



Byron Shire Council



Agenda

Ordinary Meeting

Thursday, 21 May 2015

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

3. REQUESTS FOR LEAVE OF ABSENCE

4. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

5. TABLING OF PECUNIARY INTEREST RETURNS (S450A LOCAL GOVERNMENT ACT 1993)

6. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

6.1 Ordinary Meeting held on 30 April 2015

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ORDINARY MEETING

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Nil

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Infrastructure Services

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

NOTICES OF MOTION

Notice of Motion No. 9.1 Financial Assistance Grants to Local Governments
File No: I2015/367

I move that Council

- a) **Acknowledges the importance of federal funding through the Financial Assistance Grants program for the continued delivery of council services and infrastructure;**
- b) **Acknowledges that the council will receive \$2,611,214 in 2014-15; and**
- c) **Will ensure that this federal funding, and other funding provided by the Federal Government under relevant grant programs, is appropriately identified as Commonwealth grant funding in council publications, including annual reports.**

Councillor's Background Notes:

FAGs are a vital part of the revenue base of all councils, and this year councils will receive \$2.3 billion from the Australian Government under this important program.

The Government's decision in the 2014 Federal Budget to freeze the indexation of FAGs for three years beginning in 2014-15 will unfortunately cost councils across Australia an estimated \$925 million by 2017-18.

ALGA and the state local government associations are seeking the support of Council for advocacy to have the Federal Government reverse the decision to freeze the indexation of FAGs.

While the FAGs are paid through each state's Local Government Grants Commission, the funding originates with the Commonwealth and it is important it is recognised as such. Council, and every other council in Australia, have been asked to pass a resolution acknowledging the importance of the Commonwealth's Financial Assistance Grants in assisting Council to provide important community infrastructure.

Council is also being asked to acknowledge the receipt of Financial Assistance Grants from the Commonwealth in media releases and council publications, including our annual report, and to highlight to the media a council project costing a similar size to the FAGs received by Council so that the importance and impact of the grants can be more broadly appreciated.

Recommended priority relative to other Delivery Plan tasks:

N/A

Definition of the project/task:

Acknowledge the importance of Financial Assistance Grants and identify Commonwealth grant funding in council publications, including annual reports.

Source of Funds (if applicable):

N/A

Signed: Cr Simon Richardson

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

Clarification of project/task:

- 5 The President of Local Government NSW and the President of the Australian Local Government Association (“ALGA”) have jointly written to each Council requesting the support of Council for the ALGA campaign to have the indexation for Financial Assistance Grants (“FAGs”) restored.
- 10 The Commonwealth as part of the 2014/15 Budget process made the decision to freeze indexation of the FAGs. This decision has had the effect of severely restricting the ability of Local Government to fund adequate levels of infrastructure in communities’ right across Australia. These untied Grants are currently valued at \$2.3 billion, but the Federal Government has frozen them at 2014/15 levels, which will result in a permanent 13% reduction in the FAGs base.
- 15 The Notice of Motion has been prepared to enable Council to pass a Resolution that acknowledges the importance of the FAGs, acknowledges the receipt of the FAGs in media releases, annual reports and other Council publications and to enable Council to support the ALGA campaign, by raising awareness of the importance of FAGs to the wider community, including local Federal MPs and Senators.
- 20

Director responsible for task implementation:

25 Director Corporate and Community Services

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

No impact.

30 Financial and Resource Implications:

The draft 2015/16 Budget has been prepared with the forecast revenue from FAGs being maintained at the 2014/15 level of \$2,611,200.

- 35 The impact of the Federal Government decision for the 2015/16 Financial Year, is estimated at between \$60,000 and \$65,000. Based on the projected impact, of 13% over the period of the indexation freeze, this would result in an amount of approximately \$339,500 in revenue not being realised by Council, and not being part of the FAGs base, when indexation is scheduled to be reintroduced.
- 40

Legal and Policy Implications:

No Legal or Policy implication.

Notice of Motion No. 9.2 CZMP end date
File No: I2015/378

I move that Council, in relation to preparing the Coastal Zone Management Plan for the Byron Bay Embayment:

- 1. Write immediately to the NSW Minister for the Environment Mark Speakman (also Assistant Minister for Planning) to convey the challenges facing Council in meeting the current 30 June 2015 deadline for completion of the draft CZMP for the BBE;**
- 2. Write again to the Minister after (i) the time-frame for completing the management study is clarified by consultant and (ii) key milestone dates for preparing, exhibiting and then submitting the draft CZMP have been determined by staff, seeking an extension of the date by which the draft CZMP must reach him;**
- 3. Note the difficulties encountered to date concerning the management study phase of the CZMP, and the importance that any extension requested reflect conservative estimates for completing key milestones.**

5

Councillor's Background Notes:

10 Council supported 8-part Resolution 15-139 on 9 April rather than a 6-part amendment that included, amongst other things, the second half of part 4 about writing to the newly appointed Minister for the Environment requesting a further extension.

Since then staff responded to a Question with Notice to our meeting of 30 April that the Minister's current time-frame of 30 June 2015 "can not be met".

15 While in that Ministry prior to the recent state election, former Minister Stokes had said that his government would reform coastal planning in its second term and implied that extending CZMPs that are under Ministerial Direction would be difficult beyond 30 June 2015.

20 Rather than carry on regardless and be hit later from left field, it seems wise to seek direction on the matter. In fact, without such direction Council continuing to fund preparation of the CZMP may be a waste – the new Direction may require its preparation to different standards.

Recommended priority relative to other Delivery Plan tasks:

This task is not onerous or time consuming. Hence it should not displace much other work. The information sought is likely to affect the direction of future work on the CZMP.

25

Definition of the project/task:

Write to the Minister now, and again when Council is aware of the time-frame it requires to prepare the CZMP under the current (about to expire) Direction from the Minister.

30

Source of Funds (if applicable):

Funds already set aside for coastal management.

35

Signed: Cr Duncan Dey

Management Comments by Shannon Burt, Director Sustainable Environment and Economy:
(Management Comments must not include formatted recommendations – resolution 11-979)

Clarification of project/task:

5

Staff are to immediately write to the Minister for the Environment and convey the following:

10

1. The challenges facing Council in meeting the current 30 June 2015 CZMP deadline, which have arisen, largely, as a result of the OEH comments on the cost benefit analysis (CBA) and determining an appropriate response to the OEH comments.

15

2. That due to delays, an extension to the date to submit the draft CZMP BBE is requested. That the revised date put forward for consideration is informed by clarification of the timeframe to complete the management study, in addition to realistic and conservative estimates for completing key CZMP BBE milestones.

Director responsible for task implementation:

20

Director Sustainable Environment and Economy

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

25

Relates to high priority project, being the preparation of the draft CZMP BBE. The necessary information for estimating the timeframes for preparing the draft CZMP BBE is available and as a matter of course, the CZMP BBE timeframes are being revised and updated on a regular basis.

Financial and Resource Implications:

30

Minimal staff resources will be required to prepare the letter.

Legal and Policy Implications:

35

Council is under a Ministerial Direction to submit the CZMP by 30 June 2015. The Direction is under section 55B of the *Coastal Protection Act 1979* (CP Act). In accordance with the CP Act, if Council fails to comply with section 55B then the Minister may:

55B Requirement for coastal zone management plans(relevant part only)

40

(7) If a council fails to comply with this section, the Minister may:

(a) review the council's existing plan and make a new plan to replace that existing plan, and

(b) recover from the council the costs of doing those things, and

(c) publish the new plan in the Gazette.

Such a new plan is taken to have been made by the council in accordance with this Part.

45

Notice of Motion No. 9.3 Flying Fox Camp Interim Actions
File No: I2015/380

I move that Council:

1. **Acknowledge that there are conflicts (noise, smell) between residential amenity and activity in flying fox camps in at least three urban locations of the Shire;**
2. **Acknowledge that one such colony (Pine / Palm Avenues in Mullumbimby) resides in a recently planted Crown Reserve under Council control;**
3. **Consider and undertake any short-term works or measures that (i) do not threaten the species, and (ii) may ameliorate the impacts of the camp on neighbouring residents at Pine / Palm Avenues in Mullumbimby; and**
4. **Consider and report on similar measures and on the need for Camp Management Plans for camps at Eltham Place in Bangalow and at Beech Drive in Suffolk Park.**

5

Attachments:

- 1 Briefing Note - Flying Fox Colonies, E2015/26843 , page 13

10

Councillor's Background Notes:

Issues at Pine / Palm Avenues have grown as the colony there has grown, from about 300 flying foxes a few years ago to a last estimate of 5,000. Pre-dawn noise was recorded this year at 75 decibels, by a local resident proficient at such measurement. Residents are distraught at being unable to sleep and at living in houses with the stench of such a colony.

15

In addition, entry to the planted rainforest area nearby is said to be limited by flying fox mess on the forest floor.

Other colonies are known at Beech Drive in Suffolk Park and at Eltham Place in Bangalow.

Council Resolution 15-181 of 30 April allocated \$20,000 in the draft budget for 2015-16 to "prepare Plan(s) of Management for bat colony(s)".

20

The state government is familiar with the issue from other camps that gave rise to conflicts at places such as Maclean and has recently issued its Flying-fox Camp Management Policy. This can be seen at:

<http://www.environment.nsw.gov.au/threatenedspecies/flyingfoxcampopol.htm>

25

The Policy states:

The Flying-fox Camp Management Policy 2015 empowers land managers, primarily local councils, to work with their communities to manage flying-fox camps effectively. It provides the framework within which the Office of Environment and Heritage (OEH) will make regulatory decisions. In particular, the policy strongly encourages local councils and other land managers to prepare camp management plans for sites where the local community is affected.

30

Management of flying-foxes also requires recognition that, as native fauna, they are protected in NSW under the *National Parks and Wildlife Act 1974* (NPW Act) and, in the case of the Grey-headed flying-fox, under the *Threatened Species Conservation Act 1995* (TSC Act) and the *Environment Protection and Biodiversity Conservation Act 1999* (Cwth).

35

The Flying-fox Camp Management Policy 2015 differs from the previous 2007 policy in its focus on minimising the impacts of camps on people; its longer-term approach to camp

management and streamlining of licensing; and its acknowledgement that camp dispersal may be a successful way of removing impacts on local communities.

Residents in Mullumbimby support the spirit of the Policy, which is designed to ameliorate the impacts without harming the animals. They have suggested ideas like establishing a buffer by selective tree trimming, to be done over winter while the animals are away. Trimming and other measures can be considered through a Plan of Management (PoM) process that I hope will occur next financial year but some works or measures may be possible sooner. The Motion is intended to have this possibility explored.

The above-mentioned website goes on to say:

Flying-foxes are increasingly moving into urban areas in search of food and shelter, as a result of destruction of their natural habitat. This can sometimes be problematic for local residents, because of concerns about flying-fox camp health and amenity impacts. Because the grey-headed flying-fox is listed as a threatened species in NSW, approval is required to disturb or relocate flying-foxes. The *Living with grey-headed flying-foxes fact sheet* suggests some simple measures that the community can take to minimise conflict when they are living close to a flying-fox camp.

The link to that fact sheet is:

<http://www.environment.nsw.gov.au/resources/animals/130272livflyfox.pdf>

Council staff have also issued a Briefing Note (E2015/26843) and 4-page pamphlet entitled "Flying-fox camps in Byron Shire". PLEASE APPEND

Recommended priority relative to other Delivery Plan tasks:

These tasks require priority because camp occupation decreases briefly in the cool months. Works and measures would be aimed at amelioration for next summer, which residents anticipate will be worse than this year. Timing is therefore an issue.

I ask staff to advise on how to achieve this task and timing.

Definition of the project/task:

Acknowledge conflict in at least three locations in the Shire; acknowledge that Council is the relevant land manager at the colony in Mullumbimby; consider and undertake relevant works or measures; consider and report on at least two other camps in the Shire.

Source of Funds (if applicable):

These tasks require funding to commence in this financial year.

I asked staff to advise on how to achieve this.

Signed: Cr Duncan Dey

Management Comments coordinated between Sustainable Environment and Economy, and Infrastructure Services:

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

Clarification of project/task:

The NOM seeks to acknowledge conflict caused by flying fox camps in at least three locations in the Shire; acknowledge that Council is the relevant land manager at the colony in Mullumbimby; consider and undertake relevant works or measures that do not threaten the species, and may ameliorate the impacts of the camp on neighbouring residents at Pine / Palm Avenues in

Mullumbimby; consider and report on similar measures and the need for Camp Management Plans for camps at Eltham Place in Bangalow and at Beech Drive in Suffolk Park.

5 The Mullumbimby camps occur over various land tenures including Council managed, crown waterways and private land therefore Council is the relevant land manager for part of the land the camps occupies. Staff have notified crown land of the flying fox camp location and requested their involvement in the development of the Flying-fox Management Plan.

10 Staff have previously identified interim vegetation management works that could be undertaken on Council owned land at Bangalow involving the trimming or removal of camphor laurel adjacent to the most heavily impacted residents at Burrawan Place. The Bangalow camp has recently dispersed and staff will seek quotes for these vegetation management works. These will be undertaken subject to available funds.

15 Staff are currently considering any interim works that could be undertaken on Council managed land in Mullumbimby, in consultation with Office of Environment and Heritage. The location of this camp, being riparian land containing predominantly native vegetation, makes management of this site more complex. Staff have met with the most affected residents in Palm Ave to discuss possible interim works.

20 Director responsible for task implementation:

Director Sustainable Environment and Economy
Director Infrastructure Services

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

30 A budget has been allocated towards the development of a Flying-fox Management Plan in the 2015/16 financial year. The development of a Flying-fox Management Plan will identify and consider management options available in detail. Undertaking any interim works prior to the Plans completion will be subject the required assessments and approvals relating to vegetation removal and budget availability.

Financial and Resource Implications:

35 The Bangalow camp has moved allowing some interim vegetation management works (pre development of a Flying Fox Management Plan). At the time of responding to this NOM quotes were being sought for this work. In the absence of a quote it is not yet known if available funds will cover all or only some of the interim vegetation management works.

40 At this stage the flying foxes are still in residence at the Mullumbimby camp, therefore limiting the ability to undertake interim vegetation management works. Works may also be required on private property. The meeting held mid May with key local residents and Council staff will provide a better understanding of the quantum of possible interim vegetation management works should the camp vacate over winter.

45 There is currently very little funding available for short term vegetation management works in the 2014/15 financial year. There is no discreet allocation of funding for this task in the 2015/16 financial year so if works were to occur they would need to be undertaken using funds from other budgets, which would impact on delivery of other programs such as the removal of dead, dangerous and dying trees, and management of bush fire asset protection zones.

50 Legal and Policy Implications:

Flying fox camps in the Shire are occupied by two species - the black flying fox and grey headed flying fox. Both species are protected under the *National Parks and Wildlife Act 1974*, and the grey

headed flying fox is listed as a threatened species under the *Threatened Species Conservation Act* 1995 and the *Environment Protection and Biodiversity Conservation Act* 1999.

5 Given the protection afforded to flying foxes any works which disturb or impact on their habitat requires approval from the NSW Office of Environment and Heritage (OEH). To facilitate this process OEH have a flying-fox camp management policy. A new policy has recently been adopted and differs from the previous policy in its focus on minimising the impacts of camps on people and its longer-term approach to camp management and streamlining of licensing.

10 In order gain approval for works which disturb or harm flying-foxes, or their habitat, landowners are required to prepare a flying-fox management plan which then facilitates the issuing of the relevant license to implement actions in the management plan.

Briefing Note – Flying Fox Colonies – Mullumbimby and Bangalow

Council has recently received a number of complaints regarding the flying fox camp along Chinbible Creek in Mullumbimby and Paddy's Creek Reserve, Bangalow.

- 5 Staff have been monitoring both camps since 2010 when a small number of flying foxes were observed using the trees. Both camps has significantly increased in size and location since then and is causing concerns to nearby residents.

Staff have responded to recent enquires on both of these camps and have meet with residents to discuss their concerns.

- 10 Monitoring has shown that the camp numbers significantly reduce or move completely in the winter period. Staff will be monitoring the camp to determine the flying foxes movements over the winter period and will look for opportunities to undertake some interim vegetation management works eg. trimming of trees such as were trees overhang private property.

- 15 Both camps are occupied by two species of flying fox - the black flying fox and grey headed flying fox. Both species are protected under the *National Parks and Wildlife Act 1974*, and the grey headed flying fox is listed as a threatened species under the *Threatened Species Conservation Act 1995* and the *Environment Protection and Biodiversity Conservation Act 1999* (Cwth).

- 20 Given the protection afforded to flying foxes any works which disturb or impact on their habitat requires approval from the NSW Office of Environment and Heritage (OEH). To facilitate this process OEH have a flying-fox camp management policy. A new policy has recently been adopted and differs from the previous policy in its focus on minimising the impacts of camps on people and its longer-term approach to camp management and streamlining of licensing.

In order gain approval for works which disturb or harm flying-foxes landowners are required to prepare a flying-fox management plan. In regard to these management plans the policy states:

- 25 *Camp management plans are generally prepared by local government or public authorities who manage land, and set out the short-term, medium-term and long-term strategy for the management of specific flying-fox camps. They provide strategic guidance on managing flying-fox camps that is consistent with relevant policy and legislative provisions. Camp management plans should consider the full range of available options, following the hierarchy of options outlined in Section 3, and seek to balance community concerns with environmental outcomes and*
- 30 *neighbourhood amenity. Plans should also include contingencies to manage unsuitable new camps. The camp management plan should be aligned with the community engagement strategy, and be publicly exhibited.*

The full policy can be accessed at

<http://www.environment.nsw.gov.au/threatenedspecies/flyingfoxcamppol.htm>

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.3 - ATTACHMENT 1

The management of the Mullumbimby camp is made more complex as it occurs over various land tenure including Council, crown and private land, and also includes native riparian vegetation of high conservation value. All stakeholders will need to be involved in the planning process to ensure a successful outcome.

- 5 The Bangalow camp is entirely on Council owned land.

Staff are currently liaising with the Office of Environment and Heritage and Crown lands to determine resource requirements and the process for the development of a flying fox camp management plan.

Staff will contact residents prior to the development of a management plan to ensure adequate community consultation occurs.

- 10 Attached is an information sheet about flying foxes in Byron Shire, and also includes a list of references and further reading.

Notice of Motion No. 9.4 Caravan Park Booking Rules
File No: I2015/390

I move that Council:

- 1. Acknowledge the value of seasonally adjusting fees for accommodation in Caravan Parks such as First Sun and Suffolk Park and recognise the rationale behind price tables such as is proposed for 2015-16 in our Fees & Charges documents.**
- 2. Receive a report on the various “rules” used for bookings, including those expressed in the draft 2015-16 Fees & Charges documents.**
- 3. That Park operators be invited to outline and explain the system and its philosophy to Councillors, during the public exhibition period of the 2015-16 budget documents.**

5

Attachments:

- 1 Extract from Draft 2015/16 Revenue Policy, E2015/28773 (provided under separate cover)

10

Councillor’s Background Notes:

When one books accommodation in a popular caravan park in Australia, for at a busy time (eg a Saturday night during school holidays) one must book for several days surrounding the time for which the accommodation is actually sought. This rule is known as “minimum stay”.

- 15 At its meeting of 30 April, Council adopted for exhibition the Fees & Charges in Attachment 2 to Report 13.3. This included F&C for Council’s two caravan parks (“First Sun” and “Suffolk Beachfront”). The section at pages 41 to 54 of the F&C document covers the various prices. Seasons are Peak, High, Shoulder and Low.

- 20 Page 41 shows Suffolk with a general minimum 2 night stay for its tents, caravans and sites. Page 42 shows First Sun with a minimum of 3 nights for cabins. Other minimum stay rules are flagged but not written on Pages 43 to 46. Schoolies has a minimum stay of 7 nights in either Park. The same 1 week rule applies for on-site accommodation in school holidays, as shown on Page 48.

Page 49 indicates a minimum 2 week stay for sites during Christmas school holidays.

- 25 Discounts for extended stays and specials can also be granted at the Park Manager’s discretion as described on Page 48.

- 30 I recognise that these fee structures are standard industry practice and are a way of sharing a limited resource at highly sought-after times. The alternative and normal capitalist way of managing demand is to raise price. The minimum stay rule is effectively a price surcharge, for anyone not wanting to stay for that extended period. It would thus have the effect of subsidising long-stay guests, at the expense of potentially shorter stay patrons.

I believe this prejudice should at least be examined and justified, hence the Motion above.

Recommended priority relative to other Delivery Plan tasks:

- 35 The discussion proposed under Part 3 of the Motion is to enable Council to reconsider the matter now, with more information, and to at least enable an informed submission to the F&C exhibition. It’s timing is thus important.

Part 2 of the Motion could happen later, in time for the drafting of next year’s budget.

40

Definition of the project/task:

Acknowledge the current arrangements for Caravan Park rules; receive a report on them; hold an early discussion on the principles behind them.

Source of Funds (if applicable):

Part 2 requires funding in this financial year, part 3 in the next financial year.
I ask staff to advise on how to achieve this.

Signed: Cr Duncan Dey

Management Comments by Mark Arnold, Director Corporate and Community Services:
(Management Comments must not include formatted recommendations – resolution 11-979)

Clarification of project/task:

1. Provide a report to Council outlining the 'rules' used for bookings at Council's two holiday parks as outlined in the 2015/2016 Draft Fees and Charges.
2. That during the exhibition period of the 2015-2016 budget documents, Council's holiday park manager meet with Councillors to outline and explain the booking system and its philosophy to Councillors.

Director responsible for task implementation:

Director Corporate and Community Services

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

This matter was initially discussed at a recent strategic planning workshop briefing with Councillors on the draft 2015/2016 Operational Plan, Budget Estimates and Statement of Revenue Policy prior to Council considering and adopting the draft documents for public exhibition at its Ordinary Meeting held on 30 April 2015.

It was the understanding of staff given the views of Councillors that this matter would be reconsidered as part of the 2016/2017 Operational Plan, Budget Estimates and Statement of Revenue Policy process. In that regard, this Notice of Motion was not anticipated and if part 2 of the Motion is to provide a report to inform the 2016/2017 fees/charges and 'booking rules' it is the view of staff that part 3 of the Motion should be done at the same time to assist Councillors consideration of the report. If part 3 of the Motion is done now then it is likely the information provided would need to be done again when dealing with part 2 in preparation of the 2016/2017 documents.

Council have adopted the existing 'booking rules' as part of resolution **15-181** for the purposes of public exhibition along with all other fees and charges for Council. In passing that resolution, Council did not indicate that it wanted to change the 'booking rules' to apply for 2015/2016.

Financial and Resource Implications:

Part 2 of this Notice of Motion would be incorporated into the normal cycle of preparing the 2016/2017 Statement of Revenue Policy so would be met from allocated resources at that time.

Part 3 would require confirmation with the Park Managers as to their availability during the exhibition period and it would be assumed the meeting would have to occur at a Council workshop session if one is available. This may be difficult to co-ordinate in the timeframe requested.

- 5 Staff based on the current work program and focus on other Finance projects such as the Fit for Future submission, which are required to be completed by 30 June 2015, would if required to facilitate part 3 of this motion in the timeframe required by the Notice of Motion, have a number resourcing conflicts, and on this basis recommend that both part 2 and 3 be undertaken in the preparation of the 2016/17 Fees and Charges.

- 10 Staff have previously recommended that the review and report required should be included as an action in the 2015/16 Financial Sustainability Plan.

Legal and Policy Implications:

- 15 The annual determination of fees and charges plus the 'booking rules' of Council's holiday parks are a matter for Council based on recommendation from staff and consideration of public submissions (if any) like any other fee or charge contained in Council's Statement of Revenue Policy. In this regard Section 405 of the Local Government Act 1993.

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BYRON SHIRE COUNCIL

NOTICES OF MOTION AND RESCISSION

9.5

Notice of Rescission Motion No. 9.5

Coastal Zone Management Plan Byron Bay
Embayment (Part 8, 15-139)

File No:

I2015/381

5

We move that Council rescind Part 8 of Resolution No. 15-139 from its Ordinary meeting held on 9 April 2015 which reads as follows:

15-139 Resolved:

- 8. Council establishes a community advisory/reference panel to provide ongoing feedback during the preparation of the CZMP containing key stakeholders and Councillors (as per CZMP guideline 2.2.2).***

Signed: Cr Diane Woods
Cr Chris Cubis
Cr Rose Wanchap

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W

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES**Report No. 13.1****Mayoral and Councillor Fees 2015/2016****Directorate:**

Corporate and Community Services

Report Author:

Joylene McNamara, Senior Administration Officer

File No:

I2015/210

Theme:

Corporate Management

Administrative Services – Councillors

Summary:

The Local Government Remuneration Tribunal has handed down its report and determinations on fees for Councillors and Mayors for the 2015/2016 Financial Year.

RECOMMENDATION:

1. That Council fix the fee payable to each Councillor under Section 248 of the Local Government Act 1993 for the period 1 July 2015 to 30 June 2016 at \$18,380.
2. That Council fix the fee payable to the Mayor under section 249 of the Local Government Act 1993, for the period from 1 July 2015 to 30 June 2016 at \$40,090.
3. That Council in accordance with its current practice not determine a fee payable to the Deputy Mayor.

Attachments:

- 1 2015 Remuneration Tribunal Determination, E2015/26990 (provided under separate cover)

Report

Each year, the Local Government Remuneration Tribunal must determine, in each of the categories determined under section 239, the maximum and minimum amounts of fees to be paid during the following year to councillors and mayors.

The Remuneration Tribunal has determined the maximum and minimum amounts of fees to be paid during the 2015/2016 financial year. Byron Shire Council is categorised as a Regional Rural council and the appropriate fee range is as follows:

Category	Councillor/Member Annual Fee		Mayor/Chairperson Additional Fee*	
	Minimum	Maximum	Minimum	Maximum
Regional Rural	8,330	18,380	17,740	40,090

* This fee must be paid in addition to the fee paid as a Councillor (s249(2)).

Currently the annual fees payable to Councillors and the Mayor for the 2014/2015 financial year are fixed at \$17,930 per annum for a Councillor with an additional fee of \$39,110 for the Mayor.

Having regard to submissions received and to comments made by the Associations and individual councils with respect to the level of fees, the Tribunal considered that an increase of 2.5 per cent in the fees for Councillors and Mayors as being appropriate for the current year.

A full copy of the Report and Determination of the Local Government Remuneration Tribunal is provided under separate cover as attachment to this report and is also available at:

<http://www.remtribunals.nsw.gov.au/local-government/current-lgrt-determinations>

Financial Implications

Councillors and Mayoral fees presently paid

\$17,930 each x 9	=	\$161,370
Plus Mayor additional fee	=	<u>\$ 39,110</u>
Total Paid		\$200,480

Councillors and Mayoral fees 2015/2016 increased to maximum set by the Tribunal

\$18,380 each x 9	=	\$165,420
Plus Mayor additional fee	=	<u>\$ 40,090</u>
Total Paid		\$205,510

The draft 2015/16 Budget includes a total allocation of \$208,500 for Councillor Fees and the Mayoral Allowance.

Allowance for Deputy Mayor

Section 249 (Clause 5) of the Local Government Act, states that:

"A council may pay the deputy Mayor (if there is one) a fee determined by the council for such time as the deputy Mayor acts in the office of the Mayor. The amount of the fee so paid must be deducted from the Mayor's annual fee."

As stated in the above clause, Council is not bound to set a fee, but if it so chooses must deduct that sum from the amount available under the Mayoral allowance.

- 5 Current practice is that an acting period for Deputy Mayor would apply only in instances where the Mayor has leave of absence endorsed by Council and any pro rata fees would be deducted from the Mayoral allowance where agreed on a case by case basis in accordance with Section 249 of the Local Government Act 1993.

Statutory and Policy Compliance Implications

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Section 248 of the Local Government Act 1993 states:

- 15
1. *A council must pay each Councillor an annual fee.*
 2. *A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.*
 3. *The annual fee so fixed must be the same for each Councillor.*
 4. *A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.*

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Section 249 of the Local Government Act also states (in the case of the Mayor)

- 25
1. *A council must pay the Mayor an annual fee.*
 2. *The annual fee must be paid in addition to the fee paid to the Mayor as a Councillor.*
 3. *A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.*
 4. *A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.*
 5. *A council may pay the Deputy Mayor (if there is one) a fee determined by the council for such time as the deputy Mayor acts in the office of the Mayor. The amount of the fee so paid must be deducted from the Mayor's annual fee.*
- 30

Section 250 of the Local Government Act states:

- 35
- Fees payable under this Division by a council are payable monthly in arrears for each month (or part of a month) for which the councillor holds office.*

Report No. 13.2 **Council Resolutions Review January to March 2015**
Directorate: Corporate and Community Services
Report Author: Mark Arnold, Director Corporate and Community Services
File No: I2015/63
5 **Theme:** Corporate Management
 Administrative Services

Summary:

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

RECOMMENDATION:

1. That Council receive and note the information provided in this report on outstanding Council resolutions (Attachments 3 and 4 (#E2015/29834, E2015/29843.)
2. That Council note the completed resolutions in Attachments 1 and 2 (#E2015/29805 and #E2015/29712).

Attachments:

- 1 Council Resolutions (pre 2015) - complete 1 Jan to 31 Mar 2015, E2015/29805 (provided under
20 separate cover)
- 2 Completed Resolutions (2015) 1 Jan to 31 Mar 2015, E2015/29712 (provided under separate cover)
- 3 Outstanding Council Resolutions - pre 2015, E2015/29834 (provided under separate cover)
- 4 Outstanding Council Resolutions 1 Jan to 31 March 2015, E2015/29843 (provided under separate
25 cover)

Report

This report provides a quarterly update on the status of Council resolutions to 31 March 2015.

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

The outstanding Council resolutions activity during the quarter is provided below:

- 90 new resolutions created during the January to March quarter
- 122 resolutions completed during period 1 January to 31 March 2015
- 248 Closing balance of outstanding resolutions as at 31 March 2015

The outstanding Council resolutions per Council terms are provided below:

- 227 outstanding Council resolutions current Council (2012-2016)
- 21 outstanding Council resolutions from previous (2008-2012)
- 248 Closing balance of outstanding resolutions as at 31 March 2015

Details of completed resolutions for the period prior to 2015 are provided at Attachment 1 and 1 January to 31 March 2015 are provided at Attachment 2.

An update on the status of outstanding resolutions is provided at Attachments 3 and 4 which comprises:

- previous Council Oct 2008-2012 (pages 1 to 2 of Attachment 3)
- current Council Sept 2012-2016 (pages 3-18 of Attachment 3)
- outstanding resolutions 1 January to 31 March 2015 (attachment 4)

Council at its Ordinary meeting held on 28 August 2014 when it considered the report on Council Resolutions for the period April to June 2014 resolved (**14-417**) as follows:

3. *That staff conduct a review of outstanding resolutions to determine:*

- a) *Which ones currently fit within other resolutions*
- b) *Which ones cannot be resourced*
- c) *Report to Council resolutions able to be closed.*

A report has been prepared and submitted to Council following a review completed by Staff in accordance with Resolution 14-417.

Each Quarterly Report to Council on completed and outstanding Resolutions will include a section, which will allow Staff to report any other Resolutions identified during the review of outstanding Resolutions, that meet the criteria determined by Council in Resolution 14-417.

This report does not include a recommendation to close any Resolutions identified during the quarter.

Financial Implications

Not applicable

Statutory and Policy Compliance Implications

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

Report No. 13.3 **Draft Sustainable Community Market Policy - Public Exhibition**
Directorate: Corporate and Community Services
Report Author: Trish Kirkland, Manager Governance Services
File No: I2015/331
5 **Theme:** Corporate Management
 Property Management

Summary:

10 Council resolved at an Ordinary meeting held on 30 August 2012 [Resolution **12-693**] to form a Project Reference Group to further review the current Markets within Byron Shire Policy. Council received several subsequent reports, and held a workshop [Resolution **13-173**] prior to establishing the Project Reference Group in January 2014 [Resolution **13-693**]. The Project Reference Group
15 was tasked to provide recommendations to Council on Policy amendments, methodologies for determining market value for Market Licence Fees, and minimum evaluation criteria to be used when assessing potential market licence applications.

20 The Project Reference Group has completed their work and made a number of recommendations to Council. The purpose of this report is to submit those recommendations for Council's consideration. The report recommends that the proposed Market Licence Fees and draft Sustainable Community Market Policy be adopted by Council for the purpose of public exhibition.

25 This report also recommends that Council thank the Project Reference Group members for their work and efforts in meeting the objectives set out in the Project Reference Group Terms of Reference.

RECOMMENDATION:

1. **That the draft Sustainable Community Markets Policy as shown at Annexure 1 (#E2015/11857) be placed on public exhibition for a minimum period of 28 days.**
2. **That in the event:**
 - a) **that any submissions are received on the draft Sustainable Community Markets Policy, that those submissions be reported back to Council, prior to the adoption of the Policy.**
- OR**
- b) **that no submissions are received on the draft Sustainable Community Markets Policy, that the Policy be adopted and incorporated into Council's Policy Register.**
3. **That after adoption of the Sustainable Community Markets Policy, the Markets within Byron Shire Policy No. 5.51 be deleted from Council's Policy Register.**
4. **That the proposed Market Licence Fees, as shown at Table 1, be placed on public exhibition for a minimum period of 28 days.**
5. **That in the event:**
 - a) **that any submissions are received on the proposed Market Licence Fees, that**

the submissions be reported back to Council prior to their adoption.

OR

- b) that no submissions are received on the proposed Market Licence Fees, that the Fees be adopted and incorporated into Council's adopted fees and charges document, replacing the existing interim Market Licence Fees.**
- 6. That Council endorse the Sustainable Community Market Regulatory Code as shown at Annexure 2 (E2015/11971).**
- 7. That the following weightings be applied to the minimum qualitative assessment criteria set out at clause 3.6.2 of the draft Sustainable Community Market Policy for all Market Licence application assessment processes.**
 - a) 20%**
 - b) 5%**
 - c) 5%**
 - d) 10%**
 - e) 30%**
 - f) 30%**
- 8. That Council thank the Project Reference Group committee for their contribution towards, and effort in, meeting the objectives of the Project Reference Groups' objectives.**

Attachments:

- 5 1 Draft Policy Sustainable Community Markets from Market Policy Review PRG Meeting 25 November 2014, E2015/11857 , page 31**
- 2 Draft Sustainable Community Market Regulatory Code from Market Policy Review PRG Meeting 25 November 2014, E2015/11971 , page 38**

Report

The Markets Policy Review Project Reference Group was formed following Resolutions 12-693 (30 August 2012), 13-173 (18 April 2013), 13-447 (29 August 2013), and 13-693 (12 December 2013).

The Project Reference Group ("PRG") held their first meeting on 30 January 2014, to undertake a review of the Markets within Byron Shire Policy. The role of the PRG included:

- Review Markets within Byron Shire Policy 5.51
- Review draft new policy for Markets on Council owned and controlled land #DM1158287 and draft Expression of Interest for Market Licences #DM1255013 placed on public exhibition in December 2011.
- Review legal advice and directives from Crown Lands in relation to Market Policy development
- Consider relevant legislative requirements and Crown Lands advice regarding Markets operating on Council owned or Crown Lands managed land
- Consider relevant legislative requirements relevant to the current Market Policy and the draft Market Policy placed on public exhibition in December 2011.
- Review minutes and consultation processes from the Market and Creative Industry Committee meetings from 2009 in relation to the development of the new draft policy Markets on Council owned and controlled land
- Review submissions received during the public exhibition in December 2011 of the draft policy for Markets on Council owned and controlled land and draft Expression of Interest for Market Licences.

The Project Reference Group met a further six (6) times with meetings being held on 6 March 2014, 8 May 2014, 3 July 2014, 3 September 2014, 25 November 2014 and 31 March 2015 to complete the policy review and to satisfy the three main objectives contained in the Terms of Reference, and which have been reproduced below:

"Determine recommendations to Council for:

10.1 Policy amendments

10.2 Methodology options for determining market value for Market manager licence fees

10.3 Evaluation criteria for inclusion in competitive processes for granting Market manager licences."

At its meeting held 25 November 2014, the Project Reference Group fulfilled its objectives and resolved to make the following recommendations to Council:

10.1 Policy amendments

Draft Sustainable Community Market Policy

RECOMMENDATION:

The Project Reference Group recommend to Council that the new Draft Sustainable Community Market Policy [#E2014/55208], including the changes recommended [minimum valuation criteria at 10.3b below], be placed on public exhibition.

Draft Sustainable Community Markets Regulatory Code

RECOMMENDATION:

The Project Reference Group recommend to Council that the new Draft Sustainable Community Market Regulating Code [#E2014/77343] be amended as below and noted:

- ***Include a new section in the Regulatory Code (E2014/77343) requiring Market Managers to have a documented Complaints Management process/procedure in place.***
- ***Change clause 5, Operating hours, so that markets shall not operate after 10pm.***

10.2 methodology for determining 'market value' for market manager licence fees

Guiding principals for the methodology were agreed:

- a. not be burdensome to administer
- b. acknowledge the Crown Lands requirements for 'market value'
- c. account for variations of market size and frequency
- d. if comparable, be assessed against NOROC and other various councils and the current temporary market fee structure

RECOMMENDATION:

The Project Reference Group recommend to Council that the following methodology be endorsed for determining Market and Temporary Market License fees:

- ***fee structure based on stall numbers x frequency of markets;***
- ***flat fee applicable to all markets and temporary markets, regardless of market type;***
- ***stall number ranges (with 3 x 3 metre stall sizes used as the base/equaliser) to be:***
 - ***0 to 50 stalls x number of market days***
 - ***51 to 100 stalls x number of market days***
 - ***101 to 150 stalls x number of market days***
 - ***151 to 200 stalls x number of market days***
 - ***201 to 250 stalls x number of market days***
 - ***251 to 300 stalls x number of market days***
 - ***301+ stalls x number of market days***

In addition to methodology, the Project Reference Group established recommended fees based on the recommended methodology after considering the outcomes of staff consultation with other Council's in the region about market fees and market fee methodologies were provided.

The Project Reference Group recommend to Council that the following licence fees be applied to the recommended methodology for adoption in Council's fees and charges:

- ***0 to 50 stalls x number of market days \$100.00***
- ***51 to 100 stalls x number of market days \$150.00***
- ***101 to 150 stalls x number of market days \$200.00***
- ***151 to 200 stalls x number of market days \$250.00***
- ***201 to 250 stalls x number of market days \$300.00***
- ***251 to 300 stalls x number of market days \$350.00***
- ***301+ stalls x number of market days \$400.00***

10.3 evaluation criteria for inclusion in competitive processes

The following assessment criteria be included in the draft Sustainable Community Market Policy (#E2014/55208) at a new section, 3.6.2, as the minimum criteria for assessment of applications for Markets and/or Temporary Markets:

- a) ***Demonstrated ability in developing, implementing and monitoring a Market Management Plan in accordance with Council's Sustainable Markets Regulatory Code.***

- b) *Demonstrated experience in Market Management and meeting Market Licence conditions.*
- c) *Demonstrated knowledge of Byron Shire's market culture.*
- d) *Demonstrated experience with, and commitment to, environmental and sustainable operations and initiatives.*
- e) *Demonstrated benefits to the local community, for example enabling social interactions, promoting food security and healthy diets, preserving cultural heritage.*
- f). *Demonstrated benefits to the local economy for:*
 - *Local employment and small business,*
 - *Local industries, for example sustainable agriculture, arts and crafts, tourism, and*
 - *Local charities and not-for-profit organisations.*

In addition to minimum evaluation criteria, the Project Reference Group established weightings for each of the evaluation criterion and recommended that council consider their application in competitive processes used to establish market management licences, as below:

The following weightings for the minimum assessment criteria are recommended to Council, for consideration as part of future competitive process for new market licenses:

- a) 20%
- b) 5%
- c) 5%
- d) 10%
- e) 30%
- f) 30%

RECOMMENDATION:

The Project Reference Group recommend to Council that the minimum evaluation criteria forms part of the draft Policy, with the associated weighting being a recommendation to Council but not to be included or published in the Policy document.

Council staff consulted with Crown Lands about the Project Reference Group's proposed licence fees and market fee methodology. After further benchmarking of methods and fees; and further discussions with Crown Lands, written in-principal support was received on 17 March 2015 to the proposed market manager licence fee methodology and the dollar value proposed + 20% for Crown Land Reserve Trust tenures issued under section 108 (temporary licences) and section 102 (longer term licences).

The Project Reference Group were advised of the in-principal support from Crown Lands on 19 March 2013, and a copy of the benchmarking data and new proposed market manager licence fee, as set out below, was provided to the Project Reference Group in a final meeting held on 31 March 2015.

Table 1 – Recommended Market Licence Fee

0 to 50 stalls x number of market days	\$120.00
51 to 100 stalls x number of market days	\$180.00
101 to 150 stalls x number of market days	\$240.00
151 to 200 stalls x number of market days	\$300.00
201 to 250 stalls x number of market days	\$360.00
251 to 300 stalls x number of market days	\$420.00
301+ stalls x number of market days	\$480.00

Reports from each of the Project Reference Group meetings are available on Council's website at <http://www.byron.nsw.gov.au/committees/markets-policy-review-project-reference-group>

This report recommends:

- 5 - placing new draft Sustainable Community Markets Policy, refer Attachment 1, on public exhibition;
- placing the Market Licence Fees, as supported by Crown Lands and shown at Table 1, on public exhibition;
- endorsing the Sustainable Community Markets Regulatory Code, refer Attachment 2,
- 10 - endorse the minimum qualitative evaluation criteria weightings;
- thanking the Project Reference Group Members for their contributions and effort in meeting the objectives of their Terms of Reference.

Financial Implications

- 15 There is a minimal cost associated with publically exhibiting the draft policy and proposed market manager licence fees.

Benchmarking undertaken based on current licensed market ventures conducted on Council owned or managed land, indicates that the proposed new market licence fees will generate an addition 16% market licence fee revenue, with an annual increase estimated from \$27,410 to \$31,680. Of this estimated market licence revenue, \$21,840 is for Council Managed Crown Reserves and \$9,840 is for Council's general fund from Council owned community land. Ultimately the future revenue generated will be influenced by the number, size, and frequency of markets held on Council owned or managed land.

25 These figures do not include non-licensed market ventures conducted by Council. This revenue is generated from Section 355 Committee fees and charges such as Bangalow Park Trust who generate \$3,000 for each market day, plus market parking fee income.

30 Statutory and Policy Compliance Implications

In accordance with Council's operational procedure, new or substantially amended Policies are endorsed by Council for public exhibition

35 Local Government Act 1993

610F Public notice of fees

- (1) *A council must not determine the amount of a fee until it has given public notice of the fee in accordance with this section and has considered any submissions duly made to it during the period of public notice.*
- 40 (2) *Public notice of the amount of a proposed fee must be given (in accordance with section 405) in the draft operational plan for the year in which the fee is to be made.*
- 45 (3) *However, if, after the date on which the operational plan commences:*
 - (a) *a new service is provided, or the nature or extent of an existing service is changed, or*
 - (b) *the regulations in accordance with which the fee is determined are amended,*

the council must give public notice (in accordance with section 705) for at least 28 days of the fee proposed for the new or changed service or the fee determined in accordance with the amended regulations.
- 50 (4) *This section does not apply to a fee determined by a council for an application made in a filming proposal, if that fee is consistent with a scale or structure of fees set out in an applicable filming protocol.*

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BYRON SHIRE COUNCIL

POLICY NO. XX.XX

SUSTAINABLE COMMUNITY MARKETS

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.3 - ATTACHMENT 1

INFORMATION ABOUT THIS DOCUMENT

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Date Adopted by Council		Resolution No.	
Policy Responsibility			
Review Timeframe	Minimum of every 5 years		
Last Review Date:		Next Scheduled Review Date	

Document History

Doc No.	Date Amended	Details Comments eg Resolution No.
E2013/51669		As presented to the Markets Policy Review PRG Meeting on 30/1/14.
E2014/5260	30/01/14	Created to include revisions from the Markets Policy Review PRG Meeting on 30/1/14.
E2014/15483	06/03/14	Created to include revisions from the Markets Policy Review PRG Meeting on 6/3/14.
E2014/30327	08/05/14	Created to include revisions from the Markets Policy Review PRG Meeting on 8/5/14.
E2014/55208	03/07/14	Created to include revisions from the Markets Policy Review PRG Meeting on 3/7/14.
E2015/11857	25/11/14	Created to include revisions from the Markets Policy Review PRG Meeting on 25/11/14.

Further Document Information and Relationships

Related Legislation	Local Government Act 1993 Crown Lands Act 1989 Environmental Planning and Assessment Act 1979 State Environmental Planning Policy (Temporary Structures) 2007 Food Act 2003
Related Policies	Business Ethics Policy Council's Code of Conduct
Related Procedures/ Protocols, Statements, documents	Sustainable Community Market Regulating Code

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POLICY TITLE SUSTAINABLE COMMUNITY MARKETS

FILE REFERENCE F234

5 OBJECTIVES

1. To provide vibrant markets to the community and to make markets attractive for both the community and tourists.
- 10 2. To incubate local small businesses and artisans by providing them an accessible avenue to sell their goods and/or services.
- 15 3. To encourage production of local agriculture and to provide an accessible avenue for the sale and purchase of locally grown produce to promote local food security.
4. To use the crown reserves in a way which supports local community, businesses and attracts tourism, and whose management and consumer access is both equitable and transparent.
- 20 5. To clarify how approval to manage a market can be obtained, ensuring that market organisers are aware of Council requirements so as to assist and encourage the efficient organisation of markets whilst receiving requisite approvals in a timely and orderly manner.
6. To ensure the proper and effective maintenance and enhancement of reserves.
- 25 7. To support local charities and not for profit organisations.
8. To provide Council with recurrent income from markets on Council land to support its Community Strategic Plan.
- 30 9. To acknowledge the community service provided by Markets and to promote the social benefit to community members.
10. To enhance consumer choice and fair prices and enable stallholders to make a reasonable living.

35 DEFINITIONS

- A Market that primarily features artisans, contemporary art, handicraft and designers, along with wellbeing practitioners and food producers.
- 40 Community Market A Market that has a primary purpose to benefit the Local Area.
- Farmers Market A regular Market that primarily features fresh food, at which Northern Rivers regional farmers and producers sell their own local farm-origin produce, and associated value-added products directly to consumers.
- 45 Local Area The Local Area is the area contained within the municipal boundary of Byron Shire Council.

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BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.3 - ATTACHMENT 1

Local Person

A Local Person is:

- a) a resident of the Local Area, or
- b) not a resident of the Local Area but is an owner of rateable land in the Local Area, or
- c) is an occupier or rate paying lessee of rateable land in the Local Area.

Market

The licensed activity of selling, exposing or offering of goods, merchandise or materials, or services for sale by Stall Holders.

Market Manager

A person or organisation who holds a licence to use Council owned or managed land for the purpose of operating a Market.

Northern Rivers Region

The Northern Rivers Region is the area comprised by the municipal boundaries of Ballina, Lismore, Tweed, Byron, Clarence Valley, Richmond Valley, and Kyogle Shire Councils.

Other Market

A Market, other than a Community, Farmers, Artisan Market which meets the objectives of this policy.

Stall Holder

A person to whom a stall site is issued by the Market Manager.

Adjoining Shires

Adjoining Shires are those areas comprised by the municipal boundaries of Lismore, Tweed, and Ballina Shires.

Temporary Market

A Market conducted for less than three consecutive days and licensed for less than a 12 month period.

POLICY STATEMENT

3.1 Scope of this Policy

3.1.1 This Policy applies to Markets held on Council owned and managed land.

3.1.2 This Policy does not prevent or constrain Council or Council as Crown Reserve Trust Manager from operating a Market or Temporary Market on Council owned or managed land.

3.1.3 This Policy facilitates opportunities for prospective parties to compete for the use of council owned and managed land for the purposes of operating a Market.

3.1.4 This Policy will generate revenue via Market licence fees to assist Council deliver its Community Strategic Plan objectives.

3.1.5 Council will licence and regulate Markets on Council owned and managed land with reference to all relevant legislation, this Policy, Market licence agreements, development consent conditions, and the Sustainable Community Markets Regulating Code in force from time-to-time.

3.1.6 Where this Policy and/or Market licence agreements conflict with relevant legislation, the legislation will prevail.

3.1.7 Council is committed to the creation of social value and social benefit to the Local Area through the operation of Markets on Council owned and managed land.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.3 - ATTACHMENT 1

3.2 Market Licence

- 5 3.2.1 A licence to conduct a Market shall only be granted through a transparent and competitive process, in accordance with all legislative requirements and providing not less than a 6-months transition period for existing Market Managers.
- 10 3.2.2 The Market licence will stipulate the Market rental, which will be established and determined by Council and included in Council's adopted fees and charges.
- 15 3.2.3 All Market rental income, generated by Markets operated on Council owned land will be used to fund delivery of the Community Strategic Plan objectives.
- 20 3.2.4 All Market rental income, generated by Markets operated on Council managed Crown Reserves, will be used to fund asset renewals, upgrades and improvements in accordance with land management legislation.
- 25 3.2.5 The term of the Market licence shall be for a maximum term of five consecutive years and shall contain terms and conditions, not limited to, but consistent with the development consent and/or Sustainable Community Markets Regulating Code in force from time-to-time.
- 3.2.6 A Market licence will only be granted in accordance with the relevant land management legislation.
- 3.2.7 A Market licence shall not be granted prior to development consent, where development consent is required.

3.3 Temporary Market Licence

- 30 3.3.1 A licence to conduct a Temporary Market may be issued, under delegated authority by the General Manager, on receipt of a Temporary Market application and after assessment and consideration in relation to this Policy, any relevant land management requirements and/or legislation.
- 35 3.3.2 A Temporary Market licence shall not be issued for more than three consecutive terms to the same applicant.
- 40 3.3.3 A Temporary Market licence shall contain terms and conditions, not limited to, but consistent development consent conditions and/or Sustainable Community Markets Regulating Code in force from time-to-time.
- 45 3.3.4 All Temporary Market licence fees shall be determined by Council and included in Council's adopted fees and charges.
- 3.3.5 A Temporary Market licence shall not be granted prior to development consent, where development consent is required.

3.4 Market Frequency

- 50 3.4.1 Markets and Temporary Markets shall only be held on a stipulated day and at a stipulated location as defined in the Market licence.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.3 - ATTACHMENT 1

3.5 Development Consent

3.5.1 Development consent and other legislative approvals may be required to conduct a Market on Council owned or managed land.

3.5.2 Obtaining development consent and any other legislative approvals will be the responsibility of the Market Manager.

3.6 Market Licence Assessment Criteria

3.6.1 All competitive processes used to establish Market licences will include mandatory and qualitative assessment criteria, with qualitative assessment criteria being consistent with the Objectives of this Policy.

3.6.2 The minimum qualitative assessment criteria, as set out below, will be included in all competitive processes used to establish Market licences:

- a) Demonstrated ability in developing, implementing and monitoring a Market Management Plan in accordance with Council's Sustainable markets Regulatory Code.
- b) Demonstrated experience in Market Management and meeting market licence conditions.
- c) Demonstrated knowledge of Byron Shire's Market culture.
- d) Demonstrated experience with, and commitment to, environmental and sustainable operations and initiatives.
- e) Demonstrated benefits to the local community, for example enabling social interactions, promoting food security and healthy diets, preserving cultural heritage.
- f) Demonstrated benefits to the local economy for:
 - i. Local employment and small business,
 - ii. Local Industries, for example sustainable agriculture, arts, crafts, and tourism, and
 - iii. Local charities and not-for-profit organisations.

3.7 Allocating Market Stall Spaces

3.7.1 The Market Manager shall allocate stall spaces giving priority to persons selling produce and products from the Local Area for 75% of the total available Market stall spaces, with the remainder of the Market stall spaces being allocated using a priority system based on the following:

- a) Local Person
- b) Not a Local Person but a resident of the Northern Rivers Region
- c) Others.

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BYRON SHIRE COUNCIL

SUSTAINABLE COMMUNITY MARKETS REGULATORY CODE

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.3 - ATTACHMENT 2

INFORMATION ABOUT THIS DOCUMENT

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Date Adopted by Council		Resolution No.	
Policy Responsibility	Health and Compliance		
Review Timeframe	Minimum of every 12 months		
Last Review Date:		Next Scheduled Review Date	

Document History

Doc No.	Date Amended	Details Comments eg Resolution No.
E2014/55309	03/07/14	Created to separate from the Markets Policy in the Policy Review PRG Meeting on 3/7/14.
E2014/77343	09/09/14	Created following changes made at the Markets Policy Review PRG Meeting on 9/9/14.
E2015/11971	25/11/14	Created following changes made at the Markets Policy Review PRG Meeting on 25/11/14.

Further Document Information and Relationships

Related Legislation	Local Government Act 1993 Crown Lands Act 1989 Environmental Planning and Assessment Act 1979 State Environmental Planning Policy (Temporary Structures) 2007 Food Act 2003
Related Policies	Sustainable Community Markets Policy
Related Procedures/ Protocols, Statements, documents	

10

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.3 - ATTACHMENT 2

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DOCUMENT TITLE SUSTAINABLE COMMUNITY MARKETS REGULATORY CODE

FILE REFERENCE F234

This regularity code shall be read in conjunction with the adopted Sustainable Community Markets Policy, and all definitions used in this document are defined with the Policy.

REGULATORY CODE

In circumstances where development consent is required, any conflict between this regulating code and the development consent, the development consent will prevail.

4.1 Market Manager Responsibility

The Market Manager will be responsible for the entire management of the Market, adherence to the requirements of relevant legislation, development consent, licence conditions and this regulating code.

The Market Manager shall be present at the Market at all times.

The Market Manager and personnel must be properly identifiable as Market Manager and recognisable as the Market Manager by members of the public at all times a Market is in progress.

All Markets shall be conducted in accordance with the Market Management Plan required by clause 2 of this regulatory code.

Market Managers, of Farmers Markets, are to establish and implement an auditing program that ensures the products sold at the Farmers Market are grown or produced by the Stallholder of the Market.

Market Managers, of Artisan Markets, are to aim for a vibrant culturally diverse Market where artisans, practitioners, and producers showcase and sell their work.

Market Managers, of Community Markets, are to ensure their market activities are meeting the requirement to be of primary benefit to the Local Area.

