



# Byron Shire Council



## Agenda

### Ordinary Meeting

Thursday, 1 February 2018

held at Council Chambers, Station Street, Mullumbimby  
commencing at 9.00am

*Public Access* relating to items on this Agenda can be made between 9.00am and 10.30am on the day of the Meeting. Requests for public access should be made to the General Manager or Mayor no later than 12.00 midday on the day prior to the Meeting.

**Ken Gainger**  
General Manager

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## CONFLICT OF INTERESTS

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

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

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

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

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

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

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

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

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

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

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

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

### Disclosure and participation in meetings

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

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

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

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

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

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

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

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## RECORDING OF VOTING ON PLANNING MATTERS

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

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

# BYRON SHIRE COUNCIL

## ORDINARY MEETING

### BUSINESS OF ORDINARY MEETING

1. PUBLIC ACCESS
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 31 December 2017
7. RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS
8. MAYORAL MINUTE
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11. SUBMISSIONS AND GRANTS
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# BYRON SHIRE COUNCIL

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### Infrastructure Services

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## 15. QUESTIONS WITH NOTICE

Nil

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### Infrastructure Services

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### Organisation Development

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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.***

NOTICES OF MOTION

Notice of Motion No. 9.1 Byron Bay Paid Parking Scheme  
File No: I2018/28

5

I move that Council:

1. Allocate all future net revenue from the Byron Bay Paid Parking Scheme to be spent on projects and works in Byron Bay. Net revenue is to:
  - a) include meter revenue;
  - b) exclude resident exemption fees and parking fines.
2. Provide an updated account of the Byron Bay Paid Parking Scheme on an ongoing basis through the Quarterly Budget Review process. This is to identify all revenue and expenses allocated during the previous quarter.
3. Create a 'dashboard barometer' on the Byron Shire Council Paid Parking webpage that identifies money raised through the Byron Bay Paid Parking Scheme and how it has been allocated.

10

Signed: Cr Paul Spooner

Councillor's supporting information:

15 1. How is the revenue from paid parking in Byron Bay allocated?

There has been no specific decision of Council to allocate paid parking revenue in terms of a percentage to Byron Bay.

20 The expansion of paid parking in Byron Bay commenced operations in December 2015 and this was a key component of Council's response to the NSW Government via the Council Improvement Plan (CIP) adopted by Council on 25 June 2015 to demonstrate Council being 'Fit for the Future'. As outlined in the CIP the generation of additional revenue from paid parking is to be used to fund asset renewal and the scope of asset renewal outlined in the CIP funded from paid parking was not limited to the Byron Bay township or a percentage allocated to the Byron Bay township.

25 Currently, any allocation of paid parking funds through the Infrastructure Renewal Reserve or the Crown Pay Parking Reserve is approved by Council via adoption of the annual budget estimates or subsequent variations through the quarterly budget review process.

30 2. How much was raised by paid parking in the 2016/17 year?

In 2016/2017 paid parking generated gross revenue of \$3,518,336 or \$4,743,071 if you include fines income.

35	Meter revenue:	\$2,935,435
	Exemption fees:	\$582,901
	Infringement income:	\$1,224,735
	Scheme costs:	(\$1,061,881)
40	<u>Net revenue (excluding fines):</u>	<u>\$2,456,455</u>

# BYRON SHIRE COUNCIL

## NOTICES OF MOTION

9.1

Net revenue (including fines): \$3,681,190

(Note: Council generated fine revenue of \$1,224,735. In respect of fines, Council does not distinguish between the fine type or where in the Shire the fine was generated. Fine revenue is treated as General Fund Revenue and does not assist in providing revenue for the Infrastructure Renewal Reserve or Crown Paid Parking Reserve.)

### 3. How much of the paid parking revenue in 2016/17 was allocated to Byron Bay?

#### i) Crown Paid Parking Reserve

Upgrade path lights Apex Park to Clarkes:	\$146,012
Massinger St, Lawson St to Kipling St roadworks:	\$115,010
Apex Park Exeloo Toilets:	\$31,727
Clarkes Beach Reserve Amenities Block:	\$4,512
Contribution for Surf Lifesaving	\$91,000
Apex Park Maintenance	\$156,700

Total funding Crown Paid Parking Reserve: \$544,961

#### ii) Paid Parking and Infrastructure Renewal Reserves

Footpath replacement Shire wide: (i.e. not all spent in Byron Bay)	\$90,000
Byron Street roadworks:	\$43,643
Funding for New Year's Eve	\$17,300

Total funding Paid Parking and Infrastructure Renewal Reserves: \$150,943

#### iii) Total Byron Bay Paid Parking allocated to Byron Bay

Total 2016/17 allocation to Byron Bay: \$695,904

#### iv) Net Revenue % allocated to Byron Bay

Exclusive of fines revenue:	28%
Inclusive of fines revenue:	19%

**Average of all revenue allocated to Byron Bay: 24%**

### 4. What was transferred into the Infrastructure Renewal Fund and Crown Paid Parking Reserve from the Byron Bay Paid Parking Scheme as of 1 July 2017?

Funds available from paid parking at 1 July 2017: \$3,334,816

Funds in Infrastructure Renewal Reserve: \$2,992,891

Funds in Crown Paid Parking Reserve: \$341,925

### 5. What is budgeted to be raised by Byron Bay Paid Parking in the current 2017/18 year?

(Note: figures used are in accord with the 30 September 2017 Quarter Budget Review)

In 2017/2018 paid parking is expected to generate gross revenue of \$3,739,000 or \$5,232,800 if

# BYRON SHIRE COUNCIL

## NOTICES OF MOTION

9.1

you include infringement income.

	Meter revenue:	\$3,529,900
	Exemption fees:	\$304,500
5	Infringement income:	\$1,493,800
	Scheme costs:	(\$708,900)
	<u>Net revenue (excluding fines):</u>	<u>\$3,125,500</u>
10	<u>Net revenue (including fines):</u>	<u>\$4,619,300</u>

### **6. What is available to be spent in the 2017/2018 year financed by the Byron Bay paid parking revenue?**

15	Total Paid Parking Revenue	
	Available (excludes fines):	\$6,460,316
	Available (including fines):	\$7,954,116

(Note: This equates to 2016/17 reserves plus budgeted revenue for 2017/18)

20

### **7. What is budgeted to be spent in the 2017/2018 year financed by the Byron Bay paid parking revenue?**

#### **Byron Bay Expenditures:**

25	Bangalow Road:	\$146,000
	Childe Street:	\$47,000
	Giaour Street:	\$25,000
	Paterson Street:	\$260,000
	Lighthouse Road:	\$41,200
30	Byron Street:	\$601,400
	Lawson Street:	\$30,000
	Middleton Street:	\$21,000
	Kendall Street Roundabout Design:	\$60,000
	Byron Street (Johnson to Railway):	\$200,000
35	Byron Bay Railway Precinct Projects:	\$239,300
	Shirley Street Widening Investigation:	\$22,000
	Broken Head Road:	\$449,600
	Marine Parade Footpath:	\$350,000
	Byron Bay Town Centre Improvements:	\$350,000
40	Byron Bay Garden Beds:	\$75,000
	Landscape/Precinct Plan:	\$20,000
	Byron Street Connection Upgrade:	\$69,500
	Railway Park Upgrade:	\$118,700
	Visitor Centre Technology Project:	\$22,500
45	Clarkes Beach Carpark:	\$26,200
	Surf Lifesaving:	\$91,000
	Apex Park Maintenance:	\$130,300
	Clarkes Beach Access Repair:	\$30,000
	Butler Street Reserve:	\$4,200
50	Upgrade lights, Apex Park to Clarkes:	\$60,000
	Parks and Reserve Maintenance:	\$72,000
	Funding for New Years Eve:	\$17,300
55	<u>Total Byron Bay expenditure:</u>	<u>\$3,579,200</u>

# BYRON SHIRE COUNCIL

## NOTICES OF MOTION

9.1

### **Other Locations Expenditures:**

	Coolamon Scenic Drive:	\$43,000
	Goonengerry Road:	\$200,000
	Bangalow Road (Hayters Hill):	\$506,500
5	The Pocket Road:	\$35,000
	Tyagarah Road:	\$65,400
	Orana Road:	\$13,300
	Pine Avenue Mullumbimby:	\$534,500
	Deacon and Station Street Intersection:	\$70,000
10	Shire Wide Bike Plan:	\$45,000
	Durrumbul Road Causeway:	\$65,000
	Urban Drainage in North of Shire:	\$122,500
	Urban Drainage in South of Shire:	\$25,000
	Sealed Rural Roads – Roadside Tree Maintenance:	\$82,500
15	Sealed Rural Roads – Roadside mowing:	\$50,000
	Urban Roadside Tree Maintenance:	\$74,300
	Unsealed Roads – Maintenance Grading:	\$150,000
	Rural Drainage Maintenance:	\$104,800
	March 2017 Flood Event Insurance Excess:	\$95,400
20	Funding for the General Fund:	\$90,000
	<b>Total other locations expenditure:</b>	<b>\$2,281,700</b>

### **Unallocated Expenditure:**

25	<b>Total unallocated expenditure:</b>	<b>\$599,416</b>
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Note: Total unallocated expenditure at \$599,416 is reconciled by items that are not Byron Bay or Other Location specific as follows:

30	Estimated unexpended pay parking revenue in Crown Pay Parking Reserve at 30 June 2018:	\$304,700
	Replacement of Footpaths (Shire Wide):	\$90,000
	Visitors Centre Refurbishment: (funded by Byron Visitors Centre – funding to be fixed in December 2017 Budget Review)	\$50,000
35	Pay Parking Customer Service Officer: (not included in costs but funded by Pay Parking)	\$64,200
	Licence Plate Recognition System:	\$87,600
40	<b>Total Paid Parking expenditure:</b>	<b>\$6,460,316</b>

### Expenditure Revenue % allocated to Byron Bay

	Exclusive of fines revenue:	55%
45	Inclusive of fines revenue:	45%

**Average of all revenue allocated to Byron Bay: 50%**

### **Staff comments by Ken Gainger, General Manager**

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

55 This NoM has been prepared in consultation with Council's Manager – Finance who has provided the financial data. From the outset the Council has expressed an intention to direct a "significant proportion" of net revenue derived from pay parking meters in Byron Bay to projects within Byron Bay. This was later expressed as "at least 50%". It was on the basis of this undertaking that many



including the Chamber of Commerce were prepared to support its introduction in December 2015. It is regrettable that Council did not subsequently specifically resolve this as an enshrined commitment – I believe this was an oversight rather than any intention to deceive. Staff would support and appreciate a clear direction on the apportionment of PP revenue so that this can be clearly framed in annual budgets and forward financial planning.

It is timely that Cr Spooner has raised this issue.

Financial/Resource/Legal Implications:

There are no financial implications of making a decision as proposed by Cr Spooner other than there would be more revenue available to support projects in Byron Bay and less revenue available to support projects across the rest of the Shire. This would be particularly apparent if the Council ultimately chooses not to introduce PP in other townships such as Bangalow and Brunswick Heads which given the lack of developer levies flowing in those locations (s94 funds) would struggle to fund future infrastructure upgrades and renewals.

Is the proposal consistent with any Delivery Program tasks?

Yes.

Notice of Motion No. 9.2    Spelling correction for Dening  
File No:                            I2018/40

I move that Council ensure the correct spelling of Dening in all signage, maps and notices within the Byron Shire. Eg Dening Park is currently misspelt as Denning Park.

5

Signed: Cr Jan Hackett

10

Councillor's supporting information:

Dening Park was named after one of Byron Bay's well known elders - the historian S J Dening. On current maps and signage it is still spelled with two 'n's.

15

After Geoff Bensley notified both Council and Google of this error last year, Google have made the change, but Council has not. Given S J Dening's significant contribution to community life in Byron Bay, the correct spelling of his name on public signage and maps should be corrected asap.

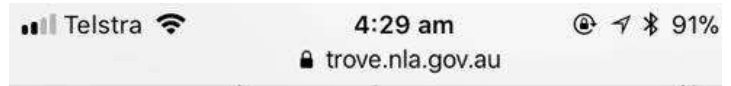
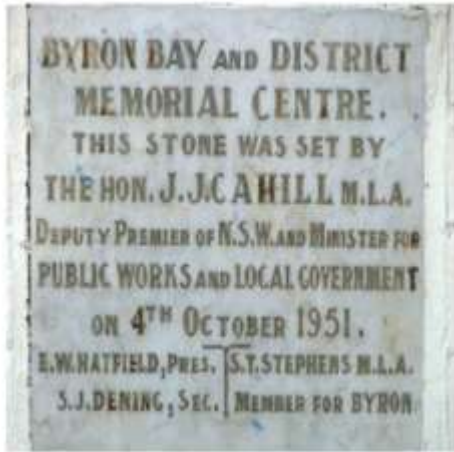
20

S J Dening wrote the " History of Byron Bay 1850 - 1966". His name is correctly spelt on the memorial plaque at the Swimming Pool (1966), he was President of the School of Arts and on Council (Lismore), and earlier a chaplain at Newman Catholic Society (St. Leo's). His son, Glen Dening, was a member of the first junior surf life saving club in Byron Bay. I have barely scratched the surface of the places where S J Dening's name appears in our historic files, but a prompt correction of this misspelling would be greatly appreciated by remaining family in the area as well as long term residents and history buffs.

25



ll. J. Hamilton, R. Hodgson, R. Brownell, H. Goodwin, A. Watkins, B. Williams, A. Hawke, W  
Halpin, J. Keevers, N. Halpin, A. Brown, R. Diamond, G. Browne, A. Harris, A. Ward, T. Akers.  
A. Kildey            G. Dening.



### Work to be Done For Byron Bay Hospital

Sir.—I have read with interest the letter of "Wide Awake" (3.8.49) and while, as a rule, I consider any unsigned letter should not be answered, the general friendly tone impels me to reply in the hope that "Wide Awake" may even come out of hiding and do some of the work he urges others to do.

The main theme of the letter is the necessity for a hospital at Byron Bay. While "Wide Awake" was still asleep some of the workers got busy and, by persistent effort, advanced the hospital project to the stage where it has been passed through Parliament and all other necessary preliminaries completed.

In 1946, the hospital was promised for completion by the end of 1949.

Since then the position has deteriorated and the Hospital Board has been informed there is no possibility of the hospital being built for some time to come. The board is now negotiating with the Hospitals Commission in the hope of getting a temporary hospital established. For the privilege of being allowed to work for the hospital, each member of the board pays the annual subscription of ten shillings and has done so for six years.

Now, here is a golden opportunity for "Wide Awake". I am sure that either the chairman, treasurer, secretary or any member of the board would be quite willing to retire and let "Wide Awake" take charge and get the hospital, not in 10 years or 20 years, but now. What about it, "Wide Awake"? It's up to you. All the ground work has been done and you would have a flying start.

S. J. DENING.

Byron Bay.

National Library of Australia

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

5 This matter of incorrect spelling has been reviewed by staff.

Correction to onsite signage and any future maps, notices and correspondence can be made by staff.

10 Financial/Resource/Legal Implications:  
N/A

Is the proposal consistent with any Delivery Program tasks?  
No

**Notice of Motion No. 9.3**    **Resident contribution for sealing Mafeking Road**  
**File No:**                            I2018/42

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**I move that Council:**

1.    **Note the submissions and proposals to contribute funds provided by residents regarding the sealing of Mafeking Road.**
2.    **Provide in principle support for the application of Council *Policy 4.17 Contribution to the cost of sealing of unsealed roads adjacent to properties at request of owners*, for the remaining 1.4 km of Mafeking Road.**
3.    **Receive a report at the 22 February meeting:**
  - a)    **detailing cost estimates for works involved in sealing 1.4 km of Mafeking Road up to a 5 metre seal with essential only reformation to achieve this width; and**
  - b)    **identifying funding options.**

5

**Attachments:**

- 1    Letter dated 4 January from Mr Patrick Morrisey, E2018/4190 

10    **Signed: Cr Basil Cameron**

**Councillor’s supporting information:**

Residents of Mafeking Road along an unsealed 1.4 km section are proposing that Council; apply  
 5 Policy 4.17 *Contribution to the cost of sealing of unsealed roads adjacent to properties at request  
 of owners* to allow them to contribute to sealing of the remaining unsealed section. See attached  
 correspondence from Mr Patrick Morrissey.

Mafeking Road is considered a local road, however it and Repentance Creek Road provide the  
 10 main access points for commuter links to Upper Coopers Creek and to Lismore via Rosebank and  
 Corndale. In addition, this is the key link between Byron Shire and Dunoon, The Channon, Nimbin,  
 Minyon Falls, Nightcap National Park and other popular tourist hotspots and as such both roads  
 carry considerable through traffic.

Although Repentance Creek Road is the higher order sealed road, Mafeking Road is a more direct  
 15 route, particularly from the north and is used as a regular rat run by commuters and tourists.

There have been ongoing attempts at slowing traffic speeds in Mafeking Road, particularly as it is  
 a school bus route, including a number of speed limit reviews through the Local Traffic Committee.  
 20 This has not resulted in reduced speed limits, but has introduced a multitude of additional signs  
 along the road and had little affect on speed or numbers of vehicles.

Speed of vehicles exacerbates the dust pollution problem that at times becomes extreme such as  
 the recent dry spring. There are concerns that the dust levels are potential health hazards at such  
 25 times. Speed and vehicle counts also contribute to a rapid reduction of service levels after grading.

Roadside vegetation along parts of Mafeking Road is HCV. Dust and vehicle numbers are  
 threatening much of this vegetation. Similarly, the very high rainfall experienced at times continues  
 to wash large amounts of gravel on to private land and into dams and waterways.

In summary, the efforts and commitment of Mafeking Road residents is to be applauded and  
 30 supported with providing in principle support for the proposal in order that further work on  
 identifying funding options and firming up cost estimate can be undertaken.

Recommended priority relative to other Delivery Plan tasks:

35 High

Definition of the project/task:

40 Provide estimates and funding options in a report to Council for task of sealing 1.4 Km of Mafeling  
 Road through application of Policy 4.17.

Source of Funds (if applicable):

45 Review of works programs.

**Staff comments by Tony Nash, Manager Works**

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

50 The Notice of Motion is requesting:

1. Noting by Council of the proposal.
2. Approval in principle by Council of the request in accordance wit the current policy for  
 55 contributions by residents towards the construction and sealing of the unsealed road at  
 Mafeking Road.

3. The preparation of a report for the 22 February 2018 Council meeting.

Mr Morrissey has previously requested the indicative cost to construct and seal the unsealed section of Mafeking Road in accordance with our current policy about contributions from residents. Since receiving this estimate last year, Mr Morrissey has discussed the matter of sealing the gravel road with his neighbours, and as advised in his letter, there are a number willing to contribute towards the cost of the sealing and a number unable to contribute.

A report will be prepared for the Council meeting on 22 February 2018, on the matter and the requested agreement for cost sharing between Council and the residents for the construction and sealing of the unsealed section of Mafeking Road considering:

- Whether Council wants to participate in this proposal.
- If yes, then options of how Council's share of this proposal may be funded.
- The works included or not in the estimate and those requested to be omitted.
- The design standards in the estimate and those requested to be relaxed.
- Who will construct the works.
- Who will supervise the construction.
- The issue of gravel being transported from councils unsealed road network onto private property.

Financial/Resource/Legal Implications:

These will be included in the report to Council at the meeting on 22 February 2018.

Is the proposal consistent with any Delivery Program tasks?

Yes

The Notice of Motion will require a review of the projects in the current approved 2017/18 Capital Works Program and in the projected 2018/19 to 2027/18 to identify any appropriate and suitable sources of funds for these roadworks, which is in accordance with the Delivery Program task CM1.4.2 – 10 year capital plans and programs reviewed annually and projects developed and scoped.

**SUBMISSIONS AND GRANTS**

**Report No. 11.1**      **Byron Shire Council Submissions and Grants as at 10 January 2018**

**Directorate:**      Corporate and Community Services

5 **Report Author:**      Jodi Frawley, Grants Co-ordinator

**File No:**      I2017/2099

**Theme:**      Corporate Management  
Governance Services

10

**Summary:**

Council have submitted applications for a number of grant programs which, if successful, would provide significant funding to enable the delivery of identified projects. This report provides an update on these grant submissions.

15


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**RECOMMENDATION:**

**That Council note the report and Attachment 1 (E2018/2222).**

**Attachments:**

20

1      BSC Grants Register at 10 January 2018, E2018/2222 

**Report**

This report provides an update on grant submissions including funding applications submitted and new potential funding opportunities.

5

Funding Applications – Successful

- Removal of Four Causeways on Brunswick River (NSW Dept Industry – Fisheries) - \$40,000
- 10 • Removal and Replacement of Two Causeways on Brunswick River, Main Arm (NSW Dept of Industries – fisheries) - \$274,600
- Bridges for the Bangalow Agricultural Area (NSW Fixing Country Roads) - \$2,588,908
- Byron Trails Map (NSW Northern Rivers Business Recovery Program) - \$8,609
- 15 • Northern Rivers Food Tourism Industry Master Classes (NSW Northern Rivers Business Recovery Program) - \$13,636
- Billinudgel is Back in Business (NSW Northern Rivers Business Recovery Program) - \$69,545
- 'In Good Company': Marketing for the Northern Rivers (NSW Northern Rivers Business Recovery Program) - \$50,000
- 20     ○ Collaboration with the Northern Rivers Chamber of Commerce and NOROC

Funding Applications – Unsuccessful

- 25 • Renovation of Brunswick Heads Library (NSW Regional Cultural Fund – Medium Scale Infrastructure) - \$607,786
- Keeping Our Visitors Safe (NSW Northern Rivers Business Recovery Program) - \$5,000
- Seniors Week (NSW Gov Family and Community Services) - \$1000

Funding applications submitted

- 30 • Implementation of projects from the Byron Bay Town Centre Masterplan, (Building Better Regions Fund Round 2, Australian Government)
- Enviro-poles for cigarette litter reform (NSW EPA Council Litter Preventions Grants)
- 35 • Activating sustainable agriculture for Byron's first generation and lifestyle farmers (National Landcare Program: Smart Farms, Small Grants)
- Byron Bay Town Centre Bypass (NSW Growing Local Economies)
- Social Access Solar Gardens, (Commonwealth, Australian Renewable Energy Agency) – \$194,970
- 40     ○ Collaboration with University of Technology Sydney, Institute of Sustainable Futures

Additional information on the grant submissions made and/or pending is provided in Attachment 1 – Submissions and Grants report as at 10 January 2018.

**Financial Implications**

45 If Council is successful in obtaining the identified grants more than \$21 million would be achieved which would provide significant funding for Council projects. Some of the grants require a contribution from Council (either cash or in-kind) and others do not. Council's contribution is funded. The potential funding and allocation is noted below:

50

Requested funds from funding bodies	21,190,523
Council cash contribution	11,424,128
Council in-kind Contribution	444,280



Other contributions	17,329,960
<b>Funding applications submitted and awaiting notification (total project value)</b>	<b>50,388,891</b>

**Statutory and Policy Compliance Implications**

- 5 Council is required under Section 409 3(c) of the *Local Government Act 1993* to ensure that 'money that has been received from the Government or from a public authority by way of a specific purpose advance or grant, may not, except with the consent of the Government or public authority, be used otherwise than for that specific purpose'. This legislative requirement governs Council's administration of grants.

**STAFF REPORTS - GENERAL MANAGER**

**Report No. 13.1 Cavanbah Centre - Options for Future Development**

**Directorate:** General Manager

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

**File No:** I2017/2094

**Theme:** Community Infrastructure  
Cavanbah Sports Centre

10

**Summary:**

15 In 2011 Council constructed the Cavanbah Centre (formerly known as the Byron Regional Sports and Cultural Complex) on Ewingsdale Road. The Centre was envisioned as a regional facility that would concentrate Council's resources on a state of the art facility that would accommodate and facilitate future growth in sport within the Shire and encourage more youth to participate in sport with the inherent benefits to better health and social outcomes that this brings. In planning for the new facility the Council of the day acknowledged the tired state of Byron Bay's then main sporting grounds, the Byron Recreation Grounds in Tennyson Street and the fact that those facilities would not adequately cater for future population growth and the changing demographics of the Shire.

25 While it was fortuitous that Council took the initiative to develop the Cavanbah Centre and take advantage of significant federal funding that was available at that time, the planning for the Centre was inadequate and was not properly informed by an appropriate shire-wide recreation needs study. Accordingly, the indoor Centre was designed and built too small with only two main basketball courts and a very narrow range of activity offerings, meaning that the average "spend" of participants was well below that required to make the Centre viable economically. Accordingly, since it opened the Centre has regularly posted an operating deficit of between \$500K - \$600K p.a. In its early years the Centre was regularly referred to by community members as a "white elephant" due to the large empty car-park being symptomatic of an underutilised multi-million dollar facility. Since 2013 much effort has been made to reduce the operating deficit through a mixture of cost savings and revenue-raising through better activities programming. This has been successful in stabilising operating losses which otherwise would have grown to around \$800K p.a. due to normal operating cost increases.

35 This lack of planning was also evident through a number of expensive outdoor sports spaces that were developed which have never or rarely been utilised by the sports for which they were intended. Such activities include cricket, hockey, athletics, cycling, netball and to a lesser degree, soccer. Had Council not been able to attract AFL Queensland to the Centre utilisation of outdoor spaces would be minimal, and given the cost of maintaining these spaces this would have seen the operating deficit blow out considerably.

45 To be viable and sustainable sports centres must offer a range of multi-use offerings so that management can offer programmed use for participants, i.e. offer packages including e.g. gym, pool and café, that increases the average spend of participants. Centres of this size usually either break even or make a profit of up to \$500K annually. The Annette Kellerman Centre at Enmore is an example of such a Centre. This means that the cost benefit of further capital investment is quite positive.

50 The purpose of this report is to illustrate the historic context of the early years of the Cavanbah Centre and propose ways in which Council should invest in the Centre to create a true regional sporting facility which will cater for current and future population growth and provide a centre that turns an annual profit and saves ratepayers between \$500K and \$1M per year.

**RECOMMENDATION:**

1. That the report be noted.
2. That Sutera Architects and Council's Grants Coordinator be invited to present concept plans for the proposed extensions to the Cavanbah Centre to a Strategic Planning Workshop of Council in March 2018.
3. That following the SPW presentation the Cavanbah Centre concept plans be placed on public exhibition and be exposed to effective community consultation in accordance with a detailed community engagement plan prepared by staff in conjunction with the Communications Advisory Panel.
4. That Council receive a report on the proposed plans for the further development of the Cavanbah Centre following the community consultation period and that this report include community feedback, any proposed design modifications, and a detailed budget for the project.
5. That Council re-consider the lodgement of grant applications for the further development of the Cavanbah Centre once it has considered the report in 4.

**Report:****Background**

5 In 2011 Council constructed the Cavanbah Centre (formerly known as the Byron Regional Sports and Cultural Complex) on Ewingsdale Road. The Centre was envisioned as a regional facility that would concentrate Council's resources on a state of the art facility that would accommodate and facilitate future growth in sport within the Shire and encourage more youth to participate in sport with the inherent benefits to better health and social outcomes that this brings. In planning for the  
10 new facility the Council of the day acknowledged the tired state of Byron Bay's then main sporting grounds, the Byron Recreation Grounds in Tennyson Street and the fact that those facilities would not adequately cater for future population growth and the changing demographics of the Shire. Council's expectation at the time was that those sports that were resident at the Byron Recreation Grounds at the time would choose to progressively re-locate to the Cavanbah Centre. Strong  
15 historical roots of clubs such as soccer and rugby union who are heavily vested in the Rec Grounds location, together with the convenient access to juniors attending neighbouring schools, has meant that the re-location of these sports has not eventuated. Council is now having to not only fund new facilities at the Cavanbah Centre but continues to meet significant operating costs associated with maintaining the Rec Grounds for use by resident sporting clubs.

20 While it was fortuitous that Council took the initiative to develop the Cavanbah Centre and take advantage of significant federal funding that was available at that time, the planning for the Centre (and some of the assumptions made such as the foregoing) was inadequate and was not properly informed by an appropriate shire-wide recreation needs study. Accordingly, the indoor Centre was  
25 designed and built too small with only two main basketball courts and a very narrow range of activity offerings, meaning that the average "spend" of participants was well below that required to make the Centre viable economically. Accordingly, since it opened the Centre has regularly posted an operating deficit of between \$500K - \$600K p.a.

30 In its early years the Centre was regularly referred to by community members as a "white elephant" due to the large empty car-park being symptomatic of an underutilised multi-million dollar facility. Since 2013, much effort has been made to reduce the operating deficit through a mixture of cost savings and revenue-raising through better activities programming. This has been successful in stabilising operating losses which otherwise would have grown to around \$800K p.a. due to normal  
35 operating cost increases.

This lack of planning was also evident through a number of expensive outdoor sports spaces that were developed which have never or rarely been utilised by the sports for which they were intended. Such activities include cricket, hockey, athletics, cycling, netball and to a lesser degree,  
40 soccer. Had Council not been able to attract AFL Queensland to the Centre utilisation of outdoor spaces would be minimal, and given the cost of maintaining these spaces this would have seen the operating deficit blow out considerably.

To be viable and sustainable, sports centres must offer a range of multi-use offerings so that management can offer programmed use for participants, i.e. offer packages including e.g. gym, pool and café, that increases the average spend of participants. Centres of this size usually either  
45 break even or make a profit of up to \$500K annually. The Annette Kellerman Centre at Enmore is an example of such a Centre. This means that the cost benefit of further capital investment is quite positive.

50

**Business Planning**

55 In 2013 Council commissioned Recreation Consultants SGL (Simply Great Leisure) through its Principal, Michael King, to undertake business feasibility planning for the Cavanbah Centre. **In their final report (*BRSCC Future Management Model and Business Strategy*), the**

consultants acknowledged that the centre suffered from a significant range of business constraints including 1) limited activity areas to generate significant operational revenue; and 2) a limited hire space model compared to proven higher revenue generating program-based management models.

5

In consequent de-briefings with senior staff SGL advised that the Centre, in its current configuration and with its current range of activities was not viable for a number of reasons, including:

- The building footprint was too small
- The number of courts was too few (needed at least three)
- Programmable activities/spaces were too few
- An analysis of the current average spend by participants was too small for the Centre to be economically viable
- Professional management groups such as the YMCA would not be attracted to operate the Centre because it was unprofitable

Further Mr King advised that to become profitable/viable Council would need to add at least one more court and consider additional facilities such as gymnasium and aquatic facilities. This, in his experience, would significantly increase opportunities for management to offer more programmable spaces, offer activity packages, and increase the average spend per visit. Following such additional capital investment Council would then be able to attract professional facilities management companies to the Centre with inherent marketing and promotion opportunities and resultant growth in patronage.

Mr King also made a number of recommendations as to how Council could stem the financial “bleeding” and stabilise the operating deficit. These recommendations included:

- Seeking an anchor tenant for key outdoor spaces
- Leasing the unused commercial kitchen
- More aggressive programming of activity spaces
- Reduce staffing costs through shutting down the Centre on Sundays
- Selling food and drink items in the building foyer

These measures were all implemented by staff with consequent reductions in the operating deficit. Other key initiatives undertaken by staff included:

- Entering a 5 year deal with AFL Queensland to establish their Northern NSW Office at the Centre including annual grounds hire and use of training rooms. This agreement included AFL agreeing to fund coaches boxes, goal posts (two fields), and goal safety nets
- Lighting of the second AFL/Soccer field
- Improved field drainage (the fields had been notoriously wet)
- Leasing out the kitchen to local mozzarella cheese manufacturers/pizza makers
- Erecting two new scoreboards
- Placing a new picket fence around the No.1 oval
- Placing relocatable grandstands at the No.1 oval
- Constructing half of the planned cycleway
- Installation of solar panels on the building roof
- Cavanbah staff were placed on Council’s permanent staff in 2015 achieving cost savings
- An electronic sign was erected on Ewingsdale Road to alert motorists to events at the Centre

50

### Strategic Planning

Over the past couple of years staff have been addressing potential opportunities for developing a broader range of activities at the Cavanbah Centre, including:

- A cycle hire service with promotion of a “park and cycle” opportunity
- Conducting niche markets (either regular or occasional)
- Glamping (primarily to support sports camps)
- Extending facilities at the Centre including aquatics (year round), gymnasium, crèche, sauna/spa, massage and an additional indoor court
- A licensed sports club

### Cycle Hire:

10 Prior to her departure Jane Lavery (former Economic Development Coordinator) was exploring a cycle hire service based in the car park of the Cavanbah Centre. While this proposal hasn't progressed since Jane's departure, it is worthy of being pursued due to the opportunity to promote it as a “park and cycle” proposition with a bicycle path already in place along Ewingsdale Road. It may be attractive to those not wishing to join the traffic congestion between Ewingsdale and the

15 Byron Town Centre.

### Niche Markets:

Markets have always been envisaged at the Cavanbah Centre since its early establishment.

