



Byron Shire Council



Agenda

Ordinary Meeting Thursday, 28 February 2013

held at Council Chambers, Station Street, Mullumbimby
commencing at 10.30am

Public Access relating to items on this Agenda can be made between 9.00am and 10.30am 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 'Ken Gainger'.

Ken Gainger
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 Local Government Act (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 Section 448 of the Local Government Act.

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.

Participation in Meetings Despite Pecuniary Interest (S 452 Act)

A Councillor is not prevented from taking part in the consideration or discussion of, or from voting on, any of the matters/questions detailed in Section 452 of the Local Government Act.

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 if the provisions in S451 of the Local Government Act apply (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 Division 2A of Part 6 of that Act.
- (2) The general manager is required to keep a register containing, for each planning decision made at a meeting of the council or a council committee, the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.
- (3) For the purpose of maintaining the register, a division is required to be called whenever a motion for a planning decision is put at a meeting of the council or a council committee.
- (4) Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document, and is to include the information required by the regulations.
- (5) This section extends to a meeting that is closed to the public.

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ORDINARY MEETING

28 FEBRUARY 2013

(1)

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1. **APOLOGIES**
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Councillors are encouraged to ask questions regarding any item on the business paper to the appropriate Executive Manager prior to the meeting. Any suggested amendments to the recommendations should be provided to the Administration section prior to the meeting to allow the changes to be typed and presented on the overhead projector at the meeting.

MAYORAL MINUTE

Mayoral Minute No. 7.1. Addition to Coastal Update

#E2013/10463

5 I move:

That complimentary to the matters identified in Resolution 13-21 Council confirm:

- 10 1. The report only needs to relate to the Border, Don and Manfred Streets, beach access sites at Belongil, not the coastline, and is to include information on potential funding sources, preconditions that might arise and any other issues that may need to be considered, eg any positive issues as well as potential barriers.
- 15 2. Council's request for a report should not influence landowner's decisions to lodge their own development applications for any type of interim or permanent protection works they want and landowners should not delay their own actions on the matter.
- 20 3. The consideration of these issues is additional to the work required for preparation of the Coastal Zone Management for the Byron Bay Embayment (CZMP (BBE)) and the outcome of that process cannot be predetermined or influenced by any interim decisions of Council.

Signed: Cr Simon Richardson

NOTICES OF MOTION

Notice of Motion No. 8.1. Donation from Mayor's Discretionary Allowance - Support for 'Positive Change for Marine Life' event 16 February 2013

#E2013/6601

5 I move:

1. That Council note the donation of \$500 from the Mayor's Discretionary Allowance to the organisation 'Positive Change for Marine Life' towards Phase II of the 'Honour the Ocean' marine debris campaign for their event to be held on Saturday 16 February 2013.
2. That Council advertise the donation in accordance with Section 356 of the Local Government Act 1993.

15 **Signed: Cr Simon Richardson**

Councillor's Background Notes:

20 'Positive Change for Marine Life' is an organisation who campaign for long-term change in regards to marine conservation issues. Their mission is to "collaborate with people and corporations involved in inhumane and unsustainable marine industries and create profitable, viable alternatives that benefit not only the environment but all involved parties."

25 Locally, members of the 'Positive Change have collected 100,000 pieces of trash from the Byron Bay beaches. Through sorting this trash they have been able to identify the majority of litter found on Main Beach is a result of direct dumping and stormwater outlets.

30 The upcoming event to be held in Byron Bay on Saturday 16 February will unveil their plans "to make Byron Bay Australia's most 'ocean friendly' tourism town and outline how we are turning this idea into a reality!", including the screening of the movie 'Under the 'Plastic' Stars' and other festivities to launch Phase II of the 'Honour the Ocean' marine debris campaign

Further information on the initiative can be found on www.positivechangeformarinelifelife.org.

35 Recommended priority relative to other Delivery Plan tasks:

Not applicable

Definition of the project/task:

40 Donation of \$500 to support the organisation 'Positive Change for Marine Life'

Source of Funds (if applicable):

45 Mayor's Discretionary Allowance (2153.13)

Management Comments:

(Management Comments must not include formatted recommendations – resolution 11-979)

Clarification of project/task:

50

Endorse and advertise the making of a donation of \$500.00 from the Mayor's Discretionary Allowance, to the organisation 'Positive Change for Marine Life' for their event to be held on Saturday 16 February 2013.

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Executive Manager responsible for task implementation:

Executive Manager Corporate Management

5 Relationship to, priority of, and impact on other projects/tasks:

This will have a minimal impact on other projects/tasks.

Financial and Resource Implications:

10 The 2012/13 Budget adopted by Council included an allocation of \$2,000 for budget item – Mayor – Discretionary Allowance. Council at its Ordinary Meeting to be held on 30 August 2012 considered a report including a carryover amount of \$1,900 from the 2011/2012 Financial Year to the 2012/2013 Financial Year. Council approved the carryover amount and the total approved budget allocation for 2012/2013 is an amount of \$3,900.

15 Council at its Ordinary meeting held on 8 September 2011, via Resolution 11-728 allocated an amount of \$1,400.00 from the Mayor's Discretionary Allowance, which included donations to a number of Schools, Organisations and Community Events.

20 In Part 2 of Resolution **11-728**, Council resolved:

25 “2. *That the above recipients receive the amounts specified as an annual standard donation to be identified in the yearly budget.*”

The adopted 2012/13 Budget has included the donations identified in Part 1 of Resolution **11-728**, which reads as follows:

30 “1. *That Council note the following donations from the Mayor's Discretionary Allowance for 2011/12:*

- 35 a) *\$100 each to Byron Bay and Mullumbimby, Cape Byron Rudolf Steiner and Mullumbimby Shearwater Steiner High Schools for their 2011 Prize Giving Ceremonies;*
- b) *\$50 prize-money each to Byron Bay and Mullumbimby, Cape Byron Rudolf Steiner and Mullumbimby Shearwater Steiner High Schools for an Art Encouragement Award;*
- c) *\$500 prize-money to the Byron Arts Classic Acquisition Prize;*
- d) *\$200 prize-money to the SNAP Youth Photography competition; and*
- 40 e) *\$100 prize-money to the Brunswick Heads Simple Pleasures Photography competition”*

The unallocated amount of the Mayor's Discretionary Allowance in the adopted 2012/13 Budget is \$2,500.

45 Council at its Ordinary meeting held on 9 August 2012 resolved as follows:

12-654 Resolved that Council note the following donations from the Mayors Discretionary Allowance:

- 50 a) *Writers Festival – Payment to a maximum value of \$636 for certification and inspection fees.*
- b) *Ocean Shores Art Expo – Donation of \$250 prize money for 2012 and that this becomes an annual donation.*

55 Council at its Ordinary meeting held on 8 November 2012 following consideration of Notice of Motion 8.2 - Mayors Discretionary Allowance - Digital TV for Mullumbimby Hospital resolved as follows:

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12-881 Resolved:

1. *That Council endorse the donation of \$295 to the Mullumbimby Hospital Auxiliary for the purchase of one digital television.*
2. *That Council advertise the donation in accordance with Section 356 of the Local Government Act 1993.*

The balance remaining in the unallocated amount of the Mayor's Discretionary Allowance is \$1,319.00. Sufficient Funds are available for the making of this donation of \$500.00.

Legal and Policy Implications:

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

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

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

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

Notice of Motion No. 8.2. Pop-Up Shop proposal in the former Byron Bay Library by Arts Northern Rivers

#E2013/8866

I move:

- 5
1. That Council endorse the establishment of a 'Pop-Up Shop' by Arts Northern Rivers in the former Byron Bay Library as detailed in the proposal attached for a six week period from March 13 to May 6 2013.
 - 10 2. That Council set a non-commercial rental rate of \$250/week to be paid.

Signed: Cr Simon Richardson

Councillor's Background Notes:

- 15 Arts Northern Rivers is an independent not for profit organisation, supported by Arts NSW and the seven local governments of the region, including Byron Shire Council. Cr Spooner represents Council as a board member and I am an alternate.
- 20 The proposal involves establishing a pop-up shop in the former Byron Bay Library space for a 6 week period commencing in March 2013. The shop will showcase the work of a number of local artists and creative industries from across the Northern Rivers, including Byron Bay. Full details of the proposal is attached as Annexure 30.
- 25 In addition to the shop, the participating artists will receive a business diagnostic session with member of the NSW Creative Industries Innovation Centre which will assist with business plans, marketing and promotion advice. The artists will also be responsible for the supervision of the space along with a staff member from Arts NSW.
- 30 Arts Northern Rivers has proposed a non-commercial rental rate for use of the space over the 6 week period and have suggested other arts organisations have secured similar pop-up shop spaces for around \$250/week. I believe that this is equitable given the space would be sitting empty over this period. Arts Northern Rivers have also advised they have Public Liability insurance to the value of \$20,000,000.
- 35 Arts Northern Rivers will also be launching the 'Northern Rivers Creative' brand, which is being developed to promote and celebrate the creative industries of the Northern Rivers.
- 40 Now that the new Byron Bay Library has opened this is an empty space and Council has resolved to enter into lease negotiations with the Salvation Army for the use of the former library site (Resolution **12-999**).
- 45 1. *That Council, in accordance with resolution 11-1071 and noting the important role of the Fletcher Street Cottage in providing services to meet the needs of the homeless and addressing Byron Shire Council's adopted Homelessness Policy and Protocol, not seek expressions of interest for a new lease over the Fletcher Street Cottage and Existing Library Building.*
 - 50 2. *That Council enter into lease negotiations with the Salvation Army based on Market Rental Valuations contained at Annexures 12(a) (#E2012/3469) and 12(d) (#DM1249740), to ensure best value for money outcomes.*
 - 55 3. *That Council provides in principal support to the Salvation Army taking over the lease arrangement of the Fletcher Street Cottage, subject to:*
 - a) *written agreement from Byron Bay Community Centre Inc; and*

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b) a financial commitment to the annual market lease rental value of \$39,600 (GST inclusive) per annum to ensure an appropriate return to the Water Fund on this Water Fund Asset.

5 4. That Council receive a further report on the outcomes of 3 above.

5. That Council provides in principal support to the Salvation Army expanding their services into 10 Lawson Street, Byron Bay (existing library building), subject to considering a further report:

10 a) on the financial implications of the scope and cost of works required for the change of use consent and building modifications; and

b) their ability and willingness to meet the market rental value of \$160,900 (GST inclusive) per annum to ensure an appropriate return to the Water Fund on this Water Fund Asset.

15 Given the short-term nature of the pop-up shop proposal it will not have any adverse effects on the on-going negotiations with the Salvation Army. It will be a creative use of an empty prime shop-front over the Easter and School Holiday periods and will showcase the talents of local artists and creative industries.

20 Recommended priority relative to other Delivery Plan tasks:

N/A

Definition of the project/task:

25 Lease space to Arts Northern Rivers

Source of Funds (if applicable):

N/A

30 **Management Comments:**

(Management Comments must not include formatted recommendations – resolution 11-979)

Clarification of project/task:

35 Subject to an appropriate written agreement such as a short term lease document, Arts Northern Rivers will independently establish and subsequently remove a short term pop-up shop in the old Byron Bay library building.

Executive Manager responsible for task implementation:

40 The old library building is owned by the water fund. Assistance with lease documentation will be provided by Corporate Management.

Relationship to, priority of, and impact on other projects/tasks:

45 In accordance with the resolution of Council, liaison and negotiation is continuing with the Salvation Army. It is expected correspondence will be received shortly by Council with a proposal addressing part 3 of res 12-999.

Financial and Resource Implications:

Some limited staff resources will be required to facilitate the proposal.

50 Legal and Policy Implications:

An appropriate written agreement, such as a short term lease document, should be established.

55 Future proposals for use of the building that attract market rent will assist with Council's financial outcomes and contribute to the cost of refurbishment of the building, including the removal of asbestos.

Attachments:

- Pop-Up Shop proposal by Arts Northern Rivers #E2013/7489 [7 pages]..... **Annexure 30**

Notice of Motion No. 8.3. White Paper Planning Law Reform

#E2013/8850

I move:

- 5
1. That Council notes the potential widespread impact on our local community of the proposed planning law reform being undertaken by the NSW government.
 - 10 2. That Council calls on the O'Farrell government to ensure there is at least 6 months of public consultation on the planning reform White Paper when it is released early this year; and
 3. That Council commits to holding one or more community consultation workshops on the White Paper once it is released to:
 - 15 a) Assist the community to understand the NSW Government planning reforms
 - b) Discuss the implications of these reforms for our Local Government Area
 - c) Consult with the community on how to cooperate in the new environment for the benefit of our local area
 - d) Gain feedback on what the Council needs to know to support their community
 - 20 e) Obtain resident views for the Council response to the White Paper and Draft Legislation

Signed: Cr Rose Wanchap

25 **Councillor's Background Notes:**

The White Paper will outline the specific law reforms that the government is intending for planning. It will detail key matters in the proposed new planning regime such as the role for local councils, the extent of community consultation, the new plan making process and the extent of environmental protection. If the government's early Green Paper is any guide then it will be a very pro-developer proposal with many, many challenges for local communities and the environment.

30

Planning Review Panel's Consultation

[July 2011] Government Announces Planning law review by Planning Review Panel consisting of Tim Moore and Ron Dyer

35

[July 2011 – November 2011] Consultation and submissions on law reforms undertaken by Planning Review Panel

[December 2011] Planning review Panel publish Issues Paper

40

[December – March 2012] Public consultation on Issues Paper

[June 2012] Final report and Recommendations of the Planning Review panel delivered to NSW Planning Minister

45

Government's Consultation

[14 July 2012] Govt. releases its Green Paper on Planning Review together with the Planning Review Panel's Report and Recommendations

50 [May – September 2012] Public Submissions received on Green Paper

[October 2012] Extension granted for submission from Local Councils

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[TBA – Expected February 2013] Government's White Paper to be released with unknown period for consultation

Management Comments:

5 (Management Comments must not include formatted recommendations – resolution 11-979)

Clarification of project/task:

10 Write to the O'Farrell government to request that there is at least 6 months of public consultation on the planning reform White Paper and conduct one or more community consultation workshops on the White Paper once it is released. It would be advantageous to also request of the Department that they supply a Planning Officer to present at such workshop as it is the Departments document.

Executive Manager responsible for task implementation:

15 Executive Manager Environment and Planning.

Relationship to, priority of, and impact on other projects/tasks:

20 The White Paper was due in November 2012 but should be released shortly. The likely impact is not yet known. At present the draft 2012 Byron LEP is the highest priority for planning

Financial and Resource Implications:

The estimated cost for each workshop would be of the order of \$800.00.

Legal and Policy Implications:

25 Nil

Notice of Motion No. 8.4. Coal Seam Gas in Byron Shire

#E2013/10012

I move:

- 5
- 1 That Council write to Dart Energy and request they relinquish their Petroleum Exploration Licence claims on Byron Shire Lands or to enter into a Memorandum of Understanding that they will not explore or drill for Coal Seam Gas in Byron Shire for the life of the licence.
 - 10 2 That Council write to the NSW Aboriginal Land Council and ask them to relinquish their application for a petroleum exploration licence or if granted, they also commit to no exploration in the Byron Shire.

15 **Signed: Cr Diane Woods**

Councillor's Background Notes:

20 There has been wide spread anxiety by Byron Shire Residents due to the threat of Coal Seam Gas exploration.

I believe that on the understanding that there is no coal seam gas in Byron Shire, then this would not pose a problem to either party.

25 This would relieve anxiety of our residents and take the threat off the potential negative impact on our tourists.

Recommended priority relative to other Delivery Plan tasks:

30 High

Management Comments:

(Management Comments must not include formatted recommendations – resolution 11-979)

Clarification of project/task:

35 Council has considered a number of Notices of Motion relating to Coast Seam Gas in the past year and has made submissions to the Local Member and to the Minister for Resource and Energy. Council could also write to DART Energy and NSW Aboriginal Land Council.

Executive Manager responsible for task implementation:

40 Executive Manager Environment and Planning

Relationship to, priority of, and impact on other projects/tasks:

No impact

45 Financial and Resource Implications:

Nil

Legal and Policy Implications:

Nil

Notice of Motion No. 8.5. Cringe the Binge

#E2013/9279

I move:

- 5
1. That Council makes a commitment to develop a working partnership with Byron Youth Service, to support the development of 'Cringe the Binge' as an innovative campaign that addresses both youth and community safety policy objectives at the local government level.
 - 10 2. That Council makes a commitment to working with Byron Youth Service, and other local stakeholders, towards the development of Byron Bay as the first 'Cringe the Binge' town in Australia.
 - 15 3. That Council makes an application for funding available through the NSW Department of Attorney General and Justice Crime Prevention Grants program in support of the 'Cringe the Binge' initiative. This application would aim to:
 - a) reduce the identified incidence of the two priority crimes within the Byron Shire:
 - Assault – Non-Domestic Violence (alcohol-related); and
 - 20 • Theft
 - b) address the following elements of the Byron Shire Safer Community Compact 2012-16:
 - 8.2 Community Connect (Target Offence – Assault Non-DV with a focus on alcohol-related)
 - 8.3 Party Smart (Target Offence – Assault Non-DV with a focus on alcohol-related)
 - 25 • 8.4 Fun Fests (Target Offence – Assault Non-DV and Theft)
 - 8.7 Working Together (Target Offence – Theft)

Signed: Cr Paul Spooner

30 **Councillor's Background Notes:**

In 2012 Byron Youth Service initiated a new national campaign to reverse youth binge drinking called "Cringe the Binge". Cringe the Binge is being developed as a campaign to focus attention on the increasingly dangerous social, health and crime issues experienced by communities as a result of binge drinking. Cringe the Binge aims to reverse binge drinking trends amongst young people aged 25 and under.

As an initial launch strategy, Cringe the Binge held a National Weekend of Action in November 2012. The aim of the National Weekend of Action was to help raise funds that will support youth and community workers to tackle binge drinking issues within their community. The first National Weekend of Action was launched in Byron Bay by Dr Steve Hambleton - President of the Australian Medical Association (AMA). Cringe the Binge's National Weekend of Action was supported by a significant number of local businesses in the Byron Shire region, and attracted media mentions both locally and nationally.

Byron Youth Service proposes that it could develop local 'Cringe the Binge' campaigns around priority crime issues eg drink driving and designated driver program (see Safer Community Compact Action Plan 8.2) and street violence. These programs would link in, and build upon, existing networks amongst schools, TAFE, liquor licencees and venue operators, the local police etc. Campaigns could be developed that would publicise the law and penalties and associated issues and target key offender groups amongst locals and visitors. Programs could particularly be promoted through accommodation providers (backpackers, caravan parks and tourism accommodation), and through Byron Bay's entertainment venues. For further details refer to attachment: 'Support Cringe the Binge'.

Recommended priority relative to other Delivery Plan tasks:

Significant.

‘Cringe the Binge’ links in with a range of council developed policies and action plans including:

5

Youth Policy

There are a number of sections of Council’s Youth Policy which relate to ‘Cringe the Binge’ where council states that it will:

10

- 6.1 Provide access to safe youth leisure, recreation, learning space and social experiences including sporting facilities, libraries, community centres and youth specific events.
- 6.2 Consult with young people to stay informed of current issues and possible solutions, ensure that young people are included in planning and decision-making processes, and support methods of communication that are youth-friendly.
- 15 6.3 Support local and regional providers of youth services through information, advice on best practice models, provision of community space, grant application support and financial assistance where possible.
- 6.4 Continue to support parents through information, services provision and the promotion of services available to parents.
- 20 6.5 Lobby on behalf of Byron Shire’s young people for improvement, change, or increased services that are important to them and improve their access and equity opportunities.
- 6.6 Disseminate up-to-date, credible information to young people and their families to assist with healthy living and safety for young people in the community.
- 25 6.7 Advocate for the provision of services and infrastructure to improve young people’s wellbeing through increased access to social, educational, employment, transport, health and accommodation opportunities and support services.
- 6.8 Monitor social issues so as to foster collaborative responses and partnerships to enhance local young people’s access to community services and support.

30

Youth Strategy and Action Plan 2011-2015

- 4.1 Monitor Trends
Trend and issues that impact on the quality of life of young people are identified in a regular and ongoing manner to inform Council’s response and involvement in youth affairs.
- 35 4.2 Partnerships Ongoing
Establish and consolidate relationships and networks with other key stakeholders to deliver local and regional solutions.
- 40 4.4 Advocacy
Advocate for the needs of young people in relation to transport, health services, housing, education and training, employment and recreation programs.

45

Byron Shire Youth Council

In 2012 Byron Shire Youth Council awarded ‘Cringe the Binge’ a Certificate of Acknowledgement for “ongoing commitment to young people and in recognition of achievements in improving the lives of local young people”. This demonstrates that young people themselves acknowledge and admire the work being initiated by ‘Cringe the Binge’ in 2012.

50

Safer Communities Compact

Council’s recently finalized “Safer Community Compact 2012-16” identifies Assault (non-domestic violence) and Alcohol-Related Crime (including drink driving) as two of the key targeted crimes to address through its action plan during 2012-2016.

55

BYRON SHIRE COUNCIL

ORDINARY MEETING

28 FEBRUARY 2013 (15)

Definition of the project/task:

1. Council makes a commitment to develop a working partnership with Byron Youth Service, to support the development of 'Cringe the Binge' as an innovative campaign that addresses both youth and community safety policy objectives at the local government level.
2. Council makes a commitment to working with Byron Youth Service, and other local stakeholders, towards the development of Byron Bay as the first 'Cringe the Binge' town in Australia.
3. Council make an application for funding available through the NSW Department of Attorney General and Justice Crime Prevention Grants program in support of the 'Cringe the Binge' initiative.

Source of Funds (if applicable):

NSW Department of Attorney General and Justice Crime Prevention Grants

Management Comments:

Executive Manager responsible for task implementation:

Executive Manager Society and Culture

Relationship to, priority of, and impact on other projects/tasks:

As stated above, the project fits well with Council's Youth Strategy and Action Plan and the Safer Communities Compact. The level of commitment to working with Byron Youth Service and Cringe the Binge is relative to the staff resources available in the Youth portfolio, ie. currently one part-time staff person.

Financial and Resource Implications:

Council has recently agreed to fund Cringe the Binge from the Society and Culture budget for \$5,000. This commitment is not contained in the 2013/14 budget. To commit to ongoing support and partnership with Byron Youth Service, and the implementation and development of Cringe the Binge, will require a review of current youth activities and services and the budget. The review will include prioritising competing tasks and actions currently undertaken and included in Council's planning documents, such as the Community Strategic Plan and the Youth Strategy and Action Plan.

Council's Society and Culture staff are currently working with Byron Youth Service and the Byron Bay Community Centre in relation to the development of an application for funding from the Attorney General's Department. The application and its content are yet to be finalised and will be developed in line with the Attorney General's guidelines. It is the officer's intent to work with community organisations to include outcomes to address the issues and actions raised in this notice of motion. Meetings have been set with Byron Youth Service and the Police to discuss the application and the potential for partnerships. The application will be lodged on 4 March 2013.

Legal and Policy Implications:

The project is in line with Council's Youth Policy.

Attachments:

- Support Cringe the Binge #E2013/9298 [3 pages]..... **Annexure 29**

Notice of Motion No. 8.6. Arts Byron Shire Forum

#E2013/9253

I move:

- 5
1. That Council convene a one day forum for art practitioners and organisations in the Byron Shire to facilitate the formation of a local arts network to be called Arts Byron Shire.
 2. That the outcomes of the forum to be reported to Council.
- 10

Signed: Cr Paul Spooner

Councillor's Background Notes:

- 15 Council has an adopted Cultural Policy and a Cultural Plan 2008-13. Strategic actions include:
- 3.2(f) Support activities and promote creative opportunities including forums, exhibitions and events, and
 - 20 3.2(g) Support development of a creative industries strategy for the region

The forum will provide a strategic opportunity for artists and creative organisations to collaborate around strategic actions to be pursued to advance the arts in Byron Shire. This would include visual artists, writers, filmmakers, actors, producers, musicians, fashion designers and multi-disciplinary practitioners.

25

The Byron Shire is known for its large number of creativity residents and arts organisations. This forum would provide an opportunity for Council to engage with arts practitioners and organisations to further pursue the actions identified in its adopted Cultural Policy and Plan 2008-13. The formation of an arts network within the shire will advance the possibility of identifying and achieving greater resourcing of arts activities and employment through increased funding and sponsorship of the arts.

30

The forum to include arts practitioners as well as representatives from arts organisations such as:

35

- Northern Rivers Writers Centre
- Byron Bay International Film Festival
- Byron Music Society
- Ripe Productions
- 40 Bluesfest Services
- Village Sounds
- Byron Community Centre
- Mullumbimby Civic Hall
- Bangalow A&I Hall
- 45 Ocean Shores Art Expo
- Australian Indonesian Arts Alliance

Key representatives of local arts organisations and Arts Northern Rivers to be invited to assist in the planning, facilitating and hosting of the forum, in conjunction with interested councillors and relevant council staff.

50

BYRON SHIRE COUNCIL

ORDINARY MEETING

28 FEBRUARY 2013 (17)

Recommended priority relative to other Delivery Plan tasks:

Significant:

- 5 EC1.4.1 Develop a strategy to attract major sporting and cultural events to the shire
EC 3.1.1 Implement the Cultural Plan

Definition of the project/task:

- 10 1. A one day forum for art practitioners and organisations in the Byron Shire be held to facilitate the formation of a local arts network to be called Arts Byron Shire.
2. Outcomes of the forum to be reported to Council.

Source of Funds (if applicable):

- 15 None required.

Management Comments:

Clarification of project/task:

- 20 This project would attract financial and resource implications. It sits well with the implementation of actions from Council's Cultural Plan. There is no ongoing budget or staff resources to continue to facilitate the operation of a local arts network if it was to be established as an outcome of the forum. Consideration will need to be given in draft budget preparations for 2013-14.

- 25 Executive Manager responsible for task implementation:
Society and Culture.

Relationship to, priority of, and impact on other projects/tasks:

- 30 As shown above, the project relates to actions in the Cultural Plan and the Creative Industries Strategy from Arts Northern Rivers to which Council is committed.

Financial and Resource Implications:

- 35 There is currently no staff resource available to undertake a work required for Council to convene the forum. There are resource and financial implications if Council is to be the lead agency in convening the forum.

Financial resources are available in Council's Society and Culture budget to employ a temporary officer (JHA) to undertake the tasks required.

- 40 Legal and Policy Implications:
Nil.

Notice of Motion No. 8.7. Lobbying For Disaster Declaration at Upper Coopers Creek
#E2013/9508

I move:

- 5 a) That Council lobby appropriate Australian government Ministers including the Prime Minister and the member for Richmond alerting them to the dire access situation for residents of Upper Coopers Creek and asking them to have the area “declared” as a Disaster in the Australian government’s terms, to generate action on the rapid restoration of access and on care arrangements for those residents (including Disaster Compensation Payments);
- 10 b) That Council include within that lobbying a description of the many other road-slips in the hinterland of the Shire that also need attention and similar support;
- c) That Council notify local, state and national media of the situation and of Council’s request to the Australian government.

15 **Signed: Cr Duncan Dey**

Councillor’s Background Notes:

20 I have been given personal stories by about 30 affected hinterland residents, mostly of Upper Coopers Creek and some of Wilsons Creek and Huonbrook. I am collating these and contacting the authors for descriptions of their location and for permission to pass on their information. I intend to provide this further background before these papers are printed, ie by 20 February.

25 The situation in Upper Coopers Creek has been described by one affected resident as:

I write with my concerns regarding the safety and integrity of the Upper Coopers Creek Community after the declaration of a disaster following the landslip during the recent severe storms.

30 *Weeks have passed since the disaster event occurred and still there remains a complete absence of on ground material assistance to the community. We have had senior members of local Police, local government (including Mayor Simon Richardson and councillor Basil Cameron), SES and representatives from state Police and Emergency Services visit our temporary crisis centre at the Upper Coopers Creek Public School and assurances have been offered.*

35 *However, our pressing concern is the minimum requirement for pedestrian access to our homes. The section of road where the landslip occurred has been officially closed to pedestrian traffic for a week. Community members have discovered immediate solutions including Baileys Bridges (pre-fabricated steel truss bridges) which are available for hire from the department of Roads and Maritime services. We are awaiting the promised ground exploration from the authorities to*

40 *establish suitable foot paths around the landslip but in the meantime the only access is across a section of creek which is a hazardous waterfall shin deep in rushing water.*

45 *I explored this route yesterday and carried my four year old daughter across in my arms as a mock medical evacuation exercise should a life threatening injury such as a snake bite occur. I requested rope, carabiners and harnesses from SES to provide a safety lifeline at this crossing and I was informed that they could not help with this. The reason this is significant is for the simple reason that a rescue helicopter is unlikely to be able to fly in the event of poor weather evidenced by several meetings with the community cancelled due to this reason. This creek crossing is currently our only avenue of escape in the event of the 'catastrophic collapse' of the landslip area*

50 *as forewarned by council's sub-contracted geotechnical engineers. Council's advice is not to cross the landslip area at all.*

BYRON SHIRE COUNCIL

ORDINARY MEETING

28 FEBRUARY 2013 (19)

5 I have approached council for help and the local police command based at Tweed Heads to assist in upgrading this escape route with safety equipment. I have been informed a 'risk assessment' needs to be done and nothing will be done if it is too risky. We rely therefore on our own resources and cooperation to effect solutions. It is lucky we are a resilient community but help from above is thin on the ground and the community is tiring of watching the higher echelons of local government flying in and out by helicopter while nothing changes the facts on the ground. There is no emergency management plan in place and the quality of communications from the powers that be is extremely poor. I have to thank mayor Simon Richardson and Councillor Basil Cameron for making personal visits to our community and Mr. Cameron in particular for making the effort to communicate personally in regards to updates. Councillor Duncan Dey is tabling a notice of motion regarding this issue whilst collating personal impact statements from our community and I thank him for that.

15 To indicate the severity of this situation we have been offered the alternative of voluntary evacuation or remaining in our homes relying on helicopters transporting our essentials. One young family has no telephone land line, no internet and no mobile coverage. They have a four month old baby and a six year old child in their care. There has been no financial relief from any government agency and many of us are suffering financial hardship because we are unable to attend work. The Australian Government Disaster Compensation Payment is at this point unavailable because the region has not been declared a disaster area. The state-based disaster compensation payment overseen by the Department of Police and Emergency services is unavailable because much of what it covers is irrelevant to community members or the payment does not cover what has been lost such as food spoilage. This must be claimed within 48 hours of the disaster - a physical impossibility given our power and telephone services were cut for more than 110 hours after the severe storms in January.

We appear to be falling through the cracks no matter whether we stand on the landslip or not!

30 Airlifting supplies is problematic for some. we are expected to establish accounts with grocery stores and make arrangements for parcels to be delivered to Mullumbimby Showground for transhipment by helicopter. We need food, fuel, gas and all the usual basic life essentials however some in the community have no credit cards or internet banking and must somehow make alternative payment arrangements for essentials or evacuate.

35 We are advised by council that it is not known how long this helicopter service will be available.

40 There are few solid reassurances flowing into our community and the levels of personal distress and psychological stress amongst our neighbours is palpable with many in tears fearful for there safety and that of their loved ones.

Our community wants a pedestrian access as soon as possible. We want council to liaise with local landowners to assist in upgrading existing access ways such as banana trails/fire trails as an absolute priority.

45 We want to be updated daily on progress. A face book page has been established that is accessible to all: <http://www.facebook.com/pages/Upper-Coopers-Creek-Landslip-Action-Group/332415366859453> and we encourage councillors and emergency services personnel to update us there as well as by e-mail and telephone. We want a failsafe community communications system set up to allow us to communicate in the event of another breakdown in telephone and electricity services. the school has a satellite phone but it is under lock and key and was not accessible during the storm event. We want vehicular access to and from our homes as soon as possible and demand that a temporary truss bridge be installed immediately. We also demand that the state and federal funding agencies make immediate provisions for disaster relief for affected community members and make funding available to local council to assist them in repairing the road or re-establishing a new one.

BYRON SHIRE COUNCIL

ORDINARY MEETING

28 FEBRUARY 2013 (20)

We want assurances and action not talk-vests and buck passing from state to local authorities who are ill-equipped to deal with these extraordinary events.

Please help us.

5 *The following video is an appeal. More public illustrations of the extent of our hardship and our dissatisfaction with the progress and management of this disaster will be forthcoming in the local and national media.*

<http://www.youtube.com/watch?v=YW3nvHfaUA8&feature=youtu.be>

10

Recommended priority relative to other Delivery Plan tasks:

Contact to be made by the Wednesday after Resolution, as the situation is urgent.

Definition of the project/task:

15 As per the proposed Motion.

Source of Funds (if applicable):

Nil

20 **Management Comments:**

(Management Comments must not include formatted recommendations – resolution 11-979)

Council resolved on 14 February 2013 (part):

25 **13-31 Resolved (part):**

3. *That Council write to Justine Elliot MP, requesting that the area be declared a Federal Disaster Area to enable applications for Commonwealth disaster assistance for affected residents, particularly those affected by recent landslip events.*

30

A letter was written to The Hon Justine Elliot, MP on 15 February 2013 in response to this resolution.

If Council resolve to support this Notice of Motion, staff will act on it accordingly.

35

Clarification of project/task:

The event experienced over the Australia Day long weekend by the north coast, including Byron Shire, has been declared a natural disaster by the State government.

40 To be eligible for Federal government assistance, the event must be 'declared' by the Federal government as well.

Executive Manager responsible for task implementation:

Executive Manager Community Infrastructure

45

Relationship to, priority of, and impact on other projects/tasks:

The proposed requirement has no impact on current projects, however, if successful would provide a financial benefit to affected residents.

50 Financial and Resource Implications:

There are no financial implications involved in writing to the appropriate Ministers and the Prime Minister, along with notifying media.

GENERAL MANAGER'S REPORTS

Report No. 12.1. Regional Development Australia - Northern Rivers – Briefing to Council

General Manager

5 **Report Author:** Ken Gainger, General Manager
File No: #E2013/4908

Theme: Corporate Management

Summary: Regional Development Australia (RDA) - Northern Rivers has offered to provide a briefing to Council on the work of RDA to date and to discuss mutual expectations and how to build an effective working relationship.

10 **RECOMMENDATION:**

1. That Council suspend standing orders and move into committee to receive a 30 minute briefing from Regional Development Australia - Northern Rivers.
- 15 2. That at the completion of the briefing and informal discussions, Council move out of committee and back into the Ordinary Meeting.

Report

5 RDA-Northern Rivers have offered to provide a briefing to Council on the work of RDA. In previous discussions with Council representatives, it has been suggested this be held at the Ordinary Meeting of 28 February.

The aim of the briefing is to provide an overview of:

- The role of Regional Development Australia Committees (RDAs)
- Work of RDA – Northern Rivers to date, including key outcomes and achievements
- 10 • Northern Rivers Regional Plan
- Regional Development Australia Fund

15 There is also an opportunity to discuss mutual expectations and how to build an effective working relationship.

RDA – Northern Rivers representatives attending this meeting will include:

- Chair, Ian Tiley
- CEO, Katrina Luckie
- 20 Member, Max Boyd
- Member, Tony Radanovic

25 The Hon. Justine Elliot, MP will also be attending the briefing with RDA in her role as NSW Minister and Parliamentary Secretary assisting the Minister for Regional Australia, Regional Development and Local Government.

Additional information on RDA-Northern Rivers can be found at their website:

www.rdanorthernrivers.org.au.

30 **Financial Implications**

None associated with this report.

35 **Statutory and Policy Compliance Implications**

Nil.

Report No. 12.2. Operational Plan Review 2012/2013 for the period October to December 2012

General Manager

Report Author: Mark Arnold, Executive Manager Corporate Management

File No: #E2013/7661

5

Theme: General Manager

Summary: This report summarises the performance of the organisation against the adopted indicators in the Operational Plan 2012-2013 for the quarter October to December 2012. The majority of key performance indicators are on target.

RECOMMENDATION:

10 **That Council receive and note the quarterly report and associated Annexures on the 2012-2013 Operational Plan Review for the period 1 October to 31 December 2012.**

Attachments:

15

- December 12 Quarterly Review Reporting Templates #E2013/9284 [148 pages] **Annexure 1(a)**
- Status Report – Grants Register December quarter #E2013/7852 [16 pages] **Annexure 1(b)**

Report

5 The purpose of this report is to advise Council of the performance of the organisation against the specific measures and indicators for identified priorities in the Operational Plan for the Quarter October to December 2012.

This is the Quarterly Report on the 2012/2013 Operational Plan for the period to 31 December 2012.

10 2012/2013 Operational Plan is a component of the 2012-2016 Delivery Program adopted by Council on 28 June 2012. The Council Actions detailed in Annexure 1(a) represent adopted actions in year 1 of the Delivery Program, required to achieve the strategies established in the Community Strategic Plan.

15 The quarterly review report is provided for the public record.

Substantial work has been undertaken in relation to the activities and targets in the 2012/2013 Operational Plan, with good progress recorded.

20 Details of progress are provided in Annexures 1(a) and 1(b).

Finance Implications

25 The Council's financial performance for the Quarter is addressed separately in the Quarterly Budget Review.

Statutory and Policy Compliance Implications

30 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. Progress reports must be provided at least every 6 month.

COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER’S REPORT

Report No. 12.3. Unconfirmed Report and Recommendations Wilsons Creek Project Reference Group meeting held 5 February 2013

Executive Manager: Community Infrastructure
Report Author: Phillip Holloway, Executive Manager Community Infrastructure
File No: #E2013/6835

Theme: Community Infrastructure, Local Roads and Drainage

Summary: This report provides the Unconfirmed Report of the Wilsons Creek Project Reference Group meeting held on 5 February 2013.

Council’s adoption of the recommendations from the meeting, or management’s recommendations, will allow for the project to be progressed.

10 RECOMMENDATION:

- 1. That Council note the Unconfirmed Report (Annexure 16(a) #E2013/8101) of Wilsons Creek Project Reference Group (PRG) meeting held on 5 February 2013.
- 15 2. That in relation to agenda item 6.3 - Additional Concepts Assessment – grout curtain and micropile foundation, Council adopt:

PRG Recommendation WC 6.3.1:

- 20 1. That Council maintain it’s commitment to the rock buttress option but, in recognition that the micropile option may have equal or superior merit, staff investigate the micropile option which was presented by Coffeys Geotech in January 2013 (#E2013/4001), including cost, time, feasibility, environmental impact and community benefit.
- 25 2. That subject to the micropile option being the more advantageous option (based on cost, time, feasibility, environmental impact, community benefit and RMS approval), Council defer action on Resolution 12- 1029 and develop the micropile option.
- 30

Attachments:

- 35 • Unconfirmed report of Wilsons Creek Project Reference Group meeting held 5 February 2013 #E2013/8101 [4 pages]..... **Annexure 16(a)**
- Agenda Wilsons Creek Project Reference Group meeting held 5 February 2013 #E2013/8103 [30 pages] **Annexure 16(b)**

40 *Annexure 16(b) has been provided on the Councillor’s Agenda CD only; an electronic copy can be viewed on Council’s website.*

Report

This report provides the recommendations of Wilsons Creek (WC) Project Reference Group (PRG) meeting held on 5 February 2013.

5

PRG Recommendation WC 6.3.1:

The Wilsons Creek Project Reference Group recommend that Council:

- 10 a) maintain it's commitment to the rock buttress option but, in recognition that the micropile option may have equal or superior merit, staff investigate the micropile option which was presented by Coffeys Geotech in January 2013 (#E2013/4001), including cost, time, feasibility, environmental impact and community benefit
- 15 b) subject to the micropile option being the more advantageous option (based on cost, time, feasibility, environmental impact, community benefit and RMS approval), defer action on Resolution 12- 1029 and develop the micropile option

Management Comment

20 Based on the investigations to date regarding the proposed micropile foundation option, management would agree that this new concept option appears to be a better solution for the permanent restoration of Wilsons Creek Road slip in the long term.

25 In the short term however, it must be noted that deferring action on resolution 12-1029 and developing the micropile option will cause delays to the commencement of permanent restoration works.

Financial Implications

30 The permanent restoration of the Wilsons Creek Road slip is eligible for funding under the Roads & Maritime Services (RMS) Natural Disaster Guidelines.

RMS will advise upon review of detailed design drawings components of the works that are considered "betterment" and hence are not eligible for funding. Items not covered may include:

- 35 - additional or upsized drainage structures
- new kerb and gutter
- new safety barrier
- any other improvements beyond current guidelines
- 40 - ongoing monitoring and maintenance

Council will have to provide funding for betterment works once the estimated costs are known. This funding will be sought from Council in a future report or quarterly review.

45 It is anticipated that the current 'Rock Buttress' option would have higher costs to Council in the long term due to the requirements for monitoring and maintenance of the proposed creek diversion.

Statutory and Policy Compliance Implications

50 There are no statutory and policy compliance implications in staff investigating the micropile option presented by Coffeys Geotech in January 2013.

CORPORATE MANAGEMENT – EXECUTIVE MANAGER’S REPORTS

Report No. 12.4. Revised Model Privacy Management Plan for Local Government**Executive Manager:** Corporate Management5 **Report Author:** Mark Arnold, Executive Manager Corporate Management**File No:** #E2013/4643**Theme:** Corporate Management, Information Systems**Summary:** The Privacy and Personal Information Protection Act 1998 (PPIPA) came into effect on 1 July 2000. The PPIPA requires all councils to prepare and adopt a Privacy Management Plan.

Council at its Ordinary Meeting held on 20 March 2001 adopted the Byron Shire Privacy Management Plan - June 2000 via Res No. 01-283.

The Privacy Plan adopted by Council was prepared on the basis of the Model Privacy Plan for Local Government prepared and released at that time by the Department of Government.

The Division of Local Government (DLG) in Circular 13-03 dated 2 January 2013 advised Councils of the release a new Model Privacy Management Plan for Local Government.

The DLG has advised that Councils should adopt a new Privacy Management Plan, based on the new Model Privacy Management Plan for Local Government or develop their own Privacy Plan.

10 RECOMMENDATION:

1. **That Council, in accordance with the Privacy and Personal Information Protection Act 1998, adopt the Byron Shire Council Privacy Management Plan – January 2013 attached at Annexure 6 (#E2013/4623).**

15 2. **That Council forward a copy of the adopted Byron Shire Council Privacy Management Plan to the Privacy Commissioner.**

20 Attachments:

- Draft Byron Shire Council Privacy Management Plan January 2013 #E2013/4623 [58 pages] . **Annexure 6**

Report

The Privacy and Personal Information Protection Act 1998 (PPIPA) came into effect on 1 July 2000. The PPIPA requires all councils to prepare and adopt a Privacy Management Plan.

5

Council at its Ordinary Meeting held on 20 March 2001 adopted the Byron Shire Privacy Management Plan - June 2000 via Res No. 01-283.

10

The Privacy Plan adopted by Council was prepared on the basis of the Model Privacy Plan for Local Government prepared and released at that time by the Department of Government.

A copy of the Byron Shire Council Privacy Management Plan – June 2001 can be viewed at <http://www.byron.nsw.gov.au/publications/p>.

15 The Division of Local Government (DLG) in Circular 13-03, dated 2 January 2013 advised councils of the release a new Model Privacy Management Plan for Local Government.

20

The new Model has been prepared in consultation with the Office of Privacy Commissioner and the Local Government and Shires Association of NSW, has been updated to:

- Incorporate the requirements of the Health Records and Information Privacy Act 2002 (the HRIP Act), which commenced on 1 September 2004.
- Include reference to the Government Information (Public Access) Act 2009 (GIPA Act), which commenced on 1 July 2010.

25

A copy of the Model Plan can be viewed at http://www.dlg.nsw.gov.au/dlg/dlghome/dlg_index.asp.

30

The DLG has advised that councils should adopt a new Privacy Management Plan, based on the new Model Privacy Management Plan for Local Government or develop their own Privacy Plan.

