

# NOTICE OF MEETING



## BIODIVERSITY AND SUSTAINABILITY ADVISORY COMMITTEE MEETING

A Biodiversity and Sustainability Advisory Committee Meeting of Byron Shire Council will be held as follows:

Venue	<b>Conference Room, Station Street, Mullumbimby</b>
Date	<b>Thursday, 19 February 2015</b>
Time	<b>9.00am</b>

Mark Arnold  
A/General Manager

I2015/50  
Distributed 12/02/15

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## 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)

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## 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**  
BIODIVERSITY AND SUSTAINABILITY ADVISORY COMMITTEE MEETING

**BUSINESS OF MEETING**

- 1. APOLOGIES**
- 2. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY**
- 3. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS**
- 4. BUSINESS ARISING FROM PREVIOUS MINUTES**
- 5. STAFF REPORTS**

**Sustainable Environment and Economy**

5.1	Amended Draft Environmental Levy Implementation Policy .....	1
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STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 5.1 Amended Draft Environmental Levy Implementation Policy**

**Directorate:** Sustainable Environment and Economy

5 **Report Author:** Kim Mallee, Sustainability Officer  
Angus Underwood, Team Leader Natural Environment

**File No:** I2015/3

10 **Theme:** Ecology  
Land and Natural Environment

**Summary:**

15 The Biodiversity and Sustainability Advisory Committee recommended amendments to the draft Environmental Levy Implementation Policy at its meeting of 11 September. The amended policy is attached for consideration.

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**RECOMMENDATION:**

1. That the Biodiversity and Sustainability Advisory Committee recommend to Council that the draft Environmental Levy Implementation Policy (#E2014/61683) be publicly exhibited for a period of 28 days and that in the event that no submissions are received on the Environmental Levy Implementation Policy it be adopted.

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**Attachments:**

- 1 Draft Environmental Levy Implementation Policy, E2014/61683 , page 3

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**Report**

At the 11 September 2014 Biodiversity and Sustainability Committee meeting, after discussion on the draft Environmental Levy Implementation Policy report, the Committee made the following recommendation:

Committee Recommendation B & S 5.1

*That the Biodiversity and Sustainability Advisory Committee:*

1. *request staff to amend the draft policy to clarify the distinction between protecting or enhancing coastal biodiversity, ecosystems and ecological processes, as compared with 'coastal protection works', and that this be reported back to the next Biodiversity and Sustainability Advisory Committee meeting.*
2. *recommend that 3.1 be amended as follows:  
'Identify, maintain, protect or enhance native biodiversity, ecosystems and ecological processes.'*

Refer to Attachment 1 for the amended draft Environmental Levy Implementation Policy .

**Financial Implications**

Comments from Manager Finance

The Draft Environmental Levy Implementation Policy, when adopted will do at least two things:

1. Keep the portion of Council's general rate revenue represented by the Environmental Levy separated into the future from Council's general revenue.
2. Define the scope of expenditure for the Environmental Levy .

The Environmental Levy itself is not a special rate as it is imposed on all ratepayers as part of the general rate but was derived from a previous special variation of rate income approved by the Minister for Local Government from the 2008/2009 financial year onwards. The reporting requirements of the 2008/2009 special variation of rate income have concluded as of 30 June 2013 in accordance with the approval. There is a view then that Council has the option to reallocate the Environmental Levy funds to alternate purposes or service priorities if Council resolved to do so ie as additional funding for infrastructure maintenance as an example.

Adoption of this Draft Policy will prevent Council from reallocating Environmental Levy funds to alternate purposes into the future whilst the Policy exists. Whether Council wishes to retain the Environmental Levy in its current form and define the scope of its expenditure as what the Draft Policy will do is a matter for Council to determine. However, it is also important to recognise and that the Council be aware of the ongoing restriction this draft policy will create on a portion of Council's general rate revenue going forward should it be adopted.

The above comments are not made against the value of the Environmental Levy and in what it has achieved or is proposing to achieve but are made so that Council is fully aware of the implications should the Draft Policy be eventually adopted.

**Statutory and Policy Compliance Implications**

Nil

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# **BYRON SHIRE COUNCIL**

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## **DRAFT POLICY**

### **Environmental Levy Implementation Policy**

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# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY INFORMATION ABOUT THIS DOCUMENT

5.1 - ATTACHMENT 1

<b>Date Adopted by Council</b>		<b>Resolution No.</b>	
<b>Policy Responsibility</b>	Manager Land and Natural Environment		
<b>Review Timeframe</b>			
<b>Last Review Date:</b>		<b>Next Scheduled Review Date</b>	

5 **Document History**

<b>Doc No.</b>	<b>Date Amended</b>	<b>Details Comments eg Resolution No.</b>
E2014/44800	26 June 2014	Draft Version after Res 14-321
E2014/61683	11 September 2014	Draft incorporating Biodiversity & Sustainability Advisory Committee recommendations

**Further Document Information and Relationships**

<b>Related Legislation*</b>	
<b>Related Policies</b>	Byron Biodiversity Conservation Strategy Byron Low Carbon Strategy Coastal Zone Management Plans
<b>Related Procedures/ Protocols, Statements, documents</b>	

*Note: Any reference to Legislation will be updated in the Policy as required. See website <http://www.legislation.nsw.gov.au/> for current Acts, Regulations and Environmental Planning Instruments.*

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**POLICY TITLE ENVIRONMENTAL LEVY IMPLEMENTATION POLICY**

5 **1. OBJECTIVES**

1.1. To inform the allocation of revenue raised through the Environmental Levy in the Byron Shire Council local government area.

