



Byron Shire Council



Agenda

Ordinary Meeting

Thursday, 9 June 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

CONFLICT OF INTERESTS

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

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

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

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

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

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

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

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

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

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

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

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

Disclosure and participation in meetings

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

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

Participation in Meetings Despite Pecuniary Interest (S 452 Act)

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

Non-pecuniary Interests - Must be disclosed in meetings.

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

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

RECORDING OF VOTING ON PLANNING MATTERS

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

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

BYRON SHIRE COUNCIL

ORDINARY MEETING

BUSINESS OF ORDINARY MEETING

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2. APOLOGIES
3. REQUESTS FOR LEAVE OF ABSENCE
4. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY
5. TABLING OF PECUNIARY INTEREST RETURNS (S450A LOCAL GOVERNMENT ACT 1993)
6. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS
 - 6.1 Ordinary Meeting held on 19 May 2016
 - 6.2 Byron Shire Reserve Trust Committee held on 19 May 2016
7. RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS
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BYRON SHIRE COUNCIL

ORDINARY MEETING

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

MAYORAL MINUTE

5 **Mayoral Minute No. 8.1 Support for Shark Spotters Trial Program**
File No: I2016/595

I move that Council:

1. **Support the shark spotters trial program as outlined in the Shark Spotting Feasibility Study Scope Wategos Beach, Byron Bay, NSW, to be undertaken by the Sea Shepherd organisation**
2. **Note that the cost is to be shared by Council and Tamara Smith, MLA**
3. **Write to Tamara Smith, thanking her for her support**
4. **Write to NPWS, seeking any concurrence or support required**
5. **Write to Niall Blair MLC, Minister of Primary Industries, informing him of the trial**
6. **Identify and allocate funds from the Open Space division of Council**

Attachments:

- 10 1 Shark Spotting Feasibility Study Scope Wategos Beach developed by Sea Shepherd Australia, E2016/35023

Background Notes:

15 The Shark Spotting Feasibility Study Scope Wategos Beach, Byron Bay, NSW is attached. Within it, the steps to undertake a trail shark spotting program are outlined, including the provision of a clear understanding of the objectives, timing, methodology and deliverables.

20 Developed by the Sea Shepherd organisation, the responds to the State Government's independent assessment of current shark mitigation strategies undertaken by Cardno. This assessment identified a Shark Spotting program, currently used in Cape Town, South Africa as the highest ranked solution and the only program to meet eight assessment criteria in that it offers a whole-of-beach solution, does not pose risks to humans or wildlife, would be suitable to NSW
 25 beaches, has been tested on white sharks (and a variety of other shark species), that results have been peer reviewed, and costs for the program are low.

The scoping study proposes to provide independent feedback on the abilities and limitations of a more permanent Shark Spotting program at this location.

30 The study aims to:

- determine whether the location and spotting abilities are suitable for a longer term shark spotting program, paying attention to the impact of morning and afternoon glare, spotting distance from water users to ensure an early warning service can be provided, changes in visibility in differing weather conditions with particular emphasis on prevailing winds and currents and levels of water user activity at different times of the day
- 35

- advise the number of sharks spotted in comparison to current methods as well as other marine life (e.g. dolphins or school fish) identified during that time
- 5 • identify key issues, constraints and opportunities relating to a more permanent shark spotting trial or program at Wategos Beach, including best vantage point, practicality and extent of Council Authority to implement, key stakeholder attitudes and likelihood of community acceptance
- 10 • develop a report that provides recommendations for a shark spotting solution, with an assessment of limitations and how best to overcome them
- share information with key stakeholders such as local and state government agencies, scientists and other not-for-profits working on marine wildlife surveys The study will also:
- 15 • identify avenues to advise the local communities of shark bite mitigation identify local groups that would be interested in working alongside a Shark Spotting program
- identify gaps in current shark mitigation strategies within the local region
- 20 • identify response to alarm (if required) by local beach goers
- utilise procedures already in place by Shark Spotters in Cape Town and tailor them to local circumstances if necessary
- 25 **Signed: Cr Simon Richardson**

NOTICES OF MOTION

Notice of Motion No. 9.1 **Small Steps to Healthier Rural Roadsides**
 File No: I2016/459

5

I move:

1. That Council develop a Rural Infrastructure Protection Strategy (RIPS) as an adjunct to the Byron Shire Integrated Weed Management Strategy with the following Vision.

Rural roadsides and infrastructure managed to progressively increase self sustaining native vegetation, reduce chemical and slashing weed control and support the community to care for roadside vegetation.

- 2 Objectives of a RIPS to include

- a) Reduced chemical control of vegetation.
- b) Greater protection of HCV and expansion of biodiversity.
- c) Enhanced support for residents and community groups to participate in roadside management.
- d) Improved work practices to support these objectives.
- e) Expanded use of GIS to map roadsides and manage.

3. That the following actions be considered as part of a RIPS.

- a) Mobile, on site and updatable GIS for all roadside managers.
- b) Provide funding to build community capacity to be able to undertake 'certified' tasks such as 'stop, go' traffic controllers to support safe working environments for volunteers.
- c) Allowing residents caring for road frontage to opt out of roadside vegetation management.
- d) Measures to improve co-ordination with Far North Coast Weeds (FNCW).
- e) Program to support volunteer residents and community groups to develop local roadside management plans.

4. That the approach to developing RIPS be adaptive building on existing plans, actions and funds and that it be based on a review of the Roadside Vegetation Management Plan (RVMP) to incorporate the above objectives, develop an action and funding plan.

5. That Council receive a report at the 4 August meeting,

- a) setting out a pathway to complete and implement a RIPS,
- b) providing advice on actions in the RVMP that are currently funded,
- c) identifying actions in the RVMP that could be adapted and or funded to meet the RIPS objectives,
- d) preliminary assessment of clause 3 actions.

Attachments:

- 10 1 Roadside Vegetation Management Plan, E2016/28872

Councillor's Background Notes:

Small Steps to Healthier Roadsides

5 The conundrum of rural roadside management is ongoing because the various challenges are rolled into one big insurmountable problem. I am proposing that we instead look at small steps to build an adaptive strategy for better managed rural roadsides.

10 Much of the work to support such a strategy has already been done and Council has adopted or is considering other plans that can be incorporated into a RIPS, a Rural Infrastructure Protection Strategy.

Integrated Weed Management Strategy (IWMS)

15 Council is currently developing a *draft Integrated Weed Management Strategy* that looks at a more sustainable way of managing weeds across the Shire. While 'roadsides' are included in the draft, rural roadsides are largely excluded from meaningful action as the strategy rates them as being not 'high use'. If 'regular use' were the criterion, rural roadsides would be assessed as follows.

- 20
- No alternative routes for pedestrians, riders and others.
 - School children regularly wait on roadsides for buses and lifts.
 - Areas around villages, hamlets and locales are often high use.

25 Much of the data and consideration of issues can be applied to a RIPS.

Roadside Vegetation Management Plan (RVMP)

30 Council has already adopted a Roadside Vegetation Management Plan (RVMP) that has a stronger focus on rural roadsides and can be easily adapted into an action plan for more sustainable rural roadside management.

35 The RVMP is particularly focussed on protecting biodiversity and HCV through improved work practices and better management. If funded properly many of these adopted actions can be adapted to a RIPS.

40 Of particular benefit a GIS that maps roadsides and is updatable by all roadside managers to record actions and observations while in the field. Such a GIS could be made available in the cabs of slasher contractors and be capable of having resident and community group projects incorporated into the mapping. FNCW has successfully used such a system for many years.

Discussion Paper

45 Attached is a discussion paper that I distributed sometime back that outlines some ideas that support greater involvement from residents and community in protecting roadside vegetation. This was distributed to Community Infrastructure Advisory Committee (CIAC) and Biodiversity and Sustainability Committee members, Landcare groups and others.

50 Key considerations are improved co-ordination between Council, FNCW and resident/community group projects as well as supporting community to be able to undertake volunteer work safely on roadsides by certifying 'stop/go' operators,

Recommended priority relative to other Delivery Plan tasks:

As in motion. Preliminary report to be received by 4 August

Definition of the project/task:

5 Review RVMP to incorporate RIPS objectives and develop action plan
Receive report on 4 August.

Source of Funds (if applicable):

10 Not applicable at this stage

Signed: Cr Basil Cameron

15 **Management Comments by Michael Matthews, Manager Open Space and Resource Recovery:**
(Management Comments must not include formatted recommendations – resolution 11-979)

Clarification of project/task:

20 A review of rural roadside asset management and strategy development that considers the RVMP, that reduces chemical and mechanical treatment of rural roadsides in a way that maintains or enhances

- Road safety
- Biodiversity through removing actual or potential threatening processes
- 25 • Provides for cost efficient repair, maintenance and renewal activities
- Asset protection

30 The review is to also define geospatial solutions that ensure staff and contractors maintain ‘no go’ roadside areas in accordance with an agreed alternative treatment technique.
An example is the introduction of in vehicle monitoring systems with geo-fencing capability that defines ‘no go’ roadside treatment with agreed treatment regime.

Director responsible for task implementation:

35 Director Infrastructure Services, Phillip Holloway

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

40 Strategy shall consider current rural roadside practices including cost efficiencies in maintaining a safe rural road network.

Financial and Resource Implications:

45 To undertake this work, a geo-spatial consultant is required to be engaged for period of up to 4 weeks with a budgeted cost of \$20,000.

Council would need to allocate funding for the project.

50 Works staff are to assess any road safety, asset protection impacts of any alternative treatment proposed under a RIP strategy.

Review and strategy is to assess financial and resource impacts (both positive and negative).

55 It is proposed that the internal Council Asset owner will be responsible for development of the RIPS

Legal and Policy Implications:

The review shall consider, not limited to

- 5
- Roads Act 1993, specifically to local roads authority obligations
 - Native Vegetation Act 2013 and its subordinate legislation
 - Environment Protection and Biodiversity Conservation Act 1999
 - Local Government Act 1993

If Council is supportive of the future road widening and zoning proposal then Council will also need to consider its Section 94 Plan and funding arrangements to pay for the land acquisition and road construction.

5 Community Strategic Plan Key Focus Areas:

The community Economic Development Action plan 2011 2020 is structured around the following, Key Focus Areas:

- 10 *Maintain infrastructure and resolve gaps in a manner that responds to community needs and promotes meaningful and well-paying employment in the Shire.*
Council is responsible for a range of infrastructure, most of which has a direct impact on economic development besides satisfying the community at large, improved infrastructure can have a direct impact on community economic development. For instance, better roads and better
15 *communications equals better access to markets. Infrastructure related priorities identified include:*
Roads and bridges
Parking and traffic management
Footpaths
Public toilets
20 *Bikeways and bicycle facilities*
Drainage & flood management
Quality of town centres and public spaces'

- 25 *The availability of recreation facilities and other community services encourage a new generation of workers and entrepreneurs to establish themselves in the shire with their individuality.*
Ensure council processes deliver to the community timely decisions to give certainty of direction Council has been engaged in process and product improvement for a number of years. A service charter commits council to performance targets in response to the range of applications it receives from the community.
30 *Council will review performance against benchmarks on a specific, periodic basis' Processes will be reviewed and bottlenecks eliminated.*

Source of Funds (if applicable):

- 35 Re-allocate the limited amount of staff time required to apply for a rezoning along the length of Ewingsdale road and funding for any preliminary contract consultancy or surveying required.

Signed: Cr Alan Hunter

40

Management Comments by Tony Nash, Manager Works

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

45 Clarification of project/task:

Commence rezoning of Ewingsdale Road (MR545) for road widening from Pacific Motorway (M1), Ewingsdale to Kendall Street, Byron Bay.

50 Director responsible for task implementation:

Director Infrastructure Services, Director Sustainable Environment and Economy

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

55

Road design

5 There is a current road design project underway for Ewingsdale Road between “The Cavanbah Sports Fields” roundabout and east of the Belongil Creek bridge, for an upgrade of Ewingsdale Road to a four (4) lane divided carriageway roadway, with roundabouts at Bayshore Drive; SAE complex and Sunrise Boulevard. The concept design plans are expected to be completed by mid August 2016, which will then be followed by detailed design of the project and tender documentation of the roundabouts at Bayshore Drive and Sunrise Boulevard.

10 Project scoping and concept designs will be required for Ewingsdale Road between the Pacific Motorway interchange roundabout and The Cavanbah Sports Fields roundabout and between the Belongil bridge and Kendall Street to determine the amount of land required to achieve the four lane divided carriageway roadway with appropriate intersection treatments.

15 *LEP amendments*

Prior to any amendment to the LEP to rezone land, the road design plans need to be finalised to identify that land required for road purposes.

20 Following this a planning proposal would need to be prepared to amend three LEPs – LEP 2014, LEP 1988 and that part of LEP 1988 that applies to West Byron to identify land by land use zone and or land acquisition map for road purposes.

25 The amendments to the LEP would follow the statutory process under the Environmental Planning and Assessment Act, and could take up to 12 months to be finalised.

As an alternate, Council could consider direct negotiation with land owners for land acquisition and road widening under current legislation.

30 Financial and Resource Implications:

The current road design project for Ewingsdale Road between The Cavanbah Sports Fields roundabout and east of the Belongil Creek bridge has been funded as part of the 2015/16 Budget.

35 There is no funding allocated for the project scoping and concept designs for Ewingsdale Road between the Pacific Motorway interchange roundabout and “The Cavanbah Sports Fields” roundabout and between the Belongil Creek Bridge and Kendall Street and a budget will be required to allow this work to be undertaken.

40 There is no funding allocated to undertake any additional planning reports or studies that may be required by DPE to progress the planning proposal. Staff time and resources would otherwise need to be allocated to this project. This may impact other projects current at the time depending on priority.

45 Legal and Policy Implications:

Environmental Planning and Assessment Act 1979
Land Acquisition (Just Terms Compensation) Act 1991

50

Notice of Motion No. 9.3 Mullumbimby Vision (Master) Plan
File No: I2016/551

5 I move that Council undertake a community survey in June in the form of three Questions as agreed at the Project Reference Group meeting of 23 May to be available on Council's website, via survey monkey and in hard copy distributed in public businesses such as shops in Mullumbimby and in Council's foyer.

Attachments:

1 Mullumbimby have your say flyer 260516 for Mullumbimby Masterplan Scoping PRG, E2016/35298

10 **Councillor's Background Notes:**

The Project Reference Group has met on 21 April, 31 March and 23 May 2016 to execute its purposes which are:

- 15 a) Develop a project plan, with the assistance of Council staff, for the Mullumbimby masterplan. This includes developing a project brief, delivery plan and a process for the development of the masterplan.
b) To identify who should be involved in the different stages of preparing the Mullumbimby masterplan.

20 At these meetings the PRG has worked on a project plan and timeframe. Community engagement is proposed along similar lines to what was done for the Bangalow plan. To get an early start on that engagement, the PRG is asking Council to undertake a community survey as proposed above.

25 The Mullumbimby survey will vary from that in Bangalow because for example Mullum Post Office is not as freely available as Bangalow's. On the other hand the foyer of Council's administration building is a good option for collecting survey forms and for display of results and other information.

30 Recommended priority relative to other Delivery Plan tasks:

Community engagement is an early step required in the creation of the Vision (Master) Plan.

Definition of the project/task:

35 Conduct by various media a survey of users of and visitors to Mullumbimby.

Source of Funds (if applicable):

40 Funding is already allocated to this project.

Signed: Cr Duncan Dey

45 **Management Comments by Sharyn French, Manager Environmental and Economic Planning:**

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

Clarification of project/task:

Council together with the Mullumbimby Masterplan Scoping PRG undertakes a community survey to inform the Mullumbimby Vision (Master) Plan.

Director responsible for task implementation:

5

Director Sustainable Environment and Economy.

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

- 10 The PRG are in the process of drafting a Project Plan for the Mullumbimby Vision (Master) Plan project. The draft Project Plan is expected to be reported to the 4 August 2016 Council meeting for Councillors consideration. At the same time as preparing the Project Plan, the PRG wish to better understand community needs through the use of a simple survey, as was done recently in Bangalow. The survey will assist to inform the Plan, raise community awareness of the project, advance timeframes for final delivery of the Plan and take advantage of the PRGs skills and community connections whilst the group is formed.
- 15

Financial and Resource Implications:

- 20 Members of the PRG will take the lead in distributing the surveys, collecting completed forms and will assist Council staff in collating the information.

Legal and Policy Implications:

- 25 The data collected will inform the development of the Mullumbimby Vision (Master) Plan.

Notice of Motion No. 9.4 Affordable Housing
File No: I2016/584

I move that Council:

In the development of the Byron Shire Residential Strategy give consideration to how different planning instruments and policies may be used to encourage the construction and provision of affordable housing within the Byron Shire.

This consideration to be undertaken for the following reasons:

- i) To enable council to adopt relevant policies that will encourage the construction and provision of affordable housing in the shire;
- ii) To acknowledge that council is in the best position to influence the construction and provision of affordable housing from a planning perspective rather than as a housing provider;
- iii) To acknowledge that the promotion of affordable housing in Byron Shire should not solely rely on the use of the Affordable Housing SEPP.
- iv) To identify measures that could promote affordable housing in the Byron Shire Residential Strategy.
- v) To recognise that any measures highlighted in the Byron Shire Residential Strategy aimed at promoting affordable housing could inform and lead to future amendments being made to the Byron Shire LEP.

Consideration of specific planning instruments and policy actions to encourage affordable housing to include:

- a) Establishing an affordable housing target to provide the incentive to implement, measure and monitor the provision of affordable housing within the Byron Shire.
- b) Measures that encourage the promotion of the efficient supply of well-located diverse housing;
- c) Incentives that promote the provision of affordable housing enabled through the LEP and other planning policies;
- d) Requirements for the development of affordable housing in appropriate locations with the use of mandatory provisions;
- e) A review of Section 94 concessions to identify and consider support for affordable housing developments such as:
 - an agreed rental to achieve an affordability concession; e.g. 80% market value
 - identified affordable housing to have an appointed community housing manager to monitor any agreed upon affordability provisions;
 - the development of a council maintained affordability register to provide data on

affordability developments and to measure if any agreed upon targets for affordability in the Shire are being achieved.

f) A review of the timing of Section 64 and Section 94 charges to encourage affordable housing initiatives (e.g. payment of charges delayed until an occupation certificate is granted).

g) A review of the potential for allowing manufactured housing in infill development to encourage affordability purchases. e.g. enabling purchase of a house while leasing the land on which it stands.

5 **Councillor's Background Notes:**

Affordable housing is one of the major issues in our shire – especially, if you are young.

10 Over the last twenty years we have seen the decline in affordability within the shire and across many regional and metropolitan areas of Australia.

Where once a house in the Byron Shire cost around 3 times the average annual salary you now need up to 9 times that amount.

15 How unaffordable is the Byron Shire?

20 For a young couple wanting to buy a house in Byron Shire the yearly earnings required is \$147,200. The average earnings difference is -\$75,522. To buy a unit the yearly earnings required is \$114,857. The average earnings difference is -\$43,179. For a single person the average earnings difference is -\$111,361 to buy a house and -\$79,018 to buy a unit. This is clearly unaffordable for most young people.

25 A 2016 Rental Affordability Snapshot released by Anglicare Australia highlighted the fact that there were no affordable and appropriate properties available in Byron Bay.

This means that in Byron Bay appropriate accommodation is inaccessible to those on income support and scantily available to those on the minimum wage.

30 Access to affordable housing in Australia is a significant problem that disproportionately affects low-income earners and disadvantaged people.

35 Community housing providers and private developers can viably develop affordable housing, however they need to have the right supports in place, and be capable of managing the inherit risks.

In recent years the number of people in need of subsidised housing has continued to increase, while the supply of affordable and social housing has remained stagnant or declined.

40 My aim in putting forward this motion is to ensure council engages productively with the issue of affordable housing.

I believe this is best served from a planning perspective rather than as a service provider.

Under the current situation the provision of affordable housing in Byron Shire relies solely on the use of the Affordable Housing SEPP. This is clearly inadequate.

5 I believe, ultimately, that measures to promote affordability should be incorporated into the Byron Shire LEP. The first step in this journey is to identify measures that could be highlighted in the Byron Shire Residential Strategy.

10 It is important to understand the points in the development process where planning does (and does not) have an influence. I believe changes to the planning system could be seen as a key driver in the provision of affordable housing. Such changes could influence development outcomes by rezoning land or by placing conditions on the approval of the subdivision of land and the development of housing.

15 Finally, any proposed changes will need to be accompanied by changes to the current housing system to implement, measure and monitor affordable housing once it has been built and planning's role has concluded.

20 Recommended priority relative to other Delivery Plan tasks:

SC1

Support communities to achieve equitable access to an appropriate range and level of whole of life services such as healthcare, education and housing

25 EN2:
Sustainable towns, villages and rural settlements that: a) respect our natural environment; b) create an inclusive social environment, and c) integrate harmoniously with the character of local areas

30 Definition of the project/task:

In the development of the Byron Shire Residential Strategy consider how different planning instruments and policies may be used to encourage the construction and provision of affordable housing within the Byron Shire.

Source of Funds (if applicable):

40 **Signed: Cr Paul Spooner**

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

45 Clarification of project/task:

Through a review of current plans, and policies Council seek to include where appropriate mechanisms at the local planning level to:

- 50
1. Encourage the development of affordable housing through measures that promote the efficient supply of well-located diverse housing;
 2. Promote the development of affordable housing with specific incentives for affordable housing enabled through the LEP, DCP and contribution plans; and

3. Require the development of affordable housing with the use of mandatory provisions in appropriate locations.

Director responsible for task implementation:

5

Director Sustainable Environment and Economy.

