



Byron Shire Council



Agenda

Ordinary Meeting

Thursday, 11 December 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 10.30am on the day of the Meeting. Requests for public access should be made to the General Manager or Mayor no later than 12.00 midday on the day prior to the Meeting.*

**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.

BYRON SHIRE COUNCIL

ORDINARY MEETING

BUSINESS OF ORDINARY MEETING

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2. APOLOGIES

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Infrastructure Services

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15. QUESTIONS WITH NOTICE

Nil

BYRON SHIRE COUNCIL

ORDINARY MEETING

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

MAYORAL MINUTE

Mayoral Minute No. 8.1

Charter for good planning

File No:

I2014/90

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I move:

1. That Council:

- a) support the Community Charter for Good Planning in NSW by signing the Charter, which appears as an Attachment to this Mayoral Minute and on: www.thecommunitycharter.org.
- b) endorse its five key principles as they appear on the Charter;
- c) recognise that Council's name will be added to that of many other individuals and organisations that have signed, will appear publicly and will be sent to the following state politicians:
 - the Hon. Pru Goward, MP, Minister for Planning;
 - the Hon. Luke Foley, MLC, Shadow Minister for Planning;
 - Mr David Shoebridge, MLC, The Greens NSW Spokesperson for Planning;
 - the Hon. Robert Borsak, MLC, Shooters and Fishers Party;
 - Reverend the Hon. Fred Nile, MLC, Christian Democratic Party; and
 - the Hon. Rob Stokes, MP, Assistant Minister for Planning and Minister for the Environment and Heritage.
- d) endeavour to make planning decisions consistent with those principles;
- e) operate an open, transparent and accountable public consultation system;
- f) engage with members of the public about positive and negative impacts on the local community before decisions are made and make minutes from such meetings public;
- g) ask the Mayor to also write to the state politicians listed in point c) above, advising them of this resolution.

Attachments:

- 10 1 Planning for People - A community charter for good planning in NSW, E2014/80333 , page 3

Background Notes:

- 15 The Community Charter for Good Planning in NSW was launched in September 2014. It establishes five principles essential to good planning and can be downloaded from the website mentioned in point a) above.

The five principles are:

20

1. The well-being of the whole community, the environment and future generations across regional, rural and urban NSW via the overarching principle of ecologically sustainable development (ESD).

2. Effective and genuine public participation in strategic planning and development decisions.
3. An open, accessible, transparent and accountable, corruption-free planning system.
4. The integration of land use planning with the provision of infrastructure and the conservation of our natural, built and cultural environment.
5. Objective, evidence-based assessment of strategic planning and development proposals.

The Charter asserts that politicians and public officials are not the only stakeholders in planning decisions, but that the public are just as vital when it comes to making good decisions that benefit a community.

In light of on-going revelations from the Independent Commission against Corruption (ICAC), the Charter certifies the need for all stakeholders to endorse corruption-free planning that is open, transparent and accountable. We know that at the state level this has not been the case in many decisions over the years. This accusation is spearheaded by the desires of both flavours of old government to make lucrative planning decisions in Macquarie Street.

The Charter also affirms that effective and genuine public participation is a necessary component of good planning.

The charter was developed by a number of key community groups including the Better Planning Network; Australia ICOMOS; the Nature Conservation Council; Shelter; the Inner Sydney Regional Council for Social Development; the National Parks Association of NSW; the National Trust; the Total Environment Centre; and Our Land, Our Water, Our Future.

Signed: Cr Richardson

thecommunitycharter.org

PLANNING FOR PEOPLE

A COMMUNITY CHARTER FOR GOOD PLANNING IN NSW

Our Vision

A planning system that thinks of both today and tomorrow; is built on fairness, equity and the concept of Ecologically Sustainable Development; guides quality development to the right places; ensures poorly designed developments and those in the wrong place don't get built; and protects the things that matter, from open spaces, bushland and productive agricultural land to much-loved historic town centres and buildings.

Principles

Good planning is governed by the following principles:

- The well-being of the whole community, the environment and future generations across regional, rural and urban NSW.
- Effective and genuine public participation in strategic planning and development decisions.
- An open, accessible, transparent and accountable, corruption-free planning system.
- The integration of land use planning with the provision of infrastructure and the conservation of our natural, built and cultural environment.
- Objective, evidence-based assessment of strategic planning and development proposals.

These principles will guide a planning system that:

- Respects, values and conserves our natural environment and the services it provides.
- Facilitates world-class urban environments with well-designed, resource-efficient housing, public spaces and solar access that meet the needs of residents, workers and pedestrians.
- Provides housing choice, including affordable housing and sufficient housing for the disadvantaged, in a diversity of locations.
- Celebrates, respects and conserves our cultural (including Aboriginal) and built heritage.
- Protects and sustainably manages our natural resources, including our water resources, fragile coastlines and irreplaceable agricultural land for the benefit of present and future generations while maintaining or enhancing ecological processes and biological diversity.
- Retains and protects our crown lands, natural areas, landscapes and flora and fauna for the benefit of the people of NSW.
- Gives local and regional communities a genuine and meaningful voice in shaping their local area and region, its character and the location, height and density of housing. Provides certainty and fairness to communities.

I support the Charter:

Signed: Date:
 Name:
 Address:
 Email: *The principles are interpreted overleaf:*

☐ Please tick this box if you do not want your name published as having endorsed the Charter.

When signing this Charter you acknowledge that an email message will be sent on your behalf to: the Hon. Pru Goward, MP, Minister for Planning, the Hon. Luke Foley, MLC, Shadow Minister for Planning, Mr David Shoebridge, MLC, The Greens NSW Spokesperson for Planning, the Hon. Robert Borsak, MLC, Shooters and Fishers Party, Reverend the Hon. Fred Nile, MLC, Christian Democratic Party and the Hon. Rob Stokes, MP, Assistant Minister for Planning and Minister for the Environment and Heritage.

Individuals can fill in the Charter and return it to us at thecommunitycharter@gmail.com or endorse the Charter online at thecommunitycharter.org. Organisations can only endorse the Charter via email.

thecommunitycharter.org

The well-being of the whole community, the environment and future generations across regional, rural and urban NSW

We call for a planning system that integrates short and long term social, environmental and economic considerations to create lasting benefits for communities, now and in the future. This is the concept of Ecologically Sustainable Development (ESD) as currently defined in the *Protection of the Environment Administration Act 1991*. ESD must be the overarching objective of the planning system. *For more information about ESD refer to the Charter Companion document.*

Effective and genuine public participation in strategic planning and development decisions

Everyone has the right to participate in decisions that affect their lives. People affected by a planning or development proposal have the right, knowledge and experience to contribute to the final decision. The role of planning authorities includes facilitating community input into the preparation of strategic plans prior to public exhibition and genuine, open dialogue between stakeholders. The role of consent authorities is to consider public comments on development proposals and ensure compliance by developers.

An open, accessible, transparent and accountable and corruption-free planning system

Decision processes must be transparent and accountable. Decisions must be made in public, respond objectively to issues raised in submissions, provide reasons and be subject to the rules of procedural fairness.

The community's ability to seek review of a decision is important in preventing corruption and poor decision-making. All information considered when

assessing a proposal must be publicly available and accessible prior to the decision being made. So called 'fast-tracking' of development does not benefit the public interest. Anti-corruption measures must be effective and enforceable.

Disproportionate influence from vested financial interests has no place in planning decisions. The ability to lobby decision makers is a democratic right. However, it is inappropriate to allow companies, wealthy individuals or lobbyists a greater level of access than is available to the public.

The integration of land use planning with the provision of infrastructure and the conservation of our natural, built and cultural environment

An integrated approach is the key to achieving the kind of sustainable settlement patterns that are needed now and into the future. This type of approach will allow future planning to maintain the integrity of natural areas, take into account natural hazards and constraints, locate employment and key social infrastructure in accessible locations, and ensure the provision of sustainable infrastructure systems that use less energy and resources.

Objective, evidence-based assessment of strategic planning and development proposals

The foundation stone of a good planning system is a sound knowledge base that is publicly accessible and is updated and maintained by government in the public interest. The current system in which the developer pays for reports, such as environmental impact statements, creates conflicts of interests. Whilst it is equitable for developers to pay for reports, the objectivity of reports must be ensured by requiring professional standards and keeping the appointment of consultants at arm's length from developers.

This Charter is accompanied by a Companion document that details how this Charter could be implemented.

©August 2014 **Planning for People: A Community Charter for Good Planning in NSW** has been prepared by a working group of community organisations in consultation with the Better Planning Network, Community Councillors Network, Inner Sydney Regional Council for Social Development, National Parks Association of NSW, National Trust of Australia (NSW), Nature Conservation Council of NSW, NSW Heritage Network, Shelter NSW and the Total Environment Centre.

NOTICES OF MOTION

Notice of Motion No. 9.1 **Federal Park hitching rail proposal**
File No: I2014/75

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I move:

1. **That Council support the erection of a hitching rail in Federal Park**
2. **That Council**
 - a) **Identify a budget to provide a compliant hitching post;
 or if a budget can not be identified**
 - b) **erect the hitching post once provided by the horse riding community;**

Attachments:

- 10 1 Proposal - Federal Park Hitching Rail - Attachment to Notice of Motion Ordinary meeting 11/12/2014, E2014/78666 , page 7

Councillor's Background Notes:

- 15 I have received a request from the horse riding community to erect a hitching post in Federal Park (Refer Attachment 1). There has been a noticeable increase in horse riders using the park to stop for refreshments at nearby café's. The hitching post will provide a safe location for riders to secure horses while visiting the village.
- 20 The proposal submitted states that the horse riding community has the funds to provide the hitching rail if a budget can not be identified.

If this is the case, similar to signage provide by the Gasfield Free community, it is proposed that the rail be provided to Council and secured safely in a suitable location in Federal Park.

25

Recommended priority relative to other Delivery Plan tasks:

N/A

30 Definition of the project/task:

Support the request for a hitching rail in Federal Park and either provide funds for the rail and construct it or on provision of the rail construct it to necessary standards.

35 Source of Funds (if applicable):

To be identified

40 **Signed: Cr Simon Richardson**

Management Comments by Andy Erskine, Superintendent Parks

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

Clarification of project/task:

The proposal has merit and is supported. Staff will accept the offer of pre-made hitching rails from the proponents as we believe this reduces potential for dissatisfaction with the design. Our staff can complete the installation within parks maintenance budget. The proposed position is suitable although we suggest that trees within reach of horses be identified and assessed by a Veterinarian to ensure there are none that are known to be toxic to livestock. Staff suggest the site be assessed by staff after a period of use to consider any impacts that may become apparent.

<<enter text>>

Director responsible for task implementation:

Director Infrastructure Services

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

Community Strategy CI1.2 Encourage sustainable and accessible transport solutions between towns and villages.

Financial and Resource Implications:

Estimated cost of installation \$1,000 to be provided by Parks maintenance budget

<<enter text>>

Legal and Policy Implications:

<<enter text>>

None apparent

A PROPOSAL TO THE BYRON SHIRE COUNCIL AND PARK RANGERS**HITCHING RAIL IN FEDERAL PARK****Background**

In the last 12 months or so there has been an increasing number of horses and riders in and around Federal village particularly at weekends. If the weather is fine many of them stop for a drink or coffee from Doma Café or Federal Store and this situation is likely to increase as summer arrives.

The horses are actually proving to be an attraction in their own right as people wait for their lunch or coffee to be served and a surprising number of people have commented on how pleasant it is to have them there because it adds to the 'country' atmosphere.

However, there is nowhere suitable to tether horses safely in or around the Park. This often results in one person holding three horses whilst the other riders disappear into the shop or Café to collect coffees or cold drinks. With so many visitors in the Park on a busy weekend this isn't an ideal situation so we would like to propose that a proper **hitching rail** be erected in the Park.

Whilst, to date, horses have not been allowed into the Park proper (and, indeed, have not been allowed in many places in our Shire) National Parks, in particular, have been very encouraging to the local horse riding community over the past couple of years and would probably give us a fair hearing. So, we understand, would Byron Shire Council.

Benefits

- From a safety point of view a hitching rail provides a designated spot to safely tether horses. We don't want to encourage anyone to tether their horse to a tree or a branch, particularly in a public place. If the horse is startled for some reason, pulls back and breaks the branch, they can get quite upset.
- A hitching rail means the horses are confined to a particular area – which, again, is probably a safer alternative to the current casual 'please hold my horse' scenario. The proposed position is also far enough away from the road and parking area for revving bikes and noisy vehicles not to startle them.
- Manure will be confined as well! We can undertake to collect it - as we do at Brunswick Beach car park. But, in other places, the locals like to have access to free manure so it usually disappears pretty fast!

Positioning the Rail

I have spoken to the Federal Community Centre Committee about this issue and have received their enthusiastic support. We had an onsite meeting and determined the most suitable place for the hitching rail.

The proposed position is at the Northern end of the Park near the trees. *(Please see aerial shot of the Park on Page 5.)* Again, this is sufficiently removed from the traffic, car parking, children's playground and access points to the main Park for it not to cause an obstruction. From the horses' point of view they will get shade – which is an important consideration in high summer.

Signage

Riders are encouraged never to leave tethered horses unattended. If there is a group of, say, three or four horses tethered to the rails at one time there should always be someone with them. Most experienced riders would do this as matter of course but we are suggesting that there is a reminder notice next to the rail saying '**Do not leave horses unattended**'.

Design

At the end of the day, as long as the hitching rail is visually in keeping with the Park, the actual design is probably subjective *(see examples of different rails on Page 4)* – but there are some important considerations:

- a) **Strength.** Traditionally rails are made from wooden posts at least 20cm in diameter or heavy gauge round pipe at least 10cm in diameter.

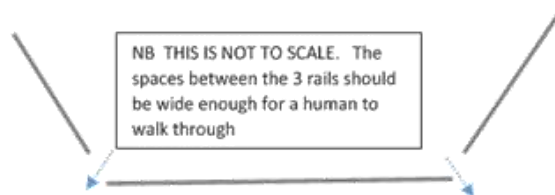
Horses and ponies weigh in anywhere between about 300kgs and 600kgs so it is essential that the hitching rail is well anchored and will withstand a horse pulling back (although, again, experienced riders won't hard tie their horses to a rail – they'll always use twine which breaks under force and stops injury to the horse.) We would make sure that twine loops are always attached to the cross bar but, even so, the bar must be able to withstand a good pull!

By the way, if a horse pulls back, he/she is very unlikely to go more than a couple of metres away particularly if there are other horses there.

- b) **Height.** The height is important to stop ponies getting their heads under the rail but also because horses tied on short ropes should have their heads in a comfortable position. The ideal height is about mid-chest on a horse. In this case, we could have horses and ponies of all heights so we're suggesting that the cross piece is around 110cm from the ground (measured to the top of the rail).
- c) **Length.** The normal rail length is between 3 and 4 metres to allow horses to be tied next to each other safely. But, in our suggested configuration (see next point), we can afford to have one standard 3 metre bar and two shorter bars around 2 to 2.5 metres.

A hitching rail has only one horizontal bar. Horses can trap or knock their legs if there are double bars.

- d) **Configuration.** The suggestion is that there are 3 separate rails in this configuration
(See diagram below and see Artist's impression of the rail on Page 6.)



This suits the location but also means that horses can be well spaced and those horses who are known to object to other horses too close to them can be tied on a separate rail.

- e) **Weather/termite resilient.** The posts and rails must be weather and termite resistant.
- f) **Finish.** NO sharp edges or projectiles like bolts that could injure a horse (or, indeed, anyone) coming into contact with the rail.

Labour and cost

The local horse community has the necessary equipment and experience to put up the hitching rail at its own expense. However, we understand that Byron Shire Council may prefer to contract the work out because of insurance requirements. If so, we could either contribute to the cost OR we could undertake to do the work to meet Council specifications.

Thank you for considering this proposal. If you have any questions please contact:

Luella Copeland-Smith on 0414 916 414 or 6688 4210
or by email at luella@raesource.com.au

EXAMPLES OF HITCHING RAILS





AERIAL SHOT OF FEDERAL PARK



'ARTIST'S IMPRESSION'
PROPOSED HITCHING RAIL

Notice of Motion No. 9.2 **Collaboratively preparing a rail corridor project that responds to Byron's needs**
File No: I2014/78

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I move:

1. **That Council, with the intent to illustrate to the State Government a community wide support for multi use of the rail corridor within Byron Shire and to prepare for possible funding opportunities:**
 - a) **Reiterates its support for a dual use within the rail corridor, comprising a public transport provision in conjunction with a rail trail.**
 - b) **Expediently convene meetings with rail corridor stakeholders to work collaboratively to develop an action plan in order to present a formal, costed and community supported project within the rail corridor to achieve local transport and tourism benefits within Byron Shire and that an invitation is also extended to local MP, the Hon. Don Page.**

2. **That this action plan includes:**
 - a) **Identifying any potential impediments to such a proposal, including legal, logistic and geographic.**
 - b) **Developing a proposal that includes investigating, developing and costing a rail trail route next to or sharing the rail tracks, in order to present to the community two options with which to compare:**
 - i. **a rail based public transport service with a bike path alongside; and**
 - ii. **a non-rail based public transport service with a bike path.**
 - c) **Consideration of and proposals to fund options to complete 2(a) and (b)**
 - d) **Seeking expressions of interest for possible provision of public transport services.**

3. **That this group also liaises with surrounding Local Government Areas to enhance a possible regional infrastructure project within the rail corridor.**

Councillor's Background Notes:

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We don't really know how the State government may make decisions regarding the use of the Casino to Murwillumbah rail corridor and in particular, the section that moves through Byron Shire. Regardless, it is crucial that Byron Shire's community unite as much as possible to advocate for uses within the rail corridor that reflect our needs, both now and into the future. So far, it has been
15 assumed that it will simply be a political decision based on political realities and for political outcomes. Thus, two extremely well meaning and well reasoned groups have spent great energy presenting THE case upon which politicians were to make their decisions. Though both TOOT and NRRT both regularly and consistently state categorically that the best outcome would be for a dual use of the rail corridor, this consensus has been lost in the fervour of 'trains versus rail trail'
20 campaigning.

This NoM seeks to provide an opportunity for these two groups to collaboratively create a solution for Byron Shire that can be used to show to the State government a united, feasible and important project for Byron Shire.

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It could be that the Department of Trade and Investment, Regional Infrastructure and Services, will be calling for Expressions of Interest (EOI) for regional infrastructure projects.

Thus, any proposed use of the rail corridor, whether it be for rail based products and services that may cater for both locals and visitors, or only a rail trail, will need to compete against other large scale projects. **We need to be prepared, organised and unified.** It is vital, for any chance of success through an EOI process; we can demonstrate strong, united community support and this does not exist thus far in Byron Shire. It is also vital that we are well down the track of being able to prepare a fully costed, designed and 'shovel ready' project with which to compete against other projects already ready to roll and already fully supported by the affected community.

Doing It the Byron Way

The only way forward is to see what joins the two main stakeholder groups and to promote that so we in Byron receive a project that reflects our values, our needs and what we deserve. **What unites all groups and the community is the acceptance that we should at least see if we can have both-a rail plus a trail.** So far, no feasibility for a light rail or shuttle service within Byron Shire has occurred and no feasibility has been done as to how a bike path may coexist with either a track based public transport service or a soft wheeled, 'trackless' public service in Byron Shire. This NOM seeks to get the community to this point-having clear, agreed upon data with which to compare these options, so we can all at least make informed and feasible choices.

Both TOOT and NRRT accept that within Byron Shire there are very different circumstances and opportunities that may or may not exist across the whole length of the corridor. With 1.3-5 million visitors per year, a small length of track, the vast bulk of the local population near the corridor and the multitude of festivals and events that exist in close proximity to the rail corridor, it is fitting for Byron to seek more than a bike and walking track within the rail corridor. TOOT believes a rail-based use can coexist alongside a bike path. NRRT believes, as its website states,

Yes, the Rail Trail can share the corridor with trains. For example, the state government has asked that the rail shuttle service planned to run from Bayshore Drive to Byron Bay Station to ensure the Rail Trail can operate alongside their train.

In general, where a viable use for the rail line is funded for introduction in the near term, and a reasonable alternative site for the Rail Trail exists within the corridor, the trail will be constructed to allow for use of the formation by rail services.

Therefore, this Notice of Motion seeks to promote *The Byron Way* of doing things-demanding, inclusive, feasible and innovative. Getting to a great outcome, the Byron way, simply requires all stakeholders to get together and plot a course forward to bring the community together.

Particulars of the Notice of Motion

1 a) This has been the position of Council and the community in general for a considerable time and has been the focus of council resolutions on a few occasions. There is nothing new in this; it is simply reiterating the fact.

1b) We would benefit greatly from our local member actively engaging with the community's wishes for a community wide outcome and it is crucial the facilitator has ears and eyes within the State Government apparatus in order to give us the best chance to put forward a competitive EOI submission. Council could convene this group, however, being established by the local member has advantages. **Its outcomes would be elevated in importance**

within the eyes of the State Government if it was auspiced by the State Government. It is vital to also extend this group to incorporate some highly credentialed public transport and rail experts.

2. This seeks to get clarity for the community. So far, every group in this field has experts who state why something another group is touting cannot occur and why their groups feasibility is more robust. This is the natural way of things when groups have been pitted against each other and told only one side will be victorious. It is actually impressive how both groups have largely been respectful of each other and not dug themselves into trenches that are so deep they exclude further dialogue. This NoM seeks to provide this opportunity for dialogue. It is based around costing and clearly outlining two options and making decisions based upon agreed data and baseline figures.

2 b) is where this can occur.

It is clear there are many current proposals by private and potentially cooperative groups who wish to provide a tourist and community shuttle type service using the existing rail tracks. It is also contended that a service providing a tourist and community shuttle type service could be managed by a shuttle with soft wheels, which does not require the tracks and instead, could use a bike path, though one widened further to accommodate soft-wheeled vehicles and cyclists/walkers.

Let's get agreed upon evidence, data and costings so we can all accurately and soberly compare the options. This NoM is concerned more about getting groups to agree to cost preferred options for the corridor within Byron Shire and compare them, than in supporting any one position. We can all make up our minds when we have the evidence.

2d) This seeks to 'shake the tree' so to speak and see who is ready and able to step up and provide services both we and visitors may use. Already a team developing cooperatively run tram services have voiced an interest, as have three private operators who wish to upgrade and maintain the tracks to provide a visitor experience that may to various degrees, provide a subsidised local use. There may be a trackless train operator who is waiting for the opportunity to make their case.

3. This ensures we speak to our neighbours so we may enhance any corridor long proposal to forms the EOI submission

What about the rest of the Corridor?

This NoM has deliberately only focused upon the rail corridor within Byron Shire. It has done so for a few reasons:

1. We, the Councillors deliberating on this, are representatives first and foremost of Byron shire and the benefits of its community must lead our considerations. It is great where an outcome that benefits Byron Shire can also benefit another shire. **However, if an outcome that benefits another shire weakens a benefit for Byron it is problematic.**

2. Our circumstances are different. We have a booming tourism industry, we have carried the weight of the tourism industry for the northern rivers, indeed for NSW outside of Sydney for decades and we deserve to gain as considerably as we can from the development of one of the most crucial pieces of infrastructure we have, with decisions that could enhance our community for generations or cause us to rue a missed opportunity for decades.

3. This NoM does not preclude or exclude any outcomes arising from the corridor long campaigns by different groups. As stated earlier, this seeks to get groups around one point of agreement-Byron Shire can and should seek to have multiple uses within the corridor. If the State government decides a walking and bike path is to be established along the full 132 km

length of the corridor, providing an extra use within Byron Shire simply enhances the tourism product and appeal. If a rail trail is not established, a shuttle service is costed and ready to go in Byron Shire. Then, with a rail trail also incorporated, we will enhance the visitor and local benefit.

5 Bottom line- letting the different rail and trail groups advocate their positions as to desired uses of the corridor should not get in the way of both groups agreeing to ensure Byron shire tries its best to have both.

10 Recommended priority relative to other Delivery Plan tasks:

N/A

15 Definition of the project/task:

Supporting the establishment of a collaborative working group to develop a proposal for utilising the rail corridor within Byron Shire and requesting the local member, the Hon. Don Page to convene and establish the group.

20 Source of Funds (if applicable):

None required

Signed: Cr Simon Richardson

25 **Management Comments by Ken Gainger, General Manager**

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

30 Clarification of project/task:

To provide an opportunity for rail corridor stakeholders to collaboratively create a solution for Byron Shire that can be used to demonstrate feasible options for the shared use of the Casino to Murwillumbah rail corridor within Byron Shire.

35 Who is responsible for task implementation:

General Manager

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

The task is consistent with the Industry led Destination Management Plan program

Financial and Resource Implications:

45 To undertake the proposed tasks will require both Council staff and financial resources. As no budget is currently available for these tasks it is likely that external/grant funding would be required to achieve the actions outlined.

50 Legal and Policy Implications:

Nil

Notice of Motion No. 9.3 Representation on NOROC
File No: I2014/84

I move:

1. That Council:

- a) indicate to NOROC and to the Councillors of NOROC's five other constituent Councils that representation by one elected representative (the Mayor) from each Council is limiting; and**
- b) ask NOROC to expand its composition to:**
 - (i) two delegates per Council (possibly but not necessarily including their Mayor) determined by each Council, possibly with annual or 2-yearly rotation;**
 - (ii) include third and fourth (Alternate) delegates, to cover absences of the two appointed.**

5

Councillor's Background Notes:

10 I attended the NOROC meeting in Ballina on 7 November, to pick up on the tone and purposes of NOROC. My report on the meeting appears (Delegate's Report) elsewhere in this Agenda.

One of the interesting items reported to NOROC was on Page 27 of that Agenda, entitled "Improving Communication between NOROC and Councillors" (see www.noroc.com.au).

15 NOROC is currently made up of six Councils: Tweed, Byron, Ballina, Lismore, Richmond Valley and Kyogle. Clarence Valley Council is eligible to be a member but isn't currently. Under clause 5 of the Constitution of NOROC, elected / voting representation is by the Mayor of each constituent Council. General Managers of each Shire also attend meetings. NOROC is served by an Executive Officer.

I have banged on in the past about NOROC's peaky representation.

20 In relation to the item on its Agenda, NOROC resolved on 7 November that its President and Executive Officer would ask to attend a meeting of each of the six constituent Councils, to brief us on NOROC activities.

While I welcome hearing from NOROC, I don't think this approach covers the communication issue. I would prefer that member Council's had more opportunity to engage within NOROC and to determine its role and future, in light of LG Structural Reforms likely after March 2015.

25 I also don't think talking to each Council individually is good consultation.

This NoM aspires to:

- (i) expand and improve representation on NOROC; and
- (ii) use this to indicate to the State that peaky representation is not ideal.

30

Recommended priority relative to other Delivery Plan tasks:

The writing of a letter to NOROC and to each Councillor in the region is not an onerous task and should therefore be achievable by the end of this month.

Definition of the project/task:

To write to NOROC and to each Councillor of the five Shires (Tweed, Ballina, Lismore, Richmond Valley and Kyogle) indicating Council's opinion as expressed in this Resolution.

Source of Funds (if applicable):

No funding required.

Signed: Cr Duncan Dey

Management Comments by Ken Gainger, General Manager and Mark Arnold, Director Corporate and Community Services:

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

Clarification of project/task:

The Notice of Motion would require the preparation of letters to the member Council's of NOROC advising of the position adopted by Council and seeking an amendment to the Constitution to change the number of representatives from each Council and the Councillor/s (currently the Mayor) eligible to be the Council representative.

The proposal detailed in the NoM seeks to extend the number of Council representatives on NOROC. It is likely that as a consequence of the current Fit for the Future local government reform process and the consequent creation of a Northern Rivers Joint Organisation that NOROC's future role will be reviewed and its role may in fact be overtaken by the JO. A Northern Rivers Joint Organisation will be formed in 2016 and the process leading to its creation will examine representation issues as part of developing the Governance framework for that organisation. The question therefore arises as to whether such a proposition to review NOROC's representation is timely when NOROC's immediate future is uncertain. Perhaps such matters are better left to the development phase of the new JO?

Director responsible for task implementation:

Director Corporate and Community Services

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

There would be a minimal impact on other projects and or tasks.

Financial and Resource Implications:

The action could be implemented within existing allocated resources

Legal and Policy Implications:

The NoM is seeking a change to the Constitution of NOROC, specifically to Clause 5 – Representation..

The current membership provisions of the adopted Constitution (2 August 2013) have been reproduced below:-

5 ***“MEMBERS***

4. *A general purpose council in the Northern Rivers Region may become a Member of the Association by ordinary resolution of the Board of the Association.*

The following Councils are presently eligible to be full Members:

10

- *Ballina Shire Council*
- *Byron Shire Council*
- *Clarence Valley Council*
- *Kyogle Council*
- 15 • *Lismore City Council*
- *Richmond Valley Council*
- *Tweed Shire Council*

The Executive Officer shall keep a Register of Members.

20

REPRESENTATION

5. *A Member will be represented on the Board of the Association by that Member’s Mayor.*

25 5 (a) *For the purposes of the Associations Incorporation Act 2009, the committee of the Association is herein referred to as the Board of the Association.”*

A change would be required to Clause 5 to include additional Council representatives.

30 The following information is provided on the process to amend the Constitution. The requirements of Clause 43 to pass a Special resolution should be noted.

MISCELLANEOUS

“41. These rules may be altered from time to time by a special resolution of the Association.”

35

Whilst this solution may not alleviate all of our traffic problems it will go a long way to freeing up the bottle neck caused by random pedestrians who can number in the thousands daily by diverting traffic away from where they cross the road. This won't reduce the traffic but it will decimate the numbers of time traffic has to stop.

5 The second lane into town will also provide relief from the traffic that backs up from the roundabout back as the beach traffic turns across the line of traffic coming from all three directions through town. The second lane will offer two lanes around the Service station roundabout which will reduce hold ups there on market days.

10 I believe it is time we all came together to do what we can to manage the 28,000 visitors per week who enter our town.



15





Recommended priority relative to other Delivery Plan tasks:

- 5 See staff comments below.

Definition of the project/task:

- 10 See staff comments below.

Source of Funds (if applicable):

- 15 See staff comments below.

Management Comments by Simon Bennett, Traffic and Transport Planner:

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

- 20 Clarification of project/task:

Subject to Council endorsement the NOM seeks as follows:

- 25 Part 1 - Council support for the creation of a permanent second inbound lane along Shirley Street (from Kendall Street) and onto Lawson Street through to the Jonson Street and Lawson Street roundabout with a road link to Bay Street provided via Lawson Street North car park.

- 30 Part 2 - a detailed staff report on Part 1 by the first meeting in 2015 which includes design options, necessary approvals from state agencies, funding sources, traffic impacts.

- 35 Part 3 - Council support to provide \$15,000, either from the budget and funds reserved for the Byron Bay bypass, or failing that identify another funding source, for the purpose of engaging consultants to assist staff with the completion of the report.

- 40 Part 4 - that a workshop be convened as soon as possible at the site of the Lawson Street North car park inviting stakeholders, business owners and other interested parties to meet with staff consultants and traffic engineers to discuss the proposal.

Director responsible for task implementation:

Phillip Holloway, Infrastructure Services

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

With the exception of Part 4, the NOM is related to previous resolutions staff are working through including the following described below, i.e. three resolutions from 7 August and two from 9 October 2014 Council meetings.

10 Accordingly these are being progressed and will address the intention of Parts 1 and 2 with a report scheduled for the first meeting of 2015. This work has commenced with design to be completed and estimated. To this end funds for a third party consultancy (as per Part 3 of the NOM) is not required at this time.

15 Two from 9 October 2014

20 Report No. 13.13 - Proposed Bay Street Ring Road and Two-Lanes Inbound on Shirley Street (#E2014/63280)

14-474 Resolved:

25 1. *That in relation to resolution 14-363 Council:*

- a) *refer the following to the Byron Bay Master Plan project for further consideration on the proviso it does not require changes to the project scope and budget as already agreed with the consultant:*
 - i) *reinstating two-way on Bay Street , Byron Bay*
 - 30 ii) *the creation of a pedestrian precinct on Jonson Street, between Lawson Street and Bay Street*
- b) *note the matter of direct access to the Lawson Street north car park from Lawson Street, Byron Bay is being considered as per the current Byron Bay parking study.*

35 2. *That in relation to resolution 14-366 Council note as per previous studies, such as Council's own MR545 Strategic Study, a second inbound lane on Shirley Street, Byron Bay is to be considered in regard to the Byron Bay bypass project and does not require more than a 50m to 100m length on the approach to the Butler / Shirley / Lawson Street roundabout.*

40 Notice of Motion No. 9.3 - Byron Trade Expo at proposed trial Lawson(sic) Street Mall (E2014/63518)

45 **14-499 Resolved** *that Council approve the proposed trial for the "Bay Street Ring Road, Jonson Street mall and Two Lanes in" to promote a whole of shire "Arts & Industry" Expo in the Jonson street mall for a period of 10 days from the 1st April, 2015 subject to:*

- a) *All necessary funding being identified*
- b) *All required approvals from state bodies being obtained.*

50 Three from 7 August 2014:

Notice of Motion No. 9.6. - Two lanes into Byron Bay (#E2014/48575)I2014\85

14-366 Resolved:

1. That Council ask for a report to be brought back to the 18 September 2014 Council Ordinary Meeting to examine the potential for the creation of a second in-going traffic lane into the CBD of Byron Bay along Ewingsdale/Shirley/Lawson Streets from Kendall Street through to Jonson Street before the coming summer holiday season 2014.
2. That the report include commentary as to how such a proposal may support or enhance the Park and Ride project with possible funding being considered from the Park and Ride budget.

Notice of Motion No. 9.4 - Bay Street Ring Road (the Bay 1) (#E2014/48587)

14-363 Resolved that a report be brought to Council to consider a temporary trial to coincide with the Summer in the Bay festivities for a 9 day period from the 27 December 2014 to the 4 January 2014:

- a) Return Bay Street to two-way traffic from Middleton Street through to the northern end of the Lawson Street North car park before the coming summer holiday season 2014.
- b) Make Jonson Street between Bay and Lawson Street into a mall by restricting all vehicle traffic other than commercial/retail vehicles from entering.
- c) Link Bay Street to Jonson/Shirley/Ewingsdale Road through the Lawson Street North Car Park to create the ring road (The Bay1).
- d) That funding of \$15,000 be requested to be made available from either/or the following funds: the Summer in the Bay festivities, including New Year's Eve Soul Street, New Year's Day First Sun and the Park and Ride subject to availability.
- e) That the "Soul Street" event be relocated to the pedestrian precinct and costs associated with closure could be restricted to a minimum of signage and traffic barriers to prevent vehicular access and funding at no more than \$10,000 to be sourced from the "Soul Street" budget.

Notice of Motion No. 9.3 - Alternate Bypass route for Byron Bay (#E2014/48546)

14-362 Resolved that Council:

- a) Include Byron Street in the "Kendall to Butler Street corridor, and any associated railway land between Shirley and Browning Street" for consideration in the development of the Byron Bay Master Plan; and
- b) Council make any necessary representations and expressions of interest on the subject land for the purposes of future planning for the pedestrian, parking, transit, and general traffic improvements in this area.

Financial and Resource Implications:

The NOM nominates funds be sourced from the Byron Bay bypass, or failing that Council identify another funding source for consultants to be engaged to assist staff with the completion of the report.

Council have put aside \$50,000 for bypass related work separate to the amount committed (approx. \$250,000) to engage a third party consultancy (GHD) to undertake the project through to approval, including EIS and detailed design and costing.

Legal and Policy Implications:

Nil at this time.

DELEGATES' REPORTS

Delegate's Report No. 12.1 **NOROC Meeting - Ballina, 7 November 2014**
 File No: I2014/67

5

1. New **Chair**: Jenny Dowell (Lismore Mayor) was elected as President and Danielle Mulholland (Kyogle Mayor) as Vice President.
2. Northern Rivers **Water Supply Strategy**: this strategy unfortunately competes with and ignores the Future Water Supply Strategy just adopted by Rous Water. NOROC resolved to put its Strategy on pause pending the State's outcomes on Joint Organisations (JO). I have asked for copy of the NOROC Strategy (for us and for Rous Water).
3. **Tenterfield Council** wishes to join into an expanded JO based on NOROC. Kyogle Council has already resolved against this. NOROC resolved to not take a position and to let Tenterfield pursue with OLG.
4. The North Coast **Ageing Strategy** (ageing.nsw.gov.au) is executing its Implementation Plan. It is up to individual Councils to nominate opportunities. NOROC resolved to nominate members of its Environment Issues Working Party to help implement the Ageing Strategy.
5. Improving communications between **NOROC and councillors** (ie not the Mayors, on NOROC). NOROC resolved that its President and Executive Officer attend a meeting of each member council in 2015, to brief councils on NOROC activities.

I personally don't think dealing with us individually is good consultation. Hence my NoM on this Agenda to indicate to NOROC and its constituent Councils that representation by just the Mayors is limiting and to ask NOROC to expand its composition to two delegates per Council.
6. **Transgrid** owns the trunk poles & wires. They explained their future strategy to NOROC. Unfortunately, that ticks their box on consultation but gets no information out to the public.
7. NOROC response to ARUP report on **Rail Trail**. The draft submission to the State has been moderated but still fails to ask for consideration of the public transport needs of the region.
8. Isaac Santos of Southern Cross Uni presented a project on **baseline pre-CSG water chemistry**. 96 samples from bores and 29 from creeks are being analysed. The project is sponsored by NOROC and SCU.

Signed: Cr Duncan Dey

10

Delegate's Report No. 12.2
File No:

Bioregional Assessments - Ballina, 7 November 2014
I2014/68

1. The Australian Government is doing bioregional assessments to examine impacts of coal seam gas and large coal mining developments on water resources and water-related assets. The project is a collaboration between the Dept of Environment, Bureau of Meteorology, CSIRO and Geoscience Australia.

Ours is the Clarence-Moreton (CLM) bioregion. Three speakers presented:

- **James Hill (DoE):** the assessments will be used by (i) gov't regulators; (ii) the *Independent Expert Scientific Committee* (IESC) on Coal Seam Gas and Large Coal Mining Development; and (iii) the public through the website - to increase transparency of decision-making.
- Assessment methodology:
 - a) contextual information: including a Water Dependent Asset Register.
 - b) model-data.
 - c) impact analysis: direct, indirect and cumulative.
 - d) risk analysis.
- Impacts can be measured by, for example, those on receptors like frogs.
- Products: a context statement for Clarence-Moreton (CLM) already available and provides info on Geology, Ecology, Hydrology & Hydrogeology, plus one.
- **David Rassam (project leader for CLM; CSIRO):** direct impacts are such as dewatering. Indirect impacts like salinity. Plus cumulative impacts.
- Direct impacts on groundwater can be measured by water depth. Those on surface water by changes in the flow duration curve.
- CLM has 2,709 assets registered.
- David wants to contact specialists in each Council.

My view is that that addressing NOROC and talking to Council staff is not adequate consultation on such an important matter. As above, this is tick-the-box consultation.

- **by Mattias:** the Wallum Coal Measures define the major target area for CSG and Coal. Shallowest is the Richmond Seam just west of Casino. The seam is also thickest there.
- To assess impacts, we have to understand connections of bedrock with shallow aquifers, plus groundwater with surface water bodies.
- Surat Basin seam depths are up to 2km. CLM up to 4km (based on seismic, not on bores). Alluvium on the Richmond floodplain is up to 30m thick.
- Grid generally 1km, but down to 200m in Richmond.

Signed: **Cr Duncan Dey**

**Delegate's Report No. 12.3 Bushfire Management Committee Quarterly Meeting -
Mullumbimby, 18 November 2014**
File No: I2014/69

5

1. This is a State Committee covering several Shires. Our Tony Nash and Andy Erskine were unable to attend:
 - A subcommittee was formed to review the Bush Fire Risk M'ment Plan. The subcommittee includes Andy.
 - Two operational plans hold important emergency contacts including many for each Council. Phone numbers (and maybe other info) need updating, for emergency situations.
 - Byron Shire did not submit or present our "agency report" to the meeting.
 - Shires that are a party to the **Clean Air** legislation are able to ban fires in urban areas. I await (as of 24 November) a response to my email of 19 November asking whether our Council has signed up to the legislation.
 - The **Belongil fire-trail** was recently used to control a fire in Tyagarah Nature Reserve. I await (as of 24 November) a response to my email of 19 November asking for:
 - a) an update on progress on the hand-over of the fire-trail;
 - b) whether Council knows who cleared and bull-dozed the fire-trail recently; and
 - c) whether it can be widened to a safe width for fire trucks (as used it recently).

Signed: Cr Duncan Dey

Delegate's Report No. 12.4 **Byron Bay Liquor Accord - BBLA 19 November 2014**
File No: I2014/70

1. BBLA has **25 members** (licensed venues) within BB area. There is also a Liquor Accord for the Brunswick Valley.
2. Police **statistics on assaults** continue to decrease in BB area. There were 12 in October 2014, less than 2013 and it was less than the 19 in October 2012.
3. OLGA were not present at the meeting, having been called to Sydney on urgent business.

Signed: Cr Duncan Dey

Delegate's Report No. 12.5 **Richmond Tweed Regional Library (RTRL) Murwillumbah,
21 November 2014**
File No: I2014/71

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1. New **Chair & Deputy**: Sharon Cadwallader (Ballina Councillor) was elected as Chair along with Carolyn Byrne (Tweed Councillor) as Deputy.
 2. UTS is conducting a survey of **regional cooperative models** (like RTRL) for library operation.
 3. **Wifi** is offered at Byron Bay library for members, and at slower speeds for guests. Wifi is switched off outside library hours.
The NSW Public Libraries Association is opposed to charging fee for use. I support it for guests.
 4. The **RTRL website** (as above) came on line in October.
 5. Meeting dates for 2015 were set as: 13 February, hosted by Tweed;
17 April, hosted by Byron;
15 May, hosted by Ballina;
14 August, hosted by Byron;
20 November, hosted by Lismore.

Signed: Cr Duncan Dey

Delegate's Report No. 12.6 **NSW Coastal Conference, Ulladulla NSW**
12 to 14 November, 2014
File No: I2014/83

5

Three streams operated for much of the Conference. One page synopses appear in the *Program & Abstract Book*. We spread ourselves across the streams. The reports are on the talks we attended, under the name of the lead author only (see the actual Abstracts for details):

Session 1 – plenary.

1. Ian Hoskins, historian and author:

- Ian carries an amazing breadth of knowledge of the NSW coast, with its >2,000km length, 130 estuaries, 100 coastal lakes and rich history.
- Ian's book *Coast: a history of the New South Wales edge* is the first written history of the NSW coast and describes from Aboriginal use through to our current obsession with the beach as a place to live or holiday.

Session 2.

2. Norm Lenehan of Eurobodalla Shire Council on replacement sea level rise (SLR) figures:

- state guidelines removed but most still follow them, not so much the numbers as the approach.
- ocean level rise is the same for all NSW but varies according to beach and estuarine shapes.
- he suggests focusing on the risk and move away from its timing.
- and focus on the certainties: sea level will rise; this raises the risk of
- he suggests:

Hazard	Time (years)	Generation	SLR (m)
(current)	now – 15	now	0.1
(medium-term)	15 – 35	current	0.26
(strategic)	35 – 85	multiple	0.98
(maximum)	>85	future	2.0

we don't need to be accurate on when, just work out what to do when SLR reaches say 0.25m, 0.5m, 1.0m, etc.

3. Roger McLean of UNSW Canberra on Moruya's Bengello Beach 1974 - 2007:

- long record of beach profile surveys (longest around for NSW?).
- big storms and loss of sand in May 1974, June 2007.

4. Peter Helman of SCCU on management of our Brunswick River estuary:

- a whole-of-catchment approach to estuary health management, as for the Brunswick River.

5. Jarrod Dent of Baird Australia on climate models for ocean wave heights:

- world models are accurate predictors but do not account for local weather or for coastal shape.
- “downscaling” by including a local model accounts for these local effects.
- calibration is by hind-casting 60 years of records (since 1950s).
- first waverider buoy in February 1974 off Port Kembla. First directional waverider in 1999, off Byron Bay.
- wind hindcasts tested over 12 years of record, 1998 – 2009 then converted to wave height. Duncan thinks the test results gave a poor fit.

6. Phil Watson in private PhD (not OEH) on SLR acceleration / deceleration:

- deceleration was picked up in IPCC 2013 report, Chapter 3.
- 2nd order polynomial on records since 1850s at Cuxhaven (Germany).
- acceleration peaked in about 1990, thus now deemed deceleration.

Session 3A – Hazard Lines.

7. Chris Adamantidis of Worley Parsons on a new tool for mapping coastal hazard:

- flood hazard mapping is more reliable than coastal. Coastal relies on photogrammetry plus estimated storm cut plus the zone of reduced foundation stability. There is a need to integrate the photogrammetric records into the storm event series, to account for cut / accretion at the date of the photo.
- we now have Lidar data plus numerical models (like WaveRIDE) that can do this.

8. David Wainwright of Whitehead & Assoc and of UQ on SLR for Eurobodalla and Shoalhaven:

- the withdrawn NSW Guideline projections were “widely accepted” and “competent”.
- he cites s733 of the LGAct and ESD and intergenerational principles (EP&A Act).
- the sea level record at Fort Denison is suitable to monitor for NSW (4cm 1996 – 2013).
- since 1935 there has been only rise in Mean Sea Level (MSL), no falls.
- the IPCC projections are suitable (Second Target RCP8.5).

9. Doug Lord of Coastal Environment P/L on planning triggers:

- paper not complete but soon.
- planning to 1. discourage development in susceptible locations.
- he suggests (and I totally support):
 - 2. don't pick on individuals;
 - 3. minimise future waste of money;
 - 4. triggers (distance triggers have been unsuccessful);
 - 5. certainty.

Duncan believes the right trigger for existing coastal structures is “when the repair bill after an event reaches \$xxxx, abandon the structure or relocate it to a more landward position” eg our Jonson Street carpark. This needs to be planned and agreed, during fine weather not shouted about in the middle of a storm.

10. Angus Gordon of Coastal Zone M'ment & Planning on hazard lines:

- suggest hazard lines have not worked and need to go. We would be just as well served by using the already mapped contour of 5m AHD and not inhabiting land below that.
- Europe has thousands of years of experience; US has hundreds; Australia has only decades.
- a Vulnerability Matrix is created as likelihood times consequence.
- s149.5 tells a prospective purchaser that there is a hazard. s149.5 that there is a policy.

Comment by Alan Young that hazard lines be replaced with web-based info (click on a Lot).

Session 4 – Protection and Management.

11. Karen Coleman & Pat Aitken of King & Wood Mallesons on eight coastal communities:

- they are angry lawyers helping aussie battlers look after their castles at hotspots like Belongil, Winda Woppa, Blueys and Boomerang Beaches, Old Bar.

12. Mladen Kovac of OEH on nearby Caseys Beach project:

- seawalls were rebuilt in 1975 and still overtopped. The armour was scattered on the beach.
- STP has a surface level of 2.4m AHD.
- EurOtop 2007 manual will be used for new rebuild using existing granite and basalt.
- crest level will be 3.0m AHD for current conditions (Stage 1) and 3.7m eventual (Stage 2).

13. Simon Rowe of OceanWatch Australia on marine natural resource management (NRM):

- OceanWatch was created in 1989 to help with fish, oysters, and other commodities.

Session 5 – plenary.

14. Peter ... of Marine Estate M'ment Authority on maximising community well-being:

- MEMA advises the Ministers of Primary Industries and of the Environment.

15. Enzo Pranzini of Italy on European experiences:

- European coast is about 80% defended, because land is dropping and sea is rising. People have contributed for centuries - paying for maintenance is not new.
- design is now generally steep and concave, to reflect waves and thus reduce overtopping.
- it's easy to stabilise a beach if you are happy to sacrifice the sand.

16. Patrick Hesp of Flinders Uni on foredunes:

- plants retain sand to form foredunes.
- foredunes should not be interfered with and should be allowed to proceed landward.
- climate change includes affects on dunes, eg wind, dryness.

Session 6A – Applied Research.

17. Duncan McLuckie of OEH on coincidence of coastal and catchment events:

- in big rivers, the peak is often days after the storm. Not so for coastal creeks.
- the May 1974 was a huge ocean event (Duncan's note: but January and March 1974 catchment events were much bigger).

- Roy et al in 2001 defined five types of coastal creeks:
 - #5 = Cudgen or Myall Lakes (long creek downstream)
 - #4 = intermittently closed estuary
 - #3 = fixed entrance (like the Brunswick River) or dynamic entrance or ICOLLS.
- step 7 of the guidelines is to determine ocean levels for each catchment AEP to get an envelope of results in the estuary.
- also need to model 1% flow into Neap tide, to cover high velocity scenario.

18. James Carley of WRL on modelling advances:

- XBEACH can include the dune. SWAN models to the surf break point. There are 1D models for wave set-up. Others for wave run-up and overtopping. And EurOtop.
- then use river 1D and 2D river models for travel upstream in an estuary.

19. Peter Horton of Royal Haskoning DHV on Acceptable Risk:

- he recommends the Risk Assessment methodology that the Aust. Geomechanics Society. Differ say a landslip risk (where risk includes loss of life) from sandy coast risk (property only).
- for the CZMP for Warringah Council, they adopted a planning life of 60 years = the life of the structures. Duncan thinks this is way too short.

20. Michelle Fletcher of BMT WBM on Estuary M'ment Plans:

- EMPs since 1992.
- in 2003 they reviewed 20 of the hundred or so EMPs done.
- EPA spent about \$60m on 190 GPTs but they do not get maintained. They have become pollution sources!

21. Thomas Oliver of Uni of Wollongong on the coastal floodplain at Moruya:

- area studied over several decades.
- transects about 400m long perpendicular to the beach-front using Ground Penetrating Radar (GPR) revealed old beach faces from hundreds to thousands of years ago.
- OSL dating gives time elapsed since the sand grains were buried.

Session 7 – field trips.

Conference Dinner.

22. Rob Stokes, Minister for the Environment on coastal policies:

- received an ovation for the climax of his speech “protect the beach”.
- he wants s1495 certificates to advise the what, when, how, etc of the coastal threat.
- the govt is drafting new coastal Guidelines.
- there will be no govt assistance for works after June 2015, if they are not part of a CZMP.
- a new Coastal Council will be formed.

Session 8B, 8C – Climate Change & Applied Research.

23. Paul Donaldson of BMT WBM on the influence of bedrock geology:

- bedrock at depths of 4m or less will influence coastal hazard lines, especially at headlands.

24. Jason Evans of UNSW on climate projections:

- Global Climate Models (GCMs) are to grids of 1° (=110km) to 4° of latitude / longitude. They have to be downscaled (see talk #5 above) for local features like Great Dividing Range, etc.
- the NSW/ACT Regional Climate (NARClm) model hindcasted 1950 – 2010 then forecasts 3 future windows for annual mean changes in climate factors like rainfall, temperature, wind on four seasons (summer, autumn, winter, spring).
- warmer water will come south, into the Tasman Sea.
- Northern NSW will have increased precipitation in summer and autumn, predicted by 3 of the 12 models tested.
- mean wind speeds won't change.
- maximum wind speeds on our North Coast will increase in summer and decrease in winter.

25. Tyannah O'Donnell of Uni of Canberra on Rolling Easements:

- about the interface between public amenity & access with private property.
- planning decisions as in Port Stephens and Lake Macquarie LGAs have prioritised private interests over public.

26. David Rissik of the National Climate Change Adaptation Research Facility on NCCARF:

- funded by federal government to support coastal Local Government.

Session 9 – plenary.

27. Robert Young of Western Carolina Uni on US experience:

- they have a phone App, to look up the storm height for any property, and another App for beach nourishment / condition.
- the USA suffers having the US Army Corps of Engineers, who march and fix stuff after storms that should be reconsidered. Robert wants "responsible reconstruction".
- there are ridiculous cases of elevating homes in crazy places as that is covered by insurance. If you can only raise in the same location, you have to hold the coastline in place.
- beach nourishment is a never-ending commitment; with side effects (it is not environmentally benign).
- you cannot make decisions whether to rebuild or not in the middle of a storm, you have to make them beforehand. When things have been destroyed is the opportunity to relocate.
- California inserts into title deeds at time of sale: (a) the building will not be reconstructed; and (b) it will be removed if it becomes threatened.

The 2015 Conference will be held in Forster, by Great Lakes Shire Council.

**Signed: Cr Duncan Dey
Cr Simon Richardson**

STAFF REPORTS - GENERAL MANAGER

Report No. 13.1 Fit for the Future - Local Government Reform**Directorate:** General Manager**Report Author:** Ken Gainger, General Manager**File No:** I2014/13**Theme:** Corporate Management
General Manager's Office**Summary:**

The NSW government embarked upon a state-wide local government reform program in August 2011 beginning with a summit of all Mayors and General Managers of NSW councils being held in Dubbo under the mantra of "Destination 2036". Following the summit two key independent panels were appointed by the Minister for Local Government, namely the Independent Local Government Review Panel (ILGRP) and the Local Government Act Review Task Force (LGARTF). Each released a series of interim reports and the LG sector (and others) were given an opportunity to lodge submissions expressing their support or otherwise for the initiatives proposed in those reports. Earlier this year the final reports of both panels were presented to the Minister for Local Government, and in September 2014 the Minister announced the NSW government's comprehensive response to the recommendations contained in those reports labelled "**Fit for the Future**" (FFF).

FFF has effectively adopted the bulk of the recommendations made by the two panels and laid out an implementation schedule for councils to follow. The package of reforms adopted by the government is broadly supported by local government and many of the actions in the package have been called for by the sector for many years and are seen as fundamental to the on-going sustainability of the NSW system of local government. The most controversial elements of the FFF package are those pertaining to local government mergers and the establishment of regional Joint Organisations across NSW and it is these elements that are canvassed in this report.

RECOMMENDATIONS:**That Council:**

1. Expresses its broad support for the package of local government reforms outlined in the Fit for the Future program.
2. Supports the Independent Local Government Review Panel's recommendation that Byron Shire Council is of sufficient scale and capacity to warrant it being able to continue as an autonomous local government authority.
3. Undertakes to submit a Council Improvement Proposal to the Office of Local Government by 30 June 2015 in accordance with the guidelines and templates distributed and based upon the Council's successful implementation of its Financial Sustainability initiatives.
4. Supports the establishment of a Northern Rivers Joint Organisation and looks forward to contributing to the development of its purpose, functions and governance in collaboration with other Northern Rivers councils and the Office of Local Government.

