



Byron Shire Council



Agenda

Strategic Planning Committee Meeting Thursday, 28 March 2013

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

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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STRATEGIC PLANNING COMMITTEE MEETING

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BUSINESS OF MEETING

1. APOLOGIES

2. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

3. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

3.1. Strategic Planning Committee Meeting held on 22 November 2012

4. EXECUTIVE MANAGER'S REPORTS

General Manager

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GENERAL MANAGER'S REPORT

Report No. 4.1. Byron Shire Council Financial Sustainability

Executive Manager: General Manager

5 **Report Author:** Mark Arnold, Executive Manager Corporate Management

File No: #E2013/16165

Theme: Corporate Management, Financial Services

Summary: This report is prepared to inform the community of the discussion to be conducted by the Committee on the financial sustainability of Council, and to allow the Committee to suspend standing orders and move into Committee for the purpose of receiving a presentation from staff and undertaking a facilitated discussion.

10 **RECOMMENDATION:**

15 **That the Strategic Planning Committee suspend standing orders and move into Committee to receive a presentation from staff and to undertake a facilitated discussion on the financial sustainability of Council and that attendance during the informal discussions be limited to Councillors, the General Manager and Council staff.**

Report

5 This report has been prepared to inform the community that a facilitated discussion is to be conducted on the financial sustainability of Council as part of this meeting of the Strategic Planning Committee. The informal discussion will be limited to Councillors, the General Manager and Council staff and will require the Committee to suspend standing orders for the purpose of the discussion.

10 The material relating to the facilitated discussion will be distributed to the Committee members during the presentations.

The Finance Committee at its meeting held on Thursday 7 March 2013, considered a report on Draft 2013/14 Budget, Statement of Revenue Policy and Fees and Charges.

15 The Finance Committee at the same meeting received two presentations from the Finance Manager titled '2012/2013 Council's Budgeting/Financial Position' and '2013/2014 Statement of Revenue Policy'. Both presentations were subsequently distributed to all Councillors.

20 The Finance Committee, following its consideration and discussion of the report and the presentations, made the following recommendation to Council:

1. *"That Council on 28 March 2013 consider opportunities to improve Council's financial position over the long term."*

25 Although Council will not consider the Recommendations of the Finance Committee until its Ordinary Meeting to be held on Thursday 11 April 2013, this report has been prepared to facilitate the above recommendation, and to allow the Strategic Planning Committee to suspend standing orders to receive further presentations, and then to allow the Committee to workshop this subject.

30 The presentation and workshop will cover a number of opportunities for Council to progressively improve its financial position. Those areas and opportunities identified by staff and the Finance Committee include:

- a) *"better utilisation of Council's assets,*
- 35 *b) an expenditure review,*
- c) increased revenues,*
- d) new commercial opportunities,*
- e) enhanced collaboration with regional councils, other agencies and other organisations".*

40 A report on the outcomes of the Workshop will be presented to the next available Council meeting for consideration

Financial Implications

45 The purpose of the presentations and workshop with Councillors and staff is to seek to improve the financial position of Council. Quantifying and clarifying what is an acceptable and sustainable financial position should be considered as part of identifying the resources required to maintain, renew and construct Council Assets over the short , medium and long term in accordance with the service levels and needs required by the Community.

50

Statutory and Policy Compliance Implications

Not applicable.

COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER'S REPORT

Report No. 4.2. Bike Plan Review and Suffolk Park Notice of Motion

5 **Executive Manager:** Community Infrastructure
Report Authors: Simon Bennett, Traffic and Transport Planner
Chris Soulsby, Section 94 Planner
File No: #E2013/17050

Theme: Community Infrastructure, Local Roads and Drainage
Community Infrastructure, Open Spaces and Recreation
Community Infrastructure, Roads and Maritime Services

Summary: Council has resolved to hold a workshop prior to April 2013 and during a Strategic Planning Committee meeting which looks to review Council's 2008 adopted bike plan and to develop a priority list for works, including options to link beach side Suffolk Park to Broken Head Road.

This report is provided to assist with that workshop, noting that Council has adopted a section 94 plan that allocated funds (based on priority) to several bike pan projects and that any changes to this allocation or the bike plan will require broader consultation, namely re-exhibiting any changes to the bike or s94 plans that may eventuate.

10

RECOMMENDATION:

That the Strategic Planning Committee suspend standing orders and convene a workshop for discussion of this report.

15

Attachments:

- 2009 Proposed Bike Plan Priority List #E2013/17139 [3 pages]**Annexure 2(a)**
- 2012 s94 Plan - bikeways and footpath works schedule #E2013/17341 [3 pages]..... **Annexure 2(b)**

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Report

On 14 February 2013 Council considered a Notice of Motion (NOM) entitled *Joining Bike and Pedestrian Paths - Suffolk Park* (E2013/5810) which sought:

- 5 ...a report from staff, on the suitability and cost of joining areas of bike/pedestrian paths within Suffolk Park.

On the basis "of the lack of access between beachside Suffolk and Broken Head Road" the NOM nominated three main areas of investigation as follows:

- 10 1. *Pepperbush Street to Dehnga Place*
2. *Beachside Suffolk to Broken Head Road*
3. *Broken Head Road between the Beach Break development and Beaches of Byron Caravan Park*

In consideration of this NOM Council resolved as follows:

15 **13-18 Resolved:**

- 20 1. *That a workshop be held with Councillors to review the Council's 2008 Bike Plan and to develop a priority list for works.*
2. *That this workshop be undertaken by April 2013, and during a Strategic Planning Committee meeting including options to link beach side Suffolk Park to Broken Head Road.*
25 3. *That regarding potential bike path implementation of Suffolk Park cycleways, the Suffolk Park Progress Association be invited to supply surveys, preferred routes and designs for consideration.*
30 4. *That staff clarify the nature and location of the public access through Beach Break development that links with Kalemajere Avenue and that this access be cleared for public use.*

This report is provided to assist with the workshop by detailing:

- 35 - previous criteria used or proposed to prioritise and rank bike plan projects
- potential changes to the bike plan considered by Council since its 2008 adoption
- bike plan projects and the ranking applied to each, see Annexure 2(a)
- the funding available

40 As for the input of the Suffolk Park Progress Association (SPPA), they have been advised of this workshop and an invite extended for a representative to attend and/or provide details at or before the workshop.

Background

45 After development via an advisory committee and broad consultation, Council adopted the *Bike Strategy and Action Plan (Bike Plan)* in August 2008 which along with maps is available on Council's website at <http://www.byron.nsw.gov.au/publications/b>.

50 NB: a single hardcopy of the bike plan including maps will be made available in the Councillors room

When funding is available, cycleway projects that are within this plan take precedence, noting however the bike plan was adopted without any prioritisation against the near 100 projects it contains.

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However attempts to apply priority have been reported to Council, including in 2009 and more recently via the December 2012 adoption of the Section 94 Contributions Plan.

5 In 2009, the staff report cited the criterion within the bike plan as the basis for prioritisation:

- 'data elements'; ie traffic volumes and speeds; number of bike users; crash history
- 'end user'; ie tourist; school, sports and/or community
- 'missing link'; with either yes or no simply recorded if project completes a link or not

10 The same report, while recognising that finalising a priority list is not possible until all relevant data is collected, applied the above criteria, resulting in a priority and rank of bike plan projects as now provided at Annexure 2(a).

15 This same list was then used for the purpose of prioritising section 94 funding as detailed below at Annexure 2(b).

The 2009 report to Council also noted the following:

20 *During the development of the Bike Plan the prioritisation of projects became a contentious issue, with the Bike Advisory Committee (BAC), (now disbanded), preferring no priority be placed on identified projects. The reason for this was that agreement on criteria or weighting could not be reached, hence the situation of a bike plan without priorities.*

25 *Several attempts were made to reach a consensus on criteria, including a consultant produced matrix from GHD (considered too complex) and a simpler matrix by Council staff (preferred but not accepted).*

30 *While agreement was not reached, it is generally agreed project prioritisation is beneficial, especially in developing annual works programs and pursuit of funding. Therefore Council staff has commenced creation of a spreadsheet based on criteria outlined above which is the basis for the proposed priority list...*

Related resolutions

35 Since adopting the bike plan Council has considered several potential changes or additions. Two believed as more significant and relevant are in regard to the use (or not) of the rail corridor and potential locations for foot and cycle bridges.

40 In 2009 Council resolved (via 09-500) that a review "of all references to use of rail corridor for bikeways be undertaken with a view to deletion from the Bike Plan and a report be submitted to Council".

This was considered in a 2010 report with Council resolving (via Part 4 of 10-142) as follows:

45 4. That Council retain references to the use of the rail corridor in the adopted "Byron Shire Bike Strategy and Action Plan (Bike Plan)" on the following conditions.

- i) use of the rail corridor for cycleways is limited to shared use of the corridor
- ii) cycleways not to be built on railway tracks
- iii) railway tracks not to be removed for the purpose of cycleway construction or use
- iv) cycleway development to be consistent with the return of rail to the corridor
- v) cycleway development within rail corridor to be undertaken only on the understanding that the return of rail is not compromised by such development.

