



Byron Shire Council



Agenda

Ordinary Meeting

Thursday, 10 April 2014

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

Public Access relating to items on this Agenda can be made between 9.00am and 10.00am 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 two working days prior to the Meeting.

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

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BUSINESS OF ORDINARY MEETING

1. PUBLIC ACCESS
2. APOLOGIES
3. REQUESTS FOR LEAVE OF ABSENCE
4. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY
5. TABLING OF PECUNIARY INTEREST RETURNS (s450A Local Government Act 1993)
6. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS
 - 6.1 Ordinary Meeting held on 20 March 2014
 - 6.2 Byron Shire Reserve Trust Committee Meeting held on 20 March 2014
7. RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS
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13. STAFF REPORTS
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Infrastructure Services

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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.

NOTICES OF MOTION

Notice of Motion No. 9.1. Amend Code of Meeting Practice

#E2014/19541

5 I move that Council amend its Code of Meeting Practice to reduce the lead time for the public to book time to address Council from the current two days to one day, ie that requests to address Council be taken up to "12.00 noon on the day before a the Meeting".

10 **Signed: Cr Duncan Dey**

Councillor's Background Notes:

15 The Code we adopted last year and brought into practice for 2014 increased this lead time from the former one day to which the public were long accustomed. Whether or not we received Submissions (during the 2013 public exhibition) opposing to that increase, we have received several complaints since. As this modern age allows promulgation of the speakers list by email, there is no need for a long lead time.

20 Schedule A of the Code currently states:

25 People wanting to speak to items on the Agenda will be listed for public access in the same order the items appear on the Agenda. Requests for public access should be made to the General Manager or the Mayor no later than 12.00 midday two days prior to the Meeting. Such requests must make clear whether the speaker is speaking in favour of, or against the recommended action.

The Motion seeks to change Schedule A to read:

30 People wanting to speak to items on the Agenda will be listed for public access in the same order the items appear on the Agenda. Requests for public access should be made to the General Manager or the Mayor no later than 12.00 noon on the day before the Meeting. Such requests must make clear whether the speaker is speaking in favour of, or against the recommended action.

35 The Code also has a glitch on PDF Page 3 of 47 where it cites "Policy No Public Access". I don't think there is such a Policy.

40 There may be a Regulation requiring that this change be put on Public Exhibition. My view is that, as it limits nobody and only increases opportunity to address Council, there is no need. Unless Public Exhibition cannot be avoided, I foreshadow here that I will also move that the change be adopted and the public notified via Council's Notices and a brief Press Release.

Options 1 and 2 below define tasks respectively with - and without – that Public Exhibition.

Recommended priority relative to other Delivery Plan tasks:

45 To be executed in April 2014, for adoption as soon as possible. If Public Exhibition is required, adoption should be possible by the first Meeting of Council in August 2014.

Definition of the project/task:

50 Option 1: amend the Code and notify the Public via Notices and a brief Press Release.

55 Option 2: prepare the draft Code and place on Public Exhibition; if there are Submissions against, report to Council; if there are no Submissions against, adopt the Code and advise via Notices and a brief Press Release.

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(4)

Management Comments:

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

Clarification of project/task:

5 The Notice of Motion as proposed will amend the Code of Meeting Practice to reduce the lead time for the public to book time to address Council from the current two days to one day. The amended Schedule A in the Code of Meeting Practice will read as follows:

10 *“People wanting to speak to items on the Agenda will be listed for public access in the same order the items appear on the Agenda. Requests for public access should be made to the General Manager or the Mayor no later than 12.00 noon on the day before the Meeting. Such requests must make clear whether the speaker is speaking in favour of, or against the recommended action.”*

15 There are no administration implications, only minor template changes, to moving from two days back to one day. Less notice will be provided to Councillors and the Executive Team of the speakers listed for Public Access.

20 A draft Code of Meeting Practice would be prepared and brought to Council for adoption prior to the draft being placed on public exhibition.

25 In relation to Cr Dey's comment "*The Code also has a glitch on PDF Page 3 of 47 where it cites “Policy No Public Access”* there is such a Policy." This reference can be removed in preparation of the draft Code of Meeting Practice.

30 There is a staff procedure titled Public Access, Questions and Submissions – Ordinary Council Meetings (#DM804466) which is in the process of being updated as part of the change to the Code of Meeting Practise in 2013 which brought the Public Access session back into the Ordinary meeting.

Director responsible for task implementation:

35 Director Corporate and Community Services

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

This task will have minimal impact on other projects and tasks.

Financial and Resource Implications:

There will be advertising costs associated with the public exhibition of the amended draft Code of Meeting Practice.

Legal and Policy Implications:

In relation to any amendment to a Code of Meeting Practice adopted by Council section 363 of the Local Government Act 1993 applies. Section 363 reads as follows:

“363 Amendment of the code

50 *A council may amend a code adopted under this Part by means only of a code so adopted.”*

Section 363 of the Local Government Act sets out the public notice and exhibition requirements for a draft Code of Meeting Practice. Section 361 reads as follows:

“361 Preparation, public notice and exhibition of draft code

- (1) *Before adopting a code of meeting practice, a council must prepare a draft code.*
- (2) *The council must give public notice of the draft code after it is prepared.*
- (3) *The period of public exhibition must not be less than 28 days.*
- 5 (4) *The public notice must also specify a period of not less than 42 days after the date on which the draft code is placed on public exhibition during which submissions may be made to the council.*
- (5) *The council must publicly exhibit the draft code in accordance with its notice.”*

Notice of Motion No. 9.2. Protecting Regional Food Production

#E2014/20198

5 I move that Council write to the NSW Minister for Planning and Infrastructure, the Premier and Hon. Don Page MP requesting that the macadamia, dairy and beef industries of the Northern Rivers be given Critical Industry Cluster (CIC) status to protect our environment and economy from unconventional gas mining.

10 **Signed: Cr Basil Cameron**

Councillor's Background Notes:

15 A critical industry cluster (CIC) is a localised concentration of interrelated productive industries based on an agricultural product that provides significant employment opportunities and contributes to the identity of the region. The CIC also needs to have potential to be substantially impacted by coal seam gas or mining proposals (Department of Planning and Infrastructure website).

20 Currently there are only two CICs in NSW; the horse and wine industries of the Hunter Valley.

The dairy, beef and macadamia industries of this region more than satisfy the CIC criteria. In Byron Shire, as across the region, these industries are integral to the rapidly expanding local food production that is an important part of our sustainable tourism industry. Fresh, clean and green are 25 the hallmarks of the product that producers, retailers, food manufacturers, restaurants and allied support services rely on to drive jobs growth and tourism.

Unconventional gas industry activity that threatens the production of fresh, clean and green food, also threatens local economies across the region.

30 In Byron Shire, we have chosen a sustainable path to economic development. Regionally, we need to support the industries that underpin our vision and ensure that they have the protection of CIC status

35 Definition of the project/task:

Write letters to Minister for Planning and Infrastructure, the Premier and Hon. Don Page MP.

40 **Management Comments by Jane Laverty Economic Development and Tourism:**
(Management Comments must not include formatted recommendations – resolution 11-979)

Clarification of project/task:

45 Compose a letter to the Minister for Planning and Infrastructure, the Premier and Hon. Don Page MP, on behalf of Byron Shire Council, with a request for the macadamia, dairy and beef industries of the Northern Rivers to be given Critical Industry Cluster (CIC) status to protect our environment and economy from unconventional gas mining.

50 Director responsible for task implementation:

General Manager

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

The task fits with Council's desire for a sustainable environment and economy. The task can be prioritised as a matter of urgency.

5

Financial and Resource Implications:

Staff time.

10 Legal and Policy Implications:

Nil.

Notice of Motion No. 9.3. Mullumbimby Big Picture Show

E2014/20301

I move:

5

1. That Council Support the Mullumbimby Big Picture Show as follows:
 - a) Waive hire charges for the Mullumbimby Civic Hall
 - b) Include on Council's calendar of events, website, E News Bulletins as well as in
10 Council advertising
 - c) Participate in the Mullumbimby Big Picture Show
2. That Council note the potential for outcomes to inform settlement strategies, local growth
15 management strategies and town centre planning for Mullumbimby.
3. That Council advertise the waiver as a s356 donation.
15

Signed: Cr Basil Cameron

20

Councillor's Background Notes:

The Mullumbimby Big Picture Show is a forum to gather the thoughts of locals on the future
creative, social and economic directions for Mullumbimby. Mullumbimby Creative are proposing to
25 hold the forum at the Mullumbimby Civic Hall on 31 May.

Mullumbimby Creative is a group of artists and residents who hope to bring together people from
all corners of Mullumbimby to contribute ideas. Mullumbimby Chamber of Commerce is supporting
the project. The Chamber and Mullumbimby Creative have previously collaborated on the
30 Sculpture Walk project that Council has agreed to support.

A key feature of the day will be to build a big picture for how the town may evolve based on the
way we live, work and play in Mullumbimby. What role does the town centre play? What other
precincts are important? How might urban design reflect the history, the people, the town? How
35 might a vision of sustainable economic development based around creative and fresh food tourism
be brought to life?

Mullumbimby Creative is requesting a waiver of the hall hire for the Civic Hall and support of
Council to promote and participate. Mullumbimby Creative and the Mullumbimby Big Picture Show
40 are entirely volunteer efforts.

There is potential for the outcomes of the day to help inform a future Local Growth Management
Strategy, revised Settlement Strategies as well as business and cultural precinct evolutions.

45 Attachment A

(Information Sheet to be provided)

Definition of the project/task:

50

1. Waive charges for Civic Hall hire and advertise as s356 donation.
2. Include notice on Calendar of events, website, E bulletins and newspaper notices.
3. Participate. Possible role for Economic Development, Planning and Infrastructure input.

Source of Funds (if applicable):

It is anticipated that all actions can be undertaken within operational budgets.

5 **Comments Director Corporate and Community Services:**

Clarification of project/task:

10 Provide a Section 356 Donation for the costs of hiring the Mullumbimby Civic Memorial Hall and Council support in way of advertising and social media.

Director responsible for task implementation:

15 Director Corporate and Community Services (Waiver of hall charges and advertising of the event).
General Manager (participation of staff).

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

20 As this stage a booking for the use of the Civic Hall has not been made with the Booking's officer for the Mullumbimby Big Picture Show so costs to be paid for the hire of the hall are not available.

25 This request would be considered as a Section 356 donation under Council's Policy Donations to Community Organisations, Other Groups and Persons.

At the adoption of the 2013/14 Budget in June 2013 Council resolved as follows:

30 *That as no moneys have been set aside for general community Section 356 Donations in the 2013/14 Budget, any requests received for donations or sponsorships that fall under Council Policy 3.13 Donations to Community Organisations, Other Groups and Persons be advised that there are no moneys available this financial year.*

35 Council could support the Mullumbimby Big Picture Show by including the event on Council's calendar of events, website, E News Bulletins as well as in Council advertising.

Financial and Resource Implications:

There are no general Section 356 Donations to support Point 1a) of the Notice of Motion.

40 Legal and Policy Implications:

Policy Section 356 Donations to Community Organisations, Other Groups and Persons.

Notice of Motion No. 9.4. Sponsorship support for the 2014 Byron Bay Writers Festival #E2014/19963

I move:

- 5
1. That Council offer support to the Byron Bay Writers' Festival 2014, become an Event Sponsor and provide promotional material for display.
 2. That the support involve:
 - 10 a) the use of Council signage and associated materials for traffic management and staff assistance in placing those materials in position with respect to the Traffic Management Plan, and
 - 15 b) the use of meeting rooms at the Byron Regional Sport and Cultural Centre identified as a donation of \$1,500.
 3. That Council advertise this sponsorship support as a S356 donation.
 - 20 4. That Council provide letters of support for grant and sponsorship applications as requested.

Signed: Cr Simon Richardson

25 **Councillor's Background Notes:**

The Byron Bay Writers Festival is to be held from 1-3 August 2014. It is one of the regions most successful festivals. Council has for the last several years supported the event and been recognised as a sponsor.

30

The festival has a broad audience and a high level of community involvement.

Recommended priority relative to other Delivery Plan tasks:

35 Not applicable

Definition of the project/task:

Donation to community group

40

Source of Funds (if applicable):

Contribution Community Event - Approval Expenses (2341.6)

45 **Management Comments by Phil Holloway, Director Infrastructure Services and Mark Arnold, Director Corporate and Community Services**
(Management Comments must not include formatted recommendations – resolution 11-979)

50 The Notice of Motion is seeking Council to become an Event Sponsor and to consider the making of a S356 Donation of \$1,500 for:

- a) the use of Council signage and associated materials for traffic management and staff assistance in placing those materials in position with respect to the Traffic Management Plan,
- b) the use of meeting rooms at the Byron Regional Sport and Cultural Centre

With regard to Point 2 a) of the Notice of Motion.

5 The Byron Bay Writers' Festival could hire the signage and undertake installation by external suppliers, or the works could be provided by Council at the applicable hire rates in accordance with Council's Fees and Charges. Community Infrastructure provided similar and associated works for the 2013 event, at a total cost of \$2,404.05 (exclusive of GST). Council donated \$1,500 towards this cost.

10 A donation for assistance with traffic management utilising Council's facilities and Development Application fees can be considered under Policy 4.15 Assistance to Festivals and Community Events, of which the objective is *"To provide appropriate levels of assistance to community organisations through the use of Council's works resources."*

15 Council will be considering a report at this meeting for adoption of the recently amended Policy Assistance for Festivals and Community Functions wherein the intent of the new amended Policy is 2.8.3:

20 *"Council's preference is that donations will not continue beyond three (3) consecutive years for the festival / function in order to favour start-up festivals / functions and to encourage them to achieve financial viability."*

Note the Byron Bay Writer's Festival has received a donation from Council for more than three (3) consecutive years.

25 The staff recommendation to Council for the adoption of the amended Policy enables the Byron Bay Writer's Festival to still apply and qualify for a donation in 2014/2015, but they may not be eligible in future years. The recommendation reads as follows.

30 2. *That Council following consideration of the submission received advise event organisers who have received a donation from Council for the past 3 consecutive years:*

35 a) *of the adoption of the amended Policy and the changes adopted for the allocation of funds under the Policy to eligible community organisations;*

b) *that they can still apply and qualify for a donation in 2014/2015;*

40 c) *that they may not be eligible for a donation in future years and will need to secure other financial assistance for the costs of road closures to hold their event.*

With regard to monetary amounts given, the new amended Policy states at 2.8.2

"a maximum donation allocation per festival or function is limited to \$600."

45 Council will soon be advertising for applications for donations under the Assistance for Festivals and Community Functions Policy. Closing date for receipt of these applications will be end of June 2014. It is proposed that the allocation of these donations for assistance with holding community events for the 2014/15 financial year will be considered at a Council Meeting in August 2013.

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With regard to Point 2 b) of the Notice of Motion.

Support the use of meeting rooms at the Byron Regional Sport & Cultural Centre. This request would be considered as a Section 356 donation under Council's Policy Donations to Community Organisations, Other Groups and Persons.

5 At this stage there are no general Section 356 Donation moneys in the 2014/15 Budget to assist the Byron Bay Writers Festival with the costs of hiring the rooms at the BRSCC.

10 At the adoption of the 2014/15 Budget in June 2014 Council will consider a recommendation with regard to requests for Section 356 Donations / Sponsorships that could be considered under Council's Policy Donations to Community Organisations, Other Groups and Persons to be provided in 2014/15 that states:

15 *That as no moneys have been set aside for general community Section 356 Donations in the 2013/14 Budget, any requests received for donations or sponsorships that fall under Council Policy 3.13 Donations to Community Organisations, Other Groups and Persons be advised that there are no moneys available this financial year.*

20 In the absence of available s356 funds to compensate a loss of revenue for the hire of BRSCC meeting rooms, given the focus on reducing the annual operating deficit for the BRSCC, this proposal is not supported.

Director responsible for task implementation:

25 Director Corporate and Community Services donation moneys.
Director Infrastructure Services provision of works.

Financial and Resource Implications:

30 Presently an amount of \$7,000 has been set aside in the its draft 2014/15 budget (to be considered at this meeting) for Assistance for Festivals and Community Functions. No funding has been set aside for non standard annual requests under the Policy Donations to Community Organisations, Other Groups and Persons.

Legal and Policy Implications:

35 Donations to be granted in accordance with Policy Assistance for Festivals and Community Functions and Policy Donations to Community Organisations, Other Groups and Persons.

Notice of Motion No. 9.5. Meeting to investigate the provision of free wireless Internet #E2014/19535

I move:

- 5
1. That Council conduct a special roundtable meeting to investigate the feasibility for the provision of free wireless internet (Wi-Fi) in specific locations across the Shire covering the townships of Mullumbimby, Bangalow, Brunswick Heads, Ocean Shores and Byron Bay.
 - 10 2. That Council invitees to the Wi-Fi roundtable are to include representatives from chambers of commerce, VIA Byron, community centres, 2 local IT specialists, Councillors and council staff.
 - 15 3. That the Wi-Fi roundtable discuss the following issues:
 - a) Business and community interest for the provision of free Wi-Fi spots across the Shire
 - b) Technical capabilities required to provide free Wi-Fi within the Shire
 - c) Promotional opportunities available with the provision of free Wi-Fi across the Shire
 - d) Revenue possibilities available with the provision of free Wi-Fi within the Shire
 - 20 e) Management options for the development, installation, delivery and maintenance of free Wi-Fi spots across the Shire.
 - f) Stakeholder identification including potential roles and responsibilities (eg businesses, community organisations and Council)
 - g) Identification of policies required for the operation of free Wi-Fi within the Shire eg banning of pornography, illicit material, cyber bullying and torrent downloads.
 - 25 4. That, following the identification of need and service requirements at the Wi-Fi roundtable, staff research free Wi-Fi solutions being provided within other local government areas including estimated costs such as capital costs for equipment, implementation, operational costs for data downloads and on-going maintenance and support. The solutions sought are
30 expected to be feasible, economical, financially achievable and sustainable whilst providing the latest wireless technology.
 - 35 5. That a report be prepared for Council that includes the following:
 - a) an examination of the feasibility and costing of free Wi-Fi access into identified preferred locations within the Shire.
 - b) options for the delivery of free Wi-Fi that include business only model, Council only model, business/Council partnership model.
 - 40 c) recommendations on consultation processes to be undertaken with businesses, residents and community organisations regarding the development of free Wi-Fi spots within the Shire.

Signed: Cr Paul Spooner

Councillor's Background Notes:

45
At the business roundtable conducted on 13 March the provision of free Wi-Fi facilities within the Shire was raised and discussed. This Notice of Motion attempts to provide a focus for future discussions to take place as to the desirability and feasibility of offering free Wi-Fi facilities in the Shire. Such a provision could be undertaken by: business, Council or through a partnership
50 approach. This Notice of Motion provides a mechanism by which this issue may be explored within the Shire and identifies a range of details that need to be considered by key stakeholders prior to any decisions being made.

A free Wi-Fi service is assumed to be available 24 hours per day, seven days a week, providing

internet access for the community in a safe and efficient way, with anyone able to access it using a wide range of mobile devices including laptops, notebooks, smartphones and iPad like devices.

Aims of the service:

5

- Providing a platform to access information and promotion of the local community
- Bringing community together to use services and collaborate
- Encourage use of public spaces and the creation of public seating
- Providing a platform for innovation

10

- Encourage self-employment, particularly in fields like web and app development, social marketing and new media
- Access to internet-based information and entertainment

Benefits of the service:

15

- Education and training
- Employment
- Connecting community
- Building innovation

20

- Wireless devices could open to a Wi-Fi advertisers/promotions portal before allowing users to navigate away to Facebook, Google, etc.

Protection and privacy considerations:

25

- Each user will be required to create an account to access the service. This ensures the integrity of the service and abusers of the service can be removed.
- Pornography, large downloads, torrents and illicit material will be blocked from the service and cyber-bullying will not be tolerated.
- Browsing history and personal information will remain anonymous.

30

Recommended priority relative to other Delivery Plan tasks:

EC1.2 Support and strengthen local businesses and local business networks

CM2.1.1 Facilitate and support active community engagement

35

CM2.2.1 Develop and implement a Communications Strategy

Definition of the project/task:

40

- To conduct a special roundtable meeting to discuss the feasibility of providing free Wi-Fi spots within specific locations in the Shire.
- To research the operation and costing of free Wi-Fi provision within other local government areas, including delivery options.
- To present to Council a report on the feasibility and costing of free Wi-Fi in identified areas within the Shire.

45

- To recommend appropriate consultation processes with businesses, community organisations and residents.

Management Comments:

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

50

Clarification of project/task:

Initiate the Wifi roundtable meeting of key stakeholders to investigate the feasibility for the provision of free wireless internet (Wi-Fi) in specific locations across the Shire covering the townships of Mullumbimby, Bangalow, Brunswick Heads, Ocean Shores and Byron Bay.

55

As part of the feasibility report, include references to similar projects in other Local Government Areas along with estimated costs (for capital equipment, implementation, operational costs for data downloads and on-going maintenance and support) along with appropriate consultation processes with business, community organisations and residents.

5

Executive Manager responsible for task implementation:

General Manager

10

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

Economic Development and Tourism Coordinator to lead the project with a cross department liaison with the Manager Sustainable Communities to ensure both business and community connectivity needs are served.

15

The capacity to connect to WiFi in town centre areas has the potential to provide advantages for young people as well as our older population who may not have access to the internet in their homes (positive aging strategy outcomes).

20

There is a direct link to economic development strategies with improved communications infrastructure, particularly for those in the creative industries sector.

Financial and Resource Implications:

25

The project will require a human resource allocation which can be achieved through cross department resource sharing.

Legal and Policy Implications:

30

The feasibility report will identify any future policy implications.

Notice of Motion No. 9.6. Unconventional Gas Exploration in water supply catchment at Bentley

#E2014/19971

I move that Council write to Rous County Council; to NSW Premier O'Farrell; to Lismore MP Thomas George; to Ballina MP and Minister for the North Coast, Don Page; to NSW Minister for Regional Infrastructure & Services, Andrew Stoner; to NSW Minister for Health, Jillian Skinner; and to NSW Minister for Resources & Energy, Anthony Roberts expressing our concerns that:

1. Unconventional gas exploration is taking place in a location (Bentley, west of Lismore) within the surface water catchment of one of the region's urban water supply sources (Rous' "Lismore source");
2. Impacts could be catastrophic of either (a) an accidental pollution incident during exploration or during set-up for production, or (b) developing this locality within a water supply catchment for gas production (ie multiple wells and their infrastructure);
3. Insufficient investigation has been undertaken to assess the risk from these activities to our urban water supply; and
4. Incidents in recent years such as wastewater overflows in the Pilliga State Forest and at Casino demonstrate that the infant unconventional gas industry is either not willing or not capable of averting such incidents, and that the planning for and granting of exploration licences was probably premature.

Signed: Cr Duncan Dey

Councillor's Background Notes:

As a Rous Councillor, I recently asked Rous staff and to confirm whether the Bentley site drains to Leycester Creek and whether that water is hydraulically connected to our Lismore Source?

Rous staff responded as follows (italics).

The Metgasgo Review of Environmental Factors (REF) for the Rosella E01, Conventional Gas Exploration Well, Bentley Road, Bentley, NSW states that:

"The site is located approximately 750m from Back Creek, located to the north. Back Creek flows east to Leycester Creek. Leycester Creek converges with the Wilsons River within the township of Lismore, approximately 15 km east of the site. The Wilsons River is a tributary to the Richmond River, which confluence approximately 27km south east of the site, within the town of Coraki.

