



# Byron Shire Council



## Agenda

### Extraordinary Meeting

Thursday, 12 May 2016

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

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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**  
EXTRAORDINARY MEETING

**BUSINESS OF EXTRAORDINARY MEETING**

1. PUBLIC ACCESS
2. APOLOGIES
3. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY
4. STAFF REPORTS

**Sustainable Environment and Economy**

- 4.1 Public Exhibition of Draft Coastal Zone Management Plan Byron Bay Embayment.....4

***Councillors are encouraged to ask questions regarding any item on the business paper to the appropriate 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.***

**STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY**

**Report No. 4.1                      Public Exhibition of Draft Coastal Zone Management Plan Byron Bay Embayment**

5    **Directorate:**                      Sustainable Environment and Economy  
**Report Author:**                  Catherine Knight, Coastal Estuaries Officer  
    Matt Meir, Legal Services Officer  
**File No:**                                I2016/388  
**Theme:**                                 Ecology  
 10    Planning Policy and Natural Environment

**Summary:**

15    The draft Coastal Zone Management Plan Byron Bay Embayment (CZMP BBE) is attached for consideration by Council for public exhibition. The draft CZMP BBE has been prepared on the basis of the coastal hazard management strategies resolved upon by Council on 7 April 2016 (Res 16-169), this includes the upgrade of the Main Beach coastal protection works (Jonson Street) and the 'adaptive seawall with walkway' strategy for Belongil Beach.  
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**RECOMMENDATION:**

**That Council endorse the draft Coastal Zone Management Plan Byron Bay Embayment, at Attachments 1 to 5, for public exhibition and proceed with the public exhibition for a period of not less than 21 days, from 14 May 2016 to 6 June 2016, in accordance with section 55E of the *Coastal Protection Act 1979*, as per the Exhibition Activities detailed within the report.**

**Attachments:**

- 25    1        Draft CZMP BBE - Part A - General Information, E2016/29589
- 2        Draft CZMP BBE - Part B - Coastal Hazards and Risk Management, E2016/29590
- 3        Draft CZMP BBE - Part C - Community Uses, E2016/29591
- 4        Draft CZMP BBE - Part D - Open Coast Ecosystem Health, E2016/29592
- 5        Draft CZMP BBE - Part E - Emergency Action Sub Plan, E2016/29593
- 30    6        Constitution CZMP BBE Project Reference Group, E2015/80496
- 7        Consideration of CZMP BBE Project Reference Group Feedback , E2016/28432
- 8        CZMP BBE Project Reference Group Feedback on draft CZMP, 7 April version, E2016/29419
- 9        Grant acquittal for funding under the Coastal Management Program, S2016/3808

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**Report**

The draft Coastal Zone Management Plan Byron Bay Embayment (CZMP BBE) is attached for consideration by Council for public exhibition. The draft CZMP BBE is comprised of 5 parts, as follows:

- 5 Part A General Information, Attachment 1
- Part B Coastal Hazards and Risk Management, Attachment 2
- Part C Community Uses, Attachment 3
- Part D Open Coast Ecosystem Health, Attachment 4
- 10 Part E Emergency Action Sub Plan, Attachment 5

The draft CZMP BBE has been prepared on the basis of the coastal hazard management strategies resolved upon by Council on 7 April 2016 (Res 16-169).

15 **16-169 Resolved (relevant part only):**

2. *That Council adopt the following management strategies for incorporation into the draft coastal zone management plan Byron Bay Embayment:*