2 Market Management Plan

A Management Plan must include the following content.

(a) Stall Layout Plan

- (i) Plan view of market site and proposed location of stalls.
- (ii) Indicate the total number of stalls.
- (iii) Indicate distance between rows.
- (iv) Indicate access and parking for Stall Holders
- (v) Indicate provision for emergency vehicle access at least 6 metres wide
- (vi) Indicate amenity locations

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13.3 - ATTACHMENT 2

(vii) Indicate exclusion zones.

(b) Traffic Management

A Traffic Management Plan providing details of traffic flow, traffic control, safe pedestrian access and movement zones, and demonstrating adequate public parking provisions, including disabled parking.

Changes to existing traffic and parking controls and/or conditions will require approval by Council. Applications for such approval will require the provision of a traffic management plan, most typically a traffic control plan as designed and implemented by those with the appropriate accreditation.

Any proposed temporary road closure/s will also require public notification, such as advertising and/or letterbox drops of neighbours.

(c) Waste Management

A Waste Management Plan that promotes and addresses:

- (i) the use of products which are recyclable, reusable, or compostable whenever possible, and
- (ii) the responsible disposal of these products, and
- (iii) provision and servicing of an adequate number of garbage bins or bulk waste bins to effectively dispose of all refuse and litter generated throughout the period of the market, and
- (iv) the protection and maintenance of the Market location in a safe and healthy condition.

(d) Fire Management

A Fire Management Plan stipulating the number, types and locations of fire equipment required based on the Stall Layout plan, and an Emergency evacuation plan for display at all Markets whilst the Market is operating.

(e) Complaints Management

A Complaints Management process that provides a user-friendly procedure for making, recording, and remedying complaints made by Stall Holders and members of the public must be implemented and maintained by Market Managers. Information on how to make a complaint and how the complaint will be managed is to be clearly displayed by Market Managers and to remain available at all Markets whilst the Market is operating.

A complaint is understood as *"an expression of dissatisfaction with a Market Manager's decisions, policies, procedures, charges, employees, agents or the quality of the services provided."*

At a minimum, the Complaint Management process should provide for:

- both verbal and written complaints
- recording of the complaint in a register
- appropriate and/or reasonable remedies
- the complaint to be dealt with quickly
- the process and interpersonal interactions to be undertaken with respect and fairness
- the confidentiality of personal and private information

3 Maintenance and Repair

The Market Manager is responsible for maintaining and repairing the Market location and ensuring that it is left in good condition after each Market. Should any maintenance or repair be required to the Market location as a result of the Market, the Market Manager must repair any such damage at its own cost to the satisfaction of Council.

Any instruction issued by Council to make good the Market location must be complied with within three days. Where the Market Manager fails to make good the Market location, Council may undertake any works necessary and charge the Market Manager in accordance with Council's adopted fees and charges.

4 Insurance

The Market Manager must obtain a Public Risk Insurance Policy, to the value of not less than that specified by Council, which specifically indemnifies Council from any claim arising from, or incidental to, the holding or conducting of the Market. Where the Market location is on Crown Reserves managed by Council the insurance must also indemnify the Minister for Land.

The Market Manager must obtain Workers Compensation Insurance to cover all Market employees. A certificate of currency for Public Risk and Workers Compensation is to be provided to Council prior to the commencement of any Market.

Stall Holders and/or operators of any mechanical ride or device, or any animal ride, are required to hold an individual policy specifically related to that ride or device and in the same general terms of indemnity. The Market Manager shall be responsible for ensuring such indemnity is in place prior to the commencement of any Market.

5 Hours of Operation

Market operating hours shall not commence before 8am or continue after 10pm. Market set up is permissible from 7am, provided no noise is generated before 8am.

The Market location must be completely vacated of all stalls and Stall Holders, together with their goods and chattels at the conclusion of each day's trading.

6 Council Inspections

All Markets will be subject to regular inspection by Council to ensure that the Market location is being kept in good condition, and in compliance with the Market licence conditions, any consent conditions, relevant legislation and provisions of this regulating code.

The Market Manager is required to act on instructions issued by Council, including any instruction to make good the Market location.

Inspection fees will be charged for each inspection carried out by Council and shall be paid by the Market Manager on receipt of a tax invoice.

The inspection fees will be determined from time to time by Council and listed in Council's adopted fees and charges.

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13.3 - ATTACHMENT 2

7 Market location - Camping or Overnight Lodging

No person shall camp or lodge overnight at a Market location.

8 Rides, Devices and Control of Animals

The Market Manager must not allow on site, nor issue any permit for, any mechanical ride or amusement device without the owner/operator of the device obtaining specific approval of Council. The operator of such a device must hold a Public Risk Insurance Policy in the terms of clause 4, and a current licence issued by WorkCover Authority, New South Wales. Each such ride is to be positioned on an outer or edge row of stalls and is to be surrounded by an adequate barricade or fixed rope or rail to keep the public clear of the operational area.

Any animal used for rides that becomes fractious or in any way poses a danger to any person or other animal must be removed from the market site. The area where animals are tethered between use periods must be kept clean of animal droppings, excess feed, etc. Water containers and such like must be positioned so as to not pose a hazard to any person.

The Market Manager shall ensure that no cats, dogs, rabbits, guinea pigs, gold fish, etc are allowed on the entire market site, with the exception of assistance dogs.

The Market Manager shall allow livestock sales, such as live poultry, only after consultation with and written approval from Council.

9 Electrical Connections and Outlets

The Market Manager shall make safe provision and maintenance of all electrical connections, outlets etc, that are necessary for use by any Stall Holder. In particular the Market Manager must ensure that all electrical leads used by Stall Holders, are suspended at least 2.4m from the ground using non-conductive materials and clear of spaces used by the public. All leads, sockets and other connections are to be kept in good and serviceable condition and are to be used and maintained strictly in accordance with all Australian Standards relating to electrical fittings and the use of electricity.

The Market Manager must immediately comply with any instruction or requirement of any authorised electrical inspector.

10 Fire Control

The Market Manager shall provide all the required fire extinguishers, fire blankets and other equipment as specified in the Fire Management Plan. The equipment must be located throughout the Market as required by the Fire Management Plan. In addition, the Market Manager will keep at least one 9kg chemical fire extinguisher and one 1800mm x 1800mm fire blanket in their control at all times during the conduct of a market.

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13.3 - ATTACHMENT 2

Further, the Market Manager shall ensure that each Stall Holder who's trading requires the use of cooking oils or fats, has in their possession, adjacent to the cooking device, a 1800mm x 1800mm fire blanket.

5 11 Noise Control

The Market Manager must not permit the generation of noise in excess of 5dB(A) above normal background noise levels at any Market location site boundary nor allow the use of any device for the amplification of sound or music in the market site, other than:

a) One set of equipment to be used in conjunction with the public address system to be under the personal control of the Market Manager and located adjacent to the market management base location.

b) A second set of equipment used for public entertainment.

Both sets of equipment and associated loud speakers are to be adjusted and controlled in a manner which will limit noise levels to be no more than 5 decibels dB(A) above normal background noise levels at any location on the site boundaries.

12 Goods for Sale

The Market Manager shall ensure that all Stall Holders selling food products store, prepare and package food products for sale in strict accord with the requirements of relevant legislation, and hold a valid permit issued by Council.

30 13 Waste Disposal

The Market Manager shall arrange for the provision and servicing of an adequate number of garbage bins or bulk waste bins as set out in the Waste Management Plan to effectively dispose of all refuse and litter generated throughout the period of the market. The market site is to be maintained free of litter and to be left in a clean and tidy condition at the end of the day to the satisfaction of Council.

40 14 Public Amenities

The Market Manager is responsible for maintenance and cleanliness of public toilets used in conjunction with the Market. Should it be necessary to provide temporary toilet facilities, the provision and servicing of these units, and all costs involved, are to be the responsibility of the Market Manager. Disabled access amenities are to be provided and maintained by the Market Manager.

50 15 Signs and Structures

The Market Manager is to erect signs so as to clearly display rules to members of the public entering the Market.

55 4.16 Gas

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13.3 - ATTACHMENT 2

The gas installation on any food or other vehicles shall be installed by a licensed gas fitter. The installation shall comply with the appropriate provisions of AS11596 Storage and Handling of LP Gas and AS5601 Gas Installations or any standard superseding these provisions. A valid and current compliance plate must be affixed to the vehicle.

Report No. 13.4 Reclassification of Land at Belongil from Community Land to Operational Land

Directorate: Corporate and Community Services

Report Author: Mark Arnold, Director Corporate and Community Services
Phillip Holloway, Director Infrastructure Services
Shannon Burt, Director Sustainable Environment and Economy

File No: I2015/209

Theme: Corporate Management
Property Management

Summary:

Council at its Ordinary meeting held on 12 December 2013 adopted Resolution 13-698, which reads as follows:

13-698 Resolved:

1. That Council commence the proceedings to reclassify the following parcels of land from Community Land to Operational Land;

- Lot B DP 371044*
- Lot 7 Section 3 DP 1623*
- Lot 6 Section 3 DP 1623*
- Lot 2 Section 3 DP 1623*

2. That Council authorise the General Manager to begin the statutory process to consider re-classification of parcels of land identified in Part 1 from Community to Operational Land by preparing a Planning Proposal for the Minister of Planning's determination through the Gateway process.

In accordance with Resolution 13-698, Planners North were engaged to commence the preparation of the Planning Proposal, to reclassify the parcels of Community Land identified in the Resolution to Operational Land.

Planners North have provided Council with a Report on the preliminary investigation and assessment undertaken, having considered both the survey provided and the Ecological Assessment, on the statutory process.

A copy of the Report from Planners North has been included as a Confidential Attachment to this report for the information of Council.

RECOMMENDATION:

That Council authorise the General Manager to proceed with the next stage of the statutory process to consider the re-classification of the parcels of land identified below from Community to Operational Land, by preparing a Planning Proposal for the Minister of Planning's determination through the Gateway process, for the reasons identified for each parcel of land

- (a) Lot B DP 371044, Lot 7 Section 3 DP 1623 and Lot 6 Section 3 DP 1623 for the purposes of regularising the existing building encroachment over Lot 6 Section 3 DP 1623.**
- (b) Lot 2 Section 3 DP 1623 for the purposes of creating a public road.**

Attachments:

- 1 Confidential - Letter from Planners North regarding reclassification of land at Belongil, dated 22 October 2014, E2015/30197
- 2 Manfred Street Community Land Map, E2013/69205 , page 52

Report

Council at its Ordinary meeting held on 12 December 2013 resolved as follows:

5 13-698 Resolved:

1. *That Council commence the proceedings to reclassify the following parcels of land from Community Land to Operational Land:*

10 *Lot B DP 371044*
 Lot 7 Section 3 DP 1623
 Lot 6 Section 3 DP 1623
 Lot 2 Section 3 DP 1623

- 15 2. *That Council authorise the General Manager to begin the statutory process to consider reclassification of parcels of land identified in Part 1 from Community to Operational Land by preparing a Planning Proposal for the Minister of Planning's determination through the Gateway process.*

20 In accordance with Resolution 13-698, Planners North were engaged to commence the preparation of the Planning Proposal, to reclassify the parcels of Community Land identified in the Resolution to Operational Land.

25 The process for the preparation of the Planning Proposal, due to the potential impact of a number of known constraints such as the coastal escarpment and the 20metre offset line, the building encroachment on Lot 6 Section 3 DP 1623 and existing vegetation, was at the engagement phase broken into two stages to allow Council to determine on assessment, whether it is able, given the planning controls in place, to create additional lot/s for residential purposes and then to be able to dispose of those parcel/s of land.

30 Stage one of the process included:

1. Undertaking an updated survey to determine the coastal erosion escarpment and 20m offset line;
- 35 2. Obtaining an Ecological Assessment in relation to existing vegetation on the site; and
3. Determining from steps 1 & 2 an appropriate subdivision / lot configuration.

40 Planners North have provided Council with its Report, having considered both the survey provided and the Ecological Assessment, a copy is attached for the information of Council.

45 In relation to the Planners North report, a further assessment of site constraints and planning controls applicable has occurred. It is considered that there would be insufficient land available to support any new lot for residential development through a boundary adjustment given planning controls and site constraints (including a 20m offset escarpment line on Lot 7 Sec 3 DP 1623), and the area of land required under the planning controls to regularise the building encroachment on Lot 6 Sec 3 DP 1623.

50 As such it is recommended that Council proceed with reclassification of land from community land to operational as follows:

Lot B DP 371044, Lot 7 Section 3 DP 1623 and Lot 6 Section 3 DP 1623 for the purposes of regularising the existing building encroachment over Lot 6 Section 3 DP 1623.

Lot 2 Section 3 DP 1623 for the purposes of creating a public road.

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Financial Implications

The costs to be incurred to progress the reclassification process are estimated at approximately \$8,000 being \$2,000 - \$4,000 for the completion of the Planning Proposal and a further \$4,000 to run the community consultation and public hearing process, assuming a one day public hearing.

These costs would be able to be funded from Council's adopted budget.

Statutory and Policy Compliance Implications

Local Government Act 1993 No 30

Division 1 Classification and reclassification of public land

27 How are the classifications made?

(1) The classification or reclassification of public land may be made by a local environmental plan.

28 Forwarding of planning proposals to Minister for Planning

(1) A council may not forward a planning proposal to the Minister for Planning under section 56 of the [Environmental Planning and Assessment Act 1979](#) which includes a proposal to classify or reclassify public land that is not owned by the council unless the council has obtained the consent of the owner to the proposed classification or reclassification of public land.

(2) A local environmental plan that classifies or reclassifies public land may apply to one or more areas of public land.

29 Public hearing into reclassification

(1) A council must arrange a public hearing under section 57 of the [Environmental Planning and Assessment Act 1979](#) in respect of a planning proposal under Part 3 of that Act to reclassify community land as operational land, unless a public hearing has already been held in respect of the same matter as a result of a determination under section 56 (2) (e) of that Act.

30 Reclassification of community land as operational

(1) A local environmental plan that reclassifies community land as operational land may make provision to the effect that, on commencement of the plan, the land, if it is a public reserve, ceases to be a public reserve, and that the land is by operation of the plan discharged from any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except for:

- (a) any reservations that except land out of a Crown grant relating to the land, and
- (b) reservations of minerals (within the meaning of the [Crown Lands Act 1989](#)).

(2) A provision referred to in subsection (1) has effect according to its tenor, but only if the Governor has, before the making of the local environmental plan, approved of the provision.

34 Public notice to be given of classification or reclassification by council resolution

- (1) A council must give public notice of a proposed resolution to classify or reclassify public land.
- (2) The public notice must include the terms of the proposed resolution and a description of the public land concerned.

- (3) The public notice must specify a period of not less than 28 days during which submissions may be made to the council.

Environmental Planning and Assessment Act 1979 No 203

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55 Relevant planning authority to prepare explanation of and justification for proposed instrument—the planning proposal

- 10 (1) Before an environmental planning instrument is made under this Division, the relevant planning authority is required to prepare a document that explains the intended effect of the proposed instrument and sets out the justification for making the proposed instrument (the planning proposal).
- 15 (2) The planning proposal is to include the following:
- (a) a statement of the objectives or intended outcomes of the proposed instrument,
 - (b) an explanation of the provisions that are to be included in the proposed instrument,
 - (c) the justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will comply with relevant directions under section 117),
 - 20 (d) if maps are to be adopted by the proposed instrument, such as maps for proposed land use zones; heritage areas; flood prone land—a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument,
 - (e) details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.

25 (3) The Director-General may issue requirements with respect to the preparation of a planning proposal.

56 Gateway determination

- 30 (1) After preparing a planning proposal, the relevant planning authority may forward it to the Minister.
- (2) After a review of the planning proposal, the Minister is to determine the following:
- 35 (a) whether the matter should proceed (with or without variation),
- (b) whether the matter should be resubmitted for any reason (including for further studies or other information, or for the revision of the planning proposal),
- (c) community consultation required before consideration is given to the making of the proposed instrument (the community consultation requirements),
- 40 (d) any consultation required with State or Commonwealth public authorities that will or may be adversely affected by the proposed instrument,
- (e) whether a public hearing is to be held into the matter by the Planning Assessment Commission or other specified person or body,
- 45 (f) the times within which the various stages of the procedure for the making of the proposed instrument are to be completed.
- (3) A determination of the community consultation requirements includes a determination under section 73A (or other provision of this Act) that the matter does not require community consultation.
- 50 (4) The regulations may provide for the categorisation of planning proposals for the purposes of this section, and may prescribe standard community consultation requirements for each such category.

- (5) The Minister may arrange for the review of a planning proposal (or part of a planning proposal) under this section to be conducted by, or with the assistance of, the Planning Assessment Commission or a joint regional planning panel:
- 5 (a) if there has been any delay in the matter being finalised, or
- (b) if for any other reason the Minister considers it appropriate to do so.
- (6) The relevant planning authority may, at any time, forward a revised planning proposal to the Minister.
- 10 (7) The Minister may, at any time, alter a determination made under this section.
- (8) A failure to comply with a requirement of a determination under this section in relation to a proposed instrument does not prevent the instrument from being made or invalidate the instrument once it is made. However, if community consultation is required under section 57,
- 15 the instrument is not to be made unless the community has been given an opportunity to make submissions and the submissions have been considered under that section.

57 Community consultation

- 20 (1) Before consideration is given to the making of a local environmental plan, the relevant planning authority must consult the community in accordance with the community consultation requirements for the proposed instrument.
- 25 (2) The planning proposal (as revised to comply with the determination under section 56 and in a form approved by the Director-General) is to be made publicly available during the period of community consultation. Detailed provisions may be summarised instead of being set out in full if the Director-General is satisfied that the summary provides sufficient details for community consultation.
- 30 (3) During the period of community consultation, any person may make a written submission to the relevant planning authority concerning the matter (other than any matter that is mandatory under an applicable standard instrument under section 33A).
- 35 (4) The relevant planning authority may (but need not) make publicly available, in accordance with the community consultation requirements, the submissions made concerning a matter (or a summary of or report on any such submissions).
- (5) If:
- 40 (a) a person making a submission so requests, and
- (b) the relevant planning authority considers that the issues raised in a submission are of such significance that they should be the subject of a hearing,
- the relevant planning authority is to arrange a public hearing on the issues raised in the submission.
- 45 (6) The relevant planning authority may arrange a public hearing on any issue whether or not a person has made a submission concerning the matter.
- (7) A report of any public hearing is to be furnished to the relevant planning authority and may be made publicly available by that authority.
- 50 (8) The consultation required by this section is completed when the relevant planning authority has considered any submissions made concerning the proposed instrument and the report of any public hearing.

55



Report No. 13.5 Budget Review - 1 January 2015 to 31 March 2015**Directorate:** Corporate and Community Services**Report Author:** James Brickley, Manager Finance**File No:** I2015/352**Theme:** Corporate Management
Financial Services**Summary:**

This report is prepared to comply with Regulation 203 of the Local Government (General) Regulation 2005 and to inform Council and the Community of Council's estimated financial position for the 2014/2015 financial year, reviewed as at 31 March 2015.

This report contains an overview of the proposed budget variations for the General Fund, Water Fund and Sewerage Fund. The specific details of these proposed variations are included in Attachments 1 and 2 for Council's consideration and authorisation.

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

RECOMMENDATION:

1. That Council authorise the itemised budget variations as shown in Attachment 2 (#E2015/29355) which includes the following estimated results in the 31 March 2015 Quarterly Review of the 2014/2015 Budget:

- (a) General Fund - \$1,000 increase in the accumulated surplus**
- (b) General Fund - \$1,241,600 decrease in reserves**
- (c) General Fund - \$1,240,600 decrease in the estimated cash position**
- (d) Water Fund - \$283,500 decrease in reserves**
- (e) Sewerage Fund - \$4,900 decrease in reserves**

2. That That Council adopt the revised estimated General Fund Accumulated Surplus/(Working Funds) surplus of \$1,957,550 for the 2014/2015 financial year as at 31 March 2015.

Attachments:

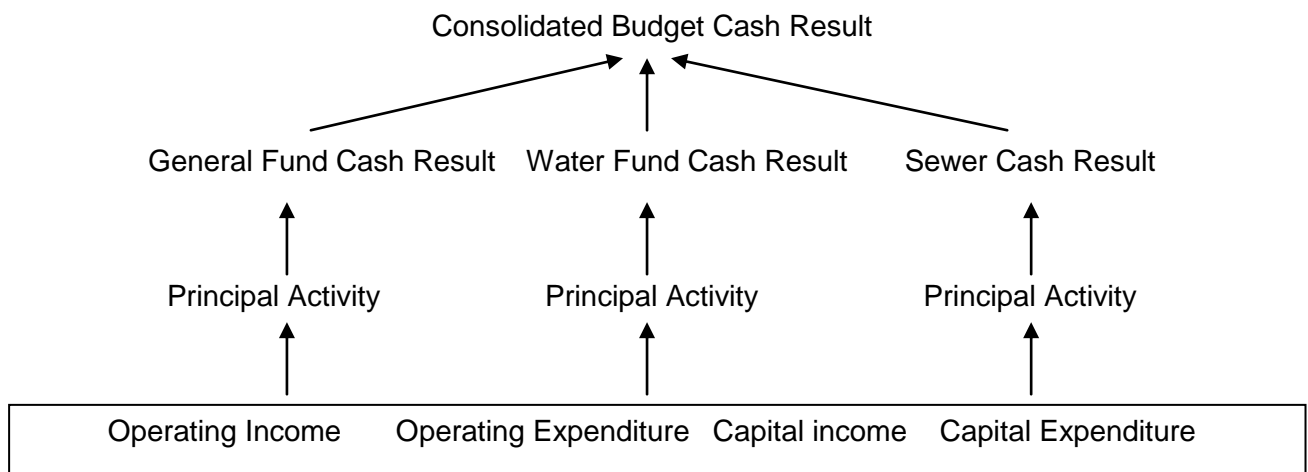
- 1 Budget Variations for the General, Water and Sewerage Funds, E2015/29579 (provided under separate cover)
- 2 Itemised Listing of Budget Variations for the General, Water and Sewerage Funds, E2015/29582 , page 63
- 3 Integrated Planning and Reporting Framework (IP&R) required Quarterly Review Statement, E2015/29580 , page 69

Report

Council adopted the 2014/2015 budget on 12 June 2014 via Resolution **14-285**. It also considered and adopted the budget carryovers from the 2013/2014 financial year, to be incorporated into the 2014/2015 budget, at its Ordinary Meeting held 28 August 2014 via Resolution **14-389**. Since that date, Council has reviewed the budget taking into consideration the 2013/2014 Financial Statement results and progress through three quarters of the 2014/2015 financial year. This report considers the March 2015 Quarter Budget Review.

The details of the budget review for the Consolidated, General, Water and Sewer Funds are included in Attachment 1, with an itemised listing in Attachment 2. This aims to show the consolidated budget position of Council, as well as a breakdown by Fund and Principal Activity. The document in Attachment 1 is also effectively a publication outlining a review of the budget and is intended to provide Councillors with more detailed information to assist with decision making regarding Council's finances.

Contained in the document at Attachment 1 is the following reporting hierarchy:



The pages within Attachment 1 are presented (from left to right) by showing the original budget as adopted by Council on 12 June 2014 plus the adopted carryover budgets from 2013/2014 followed by the resolutions between July and September, the September review, resolutions between October and December, the December review, resolutions between January and March and the revote (or adjustment for this review) and then the revised position projected for 30 June 2015 as at 31 March 2015.

On the far right of the Principal, there is a column titled "Note". If this is populated by a number, it means that there has been an adjustment in the quarterly review. This number then corresponds to the notes at the end of Attachment 1 which provides an explanation of the variation.

There is also information detailing restricted assets (reserves) to show Councils estimated balances as at 30 June 2015 for all Council's reserves.

A summary of Capital Works is also included by Fund and Principal Activity.

Office of Local Government Budget Review Guidelines:-

The Office of Local Government on 10 December 2010 issued the new Quarterly Budget Review Guidelines via Circular 10-32, with the reporting requirements to apply from 1 July 2011. This report includes a Quarterly Budget Review Statement (refer Attachment 3) prepared by Council in accordance with the guidelines.

The Quarterly Budget Review Guidelines set a minimum standard of disclosure, with these standards being included in the Local Government Code of Accounting Practice and Financial Reporting as mandatory requirements for Council's to address.

Since the introduction of the new planning and reporting framework for NSW Local Government, it is now a requirement for Councils to provide the following components when submitting a Quarterly Budget Review Statement (QBRs):-

- A signed statement by the Responsible Accounting Officer on Councils financial position at the end of the year based on the information in the QBRs
- Budget review income and expenses statement in one of the following formats:
 - Consolidated
 - By fund (e.g General, Water, Sewer)
 - By function, activity, program etc to align with the management plan/operational plan
- Budget Review Capital Budget
- Budget Review Cash and Investments Position
- Budget Review Key performance indicators
- Budget Review Contracts and Other Expenses

The above components are included in Attachment 3:-

Income and Expenditure Budget Review Statement by Type – This shows Councils income and expenditure by type. This has been split by Fund. Adjustments are shown, looking from left to right.

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

Cash and Investments Budget Review Statement – This statement reconciles Council's restricted funds (reserves) against available cash and investments. Council has attempted to indicate an actual position as at 31 March 2015 of each reserve to show a total cash position of reserves with any difference between that position and total cash and investments held as available cash and investments. It should be recognised that the figure is at a point in time and may vary greatly in future quarterly reviews pending on cash flow movements.

Key Performance Indicators (KPI's) – At this stage, the KPI's within this report are:-

- **Debt Service Ratio** - This assesses the impact of loan principal and interest repayments on the discretionary revenue of Council.
- **Rates and Annual Charges Outstanding Ratio** – This assesses the impact of uncollected rates and annual charges on Councils liquidity and the adequacy of recovery efforts

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

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

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

CONSOLIDATED RESULT

The following table provides a summary of the overall Council budget on a consolidated basis inclusive of all Funds budget movements for the 2014/2015 financial year projected to 30 June 2015 but revised as at 31 March 2015.

15

2014/2015 Budget Review Statement as at 31 March 2015	Original Estimate (Including Carryovers) 1/7/2014	Adjustments to Mar 2015 including Resolutions*	Proposed Mar 2015 Review Revotes	Revised Estimate 30/6/2015 at 31/03/2015
Operating Revenue	76,364,300	2,169,400	2,917,800	81,451,500
Operating Expenditure	84,894,350	2,512,200	2,145,000	89,551,550
Operating Result – Surplus/Deficit	(8,530,050)	(342,800)	772,800	(8,100,050)
Add: Capital Revenue	3,972,700	891,300	266,600	5,130,600
Change in Net Assets	(4,557,350)	548,500	1,039,400	(2,969,450)
Add: Non Cash Expenses	15,890,000	0	0	15,890,000
Add: Non-Operating Funds Employed	1,800,000	470,000	(1,800,000)	470,000
Subtract: Funds Deployed for Non-Operating Purposes	(21,188,100)	(611,200)	(768,400)	(22,567,700)
Cash Surplus/(Deficit)	(8,055,450)	407,300	(1,529,000)	(9,177,150)
Restricted Funds – Increase / (Decrease)	(8,072,300)	407,300	(1,530,000)	(9,195,000)
Forecast Result for the Year – Surplus/(Deficit) – Working Funds	16,850	0	1,000	17,850

As the table above highlights, the forecast result for the year has increased by \$1,000 for the review period including Council resolutions. Results by General, Water and Sewerage Fund are provided below:

GENERAL FUND

In terms of the General Fund projected Accumulated Surplus (Working Funds) the following table provides a reconciliation to the estimated position as at 31 March 2015:

Opening Balance – 1 July 2014	\$1,939,700
Plus original budget movement and carryovers	16,850

Council Resolutions July – September Quarter	0
September Review Adjustments – increase/(decrease)	0
Council Resolutions October – December Quarter	0
December Review Adjustments – increase/(decrease)	0
Council Resolutions January – March Quarter	0
Recommendations within this Review – increase/(decrease)	1,000
Forecast Working Funds Result – Surplus/(Deficit) – 30 June 2015	17,850
Estimated Working Funds Closing Balance – 30 June 2015	\$1,957,550

The General Fund financial position has improved by \$1,000 as a result of this budget review. The proposed budget changes that have impacted on this result have been highlighted in Attachment 1 and summarised further in this report below.

Council Resolutions

There were no Council resolutions during the January to March 2015 quarter that impacted the overall 2014/2015 budget result.

Budget Adjustments

The budget adjustments identified in Attachment 1 and 2 for the General Fund have been summarised by Budget Directorate in the following table:

	Revenue Increase/ (Decrease) \$	Expenditure Increase/ (Decrease) \$	Accumulated Surplus (Working Funds) Increase/ (Decrease) \$
Budget Directorate			
General Managers Office	2,000	7,800	(5,800)
Organisational Development	0	4,000	(4,000)
Corporate & Community Services	(1,564,100)	(758,700)	(805,400)
Infrastructure Services	2,218,600	1,417,700	800,900
Sustainable Environment & Economy	136,100	120,800	15,300
Total Budget Movements	792,600	791,600	1,000

Budget Adjustment Comments

Within each of the Budget Directorates of the General Fund, are a series of budget adjustments identified in detail at Attachment 1 and 2. More detailed notes on these are provided in Attachment 1, but in summary the major additional items included are summarised below by Directorate and are included in the overall budget adjustments table above. Further implementation of the Organisation Restructure has been incorporated into this budget review which has resulted in the following budget program movements:

1. Legal Services Budget Program transferred from Organisational Development to Corporate and Community Services.
2. Compliance and Infringement Processing Budget Programs transferred from Corporate and Community Services to Sustainable Economy and Environment.

General Manager

5 In the General Managers program additional expenditure of \$8,400 is required to participate in the Regional Analysis and Comparative Tool for the next 2 years.

In the Economic Development program additional income of \$2,000 was received as a NYE donation and additional expenditure of \$7,800 for the Bay Lane Enhancement project is required.

Organisational Development

15 In the Human Resources program, expenditure increased by \$4,000 due to the cost of the General Manager's performance review as the original budget was not sufficient.

Corporate and Community Services

20 In the Administrative Services - Councillors program, additional expenditure is required to purchase Councillor equipment \$5,000 and a contribution for the staff Christmas party \$3,200.

In the Administration Services program, additional income of \$1,700 has been recognised from staff for tea and coffee contributions and additional expenditure of \$7,000 for the purchase of tea, coffee and milk supplies for the organisation.

25 In the Financial Services program there is additional income of \$16,000 due to the increase in the number of 603 certificates issued.

30 In the Information Services Program an amount of \$67,700 has been requested to complete the upgrade of Councils' Standard Operating Environment (SOE). This is to be funded through a reduction to other expenditure line items and reserves.

35 In the Property Program the major budget adjustment is due to the removal of sale proceeds from the Roundhouse subdivision. These sales are now not expected to occur in 2014/15. Additional revenue was also received from Councils insurer for fire damage from 2013 at the Mullumbimby Civic Hall. Other income and expenditure adjustments are for various budgets trending lower or higher than the actuals.

40 In the Community Development Program, revenue budget has been adjusted to account for a \$20,000 grant for a Liveable Communities Project. Operating Expenditure has also increased for the grant expenditure with an additional \$13,500 funded through developer contributions.

In the Legal Services program additional legal fees revenue of \$14,100 has been recovered.

Infrastructure Services

45 In the Depot Services program, additional revenue of \$35,700 has been received from the Sewer Fund for the purchase of canopies for 2 vehicles. Expenditure has increased due to increased maintenance, servicing and breakdown repairs on older and higher km vehicles, works associated with the changeover of 50 motor vehicles and more tyres.

50 In the Local Roads & Drainage program, revenue increased for paid parking. Transfer to Reserves has decreased due to a reduction in the transfer to the Infrastructure Renewal reserve as a result of the Roundhouse subdivision not being sold this financial year and an increase to paid parking expenses.

In the Roads & Maritime Services (RMS) program, adjustments have been received from the RMS for the natural disaster events. Income is offset against expenditure.

In the Open Spaces & Recreation program, additional revenue was received from NSW Sport to contribute to the amenities block at Tom Kendall Oval (\$25,000), a bond from BVQ for the roundabout contract at the Cavanbah Sports Centre (\$36,800) and a reduction to Special Events & Mitigation (\$30,000). Expenditure increased by \$45,000 to finalise the costs associated with the APEX park toilets, \$25,000 for the amenities block at Tom Kendall Oval and \$36,800 to cover any legal costs Council may incur from the Cavanbah Sports Centre roundabout.

In the Quarry program, additional revenue of \$170,000 is anticipated from the sale of materials for capital works, offset by the same amount in expenditure.

In the Rural Fire Service program, additional revenue of \$20,300 was received as a reimbursement for an extension on the Mullumbimby shed. Additional expenditure is required due to higher than expected vehicle repair costs (\$15,000).

In the Waste & Recycling program, additional revenue was received from an increase in waste disposal fees, annual charges and a grant for the organics collection system. It is proposed to increase expenditure due to works associated with the organics collection system grant and various other increases due to the increased volume.

In the Cavanbah Sports Centre program, income and expenditure are both trending above budget across various areas. This facility is relatively new and the full usage of this is still being realised.

Sustainable Environment and Economy

Additional revenue is occurring in the Development Assessment and Certification and Customer Service Program due to increased development activity.

In the Land and Natural Environment Program, the budget is to be amended to cater for a new Applicant Funded DCP's/LEP's (\$2,500), an adjustment to the CZMP Byron Bay Embayment (\$45,000) and an additional \$20,000 for the LEP Public Exhibition.

In the Compliance and Infringement Processing Programs, additional revenue is budgeted for fees received for swimming pool inspections and revenue for resource sharing of Council's licence plate recognition equipment with Lismore City Council.

WATER FUND

After completion of the 2013/2014 Financial Statements the Accumulated Surplus (Working Fund) balance for the Water Fund, as at 30 June 2014, is \$1,958,400 with capital works reserves of \$2,500,200. It also held \$9,988,200 in section 64 developer contributions at that time.

The estimated Water Fund reserve balances as at 30 June 2015 are derived as follows:

Capital Works Reserve

Opening Reserve Balance at 1 July 2014	\$2,500,200
Plus original budget reserve movement	(246,300)
Less reserve funded carryovers from 2013/2014	(305,800)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	(121,200)
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	50,500

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Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	(283,500)
Forecast Reserve Movement for 2014/2015 – Increase / (Decrease)	(906,300)
Estimated Reserve Balance at 30 June 2015	\$1,593,900

Section 64 Developer Contributions

Opening Reserve Balance at 1 July 2014	\$9,988,200
Plus original budget reserve movement	(1,230,700)
Less reserve funded carryovers from 2013/2014	(280,400)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	0
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	1,512,400
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	0
Forecast Reserve Movement for 2014/2015 – Increase / (Decrease)	1,300
Estimated Reserve Balance at 30 June 2015	\$9,989,500

- 5 Movements for Water Fund can be seen in Attachment 1, with a proposed estimated decrease to reserves (including S64 Contributions) overall of \$283,500 from the 31 March 2015 Quarter Budget Review.

SEWERAGE FUND

- 10 After completion of the 2013/2014 Financial Statements the Accumulated Surplus (Working Fund) balance for the Sewer Fund, as at 30 June 2014, was \$1,791,900 with capital works reserves of \$3,569,600 and plant reserve of \$792,000. It also held \$4,939,400 in section 64 developer contributions.

- 15 The estimated Sewerage Fund reserve balances as at 30 June 2015 are derived as follows:

Capital Works Reserve

Opening Reserve Balance at 1 July 2014	\$3,569,600
Plus original budget reserve movement	1,438,100
Less reserve funded carryovers from 2013/2014	(282,600)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	(146,200)
Resolutions October - December Quarter – increase / (decrease)	(19,100)
December Quarterly Review Adjustments – increase / (decrease)	51,500
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	(4,900)
Forecast Reserve Movement for 2014/2015 – Increase / (Decrease)	1,036,800
Estimated Reserve Balance at 30 June 2015	\$4,606,400

- 20 Plant Reserve

Opening Reserve Balance at 1 July 2014	\$792,000
Plus original budget reserve movement	0
Less reserve funded carryovers from 2013/2014	0
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	0
Resolutions October - December Quarter – increase / (decrease)	0

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December Quarterly Review Adjustments – increase / (decrease)	0
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	0
Forecast Reserve Movement for 2014/2015 – Increase / (Decrease)	0
Estimated Reserve Balance at 30 June 2015	\$792,000

Section 64 Developer Contributions

Opening Reserve Balance at 1 July 2014	\$4,939,400
Plus original budget reserve movement	(993,100)
Less reserve funded carryovers from 2013/2014	(594,500)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	(125,000)
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	604,600
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	0
Forecast Reserve Movement for 2014/2015 – Increase / (Decrease)	(1,108,000)
Estimated Reserve Balance at 30 June 2015	\$3,831,400

- 5 Movements for the Sewerage Fund can be seen in Attachment 1, with a proposed estimated overall decrease to reserves (including S64 Contributions) of \$4,900 from the 31 March 2015 Quarter Budget Review.

Legal Expenses

- 10 One of the major financial concerns for Council over previous years has been legal expenses. Not only does this item represent a large expenditure item funded by rate income, but is also susceptible to large fluctuations.
- 15 The table that follows indicates the allocated budget and actual legal expenditure within Council on a fund basis.

Total Legal Income & Expenditure as at 31 March 2015

Program	2014/2015 Budget (\$)	Actual (\$)	Percentage To Revised Budget
Income			
Legal Expenses Recovered	9,300	23,340	250%
Total Income	9,300	23,340	250%
Expenditure			
General Legal Expenses	274,100	120,186	44%
Total Expenditure General Fund	274,100	120,186	44%

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

Legal Reserve

Opening Reserve Balance at 1 July 2014	\$779,100
Less Resolution 12-622	\$(46,800)
Estimated Reserve Balance at as at 31 March 2015	\$732,300

Fluctuations in legal expenditure can happen rapidly and for reasons not necessarily within Council's control. Council has developed and is maintaining a legal reserve to enable Council to manage the potential fluctuations. A reserve balance of \$500,000 is considered adequate for this purpose at this time.

Financial Implications

The 31 March Quarter Budget Review of the 2014/2015 Budget increased the overall budget surplus result by \$1,000. The estimated accumulated surplus (working funds) position attributable to the General Fund also increased by \$1,000, with this increasing to an estimated \$1,957,550 at 30 June 2015.

Statutory and Policy Compliance Implications

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

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

(2) A budget review statement must include or be accompanied by:

(a) a report as to whether or not the responsible accounting officer believes that the statement indicates that the financial position of the council is satisfactory, having regard to the original estimate of income and expenditure, and

(b) if that position is unsatisfactory, recommendations for remedial action.

(3) A budget review statement must also include any information required by the Code to be included in such a statement.

Statement by Responsible Accounting Officer

This report indicates that the short term financial position of the Council is satisfactory for 2014/2015, having consideration of the original estimate of income and expenditure and budget revisions as per the 31 March 2015 Quarter Budget Review.

This opinion is based on the estimated General Fund Accumulated Surplus (Working Funds) position and that the current indicative budget surplus for 2014/2015 increase by \$1,000 in this Budget Review. Notwithstanding this, Council will need to continue to carefully monitor the 2014/2015 budget over the remainder of the financial year.

The need for careful monitoring is in relation to the pressures on the local roads and drainage budget program due to recent weather and the maintenance expenditure to date. Council may need to as part of the 30 June 2015 Quarter Budget Review consider revised funding depending upon the eventual maintenance outcome for this financial year.

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13.5 - ATTACHMENT 2

Account Number	Account Description	Original Budget	Income/ Expenditure	Revised Budget at 31 March	Income Increase/ (Decrease)	Expenditure Increase/ (Decrease)	Revised Budget at 30 June	Note Reference
General Manager								
2010.091	Support Services Costs	163,200	Expenditure	164,600		0	164,600	1
2010.910	Support Services Costs Reallocated	(631,500)	Expenditure	(632,900)		(8,400)	(641,300)	1
2005.022	Regional Analysis and Comparative Tool	-	Expenditure	-		8,400	8,400	1
2001.002	Travelling Expenses Representing Council	3,200	Expenditure	3,200		2,000	5,200	1
2005.003	Integrated Planning, Reporting & Promos	3,600	Expenditure	3,600		3,600	7,200	1
2005.018	Complaint Investigation	21,200	Expenditure	21,200		(5,600)	15,600	1
Total for Program:					0	0		
Economic Development								
2013.091	Support Services Costs	59,200	Expenditure	59,900		0	59,900	2
1003.001	Safe Summer in The Bay - NYE	-	Income	-	2,000		2,000	2
2014.003	Bay Lane Enhancement Project	-	Expenditure	9,000		7,800	16,800	2
Total for Program:					2,000	7,800		
TOTAL REPORTABLE FOR GENERAL MANAGER					2,000	7,800		
Organisational Support								
2015.091	Support Services Costs Allocated	229,400	Expenditure	230,000		100	230,100	3
2015.910	Support Services Costs Reallocated	(1,084,600)	Expenditure	(1,163,200)		(100)	(1,163,300)	3
Total for Program:					0	0		
Human Resources								
2118.013	General Manager's Performance Review	4,300	Expenditure	4,300		4,000	8,300	4
Total for Program:					0	4,000		
TOTAL REPORTABLE FOR ORGANISATIONAL DEVELOPMENT					0	4,000		
Administration Services - Councillors								
2159.091	Support Services Costs	228,100	Expenditure	228,100		400	228,500	5
2151.004	Councillor Equipment	-	Expenditure	-		5,000	5,000	5
2341.002	Contribution to Staff Christmas Party	3,000	Expenditure	3,000		3,200	6,200	5
Total for Program:					0	8,600		
Administration Services								
2189.091	Support Services Costs Allocated	212,500	Expenditure	212,400		(200)	212,200	6
2189.910	Support Services Costs Reallocated	(1,170,900)	Expenditure	(1,170,800)		(5,500)	(1,176,300)	6
1101.006	Morning Tea Staff Contributions	-	Income	-	1,700		1,700	6
2175.009	Milk, Tea & Coffee Supplies	-	Expenditure	-		7,000	7,000	6
2171.005	Telecommunications	1,000	Expenditure	1,000		400	1,400	6
Total for Program:					1,700	1,700		
Financial Services								
2239.091	Support Services Costs	244,400	Expenditure	244,400		0	244,400	
2239.910	Support Services Costs Reallocated	(2,029,200)	Expenditure	(2,021,600)		16,000	(2,005,600)	7
1131.001	Section 603 Certificates	50,000	Income	50,000	16,000		66,000	7
Total for Program:					16,000	16,000		
Information Services								
2269.091	Support Services Costs	56,800	Expenditure	56,800		0	56,800	
2269.910	Support Services Costs Reallocated	(2,382,000)	Expenditure	(2,382,000)		0	(2,382,000)	
2251.011	Standard Operating Environment 2015	0	Expenditure	0		19,300	19,300	8
2255.009	Other Misc Infrastructure Lic/Mntce	5,400	Expenditure	5,400		(5,400)	0	8
2255.013	Infrastructure System Security Lic/Mntce	13,500	Expenditure	13,500		(13,500)	0	8
2257.032	Other Miscellaneous Repair and Mntce	24,100	Expenditure	24,100		(20,000)	4,100	8
2259.009	Mobile Phone Store	5,400	Expenditure	5,400		(7,000)	(1,600)	8
4173.001	Transfer to Information Services Reserve	0	Expenditure	0		26,600	26,600	8
4019.101	Transfer from Information Services Reserve	58,200	Income	58,200	(21,800)		36,400	8
4174.021	TRIM / Authority upgrade	58,200	Expenditure	58,200		(21,800)	36,400	8
Total for Program:					(21,800)	(21,800)		

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13.5 - ATTACHMENT 2

Account Number	Account Description	Original Budget	Income/ Expenditure	Revised Budget at 31 March	Income Increase/ (Decrease)	Expenditure Increase/ (Decrease)	Revised Budget at 30 June	Note Reference
Property Services								
2319.091	Support Services Costs	284,500	Expenditure	285,400		(900)	284,500	9
4023.603	Sale of Roundhouse	1,800,000	Income	1,800,000	(1,800,000)		0	9
4185.001	Transfer to Council Caravan Parks Reserve	100,000	Expenditure	100,000		(100,000)	0	9
4185.001	Transfer to Property Reserve	100,000	Expenditure	100,000		(100,000)	0	9
4185.001	Transfer to Human Resources	200,000	Expenditure	200,000		(200,000)	0	9
4185.001	Transfer to Plant Reserve	600,000	Expenditure	600,000		(600,000)	0	9
2281.002	Projects Officer/Coordinator	15,000	Expenditure	30,000		15,000	45,000	9
4191.064	S94 Funded Non-Cncl Asset Broken Hd Hall	91,900	Expenditure	91,900		21,500	113,400	9
4024.101	Transfer from Developer Contributions	91,900	Income	91,900	21,500		113,400	9
1190.001	Other Community	2,100	Income	2,100	10,400		12,500	9
1191.007	Other Operational	15,500	Income	15,500	7,200		22,700	9
1197.001	Use of Crown Reserve	10,300	Income	10,300	12,700		23,000	9
1198.001	Clarks Beach Café	82,700	Income	82,700	1,500		84,200	9
4185.001	Transfer to Crown Reserve	82,700	Expenditure	82,700		14,200	96,900	9
1202.004	Aug 2013 Fire Damage Annex	-	Income	-	96,000		96,000	9
2306.016	Mulum Civic Hall Annex Fire Damage	-	Expenditure	-		96,000	96,000	9
1188.003	Lease/ Rental Agreements Other Community	7,800	Income	7,800	27,100		34,900	9
2301.002	Byron Pool Rates & Charges	55,000	Expenditure	55,000		(15,000)	40,000	9
2305.002	Mulumby Pool Rates & Charges	67,000	Expenditure	67,000		(3,900)	63,100	9
4185.001	Transfer to Property Reserve	-	Expenditure	-		18,900	18,900	9
2301.008	Byron Pool Insurance	-	Expenditure	-		3,900	3,900	9
2305.008	Mulumby Pool Insurance	-	Expenditure	-		3,900	3,900	9
2306.014	Companion Animal Refuge Documentation	-	Expenditure	-		1,200	1,200	9
2354.001	Electrical Repairs	4,500	Expenditure	4,500		3,000	7,500	9
2354.003	Community Property Maintenance - Plumbing	4,500	Expenditure	4,500		12,000	16,500	9
2354.005	Community Property Maintenance - Vandal Damage	17,800	Expenditure	17,800		3,000	20,800	9
2356.002	Community Property - Fees and Charges - Rates and Water	142,100	Expenditure	142,100		6,300	148,400	9
2370.004	Future Management Options Report Tyagarah Aerodrome	2,100	Expenditure	2,100		1,800	3,900	9
Total for Program:					(1,623,600)	(819,100)		
Caravan Parks								
First Sun								
2529.090	NCP and Governance	712,700	Expenditure	712,700		0	712,700	10
2529.091	Support Services Costs	76,700	Expenditure	76,500		(600)	75,900	10
2529.097	Administration Centre Recharged	7,400	Expenditure	7,400		0	7,400	10
4263.001	Transfer to Reserves	-		-		600	600	10
Suffolk Park								
2530.090	NCP and Governance	43,700	Expenditure	43,700		0	43,700	10
2530.091	Support Services Costs Allocated	53,900	Expenditure	53,800		(400)	53,400	10
4263.001	Transfer to Reserves	-		-		400	400	10
Total for Program:					0	0		
Community Development								
2369.091	Support Services Costs	160,700	Expenditure	161,900		(100)	161,800	11
1161.054	Liveable Communities Project	-	Income	-	20,000		20,000	11
2363.008	Liveable Communities Project	-	Expenditure	-		33,500	33,500	11
4027.101	Transfer from Developer Contributions	-	Income	-	13,500		13,500	11
1165.005	New Years Eve	3,200	Income	3,200	(3,200)		0	11
2331.071	Schoolies Approvals	-	Expenditure	-		3,500	3,500	11
Total for Program:					30,300	36,900		
Childrens Services								
Sandhills								
2459.091	Support Services Costs	161,300	Expenditure	166,800		(400)	166,400	12
4028.101	Transfer from Reserves	400	Income	400	(400)		0	12
1201.005	Special Needs Fund-CWith	0	Income	0	5,600		5,600	12
4028.101	Transfer from Childrens Services Reserve	7,000	Income	7,000	(1,100)		5,900	12
4239.001	Transfer to Childrens Services Reserve	0	Expenditure	0		4,500	4,500	12
1201.017	DEEWR Traineeship Incentives	2,500	Income	2,500	5,500		8,000	12
4028.101	Transfer from Reserves	7,000	Income	7,000	(5,500)		1,500	12
1201.022	LDC Professional Development Programme	0	Income	0	15,500		15,500	12
2401.037	Prol Development/Resources	-	Expenditure	-		15,500	15,500	12
OOSH Services								
2460.091	Support Services Costs Allocated	52,900	Expenditure	52,900		(400)	52,500	12
4028.101	Transfer from Reserves	-	Income	-	(400)		(400)	12
Total for Program:					19,200	19,200		
Library Services								
2479.091	Support Services Costs	48,100	Expenditure	48,900		(200)	48,700	13
Total for Program:					0	(200)		
Legal Services								
10000.013	EJ Hutton LEC 40262/02	-	Income	9,300	700		10,000	14
10000.019	BSC ats Lawler LEC 10707/2013	-	Income	-	2,900		2,900	14
10001.003	Michael Leibovitch	-	Income	-	5,000		5,000	14
10001.004	Tarek Nabi	-	Income	-	5,000		5,500	14
Total for Program:					14,100	0		
TOTAL REPORTABLE FOR CORPORATE & COMMUNITY SERVICES					(1,564,100)	(758,700)		

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5 - ATTACHMENT 2

Account Number	Account Description	Original Budget	Income/ Expenditure	Revised Budget at 31 March	Income Increase/ (Decrease)	Expenditure Increase/ (Decrease)	Revised Budget at 30 June	Note Reference
Supervision and Administration								
3029.091	Support Services Costs	601,200	Expenditure	606,900		800	607,700	15
3029.910	Support Services Costs Reallocated	(2,361,800)	Expenditure	(2,367,500)		(800)	(2,368,300)	15
3001.001	Directorate - Salaries & Oncosts	395,500	Expenditure	395,500		(4,300)	391,200	15
3001.002	Divisional Review	12,800	Expenditure	12,800		4,300	17,100	15
Total for Program:					0	0		
Emergency Services								
3059.091	Support Services Costs	103,000	Expenditure	103,200		100	103,300	16
3045.011	Tallow Creek Fl/Plain Risk Mana. Study	6,200	Expenditure	6,200		(6,200)	0	16
3045.021	Opening Tallow Creek Mouth	46,100	Expenditure	46,100		6,200	52,300	16
Total for Program:					0	100		
Depot Services and Fleet Management								
3089.091	Support Services Costs - Fleet	200,400	Expenditure	201,700		200	201,900	17
4049.101	Transfer from Reserves	200,400	Income	201,700	200		201,900	17
1703.005	Sale of Plant to Water and Sewer	-	Income	-	35,700		35,700	17
3071.001	Depot - Workshop Wages & Oncosts	245,000	Expenditure	245,000		(125,000)	120,000	17
3071.002	Byron Depot - Training Room Expenses	5,000	Expenditure	5,000		10,000	15,000	17
3071.011	Workshop Operating Expenses	27,400	Expenditure	27,400		3,600	31,000	17
3083.001	Plant - Fuel and Oil 3	1,650,000	Expenditure	1,650,000		190,000	1,840,000	17
4753.001	Transfer to Reserves	554,700	Expenditure	554,700		(42,900)	511,800	17
Total for Program:					35,900	35,900		
Local Roads and Drainage								
3169.091	Support Services Costs - Local	1,800,000	Expenditure	1,816,800		2,500	1,819,300	18
4765.001	Transfer to Infrastructure Renewal Reserve	1,530,200	Expenditure	1,530,200		(800,000)	730,200	18
1722.001	Paid Parking Income	(573,700)	Income	(573,700)	100,000		(473,700)	18
3160.001	Paid Parking Expenses	111,500	Expenditure	111,500		30,000	141,500	18
4765.001	Transfer to Council Paid Parking Reserve	462,200	Expenditure	462,200		70,000	532,200	18
44184.001	Myocum Road	456,000	Expenditure	456,000		12,000	468,000	18
4053.202	Capital Grants & Contributions - Roads to Recovery	-	Income	-	12,000		12,000	18
44204.001	Coolamon Soanic Drive Speed Zone Signs	-	Expenditure	-		6,000	6,000	18
44204.002	Myocum Road Speed Zone Signs	-	Expenditure	-		5,200	5,200	18
44204.003	St Helena Rd Speed Zone Signs	-	Expenditure	-		700	700	18
44204.004	Children Crossing	-	Expenditure	-		3,500	3,500	18
4053.201	Capital Grants & Contributions - RMS	-	Income	-	15,400		15,400	18
4053.101	Capital Contribution- Resident Contributions	-	Income	99,000	(10,800)		88,200	18
45484.001	Skinner's Shoot Road South of Yagers Lane	-	Expenditure	115,000		(10,800)	104,200	18
4053.201	Capital Grants & Contributions - RMS	-	Income	-	250,000		250,000	18
4054.101	Transfer from Developer Contributions	250,000	Income	250,000	(250,000)		0	18
Total for Program:					116,600	(680,900)		
RMS								
3219.091	Support Services Costs	379,300	Expenditure	380,100		(400)	379,700	19
1745.012	Natural Disaster RMS Funding Jan 2013	3,904,900	Income	3,904,900	380,400		4,285,300	19
1745.014	Nat Disast Jan 12 U/Wilson Ck only	971,500	Income	971,500	836,900		1,808,400	19
1745.015	Nat Disaster Jan 2013 Upper Cooper Slip	3,257,700	Income	3,257,700	(542,800)		2,714,900	19
1745.016	Nat Disaster Jan 2013 - Wanganui Slip	1,846,900	Income	1,846,900	(169,900)		1,677,000	19
4797.103	Wilson Creek - Slip	971,500	Expenditure	971,500		836,900	1,808,400	19
4801.300	Upper Coopers Ck Rd Final Repair 311	3,257,600	Expenditure	3,257,600		(542,800)	2,714,800	19
4801.301	Wanganui Slip South 310	1,846,900	Expenditure	1,846,900		(169,900)	1,677,000	19
4801.304	Wilson's Creek Road - Laverlys Gap 304	17,700	Expenditure	17,700		46,600	64,300	19
4801.305	Possum Shoot Road - Lower Slip 305	1,329,900	Expenditure	1,329,900		113,500	1,443,400	19
4801.306	Possum Shoot Road - Upper Slip 306	512,900	Expenditure	512,900		29,300	542,200	19
4801.307	Federal Road Slip 307	0	Expenditure	0		182,400	182,400	19
4801.308	Huonbrook Slip 308	1,041,300	Expenditure	1,041,300		(470,100)	571,200	19
4801.309	Upper Wilsons Creek Slip 309	977,700	Expenditure	977,700		478,700	1,456,400	19
Total for Program:					504,600	504,200		
Open Spaces and Recreation								
3319.091	Support Services Costs	812,700	Expenditure	820,800		700	821,500	20
1755.008	Dep of Lands - Cont to Crown Land Mntnce	182,100	Income	182,100	4,300		186,400	20
3236.002	Park & Res. Maint.-Byro Bay-Cro Plan 17	122,400	Expenditure	122,400		4,300	126,700	20
1755.009	Dep of Lands - Cont to Foreshore Mntnce	23,300	Income	23,300	1,900		25,200	20
3285.001	Beach Foreshores Maint. Plan 78	23,000	Expenditure	23,000		1,900	24,900	20
1759.002	Brunswick Heads Tennis Courts	-	Income	-	3,600		3,600	20
3238	Tennis Court Maintenance	3,400	Expenditure	3,400		3,600	7,000	20
1760.006	Cavanbah Sports Centre Security Release	-	Income	-	36,800		36,800	20
3322.001	Cavanbah Sports Centre Legal's - Marsden's	-	Expenditure	-		36,800	36,800	20
1760.005	Special Events Response and Mitigation	140,000	Income	140,000	(30,000)		110,000	20
4834.001	Transfer to Special Events Response and Mitigation Reserve	140,000	Expenditure	140,000		(30,000)	110,000	20
1755.026	Amenities Block, Tom Kendall Oval	-	Income	-	25,000		25,000	20
4835.139	Amenities Block, Tom Kendall Oval	-	Expenditure	-		25,000	25,000	20
4058.101	Transfer from Crown Reserve	-	Income	340,000	45,000		385,000	20
4835.132	New Toilets APEX Park	-	Expenditure	340,000		45,000	385,000	20
Total for Program:					86,600	87,300		
Quarry								
3349.091	Support Services Costs Allocated	33,800	Expenditure	33,900		100	34,000	21
4846.001	Transfer from Reserves	150,000	Income	150,000	100		150,100	21
1781.002	Quarry - Internal Sales	300,000	Income	300,000	170,000		470,000	21
3341.001	Extraction & Crushing	312,800	Expenditure	312,800		170,000	482,800	21
Total for Program:					170,100	170,100		

