

## Council Roundup

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# Nothing is revealed

David Lovejoy peers once more into the sewage

**T**he meeting on Tuesday to determine how much spare capacity exists at the West Byron STP (and who should get it) started over 20 minutes late owing to last minute consultations upstairs with John Cole of Abbott Tout, Council's legal firm.

Five minutes after it opened the meeting was closed to public and press while Councillors wrestled with Abbott Tout's advice concerning Clause 45 of the Byron LEP and the sewerage moratorium. Four hours later we all trooped back into the chamber.

The only resolution (as far as I know) to come out of this

extended and expensive secret struggle with the law was still displayed on the projector: 'Council notes the advice'.

In open session the Councillors passed a three part motion for assessing DAs under Clause 45. The motion, which seemed to recapitulate existing practice rather than add anything new, denied any ET allowance be made for water saving devices, allowed a one third reduction of an ET for waterless composting toilets and stated, 'Council will not look to actual flow rates from the site for the purposes of assessing existing sewerage entitlements for a site. Rather it

will rely on existing consent development under Byron Council Developer Contribution Plan - Sewer, adopted by Council on June 22, 1993, for residential development and Appendix B of the Public Works Department Manual for all other types of development.'

Turning to the question of spare capacity, nearly two hours of debate saw resolutions and amendments come and go without any of them getting up.

The recommendation in the report by Water and Waste Services director Phil King wanted Councillors to acknowledge that the West Byron STP is at or beyond its capacity - a little disingenuous as this is the point on which Councillors have doubts, so many contradictory statements having emanated from the sewerage department.

Cr Ermacora tried to lob a bomb in the Green camp by proposing that since some Councillors didn't accept the staff's advice about West Byron they should direct an immediate end to the sewerage moratorium. Unfortunately for his purposes he included all the Shire's STPs in his motion, which made it relatively easy to swat aside: there was after all no information to hand about the operation of the other STPs. Only the fervently pro-development Crs Tucker, Mangleston and Higgins took the bait.

Cr Wilson, in a speech twice as long as he allows anyone else, railed against a proposed amendment that allocation of spare capacity be determined by the elected Council. It seems that in his view everything is in order and the Councillors are asking too many questions.

We also learned in the course of debate that there were vacant lots under the Belongil Creek with possible sewerage entitlements, and that the West Byron STP despite repairs to sewage lines in the past year still has three times the salt content of the other plants (presumably there are still infiltrations and presumably they are still adding to the flow figures).

With no resolution of the spare capacity issue forthcoming, Cr Tucker at the end of the meeting made a successful move for the tabling of the report by Tyagarah Consultants Pty Ltd. This document compiled by Hans and Sandra Heilpern (before their association with Council) was commissioned by former

general manager Robyn Read 'for information' and for some reason kept secret since its completion in November 2001.

Perhaps something in this report, enticingly entitled 'Investigation into spare capacity at West Byron STP', will enable Council to distil some clarity from this murky pond.

**T**here's certainly no lack of spoons stirring the mixture. We've seen planning people' compiling sewerage ET tables, engineers admitting mistakes in planning figures and a highly paid lawyer riding shotgun on Council's deliberations in both fields.

To the layman and the harassed Byron Bay resident, what appears to be happening is the demand for accommodation in the Bay has driven the less scrupulous business entrepreneurs to go underground. Some hostels and bed and breakfast places are operating with many more guests than their development consents allow, and in some cases have no consent anyway.

A survey in the first week of February this year found that in six major hostels in the Bay there were a total of 759 unauthorised guests, that is to say there was consent (and sewerage allocation) for 551 guests in these six establishments but there were 1310 guests actually staying in them. That illegal use may be just the tip of the iceberg and apart from the extra load on the STP it represents millions of dollars of lost revenue.

Lost revenue and a distortion of the flow figures are the consequences of this lack of compliance with our civic statutes. The problem could lie with an under-resourced Council being unable to enforce compliance, or it could be that the whole notion of a sewerage moratorium, however wise when an STP is overloaded, is a legal and financial disaster if it cannot be rigorously defended in engineering terms.

There's no doubt that most residents of Byron Bay believe that a moratorium on development is a good thing until better environmental plans are put in place. Unfortunately they are getting the worst of both worlds as illegal use of the sewer proliferates and large developments have continued to take place. Meanwhile the sewerage moratorium is used to stifle small ones.

continued opposite

## Legislative Assembly Election

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### BALLOT-PAPER



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Place the number '1' in the square opposite the name of the candidate for whom you desire to give your first preference vote.