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

10 Council staff in conjunction with consultants Buckley Van are currently finalising a draft Urban Residential Strategy for the Byron Shire to set a clear vision and policy framework for the Shire's future urban residential lands. As part of their work to date the consultants prepared a report into the housing needs for Byron Shire (Byron Shire Housing Needs Report November 2015). This was previously presented to councillors at a workshop late last year. The report provides valuable background information and includes commentary inter alia on housing market, affordability and development trends. A draft Strategy (inclusive of this earlier report) is scheduled to be finalised and reported to Council mid year.

15

Financial and Resource Implications:

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Council staff would need to investigate how different planning instruments and policies may be used to encourage the construction and/or provision of affordable housing within the Byron Shire given the current legislative arrangements including local government and planning act definitions and requirements, local development contributions regimes and the current land titles system.

25

Some of this work may be able to be included as an addition to that already investigated through the current Byron Residential Strategy work. However, some of this work presents as stand alone projects/tasks that would be best addressed as actions in the draft Residential Strategy for implementation once the Strategy completed/adopted.

30

Legal and Policy Implications:

Environmental Planning and Assessment Act and related legislation
Local Government Act and related legislation

35

Notice of Motion No. 9.5 **Poll 10 September on Coastal Plan Options**
File No: I2016/586

I move that Council

- a) enter into a Council poll arrangement with the Electoral Commissioner to administer a Poll at the election scheduled for 10 September 2016 on options that voters would prefer to see for management of the Coastal Zone at Belongil;
- b) develop a Poll question along the lines of “Do you support the removal of rock walls from the present 1.6km length of beach at Belongil?”; and
- c) develop an Information Package that outlines the advantages and disadvantages of the removal option as well as the CZMP-proposed reinforcement option.

5

Councillor’s Background Notes:

10

The current draft Coastal Zone Management Plan for the Byron Bay Embayment proposes hard works to resolve the conflict between natural coastal processes and some real estate boundaries at Belongil. Many members of our community do not agree with that approach preferring the main alternative Planned Retreat, which has applied to date. Others think that the preparation of the current draft Plan has been rushed; that consideration of long-term environmental, social and economic factors has not been adequate; and that a 3-week public consultation period is too short.

15

A simple way to canvas the opinion of the Shire’s voting public on a broad scale is to include a Poll question at the forthcoming elections. The voter response to such a question is for interest only – it is not binding on decision-makers the way a Referendum is. It would inform us however.

20

Poll questions are not compulsory for the voter to answer.

25

At my request, staff sought advice on polls from the Office of Local Government. That advice included OLG citing past Poll questions as examples. The state’s 2012 questions can be seen at:

<http://www.pastvtr.elections.nsw.gov.au/LGE2012/status/poll/index.htm>

30

One of those examples is a Poll question asked of Lismore City Council electors in 2012: *Do you support coal seam gas (CSG) exploration and production in the Lismore City Council area?*

Background information would be required to highlight the issues relevant to the CZMP Question. Comparison would be the best approach to presenting such information. The following issues would be relevant:

35

- a) the permanence of a commitment to hard works. Long-term equilibrium is reached under Planned Retreat compared with on-going activity to repair and maintenance structures;
- b) some well-known examples of that commitment: Collaroy Beach in Sydney; Jimmys Beach on the NSW coast at Hawkes Nest; Main Beach on the Gold Coast; etc.

40

c) loss of 1.6km of beach compared with gain of private property (public property such as road reserves continues to provide beach access even when the coastline moves); the need to offset impacts of hard works but not of Planned Retreat. Those impacts include loss of beach; threat to shorebird nesting area; complacency to on-going risk leading to increased investment; precedent for other areas of the Shire including New Brighton & South Golden Beach.

45

Recommended priority relative to other Delivery Plan tasks:

This proposal should be viewed as part of the consultation process for the CZMP for BBE. The election in September offers the perfect vehicle to consult in the broadest way possible.

5 Timing is critical as June is the only opportunity to setup such a Poll.

Definition of the project/task:

10 Develop a Poll question and background information. Engage the Electoral Commission to ask the Poll question at the 2016 Elections.

Source of Funds (if applicable):

15 The addition of a Poll question is estimated to add about 10% to the cost of a Local Government election. Staff please advise suitable sources of funding for this initiative, which relates to the CZMP 2016.

Signed: Cr Duncan Dey

20 **Management Comments by Mark Arnold, Director Corporate and Community Services and Shannon Burt, Director of Sustainable Environment and Economy :**
(Management Comments must not include formatted recommendations – resolution 11-979)

25 Clarification of project/task:

This motion seeks to:

- 30 1. enter into a Council poll arrangement with the Electoral Commissioner to administer a Poll at the election scheduled for 10 September 2016.
- 35 2. develop a Poll question.
3. develop an Information Package for the Poll question.

A council poll is a community engagement tool that is available to Councillors, as representatives of the community, to assist in the development of council's policies and programs.

40 The Councillor Handbook – September 2012 prepared and distributed by the Office of Local Government provides the following comments on community engagement:-

“When a council is developing important policies, strategies and plans, for example, a council's Community Strategic Plan, Delivery Program or Operational Plan, it is required by law to put the drafts on public exhibition and consider all the comments or submissions received.

45 *The Local Government Act 1993 also contains important mechanisms to enable a council to more formally engage and consult with its community. For example, a council may conduct a poll on an important issue to get an understanding of the community's views on a matter, such as whether to impose an environmental levy.”*

50 A council may take a poll of electors for its information and guidance.

A council poll, unlike a constitutional referendum, is not binding on council and due to the cost of conducting a poll is normally not used where a council is required to place a Plan on public exhibition, to receive and consider submissions.

Director responsible for task implementation:

Corporate and Community Services and Sustainable Environment and Economy.

5

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

The following information is provided in relation to the project tasks should this Notice of Motion be adopted by Council.

10

Enter into a Council poll arrangement with the Electoral Commissioner to administer a Poll at the election scheduled for 10 September 2016.

Council has entered into a contract with NSW Electoral Commission for the administration of all elections, council polls and constitutional referenda for the 2016 Local Government Election.

15

Staff have sought advice from the NSW Electoral Commission on the date by which Council must notify the Commissioner of its intent to hold a council poll in conjunction with the Ordinary Election of Council on 10 September 2016. The NSW Electoral Commission has advised Council that this notification is required by “..early June at the latest..”

20

Based on this advice it is understood that this would be the last meeting at which Council could resolve to hold a council poll.

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Should Council support the motion proposing a poll then staff would advise the Commissioner of the intent to hold a council poll on Friday, 10 June 2016.

Develop a Poll question along the lines of “Do you support the removal of rock walls from the present 1.6km length of beach at Belongil?”

30

Should the Notice of Motion be adopted as proposed, the question asked in the council poll would be:-

“Do you support the removal of rock walls from the present 1.6km length of beach at Belongil?”

35

All questions need to have a yes or no answer and be structured in format that is not likely to cause confusion or cause an elector to cast an informal vote. Should this not be the case then the Commissioner can request Council to reword the question.

40

Develop an Information Package that outlines the advantages and disadvantages of the removal option as well as the CZMP-proposed reinforcement option.

Council for a council poll is required to prepare and provide a yes and no case for each question asked in a council poll.

45

The draft CZMP BBE that is currently on public exhibition until 14 June 2016, and provides an opportunity for the wider community to express their views and or preferences on the management strategies proposed.

50

A report on the submissions received to the exhibition and a final draft CZMP BBE is to be presented to the Council meeting 29 June 2016 as per Council resolution **16-028**.

While an information package to support a poll question could be prepared based on the information in the draft CZMP BBE documents, it would require a different format and involve significant additional work by those staff that are at the same time already currently committed to

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the exhibition of the draft CZMP BBE and to its finalisation and reporting to Council on the 29 June 2016.

Financial and Resource Implications:

5

The NSW Electoral Commission has provided Council with an estimate of costs for the administration of the Ordinary Election of Council at \$250,000. This is a significant increase in the cost of administering the 2012 Ordinary Election of Council of \$143,833 and is due to fewer councils going to the polls on this Election Day, as a result of the Local Government Reform process being currently implemented by the State Government. Thus there is no opportunity to defray the fixed costs of the NSWEC across all NSW councils.

10

The NSW Electoral Commission has advised that the additional cost of holding the council poll in conjunction with the Ordinary Election of Council on 10 September 2016 is estimated at \$25,000.

15

On the basis that there is only one Coastal and Estuary Officer on staff, who is at full capacity given current commitments to the CZMP BBE exhibition and to its finalisation by the 29 June 2016 meeting. For the information pack to be prepared in the time frame required of Council, it is likely that Council would need to engage an additional specialist staff resource at a cost and budget allocation to be determined.

20

A source of funding for the estimated \$25K - \$30K in additional costs would need to be identified in the Quarterly Budget Review as at 30 June 2016.

25

Legal and Policy Implications:

Council under Section 14 of the Local Government Act 1993 “.. *may take a poll of electors for its information and guidance on any matter.*”

30

A council poll may be taken on any Saturday, including the Saturday of an ordinary election (refer Section 19 of the Local Government Act 1993).

The people (electors) that are entitled to vote are the same as the people that entitled to vote in a council election.

35

The question at a council poll is carried if it is supported by a majority of the votes cast (refer Section 20 (1) of the Local Government Act 1993).

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.1 Mayoral and Councillor Fees 2016/2017

Directorate: Corporate and Community Services

5 **Report Author:** David Royston-Jennings, Corporate Governance and Strategic Planning Officer

File No: I2016/464

10 **Theme:** Corporate Management
Councillor Services

Summary:

15 The Local Government Remuneration Tribunal has handed down its report and determinations on fees for Councillors and Mayors for the 2016/2017 Financial Year.

RECOMMENDATION:

1. That Council fix the fee payable to each Councillor under Section 248 of the Local Government Act 1993 for the period 1 July 2016 to 30 June 2017 at \$18,840.
2. That Council fix the fee payable to the Mayor under section 249 of the Local Government Act 1993, for the period from 1 July 2016 to 30 June 2017 at \$41,090.
3. That Council in accordance with its current practice not determine a fee payable to the Deputy Mayor.

Attachments:

- 20 1 Local Government Remuneration Tribunal Annual Report and Determination 2016, E2016/29303

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Report

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

The Remuneration Tribunal has determined the maximum and minimum amounts of fees to be paid during the 2016/2017 financial year. Byron Shire Council is categorised as a Regional Rural council and the appropriate fee range is as follows:

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Category	Councillor/Member Annual Fee		Mayor/Chairperson Additional Fee*	
	Minimum	Maximum	Minimum	Maximum
Regional Rural	8,540	18,840	18,180	41,090

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

Currently the annual fees payable to Councillors and the Mayor for the 2015/2016 financial year are fixed at \$18,380 per annum for a Councillor with an additional fee of \$40,090 for the Mayor.

15

The Tribunal has reviewed the key economic indicators, including the Consumer Price Index and Wage Price Index, and finds that the full increase of 2.5 per cent available to it is warranted. On that basis, and after taking the views of the Assessors into account, the Tribunal considers that an increase of 2.5 per cent in the maximum and minimum fee for each category of councillor and mayoral office, including county councils, is appropriate and so determines.

20

A full copy of the Report and Determination of the Local Government Remuneration Tribunal is provided at Attachment 1 to this report and is also available at:

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

25

Financial Implications

Councillors and Mayoral fees presently paid

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

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Councillors and Mayoral fees 2016/2017 increased to maximum set by the Tribunal

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\$18,840 each x 9	=	\$169,560
Plus Mayor additional fee	=	<u>\$ 41,090</u>
Total Paid		\$210,650

45

The draft 2016/17 Budget includes a total allocation of \$210,600 for Councillor Fees and the Mayoral Allowance.

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Allowance for Deputy Mayor

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

“A council may pay the deputy Mayor (if there is one) a fee determined by the council for such time as the deputy Mayor acts in the office of the Mayor. The amount of the fee so paid

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must be deducted from the Mayor's annual fee."

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

5

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

10

Statutory and Policy Compliance Implications

Section 248 of the Local Government Act 1993 states:

15

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

20

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

25

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

30

Section 250 of the Local Government Act states:

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

Report No. 13.2 **Council Investments May 2016**
Directorate: Corporate and Community Services
Report Author: James Brickley, Manager Finance
File No: I2016/525
5 **Theme:** Corporate Management
 Financial Services

Summary:

10 This report includes a list of investments and identifies Council's overall cash position for the month of May 2016 for Council's information.

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

RECOMMENDATION:

20 **That the report listing Council's investments and overall cash position as at 24 May 2016 be noted.**

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.2

Report

In relation to the investment portfolio for May 2016, Council has continued to maintain a diversified portfolio of investments. At the time of writing this report, the average 90 day bank bill rate (BBSW) had not been received, but based on commentary during the month is estimated to be around 2.20%. Council's performance to 24th May is approximately 2.95%. Councils' performance is again higher than the benchmark. This is largely due to the active ongoing management of the investment portfolio, maximising investment returns through secure term deposits

10 The table below identifies the investments held by Council as at 24 May 2016:

Schedule of Investments held as at 24 May 2016

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	Type	Interest Rate Per Annum	Current Value
20/06/12	500,000	HERITAGE BANK LTD BONDS	N	BBB+	20/06/17	B	7.25%	524,400.00
04/04/16	1,000,000	AUSWIDE BANK LTD	P	BBB	04/07/16	TD	3.01%	1,000,000.00
08/02/16	2,000,000	NAB	P	AA-	08/07/16	TD	3.02%	2,000,000.00
04/03/16	2,000,000	NAB	N	AA-	06/06/16	TD	3.09%	2,000,000.00
04/04/16	2,000,000	NAB	N	AA-	04/08/16	TD	3.10%	2,000,000.00
07/04/16	2,000,000	BANKWEST	P	A1+	06/07/16	TD	3.00%	2,000,000.00
02/05/16	1,000,000	BANKWEST	N	A1+	04/07/16	TD	2.70%	1,000,000.00
12/05/16	2,000,000	NAB	N	AA-	12/09/16	TD	2.99%	2,000,000.00
23/05/16	2,000,000	NAB	N	AA-	23/11/16	TD	2.98%	2,000,000.00
05/04/16	2,000,000	SUNCORP	P	A+	03/08/16	TD	3.05%	2,000,000.00
04/04/16	2,000,000	AUSWIDE BANK LTD	N	BBB	04/07/16	TD	3.01%	2,000,000.00
24/02/16	2,000,000	BANK OF QUEENSLAND	P	A2	23/06/16	TD	3.00%	2,000,000.00
02/02/16	2,000,000	NAB	N	AA-	02/06/16	TD	3.01%	2,000,000.00
02/05/16	2,000,000	NAB	N	AA-	02/09/16	TD	3.08%	2,000,000.00
14/04/16	1,000,000	NAB	N	AA-	14/07/16	TD	3.09%	1,000,000.00
07/03/16	1,000,000	NAB	N	AA-	06/06/16	TD	3.10%	1,000,000.00
09/05/16	1,000,000	NAB	N	AA-	08/08/16	TD	2.98%	1,000,000.00
14/03/16	3,000,000	BANKWEST	N	A1+	12/07/16	TD	3.00%	3,000,000.00
08/02/16	2,000,000	NAB	N	AA-	06/06/16	TD	3.01%	2,000,000.00
02/02/16	3,000,000	ME BANK	P	BBB	04/07/16	TD	2.95%	3,000,000.00
05/05/16	2,000,000	NAB	N	AA-	05/09/16	TD	3.01%	2,000,000.00
19/05/16	2,000,000	NAB	N	AA-	19/08/16	TD	2.95%	2,000,000.00
26/02/16	3,000,000	NAB	N	AA-	26/05/16	TD	3.02%	3,000,000.00
29/02/16	2,000,000	AMP BANK	P	A	29/08/16	TD	3.00%	2,000,000.00
01/02/16	2,000,000	NAB	N	AA-	02/06/16	TD	3.02%	2,000,000.00
06/04/16	2,000,000	NAB	N	AA-	04/07/16	TD	3.07%	2,000,000.00
07/04/16	2,000,000	BANK OF QUEENSLAND	N	A2	07/07/16	TD	3.00%	2,000,000.00
26/04/16	2,000,000	ME BANK	N	BBB	26/07/16	TD	3.06%	2,000,000.00

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.2

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	Type	Interest Rate Per Annum	Current Value
01/04/16	2,000,000	SUNCORP	N	A+	30/06/16	TD	3.00%	2,000,000.00
01/02/16	2,000,000	POLICE CREDIT UNION	P	NR	01/08/16	TD	3.10%	2,000,000.00
05/02/16	2,000,000	ME BANK	N	BBB	06/06/16	TD	2.95%	2,000,000.00
09/05/16	1,000,000	NEWCASTLE PERMANENT	P	BBB+	08/08/16	TD	2.85%	1,000,000.00
17/05/16	2,000,000	BANKWEST	N	A1+	04/07/16	TD	2.60%	2,000,000.00
01/03/16	2,000,000	BEYOND BANK	P	A2	01/06/16	TD	3.00%	2,000,000.00
03/03/16	2,000,000	SUNCORP	N	A1	01/06/16	TD	3.01%	2,000,000.00
09/03/16	2,000,000	SUNCORP	N	A1	07/06/16	TD	3.02%	2,000,000.00
05/05/16	2,000,000	BEYOND BANK	N	A2	03/08/16	TD	3.10%	2,000,000.00
10/05/16	2,000,000	ME BANK	N	BBB	07/09/16	TD	2.95%	2,000,000.00
10/05/16	2,000,000	ME BANK	N	BBB	08/08/16	TD	2.95%	2,000,000.00
13/05/16	2,000,000	ME BANK	N	BBB	11/08/16	TD	2.90%	2,000,000.00
17/05/16	2,000,000	ME BANK	N	BBB	16/08/16	TD	2.90%	2,000,000.00
23/05/16	1,000,000	POLICE CREDIT UNION	N	NR	23/09/16	TD	2.95%	1,000,000.00
N/A	2,218,645	CBA BUSINESS ONLINE SAVER	N	A	N/A	CALL	1.80%	2,218,645.21
Total	80,718,645					AVG	2.95%	80,743,045.21

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

Note 2.

Type	Description	
TD	Term Deposit	Principal does not vary during investment term. Interest payable is fixed at the rate invested for the investment term.
CALL	Call Account	Principal varies due to cash flow demands from deposits/withdrawals, interest is payable on the daily balance.

Note 3. Term Deposits can be traded on a day-to-day basis, and therefore Council is not obliged to hold the investments to the maturity dates.

5
 10 For the month of May 2016 (to 24 May 2016), as indicated in the table below, there is a dissection of the investment portfolio by investment type. It illustrates the current fair value of investments has remained the same since April 2016, but overall is still demonstrating a cumulative unrealised gain of \$24,400.

Dissection of Council Investment Portfolio as at 24 May 2016

Principal Value (\$)	Investment Linked to:-	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
78,000,000.00	Term Deposits	78,000,000.00	0.00
2,218,645.21	Business On-Line Saver (At Call)	2,218,645.21	0.00
500,000.00	Bonds	524,400.00	24,400.00
80,718,645.21		80,743,045.21	24,400.00

5 The current value of an investment compared to the principal value (face value or original purchase price) provides an indication of the performance of the investment without reference to the coupon (interest) rate. The current value represents the value received if an investment was sold or traded in the current market, in addition to the interest received.

10 The table below provides a reconciliation of investment purchases and maturities for the period 30 April 2016 to 24 May 2016 on a current market value basis.

Movement in Investment Portfolio – 30 April 2016 to 24 May 2016

Item	Current Market Value (at end of month) \$
Closing Balance at 30 April 2016	78,743,045.21
Add: New Investments Purchased	26,000,000.00
Add: Call Account Additions	0.00
Add: Interest from Call Account	0.00
Less: Investments Matured	22,000,000.00
Less: Call Account Redemption	2,000,000.00
Less: Fair Value Movement for period	0.00
Closing Balance at 24 May 2016	80,743,045.21

15 **Investments Maturities and Returns – 30 April 2016 to 24 May 2016**

Principal Value (\$)	Description	Type	Maturity Date	Number of Days Invested	Interest Rate Per Annum	Interest Paid on Maturity \$
1,000,000.00	Bankwest	TD	02/05/16	90	2.95%	7,273.97
2,000,000.00	NAB	TD	02/05/16	91	3.02%	15,059.82
2,000,000.00	NAB	TD	05/05/16	90	3.02%	14,893.16
1,000,000.00	NAB	TD	09/05/16	91	3.02%	7,529.32
1,000,000.00	Newcastle Permanent	TD	09/05/16	91	3.00%	7,479.45
2,000,000.00	ING Bank	TD	10/05/16	182	2.90%	28,920.55
2,000,000.00	Bank of Queensland	TD	10/05/16	182	2.90%	28,920.55
2,000,000.00	NAB	TD	12/05/16	90	3.01%	14,843.84
2,000,000.00	ING Bank	TD	12/05/16	182	2.90%	28,920.55
2,000,000.00	Bankwest	TD	17/05/16	90	2.95%	14,547.95

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.2

Principal Value (\$)	Description	Type	Maturity Date	Number of Days Invested	Interest Rate Per Annum	Interest Paid on Maturity \$
2,000,000.00	NAB	TD	19/05/16	90	3.02%	14,893.15
2,000,000.00	NAB	TD	23/05/16	91	3.02%	15,058.63
1,000,000.00	Bankwest	TD	23/05/16	90	3.00%	7,397.26
22,000,000.00						205,738.20

5 The overall 'cash position' of Council is not only measured by what funds Council has invested but also by what funds Council has retained in its consolidated fund or bank account as well for operational purposes. In this regard, for the month of May 2016 (to 24 May 2016) the table below identifies the overall cash position of Council as follows:

Dissection of Council Cash Position as at 24 May 2016

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Investments Portfolio			
Term Deposits	78,000,000.00	78,000,000.00	0.00
Business On-Line Saver (At Call)	2,218,645.21	2,218,645.21	0.00
Bonds	500,000.00	524,400.00	24,400.00
Total Investment Portfolio	80,718,645.21	80,743,045.21	24,400.00
Cash at Bank			
Consolidated Fund	538,201.89	538,201.89	0.00
Total Cash at Bank	538,201.89	538,201.89	0.00
Total Cash Position	81,256,847.10	81,281,247.10	24,400.00

10 Financial Implications

Council uses a diversified mix of investments to achieve short, medium and long-term results.