- 20 a) *an adaptive 'seawall with walkway' strategy for managing coastal hazard risks at Belongil Beach, with seven main components:*
  - i) *Develop funding Model.*
  - 25 ii) *Develop impact monitoring program.*
  - iii) *Design 'seawalls with walkway'.*
  - iv) *Develop planning and development controls and conditions for 'seawalls with walkway'.*
  - v) *Construct 'seawalls with walkway' – incorporating two public beach accesses (plus the Manfred Street access) and dune revegetation works.*
  - 30 vi) *Revise and update coastal hazard land use and development planning controls – providing for adaptation of development.*
  - vii) *Compliance and enforcement.*
- b) *Jonson Street Protection Works - upgrade works, remove spur groynes and improve beach access and amenity, as per Council resolution 14 – 66, and monitor impacts.*
- 35 c) *Revise and update coastal hazard land use and development planning controls - for development at The Pass to Clarkes Beach, Main Beach, Cavvanbah (First Sun Caravan Park to Border Street), and North Beach, providing for adaptation of development.*
- 40 d) *Dune revegetation and 'soft' dune stabilisation - for all precincts, as a 'supporting' coastal hazard risk management strategy.*
- e) *Emergency action sub plan for coastal erosion emergencies - applicable to all precincts, as a 'supporting' coastal hazard risk management strategy.*
- 45 f) *Coastal hazard investigation Lighthouse Road and Captain Cook Car Park - investigation of future coastal hazard risks and bedrock levels at and adjacent to Lighthouse Road and Captain Cook Car Park.*
- 50 g) *Coastal hazard investigation Marine Parade, Wategos Beach - investigation of future coastal hazard risks (inundation) and integrity of existing ad hoc coastal protection works at, Wategos Beach.*

*h) Monitor coastal processes and impacts on North Beach.*

Resolution 16-028, Part 9 outlines the timeframes for the preparation of the draft CZMP BBE:

5 **16-028 Resolved (relevant part only):**

9. *Amends the indicative CZMP BBE time-frames contained on page 82 of report 13.10 as follows:*

10 a) *Task 2(f). A report will be presented to Council at the 7 April Ordinary Meeting containing the management strategy for the draft CZMP BBE for adoption, as well as all other draft sections of the CZMP for consideration.*

15 b) *Tasks 7 & 8. Prepare first draft CZMP for adoption at and Extraordinary meeting of Council on 12 May 2016.*

c) *Task 9. CZMP is exhibited for 28 days from 12 May to 10 June.*

20 d) *Task 9. PRG reviews submissions and reports to Council.*

e) *Task 10. An Extraordinary Meeting will be convened on 29 June to adopt a final draft CZMP for adoption and immediate submission on 30 June 2016.*

25 Review of draft CZMP BBE

The CZMP BBE Project Reference Group (CZMP PRG) constitution is at Attachment 6.

IN accordance with Objective (a) of the CZMP PRG, the draft CZMP BBE has been reviewed by the CZMP PRG over the course of its preparation, noting Resolution 16-169, Part 3:

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**16-169 Resolved (relevant part only):**

35 3. *That Council note the draft Coastal Zone Management Plan Byron Bay Embayment (Draft CZMP) as attached to this report and the review status of the draft CZMP by the CZMP Project Reference Group, as detailed at Table 1 of this report.*

40 The CZMP PRG review comments received up to the 26 February 2016 have been considered by staff, resulting in amendments, where considered relevant, to the draft CZMP BBE (considering Res16-169, the scope of the draft CZMP BBE as per the Minister's Direction and the requirements under the *Coastal Protection Act 1979*). Staff consideration of the PRG feedback is documented at Attachment 7.

45 The most recent PRG feedback on the 7 April 2016 version of the draft CZMP has been received but has not yet been comprehensively considered by staff. This is due to time constraints as a result of resolution 16-028. With permission from the PRG members, this most recent feedback is attached to this report, in its original form, for Council's information. Refer Attachment 8. Noting that feedback from Crown Lands is expected but has not yet been received.

50 The most recent PRG feedback on the draft CZMP BBE will be considered and the outcomes of this process will be reported to Council at the same time that the 'exhibition submissions report' on the draft CZMP BBE is reported.