You may, if you wish, vote for additional candidates by placing consecutive numbers beginning with the number '2' in the squares opposite the names of those additional candidates in the order of your preferences for them.

#### CANDIDATES

☐ CANDIDATE  
INDEPENDENT

☐ CANDIDATE  
PARTY

☐ CANDIDATE  
PARTY

☐ CANDIDATE

☐ CANDIDATE  
PARTY

## You can vote for one or more candidates

When voting for candidates in the Legislative Assembly, mark the ballot paper by placing the number '1' in the square opposite the name of the candidate for whom you wish to give your first preference vote.

If you wish to vote for additional candidates you can do so by placing consecutive numbers beginning with '2' in the appropriate square in the order of your preference.

Remember voting is compulsory.

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to have  
your say**

**Election Day Saturday March 22**

# State Election

## Candidate profiles



### Jan Barham Greens

Jan is currently Deputy Mayor of Byron Shire Council. Her family history in this area goes back over 100 years. For over ten years she has been a committed campaigner for environmental and social issues locally and has eight years of State Parliament experience. Jan has business experience from 10 years in the Sydney fashion industry.

The seat of Ballina is the most popular tourism and 'Seachange' destination in NSW. Increasing development pressure threatens our area's rich biodiversity and way of life.

I'm committed to protecting the social, cultural and natural values of the Ballina electorate.

There is an urgent need for health, education and community services to be upgraded and residential amenity protected.

Our forests, waterways and native vegetation require protection and sustainable management.

Unique opportunities exist for sustainable job creation in clean, green agriculture and environmental restoration.

Transport issues are key to this area, safety is a priority and public transport initiatives are urgently needed.

I respect and support the region's Aboriginal people and heritage.

I celebrate the region's diversity of arts and community culture.

The seat of Ballina has the potential to be a model of sustainability. The community is informed and committed and deserves a positive future.



### Sue Dakin Country Labor

Sue Dakin has lived in Ballina for the past nine years, and for the past six years has worked as the business manager for a country legal practice.

Sue is an active member of her local community; she has served as an elected member of Ballina Shire Council since 1999, and is a volunteer court support worker for victims of domestic violence. Sue and her husband Michael have two sons, Ben 11, and Thomas, 9. Both boys attend Southern Cross School at East Ballina and play in local cricket and golf competitions. Thomas is also a member of the Southern Cross Choir.

It is my vision to see this northern electorate attract a significant degree of more funding and attention from the NSW government. I believe a voice of the same party in government is a significant way to attract such, hence I am not a fan of 'safe' seats.

Our region attracts not only tourists, but is a significant settlement area for the 'seachange' generation who want to escape the burdens of a city. We can offer a quality of life aspect like no other, but at the same time, we must protect our environment in order to maintain that quality.

I believe the SEPP 71 is of significant importance in promoting coastal protection, while taking the pressure of local councillors, allowing them to concentrate on the social infrastructure of their communities.

I believe the SEPP 71 is of significant importance in promoting coastal protection, while taking the pressure of local councillors, allowing them to concentrate on the social infrastructure of their communities.



### Nic Faulkner Independent

I am standing for PEACE.

- 47 years old with three children and lived in the Byron Shire for 26 years.

- Involved in local politics since 1982.

- Stood for the Australian Democrats in the 95 State election, 1999 Byron Shire for mayor and an Independent against Larry Anthony in 2001.

Over the past four years I have been re-educating myself in Constitutional law.

It has become obvious to me that something is rotten in the State of Denmark (Australia, NSW). Our Governor General has become a lame duck and our PM has taken on the role of monarch/president.

The party system which keeps the Lib/Labs in government and opposition has further corrupted and sold out this nation/state.

Our High Court, which is politically appointed to keep this system in place, has rewritten and reinterpreted the Constitution to the detriment of the people.

With such disregard for the law and the people, it isn't any wonder that our education, health, roads and all infrastructure is inadequately funded and dysfunctional. NSW governance is in the same mess as the Commonwealth.

My vision is to facilitate major political change through a peaceful People's Evolution.

With government working on behalf of the people, not the corporate and the wealthy minority.

Vote 1,2,3,4,5 from top to bottom of ballot paper, make your vote count five times.