55

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Also in 2010 Council received a report regarding potential locations for shared cycle and foot bridges. The report outlined several sites as shown in Table 1 and on 25 February 2010 resolved as follows.

5 **10-102 Resolved:**

1. That Council note the report.

10 2. That Council prioritise a list of proposed pedestrian/cyclist bridges in accordance with the details provided in this report.

3. That priority be given in accordance with... items 1, 2, 3 and 4 respectively:

- 15
1. Burringbar Street, Mullumbimby
 2. Bangalow Sports Fields to Rankin Drive
 3. Kings Creek Bridge, Mullumbimby Road
 4. Open Drains/Creeks, Left Bank Road towards Steiner School

20 Part 2 refers to the principles used to determine priorities, noting the report stated the following:

The suggested locations are based on the principles of:

- 25
1. achieving access improvements
 2. reducing the need for the use of a motor vehicle to travel a circuitous route
 3. connecting communities
 4. being along a proposed bike route

Table 1: locations for foot and cycle bridges, as reported to Council 25 February 2010

Sites – stand alone project	Sites - as part of larger project
Rajah Road, Ocean Shores to North Head Road, New Brighton (not in bike plan)	Kings Creek Bridge, Mullumbimby Road
Palm Avenue, Mullumbimby (not in bike plan)	Kolora Way, New Brighton
Burringbar Street to Riverside Crescent, Mullumbimby (bike plan project #7)	Open Drain, Ewingsdale Road
Azalea Street to Kamala Court, Mullumbimby (not in bike plan)	Open Drains/Creeks, Left Bank Road towards Steiner School
Bangalow Sports Fields to Rankin Drive (bike plan project #41)	Lismore Road across the open drain between Rifle Range Road and the Bangalow town centre

30 Suffolk Park matters

A representative of SPPA has been invited to attend or provide details for this workshop.

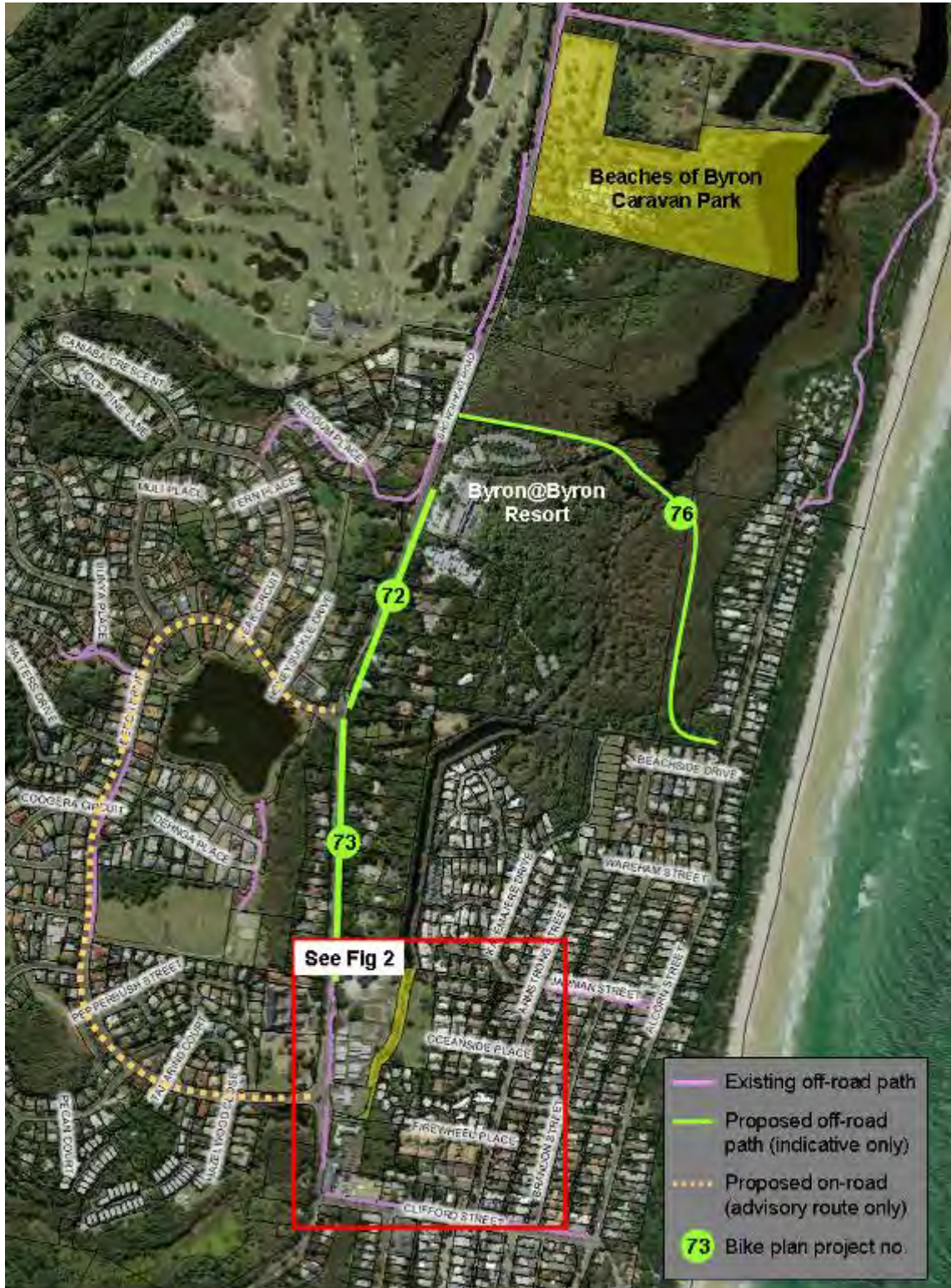
35 It is noted that the SPPA engaged designers and planners in the development of a Suffolk Park master plan as available online at:

<http://dap.org.au/suffolk-park-summary/#.UUfKmRf7AZ9>

It is believed the most relevant part of this master plan in regard to cycling (and walking) infrastructure is addressing the absence of linkages between beach side Suffolk Park through to Broken Head Road and the residential area to its west, depicted as follows:

- 5
 - Figure 1 shows Suffolk Park bike plan projects and current linkages.
 - Figure 2 is indicative of the main points of the SPPA master plan.

Figure 1: Suffolk Park bike plan projects and current linkages.



As Figure 1 shows, the bike plan contains proposals (projects #72 and #73) for a shared path link that connects existing facilities and, as described in more detail below (see Financial Implications), has been given some priority over other bike plan projects including Section 94 funding.

5

In delivering these two projects Council will provide a continuous off-road walk and cycling link between Clifford Street and the existing shared path at Beaches of Byron Caravan park.

10

Bike plan project #76 has also been allocated some priority within the adopted Section 94 plan (priority 14 of 15), however the estimated timing of works (by 2016) and cost estimate (\$136,780) is considered unrealistic given it proposes to construct 684 metres of shared path from Broken Head Road (in the vicinity of Byron@Byron) through to Alcorn Street over privately held land on Broken Head Rd and Council land behind the residences on the western side of Alcorn St. Other constraints include the topography, namely vegetation and wetlands.

15

Also, and as Figure 2 depicts, project #76 does not reflect the priorities identified within the SPPA master plan which (in terms of cycling and walking) has a focus on providing connections across Broken Head Rd including one through to Kalemajere Dve, noting such a link is made possible due to the conditions placed upon the 'Beach Break' development.

20

This possible link is indicated in Figure 2 by the symbol which follows Council land which has been reserved along the length of Tallow Creek (running north to south) upon the 'Beach Break' property, noting that a right of way exists between the two Council land parcels shown (north-east corner of property).

25

Figure 2 is indicative of the main points of the SPPA master plan.



Financial Implications

5 Limited funding is available for cycleway projects, noting Council typically seeks external funding to deliver projects, which is often provided on a 50/50 basis and helps extend the funding Council can offer. Typical sources of funding include Council general funds and Section 94 and external grants.

General funds

10 At this time however, there are no general funds being allocated toward cycleway development, noting the previous annual allocation of \$90,000 ceased some years ago to address deficits elsewhere.

Roads to Recovery

15 Council has resolved to allocate 20% of the Roads to Recovery funding toward cycleways. The remaining funding under this allocation is \$206,925 and requires expenditure by 30 June 2014, noting that R2R criteria limits funds to the construction of either off-road paths (when within the road reserve) or on-road routes (such as road shoulders). No project has yet been nominated for
20 the remaining funding available, noting a separate report to Council is expected in coming weeks recommending this funding be re-directed toward a road rehabilitation project.

Coastline cycleway

25 This funding is administered by NSW Department of Planning and applies to their preferred coastline route, which for Byron Shire is (from Ballina to Tweed LGA) Broken Head Rd, Bangalow Rd into Byron Bay (whereupon it follows Tennyson St to Lawson Street and then along the beach foreshore to the rail crossing via Lawson St north car park), the bike path adjacent to Shirley St and Ewingsdale Rd, onto the Pacific Highway and then follows Brunswick and Tweed Valley
30 Ways.