Attachments:

- 1 Information regarding funding to local government for 'The Fit for the Future' reform package ,
S2014/10999 (provided under separate cover)
- 5 2 A roadmap for Stronger, Smarter Councils - September 2014, E2014/79298 (provided under separate
cover)
- 3 NSW Government Response - September 2014, E2014/79282 (provided under separate cover)
- 4 Council Improvement Proposal, E2014/79285 (provided under separate cover)
- 5 Circular No. 14-30 Announcement of Joint Organisation Pilots - 12/11/2014, E2014/79292 , page 41
- 10

Report**Background:**

5 The NSW government embarked upon a state-wide local government reform program in August 2011 beginning with a summit of all Mayors and General Managers of NSW councils being held in Dubbo under the mantra of “Destination 2036”. Following the summit two key independent panels were appointed by the Minister for Local Government, namely the Independent Local Government Review Panel (ILGRP) and the Local Government Act Review Task Force (LGARTF). Each
 10 released a series of interim reports and the LG sector (and others) were given an opportunity to lodge submissions expressing their support or otherwise for the initiatives proposed in those reports. Earlier this year the final reports of both panels were presented to the Minister for Local Government, and in September 2014 the Minister announced the NSW government’s comprehensive response to the recommendations contained in those reports labelled “**Fit for the Future**” (FFF).

Fit for the Future:

20 FFF has effectively adopted the bulk of the recommendations made by the two panels and laid out an implementation schedule for councils to follow. (The detailed response to each of the panel’s recommendations is included as an attachment to this report). The package of reforms adopted by the government is broadly supported by local government and many of the actions in the package have been called for by the sector for many years and are seen as fundamental to the on-going sustainability of the NSW system of local government. The most controversial elements of the FFF
 25 package are those pertaining to local government mergers and the establishment of regional Joint Organisations across NSW and it is these elements that are primarily canvassed in this report.

The release of the FFF program in September 2014 was quickly followed by a series of local government briefings across NSW. At these briefings councils were informed that the
 30 recommendations of the ILGRP relating to which NSW councils should be targeted for potential amalgamation and those which were earmarked to be of sufficient scale and capacity to remain as they are would be accepted by the government as the basis by which they proceeded to determine which councils were deemed to be Fit for the Future. These ILGRP report schedules list Byron Shire Council as being among those that are not being targeted, at least initially, for amalgamation.
 35 However, all NSW councils, including Byron Shire Council, must demonstrate their long term viability by submitting a report to the Office of Local Government (OLG) by 30th June 2015 outlining their plans to become Fit for the Future.

40 To give guidance and assistance in this process the OLG recently released a series of papers which either:

1. Provide guidance on how to prepare and submit a Council Merger Proposal (for those councils identified for prospective merger); or
2. Provide guidance on how to prepare a Council Improvement Proposal (for those councils not identified for prospective merger).

45 Each guide is accompanied by a FFF reporting template and a self assessment tool. The self assessment tool focuses on each council providing bench-marked performance measures to do with:

1. Sustainability (3 performance measures, namely operating performance, own source revenue, and building & infrastructure asset renewal))
- 50 2. Infrastructure and Service Management (3 performance measures, namely infrastructure backlog, asset maintenance, and debt)
3. Efficiency (one performance measure, namely real operating expenditure)

Assistance is available to councils from the OLG in preparing Council Improvement Proposals but the costs must be met by the council. Only those councils that are exploring merger proposals can apply for financial assistance.

Following the lodgement of Council Improvement Proposals in June 2015, the OLG will evaluate the sustainability of those councils based on recently established criteria. (This criteria is outlined in an attachment to this report). Those councils deemed as being fit for the future will be given access to a range of financial benefits including:

1. Access to cheaper loan funds through a new State borrowing facility to help fund local infrastructure;
2. More flexibility with procurement and simplified reporting;
3. Access to a streamlined IPART process for setting rates; and
4. Eligibility for additional planning powers

It is not clear what the fate of those councils deemed as not FFF will be.

While councils will welcome an opportunity to have their performance benchmarked across the sector it would appear that the criteria developed to determine which councils are Fit for the Future are limited to financial and infrastructure renewal factors. This would seem to be a very narrow perspective on effective local government performance. Byron Shire Council together with 71 other councils across NSW have been participating in a Local Government Professionals/PWC performance benchmarking process titled "*Local Government Operational and Management Effectiveness Report*". This proactive bench marking initiative reviews council performance across an extensive range of performance criteria and is thus a more complete measure of each council's effectiveness. It is intended that Council's initial performance report generated by this program will be submitted to the OLG together with our Council Improvement Proposal.

Joint Organisations:

Among the initiatives adopted by the government is the formation of a Northern Rivers Joint Organisation comprising six councils, namely Byron, Ballina, Tweed, Lismore, Richmond Valley and Kyogle. The Northern Rivers Joint Organisation (NRJO) is broadly intended as a regional forum for collaboration on regional priorities which will (a) connect ideas and priorities; (b) create a consistent and structured way for regional councils to collaborate; and (c) elevate key priorities through effective strategic planning.

The government has recently established five pilot JOs across regional NSW which will operate during 2015. The Northern Rivers area was not selected as one of the pilot JOs. The pilot JO regions are Central West, Hunter, Illawarra, Namoi and Riverina.. These pilot JOs will work with the OLG in establishing successful models for the structure and operation of JOs that will assist in the roll out of JOs across the state in 2016.

A Way Forward:

Since the announcement of the FFF reforms there has been much speculation within the media and the community about what the future of individual councils in the northern rivers region will be. The only council in the region that has been identified for potential amalgamation is Kyogle Council which has been advised to enter discussions with Lismore and Richmond Valley councils regarding the potential for merger.

To date submissions by Byron Shire Council to the ILGRP have been predicated on Council's preference to remain in its present form on a stand alone basis. While the Council received a negative financial sustainability report from the NSW Treasury Corporation (TCorp) in March 2013, much work has been done to steadily improve Council's financial outlook to the point where all of Council's key financial indicators are reflecting improved sustainability. The Council has referred to

its successful Financial Sustainability Plans in each of its ILGRP submissions expressing its preference and capacity to remain as a discrete local government authority.

Despite significant financial (cash) incentives being offered by the government for NSW councils to develop amalgamation proposals (between \$5M and \$13.5M), Byron Shire Council has not been approached by any of its neighbouring councils to engage in discussions about a potential merger and preliminary informal discussions with those councils has indicated that each has a preference to remain as they are. Accordingly It would be helpful for the Council to formally resolve its stated preference not to be amalgamated (given the government's consistently stated policy of no forced amalgamations) so that should Council be approached its position on the issue is clear.

With respect to the creation of a Northern Rivers JO, Council's position has generally been supportive of this concept albeit with some concerns about the notion of a Council of Mayors overseeing the JO as a Board of Directors with the support of their respective council General Managers. Once again the Council has expressed this support in all of its submission to the ILGRP. For the sake of clarity it would also be helpful if the Council resolved its position with respect to the establishment of a NRJO

There has also been speculation as to the structure and auspice of a NRJO with NOROC recently (unsuccessfully) applying to become one of the pilot JOs. The FFF program is silent on the role of ROCs in the establishment of JOs and reference is generally made to constituent councils forming a JO rather than established organisations of councils although this does not seem to be necessarily precluded. To my view there is a certain attraction in a fresh approach to regional collaboration and regional strategic planning synonymous with a bold new forward looking local government regime that is not encumbered by the peculiarities of the existing ROCs with their unworkable consensus decision making and chronic under-funding. Some clarity from the Council regarding its preference for the structure and auspice of a NRJO would also be beneficial.

Conclusion:

The NSW government's Fit for the Future program of local government reform has much to commend it. It provides an opportunity to reframe local government for the next 25 years and beyond and to establish much needed financial reforms that remove some of the unnecessary regulation and bureaucratic systems and provide councils with greater control of their finances and accountability for performance.

Byron Shire Council, through the successful creation and implementation of its Financial Sustainability Plans, has overseen a significant improvement in Council's financial outlook to the point where long term sustainability seems eminently achievable. By framing Council as a stand alone local government entity into the future the Council will provide our community with an opportunity to retain existing levels of representation and advocacy undiluted by the creation of a merged entity typified by competing community development interests and conflicting priorities. A stand alone council is most likely to be able to sustain and nurture those inherent characteristics that make Byron Shire such an attractive and vibrant place to live, work and recreate. A clear statement by the Council as to its preference will give clear direction to its community and the broader local government sector as to its future direction.

Council should similarly restate its support for the establishment of a Northern Rivers Joint Organisation and promote a model that is not mired in the past but reflects a fresh approach more befitting the most significant reform of NSW local government in a generation.

Financial Implications

The financial implications flowing from FFF are potentially significant for the council. Much will depend on the business case put forward by the council in the Council Improvement Proposal to

be submitted to the OLG in June 2015 and whether it is sufficiently compelling to warrant this council being declared as Fit for the Future.

Statutory and Policy Compliance Implications

- 5 The FFF reforms will inevitably lead to the rewriting of the Local Government Act 1993 which is the principal legislation governing the operation of local government in NSW. It is understood that the target date for the introduction of the new legislation is 2016.



Office of
Local Government

Circular to Councils

Circular Details	Circular No 14-30 / Date 12 November 2014 / A399226
Previous Circular	14-24 and 14-23
Who should read this	Councillors / General Managers / ROCs
Contact	Innovation Team / 02 4428 4100 / olg@olg.nsw.gov.au
Action required	For information

Announcement of Joint Organisation Pilots

What's new or changing

- The Minister for Local Government has announced the regional groupings of councils that will assist the NSW Government to pilot Joint Organisations, a key component of the Fit for the Future package to strengthen local government.
- The five groups of councils that will pilot Joint Organisations throughout 2015 are: the Central West, Hunter, Illawarra, Namoi and Riverina regions.

What this will mean for your council

- All councils outside of Greater Sydney will be a member of a Joint Organisation from September 2016.
- The pilots will ensure a robust yet flexible Joint Organisation model is developed through collaboration between the State Government and local councils, and inform the approach to implementation.

Key points

- Eleven applications, covering 14 regions, were received from across regional NSW.
- Given the strong interest in participating in a pilot expressed by councils, as well as the high quality of the applications, the Government will consider the possibility of initiating further pilots prior to the proposed State-wide roll out in 2016.
- The pilots will commence shortly, with a series of workshops to help initiate the process.

Where to go for further information

- Further information about Joint Organisations and the pilot process is available in the publication, [*Joint Organisations: A roadmap for intergovernmental collaboration in NSW*](#), available at: www.fitforthefuture.nsw.gov.au.

Steve Orr
Acting Chief Executive
Office of Local Government

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Report No. 13.2 **Events and Festivals Sponsorship Fund**
Directorate: General Manager
Report Author: Claire McGarry, Events and Grants Officer
File No: I2014/29
5 **Theme:** Economy
 Economic Development

Summary:

10 This paper details the allocation and application processes for Byron Shire Council's Events and Festivals Sponsorship Fund.

RECOMMENDATION:

1. **That Council endorse the proposed financial allocation of the Events and Festival Sponsorship Fund.**
2. **That Council endorse the proposed application process.**
3. **That Council resolve that the final decision regarding successful applicants be made by the General Manager under Delegated Authority.**

Attachments:

- 1 Letter to Event Organisers - Event and Festivals Sponsorship Fund, E2014/76762 , page 45
- 2 Event and Festivals Sponsorship Fund EOI Form, E2014/76763 , page 47
- 20 3 Events and Festivals Sponsorship Fund Assessment Matrix, E2014/76784 , page 49
- 4 Events and Festivals Sponsorship Fund Terms and Conditions, E2014/76787 , page 50
- 5 Events and Festivals Sponsorship Fund - Acquittal Form, E2014/76747 , page 52

Report

The Byron Shire is home to a wide range of events and festivals. They form a key part of the Shire's cultural identity and the events themselves build capacity within the community while playing a key role driving investment in to the region.

- 5 The Shire's events can generally be categorised in to four areas, examples of which are outlined below.

Major	Examples: <ul style="list-style-type: none"> • Splendour in the Grass • East Coast Blues and Roots • Falls Festival
Significant Homegrown	<ul style="list-style-type: none"> • Mullumbimby Music Festival • Sample Food Festival • Byron Writer's Festival • Byron Surf Festival
Emerging	<ul style="list-style-type: none"> • Bangalow BBQ & Bluegrass Festival
Community	<ul style="list-style-type: none"> • Living Earth Festival • Kites & Bikes • Old & Gold

This report follows on from Council Resolution 14-161 on 10 April 2014 which resolved in part -

- 10 *That Council amend the Draft 2014/2015 Statement of Revenue Policy comprising the Draft 2014/2015 Budget Estimates, Rates and Charges, Borrowings and Fees and Charges by:*
- 15 *b) Create a new line item called "Festival Sponsorship Fund" with a budget of \$10,000 to be held within the division of the General Manager and to be funded by the General Fund 2014/2015 with an ongoing funding source to be identified.*

20 The Festival Sponsorship Fund is in line with event support provided by other Councils in the Northern Rivers and will be a key mechanism for the continued economic and environmental sustainability and growth of our local festivals.

25 The Festival Sponsorship Fund will enable local festivals to reduce their environmental impact by facilitating and encouraging event organisers to embed key sustainability principles in to their operations (see indicative examples below). The provision of funds will also allow event organisers to measure the community impact of their events through on-site and off-site surveys. The data collected will demonstrate the extent to which local events can build capacity in the community and highlight the economic multipliers evidenced through jobs or volunteerism as a result of local events.

The Fund will support two key outcomes:

Embedding sustainability practices in to local events	Examples: <ul style="list-style-type: none"> • More effective waste management • Reduced energy consumption • More efficient water usage • Sustainable procurement • Sustainable transport options • Biodiversity management
Measuring the value of events to the local community	<ul style="list-style-type: none"> • Visitor surveys • Business surveys • Broader community surveys

- 5 The provision of financial assistance through this fund will enable event organisers to adopt best practice models for their events.

Allocation of funds

- 10 The \$10,000 of available funds will be split between events across the Shire.
- 6 x \$1,000 grants for Significant Homegrown Events
 - 8 x \$500 for Emerging and Community Events

Application Process

- 15 Local events that meet the criteria will be invited to apply for funding. The fund will be promoted through local media channels and on the Byron Shire Council website. Please see attached letter to event organisers and Expression of Interest form.

20 Assessment Process

- Applications will come directly to the Events and Grants Support Officer, who will provide a report to the General Manager outlining details of all applicants and providing recommendations on which should be funded, using the assessment matrix attached. All applicants will then be notified by the Events and Grants Support Officer of their success or otherwise.

Financial Implications

- 30 The \$10,000 for this fund has come from the General Fund. Options are being explored to identify an ongoing funding source.

Statutory and Policy Compliance Implications

- 35 This fund will contribute to the following strategies from Byron Shire Council's Community Strategic Plan:

- EC1.4 – Support sporting and cultural events in Byron Shire
- EC3.1 – Support cultural and arts-based activities
- SC2.1 – Provide a range of recreational, cultural and community opportunities.
- EN3.2 – Promote water and waste minimisation – avoid, reduce and reuse.

This funding will be delivered in line with Council's Tourism Management Plan and Sponsorship Policy. In terms of compliance, the funding will allow Council to have a closer relationship with event organisers, enabling us to influence better compliance outcomes by working in partnership.



BSC File No: #E2014/76744
Contact: Claire McGarry
18 November 2014

Dear

Byron Shire Council cordially invites you to submit an Expression of Interest for the newly announced **Events and Festivals Sponsorship Fund** – an annual fund that enables us to partner with our local events to help grow their economic and environmental sustainability.

The Byron Shire is home to a wide range of events and festivals, which form a strong part of the Shire's cultural identity. The events themselves build capacity within the community, while driving investment to the region. Council's Community Strategic Plan recognises events as a key economic driver for the region, and the recent creation of a dedicated Events Officer role within Council signifies the importance Council places on working together with event organisers for positive economic, social and environmental outcomes.

Council classifies our local events under four categories:

1. **Major** – Multi-day events with over 10,000 attendees. Significant numbers come to the region specifically for these events (eg Byron Bay Bluesfest, Splendour in the Grass, Falls Festival).
2. **Significant Homegrown** – Events with up to 10,000 attendees that have been running for more than 3 consecutive years, and promote the key values of Byron Shire. Attendees are a mix of locals and visitors to the region. (eg Byron Bay Film Festival, Mullumbimby Music Festival, Sample Food Festival).
3. **Emerging** – New events to the region that have been running for less than 3 years. They are just starting out but have the potential to expand and attract visitors to the region for their specific event (eg Bangalow BBQ and Bluegrass Festival).
4. **Community Events** – Key events in our Shire that are run by the community, for the community. They play a vital role in activating our towns and villages (eg Old and Gold Festival, Living Earth Festival, Kites and Bikes).

This particular partnership opportunity aims to support our **Significant** (\$1,000), **Emerging** (\$500) and **Community** (\$500) events held between 1 July 2014 and 30 June 2015. The funding aims to enable event organisers to either:

- a) embed sustainability principles in to local events, or
- b) capture important impact data.



TRADITIONAL HOME OF
THE BUNDJALUNG PEOPLE

ALL COMMUNICATIONS TO BE
ADDRESSED TO THE GENERAL MANAGER
PO Box 219 Mullumbimby NSW 2482 (70-90 Station Street)
DX20007 Mullumbimby E: council@byron.nsw.gov.au
P: 02 6626 7000 F: 02 6684 3018
www.byron.nsw.gov.au ABN: 14 472 131 473
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BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

13.2 - ATTACHMENT 1

Page 2 of 2

Attached is an Expression of Interest form which outlines the details of the fund, application deadlines and the outcomes Council is hoping to achieve through these partnerships. Submission deadline is **Friday 13 February 2015**.

If your event does not fit in to the above categories, please feel free to contact me to discuss other ways in which Council can partner with your event.

Kind Regards,

Claire McGarry
Events & Grants Support Officer
Byron Shire Council
P: 6626 7312
E: Claire.mcgarry@byron.nsw.gov.au

EXPRESSION OF INTEREST –EVENTS AND FESTIVALS SPONSORSHIP FUND
Events held 1 July 2014 – 30 June 2015

The fund aims to support two key outcomes for local festivals and the community:

Embedding sustainability practices in to local events	Examples: <ul style="list-style-type: none"> • More effective waste management • Reduced energy consumption • More efficient water usage • Sustainable procurement • Sustainable transport options • Biodiversity management
Measuring the value of events to the local community	<ul style="list-style-type: none"> • Visitor surveys • Business surveys • Broader community surveys

Event Name

Event Date (s)

Contact Person

How many years has your event run for?

How many people attended your **most recent** event?

Describe the event for which you seek support, including how you fit in to the 'Community', 'Emerging' or 'Significant Homegrown' event category.

Which outcome will your funding be used for:

- ☐ Embed sustainability practices in to your event - What steps will you take to improve the environmental sustainability of your event (eg waste, energy, water, food, transport)?
For more information see Council's Waste Wise Events page on the website
www.byron.nsw.gov.au

- ☐ Measure the value of your event to the local community – What steps will you take to measure this value?

Provide a breakdown of how financial support from Council will be expended

Please note: Funding support is subject to the issuance of consent for the event.

Please submit this Expression of Interest to Claire.mcgarra@byron.nsw.gov.au by **Friday 13 February 2015**. You will be notified of the success or otherwise of your application by 31 March 2015.

BYRON SHIRE COUNCIL

Weighting	Criteria	Meets all assessment criteria	Meets most assessment criteria	Meets many assessment criteria	Meets minimum assessment criteria	Rating
40%	Project methodology	Have identified a very clear pathway for delivery of Council's expectations. Have identified very clear targets to be met.	Have achieved some identification of a clear pathway for delivery of Council's expectations. Have identified some targets.	Have achieved limited identification of a clear pathway for delivery of Council's expectations. Have identified minimal targets.	Barely identifies a clear pathway for delivery of Council's expectations. Barely identifies targets or targets are intangible.	40%
30%	Understanding of the event categories and associated criteria	Shows an excellent understanding of category requirements	Shows a good understanding of category requirements	Shows an understanding of category requirements	Has addressed some of the key category requirements but not very well	
30%	Value for money	Provides a detailed breakdown of how funds will be expended and demonstrates strong commitment to the outcomes	Provides a breakdown of how funds will be expended and demonstrates commitment to the outcomes	Provides an indication of how funds will be expended and shows an understanding of the outcomes	Gives a brief overview of how funds will be expended but doesn't understand of the outcomes	

Byron Shire Council

Event Support Funding Terms and Conditions Partnership Agreement

The provision of event seed funding is subject to a number of terms and conditions that must be met by the recipient organisation prior to the release of the funds.

Approved funding

The approved funding will be made available up to 3 months prior to the event.

Event insurance

It is a requirement of Council's insurer that the event applicant provide to Council a copy of their Certificate of Currency for a minimum \$20 million dollars. This must be supplied to Council prior to the release of funds.

Payment of Funds

Payment of funds will be made in two instalments upon receipt of invoice, made out to Byron Shire Council, PO Box 2019 Mullumbimby NSW 2482.

You must attach a draft program and projected budget directly related to the event expenditure:

- a) 75% of the approved funds – prior to commencement of the event, and
- b) 25% of the approved funds – at the conclusion of the event; OR
- c) 100% of the approved funds in one lump sum payment – at the conclusion of the event.

Acquitting the Funds

Funding must be acquitted within 6 weeks of the completion of the festival or event. The acquittal form is provided in the agreement package.

Council Acknowledgement

Council's logo must be acknowledged on all printed material. The logo requires approval prior to printing and distribution. Please contact Council's Media and Communications Officer, Donna Johnson, on 02 6626 7320 to discuss the best logo format for your marketing. The recipient must provide appropriate public acknowledgement of Byron Shire Council's contribution to the funded event. This may be done by, but not limited to: acknowledging Byron Shire Council in all press releases and media interviews using the Byron Shire Council logo or the words 'supported by Byron Shire Council' in all promotional material (posters, print, electronic, media advertisements, official programs, newsletters, website etc.), where appropriate.

Remaining Funds/Termination

If, for whatever reason, the recipient is unable to proceed with the event, or if any of the funding provided by Byron Shire Council is left unused at the conclusion of the event, the recipient must inform Byron Shire Council immediately in writing and repay the unused funding amount.

Council Contact

All contact in relation to the agreement terms and conditions should be directed to Claire McGarry, Events and Grants Support Officer on 6626 7000 or claire.mcgarry@byron.nsw.gov.au



PO Box 219 Mullumbimby NSW 2482 (70-90 Station Street)
DX20007 Mullumbimby E: council@byron.nsw.gov.au
P: 02 6626 7000 F: 02 6684 3018

www.byron.nsw.gov.au

Byron Shire Council



P0 Box 219 Mullumbimby NSW 2482 (70-90 Station Street)
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BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

13.2 - ATTACHMENT 5

The Acquittal Report is a written overview of your event outcomes, including statistical and financial information. This information assists Byron Shire Council to evaluate its financial investment. Please complete and return the Acquittal Form within 6 weeks of your event completion date.

If Council does not receive a completed Acquittal Form on time, final payment may not be released and future funding may be declined.

1. Applicant Details

Organisation Name:	Event Date:
Event Name:	Phone:
Contact Person:	Email:
Address:	

2. Event Details:

Please provide a brief description of your event below (this may be used by Council for internal or external promotions)

--

3. Please indicate how many people attended your event:

--

4. How did the event contribute to the local community?

Please provide details, for example – involved local community groups or businesses, raised funds for a local organisation.

--

5. Please outline how well your event achieved the outcomes the funding was intended for (embedding sustainability or capturing data). Where possible, please provide measurable statistics.

--

6. Will you be holding your event again in the future? YES / NO

Please circle one option. If NO, please go to question 11.

5 **7. Please outline any plans you have to further develop and grow the sustainability or data collection element of your event in the future?**

--

8. Did you apply to any external agencies for funding for your event? YES / NO

10 Please circle one option. If YES, please list details of any successful or unsuccessful funding applications below.

--

Declaration

15 I/we certify to the best of my/our knowledge, all information in the Acquittal Report is correct.
 I/we grant permission for Byron Shire Council to include details provided in this report in any relevant publications and/or reports.
 I/we grant permission for Byron Shire Council to include any photographs submitted with the report in any
 20 Council publications and/or reports.
 I/we further declare that this report has been submitted with the full knowledge and agreement of the management of the group/organisation and that I/we have delegated authority to sig this document.

Name..... Signature.....	Position..... Date.....
---------------------------------	--------------------------------

25

Report No. 13.3 **Bay Lane Activation Report**
Directorate: General Manager
Report Author: Marisa Snow, Projects and Tourism Officer
File No: I2014/31
5 **Theme:** Economy
 Economic Development

Summary:

10 This report provides an overview of the Bay Lane Activation held on 25th October 2014 and feedback from involved and relevant stakeholders.

15 Council Resolved (14-97) to conduct a one-off trial event along Bay Lane from Lawson St entrance to The Beach Hotel Carpark entrance and that the event be held in conjunction with the 2014 Byron Bay Surf Festival.

RECOMMENDATION:**That**

1. **Council note the overview of Bay Lane Activation and feedback from stakeholders presented in this report**
2. **Council explore the cost of basic infrastructure that would contribute to pedestrian safety and enable future laneway activations e.g. removable bollards**
3. **Council explore the development of an Event Management Package that could be presented to third parties to produce future laneway activations**

Attachments:

- 1 Event running sheet, E2014/77630 , page 65
- 2 Traffic Management Plan, E2014/77631 , page 66

Report

Introduction

Bay Lane Activation was very successful with a diverse cross art-form program that drew more than 3000 people through the laneway – engaging a multi-generational audience and confirming the strong community sentiment for activation of public spaces.

The programming appealed to a wide audience and drew a predominantly local crowd (70 %). Stakeholders and general public were overwhelmingly positive and reinforced a strong desire for more site specific events that engage with public space and community, with particular reference to Bay Lane and the potential for enabling a semi-pedestrian laneway in the future.

Council Resolutions

14-468 09/10/2014 Resolved:

1. *That Council note the report on the program update of the Bay Lane Activation Project for endorsement*

14-401 28/08/2014 Resolved:

- 1) *That the temporary road closure of Bay Lane, Byron Bay be endorsed to occur no earlier than 10am on Friday 24 October 2014 and be removed no later than 10am Monday 27 October 2014 subject to:*
 - a) *an accredited designed and implemented Traffic Control Plan being agreed upon by relevant stakeholders and specifies the hours of closure and access;*
 - b) *details being advertised prior in accordance with Roads Act requirements;*
 - c) *public liability insurance being current and not less than \$20 million;*
 - d) *concurrence of the Police, independent of the Local Traffic Committee endorsement;*
 - e) *the event and road closure being notified on Council's website; and*
 - f) *in the event of changes outside these dates and hours and/or stakeholder agreement not being reached the matter be referred back to the Local Traffic Committee meeting Council considered a report on the Bay Lane Activation Project on 12 June 2014 and resolved as follows:*

14-250 12/06/2014 Resolved:

- 1) *That Council note that permission was not granted by the private car park owners of Bay lane to utilise their car park for the purpose of a one-off trial event to enhance Bay Lane (as per the direction of Council Resolution (14-97).*
- 2) *That Council conduct a one-off trial event along Bay Lane from the Jonson Street entrance to the Private Car Park entrance and pilot this event in conjunction with the 2014 Byron Bay Surf Festival.*
- 3) *That Council allocate \$9,000 from the Footpath Dining Reserve to contribute towards funding for a one-off trial event.*
- 4) *That a survey be conducted during the trial of footpath patrons and of local businesses within 14 days following the event and results be reported to Council.*
- 5) *That a report of the details of the intended event be provided to Council for endorsement.*

14-97 20/03/2014 Resolved:

- 1) *That Council note feedback received from the Bay Lane stakeholder meeting held on 18 February 2014.*
- 2) *That Council conduct a one-off trial event in Bay Lane from the Jonson Street entrance to the private car park (pending approval from the private car park land owners).*

- 3) That Council allocate \$9,000 from the Footpath Dining Reserve to contribute towards funding for a one-off trial event.
- 4) That a survey be conducted during the trial of footpath patrons and of local businesses within 14 days following the event and results be reported to Council.
- 5) That a report of the details of intended event be provided to Council for endorsement.

13-469 19/09/2013 Resolved

That in relation to Report 4.4.1 – Byron Bay Pedestrian Projects and Audits (Community Infrastructure E2013/54100), Council not adopt Committee Recommendation 4.4.1, but instead adopt:

Management Recommendation TrAC 4.4.1

- a) That Council not proceed with the traffic modelling as proposed by Part 2(a) of Resolution 10-834, which was to investigate the potential banning of right-turn movements from Lawson Street into the First Sun caravan park, Byron Bay.
- b) That Council undertake cyclist and pedestrian counts of Byron Bay town centre to further inform:
 - i) the resolved and funded 2013/14 review of Council's Pedestrian Access and Mobility Plan (PAMP), with priority given to Lawson Street, between Butler Street and Jonson Street, and Jonson Street, between Bay Street and Marvell Street
 - ii) the necessary investigations regarding the proposal for providing direct vehicular access from Lawson Street into the Lawson Street north car park
 - iii) the proposed development of a pedestrian precinct and / or shared zone in Jonson Street, Byron Bay, between Bay Street and Lawson Street and / or Lawson Street and Byron Street
 - iv) the enhancement of the existing shared zone in Bay Lane and the potential of including Jonson Street, from Bay Lane to Bay Street, and Bay Street, between Jonson Street and Fletcher Street
- c) That in the event Council's August 2013 funding submission for the development of a Byron Bay Master Plan is successful, the following projects not be undertaken and instead referred for further consideration in regard to the master plan project, that is:
 - i) the development of concepts and designs for projects detailed in above items 2(c) and 2(d); and
 - ii) construction of the 2013/14 programmed works at the intersection of Bay and Jonson Street, Byron Bay as per Council design plan 2065, noting that the budget for this project will be used as Council's contribution toward the master plan.
- d) That in the event Council's August 2013 funding submission for the development of a Byron Bay Master Plan is unsuccessful, staff provide a report back to the Committee by March 2014 which details concepts and designs for projects described in above items 2(c) and 2(d) plus also detail:
 - i) in accordance with 10-834 part 2(b), materials for purposes of consultation; and
 - ii) the integration, delivery and/or modification of the proposed works at the intersection of Bay and Jonson Street, Byron Bay as per Council design plan 2065"

13-442 29/08/2013 Resolved:

- 1) That Council liaise with businesses and property owners along Bay Lane to ascertain interest and consider challenges in the after hours closure of Bay Lane, Byron Bay.
- 2) That the proposed closure would extend from Jonson Street, to the Beach Hotel accommodation car parking entrance.
- 3) That a report is brought to Council outlining outcomes of discussions.

Report

Programming Overview

The program was developed in response to the following key enablers:

- 5 **Multi-Generational content:** Kids activities, chalk drawing, silent disco, live music
- Lighting & Colour:** Projections along laneway, film screenings, creative / interactive site lighting
- Art & Culture:** Live mural artists, digital drawing on buildings, large scale sculpture
- Surf Festival Collaboration and content:** Projection of iconic surf footage, renowned surf mural artist – Howie Cooke, Ecological surfboard demonstration (How to make a surfboard out of waste materials), marine debris sculpture and interactive kids activities
- 10

Please see Annexure A for full running order



Stakeholder Consultation:

Extensive stakeholder consultation was conducted over an 8 month period to ensure a collaborative outcome was achieved and long term relationships and opportunities were built.

- 35 Three formal stakeholder sessions were held in February, July and September 2014, with surrounding business and Bay Lane Restaurant owners present. Further correspondence and consultation was conducted via letters and one-on-one site meetings to outline event logistics, road closures, and programming concepts.
- 40

A post-event debrief survey was sent out on the 11th November where specific report data was collected. A face-to-face de-brief was held on Tuesday 18th November, where stakeholders had a

chance to give direct feedback on the event and future recommendations. Restaurant stakeholders unanimously gave their support for future laneway activations and were in agreement that the event was very successful.

5 Stakeholder Feedback

The Stakeholder feedback has been positive with 100% surveyed stating they would like to see laneway activations occur in the future on a regular basis. Opportunities Stakeholders would like to explore are:

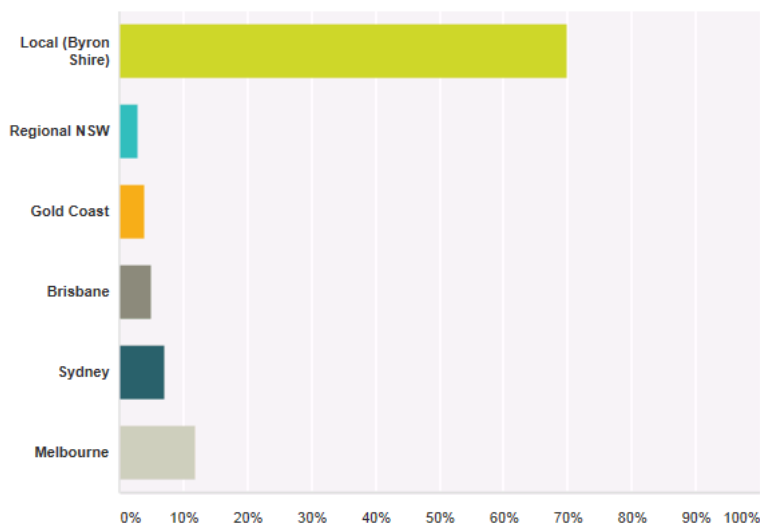
- 10
 - Closing road to traffic permanently by use of bollard system
 - Regular arts and music events in the laneway
 - Extending future activations across 2 days
 - Better waste management in laneway

- 15 The survey revealed that all stakeholders thought the event was successful and that the programming worked well with particular reference to its appeal across all age demographics.

Byron Bay Greeters Survey

- 20 Byron Bay Greeters conducted a visitor survey and canvassed more than 150 people from 4pm-7pm to gather data on a number of areas such as: duration of stay, programming for future activations, place of origin, demographics, marketing and event successes. Some data analysis results from the Greeters Survey:

Where do you normally live?



25

What do you like to see in future laneway activations in Byron Bay?

Text analysis of most frequent responses from 105 entries:

Art Bands Bar Blocked Entertainment Extend Families
 Fantastic Food Friendly Interactive for Adults
 Lane Local Love Music Permanent Plants
 Regularly Seating Space Street Stuff Turn
 Xmas Theme

Marketing Collateral:**The following collateral was produced:**

1. Event poster: Distributed to shire wide businesses

5



2. Link to promotional Film produced by Turtle Films - <http://vimeo.com/112116487>

The event was also promoted in the following:

10

- Bay FM Package
- Echo Net Daily
- Byron Shire Council Event web page
- Facebook targeted advertising

15

Corporate and Creative Partners

A wide range of consultation was conducted across the community and business sector to canvass sponsorship opportunities. The following partnerships and in-kind investments were secured. The overall response from interested parties was that they would like to support more community events and see future activations in Byron Bay.

20

Major Partnerships:

- North Coast Events – in-kind investment of \$15,000 in technical infrastructure ie projectors, rigging, large scale projection screens, staging.
- Turtle Films –in-kind investment of \$6,000 in documentation of event – film and stills photography
- Byron Hire – in-kind investment of \$600 for generator and temporary fencing

25

Contributors:

The following companies contributed in-kind personnel and resources in excess of \$2,000 each:

- Beach Hotel
- Tangaroa Blue, Revolve your world, Marine Debris Association (Marine debris facilitation for sculptured and kids activities)
- Byron Bay Surf Festival
- Falls Festival

Overall in-kind Support: Estimated at \$ 27,100

Road Closure

A Traffic Management plan was devised after consultation with Restaurant Stakeholders, Waste Resource companies, tenants and surrounding businesses and the following traffic controls were put in place:

- Bay lane was closed from 7am on 24th October – 6am on 25th October
- Bay lane was made two way from Fletcher St
- A traffic warden was placed at Fletcher St from 1pm -12pm to direct traffic and pedestrians

The road closure went very smoothly with minimal disruption to businesses with clear signage for pedestrians and vehicles. The only concern was cars parking on Bay lane in the 2 way traffic zone.

Please see Attachment 2 for the Traffic Management Plan

Linking to the Byron Bay Town Centre Masterplan

The Bay Lane Activation Project provided an important stimulus for the BBTCMP consultants to engage with the community and attract ideas and concepts for placemaking. The Consultants set up an interactive project for the public to write their big ideas for Byron Bay on a large white board. They had an overwhelming response and canvassed more than 500 people, of which 189 where visitors. This was an invaluable opportunity for the consultants to gauge local sentiment and community interest in activation public space and the success of Bay Lane was very encouraging.



Future Activations

Conducting the trial event in Bay Lane confirmed that there is strong interest from stakeholders and the Byron Shire community to feature further activations in the Byron Town Centre and in particular - Bay Lane.

1. Infrastructure Proposal – Removable Bollards

Bay Lane Stakeholders are particularly interested in exploring infrastructure options to explore closing Bay Lane down to traffic from 4pm each day. This is due to current safety concerns with traffic and pedestrians and also the freedom to be able to hold future pop-up arts and cultural events in the laneway. One option that has been put forward is removable bollards that can allow for deliveries early in the day and can be put in place from 4pm.

Example bollard infrastructure:



2. Event Activation pack for third parties to run activations

We would like Council to consider the opportunity for local business and stakeholders to invest in producing future activations themselves.

The trial event allowed the opportunity to put together a comprehensive guide of logistics and costs involved in activating a laneway. This could be provided to third parties in the form of an 'activation pack' to be considered if individuals or companies would like to scope the feasibility of activating other laneways or public spaces. The pack would contain examples of the following documents:

- Risk Assessment
- Budget
- Traffic Management plan
- Waste Management plan
- Stakeholder consultation and engagement Schedule
- Production Schedule and program running order
- Volunteer schedule

Financial Implications

Bay Lane Activation was a demanding event to produce on a restricted budget. As a first-time trial event the projected budget was not reflective of what was required to deliver an event with high production values. The amount of infrastructure and technical crew needed in order to set up lighting, projectors, install and de-install sculptures, and set up and manage staging and audio-visual equipment was high and therefore used a large part of the allocated budget. There were also a number of unforeseen costs in traffic management, providing a safe working environment and adhering to WH&S practices which weren't foreseen in the original budget. The allocated budget was \$18,500, including in-kind costs, I estimate the real cost of producing the event to be approximately \$50,000. However in-kind partnerships were secured from suppliers and technical contractors to the value of \$27,000, allowing the project to be delivered on budget. Funds were

allocated from Footpath Dining (\$9000), Cultural Plan (\$2000, 2331.017), Tourism Development (\$2,500 2011.16), however a further target of \$5,000 was projected early in the year to be raised from sponsorship however unfortunately this wasn't able to be secured. Therefore the project currently holds a shortfall of \$5,000. Jane Lavery has requested that this is allocated from footpath dining, Phil Holloway has noted that this is to be discussed at the December review.

5



Bay Lane Programming running order

2pm - 4pm	Inscribe youth street art commence creating wave backdrop for photos
3pm	Howie Cooke Commences Whale mural
4pm	Rene Bolton interactive chalk drawing commences
4pm-6pm	Ecological Surfboard Demonstration - How to make a functioning surfboard out of waste materials
4pm-6pm	Bay FM DJ commences
4-6.30pm	Kids Activities - sea debris murals, childrens collaborative mural
4.30pm	Silent Disco commences
6.00 -6.45pm	Kellie O'Dempsey 1st live drawing set to three piece dub Reggae band
	Rene Bolton Live mural commences in collaboration with Kellie
6.45pm -7.10pm	DJ Fill Set
From 7pm	Projections commence - featuring footage from surf legends George Greeno and Dick Hoole
7.00-7.10pm	Cassettes 1st Flash Mob set
7.10 -7.30pm	DJ fill Set 20mins
7.30-7.40pm	Cassettes 2nd Flash Mob set
7.40pm -9.30pm	Kellie O'Dempsey - second set (2 x 40 mins) - digital drawing on architecture and installation
7.45pm -8.30pm	Starboard Cannons 1st set
8.40 - 9pm	Bollywood sisters Flash mob set
9.00-9.15pm	DJ fill Set 15mins
9.15pm -10pm	Starboard Cannons 2nd set
10pm	Event close

Production Contact: Marisa Snow 0437 171 062

TCP 1 of 1

Bay Lane trial event space, Byron Bay

Res 14-401

close at 6am Saturday 25 October, remove by Sunday 26 October 2014

During this time access to Bay Lane will be restricted and available at Fletcher Street via the temporary removal of the one-way and No Entry restrictions. The closure is related to an event being held to coincide with the annual Byron Bay Surf Festival, www.byronbaysurffestival.com

Road closure considerations

- delivery vehicle access (times/frequency)
- tenant parking (8 spots)
- set up (eg 10am to 4pm)
- event (4pm to 10pm)
- pack down (6am to 10am)


SIGNS/INSTRUCTIONS

NB: **COVER** any existing signs contradicting this TCP.

SIDE ROAD CLOSED T1-32x1

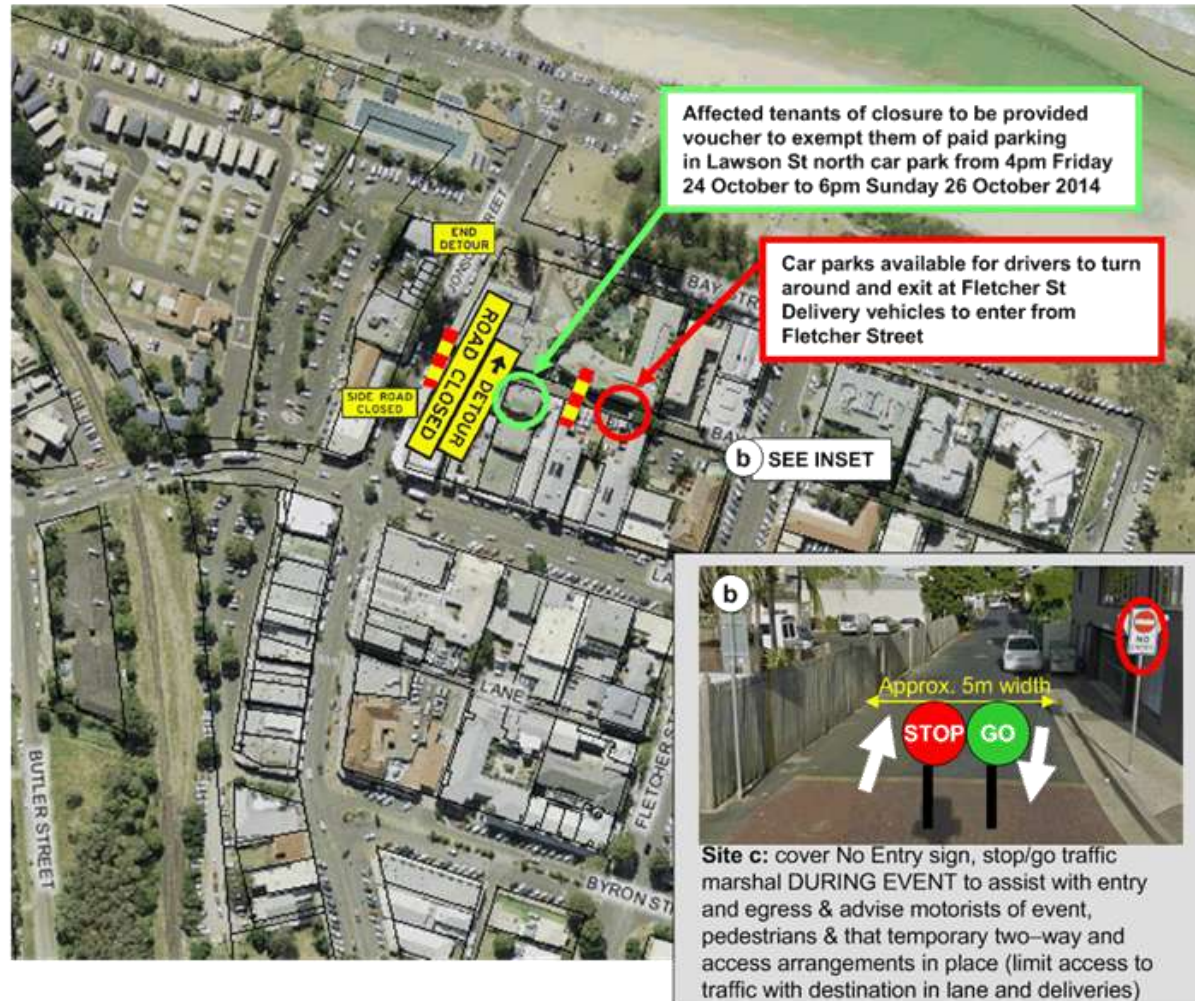
← DETOUR T1-5(L) x 1

ROAD CLOSED T2-4 x 1

 Barriers in place by 7am (water barrier filled)

(b) Traffic marshal to be at site for event duration

Event manager to advise all tenants of closure, parking and access arrangements one week prior.



BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

13.4

Report No. 13.4 **General Manager's Performance Review Committee**
Directorate: General Manager
Report Author: Ken Gainger, General Manager
File No: I2014/72
5 **Theme:** Corporate Management
 General Manager's Office

Summary:

10 The General Manager is employed under the provisions of the Standard Contract of Employment for General Managers of Local Councils in NSW. In accordance with the provisions of the standard contract Clause 7.3 *"Council will ensure that the employee's performance is reviewed (and where appropriate, the performance agreement varied) at least annually. Any such review is to have*
15 *regard to the performance criteria."* Further,, Clause 7.8 states *"The structure and process of the performance review is at the discretion of Council following consultation with the employee"*.

20 On 13th June 2013 the Council resolved to form a committee that comprised the Mayor, the then Deputy Mayor Cr Woods, and Councillors Cameron and Ibrahim. Due to the recent election of Cr Hunter (who is not currently a member of this committee) as Deputy Mayor, it is necessary to review the councillors appointed to this committee.

RECOMMENDATION:

That in addition to the Mayor and the Deputy Mayor, Councillors and be appointed to the General Manager's Performance Review Committee .

Report

The General Manager is employed under the provisions of the Standard Contract of Employment for General Managers of Local Councils in NSW. In accordance with the provisions of the standard contract Clause 7.3 *“Council will ensure that the employee’s performance is reviewed (and where appropriate , the performance agreement varied) at least annually. Any such review is to have regard to the performance criteria.”*Further,, Clause 7.8 states *“The structure and process of the performance review is at the discretion of Council following consultation with the employee”*.

Clause 20.3 of the contract states: *“In accordance with Clause 7.8, Council and the employee agree that the structure and process for the performance review will generally be in accordance with the Department (now Office) of Local Government guidelines for Performance Review, and specifically will include the involvement of an independent facilitator engaged by Council and a Performance Review Committee comprising at least the Mayor, Deputy Mayor and one or two additional councillors”*.

On 13th June 2013 the Council resolved to form a committee that comprised the Mayor, the Deputy Mayor, and councillors Cameron and Ibrahim. Due to the recent election of Cr Hunter (who is not currently a member of this committee) as Deputy Mayor, it is necessary to review the councillors appointed to this committee.

Accordingly the General Manager’s Performance Review Committee will now comprise the Mayor (Cr Richardson), the Deputy Mayor (Cr Hunter) and two other councillors to be appointed by the Council.

Financial Implications

There are no financial implications arising from this report beyond current budget allocations.

Statutory and Policy Compliance Implications

The Standard Contract of Employment for General Managers of Local Councils in NSW arises from the provisions of Section 338 of the Local Government Act 1993.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.5 Owner's Consent to Lodge DA - Telecommunications Facility on Council Land at Ocean Shores

Directorate: Corporate and Community Services
Report Author: Trish Kirkland, Manager Governance Services
File No: I2014/4
Theme: Community Infrastructure
 Infrastructure Services – Supervision and Administration

Summary:

Telstra are proposing to erect a telecommunications facility on Council Land in Ocean Shores.

Telstra (accompanied by their representatives Aurecon) made a presentation to Council at its Strategic Planning Workshop on 16 October 2014.

Since the workshop, Aurecon (on behalf of Telstra), has confirmed Telstra's proposal to use Council Land and is seeking owners consent from Council to lodge a development application.

RECOMMENDATION:

1. **That Council provide owner's consent for Telstra to lodge a development application for a telecommunications facility on Council Land described as part Lot 103 DP 856767 substantially in the form of their proposal provided at Attachment 1, subject to the following conditions:**
 - a) **That the applicant enter into a lease agreement over council land, part Lot 103 DP856767, and a licence or access agreement over council land, part Lot 130 DP1071573, on terms and conditions satisfactory to the General Manager prior to the commencement of works.**
2. **That Council authorise the General Manager to affix the Council Seal to the lease agreement over council land, part Lot 103 DP 856767, in accordance with Regulation 400 of the Local Government (General) Regulations 2005.**

Attachments:

- 1 Proposal from Telstra, E2014/72160 (provided under separate cover)
- 2 Preliminary design drawings, E2014/70228 , page 75

Report

Land Information

- 5 Proposed site of telecommunications facility:-
Part Lot 103 DP 856767 located at Flinders Way, Ocean Shores
Owner – Byron Shire Council
Category – Operational Land
Byron LEP 2014 Zoning – Deferred Matter

- 10 Access to proposed site through:-
Part Lot 130 DP 1071573 located at Flinders Way, Ocean Shores
Owner – Byron Shire Council
Category – Community Land – designated as Public Reserve
15 Byron LEP 2014 Zoning – Deferred Matter
Plan of Management – no current Plan of Management for this land

Telstra are proposing to erect a telecommunications facility on Council Land in Ocean Shores. Telstra has advised that the current base station at Billinudgel that services Ocean Shores and surrounding suburbs is no longer able to meet customer demand.

After investigating options and identifying 6 candidate sites, privately owned vacant land was identified as the prime candidate. Following consultation with residents, 6 alternative sites were identified however none were deemed suitable. It was realised that relocating the facility approximately 15m to the north west (from private property to Council land) would provide partial screening to the nearest residential property. An on site inspection (accompanied by Council staff) confirmed the adjacent lot (also Council land) would be more suitable.

Telstra (accompanied by their representatives Aurecon) made a presentation to Council at its Strategic Planning Workshop on 16 October 2014. Since the workshop, Aurecon (on behalf of Telstra), has confirmed Telstra's proposal to use Council Land and is seeking owners consent from Council to lodge a development application, as required by Council's Policy 11/001 Telecommunications Facilities on Council Owned Land.

35 The request from Aurecon at Attachment 1 confirms the proposed telecommunications facility is to be located on Council Operational Land (part Lot 103 DP 856767) with access across private land (Lot 146 DP 1124615) and Council Community Land (part Lot 130 DP 1071573) as marked in yellow on Diagram 1 below.

Diagram 1



The proposed facility comprises a 30 metre monopole and other infrastructure including panel antennas and an equipment shelter. A copy of the preliminary design drawings are provided at Attachment 2.

The request from Aurecon includes all the information that Council needs in order to consider the proposal (as outlined in *Council Policy 11/001 Telecommunications Facilities on Council Owned Land*) prior to granting owners consent to lodge a development application. The information includes site plan, elevations, photomontages, details of public consultation, alternative sites considered, public health concerns and vegetation removal.

Council should note that investigations show that the proposed site (part Lot 103 DP 856767) came to Council as a result of a direction by the Court to acquire it in accordance with the Land Acquisition (Just Terms Compensation) Act 1991. Council acquired the land in December 2001. Prior to acquiring the land, Council had considered report No. 2 "*Acquisition of Lot 103 DP 856767 North Ocean Shores*" at its Environmental Planning and Local Approvals Meeting on 6 November 2001 and resolved:-

01-1242

"That the 2(a) (Residential Zone) portion of Lot 103 DP 856767 Ocean Shores (excluding mines and deposits of minerals within the land and excluding easement No. 6239364 for bushfire hazard reduction 10 metres wide affecting part of the land) be classified as 'Operational' land in accordance with Chapter 6, Part 2, Division 1, Section 31(2) of the Local Government Act 1993."

Diagram 1 shows the location of the proposed site and confirms that the proposed site is within the area of the 2ah hatched residential zoning (as per previous Byron LEP 1988) and is therefore within the operational land part of the parcel of land. Easement No. 6239364 mentioned in the above resolution runs along the western boundary of the lot and is not within the proposed site.

As previously mentioned, access to the proposed site is through Council Community Land (Lot 130 DP 1071573). Investigations show that this Community Land came to Council as part of a subdivision and is designated Public Reserve. There is no current Plan of Management for Lot 130 DP 1071573.

As the land upon which the proposed telecommunications facility is to be located is part Council Operational and part Community Land, the request from Aurecon was referred to Council's Infrastructure Services Division as asset owner seeking their 'in principle' support of the proposal. The response from the Director Infrastructure Services provides 'in principle' support of the proposed telecommunications facility subject to the matter being considered by Council.

In the event Council provides owners consent to lodge a Development Application and a development consent is granted, a lease for use of the land (part Lot 103 DP 856767), and licence or access agreement for access to the land (part Lot 130 DP 1071573), will be negotiated and executed to formalise the occupation of Council's land by Telstra.

Financial Implications

There are no costs to Council. It is expected that any subsequent Lease and Licence arrangements would be based on market rental and would provide a revenue stream to Council.

Statutory and Policy Compliance Implications

Council Policy 11/001 Telecommunications Facilities on Council Owned Land provides that owners consent can only be granted by way of Council resolution.

Licensed telecommunications carriers are authorised by the Telecommunications Act to install a limited range of facilities (known as 'low-impact facilities') without seeking state, territory or local government planning approval.

5

In this instance, the proposed facility will require local planning approval.

Local Government (General) Regulations 2005

10 400 Council seal

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

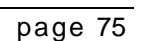
15 (2) The seal of a council may be affixed to a document only in the presence of:

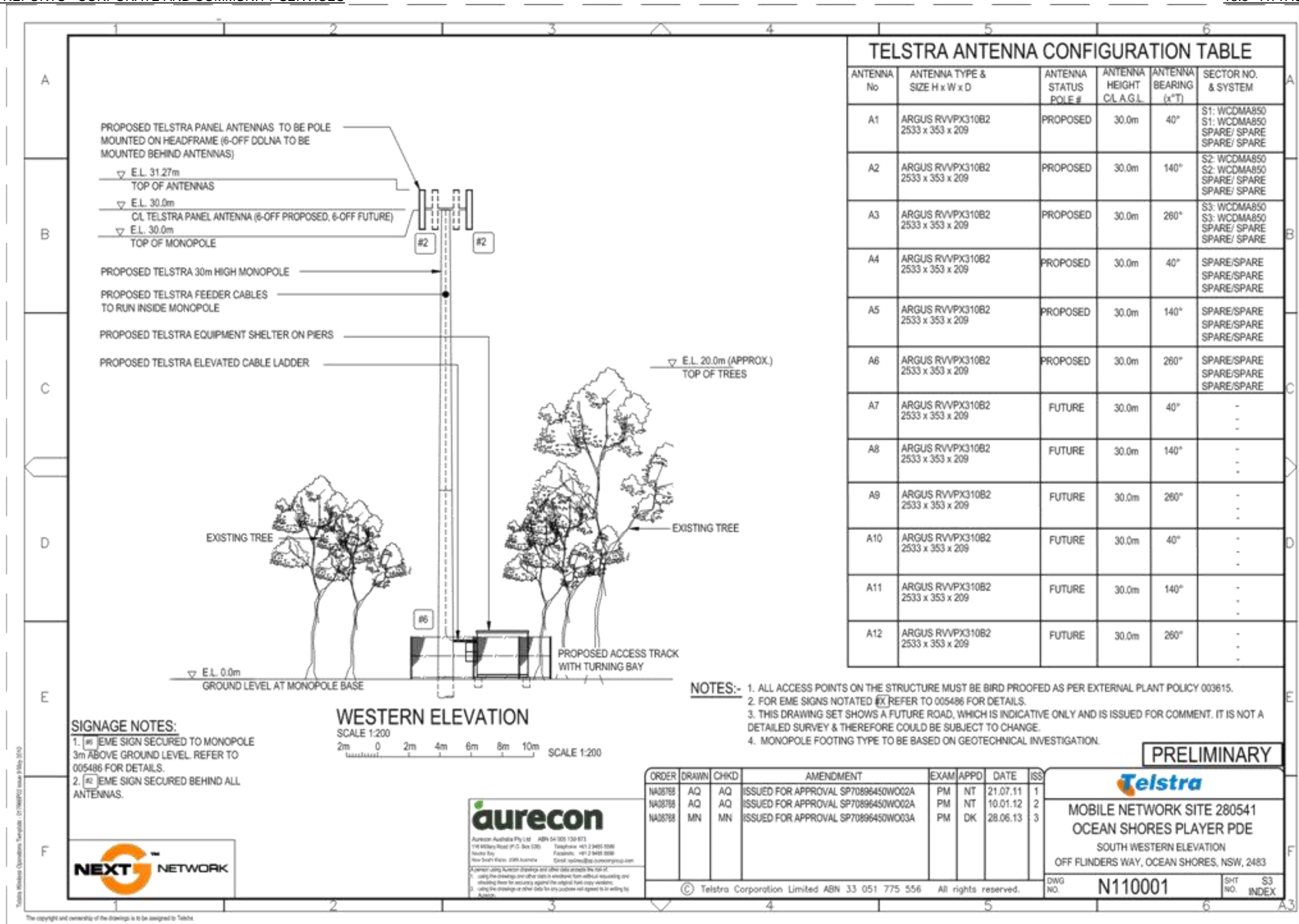
- (a) the mayor and the general manager, or
- (b) at least one councillor (other than the mayor) and the general manager, or
- (c) the mayor and at least one other councillor, or
- (d) at least 2 councillors other than the mayor.