Statutory and Policy Compliance Implications

15

In accordance with Regulation 212 of the Local Government (General) Regulation 2005, the Responsible Accounting Officer of Council must provide Council with a monthly report detailing all monies Council has invested under section 625 of the Local Government Act 1993.

20 The Report must be presented at the next Ordinary Meeting of Council after the end of the month being reported. In this regard, the current Council Meeting cycle does not always allow this to occur, especially when investment valuations required for the preparation of the report, are often received after the deadline for the submission of reports for the meeting. Endeavours will be made to ensure the required report will be provided to Council and this will for some months require reporting for one or more months.

25

Council's investments are carried out in accordance with section 625(2) of the Local Government Act 1993 and Council's Investment Policy. The Local Government Act 1993 allows Council to

invest money as per the Ministers Order – Forms of Investment, last published in the Government Gazette on 11 February 2011.

5 Council's Investment Policy includes the objective of maximising earnings from authorised investments and ensuring the security of Council Funds.

10 Council at its Ordinary Meeting held 8 October 2015 resolved through resolution **15-515** to insert a new objective into its adopted Investment Policy, which gives a third tier consideration by Council to Environmental and Socially Responsible Investments, when making investment decisions.

Report No. 13.3 **Report of the Public Art Assessment Panel meeting 5 May 2016**
Directorate: Corporate and Community Services
Report Author: Joanne McMurtry, Community Project Officer
File No: I2016/471
Theme: Society and Culture
 Community Development

5

Summary:

10

A Public Art Assessment Panel meeting was held on 5 May 2016. This report provides the minutes of the meeting. A number of public art items were discussed and the recommendations presented in this report are supported by staff.

15

RECOMMENDATION:

1. That Council note the Minutes of the Public Art Assessment Panel held on 5 May 2016.
2. With regard to public art on Byron Shire water and sewer infrastructure, that Council:
 - a. Appoint Kelly Reiffer to undertake the Sewer Infrastructure commission on the following sewer pump stations:

Byron Bay	
3002	Tennyson Street Recycled Water station, Tennyson St
3006	Marine Parade, Wategos
3023	Bayshore Drive, Industrial Estate

- b. Note that the Water Infrastructure project will be delayed with a further report to be provided to the next scheduled PAAP meeting on 18 August 2016.
3. With regard to priority public art locations in Ocean Shores and Suffolk Park, that Council:
 - a. Note the submission document tabled at the meeting on 5 May 2016 (Attachment 2 - #E2016/31580);
 - b. Provide in principal support for public art in various locations in Ocean Shores;
 - c. Recommend that the locations identified be the subject of further investigations by the appropriate Council staff with regards to land ownership and requirements.
4. With regard to the public art proposal from Brunswick Nature Sculpture Walk, Council:
 - a. not support the purchase of the permanent sculpture "Oh My Cod" by David Walsh at this time, but to defer consideration until the completion of a regional analysis for purchasing and commissioning public art is completed.
 - b. write to Brunswick Nature Sculpture Walk with a suggestion to apply for Council's next round of Events and Festivals Sponsorship Funding for the proposed 2018 event.
5. That Council not proceed with the Gillie and Marc offer to work with Byron Shire

Council for the reasons outlined below:

- a. the artwork is not by a local artist
- b. the costs of materials and shipping the artwork to/from Sydney are not within the scope of the public art budget
- c. maintenance of a bronze sculpture would be significant and not within Council's current resources.

6. With regard to the Public Art Small Grants Program 2016:

- a. Council support the submission from Chloe Rowland for the 'Bangalow Wall' community project with a small grant of \$1,000.
- b. That the successful applicant be notified in writing and provided with a project/ grant acquittal and reporting mechanism for submission at the conclusion of the project.

Attachments:

- 1 Minutes of the Public Art Assessment Panel meeting 5 May 2016, E2016/29572
- 5 2 Public Art in OceanShores locations - tabled at PAAP meeting 5 May 2016, E2016/31580
- 3 Living OnThe Edge art proposal as submitted to the Public Art Assessment Panel 5/5/16, E2016/31576

10

Report

5 A Public Art Assessment Panel meeting was held on 5 May 2016. Updates were provided regarding projects already progressing, and the Panel considered several submissions and public art proposals, including to the Public Art Small Grants Program 2016.

The Panel made several recommendations to Council as provided on the first page of this report, and these recommendations are supported by staff.

10 With regard to item 5.2 – priority public art locations in Ocean Shores and Suffolk Park, a submission was tabled at the meeting and is provided as attachment 2.

15 With regard to item 6.4 – Living on the Edge Project, artwork designs were tabled at the meeting and are provided as attachment 3.

Financial Implications

20 The Public Art budget year-to-date balance is approximately \$14,000 remaining after the allocations for budget outlined in the recommendations, being \$1,000 for the Public Art Small Grants Program 2016.

Statutory and Policy Compliance Implications

25 Public Art Policy
Public Art Guidelines and Criteria

Report No. 13.4 **Local Government NSW - Membership Renewal 2016/17**
Directorate: Corporate and Community Services
Report Author: David Royston-Jennings, Corporate Governance and Strategic Planning Officer
5 Trish Kirkland, Manager Governance Services
File No: I2016/587
Theme: Corporate Management
10 Councillor Services

Summary:

15 At the Ordinary Meeting of Council on 19 May 2016, Council resolved that consideration of Council's continuing membership to Local Government NSW be deferred until the Ordinary Meeting on 9 June 2016 (Council Resolution **16-261**).

20 This report provides an overview of the services and benefits provided by the industry association Local Government NSW, including information on service usage and possible impacts of ceasing membership.

RECOMMENDATION:

That Council maintain its membership with Local Government NSW.

Attachments:

- 25
- 1 LGNSW Letter to Byron Shire 25 May 2016, E2016/34740
 - 2 LG NSW About Us, E2016/35496

Report

Formally known as The Local Government Association of NSW and the Shires Associations of NSW, the two organisations officially became Local Government NSW (LG NSW) on 1 March 2013, uniting and strengthening the voice of the local government sector to become the peak industry association that represents the interests of all 152 NSW general purpose councils, 12 special purpose councils and the NSW Aboriginal Land Council.

LG NSW's objective is to strengthen and protect an effective, democratic system of Local Government across NSW by supporting and advocating on behalf of member councils and delivering a range of relevant, quality services.

LG NSW achieves this by:

- Actively and persuasively representing the views of Local Government to the NSW and Australian Governments
- Providing effective, responsive and accountable leadership to member councils
- Providing a comprehensive range of high-quality services and policy advice to its members
- Increasing the capacity of Local Government to deliver quality services and meet the needs of local communities across NSW
- Enhancing the profile and building community trust in and awareness of Local Government.

LG NSW is the only employer party to the major industry award covering Local Government employees - the *Local Government (State) Award*, and in this role:

- Represents Local Government employer interests when lobbying other spheres of Government on industrial and workforce development initiatives.
- Make submissions.
- Appear in employment related matters before courts and tribunals, and in the negotiation and making of awards affecting councils and their employees.

Byron Shire Council pays an annual membership fee and receives:

- an allocation of 3 votes in the election of Board of Directors,
- an invitation to participate in the annual policy-making event for NSW Councils - the LG NSW Conference, and
- access to a range of services, as set out in Table 1

LG NSW is a member of Australian Local Government Association (ALGA) - a federation of state and territory local government associations. ALGA provides a range of services to its member associations and, through them, local councils throughout Australia. These include:

- information on national issues, policies and trends affecting local government via the Internet, newsletters, special reports and conferences
- representation on national bodies including the Council of Australian Governments, Ministerial Councils, intergovernmental committees and specialist bodies, including United Cities and Local Governments
- liaison and negotiation with a wide range of Commonwealth ministers and departments, shadow ministers and political parties, as well as other national organisations related to local government
- policy development to provide a local government perspective on national affairs

The ALGA represents local government on national bodies and ministerial councils, provides submissions to government and parliamentary inquiries, raises the profile and concerns of local

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.4

government at the national level to provide forums to guide the development of national local government policies.

5 The ALGA convenes the National General Assembly of Local Government held in June each year in Canberra. The National General Assembly brings together several hundred delegates from councils across Australia to move and debate resolutions of concern to local government. Speakers include prominent local government leaders, national political leaders and leading Australian experts and academics from fields of interest and relevance to local government.


10 The ALGA's policies are determined by the ALGA Board, consisting of two representatives from each of the member associations.

Byron Shire Council is represented at ALGA, via our membership to Local Government NSW.

15

Table 1 – LG NSW Services

Service	Service Summary	Service used by Byron Shire Council
Local Government Procurement	Local Government Procurement (LGP) provides a fully-integrated procurement service to councils and associated organisations in NSW. LGP provide a range of services, including supply arrangements established by LGP, as a prescribed provider under Local Government (General) Regulations, for cost-effective solution to supply councils with a range of goods and services.	✓
	<u>Staff Comment</u> -The Local Government Procurement service is extensively used by staff but membership to Local Government NSW is not conditional on Byron Shire Council accessing the services.	
Sustainable Choice	<p>Sustainable Choice is a program to assist councils in NSW to integrate sustainability into their procurement systems.</p> <ul style="list-style-type: none"> • Website access containing a database of suppliers to enable staff to find products and services. • Up-to-date product development through forums with suppliers. • Fact and guidance sheets on specific products, services and sustainable purchasing issues. • Access to the case studies database and assistance with developing case studies for promotion. • Access to in-house staff training. • Invitation to a series of sustainable procurement workshops and forums. • Part of a network of councils. • Attendance at network meetings with other members to facilitate cooperation and shared learning. • Quarterly newsletter showcasing council achievements, new products and interesting facts. • Annual sustainable procurement scorecard and annual report that identifies council progress. • Access to a range of resource documents, including: 	✓




	<ul style="list-style-type: none"> ○ Other councils' sustainable procurement, fleet and events policies. ○ Pre-prepared draft media release. ○ Sustainable tendering guidelines. ○ Product briefing papers. ○ Past workshop resources and presentations. 	
	<p><u>Staff Comment</u> - The Sustainable Choice service offers a range of services that Council currently access, such as:</p> <ul style="list-style-type: none"> ● The Sustainable Choice website, allows Council staff to search for suppliers that offer more sustainable products and services. Although this service is not at present widely used, staff have embedded this service in new sustainable procurement initiatives that are currently being planned for roll out to the organisation. ● Council participate in an annual survey and receive a score on our sustainable procurement maturity. Staff use these results to help track our progress in improving sustainable procurement. ● Forums: Informative and helpful in ensuring staff keeping abreast of new sustainable products that are available to Council in the region, networking and gathering ideas from other councils. ● Training: Sustainable Choice run training sessions for council staff to assist with the implementation of sustainable procurement. We haven't taken up this option yet but it's good to have it available to us. <p>If the Sustainable Choice service was no longer available then Council staff would lose access to a wide range of high quality resources that we intended to be used to implement sustainable procurement in the next few months as part of the Strategic Procurement Roadmap delivery.</p>	
<p>Management Solutions</p>	<p>LG NSW Management Solutions provides human resource and employment services to councils, such as:</p> <ul style="list-style-type: none"> ● Executive and specialist recruitment ● Locums – for temporary general manager and senior staff assignments ● Performance review facilitation for executive staff performance reviews. ● Organisational and structural reviews to strengthen and increase performance and sustainability ● Staff engagement surveys to give decision-makers insight into the health of the organisation ● Comparative data to benchmark councils' remuneration and other HR indicators to enables councils to monitor organisational effectiveness including unplanned absenteeism, attrition, leave liability, WH&S and learning and development. ● Succession planning tools to assist management to identify and develop future professional and management staff. ● Corporate knowledge retention by providing transition to retirement planning tools to councils. 	
	<p>Note: <i>This recruitment service would still be available on a fee for service basis should Council choose to withdraw from</i></p>	

<p>Learning Solutions</p>	<p><i>membership of LGNSW.</i></p> <p>LG NSW Learning Solutions coordinates relevant, high quality and cost effective training programs and seminars that are:</p> <ul style="list-style-type: none"> • Tailored to Local Government • Delivered by presenters experienced in working with councils • Invaluable in the professional development of elected members and staff. 	<p align="center">✓</p>
<p>Industrial Relations</p>	<p>LG NSW Industrial Relations unit provides advice to councils on award compliance and industrial matters; resolves industrial issues and grievances, formalises enterprise agreements, negotiates with employees and unions; and provides representation to council at the Industrial Relations Commission (IRC), Administrative Decisions Tribunal (ADT) and Australian Human Rights Commission (AHRC).</p>	<p align="center">✓</p>
<p><u>Staff Comment</u> - Staff reported regular utilisation of the Industrial Relations service in Local Government NSW and HR Advance, which provides an extensive library of HR policies, agreements, forms and checklists. Frequency of access varies but at any point in time, staff source telephone advice or HR information several times per month. Benefits include:</p> <ul style="list-style-type: none"> • Keeping abreast of LG NSW HR and IR related challenges, decisions, policy positions, etc. • HR resources at our finger tips which saves time and ensures we don't have to reinvent the wheel • Access to training and seminars and experienced local government facilitators • Access to comparative HR benchmark data • Access to the Industrial Award Service and updates <p>If the above services were discontinued the impact would be noticed but not fatal to Council's operations. The time taken to undertake some of Council's activities would increase and retaining external training providers outside of LG NSW is likely to be more costly. Access to these services are incorporated in the annual subscription paid by Council.</p> <p>While LG NSW is the only employer party to the major industry award covering Local Government employees - the <i>Local Government (State) Award</i>, Council's broader IR interests would still be protected as the LG sector would continue to have representation at Award negotiations. Council rarely uses the LGNSW IR Unit as an advocate in matters before the NSW IR Commission as it receives much better service using alternative IR advocates and enjoys a very high success rate as a consequence.</p>		

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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<p>Legal Advice</p>	<p>LG NSW provides high-level legal policy advice on issues affecting local government to mayors and general managers on a wide range of issues affecting local government, such as:</p> <ul style="list-style-type: none"> • Council meetings and procedural issues • Local Government Act and Regulations • Codes of Conduct • Freedom of Information • Ombudsman • Privacy • Administration of LG NSW's Legal Assistance Scheme for Councils 	
<p><u>Staff Comment</u> – This is a service that is available for use by the Mayor, General Manager and Senior staff. The frequency of use is increasingly irregular due to Council now having its own in-house Legal Services Team. Council's external legal panel members are also available to provide advice to Council - they also conduct useful legal seminars for client councils and visit Council to conduct information sessions for councillors and staff.</p> <p>The cost of LGNSW legal services are incorporated in the annual subscription paid by Council – Council does not utilise this service sufficiently for it to be of significant value.</p>		
<p>Grants</p>	<p>LG NSW work with the NSW State and Federal Governments to offer councils capacity building, development support and other resources across important Local Government functions.</p> <p>Amongst the resources offered are important grant programs managed under agreements with government agencies, such as:</p> <ul style="list-style-type: none"> • Liveable Communities Grant • Age-Friendly Community Local Government Grants • Roadside Vegetation Implementation Project Grant • Creating Liveable Communities Competition • Creative Ageing Local Government Grants 	
<p><u>Staff Comment</u> – Staff receive the grant alert notices via LG NSW, however, these are also available from Ministerial press releases. Capacity building and support are accessible from other agencies if required. There would be a minor negative impact if access to the grant service was no longer available.</p>		
<p>Mayoral Mentor Service</p>	<p>LG NSW offers a Mayoral Mentor Service, with access to confidential advice from highly experienced colleagues, for new and returning mayors of all NSW member councils and the chairs of member County Councils.</p>	
<p><u>Staff Comment</u> – Staff are unable to provide comment on the frequency of use for this service but is a service that available to the Mayor.</p>		

Councillor Support	LG NSW provides information, resources and training for councillors to guide and support them throughout their term.	✓
<u>Staff Comment</u> – Staff are unable to provide comment on the frequency of use for this service but is a service that available to Councillors.		

Further information on the range of services that LG NSW offer to its member councils can be found at <http://www.lgnsw.org.au/member-services>.

5 For further information about LG NSW, refer to “About Us” contained at Attachment 2 and in more detail at <http://www.lgnsw.org.au>.

10 Staff contacted LG NSW to consult on membership renewal and services. As a result of this contact, LG NSW wrote to the Mayor, refer Attachment 1 and have undertaken to arrange a visit to Byron Shire Council at a mutually convenient time in the coming months.

The attached letter also includes additional information on the benefits to Council in maintaining its membership with LG NSW.

15 **Financial Implications**

The annual membership fee is calculated by LG NSW as follows:

- 20 • 40% flat fee applicable to all NSW General Purpose Councils
- 30% scale – based on population
- 30% capacity to pay – based on annual expenditure

25 For the 2015/16 financial year the membership fee was \$38,625 plus GST. The draft 2016/17 budget currently on public exhibition provides \$38,900 (plus GST) for the coming financial year membership fee.

Statutory and Policy Compliance Implications

30 Nil.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.5 **Byron Bay Town Centre Draft Masterplan - final report**
Directorate: Sustainable Environment and Economy
5 **Report Author:** Jane Laverty, Economic Development and Tourism Coordinator
File No: I2016/395
Theme: Economy
10 Economic Development

Summary:

The Byron Bay Town Centre Draft Masterplan was placed on exhibition for community comment from Thursday 3 March to Thursday 7 April 2016. <http://www.byron.nsw.gov.au/byron-bay-masterplan>

The exhibition period provided further community engagement, information sharing and presentation opportunities including 2 community presentations, a 4 page lift out in the Byron Shire News, a static exhibition display in the Byron Bay Library foyer and conversations with Council staff at 2 Farmers Markets and a range of times over a 4 day period in the Library Foyer.

145 submissions were received with 2 submissions including signature petitions. A copy of all of the submissions accompanied by the Exhibition Comments Summary and Response Report and draft Amendments Log was provided to Councillors as part of a Strategic Planning Workshop on 26 May.

This report references key issues and proposed amendments to the Draft Masterplan along with additional recommendations as part of endorsing the final Byron Bay Town Centre Masterplan for implementation.

RECOMMENDATION:

1. **That Council note the attached Byron Bay Town Centre Draft Masterplan Exhibition Comments Summary and Response Report.**

2. **That Council endorse the amendments detailed in the Byron Bay Town Centre Draft Masterplan Amendments Log to the plan for final endorsement including changes to:**
 - **Catalyst Site 3 – Main Beach Short Term Priorities summary**
 - **Catalyst Site 3 – 3. Swimming Pool Review**
 - **Catalyst Site 3 – 4. Main Beach Car Park**
 - **Catalyst Site 6 – Byron Recreation Ground Short Term Priorities summary**

as detailed in this report. These amendments once endorsed will be included in a final Masterplan document.

3. **That Council endorse the additional recommendations within the report relating to Communications, Governance and Immediate Key Project Consultation.**

Attachments:

- 1 BBTM - Exhibition Comments Summary and Response Report, E2016/39077
- 2 BBTM Amendments Log, E2016/35646
- 3 BBTM Catalyst Site image updates, E2016/35647

Report

5 The Byron Bay Town Centre Masterplan has been in development since September 2014 when Council appointed consultants, McGregor Coxall to the project and initiated the first community engagement sessions in October 2014.

10 The McGregor Coxall led team of 10 disciplines worked closely with the Byron Bay community including an external Bounce Group, an internal staff working group, executive team management and Councillors to develop the Draft Masterplan. The consultation and engagement program to develop the plan was comprehensive and included the establishment and use of a dedicated project website www.byronbayourplan.com.au and a series of community engagement workshops, catalyst site walks, business sessions, landholder sessions and community surveys.

15 The Byron Bay Town Centre Draft Masterplan was promoted for exhibition and community comment for 5 weeks commencing on Thursday 3 March and concluding on Thursday 7 April 2016. The exhibition period provided further opportunity for community engagement, information sharing and presentations, including:

- 20 ▪ 2 x community presentation sessions held on Friday 18 March featuring a full presentation of the draft plan by Michael Cowdy of McGregor Coxall, Mayor Cr Simon Richardson, 2 Bounce Group representatives, Mr Chris Hanley and Mr David Brown along with Byron Shire Council Management staff. Over 300 people attended over the 2 sessions.
- 25 ▪ The distribution of a 4 page feature draft Masterplan summary via the Byron Shire News to over 10,000 local households with 500 additional copies provided in Council's foyer and at key events.
- 30 ▪ A static exhibition display set up in the Byron Bay Library Foyer and in the foyer of Council offices at Mullumbimby.
- 30 ▪ Staff were also available at 2 Byron Bay Farmers Markets and held Masterplan conversations in the library foyer from Monday 21 March to Thursday 24 March at selected times.
- 30 ▪ Key agencies were advised of the draft plan and sent links to the exhibition documents and the project website for access to the previously published place understanding reports.

Additional media support to promote the exhibition period was provided by local media; Byron Shire News, Byron Shire Echo, ABC North Coast and BayFM.

35 **Submissions with community comment**

40 145 submissions were received, whilst many focussed on key catalyst sites, there was a good level of positivity for the future implementation of the Plan also expressed. A snapshot of the issues canvassed in the submissions in terms of number of comments is provided below:

Topic area	# submission comments
Catalyst Site 1 – Butlers Street & Railway Square	43
Catalyst Site 2 – Lawson Street Car Park Precinct	5
Catalyst Site 3 - Main Beach	112
- Swimming pool review	101
- Main Beach car park	86
Catalyst Site 4 – Bay Lane Precinct	9
Catalyst site 5 – Sandhills Community Hub	12
Catalyst site 6 – Byron Recreation Grounds	65
- Secondary sporting fields/prioritised youth	49
Place Vitality Criteria	19
Planning Priorities	16

2 petitions were also lodged as submissions, including:

- 5
- 204 signatures relating Catalyst site 3 Main Beach (Swimming Pool Review and Main Beach Car Park) and Catalyst Site 6 Byron Recreation Grounds.
 - 632 signature petition relating to Catalyst site 3 (Main Beach Car Park)

10 The top 3 key issues that arose during the exhibition period, and as also represented in the submissions received, primarily revolve around 2 Catalyst Sites; Main Beach (CS3) and the Byron Recreation Grounds (CS6).