Should a council elect to develop their own Privacy Management Plan, it is required to ensure that it informs:

35

- The Community about how their personal information will be used, stored and accessed after it is collected by the Council.
- Council staff of their obligations in relation to handling personal information and when they cannot disclose, use or collect it.

40

A review of the adopted Privacy Management Plan has been undertaken and an amended Plan has been prepared based on the Model Privacy Management Plan for Local Government – January 2013. A copy of amended draft Byron Shire Council Privacy Management Plan – January 2013 has been attached to this report at Annexure 6.

45 Financial Implications

There no financial implications in relation to the review and adoption of the Draft Byron Shire Council Privacy Management Plan – January 2013.

50 Following the adoption of the Plan there will be a need to provide identified staff with training on the updated elements of the Plan. Any costs associated with this training will form part of the Training Plans for these staff and funded from within allocated budgets

Statutory and Policy Compliance Implications

The Privacy and Personal Information Protection Act 1998 requires all councils to prepare and adopt a Privacy Management Plan.

5 The following Legislation is related to in the draft Byron Shire Privacy Management Plan – January 2013.

- 10 • Privacy and Personal Information Protection Act 1998 (the “PPIPA”)
- Health Records and Information Privacy Act 2002 (the HRIPA)
- Local Government Act 1993 (the “LGA”)
- Government Information (Public Access) Act 2009 (GIPA Act)
- Environmental Planning and Assessment Act
- Protection of the Environment (Operations) Act:
- 15 • State Records Act 1998
- Oaths Act, 1900

The Byron Shire Council Code of Conduct in Section 7.11 requires compliance with the Council’s adopted Privacy Management Plan when dealing with personal information.

Report No. 12.5. Budget Review - 1 October 2012 to 31 December 2012

Executive Manager: Corporate Management
Report Author: James Brickley, Manager Finance
File No: #E2013/392

5

Theme: Corporate Management, Financial Services

Summary: This report is prepared to comply with Clause 203 of the Local Government (General) Regulation 2005 and to inform Council and the Community of Council's estimated financial position for the 2012/2013 financial year, reviewed as at 31 December 2012.

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 Annexure 3(a) and 3(b) for Council's consideration and authorisation.

Annexure 3(c) contains the Integrated Planning and Reporting Framework (IP&R) Quarterly Budget Review Statement (QBRs) as outlined by the Division of Local Government in circular 10-32.

RECOMMENDATION:

10 1. That Council authorise the itemised budget variations as shown in Annexure 3(b) (#E2012/5023) which includes the following results in the 31 December 2012 Quarterly Review of the 2012/2013 Budget:

- 15 (a) General Fund - \$163,500 decrease in accumulated surplus
- (b) Water Fund - \$6,400 decrease in reserves
- (c) Sewerage Fund - \$119,700 decrease in reserves

20 2. That Council adopt the revised working fund deficit of \$310,000 for the 2012/2013 financial year as at 31 December 2012.

Attachments:

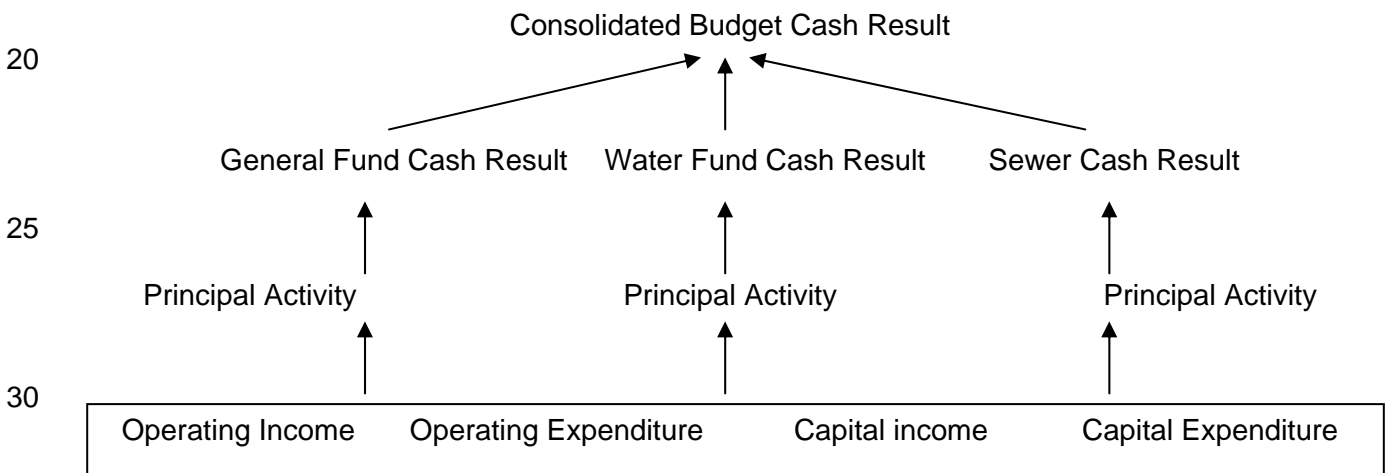
- Budget Variations for the General, Water and Sewer Funds #E2013/8673 [72 pages]Annexure 3(a)
- Itemised Listing of Budget Variations for the General, Water and Sewerage Funds #E2012/19842 [3 pages] Annexure 3(b)
- New Integrated Planning and Reporting framework (IP&R) required Quarterly Budget Review Statement (QBRs) components #E2013/8676 [16 pages].Annexure 3(c)

Report

Council adopted the 2012/2013 budget on 28 June 2012 via Resolution **12-542**. It also considered and adopted the budget carryovers from the 2011/2012 financial year, to be incorporated into the 2012/2013 budget, at its Ordinary Meeting held 30 August 2012 via Resolution **12-666**. Since that date, Council has reviewed the budget taking into consideration the 2011/12 Financial Statement results and progress through the September 2012 quarter budget review. This report considers the December 2012 Quarter Budget Review.

The details of the budget review for the Consolidated, General, Water and Sewer Funds are included in Annexure 3(a), with an itemised listing in Annexure 3(b). This aims to show the consolidated budget position of Council, as well as a breakdown by Fund and Principal Activity. The document in Annexure 3(a) 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 Annexure 3(a) is the following reporting hierarchy:



The pages within Annexure 3(a) are presented (from left to right) by showing the original budget as adopted by Council on 28 June 2012 plus the adopted carryover budgets from 2011/2012 followed by the resolutions between July and September, the September review, resolutions between October and December and the revote (or adjustment for this review) and then the revised position projected for 30 June 2013 as at 31 December 2012.

On the far right of the Principal Activity (pages 11 – 64 of 72), 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 Annexure 3(a) (pages 66 – 72 of 72) which provides an explanation of the variation.

There is also information detailing restricted assets (reserves) to show Council estimated balances as at 30 June 2013 for all Council's reserves (pages 7 – 10 of 72).

A summary of Capital Works is also included by Fund and Principal Activity (page 65 of 72).

50 Division of Local Government Budget Review Guidelines:-

The Division 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 Annexure 3(c)) 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 Council's to address.

5 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):

- 10 • A signed statement by the Responsible Accounting Officer on Councils 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:
 - 15 ○ Consolidated
 - By fund (eg General, Water, Sewer)
 - By function, activity, program etc to align with the management plan/operational plan
- Budget Review Capital Budget
- 20 • Budget Review Cash and Investments Position
- Budget Review Key performance indicators
- 25 • Budget Review Contracts and Other Expenses

The above components are included in Annexure 3(c):

30 **Income and Expenditure Budget Review Statement by Type** – This shows Councils 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 pages 66 to 72 of Annexure 3(a).

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

40 **Cash and Investments Budget Review Statement** – This statement reconciles Council's restricted funds (reserves) against available cash and investments. Council has attempted to indicate an actual position as at 31 December 2012 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 pending on cash flow movements.

45 **Key Performance Indicators (KPIs)** – Council is currently developing a series of KPIs to be built into the Long Term Financial Plan (LTFP currently under development). At this stage, the KPIs within in this report are:-

- 50 ○ **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

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- **Asset Renewals Ratio** – This assesses the rate at which assets are being renewed relative to the rate at which they are depreciating.

5 These may be expanded in future to accommodate any additional KPIs that Council may adopt to use in the Long Term Financial Plan (LTFP).

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

10 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 2012/2013 financial year projected to 30 June 2013 but revised as at 31 December 2012.

15

2012/2013 Budget Review Statement as at 30 September 2012	Original Estimate (Including Carryovers) 1/7/2012	Adjustments to December 2012 including Resolutions	Proposed December 2012 Review Revotes	Revised Estimate 30/6/2013 at 31/12/2012
Operating Revenue	61,900,300	(207,100)	324,600	62,017,800
Operating Expenditure	72,142,500	1,674,600	922,800	74,739,900
Operating Result – Surplus/Deficit	(10,242,200)	(1,881,700)	(598,200)	(12,722,100)
Add: Capital Revenue	1,010,000	130,500	0	1,140,500
Change in Net Assets	(9,232,200)	(1,751,200)	(598,200)	(11,581,600)
Add: Non Cash Expenses	16,496,000	0	0	16,496,000
Add: Non-Operating Funds Employed	971,300	2,800,000	0	3,771,300
Subtract: Funds Deployed for Non-Operating Purposes	(20,213,500)	(3,511,000)	(279,500)	(24,004,000)
Cash Surplus/(Deficit)	(11,978,400)	(2,462,200)	(877,700)	(15,318,300)
Restricted Funds – Increase / (Decrease)	(12,016,400)	(2,277,700)	(714,200)	(15,008,300)
Forecast Result for the Year – Surplus/(Deficit) – Working Funds	38,000	(184,500)	(163,500)	(310,000)

As the table above highlights, the forecast result for the year has decreased by an estimated \$163,500 during the review period including Council resolutions. Results by General, Water and Sewerage Fund are provided below:

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GENERAL FUND

In terms of the General Fund projected Accumulated Surplus (Working Funds) the following table provides a reconciliation to the estimated position as at 31 December 2012:

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Opening Balance – 1 July 2012	\$623,300
Plus original budget movement and carryovers	38,000
Council Resolutions July – September Quarter	0

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September Quarter Budget Review	(120,100)
Council Resolutions October – December Quarter	(64,400)
Recommendations within this Review – increase/(decrease)	(163,500)
Forecast Working Funds Result – Surplus/(Deficit) – 30 June 2013	(310,000)
Estimated Working Funds Closing Balance – 30 June 2013	\$313,300

The General Fund financial position has decreased by \$163,500 (including budget movements and Council resolutions) in total as a result of this budget review. The various factors that have impacted on this result have been highlighted in the Annexure 3(a) and summarised further in this report below.

Council Resolutions

During the October to December 2012 quarter, the following resolutions of Council were adopted that impacted the 2012/13 budget result:

\$68,200 Expenditure - Byron Bay Library Staffing Levels – Review from RTRL. Resolution 12-642 part 2 resolved:

“That Council allocate the funding of \$68,200 required to increase the staffing levels for the new Byron Bay Library as indicated in the financial implications of this report and pending determination of the RTRL Library Committee of the Draft 2012/2013 RTRL budget on 10 August 2012 with funding provided from the General Fund Accumulated Surplus.”

\$3,800 Income - Byron Bay Tennis Court Lease – Resolution 12-650 part 3 resolved:

“That Community Land Lease Agreement income budget for Byron Bay Tennis Courts account #1188.001 be pro-rata increased from \$ 5,200 to \$18,000 per annum at the next quarterly budget review. ”

Budget Adjustments

The budget adjustments identified in Annexure 3(a) and 3(b) for the General Fund have been summarised by division in the following table:

Division	Revenue Increase/ (Decrease) \$	Expenditure Increase/ (Decrease) \$	Accumulated Surplus (Working Funds) Increase/ (Decrease) \$
General Managers Office	0	0	0
Organisational Support	5,000	0	5,000
Society and Culture	31,600	47,100	(15,500)
Corporate Management	72,200	107,900	(35,700)
Community Infrastructure	(226,500)	(109,200)	(117,300)
Environment and Land Use	63,500	63,500	0
Waste Management	75,000	75,000	0
Total Budget Movements	20,800	184,300	(163,500)

Budget Adjustment Comments

Within each of the Divisions of the General Fund, are a series of budget adjustments identified in detail at Annexure 3(a) and 3(b). More detailed notes on these are provided in Annexure 3(a) from pages 66 to 72 of 72 but in summary the major additional items included are summarised below by Division and are included in the overall budget adjustments table above:

Organisational Support

- \$5,000 of legal fees have been recovered this quarter. These can be credited to the General Fund working fund balance.

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Society and Culture

- Within the Library Services program, income and expenditure increased by \$31,600 due to the Local Priority grant, with an additional \$15,500 attributable to the increase in the Richmond Tweed Regional Library contribution.

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Corporate Management

- Within the Administration – Councillors program, subscriptions to various bodies has increased expenditure by \$1,000.
- Within the Administration program, Mullumbimby Civic Hall was the recipient of a grant of \$3,500. This grant is to be used to partially fund the installation of solar panels at the Hall. (See Property Services comment below.)
- Within the General Purpose Revenues program, income has increased by \$71,800. This is due to actual rate income being slightly more than the budget.
- Within the Financial Services program, expenditure has decreased by \$2,000 due to a slight saving in the cost of rates valuation fees.
- Within the Information Services program, expenditure has increased by \$62,000. This is largely due to the position of the IT Project Officer not being included in the original budget (\$40,000) and an increase in the costs associated with the communication landlines to the Administration Centre (\$22,000). These actual costs are higher than the allocated budget.
- Within the Property Services program expenditure has increased by \$21,900 due to \$3,500 attributable to the installation of solar panels at the Mullumbimby Civic Hall. (Income of \$3,500 was received through the Administration program), \$14,600 attributable to the lease payable to the Crown for the Mullumbimby Neighbourhood Centre (this is related to resolution 12-600) and \$3,800 attributable to the lease payable to the Crown for the Mullumbimby War Widows Cottage (this is related to resolution 12-601).
- Within the Environment Program revenue has decreased by \$12,600 due to income from the Food Administration fee being less than the estimated budget.
- Within the Compliance Program revenue has decreased by \$15,500 due to income from Splendour in the Grass being recognised (\$7,300), an increase in compliance inspections (\$7,000), a decrease in companion animals income from Councils (\$5,500) and a reduction in income expected from the Blues Festival (\$24,300).

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Community Infrastructure

- Within the Depot Services program income has decreased by \$400,000 and expenditure has decreased by \$50,000 for plant operations as there will be less capital works undertaken by Council. The difference is funded through a reduction in the final transfer to the plant reserve.

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- Within the Local Roads and Drainage Program, the overall increase in revenue and expenditure of \$260,000 is associated with an increase in paid parking income of \$60,000 and an increase in private works of \$200,000.
- 5 • Within the Open Spaces and Recreation program, revenue has decreased by \$86,500 due to the revision of income for the Byron Regional Sport & Cultural Complex (BRSCC). This is to be reduced as there has been a problem with the drainage and consequent availability of the fields. The rectification works were scheduled to commence in December 2012. It is now not possible to obtain the estimated income.
- 10 • Within the Rural Fire Services program, expenditure increased by \$30,800 due to an increase in contributions to the Rural Fire Service and the SES and a slight decrease in contributions for Fire and Rescue NSW, as advised by the Ministry for Police & Emergency Services.

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Environment and Land Use

- Within the Land and Natural Environment Program, income and expenditure has increased by \$63,500. This is due to new and additional grants received for the Comprehensive Koala Plan of Management (\$25,000), Koala Connections (\$9,500), and the Auxiliary Disaster Resilience Support Scheme (\$29,000).

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Waste Management Services

- Various adjustments to the Waste Management facility capital works. Comments on these can be seen on page 2 of Annexure 3(b).

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WATER FUND

30 After completion of the 2011/2012 Financial Statements the Accumulated Surplus (Working Fund) balance for the Water Fund, as at 30 June 2012, is \$1,912,900 with capital works reserves of \$1,372,900. It also held \$9,302,500 in section 64 developer contributions at this time.

35 The estimated Water Fund reserve balances as at 30 June 2013, and forecast in this Quarter Budget Review, is derived as follows:

Capital Works Reserve

Opening Reserve Balance at 1 July 2012	\$1,372,900
Plus original budget reserve movement	(84,400)
Less reserve funded carryovers from 2011/2012	(453,400)
Resolutions July - September Quarter – increase / (decrease)	(115,000)
September Quarterly Review Adjustments – increase / (decrease)	(14,000)
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	(25,400)
Forecast Reserve Movement for 2012/2013 – Increase / (Decrease)	(692,200)
Estimated Reserve Balance at 30 June 2013	\$680,700

40 Section 64 Developer Contributions

Opening Reserve Balance at 1 July 2012	\$9,302,500
Plus original budget reserve movement	(425,000)
Less reserve funded carryovers from 2011/2012	(126,400)
Resolutions July - September Quarter – increase / (decrease)	(450,000)
September Quarterly Review Adjustments – increase / (decrease)	(24,000)

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Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	19,000
Forecast Reserve Movement for 2012/2013 – Increase / (Decrease)	(1,006,400)
Estimated Reserve Balance at 30 June 2013	\$8,296,100

Movements for Water Fund can be seen in Annexure 3(a), (pages 54 to 58 of 72) with a proposed estimated decrease to reserves (including S64 Contributions and unexpended loans) overall of \$6,400 from this quarter.

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SEWERAGE FUND

After completion of the 2011/2012 Financial Statements the Accumulated Surplus (Working Fund) balance for the Sewer Fund, as at 30 June 2012, was \$1,670,700 with capital works reserves of \$280,200 and plant reserve of \$741,800. It also held \$3,836,700 in section 64 developer contributions and \$1,779,900 in unexpended loans.

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Capital Works Reserve

Opening Reserve Balance at 1 July 2012	\$280,200
Plus original budget reserve movement	1,029,700
Less reserve funded carryovers from 2011/2012	(594,400)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	184,000
Resolutions October - December Quarter – increase / (decrease)	(127,000)
December Quarterly Review Adjustments – increase / (decrease)	(146,000)
Forecast Reserve Movement for 2012/2013 – Increase / (Decrease)	346,300
Estimated Reserve Balance at 30 June 2013	\$626,500

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Plant Reserve

Opening Reserve Balance at 1 July 2012	\$741,800
Plus original budget reserve movement	0
Less reserve funded carryovers from 2011/2012	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
Forecast Reserve Movement for 2012/2013 – Increase / (Decrease)	0
Estimated Reserve Balance at 30 June 2013	\$741,800

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Section 64 Developer Contributions

Opening Reserve Balance at 1 July 2012	\$3,836,700
Plus original budget reserve movement	(1,579,000)
Less reserve funded carryovers from 2011/2012	(1,258,100)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	840,000
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	26,300
Forecast Reserve Movement for 2012/2013 – Increase / (Decrease)	(1,970,800)
Estimated Reserve Balance at 30 June 2013	\$1,865,900

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Unexpended Loans

Opening Reserve Balance at 1 July 2012	\$1,779,900
Plus original budget reserve movement	0
Less reserve funded carryovers from 2011/2012	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
Forecast Reserve Movement for 2012/2013 – Increase / (Decrease)	0
Estimated Reserve Balance at 30 June 2013	\$1,779,900

- 5 Movements for the Sewerage Fund can be seen in Annexure 3(a), (pages 59 to 64 of 72) with a proposed estimated overall decrease to reserves (including S64 Contributions and unexpended loans) of \$119,700 from this review.

Legal Expenses

- 10 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 rate income, but is also susceptible to large fluctuations.

- 15 The table that follows indicates the allocated budget and actual legal expenditure within Council on a fund basis.

Total Legal Income and Expenditure as at 31 December 2012

Program	2012/2013 Budget (\$)	Actual (\$)	Percentage To Revised Budget
Income			
Compliance	0	0	0%
Development Assessment	4,989	0	0%
Total Income	4,989	0	0%
Expenditure			
General Managers Office	163,100	8,432	5%
Administrative Services	2,600	0	0%
Property Services	10,400	1,165	11%
Financial Services	0	2,270	-
Crown Property	1,100	0	0%
Council Caravan Parks	5,200	0	0%
Asset Management Services	1,600	2,357	147%
Development Assessment	235,700	107,878	48%
Building Certification	1,100	0	0%
Environmental Health Services	1,100	0	0%
Compliance Services	188,500	35,993	19%
Ranger Services	3,100	0	0%
Community Planning	5,200	1,965	38%
Total Expenditure General Fund	618,700	160,060	26%
**Financial Services – S94	15,500	0	0%
**Sewerage Fund	30,000	0	0%

** These are restricted funds.

20

In addition to the above, there was approximately \$64,500 billed but unpaid as at 31 December 2012 representing an additional amount of approximately 10% of the General Fund budget, making

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the total General Fund expenditure against budget up to end of second quarter approximately 38%.

The current status of the Legal Services Reserve is shown below:

5

Legal Reserve

Opening Reserve Balance at 1 July 2012	\$854,700
Less amount committed for Complaints investigations (Res 09-350)	\$(54,200)
Less Resolution 10-960	\$(191,300)
Estimated Reserve Balance at 30 June 2013 as at 30 September 2012	\$609,200

10 Fluctuations in legal expenditure can happen rapidly and for reasons not necessarily within Council's control. Council has developed and is maintaining a legal reserve to enable Council to manage the potential fluctuations. The current reserve of \$600,000 is considered adequate for this purpose at this time.

Summary

15

The 31 December 2012 Quarter Budget Review of the 2012/2013 Budget has produced an estimated deficit result of \$163,500. This result will decrease the estimated accumulated surplus (working funds) position attributable to the General Fund by \$163,500 from \$476,800 to \$313,300.

20 Statutory and Policy Compliance Implications

In accordance with Clause 203 of the Local Government (General) Regulation 2005 the Responsible Accounting Officer of a Council must:-

- 25 (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.*
- 30 (2) *A budget review statement must include or be accompanied by:*
- 35 (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.*

40 Statement by Responsible Accounting Officer

This report indicates that the short term financial position of the Council is satisfactory for 2012/2013, having consideration of the original estimate of income and expenditure and budget revisions as per the 31 December 2012 Quarter Budget Review.

45

That being said, the estimated Accumulated Surplus (Working Funds) closing balance of \$313,300 is still significantly below Council's adopted target of \$1,000,000 by an estimated \$686,700. Council will need to carefully monitor the 2012/2013 budget over the remainder of the financial year and try to realise some savings especially in the March 2013 Quarter Review. Maintaining the current budget position on an ongoing basis is clearly not sustainable. Should improvement not be realised during the March 2013 Quarterly Budget Review then the financial position of Council may very well become unsatisfactory.

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Report No. 12.6. Investments – December 2012 and January 2013

Executive Manager: Corporate Management

Report Author: James Brickley, Manager Finance

File No: #E2012/28310

5

Theme: Corporate Management, Financial Services

Summary: This report includes a list of investments as at 31 December 2012 and January 2013.

RECOMMENDATION:

10 **That Council receive and note the record of investments for the months of December 2012 and January 2013.**

Attachments:

15

- Investment Valuations and Graphs December 2012 #E2012/28311 [2 pages].....**Annexure 13(a)**
- Investment Valuations and Graphs January 2013 #E2013/6471 [2 pages]..... **Annexure 13(b)**
- Denison Investment Report #E2013/8484 [10 pages]**Annexure 13(c)**

Report

In relation to the investment portfolio as at 31 January 2013, Council has continued to maintain a diversified portfolio of investments. The average 90 day bank bill rate for the months of December and January was 3.10%. Council's performance for the months of December and January is a weighted average of 4.06%. This performance is again higher than the benchmark. This is largely due to the active ongoing management of the investment portfolio, maximising investment returns through secure term deposits. Council's investment portfolio should continue to out-perform the benchmark as the capital protected investments earning 0% interest begin to mature or are able to be switched favourably. There are still a number of Council's capital protected investments being partially and fully allocated to an underlying zero coupon bond. This is part of the "Capital Protection Mechanism" and coupons will not be paid if any allocation is made to this bond.

The current value of an investment compared to the principal value (face value or original purchase price) provides an indication of the performance of the investment without reference to the coupon (interest) rate. The current value represents the value received if an investment was sold or traded in the current market, in addition to the interest received.

For the months of December and January, the current value of investments has remained lower than the principal amount. The table below shows a decrease in the unrealised loss for Council from November 2012 to January 2013.

Movement in Principal and Current Market Valuations

Month	Principal	Current Value (at end of month)	Unrealised Gain/(Loss)
NOVEMBER	58,096,762.38	57,426,382.38	(670,580.00)
DECEMBER	60,104,333.02	59,536,253.02	(568,080.00)
JANUARY	60,692,287.65	60,134,188.61	(558,099.04)

This unrealised loss is a consequence of the lingering effects of the Global Financial Crisis. Some of Council's investments are linked to the Credit and Equity Markets which have been adversely affected and are yet to recover. A breakdown of this can be seen in the table below. The figures are for January 2013.

Dissection of Council Investment Portfolio as at 31 January 2013

Principal (\$)	Investment Linked to:-	Current Value	Unrealised Gain/(Loss)
40,771,000.00	TERM DEPOSITS	40,771,000.00	0
6,921,287.65	BUSINESS ONLINE SAVER	6,921,287.65	0
3,500,000.00	MANAGED FUNDS	3,309,200.00	(190,800.00)
3,000,000.00	CREDIT	2,936,670.96	(63,329.04)
6,000,000.00	EQUITY	5,681,530.00	(318,470.00)
500,000.00	BONDS	514,500.00	14,500.00
60,692,287.65		60,134,188.61	(558,099.04)

Council uses a diversified mix of investments to achieve short, medium and long-term results. Council's historical strategy is to use credit/equity markets for exposure to long term growth. It should be noted that Council's exposure to credit/equity products is capital protected when held to maturity, which ensures no matter what the market value of the product is at maturity, Council is insured against any capital loss. The investment strategy associated with long term growth is now

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5 prohibited under the current Ministerial Investment Order utilising credit/equity markets to seek investment products. However, the 'grandfathering' provisions of the Ministerial Investment Order provides Council can retain investments now prohibited until they mature. Council is also looking continually at 'switch' opportunities for these investments in conjunction with its independent investment advisors. Any 'switch' opportunities undertaken are reported to Council in the investment report relating to the month the 'switch' occurred. Notwithstanding the current valuations of credit/equity investments, these products will trend toward their full principal value as they approach maturity.

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Investments held as at 31 December 2012

Date	Principal (\$)	Description	CP*	Rating	M'ty	Type	Rate	Current Value
24/7/07	1,000,000	AVERON II	CP	AAA	07/14	CR	0.00%*	927,100.00
17/1/08	1,000,000	ANZ SUB DEBT	N	A+	01/13	CR	4.36%	1,000,000.00
22/4/08	2,000,000	ANZ TRANSFERABLE DEPOSIT	N	AA-	04/13	CR	4.36%	2,006,040.00
26/9/05	1,500,000	EMU NOTES	CP	AAA-	10/15	MFD	0.00%*	1,371,300.00
29/6/06	2,000,000	ALL SEASONS NOTE	CP	AA+	08/14	MFD	0.00%*	1,941,600.00
22/6/06	1,000,000	HIGH INCOME NOTES	CP	A	06/13	E	0.00%*	974,840.00
30/3/07	1,000,000	INFRASTRUCTURE AND UTILITIES NOTE	CP	A	04/14	E	0.00%*	959,210.00
28/9/07	1,000,000	TRI-SECTOR LINKED NOTE	CP	A	09/14	E	0.00%*	943,130.00
28/11/07	3,000,000	CLIENT MANAGED NOTE	CP	A	11/14	E	0.00%*	2,794,200.00
20/6/12	500,000	HERITAGE BUILDING SOCIETY BONDS	N	BBB+	06/17	B	7.25%	514,500.00
12/10/12	2,000,000	HERITAGE BUILDING SOCIETY	N	BBB+	01/13	TD	4.70%	2,000,000.00
4/12/12	2,000,000	SUNCORP	P	A+	03/13	TD	4.65%	2,000,000.00
12/10/12	1,000,000	MACQUARIE BANK	P	A	04/13	TD	4.65%	1,000,000.00
29/9/08	2,000,000	WESTPAC BANK	P	AA	09/13	TD	8.00%	2,000,000.00
16/12/08	1,000,000	WESTPAC BANK	N	AA	12/13	TD	6.00%	1,000,000.00
28/9/09	785,000	INVESTEC BANK	P	BBB+	01/14	TD	8.02%	785,000.00
18/6/10	786,000	SUNCORP	N	A	06/14	TD	7.30%	786,000.00
20/12/12	2,000,000	COMMUNITY CPS	N	NR	01/13	TD	4.65%	2,000,000.00
23/10/12	1,000,000	BANK OF QUEENSLAND	P	A2	01/13	TD	4.70%	1,000,000.00
24/12/12	1,000,000	ME BANK	P	BBB	03/13	TD	5.05%	1,000,000.00
23/10/12	1,000,000	NEWCASTLE PERMANENT	P	NR	01/13	TD	4.40%	1,000,000.00
5/9/12	2,000,000	SOUTHERN CROSS CR UNION	P	NR	01/13	TD	5.11%	2,000,000.00
12/5/11	1,000,000	INVESTEC BANK	N	BBB+	05/14	TD	7.48%	1,000,000.00
23/10/12	2,000,000	ING BANK (AUSTRALIA)	P	A1	02/13	TD	4.62%	2,000,000.00
8/8/11	1,000,000	RABO BANK	N	AA	8/13	TD	6.50%	1,000,000.00
24/8/12	1,000,000	GREATER BUILDING SOCIETY	P	NR	1/13	TD	4.95%	1,000,000.00
5/12/12	2,000,000	WIDE BAY AUSTRALIA	N	NR	03/13	TD	4.45%	2,000,000.00
30/7/12	1,000,000	NATIONAL AUSTRALIA BANK	P	AA-	02/13	TD	4.57%	1,000,000.00
3/12/12	1,000,000	ME BANK	N	BBB	03/13	TD	4.66%	1,000,000.00

BYRON SHIRE COUNCIL

ORDINARY MEETING

28 FEBRUARY 2013 (43)

3/12/12	2,200,000	POLICE CREDIT UNION	P	NR	02/13	TD	4.48%	2,200,000.00
8/10/12	2,000,000	INVESTEC	N	BBB+	01/13	TD	4.80%	2,000,000.00
20/12/12	2,000,000	ME BANK	N	BBB	04/13	TD	4.65%	2,000,000.00
9/8/12	2,000,000	BANK OF QUEENSLAND	N	A2	02/13	TD	4.70%	2,000,000.00
5/9/12	1,000,000	ELDERS RURAL BANK	N	BBB	03/13	TD	5.00%	1,000,000.00
6/9/12	2,000,000	RABOBANK	N	AA	09/13	TD	5.02%	2,000,000.00
12/10/12	1,000,000	INVESTEC	N	BBB+	10/13	TD	4.71%	1,000,000.00
12/10/12	1,000,000	SOUTHERN CROSS CR UNION	N	NR	01/13	TD	4.60%	1,000,000.00
28/11/12	2,000,000	POLICE CREDIT UNION	N	NR	03/13	TD	4.74%	2,000,000.00
5/12/12	1,000,000	SUNCORP	N	A	03/13	TD	4.65%	1,000,000.00
5/12/12	1,000,000	HERITAGE BUILDING SOCIETY	N	BBB+	03/13	TD	4.50%	1,000,000.00
21/12/12	2,000,000	BENDIGO & ADELAIDE BANK	N	NR	03/13	TD	4.45%	2,000,000.00
N/A	1,333,333	CBA BUSINESS ONLINE SAVER	N	A	N/A	CALL	3.50%	1,333,333.02
Total	60,104,333					AVG	4.32%	59,536,253.02

Investments held as at 31 January 2013

Date	Principal (\$)	Description	CP*	Rating	M'ty	Type	Rate	Current Value
24/7/07	1,000,000	AVERON II	CP	AAA	07/14	CR	0.00%*	930,300.00
22/4/08	2,000,000	ANZ TRANSFERABLE DEPOSIT	N	AA-	04/13	CR	4.36%	2,006,370.96
26/9/05	1,500,000	EMU NOTES	CP	AAA-	10/15	MFD	0.00%*	1,374,600.00
29/6/06	2,000,000	ALL SEASONS NOTE	CP	AA+	08/14	MFD	0.00%*	1,934,600.00
22/6/06	1,000,000	HIGH INCOME NOTES	CP	A	06/13	E	0.00%*	976,770.00
30/3/07	1,000,000	INFRASTRUCTURE AND UTILITIES NOTE	CP	A	04/14	E	0.00%*	961,540.00
28/9/07	1,000,000	TRI-SECTOR LINKED NOTE	CP	A	09/14	E	0.00%*	945,720.00
28/11/07	3,000,000	CLIENT MANAGED NOTE	CP	A	11/14	E	0.00%*	2,797,500.00
20/6/12	500,000	HERITAGE BUILDING SOCIETY BONDS	N	BBB+	06/17	B	7.25%	514,500.00
24/1/13	2,000,000	HERITAGE BUILDING SOCIETY	N	BBB+	04/13	TD	4.35%	2,000,000.00
4/12/12	2,000,000	SUNCORP	P	A+	03/13	TD	4.65%	2,000,000.00
12/10/12	1,000,000	MACQUARIE BANK	P	A	04/13	TD	4.65%	1,000,000.00
29/9/08	2,000,000	WESTPAC BANK	P	AA	09/13	TD	8.00%	2,000,000.00
16/12/08	1,000,000	WESTPAC BANK	N	AA	12/13	TD	6.00%	1,000,000.00
28/9/09	785,000	INVESTEC BANK	P	BBB+	01/14	TD	8.02%	785,000.00
18/6/10	786,000	SUNCORP	N	A	06/14	TD	7.30%	786,000.00
24/1/13	1,000,000	BANK OF QUEENSLAND	P	A2	04/13	TD	4.30%	1,000,000.00
24/12/12	1,000,000	ME BANK	P	BBB	03/13	TD	5.05%	1,000,000.00
2/1/13	2,000,000	SOUTHERN CROSS CR UNION	P	NR	04/13	TD	4.45%	2,000,000.00
12/5/11	1,000,000	INVESTEC BANK	N	BBB+	05/14	TD	7.48%	1,000,000.00
23/10/12	2,000,000	ING BANK (AUSTRALIA)	P	A1	02/13	TD	4.62%	2,000,000.00

BYRON SHIRE COUNCIL

ORDINARY MEETING

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8/8/11	1,000,000	RABO BANK	N	AA	8/13	TD	6.50%	1,000,000.00
24/1/13	1,000,000	GREATER BUILDING SOCIETY	P	NR	04/13	TD	4.40%	1,000,000.00
5/12/12	2,000,000	WIDE BAY AUSTRALIA	N	NR	03/13	TD	4.45%	2,000,000.00
30/7/12	1,000,000	NATIONAL AUSTRALIA BANK	P	AA-	02/13	TD	4.57%	1,000,000.00
3/12/12	1,000,000	ME BANK	N	BBB	03/13	TD	4.66%	1,000,000.00
3/12/12	2,200,000	POLICE CREDIT UNION	P	NR	02/13	TD	4.48%	2,200,000.00
7/1/13	2,000,000	INVESTEC	N	BBB+	07/13	TD	4.33%	2,000,000.00
20/12/12	2,000,000	ME BANK	N	BBB	04/13	TD	4.65%	2,000,000.00
9/8/12	2,000,000	BANK OF QUEENSLAND	N	A2	02/13	TD	4.70%	2,000,000.00
5/9/12	1,000,000	ELDERS RURAL BANK	N	BBB	03/13	TD	5.00%	1,000,000.00
6/9/12	2,000,000	RABOBANK	N	AA	09/13	TD	5.02%	2,000,000.00
12/10/12	1,000,000	INVESTEC	N	BBB+	10/13	TD	4.71%	1,000,000.00
28/11/12	2,000,000	POLICE CREDIT UNION	N	NR	03/13	TD	4.74%	2,000,000.00
5/12/12	1,000,000	SUNCORP	N	A	03/13	TD	4.65%	1,000,000.00
5/12/12	1,000,000	HERITAGE BUILDING SOCIETY	N	BBB+	03/13	TD	4.50%	1,000,000.00
21/12/12	2,000,000	BENDIGO & ADELAIDE BANK	N	NR	03/13	TD	4.45%	2,000,000.00
N/A	6,921,288	CBA BUSINESS ONLINE SAVER	N	A	N/A	CALL	3.50%	6,921,287.65
Total	60,692,288					AVG	3.98%	60,134,188.61

Note 1. CP = Capital protection on maturity
 N = No Capital Protection
 Y = Fully covered by Government Guarantee
 P = Partial Government Guarantee of \$250,000

Note 2.

Type	Description	
CR	Credit	Principal varies based on valuation, interest payable via a floating interest rate that varies except for those capital protected investments that have transferred to their capital protection mechanism.
E	Equity	Principal varies based on valuation, interest payable via a floating interest rate that varies except for those capital protected investments that have transferred to their capital protection mechanism.
MFD	Managed Fund	Principal varies based on fund unit. Price valuation, interest payable varies depending upon fund performance.
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 at the cash rate +0.50%

5 **Note 3.** Floating rate notes and Term Deposits can be traded on a day-to-day basis, and therefore Council is not obliged to hold the investments to the maturity dates. Managed funds operate in a similar manner to a normal bank account with amounts deposited or withdrawn on a daily basis. There is no maturity date for this type of investment.

Note 4. The coupon on these investments is zero due to the Capital Protection mechanism working. This occurs when the investment falls below a certain level. This coupon may be paid again in the future as the market recovers.

5 Other Information – Financial Claims Scheme (FCS)

On 1 February 2012, the Financial Claims Scheme (FCS - or Government guarantee) coverage for any one investor in deposits will reduce to \$250,000 from \$1,000,000 per Approved Deposit Institution (ADI). The Financial Claims Scheme was introduced as a result of the Global Financial Crisis (GFC), essentially to provide investors confidence when taking out deposits with all ADIs and to ensure that their primary business of lending money was not significantly hindered due to lack of funding. NSW Local Government Councils have under the Ministers Order always been able to invest with ADIs without a dollar limit on any one institution.

15 Under Australian Prudential Regulatory Authority (APRA) regulation Building Societies and Credit Unions must meet the same capital requirements as a Bank. Whilst the majority are much smaller in terms of balance sheet size to the Banks they are still considered to be strong business' and investing in their term deposits still low risk. Most of Councils' term deposits have now been amended to show a partial guarantee of this \$250,000 per deposit taking institution.

20

Financial Implications

The reduction of the current value of Council's portfolio is a result of the downturn in global markets stemming from the global financial crisis. It should be noted that Council's exposure to the credit/equity markets is supported by capital protection which ensures that the initial value of the investment is not reduced when held to maturity. In downward cycles, the capital is protected by allocating the investment to an underlying bond. If the investment is 100% allocated to this bond, no interest will be paid up to maturity. This will impact negatively on Council's interest earnings on investments.

30

Council's investment strategy is to invest for the long term while maintaining sufficient liquid investments to meet short term requirements. It is important that this strategy is maintained to ensure that principal attached to credit/equity investments is recovered over time as maturity occurs or 'switch' opportunities to alternative investments present themselves.

35

Statutory and Policy Compliance Implications

In accordance with clause 212 of the Local Government (General) Regulation 2005, the Responsible Accounting Officer of Council must provide Council with a monthly report detailing all monies Council has invested under section 625 of the Local Government Act 1993.

40

The Report must be presented at the next Ordinary Meeting of Council after the end of the month being reported. In this regard, the current Council Meeting cycle does not always allow this to occur, especially when the second meeting of a month is a Strategic Planning Meeting or when the meeting dates are brought forward. Under normal circumstances it is not possible to present the investment report to the first Ordinary Meeting in the month, as investment valuations required for the preparation of the report, are often received after the deadline for the submission of reports for the meeting.

45

Council's investments are carried out 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 Ministers Order – Forms of Investment, last published in the Government Gazette on 11 February 2011.

50

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

55

BYRON SHIRE COUNCIL

ORDINARY MEETING

28 FEBRUARY 2013 (46)

Report No. 12.7. Land and Environment Court Proceedings 40466 of 2012 – Byron Shire Council v Blaney – 21 Bay Vista Lane, Ewingsdale (“Holiday let matter”)

Executive Manager: Corporate Management
Report Author: Ralph James, Manager Governance
File No: #E2013/6512

5

Theme: Corporate Management, Compliance, Public Order and Safety

Summary: A Summons was filed in the Land and Environment Court on 21 May 2012 seeking Declarations and Orders in relation to the use of the property as a tourist facility.

In the Land and Environment Court on 1 February 2013 the Respondent consented to enforceable orders to the effect that the property at 21 Bay Vista Lane Ewingsdale will no longer be used for the purposes of providing holiday accommodation.

The orders made by the Court are:

- 1 the Respondent by himself, his servants or agents is restrained from carrying out development being the use of the property known as 21 Bay Vista Lane Ewingsdale for short term rental for holiday accommodation otherwise than in accordance with Complying Development Certificates.
- 2 in compliance with order 1 the Respondent must not use any of the buildings on the property for short term rental for holiday accommodation.
- 3 the Respondent by himself, his servants or agents is restrained from renting or leasing the property to persons for the purpose of short term holiday accommodation.
- 4 the Respondent by himself, his servants or agents is restrained from advertising the property to persons for short term holiday accommodation.

In addition the Respondent has been ordered to pay Council's costs as assessed or agreed.

RECOMMENDATION:

- 10 **That this report be noted.**

Attachments:

- 15
- Summons Byron Shire Council v Joseph Blaney #DM1235170 [6 pages] **Annexure 11(a)**
 - Points of Claim Byron Shire Council v Joseph Blaney #E2013/470 [6 pages] **Annexure 11(b)**
 - Consent Orders Byron Shire Council v Joseph Blaney #E2013/6810 [3 pages] **Annexure 11(c)**
 - **CONFIDENTIAL** Legal advice 29 January 2013 #S2013/1649 [13 pages] **Annexure 11(d)**

Report

5 The property (and others) was reported to Council on 15 December 2011 and Council resolved (11-1050) that the General Manager be authorised to manage the litigation in respect of the reported properties identified in the Report in accordance with the General Manager's general delegations.

During 2012 and into 2013 Council took action in respect of the subject property.

The compliance status of the action against the property was reported to Council on 25 October 2012 <http://www.byron.nsw.gov.au/meetings/2012-10-25-ordinary>

10 Attached are:

- Summons Byron Shire Council v Joseph Blaney. (Annexure 11(a))
- Points of Claim Byron Shire Council v Joseph Blaney (Annexure 11(b))
- Consent Orders Byron Shire Council v Joseph Blaney (Annexure 11(c))

15 A Summons was filed in the Land and Environment Court on 21 May 2012 seeking Declarations and Orders.

20 Council received further complaints about alleged raw sewerage leaking from an on site sewage management system at 21 Bay Vista Lane, Ewingsdale, and about noise and disturbance from a large number of people staying at this address. Council attended the property in relation to these complaints

25 On each occasion the Council officers attended under powers of the *Protection of the Environment Operations Act* (POEO Act) as there was a reasonable suspicion that pollution of land may have occurred or was occurring.

During attendances on the property Council officers observed amongst other things:

- 30
1. raw sewerage leaking from the on site sewage management system;
 2. bed bugs collected from a large bed in an upstairs bedroom;
 3. further complaints about occupants being bitten by bed bugs;
 4. a lack of smoke alarms in rooms being occupied by occupants, including a small shed located on the eastern side of the property.

35 At approximately 9:40am on 30 November 2012 Council attended the property to investigate an alleged on-site sewage pollution matter.

40 Council noted that there were two young males and six young females in the main house (eight people).

One of the females said *"We have been bitten by bed bugs. The windows don't open and there are no blinds in the bedrooms? The first time we used the spa the water was black! Afterwards we wondered if there was a chance we could catch something from it."*

45 Council attended the lower buildings on the property and was informed that there were nine people in occupation.

50 Council received a complaint on 29 December 2012 about alleged raw sewerage leaking from an on site sewage management system at the property, and about noise and disturbance from a large number of people staying at this address.