### Don Page National Party

We are all very concerned about the impending war. I know there is a feeling of wanting to send a message to the Prime Minister. He knows my position is that the inspectors should continue their work and we should only go to war with UN backing.

This is a State Election. I ask people to judge me on my contribution to individuals and groups in our community and my performance as Local State Member, not on an issue over which I have no control.

At the State level good planning which protects our amenity, jobs and the environment is vital. So is infrastructure funding.

I have been a long term supporter of a new central hospital for Byron Shire and I have a State Coalition commitment to build it. It was interesting to read the Greens candidate taking credit for a Central Hospital when she hasn't been involved in developing this project. Neither has the Labor candidate.

Back door deals are being done on preferences but the voters don't know all the details.

I've done no deals. For people who want transparency and honesty just vote one for the candidate of your choice.

Then you'll know what policies you are getting.

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Candidates are listed above in alphabetical order, not the order they appear on the ballot paper.

The Echo tried to contact One Nation NSW candidate Darren May, and wrote to One Nation's Sydney office for a profile and photograph, but received no response, which may indicate the level of commitment to the electorate, one could expect from a non-resident candidate.

### Method of voting for the Legislative Assembly

The method of voting for the Legislative Assembly is known as 'optional preferential'. You must place the number '1' in the square next to the name of the candidate for whom you wish to give your first preference vote.

Optional preferential means that you have the option of allocating further preferences. You can vote for additional candi-

dates by placing consecutive numbers, beginning with the number '2', in the squares next to the names of those additional candidates in order of your preference for them. The names of each candidate and their political party affiliation are shown on the ballot paper.

### Candidates for the Legislative Council

In NSW parliament's upper house, called the Legislative Council, there are 15 groups of candidates running and seven ungrouped candidates. In total, 284 candidates are running.

The major party groups are Liberal/National Group A, Labor Group F, Democrats Group H, and Greens Group K.

A full list of candidates is available online at [www.seo.nsw.gov.au/current\\_election/candidates\\_2003/legislative\\_council\\_upper\\_house\\_candidates.html](http://www.seo.nsw.gov.au/current_election/candidates_2003/legislative_council_upper_house_candidates.html).

ALP COUNTRY LABOR PARTY

1 Sue Dakin  
Labor Candidate for Ballina

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What's important to you is important to Sue

- Improving our schools
- Quality health care at local hospitals
- More insurances for rural communities
- Better roads and bridges
- Make our community safer

For more information phone Sue Dakin on 6681 5213  
Written & authorised by P.Moore, 58 Tamar Street, Ballina

## Council Roundup

### The Echo asked Oliver Dunne, a former Byron Shire Council president, for comment

In my opinion, the moratorium at the West Byron STP should have been removed in April 1999 when Council finished the interim upgrade. At that time, the design capacity of the plant was upgraded to 2,500 kilolitres flow per day (2.5 million litres) or 10,400 EP (equivalent persons).

To many observers it was clear that after the upgrade works were completed there was at least 410 kilolitres or 410,000 litres per day gross surplus flow capacity in the system and Council eventually acknowledged that fact in mid June 2000.

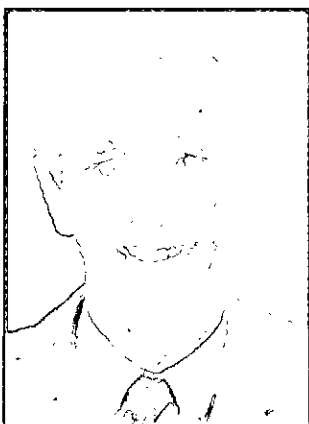
When the committed load was deducted from the gross surplus, that is, the vacant lots with sewer entitlement and approved but unbuilt DAs, it left 773 EPs available for new development. Why Council came to release only 371 EP is beyond the comprehension of most observers and not just developers and consultants such as myself. Councillors have also queried the errors from the outset in 2001 when the background figures supporting the surplus were eventually released.

The failure to release the correct figure of 276 ETs [773EP divided by the correct ratio of 2.8 EPs to the ET] has had a significant impact on Council finances, not just in the legal and staff costs in defending the various Class 1 planning appeals, but

continued from page 12

There's no doubt also that the mayor sees the sewerage moratorium as an essential part of his political program. He characterises Green Councillors who question the policy as 'pro-development' when in fact they are merely advocating that Council stick to law and due process.

