Resolutions and procurement choices as Council sees fit (subject to the Act, and subject to the processes contemplated in the EOI which will need to reserve a range of rights and discretions for Council).

The PPP delivery model still allows Council discretion to accept Grant funding, and to apply as much or as little of its own debt-financing to the BEF Project.

5. Bioenergy Facility Project Outcomes and Deliverables

5 Undertaking delivery of the proposed BEF Project is appropriate having regard to Council's functions and obligations under the Act. The proposed outcomes and deliverables for this project are clear, and have been detailed, designed, and approved with a high level of specificity. The physical facilities, processes and systems that will form the BEF Project are described in detail in the following documents, which form the key elements of Development Application 10.2021.364.1 and the Development Consent:

- 10
- DA Environmental Impact Assessment: E2021/88382.
 - DA Response to Submission (amended EIS) following stakeholder consultations and Public Submissions: E2022/41826.
 - NRPP Notice of Determination and Statement of Reasons – Approval: E2022/50991.

15 Project Summary

The proposed development will involve the construction and operation of a best practice BEF Project, receiving organic waste materials from households and businesses in the Byron Shire and neighbouring local government areas. The facility will be enclosed and operate under negative pressure to ensure all emissions from the process are treated before release. Biogas will be collected and consumed onsite to generate electricity. No biogas will be exported from the site.

20

A site plan providing an overview of the proposed development and operations is given in the DA documents.

25 The proposed dry Anaerobic Digestion ('AD') technology for the BEF Project is a BEKON dry fermentation batch process that transforms solid organic waste into organic digestate while producing biogas which can be turned into electricity and heat. Four AD tunnels and three aerobic composting tunnels are required to process up to 28,000 tonnes/year of organic waste. While the waste material is processed inside the AD tunnel for approximately three weeks, biogas is produced and brought to the combined heat and power unit ('CHP') via a gas storage facility. The latter serves to even out the biogas quality and bridge maintenance works at the CHP. Any odorous ambient air in the Receiving Hall will be collected for treatment through the biofilter.

30

35 The AD digestate will be further stabilised using aerobic composting in tunnels followed by screening. Upon discharge from the screen, the aerobically stabilised compost product will be stored at site and later dispatch for sale.

Electricity generated by the BEF Project will be utilised to power the BBSTP and the BEF Project itself, thereby offsetting electricity costs for the plant. Surplus electricity generated will be exported to the grid and sold.

The general layout of the BEF Project is provided in the DA documents.

5 **6. Strategic Considerations**

Relationship to IPR Documents

The BEF Project is clearly identified within Council's IPR documents.

10 The BEF Project has a strong positive effect regarding public and community interest. There was 96% community support during the Development Application public and stakeholder consultation phase, and the Northern Regional Review Panel agreed with Council's assessment that the BEF Project is in the public interest.

Relevant excerpts from the IPR plans are included below.

Community Strategic Plan and Operational Plan

Community Strategic Plan and Operational Plan

15

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
5: Connected Infrastructure We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable	5.3: Invest in renewable energy and emerging technologies	5.3.3: Green energy - Invest in green energy initiatives	5.3.3.1	Bio energy facility project development approval and grant application

Net Zero Emissions Strategy for Council Operations 2025

20 Council has the objective to achieve carbon-neutrality for its own operations by 2025, as well as sourcing 100% of Council's electricity through renewable energy by 2027; the latter is achieved via purchase of green power.

Refer below to the strategy's Table 6: Projects in the Pipeline: Bioenergy Facilities at Sewage Treatment Plants:

6.3. Step three: research potential new projects and explore implementation plan options

Council is actively researching a wide variety of new projects to reduce emissions and transition to renewable energy for its operations. The below projects are at varying stages of implementation. As they start to come online in the near future, Council will gain a clearer picture of what remains to be done to achieve its 2025 and 2027 goals.

Table 6 A summary of future Council actions towards reducing emissions and transitioning to renewable energy for its operations

Council Operations: Projects in the Pipeline	
Project	Description
Bioenergy Facilities at Sewage Treatment Plants (STP)	Council's municipal green wastes and STP biosolids have been identified as potential feedstock for bioenergy facilities. Other feedstock, such as oils and grease, and the growing of coppice crops intended for use as bioenergy feedstocks is also being considered. Council is investigating siting bioenergy facilities at its STP properties to process and valorise the feedstock materials. Bioenergy has an estimated potential output of 1.3MW. These bioenergy facilities are likely to be designed and built in the next 2-3 years.

Recent Resolutions

- Res 21-460 October 2021:

To negotiate contracts for the Design & Construction and/or Operations & Maintenance of the Bioenergy Facility with its preferred contractor.