**Feedback from the Office of Environment and Heritage (OEH) and Department of Planning (DPE) and Environment**

- 5 Whilst a detailed review of the most recent CZMP PRG feedback has not yet been undertaken, the feedback from the Office of Environment and Heritage (OEH) and Department of Planning and Environment (DPE) at Attachment 8, indicates they have a number of concerns regarding the Coastal Hazard Management Study Byron Bay Embayment (the Management Study), specifically the cost benefit analysis (CBA) at Appendix N.
- 10 This feedback primarily relates to a previous stage in the preparation of the draft CZMP BBE – the preparation of the Coastal Hazard Management Study - BBE (Management Study). Council at the 7 April 2016 meeting noted the Management Study Final Revision 1.0 (Res 16-169, Part 1) and adopted a management study recommendation for inclusion in the draft CZMP BBE.
- 15 The following is relevant to considering the OEH's concerns relating to the CBA and Management Study:
1. The OEH were invited to formally review the CBA on three separate occasions throughout its development. The last two reviews were undertaken by the OEH Chief Economist.
  - 20 2. The OEH's feedback was taken very seriously, with additional work commissioned and detailed analysis undertaken resulting in two substantial contract variations.
  3. The nature and scope of the additional work undertaken for the last variation was discussed with OEH at a collaborative workshop in December 2015, which was reported to Council on 4 February 2016, Report No.13.10.
  - 25 4. The finalised CBA represents the most thorough economic assessment undertaken to date on the coastal hazard management options relevant to the Byron Bay Embayment, and the OEH's input helped to achieve this.
  5. The grant pertaining to the Management Study has been acquitted, refer Attachment 9, and the OEH did not part fund the most recent revision of the Management Study (Final Revision 1.0). As reported to Council at Ordinary Meeting 19 November 2015, the Minister for Planning advised that Council could not claim expenditure related to the preparation of the draft CZMP BBE incurred after 31 December 2015. The OEH have not funded any of the additional work undertaken on the CBA as a result of the OEH Chief Economist comments.
  - 30 6. The draft CZMP BBE timeframes, as per Res16-028, did not allow for a further review by the OEH of the Management Study or CBA, noting that the two reviews of the CBA by the OEH Chief Economist respectively took approximately 7 and 13 weeks.

40 In light of the above factors, the OEH's comments on the Management Study and CBA (Final Revision 1.0) were not sought prior to tabling for Council's consideration at the 7 April 2016 meeting.

45 As per the draft CZMP BBE exhibition strategy, refer Table 2, a meeting with OEH and DPE will be held as part of the exhibition activities. This meeting will provide for a discussion on the additional analysis undertaken on the CBA and Management Study in response to the collaborative workshop convened in December 2015.

**Exhibition of draft CZMP BBE**

50 In accordance with Res 16-028, Part 9c, the exhibition of the draft CZMP BBE is to be for 28 days from 12 May to 10 June, with the CZMP PRG to review submissions and reports to Council prior to the exhibition submissions report being considered at the 29 June Extraordinary Meeting.

Given that Council is considering the draft CZMP BBE for public exhibition on the 12 May 2016, the earliest possible date that public notice may be given in a newspaper concerning the date and times of the public exhibition, which is a requirements of the *Coastal Protection Act 1979 (CP Act)*, is 14 May 2016. Exhibiting from 14 May 2016 to the 10 June provides for a 27 day exhibition period. This is more than the requirements of section 55E of the *CP Act* which specifies a minimum 21 days (a copy of section 55E is provided in the Statutory Implications section below).

It is recommended that the exhibition period comply with the minimum legislative requirements of 21 days to provide the necessary time for staff to prepare the Council report for the 29 June Extraordinary Meeting and for the CZMP PRG to review the submissions and report to Council. Noting, that the PRG review process, as per Res 16-028, is somewhat different to Objective (c) of the CZMP PRG Constitution, refer Attachment 6.

This assumes that the 29 June 2016 Extraordinary Meeting date is critical and not-negotiable.

Table 3 outlines a process to achieve the 29 June 2016 Extra Ordinary Meeting date.

**Table 1 Recommended process for the exhibition and consideration of submissions for the draft CZMP BBE**

| <b>Task</b>  | <b>Indicative dates / timeframes (2016)</b> | <b>Details</b>                             |
|--|---|--|
| <i>21 day exhibition, PRG review of submissions</i>  |   |  |
| Draft CZMP BBE exhibition  | 14 May to 6 June                            | 22 day exhibition period (minimum 21 days) |
| Submissions provided to Councillors for consideration <sup>1</sup>   | 14 May to 29 June                           | 32 days                                    |
| Draft Submissions report prepared <sup>2</sup>   | 7 June to 8 June                            | 2 working days                             |
| Draft submissions report distributed to CZMP PRG <sup>2</sup>  | 9 June                                      | Next working day                           |
| CZMP PRG feedback provided to staff <sup>3</sup>   | 10 June                                     | 1 day                                      |
| Submissions report finalised, and draft amendments prepared for draft CZMP BBE for Council's consideration (submission report and Council report) <sup>4</sup> | 13 June to 14 June                          | 2 working days                             |

Notes to table:

With reference to section 55F of the *CP Act*, Table 3 assumes that as the 'consideration of submissions' process will be as follows:

1. Submissions uploaded to the hub for Council's consideration, as the submissions are received.
2. In the 2 working days that are available, the submissions will be reviewed by staff and the key issues raised in the submissions will be documented in the draft 'exhibition submissions report', which will be distributed to the CZMP PRG for feedback.
3. CZMP PRG will overview the draft submissions report and provide written feedback to staff.
4. In consideration of the submissions, and the feedback from the CZMP PRG, proposed amendments to the draft CZMP BBE will be prepared by staff for tabling at the 29 June Extraordinary Meeting.