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5 - ATTACHMENT 2

Account Number	Account Description	Original Budget	Income/ Expenditure	Revised Budget at 31 March	Income Increase/ (Decrease)	Expenditure Increase/ (Decrease)	Revised Budget at 30 June	Note Reference
Rural Fire Service								
2849.091	Support Services Costs	83,100	Expenditure	83,100		(100)	83,000	22
1651.002	Maintenance and Repairs	-	Income	-	20,300		20,300	22
2838.022	Immediate Reception/Despatch	5,100	Expenditure	5,100		3,500	8,600	22
2840.001	Vehicle Maintenance and Repairs Billirudgel 1	22,000	Expenditure	22,000		15,000	37,000	22
Total for Program:					20,300	18,400		
Waste & Recycling								
2809.091	Support Services Costs	199,100	Expenditure	200,200		(700)	199,500	23
3419.091	Support Services Costs	179,200	Expenditure	179,900		(900)	179,000	23
4963.101	Transfer from Domestic Waste Reserve	-	Income	-	(700)		(700)	23
4963.101	Transfer from Waste Management Reserve	-	Income	-	(900)		(900)	23
1845.001	Domestic Waste Management Charges	4,021,500	Income	4,021,500	54,400		4,075,900	23
1801.001	Commercial - Annual Charges	555,800	Income	555,800	17,100		572,900	23
1811.001	Waste Disposal Fees	1,057,500	Income	1,057,500	442,500		1,500,000	23
3413.001	Management Costs		Expenditure			9,400	9,400	23
3414.004	Transfer Station Operations		Expenditure			89,500	89,500	23
3414.005	Transfer Station Maintenance		Expenditure			5,000	5,000	23
3414.006	Fridge Degassing		Expenditure			10,500	10,500	23
3414.009	Ewaste Collection		Expenditure			6,500	6,500	23
3414.017	Second Hand Shop Operations		Expenditure			20,000	20,000	23
3414.019	Mixed Waste Transport & Disposal		Expenditure			(80,000)	(80,000)	23
3415.002	Domestic Residual Collection		Expenditure			7,200	7,200	23
3415.003	Domestic Recycling Collection		Expenditure			30,000	30,000	23
3415.004	Recycling Transport and Disposal		Expenditure			60,000	60,000	23
3415.007	Commercial Collection	131,400	Expenditure	131,400		10,600	142,000	23
3415.008	Council Street and Park Bins	183,400	Expenditure	183,400		36,600	220,000	23
3415.012	Public Place Recycling Trial	40,000	Expenditure	40,000		31,000	71,000	23
4963.101	Transfer from Domestic Waste Reserve				45,800		45,800	23
4963.101	Transfer to Waste Management Reserve					323,500	323,500	23
1811.018	Organics Collections Systems Funding	-	Income	-	691,000		691,000	23
3415.15	Kitchen Caddies and Liners	-	Expenditure	-		126,000	126,000	23
3415.16	Assembly & Distribution MGB's, Caddies, Liners & EDU Pack	-	Expenditure	-		90,000	90,000	23
3415.17	Organics Collection Service Communication & Education	-	Expenditure	-		95,000	95,000	23
4859.057	Organics Mobile Garbage Bins	-	Expenditure	-		380,000	380,000	23
Total for Program:					1,249,200	1,249,200		
Cavanbah Sports Centre								
2439.091	Support Services Costs	20,400	Expenditure	20,400		(200)	20,200	24
1281.001	Meeting Room - M1a	9,600	Income	9,600	5,000		14,600	24
1281.003	Meeting Room - M2	9,200	Income	9,200	3,500		12,700	24
1281.004	Multi-Function Room - MF1	23,200	Income	23,200	5,000		28,200	24
1281.005	Multi-Function Room - MF2	15,400	Income	15,400	5,000		20,400	24
1282.001	Court 1	47,200	Income	47,200	10,000		57,200	24
1283.001	Court 1	47,200	Income	47,200	5,000		52,200	24
1284.001	Food and Beverage Sales	25,000	Income	25,000	25,000		50,000	24
1284.002	Kitchen	15,000	Income	15,000	(14,000)		1,000	24
1284.008	Total Complex Hire	35,000	Income	35,000	(10,000)		25,000	24
1284.009	Storage Area - Large	200	Income	200	800		1,000	24
2432.003	Furniture and Fittings Maintenance	2,000	Expenditure	2,000		500	2,500	24
2432.008	Sport Equipment Maintenance	2,000	Expenditure	2,000		500	2,500	24
2433.001	Advertising	400	Expenditure	400		1,200	1,600	24
2433.009	Food and Beverage Supplies	1,400	Expenditure	1,400		26,400	27,800	24
2433.011	Approvals and Licences	2,000	Expenditure	2,000		1,800	3,800	24
2433.012	Sundry Expenses	5,800	Expenditure	5,800		3,200	9,000	24
Total for Program:					35,300	33,400		
TOTAL REPORTABLE FOR INFRASTRUCTURE SERVICES					2,218,600	1,417,700		

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5 - ATTACHMENT 2

Account Number	Account Description	Original Budget	Income/ Expenditure	Revised Budget at 31 March	Income Increase/ (Decrease)	Expenditure Increase/ (Decrease)	Revised Budget at 30 June	Note Reference
Development Assessment								
2729.091	Support Services Costs	770,400	Expenditure	778,200		1,100	779,300	25
1603.002	Development Panel Advice/Planning Enq	8,300	Income	26,300	8,900		35,200	25
Total for Program:					8,900	1,100		
Certification and Customer Services								
2759.091	Support Services Costs	538,400	Expenditure	542,300		300	542,600	26
2759.910	Support Services Costs Reallocated	(352,800)	Expenditure	(354,200)		(100)	(354,300)	26
1611.001	Certificate Registration Fee	36,600	Income	36,600	5,000		41,600	26
1611.002	Compliance Certificates - Inspections	213,000	Income	256,100	11,000		267,100	26
1611.017	Section 68 Approvals & Inspection - Pt B	240,000	Income	267,000	20,000		287,000	26
1611.018	Application & Inspection Fees Roads Act	61,200	Income	61,200	24,000		85,200	26
1611.023	Income Activities Over Road Reserves	10,300	Income	10,300	(10,300)		0	26
4882.001	Transfer to Infrastructure Renewal Reserve	0	Expenditure	0		50,000	50,000	26
Total for Program:					49,700	50,200		
Land & Natural Environment								
2619.091	Support Services Costs	528,800	Expenditure	533,700		600	534,300	27
2605.056	Mitchells Rainforest Snail Recovery	1,800	Expenditure	1,800		(1,800)	0	27
1502.006	307 Skinners Shoot Road, 13/615522	-	Income	-	2,500		2,500	27
2615.045	307 Skinners Shoot Road, 13/615522	-	Expenditure	-		2,500	2,500	27
1501.053	CZMP for Byron Bay Embayment	39,900	Income	39,900	18,000		57,900	27
4004.101	Transfer from Land & Natural Environment Reserve	-	Income	-	12,000		12,000	27
2605.063	CZMP for Byron Bay Embayment	39,900	Expenditure	45,900		27,000	72,900	27
2606.024	CZMP for Byron Bay Embayment	39,900	Expenditure	39,900		18,000	57,900	27
2606.003	Bush Regeneration Team	154,900	Expenditure	154,900		(30,000)	124,900	27
2606.031	Vegetation Mapping – Stage 2 project	-	Expenditure	-		30,000	30,000	27
2611.009	LEP Public Exhibition	78,600	Expenditure	78,600		20,000	98,600	27
4006.101	Transfer from Developer Contributions	78,600	Income	78,600	20,000		98,600	27
Total for Program:					52,500	66,300		
Compliance								
2798.091	Support Services Costs	386,900	Expenditure	390,800		200	391,000	28
1675.004	Buskers - Permits	4,500	Income	4,500	1,000		5,500	28
1675.016	Swimming Pool Inspections	-	Income	31,600	18,300		49,900	28
2783.001	Compliance Employee Costs	380,000	Expenditure	380,000		18,000	398,000	28
2787.002	Telecommunications	3,000	Expenditure	3,000		3,000	6,000	28
Total for Program:					19,300	21,200		
Infringement Processing								
1681.006	Licence Plate Recognition Resource Share	14,900	Income	14,900	5,700		20,600	29
2861.001	Rangers Salaries & Oncosts	606,500	Expenditure	606,500		(53,500)	553,000	29
2861.003	Overtime/Shift Penalty Allowances	51,500	Expenditure	51,500		35,500	87,000	29
Total for Program:					5,700	(18,000)		
TOTAL REPORTABLE FOR SUSTAINABLE ENVIRONMENT & ECONOMY					136,100	120,800		
NET MOVEMENT FOR DECEMBER REVIEW - SURPLUS / (DEFICIT)					1,000			
TOTAL EXPENDITURE AND INCOME ADJUSTMENTS FOR GENERAL FUND					792,600	791,600		

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5 - ATTACHMENT 2

Account Number	Account Description	Original Budget	Income/ Expenditure	Revised Budget at 31 March	Income Increase/ (Decrease)	Expenditure Increase/ (Decrease)	Revised Budget at 30 June	Note Reference
Water Supply - Management								
6159.091	Support Services Costs	891,800	Expenditure	898,600		(900)	897,700	30
6437.001	Transfer to Reserves	891,800	Expenditure			900	900	30
6011.001	Residential	1,526,200	Income	1,526,200	66,600		1,582,800	30
6011.002	Non-Residential	392,100	Income	392,100	18,800		410,900	30
6023.002	DEEWR Traineeship Incentives	-	Income	0	5,000		5,000	30
6031.002	Lease - 18 Fletcher St	44,100	Income	44,100	(8,100)		36,000	30
6031.003	Lease - Byron Library	-	Income	0	55,000		55,000	30
6031.004	Connection / Tapping Fees	76,600	Income	76,600	10,000		86,600	30
6031.013	Lease - Paterson St Water Res. Optus	9,700	Income	9,700	200		9,900	30
6031.015	Wategoes Water Res - Lease Optus	13,700	Income	13,700	600		14,300	30
6031.017	Wategoes - Vodafone Lease	1,700	Income	1,700	(100)		1,600	30
6035.009	Priv Wks Inc Water General	-	Income	0	14,500		14,500	30
6101.001	Management & Administration	116,000	Expenditure	116,000		50,000	166,000	30
6107.001	Employee costs S64 Engineering	15,000	Expenditure	15,000		17,000	32,000	30
6111.001	Employee Costs - Compliance	65,000	Expenditure	65,000		(35,000)	30,000	30
6115.001	Employee Costs - Administration and Education	109,000	Expenditure	109,000		35,000	144,000	30
6151.001	Interest On Loans	25,300	Expenditure	25,300		34,800	60,100	30
Water Supply - Operations								
6205.006	Water Mains Maintenance	123,900	Expenditure	123,900		250,000	373,900	30
6205.007	Water Mains Operation	259,100	Expenditure	259,100		50,000	309,100	30
6205.011	Reservoir Operation	109,500	Expenditure	109,500		40,000	149,500	30
6205.012	Reservoir Maintenance	31,800	Expenditure	31,800		(10,000)	21,800	30
6205.015	Other Operations	346,700	Expenditure	346,700		(50,000)	296,700	30
6205.016	Other Maintenance	303,300	Expenditure	303,300		(267,000)	36,300	30
6235.001	WTW Planned Maint.	64,500	Expenditure	64,500		(50,000)	14,500	30
6235.006	WTW Chemicals	42,000	Expenditure	42,000		10,000	52,000	30
6235.007	WTW Operation	152,100	Expenditure	152,100		70,000	222,100	30
6424.001	Loan Principal Repayments	38,400	Expenditure	38,400		302,100	340,500	30
6437.001	Transfer to Reserves	1,724,800	Expenditure	1,724,800		(284,400)	1,440,400	30
6438.004	Miscellaneous Extensions	200,000	Expenditure	200,000		(20,000)	40,000	30
6438.032	Bangalow Reservoir Anti Graffiti	-	Expenditure	-		20,000	20,000	30
TOTAL EXPENDITURE AND INCOME ADJUSTMENTS FOR WATER FUND					162,500	162,500		
Sewerage Service - Management								
7169.091	Support Services Costs	1,011,900	Expenditure	1,018,100		(2,100)	1,016,000	31
7437.001	Transfer to Reserves	-	Expenditure	-		2,100	2,100	31
7161.001	Interest on Loans	3,902,900	Expenditure	3,902,900		(156,900)	3,746,000	31
7430.001	Loan Principal Repayments	1,284,500	Expenditure	1,284,500		212,700	1,497,200	31
7011.001	Residential	7,504,600	Income	7,504,600	139,600		7,644,200	31
7011.002	Non Residential	1,715,700	Income	1,715,700	113,600		1,829,300	31
7021.003	Trade Waste	131,900	Income	131,900	31,100		163,000	31
7023.002	DEEWR Traineeship Incentives	-	Income	-	2,500		2,500	31
7041.003	Interest on Residential Consumption	2,200	Income	2,200	7,800		10,000	31
7041.005	Interest on Trade Waste Consumption	300	Income	300	400		700	31
7041.007	Interest on Non Residential Consumption	700	Income	700	1,600		2,300	31
7101.001	Management & Administration	116,000	Expenditure	116,000		45,000	161,000	31
7105.001	Engineering & Supervision	127,000	Expenditure	127,000		(7,000)	120,000	31
7106.001	Engineering S64 Assessment	15,000	Expenditure	15,000		20,000	35,000	31
7111.001	Employee Costs - Compliance	65,000	Expenditure	65,000		(50,000)	15,000	31
7115.001	Employee Costs - Administration and Education	109,000	Expenditure	109,000		35,000	144,000	31
7141.002	Communication Systems	30,000	Expenditure	30,000		(13,000)	17,000	31
7141.006	Miscellaneous Equipment/Expenses	25,000	Expenditure	25,000		15,000	40,000	31
7141.008	Laundry	25,000	Expenditure	25,000		(15,000)	10,000	31
7141.009	Community Buildings - Sewer Charge	30,900	Expenditure	30,900		4,100	35,000	31
7141.014	Payroll Tax	88,300	Expenditure	88,300		(15,000)	73,300	31
Sewerage Service - Operations								
7201.014	Plant Purchases	-	Expenditure	-		35,700	35,700	31
7203.001	Fuel and Oil	-	Expenditure	-		50,000	50,000	31
7205.005	Gravity Mains Operation	297,500	Expenditure	297,500		(55,000)	242,500	31
7205.006	Gravity Mains Maintenance	196,500	Expenditure	196,500		100,000	296,500	31
7205.008	LPPS Breakdowns / Repairs	58,300	Expenditure	58,300		(32,000)	26,300	31
7205.009	SPS Operation	525,000	Expenditure	525,000		(90,000)	435,000	31
7205.011	SPS Maintenance	540,400	Expenditure	540,400		(80,000)	460,400	31
7205.012	SPS Power	432,600	Expenditure	432,600		(80,000)	352,600	31
7205.021	Treatment Operations Expenses	734,900	Expenditure	734,900		310,000	1,044,900	31
7205.022	Chemical Costs	398,700	Expenditure	398,700		(20,000)	378,700	31
7205.023	Energy Costs	473,800	Expenditure	473,800		(40,000)	433,800	31
7205.024	Treatment Effluent Management	310,900	Expenditure	310,900		10,000	320,900	31
7205.025	Treatment Biosolids Management	288,300	Expenditure	288,300		(60,000)	228,300	31
7205.026	Treatment Maintenance	550,600	Expenditure	550,600		100,000	650,600	31
7205.028	Other Maintenance	-	Expenditure	-		80,000	80,000	31
7437.001	Transfer to Reserves	2,980,500	Income	2,980,500		(7,000)	2,973,500	31
TOTAL EXPENDITURE AND INCOME ADJUSTMENTS FOR SEWER FUND					296,600	296,600		
TOTAL WORKING FUNDS SURPLUS/(DEFICIT) ADJUSTMENT FOR GENERAL FUND					1,000			



Quarterly Budget Review Statements

31 March 2015



**BYRON SHIRE COUNCIL
2014/2015 Budget Review as at 31st March 2015
QUARTERLY BUDGET REVIEW STATEMENTS - DLG REPORTING REQUIREMENTS**

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BYRON SHIRE COUNCIL

2014/2015 Budget Review as at 31st March 2015

QUARTERLY BUDGET REVIEW STATEMENTS - DLG REPORTING REQUIREMENTS

The following statement is made in accordance with Clause 203(2) of the Local Government (General) Regulations 2005

It is my opinion that the Quarterly Budget Review Statement for Byron Shire Council for the quarter ended 31st March 2015 indicates that Councils' projected financial position at 30th June 2015 will be satisfactory at year end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure



Signed

Date:-29th April 2015

James Brickley
Responsible Accounting Officer, Byron Shire Council

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5 - ATTACHMENT 3

2014/2015 Budget Review as at 31st March 2015 Consolidated Fund Income and Expenses by Type										
Description	Original Est 1-Jul-14	Carryovers	Resolutions Jul - Sep Qtr	September Review	Resolutions Oct - Dec Qtr	December Review	Resolutions Jan - Mar Qtr	Revote	Revised Est 30-Jun-15	Actual 31-Mar-15
Operating Revenue										
Rates & Annual Charges	34,013,300		0	0	0	0	0	410,100	34,423,400	34,450,616
User Charges and Fees	24,677,400		90,400	367,200	0	168,100	0	1,844,900	27,148,000	20,619,872
Interest and Investment Revenue	1,741,500		0	0	0	0	0	9,800	1,751,300	1,325,388
Other Revenues	1,579,800		0	24,900	0	7,700	0	22,300	1,634,700	980,674
Grants and Contributions - Operating	14,352,300		0	1,486,100	0	45,000	0	630,700	16,494,100	9,117,008
Grants and Contributions - Capital	0		0	0	0	0	0	0	0	0
Total Income from Continuing Operations	76,364,300	0	90,400	1,858,200	0	220,800	0	2,917,800	81,451,500	66,493,587
Operating Expenditure										
Employee Costs	15,069,200		0	583,500	0	(270,500)	0	(5,100)	15,377,100	11,337,540
Borrowing Costs	5,128,800		0	0	0	2,700	0	90,600	5,222,100	3,238,435
Materials and Contracts	43,878,400	0	30,300	1,516,900	(330,500)	768,200	0	2,634,800	47,998,100	37,601,209
Depreciation	15,890,000		0	0	0	0	0	0	15,890,000	12,579,583
Legal Costs	274,100	0	0	0	0	0	0	0	274,100	120,186
Other Expenses	4,653,850		90,400	71,700	0	49,500	0	24,700	4,890,150	3,574,580
Total Expenses from Continuing Operations	84,894,350	0	120,700	2,172,100	(330,500)	549,900	0	2,145,000	89,551,550	68,491,533
Net Operating Result from Continuing Operations	(8,530,050)	0	(30,300)	(313,900)	330,500	(329,100)	0	772,800	(8,100,050)	(1,957,976)
Net Operating Result before Capital Items	(8,530,050)	0	(30,300)	(313,900)	330,500	(329,100)	0	772,800	(8,100,050)	(1,957,976)

2014/2015 Budget Review as at 31st March 2015 General Fund Income and Expenses by Type										
Description	Original Est 1-Jul-14	Carryovers	Resolutions Jul - Sep Qtr	September Review	Resolutions Oct - Dec Qtr	December Review	Resolutions Jan - Mar Qtr	Revote	Revised Est 30-Jun-15	Actual 31-Mar-15
Operating Revenue										
Rates & Annual Charges	23,088,900		0	0	0	0	0	71,500	23,160,400	23,162,438
User Charges and Fees	14,292,700		90,400	367,200	0	168,100	0	1,736,700	16,655,100	13,700,492
Interest and Investment Revenue	1,418,600		0	0	0	0	0	0	1,418,600	832,262
Other Revenues	1,560,800		0	24,900	0	7,700	0	19,800	1,613,200	978,174
Grants and Contributions - Operating	14,149,100		0	1,486,100	0	45,000	0	630,700	16,290,900	8,972,519
Grants and Contributions - Capital	0		0	0	0	0	0	0	0	0
Total Income from Continuing Operations	54,510,100	0	90,400	1,858,200	0	220,800	0	2,458,700	59,138,200	47,665,886
Operating Expenditure										
Employee Costs	14,122,700		0	403,500	0	(270,500)	0	(100,100)	14,155,600	10,456,989.70
Borrowing Costs	1,203,300		0	0	0	0	0	0	1,203,300	678,079.52
Materials and Contracts	31,468,700	30,300	1,503,900	(330,500)	819,100	0	0	1,762,000	35,253,500	27,203,888.33
Depreciation	11,715,000		0	0	0	0	0	0	11,715,000	8,786,250.00
Legal Costs	274,100	0	0	0	0	0	0	0	274,100	120,186.06
Other Expenses	4,494,850		90,400	71,700	0	49,500	0	37,700	4,744,250	3,467,981.42
Total Expenses from Continuing Operations	63,278,750	30,300	120,700	1,979,100	(330,500)	598,100	0	1,899,600	87,345,750	50,713,373.03
Net Operating Result from Continuing Operations	(8,768,650)	30,300	(30,300)	(120,900)	330,500	(377,300)	0	759,100	(8,207,550)	(3,047,487)
Net Operating Result before Capital Items	(8,768,650)	30,300	(30,300)	(120,900)	330,500	(377,300)	0	759,100	(8,207,550)	(3,047,487)

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5 - ATTACHMENT 3

2014/2015 Budget Review as at 31st March 2015 Water Fund Income and Expenses by Type										
Description	Original Est 1-Jul-14	Carryovers	Resolutions Jul - Sep Qtr	September Review	Resolutions Oct - Dec Qtr	December Review	Resolutions Jan - Mar Qtr	Revote	Revised Est 30-Jun-15	Actual 31-Mar-15
Operating Revenue										
Rates & Annual Charges	1,756,900							85,400	1,881,300	1,875,399
User Charges and Fees	6,077,300							77,100	6,154,400	3,833,549
Interest and Investment Revenue	130,900							0	130,900	263,397
Other Revenues	0							0	0	0
Grants and Contributions - Operating	102,500							0	102,500	70,417
Grants and Contributions - Capital	0							0	0	0
Total Income from Continuing Operations	8,106,600	0	0	0	0	0	0	162,500	8,268,100	6,142,762
Operating Expenditure										
Employee Costs	455,200			90,000	0	0	0	67,000	632,200	435,509
Borrowing Costs	25,300			0	0	0	0	34,800	60,100	60,110
Materials and Contracts	6,198,600			6,800	0	(25,500)	0	42,100	6,222,000	5,551,239
Depreciation	1,135,000			0	0	0	0	0	1,135,000	1,313,333
Legal Costs	0			0	0	0	0	0	0	0
Other Expenses	77,400			0	0	0	0	0	77,400	52,933
Total Expenses from Continuing Operations	7,901,500	0	0	96,800	0	(25,500)	0	143,900	8,116,700	7,613,124
Net Operating Result from Continuing Operations	205,100	0	0	(96,800)	0	25,500	0	18,600	152,400	(1,470,362)
Net Operating Result before Capital Items	205,100	0	0	(96,800)	0	25,500	0	18,600	152,400	(1,470,362)

2014/2015 Budget Review as at 31st March 2015 Sewer Fund Income and Expenses by Type										
Description	Original Est 1-Jul-14	Carryovers	Resolutions Jul - Sep Qtr	September Review	Resolutions Oct - Dec Qtr	December Review	Resolutions Jan - Mar Qtr	Revote	Revised Est 30-Jun-15	Actual 31-Mar-15
Operating Revenue										
Rates & Annual Charges	9,128,500		0	0	0	0	0	253,200	9,381,700	9,392,778
User Charges and Fees	4,307,400		0	0	0	0	0	31,100	4,338,500	2,985,830
Interest and Investment Revenue	192,000		0	0	0	0	0	9,800	201,800	229,730
Other Revenues	19,000		0	0	0	0	0	2,500	21,500	2,500
Grants and Contributions - Operating	100,700		0	0	0	0	0	0	100,700	74,072
Grants and Contributions - Capital	0		0	0	0	0	0	0	0	0
Total Income from Continuing Operations	13,747,600	0	0	0	0	0	0	296,600	14,044,200	12,684,910
Operating Expenditure										
Employee Costs	481,300			90,000	0	0	0	28,000	599,300	445,041
Borrowing Costs	3,900,200			0	0	2,700	0	55,800	3,958,700	2,500,246
Materials and Contracts	6,211,100			8,200	0	(25,400)	0	230,700	6,422,600	4,846,084
Depreciation	3,040,000			0	0	0	0	0	3,040,000	2,289,000
Legal Costs	0			0	0	0	0	0	0	0
Other Expenses	81,500			0	0	0	0	(13,000)	68,500	53,666
Total Expenses from Continuing Operations	13,714,100	0	0	98,200	0	(22,700)	0	301,500	14,089,100	10,125,036
Net Operating Result from Continuing Operations	33,500	0	0	(98,200)	0	22,700	0	(4,900)	(44,900)	2,559,874
Net Operating Result before Capital Items	33,500	0	0	(98,200)	0	22,700	0	(4,900)	(44,900)	2,559,874

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5 - ATTACHMENT 3

2014/2015 Budget Review as at 31st March 2015 Consolidated Capital Budget										
Description	Original Est 1-Jul-14	Carryovers	Resolutions Jul - Sep Qtr	September Review	Resolutions Oct - Dec Qtr	December Review	Resolutions Apr - Jun Qtr	Revote	Revised Est 30-Jun-15	Actual 31-Mar-15
Capital Funding										
Revenue Funded	2,559,400	0	0	10,800	331,500	(292,500)	0	25,000	2,634,200	1,548,122
Special Rate funded	579,800	0	0	(50,000)	19,000	(30,000)	0	0	518,800	157,180
Capital Grants and Contributions	1,513,000	0	0	368,200	0	(302,400)	0	266,600	1,845,400	1,413,353
Internal Restrictions	9,698,200	0	13,400	201,200	629,500	804,400	0	(21,800)	11,324,900	4,395,703
Developer Contributions	6,588,200	0	6,600	20,400	0	(1,758,400)	0	(228,500)	4,638,300	1,970,782
Unexpended Loans	54,100	0	0	0	0	0	0	0	54,100	35,355
External Restrictions										
Crown Reserves	22,000	0	0	240,000	0	100,000	0	45,000	407,000	375,371
Domestic Waste Reserve	0	0	0	0	0	160,000	0	380,000	540,000	40,682
Unexpended Grants	163,400	0	0	127,800	0	11,700	0	0	302,900	23,633
New Loans	0	0	0	0	0	0	0	0	0	0
Total Capital Funding	21,188,100	0	20,000	918,400	980,000	(1,307,200)	0	466,300	22,265,600	9,960,180
Capital Expenditure										
New Assets										
Plant & Equipment	30,000	0	0	0	0	30,600	0	0	60,600	0
Land & buildings	0	0	0	0	0	0	0	0	0	0
Roads, Bridges and Footpaths	0	0	0	0	0	0	0	0	0	0
Renewals										
Plant & Equipment	8,394,500	0	0	199,400	19,100	(792,200)	0	(21,800)	7,799,000	3,116,298
Land & buildings	3,729,100	0	20,000	794,700	926,000	(111,700)	0	471,500	5,829,600	1,120,835
Roads, Bridges and Footpaths	5,859,200	0	0	(68,300)	0	(453,900)	0	16,600	5,353,600	3,153,937
Drainage	470,500	0	0	(7,400)	34,900	(2,000)	0	0	496,000	207,223
Other Assets	0	0	0	0	0	0	0	0	0	0
Loan Principal Repayments	2,704,800	0	0	0	0	22,000	0	0	2,726,800	2,361,888
Total Capital Expenditure	21,188,100	0	20,000	918,400	980,000	(1,307,200)	0	466,300	22,265,600	9,960,180
Net	0	0	0	0	0	0	0	0	0	0

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5 - ATTACHMENT 3

2014/2015 Budget Review as at 31st March 2015 General Fund Capital Budget										
Description	Original Est 1-Jul-14	Carryovers	Resolutions Jul - Sep Qtr	September Review	Resolutions Oct - Dec Qtr	December Review	Resolutions Apr - Jun Qtr	Revote	Revised Est 30-Jun-15	Actual 31-Mar-15
Revenue Funded	2,559,400		0	10,800	331,500	(292,500)	0	25,000	2,634,200	1,548,122
Special Rate funded	579,800		0	(50,000)	19,000	(30,000)	0	0	518,800	157,180
Capital Grants and Contributions	1,513,000		0	368,200	0	(302,400)	0	266,600	1,845,400	1,413,353
Internal Restrictions										
Information Services Reserve	143,100		0	0	0	11,800	0	(21,800)	133,100	100,588
Caravan Park Reserve	409,300		0	0	0	0	0	0	409,300	48,021
ELE Reserve	0		0	0	37,500	0	0	0	37,500	0
Legal Services Reserve	0		0	0	0	0	0	0	0	0
Waste Management Reserve	30,000		0	40,000	0	0	0	0	70,000	33,322
Plant Reserve	1,398,000		0	0	0	871,800	0	0	2,269,800	1,432,825
Property Reserve	64,600		0	0	0	0	0	0	64,600	31,200
Risk Management Reserve	0		13,400	0	0	0	0	0	13,400	0
CI Carryover Reserve	55,000		0	55,200	140,000	(8,400)	0	0	241,800	73,905
Byron Bay Library Reserve	0		0	0	0	0	0	0	0	0
Council Paid Parking Reserve	238,200		0	45,000	0	0	0	0	283,200	101,532
Crown Paid Parking Reserve	0		0	0	0	25,000	0	0	25,000	6,572
Footpath Dining Reserve	120,300		0	34,200	0	(60,000)	0	0	94,500	29,385
Infrastructure Reserve	36,900		0	0	0	0	0	0	36,900	0
Stormwater Levy Reserve	504,000		0	(40,900)	34,900	18,000	0	0	516,000	207,223
Environmental Levy Reserve	33,500		0	(6,700)	0	0	0	0	26,800	29,748
Childrens Services Reserve	0		0	0	0	0	0	0	0	0
GM Reserve	11,000		0	0	0	0	0	0	11,000	10,686
2002/03 Special Rate Reserve	25,200		0	0	0	0	0	0	25,200	11,289
2006/07 Special Rate Reserve	0		0	0	0	0	0	0	0	0
2007/08 Special Rate Reserve	169,500		0	0	0	0	0	0	169,500	4,935
2008/09 Special Rate Reserve	281,800		0	0	0	0	0	0	281,800	697
Infrastructure Renewal Reserve	0		0	0	398,000	0	0	0	398,000	0
Special Events Response & Mit	15,000		0	0	0	0	0	0	15,000	0
Developer Contributions	4,592,700		6,600	(104,600)	0	(141,400)	0	(228,500)	4,124,800	1,229,554
Unexpended Loans	54,100		0	0	0	0	0	0	54,100	35,355
External Restrictions										
Unexpended Grants	163,400		0	127,800	0	11,700	0	0	302,900	23,633
Crown Reserves	22,000		0	240,000	0	100,000	0	45,000	407,000	375,371
Domestic Waste Reserve	0		0	0	0	160,000	0	380,000	540,000	40,682
New Loans	0		0	0	0	0	0	0	0	0
Other. E.g Loans										
Total Capital Funding	13,019,800	0	20,000	719,000	960,900	363,600	0	466,300	15,549,600	6,945,188
Renewals										
Plant & Equipment	30,000		0	0	0	30,600	0	0	60,600	0
Plant & Equipment	1,527,100		0	0	0	900,600	0	(21,800)	2,405,900	1,498,998
Land & buildings	3,729,100		20,000	794,700	926,000	(111,700)	0	471,500	5,829,600	1,120,835
Roads, Bridges and Footpaths	5,859,200		0	(68,300)	0	(453,900)	0	16,600	5,353,600	3,153,937
Drainage	470,500		0	(7,400)	34,900	(2,000)	0	0	496,000	207,223
Other Assets	0		0	0	0	0	0	0	0	0
Loan Principal Repayments	1,403,900		0	0	0	0	0	0	1,403,900	964,196
Total Capital Expenditure	13,019,800	0	20,000	719,000	960,900	363,600	0	466,300	15,549,600	6,945,188
Net	0	0	0	0	0	0	0	0	0	0.00

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5 - ATTACHMENT 3

2014/2015 Budget Review as at 31st March 2015 Water Fund Capital Budget										
Description	Original Est 1-Jul-14	Carryovers	Resolutions Jul - Sep Qtr	September Review	Resolutions Oct - Dec Qtr	December Review	Resolutions Apr - Jun Qtr	Revote	Revised Est 30-Jun-15	Actual 31-Mar-15
Capital Funding										
Revenue Funded	0		0	0	0	0	0	0	0	0
Capital Grants and Contributions	0		0	0	0	0	0	0	0	0
Internal Restrictions	1,892,200		0	24,400	0	(25,000)	0	0	1,891,600	862,234
New Loans	2,005,500		0	0	0	(1,512,400)	0	0	493,100	225,812
	0		0	0	0	0	0	0	0	0
Total Capital Funding	3,897,700	0	0	24,400	0	(1,537,400)	0	0	2,384,700	1,088,046
Capital Expenditure										
New Assets	0		0	0	0	0	0	0	0	0
Plant & Equipment Land & buildings Roads, Bridges and Footpaths										
Renewals	3,859,300		0	24,400	0	(1,537,400)	0	0	2,346,300	747,546
Plant & Equipment Land & buildings Other Assets										
Loan Principal Repayments	38,400								38,400	340,500
Total Capital Expenditure	3,897,700	0	0	24,400	0	(1,537,400)	0	0	2,384,700	1,088,046
Net	0	0	0	0	0	0	0	0	0	0

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5 - ATTACHMENT 3

2014/2015 Budget Review as at 31st March 2015 Sewer Fund Capital Budget										
Description	Original Est 1-Jul-14	Carryovers	Resolutions Jul - Sep Qtr	September Review	Resolutions Oct - Dec Qtr	December Review	Resolutions Apr - Jun Qtr	Revote	Revised Est 30-Jun-15	Actual 31-Mar-15
Capital Funding										
Revenue Funded	0		0	0	0	0	0	0	0	0
Capital Grants and Contributions	0		0	0	0	0	0	0	0	0
Internal Restrictions	4,270,600		0	50,000	19,100	(28,800)	0	0	4,310,900	1,411,530
	0		0	0	0	0	0	0	0	0
	0		0	125,000	0	(104,600)	0	0	20,400	515,416
Total Capital Funding	4,270,600	0	0	175,000	19,100	(133,400)	0	0	4,331,300	1,926,946
Capital Expenditure										
New Assets	0		0	0	0	0	0	0	0	0
Plant & Equipment										
Land & buildings										
Roads, Bridges and Footpaths										
Plant & Equipment	3,008,100		0	175,000	19,100	(155,400)	0	0	3,046,800	869,754
Land & buildings										
Roads, Bridges and Footpaths										
Drainage										
Other Assets										
Loan Principal Repayments	1,262,500					22,000			1,284,500	1,057,192
Total Capital Expenditure	4,270,600	0	0	175,000	19,100	(133,400)	0	0	4,331,300	1,926,946
Net	0	0	0	0	0	0	0	0	0	0

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5 - ATTACHMENT 3

2014/2015 Budget Review as at 31st March 2015 Cash & Investments All Funds											
Description	Opening Balance	MOVEMENTS						Estimated Closing Balance 30-Jun-15	Actual Closing Balance 31-Mar-15		
		Original Est 1-Jul-14 To / (From)	Resolutions Jul - Sep Qtr To / (From)	September Review To / (From)	Resolutions Oct - Dec Qtr To / (From)	Resolutions Jan - Mar Qtr To / (From)	Revised Estimated Movement 30-Jun-15 To / (From)				
GENERAL FUND											
INTERNAL RESERVES	154,900	(143,100)	0	0	0	0	(108,500)	48,400	60,912		
Information Technology	855,077	21,500	0	0	0	0	(76,700)	778,377	855,077		
Curavan Park - Council	1,208,883	83,500	0	0	(37,500)	0	(37,500)	1,171,383	1,208,883		
Employee Leave entitlements	36,991	0	0	(46,900)	0	0	324,400	389,191	425,868		
Waste Management Facility	1,869,003	(137,700)	0	(56,300)	0	0	(643,100)	1,629,003	1,850,768		
Plant	624,371	(36,600)	0	0	0	0	(196,700)	427,671	618,316		
Quarry	183,414	(10,900)	(13,400)	0	0	0	(24,300)	159,114	172,514		
Risk Management	294,834	35,400	0	(55,200)	(140,000)	0	(81,100)	142,234	183,634		
Property	772,066	(357,600)	0	0	0	0	(563,500)	208,566	716,666		
Carryover-Asset Management Services	179,125	(60,200)	0	0	(6,000)	0	(66,200)	60,925	179,125		
Environmental Planning	328,125	(197,900)	0	(34,200)	0	0	(232,100)	246,025	333,190		
Footpath Dining	0	35,000	0	0	0	0	(206,800)	38,022	208,808		
Byron Bay Library	244,822	(179,300)	0	(56,000)	(14,000)	0	(249,300)	95,522	129,343		
Paid Parking	126,343	165,000	0	0	0	0	(35,000)	779,094	717,549		
Human Resources	779,094	0	0	0	0	0	0	32,711	45,611		
Legal Services	45,611	(12,900)	0	0	0	0	(12,900)	91,600	91,600		
Community Development	0	91,600	0	40,900	(34,800)	0	(229,300)	113,859	357,541		
Investment Premium	343,159	(215,300)	0	0	0	0	(180,400)	0	18		
Stormwater Drainage	180,418	(169,100)	0	6,700	0	0	(162,400)	0	132,652		
Loan Repayment	162,400	(10,900)	0	0	0	0	(3,900)	11,900	7,400		
Environmental Levy Reserve	15,800	(11,000)	0	0	0	0	(44,100)	0	965		
Childrens Services	44,100	0	0	0	0	0	0	0	0		
General Managers office	0	0	0	0	0	0	0	0	0		
DLG Financial Assistance Grant	0	0	0	0	0	0	0	0	0		
Revolving Energy Fund	64,429	(100)	0	0	0	0	(100)	64,429	64,429		
Tennis Court Reserve	11,526	0	0	0	0	0	0	11,526	7,649		
Asset Re-Valuation Reserve	34,520	(25,200)	0	0	0	0	(25,200)	34,520	34,520		
2002/03 Special Rate Carryover Reserve	25,300	0	0	0	0	0	0	100	25,300		
2005/06 Special Rate Carryover Reserve	4,000	0	0	0	0	0	0	4,000	4,000		
2006/07 Special Rate Carryover Reserve	106,824	(105,900)	0	50,000	0	0	(55,900)	50,924	97,374		
2007/08 Special Rate Carryover Reserve	554,308	(554,300)	0	0	0	0	(554,300)	0	463,968		
2008/09 Special Rate Carryover Reserve	315,800	(315,800)	0	(122,500)	0	0	(122,500)	350,300	315,103		
Structural Change	472,800	0	0	0	0	0	0	0	349,867		
Mullumbimby Civic Hall	0	0	0	0	0	0	0	0	0		
Brunswick Heads Memorial Hall	20,377	0	0	0	0	0	0	20,377	30,237		
South Golden Beach Hall	15,513	0	0	0	0	0	0	15,513	22,219		
Infrastructure Renewal Reserve	1,398,136	693,100	0	(200,000)	(398,000)	0	(654,900)	743,236	1,350,536		
Mullumbimby Pioneer Centre	3,151	0	0	0	0	0	0	3,151	3,151		
Byron Bay Library Exhibition Space \$355 Committee	6,759	0	0	0	0	0	0	6,759	6,759		
Brunswick Valley Community Centre	14,509	0	0	0	0	0	0	14,509	24,430		
Suffolk Park Community Centre	546	0	0	0	0	0	0	546	2,541		
On Site Sewerage Mgmt	146,417	0	0	0	0	0	0	146,417	146,417		
Special Events Response & Mitigation	0	95,000	0	0	0	0	(30,000)	35,000	0		
Property Development Reserve	0	0	0	458,000	0	0	0	436,400	0		
Suffolk Park Open Space Reserve	0	545,800	0	0	0	0	0	50,000	0		
Section 94 Interest	0	0	0	0	0	0	0	545,800	545,800		
Total Internal Reserves	11,556,470	(958,300)	(13,400)	19,500	(630,400)	0	(4,047,300)	7,509,145	10,154,080		

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5 - ATTACHMENT 3

2014/2015 Budget Review as at 31st March 2015 Cash & Investments All Funds											
Description	Opening Balance	MOVEMENTS						Revised Estimated Movement 30-Jun-15 To / (From)	Estimated Closing Balance 30-Jun-15	Actual Closing Balance 31-Mar-15	
		Original Est 1-Jul-14 To / (From)	Resolutions Jul - Sep Qtr To / (From)	September Review To / (From)	Resolutions Oct - Dec Qtr To / (From)	Resolutions Jan - Mar Qtr To / (From)	Revote To / (From)				
EXTERNAL RESERVES											
Crown Reserves	656,300	36,600	(13,300)	(240,000)	0	0	(30,600)	(347,500)	308,800	477,526	
Domestic Waste Management	528,557	154,800	0	129,900	0	0	(45,200)	90,000	618,557	528,557	
Paid Parking Crown	796,888	(9,300)	0	(11,000)	0	0	36,500	(6,800)	790,088	536,320	
Bonds and Deposits	2,975,288	0	0	0	0	0	0	0	2,975,288	2,975,288	
Total External Reserves	4,957,033	182,100	(13,300)	(121,100)	0	0	(37,500)	(264,300)	4,692,733	4,517,691	
UNEXPENDED LOANS											
Floodplain Management	69,040	0	0	0	0	0	0	0	69,040	69,040	
Brunswick Heads Beautification	1,435	(14,500)	0	0	0	0	0	(14,500)	1,435	1,435	
Embellish Mullum Sporting fields	259,665	(28,200)	0	0	0	0	0	(28,200)	245,165	259,665	
Embellish Northern Shire Sporting fields	28,200	(86,800)	0	0	0	0	0	(86,800)	0	28,200	
Embellish Suffolk Park Sporting fields	86,804	(47,300)	0	0	0	0	0	(47,300)	0	86,804	
Embellish Bangalow Sporting fields	47,276	(6,200)	0	0	0	0	0	(6,200)	23,791	47,276	
Clarks Beach Carpark	29,991	0	0	0	0	0	0	0	29,991	29,991	
Donaghy's Bridge	0	0	0	0	0	0	0	0	0	0	
Asset Management System	88,698	0	0	0	0	0	0	(88,700)	0	88,698	
Byron Bay Library	54,650	(54,100)	0	0	0	0	0	(54,100)	550	54,650	
Total Unexpended Loans	665,758	(227,100)	0	0	0	0	0	(325,600)	339,961	665,758	
SECTION 94 CURRENT PLAN											
Open Space	5,153,256	(686,500)	77,300	(206,000)	0	0	(13,500)	(410,400)	4,742,856	5,472,666	
Community Facilities	1,956,007	132,600	13,100	135,000	0	0	(21,500)	(82,500)	1,093,507	2,053,773	
Car Parking	869,391	(700,900)	134,900	135,000	0	0	0	(396,600)	470,791	606,727	
Bikeways	2,589,022	(70,700)	101,900	0	0	0	0	154,200	2,743,222	2,670,705	
Road Upgrading	8,007,528	(1,900,900)	32,400	120,000	0	0	250,000	(853,400)	7,154,129	8,070,021	
Rural Roads	827,661	(145,300)	59,900	(51,000)	0	0	0	(136,400)	691,461	836,761	
Civic & Urban Improvements	1,625,118	(500,700)	1,300	106,600	0	0	(20,000)	(278,900)	1,346,218	1,804,592	
Council Administration	249,313	(185,100)	0	0	0	0	0	(78,600)	170,713	241,186	
Shire Support Facilities	177,961	0	0	0	0	0	0	5,400	183,361	183,361	
Section 94A Levy	25,660	0	0	0	0	0	0	249,300	277,960	277,960	
Total Current Plan	21,484,148	(4,047,500)	420,800	104,600	0	0	195,000	(2,689,900)	18,874,248	22,017,773	
SECTION 94 PRE-PLAN											
Open Space	83,926	0	(83,900)	0	0	0	0	(83,900)	0	0	
Community Facilities	30,077	(30,100)	(30,100)	0	0	0	0	(30,100)	0	0	
Car Parking	134,900	(134,900)	(134,900)	0	0	0	0	(134,900)	0	(0)	
Bikeways	101,945	(101,900)	(101,900)	0	0	0	0	(101,900)	0	(0)	
Road Upgrading	32,425	(32,400)	(32,400)	0	0	0	0	(32,400)	0	(0)	
Civic & Urban Improvements	1,324	(1,300)	(1,300)	0	0	0	0	(1,300)	0	0	
Bushfire	0	0	0	0	0	0	0	0	0	0	
Other	59,937	(59,900)	(59,900)	0	0	0	0	(59,900)	0	0	
Rural Roads	0	0	0	0	0	0	0	0	0	0	
Drainage	0	0	0	0	0	0	0	0	0	0	
Total Pre-Plan	444,534	0	(444,400)	0	0	0	0	(444,400)	0	(0)	

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5 - ATTACHMENT 3

2014/2015 Budget Review as at 31st March 2015 Cash & Investments All Funds										
Description	Opening Balance	MOVEMENTS						Estimated Closing Balance 30-Jun-15	Actual Closing Balance 31-Mar-15	
		Original Est 1-Jul-14 To / (From)	Resolutions Jul - Sep Qtr To / (From)	September Review To / (From)	Resolutions Oct - Dec Qtr To / (From)	Revolutions Jan - Mar Qtr To / (From)	Revised Estimated Movement 30-Jun-15 To / (From)			
SPECIFIC PURPOSE GRANTS & CONTRIBUTIONS										
Sustainable Environment & Economy	5,000	0	0	0	0	0	0	5,000	5,000	
Burwick Catchment Mgmt C'lee	51,061	0	0	0	0	0	0	51,061	51,061	
Estuary Management Plans	758	0	0	0	0	0	0	758	758	
Get a grip on Caneloads	1,807	(1,800)	0	0	0	0	(1,800)	0	1,807	
Mitchells Rainforest Snail Recovery	2,621	(9,700)	0	0	0	0	(9,700)	0	2,621	
Burwick River Coastal Vegetation Rst	9,700	(9,600)	0	0	0	0	(9,600)	0	9,700	
LEP Acceleration	8,552	(1,200)	0	0	0	0	(1,200)	0	8,552	
Comprehensive Koala Plan of Management	1,214	(30,000)	0	0	0	0	(30,000)	0	1,214	
Bush Futures Project Stage 2	0	(129,200)	0	0	0	0	(129,200)	0	0	
EHC - Exempt & Complying Development	0	(8,400)	0	0	0	0	(8,400)	0	0	
Koala Connections	0	0	0	0	0	0	0	0	0	
NOROC Wild Dog Education Program Funding	0	0	0	0	0	0	0	0	0	
Infrastructure Services										
Sth Golden Beach Risk Ass. Study	7,333	0	0	0	0	0	0	7,333	7,333	
Marshall's Creek Bank Erosion	9,911	0	0	0	0	0	0	9,911	9,911	
House Raising	45,930	0	0	0	0	0	0	45,930	45,930	
Belongit Creek Floodplain Mgmt Study	13,399	(10,000)	0	0	0	0	(10,000)	13,399	13,399	
Old pacific Highway Maintenance	18,816	0	0	0	0	0	0	18,816	18,816	
Marshall's Creek Floodplain Mgmt Plan	716,872	0	0	0	0	0	0	716,872	716,872	
Mullum Flapplan Mgmt Study	28,584	(31,000)	0	0	0	0	(31,000)	28,584	28,584	
Countrv Transport Scheme	31,052	0	0	0	0	0	0	31,052	31,052	
Countrv Transport Scheme	13,023	(3,000)	0	0	0	0	(3,000)	10,023	13,023	
NSW RFS Mitigation Grants	757	0	0	0	0	0	0	757	757	
Ewingsdale Hill (Morans Hill) Cycleway	12,124	(7,200)	0	0	0	0	(3,900)	12,124	12,124	
Jet Schneider Sportfield Lights	7,216	0	0	0	0	0	0	3,316	3,329	
Belongit Rockwalls	0	0	0	0	0	0	0	0	16,250	
Burwick Head Portoon adjacent to boatramp	18,037	(18,000)	0	0	0	0	(18,000)	37	18,037	
Open Tallow Creek Mouth	50,000	0	0	0	0	0	0	50,000	50,000	
Fletcher Street Byron Bay - Lighting Upgrade	0	0	0	0	0	0	0	0	(88,192)	
Skimmers Shoot Road South of Yagins Lane - Resident	0	0	0	0	0	0	0	0	0	
Byron Bay CCTV Apex Park Jonson Street	0	0	0	0	0	0	0	0	0	
Waste Management Services										
DECC Waste Levy Establishment Grant	7,800	(66,200)	0	0	0	0	(66,200)	7,800	7,800	
Waste Levy Performance Impment Payment	66,165	0	0	0	0	0	0	66,165	66,165	
NEWF - ECO Friendly Youth Centre Project Grant	5,899	0	0	0	0	0	0	5,899	5,899	
Better Waste & Recycling Fund 2013-2015	124,808	0	0	(124,800)	0	0	(124,800)	0	124,808	
Corporate & Community Services										
Antiracism Comm. Harmony	923	0	0	0	0	0	0	923	923	
Safe Events / Safe Communities	853	0	0	0	0	0	0	853	853	
Affordable Housing Officer	2,397	0	0	0	0	0	0	2,397	2,397	
Library - Local priority grant	0	0	0	0	0	0	0	0	0	
REACH Parent Support Program	29,120	0	0	0	0	0	0	29,120	29,120	
Portable Stage Grant	3,336	0	0	0	0	0	0	3,336	3,336	
RLCIP Grant - Round 2	1,208	0	0	0	0	0	0	1,208	1,208	
Countrv Halls Renewal Round 3	34,371	(34,200)	0	0	0	0	(34,200)	171	34,371	
Libraries Revitalising Grant 2013-2014	16,000	(16,000)	0	0	0	0	(16,000)	0	16,000	
Salter Suburbs - Taxi Rank Scheme	16,150	(16,100)	0	0	0	0	(16,100)	50	16,150	
General Managers Office										
College of Marine Studies	5,000	0	0	0	0	0	0	5,000	5,000	
Total Restricted Grants & Contributions	1,367,796	(367,600)	0	(127,800)	0	0	(527,100)	1,008,403	1,623,796	
TOTAL GENERAL FUND	40,475,739	(5,448,400)	(50,300)	(124,800)	(630,400)	0	(8,218,800)	32,424,508	38,975,097	

2014/2015 Budget Review as at 31st March 2015 Cash & Investments All Funds										
		MOVEMENTS								
Description	Opening Balance	Original Est 1-Jul-14 To / (From)	Resolutions Jul - Sep Qtr To / (From)	September Review To / (From)	Resolutions Oct - Dec Qtr To / (From)	Resolutions Jan - Mar Qtr To / (From)	Revote To / (From)	Revised Estimated Movement 30-Jun-15 To / (From)	Estimated Closing Balance 30-Jun-15	Actual Closing Balance 31-Mar-15
WATER FUND										
RESERVES										
Capital Works	2,500,244	(852,100)	0	(121,200)	0	0	(283,500)	(906,300)	1,593,944	1,978,510
SECTION 64 PLAN										
S64 - Byron, Bang, Bruns, O'ishers	440,646								440,646	440,646
S64 - Mullumbimby	9,547,549	(1,511,100)	0	0	0	0	0	1,300	9,548,849	9,831,789
TOTAL WATER FUND	12,488,440	(2,063,200)	0	(121,200)	0	0	(283,500)	(905,000)	11,583,440	12,250,946
SEWER FUND										
RESERVES										
Capital Works	3,569,571	1,155,500	0	(148,200)	(19,100)	0	(4,900)	1,036,800	4,606,371	3,277,353
Plant Reserve	792,045								792,045	792,045
SECTION 64 PLAN										
S64 - Bangalow	808,565	(1,597,600)	0	(125,000)	0	0	0	(1,108,000)	808,565	808,565
S64 - Byron, Mullum, Bruns, O'ishers	4,130,819								3,022,819	4,880,403
TOTAL SEWER FUND	9,300,999	(432,100)	0	(271,200)	(19,100)	0	(4,900)	(71,200)	9,229,799	9,758,366
TOTAL RESTRICTED	62,265,178	(7,943,700)	(50,300)	(517,200)	(649,500)	0	(1,491,500)	(9,195,000)	53,237,747	60,988,409
TOTAL CASH & INVESTMENTS	63,437,824									66,914,757
AVAILABLE CASH	1,172,646									5,926,348

Comments on Cash and Investments Position**Comment on Cash and Investments Position**

The indicated cash and investment position at 31 March 2015 is \$66,914,757. Indicative total restricted fund reserves equate to \$60,942,092. This has been taken at a point in time and is just a snapshot at 31 March 2015. The available cash figure will fluctuate during the year dependent on when expenses have been paid or are due to be paid.

