

Responses to Questions on Notice

Received at the 15 August 2024
Ordinary Meeting of Council

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

Mark Arnold
General Manager

BYRON SHIRE COUNCIL

QUESTIONS WITH NOTICE

Question with Notice No.1	Mullumbimby Water Supply	3
Question with Notice No.2	Bypass Biobanking Agreements	9
Question with Notice No.3	Far North Coast Regional Water Strategy	10

QUESTIONS WITH NOTICE

Question with Notice No.1 Mullumbimby Water Supply

File No: I2024/1196

At Council's Ordinary Meeting held on 15 August 2024, the following questions were asked in relation to Report No.13.26 Mullumbimby Water Supply Strategy:

Tim Mavay, representing Wilsons Water Rights, asked the following question:

In the occurrence that Mullumbimby Water Supply is connected to Rous and that the 13 or more properties connected to the trunk main at Wilsons Creek lose their connection to town water and we are not reconnected as verbally agreed to - if we are issued tanks will we be compensated for the loss of value on our properties?

Noelle Maxwell, representing Mullumbimby Residents Association, asked the following question:

We welcome the revised cost estimates for Mullumbimby's Future Water Strategy, presented in the Addendum to the Agenda. However, there are some questionable data about the cost of land acquisition for an offstream storage reservoir. Page 3 of the report gives a total cost of \$39.06m (thirty-nine million and sixty thousand dollars) at a cost per hectare of \$625,000 (six hundred and twenty-five thousand dollars). Dividing one by the other suggests the need to purchase 62.5ha (sixty two and a half hectares). Both the cost and the area appear to be excessive for a 10ha (ten hectare) reservoir. How are these costs derived and how can they be justified?

Note: *A 41 ha property on Wilsons Creek Road sold in 2021, in the precise area where an off-stream storage reservoir could be built, for \$2.6m, ie \$63,000/ha, 10% of Council's estimated price.*

Gil Lomath, representing Mullumbimby Residents Association, asked the following question:

We welcome the revised cost estimates for Mullumbimby's Future Water Strategy, presented in the Addendum to the Agenda. However, there are many different data presented in the report. What is the final suggested Net Present Value for Scenario 2, how does this compare with the NPV of \$63 million quoted in Appendix B and what justification is there for the differences?

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Sonia Laverty asked the following questions:

How does the decision to disconnect Mullumbimby from Lavertys Gap water supply align with Byron Shire's Local Strategic Planning Statement, particularly in terms of infrastructure needs and water supply planning?

Can you provide evidence that this significant change in water supply infrastructure is consistent with the council's strategic plans?

We note that the Local Government Act 1993 (NSW), Section 402 - Community strategic plan- requires councils to have long-term strategies in place, which should include considerations for major infrastructure changes.

Camila Peters-Quayle asked the following question:

What state and federal funding has been requested to pay for the town water to remain a and if not who will ask please?

Response Director Infrastructure Services:

In the occurrence that Mullumbimby Water Supply is connected to Rous and that the 13 or more properties connected to the trunk main at Wilsons Creek lose their connection to town water and we are not reconnected as verbally agreed to - if we are issued tanks will we be compensated for the loss of value on our properties?

Response: At the Ordinary Council meeting on 15 August 2024, Council resolved [24-111, part 6]: that Council *commits to continuing to reticulate current volumes of potable water to properties already connected between the Laverty's gap Water Treatment Plant and Azalea Street reservoirs.*

Therefore, this resolution does not include issuing of rainwater tanks to these customers.

Council has commenced the investigation into servicing of the trunk main customers including consultation with affected customers.

We welcome the revised cost estimates for Mullumbimby's Future Water Strategy, presented in the Addendum to the Agenda. However, there are some questionable data about the cost of land acquisition for an offstream storage reservoir. Page 3 of the report gives a total cost of \$39.06m (thirty-nine million and sixty thousand dollars) at a cost per hectare of \$625,000 (six hundred and twenty-five thousand dollars). Dividing one by the other suggests the need to purchase 62.5ha (sixty two and a half hectares). Both the cost and the area appear to be excessive for a 10ha (ten hectare) reservoir. How are these costs derived and how can they be justified?

Response: The cost quoted in the question was the increase in cost since the original (2021) estimate.

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The costs per hectare are based on land values (sale price estimates) for farmland in the general area.

The new infrastructure required for the off-stream storage scenario includes:

- New storage – four potential storage sites have been identified as example sites to inform the project. These have a water surface area ranging from 5 to 7 ha. The storage development will also require batters, road access, carpark, amenities, pipeline from the weir, pipeline to the new WTP and buffer zones.
- New WTP – the WTP site (ideally adjacent to the storage) needs to be approximately 4 ha in addition to the pipeline from the storage and pipeline to the reservoir, road access, carpark, amenities and buffer zones. If not enough land is available at the storage location, then a separate land parcel, with duplicated area requirements for the several of the above facilities would be required.
- Fishway – if a bypass channel is required, a portion (if not the whole) of the neighbouring lot would need to be acquired.
- Construction access for all sites – Council would need an easement for any access required on non-council-owned land.

