

# NOTICE OF MEETING



## INTERNAL AUDIT ADVISORY COMMITTEE MEETING

An Internal Audit Advisory Committee Meeting of Byron Shire Council will be held as follows:

Venue	<b>Conference Room, Station Street, Mullumbimby</b>
Date	<b>Thursday, 20 August 2015</b>
Time	<b>11.00am</b>

A handwritten signature in black ink, appearing to read 'Ken Gainger', is written over a light blue rectangular background.

Ken Gainger  
General Manager

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## CONFLICT OF INTERESTS

**What is a “Conflict of Interests”** - A conflict of interests can be of two types:

**Pecuniary** - an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated.

**Non-pecuniary** – a private or personal interest that a Council official has that does not amount to a pecuniary interest as defined in the Local Government Act (eg. A friendship, membership of an association, society or trade union or involvement or interest in an activity and may include an interest of a financial nature).

**Remoteness** – a person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to a matter or if the interest is of a kind specified in Section 448 of the Local Government Act.

**Who has a Pecuniary Interest?** - a person has a pecuniary interest in a matter if the pecuniary interest is the interest of the person, or another person with whom the person is associated (see below).

**Relatives, Partners** - a person is taken to have a pecuniary interest in a matter if:

- The person’s spouse or de facto partner or a relative of the person has a pecuniary interest in the matter, or
- The person, or a nominee, partners or employer of the person, is a member of a company or other body that has a pecuniary interest in the matter.

N.B. “Relative”, in relation to a person means any of the following:

(a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descends or adopted child of the person or of the person’s spouse;

(b) the spouse or de facto partners of the person or of a person referred to in paragraph (a)

**No Interest in the Matter** - however, a person is not taken to have a pecuniary interest in a matter:

- If the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative or company or other body, or
- Just because the person is a member of, or is employed by, the Council.
- Just because the person is a member of, or a delegate of the Council to, a company or other body that has a pecuniary interest in the matter provided that the person has no beneficial interest in any shares of the company or body.

### Disclosure and participation in meetings

- A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or Committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.
- The Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:
  - (a) at any time during which the matter is being considered or discussed by the Council or Committee, or
  - (b) at any time during which the Council or Committee is voting on any question in relation to the matter.

**No Knowledge** - a person does not breach this Clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

### Participation in Meetings Despite Pecuniary Interest (S 452 Act)

A Councillor is not prevented from taking part in the consideration or discussion of, or from voting on, any of the matters/questions detailed in Section 452 of the Local Government Act.

**Non-pecuniary Interests** - Must be disclosed in meetings.

There are a broad range of options available for managing conflicts & the option chosen will depend on an assessment of the circumstances of the matter, the nature of the interest and the significance of the issue being dealt with. Non-pecuniary conflicts of interests must be dealt with in at least one of the following ways:

- It may be appropriate that no action be taken where the potential for conflict is minimal. However, Councillors should consider providing an explanation of why they consider a conflict does not exist.
- Limit involvement if practical (eg. Participate in discussion but not in decision making or vice-versa). Care needs to be taken when exercising this option.
- Remove the source of the conflict (eg. Relinquishing or divesting the personal interest that creates the conflict)
- Have no involvement by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in S451 of the Local Government Act apply (particularly if you have a significant non-pecuniary interest)

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## RECORDING OF VOTING ON PLANNING MATTERS

### Clause 375A of the Local Government Act 1993 – Recording of voting on planning matters

- (1) In this section, **planning decision** means a decision made in the exercise of a function of a council under the Environmental Planning and Assessment Act 1979:
  - (a) including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but
  - (b) not including the making of an order under Division 2A of Part 6 of that Act.
- (2) The general manager is required to keep a register containing, for each planning decision made at a meeting of the council or a council committee, the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.
- (3) For the purpose of maintaining the register, a division is required to be called whenever a motion for a planning decision is put at a meeting of the council or a council committee.
- (4) Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document, and is to include the information required by the regulations.
- (5) This section extends to a meeting that is closed to the public.