20

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

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





Report No. 13.6 Lease Assignment - RJ Palmer to Skydive Australia Group Pty Ltd**Directorate:** Corporate and Community Services**Report Author:** Leslie Beardmore, Leasing/Licensing Officer
Trish Kirkland, Manager Governance Services
Tony Nash, Manager Works**File No:** I2014/11**Theme:** Corporate Management
Property Management**Summary:**

This report recommends that Council authorise the General Manager to execute a Deed of Assignment of Lease from Raymond John Palmer to a corporate entity, Skydive Australia Group Pty Ltd, and authorises the General Manager to explore the option of a new short-term lease with Skydive Australia Group Pty Ltd subject to certain conditions.

RECOMMENDATION:

1. That Council authorise the General Manager to negotiate and grant a Deed of Assignment of the Lease between Council and Raymond John Palmer to a corporate entity named Skydive Australia Group Pty Ltd, subject to existing lease terms and conditions continuing as amended by the Deed of Variation executed on 20 August 2010.
2. That Council authorise the General Manager to affix the Council Seal to the Deed of Assignment of Lease from Raymond John Palmer to Skydive Australia Group Pty Ltd in accordance with Regulation 400 of the Local Government (General) Regulations 2005.
3. That Council decline to vary the terms and conditions of the current lease with Raymond John Palmer to extend the termination term from 3 months to 12 months and instead authorise the General Manager to explore the option of a new short-term lease agreement with Skydive Australia Group Pty Ltd subject to:
 - a) Market Valuation; and
 - b) A lease term clearly aligned with the timeframe required by council to complete the compliance and safety works at the Airfield necessary to enable the offering of future and longer-term tenancy agreements via a competitive process; and
 - c) A lease termination clause that does not fetter Council's ability to fully consider, determine and implement the future strategic direction of the Airfield.
4. That Council decline the offer of capital investment in the Airfield as it raises significant probity and value for money issues, and instead authorise the General Manager to consider capital investments from proponents as part of the future competitive process to offer future and longer-term tenancy agreements once Council has determined the future strategic direction of the Airfield and completed the necessary compliance and safety works required to enable that competitive process.

Report

Land Information

Part Tyagarah Airfield Part Lot 1 in DP 713023 known as Skydive Byron Bay being “plan for lease purposes” Lot 4 in DP 805678.

Owner –Byron Shire Council

Classification – Operational Land

Lease Background

From 30 January 1996 to 29 January 2003, Raymond J Palmer and William G Jamieson leased Lot 4 from Council as the owners of the Byron Skydiving Centre. Whilst there was an option to renew for a further 7 years in that lease, and the option was exercised in accordance with the lease provisions, the documentation was not finalised by 29 January 2003. As a result, as the lessees continued to occupy the premises, they became monthly tenants holding over.

During the holding over period, the Byron Bay Skydiving Centre was dissolved as a business. Skydive Byron Bay was formed as a company.

A new lease was executed on 14 May 2004 between Council and Raymond John Palmer (a director of Skydive Byron Bay) to end on 29 January 2010.

At its Ordinary Meeting on 17 December 2009, Council considered report “11.11 Tyagarah Airfield - Lease L9 Lot 4 DP805678” (<http://www.byron.nsw.gov.au/meetings/2009-12-17-ordinary>) and resolved:

09-1059

“1. That Council authorise the General Manager and Mayor of Council to sign all necessary documents with Raymond Palmer under which:

*a) the term of the current lease over Lot 4 DP 805678 is extended to 31 December 2010; and
b) an extended period of 3 months is provided for the termination and vacation of the Land to the current lease over Lot 4 DP 805678.*

2. That Council authorise the General Manager and Mayor of Council to affix the seal to the variation of lease with Raymond Palmer over Lot 4 DP 805678.”

A Deed of Variation was subsequently executed on 20 August 2010 with the lease to end on 31 December 2010. The lessee continued to occupy the premises upon expiry. The lessee is considered a monthly tenant holding over, with the tenancy determinable by 3 months notice in writing by either party.

Use of the Airstrip

Raymond Palmer’s lease not only allows occupancy of the premises for skydiving and associated activities carried out by Byron Bay Skydiving Centre, but includes provisions for access and use of the airstrip at Clause 33 “Use of Airstrip”, as stated below:

“33.1 The Lessee shall have the right to utilise the airstrip and airstrip aprons for the purpose of taxiing, take-off and landing of aircraft utilised by the Lessee for hire, flight training and flight testing from time to time provided that the Lessee shall comply with all requirements of any local body or authority and comply with the local regulations and procedures for operation of aircraft using Tyagarah Airstrip as set out from time to time by Byron Shire Council.”

Current

Staff met with Skydive Byron Bay on 10 June 2014, and discussed their concerns regarding their tenure arrangements and provided them with an update regarding the future options process that Council is progressing for the Airfield.

Subsequent to the meeting, on 12 June 2014, Council received an email proposal from Skydive Byron Bay requesting the following:-

1. Assign the existing lease from RJ Palmer to their preferred corporate entity.
2. Deed of Variation to alter their lease termination period from the current 3 months to 12 months.
3. An offer to pay more rent.
4. An offer to contribute to upgrades and maintenance to the runway.

Staff provided a written response on 22 July 2014 consistent with the discussions of the earlier meeting, including the following:

1. Requested confirmation of preferred corporate entity. Advised that any assignment will be subject to existing lease terms and conditions continuing, including current holding over provisions established by the Deed of Variation executed 20 August 2010; and requested undertaking that the assignee meet all the fees and charges - including legal advice.
2. That the request to extend their termination period from 3 months to 12 months would be considered as part of Council's future options considerations for the Airfield so that those options are not fettered for Council by the 12 month termination proposal.
3. That the offer of more rent and capital investment should be considered as part of any future competitive process once the future strategic direction of the airfield has been determined by Council.

In relation to this point 3, please refer to the Statutory and Policy Compliance Implications section below.

A reply was received from Skydive Byron Bay on 3 November 2014 that confirmed:-

1. Assign the current lease from RJ Palmer to Skydive Australia Group Pty Ltd ACN 602 608 864 including an undertaking that all expenses, fees and charges will be paid on receipt of Council's tax invoice.
2. Another request to alter their lease termination period from the current 3 months to 12 months.

Assignment of Lease

Skydive Byron Bay's request to assign the lease from Raymond John Palmer to Skydive Australia Group Pty Ltd is in accordance with Clause 12.1 of the current lease which states the following:

"12. The Lessee may not sublet, licence, assign or transfer (collectively referred to as the "dealing") without the prior written consent of the Lessor and the Lessor shall not unreasonably refuse to consent to the dealing if prior to the dealing:

- (a) the Lessee has not committed any default under this Lease or has committed a default which has been waived or excused or remedied by the Lessee;*
- (b) the Lessee has proved to the reasonable satisfaction of the Lessor that the ingoing occupier is a reasonable, responsible and solvent person capable of adequately carrying on the use permitted under this Lease."*

A current company search (extract from ASIC) confirms Raymond John Palmer as one of three directors of Skydive Australia Group Pty Ltd. The same three persons make up the management committee of Skydive Byron Bay Inc.

- 5 This report recommends that the lease assignment from Raymond John Palmer to Skydive Australia Group Pty Ltd is granted.

Amend lease termination period from 3 months to 12 months

- 10 Skydive Byron Bay is requesting their existing lease termination period be amended from 3 months to 12 months. Their email proposal of 12 June stated that “3 months would not give us sufficient time to relocate assets from the land which are critical to our operations.”

This report does not recommend that the request for variation to the termination clause be granted at this time and is based on the following considerations:

- 15
- The existing lease provides for access and use of the airstrip at Clause 33 that give Skydive Byron Bay unfettered access to operate its commercial activity.
 - The 566 obstacles in the glide slope identified by the TAG consultants for remedial works and the financial implications as discussed in the Tyagarah Airfield Future Options section of this report.
- 20
- The requirement for council to consider and determine the future strategic option and financial implications for the Tyagarah Airfield without those options being fettered by terms of current lease tenancy agreements.

- 25 Alternatively, this report recommends that Council explore the option of a new short-term lease arrangement with Skydive Australia Group Pty Ltd. Given the ICAC Guidelines regarding direct negotiations, any new lease agreement negotiated would need to:

- 30
- be based on a market valuation; and
 - have the lease term clearly aligned to the timeframe required to complete the compliance and safety works at the airfield (refer Tyagarah Future Options section below), which are necessary prior to offering future or longer term tenancy agreements via a competitive process; and
- 35
- have a lease termination term that does not fetter Council's ability to fully consider, determine and implement the future strategic direction of the airfield.

40 Skydive's offer of capital investment in the airfield raises significant probity issues and is best considered by Council, from a probity and strategic direction perspective, as part of the preparation of tender or expression of interest once Council has considered and determined the future strategic option for the airfield.

Tyagarah airfield future options

45 Council considered the future options for Tyagarah Airfield in the Aviation Options Report presented by The Airport Group (“TAG”) at a Councillor workshop on 29 May 2014.

Since that time staff have been progressing a number of areas highlighted by the Aviation Options Report. Council will consider the recommended options for Tyagarah Airfield in report titled “Tyagarah Airfield Future Options” listed in the Agenda for the Ordinary Meeting of 11 December 2014.

50 The Aviation Options Report highlighted the need for immediate remedial works to comply with CASA standards. These remedial works include:

- 55
- Rectification of runway strip width
 - Removal/lopping of trees encroaching on required airspace on both sides and both ends of the runway

- Rectification of steepness and variability of the grades on the sides of the runway.

Staff commissioned a further report from TAG to establish the nature and extent of obstacle penetrations into the airspace glide slope. The Obstacle Penetration Survey Report identified 566 obstacles on Council's land, Crown land, and adjoining privately owned land. The recommendations from TAG include:

- Advising pilots of obstacles
- Report obstacles to CASA
- Remove obstacles, or if directed by CASA, mark/light obstacles.

As the vast majority of obstacles are tops of trees, lopping, felling or clearing is required.

Comments from Manager Works, Tony Nash

A letter has been sent to CASA (CASA – OPERATIONS - Eastern Region), requesting that CASA consider the Obstacle Penetration Survey Report from the TAG report and provide a response to the above recommendations in this report and the treatment of the obstacles.

At the time of writing this report no response has been received.

Further details of the steps required and financial implications involved to address the remedial works and bring the Airfield into compliance are outlined in report titled "Tyagarah Airfield Future Options" listed in the Agenda for the Ordinary Meeting of 11 December 2014.

Financial Implications

The assignee has provided an undertaking to pay all expenses, fees and charges associated with the Deed of Assignment of the Lease.

Statutory and Policy Compliance Implications

ICAC guidelines

ICAC guidelines define direct negotiations as exclusive negotiations between an agency and a proponent without first undergoing a genuine competitive process.

Varying or extending existing contracts and agreements by negotiation with the incumbent is also considered direct negotiations.

Where there is a close relationship between an agency and an incumbent there is a risk that the agency and/or its staff and/or officials will develop either an overly close relationship or dependency. This form of 'capture' can deter the agency from testing or retesting the market, which in turn may lead to poor value for money. 'Capture' tends to involve subtle influence and is often established over time or as a result of small favours or acts of friendship. A public official who over identifies with an incumbent may not even be aware of the fact and as such would unlikely contemplate or recognise any type of bias.

'Captured agencies can be susceptible to offers or suggestions made with the intention of avoiding competition or persuading the agency to depart from its usual procedures. Where the agency allows itself to be persuaded by such special offers, it can lose effective control of the process and sacrifice value for money.

ICAC guidelines recommend that as a general rule direct negotiations should be avoided. In the case of proposed variations or extensions to existing contracts or agreements, it is recommended that any proposed changes or variations greater than 10% be supported by

applying the principals of probity and accountability, value for money, and be supported by a business case.

- 5 Ultimately, 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 or variation of contracts and agreements.

- 10 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.

15 Local Government (General) Regulations 2005

400 Council seal

- 20 (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:

- 25 (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.

- 30 (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.

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

Report No. 13.7 **Review of Payments to Section 355 Committees, Members and Agents**
Directorate: Corporate and Community Services
Report Author: Gayle McCallum, Governance Officer
 Greg Ironfield, Manager Community Development
5 **File No:** I2014/12
Theme: Society and Culture
 Community Services – Community Development

Summary:

At the Ordinary meeting of 1 May 2014 Council considered a report to increase the honorarium payments to the Bookings Officer and Treasurer of the Ocean Shores Community Centre Section 355 Committee and resolved:

14-198 Resolved that the payments to members of Ocean Shores Community Centre Section 355 Management Committee be retained at the current level until a broader review is undertaken.

14-199 Resolved that a broad review be undertaken of payments to Booking Officers, Treasurers and agents/members of Committees managing halls in the Shire so that rates and workloads can be compared across the Shire and that the review include a roundtable meeting with committee representatives.

On the 11 November 2014 Council staff met with representatives from Section 355 Committees and Boards of Management (Committees) and outcomes are detailed in this report.

The purpose of this report is to advise Council of the information collected and report on the review of payments to committee members and agents requested in the resolutions referenced above.

RECOMMENDATION:

1. That Council receive the notes of the meeting held on 11 November 2014 with representatives from the Section 355 Committees and Boards of Management regarding the review of payments to committee members or agents.
2. That Council acknowledge the significant contribution made by Section 355 Committees and Boards of Management and officially thank all representatives that attended the meeting held on 11 November 2014 for their input.
3. That the following parameters are set for Section 355 Committees regarding remunerate of committee members or agents with an honorarium for duties undertaken in their role as follows:
 - a) Up to \$100 (excl. GST) maximum per week for Booking Officers or other roles determined by the Committee (eg Volunteer co-ordinator at the Lone Goat Gallery).
 - b) Up to \$100 (excl. GST) maximum per month for other Administration positions.

These payments must firstly be recommended by the Committee and recorded in their Meeting Minutes. Approval by Council's Finance Manager is required prior to implementation to ensure the income generated from the facility is sufficient to sustain these costs.

4. That Committees wanting to engage a Committee Member to clean the venue, a payment of \$20 (excl. GST) per hour may be paid provided Work Health and Safety procedures are in place and the maximum hours are agreed to by the Committee and recorded in the Committee Minutes.
5. That Committee members or agents receiving payments note that:
 - a) The positions are not permanent and can be ceased by the Committee or Council at any time;
 - b) Payments are performance based and positions will be reviewed by the Committee as required with the assistance of Council;
 - c) They be registered for GST or if they do not hold an ABN complete a "Statement by a Supplier" Australian Taxation Office is to be completed and held with Council.
 - d) Payments requested outside Point 2 or 3 will require approval of Council.
6. That Council note a networking meeting for Section 355 Committee representatives will be organised bi-annually to provide opportunities for discussion and to acknowledge the work of the committees.
7. That the Section 355 Committee and Board of Management Guidelines to Operations be updated to reflect the changes in the recommendations of this report.

Attachments:

- 1 Questionnaire for Section 355 Committees review of payments, E2014/29544 , page 89
- 5 2 PowerPoint Presentation Section 355 Management Committees - review of payments [Compatibility Mode], E2014/75100 (provided under separate cover)
- 3 Notes from Section 355 Committee Roundtable Meeting held on 11/11/14, E2014/74774 , page 92

Report

On 1 May 2014 Council considered a report to increase the honorarium payments to the Booking Officer and the Treasurer at the Ocean Shores Community Centre and resolved:

14-198 Resolved that the payments to members of Ocean Shores Community Centre Section 355 Management Committee be retained at the current level until a broader review is undertaken.

14-199 Resolved that a broad review be undertaken of payments to Booking Officers, Treasurers and agents/members of Committees managing halls in the Shire so that rates and workloads can be compared across the Shire and that the review include a roundtable meeting with committee representatives.

To gather information in response to the above resolutions all Section 355 Committees were asked to complete a questionnaire (as shown at Attachment 1) that asked various questions about the size of the facility, current payments being made to its committee members and agents, the available space to hire, and the time it takes for Committee members to perform their particular role.

All Committees completed the questionnaire and information was collated to create a PowerPoint Presentation (Attachment 2) which was discussed at the roundtable meeting with representatives from each Committees held on 11 November 2014 at the Byron Regional Sport and Cultural Complex. All Committees were represented at this meeting except for Heritage House (and Tennis Court) Bangalow Section 355 Committee who had a function at the hall on the same day.

The following payments are being made to Committee members or Agents:

- Bangalow A&I Hall
Agent - Booking Officer, contract position with Council up to 20 hours per week @ \$25 hours = \$2,000 per month.
- Mullumbimby Civic Memorial Hall
Agent - Booking Officer, contract position with Council up to 10 hours per week @ \$25 hours = \$1,000 per month. Note the present occupant has resigned from this position and the Board are reviewing its options with regard to a replacement Booking Officer noting the present income generated is not sufficient to afford this expense.
- Ocean Shores Community Centre
Committee member – Booking Officer up to \$300 per month
Committee member – Treasurer up to \$50 per month
- Brunswick Valley Community Centre
Committee Member - 5% per annum of the centre's bookings, payable on a quarterly basis to the person holding the position of Bookings Officer. (This equates to approximate \$120 per month)
- Brunswick Heads Memorial Hall
Agent – Brunswick Heads Visitor Centre, Booking Officer \$300 per month
- Cook Pioneer Centre Mullumbimby
\$2,500 per annum to Mullumbimby Senior Citizens (honorarium payment for their management of the Cook Pioneer Centre – money used for recreational gatherings of the Mullumbimby Senior Citizens, agreed to at time of becoming a Section 355 Committee)

- Heritage House (and tennis Court) Bangalow
No payments being received by Committee members. Historical Society major user with Tea House
- 5 • South Golden Beach Community Hall
No payments being received by Committee members.
- 10 • Suffolk Park Hall
Committee member - \$65 per week for Booking's Officer
Committee member - \$90 per month Treasurer
Committee member - \$50 per month Secretary
Committee member - \$20 per hour cleaning and gardening.
- 15 • Lone Goat Gallery
Agent – Booking officer \$50 per week to assist with fees. Are requesting further monetary assistance for a Volunteer Coordinator.
- 20 • Bangalow Parks (Showground) Trust
Agent - \$900 per month (caretaker) \$4,000 per month (market manager)
- Durrumbul Hall
Agent – Booking Officer 10% of Booking (approx \$90 per month) (caretaker)

As shown in the PowerPoint Presentation (Attachment 2) the work of the volunteer members on these Committees managing Council facilities is significant. Total Bookings Officer hours across all facilities was equated at 315 hours per month, the Treasurer and Secretary position across all facilities estimated 130 hours per month spent on their roles. The Committees ensure venues are made available for the community use and well maintained, and all members have a sense of community pride with their venue.

The work the Committees undertake in the provision of the facilities for the community could not be undertaken by Council staff within the current resources allocated. It should be noted that the number of hours the committee volunteers have indicated they put into these facilities equates to 4 full time positions working 35 hours per week.

As advised in previous reports to Council all facilities managed by Section 355 Committees and agents are of differing sizes, number of available rooms for hire, usage patterns, size of events, hire fees being charged and income being generated.

Discussion from the Roundtable Meeting

Committee representatives agreed that maximum parameters for payment should be formed to control all payments being received by committee members or agents. If payments to members or agents are required they could be recommended by the Committees to Council staff for approval within the determined parameters. Council staff acknowledge that all existing payments established under resolution of Council will be maintained. The Committee representative recommendations are as follows:

- *That Committees should be financially viable to before payments to anyone can be considered. Payments should be reviewed annually by Committees and Council staff.*
- *That with Council approval parameters could be set for payments. A recommendation in the Committee's Minutes would be required and also approval from Council staff (Finance Manager) that the income generated from the facility is sufficient to make these payments.*

- *That all positions over the years have become more demanding with changes to legislation that Council and committees need to adhere to.*
- 5 • *That if a Committee could pay a member or agent up to \$100 per week for the role of Booking's Officer or role determined that requires this payment (eg. Volunteers' Coordinator) and up to \$100 per month for other Administration positions as determined and recommended by each Committee this would be sufficient.*
- 10 • *That these payments must come from the income generated from the facility and the facility be financially viable.*
- *That if Council agrees to these recommended payments all proposed payments will need to be recorded in their meeting minutes with final approval by the Council staff(Finance Manager).*
- 15 • *That a performance review of the Committee member or Agent be conducted by the Committee, on all paid positions with assistance from Council.*
- 20 • *That Committee Members can do one off cleaning of the facility (eg after a Birthday Party) rather than calling in the contractor. Note all WHS practices need to be followed and a per hour monetary limit needs to be set by Council. This arrangement with the Committee member should be recorded in the Minutes with a maximum time allowed to perform this task.*
- 25 • *That a meeting, with all Committee members invited, be held every 6 months. This meeting to be held at different Council facilities, showcasing each venue.*

Financial Implications

- 30 Whilst in the past payments were not consistent across all committees, the recommendation proposed will set parameters for those committees seeking to remunerate Committee members or agents, as it is difficult to make a consistent fee across all committees, as the halls/centres are vastly different in size and usage patterns.
- 35 It is also recommended that it should remain the responsibility of each Committee to determine the amount of the payment, up to the maximum amount adopted by Council. What is critical is that these payments in addition to small building maintenance expenses are able to be funded from the income generated from the hall. The assessment of the recommended payments by each Committee will be made by the Finance Manager.
- 40 As stated in the report the significant work undertaken by these volunteer committee members could not be performed by Council staff under current resourcing.
- 45 Committee members are to be reminded that to receive payments they must be registered for GST or if they do not hold an ABN complete a "Statement by a Supplier" Australian Taxation Office. If required the Council's finance staff assist the committee member with the process of registering for GST or completion of the ATO "Statement by a supplier" form.

Statutory and Policy Compliance Implications

- 50 Adopted Section 355 Committee Guidelines and Board of Management Guidelines can be found of Council's web site at <http://www.byron.nsw.gov.au/section-355-committees>



BYRON SHIRE COUNCIL
RPORATE AND COMMUNITY SERVICES
QUESTIONNAIRE

13.7 - ATTACHMENT 1

Section 355 Management Committees

Payments to Committee Members and Agents

Council on 1 May 2014 resolved that a broad review be undertaken of payments to Booking Officers, Treasurers and agents managing facilities in the Shire so that rates and workloads can be compared. This review will include a roundtable meeting with committee representatives.

To assist with this review could you please arrange for the following questionnaire to be completed and returned to Council by 30 June 2014. Please also provide any other information you think necessary.

If no payments are being made please put Nil, but arrange for all members holding the particular position to complete the questionnaire. Noting most answers will be approximates.

NAME OF COMMUNITY CENTRE/HALL			
No of Rooms available to be hired	Eg. 1 Hall, 2 meeting rooms, Kitchen		
Total person capacity of rooms			
Equipment available	Eg. 10 tables, 50 chairs, etc.		
If financials are not with Council Income and Expenditure	Income: \$	Per Month	Expenditure: \$ Per Month
Payments being paid to committee members (as resolved by Council)	Booking's Officer:	\$	per month
	Chairperson:	\$	per month
	Secretary:	\$	per month
	Treasurer:	\$	per month
	Other ? _____	\$	per month
Payments being made to agents as agreed to by the Committee	Booking's Officer:	\$	per month
	Treasurer:	\$	per month
	Other ? _____	\$	per month
Total payments being made	Total of above:	\$	per month
Cleaning costs	\$ per month		
	Cleaning carried out by? Committee Member / Contractor / Other How often is the cleaning done? Daily / Weekly / Other _____		

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.7 - ATTACHMENT 1

Regular Bookings	How many regular bookings are held at the facility each month?	
	Duration of bookings? Eg 5 @ 2 hours each	
Other Bookings	How many other bookings are held at the facility each month?	
	Duration of bookings? Eg 5 at 4 hours each	
Bookings Officer's Position: To be completed by Committee member or Agent	Name:	
	How many prospective clients are shown the facility each month?	
	How much time does this take you per visit?	
	Are you required to open and close the facility for each hirer using the facility?	Yes/No other:
	How much time do you take answering enquiries either telephone or email per month?	
	How many times do you visit the facility for other maters each month?	
	How much time per month do you spend on bookwork etc.	
	Any other information you would like to include?	
Treasurer's Position:	Name:	
	How much time spent on bookwork per month?	
	How many visits to the bank are required each month for banking moneys?	
	Any other information you would like to include?	
Chairperson's Position:	Name:	
	How many meetings held per year?	

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.7 - ATTACHMENT 1

	Approx. duration of each meeting?	
	How much time per month is spent on other matters with the Management of the Facility?	
	Any other information you would like to include?	
Secretary's Position	Name:	
	How much time spent on Minutes and letters as requested by the committee per month?	
	Any other information you would like to include?	
Committee Members	Name(s):	
	No of general Committee Members?	
	How much time spent on Committee matters per month?	
	Any other information you would like to include?	

Name of Nominated Committee Member to assist Council with this review.

Other Information you would like to include:

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.7 - ATTACHMENT 3

Notes from the Section 355 Management Committee Roundtable Discussions held on Tuesday 11 November 2014 at the Byron Regional Sport and Cultural Complex

The meeting commenced at 10.06am.

- 5 BSC Staff: Greg Ironfield, Manager Community Development
Gayle McCallum, Governance Officer
Lisa Brennan, Corporate and Community Services

Present

Representing

Tony Heeson	Bangalow A&I Hall Board of Management
Toni Appleton	Bangalow Parks (Showground) S355 Committee
Linda Hibbard	Brunswick Heads Memorial Hall S355 Committee
Marj Trimble	Brunswick Heads Memorial Hall S355 Committee
Jenny Moore	Brunswick Valley Community Centre S355 Committee
Howard Sedgmen	Byron Bay Library Exhibition Space S355 Committee (Lone Goat Gallery)
Prue Regan	Byron Bay Library Exhibition Space S355 Committee (Lone Goat Gallery)
Margaret White	Byron Bay Library Exhibition Space S355 Committee (Lone Goat Gallery)
Keith Basing	Cook Pioneer Centre S355 Committee
Bruce Buckthorpe	Cook Pioneer Centre S355 Committee
Wayne Smith	Durrumbul Hall S355 Committee
Judy MacDonald	Mullumbimby Civic Memorial Hall Board of Management
Helen Graveson	Ocean Shores Community Centre S355 Committee
Angela Dunlop	South Golden Beach Hall S355 Committee
Annabelle Sinclair	Suffolk Park Hall S355 Committee

Apologies: Heritage House Bangalow

10

Gayle McCallum gave a PowerPoint presentation (#E2014/69771), followed by an open discussion chaired by Greg Ironfield.

The following matters were discussed, with Committee members' recommendations listed in point form.

15

Should facilities have a cash reserve to be able to make payments to Booking Officers, Treasurers and Secretaries

- Committees should have money before they undertake payments.

20

Staff Comment: *Agree that Committees should be financially viable to before payments to anyone can be considered. Payments should be reviewed annually by Committees and Council staff.*

Should Committee members be able to take up these paid positions

- 5 • Yes is the general agreement that Committee members should be able to take up these paid positions.

Staff Comment: *In accordance with the Guidelines for Committees, a committee member receiving payment for undertaking a particular role on the Committee requires a resolution of Council.*

10

- Booking Officers need to be available for 24 hours a day, are they prepared to do that?

Staff Comment: *This is not the expectation of Council.*

15

- There should be parameters set up for payments for all Committees, so that individual requests for payment do not have to go back to Council for approval. If the intended payment is over that parameter it would require the approval of Council.

Staff Comment: *Agree that with Council approval parameters could be set for payments. A recommendation in the Committee's Minutes would be required and also approval from Council staff (Finance Manager) that the income generated from the facility is sufficient to make these payments.*

20

- Secretary role very demanding keeping up with rents, insurance, risk management etc.

25

Staff Comment: *Agree that all positions over the years have become more demanding with changes to legislation that Council and committees need to adhere to.*

- Committee may recruit people with specialised skills to come onto their committee, with particular skills to offer.

30

Staff Comment: *Agree that if a particular position on a committee becomes available, Council assist the Committee to recruit a new committee member with the skills required to perform that position.*

If positions are required to be paid because of workload should they be outsourced

35

- Positions should be open for Committee members to undertake, who will be more committed than a paid (non-committee) person. So much more demanded of Committees now with regard to financial accounting, insurances, WHS.

40

Staff Comment: *Agree that with changes in legislation with regard to extra requirements for checking hirer's insurance, risk management assessments and work health and safety compliance there is now more work required of Committee members to assess hirers for compliance.*

45

With parameters set by Council and the Committee in a position to financially pay for these services, payments should be able to be made. It should be up to the Committee whether the payment goes to a Committee member with the appropriate skills or the position be outsourced.

Agreement with any person being paid must also be performance based. If Committees need assistance with this Council will provide.

5 How else could we do this

- The group asked of other working methods that could be used.

10 **Staff Comment:** *Greg Ironfield advised that in his previous experience with another Council they introduced a centralised booking system (all bookings done in one place). This system did not work, but produced standardised booking forms, including all WHS and other required information, but created long forms which were onerous to complete.*

15 The group agreed that with the varying sizes and users of the facilities this would not work.

- A question was raised if a Committee Member can Invoice the Committee for your expenses to perform a particular task required rather than this being outsourced for much more cost.

20 **Staff Comment:** *Initially staff advised that this procedure would be suitable with the Committee approval and recorded in the Minutes.*

25 *For openness and transparency and potential conflict, if particular paid jobs are required by the Committee, it should at least obtain 3 quotations for the work (which the Committee member can also submit a quotation). The Committee can approve (if under \$1,000) the most suitable quotation and it be recorded in the Minutes (note if the Committee member submits a quotation for works he/she must declare an interest and leave the meeting and not participate in the discussion or the vote). After the recommendation recorded it should be noted that all works over \$1,000 then require the approval of Council.*

- 30
- How can voluntary work be performed if Committee members due to WHS requirements cannot change a light globe, climb a ladder etc. Who else will do it?

35 **Staff Comment:** *Committee members may change light globes and climb ladders if they feel competent to do this and WHS is followed. In most cases Council would prefer not to put Committee Members at risk and wherever possible they engage suitable contractors to provide the work. All Committee members are covered by Council's insurance. It was noted this was discussed at a previous meeting, and guidelines were provided to Committee members – these guidelines to be recirculated to all Committees.*

Paid positions

40

How do you think these position/s should be remunerated (if at all)

- 45
- Booking Officer. If the Booking Officer is managing bookings well, and there has been an increase in bookings, it could change to 10% of rental income.
 - Boards of Management. If a booking charge is \$27,000 (Election booking) for example, the committee cannot pay 10% on that income.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.7 - ATTACHMENT 3

- Bangalow A&I Hall Booking Officer does at least 20 hours per week, at \$25/hour, contracted with Council.
- Hourly rate of up to \$25/hour would be helpful, but there has to be an expectation that the job will be done well. There should be a review of people in those positions, conduct performance reviews to create equality of performance, quality and payment. This could prove difficult if this is someone on the Committee, as opposed to an outside person, and their performance is poor.
- Introduce a position description for these roles.
- Not all Committees need to pay for these positions.

10 **Staff Comment:** All examples were taken on board and it was suggested that if a Committee could pay a member or agent up to \$100 per week for the role of Booking Officer, or role determined that requires this payment (eg. Volunteers' Coordinator) and up to \$100 per month for other Administration positions as determined and recommended by each Committee this would be sufficient.

15 *It was also agreed that all Committees may not need to make payments at all.*

It was noted that these payments must come from the income generated from the facility and the facility be financially viable.

20 *If Council agrees to these recommended payments all proposed payments will need to be recorded in their meeting minutes with final approval by the Council (Finance Manager).*

A performance review of the Committee member or Agent be conducted by the Committee, on all paid positions with assistance from Council.

25 *All Committees should have an annual general meeting for positions to be shared if required.*

Cleaning the facilities

30 **Are Committees happy to keep the status quo that all committees organise their own cleaning of the facility**

- Bangalow A&I Hall – have had to change cleaners from time to time. Seems to work best if Committees manage their own cleaners as they can get access to their regular cleaners quickly.
- Brunswick Memorial Hall – use their cleaner to do minor maintenance as well.

40 **Staff Comment:** *It was noted that in general agreement that all committees have their own cleaning arrangements are happy with the status quo.*

- Would be handy if Council had a scissor lift to clean the lights.

45 **Staff Comment:** *Advised that Council does not have a scissor lift and would not want Committee Members to use one. This job should be outsourced to a suitable contractor. Note always a good idea if you have 1 light globe requiring to be replaced all light globes should be replaced at once.*

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.7 - ATTACHMENT 3

- Can Committee members do one-off cleaning for special functions and are they covered by public liability?

5 *Staff Comment: This has been checked by Council's insurers in the past and yes Committee Members can do one off cleaning of the facility (eg after a Birthday Party) rather than calling in the contractor. Note all WHS practices need to be followed and a per hour monetary limit needs to be set by Council. This arrangement with the Committee member should be recorded in the Minutes with a maximum time allowed to perform this task.*

10 *Again this monetary position should be performance reviewed by the Committee.*

Recognition

What form of recognition would your Committee like from Council?

- 15
- A meeting with morning tea / lunch provided occasionally, much appreciated biannually.
 - Ask the Committees for agenda items prior to the meeting.
 - It is good networking with other Committees.

20 *Staff Comment: It was agree that a meeting, with all Committee members invited, be held every 6 months. This meeting to be held at different Council facilities, showcasing each venue.*

Council will request Committees to submit agenda items for these meetings a couple of weeks prior to the meeting so appropriate staff can be available to address the meeting if required. Morning Tea/Lunch to be provided by Council.

25

Introductions

30 Introductions were made around the table, each Committee member advised which venue they were representing and provided a brief outline of current matters relating to their venue.

***Staff Comment:** Noted a lot of pride in each Committee member's facility and work being performed. Council acknowledgement of the great work these volunteer committee members are doing.*

What do you think about the future of volunteer Committees managing these facilities?

35

- Need the Committees to keep the venues open.
- Problems with getting new members for particular positions.

40 ***Staff Comment:** The recruitment of new members to come from the Committee themselves, in conjunction with Council advertising. Advertising for these new members not be generalised and where required actual volunteer positions eg Treasurer be advertised.*

The Committee representatives time in attending this meeting once again thanked and appreciated.

45

The meeting concluded at 12.08pm, followed by lunch and networking.

Report No. 13.8 **2015 Compliance Priorities Program**
Directorate: Corporate and Community Services
Report Author: Ralph James, Legal Services Coordinator
File No: I2014/14
5 **Theme:** Corporate Management
 Compliance Services

Summary:

10 This report seeks the adoption of the proposed Compliance priorities for the 2015 calendar year.

15 The focus in 2015 should continue to be on those priorities listed as Very High and High and, where resources permit, on priorities listed as 'Medium' or 'Routine', with the aim that all matters will ultimately be addressed (as has been achieved in recent years).

This report details the compliance with the adopted 2014 priorities.

20 The report provides the recommended 2015 program for the consideration of Council.

RECOMMENDATION:

1. That this report be noted.
2. That the proposed 2015 Compliance Priorities Program be adopted.

Attachments:

- 25 1 2015 Compliance Priorities, E2014/76436 , page 114

Report

Attachment 1 is the recommended 2015 Compliance Priorities Program.

- 5 Up to February 2014 the Regulatory Services team consisted of the Compliance and Ranger/Parking officer teams and the Environmental Health Team.

In February 2014 the Environmental Health Team was relocated into the Sustainable Environment and Economy Directorate.

- 10 Council is working towards relocating the Compliance and Ranger/Parking Officer teams into the Sustainable Environment and Economy Directorate as part of implementing the Organisational Structure adopted by Council.

- 15 This report covers the operations of the Compliance and Ranger/Parking Officer and the Environmental Health teams.

2014 COMPLIANCE PROGRAM – PRIORITIES

- 20 Compliance activities and statistics addressing the 2014 Compliance Priorities Program and the Byron Shire Council Management Plan (Compliance, Public Order and Safety) have been addressed in the half yearly and annual report.

- 25 For the half year ending June 2014, all Compliance performance indicators were met. The second half year performance is on track for a similar outcome.

In 2013/2014 the Compliance Team received 2,126 Customer Request Management (CRM's). These, and their outcomes, are tabulated as follows:

	Received 2013/2014	Completed 2013/2014
Illegal Works (Building; Land Clearing; Places of short term accommodation; Land Use)	372	408
Animals (Nuisance; Barking; Attack; Restricted; Livestock; Poultry)	800	805
Fire Hazard	2	2
Vehicle (Abandoned, Street Camping; For Sale; Parking)	844	834
Noise disturbances, public nuisance from premises, non compliance with AFZ	108	96
TOTAL	2,126	2,145

- 30 Note: *Some CRMs have been carried over from the previous financial year but completed in the 2013/14 financial period. There were also 39 CRM's carried over into the next financial year. These included CRM's under investigation, being dealt with or those that were in the system and being followed up in the next 30 day period.

- 35 The following information is provided on the implementation and actions taken in relation to the adopted 2014 Compliance Priorities Program . The 2014 Compliance Priorities Program can be viewed at www.byron.nsw.gov.au/.../compliance-priorities-program-2014

Very High Priorities:

1.1 Developments, actions, works, activities or uses that places people's lives at immediate risk or that cause or are likely to cause environmental harm or pollution;

In the calendar year to date Compliance has received 316 CRMs relating to unauthorised development and has concluded 303 (see notes in Table above). Not all of those CRMs fell into this priority although the percentage concluded is accurate for this priority.

Significant environmental prosecution.

As a result of a complaint in relation to pollution arising from the use of premises Council inspected the premises pursuant to its POEO Act powers. The following information is provided in relation to this matter.

More than 30 trucks had been parked at a location not authorised as a truck depot.

During the course of Council's inspections the following observations were made.

- Several oil spills, including one large oil spill as a result of onsite repairs to a truck.
- Overfilled bins, litter and truck parts strewn across the site.
- Poor management of waste oils, grease and truck parts associated with an open truck repair station at the site. Waste oil was being stored on site in a tank that was overflowing. A large pan of sump oil had been emptied of its contents and turned upside down on top of two oil drums under a tree. The remnant oil in the pan had dripped onto the ground and the soil was stained. This was directly below a Swamp Mahogany (*Eucalyptus robusta*), which is a declared Koala food tree, under SEPP 44 (Koala Habitat Protection).
- Disposal of waste by way of burning of truck parts and other industrial type waste in a drum on site. This activity was considered likely to release toxic gases and particulates in to the atmosphere, which may pose a serious risk to public health and safety.
- Several areas within the site have been "carved up" as a result of trucks driving through mud. There were significant areas of disturbed soil on the site without the implementation of sediment and erosion controls.

Council issued clean-up directions (POEO Act) as a result of which 51.4 tonnes of contaminated soil was removed from the site.

Council issued the site owner with Penalty Notices totalling \$4,500. This was on top of the \$18,000 expenses incurred by the owner in respect of compliance with Council's directions.

The site Manager was issued Court Attendance Notices. He pleaded guilty and on 29 August 2014 was convicted and fined \$4,500 and ordered to pay Council's costs of \$1,750.

Unauthorised development

Compliance staff have recently been investigating a property as a result of complaints from tenants at the property.

The original building had been converted into 7 residential units housing approximately 20 residents including children.

The owner had done most of the works himself including the building, electrical and gas plumbing works all of which appeared to be of a poor standard.

5 Residents complaints included the fact the water was tainted and they could smell constant gas leaks. Many claimed to have health problems related to the premises.

Council issued an Order to cease use.

10 Compliance staff worked closely with Department of Fair Trading to the effect that all but 4 residents have been rehoused with the others due to move in the near future.

The investigation is continuing. Fair Trading is investigating issues such as bonds not being lodged, no payment receipts provided and lease breaches.

15 The property is now for sale.

1.2 Significant environmental, health and public health incidents.

20 Most matters falling within this priority have been dealt with by way of Penalty Notices and Formal Warning Notice to Prevent Environmental Harm.

25 There was, however, one significant prosecution where the Defendant was convicted and fined, in total, the sum of \$17,000 and ordered to pay Councils costs of \$1,500 making a total financial penalty of \$18,500.

The property has significant land use planning and environmental constraints.

30 The property adjoins Simpsons Creek Sanctuary Zone within the Cape Byron Marine Park. That part of Simpsons Creek adjacent to this property is tidal. The NSW Marine Parks Authority has advised Council that *'gross debris and other waste entering Simpsons Creek from this property could potentially influence water quality, habitat and species beyond the boundary of Simpsons Creek, by entering the open ocean and other parts of Cape Byron Marine Park'*.

35 The property contains habitat suitable for a range of threatened species and is bordered by Simpsons Creek to the east (Cape Byron Marine Park) and is also adjacent to the 750 ha Tyagarah Nature Reserve. The property forms a natural extension of this reserve system. The property is classified as high conservation value (HCV) according to the methodology used in the Byron Biodiversity Conservation Strategy 2004.

40 Aerial photographs taken of the property by the NSW Environmental Protection Authority (EPA) depict waste on the property categorised as 'building and demolition (ie B&D) waste, tyres, household waste and aggregates'.

45 Council attended the property.

Officers observed that earthworks present during a prior attendance (and prosecution) had been significantly expanded by way of increasing the depth of excavations and by increasing the height of filled material in piles or on the track that runs parallel with the southern boundary fence.

50 Excavated earth material had been placed against trees in a manner which will damage or destroy the trees.

Officers observed a significant amount and variety of waste material on the property. This material included tyres (mostly large size truck, tractor type tyres), cardboard, polystyrene containers, large industrial size insulation panels, vehicles (ranging from cars to trucks, trailers and earthmoving

equipment), bottles, pipes, hoses, concrete rubble, household items and kitchen waste (in small plastic bags tied to tree branches or laying on the ground).

1.3 Dangerous and/or menacing dogs.

Customer Request Management Received		1/1/14 – 14/11/14
	Dogs Attacks	33
	Dogs Barking	147
	Dogs Found	185
	Dogs Nuisance	223
	Dogs Restricted	3
TOTAL		591

- There are presently 10 dogs in the Shire under a Nuisance Dog order.
- There are presently 3 dogs in the Shire declared dangerous.
- There are presently 5 dogs in the Shire declared menacing.
- There are presently 3 restricted breed dogs in the Shire.

1.4 Traffic, parking and unapproved camping activity enforcement.

Parking enforcement saw 8,424 Penalty Notices issued (to 14 November 2014).

The gross face value of the Penalty Notices was \$1,077,448.00.

In the period 1 January 2014 to 14 November 2014 Council Rangers issued 675 camping related infringements.

The State Debt Recovery Office has provided the following benchmarking statistics for Byron Shire Council and its neighbours for 2013-2014.

COUNCIL	ISSUED	FACE VALUE	RECOVERED
Byron Shire	12,147	\$1,536,32	73.84%
Coffs Harbour City	3,492	\$ 518,178	80.58%
Lismore City	3,000	\$ 534,754	74.95%
Ballina Shire	1,828	\$ 338,909	69.41%
Bellingen Shire	284	\$ 70,313	75.00%
Clarence Valley	145	\$ 26,987	88.60%

Byron Shire Council issued :

- 0.88% of the Penalty Notices issued statewide.
- 58.10% of the Penalty Notices issued by itself and its neighbours.
- 3,398 Penalty Notices more than the other listed Council's combined.

The Statewide average for recovery was 77.79%

Council's Enforcement Policy provides that Council has the discretion to withdraw a PIN on its own motion, and on any grounds it sees fit. However, the Fines Act stipulates mandatory grounds on which a PIN must be withdrawn. On review, a PIN must be withdrawn if Council finds that:

- a) The PIN was issued contrary to law,
- b) The issue of the PIN involved a mistake of identity,
- c) The PIN should not have been issued, having regard to exceptional circumstances relating to the offence

5

Of the 12,147 Penalty Notices issued in 2013/2014

- i) 1.20% (aprox 145) were withdrawn,
- ii) 1.94% (aprox 236) were withdrawn and replaced by a caution,
- iii) 0.69% (aprox 84) were the subject of a court election.

10

In respect of those Penalty Notices court elected Council incurred no adverse costs orders and was successful and obtained costs orders in all which proceeded to a hearing.

15 Camping prosecution

Three Sydneysiders were prosecuted in the Local Court for street camping in the residential area of Cavvanbah Street, Byron Bay. The following information is provided in relation to this matter.

Council officers woke up the occupants of a hired removal trailer who offered no explanation as to why they were camping in the area, or express remorse for camping or littering.

- 20 An abundance of rubbish was strewn around the immediate vicinity of the trailer. The rubbish strewn across the ground included bottles, plastic, cans, cardboard and other domestic waste.

A "No Camping" sign located on the verge of Cavvanbah Street was about 50 metres to east of the location of the trailer.

- 25 Given the nature of the camping, the litter and the flagrant breach of Council signage, the three campers were issued Court Attendance Notices.

Two received penalties of \$1,300 and the third received a penalty of \$1,650. The differing amounts were due the two indicated that they would plead guilty prior to going to court.

Cavvanbah Reserve

- 30 Between April and November 2014 Council Compliance Officers/ Rangers and Police have conducted an operation to safely remove illegal campers and rubbish from the Cavvanbah Reserve (from the First Sun Caravan Park to Belongil).

Conditions on the ground has been hazardous due to presence of human faeces and other waste.

- 35 During the operations ropes attached to tree branches and trunks were removed.

Many open fire pits and fireplaces were observed, some formed up by use of ballast stone material taken from the nearby railway line;

- 40 Destruction of vegetation was confirmed. Many branches were broken and removed for tent poles, firewood, seats around fire places etc. Some trees were being used for carving and painting as if totem poles.

- 45 It appeared that bush turkeys may have been killed - the remains of one was observed hanging on a tree.

Items observed such as toasters, CD players, swimming masks and bicycles some of which were suspected by the Police of being stolen.

- 5 Council outdoor staff removed more than 5 trucks loads full of rubbish. Waste material included tents, personal items, lounge suites and chairs, mattresses, cartons, crates, plastic containers, alcohol bottles and cans, food waste and scraps, clothes and footwear.

Compliance staff issued infringements for camping and littering.

- 10 Move on directions have been given by Police.

Media releases

The following media release was issued:

- 15
- | | |
|----------------|---|
| 24 April 2014 | Street campers – lowest number of community complaints in five years |
| 9 May 2014 | \$500 to street camp in Byron Bay |
| 15 August 2014 | Illegal street camping results combined fines of \$4,250 |

- 20 In addition, the Manager Governance commented on camping issues on numerous occasions on local radio.

2 High Priorities

- 25 **2.1 Run education or workshops and undertake compliance enforcement programs on:**

- 30
- (a) **Places of shared accommodation (commercial and non commercial)**
 - (b) **Swimming pool safety including legislative requirements**
 - (c) **Bringing unapproved dwellings into compliance**
 - (d) **Onsite sewage management systems**
 - (e) **Food safety premises**
 - (f) **Awareness of current public health requirements**
 - (g) **Companion Animals**

- 35 **including issuing a minimum of two media releases.**

2.1(a) Places of shared accommodation (commercial and non commercial)

“Backpacker hostel” prosecution.

- 40 The prosecution involved the occupation of an industrial unit in Centennial Circuit in the Byron Bay Industrial Estate for habitation as a dwelling.

- 45 Council issued a Court Attendance Notice for the offence of development not in accordance with development consent.

In the Byron Bay Local Court on 9 April 2014 the Defendant pleaded guilty and was convicted and fined the sum of \$4,500 and was ordered to pay Council’s costs of \$1,,500.

- 50 Short-term holiday accommodation

Penalty Notices were issued to two premises in relation to the use of the premises for short-term holiday accommodation in a manner that caused substantial negative impacts on neighbourhood amenity in a residential zone.

One of the premises was used by about twenty males for a party that went for the duration of the weekend. There was significant alcohol consumption. There was offensive language, shouting, beer sculling and chanting.

- 5 One female neighbour who had been out walking during the course of the afternoon was returning to her home when she was subjected to pornography being shown on the large screen TV adjacent to an unobscured window on the upper level of the property.

- 10 The other premises were used by about twenty males for a buck's party that went for the duration of the weekend. Strippers were in attendance and there was significant alcohol consumption.

The Police were called to both premises due to noise and disturbance.

- 15 The investigation of each brought staff to the conclusion that the use of the subject premises over the identified period and the resulting impacts on neighbourhood amenity were sufficiently significant so as to warrant enforcement action.

- 20 Staff issued each land owner with a \$750 penalty infringement notice for development without consent.

2.1(b) Swimming Pool Safety including legislative requirements

- 25 A swimming pool register was established in November 2011 and now has 1,098 pools registered. Of this number 662 premises were added in 2014.

A total of 270 swimming pool barriers have been inspected. Of these at least 90% did not meet the required standard and required rectification. There have been 297 reinspections conducted

- 30 The major non-compliant issues were pool gates that will not self close, footholds provided on the pool barrier and vegetation growing close to the barriers providing access to the pool areas.

- 35 Letters are being sent to all pool owners with the results of the inspection. Non-compliant items are required to be repaired by set dates and follow up inspections occur where major repair works are required.

Penalty Notices have been issued to seven pool owners for non-compliance. In one case a Direction was issued to undertake identified rectification work.

- 40 This is an ongoing program of pool barrier inspections which will eventually see all pools within the Shire entered onto the register.

The following media release was issued:

- 45 30 October 2014 **Is your pool registered and ready to be inspected? 95% are not passing**

In addition, the Manager Governance commented on pool barrier issues on numerous occasions on local radio.

2.1(c) Bringing unapproved dwellings into compliance

- 50 On 27 June 2013 Council resolved (Res 13-338) that Council staff prepare a briefing paper for a workshop towards the development of a policy on unauthorised dwellings in the Shire taking into consideration Council's compliance and enforcement policy, unapproved dwelling policy, results of any relevant past workshops, trends and practices in other Shires with similar issues.

55

It was resolved that the briefing paper include:

1. Discussion of potential objectives.
2. Benefits and risks for the community and Council.
- 5 3. Social, environmental and financial impacts for residents, Council and the community.
4. Possible strategies and implementation alternatives.

A Briefing Paper (E 2014/17590) was prepared, distributed to Councillors and presented to Councillors at a workshop.

- 10 The issue is now the subject of consideration by the SEE Division.

2.1(d) Onsite Sewage Management Systems

- 15 Council adopted the Community Engagement and Risk Communication (CERC) program in 2013 to address the issues of public health and environmental risks associated with the operation of private on-site sewage management system (OSMS) throughout Byron Shire.

- 20 Stage one of CERC was completed in June 2014 after information and educational material was posted to 1563 OSMS operators. The engagement received 960 individual responses which were returned to Council allowing Council's information database to be updated to facilitate further community education and advice. Following the updating of the details, further information and a response was provided to all respondents.

- 25 The remaining group of OSMS operators relate to issues such as multiple systems on 'multiple-occupancy' developments and OSMS operators who are yet to engage in the new educational approach to sustainable operation of their systems. This group will continue to be included into the next stages of the CERC program.

- 30 As recognition of feedback comments about the accessibility and usefulness of information on OSMS, and the desire to improve council processes and efficiencies, the next stage has been commenced to address these matters.

- 35 Information about the CERC is being regularly reported to the Council Water, Waste and Sewer Advisory Committee to demonstrate compliance with the timely program objectives and that the project is continuing to be achieved within the set budgetary limits.

2.1(e) Food safety

- 40 Council reported to the NSW Food Authority in the annual report (2013/14) that all high-risk and medium-risk retail food businesses within Byron Shire had been inspected as required by the NSW Food enforcement agency. The report favourably compared Byron Shire Councils' results with all other local government authority food activities.

- 45 Byron Shire is somewhat unique in that the number of fixed food premises may vary around the total number of 320, but there is a growing and significant number of temporary retail food businesses (markets, farmers markets, shows, events and festival food businesses) of similar proportion that need to be effectively inspected and regulated to ensure community health and safety standards are being maintained. A total of 631 primary food premise inspections were conducted during 2013/14.

- 50 As part of the educational support for retail food businesses, two information 'mail-outs' were provided in January and July 2014 to inform food business operators about changes in regulations, food safety content and staff access information on the specific topic of food safety.

The number of complaints and food-borne illness reports continues at very low levels. Considering the small number of staff hours allocated to this function, Byron Shire is achieving an improving standard of food safety under growing demands from food businesses in Byron Shire. The following table summarises the activities performed by staff as regulators of the NSW Food Act 2003.

Table 1: Food business inspection program – comparison between 2012/13 and 2013/14

	2012/13	2013/14
Fixed premises categorised as 'high' risk inspected	404	293
Fixed premises categorised as 'medium' risk inspected	168	27
Fixed premises categorised as 'low' risk inspected	'see below'	31
Temporary food businesses operating in Byron Shire inspected	Included in above statistics	355
Mobile food businesses operating in Byron Shire inspected	3	5
Number of food-related complaints received / investigated	9	11
Number of warning letters issued to address minor defects	139	191
Number of Improvement Notices issued to address food safety defects	28	38
Number of penalty notices issued	15	7
Number of prosecutions / successful result	1 / 1	0
Number of seizure notices issued	0	1
Number of Prohibition Orders issued	0	0
Full time equivalent staff resources dedicated in maintaining food safety program	1.5	1.5

2.1(f) Public health premises

Council noted the gradual introduction of a number of statutory requirements under the Public Health Act 2010 and Public Health Regulation 2012. As the NSW Ministry of Health are the primary regulator of public health standards across NSW under this legislation, council has limited activity in regulating public health premises.