Investments

Restricted funds are invested in accordance with Councils Investment policy

Cash

Council has completed the bank reconciliation to 31 March 2015

Reconciliation

The total cash and investments have been reconciled with funds invested and cash at bank

**2014/2015 Budget Review as at 31st March 2015
Key Performance Indicators**

	CONSOLIDATED Year Ended 30/6/15 Estimated	GENERAL Year Ended 30/6/15 Estimated	WATER Year Ended 30/6/15 Estimated	SEWER Year Ended 30/6/15 Estimated
Rate & Annual Charges Outstanding Ratio %	5.00%	5.00%	5.00%	5.00%
Debt Cover Ratio %	1.80	2.70	22.42	0.92
Asset Renewals Ratio	53.55%	55.99%	42.01%	50.86%

2014/2015 Budget Review as at 31st March 2015 Contracts Entered into During Quarter						
Contract Title (details of project works, goods or services to be provide or property leased/transferred)	Name and Address of Contractor	Starting Date	Contract Term	Contract Amount	Budgeted?	
No Contracts Entered into during Quarter						

2014/2015 Budget Review as at 31st March 2015 Legal Expenses		
Expense	Expenditure YTD \$	Budgeted Y/N
Legal Fees	120,186.00	Y

Report No. 13.6
Directorate:
Report Author:
File No:
Theme:

Council Investments April 2015
Corporate and Community Services
James Brickley, Manager Finance
I2015/356
Corporate Management
Financial Services

Summary:

This report includes a list of investments and identifies Council's overall cash position as at 30 April 2015 for Council's information.

This report is prepared to comply with Regulation 212 of the Local Government (General) Regulation 2005.

RECOMMENDATION:

That the report listing Council's investments and overall cash position as at 30 April 2015 be noted.

Report

In relation to the investment portfolio for April 2015, Council has continued to maintain a diversified portfolio of investments. The average 90 day bank bill rate (BBSW) for the month of April was 2.25%. Council's performance for the month of April is a weighted average of 3.05%. 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 investment earning 0% interest nears maturity.

There is now only one capital protected investment held by Council which is fully allocated to an underlying zero coupon bond. This investment is the Emu Note which will mature in October 2015.

The table below identifies the investments held by Council as at 30 April 2015:

Schedule of Investments held as at 30 April 2015

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%*	1,472,250.00
20/06/12	500,000	HERITAGE BANK LTD BONDS	N	BBB+	20/06/17	B	7.25%	530,000.00
09/03/15	2,000,000	NEWCASTLE PERMANENT	N	NR	09/06/15	TD	3.00%	2,000,000.00
23/02/15	2,000,000	ING BANK (AUSTRALIA)	N	A1	24/08/15	TD	3.11%	2,000,000.00
08/04/15	2,200,000	POLICE CREDIT UNION	P	NR	08/07/15	TD	3.06%	2,200,000.00
13/04/15	2,000,000	ME BANK	N	BBB	13/07/15	TD	2.90%	2,000,000.00
11/02/15	2,000,000	BANK OF QUEENSLAND	N	A2	12/05/15	TD	3.15%	2,000,000.00
09/12/14	1,000,000	ING BANK (AUSTRALIA)	N	A1	09/06/15	TD	3.55%	1,000,000.00
07/04/15	1,000,000	AUSWIDE BANK LTD (Previously Wide Bay)	N	NR	07/07/15	TD	2.95%	1,000,000.00
10/03/15	2,000,000	NAB	N	AA-	11/06/15	TD	3.12%	2,000,000.00
10/11/14	2,000,000	COMMINVEST	N	AA-	10/05/15	TD	3.40%	2,000,000.00
09/03/15	2,000,000	NAB	N	AA-	05/06/15	TD	3.13%	2,000,000.00
03/03/15	2,000,000	NAB	N	AA-	03/09/15	TD	3.40%	2,000,000.00
09/03/15	2,000,000	BANKWEST	N	A1+	05/06/15	TD	3.45%	2,000,000.00
08/04/15	1,000,000	BANKWEST	N	A1+	07/07/15	TD	2.90%	1,000,000.00
14/11/14	1,000,000	ING BANK (AUSTRALIA)	N	A2	14/11/14	TD	3.52%	1,000,000.00
12/02/15	1,000,000	NEWCASTLE PERMANENT	N	NR	13/05/15	TD	3.21%	1,000,000.00
12/02/15	2,000,000	NAB	N	AA-	13/05/15	TD	3.21%	2,000,000.00
23/02/15	2,000,000	NAB	N	AA-	25/05/15	TD	3.13%	2,000,000.00
03/03/15	2,000,000	PEOPLES CHOICE CREDIT UNION	N	BBB+	03/06/15	TD	2.90%	2,000,000.00
01/12/14	2,000,000	ING BANK (AUSTRALIA)	N	A2	03/06/15	TD	3.56%	2,000,000.00
02/12/14	2,000,000	CREDIT UNION AUSTRALIA	N	BBB+	31/08/15	TD	3.55%	2,000,000.00
10/04/15	2,000,000	BANKWEST	N	A1+	09/07/15	TD	2.90%	2,000,000.00
08/04/15	2,000,000	SUNCORP	P	A+	08/09/15	TD	3.00%	2,000,000.00

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.6

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	Type	Interest Rate Per Annum	Current Value
06/03/15	2,000,000	BANKWEST	N	A1+	04/06/15	TD	3.10%	2,000,000.00
08/04/15	2,000,000	AUSWIDE BANK LTD (Previously Wide Bay)	BBB	NR	07/07/15	TD	2.95%	2,000,000.00
30/01/15	2,000,000	BANK OF QUEENSLAND	N	A2	29/05/15	TD	3.35%	2,000,000.00
03/02/15	1,000,000	MACQUARIE BANK	P	A1	04/05/15	TD	3.30%	1,000,000.00
05/02/15	2,000,000	SUNCORP	N	A1	06/05/15	TD	3.15%	2,000,000.00
11/02/15	2,000,000	AMP BANK	N	A	12/08/15	TD	3.30%	2,000,000.00
13/02/15	2,000,000	RABOBANK	N	A1+	14/05/15	TD	3.10%	2,000,000.00
12/02/15	1,000,000	RABOBANK	N	A1+	13/06/15	TD	3.10%	1,000,000.00
03/03/15	2,000,000	ME BANK	N	BBB	05/05/15	TD	2.75%	2,000,000.00
03/03/15	2,000,000	NAB	N	AA-	03/07/15	TD	3.13%	2,000,000.00
03/03/15	2,000,000	NAB	N	AA-	04/08/15	TD	3.15%	2,000,000.00
17/03/15	2,000,000	PEOPLES CHOICE CREDIT UNION	N	BBB+	16/07/15	TD	3.00%	2,000,000.00
15/4/15	1,000,000	NAB	N	AA-	16/7/15	TD	2.94%	1,000,000.00
28/4/15	2,000,000	PEOPLES CHOICE CREDIT UNION	N	BBB+	28/9/15	TD	2.94%	2,000,000.00
N/A	2,710,761	CBA BUSINESS ONLINE SAVER	N	A	N/A	CALL	2.25%	2,710,760.86
Total	68,910,761					AVG	3.05%	68,913,010.86

It should be noted that at the time of writing this report, Council had not received a valuation for the EMU Note for April 2015. This investment is highlighted in bold in the table above with the valuation reflective from 28 February 2015, this being the most recent current valuation received by Council.

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

Note 2.

Type	Description	
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.

- 5 ***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.

- 10 For the month of April 2015, as indicated in the table below, there is a dissection of the investment portfolio by investment type. It illustrates the current value of investments remains the same as March, demonstrating a cumulative unrealised gain of \$2,250.00.

Dissection of Council Investment Portfolio as at 30 April 2015

Principal Value (\$)	Investment Linked to:-	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
64,200,000.00	Term Deposits	64,200,000.00	0.00
2,710,760.86	Business On-Line Saver (At Call)	2,710,760.86	0.00
1,500,000.00	Managed Funds	1,472,250.00	(27,750.00)
500,000.00	Bonds	530,000.00	30,000.00
68,910,760.86		68,913,010.86	2,250.00

- 15 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.

- 20 The table below provides a reconciliation of investment purchases and maturities for the period 31 March 2015 to 30 April 2015 on a current market value basis.

Movement in Investment Portfolio – 31 March 2015 to 30 April 2015

25

Item	Current Market Value (at end of month)
Opening Balance at 31 March 2015	69,209,002.89
Add: New Investments Purchased	15,200,000.00
Add: Call Account Additions	2,000,000.00
Add: Interest from Call Account	4,007.97
Less: Investments Matured	15,200,000.00
Less: Call Account Redemption	2,300,000.00
Add: Fair Value Movement for period	0.00
Closing Balance at 30 April 2015	68,913,010.86

Investments Maturities and Returns – 31 March 2015 to 30 April 2015

Principal Value (\$)	Description	Type	Maturity Date	Number of Days Invested	Interest Rate Per Annum	Interest Paid on Maturity
1,000,000.00	Auswide Bank Ltd (Previously Wide Bay)	TD	07/04/15	92	3.40%	8,569.86
1,000,000.00	Bankwest	TD	08/04/15	90	3.50%	8,630.14
2,200,000.00	Police Credit Union	TD	08/04/15	120	3.43%	24,808.77
2,000,000.00	Suncorp	TD	08/04/15	120	3.45%	22,684.93
2,000,000.00	Auswide Bank Ltd (Previously Wide Bay)	TD	08/04/15	90	3.40%	16,767.12
2,000,000.00	Bankwest	TD	10/04/15	63	3.10%	10,701.37
1,000,000.00	Macquarie Bank	TD	13/04/15	91	3.35%	8,352.05
2,000,000.00	ME Bank	TD	13/04/15	90	3.35%	16,520.55
2,000,000.00	ME Bank	TD	28/04/15	90	3.35%	16,520.55
15,200,000.00						133,555.34

5 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 April 2015 the table below identifies the overall cash position of Council as follows:

Dissection of Council Cash Position as at 30 April 2015

10

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Investments Portfolio			
Term Deposits	64,200,000.00	64,200,000.00	0.00
Business On-Line Saver (At Call)	2,710,760.86	2,710,760.86	0.00
Managed Funds	1,500,000.00	1,472,250.00	(27,750.00)
Bonds	500,000.00	530,000.00	30,000.00
Total Investment Portfolio	68,910,760.86	68,913,010.86	2,250.00
Cash at Bank			
Consolidated Fund	705,754.08	705,754.08	0.00
Total Cash at Bank	705,754.08	705,754.08	0.00
Total Cash Position	69,616,514.94	69,618,764.94	2,250.00

Financial Implications

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

insured against any capital loss. The investment strategy associated with long term growth is now prohibited under the current Ministerial Investment Order utilising credit/equity markets to seek investment products. However, the 'grandfathering' provisions of the Ministerial Investment Order provides Council can retain investments now prohibited until they mature. It should be noted that
 5 Council currently holds only one of these investments, the EMU notes. This investment will trend towards it's full principal value as it approaches 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
 10 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

15 In accordance with Regulation 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.

20 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
 25 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
 30 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.

Report No. 13.7 **Approval to write-off Bad Debt - Advanced Underground Technologies**
Directorate: Corporate and Community Services
Report Author: James Brickley, Manager Finance
File No: I2015/384
5 **Theme:** Corporate Management
 Financial Services

Summary:

10 This report is provided to Council to seek approval to write-off an outstanding sundry debt to Council in the name of Advanced Underground Technologies that has been outstanding since March 2002.

15 A Council resolution is required to write-off the outstanding debt of \$83,496.76.

RECOMMENDATION:

That the debt for sundry debtor account 401.1, in the name of Advanced Underground Technologies for the amount of \$83,496.76, be written-off on the basis that the debt can not be lawfully recovered.

Report

Council at its Ordinary Meeting held on 19 November 2002 considered a report to write-off a number of debts that included a debt in the name of Advanced Underground Technologies in the amount of \$87,661.68. After consideration of the report, Council resolved:

Res 02-1232 part 2:

That Council retains the debt \$87,661.68 from Advanced Underground Technologies and continues to pursue all avenues of recovery.

The background behind this debt stems from a duplicated payment made to the Company on 16 February 2001 and again on 19 February 2001. The duplicate payment resulted from an administrative error at the time for an early payment by electronic funds transfer (EFT) which was made but the payment was not removed from the normal scheduled payment run three days later so it was paid twice. A number of attempts including legal action that incurred additional costs to recover the monies from the company failed. It was later revealed the Company was in financial difficulty and a receiver was appointed to the Company in March 2002.

Notwithstanding the events that occurred 14 years ago and whether more could have been done at the time, the debt, is still currently recognised in Council's accounts receivable system with a value of \$83,496.76 outstanding. Council though has provided for this debt every financial year as a doubtful debt (ie not likely to be recovered) since the 2001/2002 financial year.

Searches of the Australian Business Register and Australian Securities and Investments Commission websites reveal that Advanced Underground Technologies went into receivership and was deregistered as a company in 2008.

Regulation 213 of the Local Government (General) Regulation 2005 outlines the requirements for writing off debts other than rates and annual charges. The amount fixed by Council is \$5,000, as indicated in the delegation to the General Manager, for the maximum of an individual debt that can be written-off by delegated authority. This then means any debt greater than this value requires a Council resolution.

Regulation 213(5)(a) of the Local Government (General) Regulation 2005 allows a debt to be written off if the debt is not lawfully recoverable. It is viewed in this instance this would be the case as there is no legal entity or Company to recover the debt from.

Financial Implications

There are no financial implications associated with this report as the debt subject of this report is currently provided for in Council's financial records as a doubtful debt and as such a provision has been made since the 2001/2002 financial year for the write-off of this debt. By default because of this provision, Council has been recognising this debt in its annual financial statements at \$0 each year since 2001/2002. On the basis that Council determines to write-off the debt being the subject of this report, there will be no implication to the Council's budget position or financial position.

Statutory and Policy Compliance Implications

Regulation 213 of the Local Government (General) Regulation 2005 outlines the statutory requirements for writing off debts that are not rates and charges as follows:

- (1) This clause does not apply to amounts owed to a council for rates or other charges for which [the Act](#), or any other regulation in force under [the Act](#), makes specific provision for writing off those amounts in specified circumstances.

- (2) A council must from time to time, by resolution, fix an amount above which debts to the council may be written off only by resolution of the council.
- 5 (3) A debt of or below that amount can be written off either by resolution of the council or by order in writing of the council's general manager. In the absence of a resolution under subclause (2), the council's debts can be written off only by resolution of the council.
- 10 (4) A resolution or order writing off a debt to a council must:
(a) specify the name of the person whose debt is being written off, and
(b) identify the account concerned, and
(c) specify the amount of the debt,
or must refer to a record kept by the council in which those particulars are recorded.
- 15 (5) A debt can be written off under this clause only:
(a) if the debt is not lawfully recoverable, or
(b) as a result of a decision of a court, or
(c) if the council or the general manager believes on reasonable grounds that an attempt to
recover the debt would not be cost effective.
- 20 (6) The fact that a debt is written off under this clause does not prevent the council concerned from taking legal proceedings to recover the debt.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.8 Voluntary Visitor Contribution Fund - Update and Recommendations for 'Stage 2'

Directorate: Sustainable Environment and Economy
Report Author: Joanne McMurtry, Community Policy Officer
File No: I2015/211
Theme: Economy
 Economic Development

Summary:

This report provides feedback on a short trial of the Voluntary Visitor Contribution Fund at Council's two holiday parks, as per resolution 13-622. It also provides recommendations for 'stage 2' of the project which would involve inviting other businesses to take part in the initiative.



RECOMMENDATION:

1. That the report and feedback on the short trial of the voluntary visitor contribution fund through Council's two holiday parks, be noted.
2. That the project management tasks identified in this report for 'Stage 2' be endorsed by Council, including the additional budget of \$20,000 to resource Stage 2 of the project funded from existing Holiday Park operational budgets for advertising over the 2014/2015 and 2015/2016 financial years.
3. That a report on Stage 2 be reported back to Council outlining a progress update with specific detail about the identified projects, the establishment of the Beautify Byron Fund Distribution Panel and possible Council budgets where 'matching' funds have been identified.

Attachments:

- 1 Beautify Byron Fund_A4 Visitor Poster, E2015/21449 , page 102
- 2 Beautify Byron Fund transactions Council Holiday Parks Dec-Apr 2015, E2015/27120 , page 103
- 3 Attachment to Report for Council - Tourism Industry Consultation and feedback about Voluntary Visitor Contribution Fund, E2015/16812 , page 105
- 4 Beautify Byron_A4 Industry AdLetter, E2015/21450 , page 109
- 5 Beautify Byron_A4 Visitor Letter for visitor guides - compendiums, E2015/21451 , page 110
- 6 Beautify Byron_A4 Visitor Point of Sale counter top to accompany donation box, E2015/21452 , page 111

Report

A Notice of Motion was considered by Council at the Ordinary Meeting of 21 November 2013, resulting in the following resolution (**13-622**):

1. *That Council commence a trial voluntary visitor contribution at the First Sun and Suffolk Park caravan parks.*
2. *That staff ensure this requirement is outlined within the scope of future park management contracts.*
3. *That the trial period begins from 1 July, 2014, coinciding with new park management contracts and an evaluation be provided after the Summer holiday period, 2015.*
4. *That staff provide a report addressing the following aspects:*
 - a) *Creation of a Beautify Byron Fund, in which to receive funds raised and to provide a prioritised list of projects where the funds raised could be spent.*
 - b) *The development of a marketing and promotional strategy to facilitate the voluntary contribution project.*
 - c) *Inviting other businesses within Byron Bay to also take part in the voluntary contribution scheme, including being part of a governing body to oversee the Fund.*
 - d) *Financial implications.*

Trial in Byron Shire Holiday Parks

The project was broken into two stages, being parts 1, 2 and 3 of resolution 13-622 as Stage 1, and part 4 as Stage 2.

To commence the trial of a voluntary visitor contribution fund at First Sun and Suffolk Park holiday parks, the following tasks were undertaken:

1. A Request for Tender for the management of both parks was advertised with a closing date of 10 July 2014. Subsequently, Council resolved to not appoint a contractor based on the tender submissions, but to commence negotiations with the tenderers to come to an agreement.
2. The following clause was inserted in the Request for Tender and attached Management Agreement around assisting Council to deliver the Voluntary Visitor Contribution Fund:

RFT document (p29): Assist Council in implementing and promoting a 'voluntary donation' scheme for the beautification of Byron Bay at both Holiday Parks subject to this Request for Tender.
3. A contractor was appointed following negotiations.
4. Promotional material was developed to promote the voluntary visitor contribution fund. Following are the two logo's. A poster was developed (which is provided in the attachments) and a page added to Byron Shire Council's website to inform visitors of the types of projects the funds would be used for. The Council website page is <http://www.byron.nsw.gov.au/beautify-byron-fund>



5. An option to donate was provided on both the First Sun Holiday Park and the Suffolk Beachfront Holiday Park websites prior to Christmas 2014. A screen shot is provided below. RMS, the backend software company, would only allow an 'opt-in' option with \$2 multiples per booking – refer to the 'optional extra's' below.

1. SEARCH AVAILABILITY
2. SELECT ACCOMMODATION
3. SELECT OPTIONS
4. CHECK OUT

Terms & Conditions
Cancellation Policy
Things To Do

First Sun Holiday Park

Your Booking Summary:

Arrive:	Fri, 27 Feb 2015	Adults	2	Children	0
Depart:	Thu, 05 Mar 2015	Infant	0		
Category:	Powered Campervan Site				
Tariff:	STANDARD				

Optional: Add any extras or activities

Select any extras and/or activities you would like to add to your itinerary. You can skip this option and proceed straight to Guest Details.

Extras	Description	Price (each)	Quantity	Total
Beautify Byron - Donation	Support initiatives Dunecare, parks, recreation areas www.byron.nsw.gov.au/beautify-byron-fund	2.00	0	0.00

Your Payment Summary

Accommodation	288.00
Extras	0.00
Booking and Credit Card Fee	1.10
Booking Total	289.10
Deposit Required	289.10
Amount to be charged	289.10

Results of Stage 1

Whilst the option of collecting donations has been provided since before Christmas 2014, all donations received to-date were collected from February 2015 onwards. This is due to the holiday parks already being heavily booked over the summer school holidays.

Donations collected as at 29 April are as follows:

First Sun Holiday Park	\$44.00
Suffolk Beachfront Holiday Park	\$38.00
TOTAL donations	\$82.00

Attached is a transaction record of the bookings made with names obscured. The level of donations is expected to increase over time. Notably many bookings for parks were made prior to the implementation of this short trial. Both the holiday parks receive bookings for peak times of the year a year or more in advance in some cases. For example, Christmas/ summer holiday regulars will book their next year's holiday on leaving this year to go home. Therefore, it is assumed that none of the 'regulars' have been provided an option to donate during the short trial.

Calculations made on total transactions for both parks in the 2012/13 financial year indicate the total amount that could possibly be raised through this method is as follows (based on the assumption of \$2 donation for each booking):

First Sun Holiday Park	9,581 bookings = \$19,162.00
Suffolk Beachfront Holiday Park	3,385 bookings = \$ 6,770.00
TOTAL possible donations	\$25,932.00

'Stage 2' – Beautify Byron Fund

To prepare these recommendations for Council, the Economic Development & Tourism team conducted industry consultation sessions on a range of matters, including the Beautify Byron Fund project. Participants were requested to provide feedback about the project, both verbally and in the format of survey responses. The feedback collected is provided in an attachment.

The feedback collected from businesses around the Shire about the Beautify Byron Fund project included the following:

1. Views were mixed in terms of why the project has merit and the following comments were offered:
 - Belief that visitors would be happy to contribute
 - Needs clear communication
 - Need to establish what the funds will be used for
 - 'opt in' is better than 'opt out' on websites (received better by the visitor)
2. Participants were asked; how would you most like to participate in this project over the longer term? most businesses are interested to participate in the future (48%) and would be prepared to promote the program and contributions scheme through bookings systems and websites (36%), however preference was for an alternative donation style (eg collection box).

3. When asked to select the top three projects for funding from the project, overwhelmingly improved public amenities were top (80%), followed by garden improvements and maintenance (49%) and improvements to Main Beach (46%).

4. Additional feedback collected about the project includes:

- Donations need to be linked to very clear objectives
- Place making and innovation
- Roads and traffic, bypass
- Use and develop local projects to beautify Byron Shire and give unemployed jobseekers skills and a sense of community (maybe through work for the dole programs).
- There is a serious need to command a rate levy
- What can visitors do to make a positive difference: pick up rubbish, bin your butts, don't walk in dunes, keep dogs on a leash and only visit dog areas on the beach.

Along with the logo and promotional materials, a range of resources were developed to use in Stage 2 of the project. Attached to this report are the following:

- Advertisement to local industry about getting on board (Ad/letter)
- Letter to visitors for insertion into visitor guides and accommodation compendiums
- Point of Sale counter top display to accompany donation box
- Poster for display or to use as advertisement to attract donations (used as Poster in Holiday Parks for trial)

In addition, a web domain name has been purchased www.beautifybyron.com.au There are many advantages to having a separate website for this project, including:

- Perceived separation from Council which may halt contributors donating into 'council funds'
- More scope with imagery/look and feel (ie doesn't have to conform with Council's website template)
- Will allow for collection of funds via the website (currently this facility is not available on Council's website).

There is an additional fee to keep up the registration of the domain name of \$50 for two years.

Project Management

Several tasks have been identified to implement the project in Stage 2, as follows.

Marketing infrastructure

1. A website 'widget' be developed to enable businesses to place the widget on their websites with a direct link through to the www.beautifybyron.com.au website.
2. Point of sale donation boxes be developed.
3. www.beautifybyron.com.au website will need to be developed, along with a payment portal to collect donations. Considerations for the payment portal could include: Council's bank, paypal, etc.

Project Management

1. In order to encourage businesses to participate and assist with the build up of funds for projects, Council could 'match' donations collected by, or made by, businesses. This would

be initially be capped at \$20,000 per project, subject to review and dependent on the project (and Council budget allocations towards selected projects).

2. Develop up a list of specific projects for funds to be spent on over the next twelve months, with target \$ amounts against each. It is suggested that the 'matching funds' be found within these projects from Council's existing budgets. Projects could be compiled from previous community feedback and the soon to be delivered Byron Bay Town Centre Masterplan.
3. Businesses would be encouraged to match contributions collected from visitors via their business and then be deemed as partners to the program which would include a seat on the 'Beautify Byron Fund distribution panel'. This proposed panel would prioritise possible projects from the list developed by Council. The Beautify Byron Fund Distribution Panel may be a sub-committee or Project Reference Group of the newly established Sustainable Economy Committee.
4. A simple procedure will need to be developed for the collection of donations from participating businesses. It is suggested a separate bank account be set up by Council with funds held in trust for projects.
5. Staff of participating businesses are 'trained' by a Council staff member to encourage promotion of the program.
6. Consider data collection from the donators, so that direct feedback about the project can be provided through electronic newsletter.

Promotion Program

1. The program be 'launched' to include other businesses that desire to be part of the program. Businesses could opt for one to three ways to participate:
 - a. Including information on their website (along with promotional piece) and allow for collection of funds via their own booking processes;
 - b. Install a widget on their website along with a short promotional piece, the widget then redirects the customer to www.beautifybyron.com.au for further information and donation
 - c. Provide point of sale materials along with a donation box. The contents of the donation box would be deposited into the Beautify Byron Fund account on a regular basis.
2. Key to the programs success are regular positive media stories being generated by projects underway or completed, and the business partners/ sponsors who are part of them.

Financial Implications

Donations collected as at 29 April for Stage 1 of Beautify Byron Fund are as follows:

First Sun Holiday Park	\$44.00
Suffolk Beachfront Holiday Park	\$38.00
TOTAL donations	\$82.00

For Stage 2 of the project, additional funds are requested against the project management tasks, as follows:

Project Task	Estimated budget required	Comment
Marketing infrastructure	\$5,000	Contract expertise to build a website, develop a widget and design point of sale boxes and material, and print/production.
Project Management	\$10,000	Contract time to undertake tasks listed under project management above, including encouraging businesses to participate/sign up to the BBF, 'training' counter and sales staff, managing the Beautify Byron Fund Distribution Panel, undertake data collection from participants to improve the project.
Promotion	\$5,000	For launch and advertising costs

5 There is scope in the caravan parks operational budgets in relation to advertising that can provide funds for the development and promotion of the program for stage 2. This allocation of budget is an important 'buy-in' to the overall objectives of the project and will assist to attract other businesses to participate.

10 Once a list of specific projects for funds to be spent on over the next twelve months has been developed, 'matching funds' can be identified within these projects from Council's existing budgets.

15 A further report to Council will be provided when Stage 2 of the project is progressed outlining a progress update with specific detail about the identified projects, the establishment of the Beautify Byron Fund Distribution Panel and possible Council budgets where 'matching' funds have been identified.

Statutory and Policy Compliance Implications

20 Regulation 211 of the Local Government (General) Regulation 2005 requires Council to authorise expenditure before it is incurred through the provision of a budget allocation. However, the requested funding in this report for this project is within existing and proposed advertising budgets for the Holiday Parks over the remainder of the 2014/2015 financial year and the 2015/2016 financial year.

25



keeping Byron beautiful It's easy!

- ✓ Making a donation when you book your holiday
- ✓ Funds support initiatives including Dunecare, parks and recreational areas, public art and activity projects
- ✓ Ensuring Byron stays a great place to visit now and for future generations!
- ✓ To find out more visit
www.byron.nsw.gov.au/beautify-byron-fund



Byron Shire
don't spoil us
we'll spoil you



BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.8 - ATTACHMENT 2

Suffolk Beachfront Holiday Park Audit Trail for Transactions

Properties:	Suffolk Beachfront Holiday Park	Use Date Range:	True	User Trans No. Range:	False	Excl Receipts Refunds:	False
GL Codes:	1279.5.580	Date Range By:	Posting Date	Start Trans No.:	0	Group By Property:	False
Category:	All	Start Date:	1 Dec 2014	End Trans No.:	0	Group By:	No Grouping
Trans Source:	ALL	End Date:	29 Apr 2015	Show Only Voids:	False	Sort By:	Transaction No
Audit User:	All	Manager Only:	False	Exclude Voids:	False		

Posting Date	Creation Date	Trans No	Res No	Acc No	Site	Name	Transaction Description	Tax Invoice GL Code	User Name	Debit	Credit
24 Jan 2015	24 Jan 2015 10:44:54	227121	44850	73266	29 Tent only		2 x Beautyf Byron Fund - (23 Jan 2015 to 30 Jan 2015)	0 1279.6.580		4.00	0.00
7 Feb 2015	7 Feb 2015 03:38:41	228417	45158	73739	07 Caravan		Beautyf Byron Fund - (07 Feb 2015 to 08 Feb 2015)	0 1279.6.580		2.00	0.00
12 Feb 2015	12 Feb 2015 02:28:12	228845	45376	74108	10 Motorhome / tent		Beautyf Byron Fund - (12 Feb 2015 to 14 Feb 2015)	0 1279.6.580		2.00	0.00
13 Feb 2015	13 Feb 2015 07:54:40	229001	44809	73201	A Lounge Cabin		2 x Beautyf Byron Fund - (13 Feb 2015 to 15 Feb 2015)	0 1279.6.580		4.00	0.00
19 Feb 2015	19 Feb 2015 01:43:13	229701	44916	73367	03 Motorhome / tent		3xx Beautyf Byron Fund - (19 Feb 2015 to 21 Feb 2015)	0 1279.6.580		2.00	0.00
19 Feb 2015	19 Feb 2015 01:46:03	229705	44769	73140	04 Caravan - slab		2 x 3xx Beautyf Byron Fund - (19 Feb 2015 to 20 Feb 2015)	0 1279.6.580		4.00	0.00
28 Feb 2015	28 Feb 2015 04:28:23	230534	45554	74410	47 Caravan		Beautyf Byron Donations - (28 Feb 2015 to 01 Mar 2015)	0 1279.6.580		2.00	0.00
5 Mar 2015	5 Mar 2015 03:00:16	230897	45040	74046	03 Motorhome / tent		3xx Beautyf Byron Fund - (05 Mar 2015 to 09 Mar 2015)	0 1279.6.580		2.00	0.00
6 Mar 2015	6 Mar 2015 12:49:51	230947	45065	73586	42 Caravan		3xx Beautyf Byron Fund - (20 Feb 2015 to 23 Feb 2015)	0 1279.6.580		2.00	0.00
6 Mar 2015	6 Mar 2015 04:33:26	230978	45645	74574	07 Caravan		Beautyf Byron Donations - (06 Mar 2015 to 09 Mar 2015)	0 1279.6.580		2.00	0.00
9 Mar 2015	7 Mar 2015 08:07:10	231023	45656	74562	05 Motorhome / tent		Beautyf Byron Donations - (09 Mar 2015 to 12 Mar 2015)	0 1279.6.580		2.00	0.00
15 Mar 2015	15 Mar 2015 08:48:51	231957	45151	73727	A Family Cabin		3xx Beautyf Byron Fund - (14 Mar 2015 to 16 Mar 2015)	0 1279.6.580		2.00	0.00
20 Mar 2015	20 Mar 2015 07:31:23	232474	45311	73997	A Lounge Cabin		3xx Beautyf Byron Fund - (20 Mar 2015 to 22 Mar 2015)	0 1279.6.580		2.00	0.00
29 Mar 2015	29 Mar 2015 02:37:06	233194	46058	75262	05 Motorhome / tent		Beautyf Byron Donations - (29 Mar 2015 to 30 Mar 2015)	0 1279.6.580		2.00	0.00
12 Apr 2015	12 Apr 2015 10:09:59	234252	46273	75647	15 Motorhome / tent		Beautyf Byron Donations	0 1279.6.580		2.00	0.00
15 Apr 2015	15 Apr 2015 06:14:10	234489	46356	75600	32 Motorhome / tent		Beautyf Byron Donations - (15 Apr 2015 to 19 Apr 2015)	0 1279.6.580		2.00	0.00
Number of Transactions: 16										Grand Total:	38.00 0.00

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BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.8 - ATTACHMENT 2

First Sun Holiday Park Audit Trail for Transactions

Properties:	First Sun Holiday Park	Use Date Range:	True	User Trans No. Range:	False	Excl Receipts Refunds:	False
GL Codes:	1269.008	Date Range By:	Posting Date	Start Trans No.:	-	Group By Property:	False
Category:	All	Start Date:	1 Dec 2014	End Trans No.:	-	Group By:	No Grouping
Trans Source:	ALL	End Date:	29 Apr 2015	Show Only Voids:	False	Sort By:	Transaction No
Audit User:	All	Manager Only:	False	Exclude Voids:	False		

Posting Date	Creation Date	Trans No	Res No	Acc No	Area	Name	Transaction Description	Tax Invoice GL Code	User Name	Debit	Credit
1 Feb 2015	1 Feb 2015 12:27:19	899436	185122	263141	115	TENT/COMBI	Beautyfly Byron - Donation - (01 Feb 2015 to 08 Feb 2015)	0 1269.008		2.00	0.00
3 Feb 2015	3 Feb 2015 03:47:19	899776	185295	263415	028	CAMPERVAN	Beautyfly Byron - Donation - (03 Feb 2015 to 06 Feb 2015)	0 1269.008		2.00	0.00
6 Feb 2015	6 Feb 2015 11:54:47	900317	185394	263568	038	CAMPERVAN	Beautyfly Byron - Donation - (06 Feb 2015 to 09 Feb 2015)	0 1269.008		2.00	0.00
7 Feb 2015	7 Feb 2015 06:01:19	900556	185742	264170	048	CAMPERVAN	Beautyfly Byron - Donation - (07 Feb 2015 to 10 Feb 2015)	0 1269.008		2.00	0.00
11 Feb 2015	11 Feb 2015 12:26:47	901495	185262	263391	035	SLAB	3 x Beautyfly Byron - Donation - (11 Feb 2015 to 18 Feb 2015)	0 1269.008		6.00	0.00
14 Feb 2015	14 Feb 2015 02:28:15	902158	185745	264175	L10	Loose Car	Beautyfly Byron - Donation - (14 Feb 2015 to 18 Feb 2015)	0 1269.008		2.00	0.00
20 Feb 2015	20 Feb 2015 02:43:38	903423	186309	265121	031	SLAB	Beautyfly Byron - Donation - (20 Feb 2015 to 23 Feb 2015)	0 1269.008		2.00	0.00
16 Mar 2015	16 Mar 2015 02:50:27	908377	185160	263240	C11	EIA S/Fish	Beautyfly Byron - Donation - (16 Mar 2015 to 20 Mar 2015) Void	0 1269.008		2.00	0.00
20 Mar 2015	20 Mar 2015 12:03:55	920998	185180	263240	C11	EIA S/Fish	Void Beautyfly Byron - Donation - (16 Mar 2015 to 20 Mar 2015)	0 1269.008		-2.00	0.00
27 Mar 2015	27 Mar 2015 05:15:24	922554	185757	264182	C01	Sea Horse	5 x Beautyfly Byron - Donation - (27 Mar 2015 to 31 Mar 2015)	0 1269.008		10.00	0.00
28 Mar 2015	28 Mar 2015 03:13:28	922732	186449	265351	107	TENT/COMBI	Beautyfly Byron - Donation - (28 Mar 2015 to 01 Apr 2015)	0 1269.008		2.00	0.00
6 Apr 2015	30 Mar 2015 03:25:23	923028	184874	262741	028	CAMPERVAN	3 x Beautyfly Byron - Donation - (06 Apr 2015 to 16 Apr 2015)	0 1269.008		6.00	0.00
19 Apr 2015	19 Apr 2015 03:55:46	926367	187049	266323	065	Waterfront	3 x Beautyfly Byron - Donation - (19 Apr 2015 to 22 Apr 2015)	0 1269.008		6.00	0.00
27 Apr 2015	27 Apr 2015 02:54:00	928118	195658	267391	071	Waterfront	Beautyfly Byron - Donation - (27 Apr 2015 to 03 May 2015)	0 1269.008		2.00	0.00
Number of Transactions: 14										Grand Total:	44.00 0.00

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During October 2014, Byron Shire Council conducted a series of consultation meetings with local tourism operators and tourism related businesses within the Byron Shire.

5 Five consultation meetings were held across the Shire with over 50 people representing a range of businesses.

In addition to the workshops, a number of individual sessions were held with businesses across the Shire delivering similar information and obtaining feedback from individual businesses.

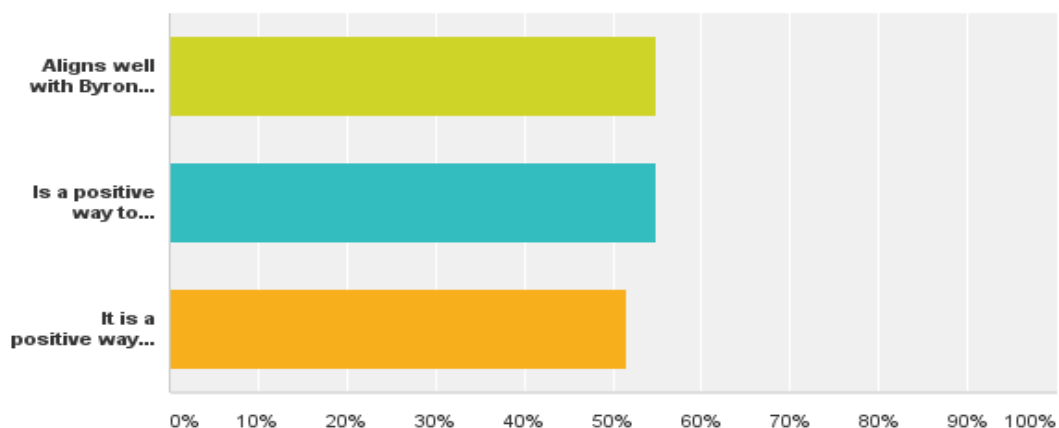
10 Participants were mostly the owner or Managers of the business and covered many sectors within tourism, such as: accomodation, festivals, arts, tour operators, food producers, visitor centres and retreats. There was a total of fifty three participants in all the workshops. (A list of participants can be found in document E2014/64432 and a list of individual meetings scheduled in E2014/56244.)

15 Sessions were run in an interactive 'inform and response' format, with a short presentation, and then feedback sought from participants via a survey.

VISITOR VOLUNTARY CONTRIBUTION FUND FEEDBACK

Q22 What are your immediate thoughts about this project, in terms of industry buy in?

Answered: 31 Skipped: 13



Choices included:

- ☐ Aligns well with the Byron Destination Brand
- 20 ☐ Is a positive way to encourage visitors to make a contribution to our towns/villages
- ☐ It is a positive way for the tourism industry to contribute to community assets

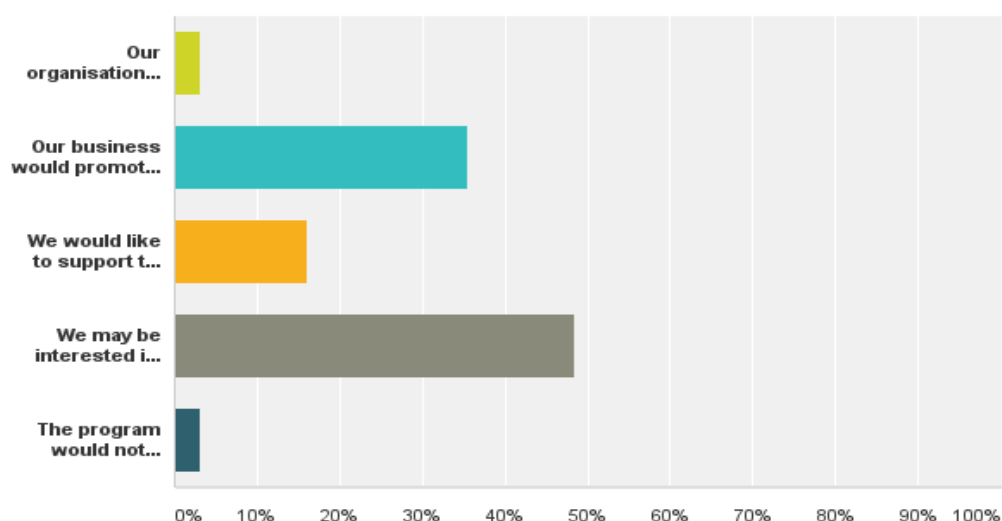
☐ Other _____

Views were mixed in terms of why the project has merit and the following comments were offered:

- Needs clear communication
- Need to establish what the funds will be used for
- 'opt in' is better than 'opt out' on websites (received better by the visitor)

Q23 How would you most like to participate in this project over a longer term?

Answered: 31 Skipped: 13



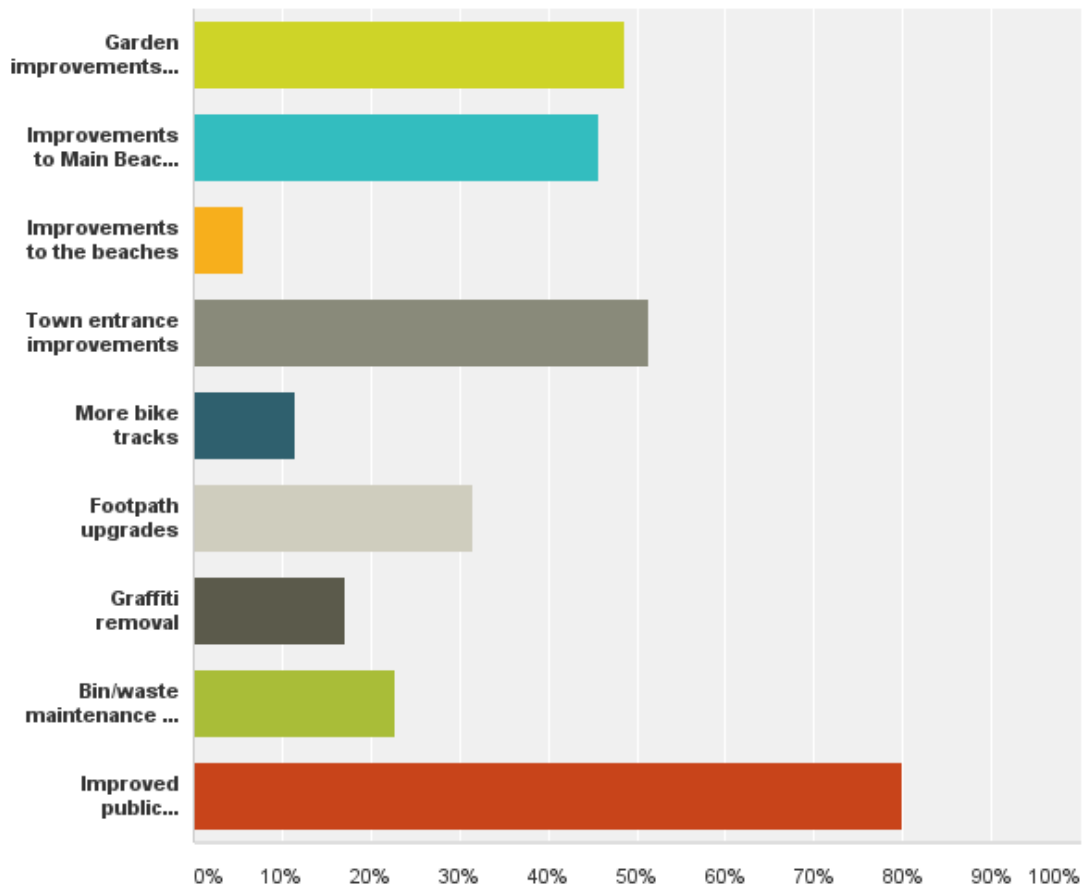
Participants were asked; how would you most like to participate in this project over the longer term?

- ☐ Our organisation would like to be part of the founding project team
- ☐ Our business would promote the program/and contributions scheme through our booking system/website
- ☐ We would like to support the program in another way because we do not take online bookings
- ☐ We may be interested in the future, please keep us up to date on progress
- ☐ This program would not interest us

These results show that most businesses are interested in the future (48%) and would be prepared to promote the program and contributions scheme though bookings systems and websites (36%).

Q24 What are the top three projects you consider to be the top priority for beautify Byron?

Answered: 35 Skipped: 9



The choices included:

- ☐ garden improvements and maintenance
- ☐ improvements to Main Beach – Apex Park, Denning Park and along pathway
- 5 ☐ improvements to beaches
- ☐ town entrance improvements
- ☐ more bike racks
- ☐ Footpath upgrades
- ☐ Graffiti removal
- 10 ☐ Bin/ waste maintenance and replacement/ improvements
- ☐ Improved public amenities eg toilet upgrades

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.8 - ATTACHMENT 3

The results are overwhelmingly in favour for the improved public amenities (80%), followed by garden improvements and maintenance (49%) and improvements to Main Beach (46%).

Feedback collected about the project includes:

- Donations need to be linked to very clear objectives
- 5 • Place making and innovation
- Roads and traffic, bypass
- Use and develop local projects to beautify Byron Shire and give unemployed jobseekers skills and a sense of community through work for the dole programs.
- There is a serious need to commander rate levy
- 10 • What can visitors do to make a positive difference: pick up rubbish, bin your butts, don't walk in dunes, keep dogs on a leash and only visit dog areas on the beach.



keeping Byron beautiful We need your help!

In the last few years, the Byron Shire has received approximately 1.4 million visitors annually. These numbers can impact on our beautiful natural environment.

To ensure Byron stays a great place to live and visit now and for future generations, we have set up a voluntary contribution fund by which visitors can donate and help.

To find out more, including how your business can participate, call 6626 7316 or visit www.byron.nsw.gov.au/beautifybyron



Byron Shire
don't spoil us we'll spoil you
www.byronspoilyou.com.au





keeping Byron beautiful - We need your help!

It might be the natural landscape, a great wave, pristine white sands or uncrowded beaches, we are all attracted to this special place for one reason or many.

In the last few years, the Byron Shire has received approximately 1.4 million visitors annually, these sheer numbers can have an impact on this beautiful natural environment.

Ensuring Byron stays a great place to visit for you and for future generations, we have set up a voluntary contribution fund by which you can help. Beautify Byron Fund ensures our guests and residents can continue to enjoy these natural delights and support local projects that protect and enhance the environment and the town.

By choosing to donate just \$2 when you book your accommodation, you will be helping to support a number of local initiatives including Dunecare, park and recreational areas, public art and activity projects.

For more information visit www.beautifybyron.org

Let Byron spoil you!



Byron Shire
don't spoil us we'll spoil you
www.byronspoilyou.com.au





keeping Byron beautiful We need your help!

By making a donation when you book your holiday accommodation, you are ensuring Byron stays a great place to visit for you and for future generations!

Funds collected are invested in supporting local initiatives including Dunecare, parks and recreational areas, public art and activity projects.

We appreciate your contribution and hope you enjoy your stay!



Byron Shire
don't spoil us we'll spoil you
www.byronspoilstheyou.com.au

Report No. 13.9 **PLANNING - Development Application 10.2014.742.1 - Demolition of existing single-storey motel building. Erection of a three (3) storey motel accommodation building plus two (2) levels of basement parking - 33 Lawson Street, Byron Bay**

Directorate: Sustainable Environment and Economy
Report Author: Paul Mills, Senior Assessment Officer - Planning
File No: I2015/375
Theme: Ecology
 Development and Approvals

Proposal:

Property description: LOT: 8 SEC: 8 DP: 758207
 33 Lawson Street BYRON BAY

Parcel No/s: 41820

Applicant: D P Roberts Planning Solutions

Owner: Mr P J Croke

Zoning: B2 Local Centre Zone

Date received: 9 December 2014

Integrated Development: No

Public notification or exhibition:

- Level 2 advertising under DCP 2014 Part A14 - Public Notification and Exhibition of Development Applications
- Exhibition period: 6/01/15 to 19/01/15
- Submissions: Nil.

Delegation to determination: Meeting of full Council

Issues:

- A review of Council's radioactive sand fill mapping identifies the subject site is likely to contain radioactive sand fill which could be disturbed as the proposal involves excavation for two levels of basement parking. SEPP No.55 specifies that Council must not grant consent unless it has assessed if the land is contaminated. The applicant has not provided a preliminary site investigation prepared in accordance with the relevant NSW Guidelines for SEPP No.55 (Remediation of land).
- Council may also be liable if consent were to be granted without acting substantially in accordance with the contaminated land planning guidelines pursuant to Section 145B (Exemption from liability - contaminated land) of the *Environmental Planning and Assessment Act 1979*.
- The subject site is identified as containing potential Class 5 Acid Sulfate Soils and a preliminary assessment has not been provided for acid sulfate soils. Consent must not be granted under Clause 6.1 of Byron LEP 2014 for the carrying out of works unless an acid sulfate soils management plan has been prepared.
- The proposal exceeds the maximum height standard for the site by 1.64 metres (a non-compliance of 18.2% with Clause 4.3 Byron LEP 2014).
- The proposed building exceeds the Floor Space Ratio for the site by 22.5m² of floor area (non-compliance of 1.7% with Clause 4.4 of Byron LEP 2014).
- The proposed building is considered to be excessive in terms of height, bulk and scale.

- Flood prone land. Flood barriers are proposed to be erected in the event of flooding to prevent water entering the basement levels of the proposed building.

Summary:

The application seeks development consent for the demolition of an existing single-storey motel building and outdoor parking area. The proposal seeks to redevelop the site with the erection of a new five (5) level motel development comprising two (2) levels of basement parking and a three-storey motel building above. The first level of the basement is raised approximately 1.39m above existing ground level.

The proposed motel development comprises forty-three (43) motel rooms each with double bed, private bathroom and an external balcony.

A review of Council's radioactive sand fill mapping (extract shown in **Figure 1**) identifies the subject site is likely to contain radioactive sand fill which could be disturbed as the proposal involves substantial excavation for two levels of basement parking.

The applicant has not provided a preliminary site investigation prepared in accordance with the relevant NSW Guidelines for SEPP No.55 (Remediation of land). On 29 April 2015, whilst drafting this report, the applicant submitted a brief site assessment which was not prepared in accordance with the relevant NSW Guidelines for SEPP No.55 (Remediation of land).

SEPP No.55 specifies that Council must not grant consent unless it has assessed if the land is contaminated; and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out; and if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

Pursuant to Section 145B (Exemption from liability - contaminated land) of the *Environmental Planning and Assessment Act 1979*, Council may be liable if consent were to be granted without acting substantially in accordance with the 'contaminated land planning guidelines'.

The proposal is non-compliant with the provisions of Byron LEP 2014 Clause 4.3 (Height of buildings), Clause 4.4 (Floor space ratio), Clause 6.1 (Acid sulphate soils) and Clause 6.2 (Earthworks).

The proposed building with a maximum height of 10.64m exceeds the 9.0m height limit by 1.64m (a non-compliance of 18.2%). The proposal exceeds the maximum floor space ratio by 22.5m² (a non-compliance of 1.7%). The applicant has submitted a written request to vary the maximum height and floor space ratio pursuant to Clause 4.6 (Exceptions to development standards). As detailed in this report, the applicant has not demonstrated that compliance with the height limit or floor space ratio is unreasonable or unnecessary.

The subject site is identified as containing Class 5 acid sulfate soils by Council's LEP 2014 mapping. The applicant has not submitted a preliminary assessment of the proposed works to demonstrate that an acid sulfate soils management plan is not required. As such consent must not be granted in accordance with Clause 6.1 Byron LEP 2014.

The proposal is also considered to be inconsistent with Byron DCP 2014 controls relating to the height, bulk, scale, social impact assessment and environmental impacts for tourist accommodation.

Overall the applicant has failed to submit essential information to support the proposed development and the proposed development is considered to be excessive in terms of height, bulk and scale. The proposed development is considered to have insufficient planning merit and it is recommended that the application be refused consent.