Council has managed to defeat a number of appeals in the Land and Environment Court by use of Clause 45 of the LEP. This clause requires developments to have a 'prior adequate arrangement' for sewerage and courts tend to accept unconditionally a local government's claim not to have such an arrangement. Costs in this class of actions are not recoverable (unless the matter is appealed again to a higher court) and so the victories are in one sense pyrrhic. However, developers can make a separate application for sewerage under section 68 of the Local Government Act, and this bypasses the Clause 45 trap. No doubt some of Council's four hour confidential session was devoted to this consideration.



Oliver Dunne

also in the lost developer contributions of about \$1-million needed to build the new West Byron sewage treatment plant scheduled for next year. To this can be added the extra uncollected contributions for water headworks, parking and community facilities that may have been generated if the approvals were granted.

As one of the persons who advised the community group committee formed to gain an EIS for the West Byron Plant and which led to the imposition of the moratorium, it seems that politics rather than engineering or environmental concerns are driving the continuation of the moratorium. The 1997 action was about protecting the Belongil Creek and its environs from an ill-planned scheme, which was not getting the proper assessment required under the legislation.

This current defence of the sewer moratorium is more

As Oliver Dunne says (see panel above) Byron Bay has lost millions of dollars in developer contributions which should have gone to the upgrade of the West Byron plant. There is now the question of finding sufficient funding for the project, which is scheduled to start at the end of the year and be complete by January 2005.

Former temporary general manager Wayne Collins told *The Echo* that the cost is estimated at \$22m. The money comes from cash reserves (\$3m), developer contributions (\$3.5m), loans raised (\$2.4m), loans to be raised (\$6.5m) and a state subsidy (\$6.6m).

That's a lot of money still to be negotiated and even if the cost doesn't blow out, the catch is that loans will need to be financed from new development contributions and with the low density plan for the Bay there is some doubt there will be enough residential developments available for this purpose.

But first we need to get to the bottom of that pond. Another instalment soon.

about imposing a low-density development regime on Byron Bay via the sewer pump. If Council wishes to pursue a low-density vision for Byron Bay, there is a correct and legal way to do it; and that is, adopt a new LEP or amend the existing one to prohibit tourism and medium density. However, it knows it is unlikely to get that past Planning NSW without a major fight, so it appears to have decided to use sewer as its primary planning mechanism.

Using the sewer is a totally illogical way to achieve this outcome as it just generates illegal development, which is mushrooming here in Byron Bay. During the past three years, Council has tried to

hide the surplus capacity from the public but ended up giving it away to freeloaders in the background. Hard-nosed developers, who have been refused through the front door, are just going to the back door and taking sewer capacity for nothing at the ratepayer's expense. Millions of dollars in foregone developer contributions are costing the whole Shire dearly. How crazy is that?

This moratorium no longer makes sense and is completely illogical. I would say to the Council: if the capacity is there, Council should get on and release it. Instead, it should concentrate its energies on fast tracking the new plant whilst collecting contributions towards the cost.

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## Legislative Council Election

# Have your say your way

You may vote in one of two ways:

☒ BALLOT PAPER

**either**

Place the number '1' in the square above the group of candidates for whom you desire to vote. You may if you wish vote for additional groups of candidates by placing consecutive numbers beginning with the number '2' in the squares above the additional groups of candidates in order of your preference for them.

GROUP A PARTY

☐

GROUP B PARTY

☐

GROUP C PARTY

☐

GROUP D PARTY

☐

GROUP E PARTY

☐

GROUP F PARTY

☐

GROUP G PARTY

☐

GROUP H PARTY

☐

GROUP I PARTY

☐

GROUP J PARTY

☐

OR

**or**

Place the numbers '1', '2', '3', '4', '5', '6', '7', '8', '9', '10', '11', '12', '13', '14', and '15' in the squares opposite the names of 15 candidates in order of your preference for them. You may if you wish vote for

GROUP A PARTY

☐ CANDIDATE Party

GROUP B PARTY

☐ CANDIDATE Party

GROUP C PARTY

☐ CANDIDATE Party

GROUP D PARTY

☐ CANDIDATE Party

GROUP E PARTY

☐ CANDIDATE Party

GROUP F PARTY

☐ CANDIDATE Party

GROUP G PARTY

☐ CANDIDATE Party

GROUP H PARTY

☐ CANDIDATE Party

GROUP I PARTY

☐ CANDIDATE Party

GROUP J PARTY

☐ CANDIDATE Party

## Vote above or below the line

When voting for the Legislative Council you can choose to vote either above or below the thick black line on the ballot paper.