The annual report to NSW Health advised that no improvement or prohibition notices had been issued to any public health premises in Byron Shire for 2013/14.

Environmental Services had further assisted compliance investigations where public health and safety standards had been compromised by illegal development of shared housing activities. The shared team response produced some very effective results preventing a number of individuals being injured, and assisted to inform the court when prosecutions were required.

Resources under the current priorities and staff resources remain low for public health premise activities.

2.1(g) Companion Animals

Rangers attended community events at Federal Park and the Brunswick Heads Primary School, providing information on pet welfare, restraints and requirements for companion animals.

Council's Rangers have provided support to NPWS and community conservation groups and carried out patrols in the bird breeding area at Belongil Spit to enforce restriction on dogs being under effective control.

A letterbox drop has been undertaken to owners/occupiers in cat and dog free estates.

The following media release was issued:

21 October 2014: **Shorebirds and dogs don't mix**
 31 October 2014: **Cat and dog free areas to be enforced**

In addition, the Manager Governance commented on companion animal issues on numerous occasions on local radio.

2.2 Noise disturbance, public nuisance from premises, maintenance of alcohol free zones;

Matters falling within this priority have been dealt with by way of advice both to the complainant and the occupant of the noise source.

2.3 Unauthorised events, including unapproved dwellings, wedding receptions, parties, 'doof and 'rave' parties.

Acting on community complaints Council obtained evidence that premises at McLeods Shoot were used as an unauthorised wedding reception centre on 8 and 9 November 2014.

The unauthorised use of the subject premises imposed negative impacts on neighbourhood amenity including, but not limited to noise and traffic.

Offensive noise was generated from the premises until 1am on 9 November 2014. Residents had cause to contact the Police.

Council previously had cause to issue a noise abatement direction in relation to the premises.

Action in the NSW Land and Environment Court was taken against the previous owner of the premises in relation to the unauthorised use of the premises for weddings and other functions

Council issued the owner of the premises a \$3000 penalty infringement notice for the offence of development without consent, specifically relating to the events of the 8 and 9 November 2014. The fine was issued under the terms of the Environmental Planning and Assessment Act 1979.

The following media release was issued:

21 July 2014 **Garage sales need to stay inside the property not on street verges**

In addition, the Manager Governance commented on garage sales on local radio.

3 Medium Priorities

3.1 Development or activities without consent, or non-compliance with consent, permit or licence conditions where these appear to pose no immediate threat to life, property, public health or the environment;

Development not in accordance with development consent

Convicted. Fined and costs \$5500.

Council attended a property in relation to a complaint alleging that a number of unauthorised buildings on the property were being used for occupation.

Council wrote to the Defendant and directed him to cease use of the unapproved septic system and to seek planning advice in relation to the other two buildings.

The Defendant advised Council in writing that the farm shed would be converted back to a shed and that he would have the kitchen decommissioned and that the relocatable dwelling would have the kitchen decommissioned and consent would be sought to have it approved as a studio.

5 Council sent the Defendant a letter in respect of excessive water usage at the property. Usage was approximately twice that of the previous twelve months.

10 The Defendant lodged a development Application (Occupation of the farm shed and studio). The Application was refused by Council. On the 31 January 2014 the Defendant submitted a request for review of the Determination.

Council conditionally approved the use of the demountable buildings as studio and a farm shed.

15 The studio approval was conditioned that the studio building;

- not to be used as a separate dwelling
- must not interfere with local amenity.
- must not contain any lounge room, dining room, kitchen bedroom or other habitable room, and

20 • must not be used as a separate dwelling.

The shed approval was conditioned that the shed must not be used for any form of residential occupation.

25 Council officers and the Police attended the property to execute a Search Warrant.

The farm shed and observed that it was set up with a lounge room / kitchen area and a bedroom.

30 The kitchen comprised a fridge, microwave oven and a sink. The lounge area comprised a lounge, television and stereo unit. There was also a separate bedroom area with a double bed and numerous personal effects.

The studio consisted of a lounge / bedroom area, separate bathroom and laundry and a separate kitchen. The studio was tenanted.

35 The Defendant admitted that;

- he was living in the shed.
- under his Development Consent he was not allowed to use the studio and sheds for habitation.

40 • a long term tenant was living in the studio.

Penalty Notices issued:

- a. 1 x \$1,500 Cease using premises for purpose specified in an order (Individual)
- 45 b. 1 x \$1,500 Building without Construction Certificate (Individual)
- c. 2 x \$750 Development without development consent (Individual)
- d. 1 x \$1,500 Pollute land (Corporation)
- e. 1 x \$3,000 Development without development consent (Corporation)
- f. 1 x \$1,500 Development without development consent (Individual)
- 50 g. 1 x \$220 Fail to obtain prior approval for activity
- h. 8 x \$500 Not give fire safety statement

3.2 Livestock on public roads:

The table produced earlier detailed that 805 CRMs had been received in respect of Animals (Nuisance; Barking; Attack; Restricted; Livestock; Poultry).

Of those 133 related to livestock on roads. All were dealt with by Rangers, usually within hours of receipt of notification..

3.3 Non-compliant signage (07-550, 06-204).

2014 saw an influx of electronic signage. It was dealt with by way of advice and warnings.

Rangers have been out actively impounding unapproved signage throughout the Shire and have noted that there has been a significant drop in numbers in most areas.

Compliance staff issued one Penalty Notice during the period.

Compliance staff have been talking to different stake holders as to ways to resolve the problem.

Discussions with Council's Economic Development and Tourism Officer has resulted in Compliance staff reviewing resolution 626/2012 and investigating placing poles at the entrances to each town so that markets and community events can be advertised in a more visually friendly matter.

4 Routine Priorities

4.1 All other matters.

Environmental Services respond to many community inquiries and where the customer wants a council response the requests are recorded into the Authority database. The following is a comparison of customer request activity between 2012/13 and 2013/14

Table 2 – Environmental Services summary of customer action requests

Category	2012/13	2013/14
Noise complaints	82	88
Pollution of land	27	13
Air pollution	21	23
Water pollution	13	15
Odour pollution	10	19
Stormwater impacts	7	13
Asbestos	3	16
TOTAL	163	187

As was reported earlier for the half year ending June 2014, all Compliance performance indicators were met. The second half year performance is on track for a similar outcome.

2015 COMPLIANCE PROGRAM – PRIORITIES

(Amendments to 2014 Priorities are highlighted in red. Comment is provided.)

Very High Priorities:

- 1.1 Developments, actions, works, activities or uses that places people's lives at immediate risk or that cause or are likely to cause a significant risk of environmental harm or pollution;

Comment: The addition of the word “a significant risk of” is intended to highlight the degree of risk required to activate this priority and to distinguish it from Medium Priority 3.1.

5 1.2 Significant environmental and public health incidents;

 1.3 **Dangerous and/or menacing dogs;**

10 *Comment: The removal of “uncontrolled dogs” from this priority is offset by its inclusion in new Medium Priority 3.4. Dangerous and menacing dogs ought be the higher priority. If a dog which would ordinarily fall within priority 3.4 were to attack or threaten to attack a person or another animal that dog would become a dangerous or menacing dog and would be dealt with within the higher priority.*

15 1.4 Traffic, parking and unapproved camping activity enforcement;

 1.5 **Asbestos containing material (ACM) being illegally dumped on public land**

20 *Comment: Council received requests from the community to respond to illegally dumped Asbestos Containing Materials (ACM) within Byron Shire. The staff response is not currently supported by any budget or council policy. The containment of any ACM required trained professionals to attend, use appropriate personal protective equipment, collect all visible materials and wrap securely. Once contained and secured, the ACM was transported and buried at an approved landfill site, at a cost to the Environmental Services budget.*

25 *Byron Shire Council currently does not have a landfill site approved for the disposal of ACM. The nearest approved landfill sites are in Lismore and Tweed local government areas.*

30 *The increasing media and community information surrounding the topic of ACM has increased general community concerns where ACM is being removed from private properties, and the issue of this commonly found building material in residences along the eastern coast of Australia, including Byron Shire.*

35 *The community concerns relate firstly to an increase in community demands for Compliance and Environmental Services staff to attend authorised demolition sites.*

40 *Secondly private individuals see value by saving the considerable costs of engaging a Workcover accredited demolition contractor and disposing of the ACM at an approved landfill site at a cost of more than \$130/tonne, by illegally dumping ACM on public land. Such unsecured ACM left exposed in public places poses a risk to community health, and to the workplace health and safety of council staff. The priority has been raised for ACM in light of the trends observed in Byron Shire, and across NSW.*

2. **High Priorities**

50 2.1 **Provide** (*Comment: “Provide” better expresses Council’s intention than does “Run”*) education or workshops and undertake compliance enforcement programs for;

- (a) Places of shared accommodation (commercial and non commercial)
- (b) Swimming pool safety including legislative requirements

(c) Improving compliance standards for unapproved dwellings

Comment: The common practices of property owners developing unapproved accommodation structures for the occupation by young families and the socially and economically disadvantaged is establishing unacceptable development standards for housing in Byron Shire.

Structural adequacy, fire safety and basic public health requirements such as drinking water, light, ventilation, wastewater disposal etc especially where such housing is located in high risk situations, such as in flood or fire zones, will be addressed by the provision of better information and, if necessary, compliance action.

(d) Onsite sewage management systems (including CERA project)

Comment: Council adopted the Community Engagement and Risk Communication (CERC) program in 2013 to address the issues of public health and environmental risks associated with the operation of private on-site sewage management system (OSMS) throughout Byron Shire. The amendment incorporates the project.

(e) Promoting better food safety standards

Comment: Provision of educational materials has been shown as being effective in promoting positive local food outcomes. Changing regulations need to be identified and shared with both the community and food business operators for the uniform establishment of better compliance outcomes for Council's community.

(f) Awareness of current public health requirements

Comment: The NSW Public Health Legislation has included local government as an important member in supporting public health outcomes across the State.

The community need to be informed and reminded about important public health measures which can offer specific protection for vulnerable individuals such as the young, the ageing and the medically compromised.

Positive messages on relevant local government issues such as tobacco smoking restricted areas, improving water quality in swimming pools and spa pools etc work to have an immediate health promoting reaction from the community and to further assist Council to be effective when more serious natural disaster or pandemic messages require a more immediate recognition by the community.

(g) Companion Animals

(h) Safe Procedures for handling and disposal of Asbestos Containing Materials

Comment: The growing concerns within the Australian community surrounding the existence, removal and disposal of asbestos containing material must be managed by reliable and readily accessible information.

Council, as the level of government closest to the community, are an important resource to inform, educate and, where serious public safety risks are created, prosecute offenders.

(i) Seasonal public health issues and community preparedness

Comment: Media advice on topical public health matters for example "heat waves; a recognition of the risks to the elderly, sick and small children, and how to best manage the heat", or water quality for users of rainwater tanks during dry times, or asbestos removal etc. will be produced and publicised as necessary to improve community preparedness and safe community health outcomes.

including issuing a minimum of two media releases.

2.2 **Responses to complaints about recurring** *(Comment: The priority is better expressed in this manner)* noise disturbance, public nuisance from premises, maintenance of alcohol free zones;

2.3 Unauthorised events, including unapproved dwellings, wedding receptions, parties, 'doof and 'rave' parties;

3. Medium Priorities

3.1 Development or activities without consent, or non-compliance with consent, permit or licence conditions where these appear to pose no immediate threat to life, property, public health or the environment;

3.2 Livestock on public roads;

3.3 Non-compliant signage (07-550, 06-204).

3.4 **Uncontrolled dogs and/or cats including those kept on land where Policy or Development consent prohibits it.**

Comment: See above in respect of priority 1.3. The inclusion of a reference to dog and cat free properties reflects Council's recent resolution.

4. Routine Priorities

4.1 All other matters.

Financial Implications

2015 Compliance Priorities will be addressed within existing budget allocations.

Statutory and Policy Compliance Implications

There a number of Acts which give local government regulatory powers. They include the:

- Companion Animals Act 1998
- Environmental Planning and Assessment Act 1979
- Food Act 2003
- Impounding Act 1993
- Local Government Act 1993
- Protection of the Environment Operations Act 1997

- Public Health Act 2010
- Roads Act 1993
- Swimming Pools Act 1992

5 Compliance action is considered and managed through Council's adopted Enforcement Policy (DM 1103173). Enforcement Guidelines (E2013/21238) have been formulated to supplement the Enforcement Policy. They give guidance in putting the Enforcement Policy into practice.

10 Part 10 of the Enforcement Policy deals with "Taking Enforcement Action". Part 11 deals with "The Nature and Seriousness of the Unauthorised Activity."

15 Those Parts encapsulate the principle that the decision to take enforcement action must be based on sound grounds and must include consideration of whether Council has a duty to act and then whether;

- a) the available evidence establishes an initial ('prima facie') case for action,
- b) the public interest is served by bringing such an action,
- c) procedural fairness been afforded and demonstrated.

20 At the conclusion of an investigation, Council may have one or more of the following options;

- 1. Take no action;
- 2. Counsel the alleged offender;
- 3. Issue a caution;
- 25 4. Issue a PIN;
- 5. Issues Notices and Orders;
- 6. Commence criminal proceedings;
- 7. Commence civil proceedings;
- 30 8. Report broader matters to Council.

Procedures aimed at bringing about consistency in decision-making include;

- a) Procedure 13/01 (E 2013/20622) The functions, power and role of the Compliance Action Panel.
- 35 b) Procedure 13/02 (E 2013/2207) Local Court-Court elected Penalty Notices.
- c) Standard Operating Procedures for Rangers (E2013/44134).

2015 COMPLIANCE PROGRAM – PRIORITIES

Very High Priorities:

- | | | |
|----|-----|---|
| 5 | 1.1 | Developments, actions, works, activities or uses that places people's lives at immediate risk or that cause or are likely to cause a significant risk of environmental harm or pollution; |
| | 1.2 | Significant environmental and public health incidents; |
| | 1.3 | Dangerous and/or menacing dogs; |
| 10 | 1.4 | Traffic, parking and unapproved camping activity enforcement; |
| | 1.5 | Asbestos containing material (ACM) being illegally dumped on public land |

2. High Priorities

- | | | |
|----|-----|--|
| 15 | 2.1 | Provide education or workshops and undertake compliance enforcement programs for; |
| | | (a) Places of shared accommodation (commercial and non commercial) |
| | | (b) Swimming pool safety including legislative requirements |
| | | (c) Improving compliance standards for unapproved dwellings |
| 20 | | (d) Onsite sewage management systems (including CERA project) |
| | | (e) Promoting better food safety standards |
| | | (f) Awareness of current public health requirements |
| | | (g) Companion Animals |
| 25 | | (h) Safe Procedures for handling and disposal of Asbestos Containing Materials |
| | | (i) Seasonal public health issues and community preparedness |
| | | including issuing a minimum of two media releases. |
| 30 | 2.2 | Responses to complaints about recurring noise disturbance, public nuisance from premises, maintenance of alcohol free zones; |
| | | NOTE: One-off complaints to be addressed by information and education in the first instance as a "routine" priority. |
| | 2.3 | Unauthorised events, including unapproved dwellings, wedding receptions, parties, 'doof and 'rave' parties; |
| 35 | | |

3. Medium Priorities

- | | | |
|----|-----|---|
| 40 | 3.1 | Development or activities without consent, or non-compliance with consent, permit or licence conditions where these appear to pose no immediate threat to life, property, public health or the environment; |
| | 3.2 | Livestock on public roads; |
| | 3.3 | Non-compliant signage (07-550, 06-204). |
| | 3.4 | Uncontrolled dogs and/or cats including those kept on land where Policy or Development consent prohibits it. |
| 45 | | |

4. Routine Priorities

- | | | |
|----|-----|--------------------|
| 50 | 4.1 | All other matters. |
|----|-----|--------------------|

Report No. 13.9 **Report of the Public Art Assessment Panel meeting 6 November 2014**
Directorate: Corporate and Community Services
Report Author: Joanne McMurtry, Community Policy Officer
File No: I2014/16
5 **Theme:** Society and Culture
 Community Services – Community Development

Summary:

10 A Public Art Assessment Panel (PAAP) meeting was held on 6 November 2014. This report provides the minutes of the meeting and recommendations made to Council.

15 A number of items were discussed including the vacant position for a community representative due to a resignation, updates on the status of public art projects underway, and four public art proposals were considered. This was the last meeting for 2014 for the Public Art Assessment Panel.

RECOMMENDATION:

1. In relation to the resignation of a community representative from the Public Art Assessment Panel (PAAP), that Council:
 - a. Write a letter of thanks to Belinda Smith for her valuable contribution to the Public Art Assessment Panel since May 2013.
 - b. Allow nominees from the list of alternate members for the Public Art Assessment Panel (PAAP) created following the call for nominations in 2013 be contacted, to ascertain current interest in filling the vacant position on the PAAP.
 - c. Conduct a call for nominations for the vacant position on the Public Art Assessment Panel (PAAP) if there is no interest from the alternate members in 1b, with nominees to be reported to Council for a Community Representative member to be selected.
2. In relation to the Memorial Mosaic Seat in Brunswick Heads, Council accepts the donation of a Memorial Mosaic Seat, placed in a suitable location on Council land in Memorial Park, Brunswick Heads, subject to the Public Art Assessment Panel (PAAP) members meeting with the artist around some design questions and being satisfied with the final concept designs.
3. In relation to the Brunswick Nature Sculpture Walk, that Council:
 - a. make a donation of \$5,000 from the Public Art budget (2364.001) to the Brunswick Nature Sculpture Walk to seed fund the development of a number of artworks, for the following reasons:
 - The Brunswick Nature Sculpture Walk project encourages high quality art, in line with the aims of the Public Art Policy
 - The project encourages participation by professional artists (for example, is timed after Swell in Tweed Heads and before Sculpture by the Sea in Bondi – the sculpture trail)
 - The workshops in the project offer an important educational aspect for locals and visitors
 - There is evidence of excellent community participation

- It provides an opportunity to work with several partners
 - There is currently no arts showcase or event in Brunswick Heads.
- b. note that prior to any installation of artworks, appropriate formal application will be made to Council for the event in the form of a Development Application, Temporary Licence or Public Art Application, whichever is identified as required.
4. In relation to the donation of a mural painted at the Bay Lane Activation by Kellie O'Dempsey, that Council thank the artists for their offer and provide congratulations on a great event (Bay Lane Activation), however the artworks are declined for the following reasons:
- The works are not relevant to the current public art program
 - There is a lack of suitable locations identified to display the works

Attachments:

- 1 Minutes of the Public Art Assessment Panel meeting 6 November 2014, E2014/75055 , page 118

Report

5 A Public Art Assessment Panel (PAAP) meeting was held on 6 November 2014 where public art proposals were assessed and recommendations made to Council. The minutes of the meeting are provided in Attachment 1.

10 A number of items were discussed including the vacant position for a community representative due to a resignation, updates on the status of public art projects underway, and four public art proposals were considered. This was the last meeting for 2014 for the Public Art Assessment Panel.

15 The PAAP recommendations are supported by management and are provided in the covering recommendations of this report. The recommendations have been amended in this report from recommendations from the PAAP to be worded as proposed Council motions.

Financial Implications

20 A recommendation is made to Council to donate \$5,000 for the Brunswick Nature Sculpture Walk from the Public Art budget. The current balance of the Public Art budget is approximately \$20,000 (2364.001).

Statutory and Policy Compliance Implications

25 Public Art Policy
Public Art Guidelines and Criteria

Minutes of the Byron Shire Council Public Art Assessment Panel Meeting held on Thursday 6 November 2014

E2014/75055

PRESENT: Cr P Spooner

Staff: Joanne McMurtry (Community Policy Officer)
Greg Ironfield (Manager Community Development)

Community: Rick Molloy (Practising Artists Network)
Suvira McDonald (Community Artist member)
Tracey Whitaker (Community member)
Peter Wood (Arts Northern Rivers)
Paula Cordeiro (Community Artist member)

Guest: Samantha Collyer (Brunswick Nature Sculpture Walk) for Report No. 6.2

Paul Spooner opened the meeting at 1.07pm and acknowledged that the meeting was being held on Bundjalung Country.

APOLOGIES: Cr S Richardson, Andy Erskine (Superintendent Parks), Gavin Brown (Bundjalung of Byron Bay Aboriginal Corporation (Arakwal)).

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

There were no declarations of interest.

CONFIRMATION OF A QUORUM:

There are eight people on the Panel following the resignation of Belinda Smith. Quorum numbers were met.

RECOMMENDATION:

That the Public Art Assessment Panel recommend to Council:

1. Write a letter of thanks to Belinda Smith for her valuable contribution to the Public Art Assessment Panel since May 2013.
2. Nominees on the list of alternate members for the PAAP which was created following the call for nominations conducted in early 2013 will be contacted, to ascertain current interest in filling the vacant position on the PAAP.
3. If there is no interest from the alternate members, a call for nominations will be conducted for the vacant position on the PAAP, with nominees to be reported to Council for a Community Representative member to be selected.

(Cordeiro/Whittaker)

CONFIRMATION OF PREVIOUS MINUTES:

That the minutes of the Public Art Assessment Panel meeting held on 11 September 2014 be adopted.

(Molloy/McDonald)

BUSINESS ARISING FROM PREVIOUS MINUTES (Verbal updates)5.1 Unity Pole

- 5 Staff have been advised by the Unity Pole owners that they are withdrawing their application to erect the pole in a public place due to engineering advice received. There are plans to erect it on private property.

5.2 Inscribe Youth Street Art Project

10

An email from Karma Barnes was circulated to the PAAP members with a request for a letter of support to move forward with plans around the Byron Bay Pool fence near Main Beach.

Action:

15

The PAAP provided the following advice to be communicated to Karma:

- No decision has been made regarding the pool fence
- There is a significant town centre masterplanning process underway for Byron Bay
- Please talk to Byron United about their 'Postcards' project for alternative sites
- Encouraged to apply for the Small Public Art Grants program when launched in the new year

20

5.3 Judy Cassab Paintings - update

25

The paintings arrived at the Byron Bay Library this week, however some of the frames appear damaged (yet to be assessed). Lismore Art Gallery are proposing to hold a 'Judy Cassab' exhibition and the PAAP were supportive of the four paintings on loan to Byron Shire Council to be part of that exhibition.

Action:

30

- Request Jay Pearce (Lone Goat Gallery committee) and Paula Cordeiro to look at the artworks and advise on the frame condition.

5.4 Essential Energy padmount in Lawson St, Byron Bay

35

As discussed at the previous PAAP meeting, a small group came together to discuss the possibility of public art on the Essential Energy padmount which will be in a high profile location. Throughout the discussion, it became clear that the padmount is a large steel box, with open grills etc on several sides, with one side located very close behind a park bench. In short, it appeared it wasn't suitable as a public art project and it was decided to try and camouflage the padmount by planting appropriate plants around it.

40

PUBLIC ART PROPOSALS

45

6.1 Public Art Proposal – Memorial Mosaic Seat, Brunswick Heads**RECOMMENDATION:**

50

That the Public Art Assessment Panel recommend to Council to accept the donation of a Memorial Mosaic Seat, placed in a suitable location on Council land in Memorial Park, Brunswick Heads, subject to PAAP members meeting with the artist around some design questions and being satisfied with the final concept designs. (Wood/Molloy)

Action:

55

- Tracey Whittaker and Suvira McDonald will meet with the artist on site to ascertain further details about the artwork, such as:

- What is the extent of the area covered by the mosaic? Will the back of the seat be tiled?
- Will the seat be of a suitable height and comfort level (eg feet underneath?) to be used as a seat.

- Tracey will report back to the PAAP by email.
- Staff to add clarification on the Public Art Proposal form to provide design drawings and specifications and photo's if the artwork is already created, in order to provide PAAP with more information on which to base decision making.

6.2 Public Art Proposal – Brunswick Nature Sculpture Walk

Samatha Collyer attended the meeting to outline the proposal and answer questions from PAAP members.

RECOMMENDATION:

1. **That the Public Art Assessment Panel recommend to Council that a donation of \$5,000 be made to the Brunswick Nature Sculpture Walk to seed fund the commencement of development of a number of artworks, for the following reasons:**

- Encourages high quality art, in line with the aims of the Public Art Policy
- Encourages participation by professional artists (for example, is timed after Swell in Tweed Heads and before Sculpture by the Sea in Bondi – the sculpture trail)
- The workshops offer an important educational aspect for locals and visitors
- There is evidence of excellent community participation
- It provides an opportunity to work with several partners
- There is currently no arts showcase or event in Brunswick Heads.

2. **That Council note that prior to any installation of artworks, appropriate formal application will need to be made to Council for the event in the form of a Development Application, Temporary Licence or Public Art Application, whichever is identified as required.**

(Cordeiro/Molloy)

6.3 Late Report - Public Art Proposal – Kellie O'Dempsey murals from Bay Lane Activation

A late report was tabled at the PAAP meeting.

RECOMMENDATION:

That the Public Art Assessment Panel recommend to Council to thank the artists for their offer and provide congratulations on a great event (Bay Lane Activation), however the artworks are declined for the following reasons:

- The works are not relevant to the current public art program
- There is a lack of suitable locations identified to display the works

(Wood/Molloy)

6.4 Late Report - Public Art Proposal – Ocean Shores Community Centre

A late report was tabled at the PAAP meeting.

5 The PAAP provided in principle support but requested the following actions:

Action:

- Would like to see evidence of community support for the project
- Would like to invite the artist to address the next PAAP meeting
- 10 • Would like to see Ocean Shores Community Centre's financial support for the project

Peter Wood left the meeting at 4.03pm.

15 6.5 Identification of appropriate public art locations

This was deferred until the next meeting.

20 7. DATE AND TIME OF NEXT MEETING

The next meeting of the Public Art Assessment Panel will be determined in the new year, probably February 2015.

25 *There being no further business the meeting concluded at 4.05pm.*

Report No. 13.10 Report of the Safe Summer in the Bay PRG meeting 14 November 2014

Directorate: Corporate and Community Services

Report Author: Joanne McMurtry, Community Policy Officer

File No: I2014/21

Theme: Society and Culture

Community Services – Community Development

5

10 **Summary:**

A Safe Summer in the Bay Project Reference Group meeting was held on Friday 14 November 2014.

15 This report provides the minutes of that meeting to Council for noting.

RECOMMENDATION:

That Council note the minutes of the Safe Summer in the Bay PRG meeting held on 14 November 2014.

Attachments:

20

1 Minutes of Safe Summer in the Bay PRG 14 November, E2014/76159 , page 124

Report

A Safe Summer in the Bay Project Reference Group meeting was held on Friday 14 November. The committee received an update from staff on the progress of Strategies 1 – 10 in the Plan for New Year as adopted by Council (14-300).

The focus of the update was on plans around the event management and the Volunteer Program – namely Byron Greeters.

Financial Implications

Nil

Statutory and Policy Compliance Implications

Plan for New Year in Byron Bay 2014 (E2014/26557)

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.10 - ATTACHMENT 1

Discussion Points:

- The focus has been on securing sponsorship for the events. A meeting was held with Byron United and Destination Byron to request their assistance. A half page advertisement was in this week's Echo and will be in next week's Byron Shire News.
- Fishheads will again be holding a fundraising function on 4th December with tickets \$60 for the event.
- Other pledges of support have been received from Byron Coastal Real Estate, Optus for the main stage, Byron Beach Café, Paul Waters and the Byron Bay Liquor Accord.
- Mouche outlined the program and acts that have been booked. A hand out including a site map and list of acts was provided (attached E2014/76194).
- Some discussion around placement of the banner this year. Perhaps between the Northern and the Hot Bread shop.
- First Sun plans are similar to last year perhaps with the addition of a Didgeridoo player.

Actions:

- Joanne to provide details of St John's First Aid volunteers to Mouche.
- Volunteers will be needed to assist with waste/ bin management on the night at Soul St NYE
- Council to assist in promoting First Sun to the health and wellness sector in the Shire.
- Council to assist with lighting up Jonson St with festoon lighting or lanterns or something similar.

ii) Volunteer Program – for New Year and Park and Ride (Joanne McMurtry)

Discussion Points:

- There is a major recruitment drive underway to sign up Byron Greeters for Park and Ride and New Year – the week of 29/12/14 – 4/1/14.
- Recruitment has included stalls at Mullumbimby Show, Bangalow Show, Farmer's Markets and visits to key employment agencies, schools, TAFE and Southern Cross University, and more.
- Currently have about 10 volunteers on the books.
- A special TAFE course will be delivered over five weeks, commencing 18 November. There are subsidised places offered to eligible participants with training delivered at the Byron Community Centre. The training will go towards a Certificate III in Tourism.
- We are planning a training/ information night specifically for Park and Ride and NYE on 18th December at the Byron Regional Sport and Cultural Complex.

Action:

- Someone from the Byron Community Centre come to talk to the volunteers at the training/ information night 18th December about the events.

ACTION LIST:

- Joanne to provide details of St John's First Aid volunteers to Mouche.
- Volunteers will be needed to assist with waste/ bin management on the night at Soul St NYE
- Council to assist in promoting First Sun to the health and wellness sector in the Shire.
- Council to assist with lighting up Jonson St with festoon lighting or lanterns or something similar.
- Someone from the Byron Community Centre come to talk to the volunteers at the training/ information night 18th December about the events.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.10 - ATTACHMENT 1

8. DATE AND TIME OF NEXT
MEETING:

Thursday 4 December 2014
11am - 1pm Executive Meeting Room, Mullumbimby

Time Meeting Closed: 3.30pm

Date Report Confirmed:

Report No. 13.11 Companion Animal Welfare Incorporated (CAWI) Relocation to West Byron STP Council Animal Pound

Directorate: Corporate and Community Services

Report Author: Colin Sims, Project Coordinator - Buildings
Wayne Bertram, Manager Certification and Assessment
Ralph James, Legal Services Coordinator
Trish Kirkland, Manager Governance Services

File No: I2014/23

Theme: Corporate Management
Compliance Services

Summary:

Council at its meeting held 19 August 2012 resolved **Resolution 12-264** (in part) to consent to CAWI's use of Operational land at Tyagarah (Part Lot 49 DP 881232), to establish and operate a Companion Animal Shelter and associated services.

As part of the Financial Sustainability Project Plan, Council is seeking to maximise land development commercial potential as part of the Tyagarah Airfield Future Options Project, and part Lot 49 DP 881232 previously indicated for CAWI has been identified with potential commercial development value.

After further consultation with CAWI, in principal agreement has been reached to relocate their proposed Animal Shelter to Council's Animal Pound at West Byron.

This report to replace resolution 12-264 with a new resolution providing consent for CAWI to occupy part of Lot 2 DP 706286, Council Operational land at West Byron STP, including the existing Animal Pound, for the purpose of providing Byron Shire with a Companion Animal Refuge and associated companion animal services.

RECOMMENDATION:

1. That Council consent to operational land, part Lot 2 DP 706286 as indicated in Attachment 1 (E2014/65093), being occupied by Companion Animal Welfare Inc (CAWI) to establish and operate a Companion Animal Refuge and associated services, subject to the following conditions:
 - a) CAWI and council enter into a deed of agreement to guide the process including surveying, development and associated approvals (including subdivision), provision of council's pound services, and occupation of the site under a 20-year term lease at annual minimum crown rent.
 - b) That advancing the proposal occurs at no cost to council.
 - c) That CAWI withdraw Development Application 10.2014.006.1 relating to resolution 12-264 regarding the Operational land at Tyagarah (Part Lot 49 DP 881232).
2. That Council provide owner's consent for CAWI to lodge a Development Application for subdivision of part Lot 2 DP 706286 that is consistent with the land area indicated in Attachment 1 (E2014/65093).
3. That Council authorise the General Manager to negotiate and execute all necessary documentation and agreements to advance the proposal.
4. That Council authorise the General Manager to affix the Council seal to the deed of

agreement, lease agreement, and land titles documentation for subdivision of part Lot 2 DP 706286, and any other associated documents.

- 5. That Council provide financial reimbursement of up to \$25,000 from the Tyagarah Airfield Future Options Project to CAWI for the consultancy costs they incurred to prepare and lodge Development Application 10.2014.006.1 over Operational land at Tyagarah (Part Lot 49 DP 881232) subject to CAWI providing appropriate receipts for those expenses incurred to the satisfaction of the General Manager.**

Attachments:

- 1 Preferred plan for CAWI (Companion Animals' Welfare Inc) pound area, E2014/65093 , page 131

5

ReportLand Information

Part Tyagarah Airfield Part Lot 49 DP 881232

5 Owner –Byron Shire Council

Classification – Operational Land

Part West Byron STP Part Lot 2 DP 706286

Owner –Byron Shire Council

10 Classification – Operational Land

Background

At the Ordinary Council meeting held 19 August 2012, Council considered a report titled “Establishment of companion Animal Shelter at Tyagarah Airfield”, and resolved [12-264] in part for CAWI to occupy and develop Operational land at Tyagarah (Part Lot 49 DP 881232) for the purposes of a Companion Animal Refuge and associated services. In accordance with this resolution, CAWI lodged DA 10.2014.006.1 to subdivide the land area and develop the land for this purpose. The development application is yet to be determined by Council.

20 Tyagarah Airfield Options Report

The Tyagarah Airfield Options Report prepared by The Airport Group (TAG) in March 2014 identified the proposed CAWI site as being part of the Council owned operational land at Tyagarah with potential commercial value to Council for inclusion in future options at Tyagarah in order to create a higher financial return for Council.

25

The recommendations contained in the TAG report prompted staff to consult with CAWI to investigate suitable alternative site options within the shire boundaries.

Proposed Alternative Site

30 The Operational land at West Byron Sewer Treatment Plant (STP) including the existing Animal Pound (Part Lot 2 DP 706286) was identified as being suitable for the purposes of an animal shelter.

35 Further consultation with CAWI and inspections of the newly proposed site were conducted by staff to clarify the extent of the CAWI’s proposal and operational requirements, whilst also taking into consideration future expansion requirements of the West Byron STP.

40 CAWI have provided their in principal agreement to the proposed alternative site, as set out in Attachment 1. In principal support for the alternative site for CAWI was provided by Director Infrastructure Services, with further consideration of access gates, fencing and drainage be undertaken during the development application for subdivision.

Development Applications

45 Development Application 10.2014.6.1 has previously been lodged for the Establishment of companion Animal Shelter at Tyagarah Airfield to relation to resolution 12-264. CAWI will withdraw the development application over the land at Tyagarah (Part Lot 49 DP 881232) on council resolving to advance the proposed new location at West Byron.

50 A new development application will be lodged by CAWI for the subdivision of the land at West Byron STP in accordance with the agreed land area and for any proposed other works required by CAWI. CAWI have indicated their intention to stage any necessary works, as initially they would simply be operating from the existing pound building.

CAWI have requested Council consider a reimbursement of the consultant costs they incurred to in preparing and submitting the Tyagarah Airfield site development application to the value of \$25,000.

5 Deed of Agreement, Lease and Service Level Agreement (SLA) for Pound Services

Council's previous resolution 12-624 for CAWI's occupation of the Tyagarah Airfield site, provided for funding and preparing the necessary legal documentation. These have been substantially completed and will require small modifications to accommodate the site location and pound service provisions.

10 The SLA recognizes the business relationship that exists between Council and CAWI. Its purpose is to enhance this relationship by defining the levels of service agreed upon.

15 Foundational to the SLA is that Council seeks to provide its pound of facilities to CAWI to service Council's needs in providing care and management of impounded and surrendered animals.

20 Council seeks to provide facilities to CAWI which will enable CAWI to provide (at its cost entirely) facilities, buildings, personnel, plant, equipment, technology and communication systems, administration and management necessary or incidental to the provision of pound services in Byron Shire.

25 The body of the SLA documents the terms and conditions of the agreed services. It sets out in specific and measurable terms the services to be provided, problem resolution, delivery roles and responsibilities for the services and the duration and administration of the SLA.

CAWI will need to ensure that at all times, an adequate number of its animal attendants or agents are available at the Pound to carry out CAWI functions, pursuant to the agreement.

30 CAWI will need to acknowledge and accept responsibility for ensuring that Council's community standing and credentials are maintained through the operation of the Pound.

35 Consistent with this there would be greater pound supervision and release of Rangers from almost all pound functions. This would result in a significant increase in Ranger productivity by allowing Rangers to be freed up to more actively patrol problem areas thus reducing complaints and associated costs.

Financial Implications

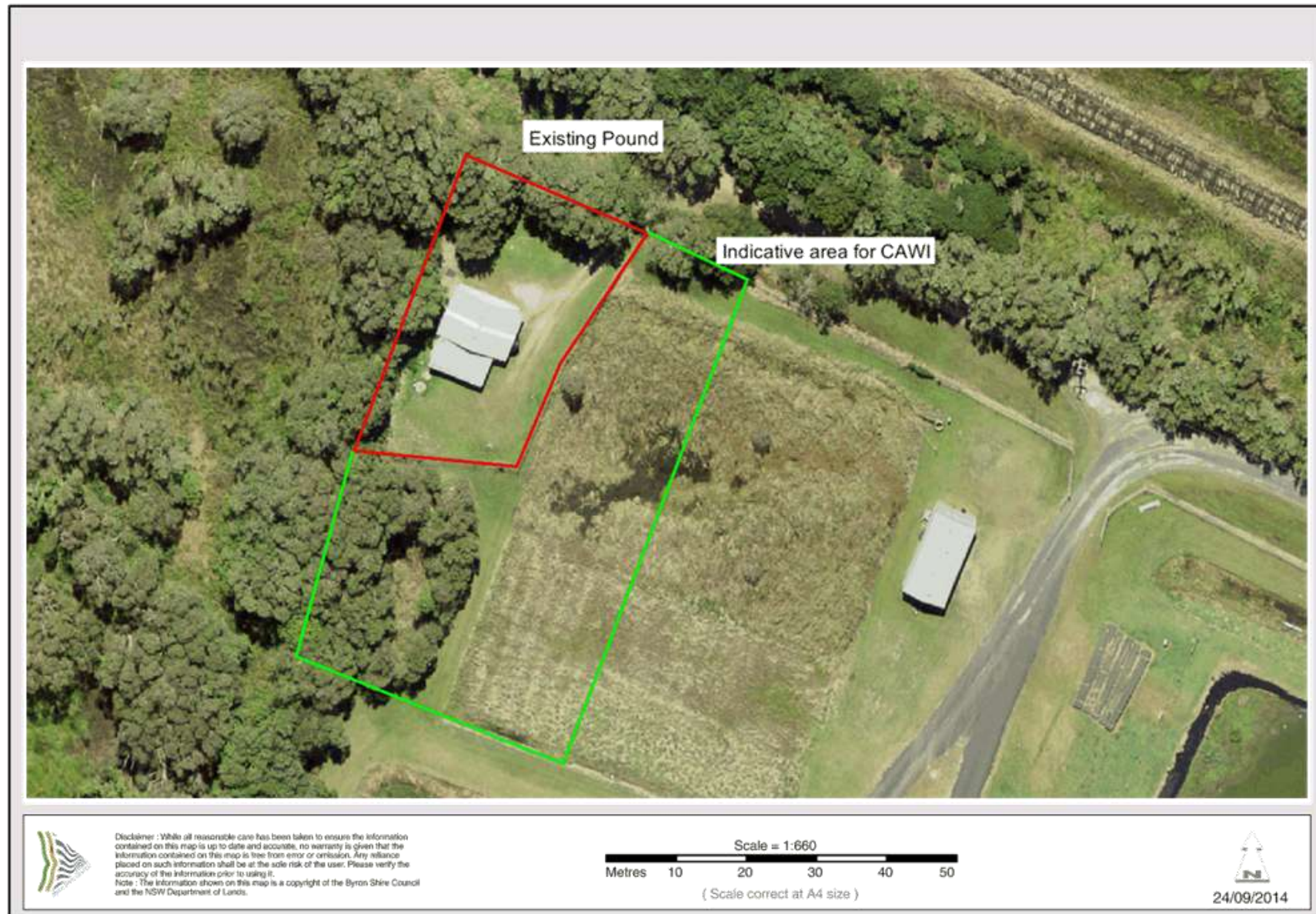
40 It is proposed that all costs and fees associated with the recommendations are to be paid by CAWI in accordance with Council's adopted fees and charges.

45 There is a direct cost to Council for reimbursement of the expenses incurred by CAWI for the development application lodge over the previous Tyagarah Airfield site. It is proposed to fund the \$25,000 reimbursement from the Tyagarah Airfield Future Options Project budget recommended for establishment, refer the report in this agenda titled "Tyagarah Airfield Future Options".

Establishing a service level agreement for pound services between CAWI and Council could provide cost and productivity offsets over time with the reduction of animal impounding and handling costs and freeing up rangers from animal handling to more activity in their other patrol functions.

50 **Statutory and Policy Compliance Implications**

55 Clause 400(4) of the Local Government (General) Regulation 2005 provides the seal of a Council must not be affixed to a document unless the document relates to the business of the Council and the Council has resolved by resolution specifically referring to the document that the seal be so affixed.



Report No. 13.12 Conduct of the 2016 Local Government Election**Directorate:** Corporate and Community Services**Report Author:** Gayle McCallum, Governance Officer
Trish Kirkland, Manager Governance Services5 **File No:** I2014/26**Theme:** Corporate Management
Administrative Services10 **Summary:**

This report has been prepared to allow Council to consider the arrangements for the conduct of the 2016 Local Government Election.

15 In accordance with the Local Government Act Section 296(3) Council is required to resolve at least 18 months before the next ordinary election of councillors the arrangement to be entered into and the arrangement is entered into no later than 15 months before the next ordinary election of councillors.

20 This report recommends that Council enter into an arrangement with the NSW Electoral Commissioner to administer of the 2016 Local Government Election, and any associated council polls and constitutional referenda.

25

RECOMMENDATION:

1. That Byron Shire Council ("Council"), pursuant to s. 296(2) and (3) of the *Local Government Act 1993 (NSW)* ("the Act") that an election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of the Council.
2. That Council pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, that a council poll arrangement be entered into by contract for the Electoral Commissioner to administer all council polls of the Council.
3. That Council pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, referendum arrangement be entered into by contract for the Electoral Commissioner to administer all constitutional referenda of the Council.

Attachments:

- 30 1 Report on the inquiry into the 2012 Local Government Elections, E2014/76428 (provided under separate cover)

Report

Amendments to the Local Government Act 1993 ("Act") and the Local Government (General) Regulation 2005 ("Regulation") in 2011 removed the mandate of the New South Wales Electoral Commission ("NSWEC") to run local government elections and instead returned the responsibility of administering elections to Councils.

Councils can now determine how their elections will be administered, but this determination must be made no later than 18 months before the next ordinary election of councillors. Councils in making that determination must do so by Resolution and that Resolution should include the arrangement that is to be entered into, and the arrangement is to be entered into no later than 15 months before the next ordinary election of councillors.

In October 2011 Council resolved to engage the NSW Election Commission to administer any elections, referendum and polls until the conclusion of the September 2012 ordinary elections. Byron Shire Council shared a Returning Officer with Ballina Shire Council for potential savings. The cost for the NSW Election Commission to administer the 2012 LG Election was \$143,833.42 (excl. GST).

For Councillors information a report on the review of the 2012 Local Government Election is shown at Attachment A.

Council was contacted early 2014 with regard to engaging the services of Regional Procurement to participate in a tender process for the Provision of Election Services for nominated Councils.

Initially, Council sought to participate in the process to test the market for service and costs. However as the process has progressed and as more detailed information became available, council opted out of the formal tender process. The main reasons for this decision being:

- There are less than 10% of council's participating and no other Councils in the Northern Rivers area;
- The obligation of entering into a formal tender and the time line of the tender process, may have fettered the ability of Council to enter into an arrangement with the NSW Election Commission;
- On the basis that there were no other North Coast Councils participating in the tender process there was no possibility of regional resource sharing; and
- That upon a review of the tender specifications it was assessed that significant additional Council staff resources would be required to manage and conduct the election under the Regional Procurement tender process.

Consequently, this report recommends that Council enter into arrangement into with the Electoral Commissioner to conduct the 2016 Council Election and any associated council polls and constitutional referenda.

The NSW Electoral Commission has advised Council that a number of councils have already passed a resolution requesting the NSW Electoral Commission administer their elections, polls and referenda up to and including the 2016 ordinary elections and for a period of 18 months beyond that. For Council's reference they have included a "Model" council resolution which is that as recommended.

Financial Implications

Council will require a budget allocation in its 2015/2016 Budget for Administration expenses and 2016/2017 Budget for payment for administering the election. The following election expenses were incurred in the 2008 and 2012 Local Government Elections.

2008	NSW Election Commission	\$127,498
2012	NSW Election Commission	\$143,833

- 5 This represents an approximate 12 ½% increase from 2008 to 2012. Based on these figures a budget allocation of approximately \$162,000 will be required for the 2016 ordinary election of Councillors plus Council administration costs and extra costs if Council resolves to hold a Referendum or Poll.

10 **Statutory and Policy Compliance Implications**

Section 55(3) of the Act now provides that a council need not invite tenders before entering into a contract with the Electoral Commissioner for the administration of the council's elections, constitutional referendums and polls.

- 15 Where a council decides to conduct its own elections, constitutional referendums and polls, section 296 of the Act makes it clear that the General Manager is responsible for their conduct.

- 20 Section 296A of the Act provides that the responsibilities of the General Manager include appointing a suitably qualified independent returning officer and a substitute returning officer for the council's area, appointing the polling places and determining the fees payable to the returning officer, substitute returning officer and electoral officials. The returning officer is to appoint one or more electoral officials.

- 25 Section 296A also provides that the General Manager cannot be appointed as a returning officer, substitute returning officer or electoral official for any area.

- 30 The General Manager will also be responsible for managing the relevant election costs and preparing a report for the Minister for Local Government on the conduct of each election. The report must disclose, among other things, full and transparent costings for that election. It is already the practice of the Electoral Commissioner to report to the NSW Government on the outcome of council ordinary elections.

35 **Local Government Act 1993**

296 **How elections are to be administered**

- (1) Elections for the purposes of this Chapter are to be administered by the general manager of the council concerned, except as provided by this section.
- 40 **Note.** Section 18 provides that certain provisions of this Act (relating to the conduct of elections) apply to council polls and constitutional referendums, with such modifications as may be necessary, in the same way as they apply to elections.
- (2) A council can enter into an arrangement (an **election arrangement**) with the Electoral Commissioner, by contract or otherwise, for the Electoral Commissioner to administer elections of the council as provided by this section. If such an arrangement is entered into, the Electoral Commissioner is to administer elections of the council in accordance with the arrangement.
- 45 (3) An election arrangement for the Electoral Commissioner to administer all elections of a council can be entered into if:
- (a) the council resolves at least 18 months before the next ordinary election of councillors that such an arrangement is to be entered into, and
- 50 (b) the arrangement is entered into no later than 15 months before the next ordinary election of councillors.
- (4) An election arrangement for the Electoral Commissioner to administer a particular election of a council (other than an ordinary election of councillors) can be entered into at any time if the council has resolved that an election arrangement for the election is to be entered into.
- 55

- (5) An election arrangement for the Electoral Commissioner to administer an ordinary election of councillors can be entered into less than 15 months before the election if:
- 5 (a) the council has resolved that an election arrangement for the election is to be entered into, and
- (b) the Electoral Commissioner is satisfied that there are exceptional circumstances that make it necessary or desirable for the election to be administered by the Electoral Commissioner.
- 10 (6) An election arrangement for the Electoral Commissioner to administer all elections of a council can be terminated by the council or the Electoral Commissioner at any time after the next ordinary election of councillors (by giving written notice of termination). If the arrangement is not terminated by either party after an ordinary election of councillors, the arrangement is automatically terminated 18 months before the next ordinary election of councillors.
- 15 (7) The Electoral Commissioner is to administer the first election for an area after its constitution. Expenses incurred by the Electoral Commissioner (including the remuneration of election officials) in connection with such an election are to be met by the council and are recoverable from the council as a debt owed to the Electoral Commissioner.
- (8) This section does not apply to an election of the mayor or a deputy mayor by councillors

Report No. 13.13 Meeting Dates for Finance Advisory Committee for 2015

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

File No: I2014/44

5 **Theme:** Corporate Management
Financial Services

Summary:

10 The purpose of this report is to schedule meeting dates for the Finance Advisory Committee for 2015 and to determine a preferred time to commence the meetings.

15

RECOMMENDATION:

That the following dates be adopted for the Finance Advisory Committee's meetings for 2015 and that the meetings commence at 2.00pm.

- Thursday 19 February 2015
- Thursday 14 May 2015
- Thursday 20 August 2015
- Thursday 12 November 2015

Report

Proposed Meeting Schedule and Meeting Time

- 5 The Constitution for the Finance Advisory Committee's states that the Committee will meet as required.

The Constitution under Section 2 – Objectives states the purpose of the Committee as being to:

- 10 “ a) assist in the development of draft budgets
b) assist in the format of the annual report, and
c) consider other financial information and matters as they arise”

- 15 In relation to part c) Council has determined that the Finance Advisory Committee should receive progress reports on the implementation of the Financial Sustainability Project Plan (refer Resolution **13-148**) and the Committee has also requested that Quarterly Budget Review be presented to the Committee for its consideration prior to it being presented to Council.

- 20 To facilitate the presentation of both these reports to the Committee on a quarterly basis, and to allow for the scheduling of other reports, is it recommended that the Committee determine the dates for the required quarterly meetings.

- 25 Other meetings may need to be scheduled, from time to time, during the year to consider the other matters, such as the development of budgets, along with the development of other plans and policies, required by the Integrated Planning and Reporting Framework.

The dates proposed are based on the Finance Advisory Committee meeting one week prior to the Ordinary Meetings at which Council's quarterly budget review will be reported.

- 30 Thursday 19 February 2015
Thursday 14 May 2015
Thursday 20 August 2015
Thursday 12 November 2015

- 35 The recommendation also provides for a preferred time to commence the meetings. The recommended time of 2.00pm has been proposed on the basis that all of the proposed dates are the same, as dates proposed for the Internal Audit Committee, which is proposed to commence at 11.00am.

- 40 This report was presented to the Finance Advisory Committee Meeting held on 13 November 2014 for consideration but the recommendation was not able to be considered due to there not being a quorum at the Meeting, and is now presented to Council for the consideration and adoption of the proposed Meeting dates for 2015.

45 **Financial Implications**

Nil

Statutory and Policy Compliance Implications

- 50 The Finance Advisory Committee's Constitution states:

- at section 11 that "Meetings [are] to be held as required."

55

Report No. 13.14 **Review of Long Term Financial Plan 2014-2024**
Directorate: Corporate and Community Services
Report Author: James Brickley, Manager Finance
File No: I2014/45
5 **Theme:** Corporate Management
 Financial Services

Summary:

10 The Long Term Financial Plan (LTFP) is a requirement under the Integrated Planning and Reporting Framework for NSW Local Government and forms part of the Resourcing Strategy.

15 A Council in its Resourcing Strategy is required to identify the resources required to implement the strategies established by the Community Strategic Plan (CSP). The Strategy must include, in addition to the LTFP, a Workforce Plan and a Asset Management Plan.

20 The Finance Advisory Committee considered a report at its Meeting held on 21 August 2014 where it recommended to Council the following:

'That a report be provided to Council with the updated Draft Byron Shire Council Long Term Financial Plan 2014-2024 incorporating the assumptions and scenarios indicated in this report or otherwise determined by the Finance Advisory Committee.'

25 Council at its Ordinary Meeting held on 18 September 2014 adopted this recommendation through resolution **14-444**.

30 This report is provided to Council to reconsider and defer the development of the updated 2014-2024 Long Term Financial Plan given the release by the NSW Government of its proposed reforms for the local government sector as part of being 'Fit for the Future'.

RECOMMENDATION:

That Council defer the updating of its Long Term Financial Plan until it has prepared its response to the NSW Government's Fit for the Future assessment, so that the Plan aligns with that assessment, and incorporates the revised asset management planning work currently being undertaken.

Report

Background

- 5 The Long Term Financial Plan (LTFP) is a requirement under the Integrated Planning and Reporting Framework for NSW Local Government and forms part of the Resourcing Strategy. A Resourcing Strategy is a document Council must produce to detail the provision of resources required to implement the strategies established by the Community Strategic Plan (CSP).
- 10 Council developed and adopted its first Long Term Financial Plan through resolution **12-542** in 2012 and is required to update it at least on an annual basis as part of the development of the Operational Plan.

15 As background, the requirement for an LTFP is governed by Section 403 of the Local Government Act 1993.

The LTFP provides a framework in which a Council can assess its revenue building capacity to meet the activities and level of services outlined in its Community Strategic Plan. It also:

- 20
- Establishes greater transparency and accountability of Council to the Community.
 - Provides an opportunity for early identification of financial issues and any likely impacts in the longer term.
 - Provides a mechanism to solve financial problems as a whole, see how other plans fit together and understand the impact of some decisions on other plans or strategies.
- 25
- Provides a means of measuring Council's success in implementing strategies.
 - Confirms that Council can remain financially sustainable in the longer term.

The Long Term Financial Plan (LTFP) must support or provide for the following essential elements:

- 30
- Must be used to inform the decision making during the finalisation of the Community Strategic Plan and the development of the Delivery Program.
 - Must be for a minimum of 10 years.
 - Must be updated at least annually as part of the development of the Operational Plan.
 - Must be reviewed in detail as part of the four yearly review of the Community Strategic Plan.
- 35

The basic structure of the Long Term Financial Plan (LTFP) must include the following:

- 40
- Projected income and expenditure, balance sheet and cash flow statement.
 - Planning assumptions used.
 - Methods of monitoring financial performance.
 - Sensitivity analysis and modelling for different scenarios.

Draft Long Term Financial Plan 2014-2024

45 The Finance Advisory Committee considered a report to its Meeting held 21 August 2014 where it recommended to Council proposed assumptions and scenarios to update the Long Term Financial Plan for the period 2014-2024. These were adopted by Council on 18 September 2014 through resolution **14-444** as follows:

50

Assumptions

- Working Funds Balance to be set to at least \$1,000,000.
- Rate pegging to be linked to the Consumer Price Index (CPI).

- General rate income growth per annum (new assessments) from development 0.5%.
- Salary and wage indexation to be set at Consumer Price Index (CPI) plus 0.75%.
- Asset construction and maintenance indexation 5%.
- All other costs to be indexed by the Sydney All Groups Consumer Price Index (CPI)
- 5 • Investment rates will be the 90 day bank bill rate.
- Loan borrowing rates will be assumed at the current investment bill rate for the respective term plus 0.70%.
- New loan borrowings will only be for the following:
 - 10 ○ Capital works where funding for annual recurrent operational costs attributable to new assets has been factored into the budget as affordable and funded.
 - To reduce the funding gap for the renewal of existing infrastructure. Including application for loan interest subsidies under the Local Infrastructure Renewal Scheme (LIRS).
 - 15 ○ When it is for commercial purpose and repayments can be met from additional revenue sources.
 - The term of the loan must also accord with Council's loan borrowing policy 09/006 in that the loan borrowing term should be relevant to the useful life of the asset being funded from the loan borrowings.