In recent years much of the shared path along Ewingsdale Road has been half funded through this grant.

35 Council's application under the latest available funding round (2011/12) was unsuccessful, ie for a shared path along the east side of Broken Head Road commencing at Clifford Street and continuing for 800m south. No further funding round has since been announced.

Roads and Maritime Services

40 Typically offered on 50/50 basis and for cycling infrastructure that is road related and/or connects existing facilities. There are also limitations on where and how this funding can be used, for example it typically can not be used to fund an off-road path through a park or reserve.

45 Section 94

Unallocated Section 94 funding is available, with \$101,945 collected prior to the 1993 contributions plan and not committed or allocated to any specific bike projects.

50 This is in contrast to The Byron Developer Contributions Plan 2012, adopted in December 2012 and commenced on 1 January 2013.

55 Annexure 2(b) (E2013/17341) is an extract from the works schedule in the contributions plan. This table only contains those works where existing section 94 funds have been allocated to a particular job or the works have been identified as a priority and are unfunded. The full works

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schedule in the contributions plan contains all of the works from the Bike Plan that have not been completed.

- 5 Council may re-allocate these existing section 94 funds through the amendment of the section 94 plan. This would require public exhibition in accordance with the Environmental Planning and Assessment Regulation. The new plan however does allocate the following in regard to Suffolk Park bike plan projects:

Project #72: priority 12 of 15, with estimated timing of works by 2016; ie 398 metres of shared path along Broken Head Road (western side) between Beech Drive (north) to “Byron at Byron Resort”, est. cost \$79,720

Project #73: priority 13 of 15, with estimated timing of works by 2016; ie 655 metres of shared path Broken Head Road (western side) between Beech Drive north and south roundabouts, est. cost \$130,980

Project #74: no priority or estimated timing of work for a 1,266 metres on-road advisory route along the full length of Beech Drive, est. cost \$5,064 (signs and line marking only)

Project #76: priority 14 of 15, with estimated timing of works by 2016; ie 684 metres of shared path from Broken Head Road (in the vicinity of Byron@Byron) through to Alcorn Street, est. cost \$136,780.



- 10 Of these projects it is noted that:

- projects #72 and #73 reflects site #3 of the above cited NOM, ie along Broken Head Road between the Beach Break development and Beaches of Byron Caravan Park; and
- 15 • project #76 is similar to site #2 of the above cited NOM, ie Beachside Suffolk to Broken Head Road.

The third site within the NOM (ie Pepperbush Street to Dehnga Place) is not within the bike plan.

20 **Statutory and Policy Compliance Implications**

Changes to the bike plan will most likely result in changes to the adopted contributions plan and therefore both would need to be advertised and consulted upon, with advertising and an exhibition period viewed as the minimum requirement.

- 25 Matters to also consider include but not limited to:

- impacts (if any) upon other Council plans, strategies or work programs
- the extent of consultation, from advertising through to formation of a committee
- 30 - development and funding of new infrastructure
- impacts upon and use of maintenance funding (eg Roads to Recovery)
- developing new infrastructure in light of a existing infrastructure failing

CORPORATE MANAGEMENT – EXECUTIVE MANAGER'S REPORTS

Report No. 4.3. Byron Shire Council's Financial Position 2012/2013

Executive Manager: Corporate Management

5 **Report Author:** James Brickley, Manager Finance

File No: #E2013/16620

Theme: Corporate Management, Financial Services

Summary: Council at its Ordinary Meeting held on 28 February 2013 considered *Report 12.5 - Budget Review 1 October 2012 to 31 December 2012*. Council, following consideration of this Report, resolved (in part) as follows:

Res 13-104:

3. *That Council receive a report on 28 March 2013 on options for avoiding the 'unsatisfactory financial position' muted by Council's finance manager for the end of the financial year (at Line 50 at page 39 of Report 12.5).*

This report is provided to Council to address the above resolution.

10 **RECOMMENDATION:**

That the Strategic Planning Committee recommend that Council receive and note this Report.

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Report

5 Council, at its Ordinary Meeting held on 28 February 2013, considered *Report 12.5 - Budget Review 1 October 2012 to 31 December 2012*. Council, following consideration of this Report, resolved (in part) as follows:

Res 13-104:

10 3. *That Council receive a report on 28 March 2013 on options for avoiding the 'unsatisfactory financial position' muted by Council's finance manager for the end of the financial year (at Line 50 at page 39 of Report 12.5).*

This report is provided to Council to address the above resolution.

15 The statutory requirements surrounding the presentation of a Quarterly Budget Review Report to Council are contained in Clause 203 of the Local Government (General) Regulation 2005 (reproduced under the Statutory and Policy Implications section of this report). Specifically Clause 203(2(a)) requires the responsible accounting officer to report whether the Quarterly Budget Review Statement indicates the financial position of the Council is satisfactory. In view of
20 this statutory requirement, the following statement was made by the responsible accounting officer in *Report 12.5 - Budget Review 1 October 2012 to 31 December 2012*, considered by Council at its Ordinary Meeting held 28 February 2013:

25 *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.*

30 *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.*

35 In relation to the financial position of Council for the 2012/2013 financial year, as estimated in the 31 December 2012 Quarter Budget Review, the statement by the responsible accounting officer indicated that the short term financial position was still satisfactory. If the opinion was not
40 considered satisfactory then recommendations for remedial action would have needed to be included by the Responsible Accounting Officer in Report 12.5, so to comply with Clause 203(2(b)) of the Local Government (General) Regulation 2005.

45 However, the statement by the responsible accounting officer did further indicate with reference to Council's adopted Accumulated Surplus (Working Funds) target of \$1,000,000, that should the estimated budget deficit for 2012/2013 be realised, then the Accumulated Surplus (Working Funds) is estimated to be reduced to an amount of \$313,300.

50 Consequently maintaining deficit budgets on an ongoing basis is not sustainable and that should improvement not be realised during the preparation of the March 2013 Quarterly Budget Review, then the financial position of Council may become unsatisfactory in context of the Accumulated Surplus (Working Funds) balance target, and at that point Council would need to consider remedial recommendations as required by Clause 203(2(b)) of the Local Government (General) Regulation 2005.

55 It should be noted though that the draft 2013/14 Budget has been prepared with an estimated surplus result. The achievement of a surplus budget both next year and in ongoing years will

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ensure that the accumulated surplus target is reached and maintain a satisfactory financial position for Council.

5 In view of Part 3 of Resolution13-104, the following points or options are proposed for consideration by the Committee, to assist in avoiding the reporting of an unsatisfactory financial position of Council in future Quarterly Budget Reviews:

- 10 • The March 2013 Quarter Budget Review will be presented to Council at its Ordinary Meeting to be held on 9 May 2013. At that point in the 2012/2013 financial year, there will be a better indication as to the likely overall revenue and expenditure estimates to be received/expended. This may provide some budgetary savings.
- 15 • Council not pass any resolutions authorising new expenditure of money within the existing or to be amended 2012/2013 budget unless a funding source is identified.
- 20 • Council not pass any resolutions authorising new expenditure of money not budgeted for and fund that expenditure from the Accumulated Surplus (Working Funds) balance.
- 25 • Management with budget programs in the General Fund continue to consider the current financial position in terms of the remainder of the financial year and that any existing expenditure items funded from general revenue (that is items not funded by reserves, water, sewer or waste revenues or specific purpose grants and contributions) currently not spent, be reviewed and where budgets have not been committed and do not need to be expedited, that these budgets be identified as expenditure savings in the 31 March 2012 Quarterly Budget Review.
- 30 • An assessment be made of whether expenditure over the remainder of the 2012/2013 financial year on recovery from the recent declared natural disasters funded from new grant revenue will mean that Council may not be able to complete its own maintenance/asset renewal works program with existing staff resources. It is acknowledged this option is considered a short term benefit but does not assist the already evident infrastructure backlog the Council has nor potential risks of at least maintaining existing service levels.
- 35 • There no longer be an expectation that general revenue funded expenditure budgets not expended in any current financial year be automatically carried over to the next financial year.

Financial Implications

40 The financial implications concerning the subject of this report have been addressed above but it also needs to be recognised that the statement made by the responsible accounting officer in context of a budget review is limited to the short term current financial year budget and is not related to the financial position over the longer term.

45 A separate Report will be considered by the Strategic Planning Committee at this meeting on the longer term financial sustainability of Council.

Statutory and Policy Compliance Implications

50 Clause 203 of the Local Government (General) Regulation 2005 requires the Responsible Accounting Officer of a Council to:

- 55 (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*

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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.

- 5
- (2) *A budget review statement must include or be accompanied by:*
- (a) *a report as to whether or not the responsible accounting officer believes that the statement indicates that the financial position of the council is satisfactory, having regard to the original estimate of income and expenditure, and*
- 10
- (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.*

Report No. 4.4. 2013/2014 Rating Structure

Executive Manager: Corporate Management

Report Author: James Brickley, Manager Finance

File No: #E2013/16801

5

Theme: Corporate Management, General Purpose Revenues

Summary: Council from time to time should consider whether to review its adopted rating structure. Council last considered a report on a review of its adopted rating structure in March 2010. The rating structure determines the general land rates (ordinary rates) payable for each rateable property within the boundaries of the Council's area.