It is normal practice that Council would acquire the whole lot as partial acquisition is usually unattractive for the property owner.

The site area required for the new infrastructure was estimated based on a potential site layout on the lot with the least constraints (topography, creeks, public roads, distance from the weir and distance to the reservoirs).

It is inevitable that some parts of the lot will not be used in the short-term but would allow for potential expansion in future if required.

The required total area for the OSS and WTP initial site is estimated as 43 ha but it is likely that the whole of the lot would be purchased (potentially 54 ha).

Additional land would be required for the provision of the bypass channel fishway (assuming that only the riverside portion of the lot could be purchased).

Summary:

OSS and WTP site land acquisition = 54 ha

Fishway land acquisition = 3 ha

Total land acquisition = 57 ha

Land value = \$625,000 per ha

Land cost including 20% contingency = \$42.75 m.

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We welcome the revised cost estimates for Mullumbimby's Future Water Strategy, presented in the Addendum to the Agenda. However, there are many different data presented in the report. What is the final suggested Net Present Value for Scenario 2, how does this compare with the NPV of \$63 million quoted in Appendix B and what justification is there for the differences?

Response: Supplementary information discussing the revised cost estimate was provided to 15 August 2024 Council meeting. The NPV was updated to reflect current estimates of cost inputs including construction, land acquisition, materials, labour, bulk water supply costs, operations, and maintenance.

The NPV has also been revised to reflect construction cost information available since the 15 August 2024 Council meeting.

The revised 30-year NPV for scenario 2 is \$83,053,814 (5% discount rate).

The NPV provided in the 2021 report was \$41,197,000.

The additional land acquisition cost was the primary driver of the capital cost increase.

The revised capital cost for the WTP also increased with updated equipment and installation costs, design and construction costs, contingency and project management costs.

The revised capital cost for the fishway also increased (based on other similar project estimates). Other differences are the inclusion of additional operational costs for the WTP, fishway, storage and pipelines.

The current volatile economic environment continues to impact both local and global economies. Local government is not immune from these impacts, and due consideration of this risk should be made for long-term financial planning activities. In particular, the construction industry has been impacted with significantly higher costs.

There is considerable risk of cost changes for large construction projects, as demonstrated by this analysis.

How does the decision to disconnect Mullumbimby from Lavertys Gap water supply align with Byron Shire's Local Strategic Planning Statement, particularly in terms of infrastructure needs and water supply planning?

Response: The Mullumbimby Water Supply Strategy is referred to in the LSPS as a "relevant land use strategy, plan or policy". The strategy aligns with the key priorities and actions in the LSPS relating to infrastructure needs (A Connected Shire) ensuring infrastructure delivery is aligned with planned growth. The future demand for water supply included the latest growth projections for Mullumbimby.

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Can you provide evidence that this significant change in water supply infrastructure is consistent with the council's strategic plans?

We note that the Local Government Act 1993 (NSW), Section 402 - Community strategic plan- requires councils to have long-term strategies in place, which should include considerations for major infrastructure changes.

Response: Council has developed and adopted a Community Strategic Plan, Delivery Program and Operational Plan in accordance with the Integrated Planning and Reporting requirements of the Local Government Act. Strategic considerations relating to the Mullumbimby Water Supply Strategy were included in the 15 August 2024 meeting agenda:

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
5: Connected Infrastructure	5.5: Provide continuous and sustainable water and sewerage management	5.5.1: Water supply - Provide a continuous water supply that is maintained in accordance with NSW Health guidelines	5.5.1.20	Report to Council on the future water strategy for Mullumbimby

Specifically, OP5.5.1.20 requires a report to Council on the future water strategy. As a result of that report, the connection of Mullumbimby to the Rous regional water supply is the adopted option to address water supply security (servicing existing customers and future development over the long term), asset condition and performance, drought management and emergency response and heritage management obligations.

What state and federal funding has been requested to pay for the town water to remain and if not who will ask please?

Response: DCCEEW representatives advised Council staff in April 2020 that state government grants are provided through the Safe and Secure Water Program to address key risks to regional water safety and security in NSW, to provide safe, secure and sustainable water and wastewater services to regional NSW towns.

The Prioritisation Review Framework categorises major risks and issues in Water Quality, Water Security and Environmental categories as they relate to town water and sewerage services across the State.

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Only projects with the highest risk ranking (score of 5) are considered for the funding under the program.

Addressing the water security deficiency at Mullumbimby was given a risk score of 1 (lowest risk when compared to other water supplies in the state) and is therefore ineligible for grant funding under the NSW program. Advice provided by DCCEEW in August 2023 was that the funding program and eligibility is unchanged.

Council staff are not aware of any federal funding opportunities but continue to liaise with relevant agencies as projects arise.

Question with Notice No.2 Bypass Biobanking Agreements

File No: I2024/1197

At Council's Ordinary Meeting held on 15 August 2024, Jan Barham asked the following question which was taken on notice:

Has Council complied with the Bypass Biobanking Agreements, ID 352 Lilli Pilli and ID 348 Wallum Place, Byron STP specifically the payment of the Total Fund Deposits, the delivery of management actions, monitoring, reporting and Annual Reports record keeping as prescribed in the agreements? Could council also advise where updates and progress reports regarding the Biobanking Agreements are available?