5

NOTE TO COUNCILLORS:

10

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

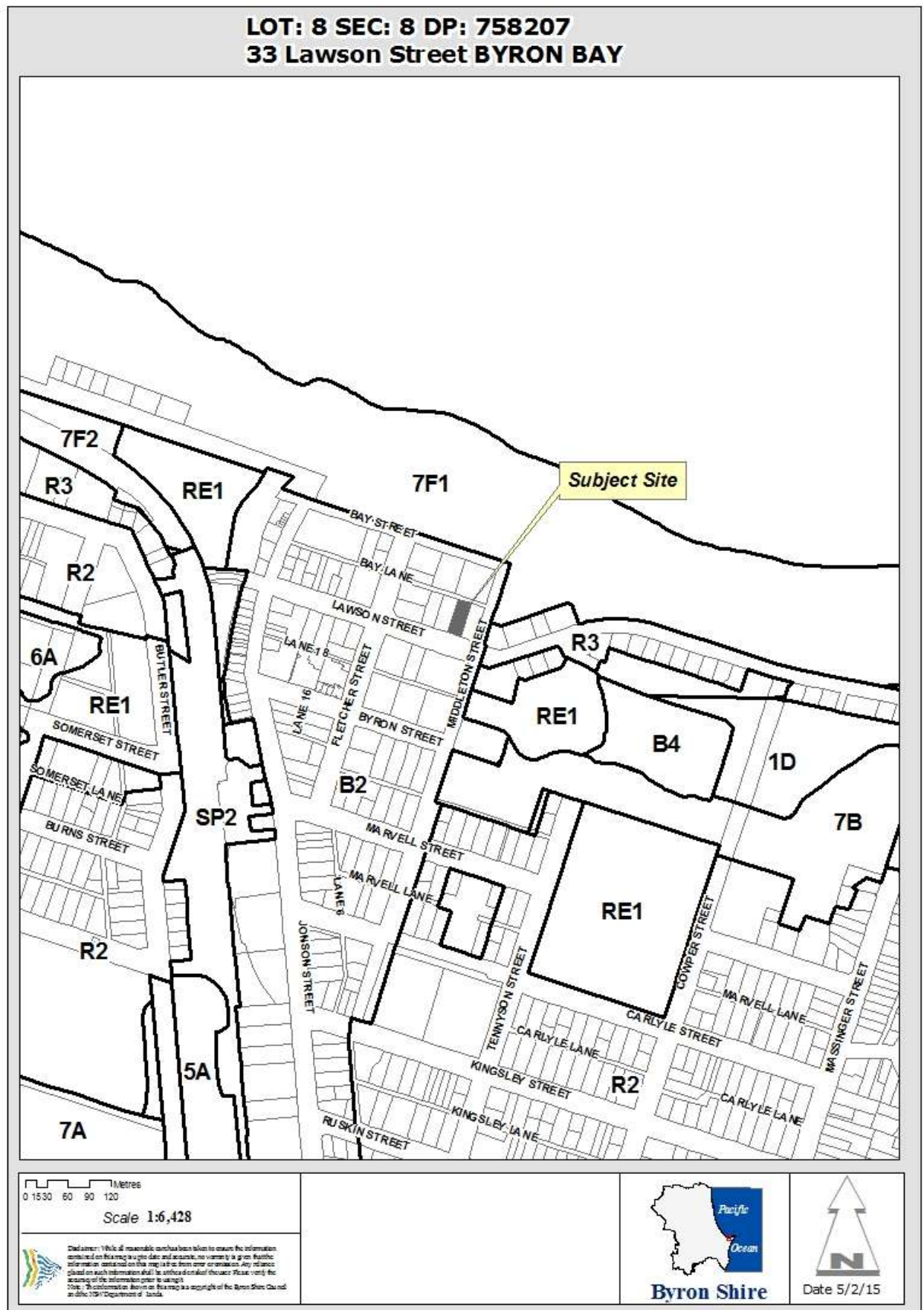
RECOMMENDATION:

That pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, Development Application 10.2014.742.1 for demolition of existing single-storey motel building and erection of a three (3) storey motel accommodation building plus two (2) levels of basement parking, be refused for the following reasons:

1. Pursuant to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the height of the proposed building exceeds the maximum height shown for the land on the Height of Buildings Map, contrary to Clause 4.3 of Byron Local Environmental Plan 2014.
2. Pursuant to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the floor space ratio of the proposed building exceeds the floor space ratio shown for the land on the Floor Space Ratio Map, contrary to Clause 4.4 of Byron Local Environmental Plan 2014.
3. Pursuant to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, an acid sulfate soils management plan (or a preliminary assessment) has not been provided to Council, in accordance with Clause 6.1 of Byron Local Environmental Plan 2014 development consent must not be granted.
4. Pursuant to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, it has not been demonstrated that the subject land is not contaminated and in accordance with Clause 7 of State Environmental Planning Policy No.55 (Remediation of land). Council must not consent to the carrying out of any development on land unless it has determined whether the land is contaminated or suitable for the purpose.
5. Pursuant to Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979* the proposed height, bulk and scale of the proposed building is likely to have a negative impact on the built environment of the locality.
6. Pursuant to Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposed development is considered to be contrary to the public interest in terms of possible environmental impacts.

15 Attachments:

- 1 Proposed Plans Development Application 10.2014.742.1 submitted by DP Roberts Planning Solutions, E2015/27680 (provided under separate cover)
- 2 Proposed streetscape 10.2014. 742.1- (Lawson St Byron Bay), E2015/27752 , page 136
- 20 3 Response from Office of Water (Dep of Primary Industries), S2015/5025 , page 137



Assessment:**1. INTRODUCTION****1.1 History/Background**

Past applications over the subject site:

BA 78/2308 Building application for Motel Additions determined 9 October 1978.

BA 82/2700 Building Application for Unit additions determined 13 December 1982.

BA 86/2051 Building application for Minor alterations determined 25 February 1986.

1.2 Consultation with Applicant

Following a review of the limited information that was submitted on 17 December 2014, the Assessment Officer wrote to the applicant raising concerns about the excessive height and FSR of the proposal and requested amended plans to comply with the relevant LEP 2014 controls.

The applicant responded on 1 April 2015 advising that the proposed height non-compliance was directly related to the increased ground floor height required to meet Council's Flood Planning Level. However, contrary to the applicant's claim, the proposed 1.64m non-compliance with the height control is not required to satisfy Council's Flood Planning Level. If the Flood Planning Level was the only consideration, the ground floor of the building is only required to be raised 0.78m to achieve compliance.

It is considered the applicant could make plan amendments, whilst maintaining a three-storey design, to achieve a significantly reduced building height, much closer to the maximum height of 9.0m or alternatively have a two-storey design that would be able to comply with the maximum height of 9.0m.

The applicant has increased the ground floor height of the building in excess of Council's Flood Planning Level of 3.17m AHD, with the ground floor of the proposed building being 3.78m AHD. The ground floor level should be lowered from 3.78m to 3.17m this would immediately lower the building by 0.61m. The applicant has also allowed 3.0m for each floor of the building, if the floor to ceiling heights of each of the three levels were also lowered, the overall building height would be further reduced. A revised design not exceeding the 9 metre height limit by more than 0.50m would likely be considered more favourably in view of the flood planning level for the subject site.

Notwithstanding the above, the applicant has also failed to provide essential information including a preliminary site investigation prepared in accordance with the relevant NSW Guidelines for SEPP No.55 (Remediation of land). The applicant has also failed to provide a preliminary assessment with regard to acid sulphate soils, without an acceptable preliminary assessment Clause 6.1 of Byron LEP 2014 specifies that development consent must not be granted.

1.3 Description of the site

The subject site is located at 33 Lawson Street, Byron Bay and is legally described as Lot 8 Section 8 DP758207. The site is located on the northern side of Lawson Street between Middleton Street and Fletcher Street. The rear of the site adjoins Bay Lane.

The site is a regular shaped allotment with a frontage of 20.12 metres to Lawson Street (front) and Bay Lane at the rear and a length of 50.37 metres. The applicant has advised the site has a total area of 1013m².

- 5 The site contains an existing single-storey motel development (Hibiscus Motel) with vehicular access from Lawson Street and on-site parking area.

Surrounding development

- 10 Existing development on the site at 31 Lawson Street comprises a two-storey (plus upper level mezzanine) building with commercial development at ground level and 2 x 2 bedroom dwelling units on the first floor and upper level mezzanine.

- 15 Existing development on the adjoining land at No.35 Lawson Street comprises a two storey plus attic level building known as 'Waves'.

1.4 Description of the proposed development

- 20 The application seeks development consent for the demolition of an existing single-storey motel building and outdoor parking area. The proposal seeks to redevelop the site with the erection of a new five (5) level motel development comprising two (2) levels of basement parking and a three-storey motel building above.

- 25 The proposed motel development comprises forty-three (43) motel rooms each with double bed, private bathroom and an external balcony. Fifteen (15) of the proposed motel rooms have kitchenette facilities.

- 30 An elevator and stair access is proposed between each of the proposed levels, with a chair lift and stairs proposed to provide street level access. Listed below in **Table 1** is a summary of what is proposed on each level.

Table 1 – Development proposed by level

Level	Details
Basement Level 2	twenty-six (26) car parking spaces, service area, and one-way signal control vehicular access ramp.
Basement Level 1	twenty-one (21) car parking spaces (including three accessible parking spaces and four stacked parking spaces), bicycle parking area, garbage bin storage room, two store/service rooms, two-way vehicle access ramp to ground level and one-way signal control vehicular access ramp to Basement Level 2.
Level 1 (Ground Floor)	reception and office, access chair lift, swimming pool and thirteen (13) motel rooms
Level 2 (First Floor)	fifteen (15) motel rooms including two wheelchair accessible rooms
Level 3 (Second Floor)	fifteen (15) motel rooms including one wheelchair accessible room

- 35 Vehicular access to the proposed basement parking levels is proposed from Lawson Street. Basement parking is proposed to contain a total of forty-seven (47) parking spaces including six (6) accessible parking spaces and a separate bicycle parking area.

- 40 The proposed building incorporates rendered and painted masonry wall construction, with elements of timber look cladding, sliding louvre screens, operable rooves for external balconies.

5 **2. SUMMARY OF GOVERNMENT/EXTERNAL REFERRALS**

	Summary of Issues
Senior Development Engineer	Flood liable land, car parking, coastal erosion, internal and external access. No objection to the proposal subject to condition. See Doc No.A2014/34368.
Environmental Officer	Council's Environmental Officer has objected to the proposal with regard to acid sulfate soils, SEPP No.55 (remediation of land) and dewatering.
Water & Waste Services	Section 68 application required for water and sewerage connections. See Doc No.E2015/2202.
ET Engineer	Water and sewerage services available subject to the payment of applicable charges. See Doc No. A2015/3932.
NSW Office of Water	The application was referred to the NSW Office of Water for comment. (see Attachment 2 for comments).
	No other referrals.

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

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

3.1. STATE/REGIONAL PLANNING POLICIES AND INSTRUMENTS

Requirement	Proposed	Complies
State Environmental Planning Policy No. 71 - Coastal Protection Matters for consideration for development within the coastal zone include: <ul style="list-style-type: none"> – retention of existing public access to the coastal foreshore – impact of effluent disposal on water quality – development must not discharge untreated stormwater into a coastal water body. 	The proposal is consistent with the provisions of SEPP 71.	Yes
State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development SEPP No.65 applies to 'residential flat building' development. residential flat building means a building that comprises or includes: <ul style="list-style-type: none"> (a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and (b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops), 	The proposal is not for a residential flat building and as such SEPP No.65 is not applicable.	N/A

but does not include a Class 1a building or a Class 1b building under the <i>Building Code of Australia</i> .		
State Environmental Planning Policy No 55 - Remediation of Land (SEPP No.55) Clause 7 of SEPP No.55 specifies that contamination and remediation is to be considered in determining development application.	See assessment following this Table.	No* (*see assessment following this Table)
Building Code of Australia	The proposed development is considered to be capable of satisfying the Building Code of Australia.	Satisfactory
Demolition	Should the application have been considered favourably conditions to require compliance with the relevant Australian Standard for demolition would have been imposed.	Yes
Disability Access (DDA) Access for persons with disabilities and integration into surrounding streetscapes without creating barriers. (Council Res.10-1118)	The proposal seeks to provide a chair lift from the Lawson Street level to provide accessibility. The proposed elevator would provide internal accessibility.	Satisfactory

State Environmental Planning Policy No 55 - Remediation of Land

Clause 7 of SEPP No.55 sets out Council's obligations in the assessment of land contamination and remediation. Clause 7(1)(a) specifies:

"(1) A consent authority must not consent to the carrying out of any development on land unless:
(a) it has considered whether the land is contaminated, and
(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose."

The applicant has not provided a preliminary site investigation prepared in accordance with the relevant NSW Guidelines for SEPP No.55 (Remediation of land) with regard to history or condition of the subject site.

A review of Council's radioactive sand fill mapping (extract shown in **Figure 1**) identifies the subject site is likely to contain radioactive sand fill.

The applicant was requested to provide a preliminary site investigation in accordance with SEPP No.55 Guidelines to allow for a preliminary assessment to be undertaken. Despite this request the applicant has not submitted a preliminary assessment prepared in accordance with the relevant NSW Guidelines for SEPP No.55 (Remediation of land).

Pursuant to Clause 7(1)(a) of SEPP No.55, Council as consent authority, must not consent to the carrying out of this development as it has not been able to determine whether land is contaminated.

Radioactive Sand Fill Layer



Figure 1 – Subject site shown in yellow as containing possible radioactive sand fill

It is noted that on 29 April 2015 the applicant submitted a brief assessment which was not prepared in accordance with the relevant NSW Guidelines for SEPP No.55 (Remediation of land).

It is also important to note that Section 145B (Exemption from liability - contaminated land) of the *Environmental Planning and Assessment Act 1979*, states, (in part):

- (1) A planning authority does not incur any liability in respect of anything done or omitted to be done in good faith by the authority in duly exercising any planning function of the authority to which this section applies in so far as it relates to contaminated land (including the likelihood of land being contaminated land) or to the nature or extent of contamination of land.
- (2) This section applies to the following planning functions:
 - (c) the processing and determination of a development application and any application under Part 3A or Part 5.1,
 - (d) Without limiting any other circumstance in which a planning authority may have acted in good faith, a planning authority is (unless the contrary is proved) taken to have acted in good faith if the thing was done or omitted to be done substantially in accordance with the contaminated land planning guidelines in force at the time the thing was done or omitted to be done.
 - (e) This section applies to and in respect of:
 - (a) a councillor, and

- (b) an employee of a planning authority, and
- (c) a public servant, and
- (d) a person acting under the direction of a planning authority, in the same way as it applies to a planning authority.

- 5 As advised in Section 145B of the *Environmental Planning and Assessment Act 1979*, Council may incur liability if it were to grant consent to the proposed development without acting substantially in accordance with the current contaminated land planning guidelines.

3.2 BYRON LOCAL ENVIRONMENTAL PLAN 2014

10

Zone: B2 Local Centre

Definition: Hotel or motel accommodation

LEP Summary of Requirement	Proposed	Complies
Zone B2 Local Centre 1 Objectives of zone <ul style="list-style-type: none"> To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area. To encourage employment opportunities in accessible locations. To maximise public transport patronage and encourage walking and cycling. To encourage vibrant centres by allowing residential and tourist and visitor accommodation above commercial premises. 	The proposed development is considered to be generally consistent with the objectives of the B2 Local Centre Zone.	Yes
Permissibility hotel or motel accommodation means a building or place (whether or not licensed premises under the <u>Liquor Act 2007</u>) that provides temporary or short-term accommodation on a commercial basis and that: <ul style="list-style-type: none"> (a) comprises rooms or self-contained suites, and (b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles, but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation. 	The proposed hotel or motel accommodation is permissible with the consent of Council within the B2 Local Centre Zone.	Yes
2.7 Demolition requires development consent The demolition of a building or work may be carried out only with development consent.	This application seeks consent for the demolition of the existing motel.	Yes
4.3 Height of buildings <ul style="list-style-type: none"> (1) The objectives of this clause are as follows: <ul style="list-style-type: none"> (a) to achieve building design that does not exceed a specified maximum height from its existing ground level to finished roof or parapet, (b) to ensure the height of buildings complements the streetscape and character of the area in which the buildings are located, (c) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development. (2) The height of a building on any land is not to 	Maximum roof height (excluding lift tower) 13.03m AHD lowest level below 2.39m AHD. Maximum height calculated to be 10.64m .	No* (*See assessment following this Table)

LEP Summary of Requirement	Proposed	Complies				
exceed the maximum height shown for the land on the <u>Height of Buildings Map</u> . The Height of Buildings Map provides the maximum height limit of 9.0 metres for the subject site.						
4.4 Floor space ratio (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the <u>Floor Space Ratio Map</u> . The FSR Map identifies the site to have a maximum FSR of 1.3:1.	Gross floor area calculations by level: Ground level 398.0m ² First Floor 470.7m ² <u>Second Floor</u> 470.7 m ² Total GFA 1339.4m ² Site area 1013m ² / GFA 1339.4m ² . Proposed FSR is 1.322:1	No* (*See assessment following this Table)				
4.6 Exceptions to development standards (1) The objectives of this clause are as follows: (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.	See assessment following this table.	No				
5.5 Development within the coastal zone Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered the matters within Clause 5.5 and is satisfied with regard to the matters in Clause 5.5.	The proposed development is considered to be acceptable with regard to the matters for consideration within the coastal zone.	Yes				
6.1 Acid sulfate soils (1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. (2) Development consent is required for the carrying out of works described in the table to this subclause on land shown on the <u>Acid Sulfate Soils Map</u> as being of the class specified for those works. <table><tr><th>Class of land</th><th>Works</th></tr><tr><td>5</td><td>Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</td></tr></table> (3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate	Class of land	Works	5	Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.	The subject site is identified as containing Class 5 acid sulfate soils by Council's LEP 2014 mapping. The proposal involves excavation for a two level basement. The applicant has not submitted a preliminary assessment of the proposed works to demonstrate that an acid sulfate soils management plan is not required. As such consent must not be granted under Clause 6.1.	No
Class of land	Works					
5	Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.					

LEP Summary of Requirement	Proposed	Complies
<p>Soils Manual and has been provided to the consent authority.</p> <p>(4) Despite subclause (2), development consent is not required under this clause for the carrying out of works if:</p> <p>(a) a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and</p> <p>(b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.</p> <p>...</p> <p>(6) Despite subclause (2), development consent is not required under this clause to carry out any works if:</p> <p>(a) the works involve the disturbance of less than 1 tonne of soil, and</p> <p>(b) the works are not likely to lower the watertable.</p>		
<p>6.2 Earthworks</p> <p>(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p> <p>(2) Development consent is required for earthworks unless the earthworks are exempt development under this Plan or another applicable environmental planning instrument.</p> <p>(3) In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:</p> <p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</p> <p>(b) the effect of the development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</p> <p>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>	<p>A large amount of excavation is associated with the construction of the proposed two level basement. The environmental impacts of the proposed excavation have not been able to be adequately assessed in the absence of information on matters such as acid sulphate soils, dewatering and land contamination.</p>	<p align="center">No</p>

LEP Summary of Requirement	Proposed	Complies
<p>6.3 Flood planning</p> <p>(1) The objectives of this clause are as follows:</p> <p>(a) to minimise the flood risk to life and property associated with the use of land,</p> <p>(b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,</p> <p>(c) to avoid significant adverse impacts on flood behaviour and the environment.</p> <p>(2) This clause applies to land at or below the flood planning level.</p> <p>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</p> <p>(a) is compatible with the flood hazard of the land, and</p> <p>(b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and</p> <p>(c) incorporates appropriate measures to manage risk to life from flood, and</p> <p>(d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and</p> <p>(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.</p> <p>(4) In determining a development application for development at or below the future flood planning level, the consent authority must, in addition to the matters referred to in subclause (3), also consider the following matters:</p> <p>(a) the proximity of the development to the current flood planning area,</p> <p>(b) the intended design life and scale of the development,</p> <p>(c) the sensitivity of the development in relation to managing the risk to life from any flood,</p> <p>(d) the potential to modify, relocate or remove the development.</p> <p>(5) A word or expression used in this clause has the same meaning as it has in the <i>Floodplain Development Manual</i> (ISBN 0 7347 5476 0) published by the NSW Government in April 2005, unless it is otherwise defined in this clause.</p>	<p>The proposed development is capable of complying with the flood planning controls in Clause 6.3. The proposed ground floor level exceeds the flood planning level of 3.17 AHD by 0.61m.</p>	<p align="center">Yes</p>
<p>6.6 Essential services</p> <p>Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available</p>	<p>The essential services identified in Clause 6.6 are available.</p>	<p align="center">Yes</p>

LEP Summary of Requirement	Proposed	Complies
when required: (a) the supply of water, (b) the supply of electricity, (c) the disposal and management of sewage, (d) stormwater drainage or on-site conservation, (e) suitable vehicular access.		

3.2.1 Byron Local Environmental Plan 2014 – Exceptions to development standards Clause 4.6 Assessment

5 1. Non-compliance with Clause 4.3 Height of buildings (Clause 4.6 assessment)

Clause 4.6(3) specifies:

- 10 (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- 15 (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

20 Assessment: A written request has been submitted by the applicant seeking to justify a building height of 10.09m on the subject site. The maximum height of the proposed building is 10.64m, not 10.09m as stated in the written request. The proposed building is 1.64m higher than the 9.0m height control (a non-compliance of 18.2%).

25 It is considered that the development standard (height of buildings) has not been demonstrated to be unreasonable or unnecessary in the circumstances of this case. The applicant has also not demonstrated there are sufficient environmental planning grounds to justify the contravention. The applicant has provided matters to justify the proposed contravention and the relevant matters are assessed as follows:

- 30 - The height of the existing building at No.35 Lawson Street is 14.14m. The development consent (DA 5.1993.167.1) for the increased height of this building was granted in 1993 under a different height control. The existing building at No 35 Lawson Street, has a sloping roofline containing only smaller 'attic' areas above the former 7.5m limit. Council previous DCP set a 7.5m height limit measured at the top-plate of the outer walls of the building (not the roofline). No.35 Lawson Street is also a corner allotment which may allow for height increase.
- 35
- 40 - Development application 10.2014.361.1 allowed alterations and additions to the building at No.35 Lawson Street to reach a height of 13.03m. This application involved lowering the height of the existing building from the existing 14.14m to 13.03m. It is also noted these approved alterations and additions have not been commenced.
- 45 - The applicant has stated the additional height of the building is a direct result of the flood prone nature of the site and the need to elevate the ground floor to Council's flood level plus freeboard. This is not correct, the additional floor height to satisfy Council's flood planning level is approximately 0.77m, whilst the proposed height non-compliance is 1.64m.

- The applicant notes that the proposed development will not adversely impact on the streetscape in view of other existing buildings including those on the opposite side of Lawson Street. The proposed increase in height and bulk of the building is not considered to be compatible with the streetscape. It is considered the relevant streetscape assessment involves only the northern side Lawson Street between Middleton Street and Fletcher Street. The streetscape drawing submitted does not establish the relevant streetscape within the 9.0m height control area. Any reference to buildings on the opposite side of Lawson Street is not considered relevant as the height limit there is 11.5m.

(4) *Development consent must not be granted for development that contravenes a development standard unless:*

(a) *the consent authority is satisfied that:*

- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

Assessment: It is considered that the applicant's written request contains miscalculations and does not adequately address the matters as required by subclause 3.

- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

Assessment: The objectives of Clause 4.3 (height of buildings) are as follows:

- (a) *to achieve building design that does not exceed a specified maximum height from its existing ground level to finished roof or parapet,*
- (b) *to ensure the height of buildings complements the streetscape and character of the area in which the buildings are located,*
- (c) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development.*
- (2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

It is considered the proposed height of the building does not satisfy the objectives of Clause 4.3. The proposed building height is considered to be excessive in the relevant streetscape. The proposed development is considered to be generally consistent with the objectives of the B2 Local Centre Zone as these objectives do not refer to built form.

- (b) *the concurrence of the Director-General has been obtained.*

Assessment: Concurrence of the Director-General is able to be assumed for non-compliances with Clauses 4.6 (pursuant to Planning Circular 08-003).

2. **Non-compliance with Clause 4.4 Floor space ratio (Clause 4.6 assessment)**

Clause 4.6(3) specifies:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request*

from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Assessment: It is considered that the development standard (floor space ratio) has not been demonstrated to be unreasonable or unnecessary in the circumstances of this case. The applicant has also not demonstrated there are insufficient environmental planning grounds to justify the contravention. The applicant has provided the following comments in an attempt to justify the proposed contravention, which are assessed below:

- *"The proposed variation is minor as it only requests a 1.7% variation."*

The proposed 1.7% variation represents an additional 22.5m² of gross floor area.

- *The degree of variation will represent no material change in the building (sic)*

The deletion of 22.5m² of gross floor area would result in a material change in the proposed building.

- *There are no additional bulk and scale impacts as a result of the minor non-compliance.*

The proposed additional 22.5m² of gross floor area increases the bulk of the building. The proposed increased floor area is also exacerbated by the substantial height non-compliance of the building.

- *The proposed variation results in better internal amenity for the proposal."*

No evidence or explanation has been submitted by the applicant to support the above claim. The deletion of one motel room would be sufficient to satisfy the maximum FSR maintaining the internal amenity.

(4) *Development consent must not be granted for development that contravenes a development standard unless:*

(a) *the consent authority is satisfied that:*

- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

Assessment: It is considered that the applicant's written request does not adequately address the matters required to be demonstrated in subclause 3 as detailed.

- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

Assessment: The objectives of Clause 4.4 (floor space ratio) are as follows:

- (a) *to ensure that new buildings are appropriate in relation to the character, amenity and environment of the locality,*

- (b) to enable a diversity of housing types by encouraging low scale medium density housing in suitable locations,
- (c) to provide floor space in the business and industrial zones adequate for the foreseeable future,
- (d) to regulate density of development and generation of vehicular and pedestrian traffic,
- (e) to set out maximum floor space ratios for dual occupancy in certain areas.
- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

It is considered the proposed FSR of the building does not satisfy the objectives of Clause 4.4.

(b) the concurrence of the Director-General has been obtained.

Assessment: Concurrence of the Director-General is able to be assumed for non-compliances with Clauses 4.6 (pursuant to Planning Circular 08-003)

3.2.2 Draft EPI that is or has been placed on public exhibition and details of which have been notified to the consent authority

No relevant Draft Environmental Planning Instruments have been identified.

3.3 DEVELOPMENT CONTROL PLAN

Byron Development Control Plan 2014		
Control	Assessment	Compliance
Chapter B11 Planning for Crime Prevention		
B11.2.1 Development that Requires a Formal Crime Risk Assessment 1. Council will expect a formal Crime Risk Assessment for the following types of development: other developments that, in the Council's opinion, are likely to create a risk of crime. 2. Development Applications for the proposals listed in 1. above must be accompanied by a formal Crime Risk Assessment prepared by or on behalf of the applicant in accordance with NSW Police Force guidelines. The Crime Risk Assessment shall: a) assess the crime risk characteristics of the area; b) make provision in the design process to minimise crime risk; and c) address the CPTED principles as they apply to the proposed development.	The proposed two level basement car park may provide an increased crime risk area. The submitted statement of Environmental Effects has not addressed Planning for Crime Prevention. Should the application have been considered favourably further details would have been requested with regard to planning for crime prevention.	No
Chapter B12 Social Impact Assessment		
B12.1.3 Application of this Chapter A Social Impact Assessment (SIA) is required for tourist and visitor accommodation for 50 or more persons. A Social Impact Assessment must be conducted and certified by a suitably qualified person and in manner prescribed in Chapter B12.	The application has not submitted a Social Impact Assessment.	No
Chapter D3 – Tourist Accommodation		
D3.2.1 Location and Siting The siting, design and operation of tourist accommodation	The proposed design of the development involves two levels of	No

Byron Development Control Plan 2014		
Control	Assessment	Compliance
and associated development must not adversely affect important conservation values, ecological systems or characteristics of the site or the Shire. Development must respect and contribute to the natural environmental systems and values of its location and surrounds.	basement parking. It has not been demonstrated that the proposed development will not adversely affect conservation values and respect the natural environment.	
Development applications for proposals located in or near ecologically sensitive areas, areas of high conservation values and/ or important natural features or sites must include a full description of those ecological, conservation and natural values and systems, together with a comprehensive, professional assessment of the impact of the proposed development thereon. The impact assessment must include an evaluation of the effectiveness and sustainability of any proposed amelioration and management measures.	The site is located in an ecologically sensitive area in terms of acid sulphate soils and groundwater. The application does not include a full description of those ecological, conservation and natural values and systems, together with a comprehensive, professional assessment of the impact of the proposed development thereon.	No
D3.2.4 Character and Design in Business and Mixed Use Zones Tourist accommodation in Zones B1, B2 and B4 must be compatible in character and amenity with development in the locality. The provisions of the following Sections in Chapter D4 Commercial and Retail Development apply to all tourist accommodation development in Zones B1, B2 and B4 in the same way they apply to commercial and retail development in Business and Mixed Use zones: Section D4.2.1 – Design Character of Retail and Business Areas. Section D4.2.2 – Design Detail and Appearance.	Noted.	Yes
D3.3.6 Hotel or Motel Accommodation The design and operation of hotel or motel accommodation must be compatible with the streetscape and character of development in the locality. Development applications must demonstrate that the proposed development will be appropriately designed and landscaped consistent with the requirements of Chapters B11 Planning for Crime Prevention and B9 Landscaping. Hotel or motel accommodation development must not adversely affect the amenity of the precinct in which it is located. Development applications may need to be accompanied by a Social Impact Assessment prepared pursuant to Chapter B12 Social Impact Assessment, where applicable. External pedestrian access must be provided between accommodation units and other facilities associated with the development, including car parking. The access must comprise covered connecting pathways or access balconies with an all-weather surface and must be integrated with the overall landscape plan for the development. Motels must incorporate eating and living areas and facilities, together with outdoor recreation/ living areas	The proposed excessive height and excessive bulk of the proposed building is not considered to be compatible with the streetscape on the northern side of Lawson Street between Middleton Street and Fletcher Street. The applicant has not demonstrated compliance with Chapters B11 Planning for Crime Prevention or Chapter B9 Landscaping. The applicant has not satisfied the requirements for Social Impact Assessment detailed in Chapter B12. Pedestrian access is provided between accommodation units and other facilities including car parking.	No

Byron Development Control Plan 2014		
Control	Assessment	Compliance
<p>with access to winter sun and summer shade. They may also include self-contained cooking facilities.</p> <p>Development must be designed and constructed to minimise noise and vibration impacts on occupants of adjoining or nearby dwellings or buildings.</p>		
<p>D4.2.2 Design Detail and Appearance</p> <p>The design of new buildings must reflect and enhance the existing character of the precinct. The design, scale, bulk, design and operation of business, commercial and retail development must be compatible with the streetscape and with the aesthetics, function and amenity of development in the locality.</p> <p>Building design, roof profile, detailing, colours, materials and the like that are visible from the street and from adjoining properties must be compatible with any dominant design themes in the surrounding locality.</p> <p>The pattern of windows in retail areas must provide visual interest and variation and must relate to those of adjacent buildings. Building materials must relate to the context of buildings within the area to achieve continuity and harmony. Contrasting materials may be used to provide diversity, however materials and colour must not be used so that they dominate the streetscape.</p>	<p>The design, bulk and scale of this development is not compatible with the streetscape on the northern side of Lawson Street between Middleton Street and Fletcher Street.</p>	No
Chapter D8 - Public Art		
<p>D8.2.1 Provision of Public Art</p> <p>1. Development to which this Section applies must include the provision of public art to the value of at least 2% of the total development cost (calculated in accordance with the <i>Environmental Planning & Assessment Regulation</i>) up to a maximum of \$25,000, as an integral part of the development.</p> <p>2. The public art must be permanent and durable, and must be provided in a location on the development site that is freely accessible to members of the public or clearly visible from the public domain.</p> <p>3. Details of the proposed public art must be submitted as part of the Development Application documentation. The documentation must include details of the nature and form of the proposed public art; and must define and illustrate its intended location and approximate size.</p> <p>4. The documentation must also demonstrate how the proposed public art meets the following Design Selection Criteria:</p> <ul style="list-style-type: none"> a) relevance and appropriateness of the work in relation to its site; b) relevance and appropriateness of the work to Byron Shire, including the Shire's Aboriginal heritage, its particular natural environment and its diverse culture; 	<p>The proposed development triggers the need to provide public art in accordance with Chapter D8. Should the application have been considered favourably a condition would have been imposed to require public art be provided in accordance with Chapter D8.</p> <p>Details of the proposed public art were not submitted as part of the Development Application documentation.</p>	No

Byron Development Control Plan 2014		
Control	Assessment	Compliance
<ul style="list-style-type: none"> c) consistency with the Byron Shire Cultural Plan and Public Art Policy; d) consideration of public safety, including public use of and access to the public art and associated space; e) consideration of maintenance and durability, including potential for vandalism; f) evidence of funding sources and satisfactory budget, including provision for ongoing maintenance; and g) evidence of Public Liability Insurance to cover construction and installation of the work. 		
Section B8 Waste Minimisation and Management		
<p>A Site Waste Minimisation and Management Plan (SWMMP) is to be submitted with a Development Application and must show all matters specified within Section B8.4.</p>	<p>Should the application have been considered favourably a condition would have been included to require the submission of a SWMMP generally in accordance with B8.4.2.</p>	No
Chapter B4 Traffic Planning, vehicle parking, circulation and access		
<p>B4.2.5 Car Parking Requirements</p> <p>1. Unless otherwise specified elsewhere in this DCP, car parking is to be provided in accordance with the schedule contained in Table B4.1</p> <p>Food and drink premises require one (1) parking space required per 20m² of GFA in Business Zone.</p>	<p>The proposed number of parking spaces and the access arrangements has been assessed as satisfactory.</p>	Yes
Chapter E5 Certain Locations in Byron Bay and Ewingsdale		
<p>E5.4.1 Development and servicing of land affected by predicted coastal hazards</p> <p>All services must be provided from the landward side of the development such that the building is between the services and the erosion escarpment.</p> <p>Development within the 'Coastal Erosion Hazard Area' on the Byron Bay Coastal Hazards Map (E5.1) will be considered on the understanding that any consent granted will be subject to the proviso that should the erosion escarpment come within 50 metres of any building then the development consent will cease.</p> <p>If the development consent does cease then the owner of the land will be responsible for the removal of all buildings.</p> <p>The option of demolition as the means of removal will be available to all buildings.</p> <p>Prior to the issue of a Construction Certificate a restriction as to user <i>must be placed on the title pursuant to the provisions of section 88E of the Conveyancing Act 1919</i>, stating: <i>"The subject land and any improvements erected thereon must not be used for the purpose of (land use) in the event that the erosion escarpment as defined by the Works and Services Director of the Council of the Shire of Byron from time to time comes to within 50 metres of any buildings or any part thereof at any time erected on the said land".</i></p>	<p>Should the application have been recommended for approval a condition would be included to require the A Section 88E instrument to be placed on the title of the land to cease use when the erosion escarpment comes within 50m of the site.</p>	Yes

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

Built Environment

The proposed development is considered to be excessive in terms of height, bulk and scale. The proposed building is not considered to be compatible with the built environment as detailed in Section 3.2.1 of this report.

Natural Environment

A large amount of excavation is associated with the construction of the proposed two level basement. The environmental impacts of the proposed excavation have not been able to be adequately assessed in the absence of information on matters such as acid sulphate soils, dewatering and land contamination.

Social and economic impacts

The proposed development is considered to be acceptable with regard to social and economic impacts in the locality.

3.5 The suitability of the site for the development

The site is also located within the coastal erosion zone, should the application have been recommended for approval a condition would have been imposed to address this issue.

3.6 Submissions made in accordance with this Act or the regulations

The application was notified / advertised in accordance with the Level 2 provisions of Council's DCP 2014 Part A14 - Public Notification and Exhibition of Development Applications. The exhibition period occurred from 6 January 2015 to 19 January 2015. Council's records indicate that no submissions were received.

3.7 Public interest

The proposed development is considered to be contrary to the public interest as the development significantly exceeds the height limit prescribed by the local planning instrument which has been the subject of an extensive community consultation process.

4. DEVELOPER CONTRIBUTIONS

4.1 Water & Sewer Levies

ET assessment

Development	Number	ET Rate		ET	
		Water	Sewer	Water	Sewer

1 bedroom motel units Ref 6.4	43	0.30 / bedroom	0.45 / bedroom	12.9	19.35
Office Ref 8.4	9.8 m ²	0.01 / m ²	0.004 / m ²	0.098	0.0392
Swimming pool – Indoor Ground Floor	Assumed 3m x14m @ 1.5m deep	Using Swimming pool calculator #E2015/9848		0.76	0.51
Swimming pool – Indoor Top Floor	Assumed 2m x 14m @ 1.5m deep	Using Swimming pool calculator #E2015/9848		0.66	0.51
Swimming pool – Outdoor Top Floor	Assumed 12m x 3m @ 1.5m deep	Using Swimming pool calculator #E2015/9848		0.72	0.51
TOTAL				15.138	20.9192

Therefore this development generates an additional load of:

- 15.14 – 3.50 (credit) = 11.64 ET for Water & Bulk Water;
- 20.92 – 5.05 (credit) = 15.87 ET for Sewer.

NB: figures are from the current Water and Sewer Equivalent Tenements Policy (13/005).

Had the application been recommended for approval it would require payment of Developer Servicing Charges of:

- **11.64 ET** onto Councils Water & Bulk Water;
- **15.87 ET** onto Councils Sewer.

4.2 Section 94 Contributions

Had the application been recommended for approval a condition would have been included to require payment of the Section 94A levy.

5. CONCLUSION

A review of Council's radioactive sand fill mapping identifies the subject site is likely to contain radioactive sand fill which could be disturbed as the proposal involves substantial excavation for two levels of basement parking. SEPP No.55 specifies that Council must not grant consent unless it has assessed if the land is contaminated. It is also noted that Council may be liable if consent were to be granted without acting substantially in accordance with the 'contaminated land planning guidelines' pursuant to Section 145B (Exemption from liability - contaminated land) of the *Environmental Planning and Assessment Act 1979*.

The proposal is non-compliant with the provisions of Byron LEP 2014 Clause 4.3 (Height of buildings), Clause 4.4 (Floor space ratio), Clause 6.1 (Acid sulfate soils) and Clause 6.2 (Earthworks).

The proposed building with a maximum height of 10.64m exceeds the 9.0m height limit by 1.64m (a non-compliance of 18.2%). The proposal exceeds the maximum floor space ratio by 22.5m² (a non-compliance of 1.7%). Whilst the applicant has submitted a written request to vary the maximum height and floor space ratio pursuant to Clause 4.6 (Exceptions to development

standards), the applicant has not demonstrated that compliance with height limit or floor space ratio is unreasonable or unnecessary.

The subject site is identified as containing Class 5 acid sulfate soils by Council's LEP 2014 mapping. The applicant has not submitted a preliminary assessment of the proposed works to demonstrate that an acid sulfate soils management plan is not required. As such development consent must not be granted in accordance with Clause 6.1 Byron LEP 2014.

The proposal is also considered to be inconsistent with Byron DCP 2014 controls relating to the height, bulk, scale, social impact assessment and environmental impacts for tourist accommodation.

Overall the applicant has failed to submit essential information to support the proposed development. The proposed 1.64m non-compliance with the maximum height limit has not been adequately justified by the applicant. The proposed development is considered to have insufficient planning merit and it is recommended that the application be refused consent.

6. RECOMMENDATION

It is recommended that pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application no. 10.2014.742.1 for demolition of existing single-storey motel building and erection of a three (3) storey motel accommodation building plus two (2) levels of basement parking, be refused for the following reasons:

1. Pursuant to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the height of the proposed building exceeds the maximum height shown for the land on the Height of Buildings Map, contrary to Clause 4.3 of Byron Local Environmental Plan 2014.
2. Pursuant to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the floor space ratio of the proposed building exceeds the floor space ratio shown for the land on the Floor Space Ratio Map, contrary to Clause 4.4 of Byron Local Environmental Plan 2014.
3. Pursuant to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, an acid sulfate soils management plan (or a preliminary assessment) has not been provided to Council, in accordance with Clause 6.1 of Byron Local Environmental Plan 2014 development consent must not be granted.
4. Pursuant to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, it has not been demonstrated that the subject land is not contaminated and in accordance with Clause 7 of State Environmental Planning Policy No.55 (Remediation of land). Council must not consent to the carrying out of any development on land unless it has determined whether the land is contaminated or suitable for the purpose.
5. Pursuant to Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979* the proposed height, bulk and scale of the proposed building is likely to have a negative impact on the built environment of the locality.
6. Pursuant to Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposed development is considered to be contrary to the public interest in terms of possible environmental impacts.

7. DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

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

Provide Disclosure Statement register details here: Nil.





Department of
Primary Industries
Office of Water

BYRON SHIRE COUNCIL
DOC NO:
REC'D: - 1 MAY 2015
FILE NO: A 13633
ASSIGNEE: M. Smeal

Contact: Vanessa Sultmann
Phone: 02 6676 7382
Fax: 02 6676 7388
Email: vanessa.sultmann@dpi.nsw.gov.au

PN 41820

The General Manager
Byron Shire Council
PO Box 219
Mullumbimby NSW 2482

Our ref: 30 ERM2015/0294
File No: 9059276
Your Ref: 10.2014.742.1

Attention: Paul Mills

23 April 2015

Dear Sir/Madam

Re: Proposed Development
Described as: Demolition of Existing Motel and Construction of New Hotel or Motel
Located at: 33 Lawson Street, Byron Bay

I refer to your recent letter regarding a Development Application (DA) proposed for the subject property. It is noted that the DA was not referred to the Office of Water as integrated development, however, the following comments are provided for Council's consideration.

The application proposes basement parking which is likely to trigger the need for dewatering. Any take of water as a result of minor temporary dewatering activities that is estimated to be less than 3 megalitres per year (3ML/yr) will generally not require a licence or approval from the Office of Water.

It is the applicant's responsibility to assess and monitor water take and impacts, and to advise the Office if they exceed these conditions, at which time a licence must be obtained. The applicant must also meet all requirements of other agencies and consent authorities as per usual.

If it is the applicant's estimation that water take will exceed 3ML/yr then they must apply for a licence under Part 5 of the Water Act 1912 prior to commencing the activity.

The Office of Water *does not support permanent dewatering of basement car parking*. It is the applicant's responsibility to determine whether this outcome would be likely and if so the Office of Water recommends that the basement be made waterproof to avoid the need for permanent dewatering.

The Office of Water requests that Council **provide a copy of this letter to the applicant**.


www.water.nsw.gov.au
Room 2, 135 Murwillumbah Street MURWILLUMBAH 2484 : PO Box 796 MURWILLUMBAH NSW 2484
t + 61 2 66767380 | f + 61 2 66767388 | e water.enquiries@dpi.nsw.gov.au | ABN 72 189 919 072
Template Ref: CAA025, Version 1.0 (March 2015)

2

Further information on controlled activity approvals under the *Water Management Act 2000* can be obtained from the Office of Water's website
www.water.nsw.gov.au Water licensing > Approvals > Controlled activities

Please direct any questions or correspondence to Vanessa Sultmann,
vanessa.sultmann@dpi.nsw.gov.au.

Yours sincerely



Patrick Pahlow
Water Regulation Officer
NSW Department of Primary Industries
Office of Water
Water Regulatory Operations, Water Regulation, North & North Coast

Report No. 13.10 **Compliance process to address non-compliance with requirement for culvert creek crossing and access approaches at 220 Fowlers Lane Bangalow**

Directorate: Sustainable Environment and Economy
Report Author: Wayne Bertram, Manager Sustainable Development
 Ralph James, Legal Services Coordinator
File No: I2015/95
Theme: Ecology
 Development and Approvals

Summary:

At Council's Ordinary Meeting of 28 August 2014 Council determined Development Application No. 10.2013.132.1 and resolved (14-427):

1. *That pursuant to Section 96 of the Environmental Planning and Assessment Act 1979, that Section 96 application 10.2013.132.2 be approved as follows:*
 - a) *That the development application 10.2013.132.1 be altered to provide a lapsing date of 30 September, 2014.*
 - b) *That pursuant to Section 96 of the Environmental Planning & Assessment Act 1979, that Section 96 Application 10.2013.132.2, to delete Condition 7(c) be refused because It is not in the public interest to modify the development consent by deleting the requirement for the provision of a turning area within the road reserve.*
 - c) *The following condition is to be added to the development consent under the heading "Parameters of this Consent"*

"4A. That the s138 Road Act Approval to be carried by Council include a requirement for the culvert and roadworks to be completed by 27 February 2015."
2. *That in the event that the applicant fails to provide a Controlled Activity Approval from the office of water, payment of the Long Service Levy, and written evidence of a satisfactory contract agreement for the construction of all the works by the 30 September 2014, Council is to receive a report, soon after, on the compliance process.*

This report is to inform Councillors of the compliance action proposed given the creek culvert and all roadworks have not been completed.

RECOMMENDATION:

1. **That Council seek legal advice (external or internal) as to:**
 - (a) **the appropriateness of issuing an Order and if so to draft the Order, and**
 - (b) **whether more appropriate action would be to institute proceedings in the Land and Environment Court.**
2. **That should the legal advice recommend, or should the Order process (if taken) not bring about compliance with Condition 8 of Development Application No. 10.2000.348.1 the General Manager be authorised to commence and maintain Class 4 proceedings seeking enforcement of Condition 8 of Development Application No. 10.2000.348.1 in accordance with the General Manager's general delegations.**
3. **That subject to the legal advice and on being satisfied that all pre-conditions have been met, the General Manager take all steps necessary to make an unconditional demand on the Guarantee dated 28 February 2003.**

Report - History

Development Application No. 10.2000.348.1 for a community title subdivision comprising 11 dwelling lots and 1 neighbourhood lot was approved by Council on 19 September 2000.

- 5 The following conditions regarding the culvert crossing and road upgrade were included within section B of the development consent::

7. *Fowlers Lane shall be upgraded at no cost to Council to the following standard:-*

- | | | | |
|----|--|---|--|
| 10 | Intersection | - | to RTA satisfaction. |
| | 0 to 170m | - | 7.0m seal on 8.0m formation; |
| | 170m to 1760m | - | 5.5m seal on a 7.0m formation with traffic calming devices at 180, 800 and 1200 metres |
| | 1760m to 2300m | - | 4m seal on a 6m formation; |
| | Crests and S-bends to be upgraded to 6.0m wide seal. | | |

Culvert at Sleepy Creek constructed to 5 year ARI event.

Prior to commencement of any work, detailed engineering plans are to be submitted and approved by Council's Development Engineer and the RTA

- 25 8. *The proposed new access and crossing over Possum Creek shall be contained wholly within the crown road reserve and shall be designed and constructed to a 5 year ARI event. Flood markers and appropriate warning signs shall be provided at either end of the causeway advising against crossing of flood levels exceed 50mm over the causeway. Any requirements in a permit under Part 3A of the Rivers and Foreshore, Improvement Act 1948 shall be undertaken.*

Prior to construction commencing, detailed engineering plans shall be submitted and approved by Councils Development Engineer including details of means to protect against scouring during overtopping.

9. Council will apply to the Department of Land and Water Conservation for the unmade Crown Road Reserve to be dedicated prior to any construction being undertaken. The applicant shall pay the cost of the application.

- 35 Section 96 Application No. 10.2000.348.2 was granted approval by Council on the 16 April 2002
subject to the following:

Deletion of Condition B7 which required the upgrading of Fowlers Lane at no cost to Council and amendment to condition B18 to include a “rural roads upgrading” (the Schedule of Contributions will now be \$103,950 (being 9 ETs @ \$11,550 per ET)) as follows:

- 40 *B.18. Payment of the contributions as set out in the attached 'Schedule of Contributions'. Contributions are levied in accordance with the Byron Shire Council Section 94 Plan for Rural Road Upgrading, Community Facilities, Bushfire Brigade dated 22 June 1993 and the Section 94 Plan for Council Officers, a Shire-Wide Community Facility dated 24 June 1997.*

- 45 Council also resolved the following in relation to Development Consent No. 10.200.348.1:

- 50
- That Council note the willingness of the applicants to waive future claims against Council in relation to payment for the upgrading of Fowlers Lane including the right to make any Section 96 application for variation of the Section 94 contribution.
 - That Council staff, when it is aware of the works program affecting Fowlers Lane, advise the residents about the works.

Section 96 Application No. 10.2000.348.3 to amend the access road requirements was applied for and subsequently withdrawn on 22 April 2008.

- 5 Section 96 Application No. 10.2000.348.4 to again amend the access road requirements was approved on 31 August 2009 and allowed for:

The "Land to be Developed" to include Lot 4 DP 707671, 220 Fowlers Lane, Bangalow;

To delete Condition A and instead insert:

10

A. Development shall be generally in accordance with the amended report prepared by Balanced Systems Planning Consultants dated June 2000 submitted on 8 June 2000 with access in accordance with the plan labelled "Road and Culvert Works", numbered C01 and C02, Revision A, dated 2009/07/02 and prepared by Ardill Payne and Associates Pty Ltd, and as modified by any conditions of this consent.

15

Delete existing Condition B8 and instead insert:

B 8 The proposed new access and crossing over Possum Creek shall be in accordance with the approved plans labelled "Road and Culvert Works", dated 2009/07/02. All of the following requirements shall be undertaken.

20

Section 96 Application No. 10.2000.348.5 to amend consent conditions was approved on 7 December 2009 which further allowed Condition 8a) to read:

25

8 a) Road Construction

Road and drainage construction for the proposed works shown on the approved plan. The proposed cul-de-sac shall be provided with a minimum 8.5m radius sealed pavement. Appropriate signage shall define the commencement of the private driveway access.

- 30 Section 96 Application No. 10.2000.348.6 was then submitted to modify property access and creek crossing arrangements to No. 231 Fowlers Lane by proposing the following:

- *Amend Condition 8 to refer to plans by Ardill Payne & Partners – August 2012 – Plans 6258-C01-24AUG2012 & 6258-C02-23AUG2012-1.*
- *Delete the reference in Condition 8a to the need for a proposed cul-de-sac as an adequate three point turn is available at Chainage 2125.*
- *The works required by this consent commence at the point in Fowlers Lane beyond where S94 contributions, paid by the applicant, applied to.*
- *Amend the flood immunity of the causeway to the 1:1 ARI so as to conform with the Council standard used by Council at Sleepy Creek on Fowlers Lane.*

35

40

The proposal was not supported as it was inconsistent with Council's adopted engineering standards; and the consent of all landowners to which the application relates was not provided and it is not in the public interest to approve the modifications. The application was subsequently refused for the following reasons:

45

1. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed modifications to the required creek crossing arrangements are not in accordance with Council's current adopted engineering standards and are inconsistent with Clause 24 of Byron Local Environmental Plan 1988.

2. Pursuant to Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, the site is prone to flooding and is not suitable for the proposed modified design.
3. Pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, it is not in the public interest to support the proposed modifications.
- 5 4. Pursuant to Clause 115 of the Environmental Planning and Assessment Regulation 2000, the application for modification of a development consent is not accompanied by a statement signed by the owner of the land to the effect that the owner consents to the making of the application.

10 A new development application for a creek crossing was received on the 3 April 2013 being Development Application No. 10.2013.132.1 which was determined by approval at Council's Ordinary Meeting of 29 August 2013 which resolved (13-433):

- 15 1. *That pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, Development Application 10.2013.132.1 for construction of a culvert creek crossing and access approaches, be granted consent subject to conditions listed in Annexure 17(b) #E2013/49771 and lapse 9 months after the consent is granted.*
- 20 2. *That should the culvert creek crossing and access construction works under DA 10.2013.132 not be commenced within 3 months of the date of this resolution and completed within 6 months from commencement that Council serve an order to complete the creek crossing as required by DA 10.2000.348 (as amended). (Hunter/Ibrahim)*

In relation to 13-433(1) the development consent has been issued.

25 In relation to 13-433(2) The applicant has advised that he had undertaken surveying works so as to commence this development within 3 months of the date of the Council resolution. Where the development commenced before 3 months of the date of the resolution the works were to be completed within 6 months from that commencement being before the 29 May 2014.

30 On the 4 June 2014 Council received a Section 96 Application No. 10.2013.132.2 to modify this development approval and on the 28 August 2014 Council determined Development Application No. 10.2013.132.1 and resolved (14-427):

- 35 1. *That pursuant to Section 96 of the Environmental Planning and Assessment Act 1979, that Section 96 application 10.2013.132.2 be approved as follows:*
 - a) *That the development application 10.2013.132.1 be altered to provide a lapsing date of 30 September, 2014.*
 - 40 b) *That pursuant to Section 96 of the Environmental Planning & Assessment Act 1979, that Section 96 Application 10.2013.132.2, to delete Condition 7(c) be refused because it is not in the public interest to modify the development consent by deleting the requirement for the provision of a turning area within the road reserve.*
 - c) *The following condition is to be added to the development consent under the heading "Parameters of this Consent"*
 - 45 *"4A. That the s138 Road Act Approval to be carried by Council include a requirement for the culvert and roadworks to be completed by 27 February 2015."*
- 50 2. *That in the event that the applicant fails to provide a Controlled Activity Approval from the office of water, payment of the Long Service Levy, and written evidence of a satisfactory contract agreement for the construction of all the works by the 30 September 2014, Council is to receive a report, soon after, on the compliance process.*

In relation to Council resolution 14-427 the following actions have occurred:

Construction Certificate No: 11.2013.132.1 was determined and issued on 27 October 2014 which allowed for the works to commence subject to a Notice of Commencement.

- 5 In accordance with point 2 of resolution 14-427, this report is to advise Councillors of the compliance action proposed as the culvert and all road works had not been completed as of 27 February 2015. An inspection on the 4 March 2015 confirmed that the sealing for the access way over Lot 4 DP 707671, 220 Fowlers Lane had occurred however the culvert works and the majority of works within the road reserve had not been undertaken.
- 10 Council has now also received two new S96 applications to modify both development applications 10.2000.348.1 and 10.2013.132.1. These will be considered on merit and will be subject to subsequent reports to Council for determination.
- 15 As the works have not been completed in accordance with Council resolution 14-427 the following are the compliance actions open to council.

ORDERS

- 20 The general principles that Council should follow in issuing orders is that they should ensure:-
- The orders are clear and certain as to what needs to be done and by when it needs to be done.
 - The order should require only what is reasonable, proper and within the power of the order to require.
 - The order should use plain English, consistent terminology and explain any technical terms.
 - The order should advise the recipient of the order that non-compliance with the notice may lead to enforcement action being taken against them.
 - The order is to be signed by a person with delegated legal authority to issue the order.
 - The order is to be issued to the correct legal entity.
- 25
- 30

Procedural

- 35 Before an order and terms can be given, a Notice of Intention to give the proposed order must be given to the person to whom it is proposed to give the order – Section 121H Environmental Planning and Assessment Act (EPAA). The Notice of Intention needs to include the precise terms of the proposed order and the period proposed to be specified as the period within which that order is to be complied with.
- 40 It must also indicate that the person to whom the order is proposed to be given may make representations to the Council as to why the order should not be given.