In summary:

15 Catalyst Site 3 – Main Beach

Swimming Pool Review

20 The short term project to undertake a Swimming Pool Review to determine the future needs of the swimming facilities in the Shire has created concerns with the Byron Bay swimming pool user groups. Submissions indicated a shared concern and regard for the current swimming pool facility, its importance to swim clubs and families who have children participating in after school activities and ask Council to retain the pool in its current location and invest in its upgrade.

Main Beach Car park

25 The short term project to redesign the Main Beach Car Park that may require a reduction in size and scale, to allow for the coastal works and the establishment of a boardwalk, has created a concern with car park users. Submissions received demonstrate the emotional value some members of the community attach to the car park as a meeting place and important place to connect to their sense of home in Byron Bay.

30 Byron Recreation Grounds [short term priorities introduction]

35 The draft Master Plan proposes that this Catalyst site progressively move towards a more passive use of the recreation grounds with unstructured open space facilitating informal sporting and recreation uses by the broader community and providing valuable green space linking residential precincts to the Byron Town Centre. Upgrades to the hall, a children's play zone and improvement works to grounds is complemented by longer term installation of a wetland walk and recreation circuit. A number of submissions communicate concern about losing the recreation grounds as the home ground for the Byron Bay Football Club and instead seek establishment of club house facilities and support to retain the grounds for both youth and adult games. However, other submissions received support reducing noise impacts and increasing broader community use of the grounds.

40

Exhibition Comments Summary and Response Report

45 The attached Exhibition Comments and Response Summary Report is aimed at providing an overview of community comments along with staff and consultant responses to assist with considering the submissions and any amendments to the draft Master plan. This report has been utilised at a Councillor Strategic Planning Workshop on 26 May along with a proposed draft amendments log document to inform discussion.

Proposed adjustments to the Byron Bay Town Centre Master plan include:

A range of adjustments relating to project detail clarification, typographical errors and/or images have been suggested as per the attached amendments log. However, the following text changes are seen to be of most concern to the community, hence detailed specifically within this report and proposed for Council endorsement along with those provided in the log.

5.4 Main Beach*Short Term Priorities [2016-2021]*

Main Beach should be celebrated as a natural foreshore environment that supports both active and passive recreational uses, strengthening Main Beach's role as Byron Bay's most popular asset.

Recognising the Byron Bay Pool facility has both a long history of community support and a memorial dedication; it is considered important to understand the current user needs and broader community aspirations. The importance of the foreshore car park area to locals has been expressed throughout the Master plan processes. Byron's surf culture and connection to this space is recognised as is the strong community desire to create a more visually appealing space.

A redesigned foreshore parkland, integrating car parking, a new Main Beach boardwalk, extended Apex Park and Jonson Street shared link will enhance the iconic views towards Byron Bay's hinterland. Ongoing community consultation will be integral in the process of determining the best balance of uses for the space. In collaboration with Crown Lands the existing surf lifesaving club should be redeveloped into a modern facility, whilst the current and future demands for swimming and aquatic facilities should undergo a review.

3. Swimming Pool Review

The community's swimming and aquatic needs should be reviewed taking into account all current and future uses in the context of costs associated with maintenance and upgrades to this critical infrastructure. As part of the review the adjacent public domain should be considered for improvement and options for swimming pool facilities and locations investigated. All specific user groups and stakeholders would be engaged in the review process.

4. Main Beach Car Park

The importance of the car park to locals as a meeting point has been expressed through the master plan process. Through an inclusive community engagement process the Main Beach car park should be redesigned to enable a more people friendly foreshore environment, including vehicular access, car spaces, a new boardwalk, coastal works and a larger recreational space. Alternate parking surfaces could be introduced to better integrate the car park facility into the parklands. The car park should become a flexible space that has the capability to change its function dependent on varying demand and usage throughout the day and week.

Catalyst Site 6 - Byron Recreation Grounds*Short Term Priorities [2016-2021]*

The Byron Recreation Ground should retain its role as a local sporting, recreation and community resource that is used for a range of compatible activities for all ages, with a focus on children and youth.

The Cavanbah Sports Centre should remain Council's focus for facilities for higher grade competitive sports.

The Byron Recreation Ground should be strongly linked to the Town Centre, Sand hills Scrubland Walk and foreshore reserves, local schools and adjoining residential areas. The community should continue to play a vital role in planning for future improvements and use.

Additional recommendations

In addition to the consultant's proposed changes to the wording of the Master plan staff also recommend, in response to and acknowledging the community comments, the following actions:

5

- Communication: Council continue to produce, promote and distribute the Byron Bay Our Plan eNews as a means of keeping stakeholders updated on key implementation activity, how the Master plan document is being utilised to attract State and Federal Government funding and to encourage investment into improvement from existing and new landowners in the Town Centre.

10

- Governance: Establish an implementation group (identified in the Master plan as Byron Bay Our Future Leadership Team) as a matter of priority. A workshop with Councillors will be scheduled as soon as possible to finalise the framework and process for calling for expressions of interest.

15

In the meantime, to keep the Master plan momentum going while the implementation group is being established Council will proceed with the projects that are already funded as well as grant funding opportunities that arise and will keep stakeholders updated through the e-news.

20

- Immediate key project consultation: Council staff will continue to liaise with user groups connected to the Main Beach Catalyst site short term projects to discuss next steps and engagement.

25

Financial Implications

Nil.

30

Statutory and Policy Compliance Implications

Nil.

Report No. 13.6 PLANNING - Road Airspace - Audit of Roads Act Approvals

Directorate: Sustainable Environment and Economy

Report Author: Shannon Burt, Director Sustainable Environment and Economy

Trish Kirkland, Manager Governance Services

5 **File No:** I2016/385

Theme: Ecology

Development and Approvals

10 **Summary:**

This report provides information about previous audits and findings regarding 15 properties with structures occupying road airspace for commercial occupation.

15 Based on Council's adopted 2015/16 Fees and Charges for Footpath Dining and Display of Goods and Chattels, and using approximate floor area for the 15 properties identified as commercial occupation, the potential revenue is estimated at \$250,000 per annum.

20 This report recommends a change in methodology to advance revenue generation as part of the Financial Sustainability Project Plan (FSPP) initiatives from road airspace commercial occupation within the Shire.

25 A summary table of the properties, detailed information and history from the audits and further details in the form of diagrams and plans are attached and included in this report for consideration by Council.

NOTE TO COUNCILLORS:

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

35

RECOMMENDATION:

1. **That amendments to the Airspace Policy and Fees and Charges be progressed to accord with the Roads Act approval process for road airspace commercial occupation.**
2. **That initiatives, including consultation with stakeholders and the issuing of Orders, be progressed to regulate road airspace occupation and levy appropriate commercial rental.**

Attachments:

- 40
- 1 Report 11.14 "Airspace usage over the road reserve, extraordinary held 20 May 2010, DM954745
 - 2 Photos/Plans Audit of Airspace, E2016/31960
 - 3 Report - SPC Meeting 26 May 2011 - Identifying cost savings / revenue within Environment Planning & Natural Resources, DM1090790

45

 - 4 Confidential - Estimated Road Airspace Commercial Occupation Rental Income, E2016/32716

Report

Background

- 5 Historically, in relation to commercial airspace occupation, there has been much confusion about:
1. The legislative relationship between the Environmental Planning and Assessment (EP&A) Act and the Roads Act;
 2. The inability of development consent, under the EP&A Act, to authorise the occupation of the airspace or compel an applicant to execute a lease agreement to validate that airspace occupation under the Roads Act;
 - 10 3. Council’s ability to approve and enforce airspace occupation using the existing provisions of the Roads Act approval processes - to levy and enforce rental fees for such occupation and apply maintenance conditions for associated structures (sections.125, 126, 127 - restaurant, sections.138, 139 – purpose of selling any article or service); and
 - 15 4. The cost, time, and administrative burden of granting and registering a lease in accordance with the provisions of the Roads Act, Conveyancing Act, and Real Property Act compared to utilising the approval provisions provided by the Roads Act.

A. EP&A and Roads Acts (1 & 2 above)

20 The Roads Act governs the occupation of road airspace. Whilst the EP&A Act and Roads Act do and should operate concurrently, Council has no authority as the “consent authority” under the EP&A Act (via development consent) to approve or consent to structures on or over the road, and cannot enforce leases for road airspace.

25 Accordingly, if development consent under the EP&A Act has been granted for an erection of a permanent structure occupying the road airspace, it does not entitle the applicant or the structure to occupy the airspace and cannot compel the applicant to execute a lease agreement (nor provide for Council to enforce its terms and conditions or collect outstanding lease rental debts).

30 B. Revenue generation using Roads Act approvals (3 above)

35 Council has the legislative power, under the Roads Act, to approve a road airspace structure, apply any conditions under sections 139A, 126, and 127. This includes conditions to levy and collect rent, require the applicant to maintain the structure, or remove the structure in certain circumstances (and on expiry of the Roads Act approval).

40 The term of the Roads Act approval, under certain conditions, cannot exceed 7 years; however, there is nothing in the Roads Act preventing subsequent approvals. This is a similar, and in some circumstances identical, to the process currently used by Council for footpath dining and goods and chattels approvals and rental (and their associated structures).

45 There is no requirement, under the Roads Act approval process, to refer the approval, rent or other approval conditions to any external agency for concurrent approval/consent and is a function that can be delegated by Council to the General Manager.

C. Revenue generation using leasing agreements (4 above)

50 Council has the power under section 149 of the Roads Act to grant a lease for road airspace, subject to the approval of the Chief Executive – Office of Environment and Heritage. The maximum lease term is 99 years.

The Real Property Act requires any lease in excess of 3 years to be registered on the land title – which requires affixing of the Council Seal. Affixing the Council seal cannot be delegated by Council, as set out in clause 400 of Local Government (General) Regulations.

5 The Conveyancing Act 1919 requires any lease for more than 5 years, including any options for renewal, to be defined as a lot in a current registered plan – creation of a lot in a strata plan for the purposes of a lease. Strata subdivision of a Road Reserve is provided for by section 259 of the Roads Act. The direct cost of establishing a lease in excess of 5-years is approximately \$5,000 to \$6,000 (including valuations, survey, survey linen plans, registration, and lease production).

10 The granting of a lease under section 149 of the Roads Act, however, does not provide the occupant of the road airspace or the owner of the building lawful right for the structure to occupy the road airspace. Only Roads Act approvals under sections 138 or 126 have this effect. Council's ability to legally enforce the terms and conditions of a section 149 road airspace lease, where there is no Roads Act approval for the structure, is problematic when ownership and/or tenancy change, or where lessees fail to pay lease fees and uncollectable bad debts accumulate.

D. Change of Method Recommended

20 In order to progress revenue generation for commercial occupancy of airspace using the most efficient and cost effective process requires a change of method and process.

Given the cost, time, administrative burden, and lawful status of road airspace structures occupying the road airspace with leasing method at point C above; it is recommended that the Roads Act approval process, at point B above, become Council's preferred method to generate revenue for commercial road airspace occupation.

E. Audit – Commercial airspace occupancy

30 In response to a Council resolution about commercial airspace usage, refer Attachment 1 - Report titled *Airspace over the Road Reserve Usage*, considered by Council at an Extraordinary Meeting held 13 May 2010, Council's Compliance team conducted an audit of structures occupying the road airspace for commercial purposes, and identified the following:

- 35 • Balcony Restaurant, Byron Bay
- Byron Pier, Byron Bay
- Cocomangas (now The Sticky Wicket), Byron Bay
- Hogs Breath Café, Byron Bay
- Middle Pub, Mullumbimby

40 The Certification and Approvals team then undertook an audit of the Roads Act approvals for the above premises to establish if the structures were lawfully occupying the airspace - that a section 126 or 138 approval was in place for each.

45 F. Further Actions Considered

If no Roads Act approval exists for a property, an order under section 107 for removal of the structure is an available course of action for Council. If there is an appetite for this kind of approach, an outcome of the section 107 orders would be the lodgement of a Roads Act application for approval of the structure by the owner of the premises.

At this point Roads Act approvals (sections 139/139A or sections 126/127), if granted, would be appropriately conditioned to approve the road airspace occupation for commercial use, ensuring conditions include:

55

- regular rental charges,
- requirements for insurances,
- maintenance, and repair of the structures.

5

G. Airspace Policy

The current Airspace Policy, refer www.byron.nsw.gov.au/publications/airspace-policy was developed to promote revenue generation in 2012, refer Attachment 3 - Council Report titled “7.1 Identification cost saving/revenue within Environment and Planning & Natural Resources Division” considered by the Strategic Planning Committee at its Meeting held 26 May 2011.

This current Airspace Policy enshrines the more complex and expensive option referred to at point C. above, to generate revenue for commercial road airspace occupancy in the Shire.

This current Airspace Policy will need to be reviewed and updated to reflect the change to generating revenue using the Roads Act approval process set out at point B above.

H. Airspace Revenue

There is currently very little revenue generation for the commercial occupation of road reserve airspace.

There are no current Roads Act approvals conditioned to charge rental for the commercial occupation of the road airspace.

Council has one commercial road airspace lease for the use of the balcony area of Hog’s Breath Café. There is currently no Roads Act approval for the lawful occupation of the road airspace and, therefore, no lawful mechanism to enforce the lease agreement. The original lease term has expired, and they are currently holding over on a month-by-month pending the change in method recommended in this report.

I. Fees and Charges

Prior to 2015/16 budget planning year, Council’s adopted fees and charges for airspace occupation was established at 25% of the footpath dining fee. This fee structure appears to have been established to facilitate the recommended method at point B above - although 25% was too low. If this option is indeed progressed, a commercial market-based square metre rate by locality – such as the footpath dining fee is more appropriate.

As part of the FSPP initiatives, all fees and charges were extensively reviewed for the 2014/15 Statement of Revenue Policy. In the fees and charges planning workshop, the airspace rental fees were moved from Roads Act approvals and into the Infrastructure section for leasing fees and changed to “market valuation”, facilitating point C above, and bringing it line with Policy.

The current adopted 2015/16 fees and charges for Airspace occupation are set out below:

	<u>Airspace Leases for S138 Roads Act</u> (structures for commercial floor space under the Airspace Policy)	
50	Documentation Preparation Fees minimum 3 hours	\$400
55	hourly rate in excess of 3 hours	\$135
	Survey, valuation, legal, registration,	

and other expenses	At cost + 10%
Airspace lease fee	Set by Market Valuation

5 The fees and charges will need to be revisited to support the recommended method at point B. above.

Current

10 J. Additional Audit Activities

15 Council's adopted FSPP is driving ongoing revenue generation initiatives that as a result have produced a more in depth audit to determine if road airspace structures for commercial purposes are lawfully occupying road reserve airspace.

20 The audits have found that there are no current approvals in Authority under the Roads Act register for any of the audited premises; and one current lease agreement in the Authority Lease Register for Hogs Breath Café. As such, apart from Hogs Breath Café, there is no revenue generation for the commercial occupation of road airspace.

25 Below is a summary table of the properties (1-15) identified in the airspace audits and the findings of the audits (further details in the form of diagrams and plans are also attached at the end of this report).

Premises Name	Findings
1. The Balcony Restaurant, BYRON BAY	<ul style="list-style-type: none"> • 5A Lawson Street Byron Bay (PN 186200) • No history of Roads Act approvals or lease agreement being entered into. • Searches concluded that no fees have been received by Council from the premises at 5A Lawson Street for the use of the 'balcony' (airspace) area for dining. • Floor plan (5.1998.365.1) dated 1993 indicates balcony area is approximately 81m².
2. Byron Pier, BYRON BAY	<ul style="list-style-type: none"> • 7 Lawson Street Byron Bay (PN 222780) • No history of approvals under the Roads Act 1993 or lease agreements being entered into with Council. • Searches concluded that no fees have been received by Council from the premises at 7 Lawson Street for the use of the airspace area for dining. • Approximate balcony area is 15m².
3. The Sticky Wicket Bar, BYRON BAY	<ul style="list-style-type: none"> • 32 Jonson Street Byron Bay (PN 35100) • No history of Roads Act approvals • 27/07/2004 – Lease agreement entered into between Byron Shire Council and Neil Harold Pearson and Audrey Pearson (owners) for a period of 3 years. • 02/08/2004 – Consent granted for Hoarding Plan – outlining conditions. • Floor plan dated 2003 indicates balcony area is 10m².
4. Hogs Breath Café, BYRON BAY	<ul style="list-style-type: none"> • 4 Jonson Street Byron Bay (PN 211410) • No history of Roads Act approvals • There is a lease agreement in place for the use of the balcony area of Hog's Breath Café. The original term has expired, and they are currently holding over on a month-by-month basis. • Floor Plan from 1995 indicates balcony area is 90m².

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13.6

5. The Middle Pub,
MULLUMBIMBY
 - 46-50 Burringbar Street Mullumbimby (PN 242094)
 - No history of Roads Act approval
 - Airspace Lease Agreement existed between previous owners (Graham and Lorraine Evans) in 1997.
 - Council attempted to enter into an Airspace Lease Agreement with new owners (Mr Evans) to which the owner did not sign.
 - Mr Evans Solicitor's letter confirming 'client feels proposed lease is unacceptable', indicating they would explore their right to an easement.
 - Approximate balcony area is 90m².
6. 28 Jonson Street
Byron Bay,
BYRON BAY
 - 28 Jonson Street Byron Bay (PN 35120) above Witchery.
 - No history of Roads Act approval or lease agreement
 - Floor plan dated 1997 indicates balcony area is 4.5m².
7. The Great
Northern Hotel,
BYRON BAY
 - 35-43 Jonson Street Byron Bay (PN 116100)
 - No history of Roads Act approval or lease agreement
 - 10.2008.742.1 As amended Development Application indicates balcony area is at least 54m².
 - Balcony has not been built yet.
8. 15-17 Byron
Street,
BANGALOW
 - 15-17 Byron Street Bangalow (PN 178590)
 - No history of Roads Act approval or lease agreement.
 - Approximate balcony area is 28m² for residential use.
9. 23-29 Byron
Street,
BANGALOW
 - 23-29 Byron Street Bangalow (PN 239128)
 - No history of Roads Act approval
 - Airspace Licence Agreement signed between The Owners Corporation SP72220 and Byron Shire Council in 2004 – for the airspace over footpath at 23-25 Byron Street. Licence Fee was \$457.60 and the Agreement from 18 May 2004 to 17 May 2007 (DM461834).
 - Approximate balcony area is 37.5m² combined.
10. Country Women's
Association,
BANGALOW
 - 31 Byron Street Bangalow (PN 64320)
 - No evidence of Roads Act approval or lease agreement.
 - Approximate balcony area is 16.2m².
11. 33 Byron Street,
BANGALOW
 - 33 Byron Street Bangalow (PN 239797)
 - No evidence of Roads Act approval or lease agreement.
 - Approximate balcony area is 13.5m².
12. Bangalow Real
Estate / Italian
Diner,
BANGALOW
 - 39 Byron Street Bangalow (PN 64200)
 - 51.2016.1016.1 approval for footpath dining.
 - No history of Roads Act approval or lease for airspace
 - Approximate balcony area is 28.5m².
13. 37 Byron Street,
BANGALOW
 - 37 Byron Street Bangalow (PN 64210)
 - No evidence of Roads Act approval or lease agreement.
 - Approximate balcony area is 22.5m² + 18m²= 40.5m².
14. Summerland
Credit Union,
BANGALOW
 - 42 Byron Street Bangalow (PN 67350)
 - Most recent development consent 10.2015.413.1.
 - No evidence of Roads Act approval or lease agreement.
 - Approximate balcony area is 58.5m².
15. Mercato Shopping
Centre, BYRON
BAY
 - 98-106 Jonson Street, Byron Bay (PN: 34840, 116180, 116190 , 177890)
 - No history of Roads Act approval or lease agreement.
 - Approximate balcony area is 150m².
 - Balcony has not been built yet.

K. Recommended Method

It is recommended that revenue generation using Roads Act approvals, as set out at point B. above, be progressed to ensure a consistent approach to these existing road airspace structures and any new or future ones.

L. Suggested Implementation

Below is a summary outline of the possible next steps for the implementation process to occur:

1. Review and change the Airspace Policy to accord with recommended option
2. Change Council's 2016/17 draft Fees and Charges for road airspace commercial occupation
3. Require Roads Act approvals for structures occupying the road airspace
 - a) Notify premise owners using a Section 107 Order, of the requirement to lodge Roads Act application for approval of the road airspace structure.
 - b) Appropriately conditioned the approvals
 - regular rental charges,
 - requirements for insurances,
 - maintenance, and repair of the structures.
 - c) Consultation with property owners, including:
 - advertise the revised airspace policy for public comment for 28 days,
 - identify and promote a contact representative including phone number and email address,
 - developing key messages, content and FAQs to be published on BSC website,
 - drafting and distributing letters to affected property owners, and
 - conducting one-to-one meetings with affected property owners if required.

Financial Implications

Using estimated floor space for the identified properties, and the 2015/16 footpath dining adopted fees and charges per square metre rental rates, the Confidential Attachment 4 - sets out the estimated rental for each property, and shows the possible potential total annual income for Council of \$261,074.