NSW Police were also contacted about noise and attended the property.

BYRON SHIRE COUNCIL

ORDINARY MEETING

28 FEBRUARY 2013 (48)

Council compliance officers attended the property on 29 December at approximately 7.00pm. Council officers took details of 22 persons staying at the property, two of whom were sleeping in the small shed located on the eastern side of the property. No smoke alarms were observed in this structure.

5 Officers observed beds set up on the lounge room floor of the main house. Occupants of the main house complained of being bitten by bed bugs (probably *Cimex lectularius*).

10 Bed bugs had been collected from a large bed in an upstairs bedroom when officers attended the property on 3 December 2012 and occupants at that time also complained about being bitten.

15 Ten people were staying at the expanded dwelling located between the carport and the approved farm shed. The bedrooms, the lounge area and the kitchen area in this structure were all being used for sleeping.

No smoke alarms were observed in this structure.

20 Occupants of this structure told Council officers that they booked the property through the stayz.com website and had believed that they were actually renting the main house, not the expanded dwelling, as the main house was pictured on the website.

25 These occupants also told officers that a representative of the property owner had contacted them by telephone and informed them they (the occupants) would be charged for 'damaging the sewerage pipes'.

30 On Monday 31 December 2012 Team Leader Environmental Services attended the subject property at 12:06 pm. He proceeded to walk to the aerated wastewater treatment tank located close to the eastern boundary of the subject property. He inspected the top of the concrete tank, power connections to pump and blower, and general operating conditions. He found no evidence of overflow or pollution from the tank.

35 He inspected the land between the tank and the property boundary. Although overgrown with weeds, there was no evidence of surface effluent flows or pooling of effluent on the neighbouring property. Some pipes were laying on the ground near to the tank indicating that some plumbing work may have been undertaken since his last visit earlier in December 2012.

He inspected the land application area on the subject property and found no obvious defects, effluent surcharge or system failure.

40 He came to the conclusion that, despite the large number of people using the lower buildings for accommodation, that the OSMS was not causing any immediate pollution or public health risk.

45 However staff became increasingly concerned about risks to occupiers of the property and to the environment from overcrowding, lack of hygiene, lack of smoke alarms in structures that are being occupied and repeated failures over time of the on site sewage management system.

50 The lack of smoke alarms in particular constituted a serious threat, as short term visitors have no local knowledge of safe exits, assembly points or the location of fire extinguishers. Council officers had noted previously that the property is generally poorly maintained with a significant amount of combustible leaf litter present on the ground and in gutters.

As a result of the inspections and the concerns which staff held about the property Council issued "show cause" letters to the property owner on 15 January 2013.

By letter dated 18 January 2013 the property owner sought to deal with two matters being:

1. A response to Council's "show cause" letters, and
2. An offer of settlement in the proceedings on the basis of entry into consent orders as sought in Council's summons subject to each party bearing its own costs.

5 Settlement of the proceedings had been raised in earlier correspondence and Council's attitude was that it would only be prepared to settle the proceedings on the basis of a consent order relating to the property ceasing to be used for the purpose of holiday accommodation forthwith and for the respondent to pay Council's costs as agreed or assessed.

10 Notwithstanding any prospective settlement staff remained keen to explore the prospect of obtaining a declaration from the court that the respondent has carried out development at the property for the purpose of Tourist Facilities. Staff considered the judgement of *KJD York Management Services Pty Limited v City of Sydney Council* [2006] NSWLEC 218 where the respondent in that case indicated that it would not oppose a declaration being made to the effect that The York "enjoys consent pursuant to consent granted 23 July 1979 for use as both serviced
15 and residential apartments".

Throughout the currency of the proceedings staff were in regular communication with Council's solicitors.

20 On 29 January 2013 Council received legal advice from its solicitors. That advice related to Council's "show cause" letter, the respondent's offer of settlement, the question of a declaration and the question of costs. The legal advice is Confidential Annexure 11(d).

Staff accepted the recommendation made by the solicitors and instructed them to make the recommended counter offer.

25 On 1 February 2013 the proceedings were listed for directions.

The respective solicitors had a discussion outside court about what to do with the remaining issue of costs having regard to the fact that the form of injunctive relief had been agreed.

30 The respondent's solicitor sought to adjourn the costs issue to a "date after the determination of the other proceedings in relation to the tourist facility issue". It was made clear that Council would not agree to such a course because:

1. There were no such proceedings on foot, so there was nothing to be determined by the Court; and
- 35 2. The court would not agree to it in any event, as the costs issues related to these proceedings and not any other proceedings.

40 The Respondent took further advice and agreed to an order paying Council's costs. His Honour then made orders in accordance with the consent orders Annexure 11(c).

The orders made by the Court are:

- 1 *the Respondent by himself, his servants or agents is restrained from carrying out development being the use of the property known as 21 Bay Vista Lane Ewingsdale for short
45 term rental for holiday accommodation otherwise than in accordance with Complying Development Certificates.*
- 2 *in compliance with order 1 the Respondent must not use any of the buildings on the property for short term rental for holiday accommodation.*
- 3 *the Respondent by himself, his servants or agents is restrained from renting or leasing the property to persons for the purpose of short term holiday accommodation.*
- 4 *the Respondent by himself, his servants or agents is restrained from advertising the property
55 to persons for short term holiday accommodation.*

5 The Respondent has effectively surrendered to Council's proceedings by ceasing the use of the property for the provision of holiday accommodation and has apparently moved to the use of long term residential tenancies (12 month). The objective of the proceedings has therefore been achieved without the need for a lengthy and expensive hearing.

10 Should the Respondent recommence the tourist facility use of the property at the conclusion of any residential tenancy, having the orders in place provides Council with the added certainty of being able to commence contempt proceedings in the event of recommencement. The threat of contempt proceedings would also provide a significant incentive against recommencement of such use.

In addition the Respondent has been ordered to pay Council's costs as assessed or agreed.

15 Staff have instructed its solicitors to have the Orders prepared and sealed by the Court so that they can be served on Mr Blaney in preparation for costs recovery as well as any possible future contempt action (if necessary).

Financial Implications

20 Council's legal costs will exceed \$50,000. Staff will take immediate steps to recover those costs.

Statutory and Policy Compliance Implications

25 The lack of a declaration is not seen as detrimental to future "holiday let" proceedings.

A legal finding on the characterisation of tourist facility in any given case may be instructive but is not binding authority in subsequent proceedings.

30 A declaration would have been both instructive and informative but whether "tourist facility" use can be established in future cases will be a matter assessed on individual circumstances of those cases.

35 There remains an ongoing on site sewerage (OSMS) issue on the property--as distinct from the immediate issue arising out of the 29 December 2012 complaint and the subject of Council's show cause letter.

Council inspections are consistent with that specific OSMS issue being fixed but not the overall OSMS.

40 The latest limited council inspections of the OSMS were in response to complaints that the OSMS was overflowing. The response to Council's "show cause" letter was advice that a new plumber had allegedly responded to a broken pipe and gauges on Saturday 29 December 2012, and performed temporary repairs.

45 Despite the response to the show cause letter Council does not accept that the work undertaken in that regard relates to the entire OSMS.

50 Since 2010 the consensus of a number of each of the plumbers who have attended the property is that the OSMS needs to be upgraded as the land application area serviced by subsurface irrigation had failed completely.

The property owner has been put on notice that:

- 55
1. The consent orders do not address the outstanding POEO Directions.
 2. The consent orders do not remove the requirement that a council approved and inspected OSMS be installed (preferably in a location away from neighbouring boundaries), even if the buildings are to be used for "a normal residential lease".
 3. Council's Environmental Services team still have serious unresolved concerns as to the OSMS on the property.

Report No. 12.8. Section 356 Donations - Refund of Application Fees and Road Closure Fees

Executive Manager: Corporate Management
Report Author: Gayle McCallum, Governance Officer
File No: #E2013/8295

5

Theme: Corporate Management, Governance, Section 356 Donations

Summary: Requests for refund of application fees under Council's Polices:

- Assistance for Festivals and Community Functions
- Section 356 Donations – Refund of Application Fees to Community Groups

RECOMMENDATION:

- 10
1. **That Council refund the Peace Day Organisers \$296 for application and advertising fees to hold the Peace Day March 2012 which was cancelled under Council's Policy Assistance for Festivals and Community Function Job No. 2341.16.**
- 15
2. **That Council refund the Byron Youth Service for their application fee for Trade Waste Approval totalling \$220 under Council's Policy Section 356 Donations – Refund of Application Fees to Community Groups Job No. 2341.9.**
- 20
3. **That Council assist the Broken Head Hall Committee with \$800 to offset some of the application fees paid for construction of the car park under Council's Policy Section 356 Donations – Refund of Application Fees to Community Groups Job No. 2341.9.**
4. **That Council advertise the Section 356 Donations made.**

Report

Council has received requests for refunds under Council's Policies:

- 5 • Assistance for Festivals and Community Functions
- Section 356 Donations – Refund of Application Fees to Community Groups

Policies can be viewed on Council's Website at <http://www.byron.nsw.gov.au/policies>.

10 **1. Refund of Road Closure Application Fee – Peace Day March 21 September 2012**

Council has received a request from the organisers of the Peace Day March which was to be held on 21 September 2012 but was cancelled due to inclement weather for refund of their application fee for the road closure for the March.

15 The organisers of the event paid Council a Road Closure Application Fee of \$260 and Advertising \$36.

20 This request can be considered under Council's Policy Assistance for Festivals and Community Functions.

Recommendation: That Council refund the Peace Day Organisers \$296 for application and advertising fees to hold the Peace Day March 2012 which was cancelled under Council's Policy Assistance for Festivals and Community Function Job No. 2341.16.

25 **2. Refund of Application Fees – Trade Waste Approval Byron Youth Service (BYS)**

30 The BYs are in the process of lodging an application for Trade Waste Approval which approval is required by Council every 5 years. Council has received a request from the BYs for refund of this Application Fee totalling \$220.

This request can be considered under Council's Policy Section 356 Donations – Refund of Application Fees to Community Groups.

35 **Recommendation:** That Council refund the Byron Youth Service for their application fee for Trade Waste Approval totalling \$220 under Council's Policy Section 356 Donations – Refund of Application Fees to Community Groups Job No. 2341.9.

40 **3. Refund of Application Fees – Development / Construction Certificate / Roads Act Application Fees Broken Head Hall**

The Broken Head Hall Committee are requesting refund of Application Fees regarding the lodgement of applications fees for the construction of the new car park at the Hall. Note application fees relate back to 2010 and 2011 as follows:

45	DA (10.2010.584.1)	\$883
	CC (11.2010.584.1)	\$2,659
	Amended CC (11.2010.584.2)	\$ 197
	Roads Act application (51.2011.1077.1)	\$420
50	TOTAL	\$4,159

Council's has set aside \$2,000 to assist community groups for reimbursement of application fees with Council. As such Council cannot assist the Broken Head Hall Committee with a full refund of all application fees paid.

55

Recommendation: That Council assist the Broken Head Hall Committee with \$800 to offset some of the application fees paid for construction of the car park under Council's Policy Section 356 Donations – Refund of Application Fees to Community Groups Job No. 2341.9.

5 **Financial Implications**

Job No. 2341.9 - \$2,000 for Section 356 Donations Refund of Application Fees

Money expended from this Budget to date:

10 \$630 Reimbursed to the Anglican Church Bangalow for refund of DA Fees in October 2012

Requests in this report:

15 \$220 Refund of application fees in Point 2 above to Byron Youth Service.
\$800 Refund of part application fees in Point 3 above to Broken Head Hall Committee.

\$350 remains set aside to assist any other community group with Application fees this financial year.

20 **Job No. 2341.16 - \$7,000** set aside for Assistance with Events and Community Groups – Road Closure Fees

25 Applicants are asked to apply for assistance at the beginning of the financial year for assistance with Road closure costs. This money was totally expended in Resolution 12-702 of 30 August 2012.

30 The Mullumbimby Music Festival had \$1,500 set aside for assistance towards their road closure costs. The total costs of road closure costs were \$902.42. There is a saving available of \$600. In this regard, it is recommended that a refund of the Peace Day March Road Closure Application Fee of \$296 be funded from this saving in this budget (Job No 2341.16).

Statutory and Policy Compliance Implications

35 Council Policies:

- Assistance for Festivals and Community Functions
- Section 356 Donations – Refund of application Fees to community Groups

BYRON SHIRE COUNCIL

ORDINARY MEETING

28 FEBRUARY 2013 (54)

Report No. 12.9. Lease Road Reserve adjacent to Beach Hotel Byron Bay

Executive Manager: Corporate Management

Report Author: Trish Kirkland, Manager Property, Contracts and Information Systems

File No: #E2012/19982

5

Theme: Corporate Management, Property, Procurement and Contract Services

Summary: Council resolved 06-816 to enter into a lease for a portion of road reserve adjoining the Beach Hotel on Jonson Street, Byron Bay. That lease expired on 31 January 2012. The current owner Byron Bay Beach Hotel Properties Pty Ltd has requested a new lease.

This report seeks Council's authorisation, subject to its statutory obligations, to enter into a further five (5) year lease with Byron Bay Beach Hotel Properties Pty Ltd.

RECOMMENDATION:

- 10 1. That notice of Council's intention to grant a lease over the portion of road reserve adjoining the Beach Hotel on Jonson Street, Byron Bay be served on the adjoining landowners and advertised for a period of 28 days in accordance with the Roads Act 1993.
- 15 2. That if no objections are received during the public consultation and advertising period, Council authorise the General Manager to enter into a lease with Byron Bay Beach Hotel Properties Pty Ltd, substantially in the form contained at Annexure 26(a) (#E2012/20010) for a portion of road reserve with the following minimum conditions:
- 20 a) Term of five (5) years
b) Commencement date 1 February 2012
c) Rent per annum \$1,050.00 excluding GST
d) Annual rent review in accordance with CPI All Groups (Sydney)
e) All costs relating to the establishment of the lease are paid by the Lessee
- 25 3. That upon granting a lease, Council authorise the General Manager to affix the Council Seal to the lease documentation in accordance with Regulation 400 of the Local Government (General) Regulations 2005.
- 30 4. That if submissions are received during the public exhibition period, that a further report to Council be considered prior to granting of a lease agreement.

Attachments:

- 35
- Draft lease #E2012/20010 [12 pages]..... **Annexure 26(a)**
 - Current market rental valuation #E2012/24917 [60 pages] **Annexure 26(b)**
 - Plan of encroachment/lease area #E2012/19481 [1 page]..... **Annexure 26(c)**
 - Letter of request for original lease #DM639127 [1 page]..... **Annexure 26(d)**

40

 - Letter requesting assignment of lease #DM683910 [3 pages]..... **Annexure 26(e)**
 - Letter of request for new lease #S2012/2316 [1 page]..... **Annexure 26(f)**

ReportLand information

5 Council owned road reserve Jonson Street, Byron Bay adjacent to Lot 1 DP 846142 known as Beach Hotel, Byron Bay as shown in plan at Annexure 26(c)
Owner of Lot 1 DP 846142 – Byron Bay Beach Hotel Properties Pty Ltd
Encroachment – landscaping in the form of a concrete retaining wall in several places totalling an area of approximately four (4) square metres

10 Background

In 2000 Hizan Holdings Pty Ltd (the previous owner of the Beach Hotel) submitted a Development Application (10.2000.515.1) for renovations to the Beach Hotel to enclose the beer garden in accordance with the attached plan at Annexure 26(c). This application was approved by Council on 2 November 2000.

15 On 21 August 2006 the owner applied to Council for a building certificate for Lot 1 DP 846142 (50.2006.44.1) for the sale of the property. On 24 August 2006 Council's Senior Building Surveyor conducted an inspection of the property and identified that there were encroachments that would need to be attended to prior to an assessment to determine whether a building certificate would be
20 issued.

To resolve the encroachments, the owner was asked by Council to either remove the landscaping or enter into a lease with Council for the encroaching area.

25 On 23 November 2006 the owner responded in writing to Council requesting their preference to negotiate a lease for the encroaching areas. A copy of that letter is attached at Annexure 26(d).

At its Ordinary Meeting on 19 December 2006 Council considered a report titled "Landscaping encroachment on Council road reserve" (<http://www.byron.nsw.gov.au/meetings/2006-12-19-ordinary>) and resolved **(06-816)**:
30

- 35
1. That Council authorise the General Manager to enter into negotiations with the owners of Lot 1 DP 846142 for a lease over the encroaching landscaping on Council road reserve at Jonson Street Byron Bay.
 2. That the General Manager and Mayor be authorised to affix the Seal to the relevant lease documents."

40 In accordance with the above resolution, a lease was subsequently entered into for a period of five (5) years commencing 1 February 2007. That lease expired on 31 January 2012.

The purpose of the request for the above lease was to obtain a building certificate in preparation for the sale of the property.

45 In a letter to Council dated 13 June 2007 (refer Annexure 26(e)) the owner requested Council's consent to assign the lease as they had entered into a contract for the sale of the property. On 21 June 2007 the property was purchased by Byron Bay Beach Hotel Properties Pty Ltd.

At its Ordinary Meeting on 30 August 2007 Council considered a report titled "Assignment of Lease for Encroachment on Council Road Reserve" (<http://www.byron.nsw.gov.au/meetings/2007-08-30-ordinary>) and resolved **(07-443)**:
50

- 55
1. That Council advertise its intention to assign the current lease to the new owners of Lot 1 DP 846142 in accordance with Deed of Assignment (#691461), and invite submissions for a period of 28 days in accordance with section 154 of the Roads Act 1993.

2. *That Council advertise the assignment of the lease.*
3. *That if no objections are received at the close of the advertising period Council authorise the General Manager to affix the Council Seal to the lease in accordance with Regulation 400 of the Local Government (General) Regulations 2005.”*

In accordance with the above resolution a Deed of Assignment of Lease was executed with assignment date of 21 June 2007 being the date the property changed ownership.

10 Current

In a letter to Council dated 11 October 2012 (refer Annexure 26(f)) the current owner (Byron Bay Beach Hotel Properties Pty Ltd) requested a new lease.

- 15 The owner has agreed to enter into a lease based on the previous lease provisions and to pay for all costs relating to the establishment of the new lease (including current market rental valuation and Council's lease preparation fee).

20 **Financial Implications**

The current rent under the expired lease is \$898.05 per annum excluding GST.

An independent Market Rental Assessment has been commissioned by Council (refer Annexure 26(b)), with Council to be reimbursed by the owner for the cost of the valuation.

- 25 The current market rental valuation for the encroachments has been assessed at \$1,050.00 per annum excluding GST.

The proposed rent for the draft lease has been prepared based on this valuation.

30 **Statutory and Policy Compliance Implications**

Roads Act 1993 No 33

Division 2 Short-term leases of unused public roads

35 153 Short-term leases of unused public roads

- (1) A roads authority may lease land comprising a public road (other than a Crown road) to the owner or lessee of land adjoining the public road if, in its opinion, the road is not being used by the public.
- 40 (2) However, a lease may not be granted under this Division with respect to land that has been acquired by the RTA under Division 3 of Part 12 (being land that forms part of a classified road) except by the RTA.
- 45 (3) A lease granted under this Division may be terminated by the roads authority at any time and for any reason.

154 Public notice to be given of proposed lease

- (1) Before granting a lease under this Division, the roads authority must cause notice of the proposed lease:
- 50 (a) to be published in a local newspaper, and
(b) to be served on the owner of each parcel of land adjoining the length of public road concerned.

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- (2) The notice:
- (a) must identify the public road concerned, and
 - (b) must state that any person is entitled to make submissions to the roads authority with respect to the proposed lease, and
 - 5 (c) must indicate the manner in which, and the period (being at least 28 days) within which, any such submission should be made.

155 Public submissions

Any person may make submissions to the roads authority with respect to the proposed lease.

156 Decision on proposed lease

- 10 (1) After considering any submissions that have been duly made with respect to the proposed lease, the roads authority may grant the lease, either with or without alteration, or may refuse to grant the lease.
- (2) If the roads authority grants a lease, the roads authority must cause notice of that fact to be published in a local newspaper.

157 Special provisions with respect to short-term leases

- 15 (1) The term of a lease, together with any option to renew, must not exceed:
- (a) except as provided by paragraph (b), 5 years, or
 - (b) in the case of a lease of land that has been acquired by the roads authority under Division 3 of Part 12, 10 years.
- 20 (2) A person must not erect any structure on land the subject of a lease under this Division otherwise than in accordance with the consent of the roads authority.
- Maximum penalty: 10 penalty units.
- 25 (3) Such a consent may not be given unless the roads authority is satisfied that the proposed structure comprises a fence or a temporary structure of a kind that can easily be demolished or removed.

Local Government (General) Regulation 2005

30 400 Council seal

- (1) The seal of a council must be kept by the mayor or the general manager, as the council determines.
- 35 (2) The seal of a council may be affixed to a document only in the presence of:
- (a) the mayor and the general manager, or
 - (b) at least one councillor (other than the mayor) and the general manager, or
 - (c) the mayor and at least one other councillor, or
 - 40 (d) at least 2 councillors other than the mayor.
- (3) The affixing of a council seal to a document has no effect unless the persons who were present when the seal was affixed (being persons referred to in subclause (2)) attest by their signatures that the seal was affixed in their presence.
- 45 (4) The seal of a council must not be affixed to a document unless the document relates to the business of the council and the council has resolved (by resolution specifically referring to the document) that the seal be so affixed.

Report No. 12.10. Licence - Community Garden Ocean Shores

Executive Manager: Corporate Management

Report Author: Trish Kirkland, Manager Property, Contracts and Information Systems

File No: #E2012/26057

5

Theme: Corporate Management, Property, Procurements and Contract Services

Summary: At its Ordinary Meeting on 25 October 2012, Council resolved **(12-838)** to grant a licence over Community Land provided no submissions were received during the public exhibition period.

If submissions were received during the public exhibition period a further report was to be provided to Council.

Submissions closed on 10 December 2012 and submissions that have been received are the subject of this report.

This report recommends that Council grant a further licence for a three year term.

RECOMMENDATION:

- 10 1. That Council grant a licence to Mullumbimby Community Gardens Inc over Shara Community Gardens being Community Land at Lot 2005 DP 808461, substantially in the form contained at Annexure 25 (#DM1255448) on the following terms:
 - 15 a) Commencement date 4 April 2012
 - b) Term of three (3) years
 - c) Nil licence fee
 - d) Insert new clause 19.6 "The Licensee acknowledges that any fencing on the site allows for pedestrian access through the site between Clifford Street and Shara Boulevarde.
- 20 2. That Council authorise the General Manager to execute and affix the Council Seal to the licence documentation in accordance with Regulation 400 of the Local Government (General) Regulations 2005.

25 **Attachments:**

- Draft licence agreement #DM1255448 [8 pages].....Annexure 25(a)
- **CONFIDENTIAL** Submission #E2012/25599 [1 page] Annexure 25(b)

30

Annexure 25(b) has been provided to Councillors' only on their Agenda CD.

ReportLand

Lot 2005 DP 808461 (Shara Boulevarde, Ocean Shores)

5 Owner – Council – Community Land

Category – Park

Use – passive recreation activities as described in Generic Plan of Management for Community Land Categorised as a Park #590121 adopted 24/02/05.

10 History

On 21 October 2010 Council adopted Policy No. 10/012 Byron Shire Community Gardens Policy (<http://www.byron.nsw.gov.au/policies>).

15 A Community Information Session was held on 16 November 2010 in relation to the adopted Policy.

Council called for Expressions of Interest for the licence of Council owned land known as 'Shara Boulevarde (Lot 2005 DP 808461)' for the purposes of establishing a community garden in February 2011.

20 A temporary "trial" licence was entered into with Mullumbimby Community Gardens Inc to establish a community garden known as "Shara Community Gardens" in accordance with Byron Shire Community Gardens Policy.

25 The "trial" licence agreement expired on 3 April 2012. An updated copy of Public Liability insurance has been received, valid to 1 April 2013.

30 In accordance with Council's Community Gardens Policy and the original Call for Expressions of Interest document, upon expiry of the temporary "trial" licence, a community garden group will have the opportunity to enter into a licence agreement with Council for a period of 3 years with on-going renewal, provided all conditions and maintenance requirements are satisfied.

Mullumbimby Community Garden Inc requested renewal of the licence agreement in a letter to Council dated 26 June 2012.

35 This request was the subject of a report to Council's Ordinary Meeting on 25 October 2012 titled "12.11 Community Garden Ocean Shores – Licence Agreement" (<http://www.byron.nsw.gov.au/meetings/2012-10-25-ordinary>).

40 Council resolved **(12-838)**:

"1. *That Council note the establishment of the initial licence agreement via a competitive expression of interest process.*

45 2. *That notice of Councils intention to grant a licence over Community Land be notified and exhibited in accordance with Section 47 of the Local Government Act for a period of 28 days.*

50 3. *That if no submissions are received during the public exhibition period, Council authorise the General Manager to grant a licence to Mullumbimby Community Gardens Inc over Shara Community Gardens, substantially in the form contained at Annexure 23(b)(#DM1255448) on the following terms:*

- 55 a) *Commencement date 4 April 2012*
 b) *3-year term*
 c) *Nil licence fee*

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4. *That on granting a licence, Council authorise the General Manager to execute and affix the Council Seal to the licence documentation in accordance with clause 400 of Local Government (General) Regulations 2005.*
5. *That if submissions are received during the public exhibition period, that a further report to Council be considered prior to granting a licence agreement."*

Current

In accordance with parts 2 and 5 of the above resolution, Council's intention to grant a licence over Community Land was notified and exhibited for a period of 28 days from 13 November 2012 being advertised in local newspapers, on Council's website and letters sent to adjoining owners. Submissions closed on 10 December 2012. One (1) submission was received suggesting a clause be inserted into the licence to allow public access through the Community Land in the event that fences are erected around plantings.

Councillors also need to refer to the full copy of the submission which has been provided on disc, strictly on a confidential basis, to Councillors. The full copy of the submission contains personal information such as names and addresses of the persons lodging submissions which are relevant matters to be taken into consideration in determining this matter.

Should Council resolve to insert a new clause into the licence agreement in response to the submissions received, management recommend the following wording for the resolution:

That Council grant a licence to Mullumbimby Community Gardens Inc over Shara Community Gardens being Community Land at Lot 2005 DP 808461, substantially in the form contained at Annexure 25 on the following terms:-

- a) *Commencement date 4 April 2012*
- b) *Term of three (3) years*
- c) *Nil licence fee*
- d) *Insert new clause 19.6 "The Licensee acknowledges that any fencing on the site allows for pedestrian access through the site between Clifford Street and Shara Boulevard"*

As noted in the previous report to Council on 25 October 2012, upon the granting of a licence, management will ask Mullumbimby Community Garden Inc (Shara Community Gardens) to implement previous recommendations from Compliance in relation to fencing and signage.

Financial Implications

The original expression of interest did not require a licence fee to be proposed by respondents, and the initial temporary trial licence was issued with \$nil licence fee, with the opportunity to enter into a 3-year licence agreement on the same terms and conditions.

Council's adopted Community Gardens Policy states that Council will not charge community garden groups licence preparation fees for the initial temporary trial licence.

The Shara Community Garden Licence arrangements will provide for legal occupation of community land but will not generate income for Council.

Statutory and Policy Compliance Implications

- 47A Leases, licences and other estates in respect of community land—terms of 5 years or less
- (1) This section applies to a lease, licence or other estate in respect of community land granted for a period that (including any period for which the lease, licence or other estate could be

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renewed by the exercise of an option) does not exceed 5 years, other than a lease, licence or other estate exempted by the regulations.

5 (2) If a council proposes to grant a lease, licence or other estate to which this section applies:

- 10 (a) the proposal must be notified and exhibited in the manner prescribed by section 47, and
(b) the provisions of section 47 (3) and (4) apply to the proposal, and
(c) on receipt by the council of a written request from the Minister, the proposal is to be referred to the Minister, who is to determine whether or not the provisions of section 47 (5)–(9) are to apply to the proposal.

15 (3) If the Minister, under subsection (2) (c), determines that the provisions of section 47 (5)–(9) are to apply to the proposal:

- (a) the council, the Minister and the Director of Planning are to deal with the proposal in accordance with the provisions of section 47 (1)–(8), and
(b) section 47 (9) has effect with respect to the Minister's consent.

20 47 Leases, licences and other estates in respect of community land—terms greater than 5 years

(1) If a council proposes to grant a lease, licence or other estate in respect of community land for a period (including any period for which the lease, licence or other estate could be renewed by the exercise of an option) exceeding 5 years, it must:

- 25 (a) give public notice of the proposal, and
(b) exhibit notice of the proposal on the land to which the proposal relates, and
(c) give notice of the proposal to such persons as appear to it to own or occupy the land adjoining the community land, and
30 (d) give notice of the proposal to any other person, appearing to the council to be the owner or occupier of land in the vicinity of the community land, if in the opinion of the council the land the subject of the proposal is likely to form the primary focus of the person's enjoyment of community land.

35 (2) A notice of the proposal must include:

- 40 • information sufficient to identify the community land concerned
• the purpose for which the land will be used under the proposed lease, licence or other estate
• the term of the proposed lease, licence or other estate (including particulars of any options for renewal)
• the name of the person to whom it is proposed to grant the lease, licence or other estate (if known)
• a statement that submissions in writing may be made to the council concerning the proposal within a period, not less than 28 days, specified in the notice.

45 (3) Any person may make a submission in writing to the council during the period specified for the purpose in the notice.

50 (4) Before granting the lease, licence or other estate, the council must consider all submissions duly made to it.

(5) The council must not grant the lease, licence or other estate except with the Minister's consent, if:

- (a) a person makes a submission by way of objection to the proposal, or

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- (b) in the case of a lease or licence, the period (including any period for which the lease or licence could be renewed by the exercise of an option) of the lease or licence exceeds 21 years.
- 5 (6) If the council applies for the Minister's consent, it must forward with its application:
- a copy of the plan of management for the land
 - details of all objections received and a statement setting out, for each objection, the council's decision and the reasons for its decision
 - a statement setting out all the facts concerning the proposal to grant the lease, licence or other estate
 - a copy of the newspaper notice of the proposal
 - a statement setting out the terms, conditions, restrictions and covenants proposed to be included in the lease, licence or other estate
 - if the application relates to a lease or licence for a period (including any period for which the lease or licence could be renewed by the exercise of an option) exceeding 21 years, a statement outlining the special circumstances that justify the period of the lease or licence exceeding 21 years
 - a statement setting out the manner in which and the extent to which the public interest would, in the council's opinion, be affected by the granting of the proposed lease, licence or other estate, including the manner in which and the extent to which the needs of the area with respect to community land would, in the council's opinion, be adversely affected by the granting of the proposed lease, licence or other estate.
- 10
- 15
- 20
- (7) On receipt of the application, the Minister must request the Director of Planning to furnish a report concerning the application within such period as the Minister specifies.
- 25
- (8) After considering the application and any report of the Director of Planning, the Minister, if satisfied that:
- 30
- (a) subsections (1), (2) and (6) have been complied with, and
 - (b) such consent would not contravene section 46, and
 - (c) in all the circumstances, it is desirable to grant consent,
- may consent to the granting of a lease, licence or other estate in respect of the whole or part of the land to which the application relates, subject to such terms and conditions as the Minister specifies.
- 35
- (8AA) The Minister may consent to a lease or licence referred to in subsection (5) (b) only if the Minister is satisfied that there are special circumstances that justify the period of the lease or licence exceeding 21 years.
- 40
- (8A) On request by any person, the Minister must provide that person, within 14 days of that request, with a written statement of reasons for consenting to, or refusing to consent to, the granting of a lease, licence or other estate in accordance with subsection (8).
- 45
- (9) The Minister's consent is conclusive evidence that the council has complied with subsections (1), (2) and (6).
- (10) For the purposes of this section, any provision made by a lease or licence, or by an instrument granting any other estate, in respect of community land, according to which the council:
- 50
- (a) would suffer a disadvantage or penalty if the same or a similar lease, licence or estate were not to be granted, for a further term, after the expiry of the current lease, licence or other estate, or

- (b) would enjoy an advantage or benefit if the same or a similar lease, licence or estate were to be so granted, is taken to confer an option for renewal for a term equal to the further term.

5 Local Government (General) Regulation 2005

400 Council seal

- 10 (1) The seal of a council must be kept by the mayor or the general manager, as the council determines.
- (2) The seal of a council may be affixed to a document only in the presence of:
 - 15 (a) the mayor and the general manager, or
 - (b) at least one councillor (other than the mayor) and the general manager, or
 - (c) the mayor and at least one other councillor, or
 - (d) at least 2 councillors other than the mayor.
- 20 (3) The affixing of a council seal to a document has no effect unless the persons who were present when the seal was affixed (being persons referred to in subclause (2)) attest by their signatures that the seal was affixed in their presence.
- (4) The seal of a council must not be affixed to a document unless the document relates to the business of the council and the council has resolved (by resolution specifically referring to the document) that the seal be so affixed.

Report No. 12.11. Lease part Brunswick Heads Memorial Hall
Executive Manager: Corporate Management
Report Author: Trish Kirkland, Manager Property, Contracts and Information System
File No: #E2012/24065

5 **Theme:** Corporate Management, Property, Procurements and Contract Services

Summary: At its Ordinary Meeting on 25 October 2012, Council resolved **(12-825)** to offer the lease for two premises (shop spaces part of Brunswick Heads Memorial Hall) to Brunswick Valley Red Cross.

On the basis that Council in Resolution 12-825 did not determined the amount of the rental payable, the two leases were subsequently offered at a rental based on the previous lease values, adjusted by CPI. The Brunswick Valley Red Cross declined to accept the rental proposed and have made a counter offer.

In accordance with the intent of Resolution 12-825, this report recommends Council grant the leases based on the rental offer from the Brunswick Valley Red Cross.

RECOMMENDATION:

- 10 1. That Council offer a lease for part Brunswick Heads Memorial Hall being shop space (west side) to Australian Red Cross Society c/- Brunswick Valley Red Cross substantially in the form at Annexure 24(b) (#E2012/24065) on the following terms:
- a) Commencement Date 1 March 2013
 - 15 b) Term five (5) years
 - c) Annual CPI rent review
 - d) Rental of \$1,791.00 per annum ex GST
 - e) All lease preparation costs are paid by the Lessee
- 20 2. That Council offer a lease for part Brunswick Heads Memorial Hall being shop space (east side) to Australian Red Cross Society c/- Brunswick Valley Red Cross substantially in the form at Annexure 24(c) (#E2012/16371) on the following terms:
- a) Commencement Date 1 March 2013
 - b) Term five (5) years
 - c) Annual CPI rent review
 - 25 d) Rental of \$1,045.00 per annum ex GST
 - e) All lease preparation costs are paid by the Lessee
- 30 3. That Council authorise the General Manager to affix the Council Seal to the lease documentation in accordance with Regulation 400 of the Local Government (General) Regulations 2005.

Attachments:

- Letter from Brunswick Valley Red Cross #S2012/4025 [1 page]..... **Annexure 24(a)**
- 35 • Proposed lease west side shop space #E2012/16373 [12 pages] **Annexure 24(b)**
- Proposed lease east side shop space #E2012/16371 [12 pages]..... **Annexure 24(c)**
- **CONFIDENTIAL** Submission #E2012/22880 [1 page] **Annexure 24(d)**

Annexure24(d) has been provided to Councillors' only on their Agenda CD.

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Report

Land Information

- 5 Part Lot 10 Section 7 DP 758171 being 24 Fingal Street, Brunswick Heads known as Brunswick Heads Memorial Hall
Owner – Byron Shire Council
Category – Community Land – General Community Use – Community Facilities
Zoning – 3(a) Business
10 Plan of Management –Generic Plan of Management for Community Land Categorised as General Community Use – Community Facilities #653083 adopted 24 February 2005

History

At its Ordinary Meeting of 9 April 2009 Council resolved **(09-223)**:

- 15 *“That pursuant to Clauses 46, 46a, 47 and 47a of the Local Government Act, Council call for expressions of interest in leasing the vacant office space at the Brunswick Heads Memorial Hall.”*

- 20 The Expressions of Interest was advertised with two submissions being received. A report to Council’s Ordinary Meeting of 13 August 2009 recommended awarding the lease to College of Marine Studies Inc.

Council resolved in part **(09-665)** and **(09-666)**:

- 25 *“09-665 Resolved:*

1. *That pursuant to clauses 46, 46A, and 47A of the Local Government Act 1993, Council endorse the proposed lease agreement with North Coast College of Marine Studies Inc. over the Council property at Part Lot 436 DP 839424 on the basis of draft lease document at Annexure 30(c) (#874740), containing the following basic conditions:*
- 30 *a) 3 year lease term*
b) Annual lease fee of \$2,600.00 per annum
c) Lease fee to be increased annually in accordance with CPI
d) All lease preparation costs are to be met by the tenant.”

- 35 *“09-666 Resolved that Council prepare a draft lease with the Red Cross at no cost to the Red Cross.”*

- 40 Subsequently two leases were entered into expiring 30 September 2012 with no option to renew, as follows:-

	<u>Lessee</u>	<u>Leased Area</u>	<u>Current Rent</u>
	Australian Red Cross Society (Red Cross)	Shop space (West side)	\$1714.15 pa ex GST (\$142.85/mth ex GST)
45	The College of Marine Studies Inc (COMS)	Office space (East side)	\$2448.76 pa ex GST (\$204.06/mth ex GST)

- At its Ordinary Meeting on 25 October 2012, Council considered a report titled “Expression of Interest – Part Brunswick Heads Memorial Hall Leases”
50 (<http://www.byron.nsw.gov.au/meetings/2012-10-25-ordinary>) which recommended an expression of interest process be undertaken to establish two (2) new leases. Council resolved **(12-825)**:

- “1. That Council does not call for expressions of interest to lease a shop space at part Lot 10 Section 7 DP 758171 known as Brunswick Heads Memorial Hall pursuant to Section 55(3)(e) of the Local Government Act 1993, the reasons being:*

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- a) *the land being leased is categorised Community Land.*
- b) *the proposed lessee, Brunswick Valley Red Cross, is a not-for-profit organisation.*
- c) *the proposed lessee, Brunswick Valley Red Cross, provides value to the community.*

- 5 2. *That Council offer the lease for the two premises to the Brunswick Valley Red Cross.*
3. *That notice of Councils intention to grant the two (2) leases over Community Land be notified and exhibited in accordance with Section 47 of the Local Government Act for a period of 28 days."*

10 In accordance with part 2 of the above resolution, two leases were subsequently offered to Brunswick Valley Red Cross, based on the previous lease rental values adjusted by CPI as follows:

15 Shop space (west side 24sqm) \$1,721.00 per annum ex GST, that is, \$71.71/sqm ex GST (existing lease with Red Cross)

 Shop space (east side 14sqm) \$2,461.00 per annum ex GST, that is, \$175.79/sqm ex GST (existing lease with COMS)

20 Total rental for both spaces \$4,182.00 per annum ex GST.

Current

25 In accordance with part 3 of the resolution **(12-825)**, the proposed leases were notified and exhibited for a period of 28 days from 13 November being advertised in local newspapers, on Council's website and letters sent to adjoining owners. Submissions closed on 10 December 2012. One (1) submission was received querying the amount of rent to be charged. Staff replied noting "*the rental amount of the proposed leases is to be determined by Council with a report being prepared for the Ordinary Meeting on 28 February 2013*".

30 Councillors also need to refer to the full copy of the submission which has been provided on disc, strictly on a confidential basis, to Councillors. The full copy of the submission contains personal information such as names and addresses of the persons lodging submissions which are relevant matters to be taken into consideration in determining this matter.

35 The College of Marine Studies terminated their lease and vacated the property (shop space east side) as at 31 October 2012. Rent arrears of \$1904.61 from the College remain outstanding as at 31 January 2013. The arrears will be the subject of a further report to Council in relation to writing off the debt from the College.

40 In a letter to Council dated 21 November 2012 (refer Annexure 24(a)), Brunswick Valley Red Cross made a counter offer for the rent of both shops of \$260.00 per month i.e. \$3,120.00 per annum including GST noting that the east side space is considerably smaller. This counter offer equates to \$2,836.00 per annum ex GST.

45 On the basis of Council's resolution [12-825] and the nature of Red Cross activities, the counter offer for both shops of \$2,836.00 per annum ex GST by Red Cross appears reasonable.

50 This report recommends that Council grant the leases based on the counter offer from Red Cross with the rent apportioned to each leased area, being \$1,791.00 ex GST for the shop space west side and \$1,045.00 ex GST for the shop space east side.

Financial Implications

5 The difference between the previous lease values and the counter offer from the Red Cross is \$1,346.00 ex GST per annum. It should be noted that amount of the rental paid for the Office space (East side) by the College of Marine Studies Inc, was determined through an expression of interest process, and was based on the amount offered by the College of Marine Studies at that time.

Statutory and Policy Compliance Implications

10 The land is classified as Community Land and has an adopted Plan of Management which authorises the use of the land for community facilities and authorises appropriate leases and licences.

15 Local Government Act 1993

Council must give notice and exhibit the lease in accordance with the provisions of the Act. Section 47 specifies notification and exhibition requirements for leases with a term over five years, and Section 47A to leases with a term of five years or less.

20 *The proposed leases were notified and exhibited for a period of 28 days from 13 November to 10 December 2012.*

47A Leases, licences and other estates in respect of community land—terms of 5 years or less

- 25 (1) This section applies to a lease, licence or other estate in respect of community land granted for a period that (including any period for which the lease, licence or other estate could be renewed by the exercise of an option) does not exceed 5 years, other than a lease, licence or other estate exempted by the regulations.
- (2) If a council proposes to grant a lease, licence or other estate to which this section applies:
 - 30 (a) the proposal must be notified and exhibited in the manner prescribed by section 47, and
 - (b) the provisions of section 47 (3) and (4) apply to the proposal, and
 - (c) on receipt by the council of a written request from the Minister, the proposal is to be referred to the Minister, who is to determine whether or not the provisions of section 47 (5)–(9) are to apply to the proposal.
- 35 (3) If the Minister, under subsection (2) (c), determines that the provisions of section 47 (5)–(9) are to apply to the proposal:
 - (a) the council, the Minister and the Director of Planning are to deal with the proposal in accordance with the provisions of section 47 (1)–(8), and
 - (b) section 47 (9) has effect with respect to the Minister’s consent.

40 47 Leases, licences and other estates in respect of community land—terms greater than 5 years

- (1) If a council proposes to grant a lease, licence or other estate in respect of community land for a period (including any period for which the lease, licence or other estate could be renewed by the exercise of an option) exceeding 5 years, it must:
 - 45 (a) give public notice of the proposal, and
 - (b) exhibit notice of the proposal on the land to which the proposal relates, and
 - (c) give notice of the proposal to such persons as appear to it to own or occupy the land adjoining the community land, and
 - 50 (d) give notice of the proposal to any other person, appearing to the council to be the owner or occupier of land in the vicinity of the community land, if in the opinion of the council the land the subject of the proposal is likely to form the primary focus of the person’s enjoyment of community land.
- (2) A notice of the proposal must include:
 - information sufficient to identify the community land concerned

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- the purpose for which the land will be used under the proposed lease, licence or other estate
- the term of the proposed lease, licence or other estate (including particulars of any options for renewal)
- 5 • the name of the person to whom it is proposed to grant the lease, licence or other estate (if known)
- a statement that submissions in writing may be made to the council concerning the proposal within a period, not less than 28 days, specified in the notice.
- 10 (3) Any person may make a submission in writing to the council during the period specified for the purpose in the notice.
- (4) Before granting the lease, licence or other estate, the council must consider all submissions duly made to it.
- (5) If a person makes a submission by way of objection to the proposal, the council must not grant the lease, licence or other estate except with the Minister's consent.
- 15 (6) If the council applies for the Minister's consent, it must forward with its application:
 - a copy of the plan of management for the land
 - details of all objections received and a statement setting out, for each objection, the council's decision and the reasons for its decision
 - a statement setting out all the facts concerning the proposal to grant the lease, licence or other estate
 - 20 • a copy of the newspaper notice of the proposal
 - a statement setting out the terms, conditions, restrictions and covenants proposed to be included in the lease, licence or other estate
 - a statement setting out the manner in which and the extent to which the public interest would, in the council's opinion, be affected by the granting of the proposed lease, licence or other estate, including the manner in which and the extent to which the needs of the area with respect to community land would, in the council's opinion, be adversely affected by the granting of the proposed lease, licence or other estate.
 - 25
- (7) On receipt of the application, the Minister must request the Director of Planning to furnish a report concerning the application within such period as the Minister specifies.
- 30 (8) After considering the application and any report of the Director of Planning, the Minister, if satisfied that:
 - (a) subsections (1), (2) and (6) have been complied with, and
 - (b) such consent would not contravene section 46, and
 - 35 (c) in all the circumstances, it is desirable to grant consent,may consent to the granting of a lease, licence or other estate in respect of the whole or part of the land to which the application relates, subject to such terms and conditions as the Minister specifies.
- (8A) On request by any person, the Minister must provide that person, within 14 days of that request, with a written statement of reasons for consenting to, or refusing to consent to, the granting of a lease, licence or other estate in accordance with subsection (8).
- 40 (9) The Minister's consent is conclusive evidence that the council has complied with subsections (1), (2) and (6).
- (10) For the purposes of this section, any provision made by a lease or licence, or by an instrument granting any other estate, in respect of community land, according to which the council:
 - 45 (a) would suffer a disadvantage or penalty if the same or a similar lease, licence or estate were not to be granted, for a further term, after the expiry of the current lease, licence or other estate, or
 - 50 (b) would enjoy an advantage or benefit if the same or a similar lease, licence or estate were to be so granted,is taken to confer an option for renewal for a term equal to the further term.

