

# NOTICE OF MEETING



## AUDIT, RISK AND IMPROVEMENT COMMITTEE MEETING

An Audit, Risk and Improvement Committee Meeting of Byron Shire Council will be held as follows:

|       |   |
|-------|---|
| Venue | <b>Council Chamber, Station Street, Mullumbimby</b> |
| Date  | <b>Thursday, 15 February 2018</b>                   |
| Time  | <b>11.30am</b>                                      |

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## CONFLICT OF INTERESTS

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

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

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

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

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

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

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

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

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

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

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

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

### Disclosure and participation in meetings

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

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

### Participation in Meetings Despite Pecuniary Interest (S 452 Act)

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

**Non-pecuniary Interests** - Must be disclosed in meetings.

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

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

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## RECORDING OF VOTING ON PLANNING MATTERS

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

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

**BYRON SHIRE COUNCIL**  
AUDIT, RISK AND IMPROVEMENT COMMITTEE MEETING

**BUSINESS OF MEETING**

**1. APOLOGIES**

**2. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY**

**3. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS**

3.1 Audit, Risk and Improvement Committee Meeting held on 30 November 2017

**4. STAFF REPORTS**

**5. CONFIDENTIAL REPORTS**

**Corporate and Community Services**

|     |   |   |
|-----|---|---|
| 5.1 | CONFIDENTIAL - Update from NSW Audit Office - Performance Report summary .....          | 4 |
| 5.2 | CONFIDENTIAL - Update on Business Continuity, Disaster Recovery & Risk Management ..... | 5 |
| 5.3 | CONFIDENTIAL - Internal Audit Activity & Progress Report.....                           | 6 |
| 5.4 | CONFIDENTIAL - Buildings and Property Management Audit Review .....                     | 7 |
| 5.5 | CONFIDENTIAL - 2017 Final Year End Audit Management Letter .....                        | 8 |

**CONFIDENTIAL REPORTS - CORPORATE AND COMMUNITY SERVICES**

**Report No. 5.1                      CONFIDENTIAL - Update from NSW Audit Office - Performance Report summary**

5    **Directorate:**                      Corporate and Community Services  
**Report Author:**                Jessica Orr, Strategic Risk and Improvement Coordinator  
**File No:**                            I2018/194  
10   **Theme:**                            Corporate Management  
   Governance Services

**Summary:**

15    This report is intended to table the performance report from the NSW Audit Office titled 'Council reporting on Service Delivery' at Attachment 1 (**#E2018/9764**).

20    The Auditor-General has released its first local government performance audit report pursuant to section 421D of the *Local Government Act 1993* NSW. Performance audits aim to help councils improve their efficiency and effectiveness.

Council staff are reviewing the contents and recommendations of the performance report and will work with the NSW Office of Local Government to implement the recommendations accordingly.

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25    **RECOMMENDATION:**

1.    **That pursuant to Section 10A(2)(f) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Update from NSW Audit Office - Performance Report summary .**
2.    **That the reasons for closing the meeting to the public to consider this item be that the report contains:**
  - a)    **details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property**
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:**

- 45    1        Confidential - Council reporting on service delivery - FINAL - NSW Audit Office Feb 2018, E2018/9764

**Report No. 5.2**                    **CONFIDENTIAL - Update on Business Continuity, Disaster Recovery & Risk Management**

**Directorate:**                    Corporate and Community Services

**Report Author:**                Jessica Orr, Strategic Risk and Improvement Coordinator

5   **File No:**                        I2018/169

**Theme:**                         Corporate Management  
   Governance Services

10   **Summary:**

At the October 2017 Audit, Risk and Improvement Committee extraordinary meeting, a request was made for regular updates on Council's business continuity and disaster recovery planning.

15   This report provides an update on Council's approach to business continuity, disaster recovery and risk management initiatives across the organisation.

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20   **RECOMMENDATION:**

1.    **That pursuant to Section 10A(2)(f) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Update on Business Continuity, Disaster Recovery & Risk Management .**
  
- 25   2.    **That the reasons for closing the meeting to the public to consider this item be that the report contains:**
  - a)    **details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property**
  
- 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.**

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**Attachments:**

- 40   1    Confidential - Office of Emergency management - community resilience network project overview, E2018/8648

**Report No. 5.3**                    **CONFIDENTIAL - Internal Audit Activity & Progress Report**  
**Directorate:**                    Corporate and Community Services  
**Report Author:**                Jessica Orr, Strategic Risk and Improvement Coordinator  
**File No:**                         I2018/65  
5    **Theme:**                         Corporate Management  
    Governance Services

**Summary:**

10    This report presents the Internal Audit Activity Report - February 2018 prepared by the Internal Auditor, O'Connor Marsden and Associates (OCM).

15    The activity report contains outstanding recommendations from each audit review conducted during 2013 – 2017 by Council's previous internal audit provider and incorporates recommendations from recently completed audit reviews conducted by OCM.

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20    **RECOMMENDATION:**

1.    **That pursuant to Section 10A(2)(f) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Internal Audit Activity & Progress Report.**
  
- 25    2.    **That the reasons for closing the meeting to the public to consider this item be that the report contains:**
  - a)    **details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property**
  
- 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 - Internal Audit Activity Report February 2018, E2018/9927

**Report No. 5.4**                    **CONFIDENTIAL - Buildings and Property Management Audit Review**  
**Directorate:**                    Corporate and Community Services  
**Report Author:**                Jessica Orr, Strategic Risk and Improvement Coordinator  
**File No:**                         I2018/64  
5    **Theme:**                         Corporate Management  
    Governance Services

**Summary:**

10    Council's Internal Auditors, O'Connor Marsden and Associates (OCM), conducted an internal audit review of Buildings and Property Management during January 2018.

15    This report has been prepared to table the Internal Audit Buildings and Property Management Review Report (#E2018/10497) prepared by OCM included at Attachment 1.

          This Report includes the findings made by OCM and responses from Council's Management to the findings.

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20    **RECOMMENDATION:**

1.    **That pursuant to Section 10A(2)(f) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Buildings and Property Management Audit Review.**
2.    **That the reasons for closing the meeting to the public to consider this item be that the report contains:**
  - a)    **details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property**
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:**

- 40    1    Confidential - Audit Review Report - Buildings and Property Management Final, E2018/10497

**Report No. 5.5**                    **CONFIDENTIAL - 2017 Final Year End Audit Management Letter**  
**Directorate:**                    Corporate and Community Services  
**Report Author:**                James Brickley, Manager Finance  
**File No:**                         I2018/213  
5 **Theme:**                         Corporate Management  
   Financial Services

**Summary:**

10 Council has received the 2017 Final Audit Management Letter from the External Auditor, the Audit Office of NSW relating to the 2017 audit. The Audit Management Letter details eleven items for management to consider and provides recommendations to improve internal controls and systems.

15 Each of the audit matters raised in the 2017 Final Audit Management Letter have been identified in this report for consideration by the Internal Audit, Risk and Improvement Committee.

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20 **RECOMMENDATION:**

1. **That pursuant to Section 10A(2)(f) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report 2017 Final Year End Audit Management Letter.**
- 25 2. **That the reasons for closing the meeting to the public to consider this item be that the report contains:**
  - a) **details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property**
- 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 - 2017 Year End Final Audit Management Letter, E2018/10287