20 Markets have not proceeded for a variety of reasons including:

- I. Council spent 3 years reviewing market operations at the Butler Street Reserve and setting up another market in that environment was considered too politically sensitive
- II. The former Plan of Management for the Cavanbah site did not provide for markets to operate
- 25 III. With the advent of the Byron Bay Town Centre Bypass, pay parking and more recently a bus interchange temporary (or permanent) re-location of the markets from Butler Street has been a sensitive issue. Concerns that proposing markets at the Cavanbah Centre would skew this debate caused a cautious approach.

30 The intention has always been that any market offering at the Cavanbah should not compete with established markets in the Shire. Markets at this site could be occasional or regular but should offer a niche proposal that would be somewhat unique to Byron. A market could be based on local crafts, unique food offerings e.g. a night noodle market or a culturally unique food market such as Japanese, a car boot market (such as has been operating at Lismore for many years, a sports

35 promotion market with demonstrations, coaching, sporting celebrities, sports merchandise, signs etc or similar.

The Cavanbah Centre PoM has recently been re-written to include markets (and Glamping) on site. A Development Application has been lodged with Council for both uses and will be considered

40 by the Council on 1<sup>st</sup> February 2018. It is hoped that Council will support this application as it will then facilitate active engagement and consultation with key market stakeholders as a prelude to an EOI process to gauge interest in such a proposition. If successful markets at the Cavanbah will:

- a) Provide a useful source of re-current revenue to help offset on-going Cavanbah Centre operating and maintenance costs and help further reduce the annual operating deficit
- 45 b) Bring people regularly to the Centre helping staff to actively promote the Centre and sign up new participants/bookings
- c) Raise the profile of the Centre and help to shake off its old tag as a “white elephant”.
- d) Help demonstrate the potential for a wider range of uses for the Centre

### Glamping (glamorous camping):

Without being distracted by its flowery title, Glamping in the Cavanbah Centre context means simply a small camping village being established (bump in/bump out) or offered as a means of attracting more sporting training camps to the Centre. Council has been keen to attract sporting

55 clubs/codes (including elite sports) to the Centre and avail themselves of the extensive sports

5 fields and training rooms. We have had some success with this by attracting teams Australia-wide for the annual AFL 9's competition that was established 3 years ago and attracts 100s of players and their families. Currently they have to up stumps and go to accommodation (a Glamping village) set up at Belongil Fields because until now the PoM wouldn't allow such an activity at the Cavanbah Centre. AFL 9s injects millions of dollars into the local economy each year and is a showcase for the AFL to recruit young people to the code.

10 Last year the Manager – Open Space and Resource Recovery and I visited the Sunshine Coast Council and inspected their regional sports facilities. Last year the Sunshine Coast Council attracted 5 AFL senior teams to training camps on the Sunshine Coast so we were keen to learn what it takes to be successful. We learned that the vital ingredients are:

- 15 a) Available 4 star accommodation for around 150 people (bear in mind that winter sport training camps typically occur in December-January when Byron's accommodation is booked out and very costly)
- b) Gymnasium facilities
- c) Pool facilities with ice baths and warm down facilities
- d) Training rooms
- 20 e) At least two full sized sports fields
- f) Adequate amenities including toilets and showers
- g) Food catering

25 The Cavanbah Centre was superior to the Sunshine Coast with regards quality and numbers for d, e, f and g. Where Byron falls short is the lack of affordable and available accommodation, local gyms are too distant or too limited, and there are no pool facilities that meet their needs (must be on site). Hence we have begun designing an aquatic and gym facility (Council saw a fly-through of this early in 2016) and with a Glamping approval Council could negotiate with local Glamping companies to set up at the Cavanbah Centre, initially for AFL 9s but thereafter for other sports training camps.

30 Sports tourism is a high growth industry and major sporting codes such as AFL, the FFA (Soccer) and Cricket NSW tell us that Byron Bay is a very attractive destination and that they would be very interested in bringing and promoting training camps here once we have the facilities to support them. Sports tourism would be a further boost to the local economy with players, support/coaching staff, parents and friends adding a multiplier effect to expenditure in our cafes, restaurants, accommodation establishments, and other retailers.

### Aquatics Centre, Gymnasium, Crèche, Sauna/Spa, Massage/Rehab, Extra indoor court:

40 While attracting sports training camps would be beneficial, there are many other primary reasons why extended sports facilities at the Cavanbah Centre ought to be planned and designed now. These include:

- 45 • To establish a more economically viable Centre that will no longer be a financial burden on ratepayers (see details provided earlier in this report)
- To service the changing needs of a community that continues to grow (see 2016 ABS census statistics). Historically, population growth in the Byron Shire has been steadily around 1.3 per cent. At the last census (2016), Byron Shire added 446 people to its population, growing by 1.3 per cent. Note: Should new residential development proceeds at West Byron would see a further spike in growth over the next 2 to 3 years. The NSW Government's North Coast Region Plan 2036 estimates that Byron Shire will add around 3150 dwellings to its population over the next 15 years (to 2036).
- 50 • To place aquatic (including learn to swim), sporting, rehabilitation (including aged and disability rehab) facilities where they are needed to meet demographic and growth

patterns (see Shire Wide Recreation Needs Study 2017 and information pertaining to Ewingsdale Corridor growth)

- 5 • To respond to the community's strong support for the development of a year-round swimming facility. During the winter months, a fifth of survey respondents are travelling out of the Shire to use a year-round aquatic facility (Byron Shire Open Space & Recreation Needs Assessment and Action Plan Draft 2017 – 2036)
- 10 • To utilise existing investment in infrastructure including roads, car parking, water (including recycled water), sewer, drainage, solar, external security lighting and amenities that is available at the Cavanbah Centre meaning more cost effective capital works. At an estimated cost of \$10M this facility is very cost effective and affordable.
- 15 • Social inclusion and health benefits through access to all year round (heated) aquatics facilities for therapeutic pool activities such as aqua aerobics, rehabilitation for those recovering from injury, surgery and for people with disabilities. Studies have highlighted the benefits of participating in activities at aquatic and recreation centres including: to increase physical fitness, to overcome mental health issues including anxiety and depression, and to manage chronic health disorders. Research reveals that in addition to physical exercise, weigh loss and body image benefits, participants who were involved in regular physical activity post 50 years of age reported social benefits as important
- 20 outcomes of their visits to aquatic and recreation centres. For example, social support for those participants new to an activity appeared to be especially important to improve their retention in rehabilitation activities (*Personal benefits for Australian public aquatic & recreation centre customer*: UniSA Business School, University of South Australia)
- 25 • Accessible without having to travel into the congested Byron Bay Town Centre
- To take advantage of unprecedented grant funding opportunities leading up to the next federal and state elections including state revenue flowing from the poles and wires transactions

30 Given the foregoing it is somewhat baffling that the Council passed the following resolution at its 2<sup>nd</sup> November 2017 meeting when considering a simple grants information report and without calling for a more detailed report as to the rationale for proceeding to the design phase for the aquatic facility and implications of not proceeding to seek government grant funds to pay for it.

*Council Resolution 17-539:*

*Resolved that Council:*

- 35 1. *Note the report.*
- 40 2. *Not proceed with any grant applications for the Cavanbah Centre Swimming Pool.*

45 Prior discussion with councillors in a Strategic Planning Workshop gleaned that some councillors wanted information on the cost-benefit of proceeding with a proposal to extend the Cavanbah Centre as suggested. Reasons for developing the facility are outlined in this report and comprise community need, community benefit, year-round availability of aquatics and importantly, save ratepayers \$600K per year in net operating and maintenance costs.

Further, a meaningful cost benefit cannot be undertaken until concept plans currently being worked up are completed and reviewed by a cost consultant. Such a process is facilitated through the recommendations in this report.

50 It is hoped that the Council may be persuaded to reverse its decision once acquainted with the information in this report.

55



Byron Memorial Pool:

I have included a section on the Byron Memorial Pool as it seems to get included, quite irrationally, in any discussion about aquatic facilities being established at the Cavanbah Centre.

5

In 2015 Council commenced a Byron Bay Town Centre Master Plan which was undertaken with extensive community consultation over a two year period. The convening architects McGregor Coxall divided the town up into a number of critical catalyst sites for focussed attention one of which was the Byron foreshore area where the Byron Memorial Pool is located.

10

The consultant team recommended that Council consider redevelopment of the pool precinct and included a range of possibilities in their final report including removal of the pool. Bear in mind that the consultant recommendations were based upon what the community told them. The Byron Pool is but one of a number of foreshore facilities that will be impacted by the need to re-plan the entire foreshore precinct following the completion of a CZMP for the Jonson Street coastal strip and the consequent construction of an extensive revetment wall which coastal engineers have already advised will significantly encroach on the foreshore car park area and require sculpting of an entirely new beach front environment. For this reason any meaningful work on Master Plan projects such as re-development of the Byron Memorial Pool site cannot take place for at least 3-5 years.

15

20

So is development of an aquatic facility at the Cavanbah Centre synonymous with pre-empting the future of the Byron Memorial Pool? Of course not. These two projects are like chalk and cheese. The Cavanbah proposal is a multi-faceted facility incorporating pools, gym, sauna, massage, crèche, etc and is linked to an existing indoor sports facility and thus becomes a holistic facility. The Byron Memorial Pool is simply a stand alone pool and cannot meet the growing needs of the broader Byron Shire community for aquatic facilities even if it is retained.

25

Staff have had an independent analysis undertaken of the Byron Memorial Pool which currently does not comply with Pool Regulations. Initial plans for its upgrade to current Public Swimming Pool standards have been prepared with costs in the order of \$3.5M with an anticipated annual net loss of \$200,000. Other arrangements that would have an ability to reduce net operating loss are in the order of \$5 to \$7.5M in capital expenditure. These costs do not consider any possible cost impacts of any future adjacent revetment works that may form part of an approved CZMP.

30

35

Early in 2017 staff showed councillors an architect's fly through of what a revamped Byron Memorial Pool might look like. Councillors were also shown an architect's fly through of an alternative – a Memorial Water Play Park which also has considerable merit. Prior to the current pool season staff installed a new filtration plant at this pool clearly demonstrating Council's commitment to keep the pool in operating condition until its future can be determined.

40

It is understandable that the Council is keen to appease the Byron Swimming Club, those responsible for managing the pool and those who espouse the irreverence of removing a war memorial. Their issues are real and they should be consulted. However the clear and apparent needs of a growing shire as evidenced by 2016 ABS data and the recently completed Shire Wide Recreation Needs Study, as well as the wishes of the wider community as captured through the Master Plan process should prevail.

45

There is an opportunity for Council to show strong strategic leadership by embracing the Cavanbah Centre re-development proposal and establish one of NSW's premiere regional sporting centres. There is a strong chance that Council will get the facility grant funded during the current pre-election window and the NSW government has lots of cash to splash.

50

Some of our best chances for grant funding will be through:

55

- NSW Regional Sports Infrastructure

- NSW Stronger Country Communities
- NSW Growing Local Economies
- Australian Government Building Better Regions Fund

5 In 2017, the Building Better Regions Fund (round one) provided two grants pools / aquatic centres, one in Cairns North for a purpose-built Centre to provide allied health services for people with spinal chord injuries and other disabilities (grant provided \$4.4m, total cost \$8.8m) and Northam WA for the construction of a new sustainable Aquatic Facility at the Northam Recreation Centre (grant provided \$3.2m, total cost \$8.06m). In 2017, various pool upgrades, wellbeing centres and new aquatic centres featured in the National Stronger Regions funds announcements, Round 1, 2 and 3.

Round 1 – City of Darwin: construction of stage 1 of the Parap Leisure and Sports Centre (\$4.5m funded) and Hume City Council (Vic), construction of Craigieburn Water Park (\$9m funded).

10 Round 2 – Greater Bendigo City Council: Greater Bendigo Indoor Aquatic & Wellbeing Centre, Kangaroo Flat (\$4.9m), and Robertson & District Swimming Pool Assoc: new Aquatic Centre at Robertson (\$542,637 funded).

15 Round 3 – Circular Head Council: Circular Head Community Wellbeing Centre (\$3.8m funded), and Tumbaramba Shire Council: Khancoban Swimming Pool Upgrade (\$215,000 funded).

20 Other organisations such as the AFL may also be persuaded to contribute. These opportunities may well be lost if the proposal is deferred for 3-5 years until the Byron foreshore CZMP and revetment wall design are completed and the future of the Byron Pool is ultimately resolved.

A Licensed Sports Club:

25 Three years ago the option of a licensed sports club at the Cavanbah Centre was canvassed with the Council’s Sports Stakeholder Forum. Initial plans were developed by staff however it was considered that other sports facility development options (such as those discussed in this report) should take precedence. This proposal could be revisited once the Cavanbah Centre is operating on a more financially sustainable basis.

**Conclusion:**

35 From its inception during the Barham Mayorality Council has always considered The Cavanbah Centre to be a sports centre of regional significance. To this point of time it has not had a strong regional focus given that it has not attracted some key sporting codes to the site as was envisaged due to inadequate planning during the facility’s conception and an approach which seems to have been “build it and they will come” rather than consulting with stakeholder groups and obtaining a solid commitment from them prior to building the Centre.

40 Recreation consultants appointed by Council have made it clear that with the limited programmable spaces available at the Centre currently Council can expect that substantial operating deficits will continue. Accordingly, the Centre will not adequately cater for the needs of the Shire’s growing population let alone fulfil anticipated regional demand.

45 It is therefore imperative that the Council corrects the shortcomings of the past and undertakes a strategic planning approach to further growth and development of facilities at the Centre so as to meet current and future needs. To this end the recently completed Shire Wide Recreation Needs Study has fulfilled the widespread stakeholder and community engagement necessary to stimulate and guide future development plans. Fortunately Council has had the vision to have concept plans developed by Melbourne based architects and aquatic facility specialists Suters for an extension of the Cavanbah Centre that includes all year round indoor/outdoor aquatic facilities complemented by gymnasium, sauna/spa, crèche, massage room and an additional all-purpose indoor court. The Recreation Needs Study report concludes that facilities as described are not only needed but that the Cavanbah Centre location is ideal given current and expected population growth patterns.

5 In addition to the general population growth expected within the Byron Shire and surrounding areas, it is worth noting that residential and business growth is expected around the Ewingsdale Road corridor (home of the Cavanbah Centre) should the proposed West Byron development be approved. In 2014, the NSW Government rezoned land for the West Byron development which, along with the designated employment lands, are due for release in 2019 if approved by the Joint Regional Planning Panel.

10 If approved, this land, south of Ewingsdale road includes 850 new residential lots and 7.4ha of industrial land representing an extension of Byron Arts and Industry Estate capacity. Adjacent to West Byron, 14.6ha are also being rezoned industrial. This new employment land is expected to support a similar range of businesses, in size and sector as the Byron Arts and Industry Estate. Together, these two parcels of land, if they proceed, would see a direct impact on housing and jobs in the region and activation of the Ewingsdale Road corridor, aided by construction of the Byron Bay Bypass (commencing 2018).

15 **It should be reiterated that these facilities are necessary irrespective of whether the proposed West Byron land release area proceeds to development or not. Should the development of that land for residential purposes proceed in the future it would simply emphasize the need, not create it.**

20 A recent Royal Life Saving Society (Australia) report found that a single visit to a public aquatic facility leads to health benefits worth nearly \$27 per person. The *Economic Benefits of Australia's Public Aquatic Facilities* also found that public swimming pools produce \$2.8 billion in health benefits each year in addition to their value as places of recreation, community and aquatic education. Almost 40% of Australians are classed as "physically inactive", meaning that they do less than one hour of vigorous exercise each week. The report suggests an extra visit to a public swimming pool each week would shift most "inactive" Australians to "low activity", cutting their risk of lifestyle-related disease by 16% and saving more than \$4500 per person in the form of better health, reduced medical costs and improved work attendance each year.

25 Council has collected Section 94 funds (up to \$1.5M potentially available) for facilities such as the Cavanbah Centre expansion and with the current favourable grant funding window Council stands an excellent chance of securing significant grant funding for this facility. So with this facility development having the potential of being totally funded by developer contributions (s94) and grant funds without the need to apply ratepayer funds why would Council seek to place a hold on submitting grant funding applications?

30 One would hope that such a decision passed on the floor of the Council in response to a Grants and Submissions report (and for noting only) on 2<sup>nd</sup> November without having the benefit of the information contained in this report was not made simply to appease those wedded to the current Byron Memorial Pool who perhaps are not so focussed on the strategic future needs of the Shire as they are to their vested interests in that pool.

35 In my view these two projects are quite different and distinct and shouldn't be confused as meaning a vote for the Cavanbah Centre is vote to close the Byron Memorial Pool. The Cavanbah Centre plans are backed up and supported by a Shire Wide Recreation Needs Study and a Recreation Consultant (2013) report making a strong case for expansion of programmable spaces at that Centre. The future of the Byron Pool is linked to the Byron Bay Town Centre Master Plan which recommended that Council should consider re-development of the Byron foreshore precinct including the Pool site and the area currently occupied by the First Sun caravan park. Consideration of the future of the Byron Pool site will likely be made by a future Council in 3-5 years time once the Byron Bay CZMP has been completed and the impact of revetment wall construction on the foreshore precinct is known.

Thus the imperative here is to commit to developing facilities that can be clearly demonstrated to be in the broader community interest and Council’s financial sustainability interest and are supported by proper planning rather than emotion and short term political expediency.

**5 Financial Implications**

10 Suters architects have estimated the cost of proposed extensions to the Cavanbah Centre as \$10M. Once more advanced concept plans are completed cost consultants will provide a more detailed costing. The Cavanbah Centre has delivered a substantial net annual operating deficit in each financial year since it opened (see following chart):

<b>Financial Year</b>	<b>Operating Deficit</b>
<b>2012/13</b>	<b>\$662,329</b>
<b>2013/14</b>	<b>\$688,127</b>
<b>2014/15</b>	<b>\$412,486</b>
<b>2015/16</b>	<b>\$424,633</b>
<b>2016/17</b>	<b>\$532,136</b>
<b>CUMULATIVE OPERATING DEFICIT</b>	<b>\$2,719,711</b>
<b>Average Operating Deficit</b>	<b>\$543,942</b>

15 Operating deficits are trending upwards once again given incremental net increases in operating costs. If we project operating deficits for a further 5 years using a conservative average loss without factoring in incremental net cost increases we can see that a further \$2.8M will be lost as there is little scope to further increase user charges and costs have already been pruned wherever possible. Without further programmable spaces being developed this situation will continue unabated with ratepayers bearing the financial impact.

**20 Statutory and Policy Compliance Implications**

Not applicable.

**Report No. 13.2**                    **Effective Community Engagement and Participative Decision Making**  
**Directorate:**                    General Manager  
**Report Author:**                Ken Gainger, General Manager  
**File No:**                         I2017/2095  
5 **Theme:**                         Corporate Management  
    Governance Services

**Summary:**

10 Since 2013 successive councils have extolled the virtues of improved community engagement as a means of delivering better and more sustainable decision-making. In its quest to achieve such outcomes the Council has adopted the International Association for Public Participation (IAP2) guidelines, prepared new communication policies, and a number of staff members have received  
15 IAP2 sponsored training in effective community engagement. Community engagement strategies are now developed for all major Council initiatives and proposals with guidance from those staff who have undertaken the IAP2 training.

20 These initiatives are commendable and have undoubtedly led to a number of improved strategic planning, revenue and capital works project outcomes. However community feedback received via successive biennial community surveys indicate that engagement strategies to date do not consistently meet community expectations which appear to be moving more towards the right of the IAP2 Spectrum towards participatory decision making rather than just consultation.

25 This report examines and analyses Council's performance in its approach to community engagement over the past 5 years and puts forward some suggestions as to how performance might be improved.

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**RECOMMENDATION:**

**That Council:**

1. **Supports the establishment of a Community Solutions Panel for Byron Shire Council area initially to inform the development of Council's Delivery Program (2018-2022) and Operational Plan (2018-2019).**
2. **Notes a further report will be presented to the 22 February Ordinary Meeting to:**
  - a) **Outline the outcomes from the recent Community Strategic Plan engagement**
  - b) **Outline the proposed engagement methodology moving forwards, including the Community Solutions Panel**
  - c) **Endorse the draft Community Strategic Plan for public exhibition**
3. **Conduct a review of the success of the Community Solutions Panel model within three months of the adoption of the Delivery Program (2018-2022) and Operational Plan (2018-2019) through the auspices of the Communications Advisory Panel (with feedback from the consultant team) who shall oversee the preparation of the evaluation criteria, and liaise with staff in formulating a report to Council on the outcomes of the review and advice as to future utilisation of this deliberative model.**
4. **Reviews the role and composition of established Town Centre Master Plan Leadership/Guidance Groups so as to ensure that the deliberative principles inherent in guiding the role and participants of the Citizen Jury concept are consistently applied and adopted in Council's community engagement.**
5. **Offer Councillors IAP2 training during the 2017/18 financial year.**

**6. Abandon the Community Round Table in favour of the Community Solutions Panel approach to community engagement.**

**Attachments:**

- 5
- 1 Overview of deliberative approach prepared by newDemocracy Foundation (included as SPW presentation 7/12/17), E2018/3831 [⇒](#) 
  - 2 A fundamental change to how we do democracy (Literature by newDemocracy Foundation), E2018/3632 [⇒](#) 

10

**Report**

**Background:**

5 Since 2013 successive councils have extolled the virtues of improved community engagement as a means of delivering better and more sustainable decision-making. In its quest to achieve such outcomes the Council has adopted the International Association for Public Participation (IAP2) guidelines, prepared new communication policies, and a number of staff members have received IAP2 sponsored training in effective community engagement. Community engagement strategies  
10 are now developed for all major Council initiatives and proposals with guidance from those staff who have undertaken the IAP2 training.

15 While these initiatives are commendable and have undoubtedly led to a number of improved strategic planning, revenue and capital works project outcomes, community feedback received via successive biennial community surveys indicate that engagement strategies to date do not consistently meet community expectations which appear to be moving more to the right of the IAP2 Spectrum towards participatory decision making rather than just consultation.

20 Following is a brief summary of some of the issues that have impacted on Council's performance in effective community engagement which also go some way to explaining why there is still a palpable lack of trust by the community in Council and Council decision-making. This lack of trust was reported to the councillors recently by consultants (Straight Talk) and New Democracy Foundation a not-for-profit R&D organisation who have been engaged to assist Council in community engagement around the new Community Strategic Plan.

25 Strategic Land Use Planning

30 During the term of the last Council a number of critical strategic land use strategies were undertaken to help inform proposed amendments to Council's major planning instruments. These studies included the Rural Land Use Strategy and the Residential Land Use Strategy. Council's Strategic Planners informed the Council of proposed Project Plans for the delivery of both projects which included timelines required to facilitate proper community engagement. Council's response was to dramatically curtail the time frame available for completion of both strategies so as to enable both to be adopted during the remaining term of the Council. The result was an incomplete  
35 process with ineffective community engagement and widespread condemnation of Council for what was perceived as ill-informed decisions regarding future development options. The Department of Planning and Environment (DPE) subsequently rejected the planning documents and the new Council elected in September 2016 set about undertaking a new process for revised strategies.

40 Coastal Zone Management Plan BBE

45 This CZMP (second iteration) was 4 years in the making and was extremely controversial because of community division regarding two fundamentally different approaches to coastal protection, namely planned retreat on the one hand and constructed protection walls on the other. Adding further intrigue to this issue were a series of multi-million dollar legal actions pending against Council lodged by Belongil landowners. During the term of the last Council a slim majority of councillors supported the protection wall approach and as a consequence the CZMP BBE was prepared which envisaged a series of protection walls being constructed. Despite the controversial nature of the draft CZMP Council voted to adopt it in the closing months of the Council term without  
50 having undertaken effective and thorough community engagement. As a result community Progress Associations and environmental groups protested loudly that their voices had not been heard and the Minister returned the CZMP to Council for substantial modification.

Town Centre Master Plans

5 Since 2015 the Council has undertaken a number of Master Planning processes for the Byron Bay, Bangalow and Mullumbimby Town Centres. The Byron Bay Town Centre Master Plan (BBTCMP) was undertaken by a consortium led by architects McGregor Coxall and the extensive community engagement strategies proved most effective and contributed to the Master Plan process winning multiple awards. The engagement consultants working with McGregor Coxall worked closely with Council staff and those staff learned some very good lessons on effective community engagement which have since been put to good use on other projects.

10 Despite the success of the BBTCMP which was adopted by Council in 2016, there has been much angst regarding the delivery of promised Master Plan projects at various catalyst sites due to confused expectations and a lack of understanding of the extensive planning and budgeting required to deliver what are very complex and interwoven projects. These delays in project delivery have been exacerbated by the intervention of influential self-interest groups more intent on preventing change rather than embracing and supporting it.

15 Accordingly, many in the community believe that Council may have over-promised and under delivered while others are perplexed at Council changes to some Master Plan recommendations which appear more focussed on appeasement of noisy minorities rather than honouring broad community feedback reflected in the consultant's original recommendations.

20 Another factor contributing to community distrust is the fact that some in the Byron Bay community believe that the Council has failed to honour undertakings given to the Byron Bay Chamber of Commerce and the Byron Bay community that at least 50% (with the inference that it may be more) of net PP revenue derived from meters in Byron Bay would be spent in Byron Bay. While budget figures indicate that in fact Council has honoured this commitment, the fact that there appears to be a disconnect between Council and its Byron constituents on this issue is of concern. It is understood that this issue will be elaborated on in a NoM to be placed before the Council on 1<sup>st</sup> February 2018. It is however worth noting that not all of this revenue can be spent on capital works. Each time Council builds new facilities it needs to commit to the maintenance and servicing of those facilities so a proportion of PP revenue will always need to help to cover additional operating/maintenance expenditure.

Revenue Raising Initiatives

35 Since 2015 Council has made some bold but necessary revenue raising decisions necessitated by its inherited poor financial position and poor infrastructure renewal performance and backlog. These initiatives included the introduction of pay parking in Byron Bay and Wategos (and proposals to do likewise in Belongil, Bangalow and Brunswick Heads), as well as a 33.5% cumulative rate increase commencing in the 2017/18 financial year. While these revenue raising initiatives have been effective in significantly improving Council's financial outlook and infrastructure renewal programs, they have not necessarily been popular with the community many of whom resent the fact that ratepayers continue to subsidise the booming visitor economy.

Community Strategic Plans

45 Since the adoption of its first Community Strategic Plan in 2012 as part of its Integrated Planning and Reporting obligations Byron Council has sought to engage the community in a meaningful way in an effort to ascertain a true sense as to community expectations and priorities. It is fair to say that Council's early attempts at community engagement around its strategic planning were quite traditional with more focus on eloquent critics rather than genuine efforts to tap the silent majority. Accordingly there has been an historic sense of community disconnection from the "Community" Strategic Planning of the Council.



5 Council is currently developing a new 10 year Community Strategic Plan and has engaged consultants Straight Talk and not-for-profit R&D organisation newDemocracy Foundation to prepare and oversee a deliberative community engagement process aimed at encouraging active community input into Council's priorities for the next decade. These highly regarded experts are renowned within the local government sector as leading edge IAP2 accredited practitioners and have been chosen quite deliberately in a sign of Council's commitment to do better in its engagement with the community.

10 An extensive community engagement program was undertaken in November and December 2017 to seek to reach a broad range of community members and stakeholders. The engagement report and outcomes will be presented to Council at its 22 February meeting. It should be noted that feedback received included:

- 15 • Seeking opportunities and support for greater levels of community led involvement and empowerment in local decision making
- A lack of trust in Council decision making, and a feeling that past feedback has been ignored or not acted upon by elected councillors and staff

20 Budgets

Traditionally Council budgets are prepared by Finance staff in consultation with other professional staff but without any significant input by councillors or the community. Annual budgets are largely incremental rather than zero based and although they increasingly have regard for the Community Strategic Plan/Delivery Plan priorities are not "ground truthed" against changing community needs and expectations. Council officers have been discussing undertaking additional councillor and community engagement to inform budget development. As an example newDemocracy Foundation were engaged in ground breaking work for the City Of Melbourne and others in establishing and managing participative financial planning models whereby communities help to develop and determine Council forward budgets. Is Byron Council ready for such an approach? At the very least the Finance Advisory Committee ought to be meeting with senior staff in late February/early March each year when budget preparations begin to set budget parameters and to help guide works priorities and funding sources. Thus any decisions as to the allocation of say, pay parking revenue to fund various projects would be determined in collaboration very early in the budget cycle.

35 Capital Works Programs

With community infrastructure, particularly roads, being this community's number one priority, it would seem logical to establish processes whereby the community helps to determine road works priorities for each Council budget cycle. This has been tried in other LGAs such as Lismore Council with varying degrees of success. While Councils, including Byron Council, have more recently developed much more sophisticated asset management systems which base renewal and maintenance priorities on predetermined and consistent performance criteria, community involvement in helping to determine roads expenditure priorities would relieve much community angst and provide a very useful reality check for Council's Civil Engineers.

45 Community Round Table

50 In 2016 Council established a regular meeting of representatives from each of the local Progress Associations and community organisations which were not just single interest groups. Meetings have been held over the past 2 years with mixed results. Discussions largely focussed on town planning matters and governance guidelines and regularly deteriorated into Council bashing and derogatory remarks with the Mayor having to regularly intervene. This initiative has not been successful by any measure and should be abandoned. There is an opportunity to refresh this community engagement approach perhaps more along the deliberative model embraced through the planned Community Solutions Panel/Citizens Jury model.

Business Round Table

5 Business Round Table meetings have been held regularly since 2013 following the 2012 Council elections. Representatives from each of the business chambers attend and discuss issues relevant to their business community. Over time these meeting reverted to dealing with minor issues such as street bins, toilet cleaning, street signs, street trees, pay parking complaints etc rather than any meaningful dialogue about strategic issues impacting on business growth and business health. Attempts over the past two years to steer these discussions towards strategic issues rather than petty complaints has seen attendances drop away with some business chambers rarely attending and most not contributing to the creation of challenging and vibrant agenda items. Again there is an opportunity to refresh this format.

Need for Councillor training in deliberative approach to Community Engagement

15 While Council staff have been actively undertaking IAP2 training in an effort to deliver better community engagement outcomes, councillors have not had access to such training. While history shows that elected representatives generally tend to be guided as much by political considerations as genuine, objective, and non-conflicted community feedback, there is in my view a sound case to be made to provide councillors with IAP2 training. Councillors, and particularly those who serve on Council's Communications Advisory Committee, would find this training very useful and this would enable them to more effectively interrogate strategic engagement strategies formulated by staff and use their community knowledge more effectively to add value to these strategies.

25 **Participatory Democracy:**Community Solutions Panel

30 Council consultants Straight Talk and not-for-profit R&D organisation newDemocracy Foundation recently addressed councillors on a deliberative approach to community engagement. They briefed councillors on a Community Solutions Panel/Citizens' Jury with the intent to help inform the development of Council's new delivery program.

35 newDemocracy will seek to recruit a randomly-selected representative sample (approximately 30 people) of Byron Shire's population to participate on the panel and seek to develop recommendations to solve the challenges of:

- 15,388 rateable properties, 32,790 residents, over 2.1 million annual visitors
- All use and rely on the infrastructure that Council must maintain and renew
- 40 • Rates have been increased (33.5% over 4 years) but still wont meet Council's infrastructure funding needs
- Pay parking has been introduced effectively "taxing" visitors for the first time

45 **Q: What infrastructure spending should we prioritise, and how should we fund these priorities if the rates alone are not enough?**

50 Citizens Juries have been effectively utilised by councils for many years so this is not ground breaking community engagement. Lismore Council for example successfully utilised Citizens Juries in the early 1990s under the guidance of Professor Dr Lyn Carson a renowned international expert on community engagement and a former Lismore City councillor. After retiring from her role at the University of Sydney Dr Carson has recently moved back to South Golden Beach. Dr Carson made contact with me some months ago and expressed interest in assisting Council should it wish to pursue a deliberative decision making model.

