



# Byron Shire Council



## Agenda

### Ordinary Meeting

Thursday, 17 March 2016

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 25 February 2016

#### **7. RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS**

#### **8. MAYORAL MINUTE**

#### **9. NOTICES OF MOTION**

Nil

#### **10. PETITIONS**

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#### **11. SUBMISSIONS AND GRANTS**

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# BYRON SHIRE COUNCIL

## ORDINARY MEETING

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### Sustainable Environment and Economy

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## 15. QUESTIONS WITH NOTICE

Nil

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***Councillors are encouraged to ask questions regarding any item on the business paper to the appropriate Executive Manager prior to the meeting. Any suggested amendments to the recommendations should be provided to the Administration section prior to the meeting to allow the changes to be typed and presented on the overhead projector at the meeting.***

## PETITIONS

**Petition No. 10.1****No Business in Abuse****Directorate:**

Corporate and Community Services

**Report Author:**

Trish Kirkland, Manager Governance Services

**File No:**

I2016/123

**Theme:**

Corporate Management

Governance Services

- At Council's Ordinary meeting held on 4 February 2016 Cr Dey tabled a petition containing 731 signatures which states:

*"We the undersigned, as concerned members of your community, call on our local council to join us in demanding an end to Broadspectrum (formerly Transfield Services) and their security subcontractor, Wilson Security's business in abuse..."*

**Comments from Director Corporate and Community Services:**

- After considering a Notice of Motion titled "9.1 No Business in Abuse" at the Ordinary Council meeting held 4 February 2016, Council resolved to [16-018]:

1. Confirm our respect for the fundamental human rights of asylum seekers;
2. Note that Council has no current contracts, investments or other business relationships with the following companies, that hold contracts in Australia's system of mandatory detention: Broadspectrum (formerly Transfield Services) and Wilson Security (part of the Wilson Group);
3. Deplore the impact that the activities that such companies have had and are having on asylum seekers and refugees;
4. Not consider any future business relationships with companies that hold contracts in Australia's system of mandatory detention;
5. Not support and/or contract companies, institutions and organisations that profit from practices which abuse the human rights of asylum seekers;
6. Adopt NBIA's (No Business in Abuse) four-part definition for such companies as attached and as summarised here: These are companies that -
  - a) have zero tolerance for child abuse, in policy and practice;
  - b) respect people's fundamental rights to freedom from arbitrary and indefinite detention;
  - c) do not treat people in a cruel, inhumane or degrading manner;
  - d) commit to transparency and independent monitoring to ensure these principles are upheld.
7. Review our procurement and investment policies to incorporate the four-part definition so as to exclude from future contracts, tenders or business dealings any companies involved in Australia's offshore and onshore immigration processing system if they fail to meet the NBIA standards.
8. Write to Peter Dutton, Minister for Immigration and Border Protection advising him of council's resolution.

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**RECOMMENDATION:**

1. That the petition regarding No Business in Abuse be noted.
2. That the petition be referred to the Director Corporate and Community Services.

**Attachments:**

- 5     1     Excerpt of Petition tabled at Ordinary meeting 04/02/16, E2016/9853

**Petition No. 10.2**      **Request for speed safety signs/speed safety humps**  
**Directorate:**      Infrastructure Services  
**Report Author:**      Simon Bennett, Traffic and Transport Planner  
**File No:**      I2016/124  
5    **Theme:**      Community Infrastructure  
                  Local Roads and Drainage

At Council's Ordinary meeting held on 4 February 2016 the Mayor tabled a petition containing 144 signatures which states:

10                    *"...yours the local residents of the Main Arm and Durrumbal (sic) villages and all  
                          concerned peoples...That Reduced Speed Safety signs near both the Durrumbal (sic)  
                          schools and the Main arm (sic) Villages be implemented, including speed safety humps  
                          at Main Arm village, the safety of the people particularly the children is of great  
 15                    importance and concern to us all...Please reduce Dangerous Speed Now"*

**Comments from Director Infrastructure Services Phil Holloway:**

20                    The matter of advisory signage can be determined by Council staff and installed as found  
                          necessary.

                         The request for speed humps will require consultation and concurrence of the Local Traffic  
                          Committee (LTC).

25                    To this end staff will undertake both the above accordingly, including contacting the lead petitioner  
                          to understand the extent of their concern.

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**RECOMMENDATION:**

1.    **That the petition regarding request for speed safety signs/speed safety humps be noted.**
2.    **That the petition be referred to the Director Infrastructure Services.**

30    **Attachments:**

- 1                    Excerpt of Petition tabled at the Ordinary Meeting 04/02/16 (refer E2016/245), E2016/9863

**Petition No. 10.3**      **Investigate the changing of speed limit on Brunswick Valley Way Billinudgel**

**Directorate:**      Infrastructure Services  
**Report Author:**      Simon Bennett, Traffic and Transport Planner  
**File No:**      I2016/127  
**Theme:**      Community Infrastructure  
                  Local Roads and Drainage

At Council's Ordinary meeting held on 4 February 2016 the Mayor tabled a petition containing 73 signatures which states:

*"We, the undersigned, are concerned that this intersection of Brunswick Valley Way and Shara Blvd is dangerous for drivers heading North and South due to speed and lack of clear vision of oncoming traffic."*

**Comments from Director Infrastructure Services:**

Within NSW, the Roads and Maritime Services (RMS) have sole jurisdiction in regard to approving changes to speed zones. They undertake assessments in accordance with their policy guidelines.

If Council are supportive of the request for a change to speed zone the matter will be referred to the RMS for such assessment.

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**RECOMMENDATION:**

1. That the petition regarding speed limit on Brunswick Valley Way Billinudgel be noted.
2. That the petition be referred to the Director Infrastructure Services.

**Attachments:**

- 1 Excerpt of Petition change speed limit on Brunswick Valley Way Billinudgel, E2016/9919



**STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES**

**Report No. 13.1      Section 355 Committee - Resignation and Appointment of new members**

**Directorate:** Corporate and Community Services  
**Report Author:** Gayle McCallum, Governance Officer  
**File No:** I2016/125  
**Theme:** Corporate Management  
 Governance Services

**Summary:**

Council has received a resignation and a request for new membership to the Mullumbimby Civic Hall Board of Management. Two expressions of interest for the vacant membership position on the Board of Management have been received.

This report aims to officially acknowledge the resignation and appoint the new member to the vacant membership position on the Board of Management.

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**RECOMMENDATION:**

- 1. That the resignation received from Alison Pearl from the Mullumbimby Civic Hall Board of Management be noted and she be officially thanked for her contribution on this Board.**
- 2. That Council appoint Maureen Lightfoot to the Mullumbimby Civic Memorial Hall Board of Management for this term of Council ending September 2016.**

**Attachments:**

- 1 Confidential - EoI Mullumbimby Civic Memorial Hall Board of Management - Kelly Reiffer, E2016/10915
- 2 Confidential - Eoi Mullumbimby Civic Memorial Hall Board of Management - Maureen Lightfoot, S2016/1527

**Report**

**Mullumbimby Civic Memorial Hall Board of Management**

- 5 The Board had previously requested that Council advertise for a new member with appropriate skills to carry out the role of Treasurer, to fill the current vacant position on the Board. Council has also recently received a resignation from Alison Pearl

Current members on this Board of Management are:

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**Councillors**

Cr Simon Richardson  
Cr Duncan Dey (Chairperson)

15 **Community Representatives:**

Judy MacDonald  
Glenn Wright (Deputy Chair)  
Samuel Fell (Secretary)

- 20 Two expressions of interest were received for the position shown in the confidential attachments to this report. It should be noted that Maureen Lightfoot was temporarily appointed to the Board in December to assist the Board with the role of Treasurer and has been carrying out this role to the Board's and Council's satisfaction. Maureen has now applied to be an official member on the Board.

25

Kelly Reiffer will be thanked for her EoI and advised that all Committees and Boards managing Council's community facilities will be open for new membership at the end of this year in line with the Local Government Ordinary elections.

- 30 The Board of Management has been meeting regularly and are keen to develop the bookings in the Hall so it becomes a popular venue for the community of Mullumbimby and surrounds. Together with the Venue Coordinator they are working on a Marketing Strategy to further improve the hall's bookings and the hall's web page has recently been redeveloped see mullumcivic.com

- 35 The landscaping project in the adjoining area to the Neighbourhood Centre has been completed and is proving to be a great asset to the Hall and the Neighbourhood Centre. There are known issues with the homeless congregating at night in this area and Council is currently working with the Neighbourhood Centre and the Board of Management to rectify this problem.

