

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 May 2016
Time	10.00am

Mark Arnold
Director Corporate and Community Services

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 1 March 2016

4. BUSINESS ARISING FROM PREVIOUS MINUTES

5. STAFF REPORTS

Corporate and Community Services

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5.3	Road naming Proposal - Gali Lane.....	9
5.4	Indigenous Projects Update March - May 2016.....	11

6. OTHER BUSINESS

- 6.1 CZMP Consultation (Catherine Knight)
6.2 DA Broken Head Reserve – Pool Excavation (Ben Grant)
6.3 Department of Aboriginal Affairs (Ken McIntosh)
6.4 Council Staff – Reconciliation Awards (Belle Arnold)

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 5.1 **Clarke's Beach Midden Update**
Directorate: Corporate and Community Services
5 **Report Author:** Belle Arnold, Community Project Officer
File No: I2016/41
Theme: Society and Culture
 Community Development

10 **Summary:**

15 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 storm water.

This report seeks to provide the Arakwal MoU Committee an update of the progress on this matter.

RECOMMENDATION:

20 **That the Arakwal Memorandum of Understanding Advisory Committee note the progress on this matter.**

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.

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:

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.

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).

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. 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. 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.

Report

Council staff have discussed this issue with Manager Environment NSW Crown Holiday Parks Trust, Russell Chaplin and a project has been created aimed at providing a stormwater solution including rehabilitation of the foreshore. This will model both with and without the road stormwater. The project, Stormwater Management and Site Rehabilitation Clarkes Beach Reserve is being delivered by NSW Crown Holidays parks Trust. Council staff are supporting the implementation of this project as a commitment to the Arakwal MoU in respect to Section 4. Caring for Country. The milestones of this project are:

Deliverables and Schedule: (Based on an assumed commencement date of 11 April 2016)

Milestone	Week	Due Date	Deliverables
A	2	22 April 2016	1. Catchment plan 2. Stormwater modelling of current system
B	4	6 May 2016	3. Draft Stormwater concept design drawings and modelling 4. Preliminary cost estimate
C	6	20 May 2016	5. Draft Rehabilitation concept design drawings 6. Preliminary cost estimate
D	8	3 June 2016	7. Draft preliminary environmental assessment for stormwater and rehabilitation designs 8. Draft Preliminary concept design report (exclude costs)
E	10	17 June 2016	9. Site inspection and presentation
F	12	4 July 2016	10. Concept design drawings 11. Concept design statement 12. Cost estimate 12. Preliminary environmental assessment

Financial Implications

- 5 Nil from this report.

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

10 Statutory and Policy Compliance Implications

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

Report No. 5.2 **NAIDOC Week 2016**
Directorate: Corporate and Community Services
Report Author: Belle Arnold, Community Project Officer
File No: I2016/474
5 **Theme:** Society and Culture
 Community Development

Summary:

10 This report outlines the preparations for the Byron Shire NAIDOC Week program for 2016. NAIDOC Week will run from 3 – 10 July and activities and events are planned throughout the Byron Shire.

RECOMMENDATION:

15 **That the Arakwal Memorandum of Understanding Advisory Committee note the progress on planning for NAIDOC Week 2016.**

Report

The Arakwal Memorandum of Understanding states in Section 11.2.5 Council support of important cultural events:

5 *Council to support important Indigenous cultural events including NAIDOC Week, Reconciliation Week and Survival Day. This support is to include provision of events, funding and the waiving of Council related fees.*

10 Planning for the Byron Shire NAIDOC Week 2016 Program has commenced. NAIDOC Week in 2016 is from 3-10 July. This year's theme is Songlines: the living narrative of our nation.

15 Council has been involved in supporting NAIDOC Week in the Byron Shire for over a decade. Council staff are key in developing, coordinating and expanding the program and the partnerships involved in the delivery of the program.