The process outlined in Table 3 is in accordance with section 55E of the *CP Act*, which specifies that draft CZMP exhibition is to be ‘...a period of not less than 21 days...’.

5 It will be necessary to actively promote and engage with the community over the proposed 21 day exhibition period, given the complex subject matter of the draft CZMP BBE. The draft CZMP BBE exhibition activities are outlined in Table 2. Noting that the strategy was prepared in consultation with the CZMP PRG, in accordance with Objective (b) of the CZMP PRG constitution, refer Attachment 6.

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**Table 2: Exhibition Activities for CZMP BBE**

| Exhibition Activities  |
|--|
| Public Notice (week 1)   |
| Display advert within public notice advertising Byron Shire News (week 1,2 and 3)  |
| Media release(s) x 3   |
| Web Page update  |
| Web page submissions portal:<br>- ‘Bang the Table’ consultation platform   |
| Frequently Asked Questions (FAQ)   |
| Byron Shire Council social media Facebook page   |
| Community and Coastal E News   |
| Directly affected landowner Information Session (week 1):<br>- Belongil Landowners<br>- North Beach<br>- Councillors<br><br>Objectives:<br><ul style="list-style-type: none"> <li>• Explain the contents of the draft CZMP, the approach as per Belongil Beach.</li> <li>• Encourage further conversations.</li> <li>• Encourage feedback / submissions.</li> </ul>  |
| Meeting (week 1):<br>- OEH and DPE<br><br>Objectives:<br><ul style="list-style-type: none"> <li>• Discuss Coastal Hazard Management Study Byron Bay Embayment (WRL, 2016), and OEH/DPE feedback on draft CZMP BBE, dated 27 April 2016.</li> <li>• Encourage feedback / submissions.</li> <li>• Seek written correspondence supporting any actions in the draft CZMP which they are responsible for or that affect their land or assets (section 55C CP Act).</li> </ul> |
| Meeting:<br>- Arakwal<br><br>Objectives:<br><ul style="list-style-type: none"> <li>• Explain the contents of the draft CZMP, the overall approach to the BBE.</li> <li>• Encourage feedback / submissions.</li> </ul>  |
| Community Information Session (week 2).<br>Invited attendees, for example:<br>- youth<br>- environmental groups  |

| <b>Exhibition Activities</b>  |  |
|---|--|
| <ul style="list-style-type: none"> <li>- Chamber of Commerce (Byron United)</li> <li>- Surfriders Foundation, Surf Lifesaving</li> <li>- CABS</li> <li>- Bird Buddies</li> </ul> <p>Objectives:</p> <ul style="list-style-type: none"> <li>• Explain the contents of the draft CZMP, the overall approach to the BBE.</li> <li>• Encourage feedback / submissions.</li> </ul>   |  |
| <p>Meeting:</p> <ul style="list-style-type: none"> <li>- Crown Lands</li> </ul> <p>Objectives:</p> <ul style="list-style-type: none"> <li>• Explain the contents of the draft CZMP, the approach as per Crown Reserves.</li> <li>• Encourage feedback / submissions.</li> <li>• Seek written correspondence supporting any actions in the draft CZMP which they are responsible for or that affect their land or assets (section 55C CP Act).</li> </ul>  |  |
| <p>Meetings with agencies:</p> <ul style="list-style-type: none"> <li>- Marine Park</li> <li>- NPWS</li> <li>- DPI Fisheries</li> </ul> <p>Objectives:</p> <ul style="list-style-type: none"> <li>• Explain the contents of the draft CZMP, the overall approach to the BBE.</li> <li>• Encourage feedback / submissions.</li> <li>• Seek written correspondence supporting any actions in the draft CZMP which they are responsible for or that affect their land or assets (section 55C CP Act).</li> </ul> |  |
| <p>Directly Affected Landholder Sessions (Emergency Action Sub Plan – other than BBE)</p> <ul style="list-style-type: none"> <li>• Explain the contents of the draft CZMP, the overall approach to the BBE.</li> <li>• Encourage feedback / submissions.</li> </ul>   |  |
| <p>Meeting</p> <ul style="list-style-type: none"> <li>- Coastal Panel</li> </ul>  |  |
| <p>Community information stands Byron Bay Library Foyer x 2</p>   |  |