7. Consultation and Engagement

Who was consulted?	How did consultation occur? e.g. email, verbal etc	Comments/Feedback
Executive Officer	Email and verbal discussions	Will remain involved in supporting role for next steps.
Legal Advisors	Email and verbal	Advice re. LG Act and Regulations, and OLG PPP Guidelines
Executive Team	Written and meetings	Proceed with report to Council

8. Next steps

As noted in section 4, the two proposed Resolutions are required before Council can pursue the PPP option with the OLG. However, resolving in accordance with the two recommended Resolutions does not bind Council to enter into any contracts regarding the proposed PPP.

And the PPP delivery model still allows Council discretion to accept Grant funding, and to apply as much or as little of its own debt-financing to the BEF Project. Typically, after a defined O&M and ownership period, a facility ownership will transfer to Council with the option to extend private O&M contracts.

Subject to Council approval, the next steps are for staff to conduct the following activities:

- With its legal advisors, to prepare the NSW OLG PPP “Initial Assessment” package.
- Subject to NSW OLG PPP assessment (and assumed approval), Council will then conduct a public Request for Expression of Interest (‘RFEOI’) for the BEF Project.
- Receive and review RFEOI submissions.
- Staff recommendations to Council based on RFEOI review outcomes.

After undertaking the EOI, if Council forms the view that the BEF Project should not proceed as a PPP, or that it should proceed in some other way (or not proceed at all), then provided Council has not yet entered into binding contracts, Council will have the power to make those decisions through alternate Council Resolutions and procurement choices as Council sees fit subject to the ACT and processes contemplated in the EOI which will need to reserve a range of rights and discretions for Council.

A further “Full Assessment” of the BEF Project by the OLG will also be required after the EOI process is completed and prior to Council's entry into a contract for the BEF Project.

Council will retain informed control over the BEF Project at many hold/decision points into its future execution phases.

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

Report No. 14.1 Report of the Arakwal Memorandum of Understanding Advisory Committee Meeting held on 21 April 2023

Directorate: Corporate and Community Services

Report Author: Storm Townsend, Executive Assistant Corporate & Community Services

File No: I2023/679

Summary:

The Arakwal Memorandum of Understanding Advisory Committee met on 21 April 2023 and attached are the Minutes for noting by Council.

RECOMMENDATION:

1. That Council notes the Minutes of the Arakwal Memorandum of Understanding Advisory Committee Meeting held on 21 April 2023.
2. That Council adopts the following Committee Recommendations:

Report No. 3.1 Arakwal MOU review

File No: I2023/569

Committee Recommendation 3.1.1

That the Arakwal MoU Advisory Committee:

1. Notes the Arakwal MoU draft review attachment (#E2019/90906).
2. Provides input to the draft review and discusses next steps and possible options.
3. Notes the Committee will hold an Extra Ordinary Meeting on 19 May 2023 to continue the Arakwal MoU review.

BYRON SHIRE COUNCIL

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

14.1

Attachments:

- 1 Minutes 21/04/2023 Arakwal Memorandum of Understanding Advisory Committee, I2023/601



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Report

The attachment to this Report provides the Minutes of the Arakwal Memorandum of Understanding Advisory Committee Meeting of 21 April 2023 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 [Agenda of Arakwal Memorandum of Understanding Advisory Committee Meeting - Friday, 21 April 2023 \(infocouncil.biz\)](#)

Committee Recommendation

Arakwal MOU review

- 10 **The Committee noted the Arakwal MoU draft review document and commenced a review of the same. Due to time constraints, the Committee moved to continue the review of the document and provide input where necessary at an Extra Ordinary Meeting of the Committee to be held on 19 May 2023.**

- 15 **Financial Implications**
As per the Reports listed within the Arakwal Memorandum of Understanding Advisory Committee Meeting of 21 April 2023.

Statutory and Policy Compliance Implications

As per the Reports listed within the Arakwal Memorandum of Understanding Advisory Committee Meeting of 21 April 2023.

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 14.2 Report of the Business and Industry
Advisory Committee Meeting held on 30
March 2023**

Directorate: Sustainable Environment and Economy

Report Author: Michelle Wilde, Project Support Officer

File No: I2023/506

Summary:

This report provides the minutes of the Business and Industry Advisory Committee Meeting held on 30 March 2023.

RECOMMENDATION:

1. That Council notes the minutes of the Business and Industry Advisory Committee Meeting held on 30 March 2023.
2. That Council adopts the following Committee Recommendations from report No. 3.1:
 - a) Notes that the Business and Industry Advisory Committee will continue to invite representatives of business organisations to participate in workshops on the development of the Business, Industry and Visitor Economy Strategy (BIVE) and that the inclusion of four business representatives on the Committee be reconsidered after the BIVE is developed.
 - b) Amends the Constitution of the Business and Industry Advisory Committee accordingly.