For more information on the proposed Community Solutions Panel see the "Outline of Concept" prepared by newDemocracy (**Attachment 1**) and "A fundamental change to how we do democracy" by newDemocracy (**Attachment 2**).

#### 5 Usurping role of Councillors?

Participative decision making involving a Community Solutions Panel brings with it a significant challenge to elected councillors. Historically some councillors believe it is they who have been elected to make important decisions on the community's behalf and see a Citizens Jury approach as usurping that responsibility by devolving decision-making to citizens. It is true that a Citizens Jury approach would require a commitment by the Council to accept and adopt the outcomes from the deliberative process. This significantly challenges the ethos of political expediency (and rightly so). Are councillors prepared/ready to make such a commitment?

#### 15 Master Plan Leadership Groups

A commitment to a Community Solutions Panel model would also challenge Council to review the role and composition of the Master Plan Leadership/Guidance Groups that Council has established in Byron Bay, Bangalow and Mullumbimby. These Groups, and particularly the Byron Bay Master Plan Leadership Group (BBMPLG), have been constituted without a great deal of thought being given to the extent of their role or the democratic basis for membership of those Groups. The BBMPLG has been stacked with "squeaky wheels" i.e. people representing particular interest groups such as members of Progress Associations, activist members of the Swimming Club, the Surf Club and major sporting clubs from the Byron Recreation Grounds, property developers, and others. Most are also long standing (and respected) members of the Byron community while the many young professionals and families who have moved to Byron in more recent times are underrepresented. While there is no doubt that these representative have Byron's best interests at heart, there is no doubt that the thinking of many of those members is skewed to the preservation of the status quo, particularly when re-development/change options for facilities such as the Byron Pool, the Surf Club and the Recreation Grounds is concerned.

The very premise upon which a Community Solutions Panel is based is ***"a group of randomly selected local residents who, armed with time, free access to information and a clear authority and armed with the starting point of possible solutions as will be prepared by active interests and Council, can provide the viewpoint of the everyday person and thus assist councillors to make more widely trusted public decisions"***.

So if Council supports these fundamental principles to place such decision-making authority in the hands of the many rather than in the hands of the conflicted few, then it is duty bound to review the role and composition of the Master Plan Leadership/Guidance Groups. This is not to say that those clubs, progress associations and other stakeholders should not be consulted and listened to with respect to any proposals that may impact them, it is just that they should not be the decision makers.

#### 45 **Conclusion**

To their credit successive councils have made a commitment to improved community engagement albeit with mixed success. Staff expertise in effective community engagement has improved significantly with IAP2 training, working with consulting experts during project management and the recruitment of new staff with strong backgrounds in the science of community engagement. The advent of a new Community Strategic Plan coinciding with a relatively new elected Council has created an ideal alignment of opportunity for taking the next step to deliberative participatory decision-making. With experienced IAP2 accredited consultants already engaged by Council and with resident experts such as Professor Dr Lyn Carson prepared to assist, the establishment of a Community Solutions Panel and a revision of existing forums and Master Plan Leadership/Guidance Groups in accordance with the same egalitarian guiding principles is most

timely. If Council is truly committed to effective community engagement and the rebuilding of community trust then the time for these actions is now.

**Financial Implications**

5 The establishment of a Community Solutions Panel will have financial implications for the Council in that for it to be effective it must be resourced and facilitated by experts in the field. This will require a budget allocation in the 2018/19 financial year and beyond. This is both manageable and affordable and should be seen as an investment in better decision making and creating a more  
10 liveable community.

**Statutory and Policy Compliance Implications**

15 Not applicable.

**Report No. 13.3      Byron Recreation Grounds Plan of Management - Clarification of Process and Rationale**

**Directorate:** General Manager  
**Report Author:** Ken Gainger, General Manager  
 Shannon McKelvey, Manager Organisation Development  
**File No:** I2017/2096  
**Theme:** Community Infrastructure  
 Open Space and Recreation

**Summary:**

At a series of Council meetings since August 2017 the Council has considered a draft Plan of Management for the Byron Recreation Grounds and resolved as follows:

- 24 August 2017 Res 17-370

*Resolved that this matter be deferred so that information be shared at the next available Strategic Planning Workshop and at this workshop other Plans of Management in the Byron Shire areas and examples of other shire's plans are shared.*

- 26 October 2017 Res 17-458

*Resolved that in relation to the draft Plan of Management for Byron Bay Recreation Ground:*

- a) *It be advertised for 28 days and if any submissions are received be brought back to Council for further consideration*
- b) *That if no submissions are received, that the Plan of Management be adopted as exhibited.*

- 14 December 2017 Res 17-693

1. *Withdraw the draft Plan of Management for the Byron Bay Memorial Recreation Grounds currently on public exhibition.*
2. *Write to residents who have already lodged submissions on this draft, informing them of this decision, thanking them for their engagement and submission and informing them that their submission will be considered as part of the new draft to be exhibited in the new year or new submissions will be gratefully accepted.*
3. *Consider the 2015 draft Plan of Management, completed as part of the Byron Bay Town Centre Master Plan process, the preferred document to be exhibited in the new year for possible adoption.*
4. *Convene a council workshop and a workshop with stakeholders to consider and inform the draft document prior to its exhibition.*

The last resolution withdrawing the draft PoM and seeking to revert to an earlier 2015 draft appears to have arisen in response to key user groups currently resident at the Byron Bay Recreation Ground opposing the 2017 draft PoM and concerns that the 2017 draft either ignored or had little regard for stakeholder feedback provided in the preparation of an earlier 2015 draft PoM which was concurrently with the Byron Bay Town Centre Master Plan.

There appears to be some misinformation in the community about the draft PoM and this report seeks to clarify matters including:

5

- the process undertaken including consultation phases for each draft (there have actually been three draft (Byron Recreation Grounds) PoMs prepared since 2015);
- the rationale for moving to an enabling PoM rather than a more restrictive bureaucratic version.

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**RECOMMENDATION:**

That, given the information contained in this report, Council resolve to:

1. **Note that the Version 1 (2015) was used as the basis for preparation of the final draft PoM but that it contained draft content that was inconsistent with Council Resolution 16-294.**
2. **Identify which key stakeholders are to be invited to workshop/s with Councillors under Part 4 of Resolution 17-693.**
3. **Confirm that the draft Plan of Management will facilitate only those alternative community or commercial uses that:**
  - a) **are compatible both with the categorisation of the facility and the current sporting uses at the Grounds; and**
  - b) **that do not interfere with the scheduled use of the sporting fields nor degrade fields or facilities utilised by sporting users.**
4. **Clarify that:**
  - a) **as required, any revised draft PoM, will have to be prepared having regard to feedback from all previous and any new consultation;**
  - b) **the “preferred document” status of the 2015 draft PoM stated in Resolution 17-693 (Part 3) will need to be reviewed when Council next considers this matter, so that Council’s discretion to consider all community input is not fettered.**

**Attachments:**

10

- 1 E2018 2371 Consultation Report - 2013 to 2017 Development of a draft Plan of Management for Byron Bay Recreation Grounds, E2018/4567 [⇒](#) 
- 2 E2017 19327 Byron Bay Recreation Ground Plan of Management PoM Micromex CATI telephone survey Report - Byron Recreation Ground - 23 February 2017, E2018/4454 [⇒](#) 

15

**Report**The process to date

## 5 Step 1 – August 2015

During development of the Byron Bay Town Centre Masterplan, due to its high significance as open space in the town centre, the Byron Bay Recreation Grounds, 'the Grounds', was identified as 1 of 6 catalyst sites.

- 10 The award-winning consultation that was conducted during the development of the Masterplan resulted in:
- 15 • Over 2,000 individual comments received during the four engagement periods from Oct 2014 to Sept 2015.
  - 800 BIG Ideas generated from the initial consultation Bay Lane Activation event demonstrating an appetite for change.
  - High awareness of the project with over 33,000 page views on the standalone website.
  - Strong support from local media with publication of media releases on the project
  - 20 • Community presentations during formal public exhibition attracted 288 attendees plus 159 direct conversations at community touch points eg Farmers Markets and Library Foyer exhibition.
  - 145 submissions were received through the final stage formal exhibition period.

25 All of that feedback has informed the draft Plan of Management (PoM) for the Grounds. Running parallel with the Masterplan development, the consultants were asked to prepare a first draft Plan of Management (2015 PoM) for the Grounds.

30 In June 2016, after the final round of exhibition consultation, Council endorsed the Masterplan. Of the 145 submissions received during exhibition, 65 of them related to the Grounds. The submissions:

- 35 - raised concerns about the secondary status of the Grounds and focused on the need to retain the sporting nature of the precinct for youth and adult games; or
- were in support of increasing passive recreation and connectivity at the Grounds.

40 This duality in submissions has been a consistent theme throughout all consultation; the sports clubs using the Grounds have sought to at least maintain their current active sport uses and others support use of the Grounds for a range of passive recreation, community and social activities.

45 However, it has never been a case of the Grounds only being able to support one or the other of these, because they are in fact complementary and both uses can be easily accommodated at the Grounds, which is what the final draft PoM seeks to do.

Having considered the submissions, Council resolved to make a change to the endorsed Masterplan that confirmed that both the active and passive uses and connectivity were to be short term priorities for the Grounds – see part 2 of the Resolution 16-294:

50 *"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*

55 *... Catalyst Site 6 – Byron Recreation Ground Short Term Priorities summary as detailed below in the "Proposed adjustments to the Byron Bay Town Centre Masterplan". These amendments to be included in a final Masterplan document.*

*Proposed adjustments to the Byron Bay Town Centre Masterplan include:*

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

10     *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, Sandhills 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. (Spooner/Richardson)" [emphasis added]*

15     The final draft PoM was prepared in accordance with Res 16-294 and all of the provisions of the Masterplan that relate to the Grounds.

20     In terms of format, the first draft PoM (2015) followed a very traditional format, making it bureaucratic and long. At nearly 50 pages, it was not particularly reader-friendly meaning it would be unlikely to be read by many in the community. [This was a fate many PoM's fell into over past decades; prepared and then put on a shelf with no one ever reading them.]

25     This Council has made a commitment to using 'Plain English', 'keeping it simple' and making sure Council's plans are living documents that everyone can understand and use.

30     In terms of content, except for the Action Plan, there are only a few key differences between the first and final drafts of the PoM – see below. It is important to note that the first draft (2015) PoM was prepared before the final round of consultation on the Masterplan and before Council decided the future direction of the Grounds in Res 16-294. At the time the first draft PoM was prepared, it contained a draft action to relocate senior sports from the Grounds to the Cavanbah Centre. Council clarified in Res 16-294 that was not the Council's intention that rendered the first draft PoM out-of-date. This is one of the reasons the first draft PoM was not used and was revised to make sure it actually achieves what sporting groups, community users and Council want to achieve.

35     In relation to the Action Plan, the draft PoM was presented with a list of actions, that included many requests from the sports user groups along with some community requests. This is usual for a first draft but it is important to note that it is a list of requested actions that had not undergone any type of assessment.

40     An Action Plan in a PoM is a promise by Council to the community to deliver each of the actions in the plan within 10 years. So, when consultants prepare draft PoM's, the draft provided to a council is a 'work in progress' and then it is up to the council to consider the requested actions, assess them (cost feasibility, compatibility with surrounding area, approval requirements, site constraints, competing community requests, equity and access etc) and determine what can actually be delivered.

45     Round 2 – Aug to Nov 2016

50     After adoption of the Masterplan, and taking into account the changes Council made by Res 16-294, a consultant was retained to review the draft PoM. The consultant proceeded to survey users of the Grounds and prepared a revised draft with an updated list of requested actions.



Step 3 – Jan to Feb 2017

An independent community survey was conducted (the same as had been conducted to inform Council's adoption of the 2002 PoM for the Grounds).

5 The survey involved a computer based random selection of 302 residents and had a 5.6% statistical margin of error. That means that if the survey was re-done with a different 302 residents there would only be a variation of +/- 5.6%. If a question had been answered "Yes" 50% in the survey, then in a repeat of the survey, the answer "Yes" could vary from 44% to 55.6%. The outcomes, weighted to reflect the community profile of Byron Shire Council, reflected an effective sample size.

The survey confirmed the outcomes of previous consultation namely that the highest level of appeal for activities at the Grounds were:

- 15
1. Events at 78%
  2. Organised Sport at 77%
  3. Passive Recreation also at 77%
  4. Entertainment at 76%.

20 The survey indicated that community was most supportive of Council working on improving the public amenities/sporting club facilities and providing more water drinking fountains and shade trees.

25 The survey also confirmed that nearly 2/3rds of the residents surveyed indicated they would like Council to explore opportunities that raise revenue from the Byron Recreation Grounds usage, which could be reinvested back into the site for maintenance and improvement.

The full survey is contained in the Consultation Report at Attachment 1.

30 The results of the survey, with all the previous feedback, were used to prepared the final draft PoM (referred as Version 5), including the recommended re-categorisation to enable uses compatible with active sport to also occur, as per the community feedback.

35 The final draft PoM was placed on exhibition between 9 November and 14 December 2017. During that period Council received 14 submissions. Of them, 1 was supportive and 1 only sought clarification about a particular part. Of the remaining 12, some requested maintenance current or increasing either the active sport or passive recreation use, a number raised concerns about 'commercialisation' and importance of the Grounds for use by young people, children and schools was reconfirmed. A full list of the submissions and detailed responses is included in the Consultation Report at Attachment 1.

45 All of the matters raised in the newest 14 submissions had been accommodated in the final draft PoM that was exhibited, with the sole exception around commercial activities.

50 Some of the submissions requested or inferred that no commercial activities should be permitted at the Grounds but this is inconsistent with other community feedback, including other community submissions and the survey results that confirmed that nearly 2/3<sup>rds</sup> of respondents supported exploring opportunities to raise revenue from the Grounds' usage to reinvest back into the Grounds.

Rationale for moving to an enabling PoM rather than a more restrictive bureaucratic version

55 A new template for future Plans of Management was developed in early 2017 when Council had been reviewing other plans of management.

The new template is:

5 a. Modern.

The format that was still being used in 2015 was originally developed in the 1990's. Nearly 2 decades later, the way that community interacts with government has changed. The Byron Shire community is highly engaged and wants to be involved and understand what is going in their community.

10 Plans of Management govern public space which is of course of the highest importance to community. Making plans of management reader-friendly and accessible for everyone is a priority and the updated format is a big step towards that.

15 b. Simple.

The template has been streamlined to remove all the 'bureaucratic bumph' and to keep them simple. The older format contained a lot of re-statements of legislation, technical provisions and legalise that did not add value.

20 Removal of the unnecessary sections means plans using the updated template contain only necessary information, making them shorter, simple and easier to read.

25 c. Values based and Outcomes Focused.

Council has moved to ensure that its planning and decision making is done strategically and holistically and that projects and decisions are not done in an ad hoc way. Examples include the town and village masterplans, the shire-wide open space and recreation needs assessment currently underway and the recently adopted Partnerships Policy.

30 A large part of this is making sure Council's strategic plans and decisions are informed by community values and an understanding of the outcomes that community wants to achieve.

35 The revised template, rather than just recording the history of the land, records the value of the land to the community. While history is often part of the value of the land, it is rarely the only value and the revised template looks at all the values; social and cultural (including history but also future generational value), environmental, community economic value and governance values.

40 Also, historically PoM performance has tended to be measured against outputs rather than outcomes achieved. For example, a PoM might have an action to install bubblers and the performance measure would have been simply whether the bubblers had been installed 'yes or no'.

45 The revised template requires performance to be measured by the outcomes achieved, in this example it could be 'community satisfaction with the bubblers' because just physical installation may not necessarily mean the community is happy with them (community members might feel they should be a different type, in a different location or that once installed, they could be maintained better etc).

50 d. Broad and enabling, rather than prescriptive and restrictive.

55 With pace of change rapidly increasing, traditional Plans of Management governing community land have increasingly become artificial bureaucratic barriers to emerging and innovative activities and uses.

5 For example, boot camps operated on public land are a commercial activity that did not exist and were not predicted when many PoMs were developed in the late 90's/early 00's. Even though boot camps are a commercial activity that can easily operate alongside active and passive sport, for some public land councils got stuck not being able to issue licences because that was not a permissible commercial activity listed in the PoM.

10 So to provide maximum flexibility, making a PoM broad and giving examples of the types of activities that are permissible but keeping it open to other uses is the only way to meet emerging community expectations and to enable Council to respond quickly (ie without a 1-2 year process) to what community wants to do and how community wants to use its open space.

15 Key differences between the first draft (2015) and final draft (2017)

It is important to confirm up front that all 3 draft PoM's for the Grounds contained objectives that the Ground be used for local sport, passive recreation, general community use and compatible forms of commercial activity.

20 The main differences between the first (2015) and final draft are:

1. Categorisation of the land

25 The first draft carried forward the existing categorisation of mostly Sportsfields and only a small part General Community Use.

This was inconsistent with the community feedback and with the stated objectives of the PoM to provide for "diverse passive and active leisure and recreation activities" and with other content, including some parts of the Action Plan.

30 2. Vision for the Grounds

35 The first draft contained a vision for the Grounds that was inconsistent with Council Resolution 16-294. The draft Vision for the Grounds in the first draft stated that it would continue to be a "local/district scale ... with a focus on children and young people" (emphasis added). Council had resolved that the Grounds role was as a "local" resource.

40 The difference is only a word, but that word has significant management cost implications for ratepayers and Council. A local/town facility generally has the standard of facilities that are currently found at the Grounds whereas a district/regional facility has the standard of facilities that are located at the Cavanbah Centre, which cost a lot more to construct and maintain.

45 In accordance with the Res 16-294 "*The Cavanbah Sports Centre should remain Council's focus for facilities for higher grade competitive sports*" ie for district level sporting activities.

50 A Shire of this population and financial resources can only support 1 'regional' or 'district' standard facility. After significant investment with community support and due to the central location and potential for augmentation, the Cavanbah Centre is now the Shire's single regional/district standard facility and competitions requiring regional/district standard facilities can be accommodated at The Cavanbah Centre. This has recently been re-confirmed as appropriate to meet current and future demand by the expert consultants engaged to prepare the shire-wide Open Space and Recreation Needs Assessment and Action Plan.

55 This does **not** mean that the clubs currently using the Byron Bay Recreation Grounds have to move. The Grounds will continue to be maintained to a local/town standard as part of the shire-

wide network of sport facilities. Rather it means the clubs can continue to hold all their current activities, training and local competition for juniors and adults at the Grounds, but competitions that require regional/district standard facilities will need to be held at the Cavanbah Centre. This is usual practice across Australia, ie training and competition occurs on local grounds and participants travel for state or district/regional competition to a state or district/regional venue.

If any of the sporting clubs in the Shire want to choose to move to their base to the Cavanbah Centre to take advantage of the higher standard facilities for all training, games and competition, that opportunity is available to them but they do not have to, the choice remains theirs. Put the other way, if the sporting clubs want to stay at their local/town standard grounds, like the Byron Bay Recreation Grounds, Shara Boulevard, Tom Kendall Oval or Suffolk Park Grounds etc, for training, games and competition they can.

### 3. Action Plan

The Action Plan in the 2015 was a 'work in progress' ie a 'wish list' of actions that still required reality checking to ensure that any actions contained in the Plan could actually be delivered. With some exceptions the actions were also prescriptive, so in future if an action was not listed, Council would not have been able to carry it out without having to first review the PoM.

In contrast, the Action Plan in the final draft contained no specific actions and was broad and enabling, designed so that if a new opportunity arose, eg through grant funding, it could be acted on without the long process of reviewing the PoM for having to occur first.

The first draft also contained an action that was inconsistent with Res 16-294:

*"Work with clubs to move senior sports to the Byron Regional Sport and Cultural Complex over time".*

Senior sports can of course occur at a local/town facility like the Grounds, so this was corrected by staff to reflect that both junior and adult sports could remain at the Grounds and the action was instead:

*"Work with user groups who require District or Regional scale facilities or infrastructure to transition to the appropriate District or Regional facility"*

### Financial Implications

There will be some staff time and expense to facilitate Councillor workshop/s with stakeholders, making any required changes to the draft PoM and re-advertising and re-exhibiting the final draft plan. These have not been estimated as yet.

### Statutory and Policy Compliance Implications

The Local Government Act and Regulations prescribe the process, and minimum content, for preparing Plans of Management.

Council's Legal Counsel provided advice that the revised template satisfied the statutory requirements for content.

The prescribed process governing development of and consultation on a Plan of Management, including the requirement to hold a public hearing for a change in categorisation, must continue to be followed by Council.

**Report No. 13.4**                    **Planning a new era for the Byron Arts and Industrial Estate**  
**Directorate:**                    General Manager  
**Report Author:**                Ken Gainger, General Manager  
**File No:**                         I2018/12  
5 **Theme:**                         Community Infrastructure  
    Asset Management

**Summary:**

10 The Byron Arts and Industrial Estate (BA&IE) in Ewingsdale Road has for many years served as  
the Shire's principal Business Park. In recent years the BA&IE has also evolved into a residential  
precinct with shop top housing, high level tourism facilities such as Elements of Byron, The Solar  
15 Train (and soon to be Stone and Wood's visitor-focussed ale house) are being established, and  
innovative business incubator models such as Habitat and Startinno have flourished. The look and  
feel of the Estate has changed markedly with the advent of these new businesses and a number of  
café bars and retail food establishments now complement a new "village" ambience. Add to this  
key Council land parcels such as Lot 12, Bayshore Drive and the Works Depot site likely to  
20 become available for development in coming years, and the transformation of the BA&IE becomes  
apparent.

While Council has recently completed a Master Plan for the Byron Bay Town Centre and is moving  
towards completion of Master Plans for Bangalow and Mullumbimby, to date the BA&IE, apart from  
Council revising its LEP/DCP provisions to facilitate more flexible development rules for the Estate,  
25 has been largely overlooked when it comes to planning for infrastructure upgrades and developing  
soft landscaping treatments which make the Estate a more attractive place to transact business,  
shop and recreate.

The proposed construction of a new two-lane roundabout at the Bayshore Drive/Ewingsdale Road  
30 intersection in 2018 provides an opportunity to begin a new planning phase by creating a definitive  
and attractive gateway statement for Byron Bay as well as developing a new entrance for the  
Estate and upgrading Bayshore Drive to an attractive tree-lined Boulevard.

This report canvasses some opportunities for Council and BA&IE business operators to work  
35 together to realise an exciting and productive future for this critical Estate.

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**RECOMMENDATION:****That Council:**

1. **Signal its intention to prepare a Master Plan for the Byron Arts and Industrial Estate under the guidance of a skilled Urban Design specialist.**
2. **Liaise with the Byron Chamber of Commerce and key BA&I Estate business stakeholders in preparing a project consultant brief and project funding outline for the preparation of a Master Plan.**
3. **Staff provide regular progress reports on this project to the Strategic Business Panel and Council.**
4. **Engage with the Public Art Panel in determining options for the creation of a public art "gateway" centrepiece for the new Bayshore Drive/Ewingsdale Road roundabout.**

**Attachments:**

- 1 Arts and Industrial Estate audit summary of main findings, E2018/3546 

**Report**

**Background:**

5 The Byron Arts and Industrial Estate (BA&IE) in Ewingsdale Road has for many years served as  
the Shire’s principal Business Park. In recent years the BA&IE has also evolved into a residential  
precinct with shop top housing, high level tourism facilities such as Elements of Byron, The Solar  
Train (and soon to be Stone and Wood’s visitor-focussed ale house) are being established, and  
10 innovative business incubator models such as Habitat and Startinno have flourished. The look and  
feel of the Estate has changed markedly with the advent of these new businesses and a number of  
café bars and retail food establishments now complement a new “village” ambience. Add to this  
key Council land parcels such as Lot 12, Bayshore Drive and the Works Depot site likely to  
become available for development in coming years, and the transformation of the BA&IE becomes  
15 apparent.

While Council has recently completed a Master Plan for the Byron Bay Town Centre and is moving  
towards completion of Master Plans for Bangalow and Mullumbimby, to date the BA&IE, apart from  
Council revising its LEP/DCP provisions to facilitate more flexible development rules for the Estate,  
has been largely overlooked when it comes to planning for infrastructure upgrades and developing  
20 soft landscaping treatments which make the Estate a more attractive place to transact business,  
shop and recreate.

The proposed construction of a new two-lane roundabout at the Bayshore Drive/Ewingsdale Road  
intersection in 2018 provides an opportunity to begin a new planning phase by creating a definitive  
25 and attractive gateway statement for Byron Bay as well as developing a new entrance for the  
Estate and upgrading Bayshore Drive to an attractive tree-lined Boulevard.

**Re-imagining the Estate:**

30 Demographics and Business Types:

Economists Hill PDA have been engaged by the Council to prepare an Employment Land Use  
Strategy. As part of their work they have conducted an audit of the BA&IE. A summary of some of  
35 the main findings in this audit is included as an attachment to this report (**Attachment 1**):

Key Business Stakeholders:

While there are many valuable and successful businesses operating from the BA&IE there are  
some key stakeholders who are influential within this group including Elements of Byron/Byron Bay  
40 Railroad Company (Jeremy Holmes), Habitat (Brandon Saul), Stone and Wood (Ross Jurisich),  
Trip a Deal (Brad Rogers & Jamie Cook), Brooke Farm (Pam Brooke), and of course Todd  
Sotheren, President of the Byron Bay Chamber of Commerce is located within the BA&IE. These  
stakeholders would form a formidable group in working with Council to plan for the future of this  
critical Business Park and have the resources to contribute directly to help facilitate project  
45 outcomes.

Chamber of Commerce:

The Byron Bay Chamber of Commerce is currently establishing a Committee of its members to  
50 focus attention on the BA&IE and its future development. Many of the key stakeholders referred to  
above are active members of the Business Chamber and have signalled their enthusiasm and  
willingness to work with Council on exploring new opportunities.

Re-defining the Estate:

As stated at the outset the nature and type of businesses operating within the Estate has changed markedly over the past decade and particularly over the past few years. Its “Arts and Industrial Estate” tag is no longer an adequate or accurate means to describe the contemporary Estate. The Hill PDA audit (see **Attachment 1**) highlights the growth, for example, of Arts and Recreation Services which is now 6<sup>th</sup> largest business use within the Estate while retail trades now occupy a significant 88,411 square metres of land. Many people now live as well as work within the Estate and a number of food outlets, cafes and service industries have evolved organically as this trend has grown. As a consequence there is now more of a “village” feel and ambience and words like “industrial” no longer hit the mark. While the critical needs of the businesses operating within the Estate revolve around traffic management, parking, roads and drainage and heavy vehicle access, there is also a need to re-name the Estate to facilitate greater community awareness of its offerings through effective marketing. Development of a current Business Registry/website for the Estate would facilitate more effective communication between businesses within the Estate and more participatory decision-making, as well as raise awareness as to the nature of the goods and services that are available.

Bayshore “Boulevard”:

Bayshore Drive is the main arterial road link through the BA&IE – it looks tired, unkempt, pot-holed and uninviting. With world class tourist facilities (Elements), business incubators (Habitat) and the annual Byron Writers’ Festival all accessed via this road, it is disappointing that it has not been upgraded. Bayshore Drive also now hosts a café strip including great cafes, French patisserie, bakery and Afends. It is owed some love. One can imagine a tree-lined boulevard with well maintained lawns and landscaping, footpaths, refurbished building frontages and signage. It just needs planning and good urban design. The construction of a new two-lane roundabout at Ewingsdale Road provides a wonderful opportunity to have some complementary design undertaken for a new constructed entry statement to the Estate at this key entry point. Given that the roundabout will go to tender early in 2018 there is no time to waste in getting this design under way.

Urban Design:

Clearly a master planning approach to re-imagining the Estate is what is sorely needed with oversight by a skilled urban designer. With support from the Chamber of Commerce and key stakeholders this could be a joint venture with shared funding. It could also potentially attract grant funding given the Estate’s importance to the local and regional economy. Two key land parcels integral to the Estate are Council owned parcels at Lot 12, Bayshore Drive, and the Council triangular shaped Works Depot site also in Bayshore Drive. Lot 12 has now been fully remediated and is now well placed for its development future to be determined. The Works Depot site has been the subject of an external independent assessment which included the assessment of a number of alternate Depot sites, the preferred site being the former Brunswick Heads STP site which is about to be remediated.

Byron Gateway:

The proposed new roundabout at Ewingsdale Road will have a large centrepiece included as part of its design. This has been done deliberately to enable Council to include a major art-work, sculpture piece or tree feature as a major “gateway” statement for Byron Bay. To date only land scaping has been planned and designed. Once again, with tenders to be called for construction early in 2018 there is no time to waste in having such a feature designed. Given the time constraints it is not appropriate to go through a long-winded community-based process for this design. Rather, with the support of Council’s Arts Panel, perhaps three local artists/sculpture

workers could be commissioned to prepare designs (based on a brief prepared by the Panel) then the best design (judged by the Arts Panel) be commissioned.

### **Infrastructure and Traffic Management:**

5

#### Bayshore Drive/Ewingsdale Road Roundabout:

Three years ago the Mayor and Senior Staff met with key business stakeholders from the BA&IE to discuss a new strategic direction for the Estate. At this meeting the key messages were that Council needed to fix the traffic problems at the Bayshore Drive/Ewingsdale Road intersection, improve roads and drainage within the Estate, help to facilitate better internet access and download/upload speeds, and upgrade Bayshore Drive. Council will shortly deliver on the key intersection with the construction of a new two-lane roundabout while the other priorities are works in progress.

15

#### Truck movements:

One of the issues raised by business operators engaged in key manufacturing industries within the Estate is the inadequacy of roads within the Estate to facilitate the inflow and outflow of goods and materials using heavy truck transports. The narrow roads make it difficult or almost impossible for large vehicles to manoeuvre around loading bays and delivery points. This issue will need to be addressed in any Urban Design undertaken for the Estate.

### **Conclusion:**

25

The upcoming construction of a new two-lane roundabout at the busy Bayshore Drive/Ewingsdale Road intersection will focus the community attention on the Byron Arts and Industrial Estate. With the advent of many new businesses and tourism resorts within the Estate in recent years there has been a fundamental shift from industrial to retail and from blue collar to café culture. This happy coincidence of change provides an ideal opportunity to re-imagine the Estate with a master planning approach facilitated by a skilled Urban Design led team including landscape architect, traffic engineer, and a civil/structural engineer. Council is ideally placed to work closely with the Byron Chamber of Commerce and key business stakeholders within the Estate to deliver these outcomes.

35

The advent of the roundabout also provides an opportunity to move forward with designs for a roundabout centrepiece which makes a bold Byron Bay “gateway” entry statement together with a more formal and iconic entry to the BA&IE.

Given the significance of this principal Business Park and the random nature of much of the business development taking place there it is critical that the Council treats this initiative with some priority. Preliminary conversations with some of the key stakeholders within the Estate have signalled a willingness and enthusiasm for active involvement in any efforts by Council to acknowledge the value and significance of the Estate and take steps to properly plan and support its future.

45

### **Financial Implications**

Council would need to put a consultant’s brief together (suggest via the Sustainable Economy Panel) for an Urban Design led team and call for EOIs before a true financial estimate of costs (and thus potential funding sources) could be ascertained. One course would be to prepare a grant funding application with letters of support from the Chamber, the regional Business Chamber, key business stakeholders, local members, the RDA (Northern Rivers) and Craig Jenkins (DPC).

50



**Statutory and Policy Compliance Implications**

Council's Planners and ED staff would play a key role in facilitating these outcomes and ensuring that statutory compliance obligations are met.

5

**STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES**

**Report No. 13.5                    Section 355 Management Committee matters**

**Directorate:**                    Corporate and Community Services

5 **Report Author:**                Joanne McMurtry, Community Project Officer

**File No:**                        I2017/1805

**Theme:**                         Society and Culture

Community Development

10

**Summary:**

This report updates Council on recent resignations and proposed appointments to various committees. The South Golden Beach Community Centre Management Committee would like to change the name of the hall to 'South Golden Beach Hall'.