Any rating structure employed must incorporate the use of land values and an ad valorem rate. Land values used by all Council's in NSW are established by the NSW Valuer General and are reviewed on a three yearly cycle.

For the 2013/2014 financial year, Byron Shire Council has received new land valuations for the purposes of rating. Receipt of new land valuations may provide an opportunity for Council to review or to consider reviewing its ordinary rating structure. A review does necessarily require the rating structure to be changed.

This report is prepared to provide Council with information on the existing rating structure utilised by Byron Shire Council, the new land valuations Council has received and which will take effect in the 2013/2014 financial year, an example of a change in the adopted rating structure and its impact compared to the current rating structure.

The report recommends that Council undertake a review of its rating structure.

RECOMMENDATION:

- 10 1. **That the Strategic Planning Committee suspend standing orders and move into committee to undertake a facilitated discussion to be conducted by management on the rating structure.**
- 15 2. **That, after completion of informal discussions, the Strategic Planning Committee move out of committee, to consider the following Recommendations.**
- 20 3. **That the Strategic Planning Committee recommend to Council:**
- That the rating structure to apply for the 2013/2014 financial year remain as the existing rating structure including the rating categories/sub categories of:**
- **Residential Ordinary**
 - **Residential Ordinary – Flood Prone Lands**
 - **Residential Ordinary – Conservation Agreements**

25

 - **Business Ordinary**
 - **Business Ordinary – Byron Bay Central Business District (CBD)**
 - **Farmland Ordinary**

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4. That the Strategic Planning Committee recommend to Council:

5 **That the adopted rating structure be reviewed prior to the 2014/2015 financial year with the various options (including any associated with resolution 12-25) to be reported and considered at the next Strategic Planning Committee meeting scheduled for 23 May 2013, along with the community consultation process required to consult on any proposed changes determined by Council.**

Report

5 Council from time to time should consider whether to review its adopted rating structure. Council last considered a report on a review of its adopted rating structure in March 2010. The rating structure determines the general land rates (ordinary rates) payable for each rateable property within the boundaries of the Council's area.

10 Any rating structure employed must incorporate the use of land values and an ad valorem rate. Land values used by all Council's in NSW are established by the NSW Valuer General and are reviewed on a three yearly cycle.

15 For the 2013/2014 financial year, Byron Shire Council has received new land valuations for the purposes of rating. Receipt of new land valuations may provide an opportunity for Council to review or to consider reviewing its ordinary rating structure. A review does not necessarily require the rating structure to be changed.

20 This report is provided to provide Council with information on the existing rating structure utilised by Byron Shire Council, the new land valuations Council has received and which will take effect in the 2013/2014 financial year, an example of a change in the adopted rating structure and its impact compared to the current rating structure.

The report recommends that Council undertake a review of its rating structure.

The current exiting rating structure

25 Byron Shire Council currently levies ordinary rates on all rateable properties within the Council area. Council does not levy any special rates which are rates that can be applied to specific properties for specific purposes but form part of the overall rate yield Council can collect subject to rate pegging. The last time the Byron Shire Council rating structure was reviewed was prior to the commencement of the 2010/2011 financial year.

30 Section 514 of the Local Government Act 1993 determines Council must use the following categories to levy ordinary rates:

- 35 • Residential
- Farmland
- Mining
- Business

40 It is a requirement that if a rateable property cannot be categorised into either residential, mining or farmland then it is to be categorised as business.

45 Categorisation of a rateable property is determined based on an assessment of the 'dominant' use of a property within the definitions stipulated in Sections 515 to 519 of the Local Government Act 1993.

Council can create subcategories for ordinary rates within the four main categories listed above in accordance with Section 529 of the Local Government Act 1993. In this regard, Council currently has sub categories for the residential rate relating to flood prone properties and conservation agreements and the business rate for the Byron Bay Central Business District.

50 Council also employs a 'differential' to its ordinary rates structure to determine differing ad valorem rates against each rating category/subcategory. In this regard the following 'differentials' are employed in relation to the residential ad valorem rate being the base.

55

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Rating Category/Sub Category	Differential compared to Residential Rate ad valorem
Business Ordinary	150.00%
Business Ordinary – Byron Bay CBD	200.00%
Farmland Ordinary	73.73%

5 Whilst Byron Shire Council has traditionally used a differential to determine an ad valorem rate for different rating categories, there is no compulsion to use a differential. As part of the last review of the Council ordinary rating structure in March 2010, Council resolved through resolution **10-178** to retain the current differentials in the ordinary rating structure. This was done on the basis of previous consultation with the Business community.

10 Council on 28 June 2012 adopted the ordinary rating structure to be employed for the 2012/2013 financial year through resolution **12-542** as follows:

2012/2013 Adopted Ordinary Rating Structure

Category and Sub-Categories	Number of Properties	Ad valorem Rate (\$)	Minimum Rate (\$)	Total Yield (\$)	Proportional Contribution of Yield (%)
Residential Ordinary	12,749	0.24895	631.00	13,174,794	75.25
Residential Ordinary (Flood Prone Lands)	30	0.24895	346.10	11,276	0.06
Residential Ordinary (Conservation Agreements)	3	0.24895	0.00	322	0.00
Business Ordinary	1,056	0.37342	631.00	1,834,553	10.48
Business Byron Bay CBD	285	0.4979	631.00	1,549,683	8.85
Farmland Ordinary	556	0.18248	631.00	937,865	5.36
Total	14,679			17,508,493	100.00

15 The ordinary rating structure for Council is based on an ad valorem rate subject to a minimum rate in accordance with Section 497 and 548 of the Local Government Act 1993.

20 Whilst Council has maintained the use of an ad valorem rate subject to a minimum rate, Section 497 of the Local Government Act 1993 provides the following options in terms of structure of a rate as follows:

- An ad valorem rate only
- An ad valorem rate subject to a minimum rate – option currently used
- An ad valorem rate plus a base amount.

25 Further information on the differences in the structure of a rate will be demonstrated as part of the staff presentation.

New land valuations

30 The NSW Valuer General has revalued all rateable property land value in the Byron Shire Council area for to apply from 1 July 2013. These values will be utilised for the next three financial years for ordinary rating purposes. In summary, the revaluation has revealed the following:

Total previous rateable land value for Byron Shire Council (1 July 2009) = \$6,249,347,818
 Total new rateable land value for Byron Shire Council (1 July 2012) = \$5,849,655,382

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Overall reduction in rateable land value for Byron Shire Council = \$399,692,436

Essentially the land values have decreased overall by \$400million in round terms or 6.4%.

- 5 In terms of ordinary rate revenue for Council, reduced land values do not mean reduced ordinary rate income. Council will still collect its gross rate yield within the confines of rate pegging but as the land values have fallen, the ad valorem rate in the dollar will increase to compensate. In terms of the existing rating categories, land values have moved as indicated in the following table:

10

Rateable Land Valuation Comparison

Category and Sub Categories	Rateable Valuation At 1 July 2009 (2010/2011)	Rateable Valuation at 1 July 2012 (2013/2014)	Change in \$	Change in % (I) = increase (D) = decrease
Residential Ordinary	4,964,981,253	4,615,006,457	(349,974,796)	7.05% (D)
Residential Ordinary (Flood Prone Lands)	2,942,400	2,382,600	(559,800)	19.03% (D)
Residential Ordinary (Conservation Agreements)	128,618	1,175,000	1,046,382	813.56% (I)
Business Ordinary	460,025,140	468,893,841	8,868,701	1.93% (I)
Business Byron Bay CBD	311,063,817	280,479,964	(30,583,853)	9.83% (D)
Farmland Ordinary	510,206,590	481,717,520	(28,489,070)	5.58% (D)
Total	6,249,347,818	5,849,655,382	(399,692,616)	6.40%(D)

- 15 Further information in the movement of the land values will be presented as part of the staff presentation.

Illustration of an example proposed rating structure option

- 20 If Council were to retain the existing ordinary rating structure in place, apply the 3.4% rate peg increase determined by the NSW Independent Pricing and Regulatory Tribunal (IPART) and the new land valuations supplied by the NSW Valuer General for 2013/2014, the structure is indicated as follows:

Existing ordinary rating structure for 2013/2014

Category and Sub-Categories	Number of Properties	Ad valorem Rate (\$)	Minimum Rate (\$)	Total Yield (\$)	Proportional Contribution of Yield (%)
Residential Ordinary	12,828	0.2766	652.50	13,547,787	74.54
Residential Ordinary (Flood Prone Lands)	30	0.2766	358.00	11,639	0.06
Residential Ordinary (Conservation Agreements)	3	0.2766	0.00	1,958	0.01
Business Ordinary	1,060	0.4149	652.50	2,061,610	11.34
Business Byron Bay CBD	285	0.5532	652.50	1,567,495	8.62
Farmland Ordinary	556	0.2039	652.50	984,008	5.43
Total	14,762			18,174,497	100.00

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5 Whilst not limiting Council to any specific ordinary rating structure and as a pure example of an option, an alternative Council could consider is to no longer have the sub category of the Business Ordinary Rate for the Byron Bay Central Business District. Under this option there would become one Business Ordinary Rate Category so that any business categorised rateable property in the Shire would pay the same minimum or ad valorem rate with individual land values being the only determining factor in the ordinary rates payable.