Given the separation distance, surface cover and proposed controls including capture of all waste water (tank or lined sump), it is unlikely that surface water runoff will have the potential to impact local tributaries."

Therefore, the answer to your question is yes. The site of the proposed drilling is approximately 15 km upstream of the junction of Leycester Creek and the Wilsons River at Lismore.

In terms of the Rous Water extraction point for the Wilsons River source, this source draws from the upper reaches of the tidal pool and is therefore subject to the potential upstream movement of water and contaminants as well as impacts originating upstream within the Wilsons River and Coopers Creek catchments.

Downstream water quality risks arise from the discharge of potentially contaminated runoff from Lismore STP, Lismore CDB and the Leycester Creek catchment to the tidal pool, with potential significance for the prevailing water quality at Howards Grass.

- 5 *In considering potential water quality hazards that may arise from the Leycester Creek catchment, a key question to be addressed concerns the extent to which the upstream migration of contaminants could occur.*

In considering this issue, there are some clear constraints that apply:

- 10 *During low flows, Rous Water does not operate this source. Rous Water shall not be operating the source at flows less than the 90th percentile from September to February (during times of high irrigator demand) or less than the 95th percentile from March to August (when irrigation demands are low).*

- 15 *During higher flows there would be reduced potential for the upstream movement of contaminants.*

- 20 *Therefore, a key question to be addressed concerns the extent to which the upstream migration of contaminants occurs during these intermediate flow ranges, when potential exposure could occur.*

This analysis requires consideration of the variability of tidal flows that would also introduce variability to this situation.

- 25 *As part of the development of the Wilsons River Catchment Management Plan (CMP), Rous Water engaged the Water Research Laboratory (WRL) to complete hydrodynamic modelling to assist in refinement of these questions in order to provide Rous Water with greater certainty regarding the flow ranges that the upstream movement of contaminants may represent a concern, and the likely dilution factors/water quality dynamics operating within the tidal pool.*

- 30 *Overall, WRL found:*

- 35 *“In summary, results of the modelling indicate that under normal operating conditions with low diffusion (90th percentile inflows with extraction) effluent will not reach the Lismore Source in measurable concentrations and the majority of the effluent will be advected downstream. Should extraction be undertaken during very low flow conditions, effluent will be advected further upstream by tidal action and may reach the Lismore Source in measurable quantities. During conditions of higher diffusion, effluent may diffuse upstream to the Lismore Source when extraction is undertaken during ordinary operating conditions, however*
- 40 *concentrations are likely to be low (in the order of 0.4%).”*

- 45 *With specific reference to Leycester Creek, it was found that adopting conservative assumptions regarding the diffusion of a contaminant, it was found that the “upstream migration of a contaminant at Leycester Creek or Lismore CBD takes 3 days and has been diluted by 2.3 log (99.6%).” All scenarios found that a pollutant discharged into the Wilsons River from Leycester Creek would be diluted by a minimum of 2 log removal (99%).*

- 50 *Therefore, the risk of an issue occurring at the subject site and being measurable at the extraction site from the Wilsons River in Lismore needs to consider both the dilution of any contaminant introduced at the subject site and transported downstream to Leycester Creek in Lismore, as well as the 2+ log removal (99%+) or dilution of any such contaminant being transported upstream to the Wilsons River offtake.*

- 55 *My view is that the risk to water quality is substantial while the necessity for unconventional gas to be discovered or, if found, extracted in this particular locality is negligible. There is gas elsewhere.*

Rous and hence Byron Shire Council and their dependent water supply community rely on the Lismore source. If it were to be removed from Rous's supply system, our Future Water Strategy

would be undermined in that a replacement source would be required almost immediately. While groundwater is proposed as 'the new source', it requires several years of investigation prior to use.

5 The second paragraph of the quote above from the REF for the current exploration well at Bentley indicates little or no depth of consideration in stating that "it is unlikely that surface water runoff will have the potential to impact local tributaries". Too many wastewater ponds have failed.

10 The risk has not been adequately investigated. I believe that if it were, the cost of that risk to the water supplies of the urban populations of four Shires would outweigh the benefit of discovering or extracting gas within the catchment of the water supply source.

Definition of the project/task: Write to Rous County Council and the various NSW MPs presenting the above concerns of Council.

15 Recommended priority relative to other Management Plan tasks: As the task is small and the well is imminent, could this be done in April?

Management Comments by Phil Holloway, Director Infrastructure Services:

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

1. The attached maps (Attachments A and B) come from the Federal Governments 'Atlas of Groundwater Dependent Ecosystems'. The mapping suggest the groundwater between Bentley and Byron Shire could be linked. Whether contaminated groundwater from Bentley could travel the distance between Bentley and Byron staff do not have the expertise to comment and Council would need to request specialist advice to get a better idea. It is understood that groundwater can travel very slowly and if it could, it may take a long time to reach Byron, if at all.

2. The NSW State Government have a 'Aquifer Interference Policy', under the policy aquifer interference includes activities such as 'mining activities, including disposal of water taken from an aquifer including water taken as part of coal seam gas extraction'.

35 The Policy and other fact sheets can be found at <http://www.water.nsw.gov.au/Water-management/Law-and-policy/Key-policies/Aquifer-interference#fact>

The Department of Primary Industries, Office of Water implement and manage this policy. Council may wish to write to the Office of Water requesting advice about the proposed Coal Seam Gas project at Bentley, if it has been assessed under the policy and whether it is possible that the project could affect groundwater under Byron Shire.

3. Staff have contacted state government staff Richard Green, Team Leader Groundwater North. He has verbally advised that they have no concerns with the Bentley Project. It's a conventional gas bore in that they are looking for dry gas, not fracking for coal seam gas. He also advised that ground water flows very slowly and said that it may not be even possible for groundwater to travel from Bentley to Byron. Without further investigation he couldn't comment any further on the issue..

50 Director responsible for task implementation:
Infrastructure Services

Financial and Resource Implications:
Nil

55 Legal and Policy Implications:
Not Applicable

Attachments:

- 60 A Groundwater Provinces
B Groundwater Flow system

ATTACHMENT A

5
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Atlas of Groundwater Dependent Ecosystems

About the Atlas | [text version](#) | [maximise map](#)

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Current Scale: 611,994
 Selection Size: 0

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Name | State | Eco-Hydrogeological zone

ATTACHMENT B

5

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Atlas of Groundwater Dependent Ecosystems

The screenshot displays the GDE Atlas Map interface. At the top, there is a navigation menu with links to Home, About, and Contacts, and a search bar. Below the menu, the page title 'Atlas of Groundwater Dependent Ecosystems' is prominently displayed. The main content area features a map of Byron Shire with various geographical features and labels such as Ocean Shores, Mullumbimby, Kyogle, Nimbin, Wharfedale, Dundoon, Modanville, Clunes (NSW), Bickhill, Lismore (NSW), Wollongbar, Lennox Head, Ballina, and Wardell. A scale bar indicates 0, 10, and 20 km. The current scale is 611,994. On the left side, there is a 'Layers' panel with a list of map layers including Places, State and Territory borders, Roads, Inland water, Landscape characteristics, Bioregions, Major vegetation, Geomorphology, Climate zones, Eco-Hydrogeological zones, Hydrogeology, Groundwater provinces, Groundwater flow systems, Surface geology, Hydrology, and River basins. The 'Legend' section is also visible. At the bottom, there is a 'Search Results (0)' section with a search bar and a 'SEARCH RESULTS:' label. The interface includes various navigation and interaction icons for zooming, panning, and layer management.

PETITIONS**Correspondence and Petitions No. 10.1. Speed Limit - Coolamon Scenic Drive**

E2014/19643

5 At Council's Ordinary meeting on 20 March 2014 the Mayor Cr Simon Richardson tabled a petition containing 62 form letters from residents of Coolamon Scenic Drive via Justine Elliot MP's office (S2014/2902) which states:

10 *"As a resident of Coolamon Scenic Drive, I am very concerned about the speed limit that is currently in place in Coolamon Scenic Drive, from the Pacific Highway to Mullumbimby, a distance of approximately 11 kms.*

15 *The road is very unsafe and all too often there have been accidents, a number of them fatal. This week on consecutive days, two cars overturned (please turn over to see pictures).*

20 *The volume of traffic on this road had dramatically increased over the years with the existing speed limit being no longer appropriate. is a residential area with many concealed driveways, which are dangerous to exit, as cars come round blind corners at very fast speeds.*

25 *Regularly on weekends, groups of motorcyclists travel at excessive speeds making life very dangerous and traumatic for residents.*

Please review and lower the speed limit with urgency, before more serious accidents and fatalities occur"

Director Infrastructure Services:

30 On 12 December 2013 Council noted the report of the Local Traffic Committee by resolving as follows:

35 **13-663 Resolved** that Council notes the RMS have undertaken to carry out a speed review on Coolamon Scenic Drive, from Mullumbimby to the Pacific Highway at St Helena.

40 Accordingly the speed review is being undertaken by the RMS and Council will be advised of the outcome in due course. Council staff have assisted in the review by attending an on-site inspection and review, as well as reviewing of vehicle and crash data.

RECOMMENDATION:

- 45
1. That the petition regarding Speed Limit – Coolamon Scenic Drive be noted.
 2. That it be noted that a speed review is being undertaken by the RMS.

GENERAL MANAGER – STAFF REPORT

Report No. 13.1. Public Exhibition of Draft Revised Delivery Program 2013-2017 and Draft Operational Plan 2014/2015

General Manager

Report Author: Shannon McKelvey, Executive Manager Organisation Development

5 **File No:** #E2014/11062

Theme: Organisational Development, Human Resource Management

Summary: Attached is the Revised Delivery Program 2013-2017 and Operational Plan 2014-2015 to be endorsed for public exhibition by Council.

RECOMMENDATION:

10 **That Council endorse the draft Revised Delivery Program 2013-2017 and draft Operational Plan 2014-2015 for public exhibition, with authorisation to amend the draft Operational Plan to:**

- 15 **a) include the changes referred to in the body of this report; and**
- b) adjust it to ensure that it accords with Council’s endorsed draft 2014/15 Budget as necessary.**

20 **Attachments:**

- Draft Revised Delivery Program 2013-2017 #E2013/79201 [26 pages].....**Annexure 9(a)**
- Draft Operational Plan 2014-2015 #E2014/10718 [66 pages]..... **Annexure 9(b)**

25 *Annexures 9(a) and 9(b): Due to the size of this document it has been provided on the Councillors' Agenda CD only; an electronic copy can be viewed on Council's website and hardcopies at community access points around the Shire.*

BYRON SHIRE COUNCIL

ORDINARY MEETING

10 APRIL 2014

(23)

Report

5 A workshop was held with Councillors on 28 November 2013 where a revised draft version of Council's adopted Delivery Program 2013-2017 was presented and discussed. All recommendations made by Councillors at the workshop were then incorporated into the attached draft Revised Delivery Program 2013-2017.

10 A workshop was held with Councillors on 13 February 2014 where a Draft Operational Plan 2014-2015 was presented and discussed. Most requests from Councillors at that workshop were incorporated into the document at the workshop. The remaining items have been addressed as detailed below. The result is the attached draft Operational Plan 2014-2015 which is presented to Council for endorsement for public exhibition.

15 After public exhibition, the documents will be reported back to Council for final consideration prior to adoption, which needs to occur prior to 30 June 2014.

The following changes have been made to the draft Operational Plan 2014/2015 since the Councillor workshop held on 13 February 2014.

20 Item 4.25 Councillors requested different wording which we have redrafted as follows:

Budget Program	Actions 2014/2015	What will we achieve? / How will we measure completion?
Waste & Recycling	<p>Changed From: Progress the Myocum Quarry Landfill Project</p> <p>To:</p> <p>Finalise the environmental impact statement for the Myocum Quarry Landfill project and prepare the development application.</p>	<p>Changed From: Project approval achieved.</p> <p>To:</p> <p>Development application submitted for approval.</p>

Item 4.53

25 Council proposed clarification of the item relating to proposed Interim rock work:

Budget Program	Actions 2014/2015	What will we achieve? / How will we measure completion?
Asset Management	<p>From:</p> <p>Interim Rock Works</p> <p>To:</p> <p>Complete design and documentation for proposed interim beach access stabilisation works at Manfred Street, Don Street and Border Street, Belongil.</p> <p>Construct interim beach access stabilisation works at Manfred Street, Belongil.</p>	<p>Unchanged:</p> <p>Design and Documentation completed and approved by Council</p> <p>Works completed</p>

BYRON SHIRE COUNCIL

ORDINARY MEETING

10 APRIL 2014

(24)

Item 5.15

The following item 5.15 was removed as it was already included as Item 1.8 and the items were renumbered.

5

Budget Program	Actions 2014/2015	What will we achieve? / How will we measure completion?
General Manager's Office	Facilitate the future direction of development in Byron Bay through the development of a Byron Bay Town Centre Master Plan.	Byron Bay Town Centre and Foreshore Master Plan developed and being progressively implemented. Place Making Strategy which forms part of the Master Plan developed and implemented.

Item 5.17

Clarification of the measure was sought so the measure has been changed as follows:

Budget Program	Actions 2014/2015	What will we achieve? / How will we measure completion?
Land and Natural Environment	Promote and encourage sustainable living in the Shire.	Changed From: Increased number of community gardens for food production established in the Shire. To: Maintained or increased number of: <ul style="list-style-type: none"> • Sustainability seminars held; • Community engagement opportunities undertaken to promote sustainable living; • Ways farmers markets were promoted; • Community gardens for food production established in the Shire.

10 In addition, some additional questions were raised by Councillors after the workshop and responses from the relevant staff have been collated as follows:

Question 1: Explanation of how the actions from the Tourism Management Plan are included in the draft Operational Plan was sought.

15

Staff have advised that the actions from the Tourism Management Plan (TMP) will be addressed via actions proposed in the draft 2014/2015 Operational Plan. Operational Plan items serve to reflect both the Delivery Plan objectives and other plans and strategies such as the TMP. The Operational Plan Items address a number of the TMP Action items however may read more

broadly to ensure they reflect the delivery plan or the specific opportunity that presents. An example includes:

Delivery Plan 2013 – 17 Item No.	Operational Plan Item No	TMP Action No.
13 - Embrace digital technologies to increase community access and broaden engagement	Item 1.3 Support industry to undertake delivery of local/regional projects with tourism industry partners and other key industry groups	Objective 8 - Investigate opportunities to enhance, develop and promote appropriate tourism products that will improve the visitor experience and length of stay
16 - Develop stronger regional collaboration and strategic planning initiatives	- Byron Trails brochure transition to an online application explored along with other online media	Action S8.1.2 - Work with relevant agencies to develop new and enhance existing nature based and cultural tourism experiences and develop new experiences
17 - Develop partnerships with key stakeholders		Action S8.1.3 - Integrate new and enhanced products into marketing strategy and collateral
30 - Develop strategic destination marketing initiatives focused on visitor markets that are low impact and high yield that complement local community values		Action S8.1.4 - Improve linkages of new and enhanced products to iconic attractions and experiences
31 - Enhance, facilitate and promote appropriate tourism products designed to improve visitor experience and length of stay in Byron Shire		
39 - Facilitate the future direction of development in Byron Bay through the development of a Byron Bay Town Centre and Foreshore Masterplan.	Item 1.8 - Project manage the development of the Byron Bay Town Centre Masterplan {Res 13/2013}	Objective 7 - Seek support and funding for the development of infrastructure and facilities
		Action S7.1.3 Identify and develop amenities and facilities such as public toilets safe playgrounds, picnic areas, youth facilities such as skate parks as part of the proposed BSC Recreation Strategy
		Action S7.1.4 Improve town beautification and maintenance to create a welcoming atmosphere for visitors as part of BSC resolution to develop town village landscape plans

- 5 Action items from the TMP that are considered 'ongoing' are covered in the operational plan however could be enhanced to reflect specific TMP actions and this will be revised prior to public exhibition. An example this is:

TMP Action says:

5 S1.2.1.2 - Prepare an annual report to communicate to Council, stakeholders, citizens jury and the community, the progress undertaken in achieving strategies and actions and visitation and employment trends.

Operational Plan 14 – 15 says:

10 Item 1.2 - Establish effective partnerships and network relationships with key stakeholder organisations locally and regional.

- Project reference groups and Council Advisory Committees facilitated and/or established

15 We will add to the Operational Plan point - the provision of annual reports to communicate the progress of strategies, actions and available quantitative and statistical data.

Other specific actions that could be added to the Operational Plan 14 -15 from the TMP include the following:

20 S2.2.1 - Investigate opportunities and the process to apply for state and federal grant programs and investment opportunities.

25 S5.4.1 - To investigate and promote training and internship opportunities for residents and their employment in the tourism industry.

S5.4.2 - Develop a program to encourage local tourism businesses to provide meaningful employment opportunities for local people (including young people).

30 S6.1.2 - Incorporate tourism into BSC Risk Management Plan.

If the recommendation is supported, these changes will be made to the draft Operational Plan before it is put on public exhibition.

35 It is noted that many of the proposed actions will meet multiple objectives or actions (or part of the actions) of the Tourism Management Plan. To the extent that the other Tourism Management Plan items are not reflected in the 2014-2015 Operational Plan is because they:

- 40 (a) are actions for other stakeholders or in relation to which Council is a minor contributor;
(b) have already been completed or are scheduled for future financial years;
(c) are actions for Council to undertake but are not resourced or funded.

45 Staff will present information on the alignment between the Tourism Management Plan with the Community Strategic Plan and the Destination Management Plan highlighting 'like' actions and their status to the next Tourism Advisory Committee meeting.

50 Question 2: Request for modification to or addition in, or near, items 3.2 to 3.7 - Environmental Health & Compliance to address part 3 of Resolution 13-135 (reproduced below) and advise if the “bigger picture” approach to water pollution has been considered and whether measures of its success can be included in the Operational Plan.

55 “3. That the General Manager consider expanding the scope of OSMS assessments to include other pollution sources such as poor table-drainage on private and public roadways, blocked or inadequate culverts, agricultural activities, unsewered dwellings, other matters that may lead to water quality degradation (also relates to Committee Recommendation WW&S 4.4 and Resolution 11-1044).”

Staff have advised that Item 3.2 has been updated to include reference to 2015 adopted Compliance Priorities as well.

- 5 The Actions included for the Environmental Services Team are based upon the resources available and allocated. To expand upon these activities would require additional resources to be allocated. At this stage resources are not allocated or available for expanding the scope of OSMS assessments to incorporate assessment of non-OSMS related matters as proposed. These types of activities are not identified in the 2014 Compliance Priorities. Council will be requested to adopt
- 10 Compliance Priorities for 2015. If Council include this as a 2015 high priority action, then it will be able to be managed through Item 3.2 of the draft Operational Plan.

Financial Implications

- 15 The draft Revised Delivery Program 2013-2017 and draft 2014/2015 Operational Plan has been developed in-house within existing resources. There will be minor costs of approximately \$1,000 associated with exhibition of these documents together with the exhibition of the annual budget, fees and charges and management plan.
- 20 The draft Delivery Program and Operational Plan have to be integrally linked with Council's Long Term Financial Plan and annual budgets. Financial and budgetary impacts must be considered, and any required adjustments made to the budgets as required, before any items are removed or added to the Delivery Program or Operational Plan.
- 25 Similarly if any changes are made to Council's draft 2014/15 Fees or Charges and/or Budget, resulting adjustments may need to be made to the draft Delivery Program and/or Operational Plan. The draft budget will be presented in a separate report, and the recommendation in this report would be sufficient to allow the integration to be confirmed prior to public exhibition.

30 Statutory and Policy Compliance Implications

The draft Revised Delivery Program and draft Operational Plan have been prepared in accordance with the requirements of the Division of Local Government – Department of Premier and Cabinet's requirements for Integrated Planning and Reporting for Local Government in NSW.

- 35 Council needs to move to community consultation on the draft Delivery Program and Operational Plan (and the Rates Policy, Fees and Charges and Budget) for 28 days as required (see - s404 and s405 of the Local Government Act).

CORPORATE AND COMMUNITY SERVICES – STAFF REPORTS

Report No. 13.2. Draft Amended Policy Section 356 Donations - Assistance for Festivals and Community Functions

Director: Corporate and Community Services
Report Author: Gayle McCallum, Governance Officer
File No: #E2014/18115

5

Theme: Corporate Management, Governance, Section 356 Donation

Summary: Council at its Ordinary Meeting held 12 December 2013 resolved to place a revised and amended draft of the Policy Section 356 Donations - Assistance for Festivals and Community Functions on exhibition to allow for submissions. One submission was received and is now reported back to Council for determination.

RECOMMENDATION:

10

1. That the draft amended Policy “Section 356 Donations – Assistance for Festivals and Community Functions” as shown at Annexure 5(a) (#E2013/83175) be adopted.

15

2. That Council following consideration of the submission received advise event organisers who have received a donation from Council for the past 3 consecutive years:

20

a) of the adoption of the amended Policy and the changes adopted for the allocation of funds under the Policy to eligible community organisations;

b) that they can still apply and qualify for a donation in 2014/2015;

25

c) that they may not be eligible for a donation in future years and will need to secure other financial assistance for the costs of road closures to hold their event.

Attachments:

30

- Amended Policy Section 356 Donations – Assistance for Festivals and Community Functions #E2013/83175 [7 pages]Annexure 5(a)
- Submission from event organiser Glenn Wright Mullum Music Festival #E2014/18347 [2 pages] Annexure 5(b)

Report

Council on 12 December 2013 considered a draft amended Policy Section 356 Donations – Assistance for Festivals and Community Functions and resolved as follows:

5

13-677 Resolved:

10

15

20

1. *That the Draft Amended Policy Section 356 Donations - Assistance for Festivals and Community Functions (Annexure 2 #E2013/74076) be further amended as follows:*
 - a) *add Objective 1.5 To enable donations to be made under Section 356 of the Local Government Act 1993.*
 - b) *numeration rather than bullets in section 2.8.*
 - c) *split section 2.8.2 into two sections.*
 - d) *split the altered paragraph starting "Up to ..." into two paragraphs.*
 - e) *alter the wording of the second of these to read "Council's preference is that donations will not continue beyond three consecutive years, in order to ..."*
2. *That the Draft thus amended be placed on public exhibition for a minimum of 28 days.*
3. *That in the event that any submissions are received during the exhibition period on the draft Policy, that it be reported back to Council prior to adoption.*
4. *That in the event that there are no submissions received during the exhibition period, then the Draft Amended Policy be adopted and incorporated into Council's Policy Register.*

25

An advertisement was placed in Council's block advertising and all previous recipients of a donation under this Policy were notified of the proposed amended Policy and asked for any comments on the new Policy.

30

One submission on the draft amended Policy was received from Mullumbimby Music Festival agreeing to the amendments to the Policy namely "that 3 years will be the maximum than an organisation can receive this donation", but also asks what support their event can received from Council in way of sponsorship etc.

35

Council will need to determine whether the events that have previously received this Section 356 Donation for 3 consecutive years:

1. now do not qualify for any future donations under this Policy;

40

OR

2. as this is a new amendment to the Policy they can apply for a donation in 2014/2015 but be advised they may not be eligible in future years.

45

It has been recommended option 2 to allow the event organisers to secure other financial assistance for the costs of road closures in future years.

Financial Implications

50

Council has set aside \$7,000 in its draft 2014/2015 budget for distribution under this Policy for assistance with road closures.

Statutory and Policy Compliance Implications

Policy Section 356 Donations Assistance for Festivals and Community Functions.