The program in 2016 will be delivered by a collective of community groups including:

- 20 - The Bundjalung of Byron Bay, Arakwal people (Arakwal)
- National Parks Wildlife Services (NPWS)
- Mullumbimby Neighbourhood Centre (MNCI)
- Tweed Byron Local Aboriginal Land Council (TBLALC)
- Dhinawan Dreaming
- 25 - Sisters for Reconciliation
- Island Quarry
- Flickerfest
- Ballina Byron Family Centre
- Byron Shire Council (BSC)

30 NAIDOC Week Awards - The organising collective have received approximately \$3,500 donations for prizes for the awards in cash and in kind. This has been an increase of 100% from 2015.

35 Art Exhibition – Winter in Bundjalung Country - As part of the funding received from the Aboriginal Regional Arts Fund for the Seasonal Styles project Council will host the 'Winter' exhibition to coincide with NAIDOC Week celebrations. Council staff have been working closely with National parks and Wildlife Service to host the exhibition in the lighthouse precinct from 22 June until 24 July. This allows for the exhibition to serve as pre NAIDOC Week Media promotion.

40 The Byron Shire NAIDOC Week Program includes:

- Aboriginal Art Exhibition – Winter in Bundjalung Country
- Flag Raising Ceremony/NAIDOC Week Awards
- Cultural Awareness Training – Council staff
- Flicker Festival's Indigenous Film Night
- 45 • Family Fun Day – Mullumbimby
- Bundjalung of Byron Bay Family Cultural Day

Financial Implications

50 From existing budgets.

Statutory and Policy Compliance Implications

Arakwal MoU 2013.

Report No. 5.3 **Road naming Proposal - Gali Lane**
Directorate: Corporate and Community Services
Report Author: Belle Arnold, Community Project Officer
File No: I2016/483
5 **Theme:** Society and Culture
 Community Development

Summary:

10 This report seeks to consult with the Arakwal Memorandum of Understanding Committee on the proposed renaming of an unnamed lane, between Mullumbimbi Street and Fingal Street in Brunswick Heads, "Lane 8" to Gali Lane.

RECOMMENDATION:

15 **That the Arakwal Memorandum of Understanding Committee provide feedback on the proposed naming of unnamed lane, between Mullumbimbi Street and Fingal Street in Brunswick Heads, "Lane 8" to Gali Lane.**

Report

To alleviate ongoing confusion for residents and visitors over street addresses, Council resolved (13-358) to name a number of unnamed lanes in the Byron Shire, including seven in the Brunswick Heads village area shown on the map below. Council has provided this advice to adjoining property owners. A public notice has also been placed in the Byron Shire News as part of the 28 day consultation process.

Convention has been to name lanes after the major roads immediately surrounding them, however, recent submissions for use of the names of Booyun, Fingal, Minyon, Mullumbimbi, Nana, Short and Teven Lanes were objected to as NSW Land and Property Information (LPI) will no longer approve duplicated names, or names of similar spelling within the same Shire. Council therefore proposes the following names from Council's Street Name Register, all of which meet LPI Guidelines:

Site	Currently	Extent	Proposed Name
A	Lane 8	From Byron St to The Terrace	Gali Lane
B	Lane 7	From Byron St to Park St	Slessor Lane
C	Lane 3	From Byron St to Park St	Sharpcott Lane
D	Lane 4 (east)	From Nana St to Tweed St	Whittall Lane
E	Lane 4 (west)	From Byron St to Nana St	Ring Lane
F	Lane 5	From Byron St to Tweed St	Galleon Lane
G	Lane 6	From Byron St to Tweed St	Nelson Lane

As part of wider community consultation processes Council staff have requested that the Arakwal MoU Committee consider Lane 8 which is proposed to be name Gali Lane.

The name Gali Lane has been selected at random from Council's Street Naming Register from the list of approved "Local Aboriginal Words". The definition contained in the register for Gali is waterhole.

Financial Implications

Nil from this report.

Statutory and Policy Compliance Implications

Local Government Act 1993
Native Title Act 1993

Report No. 5.4 Indigenous Projects Update March - May 2016

Directorate: Corporate and Community Services

Report Author: Belle Arnold, Community Project Officer

File No: I2016/486

5 **Theme:** Society and Culture
 Community Development

Summary:

10 This report provides an overview of key projects coordinated for the Indigenous Community
 between March and May 2016. Projects include Close the Gap Day Indigenous Services Expo,
 Bunyarra Culture Collective at Boomerang, Autumn in Bundjalung Country Art Exhibition and
15 planning meeting for the Singing Up Country Indigenous language and Arts project during
 Reconciliation Week.