- Council must hear and consider any representations made by a person before issuing an order. Upon considering any representations Council can then decide to give the proposed order, modify the order or not give the order at all.
- 45

Terms of the Proposed Order

- 50 Work required to be done or actions to be performed must be within the scope of a relevant order.
- The work required to be done must be sufficiently particularised to enable the person to whom the notice or order is given to ascertain exactly what works are required to enable him, her or it to comply with the order.

Period for Proposed Order

The period for compliance with the order should be a reasonable time to carry out the works having regard to the circumstances including any submissions received from the person to whom the order is given.

What is a reasonable time depends upon the circumstances in each case.

Reasons for Proposed Order

Council must give a person to whom an order is given the reasons for the order – Section 122L EPAA. The reasons must be given at the same time as the order and can be provided in a separate document.

The content of the obligation to give reasons was considered at length in the case of **Stutchbury v Pittwater Council**. In that case it was stated

- “(i) the mere restatement of the conditions which must be satisfied before the discretionary power to make the order arises is not the provision of reasons for the order; and
- (ii) the reasons given must make intelligible the true basis for the decision to issue the order so that;
- (iii) the person who is affected by the order is fully informed of the basis for it and the reasons for issuing it, so that;
- (iv) the affected person has sufficient information to decide whether to accept the order or appeal it.”

Certainty

In looking at whether or not an order has been validly issued, the Court has also been called upon to look at the issue of “certainty” of order. In the case of **Foster v Sutherland Shire Council (2001) NSW LEC 89** it was stated;-

*“The certainty required for the formulation of a court order or a statutory order should apply to an order issued by Council pursuant to Section 121B of the EP&A Act. The order must be certain. The order has been issued without an objective standard against which the prohibited use sought to be restrained can be determined with certainty. As a consequence, the order does not tell him (the Applicant) fairly what he has done wrong and what he must do to remedy it.....to constitute a valid order made pursuant to Section 121B of the EP&A Act, it must be **unequivocal** in this instance the order does not accord with such requirements and is accordingly invalid.”*

In the case of **Barclay v Wollongong City Council [2005] NSWLEC 160** it was said:

“The reasons for the order do not elucidate what it is that the order requires the applicants to do by way of implementation of the action.....The council has a responsibility to particularise in concise terms what it requires to be done. Until the council specifies that action it believes is necessary to bring about the compliance with the conditions of development consent the Court is not in a position to reflect upon whether the demand for that action to be taken can be regarded as rightly the subject of an order authorised by s 121B order 15.”

Other matters

An order should also state that if the order is not complied with, the Council may do all such things as are necessary or convenient to give effect to the terms of the order and recover the costs of so doing from the person required to comply with the order – Section 121Z(j) EPAA.

Where appropriate, an order should indicate that non-compliance is an offence under the relevant Act and indicate the maximum penalty.

COURT PROCEEDINGS

Class 4 proceedings in the Land and Environment Court relate to environmental planning protection and civil enforcement and include proceedings for breaches of planning law.

In Class 4, the Court is vested, among other things, with the power 'to enforce any right, obligation or duty conferred or imposed by a planning or environmental law'

Class 4 proceedings are commenced by a statement of claim.

Financial Implications

Bank Guarantee

A Bank Guarantee was given in accordance with s109J(2)(c) of the EPA Act. Sub-section (c) relies on an "agreement" between the parties. The Guarantee refers to the Agreement being with respect to "Bridge and associated roadworks for property at Fowlers Lane, Bangalow."

The agreement is a letter from Paul and Elva Richmond dated 6 January 2003.

It confirms that they will "commence and complete the bonded bridge works within eight months of registration of the plan of subdivision" and then identifies the works at (i), (ii) and (iii) as:

- (i) Stage 2 of the approved construction plans (01/359)
- (ii) the amending bridge specifications lodged with Council on 13/12/02; and
- (iii) the first 160 metres of Stage 1 of the approved construction plans (01/359)

A covering letter of same date also refers to a bank cheque then being provided. Instead of the bank cheque it was the Guarantee that was provided.

Clause 2 of the Guarantee details when payment of the amount guaranteed will be paid by the Bank to Council and in particular "while the guarantee remains in force an unconditional written demand from the Beneficiary accompanied by this guarantee".

There is no Termination Date and Council is the Beneficiary. The relevant condition doesn't stipulate a time for compliance.

If the works that have not been carried out in accordance with the development consent are the same as the bonded bridge works referred to and then particularised in the letter dated 6 January 2003, and they are the same as described in the Guarantee, then Council can seek to exercise its option of sending to the Bank an unconditional written demand but only if the works have not been carried out after the expiry of 8 months from the registration of the plan of subdivision.

Council would remain in a position to send an unconditional demand if the nature of the works was pursuant to an amendment to the original consent provided that they are the same bonded bridge

works and that the works the subject of the amendment are the works referred to in the letter and guarantee.

Legal Fees

5

Fees for external solicitors work will be calculated at the following hourly rates inclusive of GST:

10

1. Partner \$324.50
2. Solicitors \$297.00
3. Senior Law Clerks \$203.50
4. Junior Law Clerks \$132.00
5. Paralegals \$99.00

15

Fees for external solicitors drafting orders and advising on that process will be in the order of \$5,000 plus GST.

20

At this stage an estimate of fees for external solicitors acting for Council in Land and Environment Court proceedings (Recommendation 2) will be in the order of \$20,000 plus GST if the matter proceeds to a hearing of not more than three days in duration.

Rule 4.1 of the Land and Environment Court Rules provides that Class 4 proceedings are subject to the provisions of the Civil Procedure Act and Uniform Civil Procedure Rules (UCPR).

Accordingly under Part 42 Rule 1 of the UCPR the general rule is that costs follow the event, that is:

25

"if the court makes any order as to costs, the court is to order that the costs follow the event unless it appears to the court that some other order should be made as to the whole or any part of the costs".

30

A dispute about costs in Class 4 proceedings will therefore often involve an argument over whether the party claiming costs has actually achieved "success" or to what extent it has succeeded in the proceedings.

Construction Costs

35

At the time of writing this report Council did not have any formal construction estimates for the culvert construction. However under section 121ZJ EPAA, if a person fails to comply with the terms of an Order the Council may do all such things as are necessary or convenient to give effect to the terms of the Order, including the carrying out of any works required by the Order.

40

Any expenses incurred by the Council together with all its associated costs may be recovered by the Council in any Court of competent jurisdiction as a debt due to the Council by the person concerned.

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.11

Report No. 13.11 **PLANNING - S96 10.2013.587.2 to delete condition 54 in relation to future lease arrangements (Mercato) 98-114 Jonson Street Byron Bay**
Directorate: Sustainable Environment and Economy
Report Author: Oli McIntosh, Consultant Planner
File No: I2015/284
Theme: Ecology
Development and Approvals

Proposal:

Proposed modification: Modifications to condition proposing the deletion of condition 54 in relation to future lease arrangements.

Original Development: Redevelopment of existing shopping centre to create a ground floor supermarket, first floor retail shops, restaurants, bowling ally (recreation facility), art gallery (commercial premises), cinema complex (place of assembly), two levels of basement car parking, terrace over Jonson Street road reserve, associated works and subdivision of four (4) allotments into two (2).

Type of S.96 sought: S96(1A) Modification involving minimum environmental impact

Property description: LOT: 7 DP: 619224, LOT: 6 DP: 619224, LOT: 8 DP: 617509, LOT: 9 DP: 617509

108-110 Jonson Street BYRON BAY, 98-106 Jonson Street BYRON BAY, 112-114 Jonson Street BYRON BAY

Parcel No/s: 116180, 116190, 34840, 177890

Applicant: Global Centres Australia Pty Ltd

Owner: Task Group Services Pty Ltd

Zoning: Zone No. B2 Local Centre

S96 date received: 18 February 2015

Original DA determination date: Council 20 November 2014

Integrated Development: No

Public notification or exhibition: – Level 2 advertising under DCP 2014 Part A14 – Public Notification and Exhibition of Development Applications

– Exhibition period: 4/3/15 - 17/3/15

– Submissions: For 0 Against 1

Delegation to determination: Council

Summary:

15 Determination No. 10.2013.587.1 granted development consent for ‘redevelopment of existing shopping centre to create a ground floor supermarket, first floor retail shops, restaurants, bowling ally (recreation facility), art gallery (commercial premises), cinema complex (place of assembly), two levels of basement car parking, terrace over Jonson Street road reserve, associated works and subdivision four (4) allotments into two (2).

20 In addition to the conditions of consent recommended by the assessing officer, Council resolved to impose (among others) a condition requiring that “prior to issue of the Occupation Certificate, both council and proponents develop a formal agreement based on a Section 88E Conveyancing Act 1991 restriction, that is supported by both parties with regard to leases and any future point of sale contracts”. This resolution was reflected in the imposition of Condition 54 of the determination.

25

This application seeks to delete Condition 54. The legality and merit of the condition is discussed in the body of the report and ultimately it is concluded that, if challenged in the Land & Environment Court of NSW, the imposition of Condition 54 is unlikely to be upheld. As such, it is recommended that the condition be deleted.

5

NOTE TO COUNCILLORS:

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

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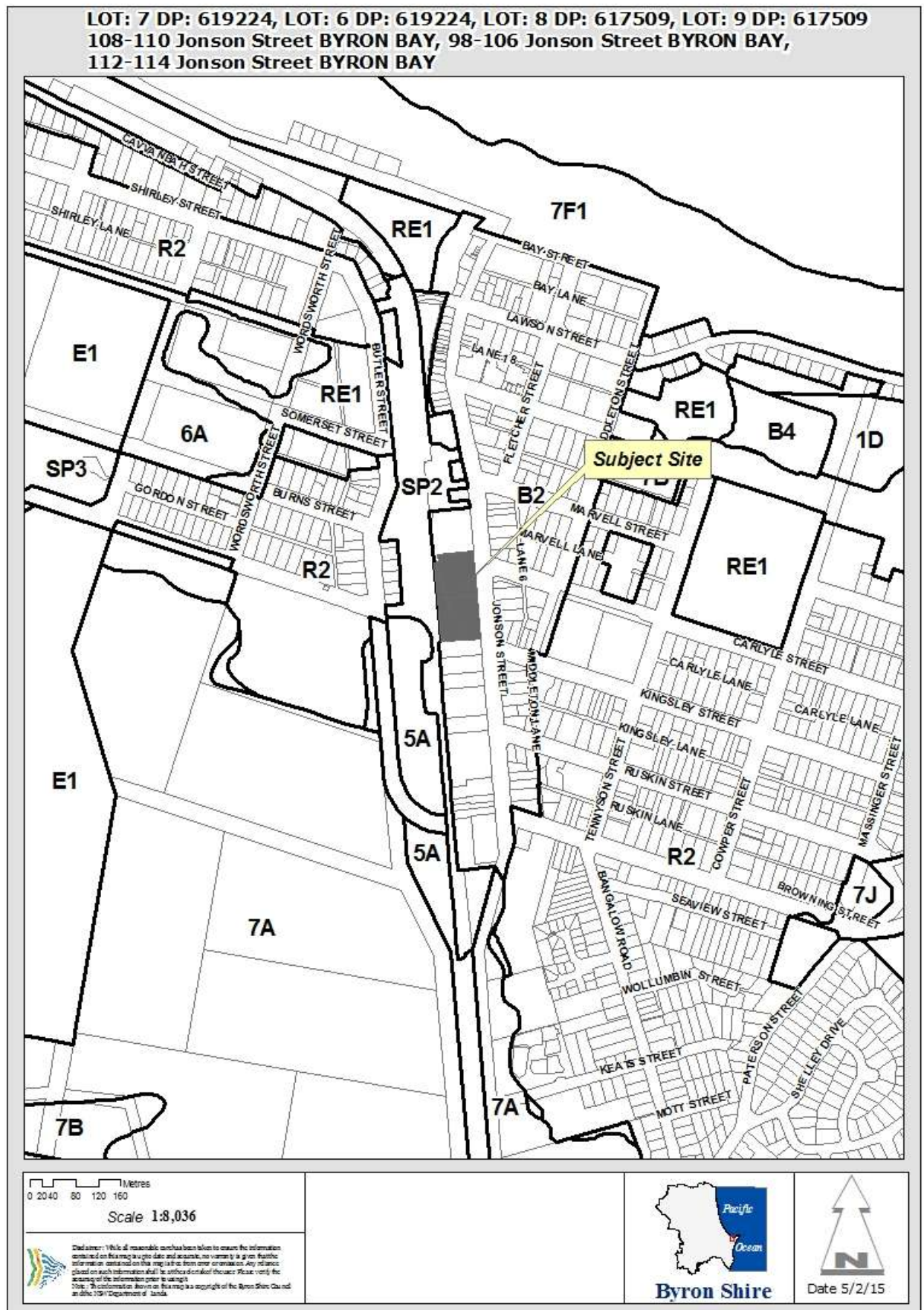
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RECOMMENDATION:

That pursuant to Section 96 of the Environmental Planning & Assessment Act 1979, application 10.2013.587.2, be approved to modify development consent 10.2013.587.1 BY THE DELETION OF CONDITION 54.

Attachments:

- 1 Confidential - submission 10.2013.587.2, E2015/27814



Assessment**1. INTRODUCTION****1.1 Details of approved development and any subsequent modifications**

Determination No. 10.2013.587.1, dated 20/11/2014, was approved by Council resolution 14-581 at the Ordinary Meeting of 20 November 2014. It granted development consent for 'redevelopment of existing shopping centre to create a ground floor supermarket, first floor retail shops, restaurants, bowling ally (recreation facility), art gallery (commercial premises), cinema complex (place of assembly), two levels of basement car parking, terrace over Jonson Street road reserve, associated works and subdivision four (4) allotments into two (2), subject to conditions listed in Annexure 4(b) #E2014/68351 and with following additional conditions:

1. That, prior to issue of the Occupation Certificate, both council and proponents develop a formal agreement based on a Section 88E Conveyancing Act 1991 restriction, which is supported by both parties with regard to leases and any future point of sale contracts.
2. To better achieve the objective and performance criteria of DCP H6.1 Element - Landscaping of Commercial Developments, the Applicant is required to participate in a workshop with Councillors and staff to consider the following design variations, for incorporation within the required landscape plan, prior to the issue of a construction certificate.
 - a) Minimise the intrusion of the escalator within the open space, so as to maximise and enhance public use and enjoyment. This could be achieved by relocation or realignment of the escalator, for example by putting it closer to a suitable side of the building, or moving it to an internal position at the entrance to the supermarket.
 - b) Redesign the steps to include space for people to sit and meet. This could be achieved by widening the steps, incorporating landings and other aesthetic design elements such as sculptures and plantings. The objective being that the steps become part of the open space landscaping. (Richardson/Ibrahim).'

Condition No. 54 of the consent was drafted to reflect 'additional condition 1' of the above resolution. It reads:

54) Leases and future point of sale contracts

That, prior to issue of the Occupation Certificate, both council and proponents develop a formal agreement based on a Section 88E Conveyancing Act 1991 restriction, that is supported by both parties with regard to leases and any future point of sale contracts.

1.2 Section 96 modifications sought

Consent is sought under Section 96(1A) of the EP&A Act 1979 to modify the Determination No. 10.2013.587.1, by the **deletion of condition 54**.

1.3 Is the modification substantially the same as the development granted

The development as proposed in the modification would be substantially the same as the development granted.

2. DISCUSSION OF PROPOSED MODIFICATION

Although it is not explicit in the wording of Condition 54, correspondence between Councillors and staff (See E2015/18746) suggests that the intent of the condition was to provide Council with some control (post-determination) in the type of businesses that would be permitted to tenant the premises. More specifically, the intent appears to the purpose of encouraging *"businesses who source their produce and products locally and who have a point of difference theme"* (Cr Wanchap, 19/11/2014, #E2015/18746).

In applying to have Condition 54 deleted from the consent, the applicant has argued that the imposition of such a condition of consent by Council is either unenforceable or lacks effect". Furthermore, the applicant has provided their own legal advice which supports their view that the imposition of such condition consent by Council is *ultra vires*.

Preliminary legal advice to the applicant concerning the subject condition was provided to Council around the time of determination of the original application. The advice was provided in the form of an email from Hickey Lawyers, dated 13/11/2014 (#E2015/18738). An extract from the email is reproduced below;

I understand the Byron Shire Council have asked you to consider a covenant either on title or in your various leases to the effect that you will not enter a lease with Fast Food operators in the nature of KFC, McDonalds or similar franchises. Quite simply, we don't see how this is possible. It would be very difficult to draft a clause which did not have unintended consequences and that may preclude a host of other fast food or retail outlets which the Council might otherwise consider "in-offensive". Any such clause would in our view be uncertain in its terms, difficult to enforce and potentially raise issues of discriminatory/anticompetitive behaviour. In any event, we don't understand how this would assist Council. If you did not comply with the clause, what action would Council take? How could it substantiate any loss, let alone establish a cause of action against you.

It is obviously important that you continue a good working relationship with the Byron Shire Council. We think this could be achieved by simply "shaking hands" with Council on the issue and obviously a breach of the "hand shake" agreement would result in a potential loss of "political capital" with Council. In our view, trying to formalise an agreement of this nature is simply not possible and would expose the Land Owner to a variety of potential legal actions.

Detailed advice from Gadens Lawyers, dated 2 February 2015, was provided by the applicant in support of the S.96 application (#E2015/10525, Annexure B). The summarised findings of the Gadens advice are that;

- (a) Condition 54 purports to establish a mechanism of the Council to:
 - (i) impose restrictions on how the shopping centre can be used; and
 - (ii) compel the owner of the shopping centre to use the premises in a particular way.
- (b) If the shopping centre owner refuses to agree to the restrictions or obligations, it is the intent of condition 54 that no occupation certificate will be issued.
- (c) There are three independent reasons why, if the matter was appealed to the Land and Environment Court, the Court will delete condition 54.
- (d) Firstly, the Court has not been favourably disposed towards conditions requiring restrictions on the use of land to be registered on the land's title. When exercising its powers in merit appeals, the Court has generally taken the view that it is inappropriate to impose a condition that would attempt to restrict a change of use or limit the ability to obtain development consent in the future. The Court is likely to take the same approach on this occasion.

(e) Secondly, section 931(3) of the EP& Act prevents a consent authority from imposing a development consent condition requiring a developer to agree to provide a material public benefit unless the agreement is in accordance with an offer made by the developer. As no such offer has been made, an ordinary reading of condition 54 would lead to the conclusion that the condition is unlawful and is unenforceable because section 931(3) has been breached.

At best the condition might be said to be lawful, but must be interpreted in a limited way. This would mean that condition 54 will have no effect if you, as the developer, do not offer to enter into an agreement under it.

(f) Thirdly, the identity of any future users of the land (ie tenants in the shopping centre) was not a relevant factor for consideration in the determination of the development application. It was/is not a legitimate matter to be governed by or under a development consent condition.

(g) It is appropriate for you to seek the deletion of condition 54 via a modification application under section 96(14) of the EP&A Act.

The ability of Council to use town planning mechanisms to control the type of brands who seek to establish themselves within the LGA is limited under the Environmental Planning and Assessment Act 1979. In particular, Section 79(C) of the EP&A Act stipulates what matters a consent authority may take into consideration in the determination of a development application, and Section 80(A), stipulates the purposes for which conditions of consent may be imposed. In addition to the scope of planning legislation, the affect of anti-discrimination and anti-competition legislation must also be considered when prescribing any mechanisms that aim to place additional levels of control over operation or establishment of certain specific types of businesses.

Regarding the particular matters for consideration under S.79C subclause (1)(b) is considered likely to be of most relevance to the intent of Condition 54.

(1)(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

In applying the above subclause, however, it is important to note the effect of certain principles established by case law. In particular;

1. The social effect of a proposal does not relate to moral considerations...it is not for local government councils or for [the Land and Environment] Court to assume the mantle of moral arbiter: *Fabcot Pty Ltd v Hawkesbury City Council* 93 (LGERA) 373 at 378 (*Fabcot*).
2. Similarly, economic competition between individual trade competitors is not an environmental or planning consideration to which the economic effect described in [s 79C(1)] is directed: *Fabcot* at 378.
3. However, the economic impact of a development 'in the locality' in which it is situated can be a relevant planning consideration, as described in *Kentucky Fried Chicken v Gantidis* (1979) 140 CLR 675 at 687:

If the shopping facilities presently enjoyed by a community or planned for it in the future are put in jeopardy by some proposed development, whether that jeopardy be due to physical or financial causes, and if the resultant community detriment will not be made good by the proposed development itself, that appears to me to be a consideration proper to be taken into account as a matter of town planning.

It does not cease to be so because the profitability of individual existing businesses are at one and the same time also threatened by the new competition afforded by that new development. However the mere threat of competition to existing businesses, if not accompanied by a prospect of a resultant overall adverse effect upon the extent and adequacy of facilities available to the local community if the development be proceeded with, will not be a relevant town planning consideration.

4. There must be evidence of the adverse economic affect of the development to for its consideration to be relevant: *Ex Gratia Pty Ltd v Dungog Shire Council* [2005] NSWLEC 148 at [63] to [68].
5. Fears of economic consequences are not relevant in planning appeals unless there is a reasonably foreseeable likelihood that those fears will be realised and that those fears will have a sufficiently adverse impact (if realised) to warrant refusal or contribution to refusal: *Bailey v Oberon Shire Council* [2006] NSWLEC 815 at [42].
6. Even where adverse economic impact of a relevant kind can be shown, this will not, in and of itself, warrant refusal. It is a relevant consideration for Council, but not the only one: *Sun v Campbelltown City Council* [2005] NSWLEC 518 at [22].

From the above principles it could be surmised that the focus of the consideration under section 79C has to be on the impact a development will have on the locality, not the identity of the trader in and of itself. It is noted that this issue was raised in council staff's response to submissions outlined in the Planning Assessment Report prepared for the original application

'whilst it is understood that some elements of the community may not prefer certain national or international brands this is not a matter for town planning consideration' (p. 41).

Consideration of 'the public interest' under Section 79C(1)(e) is another matter that could be argued to enable Council to prevent certain franchises from establishing themselves in town, especially considering the level of public concern apparently surrounding this issue. However, once again the question of what may appropriately qualify as being within or contrary to 'the public interest' is complex and would be problematic to rely on in this particular case without a solid base of quantifiable research to rely on.

3. SECTION 79C – MATTERS FOR CONSIDERATION

Having regard for the relevant matters for consideration detailed in Section 79C(1) of the Environmental Planning & Assessment Act 1979 changes to the original assessment for Development Application 10.2013.587.1 are noted.

3.1 Submission

One submission was received by Council in relation to the application. The submission raises the following objections:

n. finally as per, 10. 2013. 587. 2. It is not unknown for Council to impose restrictions such as the one about how a shopping centre can be used. This refers to the types of leases. Land titles are burdened with requirements according to different planning (see rural land use requirements and planned retreat requirements).

o. Whatever the legality is being argued again I am unhappy about what seems to be scraping for new bottom line is rather than aiming for best practice. The paper is reported that detailed discussions with the councillors about the types of leaseholders in the centre and the importance of the types of shops in Byron is a huge feature in the master plan discussions. Many people I speak where mention that the saving grace of the global

centres project is that the type of shops are being considered and gaurds are in place to turn the trend away from franchise and large scale chain store type tenancies. It is most unfortunate to be arguing against this saving grace at this later date. I strongly object, and I would much rather see that the developer align the project with a sensitive understanding of developing "Main Street" and local economy. It is certainly within the ability of the developer to choose to stand with the community on this issue, rather than against it. I would like to see this happen.

The points raised by the submission are noted, and it is considered likely that they reflect widely held sentiments within the local community. In spite of this the imposition of Condition 54, as discussed in this report, is considered to be *ultra vires* and improper under the particular circumstances of the case. The imposition of this condition is unlikely to be upheld in the Land & Environment Court if it were to be challenged by the developer. It should be noted that regardless of whether Condition 54 is imposed, Council will be required to consider relevant factors (including social and economic impacts) under Section 79C of the EP&A Act 1979, when assessing any future applications for the use/fit out of the individual tenancies.

4. DEVELOPER CONTRIBUTIONS

4.1 Water & Sewer Levies

No change to original assessment for Development Application 10.2013.587.1.

4.2 Section 94 Contributions

No change to original assessment for Development Application 10.2013.587.1.

5. CONCLUSION

The issue of controlling the establishment of certain multinational franchises within the shire is not new to Byron Shire Council. Contrary to apparent widely held views within the community, the ability of Council to use town planning as a mechanism to control the establishment of certain franchises is very limited and carries with it a high risk of exposing Council to difficult legal challenges.

In the absence of any evidence regarding the impact some tenants would have on existing facilities, Council, in imposing condition 54, may have considered an irrelevant matter: the potential for as yet undefined harm caused by as yet undefined traders. If challenged, the imposition of Condition 54 is unlikely to be upheld by the Land & Environment Court of NSW and as proposed by this application, this condition should be deleted.

The original application did not detail proposed fit outs of any individual shops or restaurants within the commercial complex. As such Council will still have the opportunity to carefully assess the social and economic impacts of the proposed use of individual tenancies as they arise. Where it is found that a proposed future development would have a negative impact on existing facilities that is not, in turn, made good by the proposed development, refusal of the application may be warranted. Where this situation does occur, Council would not need to rely on a covenant on the land, but would instead be able to refuse the development outright.

6. RECOMENDATION

That pursuant to Section 96 of the Environmental Planning & Assessment Act 1979, application 10.2013.587.2, be approved to modify development consent 10.2013.587.1 BY THE DELETION OF CONDITION 54.

6. DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

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

5

Report No. 13.12 **PLANNING - S96 10.2013.587.3 to modify conditions relating to signage, amenity of neighbourhood, availability of parking, traffic, construction staging, roof height, stormwater, site waste management, flood planning, pipelines landscaping, excavation, public safety, water pollution, public art and services at 98-110 Jonson Street Byron Bay**

Directorate: Sustainable Environment and Economy
Report Author: Paul Mills, Senior Assessment Officer - Planning
File No: I2015/336
Theme: Ecology
 Development and Approvals

Proposed modification: Modifications to conditions relating to signage, amenity of neighbourhood, availability of parking spaces and paid parking, traffic, construction staging, roundabout construction, roof height, stormwater, site waste management, flood planning, pipelines, landscaping, excavation, public safety, water pollution, public art and services.

Original Development: Redevelopment of existing shopping centre to create a ground floor supermarket, first floor retail shops, restaurants, bowling ally (recreation facility), art gallery (commercial premises), cinema complex (place of assembly), two levels of basement car parking, terrace over Jonson Street road reserve, associated works and subdivision of four (4) allotments into two (2).

Type of S.96 sought: S96(1A) Modification involving minimum environmental impact

Property description: LOT: 7 DP: 619224, LOT: 6 DP: 619224, LOT: 8 DP: 617509, LOT: 9 DP: 617509

108-110 Jonson Street BYRON BAY, 98-106 Jonson Street BYRON BAY, 112-114 Jonson Street BYRON BAY

Parcel No/s: 116180, 116190, 34840, 177890

Applicant: Global Centres Australia Pty Ltd

Owner: Task Group Services Pty Ltd

Zoning: B2 Local Centre Zone

S96 date received: 18 February 2015

Original DA determination date: Council 20 November 2014

Integrated Development: No

Public notification or exhibition:

- Level 2 advertising under DCP 2014 Part A14 – Public Notification and Exhibition of Development Applications
- Exhibition period: 4/3/15 - 17/3/15
- Submissions: For 0 Against 1

Delegation to determination: Council

Summary:

Many of the proposed modifications relate to the timing of implementing requirements and minor legal variations to the wording of conditions. Apart from the proposed modification of Condition No.10 and Condition No.23(e) the proposed modifications are generally considered to be of minor environmental impact without any change to the built form of the approved development.

The proposed amendment to Condition No.10 seeks to allow for paid parking on the subject site. The commencement of a paid parking scheme may have an impact on traffic movements that was neither proposed nor assessed for the development. Design details (e.g. ticket booth location) and a traffic assessment have not been provided to support the proposal. The proposed amendment to allow paid parking is not supported.

A separate application is required pursuant to Section 68 of the Local Government Act 1993 to obtain approval from Council to "operate a public car park". It has been recommended that Condition No.10 be amended to specify the application process required for paid parking.

The proposal also seeks to amend Condition No.23(e) to delete the requirement for concrete pavement on the roundabout to be constructed at the intersection of Jonson and Carlyle Street. There has been no geotechnical assessment to support this request. Maintenance requirements are lesser for concrete pavements than full depth asphalt pavement, with replacement of the full depth asphalt surfacing (upper wearing course) required every 8 to 12 years with a design life of 20 years. This is compared to a 40 year design life for a concrete pavement with minimal maintenance expected. Accordingly, it is considered that the best engineering solution is a concrete pavement and as such the proposed amendment to the condition is not recommended.

For the reasons detailed in this report only some of the proposed amendments are able to be supported.

NOTE TO COUNCILLORS:

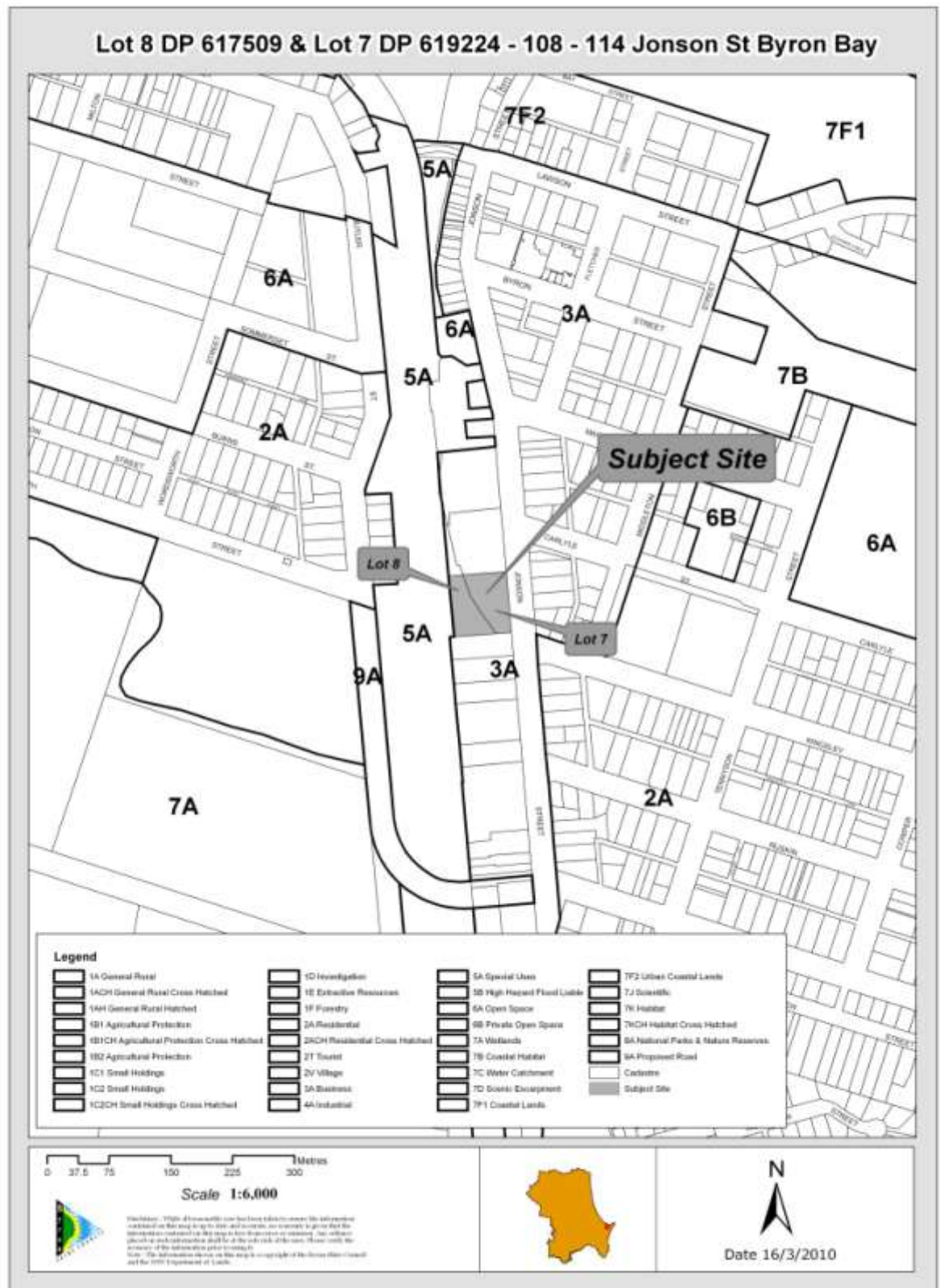
In accordance with the provisions of S375A of the Local Government Act 1993, a Division is to be called whenever a motion for a planning decision is put to the meeting, for the purpose of recording voting on planning matters. Pursuant to clause 2(a) under the heading Matters to be Included in Minutes 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 pursuant to Section 96 of the Environmental Planning & Assessment Act 1979, development application 10.2013.587.3 to modify conditions be approved (in part) by modifying development consent 10.2013.587.1 as detailed in Attachment 2 (E2015/28205).

Attachments:

- 1 Confidential - submission 10.2013.587.3, E2015/27814
- 2 Modified Conditions of Consent. 10.2013.587.3, E2015/28205 , page 173



Assessment

1. INTRODUCTION**1.1 Details of approved development and any subsequent modifications**

The following development consent over the subject site is noted:

10.2013.587.1 Development consent was issued on 26 November 2014 for “Redevelopment of existing shopping centre to create a ground floor supermarket, first floor retail shops, restaurants, bowling ally (recreation facility), art gallery (commercial premises), cinema complex (place of assembly), two levels of basement car parking, terrace over Jonson Street road reserve, associated works and subdivision of four (4) allotments into two (2) lots.”

10.2013.587.2 Section 96 application lodged 18 February 2015 seeking to delete Condition No.54 of development consent 10.2013.587.1. Condition No.54 requires a formal agreement between Council and the proponents regarding leases and future point of sale contracts. At the time of writing this report this application had not been determined.

1.2 Section 96 modifications sought and assessment comment

The proposal seeks to make various modifications to the existing conditions of consent. The applicant has advised:

“The proposed modifications relate to administrative changes to conditions to assist in the implementation of the development consent.”

It is noted that after the completion of the community consultation and exhibition of this application the applicant made an additional request (letter dated 24 April 2015) to modify Condition No.1 (approved easement plan) the and Condition No.23 (e)(Roundabout construction).

Following are the proposed modifications with words proposed to be inserted shown in ***bold italic*** and words proposed to be deleted shown in ~~strikethrough~~:

1. Condition No.1 is proposed to be amended as follows:**1) Development is to be in accordance with approved plans**

The development is to be in accordance with plans listed below:

Plan No.	Description	Prepared by	Dated:
9024-26 <i>Issue A</i> (sheets 1 - 3)	Plan of Existing & Proposed Easements	Michel Group Services	15.1.2014 <i>24.4.2015</i>

Assessment: The request seeks to amend Condition No.1 in relation to the Proposed Easement Plan No.9024-26 Sheet 2 of 3 to reflect that the proposed parking may be provided on grade as per the originally approved plan or in a basement. The proposed wording on the plan implies that the parking can be provided on grade or in a basement in the area identified on the plan, which is not correct as no basement is approved in the area denoted on the plan. It is also considered unnecessary to amend this plan because there is enough flexibility included in existing conditions of consent, such as Condition No.70(c), which states:

Easement for Parking

The creation of suitable easements for parking, and access thereto, over an equivalent number of parking spaces to that being demolished and easements being extinguished.

5 Condition No.70(c) gives the applicant the flexibility to provide the shared car spaces on
grade or in the approved basement. As an alternative the applicant has also requested that
Council consider deleting the easement plans from the approved plans specified in Condition
No.1. As there are other conditions that relate to the easement plan, its deletion is not
10 supported from engineering grounds especially in view of the flexibility provided by Condition
No.70(c).

2. Condition No.7 is proposed to be amended as follows:

7) Signage

15 No permanent signage is approved as part of this consent (other than temporary signage
referred to in Condition No.6). Only an indicative signage envelope for the cinema is shown
on the elevations. ~~A separate Development Application is required to be lodged for signage.~~

20 Assessment: The proposed amendment to Condition No.7 does not result in any significant
planning implications. As such the proposed amendment is able to be supported.

3. Condition No.8 is proposed to be amended as follows:

8) No Interference with the amenity of the neighbourhood

25 The proposed use of the premises shall not **unreasonably** interfere with the amenity of the
neighbourhood by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or
otherwise. In particular:

- a. The noise and vibration level emanating from the use of the premises in accordance
with this development must not cause or permit "offensive noise" as defined by the
30 Protection of the Environment Operations Act 1997 to impact upon neighbouring
residential dwellings. Plant and equipment shall be maintained in good condition and
monitored to ensure operating conditions minimise noise and vibration impacts off the
property.
- b. ~~Only clean and unpolluted water is permitted to be discharged to any natural waters.~~
35 **Water is not to be discharged to any natural waters if it would pollute those
waters within the meaning of the Protection of the Environment Operations Act
1997.**
- c. All wastes shall be contained on the property within appropriate containers stored
within the purpose-built garbage storage area. Storage of waste shall not cause
40 nuisance, offensive odours, harbourage of pests and vermin or risk of fire hazard so as
to preserve workplace health and safety conditions and minimise risk of harm to the
environment and to human health.
- d. Waste contractor collection shall be limited to no earlier than 7:00 am and no later than
6:00 pm on any day to reduce noise impacts on the nearest residents.
- e. All amplified music and public address systems must operated so that they are not
45 audible outside of the boundary of the property after 10:00pm on any day, and before
8:00am on the following day.

50 Assessment: The proposed amendments are considered to be very minor in nature.
Council's standard wording is used in this condition. The proposed amendments appear to
be a legal preference by the applicant.

Council's Consultant Environmental Officer has not supported the proposed amendments to Council's standard wording used in Condition No.8. The applicant has not demonstrated that the proposed amendments are warranted from a planning perspective.

5 **4. Condition No.10 is proposed to be amended as follows:**

10) Parking to be available for the approved use

10 320 car parking spaces, 24 motor cycle spaces and 94 bicycle spaces are to be provided and maintained, together with all necessary access driveways and turning areas, ~~to the satisfaction of Council.~~

15 Tenants and customers of the development must have ~~unrestricted~~ access **(either free of charge or paid parking)** to the car parking/motorcycle/bicycle spaces on a daily basis during business hours of the development.

15 ~~No car parking/motorcycle/bicycle spaces are to be reserved (generally or specifically) for any tenant or customer.~~

20 Assessment: Council's Development Engineer has raised no objection to the proposal to delete the words "to the satisfaction of Council" from the first paragraph of this condition.

Council's Development Engineer has objected to the proposed deletion of the third paragraph as it may reduce the number of available parking spaces for patrons.

25 Council's Development Engineer has objected to the proposed amendment to the second paragraph as paid parking may have an impact on traffic that was neither proposed nor assessed for the development. No traffic assessment or design details (e.g. ticket booth location) have been submitted with this application and therefore this amendment is not supported.

30 As the development consent does not authorise the use of paid parking a separate application is required pursuant to Section 68 of the Local Government Act 1993 to obtain approval from Council to "operate a public car park". Council's Development Engineer has recommended the following rewording of Condition No.10 to detail the procedure of applying for paid parking:

Parking to be available for the approved use

40 320 car parking spaces, 24 motor cycle spaces and 94 bicycle spaces are to be provided and maintained, together with all necessary access driveways and turning areas.

45 *Tenants and customers of the development must have access to the car parking/motorcycle/bicycle spaces on a daily basis during business hours of the development. A separate approval must be obtained from Council under section 68 of the Local Government Act 1993 to operate a public car park (i.e. to use the car park for the purpose of accommodating vehicles of members of the public on payment of a fee - "paid parking").*

50 *The application under section 68 of the Local Government Act 1993 must be supported by a traffic impact study that demonstrates that the proposed paid parking scheme will not adversely affect traffic or pedestrian flows in the external road network and that there is sufficient queuing area on site to allow a free influx of traffic. The application must also include details of any proposed traffic management device, boom gate or pay station.*

55

No car parking/motorcycle/bicycle spaces are to be reserved (generally or specifically) for any tenant or customer.

5. **Condition No.13 is proposed to be amended to state as follows:**

13) Queuing Traffic

All driveways and turning areas must be kept clear of obstructions and managed to ensure there is no queuing of traffic onto the frontage roadway (Jonson Street) due to the proposed internal right turn lane. Should the demand for right turning traffic into the existing "Woolworths" parking aisle be greater than anticipated by the traffic report and queuing occur onto Jonson Street a revised traffic report must be submitted to Council that recommends measures to mitigate the traffic conflicts. ~~Subject to the relevant approvals by Council, the proposed mitigation measures are to be implemented.~~ **Subject to the Council being satisfied with the proposed mitigation measures, the proposed mitigation measures are to be implemented.**

Assessment: Minor amendment. No objection from Council's Development Engineer to the proposed rewording of Condition No.13.

6. **Modify the 'prior to issue of a construction certificate' heading as follows:**

The following conditions (***relevant to a particular stage of the development***) are to be complied with prior to issue of a Construction Certificate ***for that stage***.

Assessment: No objection to the proposed amended heading which acknowledges that construction works are to be completed in stages. The proposed amended heading is supported.

7. **Insert a new Condition No.14A which states as follows:**

14A) Staging of construction certificates

The works may be carried out in stages with the relevant conditions being satisfied prior to the issue of a Construction Certificate for the relevant stage.

Assessment: No objection to the proposed insertion of Condition No.14A. New Condition No.14A acknowledges that construction works are to be completed in stages and requires compliance only with conditions relevant to each stage of construction as determined by the Principal Certifying Authority. Council's Senior Building Surveyor has raised no objection to this proposed amendment.

8. **Condition No.15A is proposed to be amended as follows:**

15A) Maximum roof height adjacent to southern boundary

The maximum overall roof height of the building above the fire escape corridor located immediately to the south of Cinemas 2-5 is to be lowered to RL 12.0. ~~Amended plans are to be provided and approved prior to issue of the Construction Certificate.~~ **The relevant plans that are the subject of an application for a Construction Certificate must reflect this change.**

Assessment: Minor amendment. No objection to proposed rewording of the last sentence Condition 15A.

9. **Condition No.22 is proposed to be amended as follows:**

22) On-site stormwater detention - Section 68 approval required

An approval under Section 68 of the Local Government Act 1993 to carry out stormwater drainage works, including on-site detention and connection to a Council approved drainage system. The stormwater drainage works are to be consistent with the Stormwater Management Plan prepared by Knobel Consulting for the subject development dated 9 July 2014.

Note: The plans must be in compliance with Council's standards, including Council documents "Comprehensive Guidelines for Stormwater Management" and "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings" **as at the date of this consent**. Refer to Council's website for copies of these documents.

Assessment: The wording of the note is proposed to be modified to ensure that it relates to the relevant standards that apply at the date of the consent. It is acknowledged that standards may change, however the standards that apply are those which are current at the time of lodging an application pursuant to Section 68 of the Local Government Act 1993. The date of the development consent is not relevant in this regard. The requested amendment to Condition No.22 is not supported.

10. Condition No.23 is proposed to be amended as follows:

23) Consent required for works within the road reserve

Consent from Council, with concurrence from Roads & Maritime Services (RMS), must be obtained for works within the road reserve pursuant to Section 138 of the Roads Act 1993. Three (3) copies of engineering construction plans must accompany the application for consent for works within the road reserve.

All regulatory signs and markings must be approved by Council's Local Traffic Committee prior to approval of the works.

Such plans are to be in accordance with Council's current Design & Construction Manuals and are to provide for the following works:

e) Roundabout

A roundabout at the Jonson Street / Carlyle Street intersection in accordance with AustRoads, Part 4B: Roundabouts. The design is to address pedestrians, cyclist movements (preferably by bicycle lanes), siting, signs, linemarking, parking restrictions and night-time visibility. The pavement in the roundabout must be ~~upgraded to a concrete pavement~~ designed for the expected traffic loads and ~~there~~ turning movements. The design plans are to include swept paths demonstrating that the roundabout can accommodate u-turns for heavy rigid and articulated vehicles.

Assessment: The proposal seeks to amend Condition No.23 (e) to delete the requirement for concrete pavement on the roundabout to be constructed at the intersection Jonson Street/Carlyle Street.

The amended condition deletes the words "upgraded to a concrete pavement" from the existing condition. The applicant advises that the use of a concrete pavement for the subject roundabout may not allow the best engineering solution or construction methodology.

There has been no geotechnical assessment to support this request. Generally geotechnical analysis would recommend construction of roundabouts using concrete or full depth asphalt pavement because these pavements are more resistant to the vehicle movements that occur at roundabouts.

Maintenance requirements are lesser for concrete pavements than full depth asphalt pavement, with replacement of the full depth asphalt surfacing (upper wearing course) required every 8 to 12 years with a design life of 20 years. This is compared to a 40 year

design life for a concrete pavement with minimal maintenance expected. Accordingly, it is considered that the best engineering solution is a concrete pavement and as such the proposed amendment to the condition is not supported.

5 **11. Condition No.27 is proposed to be amended as follows:**

27) Flood Planning Level

10 The flood planning level for this development is R.L. 3.1m A.H.D. The plans and specifications to accompany the construction certificate application are to indicate a minimum habitable floor level that is at or above the flood planning level. The plans and specifications to accompany the construction certificate application are also to indicate the use of flood compatible materials and services in accordance with the requirements of Council's Development Control Plan 2014 – Chapter C2 – Areas Affected by Flood (***as at the date of this consent***).

15 The basement car park shall incorporate design elements (e.g. ramps levels, air supply enclosure, service conduits etc) to prevent the ingress of flood waters. The design elements or mechanisms are to comply with at a minimum the Flood Planning Level. The basement shall also include facilities for the pumping of water in the event of failure, or larger flood events.

20 Assessment: The wording of the first paragraph of Condition No.27 is proposed to be modified to ensure that it relates to the relevant standards that apply at the date of the consent. A separate application is required for a Construction Certificate and the standards that apply are those that are current at the time of construction, not the date of the development consent. The requested amendment to Condition No.27 is not supported.

12. Condition No.30 is proposed to be amended to state as follows:

30 **30) Site Waste Minimisation and Management Plan**

Chapter 1: Part F of Byron Shire Development Control Plan 2010 (DCP 2010) ***as at the date of this consent*** aims to facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development.

35 Prior to the issue of a Construction Certificate, a Site Waste Minimisation and Management Plan (SWMMP) must be submitted outlining measures to minimise and manage waste generated during demolition, construction and the ongoing operation and use of the development. The SWMMP must specify the proposed method of recycling or disposal and the waste management service provider.

40 ~~The application for a Construction Certificate is to include plans and specifications that indicate the proposed garbage store area. The proposed garbage store area is to be designed and constructed in accordance with the requirements of Section C7.9 of the Byron Shire Council Development Control Plan 2010. A template is provided on Council's website to assist in providing this information www.byron.nsw.gov.au/files/publications/swmmp_-_pro-forma-.doc~~

45 Assessment: The Site Waste Management and Minimisation Plan is required to be prepared in accordance with Council's DCP 2010 Chapter 1, Part F as specified. No justification has been provided for not providing a waste storage area in accordance with Section C7.9 of DCP 2010. The proposed amendments are considered to be unwarranted and are not supported.

13. Condition No.37 is proposed to be amended as follows:

37) Compliance required with Building Over Pipelines Policy

~~In all new subdivisions and/or developments an easement shall be provided for all pipelines including gravity sewer mains per Clause 3.4 of the Policy 4.20. Pursuant to Section 88B of the Conveyancing Act, 1919 an Instrument shall be prepared for each lot with creation of easement.~~ The use of displacement and screw pile construction methods will require approval by Council. Any brick / masonry fence crossing a sewer main must be supported over the sewer main and will require prior approval by Council.

Assessment: In view of the requirements of existing Conditions No.63 (Rights of way and easements) and No. 70(d) (Section 88B Instrument) the proposed amendment to Condition No.37 is considered to be acceptable.

14. Condition No.41 is proposed to be amended as follows:

41) Detailed Landscape Plan

A landscaping plan must be submitted demonstrating compliance with the provisions of Part H of Development Control Plan 2010 **(as at the date of this consent)** generally in accordance with the Landscape Concept Plan drawings referred to in Condition No.1 of this consent. Wherever possible existing vegetation, native tree, shrub and sedge species that occur on the site and within adjoining areas are to be utilised. The plan is to be prepared by a suitably qualified landscape architect / architect / ecologist with appropriate experience and competence in landscaping. The landscaping plan is to indicate:

- proposed location for planted shrubs and/or trees;
- botanical name of shrubs and trees to be planted;
- mature height of trees to be planted;
- location of grassed and paved areas;
- location of trees identified for retention in the development application plans; and
- landscaping maintenance regime.

Landscaping works/plantings are not to impede sightlines or block the field of vision for users in all public areas in the interests of crime prevention.

Assessment: The propose amendment is considered to be unnecessary and unwarranted as the condition refers to Part H of Development Control Plan 2010 irrespective of the date of the consent.

15. Condition No.44 is proposed to be amended as follows:

44) Public safety requirements

All **reasonable** care is to be taken to ensure the safety of the public in general, road users, pedestrians and adjoining property. The public liability insurance cover, for a minimum of \$10 million, is to be maintained for the duration of the construction of the development. ~~Council is not held responsible for any negligence caused by the undertaking of the works.~~

Assessment: The word "reasonable" is proposed to be added to this condition. The proposed deletion of the last sentence of Condition No.44 is considered to be legal matter and relates to common law and negligence. Condition No.44 is a standard Council condition. Council's Co-ordinator Legal Services has raised no objection to the proposed amendment. There appears to be no legal benefit to maintaining the condition in its current form. The proposed amendment is supported.

16. Condition No.46 is proposed to be amended as follows:

46) Destination for all excavated materials to be managed during construction

The applicant shall develop and maintain a register of materials that will be taken off-site for treatment, disposal or any other purpose. The register shall accurately record the destination and volume of every load of material (including clean soil, recycleable material, acid sulfate

or potential acid sulfate soil, radiological waste, asbestos containing materials, sludge from dewatering treatment tanks, etc.). Individual vehicle registrations associated with off-site transport of materials and excavation waste to be recorded in the register.

No transporting of unclassified waste, hazardous materials or material contaminated by demolition waste is permitted to be delivered to ~~unapproved private land within NSW~~ **to a place that cannot lawfully be used as a waste facility**. Heavy penalties apply under the Contaminated Land Management Act for any failure to manage site waste materials. Council to be provided with a copy of the completed register prior to the issuing of the Occupation Certificate.

Assessment: The applicant asserts that the wording of Condition No.46 leaves open the possibility that Council may need to issue an approval for each place that waste is to be deposited. Council's Environmental Officer has advised the proposed amendments to Condition No.46 do not make any material difference to the intent of the condition. The proposed amendment is supported.

17. Condition No.52 is proposed to be amended as follows:

52) Prevention of water pollution

Only ~~clean and~~ unpolluted water is to be discharged to Council's stormwater drainage system or any watercourse to ensure compliance with the Protection of Environment Operations Act.

~~Note: Council may impose on-the-spot fines for non-compliance with this condition.~~ **Water that includes leaves, soil and the like in volumes that are consistent with the ordinary use of premises are not regarded as pollution under the condition.**

Assessment: Condition No.52 only requires compliance with the Protection of Environment Operations Act. The proposal to delete the word 'clean' is not supported on environmental grounds. The proposed additional last sentence goes beyond the intent of this condition and is also not supported.

18. Condition No.56 is proposed to be amended as follows:

56) Public Art

Public art is to be provided in accordance with Byron Development Control Plan 2010, Chapter 1 Part E **(as at the date of this consent)**. All art work is to be provided and installed in accordance with Council's Development Control Plan 2010 prior to issue of the Occupation Certificate. Evidence of Public Art expenditure to a minimum cost of \$25,000.00 is to be provided prior to the issue of the Occupation Certificate.

Assessment: The propose amendment is considered to be unnecessary and unwarranted as the condition refers to Chapter 1, Part E of Council's Development Control Plan 2010, irrespective of the date of the consent.

19. It is proposed to delete Condition No.63 which states:

63) Rights of Way and Easements

All proposed rights of footway, rights of carriageway and easements for the shared use of parking spaces, together with easements for services and other encroachments such the basement air supply enclose, must be registered on title prior to the issue of any Occupation Certificate.

Assessment: It is proposed to delete this condition in view of Condition No.70 which relates to rights of way and easements required prior to the issue of a Subdivision Certificate.

The necessary rights of way and easements are required to be in place prior to issue of any Occupation Certificate and the use commencing. The proposal to delete Condition No.63 is not supported.

5 **20. It is proposed to delete Condition No.64 which states:**

64) Rights of Footway

10 A public right of footway, as necessary to provide the minimum unobstructed 2.4m footpath width along the frontage of the proposed Lot 41, must be registered on title prior to the issue of any Occupation Certificate.

Assessment: It is proposed to delete this condition in view of Condition No.70 which relates to rights of way and easements required prior to the issue of a Subdivision Certificate.

15 The necessary rights of way and easements are required to be in place prior to issue of any Occupation Certificate and the use commencing. The proposal to delete Condition No.64 is not supported.

20 **21. Modify Condition No.70 to state as follows:**

70) Section 88B Instrument

A Section 88B Instrument and one (1) copy are to be submitted with the application for a Subdivision Certificate. The final Plan of Subdivision and accompanying Section 88B Instrument are to provide for:

25

a) Inter-allotment Drainage Easements

The creation of easements for drainage of water, with a minimum width of 1.5 metres, over all inter-allotment drainage pipelines and structures located within the proposed allotments.

30

b) Rights of Carriageway and Rights of Footway

The creation of suitable rights of carriageway and footway over the shared access arrangements within the proposed lots and a public right of footway, as necessary to provide the minimum unobstructed 2.4m footpath width along the frontage of the proposed Lot 41.

35

c) Easement for Parking

The creation of suitable easements for parking, and access thereto, over an equivalent number of parking spaces to that being demolished and easements being extinguished.

40

d) Easement for Services

The creation of suitable easements for services over all inter-allotment services within the proposed lots.