ICAC Guidelines

An open competitive selection process such as a tender or expression of interest process enables Council to demonstrate accountability and transparency and makes it difficult for private interests to influence, or be seen as influencing the outcome of a contract.

5

The “*ICAC Guidelines for managing risks in direct negotiations*”, May 2006”, states

“It is not acceptable to automatically reappoint an incumbent whose fixed term contract is about to expire.”

10

“Doing business with government is a key driver of economic activity and many private firms and not-for-profit organisations rely on access to government contracts in order to stay in business. Direct negotiations can unfairly exclude capable firms and employ staff, pay taxes and contribute to the economy.”

15

“Obtaining best value for public money is a fundamental principle of public sector work. When it is known that there are other proponents who could feasibly compete for a contract, agreeing to direct negotiations with a single proponent increases the risk that the agency may not obtain best value for money. When a proponent does not have to compete for contracts there is a higher risk that the proponent may unjustifiably increase profit margins, exaggerate expenses or otherwise boost returns on the contract.”

20

“Furthermore, when an agency restricts the number of parties with which it does business, it also limits the number of potentially useful ideas, solutions and options that it has access to.”

25

Policy

Council’s current adopted Policy 3.25 “Community Halls and Sporting Facilities – Management by Community Groups” calls for Council to enter into Licence Agreements (not exceeding a period of five years) with relevant community groups. However, the Policy does not account for the competitive and transparent process required to establish Licence Agreements, and does not provide for exclusive tenure over facilities.

30

Local Government (General) Regulation 2005

35 400 Council seal

(1) The seal of a council must be kept by the mayor or the general manager, as the council determines.

40

(2) The seal of a council may be affixed to a document only in the presence of:
 (a) the mayor and the general manager, or
 (b) at least one councillor (other than the mayor) and the general manager, or
 (c) the mayor and at least one other councillor, or
 (d) at least 2 councillors other than the mayor.

45

(3) The affixing of a council seal to a document has no effect unless the persons who were present when the seal was affixed (being persons referred to in subclause (2)) attest by their signatures that the seal was affixed in their presence.

50

(4) The seal of a council must not be affixed to a document unless the document relates to the business of the council and the council has resolved (by resolution specifically referring to the document) that the seal be so affixed.

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28 FEBRUARY 2013 (70)

Report No. 12.12. 2013 National General Assembly of Local Government

Executive Manager: Corporate Management

Report Author: Joylene McNamara, Senior Administration Officer

File No: #E2013/8738

5

Principal Activity: Administrative Services, Councillors

Summary: In accordance with Council's Policy 1.1 Mayor and Councillors Payment of Expenses and Provision of Facilities, Clause 8.4.1. "*A resolution of Council is required to authorise attendance of Councillors at...b) Australian Local Government Association National General Assembly as a voting delegate.*"

Council has received notification that the National General Assembly of Local Government will be held from 16 to 19 June 2013.

RECOMMENDATION:

10 1. That Council authorise the following Councillors to attend the 2013 National General Assembly of Local Government to be held at the National Convention Centre in Canberra from 16 to 19 June 2013:

15 Cr A _____ and Cr B _____

2. That Council determine which Councillor will be the voting delegate.

20 3. That Council note that any motions for the National General Assembly will need to be submitted as a Notice of Motion for endorsement by Council, either before or at the Ordinary meeting scheduled on 11 April 2013.

Attachments:

- 25 • Correspondence - 2013 National General Assembly Call for Motions
#E2013/8756 [13 pages] **Annexure 28**

Report

Council has received program and registration details for the National General Assembly of Local Government (NGA) to be held in Canberra from 16 to 19 June 2013.

5

In accordance with Council's Policy 1.1 Mayor and Councillors Payment of Expenses and Provision of Facilities, clause 8.4.1. states "A resolution of Council is required to authorise attendance of Councillors at...b) Australian Local Government Association National General Assembly as a voting delegate."

10

Council is entitled to one voting delegate in the debating session.

Conference Motions

15 Policy 1.1 Mayor and Councillors Payment of Expenses and Provision of Facilities also states at clause 8.4.4.(b) that "Submission of motions for consideration by Council will be done by notice of motion, which can be considered during the year."

20 As motions to the NGA are to be received by ALGA no later than Friday 26 April 2013, and must first be endorsed by Council prior to submission, Notices of Motions to Council regarding ALGA motions will need to be submitted for inclusion in the Ordinary Meeting Agenda of 11 April 2013 at the latest.

25 See "Call for Motions" below regarding information that must be included in a motion. Staff will then submit the resolved motions to the ALGA on behalf of Councillors.

Call for Motions

30 This year's theme is "Foundations for the Future – Twenty 13". To be eligible for inclusion in the NGA Business Papers motions must follow the principles:

1. Fall under the NGA theme;
2. Be relevant to the work of local government nationally; and
3. Complement or build on the policy objectives of state and territory associations.

35

To assist Councils in preparing motions, a Discussion Paper has been prepared and is available on the NGA website at <http://alga.asn.au/?ID=7525&Menu=36.303> and is available at Annexure 28 which also contains guidelines and extra information.

40 The motions must include the following information:

- a) Motion
 - *Text of the Motion*
- 45 b) National Objective
 - *Why is this a national issue and why should this be debated at the NGA?*
 - *Maximum 100 words*
- 50 c) Summary of key arguments
 - *Background information*
 - *Supporting arguments*
 - *maximum of 300 words (additional information should be provided as speaking notes to the council representative who will move the motion at the NGA)*
- 55 d) Declaration
 - *Declaration that the motion has been endorsed by Council.*

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Conference Details

5	Where:	National Convention Centre, Canberra, ACT	
	Dates:	Sunday 16 June to Wednesday 19 June 2013	
	Costs:	Registration Fee (early bird prior to approx 22 April 2013)	\$950.00
	(Approx per delegate)	Accommodation (4 nights)	\$950.00
10		Travel approximately	\$600.00
		Total:	\$2,500.00

Financial Implications

15 Council has an allocation for conferences of \$17,600 within the 2012/13 budget (2145.04). There has been \$15,100.00 committed so far. Council has an allocation for Councillors Professional Development (Training) of \$10,300.00 (2145.07) with no committed expenditure to date. Council is therefore able to fund the cost of two delegates from this budget.

20 **Statutory and Policy Compliance Implications**

In accordance with Council's Policy 1.1 Mayor and Councillors Payment of Expenses and Provision of Facilities "A resolution of Council is required to authorise attendance of Councillors at ...b) Australian Local Government Association National General Assembly as a voting delegate."

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ORDINARY MEETING

28 FEBRUARY 2013 (73)

Report No. 12.13. Council Resolutions Review October to December 2012

Executive Manager: Corporate Management
Report Author: Mark Arnold, Executive Manager
File No: #E2012/28226

5

Theme: Corporate Management, Administration

Summary: This report provides an update on the status of Council resolutions outstanding and proposed actions, and on resolutions completed, for consideration by Council.

RECOMMENDATION:

- 10 1. That Council receive and note the information provided in this report on outstanding Council resolutions.
2. That Council note the completed resolutions in Annexure 2(b) (#E2013/9087).
- 15 3. That Council resolve that no further action be taken in respect of the following Council resolutions:

09-880	09-881	09-973 (Part 3)
09-1117	10-161	10-491
10-894 (Part 3)	11-1061	10-1103
11-31	11-58	11-147
11-627 (Part 5)	12-524	11-987
12-647		

- 20 4. That Council note that the following resolutions are currently unfunded or unresourced, but are recommended for retention due to potential capacity to be resourced in the near future:

11-548	11-929	11-1076
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25 **Attachments:**

- Summary Report on Council Resolutions – December 2012 Quarter #E2013/9306 [1 page]..... **Annexure 2(a)**
- Completed Resolutions –October to December 2012 #E2013/9308 [106 pages]..... **Annexure 2(b)**
- 30 • Outstanding Council Resolutions status as at 31 December 2012 #E2013/9316 [271 pages]..... **Annexure 2(c)**

35 *Please note: Annexure 2(b) and 2(c) will be provided to Councillors on the Agenda CD and a hardcopy available in the Councillor's Room. The public may view these annexures online at www.byron.nsw.gov.au/meetings or at the Administration Centre.*

Report

This report provides a quarterly update on the status of Council resolutions to 31 December 2012.

5 Council resolutions relate across all Activities in Council's Operational Plan with responsible officers within Council providing input into this status report.

A summary status report is at Annexure 2(a).

- 10 • 180 new resolutions created during the October to December 2012 quarter
- 173 resolutions completed during period 1 October to 31 December 2012
- 132 outstanding Council resolutions current Council (2012-2016)
- 237 outstanding Council resolutions from previous (2008-2012)
- 0 outstanding Council resolutions from 2004-2008 Council
- 15 • 369 closing balance of outstanding resolutions as at 31 December 2012

Details of completed resolutions for the period 1 October to 31 December 2012 are provided at Annexure 2(b).

An update on the status of outstanding resolutions is provided at Annexure 2(c) which made up of:

- 20 • previous Council Oct 2008-2012 (pages 1 of 271 Annexure 2(c))
- current Council Sept 2012-2016 (pages 190 of 271 Annexure 2(c))

Council at its Ordinary Meeting held on 20 December 2012 resolved:

25 **12-1008** (in part):

"2. That the General Manager be requested to review the outstanding resolutions from the previous Council for the period from 2008-2012 and to provide Council with a report detailing any outstanding Resolutions:

- 30 a) that are no longer relevant or that have been superseded either by other Resolutions, Legislative change or other matters;
- 35 b) that can not be implemented due resources not being available, allocated or allocated to other adopted projects, services, activities or works."

Table 1 provides a summary of Council resolutions that are no longer relevant or that have been superseded either by other Resolutions, Legislative change or other matters.

40 Table 2 provides a summary of Council resolutions that can not be implemented due resources not being available, allocated or allocated to other adopted projects, services, activities or works. Any resulting decisions of Council will be incorporated into the next quarterly review of resolutions.

45 In addition the review has identified that a number of what are listed as outstanding resolutions have in fact been completed but the administrative updating tasks not complete. These will be rectified prior to next quarterly review.

50 Other outstanding resolutions from the period 2008-2012 have been retained for the time being either because they are currently being actioned or are being further reviewed, and they will be reported further under Res 12-1008 in future quarterly reviews as required.

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Table 1: Council resolutions that are no longer relevant or that have been superseded

Meeting Date	Resolution No.	Report Title	Status / Recommendation
22/10/09	09-880	Land Classification of Suffolk Park Holiday Park	<p>Part 3 and 4 of this resolution remains outstanding. In relation to part 3 of the resolution, any assignment of a lease to a new person requires the new lessee to rectify any compliance issues with structures located on a permanent site if they are not rectified by the previous lessee. Part 4 of the resolution requires identification of on-selling since 2003 and resolution 03-293. Part 4 cannot be addressed as Council does not have the records as it is not privy to the financial terms agreed between the purchaser and seller of moveable structures at the Park. It is also considered whether part 4 of the resolution is still relevant as it would require disclosure of private information that Council does not have and has no right to seek.</p> <p>Recommendation: Close resolution 09-880</p>
17/12/09	09-1117	Suffolk Park Holiday Park – Storage Vans	<p>Only part 4 of this resolution remains outstanding. It required that Council receive a report with an update on the Suffolk Park Caravan Park including a business and marketing plan. Council at its Ordinary Meeting held 9 February 2012 resolved by resolution 12-25 that Council receive a report on the future operation and charges for holiday parks. Resolution 12-25 encompasses both holiday parks operated by Council and as such it is viewed that resolution 12-25 has replaced/superseded resolution 09-1117.</p> <p>Recommendation: Close resolution 09-1117</p>
24/6/10	10-491	Biannual LEP Amendments	<p>Council resolved to defer consideration of a request to rezone lots 354 and 355 DP 755687 (Cassons Rd New Brighton) subject to receiving a further report with more information regarding zonings, tenure and access.</p> <p>Council has requested this information from the applicants via a formal letter and phone calls on four occasions but to no avail. Given that the applicants are free to lodge a planning proposal at any time for Councils consideration this resolution is no longer required.</p> <p>Recommendation: Close resolution 10-491</p>

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28 FEBRUARY 2013 (76)

Meeting Date	Resolution No.	Report Title	Status / Recommendation
12/8/11	11-147	Primitive camping at Butler Street Crown Reserve, Byron Bay	<p>Only part 2 of this resolutions remains outstanding. This part reactivated a previously actioned and closed resolution 06-296. Butler Street Crown Reserve is Gazetted for the Purpose of Public Recreation (DM593618), and Camping on the reserve is prohibited by the Crown Lands Act Section 46 (1) (i) without lawful authority. Lawful authority is established via the Minister Crown Lands consent to a Plan of Management. Butler Street Reserve has a Plan of Management with Ministerial consent provided 6/11/2003 which specifically seeks to end the illegal activity of camping on the Reserve. The original resolution 06-296 was actioned with report on the Affordable Housing Strategy 14/8/2008, and a Councillor workshop 8/3/2008 identify appropriate land for affordable housing to be included in the new Shire Wide LEP. Butler Street Reserve was not identified as an affordable housing site.</p> <p>Recommendation: Close resolution 11-147</p>
15/12/2011	11-1061	Planning Agreement – Upgrade of Main Arm Causeway	<p>Superseded by Council resolution to approve the construction of the causeway using section 94 funds rather than developer contributions.</p> <p>Recommendation: Close resolution 11-1061</p>
28/6/12	12-524	Suffolk Park Caravan Park Plan of Management	<p>Part 1 and 2 of resolution 12-524 are still outstanding but have been reported to Council on a number of occasions prior to resolution 12-524 regarding operation of a caravan park on community designated land and the plan of management. Council at the same Ordinary Meeting where resolution 12-524 was resolved also on the same subject matter passed resolution 12-525 which is viewed to supersede 12-524.</p> <p>Recommendation: Close resolution 12-524.</p>

Table 2: Council resolutions that are not resourced

Meeting Date	Resolution No.	Report Title	Status / Recommendation
22/10/09	09-881	Schoolies Management	<p>No resources or expertise exist within Council to progress this resolution.</p> <p>Recommendation: Close resolution 09-881</p>
12/11/09	09-973	Brunswick Heads Fire Trail Vandalism Leads to Extreme Fire Hazard	<p>Parts 1 and 2 are complete. Fire trail barricading has been complete for some time. As this is not a current issue, a media release is no longer required.</p> <p>Recommendation: That resolution 09-973 part 3 be closed.</p>

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ORDINARY MEETING

28 FEBRUARY 2013 (77)

Meeting Date	Resolution No.	Report Title	Status / Recommendation
11/03/10	10-161	BRSCC Minutes / Recommendations PRG Meeting 17/02/10	Only part (g) of this resolution remains outstanding. No resources have been identified to progress part (g). Recommendation: Close resolution 10-161
11/11/10	10-894	Vehicle access to the rear of Property at 58 Jonson Street Byron Bay	Part 3 of this resolution is the only part which remains outstanding. No resources have been identified to progress part 3. Recommendation: That part 3 of resolution 10-894 be closed.
8/12/10	10-1103	Procurement Policy	Only part 2 of this resolution remains outstanding. No resources have been identified to progress part 2, to prepare and report on a sustainable procurement guide. Recommendation: Close resolution 10-1103
10/02/11	11-31	Audit of Light and Heavy Fleet – Interim Report December 2010	No information for that period was recorded. Recommendation: That Resolution 11-31 be closed.
10/02/11	11-58	Local Growth Management Strategy (LGMS) Project Reference Group	This resolution required development of a Local Growth Management Strategy (LGMS) based on a 1% growth rate as premised by the Far North Coast Regional Development Strategy. Resources however have been concentrated on the development of the draft LEP and DCP as these are the priority projects. The issue of development of a LGMS could be reviewed against the planning regime that might be in force then (noting the State Government's planning reforms are proposing significant change), once the LEP and DCP processes have been completed. Recommendation: That Resolution 11-58 be closed due to lack of resources and other priority projects.
30/6/11	11-548	Valuing the natural environment, natural capital accounting	This resolution has not proceeded due to resources being allocated to other priority projects such as the Koala Plan of Management. It is expected that this matter may be able to be addressed in the near future as resources become available. Recommendation: Retain resolution 11-548
12/08/11	11-627	Request for burial plot at Bangalow Cemetery	Only part 5 of this resolution remains outstanding. No resources have been identified to progress part 5. Recommendation: That part 5 of resolution 11-627 be closed.

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ORDINARY MEETING

28 FEBRUARY 2013 (78)

Meeting Date	Resolution No.	Report Title	Status / Recommendation
12/8/11	11-987	Future management options of operational land at Lot49 DP881232 - Tyagarah Aerodrome	<p>Council considered a confidential report on its future management options of Tyagarah Airfield at its ordinary meeting 21 October 2010 after receiving a proposal from a current Airfield user to lease or purchase the land. Council resolved to retain ownership and control of the land and operational management of the aerodrome [10-842]. The resolution also provided support to a range of initiatives, which were to facilitate the implementation of a substantial restructure project involving management, operational maintenance, leasing and commercial access license renewals. These restructure initiatives were designed to improve operational management and financial sustainability of the Aerodrome.</p> <p>On 24/11/11, Strategic Planning Committee considered a report titled “4.6 Marketable Assets and Property Listings”, which listed all Council owned operational land located at Tyagarah Airfield in Annexure 11(a) to that report as items 78, 82, 83, and 84. The land parcels are owned by the General Fund and their proposed use was listed as “No change to current use” consistent with resolution [10-842]. There was no recommended actions or resolutions under delegated authority made in relation to this land made by the Strategic Planning Committee.</p> <p>After being initially progressed, resolution 10-842 has been on hold since the 8 December 2011 Notice of Motion titled “Investigation into options for the sale of Tyagarah Airfield” that considered the sale of Operational Land on which part of the Aerodrome operates. The resulting resolution [11-987] called for a report on future management options of the land – previously considered in October 2010 as noted above.</p> <p>No appropriate resources have been identified to progress resolution [11-987].</p> <p>Recommendation: Close resolution 11-987, or should Council resolve not to close this Resolution, that Council consider the allocation of funding at the next quarterly budget review to progress resolution 11-987.</p>

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28 FEBRUARY 2013 (79)

Meeting Date	Resolution No.	Report Title	Status / Recommendation
24/11/11	11-929	Dispute Resolution Committee	<p>Parts 1 and 2a), b) and c) – Dissolving the Dispute Resolution Committee and repealing associated policies complete.</p> <p>Item 2 d): required review of Council's Policy No. 5.53 "Appropriate Dispute Resolution of Development Proposals".</p> <p>Review of the Development Application Dispute Resolution policy has not progressed as it is yet to be resourced.</p> <p>Dispute resolution for DAs remains relevant and needs further Council consideration when able to be resourced.</p> <p>Recommendation: Retain the incomplete Part 2d) of resolution 11-929</p>
15/12/11	11-1076	Report on processing event applications	<p>Preparation of this report is yet to be resourced.</p> <p>Recommendation: Retain resolution 11-1076</p>
12/8/12	12-647	Future options report for community land Lot 1 DP 577559 known as Suffolk Park Reservoir	<p>Community Land Lot 1 DP 577559, Suffolk Park contains a disused Council water reservoir, on which is located telecommunications antenna. Other telecommunications equipment is located in a shed.</p> <p>The Telstra mobile phone service infrastructure was located on the Suffolk Park Reservoir in 2003, under the powers provided by the Land Access and Activity Notice provisions of the Telecommunications Act 1997. Previous Council resolutions include: 03-663, 11-135, 11-792, 11-1063 all of which have been actioned and closed.</p> <p>On 28 June 2012, Council considered a report titled "Co-location of telecommunications facilities in Suffolk Park by Telstra Corporation Limited", which provided the following information:</p> <ul style="list-style-type: none"> • Comprehensive history of previous resolutions and actions. • Previous challenges to have the infrastructure removed have failed. • Telstra have advised their intention to retain the current location. • Telstra have advised that no other suitable locations provide adequate service coverage to Suffolk Park residents

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ORDINARY MEETING

28 FEBRUARY 2013 (80)

Meeting Date	Resolution No.	Report Title	Status / Recommendation
			<ul style="list-style-type: none"> • Telstra are seeking to formalise an access deed with Council for a yearly rental of \$12,500 per annum with 4% annual indexation. • Information regarding reclassification and sale of the land. <p>The resulting resolution is 12-647. This resolution requires appropriate resources to progress, and no resources have been identified to progress the resolution. Council's Leasing and Licensing Coordinator has capacity to progress granting an Access Deed to Telstra should Council seek to do so.</p> <p>Recommendation: Close resolution 12-647.</p> <p>Should Council close the Resolution a further report will be prepared to allow Council to consider granting a formal Deed of Access to Telstra for yearly rental \$12,500 per annum plus 4% annual indexation. Should Council resolve not to close this Resolution , that Council consider the allocation of funding at the next quarterly budget review to progress resolution 12-647.</p>

Financial Implications

5 A number of resolutions note that resource constraints limit completion of action required. Council may consider the priority of the respective resolutions and whether further action is still required.

Statutory and Policy Compliance Implications

- 10
- Council requires a quarterly report be prepared to allow it to consider the quarterly Management Plan and Budget reviews along with a review of Council resolutions.
 - Implementation of Council resolutions in accordance with the Local Government Act 1993

ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER’S REPORTS

Report No. 12.14. Byron Shire Council Greenhouse Gas Emissions Status Report

Executive Manager: Environment and Planning

5 **Report Author:** Kim Graham, Temporary Sustainability Officer

File No: #E2013/3943

Theme: Environment, Land and Natural Environment

Summary: The Greenhouse Gas Emissions Status Report is the second annual report on how Council is tracking towards meeting its 30% emissions reduction goal based on 2003/04 levels by 2020. Analysis shows that although reductions have been made in the fleet and streetlight sectors the overall corporate emissions of Council continue to rise.

This report also details the cost implications on reporting greenhouse emissions and notes the pending review of the Byron Shire Greenhouse Action Strategy.

10 **RECOMMENDATION:**

1. That Council note the streetlight and fleet sectors are on track to meet the 30% emissions reduction target by 2020 based on 2003/04 levels but that the general electricity sector is currently trending away from the target due in part to the
15 commissioning of new assets.
2. That Council note the work of Fleet Services in reducing emissions by 14% based on the 2003-04 baseline data over the past two financial years representing savings of 78
20 kL of fuel and \$32,000 per annum (based on current fuel prices) and continue support for such emission reduction measures.
3. That Council target emissions reduction strategies in the general electricity sector by seeking quotations for a detailed investigation into energy saving opportunities with the view to implementing energy saving initiatives within the areas of sewage
25 treatment plants, waste water pumping infrastructure and swimming pools.
4. That Council target emissions reduction strategies in the general electricity sector by undertaking a review by staff of energy saving opportunities for the Administration
30 Centre and caravan parks.
5. That innovative solutions and new approaches to implementing and funding energy efficiency and renewable energy measures be workshopped with the Sustainability and Biodiversity Committee for reporting to Council.
- 35 6. That the Sustainability and Biodiversity Advisory Committee examine whether the emissions target of 30% by the year 2020 is still relevant due to the commissioning of new assets.
- 40 7. That an additional \$2,000 be considered in the development of the 2013/14 budget to allow for the continuation of the Plant Footprint and Environmental Benchmarking.

Report

5 In February 2011 Byron Shire Council revised its emissions reduction target and adopted (resolution 11-11) a new target of a 30% emissions reduction based on 2003/04 levels by 2020. At this time Council endorsed the creation of an annual reporting process of greenhouse gas emissions to effectively monitor and track Council's progress towards meeting the agreed target.

10 This report summaries the findings from the 2011/2012 financial year and is the second annual greenhouse gas report produced since the new target was set.

15 This report raises many questions in relation to Council's carbon emissions footprint and will require further investigation and cost benefit analysis to accurately map solutions needed across Council in order to meet the reduction target.

20 Council's corporate emissions include emissions which are produced as a direct result of Council's operational control. Emissions are reported within three sectors including general electricity, streetlights and fleet. This includes the electricity used in Council operated buildings, facilities, pumps, the electricity used in streetlights and the fuel consumed by Council's fleet of vehicles and machinery.

25 In addition a separate section on waste emissions has been included in this year's emissions status report for the first time. Although the Myocum Landfill site is considered within the boundary of operational control of Council the emissions from the landfill have not previously been included in the emissions inventory and were not available when Council set its reduction target.

30 Furthermore the ability for council to directly reduce the emissions produced from the landfill (which originate from community disposal of green waste to landfill) is less compared to its ability to affect change in the general electricity, streetlight and fleet sectors which it has operational control over. Emissions from the Myocum Landfill and a discussion about Councils landfill gas flare are detailed later in this report.

Emissions Inventory Methodology

35 A comprehensive review of all data sources back to the base year of 2003-04 was conducted to complete this year's emission inventory. Emissions were then calculated using the National Greenhouse Accounts Factors (2012) which are updated and released each year by the Australian Government Department of Climate Change and Energy Efficiency. The emissions factors are calculated and produced in line with the *National Greenhouse and Energy Reporting Act 2007* and are considered current best practice for greenhouse gas emission calculations in Australia.

Council Not on Track to Meet 30% Emissions Reduction on 2003/04 levels by 2020

45 To meet the target Council would **need to reduce emissions by 123 tonnes each year** from 2003-04 until 2020. Since setting the revised emissions reduction target Council has undertaken a number of energy and fuel saving actions in an effort to reduce costs and greenhouse gas emissions. Although these projects have shown reductions, overall Council emissions have not yet decreased significantly enough to be on course to meet the 30% reduction target by 2020, noting that this target did not include a factor for growth.

50 For the financial year 2011-12 Council's total corporate emissions were 6360 tonnes of e-CO₂. This represents a 183 tonne reduction on the 2003-04 baseline level of 6542 (**only 20 tonnes per year has been achieved**). Figure 1 shows Councils progress towards meeting its overall greenhouse gas emissions target.

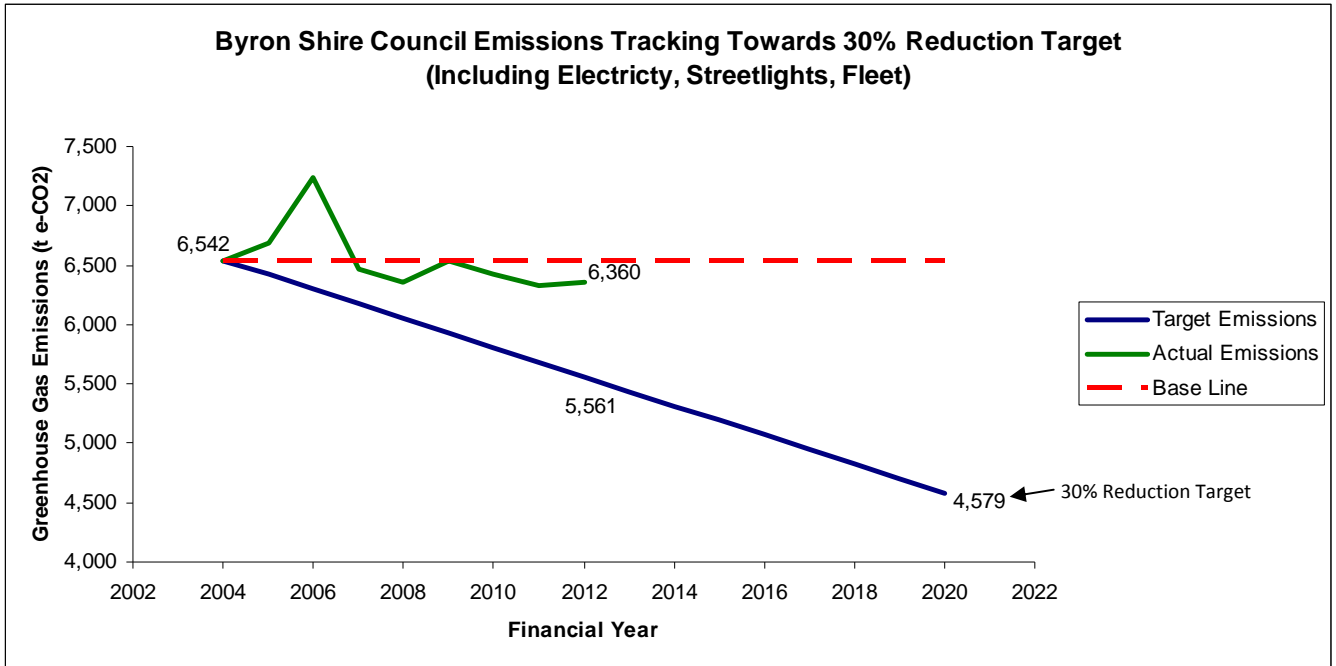
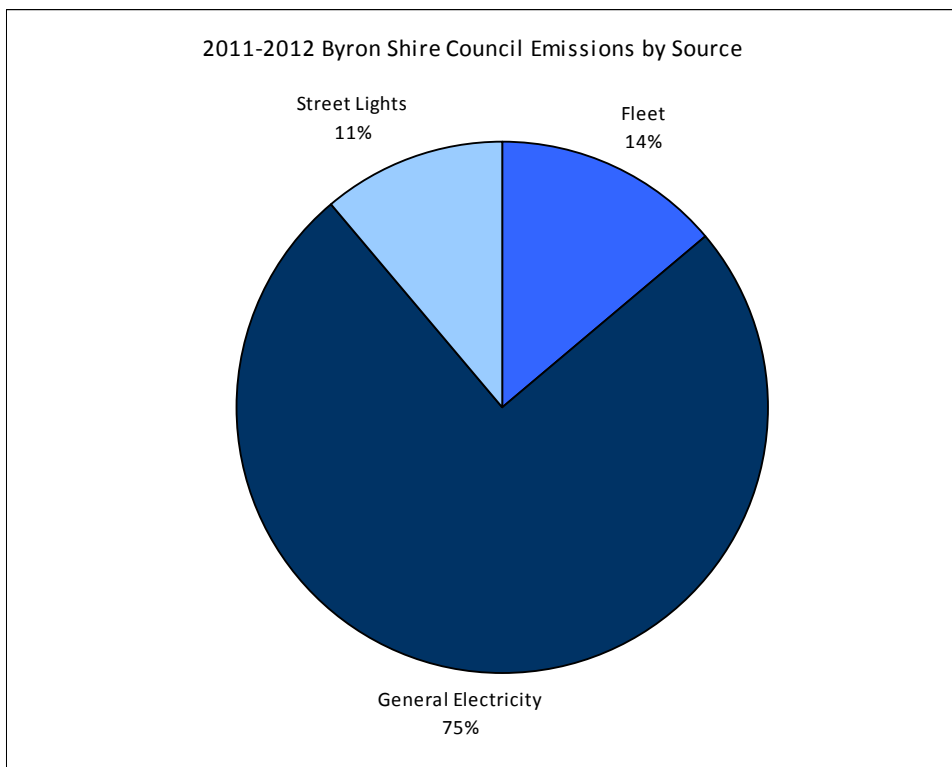


Figure 1: 2011-12 Byron Shire Council corporate emissions

5 It is clear from Figure 1 that Council's emissions are currently 799 tonnes higher than the level necessary to meet the 2020 target. Considerable effort and commitment will be necessary to reach the reduction goal. A breakdown of the sources of emissions is outlined in the following sections.

Emission Sources

10 Byron Shire Council's corporate emissions are generated from the use of general electricity in facilities and buildings, electricity used in street lights and the use of liquid fuels such as diesel, LPG and petrol. Figure 2 shows the percentage proportion of the three emission sources.

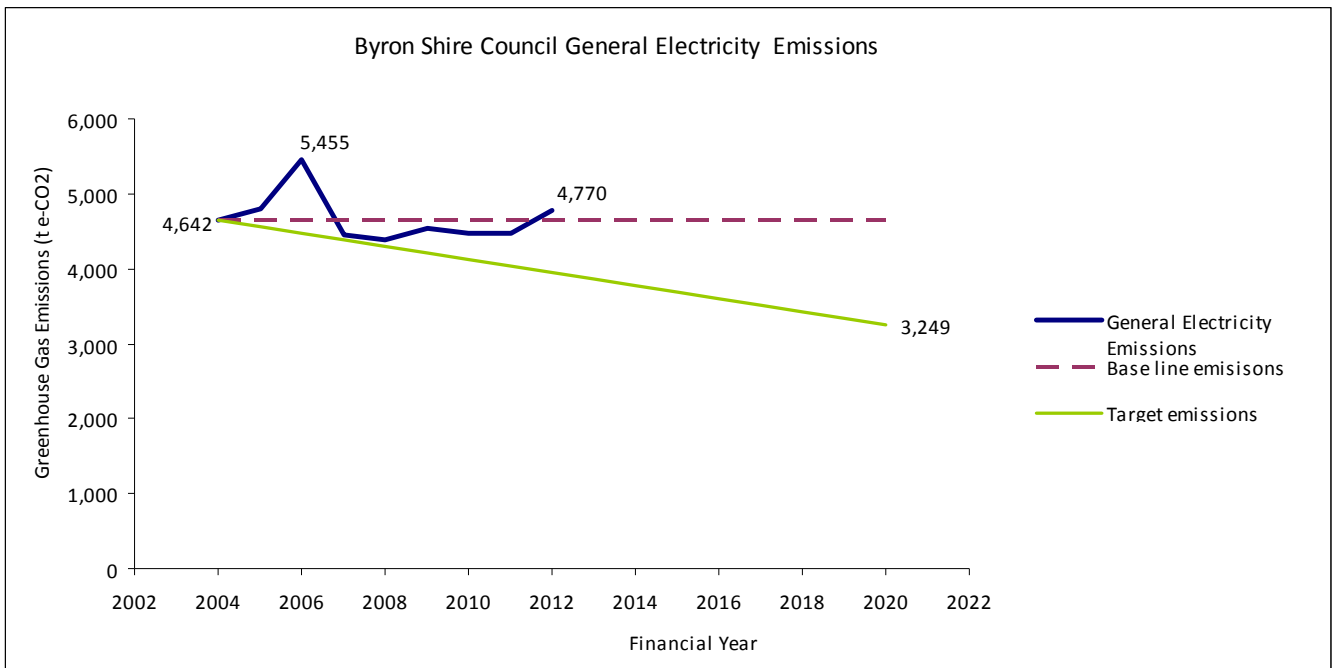


15 Figure 2: 2011-12 Byron Shire Council corporate emissions by source

General Electricity

5 General electricity accounts for the largest portion (75%) of Council's corporate greenhouse gas emissions. This sector includes all electricity used in buildings, facilities and pumping infrastructure. General electricity cost council \$1,305,000 over the 2011-12 financial year and has potential for cost and emissions savings projects.

10 Figure 3 shows how the general electricity sector is tracking against a 30% reduction by 2020. A significant drop can be seen after 2007 followed by a more steady increase over the past five years. The significant drop was caused by the transfer of responsibility of caravan parks from Council to the NSW State Government in 2007. Subsequent increases can be seen coinciding with major sewerage treatment upgrades. For example upgrades occurred at West Byron in 2005, Bangalow in 2007 and Brunswick Valley in 2011. Whilst South Byron, Mullumbimby and Brunswick Heads sewage treatment plants were closed, the de-commissioned treatment plants were low energy trickling filter operations. In addition, the infrastructure upgrades for both Byron Bay and the Brunswick Valley sewage treatment facilities required new pumping stations to move sewage long distances and as a result use large amounts of energy.



20 **Figure 3: General Electricity emissions from 2003-04 to 2011-12 compared to 30% reduction target**

It is clear from Figure 3 that the emissions levels for the general electricity sector are not decreasing over time and hence are creating a widening gap away from the 30% reduction target. The overall increase hides a more complex story of savings in some areas, decommissioning of assets, commissioning new assets and increased emissions from existing assets. If Council were to meet its 2020 reduction goal from the existing level the saving in current terms would be approximately 1700MWh (\$416,000 per annum). This amount does not account for the predicted rising cost of electricity over the next seven years.

30 To gain greater insight into Council's largest source of emissions the proportion of general electricity emissions for each Council directorate is shown below in Figure 4.

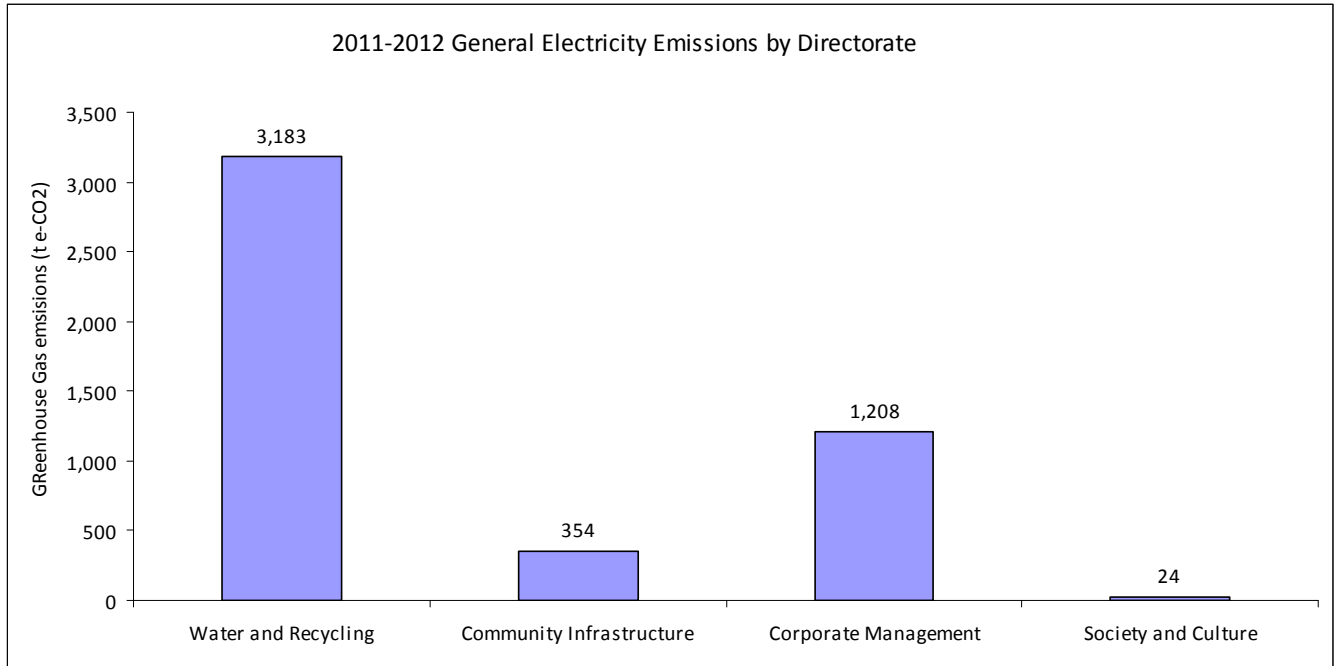


Figure 4: General Electricity emissions separated by directorate

The types of facilities in each directorate include:

5

Water and Recycling

- Sewage treatment plants
- Waste water pumping infrastructure
- Waste management and recycling facility
- Water reservoirs
- Water treatment plant
- Water pumping stations

10

Society and Culture

- Child care centre

15

Community Infrastructure

- Recreation facilities
- Swimming pools
- Public amenities

20

Corporate Management

- Caravan parks
- Administration centre
- Bushfire brigade premises
- Community centres
- As mentioned earlier the upgrading and installation of new sewage treatment facilities and decommissioning of old facilities has resulted in a net increase of emissions in this area due to more energy intensive operations. Taking just the sewage treatment plants as an example Figure 5 shows the change in emissions due to the commissioning and decommissioning of assets.

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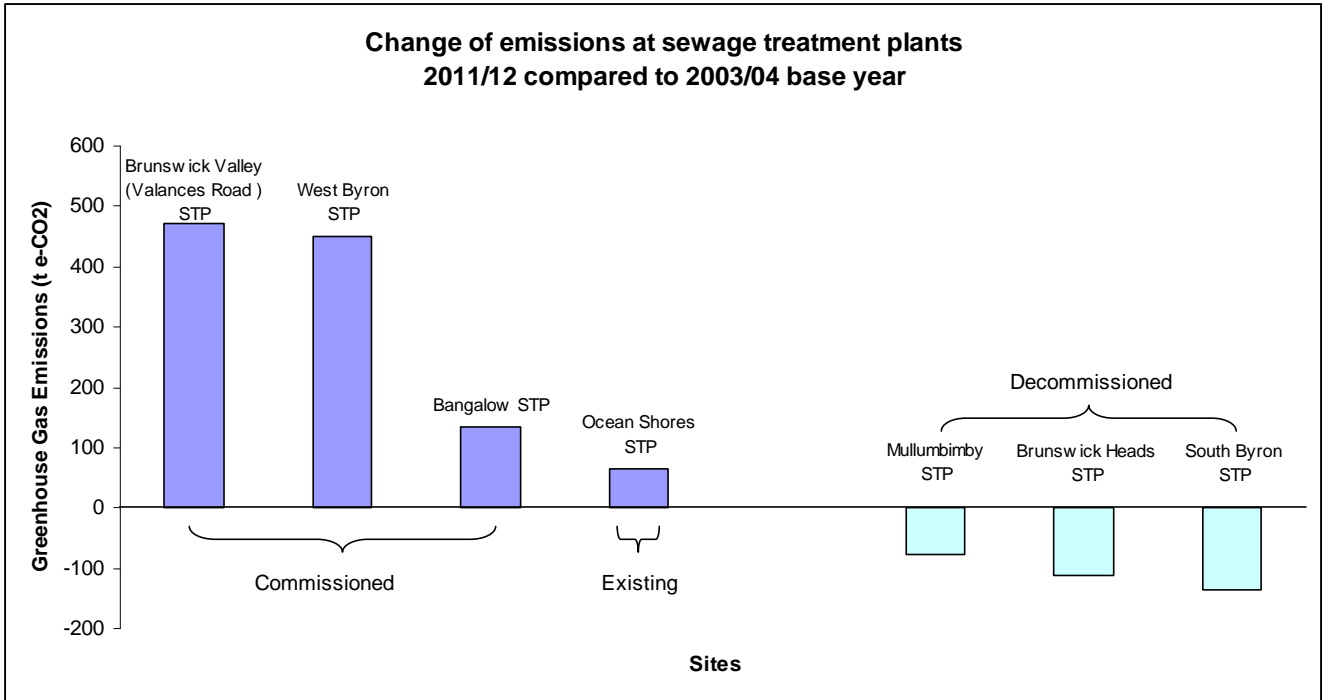


Figure 5: Change in emissions at sewage treatment plants due to energy use as of 2011/12 compared to 2003/04

- 5 The sewage treatment plants are just one example of the changing nature of Council's emissions profile. Further investigation will be needed to accurately map solutions and identify usage anomalies for efficiency actions across Council's general electricity sector. Some key actions that have already been taken to improve efficiency are included in Table 1

10 **Table 1: Measures taken to reduce energy use**

Measure	Property	Fiscal Year	Total Cost	Financial Saving (\$/yr)	Predicted CO2e Saving (t/year)	Resource Quantity Saving
Lighting efficiency retrofit	Council Administration Centre	2010/11	\$50,000	\$14,000	57 t	53 MWh
5kw solar system installation	Brunswick Valley Community Centre	2010/11	\$23,000	\$4,600	7.5 t	7.7 MWh
10kw solar system installation	Myocum Landfill	2010/11	\$60,000	\$9,000	16 t	15 MWh
Solar hot water retrofit (5 systems)	Ocean Shores, Brunswick Valley Community Centre, Suffolk Park Community Centre, Mullumbimby Neighbourhood Centre, Council Works Depot	2011/12	\$23,000	\$2900	15 t	0.137 MWh

Streetlights

5 Typically the greenhouse gas emissions related to the running of streetlight infrastructure remains quite constant only increasing slightly as new subdivisions or development takes place. Over the past two years Essential Energy has undertaken a retrofit upgrade to the category P2 lighting which has started to produce a reduction in emissions. Further reductions are expected in the 2012-13 financial year as the retrofit comes to a conclusion. Figure 6 shows a 190 tonne drop over the past financial year since implementation. This is a significant reduction and has equated to a cost saving of approximately \$10,000 for the 2011-12 financial year. A proportion of the predicted cost savings has been absorbed by increases to energy prices.