Statutory and Policy Compliance Implications

Roads Act 1993 Section 107 deals with Obstructions and Encroachments and provides as follows:

- (1) A roads authority may direct:
 - (a) any person who causes an obstruction or encroachment on a public road, or
 - (b) the owner of any land that is used, or is able to be used, in connection with an obstruction or encroachment on a public road, to remove the obstruction or encroachment.
- (2) A direction under this section may specify the period within which the direction must be complied with.
- (3) In the case of an obstruction or encroachment that was created before the alignment of the road, or that is situated on a road that has not been aligned, the period specified in the direction must be at least 60 days.
- (4) This section does not apply to an obstruction or encroachment on a public road if its presence on the road is authorised by or under this or any other Act.
- (5) However, this section does apply to an obstruction or encroachment on a public road if its presence ceases to be authorised by or under this or any other Act.

The general principles that Council should follow in issuing orders is that they should ensure:

- 5 • That the orders are clear and certain as to what needs to be done and by when it needs to be done.
- That the order should require only what is reasonable, proper and within the power of the order to require.
- That the order should use plain English, consistent terminology and explain any technical terms. This includes using terminology compliant with the relevant Act.
- 10 • The order should advise the recipient of the order that non-compliance with the order may lead to enforcement action being taken against them.
- The order is to be signed by a person with delegated legal authority to issue the order.
- The order is to be issued to the correct legal entity.

A template of the Order is as follows:

15

ROADS ACT DIRECTION
Section 107 Roads Act 1993
Obstructions and Encroachments

Property [PROPERTY TITLE]
Description: [PROPERTY ADDRESS]
Parcel No: [PARCEL NUMBER]

20 **Premises**

According to Council records [owner name] is the owner of [property title] also known as [property address npc]. This Section 107 Roads Act 1993 Direction is served upon the owner of the premises.

25 **Circumstances**

Direction

Within <<number of days>> days from the date of this Direction you are required to carry out the following works.

- 30 1. <<works>>
2. <<works>>

Under Section 238 of the Roads Act 1993 Council, as the roads authority may take such action as is necessary to give effect to a direction under the Act if the direction is not complied with in
35 accordance with its terms. The costs incurred by Council in taking action under this section are recoverable from the person to whom the direction was given, as a debt, in a court of competent jurisdiction.

The maximum penalty for not complying with this direction is \$3,300.
40 You may make representations to Council as to why the Direction should not be given, or why the terms or period for compliance with the Direction should be altered. Representation should be made within 21 days from the date of this Direction, to the attention of the General Manager:

- By Email: council@byron.nsw.gov.au
- By Mail: Byron Shire Council, 70-90 Station Street MULLUMBIMBY 2482

45

Should you require further information on this matter, please contact Public & Environmental Services on (02) 6626 7164 or email council@byron.nsw.gov.au

Report No. 13.7 **Submission - Draft North Coast Regional Plan**
Directorate: Sustainable Environment and Economy
Report Author: Alex Caras, Team Leader Land Use Strategy
File No: I2016/400
5 **Theme:** Ecology
 Planning Policy and Natural Environment

Summary:

10 On 2 March 2016 the State Government released the Draft North Coast Regional Plan for public comment. Submissions on the draft plan were due on 2 June 2016. A preliminary staff submission was prepared and submitted to the state government by the 2 June closing date. A copy of this submission is provided with this report for Councils consideration and endorsement.

RECOMMENDATION:

That Council note the contents of this report and endorse the preliminary submission on the NSW Draft North Coast Regional Plan (Attachment '1') as its final submission.

Attachments:

- 20 1 Preliminary submission on the Draft North Coast Regional Plan, E2016/26894

Report

On 2 March the State Government released a Draft North Coast Regional Plan (NCRP) for public comment. The period for submissions closed on 2nd June.

The draft NCRP when adopted by the State Government will replace The Far North Coast Regional Strategy which has been in effect since 2006.

The draft NCRP provides a framework to guide growth in the Far North Coast, Mid North Coast and Lower North Coast subregions over the next 20 years to 2036.

The draft NCRP outlines the following goals for the region:

Goal 1: A natural environment, Aboriginal and historic heritage that is protected and landscapes that are productive

Goal 2: Focus growth opportunities to create a great place to live and work

Goal 3: Housing choice, with homes that meet the needs of changing communities

Goal 4: A prosperous economy with services and infrastructure

Goal 5: Improved transport connectivity and freight networks

Each of the above goals are supported by a range of planning directions and corresponding actions to achieve the draft NCRP vision for a “sustainable future, centred on a prosperous community, healthy environment and attractive lifestyle choices”.

A copy of the Draft North Coast Regional Plan may be accessed at:

<http://www.planning.nsw.gov.au/Plans-for-Your-Area/Regional-Plans/North-Coast>

Staff have prepared and submitted a preliminary submission on the Draft North Coast Regional Plan. The preliminary submission is included in Attachment 1 to this report for Council's consideration.

Conclusion

It is recommended that Council adopt the Submission on the Draft North Coast Regional Plan contained in Attachment '1' as a final submission to the Department of Planning and Environment.

Financial Implications

Administration cost in preparing the submission has been met by existing Council budgets.

Statutory and Policy Compliance Implications

The Preliminary Submission on the Draft North Coast Regional Plan has been informed by the relevant state, regional and/or local planning framework and best practice planning principles.

Report No. 13.8 **Report of the Planning Review Committee Meeting held on 12 May 2016**

Directorate: Sustainable Environment and Economy

Report Author: Chris Larkin, Major Projects Planner

5 **File No:** I2016/490

Theme: Ecology
Development and Approvals

10 **Summary:**

This report provides the outcome of the Planning Review Committee Meeting held on 12 May 2016.

15

RECOMMENDATION:

That the report be noted.

20

Report:

The meeting commenced at 1.05pm and concluded at 1.15pm.

- 5 Present: Crs Woods, Ibrahim, Dey, Hunter, Cameron, Spooner
Staff: Shannon Burt (Director Sustainable Environment and Economy, Chris Larkin (Major Projects Planner).
Apologies: Nil

- 10 The following development application was reviewed with the outcome shown in the final column.

DA No.	Applicant	Property Address	Proposal	Exhibition Submissions	Reason/s Outcome
10.2016.189.1	Koho Projects	116 Stuart Street Mullumbimby		Level 2 14/4/16 to 27/4/16 100 submissions	The number of public submissions The perceived public significance of the application Council

- 15 Council determined the following development application on the 16 July 2015. The Section 96 application to modify the development consent was referred to the Planning Review Committee whereby it was decided that application can be determined under delegated authority as noted below.

DA No.	Applicant	Property Address	Proposal	Exhibition Submissions	Reason/s Outcome
10.2014.398.2	Mr R McEwen	3-7 Shirley Street Byron Bay	S96 To Modify Date for Compliance with Deferred Commencement Condition	Level 0	Delegated Authority

20

Report No. 13.9 **PLANNING - 10.2016.135.1 Alterations and Additions to existing dwelling house including new swimming pool and secondary dwelling at 4 Ferguson Court Bangalow**

Directorate: Sustainable Environment and Economy
Report Author: Shannon Burt, Director Sustainable Environment and Economy
File No: I2016/499
Theme: Ecology
 Development and Approvals

DA No: 10.2016.135.1
Proposal: Alterations and additions to existing dwelling, new pool, secondary dwelling
Property description: Lot: 51 DP: 883263
 4 Ferguson Court, BANGALOW
Parcel No/s: 223130
Applicant: S Ibrahim
Owner: S Ibrahim
Zoning: Zone No. R2 Low Density Residential
Date received: 10 March 2016
Integrated Development: No
Public notification or exhibition:

- Level 1, advertising under DCP 2014 Part A14 – Public Notification and Exhibition of Development Applications
- Exhibition period: 30/3/16 to 12/4/16
- One submissions was received

Other approvals (S68/138): New driveway crossover – Roads Act, 1993 - Roads Act (51); Plumbing, water supply, sewer drainage - Water & Sewer (60) Stormwater connection - Stormwater (55)
Issues:

- Visual and acoustic impacts
- Surface water drainage
- Affordable housing

Summary:

The development application seeks consent for alterations and additions to the existing dwelling, a new pool, and a secondary dwelling at 4 Ferguson Court, Bangalow. The property has an area of 857 m² in area, fully serviced and does not contain any significant native vegetation. The land is zoned R2 – Low Density Residential pursuant to Byron LEP 2014, and a secondary dwelling is permitted with consent under the provisions of SEPP (Affordable Rental Housing), 2009.

The secondary dwelling is a single storey structure comprising one bedroom, bathroom, kitchen and living amenities located at the rear of the lot. The building is to be clad in weatherboard with a sheet metal skillion designed roof. A small 25 m² pool is proposed with deck areas and landscaping between the existing house and the secondary dwelling. A single open car space for the secondary dwelling is proposed in the North West corner of the lot and a pathway along the northwest boundary will provide a separate access to the secondary dwelling. It is considered the development complies with the planning requirement for secondary dwellings and residential development and has been recommended for approval.

In the interests of probity, Council has a procedure that development applications lodged by councillors are to be independently assessed by an external planner to ensure that the applicant and the assessor remain at arms length. This application has been assessed by an external planner.

The assessment and recommendation of the Independent Consultant is contained in this report.

NOTE TO COUNCILLORS:

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

10

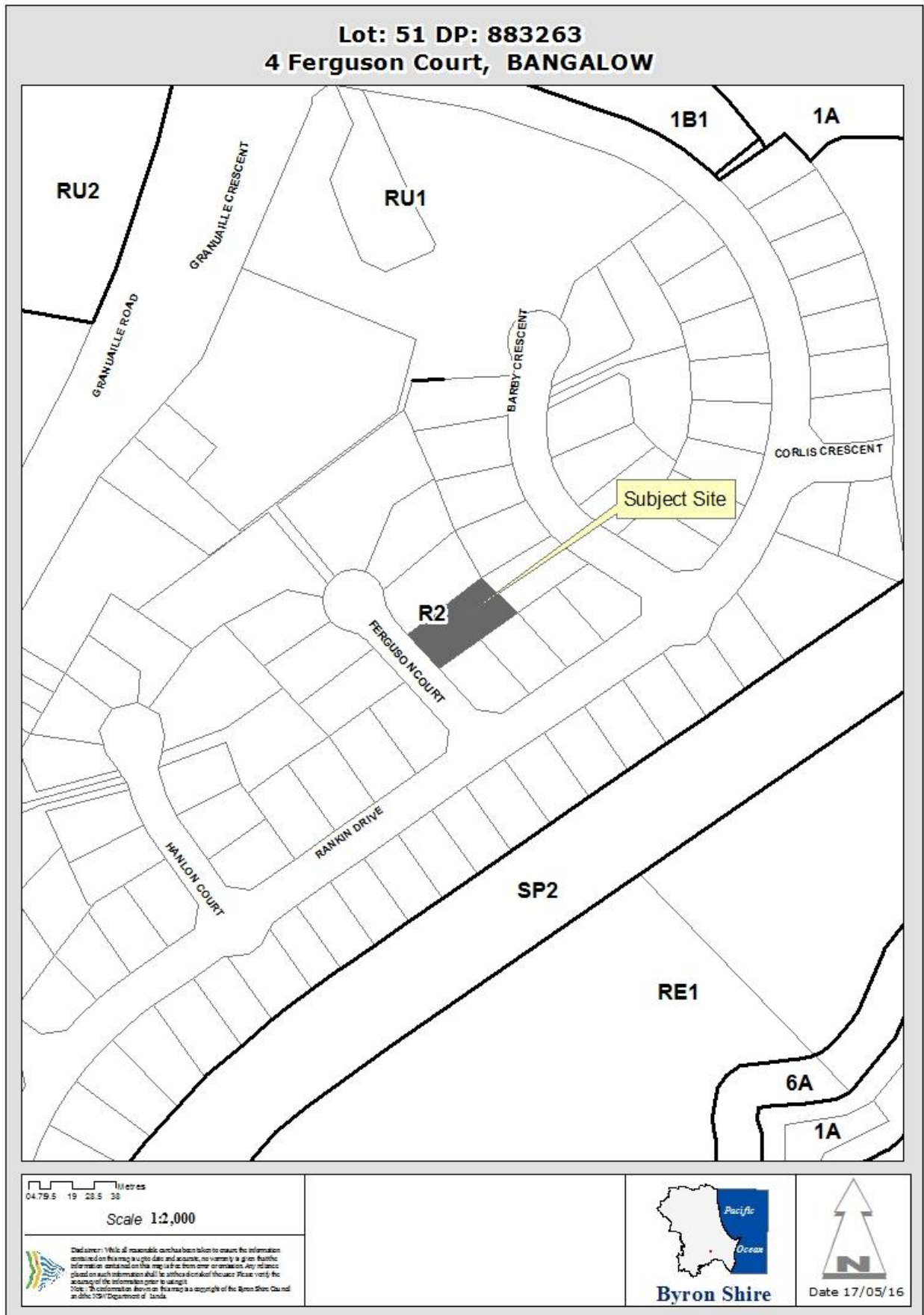
RECOMMENDATION:

That Pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2016.135.1 for alterations and additions to the existing dwelling, a new pool, and a secondary dwelling be granted consent subject to the conditions in Attachment 2 # E2016/32557

Attachments:

- 15
- 1 Proposed Plans 10.2016.135.1, E2016/32511
 - 2 Conditions of consent 10.2016.135.1, E2016/32557
 - 3 Confidential - submission 10.2016.135.1 , E2016/33870

20



Report: Development Assessment**1. INTRODUCTION****5 1.1 History/Background**

Lot 51 DP 883263 was registered on 2 February 1999. The consent for the existing dwelling was issued on 18 August 1999 and the construction certificate was issued on 13 December 1999. The land is zoned R2 Low Density Residential under Byron LEP 2014.

10

1.2 Description of the site

15 The subject land is a residential lot (Lot 51 DP 883263) located on the north eastern side of Ferguson Court south of the reservoir site in Bangalow. It is 857 m² with a frontage to Ferguson Court of 19.995 metres. The rear boundary is 21.953 metres long. The side boundaries are 40.52 metres long (north) and 42.075 metres long (south).

20

The subject land has no significant native vegetation and is only fenced on one side. The rear boundary is defined by a stone edged landscaped garden. A sewer main is located at the front and at the rear of the site. Water and underground electricity are at the frontage to the subject land. The land slopes in two directions from north west to south east and from rear to front. The lots surrounding the subject land are a similar size and shape and all contain dwellings. The site is generally free from physical constraints.

25

**1.3 Description of the proposed development**

30 The development application proposes to extend an existing elevated deck at the rear of the dwelling, add some stairs, add a new deck at the rear overlooking the swimming pool, construct a swimming pool (25 m²) and construct a detached secondary dwelling (60 m² floor area) at the rear boundary.

35 The proposed detached secondary dwelling will run approximately parallel to the rear boundary. It is a single storey structure with one bedroom and one bathroom. A single open car space for the secondary dwelling is proposed in the North West corner of the lot and a pathway along the northwest boundary will provide a separate access to the secondary dwelling. Landscaping is proposed around the pool and secondary dwelling.

40

Four small fruit trees in the rear yard will be removed to allow the works. A mature paperbark on the neighbour's property will need to be trimmed where it overhangs the subject land.

5 **2. SUMMARY OF REFERRALS**

	Summary of Issues
Development Engineer	Supported conditionally
Water & Waste Services	Supported conditionally
S94 Officer	No contributions required
Local Approvals Officer	Supported conditionally

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

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

15 **State/Regional Planning Policies and instruments - Issues**

3.1. STATE/REGIONAL PLANNING POLICIES AND INSTRUMENTS

Requirement	Requirement	Proposed	Complies
State Environmental Planning Policy 55 – Remediation of Lands	A consent authority must not consent to the carrying out of any development on land unless: (a) it has considered whether the land is contaminated, and (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	This land has been approved for residential use for a long time. Council has no knowledge of the site being contaminated from past land use. It is not listed on Council's contaminated land register. The applicant considers the site is not contaminated from past land use activities and is suitable in terms of the proposed development.	Yes
State Environmental Planning Policy (Affordable Rental Housing) 2009	This Division applies to development, on land to which this Division applies, for the purposes of a secondary dwelling. (1) Development to which this Division applies may be carried out with consent.	The development is proposed on land zoned R2 Low Density Residential. Only a principal dwelling currently exists on the land. The combined total area of the principal and secondary dwelling does not exceed the	Yes

	<p>(2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.</p> <p>(3) A consent authority must not consent to development to which this Division applies unless:</p> <p>(a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and</p> <p>(b) the total floor area of the secondary dwelling is no more than 60 square metres or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.</p>	<p>0.5:1 GFA that applies to the site.</p> <p>The GFA of the secondary dwelling is 60 m².</p>	
<p>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</p>	<p>(a) an application for a development consent, complying development certificate or construction certificate in relation to certain kinds of residential development must be accompanied by a list of commitments by the applicant as to the manner in which the development will be carried out, and</p> <p>(b) the carrying out of residential development pursuant to the resulting development consent, complying development certificate or construction certificate will be subject to a condition requiring such commitments to be fulfilled.</p>	<p>BASIX certificates have been prepared for the secondary dwelling and the swimming pool dated 9 and 12 may 2016 respectively.</p> <p>In each category of water, thermal comfort and energy the proposed dwelling meets or exceed the required targets.</p> <p>The Pool also meets the relevant requirements.</p> <p>The secondary dwelling has a Building Energy Efficiency Certificate with a 3 star NatHERS rating.</p>	<p>Yes</p>
<p>Building Code of Australia</p>	<p>The proposal must be capable of compliance with the</p>	<p>A condition has been recommended for inclusion in</p>	<p>Yes</p>

	structural and safety requirements of the Building Code of Australia.	the consent to ensure the BCA requirements are met.	
Demolition	N/A	N/A	N/A
Disability Access (DDA)	Access for persons with disabilities and integration into surrounding streetscapes without creating barriers. (Council Res.10-1118)	No impact is anticipated from the development on disability access in the surrounding streetscape.	Yes

3.2. BYRON LOCAL ENVIRONMENTAL PLAN 2014

- 5 **Zone:** Zone No. R2 - Low Density Residential
Definition: Secondary dwelling (detached)

LEP Requirement	Summary of Requirement	Proposed	Complies
Meets zone objectives	<ul style="list-style-type: none"> To provide for the housing needs of the community within a low density residential environment. To enable other land uses that provide facilities or services to meet the day to day needs of residents. 	<p>Secondary dwellings (detached) are considered a low density form of housing. Since 1988 the North Coast region has had a net residential density goal of 15 dwellings per hectare in new urban areas. With lot sizes of about 850m² in this locality, this can only be achieved if some lots contain two dwellings. There is a strong case that secondary dwellings provide affordable rental housing.</p> <p>The second objective is not applicable as only residential development is proposed.</p>	Yes
Permissible use	Secondary Dwellings (detached) (By virtue of SEPP Affordable Rental Housing, 2009)	Secondary Dwellings (detached). Pools are permitted. The alterations and additions are permitted.	Yes
4.3 Height of buildings	This clause requires that buildings not exceed the height shown on the Height of Buildings map. In this case the prescribed maximum height is 9 metres.	The height of the proposed secondary dwelling is not greater than 3.98 metres above ground level.	Yes
4.4 Floor space ratio	This clause requires that a building on any land not exceed the FSR shown on the FSR map. In this case the prescribed maximum FSR is 0.5:1.	The Gross Floor Area (GFA) of the original dwelling is 122m ² and the secondary dwelling is 60 m ² . The combined GFA is 182 m ² . The site area is 857 m ² . The FSR is 0.21:1.	Yes
6.2 Earthworks	Earthworks that require consent should have	The proposed earthworks on the site will include small	Yes

LEP Requirement	Summary of Requirement	Proposed	Complies
	minimal impact on environmental functions, neighbouring uses, cultural heritage and surrounding land.	cut/s with the fill created used elsewhere on the site. The deepest cut will be 0.97 metres in the northern (rear) corner of the lot. No imported fill is proposed to be used. The property is able to drain to Ferguson Court.	
6.6 Essential services	<p>The development should have adequate</p> <ul style="list-style-type: none"> • water • sewer • electricity • stormwater • vehicle access 	<p>The subject land is part of the Bangalow urban area and is fully serviced with reticulated water, sewer, underground power, communications and street lighting. Ferguson Court is a sealed Council road and provides adequate vehicle access to the proposed secondary dwelling. A single car space for off road car parking is provided.</p> <p>It is important that roof water from the secondary dwelling that is not captured in rainwater tanks be directed to Ferguson Court. A shallow cut- off drain at the boundary with number 2 Ferguson Court and number 35 Rankin Drive will assist in directing surface water to Ferguson Court during heavy rain events.</p>	Yes

Byron Local Environmental Plan 2014 – Issues

5 There are no issues of non-compliance with LEP 2014 that raise any concerns.

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

10 There are no issues raised by this application that relate to draft LEPs that have been placed on public exhibition.

3.3 DEVELOPMENT CONTROL PLANS

15

Development Control Plan 2014

20 **Chapter B3 – Services**

The purpose of this Chapter is to identify the minimum requirements necessary to adequately service development for water, sewer, stormwater management, on-site effluent disposal and other necessary infrastructure. The application complies with the requirements in this chapter subject to the requirement that roof water from the secondary dwelling be directed to Ferguson Court; and a cut off drain along the boundary with number 2 Ferguson Court and number 35 Rankin Drive shall be installed to capture surface water (such as pool overflow in heavy rain events) and direct it to Ferguson Court.

Chapter B4 – Traffic Planning, Vehicle Parking Circulation and Access

The purpose of this Chapter is to provide guidelines, controls and standards for traffic planning, vehicle access, circulation and parking for developments. The application provides for a pedestrian access to the secondary dwelling which is adequate. The DCP does not require the provision of separate parking spaces for a secondary dwelling. However, a single space is provided at the front of the subject land. The development complies with the requirements of this chapter.

Chapter B8 – Waste Minimisation and Management

Council requires a Site Waste Minimisation and Management Plan for “development involving construction, erection of a building or carrying out works”. The proforma statement of environmental effects indicates that a solid waste bin will be located on site during construction. The application will comply with this chapter if a SWMMP is provided prior to construction commencing. This will be imposed as a condition of approval.