45

e) Extinguishment of all unnecessary easements/rights of carriageway

The extinguishment of all redundant easements and rights of carriageway.

50

Assessment: The applicant has proposed to modify Condition No.70 to include the relevant matters from Conditions No.63 and No.64. As the proposal to delete Conditions No.63 and No.64 is not supported the proposed amendments to Condition No.70 are considered to be unnecessary and are not supported.

55

1.3 Section 96(1A) Modification involving minimal environmental impact

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) it is satisfied that the proposed modification is of minimal environmental impact, and

Assessment: The proposed modifications are considered to be of minor environmental impact without any change to the built form of the approved development. The proposed modifications relate to the timing of implementing conditions and minor legal variations to the wording of conditions.

(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and

Assessment: The proposed modified development is considered to be substantially the same development as to which consent was originally granted. The proposal does not seek to make any modifications to the approved plans.

(c) it has notified the application in accordance with:

- (i) the regulations, if the regulations so require, or*
- (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

Assessment: The proposed modifications were publicly notified in accordance with DCP 2014 Level 2 notification requirements. One (1) submission was received.

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

Assessment: One (1) submission was received in response to the proposed amendments. Following is a summary of the matters raised.

Issue summary	Comment
Concerns that the proposal to delete the requirement that the stormwater runoff from the site be 'clean'. Water sensitive urban design features can include nets and other kinds of filters and devices to remove large rubbish and leaves etc. It is hoped the proponent would aim to achieve the highest standards in water sensitive urban design.	The proposal to delete the word 'clean' from Condition No. 52, in relation to stormwater discharge and prevention of water pollution, is not supported on environmental grounds.
The town and Council are in the process of preparing a major Byron Town Centre Masterplan. A clause should be included that says the centre will work with and upskill its plans to match with this town revival.	The application has been made seeking to modify the existing consent conditions as detailed in Section 1.2 of this report. Council is not able to impose any new conditions which do not directly relate to the proposed modifications.
Strong objection to the shopping centre providing paid parking. At the very least resident parking coupons should be respected and no parking charged to residents. Parking should be made available for workers in the shops on the site and this should not be charged.	The recommendation to modify Condition No.10 in relation to on-site parking maintains that tenants and customers of the development must have access to the car parking/motorcycle/bicycle spaces on a daily basis during business hours of the development. A separate approval must be

Issue summary	Comment
	obtained from Council under section 68 of the Local Government Act 1993 to operate a public car park (i.e. to use the car park for the purpose of accommodating vehicles of members of the public on payment of a fee -“paid parking”).
Objection to the removal reference ‘to the satisfaction of Council’ in all sorts of clauses.	Noted.
A detailed management plan is required for radioactive tailings which are known to be buried on the site where the underground car park is proposed. A detailed contingency plan and safeguards should place in advance rather than commencement of works.	This is not a matter relating the proposed modifications. Condition No. 31 of the consent requires the applicant to undertake gamma radiation survey monitoring of soil, after demolition and removal of present buildings has been completed. It is understood that demolition works are first necessary before adequate testing can be completed. Council must be notified of any circumstances where exposed radioactive materials are likely to pose a significant risk of harm, both during construction and for the completed development.

(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.

Assessment: An assessment of the relevant matters under Section 79C has been detailed in Section 3 of this report.

2. SUMMARY OF REFERRALS

	Summary of Issues
Development Engineer	Where relevant comments were sought from Council’s Development Engineer. The comments from Council’s Development Engineer have been considered in this assessment.
Environmental Officer	Where relevant comments were sought from Council’s Environmental Officer. The comments from Council’s Environmental Officer have been considered in this assessment.
	No other referrals.

3. SECTION 79C – MATTERS FOR CONSIDERATION

Having regard for the relevant matters for consideration detailed in Section 79C(1) of the Environmental Planning & Assessment Act 1979 no changes to the original assessment for Development Application 10.2013.587.1 are noted.

4. DEVELOPER CONTRIBUTIONS

4.1 Water & Sewer Levies

No change to original assessment for Development Application 10.2013.587.1.

4.2 Section 94 Contributions

No change to original assessment for Development Application 10.2013.587.1.

5. CONCLUSION

The proposed modifications relate to the timing of implementing requirements and minor legal variations to the wording of conditions. Apart from the proposed modification of Condition No.10 and No.23 the proposed modifications are generally considered to be of minor environmental impact without any change to the built form of the approved development.

The proposed amendment to Condition No.10 seeks to allow for paid parking on the subject site. The commencement of a paid parking scheme may have an impact on traffic movements that was neither proposed nor assessed for the development. Design details (e.g. ticket booth location) and a traffic assessment have not been provided to support the proposal. The proposed amendment to allow paid parking is not supported.

A separate application is required pursuant to Section 68 of the Local Government Act 1993 to obtain approval from Council to "operate a public car park". It has been recommended that Condition No.10 be amended to specify the application process required for paid parking.

The proposal also seeks to amend Condition No.23 (e) to delete the requirement for concrete pavement on the roundabout to be constructed at the intersection of Jonson and Carlyle Street. There has been no geotechnical assessment to support this request. Maintenance requirements are lesser for concrete pavements than full depth asphalt pavement, with replacement of the full depth asphalt surfacing (upper wearing course) required every 8 to 12 years with a design life of 20 years. This is compared to a 40 year design life for a concrete pavement with minimal maintenance expected. Accordingly, it is considered that the best engineering solution is a concrete pavement and as such the proposed amendment to the condition is not recommended.

For the reasons detailed in this report only some of the proposed amendments are able to be supported.

6. RECOMMENDATION

That pursuant to Section 96 of the Environmental Planning & Assessment Act 1979, application no. 10.2013.587.3 to modify conditions relating to signage, amenity of neighbourhood, availability of parking spaces and paid parking, traffic, construction staging, roundabout construction, roof height, stormwater, site waste management, flood planning, pipelines, landscaping, excavation, public safety, water pollution, public art and services, be approved (in part) by modifying development consent 10.2013.587.1 as follows:

MODIFIED CONDITIONS OF CONSENT:

1. Condition No.7 be amended to state as follows:

7) Signage

No permanent signage is approved as part of this consent (other than temporary signage referred to in Condition No.6). Only an indicative signage envelope for the cinema is shown on the elevations.

2. Condition No.10 be amended to state as follows:

10) Parking to be available for the approved use

320 car parking spaces, 24 motor cycle spaces and 94 bicycle spaces are to be provided and maintained, together with all necessary access driveways and turning areas.

Tenants and customers of the development must have access to the car parking/motorcycle/bicycle spaces on a daily basis during business hours of the development. A separate approval must be obtained from Council under section 68 of the Local Government Act 1993 to operate a public car park (i.e. to use the car park for the purpose of accommodating vehicles of members of the public on payment of a fee - "paid parking").

The application under section 68 of the Local Government Act 1993 must be supported by a traffic impact study that demonstrates that the proposed paid parking scheme will not adversely affect traffic or pedestrian flows in the external road network and that there is sufficient queuing area on site to allow a free influx of traffic. The application must also include details of any proposed traffic management device, boom gate or pay station.

No car parking/motorcycle/bicycle spaces are to be reserved (generally or specifically) for any tenant or customer.

3. Condition No.13 be amended to state as follows:

13) Queuing Traffic

All driveways and turning areas must be kept clear of obstructions and managed to ensure there is no queuing of traffic onto the frontage roadway (Jonson Street) due to the proposed internal right turn lane. Should the demand for right turning traffic into the existing "Woolworths" parking aisle be greater than anticipated by the traffic report and queuing occur onto Jonson Street a revised traffic report must be submitted to Council that recommends measures to mitigate the traffic conflicts. Subject to the Council being satisfied with the proposed mitigation measures, the proposed mitigation measures are to be implemented.

4. Modify the 'prior to issue of a construction certificate' heading to state as follows:

The following conditions (relevant to a particular stage of the development) are to be complied with prior to issue of a Construction Certificate for that stage.

5. Insert a new Condition No.14A which states as follows:

14A) Staging of construction certificates

The works may be carried out in stages with the relevant conditions being satisfied prior to the issue of a Construction Certificate for the relevant stage.

6. Condition No.15A be amended to state as follows:

15A) Maximum roof height adjacent to southern boundary

The maximum overall roof height of the building above the fire escape corridor located immediately to the south of Cinemas 2-5 is to be lowered to RL 12.0. The relevant plans that are the subject of an application for a Construction Certificate must reflect this change.

7. Condition No.37 be amended to state as follows:

37) Compliance required with Building Over Pipelines Policy

The use of displacement and screw pile construction methods will require approval by Council. Any brick / masonry fence crossing a sewer main must be supported over the sewer main and will require prior approval by Council.

8. Condition No.44 be amended to state as follows:**44) Public safety requirements**

All reasonable care is to be taken to ensure the safety of the public in general, road users, pedestrians and adjoining property. The public liability insurance cover, for a minimum of \$10 million, is to be maintained for the duration of the construction of the development.

9. Condition No.46 be amended to state as follows:**46) Destination for all excavated materials to be managed during construction**

The applicant shall develop and maintain a register of materials that will be taken off-site for treatment, disposal or any other purpose. The register shall accurately record the destination and volume of every load of material (including clean soil, recyclable material, acid sulfate or potential acid sulfate soil, radiological waste, asbestos containing materials, sludge from dewatering treatment tanks, etc.). Individual vehicle registrations associated with off-site transport of materials and excavation waste to be recorded in the register.

No transporting of unclassified waste, hazardous materials or material contaminated by demolition waste is permitted to be delivered to a place that cannot lawfully be used as a waste facility. Heavy penalties apply under the Contaminated Land Management Act for any failure to manage site waste materials.

Council to be provided with a copy of the completed register prior to the issuing of the Occupation Certificate.

7. DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

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

MODIFIED CONDITIONS OF CONSENT:

1. Condition No.7 be amended to state as follows:

7) Signage

No permanent signage is approved as part of this consent (other than temporary signage referred to in Condition No.6). Only an indicative signage envelope for the cinema is shown on the elevations.

2. Condition No.10 be amended to state as follows:

10) Parking to be available for the approved use

320 car parking spaces, 24 motor cycle spaces and 94 bicycle spaces are to be provided and maintained, together with all necessary access driveways and turning areas.

Tenants and customers of the development must have access to the car parking/motorcycle/bicycle spaces on a daily basis during business hours of the development. A separate approval must be obtained from Council under section 68 of the Local Government Act 1993 to operate a public car park (i.e. to use the car park for the purpose of accommodating vehicles of members of the public on payment of a fee - "paid parking").

The application under section 68 of the Local Government Act 1993 must be supported by a traffic impact study that demonstrates that the proposed paid parking scheme will not adversely affect traffic or pedestrian flows in the external road network and that there is sufficient queuing area on site to allow a free influx of traffic. The application must also include details of any proposed traffic management device, boom gate or pay station.

No car parking/motorcycle/bicycle spaces are to be reserved (generally or specifically) for any tenant or customer.

3. Condition No.13 be amended to state as follows:

13) Queuing Traffic

All driveways and turning areas must be kept clear of obstructions and managed to ensure there is no queuing of traffic onto the frontage roadway (Jonson Street) due to the proposed internal right turn lane. Should the demand for right turning traffic into the existing "Woolworths" parking aisle be greater than anticipated by the traffic report and queuing occur onto Jonson Street a revised traffic report must be submitted to Council that recommends measures to mitigate the traffic conflicts. Subject to the Council being satisfied with the proposed mitigation measures, the proposed mitigation measures are to be implemented.

4. Modify the 'prior to issue of a construction certificate' heading to state as follows:

The following conditions (relevant to a particular stage of the development) are to be complied with prior to issue of a Construction Certificate for that stage.

5. Insert a new Condition No.14A which states as follows:

14A) Staging of construction certificates

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.12 - ATTACHMENT 2

The works may be carried out in stages with the relevant conditions being satisfied prior to the issue of a Construction Certificate for the relevant stage.

6. **Condition No.15A be amended to state as follows:**

15A) Maximum roof height adjacent to southern boundary

The maximum overall roof height of the building above the fire escape corridor located immediately to the south of Cinemas 2-5 is to be lowered to RL 12.0. The relevant plans that are the subject of an application for a Construction Certificate must reflect this change.

7. **Condition No.37 be amended to state as follows:**

37) Compliance required with Building Over Pipelines Policy

The use of displacement and screw pile construction methods will require approval by Council. Any brick / masonry fence crossing a sewer main must be supported over the sewer main and will require prior approval by Council.

8. **Condition No.44 be amended to state as follows:**

44) Public safety requirements

All reasonable care is to be taken to ensure the safety of the public in general, road users, pedestrians and adjoining property. The public liability insurance cover, for a minimum of \$10 million, is to be maintained for the duration of the construction of the development.

9. **Condition No.46 be amended to state as follows:**

46) Destination for all excavated materials to be managed during construction

The applicant shall develop and maintain a register of materials that will be taken off-site for treatment, disposal or any other purpose. The register shall accurately record the destination and volume of every load of material (including clean soil, recyclable material, acid sulfate or potential acid sulfate soil, radiological waste, asbestos containing materials, sludge from dewatering treatment tanks, etc.). Individual vehicle registrations associated with off-site transport of materials and excavation waste to be recorded in the register.

No transporting of unclassified waste, hazardous materials or material contaminated by demolition waste is permitted to be delivered to a place that cannot lawfully be used as a waste facility. Heavy penalties apply under the Contaminated Land Management Act for any failure to manage site waste materials.

Council to be provided with a copy of the completed register prior to the issuing of the Occupation Certificate.

Report No. 13.13 PLANNING - Planning Proposal for finalisation of reclassification of Lot 530 DP 238451 Orana Road Ocean Shores

Directorate: Sustainable Environment and Economy

Report Author: Greg Smith, Assessment Planner

File No: I2015/338

Theme: Ecology
Land and Natural Environment

Summary:

On 10 April 2014, Council resolved to reclassify Lot 530 DP 238451 Orana Road, Ocean Shores from “community land” to “operational land – interests changed”. Council forwarded the Planning Proposal to the Department of Planning & Environment (DPE), which issued a Gateway Determination subject to conditions.



This report considers the submissions received in relation to the public exhibition of the Planning Proposal and the report as to the result of the public hearing. Council has complied with the conditions of the Gateway Determination and, subject to Council considering this report and the public hearing report, community consultation is now complete.

This report recommends that Council forward the Planning Proposal to DPE to request drafting and finalisation of the LEP amendment. A further report to the Council will be required once the DoPE has made a determination on this proposal.

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. **Forward the Planning Proposal relating to Lot 530 DP 238451 Orana Road, Ocean Shores to the NSW Department of Planning & Environment with a request to draft and finalise a local environmental plan amendment relating to Byron Local Environmental Plan 2014 having the effect that the land:**
 - a) **is reclassified ‘operational’ under the Local Government Act 1993;**
 - b) **ceases to be a public reserve (if it is a public reserve); and**
 - c) **is discharged from trusts (if any) and all interests except for:**
 - i) **any reservations that except land out of a Crown grant relating to the Land;**
 - ii) **reservations of minerals (within the meaning of the Crown Lands Act 1989);**
 - iii) **Easement for Electricity registered dealing number N765060;**
 - iv) **Easement for Rising Main registered with DP 600678;**
 - v) **Right of Carriageway registered with DP 1062920; and**
 - vi) **Easement for Services registered dealing number AD798519; and**
2. **Note that a further report will need to be considered by Council, seeking a resolution of Council reclassifying Lot 530 DP 238451 Orana Road, Ocean Shores from “operational” land to “community” land, just prior to the making of the local environmental plan amendment to Byron Local Environmental Plan 2014 relating to the Planning Proposal.**

Attachments:

- 1 Planning Proposal, E2015/648 (provided under separate cover)
- 2 Gateway Determination, S2014/13243 , page 181
- 5 3 Responses to issues raised in public submissions, E2015/22102 (provided under separate cover)
- 4 Public Hearing Report, E2015/24505 (provided under separate cover)
- 5 Special Disclosure of Pecuniary Interest Form, E2012/2815 , page 184

Report

1. Background

5 Council is the owner Lot 530 DP 238451 Orana Road, Ocean Shores (the former "Roundhouse" site). The land was originally part of a dairy farm but from around 1969 was used as a sales office for the Ocean Shores development and accommodated a sixteen sided circular building – the "Roundhouse". The land was zoned Special Uses 5(a) – Community Purposes under Byron Local Environmental Plan 1988 (LEP 1988) and on 27 July 1990 the Land and Environment Court
10 ordered Council to compulsorily acquire the land. The land was acquired by Council on 26 July 1991. The Roundhouse building was demolished around 1993.

The land was rezoned to Zone No. 2(a) (Residential Zone) by way of LEP 1988 (Amendment No. 46) made on 2 July 1996. Since that date (almost 19 years), the land has been in the 2(a)
15 (Residential Zone) under LEP 1988 or the subsequent R2 Low Density Residential Zone under Byron LEP 2014 (LEP 2014).

The land has been classified operational land – interests not changed for almost 13 years since the gazettal of LEP 1988 (Amendment No. 86) made on 22 March 2002. The LEP Amendment
20 resulted in the land being described in Part 2 of Schedule 11 of the LEP. Under subclause 47(3) of the LEP, land described in Part 2 of Schedule 11:

- (a) *to the extent (if any) that the land is a public reserve, does not cease to be a public reserve, and*
- 25 (b) *continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants by which it was affected before its classification, or reclassification, as operational land.*

Development Application No. 10.2001.627.1 for subdivision to create eleven (11) lots and
30 associated road works was consented to on 8 April 2003. The subdivision works are understood to have been completed in preparation for the lodgement of the subdivision certificate application, prior to registration of the final plan of subdivision.

An auction of some of the approved residential lots in April 2014 was cancelled to investigate
35 certain assertions including that the land could not be sold due to the land being subject to a trust for a public purpose that was not expunged by the reclassification to "operational land".

At its meeting on 10 April 2014, Council resolved as follows:

40 14-166 Resolved:

1. *That Council note that this report being a late report will not compromise the community's knowledge of or ability to participate in the decision-making on this matter because, if it proceeds, there will need to be extensive community consultation and many opportunities to make submissions to Council and at Council meetings.*
45
2. *That a planning proposal be prepared and submitted to the NSW Minister for Planning & Infrastructure in accordance with Division 4 of Part 3 of the Environmental Planning and Assessment Act 1979 and Sections 27(1) and 30 of the Local Government Act 1993 for the making of a local environmental plan to classify or reclassify the said land as operational land and to make provision to the effect that, on commencement of the plan, the land, if it is a public reserve, ceases to be a public reserve, and that the land is by operation of the plan discharged from any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except for:*
50
55

- (i) any reservations that except land out of a Crown grant relating to the land, and
- (ii) reservations of minerals (within the meaning of the Crown Lands Act 1989).

2. That the same process as set out in 2. be pursued as required, in the same planning proposal or in concurrent planning proposal/s, for the following land:

- (a) Lot 1, DP952598, Vallances Road Mullumbimby
- (b) Lots 15 & 16, DP1178892, Dingo Lane Myocum
- (c) Lot 10, DP850902, Station St, Mullumbimby (Administration Centre)
- (d) Lot 1, DP435267, Station St, Mullumbimby (Old Telstra site)
- (e) Lot 4, DP841856, Mill St, Mullumbimby
- (f) Lot 12, DP267109, Bayshore Drive, Byron Bay
- (g) Lot B, DP 372589, Corner Lawson & Fletcher Sts, Byron Bay

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

Planning Proposal to Reclassify the Land from Community to Operational

A Planning Proposal was prepared explaining the intended effect, and setting out the justification for the making, of the proposed LEP. The Planning Proposal outlined the two parallel reclassification processes required to be undertaken in order to bring into effect the ultimate operational land – interests changed classification, as follows:

1. Public notice would need to be given in accordance with section 34 of the Local Government Act 1993 of a proposed resolution to the effect that the land, which is public land presently classified as 'operational' land, is to be reclassified as 'community' land pursuant to section 27(2) and section 33 of the Local Government Act 1993. The notice must include the terms of the proposed resolution and a description of the land and specify a period of not less than 28 days during which submissions may be made to the Council.
2. Council would need to resolve to reclassify the land as community land immediately prior to the land subsequently being reclassified as operational land by way of the local environmental plan that is the subject of this Planning Proposal pursuant to section 27(1) of the LG Act so that:
 - (a) the local environmental plan may, pursuant to section 30 of the LG Act, make provision to the effect that, on commencement of the plan, the land, if it is a public reserve, ceases to be a public reserve; and that
 - (b) the land is, by operation of the local environmental plan, discharged from any trusts and interests, except for:
 - (i) any reservations that except land out of a Crown grant relating to the land;
 - (ii) reservations of minerals (within the meaning of the Crown Lands Act 1989);
 - (iii) Easement for Electricity registered dealing number N765060;
 - (iv) Easement for Rising Main registered with DP 600678;
 - (v) Right of Carriageway registered with DP 1062920; and
 - (vi) Easement for Services registered dealing number AD798519.

Provisions (a) and (b) require the Governor's approval under section 30 of the Local Government Act 1993. The Governor's approval is sought by the Department before the Minister makes the local environmental plan to amend LEP 2014.

3. The Council resolution to reclassify the land as community land would need to be passed after completion of the community consultation and public hearing in respect of the local environmental plan to amend LEP 2014 and before the Minister makes the plan. The Department of Planning & Environment has advised that the Minister can be asked to publish the local environmental plan to amend LEP 2014 on the NSW Legislation website on a specific date (which becomes the date on which the local environmental plan commences). The date that the local environmental plan to amend LEP 2014 is published on the legislation website should be the day after the Council resolution to reclassify the land to community land, to minimise the length of time that the land is classified as community land. The Department will need to regularly advise Council how the LEP amendment process is progressing so that the timing of the Council meeting to make the resolution to reclassify the land from 'community' land to 'operational' land.

Council's Planning Proposal proposes for abundant caution and to provide certainty, to reclassify the land from "operational land – interests not changed" to "community land" then to "operational land – interests changed" (including the discharge of any trust for a public purpose) to allow the sale of the approved residential lots.

Gateway Determination

Council forwarded the Planning Proposal to the NSW Department of Planning & Environment. The Minister determined that the Planning Proposal should proceed subject to conditions. The Gateway Determination was issued on 7 November 2014. The Planning Proposal (Attachment 1) has been amended in accordance with the conditions of the Gateway Determination (Attachment 2).

Public Notice of Proposed resolution to Reclassify the land from Operational to Community

To finalise the LEP amendment to reclassify the land from "community" to "operational – interests changed", a further report will need to be considered by Council for Council would need to resolve to reclassify the land from the current "operational" land to "community" land.

Public notice of such a resolution is required to be given by section 34 of the Local Government Act 1993. Council placed a public notice in the local newspaper and on Council's website of the following proposed resolution of Council:

"That the public land owned by Byron Shire Council and known as Lot 530 DP 238451 Orana Road, Ocean Shores is reclassified from "operational" to "community" under Part 2 of Chapter 6 of the Local Government Act 1993."

The public notice which is subject to a minimum 28 day period, commenced on 28 January 2015 and ended on 4 March 2015.

Public Exhibition

The Planning Proposal was publicly exhibited in accordance with conditions 3(a) and 3(b) of the Gateway Determination for a period of greater than 28 days from 29 January until 4 March 2015. The Planning Proposal was made available for inspection at Council's Administration Building, at the Brunswick Heads Library and on Council's website. Newspaper advertisements, letters to adjacent property owners and letters to 3 local organisations informed the community of the public exhibition. 176 submissions were received in response to the public exhibition, and comments are provided in response in Attachment 3. Copies of submissions listed in #E2015/8444 are provided to Councillors on CD, along with submissions made to the public hearing.

Public Hearing

A public hearing into the Planning Proposal was conducted as per the Local Government Act by an independent town planning consultant on 1 April 2015 at the Ocean Shores Community Centre.

- 5 Any person who made a submission to the public exhibition plus any additional people that were notified of the public exhibition were advised in writing of the public hearing. Newspaper advertisements were placed on 10 and 23 March 2015 inviting interested people to attend and / or make submissions to the public hearing. A notice was also placed on Council's website.

10 **Public Hearing Report**

The independent town planning consultant provided a report as to the result of the public hearing. The public hearing report (Attachment 4) was made available for inspection by the public at Council's Administration Building and on Council's website on 20 April 2015. This included
15 notifications on the same date to interested persons that the independent consultant's report was publicly available for inspection.

The public hearing Report provides the following conclusion:

- 20 "The public hearing phase of the reclassification/classification process reviewed 176 written submissions made during the advertising period and received 26 oral presentations. The public hearing was held on 1 April 2015 at the Ocean Shores Community Centre.

- 25 The majority of submissions did not support the proposed reclassification and request the Council to retain the land for community purposes. The submissions that supported the proposed were concerned with financial management and the Council's ability to raise funding for necessary unfunded projects in the shire.

- 30 It is understood that the information gained from the public hearing and contained in the written submissions will be used by Council in its decision making process as to whether or not it proceeds with the reclassification therefore no specific recommendation in this regard is required or made."

35 **Financial Implications**

The financial implications relate to Council's ability to sell, develop and / or use each approved residential allotment in accordance with the Financial Sustainability Project Plan 2015/2016.

40 **Statutory and Policy Compliance Implications**

The legislation of relevance to this Report includes the Local Government Act 1993 particularly Chapter 6 Part 2 relating to classification and reclassification of public land, and the Environmental Planning and Assessment Act 1979 particularly Part 3 Division 4 relating to local environmental plans.



Planning &
Environment

BYRON SHIRE COUNCIL	
DOC NO:	
REC'D:	11 NOV 2014
FILE NO:	F2622
ASSIGNEE:	G. Smith

Contact: Jim Clark
Phone: (02) 6641 6604
Email: Jim.Clark@planning.nsw.gov.au p.62240

Mr K Gainger
General Manager
Byron Shire Council
PO Box 219
Mullumbimby NSW 2482

Our ref: PP_2014_004_00 (14/17543)
Your ref: F2542 #E2014/33908

Dear Mr Gainger,

I am writing in response to your Council's letter dated 18 September 2014 requesting a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to reclassify Lot 530 DP 238451 Orana Road, Ocean Shores (subject land) from *community* land to *operational* land and to discharge any interests in the land.

As delegate of the Minister for Planning, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

Council is reminded of its obligations for undertaking a public hearing in relation to the proposed reclassification of land in accordance with the Department's Practice Note 09-003 *Classification and reclassification of public land through a local environmental plan*.

The conditions of the Gateway Determination do not discharge Council from any of its obligations under the *Local Government Act 1993* with regard to the classification of land. Council should also ensure the intent of the planning proposal is clearly articulated during the exhibition period.

The amending Local Environmental Plan is to be finalised within 12 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department of Planning and Environment to draft and finalise the Local Environmental Plan should be made 6 weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete Local Environmental Plans by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, I have arranged for Mr Jim Clark of the Department of Planning and Environment's regional office to assist. Mr Clark can be contacted on (02) 6641 6604.

Yours sincerely,

Marcus Ray
Acting Deputy Secretary
Planning Services

Encl: 07/11/14

Department of Planning & Environment
23-33 Bridge Street Sydney NSW 2000 | GPO Box 39 Sydney NSW 2001 | T 02 9228 6111 | F 02 9228 6445 | www.planning.nsw.gov.au



Planning &
Environment

Gateway Determination

Planning proposal (Department Ref: PP_2014_BYRON_004_00): to reclassify Lot 530 DP 238451 Orana Road, Ocean Shores from community land to operational land and to discharge any interests in the land.

I, the Deputy Secretary, Planning Services at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Byron Local Environmental Plan 2014 to reclassify Lot 530 DP 238451 Orana Road, Ocean Shores from *community* land to *operational* land and to discharge any interests in the land should proceed subject to the following conditions:

1. Prior to commencing public exhibition, Council is to amend the planning proposal by:
 - a. updating references to the Local Environmental Plan that is being amended noting that the Byron Local Environmental Plan 2014 has been notified; and
 - b. amending Part 1 *Objectives and Intended Outcomes* to ensure the outcome that the planning proposal seeks to achieve can be clearly understood by the general community.
2. Prior to finalisation of the LEP, the planning proposal is to be amended:
 - a. to clarify whether any interests applying to the land will be extinguished; and
 - b. to include required mapping prepared in accordance with the Department's Standard Technical Requirements for LEP Maps.
3. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Department of Planning and Environment 2013)*.
 - (c) Council is to conduct a public hearing in accordance with the requirements of section 29 of the *Local Government Act 1993* as the planning proposal involves reclassification of land.
4. No consultation is required with public authorities under section 56(2)(d) of the Act.
5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligations under the *Local Government Act 1993* stated above.

BYRON PP_2014_BYRON_004_00 (14/17543)

**Planning &
Environment**

6. The timeframe for completing the Local Environmental Plan is to be **12 months** from the week following the date of the Gateway determination.

Dated 7th day of November 2014.

A handwritten signature in blue ink, appearing to read "Marcus Ray".

Marcus Ray
Acting Deputy Secretary
Planning Services

Delegate of the Minister for Planning

BYRON PP_2014_BYRON_004_00 (14/17543)

Local Government (General) Regulation 2005

Schedule 3A Form of special disclosure of pecuniary interest

(Clause 195A)

5 Local Government Act 1993

Form of Special Disclosure of Pecuniary Interest

1 The particulars of this form are to be written in block letters or typed.

2 If any space is insufficient in this form for all the particulars required to complete it, an appendix is to be attached for that purpose which is properly identified and signed by you.

10 **Important information**

This information is being collected for the purpose of making a special disclosure of pecuniary interests under sections 451 (4) and (5) of the *Local Government Act 1993*. You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints made about contraventions of these requirements may be referred by the Director-General to the Local Government Pecuniary Interest and Disciplinary Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting in respect of which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

20 **Special disclosure of pecuniary interests**

by _____
[full name of councillor]

in the matter of _____
[insert name of environmental planning instrument]

which is to be considered at a meeting of the

_____ *[name of council or council committee (as the case requires)]*

to be held on the _____ day of _____ 201

Pecuniary interest

Address of land in which councillor or an associated person, company or body has a proprietary interest (*the identified land*)

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.13 - ATTACHMENT 5

Relationship of identified land to councillor [Tick or cross one box.]	<input type="checkbox"/> Councillor has interest in the land (e.g. is owner or has other interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> Associated person of councillor has interest in the land. <input type="checkbox"/> Associated company or body of councillor has interest in the land.
Matter giving rise to pecuniary interest	
Nature of land that is subject to a change in zone/planning control by proposed LEP (the subject land) [Tick or cross one box]	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control [Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]	
Proposed change of zone/planning control [Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]	
Effect of proposed change of zone/planning control on councillor [Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]	

[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest.]

Councillor's signature

Date

[This form is to be retained by the Council's general manager and included in full in the minutes of the meeting]

**Report No. 13.14 PLANNING - West Byron Draft Development Control Plan (DCP)
Update****Directorate:** Sustainable Environment and Economy**Report Author:** Chris Larkin, Senior Planner**File No:** I2015/350**Theme:** Ecology
Land and Natural Environment**Summary:**

The Department of Planning and Environment handed back the preparation and finalisation of the draft West Byron Development Control Plan (DCP) to Council in February this year. Council staff are currently drafting the DCP and a meeting has been scheduled for Councillors to meet with landowners in late May to discuss the progress and content of the DCP.

This report provides an update on the preparation of the DCP. It also seeks to confirm the project milestones and timing of the DCP including community engagement activities and public exhibition.

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 endorse the draft West Byron Urban Release Area Development Control Plan key project milestones and community engagement activities in the revised Project Snapshot (Attachment 1).

Attachments:

- 1 Revised Project Snapshot - West Byron DCP, E2015/26083 , page 190

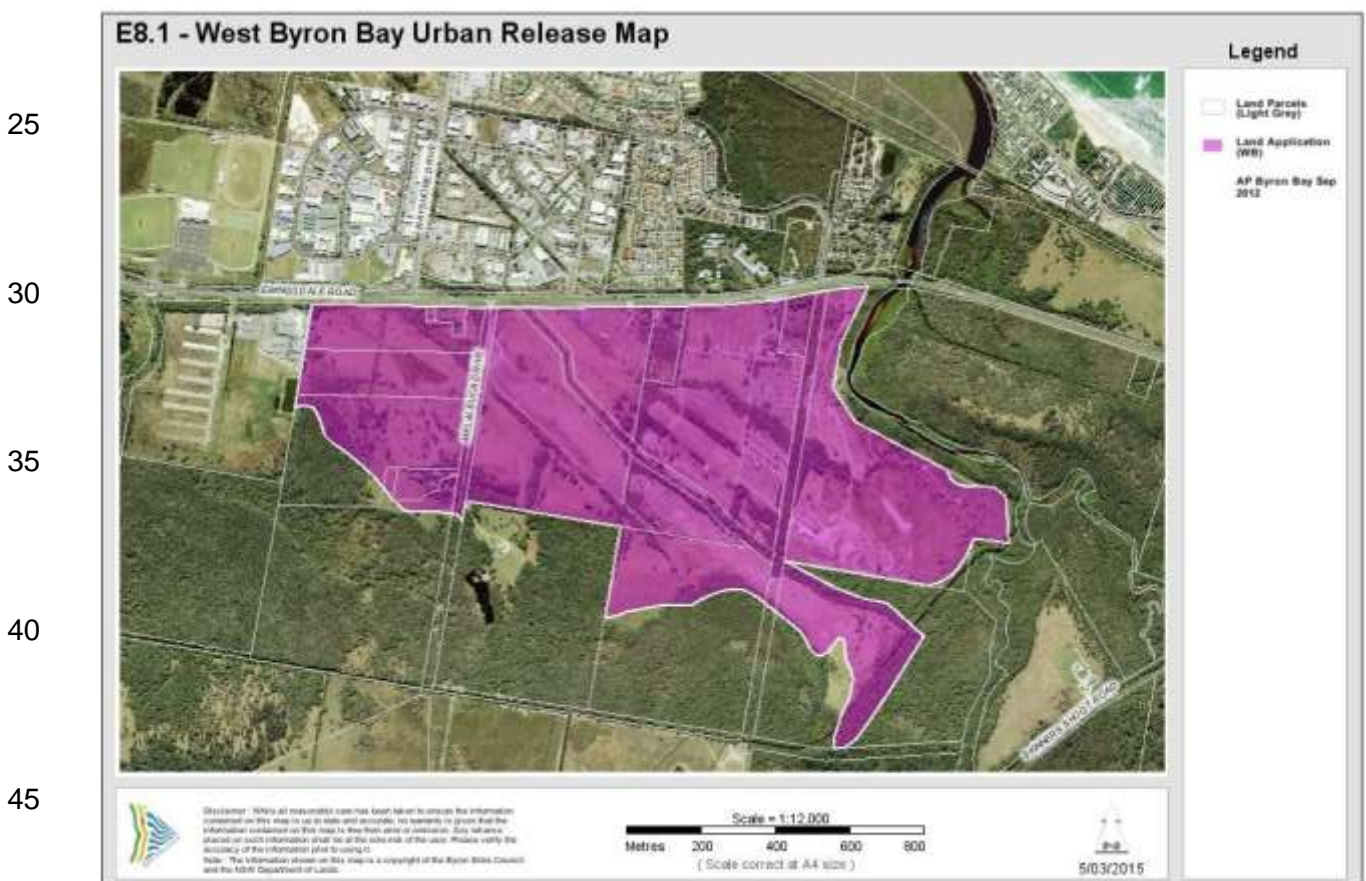
Report

Background

5 The Department of Planning and Environment (DoPE) prepared a draft Development Control Plan (DCP) for West Byron, which was exhibited with the rezoning proposals as part of the Part 3A Major Project Application on two occasions (12/10/11 to 14/12/11 and 28/11/13 to 31/1/14) Council made submission to the DCP on both occasions raising concerns about flooding, zoning, residential density, traffic and the environment. The draft DCP however was not made when the
10 Major Project Application was approved and Byron Local Environmental Plan 1988 amended on 7 November 2014.

Council remained concerned that the draft DCP would soon be adopted with little input from Council and formally requested the DoPE on 2 December 2014 that it be returned to Council to be
15 completed. On the 27 February 2015 the DoPE returned the draft DCP to Council. The DoPE has delegated all power and authority to Council to prepare and complete the DCP to guide future development within the West Byron Urban Release area. The DCP cannot alter zonings, lots sizes or building heights. These controls are prescribed under Byron LEP 1988.

20



50 The draft DCP is currently being re-written to provide guidance to development in the West Byron Urban Release Area. Some elements of the DoPE draft have been retained and amended but importantly the redrafted version will address the matters for consideration for this DCP as listed under Clause 101 of Byron LEP 1988. These are:

- 55 a) a staging plan for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing,

- b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,
- 5 c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,
- d) a network of active and passive recreation areas,
- 10 e) stormwater and water quality management controls,
- f) amelioration of natural and environmental hazards, including bush fire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the
- 15 evacuation from, any land so affected,
- g) detailed urban design controls for significant development sites,
- h) measures to encourage higher density living around transport, open space and service
- 20 nodes,
- i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,
- 25 j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.

30 The draft DCP is also addressing other matters such as traffic noise attenuation along Ewingsdale Road, and Aboriginal heritage and includes links back to our other planning controls for Byron Shire under Byron DCP 2014 to avoid unnecessary repetition.

35 It should be noted that in the absence of a DCP the landowners can lodge a staged development application under Section 83C of the Environmental Planning and Assessment Act 1979. As such Council needs to be aware of and consider the implications of the timeline proposed for the preparation of the DCP . The land owners have indicated that they will be ready to submit a DA during the second half of 2015, but would prefer to have an adopted DCP in place to guide the development process. This DA will be the first of a number of applications and will be aimed at gaining approval for critical infrastructure and environmental management common to all landowners within the West Byron Urban Release Area.

40 Current situation

45 At the 26 March 2015 Strategic Planning Workshop, staff provided Councillors with a verbal update on the DCP. From this workshop a project snapshot was developed that mapped the key project milestones. It included a meeting for Councillors to discuss the drafting of the DCP with landowners on the 28 May 2015. An initial meeting was scheduled with landowners, Council staff and Councillors, and DoPE on 20 February 2015 when the Department was still preparing the DCP, however this was postponed due to wet weather at the time. At this Strategic Planning workshop it was also discussed that based on the timeline presented that a draft DCP would be

50 reported to Council for the meeting 16 July 2015 to seek endorsement for its public exhibition. That following public exhibition and consideration of submissions, the DCP would be finalised and reported to Council for adoption at the 19 November 2015 Council Meeting.

55 At a subsequent Strategic Planning Workshop on the 16 April 2015, a further discussion occurred about the DCP preparation and in particular the need to engage with the community prior to a

formal exhibition of the DCP. This was based on concern that the community issues had not yet been fully canvassed by council, and as such would not otherwise be able to be addressed in the DCP drafted. That formal exhibition of the DCP was too late for this discussion to occur.

- 5 As such a project snapshot has now been prepared to include this additional consultation (in the form of a community drop in session) into the milestones (Attachment 1 – changes in red). As a consequence however, Council needs to be aware that it will push out the DCP exhibition September/October 2015 and consequently the DCP adoption until December 2015.
- 10 As mentioned earlier in the report, the landowners will be ready to lodge their first DA during the second half of 2015 and want to have a DCP in place formally to guide them for the development process. The revised timeline may mean that this may not have happened by then.

Financial Implications

- 15 Additional resources may need to be allocated for the engagement activity carried out prior to the exhibition of the DCP in terms of staff time, hiring a hall and the like.

Statutory and Policy Compliance Implications

- 20 Development Control Plans are a planning tool which can be used to guide development. It is not a statutory planning instrument and therefore does not have the same weight as an environmental Planning Instrument such as the Byron LEP 1988. Clause 74BA(1) of the EPA Act 1979 states the following:

74BA Purpose and status of development control plans

- 25 (1) *The principal purpose of a development control plan is to provide guidance on the following matters to the persons proposing to carry out development to which this Part applies and to the consent authority for any such development:*
- (a) *giving effect to the aims of any environmental planning instrument that applies to the development,*
- (b) *facilitating development that is permissible under any such instrument,*
- 30 (c) *achieving the objectives of land zones under any such instrument.*

The provisions of a development control plan made for that purpose are not statutory requirements.

- 35 The preparation and exhibition of DCPs are prescribed under the *Environmental Planning and Assessment Act 1979 and Regulation 2000.*

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.14 - ATTACHMENT 1

PROJECT SNAPSHOT	
Project name:	West Byron Bay Urban Release Area Development Control Plan (DCP)
Directorate:	SEE

Estimated Timeframe

Key Milestones

March 2015	.....	<div>Councillor briefing on project milestones: 12 March</div> <hr/> <div>Staff meeting with applicants consultants to discuss structure and staging plans: 27 March</div>
April/May	.....	Receive structure and staging plans from consultants to inform DCP
28 May	.....	Councillor and Landowner Workshop to discuss vision for development
June	.....	Pre exhibition community consultation
18 June 13 Aug	.....	Councillor Strategic Planning Workshop to consider revised draft DCP
16 July 27 Aug	.....	Report to Council to publicly exhibit DCP
August – September September -October	....	<div>Public Exhibition</div> <div>6 weeks (minimum requirement 28 days)</div> <div>Conduct community engagement activities</div>
September – October October- November	.....	<div>Consider public submissions and review draft DCP</div> <div>Councillor Strategic Planning Workshop 26 November to consider revised draft DCP</div>
19 November 17 Dec or 1 st meeting in 2016	.....	Report to council to consider final draft DCP for adoption

Report No. 13.15 **PLANNING - Streamling Development Application determinations**
Directorate: Sustainable Environment and Economy
Report Author: Shannon Burt, Director Sustainable Environment and Economy
File No: I2015/393
5 **Theme:** Ecology
 Development and Approvals

Summary

Council has previously resolved to review development assessment delegations to streamline the development assessment process and to further reduce development application processing times.

This report is in response to Council's previous resolutions and to reduce the number of development applications that are reported to Council, particularly those applications which are required to be refused as a result of inadequate information being provided with the application.

Proposal

To delegate to the General Manager the development assessment matters previously required to be determined by the elected Council.

The review of the current delegations was prepared considering that Councillor's time is a valuable and limited resource so that only major developments having potential for significant community impact should be determined by full Council. Major developments are considered those Development Applications with an estimated value exceeding \$5 million; any subdivision exceeding 40 lots and any Designated Development.

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. Delegate to the General Manager the following development assessment matters previously required to be determined by the elected Council:

- i. **All Development Applications proposed to be determined as a refusal as a result of inadequate information being provided for determination and/or where the application is fundamentally flawed, such as prohibited development.**
- ii. **Development Applications with an estimated value not exceeding \$5 million or any subdivision not exceeding 40 lots.**
- iii. **Development Applications for strata subdivision in a 7f(2) Urban Coastal Land Zone under Clause 32 of the BLEP (except any subdivision exceeding 40 lots).**
- iv. **All Development Applications with State Environmental Planning Policy No 1 Variations (except when associated within Development Applications with an estimated value exceeding \$5 million or any subdivision exceeding 40 lots).**

- v. The amendment or review of all development applications, except:**
 - a) the review of a determination made by the Council, and not by a delegate of the Council, of an application for approval or an application that may be reviewed under Section 82A of the Environmental planning and Assessment Act 1979.**

Report

Council resolved at the Ordinary meeting 9 May 2013 the following:-

Resolution 13-241 (in part)

5. *"That staff review the criteria/guidelines for the consideration of the Council which guide the Planning Review Committee which Development Applications are to be determined directly by the Council"; and*

Resolution 13-242 (in part)

1. *"That Council review development assessment delegations after the state government has finalised it's current Planning Reform and Local Government Reviews and adopted any changes to policies and/or legislation".*

Whilst the NSW Government Planning Reforms have stalled and are unlikely to progress in the immediate future as per the "White paper", there is still a need to review the type and number of development assessment matters required to be determined by the elected Council. A review of current delegations has revealed that the following types of development applications could be delegated to the General Manager to further streamline the development application process:

1. **All Development Applications proposed to be determined as a refusal as a result of inadequate information being provided for determination and/or where the application is fundamentally flawed such as for prohibited development.**

Discussion: Whilst Council has continued to work with the development industry to improve the information that is required to be provided with each development application, and despite the best attempts of staff there are still a number of applications each year that fail to provide sufficient and critical information. This lack of sufficient and critical information delays the determination of applications and where the information is not provided Council may still be prevented from approving the development application.

To prevent the delay in the determination of these applications and to save both Councillor and staff resources in preparing and reviewing these applications, all development applications proposed to be determined as a refusal as a result of inadequate information being provided for determination and/or where the application is fundamentally flawed should be delegated.

2. **Development Applications with an estimated value not exceeding \$3 million dollars or any subdivision not exceeding 20 lots. Note: Developments from \$1,750,000 to \$3,000,000 are required to be reported to the Planning Review Committee. (Res 10-668(3))**

Discussion: There has not been a review of the value and size of developments required to be reported to Council since 2010. This has lead to bracket creep sometimes requiring larger more opulent dwellings to be reported to Council. To further reduce the number of complying Development Applications reported to Council it is recommended that the estimated value not exceeding \$5 million and any subdivision not exceeding 40 lots be delegated.

The continued operation of the Planning Review Committee will still ensure that if there are any development applications that are below the \$5 million amount and any subdivision not exceeding 40 lots that these could still be considered by Council, where called by the Committee.

3. **Development Applications for strata subdivision in a 7(f2)(Urban Coastal Land Zone) under clause 32 of the BLEP (Res 09-962)**

Discussion: Strata subdivision within a 7(f2)(Urban Coastal Land Zone) under clause 32 of the BLEP 1988 is required to comply with specific conditions and legislative requirements. As there is clear direction given under the BLEP 1988 in relation to this type of development, these development applications should be delegated.

4. All Development Applications with State Environmental Planning Policy No 1 Variations (except when associated within Development Applications with an estimated value exceeding \$5 million or any subdivision exceeding 40 lots).

Discussion: Council had previously resolved to have all Development Applications with a *State Environmental Planning Policy No 1* (SEPP No.1) variations 10% or greater determined by the elected Council. This requirement has increased the number of developments being determined by elected Council, which has also increased average reportable Development Application process times due to the lead time taken to prepare reports for council meetings.

It should be noted that with the commencement of the Byron Local Environment Plan 2014, (being a Standard Instrument LEP), the requirements of SEPP No. 1 will now only be applicable to the deferred matters considered under Byron Local Environment Plan 1988 which has already lead to a decrease in the number of development applications with SEPP No.1 variations.

5. The amendment or review of all development applications, except:

- a) the review of a determination made by the Council, and not by a delegate of the Council, of an application for approval or an application that may be reviewed under Section 82A of the *Environmental planning and Assessment Act 1979*

Discussion: The continued operation of the Planning Review Committee will still ensure that if there is any modification or review of a development application it could still be considered by Council, where called by the Committee. As is noted by the exception to this delegation it would be limited by Section 377 of the *Local Government Act 1993* which specifies functions the Council cannot delegate in relation to development assessments being:

- the review of a determination made by the Council, and not by a delegate of the Council, of an application for approval or an application that may be reviewed under Section 82A of the *Environmental planning and Assessment Act 1979*

Conclusion

The above review of the current delegations was prepared considering that Councillor's time is a valuable and limited resource so that only major developments having potential for significant community impact should be determined by full council. Major developments are considered those Development Applications with an estimated value exceeding \$5 million; any subdivision exceeding 40 lots and any Designated Development.

Notwithstanding the above, the reporting of smaller significant developments to Council may also still occur where in the opinion of the General Manager or the Director, using professional judgement and considering the merits of the development, it is deemed necessary and appropriate.

Financial Implications

There would be a saving in both Councillor and staff resources by reducing the number of development applications determined by Council. These savings would translate into efficiency and productivity gains made through reduced development assessment time frames.

Statutory and Policy Compliance Implications

Under Section 377 of the Local Government Act 1993 the Council may, by resolution, delegate to the General Manager or any other person or body (not including another employee of the Council) any of the functions of the Council except those noted in Section 377 including

- the review of a determination made by the Council, and not by a delegate of the Council, of an application for approval or an application that may be reviewed under Section 82A of the Environmental planning and Assessment Act 1979

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.16 **Pay Parking - Byron Bay Parking Study**
Directorate: Infrastructure Services
Report Author: Simon Bennett, Traffic and Transport Engineer
File No: I2015/298
Theme: Community Infrastructure
 Local Roads and Drainage

**Summary:**

Council has recognised the need to better manage the high demand for parking in Byron Bay. It is also recognised that much of the demand for space and use of public infrastructure is by visitors, such as day trippers, who do not contribute towards the cost of infrastructure and services. In looking for a solution Council has embarked on a Parking Study.

This report is a continuation of that study which was first reported to Council on 22 May 2014 and then again on 11 December 2014 following an extensive consultation period over the month of July 2014. Results of the consultation are available on Council's website, as are both reports which like this report, the third on the subject, recommends that a pay parking area be introduced in the Byron Bay town centre as it will help with turnover and gain better utilisation of existing supply.

To manage the displacement expected by pay parking restricted time limits on its perimeter and which spans across adjacent residential streets is also proposed by the implementation of a Resident Parking Permit scheme.

Exemptions to both schemes are possible and recommended, noting both will need to comply with the relevant RMS guidelines whose approval or concurrence (where it is needed) for pay parking is yet to be granted (see 9 - Statutory and Policy Compliance Implications).

However gaining RMS acceptance is achievable, noting their involvement to date has included discussion at the Local Traffic Committee (LTC) meetings plus the direct referral of the consultant's preliminary report whereby no objection to the proposed scheme was raised. The parking study and the Council's preferred pay parking option must be referred to the RMS for final approval once determined by the Council.

Accordingly this report makes recommendations that allow staff to progress the study to a staged completion, noting the study to date has reviewed the implications of the introduction of both pay parking and Residential Parking Permit schemes, and in particular pay parking which has been the subject of four staff-Councillor workshops as held between August 2014 and April 2015. At the latter workshop broad agreement was reached on baseline parameters including \$4 per hour for all on and off street locations and a flat 'registration charge' of \$100 per year which provides those eligible (e.g. shire residents) an exemption to paying (i.e. 'feeding the meter') each and every time they park.

Such an arrangement however is not new to Byron Council and reflects the principles inherent in the existing 'parking coupon' system which requires the near 5,000 current resident coupon holders to pay \$25 pa to gain a similar 'exemption' benefit, albeit this is restricted to Council's off-street car parks only.

It has been generally agreed that for parking schemes to be effective they need to be simple to use and understand for all parties, which are namely the end user (e.g. residents and visitors) and Council's administration and enforcement staff. This report therefore also envisions a model (as per Figure 3) which supersedes the existing 'coupon' scheme and incorporates the exemption into it; i.e. a registration plate based system which requires no physical permits or coupons to be

printed, collected or displayed. This is considered possible with the introduction of appropriate technology, namely a wireless network based system that communicates between each parking machine and the enforcement agency (Council). Such a system could extend to demand management devices such as advanced signage (e.g. variable message boards), websites and even phone applications to help residents and visitors with trip planning and finding a vacant car park.

Such technological support is readily available and can best be explored by proceeding to a contestable market based procurement process - this is recommended, as is utilising the Butler Street Reserve as an all day, lease per space, car park that provides dedicated and guaranteed parking space to Byron township business operators and their staff.

RECOMMENDATION:

1. That Council endorse the introduction of a Byron Bay town centre pay parking scheme which applies a unilateral \$4 per hour rate and provides an annual exemption to eligible residents which is charged at \$100pa and granted on the proviso of meeting Council's existing exemption (coupon) criteria.
2. That a pay parking area be endorsed as depicted in Figure 1 of this report (I2015/298), which covers:
 - (a) a limited area west of the rail corridor, being on-street locations between east of Milton Street through to the Butler Street and Lawson Street intersection and north side of Somerset Street; and
 - (b) east of the rail corridor, including Jonson Street and all areas bounded within north of Browning Street, east of Tennyson Street and east to Massinger Street, with the exception of both Kingsley Street and Ruskin Street west of Middleton Street.
3. That a Resident Permit Parking area be endorsed as depicted in Figure 1 of this report (I2015/298), which excludes the pay parking area and covers on-street locations:
 - (a) west of the rail corridor, as bounded by and including Butler Street, Burns Street and the south side of Somerset Street; and
 - (b) east of the rail corridor, as located between Middleton Street and Tennyson Street for both the south side of Kingsley Street and both sides of Ruskin Street, and the greater area as bounded by east of Tennyson Street, through to and including Massinger Street and north of and including Browning Street.
4. That Roads and Maritimes Services (RMS) concurrence and approval, where required, be sought to allow implementation of both a Pay Parking Area and a Resident Permit Parking Area.
5. That Council proceed to procurement to implement a Pay Parking Area as described within this report (I2015/298).
6. That Council note that to conclude the Byron Bay parking study further reports will be forthcoming which will seek endorsement of:
 - a) a supplier, including contractual arrangements, for example lease or purchase of equipment and agreements on maintenance and level of service;
 - b) the formal declaration of type of pay parking scheme and its commencement date;
 - c) any necessary additions or changes to Council's Fees and Charges; and

- d) changes to time limits, such as increased all day parking on the perimeter and more 1P in the centre.
7. That the necessary regulatory, approval and operational requirements be undertaken to allow Butler Street Reserve, which is now subject of two year lease as held by Council for the purpose of a trial car park, be made available as a lease per space, all day car park (6am to 6pm) which is to be charged at \$80/month and is prioritised for those business premises located or those who work within the pay parking area and who have no off-street car parking and prove ineligible for the annual exemption.