**If you vote above the line** you must place the number '1' in the square for the group of candidates for whom you wish to vote. If you wish to vote for additional groups of candidates you can by placing consecutive numbers beginning with the number '2' in the appropriate square above the line in the order of your preference.

**If you vote below the line** you must place consecutive numbers beginning with '1' in at least 15 squares in the order of your preference for candidates. If you wish to vote for additional candidates you can by placing consecutive numbers beginning with '16' in the squares in order of your preference for them.

Remember voting is compulsory.

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## New look Girl Guides are go

Lesley Patterson

Dressing up as a pirate, building a bamboo raft and water bombing rival pirate gangs with a mediaeval catapult sounds a lot more fun than when I went to girl guide camp. Back then you had to light fires by rubbing two boy scouts together and then try not to burn the custard when you eventually did get the fire going.

That's all changed now. The other weekend members of the Brunswick Heads Girl Guides travelled up to Camp Wollumbin near Kingscliff for a weekend learning traditional guiding skills through fun activities.

Each unit built a four girl raft from bamboo, plastic drums and rope which was later raced down the river. They also learnt how to construct a 'blister' catapult, traditionally used for launching fire bombs, but altered in this case to fire water bombs at rival pirate gangs, and experienced camping in bell tents and cooking al fresco.



Tanya O'Neill from Brunswick Head Girl Guides says modern guiding is a lot of fun and the unit is eager to attract more recruits. To join call Jean Platt on 6680 3128. Jean would also like to hear from anyone who is interested in sponsoring the local guides.

Fundraising activities have traditionally been focussed on regular car washing days, which due to water restrictions have been banned for the past year. Funds are drying up and they need help to cover maintenance and running costs. If you want to become a sponsor or can help out with a donation call Jean.

## Don't Rubbish Bundjalung Water, say councils

'Don't Rubbish Bundjalung Water' and 'Only Rain Down Bundjalung Drains' are two of the messages being promoted as part of the Bundjalung Nation Stormwater Education Project (BuNSEP).

'Don't Rubbish Bundjalung Water' is featured on caps and T-shirts that have been given away at BuNSEP promotions throughout the Bundjalung region during 2002 and 2003.

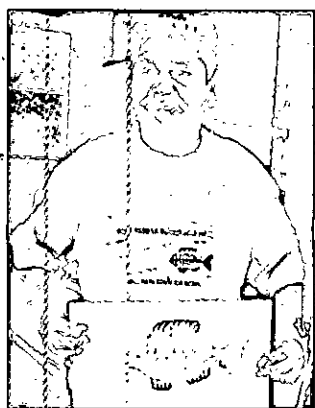
Local Bundjalung man Glen Cook, pictured, who is also principal of the Cabbage Tree Island Primary School, kindly donated his art for BuNSEP use while being consulted as part of the project. Glen's fish design is featured on BuNSEP T-shirts and bags.

'The fish is a bream, which is a favourite food for many in my extended family, and is a traditional food for many Bundjalung people on the coast,' said Mr Cook.

'I'm pleased to be able to assist in promoting awareness of stormwater pollution issues within our community through the BUNSEP Project. We've got to look after our own backyard.'

If you see Glen's fish and the words 'Don't Rubbish Bundjalung Water', remember to put your rubbish and other waste where it belongs - in the bin.

BuNSEP is a partnership between Ballina and Byron Shire Councils, Richmond Valley and Kyogle Councils, and Lismore City Council funded by a grant from the NSW Stormwater Trust. For further information on BUNSEP contact Adam Faulkner or Lee Middleton at Ballina Shire Council on 6686 1293.



□ To be in the running for a BuNSEP prize pack of hat, bag and children's T-shirt, complete this sentence, 'Only... Down Bundjalung Drains' and send it with your name and address to BuNSEP Competition, c/- Ballina Council, PO Box 450, Ballina 2478

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# Not in your electorate to vote on Saturday March 22?

## Have your say at any polling booth

If you are away from your electorate on Election Day, you can vote at any polling booth in NSW. Remember voting is compulsory so call in at any polling booth between 8am and 6pm and tell the officer in charge that you are out of your area and you will be given a vote. It's that simple.

For more information call 1300 135 736 between 9am to 7pm Monday to Friday, visit  
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