

NOTICE OF MEETING



ARAKWAL MEMORANDUM OF UNDERSTANDING ADVISORY COMMITTEE MEETING

An Arakwal Memorandum of Understanding Advisory Committee Meeting
of Byron Shire Council will be held as follows:

Venue	Arakwal Room, Byron Bay Library
Date	Wednesday, 25 November 2015
Time	10.00am

A handwritten signature in black ink, appearing to read 'Mark Arnold', is located below the meeting details.

Mark Arnold
Director Corporate and Community Services

I2015/1472
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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)

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

ARAKWAL MEMORANDUM OF UNDERSTANDING 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 Arakwal Memorandum of Understanding Advisory Committee Meeting held on
19 August 2015

4. BUSINESS ARISING FROM PREVIOUS MINUTES

5. STAFF REPORTS

Corporate and Community Services

- 5.1 Clarkes Beach Midden Update.....4
5.2 NAIDOC Week Street Banners7
5.3 Aboriginal and Torres Strait Islander Peoples Programs Update.....9

6. OTHER BUSINESS

- 6.1 CZMP Update (Catherine Knight, Coastal Officer, attending)
6.2 Public Art Project
6.3 Criminal Justice Centre promotional material
6.4 Ti Tree Lake Update

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 5.1 **Clarkes Beach Midden Update**
Directorate: Corporate and Community Services
5 **Report Author:** Belle Arnold, Aboriginal Projects Officer
File No: I2015/1376
Theme: Society and Culture
 Community Development

10 **Summary:**

The midden on Clarkes Beach, Byron Bay is a registered site of aboriginal cultural significance with National Parks and Wildlife Service. This midden is currently experiencing ongoing damage and erosion from stormwater.

15

This report seeks to inform the Arakwal MoU Committee on Council's input into this matter.

RECOMMENDATION:

That the Arakwal MoU Committee note the actions taken by Council in the investigation and progressing of a resolution of the issues impacting on the Clarkes Beach Midden.

20

Background

The Arakwal Memorandum of Understanding states:

5 4.2.2 Protecting Wetlands

Arakwal have identified ongoing concerns regarding important environmental and cultural wetland sites and have requested that Council rectify existing 1998 Aboriginal Heads of Agreement and involves objectives from point 3 of the Agreement, Aranga Development and Paterson Street water runoff into Cibum Margill swamp. The Corporation is also concerned that polluted water currently runs from the Cowper Street drainage system onto Main Beach. A solution that has been identified is the construction of a wetland, filtration system, or artificial wetland at the Cowper Street drainage system onto Main Beach.

15 In relation to the storm water drainage system which is causing erosion and damage to the Aboriginal midden on Clarkes Beach, the 2012 review of the 1998 Aboriginal Heads (2012/815) states:

20 *3.8 The Corporation therefore gives its approval for the alternative proposal if the Council agrees to investigate the management of the Cowper Street drainage system with a view to preventing polluted water from running onto Main Beach as a matter of urgency.*

Staff Comments:
All items in section 3 require a holistic assessment approach; this would require considerable funding (in the region of \$30,000 to prepare options study and final designs plus \$250,000 to \$500,000 for on-ground works) and therefore approval from Council would be required, as well as the sourcing of the required funds.

30 *Council will work towards preventing polluted waters from running onto Main Beach as funds and priorities allow.*

Pursue grant funding opportunities for the works, and possible environment and heritage partnership, re National Parks and Wildlife Service, Arakwal, the Department of Lands and Council (also applies to 3.4, 3.6 and 3.7).

35 The matter of the drainage issues on and surrounding Clarkes Beach and Cibum Margill Swamp have been ongoing and unaddressed since 1998. The storm water issue is now compounding to threaten an identified and protected Aboriginal site (NPWS Act), the midden at Clarkes Beach.