Attachments:

- 1 Minutes 30/03/2023 Business and Industry Advisory Committee, I2023/409 

BYRON SHIRE COUNCIL

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY 14.2

Report

The attachment to this report provides the minutes of the Business and Industry Advisory Committee Meeting of 30 March 2023 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 https://byron.infocouncil.biz/RedirectToDoc.aspx?URL=Open/2023/03/BAI_30032023_AGN_1643_AT.PDF

Summary of Reports

Report No. 3.2 Meeting Schedule for 2023 Business and Industry Advisory Committee

- 10 1. *The Committee noted the scheduled meeting dates and times for 2023.*
2. *The Committee will advise of any agenda items for future meetings.*

Report No. 3.3 Projects Update

1. *The Committee noted the Projects Update report*

Report No. 3.4 Business, Industry and Visitor Economy Strategy

- 15 1. *The Committee noted the report.*

Financial Implications

As per the Reports listed within the Business and Industry Advisory Committee Meeting of 30 March 2023.

Statutory and Policy Compliance Implications

- 20 As per the Reports listed within the Business and Industry Advisory Committee Meeting of 30 March 2023.

Report No. 14.3 Report of the Heritage Advisory Committee Meeting held on 20 April 2023

Directorate: Sustainable Environment and Economy

Report Author: Kimberley van Soest, Acting Executive Assistant

5 **File No:** I2023/695

Summary:

This report provides the minutes of the Heritage Advisory Committee Meeting of 20 April 2023 for determination by Council.

10

RECOMMENDATION:

1. That Council notes the minutes of the Heritage Advisory Committee Meeting held on 20 April 2023.

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2. That Council adopts the following Committee recommendations:

Report No. 4.3 Community Member Presentation - Proposal for a Federal Heritage Conservation Area and New listed items

File No: I2023/297

Committee Recommendation 4.3.1

That the Heritage Advisory Committee:

1. Thank Jenna Reed Burn for her presentation, and work on the Preliminary Federal Village Heritage Assessment, and notes its recommendations for listings in Schedule 5 of the Byron Local Environmental Plan 2014.
2. Supports further consultation occurring with residents and owners of the properties proposed to be listed as individual items, contributory items, and in the Heritage Conservation Area generally, prior to reporting any planning proposal with any new listings recommended to Council

BYRON SHIRE COUNCIL

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY 14.3

3. That Council adopts the following Committee Recommendation:

Report No. 4.4 Other Business

Committee Recommendation 4.4.1

That Council appoints Councillor Lyon to the Committee and that Councillor Balson be released from the Committee.

Attachments:

- 5 1 Minutes 20/04/2023 Heritage Advisory Committee, I2023/567 

Report

The attachment to this report provides the minutes of the Heritage Advisory Committee Meeting of 20 April 2023 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 [Minutes of Heritage Advisory Committee Meeting - Thursday, 20 April 2023 \(infocouncil.biz\)](https://infocouncil.biz)

Summary of Reports

Report No. 4.3 Community Member Presentation - Proposal for a Federal Heritage Conservation Area and New listed items.

- 10 The Heritage Advisory Committee thanks Jenna Reed Burn for her presentation and work on the Preliminary Federal Village Heritage Assessment and notes its recommendation for listings in Schedule 5 of the Byron Local Environment Plan 2012 and supports further consultation with residents and owners in the Heritage Conservation area.

Report No. 4.1 Heritage Advisory Committee Member Updates

- 15 The committee notes the member updates.

Report No. 4.2 Heritage Program Update

The committee notes the updates.

Committee Recommendation

- 20 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 Heritage Advisory Committee Meeting of 20 April 2023.

Statutory and Policy Compliance Implications

As per the Reports listed within the Heritage Advisory Committee Meeting of 20 April 2023.

**Report No. 14.4 Report of the Biodiversity Advisory
Committee Meeting held on 20 April 2023**

Directorate: Sustainable Environment and Economy

Report Author: Michelle Wilde, Project Support Officer

5 **File No:** I2023/696

Summary:

This report provides the minutes of the Biodiversity Advisory Committee Meeting held on 20 April 2023.

10

RECOMMENDATION:

That Council notes the minutes of the Biodiversity Advisory Committee Meeting held on 20 April 2023.

