

# NOTICE OF MEETING



## ARAKWAL MEMORANDUM OF UNDERSTANDING ADVISORY COMMITTEE MEETING

An Arakwal Memorandum of Understanding Advisory Committee Meeting of Byron Shire Council will be held as follows:

Venue	<b>Arakwal Room, Byron Bay Library</b>
Date	<b>Thursday, 30 January 2020</b>
Time	<b>5:00pm</b>

A handwritten signature in black ink that reads 'Vanessa Adams'.

Vanessa Adams  
Director Corporate and Community Services

I2020/89  
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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 Code of Conduct for Councillors (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 the Code of Conduct for Councillors.

**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.

**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 of the provisions in the Code of Conduct (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 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

## ARAKWAL MEMORANDUM OF UNDERSTANDING ADVISORY COMMITTEE MEETING

### BUSINESS OF MEETING

**1. APOLOGIES**

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

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

- 3.1 Arakwal Memorandum of Understanding Advisory Committee Meeting held on 31 January 2019

**4. STAFF REPORTS**

**Corporate and Community Services**

- 4.1 Arakwal MoU Implementation Plan 2019-2021.....4

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

**Report No. 4.1**                    **Arakwal MoU Implementation Plan 2019-2021**  
**Directorate:**                    Corporate and Community Services  
5 **Report Author:**                Sarah Ford, Manager Social and Cultural Planning  
**File No:**                            I2020/22

10 **Summary:**

Council reviewed the 2013-2018 Arakwal MOU implementation plan and reported the outcomes to the 1 November 2018 Arakwal MoU Committee Meeting. The Committee recommended that Council provide the review to a full Arakwal Board meeting in December 2018 for feedback.

15 Feedback from the Arakwal Board has informed the creation of the Arakwal MoU Implementation Plan 2019-2021, and Council and Arakwal have worked collaboratively over 2019 to develop a realistic and achievable plan that aims to built trust and celebrate success.

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**RECOMMENDATION:**

**That**

1. **That the Arakwal MoU committee recommends that Council adopt the Draft 2019-2021 Arakwal MoU Implementation Plan (E2020/90906)**
2. **That the Arakwal MoU subcommittee continues to meet monthly to advance the projects within the implementation plan**

**Attachments:**

- 25 1 Draft 2019-2021 Arakwal MoU Implementation Plan, E2019/90906 , page 7 [↓](#)

**REPORT**

Council reviewed the 2013-2018 Arakwal MOU implementation plan and reported the outcomes to the 1 November 2018 Arakwal MoU Committee Meeting. The Committee recommended that Council provide the review to a full Arakwal Board meeting in December 2018 for feedback. Feedback received from Arakwal in March 2019 was mixed in relation to the success of the 2013-2018 implementation plan.

As part of the review, Arakwal identified that the governance processes for implementation of the MoU were over-complex and ineffective. To resolve this, it was agreed that an informal Arakwal MoU subcommittee (working group) would meet monthly with the Manager Social and Cultural Planning to develop a new MoU implementation plan. This process has been extremely successful and has also been an effective mechanism for maintaining momentum in relation to the delivery of the MoU and ongoing business.

The Arakwal MoU 2019-2021 implementation plan (the plan) is of a shorter duration than the usual 5 years in recognition of the rapidly changing environment, and the need to work together to jointly deliver outcomes, build trust and celebrate success.

The plan has also been simplified and developed around areas under Council’s influence and control and with a view to success and achievement of key goals.

The MoU is grouped into 5 key areas:

- Culture and Heritage
- Participation in governance
- Cultural and economic development
- Caring for Country
- Social justice and community development

The Arakwal MoU subcommittee sees value in continuing to meet monthly, and jointly reporting progress on the delivery of the 2019-2021 MoU implementation plan to the formal Arakwal MOU Committee.