10 Again assuming the application of the 3.4% rate peg increase determined by the NSW Independent Pricing and Regulatory Tribunal (IPART) and the new land valuations supplied by the NSW Valuer General for 2013/2014, the structure is indicated as follows:

Ordinary rating structure for 2013/2014 without Byron Bay CBD ordinary rate subcategory

Category and Sub-Categories	Number of Properties	Ad valorem Rate (\$)	Minimum Rate (\$)	Total Yield (\$)	Proportional Contribution of Yield (%)
Residential Ordinary	12,828	0.2766	652.50	13,547,787	74.54
Residential Ordinary (Flood Prone Lands)	30	0.2766	358.00	11,639	0.06
Residential Ordinary (Conservation Agreements)	3	0.2766	0.00	1,958	0.01
Business Ordinary	1,346	0.4688	652.50	3,629,105	19.96
Farmland Ordinary	556	0.2039	652.50	984,008	5.43
Total	14,762			18,174,497	100.00

15 The impact of this option will do the following:

- For ratepayers in the former Business Ordinary Byron CBD subcategory will see an average reduction of 15.26% or \$2,803.73 per rateable property (285 properties).
- For ratepayers in the Business Ordinary category will see an average increase of 12.99% or \$751.31 per rateable property (1,061 properties).

25 The above results are average but the actual dollar increases or decreases will be determined by each individual rateable property and its respective land value.

30 This example and any suggested options demonstrates that the total ordinary rate yield does not change but how that yield derived is changed and consequently from the rate payers perspective how the rate burden will change (ie some ratepayers will pay more and others will pay less. As the impact demonstrates in this example option 1,061 ratepayers would pay more and 285 would pay less.) This example highlights the need for any change to the rating structure to be supported by a community consultation process.

Suggested recommendation

35 There is currently an outstanding Council resolution **12-25** where Council resolved that a report be received on the potential and options on the reduction of commercial ratings and or the recategorisation to residential rating for Bed and Breakfast establishments.

40 A report on resolution **12-25** has not yet been provided to Council as it needs to be considered in a holistic review of the ordinary rating structure. The issues with addressing this resolution are as follows:

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- If Council recategorised all Bed and Breakfast establishments as residential to reduce the rating burden on these properties, it may contravene Section 516 of the Local Government Act 1993 which defines a residential property for rating purposes.
- 5 • Council cannot create a subcategory of the Business Ordinary Rate with a reduced ad valorem rate for Bed and Breakfast establishments as Bed and Breakfast establishments are scattered throughout the Shire area. A specific business subcategory can only be applied to a centre of activity like a business centre, and industrial estate or a concentration of like activities to comply with Section 529 of the Local Government Act 1993.

10 The only way to consider any possible review of Bed and Breakfast establishments is to first identify them all and undertake an assessment in conjunction with the owner to determine what the dominant use of the land is. This would then determine whether the ordinary rating category would be Residential or Business. However, if Council did determine to recategorise any Bed and Breakfast establishment to Residential that may be currently categorised Business, any
15 reduction in rateable income for Council as a result of the recategorisation would be redistributed to other ratepayers.

20 Any consideration to review the ordinary rating structure of Council also needs to be done along the lines of determining options and recognising the legislative compliance of the Local Government Act 1993. Council itself would need to consider and determine appropriate options for an ordinary rating structure and then involve the community in that consideration through consultation. Given this need, there is not sufficient time remaining to develop options and undertake consultation before 1 July 2013. It is on this basis Council consider this issue and
25 consult with the community over the 2013/2014 financial year with any resultant change implemented in the 2014/2015 financial year from 1 July 2014.

Options for raising alternative sources of revenue

30 Council may increase the amount of income raised from rates beyond the rate pegging (General Variation) percentage announced by the Minister each year one of two options. It may apply for a Special Variation in order introduce a Special Rate, or it can apply for a Special Variation to the General Rate.

35 Special rates may be levied for works or services provided by council, or for other special purposes. A Special Rate can only be levied on rateable properties which will benefit from the works or services being provided. If the total amount of rate income is increased as a result of a Special Rate being levied, a Special Variation must be approved by the Minister.

40 Special variations to the General Rate are those applied to all ratepayers to raise additional revenue for the Council to fund identified expenditure items. A Special Variation to the General Rate will result in a percentage increase in rates over all categories.

The advantages and disadvantages of both options will be discussed as part of the presentation.

45 **Financial Implications**

50 There are no financial implications to Council associated with this report. Irrespective of any ordinary rating structure Council may adopt, this does not alter the overall ordinary rate income yield Council can collect but can impact upon ratepayers as the structure forms the basis upon what each rating category will contribute to the overall ordinary rates yield.

55 If the ordinary rating yield is increased from a particular rating category then the yield from the remaining categories will need to be reduced to ensure Council does not exceed its overall yield from ordinary rates that is subject to rate pegging. In this regard, whatever ordinary rating structure Council determines, it will need to be mindful of the legislative requirements of Sections

491 to 607C of the Local Government Act 1993 and Section 8 of the Local Government Act 1993 where the Council's charter is to include the raising of funds for local purposes through the fair imposition of rates, charges and fees.

5 Statutory and Policy Compliance Implications

10 The rating of land for general rates in local government is a complex and specialist area. Chapter 15 of the Local Government Act 1993, Parts 1 to 9, and Sections 491 to 607C outlines the requirements of general rates and charges from establishment to levy and collection. In addition to this, the Division of Local Government has also produced Rating and Revenue Raising Manual last updated in 2007 to assist Councils with interpretation of the general rating legislative provisions.

15 A link to this manual can be found at:

<http://www.dlg.nsw.gov.au/dlg/dlghome/documents/Information/Council%20Rating%20And%20Revenue%20Raising%20Manual%20-%20Jan%202007.pdf>

20 The ordinary rating structure is determined annually by Council upon the adoption of the Revenue Policy as part of the Operational Plan in accordance with Section 405(2) of the Local Government Act 1993.

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Report No. 4.5. Draft 2013/2014 Budget, Statement of Revenue Policy and Fees and Charges

Executive Manager: Corporate Management
Report Author: James Brickley, Manager Finance
File No: #E2013/17381

5

Theme: Corporate Management, Financial Services

Summary: The 2013/2014 financial year will be the second year that Byron Shire Council has prepared Plans under the Integrated Planning and Reporting Framework. Council as a Group 3 Council implemented the Integrated Planning and Reporting requirements from 1 July 2012.

Council at its Ordinary Meeting held on 8 November 2012 in regard to the Community Strategic Plan and other Integrated Planning Documents resolved the following:

12-859 Resolved:

- “1. That Council endorse the Byron Shire Council Community Strategic Plan 2022.
2. That Council, to meet the legislative timeframe for the adoption of the Delivery Program, Operational Plan and the other Integrated Planning document, adopt the Schedule for the development of the 2013-2017 Delivery Program and 2013/14 Operational Plan, as detailed in the report, and undertake in the development of the related Integrated Planning Documents a review of the content and priorities of the adopted 2012-2016 Delivery Program and the endorsed Byron Shire Council Community Strategic Plan 2022.”

In accordance with the schedule identified in part 2 of resolution **12-859**, Management have been developing the 2013/2014 Draft Statement of Revenue Policy which includes the Draft 2013/2014 Budget Estimates, Rates and Charges, Borrowings and Fees and Charges. These documents were presented to the Finance Advisory Committee on 7 March 2013, and are now presented to the Strategic Planning Committee for consideration in accordance with the adopted schedule.

RECOMMENDATION:

- 10 1. That the Strategic Planning Committee consider and review the Draft 2013/2014 Statement of Revenue Policy comprising 2013/2014 Budget Estimates, Rates and Charges, Borrowings and Fees and Charges.
- 15 2. That the Strategic Planning Committee recommend to Council:
That the Draft 2013/2014 Statement of Revenue Policy comprising the 2013/2014 Budget Estimates, Rates and Charges, Borrowings and Fees and Charges be placed on public exhibition, and that these Plans be amended to incorporate the changes identified in this report, along with any other proposed amendments identified by the
20 Strategic Planning Committee.

Attachments:

- 25 • Draft Budget for 2013/2014 #E2013/13472 [171 pages] **Annexure 1(a)**
- Draft Revenue Policy (including Rates and Charges) #2013/11036 [28 pages]..... **Annexure 1(b)**
- Table of Fees and Charges increasing greater than CPI #E2013/13503 [6 pages] **Annexure 1(c)**
- Draft 2013/14 Fees and Charges #E2013/17164 [86 pages] **Annexure 1(d)**

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5 All Councils in NSW should have now transitioned to the Integrated Planning and Reporting Framework requirements legislated by the NSW State Government into the Local Government Act 1993 (Sections 402 to 406).