- 40 **Management Recommendation:** It has been recommended that Maureen Lightfoot be appointed to the Mullumbimby Civic Hall Board of Management.

**Financial Implications**

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

**Statutory and Policy Compliance Implications**

- 50 Boards of Management operate under Guidelines in which Board membership it states

**3.2 Board Membership**

*The Board membership will number not less than three (3) and not more than nine (9) members as appointed by Council including office bearers unless otherwise decided by Council. Council reserves the right to appoint up to two (2) of its members to each Board of Management.*

55

*Whilst no particular qualifications are necessary, a commitment to the activities of the Board of Management and a willingness to be actively involved in Board of Management issues is essential; members are to be made up of people with experience in music promotion, theatre production, design, marketing, event and conference organising, or technical specialists.*

5

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

**Report No. 13.2**                      **Report of the Public Art Assessment Panel meeting 18 February 2016**  
**Directorate:**                      Corporate and Community Services  
**Report Author:**                  Joanne McMurtry, Community Policy Officer  
**File No:**                              I2016/144  
5    **Theme:**                              Society and Culture  
    Community Development

**Summary:**

10    A Public Art Assessment Panel meeting was held on 18 February 2016. This report provides the minutes of the meeting. A number of public art items were discussed and the recommendation presented in this report is supported by staff.

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**RECOMMENDATION:**

1.    **That Council note the Minutes of the Public Art Assessment Panel held on 18 February 2016.**
2.    **That Council to provide an allocation of \$600 towards the repair of the Pelican Sculpture at the gateway to Mullumbimby at Uncle Toms.**

**Attachments:**

- 1       Minutes of Public Art Assessment Panel meeting 18 February 2016, E2016/10484

**Report**

5 A Public Art Assessment Panel meeting was held on 18 February 2016. Updates were provided regarding projects already progressing, and the Panel considered submissions to the two recent calls for expressions of interest for artistic treatment of water and sewer infrastructure. Further information was requested from shortlisted artists for these projects.

10 The Panel made one recommendation to Council as provided on the first page of this report, and this recommendation is supported by staff.

**Financial Implications**

The Public Art budget year-to-date balance is approximately \$17,000.

15 **Statutory and Policy Compliance Implications**

Public Art Policy  
Public Art Guidelines and Criteria

**Report No. 13.3      Australia Day PRG Finalisation of the 2016 Group and Commencement of the 2017 Group****Directorate:** Corporate and Community Services**Report Author:** Mila Jones, Corporate Governance Coordinator**File No:** I2016/145**Theme:** Society and Culture

Community Development

**Summary:**

This report provides information on the work completed by the Australia Day 2016 Project Reference Group (PRG). It is now recommended that the 2016 PRG be disbanded following completion of its objectives.

This report also recommends that a 2017 PRG be established in order to coordinate the Australia Day activities for 26 January 2017.

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**RECOMMENDATION:**

1. That Council notes this report on the Australia Day 2016 activities and disbands the Australia Day Project Reference Group effective 17 March 2016.
2. That Council write to all members of the Australia Day 2016 Project Reference Group advising of this resolution and to thank the participants for their assistance.
3. That Council participate in the Australia Day Council Ambassador Program for 2017 Australia Day Activities.
4. That the objectives for the Australia Day 2017 Project Reference Group, as outlined in this report, be adopted.
5. That the Constitution for the Australia Day 2017 PRG (#E2016/11354) shown at Attachment 1 to this report, be adopted.
6. That Council invite the following organisations to nominate representatives to be a member on the Australia Day 2017 Project Reference Group.
  - Byron Bay Rural Fire Brigade, Suffolk Park
  - Bangalow Historical Society
  - Rotary Club of Byron Bay
  - Rotary Club of Mullumbimby representing the Combined Services Clubs of Brunswick Valley
  - Brunswick Mullumbimby Lions Club
  - Ocean Shores Community Association
  - Brunswick Valley Historical Society
  - Sisters for Reconciliation
  - Australia Day Paddle

**Attachments:**

- 1 Australia Day 2017 PRG - Draft Constitution, E2016/11354

**Report**

Finalisation of Australia Day 2016 PRG

5 In accordance with Resolution **15-142** (shown, in part, below), Council invited organisations to nominate representatives to be a member on the Australia Day 2016 PRG.

4. *That Council invite the following organisations to nominate representatives to be a member on the Australia Day PRG.*

- 10 • *Byron Bay Rural Fire Brigade, Suffolk Park*
- *Bangalow Historical Society*
- *Rotary Club of Byron Bay*
- *Quota International of Brunswick Valley Inc*
- *Brunswick Mullumbimby Lions Club*
- 15 • *Ocean Shores Community Association*
- *Brunswick Valley Historical Society*
- *Sisters for Reconciliation*
- *Australia Day Paddle*
- 20 • *Byron Youth Council*

20 The PRG met on three occasions prior to Australia Day and held a debrief meeting following the events on 10 February. On an as-needs basis, there were also informal meetings and discussions held between the PRG meetings in order to confirm arrangements for the official ceremony and the separate community events.

25 In accordance with resolution **09-680** which states in part that the official ceremony is to 'alternate each year to different locations within the Shire', the official ceremony for 2016 was held at the Byron Bay Services Club and coordinated by the Rotary Club of Byron Bay in conjunction with Council.

30 The Official Ceremony was conducted with the assistance of a sign interpreter. There were approximately 100 patrons at this ceremony, which included the following people and events:

- Cr Simon Richardson as MC
- 35 • Welcome to Country by Delta Kay, Arakwal
- Speech by the Australia Day Address Giver, Mr Warren Simmons
- Speech by Byron Shire's Australia Day Ambassador Dr Clio Cresswell, mathematician and author
- Local Citizen of the Year Awards
- 40 • Citizenship Ceremony
- Sit down lunch for invited guests

Nominations were received for the award categories listed below (with the recipient noted in brackets) which included:

- 45 • Citizen of the Year (Delta Kay)
- Junior Citizen of the Year (Holley Somerville- Knott)
- Volunteer of the Year (Elizabeth Watts)
- Sports Person of the Year (Sage Nara)
- 50 • Community Event of the Year (Byron Bay Writers Festival)

Other Australia Day events were planned by the various community groups with the details of these events noted below.

*Brunswick Heads Breakfast in the Park (Rotary Club of Mullumbimby representing the Combined Services Clubs):* This event was held at Banner Park. There were approximately 950 people in attendance for this 28<sup>th</sup> year of the event. This was a great number despite the weather. Sausages, bacon and tomato were provided. Leftover food was donated to the Soup Kitchen (approx. \$400 worth). The coordinator advised the PRG that there will be changes made over the coming years, introducing some Indigenous culture. The coordinator will consult with Belle Arnold or Delta Kay in the coming year for advice and information.

*Byron Bay Breakfast in the Park (Rotary Club of Byron Bay):* The event had to move forward due to the placement of the public toilets at Apex Park but the new area in Apex Park made the event more visible. There were approximately 400-500 people throughout the morning. It was a very busy morning providing bacon and egg rolls and fruit salad. Many of the attendees were impressed with the inclusion of the Aboriginal and Torres Strait Islander hand waver flags. Fruit was donated by the Farmers Market and IGA. Proceeds were donated to Nippers. The Australia Day Ambassador was also in attendance. Unfortunately the Australia Day Paddle had to cancel their event this year and hence the coordinator of the Paddle withdrew her involvement in the 2016 PRG. An invitation will be extended for next year's event coordination.

*Celebration of the Survival of Aboriginal and Torres Strait Islander Peoples and Culture (Sisters for Reconciliation):* This event was held at Apex Park and included speakers, many dancers and music. The Ambassador was also in attendance along with approximately 200 other people. Despite the weather this was a great attendance. 400 slices of bread and 8kg of sausages were supplied.

*Suffolk Park Fun Afternoon (Byron Bay Rural Fire Brigade):* This event was held at Gaggin Park. Gregg reported that Gaggin Park. Again, this was another great turnout with 9.5kg of sausages being consumed, as well as sushi. The band had to be cancelled due to the weather safety concerns (gushing water). The Ambassador was well received and the Kids Club was a hit as usual. It was set up in the fire station with little tables and chairs and painting, play doh etc.