**BYRON SHIRE COUNCIL**  
INTERNAL AUDIT ADVISORY COMMITTEE MEETING

**BUSINESS OF MEETING**

**1. APOLOGIES**

**2. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY**

**3. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS**

3.1 Internal Audit Advisory Committee Meeting held on 14 May 2015

**4. BUSINESS ARISING FROM PREVIOUS MINUTES**

**5. STAFF REPORTS**

**Corporate and Community Services**

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**Infrastructure Services**

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**6. CONFIDENTIAL REPORTS**

**Corporate and Community Services**

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**STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES**

**Report No. 5.1 Internal Audit Report August 2015**

**Directorate:** Corporate and Community Services

5 **Report Author:** Mark Arnold, Director Corporate and Community Services

**File No:** I2015/790

**Theme:** Corporate Management  
Governance Services

10 **Summary:**

This report has been prepared to allow the Internal Audit Committee to consider the Internal Audit Report (August 2015) prepared by the Internal Auditor, Grant Thornton.

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**RECOMMENDATION:**

**That the Internal Audit Committee recommend to Council:**

15 **That Council receive and note the Internal Audit Report – Audit Committee (August 2015) (#E2015/52756) prepared by the Internal Auditor, Grant Thornton.**

**Attachments:**

1 Confidential - Internal Audit Report - Audit Committee, E2015/52756

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**Report**

This report has been prepared to allow the Internal Audit Committee to consider the Internal Audit Report (August 2015) prepared by the Internal Auditor, Grant Thornton.

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A copy of the Internal Audit Report has been included as Attachment 1 to this report.

The Internal Audit Report has been prepared and it includes an update on the following:

- 10
- Status of Agreed Actions from Prior Audits
  - Status update on the implementation of agreed actions from previous Internal Audit Review Reports.

15 The Internal Auditor will be available at the meeting to answer any questions associated with the Report.

**Financial Implications**

20 There no financial implications associated with this report.

**Statutory and Policy Compliance Implications**

25 The performance of the Internal Audit Services is required to be undertaken in accordance with the terms and conditions of Internal Audit Services Contract 2013-0024. These terms and conditions require consideration of the NSW Department of Premier and Cabinet, Division of Local Government, Internal Audit Guidelines and compliance with the associated professional accounting and audit standards.

**Report No. 5.2**                    **Internal Audit Report - 2015 Independent Compliance Audit Report - Compliance with the Roads and Maritime Services of NSW DRIVES Terms of Access Agreement**

**Directorate:**                    Corporate and Community Services

5    **Report Author:**                Mark Arnold, Director Corporate and Community Services

**File No:**                            I2015/798

**Theme:**                            Corporate Management  
Governance Services

10    **Summary:**

Council's External Auditors, Thomas Noble Russell have undertaken an independent audit of the compliance by Council with the Maritime Services NSW, DRIVES Terms of Access Agreement. The Audit measured the compliance achieved by Council against the RMS DRIVES guidelines for the period from 1 July 2014 to 30 June 2015.

15    This compliance audit is a requirement of Section 4.3 of the RMS DRIVES Terms of Access Agreement.

20    Council under the Access Agreement is responsible for compliance to the Agreement.

The purpose of this report is to table the Independent Compliance Audit Report for consideration by the Internal Audit Committee. A copy of the report is attached at Attachment 1.

25    The report includes the findings made by Thomas Noble Russell and the actions being taken by Management to address the findings.

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**RECOMMENDATION:**

1.    **That the Independent Compliance Audit Report – Compliance with the Roads and Maritime Services of NSW DRIVES Terms of Access Agreement be noted by Council, including the responses and actions detailed by Management.**
2.    **That Management implement the recommendations detailed in the report and also identified at Attachment 1 (E2015/48196).**

**Attachments:**

- 30    1    Confidential - RMS DRIVES System Terms of Access Compliance Audit, E2015/48196

**Report**

5 The Vehicle Registration and Driver Licensing System known as DRIVES24 is the electronic records management system operated by the Roads and Maritime Services NSW (RMS) which processes and records vehicle registrations and driving licences. Because this system records individuals' personal information, access is restricted.