**STRATEGIC CONSIDERATIONS**

***Community Strategic Plan and Operational Plan***

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
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2.1 Support and encourage our vibrant and creative community						
2.1.4 Support Aboriginal cultural vibrancy within the Shire						
2.1.4.3 Review Arakwal MoU 2013-2018 and develop new partnership agreement with Arakwal						

***Legal/Statutory/Policy Considerations***

Byron Shire Council and Bundjalung of Byron Bay (Arakwal) Memorandum of Understanding

***Financial Considerations***

The plan has a range of activities across multiple portfolios, many of which do not require a budget, but rather staff time. A number of projects have identified budgets, however those that do not have a budget will require staff to consider current budgets, or seek alternative funding sources to deliver over the life of the plan.

***Consultation and Engagement***

5 The plan was developed in collaboration with Arakwal MoU Committee delegates and includes internal consultation.

# Arakwal Memorandum of Understanding 2019-2021 Implementation Plan

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**Developed between Bundjalung of  
Byron Bay Arakwal People and staff  
at Byron Shire Council**



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Culture and Heritage			
Project	Implementation actions	Progress	Timeframe
<b>Cultural Heritage Management</b>	<ol style="list-style-type: none"> <li>1. Council to support a 12 month trial of a dedicated Arakwal Native Title Project Officer to work specifically on Council matters relating to Native Title                             <ol style="list-style-type: none"> <li>a) Council to agree to fund to value of \$15,000</li> <li>b) Draft SLA completed between Arakwal and Council</li> <li>c) Draft template completed</li> <li>d) Project Officer recruited.</li> </ol> </li> <li>2. Develop protocol framework for working on Cultural mapping                             <ol style="list-style-type: none"> <li>a) Cultural heritage scoping workshops                                     <ol style="list-style-type: none"> <li>i) Council workshop</li> <li>ii) Arakwal workshop</li> <li>iii) Joint workshop</li> </ol> </li> <li>b) Develop cultural heritage practices protocol informed by workshops</li> <li>c) Use protocol to advocate with DPC for cultural heritage mapping funding.</li> </ol> </li> <li>3. Arakwal (AM) to kick start conversations with DPC in relation to fast tracking funding.</li> <li>4. BSC to undertake training of key personnel in relation to Aboriginal Cultural Heritage reform and legislation.</li> <li>5. BSC to update Native Title Boundaries in Geocortex mapping system and in the Cultural Heritage Toolkit.</li> <li>6. In acknowledgment of the significance of Ti Tree (Taylors) Lake to Arakwal people, Council will notify Arakwal of any matter relating to Ti Tree Lake including development in and around this sensitive area                             <ol style="list-style-type: none"> <li>a) Council to work with NPWS to provide appropriate signage at site.</li> </ol> </li> <li>7. In acknowledgment of the burial place on private property at "Rainforest Resort" Council will advise Arakwal of</li> </ol>	<ul style="list-style-type: none"> <li>✓ Council funding \$15,000 secured</li> <li>✓ Draft template completed for consultation with Arakwal</li> <li>✓ \$8000 towards cultural heritage protocol workshops secured</li> </ul>	<p>Dec 2019- Dec 2020</p>



# BYRON SHIRE COUNCIL

<b>Culture and Heritage</b>			
	<p>whether they can assist access to private property for the purposes of archaeological assessment and further provide advice when development is proposed at the private property.</p> <p>8. Cultural Heritage protocol and induction training delivered by Arakwal</p> <p>a) Year 1 - ET/Managers</p> <p>b) Year 2 - Coordinator/Team Leaders.</p>		
<b>Council supports important cultural events</b>	<p>1. Council to provide \$2000 per year towards NAIDOC Arakwal Family Day event.</p> <p>2. Investigate provision of parking for Family Day event.</p> <p>3. Council to work with Arakwal in relation to NAIDOC Flag Raising Ceremony.</p>		