The requirements of the Integrated Planning and Reporting mandate that Council must develop:

- 10
- A ten year Community Strategic Plan
 - A four year Delivery Plan
 - A one year Operational Plan
 - Resourcing strategies to support the above Plans including a ten year Long Term Financial Plan, ten year Workforce Plan and ten year Asset Management Plan

15 An Operational Plan in accordance with Section 405 (2) of the Local Government Act must include the Council's Statement of Revenue Policy for the financial period covered by the Operational Plan.

20 The Operational Plan is integrated into the 4 year Delivery Plan for the period 2013/2014 to 2016/2017, and will be reported to the Ordinary meeting to be held on 18 April 2013.

The information that needs to be included in the Annual Statement of Revenue Policy is defined in Clause 201 of the Local Government (General) Regulation 2005.

25 Council at its Ordinary Meeting held on 8 November 2012 in regard to the Community Strategic Plan and other Integrated Planning Documents the following:

12-859 Resolved:

- 30 "1. That Council endorse the Byron Shire Council Community Strategic Plan 2022.
2. That Council, to meet the legislative timeframe for the adoption of the Delivery Program, Operational Plan and the other Integrated Planning document, adopt the Schedule for the development of the 2013-2017 Delivery Program and 2013/14 Operational Plan, as detailed
- 35 in the report, and undertake in the development of the related Integrated Planning Documents a review of the content and priorities of the adopted 2012-2016 Delivery Program and the endorsed Byron Shire Council Community Strategic Plan 2022."

40 In accordance with the schedule identified in part 2 of resolution 12-859, Management have been developing the 2013/2014 Draft Statement of Revenue Policy which includes the Draft 2013/2014 Budget Estimates, Rates and Charges, Borrowings and Fees and Charges.

45 The Draft 2013/2014 Budget Estimates (outlined at Annexure 1(a)), Draft 2013/2014 Revenue Policy including Rates and Charges (outlined at Annexure 1(b)) and the Draft Fees and Charges outlined at Annexure 1(d)), comprise the 2013/2014 Draft Revenue Policy and have been prepared at this stage on existing formats familiar to Council and the Strategic Planning Committee.

50 The documents have been reviewed by the Finance Advisory Committee on 7 March 2013 where they were noted by the Committee with no changes being recommended. These Plans now need to be considered by the Strategic Planning Committee in accordance with the adopted schedule.

As a general comment on all the documents presented they are still in draft form and may require further adjustment and/or amendments whether via the Strategic Planning Committee or by

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Council at its Ordinary meeting scheduled for 18 April 2013, prior to these Plans being integrated into the final document adopted for exhibition.

5 It is expected the documents will be formally adopted by Council at its Ordinary Meeting held on 27 June 2013 following the Public Exhibition period of 28 days required by Section 405(3) of the Local Government Act 1993.

10 Annexures 1(a), 1(b) and 1(c) have not been changed to those presented to the Finance Advisory Committee on 7 March 2013, however there are suggested changes indicated in this report that will need to these documents should they be endorsed by the Strategic Planning Committee.

15 Council at the 6 December 2012 Ordinary Council Meeting adopted Resolution **12-920** in which it resolved not to proceed with a special rate variation application to the Independent Pricing and Regulatory Tribunal (IPART) for the 2013/14 Financial Year. The documents supporting the Draft 2013/2014 Operational Plan have been prepared on this basis.

1. Draft Budget 2013/2014

20 The Draft Budget 2013/2014 is based on the 2012/2013 budget with various changes to reflect the increased price of service delivery across all programs based on input received from each Council Division. The draft budget has been included at Annexure 1(a).

25 The Draft 2013/2014 Budget Result on a Consolidated (All Funds) basis as presented to the Finance Advisory Committee on 7 March 2013 forecast a surplus result with the details of that result being included below at Table 1

Table 1 – Forecast Budget Result 2013/2014 Consolidated (All Funds)

Item	\$
Operating Revenue	62,426,700
Less: Operating Expenditure	53,700,400
Less: Depreciation	16,537,800
Operating Result before Capital Amounts	(7,811,500)
Add: Non Cash Expenses – Depreciation	16,537,800
Add: Capital Grants and Contributions	2,185,500
Add: Loan Funds Used	91,400
Subtract: Capital Works	(10,743,300)
Subtract: Loan Principal Repayments	(2,691,500)
Cash Surplus/(Deficit)	(2,431,600)
Reserves – Increase/(Decrease)	(2,557,400)
Budget Result – Surplus/(Deficit)	125,800

30 Table 1 indicates a forecasted budget surplus of \$125,800 which relates to the General Fund only. The forecast General Fund Accumulated Surplus (Working Funds) position based on the draft budget is shown in Table 2:

35 **Table 2 - Forecast General Fund Accumulated Surplus (Working Funds) after first Draft 2013/2014 Budget**

Item	\$
Forecast accumulated surplus to 30 June 2013 at 31 December 2012 Budget Review	313,300
Add: Estimated 2013/2014 budget result	125,800
Forecast accumulated surplus to 30 June 2014	439,100

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Subsequent to the Finance Advisory Committee meeting held on 7 March 2013, there has been a further review of the general purpose and capital revenue sections of the budget as follows:

- 5 • Removal of the proposed loan borrowings of \$91,400 representing residual funding of the Roundhouse Subdivision. This loan funding will not be required and is too small for Council to justify approaching a financial institution for a loan. Council will soon be presented with a report outlining alternate funding of the Roundhouse subdivision project.
- 10 • Revenue from ordinary rates is estimated inclusive of allowing for growth to be over estimated by \$64,300 and consequently the estimates have been reduced.
- 15 • Revenue from interest on investments has been increased by \$155,700 as the original draft estimate for 2013/2014 was 37% below the estimate for 2012/2013 on the expectation of lower interest rates and less funds to invest. However, whilst interest rates have declined, Council may have additional cash to invest in 2013/2014 given the current level of funds invested and the time remaining in the 2012/2013 financial year. It is suggested the overall \$15million reduction in available cash in 2012/2013 will not occur to that extent given as at the end of February 2013, Council still had \$59.1 million invested.

20 Note: The above three changes is not reflected currently in Annexure 1(a).

Based on this review, Management have prepared a revised Draft 2013/2014 Budget position for the Strategic Planning Committee to consider that overall is unchanged to that considered by the Finance Advisory Committee on 7 March 2013. However, the variations to the Draft 2013/2014 Budget detailed above have been included in Table 3 below:

Table 3 – Forecast Budget Result 2013/2014 Consolidated (All Funds)

Item	\$
Operating Revenue	62,518,100
Less: Operating Expenditure	53,700,400
Less: Depreciation	16,537,800
Operating Result before Capital Amounts	(7,720,100)
Add: Non Cash Expenses – Depreciation	16,537,800
Add: Capital Grants and Contributions	2,185,500
Add: Loan Funds Used	0
Subtract: Capital Works	(10,743,300)
Subtract: Loan Principal Repayments	(2,691,500)
Cash Surplus/(Deficit)	(2,431,600)
Reserves – Increase/(Decrease)	(2,557,400)
Budget Result – Surplus/(Deficit)	125,800

30 Table 3 indicates that the forecasted budget surplus of \$125,800 has been retained and this relates to the General Fund.

The forecast General Fund Accumulated Surplus (Working Funds) position based on the draft budget has been retained as indicated in Table 2 above.

35 Table 4 below also projects the General Fund Accumulated Surplus (Working Funds) for the next ten years as follows:

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Table 4 – General Fund Accumulated Surplus (Working Funds) 2013/2014-2022/2023

Financial Year	Opening Accumulated Surplus Result – Surplus/(Deficit) \$	Budget Result – Surplus/(Deficit) \$	Closing Accumulated Surplus Result – Surplus/(Deficit) \$
2013/2014	313,300	125,800	439,100
2014/2015	439,100	318,000	757,100
2015/2016	757,100	312,100	1,069,200
2016/2017	1,069,200	0	1,069,200
2017/2018	1,069,200	215,200	1,284,400
2018/2019	1,284,400	192,700	1,477,100
2019/2020	1,477,100	49,200	1,526,300
2020/2021	1,526,300	(95,900)	1,430,400
2021/2022	1,430,400	115,400	1,545,800
2022/2023	1,545,800	154,600	1,700,400

5 To arrive at the Draft Budget Results outlined in Table 4 in terms of the 10 year projection for the General Fund Accumulated Surplus (Working Funds), the following adjustment in addition to those included in Table 3 to the proposed budget estimates has been made:

- 10 • Addition of revenue funding for road reconstruction to be allocated commencing in the 2016/2017 financial year. This is a gradual restoration of funds removed from the 2010/2011 budget of \$557,100 from 2017/2018 onwards. Amounts included are:
 - 15 ○ 2016/2017 \$426,000
 - 2017/2018 \$557,100
 - 2018/2019 \$585,000
 - 2019/2020 \$614,300
 - 2020/2021 \$645,000
 - 2021/2022 \$677,300
 - 20 ○ 2022/2023 \$711,200

Note: The above change concerning restoration of road funding is not reflected currently in Annexure 1(a).