BYRON SHIRE COUNCIL

Report No. 13.3. Section 355 Management Committees/Boards - changes to membership

Director: Corporate and Community Services
Report Author: Gayle McCallum, Governance Officer
File No: #E2014/17827

5

Theme: Corporate Management, Community Facilities

Summary: Council has received formal resignations and Committee nominations to the following Section 355 Management Committees and Boards:

- 2 resignations from the Ocean Shores Community Centre Section 355 Committee
- A resignation and a new appointment to the Cook Pioneer Centre Section 355 Committee
- A resignation from the Mullumbimby Civic Memorial Hall Board of Management
- A new appointment to the Brunswick Heads Memorial Hall

RECOMMENDATION:

- 10 1. That the report be noted.
- 15 2. That with regard to the Ocean Shores Community Centre Section 355 Management Committee Council officially thank Jennifer Bensemman and Donna Hammond for their contribution on this Committee.
- 20 3. That with regard to the Cook Pioneer Centre Section 355 Management Committee Council:
- a) Accept the resignation from Kimberly Flannery and officially thank her for her contribution on this Committee.
 - b) Appoint Barbara Klein to the Section 355 committee for this term of Council ending September 2016.
- 25 4. That with regard to the Brunswick Heads Memorial Hall Section 355 Management Committee Council appoint Leah Schinagl to the Committee for this term of Council ending September 2016.
- 30 5. That with regard to the Mullumbimby Civic Memorial Hall Board of Management Council accepts the resignation received from Michael Donnelly and officially thank him for his contribution on this Committee.

Attachments:

- 35 • **CONFIDENTIAL** Committee Nomination Barbara Klein #S2014/1837 [2 pages]**Annexure 3(a)**
• **CONFIDENTIAL** Committee Nomination Leah Schinagl #E2013/54678 [2 pages] **Annexure 3(b)**

Report

Ocean Shores Community Centre Section 355 Management Committee

5 Council has received the following resignations from the Section 355 Committee as they have relocated away from the Shire:

Jenny Bensemann
Donna Hammond

10

It has been recommended accept the resignations and that Council officially thank Jenny and Donna for their contribution on this Committee.

Current members on the Committee are:

15

Cr Diane Woods
Cr Chris Cubis (*Alternate Delegate*)
Pauline Kapral
Betty Lloyd
20 Helen Graveson

The Section 355 Committee have requested further members and advertising is taking place for recruitment of new members.

25

Cook Pioneer Centre Mullumbimby Section 355 Management Committee

Council has received a resignation from Kimberly Flannery from the Section 355 Committee as she has relocated away from the Shire.

30

It has been recommended to accept the resignation and officially thank Kimberly for her contribution on this Committee.

A Committee Nomination from Barbara Klein and shown at Confidential Annexure 3(a) has been received for appointment to this Committee

35

It has been recommended that Barbara be appointed to the Section 355 Committee.

Current members on this Committee are:

40

Cr Alan Hunter
Cr Duncan Dey (*Alternate Delegate*)
Keith Basing
Susannah Handran-Smith
45 Betty Swanton

Brunswick Heads Memorial Hall Section 355 Management Committee

Council has received a Committee nomination from Leah Schinagl shown at Annexure 3(b) for appointment to this Committee.

50

It has been recommended that Leah be appointed to the Section 355 Committee.

Current members on this Committee are:

55

Cr Diane Woods
Cr Basil Cameron *Alternate Delegate*

Stephen Bond (representing Brunswick Heads Chamber of Commerce)
Linda Hibbard (representing Brunswick Heads Visitor Centre)
Marj Trimble

5 **Mullumbimby Civic Memorial Hall Board of Management**

Council has received a resignation from Michael Donnelly from the Board as he is relocating from the Shire.

10 It has been recommended to accept the resignation and officially thank Michael for his contribution on this committee.

Current members on this Committee are:

15 Cr Simon Richardson
Andrea Danvers
Neil Johnson
Martin Jones
Judy MacDonald
20 Alison Pearl
Philip Preston
Glenn Wright

Financial Implications

25 Community Member of Section 355 Management Committees are volunteer positions unless otherwise resolved by Council.

Statutory and Policy Compliance Implications

30 Section 355 Committees operate under Committee Guidelines in which Committee membership it states

3.2 Committee Membership

35 *The Committee membership will number not less than four (4) and not more than twelve (12) members as appointed by Council including office bearers unless otherwise decided by Council. Council reserves the right to appoint a Councillor to each Committee.*

40 Further information on the operations and meeting minutes for these Committees can be found on Council's web site at <http://www.byron.nsw.gov.au/section-355-committees>.

Report No. 13.4. Investments – March 2014
Director: Corporate and Community Services
Report Author: James Brickley, Manager Finance
File No: #E2014/22779

5

Theme: Corporate Management, Financial Services

Summary: This report includes a list of investments and identifies Council’s overall cash position as at 31 March 2014 for Council’s information.

RECOMMENDATION:

10 **That the report listing Council’s investments and overall cash position as at 31 March 2014 be noted.**

Attachments:

15

- Investment Graphs March 2014 #E2014/19627 [2 pages] **Annexure 12**

BYRON SHIRE COUNCIL

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Report

In relation to the investment portfolio for March 2014, Council has continued to maintain a diversified portfolio of investments. At the time of writing this report, the average 90 day bank bill rate (BBSW) had not been received. Council's performance for the month of March is a weighted average of 3.18%. Based on previous months BBSW rates, this performance will again be higher than the assumed 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 table below identifies the investments held by Council as at 31 March 2014:

Schedule of Investments held as at 31 March 2014

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	Type	Interest Rate Per Annum	Current Value
24/07/07	1,000,000	AVERON II	CP	AAA	20/06/14	CR	0.00%*	986,000.00
26/09/05	1,500,000	EMU NOTES	CP	AAA-	25/10/15	MFD	0.00%*	1,426,050.00
29/06/06	2,000,000	ALL SEASONS NOTE	CP	AA+	29/08/14	MFD	0.00%*	2,052,200.00
30/03/07	1,000,000	INFRASTRUCTURE AND UTILITIES NOTE	CP	A	04/04/14	E	0.00%*	995,000.00
28/09/07	1,000,000	TRI-SECTOR LINKED NOTE	CP	A	29/09/14	E	0.00%*	983,500.00
28/11/07	3,000,000	CLIENT MANAGED NOTE	CP	A	28/11/14	E	0.00%*	2,940,300.00
20/06/12	500,000	HERITAGE BANK LTD BONDS	N	BBB+	20/06/17	B	7.25%	521,000.00
07/01/14	2,000,000	SUNCORP	P	A+	07/05/14	TD	3.60%	2,000,000.00
13/01/14	1,000,000	MACQUARIE BANK	P	A	14/04/14	TD	3.65%	1,000,000.00
24/01/14	1,000,000	INVESTEC BANK	P	BBB+	26/05/14	TD	3.77%	1,000,000.00
18/06/10	786,000	SUNCORP	N	A	06/06/14	TD	7.30%	786,000.00
24/03/14	1,000,000	ME BANK	P	BBB	23/06/14	TD	3.70%	1,000,000.00
05/02/14	2,000,000	NEWCASTLE PERMANENT	N	NR	07/04/14	TD	3.31%	2,000,000.00
28/01/14	2,000,000	SOUTHERN CROSS CR UNION	P	NR	28/05/14	TD	3.70%	2,000,000.00
12/05/11	1,000,000	INVESTEC BANK	N	BBB+	12/05/14	TD	7.48%	1,000,000.00
01/12/13	2,000,000	ING BANK (AUSTRALIA)	N	A1	28/05/14	TD	3.85%	2,000,000.00
12/02/14	2,000,000	RABO BANK	N	AA	13/05/14	TD	3.60%	2,000,000.00
24/02/14	1,000,000	GREATER BUILDING SOCIETY	N	NR	23/05/14	TD	3.55%	1,000,000.00
29/01/14	2,000,000	WIDE BAY AUSTRALIA LTD	N	NR	29/04/14	TD	3.65%	2,000,000.00
23/02/14	1,000,000	NAB	N	AA-	26/05/14	TD	3.67%	1,000,000.00
03/03/14	1,000,000	ME BANK	N	BBB	01/07/14	TD	3.53%	1,000,000.00
12/12/13	2,000,000	AMP BANK	N	A	12/06/14	TD	3.90%	2,000,000.00
11/03/14	2,200,000	POLICE CREDIT UNION	P	NR	12/05/14	TD	3.53%	2,200,000.00

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	Type	Interest Rate Per Annum	Current Value
08/01/14	2,000,000	INVESTEC	N	BBB+	08/05/14	TD	3.78%	2,000,000.00
20/03/14	2,000,000	ME BANK	N	BBB	18/07/14	TD	3.55%	2,000,000.00
06/02/14	2,000,000	BANK OF QUEENSLAND	N	A2	06/06/14	TD	3.50%	2,000,000.00
06/01/14	2,000,000	RABOBANK	N	AA	06/05/14	TD	3.65%	2,000,000.00
11/02/14	1,000,000	INVESTEC	N	BBB+	11/06/14	TD	3.79%	1,000,000.00
28/01/14	2,000,000	POLICE CREDIT UNION	N	NR	28/04/14	TD	3.62%	2,000,000.00
07/01/14	1,000,000	SUNCORP	N	A	07/04/14	TD	3.55%	1,000,000.00
12/12/13	1,000,000	ING BANK (AUSTRALIA)	N	A1	12/06/14	TD	3.90%	1,000,000.00
07/01/14	2,000,000	NEWCASTLE PERMANENT	N	NR	07/04/14	TD	3.50%	2,000,000.00
11/03/14	2,000,000	ME BANK	N	BBB	10/06/14	TD	3.50%	2,000,000.00
06/02/14	1,000,000	AMP BANK	N	A	07/05/14	TD	3.65%	1,000,000.00
18/03/14	2,000,000	ING BANK (AUSTRALIA)	N	A1	16/06/14	TD	3.50%	2,000,000.00
24/01/14	2,000,000	GATEWAY CREDIT UNION	N	NR	24/04/14	TD	3.61%	2,000,000.00
07/02/14	1,000,000	AMP BANK	N	A	07/08/14	TD	3.80%	1,000,000.00
03/03/14	2,000,000	BANK OF QUEENSLAND	N	A2	01/07/14	TD	3.58%	2,000,000.00
10/03/14	1,000,000	BANK OF QUEENSLAND	N	A2	10/06/14	TD	3.55%	1,000,000.00
N/A	2,841,214	CBA BUSINESS ONLINE SAVER	N	A	N/A	CALL	2.75%	2,841,213.66
Total	62,827,214					AVG	3.18%	62,731,263.66

5 It should be noted that at the time of writing this report, Council had not received a valuation for the Averon II Note, the EMU Note, All Seasons Note, Infrastructure and Utilities Note, Tri-Sector Linked Note and the Client Managed Note for March 2014. These investments are highlighted in bold in the table above with the valuation reflective from 31 January 2014 for the EMU Note and All Seasons Note and February 2014 for the Infrastructure and Utilities Note, Tri-Sector Linked Note and the Client Managed Note, these being the most recent current valuations received by Council.

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

10 **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.

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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%

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.

For the month of March 2014, as indicated in the table below, there is a dissection of the investment portfolio by investment type. It also illustrates the current value of investments has remained lower than the original principal amount demonstrating a cumulative unrealised loss but compared to the previous month, the cumulative unrealised loss has reduced by \$16,100 (Please note that this movement is the January to February movement as valuations for March have not been received at the time of writing this report). This cumulative unrealised loss is a consequence of the lingering effects of the Global Financial Crisis as some of Council's 'grandfathered' investments are linked to the Credit and Equity Markets which have been adversely affected and are yet to recover.

Dissection of Council Investment Portfolio as at 31 March 2014

Principal Value (\$)	Investment Linked to:-	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
49,986.000.00	Term Deposits	49,986.000.00	0.00
2,841,213.66	Business On-Line Saver (At Call)	2,841,213.66	0.00
3,500,000.00	Managed Funds	3,478,250.00	(21,750.00)
1,000,000.00	Credit	986,000.00	(14,000.00)
5,000,000.00	Equity	4,918,800.00	(81,200.00)
500,000.00	Bonds	521,000.00	21,000.00
62,827,213.66		62,731,263.66	(95,950.00)

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.

The table below provides a reconciliation of investment purchases and maturities for the period 28 February to 31 March 2014 on a current market value basis.

Movement in Investment Portfolio – 28 February to 31 March 2014

Item	Current Market Value (at end of month)
Opening Balance at 28 February 2014	60,715,163.66
Add: New Investments Purchased	13,200,000.00
Add: Interest from Call Account	0
Less: Investments Matured	11,200,000.00
Less: Call Account Redemption	0.00
Add: Fair Value Movement for period	16,100.00
Closing Balance at 31 March 2014	62,731,263.66

5 Investments Maturities and Returns – 28 February to 31 March 2014

Principal Value (\$)	Description	Type	Maturity Date	Number of Days Invested	Interest Rate Per Annum	Interest Paid on Maturity
1,000,000.00	ME Bank	TD	03/03/2014	91	3.68%	9,174.79
1,000,000.00	AMP Bank	TD	10/03/2014	90	3.75%	9,246.58
2,200,000.00	Police Credit Union	TD	10/03/2014	62	3.57%	13,341.04
2,000,000.00	ME Bank	TD	11/03/2014	92	3.65%	18,400.00
2,000,000.00	ING Bank	TD	18/03/2014	90	3.60%	17,753.42
2,000,000.00	ME Bank	TD	20/03/2014	90	3.65%	18,000.00
1,000,000.00	ME Bank	TD	24/03/2014	91	3.70%	9,224.66
11,200,000.00						95,140.49

10 The overall 'cash position' of Council is not only measured by what funds Council has invested but also by what funds Council has retained in its consolidated fund or bank account as well for operational purposes. In this regard, for the month of March 2014 the table below identifies the overall cash position of Council as follows:

Dissection of Council Cash Position as at 31 March 2014

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Investments Portfolio			
Term Deposits	49,986,000.00	49,986,000.00	0.00
Business On-Line Saver (At Call)	2,841,213.66	2,841,213.66	0.00
Managed Funds	3,500,000.00	3,478,250.00	(21,750.00)
Credit	1,000,000.00	986,000.00	(14,000.00)
Equity	5,000,000.00	4,918,800.00	(81,200.00)
Bonds	500,000.00	521,000.00	21,000.00
Total Investment Portfolio	62,827,213.66	62,731,263.66	(95,950.00)

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Cash at Bank			
Consolidated Fund	1,005,750.90	1,005,750.90	0.00
Total Cash at Bank	1,005,750.90	1,005,750.90	0.00
Total Cash Position	63,832,964.56	63,737,014.56	(95,950.00)

Financial Implications

5 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 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.

20 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.

25 Council's investment strategy is currently to invest for the short term (generally 90 days on new investments) to take advantage of investment opportunities often offered in the market over and above the 90day bank bill rate whilst ensuring sufficient liquidity to meet cash flow requirements. This provides the ability to take advantage of interest rate movements in the market as short term rates are currently not dissimilar to longer term rates (2 to 5 years).

Statutory and Policy Compliance Implications

35 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 investment valuations required for the preparation of the report, are often received after the deadline for the submission of reports for the meeting. Endeavours will be made to ensure the required report will be provided to Council and this will for some months require reporting for one or more months.

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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.

5

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

Report No. 13.5. Draft 2014/2015 Statement of Revenue Policy, Budget Estimates and Fees and Charges

Director: Corporate and Community Services
Report Author: James Brickley, Manager Finance
File No: #E2014/19923

5

Theme: Corporate Management, Financial Services

Summary: The preparation of Council’s annual budget and revenue policy including fees and charges is now regulated under the Integrated Planning and Reporting Framework requirements legislated by the NSW State Government into the Local Government Act 1993 (Sections 402 to 406). Management have been developing the 2014/2015 Draft Statement of Revenue Policy which includes the Draft 2014/2015 Budget Estimates, Rates and Charges, Borrowings and Fees and Charges.

The Draft 2014/2015 Budget Estimates outlined at Annexure 6(a), Draft 2014/2015 Fees and Charges outlined at Annexure 6(b) and the Draft 2014/2015 Revenue Policy outlined at Annexure 6(c), comprise the overall Draft 2014/2015 Revenue Policy, which is a component of the Draft 2014/2015 Operational Plan. These documents have been prepared at this stage on existing formats familiar to Council and include the recommendations of the review undertaken by the Finance Advisory Committee (FAC) on 25 March 2014 and the further review undertaken by Management subsequent to the FAC meeting.

The Draft 2014/2015 Statement of Revenue Policy including the Draft 2014/2015 Budget Estimates and 2014/2015 Draft Fees and Charges documents are now presented for Council to consider and approve, subject to any amendment, for public exhibition.

RECOMMENDATION:

- 10 1. That Council consider and review the Draft 2014/2015 Statement of Revenue Policy comprising the Draft 2014/2015 Budget Estimates, Rates and Charges, Borrowings and Fees and Charges.
- 15 2. That the Draft 2014/2015 Statement of Revenue Policy comprising the Draft 2014/2015 Budget Estimates, Rates and Charges, Borrowings and Fees and Charges be placed on public exhibition, subject to these Plans being amended to incorporate any other changes identified and proposed by Council, in the Draft 2014/2015 Operational Plan.
- 20 3. That Council review and update its Long Term Financial Plan (LTFP) to incorporate the Draft 2014/2015 Budget Estimates adopted by Council for public exhibition and subsequent 9 year financial projections.

Attachments:

25

- Draft Budget for 2014/2015 #E2014/21050 [130 pages]Annexure 6(a)
- Draft 2014/2015 Fees and Charges #E2014/21757 [84 pages] Annexure 6(b)
- Draft 2014/2015 Statement of Revenue Policy #E2014/19973 [21 pages]Annexure 6(c)
- Table of Fees and Charges increasing greater than CPI #E2014/21138 [14 pages] Annexure 6(d)

Report

5 The preparation of Council's annual budget and revenue policy including fees and charges is now regulated under 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. The information that needs to be included in the Statement of Revenue Policy is defined in Clause 201 of the Local Government (General) Regulation 2005.
- 20 Management have been developing the 2014/2015 Draft Statement of Revenue Policy which includes the Draft 2014/2015 Budget Estimates, Rates and Charges, Borrowings and Fees and Charges.

25 The Draft 2014/2015 Budget Estimates outlined at Annexure 6(a), Draft 2014/2015 Fees and Charges outlined at Annexure 6(b) and the Draft 2014/2015 Revenue Policy outlined at Annexure 6(c), comprise the overall Draft 2014/2015 Revenue Policy, which is a component of the Draft 2014/2015 Operational Plan. These documents have been prepared at this stage on existing formats familiar to Council.

30 The documents have been reviewed by the Finance Advisory Committee on 25 March 2014 where the following changes were recommended.

Committee Recommendation FAC 4.1.1

35 *That Council consider and adopt the Draft 2014/2015 Statement of Revenue Policy comprising 2014/2015 Budget Estimates, Rates, Charges and Borrowings, with the following amendments to the Capital Works Program:*

- 40 a) *BRSCC Criterion Track - \$200,000 to be included in an application under the Clubs NSW Grant Program as part of a package of projects at the BRSCC.*
- b) *Lighthouse Road (Captain Cook) Parking Improvements - \$100,000 to be included in the Capital Works Program with staff to investigate and to recommend to Council funding for this project to maintain existing estimated Budget Result.*
- 45 c) *Kolara Way Stage 1 Roadworks - \$500,000 to be funded from Infrastructure Reserve but only upon the replenishment of funds to the Reserve from the sale of the Roundhouse Subdivision.*
- 50 d) *Kolara Way Ocean Shores Bridge Upgrade - \$300,000 project to be funded from Infrastructure Reserve but only upon the replenishment of funds to the Reserve from the sale of the Roundhouse Subdivision.*
- 55 e) *Banners and Poles (Town Entry) - \$100,000 not to be included in the Capital Works Program.*

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- f) *Coastal Zone Management Plan for New Brighton and South Golden Beach Embayments - \$60,000 to be deferred in the Capital Works Program to the 2015/16 Financial Year.*
- g) *Cavanbah Street Reserve Management Program \$30,000 to be funded from funds held in the Crown Reserve Trust.*

As a general comment on all the documents presented they are still in draft form and may require further adjustment and/or amendments pending any other decisions of Council at this Ordinary Meeting, prior to these Plans being integrated into the final document for public exhibition.

It is expected the documents will be formally adopted by Council at its Ordinary Meeting held on 12 June 2014 following the Public Exhibition period of 28 days required by Section 405(3) of the Local Government Act 1993.

Annexures 6(a) has been changed to incorporate the relevant recommendations of the Finance Advisory Committee held on 25 March 2014 **(FAC 4.1.1)**.

1. Draft Budget 2014/2015

The Draft Budget 2014/2015 is based on the 2013/2014 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 6(a).

The first Draft of 2014/2015 Budget Result on a Consolidated (All Funds) basis forecast a deficit result with the details of that result being included below at Table 1.

Table 1 – Forecast Budget Result 2014/2015 Consolidated (All Funds)

Item	Amount \$
Operating Result	
Operating Revenue	66,561,700
Less: Operating Expenditure (excluding Depreciation)	(59,151,600)
Operating Result prior to Depreciation – Surplus/(Deficit)	7,410,100
Less: Depreciation Expense	(15,804,400)
Operating Result – Surplus/(Deficit)	(8,394,300)
Funding Result	
Operating Result – Surplus/ (Deficit)	(8,394,300)
Add: Non cash expenses – Depreciation	15,804,400
Add: Capital Grants and Contributions	3,327,700
Add: Loan Funds Used	0
Add: Asset Sales	0
Less: Capital Works	(12,800,900)
Less: Loan Principal Repayments	(2,704,800)
Funding Result – Surplus/(Deficit) (Cash Movement)	(4,767,900)
Reserves Movement – Increase/(Decrease)	(405,200)
Overall Budget Result – Surplus/(Deficit) (Operating + Funding)	(4,362,700)

Table 1 indicates a forecasted budget deficit of \$4,362,700 which relates to the General Fund only. The forecast General Fund Accumulated Surplus (Working Funds) position based on the initial draft budget is shown in Table 2:

The major contributing factors to the deficit result were budget requests as follows:

- Loss of approx \$100,000 from expected normal rate increase not the 2.3% granted.

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- Inclusion of the BRSCC for a full financial year – deficit of \$447,000 at that stage.
- Inclusion of capital works at BRSCC \$250,000 that are unfunded.
- Additional unfunded roads and drainage maintenance expenditure \$1,239,500.
- Additional unfunded open space maintenance expenditure \$387,900.
- Additional unfunded roads capital works \$1,356,900.
- Additional unfunded open space capital works \$630,000.

Table 2 - Forecast General Fund Accumulated Surplus (Working Funds) after first Draft 2014/2015 Budget

Item	\$
Forecast accumulated surplus to 30 June 2014 at 31 December 2013 Budget Review	1,094,500
Add: Estimated initial draft 2014/2015 budget result	(4,362,700)
Forecast accumulated surplus to 30 June 2015	(3,268,200)

Projecting the initial draft budget for 2014/2015 through the next ten financial years would have created a totally unsustainable financial position for Council in terms of the General Fund Accumulated Surplus (Working Funds).

