

NOTICE OF MEETING



HERITAGE PANEL MEETING

A Heritage Panel Meeting of Byron Shire Council will be held as follows:

Venue	Conference Room, Station Street, Mullumbimby
Date	Thursday, 31 August 2017
Time	2.00pm

A handwritten signature in black ink, appearing to read 'S Burt'.

Shannon Burt
Director Sustainable Environment and Economy

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
HERITAGE PANEL MEETING

BUSINESS OF MEETING

1. APOLOGIES

2. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

3. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

3.1 Heritage Panel Meeting held on 27 April 2017

4. STAFF REPORTS

Sustainable Environment and Economy

4.1 Update on Resolution 17-2974

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 4.1 **Update on Resolution 17-297**
Directorate: Sustainable Environment and Economy
5 **Report Author:** Shannon Burt, Director Sustainable Environment and Economy
Chris Larkin, Manager Sustainable Development
File No: I2017/1110
Theme: Ecology
10 Development and Approvals

Summary:

15 This report provides the Heritage Panel members with an update on Council Resolution 17-297.

RECOMMENDATION:

That the Heritage Panel note the report.

20 **Attachments:**

1 Heritage Panel Constitution, E2016/82037 , page 7 [↓](#)

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Report

Council at the Ordinary Meeting of Council 3 August 2017 considered a report on the Minutes of the Heritage Panel Meeting held 27 April 2017 and resolved as follows. An update on the actions in the resolution is provided also in red text below.

Report No. 13.13 Report of the Heritage Panel Meeting held on 27 April 2017

17-297 Resolved:

1. That Council note the minutes of the Meeting held on 27 April 2017.

Noted.

2. That Council does not adopt the Panel's Recommendation 4.1.1 as shown in the attachment to this report, but instead adopts the Management Recommendation as follows:

Management Recommendation:

- a) A link be provided in the email sent to notify the Heritage Panel of heritage DAs lodged.

Staff to provide a link to the Panel members when a Development Application has been registered and is made available online.

- b) Council's Heritage Advisor to run more "free heritage advisory" days for the public.

Staff and Heritage Advisor to confirm dates for advisory and training days in October / November. Public, landowners and interest group notifications will be arranged accordingly.

- c) General fact sheets with information on heritage to be developed by the Heritage Advisor.

Under preparation.

- d) The use of project working groups to identify grant and project opportunities and implementation of any grant available.

Links to relevant grants will be circulated to Panel members and also promoted on Council's website. When necessary a project working group can be formed to prepare a grant submission.

- e) The Heritage Panel to be kept informed of grant opportunities including for Heritage Mapping.

As above.

- f) Invite the Aboriginal Liaison Officer to attend future meetings of the Panel.

Invitation to be sent at time of meeting agenda confirmation.

- g) That the Panel review the Constitution at the next meeting.

A copy of the Panel Constitution is attached for discussion.

- h) That the Heritage Panel request a letter from Council to the Minister of Planning expressing Council's concern that the Affordable Housing SEPP overrides local heritage provisions in the LEP and DCP and that Clause 16A (Affordable Housing SEPP) is too vague to enable Council to make decisions on character alone.

Under preparation.

- i) Grant funding to be sought to undertake a DCP Heritage Conservation Area review.

As per d and e.

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- j) Community based heritage study to be reviewed subject to funds being made available and should the Heritage Study be updated any new items be considered for listing in the LEP.

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As per d and e. Can be considered as part of the next Budget and Operational Plan review for 2018/19.

3. That Council identify submissions from Heritage Panel members and/or the comments of the Heritage Panel in staff assessment reports within Council agendas.

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To be included in relevant reports.

4. That Council allow for discussion of live applications at Heritage Panel meetings where time permits.

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Noted. Live development applications to be discussed where time permits.

Financial Implications

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Statutory and Policy Compliance Implications

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BYRON SHIRE COUNCIL

HERITAGE PANEL

CONSTITUTION

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INFORMATION ABOUT THIS DOCUMENT

(INTERNAL USE ONLY)

Date Adopted by Council	29/09/16	Resolution No.	16-482
Responsibility	Sustainable Environment and Economy		
Review Timeframe			
Last Review Date:		Next Scheduled Review Date	September 2020 (post-election)

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Document History

Doc No.	Date Amended	Details Comments eg Resolution No.

Further Document Information and Relationships

Related Legislation	Section 355, Local Government Act (1993)
Related Policies	Code of Conduct 2016 Work Health Safety Policy Code of Meeting Practice
Related Procedures/ Protocols, Statements, documents	

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1. Preamble

The Heritage Panel is a Panel of the Council and does not have executive power or authority to implement actions.

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The role of the Panel is to provide appropriate specialist advice and recommendations to Council on matters relevant to this Constitution.

2. Purpose

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The purpose of the Heritage Panel is to provide support and advice to Council to assist its operations on heritage matters.

Actions of the Heritage Panel that can assist to achieve this include:

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- a) Assisting Council in the development of policies and strategies including the preparation of a Heritage Strategy and the management of natural and cultural heritage generally in Byron Shire local government area.
- b) Advising Council staff, the Heritage Adviser and the Council on matters relating to the ongoing implementation of the Heritage Strategy (once completed).
- c) Assisting Council to procure and allocate funding assistance and to recommend projects for which funding should be sought in line with the Heritage Strategy (once completed).
- d) Providing access to the general community to distribute information and for public input into heritage management, eg, to nominate additional properties for assessment of heritage significance.
- e) Advising Council on a range of heritage-related matters which are of interest to the community, in particular, by providing expertise, local knowledge and guidance on heritage matters and in relation to heritage assessments.