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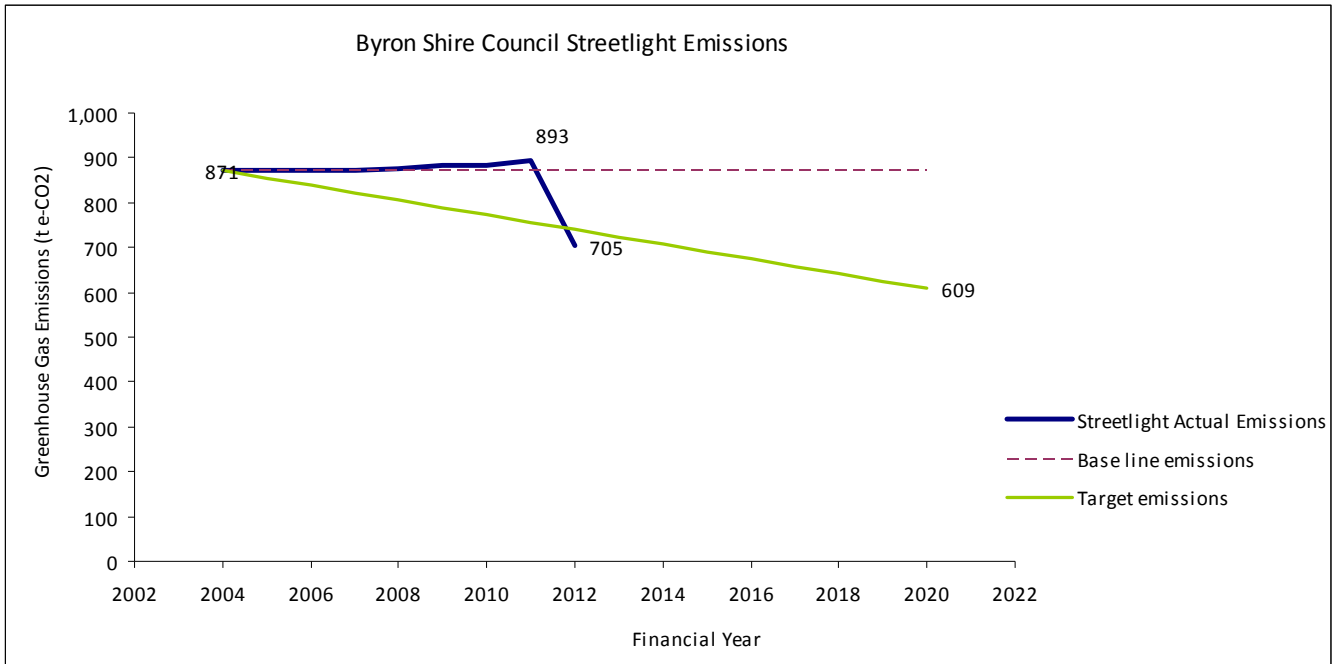


Figure 6: Streetlight emissions from 2003-04 to 2011-12 compared to 30% reduction target

15

Fleet

Fleet emissions have reduced by 14% based on the 2003-04 baseline data. The reduction that has occurred over the past two financial years represents 78 kL of fuel and \$32,000 per annum (based on current fuel prices). Figure 7 shows that if the reduction trend that has occurred over the past two financial years is maintained Council is on track to meet the 30% reduction target in the fleet sector by 2020. The total cost of fuel for Council over the 2011-12 financial year was \$440,000. This is a significant ongoing cost to Council that is vulnerable to increases due to rising fuel costs. It is important to note the work of Fleet Services in creating this reduction outcome and to provide continued support for efficiency improvement measures.

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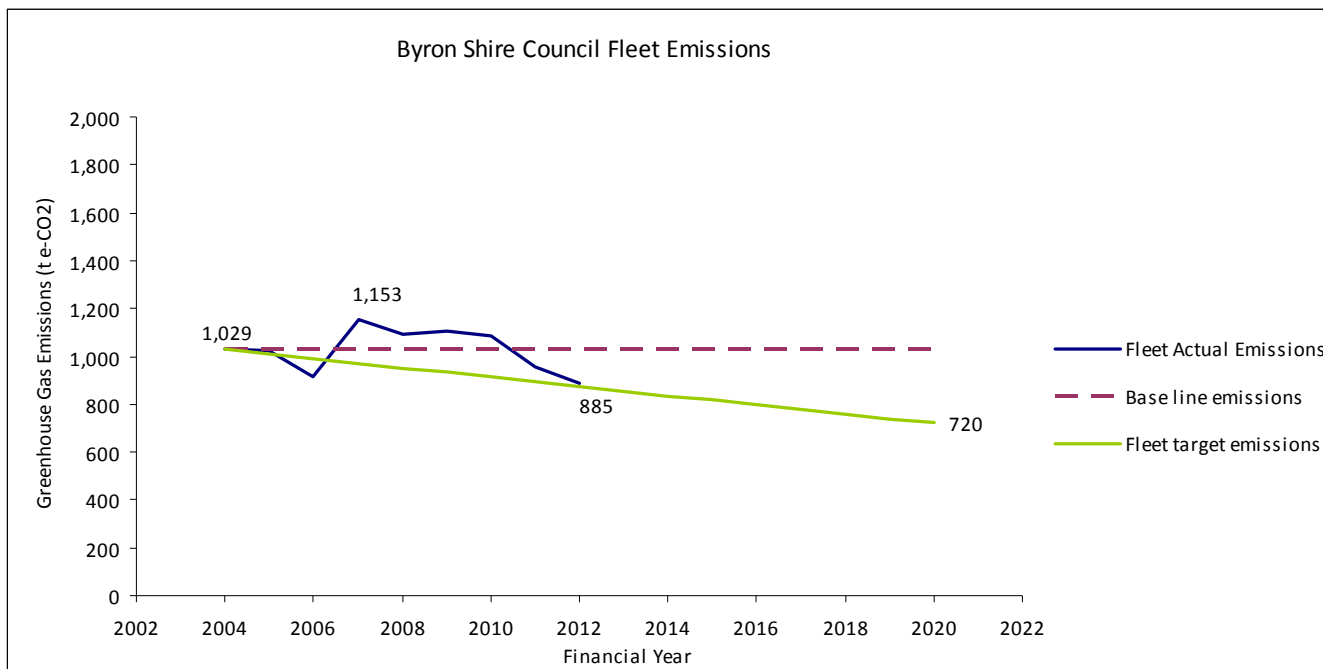


Figure 7: Fleet emissions from 2003-04 to 2011-12 compared to 30% reduction target

5 Key actions that have been taken to improve fuel efficiency and create the above emissions reduction include:

- Introduction of B20 bio-diesel
- Reduction of the number of plant equipment
- 10 • Renewed passenger fleet vehicles with small engine sizes
- Replaced petrol passenger fleet vehicles with diesel options to improve efficiency
- Conducted fuel audits on various areas to identify saving potential
- Repaired a faulty bowsers meter

15 Emission Sources Summary

It is evident that where reduction measures have been taken in the fleet and street lighting sectors Council is on track to meeting the 30% reduction target in these areas. Despite this work the overall corporate emissions continue to rise due to the increases experienced in the general electricity sector. It is recommended that Council target emissions reduction strategies in the general electricity sector to turn the upward trend into a reduction trend. Innovative solutions and new approaches to implementing and funding energy efficiency measures are recommended to be workshopped with the Sustainability and Biodiversity Committee.

25 Landfill Emissions

Detailed emissions data from the Myocum landfill has not previously been reported as part of the annual greenhouse gas emissions inventory. Due to the study carried out by Mike Ritchie and Associates into landfill gas emissions for the North East Waste member Councils the following emissions information is now able to be presented.

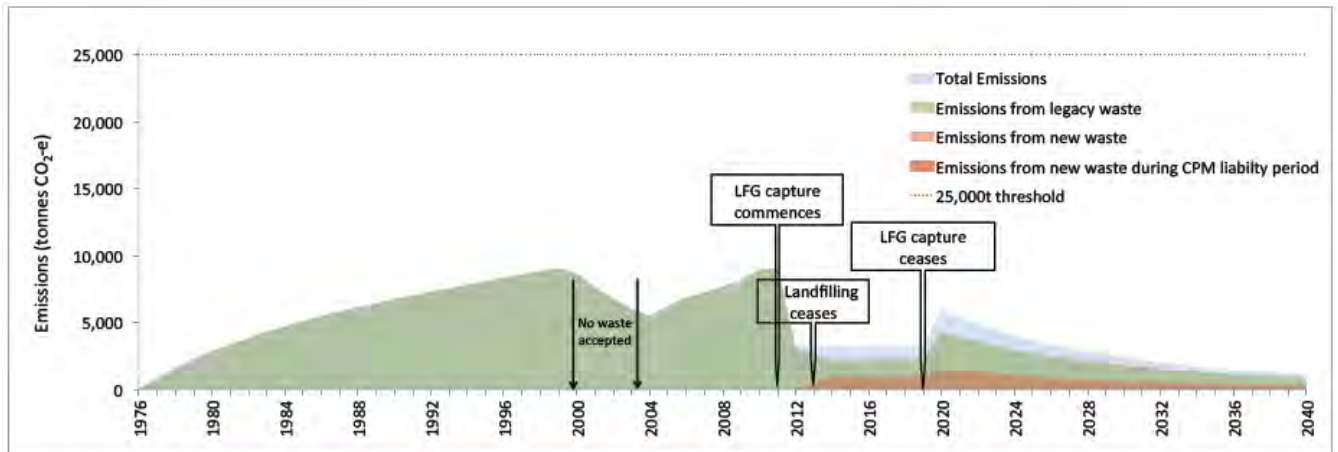


Figure 8: Emissions profile for Myocum landfill (the composition of municipal solid waste is based on 2009 APC audit data and the emissions profile has been calculated using the first order decay method)

5 (Figure 7-1 of MRA Final Report North East Waste Forum GHG Emissions Assessment for NEWF Member Council Facilities 2012)

“Figure 8 presents the emissions profile chart for Myocum landfill. The light blue shading represents total emissions. Red shading represents emissions from new waste and green shading represents emissions from legacy waste. Because of the landfill’s low annual input of waste and the installed gas capture system, current methane emissions to the atmosphere stand at less than 5,000t of e-CO₂ per year. As a result of the recently installed gas capture system, emissions have peaked in 1999 while total emissions from waste deposited post 2012 will also be kept in check. The site’s emissions factor takes into account a 75% gas capture rate. The slight decline in emissions detected from 2000 until 2004 represents the years that the landfill remained closed. “(MRA Final Report North East Waste Forum GHG Emissions Assessment for NEWF Member Council Facilities 2012)

Council’s Waste and Recycling Services Department has also been successful in applying to the Federal Government’s Clean Energy Regulator to be registered as a carbon offset entity under the Carbon Farming Initiative (refer memo to Councillors dated 24 December 2012). This enables Council to now finalise the second step of the application process to the Clean Energy Regulator which involves having the current gas collection and flare system at the landfill site officially recognised and approved as a method of reducing greenhouse gas emissions. Once approved, Council will be in the position to generate Australian Carbon Credit Units (ACCUs) from its current practice of flaring methane gas produced from the landfill.

The ACCUs can then be banked and traded through the Australian National Registry of Emission Units under the Australian National Registry of Emission Units Regulations 2011. When traded the ACCUs are sold to another party and thus cannot be accounted for as a greenhouse gas emission reduction for Council. However, trading of these credits has the potential to generate a significant income stream for Council which may be used to fund the management and possible extension of the Landfill Gas (LFG) resource recovery system.

Way Forward to Meet Target

In order to meet the 30% reduction goal from current emission levels **Council will need to reduce annual emissions by 222 tonnes of e-CO₂ each year** from now until 2020. The widening gap away from the emissions target has created a difficult reduction task. As discussed earlier, if current work continues in the streetlight and fleet sectors these areas are on track to meet the target. This brings the general electricity sector into sharp focus for future projects aimed at reducing greenhouse gas emissions.

The top 20 energy using facilities account for 83% of the general electricity emissions. Table 2 outlines the top twenty emission generating facilities, their associated energy use and cost.

Table 2: 2011-12 Top 20 Energy Using Facilities

	Emissions (t e-CO2)	Consumption (kWh)	Cost (\$)
West Byron Sewerage Plant	890	1,011,713	177,580
Valances Road Sewerage Treatment Plant	472	536,530	100,403
Byron Shire Council Administration Building	472	535,913	128,227
Ocean Shores Sewage Treatment Plant	408	463,821	99,374
First Sun Caravan Park	253	287,320	58,854
Bangalow Sewerage Treatment Plant	212	241,133	46,248
Mullumbimby Swimming Pool	193	218,992	41,418
Sewerage Pump Station, Bayshore Drive	173	196,114	53,706
Sewerage Pump Station, Kiah Close	160	182,307	40,501
Suffolk Park Caravan Park	132	150,203	34,558
Sewer SPS #2 Tennyson St Byron bay	102	115,467	35,310
Byron Bay Swimming Pool	98	111,629	23,328
Sewerage Pump Station, Bangalow Road	95	107,789	23,978
Byron Shire Waste Management and Recycling Facility Myocum	57	64,416	19,823
Works Depot, Bayshore Drive	44	49,801	15,631
BRSCC Sports Fields, Ewingsdale	42	47,852	15,376
Station/Train Streets , Mullumbimby	41	46,628	14,542
Community Centre Brunswick	37	42,536	7,583
Byron Shire Council Laboratory	35	39,217	12,111
Sewerage Pump Station, Teak Circuit	34	38,289	11,966

5 It can be seen from Figure 9 that the largest energy users and priority areas of action for energy
reduction are the sewage treatment works, waste water pumping infrastructure, administration
centre and the caravan parks. Some work has already commenced at the administration centre
with the completion of a lighting retrofit and an investigation into the air-conditioning system energy
efficiency. Work has already been completed to install variable speed drives on waste water
pumping infrastructure and power factor correction to regulate power fluctuations where possible. It
10 is also interesting to note that over 600,000 trees have been planted at three sewerage treatment
plants for site remediation and have the added quality of sequestering some carbon. Further
investigation is required into the options for increasing energy efficiency in the waste water sector,
swimming pools, caravan parks and administration centre. Expert advice is required in the waste
water and swimming pool area due to the specific technical nature of waste water, potable water
15 and pool water treatment and pumping. Council could seek quotation and consider apportioning
the costs between the water and sewer fund and the sustainability fund reserves to conduct the
necessary detailed investigation.

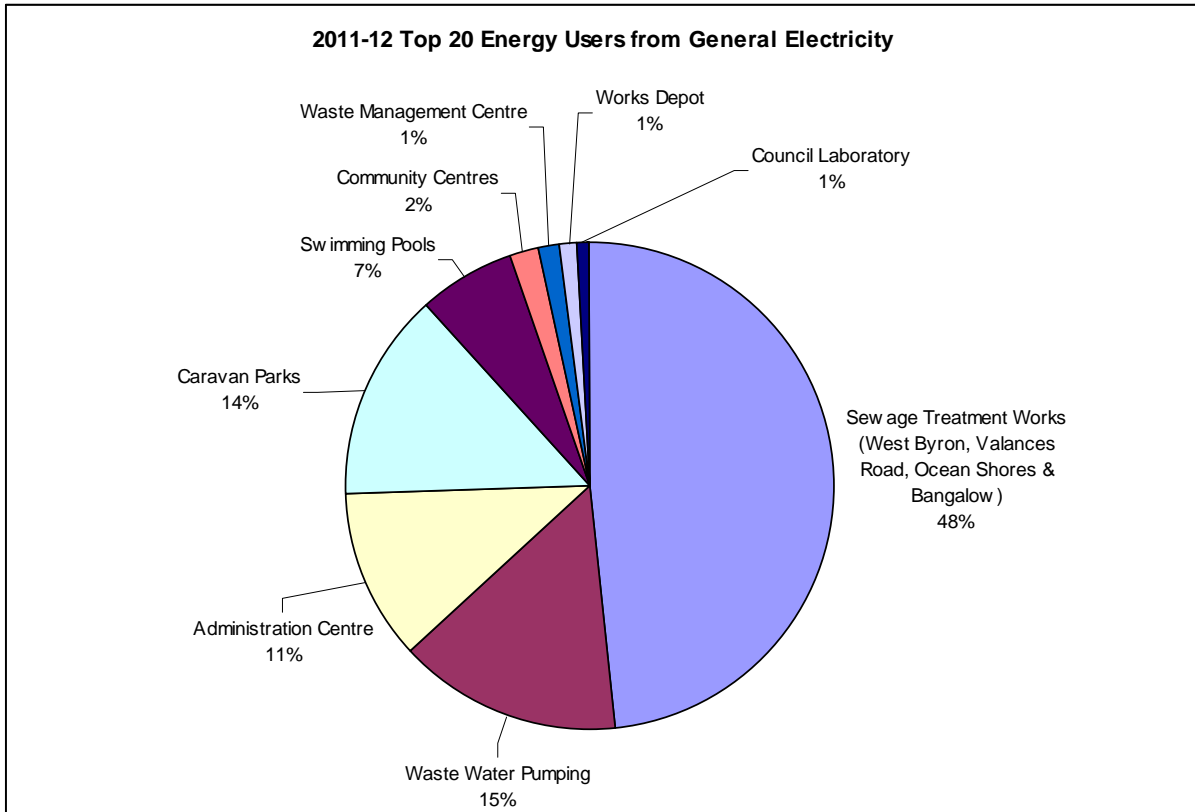


Figure 9: 2011-12 Top Twenty Energy Using Facilities Grouped

5 This report raises many questions in relation to Council's carbon emissions footprint and will require further investigation and cost benefit analysis to accurately map solutions needed across Council in order to meet the reduction target. It is recommended that the results from a detailed investigation on energy efficiency measures and renewable energy options be discussed and workshopped with the Sustainability and Biodiversity Advisory Committee before reporting back to Council. In addition, the Committee should also consider whether due to growth the 30% reduction target is still valid.

Financial Implications

Emissions Reporting Costs

15 Annual greenhouse gas emissions reporting for Byron Shire Council is made possible due to the services provided by a paid subscription to Planet Footprint Environmental Benchmarking. Planet Footprint has been collating, monitoring and reporting on Byron Shire Councils electricity, fuel and emissions data since 2008.

- 20 Planet footprint provides the following services to Council:
- a) Monitors environmental performance
 - b) Manages the collection of performance data
 - c) Cleans and reconciles consumption data
 - 25 d) Produces reports which are kept regularly up-to-date so Council has access to the latest results
 - e) Compares Council's performance over time and between assets
 - f) Produces greenhouse and carbon reports and inventories that align with all national and international standards - including NGER
 - 30 g) Highlights performance anomalies that should be acted on

- h) Meets with Council every three months to deliver quarterly service reviews which include approximately 1 hour of a consultant's time to discuss anomalies in our billing, funding opportunities and energy or fuel developments.
- 5 i) Shares case studies of efficiency improvements which come from over 200 other client Councils
- j) Monitors and reports on the measures Council is taking to improve resource efficiency

10 Planet footprint is a leader in this type of data management and from research done to date there is not an alternative organisation offering an equivalent fully supported service. A great deal of time is saved by the data management services provided by planet footprint. They hold 10 years of Council's corporate emissions inventory knowledge in their data base which extends past just the numbers on energy, fuel and emissions to the projects that have occurred, staff involvement and reporting.

15 Since the subscription commence in 2008 the fees for this service have increased from \$2,634 to \$5,950 in 2012 to \$7,800 in 2013. This has occurred in line with the growth and development of the company to provide more detailed products and a wider range of services. This cost has historically been covered from the \$20,000 sustainability budget. The most recent cost increase to \$7,800 now represents almost 40% of the total budget. The sustainability budget is static; an
20 annual CPI is not included. The sustainability program has expanded over the last 5 years and this funding is used to run a comprehensive sustainability portfolio for both the community and Council. If the sustainability budget continues to fully fund the Planet Footprint annual subscription then a reduction in services provided under this program will be required.

25 Reducing greenhouse gas emissions and responding to climate change is a whole of council responsibility. The combined cost of general electricity, streetlights and fleet fuel for 2011-12 was \$1,990,877. The Planet Footprint subscription compared to this expense represents only 0.39%.

30 As an example of a neighbouring Council's approach to funding Planet Footprint's subscription fee Lismore City Council has chosen to proportionally attribute costs across electricity budgets based on the proportion of energy used by the facility. For example if a facility uses 5% of the total energy use of Council then electricity job number is charged 5% of the costs of the Planet Footprint subscription. Manager of Finance has advised that this is not a favourable option for Byron Shire Council and recommended that a more streamlined approach would be to increase the
35 sustainability budget to cover the increased costs.

Statutory and Policy Compliance Implications

Nil

Report No. 12.15. PLANNING – 10.2012.360.1 Supplementary Report (res 12-958) subdivision two lots (SEPP 1) Goremans Road Eureka

Executive Manager: Environment and Planning
Report Author: Chris Larkin, Senior Planner
File No: Parcel No 239124 #E2013/6795

5

Theme: Environment, Development and Approvals

Summary: Report was presented to Council at the Ordinary meeting held 6 December, 2012 and council resolved the following:

12-958 Resolved that this report be deferred until a site inspection can be conducted by Council in January 2013.

A site inspection has now been carried out with Councillors. It is recommended that the application be determined in accordance with the recommendation included in the Report 12.17 presented at the 6 December 2012 Ordinary meeting and refuse the proposed two lot subdivision. Should Council resolve to issue an approval, conditions of Development Consent are attached (Annexure 18(b)#E2012/20303) for Councils consideration.

NOTE TO COUNCILLORS:

10

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

15

RECOMMENDATION:

20

That pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2012.360.1 for a subdivision to create two lots be determined in accordance with the recommendation included in the Report 12.17 Annexure 10(b) #E2012/20289 presented to the Ordinary Meeting on 6 December 2012.

25

Attachments:

- Report 12.17 and attachments presented to Ordinary Meeting held 6 December 2012 #A2012/6452, #E2012/20289, #E2012/20317 [16 pages] Annexure 18(a)
Draft conditions of approval #E2012/20303 [7 pages] Annexure 18(b)

30

Confidential submission #E2012/20392 previously provided to Councillors on the Agenda of 6 December 2012.

BYRON SHIRE COUNCIL

ORDINARY MEETING

28 FEBRUARY 2013 (94)

**Report No. 12.16. PLANNING - 10.2011.149.1 Supplementary Report (res 12-761)
Residential Flat Building 2 storey comprising five dwellings at 27-29
Station Street Mullumbimby**

Executive Manager: Environment and Planning
Report Author: Ray Darney, Executive Manager Environment and Planning
File No: Parcel No 85950x85960x145600x145680 #A2012/10180

5

Theme: Environment Development and Approvals

Summary: Council at its Ordinary Meeting held 27 September 2012 considered a report recommending refusal of Development Application 10.2011.149.1 for a Residential Flat Building comprising five dwellings (two-storey) at 27-29 Station Street, Mullumbimby.

Council resolved as follows:

12-761 Resolved that development application 10.2012.149.1 be deferred for staff to negotiate with the applicants to resolve concerns relating to bulk, scale and privacy issues.

Following discussion with the Executive Manager, Environment and Planning the revised application seeks development consent for the erection of a two-storey residential flat building containing five dwellings (4 x 3 bedroom and 1 x 1 bedroom dwellings).

The revised design is still bulky in appearance and to be of a comparatively larger scale in the context of existing residential development on the western side of Station Street. Notwithstanding the above the revised plans have improved the design quality of the building via the inclusion of a number architectural features, a minor reduction to the bulk and variations to the proposed building materials.

The applicant has addressed the privacy issue via the introduction of privacy screens along the length of the northern side of the balconies for Units 2-5.

NOTE TO COUNCILLORS:

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

10

15 RECOMMENDATION:

That pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2012.149.1, for a Residential flat building containing of five dwellings, be granted consent subject to the conditions listed in Annexure 19(c) #E2013/8650.

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Attachments:

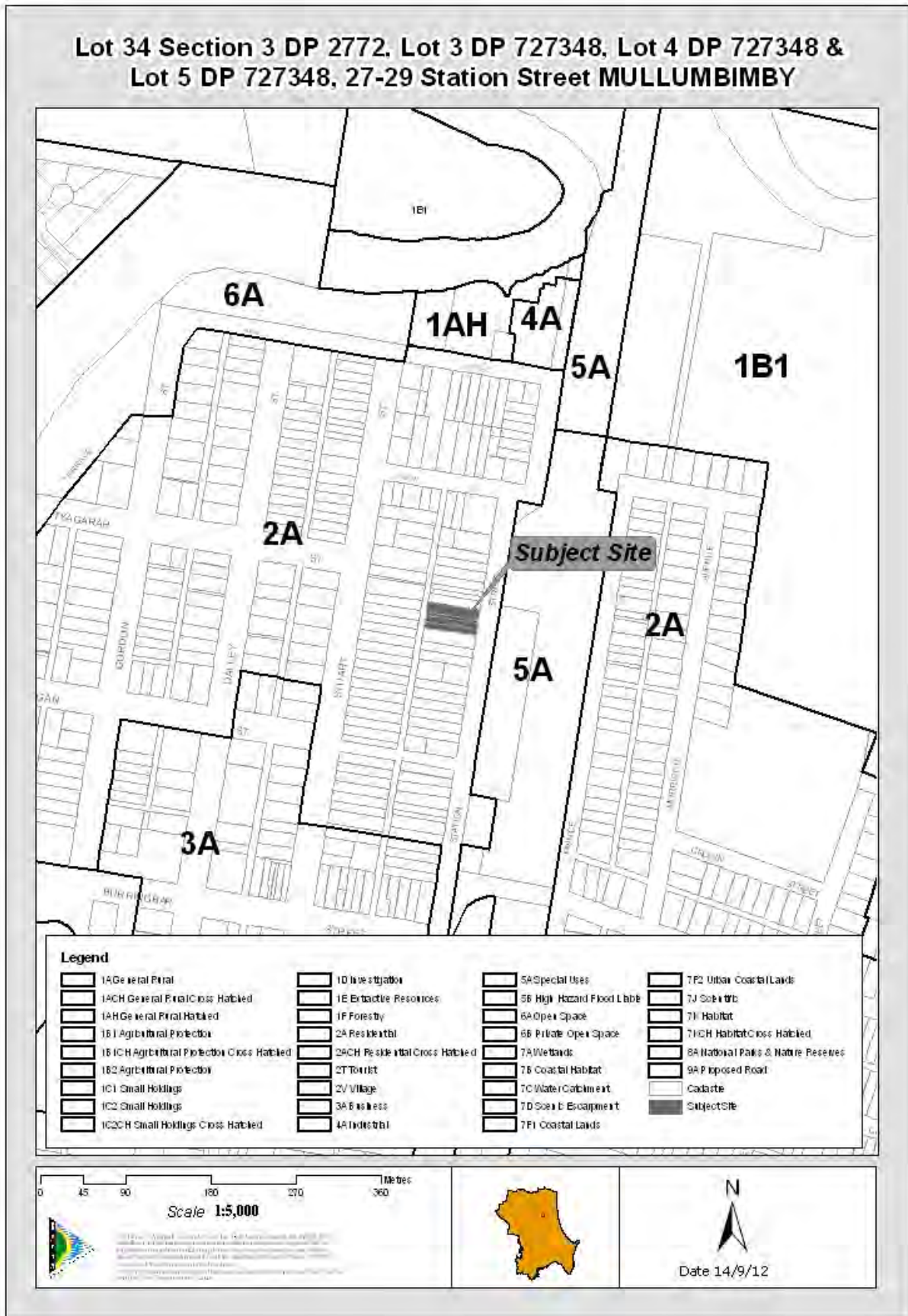
Locality Map

- Proposed Plans prepared by Brisdesign #E2013/8028 [7 pages] **Annexure 19(a)**
- **CONFIDENTIAL** floor plans prepared by Brisdesign #E2013/8031 [2 pages] **Annexure 19(b)**
- Proposed conditions #E2013/8650 [9 pages] **Annexure 19(c)**

25

Confidential submissions from the amended plans being placed on exhibited #E2012/108668,2012/28634, #S2013/616, #E2012/10046, #S2013/54, #S2013/53, #S2013/55, #S2013/302, #E2013/303, #S2013/186, #S2013/811 have been provided on the Councillors' Agenda CD only.

30



Report

Council at its Ordinary Meeting held 27 September 2012 considered a report recommending refusal of Development Application 10.2012.149.1 Council resolved as follows:

5

Council resolved as follows:

12-761 Resolved that development application 10.2012.149.1 be deferred for staff to negotiate with the applicants to resolve concerns relating to bulk, scale and privacy issues.

10

A meeting was held between the Executive Manager Environment and Planning and the applicant and owner on the 9 October 2012.

The applicant submitted revised plans for the proposed development which were received by Council on 25 October 2012 (See Council Doc No. A2012/2849). Following further discussions with Council Officers the applicant submitted further revised plans on 27 November 2012 *Annexure 19(a) #E2013/8028 and Confidential Annexure 19(b)#E2013/8031* which are the subject of this report.

Following is a summary of the modifications to the proposed plans:

- The design of the front of the building has been modified to incorporate a single storey element measuring 4.43m x 6.0m with a hipped roof design. The bin storage enclosure formerly a stand alone structure positioned adjacent to the street frontage has now been setback 6.755m and attached to the main building. This modification also results in the two storey element of the building being setback 11.86m from Station Street.
- The proposed front fencing has been reduced to 1.2m in height and the former entry portico over the mail box collection area has been deleted. 1.5m high brick piers are proposed to be located at the entry point for the driveway and the pedestrian footpath and including lighting.
- The landscaped area adjacent to the street frontage has been increased with the area of the former loading bay and bin storage area now to incorporate lawn.
- Front dwelling unit (Unit 1) has been significantly modified and reduced in size to 42sqm of floor area, reduced the size of the northern balcony, the lower floor parking has been reduced to a single garage. The front setback of the building to Station Street has been adjusted marginally to 6.755m (formerly 6.74m).
- The roof of the building has been modified by now including two hipped gables along the northern and southern elevations. In addition the roof slope/gradient over Units 3 & 4 has been lowered.
- The southern elevation has been modified to incorporate projections for the walls of the 3rd bedroom of each of the units at first floor level. Also a ground floor level the building has been modified with the recessing of garages (1.34m) for Units 3 & 4 behind the upper wall line.
- The northern elevation has been modified to contain privacy screens along the length of the northern balconies for Units 2, 3, 4 & 5.

50

Revised Assessment**3. SECTION 79C – MATTERS FOR CONSIDERATION – DISCUSSION OF ISSUES**

Having regard for the matters for consideration detailed in Section 79C(1) of the Environmental Planning & Assessment Act 1979, the following is a summary of the evaluation of the issues.

55

3.1 STATE/REGIONAL PLANNING POLICIES AND INSTRUMENTS

Requirement	Requirement	Proposed	Complies
<p>State Environmental Planning Policy (Infrastructure) 2007 – (ISEPP)</p>	<p>Clause 87 - Impact of rail noise or vibration on non-rail development (1) This clause applies to development for any of the following purposes that is on land in or adjacent to a rail corridor and that the consent authority considers is likely to be adversely affected by rail noise or vibration: (a) a building for residential use... (2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette. (3) If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded: (a) in any bedroom in the building - 35 dB(A) at any time between 10.00 pm and 7.00 am, (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) - 40 dB(A) at any time.</p>	<p>The subject site is located opposite the existing Woolworths supermarket building which would act to reduce noise levels from trains using the currently inoperative North Coast rail line. Notwithstanding the above, the application has been considered in accordance with Clause 87 of the ISEPP and the <i>'Development near rail corridors and busy roads – Interim Guideline (2008).'</i></p>	<p align="center">Yes</p>
<p>State Environmental Planning Policy No. 71 - Coastal Protection</p>	<p>Relevant matters for consideration within Part 4 of SEPP 71 for development within the coastal zone: – retention of existing public access to the coastal foreshore – impact of effluent disposal on water quality</p>	<p>It is considered the proposal satisfies the matters for consideration within Clause 8 of SEPP 71. The proposal shall not detract from access to coastal foreshore and water quality. The proposal is</p>	<p align="center">Yes</p>

BYRON SHIRE COUNCIL

ORDINARY MEETING

28 FEBRUARY 2013 (98)

Requirement	Requirement	Proposed	Complies
	<p>– development must not discharge untreated stormwater into a coastal water body</p> <p>Matters for consideration detailed in Clause 8 of SEPP 71 are discussed following this table.</p>	considered to be able to conform the with the Part 4 Development Control provisions of SEPP 71.	
North Coast Regional Environmental Plan 1988 (Deemed SEPP)	<p>Development Applications must be consistent with the provisions of the North Coast Regional Environmental Plan. In determining an application for consent to carry out development on such land, the council must take into account:</p> <p>(a) the NSW Coastal Policy 1997, (b) the Coastline Management Manual, and (c) the North Coast: Design Guidelines.</p>	<p>The development provides for housing variety as required by the REP .</p> <p>The North Coast Design Guidelines supports a wider range of housing types including higher densities towards the town centre.</p> <p>The proposed development incorporates a large southern elevation and now includes some minor forms of articulation which are considered to be consistent with the guidelines for larger development.</p>	Yes
State Environmental Planning Policy (Building and Sustainability Index) 2004	Submission of a BASIX Certificate with appropriate Development Application plan details.	Revised BASIX Certificate provided with adequate plan details.	Yes
Building Code of Australia	Able to comply with the requirements of the BCA.	The proposed development is considered to be able to satisfy the requirements of the BCA.	Yes
Demolition	Must comply with <i>AS 2601</i> . The document entitled Australian Standard AS 2601-1991: <i>The Demolition of Structures</i> , published by Standards Australia.	No demolition works proposed.	N/A
Disability Access (DDA)	Access for persons with disabilities and integration into surrounding streetscapes without creating barriers. (Council Res.10-1118)	The proposed development is considered to have adequate access arrangements.	Yes

3.2. BYRON LOCAL ENVIRONMENTAL PLAN 1988

Zone: No. 2(a) - Residential

5 **Definition:** Residential flat building

BYRON SHIRE COUNCIL

ORDINARY MEETING

28 FEBRUARY 2013 (99)

LEP Requirement	Summary of Requirement	Proposed	Complies
Clause 2 – Implementation of aims, objectives and guiding principles	Clause 2(a) before determining a development application, the council shall have regard to information, guidelines and recommendations in the Small Towns and Villages Settlement Strategies.	A detailed assessment of the proposal against the provisions of Council's more recently adopted DCP 2010 is contained in Section 3.3 of this report.	N/A
Meets objectives of zone 2(a)	Relevant objectives include: <ul style="list-style-type: none"> • encourage a range of housing types; • ensure non residential uses have a domestic scale and character; • to control by means of a development control plan the location, form, character and density of permissible development. 	As detail in Section 3.3 of this report the proposed residential flat building is considered to be inconsistent with a number of provisions within Council's DCP 2010 particularly those contained Chapter 11 Mullumbimby.	No
Permissible use	Residential flat building	A residential flat building is development permissible with consent of Council.	Yes
Clause 24 - Flood liable land	Council must be satisfied that: <ul style="list-style-type: none"> – flow characteristics of flood waters are not restricted; – the level of flooding is not increased; – any building or work is capable of withstanding flooding; – the building is adequately flood proofed; and – adequate arrangements are made for access to the building or work during a flood 	Council's Senior Development Engineer has raised no objection to the proposal with regard to flooding. The proposed development is able to satisfy Clause 24.	Yes
Clause 40 - Height of buildings	Overall height of development must not exceed 9.0m above existing ground level and the maximum height of the upper floor must not exceed 4.5m above existing ground level.	Overall height: 8.9m. Maximum Floor height: 3.05m	Yes
Clause 45 - Provision of Services	Prior adequate arrangements must be made for the provision of services to the allotment.	Water and sewer. It is possible for proposal to connect to Council's reticulated system.	Yes

BYRON SHIRE COUNCIL

ORDINARY MEETING

28 FEBRUARY 2013 (100)

LEP Requirement	Summary of Requirement	Proposed	Complies
		Stormwater: disposal is possible via connection to the existing system.	
Clause 63 - Development on land identified on the Acid Sulfate Soils Planning Map	Refer to Acid Sulphate Soils Map.	The property is identified to partially contain Level 4 Potential Acid Sulfate Soils.	Satisfactory

Draft Environmental Planning Instrument that are or have been placed on public exhibition and details of which have been notified to the consent authority

5 Draft Byron Local Environmental Plan 2012 was publicly exhibited from 24 September 2012 and 24 December 2012 and is a matter for consideration for a development application pursuant to Section 79C(1)(a)(ii) of the Act.

10 It is considered that little weight should be afforded to the provisions of the Draft LEP at this time as the provisions are not certain or imminent. Notwithstanding the above, the Draft LEP identifies the subject site to be within the R2 – Low Density Residential Zone a zone in which the proposed development remains a permissible form of development.

15 The subject site is located within the draft Mullumbimby Conservation Area identified within the Draft LEP.

Clause 5.10(4) specifies, in part:

20 *“The consent authority must before granting consent under this clause in respect of heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.”*

Clause 5.10(5) specifies:

25 **“(5) Heritage assessment**

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or*
- (b) on land that is within a heritage conservation area, or*
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),*

30 *require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.”*

35 Assessment: It is considered the proposed development is of a bulk which is not compatible with the existing built form of neighbouring residential development and is not sympathetic with the character of residential development on the western side of Station Street. It is however located directly opposite the recently completed Woolworths Supermarket.

40 **3.3 DEVELOPMENT CONTROL PLANS**

Development Control Plan 2010

Residential Flat Buildings

BYRON SHIRE COUNCIL

ORDINARY MEETING

28 FEBRUARY 2013 (101)

Development Control Requirement		Proposed	Required	Compliance
Site Area (Sec. C3.5 DCP 2010)		1499m ²	1200m ²	Yes
Frontage (Sec. C3.5 DCP 2010)		26.82m	25m	Yes
Height (cl. 40 BLEP 1988)		8.8m	9.0m	Yes
Max floor height (cl. 40 BLEP 1988)		2.95m	4.5m	Yes
Density Control (Sec. C7.1 (DCP 2010))				
Unit Size	Small (<55m ² floor plan area)		200m ² / unit	N/A
	Medium (55-85m ² floor plan area)	1 Unit / 250m ²	250m ² / unit	Yes
	Large (>85m ² floor plan area)	4 units / 300m ²	300m ² / unit	Yes
Setbacks (Sec. 2.6 DCP 2010)	Front (local roads)	6.75m	6.5m	Yes
	Rear Lane	6.51m	3m	Yes
	Side (single storey)	5.43m	1.5m	Yes
Building Height Plane (Sec. 2.5 DCP 2010)	North	Inside BHP	Inside BHP	Yes
	South	Inside BHP	Inside BHP	Yes
	East	Inside BHP	Inside BHP	Yes
	West	Inside BHP	Inside BHP	Yes
On Site Car Parking (Table G2.1 DCP 2010) – Residential Flat Building				
Unit Size (One (1) space per unit must be covered)	< 55m ² floor plan area		1 space/unit	N/A
	55-85m ² floor plan area	1 garage space for Unit 1	1.5 spaces/unit	Yes Acceptable in view of 2 visitor parking spaces being provided
	> 85m ² floor plan area	2 garage spaces per dwelling	2 spaces/unit	Yes
	Visitor Parking	2 visitor spaces	1 space/4 units	Yes
Common Landscaped Area (Sec. C7.4 DCP 2010)				
Treatment	Minimum 75% absorbent finish			Yes
Unit Size	<55m ² floor plan area		50m ² per unit	N/A
	55-85m ² floor plan area	Approximately 506m ² in total	70m ² per unit 70m ²	Yes

BYRON SHIRE COUNCIL

ORDINARY MEETING

28 FEBRUARY 2013 (102)

Development Control Requirement		Proposed	Required	Compliance
	>85m ² floor plan area		90m ² per unit / 360m ²	Yes
Private Open Space – Courtyards (Sec. C7.2 DCP 2010)				
Minimum Area at Natural Ground Level		Units 2-5 Each unit has a courtyard of 60m ² Unit 1 has a courtyard of Approx 35m ²	30m ²	Yes
Minimum Dimensions		Exceed 4m	4m	Yes
Private Open Space – Balconies (Sec. C7.3 DCP 2010)				
Minimum Area (Where Not Provided at Ground Level)		Each balcony or patio area of 16m ²	15m ²	Yes
Minimum Dimensions		2.8m	2.5m	Yes
Orientation (Access to Winter Sun / Summer Shade)		Northern solar access		Yes
Sound Proofing (Sec. C7.6 DCP 2010)				
Noise Sources Sited Away from Adjoining Properties				Yes
Sound Resisting Division Walls and Floors				Yes (required to comply with BCA)
Clothes Drying Facilities – Suitably Screened (Sec. C7.8 DCP 2010)				
Rate	7.5m line per dwelling		7.5m/dwelling	Yes
Area	Minimum 6m ²		Min. 6m ²	Yes
Garbage (Sec. C7.9 DCP 2010)				
Bins	Min. 1 x 240L per unit	Bin enclosure able to house 6 x 240litre bins		Yes
Enclosure	Concrete Base			Yes
	Side & Top Screening			Yes
	Protection from Animals			Yes
	Visual Integration			Yes

BYRON SHIRE COUNCIL

ORDINARY MEETING

28 FEBRUARY 2013 (103)

Development Control Requirement		Proposed	Required	Compliance
Location	Ease of Use			Yes
	Minimise Nuisance			Yes
	Adequate Lighting			Yes
Equity of Access & Mobility (Sec. C7.10 DCP 2010)				
1 adaptable dwelling per 10 dwellings in accordance with AS4299				N/A
Continuous Path of Travel in accordance with AS1428.2				Yes
1 parking space in accordance with AS2890 Part 1 per adaptable dwelling				N/A
1 visitor parking space in accordance with AS2890 Part 1 per 100 spaces				N/A
Pipes and Vents (Sec. C7.11 DCP 2010)				
Concealed Within Walls				Yes
Access Provided				Yes
TV Antennas (Sec. C7.12 DCP 2002)				
Common Antenna or Dish System				Yes
Fence Heights (Sec. C3.6 DCP 2010)				
Front Fence	1.5m high fence with 1.8m high piers		Max. 1.2m with 1.5m piers	Yes
Side Fence (within front building setback line)	1.8m		Max 1.2m	Existing
Side Fence (behind building setback)	1.8m		Max 1.8m	Yes
Rear Fence	1.8m		Max 1.8m	Yes

Chapter 1 Element C3.1 – Visual Impact

Element Objective

- 5 *“To maximise the aesthetic character of the built environment, consistent with the subtropical character of Byron Shire.”*

Performance Criteria

- 10 *“The visual impact of any development is a product of many factors. Some of these factors will be mainly determined by the provisions of various instruments and of this and other Development Control Plans, such as building height and bulk, vehicle and servicing areas, and landscaping.*

15 *However, the actual materials of a building, the nature of its external elements, and their relationship to each other, to adjacent buildings, to the street, and to the environment, can have a significant impact on the visual appearance of both urban and rural areas in the Shire. Therefore, Council has determined some basic principles regarding the appearance of residential buildings, which will be taken into consideration regarding any residential development.*

- *Site(D), building and landscaping design must address the climate;*
 - *The street face of a building, and any open space between it and the street, must contribute to the general attractiveness of the streetscape by means of good design, appropriate materials and effective landscaping;*
- 20

- *There must be a reasonable degree of integration with the existing built and natural environment, balanced with the need to provide variety in streetscapes;*
- *Long straight wall areas will be discouraged and must be broken up visually by a combination of building materials or changes in the wall plane;*
- 5 - *The provision of verandahs, balconies, pergolas and other protected outdoor elements will be encouraged for both visual and energy-efficient reasons;*
- *Appropriately designed overhanging eaves must be provided to protect against heavy rainfall and summer sun, while allowing winter sun penetration;*
- 10 - *No roof must have a highly reflective surface; any metal roof must have a colorbond or equivalent finish in a colour approved by Council. White or light coloured roofing will not be approved where likely to be intrusive.;*
- *Details of building materials and surface colours must be submitted for assessment with the development application. All building materials must be in character with their surrounding environment”.*

15 Assessment: The revised design offers some building articulation and improved design quality. The alteration to the front of the building has reduced the length of the 2 storey southern wall elevation to approximately 38m. Some articulation has been added to the southern elevation by projecting (approximately 450mm) the first floor level walls of the 3rd bedroom of Units 2-5. Also at ground
20 floor level the building has been improved with the recessing of garages (1.34m) for Units 3 & 4 behind the upper wall line. Notwithstanding the above, the revised design is still bulky in appearance and to be of a comparatively larger scale in the context of existing residential development on the western side of Station Street.