15

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**RECOMMENDATION:**

1. **That Trudy Ashworth and Dianne Burke be appointed to the Brunswick Heads Memorial Hall Management Committee.**
2. **That the resignation from Denise Curran from the Ocean Shores Community Centre Management Committee be accepted and that a letter of thanks be provided.**
3. **That the South Golden Beach Community Centre name be changed to South Golden Beach Hall for ease of use and to better reflect the hall's role in the community.**

**Attachments:**

20

- 1 Confidential - Confidential annexure to Council report 14 December 2017 additional community representatives for Section 355 committees, E2017/107288

25

**Resignations and Committee appointments**

This report details resignations and proposed new appointments for Section 355 committees where nominations have been received.

5

**Brunswick Heads Memorial Hall**

Nominations have been received for the Brunswick Heads Memorial Hall Management Committee. Details of nominees can be found in the confidential attachment.

10

Current members of this Management Committee are:

**Councillors**

Cr Simon Richardson

15

**Community Representatives**

Stephen Bond (on extended leave of absence)

Marj Trimble (Treasurer)

Beverley Rahill

20

Ann Burnett

Leah Schinagl

Melinda Bennett (Bookings)

**Management Recommendation**

That Trudy Ashworth and Dianne Burke be appointed to the Brunswick Heads Memorial Hall Management Committee.

25

**Ocean Shores Community Centre Management Committee**

A resignation has been received from Denise Curran.

30

Current members on this Management Committee are:

**Councillors**

35

Cr Jeannette Martin

Cr Cate Coorey (alternate)

**Community Representatives:**

Gail Fuller (Chair and Treasurer)

40

Leah Kapral (Bookings Officer)

Robyn Bolden

Susan Cubis

**Management Recommendation:**

That the resignation from Denise Curran be accepted and a letter of thanks be provided.

45

**Other matters**

1. The South Golden Beach Community Centre Management Committee would like to change the name of the hall to 'South Golden Beach Hall'. They feel this reflects the role of the building in the community better than 'community centre' and it is also less of a mouthful.

50

2. Marvell Hall are holding an open day/ launch of the new hall on Sunday 17 December 2017 from 4pm and all are invited to attend.

**Financial Implications**

Community Members of Section 355 Management Committees are volunteer positions unless otherwise resolved by Council.

5

**Statutory and Policy Compliance Implications**

Management Committees and Boards of Management operate under Guidelines which states:

10

**3.2 Committee Membership**

*Committee membership will number not less than four and not more than nine and each committee will state the actual number in their Terms of Reference unless otherwise decided by Council. The exception will be the Bangalow Parks (Showground) committee which numbers twelve. Council reserves the right to appoint up to two Councillors to each Committee. The total number of members includes office bearer committee members and Councillor members which are appointed by Council.*

15

20

*Whilst no particular qualifications are necessary (notwithstanding 3.1.a), a commitment to the activities of the Committee and a willingness to be actively involved in Committee issues is essential. Committees work best when the workload is shared amongst committee members and there is evident goodwill and cooperation amongst members.*

Further information on the operations and meeting minutes for these Committees and Boards can be found on Council's web site at <http://www.byron.nsw.gov.au/section-355-committees>.

**Report No. 13.6**                      **Council Investments 25 November to 31 December 2017**

**Directorate:**                      Corporate and Community Services

**Report Author:**                James Brickley, Manager Finance

**File No:**                            I2018/1

5    **Theme:**                            Corporate Management  
   Financial Services

**Summary:**

10    This report includes a list of investments and identifies Council's overall cash position for the period 25 November to 31 December 2017 for Council's information.

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

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**RECOMMENDATION:**

20    **That the report listing Council's investments and overall cash position as at 31 December 2017 be noted.**

**Report**

In relation to the investment portfolio for the period 25 November to 31 December 2017, Council has continued to maintain a diversified portfolio of investments. At 31 December 2017, the average 90 day bank bill rate (BBSW) for the month of December was 1.77%. Council's performance to 31 December 2017 is 2.51%. Council's 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 and purchasing floating rate notes with attractive interest rates.

The table below identifies the investments held by Council as at 31 December 2017:

**Schedule of Investments held as at 31 December 2017**

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel ADI	Type	Interest Rate Per Annum	Current Value
24/03/17	1,000,000	NAB Social Bond (Gender Equality)	N	AA-	24/03/22	N	B	3.44%	1,011,100.17
28/10/16	650,000	Teachers Mutual Bank	P	BBB+	28/10/19	Y	FRN	3.17%	653,642.89
31/03/17	1,000,000	CBA Climate Bond	N	AA-	31/03/22	N	FRN	3.25%	1,000,000.00
16/11/17	750,000	Bank of Queensland	P	BBB+	16/11/21	Y	FRN	2.63%	750,000.00
02/06/17	1,500,000	ME Bank	P	BBB	04/12/17	Y	TD	2.67%	1,500,000.00
08/06/17	2,000,000	ME Bank	N	BBB	08/12/17	Y	TD	2.65%	2,000,000.00
04/07/17	1,000,000	Bananacoast Credit Union	P	NR	04/01/18	Y	TD	2.70%	1,000,000.00
08/08/17	2,000,000	Bank of Queensland	N	BBB+	05/02/18	Y	TD	2.60%	2,000,000.00
15/08/17	1,000,000	Bank of Queensland	N	BBB+	12/01/18	Y	TD	2.55%	1,000,000.00
17/08/17	1,000,000	Bank of Queensland	N	BBB+	19/02/18	Y	TD	2.55%	1,000,000.00
30/08/17	2,000,000	ME Bank	N	BBB	03/04/18	Y	TD	2.45%	2,000,000.00
01/09/17	1,000,000	NAB	N	AA-	02/01/18	N	TD	2.52%	1,000,000.00
05/09/17	1,000,000	Bananacoast Credit Union	N	NR	06/03/18	Y	TD	2.60%	1,000,000.00
06/09/17	1,000,000	Bananacoast Credit Union	N	NR	07/03/18	Y	TD	2.60%	1,000,000.00
15/09/17	1,000,000	Peoples Choice Credit Union	P	BBB	15/03/18	Y	TD	2.55%	1,000,000.00
27/09/17	1,000,000	Bank of Queensland	N	BBB+	27/03/18	Y	TD	2.50%	1,000,000.00
28/09/17	2,000,000	Rural Bank	P	BBB+	29/01/18	Y	TD	2.50%	2,000,000.00
04/10/17	2,000,000	Police Credit Union	P	NR	04/04/18	U	TD	2.70%	2,000,000.00
04/10/17	1,000,000	NAB	N	AA-	05/03/18	N	TD	2.55%	1,000,000.00
04/10/17	1,000,000	NAB	N	AA-	04/01/18	N	TD	2.50%	1,000,000.00
04/10/17	1,000,000	NAB	N	AA-	05/02/18	N	TD	2.52%	1,000,000.00
05/10/17	1,000,000	Police Credit Union	N	NR	05/04/18	U	TD	2.56%	1,000,000.00
09/10/17	1,000,000	NAB	N	AA-	09/01/18	N	TD	2.51%	1,000,000.00

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.6

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel ADI	Type	Interest Rate Per Annum	Current Value
11/10/17	1,000,000	Auswide Bank Ltd	P	BBB-	11/01/18	Y	TD	2.50%	1,000,000.00
13/10/17	1,000,000	Auswide Bank Ltd	N	BBB-	15/01/18	Y	TD	2.50%	1,000,000.00
17/10/17	1,000,000	Police Credit Union	N	NR	17/04/18	U	TD	2.55%	1,000,000.00
20/10/17	1,000,000	NAB	N	AA-	20/01/18	N	TD	2.48%	1,000,000.00
23/10/17	1,000,000	Bank of Queensland	N	BBB+	23/04/18	Y	TD	2.55%	1,000,000.00
26/10/17	1,000,000	ME Bank	N	BBB	24/01/18	Y	TD	2.42%	1,000,000.00
30/10/17	2,000,000	ME Bank	N	BBB	30/01/18	Y	TD	2.42%	2,000,000.00
30/10/17	2,000,000	Beyond Bank	P	BBB	07/02/18	Y	TD	2.42%	2,000,000.00
02/11/17	2,000,000	Police Credit Union	N	NR	02/05/18	U	TD	2.73%	2,000,000.00
03/11/17	1,000,000	Maitland Mutual Building society	P	NR	02/05/18	Y	TD	2.55%	1,000,000.00
06/11/17	2,000,000	NAB	N	AA-	05/02/18	N	TD	2.49%	2,000,000.00
08/11/17	2,000,000	ME Bank	N	BBB	07/02/18	Y	TD	2.42%	2,000,000.00
08/11/17	1,500,000	Auswide Bank Ltd	N	BBB-	07/02/18	Y	TD	2.35%	1,500,000.00
10/11/17	2,000,000	ME Bank	N	BBB	13/03/18	Y	TD	2.42%	2,000,000.00
15/11/17	1,000,000	The Capricornian Credit Union	P	NR	16/04/18	Y	TD	2.55%	1,000,000.00
15/11/17	1,000,000	The Capricornian Credit Union	N	NR	15/03/18	Y	TD	2.50%	1,000,000.00
17/11/17	1,000,000	Hunter United Employees Credit Union	P	NR	16/02/18	U	TD	2.50%	1,000,000.00
17/11/17	1,000,000	Bank of Queensland	N	BBB+	19/03/18	Y	TD	2.45%	1,000,000.00
17/11/17	1,000,000	Police Credit Union	N	NR	17/05/18	U	TD	2.75%	1,000,000.00
17/11/17	1,000,000	ME Bank	N	BBB	16/02/18	Y	TD	2.50%	1,000,000.00
23/11/17	1,000,000	ME Bank	N	BBB	23/02/18	Y	TD	2.40%	1,000,000.00
23/11/17	2,000,000	NAB	N	AA-	23/02/18	N	TD	2.49%	2,000,000.00
23/11/17	1,000,000	The Capricornian Credit Union	N	NR	23/05/18	Y	TD	2.55%	1,000,000.00
24/11/17	1,000,000	ME Bank	N	BBB	24/05/18	Y	TD	2.55%	1,000,000.00
28/11/17	1,000,000	Bananacoast Credit Union	N	NR	28/02/18	Y	TD	2.65%	1,000,000.00
28/11/17	1,000,000	ME Bank	N	BBB	28/02/18	Y	TD	2.40%	1,000,000.00
30/11/17	2,000,000	NAB	P	AA-	30/04/18	N	TD	2.49%	2,000,000.00
01/12/17	1,000,000	Defence Bank	P	BBB	20/03/18	U	TD	2.65%	1,000,000.00
01/12/17	1,000,000	Defence Bank	N	BBB	01/03/18	U	TD	2.50%	1,000,000.00
06/12/17	1,000,000	Hunter United Employees Credit Union	N	NR	06/04/18	U	TD	2.55%	1,000,000.00
08/12/17	2,000,000	My State Bank	P	W/D	08/06/18	Y	TD	2.65%	2,000,000.00

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.6

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel ADI	Type	Interest Rate Per Annum	Current Value
15/12/17	1,000,000	Auswide Bank Ltd	N	BBB-	15/03/18	Y	TD	2.40%	1,000,000.00
19/12/17	2,000,000	Credit Union Australia	P	BBB	19/06/18	Y	TD	2.60%	2,000,000.00
19/12/17	2,000,000	Gateway Credit Union	P	NR	19/04/18	Y	TD	2.50%	2,000,000.00
N/A	1,569,518	CBA Business Online Saver	N	A	N/A	N	CALL	1.40%	1,569,518.15
<b>Total</b>	<b>74,969,518</b>						<b>AVG</b>	<b>2.51%</b>	<b>74,984,261.21</b>

**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. No Fossil Fuel ADI**  
 Y = No investment in Fossil Fuels  
 N = Investment in Fossil Fuels  
 U = Unknown Status

**Note 3.**

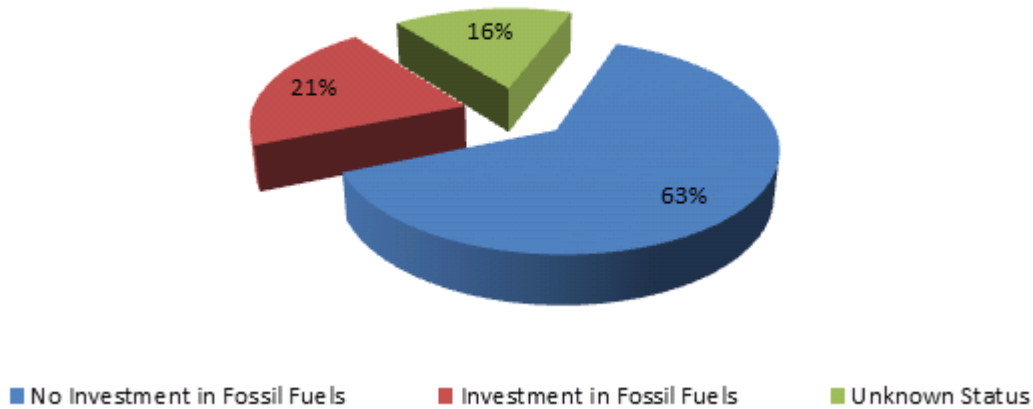
Type	Description	
B	Bonds	Principal can vary based on valuation, interest payable via a fixed interest, payable usually each quarter.
FRN	Floating Rate Note	Principal can vary based on valuation, interest payable via a floating interest rate that varies each quarter.
TD	Term Deposit	Principal does not 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.

### Environmental and Socially Responsible Investing

5 An additional column has been added to the schedule of Investments above, to identify if the financial institution holding the Council investment, has been assessed as a 'No Fossil Fuel' investing institution. This information has been sourced through [www.marketforces.org.au](http://www.marketforces.org.au) and identifies financial institutions that either invest in fossil fuel related industries or do not. The graph below highlights the percentage of each classification across Councils total investment portfolio in respect of fossil fuels only.

10 The notion of Environmental and Socially Responsible Investing is much broader than whether a financial institution as rated by 'marketforces.org.au' invests in fossil fuels or not. Council's current Investment Policy defines Environmental and Socially Responsible Investing at Section 4.1 of the Policy. Council's Investment Policy can be found at the following link:  
 15 [http://www.byron.nsw.gov.au/files/publications/council\\_investments\\_policy\\_2017.pdf](http://www.byron.nsw.gov.au/files/publications/council_investments_policy_2017.pdf)





In this regard Council has an additional two investments that are with financial institutions that invest in fossil fuels but the purposes of the investments are in accord with the broader definition of Environmental and Socially Responsible investments as indicated below:

1. \$1,000,000 investment with the National Australia Bank maturing on 24 March 2022 known as a Social Bond that promotes Gender Equity.
2. \$1,000,000 investment with Commonwealth Bank maturing on 31 March 2022 known as a Climate Bond.

For the period 25 November 2017 to 31 December 2017, as indicated in the table below, there is a dissection of the investment portfolio by investment type:

**Dissection of Council Investment Portfolio as at 31 December 2017**

Principal Value (\$)	Investment Linked to:-	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
70,000,000.00	Term Deposits	70,000,000.00	0.00
2,400,000.00	Floating Rate Note	2,403,642.89	3,642.89
1,569,518.15	Business On-Line Saver (At Call)	1,569,518.15	0.00
1,000,000.00	Bonds	1,011,100.17	11,100.17
<b>74,969,518.15</b>		<b>74,984,261.21</b>	<b>14,743.06</b>

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.

The table below provides a reconciliation of investment purchases and maturities for the period 25 November 2017 - 31 December 2017 on a current market value basis.

**Movement in Investment Portfolio – 25 November to 31 December 2017**

Item	Current Market Value (at end of month) \$
<b>Opening Balance at 25 November 2017</b>	<b>76,982,457.27</b>
Add: New Investments Purchased	19,500,000.00
Add: Call Account Additions	0.00
Add: Interest from Call Account	1,803.94
Less: Investments Matured	21,500,000.00
Less: Call Account Redemption	0.00
Less: Fair Value Movement for period	0.00
<b>Closing Balance at December 2017</b>	<b>74,984,261.21</b>

**Investments Maturities and Returns – 25 November to 31 December 2017**

5

Principal Value (\$)	Description	Type	Maturity Date	Number of Days Invested	Interest Rate Per Annum	Interest Paid on Maturity \$
1,000,000	ME Bank	TD	28/11/17	90	2.45%	6,041.10
2,000,000	National Australia Bank	TD	30/11/17	92	2.48%	12,501.92
2,000,000	ME Bank	TD	30/11/17	92	2.45%	12,350.68
1,500,000	ME Bank	TD	04/12/17	185	2.65%	20,147.26
1,000,000	Intech Bank Ltd	TD	05/12/17	184	2.80%	14,116.15
2,000,000	National Australia Bank	TD	08/12/17	91	2.52%	12,565.48
2,000,000	ME Bank	TD	08/12/17	183	2.65%	26,572.60
2,000,000	National Australia Bank	TD	12/12/17	103	2.50%	14,109.59
1,000,000	Auswide Bank Ltd	TD	15/12/17	91	2.40%	5,983.56
2,000,000	National Australia Bank	TD	18/12/17	110	2.50%	15,068.50
2,000,000	AMP	TD	18/12/17	91	2.40%	11,967.12
2,000,000	Beyond Bank	TD	21/12/17	78	2.40%	10,257.53
1,000,000	National Australia Bank	TD	29/12/17	91	2.51%	6,257.81
<b>21,500,000</b>						<b>168,019.49</b>

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 period 25 November – 31 December 2017 the table below identifies the overall cash position of Council as follows:

10

**Dissection of Council Cash Position as at 31 December 2017**

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
<b>Investments Portfolio</b>			
Term Deposits	70,000,000.00	70,000,000.00	0.00
Floating Rate Note	2,400,000.00	2,403,642.89	3,642.89
Business On-Line Saver (At Call)	1,569,518.15	1,569,518.15	0.00
Bonds	1,000,000.00	1,011,100.17	11,100.17
<b>Total Investment Portfolio</b>	<b>74,969,518.15</b>	<b>74,984,261.21</b>	<b>14,743.06</b>
<b>Cash at Bank</b>			
Consolidated Fund	4,086,489.44	4,086,489.44	0.00
<b>Total Cash at Bank</b>	<b>4,086,489.44</b>	<b>4,086,489.44</b>	<b>0.00</b>
<b>Total Cash Position</b>	<b>79,056,007.59</b>	<b>79,070,750.65</b>	<b>14,743.06</b>

**Financial Implications**

5

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

**Statutory and Policy Compliance Implications**

10

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.

15

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.

20

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.

25

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

30

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. 13.7**                    **Update on Res 17-515 and BSC ats Gordon Highlands Pty Ltd**  
**Directorate:**                    Corporate and Community Services  
**Report Author:**                Ralph James, Legal Counsel  
**File No:**                         I2018/14  
5 **Theme:**                         Corporate Management  
    Governance Services

**Summary:**

10 On 26 October 2017 Council received a report in respect of a development application which sought development consent for erection of a three (3) storey mixed-use residential and commercial development including six (6) Shop Top Housing dwellings, three (3) commercial premises and car parking for fifteen (15) vehicles (inclusive of one (1) disabled parking bay) over 9 Station Street, Bangalow

15 Council resolved (17-515) to defer consideration of the development application:

- 20
1. to obtain further information;
  2. to request the proponent to lodge amended plans to reduce the bulk and scale that does not require an excessive cut contrary to the DCP 2014; and
  - 25 3. an independent review of heritage assessment regarding the site context and sunken façade of the commercial components and their interface with the street.

On 28 November 2017 Council was served with a Class 1 application in the Land and Environment Court jurisdiction appealing against Councils deemed refusal of the development application.

30 The application seeks that Development Application 2017/198 be approved.

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**RECOMMENDATION:**

1. That no further action be taken in respect of Resolution 17-515.
2. a) That the General Manager be authorised to enter into a s34 Conciliation Agreement approving development application 10.2017.198.1, subject to appropriate conditions to be finalised under delegation; **IN THE ALTERNATIVE**  
b) That after the s34 Conciliation Conference but before a s34 Conciliation Agreement is entered the matter be reported to Council for consideration of any proposed s34 Conciliation Agreement and for Council to provide authorisation to the General Manager to enter a s34 Conciliation Agreement.

**Report**

On 26 October 2017 Council received a report in respect of a development application which sought development consent for erection of a three (3) storey mixed-use residential and commercial development including six (6) Shop Top Housing dwellings, three (3) commercial premises and car parking for fifteen (15) vehicles (inclusive of one (1) disabled parking bay) over 9 Station Street, Bangalow

Staff reported that the proposal was considered to satisfy the relevant provisions of Byron LEP 2014.

The site falls within the boundaries of the Bangalow Conservation Area. The applicant had submitted a 'Statement of Heritage Impact' demonstrating the proposal would be contributory to the surrounding conservation area.

The proposed building was considered by staff to be compatible with the Bangalow Conservation Area and consistent with Council's DCP 2014 Part C Non-Indigenous Heritage. In addition, the proposed development was considered consistent with all relevant state planning instruments and with the provisions of the Byron Local Environmental Plan 2014 & Development Control Plan 2014.

Council resolved (17-515) to defer consideration of development application 10.2017.198.1:

1. to obtain further information;
2. to request the proponent to lodge amended plans to reduce the bulk and scale that does not require an excessive cut contrary to the DCP 2014; and
3. an independent review of heritage assessment regarding the site context and sunken façade of the commercial components and their interface with the street.

On 28 November 2017 Council was served with a Class 1 application in the Land and Environment Court jurisdiction appealing against Council's deemed refusal of the development application.

The application seeks that Development Application 2017/198 be approved.

The application is listed for telephone directions on 29 January 2018.

Council instructed its external solicitors Marsdens to appear in the proceedings. Council also instructed that an external Heritage expert be retained to assist in the proceedings. Those instructions were also given in contemplation of the terms of resolution 17-515/3.

It would appear that by commencing proceedings, the applicant does not intend to lodge amended plans as was sought by resolution 17-515/2.

It is anticipated that at the directions hearing on 29 January 2018 a timetable will be fixed for the filing of a Statement of Facts and Contentions. It is also likely that a section 34 conciliation conference will be fixed.

Conciliation is a process in which the parties to a dispute, with the assistance of an impartial conciliator, identify the issues in dispute, develop options, consider alternatives and endeavour to reach agreement.

The conciliation conference is conducted by a commissioner of the Court. Often, the commissioner will have technical knowledge and expertise on the issues relevant to the dispute.

At the conciliation conference, the conciliator facilitates negotiation between the parties with a view to their reaching agreement as to the resolution of the dispute.

5 If the parties are able to reach agreement on the terms of the decision in the proceedings that would be acceptable to the parties, and that decision is one the Court could have made in the proper exercise of its functions, the conciliation commissioner must dispose of the proceedings in accordance with the decision and set out in writing the terms of the decision.

If the parties are not able to agree either about the substantive outcome the conciliation commissioner must terminate the conciliation conference and refer the proceedings back to the Court for the purpose of being fixed for hearing before a different commissioner.

10 Council's solicitors have been briefed with the full DA file and the staff report to Council's Ordinary Meeting on 26 October 2017 and all of its attachments - including the submissions of the objectors.

Council's solicitors will be briefed with the terms of resolution 17-515 and a transcript of the debate in Council on 26 October 2017.

15 Council's solicitors, as referred to earlier, have been instructed to retain an appropriately qualified Heritage expert.

**Financial Implications**

20 The estimated professional legal costs of defending the appeal is \$25,000-\$30,000 excluding GST, assuming that the matter is not settled at a conciliation conference and the ultimate hearing in the matter only takes 2 days. If the hearing takes longer the legal costs will be higher.

25 Because Council staff recommended that development consent be approved, it will be necessary for Council to retain the services of independent external experts. Estimates as to experts costs are approximately \$15,000 -\$20,000.

**Statutory and Policy Compliance Implications**

30 A Conciliation Agreement is between Council and the applicant ie Council stays the determining authority.

Use of a Conciliation Agreement would bring the appeal to an end immediately and without the need for Council to incur any expert witness costs or any legal costs beyond the relatively minor costs associated with attending a conciliation conference.

**Report No. 13.8**                    **Joint Organisation of Councils**  
**Directorate:**                    Corporate and Community Services  
**Report Author:**                Mark Arnold, Director Corporate and Community Services  
**File No:**                            I2018/35  
5 **Theme:**                            Corporate Management  
    Governance Services

**Summary:**

10 This report has been prepared to provide Council with an update on the status of Regional Joint Organisations of Councils, and to allow Council to consider the invitation from the Office of Local Government, issued in its correspondence dated 1 December 2017 (refer Attachment 1), for  
15 Council to voluntarily join the Northern Rivers Joint Organisation of Councils.





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**RECOMMENDATION:**

**That, in accordance with Part 7 of Chapter 12 of the Local Government Act 1993 (Act), Council:**

1. **Inform the Minister for Local Government (Minister) of the Council’s endorsement of the Minister recommending to the Governor the establishment of a Joint Organisation in accordance with this resolution.**
2. **Approve the inclusion of the Council’s area in the Joint Organisation’s area.**
3. **Request that the Joint Organisation be established to cover the Council’s area and any one or more of the following council areas:**
  - a) **Richmond Valley**
  - b) **Lismore City**
  - c) **Ballina Shire**
  - d) **Kyogle**
  - e) **Tweed Shire**
4. **Authorises the General Manager to provide the Minister with a copy of this resolution including the date on which Council made this resolution before 28 February 2018.**
5. **Authorises the General Manager to, on the expiry of a period of 28 days from the making of this resolution, inform the Minister that this resolution has not been rescinded.**

**Attachments:**

- 20 1 Letter from the Office of Local Government - Joint Organisations, E2018/4097  
- 2 Joint Organisation Information Pack, E2018/4099  

**Report**

5 The Office of Local Government (“OLG”) has written to Councils following the recent passage by the NSW Parliament of the Local Government Amendment (Regional Joint Organisations) Bill 2017. The OLG in its correspondence of 1 December 2017 has stated that this legislation allows for Councils to voluntarily join a new Joint Organisation “to strengthen regional coordination and improve the delivery of important infrastructure and services for communities through strategic planning, collaboration and shared leadership and advocacy”.

10 Council has been invited to establish and nominate to join the Northern Rivers Joint Organisation of Councils.

The Office of Local Government in its Joint Organisations – Frequently Asked Questions provides the following information on structure and purpose of a Joint Organisation.

15 *“A Joint Organisation is a new entity under the Local Government Act comprising member councils in regional NSW to provide a stronger voice for the communities they represent.*

20 *A Joint Organisation will provide a more structured, permanent way for local councils, State agencies and other interested groups to collaborate. Each region will decide its own priorities, working on short and long term projects such as attracting a new industry to the region or improving the health of a river system. By putting their resources together and focusing on the unique challenges and strengths of their whole region, Joint Organisation members can drive better outcomes for local residents.*

25 *Each Joint Organisation will comprise at least three member councils and align with one of the State’s strategic growth planning regions. One of the member council’s mayors will be elected chairperson and an Executive Officer may be appointed.”*

30 Further information on the proposed Joint Organisations and the entire process is available on the Office of Local Government’s website ([olg.nsw.gov.au](http://www.olg.nsw.gov.au)), under the heading of Strengthening Local Government. The following link is provided <http://www.olg.nsw.gov.au/content/joint-organisations-strengthen-regional-nsw>.

35 Byron Shire currently sits within the North Coast State Planning Region along with Tweed Shire, Ballina Shire, Bellingen Shire, Kyogle, Richmond Valley, Nambucca Shire, Lismore City, Clarence Valley, Kempsey Shire, Coffs Harbour City and Port Macquarie-Hastings Councils.

40 The Office of Local Government in the information provided to Councils on Joint Organisations and the next steps (Attachment 2), has indicated that a Council should consult with other Councils within their allocated Regional Planning Region, to identify the member Councils for a Joint Organisation.

45 NOROC at a meeting held in November 2016 resolved to endorse the submission to the NSW Government’s *Joint Organisations: Getting the Boundaries Right report* (16/17:R14). The submission stated that NOROC supported the proposed boundaries for the Northern Rivers Joint , and that NOROC included the Kyogle, Richmond Valley, Tweed, Byron, Lismore and Ballina Local Government areas, and that the alignment of the proposed boundary for the Joint Organisation and the current NOROC boundary would ensure a smoother transition process.

50 Each of the individual Councils within the area of a proposed Joint Organisation needs to pass a resolution establishing the Joint Organisation and its membership, and confirming that the Council wishes to be member of the Joint Organisation.



This format and the content of the resolution has been prescribed by the Office of Local Government. The resolution when passed by Council, along with the Council's nomination to join a Joint Organisation, needs to be submitted to the Office of Local Government prior to 28 February 2018.

5 This report has been prepared to allow Council to consider the invitation from the Office of Local Government, for Council to join the Northern Rivers Joint Organisation of Councils, by passing the required resolution.

10 **Financial Implications**

15 At this stage there is not anticipated to be any additional resource or financial implications to Council, although this could change over time if the Joint Organisation sought to increase its level of service to the member councils and a higher staff resource was needed. This would only occur in consultation with the member councils.

The current contribution to NOROC is approximately \$15,500.

20 Initial establishment funding is to be provided by the State Government, with \$3.3 million to be allocated to the project. NOROC, or the new Joint Organisation, will look at opportunities to access this funding for projects that may benefit the region.

**Statutory and Policy Compliance Implications**

25 Local Government Act 1993.

**STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY**

**Report No. 13.9**      **Draft Local Approvals Policy - further amendments**  
**Directorate:**      Sustainable Environment and Economy  
5 **Report Author:**      Kylie Graineey, Project Officer  
**File No:**              I2017/1748  
**Theme:**                Ecology  
10                              Development and Approvals

**Summary:**

Council’s Local Approvals Policy provides exemptions to the requirement to obtain approvals under section 68 of the Local Government Act 1993 (Act) for certain activities such as water supply, sewage and stormwater drainage works.


Council resolved to endorse exemptions of provisions of the draft Local Approvals policy at the Ordinary meeting of 3 August 2017 ([http://byron.infocouncil.biz/Open/2017/08/OC\\_03082017\\_AGN\\_608\\_WEB.htm](http://byron.infocouncil.biz/Open/2017/08/OC_03082017_AGN_608_WEB.htm)). Since then ongoing efficiencies have identified further amendments for inclusion in the Local Approvals Policy that will improve and streamline processing of Section 68 applications in relation to onsite sewage management systems.

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**RECOMMENDATION:**

1. That Council endorse the additional exemption provisions of the draft Local Approvals
2. That the draft Local Approvals Policy be placed on public exhibition for a period of 42 days for community consultation and submissions from interested parties.
3. That any submissions received as a result of the public exhibition be presented to Council for consideration in determining the adoption of the Amended Local Approvals Policy. In the event that there are no submissions received during the exhibition period, then the Amended Local Approvals Policy be submitted to the Director General for concurrence and, subject to that concurrence, be adopted.

**Attachments:**

- 1 DRAFT Local Approvals Policy - Activities under Section 68 of the Local Government Act, E2017/105029 

**Report**

Section 68 of the Local Government Act 1993 (Act) outlines those activities that generally require prior Council approval unless specified as exempt in the Act, regulations or a local policy.

5 Council resolved to endorse exemptions of provisions of the draft Local Approvals policy at the Ordinary meeting of 7 August 2017.

10 Since then ongoing efficiencies have identified further amendments for inclusion in the Local Approvals Policy that will improve and streamline processing of Section 68 applications in relation connection of drains to existing onsite sewage management systems.

15 Currently an application for approval to connect drains to an existing onsite sewage management system is required. It is proposed to exempt the requirement for an application where there is no additional load on the existing system. By exempting this step, it becomes the responsibility of the licensed plumber to comply with relevant regulations when carrying out the works.