*Ocean Shores Festival (Ocean Shores Community Association and the Brunswick Mullumbimby Lions Club):* This event was held at the Ocean Shores Public School and included the hotly contested mullet throwing competition (all ages). There were approximately 75 people in attendance. The School looks after the organisers well and the P&C worked with the organisers as well. The ambassador made a good speech for the kids. The mullet has been upgraded to an industrial grade rubber, 12mm thick. There's a junior mullet and a senior mullet. New records were being set with the new mullets; 45m for the men and 30m for women.

*Bangalow:* This event was a late addition this year and unfortunately there is no update at the time of finalising this report.

*Mullumbimby Pool Event:* This was a new style of event but unfortunately it had to be cancelled early in the afternoon due to weather. The band also had to be cancelled for safety reasons. This event will be held next year.

### *Australia Day Project Reference Group Constitution*

The objectives outlined in the PRG's Constitution and which are generally described as being:

1. Organise Australia Day Events
2. Australia Day Address – Local Resident
3. Local Australia Day Awards
4. Australia Day Ambassador – Participation in Program



have been met.

Commencement of Australia Day 2017 PRG

5

In previous years, Council's Australia Day PRG has coordinated Australia Day activities throughout the Shire on an annual basis. As noted in this report the Australia Day 2016 PRG is recommended to be disbanded in March 2016 following completion of its objectives. To enable the coordination of Australia Day activities for 26 January 2017 it is recommended that a PRG be established for this purpose. The activities on each Australia Day include the Australia Day Citizenship Ceremony and Local Citizen of the Year Awards.

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Details, including the objectives, of the Australia Day PRG for 2017 are listed below.

**Australia Day Project Reference Group**

15

Name of PRG	Objectives	PRG Structure
Australia Day PRG	<p><u>1. Organise Australia Day Events</u></p> <p>a) Australia Day Celebrations to be organised in each town if there is a PRG member to organise such event. This is to be done on a voluntary basis by the member representing that town. One of these towns is required to hold and organise the Official Ceremony as part of their Australia Day celebration.</p> <p>b) The Official Ceremony is to include the Australian Citizenship ceremony and Local Citizen of the Year awards.</p> <p>c) Celebrations are generally to be free of charge and family orientated (can recoup costs of any moneys expended outside of Council's donation).</p> <p>d) Budget moneys received from Council are not to be used for the employment of professional artists.</p> <p>e) Events are to celebrate what is great about Australia eg. the people, our diversity, our freedom and democracy, a fair go for all, the land or our Indigenous people.</p> <p>f) Events are to recognise the contribution of Indigenous Australians and our multicultural heritage and celebrate the diversity that has helped shape our nation.</p> <p><u>2. Australia Day Address - Local Resident</u></p> <p>a) Nominate a local resident to give the Australia Day Address at the Official Ceremony.</p> <p><u>3. Local Australia Day Awards</u></p> <p>a) Develop a nomination form for Byron Shire Council Australia Day awards.</p> <p>b) Categorise what awards will be given.</p> <p>c) Call for nominations and actively</p>	<p><b>Membership:</b> Membership is to include up to nine members:</p> <ul style="list-style-type: none"> <li>• 9 invited members <ul style="list-style-type: none"> <li>○ Byron Bay Rural Fire Brigade, Suffolk Park</li> <li>○ Bangalow Historical Society</li> <li>○ Rotary Club of Byron Bay</li> <li>○ Rotary Club of Mullumbimby representing the Combined Services Clubs of Brunswick Valley</li> <li>○ Brunswick Mullumbimby Lions Club</li> <li>○ Ocean Shores Community Association</li> <li>○ Brunswick Valley Historical Society</li> <li>○ Sisters for Reconciliation</li> <li>○ Australia Day Paddle</li> </ul> </li> </ul> <p><b>Convenor/Facilitator</b> Director Corporate and Community Services and/or delegate.</p> <p>* Staff members participating on the working group do not have any voting entitlements.</p> <p><b>Frequency of Meetings:</b> As needed</p> <p><b>Time Frame to carry out objectives:</b> Six months</p> <p><b>Reports to:</b> Ordinary Meeting</p>

Name of PRG	Objectives	PRG Structure
	<p>promote the awards to the community as awards for people or groups who have succeeded in their chosen field or have worked tirelessly within their communities.</p> <p>d) Award recipients are to be chosen by a vote of the full committee. Tied votes are to be resolved by a draw from a hat.</p> <p>4. <u>Australia Day Ambassador Program</u></p> <p>a) Register with the Australia Day Council of NSW in order to participate in their Ambassador Program.</p> <p>b) Local identities may be utilised if the organising committee wishes to have an Australia Day Ambassador at their local event.</p> <p>c) If for any reason the PRG does not participate in the Australia Day Council Ambassador Program, a local identity may be utilised for the Official Ceremony's Australia Day Ambassador. The identity is to be endorsed by the PRG.</p>	

In 2013, 2014 and 2015, Council resolved that the Youth Council be invited to nominate a representative to the PRG, however on each occasion there was no-one available to assist due to the time of year. On this basis a representative from the Youth Council has not been included in the 2017 Constitution.

No Councillors are required to be appointed to the PRG. Council though may appoint a Councillor as a non voting delegate to attend the meetings of the PRG.

The above invited community organisations were represented on the Australia Day PRG for events on Australia Day 2016. Due to the success of previous Australia Day events, it is recommended that the same groups be invited to join the Australia Day PRG.

It is anticipated the first meeting of this PRG will be held in September 2016.

#### *Location of the 2017 Australia Day Official Ceremony*

The location of the 2017 Australia Day Official Ceremony was discussed briefly by the 2016 PRG at its final meeting. The cycle has returned to Mullumbimby if coordinators are available to host it. This will be discussed and determined by the Australia Day 2017 PRG at its first meeting.

### **Financial Implications**

#### Finalisation of Australia Day 2016 PRG

An amount of \$13,100 was provided for Australia Day arrangements in the 2015-2016 budget with expenses totalling approximately \$11,053 being incurred.

**Commencement of Australia Day 2017 PRG**

- 5 The draft 2016/2017 Budget has an allocation of \$13,300 for the purpose of Australia Day 2017. This funding is proposed to be used to provide activities throughout the Shire as coordinated in previous years.

**Statutory and Policy Compliance Implications**

**Finalisation of Australia Day 2016 PRG**

- 10 Council's Delivery Program 2013-2017, CM 1.1.6 states 'Coordinate Australia Day celebrations and resource associated project reference group'.

- 15 The Constitution for the Australia Day PRG provides six months to complete its objectives.

**Commencement of Australia Day 2017 PRG**

The Australia Day PRG will meet in accordance with its adopted constitution.

**Report No. 13.4      Council Investments February 2016**

**Directorate:** Corporate and Community Services

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

**File No:** I2016/155

5    **Theme:** Corporate Management  
Financial Services

**Summary:**

10    This report includes a list of investments and identifies Council's overall cash position for the month of February 2016 for Council's information.

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

---

**RECOMMENDATION:**

**That the report listing Council's investments and overall cash position as at 26 February 2016 be noted.**

20

**Report**

In relation to the investment portfolio for February 2016, Council has continued to maintain a diversified portfolio of investments. At the time of writing this report, the average 90 day bank bill rate (BBSW) for the month of February had not been received. Based on recent commentary, the BBSW is estimated to be approximately 2.30%. Council's performance to 26 February is 2.87%. Councils' 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

The table below identifies the investments held by Council as at 26 February 2016:

**Schedule of Investments held as at 26 February 2016**

<b>Purch Date</b>	<b>Principal (\$)</b>	<b>Description</b>	<b>CP*</b>	<b>Rating</b>	<b>Maturity Date</b>	<b>Type</b>	<b>Interest Rate Per Annum</b>	<b>Current Value</b>
20/06/12	500,000	HERITAGE BANK LTD BONDS	N	BBB+	20/06/17	B	7.25%	524,400.00
04/01/16	1,000,000	AUSWIDE BANK LTD (Previously Wide Bay)	P	BBB	04/04/16	TD	2.95%	1,000,000.00
08/02/16	2,000,000	NAB	P	AA-	08/07/16	TD	3.02%	2,000,000.00
04/12/15	2,000,000	NAB	N	AA-	04/03/16	TD	2.96%	2,000,000.00
04/01/16	2,000,000	NAB	N	AA-	04/04/16	TD	3.05%	2,000,000.00
08/01/16	2,000,000	BANKWEST	P	A1+	08/04/16	TD	3.00%	2,000,000.00
02/02/16	1,000,000	BANKWEST	N	A1+	02/05/16	TD	2.95%	1,000,000.00
12/02/16	2,000,000	NAB	N	AA-	12/05/16	TD	3.01%	2,000,000.00
22/02/15	2,000,000	NAB	N	AA-	23/05/16	TD	3.02%	2,000,000.00
07/12/15	2,000,000	SUNCORP	P	A+	05/04/16	TD	3.00%	2,000,000.00
04/01/16	2,000,000	AUSWIDE BANK LTD (Previously Wide Bay)	N	BBB	04/04/16	TD	2.95%	2,000,000.00
24/02/16	2,000,000	BANK OF QUEENSLAND	P	A2	23/06/16	TD	3.00%	2,000,000.00
02/02/16	2,000,000	NAB	N	AA-	02/06/16	TD	3.01%	2,000,000.00
01/02/16	2,000,000	NAB	N	AA-	02/05/16	TD	3.02%	2,000,000.00
14/01/16	1,000,000	NAB	N	AA-	14/04/16	TD	3.07%	1,000,000.00
07/09/15	1,000,000	NAB	N	AA-	07/03/16	TD	2.93%	1,000,000.00
09/12/15	2,000,000	BANKWEST	N	A1+	08/03/16	TD	3.00%	2,000,000.00
08/02/16	1,000,000	NAB	N	AA-	09/05/16	TD	3.02%	1,000,000.00
14/12/15	3,000,000	BANKWEST	N	A1+	14/03/16	TD	3.05%	3,000,000.00
24/12/15	2,000,000	NAB	N	AA-	24/03/16	TD	3.04%	2,000,000.00
08/02/16	2,000,000	NAB	N	AA-	06/06/16	TD	3.01%	2,000,000.00
02/02/16	3,000,000	ME BANK	N	BBB	04/07/16	TD	2.95%	3,000,000.00
05/02/16	2,000,000	NAB	N	AA-	05/05/16	TD	3.02%	2,000,000.00
19/02/16	2,000,000	NAB	N	AA-	19/05/16	TD	3.02%	2,000,000.00
26/02/16	3,000,000	NAB	N	AA-	26/05/16	TD	3.02%	3,000,000.00
31/08/15	2,000,000	AMP BANK	N	A	29/02/16	TD	2.90%	2,000,000.00

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.4

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	Type	Interest Rate Per Annum	Current Value
01/02/16	2,000,000	NAB	N	AA-	02/06/16	TD	3.02%	2,000,000.00
06/01/16	2,000,000	NAB	N	AA-	06/04/16	TD	3.04%	2,000,000.00
08/10/15	2,000,000	BANK OF QUEENSLAND	P	A2	07/04/16	TD	3.00%	2,000,000.00
27/01/16	2,000,000	ME BANK	N	BBB	26/04/16	TD	2.95%	2,000,000.00
08/02/16	2,000,000	ME BANK	N	BBB	08/04/16	TD	2.65%	2,000,000.00
10/11/15	2,000,000	ING BANK (Australia)	N	A2	10/05/16	TD	2.90%	2,000,000.00
10/11/15	2,000,000	BANK OF QUEENSLAND	N	A2	10/05/16	TD	2.90%	2,000,000.00
12/11/15	2,000,000	ING BANK (Australia)	N	A2	12/05/16	TD	2.90%	2,000,000.00
23/02/16	1,000,000	BANKWEST	N	A1+	23/05/16	TD	3.00%	1,000,000.00
01/12/15	2,000,000	ME BANK	N	BBB	01/03/16	TD	3.00%	2,000,000.00
03/12/15	2,000,000	SUNCORP	N	A+	01/04/16	TD	3.00%	2,000,000.00
01/02/16	2,000,000	POLICE CREDIT UNION	N	NR	01/08/16	TD	3.10%	2,000,000.00
05/02/16	2,000,000	ME BANK	N	BBB	06/06/16	TD	2.95%	2,000,000.00
08/02/16	1,000,000	NEWCASTLE PERMANENT	N	BBB+	09/05/16	TD	3.00%	1,000,000.00
17/02/16	2,000,000	BANKWEST	N	A1+	17/05/16	TD	2.95%	2,000,000.00
N/A	1,656,355	CBA BUSINESS ONLINE SAVER	N	A	N/A	CALL	1.80%	1,656,354.92
<b>Total</b>	<b>78,156,355</b>					<b>AVG</b>	<b>2.87%</b>	<b>78,180,754.92</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.** **Type** **Description**  
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.

**Note 3.** Term Deposits can be traded on a day-to-day basis, and therefore Council is not obliged to hold the investments to the maturity dates.

For the month of February 2016, as indicated in the table below, there is a dissection of the investment portfolio by investment type. It illustrates the current fair value of investments has remained the same since January 2016, but overall is still demonstrating a cumulative unrealised gain of \$24,400.

**Dissection of Council Investment Portfolio as at 26 February 2016**

<b>Principal Value (\$)</b>	<b>Investment Linked to:-</b>	<b>Current Market Value (\$)</b>	<b>Cumulative Unrealised Gain/(Loss) (\$)</b>
76,000,000.00	Term Deposits	76,000,000.00	0.00
1,656,354.92	Business On-Line Saver (At Call)	1,656,354.92	0.00
500,000.00	Bonds	524,400.00	24,400.00
<b>78,156,354.92</b>		<b>78,180,754.92</b>	<b>24,400.00</b>

5 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.

10 The table below provides a reconciliation of investment purchases and maturities for the period 1 February 2016 to 26 February 2016 on a current market value basis.

**Movement in Investment Portfolio – 1 February 2016 to 26 February 2016**

<b>Item</b>	<b>Current Market Value (at end of month) \$</b>
<b>Closing Balance at 31 January 2016</b>	<b>78,370,754.92</b>
Add: New Investments Purchased	38,000,000.00
Add: Call Account Additions	3,800,000.00
Add: Interest from Call Account	0.00
Less: Investments Matured	38,000,000.00
Less: Call Account Redemption	3,990,000.00
Less: Fair Value Movement for period	0.00
<b>Closing Balance at 26 February 2016</b>	<b>78,180,754.92</b>

15 **Investments Maturities and Returns – 1 February 2016 to 26 February 2016**

<b>Principal Value (\$)</b>	<b>Description</b>	<b>Type</b>	<b>Maturity Date</b>	<b>Number of Days Invested</b>	<b>Interest Rate Per Annum</b>	<b>Interest Paid on Maturity \$</b>
2,000,000.00	NAB	TD	01/02/16	91	2.85%	14,210.96
2,000,000.00	ME Bank	TD	01/02/16	91	2.85%	14,210.96
2,000,000.00	ME Bank	TD	01/02/16	91	2.85%	14,210.96
2,000,000.00	NAB	TD	01/02/16	151	2.88%	23,829.04
1,000,000.00	Bankwest	TD	02/02/16	90	2.80%	6,904.11
2,000,000.00	NAB	TD	02/02/16	123	2.96%	19,949.59
3,000,000.00	ME Bank	TD	02/02/16	90	2.85%	21,082.19
2,000,000.00	Suncorp	TD	05/02/16	150	2.90%	23,835.62
2,000,000.00	NAB	TD	05/02/16	92	2.85%	14,367.12
2,000,000.00	NAB	TD	05/02/16	92	2.85%	14,367.12

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.4

Principal Value (\$)	Description	Type	Maturity Date	Number of Days Invested	Interest Rate Per Annum	Interest Paid on Maturity \$
2,000,000.00	NAB	TD	08/02/16	61	2.78%	9,292.05
1,000,000.00	NAB	TD	08/02/16	91	2.85%	7,105.48
1,000,000.00	Macquarie Bank	TD	08/02/16	271	3.00%	22,273.97
2,000,000.00	NAB	TD	08/02/16	91	2.85%	14,210.96
2,000,000.00	NAB	TD	12/02/16	92	2.86%	14,417.53
2,000,000.00	NAB	TD	19/02/16	91	2.88%	14,360.55
2,000,000.00	NAB	TD	22/02/16	91	2.88%	14,360.55
1,000,000.00	Bankwest	TD	23/02/16	90	3.00%	7,397.26
2,000,000.00	Bank Of Queensland	TD	24/02/16	148	2.95%	23,923.39
3,000,000.00	NAB	TD	26/02/16	92	2.90%	21,928.77
<b>38,000,000.00</b>						<b>316,238.18</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 month of February 2016 the table below identifies the overall cash position of Council as follows:

5

### Dissection of Council Cash Position as at 26 February 2016

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
<b>Investments Portfolio</b>			
Term Deposits	76,000,000.00	76,000,000.00	0.00
Business On-Line Saver (At Call)	1,656,354.92	1,656,354.92	0.00
Bonds	500,000.00	524,400.00	24,400.00
<b>Total Investment Portfolio</b>	<b>78,156,354.92</b>	<b>78,180,754.92</b>	<b>24,400.00</b>
<b>Cash at Bank</b>			
Consolidated Fund	2,109,352.91	2,109,352.91	0.00
<b>Total Cash at Bank</b>	<b>2,109,352.91</b>	<b>2,109,352.91</b>	<b>0.00</b>
<b>Total Cash Position</b>	<b>80,265,707.83</b>	<b>80,290,107.83</b>	<b>24,400.00</b>

10

### Financial Implications

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

15

### Statutory and Policy Compliance Implications

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.