Chapter D1.2.1 – Building Height Plane

The secondary dwelling meets the building height plane (BHP) requirement for all elevations.

Chapter D1.2.2 Setbacks from Boundaries

The secondary dwelling is set back 34 metres (4.5 metres prescribed) from the front boundary to Ferguson Court.

The side setback (2.8 metres proposed) and rear setback (1.5 metres proposed) exceed the 900 mm minimum.

Chapter D1.2.3 Screening the Underfloor Space of Buildings

The development has been designed to minimise underfloor areas that can be seen from the public domain. There is an elevated section at one end of the building but landscaping in the front yard and rear yard means it will be difficult to see from the street or from the adjacent dwelling. It will be compliant with the requirements of this part of the DCP.

Chapter D1.2.4 Character and Visual Impact

The purpose of this chapter is to ensure that new development respects and complements the aspects of an area’s natural and built environment that are important to its existing character. The light weight weathertex cladding and metal roof to be used in the secondary dwelling will fit in with the principal dwelling. The dense landscaping at the rear of the site will assist in privacy for both parties. The secondary dwelling will fit in with the wider neighbourhood albeit that the immediate surrounds are mostly single dwellings. The roof angles and use of hard wood timber is modern and suited to the locality. Window placement suggests there will not be major privacy issues with the principal dwelling. The main issue will be acoustic privacy with the pool at the rear

of the subject land which is located about 6 metres away. The location of the pool makes this difficult to avoid. The small balcony at the north eastern end will be protected from the weather by an overhanging eave and screened from each side for privacy. Cross ventilation and natural light will be maximised by end to end openings and north facing rooms and windows.

5

Chapter D1.2.5 Fencing

The proposed pool fencing will need to meet Councils prescriptive measures. No boundary fence is proposed. A masonry retaining wall is proposed between at the deepest point of the excavation.

10

Chapter D1.2.6 Balconies

The purpose of this chapter is to ensure that new development respects and complements those aspects of an area's natural and built environment that are important to its existing character.

15 The decks to be added to the rear of the principle dwelling (27m² proposed) will add useable outdoor space at the upper floor level of the dwelling as well as the back yard. They will be private and can't be seen from the street. They will allow for greater casual observation of the proposed pool area (making it safer) and link down to the pool area and remaining lawn area by stairs. New timber stairs at the side of the house will provide an alternate access. The decks are not excessive and will add to the enjoyment of the backyard.

20

The north east facing balcony on the secondary dwelling is only 6 m² and is not excessive. It will provide useable space while not impacting overly on the character of the location. An outdoor uncovered courtyard is also provided at the north west end of the secondary dwelling.

25

Chapter D1.4.1 Private Open Space (Secondary Dwellings)

The purpose of this chapter is to ensure that residents of secondary dwellings have access to useable private open space.

30

An open space courtyard (which may include decking) must be provided for a secondary dwelling, with dimensions to suit the projected requirements of the residents and to accommodate outdoor recreation needs. In this case a private, screened courtyard (approximately 16 m²) is proposed at the northern corner of the secondary dwelling. This area has dimensions that exceeds to DCP requirement of 2.5 metres and area requirement of 15 m². A 6m² balcony is also proposed at the other end of the dwelling.

35

The courtyard must be capable of enabling an extension of the living area of the secondary dwelling. The courtyard is the entry point for the dwelling and will function as an outdoor eating area in fine weather and is an extension of the living area.

40

Location of courtyards must take account of outlook and natural features of the site without impacting on neighbouring buildings or open space. The courtyard will get the northern sun in winter. It has limited views, but the balcony at the other end of the dwelling will have an outlook.

45

Orientation and shading of courtyards must provide for maximum year round use in terms of sunlight. The courtyard will get excellent northern sun in winter. Temporary shade might be required in summer but removable sails would suffice.

50

55 Chapter D1.4.2 Access and Car Parking (Secondary Dwellings)

Where feasible and where pedestrian and traffic safety will be improved, vehicular access to a secondary dwelling should be shared with the driveway access serving the principal dwelling. Driveways must be located and designed to minimise danger to pedestrians and cyclists using the street as a result of vehicles entering or leaving the driveway. In this application the secondary dwelling will have a separate driveway in order to access an off street car space. Ferguson Court currently services only ten dwellings and is a dead end street. The additional driveway has a good sight line and will not cross a formed footpath. It will not create danger for pedestrians or cyclists and is justifiably inconsistent with this aspect of the DCP.

Consistent with the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009, no additional parking is required for a secondary dwelling, over and above the requirements for the principal dwelling. A single car space is provided which will alleviate on street parking congestion in Ferguson Court.

Secondary dwellings should not be sited so as to remove car parking servicing the principal dwelling. No car spaces will be lost as a result of this development

Chapter D1.4.3 Siting, Design and Character (Secondary Dwellings)

The siting and design of development comprising a principal dwelling and a secondary dwelling must:

- a. *ensure compatibility in character between the dwellings on the site, the site itself and the surrounding urban environment.* The secondary dwelling is a modern design that fits well on the site with minimal cut and fill. It will fit with the principal dwelling and uses screening for privacy. There are no windows facing the principle dwelling or looking over the proposed pool and additional decking.
- b. *ensure visual and acoustic privacy between dwellings on the site, and between the site and the adjoining neighbourhood.* The large size of lots and sloping land assist with privacy as outlooks and windows to neighbouring lots and dwellings don't align. The secondary dwelling will look over the roofs of the downslope neighbours. It will be screened from the up slope neighbours. The dwelling at the rear is set well back from the rear boundary and heavy landscaping means the secondary dwelling will be hard to see. Neighbours views and privacy are not likely to be significantly affected. No air conditioning is planned and the dwelling is to have a 5 star gas hot water system and not a heat pump. So this type of noise should not be a problem. The key issue will be acoustic privacy to the neighbour's pool at the rear. It is close to the rear boundary and this could cause disturbance to the secondary dwelling occupant if swimming occurs late on a summer's night when windows in the secondary dwelling will be wide open. There is not much that can be done as acoustic screens are unlikely to be effective and will block the sun and the breeze from the north. It is not a valid reason to refuse the application but it may cause neighbourhood tension. Noise pollution laws will apply to both properties in any case.
- c. *ensure that the development is suited to the site in terms of topography, slope, water flows and drainage.* The site is well suited to the secondary dwelling. Its placement at the rear allows the pool, decking and landscaping in the middle of the lot. The slopes can be used to get roof and surface water (and pool over flow in heavy rain) to Ferguson Court using gravity flows and this may improve the existing inter allotment drainage.
- d. *ensure that the development on the site will be visually compatible with the surrounding neighbourhood.* The secondary dwelling is low set and the light weight weathertex cladding and metal roof will fit in with the principal dwelling and the neighbourhood generally. The

rear placement will make it difficult to see from the street so the wider neighbourhood will not be affected.

5 Other Development Control Plan/s - Issues

N/A

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

10 Subject to consent conditions the proposed alterations, pool and secondary dwelling is unlikely to result in any negative impacts on the natural and built environment nor is it likely to negatively impact socially or economically on the locale. The removal of four fruit trees will have no significant effect on the environment.

15

3.5 The suitability of the site for the development

20 The Development Engineer indicates that the proposal is satisfactory in relation to internal and external access, traffic impacts, car parking and stormwater management. The site has adequate frontage to allow a second driveway crossing to access an additional car space. It is not overly steep and contains no native vegetation. It is suitable for a development as proposed subject to a condition that relates to surface water drainage to mitigate any effects on down slope neighbours.

25 Council's water engineer notes that the water flow pressure of the existing connection cannot be guaranteed for the simultaneous demand of two dwellings. If an upgrade is required this will be the landowner's responsibility.

30 3.6 Submissions made in accordance with this Act or the regulations

35 There was one submission made on the development application from the owner of the lot immediately downslope of the subject land (35 Rankin Drive). They asked that they be contacted to discuss their concerns. The submission raises concerns that:

1. The excavation proposed exceeds the 1 metre limit normally imposed. In this case the excavation is 0.97 metres and meets the 1 metre requirement.
2. The subject land currently drains onto their land and this will get worse with a dwelling and pool in the back yard of the subject lot. A condition will be imposed that the roof water from the secondary dwelling be directed to Ferguson Court (after filling the rainwater tank) and that a cut off drain be installed along the side boundary to divert any surface water or pool overflow onto Ferguson Court.

45 These matters were discussed with the submission writer by telephone on 13 May 2016. It is considered that the concerns in their submission have been addressed (or will be through conditions).

3.7 Public interest

50 This development does not raise significant issues of public interest. Efficient use of serviced residential land is important to Council and a secondary dwelling on this site will assist in that regard. The pool and alterations are minor matters and raise no specific issues..

55 4. DEVELOPER CONTRIBUTIONS

4.1 Water & Sewer Levies

Current Situation

5 Using the current day ET Policy 13/005, the existing sewer, water and bulk water entitlements are as follows:

Table 1 - Calculation of Existing Water & Sewer ETs

Ref	Development Type	Standard Unit	Quantity	ET Rate (ET/unit)		ET Load	
				Water	Sewer	Water	Sewer
2.1	Standard Residential Lot 857 m ²	Lot	1	1.00	1.00	1.00	1.00
TOTAL						1.00	1.00

Therefore, the existing ET entitlement for this property is:

- 10
- **1.00 ET** for Water & Bulk Water; and
 - **1.00 ET** for Sewer.

Proposed Development

15 The application seeks development consent for construction non habitable additions to an existing dwelling, a swimming pool and a separate secondary dwelling of 60 m² (one bedroom).

	Permitted	Existing Dwelling	Secondary Dwelling	TOTAL
Bedrooms	5	3	1	4
WC	3	2	1	3
Laundry	2	1	1	2

The proposal complies with Rous requirements for a secondary dwelling.

20

Table 2 - Calculation of Proposed Development Water & Sewer ETs

Ref	Development Type	Standard Unit	Quantity	ET Rate (ET/unit)		ET Load	
				Water	Sewer	Water	Sewer
2.1	Standard Residential Lot 857 m ²	Lot	1	1.00	1.00	1.00	1.00
	Secondary Dwelling		1	1.00	1.00	1.00	1.00
TOTAL						1.00*	1.00*

*Council currently has a policy of not requiring water and sewer ET's for secondary dwellings

Table 3 - Calculation of Additional Water & Sewer ET Load

25

	Water	Sewer
Existing ET Entitlements (Table 1)	1.00	1.00
Proposed Development ET loading (Table 2)	1.00	1.00

Stage 1 Additional ET loading	0	0
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Therefore, this development does not generate an additional load onto Councils Water, Bulk Water and Sewer System beyond the existing ET requirements.

5

No water or sewer charges will be imposed under the Water Management Act, 2000

4.2 Section 94 Contributions

10

1) Clause 2.14 of the Byron S94 plan states that development for the purposes of a secondary dwelling as defined in the SEPP will be exempt from contributions where the dwelling is integral and subordinate to the principle dwelling and meets the following requirements:

15

- a. *Does not exceed 60 m² floor area* – the secondary dwelling is 60 m²
- b. *FSR does not exceed 0.5:1* – the FSR proposed is 0.21:1
- c. *Not less than 25% of the site must be covered by absorbent surfaces* - 53% of the site is retained as absorbent landscaping and lawn
- d. *The overall number of bedrooms (both houses combined) does not exceed 5* – A total of 4 bedrooms will result if the secondary dwelling is approved
- e. *The secondary dwelling is not to be used for tourism purposes* – a condition will be imposed that covers this issue

20

2) **Developer Contributions to be paid**

25

Nil. Conditions to apply in terms of the Secondary dwelling not being used for tourism purposes.

5. CONCLUSION

30

The addition of decks, landscaping and a pool on this site will enhance the outdoor lifestyle opportunities for residents and are improvements to the existing principle dwelling. They will not have a major impact on the neighbours or locality.

35

Council recognises the role of secondary dwellings in contributing to infill development, making better use of existing services, adding to the stock of rental accommodation and widening the range of housing options. Council encourages secondary dwellings which suit the differing needs of the community and which enhance the residential character of the Shire. The secondary dwelling in this case is well designed and located and will have minimal impact on the neighbours or the locality.

40

This development meets Council's requirements and will provide a secondary dwelling less than 700 metres from the Bangalow main street. Conditional approval is appropriate.

45

Report No. 13.10 **PLANNING - Section 96 application 10.2011.191.3 seeking to increase the maximum number of functions (wedding events) from 14 to 20 per year at 6/137 Broken Head Reserve Road, Broken Head**

Directorate: Sustainable Environment and Economy

Report Author: Paul Mills, Senior Planner

File No: I2016/521

Theme: Ecology
Development and Approvals

5

10

- Proposed modification:** Increase the maximum number of functions (wedding events) from 14 to 20 per year
- Original Development:** Use of part of the tourist premises for up to 14 functions annually
- Limited to a maximum of 70 guests per function
- Type of S.96 sought:** S96(1A) Modification involving minimum environmental impact
- Property description:** LOT: 6 SP: 81554
6/137 Broken Head Reserve Road BROKEN HEAD
- Parcel No/s:** 240572
- Applicant:** Mr T Freedman
- Owner:** Mr T Freedman
- Zoning:** SP3 Tourist Zone LEP 2014 / Part 2(t) Tourist Zone, Part 7(f1) - Coastal Lands Zone LEP 1988
- S96 date received:** 23 December 2015
- Original DA determination date:** 1/3/12
- Integrated Development:** Yes – Section 100B of the Rural Fires Act 1997
- Public notification or exhibition:** – Level 2 advertising under DCP 2014 Part A14 – Public Notification and Exhibition of Development Applications
– Exhibition period: 21/1/16 to 3/2/16
– Submissions: Six (6)
- Planning Review Committee:** Yes
- Delegation to determination:** Council
- Issues:** • Acoustic Impacts (noise and disturbance)

Summary:

15 The existing development consent No.10.2011.191.1 allows for use of part of the tourist premises for a maximum of 14 functions annually, with a maximum limit of 70 guests per function. The application seeks to modify the existing development consent to allow an increase in the maximum number of functions from 14 to 20 per year, with all other aspects of the consent remaining the same.

20 The subject site is located in close proximity to other holiday cabins within the Pavilions complex located at 6/137 Broken Head Reserve Road, Broken Head and residential properties (the site is located approximately 6 metres from the nearest neighbouring dwelling house). Noise from the proposal has the potential to significantly detract from the amenity of adjoining neighbours and is an issue raised in written submissions.

25

In response to the public notification process a total of six (6) submissions were received both in support and against the proposal.

5 The applicant has submitted a noise impact assessment for the proposed increase in functions (wedding events), however the assessment has not been carried out in accordance with the NSW Industrial Noise Policy. Further, the proposal will generate additional amenity impacts on neighbouring occupants and residents in terms of noise and disturbance which is considered unacceptable. As such the proposed increase in functions (wedding events) from 14 to 20 per year is not supported.

10 The Section 96 Application is recommended for refusal.

NOTE TO COUNCILLORS:

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

20

RECOMMENDATION:

That pursuant to Section 96 of the Environmental Planning & Assessment Act 1979, that application no. 10.2011.191.3 to Increase the maximum number of functions from 14 to 20 per year, be refused for the following reasons:

1. **Pursuant to Section 96(1A)(a) of the *Environmental Planning and Assessment Act 1979* it has not been demonstrated that the proposed modification is of minimal environmental impact.**
2. **Pursuant to Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979* the proposed development is likely to result in unacceptable noise and disturbance for neighbouring residents/occupants.**
3. **Pursuant to Section 79C(1)(c) of the *Environmental Planning and Assessment Act 1979* the subject site is not considered to be suitable for the proposed modification as it is likely to result in unacceptable noise and disturbance for neighbouring residents/occupants.**

Attachments:

- 25 1 Notice of Determination issued 10.2011.191.2, A2012/10518
2 Confidential - submissions 10.2011.191.3, E2016/32828

Report: Section 96 Assessment

1. INTRODUCTION

5 1.1 Details of approved development and any subsequent modifications

The following relevant development consents have been issued for the subject site:

- 10 96-04-2005.1 Two (2) lot Torrens Title subdivision, redevelopment of existing tourist facility including, seven (7) lot Strata Title subdivision of the tourist facility, demolition, removal of selected trees, and associated landscaping and rehabilitation plan. Development consent granted 9 July 2006 by a delegate for the Minister for Planning.
- 15 10.2010.527.1 Swimming pool, development consent was granted 11 November 2010.
- 10.2011.153.1 Wheel chair access ramp and parking space, development consent granted 1 June 2011.
- 20 10.2011.191.1 Use of part of the tourist premises for up to 14 functions annually - Limited to a maximum of 70 guests per function – development consent granted 1 March 2012. The application was reported to Council recommending refusal on various grounds including noise but was approved by Council.
- 25 10.2011.191.2 Section 96 modification to Condition No. 14 of the development consent with respect to bush fire protection measures. The application approved 29 November 2012.

30 1.2 Section 96 modifications sought

The applicant has described the proposed modifications to Development Consent 10.2011.191.1 as follows:

35 *The modifications seek to increase the number of events from 14 wedding events per year to 20 wedding events per year with all other aspects of the consent remaining the same.*

This application to amend the consent seeks to adjust the following conditions of the consent by changing the reference to the number of events per annum in each of these conditions:

- 40 Condition 1) Development is to be in accordance with approved plans;
- Condition 19) Maximum number of events per year; and
- Condition 27) Restricted hours of operation.

45 1.3 Section 96(1A) Modifications involving minimal environmental impact

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- 50 (a) *it is satisfied that the proposed modification is of minimal environmental impact, and*

Assessment: Council's Environmental Health Officer has identified significant issues with regard to potential noise impacts on neighbouring residents/occupants from the increase in number of functions (wedding events) on site. In view of these comments the proposed development is not considered to have a minimal environmental impact.

(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and

5

Assessment: The proposed modified development is considered to be substantially the same development for which the consent was originally granted.

(c) it has notified the application in accordance with:

- 10 (i) the regulations, if the regulations so require, or
 (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

15 **Assessment:** The application was publically notified in accordance with the Level 2 procedure contained within Council's DCP 2014 Part A14 – Public Notification and Exhibition of Development Applications.

20 (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

Assessment: Council's records indicate that six (6) submissions were received.

25 (3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.

Assessment: See assessment Section 3 of this report.

30

2. SUMMARY OF REFERRALS

Environmental Health Officer's Comments

35 The key issue for Council's Environmental Health Officer is that the applicant's Noise Impact Assessment has not followed the NSW Industrial Noise Policy (NSW EPA 2000) and it is considered that the proposal will likely have unacceptable noise impacts on neighbouring occupants and residents. It is on this basis that Council's Environmental Health Officer does not support the proposed additional functions (wedding events).

40 The subject site is located in close proximity to other holiday cabins within the Pavilions complex and residential properties (approximately 6 metres from the nearest neighbouring dwelling). Noise from the proposed development has the potential to impact upon the amenity of adjoining neighbours. Council has received objections to the proposed development from
 45 neighbours concerned about the likely impacts from noise.

There are concerns based on the adequacy of technical information provided by the applicant and its non-compliance with the requirements of the NSW Industrial Noise Policy (NSW EPA 2000). It is also noted that the original development consent (10.2011.191.1) was
 50 reported to Council with a recommendation for refusal with noise issues being one of the primary reasons.

55 Whilst noise levels contained in the NSW Industrial Noise Policy are not mandatory (as noted by applicant's consultant), they have been developed to provide a formative best practice guide for land-use managers and regulators (such as local government) who act as regulators of land-use

activities. It remains appropriate and standard practice for Council to observe these guidelines when making decisions which have noise impacts.

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

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

3.1. STATE/REGIONAL PLANNING POLICIES AND INSTRUMENTS

No change to assessment of original development application 10.2011.191.1.

3.2. BYRON LOCAL ENVIRONMENTAL PLAN 2014

As the proposal seeks to modify an existing development consent the issue of permissibility of the land use under LEP 2014 is not a matter that is required to be revisited as part of this assessment.

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

No change to assessment of original development application 10.2011.191.1.

3.3 DEVELOPMENT CONTROL PLANS

Development Control Plan 2014 Issues

D3.2.2 Character and Design in Residential, Village and Tourist Zones

Objectives

1. *To ensure that tourist accommodation in Residential, Village and Tourist Zones is compatible with the character and amenity of development in the locality.*

Performance Criteria

1. *Tourist accommodation in Zones RU5, R2, R3, R5, and SP3 must be compatible in character and amenity with development in the locality.*

Assessment: The proposal to increase the number of functions is considered to be contrary to Section D3.2.2 of Council's DCP 2014 as it is likely to reduce the amenity of neighbouring residential and tourist accommodation premises.

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

The subject site is not considered to be suitable for the proposed increase in the number of functions in terms of noise and disturbance for neighbouring residents/occupants.

3.5 The suitability of the site for the development

The subject site is not considered to be suitable for the proposed increase in the number of functions having regard to noise and disturbance for neighbouring residents/occupants.

3.6 Submissions made in accordance with this Act or the regulations

The application was notified in accordance with Level 2 notification procedure from DCP 2014 Part A14 - Public Notification and Exhibition of Development Applications. Council's records indicate

that a total of six (6) submissions were received. Following is a summary of the matters raised in the submissions.