**Financial Implications**

5 The draft CZMP BBE exhibition activities in Table 2 are to be funded using the CZMP account 2605.083.

10 The grant with the state government under the Coastal Management Program, no. 2012-13-CM-0024 'Coastal Zone Management Plan for the Byron Bay Embayment – update and preparation', includes the preparation of the Management Study and CBA. The grant has been acquitted and finalised by the state government (Coastal Management Program). Refer Table 3 for a financial summary of the grant. Refer Attachment 9 which is the acquittal letter from the state government.

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**Table 3 Summary of the financial acquittal of grant no. 2012-13-CM-0024 ‘Coastal Zone Management Plan for the Byron Bay Embayment – update and preparation’**

| <b>Expenditure Description</b>                    | <b>BSC Funds (\$)</b>   | <b>State Government Funds (\$)</b> | <b>Total Expenditure (\$)</b> |
|---|-------------------------|------------------------------------|-------------------------------|
| Management Study (WRL, 2016)                      | 119,134 <sup>a,b.</sup> | 74,250                             | 193,384                       |
| Preparation of draft coastal zone management plan | 9,837 <sup>c.</sup>     | 5,847                              | 15,684                        |
| <b>Total</b>                                      | <b>128,971</b>          | <b>80,097</b>                      | <b>209,068</b>                |

<sup>a.</sup> Excluding internal Council costs for managing and administering the Management Study, reviewing reports etc.

<sup>b.</sup> Approximate, final invoice outstanding.

<sup>c.</sup> The draft CZMP BBE was not complete at the time of acquitting the grant, with further resources and funds expended by Council since the grant’s acquittal.

10 The financial implications associated with the draft CZMP BBE, specifically the coastal hazard risk management strategies as per Res 16-169, are detailed at Attachment 2, Part B, Section B3. Noting that the financial implications have been analysed under the assumption that a ‘private-public’ funding model (WRL, 2016) will apply to the Belongil Beach ‘adaptive seawall with walkway’ strategy, and that Crown Lands will not fund the Jetty site works or the Main Beach (Jonson Street Protection Works). This assumption would appear to have some support from Belongil landowners, as per the preliminary feedback from the Byron Preservation Association, refer Attachment 8.

It should be noted that without a ‘private-public’ funding model for implementing the Belongil Beach ‘adaptive seawall with walkway’ strategy, it would not be feasible to implement the strategy.

Comments by Manager Finance

If reference is made to Table 10 within Attachment 2, and focus is placed upon the contribution by Council in terms of capital costs for implementing the coastal hazard risk management strategies proposed, the following table demonstrates the quantum and timing of Council’s contribution to the CZMP BBE should it proceed:

**Table 4 Coastal Hazard Risk Management Strategies (inc. Main Beach and Belongil) - summary of financial implications (capital estimates) on Council, assuming hypothetical private/public funding model<sup>1</sup>**

| <b>Timing</b> | <b>Timeframe</b> | <b>Budget Years</b> | <b>Capital Costs estimates<sup>2</sup></b><br><b>\$</b> |
|---------------|------------------|---------------------|---|
| Immediate     | 1 to 2 years     | 2016/17 to 2017/18  | 310,578   |
| Short         | 2 to 5 years     | 2017/18 to 2020/21  | 1,356,000   |
| Medium        | 6 to10 years     | 2021/22 to 2025/26  | 3,117,070   |
| Long          | 10 to 15 years   | 2026/27 to 2030/31  | 35,000  |
| <b>Total</b>  |                  |                     | <b>4,818,648</b>  |

<sup>1.</sup> As per WRL (2016) private/public funding model except Crown Lands do not participate in funding the strategies for Main Beach or Jetty Site (Belongil).

<sup>2.</sup> This figure is less the assumed NSW Government contribution (50 %) (Coastal Management Program).