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.

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.

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

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.

Specifically, resolution **15-515** required the following new objective to be inserted in Council's Investment Policy:

***“1.3 Environmentally and Socially Responsible Investments***

*Council gives preference to finance institutions that invest in or finance Environmentally and Socially Responsible Investments (SRI) where:*

- i) The investment is compliant with legislation and investment policy objectives and parameters; and*
- ii) The rate of return is favourable relative to comparable investments on offer to Council at the time of investment*

*SRI status may be in respect of the individual investment, the issuer of the investment, or both and should be endorsed by an accredited environmentally and socially responsible industry body or institution.*

*Environmentally and Socially Responsible Investments will be assessed on the same basis as other investment opportunities and the Council will select the investment that best meets its overall investment selection criteria.*

*The Council's criteria relating to an SRI are those which:*

- direct investment towards the socially and environmentally productive activities listed below*
- avoid investment in the socially and environmentally harmful activities listed below.*

*The criteria for SRI are all desirable and not mandatory requirements.*

*Environmentally productive activities are considered to be:*

- resource efficiency-especially water and energy*
- renewable energy*
- production of environmentally friendly products*
- recycling, and waste and emissions reduction*

*Socially productive activities are considered to be:*

- *fair trade and provision of a living wage*
- 5   • *human health and aged care*
- *equal opportunity employers, and those that support the values of communities, indigenous peoples and minorities*
- *provision of housing, especially affordable housing*

10   *Environmentally harmful activities are considered to be:*

- *production of pollutants, toxins and greenhouse gases*
- *habitat destruction, especially destruction of forests and marine eco-systems.*
- *nuclear power*
- 15   • *uranium mining*
- *coal seam gas mining*
- *production or supply of armaments*

*Socially harmful activities are considered to be:*

- 20   • *abuse of Human Rights and Labour Rights*
- *involvement in bribery/corruption*
- *production or supply of armaments*
- *manufacture of alcohol, tobacco or gambling products”*

25   A review of Council’s current investment portfolio has been undertaken to assess, in the absence of an Industry register of authorised deposit taking institutions that are committed to Environmentally and Socially Responsible lending and investing, the current extent that Council’s Investment Portfolio meets the objectives, as amended by resolution 15-515, noting that the

30   number of the investments held were made prior to 8 October 2015. Staff have assessed that the investment funds held as at 26 February 2016, complied with Part 1 of Resolution 15-515 and the amended Policy Objectives, at the time the investment was made.

Part 1 of Resolution 15-515 being that

35   *“That Council give preference to finance institutions that invest in or finance Environmentally and Socially Responsible Investments where:*

- 40   i)   *The investment is compliant with legislation and investment policy objectives and parameters; and*
- ii)   *The rate of return is favourable relative to comparable investments on offer to Council at the time of investment.”*

**STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY**

**Report No. 13.5      PLANNING - 5.1987.208.5 S96 to modify the design and siting of 96 tourist accommodation cabins at 144 Bayshore Drive Byron Bay**

**Directorate:** Sustainable Environment and Economy  
**Report Author:** Wayne Bertram, Manager Sustainable Development  
**File No:** I2016/163  
**Theme:** Ecology  
 Development and Approvals

**Proposal:**

**Proposed modification:** S96 to Modify the Design and Siting of 96 Tourist Accommodation Cabins

**Original Development:** Tourist Facility

**Type of S.96 sought:** S96(2) Other modification

**Property description:** LOT: 9 DP: 243218, LOT: 8 DP: 243218, LOT: 7 DP: 243218, LOT: 1 DP: 780243, LOT: 10 DP: 243218, LOT: 11 DP: 243218, LOT 1 DP: 190757  
 144 Bayshore Drive BYRON BAY

**Parcel No/s:** 134350, 134330, 134470, 161600, 134370, 134390, 93730

**Applicant:** Planners North Pty Ltd

**Owner:** Ganra Pty Ltd

**Zoning:** Zone No. SP3 Tourist & DM - 2(t), 7(f1), 7(a)

**S96 date received:** 11 November 2015

**Original DA determination date:** 11/11/1987

**Integrated Development:** No

**Public notification or exhibition:**

- Level 2 advertising under DCP 2014 Part A14 – Public Notification and Exhibition of Development Applications
- Exhibition period: 26/11/15 to 9/12/15; extended period: 9/12/15 to 23/12/15
- Submissions: For 45 Against 35

**Planning Review Committee:** N/A

**Delegation to determination:** Council

**Issues:**

- Bush Fire Prone Land
- Public Submissions

**Summary:**

An application has been received to modify the development consent by altering the design and siting of 96 of the 193 approved holiday cabins, with associated amendments to the internal road and car parking layout, and associated earthworks and tree removal.

Previous modifications of the consent have altered the design and siting of the other 97 approved cabins (5.1987.208.3 – 75 cabins; 5.1987.208.4 – 22 cabins).

A comparison of the approved plans with the proposed plans indicates that the amendments comprise design changes to provide a more contemporary cabin design. The proposed modifications will not increase the approved number of holiday cabins within the development. The

modifications will however result in an overall reduction in cabin bedrooms as compared with the original approved development.

It is also proposed to relocate 10 cabins from their approved location within forested areas to a new location in a cleared part of the property. This will result in a reduction in the amount of tree clearing when compared with the original approved development and therefore the relocation provides a better environmental outcome as compared with the original approved development.

It is recommended that the S96 application be approved by modifying development consent 5.1987.208.1.

NOTE TO COUNCILLORS:

- 5 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.