Summary of issue/matter raised	Comment
To support the proposal the applicant has referred to the lack of complaints from the adjoining landowners since commencing operation. It is noted that this is a result of years of previous complaints proving to be unsuccessful. This is not a justification to increase the number of events by 40%.	Notwithstanding the operational history of the premises, the proposed amendments are not supported due to amenity impacts associated with noise and disturbance as discussed in the report.
The premises are promoted to hold a maximum of 140 guests standing and 120 guests sitting down. This is often double the numbers currently approved. The approved time curfew for functions has never been adhered to.	The existing consent limits functions to a maximum of 70 guests. No approval is sought for an increase in the guest numbers.
Noise (amplified music, propinquity of adjoining premises, no insulation or abatement measures) Loss of amenity (adverse impact upon recreation value of the seclusion and tranquillity characteristic of this locality)	The proposed amendments are not supported due to amenity impacts associated with noise and disturbance as discussed in the report.
The weddings under the existing approval have been well run and there is no reason to prevent a few more as they also create bookings for the rest of the tourist zone, and help bring tourist to the coast, and with visitors from outside the Shire.	It is noted that Council has not received complaints since the issue of the Development Consent 10.2011.191.3 to allow 14 functions per year. The economic benefits of the proposal to the local tourist industry are acknowledged.
Traffic (increase in volume, safety issues on a narrow road used by families with children, obstruction)	The number of vehicle movements generated by the proposal are within the capacity of the existing local road network.
Parking (limited on-street and on-site parking, blocking of internal pathways)	A condition of development consent required a concept plan for parking arrangements on the road reserve fronting the subject property providing for angle parking spaces.
Access (service vehicles and guest vehicles impeding internal road access and access to adjoining properties)	An existing condition of development consent required a bus drop off zone and parking bays to be provided within the road reserve to the west of the existing driveway access for the site.
Services (stress on infrastructure and utilities, particularly sewerage)	Council issued Development Consent 10.2011.191.1 on the basis that existing services were capable of accommodating the increased demand generated by the functions development.

Summary of issue/matter raised	Comment
Conflict with zoning (principally a residential or holiday area, not a commercial zone)	Development Consent 10.2011.191.1 granted 1 March 2012 allows a total of 14 functions per year as an ancillary operation to the approved 'tourist premises'.
Privacy (trespassing and other intrusion)	Trespass is not an issue which specifically relates to this application. The fences/walls containing the venue provide a clear demarcation between the subject property and neighbouring properties.
Littering (litter deposited on the beach and surrounding area)	There is no evidence submitted to support this statement.
Property values	There is no evidence submitted to demonstrate that the proposed modified development would have a direct impact on property values.
This is a residential area, that hasn't changed. To increase the use for commercial functions is not fair and reasonable to the residents of that area.	The subject site is located within an approved tourist accommodation facility and is located within the SP3 Tourist Zone as identified by Byron LEP 2014.

3.7 Public interest

The proposed development is not considered to be consistent with the public interest.

5

4. DEVELOPER CONTRIBUTIONS

4.1 Water & Sewer Levies

No change to previous assessment.

10

4.2 Section 94 Contributions

No change to previous assessment.

15

5. CONCLUSION

The applicant has not demonstrated that the proposal is able to satisfy NSW Industrial Noise Policy which is the standard practice for controlling and regulating noise generating development in New South Wales. It is considered the proposal will likely have unacceptable noise impacts on neighbouring occupants and residents and as such is not of minimal environmental impact. The subject site is located approximately six (6) metres from the nearest neighbouring dwelling house and the issue of noise has been raised as a matter of objection. As such, the proposed increase in the number of functions (wedding events) per year is not supported and the application is recommended for refusal.

20

25

Report

Background

5 This matter was reported to Council at its meeting held 25 February 2016 and the resolution was:

Res 16-075:

1. That the community be invited to consider the following:

- 10 a) a shortlist for renewal works as seen in Table 2.
 b) 2 options for the proposed \$330,000 budget which will include:
- 15 - option 1 Waterlily Park Playscape \$330,000; and
 - option 2 Fern Beach Playground \$59,000, South Golden Beach Hall Playground \$59,000, Waterlily Park Playscape \$100,000 and Devines Hill board walk and amenity improvements \$112,000.

2. That the results of the community consultation be reported back to Council.

20 Table 2 from the Report is:

Table 2: Consultation List for Project Renewals in the north of the Shire funded by the proceeds of the Roundhouse land sales (\$2,533,300).

Road	Section	Total Estimated Cost	Renewal Priority	Notes
Kolora Way, Ocean Shores (Stage 2)	Natan Court to Old New Brighton Road	\$433,300	Very High	
Beach Avenue	Full length	\$307,200	Very High	
Coomburra Cres, Ocean Shores	Full length	\$714,000	Very High	
Wahlooga Way, Ocean Shores	Full length	\$133,800	High	
Peter Street east of canal	Full length	\$396,000	High	To be done in conjunction with onstreet SGB Drainage Works, which are funded separately.
Robin Street east of canal	Full length	\$396,000	High	To be done in conjunction with onstreet SGB Drainage Works, which are funded separately.
Helen Street east of canal	Full length	\$396,000	High	To be done in conjunction with onstreet SGB Drainage Works, which are funded separately.
Yamble Dr, Ocean Shores	Full length	\$92,400	Medium High	
Orana Rd, Ocean Shores	Full length	\$1,044,024	Medium High	

BYRON SHIRE COUNCIL

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13.11

River St, New Brighton	Full length	\$466,800	Medium High	
The Esplanade, New Brighton	Full length	\$216,000	Medium High	
	Total	\$4,595,524		

Community Consultation

Byron Shire Council carried out consultation between Monday, 11 April and Monday, 9 May, 2016. The purpose of the consultation activities was to inform the community and local residents on the thirteen shortlisted renewal projects options and to provide the community and stakeholders with the opportunity to provide feedback.

The consultation objectives were to:

1. build relationships with stakeholders in the north of Byron Shire
2. encourage residents in north of Byron Shire to review the Council prioritised works shortlist and provide feedback on their support or other recommendations
3. work collaboratively to arrive at a list of priority projects to expend the funds derived from the Roundhouse land sales
4. encourage the use of and commitment to community facilities and spaces by including local stakeholders in the planning processes

Community members were encouraged to provide their feedback, leave comments and make submissions at the information stands, online or via mail, or by telephone contact with the project team.

The communication and consultation activities carried out are outlined in the table below:

Consultation activity	Details	When
Councillor workshop	Determine short list of projects to take to community	11 Feb
Council Meeting	Formally endorses the short list of projects	25 Feb
Letter box drop	DL size postcards (5,000) delivered via local catalogue distributor	Week 1
Display boards	Feature prioritised project short list and promote how to be involved – for use at drop in sessions	Week 1
Website notice	Feature on front of BSC web re consultation and drop in sessions	Week 1 onwards

BYRON SHIRE COUNCIL

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13.11

Consultation activity	Details	When
Newspaper adverts	Display advert – Byron Shire News and Echo – feature drop in sessions and survey	6 April to 15 April
Media release	Announcement of consultation, drop in sessions and Council shortlisted projects, ways to give feedback	Week 1
E-news general	Announcement of consultation drop in session and Council preferred option, ways to give feedback. Reminder of last week	Week 1 Week 4
Social Media	Call to action to complete online budget	Week 1 onwards
Community Access Point	DL Community postcard and Fact Sheet	Week 1 onwards
Fact Sheet	Details of potential projects, and how to get involved. Available online (web).	Week 1
Online platform	'Bang the Table' featuring map pinpoint suggestions, fact sheets with map of projects, online budget allocator	Week 1 onwards
On-site drop in sessions	Ocean Shores Shopping Centre – Tues 19 and 26 April (2pm to 6pm) New Brighton Farmers Market – Tues 19 and 26 April (8am to 11am) Hard copy surveys available.	Weeks 2 and 3
Council report	Consultation feedback, including basis for recommendation of preferred prioritised works	May 2016
Submission feedback letters	Decision result of Council meeting	June/July 2016

Consultation Results

During the consultation period, Byron Shire Council received 257 online budget allocators and from these there were 172 submissions. The overall feedback comments came via the following avenues:

5	Online budget allocator	-	257
	Submissions after online budget allocators	-	172
	Submissions	-	5
	Brainstormer feedback suggestions	-	5
	Map pinpoints	-	32

10

Key concerns within the submissions related to:

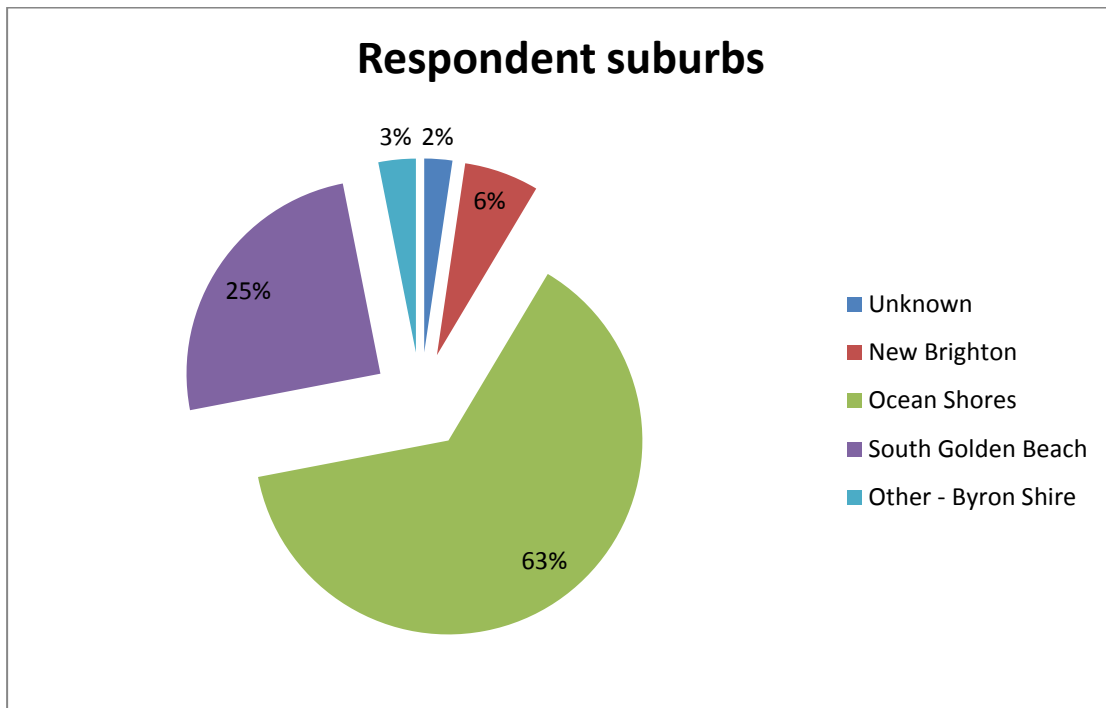
- 1. Coomburra Crescent
- 2. Footpaths and cycleways
- 15 3. Playgrounds
- 4. Drainage
- 5. Gloria Street
- 6. Kolora Way
- 7. Redgate Road

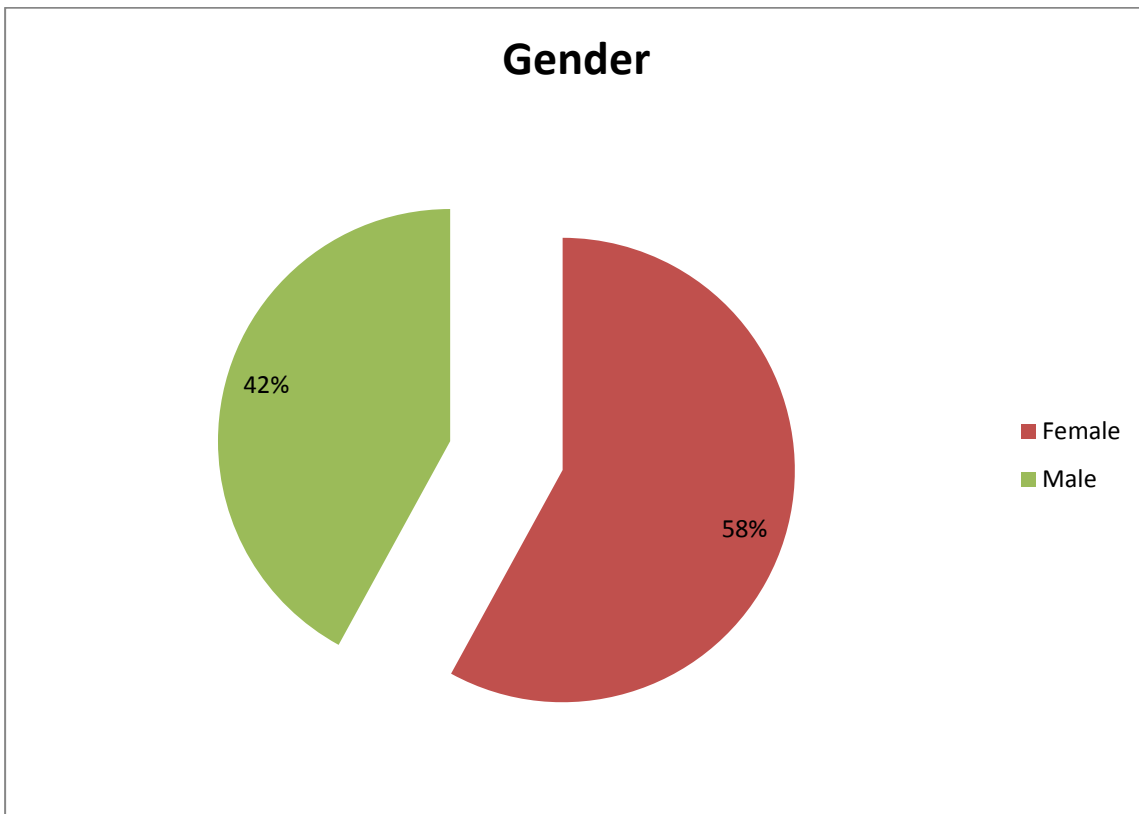
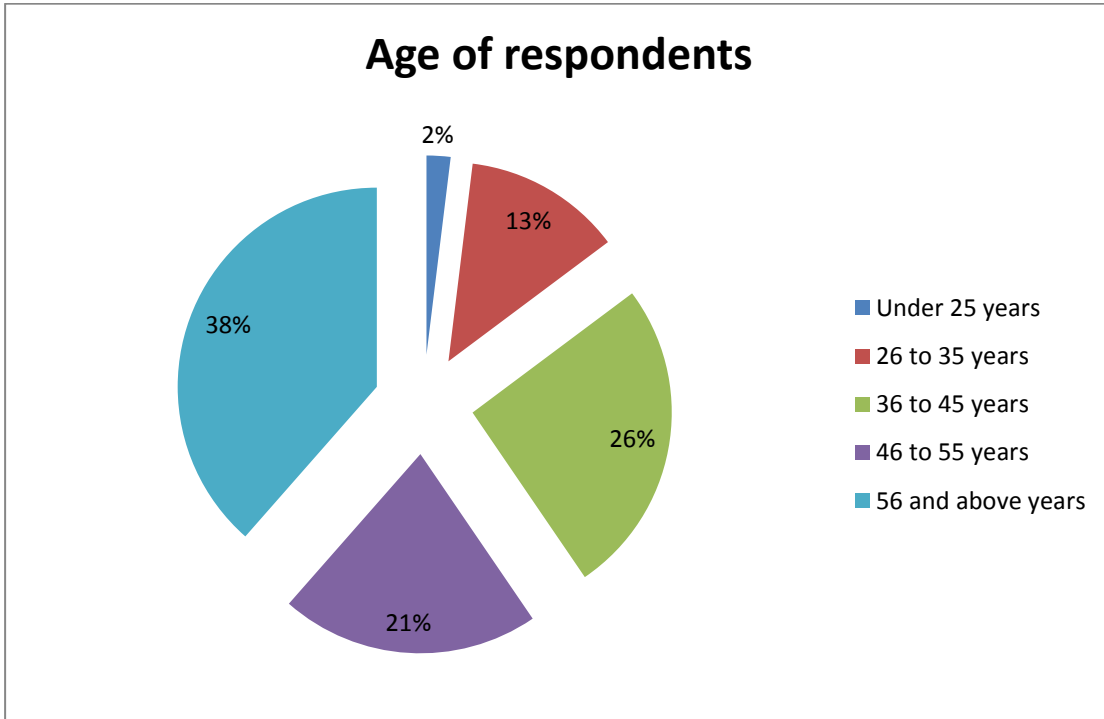
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Each individual submission and the staff response is detailed in the full report on the community consultation, which is attached (E2016/31377).

The demographics of the community response are indicated in the following pie graphs:

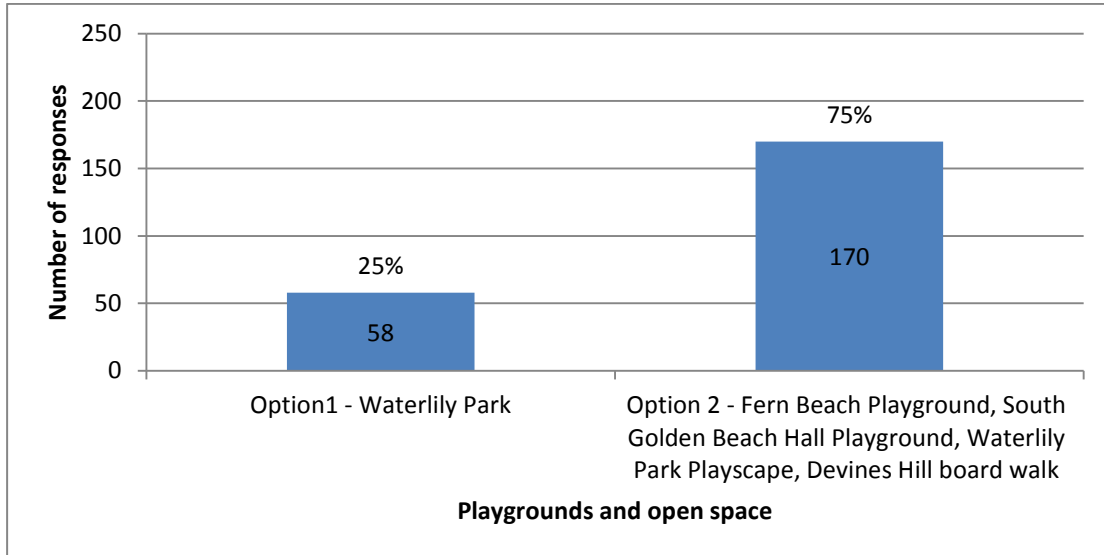
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Playgrounds and Open Spaces

From a quantitative perspective, community feedback has shown that the preferred \$330,000 spent on playgrounds and open space should be allocated to Option 2, with the funds spread over a number of projects (refer Chart 1) with 75% of the respondents choosing this option.

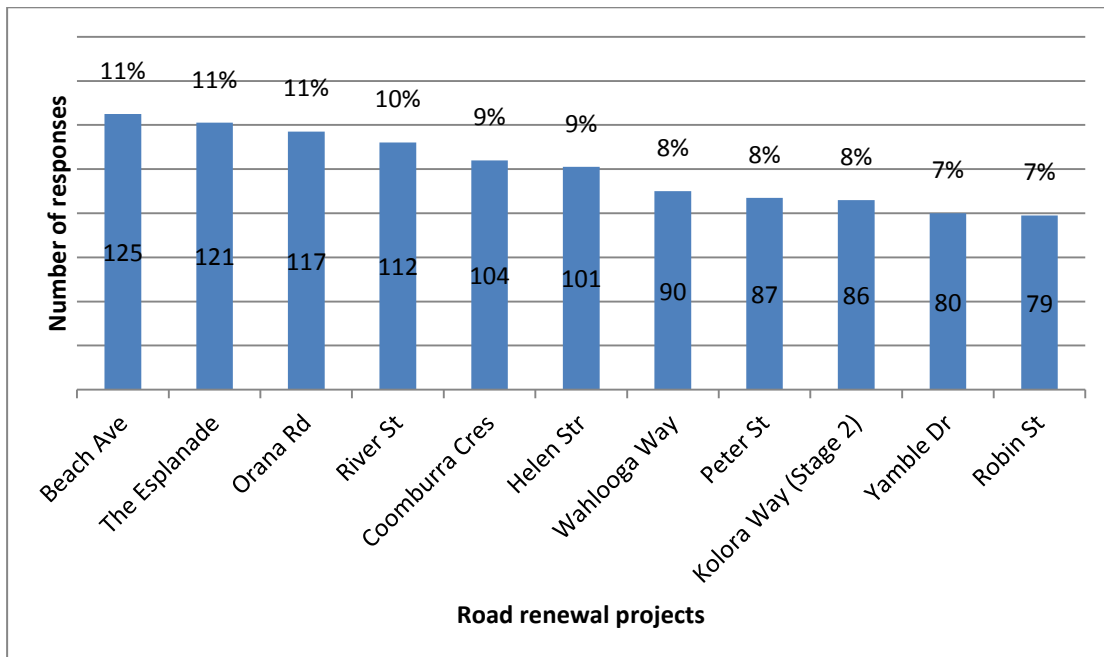


10

Road Renewals

The results of the community consultation for the road renewal projects indicated support for the eleven short listed projects ranging between 7% and 11%, as shown in the following column graph:

15



The net income from the 'Roundhouse' land sales to be allocated to the road renewal projects totalled \$2,533,300. After taking into account the community feedback and the cost of the individual projects, the road renewal projects would be prioritised in the following order:

20

Road	Cost	Running total
1. Beach Avenue, South Golden Beach (Full Length)	\$ 307,200	
2. The Esplanade, New Brighton (Full Length)	\$ 216,000	
3. Orana Road, Ocean Shores (Full Length)	\$1,040,000	
4. River Street, New Brighton (Full Length)	\$ 466,800	\$2,030,000
5. Coomburra Crescent, Ocean Shores (Full Length)	\$ 714,000	\$2,744,000
6. Helen Street east of canal, South Golden Beach	\$ 396,000	\$3,140,000
7. Wahlooga Way, Ocean Shores (Full Length)	\$ 133,800	\$3,273,800
8. Peter Street east of canal, South Golden Beach (Full Length)	\$ 396,000	\$3,669,800
9. Kolora Way, Ocean Shores (Stage 2)	\$ 433,300	\$4,103,100
10. Yamble Drive, Ocean Shores (Full Length)	\$ 92,400	\$4,195,500
11. Robin Street east of canal, South Golden Beach (Full Length)	\$ 396,000	\$4,591,500

The recommended projects are the first four projects in full and the fifth project part funded with the balance of available funding, as detailed in the following table:

5

Recommended Road Renewal Projects		
Road Renewal Project	Cost	Cumulative Total
1. Beach Avenue, South Golden Beach (Full Length)	\$ 307,200	\$ 307,200
2. The Esplanade, New Brighton (Full Length)	\$ 216,000	\$ 523,200
3. Orana Road, Ocean Shores (Full Length)	\$1,040,024	\$1,563,224
4. River Street, New Brighton (Full Length)	\$ 466,800	\$2,030,024
5. Coomburra Crescent, Ocean Shores (Part Length)	\$ 503,276	\$2,533,300

The main options available to Council for the road renewal projects are:

10

1. Accept the results of the community consultation with no changes
2. Select other road renewal projects from the short list of projects detailed in Table 2 of this report
- 15 3. Select other road renewal projects proposed by the Community
4. Select other road renewal projects as proposed by Council

15

All of the road renewal projects listed by Council in the shortlist in Table 2, those selected by the community and the other road renewal projects proposed by the community in the north of the Council area are roads in poor condition, which could have the pavement renewed now if Council had the funds.