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Attachments:

1 Minutes 20/04/2023 Biodiversity Advisory Committee, I2023/563 

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Report

The attachment to this report provides the minutes of the Biodiversity Advisory Committee Meeting of 20 April 2023 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 https://byron.infocouncil.biz/RedirectToDoc.aspx?URL=Open/2023/04/BAC_20042023_A_GN_1640_AT.PDF

Summary of Reports

Report No. 4.1 Biodiversity and Agriculture Projects and Operations Update

- 10 1. *That Committee noted the update on current projects and programmes being undertaken by Council staff.*

Cr Balson voted against the motion.

Report No. 4.2 Future Discussion Items for Biodiversity Advisory Committee

- 1 *The Committee noted the report.*

15 Report No. 4.3 Community Member Presentation - Gerard Wedderburn-Bishop - Carbon Sequestration for Byron Bay

1. *The Committee noted the report and thanked Gerard Wedderburn-Bisshop for his presentation.*
- 20 2. *The Committee noted that the Nature Repair Market Bill 2023 and the Nature Repair Market (Consequential Amendments) Bill 2023 has been referred to the Federal Environment and Communications Legislation Committee for inquiry and report by 1 August 2023.*
3. *The Committee supports a Notice of Motion on point 2 to the May Council Planning Meeting and seeks stakeholder feedback to include in Council's submission prior.*

25 Financial Implications

As per the Reports listed within the Biodiversity Advisory Committee Meeting of 20 April 2023.

Statutory and Policy Compliance Implications

- 30 As per the Reports listed within the Biodiversity Advisory Committee Meeting of 20 April 2023.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.5 Report of the Infrastructure Advisory Committee Meeting held on 20 April 2023

- 5 **Directorate:** Infrastructure Services
- Report Author:** Dominika Tomanek, Executive Assistant Infrastructure Services
- File No:** I2023/603

Summary:

- 10 The attachment to this report provides the minutes of the Infrastructure Advisory Committee Meeting of 20 April 2023 for determination by Council.

RECOMMENDATION:

- 15 1. **That Council notes the minutes of the Infrastructure Advisory Committee Meeting held on 20 April 2023.**

2. **That Council adopts the following Committee Recommendations:**

Report No. 4.2 New Brighton Parking Options Investigation
File No: I2023/472

Committee Recommendation 4.2.1

1. **That Council Staff defer any further works regarding parking facilities on The Esplanade, New Brighton, south of The Strand due to the environmental implications discovered within the planning pathways assessment (E2023/35699).**
2. **That Council staff continue to develop designs to improve the Esplanade and North Head Carpark and provide way finding signage in the area to help direct beach goers to this facility including**
 - a) **option for the removal of unapproved structures and vegetation in the road reserve to increase car parking capacity and to facilitate**

improved turnaround

- b) to consider the feasibility of the extension of the Esplanade southwards to join with Riversea Lane including road reserve status, environmental assessment and cost**

- 3. That Council consider the eventual outcome of the dune continuing to move west onto the Esplanade and this aspect be referred to the CMP.**

- 3. That Council adopt the following Committee Recommendation(s):**

Report No. 4.3 Myocum Quarry Update

File No: I2022/1341

Committee Recommendation 4.3.1

That Council note the contents of the report and support the rehabilitation of Lots 1 (DP591441) and 4 (DP1052900).

5

Attachments:

- 1 Minutes 20/04/2023 Infrastructure Advisory Committee, I2023/559 

10

Report

The attachment to this report provides the minutes of the Infrastructure Advisory Committee Meeting of 20 April 2023 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 https://byron.infocouncil.biz/Open/2023/04/IAC_20042023_AGN_1671_AT.PDF

The following items were discussed:

Report No. 4.1 Operational Plan - Workshop Session

Advisory committees are asked to contribute to this process, specifically addressing the Delivery Program priorities related to their areas of interest and expertise.

10 **Report No. 4.2 New Brighton Parking Options Investigation**

The purpose of this report is to provide an update on the proposed options for the Esplanade, New Brighton parking provisions, south of the Strand.

Report No. 4.3 Myocum Quarry Update

- 15 This report is a requested six monthly update of the Myocum Quarry Precinct. This update addresses the allocation of resources and status of projects relating to the Myocum Quarry Precinct.

Report No. 4.4 Infrastructure Services - Capital Works Update

This report provides information to the Committee about the Infrastructure Services Capital Works Program.

20 **Committee Recommendation**

The committee recommendations are supported by management and are provided in the attachment to this report.

Financial Implications

- 25 As per the Reports listed within the Infrastructure Advisory Committee Meeting of 20 April 2023.

Statutory and Policy Compliance Implications

As per the Reports listed within the Infrastructure Advisory Committee Meeting of 20 April 2023.