25 For the 2013/2014 financial year, a major contributor to the current budget position is via a further reduction in the legal services budget of \$149,000. Such a proposed reduction is not without risk and warrants particular attention and comment as follows:

- 30 a) Council either need to conservatively budget each year for legal costs based on likely costs if large, numerous or complicated cases arise or, if a legal reserve can be established and maintained, budget on the basis of trends in costs over previous years.
- 35 b) Because Council cannot predict when a significant individual case or an increase in the number of cases might arise, if Council set its legal budget based on trends (as is currently proposed for the 2013/2014 budget) it must maintain capacity to address individual significant cases which may otherwise be beyond budget and the only way to do this is by establishing and maintaining a legal reserve.
- 40 c) Council needs to commit to maintenance of a legal reserve of at least \$500,000 on an ongoing basis

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- d) If in future the legal reserve is relied upon to meet any legal budget deficits, it will be imperative that it be replenished otherwise required legal budget increases will adversely impact the financial position of Council.

5 Council has an adopted target to maintain an accumulated surplus (working fund) in the General Fund of \$1,000,000. The revised budget projections indicated in Table 4 to this report suggest this target will be achieved by 2015/2016. However, the long term financial projections do not include the following:

- 10
- Adequate funding for the maintenance and renewal of infrastructure in the General Fund. Provision is based on current funding levels with an indexation of 5% each year except for the additional funding identified in the report above from the 2016/2017 financial year included in the Table 4 projections over 10 years.
- 15
- Direct linkage to the funding gap yet to be identified in Asset Management Plans which could require greater funding than the amount indicated in the previous point.

20 The budget projections realistically still demonstrate the difficulty Council has absorbing additional costs without corresponding revenue. It can only be emphasised that Council must consider carefully the long term implications on its finances any consideration to add a new asset/service as current budget projections suggest it may not have capacity to do so.

2. Draft 2013/2014 Revenue Policy including Fees and Charges

25 The Draft 2013/2014 Revenue Policy including fees and charges has been reviewed by respective program managers and have been included at Annexure 1(b). Where possible, fees have been altered/increased to reflect the following specific changes:

- 30
- Increases in the Consumer Price Index or Local Government Cost Index established by the Independent Pricing and Regulatory Tribunal (IPART) – 3.0% to 3.4%.
- 35
- Ordinary rates have been increased by 3.4% in accordance with the IPART determination for 2013/2014 which forms the basis of the budget result presented. A further review of the ordinary rating structure incorporating new land valuation for 1 July 2013, excluding growth and retaining the existing ordinary rating structure (subject to another report to this Strategic Planning Committee Meeting) is indicated as follows:

Category and Sub-Categories	Number of Properties	Ad valorem Rate (\$)	Minimum Rate (\$)	Total Yield (\$)	Proportional Contribution of Yield (%)
Residential Ordinary	12,828	0.2766	652.50	13,547,787	74.54
Residential Ordinary (Flood Prone Lands)	30	0.2766	358.00	11,639	0.06
Residential Ordinary (Conservation Agreements)	3	0.2766	0.00	1,958	0.01
Business Ordinary	1,060	0.4149	652.50	2,061,610	11.34
Business Byron Bay CBD	285	0.5532	652.50	1,567,495	8.62
Farmland Ordinary	556	0.2039	652.50	984,008	5.43
Total	14,762			18,174,497	100.00

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Note: The above ordinary rates structure table is not reflected currently in Annexure 1(b or 1(d)).

- 5 • Water fixed charges and consumption charges are increased by 3.4% and 5.2% respectively due to the revenue needs to carry out maintenance, capital works and repay debt balanced with a decline in water consumption.
- 10 • Sewer fixed charges and consumption charges are increased by 3.0% and 4.2% respectively due to the revenue needs to carry out maintenance, capital works and repay debt balanced with a decline in water consumption.
- 15 • Domestic Waste and Non Domestic Waste charges have increased between 11.00% and 14.50% to generate revenue required to address waste management costs and includes provision for implementation of additional services for recyclables and organics.
- 20 • The fees associated with Council's two Holiday Parks include ongoing refinement of seasonal charging whilst also acknowledging the differences between the two Holiday Parks in terms of their facilities and markets. Fees at First Sun Holiday Park have generally increased between 2.5% to 3.5% to continue to generate revenue for park operations and improvements. The season arrangements established in 2011/2012 have been retained. For Suffolk Park Holiday Park, the seasons introduced in 2011/2012 has been revised to eliminate the high season and replace with an extension of the peak season. This is proposed to continue for 2013/2014 to still increase revenue overall but also to improve occupancy. Fees have generally increased between 2.5% and 7.0% depending upon the accommodation type, although some fees are not proposed to increase at all. It also needs to be noted for Suffolk Park Holiday Park and permanent residents, there is no fees disclosure in the fees and charges as the fee is considered private given it is covered by a lease increment and it is proposed to increase the fees payable for 2013/2014 by 3.0%. They were not increased at all in 2012/2013.
- 25 • Restructure of applicable fees and charges for the Byron Regional Sport and Cultural Complex Multipurpose Building based on experience gained since the Centre was opened. Some fees have increased and decreased significantly along with some fees being deleted. The fees may eventually be deleted from the fees and charges all together if the facility is leased out.
- 30 • New fees adopted by Council relating to the Public Health Act 2010 and Public Health Regulation 2012 adopted by Council and amended fees for busking in accordance with Council's Busking policy 13/002.
- 35 • Proposed reduction in fees related to development certification for Section 68 applications regarding on-site detention from \$650.00 to \$500.00.
- 40 • Change in methodology for charging for Section 138 applications relating to roadworks within public road reserve from \$260.00 plus \$3.10 per square metre of road to \$260.00 plus \$140.00 per hour of assessment.
- 45 • New fees for the Community and Exhibition Space at the new Byron Bay Library for conducting of meetings and functions.
- 50 • New fees in the Water and Recycling area for application fees relating to applications for private pump stations \$140.00, after hours inspections by engineering services \$800.00 and a surcharge fee of 100% for liquid trade waste transported from outside the Council area.

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- Further rationalisation of fees for the Myocum landfill including removal of distinction from whether the waste originates from within or outside the Byron Shire Council local Government Area.
- 5
- The Finance Advisory Committee at its Meeting held on 7 March 2013 considered the fees applicable for approvals related to Market Stall Holders and asked they be reviewed with options. In this regard the following information is provided:

Food Stall Approval Categories

10 The categories reflect the relative food safety risk of the food that is sold at local markets and one-day events:

Category 1 - On site food preparation.

15 Any food requiring on site preparation for the sale of food to the public. This includes, hamburgers, kebabs, spring rolls, international foods, hot dogs, hot chips, pies, sandwich preparation or any other food prepared, made or cooked on the site, and all potentially hazardous foods.

Category 2 - One step, low hazard food preparation.

20 Requirements for stalls where one-step only preparation takes place on the site, and where the ingredients or produce are not of a hazardous type, and where cooking, except for heating of water or soup, is not part of the process. This includes; popcorn, squeezing juices, fairy floss, tea and coffee, frozen fruit cups, and soups and other items which may be determined by councils' Environmental Health officer. **No potentially hazardous foods permitted.**

Category 3 - Pre-wrapped and bottled foods and Fruit and Vegetables.

25 This category includes prewrapped and other non-potentially hazardous foodstuff sold where the food is protected from contamination by wrapping or where stored in sealed containers. This includes; prebottled/sealed jams, honey, pickles, drinks; prewrapped and sealed cakes, toffees, biscuits etc; and natural protection such as fruit, vegetables, whole nuts etc. **No potentially hazardous foods permitted.**

30

Category 4 - LOCAL charitable organizations.

35 The following table summarises the historical and proposed fees charged by Byron Shire Council for each category;

	07/08	08/09	9/10	10/11	11/12**	12/13	Proposed 13/14
40 Category 1	\$115	\$115	\$120	\$120	\$120*	\$120*	\$120
Category 2	\$70	\$70	\$75	\$75	\$75	\$75	\$75
Category 3	\$50	\$50	\$50	\$50	\$50	\$50	\$50
Category 4	\$25	\$25	\$25	\$25	\$25	\$25	\$25

45 * additional financial impost imposed upon Category 1 businesses by changes to NSW Food Act to have Food Safety Supervisor (FSS) - minimum additional cost in this period of more than \$285.

** In 2011/2012 council introduced a change to the fee structure that moved the permit approval period from calendar year (expiry 31 December each year) to fiscal year (expiry 30 June each year). To avoid confusion, no increases in charges was considered appropriate.

50 The Finance Committee noted that there is no proposal to increase the four categories of market stall permit fee in 2013/14.