20

In reviewing the options Council should consider the status of the road asset, its respective renewal priority and the community feedback in order to help arrive at a preferred outcome to allocate this funding.

25

The first option is proposed as the recommendation to Council for these road renewal projects, with any savings from the first four projects to be allocated to project five, Coomburra Crescent.

Financial Implications

5 There are no negative implications proposed in this report as the recommendations are within the overall budgets proposed for Playgrounds and Open Spaces and Road Renewals

Statutory and Policy Compliance Implications

10 There are no negative implications proposed in this report.

Report No. 13.12 **Draft North Byron flood Study Adoption**
Directorate: Infrastructure Services
Report Author: James Flockton, Drain and Flood Engineer
File No: I2016/597
5 **Theme:** Community Infrastructure
 Emergency Services and Floods

Summary:

10

The Draft North Byron Flood Study has been out to public exhibition as per Council policy and resolution.

15

Council considered a staff report in relation to submissions at its meeting of 28 April 2016 and deferred the matter pending a Councillor Worksop being held. (Res 16-226)

20

A work shop was held on 26 May in relation to Resolution 16-226 and this report is now submitted for Council to consider for adoption.

RECOMMENDATION:

1. **That Council adopt the Draft North Byron Flood Study (Council document numbers E2016/21992 and E2016/21942), including the proposed amendments detailed within this report.**
2. **That staff proceed to complete the actions detailed within the conclusion as funding and staffing levels permit**

25

Report

At Councils 28th April 2016 meeting, the adoption of the North Byron Flood Study was considered. As a result the following was resolved:

5

Res 16-226

Resolved that Council defer adoption of the North Byron Flood Study until a workshop is held for Councillors. Matters to be discussed include:

10

1. *Comparison between previous flood mapping and new mapping*
2. *Comparison between new mapping and actual 5, 10 and 20 year flood events*
3. *Consequences of new mapping on planning assessments and approvals*
4. *Consequences of new mapping on potential and approved residential subdivisions*
5. *Consequences of new mapping on the insurability of affected properties*
- 15 6. *Other questions raised by Councillors and public prior to the workshop*

(Ibrahim/Woods)

On Thursday 26th May 2016 Councillors attended a Council workshop to discuss the above concerns.

20

Following this workshop it is believed that Councillors is now able to consider the adoption of the Draft North Byron Flood Study.

The final Draft North Byron Flood Study can found at the following web ink

25

<http://it.bmtwbm.com.au/nbsfs/>

The documents cannot be provided as attachments to this report because they are a very large file sizes.

30

It proposed that the adopted version will be as per the above version, with the following alterations:

1. Comments relating to the existence of historic openings in the dune system be added to the appropriate section with within the body of the study document.
2. All design mapping have a note stating 'this mapping is representative of the design flood event occurring on the existing catchment conditions at the time of modelling'.

35

Financial Implications

Adoption does not create any immediate financial implications.

40

Council is not bound to complete any of the actions within the conclusion by any particular timeframe. They can be completed as funding and staffing permits.

Adoption does create an ability for Council to apply for grant funding to begin the next phase of flood planning, a Floodplain Risk Management Study and Plan.

45

Statutory and Policy Compliance Implications

Councils are expected to prepare Floodplain Risk Management Studies and Plans for flood prone catchments within their local government area. These documents must be prepared in accordance with State Government Policy.

50

The NSW Floodplain Development Manual 2005 is the current policy used by State Government for the preparation of such documents.

55

The Office of Environment and Heritage (OEH) is the State Government Department responsible for ensuring all flood related documents are prepared in accordance with the manual.

- 5 The Daft North Byron Flood Study has been prepared in accordance with the NSW Floodplain Development Manual 2005. OEH have a technical adviser who sits on the North Byron Floodplain Risk Management Committee.

OEH have not raised any concerns with adopting the draft document.

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES**Report No. 14.1 Report of the Finance Advisory Committee Meeting held on 12 May 2016**

5 **Directorate:** Corporate and Community Services
Report Author: Mark Arnold, Director Corporate and Community Services
File No: I2016/524
Theme: Corporate Management
Financial Services

10 **Summary:**

15 The report provides the minutes and recommendations of the Finance Advisory Committee Meeting held on 12 May 2016 for determination by Council.

RECOMMENDATION:

1. **That Council note the minutes of the Finance Advisory Committee Meeting held on 12 May 2016.**

2. **That Council adopt the following Committee Recommendation:**

Report No. 5.1 2015/16 Financial Sustainability Project Plan - Update on the Action Implementation Plan as at 31 March 2016

File No: I2016/299

Committee Recommendation 5.1.1

That the update report to 31 March 2016 on the 2015/2016 Financial Sustainability Project Plan Action Implementation Plan (E2016/20541) be received and noted by Council.

3. **That Council adopt the following Committee Recommendation:**

Report No. 5.2 Draft 2016/2017 Budget

File No: I2016/449

Committee Recommendation 5.2.1

That Council note that the Finance Advisory Committee having considered the Draft 2016/2017 Budget as adopted by Council for public exhibition, requested that the following items be listed for consideration at the Council Strategic Planning Workshop to be held on 26 May 2016, in accordance with Part 4(d) of resolution 16-221.

- Mullumbimby Masterplan Funding 2016/17
- Byron Bay STP Expansion (\$500,000)
- Ocean Shores STP Upgrade (\$620,000)

20

4. **That Council adopt the following Committee Recommendation:**

Report No. 5.3 Budget Review - 1 January 2016 to 31 March 2016

File No: I2016/460

Committee Recommendation 5.3.1

1. That Council note that it authorised the itemised budget variations as shown in Attachment 2 (#E2016/28781) which includes the following results in the 31 March 2016 Quarterly Review of the 2015/2016 Budget:
 - a) General Fund - \$0 adjustment in the accumulated surplus/working funds
 - b) General Fund - \$4,184,500 increase in reserves
 - c) Water Fund - \$2,116,000 increase in reserves
 - d) Sewerage Fund - \$4,794,100 increase in reserves

at its Ordinary meeting held on 19 May 2016.

2. That Council note that it authorised the revised General Fund Accumulated Surplus/(Working Funds) of \$919,100 for the 2015/2016 financial year as at 31 March 2016 at its Ordinary meeting held on 19 May 2016.

Attachments:

5

- 1 Minutes of the Finance Advisory Committee Meeting held on 12 May 2016, I2016/468

Report

5 The attachment to this report provides the minutes of the Finance Advisory Committee Meeting of 12 May 2016 for determination by Council. The agenda for this meeting can be located on Council's website at:

http://byron.infocouncil.biz/Open/2016/05/FAC_12052016_AGN_518_AT.PDF

10 The committee recommendations are supported by management and are provided in the attachment to this report.

15 Councillors were advised in Memorandum (#E2016/31761, dated 13 May 2016) of the Committee's Recommendation in relation to Report 5.3 – Budget Review – 1 January 2016 to 31 March 2016. The Budget Review for the period from 1 January 2016 to 31 March 2016 was also the subject of Report 13.4 to the Ordinary meeting held on 19 May 2016.

20 Council at its May Ordinary meeting adopted the staff recommendation for *Report 13.4 – Budget Review – 1 January 2016 to 31 March 2016*, in accordance with the Recommendation from the Finance Advisory Committee.

25 The Committee Recommendations for *Report No. 5.2 - Draft 2016/2017 Budget* and *Report 5.3 – Budget Review – 1 January 2016 to 31 March 2016* have been amended to have Council note the actions that have already occurred at the time that Council considers this Report of the Finance Advisory Committee Meeting held on 12 May 2016 at this Ordinary meeting of Council.

Financial Implications

As per the Reports listed within the Finance Advisory Committee Meeting of 12 May 2016.

30 **Statutory and Policy Compliance Implications**

As per the Reports listed within the Finance Advisory Committee Meeting of 12 May 2016.

Report No. 14.2 Report of the Internal Audit Advisory Committee Meeting held on 12 May 2016

Directorate: Corporate and Community Services
Report Author: Mark Arnold, Director Corporate and Community Services
File No: I2016/527
Theme: Corporate Management
Governance Services

Summary:

The report provides the minutes and recommendations of the Internal Audit Advisory Committee Meeting held on 12 May 2016 for determination by Council.

RECOMMENDATION:

- 1. That Council note the minutes of the Internal Audit Advisory Committee Meeting held on 12 May 2016.**
- 2. That Council adopt the following Committee Recommendation:**

Report No. 5.1 RMS DRIVES System Compliance Audit 2016
File No: I2016/213

Committee Recommendation 5.1.1

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 (E2016/14855).

- 3. That Council adopt the following Committee Recommendation:**

Report No. 5.2 Internal Audit Report - Development Assessments Review
File No: I2016/450

Committee Recommendation 5.2.1

1. That the Internal Audit Report – Development Assessments Review - February 2016 at Attachment 1(#E2016/28082) be noted by Council along with responses and actions detailed by Management.
2. That Management implement the recommendations made in the report identified at Attachment 1 (#E2016/28082).

- 4. That Council adopt the following Committee Recommendation:**

Report No. 5.3 Internal Audit Report May 2016
File No: I2016/461

Committee Recommendation 5.3.1

That Council receive and note the Internal Audit Report – Audit Committee (May 2016)

(#E2016/29083) prepared by the Internal Auditor, Grant Thornton.

5. That Council adopt the following Committee Recommendation:

Report No. 6.1 2015/2016 Audit Strategy

File No: I2016/402

Committee Recommendation 6.1.1

1. That Council note the Final Audit Strategy prepared by Thomas Noble and Russell for Byron Shire Council for the year ending 30 June 2016 as outlined in Attachment 1 (E2016/26821).
2. That the report and Attachment 1 of the closed part of the meeting remain confidential.

6. That Council adopt the following Committee Recommendation:

Report No. 6.2 Annual Internal Audit Plan 2016/17

File No: I2016/462

Committee Recommendation 6.2.1

1. That Council adopt the "Annual Internal Audit Plan 2016/17" at Attachment 1 (#E2016/29089) prepared by Grant Thornton subject to a review of the progress of the BCP/DCP in mid November.
2. That the report and Attachment 1 remain confidential.

5

Attachments:

- 1 Minutes of the Internal Audit Advisory Committee Meeting held on 12 May 2016, I2016/469

10

Report

5 The attachment to this report provides the minutes of the Internal Audit Advisory Committee Meeting of 12 May 2016 for determination by Council. The agenda for this meeting can be located on Council's website at:

http://byron.infocouncil.biz/Open/2016/05/IAAC_12052016_AGN_514_AT.PDF

10 The committee recommendations are supported by management and are provided in the attachment to this report.

Financial Implications

15 As per the Reports listed within the Internal Audit Advisory Committee Meeting of 12 May 2016.

Statutory and Policy Compliance Implications

As per the Reports listed within the Internal Audit Advisory Committee Meeting of 12 May 2016.

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 14.3 **Report of the Heritage Advisory Committee Meeting held on 8 April 2016**

5 **Directorate:** Sustainable Environment and Economy
Report Author: Shannon Burt, Director Sustainable Environment and Economy
File No: I2016/407
Theme: Ecology
10 Development and Approvals

Summary:

15 The report provides the minutes of the Heritage Advisory Committee Meeting of 8 April 2016 for determination by Council.

RECOMMENDATION:

1. That Council note the minutes of the Heritage Advisory Committee Meeting held on 8 April 2016.
2. That Council adopt the following Committee Recommendation(s).

Committee Recommendation 5.1.1

That the Heritage Advisory Committee:

1. Note that changes to the Draft Byron Heritage Strategy 2016-2019 were discussed.
2. That an Amended Draft Byron Shire Heritage Strategy will be circulated back to the Heritage Advisory Committee for review, and any further changes to be emailed to the Director of Sustainable Environment and Economy prior to the next Heritage Advisory Committee meeting.
3. That the Heritage Advisory Committee members put forward their 5 priorities for implementation from the Draft Byron Heritage Strategy for discussion at the next Heritage Advisory Committee.

Attachments:

- 1 Minutes of the Heritage Advisory Committee Meeting held 8 April, 2016, I2016/276

Report

5 The attachment to this report provides the minutes of the Heritage Advisory Committee Meeting of 8 April 2016 for determination by Council. The agenda for this meeting can be located on Council's website at:

http://byron.infocouncil.biz/RedirectToDoc.aspx?URL=Open/2016/04/HER_08042016_AGN_572.AT.PDF

10 **Committee Recommendation from Business Arising from the minutes**

Correspondence tabled by the Chair, the resignation of Committee Member, Mr Jim Rogers.

15 Alexander Williams, Community Representative advised the Heritage Advisory Committee she is unable to attend future meetings and tendered her resignation. The Heritage Advisory Committee recommended that John Dunn should be approached to become the replacement Brunswick Heads Community Representative.

20 **Management Comments**

The Heritage Advisory Committee recommendations are supported by management and are provided in the attachment to this report.

25 **Financial Implications**

As per the Reports listed within the Heritage Advisory Committee Meeting of 8 April 2016.

Statutory and Policy Compliance Implications

30 As per the Reports listed within the Heritage Advisory Committee Meeting of 8 April 2016.

CONFIDENTIAL REPORTS - GENERAL MANAGER

Report No. 16.1 **CONFIDENTIAL - Status of Senior Staff Contracts**

Directorate: General Manager

5 **Report Author:** Ken Gainger, General Manager

File No: I2016/552

Theme: Corporate Management

 Organisation Development

10

Summary:

This report on the contractual status of designated senior staff is provided in compliance with the requirements of s339 of the Local Government Act 1993.

15

RECOMMENDATION:

1. That pursuant to Section 10A(2)(a) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Status of Senior Staff Contracts.

20

2. That the reasons for closing the meeting to the public to consider this item be that the report contains:

 a) personnel matters concerning particular individuals (other than councillors)

25

3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:

 a) report relates to contractual conditions of senior staff

30

CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES

Report No. 16.2 **CONFIDENTIAL - Design & Construction Tender for Water Supply Reservoirs at Byron Bay and Bangalow**

5 **Directorate:** Infrastructure Services
Report Author: Dean Baulch, Principal Engineer, Systems Planning
File No: I2016/397
Theme: Community Infrastructure
10 Water Supplies

Summary:

15 A review of water storage capacity for both Byron Bay/Suffolk Park and Bangalow has been carried out, in line with previous Council Resolutions and Planning Reports. The review concludes that there is an immediate requirement for additional reservoir storage capacity in order to meet accepted and adopted design standards to ensure a safe (fire fighting storage and pressure) and continuous potable water supply to the communities of Byron Bay/Suffolk Park and Bangalow to meet current and future demands.

20 An assessment of the future water storage requirements recommended that a new 1.35ML reservoir will be required at Bangalow and a new 10ML reservoir will be required at the Coopers Shoot site.

25 The purpose of this report is to present to Council the outcome of a public tender for the design and construction of a two new required water supply reservoirs at Coopers Shoot and Bangalow.

Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulation 2005.

30

RECOMMENDATION:

35 1. That pursuant to Section 10A(2)(c), (d)i, (d)ii and (d)iii of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report **CONFIDENTIAL - Design & Construction Tender for Water Supply Reservoirs at Byron Bay and Bangalow.**

40 2. That the reasons for closing the meeting to the public to consider this item be that the report contains:

- 45 a) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business
- b) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
- 45 c) information that would, if disclosed, confer a commercial advantage on a competitor of the council
- d) information that would, if disclosed, reveal a trade secret

50 3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:

- (a) disclosure could prejudice the Council's position in litigation; and (b) disclosure could adversely impact Council's position in the upcoming negotiations.

55

OR, ALTERNATIVELY WHERE THE MEETING IS NOT PROPOSED TO BE CLOSED:

RECOMMENDATION:

- 5 1. That pursuant to Section 11(3) of the Local Government Act, 1993, resolve that the Annexures to the report, CONFIDENTIAL - Design & Construction Tender for Water Supply Reservoirs at Byron Bay and Bangalow are to be treated as confidential as they relate to matters specified in s10A(2)(c), s10A(2)(d)i, s10A(2)(d)ii and s10A(2)(d)iii of the Local Government Act 1993.
- 10 2. That Council adopt the recommendation set out on the final page of the Report.

Attachments:

- 15 1 Confidential - Tender Evaluation Report, E2016/27180

Report No. 16.3 **CONFIDENTIAL - T2016-0006 Tender - Supply and Delivery of Premixed Concrete**

Directorate: Infrastructure Services
Report Author: Dominic Cavanough , Contract Engineer
5 File No: I2016/500
Theme: Community Infrastructure
 Local Roads and Drainage

10 **Summary:**

Approval to invite tenders was authorised by the General Manger on 8 March 2016 under his delegated authority for the Supply and Delivery of Pre-mixed Concrete for Council works throughout our area.

15

Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulation 2005.

20 **RECOMMENDATION:**

1. That pursuant to Section 10A(2)(d)i and (d)ii of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report T2016-0006 Tender - Provision of Premixed Concrete.

- 25 2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
 - a) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
 - 30 b) information that would, if disclosed, confer a commercial advantage on a competitor of the council

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:
 - 35 (a) disclosure could prejudice the Council's position in litigation; and (b) disclosure could adversely impact Council's position in the upcoming negotiations.

40 **OR, ALTERNATIVELY WHERE THE MEETING IS NOT PROPOSED TO BE CLOSED:**

RECOMMENDATION:

- 45 1. That pursuant to Section 11(3) of the Local Government Act, 1993, resolve that the Annexures to the report, T2016-0006 Tender - Provision of Premixed Concrete are to be treated as confidential as they relate to matters specified in s10A(2)(d)i and s10A(2)(d)ii of the Local Government Act 1993.

2. That Council adopt the recommendation set out on the final page of the Report.

50 **Attachments:**

- 1 Confidential - Assessment Panel Tender Report - Supply & Delivery of Premixed Concrete, E2016/31760

55

Report No. 16.4 **CONFIDENTIAL - 24.2015.81.1 - Myocum Road - Barlows Dairy Cattle Laneway - Agreement**

Directorate: Infrastructure Services
Report Author: Dominic Cavanough , Contract Engineer
File No: I2016/498
Theme: Community Infrastructure
 Roads and Maritime Services

5

10 **Summary:**

The purpose of this report is to outline to Council the recommended solution and costs to resolve the existing issues of road safety, road surface failure and to reduce future road maintenance costs on Myocum Rd adjacent to the diary farm at 385 Myocum Road.

15

The recommended solutions are to reconstruct the road and reduce the impacts of cattle using the roadway.

20

The proposed solution has been the result of a collaborative and consultative approach between the adjacent land owner and Council staff to provide the best level of safety to the public.

RECOMMENDATION:

- 25 1. That pursuant to Section 10A(2)(d)i and (d)ii of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report 24.2015.81.1 - Myocum Road - Barlows Dairy Cattle Laneway - Agreement.
- 30 2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
- a) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
 - b) information that would, if disclosed, confer a commercial advantage on a competitor of the council
- 35 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:
- 40 (a) disclosure could prejudice the Council's position in litigation; and (b) disclosure could adversely impact Council's position in the upcoming negotiations.

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Report No. 16.5 **CONFIDENTIAL - Tender for the Supply of Quarry Product T2016-0005**
Directorate: Infrastructure Services
Report Author: Sophie Mulhall, Road and Bridge Engineer
File No: I2016/533
5 **Theme:** Community Infrastructure
 Local Roads and Drainage

Summary:

10 The General Manager under his delegated authority approved on 8 March 2016 the invitation of tenders for the Supply of Quarry Products.

15 Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulation 2005.

RECOMMENDATION:

- 20 1. That pursuant to Section 10A(2)(c), (d)i and (d)ii of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Tender for the Supply of Quarry Product T2016-0005.
- 25 2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
- 25 a) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business
 - 25 b) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
 - 30 c) information that would, if disclosed, confer a commercial advantage on a competitor of the council
- 35 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:

35 The report contains the details of all tenderers for the Supply of Quarry Products

OR, ALTERNATIVELY WHERE THE MEETING IS NOT PROPOSED TO BE CLOSED:

RECOMMENDATION:

- 40 1. That pursuant to Section 11(3) of the Local Government Act, 1993, resolve that the Annexures to the report, Tender for the Supply of Quarry Product T2016-0005 are to be treated as confidential as they relate to matters specified in s10A(2)(c), s10A(2)(d)i and s10A(2)(d)ii of the Local Government Act 1993.
- 45 2. That Council adopt the recommendation set out on the final page of the Report.

Attachments:

- 50 1 Confidential - 24.2016.26.1 Assessment Panel Recommendation Report - Signed Copy - Supply of Quarry Product T2016-0005, E2016/33482