Given the above results in Table 1 and 2, Management have undertaken two budget meetings to review directorate budgets with a number of measures being identified to address the estimated deficit for the General Fund proposed for the 2014/2015 financial year. Based on these reviews, Management have prepared a revised Draft 2014/2015 Budget position that was submitted to Finance Advisory Committee on 25 March 2014 to consider. The measures or variations to the draft 2014/2015 Budget have been summarised at Table 3 below:

Table 3 – Forecast Budget Result 2014/2015 Consolidated (All Funds) submitted to Finance Advisory Committee held on 25 March 2014

Item	Amount \$
Operating Result	
Operating Revenue	64,973,400
Less: Operating Expenditure (excluding Depreciation)	(55,045,600)
Operating Result prior to Depreciation – Surplus/(Deficit)	9,927,800
Less: Depreciation Expense	(15,890,000)
Operating Result – Surplus/(Deficit)	(5,962,200)
Funding Result	
Operating Result – Surplus/ (Deficit)	(5,962,200)
Add: Non cash expenses – Depreciation	15,890,000
Add: Capital Grants and Contributions	3,193,700
Add: Loan Funds Used	0
Add: Asset Sales	0
Less: Capital Works	(11,430,900)
Less: Loan Principal Repayments	(2,704,800)
Funding Result – Surplus/(Deficit) (Cash Movement)	(1,014,200)
Reserves Movement – Increase/(Decrease)	(1,064,200)
Overall Budget Result – Surplus/(Deficit) (Operating + Funding)	50,000

Table 3 indicates a forecasted budget surplus of \$50,000 and this relates to the General Fund. The forecast General Fund Accumulated Surplus (Working Funds) position based on the draft

budget included as presented to the Finance Advisory Committee Meeting held 25 March 2014 is shown in Table 4:

Table 4 - Forecast General Fund Accumulated Surplus (Working Funds) Draft 2014/2015 Budget submitted to Finance Advisory Committee held on 25 March 2014

Item	\$
Forecast accumulated surplus to 30 June 2014 at 31 December 2013 Budget Review	1,094,500
Add: Estimated initial draft 2014/2015 budget result	50,000
Forecast accumulated surplus to 30 June 2015	1,144,500

To arrive at the Draft Budget Results outlined in Table 3 and Table 4 considered by the Finance Advisory Committee on 25 March 2014, compared to that in Table 1 and 2, for 2014/2015 financial year, the following main adjustments to the proposed budget estimates have been made as presented:

- Identification of possible funding other than general revenue for capital works items ie Section 94 that was not provided in the initial draft of the 2014/2015 budget
- Reduction in additional funding requests for roads and open space and recreation maintenance to more affordable levels. Whilst there has been a reduction from the initial budget bid, there is a very positive outcome that the current 2014/2015 draft budget has been able to provide an additional \$487,300 or 13.12% increase in revenue funding for road maintenance and capital works along with an additional \$163,800 or 4.58% increase in revenue funding for open space and recreation maintenance and capital works over the levels provided in 2013/2014. This is a significant change for Council in a twelve month period given revenue constraints and is consistent with the theme of the Financial Sustainability Project Plan to identify more funding for infrastructure maintenance and renewal.
- Consideration of the current organisation restructure including the ability for additional capacity building in the areas of economic development and strategic procurement at no cost to the budget by utilisation of savings identified to date.
- The review of the methodology to distribute overheads or support costs across Council's budget programs. This review incorporated the quantum of support costs distributed and the basis on how they are distributed. This change identified an estimated saving to the General Fund of nearly \$180,000.
- The incorporation of the Byron Regional Sport and Cultural Complex for a full year budget. The provision is still subject to review given recent receipt of the proposed business plan but has demonstrated the inclusion of this facility entirely in the budget.
- Absorption of a proposed 7.6% increase or an additional \$85,600 to a total contribution of \$1,212,600 to the Richmond Tweed Regional Library.
- No provision has been made in the Draft 2014/2015 Budget for any funding to provide general Section 356 donations to the Community.
- The inclusion of \$250,000 for the development of the Shara Boulevard Sportsfield recently acquired by Council and \$250,000 for sportsfields lighting at the Byron Regional Sports and Cultural Complex.
- Removal of the following capital works projects currently unfunded but included in the initial draft budget:

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- BRSCC Criterion Track \$200,000
- Lighthouse Road (Captain Cook) Parking Improvements \$100,000
- Kolara Way Stage 1 Roadworks \$500,000
- 5 ○ Kolara Way Ocean Shores Bridge Upgrade \$300,000
- Banners and Poles (Town Entry) \$100,000
- Coastal Zone Management Plan for New Brighton and South Golden Beach Embayments \$60,000
- Cavanbah Street Reserve Management Program \$30,000

10 Subsequent to the Finance Advisory Committee Meeting held on 25 March 2014, Management have undertaken a further review of the Draft 2014/15 Budget, to incorporate in the Draft Budget the recommendations from that the FAC Meeting (**FAC 4.1.1**), and which relate to the capital works identified in the previous section:

- 15 • BRSCC Criterion Track - \$200,000 to be included in an application under the Clubs NSW Grant Program as part of a package of projects at the BRSCC. This item is not listed in the 2014/2015 Draft Budget Estimates but can be included in a subsequent Quarterly Budget Review during 2014/2015 should grant funding be obtained.
- 20 • Lighthouse Road (Captain Cook) Parking Improvements - \$100,000 to be included in the Capital Works Program with staff to investigate and to recommend to Council funding for this project to maintain existing estimated Budget Result. This item has been included through further savings and part funding through the Paid Parking Reserve.
- 25 • Kolara Way Stage 1 Roadworks - \$500,000 to be funded from Infrastructure Reserve but only upon the replenishment of funds to the Reserve from the sale of the Roundhouse Subdivision.
- 30 • Kolara Way Ocean Shores Bridge Upgrade - \$300,000 project to be funded from Infrastructure Reserve but only upon the replenishment of funds to the Reserve from the sale of the Roundhouse Subdivision.
- 35 • Banners and Poles (Town Entry) - \$100,000 not to be included in the Capital Works Program.
- Coastal Zone Management Plan for New Brighton and South Golden Beach Embayments - \$60,000 to be deferred in the Capital Works Program to the 2015/16 Financial Year.
- 40 • Cavanbah Street Reserve Management Program \$30,000 to be funded from funds held in the Crown Reserve Trust.

45 In addition, Management have made the following amendments to the Draft 2014/2015 Budget Estimates subsequent to the Finance Advisory Committee held on 25 March 2014 that have no bearing on the overall budget result:

- 50 • Transfer of the Byron Regional Sport and Cultural Complex Multipurpose Centre Budget Program from the Corporate and Community Service Directorate to the Infrastructure Services Directorate plus adding the expenditure and revenue items from the Open Spaces and Recreation Budget Program related to the BRSCC sportsfields to create on Budget Program for the BRSCC to identify all costs and revenues associated with that facility.
- 55 • Transfer of the budget for the Media and Communications area from the General Manager's Budget Program to the Organisational Development Budget Program to follow the recent amendment to the Organisation Structure in this regard.

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- Recognition of \$1,800,000 in asset sales related to the sale of the Roundhouse Subdivision lots in 2014/2015, but not previously provided. This adjustment has been made on the basis that the sales for the initial four lots is now not likely to occur in the 2013/2014 financial year, and no sales for the remaining lots in 2014/2015 been accounted for in the 2014/2015 Budget Estimates. The revenue amount established is equivalent to fund development costs up to \$1,000,000 by reimbursing internal reserves as per resolution 13-170 and funding Kolara Way Ocean Shores Bridge Upgrade \$300,000 and Kolara Way Ocean Shores Stage 1 Roadworks \$500,000.

Inclusion of all the above items and as identified in Annexure 6(a) now presents the following Consolidated Budget Forecast for the 2014/2015 financial year outlined in Table 5 below:

Table 5 – Forecast Budget Result 2014/2015 Consolidated (All Funds)

Item	Amount \$
Operating Result	
Operating Revenue	64,961,200
Less: Operating Expenditure (excluding Depreciation)	(55,065,400)
Operating Result prior to Depreciation – Surplus/(Deficit)	9,895,800
Less: Depreciation Expense	(15,890,000)
Operating Result – Surplus/(Deficit)	(5,994,200)
Funding Result	
Operating Result – Surplus/ (Deficit)	(5,994,200)
Add: Non cash expenses – Depreciation	15,890,000
Add: Capital Grants and Contributions	3,193,700
Add: Loan Funds Used	0
Add: Asset Sales	1,800,000
Less: Capital Works	(12,330,900)
Less: Loan Principal Repayments	(2,704,800)
Funding Result – Surplus/(Deficit) (Cash Movement)	(146,200)
Reserves Movement – Increase/(Decrease)	(196,200)
Overall Budget Result – Surplus/(Deficit) (Operating + Funding)	50,000

Table 5 indicates a forecasted budget surplus of \$50,000 and this relates to the General Fund. The forecast General Fund Accumulated Surplus (Working Funds) position based on the draft budget as presented to this Ordinary Council Meeting is shown in Table 6:

Table 6 - Forecast General Fund Accumulated Surplus (Working Funds) Draft 2014/2015 Budget submitted to Finance Advisory Committee held on 25 March 2014

Item	\$
Forecast accumulated surplus to 30 June 2014 at 31 December 2013 Budget Review	1,094,500
Add: Estimated initial draft 2014/2015 budget result	50,000
Forecast accumulated surplus to 30 June 2015	1,144,500

For the 2014/2015 financial year, a major contributor to the current budget position is via a further reduction in the legal services budget of \$200,000. Such a proposed reduction is not without risk and warrants particular attention and comment as follows:

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- 1 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.
- 5 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 2014/2015 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.
- 10 c) Council needs to commit to maintenance of a legal reserve of at least \$500,000 on an ongoing basis
- 15 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.

20 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 3 and Table 4 to this report suggest this target will be maintained and enhanced to a projected result of \$1,144,500. However, the long term financial projections currently do not include the following:

- Direct linkage to any funding gap yet to be identified in Asset Management Plans which could require greater funding than current budget allocations.
- Review current budget projections over the next nine financial years beyond 2014/2015 in order to update the Long Term Financial Plan. Current expenditure predictions on a operational and capital basis are in excess of revenue sources identified.

30 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, in any consideration to add a new asset/service, as current budget projections suggest it may not have capacity to do so.

35 Subject to Council approving the Draft 2014/2015 Budget Estimates forming part of the Draft 2014/2015 Revenue Policy it will need to revisit and update the Long Term Financial Plan (LTFP) for the period 2014/2015 to 2023/2024 including the provision of scenarios. Once Council determines its Draft 2014/2015 Budget Estimates position, work on updating the Long Term Financial Plan (LTFP) will commence which will also require a review of the projected budget results for the following nine financial years subsequent to 2014/2015.

2. Draft 2014/2015 Revenue Policy including Fees and Charges

45 The Draft 2014/2015 Revenue Policy including fees and charges has been reviewed by respective program managers and have been included at Annexure 6(c) and 6(b) respectively. Where possible, fees have been altered/increased to reflect the following specific changes:

- Increases in the Consumer Price Index (CPI) assumed at 3.0%.
- Ordinary rates have been increased by 2.3% in accordance with the IPART determination for 2014/2015 which forms the basis of the budget result presented. The proposed rating structure for 2014/2015 is as follows:

55

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Category and Sub-Categories	Number of Properties	Ad valorem Rate (\$)	Minimum Rate (\$)	Total Yield (\$)	Proportional Contribution of Yield (%)
Residential Ordinary	12,898	0.283	667.50	13,904,711	74.41
Residential Ordinary (Flood Prone Lands)	30	0.283	366.50	11,913	0.06
Residential Ordinary (Conservation Agreements)	3	0.283	0.00	107	0.00
Business Ordinary	1,070	0.4245	667.50	2,150,019	11.51
Business Byron Bay CBD	319	0.566	667.50	1,634,240	8.75
Farmland Ordinary	548	0.2086	667.50	984,670	5.27
Total	14,868			18,685,660	100.00

- Water fixed charges and consumption charges are increased by 3.38% and 4.98% respectively due to the revenue needs to carry out maintenance, capital works and repay debt.
- 5 • Sewer fixed charges and consumption charges are increased by 2.97% and 0.58% respectively due to the revenue needs to carry out maintenance, capital works and repay debt.
- Domestic Waste and Non Domestic Waste charges have increased by 10.18% to generate revenue required to address waste management costs and includes provision for the implementation of additional services. Fees at the Myocum Waste Facility have also been increased between 3% and 20% depending upon the waste type. In dollar terms the fees increases at the Myocum Waste Facility range from \$0.50 to \$7.
- 10
- Restructure of applicable fees and charges for the Byron Regional Sport and Cultural Complex Multipurpose Building based the draft review report on the future operation of the facility. Some new fees have been created whilst others have been modified to reflect operational requirements with Council managing the Facility. Fees for the BRSCC sportsfields have also been reviewed with new fees proposed and modifications for others. This also applies to non-BRSCC sportsfields operated by Council.
- 15
- Fees for dog and cat registrations have been increased to the fees prescribed by the State Government.
- 20
- Fees for Section 68 approvals have increased between 25% and 47.37% to better reflect the costs involved in preparing these approvals. A new fee for urgent premises inspection for the Food Act associated with a pre-purchase is proposed to be introduced at \$160.
- 25
- Fees for swimming pools operated by Council are proposed to be increased 11.76% and 126.03% after a review of the fees charged by neighbouring facilities to Byron Shire. The proposal is to increase the fees charged by Council to the lowest fees charged by a neighbouring facility and are supported by both operators managing Council's swimming pools.
- 30
- Fee increases for landing fees at Tyagarah airstrip of between \$1 and \$2 per landing of \$5 per day for parking per day for commercial operators and a new fee structure for non-commercial landing fees.
- 35
- New fees associated with use of Council owned or controlled land for temporary activities such as weddings.
- 40

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- Increase in child care fees slightly higher than the Consumer Price Index (CPI) to recover the costs of providing childcare at Sandhills. The per day fee is proposed to be increased by \$3.
- 5 • A proposed new fee for internet charges for non members using the Richmond Tweed Regional Library of \$2 per session. Currently this service is free and will also need to be considered by the Richmond Tweed Regional Library Committee for approval.
- 10 • Fees are proposed to be increased for Council Cemeteries with some fees increasing between \$1 and up to \$384.00. These increases follow a phased in review of cemetery fees charged by Council relative to those fees charged by surrounding Councils for their cemeteries. Historically the fees charged by Byron have been lower.
- 15 • The Division of Local Government has advised through Circular 14-06 dated 21 March 2014 that the Statutory Fee for a Section 603 Certificate relating to a certificate detailing outstanding rates and charges for a property has been set at \$70.00 resulting in no change to the fee charged in 2013/2014.
- 20 • The Division of Local Government has advised through Circular 14-06 dated 28 March 2014 that the interest rate to apply to overdue outstanding rates and charges has been set at 8.5% for 2014/2015.

25 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 6(d) 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 3.0% has been applied.

30 Aside from the above items, 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 Tweed Regional Library are yet to be received from Lismore City Council for inclusion. Annexures 6(b) and 6(c) have been updated to incorporate consideration to date by the Finance Advisory
35 Committee and items identified in Section 2 of this report.

3. Community Consultation

40 Once the Draft 2014/2015 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 2014.

45 Financial Implications

50 Council in the preparation of its Operational Plan is required to include a number of statements in relation to its Revenue Policy for 2014/2015. This includes a statement containing the draft estimate of Council's Income and Expenditure or Budget for this period. The other statements 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.

55 The assumptions/parameters used in preparing the Draft 2014/2015 Budget Estimates include the following:

- Rate peg increase of 2.30% as determined by IPART.
- Consumer Price Index (CPI) 3.00%.
- Construction and maintenance budgets indexed by 5.00%.
- 5 • Salary and Wages indexed by 3.25% assuming new Award outcome.
- Interest on investments based on 3.50%.
- No new loan borrowings anticipated for 2014/2015 financial year.

10 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.

15 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 2014/2015 Revenue Policy including Fees and Charges'.

Statutory and Policy Compliance Implications

20 In respect of the Draft 2014/2015 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

- 25 *“(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.*
- 30 *(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.*
- 35 *(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.*
- 40 *(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.*
- 45 *(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.”*

50 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

- “(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,

5 (b) a statement with respect to each ordinary rate and each special rate proposed to be levied,

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.

10 (c) a statement with respect to each charge proposed to be levied,

15 (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,

20 (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,

25 (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.

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

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

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

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

(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,

40 (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,

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

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

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

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

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

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(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.*

5

(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. “*

Report No. 13.6. Year To Date Finance Report – March 2014

Director: Corporate and Community Services

Report Author: James Brickley, Manager Finance

File No: #E2014/20379

5

Theme: Corporate Management, Financial Services

Summary: Council at its Ordinary Meeting held on 19 September 2013 resolved:

13-497 Resolved that in relation to Report No. 4.3 – Proposed Monthly Financial Reporting (Corporate Management #E2013/49651), that Council receive:

Committee Recommendation FAC 4.3.1

A Monthly Finance Report, with the monthly financial reporting to incorporate the template at Annexure 2 (#E2013/49588) for a trial period of twelve months.

Enclosed at Annexure 13 is the Year To Date Finance Report for the month of March 2014 in accordance with the adopted reporting template for the information of Councillors.

RECOMMENDATION:

10 **That the Year To Date Finance Report – March 2014 be received and noted.**

Attachments:

- 15 • Year To Date Finance Report – March 2014 #E2014/20383 [2 pages]..... **Annexure 13**

Report

Council at its Ordinary Meeting held 19 September 2013 resolved:

- 5 **13-497** Resolved that in relation to Report No. 4.3 – Proposed Monthly Financial Reporting (Corporate Management #E2013/49651), that Council receive:

Committee Recommendation FAC 4.3.1

- 10 A Monthly Finance Report, with the monthly financial reporting to incorporate the template at Annexure 2 (#E2013/49588) for a trial period of twelve months.

- 15 Council upon receipt of the first Monthly Finance Report presented to the 31 October 2013 Ordinary Council Meeting resolved to change the name of the report to Year To Date Finance Report – Month Year (Resolution **13-585**).

Enclosed at Annexure 13 is the Year To Date Finance Report for the month of March 2014 in accordance with the adopted reporting template for the information of Councillors.

- 20 On page 1 of Annexure 13, the report by Council Fund and then by Council Budget Program compares operating revenue, operating expenditure (excluding depreciation), capital revenue and capital expenditure actual results for the period 1 July 2013 to 26 March 2014 against the revised adopted 2013/2014 Budget Estimates. Operating expenditure and capital expenditure actuals also include committed costs where raised. Page 1 of Annexure 13 does not quite reflect the actual results to 31 March 2014 given the agenda deadlines and the timing of the April 2014 Ordinary Council Meeting.

Comments regarding some of the variances identified on page 1 of Annexure 13 are as follows:

- 30 • Human Resource Management currently has an unfavourable budget variance of \$93,106 due to the recovery of oncosts (employee overheads) on salaries and wages being less than current expenditure on employee related costs such as leave entitlements, superannuation, workers compensation, training etc. This is most likely a timing difference and is expected will reduce as further oncosts are recovered.
- 35 • Financial Services operating expenditure is currently \$138,076 over budget. This has resulted from Council having paid in full its annual insurance premiums (excluding workers compensation) for the 2013/2014 financial year and valuation fees to the Valuer General.. These costs are accounted for in the Financial Services Program and distributed to budget programs on a monthly basis. Due to timing, this variance will reduce as the financial year progresses.
- 40 • The BRSCC Multipurpose Centre is currently \$128743 over budget in terms of expenditure. Expenditure includes \$283,404 for the replacement of the floor that is subject to an insurance claim that is yet to be recovered. Final costs have been sent to the claims assessor. Revenue is currently \$14,322 over budget. A final adjustment for the 2013/2014 financial year for the BRSCC will be incorporated into the 31 March 2014 Quarter Budget Review.
- 45 • Capital revenue in the Development Assessment Budget is currently \$624,908 over the current budget estimate due to receipt of developer contributions. A budget adjustment will be made in the 31 March 2014 Quarter Budget Review to address this positive budget variance.

- 50 On Page 2 of Annexure 13 are other financial information indicators regarding:

- 55 • Rates and Annual Charges Debt Ratio
 • Water and Sewerage Consumption Charges Debt Ratio
 • Debt Redemption (Loan Principal) repayments made by Fund to date compared to budget.
 • Cash and Investments held

- Interest on Investment revenue compared to budget.
- The cost to Council of pension rebates granted on rates and charges.

5 Note: At the time of writing this report and due to agenda deadlines, page 2 of Annexure 13 was not able to be completed as this was prior to month end of 31 March 2014. It is proposed to update Councillors with page 2 of Annexure 13 prior to the 10 April 2014 Ordinary Council Meeting.

Resolutions of Council impacting the 2013/2014 Budget Result

10 This section of the report is to identify to Council any resolutions since the last Year To Date Finance Report that have been adopted that have created a change in the adopted 2013/2014 Budget Result. This would relate to any resolutions from 1 March 2014 to 31 March 2014.

15 There are no resolutions in the period 1 March 2014 to 31 March 2014 that have impacted the 2013/2014 Budget Result which currently stands at a projected surplus of \$4,500.

Financial Implications

20 There are no direct financial implications associated with this report.

Statutory and Policy Compliance Implications

25 In terms of any monthly financial reporting, this is covered by the Local Government (General) Regulation 2005 as follows:

202 Responsible accounting officer to maintain system for budgetary control

The responsible accounting officer of a council must:

- 30 (a) *establish and maintain a system of budgetary control that will enable the council's actual income and expenditure to be monitored each month and to be compared with the estimate of the council's income and expenditure, and*
- 35 (b) *if any instance arises where the actual income or expenditure of the council is materially different from its estimated income or expenditure, report the instance to the next meeting of the council.*

212 Reports on council investments

40 (1) *The responsible accounting officer of a council:*

(a) *must provide the council with a written report (setting out details of all money that the council has invested under section 625 of the Act) to be presented:*

- 45 (i) *if only one ordinary meeting of the council is held in a month, at that meeting, or*
- (ii) *if more than one such meeting is held in a month, at whichever of those meetings the council by resolution determines, and*

50 (b) *must include in the report a certificate as to whether or not the investment has been made in accordance with the Act, the regulations and the council's investment policies.*

(2) *The report must be made up to the last day of the month immediately preceding the meeting.*

55 As indicated above, Regulation 202 only requires a report to Council if there is a material budget variation and Regulation 212 requires a monthly report to Council about its investments. In addition

to the above, Regulation 203 of the Local Government (general) Regulation 2005 requires Council be presented with a quarterly budget review which indicates to Council in financial reporting terms how Council is financially performing against the adopted/reviewed budget as follows:

5 **203 Budget review statements and revision of estimates**

- 10 (1) *Not later than 2 months after the end of each quarter (except the June quarter), the responsible accounting officer of a council must prepare and submit to the council a budget review statement that shows, by reference to the estimate of income and expenditure set out in the statement of the council's revenue policy included in the operational plan for the relevant year, a revised estimate of the income and expenditure for that year.*
- (2) *A budget review statement must include or be accompanied by:*
- 15 (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*
- 20 (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.*

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Report No. 13.7. Lease – Byron Visitors Centre

Director: Corporate and Community Services

Report Author: Leslie Beardmore, Leasing and Licensing Coordinator

Len Reilly, Maintenance Coordinator

5 Trish Kirkland, Manager Property, Contracts, and Information Systems

File No: #E2014/19367

Theme: Property, Procurement and Contracts

Summary: Since 1998 Byron Visitor Centre Inc has managed the visitor information centre at the Old Station Master's Cottage under various lease agreements.

At its Ordinary Meeting on 1 March 2012, Council resolved **12-261** to grant a lease to Byron Visitor Centre Inc following an expression of interest process. That lease expired 31 March 2014.

This report recommends Council grant a lease for a period of one year to Byron Visitor Centre Inc.

10 **RECOMMENDATION:**

1. That notice of Council's intention to grant a lease over Community Land being Lot 1 DP 827049 known as Old Station Master's Cottage be notified and exhibited in accordance with Section 47 of the Local Government Act for a period of 28 days.