Attachments:

- 1 Council resolutions relevant to Byron Bay Parking Study, E2015/29637 , page 212

1 - Introduction

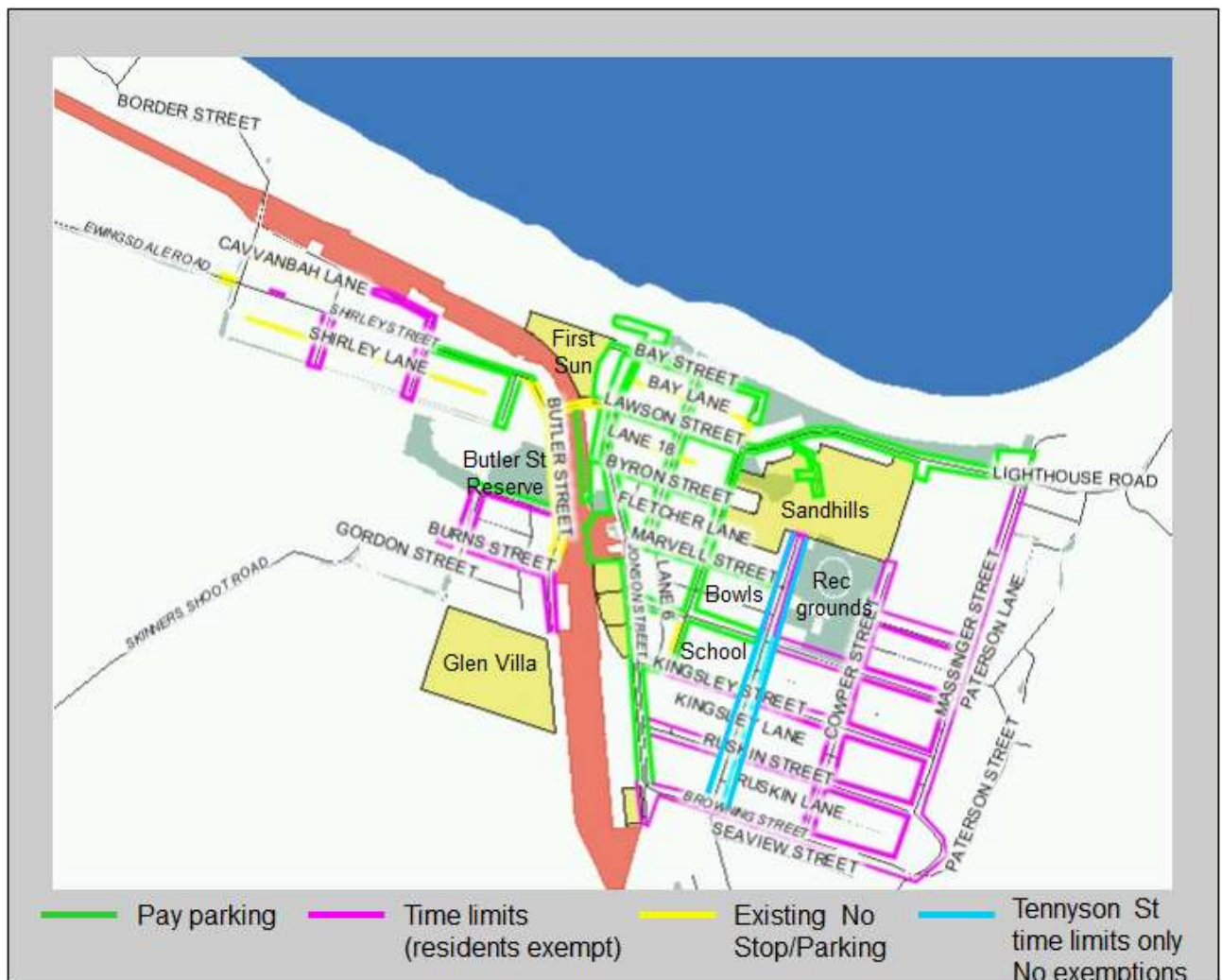
This report is a continuation of a suite of work that has been undertaken as part of the Byron Bay Parking Study, the progress of which is documented and detailed upon the project web page:

<http://www.byron.nsw.gov.au/byron-bay-parking-management-review>

This previous body of work is summarised below (see Section 3 - Background) and has led to the recommendations now tabled and discussed herein which are primarily in relation to both a pay parking area and a resident parking area as shown in Figure 1, with exemptions to both proposed, as is the technology to be used (as to be confirmed via the procurement process) and the use of Butler Street Reserve as an all day, lease per space car park.

Excluded from this report however are various related matters as their undertaking will depend upon and be shaped by how Council resolve proposals within this report. These related matters include changes to duration of time limits (e.g. more 1P in the centre and all day parking on the perimeter) which can be dealt with via referral to the Local Traffic Committee (LTC) and the potential utilisation and management of car parking areas on private or crown land, which is a matter of negotiation and agreement, for example railway land in proximity of the railway station; space under Aldi and adjacent to Woolworths.

Figure 1: proposed coverage of pay parking area and resident parking area



2 - Context

Council recognises the demands placed upon the community and Council's infrastructure by the near 1.5 million visitors each year to Byron Bay, a number which dwarfs the population of the 2481 postcode (10,000 people), the number of ratepayers in (and therefore rate base of) the shire (approximately 14,000) and the shire's population (near 30,000); thereby stretching Council (i.e. the community's) finite resources and funding (namely the rate base) to be used by and satisfy the majority of people who do not contribute toward such costs.

These costs however are not just financial (which are significant) but are also costs to community in terms of amenity, access and social interaction and opportunity, all of which is very much impacted and restricted by the number of vehicles that enter and park in the town centre. Indeed, this bias is most evident when in round figures the town centre has 2,000 available car spaces for general public use yet near 16,000 vehicles enter and leave the town centre on a daily basis which at peak times such as Christmas/New Year period or Easter can reach near 22,000 a day.

In other words, the huge demand for access to the town centre is not equal, with the smaller local population, who pay their rates, and/or contribute through their work and living here, are outnumbered yet fund the very same infrastructure used by those that do not and who visit one day and leave the next.

Understandably this is proving to be unsustainable and a new revenue stream is required, or more pointedly it is time for visitors to contribute, preferably via a user-pay system which benefits locals (e.g. exemptions) and provides better traffic and parking demand management.

Such an outcome has been the focus of the ongoing Byron Bay Parking Study.

3 - Background

The Byron Bay Parking Study has eventuated following a series of resolutions (see Attachment 1), while the study itself started in earnest with data collection of near 22,000 registration plates between August 2013 and February 2014 across the Byron Bay town centre.

This six days of data capture (see 6 – Data) and subsequent analysis was first reported to Council a year ago, on 22 May 2014 with the tabling of the consultant's (TTM) preliminary study findings which confirmed that around 1,000 spaces in the town centre were in high-demand, with many at or exceeding capacity to the point that pay parking could be justified and help improve turn over and gain better demand-management.

Indeed, these predicted improvements led the consultant to conclude that pay parking could provide better use of existing supply to such an extent that there is likely to be no need to build extra car parks at this time, or in the immediate future (1-3 years) or longer, and especially so if existing car parks including Council's and those on private land (e.g. under Aldi) were better utilised, thereby saving Council's limited funds and enabling them to be redirected for other needs.

This improved utilisation was expected to occur if, as recommended, a \$2 per hour rate was to apply to all on and off street parking locations between 9am and 6pm seven (7) days a week and that Council's off-street parking coupon system remain unchanged on the proviso a separate review is conducted and that an exemption not be considered nor extend to on-street locations.

Upon receipt of such findings Council resolved as per 14-237, which essentially noted the consultant's findings; referred them to the Roads and Maritimes Services (RMS) and Local Traffic Committee (LTC) for comment (as occurred); and endorsed a public exhibition period, which took place over the month of July 2014 and, as per Part 2, specifically directed staff to:

...commence discussions with the management or owners of areas used for car parking which are not in Council control, which for example includes the car parking:

- a) around Woolworths;*
- b) adjacent to the Railway Hotel;*
- c) under the Aldi supermarket;*
- d) other areas as believed appropriate.*

Accordingly much of Resolution 14-237 was carried out over July and August 2014, with the exception of Part 5 as it required no action at the time and accepted the consultant's advice by declaring that the:

...current residential parking coupon scheme remain unchanged and be reviewed prior to the commencement of any new parking scheme.

As for the results of the July 2014 consultation period, they were subsequently presented and discussed at the Councillor and staff workshop convened 14 August 2014 which detailed the following engagement and information techniques employed as per Table 1.

Table 1: engagement and information techniques employed July 2014

Traditional and social media	Surveys / mail outs	Face to face
<ul style="list-style-type: none"> - Website and Facebook - Media releases and E-news - Social Pinpoint (online mapping tool) - Fact Sheet and FAQ - Newspaper advertisements - Media briefing 	<ul style="list-style-type: none"> - online and print - business mail out - Resident Parking Coupon holders mail out to randomly selected sample (1,000) 	<ul style="list-style-type: none"> - private car park owners - business - Councillor workshop - Stakeholder briefings x 2 - Focus Groups x 2 - Information Kiosks x 10 (e.g. farmers markets)

The above consultation was considered as effective and extensive noting it included engagement of a specialised consultation firm (Umwelt) whose findings, based on review of the above and of more than 1,000 submissions including surveys received, was provided in a detailed report (61 pages) as available on the project web page, with Sections 4.2 and 6 detailing respectively "key messages" as garnered from attendance at the Farmers Markets and also from local community and business responses to survey or submissions made. In brief these key messages include:

1. general support to improve parking and making visitors pay, but "scepticism" was noted in regard to the capacity of a paid parking system to improve turnover;
2. general acceptance that if a charge was to apply, then it provide a differential rate for locals and visitors, albeit most locals wanted a free, unlimited exemption or at very least Council extend the existing coupon system to any pay parking area it implements;
3. some concern however was held that pay parking will reduce economic activity, or worst deter business start-up, especially if the hourly rate is set to high;
4. general consensus that greater all day parking is needed including catering for needs of workers, yet the core of the town centre be 1P;
5. general acceptance that parking is high-demand and impacts amenity, and that it can be improved by reducing traffic volumes/congestion and not necessarily via changes to parking;

6. greater effort needed by Council to include private car parks (e.g. under Aldi) into a single integrated scheme;
7. as the local population consists of high and low income earners, many of whom contribute already, questions were raised regarding the reason to pay more, as was concern expressed for the ability of some to pay at all (e.g. pensioners) while the general inequity of paying more was questioned, even if the hourly rate for locals is less than visitors or when compared to those that park longer;
8. however in general (as per 6.1.1.3) and importantly: *“Respondents accepted that revenue from an extended paid parking scheme could provide capital for investing in improved infrastructure and amenity. A key message from the comments received is that residents would be more comfortable with additional charges for parking if there was a clear and direct link from money collected to projects to improve infrastructure, transport and other services in the Shire”.*

In hearing such feedback, the August 2014 workshop concluded that the parking study continue by exploring options regarding exemptions or ‘discounts’ to locals. This required a new field survey to be undertaken to help determine the extent of local versus visitor occupancy, the results of which were presented by the parking study consultant (TTM) at the third Councillor-staff workshop as held 27 November 2014.

The presentation commenced with a clear caution – exemptions schemes increase costs and prove more time consuming for administration and enforcement. More concerning however for the consultant was that the scheme could prove unviable and be an ongoing costly burden to Council. The workshop also noted that a ‘free for all’ with exemptions does not value the limited car spaces available and is counter productive to efforts to gain better demand management and turnover.

Given this concern for viability the consultant presented testing based on \$2 per hour in town and \$4 per hour in foreshore locations. In doing so they concluded the scheme could tolerate at most a ‘locals’ exemption of either 30-minutes free each day or up to 40% discount of the hourly rate.

A major influencing factor on these calculations however was noted during the workshop, i.e. the revenue scenarios were very much dependent upon the ‘locals’ occupancy rate with the consultant providing and testing three occupancy rates between 55% and 75% and concluding on the middle ground of 65% be adopted as the occupancy of locals, therefore leaving the 35% balance as visitors.

These exemption options and occupancy rates were subsequently the subject of the 11 December 2014 report to Council (I2014/76), along with a third option being that the existing coupon exemption remain intact; i.e. it applies in Council off-street car parks only. The report also recommended that an EoI proceed for purposes of seeking costs and technological ability and that a briefing paper on several matters (including review of the coupon scheme and eligibility criteria) be circulated prior to a further workshop to be convened in February 2015.

For the most part Council resolved (as per 14-646) in support of such recommendations however, and more significantly, also resolved an in-principle support for the introduction of pay parking subject to the inclusion of a locals exemption and a testing of two new rates: \$3 per hour across the scheme except at Main Beach and Clarkes Beach car parks and the length of Bay Street, whereby \$5 per hour applies.

The problem of an accurate ‘locals’ occupancy rate however remained and thereby deferred the EoI from proceeding and instead re-directed staff focus on reviewing the initial six days data capture in efforts to better understand what revenue impact would result from providing a ‘locals’ exemption.

While this data review was being undertaken (see 6 - Data) a further presentation was made at a February 2015 staff-councillor workshop at which a draft briefing paper was issued which discussed the existing coupon system and its relevance and implications to pay parking, in particular its criteria for the basis of a 'locals' exemption to any new scheme, including ideas on:

- Criteria for local resident / ratepayer / worker;
- Allocation limits per household / employer; and
- Costs for extra exemptions above allocations.

The workshop however did not lead to any clear direction on such matters other than they be considered further if pay parking does progress. Importantly however general acceptance was that a local exemption is to be valued with the amount to be charged subject of further revenue testing including consideration of a 'sliding scale' based on use (i.e. number of hours).

An example of such a scale is shown at Table 2, noting this is an untested example only and was discussed at both the February (and following April) 2015 workshops in efforts to find an equitable balance which provides residents and workers with a choice that reflects their use and in recognition that 'one size does not fit all', for example a shire resident who visits Byron Bay a few times a year or even once week be given an option and pay less than a person who needs 40 hours per week, such as a worker. The sliding scale also attempts to avoid classifying people as resident, ratepayer, worker, etc and more simply would be a pro-rata, pre-purchased amount based on use as set in Council's annual Fees and Charges and apply each financial year.

Table 2: example of a sliding scale of payment – based on use

Time pre-purchased / per day	1P	2P	4P	All day
cost pa /off-street	\$25	\$50	\$100	\$200
cost pa /on-street	\$50	\$100	\$200	\$400

While the above example itself was not tabled at either the February or more recent 24 April 2015 workshop, discussion indicated that some thought the scale was considered complex and requires people to know their parking habits and needs. This could be countered however by allowing anyone that finds their pre-purchase amount for that day expire – or if they know they need more that day - to Pay As You Go (PAYG) by simply purchasing at the meter the extra amount required that day. Should that prove onerous, complex or costly the person could always 'upgrade' and pay the balance to move to the next 'plan', for example akin to a mobile phone plan someone who originally pre-purchased the '1P plan' finds they have a benefit or need in having the '2P plan' instead and thereby pay the balance (pro-rata to 30 June) to upgrade.

Under such a payment plan time limits would still apply as signed; for example a purchase of 4P parking does not remove the need to obey 1P or 2P or any other parking sign, therefore it is time limits and not the payment of the hourly rate that dictates duration of stay.

This use of time limits however would of course also apply in the single, annual flat-rate which by the end of the most recent workshop held 24 April was favoured over the scale shown in Table 2 above. Moreover the April workshop also provided valuable parameters discussed as follows.

4 – Parking rates and charges

At the April workshop discussion was held on an hourly rate (between \$2 and \$5) and eventually agreed (at \$4 per hour), as was the amount for an annual charge to obtain a 'locals' exemption (at \$100pa).

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This was concluded after acceptance that the local occupancy rate is likely to be anywhere between 45% and 65% when averaged across the year; and for prudence the upper end of 65% was to be adopted for further revenue testing as now shown in Table 3 with explanatory notes provided below, while Figure 2 provides a graph of the expected bottom line of each per hour rate.

Table 3: revenue testing assuming 65% of occupancy is exempt (i.e. permit holders)

Line no./reference	Revenue goes to:	Qty.	\$2 per hour	\$3 per hour	\$4 per hour	\$5 per hour
A1	General	1,012	\$1,136,877	\$1,705,316	\$2,273,754	\$2,842,193
A2	Crown reserve	53	\$59,540	\$89,310	\$119,080	\$148,850
A3	SUB-TOTAL on-street	1,065	\$1,196,417	\$1,794,626	\$2,392,834	\$2,991,043
B1	General	289	\$201,963	\$302,944	\$403,925	\$504,906
B2	Crown reserve	95	\$66,389	\$99,584	\$132,778	\$165,973
B3	SUB-TOTAL off-street	384	\$268,352	\$402,527	\$536,703	\$670,879
A3+B3	Gross TOTAL (pa before costs)	1,449	\$1,464,769	\$2,197,153	\$2,929,537	\$3,661,922
C1	TOTAL pa after costs ((\$650,000pa – see note 1))		\$814,769	\$1,547,153	\$2,279,537	\$3,011,922
C2	TOTAL pa minus existing revenue ((\$690,000pa – see note 2))		\$124,769	\$857,153	\$1,589,537	\$2,321,922
C3	Total & percentage change to existing meter revenue - (see note 3)		\$345,000 / -50%	\$517,500 / -25%	\$690,000 / 0%	\$862,500 / +25%
C4 (C2+C3)	TOTAL pa revenue from meters (see note 4)		\$469,769	\$1,029,653	\$1,589,537	\$2,149,422
D1	Assumed revenue of \$100 pa permit (see note 5)		\$250,000	\$350,000	\$500,000	\$650,000
D2	Total & percentage change to existing permit revenue - (see note 6)		\$125,000 / x2	\$225,000 / x2.8	\$375,000 / x4	\$650,000 / x5.2
D3 (D1-\$125,000)	TOTAL pa new revenue from permits (see note 7)		\$125,000	\$225,000	\$375,000	\$525,000
D4 (C4+D1)	Net TOTAL pa from scheme (excl. enforcement costs or revenue) (note 8)		\$719,769	\$1,379,653	\$2,089,537	\$2,799,422
D5 (C2+D3)	TOTAL new revenue – meters & permits (see note 9)		\$29,769	\$689,653	\$1,399,537	\$2,109,422

NB: explanatory notes on the above table are below and overleaf.

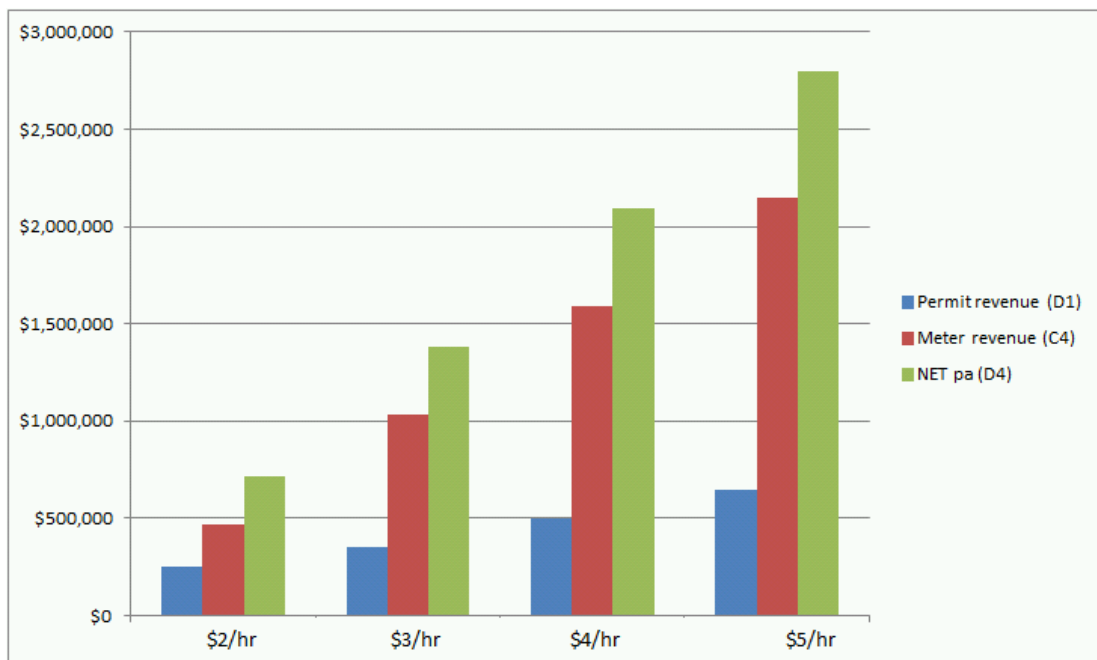
Note 1 (Table 3 – Line C1): the consultant's findings, as reported to Council 22 May 2014, estimated per year costs before exemptions were applied at \$516,000pa. However as per the same consultant's updated report as tabled at the November 2014 workshop these costs were estimated to greatly increase due to the complexities of an exemption scheme including administration (at \$200,000pa); maintenance (\$15,000pa) and a 'transaction' cost of \$300,000pa due to both a third party card reader and a credit card swipe to monitor and accept exemptions.

These extra costs total \$515,000pa and are on top of the original \$516,000pa estimated, therefore bringing ongoing costs to over \$1m pa to administer, maintain and enforce the parking system as envisioned by the consultant which would allow exemptions.

These costs however are considered inflated and while they can be confirmed via the procurement process as recommended to occur it is believed the proposed registration plate system described further below (see 5 - Technology) can reduce these costs substantially. Therefore the original cost estimate of the consultant (\$516,000pa) has been applied with a contingency loading to provide a cost estimate of \$650,000pa. This does not include costs associated with enforcement, such as staff and plant as they are already a cost incurred regardless if pay parking eventuates or not.

Figure 2: estimated p.a. net revenue assuming 65% exempt (i.e. permit holders)

NB: to be read in conjunction with above Table 2 and its explanatory notes, esp. lines D1, C4, D4



Note 2 (Table 3 – Line C2): Council currently derive approx. \$690,000pa from the meters in Council's existing off-street car parks. This same amount has been deducted from each scenario presented in Line C1 so as to provide (as per Line C2) a bottom Line (NET) figure of NEW revenue by implementing a new pay parking scheme. This amount of \$690,000pa however is not simply forgone as Line C3 shows, explained as follows.

Note 3 (Table 3 – Line C3): shows what the hourly rate will do to the existing revenue, as it is assumed the parking demand that derives this existing revenue will still occur. For example at \$2/hour it is assumed Council would only achieve \$124,769 new revenue (Line C2) and halve the existing revenue from \$690,000 (based on existing \$4/hr) to \$345,000 (on \$2/hr) as per Line C3. Putting the two amounts together provides results as per Line C4, explained as follows.

Note 4 (Table 3 – Line C4): shows that NET revenue (from meters only) is estimated at \$469,769 at \$2/hour, or put another way Council will lose \$220,231 in revenue each year if such a rate is adopted and exemptions are allowed. Applying this same calculation throughout Line C2 suggests Council therefore will only have a viable scheme that negates the loss of existing revenue if \$4/hour is charged, whereas anything at \$5 per hour or over would provide an increase on existing revenue.

Note 5 (Table 3 – Line D1): assumes that at \$100pa the uptake of the annual 'exemption' permit will increase as the per hour rate does. This is to say there is an assumed demand elasticity between the per hour rate and the purchase of the permit. For example at \$2per hour there is less incentive to buy the \$100 permit when compared to \$4per hour which doubles the value of the permit. In other words at \$2/hour the permit is attractive if you need more than 50 parking hours per year, whereas at \$4/hour the permit is attractive if you need more than 25 parking hours per year, and so on. It should be noted however that Line D1 is an assumption based on the existing demand for 'coupons' which is approx. 5,000pa and therefore provides an existing revenue stream (\$125,000pa) which will be superseded as Line D2 attempts to highlight as follows.

Note 6 (Table 3 – Line D2): works upon the assumptions made in Line D1, i.e. revenue from purchase of the new exemption permit, and shows how each hourly rate is expected to increase permit revenue, for example at \$4per hour demand for the \$100pa permit is estimated to remain the same as per the existing coupon (i.e. 5,000 permit holders) thereby increasing permit revenue by four-fold, and is three times greater than estimated permit revenue if a \$2per hour rate is adopted.

Note 7 (Table 3 – Line D3): shows the expected new revenue from permits if \$100pa is adopted, on the basis the preceding assumptions at Lines D1 and D2 hold true. For example at Line D1, a \$2per hour rate is expected to entice 2,500 people to opt for a permit, thereby resulting in \$250,000pa which is twice the existing revenue, therefore providing new revenue of \$125,000, whereas at \$4per hour \$375,000 is expected as new permit revenue.

Note 8 (Table 3 – Line D4): provides the estimated total per year revenue expected on the basis the preceding assumptions hold true, for example at \$4per hour a \$2.089m revenue stream is estimated which is made up of meter revenue of \$1,589,537 (Line C2) and permit revenue \$500,000 (Line D3).

5 – Technology and a registration based system

As follows a “pay by plate” model is envisioned as it has potential to provide an exemption that also matches with enforcement and administration requirements of the system, with a key requirement being one that is simple to use, understand and comply with.

Therefore key to the parking scheme success will be the technology employed, preferably one that places the onus on the end user to register and manage; links data between the meters to enforcement; plus aids demand management and administration, for example moving away from physical (paper) permits and instead to a system that allows online application and approval. This is believed possible if a system based on registration plate is adopted.

The outline of such a system was presented at the April 2015 workshop, at which it was accepted that regardless of the system Council adopt there will be a requirement, which can be enforced, to enter your details at the meter, be it to draw a ticket (such as the common pay and display schemes) or as recommended enter the registration plate at time of parking, as used in many parts of Brisbane City for example.

At the April 2015 workshop the below depicted conceptual model (see Figure 3) was also presented and explained it is reliant upon entering a vehicle registration plate for both those wishing and eligible to purchase a permit (PREPAY) or those can only Pay As You Go (PAYG) such as visitors. The effectiveness of the model shown at Figure 3 however is premised on a flexible, wireless network based operation that provides data between the meter, enforcement, administration and offers opportunity to send real time information to a website, advanced signs and even a mobile phone application so people can view parking vacancy levels before they undertake their trip to Byron Bay, thereby providing demand management and trip planning capabilities.

Another major benefit of a registration plate based system however is no need for further unique numbers, codes or permits, i.e. a vehicle is either parked in the space or it isn't and the permit applies to a vehicle or it doesn't. Such a system limits (if not removes) the opportunity for any profit or private gain that may occur if a system allows exemptions based on PIN code or a third party card reader, which are easily transferable. For example if the permit system is not based on a registration plate it could potentially result in a black market where permit are purchased legally by those eligible but then sold onward (at a mark up) to visitors who are not entitled to any exemption.

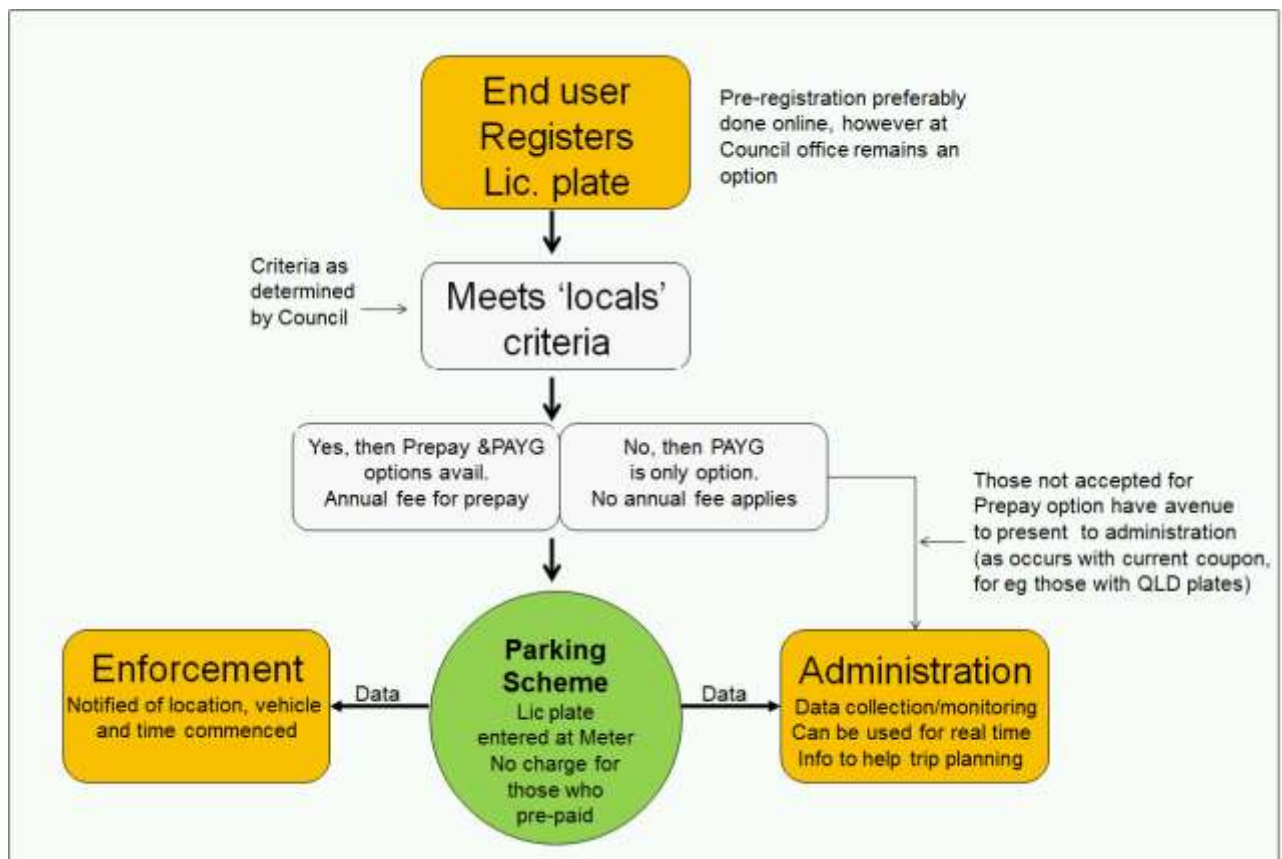
Another advantage of a flexible, software and network based system could be catering for volunteers and even special events, or even providing discount parking rates at low demand times. For example, volunteer organisations who apply and are approved by Council could be provided an override PIN code that they provide to their volunteers they have rostered that day on the basis the override only works for a pre-agreed number and time duration, for example 10 vehicles on a specific day between 1pm and 5pm only, after which (i.e. more than 10 or after 5pm) the PIN code no longer works. Such a system could benefit volunteer services such as life saving for example

who are likely to have volunteers not eligible for a permit but provide a recognised community service.

- 5 An added benefit is that under such a model the onus to obtain, issue and manage such exemptions is on the applicant, not Council. In other words, in this example, the volunteer organisation has to be accurate with numbers, times and date and is responsible for how the exemption is issued, managed and controlled.

- 10 It should be noted however that while such technology is available, its exact capabilities and costs will not be known until Council seek information from suppliers.

Figure 3: conceptual model of the meter parking scheme with exemptions



Therefore analysis of the unique dataset only (n=13,229) has occurred as follows, however caution in interpreting this data is first required.

The data capture over 6 days was collected by driving the town centre using a licence plate recognition (LPR) camera which has a varying level of accuracy and dependent upon conditions such as the variable nature of car parking (angled parking typically detected better than parallel); the crown of the road (e.g. road level, therefore camera position, at times higher or lower than vehicle plates it is attempting to read); and the make of the vehicles themselves (e.g. location of registration plate differs). Detection is also influenced by how a vehicle was parked - and even obstacles that occur - at the time, such as other vehicles (for example awaiting a car space or leaving a space) or even a cyclist or pedestrian blocking the camera sightline. Notwithstanding such factors however the data capture accuracy of such cameras is typically regarded at around 90%.

More influencing however is the data capture level of frequency achieved per location, which at best was on average every 30 minutes (typically the 1P areas) while most 2P locations were returned to on average every 45 minutes, whereas the longer duration parking sites (4P or unlimited) were only reviewed every couple of hours. This frequency, while detailed enough to meet the needs of the parking study, does not however provide enough detail to assess or capture all vehicles that would have entered, parked and left the town centre.

Nevertheless using the available dataset of unique vehicles (n=13,229) and accepting the above limitations, the following interpretation is offered.

Firstly the total number of unique vehicles (and its resulting daily average of 2,205vpd) is believed a considerable underrepresentation of what actually occurs and especially in light of a town often congested and having 16,000 vehicle movements per day recorded west and south of its centre. It should also be noted the data captured does not cover such popular off-street parking areas at and around Woolworths or the Rails Hotel, which can accommodate hundreds of vehicles across a single day. The data of course also does not include the admittedly small yet many private spaces provided for workers and traders often found at rear of shops.

Secondly, including the above cited reasons, the dataset can not provide an accurate picture of local versus visitor occupancy which based on analysis of the returned RMS data suggests 18% (n=2,431) have a local Byron shire postcode. This too however is believed a considerable underrepresentation of what actually occurs and not match with the field surveys undertaken during the parking study, including those by the consultant that led to a 65% rate adopted.

Underlining this data 'gap' is as per Table 4 which indicates that of the unique registration plates as detected by RMS (n=13,229) they were unable to find 41% of them (n=5,438) within their own driver and vehicle registration system (DRIVES) database. This is presumably due to many having interstate plates, such as those registered in Queensland, which does include a small number of local residents who have a vehicle registered interstate, for example their work vehicle. As for the 44% recorded as being NSW registered (n=5,812), 42% of them (n=2,431) have a local Byron shire postcode, which as above suggests that in total of parking per day 18% of total occupancy is due to locals and considered underestimation, especially when 15% of the total dataset (n=1,979) is unexplained / not account for.

Table 4: RMS spreadsheet – licence plate matching to postcode

Not in DRIVES	5,438	41%
within NSW	5,812	44%
Other/unexplained	1,979	15%

TOTALS	13,229	100%
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As for assumptions made on the data, a notable omission is the reduced parking demand an hourly rate might produce, with a higher hourly rate expected to decrease demand further; i.e. \$4per hour is likely to reduce parking demand (i.e. deter or alter trip making) more than a \$2per hour rate. While this is a logical conclusion it is difficult to determine to what extent demand will reduce and therefore omitted in the scenarios discussed previously. However some traffic studies have suggested up to 20% of on-street congestion is due to vehicles circulating for a car park. If this is true, and such percentage can be reduced (if not removed), then a significant benefit will be gained via pay parking.

7 – Next Steps

Subject to Council endorsement, the following pathway to commencing the parking scheme is envisioned.

Firstly, notifying the RMS as recommended, who will require a completed parking study for their review and aid their approval. This can be done with the work already undertaken as described in this report and expected to mostly be done via the Local Traffic Committee (LTC). The study will need to be concluded by satisfying the RMS Pay Parking and Permit Parking guidelines discussed below (see Sec. 9).

Another equally important undertaking will be the procurement process. However prior to commencing the pay parking scheme, Council will need to have endorsed the type of scheme (e.g. a Meter Parking Area is envisioned) and declare and notify of its commencement. Such endorsement and declaration is considered only possible after RMS approval (where needed) or concurrence is obtained.

Meanwhile attention can be on changes to the duration of parking time limits, for example increase in 1P limits in the town centre, 2P on the fringe and increase in 4P and longer on the perimeter, plus a mix of such limits within Council's car parks.

Finally before pay parking commences Council adoption of any relevant new fees and charges will be required and any conditions such a process requires will need to be met, for example prior public notice in accordance with relevant regulations, for example 28 day notice period.

8 - Financial Implications

A total of near \$1.5m is estimated as the year one cost to implement the parking schemes and will be needed prior to any new revenue is generated. The rate of return on this outlay will depend upon Council's decision in regard to the hourly rate and level of exemptions they wish to offer.

The major cost of the system is expected at \$1.2m for the parking machines and data/network infrastructure. This will require third party expertise as obtained through the procurement process recommended.

Additional year one cost of \$300,000 is expected for contingencies and associated works such as changes to parking signage, line marking and modifications to kerbs and blisters and additional paving or upgrades.

Based on the recommendation made of \$4 per hour and \$100pa for an annual exemption, this estimated year one cost of \$1.5m is expected to be recouped in the first full year the scheme

operates. However it should be noted as per Table 1, 10% of car parks are upon crown land, meaning revenue derived from such car parks are restricted to use on crown land.

As for reducing upfront costs however the option to lease the equipment and enter a lease/maintenance contract offers an attraction and can be explored further through the procurement process.

9 - Statutory and Policy Compliance Implications

RMS guidelines contain details where Council must either comply or consider them, and specifies where RMS concurrence or approval is needed. Both guidelines are available online:

<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/payparkingv4.pdf>

<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/permitpkgv32.pdf>

The guidelines are assumed to be current despite they reference the now repealed *Road Transport (Safety and Traffic Management) Regulation 1999* which has been replaced by the *Road Transport (General) Regulation 2013* which within Part 5 details parking schemes:

<http://www.legislation.nsw.gov.au/maintop/view/inforce/subordleg+367+2013+cd+0+N>

The RMS guidelines empowers a parking authority (i.e. Council) to establish and operate a parking scheme, be it a meter, ticket, phone or coupon system employed, noting the model discussed within this report is akin to a Meter Parking Area system based on 'pay by plate'. This is possible as follows.

At s61 within "Subdivision 1 Metered Parking Schemes" the following is stated:

A parking authority may set aside the whole or any part of a road in its area of operations as a metered parking area.

Note. Rules 207–1 and 207–2 of the *Road Rules 2014* make provision for parking in metered parking areas. Clause 3 (1) defines a **metered parking area** and **metered parking space** to have the same meanings as in rule 207–1.

As for 'pay by plate' this appears confirmed at s62 Parking Meters which states:

(1) *The parking meter for a metered parking space must indicate:*

....

(d) *in the case of a metered parking space for a registration metered parking area—that the registration number of the vehicle must be entered for use of the parking space.*

Similarly, the guidelines and regulation allow Council 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 should they wish.

Nevertheless Council need to adhere to the RMS guidelines where they are mandatory; and where they are not they are considered good practice and recommended.

To date Council have worked with the RMS through the LTC as per the guidelines. This will need to continue if Council wish to proceed with the parking schemes described, including exemptions, noting that the Pay Parking guideline states Council as a parking authority:

...is not entitled to provide or to charge for parking in pay parking spaces if it fails to comply with the RMS guidelines.

- 5 RMS guidelines have to date been met and no objection received from the RMS. However no approval or concurrence will be forthcoming from RMS until Council conclude and refer a completed parking study to them. The recommendation made in this report seeks to provide staff such opportunity and avoid a continuous feedback loop between Council and RMS.
- 10 As for a Resident Parking Permit scheme, it is intended this be employed to manage the displacement expected by pay parking by allowing time limited general permissive parking (e.g. 2P weekdays, 4P weekends between 9am-6pm) in residential streets however those that reside in that street (and their guests) be exempt through provision of a permit (preferably based on registration plate as well).
- 15 As for enforcing a Metered Parking Area (i.e. pay parking scheme) Rule 207 Road rules 2014 applies and reads as follows:
- 20 **(6) Driver must pay relevant parking fee for ordinary metered parking area**
A driver must not park in a metered parking space for an ordinary metered parking area without paying the relevant parking fee for the space for at least the minimum period of time for which parking in the space must be paid for.
- 25 **(8) Driver must enter registration number and pay relevant parking fee for registration metered parking area**
A driver must not park in a metered parking space for a registration metered parking area without:
- 30 (a) entering the registration number of the vehicle into the parking meter for the space, and
(b) paying the relevant parking fee for the space for at least the minimum period of time for which parking in the space must be paid for.
- 35 As Part (6) states, the driver must pay and while Part (8) requires the registration plate to be entered and pay the relevant fee. In Council's scenario of providing an exemption to "paying the relevant parking fee" a pre-registered registration plate entered at the meter would be akin paying the fee. However if the registration was not entered, no payment would be made and the offence of "Park without paying meter fee" would be committed.
- 35 As for enforcing a Resident Parking Permit area the offence is typically aligned with parking beyond the signed time limit, which of course does not apply to those exempt.

Council resolutions relevant to Byron Bay Parking Study
as reported to Council 21 May 2015 (attachment to report I2015/298)

11 December 2014

- 5 **14-646 Resolved 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.
- 10 b) as a guide for further analysis an hourly fee of \$3 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 \$5 per hour applies;
- 15 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;
- 20 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;
- 25 e) prior to the workshop, staff develop and circulate a briefing paper which details further the issues highlighted in this report including options for:
- 30 i) the existing parking coupon system;
- 35 ii) eligibility criteria for a local exemption, be it residents, ratepayers or workers;
- 40 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;
- 45 iv) changes to parking time limits; and
- 50 v) the application of a resident permit parking scheme.
- 55 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.

22 May 2014

14-237 Resolved:

- 40 1. That the consultant report at Annexure 17(a) (#E2014/29886) entitled the 'Byron Bay Township Parking Management Strategy Investigation' be noted and that it be:
- 45 a) referred as the draft Parking Study to the RMS for comment, which is sought prior to the Local Traffic Committee Meeting of 6 August 2014; and
- 50 b) placed on public exhibition and consultation undertaken for a minimum of 28 days.
- 55 2. That staff, as part of the consultation process, directly advise and commence discussions with the management or owners of areas used for car parking which are not in Council control, which for example includes the car parking:
- 60 a) around Woolworths
- 65 b) adjacent to the Railway Hotel

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STAFF REPORTS - INFRASTRUCTURE SERVICES

13.16 - ATTACHMENT 1

- c) *under the Aldi supermarket*
- d) *other areas as believed appropriate*

3. *That following the consultation period, RMS approval of the Parking Study be sought at the 6 August 2014 meeting of the Local Traffic Committee, including summary of the consultation period and feedback.*
4. *That the outcomes of both the consultation period and Local Traffic Committee meeting, along with definitive recommendations regarding the parking study, be reported to Council on 28 August 2014.*
5. *That Council's current residential parking coupon scheme remain unchanged and be reviewed prior to the commencement of any new parking scheme.*
6. *That Council acknowledge that 'diversion' of traffic can be achieved by way of alternative transport and urban design measures.*

27 June 2013

13-349 Resolved:

1. *That Council proceed with the Parking Study and development of a Byron Bay Parking and Traffic Demand Management Plan and provide a progress report by December 2013.*
2. *That Council endorse a time frame for completion of the Byron Bay Parking and Traffic Demand Management Plan by March 2014.*

14 March 2013

14 March 2013 Council resolved as follows.

13-138 Resolved that in relation to the review of town centre parking options for Byron Bay, Council:

1. *Seek quotations for the development of a Town Centre Parking and Traffic Demand Management Plan that includes:*

- a) *review of parking management options including Paid Parking, Permit Parking Schemes, time limits and permissible technology*

- b) *summary of financial implication to implement and manage such a scheme*

2. *That Council authorise the allocation of up to \$50,000 in the 2013/14 Delivery program funded from pre 1993 section 94 Contributions Plan to undertake any necessary works associated with development of the plan.*

3. *That staff use the previous Veitch Lister Consulting (VLC) work and other relevant data as the basis for a further staff report which updates the data and recommendations.*

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13.16 - ATTACHMENT 1

4. *That consultation with the community, local traders and other key stakeholders be undertaken after the tabling of the draft plan is provided to Council and prior to wider exhibition.*

- 5 5. *That a plan be developed and brought to Council for consideration by 30 August 2013.*

11-527 Resolved (in part):

- 10 2. *... that any investigation and development of any parking regime, be it on-street paid parking and/or the use of coupon parking, also include the consideration of the merits and implications of a resident permit parking scheme.*
- 15 3. *That subject to endorsement of Part 2, and not contrary to previous Council resolutions, the Committee recommend that any subsequent investigation and development of any parking regime within Byron Bay be undertaken in efforts to manage demand and in particular attempt to:*
- 20 a) *benefit legitimate tenants of the streets, such as residents and business who are likely to be affected by the introduction of any such regime;*
- 25 b) *address and limit, but preferably stop, the practice of on-street over night sleeping and staying within vehicles, especially as occurring within residential streets;*
- 30 c) *achieve, where possible, appropriate and/or desired, a greater turn over of vehicles within the retail areas of the Byron Bay town centre;*
- d) *identify the efficiencies (or not), and the potential of streamlining, of the three identified parking schemes; and*
- e) *report in conjunction with, and consider the development of, a master plan approach to parking and traffic management within the Byron Bay town centre.*

9 June 2011

On 9 June 2011 Council, in reviewing the 26 May 2011 Strategic Planning Committee (SPC) recommendations, resolved as follows:

11-492 Resolved *that in relation to Strategic Planning Committee recommendation 5.1.1 Council resolve instead.*

Report No. 5.1. - Paid Parking and Resident Parking Coupons Review

Community Infrastructure, ENG665092 #1080561

That in relation to the expansion of On Street Paid Parking, Council:

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.16 - ATTACHMENT 1

(a) That Council receive a report on detailed planning design, consultation and provision of information on On-Street Paid Parking as a demand management and revenue raising measure within the Byron Bay Town Centre as detailed within this report (ie #1080561) and Annexure 7(b) (#1075305).

- 5 *(b) Consider On-Street Paid Parking as part of the detailed traffic analysis for the Bangalow Township (as per resolution 11-374) and as per Annexure 7(b);*

(c) Undertake a review of parking and traffic demand within the Brunswick Heads Town Centre including a detailed assessment of the Paid Parking proposal as detailed within the report;

- 10 *(d) Defer consideration of on-street paid parking within Mullumbimby for a period of 12 months after the opening of the Woolworths supermarket to allow an assessment on the impact of car parking demand across the town centre.*

Report No. 13.17 **Fate of Effluent at Belongil**
Directorate: Infrastructure Services
Report Author: Peter Rees, Manager Utilities
File No: I2015/392
5 **Theme:** Community Infrastructure
 Sewerage Services – Management

Summary:

10 At the Ordinary Meeting held 26 February 2015, Council resolved that a report be received on managing the stream of effluent emanating from Byron Bay Sewage Treatment Plant and its wetland system and the affect of this on properties crossed on the Belongil floodplain.

15 Nine data loggers were installed throughout the Belongil Catchment capturing data at hourly intervals for the past month. This preliminary data indicates the surface water from the STP is discharged in an efficient manner through the existing drainage system. There remains the issue of high groundwater levels in the area and the connection between surface water and groundwater. Further data collection and tests need to be undertaken to understand this connection.

20 Seven alternative flow paths were identified and preliminary assessments of the merits of each have been undertaken. Work to prove the optimum flow path will require extensive work and would be best undertaken in the initial stages of possible future Byron Bay STP upgrade project.

25 In preparing this report it is noted there are numerous plans and strategies for the Belongil Catchment. The efficient functioning of the Belongil Catchment is a critical aspect of the operation of the Byron Bay STP and associated water management reserve. There is an opportunity for a coordinated whole of Council approach to the implementation of the Council developed plans for the Belongil.

30 There is scope for this to be led by the operational team at the Byron Bay STP using the funds available from existing budget savings in sewer operations for the Byron Bay Integrated Water Management Reserve and, depending on the scope, supplemented by existing operational budget activities for Byron Bay stormwater. These funds can also be leveraged to gain grant funding from
35 the NSW Government's estuary grants programme.

RECOMMENDATION:

1. **That Council continue with the data logging exercise in the Belongil to continue to define the Fate of the Effluent.**
2. **That Council continue to meet with the adjacent Landowners to obtain agreement on preferred effluent flow paths.**
3. **That Council continue to negotiate with the Belongil Swamp Drainage Union to undertake periodical maintenance of the Union drains.**
4. **That Council utilise funds available from existing budget activities for the Byron Bay Integrated Water Management reserve to implement the activities already identified in the various Council prepared management plans for the catchment.**

Report

At the Ordinary Meeting held 26 February 2015, Council resolved:

5 15-045 Resolved that Council:

1. *Negotiate with affected rural landowners to form an Agreement on jointly managing the stream of effluent emanating from Byron Bay Sewage Treatment Plant and its wetland system and crossing their properties on the Belongil floodplain;*
2. *Review via the Water, Waste and Sewer Advisory Committee, the monitoring system for that effluent flow-path;*
3. *Receive a preliminary report on current fates of effluent from the STP and from the wetland system;*
4. *Receive a preliminary report on options for alternative routes for the wetland effluent;*
5. *Receive a report on the status of the Trust that operates or operated the Union Drain;*
6. *Receive these reports and a report on the Agreement no later than May 2015.*

In response to the NOM, Council staff implemented a data logging and collection programme at 6 points on the drainage system and 3 bores. A meeting was held with the landowners adjoining the Byron Bay STP land on the 6 March 2015 to discuss the approach and again on the 4 May 2015 to discuss the data recorded to date and the report prepared – NOM 9.2 Fate of the Effluent Union Drain Assessment (refer attached document E2015/29628).

The outcomes of this activity in relation to the resolution items are:

1. Negotiations with the Landowners are ongoing. The important issue is to turn this forum into a structure to ensure it will not fade in priority over time. A further meeting will be held when more data has been collected – in approximately 2 months time.
2. The Water and Waste Committee met on the 7 May and discussed the information gathered to date. Minutes from the meeting will be reported to the June meeting of Council.
3. The preliminary report is appended to this report. Refer NOM 9.2 Fate of the Effluent Union Drain Assessment document E2015/29628. This report was discussed at the meeting on the 4 May 2015 with the Landowners.

It was agreed at the meeting to

- *Install additional loggers to the north of Mr Tidswell's property to try and determine the source of the water flowing onto this property from the north.
- *Undertake hydraulic conductivity field tests of the soil in both Council's land and the adjoining land to determine the rate of "flow" from groundwater to surface water.
- *Contact the Office of Environment and Heritage to determine if there is any possibility of adjusting the Belongil Mouth opening level.
- *Continue the collection of data from the installed loggers.
- *Lower the groundwater level in the Council managed 24 hectare plantation area. The groundwater level in this area is actively managed by Council to control acid sulphate soil. This is done using irrigated effluent from the STP.

4. A preliminary report on the options for alternative routes for the wetland effluent is appended to this report. Refer Draft Byron Bay STP Release Options document E2015/29301. It should be stressed this analysis is preliminary and any preferred alternative would require much more rigour and time to progress. It is Council Staff's view that the most likely scenario is that an alternative flow path could be progressed as a first step in any possible future STP upgrade project. The preliminary assessment indicates a pipeline along the rail corridor from the Byron Bay STP to the Belongil Creek would be the preferred alternative flow path.
5. The Belongil Swamp Drainage Union is still in existence and undertook maintenance work in the union drains approximately 12 months ago. The Union Secretary attended a meeting with Council on the 10 May 2015 and also attended the meeting on the 4 May 2015 between Council and the Landowners. The Drainage Union has no funds to undertake any further work and Council has suggested the possibility of Council undertaking this work on behalf of the Union rather than contributing rates. This negotiation is ongoing.

In compiling this report and discussions held with various stakeholders, the following documents and plans were identified for the Belongil Catchment

Belongil Creek Floodplain Risk Management Plan
Belongil Creek Floodplain Risk Management Study and Plan Summary
Belongil Creek Floodplain Risk Management Committee
Cumbebin Swamp Plan of Management
Byron Bay Stormwater Management Plan
Belongil Estuary Management Plan
Coastal Zone Management Plan Byron Bay Embayment
Preferred Byron Drainage Strategy

This list is not exhaustive and there are several State and Local government agencies involved.

There is an opportunity for a coordinated whole of Council approach to the implementation of the Council developed plans for the Belongil. As successful operation of the Belongil catchment is critical to both the current and future operation of the Byron Bay STP and associated water management reserve, implementation coordination could be lead by the operational arm of the Byron Bay STP.

Financial Implications

All parts of Council Resolution 15-045 can be funded and resourced out of the existing budget savings in sewer operations for the Byron Bay Integrated Water Management Reserve and, depending on the scope, supplemented by existing operational budget activities for Byron Bay stormwater and Belongil Catchment Management activities. These funds can also be leveraged to gain grant funding from the NSW Government's estuary grants programme.

Statutory and Policy Compliance Implications

Local Government Act 1993
 Water Act 1912
 Water Management Act 2000
 Water Management (General) Regulation 2011
 Environment and Planning Assessment Act 1979

CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES

Report No. 15.1 **CONFIDENTIAL - Contract 2015-003 Ocean Shores Water Reticulation Renewal - Yallakool/Jarrah/Goondoloo**

Directorate: Infrastructure Services
Report Author: Dean Baulch, Principal Engineer, Systems Planning
 Robert Harris, Systems Planning

File No: I2015/335
Theme: Community Infrastructure
 Water Supplies – Operations

Summary:

As part of Councils' commitment to providing a quality water supply the replacement of water mains in Ocean Shores have been included in the 2014/15 capital works programme.

Water mains and property service connections in this area have reached the end of their service life and ongoing intermittent failures have resulted in piecemeal replacement.

The purpose of this report is to present to Council the outcome of a public tender for the replacement of existing 100 mm water mains and 32 mm water services.

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, (d)ii and (d)iii of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Tender Evaluation 2015-003 Ocean Shores Water Reticulation Renewal - Yallakool/Jarrah/Goondoloo.
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
 - d) information that would, if disclosed, reveal a trade secret
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 could prejudice the Council's position in litigation; and (b) disclosure could adversely impact Council's position in the upcoming negotiations.

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 Evaluation 2015-003 Ocean Shores Water Reticulation

Renewal - Yallakool/Jarrah/Goondoloo are to be treated as confidential as they relate to matters specified in s10A(2)(c), s10A(2)(d)i, s10A(2)(d)ii and s10A(2)(d)iii of the Local Government Act 1993.

- 5 **2. That Council adopt the recommendation set out on the final page of the Report.**

Attachments:

- 10 1 Confidential - 24.2014.71.1 CONFIDENTIAL Tender Evaluation Ocean Shores Water Reticulation
Renewal, E2015/24273

**Report No. 15.2 CONFIDENTIAL - Proposed Belongil Interim Beach Access
Stabilisation Works Update**

Directorate: Infrastructure Services
Report Author: Phillip Holloway, Director Infrastructure Services
File No: I2015/377
Theme: Community Infrastructure
Open Space and Recreation

Summary:

This report seeks to finalise arrangements for the proposed Belongil Interim Beach Access Stabilisation (IBAS) Works at Manfred Street and complete the determination of quotations for the contracted works.



Council resolved on 30 October 2014 on funding up to \$907,000 for the project and quotations have been sought from contractors in accordance with Res 14-498.

This report is provided for consideration by Council, as quotations received for the proposed IBAS works exceed the delegated authority granted to the General Manager on 19th March 2015.

These proposed works as designed would replace existing interim geo-bag works installed in 2001/2002 that have been damaged, as an interim measure pending a long term coastal management policy being adopted (Coastal Zone Management Plan for the Byron Bay Embayment (CZMP BBE)).

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 Proposed Belongil Interim Beach Access Stabilisation Works - Update.
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

and on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:

Attachments:

- 1 Confidential - Supply of Rock and Construction of Proposed Interim Beach Access Stabilisation Works, Manfred Street Belongil Beach - list of quotations received. 24.2013.16.1, E2015/15206