<b>SECTION 68 PART C5 INSTALL, CONSTRUCT OR ALTER A WASTE TREATMENT DEVICE OR A HUMAN WASTE STORAGE FACILITY OR A DRAIN CONNECTED TO ANY SUCH DEVICE OR FACILITY</b>		
<b>Type of Activity</b>	<b>Exemption Circumstances / Requirements</b>	<b>Advisory Note</b>
<p><b>Install, construct or alter a waste treatment device or a human waste storage facility or a drain connected to any such device or facility</b></p> <p>(Item C5 of Table to Section 68)</p>	<p>Application to <b>connect drains to an existing onsite sewage management facility</b>, subject to the following conditions:</p> <ul style="list-style-type: none"> <li>i. There is no additional load on the existing onsite sewage management system.</li> <li>iv. A licensed plumber is to be engaged to carry out the work in accordance with approved plans, specifications, conditions of approval, the requirements of the Plumbing Code of Australia and AS/NZS 3500 must be adhered to. The plumber is to obtain a permit from Byron Shire Council and submit a Notice of Commencement of Plumbing works prior to commencing any plumbing or drainage work. If there is more than one plumber carrying out works then separate permits will have to be lodged stating specifically the works that are to be carried out.</li> <li>iii. The following inspection/s will be required for the SEWAGE WORK (fees are applicable as per Council fees and charges):                             <ul style="list-style-type: none"> <li>a) Internal drainage</li> <li>b) External drainage</li> </ul> </li> <li>iv. A licensee is required to provide to Council and the owner of the property, after completion of the work and within 48 hours, a Compliance Certificate and Sewer Services Diagram/ Works as Executed drawings.</li> </ul>	<ul style="list-style-type: none"> <li>1. Council will send each plumber proformas of these documents when the Notice of Work permit has been issued by Council to allow the plumber to commence work.</li> <li>2. Inspections will not take place unless the plumber or the plumber's representative is on-site. Re-inspection fees will apply to plumbers not on-site for inspections. Fees will be charged for all inspections.</li> </ul>

It is intended these amendments and those approved by Resolution 17-314 be placed on public exhibition as per the Local Government Act.

**5 Financial Implications**

There are no further financial implications by including further exemptions in the Local Approvals Policy. The development of the draft Local Approvals Policy has been undertaken internally by staff within the current budget.

10

**Statutory and Policy Compliance Implications**

A Local Approval Policy will reduce the need for the community to obtain certain approvals and assist the community by providing information and guidance on where approvals are required.

**Report No. 13.10 Expression of Interest - Assessment of Affordable Housing Proposal on Council and/or Crown held land**

**Directorate:** Sustainable Environment and Economy

**Report Author:** Natalie Hancock, Senior Planner

5 **File No:** I2017/1765

**Theme:** Ecology  
Planning Policy and Natural Environment

10 **Summary:**

15 Council at its 22 June 2017 Ordinary Meeting considered a report on affordable housing options and resolved (**Resolution 17-260**) to invite land owners through an expression of interest process to submit affordable housing proposals as part of an early implementation program to supplement Council's Residential Lands Strategy.

A total of 31 submissions were received. The EOI submissions have been organised into three categories:

- 20
- Category 1: Private land owners (excluding Saddle Road locality)
  - Category 2: Saddle Road locality land owners
  - Category 3: Council or Crown land

Category 1 and 2 were the subject of a report to the 23 November 2017 meeting.

25 This report assesses the potential suitability five EOI submissions received for lands in Category 3 Council and/or Crown land.

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  
35 been called by the mover and seconder of all motions relating to this report.

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**RECOMMENDATION:**



**That Council adopt the recommendations in Tables 1 & 2 of this report as follows:**

1. **That work progress to confirm the feasibility of sites: Lot 7 DP 263974, Lot 90A DP 3747 and Lot 89 DP 755697, Federal for affordable housing and a further report be presented to Council on the sites potential.**
2. **That consideration of the EOI submission for Lot 12 DP 1189646, Bayshore Drive, Byron Bay for affordable housing be deferred pending the outcome of the specific EOI process for this site that commences in 2018.**
3. **That consideration of the EOI submission for Lot 4 DP 841846, Mullumbimby for affordable housing or agricultural based residential use be excluded from further consideration for the reasons that the flooding constraints and evacuation routes of the site do not render it suitable for residential use.**
4. **That consideration of the EOI submission for Lot 188 DP 728535, Old Mullumbimby Hospital site for affordable housing be deferred pending the outcome of Mullumbimby**

**Hospital Site Project Reference Groups findings in late 2018.**

5. **That consideration of the EOI submission for Vallances Road Land, Mullumbimby for affordable housing be deferred pending the outcome of item 2 of resolution 17-459 which is to initiate a Community consultation programme for the area identified for possible Affordable Housing / Community Gardens / Eco tourism / Educational.**
6. **That consideration of the EOI submission for Lot 22 DP 10731765Mullumbimby for affordable housing be deferred for consideration in line with the rezoning of the land.**
7. **That consideration of the EOI submission for Lot 1 & 2 DP 573835 Old Suffolk Park Sewerage Plant Broken Head Road for affordable housing be deferred pending the outcome of the specific EOI process for this site that commences in early 2018.**

**Attachments:**

- 5 1 Expression of Interest for Affordable Housing Submissions Assessment Rerpot Council and /or Crown Land , E2017/108645 [⇒](#) 
- 2 Flood Assessment - Lot 4 DP 841846, DM1224958 [⇒](#) 

**Report**

Council at its 22 June 2017 Ordinary Meeting considered a report on affordable housing options and resolved the following:

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**Resolution 17-260**

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1. Note the Housing Issues Plan developed the result of the Byron Affordable Housing Summit and support its use to inform part of the Residential Land Use Strategy recommendations currently under preparation.

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2. Support further discussions with landowners of land in Attachment 1, and progression of work necessary to establish the feasibility of the sites in Attachment 1 and Attachment 2 for affordable housing; and also site '17' Saddle Road land identified in the Draft Preliminary Residential Housing Strategy; and where appropriate, invite lodgement of Planning Proposals to rezone the land for this purpose.

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3. Request staff to progress, in consultation with the community, work necessary to support a possible Planning Proposal or any possible rezoning of land at the Mullum Hospital Site.

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4. Review the mechanisms available to guide Council involvement in any public / private housing development with respect to probity and process.

5. Request staff to progress an expression of interest process (with a prepared set of guidelines) that will invite land owners to submit affordable housing proposals for other land in the Byron Shire for the consideration of Council as part of an early implementation program to supplement Council's Residential Lands Strategy

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In relation to item 5 of the above resolution an Expression of Interest (EOI) process for affordable housing proposals in Byron Shire was open from 12 August to 12 September 2017. The EOI was designed to seek proposals for small, medium and large-scale project ideas in both existing and potential future urban areas. Respondents were encouraged to consider partnership opportunities with the land owners, private sector or community housing providers to deliver long term affordable housing solutions in Byron Shire.

35

A total of 31 EOIs were received, with 5 relating to Byron Shire Council and/or Crown land (under Council management) including Lot 4 on DP841856.

The EOI submissions have been organised into three categories:

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- **Category 1:** Private land owners (excluding Saddle Road locality)
- **Category 2:** Saddle Road locality land owners (subject to consideration under Res. 17-260 Item 2)
- **Category 3:** Council or Crown land

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Council considered a report at the Council meeting 23 November 2017 on Category 1 and 2 lands.

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Assessment criteria (guidelines) were developed to determine the strategic suitability of a given EOI site for affordable housing. The criteria accord with the site suitability and mapping criteria applied to identify potential residential land in both the adopted Rural Land Use Strategy and the draft Residential Strategy. Further detail on the criteria can be found in Attachment 2 to Report 13.21 PLANNING – Resolution 17-260 Expression of Interest – Land for Affordable Housing Update to the 23 November 2017 meeting:

[http://byron.infocouncil.biz/Open/2017/11/OC\\_23112017\\_AGN\\_612\\_files/OC\\_23112017\\_AGN\\_612\\_Attachment\\_4538\\_2.PDF](http://byron.infocouncil.biz/Open/2017/11/OC_23112017_AGN_612_files/OC_23112017_AGN_612_Attachment_4538_2.PDF) The sites proposed in the five EOI submissions received for Council and/or Crown Land were assessed against this criteria and the report is included in Attachment 1.

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Category 3 EOIs were group according to whether there were any other known council resolutions or processes pertaining to the land. Only one EOI for 3 lots in Federal had no other known council resolutions or processes.

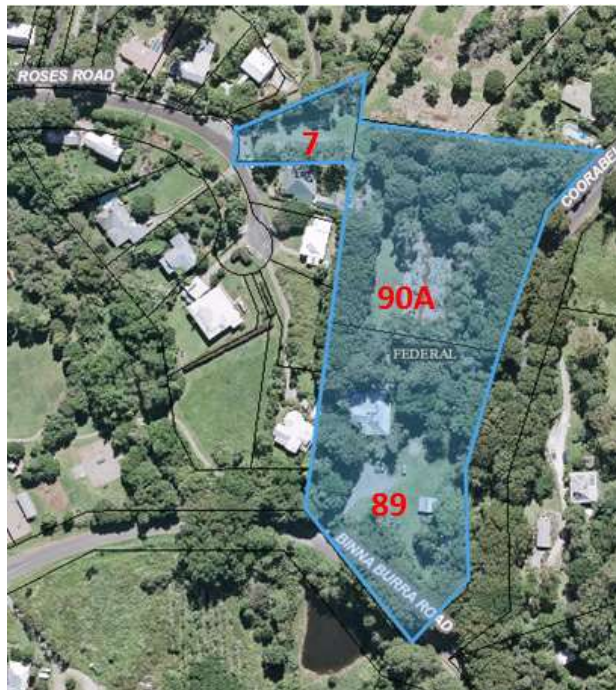
**5 Category 3 - EOIs for Council or Crown land with no other known Council resolutions**

One submission was received for three interconnected sites in Federal with no known existing Council resolutions, Table 1 and Map 1.

**Table 1: EOI for lands with no other known Council resolutions**

<b>EOI reference</b>	<b>Sites</b>	<b>Tenure</b>	<b>Staff comment and recommendation</b>
<b>BSC 1</b> proposal for 3 lots	(i) Lot 7 DP 263974 Roses Road, Federal	Council Community Land	This land may have capacity for affordable housing. In order to progress with this EOI a number matters need to be addressed: <ul style="list-style-type: none"> <li>• Discussions with NSW government on the crown land</li> <li>• Consultation with community to determine community support for the land to be used for affordable/seniors housing</li> <li>• Consistency in approach with Council’s supporting partnership policy</li> </ul> <b>Recommendation:</b> That work progress to confirm the feasibility of sites: Lot 7 DP 263974, Lot 90A DP 3747 and Lot 89 DP 755697, Federal for affordable housing and a further report be presented to Council on the sites potential.
	(ii) Lot 90A DP 374765 Coorabell Rd, Federal	Council & Crown Land	
	(iii) Lot 89 DP 755697 898 Binna Burra Rd, Federal	Council & Crown Land	

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**Map 1: Location of Sites in Federal**

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**Category 3- EOIs for Council or Crown land with other Council resolutions and or processes**



Six sites have other council resolutions or processes that need to be considered in their assessment for affordable housing. Four sites are in Mullumbimby, the other two in Byron Bay. An update on these sites has been sought from council officers who are responsible for other council resolutions pertaining to these sites. Table 2 identifies the site and provides brief information on other relevant resolutions and processes pertaining to the sites and a recommendation.

5

Two submissions were for the same sites in Mullumbimby:

- Lot 4 DP 841846 referred to as the 'Leaf Land'.
- Lot 22 DP 10731765 Mullumbimby

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**Table 2: EOI for land subject to other processes**

<b>EOI reference</b>	<b>Sites</b>	<b>Tenure</b>	<b>Staff comment and recommendation</b>
<b>BSC 2:</b> proposal for 4 lots	(i) Lot 12 DP1189646 Bayshore Drive, Byron	Council	<p>Lot 12 Bayshore Dr is subject to an EOI process to commence in 2018 following state government consultation on possible grants.</p> <p>At the 7 November 2017 Strategic Planning Workshop Council seeks development with a focus on innovation/business/mixed developments.</p> <p><b>Recommendation:</b> That consideration of the EOI submission for Lot 12 DP 1189646, Bayshore Drive, Byron Bay for affordable housing be deferred pending the outcome of the specific EOI process for this site that commences in 2018.</p>
	(ii) Lot 4 DP841846 "Leaf Land" , Mullumbimby	Council	<p>The assessment of Lot 4 DP 841856 ('Leaf Land') responds two Council resolutions:</p> <ul style="list-style-type: none"> <li>• <b>Res. 17-044</b> (Council meeting 22 February 2017) - That Lot 4/841856 be included, as an area of interest to be further explored for agricultural based residential use.</li> <li>• <b>Res. 17-260 Part 2.</b> (Council meeting 22 August 2017) - progression of work necessary to establish the feasibility of the sites in Attachment 1 and Attachment 2 for affordable housing (Lot 4/841856 was included in Attachment 2)</li> </ul> <p>The assessment of Lot 4 DP 841846 found that flooding constraints and evacuation routes of the site do not render it suitable for affordable housing nor a camping ground for the homeless including further consideration as an area of interest for an agricultural based residential use. A report by BMT WBM (Attachment 2) provides</p>

# BYRON SHIRE COUNCIL

EOI reference	Sites	Tenure	Staff comment and recommendation
			<p>further details on these issues.</p> <p>Council at the 23 November 2017 meeting resolved (<b>Res. 17-545</b>) to acquire land for access to Lot 4 and Council's site at Vallances Road. Should this acquisition be successful and the access can be upgraded to a standard that provides emergency flood evacuation, then their maybe capacity on Lot 4 for a small area of residential use.</p> <p><b>Recommendation:</b> That consideration of the EOI submission for Lot 4 DP 841846, Mullumbimby for affordable housing or agricultural based residential use be excluded from further consideration for the reasons that the flooding constraints and evacuation routes of the site do not render it suitable for residential use.</p>
	(iii) Lot 188 DP728535 Old Mullumbimby Hospital site	Council (Health Admin Corp)	<p>A report to the 23 November Council meeting details the report prepared by consultants HBI on the review of contamination at the former Mullumbimby Hospital in response to Council <b>resolution 17- 269</b>. Demolition and remediation will be required for this highly contaminated site. Affordable housing outcomes maybe possible in the future.</p> <p>Council <b>resolved 17-269</b> to form a Mullumbimby Hospital Site Project Reference Group (PRG).</p> <p>Some of the objectives of the group are:</p> <ul style="list-style-type: none"> <li>• Propose and consider potential uses for the former Mullumbimby Hospital site.</li> <li>• Develop a set of clear criteria for assessment of recommendations and options to Council.</li> <li>• Provide advice and recommendations to Council on the best outcome for the Hospital Hill site taking into consideration community and stakeholder input, data and zoning and regulatory requirements.</li> </ul> <p>The first meeting of the group was on 14 November 2017. The term of the PRG is to October 2018 subject to Council's consideration of a final report.</p>

# BYRON SHIRE COUNCIL

EOI reference	Sites	Tenure	Staff comment and recommendation
			<p><b>Recommendation:</b> That consideration of the EOI submission for Lot 188 DP 728535, Old Mullumbimby Hospital site for affordable housing be deferred pending the outcome of Mullumbimby Hospital Site Project Reference Groups findings in late 2018.</p>
	(iv) Vallances Road Land, Mullumbimby	Council	<p>Council <b>resolved 17-459</b> at the 26 October 2017 meeting:</p> <ol style="list-style-type: none"> <li>1. <i>That the Draft Vallances Road Plan of Management be adopted subject to:</i> <ol style="list-style-type: none"> <li>a) <i>Being renamed "Brunswick Valley Sustainability Centre Management Plan"; and</i></li> <li>b) <i>References in the document referring to "POM" or "Plan of Management" be modified to "MP" or "Management Plan" respectively.</i></li> </ol> </li> <li>2. <i>That Council approve the initiation of a Community consultation programme for the area identified for possible Affordable Housing / Community Gardens / Eco tourism / Educational.</i></li> <li>3. <i>That Council endorse the commencement of the procurement process for the designated solar farms on the site.</i></li> </ol> <p><b>Recommendation:</b> That consideration of the EOI submission for Vallances Road Land, Mullumbimby for affordable housing be deferred pending the outcome of item 2 of resolution 17-459 which is to initiate a Community consultation programme for the area identified for possible Affordable Housing / Community Gardens / Eco tourism / Educational.</p>
<b>BSC 3</b>	Lot 22 DP10731765 Mullumbimby	Council	<p>A report to the 23 November 2017 Council meeting recommends initiating a planning proposal for Lot 22 DP 1073165 for affordable housing purposes. (<i>Res 17-260</i> from June 22 Council meeting)</p> <p>The amendment to Byron LEP 2014 proposes using the R1 General Residential zone with a Minimum Lot Size of 200m<sup>2</sup> to encourage affordable housing outcomes.</p> <p><b>Recommendation: 7</b></p>

# BYRON SHIRE COUNCIL

EOI reference	Sites	Tenure	Staff comment and recommendation
			That consideration of the EOI submission for Lot 22 DP 10731765 Mullumbimby for affordable housing be deferred for consideration in line with the rezoning of the land.
<b>BSC 4</b>	Lot 1 & 2 DP 573835 Old Suffolk Park Sewerage Plant Broken Head Road Byron Bay	Council	<p>Council <b>resolved 17-225</b> at the 22 June 2017 meeting:</p> <ol style="list-style-type: none"> <li>1. <i>That Council retain ownership of the former South Byron STP site and proceed with the proposed Preliminary Expression of Interest process for the possible redevelopment of the site. That Council complete remediation of the site as proposed in the Draft 2017/18 Budget</i></li> <li>2. <i>Council retain ownership, EOI process to commence and Council to complete decontamination activities</i></li> </ol> <p>The EOI is to be issued late Jan 2018. At the 7 November 2017 Strategic Planning Workshop Council seeks developments that give community/social benefit.</p> <p>The majority of the site is zoned RU2. The site would require rezoning to accommodate residential development.</p> <p><b>Recommendation:</b> That consideration of the EOI submission for Lot 1 &amp; 2 DP 573835 Old Suffolk Park Sewerage Plant Broken Head Road for affordable housing be deferred pending the outcome of the specific EOI process for this site that commences in early 2018.</p>
<b>BSC 5</b> proposal for 2 lots	(i) Lot 4 DP 841856 "Leaf Land" Mullumbimby  (ii) Lot 22 DP10731765 Mullumbimby	Council	See above assessments and recommendations.

### Financial Implications

None from adoption of the recommendations in this report.

5

The budget implications of the progression of the Federal sites is unknown until further discussions are held with Crown land.

**Statutory and Policy Compliance Implications**

5 The assessment criteria applied for the expression of interest sites is consistent with the relevant Commonwealth, State and Regional policy frameworks.

The requirement for any progression of work on Council land must be consistent with the draft Supporting Partnership Policy, which has been prepared having regard to the statutory requirements of the Local Government Act and Regulations.

# BYRON SHIRE COUNCIL

**Report No. 13.11**      **PLANNING - 10.2017.399.1 Use of Cavanbah Centre for Primitive Camping grounds and markets at 249 Ewingsdale Road Byron Bay**  
**Directorate:** Sustainable Environment and Economy  
**Report Author:** Chris Larkin, Manager Sustainable Development  
5 **File No:** I2017/1778  
**Theme:** Ecology  
Development and Approvals

10 **Proposal:**

**DA No:** 10.2017.399.1  
**Proposal description:** Use of Cavanbah Centre for Primitive Camping Grounds and Markets  
**Property description:** LOT: 3 DP: 706286  
249 Ewingsdale Road BYRON BAY  
**Parcel No/s:** 132490  
**Applicant:** Byron Shire Council  
**Owner:** Byron Shire Council  
**Assessment Officer** Kellie Shapland (Consultant Planner)  
**Zoning:** The property is zoned RE1 Public Recreation / PART RU2 Rural Landscape / PART DM Deferred Matter. The proposed primitive camping ground and markets are within the RE1 zone.  
**Date received:** 25 July 2017  
**Integrated Development:** Yes – A Bush Fire Safety Authority is required under 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: 10 August 2017 to 23 August 2017  
– Submissions received: 2:  
**Delegation to determination:** Council  
**Issues:**

- Traffic generation and suitability of Ewingsdale Road to accommodate this traffic.
- Potential conflict with other site uses.
- Potential conflict with other established markets.
- Car parking availability
- Bushfire.

**Summary:**

15 The application seeks development consent for the use of the Cavanbah Centre Byron Bay for primitive camping and markets. The primitive camping would include 40 sites in four (4) locations over the property. The camping would be for sports groups or other users of the facility that are training, playing or generally using the centre.

20 Development consent is also sought to permit up to 26 markets per year on the site. The frequency and timing of the markets has not been specified, however is to be managed to avoid other site uses, and other market days.

The use of the land for these purposes was identified in a revised Plan of Management Community Land – Cavanbah Centre which was adopted by Council on 22 June 2017.

5 The proposal has been assessed against the relevant provisions of the Byron LEP 2014 and Byron DCP 2014 and is considered satisfactory in this regard. The proposal is considered a suitable use for this site and the application is therefore recommended for approved subject to conditions.

10 Council’s Procedure No: 63. “Development Applications – Conflict of Interests” requires that development applications submitted by Byron Shire Council to be assessed by an independent consultant and be determined by Council. This procedure is in response to guidelines provided by the Independent Commission Against Corruption which are intended to assist councils to minimise the potential for conflicts of interest to arise in the assessment of development applications.

15 This report has been completed by Kellie Shapland, being an independent consultant.

NOTE TO COUNCILLORS:



20 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.

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**RECOMMENDATION:**

25 **That pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2017.399.1 for use of Cavanbah Centre for primitive camping grounds and markets, be granted consent subject to the conditions listed in Attachment 2 #E2018/3031.**

**Attachments:**

- 30 1 10.2017.399.1 Plans , E2018/3037 
- 2 2 Conditions of consent 10.2017.399.1 , E2018/3031 
- 3 3 Confidential - 10.2017.399.1 Submissions , E2018/3038

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

10 The Cavanbah Centre was opened in July 2012 following approval in 2009 of the sporting fields and associated infrastructure under Part 5 of the Environmental Planning and Assessment Act 1979 (EP & A Act 1979). Development Consent for the buildings was issued in 2010 under Part 4 of the EP & A Act 1979.

The land was originally purchased by Byron Shire Council in 2003 and a Plan of Management adopted in 2005. Council amended the Plan of Management in 2013 in order to provide a guide for the future use, development and management of the eastern portion of the site, containing the sports fields and community building.

15 Byron Shire Council administration on 4 August 2016 requested a review of the Plan of Management. Council administration had a view to change the categorisation of part of the land from sports ground to general community use. This objective was proposed in order to allow for a wider use of the grounds and facilities and to enable the complex to contribute financially to the overall running costs incurred by Council.

20 Following public and user group consultation and a public hearing, a revised Plan of Management was adopted by Council on 22 June 2017. The proposed uses (i.e. primitive camping and markets) are identified as potential site uses in the Plan of Management.

**25 1.2. Description of the proposed development**

This application seeks approval for Use of Cavanbah Centre for Primitive Camping Grounds and Markets, as additional uses of the site. The proposed uses are described below:

**Primitive Camping:**

- 30 • The Cavanbah Centre grounds are proposed to be used for primitive camping, with a maximum of 40 sites, located in four (4) separate areas of the property (refer to Figure 2). The camping areas avoid sports ground playing surfaces.
- 35 • The proposal is to accommodate visitors or users of Cavanbah Centre, such as sporting teams that are training or playing at the centre, where they can set up camper vans or tents at the grounds for short term use. Campers would use the existing facilities that are available on site such as toilets, showers and the external canteen.
- 40 • The primary use of the site will remain as a sporting and cultural complex and it is not proposed to permanently mark or designate camping sites. Rather, four camping areas have been nominated where a maximum of ten sites can be accommodated in each area. The camping areas would be non-powered.
- The proposal is not for a permanent commercial camping ground. Once the tents and camper vans are removed, the land would return to its previous state.
- Vehicular access to the four nominated camping areas can be obtained via internal roads or other nominated vehicle routes without driving on the sporting fields.





Figure 2 - Proposed Primitive Camping Sites

**Markets**

- 5 • It is also proposed to use the site for markets. The frequency and timing of the markets is not known however it is proposed to limit these to a maximum of 26 market events per year. This would provide some flexibility for regular and one-off markets.
- Markets would be scheduled on days and at times to avoid major sporting fixtures and other uses. The application identifies that it is not intended that the proposal be in direct opposition to the existing Byron Community Markets.
- 10 • It is proposed that market stalls would be set up in one of two locations on the site (refer to Figure 3). This provides two options for market days, depending on the condition of the fields and the weather.
- Market area 'A' is a sports field with which is adjacent to the existing parking area and community centre with an internal bitumen access track surrounding it.
- 15 • Market area 'B' is part of the southern car park area. It is intended that Area A would be utilised for markets if the fields are not wet. The entire south-east field could be used for a ring or row of stalls which could be accessed by the surrounding bitumen access track. Those attending the markets would park in the main car park and walk to the field. The car park contains 296 car spaces and nine bus spaces.
- 20 • The application identifies that in wet weather the market can be held on the southern car parking area. The remainder of the car parking area (204 spaces) would be available for market attendees. The application originally identified that up to 118 stalls could be provided based on the markets utilising all of the car parking spaces. However, the application was amended to reduce the number of stalls to ensure traffic and parking
- 25 considerations are appropriately addressed.

- The site contains a separate toilet block to the main community centre which patrons would be able to access.



Figure 3 - Proposed Market Area A and Area B

5

**1.3. Description of the site**

Land is legally described as LOT: 3 DP: 706286

Property address is 249 Ewingsdale Road BYRON BAY

Land is zoned: RE1 Public Recreation / PART RU2 Rural Landscape / PART DM Deferred Matter

Land area is: 40 hectares

Property is constrained by: Flood Liable Land,  
 Bushfire prone land  
 Acid Sulfate Soils Class 2 and 3  
 High Conservation Value High Environmental Value in areas to the west, outside existing sports fields. Markets and camping areas are outside of high conservation value areas.

10 The site has a total area of 40 hectares. The eastern part of the site is developed for sporting fields, car parking, roads, ancillary infrastructure and a community building. The community building contains indoor sports facilities, meeting rooms, change rooms, toilet and shower facilities and storage.

The western part of the site is a mixed wetland and sedgeland with various levels of historical disturbance. This area is managed as part of the wet Byron Sewage Treatment Plant.

The markets and camping would be confined to the eastern portion of the site in the specific locations shown on Figures 2 and 3.

- 5 The site is located on the western outskirts of Byron Bay, approximately four kilometres from the town centre. It is bound by the Byron Bay Arts and Industrial Estate to the east, the west Byron STP and effluent reused wetland to the north, rural and environmental wetland to the west and Ewingsdale Road to the south.

10 Vehicular access to the site is via a roundabout on Ewingsdale Road. Pedestrian and bicycle access is available to the site from the town centre.

**2. SUMMARY OF REFERRALS**

External referrals of this application were made to:

- 15
- the NSW Roads and Maritime Services under the provisions of Clause 104 of State Environmental Planning Policy Infrastructure 2007 (ISEPP), and
  - the Rural Fire Service as the proposal is 'Integrated Development', requiring a bushfire safety authority under the provisions of Section 91 of the EP & A Act 1979 and Section 100B of the Rural Fires Act 1997.

20 The following is a summary of the comments and issues raised during the external and internal referral process.

Roads and Maritime Services

Roads and Maritime Services has provided the following comments:

- 25
1. *Recent traffic counts undertaken by Council indicate that Ewingsdale Road is approaching its planned capacity. Eastbound traffic queues out to this area and the Pacific Highway on occasions.*
  2. *The Statement of Environmental Effect (SoEE) has not fully considered the impacts on the existing roundabout for a ten year horizon, high traffic flows periods such as peak hours, music festivals, school holidays, New Year Eve arrangements and other proposed land uses in the area.*
  3. *Previously the Cavanbah Centre has been used for a park and ride interchange for major events.*
  4. *Council should be satisfied that any existing and proposed usage has adequate provision for public transport and any pedestrian/cyclist movements.*
  - 35 5. *Council needs to be satisfied that adequate off-street parking will be available for the proposed usages. A market stall requires two parking spaces to cater for their vehicle and trailer. The adoption of a parking rate of 2.5 spaces/stall will result in a significant shortfall of customer parking if the stall owners are not permitted to drive and park on the sporting field.*
  - 40 6. *It is recommended that a Traffic Management Plan (TMP) should be developed for events such as the proposed markets to maintain the safety and efficiency of the site. It should address how emergencies, on/off-street parking, pedestrians, bicycles, servicing, signposting will managed and provide for contingencies.*
  - 45 7. *The TMP should contain a Traffic Control Plan (TCP) prepared by a qualified person in accordance with the "Traffic Control at Worksites Manual" that is modified for each specific event.*
  8. *It is understood that primitive camping will only be associated with people directly involved in and for the duration of the event only.*
  - 50 9. *No information was provided concerning any existing security or general lighting that is available for night time activities.*

10. *Recreational vehicles and campers require disposal facilities for grey and black water.*

5 *Comment:* Councils Engineers have reviewed the application and the comments provided by RMS and subject to limitations on the number of stalls and the market operating times not conflicting with other users, no objections are raised to the proposal. Traffic and parking matters are further discussed later in this report.

Rural Fire Service (RFS)

The RFS has examined the proposal and issued General Terms of Approval under Section 100B of the Rural Fires Act 1997.

10 Engineering

The engineering assessment of the application originally raised concern in relation to traffic and parking and requested additional information.

15 Following this request, the applicant further considered and refined the proposal, including limiting stall numbers to ensure a balanced approach to parking and traffic generation. The proposal raises no engineering concerns subject to conditions of consent limiting the number of stalls to 90 when located in Area A (the south eastern sports field) and 55 when located in Area B (the southern part of the car park).

S64/Systems Planning Officer

20 Markets are not included in the assessment and calculation of water and sewer extra tenants (ET's) as they are intermittent and utilise public toilets which have existing ET entitlements.

The primitive camping generates additional load onto Councils water, bulk water and sewer system and therefore requires payment of applicable contributions. Conditions of consent are recommended.

Building Unit

25 No objections subject to recommended conditions.

**3. SECTION 91 INTEGRATED DEVELOPMENT - BUSH FIRE PRONE LAND**

30 The western part of the subject site is identified as bushfire prone land as it is mapped as containing category vegetation and an associated buffer.

One of the proposed camping areas, containing 10 camp sites, is within a bushfire 'buffer' area.

Primitive camping is a special bushfire protection purpose requiring a bushfire authority under Section 100B of the Rural Fire Act 1997.

35 A bushfire assessment has been undertaken which indicates that the proposal complies with the relevant provisions of 'Planning for Bushfire Protection 2006'. This assessment has been reviewed by the NSW Rural Fire Service who have issued General Terms of Approval for the proposal.