Response Director Infrastructure Services:

Yes, Council has complied with Bypass Biobanking Agreements referred to.

The Total Fund Deposits were paid in 2019, the delivery of management actions is complete, monitoring is undertaken, annual reports have been submitted and record keeping is undertaken, all as prescribed in the agreements.

Following Council's submission of the 2023 Annual Report for year 5 of the Biodiversity Stewardship (Biobank) Agreements, the Biodiversity Conservation Trust completed an audit of site BA 348 Wallum Place management actions and confirmed that the required actions have been satisfactorily completed.

Existing BioBanking Agreements are managed under the Biodiversity Conservation Act 2016 (NSW) as Biodiversity Stewardship Agreements.

The Biodiversity Conservation Trust is responsible for the ongoing management of these agreements, including administration of annual reports.

Questions about existing BioBanking Agreements can also be directed to the Biodiversity Conservation Trust: info@bct.nsw.gov.au.

Reports regarding these Biobanking Agreements are not published by the Biodiversity Conservation Trust as far as Council is aware but would be subject to GIPA and would likely be able to be made available on request.

Question with Notice No.3 Far North Coast Regional Water Strategy

File No: I2024/1198

At Council's Ordinary Meeting held on 15 August 2024, Kathryn McConnochie, representing the Water Northern Rivers Alliance, asked the following question which was taken on notice:

In the Far North Coast Regional Water Plan, the Department of Planning and Environment states that it will; quote:

'Investigate the feasibility, including whole of life costs, yield assessments, lead times, community acceptance, environmental impacts, technical complexity and regulatory barriers for connecting smaller systems in the Richmond/Brunswick catchments, ie Casino, Nimbin and Mullumbimby to the Rous County Council bulk water supply on a permanent basis.'

Has Council sufficiently considered the interplay between the Far North Coast Regional Water Strategy and its own planning process? Why has the DPE expertise been neglected, by Council relying solely on one consultant's report, given that other Councils are also planning to be joining the Rous network and increasing the demand on the regional supply?

Response Director Infrastructure Services:

Response: Yes - the Mullumbimby Water Supply Strategy is consistent with the Far North Coast Regional Water Strategy. The regional water strategy is a region-wide strategic plan which sets regional strategic direction to achieve water security across multiple councils within the far north coast (DPE, 2023). Byron Shire Council's strategic planning (including integrated water cycle management strategy, strategic business plans and project-specific plans such as the Mullumbimby Water Supply Strategy) identifies the local risks to water services and options to address those risks. While the NSW government strategy was prepared after Council's investigations for Mullumbimby water supply, the two strategic plans are consistent in that:

- Actions in the Far North Coast Regional Water Strategy are consistent with the recommended approach for Mullumbimby as demonstrated through *Action 4.2: Support local councils to provide a secure and affordable water supply for towns* and *Action 4.3: Support regional-scale, adaptive decision-making for town water supplies in the Far North Coast* (DPE, 2023).

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- The benefits of regional supplies (compared to local supplies) have been recognised in the NSW Government's Far North Coast Regional Water Strategy Implementation Plan (2023), particularly Action 4.3 (*Support regional-scale, adaptive decision-making for town water supplies in the Far North Coast*) which includes connecting smaller systems in the Richmond/Brunswick catchments (Casino, Nimbin, Mullumbimby) to the RCC bulk water supply on a permanent basis as well as development of other regional supply sources such as desalination (Rous and Tweed Shire Council).

DPE (now NSW Department of Climate Change, Energy, the Environment and Water, DCCEEW) expertise has not been neglected. In fact, the Mullumbimby Water Supply Strategy was discussed with DPE representatives in August 2022 and feedback was considered in the subsequent investigations e.g. the emergency water supply pipeline design and related discussions with Rous County Council.

In consultation with DCCEEW, Council has also reviewed its requirements under the NSW Government's new regulatory and assurance framework for local water utilities. Council is continuing to work towards effective, evidence-based strategic planning that is sufficient, appropriate and robust as required by this new regulatory framework. This includes development of the Mullumbimby Water Supply Strategy.

In relation to other Councils planning to connect their local supplies to the Rous network: -

- **Ballina Shire Council** will transfer Wardell (<400) customers to the Rous network as part of the transfer of Marom Creek assets (weir and WTP) to Rous which is Stage 1 of the Rous Future Water Strategy.
- **Richmond Valley Council** has prepared its Water for Life 2050 Strategy (2024) for the next 25 years which includes the construction of an off-stream storage or weir raising as a medium-term option for Casino water security. In this case, connection to the Rous network is not currently considered to be cost-effective due to the significant distance from the Rous network to Casino.
- **Lismore City Council** has no plans to connect Nimbin to the Rous network. Rous has previously confirmed that connection of Mullumbimby and Wardell to the regional supply would not change its future water source planning.