25 **Chapter 1 Part G – Vehicle Circulation and Parking**

The proposed development is able to generally satisfy the relevant provisions of DCP 2010 Part G Vehicle Circulation and Parking. It is noted that proposed dwelling Unit 1 has a floor plan area of
30 55-85m² and provides only a single garage space whilst Part G requires the provision of 1.5 spaces for a dwelling unit of this size. The proposal includes two visitor parking spaces which is considered to adequately compensate for the number of parking spaces required for the development.

35 **Chapter 11 - Mullumbimby**

The DCP chapter specifies that any proposed development respects and compliments the historical and architectural significance of its setting as set out in the guidelines hereunder. Following are extracts of relevant provisions from Chapter 11 which are considered to be of
40 relevance to the proposed development.

3.2 New buildings in established areas

*To preserve the existing character of Mullumbimby’s established areas it is important the new buildings or renovations to existing buildings respect the old. New buildings should sit comfortably
45 in the existing environment by the use of sympathetic elements and demonstrate a continuation of the evolutionary building process that is the heritage of Mullumbimby.*

*New buildings should not be “faked” copies of old buildings or made to look old, but should be designed and placed so that they reflect the modern progressive thinking of the community yet do
50 not overwhelm the neighbouring architectural characteristics. This requires careful designing as even the use of the above commonly used modern materials such as brick and tile can seem inappropriate when placed in the context of an historic environment. The redevelopment of vacant sites or buildings of non-contributory character is an opportunity to provide a sensitively designed new building that will strengthen the architectural qualities of the area. In addition, the architectural
55 qualities of the surrounding area provided design influences that make the design of infill buildings much simpler.*

The subject site is located within Precinct 2 of the urban design guidelines within Chapter 11 Mullumbimby.

5 3.5 Central Mullumbimby residential – Precinct 2

The subject site is located within Precinct 2 ‘Central Mullumbimby Residential’. This area comprises the main residential section of the existing form located between the railway and the river, to the north and south of the central business precinct.

10 Scale – the scale of the buildings is much higher (caused by many buildings being raised to a safe flood level), higher floor to ceiling heights that now commonly used and steep pitched roofs. This overall height is most significant and the introduction of new domestic buildings with slab-on-the ground construction, 2.4 metre ceiling heights and low pitched roofed produces and incompatible relationship between the scale of the buildings. Eaves heights above the ground should reflect the common heights in the immediate existing surrounds and preferably be within plus or minus 10% of the existing buildings. Similarly, roof pitches should be compatible with the commonly used pitches, i.e. between 25 degrees and 35 degrees.

20 Materials – most of the earlier buildings are in painted weatherboard and this use of this is still appropriate. If brickwork is desired, it is worth considering bagging and painting it so that the important colour component in the area is not lost. Where reflective glare is likely, silver, white or light grey should be avoided.

25 3.5.2 Infill development guidelines

Opportunities for infill housing in the form of dual occupancy development, townhouse development or resubdivision are available where:

- 30 (a) the applicant can demonstrate an adequate site area or lot sizes in accordance with DCP No. 1 (Parts B and C) – Subdivision and Residential;
- (b) adequate access is available. For instance, where a rear land may be sealed or where an adequate 6 metre battle-axe accessway is available with reciprocal right-of-way, if required; and
- 35 (c) suitable lot shape, dwelling sites and dwelling design can be established so that Council is satisfied that the proposed dwellings are compatible with adjacent existing housing and do not unnecessarily intrude the privacy of neighbours.

40 Assessment: Section 3.5.2 does not anticipate ‘residential flat buildings’ as infill development although town houses are mentioned. The proposed new building is considered to be inconsistent with the built form of existing residential development on the western side of Station Street between Tincogan Street and Train Street, due to its size, although the use of materials and the roof pitches are sympathetic.

45 **3.4 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

Built environment

50 The revised design incorporates a single storey element for the front 4.43m of the building before stepping up to a second storey. It is considered that the revised design is more sympathetic to the existing streetscape with the incorporation of a single storey element to the front of the building (adjacent to Station Street).

55 The revised design also offers some building modulation and improved design quality. The alteration to the front of the building has reduced the length of the 2 storey southern wall elevation to approximately 38m. Some articulation has been added to the southern elevation by projecting

(approximately 450mm) the walls of the 3rd bedroom of Units 2-5 at first floor level. Also a ground floor level the building has been improved with the recessing of garages (1.34m) for Units 3 & 4 behind the upper wall line.

- 5 The western side of Station Street between Tincogan Street and Train Street contains predominantly single-storey dwelling houses, with also a small number of two-storey dwelling houses and a single-storey residential flat building. The revised plans are still relatively larger in scale to neighbouring residential development.

10 Privacy

15 The revised building design continues to orientate the kitchen, living and dining areas of Units 2-5 towards the northern side boundary to maximise solar access. This design feature results in the outlook from each of the first floor balconies being directed to the rear yards of adjacent residential properties to the north and having privacy implications.

20 The applicant has addressed the privacy issue via the introduction of privacy screens along the length of the northern side of the balconies for Units 2-5. It is acknowledged that the inclusion of these privacy screens is able to prevent what was previously considered to be unacceptable loss of privacy for neighbouring properties, and if approval is granted it will be important that these privacy screens remain. A condition requiring the retention of these screens has been provided in the conditions of approval.

25 As per the previous plans submitted an improved design would break up the built form of the development into two or possibly three smaller buildings, these separate buildings should be orientated generally towards the front/rear of the site which would better address bulk, scale and privacy issues.

30 **Natural environment**

35 Council's Ecologist has inspected the subject site and concluded that it offers very little in the way of ecological value. The lots are dominated by landscaped gardens and lawns consisting of mostly exotic species including environmental weeds. A few native species occur as isolated palms, trees and shrubs but no threatened species are known to be present and the vegetation does not resemble any threatened ecological communities. The area is not classified as high conservation value in the Byron Biodiversity Conservation Strategy 2004 and is zoned 2(a).

40 The proposed development involves the removal of all existing trees and shrubs from the subject site. The subject site is located centrally within the 2(a) residential zone and it is considered the proposed vegetation removal is acceptable provided any future redevelopment of the site incorporates extensive replacement plantings and landscape works.

Social and economic impacts

45 It is considered the proposal is unlikely to have any significant social or economic impacts in the locality, and it would provide a variety of housing type for Mullumbimby, which is predominately single houses.

3.5 The suitability of the site for the development

50 The subject site is located centrally within the established residential area of Mullumbimby in close proximity to the commercial centre and directly opposite the Woolworths supermarket site. In principle the subject site is considered suitable for medium density housing or possibly an appropriately designed residential flat building development.

55

The subject site is identified as flood liable land by Council's hazard mapping. The proposed development has been raised and designed in a manner which is consistent with Council's requirement for building on flood liable land.

5 3.6 Submissions made in accordance with this Act or the regulations

10 *"Below is a table providing a summary of submissions and staff responses. However, Councillors also need to refer to the full copies of all submissions which have been provided on disc, strictly on a confidential basis, to Councillors. The full copies of the submissions contain personal information such as names and addresses of the persons lodging submissions which are relevant matters to be taken into consideration in determining this matter."*

15 The **amended plans** for the application were placed on public exhibition from 11 December 2012 to 24 December 2012 a total of eleven (11) submissions were received including a petition containing 153 signatures and other petition containing 42 signatures. It is noted that two (2) of the submissions were received were outside the public exhibition period including the petition with 42 signatures.

20 Following is a summary of the matters raised in the submissions received in response to public exhibition of the amended plans:

Issue	Comment
<p>Concerns regarding the impact of the development on the Draft LEP 2012 Mullumbimby Heritage Conservation Area.</p> <p>Byron Shire Community Based Heritage Study recommends a heritage conservation area for this area of Mullumbimby.</p>	<p>The subject site is located within a Draft Heritage Conservation Area identified within the Draft LEP 2012.</p> <p>As noted in Section 3.2 of this report it is considered the proposed development is of a bulk which is not considered to be sympathetic with the existing built form of neighbouring residential development on the western side of Station Street.</p>
<p>The applicant has not submitted an arborist report discussing the health, condition, location, species and heights of existing trees and vegetation on the subject site.</p> <p>The submitted Statement of Environmental Effects identifies an existing tree on site as a threatened species.</p> <p>Concerns regarding the loss of a white cedar tree located in the back yard of the existing dwelling on the subject site.</p>	<p>Council's Ecologist has inspected the subject site and concluded that it offers very little in the way of ecological value. The lots are dominated by landscaped gardens and lawns consisting of mostly exotic species including environmental weeds. A few native species occur as isolated palms, trees and shrubs but no threatened species are known to be present and the vegetation does not resemble any threatened ecological communities. The area is not classified as high conservation value in the Byron Biodiversity Conservation Strategy 2004 and is zoned 2(a).</p>
<p>Concerns regarding the impact of noise from the development on neighbouring residents.</p>	<p>The subject site is located within the 2(a) Residential Zone. Residential uses are anticipated within this zone, the proposed development is not considered likely to result in any unacceptable noise implications for neighbouring residential properties.</p>
<p>Concerns the required flood planning level for the proposed is excessive.</p>	<p>Council's Senior Development Engineer has provided the flood planning levels for the subject site and raised no objection to the proposal with regard to flooding.</p>

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28 FEBRUARY 2013 (108)

Issue	Comment
Concerns regarding the location of the proposed driveway having an unacceptable noise impact for neighbouring properties.	The location of a driveway adjacent to a property boundary is commonplace within a residential area. The proposed location of the driveway is not considered likely to result in unreasonable noise impacts within an urban environment.
<p>Concerns regarding the level of overshadowing for neighbouring properties as result of the size and height of the proposed building.</p> <p>Overshadowing from the development will impact on the property at No.31 Station Street as follows:</p> <ul style="list-style-type: none"> -detract from the operation of solar panels; - reduce sunlight to a home occupation being operated in a room on the northern side of the dwelling; - occupants of the dwelling are asthmatic and reduced sunlight will increase mould and possibility of asthma attacks. 	The applicant has submitted shadow diagrams for the proposed development showing the extent of overshadowing at the winter solstice. It is acknowledged the proposal will to a certain extent increase the level of overshadowing experience by the adjoining property to the south particularly in the morning and afternoon. However the proposed development is positioned within the envelope created by the Building Height Plane.
The submitted Statement of Environmental Effects (SEE) does not contain any assessment of DCP 2010 Chapter 11 - Mullumbimby.	<p>It is acknowledged that the submitted Statement of Environmental Effects does not contain an assessment of the proposal against the provisions DCP 2010 Chapter 11 - Mullumbimby.</p> <p>As detailed in Section 3.3 of this report the proposal is considered to be inconsistent with aspects of Development Control Plan 2010, Chapter 11 - Mullumbimby.</p> <p>As discussed in Section 3.4 of this report the applicant has submitted revised plans which have introduced privacy screens to first floor balconies of Units 2-5. It is not considered the proposed design will result in an unacceptable loss of privacy for neighbouring residential properties provided the privacy screens are maintained in the long term.</p> <p>The proposed new building is considered to be inconsistent with the built form of existing residential development on the western side of Station Street between Tincogan Street and Train Street, although it is an improvement on the previous design. .</p>
<p>Proposal fails to comply with Mullumbimby Settlement Strategy 2003.</p> <p>Development is not sympathetic to the charm and character of the area.</p>	<p>An assessment of the proposal against the Mullumbimby Settlement Strategy 2003 is contained in Section 3.2 of this report.</p> <p>The subject site is located within a Draft Heritage Conservation Area identified within the Draft LEP 2012. The bulk of the proposed development is considered to be unsympathetic with the built form of residential development in the immediate area, although Woolworths Supermarket is on the opposite side of the street.</p>

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ORDINARY MEETING

28 FEBRUARY 2013 (109)

Issue	Comment
Concerns regarding the height, bulk and scale of the proposed development. Majority of buildings in the vicinity and in this street are single storey and the proposed bulk and scale is not compatible.	As discussed in Section 3.4 of this report the proposed building is considered to be excessively bulky however improvements have been made to the design quality of the building. The proposed building is also considered to be of a scale incompatible with neighbouring forms of residential development.
Concerns not all proposed plans were placed on public exhibition.	The revised plans were placed on exhibition in accordance with Council's DCP 2010, Chapter 17 Exhibition and Notification of Development Applications. It is Council policy that internal floor plans are not put on public exhibition to be consistent with the provisions of the Privacy Act.
Non-compliance with DCP 2010 Chapter 1 Part C the maximum number of dwellings on the site is 4.99.	As noted in Section 3.3 of this report the revised plans reduce Unit 1 from containing three bedrooms to being a single bedroom unit. The proposed site area is 1499.9m ² which exceeds the 1450m ² density control in DCP 2010 for the proposed number of dwellings.
Concerns that proposed building will divert floodwaters onto the property at No.31 Station Street.	Council's Senior Development Engineer has raised no objection to the proposal with regard to flooding subject to various conditions to be attached to any development consent if the proposal warrants approval.
Potential loss of privacy to the properties adjacent to the proposed development.	The applicant has submitted revised plans which include privacy screens along the northern balconies for Units 2-5 and has raised the sill height of the first floor windows on the southern elevation of the building. The privacy screening is considered to prevent an unacceptable loss of privacy provided it is maintained in the long term.
Proposal is inconsistent with State Environmental Planning Policy No.65 Design Quality of Residential Flat Development.	State Environmental Planning Policy No.65 Design Quality of Residential Flat Development relates to three-storey residential flat buildings and does not apply to the proposed development.
Concerns regarding impact of the proposed development on the character of older style houses and heritage listed houses in Station Street.	The subject site is located within a Draft Heritage Conservation Area identified within the Draft LEP 2012. The bulk of the proposed development is different to the built form of residential development on the western side of station Street in the immediate area, but is opposite Woolworths Supermarket.

3.7 Public interest

- 5 The proposed development in terms of bulk, will be different to the style of building on the western side of Station Street, however the provision of medium density housing would not be considered to be against the broad public interest.

4. DEVELOPER CONTRIBUTIONS

4.1 Water & Sewer Levies

5 As there is an increase in the load on these services contributions will be required for water and sewer services.

4.2 Section 94 Contributions

10 As the proposed development would involve an increase in the load on these services Section 94 contributions would be required. Should the application have been considered favourably the following development contributions would have been required as a condition of consent:

Plan	=	Council's Development Contributions Plan 2005
Catchment	=	Mullumbimby
Credit	=	The existing land has a credit of 2 SDU.
Demand	=	The proposal generates a demand of 4.54 SDU.
Contribution	=	2.54 SDU (4.54 -2).

15 **5 CONCLUSION**

The revised design is still bulky in appearance although the revised plans have improved the design quality of the building via the inclusion of a number architectural features, a minor reduction to the bulk and variations to the proposed building materials.

The applicant has addressed the privacy issue via the introduction of privacy screens along the length of the northern side of the balconies for Units 2-5. It is acknowledged that the inclusion of these privacy screens is able to prevent what was previously considered to be unacceptable loss of privacy for neighbouring properties.

Concerns are raised that the revised proposal could be considered inconsistent with the objectives of the 2(a) Residential Zone within Byron Local Environmental Plan 1988. The revised proposal is considered to satisfy the provisions of Byron DCP 2010 apart from provisions contained in DCP 2010 'Chapter 11 – Mullumbimby' including the provisions relating to new buildings in established areas.

Notwithstanding the issue that the building remains bulky, particularly in relation to the predominately single houses in Station Street, the new design is recommend for approval subject to conditions of consent.

6. RECOMMENDATION

40 **That pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2012.149.1, for a Residential flat building containing of five dwellings, be granted consent subject to the conditions listed in Annexure 19(c) #E2013/8650.**

7. DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

45 Has a Disclosure Statement been received in relation to this application No
 Have staff received a 'gift' from anyone involved in this application that No
 needs to be disclosed. Where the answer is yes, the application is to be determined by the Director or Manager of the Planning, Development and Environment Division.
 Provide Disclosure Statement register details here: Nil.

Report No. 12.17. Feral Animal Management Plan

Executive Manager: Environment and Planning

Report Author: Angus Underwood, Team Leader Natural Environment

File No: #E2013/7867

5

Theme: Environment, Land and Natural Environment

Summary: A Feral Animal Management Plan has been prepared to guide the co-ordinated approach to feral animal management in the Shire until 2015.

The plan targets wild dogs, foxes and cats and has been developed in consultation with the Livestock Health and Pest Authority and National Parks and Wildlife Service.

Implementation of the plan is expected to commence in March 2013.

RECOMMENDATION:

10 **That Council adopt the draft Feral Animal Management Plan 2013 – 2015 shown at Annexure 20 (#E2012/25377).**

Attachments:

15

- Draft Feral Animal (wild dog, fox and cat) Management Plan 2013-2015
#E2012/25377 [24 pages] **Annexure 20**

BYRON SHIRE COUNCIL

ORDINARY MEETING

28 FEBRUARY 2013 (112)

Report

Council has made the following resolutions with regard to supporting and establishing feral animal management programs in the Shire.

- 5
- 11-50** *That Council provide support to Landcare Groups, land managers and landholders in the Shire to coordinate with the Livestock Health and Pest Authority (LHPA) and National Parks & Wildlife Service for a strategic wild dog, fox and feral cat control program.*
- 10
- 11-146** *That Council call for expressions of interest from dog trappers and receive a report on the assessment of the effectiveness and financial feasibility of wild dog trapping in order to help preserve koala population.*
- 15
- 11-259** *That Council consider the allocation of \$20,000 in the March 2011/12 Quarterly Budget Review to a wild dog, fox and feral cat control program to properly resource Resolution 11-146 'Shire Wide Koala Management Plan' and Resolution 11-50 'Support for Feral Animal Control', as a core commitment to Biodiversity protection, sustainable agriculture and public safety.*
- 20
- 11-385** *Committee Recommendation B&S 6.1 That the Mayor write to the Northern Rivers Catchment Management Authority and the Livestock Health and Pest Authority, with reference to previous council resolutions (11-50 & 11-146) and the Byron Biodiversity Conservation Strategy, to seek to identify potential resources and partnerships to control invasive species (dogs and foxes, cats) to protect native wildlife and livestock.*
- 25
- 11-396 (Part)** *2. That Council determine the inclusion of the \$20,000 identification by resolution 11-259 related to wild dog, fox and feral control program.*
- 30
- 11-635** *That Council support the implementation of a feral animal control program for the 2011- 2012 financial year comprising:*
- 35
- a) Request for detailed quotation from at least three recommended operators to operate on the basis of payment of a weekly retainer by Council and fee per carcass by participating landowners*
 - b) Invite landowners and organisations to express interest in participation*
 - c) Assessment of quotations and expressions of interest*
 - d) Prepare and issue contract with selected operator and initiate works*
 - e) Monitor implementation and prepare annual report of outcomes*
- 40
- 11-844** *Resolved that Council host a meeting with relevant stakeholders and Councillors to discuss regional coordination for controlling wild dogs and foxes.*
- 45
- 12-590**
- 1. That if any carryovers in the Environmental Levy Works and Services Program budget are available at 30 June 2012 then Council set aside any amount up to \$20,000 of any carryover for the Wild Dog, Fox and Cat Program.*
 - 2. That a media release be issued reporting on the success of this program and the continuation of it by Byron Shire Council to address feral pest populations in Byron Shire and include the BSC advocacy that lead to a regional approach via NOROC (\$50,000 funding)*
 - 3. That the monthly trapping reports be the subject of ongoing public reporting eg e-newsletter, media releases, web updates etc.*
- 55

12-923 1. *That Council note the report detailing the outcomes of the feral animal trapping program for the 2011-2012 financial year.*

5 2. *That Council commit to long term participation in feral animal control and support:*
 a) *The preparation of a Feral Animal Management Plan*
 b) *Commit ongoing funding to implementation of the Plan*

10 A Feral Animal Management Plan (Annexure 20) has now been prepared which aims to support private landholders and land managers undertake feral animal control and encourage a co-ordinated approach to feral animal management in the Shire.

Financial Implications

15 The Feral Animal Management Plan will be implemented by existing staff resources and funding as follows.

20 In accordance with Resolution 12 – 590 \$20,000 has been allocated towards a trapping program for the 2012/13 financial year. This has been sourced from carryovers in the Environmental Levy Works and Services Program from 2011/12 and is not expected to be available every year.

25 Further funding totalling \$44,000 is available for feral animal management through the Koala Connections project until June 2016. This project is funded by the commonwealth governments Clean Energy Futures- Biodiversity Fund and also includes extensive koala habitat restoration and revegetation work.

30 Council is also administering the \$50,000 NOROC Wild Dog program which is funded by the regional councils and concludes June 2013.

Statutory and Policy Compliance Implications

35 Under the *Rural Lands Protection Act 1998* all land managers in NSW, whether on public or private land, have an obligation to control declared pest species (wild dogs) on their land. The Livestock Health and Pest Authority (LHPA) are the lead authority on wild dog management and assist landholders to manage wild dogs through advice; supply of baits; assistance with co-ordinating baiting and trapping programs; and developing wild dog management plans. However from January 2014 the LHPA will become part of Local Land Services, and their level of service and resources available for feral animal control is uncertain.

40 The impact of wild dogs on native wildlife, including threatened species is also recognised through the listing of 'Predation and hybridisation by Feral Dogs' as a key threatening process under the *Threatened Species Conservation Act 1995*.

45 Red foxes and feral cats are classed as nuisance animals in NSW and while there is no obligation for a landholder to control these species, they are recognised as a significant threat to biodiversity through the declaration of 'Predation by the European Red Fox' and 'Predation by the Feral Cat' as a key threatening processes under the *Threatened Species Conservation Act 1995* and the *Environment Protection and Biodiversity Conservation Act 1999*.

50 Councils have the responsibility under the *Companion Animals Act 1998* to provide for effective and responsible care and management of companion animals.

55 The proposed program is consistent with the Byron Biodiversity Conservation Strategy 2004 in specific regard to the key themes of *Community Involvement & Education, Environmental Weeds & Introduced Pests* and *Threatened Species*.

BYRON SHIRE COUNCIL

ORDINARY MEETING

28 FEBRUARY 2013 (114)

Report No. 12.18. PLANNING - State Environmental Planning Policy No 1 - Variations of development standards from 15 September 2012 to 7 February 2013

Executive Manager: Environment and Planning

Report Author: Wayne Bertram, Manager Development Assessment and Certification

File No: #E2013/7556

5

Theme: Ecology, Development and Approvals

Summary: Council resolution **09-95** requires that staff provide a report on development applications determined where there has been a SEPP 1 variation in standards less than 10%.

Applications determined under delegated authority for the period 15 September 2012 to 7 February 2013 are included in this report.

NOTE TO COUNCILLORS:

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

15

RECOMMENDATION:

That the report be noted.

BYRON SHIRE COUNCIL

ORDINARY MEETING

28 FEBRUARY 2013 (115)

Report

5 In accordance with Council resolution 09-95 and the NSW Department of Planning and Infrastructure guidelines advised in Planning Circular PS 08-014, all development applications where SEPP 1 variations have been granted under delegated authority are to be reported to Council for information.

10 The applications determined in the period 15 September 2012 to 7 February 2013 are outlined below:

DA No.	10.2012.552.1
Development	Use of a building as a dwelling & alterations and additions
Property:	LOT: 3 DP: 952096 The Tunnell Road BILLINUDGEL
Zoning	Zone No. 1(a) - General Rural Zone
Development Standard being varied:	Clause 40 – Height of Buildings
Justification	<ul style="list-style-type: none"> • The non-compliance involves a intrusion of the roof pitch above the 9m overall height limit which occurs due to the need to raise the building to comply with Council's flood planning levels. The average overall height of the building is 9.6m;with the maximum height being 9.89 metres. • Amending the roof shape to comply with the height limit is not an option in this case as the building is proposed as a heritage item in Council's Draft LEP 2012. • The proposal involves the re-use of an existing building with local heritage value and represents a sustainable use of existing resources and assets. • The proposal complies with all other applicable planning provisions, including the building height plane.
Extent of variation	9.8%
Concurrence	Council
Determined Date	30 January 2013
DA No.	10.2012.523.1
Development	Demolition of existing dwelling and construction of a double storey dwelling and carport
Property:	LOT: 7 DP: 9281 92 Lawson Street BYRON BAY
Zoning	Zone No. 2(a) - Residential Zone
Development Standard being varied:	Clause 14 – Floor Space Ratio
Justification	<ul style="list-style-type: none"> • The proposal reduces the extent of non-compliance with the floor space ratio development standard without significant environmental, amenity or visual impact in the locality. • The proposal improves the functionality of the dwelling-house in an ecologically sustainable manner. • The proposal does not require the removal of any significant trees other than some Golden Cane Palms, and the site complies with the requirement that at least 25% is to be landscaped.
Extent of variation	8%
Concurrence	Council
Determined Date	7 February 2013

Financial Implications

Not Applicable

5 Statutory and Policy Compliance Implications

The report is provided as a requirement of NSW Department of Planning circular PS-08-014. This circular can be viewed at <http://www.planning.nsw.gov.au/planning-system-circulars>.

SOCIETY AND CULTURE - EXECUTIVE MANAGER'S REPORTS

Report No. 12.19. New Year's Eve 2012

Executive Manager: Society and Culture

5 **Report Author:** Melinda Campbell, Acting Manager Sustainable Communities

File No: #E2013/4503

Theme: Community Services

Summary: Council resolved (12-660) to provide a “community-focused, low-key event which provides family-friendly entertainment and showcases local arts and creativity” for New Year’s Eve in 2012, retaining the same format as for 2011 New Year’s Eve. This report provides feedback from stakeholders of the 2012 event and makes recommendations for New Year’s Eve 2013.

10 **RECOMMENDATION:**

1. That Council note the feedback from staff, the community and other stakeholders, including Police and St John’s Ambulance, regarding New Year’s Eve 2012.
- 15 2. That Council establish a ‘Community Summer Safety Committee’ similar to the successful Schoolies Safety Response Working Group, including key stakeholders and community representatives, to formulate a safer community focused New Year’s Eve and consider other peak holiday period management issues.

20 **Attachments:**

- New Year's Eve Strategies 2012-13 Byron Bay Liquor Accord #E2013/4546 [1 page]..... **Annexure 4**

Report

At the Ordinary Meeting of 30 August 2012, Council resolved (12-660):

- 5 1. *That Council note the positive feedback from the community and other stakeholders, including Police and St John's Ambulance, regarding New Year's Eve 2011.*
- 10 2. *That Council resolve New Year's Eve 2012 retain the same format as for 2011, remaining a community-focused, low-key event which provides family-friendly entertainment and showcases local arts and creativity.*
- 15 3. *That Council support the following operational recommendations for ongoing improvement for New Year's Eve management:*
- 20 a) *review advertisement of Alcohol Free Zones*
 b) *develop and promote a 'no glass in the parks and beaches' campaign*
 c) *develop a child-friendly entertainment programme, which could include pantomimes and other local artists suitable for family entertainment*
 d) *investigate the cost of including a fireworks show at 9.00pm for families*
 e) *review the New Year's Eve waste management plan from the perspective of encouraging people to put litter in the bins provided*
 f) *liaise with Police as to the location of alcohol check points and increase the number of waste disposal units at each site*
 g) *contact bus companies to ensure patrons are picked up and dropped off in compliance with alcohol-free zones*
 h) *consider having rangers on duty until 12.00am on 1 January*
 i) *develop a procedure for effectively dealing with unlicensed vendors.*
- 25 4. *That Council allocate an additional \$7,000 from the New Year's Eve Reserve (5013.21) bringing the total 2012/13 New Year's Eve budget to \$35,000 to implement the operational recommendations in point 3.*
- 30 5. *That Council continue to work with Byron United and others in the community in the development of, and fundraising for, New Year's Eve 2012.*
- 35

Council staff worked with a number of stakeholders in the implementation of the above resolution, including the Police, St John's Ambulance, Byron Bay Fire Brigade, Surf Life Saving Australia, Byron Bay Liquor Accord, Byron United, entertainment providers, amusement ride providers,
 40 private security firms and market stall holders. Please see the Byron Bay Liquor Accord Strategies for 2012/13 attached at Annexure 4.

Council provided additional toilet facilities, waste management, rubbish clean up and removal, ranger support, a security guard, event coordination, staged entertainment, organised market, food
 45 stall holders and amusement rides. Byron United provided the funds for two fireworks displays, one at 9.00pm and one at midnight. These were launched from the Butler Street Reserve.

Police estimate approximately 15,000 people were in Byron Bay on New Year's Eve (larger
 50 numbers than in previous years).

According to feedback from stakeholders, the evening appeared to be largely successful up until approximately 10.00pm. After 10.00pm there was an increase in the number of young, intoxicated
 55 people and many people noted that the 'energy' of the evening changed. There have been a number of complaints made to Council, and events reported widely in the local media about what occurred on the night. The following observations from staff and key stakeholders are provided for Council.

Observations from staff***During the Event***

- 5 • There were issues with electricity for stall holders – it appears the electrical capabilities of the site were overloaded. This resulted in failed electricity for stall holders at 2pm, and again at approximately 11pm. The failure at 11pm also affected lights to the area.
- Telstra mobile reception failed during the evening and mobile reception was not available approximately 95% of the duration of the event. This made communication amongst emergency and event personnel extremely difficult.
- 10 • Police alcohol prohibition/ confiscation points appeared to be well known to the public and many people avoided these by accessing Apex Park via the beach and other paths.
- There were 20 bins placed in Apex Park and 6 bins at three police check in points, however rubbish and broken glass were still problematic.
- 15 • Extra alcohol free signage was placed throughout the park but rangers reported that most people spoken to admitted seeing signage and ignoring it.
- The stage area was fenced, however the fencing in place proved inadequate for the resultant crowd, especially between 10pm and midnight. One performer spent approximately 10 minutes speaking to the crowd in an attempt to calm them and request them to move back from the fence, which ultimately collapsed. At the end of the night, members of the public actually accessed the stage. The fencing around the back and sides of the stage also proved inadequate.
- 20 • One of the bottle shops located close to the park appeared not to be following the Byron Bay Liquor Accord's strategies for reducing risk. People were observed emerging from the shop with alcohol and walking directly to Apex Park to consume it.
- 25 • Private security was inadequate. One security guard was located around the stage area (paid by Council), and two at the fireworks launch point (paid by Byron United).
- Members of the general public were observed launching privately purchased fireworks from the beach area. Complaints about beach fires were received from the public post New Year's Eve.
- 30 • There appeared to be not only alcohol issues in Apex Park, but evidence of drugs also.

Post Event

- 35 • There was increasing rubbish collected in the week in the lead up to New Year's Eve. Over 15.5 tonnes of bottles, rubbish and human waste was collected from Byron Bay over the two day period.
- Rangers issued almost 650 fines, with half relating to street camping. The maximum fine is \$110 and if cars had multiple occupants, this proved to be cheaper than paying for accommodation for the night. There were many who camped on private property.
- 40 • Many groups of adults appeared to arrive in Byron Bay for the night in cars, with no accommodation booked, drank until too intoxicated to be moved on, and subsequently slept in their cars or on the beach/ in parks. Many were observed by Rangers as returning to their 'car camps' following the end of the entertainment in Apex Park.
- The worst affected streets included: Kendall St, Dryden St, Milton St, Sommerset St, Butler St and Tennyson St. Belongil was a particular hot spot this year.
- 45 • Feedback from one caravan park manager reported that he had fielded an unprecedented number of calls (approximately 300) from people trying to get last minute accommodation on New Years Eve from Sunday 30 January.

Reports from key stakeholders

50

Byron Bay Police

- Attempts to contact Rangers during the night were unsuccessful due to the failure of the mobile phone system.

BYRON SHIRE COUNCIL

ORDINARY MEETING

28 FEBRUARY 2013 (120)

- The alcohol prohibition checkpoint at Lawson and Jonson Street did not have bins available, which was rectified during the night. In future, may need to consider the removal of bins at midnight to prevent people accessing confiscated alcohol.
- 5 • Recommend a different location for fireworks launch, as the fireworks from Butler Street Reserve disturbed patients in Byron Bay hospital, police working in the police station, and Byron Aged Care residents. There was firework debris landing on cars and buildings in the area.
- Police on duty within Apex Park reported that they spent most of the night disposing of alcohol in the pedestrian precinct.
- 10 • There were 14 arrests made on the night. Offences included Malicious Wounding; Assault; Offensive Conduct; Possess Prohibited Drug; Prescribed Concentration of Alcohol; Robbery; Assault Police. Police were still attending brawls in Byron Bay until at least 10am on New Year's Day. Had more police been available, this arrest rate is likely to have been higher.

15 ***St John's Ambulance***

- Similar to New Year's Eve 2011
- Treated 32 casualties between 6pm and 1.45am
- Main treatment was for alcohol related illness/injuries and many under-age teens were observed intoxicated
- 20 • 11 of these were for cuts from broken bottles (2 referred to hospital for treatment)
- 8 were treated for soft tissue/bruising
- 3 for headaches and other minor injuries
- Observed that prior to 10pm the crowd were mainly families enjoying the entertainment, and after 10pm the crowd seemed to be younger adults arriving en masse.

25

Byron Bay Hospital

- A busier than usual time of year with a total of 104 patients from midnight 31 December to midnight 1 January.

30 ***Fireworks Technician***

- People entered the exclusion zone at the time of firing. When the security attempted to secure the site there was an alleged assault.
- Lighting in Butler Street reserve was inadequate and may have contributed to security concerns.
- 35 • It is recommended Police be in attendance at the time of firing in future.

Stage and Sound Technicians

- Security was inadequate and resulted in the fence around the stage being breached. Recommend in future that 1 security guard per 100 people be put in place (as required at other events).
- 40 • The fencing material was inadequate (orange plastic netting/ star pickets). Recommend 6m high wire fencing with concrete based blocks and a crowd control barrier be implemented in the front of the stage.
- Considered at one point to cut the music off until the crowd moved back behind the barrier, however were worried about own safety given the lack of security available.
- 45

Stall Holders

Seventeen market stall holders were present at the event—eight food stall holders and nine craft/children's entertainment stall holders.

- 50 • One stallholder sustained damage to their caravan and generator which forced them to leave earlier than planned.
- Following the failure of electricity and lights at 11pm, groups of thieves were stealing items from displays.

BYRON SHIRE COUNCIL

ORDINARY MEETING

28 FEBRUARY 2013 (121)

- Parking a long way from the stall created difficulties. One stall holder staffed their stall alone, which made it difficult during pack up as he had to leave the stall unattended to go and get his car, resulting in items being stolen.
- After many of the families left (approximately 10pm) one stall holder began fearing for their safety, with groups of young intoxicated people using their stall as a thoroughfare.
- “The evening was fantastic, but around 10.30pm the energy changed and became not so pleasant”, one stallholder noted. “I felt safe until the power went out to the stalls and we were left in the dark dealing with drunk customers and packing up which was very difficult without lighting”.

Recommendations for 2013

Resident feeling about New Year’s Eve 2012 and the summer holiday period in Byron Bay has been expressed in local papers (via letters to the editor), via complaints to Council, and at an independently organised Community Forum held on Saturday 26 January 2012.

It would appear that residents desire involvement in decision making about New Year's Eve/ managing high tourist numbers over summer, in the future.

A Community Summer Safety Committee could be established similar to the successful Schoolies Safety Response Working Group. Such a group could not only formulate a safety response for New Year’s Eve, but could also examine other peak holiday period management issues. The group should include key stakeholders and community representatives. If the committee was a committee of Council, Council management, funds (including any potential grant funds) and other resources may be more accessible to the committee.

The Byron Shire Council Safer Community Compact has three projects/actions which appear relevant to such a managed approach:

- The ‘Community Connect’ Project (8.2) with the following expected outcomes:
 1. A reduction in the incidence of non-DV assault across the Shire as well as a reduction in other crimes such as Driving Under the Influence of Alcohol, Offensive Conduct, Disorderly Conduct and Malicious Damage.
 2. A reduction in the number of alcohol-related car accidents and associate injury and fatality.
 3. Developing partnership between Council, the Police, licensed premises, businesses and other relevant agencies.
 4. The expansion of services provided by community organisations.
- The ‘Party Smart’ Project (8.3) with the following expected outcomes:
 1. An increase in the public’s knowledge of crime risks leading to a decrease in the opportunity for crime.
 2. Increasing awareness and therefore compliance of local laws and restrictions.
 3. An increase in the number of visitors to the area using local services.
 4. A decrease in the alcohol and drug consumption of youth and in the associated crimes such as Assault, Malicious Damage, etc
 5. The expansion of services provided by community organisations.
 6. Developing partnership between Council, the Police and community organisations.
- The ‘Fun Fests’ Project (8.4) with the following expected outcomes:
 1. Promote all events and festivals in the Byron Shire as safe and family-friendly.
 2. Developing partnership between Council, the Police and community organisations.
 3. Strengthen a sense of community pride and responsibility for events held within the Shire.

Financial Implications

5 Council's budget for New Year's Eve 2012/13 was \$35,000. This was supplemented by a financial contribution from the Byron Bay business community of \$12,500 to pay for two fireworks displays. Byron United also paid for two security guards to look after the fireworks site at Butler Street Reserve.

10 Additional clean up costs have resulted in a budget overspend, with the current total at \$41,663. Note that there are further charges to be allocated, for example, tip fees of approximately \$2,800, making the cost to Council \$44,463 (over budget by \$9,463).

Revenue collected from the market stallholders etc is approximately \$4,000.

Statutory and Policy Compliance Implications

15 Byron Shire Council Safer Community Compact 2012
Byron Shire Council 2008-2013 Cultural Plan
Temporary Licence to Use Crown Reserve
Policy 5.51 Markets within the Byron Shire
20 Application for Market/One-Day Event Food Stallholder Permit
SEPP – Temporary Structures Checklist
LPMA Landowner's Consent Lodgement and Application

BYRON SHIRE COUNCIL

ORDINARY MEETING

28 FEBRUARY 2013 (123)

Report No. 12.20. Safer Community Compact - Update

Executive Manager: Society and Culture

Report Author: Joanne McMurtry, Community Policy Officer

File No: #E2013/6156

5

Theme: Community Services

Summary: Council resolved (**12-446**) in June 2012 to adopt the Safer Community Compact following a period of public exhibition. The Compact was subsequently provided to the NSW Department of Attorney General and Justice (and other Departments) for endorsement. Some minor adjustments to the document were required by the Minister of Police and Emergency Services. These changes were made, and the Compact has now been endorsed by the NSW Department of Attorney General and Justice. Byron Shire Council is now eligible to apply for crime prevention grant funds from the Department of Attorney General and Justice for projects in the Safer Community Compact.

RECOMMENDATION:

- 10
1. That Council note the final Safer Community Compact as endorsed by the NSW Attorney General and Minister for Justice.
 2. That Council apply for Crime Prevention Funding as available to progress the projects in the Safer Community Compact.

15

Attachments:

- 20
- Endorsed 'Safer Community Compact' #E2012/2282 [38 pages]..... **Annexure 23(a)**
 - Letter from Greg Smith SC MP, Attorney General #S2013/1374 [1 page] **Annexure 23(b)**
 - Local advertisement – Safer Community Compact Order #E2013/6135 [1 page].....**Annexure 23(c)**

Report

5 Council resolved (**12-446**) in June 2012 to adopt the Safer Community Compact following a period of public exhibition. The Compact was subsequently provided to the NSW Department of Attorney General and Justice (and other Departments) for endorsement.

10 The Minister for Police and Emergency Services requested that the data in the plan initially provided by Tweed Byron Local Area Command be sourced instead from BOCSAR NSW Bureau of Crime Statistics and Research. These minor changes were made to the Compact, and the final endorsed Safer Community Compact is attached at Annexure 23(a).

15 Once the changes were made to the Compact, the Attorney General and Minister for Justice wrote to Council advising that the Safer Community Compact application was successful. (Refer Annexure 23(b) for the letter, and Annexure 23(c) for the local advertisement in the Byron Shire News).

20 Byron Shire Council is now eligible to apply for crime prevention grant funds from the Department of Attorney General and Justice for projects in the Safer Community Compact. The following information is provided from the NSW Department of Attorney General and Justice website <http://www.crimeprevention.nsw.gov.au/cpd/forcouncils/onlinegrants.html>

To be eligible to apply for a crime prevention grant local councils must have:

- 25 • *a crime prevention plan currently endorsed by the Department of Attorney General and Justice as a Safer Community Compact in accordance with the provisions of Part 4 of the Children's (Protection and Parental Responsibility) Act 1997;*
- *not already successfully applied for funding from the Crime Prevention Division this year; and*
- 30 • *satisfactorily acquitted any previous Safer Community Compact grant from Department of Attorney General and Justice, or have complied with the terms of any Funding and Performance agreement that remains current.*

Crime Prevention grants are non-recurrent and applications are by invitation. The grants are provided to support the implementation of actions and activities within an endorsed crime prevention strategy.

35 On 5 February 2013, the NSW Department of Attorney General and Justice circulated an invitation to Byron Shire Council to make an application for a crime prevention grant, with the condition that the type of crime targeted in the grant application be one listed as a priority in Council's current Crime Prevention Plan.

40 Applications must be received by the NSW Department of Attorney General and Justice by **COB Monday 4 March 2013**. Applications will undergo assessment and successful Councils will be allocated funding. Consideration will be given to applications for funding up to \$50,000 during this Grant round.

45 Financial Implications

Byron Shire Council are now eligible to apply (following invitation) for crime prevention grant funds for projects in the Safer Community Compact.