20 In addition to the above, the Byron Shire Council Long Term Financial Plan (LTFP) is assumed to have as its base case all of the outcomes identified by the Community Strategic Plan, Delivery Program and Operational Plan and by virtue of that is linked to those documents.

Scenarios

25 The base case scenario contained in the updated Draft LTFP 2014-2024 is the current 2014/2015 budget estimates relevant to the current Operational Plan adopted by Council on 12 June 2014 (Resolution **14-285**). This will be further supplemented through inclusion of the outcomes of the report concerning Budget Carryovers for inclusion in the 2014/2015 Budget to be considered by
30 Council at its Ordinary Meeting to be held on 28 August 2014 and to this meeting of the Finance Advisory Committee.

35 Three scenarios will be built off the base case scenario to be included in the updated Draft LTFP 2014-2024. The proposed scenarios will be represented by projected financial statements including income statement and balance sheet based on the disclosure requirement of the LTFP. The scenarios are proposed to be on a Consolidated Fund basis ie General, Water and Sewerage combined and are based on the following:

- 40 • Base Scenario – Current Original 2014/2015 Budget Estimates plus 9 year projections based on current service levels as per resolution **14-285** plus incorporation of the Budget Carryovers for inclusion in the 2014/2015 Budget yet to be adopted by Council. Funding for the subsequent 9 year projections for capital works will need to be resolved as there are works included with no funding source that is outlining deficits
- 45 • Scenario 1 – Based off the Base Scenario but includes realisation of operational land assets that may be considered surplus to Council requirements as per the adoption of the Financial Sustainability Project Plan (FSPP) 2014/2015, Section 5 – Land Review and Property Development. This scenario will demonstrate a change in the balance sheet as cash and investments are increasing due to the asset sales being realised only as the
50 scenario does not disclose what is happening to the sale proceeds (ie restricted in the infrastructure renewal Reserve for the purpose of funding infrastructure renewal works determined by Council).

- Scenario 2 – is based on scenario 1 but also includes an impact on the introduction of a paid parking regime in Byron Bay. Again at this scenario will impact the income statement through additional paid parking revenue and expenditure for managing the paid parking along with the balance sheet relating to asset renewal as the scenario is based on funding additional roads and open space/recreation capital works.
- Scenario 3 – is based on scenario 2 but also includes an annual ongoing rate increase of 3% above the rate peg. This option considers a view of the Independent Local Government Review Panel that rate increases over and above the rate peg amount of no more than 3% may not require approval by the Independent Pricing and Regulatory Tribunal. (IPART). This scenario will impact the income statement through additional rate income and the balance sheet via cash and investments increasing as expenditure of the additional rate revenue is not currently included but would obviously be related to infrastructure renewal/maintenance.

The Office of Local Government as part of the NSW Government's 'Fit for the Future' reforms for the local government sector issued Circular 14-28 on 31 October 2014. This circular canvassed the release of the Fit for the Future Self Assessment Tool, Templates and Guidance Materials to assist Council in preparing their response to the NSW Government by 30 June 2015 how it will be 'Fit for the Future'.

A significant part of the response to the NSW Government will centre around asset management and Council's ability to deal with its infrastructure backlog, asset maintenance and its overall financial sustainability. These are significant parts to the Long Term Financial Plan to forecast to Council and to the NSW Government how Council will deal with these matters in the longer term.

Council's current Long Term Financial Plan requires the development of a funded ten year capital works program and appropriate levels of service in terms of asset maintenance. Work is currently underway to address these matters that will link into the Long Term Financial Plan to indicate how Council can address its financial sustainability and manage its significant asset inventory in the longer term. It is also proposed to incorporate the performance measures outlined in the Fit for the Future response into a revised Long Term Financial Plan.

It is considered essential that the revision and preparation of an updated Long Term Financial Plan includes the information that is currently being developed by the asset management area. It is seen that the best approach is for Council to supplement its response to the Fit for the Future requirements with an updated Long Term Financial Plan, that incorporates more realistic projections for asset maintenance and renewal than what are currently available.

Whilst the guidelines referred to in the Statutory and Compliance section of this report require the Long Term Financial Plan to be updated annually, these were issued in 2010, prior to the Fit for the Future requirements being developed and released. Given the importance of the Council submission by 30 June 2015, it is considered the Long Term Financial Plan is updated in conjunction with the preparation of Council's submission and includes reference to the asset management work currently being undertaken. .

This report was presented to the Finance Advisory Committee Meeting held on 13 November 2014 for consideration but the recommendation was not able to be considered due to there not being a quorum at the Meeting but is now presented to Council for consideration.

Financial Implications

There are no direct financial implications associated with this report. The Long term Financial Plan (LTFP) provides Council with a tool to model financially impacts of policy decisions and be able project the financial sustainability of Council based on assumptions over the longer term.

Statutory and Policy Compliance Implications

The requirement for Councils to develop a Long Term Financial Plan is detailed in Section 403 of the Local Government Act 1993 as follows:

5 403 Resourcing strategy

(1) *A council must have a long-term strategy (called its **resourcing strategy**) for the provision of the resources required to implement the strategies established by the community strategic plan that the council is responsible for.*

10 (2) *The resourcing strategy is to include long-term financial planning, workforce management planning and asset management planning.*

The Division of Local Government has also issued a publication in regard to the LTFP on 7 December 2010 and this can be found at the following link:

15 <http://www.dlg.nsw.gov.au/dlg/dlghome/documents/Information/Integrated%20Planning%20and%20Reporting%20-%20Long-Term%20Financial%20Plan.pdf>

Report No. 13.15 **Monthly Financial Reporting**
Directorate: Corporate and Community Services
Report Author: James Brickley, Manager Finance
File No: I2014/47
5 **Theme:** Corporate Management
 Financial Services

Summary:

10 Council at its Ordinary Meeting held 19 September 2013 resolved through resolution **13-497** that it receive a Monthly Finance Report based on the template at Annexure 2 (#E2013/49588) for a trial period of twelve months.

15 The Finance Advisory Committee further reviewed the reporting template at its Meeting held on 14 November 2013.

20 The twelve month trial period outlined in resolution **13-497** has now expired and as such the format and content of the Monthly Financial Reporting to Council is now reported to Council for review.

25 The intent of this report is for Council to consider a new Monthly Finance Report Template known as the Year to Date Finance Report and whether this report continues to be reported monthly to an Ordinary Meeting of Council, or provided to Councillors monthly for information by memo or the report is no longer produced.

30 This report was presented to the Finance Advisory Committee Meeting held on 13 November 2014 for consideration but the recommendation was not able to be considered due to there not being a quorum at the Meeting but is now presented to Council for consideration.

Council may refer the Report to the first meeting of the Finance Advisory Committee for the Committee to re-consider and provide Council with a recommendation.

RECOMMENDATION:

That the Council consider the form and content of the new Monthly Financial Report Template attached to this report and whether the report continues to be provided to a monthly Ordinary Council Meeting, or it is provided separately to Councillors monthly for information or the report is no longer produced.

Attachments:

1 Proposed Monthly Financial Reporting Template for Council, E2014/73392 , page 147

Report

Council at its Ordinary Meeting held 19 September 2013 resolved through resolution **13-497** that it receive a Monthly Finance Report based on the template at Annexure 2 to that meeting (#E2013/49588) for a trial period of twelve months.

The Finance Advisory Committee further reviewed the reporting template at its Meeting held on 14 November 2013.

The twelve month trial period outlined in resolution **13-497** has now expired and as such the format and content of the Monthly Financial Reporting to Council is now reported to Council for review.

This report was presented to the Finance Advisory Committee Meeting held on 13 November 2014 for consideration but the recommendation was not able to be considered due to there not being a quorum at the Meeting but is now presented to Council to consider the following in regard to the Year to Date Finance Report provided monthly:

- In consideration of the existing Financial Reporting Template and feedback received from Council there seems to be a view to move towards a more 'dashboard indicator' type report. In view of this a proposed new reporting template with monthly data from July 2014 to September 2014 is included for consideration as a proposed format.
- Whether the monthly financial reporting continues to be provided to Council as a report to Council at an Ordinary Meeting each month.
- Whether the monthly financial reporting is provided to Councillors separately each month by way of memo or email but not part of the Council Meeting Agenda.
- Whether Council wishes to still proceed with the provision of a monthly financial report or instead focus as the current legislative requirements require on the Quarterly Budget Review.

Staff are of the opinion that the template attached to this report is indicative of what may be considered a suitable reporting format but would welcome feedback from Council as to whether the proposed reporting template is adequate or needs more or alternate information disclosed.

It is proposed that as the 12 month trial period has expired, that there will be no more monthly financial reporting to Council, until Council has considered and determined this matter. If Council at this Ordinary Meeting determines to continue with monthly financial reporting, it will commence again from February 2015.

As indicated below in the Statutory and Policy Compliance section of this report, financial reporting requirements in terms of legislation to Council are indicated and there is currently no requirement for monthly financial reporting or any prescribed format for a Monthly Finance Report. Whether monthly financial reporting continues at the Council level is for Council to determine as is the format of that reporting and the forum that Council receives such a report should it wish to continue with a Monthly Finance Report.

This report was presented to the Finance Advisory Committee Meeting held on 13 November 2014 for consideration but the recommendation was not able to be considered due to there not being a quorum at the Meeting but is now presented to Council for consideration. Council may determine to refer the Report to the first meeting of the Finance Advisory Committee for the Committee to consider and provide Council with a recommendation.

Financial Implications

There are no direct financial implications associated with this report.

5 Statutory and Policy Compliance Implications

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

10 *The responsible accounting officer of a council must:*

(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*

15 (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

20

(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:*

25

(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*

30

(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.*

35

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:

40

203 Budget review statements and revision of estimates

45 (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.*

50

(2) *A budget review statement must include or be accompanied by:*

(a) *a report as to whether or not the responsible accounting officer believes that the statement indicates that the financial position of the council is satisfactory, having regard to the original estimate of income and expenditure, and*

5 (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.*

10



5

10

DRAFT TEMPLATE

Year to Date Finance Report – September 2014

15

Report to Councillors

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES 13.15 - ATTACHMENT 1

Executive Summary

Council is required under the Local Government (General) Regulation 2005 to maintain a system of budget control. This is a key responsibility of the Council's Responsible Accounting Officer.

Byron Shire Council has an adopted budget for the 2014/2015 financial year that was adopted at the Ordinary Meeting held on 12 June 2014 (Resolution **14-285**). Council at its Ordinary Meeting held on 28 August 2014 adopted carryover budgets that were unexpended in 2013/2014 for inclusion in the 2014/2015 Budget Estimates (Resolution **14-389**).

In overall summary terms the budget and actual situation is as follows at 30 September 2014 at the time this report has been prepared:

Item	Actual + Committed Result	Adopted Budget 2014/2015	Actual to Budget %
Operating Revenue	43,510,726	76,454,700	56.91
Less: Operating Expenditure	22,933,550	69,125,050	33.18
Add: Capital Revenue	835,966	5,772,700	14.48
Less: Capital Expenditure	3,524,026	18,503,300	19.04
Less: Loan Principal Repayments	531,547	2,704,800	19.65
Actual/Budget Result	17,357,569	(8,105,750)	
Net Reserve Movements		(8,122,600)	
Overall Budget Result – Surplus/(Deficit)		16,850	

The current budget result for 2014/2015 is a projected \$16,850 surplus. This result will then should it occur derive a likely accumulated surplus (working funds) for the General Fund of \$1,253,050 by 30 June 2015 pending the outcome for 2013/2014 still to be finalised.

The current budget result for 2014/2015 is illustrating a proposed reduction in cash of \$8,055,450 of which \$8,072,300 is expected to be funded from reserve funds held resulting in a net surplus position of \$16,850.

Further explanations as to the financial results are provided on subsequent pages in this report but overall the short term financial position of Council relative to the 2014/2015 adopted budget is considered satisfactory based on actual results to date excluding commitments.

Introduction

This report provides a snapshot of Council's financial performance as at the end of September 2014 for the 2014/2015 financial year. The report outlines the following results:

- Comparison of operating revenue to budget by Fund graphically.
- Comparison of operating expenditure to budget by Fund graphically.
- Comparison of capital expenditure to budget by Fund graphically.
- Comparison of other financial indicators graphically in the areas of:
 - Recovery of outstanding rates and annual charges.
 - Recovery of outstanding water and sewerage consumption charges.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES 13.15 - ATTACHMENT 1

- Level of cash and investments held.
- The progress on repayment of Council's outstanding loan principal against budget.
- Interest on investments generated compared to budget.

5

Assumptions/Report Parameters Used

10

- Budget comparisons in this report are against the original 2014/2015 budget approved by Council plus the inclusion of the carryovers.
- No depreciation expense has been included in the budget estimates or actual results outlined in this report as it does not involve the flow of funds.
- Capital revenue has not been presented in the report as it is more of a revenue that is used to fund current and future capital works, is more variable in nature and to reduce the size of this report.

15

- Report includes budget profiling where the overall budget is profiled for each month based on expected actual monthly results or average results taken from the last three years experience.

20

- The report provides a graphical snapshot or 'dashboard' of Council's financial performance in the areas of actual compared to budget along with some balance sheet indicators. Complete with the graphs is some relevant commentary.

25

- Other performance indicators may be added from time to time to suit the information needs of Council.
- This report is short term in focus ie the current financial year and is about measuring more so the liquidity position of Council and ensuring the short term financial position of Council remains sound as a going concern. This ensures Council continues to meet its expenditures and liabilities when they become due and payable.

30

BYRON SHIRE COUNCIL

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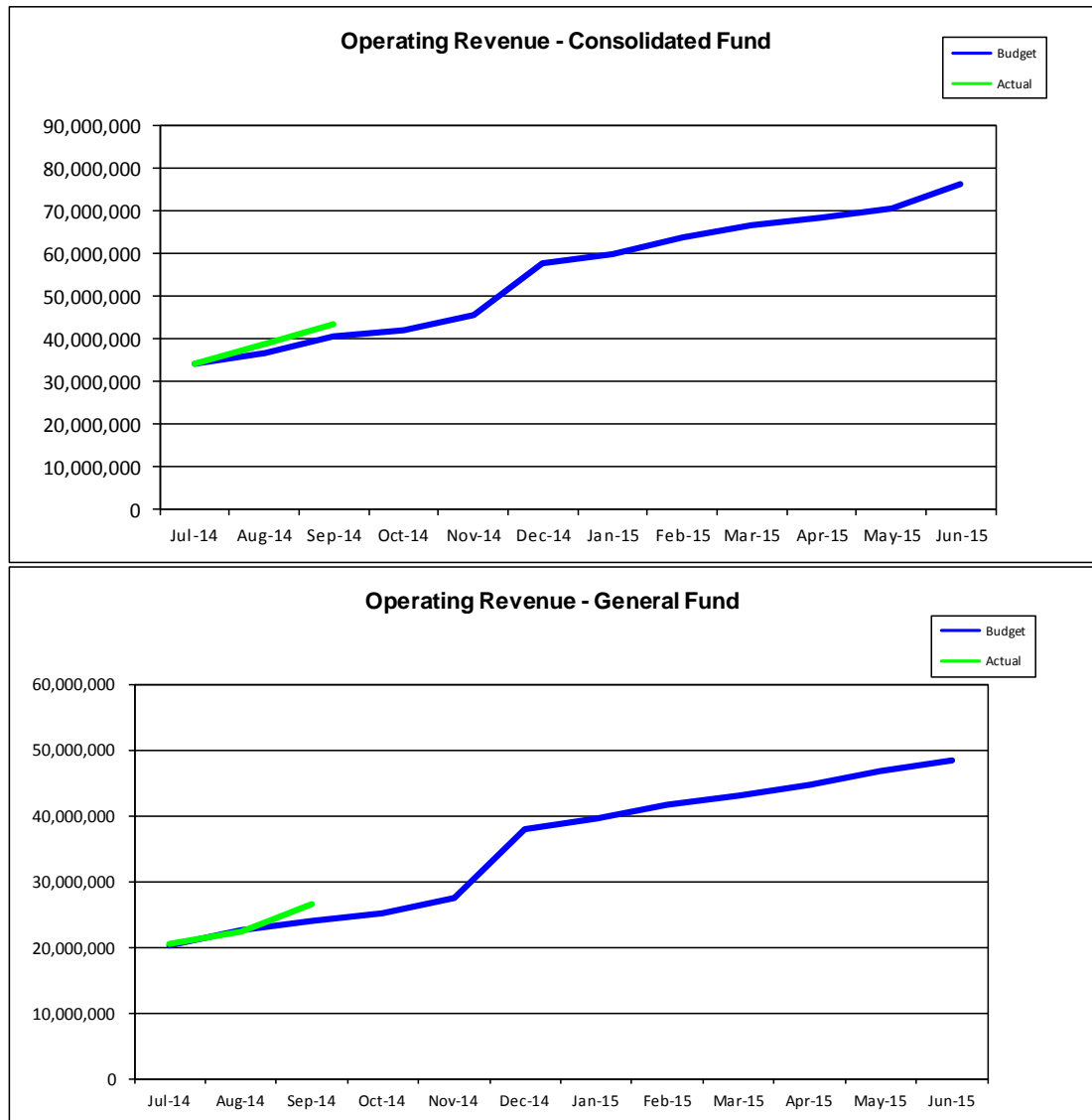
OPERATING REVENUE

5 Total operating revenue at 30 September 2014 is \$43,510,726 (actual) compared to a budget of \$76,454,700. Percentage wise operating revenue actual is at 56.91% of budget whereas the financial year is 25% complete.

Graphically this is represented as follows by Fund:

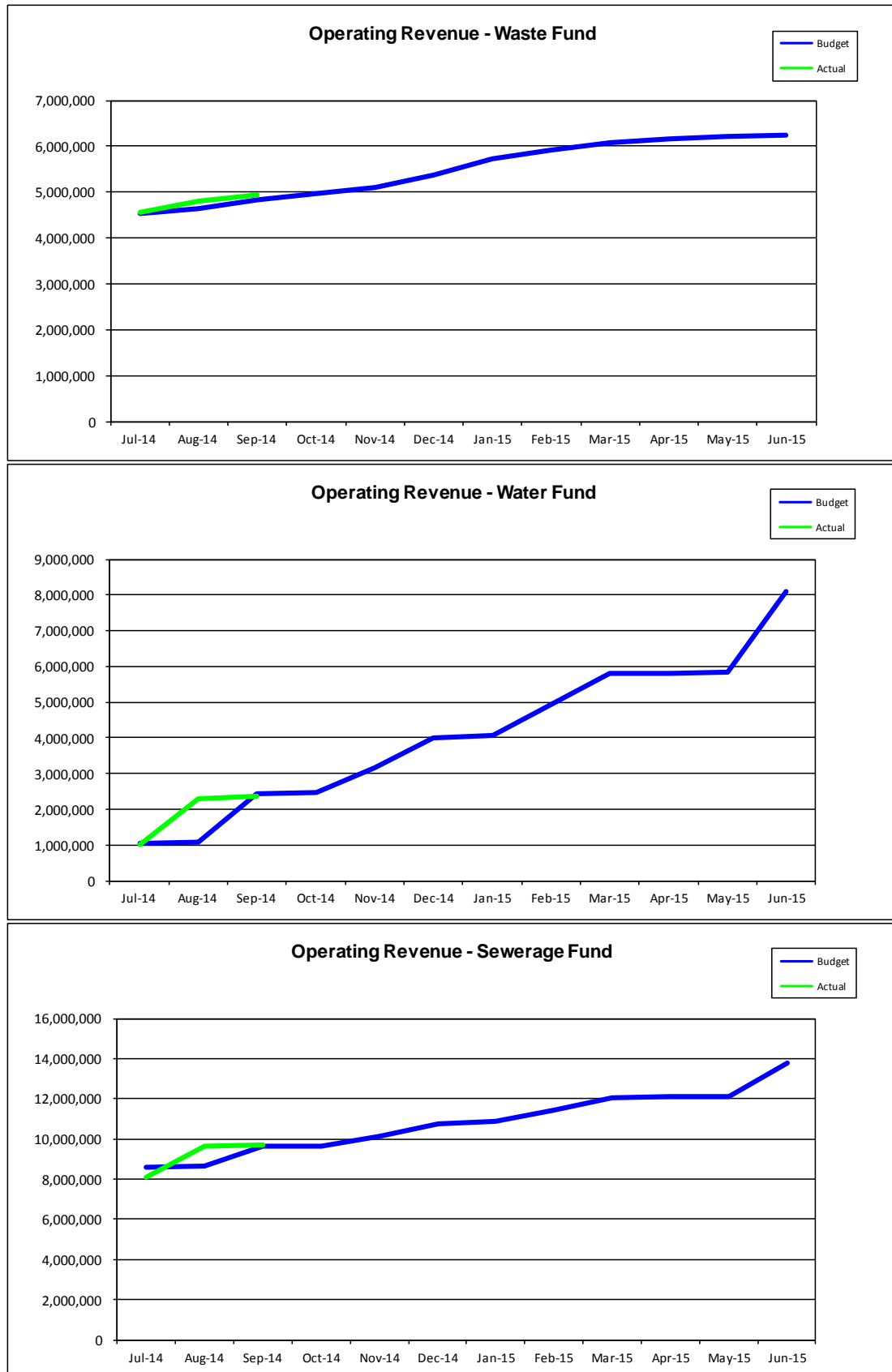
Operating Revenue by Fund

10



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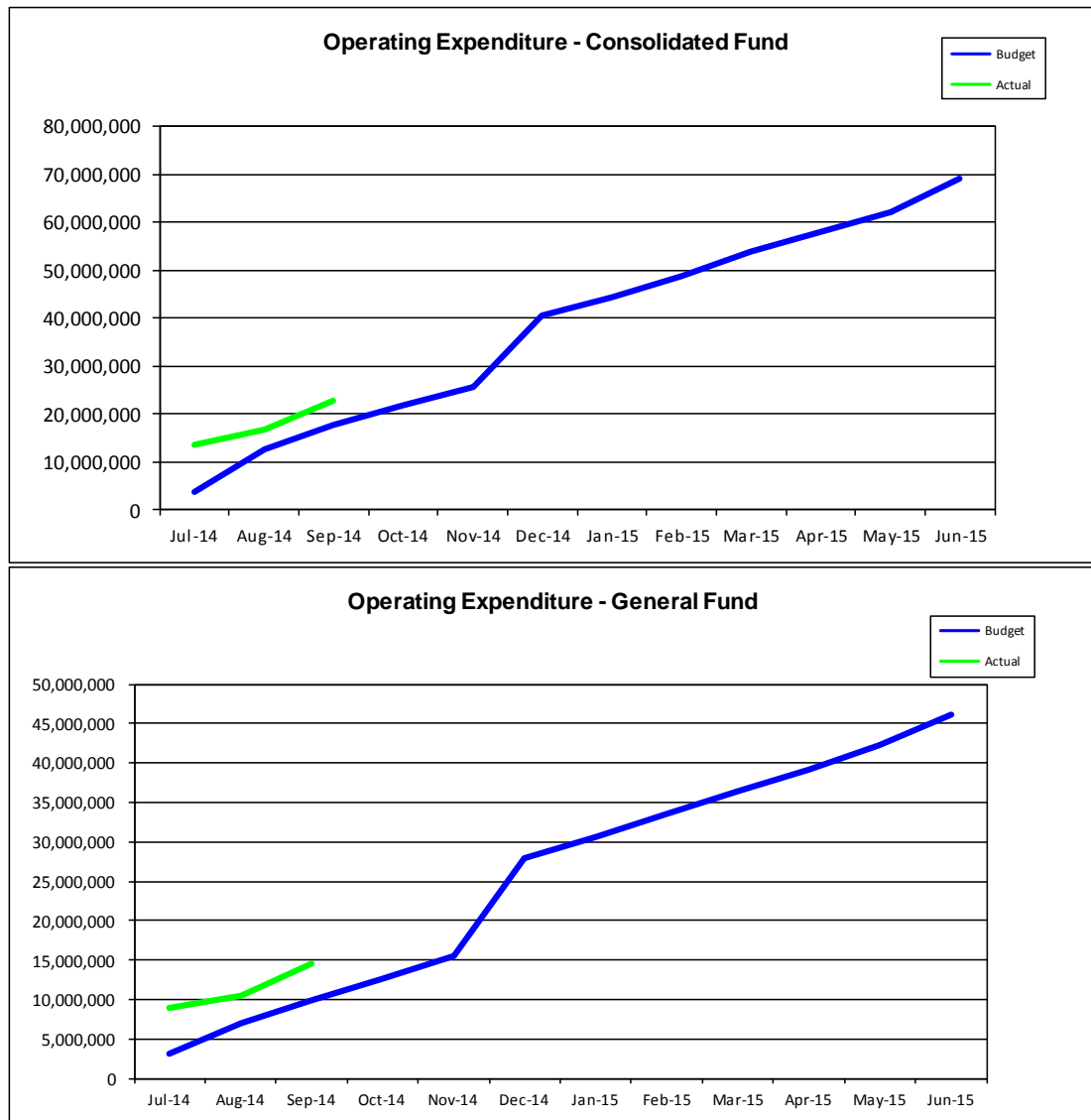
STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES 13.15 - ATTACHMENT 1

OPERATING EXPENDITURE

- 5 Total operating expenditure at 30 September 2014 is \$22,933,550 (actual plus committed) compared to a budget of \$69,125,050. Percentage wise operating expenditure actual is at 33.18% of budget whereas the financial year is 25% complete.

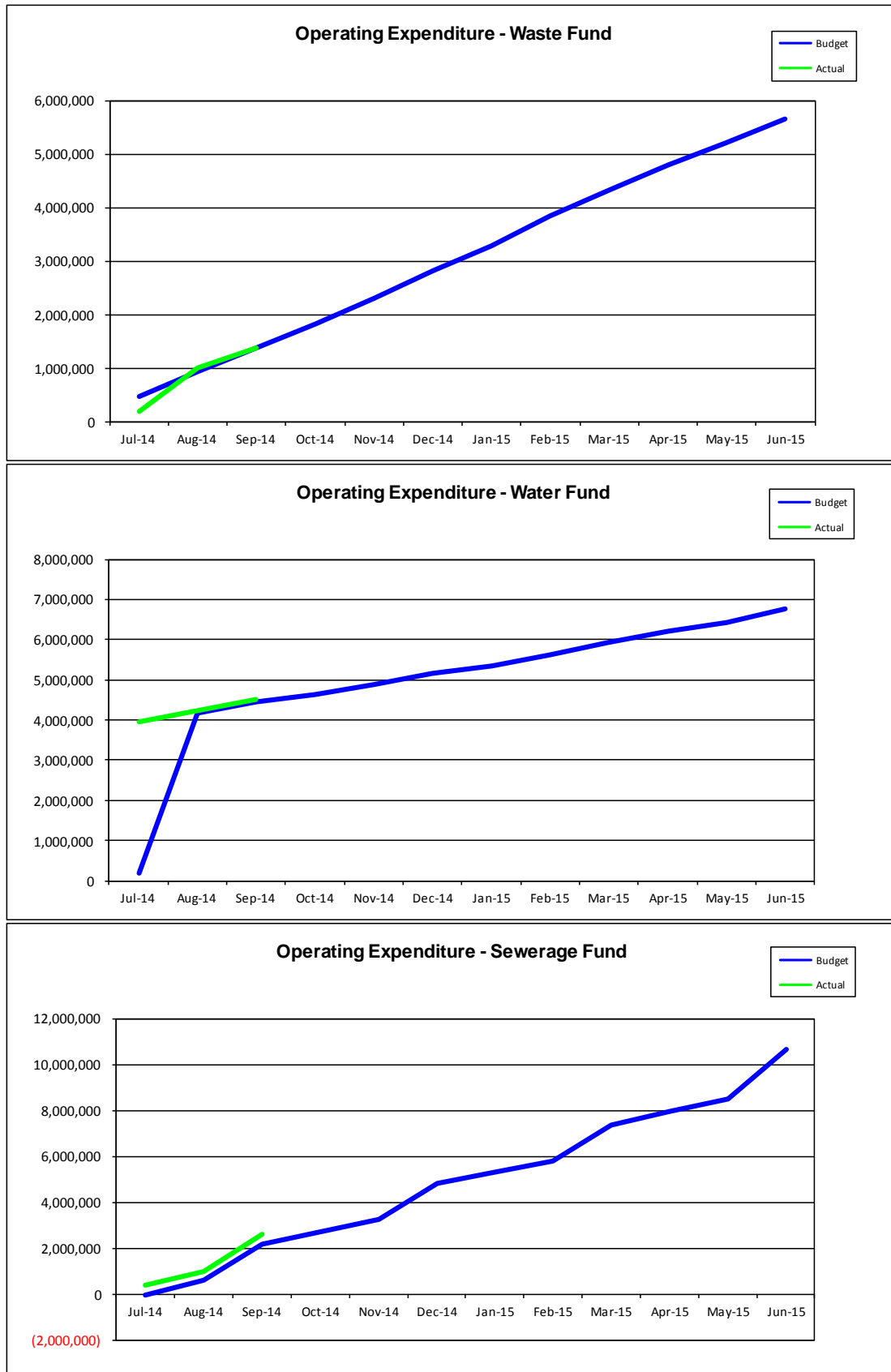
Graphically this is represented as follows by Fund:

10 Operating Expenditure by Fund



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BYRON SHIRE COUNCIL

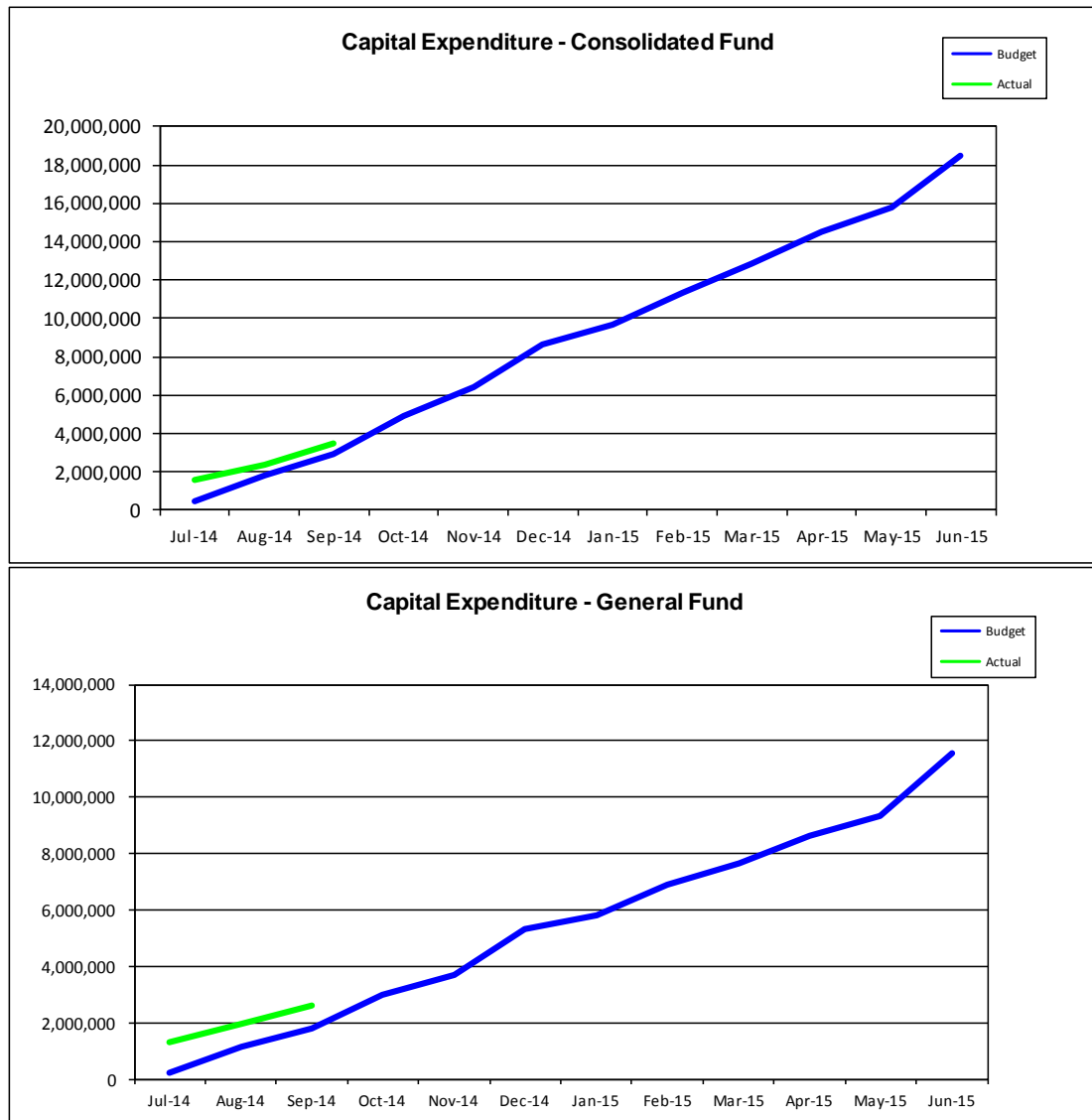
STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES 13.15 - ATTACHMENT 1

CAPITAL EXPENDITURE

Total capital expenditure at 30 September 2014 is \$3,524,026 (actual plus committed) compared to a budget of \$18,503,300. Percentage wise capital expenditure is at 19.04% of budget whereas the financial year is 25% complete. Please note the level of capital expenditure actual compared to budget is not necessarily representative of the level of capital works project completion.

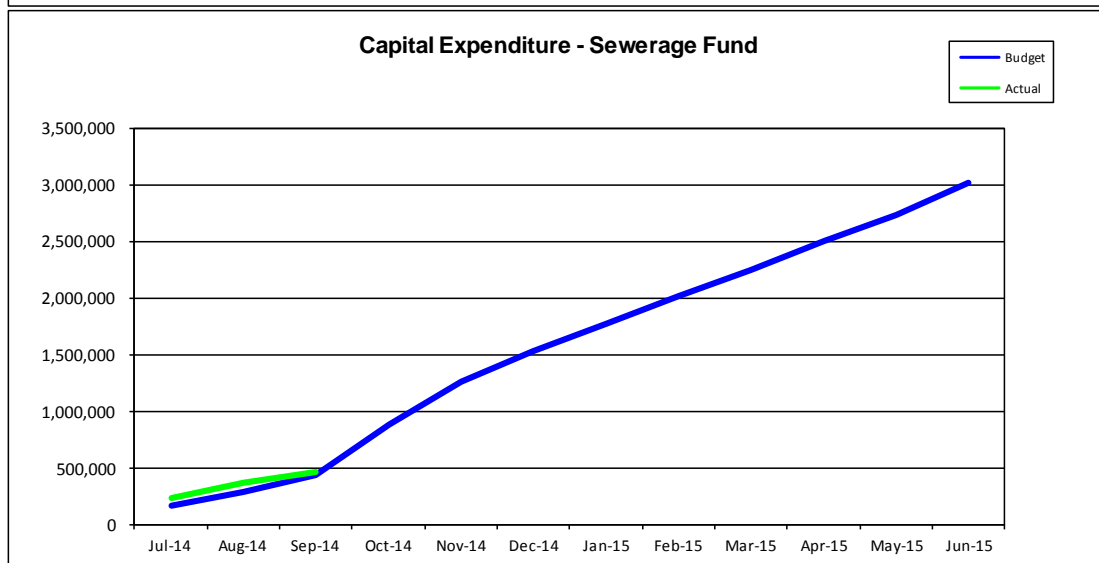
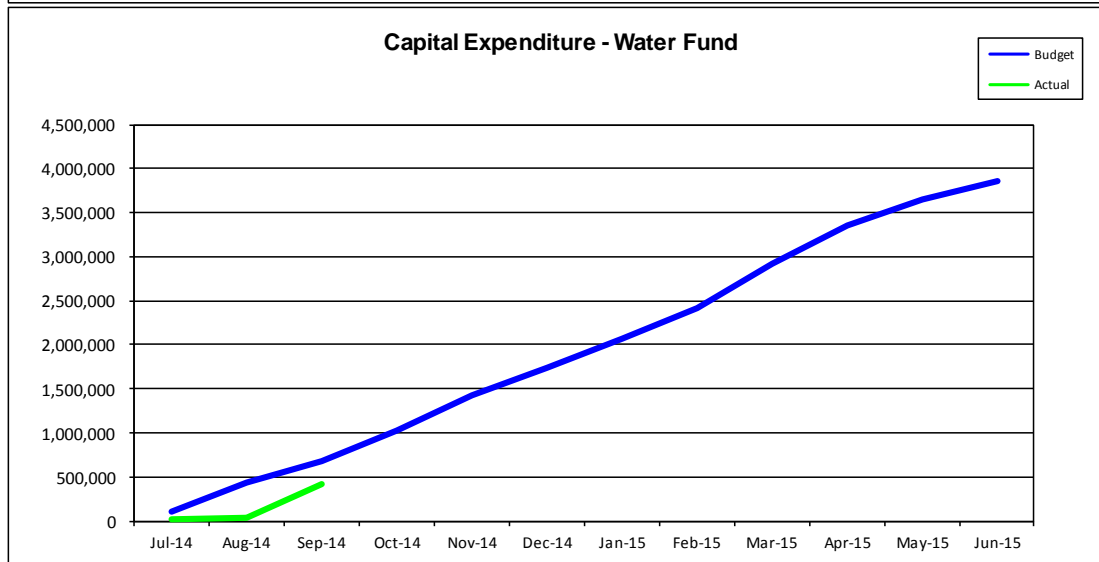
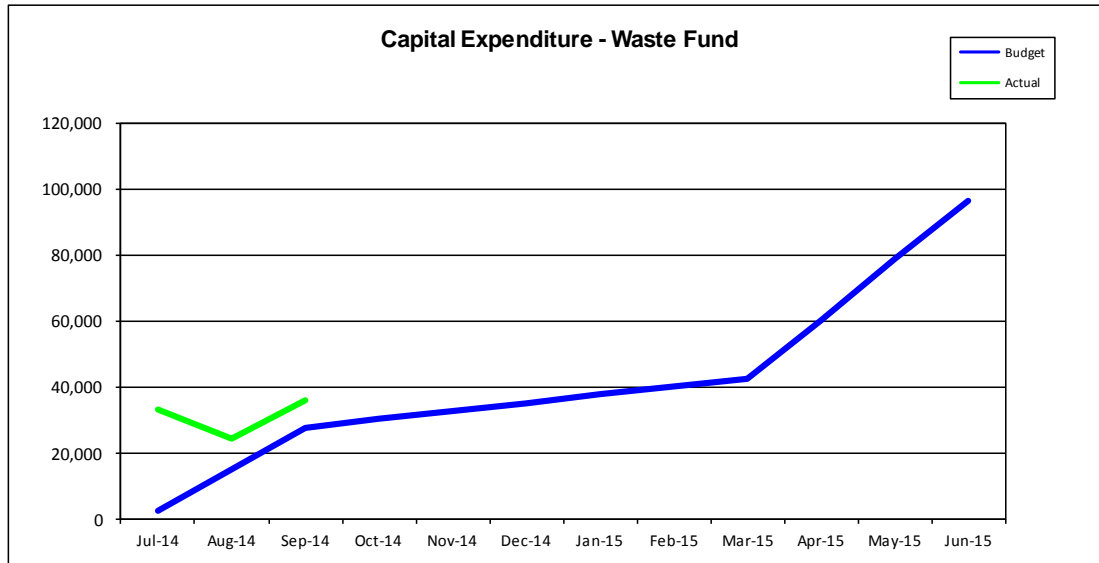
Graphically this is represented as follows by Fund:

Capital Expenditure by Fund



BYRON SHIRE COUNCIL

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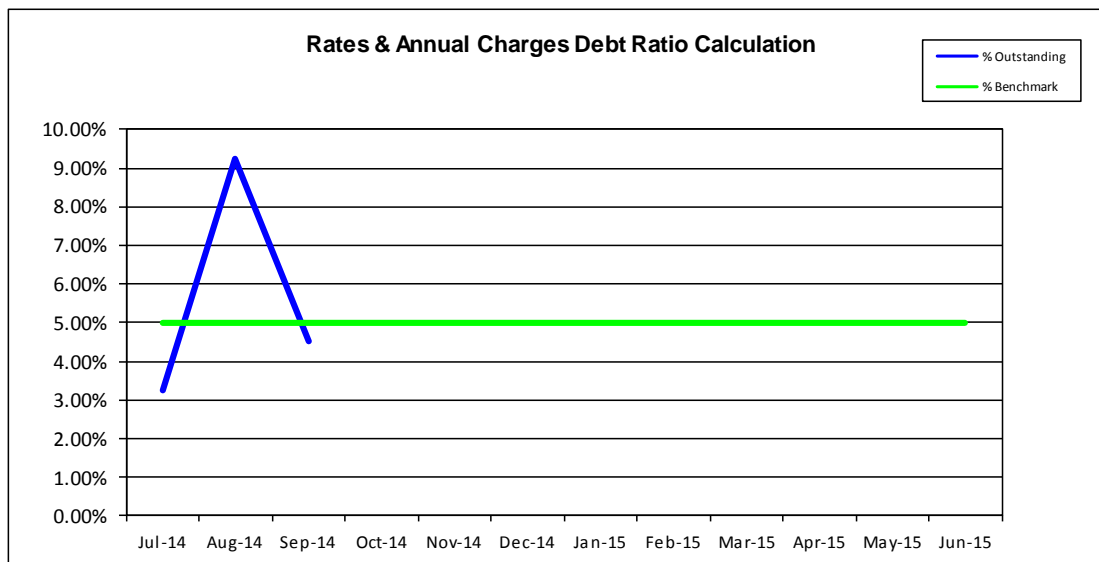
OTHER FINANCIAL INDICATORS

The following pages outline some other financial indicators that are relevant in the assessment of the short term financial position of Council. These include comparison of other financial indicators in the areas of:

- 5
 - 10
 - 15
- Recovery of outstanding rates and annual charges.
 - Recovery of outstanding water and sewerage consumption charges.
 - Level of cash and investments held.
 - The progress on repayment of Council's outstanding loan principal against budget.
 - Interest on investments generated compared to budget.
 - Level of outstanding sundry debtors and the debt age.

A comment is provided for each indicator.

Recovery of Outstanding Rates and Annual Charges



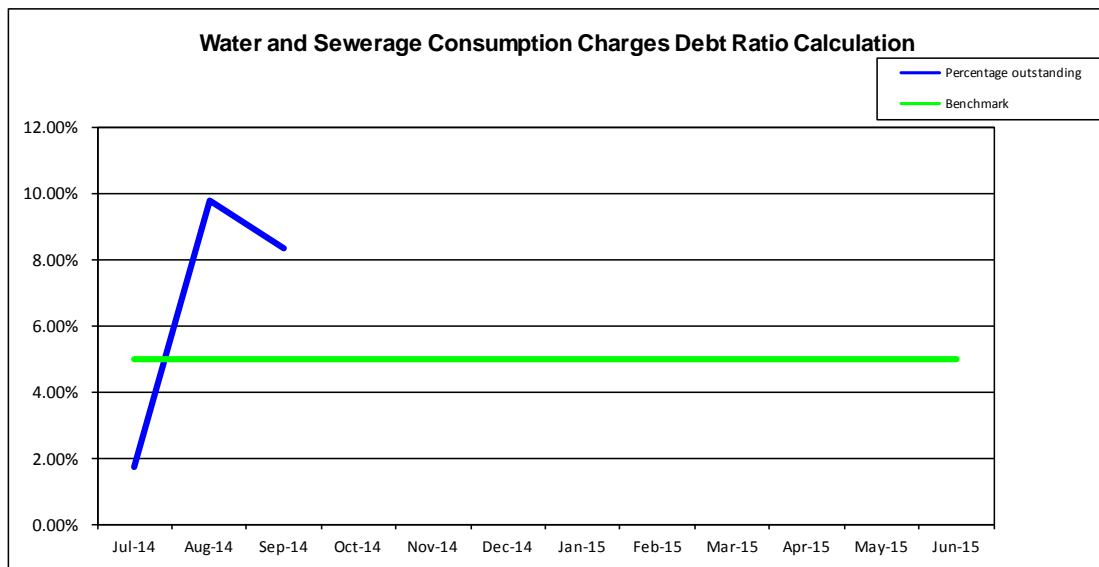
Comment:

An acceptable industry benchmark for a Council like Byron would be to maintain outstanding rates and annual charges below a 5% benchmark to measure the effectiveness of debt recovery activity. Currently this indicator is below the benchmark which is a positive result. It can vary during the year especially in the months where instalment payments by ratepayers are due.

BYRON SHIRE COUNCIL

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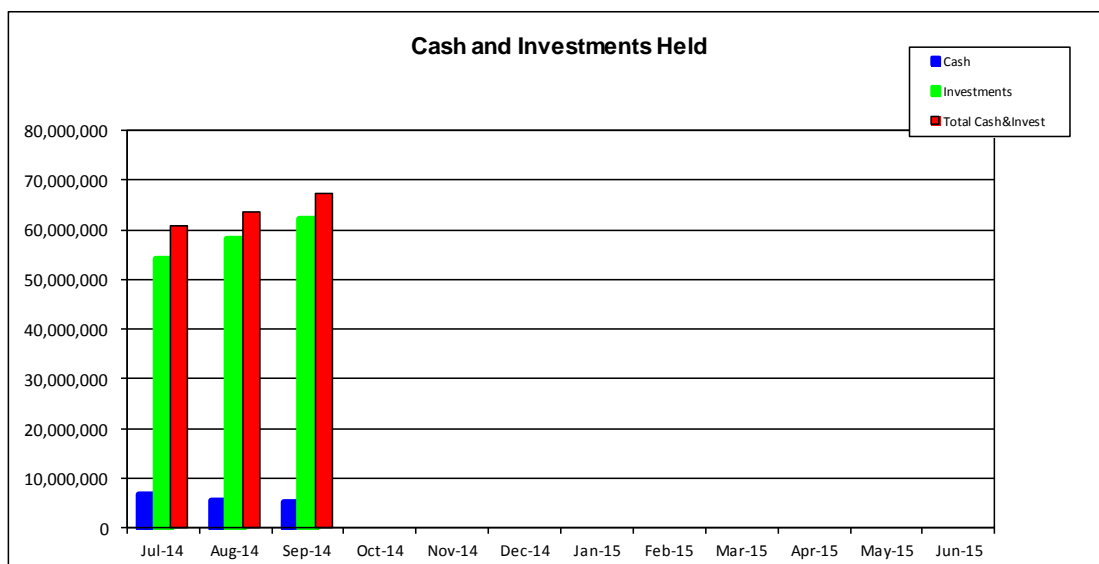
Recovery of Outstanding Water and Sewerage Consumption Charges



5 Comment:

10 An acceptable industry benchmark for a Council like Byron would be to maintain outstanding water and sewerage consumption charges below a 5% benchmark to measure the effectiveness of debt recovery activity. Currently this indicator is above the benchmark which is not ideal but will improve. It can vary during the year especially in the months where instalment payments by ratepayers are due and early in the financial year where revenue has not been raised due to billing as revenue is the denominator in the formula.

15 Level of Cash and Investments Held



Comment:

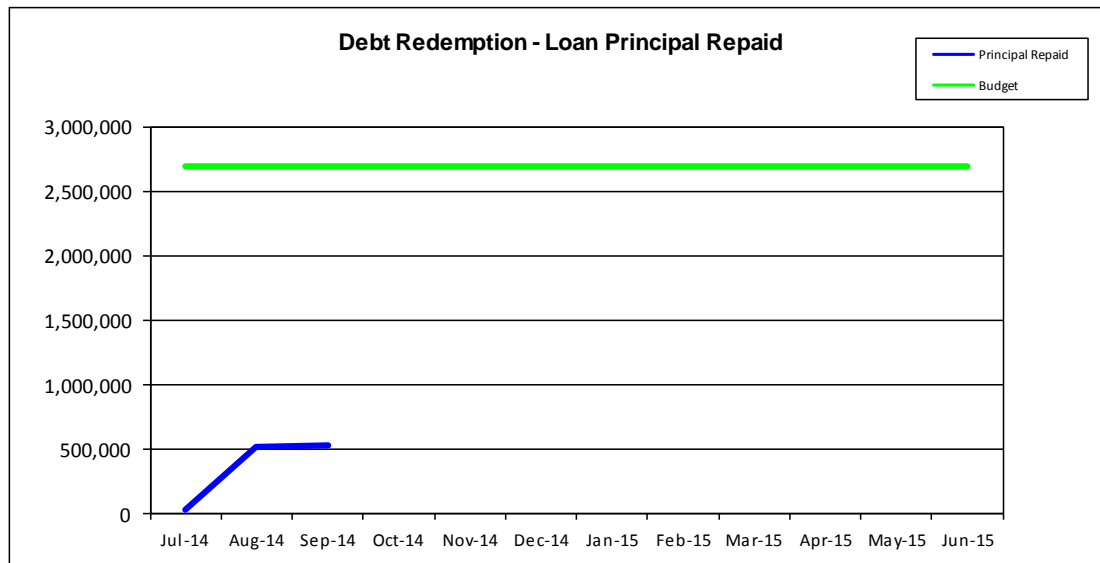
20

The cash position during September 2014 has increased since August 2014. This is partly due to continual payments from rate instalment and developer contribution receipts are higher then expected.

BYRON SHIRE COUNCIL

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The progress of repayment of Council's Outstanding Loan Principal against Budget



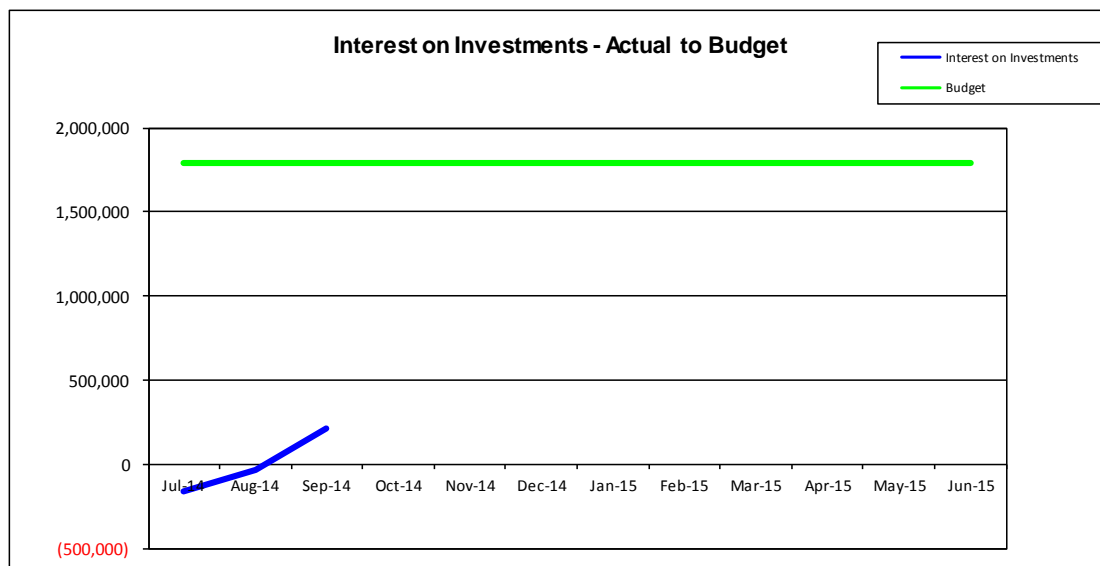
5

Comment:

The above graph tracks the progressive repayment of Council's loan principal repayments throughout the financial year.

- 10 Council is expected to repay an estimated \$2,704,800 in loan principal during 2014/2015. Profiling of this budget item is still to be completed.

Interest on Investments generated compared to Budget



15

Comment:

Interest on investments was previously negative which happened up until 31 August 2014. This is due to the reversal of accrued interest on investment revenue raised in June 2014 that has not been physically paid to Council. As the payments have been received this has cleared and then interest on investment revenue relevant for 2014/2015 is now starting to be shown. This is to ensure consistency and matching of revenue relevant for the particular financial year.

20

Report No. 13.16 **Sale of Land for Unpaid Rates and Charges**
Directorate: Corporate and Community Services
Report Author: James Brickley, Manager Finance
Jane Steiger, Revenue Accountant
5 **File No:** I2014/64
Theme: Corporate Management
Financial Services – General Purpose Revenues

10 **Summary:**

Section 713 of the Local Government Act 1993 empowers Council to sell land for which rates and charges have remained unpaid for more than five (5) years from the date on which rate and/or charge became payable.

15 The properties in the confidential attachment to this report satisfy the requirements of Section 713 of the Local Government Act 1993. Consequently, it is proposed that the properties listed, be sold by Public Action in accordance with the provisions of this legislation, should Council adopt this course of action.

20 Subject to the adoption of the recommendation by Council, the sale of land by auction must be conducted at a time fixed by Council, being not more than six (6) months and not less than three (3) months from the publication in a newspaper of the advertisement of the proposed sale and place for the sale.

RECOMMENDATION:

1. That Council sell by public auction the land and properties detailed in Part A and Part B of the confidential attachment to this report in order to recover unpaid rates and charges pursuant to Division 5 Local Government Act, 1993.
2. That following the advertisement of the sale of properties for unpaid rates in a newspaper pursuant to Section 715(1) (b) of the Local Government Act, 1993, that Council only accept payment in full of rates and charges outstanding, as a satisfactory arrangement, to avoid the sale proceeding.

Attachments:

- 30 1 Confidential - Properties Identified for Sale of Land for Unpaid Rates and Charges, E2014/78185 (provided under separate cover)

Report

In accordance with Section 713(2) of the Local Government Act, 1993, Council may determine to sell any land for which a rate or charge has remained unpaid for more than five years from the date on which it became payable. Section 716 of the Local Government Act, 1993 requires that the sale of land under this division must be by way of public auction.

If Council adopts the recommendation to sell the listed properties by way of Public Auction for Sale of Land for Unpaid Rates and Charges, a Certificate under Section 713(3) of the Act must be signed by the General Manager stating what rates and charges are payable on the land, when each of those rates were made, and when they were payable.

Section 715 of the Act requires Council to fix a convenient time and place for the auction of the properties listed. The time must not be more than six (6) months, or not less than three (3) months from the date an advertisement for the sale appears in a newspaper and the Government Gazette.

The Act also requires that Council take reasonable steps to ascertain the identity of any person who has an interest in the land and to notify each such person of the Council's intention to sell the land under this Division.

Under Section 715(2) of the Act, the sale of the land must not proceed if the outstanding Rates and Charges are paid in full or a satisfactory arrangement is made with Council to repay the debt. Given the considerable time and effort already undertaken by Council to recover the outstanding debts on most of these cases, it is recommended that Council only accept payment in full, as a satisfactory arrangement, to avoid the sale proceeding. It is also recommended that Council specify that all costs relating to the auction process (including legal fees, advertising, search fees, etc.) be reimbursed to Council either at time of payment in full, or to be included at the time of the Sale.