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3. Timeframe for Panel

The lifespan of the Heritage Panel is four years.

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4. Responsible Directorate

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This Panel is administered by the Sustainable Environment and Economy Directorate. The Director or their delegate will attend these meetings and minutes will be taken by a member of their staff.

5. Membership

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Council must appoint all Panel members. Appointment must take place prior to a member being conferred the responsibilities and rights as set out in this document.

Council may release individual members from the Panel at any time by a resolution of council. Council may also appoint any new members to a Panel at any time by a resolution of council.

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Membership is to include:

- 3 Councillors

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- 1 representative from each of the Shire's **known** historical societies being:
 - Brunswick Valley
 - Byron Bay
 - Bangalow
 - Mullumbimby
- 1 representative each from the Bundjalung of Byron Bay Aboriginal Corporation (Arakwal) and the Tweed Byron Local Aboriginal Council.
- 3 Community representatives
- General Manager (or delegate)

Note: Staff members participating on the Panel do not have any voting entitlements.

6. Induction

All members will be required to participate in an induction process at the establishment of a new Panel, and at any time a replacement voting member joins a Panel. The induction will be scheduled prior to the first meeting of the Panel and will cover topics such as this Constitution, the Code of Meeting Practice, Conflicts of Interest and Code of Conduct.

Replacement voting members will be inducted by experienced Panel members at, or prior to, their first meeting.

7. Quorum

A quorum is to constitute at least half the number of members, two of which are to be Councillors. The General Manager or delegate, who must be a member of staff, is to attend the Panel meeting and is not counted in the quorum for the meeting.

8. Confidentiality

Members of the Panel will, in those circumstances where confidential matters are subject to deliberation, maintain confidentiality.

9. Election of Chairperson

The position of Chairperson is to be elected from Councillors comprising the Panel but only in circumstances where the Mayor elects not to assume the position of Chairperson.

10. Voting

- a) Each member of the Panel (with the exception of staff members) is to have one vote, with the Chairperson to have a casting vote in addition to a deliberative vote.
- b) Members of the Panel who are not Councillors may abstain from voting in any circumstances without such abstention being recorded in the negative.

11. Majority Decision

A majority decision of the Panel requires a majority of elected members to be present and voting on any item subject to the requirements of a quorum being met at the meeting.

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12. Convening Meetings

Meetings will be held as required, generally every quarter. An annual timetable of meetings will be prepared in advance, and adopted by Council every October/November for the following 12 months.

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A meeting of the Panel may be convened in response to either the direction of the Mayor (or in the Mayor's absence the Deputy Mayor) in written form to the General Manager; or two Councillors in written form to the General Manager, or by resolution of the Council.

13. Agenda Preparation

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It is the responsibility of the chairperson to prepare the agenda in consultation with the relevant Director, setting out the terms of business to be considered.

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The agenda is an organised list of the business, in order, that will be transacted at the meeting. An agenda for each meeting, containing a brief report on each item, is to be provided to Panel members and available on Council's website at least 7 days prior to the meeting being held.

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Each item of business to discuss at the meeting is required to be listed on the agenda and in written form. Verbal reports at the meeting are not an acceptable practice.

For some matters, it will be necessary to attach other relevant information to the agenda to inform and direct discussion. Such information is to be circulated with the agenda.

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Panel members may request items for inclusion in future agendas, through the Chair.

14. Conduct of Business

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Each item of business is discussed in the order in which it appears on the agenda. No new matters will be introduced at the meeting. New items of business may be included in a future agenda as noted in clause 13 above.

15. Records of meetings

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a) The minutes of meetings are to be circulated to members of the group within 7 days of the meeting so that members can provide feedback through the Chair on the draft unconfirmed minutes.

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b) Any recommendation of a Panel that requires a resolution of Council will be reported to Council through a staff report to Council from the responsible Directorate for the Panel, and the staff report will include as an attachment, a copy of the minutes of the Panel meeting at which the recommendation was made.

16. Absence from Panel Meetings

All Panel members are required to advise the chair when they are unable to attend Panel meetings. The absence of Panel members from the meeting is to be recorded in the minutes. A Panel member (other than the Mayor) ceases to be a member of a Panel if the member:

- a) Has been absent from three consecutive meetings of the Panel without having given reasons acceptable to the Panel for the member's absence, or
- b) Has been absent from at least half of the meetings of the Panel held during the immediately preceding year without having given to the Panel acceptable reasons for the member's absences.

17. Section 377 Delegation

The Panel does not have any delegated functions pursuant to section 377 of the Local Government Act (1993) and does not have the power to direct staff.

18. Meeting Practice

Meetings are to be conducted in accordance with this Constitution and, where required, reference to Council's Code of Meeting Practice.

19. Miscellaneous

- a) **Insurance:** All group members are covered by the public liability policy of Council. This insurance does not preclude the Panel from due diligence and all Council policies must be adhered to.
- b) **Code of Conduct:** All group members to abide by Council's adopted Code of Conduct at all times.
- c) **Pecuniary Interest:** Pecuniary Interest may be defined as an interest that a person has in a matter, as a group member or employee of a company or other body, 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. Such other person includes the spouse or de-facto partner or relative of the group member.

Section 446 of the Local Government Act states that "a member of a council committee, other than a committee that is wholly advisory, must disclose pecuniary interests..."

Even though the Local Government Act provides an exemption to disclose pecuniary interests Council's preference is for all members to declare pecuniary interests where applicable.

- d) **Work Health Safety:** All group members are required to comply with the "Worker Responsibilities" as prescribed in the Work Health Safety Policy.