

NOTICE OF MEETING



INTERNAL AUDIT ADVISORY COMMITTEE MEETING

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

Venue	Conference Room, Station Street, Mullumbimby
Date	Thursday, 18 May 2017
Time	11.30am

A handwritten signature in black ink that reads 'Mark Arnold'.

Mark Arnold
Director Corporate and Community Services

I2017/675
Distributed 11/05/17

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
INTERNAL AUDIT ADVISORY COMMITTEE MEETING

BUSINESS OF MEETING

- 1. APOLOGIES**
- 2. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY**
- 3. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS**
 - 3.1 Internal Audit Advisory Committee Meeting held on 10 November 2016

4. STAFF REPORTS

5. CONFIDENTIAL REPORTS

Corporate and Community Services

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CONFIDENTIAL REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 5.1 **CONFIDENTIAL - Internal Audit Progress Report May 2017**
Directorate: Corporate and Community Services
5 **Report Author:** Jessica Orr, Corporate Governance and Risk Management Officer
File No: I2017/481
Theme: Corporate Management
 Governance Services

10 **Summary:**

This report has been prepared to allow the Internal Audit Committee to consider the Internal Audit Report (May 2017) prepared by the Internal Auditor, Grant Thornton.

15 **RECOMMENDATION:**

- 20 1. That pursuant to Section 10A(2)(a) and (d)i of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Internal Audit Progress Report May 2017 .
- 25 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)
b) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
- 30 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.

35 **Attachments:**

- 40 1 Confidential - Byron Shire Council IA Report - Audit Committee Progress Report 18 May 2017, E2017/30559
2 Confidential - May 2017 - IAC Progress Report Low Findings, E2017/30561

Report No. 5.2 **CONFIDENTIAL - Cash Handling (Head Office) Review**
Directorate: Corporate and Community Services
Report Author: James Brickley, Manager Finance
File No: I2017/482
5 **Theme:** Corporate Management
 Governance Services

Summary:

10 Council's Internal Auditors, Grant Thornton, conducted an Internal Audit Cash Handling (Head Office) Review during October 2016.

15 This report has been prepared to table the Internal Audit Report Cash Handling Review Report prepared by the Internal Auditor, Grant Thornton included at Attachment 1.

This Report includes the findings made by Grant Thornton and responses from Management to the findings.

RECOMMENDATION:

- 25
1. That pursuant to Section 10A(2)(a) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Cash Handling (Head Office) Review .
 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)
 - 30 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.

Attachments:

- 40 1 Confidential - Intenal Audit Report - Cash Handling (Head Office) Review, E2017/25774

Report No. 5.3 CONFIDENTIAL - Asset Management - Key Asset Infrastructure Review Report

Directorate: Corporate and Community Services

Report Author: Jessica Orr, Corporate Governance and Risk Management Officer

5 Phil Warner, Manager Assets and Major Projects

File No: I2017/483

Theme: Community Infrastructure
Asset Management

10 **Summary:**

Council's Internal Auditors, Grant Thornton, conducted an Internal Audit Asset Management – Key Infrastructure Review during March 2017.

15 This report has been prepared to table the Internal Audit Asset Management – Key Infrastructure Review Report (#2017/16611) prepared by the Internal Auditor, Grant Thornton included at Attachment 1.

20 This Report includes the findings made by Grant Thornton and responses from Management to the findings.

RECOMMENDATION:

- 25 1. **That pursuant to Section 10A(2)(d)i of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Asset Management - Key Asset Infrastructure Review Report .**
- 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**
- 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:**
- (a) disclosure could prejudice the Council's position in litigation; and (b) disclosure could adversely impact Council's position in the upcoming negotiations.**

40 **Attachments:**

- 45 1 Confidential - Asset Mgmt Review - Internal Audit Committee - Feb to March 2017, E2017/16611

Report No. 5.4 **CONFIDENTIAL - New Constitution of Internal Audit, Risk & Improvement Committee**
Directorate: Corporate and Community Services
Report Author: Jessica Orr, Corporate Governance and Risk Management Officer
5 **File No:** I2017/484
Theme: Corporate Management
 Governance Services

10 **Summary:**

The *Local Government Amendment (Governance and Planning) Act 2016* (NSW) ('the Act') introduced changes to the internal audit function for local governments to consider and implement by 1 July 2017. Some of the amendments to the Act relate to Council's internal audit function.

15 The Constitution of the Internal Audit Advisory Committee has been updated and amended to reflect the required changes as per the Act. This includes changing the name of the Committee to Internal Audit, Risk and Improvement Committee (IARIC).

20 This report has been prepared to table the Draft Constitution document (**#E2017/17073**) as prepared by Council included at Attachment 1 for endorsement.

25 **RECOMMENDATION:**

1. That pursuant to Section 10A(2)(a) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report New Constitution of Internal Audit, Risk & Improvement Committee .
- 30 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)
- 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:
 - (a) disclosure could prejudice the Council's position in litigation; and (b) disclosure could adversely impact Council's position in the upcoming negotiations.