To ensure that all the criteria for the Sale of Land for Unpaid Rates under Division 5 of the Act is met within a timely manner and the necessary advertisements, searches, notifications and the appointment of an Auctioneer are completed within the timeframes specified under Section 715 of the Act, it is proposed to set a date for the sale within the next six months.

All of the properties subject of this report meet the criteria for Sale of Land for Unpaid Rates under Section 713 of the Act, having rates and charges which are unpaid for more than five years from the date on which they became payable.

Councillors at a Strategic Planning Workshop held on 17 April 2014, received a presentation on this legislative process for the sale of land for overdue rates and charges. Some of the properties being the subject of this report were used as examples in this presentation.

For the purposes of this report, the properties identified in the confidential annexure have been categorised into two groups being:

Part A - properties where the owners have been actively pursued to recover the outstanding Rates and Charges.

Part B – properties where the attempt to recover the debts through legal proceedings have proved unsuccessful as the registered owners are either untraceable or deceased and council has no known address for the service of Rates and Charges notices.

Financial Implications

Total Rates and Charges outstanding as at 6 November 2014 on the properties listed in this report amount to \$194,413.95, being \$183,677.33 for outstanding Rates and Charges, \$9,424.65 for outstanding Water and Sewerage Usage Charges and \$1,312.00 for outstanding Sundry Debtor Accounts. There is a total outstanding of \$89,510.58 on the properties in Part A of the confidential attachment to this report and \$104,903.40 outstanding on properties in Part B of the confidential attachment to this report.

All proceeds of the sale, should this occur, are paid to Council and in accordance with Section 718 of the Local Government Act 1993 are to be discharged in the following order:-

- a) Reimbursement of all Council expenses associated with the sale, then;
- b) Discharge of any rate or charge in respect of the land due to Council, or any other rating authority, and any debt in respect of the land (being a debt of which the Council has notice) due to the Crown.

Should insufficient funds be recovered to satisfy all rates, charges and debts, then a pro-rata of funds to debts occurs, with all debts deemed as satisfied.

Surplus funds are held within Council's Trust Fund pending discharge to persons having interest in the properties. Where no claim is forthcoming the balance of sale proceeds will be remitted to the State Government in accordance with the Unclaimed Monies Act.

Statutory and Policy Compliance Implications

The Sale by Public Auction of the properties listed in this report will be completed under the provisions of Division 5, Sale of Land for Unpaid Rates and Charges, which states:-

713 Sale of land for unpaid rates and charges

(1) For the purposes of this Division, a rate or charge is overdue if:

- (a) in the case of vacant land, it has remained unpaid for more than one year, or*
- (b) in the case of any other land, it has remained unpaid for more than 5 years, from the date on which it became payable.*

(2) A council may, in accordance with this Division:

- (a) sell any land (including vacant land) on which any rate or charge has remained unpaid for more than 5 years from the date on which it became payable, and*
- (b) sell any vacant land on which any rate or charge has remained unpaid for more than one year but not more than 5 years from the date on which it became payable, but only if:*

- (i) the council obtains a valuation of the land from the Valuer-General, and*
- (ii) the total amount of unpaid rates or charges on the land exceeds the valuation, and*
- (iii) the council sells the land within 6 months after the date when the council received the valuation.*

(3) The council must not sell any such land unless the general manager or the public officer certifies in writing:

- (a) what rates and charges (including overdue rates and charges) are payable on the land, and*
- (b) when each of those rates and charges was made and how it was levied, and*

- (c) *when each of those rates and charges became payable, and*
- (d) *what amounts are payable by way of overdue rates and charges on the land, and*
- (e) *what amounts are payable by way of rates and charges (other than overdue rates and charges) on the land.*

(4) *The council may, in the case of adjoining parcels of land (whether in the same or different ownerships) each of which may be sold under this Division:*

- (a) *sell them separately or as a single parcel and under whatever conditions of sale it considers proper, and*
- (b) *do such things as it considers appropriate for the purpose of selling the land at its full value.*

714 Estates and interests of the Crown in land

This Division does not enable the sale of:

- (a) *any estate or interest of the Crown in land, or*
- (b) *any interest in land owned by the Crown that may not be transferred at law.*

715 Notice of proposal to sell land

(1) *Before selling land under this Division, the council must:*

- (a) *fix a convenient time (being not more than 6 months and not less than 3 months from the publication in a newspaper of the advertisement referred to in paragraph (b)) and a convenient place for the sale, and*
- (b) *give notice of the proposed sale by means of an advertisement published in the Gazette and in at least one newspaper, and*
- (c) *take reasonable steps to ascertain the identity of any person who has an interest in the land, and*
- (d) *take reasonable steps to notify each such person (and the Crown, if the land concerned is owned by the Crown) of the council's intention to sell the land under this Division.*

(2) *If, before the time fixed for the sale:*

- (a) *all rates and charges payable (including overdue rates and charges) are paid to the council, or*
- (b) *an arrangement satisfactory to the council for payment of all such rates and charges is entered into by the rateable person, the council must not proceed with the sale.*

716 Sale of land by public auction

(1) *Any sale of land under this Division must be by way of public auction, except as provided by this section.*

(2) *Land that fails to sell at public auction may be sold by private treaty.*

(3) *Land may be sold under this Division to the council, a councillor, a relative of a councillor, a member of staff of the council or any relative of a member of staff of the council in the case of sale by public auction, but may not be so sold in the case of sale by private treaty.*

717 Payment of purchase money

(1) *The purchase money for land sold under this Division must be paid to the council, and the council's receipt is a discharge to the purchaser in respect of all expenses, rates, charges and debts referred to in section 718.*

(2) *The purchase money for land purchased by the council must be paid by way of a transfer between the appropriate funds kept by the council.*

(3) *Any such transfer is taken to be:*

(a) *payment to the council of the purchase price of the land, for the purposes of section 722, and*

(b) *purchase money received by the council on the sale of land for unpaid rates and charges, for the purposes of section 718.*

718 Application of purchase money

The council must apply any purchase money received by it on the sale of land for unpaid rates and charges in or towards payment of the following purposes and in the following order:

(a) *firstly, the expenses of the council incurred in connection with the sale,*

(b) *secondly, any rate or charge in respect of the land due to the council, or any other rating authority, and any debt in respect of the land (being a debt of which the council has notice) due to the Crown as a consequence of the sale on an equal footing.*

719 What if the purchase money is less than the amounts owing?

If the purchase money is insufficient to satisfy all rates, charges and debts referred to in section 718 (b):

(a) *the amount available is to be divided between the rates, charges and debts in proportion to the amounts owing on each, and*

(b) *the rates, charges and debts are taken to have been fully satisfied.*

720 What if the purchase money is more than the amounts owing?

(1) *Any balance of the purchase money must be paid into the council's trust fund and held by the council in trust for the persons having estates or interests in the land immediately before the sale according to their respective estates and interests.*

(2) *The council may pay the balance of the purchase money or any part of the balance to or among the persons who are, in its opinion, clearly entitled to it, and the receipt of the person to whom any payment is so made is an effectual discharge to the council for it.*

Report No. 13.17 **Tyagarah Airfield Future Options**
Directorate: Corporate and Community Services
Report Author: Tony Nash, Manager Works
 Trish Kirkland, Manager Governance Services
 Wayne Bertram, Manager Certification and Assessment
 James Brickley, Manager Finance
 Ralph James, Legal Services Coordinator
 Colin Sims, Project Coordinator - Buildings
File No: I2014/19
Theme: Community Infrastructure
 Open Space and Recreation

Summary:

This Airport Group (TAG) Consultants presented its Tyagarah Airfield Future Options Report to the Councillors workshop of 29 May 2014. Since the workshop, the internal staff working group have been working further with TAG and other associated consultants to secure the necessary data to support a preferred future strategic option and management model, supported by a holistic package of findings as recommended in the TAG report.

The report provides a status update, seeks additional funding allocation required to finalise the studies and assessments, and establishes key actions and timetable to finalise the additional information required to finalise and support a recommended future strategic direction and management model for Tyagarah Airfield.

RECOMMENDATION:

1. **That Council reaffirm its commitment to the continued operation of Tyagarah Airfield.**
2. **That Council consider funding additional costs, to the value of \$105,000, required to complete the identified assessments and investigations as part of the 31 December 2014 quarter budget review.**
3. **That on completion of the required assessments and investigations, The Airport Group provide Council with a final report containing the preferred strategic future option and management model with a cost/benefit analysis or business case supporting the recommendations for Tyagarah Airfield.**
4. **That funding allocation for the capital works identified to date be considered in the 2015/16 financial year budget.**
5. **That Council consent, as the land owner, to the lodgement of the subdivision development application at Tyagarah Airfield.**

Attachments:

- 1 Tyagarah Airfield Options Report - Councilors Workshop Presentation by The Airport Group, E2014/35533 (provided under separate cover)
- 2 Tyagarah Airstrip: Obstacle Penetration Survey Report The Airport Group August 2014, E2014/75602 , page 178
- 3 Confidential - Tyagarah Airfield - Legal advice on matters raised and attached tax invoice from McMahon Broadhurst Glynn Lawyers Incorporation Aviation Legal Services..., DM786115 (provided under separate cover)

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.17

- 4 Confidential - Legal advice on Tyagarah Airstrip, E2014/77529
- 5 Confidential - Letter from The Airport Group - Final Draft for Tyagarah Airfield Aviation Options Report 2013-0033-, S2014/3604 (provided under separate cover)
- 6 Tyagarah Airfield Future Options - Works Plan for Staged Implementation, E2014/78797 , page 185

5

Report

Set out in the table below is the Crown land, Council owned operational land, and lease tenant information for Tyagarah Airfield.

Table 1 – Land Information

Lot 49 DP 881232	Lot 181 DP 755692
Parcel No. 225340	Parcel No. 241414
Owner: Byron Shire Council Lease: L5 to Tyagarah Recreation and Flying Club Inc; L6 Vacant; L4 Tyagarah Hall; L10 Tyagarah Clay Target Club. (holding over on month-to-month basis)	Owner: Crown (Land Parcel has 2 Reserve Nos: 83262 (landing place); and 93871 (future public requirements): Council leases from Crown (Special Lease), acting as manager of sub-leases under the Tyagarah Airstrip Plan of Management Lease: L1 to Power Gliding Club; L11 to Pistol Club; L10 Clay Target Club (holding over on month-to-month basis)
Classification: Operational	Classification: Operational purposes
Part Lot 1 DP 713023	Lot 9 DP 856832
Parcel No. 194910 (Plan for Lease Purposes Lot 4 DP 805678)	Parcel No. 208040
Owner: Byron Shire Council Lease: Ray Palmer (L9) (holding over on 3 month-to-3 month basis)	Owner: Byron Shire Council Lease: Tiger Moth Aerial Service Pty Ltd (L8) (expires November 2015)
Classification: Operational	Classification: Operational
Part Lot 1 DP 713023	Lot 2 DP 749851
Parcel No. 194630 (Plan for Lease Purposes Lot 5 DP 805678)	Parcel No. 205780
Owner: Byron Shire Council Lease: Vacant Land	Owner: Byron Shire Council Lease: Callanan Holdings Pty Ltd (L2) (holding over on a month-to-month basis)
Classification: Operational	Classification: Operational
Lot 6 DP 836867	Lot 8 DP 856832
Parcel No. 205770	Parcel No. 208030
Owner: Byron Shire Council Lease: W F Bailey (L7) (holding over on month-to-month basis)	Owner: Byron Shire Council Lease: Byron Lapidary Society Inc (L3) (holding over on month-to-month basis)
Classification: Operational	Classification: Operational
POM: adopted 28 March 1995 (#91315)	
Policy: No. 3.45 – Commercial Operations at Tyagarah Airfield	

Comments from Colin Sims, Projects Coordinator

Background

Council considered a report titled “Confidential Tyagarah Airfield” at its Ordinary Meeting held 21 October 2010, and resolved, in part:

Res. 10-842

2. *That Council note the progress made toward improving operations and financial sustainability of the Tyagarah Airfield, and endorse the continued implementation of initiatives outlined in the report.*

3. *That Council retain ownership, control and management of the Tyagarah Airfield.*

Council considered a Notice of Motion titled "Investigations into options for the sale of Tyagarah Airfield" at its Ordinary Meeting held 1 December 2011, and resolved:

Res. 11-987

That the General manager investigate and provide a report to Council on the options available to Council in relation to the future management of its operational land at Lot 49 DP 881232 Tyagarah Airfield.

Resolution 11-987 has been incorporated into the 2014/15 Financial Sustainability Project Plan and the initiative is being progressed as part Section 8, Potential Commercial Opportunities. A procurement process was undertaken to appoint a suitably qualified consultant, and an internal staff working group formed to provide information, briefings, advice, and to work with the successful consultants. The Airport Group (TAG) where the successful consultants appointed.

In March 2014 TAG submitted its Tyagarah Airfield Future Options Report, refer Attachment 5. The summary of findings was presented to the elected Council at the Councillors' Strategic Workshop held 29 May 2014, refer Attachment 1.

Following the Councillors' Strategic Workshop, the internal working group continued working with TAG and other associated consultants to undertake the necessary assessments and studies required for TAG to support a preferred future strategic direction and management model for the Airfield.

TAG options and further investigations and assessments

This report summarises the TAG recommendations from their report, and provides an update of the further investigations that have been undertaken and reported by staff to date, and the key actions still currently underway. These further investigation elements have been addressed in accordance with those issues identified in the TAG options report, and are designed to inform the decision making process for Council to set a strategic direction for the future of the Airfield.

The options presented to Council, and discussed at the Councillors workshop on 29 May 2014 were:

Option 1 - Maintain the current operational use of the airfield, upgrade the airfield to compliance with regulatory standards, ratify the occupancy arrangements, and implement improved management practices.

Option 2 - Minor upgrade works to equip the airfield with an all weather strip (AWS), ratify the occupancy arrangements and implement improved management practices.

Option 3 - Sell the airfield 'as is'

Since that time, the internal working group have been progressing a number of areas highlighted by the Aviation Options Report which included further investigative works and subsequent reports. The information coming out of these investigative works is set out below:

Comments from Tony Nash, Manager Works (Airfield Manager)**1. Obstacle Limitation Surface (OLS) penetrations and current airfield operations**

In accordance with a recommendation contained in the TAG report, staff commissioned a complete detailed obstacle survey to identify tree heights that penetrate into the OLS and the land parcels upon which the obstacles are located to establish the nature and extent of obstacle penetrations.

The Survey identified 566 obstacles in the OLS which are located on Council's land, Crown land, Road and Maritime Services (RMS) land, and adjoining privately owned land. The supplementary TAG report recommended:

- a. *Firstly and most importantly, pass on the information to pilots through a notice to airmen (NOTAM) as per reporting procedures in the MOS Part 139 (chapter 10); and*
- b. *Report it to CASA; and*
- c. *Have the obstacle removed; or*
- d. *Alternatively, CASA may direct that it be marked (red and white strips) or light with a red obstacle light.*

As the vast majority of the obstacles are the top of trees, lighting or marking of these trees is not applicable and so removal of the obstacle would need to be in the form of:

- *Lopping of the trees to below the OLS as per heights of the penetrations in the appendix;*
- *Felling of the tree by cutting at its base; and/or*
- *Clearing of major clumps of trees with earthmoving equipment*

An alternative to removing the obstacles on the ends of the runway is the reduction of the runway length down from the current published 950m length. Any reduction in runway length would not affect the requirement to eliminate the obstacles along the sides of the runway. The obstacles on both ends of the runway are reasonably close and high and so the runway length reduction would need to be of the order of 160m to reduce the extent of tree removal on the ends only by 50%. This reduction of runway length is substantial and would curtail any development or expansion as the runway would be too short for most aircraft operations and certainly for emergency aircraft such as the Air Ambulance and RFDS. As substantial tree removal would still be necessary on the sides and ends of the runway and the function of airport would be affected, this reduction of runway length is not recommended.

Our recommendation would be clearing of the trees close to the sides of the runway and close to the runway strip ends, then felling of trees beyond the close-in zone and lastly lopping of the trees that are more distant from the runway strip and are viewed as of environmental significance.

A letter has been sent to CASA (CASA – OPERATIONS - Eastern Region), requesting that CASA consider the Obstacle Penetration Survey Report from the TAG report and provide a response to the above recommendations in this report and the treatment of the obstacles.

At the time of writing this report no response has been received.

Legal advice received indicates that the implementation of an appropriate risk mitigation plan will be required, refer section 4, Legal Advice, below. In addition to notifying CASA, Council's insurers have been notified, and we await the response from CASA prior to determining the

next necessary steps in relation to the OLS penetrations. In the interim, however, environmental assessment process required to remove the OLS penetrations has commenced, refer section 2. Compliance Works below.

5 2. Compliance Works

Establish scope, time frames and funding required for compliance works in accordance with options 1 & 2 for:

10 2.1 OLS penetrations and environmental assessments

There was preliminary work done by the Council consultant ecologist several years ago that was never finalised. All the three reports are still in draft form. These reports were the preparation of ecological assessments for flora and fauna impacts associated with the drain clearing and vegetation works for removal of penetrations through the OLS.

For the consultant to review these reports and increase the scale of the ecological assessments for the 566 trees penetrating through the OLS is expected to cost between \$25,000 and \$35,000, refer to the Financial Implications Section of this report.

Infrastructure Services has engaged a second consultant to undertake a review of planning options, project management and preparation of review of environment factors for the airstrip, including the management of the revised ecological assessments. This work will also include preparing an estimate of the range of likely costs for the tree lopping, tree removal, compensatory planting and any other works required to remove the penetrations through the OLS.

At this stage, the consultant's early comments need to be noted that all of the vegetation works to remove the penetrations through the OLS may not be able to be undertaken due to environmental constraints associated with the Ecologically Endangered Communities (EEC) that reside in the lands (both private and public) around the airfield.

This planning consultancy work is expected to cost between \$15,000 and \$20,000 and take between 14 to 18 weeks to complete. The cost of this consultancy work will be funded from the existing Infrastructure Services 2014/15 operational budget for the airfield.

It is necessary to engage these two consultants due to the complexity of the environmental, planning, land tenure, CASA regulations and other matters associated with these issues at the airfield.

The costs to undertake the vegetation works to lop trees, remove trees, compensatory planting and any other works to remove the penetrations through the OLS will be undertaken as part of the planning consultant's work. At this stage these work costs are unknown as it is too difficult to ballpark a cost due to the number of trees impacting OLS, their location on both private and public lands in difficult terrain, that is difficult to traverse, as well as being in EEC habitat.

However, it is likely to be hundreds of thousands of dollars and would require the works to be tendered due to the requirements of the Local Government Act (Section 55).

The cost of works are being considered as part of the 2015/16 budget.

Section 4, Legal Advice, in this report sets out the appropriate framework and approval processes for rectification of the OLS penetrations and vegetation clearing.

2.2 Clearing of vegetation in the open drains

Estimates of costs have been prepared to clear the drains immediately adjacent to the runway and those just outside the runway. These are described as section 1 and 2 works, as below:

- section 1 is expected to cost between \$50,000 and \$60,000 and take between 2 to 3 weeks to complete
- section 2 is expected to cost between \$65,000-\$80,000 and take between 1 to 2 weeks to complete

Both these sections of work cannot be undertaken until the required environmental assessments have been completed and approved as per item 2.1 above. These estimates also do not include any compensatory planting and other actions that may arise from the completion of the ecological assessments and review of environmental factors and planning options.

The cost of works is being considered as part of the 2015/16 budget.

2.3 Rehabilitation of the grassed runway surface

Investigations were undertaken in 2013 by Council's turf consultant to investigate the existing condition of the grassed runway surface and to detail the type, extent and estimated costs for any rehabilitation work required initially to bring the runway up to a satisfactory standard and any ongoing annual costs to maintain the turf surface.

The one-off initial capital cost to bring the grassed runway surface up to a satisfactory condition has been estimated at between \$80,000 to \$100,000 and is expected to take between 2 to 3 weeks to complete.

The cost of works are being considered as part of the 2015/16 budget.

After completion of the capital works above, the ongoing annual costs have been estimated at between \$10,000 and \$15,000 and could be completed within one week. These could be funded by the existing annual Airfield operational budget.

3. Management model considerations

The TAG report raises several issues with the current management model:

- *Lack of requisite airport knowledge within BSC*
- *Maintenance issues are not identified or acted upon within a timely manner (this has caused environmental constraints to arise)*
- *Leases are not properly managed*
- *Many landings are not captured or invoiced (therefore revenue is lost); and*
- *Sense of ownership amongst the tenants at the airport due to the lack of supervised management and council presence.*

These issues are not uncommon for regional ports; however they should be addressed to ensure optimal efficiency and viability of the airfield.

The report goes on to provide the following recommendation regarding airfield management:

Given the nature of Tyagarah Airfield as a Council owned and operated airfield, we recommend that BSC retain ownership of Tyagarah Airfield and either appoint a designated Airport

Manager at the airfield, or enter into a Management or Technical Services Agreement with an external party for the day-to-day running of the airfield.

It is recommended that the future management model options be considered as part of the final recommendation report from TAG, as set out in the Future Options - Next Steps section below, once the risk mitigation steps, scope of works, cost of works, environmental factors and approval and land access matters have been established to manage the 566 identified OLS penetrations.

Comments from Ralph James, Coordinator Legal Services

4. Legal advice

Council sought and received legal advice regarding Tyagarah Airfield in 2008, refer Confidential Attachment 3.

Recently, further legal advice was sought to provide clarity about Council's powers (as the airfield owner and operator) to attend to the OLS penetration removal and vegetation clearing, and CASA powers and regulations in relation to the OLS penetrations, refer Confidential Attachment 4.

The advice was sought from Michael Young Solicitor of Ballina. Mr. Young is an accredited Law Society specialist in Local Government and Planning Law.

Mr Young was asked to consider:

- land use zones where particular types of infrastructure are permissible
- infrastructure works requiring development consent (under Part 4 of the Act)
- infrastructure works that do not require consent and may require assessment under Part 5 of the Environmental Planning and Assessment Act (EP&A Act)
- infrastructure works that may be undertaken as complying development, once a complying development certificate has been obtained
- infrastructure works that may be undertaken as exempt development.

Mr. Young advised in general terms, ignoring questions of ownership, that:

- Land that is zoned RU2 and SP2 can be cleared for the purposes of an airport without the need to obtain consent (SEPP Infrastructure).
- Land that is zoned W1 can be cleared with consent (Byron LEP 2014).
- Land that is "deferred" - and which apparently retains the 7(b) zoning - can be cleared with consent (Byron LEP 1988).
- Land to which SEPP 14 and SEPP 26 applies can be cleared with consent - however the concurrence of the Director is required (and the concurrence of the Minister is required for integrated development on land to which SEPP 26 applies).
- In circumstances where the land is affected by SEPP 26 because it is within the boundary of the maps to which SEPP 26 relates, such development is designated development and will require an EIS.
- Council is in a position to grant consent to itself to clear vegetation on W1 zoned land, 7(b) zoned land and land to which SEPP 14 and SEPP 26 apply. Development for the purposes of the airstrip includes vegetation management.

- In circumstances where SEPP Infrastructure applies and vegetation can be cleared without consent that is not an activity which requires assessment under Part 5 of the EP&A Act.

5 Council can lodge a development application with itself to undertake work on land which it owns.

10 It is also possible for Council to lodge a development application with itself for the purposes of undertaking work on land that it does not own - and such a DA does not require the consent in writing of the owner of that land in order to make the DA lawful.

15 The relative freedom granted to Council to lodge a DA and grant to itself consent to undertake work, even on land that it does not own, does not derogate from the requirement that council otherwise observe the obligations on the making of a lawful DA.

20 Therefore, and in circumstances where land is identified as being of "high conservation value" it would be necessary for Council to prepare (at least) a Statement of Environment Effects. If in the course of the investigation prior to the preparation of the SEE a conclusion is reached that the "development [is] on land that is, or is a part of, critical habitat or is likely to significantly affect threatened species, populations or ecological communities, or their habitats" a species impact statement (SIS) will need to be prepared (s.78A(8)(b)).

25 Council can undertake the work to remove the "obstacles" that penetrate the OLS. Council can undertake that work either with or, in the nominated circumstances, without consent.

However Council will need to obtain the permission of the owner of the land to enter the land and undertake the work.

Crown Land

30 It will be necessary to liaise and negotiate with the Crown about entering the land and undertaking the work.

Council (Crown) Land

35 Council is able to grant to itself consent to clear the land (where consent is necessary) and will be able to enter the land to undertake the work.

Privately owned land

40 The position with respect to entering land in private ownership is not dissimilar to entering land in Crown ownership: Council will need to liaise and negotiate with the owner about entering the land.

45 An easement over neighbouring land would be the most certain way of ensuring that Council, both now and in the future, has a right to enter land to carry out works – remove vegetation – in order to preserve the functionality of the airstrip.

Council may seek to negotiate the grant of an easement with the neighbouring owners.

In circumstances where the neighbouring owners are not prepared to grant an easement, the Council can make application either:

- to the Supreme Court; or
- to the Land and Environment Court

The following Table assists in identifying the planning matrix and where consent is required.

55

Table 2 - Planning Consent Matrix

Instrument & Zone or designation per SEPP	Is use of land for an airstrip permissible	Is clearing of land permissible (2)	Does SEPP Infrastructure apply and how
<u>Byron LEP 2014 (1)</u>			
RU2	Yes – with consent	Yes – with consent	Yes - development and particularly vegetation management may be carried out by or on behalf of a public authority without consent (5)
SP2 Infrastructure	No – prohibited	Yes – with consent	Yes - development and particularly vegetation management may be carried out by or on behalf of a public authority without consent (5)
W1	No - prohibited	Yes – with consent	No
<u>Byron LEP 1988</u>			
7(b) Deferred matter	No – prohibited	Yes – with consent (3)	No
<u>SEPP 14</u>	N/A	Yes – with consent and concurrence of the Director	SEPP Infrastructure does not prevail over SEPP 14
<u>SEPP 26</u>	N/A	Yes – with consent and concurrence of the Director (at least) (4)	SEPP Infrastructure does not prevail over SEPP 26

Notes to Table

- 5 1. The Land Use Table for Byron LEP 2014 is consistent with the form of the Standard Instrument. If the development is not expressly permissible (with or without consent) then it becomes "prohibited" ("Any other development not specified in item 2 or 3").
- 10 2. Clearing of Land is not a use that is independently defined or recognised in Byron LEP 2014. The controls on clearing of land are contained in separate clauses (cls 5.9 & 5.9AA). Clearing of land is separately defined in Byron LEP 1988 and is a "use" of land identified in the Land Use Table.
- 15 3. Clause 52 of Byron LEP 1988 permits Council to make a "Tree Preservation Order". If such an order is made and applies consent is required to "clear" vegetation.
4. *State Environmental Planning Policy 26 – Littoral Rainforest* deems that development to which clause 7(1) applies is "designated development". That is, if development (clearing) is proposed on land identified on a map to which SEPP 26 applies, then it is designated development and an environmental impact statement will be required (s.78A(8)(a)). Land that is within 100 metres of the land identified on the SEPP 26 maps still requires consent. In either case the concurrence of the Director is required - and if the development is also integrated development the concurrence of the Minister is required.
- 20 5. SEPP Infrastructure adopts the term "airport" and that term is broad enough to include "airstrip". Note that the development may be carried out without the need to obtain consent. This should be distinguished from "exempt development". The definition of "activity" for the purposes of Part 5 of the EP&A Act specifically does not include "exempt development". The question remains whether development that does not need consent, and is not exempt development, might also be an activity for the purposes of

Part 5. The decision in *Gales Holdings Pty Ltd v Tweed Shire Council* [1999] NSWLEC 195 suggests that such development is not an activity to the purposes of Part 5.

Mr Young advises that Council should prepare and implement a management plan that observes the following steps:

1. Negotiations should commence with adjoining landowners about the work that Council proposes to undertake. Their input should be sought with a view to generating agreement about the work and the process to lawfully undertake the work. Any opposition identified at this early stage will assist Council to determine what steps it needs to take later in the process, including whether an easement will be necessary.
2. An assessment should be made of the vegetation that will be cleared. Council will need the consent of adjoining landowners for these investigations to be undertaken - otherwise there is a risk of trespass (in which case an application may need to be made for an easement at a very early stage).
3. Once an assessment is made of the vegetation Council will be in a position to consider whether consent should be sought to clear that vegetation in circumstances where consent is required. The assessment should also be able to advise Council whether vegetation will be cleared on land regulated by SEPP 14 and importantly SEPP 26.
4. On the assumption that Council concludes the vegetation should be cleared, a development application will need to be prepared in circumstances where a DA is required. If the vegetation will be cleared on land regulated by SEPP 14 and/or SEPP 26, Council can commence negotiations with the Director and the Department about "concurrence" and the requirements of an environmental impact statement. If an EIS is not required, then a statement of environmental effects will be required. Council will also need to give written notice to the owners of relevant land of its intention to lodge a development application in so far as the DA will affect that owner's land.
5. The DA will need to be processed and dealt with in the usual way (advertising, submissions, consideration, assessment – and a decision by Council).
6. Once consent has been obtained for the clearing of vegetation, a systematic program of works can be prepared whereby the clearing is progressively implemented. By this stage the consent of the neighbours to enter the land to carry out the works should have been obtained - or if their opposition has been identified as early as paragraph 1, then the process whereby easements can be obtained by order of the Court should have progressed and be nearing conclusion.

In Section 1 above there is a reference to CASA consideration of the Obstacle Penetration Survey.

Mr. Young considered Commonwealth legislation and particularly the Airports Act 1996 (Cth) (Part 5 "Land use, planning and building controls" and Part 12 "Protection of airspace around airports") and associated legislation and regulations (Airports (Protection of Airspace) Regulation 1996).

This legislation provides a regime for the control of airspace around airports (depending on their classification) and particular control with regard to the construction of buildings that will intrude into the OLS.

The regime is not well suited to controlling such things as vegetation: indeed it may not govern or regulate vegetation at all.

Having regard to the nature of the "airstrip", CASA has no authority or power to direct the removal of vegetation - and there is no authority given through the Federal legislation to a body such as the Council to enter land and remove the vegetation.

- 5 In the current circumstances, if the operation of the airstrip was compromised as a result of the location of the vegetation, CASA would address the issue (that gave rise to the compromise) by issuing protocols on how the airstrip should be used. It could not address the underlying cause of the compromise by ordering the removal of vegetation.

10 **Comments from Colin Sims, Projects Coordinator Buildings**

5. Automated Aircraft Monitoring System

15 The TAG options report noted that under the current tenant agreements there is no current legal agreement or mechanism for BSC to enforce landing fees and charges. The report stated:

"Non-collection of landing fees is a major loss of revenue for BSC and measures should be taken to ensure these are enforceable.

20 *We recommend BSC undertake the following steps:*

1. *Replace or Repair existing sign for fees and charges at the airfield;*
2. *Include a clause for landing and related fees as a required payment in any future lease agreements; and*
3. *Implement an accurate reliable airfield activity monitoring system"*

25 Appendix 18 of the options report provided a fee proposal for the installation of an on-site automated monitoring and billing system to track the movements of aircraft landings and takeoffs. Staff requested this initial proposal be further refined with a view to accurately reflect the on-site requirements of the system and gain a firm quotation for the entire installation and commissioning of the entire works. The final quotation allowing for 4 strategically placed cameras and infrastructure to service the cameras and associated equipment was \$50,560.00 ex GST.

35 Ongoing annual running costs for the system was quoted at \$5,228.00 for rental and data connection, and a \$0.90 per landing fee for data processing. A further invoicing administration fee of 10% of gross revenue also applies.

40 It is recommended that these works are funded and coordinated with the compliance works set out in section 2.

Comments from Wayne Bertram, Manager Approvals and Certification

6. Subdivision development (DA 10.2014.357.1)

45 The internal staff working group identified commercial land development potential at the Tyagarah Airfield, and included the subdivision development of Yaran Road, Tyagarah part Lot 49/881232 (adjacent to Tyagarah Aerodrome – northern side) in Section 5, Land and Property Development, of the 2014/15 Financial Sustainability Project Plan.

50 A portion of the subject land parcel relates to a previous council resolution for the Establishment of Companion Animal Shelter by Companion Animal Welfare Incorporated (CAWI). This development is currently on hold, pending the outcome of a concurrent report to today's Council meeting regarding CAWI's request for relocation of the proposed Establishment of Companion Animal Shelter from Tyagarah to the site of Council's animal pound at West Byron.

Council has prepared and lodged development application for Torrens subdivision over Lot 79 DP881232 at Tyagarah Airfield for the proposed reconfiguration of existing allotments and provision of additional allotments to create 15 allotments in and around the existing aircraft hangers. Due to environmental constraints on the land, including high conservation vegetation; acid sulphate soils and flooding additional studies are currently being prepared to demonstrate that the proposed subdivision is suitable for the area and can be undertaken with minimal environmental disturbance.

It is estimated that additional \$15,000 will be required to finalise the necessary environmental and flood studies to support the development application, refer to the Financial Implications Section below.

Comments from Trish Kirkland, Manager Governance Services

7. Crown Land - Lease

As set out in Table 1, Tyagarah Airfield is partially located on Crown Land, and in accordance with Council resolution 10-872 is occupied by Council under a Crown Lands S34A Licence Agreement.

With reference to the recommendations from TAG at Section 3, Management model considerations, Council sent a letter to Crown Lands on 17/9/14 seeking feedback and advice regarding the Crown's position about possible future tenure arrangements at Tyagarah:

1. extend Council's Crown Lease term beyond the current expiry date of 31/12/2030
2. provide for Council to sub-lease the land to a manager/lessee
3. provide for the manager/lessee to further sublease sites to airfield operators and users

The letter and Council's Tyagarah Airfield project was briefly discussed at a subsequent meeting between Crown land and council staff. However, to date Council is yet to receive a written reply. The matter is listed for discussion at the next meeting with Crown Lands.

Comments from Colin Sims, Project Coordinator Buildings

Further Options - Next Steps

Key steps, time table, funding requirements, and assignment of tasks have been established with the internal working group to progress the project to establish the preferred strategic direction and management model, refer Attachment 6.

The project program at, Attachment 6, sets out the completion of the environmental studies, treatment of the 566 OLS penetrations, subdivision proposal, scope of works and capital funding requirements, and other key work to inform the final report from TAG.

It is envisaged that the final report will provide a preferred strategic direction and management option for Tyagarah Airfield with a cost/benefit analysis or business case in support of that recommendation. At this time, a strategic workshop will be arranged with councillors and followed by a report to Council for final consideration.

Financial Implications

Council initially allocated \$30,000 to fund the TAG consultancy fees, and this has been expended. Addition consultancy services are required to establish and cost final recommendations for Tyagarah Airfield's future strategic direction. The working group have estimated additional consultancy and assessment fees are set out below:

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.17

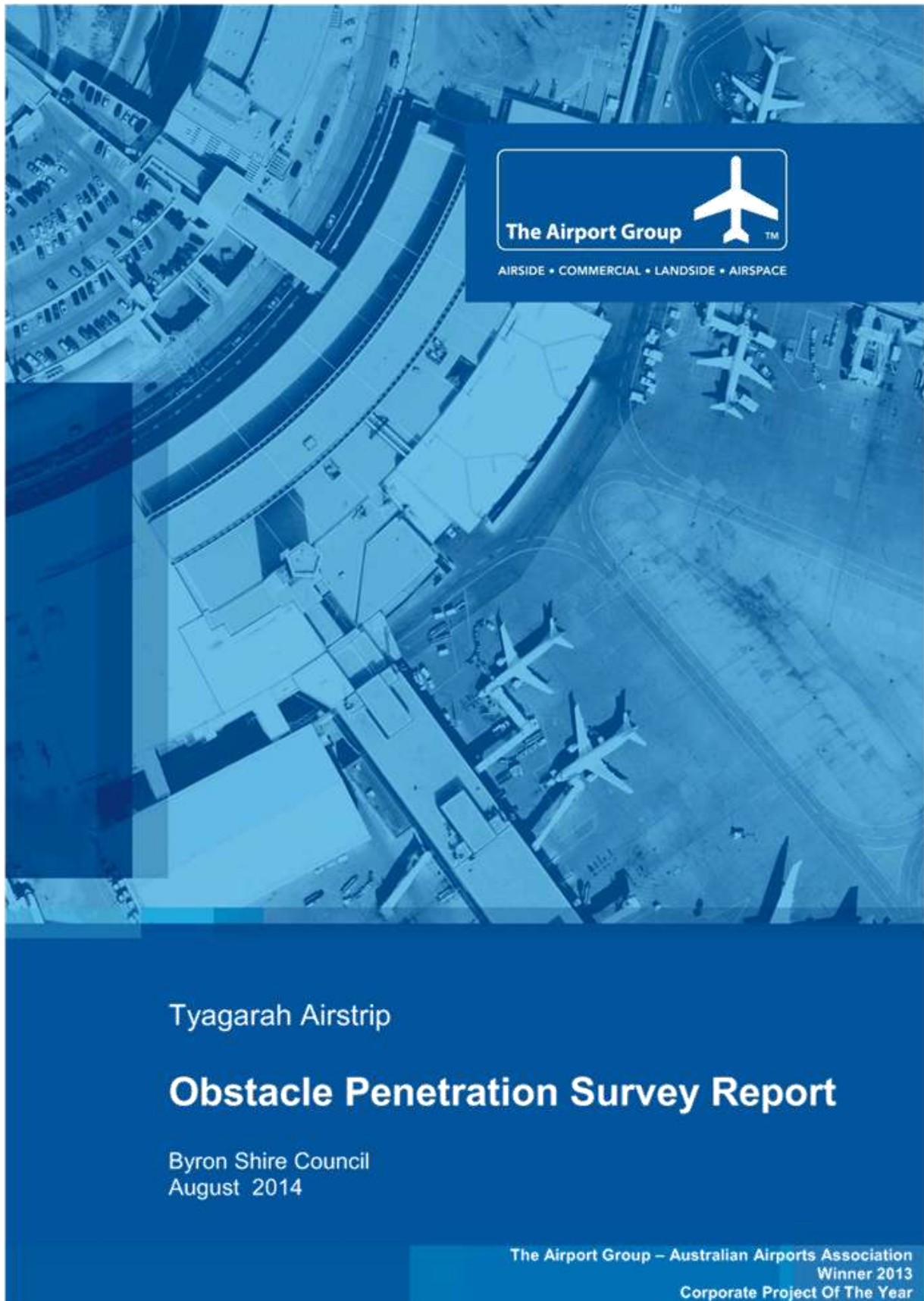
	TAG additional services and final report	\$20,000.00
	Environmental studies for Obstacle Limitation Surface intrusions	\$35,000.00
	Environmental and flood studies for subdivision DA	\$15,000.00
5	Project Coordination/Administration	\$10,000.00
	Reimburse DA costs to CAWI for relocating proposed animal shelter	<u>\$25,000.00</u>
	Total Estimate	<u>\$105,000.00</u>

Comments from James Brickley – Manager Finance

- 10 To undertake the required assessments and investigations, it is suggested Council consider the funding of an additional \$105,000 as part of the 31 December 2014 quarter budget review.
- 15 Consideration of the capital works costs, estimated to date, will be considered for the 2015/16 and forward budget.

Statutory and Policy Compliance Implications

- 20 Nil



**DOCUMENT VERSION LISTING**

Version	Version Description	Changes/ Actions	Staff	Date
1.1	Final	Submission to Byron Shire Council	PE/CT	15 August 14



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1. BACKGROUND

Tyagarah Airstrip is an unregistered and an uncertified airstrip used by private aircraft owners, aviation clubs and commercial operators for recreational, private and tourism activities. Unregistered and uncertified airstrips are not subject to audits and inspections by the Civil Aviation Safety Authority (CASA) unless a specific request is made.

The airstrip and its local environs have been the subject of a number of environmental studies that have noted the importance of the flora and the fauna that habitat in the tee tree and eucalypt bushland.

2. AVIATION REGULATIONS AND STANDARDS

Aircraft operations, including those operations being conducted at Tyagarah Airstrip, are required to operate from aerodromes which meet the requirements of the Civil Aviation Safety Regulations Part 139 (CASR 139). These CASR 139 regulations empower CASA to specify standards related to aerodromes and CASA have published this standard as per the Manual of Standards Part 139 (MOS Part 139).

The MOS Part 139 standards are applicable to operators of registered and certified aerodromes and CASA regularly audits these aerodromes. Non-conformance notices (NCNs) and corrective action required notices (CARs) are then issued to the aerodrome operators to take action on their aerodrome facilities that do not comply with MOS Part 139. Many of these aerodrome operators are Regional Councils.

Aircraft operators, as distinct from aerodrome operators, that hold less than 30 passengers in their aircraft, may conduct operations into airstrips that are not registered or certified PROVIDED THAT the airstrip meets the appropriate standard. The appropriate standard is the MOS Part 139 and, as such, is the applicable standard for Tyagarah Airstrip even though it is not a registered or certified aerodrome.

3. TYAGARAH AIRSTRIp CLASSIFICATION

The MOS Part 139 standard classifies aerodromes according to the aircraft characteristics that are capable of operating into the airstrip. The aircraft characteristics are simply the wingspan of the aircraft and its required length of take-off at maximum weight. The aircraft operating at Tyagarah Airstrip are the minimum classification of Code 1 aircraft which requires less than 800m runway length. The aircraft wingspan is not relevant to the obstacle limitations.

Accordingly, the aerodrome facilities required at Tyagarah Airstrip are the minimalised or most relaxed requirements of MOS Part 139 standard.

In Chapter 7 of the standard, the required clear airspace around an aerodrome is specified as an imaginary surface that commences from the runway strip edges and projects up and out at specified slopes dependent on the aerodrome's code. This surface is called the Obstacle Limitation Surface (OLS) and, as the name implies, the airspace above this surface is required to be clear of obstacles unless exemptions are given by CASA. Accordingly, an obstacle is defined as an object that penetrates this OLS.

Tyagarah Airstrip, being the most relaxed Code 1 aerodrome classification, has the shortest runway strip dimensions and the steepest slopes of the OLS. This gives the aerodrome gives the best capacity for tall objects to be not classed as obstacles. The runway strip dimensions applicable are 60m width by the published runway length of 950m plus 30m on each end and a slope of 5% on the approach and take-off directions and 20% on the sides of the runway strip. There are also dimensions for the change of direction that an aircraft can fly upon take-off or approach and again these are the narrowest for Code 1 such as the Tyagarah Airstrip.

4. OBSTACLE SURVEY

A survey has been conducted to determine the obstacles that are penetrating the OLS so that actions can be initiated to treat these obstacles.

The survey shows that 566 obstacles penetrate the OLS surface as per the table and diagrams in the Appendix 1 and Appendix 2. This is a substantial number of obstacles. The vast majority of these obstacles are small penetrations along the sides of the runway. This part of the OLS is called the transitional surface that slopes up quickly at 20% or stated another way as 1 vertical to 5 horizontal or abbreviated to 1 in 5. These slopes are to



protect the aircraft operation called a baulked landing or take-off where something unexpected has occurred in these critical operations and the pilot has had to take evasive operation to the sides of the main runway direction.



However, there are also substantial penetrations in the two main directions of the runway and these are a more day-to-day risk for normal approach and take-off operations on the runway. This slope is 5% or stated differently 1 vertical to 20 horizontal abbreviated to 1 in 20.

The horizontal datum of the survey is Mapping Grid of Australia (MGA94) and the vertical datum is Australian Height Datum (AHD). The runway strip is based on the centreline of the grassed runway pavement.

The survey locates the position and height of the **visible** obstacles that penetrate the take-off, approach and transitional planes of the OLS. The plotted obstacles were those that were visible from the runway edge. Some obstacles may be hidden by closer obstacles and therefore unable to be located as part of this survey. As an example, it is likely that trees behind obstacle trees 41-47 are also penetrating but were not visible from the runway edge and therefore not picked up in the survey. The results have been tabulated in the appended spreadsheet which details the height dimension of each obstacle which penetrates the OLS.

5. RECOMMENDATIONS

The notifications and treatments of the obstacles are:

- Firstly and most importantly, pass on the information to pilots through a notice to airmen (NOTAM) as per reporting procedures in the MOS Part 139 (chapter 10); and
- Report it to CASA; and
- Have the obstacle marked; or
- Alternatively, CASA may direct that it be marked (red and white strips) or light with a red obstacle light.

As the vast majority of the obstacles are the tops of trees, lighting or marking of these trees is not applicable and so removal of the obstacle would need to be in the form of:



- Lopping of the trees to below the OLS as per heights of the penetrations in the appendix;
- Felling of the tree by cutting at its base; and/or
- Clearing of major clumps of trees with earthmoving equipment.

An alternative to removing the obstacles on the ends of the runway is the reduction of the runway length down from the current published 950m length. Any reduction in runway length would not affect the requirement to eliminate the obstacles along the sides of the runway. The obstacles on both ends of the runway are reasonably close and high and so the runway length reduction would need to be of the order of 160m to reduce the extent of the tree removal on the ends only by 50%. This reduction of runway length is substantial and would curtail any development or expansion of airport as the runway would be too short for most aircraft operations and certainly emergency aircraft such as the Air Ambulance or RFDS. As substantial tree removal would still be necessary on the sides and ends of the runway and the function of airport would be affected, this reduction of runway length is not recommended.

Our recommendation would be clearing of the trees close to the sides of the runway and close to the runway strip ends, then felling of trees beyond the close-in zone and lastly lopping of the tall trees that are more distant from the runway strip and are viewed as of environmental significance.

6. APPENDICES

Appendix 1 : Plan, Long section and Cross-sections of the Runway strip showing OLS and penetrations as per Drawings No. 20296B Sheets 1 2 and 3

Appendix 2 : Spreadsheet of the 566 obstacles showing co-ordinates , height as an RL and penetration through the OLS

Tyagarah Airport - Work Plan				FUNDING LEGEND																									
		Item #	Reporting Officer	\$	1/1/2014	6/1/2014	11/1/2014	16/1/2014	21/1/2014	26/1/2014	31/1/2014	5/2/2014	10/2/2014	15/2/2014	20/2/2014	25/2/2014	30/2/2014	5/3/2014	10/3/2014	15/3/2014	20/3/2014	25/3/2014	30/3/2014	4/4/2014	9/4/2014	14/4/2014	19/4/2014	24/4/2014	29/4/2014
Clearance of Vegetation in Drains																													
	Drainage Works - Stage 1 (needs capital funds)	1	TN	\$ 60,000.00																									
	Drainage Works - Stage 2 (needs capital funds)	2	TN	\$ 80,000.00																									
Obstacle Management																													
	Environmental Assessment OLS & Drainage (to be funded from operational budgets)	3	TN	\$40000 to \$55000																									
	Obstacle Removal & Compensatory Planting Cost Assessments (costs unknown at this stage)	4	TN	TBA																									
	Issue of NoTams (verbal advice from CASA is that this cannot be done. Awaiting written advice)	5	TN	\$ -																									
Grass Runway Improvements																													
	Finalisation of Specification	6	TN	\$ -																									
	Request for Quotation	7	TN	\$ -																									
	Construction (needs capital funds) (needs to be done when conditions are favourable for turf growth)	8	TN	\$ 100,000.00																									
Ancillary Works																													
	Automated Monitoring System (needs capital funds) installation works to be coordinated with compliance works	9	TN	\$ 50,560.00																									
Crown Land																													
	Crown Lease Options Determined	10	TK	\$ -																									
Reporting																													
	Update report to Council	11	TN/TK	\$ -																									
	TAG Final Report	12	CS/TK/TN	\$ 20,000.00																									
	Councillor Workshop	13	CS/TK/TN/TAG	\$ -																									
	Report to Council	14	CS/TK/TN/WB	\$ -																									
Subdivision																													
	DA	15	WB	\$ -																									
	Flood & Env Assessments	16	WB	\$ 15,000.00																									

Report No. 13.18 **Investments - November 2014**
Directorate: Corporate and Community Services
Report Author: James Brickley, Manager Finance
File No: I2014/89
5 **Theme:** Corporate Management
 Financial Services

Summary:

10 This report includes a list of investments and identifies Council's overall cash position as at 28 November 2014 for Council's information.

RECOMMENDATION:

That the report listing Council's investments and overall cash position as at 28 November 2014 be noted.

Report

In relation to the investment portfolio for November 2014, Council has continued to maintain a diversified portfolio of investments. The 90 day BBSW rate for November 2014 is 2.75%. Council's performance for the month of November is a weighted average of 3.36%. This performance is again 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.

There is now only one capital protected investment held by Council which is fully allocated to an underlying zero coupon bond. On 28 November 2014, the Client Managed Note investment with a principal value of \$3,000,000 matured and was returned to Council in full. The one remaining investment being the Emu Note which will mature October 2015.

The table below identifies the investments held by Council as at 28 November 2014:

Schedule of Investments held as at 28 November 2014

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	Type	Interest Rate Per Annum	Current Value
26/09/05	1,500,000	EMU NOTES	CP	AAA-	25/10/15	MFD	0.00%*	1,447,800.00
20/06/12	500,000	HERITAGE BANK LTD BONDS	N	BBB+	20/06/17	B	7.25%	536,650.00
12/06/14	1,000,000	ING BANK (AUSTRALIA)	N	A1	09/12/14	TD	3.56%	1,000,000.00
07/08/14	2,000,000	NAB	N	AA-	08/12/14	TD	3.45%	2,000,000.00
08/08/14	2,000,000	BANANACOST CREDIT UNION	N	NR	08/12/14	TD	3.35%	2,000,000.00
11/08/14	2,200,000	POLICE CREDIT UNION	P	NR	09/12/14	TD	3.55%	2,200,000.00
26/08/14	1,000,000	NAB	N	AA-	24/12/14	TD	3.56%	1,000,000.00
26/08/14	2,000,000	ING BANK (AUSTRALIA)	N	A1	23/02/15	TD	3.56%	2,000,000.00
02/09/14	2,000,000	NAB	N	AA-	01/12/14	TD	3.45%	2,000,000.00
02/09/14	2,000,000	NAB	N	AA-	02/03/15	TD	3.55%	2,000,000.00
02/09/14	2,000,000	GATEWAY CREDIT UNION	N	NR	01/12/14	TD	3.38%	2,000,000.00
03/09/14	2,000,000	RABOBANK	N	AA	05/01/15	TD	3.45%	2,000,000.00
08/09/14	2,000,000	NEWCASTLE PERMANENT	N	NR	08/12/14	TD	3.35%	2,000,000.00
09/09/14	1,000,000	WIDE BAY AUSTRALIA	N	NR	08/12/14	TD	3.30%	1,000,000.00
09/09/14	2,000,000	ME BANK	N	BBB	12/01/15	TD	3.35%	2,000,000.00
10/09/14	2,000,000	RABO BANK	N	AA	08/01/15	TD	3.45%	2,000,000.00
11/09/14	2,000,000	NAB	N	AA-	10/12/14	TD	3.51%	2,000,000.00
15/09/14	2,000,000	ME BANK	N	BBB	15/12/14	TD	3.35%	2,000,000.00
22/09/14	1,000,000	ME BANK	P	BBB	22/12/14	TD	3.50%	1,000,000.00
29/09/14	2,000,000	PEOPLE CHOICE CREDIT UNION	N	BBB+	27/01/15	TD	3.55%	2,000,000.00
01/10/14	1,000,000	WIDE BAY AUSTRALIA LTD	N	A2	05/01/15	TD	3.30%	1,000,000.00
07/10/14	2,000,000	BANK OF QUEENSLAND	N	A2	11/02/15	TD	3.35%	2,000,000.00

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.18

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	Type	Interest Rate Per Annum	Current Value
08/10/14	1,000,000	ME BANK	N	BBB	07/01/15	TD	3.40%	1,000,000.00
08/10/14	2,000,000	BANK OF QUEENSLAND	N	A2	05/02/15	TD	3.60%	2,000,000.00
10/10/14	2,000,000	BANKWEST	N	A1+	10/10/15	TD	3.45%	2,000,000.00
10/10/14	1,000,000	BANKWEST	N	A1+	10/10/15	TD	3.40%	1,000,000.00
13/10/14	1,000,000	MACQUARIE BANK	P	A	11/01/15	TD	3.30%	1,000,000.00
28/10/14	1,700,000	POLICE CREDIT UNION	N	NR	28/01/15	TD	3.59%	1,700,000.00
03/11/14	2,000,000	SUNCORP	P	A+	02/02/15	TD	3.40%	2,000,000.00
5/11/14	1,000,000	AMP BANK	P	A+	03/02/15	TD	3.25%	1,000,000.00
10/11/14	2,000,000	COMMINVEST	N	AA-	10/05/15	TD	3.40%	2,000,000.00
12/11/14	1,000,000	NAB	N	AA-	12/02/15	TD	3.40%	1,000,000.00
14/11/14	1,000,000	NEWCASTLE PERMANENT	N	NR	12/02/15	TD	3.35%	1,000,000.00
14/11/14	1,000,000	NAB	N	AA-	12/02/15	TD	3.40%	1,000,000.00
14/11/14	2,000,000	NAB	N	AA-	12/02/15	TD	3.42%	2,000,000.00
14/11/14	1,000,000	ING BANK (AUSTRALIA)	N	A1	14/05/14	TD	3.52%	1,000,000.00
14/11/14	1,000,000	PEOPLE CHOICE CREDIT UNION	N	BBB+	12/02/15	TD	3.43%	1,000,000.00
25/11/14	2,000,000	NAB	N	AA-	23/02/15	TD	3.50%	2,000,000.00
N/A	2,479,382	CBA BUSINESS ONLINE SAVER	N	A	N/A	CALL	2.75%	2,479,381.92
Total	62,379,382					AVG	3.36%	62,363,831.92

It should be noted that at the time of writing this report, Council had not received a valuation for the EMU Note for November 2014. This investment is highlighted in bold in the table above with the valuation reflective from 31 August 2014, these being the most recent current valuations received by Council

5

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)

Note 2.

Type	Description	
E	Equity	Principal varies based on valuation, interest payable via a floating interest rate that varies except for those capital protected investments that have transferred to their capital protection mechanism.
MFD	Managed Fund	Principal varies based on fund unit. Price valuation, interest payable varies depending upon fund performance.
TD	Term Deposit	Principal does not vary during investment term. Interest payable is fixed at the rate invested for the investment term.
CALL	Call Account	Principal varies due to cash flow demands from deposits/withdrawals, interest is payable on the daily balance at the cash rate +0.50%

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 November 2014, as indicated in the table below, there is a dissection of the investment portfolio by investment type. It illustrates the current value of investments is still slightly lower than the original principal amount, demonstrating a cumulative unrealised loss of \$15,550. This cumulative unrealised loss from October to November did reduce by \$26,100 due to the maturity of the Client Managed Note Investment.

Dissection of Council Investment Portfolio as at 28 November 2014

Principal Value (\$)	Investment Linked to:-	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
57,900,000.00	Term Deposits	57,900,000.00	0.00
2,479,381.92	Business On-Line Saver (At Call)	2,479,381.92	0.00
1,500,000.00	Managed Funds	1,447,800.00	(52,200.00)
500,000.00	Bonds	536,650.00	36,650.00
62,379,381.92		62,363,831.92	(15,550.00)

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 31 October 2014 to 30 November 2014 on a current market value basis.