35 The above table demonstrates, assuming all assumptions in the draft CZMP BBE and the level of contributions from landowners plus NSW Government contributions are realised, that Council will need to contribute \$4.818million to the capital costs associated with the implementation of the coastal hazard risk management strategies – including Main Beach and Belongil Beach in the draft CZMP BBE. Of this amount, a total of \$4.784million is potentially payable within the next ten years

being the period applicable for the next update to Council's Long Term Financial Plan up to the financial year ended 2025/2026 and this does not include any one-off or recurrent operating expenditure over and above amounts already allocated.

5 Subject to the progression of the draft CZMP BBE under the CP Act, Council would be required to incorporate these costs and formalise a funding strategy for these costs to be met. Council will also be required to consider the Council Improvement Plan (CIP) that was submitted in respect of the Fit for the Future response. This plan which has projected outcomes for Council up to the financial year ended 2019/2020 does not include any financial implications of the CZMP Byron Bay Embayment.

10 Council will need to therefore identify additional revenue sources to fund its contribution or will need to reprioritise existing expenditure to this project for its construction and ongoing maintenance over the timeframe identified to which the vast majority is over the next ten financial years. In terms of the 2016/2017 financial year to which Council has placed recently on public exhibition, there is no funding currently allocated towards the capital costs of the draft CZMP Byron Bay Embayment, as per the 'immediate' timeframe at Table 4, and Table 10 of Attachment 2.

15 Additionally, the contribution by Council identified at Table 4 does not include other costs associated with Part C and D of the draft CZMP BBE, which have not yet been quantified.

### Statutory and Policy Compliance Implications

#### Exhibition of draft CZMP BBE

25 The public exhibition of the draft CZMP BBE is to be undertaken in accordance with Part 4A of the Coastal Protection Act 1979.

#### **55E Public consultation**

30 *After preparing a draft coastal zone management plan, the council is:*

35 *(a) to give public notice in a newspaper circulating in the locality of the place at which, the dates on which (comprising a period of not less than 21 days), and the times during which, the draft coastal zone management plan may be inspected by the public, and*

*(b) to publicly exhibit the draft plan at the place, on the dates and during the times set out in the notice.*

#### Consideration of Submissions

40 The submissions on the draft CZMP BBE is to be undertaken in accordance with Part 4A of the Coastal Protection Act 1979.

#### **55F Submissions**

45 *(1) During the period of public exhibition of a draft coastal zone management plan, any person may make a submission in writing to the council with respect to its provisions.*

*(2) The council must consider all submissions so made.*

*(3) The council may amend the draft coastal zone management plan as a result of the submissions.*

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#### Draft Coastal Management Bill

The Coastal Management Bill 2016 (CM Bill) was introduced into the NSW Parliament on 5 May 2016. The CM Bill has been read for a second time in the Legislative Council. It has not been read

a second time in the Legislative Assembly. Relevant provisions under the CM Bill are reproduced below.

**5 General saving**

5

*Subject to this Schedule and the regulations:*

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*(a) anything begun before the repeal date under a provision of the former Act for which there is a corresponding provision in this Act may be continued and completed under the former Act as if this Act had not been enacted, and*

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*(b) subject to paragraph (a), anything done under a provision of the former Act for which there is a corresponding provision in this Act (including anything arising under paragraph (a)) is taken to have been done under the corresponding provision of this Act.*

**6 Certification of pending coastal zone management plans**

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*(1) If, before the repeal date, a draft coastal zone management plan has been submitted to the Minister for certification under section 55G of the former Act, but has not by that date been certified, the Minister and council may continue to deal with that plan as if Division 1 of Part 4A of that Act had not been repealed.*

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*(2) Subclause (1) ceases to have effect 6 months after the repeal date.*

*(3) A coastal zone management plan certified and made in accordance with subclause (1) is taken to be a coastal management program prepared and adopted under this Act.*

*(4) Subclause (3) ceases to have effect at the end of 31 December 2021.*

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The draft CZMP BBE has been prepared under the current legislative arrangements, i.e. the *Coastal Protection Act 1979*. The proposed transitional arrangements between the current Act and the new Act provide a six-month window for a CZMP to be accepted as a coastal management program under the new Act.

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However, a CZMP will not become a coastal management program under the new Act unless it is submitted to the Minister for certification prior to the new Act starting. Because the new Act's start date is unknown, it would be prudent to submit the draft CZMP BBE to the Minister for certification as soon as reasonably practicable.