On 12 February 2014 the Roads and Maritime Services NSW (RMS) approved Councils application for access to the DRIVES 24 system (Access Agreement). The approval is for a period of five years ie until 12 February 2019.

10 Access to the system is restricted to nominated members of the Rangers and Regulatory Services Team (Authorised Users) and under the Access Agreement the Legal Services Co-ordinator is the appointed Security Administrator.

The Access Agreement provides for Authorised Users to access the records held in DRIVES24 for the purpose of enforcing the:

- 15
1. *Road Rules 2008*
  2. *Protection of the Environment Operations Act 1998*
  3. *Local Government Act 1993*
  4. *Impounding Act 1993*
  - 20 5. *Companion Animals Act 1988*

Compliance with the Access Agreement is a condition of the Agreement.

25 An independent compliance audit is a requirement of Section 4.3 of the Access Agreement.

Council's External Auditors, Thomas Noble Russell have undertaken an independent audit of the compliance by Council with the Access Agreement. The Audit measured the compliance achieved by Council against the RMS DRIVES guidelines for the period from 1 July 2014 to 30 June 2015.

30 The audit to which this report refers is the second Independent Audit which has been undertaken.

The purpose of this report is to table the Independent Compliance Audit Report for consideration by the Internal Audit Committee. A copy of the report is attached at Attachment 1.

35 The report includes the findings made by Thomas Noble Russell and the actions being taken by Management to address the findings. The Independent Audit Report provides an unqualified opinion that Council has complied, in all material respects with the RMS DRIVES Terms of Access Agreement as measured by the RMS DRIVES guidelines.

40 No Breaches have been identified, however in Section 1.5(a) Thomas Noble Russell made one Recommendation.

45 The following table summarises the terms of the Access Agreement where the audit has provided a recommendation, the comments of the External Auditor in relation to each matter and the action being taken by Management to address and achieve compliance with the terms of the Agreement.

	Guideline	Breach	Audit Comment	Recommendation
1.	The Recipient must have and enforce internal guidelines as applicable.	No	Refer to Section 1.5(a) of Attachment 1.	That Council remove this user access from the DRIVES system.
				<b>Management Comment</b>

			Completed.
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The External Auditor in the Independent Compliance Audit Report reached the following Conclusion.

5 **“Conclusion**

**Unqualified**

10 *In our opinion, Byron Shire Council has complied, in all material respects, with the RMS DRIVES Terms of Access Agreement as measured by the RMS DRIVES guidelines as shown at appendix A for the period 1 July 2014 to 30 June 2015.”*

**Financial Implications**

15 The action identified will be implemented within budget allocated in the 2015/16 Budget.

**Statutory and Policy Compliance Implications**

20 This Review was undertaken in accordance with the adopted External Audit Strategy and Audit Plan.



STAFF REPORTS - INFRASTRUCTURE SERVICES

**Report No. 5.3**                    **WHS Review**  
**Directorate:**                    Infrastructure Services  
5 **Report Author:**                Phillip Holloway, Director Infrastructure Services  
   Shannon McKelvey, Executive Manager, Organisation Development  
**File No:**                            I2015/716  
**Theme:**                             Corporate Management  
10                                        Organisation Development

**Summary:**

15 Council's Internal Auditors, Grant Thornton, conducted a review of Council's Work, Health and Safety function during May 2015.

The purpose of this report is to table the Internal Audit Report on the Work, Health and Safety Review, with alternate recommendations from management, for consideration by the Internal Audit Advisory Committee. A copy of the Report is included at Attachment 1.