Movement in Investment Portfolio – 31 October 2014 to 28 November 2014

Item	Current Market Value (at end of month)
Opening Balance at 31 October 2014	64,831,834.54
Add: New Investments Purchased	14,000,000.00
Add: Call Account Additions	5,000,000.00
Add: Interest from Call Account	5,897.38
Less: Investments Matured	15,000,000.00
Less: Call Account Redemption	6,500,000.00
Add: Fair Value Movement for period	26,100.00
Closing Balance at 31 October 2014	62,363,831.92

Investments Maturities and Returns – 31 October 2014 to 28 November 2014

Principal Value (\$)	Description	Type	Maturity Date	Number of Days Invested	Interest Rate Per Annum	Interest Paid on Maturity (\$)
2,000,000.00	SunCorp	TD	03/11/2014	90	3.40%	16,767.12
2,000,000.00	Beyond Bank	TD	04/11/2014	60	3.27%	10,750.68
1,000,000.00	AMP Bank	TD	5/11/2014	90	3.80%	9,369.86
2,000,000.00	National Australia Bank	TD	10/11/2014	90	3.45%	17,013.70
2,000,000.00	CommInvest	TD	10/11/2014	90	3.55%	17,506.85
1,000,000.00	Greater Building Society	TD	24/11/2014	90	3.40%	8,383.56
2,000,000.00	National Australia Bank	TD	24/11/2014	90	3.45%	17,013.70
3,000,000.00	Client Managed Note	E	28/11/2014	2,555	0.00%	0.00
15,000,000.00						96,805.47

- 5 Please note the Client Managed Note did not pay any interest on maturity as it had been allocated to a zero coupon bond when the insurance protection mechanism was triggered. No interest is applicable for the 2014/2015 financial year.

- 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 November 2014 the table below identifies the overall cash position of Council as follows:

Dissection of Council Cash Position as at 28 November 2014

15

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Investments Portfolio			
Term Deposits	57,900,000.00	57,900,000.00	0.00
Business On-Line Saver (At Call)	2,479,381.92	2,479,381.92	0.00
Managed Funds	1,500,000.00	1,447,800.00	(52,200.00)
Bonds	500,000.00	536,650.00	36,650.00
Total Investment Portfolio	62,379,381.92	62,363,831.92	(15,550.00)
Cash at Bank			
Consolidated Fund	6,386,521.15	6,386,521.15	0.00
Total Cash at Bank	6,386,521.15	6,386,521.15	0.00
Total Cash Position	68,765,903.07	68,750,353.07	(15,550.00)

Financial Implications

Council uses a diversified mix of investments to achieve short, medium and long-term results.

5 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

10 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

15 valuations of equity investments, these products will trend toward their full principal value as they approach maturity.

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

20 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

25 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.

30 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

35 reporting for one or more months.

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

40 Gazette on 11 February 2011.

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

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.19 PLANNING - 10.2014.331.1 Community Title subdivision at Broken Head Road Suffolk Park

Directorate: Sustainable Environment and Economy

Report Author: Chris Larkin, Senior Planner

File No: I2014/24

Theme: Ecology
Development and Approvals

Summary:

Development Consent is sought for a total of 41 residential lots and three common property/ community lots across the subject land. The residential component is predominantly limited to the cleared quarry areas, whilst the vegetated remnant would be located in a community lot.

The proposed subdivision of the Broken Head Quarry relies upon the absence of a minimum lot size provision in the Byron LEP 1988. However the absence of this provisions does not mean that Council can or should approve this development. The use of the site for the purposes proposed has not been included in any forward planning documents, and it has been anticipated the site would be gradually rehabilitated as indicated in the approved Environmental Impact Statement documentation as part of DA97/465 for the Broken Head Quarry. The long term use of the site for some sort of low density residential use should be considered by Council at a Strategic Level and it is noted that the quarry is close to finishing sand and gravel extraction from the site. However issues such as character of surrounding development, Aboriginal Cultural issues, the importance of the site as a wildlife corridor and means of access and egress need to be explored in determining an appropriate density for the property.

In relation to the current planning controls applying to the land it is submitted the development is inconsistent with the objectives of the 1(e) Extractive Industry Zone, whilst the applicant has failed to demonstrate the subdivision is not antipathetic to the aims, objectives and provisions of the recently commenced Byron LEP 2014, which now stipulate a minimum lot size of 40ha for subdivision for the site. It is considered the proposal is not in the public interest and is recommended for refusal. Whilst the development as proposed does not meet the objectives of the 1(e) Extractive Industry Zone, long term use of the site should still be considered by Council and as such it has also been recommended that Council investigate whether the property could be utilised for residential or rural residential development as part of the preparation of the Draft Byron Shire Planning (Housing) Strategy.

For further detail please refer to Attachment 1 for the Evaluation Report.

NOTE TO COUNCILLORS:

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

RECOMMENDATION:

That Council:

- 1. Pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application no. 10.2014.331.1 for Community Title subdivision to create**

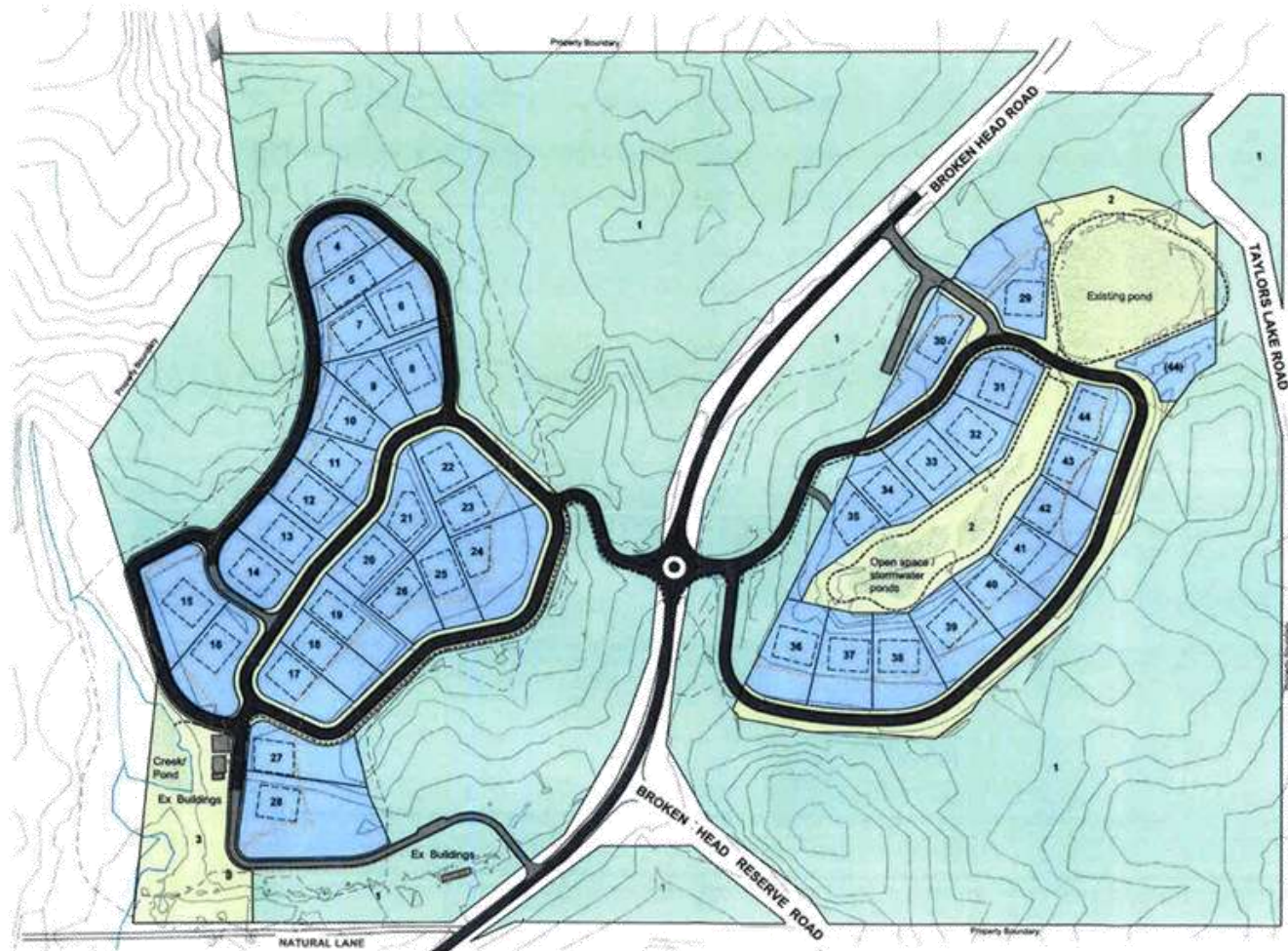
44 lots, comprising 41 residential lots, 2 neighbourhood property lots and 1 common property lot, be refused for the reasons contained in Attachment 1; and

- 2. Investigate whether the property could be utilised for any form of residential or rural residential development as part of the preparation of the Draft Byron Shire Planning Strategy to enable greater community involvement in terms of the lands long term use, having regards to issues such as Aboriginal Cultural Heritage, rehabilitation of the quarry and enhancement of the existing wildlife corridor, and character and density of surrounding development.**

Attachments:

- 5 1 EMGA Mitchell McLennan Pty Ltd 10.2014.331.1 Community Title subdivision Broken Head Rd, Suffolk Park, E2014/79917 (provided under separate cover)
- 2 plans 10.2013.331.1, E2014/76905 , page 195
- 3 Confidential - Submissions 10.2014.331.1, E2014/76897 (provided under separate cover)

10



Cadastral boundaries are approximate only and subject to survey verification.
This plan is conceptual only and not suitable for subdivision, marketing or construction purposes.
MOSH Plan Scale 1:3000 at A3

LEGEND

- | | | |
|---|---|--|
| <ul style="list-style-type: none"> Approved limit of disturbance Quarry APZ Road Emergency access and internal property access road | <ul style="list-style-type: none"> Pathway, cycleway or boardwalk Pond or stormwater area (indicative location) Building area (max. 720 sqm) | <ul style="list-style-type: none"> Community property Neighbourhood property Neighbourhood lots |
|---|---|--|

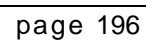


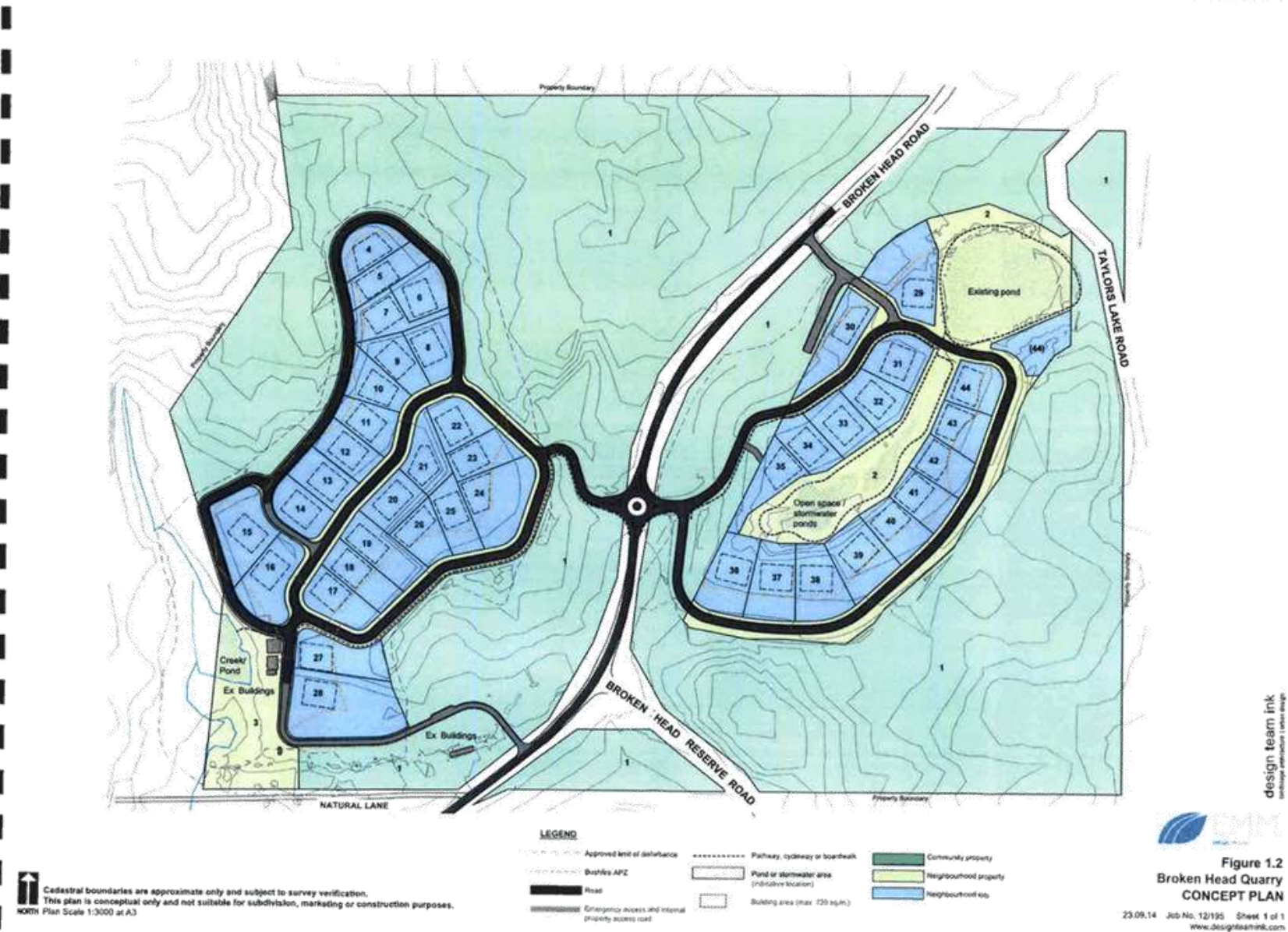
design team ink
landscape architecture | urban design

Figure 1.2
Broken Head Quarry
CONCEPT PLAN

23.09.14 Job No. 12/195 Sheet 1 of 1
www.designteamink.com

13.19 - ATTACHMENT 2





Report No. 13.20 Report of the Planning Review Committee Meeting held on 18 November 2014

Directorate: Sustainable Environment and Economy

Report Author: Wayne Bertram, Manager Certification and Assessment

File No: I2014/48

Theme: Ecology
Development and Approvals

Summary:

This report provides the outcome of the Planning Review Committee Meeting held on 18 November 2014.

RECOMMENDATION:

That the report be noted.

Report

The following development applications and s96 applications were reviewed with the outcome shown in the final column.

5

DA No.	Applicant	Property Address	Proposal	Reason/s	Outcome
10.2014.593.1	Koho Consulting	51-53 Rajah Road Ocean Shores	Multi dwelling housing – 14 single bedroom dwellings	The number of public submissions. The perceived public significance of the application.	Council

Council determined the following original development applications. The Section 96 application to modify these development consents are referred to the Planning Review Committee to decide if the modification applications can be determined under delegated authority.

10

DA No.	Applicant	Property Address	Proposal	Reason/s	Outcome
10.2009.151.2	Bayview Land Developments	Tuckeroo Avenue Mullumbimby	S96 to amend conditions (Construct and dedicate (via subdivision) access roads, sports playing fields and sports facilities)		Delegation

STAFF REPORTS - INFRASTRUCTURE SERVICES**Report No. 13.21 Tom Kendall Oval Change Facilities****Directorate:** Infrastructure Services**Report Author:** Nikki Bourke, Capital Projects Officer
Christopher Soulsby, Development Contributions Officer**File No:** I2014/49**Theme:** Community Infrastructure
Open Space and Recreation**Summary:**

This report seeks Council resolution to support the continued implementation of the design and construction of change rooms and additional amenities for Tom Kendall Oval, New Brighton, including the allocation of funding.

RECOMMENDATION:

1. That Council support the continuation of the development of change facilities and additional amenities at Tom Kendall Oval, New Brighton.
2. Staff amend the 2012 Byron Developer Contributions plan as per the “Table of Proposed Amendments to the Community Facilities Works Schedule” as set out in this report.
- 3 Staff amend the 2012 Byron Developer Contributions Plan Open Space works schedule by the inclusion of \$32,000 of shade structures at Tallowood Playground.
- 4 As a result of points 2 and 3 staff make consequential changes to the rates of contribution in the Draft 2012 Byron Developer Contributions Plan (Amendment 3).
- 5 Place the Draft 2012 Byron Developer Contributions Plan (Amendment 3) on public exhibition in accordance with the Environmental Planning and Assessment Act, 1979 and Regulation, for a period of 28 days.
- 6 At the close of the exhibition report the Draft 2012 Byron Developer Contributions Plan (Amendment 3) back to Council for further consideration.

Report

Council has requested a report on the provision of change facilities and amenities at Tom Kendall Oval, New Brighton. The relevant resolutions are as follows:

12-964 Resolved that Council receive a report on the provision of change rooms/showers at the Tom Kendall Oval including the option of using the current shed/garage on site and provision of a storage container.

and

13-260 Resolved:

...

3. That the installation of the New Brighton change rooms be endorsed for future funding applications within the 2013 Community Building Partnership program and considered for inclusion in the development of the Delivery and Operational Plans for Open Space and Recreation in the 2014 / 2015 Integrated Planning Document.

Background

The Shores United Soccer Club (SUSC) currently has 17 teams (juniors, seniors and one women's team) and approximately 180 players, however despite being popular, growth and operation of the club is limited by the condition and facilities available at the only field in the Ocean Shores district: Tom Kendall Oval. The oval's current amenities consist of only one each of male and female toilet and shower, a relocatable canteen and double garage for storage.

A proposed change room facility and amenities building is being considered as part of a strategy to address the needs of the SUSC and other sporting groups. The full strategy includes the development of a sports field at the recently purchased the Lot 5, Shara Boulevard, Ocean Shores site. The latter site is eventually intended for development of multiple fields catering for a number of sports, however in order to expedite the development, the project is currently focussing on the northern portion of the site where minimal environmental, flooding and engineering constraints exist.

This has meant that only one 'premier league' compatible field with ancillary amenities and car park will be developed at Shara Boulevard in the short to medium term. Therefore, Tom Kendall Oval will continue to be used by the SUSC junior teams until such time that the remainder of Lot 5 Shara Boulevard is potentially developed with soccer fields catering to the junior teams.

Needs Analysis

The townships of northern Byron Shire (Ocean Shores, New Brighton, South Golden Beach and Billinudgel) have significantly under resourced sporting facilities. Demographics of the Ocean Shores Census District demonstrate a potentially active community.

Age Category	Number of Residents	Percentage of Residents
0-14 years	985	20.2%
15-29 years	716	14.7%
30-44 years	976	20.1%
45-59 years	1183	24.3%

An analysis of the need for additional sporting fields was undertaken in the 2008 Byron Shire Council Northern Shire Sporting Fields Strategy. The study identified that the SUSC is the club with the most pressing need for improved facilities.

The club has strong membership with 17 teams and 180 players. Tom Kendall Oval does not have change facilities and the women's team consequently do not play there due to privacy needs. The

construction of an amenities block and change facilities is greatly needed to meet the needs of the residing SUSC and visiting teams.

Consultation

- 5 Consultation with the president of the SUSC has been undertaken on a number of occasions regarding both the requirements for this facility and the complementary North Ocean Shores Sports Field at Lot 5 Shara Boulevard.

- 10 Consultation with the New Brighton Farmers Market organisers and neighbouring residents will also be undertaken as the project progresses.

Options

An indicative facilities building designed in consultation with the SUSC includes:

- 15
- Separate change rooms for home teams and visiting teams (3 showers, 1 ambulant toilet, 1 urinal, 1 hand basin in each room),
 - A referee room with an ambulant toilet, hand basin and shower,
 - Approximate building dimensions of 9m x 10.5m in size, and
 - A 12.5m x 12.5m skillion roof allowing for a front verandah area.

- 20 The suggested configuration is provided in Figure 1 below:

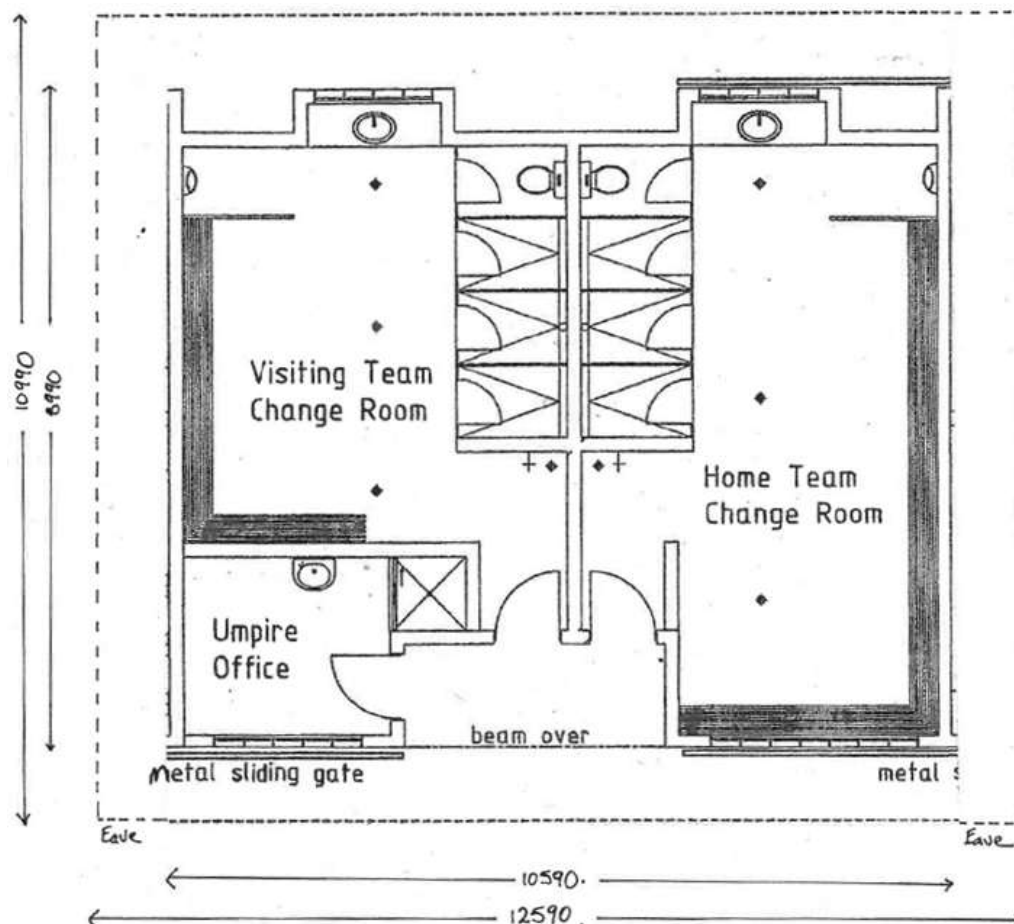


Figure 1: Indicative design for Tom Kendall Oval Change Facilities and Amenities

It is proposed that the site retain the existing amenities block to enable the new facility to be secured, whilst still have amenities available to the general public and market users.

The proposed location of the above design is shown in Figure 2 below:



Figure 2: Proposed location of the Tom Kendall Oval Change Facilities and Amenities

- 5 Should sufficient budget be available through the securing of funding grants or otherwise, additional options and innovations that could also be explored include:
- A facility incorporating an all abilities toilet with external access separate to the change rooms,
 - A facility with design flexibility for future expansion,
 - 10 • An alternative location to avoid the removal of Poinciana trees at the proposed location (this would lead to additional cost in connecting to services),
 - Raising the facility to provide flood immunity.

15 The option suggested in Council Resolution **12-964** of using the current shed/garage on site and provision of a storage container has been considered and consultation with SUSC indicates that this option will not be suitable for their needs.

20 The planned amenities and change facilities will not only cater for the current home teams and visiting teams, but importantly the expressed privacy needs of the women's team who do not currently use their 'home oval' due to a lack of change facilities.

Costs

Two indicative quotes have been received to date for a similar design to that shown in Figure 1. Based on these quotes it is likely that the entire budget available for transfer from the Waterlily Park public toilets project of \$138,890 (see 'Financial Implications' Section) will be required.

Funding Grant Applications

An Office of Sport – Sport Facility Program grant application was submitted in October 2014 seeking \$25,000 to contribute to this proposal. If successful the grant will expand the opportunities to provide more than the 'basic' facilities option currently being pursued.

Council will be advised on the success of receiving this grant, and should no funds be awarded, new grant opportunities will be pursued.

Recommendation

It is recommended that Council proceed with the development and implementation of a new change facilities and amenities building at Tom Kendall Oval, New Brighton, and allocate funds accordingly.

Developing the facility in conjunction with the development of the 'premier league' North Ocean Shores Sports Field at Shara Boulevard will ensure the viability of the SUSC and help to maintain and build a cohesive community in the northern Byron Shire area.

Financial Implications

Comment by Developer Contributions Officer

Aside from grant funding the only other available source of funds is from the section 94 plan. This proposal is not identified in either the Open Space or Community Facilities works schedules of the latest amendment on the plan that came into force on 15 July 2014. Under the terms of the current plan these works cannot be funded from section 94. It is, however open to Council to amend the contributions plan to add new works in. When adding new works into the plan Council should carefully consider the impacts that the apportionment rate can have on Council's financial sustainability and its ability to deliver other priority projects.

The needs analysis above clearly demonstrates that this facility is required to service the needs of the existing community. It is also a reasonable proposition that this facility will also service the needs of new population moving into the area. Based on the predicted change in population in this catchment the apportionment rate is 4.77%. The population of Ocean Shores and South Golden Beach is not expected to change significantly over the time frame of the contributions plan out to 2026.

This apportionment rate would mean that the cost split for a project cost of \$138,890 would be as per the table below:

Project Cost	Developers Share	Council's Share
\$138,890	\$6,625	\$132,264

This split of cost would severely impact on Council's ability to deliver this project.

As an alternative to this funding model Council may re-allocate pre 30 June 2012 "reconciliation" funds to this project. Conceptually these funds that were paid by developers prior to the adoption of the new plan represent the demand created by the existing population. Council needs to be cognisant that there is a finite amount of these reconciliation funds available and once spent any

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new projects that are added to the plan will have to be funded using the appropriate apportionment methodology.

- 5 A potential source of reconciliations funds to progress this project is Community Facilities funds that had been allocated to construct new toilet facilities at Waterlilly Park. The Waterlilly Park project was added into the plan in amendment 2 that came into force on 15 July 2014.

The current funding arrangements for the Waterlilly Park toilets are set out in the following table:

Facility	Cost of Works	S94 Funds bought forward (reconciliation from old plan)	Net cost of works	Apportionment (% attributable to new development)	Cost of works attributable to new development	Cost of Works Attributable to Council
Waterlilly Park Construct public toilets.	150,000.00	130,890.50	19,109.50	4.77%	911.96	18,197.54

10

If Council amends the plan to re-allocate funds to the project at Tom Kendall then the project costings would be as follows:

Table of Proposed Amendments to the Community Facilities Works Schedule						
Facility	Cost of Works	S94 Funds bought forward (reconciliation from old plan)	Net cost of works	Apportionment (% attributable to new development)	Cost of works attributable to new development	Cost of Works Attributable to Council
Waterlilly Park Construct public toilets.	150,000	0.00	150,000	4.77%	7,155	142,845
Tom Kendall Oval Change Facilities	130,890.50	130,890.50	0.00	4.77%	0.00	0.00

- 15 The re-allocation of funds to Tom Kendall is reasonable given the above needs analysis and that staff are yet to progress the planning of works at Waterlilly Park. Staff will have to source alternative funds to pay for Council's share of the costs of the Waterlilly Park project which could potentially be sourced from the proceeds of sales of the Roundhouse subdivision when this occurs.
- 20 There would be sufficient remaining reconciliation funds to progress a design of the Waterlilly Park project.

These changes to the contributions plan would not significantly increase the rate of contributions payable by developers.

25 Statutory and Policy Compliance Implications

- 30 The facility can be constructed without consent under the State Environmental Planning Policy (SEPP) Infrastructure 2007 – clause 65 – Amenity facilities. Following this development path, a Review of Environmental Factors will be required under Part 5 of the EPA Act 1979 prior to commencing work.

The proposed facility will be operated and maintained into the future in accordance with Byron Shire Council's relevant plans of management and policies including Byron Shire Council's Sportsfield User Policy, Asset Management Policy, and Generic Plan of Management for Community Land Categorised as a Sportsground.

The section 94 plan would have to be amended in accordance with the procedure as set out in the Division 4 of the Environmental Planning and Assessment Regulation 2000. This requires public exhibition of the draft plan for 28 days. This amendment to could also address the funding of shade structures at the Tallowood playground as resolved at the meeting of 30 October 2014.

14-543 Resolved:

1. *That the petition regarding provision of shade cloths at Tallowood Ridge Playground be noted.*
2. *That the petition be referred to the Director Infrastructure Services.*
3. *That Council support the erection of shade sails at the site in combination with a longer-term plan for planting and other landscaping, with assistance being sought from the neighbourhood with planting and landscaping.*
4. *That Council receive a report on amending the s94 Contributions Plan to incorporate a shade sail at the site.*

Incorporating this other minor amendment in with the Tom Kendall amendment avoids the need for further unnecessary administrative reports.

Report No. 13.22 **Shara Boulevard Concept Design Report and Planning Proposal**
Directorate: Infrastructure Services
Report Author: Nikki Bourke, Capital Projects Officer
File No: I2014/66
5 **Theme:** Community Infrastructure
 Open Space and Recreation

Summary:

10 This report seeks Council resolution to support the North Ocean Shores Sports Field Concept Report and preferred design and endorse the North Ocean Shores Sports Field Planning Proposal for submission to the NSW Department of Planning and Environment.

RECOMMENDATION:

1. **That Council supports the preferred concept design outlined in the North Ocean Shores Sports Field Concept Report for further development, and**
2. **That Council endorses the North Ocean Shores Sports Field Planning Proposal for submission to the Department of Planning and Environment.**

Attachments:

- 1 North Ocean Shores Sports Field - Concept Report , E2014/78521 (provided under separate cover)
- 2 North Ocean Shores Sports Fields Planning Proposal v2 - GeoLINK - Nov 2014, E2014/78554
20 (provided under separate cover)
- 3 North Ocean Shores Sports Fields Project Plan v4 - GeoLINK Nov 2014, E2014/80706 , page 211

Report

Council has recently purchased Lot 5 Shara Boulevard, Ocean Shores for the purpose of developing sports fields and associated infrastructure for the communities of the northern Byron Shire townships. In order to expedite the development, the proposed concept design will focus only on the northern portion of the site where there are minimal environmental, flooding and engineering constraints.

The Concept Design and complementary Planning Proposal involve one sports field positioned on the existing cleared and raised pad (constructed prior to land purchase for a proposed service station). The field's primary purpose will be to support the needs of the Shores United Soccer club and be designed in accordance with Football Far North Coast, FIFA and other guidelines to meet a Premier League Division standard of field.

The Concept Design was presented to Council at a Strategic Planning Workshop on the 27 November 2014.

Concept Report - North Ocean Shores Sports Field

The attached Concept Report - North Ocean Shores Sports Field includes a "Needs and Standards Assessment" which details consultation with stakeholders to date and justifies the need for the development. The report outlines a number of possible site configurations, and presents the preferred design for the sports field which includes:

- Premier League Division soccer field;
- Amenities building / clubhouse with appropriate internal facilities;
- The amenities / clubhouse building being located on the western side of the playing field, to avoid spectators looking into the setting sun and to maximise the separation of this hard infrastructure from retained vegetation;
- 90 car parking spaces and 2 bus parks;
- Access through the northern part of the site for future access to later stages of the project to the south;
- Maximum use of the existing fill platform to minimise intrusion into flood zones; and
- Minimise impact on existing vegetation.

A preliminary cost estimate to bring the project to completion is in the order of \$1.7 - \$2.0 million.

Planning Proposal - North Ocean Shores Sports Field

The Planning Proposal - North Ocean Shores Sports Field - Rezoning and Reclassification of Lot 5 DP880917 Shara Boulevard, North Ocean Shores (attached) has been prepared to ensure that the new sports field and associated amenities can be developed.

The Planning Proposal is required to be submitted to the NSW Department of Planning and Environment and requires ratification by Council in order to do so. The Planning Proposal includes:

- *"Rezoning - The land to be used for the stage 1 soccer field and associated facilities is proposed to be zoned RE1 Public Recreation, pursuant to Byron Local Environmental Plan 2014 (BLEP 2014). Because further investigation is required to determine the capability of the remainder of the site, the RE1 zone is proposed for only the northern, previously disturbed part of the site. The remainder of the land will retain its current zoning."*, and
- *"Reclassification - The land is currently classified as 'community' under the provisions of the Local Government Act 1993. As part of the delivery and management of sporting and recreational facilities at the site, Council may, in the future, consider leasing part or all of the land to a local sports group. Council or a local group is also likely to operate ancillary commercial ventures at the site, in the form of canteens, kiosks, club facilities or the like. Leases and commercial ventures are restricted under the community classification and therefore this planning proposal also aims to reclassify the land from community to*

'operational'. So that this reclassification need only proceed once, it is proposed that it be pursued for the whole of Lot 5."

5 Project Plan

The Project Plan developed by consultants GeoLINK involves a compressed timeframe in order to deliver the proposed northern sports field as soon as possible. The Project Plan (see attached) includes applying for the rezoning and reclassification in tandem, and undertakes a Statement of Environmental Effects during the same period to achieve detailed design delivery by August 2015.

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Financial Implications

The preferred option presented in the Concept report has an estimated cost (\$1.7 – \$2.0 million) that can be funded with available s94 funds.

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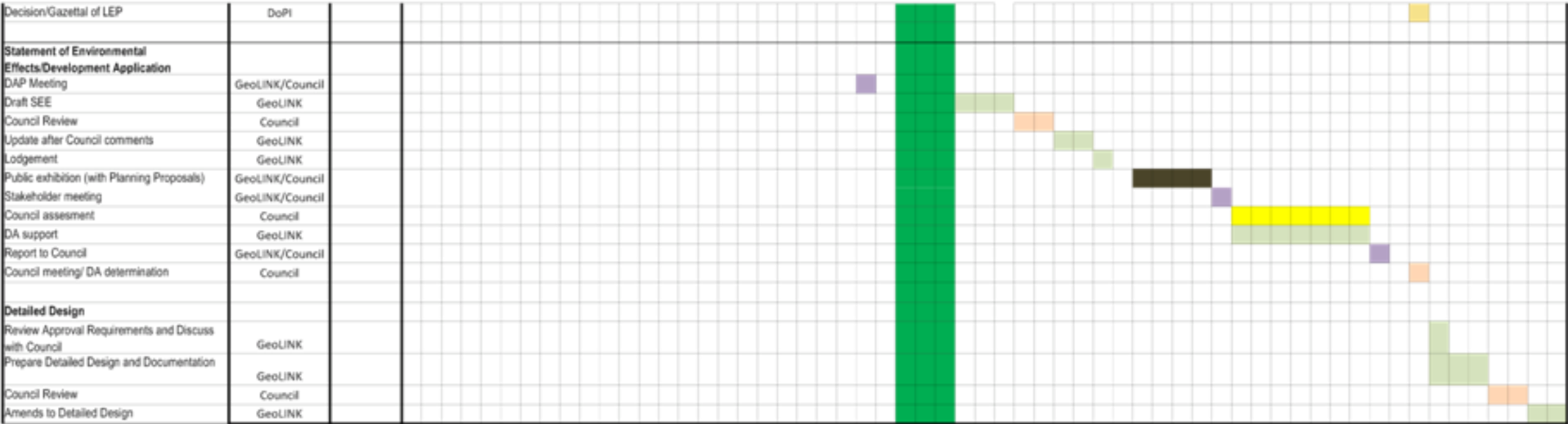
The project approval process and subsequent detailed design may result in a higher project cost that could require some prioritisation of elements or support through grant funding.

20 Council is in the positive position of having available funds to match any funding that maybe available through grant opportunities.

Statutory and Policy Compliance Implications

25 The attached North Ocean Shores Sports Field Planning Proposal addresses all statutory and planning implications relevant to this project.

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GeoLINK	
Council Planning	
Council	
SubConsultants	
GeoLINK/Council	
DoPI	
Public	
Christmas break	

Report No. 13.23 **Byron Bay Parking Study Update**
Directorate: Infrastructure Services
Report Author: Simon Bennett, Traffic and Transport Engineer
File No: I2014/76
Theme: Community Infrastructure
 Local Roads and Drainage

Summary:

A Councillor workshop was held Thursday 27 November 2014 to consider a broad range of parking supply and management options emanating in the Byron Traffic Study report submitted by consultants TTM. Amongst the Agenda items included in a presentation from the TTM consultant was a specific focus on a related document and further review as provided prior to the workshop and entitled "Preliminary Review - Local Exemptions and Implementation Options".

This document was developed following a previous Councillor workshop (14 August) at which it was requested a review be undertaken on the feasibility of providing an exemption or discount to 'locals' in the event pay parking is introduced in the Byron Bay town centre.

In short, based on the assumptions made, TTM advise that Council could introduce a pay parking scheme and provide an exemption that is either (not both) a:

- a) FREE period, being no more than 30-minutes free within a 24 hour period which can not be accumulated, i.e. 30 minutes is for the single day and expires if used or not, meaning it can not be stored up as credit, for example someone that does not park for three days does not then get 90-minutes the next time but simply they have the first 30-minutes free each and every day they park; or
- b) DISCOUNT, be it either up to no more than a 40% discount on the hourly rate charged or the coupon system extend to on-street but increase from \$25pa up to \$190pa.

It should be noted however that the consultant advice is that providing more than 30-minutes as a free period or a discount beyond 40% of the rate charged or less than \$190pa for the coupon would make the scheme questionable if not unviable vis-à-vis cost versus returns and benefit.

While there are complexities to providing either of these exemptions, such as administration, enforcement plus ongoing software and hardware maintenance and programming, the technology is available, albeit at a significant extra cost due to the specific requirements of such schemes and potentially a financial risk if the underlining assumptions do not hold, namely the number of 'locals' parking in the town centre at anyone time.

This report outlines this and the other assumptions made; plus highlight the risks of any exemption or discount scheme in efforts to assist Council in the decision to proceed further or not in regard to on-street pay parking in Byron Bay town centre.

In light of the most recent workshop this report also takes the opportunity to put forward a further option, namely no discount or exemption applies to on-street and 'locals' (as occurs now) are provided an exemption in Council car parks only which, via the introduction and use of a 'boom' gate and a ticket to enter and leave, also affords the opportunity to remove the coupon system thereby reducing Council costs (administration and coupon production/monitoring) and the inconvenience of obtaining the coupon, which would instead occur each time at the boom gate; i.e. no permanent sticker to display and obtain from the Mullumbimby office. Such a system would also result in enforcement cost savings when compared to the discount or exemption options.

RECOMMENDATION:

That Council, Support the introduction of a pay parking scheme in Byron Bay in principle subject to the following provisos:

- a) the inclusion of a 'locals' exemption which is either:**
 - i) no more than 30-minutes free per day; or**
 - ii) up to a 40% discount to the hourly rate imposed; or**
 - iii) restricted to Council off-street car parks only;**
- b) as a guide for further analysis an hourly fee of \$2 be assumed at locations within Table 1 of this report, except Main Beach and Clarkes Beach car parks and the length of Bay Street, whereby \$4 per hour applies;**
- c) staff develop an Expression of Interest (Eoi) for the purposes of seeking costs and information on technological capabilities of pay parking machines from suppliers;**
- d) holding of a Councillor/staff workshop in early February 2015 to consider further analysis of any residual issues raised by the Council at this meeting;**
- e) prior to the workshop, staff develop and circulate a briefing paper which details further the issues highlighted in this report including options for:**
 - i) the existing parking coupon system;**
 - ii) eligibility criteria for a local exemption, be it residents, ratepayers or workers;**
 - iii) potential allocation limits, for example number of vehicle exemptions or discounts per dwelling or workplace, and the cost for extra allocations above the prescribed allocation;**
 - iv) changes to parking time limits; and**
 - v) the application of a resident permit parking scheme.**
- f) a further report is provided to Council during February 2015 for a final decision on the introduction of pay parking for Byron Bay and other recommendations contained in the TTM Byron Parking Study report.**

Report

On 22 May 2014, Council received the consultant (TTM) report which included amongst its recommendations that Council introduce a metered parking system that integrates enforcement and off-street and on-street locations into one single parking scheme. The report concluded that based on occupancy and turnover, a rate of \$2 per hour operating 9am to 6pm, seven days a week across approximately 730 parking spaces would improve parking efficiency by introducing a proven element of self-enforcement, thereby improving car parking supply within existing stock, plus generate sufficient revenue via pay parking and enforcement to cover costs and provide returns for future investment and projects, being approximately \$2million pa after costs.

On receipt of the report Council resolved it be referred to the Roads and Maritime Services (RMS) for concurrence and placed on public exhibition. This occurred, with RMS feedback reported back to Council via the Local Traffic Committee (LTC). Extensive consultation was undertaken during July, which resulted in over 1,000 submissions made with a clear message being if pay parking was to eventuate then 'locals' expected to be either provided with a substantial discount; or another means to make it "convenient", for example the ability to obtain the 'exemption' once a year (preferably online) and avoid having to obtain a ticket each time they park.

Results of the consultation were presented at the Councillor workshop held August 2014, whereby various exemption 'scenarios' were developed and provided to TTM to assess. This assessment has now been completed and has determined a breaking point; i.e. if a 'locals' exemption is to apply it has to be either and no more than:

- a) 30-minutes free per day, used/expires each 24 hour period; or
- b) Up to a 40% discount on the hourly rate; or
- c) Maintenance of a coupon scheme that includes on-street and cost no less than \$125pa and up to \$190pa (currently \$25 pa).

Providing a greater time period or discount would make the scheme questionable if not unviable and potentially expose Council to financial risk, namely the costs of the system to set up and then maintain on a revenue base that may not cover such costs, noting costs accumulate quickly the more specific (i.e. tailored) the system becomes.

This 'tailoring' is due to the complexities to provide an exemption, namely the establishment and ongoing costs to program software and provide and maintain hardware; i.e. the technology requirements to enable exemptions or discounts which requires resourcing to administer and enforce the system.

Assumptions

Following the request to review the feasibility of providing a 'locals' exemption, a further survey was required (conducted one day in October 2014, during school term) that looked specifically to better understand what percentage of parking was due to locals. This survey determined 55% as a rate. This is significantly more than the previous general surveys, which had determined being 30% and 45% in Aug/Oct 2013 and February 2014 respectively.

However the varied survey rates do indicate the potential for survey inaccuracy, thereby leading the consultant to assume for this feasibility a generous 'locals' rate of 65% and 75% to ensure a conservative (not inflated) revenue estimate. These figures appear to staff to be somewhat volatile and a mean of somewhere between 40-50% is more realistic.

Other assumptions made include parking durations of 'locals' (see Table 1); that a 'smart card' system would be used; enforcement gross revenue will double; and that charges of \$2 per hour on-street and off-street will apply, with the exception \$4 per hour charged at the 'premium locations'

along the foreshore at both the Main Beach and Clarkes Beach car parks and the length of Bay Street.

Table 1: assumed 'locals' parking durations

Median	30 min
Avg	50 min
<15 min	25%
<30 min	42%
<60 min	65%
<90 min	75%
<120 min	90%
>120 min	10%

5

In doing so, pay parking would then apply to approximately 1,300 parking spaces as tabled below. This shows the number of spaces (supply) and averaged occupancy (Avg) as recorded during the parking study data collection. This same table was reported to Council 22 May 2014 and indicates the town centre is at capacity and the off-street car parking could be better utilised, which is expected if on-street pay parking does eventuate and the coupon system remains, albeit potentially modified (see point 3 overleaf).

10

Table 2: pay parking scheme / utilisation

15

Town centre – at capacity			
Site	Description	Supply	Avg.
A	Main Beach car park	95	73%
F	Bay Street	87	94%
G	Lawson Street (Jonson - Middleton)	85	99%
H	Jonson Street (Bay - Marvell)	70	92%
I	Jonson Street (Marvell - Browning)	140	83%
J	Fletcher Street, north of Lawson Street	34	94%
K	Fletcher Street (Lawson - Marvell) & Byron Street (Jonson - Fletcher)	93	107%
L	Marvell Street, Carlyle Street and Kingsley Street (Jonson - Middleton)	93	75%
M	Marvell, Carlyle and Kingsley Streets east of Middleton Street	136	63%
M1	Middleton Street and Byron Street east of Fletcher	168	114%
	Total	1,001	89%
Pay car parks, off-street – under utilised			
B	Lawson Street north and south car parks	212	57%
E	Clarkes Beach car park	89	30%
	Total	301	43%

Estimated revenues / costs

Based on the revisions and assumptions described, the consultant estimates the following.

20

Table 3: year one establishment costs

Capital Costs (Ex GST)	
No. Meters	93
Meter (inc. Installation)	\$1,116,000.00
Incidental Costs @ 20%	\$223,200.00
Enforcement Technology	\$200,000.00
Total Capital Cost	\$1,539,200.00

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Due to more spaces (from 730 up to 1,300) being incorporated into the scheme more meters are required, hence greater establishment costs expected including number of meters and configuration of enforcement technology for each. The 20% incidental costs include items such as new signage, line marking, etc and is an appropriate contingency.

As for expected revenues and costs, Table 4 summarises the consultant's estimations. As for costs, see discussion below.

Table 4: estimated revenues

Scheme:	No exemptions		30mins FREE ³			Discount ³		
	Inclusions ¹	Exclusions ²	55%	65%	75%	55%	65%	75%
Meters								
Revenues - gross	\$2,839,891	\$2,360,259	Not provided by TTM			Not provided (NP)		
Costs	\$689,585	\$689,585	See report/discussion below			Same as 30mins free		
Meters- Net	\$2,150,306	\$1,670,673	\$1.15m	\$1m	\$950,000	NP	\$1m	\$0.9m
Enforcement								
Revenues - gross	\$2,317,264	\$1,017,264	Not provided by TTM			Not provided (NP)		
Costs	\$831,726	\$331,726	See report/discussion below			Same as 30mins free		
Enforcement - Net	\$1,485,537	\$685,538	\$950,000	\$850,000	\$750,000	NP	0.85m	0.75m
Overall - Net	\$3,635,843	\$2,356,211	\$2.1m	\$1.85m	\$1.7m			

Table notes:

1 – includes current revenue and costs (TTM reference Table 3.2 - A)

2 – from Enforcement excludes Revenues (\$1.3m) already derived and Costs (\$0.5M) already incurred, and from Meters excludes Revenues from Main Beach and Clarkes Beach car park as such funds are restricted to use on the crown reserve (TTM reference Table 3.3)

3 – excludes revenue expected from Main Beach and Clarkes Beach car park, approx. \$480,000 assumed

As Table 4 shows, without an exemption being provided \$3.6m can be expected from pay parking scheme each year. This includes about \$1.3m revenue Council currently derive from enforcement and approximately \$480,000 revenue assumed to be raised from the car parks on crown reserves. Any revenue derived from Crown Reserves must be quarantined for expenditure on Crown Reserves.

It should also be noted revenues are based on employing five (5) full time parking officers as opposed to three (3) that were deployed in 2013/14 when \$1.3m enforcement revenue was raised. Accordingly the enforcement costs presented in Table 4 also assume five (5) full time parking officers noting that Council are recruiting for a fourth such position currently.

As for ongoing costs, the consultant has estimated that the complexities of an exemption scheme would have an added burden on administration (at \$200,000pa); maintenance (\$15,000pa) and require an increase in enforcement staffing and resources (from \$831,726 to \$1.25m pa, a 50% increase) including extra parking officers deployed (as noted, from three to five). These extra costs total \$1.465m per year to administer, maintain and enforce the parking system, much of it (near 50%) attributed by the consultant to allowing exemptions.

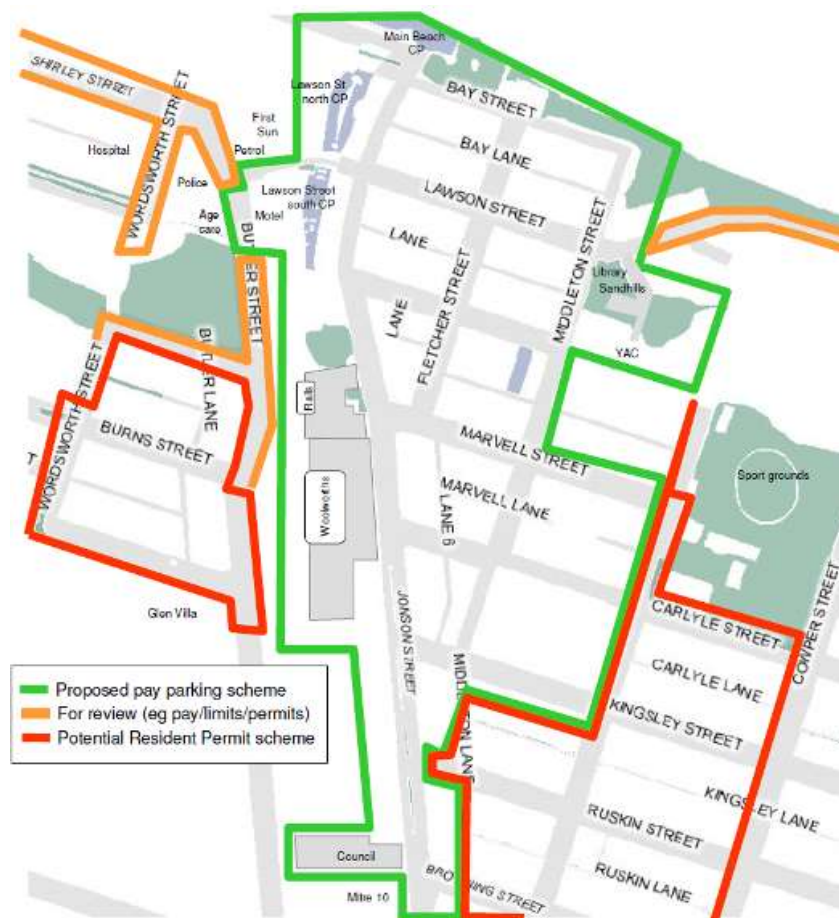
Other costs to consider include credit card transaction costs, which is estimated up to \$300,000pa and would apply regardless if exemptions applied or not. This figure however is the upper end and based on 45-cents per transaction, which considers gateway (merchant) fees, credit card system costs and bank fees.

Way forward / issues

Council needs to determine if they wish to proceed with pay parking, noting the following will need consideration once such a decision is forthcoming:

1. commence review and implement changes to short term and long term car parking, noting recommendations of the parking study are for more 1P in the core of the town centre while consultation has made it clear more longer term parking is needed for workers/all day parking. For example, on the fringe of town or in car parks with adequate pavement, lighting and access;
2. develop Butler Street Reserve as an attractive and safe car parking option, especially for workers (subject to the concurrence of the Crown);
3. the retention or not of the coupon system, or changes to it, noting the consultant feasibility review indicates the coupon needs to increase to between \$125pa and \$190pa if it is to be retained, however doing so is likely to cause confusion as follows;
4. number of parking systems Council wishes to maintain, noting confusion and burden is likely for end user, administration and enforcement alike if pay parking scheme, an exemption scheme, a resident parking permit scheme and the existing coupon scheme all co-exist, all of which are in addition to the existing NPWS scheme;

Figure 1: Areas Proposed as Pay Parking, Potential Resident Scheme or Further Review



5. as previously advised, to mitigate impacts of 'displacement' associated with pay parking a Resident Parking Permit Scheme may apply (see Figure 1)

6. timing of implementation, noting 3-4 months would be the minimum required between a decision to proceed and the system commencing operation;
7. as for a start date, the beginning of the financial year (1 July) offers accounting and budget synchronicity however falls in the middle of a school holiday period. Installation with any alternative start date best before the September school holidays, commencing on 19 September 2015;
8. who will be eligible for a 'locals' exemption and how do they prove eligibility, all of which is criteria Council can establish as the parking authority, including limits to households, for example first exemption per household is free, second is at a cost (e.g. \$125), third is twice as much, and no more than four per household are allowed

These issues however are just some of those raised in the parking study and the consultation undertaken. Each need detailed consideration and will be topics for discussion in a further proposed staff and Councillor workshop which will be held to further assist councillors in making a final decision on the parking scheme.

For now however Council confirmation on the broad scheme principles and parameters are sought so as to assist a move toward finalising the parking scheme, hence the recommendations made.

Financial Implications

Based on estimates provided, Council could expect a return on investment toward the end of Year 2 if exemptions as described apply, with Year 3 onward returning approximately \$2m net pa. To make these returns however, significant investment in capital and resources required for the establishment of such a scheme is required, noting Council may be able to avoid significant up-front costs of establishment by entering a lease agreement with a supplier rather than direct purchase.

These funds would be vital to ensure sufficient funding for the significant capital works projects likely to arise in Byron Township following the adoption of the Byron Bay Town Centre Master Plan that will be completed in September 2015. This plan will reflect community expectations regarding the future of our largest town – expectations that will need to be supported by recurrent funding.

Fit for the Future / Financial Sustainability

Council is obliged to prepare and submit a report on its future sustainability to the Office of Local Government by 30th June 2015 as part of the Fit for the Future local government reform program. This report will include a report card on the implementation of Council's Financial Sustainability Plan Mark 2 adopted earlier this year which includes among its revenue targets the option of introducing a pay parking scheme for Byron Bay. One of the key scenarios contained in Council's 10 year Long Term Financial Plan reflects the additional revenue stream provided by the introduction of a pay parking scheme. Council's long term financial sustainability is less certain in the absence of such a scheme. In this regard, it would be prudent that Council does not commence a large investment of capital or other resources unless confident in the returns expected.

Statutory and Policy Compliance Implications

The *Road Transport (Safety and Traffic Management) Regulation 1999* empowers a parking authority (ie Council) to establish and operate parking scheme, be it a meter, ticket, phone or coupon system employed. Similarly, the regulation allows Councils to fix fees for parking in metered parking spaces by resolution of the council and to charge different fees for different areas, days or times of day..

The *Regulation* also authorises RMS to establish guidelines for the purposes of *Part 4 (Pay Parking Schemes)* of the Regulation. Council need to adhere to the RMS guidelines where they are mandatory; and where they are not they are considered good practice and recommended.

- 5 To date Council have worked with the RMS though the LTC as per the guidelines. This will need to continue if Council wish to proceed with the parking schemes described in this report.

STAFF REPORTS - ORGANISATION DEVELOPMENT

Report No. 13.24 2013/2014 Code of Conduct Annual Report

Directorate: Organisation Development

Report Author: Shannon McKelvey, Executive Manager, Organisation Development

File No: I2014/94

Theme: Corporate Management
Organisational Development

Summary:

This report is put pursuant to the requirements under the prescribed Code of Conduct for an annual report on certain types of Code of Conduct complaints to be put to Council.

RECOMMENDATION:

That the report be noted.