RECOMMENDATION:

**That the Arakwal Memorandum of Understanding Advisory Committee notes the provision
of key cultural projects in the Indigenous Community.**

20

Report

5 This report provides an overview of key projects coordinated for the Indigenous Community
6 between March and May 2016. These projects have focussed on cultural restoration and
7 revitalisation processes which encourage community development. Projects include Close the
8 Gap Day Indigenous Services Expo, Bunyarra Culture Collective at Boomerang Festival, Autumn
9 in Bundjalung Country Art Exhibition and planning meeting for the Singing Up Country Indigenous
10 language and Arts project during Reconciliation Week. These projects contribute to a wider
11 community development process which works within cultural conflict resolution frameworks to
12 empower community to advocate for improved services.

Close the Gap Day Indigenous Services Expo

15 On Thursday 17 March 2016 Council staff coordinated the Byron Shire Close the Gap Day
16 Community Indigenous Services Expo in the Mullumbimby Civic Hall. The Close the Gap Day
17 Indigenous Services Expo was attended by over 150 community members with 33 local services
18 participating. Speakers on the day included Delta Kay, Belle Arnold, Julie Williams and Leweena
19 Williams. Cultural performances included the Deadly Dancers from Mullumbimby High School and
20 the Bunyarra Cultural Collective. Outcomes from the event include discussions on the formation of
21 an Indigenous Services Coalition to advocate for improved services and initial discussions between
22 the Mullumbimby Neighbourhood Centre and Bugalweena Aboriginal Medical Service, based in
23 Tweed Heads, on working together to provide and outreach Aboriginal Health Service from
24 Mullumbimby.

Bunyarra Culture Collective at Boomerang Festival

25 Over the Easter long weekend Boomerang Indigenous Festival took place as part of the Blues
26 Festival. Boomerang showcased Indigenous Culture from the Pacific Region. As part of
27 Boomerang the Bunyarra Culture Collective were invited to participate. Bunyarra Culture
28 Collective is an outcome of Council's grant program delivery in 2015 and the partnerships between
29 Council, Arakwal, Deadly Dancers and Dhinawan Dreaming. Council staff supported this process
30 and facilitated 30 children and young people to perform as part of the gifting ceremony in cultural
31 dance and song. Local participants experienced working alongside industry leaders in the curating
32 of this performance/ceremony.

35

Autumn in Bundjalung Country

36 As part of the Season Styles Aboriginal Art project funded through Arts NSW, the Autumn in
37 Bundjalung Country exhibition was held from 28 April to 8 May in the Mullumbimby Civic Hall.
38 Autumn was the most successful of these exhibitions to date. Outcomes included:

40

- 15 participating artists
- 54 paintings and 10 carvings
- 24 sales
- Over 1500 visitors including 300 school children
- Worksheets and colouring-in sheets developed as teaching aids
- Overwhelming feedback regarding the quality of the artwork
- Strengthened networks in the Aboriginal community

45

50 This exhibition has demonstrated the need for an annual Aboriginal Arts Exhibition.

Singing Up Country Indigenous Language and Arts project planning Meeting during Reconciliation Week

5 The Singing Up Country Bundjalung Language Project Planning Meeting and Morning tea will take place on Thursday 2 June 9:30 - 11:30 in the Byron Shire Council Chambers. Council has received funding to deliver a series of language projects in the Byron Shire including:

- A language map naming important places in Bundjalung Language in the Byron Shire
- A colouring-in book
- 10 • Language Choir
- Recreation of songs and dances in the Byron Shire

15 This project has been developed in consultation with the local community and the funding is specifically to deliver these projects. Our intentions are to bring the local Aboriginal communities together in a process of cultural restoration and revitalisation. This process of working together shows our community's commitment to reconciliation.

20 This meeting will bring together key knowledge and language holders in the region as well as local community leaders who will implement the use of the resources created through the project.

Financial Implications

Nil from this report.

25 **Statutory and Policy Compliance Implications**

Local Government Act 1993
Arakwal MoU 2013