15 2. That notice of Council's intention to subsidise the rent of \$70,323 as a Section 356 donation be publicly exhibited for a period of 28 days in accordance with the Local Government Act.

20 3. That subject to no submissions being received regarding the proposed lease and S.356 donation, Council grant a lease to Byron Visitor Centre Inc over Community Land being Lot 1 DP 827049, substantially in the form at Annexure 2(a) on the following terms:

25 a) Term of one (1) year commencing 1 April 2014;

b) Rent based on previous lease commercial rental valuation for the property increased annually in accordance with CPI;

c) Rent of \$70,323.00 per annum to be fully subsidised by a S.356 donation in the same amount;

30 d) Lessee to pay lease preparation fee of \$400.00 as set out in Council's adopted fees and charges.

35 4. That, on granting the lease, Council's seal be affixed to the Lease of Lot 1 DP 827049 in accordance with Regulation 400 of the Local Government (General) Regulations 2005.

40 5. That if submissions are received in response to the public exhibition of the proposed lease of Lot 1 DP 827049 or the S.356 donation, that a further report be brought to Council.

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6. That Council note that the expenditure of \$19,783 on repairs and maintenance to the building is to be funded from 2013/2014 Annual Special Rates Community Buildings Maintenance unplanned maintenance program.

5 7. That the necessary pro-rata adjustments to the votes provided in the adopted 2013/14 Budget and the draft 2014/2015 Budget are made to account for the \$1,323 CPI increase in both the rental income and the S.356 donation.

10 **Attachments:**

- Draft lease agreement #E2014/19488 [22 pages]Annexure 2(a)
- **CONFIDENTIAL** Quote for works #E2014/16763 [8 pages]..... Annexure 2(b)
- Letter to Byron Visitors Centre 24 March 2014 #E2014/17504 [2 pages]Annexure 2(c)

15 *Annexure 2(a): Due to the size of this document it has been provided on the Councillors' Agenda CD only; an electronic copy can be viewed on Council's website.*

ReportLand Information

- Council Parcel No. 187190
- 5 Description: Lot 1 DP 827049 being Old Station Master's Cottage, Jonson St, Byron Bay
- Owner: Byron Shire Council
- Classification: Community Land
- Category: General community use
- LEP Zone: 5(a) special uses zone
- 10 Plan of Management: #E2014/16186 adopted 18/06/2002

Background

- 15 In September 1998, following a tender process a lease for the Old Station Master's Cottage was awarded to Byron Shire Tourism Association and Byron Bay Chamber of Commerce for the purposes of providing a visitor information service.

Byron Visitor Centre Inc has managed the centre since that time under various lease agreements that have been the subject of reports to Council.

- 20 At its Ordinary Meeting of 26 August 2010 Council considered the report "12.5 Lease – Old Station Master's Cottage" (<http://www.byron.nsw.gov.au/meetings/2010-08-26-ordinary>) which recommended calling for Expressions of Interest in the lease for a period of two years and giving notice and exhibiting the lease in accordance with S 47A of the Local Government Act. Council resolved:

- 25
- 10-716**
1. *"That Council allow a further extension of the current situation for one year and prioritise the actions previously defined.*
- 30 2. *That Council give notice and exhibit the draft agreement for lease in accordance with S47A Local Government Act 1993."*

- Council considered a Notice of Rescission Motion in relation to resolution [10-716] at its Ordinary Meeting of 11 November 2010 - "9.1 Lease "Old Station Master's Cottage" –
- 35 (<http://www.byron.nsw.gov.au/meetings/2010-11-11-ordinary>) and resolved:

- 10-935**
1. *"That Council authorise the General Manager to call for Expressions of Interest in the Lease of Old Station Master's Cottage for a period of two years in the form provided at Annexure 35 (#988185).*
- 40 2. *That Council give notice and exhibit the draft agreement for lease in accordance with S47A Local Government Act 1993."*

- 45 The call for Expressions of Interest was the subject of a report to Council's Ordinary Meeting on 1 March 2012 – "15.1. CONFIDENTIAL Expression of Interest Old Station Master's Cottage" (<http://www.byron.nsw.gov.au/meetings/2012-03-01-ordinary>), Council resolved:

- 12-261**
- 50 "1. *That Council grant a new lease over the property known as the Old Station Masters Cottage being Lot 1 DP 827049 to the Byron Visitor Centre Incorporated based on the draft lease agreement at Annexure 15(c) (#1190752) on the following basic conditions:*
- a) *Lease term of two years*
- 55 b) *The lease fee to be the current commercial rental valuation for the property increased annually in accordance with the CPI as identified in the draft budget page 56 and 58 (\$67,000 2012/2013)*

BYRON SHIRE COUNCIL

ORDINARY MEETING

10 APRIL 2014

(60)

c) *The lease fee to be paid by a Section 356 donation made from Council d) All lease preparation costs are met by the tenant*

5 2. *That Council authorise the General Manager to affix the Council Seal to the Lease of Lot 1 DP 827049 in accordance with Regulation 400 of the Local Government (General) Regulations 2005.*

10 3. *That as the report contains financial reports and information of the Byron Visitor Centre Incorporated, the report and Annexures of the closed part of the meeting remain confidential.”*

A lease was subsequently entered into with Byron Visitor Centre Inc for a period of two (2) years commencing 1 April 2012 and expiring 31 March 2014.

15 Current

The holding over clause of the current lease has been exercised and the Byron Visitor Centre Inc will be holding over as a monthly tenant following expiry of the current lease on 31 March 2014, refer Annexure 2(c).

20 Following a meeting between Byron Visitor Centre representatives and staff it was agreed that favourable consideration should be given to:

- repairs and maintenance required to ensure an appropriate standard of the asset used to provide visitor services to the Shire. A scope of works and associated costs of \$19,783 are provided at Confidential Annexure 2(b).
- a further lease term of one (1) year to Byron Visitors Centre on expiry of the current lease at 31 March 2014. A lease for a term of one (1) year commencing 1 April 2014 has been prepared and is attached at Annexure 2(a).

30 The rationale for offering a one year lease to the BVC primarily centres on the current Byron Bay Town Centre Master Plan Project which includes the Railway Park precinct as one of the critical activity nodes to be addressed in the consultants' brief. As the former Station Master's Cottage (which currently houses the BVC) forms an important facility within the Railway Park precinct, it is believed that Council should not inhibit its capacity to reinvigorate this precinct by approving a longer term lease at this time.

35 **Financial Implications**

40 Annual rental value of \$70,323 is based on previous market valuation + annual CPI. A full rental subsidy via a section 356 donation is recommended.

45 The current 2013/14 budget provides for \$69,000 for both the rental income and section 356 donation. This report recommends adjusting the 2013/14 budget and draft 2014/15 budget accordingly to provide for an annual increase of \$1,323 in both income and expenditure.

A lease document preparation fee of \$400 will be charged to Byron Visitors Centre in accordance with Council's adopted fees and charges.

50 Maintenance and repair costs of \$19,783 will be funded from the Property Budget, Special Rates Variation – Community Buildings for Urgent and Unplanned maintenance. This will leave a balance of approximately \$18,000 for any unforeseen or emergency works required for community buildings for the remainder of the 2013/14 financial year.

55 Application of a full rental subsidy by Council (in lieu of charging commercial rent) is proposed in the draft lease with the Visitor Centre responsible for all services, expenses and maintenance. The

rent rebate is to be subsidised by a Section 356 Donation already identified in the budget (\$69,000 for 2013/14 year).

Statutory and Policy Compliance Implications

5 Under S35 of the Local Government Act 1993, Community Land is required to be used and managed in accordance with the plan of management applying to the land. The Plan of Management for the Old Station Master’s Cottage authorises the granting of leases and licences over the land.

10 Section 46A of the Local Government Act states that Council may grant a lease for more than 5 years to a non-profit organisation without conducting a tender process.

46A Means of granting leases, licences and other estates

- 15 (1) A plan of management is to specify, in relation to the community land to which it applies, any purposes for which a lease, licence or other estate may be granted only by tender in accordance with Division 1 of Part 3.
- (2) Nothing in this section precludes a council from applying a tender process in respect of the grant of any particular lease, licence or estate.
- 20 (3) A lease or licence for a term exceeding 5 years may be granted only by tender in accordance with Division 1 of Part 3, unless it is granted to a non-profit organisation.

Council must give notice and exhibit the lease in accordance with the provisions of the Local Government Act 1993. Section 47 specifies notification and exhibition requirements for leases with a term over 5 years, and Section 47A to leases for a term of 5 years or less.

25 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:
 - 30 (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
 - 35 (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:
 - 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)
 - 45 • 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.
- (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.
- 50 (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.
- (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
 - 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.
- 5
- 10
- (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.
- 15
- (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
 - (c) in all the circumstances, it is desirable to grant consent,
- 20
- 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).
- 25
- (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:
- 30
- (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,
- 35
- is taken to confer an option for renewal for a term equal to the further term.

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 renewed by the exercise of an option) does not exceed 5 years, other than a lease, licence or other estate exempted by the regulations.
- 40
- (2) If a council proposes to grant a lease, licence or other estate to which this section applies:
- (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.
- 45
- (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.
- 50

356 Can a council financially assist others?

- (1) A council may, in accordance with a resolution of the council, contribute money or otherwise grant financial assistance to persons for the purpose of exercising its functions.
- 5 (2) A proposed recipient who acts for private gain is not ineligible to be granted financial assistance but must not receive any benefit under this section until at least 28 days' public notice of the council's proposal to pass the necessary resolution has been given.
- (3) However, public notice is not required if:
 - 10 (a) the financial assistance is part of a specific program, and
 - (b) the program's details have been included in the council's draft operational plan for the year in which the financial assistance is proposed to be given, and
 - (c) the program's proposed budget for that year does not exceed 5 per cent of the council's proposed income from the ordinary rates levied for that year, and
 - 15 (d) the program applies uniformly to all persons within the council's area or to a significant group of persons within the area.
- (4) Public notice is also not required if the financial assistance is part of a program of graffiti removal work.

Note. Part 4 of the [Graffiti Control Act 2008](#) deals with graffiti removal work.

20 Local Government Act 1993

Section 55 of the Local Government Act, 1993 – What are the requirements for tendering? At (3) specifically states that the tendering requirements do not apply to the following contracts:

25 *“a contract for the leasing or licensing of land by the council, other than the leasing or licensing of community land for a term **exceeding 5 years to a body that is not a non-profit organisation**”.*

ICAC Guidelines

30 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.

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

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

40 *“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.”*

45 *“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.”*

50 *“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.”*

Local Government (General) Regulation 2005

400 Council seal

- 5 (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:
- 10 (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.
- 15 (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.
- 20 (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.

INFRASTRUCTURE SERVICES – STAFF REPORTS

Report No. 13.8. Endorsement of Byron Bay Bypass alignment and proceeding to EIS
Director: Infrastructure Services
Report Author: Simon Bennett, Traffic and Transport Planner
File No: #E2014/19559

5

Theme: Community Infrastructure, Local Roads and Drainage

Summary: On 21 March 2014 Council received a report of the same name. Council however resolved (**14-120**) that the matter be deferred to the Ordinary Meeting to be held on 10 April 2014. This was on the basis of a meeting scheduled with a Butler Street resident purporting to represent many people with or supportive of the group 'Grab the Rail' and their bypass proposal for an alignment that utilises the disused rail corridor east of Butler Street, commencing south of the rail platform.

Therefore this report reproduces all of the 21 March 2014 report plus additional explanatory notes regarding the meeting held 22 March between the resident and staff and, as provided at Annexure 8, the discussion paper tabled by the resident.

These updates however do not deflect the intention of this and the former 21 March report, ie Council endorsement for a Byron Bay bypass alignment is sought.

A Council decision on the bypass alignment is needed to progress the project, as it will assist with identifying issues to consider in the initial design and costing of the project and the approval process to be followed including undertaking an EIS and approvals from relevant state agencies.

Such certainty is also required to assist with both the consultation process and the securing of external funding should any become available.

RECOMMENDATION:

10

1. That Council confirm its preferred alignment for a road bypass of Byron Bay town centre is as per the white and yellow lines in Figure 6 of this report which is:
 - a) on the west side of the rail corridor, via the continuation of Butler Street south by following land classified as LEP Zone 9(a) - Proposed Road Reserve Zone; and
 - b) that a new rail crossing connecting to Jonson Street by utilising Council land (identified as site 7 in Figure 6) which is currently leased to the Byron Bay Ex-Services Club as overflow car parking immediately north of Mitre 10; ie Lot 7, DP 258071, PN 34760 and Lot 8, DP 818197, PN 157310).
2. That staff progress the preferred alignment commencing with necessary survey and design work and consultation with the relevant authorities including NSW Department of Planning in regard to their requirements for project approval.

15

20

25

Attachments:

- Grab the Rail Discussion Paper #E2014/19607 [14 pages] **Annexure 8**

Report

On receipt of Council’s Transport Advisory Committee report of their meeting held 27 August 2013 (#E2013/54416), Council resolved as follows:


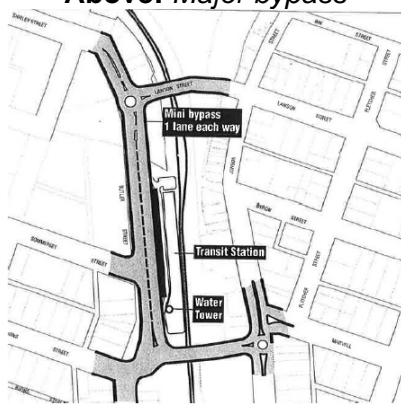
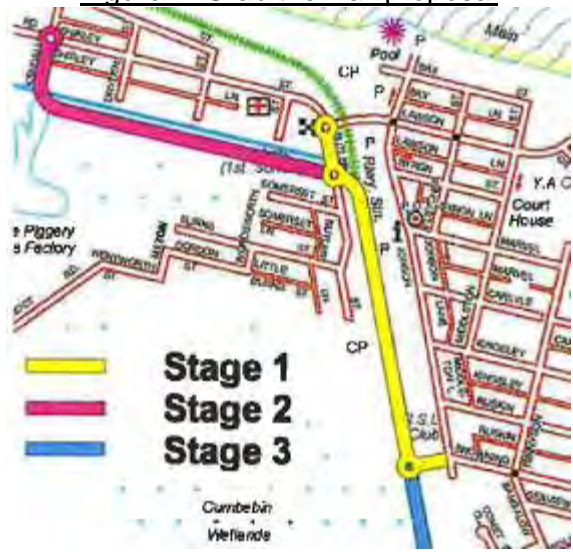
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13-470 Resolved

That staff investigate and report back on an alternative alignment closer to the rail corridor for the proposed Byron Bay bypass.

10 This was resolved on the basis that Council consider an alignment that diverted east of the houses that are located on the east side of Butler Street, south of Burns Street. This alignment is shown in Figure 1 as reproduced from the State of Environmental Effects (SEE) completed 2003 in association with Council’s bypass proposal at that time, while Figure 2 is the same alignment as presented to Council on 27 February 2014 by a local resident on behalf of the newly formed group “Grab the Rail”. Councillors may recall that at a Council workshop held on 26 September 2013 it was agreed that the TAC’s proposed by-pass alignment would not be pursued because consideration of this proposal would further delay the project and put the completion of the by-pass beyond the term of the current Council.

15

<p>Figure 1: SEE alignment NB: red line was not in SEE and is added to show current alignment being recommended, ie west of the rail corridor</p>  <p>Above: Major bypass</p>  <p>Above: Mini bypass</p>	<p>Figure 2: Grab the Rail proposal</p>  <p>NB: Grab the Rail (GTR) proposal:</p> <ul style="list-style-type: none"> • Stage 1 has been looked at previously by Council study; • Stage 2 reflects Council option as proposed and investigated 2001-03, including EIS and SEE • Stage 3 would see road continue on rail corridor and connect with Old Bangalow Rd near or at intersection with Bangalow Rd (ie near Blues Festival office site) • Stages 1-3 have not been considered since Council’s 2008 MR545 Study that recommended the ‘mini’ bypass (see Figure 6) and possible ‘major’ bypass at a later time
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Grab the Rail proposal and meeting

On 21 March 2014 Council received a report similar to this report, ie seeking Council endorsement of a bypass alignment. Council however resolved as follows:

5 **14-120 Resolved** that the matter be deferred to the Ordinary Meeting to be held on 10 April 2014.

10 This was on the basis of a meeting scheduled for 22 March 2014 with Paul Jones, a Butler Street resident representing the 'Grab the Rail' (GTR) Group who is a proponent of a bypass alignment that utilises the disused rail corridor east of Butler Street, commencing south of the rail platform. This proposal is outlined in more detail at Annexure 8.

15 At the meeting held between staff, Grab the Rail and a local planning consultant (Rob Doolan), the following issues were raised by GTR:

1. that studies to date have been narrow in scope and focused on vehicle numbers and movement only; and that
2. the bypass is more than a road or traffic project and should be considered in a greater context such as broader urban, cultural, social and community impacts and opportunities;
- 20 3. other future opportunities should also be investigated, such as possible light or heavy rail; provision of a bus station / transport interchange; improving town centre drainage and links from west to east of the rail corridor for pedestrian and vehicle, for example rear access to Woolworths and the Railway Park precinct and connections to/from Butler Street reserve;
- 25 4. the current bypass alignment (as recommended in this report) will jeopardise markets being held at Butler Street Reserve;
5. a decision on alignment prior to the state government's rail trail feasibility study (due April/May this year) is premature.
- 30 6. The proposed use of the rail corridor also included the construction of multiple rail crossings to allow multiple linkages to Jonson Street and other intersecting streets.

As such, the resident requests Council defer a decision on a bypass alignment; undertake traffic modelling of the GTR proposal; and await the rail trail feasibility study recommendations.

35 In response to the above and attached, staff who attended the meeting are of the following opinion:

1. the use of the railway corridor is not feasible due to likely land acquisition costs, the need for an act of parliament to change the status of the line;
2. the approval for additional crossings of the line is complex and unlikely to be approved;
- 40 3. the environmental impacts, traffic mitigation and costs of road construction of an alignment west or upon the rail corridor are likely to be similar;
4. as GTR stage 1 and the recommendations of this report are in effect the same, traffic modelling is not required and volumes depicted in Figure 6 of this report would most likely apply to either option;
- 45 5. therefore if Council are inclined to support the request to model the GTR proposal it is recommended the modelling be directed to solely understanding the benefit of exploring Stage 2 any further, noting stage 3 is considered not relevant at this stage and could be pursued under either alignment option;
- 50 6. similarly, neither alignment option precludes the consideration of future opportunities cited above, namely provision of a bus station / transport interchange; improving pedestrian links from west to east of the rail corridor and future use of Butler Street reserve.
7. Pursuit of the GTR option would likely preclude the return of heavy rail in the future and would put the entire project well beyond reach in terms of completion of the by-pass within this term of Council.

8. Preliminary advice received from John Holland who manage the rail corridor on behalf of the State Rail Authority and ARUP (consultants undertaking the Rail Trail Feasibility Study on behalf of the State Government) indicates that neither favour the rail corridor by-pass alignment option.

Recent history

Council's last study into a bypass was the Main Road 545 (MR545) study. The MR545 study was tabled to Council on 9 April 2009 and included a publicly available Strategic Study, which was based on data collection and modelling as presented in the consultants (Opus) Modelling Report that was provided to Councillors at the time (due to file size) on disk and not made public.

The MR545 Strategic Study is available on this web link:

http://www.byron.nsw.gov.au/files/meetings/2009/04/09/2009-04-09-Ordinary-13c-Strategic_Report.pdf

Once the MR545 study was received by Council, the Council initially chose to progress the mini-bypass (as per the study recommendation) but more recently overturned that decision and in March 2013 expressed a preference for the 'major' bypass alignment as follows:

13-139 Resolved:

1. That Council confirm its commitment to a bypass to Browning Street and this supersedes Res 12-199.

2003 Statement of Environmental Effects

Council engaged Parsons Brinckerhoff (2003) to undertake both a Statement of Environmental Effects (SEE) and an Environmental Impact Statement (EIS) (completed by PPK a Parsons Brinckerhoff subsidiary). While both documents are a useful resource and reference, neither can now be used for any bypass proposal Council may wish to lodge with the consent authority (NSW Planning) as (for example) a two year limit applies for an EIS, noting any proposal involving SEPP14 wetlands (as per the major bypass alignment) will require an EIS.

The SEE considered both the mini and full bypass routes plus the findings of the 2001 EIS which should be noted only concerned itself with the full bypass as it was - at that time - the original option exhibited by Council.

The 2003 Statement of Environmental Effects makes the following comments:

Page 2 of the SEE: the mini-bypass would

1. offer a considerable initial cost saving to Council and avoid the environmental issues that would be experienced with the full bypass.
2. have a substantial positive impact on traffic in the town centre and represents a better short term option than the full bypass from a cost benefit perspective
3. provide flexibility for the future development of the town centre....(including being) more pedestrian friendly

Page 3 of the SEE: the SEE

1. will (*and did*) accompany Council's DA which intended to seek consent for the mini-bypass and relocation and development of a bus transit station on Butler St (ie in proximity of the water tower and opposite Butler St Reserve)
2. described the development and assessed the environmental effects

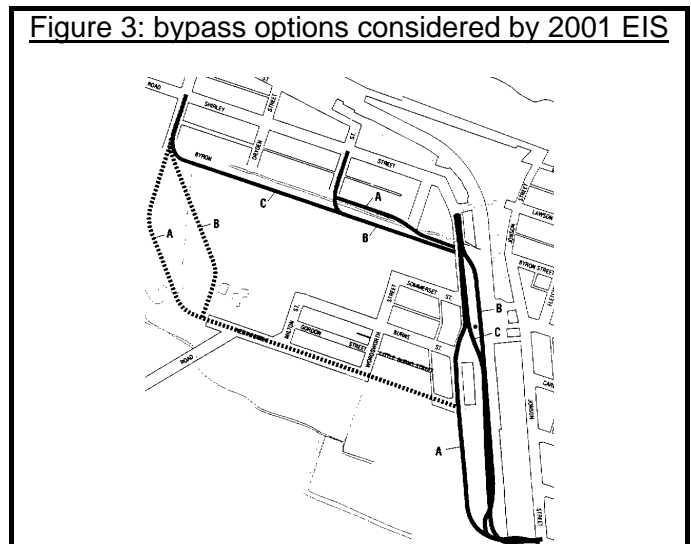
Page 24-25 of the SEE:

Capital costs (in 2003) for the major bypass was estimated at \$7.25m. In the Council report of 13 March 2013 in Table 1, (by using the SEE cost estimates and after making some assumptions as noted in that report including potential savings), arrives at 2013 figures of \$8.19m for the major/long bypass. This is for construction only and does not include land or environmental costs. In calculating major bypass land costs, this was (and is still) considered rather more complex given the land includes a mix of crown, private and council land all of which will have some costs, including compensatory costs. Due to this complexity no estimate has been attempted to date. A detailed cost estimate will be undertaken once the preferred by-pass alignment is determined by the Council and a detailed design including a Review of Environmental Factors or EIS is undertaken.

Grab the Rail – and potential uses of rail corridor other than for rail

The SEE states (p1) that three different corridors and nine different options were considered in the EIS. These are shown in Figure 3 and are:

- a. Butler Street, Options A, B and C;
- b. Byron Street, Options A, B and C;
- c. Wentworth Street, Options A and B; and
- d. 'other' options, such as Milton Street, between Wentworth Street and Shirley Street, but were considered to provide no real advantage, and several disadvantages.



From these options, the EIS assessed the route Butler Street Option B (as shown in Figure 1) which the SEE states (p1) received approval from NSW Planning and NPWS.