20 The report includes the findings made by Grant Thornton and responses from Management to the findings.

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**RECOMMENDATION:**

1. **That the Internal Audit Report – Work, Health and safety Review - May 2015 be noted by Council along with responses and actions detailed by Management.**
2. **That Council adopt recommendations and management implement the recommendations suggested in the report identified at Attachment 1 (E2015/45948), except for Recommendation 2 under the heading 'WHS Framework' and recommendation under the heading 'Fire Safety Equipment Inspections' and adopt instead the alternative actions in relation to each of those items.**

**Attachments:**

- 25 1 Confidential - Final Internal Audit Report Work Health and Safety May 2015, E2015/45948

## Report

5 Council's Internal Auditors, Grant Thornton, conducted a review of Council's Work, Health and Safety function during May 2015. This review was part of the adopted Internal Audit Plan for Council.

10 The purpose of this report is to table the Internal Audit Report on the Work, Health and Safety Review, together with management's recommendations, for consideration by the Internal Audit Advisory Committee. A copy of the Report is included at Attachment 1.

15 The report by Grant Thornton provides an overall rating, which has been categorised as 'Needs Improvement'. A rating of *Needs Improvement* is defined as "Significant control weaknesses were noted which if not addressed, may result in material exposure".

Identified in the Internal Audit Report – Work, Health and safety Review - May 2015 were eight (8) findings, summarised as follows with associated rating to identify their significance:

- 20 • WHS Framework (Rating: High)
- WHS Procedures (Rating: High)
- WHS Committees (Rating: High)
- Emergency Preparedness (Rating: Moderate)
- Safe Work Method Statements (SWMS) (Rating: Moderate)
- Incident reporting (Rating: Moderate)
- 25 • Fire Safety Equipment Inspections (Rating: Moderate)
- Workplace / Self-Audit Inspections (Rating: Low)

In regard to the ratings to identify the significance identified in the report, the following definitions are applied:

- 30 • Rating: High – Issue represents a control weakness, which could have or is having major adverse effect on the ability to achieve process objective
- Rating: Moderate – Issue represents a control weakness, which could have or is having significant adverse effect on the ability to achieve process objectives
- 35 • Rating: Low – Issue represents a minor control weakness, with minimal but reportable impact on the ability to achieve process objectives

40 Management has included comments in relation to each of the recommendations and broadly the recommendations have already been completed, or will be able to be achieved with minimum resource impacts.

However, there are two recommendations which Management specifically draws to Council's attention as follows:

### 45 1. WHS Framework – Recommendation 2

The second recommendation under the category "WHS Framework" is currently unfunded.

50 The model Council currently has in place is a decentralised model where a temporary resource is reviewing Council's corporate WHS documents and tools and Directors and Managers are responsible for WHS in their particular areas of operation.

55 Council's Corporate WHS resource is a temporary resource, introduced in 2014 with a three year timeframe in which to bring all of Council's corporate WHS documents and tools up to date. Without further funding this resource will cease in 2016.

5 In recognition of a need for a focus on WHS in the Infrastructure Services areas of operation, an alternative model of continuing 'decentralised WHS' with Directors and Managers continuing to be accountable for their specific areas of operations, but with a new dedicated WHS Officer in the Infrastructure Services Directorate, was adopted in the 2015/2016 budget. Much of the funding of this position is from Water, Sewer and Waste funds, which is why it was proposed as a dedicated Infrastructure Services WHS position.

10 If Council was to adopt recommendation 2 to implement a single "responsible officer to oversee all WHS matters across the whole of the organisation", a separate report to Council identifying the additional recurrent funding need from the General Fund would be prepared. If Council is not in a position to consider funding additional General Fund resources, on top of the additional resource funded from 2015/2016 in Infrastructure Services this time, it should not adopt the proposed WHS Framework recommendation 2.

15 2. Fire Safety Equipment

20 Responsibility for different buildings containing fire safety equipment falls to different positions within the Council. For example, Corporate and Community Services Directorate has responsibility for the Sandhills Childcare Centre, whereas Infrastructure Services Directorate has responsibility for the Depot. As a result, it is not possible for a single position to have responsibility for fire safety at all premises.