50 Statutory and Policy Compliance Implications

Byron Shire Council Youth Policy 10/007
Byron Shire Council Cultural Plan 2008-13
Social Plan 2004-09
55 Disability Access and Inclusion Plan 2008-2013
Community Safety Plan 2003

BYRON SHIRE COUNCIL

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28 FEBRUARY 2013 (125)

Tourism Management Plan 2008-2018

Draft Community Strategic Plan 2011/12 – 2020/21

Byron Shire Council Management Plan 2011-2014

NSW Government Policy Statement and Guidelines for the Establishment and Implementation of

5 Closed Circuit Television (CCTV) in Public Places

WATER AND RECYCLING - EXECUTIVE MANAGER'S REPORT

Report No. 12.21. Northern Rivers Water MOU

Executive Manager: Water and Recycling

5 **Report Author:** Phil Warner, Executive Manager Water and Recycling

File No: #E2013/8289

Theme: Community Infrastructure, Water and Sewerage Services

Summary: In October 2011, Council considered a report on the Northern Rivers Water MOU seeking approval to join the MOU.

Council resolved:

11-822 Resolved that Council not join the MOU for resource sharing in water and sewerage operations across the NOROC member councils.

The MOU has been joined by the following Councils, Lismore, Ballina, Rous Water, Richmond Valley, Tweed, and Kyogle.

The purpose of this report is to present this option for regional collaboration to the newly elected Council for determination.

10 **RECOMMENDATION:**

That Council join the MOU for resource sharing in water and sewerage operations across the NOROC member councils and authorise the General Manager to execute the document.

15 **Attachments:**

- MOU for Resource Sharing #DM1146079 [4 pages] **Annexure 27**

Report

In October 2011, Council considered a report on the Northern Rivers Water MOU seeking approval to join the MOU. Council resolved:

5

11-822 Resolved that Council not join the MOU for resource sharing in water and sewerage operations across the NOROC member councils.

The purpose of this report is to present this option for regional collaboration to the newly elected Council for determination.

10

The MOU is presented in Annexure 27. The following Councils have already joined the MOU:

15

- Lismore
- Ballina
- Rous Water
- Richmond Valley
- Tweed
- Kyogle

The MOU is directly related to the Northern Rivers Regional Organisation of Councils (NOROC) strategic plan which includes the strategic objective:

20

To increase tangible benefits to member councils through enhanced resource and capacity sharing programs aimed at delivering efficiencies and cost savings for member councils; and promoting local government innovation and excellence.

25

One of the areas NOROC has initiated action is to advance resource sharing in water supply and sewerage services.

The Water MOU is also related in part to the NSW Independent Inquiry into Secure and Sustainable Urban Water Supply and Sewerage Services for Non-Metropolitan NSW. The Inquiry was originally announced in September 2007 and the Inquiry Report was completed by the Hon Ian Armstrong and Dr Col Gellatly in December 2008. Byron Shire Council made a submission to the Inquiry including the benefits of regional cooperation. The Inquiry recommendations have been subsequently advanced by the 2012 State Infrastructure Strategy and now the 2013 Independent Local Government Review Panel as detailed below.

30

35

2008 Report of the Inquiry into Secure and Sustainable Urban Water Supply and Sewerage Services for Non-Metropolitan NSW

40

The Inquiry report recommends:

1. Good Governance

The current 104 local water utilities be aggregated into 32 regional groups that are broadly based on submissions provided by stakeholders.

45

2. Improving Organisational Structures

Three organisational structure options be considered for the regional groups of local water utilities. The models are, binding alliance; council-owned regional water corporation; and current structural arrangements for some large general purpose councils and county councils.

50

2012 State Infrastructure Strategy

5 Local Government-owned local water utilities (LWUs) are responsible for non-metropolitan water supply and wastewater management systems that have not seen the same increases in infrastructure spending as the metropolitan network. As water supply and wastewater treatment options become increasingly more complex, the ability of small remote LWUs to deliver required services and maintain assets efficiently is severely constrained. A number of reports to the NSW Government have recommended a review of the arrangements and aggregation of the NSW non-metropolitan sector. Over the next 20 years, water and wastewater systems in regional areas are forecast to require significant investment for renewal and development of new facilities in regional areas. While this is largely funded through user charges, the Government provides direct support to local councils to ensure minimum standards. These requirements need to be prioritised with other competing State infrastructure needs for limited available funding. To maximise the efficiency of water and wastewater management, aggregation of water and wastewater delivery needs to occur across Regional NSW. This process would be aligned with decisions about water infrastructure investment programs.

20 Recommendation ~ Infrastructure NSW recommends the various key conclusions for changes to regional water supply arrangements be considered, including aggregation of (from 105 to around 30 authorities) water and wastewater delivery authorities.

2013 Independent Local Government Review Panel

25 The Case for Change Paper was issued in late 2012. The Future Directions Paper is expected from March 2013 onwards.

The Panel's terms of reference have been expanded to consider:

- Several items from the Destination 2036 Action Plan, focused on regional collaboration, innovation and better practice, the local government revenue system, and identification of the respective roles of State and local government.
- Possible future arrangements for local governance and service delivery in the far western districts of NSW, including aspects of service delivery to Aboriginal communities
- Proposals advanced in the Armstrong-Gellatly report of December 2008, and more recently by Infrastructure NSW, to combine the existing 104 council-owned water utilities across non-metropolitan NSW into 32 larger regional operations.

Financial Implications

40 The proposed MOU states:

Each of the parties to this MOU will be totally responsible for their own costs associated with participation, support and delivery of objectives.

45 *Each party will contribute an equal share to the costs associated with the management of the resource sharing process.*

The Directors' Group shall determine the percentage of the cost incurred in the delivery of each project by the respective Councils.

50 The MOU is based on the premise that approved project and activity budgets that are appropriately invested in regional resource sharing projects will produce a cost effective outcome. The MOU works within existing delegations and in no way seeks to circumvent the decision making roles of the respective elected Councils.

55 The term of this MOU will be two (2) years and there after from year to year.

Statutory and Policy Compliance Implications

Council's Community Strategic Plan includes the action at CI 2.5.1 ~

- 5 Participate in coordination and resource sharing initiatives:
 - a) Regional Local Water Utilities memorandum of understanding

This report and associated recommendation supports this action.

GENERAL MANAGER - COMMITTEE REPORTS
--

Report No. 13.1. Report of the Internal Audit Advisory Committee Meeting held on 13 December 2012

General Manager

5 **Report Author:** Ken Gainger, General Manager
File No: #E2013/7356

Theme: Corporate Management, Internal Audit

Summary: The report provides the minutes and recommendations of the Internal Audit Advisory Committee Meeting held on 13 December 2012 for determination by Council.

10 **RECOMMENDATION:**

1. That Council note the minutes of the Internal Audit Advisory Committee Meeting held on 13 December 2012.

15 2. That in relation to Report No. 4.1 – Meeting Dates for Internal Audit Committee for 2013 (Corporate Management #E2012/21803), Council adopts:

Committee Recommendation IA 4.1.1

20 That Council adopt the following dates for the Internal Audit Committee meetings for 2013:

Thursday 21 March 2013

Thursday 20 June 2013

25 Thursday 17 October 2013

Thursday 12 December 2013

30 3. That in relation to Report No. 4.2 – Byron Shire Council Internal Audit Report – Business Continuation Planning and Disaster Recovery Plan Review – August 2012 (Corporate Management #E2012/19611), Council adopts:

Committee Recommendation IA 4.2.1

35 1. That the Internal Audit Report – Business Continuation Planning and Disaster Recovery Plan August 2012 be noted by Council along with the responses and actions detailed by Management.

40 2. That Management implement the recommendations suggested in the report identified at Annexure 1 (#E2012/14764).

45 3. That Council receive a report on the implementation of the recommendations contained in the Internal Audit Review on the Business Continuity Plan and Disaster Recovery Plan in April 2013 following the commencement of the General Manager.

4. That in relation to Report No. 4.3 – Internal Audit Report – Audit Committee (General Manager #E2012/25014), Council adopts:

Committee Recommendation IA 4.3.1

That Council receive and note the Internal Audit Report Audit Committee (December 2012) (Annexure 4 #E2012/25102) prepared by the Internal Auditor, Grant Thornton.

5

- 5. That in relation to Report No. 4.4 – Byron Regional Sport and Cultural Complex Completion Project (Community Infrastructure #E2012/23043), Council notes:

Committee Recommendation IA 4.4.1

10

That the Internal Audit Committee notes the acceptance of the completion report for the Byron Regional Sport and Cultural Complex by the Department of Regional Australia, Local Government, Arts and Sport.

- 6. That in relation to Report No. 4.5 – Byron Shire Council Internal Audit Report – Waste Management Review August 2012 (Water and Recycling #E2012/24146), Council adopts:

Committee Recommendation IA 4.5.1

20

- 1. That the Waste Management Review August 2012 be noted by Council along with the responses and actions detailed by Management.
- 2. That Management implement the recommendations suggested in the report identified at Annexure 3 (#E2012/24776).
- 3. That an Administration fee be considered by Council for underpayments and non payments of charges.
- 4. That advice be provided to the committee on the original contracts for Compliance Testing - Tweed Laboratory and Waste and Water Management Consultants - Alan Watson Associates.
- 5. That the Committee recommend that the daily back up of the weighbridge data be undertaken.

25

30

35

Attachments:

- 40 • Minutes of the Internal Audit Advisory Committee Meeting held 13 December 2012 #E2012/26032 [4 pages] **Annexure 15(a)**
- Agenda and Annexure of the Internal Audit Advisory Committee 13 December 2012 #E2013/7501 [106 pages] **Annexure 15(b)**

45 *Annexure 15(b) has been provided on the Councillors' Agenda CD only. An electronic copy can also be viewed on Council's website.*

Note: The Document and Report references in the above Recommendations refer to the Reports and Annexures contained in Annexure 15(b) being the Agenda and Annexure of the Internal Audit Advisory Committee 13 December 2012.

50

Report

This report provides the recommendations of the Internal Audit Advisory Committee Meeting held on 13 December 2012 for determination by Council.

5

The Committee recommendations are supported by management, and are as detailed in the Minutes of the Internal Audit Committee meeting held on 13 December 2012, attached to this report at Annexure 15(a) and included as the recommendations for this report.

10 A copy of Internal Audit Advisory Committee Agenda for this meeting is provided at Annexure 15(b).

Financial Implications

15 As per the Reports listed within the Internal Audit Advisory Committee Meeting Agenda of 13 December 2012 (refer Annexure 15(b)).

Statutory and Policy Compliance Implications

20 As per the Reports listed within the Internal Audit Advisory Committee Meeting Agenda of 13 December 2012 (refer Annexure 15(b)).

Report No. 13.2. Report of the Communications Advisory Committee Meeting held on 31 January 2013

General Manager

Report Author: Donna Johnston, Media Communications Officer

File No: #E2013/10389

5

Theme: Corporate Management

Summary: This report provides the recommendations of the Communications Advisory Committee meeting of 31 January 2013 for adoption by Council.

RECOMMENDATION:

- 10 1. That Council note the minutes of the Communications Advisory Committee Meeting held on 31 January 2013 (#E2013/4468).
- 15 2. That in relation to Report No. 3.1. - Election of Chairperson and Draft Communications Advisory Committee Constitution, Council adopt:
- Committee Recommendation CC 3.1
- 20 a) That Cr Simon Richardson be appointed Chairperson of the Communications Advisory Committee.
- b) That the Draft Communications Advisory Committee Constitution (#E2012/9934) be adopted.
- 25 3. That in relation to Report No. 3.2. - Draft Communications Policy, Council adopt:
- Committee Recommendation CC 3.2
- 30 That the Draft Communications Policy (#E2012/24263) be deferred for further review by the Committee.
4. That in relation to Report No. 3.3. - Draft Social Media Policy, Council adopt:
- Committee Recommendation CC 3.3
- 35 That the Draft Social Media Policy (#DM1139940) be deferred for further review by the Committee.
- 40 5. That in relation to Report No. 3.4. - Bang the Table – web-based community engagement, Council adopt:
- Committee Recommendation CC 3.4
- 45 a) That Council supports online community engagement and notes the successful usage of Bang the Table during the draft LEP public exhibition period.
- b) That similar online community engagement platforms be presented to the Committee for consideration along with Bang the Table.

BYRON SHIRE COUNCIL

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Attachments:

- Minutes Communications Committee Meeting 31/01/13 #E2013/4468 [2 pages] **Annexure 5(a)**
- Agenda Communications Committee 31/01/13 #E2013/4302 [14 pages] **Annexure 5(b)**
- 5 • Draft Communications Advisory Committee Constitution #E2012/9934 [8 pages] **Annexure 5(c)**
- Draft Communications Policy #E2012/24263 [10 pages] **Annexure 5(d)**
- Draft Social Media Policy #DM1139940 [13 pages] **Annexure 5(e)**
- Project Summary - *CONNECTING WITH COMMUNITIES: How Local Government*
10 *is Using Social Media to Engage with Citizens (Australian Centre for Excellence with*
Local Government) #E2012/24380 [2 pages] **Annexure 5(f)**
- SBS Australia – copy of interview transcript on social media and defamation
#E2012/24382 [2 pages] **Annexure 5(g)**
- Bang the Table 2010 proposal #E2013/4470 [24 pages] **Annexure 5(h)**
- Bang the Table Community Strategic Plan activity report #E2013/4464 [4 pages] **Annexure 5(i)**
- 15 • Bang the Table Draft LEP activity report #E2013/4456 [3 pages] **Annexure 5(j)**

Annexures 5(b) to 5(j) has been provided on the Councillors' Agenda CD only. An electronic copy can also be viewed on Council's website.

Report

This report provides the recommendations of the Communications Advisory Committee meeting of 31 January 2013 for adoption by Council.

5

The Committee recommendations are supported by management and are as detailed in the Minutes of the Communications Committee meeting held on 31 January 2013, provided at Annexure 5(a) and included as the recommendations for this report.

10 A copy of Communications Committee Agenda for this meeting is provided at Annexure 5(b).

Financial Implications

As per the reports listed within the Communications Advisory Committee Meeting Agenda 31 January 2013.

15

Statutory and Policy Compliance Implications

As per the reports listed within the Communications Advisory Committee Meeting Agenda 31 January 2013.

20

COMMUNITY INFRASTRUCTURE - COMMITTEE REPORTS

Report No. 13.3. Report of the Local Traffic Committee Meeting held on 6 February 2013

5 **Executive Manager:** Community Infrastructure
Report Author: Simon Bennett, Traffic and Transport Planner
File No: #E2013/6866

MEETING COMMENCED: 10.45am

10 PRESENT:

Councillor: Cr Duncan Dey
Roads and Maritime Services: Ian Shanahan
Police: Sergeant Ray Wilson (arrived 12.46pm)
Staff: Simon Bennett, Traffic and Transport Planner
15 Staff: Phillip Holloway, Executive Manager Community Infrastructure (arrived 10.46am)
Staff: John Samuels, Development Engineer (attended for item 13)
Sally MacDonald (minute taker)

APOLOGIES

20 Member for Ballina, Don Page MP
Member for Lismore, Thomas George MP
Roads and Maritime Services: Liz Smith
Staff: Michael King, Manager Infrastructure Planning

25 DECLARATIONS OF INTEREST

There were no declarations of interest raised.

MATTERS ARISING

30 There were no matters arising from previous meetings.

1. Road Closures, ANZAC Day Parades, 25 April 2013

File No: F161 #E2013/6866

35 The Committee reviewed the information provided in the Agenda, which is as follows.

While no written applications have been received at time of report compilation, it is expected the annual ANZAC Day Parades as held in Byron Bay, Bangalow, Mullumbimby and Brunswick Heads will remain unchanged to previous years.

40 Thus the recommendation is that the parades be endorsed as per last year's arrangements. However if any changes are proposed there is opportunity to submit such changes to the Committee at the April 2012 meeting.

45 NB: if further details of these four events are required please refer to the Committee's report to Council February 2011 as tabled to Council on 24 February 2011 as available within the Council meeting (PDF) agenda online at: <http://www.byron.nsw.gov.au/meetings/2011-02-24-ordinary>

Committee Comments

50 • The Committee had no comments on this matter.

Management Comments

• Nil

COMMITTEE RECOMMENDATION

- 5
1. That Council endorse the ANZAC Day Parades for 25 April 2013 for the Return Services League sub branches of Byron Bay, Mullumbimby, Bangalow and Brunswick Heads/Billinudgel.
 2. That Council implement the necessary temporary road closures and detours and place advertisements in the local newspaper as required by the Roads Act 1993.

10

2. Road closure, Bangalow Billy Cart Derby, Sunday 19 May 2013
File No: F161 #E2013/6866

15

The Committee reviewed the information provided in the Agenda, which is as follows.

15

The event proposed is the same as in previous years, noting that:

- 20
- both the design and implementation of the traffic control plan is done by Council;
 - Council have provided s356 community grant funding toward the event
 - no reported problems regarding road and traffic safety are known

25

Therefore it is recommended the event be endorsed, noting that the only change to previous years is that the event from this year onwards will be organised by and held under the insurances and liability cover of the Bangalow Lions Inc.

Committee Comments

- 25
- The Committee had no comments on this matter.

Management Comments

- 30
- Nil

COMMITTEE RECOMMENDATION

- 35
1. That the Bangalow Billy Cart Derby to be held Sunday 19 May 2013, and includes the temporary road closures of Byron Street, Bangalow between Granuaille Road and Market Street between the hours of 6am and 4pm, be endorsed.
 2. That the organisers be responsible for implementing an approved Traffic Control Plan, including the use of signed detours, as designed and implemented by those with appropriate accreditation and be advised Council's fee for holding an on-road event will apply.
 3. That public liability insurance be in place for the sum of at least \$10 million and a copy be provided to Council.
 4. That the concurrence of the Police be sought by the organisers, independent of the Local Traffic Committee endorsement.
 5. That the event be advertised in accordance with the Roads Act charged at cost to the organisers.
 6. That the event be notified on Council's website.
 7. That if Council staff and materials are required for the event, costs be recorded and invoiced to the organisers as appropriate.
- 55

3. Road Closure, Bikes and Kites Festival, Sunday 24 March 2013
File No: F161 #E2013/6866

5 The Committee reviewed the information provided in the Agenda, which is as follows.

The event proposed is the same as the last one held in 2011, noting that:

- both the design and implementation of the traffic control plan is done by Council;
- Council have provided s356 community grant funding toward the event
- no reported problems regarding road and traffic safety are known

Therefore it is recommended the event be endorsed.

15 The Committee however are also asked to note that an additional Management Recommendation will also be made in regard to the use of Memorial Park, as accessed from Fawcett Street, for the purpose of event car parking.

20 While this is not a Committee matter the opportunity is taken to present the committee and Council the following.

In 2006 Council resolved **06-804**, Part 1 of which reads as follows:

That Council not support the proposal to use parks and reserves for overflow parking on any particular day, or for any community event, other than what is already available at the open space adjacent to the tennis courts and Community Centre at the southern end of South Beach Road.

However in 2012 an exception was made:

12-445 Resolved that Council approve the use of Memorial Park in Brunswick Heads for overflow parking for the Old and Gold Festival on 9 June 2012 and also on the day of the Vintage Car Rally in July.

Therefore given the request from the organisers of the Kites and Bikes Festival the management recommendation will be made as follows:



25 *That Council approve the use of Memorial Park in Brunswick Heads for overflow parking for the Kites and Bikes Festival on 24 March 2013 subject to the organisers meeting licence and any other required conditions that may apply.*

As such Committee advice or comment (if any) on such a recommendation is sought.

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Committee Comments

- The Committee had no comments on this matter.

Management Comments

- 5
- Council have no provision to licence the proposed activity of car parking within Memorial Park as it is crown reserve, noting that this is not a matter for the LTC, however, the Management recommendation in this regard is provided below.
 - However Council as reserve trust manager are able to approve an unlicensed activity via Council endorsement.
- 10
- This is now sought noting that the conditions recommended are typical and standard as used by Council's Property division (Leasing and Licence) when licensing an event that involves vehicles upon a reserve in Council's care.

COMMITTEE RECOMMENDATION

- 15
1. That the Bikes and Kites Festival to be held Sunday 24 March 2013, and includes the temporary road closures of The Terrace, Brunswick Heads between Fingal Street and the south side of the River Inn motel driveway, be endorsed.
- 20
2. That the organisers be responsible for implementing an approved Traffic Control Plan, including the use of signed detours, as designed and implemented by those with appropriate accreditation and be advised Council's fee for holding an on-road event will apply.
- 25
3. That public liability insurance be in place for the sum of at least \$10 million and a copy be provided to Council.
4. That the concurrence of the Police be sought by the organisers, independent of the Local Traffic Committee endorsement.
- 30
5. That the event be advertised in accordance with the Roads Act charged at cost to the organisers.
6. That the event be notified on Council's website.
- 35
7. That if Council staff and materials are required for the event, costs be recorded and invoiced to the organisers as appropriate.

MANAGEMENT RECOMMENDATION

- 40
- That Council not adopt the Committee Recommendation but instead adopts Management Recommendation:**
- 45
1. **That the Bikes and Kites Festival to be held Sunday 24 March 2013, and includes the temporary road closures of The Terrace, Brunswick Heads between Fingal Street and the south side of the River Inn motel driveway, be endorsed.**
- 50
2. **That the organisers be responsible for implementing an approved Traffic Control Plan, including the use of signed detours, as designed and implemented by those with appropriate accreditation and be advised Council's fee for holding an on-road event will apply.**
3. **That public liability insurance be in place for the sum of at least \$10 million and a copy be provided to Council.**
- 55
4. **That the concurrence of the Police be sought by the organisers, independent of the Local Traffic Committee endorsement.**
5. **That the event be advertised in accordance with the Roads Act charged at cost to the organisers.**

6. That the event be notified on Council's website.
7. That if Council staff and materials are required for the event, costs be recorded and invoiced to the organisers as appropriate.
8. That Council endorse the use of Memorial Park in Brunswick Heads for overflow parking for the Kites and Bikes Festival on 24 March 2013 subject to the following conditions:
 - a) The event organiser will provide to Council a parking management plan from an appropriately qualified person prior to event; and
 - b) The event organiser will ensure that an appropriately qualified person guides vehicles upon entry to and exit from the Reserve; and
 - c) Council reserves the right to immediately withdraw approval to allow vehicles on the Reserve if officers of Council or NSW Police Service believe that safe practices are not being adhered to; and
 - d) The event organiser shall ensure vehicles are not permitted to traverse or stand in the proposed parking area if it has been raining within a 12-hour period; and
 - e) No vehicles are to be allowed on to the Reserve if any surface water is present on the Reserve following rain; and
 - f) The event organiser will keep the Reserve clean and tidy, all papers, and other rubbish shall be collected and removed. The event organiser shall immediately repair and make good, damage occasioned by the use of vehicles on the Reserve for the purposes of parking.
 - g) The event organiser will lock the barrier at the end of the day to prevent unauthorised access.

4. Lane closures, Mullumbimby Civic Hall, Spirit Festival 1 to 3 March 2013

File No: F161 #E2013/6866

The Committee reviewed the information provided in the Agenda, which is as follows.

Council has received an application from the Spirit Festival organisers to close (for the duration of the festival) the laneways that are adjacent to the Civic Hall Memorial Park which will be used for market and information stalls.

It is noted these same laneways were closed during the November 2012 Mullumbimby Music Festival event and caused no known problems, noting however that both the Mullumbimby Fire Station (on Dalley Street) and the Rural Fire Service (fronting Gordon Street) do use these laneways for non-operational purposes, eg staff access.

Therefore, subject to concurrence of management of both fire stations, it is recommended the laneways be closed to vehicular traffic from 3pm Thursday 28 February 2013 through to 10am Monday 4 March 2013 which provides ample coverage for festival participants to establish and remove stalls from the precinct depicted.



Locality map: Red lines depict proposed road closure point, which are to be done with removable barrier boards in case of emergency, for example fire service access

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Committee Comments

- The Committee had no comments on this matter.

Management Comments

- 5
- Nil

COMMITTEE RECOMMENDATION

- 10
1. That the temporary Mullumbimby road closures associated with the 2013 Spirit Festival be endorsed and apply to Lane 7, between Dalley Street and east of the Fire Station driveway, and Lane 2, from Lane 7 to Tincogan Street, from 3pm Thursday 28 February 2013 through to 10am Monday 4 March 2013.
 - 15 2. That the organisers be responsible for implementing an approved Traffic Control Plan, including the use of signed detours, as designed and implemented by those with appropriate accreditation.
 - 20 3. That public liability insurance be in place for the sum of at least \$10 million and a copy be provided to Council.
 - 25 4. That the concurrence of NSW Police and management of Mullumbimby Fire Station and Mullumbimby Rural Fire Brigade be sought by the organisers, independent of the Local Traffic Committee endorsement.
 - 30 5. That the event be advertised in accordance with the Roads Act charged at cost to the organisers.
 6. That the event be notified on Council's website.
 7. That if Council staff and materials are required for the event, costs be recorded and invoiced to the organisers as appropriate.

- 35
5. No change of parking limit from 4P to 2P, Byron Street, Byron Bay
File No: F161 #E2013/6866

The Committee reviewed the information provided in the Agenda, which is as follows.

40 The 28 November 2012 meeting report of the Committee recommended as follows:

That the 4P parking limit which applies to the kerb side parking in Byron Street, Byron Bay between Fletcher Street and Middleton Street, be changed to 2P.

45 On 20 December 2012 Council resolved as follows:

12-1017 Resolved that Council refer this matter back to the Local Traffic Committee to retain the 4P parking limit.

50 Council debate centred on the need to retain a variety of time limits within the town centre and noted that Byron Street offers a prized 4 hour time limit compared to most streets which have 1 or 2 hour limits in place.

Committee Comments

- 55
- The Committee noted that this matter will be considered as part of the Byron Bay Parking review.

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Management Comments

- Nil

COMMITTEE RECOMMENDATION

5 **That the Committee note Council resolution 12-1017 retains the existing 4P parking to the kerb side parking in Byron Street, Byron Bay between Fletcher Street and Middleton Street.**

10 6. Deferral of recommended No Parking 6am-8am, Kingsley Lane, Byron Bay
File No: F161 #E2013/6866

The Committee reviewed the information provided in the Agenda, which is as follows.

15 The 28 November 2012 meeting report of the Committee recommended as follows:

That Council endorse No Parking Monday 6am to 8am only on the north side of Kingsley Lane, Byron Bay between Tennyson Street and Massinger Street.

20 On 20 December 2012 Council resolved as follows:

***12-1015 Resolved** that Council refer this issue back to the Local Traffic Committee asking them to defer this matter for six months and then reconsider installing No Parking Monday 6.00am to 8.00am only on the north side of Kingsley Lane, Byron Bay between Tennyson Street and Massinger Street.*

25 Council referred to the matters raised within the Committee report, namely that problems encountered may be due to the temporary increase in vehicular and parking activity associated with building development; hence the 6 month reprieve before a further report is tabled.

30 However it is recommended that instead a further report only be tabled to the Committee if found warranted following the six month deferral.

Committee Comments

- 35
- The Committee requests the situation be monitored and a report be provided at the August 2013 meeting that outlines any more complaint or feedback received

Management Comments

- 40
- Nil

COMMITTEE RECOMMENDATION

45 **That in accordance with Resolution 12-1015 the Local Traffic Committee receive a further report by August 2013 regarding potential parking changes within Kingsley Lane, Byron Bay.**

7. Proposed No Parking signage, Mullumbimbi Lane, Brunswick Heads
File No: F161 #E2013/6866

50 The Committee reviewed the information provided in the Agenda, which is as follows.

55 Council Rangers have received a resident complaint (E2013/1683) about parking within Mullumbimbi Lane, Brunswick Heads and suggest No Parking be installed along one side as it is narrow (approx 5m wide) and parking both sides does not permit through traffic to pass.

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As depicted, the south side of the lane is recommended as it has most driveways and is also the same side of the street from where the complaint was generated, noting the photo supplied by the resident showing the problem encountered and to be addressed by the new restrictions.

- 5 As the laneway has limited residential properties, and most properties provide access from the parallel Fingal Street and/or off-street parking, it is believed the parking restrictions will not adversely impact adjacent resident or business and therefore can proceed without community consultation. However it is noted that Council may decide otherwise and wish consultation and referral back to Committee to be undertaken.

10



Above: resident's photo, showing cars parking across access. **Right:** yellow depicts the No Parking length (approx 140m) recommended, red lines show existing No Stopping

Committee Comments

- The Committee had no comments on this matter.

15 Management Comments

- Nil

COMMITTEE RECOMMENDATION

- 20 **That No Parking be installed on the south side of Mullumbimbi Lane, Brunswick Heads between Park Street and The Terrace.**

25 8. Proposed No Stopping, Lawson Street kerb ramp, Clarkes Beach Reserve
File No: F161 #E2013/6866

The Committee reviewed the information provided in the Agenda, which is as follows.

- 30 Council Rangers have noted that vehicles frequently park across a Lawson Street kerb ramp that is opposite the north end of Cowper Street and which provides access to/from the shared paths on the Clarkes Beach foreshore and the Cowper Street alignment.

To stop this practice either No Parking or No Stopping signage is required. The location for the recommended signage is shown, ie opposite to, and north-east of, 56 Lawson Street, Byron Bay.



Locality: showing kerb ramp site and the Cowper Street shared path alignment

To assist with safety and sightlines for both users of the kerb ramp and oncoming traffic, it is also recommended the restrictions if installed commence from at least 10m west of the kerb ramp and through to 5m east.

Committee Comments

- The Committee recommend extending the No Stopping zone to 20m on the approach side, which will ensure RMS guidelines are met.
- The Committee note however that this will result in 25 metres of car parking length lost (ie 4 car lengths) and that the provision of a pedestrian refuge and kerb blister can reduce this loss to approximately 10 metres.

Management Comments

- The cost of implementing Part (a) of the Committee recommendation is minor, namely two signs to effect a No Stopping of 25 metres in length
- In contrast Part (b) will require a budget and consideration against other priorities, such as those projects identified within Council's Pedestrian Access and Mobility Plan (PAMP), should the warrant assessment find the need for either facility

COMMITTEE RECOMMENDATION

The Committee recommend that in relation to the Lawson Street, Byron Bay kerb ramp, located opposite the north end of Cowper Street, Council:

- a) **install No Stopping commencing from 20m west through to 5m east of the kerb ramp; and**
- b) **investigate the warrants for, and consider installation of, a pedestrian refuge and/or kerb blisters, with a report back to the Committee and Council provided when and as necessary.**

9. Request for Bus Zone, surf club frontage, Bay Street, Byron Bay

File No: F161 #E2013/6866

The Committee reviewed the information provided in the Agenda, which is as follows.

Local bus operator seeks establishment of a kerbside location at the surf club frontage, Bay Street, Byron Bay for the purposes of pick up and set down of patrons.

The options considered within this report include a Bus Zone or a Loading Zone.

The bus services using this location are private charter as typically engaged by those that hire the function venue within the surf club; however it is noted that the same site is part of Council's

proposed Park and Ride bus service as lodged in December 2012 with Regional Development Australia (RDA) with an outcome on the funding bid to be known early February 2013.

5 The area proposed is depicted and is currently signed No Stopping given its proximity to the intersection with Fletcher Street.



10 However as the proposed location is on the departure side of the intersection and that Bay Street is one-way (west to east) it is believed the provision of a pick up and set down area for the occasional bus service is not unsafe, noting also the low speed nature of the street and that patrons will board or alight from the kerbside at the venue frontage.

15 Moreover such an arrangement is believed possible in accordance with the State Transit *Bus Infrastructure Guide* (from NSW Transport) which suggests No Stopping can be used as part of a bus zone “draw in” and “draw out” lengths of between 11.5m to 14m and 6m to 6.5m respectively, while the bus zone itself can be limited to the length of the bus, which are typically 12.5m (standard) or 14.5m (long rigid).

20 Therefore the bus zone, including the approach (draw-in) and departure (draw-out), can be limited to either 30m in total for a standard bus and 35m for a long rigid, both of which can be achieved given the existing No Stopping length of over 50 metres.

25 The alternative option believed possible is the installation of a Loading Zone, especially as the bus zone would for the most part be vacant and that the town centre provides limited options in regard to delivery. However an active and busy loading zone at such a location (ie upon an intersection) is considered a greater safety risk and perhaps of little benefit (and of use) given its proximity to only a few local traders.

30 However regardless of which option is pursued (if any), the most likely outcome will be the loss of car parking and the need for a time limit given the potential of operators parking for longer than necessary, for example over 30 minutes.

Thus it is recommended that if implemented the restricted parking zone provide (at minimum) a length of 14.5m and width of 3.1m which will most likely result in the loss of two car park bays (a and b), if not a third (site c).

5



Committee Comments

- To avoid loss of car parking and reduce the potential safety risk of any bus parking and remaining stationary at this location for greater periods of time than needed, the Committee recommend that a No Parking zone instead be implemented with the provision of a bus J-Pole to indicate the location of bus set down and pick up.

10

Management Comments

- A picture of a J-Pole is provided, noting that many already exist on the public transport route of Suffolk Park-Byron Bay-Arts and Industry Estate
- Thus as this Bay Street location is not part of the public transport route, it is recommended the J-Pole contain a different look (eg colour) and details to the other J-Poles
- Making the J-Pole distinct may also prove beneficial if this site does in future get used for the proposed park and ride as outlined within Item 18 of this report noting that the information casing depicted as attached to the J-Pole allows for easy change to and updating of information
- As for cost, it is expected the signs/poles to change No Stopping into No Parking and supply and install of a J-Pole plus casing can be done for approx. \$600.



15

COMMITTEE RECOMMENDATION

The Committee recommend that in efforts to provide a drop off and set down bus stop location on the north side of Bay Street, Byron Bay, which is to be adjacent to the frontage of the surf club, Council endorse the installation of:

20

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- 5 a) No Parking, commencing from 10 metres west of the indented angle car parking provided on the north side of Bay Street, west of Fletcher Street, and continuing for a length of 15 metres; and
- 5 b) a single bus J-Pole plus information casing, which is provided toward the eastern end of the No Parking length.

MANAGEMENT RECOMMENDATION

10 **That Council not adopt the Committee Recommendation but instead adopts Management Recommendation:**

- 15 **1. That, in efforts to provide a drop off and set down bus stop location on the north side of Bay Street, Byron Bay, which is to be adjacent to the frontage of the surf club, Council endorse the installation of:**
- 20 a) **No Parking, commencing from 10 metres west of the indented angle car parking provided on the north side of Bay Street, west of Fletcher Street, and continuing for a length of 15 metres; and**
- 20 b) **a single bus J-Pole plus information casing, which is provided toward the eastern end of the No Parking length.**
- 25 **2. That, given the site is not part of the public transport network, the J-Pole, prior to installation and remaining with relevant guidelines, is to be made distinct, be it via design, colour, information and/or size.**

30 10. Request to operate B-Double vehicle, Ewingsdale Road, Byron Bay
File No: F161 #E2013/6866

The Committee reviewed the information provided in the Agenda, which is as follows.

35 Council is in receipt of a request (E2012/26623) from Handice Logistic Pty Ltd to operate a single B-Double vehicle once per day (typically between 4pm inbound and late evening outbound) along Ewingsdale Road between the Pacific Highway and the Inghams (formerly Sunnybrand) chicken processing plant at 268 Ewingsdale Road, Byron Bay.

40 The subject site and length upon Ewingsdale Road (approx. 2.6km) is depicted, noting that the proponent advises they typically operate three (3) semi trailers each day to perform the same duty of a single B-Double and it will offer greater potential:

- 45 1 *to be more efficient*
- 2 *to keep the plant open*
- 3 *bring more employment*
- 4 *help to keep the pressure off effluent plants until a solution can be reached*
- 5 *have one truck instead of two*
- 6 *which means less loaded wheels on the road*
- 50 7 *which saves damage to road surfaces*



5 The Committee however are advised that in 2011 the same request was lodged by a previous transport operator for the former owner of the chicken plant. This request led to a route inspection undertaken (and accepted) and a recommendation from the Committee that Council grant the B-Double route described and depicted.

10 As Council did not endorse the Committee recommendation the proponent lodged an appeal which ultimately resulted in mediation and a report back to the Committee and Council who on 25 August 2011 resolved as follows:

11-701 Resolved that the Committee note that the mediation has occurred and that the matter will be reported back to the LTC at a future date.

15 Accordingly this new application has triggered this report noting that little change or development has occurred on the proposed (and previously assessed) route other than a new roundabout at the sporting complex opposite the chicken plant.

Committee Comments

- 20 • The Committee note the correction that the previous assessment of a B-Double for this same route was undertaken in 2010 and not 2011 as per the report.
- In accepting little has changed since the 2010 route assessment, other than a new roundabout at the sports field, the Committee believe a further route assessment is not necessary.
- 25 • The benefits of improved efficiency, safety and less impact on road and community is believed offered via a single B-Double versus several semi-trailers

Management Comments

- Nil

30 **COMMITTEE RECOMMENDATION**

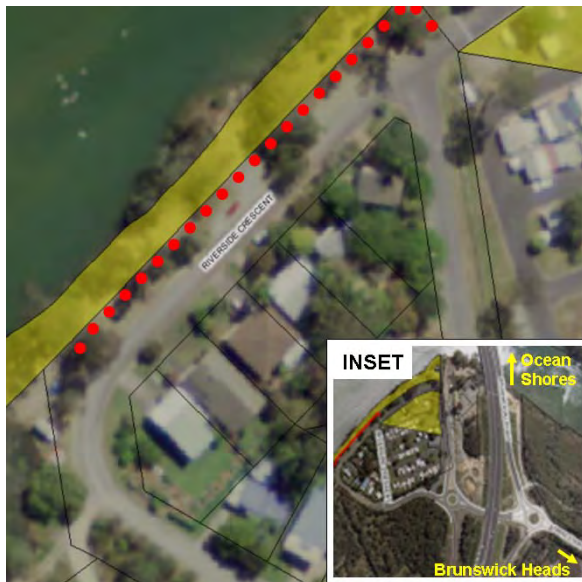
1. That Council note the previous assessment, as undertaken in 2010, was accepted by the Local Traffic Committee.
- 35 2. That Council note that the Local Traffic Committee endorse the proposal subject to public consultation.
3. That Council, in accordance with the regulations, advertise the proposed B-Double route of approximately 2.6km in length between the Pacific Highway and 268 Ewingsdale Road, Byron Bay.
- 40 4. That following the advertising period and upon:
 - 45 a) no objections received, the approval be granted; or
 - b) objections received, a report back to the Committee is provided.

11. Proposed 90 degree parking, Riverside Terrace, Brunswick Heads
File No: F161 #E2013/6866

- 5 The Committee reviewed the information provided in the Agenda, which is as follows.
- Council has received many enquiries from Brunswick Heads residents regarding erosion and land matters along the Brunswick River adjacent to Riverside Crescent. A problem is many vehicles are being parked along the foreshore and at times camping is taking place.
- 10 As depicted, the proposal to stop the vehicles is the placement of bollards within the road reserve, located for example no less than 2m apart and 6m from the road edge. To formalise this parking area of approx. 130m in length it is recommended parking be restricted to 90 degree and for vehicles under 6m only. The same area can also be signed No Camping.
- 15 The subject site is not paved and consists mostly of gravel and grass. As such line marking parking bays is not possible, nor believed required.

20 While support of the proposal is forthcoming from the manager of the neighbouring *Ferry Reserve Holiday Park* it was suggested comment be sought from *North Coast Holiday Park* who manage the land (as highlighted in yellow) on behalf of the *North Coast Accommodation Trust*.

At the time of report compilation however no reply had been received, noting that the proposal relates to Council land only and can proceed subject to Council endorsement.



Committee Comments

- The Committee were advised that no information has yet been provided to the crown land reserve trust manager
- Thus the Committee recommend the proposal proceed, subject to concurrence of the Crown Land Reserve Trust manager

Management Comments

- 25 • Staff have since received written confirmation (E2013/8588) of concurrence from the crown land reserve trust manager (North Coast Holiday Parks) for the proposal.

COMMITTEE RECOMMENDATION

30 **That Council, subject to concurrence of the adjacent Crown Land Reserve Trust manager, install and sign No Camping and 90 degree parking, which is restricted to vehicles under 6m long, within an area that is defined by bollards (or fencing) installed parallel to, and 6m from, the north facing road edge of Riverside Crescent, Brunswick Heads.**

35 12. Road closures, Byron Bay Triathlon, Saturday 11 May 2013
File No: F161 #E2013/6866

The Committee reviewed the information provided in the Agenda, which is as follows.

- 40 The Committee reviewed information as attached on this event at the last meeting (held 28 November 2012) and following much discussion recommended:

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That the Byron Bay Triathlon event organisers be invited to consider an alternate route for the proposed 11 May 2013 event and be invited to come to the next Local Traffic Committee Meeting to discuss their proposal.

- 5 Council, upon receipt of the Committee report, and again following considerable discussion, resolved as follows on 20 December 2012:

10 **12-1018 Resolved** that Council support the Byron Bay Triathlon 2013 event based on the 2012 route and the organisers be invited to a Local Traffic Committee meeting to discuss any alternate proposals for 2014 and beyond.

The event organisers (QMS Sports) will attend and, along with extending the invite to two senior Police involved in the previous event, have also provided updated details which will be made available at the Committee meeting noting the proposed road closure areas are described by them as Zones A through to D and that the route is the same as previous years while the points of closure are proposed to be established with water barriers located at near on forty (40) locations as follows:

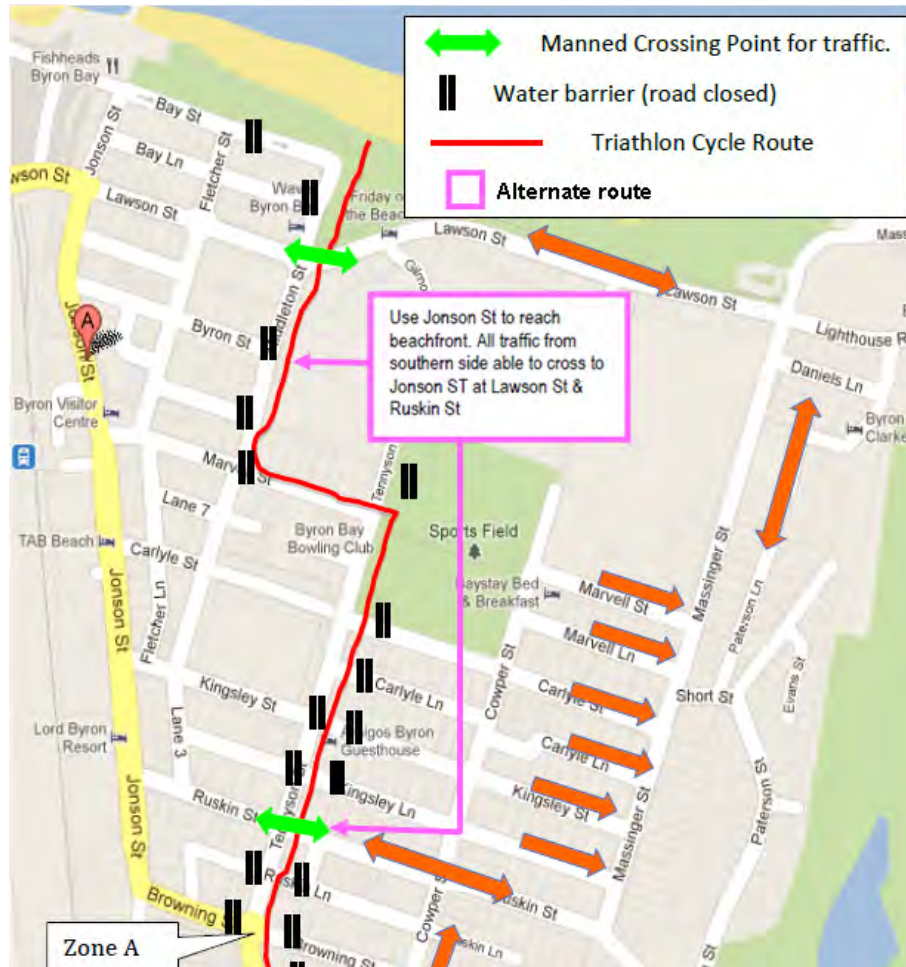
- A Town Centre, all intersections adjacent to Middleton Street (from Bay Street to Marvell Street) and Tennyson Street except for controlled crossing location at Lawson Street and Ruskin Street. See locality map for details.
- B Bangalow Rd, as depicted, all intersections between Browning Street and Broken Head Road
- C Suffolk Park area, closed at Beech Drive north and south roundabouts and at Clifford Street, ie all access points closed
- D Broken Head Road, from Clifford Street to shire boundary

An example of the extent of road closures is depicted in the Locality Map for Zones A and B.