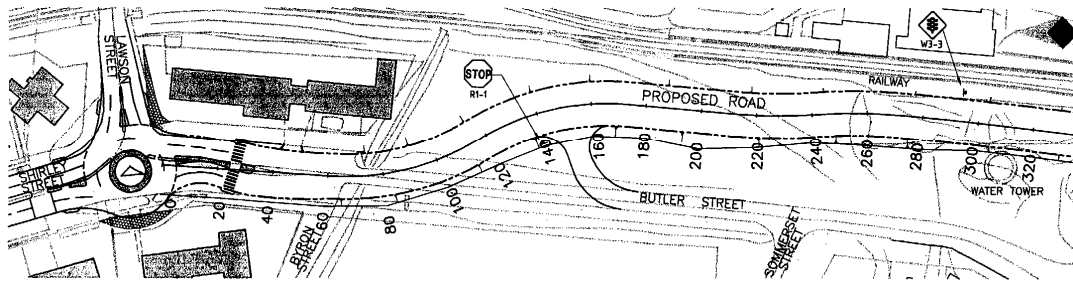
Interestingly such approval was forthcoming at a time when trains still used the rail line and according to the EIS was possible on the proviso (page 4-3) a buffer between 10 to 20 metres could be maintained from road edge to nearest rail centre line and that land is subject to acquisition (p6-5 of EIS).

The drawings within the EIS show the alignment as diverting toward the rail corridor prior to the water tower and continuing in behind the houses as "Grab the Rail" propose. Figure 4 below is a reproduction of EIS Figures 5.1-5.3 while Figure 5 presents Figures 5.8 and 5.9 from the EIS regarding cross section proposed at the time for a two-lane road.

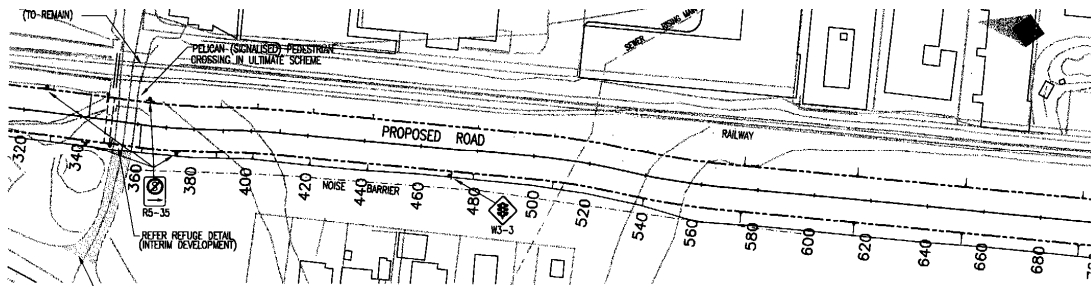
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Figure 4: reproduction of EIS Figures 5.1-5.3

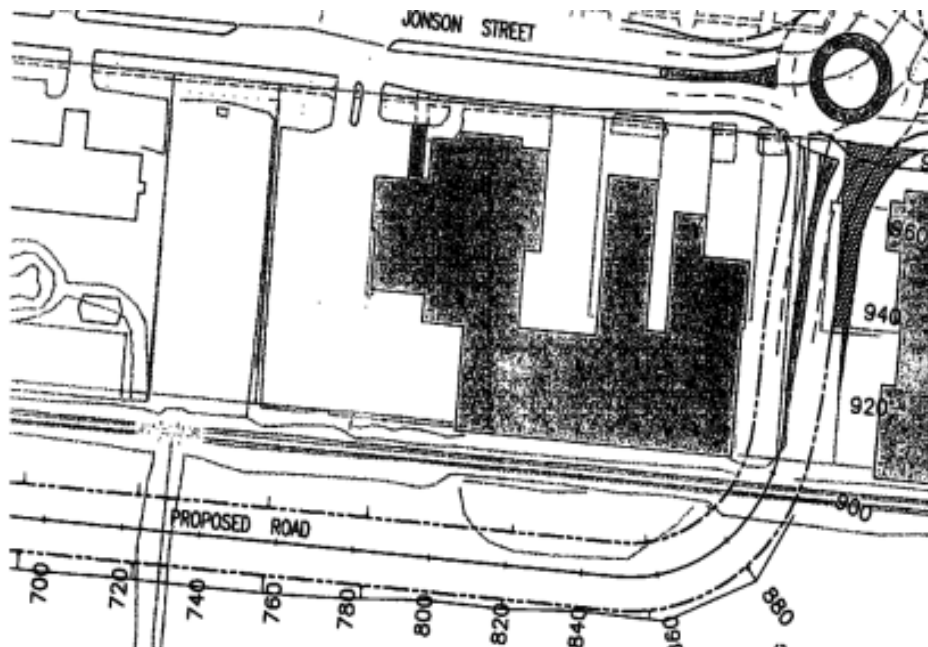
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Section from Lawson St to Water Tower



Section from Water Tower to in behind (east of) Butler St residences



Section from/to Jonson Street

15

As for a general description of the project the 2001 EIS states on page 5-1 as follows:

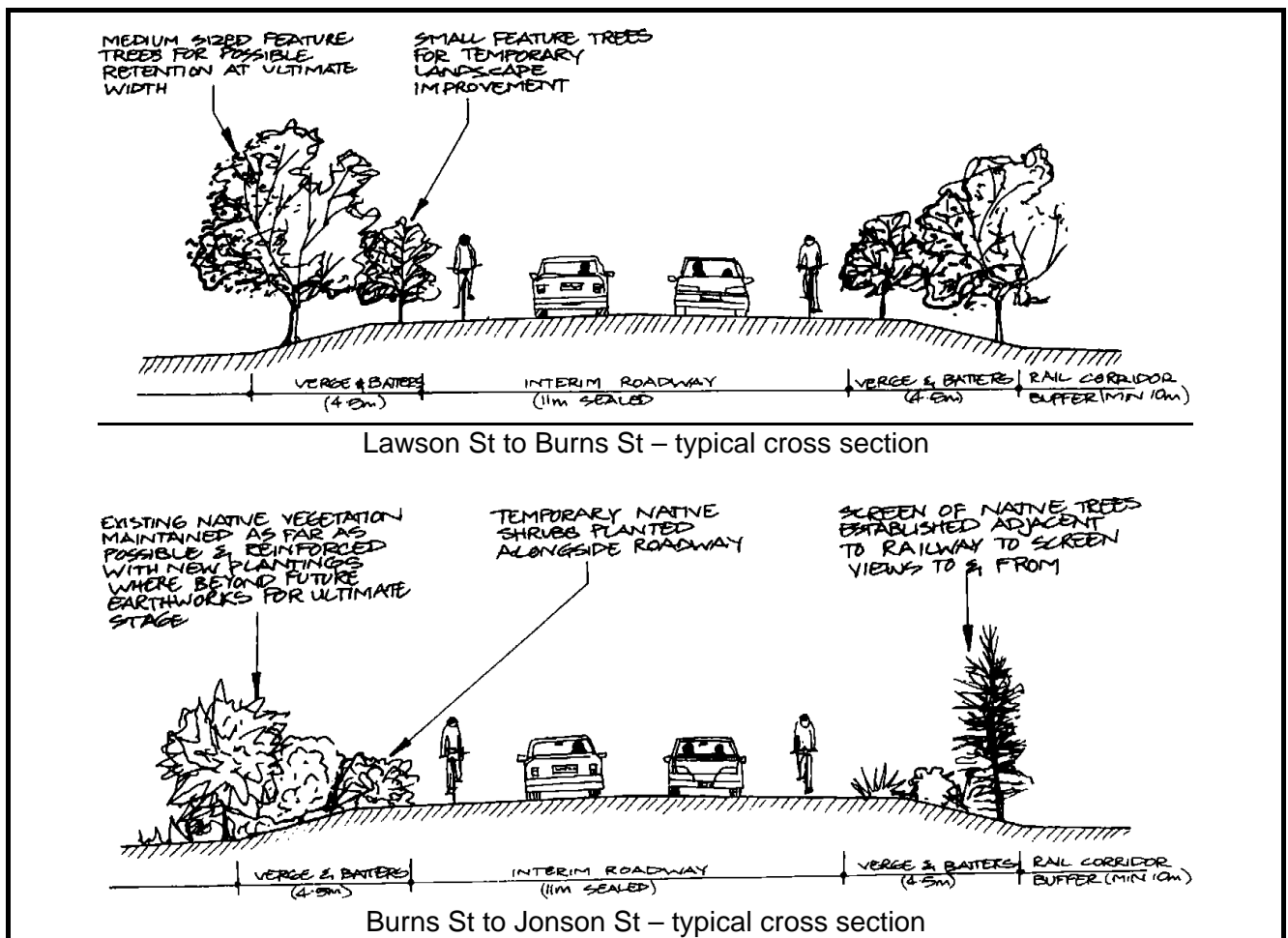
The proposal for the town centre bypass is approximately 900 metres long with one lane in each direction on relatively flat land. Figures 5.1, 5.2 and 5.3 contain the vertical and horizontal alignments. The proposal extends from a roundabout at the intersection of Lawson, Butler and Shirley Streets, south along Butler Street for approximately 100 metres prior to curving eastward towards the railway line. The proposal then runs south adjacent to the railway line for approximately 850 metres and then enters a corner with a design speed of 40 kilometres per hour crossing the railway line joining with Browning Street at a roundabout at Jonson and Browning Streets.

As the proposal is in an urban area and less than one kilometre in length, traffic speeds would be limited to 60 kilometres per hour. The road pavement width is proposed to be 11 metres with the future capacity for 16 metres in the ultimate four lane development whilst the road reserve width is proposed to be 22 metres, reduced to 20 metres in the vicinity of the water tower. Existing property access would be maintained and provisions for pedestrians would be provided.

The proposal is one lane in each direction. After approximately 10 years, it has been estimated that the road may need to be widened to two lanes in each direction. Consequently, the following description of the proposal relates to both the interim (2 lane) and ultimate (4 lane) road designs.

5

Figure 5: reproduction of EIS Figures 5.8 and 5.9



10

Use of Rail Land and Additional Rail Crossings

5 In terms of the “Grab the Rail” proposal to include the construction of multiple rail crossings to allow multiple linkages to Jonson Street and other intersecting streets in the use of the rail corridor there a number of issues that need to be considered:-

- 10 • Cost for land acquisition, assuming state rail declare the land surplus to their requirements and wish to sell (noting a lease is believed not feasible) Council would need to find funds to buy the land for a 20m wide, 900m long road corridor, which based on July 2009 m² rates (as reported to Council via an LTC 2010 report) could mean either:
 - 15 - a commercial rate, which at \$2,516 per m² would be \$45m; or
 - using a residential rate, at \$852 per m² would be \$15m ; or more likely
 - 15 - a combination of both rates and negotiation

Nevertheless, Council does not have the funds for such options even if a reduced rate could be negotiated.

- 20 • The alignment west of the rail corridor to utilise the existing crown road reserve (yellow line in Figure 6) which won't have acquisition costs;
- The use of the rail corridor would require its status removed, which requires an Act of Parliament, which would also delay the project further.
- 25 • The approval of additional crossings is problematic as can be shown from previous experience where gaining approval for a single additional crossing point took an inordinate period of time;
- 30 • The use of the rail corridor would abandon any future use of heavy rail;
- There may be width issues in terms of allowable offsets to the rail line;
- 35 • There has been no indication from the Government of what arrangements would need to be entered into on the basis that if the alignment was placed in the corridor what would be the implications if at some time in the future rail was to be restored?
- Council has indicated that its desire is to deliver the project within this term of Council. The issues associated with the proposed “Grab the Rail” option are significant and would most likely not be resolved in the short term.
- 40

Current situation

45 In accordance with the Council's stated wishes staff are expediting this project and have been in continuing discussions with relevant Ministers, the RMS, the Department of Planning and Infrastructure, and local Member for Ballina the Hon Don Page in seeking funding support for the project. Council needs to confirm the preferred alignment option so that the project can continue to progress to the detailed design and investigation phase (estimated cost \$250K).

50 The proponents of the proposed West Byron development land release have undertaken their own traffic assessment. Given it is the latest assessment undertaken on the bypass options, this report examines the West Byron traffic study to help understand potential impacts of both West Byron and the bypass options.

This is presented to help with Council determine the preferred route and understand the impacts of each option, which are considerable for Butler Street (large increases) and Jonson Street (significant reductions).

- 5 In considering a preferred alignment Council are also advised of the impacts of utilising the rail corridor, noting it is protected in legislation for rail use, regardless if trains service the line or not. It is understood the minimum a rail corridor can be is 15m from the edge of the most outside rail line or to an existing fence line if within 15m.
- 10 These are guidelines only as informed to staff by NSW Transport (as owner of the asset) and John Holland Rail (as their agent). Therefore they should be considered as minimum requirements if Council wish to pursue the use of the rail corridor in any other matter than its reserved (and legislated) purpose.
- 15 As for impacts of bypass options, these are depicted in Figure 6 and formulated in Table 1 of this report.

20 On the basis of Resolution 13-139 it is currently understood the preferred bypass alignment is that as shown by the yellow line in Figure 6, ie the 'major' bypass west of the rail corridor. Such an alignment follows LEP zone 9(a) - Proposed Road Reserve Zone (as owned by the crown) – and utilises land (site 7, Figure 6) that Council purchased for such a purpose, but is currently leased to the Byron Bay Ex-Services club for car parking and located immediately north of Mitre 10.

25 Figure 6 also includes volume data regarding the various bypass options known as mini-bypass, major-bypass and no bypass.

30 The data used is taken from a Veitch Lister Consulting (VLC) report they prepared for the proposed West Byron Urban Land Release. The report is dated March 2011 and entitled "[West Byron Development Transport Study](#)". The report is publicly available from NSW Planning major projects website under the link labelled "State Significant Site Study" as found online at: http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=3547

35 It should be noted however that while the report favours the mini-bypass option it also accepts (in Section 6, pp 57-58) that:

- 40 a) the most significant traffic impacts of the traffic generated by the West Byron development are on Ewingsdale Road, in close proximity to the site; and
- b) the Mini or both Bypasses do not alter how traffic behaves when leaving the Development

45 To this end, the report arrives at the conclusion (p75) that these impacts of West Byron (once fully settled) will contribute about 6,000 vehicle trips each weekday that will either enter or leave the site via Ewingsdale Road, which VLC estimates as being between equal to 7 to 8% contribution in total traffic growth expected.

This conclusion is less than Council's own MR545 Strategic Study, which attributed a 12.6% growth to the development.

50 This difference between the two studies can be partly explained due to numbers used; noting the MR545 Study was tabled to Council 9 April 2009, ie before details of West Byron were fully known and therefore estimated a completed and settled sub-division with 1,000 lots. In contrast, the VLC report cites (p75):

55 The West Byron Development, as proposed, will contain 856 residential dwellings housing a population of 2,182. It will also accommodate business and light industry with an estimated employment of about 379.

Nevertheless, staff will endeavour to further understand the expected impacts of the West Byron development and report updates as required, noting such understanding will assist with assessing need and benefit of future upgrades and discussions of funding and contribution, for example intersection and road upgrades.

5 However more immediate to this report is an understanding the impact of any bypass alignment Council may choose, noting on page 52 the VLC Report states the following:

10 Traffic Impact of the Long Bypass

The traffic impacts of the Long Bypass in 2028, without an intermediate connection to Marvel Street, are presented in Figures 30 and 31.

15 While traffic using the Long Bypass increases between 2018 and 2028 by about 19%, traffic volumes on the Lawson Street level crossing also increase - to levels exceeding 2008 low tourism season demand.

20 This leads VLC to conclude that the Long Bypass, on its own, is not the optimal long term solution to Byron Bay's traffic problems.

25 Traffic Impact of the Long Bypass with Intermediate Connection to Marvel Street

The 2028 traffic impacts of the Long Bypass, with intermediate connection to Marvel Street, are presented in Figures 32 and 33.

30 This option performs the best in terms of reducing traffic on the Lawson Street level crossing and the northern end of Jonson Street.

It also reduces traffic in the southern portion of the Town Centre, with resultant amenity benefits.

In testing these conclusions, both Table 1 and the volumes depicted in Figure 6 as found below in this report are compiled using VLC own data as follows:

- 35 • Figure 27 (p49): 2028 base traffic forecast with Ewingsdale Rd operating as 2-lanes, which is based on no West Byron development and presented in Table 1 as "no bypass" option:
- 40 • Figure 60 (p53): 2028 Long bypass traffic forecasts with Ewingsdale Rd as 4-lanes, which is based on no West Byron development and presented in Table 1 as "major bypass" option
- 45 • Figure 44 (p69): 2028 traffic forecasts with Ewingsdale Rd as 4-lanes, which is based on the West Byron development settled and presented in Table 1 as "mini bypass" option, noting figures are adjusted (ie subtract) the modelled impacts (as per VLC Fig. 45) attributed to West Byron, thus enabling a more equitable comparison with the other options in Table 1; and
- 50 • Figure 48 (p73): 2028 traffic forecasts with Ewingsdale Rd as 4-lanes, which is based on the West Byron development settled and presented in Table 1 as "mini & major bypass" option, noting figures are adjusted (ie subtract) the modelled impacts (as per VLC Fig. 49) attributed to West Byron, thus enabling a more equitable comparison with the other options in Table 1.

55 These 'adjustments' are necessary as the VLC report does not undertake the same analysis across each option or year. For example, Section 5 of their report models traffic forecasts and impacts based on the 'no West Byron' scenario for the three options of no bypass (with no road upgrades), the mini bypass and the long bypass, with each treated as separate and distinct options. In contrast Section 6 models traffic forecasts and impacts based on 'West Byron

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proceeding' (and settled) but limits analysis to two options, either the mini-bypass as stand alone, or both bypasses operating.

As for the inclusion of Ewingsdale Road operating at 4-lanes, VLC justify (on p47):

The scale of traffic increase predicted by 2028 suggests that a corridor should be preserved along Ewingsdale Road that will allow for the provision of a 4-lane divided carriageway at some point in the future. 4-laning is also necessary for the efficient functioning of the road and reduction of pedestrian/vehicle conflicts.

Thus VLC conclude (pp75-76) that both a town centre bypass and an increase in capacity on Ewingsdale Road is needed regardless of whether the West Byron land release proceeds or not. Of the two bypass options (mini/major), the mini-bypass is their stated preference, however they recommend opportunity is maintained to construct the major bypass at a later date. It is unclear whether this advice has been influenced by a preference of the West Byron proponents to only need to commit funding for the mini bypass.

In dissecting this further (as per Figure 6 and Table 1 below), it highlights that *without* West Byron proceeding the most impact of bypass options on *existing* streets will be traffic volume:

1. increases on Butler Street (site #4) with between 2.3 and 2.67 times more daily traffic with either or both bypass options, noting such increases can also be assumed even if the alignment on the rail corridor shown by the green line is preferred;
2. reduction at Lawson Street rail crossing (site #2) is expected under either or both bypass options, with largest reduction expected with both bypass options operating (of 6,400vpd less), which is 15.4% better (ie 850vpd less) than the mini-bypass as a stand alone option;
3. reduction on Jonson Street between Lawson St and Marvell St (site #3) is expected under either or both bypass options, with largest reduction expected with both bypass options operating (of 5,950vpd less), which is 8.2% better (ie 490vpd less) than the mini-bypass as a stand alone option; and that
4. reduction on Jonson Street between Browning St and Marvell St (site #6, ie between Mitre 10 and the main coach stop) is best alleviated by a major bypass with 29.1% (3,750vpd) diverted.

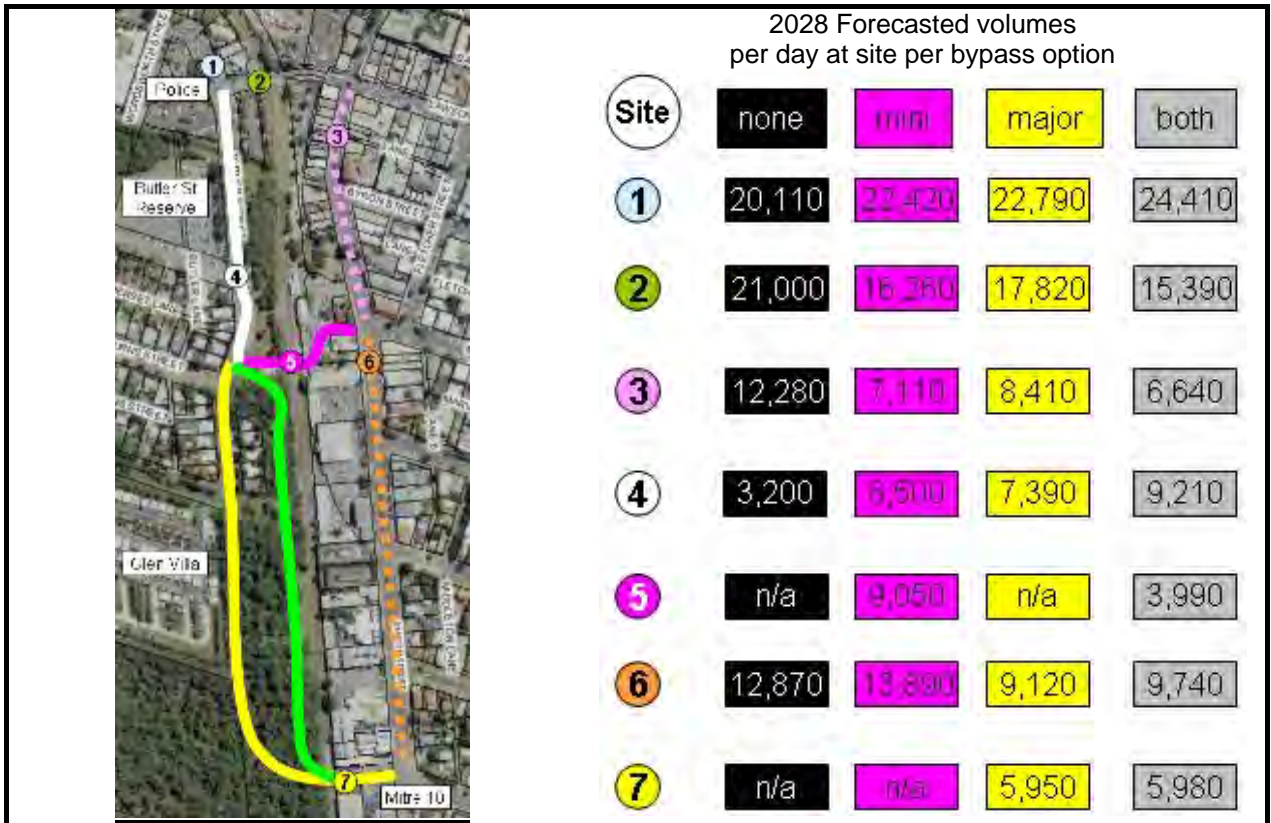
Table 1: predicted volumes and % change (model year 2028) per site per bypass option

	Fig 1 - site #	1	2	3	4	5	6	7
No bypass	VLC model 2028; Fig 27	20,110	21,100	12,280	3,200	na	12,870	0
No bypass	Latest Council count data	na	21,093	16,092	2,694	na	na	na
Difference*	VLC minus Council	na	7	-3,812	506	na	na	na
Major (VLC Fig 30)	Major bypass only-total	22,790	17,820	8,410	7,390	na	9,120	5,950
no WB - major Vs no bypass	vol. change (-/+)	2,680	-3,280	-3,870	4,190	na	-3,750	5,950
	% change (-/+)	13.3%	-15.5%	-31.5%	130.9%	na	-29.1%	na
Mini bypass (VLC Fig 44 and Fig 45)	Mini bypass only - total	24,420	16,260	7,110	8,500	9,050	13,890	na
	WB contribution	1,520	710	290	680	750	480	0
	% WB contribution	6.2%	4.4%	4.1%	8.0%	8.3%	3.5%	0
	minus WB contribution	22,900	15,550	6,820	7,820	8,300	13,410	0
no WB - mini Vs no bypass	vol. change (-/+)	2,790	-5,550	-5,460	4,620	8,300	540	0
	% change (-/+)	13.9%	-26.3%	-44.5%	144.4%	na	4.2%	na

Mini & Major bypass (VLC Fig 48 and Fig 49)	Both bypasses - total	24,410	15,390	6,640	9,210	3,990	9,740	5,980
	WB contribution	1,520	690	310	670	230	270	460
	% WB contribution	6.2%	4.5%	4.7%	7.3%	5.8%	2.8%	7.7%
	minus WB contribution	22,890	14,700	6,330	8,540	3,760	9,470	5,520
no WB - both Vs no bypass	vol. change (-/+)	2,780	-6,400	-5,950	5,340	3,760	-3,400	5,520
	% change (-/+)	13.8%	-30.3%	-48.5%	166.9%	Na	-26.4%	na

NB: WB=West Byron; *site 3 difference appears as an anomaly given VLC vpd by 2028 is less than Council data taken 2010.