40 **Attachments:**

- 45 1 Confidential - Constitution of Internal Audit, Risk and Improvement Committee (IARIC) (draft), E2017/17073

Report No. 5.5 **CONFIDENTIAL - Business Continuity Review report**
Directorate: Corporate and Community Services
Report Author: Jessica Orr, Corporate Governance and Risk Management Officer
File No: I2017/500
5 **Theme:** Corporate Management
 Governance Services

Summary:

10 Council’s Internal Auditors, Grant Thornton, conducted an Internal Audit Business Continuity and Disaster Recovery Planning Review during April 2017.

15 This report has been prepared to table the Internal Audit Business Continuity and Disaster Recovery Planning Review Report (**#2017/30343**) prepared by the Internal Auditor, Grant Thornton included at Attachment 1.

20 This Report includes the recommendations made by Grant Thornton. Due to the unique nature of this review and report, Management comments were not required to be input for this report.

RECOMMENDATION:

- 25 1. That pursuant to Section 10A(2)(d)i of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Business Continuity Review report .
- 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
- 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:
(a) disclosure could prejudice the Council's position in litigation; and (b) disclosure could adversely impact Council's position in the upcoming negotiations.

40 **Attachments:**

- 45 1 Confidential - Internal Audit Report - BCP DRP Review (FINAL), E2017/30343

Report No. 5.6 **CONFIDENTIAL - Initial local government performance audits**
Directorate: Corporate and Community Services
Report Author: Jessica Orr, Corporate Governance and Risk Management Officer
File No: I2017/603
5 **Theme:** Corporate Management
 Governance Services

Summary:

10 Recent amendments to the Local Government Act 1993 have made the Auditor-General of NSW the Auditor of Local Councils in NSW.

15 In addition to auditing Councils' annual financial statements, the new mandate provides for the conduct of "Performance Audits". Performance Audits assess whether selected activities or services are carried out efficiently, effectively and economically.

20 The Auditor-General of NSW has written to both the Mayor and General Manager on this topic and asked that the related correspondence be tabled at a forthcoming meeting of Council. A report has been prepared to 25 May 2017 Ordinary to enact this request.

A copy of the correspondence has been included at Attachment 1 to this report.

25 This report has been prepared to bring the conduct of future Performance Audits to the attention of the Internal Audit Committee.

RECOMMENDATION:

- 30 1. That pursuant to Section 10A(2)(d)i of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Initial local government performance audits.
- 35 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
- 40 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.

Attachments:

- 50 1 Confidential - Letter from the Audit Office of NSW to General Manager advising of initial local government performance audits, E2017/30966

Report No. 5.7 **CONFIDENTIAL - 2016/2017 External Audit Client Service Plan**
Directorate: Corporate and Community Services
Report Author: James Brickley, Manager Finance
File No: I2017/491
5 **Theme:** Corporate Management
 Financial Services

Summary:

10 With amendments to the Local Government Act 1993 in late 2016, the NSW Government has appointed the Auditor General through the Audit Office of New South Wales as the Auditor for the Local Government sector in New South Wales from the 2016/2017 financial year onwards.

15 This report is prepared to present the 2016/2017 Client Service Plan for Council to the Internal Audit Advisory Committee. In previous years, this document has been known as the Audit Strategy.

20 **RECOMMENDATION:**

1. That pursuant to Section 10A(2)(d)i of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report 2016/2017 External Audit Client Service Plan .
- 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 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 **Potential to prejudice the commercial position of the contracted Auditor Thomas Noble and Russell undertaking the audit on behalf of the Audit Office of New South Wales and disclosure request by the Audit Office of New South Wales.**

Attachments:

- 40 1 Confidential - 2017 External Audit Client Service Plan, E2017/27622
2 Confidential - Briefing Information from NSW Audit Office, E2017/27838

Report No. 5.8 **CONFIDENTIAL - Management of Conflicts of Interest in Development Matters Procedure**

Directorate: Corporate and Community Services
Report Author: Ralph James, Legal Services Coordinator
File No: I2017/501
Theme: Ecology
 Development and Approvals

5

10 **Summary:**

The Office of Local Government OLG was advised of the outcome of a Council investigation into an officer’s failure to properly manage conflicts of interest in respect of personal development applications.

15

OLG recommended to Council that *“this may be a suitable area for review to include on the internal audit program in the future, to establish whether the improvements have been effective”*.

20

Since these matters arose Council has fully reviewed its Development Application Conflict of Interest Management Procedure and this Procedure will be further reviewed as part of any future Internal Audit Review.

25

Training has been undertaken with Planning staff and further training will be undertaken as required on the reviewed Development Application Conflict of Interest Management Procedure.

30

This report has been prepared to report this matter to the Internal Audit Committee and to bring to the attention of the Internal Audit Committee the OLG recommendation *“to include on the internal audit program in the future, to establish whether the improvements have been effective”*.

RECOMMENDATION:

35

1. **That pursuant to Section 10A(2)(a) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Management of Conflicts of Interest in Development Matters Procedure .**

40

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)

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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) personnel matters concerning particular individuals (other than councillors)