10 1.2. To outline the arrangements for allocating and managing the Environmental Levy funds

**2. BACKGROUND**

15 Byron Shire is well know for its diverse, natural environment including beautiful coastlines, lush rainforests, creeks, rivers and mountain ranges which form part of the remnants of the Wollumbin caldera. These environmental assets are supported by an active and aware community that values and promotes the protection and enhancement of the environment.

20 Following the adoption of the Byron Biodiversity Conservation Strategy in 2004 Council received approval from the NSW government to apply a special rate variation of 2% for four years to fund a Biodiversity Levy in order to implement the Byron Biodiversity Conservation Strategy. In 2008, the Biodiversity Levy was replaced with an Environmental Levy that continues to support the implementation of the Byron Biodiversity Conservation Strategy as well as Council's sustainability and coastal programs.

25 The Environment Levy is a key revenue source to assist in the implementation of Council endorsed environmental plans and strategies. The Levy has been essential to the successes achieved through the implementation of a range of biodiversity, coastal and sustainability programs and enabled Council to leverage significant additional funding via external grants.

30 **3. PRINCIPLES**

The Environmental Levy is to be used to fund activities which either:

35 3.1. Identify, maintain, protect or enhance native biodiversity, ecosystems and ecological processes.

3.2. Reduce Byron Shire's greenhouse gas emissions or improve the environmental sustainability and resilience of Council and the community.

40 3.3. Undertake studies and prepare plans for coastal processes, values and risks and implement those actions that address protecting or enhancing coastal biodiversity, ecosystems and ecological processes.

45 **4. TERMS OF REFERENCE**

The Environmental Levy will only be used to fund staff, priority actions and projects consistent with:

50 4.1. Developing and/or delivering the Byron Biodiversity Conservation Strategy

4.2. Developing and/or delivering the Roadside Vegetation Management Plan

4.3. Developing and/or delivering the Byron Shire Low Carbon Strategy

5 4.4. Developing Coastal Zone Management Plans (CZMP), including estuary management plans, and delivering actions that are consistent with the above Principles, and/or the objectives of the above strategies, but not the implementation of 'coastal protection works' as defined under the *Coastal Protection Act 1979*<sup>1</sup>.

5. POLICY STATEMENT

10 5.1. The Biodiversity and Sustainability Advisory Committee will review the allocation of funds from the Environmental Levy, namely by:

- 15 a) Providing advice to Council on matters to be considered for funding from the Environmental Levy each year
- 15 b) Reviewing the projects funded by the Environmental levy on a quarterly basis, following advice provided by Council staff and report progress to Council
- 20 c) Reviewing annually the draft budget for expenditure of the Environmental Levy and providing advice to Council on both the allocation and expenditure of funds consistent with the Environmental Levy Terms of Reference including prioritisation and monitoring environmental outcomes of Levy funded projects

25 5.2. All funds collected including any funds raised through Environment Levy business activities is held and accounted for separately from Council's general revenue.

25 5.3. Environment Levy funds should not be available at any time for expenditure as general revenue in accordance with principles of the Environmental Levy.

30 5.4. Any unspent funds at the end of financial year are to be returned to the Environment Levy budget.

30 5.5. The Environment Levy can be used for leveraging funding through grants and partnership opportunities offered by government and other organisations.

35 5.6. Funds from the Environment Levy may be quarantined or saved annually in order to compound funds over subsequent years to raise a larger sum of funds for designated projects or matching grants.

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<sup>1</sup> Under Part 1, section 4 (1) of the *Coastal Protection Act 1979*, *coastal protection works* means activities or works to reduce the impact of coastal hazards on land adjacent to tidal waters and includes seawalls, revetments, groynes and beach nourishment.

**Report No. 5.2**                    **Byron Shire Low Carbon Strategy**  
**Directorate:**                    Sustainable Environment and Economy  
**Report Author:**                Kim Mallee, Sustainability Officer  
**File No:**                         I2015/5  
5 **Theme:**                         Ecology  
    Land and Natural Environment

**Summary:**

10 The draft Byron Shire Low Carbon Strategy was on public exhibition from 9 December 2014 to 23 January 2015. This report formally documents that no submissions were received whilst on exhibition and as such the Strategy is adopted as per Council resolution 14-594.