The basis for maintaining the current fee was;

55

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1. Council is currently not resourced to provide a regular food surveillance function at the increasing number of farmers and regular monthly Byron Shire markets. It was thought that increasing the charges without the provision of additional surveillance would only be seen in a very negative light.
- 5
2. The NSW Food Authority is proposing to require a mandatory inspection program for all temporary food businesses in 2014/15. It is proposed that with the introduction of this new enforcement agency requirement that all fees would need to be increased in 2014/2015. Until the specifics of the NSW Food Authority requirements were available, it is not possible to determine the further cost imposition upon Council at this time.
- 10
3. In addition to the permit fee, inspections of temporary food businesses at markets and one-day events are charged to the event manager at the current inspection rates as adopted by Council each year. This revenue for temporary food business inspections is recovered on a cost recovery basis.
- 15
4. Within the fee structure there are no 'pro-rata' charges for a new applicant seeking a permit. The full charge is levied upon full year or any part of a year temporary food business applicants. This annualised charge applies even if the applicant is only operating at one or two markets before the permit expires. In some cases where wet weather intervenes they might not get one market in before the permit expires.
- 20

Based on the above comments it is not recommended to amend the fees from those proposed.

25 *Note: The above review of Market Food Stall approval fees is not reflected currently in Annexure 1(d).*

- The inclusion in the Draft 2013/2014 Revenue Policy provision for a new fee relating to the application for or renewal of approval to operate an On-Site Sewerage Management Systems (OSMS). This matter was recently considered by Council through resolution **13-125**. The recommended fee to be included is \$42.50 per OSMS with this charge to be added to the rate notice for those properties with an OSMS(s). It is estimated this will yield Council an additional \$140,700 specifically for this purpose
- 30

35 *Note: The inclusion of wording or fees for OSMS application or renewal to operate is not reflected currently in Annexure 1(b) or 1(d).*

- The inclusion in the Draft 2012/2013 Revenue Policy fees and charges relating to legislative changes regarding swimming pool and the staged implementation for inspections as follows:
 - the development and implementation of the Swimming Pools Register (to commence by no later than 29 April 2013)
 - registration by pool owners of pools (after the register commences and by no later than 29 October 2013)
 - Councils' inspection programs (to be developed in consultation with the community, adopted and commenced by no later than 29 October 2013)
 - mandatory inspections by Council of tourist, visitor and multi-occupancy developments, and pools associated with property sale and lease (to commence by no later than 29 April 2014).
- 40
- 45
- 50

The fees and charges to apply are:

55 Domestic: \$140 inspection and \$100 for the reinspection
Tourist Accommodation: \$150 inspection and \$100 for reinspection

Note: The inclusion of wording for fees associated indicated above with swimming pool inspections is not reflected currently in Annexure 1(b) or 1(d).

5 In addition to the above and to incorporate Resolution **12-109** adopted by Council following
consideration of Notice of Motion 8.3 – Fees and Charges Increases at its Ordinary Meeting held
1 March 2012, a table has been produced at Annexure 2(c) that lists all proposed fees and
charges that have increased greater than the Consumer Price Index (CPI) with the identified fee
and explanation for the reason why the recommended increase is greater than the Consumer
Price Index (CPI). For the purposes of the Consumer Price Index as a benchmark, the rate of
10 3.0% has been applied.

Aside from the above items, in relation to the draft fees relating to the use of community halls and
facilities, some of the fees shown still need to be amended to reflect the recommendations from
the various Section 355 Committees/Boards of Management. The fees associated with Richmond
15 Tweed Regional Library are yet to be received from Lismore City Council for inclusion.

3. Community Consultation

20 Once the Draft 2013/2014 Operational Plan has been approved by Council, it will be placed on
public exhibition for a period of no less than 28 days seeking submissions from the Community.
This will be in addition to the other suite of documents Council has prepared under the Integrated
Planning and Reporting Framework. It would be expected the public exhibition period will be
during April/May 2013.

25 Financial Implications

Council in the preparation of its Operational Plan is required to include a number of statements in
relation to its revenue policy for 2013/2014. This includes a statement containing the draft
estimate of Council's Income and Expenditure or Budget for this period. The other statements
30 identified in Clause 201 of the Local Government (General) Regulation 2005 are in the main
dependant upon the rate pegging limits approved by the Minister for Local Government, any
application for a special rate variation and Council's decisions in relation to expenditure, income
and the associated fees and charges.

35 A summary of the parameters used in preparing the Draft 2013/2014 Budget including the
estimated borrowings and forecast working capital movements for General, Water and Sewer
Funds are detailed in the introduction of the Draft 2013/2014 Budget at Annexure 1(a)
commencing at page 5 of 171.

40 The financial forecast of the General Fund has been discussed in detail earlier in this report,
however it is suggested Council needs to look at its longer term financial position, especially in
the area of infrastructure maintenance and renewal in comparison to other areas of service
provided.

45 The Water and Sewer budgets have been prepared with pricing to generate the required revenue
to repay debt, to address capital works and ongoing maintenance works in these Funds. The
impact of price increases for Water and Sewerage are denoted in percentage terms under
section 2 above 'Draft 2013/2014 Revenue Policy including Fees and Charges'.

50 Statutory and Policy Compliance Implications

In respect of the Draft 2013/2014 Operational Plan, Council must comply with the provisions of
Section 405 of the Local Government Act 1993 as described below concerning the adoption of an
Operational Plan.

405 Operational plan

- 5 (1) *A council must have a plan (its **operational plan**) that is adopted before the beginning of each year and details the activities to be engaged in by the council during the year as part of the delivery program covering that year.*
- (2) *An operational plan must include a statement of the council's revenue policy for the year covered by the operational plan. The statement of revenue policy must include the statements and particulars required by the regulations.*
- 10 (3) *A council must prepare a draft operational plan and give public notice of the draft indicating that submissions may be made to the council at any time during the period (not less than 28 days) that the draft is to be on public exhibition. The council must publicly exhibit the draft operational plan in accordance with the notice.*
- 15 (4) *During the period of public exhibition, the council must have for inspection at its office (and at such other places as it may determine) a map that shows those parts of its area to which each category and sub-category of the ordinary rate and each special rate included in the draft operational plan applies.*
- 20 (5) *In deciding on the final operational plan to be adopted, a council must consider any submissions that have been made concerning the draft plan.*
- (6) *The council must post a copy of its operational plan on the council's website within 28 days after the plan is adopted.*

25

The specific statements required by Council to be disclosed as part of its Revenue Policy are determined by Clause 201 of the Local Government (General) Regulation 2005 as follows:

201 Annual statement of council's revenue policy

- 30 (1) *The statement of a council's revenue policy for a year that is required to be included in an operational plan under [section 405](#) of [the Act](#) must include the following statements:*
 - (a) *a statement containing a detailed estimate of the council's income and expenditure,*
 - 35 (b) *a statement with respect to each ordinary rate and each special rate proposed to be levied,*

40 **Note:** *The annual statement of revenue policy may include a note that the estimated yield from ordinary rates is subject to the specification of a percentage variation by the Minister if that variation has not been published in the Gazette when public notice of the annual statement of revenue policy is given.*

- (c) *a statement with respect to each charge proposed to be levied,*
- 45 (d) *a statement of the types of fees proposed to be charged by the council and, if the fee concerned is a fee to which Division 3 of Part 10 of Chapter 15 of [the Act](#) applies, the amount of each such fee,*
- 50 (e) *a statement of the council's proposed pricing methodology for determining the prices of goods and the approved fees under Division 2 of Part 10 of Chapter 15 of [the Act](#) for services provided by it, being an avoidable costs pricing methodology determined by the council in accordance with guidelines issued by the Director-General,*

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(f) a statement of the amounts of any proposed borrowings (other than internal borrowing), the sources from which they are proposed to be borrowed and the means by which they are proposed to be secured.

5 (2) The statement with respect to an ordinary or special rate proposed to be levied must include the following particulars:

(a) the ad valorem amount (the amount in the dollar) of the rate,

10 (b) whether the rate is to have a base amount and, if so:

(i) the amount in dollars of the base amount, and

15 (ii) the percentage, in conformity with [section 500 of the Act](#), of the total amount payable by the levying of the rate, or, in the case of the rate, the rate for the category or sub-category concerned of the ordinary rate, that the levying of the base amount will produce,

20 (c) the estimated yield of the rate,

(d) in the case of a special rate-the purpose for which the rate is to be levied,

(e) the categories or sub-categories of land in respect of which the council proposes to levy the rate.

25 (3) The statement with respect to each charge proposed to be levied must include the following particulars:

(a) the amount or rate per unit of the charge,

30 (b) the differing amounts for the charge, if relevant,

(c) the minimum amount or amounts of the charge, if relevant,

35 (d) the estimated yield of the charge,

(e) in relation to an annual charge for the provision by the council of coastal protection services (if any)-a map or list (or both) of the parcels of rateable land that are to be subject to the charge.

40 (4) The statement of fees and the statement of the pricing methodology need not include information that could confer a commercial advantage on a competitor of the council.