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

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

**4.1 State Environmental Planning Instruments**

45

	<b>Satisfactory</b>	<b>Unsatisfactory</b>
State Environmental Planning Policy No 44—Koala Habitat Protection	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**BYRON SHIRE COUNCIL**

	Satisfactory	Unsatisfactory
<p>Consideration: No tree removal is required. Camping and markets are to take place on highly disturbed areas (sports fields surrounds and car park).</p>		
State Environmental Planning Policy No 55—Remediation of Land	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Consideration: The Statement of Environmental Effects (SEE) identifies that Council commissioned extensive soil testing in 2009 that showed the site was not contaminated from past use. It was filled using clean fill from approved sources. The proposal is considered satisfactory in this regard.</p>		
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Consideration: Any temporary structures that do not meet exempt development requirements, will require either a complying development certificate or development consent. A suitable condition will be placed on any consent.</p>		
State Environmental Planning Policy (Infrastructure) 2007	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Consideration: Ewingsdale Road is a classified road. Clause 101 (2) requires that: <i>(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:</i></p> <ul style="list-style-type: none"> <li><i>(a) where practicable, vehicular access to the land is provided by a road other than the classified road, and</i></li> <li><i>(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:</i> <ul style="list-style-type: none"> <li><i>(i) the design of the vehicular access to the land, or</i></li> <li><i>(ii) the emission of smoke or dust from the development, or</i></li> <li><i>(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and</i></li> </ul> </li> <li><i>(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.</i></li> </ul> <p>In relation to these considerations it is noted that access to the site is from Ewingsdale Road, which is existing and there is no alternative. By limiting the number of market stalls and regulating the timing of the markets to outside of the major use times, traffic generation would be within that anticipated by the approval of the Cavanbah Centre. Council engineers are satisfied with respect to traffic and access issues and this is further discussed below.</p> <p>Section 104 requires referral of the application to RMS. RMS comments have been outlined in Section 2 and the proposal is now considered acceptable on traffic and parking grounds subject to conditions of approval.</p>		

**4.2A Byron Local Environmental Plan 2014 (LEP 2014)**

5 LEP 2014 is an applicable matter for consideration in the assessment of the subject development application in accordance with subsection 79C(1) of the EP&A Act because it applies to the subject

land and the proposed development. The LEP 2014 clauses that are checked below are of relevance to the proposed development:

Part 1	<input checked="" type="checkbox"/> 1.1  <input checked="" type="checkbox"/> 1.1AA  <input checked="" type="checkbox"/> 1.2  <input checked="" type="checkbox"/> 1.3  <input checked="" type="checkbox"/> 1.4  <input checked="" type="checkbox"/> Dictionary  <input checked="" type="checkbox"/> 1.5  <input checked="" type="checkbox"/> 1.6  <input checked="" type="checkbox"/> 1.7  <input checked="" type="checkbox"/> 1.8  <input type="checkbox"/> 1.8A  <input checked="" type="checkbox"/> 1.9  <input type="checkbox"/> 1.9A
Part 2	<input checked="" type="checkbox"/> 2.1  <input checked="" type="checkbox"/> 2.2   <input checked="" type="checkbox"/> 2.3   <input checked="" type="checkbox"/> Land Use Table   <input type="checkbox"/> 2.4   <input checked="" type="checkbox"/> 2.5   <input type="checkbox"/> 2.6   <input type="checkbox"/> 2.7   <input type="checkbox"/> 2.8
Part 3	<input type="checkbox"/> 3.1  <input type="checkbox"/> 3.2  <input type="checkbox"/> 3.3
Part 4	<input type="checkbox"/> 4.1  <input type="checkbox"/> 4.1A  <input type="checkbox"/> 4.1AA  <input type="checkbox"/> 4.1B   <input type="checkbox"/> 4.1C  <input type="checkbox"/> 4.1D  <input type="checkbox"/> 4.1E  <input type="checkbox"/> 4.2  <input type="checkbox"/> 4.2A  <input type="checkbox"/> 4.2B  <input type="checkbox"/> 4.2C  <input type="checkbox"/> 4.2  <input type="checkbox"/> 4.3  <input type="checkbox"/> 4.4   <input type="checkbox"/> 4.5   <input type="checkbox"/> 4.6
Part 5	<input type="checkbox"/> 5.1  <input type="checkbox"/> 5.2  <input type="checkbox"/> 5.3  <input type="checkbox"/> 5.4  <input type="checkbox"/> 5.5  <input type="checkbox"/> 5.6  <input type="checkbox"/> 5.7  <input type="checkbox"/> 5.8  <input checked="" type="checkbox"/> 5.9  <input type="checkbox"/> 5.9AA  <input type="checkbox"/> 5.10  <input type="checkbox"/> 5.11  <input type="checkbox"/> 5.12  <input type="checkbox"/> 5.13
Part 6	<input checked="" type="checkbox"/> 6.1  <input type="checkbox"/> 6.2  <input checked="" type="checkbox"/> 6.3  <input type="checkbox"/> 6.4  <input type="checkbox"/> 6.5  <input checked="" type="checkbox"/> 6.6  <input type="checkbox"/> 6.7  <input type="checkbox"/> 6.8  <input type="checkbox"/> 6.9

5 In accordance with LEP 2014 clauses 1.4 and 2.1 – 2.3:

(a) The proposed development is defined in the LEP 2014 Dictionary as *Camping Ground and Market*,

10 ***camping ground** means an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park.*

15 ***market** means an open-air area, or an existing building, that is used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.*

(b) The land is zoned RE1 Public Recreation / PART RU2 Rural Landscape / PART DM Deferred Matter according to the Land Zoning Map. The area mapped as a deferred matter is affected by the Byron LEP 1988 and is zoned 7(k) Environmental Protection (Habitat Zone).

20 - The sites nominated for camping and for markets are all located within the land zoned RE1 Public Recreation under the Byron LEP 2014.

(c) *Camping grounds* and *markets* are both permitted with development consent in the RE1 zone; and

(d) Regard is hard for the Zone Objectives as follows:

25

Zone Objective	Consideration
<i>To enable land to be used for public open space or recreational purposes.</i>	The camping ground is proposed to be used in conjunction with the wider use of the Cavanbah centre; i.e. by sporting teams or the like who are training or playing at the centre. It is not proposed as a full-time commercial camping ground. As such it is consistent with this zone objective.
To provide a range of recreational settings and activities and compatible land uses.	The proposed uses are short term and intermittent and as a result of recommended management practices, the proposal would not impact on the recreational use of the

	Centre.
• To protect and enhance the natural environment for recreational purposes.	The proposal does not involve permanent site disturbance and there are significant buffers between the proposed camping and market areas and any significant environmental areas.

The following comments are provided on a specific LEP clauses.

**Clause 2.5 Additional permitted uses for particular land**

- 5 The subject site is identified on the additional permitted use map enabling ‘development for the purposes of a registered club’ with development consent, notwithstanding that it is prohibited in the zone.

The approval does not seek approval for a registered club.

**Clause 5.9 Preservation of trees**

- 10 No trees are required to be removed.

**Clause 6.1 – Acid sulfate soils**

The property contains Class 2 and 3 acid sulfate soils (ASS). The areas affected by the proposal are identified as Class 3 on the Byron LEP 2014 maps. No earthworks are required for the proposal and further acid sulfate soil assessment for management is not required.

- 15 **Clause 6.3 – Flood planning**

The SEE identifies:

20 *Clause 6.3 (Flood planning) applies as the subject land is partly affected by flooding in major flood events (100year ARI – climate change) and entirely affected in the Probable Maximum Flood (PMF). It is substantially flood-free in events up to the 20 year ARI. The 2015 Belongil Creek Flood Planning Levels (BMT WBM) show that the Flood Planning Levels (2100 inclusive of climate change) across the area proposed for primitive camping and markets as between 3.4 and 3.5 metres AHD. The finished surface levels of this area vary between 2.8 metres and 3.6 metres AHD.*

*The objectives of clause 6.3 are:*

- 25 (a) *to minimise the flood risk to life and property associated with the use of land.*  
 (b) *To allow development on land that is compatible with the land’s flood hazard, taking into account projected changes as a result of climate change.*  
 (c) *To avoid significant adverse impacts on flood behaviour and the environment*

30 *The proposed development is consistent with the objectives of this clause and the subclauses as follows:*

35 *Both primitive camping and markets involve lightweight demountable structures that are easily moved at short notice. Both uses are unlikely to occur in the heavy local rain or storm events that characterise coastal flooding. Council can require that the site be evacuated or a proposed use not proceed in the event that a flood is imminent. This can be done through the same process that Council uses to decide if its sports fields are to be closed in wet weather. The site is not a high hazard floodway and flood depths are relatively shallow even in major events. The risk to property and life is very low. Short-term uses in flood-prone areas are appropriate and are compatible with the flood hazard on this land (similar to sporting uses). Evacuation of the site back to the Pacific Highway or Byron Bay is possible in the prelude to large flood events. With no filling or permanent*  
 40 *structures required or proposed uses will not cause erosion, siltation or destruction of riparian vegetation or affect riverbanks or watercourses. If the developments are approved, there will be no unsustainable social and economic costs to the community as a consequence of flooding on the site.*

Council Development Engineer has assessed the application with respect to flooding considerations and raises no objection subject to a condition requiring a flood evacuation plan be prepared for the camp ground.

**Clause 6.6 Essential services**

5 All necessary services are available and adequate for the proposal. This includes reticulated sewage and water, a suitable road network and electricity.

**4.2B Byron Local Environmental Plan 1988 (LEP 1988)**

10 The western part of the subject is a 'deferred matter' under the Byron LEP 2014. Consequently, the Byron LEP 1988 applies to this part of the land. It is zoned 7 (k) Environmental Protection (Habitat) zone under the Byron LEP 1988.

15 The proposal does not involve the use of any land affected by the Byron LEP 1988 and there are no specific clauses which require consideration.

**4.3 Any proposed Instrument that has been the subject of public consultation and has been notified to the consent authority**

**Draft SEPP (Coastal Management) 2016**

20 The site is affected by this draft SEPP as it identified on the "Coastal Use Area Map". The coastal use area is land adjacent to coastal waters, estuaries, coastal lakes and coastal lagoons, where impacts of development on the use land enjoyment of the beaches, foreshores, dunes estuaries, lakes and the ocean needs to be considered. In this regard, the proposed development makes use of existing public recreational land and would not impact of the use of beaches, foreshores or other coastal areas.

25 Part of the subject site (outside of the area proposed to be used for camping or markets) is mapped as a "Proximity Area for Coastal Wetlands". A proximity area is an area which surrounds wetlands and littoral rainforests to ensure that development considers downstream effects. As the proposed uses would occur on disturbed areas surrounding playing fields and sealed car parking areas, and the uses are not in close proximity to wetlands or littoral rainforests, the proposal is considered satisfactory in this regard.

The site not identified on the 'Coastal Environment Area Map'

The proposal is considered satisfactory with respect to this draft SEPP.

**4.4A Byron Shire Development Control Plan 2014 (DCP 2014)**

35 DCP 2014 is an applicable matter for consideration in the assessment of the subject development application in accordance with subsection 79C(1) of the EP& A Act because it applies to the land to which LEP 2014 applies.

40 Under the DCP, camping grounds are a form of tourist accommodation.

Markets are not specifically identified in the DCP, but are required to be assessed where the DCP applies to all development.

The DCP 2014 Parts/Chapters that are checked below are of relevance to the proposed development:

45

Part A	<input checked="" type="checkbox"/>
Part B Chapters:	<input type="checkbox"/> B2  <input type="checkbox"/> XB3  <input type="checkbox"/> XB4  <input checked="" type="checkbox"/> B5  <input checked="" type="checkbox"/> B6  <input type="checkbox"/> B7  <input type="checkbox"/> B8  <input type="checkbox"/> B9  <input type="checkbox"/> B10  <input type="checkbox"/> B11  <input type="checkbox"/> B12  <input type="checkbox"/> B13  <input type="checkbox"/> B14
Part C Chapters:	<input type="checkbox"/> C1  <input checked="" type="checkbox"/> C2  <input type="checkbox"/> C3  <input type="checkbox"/> C4



Part D Chapters	<input type="checkbox"/> D1  <input type="checkbox"/> D2  <input checked="" type="checkbox"/> D3  <input type="checkbox"/> D4  <input type="checkbox"/> D5  <input type="checkbox"/> D6  <input type="checkbox"/> D7  <input type="checkbox"/> D8
Part E Chapters	<input type="checkbox"/> E1  <input type="checkbox"/> E2  <input type="checkbox"/> E3  <input type="checkbox"/> E4  <input type="checkbox"/> E5  <input type="checkbox"/> E6  <input type="checkbox"/> E7

**Chapter B4 – Traffic Planning, Vehicle Parking, Circulation and Access**

Traffic

5 Following initial concern from RMS and Council Engineers regarding the amount of traffic that the markets were likely to generate, the applicant has agreed that the proposed number of stalls associated with the market should be limited to ensure the markets do not produce more traffic than the Cavanbah Centre was designed to accommodate.

A summary of Councils Engineer advice is outlined below:

- 10 • The proposed number of stalls associated with the market should be limited to ensure the markets do not produce more traffic than the Cavanbah Centre was designed to produce.
- 15 • The volume of traffic the Cavanbah Centre was designed to produce is outlined in the Review of Environmental Factors: Byron Regional Sport and Cultural Complex (REF). As a result, given the very high traffic volumes generated by markets, these markets are to be conditioned to only operate when the facilities at the Cavanbah Centre are closed to all other activities. That is, the markets are to operate only when there are no other sporting events or activities operating at the Centre. This is considered the best way to ensure market traffic does not exceed the Cavanbah Centre design traffic.
- 20 • An analysis of the REF indicates that existing west bound traffic count is approximately the same magnitude as the projected 2012 count. This indicates the 2012 SIDRA model will accurately reflect existing traffic conditions provided the market traffic generation does not exceed the Centre design traffic volumes.
- 25 • The REF presents the SIDRA model for the Cavanbah Centre intersection for the projected 2012 traffic conditions. These SIDRA results show that under projected 2012 conditions the Centre intersection will have an estimated level of service B for Saturday PM peak hour and Weekday PM peak hour. This indicates the intersection would have a level of service of approximately B under 2016 traffic conditions given the background traffic along Ewingsdale Rd in 2016 is approximately the same as the projected 2012 background traffic.
- 30 - Therefore, provided the markets do not generate more traffic than the volumes adopted on the SIDRA model the proposed markets would be acceptable. To ensure this it is recommended the markets not generate a peak hour traffic count of 470 vehicles per hour. This will ensure the intersection level of service will remain acceptable for both weekend and weekday conditions.
- 35 • To be conservative and to ensure the proposed markets do not generate more traffic than the existing approved development the markets are not to generate more than 470 PHT's.
- 40 • In accordance with RMS Guide to Traffic Generating Developments 1 market stall generates 4 PHT's. Therefore 470 PHT's is equivalent to 117 stalls. The DA SEE indicates up to 118 stalls are proposed. From a traffic perspective this is considered acceptable. However, due to car park requirements the DA is to be limited to 90 stalls when no stalls are located in the car park area and 55 stalls when any stall is located within the car park area.

In relation to the proposed camping, it is expected that there would be minimal traffic generation as the people camping on the site will also be using the sporting and cultural facilities.

The proposal to limit market times and stall numbers satisfies the issues raised by RMS.

Parking

45 The site has a fully established sealed car parking area providing 296 cars and 9 bus spaces. Two short term 'kiss and ride' locations are provided and 3 dedicated disabled car parking spaces. The

site also has 15 bicycle parking areas at the main building and 30 spaces located near different sports fields.

*Camping*

5 The DCP does not contain any numerical standard for parking for primitive camping spaces. Camping ground parking is to be provided in accordance with the Local Government (Manufactured Home Estate, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. This regulation does not specify parking requirements for primitive camping grounds. Therefore, this aspect of the proposal needs to be assessed on its merits. The SEE identifies that it is anticipated that there will be minimal additional demand for parking generated by the primitive camping use of the site as people camping on the site will also be using the sporting and cultural facilities, and would have parked there anyway. This is considered a reasonable assumption and no additional parking is required to cater for this proposed use.

*Markets*

15 The DCP requires 2.5 car parking spaces per stall. The engineering report has assessed parking and circulation and the advice and conclusions is summarised as follows:

- A total of 118 stalls are proposed. In accordance with RMS Guide to Traffic Generating Developments each stall requires 1 space for staff and 2.5 spaces for patrons (i.e. 3.5 spaces per stall). Therefore, 118 stalls require 413 car spaces. The existing car park only provides 319 spaces. Therefore, 118 stalls is not permitted.
- Adopting a maximum of 90 stalls requires 315 car spaces. Therefore, a maximum of 90 stalls (all located outside of the existing bitumen sealed car park) must be conditioned.
- In wet weather the markets are proposed to be located within the southern half of the existing car park. The northern half car park has 192 car spaces, the southern car park 111 spaces. Therefore, during wet weather markets only 192 spaces are available. If 55 stalls are permitted 55 spaces must go to staff parking (in accordance with RMS Guide to Traffic Generating Developments), this leaves 137 spaces. 137 spaces are sufficient for 55 stalls where the rate is 2.5 spaces per stall. Therefore, it must be conditioned that when the markets are located within the existing southern car parking area, a maximum of 55 stalls are permitted.
- Conditions to be applied to limit the number of stalls to 55 when located within the car park and 90 when stalls located on the oval and not in the car park.
- It is noted that an internal 4m wide sealed ring road is available for overflow parking and providing vehicular access to stalls holders. This ring road is there as overflow and a backup. It is not to be considered as a permanent parking solution for market patrons as the 4m wide seal is not enough for regular 2 way traffic and parking on either side.

Therefore, limiting the number of market stalls and the timing of the markets ensures that the proposal is satisfactory with respect to traffic and parking considerations.

**Chapter - B5 Providing for Cycling**

40 This chapter applies to tourist and visitor accommodation containing more than 5 beds in any zone. For the purpose for the DCP, camping is considered to be a form of tourist accommodation.

The proposed camping grounds are for intermittent use associated with activities taking place on the site.

The Cavanbah Centre is well serviced by bicycle access and parking and additional facilities are not required as a result of this proposal.

**Chapter B6- Buffers and Minimising Land Use Conflict**

The SEE examines the proposed development in relation to the surrounding land uses and submits that the potential for land use conflict from primitive camping grounds and markets is low. This conclusion is based on the following observations:

- 5       • The closest residential uses are approximately 125 metres to the east of the nearest camping area in the Byron Arts and Industry Estate and night time noise impact is likely to be low.
- The markets in Area A would be about 40 metres from residential uses but the markets would typically be during the day, or early evening.
- 10       • There are no likely conflicts to the west, south or north.
- The camping and market area is outside the bushfire buffer zone.

The proposal is considered satisfactory with respect to the relevant considerations in this Chapter.

**Chapter C2 – Areas Affected by Flood**

Flooding issues have been addressed in context of Clause 6.3 of the Byron LEP 2014.

- 15       The proposal is satisfactory with respect to this Chapter as the proposal would not result in a worsening of the flood risk. A flood evacuation plan will be required as a condition of consent.

**Chapter D3 Tourist Accommodation**

20       The performance criteria for camping grounds in zone RE1, is that they must be compatible in character and amenity with the character, landscape and land uses within the zone. The development must not create adverse environmental impacts in the surrounding landscape, or on development in the locality.

25       The proposal is considered to meet this performance criteria as camping grounds is a use that will only occur at certain times when required by users of Cavanbah Centre, it will rely on existing infrastructure, there will be no site disturbance or vegetation removal, there are large setbacks to Ewingsdale Road (min 140 metres) with roadside vegetation resulting insignificant screening to the camping areas.

**4.5 Any Planning Agreement or Draft Planning Agreement?**

	<b>Yes</b>	<b>No</b>
Is there any applicable planning agreement or draft planning agreement?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

30

**4.6 Environmental Planning & Assessment Regulation 2000 Considerations**

<b>Clause</b>	<b>This control is applicable to the proposal:</b>	<b>I have considered this control as it relates to the proposal:</b>	<b>If this control is applicable, does the proposal comply?</b>
<b>92</b>	No		
<b>93</b>	No		
<b>94</b>	No		
<b>94A</b>	NO		

\* Non-compliances and any other significant issues discussed below

35

**4.7 Any coastal zone management plan?**

	Satisfactory	Unsatisfactory	Not applicable
Is there any applicable coastal zone management plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**5 4.8 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

Impact on:	Likely significant impact/s?
<b>Natural environment</b>	No. The proposal will not have a significantly adverse impact on the natural environment of the locality. The proposal involves the addition of two land uses to the subject site, in an area currently used for sporting and community uses. There is no environmentally significant land that the proposal would impact upon.
<b>Built environment</b>	No. The proposal will not have a significantly adverse impact on the built environment of the locality.
<b>Social Environment</b>	No. The proposal will not have a significant social impact on the locality. The proposal provides an opportunity for additional community gatherings via markets, without impacting on the amenity of the locality.
<b>Economic impact</b>	No. The proposal will not have a significant economic impact on the locality. The proposal provides an opportunity for Council to gain a small income to offset some of the running costs of the facility, without a large outlay. This has economic benefits for the community.

*Are there any Council Policies that are applicable to the proposed development?*

10 Any markets that are held on the site would need to be operated in accordance with Councils Sustainable Community Markets policy.

**4.9 The suitability of the site for the development**

15 The site is considered suitable for the proposed development. The land uses proposed have been identified in the Plan for Management for Cavanbah Centre. The assessment of the proposal against the relevant statutory controls above does not identify any absolute constraints to the proposal. The only issues of concern relate to traffic, access and car parking issues which are satisfactory if the number of market stalls are limited and the timing controlled to ensure no conflict with other events.

20

**4.10 Submissions made in accordance with this Act or the regulations**

25 The development application was publically exhibited. There was one (1) submission objecting to the proposal and another asking specific questions. Below is a summary of the submissions, a response from Councils Open Spaces Unit and general planning comment with respect to the issues raised.

- Submission 1

30 Issue: Byron Farmers Market (BFM) runs every Thursday morning in the Butler Street Reserve and objects to any similar market running at the Cavanbah Centre. The application identifies that it is not intended that the use of the site for markets be in direct opposition to the Byron Community Markets. There is no reference to BFM, who are seeking similar assurances. Strongly object to any other fresh food market as it would threaten the not for profit farmers market.

*Comment:* It is not the intention of Council to permit markets on this site (fresh food or otherwise) in opposition to the established markets in Byron LGA. This includes the BFM. Council respects the opportunity for local farmers to sell local produce direct to the community and does not wish to jeopardise this situation.

5 *General Planning Comment*

Any consent can be conditioned to require a Plan of Management for the markets which provides a commitment that the markets are not run in direct competition to established markets in terms of the days that they are held or the general market theme.

- *Submission 2*

10 This submission from Byron Australian Football Club is outlined below with the applicants comments below each point raised. It is noted that this submission is not an objection.

1 Council does not mention BAFC as a key stakeholder in the current plan of management. They are not the same as AFL Queensland. If Council can't get this right then how can it manage camping and markets properly?

15 *Comment:* Council did not consult directly with BAFC in the initial review of its plan of management, but this oversight was corrected. Council placed the draft plan of management on exhibition and received a submission from the BAFC. This was addressed in the public hearing report. Council is confident that it can manage camping and markets on this site. The booking system for this facility is centralised so that multiple bookings can be avoided. It is not in  
20 anyone's interest that conflict is created by incompatible bookings.

2 Rubbish bins at the site overflow at sometimes and after some events. How will the site accommodate campers' rubbish? Will areas be inspected after camping and cleaned up?

25 *Comment:* Council would place additional bins at the site immediately prior to it being used by campers. These can be collected as part of the normal rubbish collection service to the locality. Yes, areas used for camping will need to be inspected (post-use) to ensure that rubbish or sharp objects are not left behind. Council site maintenance staff will need to be briefed on this to ensure it occurs.

30 3 How will irrigation of recycled water occur if camping is to occur on these areas? How will Council stop encroachment onto playing fields?

35 *Comment:* Camping is expected to be of short duration only. Typically, a weekend or a couple of nights while a sports training camp or the like is being run at the facility. Irrigation can either be stopped for a couple of days or stopped in the vicinity of the camping area for a few days. The campers would typically be the users of the fields and they would be aware of the need to not encroach on the fields that are in use. Council will advise campers where they can locate (see the diagram in the DA) and other locations will not be considered.

4 How will Council manage the competing needs of campers and players on game days at AFL senior and junior competitions? How will Council manage campers near the Cornell Field when spectators need these areas to watch the games?

40 *Comment:* It is not intended that campers will be on-site on game days or during competitions where players need access to facilities. Campers will not be on the grounds when spectators need access to the fields to watch the games. The prime use of the fields is for sports, and camping is only an option when competitive sport unrelated to the campers is not happening.

This might be a weekend before the AFL season or cricket season starts where a training camp is held at the ground.

5        How will campers get to the northern camping areas? Will they drive on the fields and playing surfaces?

5        *Comment:* Controlling the movement of vehicles will be important to avoid damage to the fields. It is possible to drive to the northernmost camping areas on firm ground without driving on the actual playing surfaces. However, it is important that any vehicles be confined to avoid damage.

6        What will stop Council from opening up the site as a general camping ground?

10       *Comment:* Council has no intention of opening the site up as a general camping ground. It would not be practical to do this given its primary function as a sporting and cultural facility. It would be inconsistent with community expectations. Significantly more infrastructure would be required to meet the requirements of running this site as a permanent camping ground for general use.

15       7        Has Council undertaken a cost/benefit analysis to establish if the use of the site as a primitive camping ground will provide any real return? If it does, will this result in reduced costs for sporting clubs and other users at the Cavanbah Centre?

20       *Comment:* Council has not undertaken a cost/benefit analysis of the proposed uses. It cannot be certain that there will be a positive return because Council has not undertaken any market analysis. However, if a broad range of uses are permitted on this site then, in general, Council is expanding the opportunity to generate additional income. Narrowing the range of uses (or keeping them narrow) is likely to have the reverse effect. Council makes no claims that income from any additional uses will reduce fees for sporting clubs or other users. It is more likely that any positive return will offset the maintenance and running costs of the Cavanbah Centre, reducing the burden on the General Fund.

25       *General Planning Comment*

The issues raised primarily relate to the running of the primitive camping grounds. A Plan of Management will need to be prepared ensuring that the commitments made are enforced and that all staff and management have a written document that is readily available to ensure that management procedures are followed at all times.

30

**4.11 Public interest**

The Plan of Management for the site went through a public consultation phase prior to its adoption. The proposed uses are consistent with this Plan of Management.

35       The proposal would provide Council with a small additional income, without significant costs, which would assist in meeting the running costs of Cavanbah Centre. This can be undertaken without significant environmental impact and is therefore considered to be in the public interest.

The proposed development is unlikely to prejudice or compromise the public interest or create a dangerous precedent.

40       **4.12 Local Government Act 1993**

Section 68 of the Local Government Act 1993 provides that camping grounds must be the subject of an operational approval in accordance with the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Movable Dwellings) Regulation 2005.

45       Section 132 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Movable Dwellings) Regulation 2005 sets out the requirements for primitive camping grounds. In relation to the number of camp sites, it provides that if an approval to operate a

primitive camping ground designates one or more camp sites within that ground, then the maximum number of designated camp sites is not to exceed a mean average of 2 for each hectare of the camping ground. Under the Regulation the maximum number of camp sites could be 80. The application proposes a maximum of 40.

- 5 The Regulation also provides minimum setbacks of tents and campervans from each other, requires water supply, waste disposal facilities and toilets, and prohibits tents, campervans etc. from remaining unoccupied at the site for more than 24 hours.

The primitive camping ground would need to be run in accordance with the Regulation.

10 **4.13 Section 5A of the EP&A Act – Significant effect on threatened species**

Having regard to sections 5A, 5C and 5D of the EP&A Act, there is unlikely to be a significant effect on threatened species, populations or ecological communities, or their habitats as a result of the proposed development because the land is highly disturbed by existing site activities.

15 **4.14 Section 5B of the EP&A Act – Have regard to register of critical habitat**

The NSW Critical Habitat Register does not identify any critical habitat on or adjacent to the site.

20 **5. DEVELOPER CONTRIBUTIONS**

**5.1 Water & Sewer Levies**

Section 64 levies will be payable.

25 **5.2 Section 94 Contributions**

No Section 94 Contributions will be required.

30 **6. CONCLUSION**

The proposal is considered to satisfy the relevant provisions of the Byron LEP 2014, is consistent with the 'Plan of Management Community Land Cavanbah Centre' and the Byron DCP 2014. The proposal is also consistent with relevant state planning instruments and the markets will be operated in accordance with Councils Sustainable Markets Policy.

- 35 The only significant planning issue relates to traffic access and parking which can be managed through restrictions on market stall numbers and operating time.

Having regard to the above assessment, it is considered that the proposal is suitable for approval.

40 **7 DISCLOSURE OF POLITICAL DONATIONS AND GIFTS**

Has a Disclosure Statement been received in relation to this application	No
Have staff received a 'gift' from anyone involved in this application that needs to be disclosed. Where the answer is yes, the application is to be determined by the Director or Manager of the Planning, Development and Environment Division.	No

Provide Disclosure Statement register details here: Not applicable

**Report No. 13.12**      **Compliance Priorities Program - 2018**  
**Directorate:**        Sustainable Environment and Economy  
**Report Author:**     Andrew Hill, Team Leader Community Enforcement  
**File No:**             I2017/1793  
5 **Theme:**             Ecology  
                              Development and Approvals

**Summary:**

10 This report details compliance with the adopted 2017 Compliance Priorities Program and seeks adoption of a Compliance Priorities Program for 2018.

15 It is recommended that Council continues to focus on those priorities listed as Very High and High and as resources allow, on priorities listed as Medium and Low with the aim that all matters will ultimately be addressed in a timely manner.

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**RECOMMENDATION:**

1. That Council note the report.
2. That Council adopt the proposed Compliance Priorities Program for 2018 as provided in Attachment 1 (E2017/108374).

**Attachments:**

- 20 1 2018 Compliance Priorities Program , E2017/108374 



**Report**

**2017 COMPLIANCE PRIORITIES PROGRAM**

5 Compliance activities and statistics addressing the 2017 Compliance Priorities Program and the Byron Shire Council Operational Plan have been addressed in the half yearly and annual report.

For the calendar year 2017 (1 January to 24 November 2017), all Compliance performance indicators were met for the Compliance Priorities Program.

10 In the 2017 calendar year the Community Enforcement Team received 3140 Customer Request Management (CRM's) which are tabulated as follows:

	<b>Received 2016</b>	<b>Received 2017</b>	<b>Completed 2016</b>	<b>Completed 2017</b>
Illegal Works (Building; Land Clearing; Places of short term rental accommodation; Land Use)	633	704	594	893
Animals (Nuisance; Barking; Attack; Restricted; Livestock; Poultry)	778	892	786	902
Fire Hazard	2	5	3	4
Vehicle (Abandoned, Street Camping; For Sale; Parking)	1071	1346	1043	1204
Noise disturbances, public nuisance from premises, non compliance with AFZ	130	153	137	140
Overgrown properties	57	40	57	40
<b>TOTAL</b>	<b>2671</b>	<b>3140</b>	<b>2620</b>	<b>3183</b>

15 **Note:** 2017 statistics are comparative to the same period in 2016 (1 January to 24 November). Some CRM's were carried over from 2016 and completed in 2017.

The following information is provided on the implementation and actions taken in relation to the adopted 2017 Compliance Priorities Program.

20 **Very High Priorities:**

**1.1 Developments, actions, works, activities or uses that places people's lives at immediate risk or that cause or are likely to cause a significant risk of environmental harm or pollution.**

25 In the calendar year to 24 November 2017 Council received 704 CRMs relating to unauthorised development and has concluded 893 (including other previously received CRMs). Not all of those CRMs fell into this priority although the percentage concluded is accurate for this priority. Developments, actions, works, activities or uses that places people's lives at immediate risk or that  
30 cause or are likely to cause a significant risk of environmental harm or pollution were generally actioned within 24 hours.

Under the terms of the Environmental Planning and Assessment Act Council served 181 notices of entry to inspect premises in relation to unauthorised building works, activities and uses.

**1.2 Significant environmental and public health incidents.**

Thus far in 2017 Council has issued 66 notices and orders under the Local Government Act, Environmental Planning and Assessment Act and Protection of the Environment Operations Act.

5 In 2017 Council has issued 15 penalty infringement notices under the Environmental Planning and Assessment Act with a total value of \$56,000, including five fines in relation to unauthorised tree removal.

10 In 2017 Council has issued 29 pollution and littering related penalty infringement notices under the Protection of the Environment Operations Act, with a total value of \$19,000.

15 In relation to unauthorised signage and unauthorised earthworks Council successfully finalised two Environmental Planning and Assessment Act prosecutions in the local court for development without consent. Fines and costs were awarded to Council in both matters totalling \$41,000.

**1.3 Dangerous and/or menacing dogs.**

20 From the 1 January 2017 to the 24 November 2017 there were approximately 722 customer request made in relation to dogs. These include:

<b>Customer Request Management Received</b>	<b>2017</b>
Dogs Attacks	51
Dogs Barking	164
Dogs Found	175
Dogs Nuisance	326
Dogs Restricted	6
<b>TOTAL</b>	<b>722</b>

25 In 2017 Council served 12 menacing and dangerous dog notices under the Companion Animals Act.

As a result of regular patrols Council issued 85 Companion Animal related penalty infringement notices in 2017 to the value of \$24,915.

30 In 2017 Council successfully finalised 5 local court prosecutions in relation to dogs. Fines and costs were awarded to Council totalling \$2450.90.

**1.4 Traffic, parking and unapproved camping activity. Camping enforcement with an emphasis on environmentally sensitive areas.**

35 Thus far in 2017 Council has issued 1,644 camping related penalty infringement notices with a total value of \$251,107.

40 In 2017 Council obtained 12 successful convictions from the local court in relation to littering and unauthorised camping. In total Council was awarded fines and costs of \$10,910.

In 2017 Council issued 8463 penalty infringement notices in relation to parking with a total value of \$1,288,041.00.