Figure 6: considered alignments (with predicted volumes - model year 2018)



5

Way Forward

Council need to determine a preferred alignment, and this report, on the basis of Resolution 13-139 and assumption not to jeopardise return of rail services, recommends the alignment as discussed above and shown in Figure 6 (yellow line) with upgrades to Butler St (white line).

Once a preferred alignment is adopted by Council, staff will be able to progress the project with the relevant authorities. This will include Department of Planning, who will need to approve the project and establish the conditions for an Environmental Impact Statement (EIS) which is required due to SEPP 14 wetlands and applies to the major bypass alignment, be it west or within the rail corridor.

Council will also need to consult with state agencies. These include:

- for rail, NSW Transport as owner of the rail corridor and their department Country Region Network (formerly Country Rail Infrastructure Authority) and their agent John Holland Rail who are contracted to manage the asset;
- for roads, Roads and Maritimes Services, noting Council has previously resolved the desire that once built the bypass road become part of the regional road (MR545) network which requires RMS concurrence.

As for consultation with other state bodies (for example Environment, Heritage, etc) and the general community at large, including residents, it is expected the EIS process will provide such opportunity.

- 5 However to assist with such consultation and the EIS process, Council first needs to undertake necessary site surveys to inform a detailed engineering design that can be properly assessed in terms of its cost to build and environmental impacts.

10 Council has resolved to provide \$50,000 overall, \$47,000 of which remains available following some preliminary design and investigations which will continue upon confirmation by Council of the preferred alignment and include the engagement of a consultancy to complete the necessary engineering, geotechnical, land and ecological investigations and survey so as to complete a fully designed and costed engineering plan for the construction of the bypass. Any design will be subject to standards and applicable state guidelines and will be reported back to Council as
15 necessary and prior to any exhibition.

And while Council's currently available \$47,000 will assist to commence this process, it will not be enough to complete it, nor cover the anticipated EIS and approval process. This is expected to cost around \$250K. Council staff have vigorously pursued the Member for Ballina and the Minister
20 for Roads in accordance with the following resolution:

13-139 Resolved (in part)

- 25 3. *That Council write to the Hon. Don Page requesting State Government funding to organise the necessary engineering, geotechnical, land and ecological investigations and survey so as to complete a fully designed and costed engineering plan for the construction of the bypass.*
- 30 5. *That Council allocate a budget of \$50,000 from the existing section 94 funds held for Urban Roads as a potential contribution to the bypass.*

Indications are that the Minister will support our funding request although there has been no formal announcement to date. Continued equivocation over the by-pass alignment will further delay this project and preclude any funding announcements by government.
35

Financial Implications

Council has allocated \$50,000 in the 2012/2013 budget.

40 At the conclusion of the 2012/2013 financial year \$47,000 was unexpended and carried forward to the 2013/2014 financial year. This remaining funding will be used to commence the process outlined.

45 Public announcements from state government appear to suggest state funding for the project will be made available, however Council has not received any formal advice to date.

Statutory and Policy Compliance Implications

50 Nil at this time.

The project remains in the pre-planning and design stage.

Report No. 13.9. Belongil Interim Beach Access Stabilisation Works Update

Director: Infrastructure Services
Report Author: Phillip Holloway, Director, Infrastructure Services
File No: #E2014/19979

5

Theme: Environment, Land and Natural Environment
Community Infrastructure

Summary: In March 2014, staff conducted meetings with two of the 'directly affected landowners' (Mr Vaughan and Mr Haines) regarding the proposed Interim Beach Access Stabilisation Works at Manfred Street, Belongil. The purpose of the meetings was to provide a project update and to discuss voluntary contributions for funding and easements. The third directly affected landowner/s (Mr and Mrs Bourke) were unable to attend a meeting as they were away and return on 28 March 2014. Mr and Mrs Bourke have been sent a copy of relevant documents and a meeting will be held with them on their return.

At the meeting, Mr Vaughan proposed an alternative design. Mr Vaughan's alternative design incorporates the straightening of the wall and an alternative easement location. This option extends the wall and subsequently the embankment and apron further seaward some 4 metres beyond the current proposed alignment. Mr Vaughan also advised of his preference for a clay layer, instead of a geotextile layer, behind the rock wall. A voluntary contribution from Mr Vaughan towards funding the works was not forthcoming at the meeting.

Mr Carley (Design Engineer, Water Research Laboratory) confirmed that minor changes in the planform of 1 to 5 m are largely a balance between protected land behind the wall, beach amenity seaward of the structure and the preference to follow the existing embankment. Mr Carley advised that a seaward movement of up to 5m was technically acceptable within the existing design constraints but will require a redrawing of the planform and cross sections. Further consideration would also be required if the new alignment requires fill material – this may also have design and construction cost implications. The implications of realignment of the Manfred Street seawall are presented to Council for their consideration.

At the meeting, Mr Haines expressed his concerns with the tie in of the embankment of the proposed wall with his existing wall at 20 Childe Street. This matter had been considered in the Detailed Design Report and will be addressed in future tender documentation. Mr Haines has agreed to consider providing funding assistance for costs associated with the tie in with the proposed and existing wall at 20 Childe Street when a cost estimate for this work is available.

RECOMMENDATION:

10 **That in relation to the suggested realignment of the Manfred Street Interim Beach Access Stabilisation Works following consultation with Directly Affected Landholders in March 2014 Council resolve to adopt one of the following options:**

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- 5 a) **Option A - Council affirm Resolution 13-713 (1 and 2) which relates to the endorsement of the Review of Environmental Factors for the Interim Beach Access Stabilisation Works at Belongil, Byron Bay and adopts the design for the Belongil Interim Beach Access Stabilisation Works; or**
- b) **Option B - Council endorse the revised wall alignment as proposed by Mr Vaughan (Annexure 10(b)); or**
- 10 c) **Option C - Council endorse interim beach access stabilisation works at Don Street Belongil as it's no 1 priority in lieu of Manfred Street.**

Attachments:

- 15 • Manfred Street Interim Beach Access Stabilisation Works with Easement #E2014/22004 [1 page] **Annexure 10(a)**
- John Vaughan Alternative Manfred Street Interim Beach Access Stabilisation Works with Easement #E2014/22005 [1 page] **Annexure 10(b)**

Report

The purpose of this report is to provide Council with an update on the outcomes of negotiations with directly affected landowners on the Manfred Street Interim Beach Access Stabilisation Works, Belongil.

Background

Council has resolved (res 13-146) to pursue the installation of Interim Beach Access Stabilisation (BAS) works at three (3) sites: Manfred, Border, and Don Street, Belongil. These works are interim, until a long term coastal management policy has been adopted by BSC.

Under the provisions of Clause 129(1) of State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP), development for the purpose of *'waterway or foreshore management activities may be carried out by or on behalf of a public authority without consent on any land'*.

Clause 129(2) defines development for the purpose of waterway or foreshore management activities to include *'construction works'* and *'environmental management works'*. As the proposed works require the construction of structures for the purpose of providing interim BAS at Manfred, Border and Don Streets, Belongil until a long term coastal management policy has been adopted, the works are considered to be consistent with the definition of *'construction works'* and *'environmental management works'* as defined in Clause 129(2) (a) and (d) respectively of the SEPP. The works are not considered to fall within the definition of temporary protection works as defined under the Coastal Management Act 1979 being:

- (a) *sand, or fabric bags filled with sand, (other than sand taken from a beach or a sand dune adjacent to a beach),*
- (b) *other objects or material prescribed by the regulations (other than rocks, concrete, construction waste or other debris).*

Given that development consent is not required under the Infrastructure SEPP 2007, the environmental management works can be undertaken as an activity under Part 5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), with BSC as the determining authority. A Controlled Activity Approval under Section 91(2) of the *Water Management Act 2000* is not required for the proposed works, as in accordance with the provisions of Clause 38 of the *Water Management (General) Regulation 2011*, the works are being undertaken by or on behalf of a public authority (i.e. BSC).

Council entered into a Funding Agreement for Financial Assistance under the 2012/2013 Coastal Management Program from NSW Office of Environment and Heritage (OEH) and under that funding agreement the Water Floodplains and Coast Unit of OEH have provided comments during the drafting of the documents. The draft detailed design report and a statement of review of environmental factors (REF) has been amended in consideration of OEH comments.

The application was referred to the NSW Office of Environment and Heritage (both Regional Operations and the Water Floodplains and Coast Unit), the NSW Department of Planning and Infrastructure, NSW Fisheries, the Cape Byron Marine Park Authority, NSW Trade and Investment (Crown Lands) and the Coastal Panel for comment.

All comments have been considered and addressed either directly, in a response by WRL or by Umwelt in the reworked final REF.

Prior to finalisation/determination of the REF, landowner consultation was undertaken to identify any perceived issues. One-on-one meetings were offered to each of the 8 directly affected landowners. Five of the directly affected landowners participated in the one-on one meetings with Council staff and WRL. In addition a "drop-in" forum, whereby members of the project team answered one-on-one questions from community members was undertaken at Belongil.

Correspondence was sent to all properties (residential and commercial), the Arakwal, and environmental and user groups in Belongil seeking feedback on the proposed works. A number of completed questionnaires and letters were received.

- 5 Each of the directly affected landowners supported the proposed rock rubble design and were keen for Council to commence works as soon as possible. In addition, all of the directly affected landowners interviewed agreed to provide access for construction and maintenance and to enter into a formal agreement to achieve that end.
- 10 With the exception of one directly affected landowner, the remainder of participants agreed to make a contribution towards the construction and maintenance of the proposed works.

Following the meetings, written support for the project was received from three of the directly affected landowners.

15

Background Resolutions

On 19 December 2013 Council resolved:

Resolution 13-713

- 20 1. *That the Review of Environmental Factors satisfies the Provisions of Section 111 of the Environmental Planning and Assessment Act 1979 and that the proposed works are considered unlikely to significantly affect the environment (including critical habitat) or threatened species, populations or ecological communities, or their habitats.*
- 25 2. *That Council endorses the Review of Environmental Factors for the Interim Beach Access Stabilisation Works at Belongil, Byron Bay (Annexure 1(b)) and adopts the design for the Belongil Interim Beach Access Stabilisation Works (Annexure 1(a) #E2013/79294) subject to:*
- 30 a) *the inclusion of a modular stair structure and/or stairs, that can be removed in order to restrict access when beach conditions are unsafe; and*
 b) *the removal of the reference to the sandbagging of kerb inlet in Table 5.6 of the REF.*
- 35 3. *That a project plan be received at the next council meeting in February 2014 outlining the steps forward.*
- 40 4. *That Council invite the NSW Coastal Panel (and other relevant agencies) to provide a presentation in February 2014 on the matters raised in correspondence dated 28 November 2013 with a view to clarifying how these proposed works will inform and compliment the Coastal Zone.*

On 27 February 2014 Council resolved:

- 45 **Resolution 14-53**
Resolved that Council note the progress on the Belongil Interim Beach Access Stabilisation Works.

Resolution 14-54

- 50 *Resolved that Council negotiate a voluntary contribution from directly benefiting affected landowners to assist with the construction of the Belongil Interim Beach Access Stabilisation Works. This voluntary contribution to fund some or all of the calculated short fall for construction of the proposed interim works. This voluntary contribution affords the opportunity for directly benefiting landowners to donate in a meaningful and reasonable way to the project construction.*

Resolution 14-55

Resolved that all the legal advice available (including the advice sought in February) be considered by Council prior to tenders being called (Step 22 in Table 1 of Report 13.14) for the proposed Belongil Interim Beach Stabilisation Works.

Recent Discussions with 'Directly Affected' Landowners

In March 2014, staff conducted meetings with two of the 'directly affected landowners' (Mr Vaughan and Mr Haines) regarding the proposed Interim Beach Access Stabilisation Works at Manfred Street, Belongil. The purpose of the meetings was to provide a project update and to discuss voluntary contributions for funding and easements.

The third directly affected landowner/s (Mr and Mrs Bourke) were unable to attend a meeting as they were away and return on 28 March 2014. Mr and Mrs Bourke have been sent a copy of relevant documents and a meeting will be held with them on their return. It is expected that staff will meet with them on 3 April 2014.

A copy of the Manfred Street wall alignment with variable width easement (4.0m on private land) was provided to each of the landowners (see Annexure 10(a)).

The proposed alignment is unchanged from that which was presented in the REF (and detailed design) and presented during initial consultation with the directly affected landowners, government agencies, community and aboriginal groups.

Mr Vaughan

At the meeting, Mr Vaughan proposed an alternative design. Mr Vaughan's alternative design incorporates the straightening of the wall and an alternative easement location. This option extends the wall and subsequently the embankment and apron further seaward some 4 metres beyond the current proposed alignment. Mr Vaughan also advised of his preference for a clay layer, instead of a geotextile layer, behind the rock wall (see Annexure 10(b)). A voluntary contribution from Mr Vaughan towards funding the works was not forthcoming at the meeting.

Importantly, the easement is required on the basis that:

- The works are proposed to be undertaken as an activity under Part 5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the works would be under the ownership of Council;
- It provides landward access to the wall for the entire length of the alignment for repair, maintenance, and potentially modification and/or removal;
- The minimum width is based on an appropriate sized machine to have adequate width to manoeuvre the area; and
- It remains with the title.

Mr Haines

At the meeting, Mr Haines expressed his concerns with the tie in of the embankment of the proposed wall with his existing wall at 20 Childe Street. This matter had been considered in the Detailed Design Report and will be addressed in future tender documentation. Mr Haines has agreed to consider providing funding assistance for costs associated with the tie in with the proposed and existing wall at 20 Childe Street when a cost estimate for this work is available.

Proposed Wall Alignment, Manfred Street, Belongil

The following is an extract from the Detailed Design Report (WRL 2013)

The present concave planform alignment of the Don and Manfred Street sandbag walls allows the formation of small pocket beaches seaward of the structures.

The main factors to consider in the planform are:

- The ends of the new structures need to tie in with the existing rock structures at each end (where present);
- The balance between small pocket beaches (Don and Manfred Streets) and a larger amount of stabilised land behind the structures; and
- 5 • The need for fill behind the structures and/or removal of the existing sandbag structures.

10 A more seaward alignment (than the present sandbag walls) through the centre would result in a mini headland which would remove the amenity of the small pocket beaches (Manfred and Don Streets), but would create a larger amount of stabilised land behind. In order to retain a small pocket beach, it is recommended that the existing sandbag structures be removed and the alignment follow the existing embankment/scarp.

15 A more seaward alignment (than the present sandbag walls) would require fill behind the structures, which would be likely to settle over time and cause more deformation of the wall than if it is placed against in situ sand.

20 Minor changes in the planform of 1 to 5 m are largely a balance between protected land behind the wall, beach amenity seaward of the structure and the preference to follow the existing embankment. This is largely a social/political decision. Due to the precedent of the existing walls, WRL has adopted a planform alignment similar to the existing sandbag structures.

Implications of proposed Manfred Street Wall realignment

25 1. Engineering Implications
Mr Carley (Design Engineer, Water Research Laboratory) confirmed that minor changes in the planform of 1 to 5 metre are largely a balance between protected land behind the wall, beach amenity seaward of the structure and the preference to follow the existing embankment. Mr Carley advised that a seaward movement of up to 5m was technically acceptable within the existing design constraints but will require a redrawing of the planform and cross sections. Further consideration would also be required if the new alignment requires fill material – this may also have design and construction cost implications.

35 2. Statutory and Policy Compliance Implications
The proposed realignment of the existing wall some 4 to 5 metres seaward would necessitate the preparation of a revised design and Review of Environmental Factors. This process would include another round of consultation with relevant government agencies, (including the Coastal Panel, NSW Department of Primary Industries: Crown Lands and Fisheries NSW, Cape Byron Marine Park Authority and the Office of Environment and Heritage), affected landholders, community and aboriginal groups.

40 This process would conceivably add up to another six months to the project plan.

45 3. Financial Implications
Discussions with the Office of Environment and Heritage (OEH) indicate that a revision of the wall alignment should be accompanied by a revision of the REF, which considers any additional impacts associated with the potential realignment. In discussion with OEH, particular issues to be considered may include those relating to impacts on coastal processes and the environment, beach access, public safety and beach amenity.

50 It should be noted that the design and REF are deliverables / outcomes of this state government co-funded project, as such OEH require a review of the final draft design and REF before Stage One of the project will be acquitted.

55 Revisions to the design and REF are likely to incur further costs, which are currently not funded. If co-funding was sought from OEH for this, an application for a variation to the grant would be required.

Alternative Beach Access Stabilisation Works

Should agreement not be reached with directly affected landholders at Manfred Street, Council may consider turning its attention to the Don Street site.

- 5 It should be noted that the proposed works at Don Street site are significantly smaller in scale than Manfred Street and the works would be less expensive to construct. The Don Street works are 45metre in crest length, compared to the 103metre crest length of Manfred Street, with construction costs estimated at \$402,000 compared to \$907,000 at Manfred Street.
- 10 Furthermore, one on one discussion with Don Street directly affected landowners, undertaken as part of the REF preparation, indicate a strong preparedness to contribute towards costs associated with the construction of the Interim Beach Access Stabilisation Works. In addition these discussions have not indicated any issue with maintaining the alignment of the Don Street works as contained in the current design.
- 15 State government funding under the Coastal Management Program is currently limited to assisting with the provision of interim works at Manfred Street. It should be noted that applications under this program closed 13 March 2014. Given that Don Street resides within the Belongil Beach coastal erosion 'hot spot' location, it is likely that OEH would accept and consider an application for matching funds outside the normal Coastal Management Program cycle, as was the case for the Manfred Street application.
- 20

Options

25 The following options are presented for Council's consideration. It is acknowledged that this is a preliminary exploration of options and that detailed expert advice (engineering, legal, planning, coastal panel etc) and a business case will be required should council divert from the status quo (Resolution 13-7139 (1 and 2)).

1. Option A - Resolution 13-7139 (1 and 2)

- 30 Council affirm Resolution 13-713 (1 and 2) which relates to the endorsement of the Review of Environmental Factors for the Interim Beach Access Stabilisation Works at Belongil, Byron Bay and adopts the design for the Belongil Interim Beach Access Stabilisation Works.
- 35 In affirming Resolution 13-713 (1 and 2), Council acknowledges that as Mr Vaughan is opposed to the current alignment, that further consultation/negotiation will be required and it is unlikely that the endorsed Manfred Street Interim Beach Access Stabilisation Works will proceed until agreement can be reached.

<i>Advantages</i>	<i>Disadvantages</i>	<i>Costs</i>	<i>Timeframe</i>
REF and detailed design is endorsed	Agreement with Directly Affected Landowner on wall and easement alignment has not been reached	\$600,000 funding is available Additional funding (up to \$310,000 is being sought from OEH and landowners)	Subject to further negotiations, funding, acceptance of tender and weather permitting, works may commence in September 2014
Consultation with government agencies and community groups has been undertaken	Project cannot proceed without concurrence of directly affected landowner		
Proposed easement will provide access to the wall for repair, maintenance, and potentially modification and/or removal			

40

Option B - Vaughan Wall Realignment

Should Council agree to pursue the revised wall alignment as proposed by Mr Vaughan this will necessitate a review of the detailed design and the preparation of a revised REF. This process would require another round of consultation with relevant government agencies, affected landholders, community and aboriginal groups.

It should be noted that the design and REF are deliverables / outcomes of this state government co-funded project, as such OEH require a review of the final draft design and REF before Stage One of the project will be acquitted.

Revisions to the design and REF are likely to incur further costs, which are currently not funded. If co-funding was sought from OEH for this, an application for a variation to the grant would be required.

This process would conceivably add up to another six months to the project plan.

<i>Advantages</i>	<i>Disadvantages</i>	<i>Costs</i>	<i>Timeframe</i>
Agreement with Directly Affected Landowner on wall alignment is likely	Revised REF and review of detailed design is required	\$600,000 funding is available Additional funding (up to \$310,000 is being sought from OEH and landowners) Additional Cost due to additional fill, redesign Additional funding required for revised design, REF, fill requirement	Subject to reviewed Detailed Design, revised REF, OEH Grant review, consultation with government agencies and Coastal Panel, community consultation, confirmation of funding, tender acceptance, and weather permitting works may commence in March 2015
	Proposed easement will only provide limited access to the wall for repair, maintenance, and potentially modification and/or removal		
	Consultation with government agencies (including the Coastal panel) and community groups will have to be repeated		
	Revised design will require review by OEH grant unit		
	Wall realignment will not reflect existing alignment of sand bags, reduce pocket beach and decrease beach access and amenity		
	Project will be delayed		

2. Option C - Don Street Interim Wall

Should agreement not be reached with directly affected landholders at Manfred Street, Council may consider turning its attention to the Don Street site. Don Street was included in the REF and detailed design for the Interim Beach Access Stabilisation Works.

Whilst funding is not currently available for this site an application could be made to OEH under the Coastal Management Program which is based on 50/50 contribution from Council. It should be noted that the proposed works at Don Street site are significantly smaller in scale than Manfred Street and the works would be less expensive to construct. The Don Street works are 45 metres in

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crest length, compared to the 103 metre crest length of Manfred Street, with construction costs estimated at \$402,000 compared to \$907,000 at Manfred Street.

5 Council's current funding commitment to the Manfred Street project is \$300,000 with an additional \$155,000 being required to accommodate increased construction costs determined by WRL (2013). With construction costs estimated at \$402,000 for Don Street Council contribution would reduce to the order of \$200,000.

10 In addition it should be noted that the Don Street embayment is public land with two adjoining directly affected landowners. Furthermore, one on one discussion with Don Street directly affected landowners, undertaken as part of the REF preparation; indicate a strong preparedness to contribute towards costs associated with the construction of the Interim Beach Access Stabilisation Works.

<i>Advantages</i>	<i>Disadvantages</i>	<i>Costs</i>	<i>Timeframe</i>
REF and detailed design is endorsed	No funding is currently available	Construction costs estimated at \$402,000. Council contribution to OEH grant if successful would be \$201,000 without Landowners voluntary contribution	Subject to OEH Grant assessment, acceptance of tender works and weather permitting, works may commence in November 2014
Consultation with government agencies and community groups has been undertaken	A fresh grant application to OEH is required		
Don Street Embayment is Public Land	OEH grant is not guaranteed however site is located within OEH nominated <i>Coastal Erosion Hotspot</i> , therefore application likely to be considered and competitive		
Directly Affected Adjoining Landowners have indicated a preparedness to contribute towards costs of construction			
Minor area for easement required on eastern abutting private land, works are predominantly on Council land			

15 Note: The option to delay the progression of the interim beach access stabilisation works at Belongil until a long term coastal management policy has been adopted (Coastal Zone Management Plan (CZMP)) was initially considered as an option but discarded as in accordance with resolution 13-146, Council has resolved to expediently pursue the Belongil Interim Beach
20 Access Stabilisation Works.