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**RECOMMENDATION:**

**That the Biodiversity and Sustainability Advisory Committee note the adoption of the Byron Shire Low Carbon Strategy.**

**Attachments:**

20 1     Byron Shire Low Carbon Strategy 2014 , E2015/5095 (provided under separate cover)

**Report**

Council resolved at the 20 November Ordinary Council meeting:

14-594:

- 5     1. *That Council place the Byron Shire Low Carbon Strategy on public exhibition for a minimum of 28 days.*  
      2. *That in the event that no submissions are received on the Byron Shire Low Carbon Strategy it be adopted.*

10    The Byron Shire Low Carbon Strategy was exhibited for 45 days from 9 December 2014 until 23 January 2015. No submissions were received and as such the strategy has been adopted.

The following steps will be taken to communicate the strategy's adoption:

- 15     • Report adoption to the Biodiversity and Sustainability Advisory Committee which in turn will go into the minutes and be reported to Council  
      • Upload strategy to Council website  
      • An email sent to advise staff of the strategy's adoption  
      • A media release be prepared to celebrate the adoption of the strategy to the community  
20     • A presentation be made at the next all staff meeting on the implementation of the strategy

**Financial Implications**

Nil

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**Statutory and Policy Compliance Implications**

Nil

**Report No. 5.3**                    **Environmental Levy Budget Update**  
**Directorate:**                    Sustainable Environment and Economy  
**Report Author:**                Angus Underwood, Team Leader Natural Environment  
**File No:**                         I2015/7  
5 **Theme:**                         Ecology  
    Land and Natural Environment

**Summary:**

10 This report provides an update of the expenditure of the Environmental Levy between 1 July and 31 December 2014.

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**RECOMMENDATION:**

**That the Biodiversity and Sustainability Committee note this report.**

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# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

5.3

### Report

Expenditure to date of the Environmental Levy is shown in Table 1, below. Given we are halfway through the 2014/15 financial year; a 50% expenditure against each funded item is expected.

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**Table 1 – Environmental Levy expenditure 1 July 2014 to 31 December 2014**

<b>Job no.</b>	<b>2014/15 Funded Items</b>	<b>Committ ed (eg purchase orders raised)</b>	<b>Spent (amount spent year to date)</b>	<b>% of total budget (spent or allocated)</b>	<b>Budget (amount budgeted for year)</b>	<b>Available (amount remaining)</b>	<b>Comment</b>
2606.3	Bush Regeneration Team	\$0	\$61,101	39%	\$154,900	\$92,783	Funds salary.
2606.4	Operational Costs - Bush Regeneration Team	\$401	\$2999	65%	\$5,200	\$1,326	Purchase of tools and supplies.
2606.11	Administration Officer to Support Implement Team	\$0	\$12,712	49%	\$26,000	\$13,288	Funds salary
2606.13	Coastal Officer	\$0	\$10,012	46%	\$21,800	\$11,344	Partly funds salary
2606.15	Sustainability Officer	\$0	\$35,644	61%	\$57,800	\$22,156	Funds salary
2606.19	Community Infrastructure Maintenance Program	\$0	\$236	2.5%	\$9,200	\$8,964	Funds planned to be spent this financial year on strategic coral tree removal in the road reserve along Upper Wilson Creek Rd in partnership with Landcare group.
2606.24	CZMP for Byron Bay Embayment	\$9,950	\$20,020	75%	\$39,900	\$9,930	Funds allocated to contract with Water Research Laboratory for preparation of the Coastal Hazard Management Study Byron Bay Embayment.
2606.25	Feral animal control Program	\$0	\$3,400	27%	\$12,500	\$9,100	Funds to be spent on trapping program recommencing in March 2015.

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

5.3

Job no.	2014/15 Funded Items	Committed (eg purchase orders raised)	Spent (amount spent year to date)	% of total budget (spent or allocated)	Budget (amount budgeted for year)	Available (amount remaining)	Comment
2606.27	Vegetation mapping	\$23,995	\$31,982	100%	\$56,000	\$24	Allocated to consultants for implementation.
2606.28	Land for Wildlife grant	\$0	\$0	0%	\$20,000	\$20,000	Funding allocated as in kind contribution to \$98,000 NSW Environmental Trust grant. Funds to be spent over 3 years commencing January 2015.
2606.29	Bangalow Waterfront Environmental Works	\$0	\$0	0%	\$60,000	\$60,000	Riparian restoration works associated with removal of Bangalow weir. Works in planning stage and expected to commence in March 2015.
4835.126	Integrated Weed Management Strategy	\$0	\$0	0%	\$26,800	\$26,800	Currently seeking quotes. Expected to commence in March.
	<b>Total</b>	<b>\$34,346</b>	<b>\$178,106 (43%)</b>		<b>\$490,100</b>	<b>\$272,775</b>	

### Financial Implications

- 5 Based on expenditure to date and projected expenditure to the end of the financial year there is expected to be approximately \$30,000 unspent funding from 2606.3 Bush regeneration team salary which may be available to be allocated to additional programs in 2015/16. Any other unexpended funds from ongoing long term projects are likely to be rolled over to the 2015/16 year.
- 10 Unallocated funding at the end of the financial year will be re-allocated in accordance with the Environmental Levy Terms of Reference towards high priority action/s identified in relevant Council plans and strategies. A report to the May meeting of the Biodiversity and Sustainability Committee will provide details of the proposed allocation of unspent funds.

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### Statutory and Policy Compliance Implications

Nil