45 In 2017 Council issued 55 penalty infringement notices in relation to abandoned vehicles with a total value of \$30,250.

**1.5 Asbestos containing material (ACM) being illegally dumped on public land.**

There have been no significant reports of asbestos dumping on public land thus far in 2017.

**5 High Priorities:****2.1 Provide education or workshops and undertake compliance enforcement programs for; places of shared accommodation (commercial and non commercial) and improving compliance standards for unapproved dwellings.**

10 As a very high priority the Community Enforcement Team has continued to focus on high risk unauthorised dwellings on a case by case basis. The team have been awaiting the outcome of the Rural Land Use Strategy in order to provide a consistent approach to strategic workshops and education programs.

**15 2.2****(a) unauthorised events, including unapproved dwellings, wedding receptions, parties, 'doof and 'rave' parties;**

20 In 2017 Council successfully finalised two Environmental Planning and Assessment Act prosecutions in the local court for development without consent. Both matters were in relation to unauthorised doof parties/events at Coorabell and the Arakwal National Park. Fines and costs were awarded to Council in both matters totalling \$13,700.

25 In two separate cases Council has issued a \$3000 penalty infringement notice for the use of premises as a function centre without development consent in 2017.

**30 (b) Responses to complaints about recurring noise disturbance, public nuisance from premises, maintenance of alcohol free zones**

35 As a result of complaints about public order and safety in Main Beach Car Park and Apex Park, the Community Enforcement Team carried out regular patrols and targeted operations with the Police in these hotspots. 6 of the 12 camping related convictions mentioned above were in relation to Main Beach Car Park.

**(c) Uncontrolled dogs and/or cats including those kept on land where Policy or Development consent prohibits it.**

40 In Council report 13.8 of Council's meeting on 23 March 2017 the following was recommended:

45 *That Council staff can not give effect to Council's 30 October 2014 resolution because Council cannot prevent the keeping of animals on a private property in Hardy Avenue, Lilli Pilli Estate or Fern Avenue Estates just because Policy 5.30 exists and that the only time Council will have a lawful power to bring enforcement action against an animal owner living in these areas is where the keeping of animals is inappropriate, as that term is understood in the context of order 18 under the Local Government Act section 124.*

50 The Community Enforcement Team has been responding to companion animal complaints consistent with the above report.

55 In March and October 2017 Council arranged the RSPCA Emu bus to visit primary schools in Byron Shire with a view to providing education on companion animal responsibilities, care and registration.

**Medium Priorities:**

**3.1 Development or activities without consent, or non-compliance with consent, permit or licence conditions where these appear to pose no immediate threat to life, property, public health or the environment;**

Non-compliance with consent conditions were routinely picked up during the course of the abovementioned 181 formal inspections in relation to unauthorised building works, activities and uses.

**3.2 Non-compliant signage (07-550, 06-204).**

In 2017 Council impounded 55 unauthorised banners and signs.

**Routine Priorities:**

**4.1**

- (a) Companion Animals with a high emphasis on high visibility enforcement and public education.
- (b) Safe procedures for handling and disposal of Asbestos Containing Materials
- (c) Seasonal public health issues and community preparedness including issuing a minimum of two media releases.
- (d) Swimming pool safety including legislative requirements
- (e) Onsite sewage management systems (including CERC project)
- (f) Food Safety Inspections
- (g) Awareness of current public health requirements
- (h) Livestock on public roads

All other customer requests that did not fall within the very high priority category were dealt with routine advisory correspondence or direct contact with the customer as time permitted.

**Achievements 2017**

- The recruitment of three new positions in the community enforcement team comprising a Community Enforcement Officer, Animal and Enforcement Support Officer, and a Parking Enforcement Officer.
- Development and deployment of a structured School and Bus Zone program for the ongoing enforcement of school and bus zones.
- In 2017 a review of the parking team and community enforcement team rosters was undertaken. As a result there has been a greater focus in carrying out well planned targeted operations in relation to unauthorised camping, littering, alcohol free zones, busking, parking enforcement, unauthorised activities and development.
- Development and engagement of a signage and regulatory infrastructure process between Infrastructure Services and the Community Enforcement Team.
- The introduction of new hand held infringement devices and associated computer programs. A second License Plate Recognition system has been purchased by Council and is to be deployed by the Parking Enforcement Team in December 2017. With the adopted changes to the Brunswick Heads and Mullumbimby parking studies, and the introduction of paid parking in Bangalow, there will be a greater demand on parking enforcement resources. The second LPR will provide for greater efficiencies in Council's parking enforcement functions.

- A successful benchmarking review utilising SDR (Revenue NSW) data to measure our performance against other like councils.
- 5 • With a view to educating the community and improving parking compliance Council developed and circulated parking brochures. Particular attention was given to the industrial estates.
- The introduction of new body worn cameras for all enforcement officers.
- 10 • Implementation of new court attendance notice check list and new field court attendance notices.
- On 24 March 2017 the NSW Environmental Protection Authority advised Council that it is ranked 4<sup>th</sup> of all Council's in NSW for issuing littering fines. The EPA statistics and rankings included all Sydney metropolitan Council's.
- 15 • Development and engagement of a process between the Parking Enforcement Team and Council's Events Coordinator to ensure that the highest and best use of Parking Enforcement resources during the course of events.
- 20

### **Financial Implications**

The 2018 Compliance Priorities Program will be addressed within existing budget allocations.

### **25 Statutory and Policy Compliance Implications**

There a number of Acts which give local government regulatory powers. They include the:

- Companion Animals Act 1998
- 30 ▪ Environmental Planning and Assessment Act 1979
- Food Act 2003
- Impounding Act 1993
- Local Government Act 1993
- Protection of the Environment Operations Act 1997
- 35 ▪ Public Health Act 2010
- Roads Act 1993
- Swimming Pools Act 1992

40 Compliance action is considered and managed through Council's adopted Enforcement Policy 2016 (E2016/14523) and the NSW Ombudsman Enforcement Guidelines for Council's.

### **DRAFT 2018 COMPLIANCE PRIORITIES PROGRAM**

#### **45 1. Very High Priorities:**

- 1.1 Developments, actions, works, activities or uses that places people's lives at immediate risk or that cause or are likely to cause a significant risk of environmental harm or pollution;
- 50 1.2 Significant environmental and public health incidents;
- 1.3 Dangerous and/or menacing dogs;

1.4 Traffic, parking and unapproved camping activity. Camping enforcement with an emphasis on environmentally sensitive areas.

1.5 Asbestos containing material (ACM) being illegally dumped on public land

5

**2. High Priorities**

2.1 Provide education or workshops and undertake compliance enforcement programs for; places of shared accommodation (commercial and non commercial) and improving compliance standards for unapproved dwellings.

10

2.2 (a) unauthorised events, including unapproved dwellings, wedding receptions, parties, 'doof and 'rave' parties;

15

(b) Responses to complaints about recurring noise disturbance, public nuisance from premises, maintenance of alcohol free zones

(c) Uncontrolled dogs and/or cats including those kept on land where Policy or Development consent prohibits it.

20

**3. Medium Priorities**

3.1 Development or activities without consent, or non-compliance with consent, permit or licence conditions where these appear to pose no immediate threat to life, property, public health or the environment;

25

3.2 Non-compliant signage (07-550, 06-204).

**4. Routine Priorities**

**4.1**

30

(a) Companion Animals with a high emphasis on high visibility enforcement and public education. (15-465)

(b) Safe procedures for handling and disposal of Asbestos Containing Materials

(c) Seasonal public health issues and community preparedness including issuing a minimum of two media releases.

35

(d) Swimming pool safety including legislative requirements

(e) Onsite sewage management systems (including CERC project)

(f) Food Safety Inspections

(g) Awareness of current public health requirements

(h) Livestock on public roads

**Report No. 13.13**      **Tourism Management Plan 2008-2018 Acquittal**  
**Directorate:**      Sustainable Environment and Economy  
**Report Author:**      Peita Hillman, Tourism Officer  
**File No:**      I2017/1795  
5 **Theme:**      Economy  
                    Economic Development

**Summary:**

10 Following the Notice of Motion 9.2 Renewal of the Tourism Advisory Committee on 24 August 2017, Council requested staff prepare a report on the progress of the actions of the Tourism Management Plan (TMP) 2008-2018 as well as a project plan for the development of the new TMP.

15 A TMP Acquittal workshop was held in conjunction with key staff in order to gain their input into the process, followed by individual consultation in order to capture responses to each strategy contained in the plan, with a classification assigned to each strategy as complete, in progress or not commenced.

20 Following completion of the acquittal process, the following results were determined. The TMP contained 132 strategies for implementation. Of this total, 102 strategies (77%) have been implemented and completed with a further 13 strategies in progress and 18 not commenced. Those not commenced will be evaluated in terms of relevance and those actions deemed relevant will be rolled over into the new TMP.

25 This report seeks to inform Council of the actions completed to date from the Byron Shire Tourism Management Plan 2008-2018 and provide an overview of the scope and implementation schedule for the new TMP.

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**RECOMMENDATION:**

1. **That Council note the review and completion of the Byron Shire Tourism Management Plan 2008-2018 Acquittal.**
2. **That Council endorse the project action plan listed in this report, for the Byron Shire Tourism Management Plan 2019-2029.**
3. **Endorse the allocation of \$20,000 to complete the consultation process from the Tourism Reserve Budget.**

**Attachments:**

- 35 1 Tourism Management Plan Acquittal Report, E2017/107400 

**Report**

5 A staff workshop was held with key staff to acquit the Byron Shire Tourism Management Plan 2008-2018 on 17 October 2017. After the acquittal workshop, the attached acquittal report was populated with data pertaining to each strategy contained within the plan.

10 Following the completion of the acquittal, the following results were determined. The TMP contained 132 strategies for implementation, of these 101 (77%) have been implemented and completed with a further 13 strategies in progress, and 18 not commenced. Those not commenced will be evaluated in terms of relevance and those actions deemed relevant will be rolled over into the new TMP.

**Significance of Tourism to Byron Shire**

15 Tourism is an important contributor to Byron Shire’s economy, with accommodation and food services being the most productive industry in the region.

- 20 • Tourism generates \$129 million in 2015/16. With two million annual visitors to the shire, 90% of whom visit Byron Bay (Destination Byron, 2014), this added pressure creates a strain on infrastructure and services which can cause tension within the local community.
- 25 • Annual visitor numbers to Byron Shire have doubled since the current TMP was prepared in 2007, with 2,144,000 annual visitors in the last financial year (Tourism Research Australia, 2017).
- 30 • Tourism has created approximately 2,011 full time jobs in accommodation and food services, with a further 1,454 full time equivalent positions (ID Profile, 2017).
- 35 • With a coordinated and strategic approach in the new tourism management plan, aims will include strategies for year round visitation and dispersal of visitors throughout the shire to encourage steadier employment prospects for the local community. As visitor numbers to Byron Shire continue to grow and tourism remains significant to the local economy, it is essential that tourism is managed in a sustainable manner that will also contribute to protecting the natural environment and enhancing the wellbeing of the Shire’s residents.

**Project Action Plan**

The development of the Byron Shire Tourism Management Plan 2019-2029 is planned to commence in January 2018 and be completed by October 2018.

The scope of work and timing for the Byron Shire Tourism Management Plan 2019-2029 includes:

Actions	Timeframe
1. Identify actions present in local plans and strategies to be incorporated into the next TMP for an integrated approach, including the Byron Shire Destination Management Plan, Enterprising Byron 2025, BSC Community Strategic Plan 2027, the Northern Rivers Regional Visitors Services Strategy and the NSW North Coast Destination Management Plan.	First month – commencing in January 2018
2. Review competitor region TMP’s to compare methodologies,	



<b>Actions</b>	<b>Timeframe</b>
consultation approaches and priorities, from regions such as Daylesford/ Macedon Ranges, Tweed Shire, Noosa, Port Douglas, Maleny and Margaret River.	
3. Conduct a brief literature review of tourism planning theoretical publications to determine current issues such as inside out approaches, collaborative tourism planning, resilience, community attitudes and involvement, particularly in destinations with similarly high visitor to resident ratios.	Second month
4. Design stakeholder engagement process (both internal and external) that aligns with IAP2 Engagement Process with Consultant.	Third month
5. Undertake stakeholder consultation.	Fourth month
6. Compile and evaluate stakeholder feedback.	Fifth month
7. Prepare a draft TMP for exhibition and exhibit.	Sixth and seventh months
8. Prepare final TMP for adoption.	Eighth and ninth months – expected completion, October 2018
9. Conduct reviews and ongoing evaluation during the new TMP implementation phase.	Annual

**Financial Implications**

5 The cost of the community consultation process has been estimated at \$20,000 and funds are available for this in the Tourism Reserve Budget.

**Statutory and Policy Compliance Implications**

Nil

**Report No. 13.14      Report of the Planning Review Committee Meeting held on 30 November, 2017**

**Directorate:** Sustainable Environment and Economy

**Report Author:** Chris Larkin, Manager Sustainable Development

5 **File No:** I2017/1911

**Theme:** Ecology  
Development and Approvals

10 **Summary:**

This report provides the outcome of the Planning Review Committee Meeting held on 30 November, 2017.

15

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**RECOMMENDATION:**

**That Council note the report.**

20

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.14

### Report:

The meeting commenced at 4:10pm and concluded at 4:30pm.

- 5 Present: Crs Martin, Hunter, Lyon, Hackett, Cameron  
Staff: Chris Larkin (Manager Sustainable Development).  
Apologies: Crs Spooner, Coorey

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

10

DA No.	Applicant	Property Address	Proposal	Exhibition Submission/s	Reason/s Outcome
10.2017.510.1	Mr M Scott	137 Jonson Street Byron Bay	Mixed Use Development Comprising Commercial Premises, Cafe, Child Care Centre, Shop Top Housing and Serviced Apartments and Associated Carparking	Level 2 5/10/17 to 1/11/17  3 submissions	Information only - JRPP
10.2017.564.1	Ardill Payne & Partners	4 Laurel Avenue Mullumbimby	Two (2) New Dwellings to Create Multi Dwelling Housing Comprising Three (3) Dwellings and Strata Subdivision	Level 2  26/10/17 to 8/11/17 6 submission	Staff Delegation

**Report No. 13.15 Coastal Management Program for the Western Precincts of the Byron Bay Embayment - proposed project plan****Directorate:** Sustainable Environment and Economy**Report Author:** Chloe Dowsett, Coastal and Biodiversity Coordinator**File No:** I2017/2005**Theme:** Ecology  
Planning Policy and Natural Environment10 **Summary:**

15 Council at the 14 December 2017 meeting resolved (**Resolution 17-641**, part 5 & 6) to receive a report in the New Year outlining a project plan to develop a CMP for the Western Precincts of the BBE, and that the first stages of the Coastal Management Program (CMP) Western Precincts Byron Bay Embayment (BBE) and the CMP Northern Precincts (New Brighton & South Golden Beach) be developed in parallel.

20 A CMP is developed in a staged process under the guidance of the new *Coastal Management Act 2016* and NSW Coastal Manual and Toolkit.

25 The new legislation is yet to be enacted and the associated Coastal Manual and Toolkit finalised. Staff have received conflicting information and advice from the Office of the Environment and Heritage (OEH), the Minister's Office and the NSW Coastal Panel regarding developing a CMP in absence of the enacted legislation and finalised Coastal Manual.

30 This report provides a proposed project plan to develop a Coastal Management Program for the Western Precincts of the Byron Bay Embayment. It also recommends that Council write to the Minister indicating that whilst we wish to comply with the Ministers Directions we need the new Act to commence in order to productively do so and seek clarification as to how to proceed.

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**RECOMMENDATION:**

1. **That Council write to the Minister advising of the conflicting advice Council has received and seek their clarification as to how best to proceed with the preparation of a Coastal Management Program in the absence of the new legislation being enacted and the NSW Coastal Manual and Toolkit being finalised.**
2. **That Council await the advice of the Minister before proceeding with a Coastal Management Program for both the Western Precincts of the Byron Bay Embayment and the Northern Precincts (New Brighton and South Golden Beach).**
3. **That Council endorse in principle the proposed project plan (Table 1 of this report) to prepare a Coastal Management Program for the Western Precincts Byron Bay Embayment pending further Ministerial advice.**

35

Report

Background

5 The current coastal legislation, the *Coastal Protection Act 1979* is soon to be repealed. The Ministerial Directions issued under the current Act in 2011 requiring Council to prepare a *CZMP for the Byron Bay Embayment* still stands as Belongil is a designated 'hotspot'. Hence, to satisfy this Ministerial Direction the Minister's Office has urged Council to begin working on a Coastal Management Program (CMP) for the Belongil precinct under the soon to be promulgated *Coastal Management Act 2016*. The CMP would effectively cover the western precincts of the BBE which are: Cavvanbah; Belongil Beach; and North Beach.

At the 14 December 2017 meeting Council resolved (**Res 17-641, relevant parts**):

15 5. *That a report to Council be prepared in the New Year outlining a project plan to develop a CMP for the Western Precincts of the BBE.*

20 6. *That the first stages of the CMP Western Precincts BBE and the CMP Northern Precincts (New Brighton & South Golden Beach) are developed in parallel.*

Coastal Management Program

25 A Coastal Management Program (CMP) is developed in a staged process under the guidance of the new legislation and NSW Coastal Manual and associated Toolkit (compendium of technical information), both of which are still in draft form.

30 The new legislation is yet to be enacted and the associated NSW Coastal Manual and Toolkit finalised. Staff have received conflicting information and advice from the Office of the Environment and Heritage (OEH), the Minister's Office and the NSW Coastal Panel regarding developing a CMP in absence of the enacted legislation and finalised Coastal Manual, as outlined below.

35 The Minister's Office has urged Council to being working on a CMP for the Belongil Beach Precinct under the new CM Act in the most recent correspondence. This was reported to Council at the 14 December 2017 meeting, a copy of the report can be accessed here:

[http://byron.infocouncil.biz/Open/2017/12/OC\\_14122017\\_AGN\\_613\\_WEB.htm](http://byron.infocouncil.biz/Open/2017/12/OC_14122017_AGN_613_WEB.htm)

40 OEH advise that it would be inappropriate to develop a brief and go to tender for a full CMP at this point in time and until the new Coastal Manual and Coastal Management SEPP are released and commenced (hence, the delay of starting the CMP for the Northern Precincts (New Brighton and South Golden Beach) as advised in the 14 December 2017 report).

45 However, OEH deem it to be appropriate to commence preparing a consultant brief to complete Stage 1 (Scoping Study) of a CMP process. OEH are confident that Council may be able to prepare a brief for Stage 1 that adequately covers the scope of works that will be required in the new Coastal Manual once released in the near future.

50 A representative of the NSW Coastal Panel has advised staff that they think it to be a real risk to start the CMP process by going ahead with Stage 1 (Scoping Study) before the Coastal Manual is gazetted as Council may have to follow a different path and may need to re-negotiate the brief with the consultant at a later date. The NSW Coastal Panel representative suggests that Council write to the Minister indicating that we wish to comply with the Ministers Directions but need the new Act to commence in order to productively do so.

It is recommended that Council write to the Minister seeking clarification prior to commencing the Stage 1 Scoping Study for the CMP - Western Precincts Byron Bay Embayment and CMP - Northern Precincts (New Brighton and South Golden Beaches).

- 5 Table 1 outlines the proposed project plan to deliver a CMP - Western Precinct of Byron Bay Embayment. Commencement of the work plan is pending Council's consideration of the Minister's advice. The later stages of the CMP process (Stages 2 to 5) are guided by the outcomes of Stage 1 and are hence difficult to define within this project plan.

10 **Table 1: Coastal Management Program for the Western Precincts of the Byron Bay Embayment (Cavvanbah, Belongil Beach and North Beach)**

<b>Milestone</b>	<b>Outcome</b>	<b>Estimated timeframe to complete Milestone/ Outcome</b>	<b>Estimated Costs</b>
Consultant Engaged	Request for Quotation issued and a consultant engaged to undertake Stage 1 of the development of a <i>CMP for the Western Precincts of the Byron Bay Embayment</i> .	1 month	In-house staff time
Context and Scoping Report completed	Literature review and gap analysis undertaken to identify issues, risks, definition of the geographical boundaries and management area/s to be covered in the CMP, current management strategies being undertaken, priorities for action and gaps in information.  Development of stakeholder engagement strategy.  Development of Business Case for preparing and implementing the CMP.	2 months	\$30,000  50% grant funding available through Coastal and Estuary Grants Program
OEH and Coastal Council Review	Review of Context and Scoping Report by OEH and the Coastal Council who will advise/confirm the proposed approach, any additional technical studies that may be required and subsequent stages of the CMP process that need to be undertaken.	1 month	In-house staff time
Report to Council	Strategic Planning Workshop for Councillors; presentation of draft Context and Scoping Report, OEH and Coastal Council advice; recommended changes; report to Council to go to Public Exhibition.	1 month	In-house staff time
Public Exhibition	Public Exhibition (6 wks)	1.5 months	In-house staff time
Report to Council	Review submissions and feedback; report to Council on submissions and feedback; finalise Context and Scoping Report and report to Council to clarify the proposed Work Plan for the	1 month	In-house staff time

Milestone	Outcome	Estimated timeframe to complete Milestone/ Outcome	Estimated Costs
	subsequent stages of the CMP process.		
Further Stages (2 to 5)	<p>It is envisaged that due to the complex issues at Belongil and previous comments received from the Minister and Coastal Panel that need to be resolved, additional studies will be required in Stage 2. For example, a higher level Cost Benefit Analysis and a detailed approach for adequate maintenance and management of associated down-drift impacts of the seawall and walkway option (such as sand source study) is likely to be required.</p> <p>The work plan for completing the later stages will be outlined in the Context and Scoping Report and will be informed by OEH and the Coastal Council advice.</p>	Pending outcomes of scoping stage and report to Council	<p>Unknown and dependent on outcome of Stage 1.</p> <p>50% grant funding available through Coastal and Estuary Grants Program</p>

**Recommendations**

This report provides the following recommendations for consideration:

- 5           • That Council write to the Minister advising of the conflicting advice Council has received and seek their clarification as to how best to proceed with the preparation of a Coastal Management Program in the absence of the new legislation being enacted and the NSW Coastal Manual and Toolkit being finalised.
- 10          • That Council await the advice of the Minister before proceeding with a CMP for both the Western Precincts of the Byron Bay Embayment and the Northern Precincts (New Brighton and South Golden Beach).
- 15          • That Council endorse the proposed project plan (Table 1 of this report) to prepare a CMP for the Western Precincts Byron Bay Embayment.

**Financial Implications**

20          Additional funding may be required to complete the later stages of the CMP process for both projects. Budget bids will be tabled when preparing successive years budgets.

**Statutory and Policy Compliance Implications**

25          The *Coastal Protection Act 1979* is soon to be repealed with the enactment of the *Coastal Management Act 2016*.

30          Under the new legislation the primary objective of the first stage of the CMP process is to identify the completeness of the current information, what is known about the issues, where gaps in the technical information lie, along with the history and different management approaches that have been attempted to date.

5 This first stage is extremely important as it sets the scene for the remaining stages of developing a CMP. In this stage it is vital to identify the limitation of the current planning regime (e.g LEP and DCPs), current management strategies (e.g. implementation of a planned retreat policy) and proposed management strategies (e.g. seawall with walkway).

At the conclusion of Stage 1, Council should be able to answer the following questions:

- 10
1. How is the coast currently being managed?
  2. Which of the four coastal management areas are applicable and which management objectives take priority?
  3. Which of the four coastal management areas require further effort?
  4. Do current management practices, policies or approaches need to change?
  - 15 5. What additional information, including that needed to make a business case, is required before a draft CMP can be developed?
  6. What else needs to be completed before preparing a draft CMP?

At the conclusion of Stage 1 a Context and Scoping Report is produced which is reviewed by the Office of Environment and Heritage.



**Report No. 13.16      Report of the Planning Review Committee Meeting held on 21  
December 2017**

**Directorate:** Sustainable Environment and Economy  
**Report Author:** Chris Larkin, Manager Sustainable Development  
5 **File No:** I2017/2098  
**Theme:** Ecology  
Development and Approvals

10 **Summary:**

This report provides the outcome of the Planning Review Committee Meeting held on 21  
December 2017.

15

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**RECOMMENDATION:**

**That the report be noted.**

20

**Report:**

The meeting commenced at 4:15pm and concluded at 4:20pm.

- 5 Present: Cr Janette Martin, Cr Jan Hackett, Cr Michael Lyon  
Staff: Chris Larkin (Manager Sustainable Development).  
Apologies: Cr Cate Coorey and Cr Alan Hunter

The following development application was reviewed with the outcome below:

10

<b>DA No.</b>	<b>Applicant</b>	<b>Property Address</b>	<b>Proposal</b>	<b>Exhibition Submission/s</b>	<b>Reason/s Outcome</b>
10.2015.686.6	Bayview Land Development Pty Ltd	77 Tuckeroo Ave MULLUMBIMBY	S96 to modify condition No 1 to correct minor error with Plan numbering and references	Level 0	Staff Delegated Authority

**Report No. 13.17**      **CZMP for the Brunswick Estuary (Issue 5, June 2017) and Ministerial certification**

**Directorate:** Sustainable Environment and Economy

**Report Author:** Chloe Dowsett, Coastal and Biodiversity Coordinator

5 **File No:** I2018/2

**Theme:** Ecology  
Planning Policy and Natural Environment

10 **Summary:**

At the 14 December 2017 Council meeting staff provided an update on the certification process of the revised and updated *Coastal Zone Management Plan (CZMP) for the Brunswick Estuary (Issue 5, June 2017)*, which was submitted to the Minister for certification on 4 July 2017. Comments have now been received from public agencies, the Office of Environment and Heritage (OEH) and the NSW Coastal Panel. In its present form, OEH and the Coastal Panel do not endorse certification of the plan by the Minister.

This report provides a summary of the public agencies feedback. It recommends that Council **not pursue** Ministerial certification at this time due to:



- Council's other immediate priority coastal projects such as the CZMP for the Eastern Precincts of the Byron Bay Embayment as resolved (**Resolution 17-641**) at the 14 December 2017 meeting as the highest priority coastal project, along with applying to OEH for funding to initiate Jonson Street Protection Works pre construction stage and that the scoping stage for both the CMP Western Precincts Byron Bay Embayment (subject of a separate report to this Council meeting) and CMP Northern Precincts (New Brighton and South Golden Beach) be developed in parallel.
- Funding being available through the OEH Coastal and Estuary Grants Program for activities in response to estuarine threats to the health of the Brunswick River irrespective of Ministerial certification of the CZMP for the Brunswick Estuary.
- The requirement in three years to transition the CZMP for the Brunswick Estuary to a Coastal Management Program under the *Coastal Management Act 2016*, soon to be promulgated.

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**RECOMMENDATION:**

1. That minor editorial changes and amendments are made to the Coastal Zone Management Plan for the Brunswick Estuary (Issue 5, June 2017- Attachment 1) based on comments received from public agencies (Attachment 2).
2. That no further work be done to seek Ministerial Certification of the Coastal Zone Management Plan until such time as resources permit.
3. That Council adopt the revised draft Coastal Zone Management Plan and make it publicly available to support Council's work and the work of non government organisations acknowledging that it is not certified by the Minister.






**Attachments:**

- 40 1 CZMP for the Brunswick Estuary Issue 5, June 2017, E2017/67982 
- 2 BSC response to comments CZMP Brunswick Estuary Issue 5, E2018/3128 

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.17

- 3 Advice from NSW Government Office of Environment & Heritage and NSW Coastal Panel -  
Certification of Brunswick River Estuary CZMP Issue 5, June 2017, S2017/22150 [⇒](#) 
- 4 Dept. of Industry Crown Lands & Water - comments on the CZMP for the Brunswick Estuary Issue 5,  
June 2017, E2018/1087 [⇒](#) 
- 5 5 NPWS - comments on the CZMP for the Brunswick Estuary Issue 5, June 2017, E2018/1180 [⇒](#) 
- 6 NSW Crown Holiday Parks Trust - comments on the CZMP for the Brunswick Estuary Issue 5, June  
2017, E2018/1184 [⇒](#) 
- 7 Department of Primary Industries – comments on the CZMP for the Brunswick Estuary Issue 5, June  
2017, S2017/16849 [⇒](#) 
- 10

Report

**Background - Submission of the CZMP for the Brunswick Estuary (Issue No. 5, June 2017)**

5 The CZMP has a long history and was first developed under the guidance of the Brunswick Estuary Management Committee, following the process outlined in the NSW Governments Estuary Management Manual (1992).

10 Due to changes in legislation and guidelines, along with Ministerial certification (as opposed to approval) being required over the preceding years, the CZMP has been amended and re-submitted by Council numerous times.

15 In January 2017 staff undertook a complete review and update of the CZMP adopted by Council on 13 November 2008 to re-submit the plan for Ministerial certification before the repeal of the *Coastal Protection Act 1979*.

20 As outlined at the Strategic Planning Workshop with Councillors on the 9 March 2017 a comprehensive audit of management strategies and a site survey of the Brunswick River, Simpsons Creek and Marshalls Creek was conducted, along with an overall update of the CZMP to align it with current legislative framework and reflect present day issues and concerns.

25 Every effort was made to finalise the plan before the repeal date of the legislation, which was anticipated to occur mid 2017 (the *Coastal Management Act 2016* is still not promulgated) to trigger the 6 month savings provision under Schedule 3, Clause 6 (1) of the *Coastal Management Act, 2016*. Final amendments to the plan were made in June 2017 and the plan was submitted to the Minister for the Environment on 3 July 2017, pending public agency agreement.

30 Given the history of the CZMP, Council requested the advice and feedback from the Minister on whether further public exhibition of the plan is required.

35 This advice has now been received along with feedback and comment from relevant public agencies on the CZMP.

**OEH and Coastal Panel – advice**

35 Office of Environment and Heritage

40 Advice received on 28 December 2017 (Attachment 3). OEHs recommendation is to not certify the CZMP as public agencies have not yet endorsed or agreed on the proposed actions in the plan. Until such endorsement/support from public agencies is given, OEH do not recommend certification. Hence, further consultation with agencies and amendment of the CZMP based on comments received is required.

45 NSW Coastal Panel

Advice received on 28 December 2017 (Attachment 3). At their 1 November 2017 meeting, the Panel was asked to endorse the OEH recommendation not to certify the CZMP. This endorsement was agreed, however the Panel also noted additional reasons why the CZMP should not be certified including:

- There is no reference to river entrance management activities and how same might tie into the Plan;
- Concern that the updated version of the Plan submitted for certification (Issue No. 5. June 2017) doesn't appear to have been publicly exhibited as required under Section 55E *Coastal Protection Act 1979*;

- No evidence that tidal inundation and sea level rise have been relevantly addressed and provision for same incorporated into the Plan; and
- The Department of Industry Crown Lands & Water are not in a position to agree to the relevant actions in the CZMP that affect Crown land or assets which is a requirement under section 55C(2)(b) of the *Coastal Protection Act 1979*.

Much of the advice was anticipated as the plan (although revised and updated) was developed a long time ago under different legislative guidance and as such activities like river entrance management, tidal inundation and sea level rise were not addressed in great detail.

Further consultation with OEH is required in order to consider and address the Coastal Panel comments. Public Exhibition of the CZMP will also be required.

### Public Agencies – comments

#### Department of Industry Crown Lands & Water

Comments received 14 November 2017 (Attachment 4). Advice received is that in its current form, the Department is not in a position to agree to the relevant actions in the CZMP that affect Crown land or assets and hence agreement and support can not be given. Council staff have reviewed their comments and are supportive of the majority as they are minor or editorial in nature and can be amended easily without requiring further consultation with the agency at this time. However, further consultation with the agency will be required before their agreement can be given. This requirement will be included in the draft CZMP and consultation with DoI Crown Lands & Water will occur before resubmission of the plan to the Minister for certification.

#### National Parks and Wildlife Service

Comments received 20 December 2017 (Attachment 5) advising that NPWS cannot support the CZMP in its current form. Amongst their comments a key issue is land tenure associated with Recommended Strategy B2 which proposes formalising public access. Council staff have reviewed their comments and agree that further clarification of land tenure associated with Recommended Action B2 is required before any works are undertaken. This requirement will be included in the draft CZMP and consultation with NPWS will occur before resubmission of the plan to the Minister for certification.