## BYRON SHIRE COUNCIL

Participation in Governance			
Project	Implementation actions	Progress	Timeframe
<b>Arakwal participation in Committees of Council</b>	<ol style="list-style-type: none"> <li>1. Determine the priority areas for participation by Arakwal.</li> <li>2. Secure sitting fees for Arakwal participation on key priority committees of Council.</li> <li>3. Ensure that Arakwal are appropriately engaged in Council's Community Strategic Planning process.</li> <li>4. Identify key priority areas for engagement and consultation.</li> </ol>	✓	
<b>BOBBAC governance</b>	<ol style="list-style-type: none"> <li>1. Investigate the possibility of waiving parking fees for BOBBAC Board members so that they can attend meetings on Country (currently pays \$1000 for standard <i>out of shire</i> parking 13 vehicles included).</li> </ol>		

<b>Cultural and Economic Development</b>			
<b>Project</b>	<b>Implementation actions</b>	<b>Progress</b>	<b>Timeframe</b>
<p><b>Employment opportunities</b> Council will advocate for Arakwal employment opportunities internally and also with existing labour force suppliers</p>	<ol style="list-style-type: none"> <li>1. Explore opportunities to provide training to Arakwal people in:                             <ol style="list-style-type: none"> <li>a) How to apply for jobs with Council</li> <li>b) Resume writing</li> <li>c) What to expect at interview</li> <li>d) What to expect working for Council.</li> </ol> </li> <li>2. Identify opportunities for expanded use of Arakwal bush regeneration teams within Byron Bay.</li> <li>3. Notify Arakwal of upcoming Tenders that may be relevant.</li> </ol>		
<p><b>Cultural restoration and promotion</b> Council will provide ongoing support for the development of the Arakwal Cultural Centre</p>	<ol style="list-style-type: none"> <li>1. Representation by the General Manager (or delegate) on the Cultural Centre Project Reference Group.</li> </ol>		
<p><b>Opportunities for Cultural expression</b> Council to work with Arakwal to identify opportunities for cultural expression</p>	<ol style="list-style-type: none"> <li>1. Council to ensure that developers of public infrastructure who are subject to the Public Art Development Control Plan are provided the contact details for Arakwal as the first point of contact in relation to Aboriginal art opportunities.</li> <li>2. Utilise the Masterplan as a driver of opportunity for cultural expression.</li> <li>3. Identify opportunities for naming of parks, sportsfields, roads or other infrastructure after Arakwal Elders, Arakwal meanings or in Arakwal language.</li> </ol>		

# BYRON SHIRE COUNCIL

<b>Caring for Country</b>			
<b>Project</b>	<b>Implementation actions</b>	<b>Progress</b>	<b>Timeframe</b>
<b>Sandhills Precinct</b>	<ol style="list-style-type: none"><li>1. Arakwal and Council to work in partnership in relation to the Sandhills estate precinct, including:<ol style="list-style-type: none"><li>a) Establish a protocol for works within the Sandhills precinct</li><li>b) Regeneration and improvement of the wetlands</li><li>c) Improved outcomes from drainage issues associated with the site</li><li>d) Culturally based interpretive signage</li><li>e) Pedestrian link to proposed cultural centre</li><li>f) Improved civic and community outcomes.</li></ol></li></ol>		

<b>Social Justice and Community Development</b>			
<b>Project</b>	<b>Implementation actions</b>	<b>Progress</b>	<b>Timeframe</b>
<b>Aboriginal Housing</b>	<ol style="list-style-type: none"> <li>1. Arakwal to provide input into residential strategy to identify the challenges, and priority to see Arakwal people achieving their goal to live on Country.</li> <li>2. Council to work with Arakwal to identify opportunities and levers to achieve additional housing on Country.</li> </ol>		
<b>Arakwal Cemetery</b>	<ol style="list-style-type: none"> <li>1. Cemetery report completed.</li> <li>2. Initial beam that acts as a plinth for headstones installed.</li> <li>3. Protocol for burial to be developed by Arakwal.</li> <li>4. Process for Council to be informed by Protocol.</li> <li>5. Council to determine the fees that can be waived so that Arakwal people can afford to be buried on Country.</li> <li>6. Arakwal to undertake planting at the cemetery (grant funded).</li> <li>7. Arakwal to maintain the dedicated Arakwal cemetery.</li> </ol>		