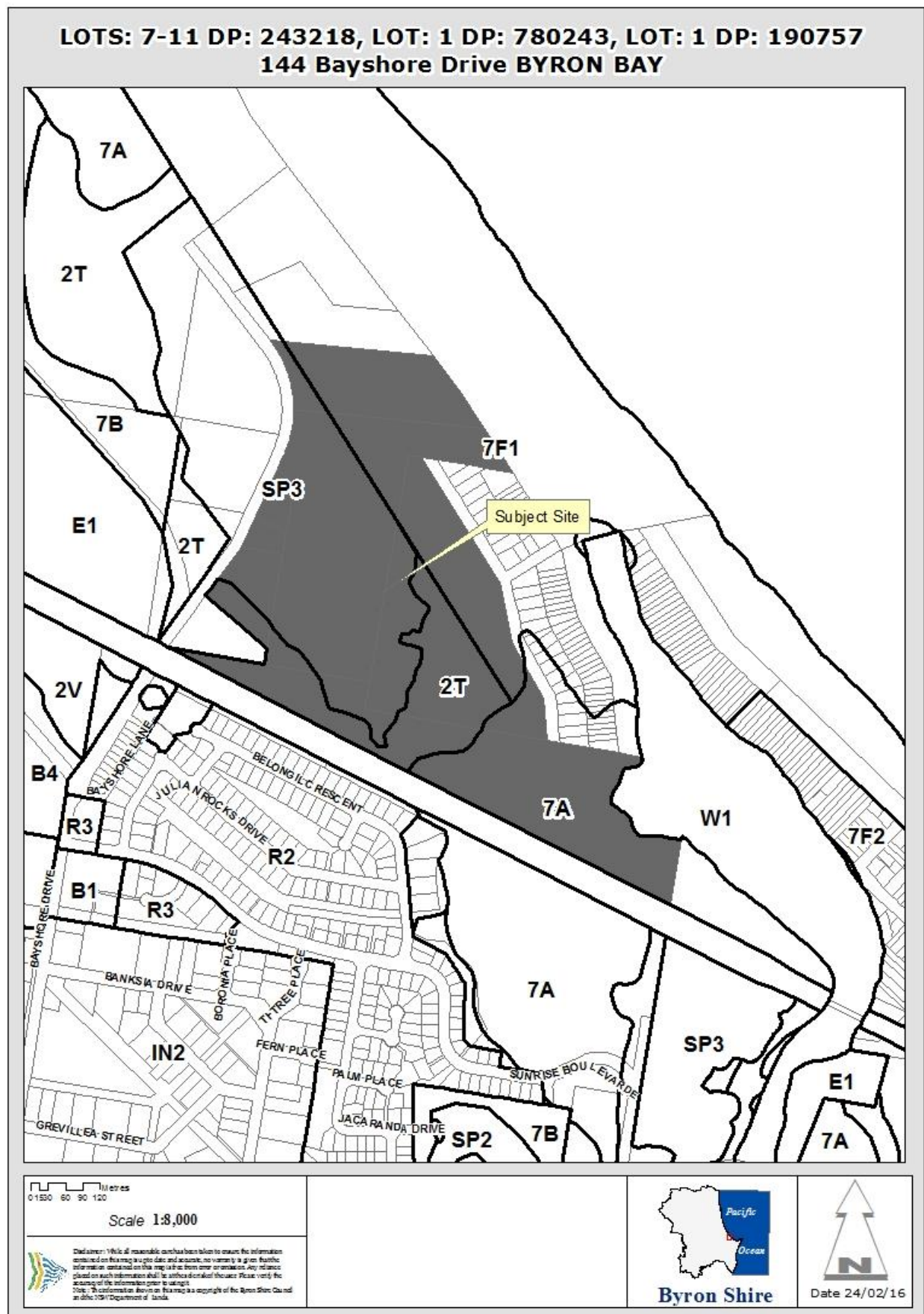
10

**RECOMMENDATION:**

**That pursuant to Section 96 of the Environmental Planning & Assessment Act 1979, that application 5.1987.208.5 to Modify the Design and Siting of 96 Tourist Accommodation Cabins, be approved by modifying development consent 5.1987.208 as listed in Attachment 2 #E2016/12828.**

**Attachments:**

- 15
- 1 Proposed Site Plan prepared by Myers Ellyett Plan No TP1.01 dated 10/02/16, E2016/12919
  - 2 S96 draft conditions 5.1987.208.5, E2016/12828
  - 3 Confidential - submissions received 10.1987.208.5, E2016/12994



**Assessment****1. INTRODUCTION****1.1 Details of approved development and any subsequent modifications****BA 85/2470**

Construction of 32 holiday cabins.

**5.1987.208.1:**

Development Consent for Tourist Accommodation, comprising 161 x 2 and 3 room cabins and the use of an existing 32 cabins (total 193 cabins).

Approved 11 August 1987.

Approved over Lots 7-11 DP 243218 and Part Portion 118, Shire of Byron. Since that original consent, the description of Part Portion 118 has been updated within the Land Titles Office and is now described as Lot 1 DP 780243. It is noted that the approved plan also shows holiday cabins within Lot 1 DP 190757, which is not listed within the original notice of determination.

**5.1987.208.2:**

Application to modify the design of cabin number 82. Modifications included the replacement of the pyramid hip roof with a skillion roof, replacement of horizontal weatherboard cladding with vertical panel cladding and the provision of a timber pergola shade structure.

Approved 20 December 2012.

**5.1987.208.3:**

Application for the modification of the approval, incorporating design modernisation and reconstruction of 75 cabins. The proposed modifications affected the layout, external appearance and footprint of each of the nominated 75 cabins. (This is now referred to Stage 1A of the Elements of Byron Resort).

Approved 22 November 2013.

**5.1987.208.4:**

Application to relocate and modernise the design of 22 of 193 previously approved cabins. In addition to the design changes to the 22 cabins, the application proposed the relocation of 20 cabins from their approved located within forested areas to a new located adjacent to an artificial lake within the property. Two additional cabins were proposed to be relocated from close proximity to the coastal erosion escarpment to a cleared area within the property. (This is now referred to Stage 1B of the Elements of Byron Resort).

Approved 20 February 2015.

**Cabin Types:**

The following table summarises the approved cabin types:

<b>Cabin Type</b>	<b>5.1987.208.1</b>	<b>5.1987.208.3 (Stage 1A)</b>	<b>5.1987.208.4 (Stage 1B)</b>
Hotel Cabin (1 bedroom)	32	19	2
Studio Cabin (2 bedrooms)	62	34	13
Three-room cabins (2 bedrooms)	99	22	7
<b>TOTAL</b>	<b>193</b>	<b>75</b>	<b>22</b>

*Note: The original approval was described as "comprising 161 x 2 and 3 bedroom cabins, and the existing 32 cabins...". Despite this description, approved plans show only 1 and 2 bedroom cabins. The anomaly appears to arise from the application description of 2 and 3 room cabins (each of which contained 2 bedrooms).*

**1.2 Section 96 modifications sought**

The current S96 modification seeks consent to amend the remaining 96 of the approved 193 cabins, to provide:

- 28 studio cabins (1 bedroom); and
- 68 two-bedroom cabins.

The table below completes the Cabin Type summary above, with the addition of the cabin types proposed in the current S96 application:

<b>Cabin Type</b>	<b>5.1987.208.1</b>	<b>5.1987.208.3 (Stage 1A)</b>	<b>5.1987.208.4 (Stage 1B)</b>	<b>Current Application</b>
1 bedroom	32	19	2	28
2 bedrooms	161	56	20	68
<b>TOTAL</b>	193	75	22	96
	<i>354 bedrooms</i>	<i>131 bedrooms</i>	<i>42 bedrooms</i>	<i>164 bedrooms</i>

The modification will result in the following changes, compared with the original approval:

- The total number of bedrooms is reduced from 354 to 337;
- the number of 1 bedroom cabins is increased from 32 to 49; and
- the number of 2 bedroom cabins is decreased from 161 to 144.

Overall, therefore, the current proposal would see decrease of 17 bedrooms compared to the original approval.

Each new studio (one-bedroom) cabin has a floor area of 44.5m<sup>2</sup>. There are two types of two-bedroom cabins proposed, Type 1 with a floor area of 77.1m<sup>2</sup> and Type 2 with a floor area of 76.5m<sup>2</sup>.

The proposal provides a total of 6,467m<sup>2</sup> of floor area. Together with the two previously approved modifications, the total floor area of cabins will be 11,466m<sup>2</sup>. While it is difficult to determine from Council records the extent of originally approved floor space, the application suggests that it was 10,278m<sup>2</sup>. The current modification will therefore result in an increase of around 11% in total cabin floor space.

Modifications are also proposed to the car parking and road layout, to reflect the amended cabin locations. The most significant modification is the provision of a secondary access onto Bayshore Drive, which was not part of the original project.