#### NSW Crown Holiday Parks Trust

Comments received 3 January 2018 (Attachment 6) advising that the Trust requests changes be made before agreement and support can be given. Council staff have reviewed their comments and are not supportive of the requested amendment. The Trust requests that they become a support agency instead of lead agency for Recommended Strategy B2. This site is located on part Trust and part 'Council managed Crown' land and therefore they should be a responsible lead agency for the project. Further consultation is therefore required with the Trust and this requirement will be included in the draft CZMP and sought before resubmission to the Minister for certification.

#### Department of Primary Industries – Fisheries

Comments received on 5 September 2017 (Attachment 7) advising that in its current form, DPI Fisheries cannot endorse the CZMP and request changes before agreement and support can be given. Council staff have reviewed their comments as they are minor or editorial in nature and can be amended easily without requiring further consultation with the agency at this time. Further consultation with the agency will occur prior to resubmission of the plan to the Minister for certification.

**Consideration of comments and advice received**

Amendments to the CZMP appear to be relatively minor and potentially able to be resolved.

5  
10  
15  
However, Council at the 14 December 2017 meeting resolved (17-641) that the preparation of a CZMP for the Eastern Precincts of the Byron Bay Embayment is the highest priority coastal project, and that funding will be sought to initiate Jonson Street Protection Works pre construction stage. Also that the scoping stage for both the CMP Western Precincts Byron Bay Embayment (subject of a separate report to this Council meeting) and CMP Northern Precincts (New Brighton and South Golden Beach) be developed in parallel.

15  
Given the long history of the CZMP through the Ministerial certification process and other more urgent coastal projects in the pipeline, it is recommended that staff attend to this project should time and resources permit.

20  
Importantly funding is still available through the OEH Coastal and Estuary Grants Program for activities in response to estuarine threats irrespective of Ministerial certification of the CZMP. Hence, Council is able to undertake such activities in the future to improve the health of the Brunswick Estuary as funds and resource become available with 50% grant funding through this program regardless of the certification of the plan.

25  
The CZMP will need to be transitioned to a Coastal Management Program by 2021 under the *Coastal Management Act 2016*, soon to be promulgated. This will require a complete refresh of the plan to ensure it accords with the new legislative requirements. Given that this is three years away, that council has other immediate priority coastal projects and that OEH funding can still be sought to improve the health of the Brunswick Estuary it is recommended that no further work be done unless resources permit.

30  
35  
The work completed thus far in revising and updating the CZMP to its present form has not been completed in vain as the plan provides a revised 'snap shot' of the Brunswick Estuary. The plan is able to be used as an information resource for other agencies and can be used by Council to monitor areas of estuary where bank erosion and/or degradation of the estuary may be occurring. The plan may also provide guidance to non government organisations such as Landcare groups in the future as it has done so for the preceding years since its adoption in 2008.

**Recommendation**

40  
That minor editorial changes and amendments are made to the CZMP based on comments received from public agencies.

That no further work be done to seek Ministerial Certification of the CZMP until such time as resources permit.

45  
That Council adopt the revised draft CZMP and make it publicly available to support Council's work and the work of non government organisations acknowledging that it is not certified by the Minister.

**Financial Implications**

50  
Nil

**Statutory and Policy Compliance Implications**

5 The *Coastal Protection Act 1979* is soon to be repealed by the *Coastal Management Act 2016* in early to mid 2018. A Coastal Management Program for the Brunswick Estuary will be required under the new Act and will be developed when resources permit.



**STAFF REPORTS - INFRASTRUCTURE SERVICES**

**Report No. 13.18      Review of Bitumen Sealing Practises & Pothole Filling Works**

**Directorate:**            Infrastructure Services

5 **Report Author:**        Joshua Provis, Road and Bridge Engineer

**File No:**                I2017/1165

**Theme:**                 Community Infrastructure  
Asset Management

10

**Summary:**

Council engaged Morrison Low P/L to undertake a Review of Bitumen Sealing Practices and Pothole Filling Works, which commenced in March 2017, and was finalised in August 2017.

15

The report looked into the following:

1. primer and final seal on new gravel pavement associated with road renewal projects.
2. primer seals and AC wearing surfaces on road renewal projects.
3. reseal works on existing sealed road pavements.
4. filling and repair of potholes.

20

The recommendations of the review included actions around the following major items:

1. budget and asset management process
2. specification and design
3. communication
4. technical knowledge of industry work practices
5. work practices
6. contract management and administration
7. development of a 10 year sustainable road infrastructure management plan.

25

30



An action plan has now been developed to address the recommendations in the review.

35

**RECOMMENDATION:**

**That Council note the report and the ongoing implementation of the action plan.**

**Attachments:**

- 1      Report 14/12/2017 Council Review of Bitumen Sealing Practises & Pothole Filling Works, I2017/1165  
⇒ 
- 2      Action Plan for Implementation of Recommendations from "Review of Bitumen Sealing Practices and Pothole Filling works", E2017/89504 ⇒ 

40

45

**Key Findings of the review:**

- Parts of the LGA are suffering from a lack of investment in preventative maintenance in past years and some roads are beyond routine maintenance.
- 5 • To achieve optimum value for money strategic maintenance and renewal activities must be undertaken.
- In past years, there has not been funding for the amount of resealing normally required for proper sealed roads asset management and therefore a backlog of sealed roads have lost their ability to prevent ingress of moisture into the road pavement.
- 10 • As a consequence of the lack of reseals and heavy patching in the past, Council is spending too much on pothole patching.
- Some level of inadequacy in the specifications being used previously.
- Council should implement systems which hold contractors to specifications and ensure they demonstrate quality is being achieved.
- 15 • The use of the jet patcher and flow con (manual pothole repair process) could be optimised by focussing the different treatments on different parts of the shire.

**Action Plan:**

20 Based on the review, an action plan was developed to address each of the 28 recommendations.

Council's Road and Bridge Engineer is responsible for coordinating the implementation of the recommendations in the action plan.

**Update:**

25 Of the 28 actions in the action plan:

- 19 are completed
- 30 • 6 are in progress
- 3 are not yet started

Actions around Budget and Asset Management Processes are either completed or well advanced.

35 Actions around specification and design have all been completed, Council's Road and Bridge Engineer is now disseminating the information to relevant staff.

40 Actions around Communication are either completed or well advanced with media and communications staff included in the process of determining communication strategies for Council.

45 Actions around technical knowledge and work practises was also well underway at the time of the review, such as relevant field staff continuously improving work methods, in particular pothole filling methods. Implementation of the action plan continues this continuous improvement cycle and affirms the good work that is being done by field staff.

Actions around Contract management and administration are well advanced with the creation of an Inspection and Test Plan that identifies key parts in the specifications and key steps for field staff to follow during operations. Councils Road and Bridge Engineer will continue to disseminate this information to relevant staff.

**Strategic Planning Workshop:**

5 A detailed update by Council's Road and Bridge Engineer is planned for the Strategic Planning Workshop on 25 January 2018. This presentation is focused on some of the key aspects of each of the major items and recommendations.

**Conclusion:**

10 Implementation of the action plan is progressing well and is expected to be finalised by June 2018.  
**As actions are completed the information is being passed on to relevant staff.**

**Report No. 13.19**      **North Ocean Shores Sports Field Renaming**  
**Directorate:**      Infrastructure Services  
**Report Author:**      Nikki Bourke, Project Officer  
**File No:**      I2017/1827  
5 **Theme:**      Community Infrastructure  
                    Open Space and Recreation

**Summary:**



10 The purpose of this report is to seek approval for the NSW Geographical Names Board (GNB) proposed name of “Bob Bellear Sportsground” as the new name for the North Ocean Shores Sports Field.

---

**RECOMMENDATION:**

**That Council approves “Bob Bellear Sportsground” as the permanent name for the North Ocean Shores Sports Field to be advertised for public comment by the NSW Geographical Names Board.**

**Attachments:**

- 20 1      24.2014.14.1 Shara Bvd Sports Field - Bob Bellear Sports Field Collated Submissions, E2017/108016  
          

**Report**

Council resolved in its 3 August 2017 meeting as follows:

5

**Report No. 13.14      North Ocean Shores Sports Field Renaming**  
**File No:                    I2017/957**

**17-001      Resolved** that Council:

- a) selects Bob Belleair Sports Field as its preferred permanent name for the North Ocean Shores Sports Field from the community suggestions provided in this report;
- b) staff proceed to exhibit the preferred name for 28 days as per Council's Naming of Public Places and Community Facilities Policy; and
- c) should no objections be received for the preferred new name, that the name be adopted and submit the name to the NSW Geographical Names Board for approval and registration. (Ndiaye/Richardson)

10

The name was placed on exhibition from 17 August to 21 September 2017. Four submissions were received in support of the proposed "Bob Belleair Sports Field" name for the new field (collated in Attachment 1). No objections were received to the proposal. Accordingly the name and supporting information and submissions were submitted to the GNB and was considered at their 21 November 2017 board meeting.

A response from the GNB as received on 23 November as follows:

Dear Nikki,

I refer to your proposal to name a reserve 'Bob Bellear Sports Field' in the address locality of Billinudgel.

The proposal was discussed at the Geographical Names Board (GNB) meeting held on the 21 November 2017. The result of this discussion is below:

- According to *Section 6.1 Language of the GNB Place Naming Policy* place names preferably shall not exceed three words. Sports field is not a designation in the Geographical Names Register. There is however, a designation of sportsground. The GNB designation factsheet states that a sportsground is a reserve used for sporting fixtures.
- *Section 10.2 Recognition and use of Aboriginal Names* states that the proponent shall consult the Local Aboriginal Land Council and Aboriginal communities on all matters concerning Aboriginal Place names. This has been undertaken by Council.

Naming the sports field in commemoration of Mr Bob Bellear fits Aboriginal and Commemorative naming guidelines. However, in respect to the consistency of naming the Board has approved the name *Bob Bellear Sportsground* to be advertised for public comment if agreed to by council. Can council please confirm if the name *Bob Bellear Sportsground* is approved by council.

Regards,

Clare

**Clare Hewitt | Statutory Officer | Geographical Names Board**

Spatial Services | Department of Finance, Services & Innovation |  
Level 3, 346 Panorama Avenue Bathurst NSW 2795  
e: [clare.hewitt@finance.nsw.gov.au](mailto:clare.hewitt@finance.nsw.gov.au) | t: (02) 6332 8320 | [www.gnb.nsw.gov.au](http://www.gnb.nsw.gov.au) |



Consequently, the name "Bob Bellear Sportsground" is submitted for Council approval in order to meet the GNB's Aboriginal and Commemorative naming guidelines.

5

### **Statutory and Policy Compliance Implications**

Council Policy 11/004 Naming of Public Places and Community Facilities states that proposed names will be placed on Public Exhibition for a period of 28 days for public comment. Council staff posit that a further round of Council initiated public exhibition is not warranted on the basis that:

10

- the GNB proposed name "Bob Bellear Sportsground" varies from the Council exhibited "Bob Bellear Sports Field" only in the designation title of the facility (as opposed to the proposed namesake); and
- once approved by Council and communicated to the GNB, the GNB will commence their own public exhibition and advertisement process for the name "Bob Bellear Sportsground".

15

**Report No. 13.20**      **Mullumbimby Hospital site acquisition and site remediation**  
**Directorate:**      Infrastructure Services  
**Report Author:**      Phil Warner, Manager Assets and Major Projects  
**File No:**      I2017/1845  
5 **Theme:**      Community Infrastructure  
                         Projects and Commercial Opportunities

**Summary:**

10 Council received a report on 28 November 2017, and a follow up memo to the Councillors on 8  
December pertaining to the acquisition and remediation of the former Mullumbimby Hospital site.  
Council staff have been working closely with the previous owners NSW Health in gathering the  
most recent relevant information to assist determining costs for site remediation by Council. NSW  
15 Health had previously completed a rigorous investigation and procurement process with a view to  
fully remediating the site. This included procurement of the services of a demolition contractor.

20 This report provides background information and substantiation for the recommendation to Council,  
under the provisions of the Local Government Act section 55(3)(i), to enter into direct negotiations  
with that demolition contractor to complete the works.

---

**RECOMMENDATION:**

**That Council:**

1. **Resolves not to call tenders for demolition of the Mullumbimby Hospital site buildings because:**
  - a) **significant delays in demolition would result in a prolonged risk exposure to Council from the ongoing management of the asbestos contaminated buildings**
  - b) **the significant cost of repeating work already completed by NSW Health during the planning stages of their proposed demolition project.**
  - c) **the cost of calling tenders for asbestos removal is significant due to the nature of the works and the planning and probity required for contractors to prepare an accurate tender submission.**
2. **Under the provisions of the Local Government Act Section 55(3)(i), enter into direct negotiations with the demolition contractor previously appointed by NSW Health to complete the demolition works.**
3. **Receive a further report once those negotiations are complete and the project budget figures are clarified.**

25

**Report**

At the 28 November 2017 Extraordinary meeting Council considered a report on Mullumbimby Hospital and resolved:

5

**Resolved (17-623):**

1. *That Council receive a further report on the projected costs of contaminated site management, site holding costs, demolition of all structures and full site remediation for the Mullumbimby Hospital property.*
2. *That Council send a letter to the Department of Health noting that Council are exploring option 1 with the deletion of condition 11.*

10

15 During the debate Councillors were advised that staff would seek to provide a memo on further available information prior to 14 December Council meeting.

On 8 December 2017 Council received a memo which in part provided an assumed cost for demolition of \$3M subject to further investigations. The memo also provided estimated holding costs of the property in its current state of \$139,881.00 per annum (\$11,657.00 per month).

20

In accordance with the resolution a letter was sent to the Department of Health but no response has been received to date.

25 Further Investigations and NSW Health

Council staff have been working closely with the previous owners NSW Health in gathering information to assist determining costs for site remediation by Council post acquisition. NSW Health have been very helpful in assisting Council. The information provided has been valuable in ensuring Council has the most recent, relevant and detailed data on which to base the recommendations in this report, and Council's project planning decisions going forward.

30

Demolition Scope of Works

35 Prior to Council resolving to acquire the site, NSW Health had completed a rigorous investigative and methodology establishment process with a view to fully remediate the site. This process took some 10 months to complete, at a cost of more than \$100,000. This then allowed NSW Health to go through a procurement process for full demolition. NSW Health had progressed to the engagement of a registered demolition contractor.

40 The 8 December 2017 memo to Councillors indicated that the birthing centre and the resources shed could be retained, however further investigations have revealed significant constraints associated with this approach, including:

- 45 • Building services are all fed from the main hospital building. Installation of new electricity, water, sewer and power services will be required to the two smaller buildings. It is also probable that any new services installed could be required to be moved during any future redevelopment of the site.
- A new hot water system will be required for the birthing centre building.
- A new entry would need to be constructed to the birthing centre building.
- 50 • Both buildings are 25 years old, purpose built and would require major refurbishment to be able to be utilised.

It is proposed to leave the hard stand roads and parking areas in place until a plan for the site development is approved. This will also provide appropriate site access and site office management facility during the demolition works.

55



Procurement

5 The option to directly negotiate rather than go to tender will significantly benefit the project time lines. Should Council opt to go to tender, the time frames previously experienced by NSW Health could be expected to be repeated via Council's fresh approach. The previous process by NSW Health took 10 months, and a considerable cost to identify the requirements and get to the point of contracting.

10 Other associated considerations are:

- The buildings were made safe by NSW Health to mitigate the potential of asbestos leak. This was done several years ago, and would require more work to keep safe if demolition does not proceed in the immediate future.
- The potential for incidents such as vandalism, weather or fire over an extended period is increased with a delay of the demolition.
- The costs of a delay in demolition are increased with pricing for operational expenses as per the memo on 8 December 2017.

**Financial Implications**

20 Estimated Demolition Costs (Subject to Direct Negotiations)

Element	Estimate
Demolition estimate	\$2,000,000
15% Contingency	\$ 300,000
Consultancy	\$ 200,000
Communications Strategy	\$ 50,000
Project Management	\$ 200,000
Ongoing holding costs until demolition completion (est Dec '18)	\$ 100,000
<b>TOTAL</b>	<b>\$2,850,000</b>

25 Subject to the resolution of Council, it is recommended that a further report be prepared detailing funding options once negotiations are complete and the project budget figures are clarified.

**Statutory and Policy Compliance Implications**

30 Section 55 of the Local Government Act requires Council to invite tenders before entering into any contract with a value of \$150,000 and over.

There are exceptions to this provided under the Act.

35 Section 55(3)(i) of the Act states that a tender is not required "because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenderers, a council decides by resolution (which states the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders".

A satisfactory result would not be achieved in this case because:

- 40 a. significant delays in demolition would result in a prolonged risk exposure to Council from the ongoing management of the asbestos contaminated buildings
- b. the significant cost of repeating work already completed by NSW Health during the planning stages of the demolition project.
- 45 c. the cost of calling tenders for asbestos removal is significant due to the nature of the works and the planning and probity required for contractors to prepare an accurate tender submission.

Report No. 13.21      **Minutes of Coastal Estuary Catchment Panel Meeting 30 November 2017**

Directorate:      Infrastructure Services

Report Author:      Dominika Tomanek, Executive Assistant Infrastructure Services

5      File No:      I2017/2074

Theme:      Community Infrastructure  
Emergency Services and Floods

10      **Summary:**

The attachment to this report provides the minutes of the Coastal Estuary Catchment Panel Meeting of 30 November 2017 for determination by Council.

15

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**RECOMMENDATION:**

**That Council adopt the following Panel recommendations:**

**Panel Recommendation 4.1. The State of Water Reuse**

**That Council notes the Panel supports water reuse over river discharge via solar electric installations for the supply pump at Mullumbimby and the irrigation pumps on the two farms in Main Arm involved in the Main Arm reuse scheme, especially due to the coincidence of insolation and irrigation.**

**Panel Recommendation 4.2. Recycled Water Pricing**

- 1. That Council notes Panel supports, where appropriate, for development consent conditions that require compulsory plumbing of recycled water to dwellings for laundry, toilets and gardens and to business and commercial where appropriate, as happens in parts of Ballina Shire.**
- 2. That Council requests a cost benefit analysis on implementing the above in Byron Shire including an environmental assessment and that this report be forwarded to Water, Waste and Sewer Advisory Committee for considerations.**

**Attachments:**

- 20      1      Minutes 30/11/2017 Coastal Estuary Catchment Panel, I2017/1898 

**Report**

5 The attachment to this report provides the minutes of the Coastal Estuary Catchment Panel Meeting of 30 November 2017 for determination by Council, as the recommendations made by the Committee require determination by Council.

The agenda for this meeting can be located on Council's website at:

10 [http://byron.infocouncil.biz/Open/2017/11/COA\\_30112017\\_AGN\\_654\\_AT.PDF](http://byron.infocouncil.biz/Open/2017/11/COA_30112017_AGN_654_AT.PDF)

The Panel recommendations are provided in the attachment to this report.

**Financial Implications**

15 As per the Reports listed within the Coastal Estuary Catchment Panel Meeting of 30 November 2017.

**Statutory and Policy Compliance Implications**

20 As per the Reports listed within the Coastal Estuary Catchment Panel Meeting of 30 November 2017.

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

**Report No. 14.1 Report of the Arakwal Memorandum of Understanding Advisory Committee Meeting held on 21 November 2017**

5 **Directorate:** Corporate and Community Services  
**Report Author:** Belle Arnold, Community Project Officer  
**File No:** I2017/1825  
**Theme:** Society and Culture  
10 Community Development

**Summary:**

15 This report provides the minutes and recommendations of the Arakwal Memorandum of Understanding Advisory Committee Meeting held on 21 November 2017 for determination by Council.

---

**RECOMMENDATION:**

1. That Council note the minutes of the Arakwal Memorandum of Understanding Advisory Committee Meeting held on 21 November 2017.

2. That Council adopt the following Committee Recommendation:

**Report No. 4.1 Draft BSC Residential Strategy - Aboriginal Cultural Heritage Concerns**

File No: I2017/1749

**Committee Recommendation 4.1.1**

That the report from Matthew Reilly (President of Saddle Ridge Local Area Management Planning Association):

- be reviewed by the Arakwal Corporation and comments provided back to this Committee/Council
- be saved into Council's secure record system as a Confidential document.

3. That Council adopt the following Committee Recommendation:

**Report No. 4.2 Butler Street proposed Crown Land Acquisition**

File No: I2017/1750

**Committee Recommendation 4.2.1**

20 That the Arakwal Memorandum of Understanding Advisory Committee note the consultation with the Arakwal Corporation and the Arakwal Memorandum of Understanding Committee on the compulsory acquisition of the crown land at Butler Street, Byron Bay.

4. That Council adopt the following Committee Recommendation:

**Report No. 4.3 Aboriginal Cultural Heritage Study**

File No: I2017/1751

**Committee Recommendation 4.3.1**

That the Arakwal Memorandum of Understanding Advisory Committee note the finalisation of Stage One of the Byron Shire Aboriginal Cultural Heritage Study.

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

**Report No. 4.4 Arakwal employment and procurement opportunities**  
File No: I2017/1752

**Committee Recommendation 4.4.1**

That the Arakwal Memorandum of Understanding Advisory Committee discuss key objectives for the development of an Indigenous Employment Strategy to assist with the development and implementation of this strategy.

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

**Report No. 4.5 Byron Shire Council process to report to Arakwal Board**  
File No: I2017/1753


**Committee Recommendation 4.5.1**

That the Arakwal Memorandum of Understanding Advisory Committee provide input into the development of a reporting and documentation framework for projects, as follows:

- Council to receive notification of Arakwal Board meetings for 2018
- Council to receive cut off dates for matters to go before the Board
- Monthly meetings with Council staff and the Arakwal Corporation General Manager (at alternating venues), with Arakwal Board members invited
- Action list of current projects and their status to be provided monthly by Council for Arakwal Board Meetings.

5

**Attachments:**

- 1 Minutes 21/11/2017 Extraordinary Arakwal Memorandum of Understanding Advisory Committee Meeting, I2017/1776 [⇒](#) 

10

**Report**

5 The attachment to this report provides the minutes of the Extraordinary Arakwal Memorandum of Understanding Advisory Committee Meeting of 21 November 2017 for determination by Council. The agenda for this meeting can be located on Council's website at:

[http://byron.infocouncil.biz/Open/2017/11/AMUAC\\_21112017\\_AGN\\_745\\_AT\\_EXTRA.PDF](http://byron.infocouncil.biz/Open/2017/11/AMUAC_21112017_AGN_745_AT_EXTRA.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 Extraordinary Arakwal Memorandum of Understanding Advisory Committee Meeting of 21 November 2017.

**Statutory and Policy Compliance Implications**

20 As per the Reports listed within the Extraordinary Arakwal Memorandum of Understanding Advisory Committee Meeting of 21 November 2017.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

**Report No. 14.2**      **Report of the Water, Waste and Sewer Advisory Committee Meeting held on 21 December 2017**

5    **Directorate:**            Infrastructure Services  
**Report Author:**        Dominika Tomanek, Executive Assistant Infrastructure Services  
**File No:**                 I2017/2103  
**Theme:**                 Community Infrastructure  
                                  Water Supplies

10    **Summary:**

15    The attachment to this report provides the minutes of the Water, Waste and Sewer Advisory Committee Meeting of 21 December 2017 for determination by Council.

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**RECOMMENDATION:**

1.    **That Council note the minutes of the Water, Waste and Sewer Advisory Committee Meeting held on 21 December 2017.**

2.    **That Council adopt the following Committee Recommendation(s):**

**Report No. 4.1**    **Byron Shire Effluent Management Strategy 2017-27 Comments for Discussion**

File No: I2017/1809

**Committee Recommendation 4.1.1**

**That the Committee have an extraordinary meeting to workshop the strategy in the first quarter 2018.**

3.    **That Council adopt the following Committee Recommendation(s):**

**Report No. 4.2**    **Integrated Water Cycle Management Plan 2017 Review**

File No: I2017/1810

**Committee Recommendation 4.2.1**

20    **That the Committee have an extraordinary meeting to workshop the Integrated Water Cycle Management Plan 2017 Review.**

4.    **That Council adopt the following Committee Recommendation(s):**

**Report No. 4.3**    **Ocean Shores Sewage Treatment Plant Exceedences - January 2017 to October 2017**

File No: I2017/1811

**Committee Recommendation 4.3.1**

**That the Committee note the report and for the next meeting Committee receive layout diagrams of the shire's 4 STPs indicating licensing and monitoring locations.**

5. That Council adopt the following Committee Recommendation(s):

**Report No. 4.4 Byron Resource Recovery Master Plan**  
File No: I2017/1818

**Committee Recommendation 4.4.1**

That Council endorse the Byron Resource Recovery Centre Master Plan and ensure that space for relocated tip shop is sufficient for any growth that could occur in upcoming decades.

6. That Council adopt the following Committee Recommendation(s):

**Report No. 4.5 Mullumbimby Inflow and Infiltration - History and Future**  
File No: I2017/1820

**Committee Recommendation 4.5.1**

That Council commence a Mullumbimby Sewerage System Inflow and Infiltration Programme as a part of the sewer fund capital programme and that the Water, Waste and Sewer Advisory Committee receive an update on each quarterly meeting.

7. That Council adopt the following Committee Recommendation(s):

**Report No. 4.6 Byron Shire Recycled Water Schemes - Murtagh Report Discussion**  
File No: I2017/1959

**Committee Recommendation 4.6.1**

That the Committee note the report.

8. That Council adopt the following Committee Recommendation(s):

**Report No. 4.7 Odour Control Actions**  
File No: I2017/1964

**Committee Recommendation 4.7.1**

There was no Committee recommendation for this report however, the Committee discussed the report and the Committee members provided comments and questions that were discussed during an extraordinary meeting.

9. That Council adopt the following Committee Recommendation(s):

**Report No. 4.8 Items For the Committee Requested by Duncan Dey**  
File No: I2017/1979

**Committee Recommendation 4.8.1**

5 That the Committee note the report.

10. That Council adopt the following Recommendation(s):

**Report No. 4.9 Current and Future Capacity of Bangalow STP - Response to**



**Resolution 17-502**

File No: I2017/2003

**Committee Recommendation 4.9.1**

**That in relation to the report prepared under Resolution 17-502, Council should also consider at least the following additional matters:**

- a) Estimates of sewer flow made by developers at time of application are inherently low. The estimates of flow from this development as it may stand in 10 years time should be made independently.**
- b) Satisfying the EPA licence requirements does not equate to protecting the environment. There are now many more factors to be consider for the impact on receiving environment. This include: pharmaceuticals, viruses, medical and recreational drugs, hormone treatment, etc.**
- c) If STP upgrades are brought forward for a development then the extra cost of bringing then forward should be passed on to the developer.**
- d) A detailed risk assessment is needed of the pre-treatment system, including the likely dynamics of its loading and effluent quality, and its potential impacts on the performance of the Bangalow STP, and suitable mitigations identified.**

**Attachments:**

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- 1 Minutes 21/12/2017 Water, Waste and Sewer Advisory Committee Extraordinary, I2017/2072 

**Report**

5 The attachment to this report provides the minutes of the Water, Waste and Sewer Advisory Committee Meeting of 21 December 2017 for determination by Council. The agenda for this meeting can be located on Council's website at:

[http://byron.infocouncil.biz/Open/2017/12/WWSAC\\_21122017\\_AGN\\_744\\_EXTRA.PDF](http://byron.infocouncil.biz/Open/2017/12/WWSAC_21122017_AGN_744_EXTRA.PDF)

**Committee Recommendation**

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 Water, Waste and Sewer Advisory Committee Meeting of 21 December 2017.

**Statutory and Policy Compliance Implications**

20 As per the Reports listed within the Water, Waste and Sewer Advisory Committee Meeting of 21 December 2017.

**CONFIDENTIAL REPORTS - CORPORATE AND COMMUNITY SERVICES**

**Report No. 16.1                      CONFIDENTIAL - Tender 2017-0036 Trades Services Panel**

**Recommendation**

5 **Directorate:** Corporate and Community Services  
**Report Author:** Len Reilly, Property Maintenance Coordinator  
**File No:** I2017/1788  
**Theme:** Community Infrastructure  
10 Facilities Management

**Summary:**

On 7 September 2017, the General Manager, under delegated authority, approved the use of the open tendering method to call for tenders for Contract 2017-0036 Trades Services Panel.

Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulation 2005. This report summarises the background and assessment of the tenders and provides a recommendation to award the tender for Contract 2017-0036.

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**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 Tender 2017-0036 Trades Services Panel Recommendation.
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
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 of the confidential information could compromise the commercial position of the organisations involved and prejudice the process of engagement of the tenderers to carry out the required services.

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

**RECOMMENDATION:**

1. That pursuant to Section 11(3) of the Local Government Act, 1993, resolve that the Annexures to the report, Tender 2017-0036 Trades Services Panel Recommendation are to be treated as confidential as they relate to matters specified in s10A(2)(d)i of the Local Government Act 1993.
2. That Council adopt the recommendation set out on the final page of the Report.

**Attachments:**

- 1 Confidential - 2017-0036 Trades Services Tender Evaluation Report FINAL SIGNED, E2017/110865

**Report No. 16.2**      **CONFIDENTIAL - Tender Assessment - Legal Services Contract 2017-0054**

**Directorate:**      Corporate and Community Services

**Report Author:**      Ralph James, Legal Counsel

5 **File No:**      I2018/25

**Theme:**      Corporate Management  
Governance Services

10 **Summary:**

On 13 September 2017 the General Manager gave approval for Council to go to tender for Legal Services using the open request for tender process as per Section 55 of the Local Government Act.

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

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**RECOMMENDATION:**

20 1. That pursuant to Section 10A(2)(c) and (d)i of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Tender Assessment - Legal Services Contract 2017-0054.

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

- 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

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 the report and its attachment contain information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business and commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.

40 **Attachments:**

- 1 Confidential - Evaluation Panel Recommendation Report-Provision of Legal Services, E2018/3130

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**CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES**

**Report No. 16.3**            **CONFIDENTIAL - Tinderbox Road Causeway No.1 Renewal**  
**Directorate:**            Infrastructure Services  
5 **Report Author:**        James Flockton, Drain and Flood Engineer  
**File No:**                 I2017/1998  
**Theme:**                 Community Infrastructure  
                                 Local Roads and Drainage

10 **Summary:**

On 1 October 2017 Council's General Manager, under delegation, approved the preparation and advertising of tenders for Tinderbox Road Causeway Number 1 Renewal works.

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

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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 Tinderbox Road Causeway No.1 Renewal.
- 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 Disclosure would reveal commercial information supplied by potential Consultants which could prejudice Council entering into a Contract.

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, Tinderbox Road Causeway No.1 Renewal 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 Tinderbox Road Causeway Tender - Evaluation Report, E2017/99430
- 2 RMS reply to Byron Shire Council June 2016 NDF Claim Tinderbox Road culvert - revised budget approved, E2018/4858

**CONFIDENTIAL REPORTS - GENERAL MANAGER**

**Report No. 16.4**            **CONFIDENTIAL - General Manager Recruitment**  
**Directorate:**            Organisation Development  
5 **Report Author:**        Kylie Armstrong, Manager People and Culture  
**File No:**                 I2018/9  
**Theme:**                 Corporate Management  
                                 Organisation Development

10 **Summary**

15 This report outlines the recommended process for the recruitment and selection of a General Manager at Council, and includes three proposals for consideration from Executive Recruiters. These proposals outline the methodology, fees and expenses, indicative timetables and insurance/compliance certificates.

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**RECOMMENDATION:**

- 20 1. That pursuant to Section 10A(2)(d)i, (d)ii and (d)iii of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report General Manager Recruitment.
- 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
  - b) information that would, if disclosed, confer a commercial advantage on a competitor of the council
  - 30 c) information that would, if disclosed, reveal a trade secret
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 it could prejudice the commercial position of the company who supplied it.

**Attachments:**

- 40 1 Guidelines for the appointment and oversight of General Managers - 2011, E2018/1588  
2 Confidential - Summary of proposals for General Manager Recruitment - January 2018, E2018/1195  
3 Confidential - Recruitment Proposal General Manager - Local Government Management Solutions, E2018/1607  
4 Confidential - Recruitment Proposal General Manager - Blackadder Associates, E2018/1609  
45 5 Confidential - Recruitment Proposal General Manager Recruitment - McArthur, E2018/2578