40 **Report**

On 14 October Council staff, Manager Utilities and the Aboriginal Project officer met with National Parks and Wildlife Service (NPWS) staff Nigel Stewart and Delta Kay for a site inspection at the Clarkes Beach Midden.

45 At this site inspection NPWS staff discussed the importance of the midden and identified the significant damage from the storm water drain.

Issues regarding the tenure of the land, the drain and the water flowing through the drain were raised and discussed.

50 Byron Shire Council's Manager Utilities discussed the matter with Manager Environment NSW Crown Holiday Parks Trust, Russell Chaplin. The outcome from this discussion was that NSW Crown Holiday Parks Trust contacted NPWS to confirm their commitment to rectifying the matter and have allocated \$30,000 towards this project and have outlined the following process for the project could move forward:

55

- Quantify stormwater flows including those coming from off site
- Redesign stormwater system to minimise flows along the eastern gully
- Identify options for rehabilitation of the gully
- 5 • Consult with stakeholders to identify a preferred option
- Undertake an aboriginal heritage due diligence assessment
- Undertake a preliminary environmental assessment
- Prepare a project proposal
- Consult with stakeholders
- 10 • Prepare and submit a grant application
- Prepare and submit AHIP application (concurrently)
- Prepare and determine REF
- Subject to funding and approvals implement project

15 **Financial Implications**

Nil from this report.

- 20 An estimate of the costs associated with any works will be determined as part of the process previously detailed.

Statutory and Policy Compliance Implications

- 25 National Parks and Wildlife Act 1975
Native Title Act 1993
Arakwal MoU 2013

Report No. 5.2 **NAIDOC Week Street Banners**
Directorate: Corporate and Community Services
Report Author: Belle Arnold, Aboriginal Projects Officer
File No: I2015/1379
5 **Theme:** Society and Culture
 Community Development

Summary:

10 This report presents the new street banners that have been created through cross divisional support of the Arakwal MoU.

RECOMMENDATION:

That the Arakwal MoU Advisory Committee note the creation of Aboriginal themes street banners.

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Report

On 19 October 2014 Council resolved 14-475 (*in part*)

- 5 “5. *That street banners be made for NAIDOC Week and erected in Byron Bay, with funding being sought through sponsorship.*”

10 Through cross divisional support within Council, funding was allocated for the creation of street banners to promote NAIDOC Week and to encourage respect for waterways. (Refer separate attachments).

The time frame for the banners to be made was very tight so the designs were approved by Council staff utilising design elements pre-approved by the Arakwal MoU Advisory Committee.

- 15 The banners have been made and the water themed banners have been displayed on Shirley Street in Byron Bay.

Financial Implications

- 20 Funds for this project were sourced from existing allocated budgets.

Statutory and Policy Compliance Implications

- 25 Arakwal MoU 2013
Local Government Act 1993

Report No. 5.3 **Aboriginal and Torres Strait Islander Peoples Programs Update**
Directorate: Corporate and Community Services
Report Author: Belle Arnold, Aboriginal Projects Officer
File No: I2015/1384
5 **Theme:** Society and Culture
 Community Development

Summary:

10 This report provides an overview of Council's increased commitment to the delivery of Aboriginal and Torres Strait Islander Programs and Projects in the period from July 2015 to November 2015.

RECOMMENDATION:

That the Arakwal MoU Advisory Committee:

1. **Note and provide its endorsement to the Council's commitment to the delivery of Aboriginal and Torres Strait Islander Programs and Projects in the period from July 2015 to November 2015.**
2. **Note the importance of these projects in building the networks within the local Aboriginal and Torres Strait Islander community.**

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Report

5 Council has increased its commitment to the delivery of Aboriginal and Torres Strait Islander programs and projects as a result of grant funding, strengthened relationships with key stakeholders and increased profile in the local community.