Financial Implications

- Option 1 - Cost \$910,000, \$300,000 Grant from OEH approved
- 25 Option 2 - Cost \$910,000 (plus revised design, REF, fill requirement), noting that the \$300,000 grant from OEH requires OEH approval of Stage One (design and approvals) before progression to Stage Two (construction)
- Option 3 - Cost \$402,000, Grant for 50% from OEH would need to be approved

30 Statutory and Policy Compliance Implications

Environmental Planning and Assessment Act 1979 (EP&A Act)

CORPORATE AND COMMUNITY SERVICES - COMMITTEE REPORT

Report No. 14.1. Report of the Extraordinary Finance Advisory Committee Meeting held on 25 March 2014

Director Corporate and Community Services
Report Author: Mark Arnold, Executive Manager Corporate Management
File No: #E2014/20305

5

Theme: Corporate Management, Finance Services

Summary: The report provides the minutes and recommendations of the Extraordinary Finance Advisory Committee Meeting held on 25 March 2014 for determination by Council.

RECOMMENDATION:

10

1. That Council note the minutes of the Extraordinary Finance Advisory Committee Meeting held on 25 March 2014.

15

2. That in relation to Report No 4.1 – Draft 2014/2015 Budget, Statement of Revenue Policy and Fees and Charges, Council adopt:

Committee Recommendation FAC 4.1.1

20

That Council consider and adopt the Draft 2014/2015 Statement of Revenue Policy comprising 2014/2015 Budget Estimates, Rates, Charges and Borrowings, with the following amendments to the Capital Works Program:

25

a) BRSCC Criterion Track - \$200,000 to be included in an application under the Clubs NSW Grant Program as part of a package of projects at the BRSCC.

b) Lighthouse Road (Captain Cook) Parking Improvements - \$100,000 to be included in the Capital Works Program with staff to investigate and to recommend to Council funding for this project to maintain existing estimated Budget Result.

30

c) Kolara Way Stage 1 Roadworks - \$500,000 to be funded from Infrastructure Reserve but only upon the replenishment of funds to the Reserve from the sale of the Roundhouse Subdivision.

d) Kolara Way Ocean Shores Bridge Upgrade - \$300,000 project to be funded from Infrastructure Reserve but only upon the replenishment of funds to the Reserve from the sale of the Roundhouse Subdivision.

35

e) Banners and Poles (Town Entry) - \$100,000 not to be included in the Capital Works Program.

f) Coastal Zone Management Plan for New Brighton and South Golden Beach Embayments - \$60,000 to be deferred in the Capital Works Program to the 2015/16 Financial Year.

40

g) Cavanbah Street Reserve Management Program \$30,000 to be funded from funds held in the Crown Reserve Trust.

Attachments:

45

- Minutes of the Extraordinary Finance Advisory Committee Meeting held on 25 March 2014 #E2014/19567 [2 pages] **Annexure 11(a)**
- Agenda and Annexures of the Extraordinary Finance Advisory Committee Meeting of 25 March 2014 #E2014/12748 [155 pages] **Annexure 11(b)**

Annexure 11(b) 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 Extraordinary Finance Advisory Committee Meeting held on 25 March 2014 for determination by Council.

5 The Committee recommendations are supported by management, and are as detailed in the Minutes of the Extraordinary Finance Advisory Committee meeting held on 25 March 2014, attached to this report at Annexure 11(a) and have been included as the recommendations for this report.

10 A copy of the Extraordinary Finance Advisory Committee Agenda for this meeting is provided at Annexure 11(b).

Financial Implications

15 As per the Reports listed within the Extraordinary Finance Advisory Committee Meeting Agenda of 25 March 2014 (refer Annexure 11(b)).

Statutory and Policy Compliance Implications

20 As per the Reports listed within the Extraordinary Finance Advisory Committee Meeting Agenda of 25 March 2014 (refer Annexure 11(b)).

ENVIRONMENT AND PLANNING - COMMITTEE REPORT

**Report No. 14.2. Biodiversity and Sustainability Advisory Committee Meeting Minutes
13 March 2014**

Director: Environment and Planning
Report Author: Sharyn French, Manager Land and Natural Environment
File No: #E2014/17693

Theme: Environment, Land and Natural Environment

Summary: To present the minutes and recommendations of the Biodiversity and Sustainability Committee Meeting of 13 March 2014.

RECOMMENDATION:

1. That Council note the minutes of the Biodiversity and Sustainability Advisory Committee meeting held on 13 March 2014.

2. That in relation to Report No 4.1 – Meeting Schedule for 2014, Council adopt:

Committee Recommendation 4.1

That the Biodiversity and Sustainability Advisory Committee meets from 9.00am to 11.00 am (wherever possible), on the following dates during 2014:

- Thursday, 8 May 2014
- Thursday, 26 June 2014
- Thursday, 11 September 2014
- Thursday, 6 November 2014

Or as required

3. That in relation to Report No 4.4 – Environmental Levy, Council adopt:

Management Recommendation

- a) That the Biodiversity and Sustainability Advisory Committee note this report.
- b) That development of Terms of Reference for the allocation of Environmental Levy funds is considered at the next Biodiversity and Sustainability Advisory Committee meeting.
- c) That the Biodiversity and Sustainability Advisory Committee consider the draft 2014/15 Budget and Revenue Policy during its exhibition to provide feedback on the draft 2014/15 Environmental Levy budget for Council’s consideration prior to the adoption of the 2014/15 Budget and Revenue Policy.

Attachments:

- Biodiversity and Sustainability Advisory Committee meeting minutes 13 March 2014 #E2014/16580 [2 pages] **Annexure 1(a)**
- Biodiversity and Sustainability Advisory Committee meeting agenda 13 March 2014 #E2014/12288 [17 pages] **Annexure 1(b)**

Annexure 1(b) has been provided on the Councillors’ Agenda CD only. An electronic copy can also be viewed on Council’s website.

Report

The report provides the following recommendations of the Biodiversity and Sustainability Advisory Committee meeting held on 13 March 2014 for determination by Council.

5

Report 4.1 – Meeting Schedule for 2014

Committee Recommendation 4.1

That the Biodiversity and Sustainability Advisory Committee meets from 9.00am to 11.00 am (wherever possible), on the following dates during 2014:

10

- Thursday, 8 May 2014
- Thursday, 26 June 2014
- Thursday, 11 September 2014
- Thursday, 6 November 2014

Or as required

15

Report 4.4 – Environmental Levy

Committee Recommendation 4.4

20

- a) That the Biodiversity and Sustainability Advisory Committee note this report.
- b) That development of Terms of Reference for the allocation of Environmental Levy funds be considered at the next Biodiversity and Sustainability Advisory Committee meeting
- c) That the Biodiversity and Sustainability Advisory Committee request an opportunity to provide feedback on the 2014/15 Environmental Levy budget prior to Council's adoption.

Management Comments

25

The Committee considered a report on the past allocation of Environmental Levy funds in accordance with Council strategies such as Biodiversity Conservation Strategy and Greenhouse Action Strategy, and resolutions relevant to the allocation of current funding (Annexure 1(b)). The Committee is concerned that the programs within these Strategies and the Council adopted Community Strategic Plan may not proceed in the current draft budget.

30

Council at the 10 April Ordinary Meeting is considering the draft 2014/15 Budget and Revenue Policy for release for 28 days public exhibition. It is during the public exhibition stage that the Biodiversity and Sustainability Advisory Committee can provide feedback on the draft budget. In order for the Committee to have this opportunity management will convene a Committee meeting during the exhibition.

35

Management Recommendation

40

- a) That the Biodiversity and Sustainability Advisory Committee note this report.
- b) That development of Terms of Reference for the allocation of Environmental Levy funds is considered at the next Biodiversity and Sustainability Advisory Committee meeting.
- c) That the Biodiversity and Sustainability Advisory Committee consider the draft 2014/15 Budget and Revenue Policy during its exhibition to provide feedback on the draft 2014/15 Environmental Levy budget for Council's consideration prior to the adoption of the 2014/15 Budget and Revenue Policy.

45

Financial Implications

50

Nil

Statutory and Policy Compliance Implications

Nil

INFRASTRUCTURE SERVICES - COMMITTEE REPORT

Report No. 14.3. **Report of the Water, Waste and Sewer Advisory Committee Meeting 6 March 2014**

Director: Infrastructure Services
Report Author: Melissa Moore, Administrative Assistant
File No: #E2014/14980

Theme: Community Infrastructure

Summary: This report provides the minutes and recommendations of the Water, Waste and Sewer Advisory Committee Meeting held on 6 March 2014 for determination by Council.

RECOMMENDATION:

1. **That in relation to Report No. 4.2. Integrated Waste and Resource Recovery Contract Service Options:**

Committee Recommendation WWS 4.2

1. **That the Water, Waste and Sewer Advisory Committee endorse the approach for the Project Management and delivery of the Waste and Resource Collection Contract (the "Contract").**
2. **That the Water, Waste and Sewer Advisory Committee schedule a workshop on the afternoon of 18 March 2014 to discuss service options to be included in the Contract and to inform the Community Survey.**
3. **That all Councillors be invited to the 18 March 2014 workshop.**

2. **That in relation to Report No. 4.1. Proposed Meeting Dates for the Water, Waste and Sewer Advisory Committee for 2014:**

Committee Recommendation WWS 4.1

That the Water, Waste and Sewer Advisory Committee meets on the following dates:

- **15 May 2014**
- **25 September 2014**
- **23 October 2014**

3. **That in relation to Report No. 4.6. Consideration of bedroom to ET Rates in the Equivalent Tenement Policy:**

Committee Recommendation WWS 4.6

That the Equivalent Tenement Policy, as adopted by Council, remain unchanged and the authors of the submissions be advised.

4. **That in relation to Report No. 4.5. STP Flow and Reuse Data:**

Committee Recommendation WWS 4.5

That the Water, Waste and Sewer Advisory Committee note the report.

5. That in relation to Report No. 4.3. Food and Garden Organics Kerbside Collection Project Update:

Committee Recommendation WWS 4.3

- 1. That the Water, Waste and Sewer Advisory Committee note the information provided in this report on the Food and Garden Organics Kerbside Collection Project Update.
- 2. That Council note the Environmental Protection Authority’s Response to Council – ‘Waste Less Recycle More Funding’ (#S2014/383) along with correspondence sent to State agencies in relation to Council’s ineligibility for Round 1 of the Waste Less/Recycling More grant.

6. That in relation to Report No. 4.4. Myocum Quarry Landfill Environmental Impact Statement (EIS) and Preliminary Landfill Environmental Management Plan (LEMP):

Committee Recommendation WWS 4.4

That the Water, Waste and Sewer Advisory Committee note the information provided in this report on the progress of the Myocum Quarry Landfill Environmental Impact Statement and Preliminary Landfill Environmental Management Plan.

7. That in relation to Item 5.1. Committee Resignations:

Committee Recommendation WWS 5.1

- 1. That Council accept the resignations from Garry Scott and Susie Mylecharane and officially thank them for their contributions on the Water, Waste and Sewer Advisory Committee.
- 2. That Council advertises for further members for the Water, Waste and Sewer Advisory Committee.
- 3. That the Myocum Tip residents’ group be notified of a vacancy in their representation on the Committee.

Committee Recommendation WWS 5.2

- 1. That the Water, Waste and Sewer Advisory Committee note that Garry Scott has thanked Phil Warner for his contribution to the effectiveness of the Committee.
- 2. That the Water, Waste and Sewer Advisory Committee thanks Phil Warner for making the Committee effective over his long years of service to the Committee.

Attachments:

- Minutes of the Water, Waste and Sewer Advisory Committee Meeting held on 6 March 2014 # E2014/14542 [3 pages]Annexure 4(a)
- Agenda of the Water, Waste and Sewer Advisory Committee 6 March 2014 # E2014/10257 [24 pages] Annexure 4(b)

Annexure 4(b) has been provided on the Councillors’ Agenda CD only. An electronic copy can also be viewed on Council’s website.

The Annexures provided with the Committee meeting agenda can be viewed on the Committee page of Council’s website at: <http://www.byron.nsw.gov.au/committees/water-waste-and-sewer-advisory-committee>.

Report

This report provides the recommendations of the Water, Waste and Sewer Advisory Committee Meeting held on 6 March 2014 for determination by Council.

5

The Committee recommendations are supported by management and are as detailed in the Minutes of the Water, Waste and Sewer Advisory Committee meeting held on 6 March 2014 provided at Annexure 4(a) and have been included as the recommendations for this report.

10 A copy of Water, Waste and Sewer Advisory Committee Agenda for this meeting is provided at Annexure 4(b).

Financial Implications

15 As per the Reports listed within the Water, Waste and Sewer Advisory Committee Meeting Agenda of 6 March 2014 (refer Annexure 4(b)).

Statutory and Policy Compliance Implications

20 As per the Reports listed within the Water, Waste and Sewer Advisory Committee Meeting Agenda of 6 March 2014 (refer Annexure 4(b)).

INFRASTRUCTURE SERVICES - LATE REPORT

Report No. 15.1. PLANNING – Planning Proposal for amendment to the Local Environment Plan in relation to the Roundhouse site and various public land

Director: Infrastructure Services

5 **Report Author:** Phil Warner, Manager Assets and Major Projects, and
Shannon McKelvey, Executive Manager Organisation Development

File No: #E2014/23198

Theme: Community Infrastructure

Summary: The purpose of this report is to seek Council's position on whether or not to proceed with a planning proposal to amend the Local Environment Plan as it applies to various parcels of Public Land.

10 **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
15 been called by the mover and seconder of all motions relating to this report.

RECOMMENDATION:

- 20 1. That Council note that this report being a late report will not compromise the community's knowledge of or ability to participate in the decision-making on this matter because, if it proceeds, there will need to be extensive community consultation and many opportunities to make submissions to Council and at Council meetings.
- 25 2. That a planning proposal be prepared and submitted to the NSW Minister for Planning & Infrastructure in accordance with Division 4 of Part 3 of the Environmental Planning and Assessment Act 1979 and Sections 27(1) and 30 of the Local Government Act 1993 for the making of a local environmental plan to classify or reclassify the said land as operational land and to make provision to the effect that, on commencement of the
30 plan, the land, if it is a public reserve, ceases to be a public reserve, and that the land is by operation of the plan discharged from any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except for:
- 35 (i) any reservations that except land out of a Crown grant relating to the land, and
(ii) reservations of minerals (within the meaning of the Crown Lands Act 1989).
- 40 2. That the same process as set out in 2. be pursued as required, in the same planning proposal or in concurrent planning proposal/s, for the following land:
- 45 (a) Lot 1, DP952598, Vallances Road Mullumbimby
(b) Lots 15 & 16, DP1178892, Dingo Lane Myocum
(c) Lot 10, DP850902, Station St, Mullumbimby (Administration Centre)
(d) Lot 1, DP435267, Station St, Mullumbimby (Old Telstra site)
(e) Lot 4, DP841856, Mill St, Mullumbimby

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- (f) Lot 22, DP1073165, Stuart St, Mullumbimby (Community Garden)
- (g) Lot 12, DP267109, Bayshore Drive, Byron Bay
- (h) Lot B, DP 372589, Corner Lawson & Fletcher Sts, Byron Bay

5 3. That it be noted that as a result of delay to the Roundhouse project, infrastructure projects, including Ocean Shores infrastructure projects, that were proposed to be funded from the proceeds of sale of the Roundhouse land, will now be delayed, or may not be able to be delivered depending on the outcome of the LEP amendment process.

10

Attachments:

- Attachment 2 to Planning and Infrastructure’s Practice Note 2009-003 #E2014/23492 [1 page]Annexure 14(a)
- 15 • **CONFIDENTIAL** Legal Advice #E2014/23314 [9 pages] Annexure 14(b)

Report

5 Council resolved to award a contract for construction of the works associated with an eleven residential-lot subdivision at Lot 530, DP 238451 Orana Road, Ocean Shores (colloquially known as the 'Roundhouse site'). The subdivision works have been completed.

Council had resolved to sell all eleven lots and in relation to the sale proceeds resolved :

Res 13-170

10 *10. That in conjunction with the proposed establishment of an Infrastructure Reserve Fund as a repository for revenue derived from Council asset sales (as recently endorsed by the Council's Strategic Planning Committee), Council include Ocean Shores infrastructure renewal projects listed in the Council's Asset Management Plans as high priorities in the*
 15 *expenditure of those Reserve funds.*

20 The first 4 lots were listed for public auction but that auction had to be cancelled after the Ocean Shores Community Association (OSCA) threatened legal action against the Council. OSCA are arguing that the Roundhouse site has not been properly classified as Operational Land, it is affected by a public trust and/or that Council has no legal power to sell the land.

Council believes OSCA is wrong and that Council does have the power to sell the land as the land was correctly classified as Operational Land by a valid LEP Amendment.

25 However, OSCA have advised that they are committed to commencing their court case against Council and while it is believed that Council may be able to defend the court case, the very act of being in Court will take time (perhaps 12 months or more) and will likely incur significant legal costs, neither of which is in the community's or Council's interests.

30 Also, the fact that OSCA has threatened the legal action has potentially already affected the market value of the properties and bearing in mind that the sale proceeds from these properties were earmarked for essential infrastructure projects, including in Ocean Shores, it is critical that Council gets the best return possible. Therefore, it would be less than ideal to push on with sale where the uncertainty created by the position taken by OSCA could adversely affect investment
 35 returns.

This can be rectified by returning certainty to the community and to the market, and one way to do that would be via a Planning Proposal to potentially amend the LEP to:

- 40 1. confirm the 'Operational Land' status of the land; and
2. make provision to the effect that, on commencement of the plan, the land, if it is a public reserve, ceases to be a public reserve, and that the land is by operation of the plan discharged from any trusts, estates, interests, dedications, conditions, restrictions and
 45 covenants affecting the land or any part of the land, except for:
- (i) any reservations that except land out of a Crown grant relating to the land, and
- (ii) reservations of minerals (within the meaning of the Crown Lands Act 1989).
- 50

55 Council cannot fetter its discretion and must come to the decision at the end of the proposed LEP amendment process with an open mind. That is, Council can resolve to start the process, but it cannot pre-determine the outcome and it must take into account all submissions received during the process before making a final decision on whether or not it will proceed with amending the LEP.

Depending on the final decision, while potentially unnecessary, the LEP amendment process would:

- 5 a) provide absolute certainty, one way or the other, for the community;
- b) likely take less time than the court case would, perhaps as little as 6 months, depending on speed of return of matters from Planning and Infrastructure, other government agencies and the Governor of NSW;
- 10 c) cost significantly less than defending a court case, as much of the work will be able to be undertaken in-house;
- d) provide the community with the opportunity to make submissions whether they support the proposed sale of the property to fund future infrastructure projects, including in Ocean Shores, or not;
- 15 e) provide the added opportunity to consider other properties which are included in Council's Financial Sustainability Project Plan so that the same degree of certainty, one way or the other, can be provided for those properties as well;
- 20 f) if the outcome is retain the land for community purposes, provide that certainty once and for all which will bring to an end ongoing investment in the land so that those limited funds can be redirected to other land identified in the Financial Sustainability Project Plan;
- 25 g) if the outcome is proceed with the LEP amendment, return certainty to the market place and ensure that Council can generate the best possible returns to fund future infrastructure projects.

30 2. Other sites

The other sites listed in the recommendation are those which are identified in the Financial Sustainability Project Plan.

35 If this has to be done for the Roundhouse land, subject to further research on the other properties, it may be opportune to use the same process, if possible, to provide the same degree of certainty for the other parcels of land identified in the Financial Sustainability Project Plan.

40 In the case of the Vallances Road and Dingo Lane properties, the necessary resolution pertaining to operational land classification was not made at the time of purchase and this will now need to be done by an LEP amendment, so this is a necessary step. In relation to the other properties the step would be considered if it had merit to provide future certainty about:

- 45 1. the Operational Land status of the land; and
- 2. the discharge of all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of it, subject only to statutory exceptions.

50 However, the priority at this time is the Roundhouse land, as it is the foundation component of the Financial Sustainability Project Plan because funds from it were earmarked as being the 'seed money' that could be reinvested to increase Council's infrastructure capacity (eg by using the funds as matching moneys for grant fund opportunities, which could double value etc).

55 So given the importance of the Roundhouse project, if inclusion of the other properties could cause any additional delay, then it would be best if the processes could run concurrently instead (eg two or more planning proposals running at the same time rather than one single planning proposal encompassing all the sites). If the recommendation is adopted which provides this scope, staff will

give consideration to logistics and make decisions under delegation as to the number of planning proposals required and which properties, other than the Roundhouse site, they may include.

3. The Process

5

The process required to provide certainty in an alternative way than a Court case, is an amendment to the Local Environmental Plan (LEP). At present Council has the current LEP 1988 but also has the draft LEP 2014 which is imminent.

10 Staff are proposing that the Planning Proposal/s would be prepared in such a way that they would cover, as required:

15

1. Once it is gazetted, amending LEP 2014 to include the land in Part 2 of Schedule 4, covered by currently numbered clause 5.2;
2. If LEP 2014 has not been gazetted at the relevant time, amend LEP 1988 to include the land in Part 3 of Schedule 11, covered by clause 47; and
3. In both cases make provision to the effect that, on commencement of the plan, the land, if it is a public reserve, ceases to be a public reserve, and that the land is by operation of the plan discharged from any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except for:
 - (i) any reservations that except land out of a Crown grant relating to the land, and
 - (ii) reservations of minerals (within the meaning of the Crown Lands Act 1989).

25

The Department's Practice Note on the process for classification/reclassification of public land, which describes the process which will be followed, can be downloaded at:

30

http://www.planning.nsw.gov.au/lep/pdf/pn09_003_lep_classification.pdf

35

Another source of information on what can be contained in a planning proposal is on page 26 of Planning and Infrastructure's Guide to Preparing Local Environmental Plans which can be downloaded from http://www.planning.nsw.gov.au/Portals/0/Guide_LEPs.pdf.

40

Importantly, there are comprehensive public consultation processes which are summarised in an attachment to the Practice Note which is reproduced in full at Annexure 14(a) to this report for the community's assistance.

Statutory and Policy Compliance Implications

Refer to the Department's Practice Note for information on the statutory process to be followed.

45

The outcome of this matter directly influences Council's Financial Sustainability Project Plan and Council's ability to be able to deliver, or not, infrastructure projects and financial management objectives set out in that Plan. The outcome of this matter may necessitate changes to the FSPP.

50

Attached at Annexure 14(b) is confidential legal advice, covered by legal professional privilege. If Council want to debate the content of that advice, it is recommended that Council resolve to move that part of the debate in confidential session as per the following recommended motion:

55

1. That pursuant to Section 10A(2)(g) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report "Late Report – Planning – Planning Proposal for amendment to the Local Environment Plan in relation to the Roundhouse site and various Public Land.

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2. That the reasons for closing the meeting to the public to consider this item be that it contains advice concerning litigation, or advice that would be otherwise privileged from production in legal proceedings on the ground of legal professional privilege.
- 5 3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential information could compromise the position of Council in threatened litigation.
- 10 The relevant provisions of the Local Government Act covering the classification or reclassification of public land are contained mainly in Part 2 of Chapter 6 to the Act available at http://www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182/ .