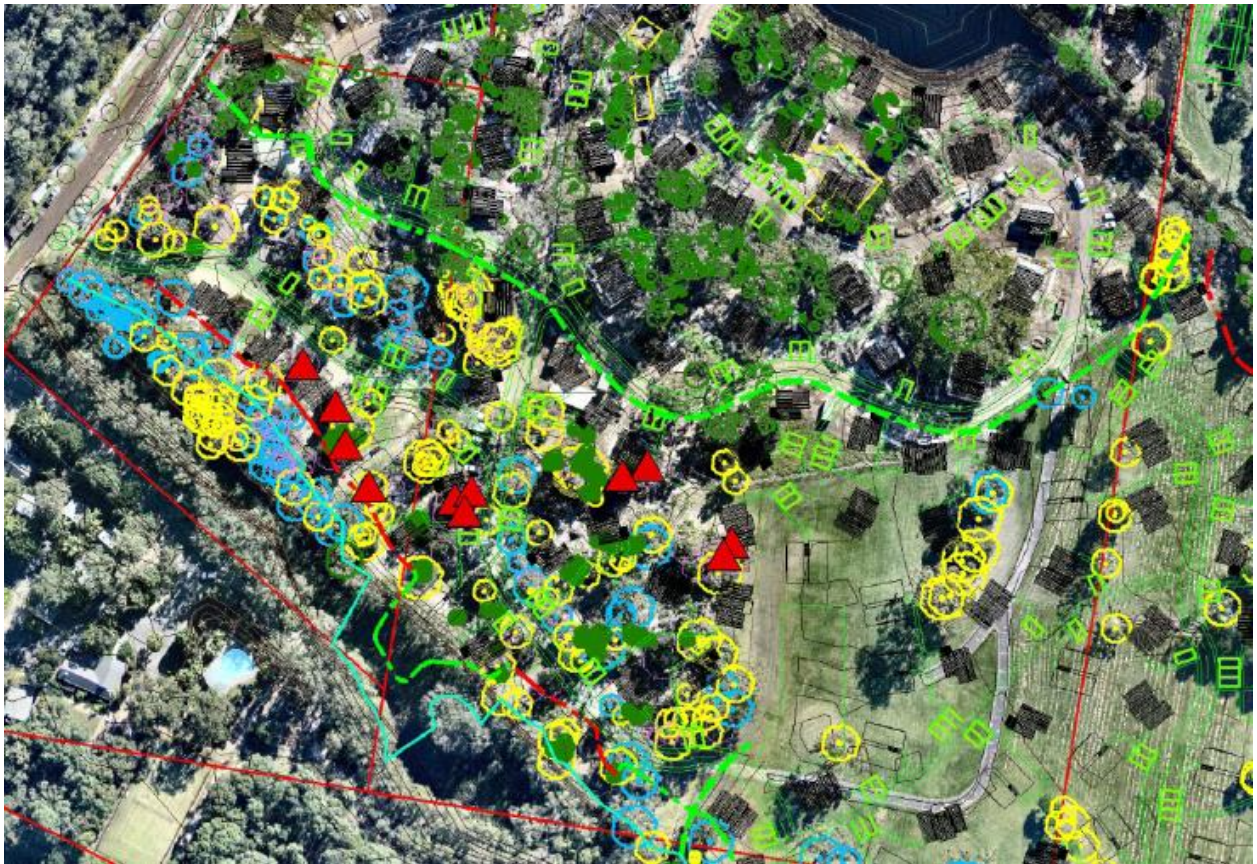
The proposal also involves minor earthworks in the vicinity of the roads in the western portion of the site to provide suitable cross-falls. Earthworks required in the eastern portion of the site are more substantial and will comprise a depth of fill nominally 0.5-0.7m and an estimated volume of 22,000m<sup>3</sup>.

The applicant's ecological consultant states that, while the proposed modifications to the approved development have sought to minimise potential impacts on existing vegetation, thirteen (13) trees will require removal. All of the trees proposed for removal are compensated for in the proposed landscaping concept.

The location of the trees to be cleared are shown below.



The proposed modifications also provide for the relocation of 10 cabins from the originally approved location within the littoral rainforest areas to cleared portions of the site.



**Trees to be Removed (shown in red)**

The proposed modifications will result in substantially the same development as that approved and comprise the balance of the previously approved cabins. In effect, therefore, this modification finalises the 'modernisation' of the cabin designs, with Stage 1A of that process approved under 5.1987.208.3 (75 cabins) and Stage 1B approved under 5.1987.208.4 (22 Cabins).

### **1.3 Is the modification substantially the same as the development granted**

The subject Application was submitted under Section 96(2) of the Environmental Planning and Assessment Act 1979. Council can only modify the consent *"if it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all)."*

The proposal does not alter the number of cabins approved for the site. The location of the majority of cabins is generally the same as originally approved, with the exception of 10 cabins proposed to be moved from within vegetation areas (as approved) to a cleared area within the site. This will complete the relocation of cabins from the vegetated areas – 19 cabins were similarly relocated under approval 5.1987.208.4.

While there is a slight decrease in the total number of bedrooms (17 fewer bedrooms than originally approved) and an increase in total floor area, it is considered that, overall, the amended proposal can be considered to be substantially the same as the development for which consent was originally granted.



This is consistent with Council's previous determinations of modification applications 5.1987.208.3 (75 cabins) and 5.1987.208.4 (22 Cabins).

**2. SUMMARY OF REFERRALS**

	Summary of Issues
Development Engineer	Supported – updated Flood Planning Level and habitable floor level.
Environmental Health Officer	Council's EHO has no objection to the proposal, and refers to the previous assessment undertaken for 5.1997.208.3.
Water & Waste Services	No objections.
Building Surveyor	Not required for this application.
S94 Officer	No additional contributions (E2015/77956).
Ecologist	Tree clearing.
Government Authorities	NSW Rural Fire Service - the original approval was issued prior to the Rural Fires Act 1997 and Planning for Bush Fire Protection 2006. However, the proposal includes development that would be considered a special fire protection purpose under the current legislation

**Development Engineer:**

Access

*Upgrade of Bayshore Drive has been completed. Proposed internal access roads 4 metre seal on compacted gravel pavements either 6 or 5 metre width depending on road type. Accommodates truck (fire) and space for passing vehicle.*

Flooding

1% AEP Flood Level = RL3.5m AHD  
 Minimum Floor Level = RL 3.2m AHD  
 1% AEP Flood Velocity = 0.4m/sec  
 Level of Land = RL 1.8-4.9m AHD  
 Lowest Habitable Floor Level = RL 3.2m AHD  
 Flood Hazard = Low

**Environmental Health Officer:**

[see above – notes below are from EHO comments on previous s96 application – 5.1987.208.3]

Acid Sulfate Soils:

*The property is identified as Acid Sulfate Soils Class 2 (south-east area) and Class 3 (remainder). As such, there are requirements for all works below the natural ground surface or likely to lower the water table (Class 2) and all works more than one metre below the natural ground surface or likely to lower the water table more than one metre below the natural ground surface (Class 3).*

*Appendix 2 of the Statement of Environmental Effects shows the approved plans for 5.1987.208.1. These site plans indicate the development is located within the area identified as ASS Class 3.*

*Appendix 3 of the Statement of Environmental Effects states that 'an acid sulphate soils management plan will be prepared as required for construction certificate approval' (see Table 2, first page). Refer to E2013/43192.*

*Conditions attached requiring preparation of an Acid Sulfate Soils Management Plan prior to issue of the Construction Certificate; and its implementation during construction.*

Contaminated Land:

This application is for changes to design and slight modification of location of cabins as approved by 87/208. Council's records show a number of approvals for these properties, ranging from recreational activities, cabins, tourist, writers' festivals, etc. There is no record of any land contaminating activities.

Land Use Conflict:

Approved development. Area of cabins is about 300m from nearest residential dwellings.

Noise Impacts:

Appendix 6 of the Statement of Environmental Effects is a report on potential noise impacts by Greg Alderson and Associates Pty Ltd dated 20 June 2013. Refer to E2013/43210.

This report comments on the impacts of the s96 application and states the following:

- approval 87/208 was an approval for 161 cabins (two and three bedrooms) and the use of the existing 32 cabins for the purposes of a resort (see page 1);
- the application for design modifications includes:
  - replacement of the approved cabins with a mix of hotel, studio, two-bedroom and dual key cabins. Similar development footprint and locations of cabins;
  - 'modernise' cabin design and landscaping;
  - maintain approved road layout and parking arrangements;
  - maintain existing native vegetation that is established on site (p 1)
- traffic generation rates and traffic noise are presented for both the approved development and the proposed modification. An increase of 5% for both traffic movements per day and peak hour trips is estimated (p 2-3);
- the resultant increase in noise levels from above is negligible (p 4);
- potential of noise intrusion between cabins due to air conditioning units was modelled. Based on worst case scenario using the loudest of three air con units. It was concluded that 'the noise impact of cabin air conditioning condenser units on all neighbouring cabins is acceptable as "windows open" targets are achieved at all but 3 facades. As however it can be expected that when air conditioning units are operating, that windows will be closed. As the sound transmission coefficient considerably increases with closed windows as opposed to open windows, the indoor design targets will be met for all cabins and facades. However, to accommodate for the three situations where the 40dB(A) limit is exceeded, we recommend either the applicant install a quieter system or nearby cabins be rotated and/or acoustic screens be installed....' (p 5-6);
- the noise from the cabin air-conditioning will not be audible at the nearest residential receptors (p 6).

It is not considered necessary to attach any conditions regarding the air conditioning units as the above modelling was based on worst case scenario (i.e. loudest of the three selected air con units) and noise impacts within the site are not a matter for regulation. Council would apply conditions if the noise was audible off-site (which the above report has confirmed will not be the case).

## 2.1 SECTION 7BA – BUSHFIRE MATTERS FOR CONSIDERATION

Although the original approval was issued prior to the Rural Fires Act 1997 and Planning for Bush Fire Protection 2006, the proposal includes development that would be considered a special fire protection purpose under the current legislation.