Zone A is Byron Bay town centre which if approved will be in effect to varying degrees between 12.10pm and 2.35pm during which time north-south traffic will be diverted to Jonson Street while within Zone B traffic from/to Cooper Street and south will be diverted to use Paterson Street.



Zone B alt. route: from Mackay St, Scott St, Cooper St directed through to Paterson St. All other side roads to feed into Paterson St



5 Despite the inconvenience of the large scale of the road closures proposed, the Committee are advised that no formal complaint has been received regarding the event in recent years and in 2012 a few queries were received on the extent of the closures.

10 To counter this, the proponent has already commenced letter box drops with the following included within information provided to 4,000 homes during January 2013:

The Triathlon will affect roads from 12.00pm to 3.00pm

- Broken Head Road - north & southbound
- Midgen Flat Road
- 15 • Byron Bay Road/Piccadilly Hill Road junction
- Bangalow Road - north & southbound
- Tennyson Street - north & southbound
- Marvell Street - north & southbound
- 20 • Middleton Street - north & southbound
- Bay Street - closed from Fletcher Street
- Northbound traffic from Lennox Head detours up Ross Lane to Highway.

25 While not a Committee matter, the use of Butler Street Reserve for over flow car parking, as in previous years, is included within the recommendation.

Committee Comments

- The Police raised the need to ensure no major traffic diversions associated with the Tintenbar to Ewingsdale road works on the Pacific Highway are scheduled on the day of the event

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- The Committee suggested that the organisers might also consider the possibility of a park-and-ride arrangement for participants and day trippers who come into Byron Bay for the event.
- The Committee would welcome a debrief from organisers after the event.
- The Committee recommended that the organisers provide final details of the traffic control plan to Council and Police at least two weeks prior to the event.
- The option of closing Lawson Street, as per 2012 arrangements, has been included in the recommendation, noting the organisers may not require this closure and will confirm of its need prior to advertising undertaken.

10 Management Comments

- This event is growing, with the organiser suggesting participants numbers, approx 1,000 on 2012 numbers, could in future years (ie 2014 and beyond) be increased by 20% to 30%
- They also suggest this increase can be achieved via time and traffic management and scheduling improvements that will result in no greater impacts upon residents and road users than the current event
- However, and regardless of an increase in participant numbers or not, future consideration of this event by Council will very much depend upon the safety, management, success and acceptance of the 2013 event, all of which can be dissected further when the debrief is held

20 **COMMITTEE RECOMMENDATION**

1. **That endorsement be given for the 2013 Byron Bay Triathlon to occur on Saturday 11 May 2013.**
2. **That Council approve the temporary road closures within Byron Bay for undertaking the 2013 Byron Bay Triathlon as follows, with each to be in effect no earlier than 12 noon and removed no later than 5pm:**
 - a) **Bay Street, between Fletcher Street and Middleton Street**
 - b) **Middleton Street, between Bay Street and Marvell Street**
 - c) **Marvell Street, between Middleton Street and Tennyson Street**
 - d) **Tennyson Street, between Marvell Street and Browning Street**
 - e) **Bangalow Road, between Browning Street and Broken Head Road**
 - f) **Broken Head Road, from Bangalow Road to the Ballina LGA boundary**
 - g) **Lawson Street, between Middleton Street and Massinger Street**
3. **That the approvals provided in Part 1 and Part 2 are provided subject to the proponent's:**
 - a) **use of an accredited designed and implemented Traffic Control Plan**
 - b) **meeting of the advertising requirements of the Roads Act 1993**
 - c) **the letter box drop of properties affected by the road closures advising of the event and the proposed traffic management and road closures**
 - d) **event being notified on Council's website**
 - e) **consideration of any submissions received; and**
 - f) **timely lodgement of current and appropriate levels of insurance and liability cover.**
4. **That the use of Butler Street Reserve, Byron Bay for the purpose of event car parking is subject to Council licence and agreement and the timely provision of a Parking Management Plan.**
5. **That the approvals within Part 1 to 4 relate to Byron Shire and that the holding of the event remains subject to the:**
 - a) **Result of Council's advertised submission period**

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- b) Written approval from Police; and
- c) Written approval from Ballina Shire Council.

Attachment:

- 5
- Item 10 of LTC report to Council 20 December 2012 #E2013/7953 [2 pages]**Annexure 14(a)**

10 13. Blues Festival 2013 Traffic Control Plan and temporary parking limits
File No: F161 #E2013/6866

The Committee reviewed the information provided in the Agenda, which is as follows.

15 Representatives of Greg Alderson & Associates (GAA) will attend the meeting to discuss the Traffic Control Plans (TCPs) proposed for the 2013 event which will be held over Easter long weekend from Thursday 28 March to Monday 1 April inclusive and again held at the Tyagarah site which is adjacent to the Pacific Highway interchange.

20 This same interchange is subject of an RMS condition upon the event, namely to provide by the 2013 event a south bound off-ramp that is constructed off the existing off-ramp and to be used during the festival for managing and separating south bound traffic from north bound, which is also the purpose of the proposed roundabout, the plans of which are also done by GAA and were tabled at the Committee's last meeting, noting that Council supported the Committee's recommendation and on 20 December 2012 resolved as follows:

25 **12-989 Resolved** that in regard to the engineering design plan series of Job Number 04269 and numbered 1 to 17 as completed by Greg Alderson and Associates and dated 22 November 2012, the Local Traffic Committee recommend as follows:

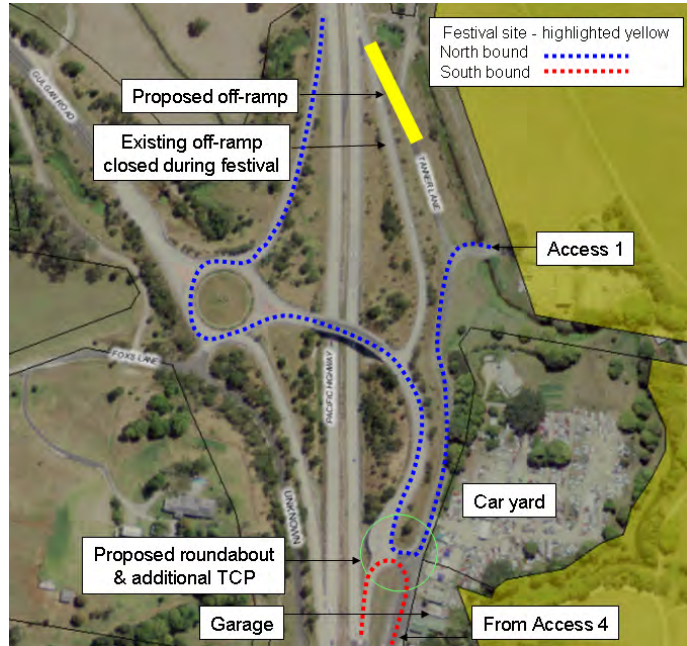
- 30 a) *the design plans be reviewed and resubmitted to the Committee prior to the Committee's 6 February 2013 meeting;*
- 35 b) *that the revised plans consider and provide access for the properties east of the roundabout, preferably via consolidating their access with an eastern (fourth) leg onto the new roundabout;*
- 40 c) *that the completion of the highway off-ramp is not viewed as dependent upon construction of the roundabout, noting that temporary traffic controls can be used in lieu of a constructed roundabout for the 2013 Blues Festival event if need be; and*
- d) *that the proposed traffic controls at the intersection of the new Highway festival off-ramp and Yarin Lane, be endorsed.*

45 While at time of report compilation the design plans had not been received, it is noted that the TCPs provided by GAA cover two scenarios, namely:

- Scenario A, ie neither the roundabout nor off-ramp is completed
- Scenario B, ie the off-ramp is operating but the roundabout is not.

In addition to both sets of plans is the additional traffic control at the site of the proposed roundabout to ensure north and south bound traffic departing the event do not cross paths (so as to reduce the long delays experienced in previous years).

The location of the event, off-ramp and roundabout are depicted, noting that the roundabout and TCP (including the temporary parking restrictions proposed) require Committee and Council approval, while the off-ramp remains an RMS matter.



Committee Comments

- Greg Alderson and Development Engineer, John Samuels, tabled plans of Scenario A (no off-ramp or roundabout - i.e. same scenario as 2012) and Scenario B (off-ramp but no roundabout).
- In addition a third plan, which would overlay either scenario, was tabled showing proposed traffic control at the roundabout site which would be implemented each night in efforts to improve departure from the event
- The Committee provided in-principle support of all traffic control plans tabled, ie Scenario A (E2013/5597), Scenario B (E2013/5596) and the overlay draft

Management Comments

- Nil

COMMITTEE RECOMMENDATION

1. That the Blues Festival to occur from 28 March to 1 April 2013 be endorsed.
2. That Council accept the proponent’s series of Traffic Control Plans as related to the 2013 Blues Festival, noting their effect and implementation occurs between 27 March to 2 April 2013 inclusive and permits the installation and enforcement of No Camping and No Stopping signs at:
 - a) Gulgan Road, from Mullumbimby Road intersection to the Pacific Highway interchange at Tyagarah
 - b) Foxs Lane, Tyagarah
 - c) Tanner Lane and Yarin Lane, Tyagarah and
 - d) Grays Lane, Tyagarah
3. That Part 1 and Part 2 remain subject to the proponent’s:
 - a) use of an accredited designed and implemented Traffic Control Plan
 - b) meeting of the advertising requirements of the Roads Act 1993
 - c) event being notified on Council's website
 - e) consideration of any submissions received; and
 - f) holding of current and appropriate levels of insurance and liability cover.

14. Potential relocation of Jonson Street taxi rank, Byron Bay

File No: F161 #E2013/6866

The Committee reviewed the information provided in the Agenda, which is as follows.

5

Councillor Dey, as Chairperson of the Local Traffic Committee has requested that this matter be referred to the LTC for consideration. Given the report regarding this matter spans seven (7) pages, the report is provided separately as attached (E2013/2131), with hard copies to be made available at the meeting.

10

In summary, the issue of relocation has been discussed or raised with or by various stakeholders, including Police, taxi operators, local traders plus members and representatives of the local Liquor Accord and the chamber of commerce (Byron United).

15

Therefore it is recommended these, plus any others within the community believed to be a key stakeholder, should be consulted upon before a decision is made on a preferred location, noting any changes are likely to result in loss of car parking and potential to only relocate (and not solve) the problems described, thus impacting upon those adjacent properties to any relocated taxi rank.

20

In addition are questions regarding cost and funding, security and responsibility of such matters, noting that the role of the Committee in this matter is to endorse (or not) any proposed location (or locations).

Committee Comments

25

- The Committee considered the various issues raised within the attached report noting that many, such as the social problems raised, are not Committee matters
- Similarly, it is not a matter for the Committee to decide upon where a relocated rank should be installed, thus the recommendation a stakeholder forum be held
- However this said, the benefits of converting the main coach and bus stop outside the Visitor Centre into an after hours taxi rank was discussed
- Such a location has several benefits including no net loss of car parking, provides a defined and sheltered area, provides (unlike the current location) distinction between those waiting for a taxi and those not, and in the event CCTV is used may offer better return on investment as cameras could potentially assist with safety of bus patrons during the day, taxi patrons at night and could also be affixed and monitor the existing infrastructure, namely the shelter and the visitor centre facility, noting also the location is considered central and is adjacent to public toilets

30

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Management Comments

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- Many issues raised in the attached are beyond the remit of the Local Traffic Committee
- Hence their recommendation is supported noting that this matter is also due for consideration by a another report due to Council on 28 February 2012 which will concern itself with the broader issues raised
- The Committee suggestion of considering relocating the after hour taxi rank to the main coach and bus stop on Jonson Street, Byron Bay is however supported

45

COMMITTEE RECOMMENDATION

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1. That the Local Traffic Committee recommend to Council that the main taxi rank in Jonson Street, adjacent to the bakery, is referred to a key stakeholder's forum to consider its locality in the broader context of safety and amenity of the Byron Bay Town Centre.

55

2. That the Local Traffic Committee recommend to Council that any proposal from the key stakeholder's forum to relocate or change the main taxi rank or to provide additional taxi

ranks across the town centre, be referred back to the Local Traffic Committee for further consideration.

Attachment:

- 5 • Report to LTC 6 Feb 2013 Main Taxi Rank Jonson Street, Byron Bay #E2013/2131 [7 pages]..... Annexure 14(b)

10 15. Intersection of Gulgan Road and Mullumbimby Road (Uncle Tom's)
File No: F161 #E2013/6866

The Committee reviewed the information provided in the Agenda, which is as follows.

Councillor Dey, as Chairperson of the Local Traffic Committee, has requested that this matter be referred to the LTC for consideration.

The dominant traffic movement is vehicles turning into or departing from Mullumbimby Road, with very few continuing straight on.

As can be seen turn and through lanes are provided to assist and demarcate such movements. The suggestion is however this delineation could be improved, such as those presented in the concept depicted below.



15 In seeking Committee advice on this matter the following is highlighted.

- a) there is no record of a crash at this intersection in the five years to June 2011;
- b) in 2010, AADT upon Mullumbimby Road was 9,273 vehicles per day
- 20 c) in 2009, AADT upon Gulgan Road south of the intersection was 4,203vpd
- d) in 2002, AADT upon Gulgan Road north of the intersection was 4,671vpd
- e) in 2010, AADT upon Tandys Lane was 397 vehicles per day

These volumes support the observed dominant traffic movement cited above.

25 As such it is expected (and from experience found) that little delay is encountered with the right turn movements at this intersection, thus queue lengths upon Gulgan Road are expected to be met by the concept proposed, noting that by shortening the existing right turn bay (installed when Gulgan Road was still part of the Pacific Highway) will provide opportunity for the provision of right

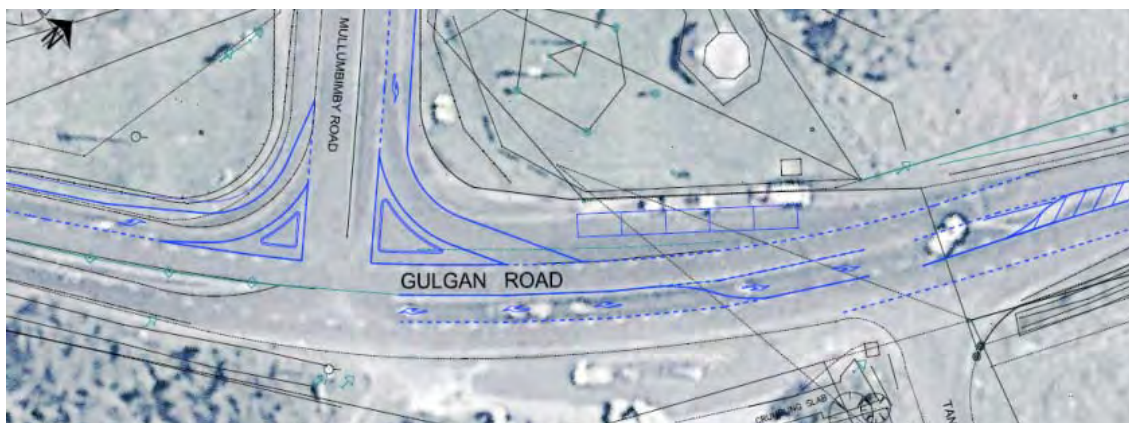
30 turn bay into Tandys Lane.

Moreover however, the concept proposed provides greater delineation for left turn traffic into and from Mullumbimby Road and offers opportunity to formalise the roadside parking and No Stopping areas if progressed further, both of which are a concern and receive greater use due to the

35 presence of a take away food, grocer, florist and fuel outlet opposite.

It therefore proposed that Committee provide in-principle support for the concept so as to progress design and costing of the project before being reported back to the Committee and Council.

40 A hard copy of the plan will be available at the meeting.



5

Committee Comments

- The Committee suggest the small length provided for the right turn movement from Tandys Lane is not needed and potentially more risk than providing none and therefore request it be removed, for example via extension of the centre line chevron marking through to the intersection with Tandys Lane
- The Committee also suggested the left turn slip lane from Mullumbimby Road needs to be either 'squared up', noting 70 degree angle is suggested, or a longer merge taper is provided, noting it may result in loss of parallel car parking shown
- The Committee also note that in general the line marking and bringing the give way line out to meet the intersection will provide greater benefit
- However regardless of the changes made, and subject to the design conforming to relevant design and technical guidelines, the Committee do not require to see the final plan unless substantial changes are made or endorsement of regulatory matters are required, eg No Stopping

10

15

20

Management Comments

- At time of report compilation the design plan had not been completed, thus a cost estimate for the project is not possible.
- However given the potential cost and need to consider a funding source and the project against other Council priorities, this will be referred to, and need further consideration by, Council in regard to future budget deliberations

25

COMMITTEE RECOMMENDATION

30

That Council note the in-principle support of the Local Traffic Committee for Council Design Plan 2148 as it relates to the Gulgan Road and Mullumbimby Road intersection.

35

16. Request Keep Clear marking, Ewingsdale Road at Kendall Street, Byron Bay
File No: F161 #E2013/6866

The Committee reviewed the information provided in the Agenda, which is as follows.

40

A resident has suggested long delays are experienced when departing Kendall Street, Byron Bay, especially with the right hand turn into Ewingsdale Road.

The resident suggests this problem is:

- exacerbated by inbound traffic queuing across the intersection; and
- increasingly unsafe with vision of outbound traffic not possible until the right hand turn has commenced.



The resident therefore suggests a simple solution is marking 'Keep Clear' across the intersection, as used further west and east of the subject site, ie respectively upon the Belongil Bridge and at the hospital.

These two locations however relate to and are provided for the needs of emergency services, which is the standard application of 'Keep Clear' upon the road pavement.

- 5 Therefore the use of 'Keep Clear' is believed not appropriate, nor is the use of 'Do Not Queue' signage noting Council has endorsed a previous Committee recommendation:

10 **10-75 Resolved** that Council not support signage advising or regulating motorists that they 'Do Not Queue Across Intersections' or Roundabouts in Byron Bay given the questionable levels of compliance, effectiveness and ability to enforce.

15 Thus while the recommendation is made not to implement either keep clear or do not queue at the subject site, Committee advice is sought on the matter noting that standard treatments (if warranted) would be either the provision of a merge lane for right turning traffic or a roundabout.

Such options however would require review of turning count data, crash data and understanding of levels of service (ie delays) to undertake assessment of the intersection in regard to capacity and justification of such changes, noting they would come at substantial cost and require funding plus an assessment on the cost-benefit.

20 Therefore given the resource implications of such an undertaking it is suggested the subject site be first reviewed initially in terms of available crash and traffic data and the potential for meeting black spot funding eligibility, which is next due in August 2013.

25 Committee Comments

- The Committee discussed signage options and accepted that Council and RMS officer will inspect the site after the meeting and include a recommendation.

30 Management Comments

- Council staff member and RMS officer inspected the site after the LTC meeting and recommend a single sign stating 'Do Not Queue Across Intersection' be installed on the Shirley Street median east of Kendall Street so as to face inbound traffic
- While this recommendation is inconsistent with the general principles within Council Resolution 10-75 it is believed the most appropriate and expedient measure available

35

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COMMITTEE RECOMMENDATION

5 The Committee recommend Council install a single, west facing 'Do Not Queue Across Intersection' sign above the existing Keep Left sign as located on the Shirley Street median, immediately east of Kendall Street, Byron Bay.

17. Proposed Committee Meeting Dates for 2013

File No: F161 #E2013/6866

10 The Committee reviewed the information provided in the Agenda, which is as follows.

Typically the committee meet the first Wednesday of every second month from February each year. This is not possible for 2013 and therefore the proposed meeting dates (all on a Wednesday)

15 are made following consideration of Council meeting dates as shown.

LTC meeting date	Report to Council
6 February 2013	28 February 2013
17 April 2013	9 May 2013
4 June 2013	27 June 2013
31 July 2013	22 August 2013
2 October 2013	24 October 2013
27 November 2013	19 December 2013

Committee Comments

- 20
- Committee members requested the following date changes: change 17 April to 10 April and change 4 June to 5 June.

Management Comments

- Nil

25 COMMITTEE RECOMMENDATION

That Council note the 2013 meeting dates of the Local Traffic Committee as being from 10.30am Wednesday on:

- 30
- a) 6 February 2013
 - b) 10 April 2013
 - c) 5 June 2013
 - d) 31 July 2013
 - e) 2 October 2013
 - 35 f) 27 November 2013

18. Late Item - Proposed Bus or Transit Lane, Shirley Street, Byron Bay

File No: F161 #E2013/6866

40 The Committee reviewed the information provided in the Agenda, which is as follows.

Council has made a Stage 1 (Expression of Interest) application for Round 4 Regional Development Australia (RDA) Funding for the operation of a holiday time park and ride bus service. If successful in proceeding to stage two of the funding round (to be known mid February)

45 Council will have to mid-April 2013 to complete further details of the proposal.

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Committee advice is sought in regard to one particular detail within the current proposal, namely the requirements to convert the northern kerbside parking lane on Shirley Street, Byron Bay between Kendall Street and the roundabout at Lawson/Butler Street into either a bus lane or transit lane.

5

A full report on this matter is attached as Annexure 14(c).

Committee Comments

- 10
- The Committee discussed the need for more data on the requirements and guidelines, including warrants, governing the implementation of transit lane and bus lane options.
 - As such it is recommended further work on the proposal be undertaken with a report provided back to the committee in due course.

Management Comments

- 15
- Council will know by mid-February if the park and ride proposal will proceed to stage 2 of the funding submission process, which if it does will require Council to finalise costs and approvals by April 2013 with a view to commence the holiday bus service by the Easter/Term 1 School holidays 2014

20 **COMMITTEE RECOMMENDATION**

25 **That Council and Roads and Maritime Services (RMS) collaborate in investigating the requirements for a transit lane or bus lane on Shirley Street. Investigation will consider available guidelines, including warrants, and review similar systems elsewhere. Findings will be reported to Council through the Local Traffic Committee.**

Attachment:

- Report Proposed Bus or Transit Lane, Shirley Street Byron Bay #E2013/6776 [4 pages] .**Annexure 14(c)**

Report No. 13.4. Report of the Access Advisory Committee Meeting held on 7 February 2013

Executive Manager: Community Infrastructure
Report Author: Simon Bennett, Traffic and Transport Planner
File No: #E2013/6939

5

Theme: Community Infrastructure, Asset Management – Supervision and Administration

Summary: This report provides the Unconfirmed Report of the Access Advisory Committee (AAC) meeting held on 7 February 2013.

Council's adoption of the recommendations from the meeting, or management's recommendations, will allow for the project to be progressed.

RECOMMENDATION:

10 1. That Council note the Unconfirmed Report (Annexure 17(a), #E2013/8856) of Access Advisory Committee (AAC) meeting held on 7 February 2013.

2. That in relation to Agenda Item 3 – Councillor Introductions, Council adopt:

15 **Committee recommendation AAC 3.1.1**

1. That Council note the resignation of Faye Druett from the Access Advisory Committee.

20 2. That Council officially thank Faye for her contribution on this Committee.

3. That Council advertise for a further member on the Access Advisory committee.

25 3. That in relation to Report No. 5.3 – Results of the 2012 mobility map audit, Council adopt:

Committee recommendation AAC 5.3.1

30 1. That Council note the results of the commenced, but incomplete, mobility audit.

2. That Council re-direct the unspent allocation of section 94 funds, as reserved for pedestrian projects from the funds collected and held prior the 1993 Contributions Plan, toward undertaking a review and update of the 2007 document entitled Pedestrian and Access Mobility Plan (PAMP).

35 3. That any review of the 2007 PAMP and its projects consider the mobility map audit that has commenced.

40 4. That priority be given to the refurbishment of those access points that have been identified as unsuitable during the audit, commencing most immediately with the sites to be nominated by members of the Access Committee and provided to staff in time for inclusion in the report to Council

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- 5
6. That the Ocean Shores shopping centre, Community Club, MLAK toilet, Waterlily Park and Country Club be included in the mobility map.
7. That that the new mobility map identify new accessible locations, e.g. Byron Bay Library.
- 10
8. That a draft of the new mobility map be emailed to Committee members for feedback prior to the next meeting of the Access Advisory Committee.

4. That in accordance with Part 4 of the Access Committee Recommendation AAC 5.3.1, Council note the following Management Recommendation:

15

Management Recommendation AAC 5.3.1

20

That the access points nominated by members of the Access Committee as needing refurbishment are as follows, noting that sites a) to f) are within Council endorsement 12-969 for PAMP projects to be delivered as funding permits during 2012/13 and 2013/14:

- 25
- a) Fingal Street, west side of Park Street intersection, Brunswick Heads;
b) South Beach Road, at The Terrace, Brunswick Heads
c) Mullumbimbi Street, west side of Park Street intersection, Brunswick Heads
d) south side Burringbar Street, Mullumbimby including at Stuart Street
e) Station Lane, at Byron Street intersection, Bangalow
f) kerb ramp and crossing, eastside Jonson Street, at Marvell Street
30
- g) Byron Street, Bangalow, kerb ramp and access to public toilet west of hotel
h) continuation of a paved surface on South Beach Rd, from the bridge to South Beach Lane, Brunswick Heads
i) ramp over spoon drain, at pedestrian crossing, Fingal Street, Brunswick Heads
j) kerb ramp and refuge, Booyun Street, east side of Tweed Street, Brunswick Heads
35
- k) kerb ramp and crossing, westside Jonson Street, from Railway Park to coach stop
l) kerb ramp and crossing, eastside Jonson Street, at Carlyle Street

- 40
5. That in relation to Report 5.4 – Proposed Loading Zone Lawson Street, Byron Bay, Council adopt:

Committee Recommendation AAC 5.4.1

45

That the endorsement of the Local Traffic Committee be sought for the following:

- a) that the existing accessible parking bay on the north side of Lawson Street, Byron Bay, immediately east of Jonson Street, be changed to a loading zone
50
- b) a new accessible parking bay be installed on the south side of Lawson Street, Byron Bay located immediately east of the first driveway found to the east of Jonson Street

6. That in relation to Report 5.5 – Sun Bistro, Bayshore Drive, Byron Bay, Council adopt:

Committee Recommendation AAC 5.5.1

- 5 1. That Council note the Access Advisory Committee noted the access arrangements for the Sun Bistro, Bayshore Drive, Byron Bay.
- 2. That two more accessible car parking spaces be provided.
- 10 3. That appropriate kerb side infrastructure be in place at the bus stop.
- 4. That all entry and exit points, internal and external, be wheelchair accessible.
- 15 5. That Australian Standards signage to feature Braille, pictures and words for accessible toilets.
- 7. That in relation to item raised in Other Business – Accessibility issues at Mullumbimby pool, Council adopt:

Committee Recommendation AAC 7.1.1

That staff investigate and report back to the Access Advisory Committee on the following:

- 25 a) options for an accessible car park space on the flat off road parking area adjacent to the Mullumbimby pool
- b) the existing accessible parking bay on Jubilee Avenue in front of Mullumbimby pool, in regard to relevant standards and guidelines, noting that issues with camber have been raised
- 30 c) advice on the status of the proposed purchase of a pool hoist, including model and manufacturer, for approval by the Committee

Attachments:

- Unconfirmed Report Access Advisory Committee meeting 7 February 2013 #E2013/8856 [4 pages].....**Annexure 17(a)**
- Agenda Access Advisory Committee meeting 7 February 2013 #E2013/8091 [29 pages] . **Annexure 17(b)**

Annexure 17(b) has been provided on the Councillor's Agenda CD only; an electronic copy can be viewed on Council's website.

Report

This report provides the recommendations of Access Advisory Committee (AAC) meeting held on 7 February 2013.

5

Committee Recommendation AAC 3.1.1

1. That Council note the resignation of Faye Druett from the Access Advisory Committee.
2. That Council officially thank Faye for her contribution on this Committee.
3. That Council advertise for a further member on the Access Advisory Committee.

10

Management Comment

15

Nil

Committee Recommendation AAC 5.1.1

- 20 That the Access Advisory Committee appoint Cr Woods as Chairperson for the Access Advisory Committee.

Management Comment

- 25 This recommendation is a matter for the Committee and does not require reporting to Council.

Committee Recommendation AAC 5.2.1

- 30 That the Access Advisory Committee adopt the following dates as the meeting schedule for 2013, with all meetings commencing at 2.00pm.

Thursday, 7 February 2013
Thursday, 16 May 2013
Thursday, 15 August 2013
Thursday, 17 October 2013

35

Management Comment

- 40 This recommendation is a matter for the Committee and does not require reporting to Council.

40

Committee Recommendation AAC 5.3.1

That the Access Advisory Committee recommend to Council that:

- 45 1. The results of the commenced, but incomplete, mobility audit be noted.
2. The unspent allocation of section 94 funds, as reserved for pedestrian projects from the funds collected and held prior the 1993 Contributions Plan, be re-directed toward undertaking a review and update of the 2007 document entitled Pedestrian and Access Mobility Plan (PAMP).
- 50 3. Any review of the 2007 PAMP and its projects consider the mobility map audit that has commenced.
- 55 4. Priority be given to the refurbishment of those access points that have been identified as unsuitable during the audit, commencing most immediately with the sites to be nominated by

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members of the Access Committee and provided to staff in time for inclusion in the report to Council.

- 5 5. The mobility map be amended to remove kerb ramp symbols that are deemed unsuitable during the audit.
6. The Ocean Shores shopping centre, Community Club, MLAK toilet, Waterlily Park and Country Club be included in the mobility map.
- 10 7. The new mobility map identify new accessible locations, e.g. Byron Bay Library.
8. The new draft mobility map be emailed to Committee members for feedback prior to the next meeting of the Access Advisory Committee.

15 Management Comment

Part 4 of the recommendation provided committee members' further time to nominate specific sites from Report 5.3 which they see as priority matters. This has now been done, hence Management Recommendation AAC 5.3.1 is made that Council note these dozen sites (a) to (l) noting that sites (a) to (e) within the Management Recommendation were adopted by Council on 6 December 2012 as follows.

12-969 Resolved:

- 25 1. *That Council's 2012/13 PAMP budget allocation of \$62,900 and the Roads and Maritime Services Grant of \$35,000 be used for the following projects:*
- 30 a. *Fingal Street, west side of Park Street intersection, Brunswick Heads*
b. *South Beach Road, at The Terrace, Brunswick Heads*
c. *Mullumbimbi Street, west side of Park Street intersection, Brunswick Heads*
d. *Burringbar and Stuart Street, Mullumbimby*
e. *Marvell Street at and between Fletcher Street and Jonson Street, Byron Bay*
f. *Bay Street and Jonson Street, Byron Bay, subject to inclusion of 12-385*
g. *Station Lane, at Byron Street intersection, Bangalow*
- 35 2. *That in the event the 2012/13 PAMP budget does not permit the delivery of all projects listed at Part 1, then the incomplete projects be submitted for funding in 2013/14.*
- 40 3. *That Council, via the Access Advisory Committee, receive a report that reviews the 2007 draft Pedestrian and Access Mobility Plan (PAMP), including details of projects completed and proposed projects to develop a proposed future delivery program.*

45 Additionally it is noted that Part 3 of Res 12-969 calls for a review of the PAMP. This is believed commenced with report 5.3 within Annexure 17(b), upon receipt of which the Committee have made Committee Recommendation AAC 5.3.1, Part 2 of which reads as follows:

50 *the unspent allocation of section 94 funds, as reserved for pedestrian projects from the funds collected and held prior the 1993 Contributions Plan, be re-directed toward undertaking a review and update of the 2007 document entitled Pedestrian and Access Mobility Plan (PAMP)*

This recommendation is supported by management as it will assist with further undertaking of Part 3 of resolution 12-969.

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Committee Recommendation AAC 5.4.1

That the Access Advisory Committee recommend to Council that the endorsement of the Local Traffic Committee be sought for the following:

- 5
- a) that the existing accessible parking bay on the north side of Lawson Street, Byron Bay, immediately east of Jonson Street, be changed to a loading zone
 - b) a new accessible parking bay be installed on the south side of Lawson Street, Byron Bay
- 10 located immediately east of the first driveway found to the east of Jonson Street

Management Comment

15 Unless Council advise otherwise, this recommendation (upon Council endorsement) will be tabled at the next scheduled meeting of the Local Traffic Committee on the 10 April 2013.

Committee Recommendation AAC 5.5.1

20 That the Access Advisory Committee note the access arrangements for the Sun Bistro, Bayshore Drive, Byron Bay, and recommend to Council:

- a) that two more accessible car parking spaces be provided
- b) ensure appropriate kerb side infrastructure is in place at the bus stop
- c) ensure all entry and exit points, internal and external, are wheelchair accessible
- d) Australian Standards signage to feature Braille, pictures and words for accessible toilets

Management Comment

30 Nil

Committee Recommendation AAC 7.1.1

35 That staff investigate and report back to the Access Advisory Committee on the following:

- a) options for an accessible car park space on the flat off road parking area adjacent to the Mullumbimby pool
- b) the existing accessible parking bay on Jubilee Avenue in front of Mullumbimby pool, in regard to relevant standards and guidelines, noting that issues with camber have been raised
- c) advice on the status of the proposed purchase of a pool hoist, including model and manufacturer, for approval by the Committee

Management Comment

50 Nil

Financial Implications

55 It is noted that Committee Recommendation 5.3.1 endorses projects that already have Council funding and budget, namely the updating of the mobility map and undertaking of several PAMP projects.

Statutory and Policy Compliance Implications

60 Nil

SOCIETY AND CULTURE - COMMITTEE REPORT

Report No. 13.5. Report of the Tourism Advisory Committee meeting held on 7 February 2013

Executive Manager: Society and Culture

5 **Report Author:** Sarah Workman and Joanne McMurtry, Tourism Officers

File No: #E2013/7875

Theme: Economy

Summary: This report provides the minutes of the Tourism Advisory Committee meeting held on 7 February 2013 and recommendations for Council to consider.

At the meeting, the first of the new Tourism Advisory Committee, procedural matters were dealt with, for example, election of a committee Chair and adoption of the constitution. The forward agenda for the committee, the appointment of a Project Reference Group to examine the implementation of the Byron Shire Identity, "Don't spoil us, we'll spoil you" and consideration of the EarthCheck Sustainable Communities program were also considered.

10 **RECOMMENDATION:**

1. That in relation to Report 4.3: Tourism Advisory Committee Constitution, Council adopt the Committee's recommendation as follows:

15 **Committee Recommendation 4.3.1**

1. That Council adopt the Tourism Advisory Committee Constitution (E2012/22125) with the following change:

20 a) Insertion of a new dot point under the Membership clause which reads "Council may appoint an alternate for any Committee member position as recommended by the Tourism Advisory Committee."

25 2. That Council note that Committee members will provide suggested alternate Committee members by Friday 15 February for approval by Council.

2. That in relation to Report 4.4: Tourism Advisory Committee Forward Agenda, Council adopt the Committee's recommendation as follows:

30 **Committee Recommendation 4.4.1**

1. That Council note the progress made against the strategies and actions to date of the Tourism Management Plan (#E2013/4796 - 1234392).

35 2. That Council note the Tourism Management Plan priorities for implementation during 2013, as follows:

a) Byron Shire Identity – implementation phase, incorporating Tourism Education and Communications Program

40 b) Tourism Levy and Governance Model

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- c) Implementation of the Visitor Services Strategy (local and regional)
- d) Visitor Trails
- e) Volunteer Tourism Project
- f) Sustainable Environment and Business Accreditation Program
- g) Infrastructure Development
- h) Festivals and Events

- 5
- 10
3. That in relation to Report 4.5: Byron Shire Identity Implementation – Appointment of a Project Reference Group, Council adopt the Committee’s recommendation as follows:

Committee Recommendation 4.5.1

15

That Council note that the Tourism Advisory Committee (TAC) appointed Kim Rosen, Crs Richardson, Cameron and Wanchap, Jim Beatson, Martin Walsh, Ed Ahern, David Piesse and Kristina Drapes to the Byron Shire Identity Implementation Project Reference Group to progress strategies 5 and 10 of the Tourism Management Plan, to:

20

‘Provide ongoing local education and communication to ensure visitors, local businesses, local government and the community understand tourism and community values’ and

25

‘Coordinate the development of an agreed brand and marketing activities and assist the Shires’ destination to further develop their brands and marketing strategies in cooperation with local businesses and tourism organisations’.

- 30
4. That in relation to Report 4.6: Earthcheck Sustainable Communities Program, Council adopt the Committee’s recommendation as follows:

Committee Recommendation 4.6.1

- 35
- 40
- 1. That Council note that the Tourism Advisory Committee received a presentation and noted the potential benefits of the program.
 - 2. That the Tourism Advisory Committee recommends to Council that the Tourism Officer liaise with other Council staff to identify existing data collection for sustainability measures, and potential costs and benefits across Council of this program.
 - 3. That a report be brought back to the Tourism Advisory Committee for consideration.

Attachments:

- 45
- Minutes of the Tourism Advisory Committee meeting held on 7 February 2013 #E2013/5691 [3 pages] **Annexure 22**

Report

This report provides the minutes of the Tourism Advisory Committee meeting held on 7 February 2013 and recommendations for Council to consider. The Report of the meeting is attached at
5 Annexure 22. The agenda was provided to Councillors both electronically, and in hard copy on
31 January 2013, and is also available on Council's website.

At the meeting on 7 February 2013, the first of the new Tourism Advisory Committee, procedural
10 matters were dealt with, for example, election of a committee Chair and adoption of the
constitution. The forward agenda for the committee, the appointment of a Project Reference Group
to examine the implementation of the Byron Shire Identity, "Don't spoil us, we'll spoil you" and
consideration of the EarthCheck Sustainable Communities program were also considered.

Some of the committee's recommendations were procedural and do not require adoption by
15 Council, with the exception of the Committee recommendations below.

In relation to Report 4.3: Tourism Advisory Committee Constitution, the Tourism Advisory
Committee made the following recommendation:

20 **Committee Recommendation 4.3.1**

1. That the Tourism Advisory Committee adopt the Tourism Advisory Committee Constitution
(E2012/22125) with the following change:
25 a) Insertion of a new dot point under the Membership clause which reads "Council may
appoint an alternate for any Committee member position as recommended by the
Tourism Advisory Committee."
2. That Committee members provide suggested alternate Committee members by Friday
30 15 February for approval by Council.

Management Comments

This recommendation is supported. Committee members requested an alternate delegate attended
35 meetings when they were unable. Discussion during the meeting included that members would
make their best effort to attend all meetings themselves, and that if they did not attend three
consecutive meetings in a row, they would cease to be a member (as per the constitution).

In relation to Report 4.4: Tourism Advisory Committee Forward Agenda, the Tourism Advisory
40 Committee made the following recommendation:

Committee Recommendation 4.4.1

1. That the Tourism Advisory Committee note the progress made against the strategies and
45 actions to date of the Tourism Management Plan (#E2013/4796 - 1234392).
2. That the Tourism Advisory Committee recommend to Council the Tourism Management Plan
priorities for implementation during 2013, as follows:
50 a) Byron Shire Identity – implementation phase, incorporating Tourism Education and
Communications Program
b) Tourism Levy and Governance Model
c) Implementation of the Visitor Services Strategy (local and regional)
d) Visitor Trails
55 e) Volunteer Tourism Project
f) Sustainable Environment and Business Accreditation Program

- g) Infrastructure Development
- h) Festivals and Events

Management Comments

5 This recommendation is supported, however with the following qualifications. There has been discussion for some years about Council establishing an 'Events Coordinator' position to undertake tasks from several of Councils plans with regards to coordinating and liaising with Event managers within the Shire. Management supports this recommendation if further staff resources are allocated.

10
15 With regard to the 'Infrastructure Development', the reason work has not begun on this objective in the Tourism Management Plan is that current staff resources have not been available. Council may need to consider additional staff resources for tasks listed under this objective to be undertaken.

All other forward agenda projects can be undertaken within current staff resources.

20 In relation to Report 4.5: Byron Shire Identity Implementation – Appointment of a Project Reference Group, the Tourism Advisory Committee made the following recommendation:

Committee Recommendation 4.5.1

25 That the Tourism Advisory Committee (TAC) appoint Kim Rosen, Crs Richardson, Cameron and Wanchap, Jim Beatson, Martin Walsh, Ed Ahern, David Piesse and Kristina Drapes to the Byron Shire Identity Implementation Project Reference Group to progress strategies 5 and 10 of the Tourism Management Plan, to:

30 *'Provide ongoing local education and communication to ensure visitors, local businesses, local government and the community understand tourism and community values' and*

'Coordinate the development of an agreed brand and marketing activities and assist the Shires' destination to further develop their brands and marketing strategies in cooperation with local businesses and tourism organisations'.

35 Management Comments

Whilst this is a large group to work with in a Project Reference Group, management support this recommendation.

40 In relation to Report 4.6: Earthcheck Sustainable Communities Program, the Tourism Advisory Committee made the following recommendation:

Committee Recommendation 4.6.1

- 45 1. That the Tourism Advisory Committee note the presentation and potential benefits of the program.
- 50 2. That the Tourism Advisory Committee recommends to Council that the Tourism Officer liaise with other Council staff to identify existing data collection for sustainability measures, and potential costs and benefits across Council of this program.
- 3. That a report be brought back to the Tourism Advisory Committee for consideration.

Management Comments

5 Management support this recommendation. If Council adopt this recommendation, management will begin investigations to provide further information to Council about resourcing, benefits and costs of such a program. It will require a whole of Council approach.

Financial Implications

10 All the projects mentioned in this report are either budgeted for in the remainder of the 2012/13 financial year, or will be recommended in the draft budget for 2013/14 which will be considered by Council at a later date.

Statutory and Policy Compliance Implications

15 Byron Shire Tourism Management Plan 2008 - 2018

CORPORATE MANAGEMENT - CONFIDENTIAL REPORT

Report No. 14.1. CONFIDENTIAL Holiday let property in residential area - Recommendation for enforcement action

Executive Manager: Corporate Management
Report Author: Ralph James, Manager Governance
File No: #E2013/3875

Theme: Corporate Management, Compliance Services

Summary: To advise Councillors about the use of a further alleged "holiday let" property.

To advise Councillors of the status of proposed litigation in respect of the identified property. (Res **06-810**)

10 RECOMMENDATION:

- 1. That pursuant to Section 10A(2) (g) (advice concerning litigation or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege) of the Local Government Act, 1993, Council resolve into
15 Confidential Session to discuss the following report, namely Compliance enforcement action in respect of a specific "holiday let" property.
- 2. That the reasons for closing the meeting to the public to consider this item be that the
20 material before the meeting contains advice concerning litigation or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
- 3. That on balance it is considered that receipt and discussion of the matter in open
25 Council would be contrary to the public interest, as the material before the meeting contains advice concerning litigation or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

Attachments:

- Details of Internet booking site described as a 'Holiday House Byron Bay #E2013/6938 [9 pages] **Annexure 12(a)**
- Rates and Bookings #E2013/6941 [6 pages]..... **Annexure 12(b)**
- **CONFIDENTIAL** Legal advice provided to Council #DM1174563, #DM1174827 [15 pages] **Annexure 12(c)**
- 35 • **CONFIDENTIAL** Legal advice forwarded to Council #DM934453 [4 pages] **Annexure 12(d)**
- Byron Local Environmental Plan (LEP) 1988 Objectives #E2013/6956 [3 pages] **Annexure 12(e)**