Grant Funding

10 The grant funded projects are to include the following projects:-

1. Njadhu Mala Biyn Waybar – I Will Blow the Fire

15 Njadhu Mala Biyn Waybar – I Will Blow the Fire is a series of projects aiming to increase cultural practice for local Aboriginal and Torres Strait Islander children and young people. Activities have included:

- Didgeridoo Intensives
- Bundjalung Language Choir
- Dubay Dance Days
- 20 • Dance Intensives
- Cultural Intensives as School Holiday Program
- Showcase Exhibition

25 The total number of practioners involved in these projects is 25 and the total number of participants has been 215.

This program is funded by the Regional Arts Fund.

2. Seasonal Styles

30 Seasonal Styles is an arts program with exhibition outcomes. Participating artists receive canvases and associated materials to produce works for exhibition. Exhibitions are themed around seasons and each artist’s relationship with country during the seasons.

35 Spring was the first exhibition held from this project. The exhibition was held from 22 – 26 October 2015 at the Byron Community Centre. There were 8 contributing artists for the Spring exhibition. Seven pieces were sold from this exhibition, approximately 50 people attended the launch and an additional 200 people visited the exhibition.

40 Council staff have experienced an increase in the number of artists wanting to participate in this project from 8 in the Spring exhibition to an additional 8 artists wanting to participate in the Summer exhibition. All of the original 8 artists wish to continue participating in the program.

45 Accessing appropriate affordable venues are the biggest challenge for this project.

This program is funded by the Aboriginal Regional Arts Fund.

3. Women’s Transformation Oracle

50 Council have been working on partnership with the Women’s Resource service to deliver a project for all women in the Byron Shire. The project is guided by Aboriginal cultural principles and the oracle deck contains work from five aboriginal artists. Artists run specific arts therapy groups with survivors of domestic violence, young women through the Chrysalis Program and Aboriginal women to produce art pieces for the deck. Council advertised to the wider community for women
55 to submit their works. 117 art pieces were received for consideration of the steering committee.

The steering committee was Julie Williams (Manager Mullumbimby Neighbourhood Centre) Michelle Walter and Neroli Jager (Women's Resource Service), Karma Barnes and Claudia Gyr (Arts Therapists) and Belle Arnold (Aboriginal Projects Officer and Project Coordinator).

- 5 The oracle was launched on 4 November and was well attended. Over 100 copies of the oracle were distributed. A reprint of the cards is being considered as demand is high.

This program is funded by the Country Arts Assistance Program.

10 Additional Projects

1. Youth Reflections

- 15 The Youth Reflections Program was delivered by Tweed Byron Land Council in partnership with NSW Health and Byron Shire Council. Youth Reflections targeted Aboriginal and Torres Strait Islander young people from the Byron Shire and offered education and life skills sessions and cultural education sessions. The program ran for 6 weeks at the Mullumbimby Neighbourhood Centre and attendance was approximately 12 – 15 each week which exceeded the target of 10 per week.

- 20 This program will run again in Term 1 of 2016.

This program was funded through a NRMA grant and contributing partners.

25 **2. Bunyarra Dance Troupe**

- 30 Made up of members from the Arakwal Dubay Dance Troupe and the Deadly Dancers, Bunyarra Dance Troupe are a local dance troupe working on cultural reclamation projects and performing at Dance Rites in Sydney on 22 November 2015. Dance Rites is the inaugural National Indigenous Dance Competition and Byron Shire Council is supporting this team to attend and perform.

Key partners

- 35 The key outcomes from this increased program delivery has been in the strengthening of networks in the local community with the following key partners:

- Arakwal
- Dhinawan Baker – Deadly Dancers
- Tweed Byron Local Aboriginal Land Council
- 40 • NSW Health – Aboriginal Program Workers
- Mullumbimby Neighbourhood Centre
- Mullumbimby High School Special Education Unit
- Ocean Shores Public School
- 45 • Brunswick Heads Public School

Financial Implications

Nil from this report

Statutory and Policy Compliance Implications

- 50 Arakwal MoU 2013
Local Government Act 1993
Land Rights Act