25 The alternative model being recommended by management is that the Property Maintenance Coordinator develop a Register of Council premises containing Fire Safety Equipment. The Register would also identify what type of equipment, its location, the testing regime for the equipment and the name and position of the officer responsible for the premises and the testing. The Register would then be used for each responsible officer to enter their testing information and the Register could be reported to the WHS Committees every year. The WHS Committee would check that all the required testing has been completed.

30 It is the intention of Management to implement each of the recommendations in the Internal Audit Report – Work, Health and safety Review - May 2015, except those two identified above. The approach recommended by Management to implement the recommendations is provided against each finding under the heading 'Management Comments and Actions', along with defined  
35 timeframe for the action to be completed. To this extent some matters raised in the report have already been addressed and/or alternative processes implemented, given the significance of the Work, Health and Safety function.

40 The review of the Work, Health and Safety function, through the independent audit undertaken by Grant Thornton, has been welcomed and has assisted in the identification of better practices and process improvement.

**Financial Implications**

45 Many of the recommendations can be implemented with minimal financial implications.

50 However, recommendation 2 under the heading 'WHS Framework' is unfunded and would require an additional General Fund budget allocation if it were to be implemented. If Council is not in a position to allocate an additional General Fund budget, it should not adopt that recommendation. If Council does adopt the recommendation, a separate report will have to be prepared and reported to a Council Ordinary Meeting.

### Statutory and Policy Compliance Implications

- 5 Under the Work Health Safety Act 2011, Council has statutory obligations to “ensure so far as is reasonably practical” the health and safety of Council staff and others in Council’s workplaces, e.g. visitors, contractors and volunteers etc, which includes ensuring:
- 10 • workplaces are free from risks to health and safety;
  - plant, structures, substances and systems of work are safe;
  - adequate facilities are provided for welfare of people in the workplace
  - adequate information, training, instruction and supervision necessary to protect everyone from risks to their health and safety arising from work are provided; and
  - 15 • that the health of works and conditions in workplaces are monitored for the purpose of preventing illness or injury of workers.

For the purposes of the WHS Act, “reasonably practicable” , in relation to a duty to ensure health and safety, means taking all action:

- 20 *“which is, or was at a particular time, reasonably able to be done in relation to ensuring health and safety, taking into account and weighing up all relevant matters including:*
- (a) the likelihood of the hazard or the risk concerned occurring, and*
  - (b) the degree of harm that might result from the hazard or the risk, and*
  - 25 *(c) what the person concerned knows, or ought reasonably to know, about:*
    - (i) the hazard or the risk, and*
    - (ii) ways of eliminating or minimising the risk, and*
    - (d) the availability and suitability of ways to eliminate or minimise the risk, and*
    - (e) after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk,*
    - 30 *including whether the cost is grossly disproportionate to the risk.”*

35 The performance of the Internal Audit Services is required to be undertaken in accordance with the terms and conditions of Internal Audit Services Contract 2013-0024. These terms and conditions require consideration of the NSW Department of Premier and Cabinet, Division of Local Government, Internal Audit Guidelines and compliance with the associated professional accounting and audit standards.

**CONFIDENTIAL REPORTS - CORPORATE AND COMMUNITY SERVICES**

**Report No. 6.1**                    **CONFIDENTIAL - 2015/16 Internal Audit Plan**  
**Directorate:**                    Corporate and Community Services  
5 **Report Author:**                Mark Arnold, Director Corporate and Community Services  
**File No:**                            I2015/832  
**Theme:**                            Corporate Management  
    Governance Services

10 **Summary:**

This report has been prepared to present to the Internal Audit Committee the “2015/16 Internal Audit Plan” prepared by Grant Thornton.

15 2014 Internal Audit Plan is submitted to the Internal Audit Committee for approval.

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**RECOMMENDATION:**

- 20 1. That pursuant to Section 10A(2)(d)i of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report 2015/16 Internal Audit Plan.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
- 25 a) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:
- 30 the report contains commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.

**Attachments:**

- 35 1 Confidential - 2015/16 Internal Audit Plan, E2015/50502