Attachments:

1 Code of Conduct Report to Office of Local Government, E2014/80696 , page 226

Report

An annual report on Code of Conduct complaints, must be given to Council as well as to Office of Local Government within 3 months from 30 September each year.

5 To enable uniform reporting, the Office of Local Government has prescribed a format for the report, and Council's completed Annual report for the period 1 October 2013 to 30 September 2014 is attached and the report has been submitted as required.

10 Please note that pre-2012/13 data was presented on a financial year basis but since then data is presented on an October – September reporting cycle as per the prescribed Procedures for Administering the Code of Conduct. This needs to be considered when looking at the comparative graphs.

15 Under the Code adopted from March 2013, the statutory reporting requirements relate only to complaints about Councillors, the General Manager or Conduct Reviewers. However, traditionally, Council has also received information on complaints about staff, committee members, delegates and contractors in summary form and that is continued in this report.

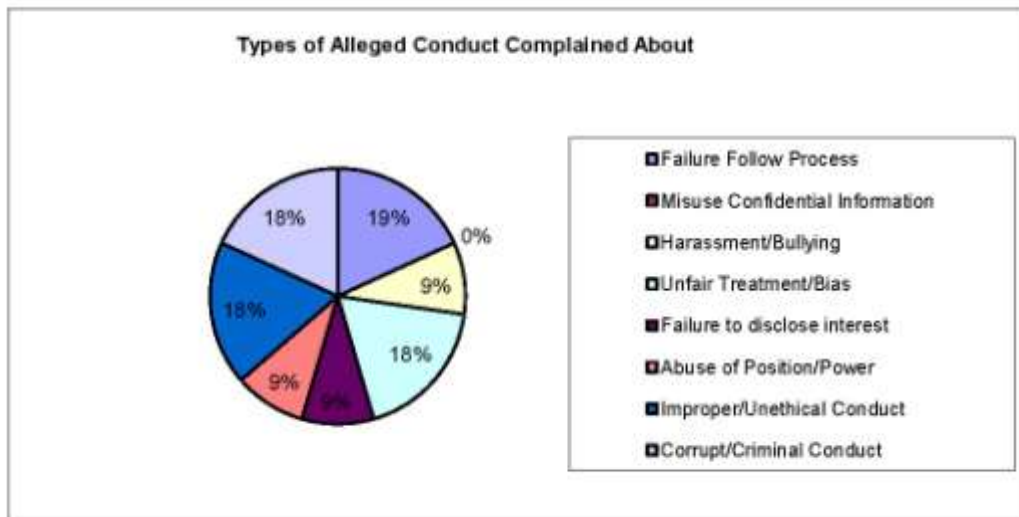
20 As noted in previous reports, Council is only able to provide the information in a summary format for various reasons including confidentiality, probity, procedural fairness and risk management etc. Further the Procedure for Administration of the Code prescribed by the Local Government Act now requires information about code of conduct complaints and the management and investigation of code complaints to be treated as confidential and it prohibits public disclosure except in
25 accordance with the specific permissions included in the prescribed procedures, none of which apply to this report.

30 During the period 1/10/2013 to 30/09/2014, nine (9) complaints alleging breaches of the Code of Conduct were lodged with Council. Of them, 2 related to the General Manager and 7 were about staff. As an overview:

- There were no matters during the year that showed significant breach of the Code.
- The complaints process this year has identified 3 opportunities for improved internal processes, to increase accountability and transparency:
 - Introduction of a process to provide clarification for staff of the different roles of Council as an employer and as a regulatory authority in compliance matters that involve property owned or occupied by staff;
 - Changes to the system of accounting for works on private property; and
 - Improvements to Council's Social Media Policy applicable to staff.
- There were no matters arising the reporting period that required referral to an external agency.

40 The types of alleged conduct complained of can be broken down into categories which are represented below. Some individual complaints contain allegations of multiple types of conduct and where that occurred each of the categories are included, which is why the types of conduct complained about are represented as percentages.

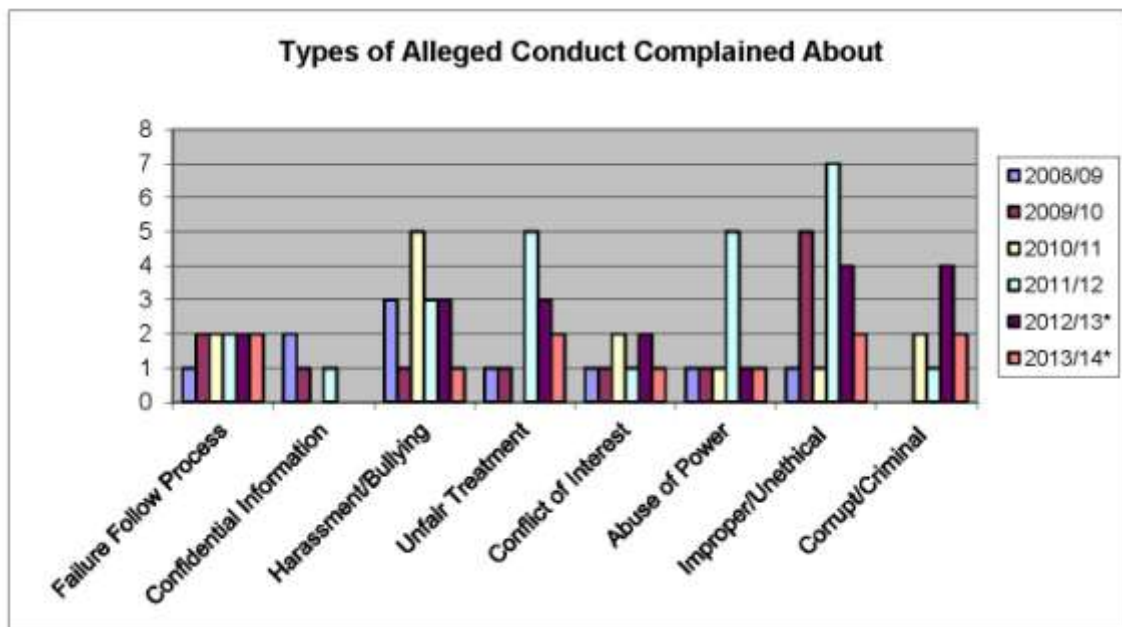
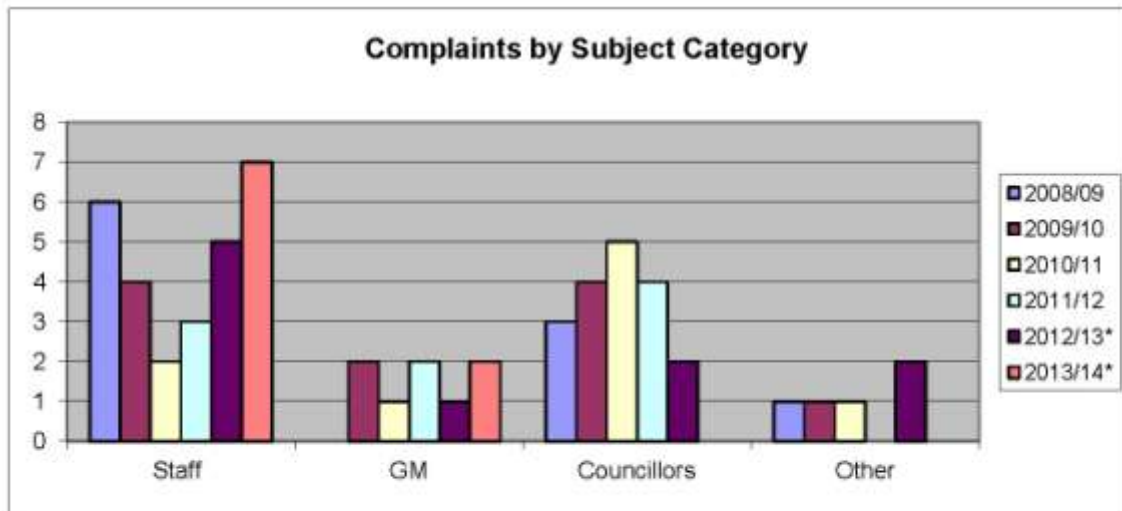
45



Information on the method of addressing the complaints about Councillors or the General Manager is addressed in the attached DLG report. In relation to the complaints about staff, committee members, delegates or contractors, the method of addressing the complaints is represented in the below table:



- 10 Council has been receiving annual reports on Code of Conduct complaints since 2008/09. Comparisons with the 4 years of previously available data are presented below. Reporting categories have changed as a result of the introduction of the Prescribed Procedures for Administering the Code. Where it is possible to still present comparable data, it follows. Caution needs to be exercised when comparing small samples because differences can appear
- 15 exaggerated and trends can be difficult to accurately identify.



Financial Implications

- 5 None associated with this report. Each complaint investigation consumes staff resources, which in relation to some complaints can be considerable. For the current reporting period the staff costs are estimated as being approximately \$1,000 in time in administering complaint consideration and response and reporting. As there were no matters referred for review in the reporting period there were no reviewer costs incurred.

10

Statutory and Policy Compliance Implications

- 15 This report complies with Council's Procedures for Administering the Code of Conduct requirements for an annual report to Council on Code of Conduct complaints and provides information beyond the statutory requirements. Council has already complied with the clause 12.1 requirement to report on Code of Conduct complaints to the Division of Local Government.

Office of Local Government**Model Code of Conduct
Complaints Report****Reporting Period: 1 September 2013 - 31 August 2014****Date Due: 31st December 2014**

*To assist with the compilation of the Comparatives it would be appreciated if
councils could return this Report by 30 November 2014*

Survey return email address: codeofconduct@olg.nsw.gov.au

Council Name:	Byron Shire Council
----------------------	----------------------------

Contact Name:	Shannon McKelvey
Contact Phone:	6626 7020
Contact Position:	Executive Manager Organisation Development
Contact Email:	shannon.mckelvey@byron.nsw.gov.au

All responses to be numeric**Where there is a zero value, please enter 0**

Enquiries: Council Governance Team
Office of Local Government
Phone: (02) 4428 4100
Enquiry email: olg@olg.nsw.gov.au

Model Code of Conduct Complaints Report		
Select Council Name from drop-down list		
Number of Complaints		
1 a	The total number of complaints received in the period about councillors and the general manager under the code of conduct	2
b	The total number of complaints finalised in the period about councillors and the general manager under the code of conduct	2
Overview of Complaints and Cost		
2 a	The number of complaints finalised at the outset by alternative means by the General Manager or Mayor	2
b	The number of code of conduct complaints referred to a conduct reviewer	0
c	The number of code of conduct complaints finalised at preliminary assessment by conduct reviewer	0
d	The number of finalised code of conduct complaints investigated by a conduct reviewer	0
e	The number of finalised code of conduct complaints investigated by a conduct review committee	0
f	Number of finalised complaints investigated where there was found to be no breach	0
g	Number of finalised complaints investigated where there was found to be a breach	0
h	Number of complaints being investigated that are not yet finalised	0
i	The total cost of dealing with code of conduct complaints within the period made about councillors and the general manager including staff costs	\$1,000
Preliminary Assessment Statistics		
3	The number of complaints determined by the conduct reviewer at the preliminary assessment stage by each of the following actions:	
a	To take no action	0
b	To resolve the complaint by alternative and appropriate strategies	0
c	To refer the matter back to the general manager or the Mayor, for resolution by alternative and appropriate strategies	0
d	To refer the matter to another agency or body such as, but not limited to, the ICAC, the NSW Ombudsman, the Office or the Police	0
e	To investigate the matter	0
f	To recommend that the complaints coordinator convene a conduct review committee to investigate the matter	0

Investigation Statistics	
4	The number of investigated complaints resulting in a determination that there was no breach , in which the following recommendations were made:
a	That the council revise it's policies or procedures <input type="text" value="0"/>
b	That a person or persons undertake training or other education <input type="text" value="0"/>
5	The number of investigated complaints resulting in a determination that there was a breach in which the following recommendations were made:
a	That the council revise any of its policies or procedures <input type="text" value="0"/>
b	That the subject person undertake any training or other education relevant to the conduct giving rise to the breach <input type="text" value="0"/>
c	That the subject person be counselled for their conduct <input type="text" value="0"/>
d	That the subject person apologise to any person or organisation affected by the breach <input type="text" value="0"/>
e	That findings of inappropriate conduct be made public <input type="text" value="0"/>
f	In the case of a breach by the general manager, that action be taken under the general manager's contract for the breach <input type="text" value="0"/>
g	In the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Act <input type="text" value="0"/>
h	In the case of a breach by a councillor, that the matter be referred to the Office for further action <input type="text" value="0"/>
Categories of misconduct	
6	The number of investigated complaints resulting in a determination that there was a breach with respect to each of the following categories of conduct:
a	General conduct (Part 3) <input type="text" value="2"/>
b	Conflict of interest (Part 4) <input type="text" value="0"/>
c	Personal benefit (Part 5) <input type="text" value="0"/>
d	Relationship between council officials (Part 6) <input type="text" value="0"/>
e	Access to information and resources (Part 7) <input type="text" value="0"/>
Outcome of determinations	
7	The number of investigated complaints resulting in a determination that there was a breach in which the council failed to adopt the conduct reviewers recommendation <input type="text" value="0"/>
8	The number of investigated complaints resulting in a determination that there was a breach in which the council's decision was overturned following a review by the Office <input type="text" value="0"/>

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES**Report No. 14.1 Report of the Internal Audit Advisory Committee Meeting held on 13 November 2014**

Directorate: Corporate and Community Services
Report Author: Mark Arnold, Director Corporate and Community Services
File No: I2014/33
Theme: Corporate Management
General Manager's Office

Summary:

This report provides the minutes and recommendations of the Internal Audit Advisory Committee Meeting held on 13 November 2014 for determination by Council.

RECOMMENDATION:

1. That Council note the minutes of the Internal Audit Advisory Committee Meeting held on 13 November 2014.
2. That Council adopt the following Committee Recommendation:

Report No. 4.1 Internal Audit Report – Audit Committee November 2014
File No: I2014/6

Committee Recommendation 4.1.1

1. That Council receive and note the Internal Audit Report – Audit Committee (November 2014) (Annexure 2 #E2014/71971) prepared by the Internal Auditor, Grant Thornton.
 2. That the Internal Audit Committee receive a report on the progress of actions 1 and 2 in Audit Review Report - 1.1 IT Security at February meeting.
 3. That an IT functional structure be provided to the February 2015 Ordinary meeting.
3. That Council adopt the following Committee Recommendation:

Report No. 4.2 Section 603 and 149 Certificates Review
File No: I2014/5

Committee Recommendation 4.2.1

1. That the Internal Audit Report on S603 and S149 Certificates - August 2014 be noted by Council, including responses and actions detailed by Management.
 2. That Management implement the recommendations in the report identified at Annexure 1 (#E2014/43644).
4. That Council adopt the following Committee Recommendation:

Report No. 6.1 Meeting Dates for Internal Audit Advisory Committee for 2015
File No: I2014/9

Committee Recommendation 6.1.1

That Council adopt the following dates for the Internal Audit Committee meetings for 2015:

- **Thursday 19 February 2015**
- **Thursday 14 May 2015**
- **Thursday 20 August 2015**
- **Thursday 22 October 2015**
- **Thursday 12 November 2015**

Attachments:

- 5
- 1 Minutes 13/11/14 Internal Audit Advisory Committee Meeting, E2014/73926 , page 232
 - 2 Agenda 13/11/14 Internal Audit Advisory Committee Meeting, E2014/73900 (provided under separate cover)
 - 3 Confidential - Annexure 1 from 13/11/14 Internal Audit Advisory Committee Meeting, E2014/72568
 - 10 4 Confidential - Annexure 2 from 13/11/14 Internal Audit Advisory Committee Meeting, E2014/71971 (provided under separate cover)

Report

This report provides the recommendations of the Internal Audit Advisory Committee Meeting held on 13 November 2014 for determination by Council.

5 The Committee recommendations are supported by management, and are as detailed in the Minutes of the Internal Audit Advisory Committee Meeting held on 13 November 2014, attached to this report at Attachment 1. The recommendations have been amended for this report to read as a recommendation to Council.

10 A copy of the Internal Audit Advisory Committee Agenda and Annexures for this meeting are provided at Attachments 2 and 3.

Financial Implications

15 As per the Reports listed within the Internal Audit Advisory Committee Meeting of 13 November 2014.

Statutory and Policy Compliance Implications

20 As per the Reports listed within the Internal Audit Advisory Committee Meeting of 13 November 2014.

Minutes of the Byron Shire Council Internal Audit Advisory Committee Meeting held on Thursday 13 November 2014

#E2014/73926

5 PRESENT: Cr B Cameron, Cr A Hunter and Cr D Woods

Community Members: Michael Georghiou
Craig Kelly
Paul Dwyer

10

Staff: Shannon McKelvey (Acting General Manager)
Mark Arnold (Director Corporate and Community Services)
Trish Kirkland (Manager Governance Services)
Joylene McNamara (Minute Taker)

15

Michael Georghiou (Chair) opened the meeting at 10.07am and acknowledged that the meeting was being held on Bundjalung Country.

20 APOLOGIES: Apologies were received and accepted from Kevin Franey, Tony McCabe and Ken Gainger.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

There were no declarations of interest.

25

CONFIRMATION OF PREVIOUS MINUTES

Committee Recommendation

30 That the minutes of the Internal Audit Advisory Committee Meeting held on Thursday 21 August 2014 be confirmed. (Woods/Kelly)

Procedural Motion

35 That the committee move into Confidential Session. (Georghiou/Hunter)

The motion was put to the vote and declared carried.

40

CONFIDENTIAL SESSION

GENERAL MANAGER'S REPORT

Report No. 4.1. Internal Audit Report – Audit Committee November 2014

File No: #E2014/72752

45

Committee Recommendation IAC 4.1.1

That the Internal Audit Committee recommend to Council:

- 50 1. That Council receive and note the Internal Audit Report – Audit Committee (November 2014) (Annexure 2 #E2014/71971) prepared by the Internal Auditor, Grant Thornton.
2. That the committee receive a report on the progress of actions 1 and 2 in Audit Review Report - 1.1 IT security at February meeting.

55

3. That an IT functional structure be provided to the February 2015 Ordinary meeting.
(Woods/Hunter)
The motion was put to the vote and declared carried.

5

CORPORATE AND COMMUNITY SERVICES REPORTS

Report No. 4.2. Section 603 and 149 Certificates Review

File No: #E2014/72569

10 Committee Recommendation IAC 4.2.1

1. That the Internal Audit Report on S603 and S149 Certificates - August 2014 be noted by Council, including responses and actions detailed by Management.
- 15 2. That Management implement the recommendations in the report identified at Annexure 1 (#E2014/43644). (Woods/Georghiou)

The motion was put to the vote and declared carried.

20

LATE REPORT

Report No. 6.1. Meeting Dates for Internal Audit Advisory Committee for 2015

File No: #E2014/74274

25 Committee Recommendation IAC 6.1.1

That the Internal Audit Committee adopt the following dates for the Internal Audit Committee meetings for 2015:

- 30
- Thursday 19 February 2015
 - Thursday 14 May 2015
 - Thursday 20 August 2015
 - Thursday 22 October 2015
 - Thursday 12 November 2015

35 (Woods/Kelly)

The motion was put to the vote and declared carried.

Procedural Motion

- 40 That the committee move out of confidential session. (Woods/Cameron)

There being no further business the meeting concluded at 11.25am.

45

Report No. 14.2 Report of the Arakwal Memorandum of Understanding Advisory Committee Meeting held on 6 November 2014**Directorate:** Corporate and Community Services**Report Author:** Belle Arnold, Aboriginal Projects Officer**File No:** I2014/39**Theme:** Society and Culture

Community Services – Community Development

Summary:

The purpose of this report is to present Council with the Arakwal MoU Advisory Committee recommendations from the meeting held on 6 November 2014 for Council's consideration.

RECOMMENDATION:

1. That Council note the minutes of the Arakwal Memorandum of Understanding Advisory Committee Meeting held on 6 November 2014.

2. That Council adopt the following Committee Recommendation:

Report No. 5.1 Progress Report on Consultation and Engagement for Development Applications and other matters in regards to public land

File No: I2014/34

Committee Recommendation 5.1.1

That Council:

1. Note the progress on the development of frameworks for ongoing consultation processes.
2. Note the external funding sources identified that could potentially assist Council undertake a Shire Wide Aboriginal Cultural Heritage Survey and endorse staff to apply for applicable funding.
3. Recommend to Council's Sustainable Environment and Economy Directorate to consider that Council's document titled Guide to lodging a Development Application be amended to include:
 - a) a description of how the impacts of their development have been identified, and the steps that are proposed to protect the aboriginal heritage and archaeological aspects of the environment or reduce expected harm.
 - b) a summary of Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales and a link to the associated website.
 - c) provision of evidence by the proponents of due diligence under the NSW National Parks and Wildlife Act 1974 (NPW Act) in relation to their applications.
 - d) an explanation of the Aboriginal Heritage Impact Permit required if a development is deemed to cause harm to an Aboriginal place or object under s.87 and/or s.90 of the NSW National Parks and Wildlife Act 1974 (NPW Act).

3. That Council adopt the following Committee Recommendation:

Report No. 5.2 Aboriginal Projects Grant Submissions 2014

File No: I2014/35

Committee Recommendation 5.2.1

That Council:

- 1. Note the Aboriginal Projects Grant Submissions.**
- 2. Identify any further projects for funding for 2014/15.**

4. That Council adopt the following Committee Recommendation:

Report No. 5.3 Local Government Aboriginal Network Conference

File No: I2014/36

Committee Recommendation 5.3.1

That Council:

- 1. Note the information regarding the 2014 Local Government Aboriginal Network Conference.**
- 2. Note the use of Reconciliation Action Plans as a tool used by Local Government for managing Council's responsibilities to multiple Aboriginal and Torres Strait Islander stakeholder groups.**
- 3. Develop a Reconciliation Action Plan for Byron Shire's Indigenous Community.**

5 Attachments:

- 1 Minutes 6/11/14 Arakwal (MoU) Advisory Committee Meeting, E2014/71479 , page 237**
- 2 Agenda 6/11/14 Arakwal (MoU) Advisory Committee Meeting, E2014/68530 (provided under separate cover)**
- 10 3 Annexure 1 from 6/11/14 Arakwal (MoU) Advisory Committee Meeting, E2014/18844 (provided under separate cover)**

Report

This report provides the recommendations of the Arakwal MoU Advisory Committee Meeting held on 6 November 2014 for determination by Council.

- 5 The Committee recommendations are supported by management, and are as detailed in the Minutes of the Arakwal MoU Advisory Committee Meeting held on 6 November 2014 (Attachment 1) and included as the recommendations for this report.
- 10 The Committee recommendations have been amended to read as recommendations to Council.

Financial Implications

Nil from this report

- 15 As per the Reports listed within the Arakwal Memorandum of Understanding Advisory Committee Meeting of 6 November 2014.

Statutory and Policy Compliance Implications

- 20 Native Title Act 1993
NSW National Parks and Wildlife Act
Local Government Act
- 25 As per the Reports listed within the Arakwal Memorandum of Understanding Advisory Committee Meeting of 6 November 2014.

Minutes of the Arakwal Memorandum of Understanding Advisory Committee Meeting held on Thursday 6 November 2014

#E2014/71479

PRESENT: Cr P Spooner

Staff: Greg Ironfield (Manager Sustainable Communities)
Belle Arnold (Indigenous Projects Officer)
Lisa Brennan (Minute taker)

Committee Gavin Brown, Bundjalung of Byron Bay Aboriginal Corporation (Arakwal)
Delta Kay, Bundjalung of Byron Bay Aboriginal Corporation (Arakwal)

Cr Spooner opened the meeting at 10.20am and acknowledged that the meeting was being held on Bundjalung Country.

APOLOGIES: There was an apology received from Cr Richardson.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

Yvonne Stewart declared a pecuniary interest on behalf of the Bundjalung of Byron Bay Aboriginal Corporation (Arakwal) at the meeting on 7 November 2012, which covers any Corporation member attending future meetings of this Committee.

CONFIRMATION OF PREVIOUS MINUTES

Committee Recommendation AMoU 3.1

That the minutes of the Arakwal Memorandum of Understanding Advisory Committee meeting held on 20 August 2014 be confirmed. (Spooner/Brown)

4. BUSINESS ARISING FROM PREVIOUS MEETINGS

Nil.

CORPORATE AND COMMUNITY SERVICES REPORTS

Report No. 5.1 Progress Report on Consultation and Engagement for Development Applications and other matters in regards to public land

File No: #E2014/68001

Committee Recommendation AMoU 5.1

That the Arakwal Memorandum of Understanding Advisory Committee:

1. Note the progress on the development of frameworks for ongoing consultation processes.
2. Note the external funding sources identified that could potentially assist Council undertake a Shire Wide Aboriginal Cultural Heritage Survey and endorse staff to apply for applicable funding.
3. Recommend to Council's Sustainable Environment and Economy Planning Division to consider that Council's document titled *Guide to lodging a Development Application* be amended to include:

- a) a description of how the impacts of their development have been identified, and the steps that are proposed to protect the aboriginal heritage and archaeological aspects of the environment or reduce expected harm.
- b) a summary of Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales and a link to the associated website.
- c) provision of evidence of the proponents of due diligence under the NSW *National Parks and Wildlife Act 1974* (NPW Act) in relation to their applications.
- d) an explanation of the Aboriginal Heritage Impact Permit required if a development is deemed to cause harm to an Aboriginal place or object under s.87 and/or s.90 of the NSW *National Parks and Wildlife Act 1974* (NPW Act). (Spooner/Kay)

Report No. 5.2 Aboriginal Projects Grant Submissions 2014

File No: #E2014/68347

Committee Recommendation AMoU 5.2

That the Arakwal Memorandum of Understanding Advisory Committee

1. Note the Aboriginal Projects Grant Submissions.
2. Identify any further projects for funding for 2014/15. (Brown/Spooner)

Report No 5.3 Local Government Aboriginal Network Conference

File No: #E2014/68496

Committee Recommendation AMoU 5.3

That the Arakwal Memorandum of Understanding Advisory Committee:

1. Note the information regarding the 2014 Local Government Aboriginal Network Conference.
2. Note the use of Reconciliation Action Plans as a tool used by Local Government for managing Council's responsibilities to multiple Aboriginal and Torres Strait Islander stakeholder groups.
3. Recommend to Council the development of a Reconciliation Action Plan for Byron Shire's Indigenous Community. (Brown/Kay)

6. OTHER BUSINESS

6.1 World Parks Congress

Delta Kay advised that the Arakwal National Park, in conjunction with Cape Byron National Park, have been shortlisted in the World Parks Congress, along with Montague Island.

The Congress, comprising 5,000 attendees, is made up of indigenous people from around the world. The Congress is held every 10 years and is meeting in Sydney between 12-19 November. At the previous Congress 10 years ago Arakwal won the category Environmental Protection, the success of which enabled the congress to be brought to Australia.

5 This time around they have been nominated for a higher award, Best Practice Managed Park, with the winner announced on 19 November. The Park representatives are taking down nine banners they designed on The Pass middens, along with a PowerPoint presentation for the film night. There has also been two days of filming undertaken, showing people, including volunteers, demonstrating what they do in the Park; if they win the Award this film will be shown.

6.2 Reconciliation Action Plan

10 Discussed above.

6.3 Ti Tree Lake (Taylors Lake) Update

15 Gavin advised that he has met with Council planning staff and is very keen to keep up this sharing of information and updates.

Belle advised that Council's planner who is coordinating the application had written to applicants advising that no heritage study had been undertaken and urging the applicants to contact Arakwal and Jali land Council.

20 6.4 Byron Bay Masterplan

25 Gavin advised that he and Delta were not able to attend the first meeting with McGregor Coxall (Masterplan consultants) when they visited Byron Bay, and are keen to meet with them for discussions. Greg to discuss with Jane Lavery regarding the consultants addressing the Arakwal board.

6.5 Next Meeting

30 This was the final meeting of the Committee for 2014.

Meeting dates for 2015 will be set following the Council meeting dates being determined.

35 *There being no further business the meeting concluded at 11.35am.*

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES**Report No. 14.3 Report of the Local Traffic Committee Meeting held on 12 November 2014**

Directorate: Infrastructure Services
Report Author: Simon Bennett, Traffic and Transport Engineer
File No: I2014/65
Theme: Community Infrastructure
Roads and Maritime Services

Summary:

This report provides the minutes and recommendations of the Local Traffic Committee Meeting held on 12 November 2014 for determination by Council.

RECOMMENDATION:

1. That Council note the minutes of the Local Traffic Committee Meeting held on 12 November 2014.
2. That Council adopt the following Committee Recommendation:

Report No. 6.1 Clifford Street, at the Broken Head Road Intersection, Suffolk Park
File No: I2014/50

Committee Recommendation 6.1.1

That Council, in regard to the intersection of Clifford Street and Broken Head Road Suffolk Park:

- a) support the Local Traffic Committee's preference for a roundabout and note RMS support for a grant application for one;
- b) commence land acquisition for that purpose;
- c) receive a report (after community consultation) on removing the left-hand turn lane from Broken Head Road, as an interim measure; and
- d) support the Suffolk Park Progress Association presenting Council its concept plan for this "entrance" to the locality.

3. That Council adopt the following Committee Recommendation:

Report No. 6.2 Christmas Eve Carnival street closure, Byron Street, Bangalow
File No: I2014/51

Committee Recommendation 6.2.1

- a) That the temporary traffic arrangements for the Bangalow Christmas Eve Carnival, scheduled for Wednesday 24 December 2014 and includes the temporary closure of Byron Street between Granuaille Road and Market Street between the hours of 5.30pm and 10.00pm, be endorsed.

- b) That the organisers be responsible for implementing a Traffic Control Plan, including the use of signed detours, as designed and implemented by those with appropriate accreditation and be advised Council's fee for holding an on-road event will apply.
- c) That public liability insurance be in place for the sum of at least \$20 million.
- d) That the concurrence of the Police be sought by the organisers, independent of the Local Traffic Committee endorsement.
- e) That the event be advertised in accordance with the Roads Act, charged at cost to the organisers.
- f) That the event be notified on Council's website.
- g) That in the event Council staff and materials are required for the event, costs be recorded and invoiced to the organisers as appropriate.

4. That Council adopt the following Committee Recommendation:

Report No. 6.3 Ewingsdale Road Safety Review - results of RMS speed zone review
File No: I2014/52

Committee Recommendation 6.3.1

That Council supports the RMS speed zone review and notes the recommendation the review makes for a 60kph speed limit to be applied on Ewingsdale Road, from the existing 60kph west of Banksia Drive through to the commencement of the 50kph limit west of Kendall Street.

5. That Council adopt the following Committee Recommendation:

Report No. 6.4 Count results for pedestrian crossings, Byron Bay, Ocean Shores, Federal
File No: I2014/53

Committee Recommendation 6.4.1

- a) That Council note the pedestrian and vehicle count data presented for the following sites.
- b) That Council, subject to RMS funding and agreement reached with the respective schools (both of whom have requested such facilities) install children's crossings on:
 - i. Shara Boulevard, at the frontage of the Ocean Shores Public School
 - ii. Middleton Street, immediately south of Carlyle Street, for the benefit of the Byron Bay Public School
- c) That Council note that while the RMS warrant for pedestrian crossings is not met at this time for the following sites, staff develop and report back pedestrian management and traffic calming concepts and cost estimates for:

- i. Federal village; and
 - ii. Broken Head Road, between Beech Drive south and through to and south of Clifford Street, including Clifford Street itself
- d) That Council note that the RMS warrant for marked pedestrian crossings is not met at the following locations:
 - i. Bangalow Road, between Browning Street and Cumbebin Park
 - ii. Broken Head Road, between Beech Drive south and north roundabouts
 - iii. Beech Drive south, west of the roundabout on Broken Head Road
- 6. That Council adopt the following Committee Recommendation:

Report No. 6.5 Request to change school bus zone times, Federal village
File No: I2014/54

Committee Recommendation 6.5.1

That Council sign all existing school bus zones in Albert Street, Federal as being applicable between 7.30am and 9.30am and 2.30pm to 4.30pm school days.
- 7. That Council adopt the following Committee Recommendation:

Report No. 6.6 Request for No Parking, Towers Drive, Mullumbimby
File No: I2014/55

Committee Recommendation 6.6.1

That 'No Stopping' be signed and line marked for a length of 30 metres on the west side of Towers Drive, Mullumbimby, which commences 30m east of the driveway at number 17 Towers Drive.
- 8. That Council adopt the following Committee Recommendation:

Report No. 6.7 Changes to parking and school zone, Crown Street, Mullumbimby
File No: I2014/56

Committee Recommendation 6.7.1

 - a. That Council note the Local Traffic Committee review of Resolution 14-343.
 - b. That the following parking and school zone changes on Crown Street, Mullumbimby be endorsed:
 - i. sign parallel parking on the north side, between Morrison Avenue and the school car park driveway
 - ii. for approximate 20m length from east side of the driveway, sign No Parking

and Kiss and Ride to cover the frontage of the administration building

- iii. from the western end of the kiss and ride site through to Queen Street, sign parking as 45 degrees, front to kerb
- iv. request RMS funds to relocate the school zone patch and signs from their current location to Queen Street, north of Argyle Street
- c. That introducing one-way traffic or traffic calming devices, such as speed humps, on Crown Street Mullumbimby not be supported at this time.

9. That Council adopt the following Committee Recommendation:

Report No. 6.8 Request for time limit, Bayshore Drive, Arts and Industry Estate, Byron Bay

File No: I2014/57

Committee Recommendation 6.8.1

That a 1P time limit which applies Monday to Friday 9am to 6pm and Saturday 9am to 12.00 noon be endorsed and signed on the western side of Bayshore Drive Byron Bay, from Banksia Drive to Centennial Circuit.

10. That Council adopt the following Committee Recommendation:

Report No. 6.9 5.9 Request for No Stopping, Bangalow Road – Mahogany Drive, Byron Bay

File No: I2014/58

Committee Recommendation 6.9.1

That No Stopping be applied via yellow line marking only as shown in this report, which is on:

- a) the east side of Bangalow Road, Byron Bay from 15m north to 12m south of Mahogany Drive;
- b) both sides of Mahogany Drive from Bangalow Road through to 10m east of Oodgeroo Gardens; and
- c) both sides of Oodgeroo Gardens for a 5m length from Mahogany Drive.

11. That Council adopt the following Committee Recommendation:

Report No. 6.10 Request for No Stopping, Ironbark Avenue, Byron Bay

File No: I2014/59

Committee Recommendation 6.10.1

That No Stopping be applied via yellow line marking only as shown in this report, which commences on the east side of Bangalow Road, Byron Bay from:

- a) 12m north to the first driveway on the north side of Ironbark Avenue; and
- b) 12m south to 5m east of the first driveway on the south side of Ironbark Avenue.

12. That Council adopt the following Committee Recommendation:

Report No. 6.11 Request for No Stopping, Ambulance Station, Mullumbimby
File No: I2014/60

Committee Recommendation 6.11.1

That No Stopping be applied via signage as shown in this report, that is on both sides of Lane 7, Mullumbimby commencing at Gordon Street and continuing until the next lane approximately 45m east.

13. That Council adopt the following Committee Recommendation:

Report No. 7.1 DA 10.2014.331.1 – 45 lot Community Title, Broken Head Road, Suffolk Park
File No: I2014/61

Moved 7.1.1

Committee advice was provided on the DA.

5

Attachments:

- 1 Minutes Local Traffic Committee Meeting 12 November 2014, E2014/76609 (provided under separate cover)

10

Report

The attachment to this report provides the minutes of the Local Traffic Committee Meeting of 12 November 2014 for determination by Council.

5

The Committee recommendations, along with Committee and Management comments are contained within the minutes.

10 **Financial Implications**

As per the Reports listed within the Local Traffic Committee Meeting of 12 November 2014.

15 **Statutory and Policy Compliance Implications**

As per the Reports listed within the Local Traffic Committee Meeting of 12 November 2014.

CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES

Report No. 16.1 CONFIDENTIAL - Tender Assessment of Waste and Resource Recovery Collection Contract 2014-0011

Directorate: Infrastructure Services
Report Author: Lloyd Isaacson, Environmental Programs Waste and Recycling
File No: I2014/27
Theme: Community Infrastructure
Waste and Recycling Services

Summary:

On 22 May 2014, under delegated authority, the General Manager approved the use of the open tendering method to call for tenders for Contract 2014-0011 Waste and Resource Recovery Collection.

Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulation 2005. This report summarises the background and assessment of the tenders and provides a recommendation to award the tender for Contract 2014-0011.

RECOMMENDATION:

1. That pursuant to Section 10A(2)(d)i of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report CONFIDENTIAL Waste and Resource Recovery Collection Contract 2014-0011.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
 - a) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
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:
 - a) disclosure of the confidential information could compromise the commercial position of the organisations involved and prejudice the process of engagement of a tenderer to carry out the required services.
4. That in accordance with Sections 10A(4) of the *Local Government Act 1993*, that the Chairperson allow members of the public to make representations as to whether this part of the meeting should be closed.

OR, ALTERNATIVELY WHERE THE MEETING IS NOT PROPOSED TO BE CLOSED:

RECOMMENDATION:

1. That pursuant to Section 11(3) of the Local Government Act, 1993, resolve that the Annexures to the report, CONFIDENTIAL Waste and Resource Recovery Collection Contract 2014-0011 are to be treated as confidential as they relate to matters specified in s10A(2)(d)i of the Local Government Act 1993.
2. That Council adopt the recommendation set out on the final page of the Report.

Attachments:

- | | |
|----|--|
| 1 | Report to Water Waste Sewer Advisory Committee - Integrated Waste and Resource Recovery Commencement Project, E2013/71438 , page 248 |
| 5 | 2 Report to Water Waste Sewer Advisory Committee - Waste and Resource Collection Contract - Service Options, E2014/10357 , page 250 |
| 3 | 3 Report to Water Waste Sewer Advisory Committee - Waste & Resource Recovery Collection Contract 2015, E2014/39687 , page 253 |
| 10 | 4 Confidential - Contract 2014-0011 Tender Evaluation Plan , E2014/77868 (provided under separate cover) |
| | 5 Confidential - Contract 2014-0011 Tender Evaluation Team Recommendation Report, E2014/80088 (provided under separate cover) |

Report No. 1. **Integrated Waste & Resource Recovery Contract Commencement Project 24.2013.45.1**

Executive Manager: Water and Recycling

Report Author: Gabrielle Turner

File No: #E2013/71438

5

Theme: Community Infrastructure, Waste & Recycling Services

Summary: This report introduces the Integrated Waste and Resource Recovery Contract Commencement Project. The new contract will be implemented in August 2015. A comprehensive development process including planning and consultation, preparation of tender documents, tendering, and new service commissioning will be followed in accordance with EPA NSW best practice guidelines.

RECOMMENDATION:

- 10 1. That the Advisory Committee note that the Integrated Waste and Resource Recovery Contract Commencement Project has been initiated.

Report

5 Council's Waste and Recycling Branch has commenced planning for the commencement of the Integrated Waste and Resource Recovery Contract in August 2015. The Environment Protection Authority's NSW best practice guidelines; "Waste and Resource Recovery – Service Development Timeline" will inform planning over the next two years and the program of works will be supported by Council's Waste Management Strategy 2012-2015 (#E2012/24511). Information currently being gathered for the implementation of the Organic Waste Kerbside Collection Contract in 2014 will also be drawn upon.

15 The consultation and planning stage of the project has been initiated with the formation of a Project Control Group consisting of Manager of Waste and Recycling; Warren Burgess, Contracts Officer; Gabrielle Turner and Waste and Recycling Environmental Programs Officer; Lloyd Isaacson.

The consultation and planning stage will continue to April 2014. Early tasks for this stage include creation of a project management plan and a review of council's waste services rates database.

Financial Implications

25 External costs to Council in the 2013/14 financial year will largely be for requisite survey and auditing work associated with the consultation and planning stage. Whilst these costs will not be known until council has sought quotes for the various elements of work, the 2013/14 Waste & Recycling operational budget contains an allocation of \$100,000 to deliver initiatives identified in the waste Management Strategy, from which the funds shall be drawn.

Statutory and Policy Compliance Implications

- NSW Waste Avoidance and Resource Recovery Strategy (2007)
- Waste Avoidance and Resource Recovery Progress Report (2010)
- Reducing Waste: Implementation Strategy 2011 – 2015
- The various legislation and regulations that govern the management of waste in NSW.

Report No. 1. **Project 24.2013.45.1**
 Waste & Resource Collection Contract –
 Service Options

Executive Manager: Water and Recycling
Report Author: Gabrielle Turner, Waste and Recycling Contracts Officer
File No: # E2014/10357

Theme: Community Infrastructure, Waste & Recycling Services

Summary: This report presents the progress and status of the project to deliver a new Waste & Resource Collection Contract and seeks input into the service options to be included in the eventual Tender Documents

RECOMMENDATION:

1. That the Water Waste and Sewer Advisory Committee endorse the approach for the Project Management and delivery of the Waste & Resource Collection Contract (the “Contract”).
2. That the Water Waste and Sewer Advisory Committee schedule a workshop on 20 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 20 March 2014 workshop.
4. That the Water Waste and Sewer Advisory Committee schedule a meeting for 29 May 2014 to receive a report presenting the results of the Community Survey and the recommended service options to be included in the Tender Documents

Attachments:

- Byron Shire Council Waste and Recycling Status Report #E2014/10400 [4 pages] **Annexure 1(a)**
- Integrated Waste and Resource Recovery Collection Contract - Service Options #E2014/10433 [9 Pages] **Annexure 1(b)**
- Consultation and Engagement Plan #E2014/8801 [8 Pages] **Annexure 1(c)**

Report

Background

On 14 November 2013 the Water Waste & Sewer Advisory Committee (the “Committee”) received a report advising of the commencement of planning for the introduction of a new Waste & Resource Collection Contract in August 2015. A Project Management Plan (PMP) has been developed to guide the project execution and control, which identifies the following four (4) Project Phases:

1. Consultation and Planning;
2. Tender Document Preparation;
3. Tendering; and
4. New Service Commissioning

Council’s Waste and Recycling Branch is currently implementing Phase 1 – Consultation and Planning, with a view to move to Phase 3 – Tendering in August 2014.

The Waste & Resource Collection Contract is a high risk exercise (Political, Corporate, Environmental, Financial, OHS), and requires appropriate consideration by the Committee, and Council. To ensure value for money such contracts are generally entered into for a minimum of seven (7) years. The delivery of such a service also inherently requires appropriate community consultation and engagement to ensure consideration of needs and wants, and to endeavour to satisfy these.

Phase 1 – Consultation and Planning

The first key consideration of this Phase is to ensure appropriate project governance is in place. In this regard a staff Project Control Group (PCG) has been established to manage and be responsible for detailed planning, design and implementation of initiatives detailed in the PMP. The PCG, via the Project Manager, will provide regular progress and status reports to the Water Waste & Sewer Advisory Committee, which will enable Councillor and Community representatives to have strategic input into the project process consistent with the Committee’s Constitution. This in turn will inform Council and enable its input into the same.

A Consultation and Engagement Plan (Attached) has been prepared, which sets out a systematic approach to engaging with stakeholders regarding the opportunities and challenges to be considered and to inform the preparation of the Tender Documents.

A report on the status of the current service (Attached) has also been prepared, as well as a Service Options Report (Attached) for the Committee’s information and consideration.

The key activities that are now required are:

- Consideration by the Committee of the service options report and the provision of comments and recommendations regarding the eventual options for inclusion in the Tender Documents; and
- A subsequent community survey to identify its issues and opportunities for improvement to improve customer service and satisfaction.

To enable the Committee appropriate time to consider the Service Options Report and to provide commentary in this regard it is proposed to hold a workshop on 20 March 2014 to explore opportunities for improvement and to construct an options paper for subsequent community consultation as per the Consultation and Engagement Plan.

Following this consultation a consequent report will be submitted to the Committee providing the results and conclusions, which will in turn inform the finalisation of the Tender Documents.

Key Dates

5

- 6 March Water Waste & Sewer Advisory Committee Meeting
- 20 March Proposed Workshop
- 9 April Community survey goes live
- 29 May Report to Water Waste & Sewer Advisory Committee
- 20 August Advertise Request for Tender

Financial Implications

10 External costs during Phase 1 (approximately \$19,000):

- Procurement of a community survey consultant
- Delivery of a community survey

15 Exact costs will not be known until council has sought quotes for the various elements of work. The 2013/14 Waste & Recycling operational budget contains an allocation of \$100,000 to deliver initiatives identified in the waste Management Strategy, from which the funds shall be drawn.

Statutory and Policy Compliance Implications

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- NSW Waste Avoidance and Resource Recovery Strategy (2007)
- Waste Avoidance and Resource Recovery Progress Report (2010)
- Reducing Waste: Implementation Strategy 2011 – 2015
- The various legislation and regulations that govern the management of waste in NSW.

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Report No. 1. Waste & Resource Collection Contract 2015

Director: Infrastructure Services
Report Author: Warren Burgess, Manager Waste & Recycling
File No: #E2014/39687

5

Theme: Infrastructure Services – Waste and Recycling Services

Summary: This report presents the progress and status of the project to deliver the 2015 Waste & Resource Collection Contract.

RECOMMENDATION:

10 **That the report be received and noted.**

Attachments:

- 15 • Report to the Water Waste & Sewer Advisory Committee dated 6 March 2014 titled
 "Project 24.2013.45.1 Waste & Resource Collection Contract – service Options"
 #E2014/10357 [3 pages] **Annexure 4(a)**
- PowerPoint presentation to the Water Waste & Sewer Advisory Committee Workshop
 held on 18 March 2014 #E2014/17892 [5 pages] **Annexure 4(b)**
- 20 • Community Waste Survey # E2014/35972 [37 pages] **Annexure 4(c)**
- Business waste Survey # E2014/35972 [31 pages]..... **Annexure 4(d)**
- Services to be included in the Tender documents for the 2015 Waste & Resource
 Recovery Contract #E2014/16674 [9 pages] **Annexure 4(e)**

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ReportBackground

On 6 March 2014 the Water Waste & Sewer Advisory Committee (WWSAC) received a report (Attached as Annexure 4a) presenting the progress and status of the project to deliver a new Waste & Resource Collection Contract and to seek input into the service options to be included in the eventual Tender documents. The Committee subsequently recommended the following to Council:

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.*

At its Ordinary Meeting held on 10 April 2014 Council adopted the WWSAC recommendation through resolution **14-134**.

The workshop referred to in **WWS 4.2** was held on 18 March 2014, at which staff delivered a PowerPoint presentation to attendees (Attached as Annexure 4b). The purpose of the workshop was to:

- enable discussion and the identification of options to improve community satisfaction and service quality in the proposed new contract; and
- inform the community and business survey regarding these potential options.

In accordance with the consultation and planning process set out in the 6 March 2014 WWSAC report, staff subsequently engaged a suitably qualified consultant to undertake the community survey and feedback from the workshop was used to assist and guide the drafting of the survey questions. The survey questions were approved by the General Manager in late April and the surveys were undertaken between 28 April 2014 and 2 May 2014.

Survey results

The reports to Council presenting the detailed results of the surveys are attached as Annexures 4(c) and 4(d), and the key findings are listed below:

Community Survey

- sample size of 312 resulting in a maximum sampling error of plus or minus 5.6% at a 95% confidence level;
- there is a high level of satisfaction with the overall waste & recycling service provided;
- reducing the amount of food that is thrown out is the most commonly performed waste reduction action;
- residents were highly supportive of Council introducing new systems and options that reduce waste to landfill and increase resource recovery – the introduction of a green waste bin and collection was the most frequently mentioned option;
- there were low levels of support for the introduction of a larger 360 litre bin for a nominal additional cost per annum in free standing households;

- residents that have their own bins and live in townhouses, villas, flats, units or apartments (Multi-Unit Dwelling – MUDs) had low levels of support for changing the current collection system if it resulted in a nominal cost savings or increases per annum. These options were:
 - smaller red lidded garbage bin
 - using shared bins to cut back on bin numbers
 - having larger recycling bins
 - introducing larger bulk bins to be shared
- 82% of respondents were at least somewhat supportive of the current bulk waste tip voucher system;
- only 30% of respondents suggested kerbside collection as an improvement to the current bulk waste tip voucher system;
- only 36% of respondents were aware that Council outsources customer service to its current collection contractor;
- satisfaction with waste and recycling services at events was generally positive, however, the data suggested improvements could be made with options for improved recycling.

Business Survey

- sample size of 100 businesses resulting in a maximum sampling error of plus or minus 9.8% at a 95% confidence level;
- the majority of businesses produce paper and/or cardboard recyclables as part of their day to day operations;
- 70% of businesses stated Council's existing contractor was responsible for emptying the red lidded garbage bin;
- 94% of businesses were at least somewhat satisfied with the garbage collection service;
- 60% of businesses were aware that Council offers a kerbside recycling collection service to property owners;
- 87% of businesses have a regular recycling collection service;
- 67% of businesses indicated that they have their own dedicated recycling bin, and of those 67% indicated Council's current contractor was responsible for emptying the bins;
- 61% of businesses indicated they were willing to separate food scraps and garden waste from garbage - however, there were low levels of support for Council to provide a weekly organics collection service, yet it was the most mentioned option for Council to assist businesses in resource recovery and waste reduction;
- 46% of businesses indicated making changes to any of their waste and recycling collection services that were managed by the landlord was easy, whilst 31% expressed that it was a difficult process;
- 68% of businesses indicated that it would be not at all suitable for Council to implement a separate fee for waste management services and to invoice businesses directly;
- around 50% of businesses indicated that Council provision of a recycling bin or more frequent pickup would be at least a somewhat suitable solution to help them reduce the amount of waste going to landfill.

Service Option for Inclusion in Tender Documents

- Consequent to consultation and planning processes undertaken to date, the services to be included in the Tender documents for the 2015 Waste & Resource Recovery Contract have been developed and are presented in an attached table as Annexure 4(e).

Procurement Process

Approval has been granted by the General Manager under delegated authority to proceed to tender using the open tender method and as such Council does not need to grant such approval.

5 A consultant with expertise in the preparation of waste and resource recovery tender documents is in the process of being engaged to prepare the same and it is also planned to engage the services of a probity auditor to review the procurement process, given the high financial contract value.

10 The project management timetable requires the contract to be awarded prior to the end of the calendar year in order to provide sufficient time for the successful contractor to commission the new service.

Financial Implications

15 The following costs are provided for in the 2014/2015 Waste & Recycling Budget:

- Anticipated costs for the engagement of a consultant to prepare the tender documents - \$15,000 to \$20,000
- Anticipated costs for the engagement of a probity auditor - \$5,000 to \$10,000

20 The cost of the eventual contract will be in the multiple millions over a seven (7) year period and will not be able to be accurately quantified until the assessment of tenders. Such costs are recovered via the Domestic and Commercial Waste Management Charges and it is anticipated that the charges will not need to be significantly varied to accommodate the new service options.

Statutory and Policy Compliance Implications

25 NSW Local Government Act (1993) and associated Regulations.

Report No. 16.2 CONFIDENTIAL - Tender 2014-26 Landslip Repair Works on Wanganui Road and Huonbrook Road

Directorate: Infrastructure Services
Report Author: Phillip Holloway, Director Infrastructure Services
File No: I2014/73
Theme: Community Infrastructure
 Emergency Services and Floods

Summary:

The General Manager on 14 October 2013, approved (E2013/66536) to prepare and advertise tenders for the construction of landslip repair works on Wanganui Road and Huonbrook Road.

Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulation 2005.

RECOMMENDATION:

1. That pursuant to Section 10A(2)(c) and (d)i of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Tender 2014-26 Landslip Repair Works on Wanganui Road and Huonbrook Road.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
 - a) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business
 - b) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
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:
 - a) Disclosure of the confidential information could adversely affect Council's ability to contract with preferred tenderers or could affect Council's ability to attract competitive tenders in the event that fresh tenders are invited;
 - b) Tender respondents have provided sensitive information about their operations in the confidence that their details will not be made public by Council. The practice of publication of sensitive information provided by tender respondents could result in the withholding of such information by those respondents and a reduction in the provision of information relevant to Council's decision.
4. That in accordance with Sections 10A(4) of the *Local Government Act 1993*, that the Chairperson allow members of the public to make representations as to whether this part of the meeting should be closed.

OR, ALTERNATIVELY WHERE THE MEETING IS NOT PROPOSED TO BE CLOSED:

RECOMMENDATION:

1. That pursuant to Section 11(3) of the Local Government Act, 1993, resolve that the Annexures to the report, Tender 2014-26 Landslip Repair Works on Wanganui Road and Huonbrook Road are to be treated as confidential as they relate to matters specified in s10A(2)(c) and s10A(2)(d)i of the Local Government Act 1993.
2. That Council adopt the recommendation set out on the final page of the Report.

Attachments:

- 1 Confidential - Tender 2014-0026 Evaluation Report, E2014/78101 (provided under separate cover)
- 2 Confidential - Tender 2014-0026 Panel Scoring, E2014/78089

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Report No. 16.3 CONFIDENTIAL - Tender Assessment for Contract 2014-0021 Water Cart Truck Replacement

Directorate: Infrastructure Services
Report Author: Tony Nash, Manager Works
File No: I2014/82
Theme: Community Infrastructure Depot and Fleet Management

Summary:

At the Ordinary meeting on 27 February 2014, Council resolved Res 14-68 to approve the revised 2013/2014 Plant Replacement Program.

Under delegation by the General Manager, the Tender Process for the supply and delivery of 1 x 23,000kg GVM Cab Chassis with 12,500lt Water Tank was undertaken by engaging Procurement Australia to seek Tenders pursuant to the provision of the Local Government Act NSW Section 55.

This report makes recommendations for the most advantageous plant replacement for the large plant item as detailed above

Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulation 2005.

RECOMMENDATION:

1. That pursuant to Section 10A(2)(c), (d)i and (d)ii of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Tender Assessment for Contract 2014-0021 Water Cart Truck Replacement.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
 - a) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business
 - b) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
 - c) information that would, if disclosed, confer a commercial advantage on a competitor of the council
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 commercial position of the tenderers, could adversely affect Council's ability to contract with preferred tenderers or could affect Council's ability to attract competitive tenders in the event that fresh tenders are invited.
4. That in accordance with Sections 10A(4) of the *Local Government Act 1993*, that the Chairperson allow members of the public to make representations as to whether this part of the meeting should be closed.

OR, ALTERNATIVELY WHERE THE MEETING IS NOT PROPOSED TO BE CLOSED:

RECOMMENDATION:

- 5
1. That pursuant to Section 11(3) of the Local Government Act, 1993, resolve that the Annexures to the report, Tender Assessment for Contract 2014-0021 Water Cart Truck Replacement are to be treated as confidential as they relate to matters specified in s10A(2)(c), s10A(2)(d)i and s10A(2)(d)ii of the Local Government Act 1993.
 2. That Council adopt the recommendation set out on the final page of the Report.

Attachments:

- 10
- 1 Confidential - Procurement Australia 1508/0905 Weighted Aggregate Scores, E2014/80715
 - 2 Confidential - Northern Rivers Isuzu FXY1500 Automatic with Allquip Tank, E2014/77327