NSW Rural Fire Service have issued the following response, deemed to be a bush fire safety authority under section 100B of the NSW Rural Fires Act 1997:

1. *The development proposal is to comply with the layout identified on the drawing prepared by Myers Ellyett titled 'Site Plan' (ref: Drawing No. TP1.01), dated 10 February 2016, except as modified by the following conditions.*

**5 Asset Protection Zones**

*The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:*

2. *At the commencement of building works and in perpetuity the asset protection zones and landscaping within Stage 2 shall be managed in accordance with the principles outlined in Appendix 5 of 'Planning for Bush Fire Protection 2006', except where varied by the 'North Byron Beach Resort - Stage 2 Schematic Landscape Design Report (Issue E)' prepared by RGS Group, dated 11 May 2015.*

**15 Water and Utilities**

*The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and following conditions shall apply:*

3. *Water and gas services shall comply with the following requirements of section 4.1.3 of 'Planning for Bush Fire Protection 2006'.*
  - *fire hydrant spacing, sizing and pressures shall comply with Australian Standard AS 2419.1– 2005 'Fire Hydrant Installations'.*
  - *reticulated or bottled gas is to be installed and maintained in accordance with Australian Standard AS/NZS 1596:2002: 'The storage and handling of LP gas' and the requirements of relevant authorities. Metal piping is to be used.*
  - *all fixed gas cylinders are kept clear of all flammable materials to a distance of 10 metres and be shielded on the hazard side of the installation.*
  - *gas cylinders kept close to the building shall have release valves directed away from the building. Connections to and from gas cylinders are to be metal. Polymer sheathed flexible gas supply lines to gas meters adjacent to building are not to be used.*
4. *Fire hose cocks are to be located in accordance with the plan prepared by Ardill Payne & Partners titled 'Fire Hose Coverage', numbered Job No. 7529, Dwg No. SK-19 (Issue A), dated August 2015 and the following departures from AS 2441-2005 (as accepted by NSW Fire and Rescue):*
  - *housing of the fire hose cock is not required;*
  - *the fire hose cock need not comply with the colour and height requirements although a minimum height of 150mm is required to the underside to allow for hose clearance; and*
  - *hoses are not required to be stored in the maintenance shed.*
5. *New mains electricity services to the cabins and ancillary buildings shall be located underground to Australian Standards.*

**Access**

*The intent of measures for internal roads is to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area. To achieve this, the following conditions shall apply:*

6. *Internal access shall be provided in accordance with the plan prepared by Ardill Payne & Partners titled 'Hydrant Locations and Road Section', numbered Job No. 7529, Dwg No. SK-18 (Issue B), dated 12 October 2015 and the following requirements of section 4.2.7 of 'Planning for Bush Fire Protection 2006':*
  - *traffic management devices are constructed to facilitate access by emergency services vehicles;*
  - *a minimum vertical clearance of four metres to any overhanging obstructions, including tree branches;*
  - *maximum grades do not exceed 15 degrees and average grades are not more than 10 degrees;*

- roads are clearly signposted and bridges clearly indicate load ratings; and
- the internal road surfaces and bridges have a capacity to carry full-loaded firefighting vehicles (15 tonnes).

## 5 **Evacuation and Emergency Management**

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

7. Arrangements for emergency and evacuation are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

## **Design and Construction**

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

8. New construction shall comply with Sections 3 and 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
9. Roofing shall be gutterless or guttering and valleys are to be screened to prevent the build up of flammable material. Any materials used shall be non-combustible.
10. No brushwood fencing shall be used.

## **General Advice – consent authority to note**

This Bush Fire Safety Authority only relates to proposed Stage 2 of the North Byron Beach Resort as proposed under DA 5.1987.208.5.

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

The following is a summary of the evaluation of the issues for consideration detailed in Section 79C(1) of the Environmental Planning & Assessment Act 1979,

### **3.1. STATE/REGIONAL PLANNING POLICIES AND INSTRUMENTS**

#### State Environmental Planning Policy No 14 – Coastal Wetlands

A wetland mapped under this SEPP is located in the south-eastern corner of the land (generally contiguous with the previous 7(a) zoning). The proposed cabins are located well away from this SEPP wetland.

#### State Environmental Planning Policy No 44 – Koala Habitat Protection

This SEPP commenced well after the original development approval and therefore does not strictly apply to the current S96 application.

Notwithstanding this, koalas have been recorded on the site and in the area proposed for cabin development.

An ecological assessment provided with the application concludes that “the koala is unlikely to be significantly affected as the use of the site by the koala is transitory and no koala food trees will be impacts. Moreover, no dogs will be allowed on the site and vehicle speeds will be kept below 20 km/hr”.

It is noted that the koala impacts are generally likely to be reduced by the modifications proposed, as the original approval provided for a greater amount of clearing, associated with cabins located in existing forested areas, which are now proposed to be relocated into cleared parts of the site.

State Environmental Planning Policy No. 55 – Remediation of Land

This application is for changes to design and slight modification of location of cabins as approved by 87/208. Council's records show a number of approvals for these properties, ranging from recreational activities, cabins, tourist, writers' festivals, etc. There is no record of any land contaminating activities.

State Environmental Planning Policy No 71 – Coastal Protection

The proposed modifications are generally consistent with the aims and objectives of this SEPP. The development, as modified, will not impact on existing public access to the foreshore, nor will it alter the extent of the development that is located in proximity to the active coastal zone.

The proposed relocation of cabins from within the littoral rainforest area to a cleared part of the site located further away from the active coastal zone will improve the overall development in this regard.

**3.2. BYRON LOCAL ENVIRONMENTAL PLAN 2014**

The original Development Application for the holiday cabin development was granted consent on 11 August 1987, which was before Byron Local Environmental Plan 1988 took effect (22 April 1988). The development was assessed under Interim Development Order No. 1 – Shire of Byron, within which the site was partly within the Tourist A and Tourist B Zones, and partly within the Environmental Protection Foreshore Zone (note: the development consent restricted cabins to the Tourist zones only).

The most recent modifications 5.1987.208.3 & 5.1987.208.4 were assessed under Byron LEP 1998.

The following information summarises the relevant provisions of BLEP 2014:

**Zone:** Zone SP3 Tourist & DM (Deferred Matters)

**Definition:** Tourist and Visitor Accommodation

The majority of the development is located within the SP3 area. There are only 6 cabins proposed outside of the SP3 zoned part of the site, and another 6 cabins that straddle the boundary of the SP3 and DM areas (those cabins in DM areas are within 2(t) Tourist Area zone). All of the proposed internal road and car parking areas are within the SP3 zone.

LEP Requirement	Summary of Requirement	Proposed	Complies
Permissible use	<b>Tourist and visitor accommodation</b> means a building or place that provides temporary or short-term accommodation on a commercial basis	Permitted with consent in the SP3 zone	Yes
<b>Meets objectives of SP3 Tourist Zone</b>	<ul style="list-style-type: none"> <li>To provide for a variety of tourist-oriented development and related uses.</li> <li>To encourage tourist development in designated areas to reduce impacts on residential amenity in other zones</li> </ul>	The proposed modification provides tourist development in one of the few specifically-designated tourist locations.	Yes
<b>4.3 Height of</b>	The Height of Buildings Map	The proposed cabins are all	Yes

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.5

LEP Requirement	Summary of Requirement	Proposed	Complies
<b>Buildings</b>	specifies a maximum height of 9m for this locality.	single-storey in height, well below this 9m maximum.	
<b>4.4 Floor Space Ratio</b>	The Floor Space Ratio specifies a maximum FSR of 0.6:1 in this locality.	The proposed development has an FSR of 0.58:1	Yes
<b>5.5 Development within the coastal zone</b>	The requirements mirror those of SEPP 71, which is addressed above.	No public access to the coastal foreshore will be impeded or diminished as part of the proposal. No effluent is proposed to be disposed other than to Council's sewerage system. Stormwater is to be discharged to the street. Subject site is significantly landward of the coast and will not impact on coastal processes or the foreshore reserve. The relocation of 6 cabins from the forested part of the site further assist in this regard.	Yes
<b>6.1 Acid Sulfate Soils</b>	Provides for an approval process for development, based on the identified level of risk.	Council's GIS shows the property is identified as Acid Sulfate Soils Class 2 (south-east area) and Class 3 (remainder). As such, there are requirements for all works below the natural ground surface or likely to lower the water table (Class 2) and all works more than one metre below the natural ground surface or likely to lower the water table more than one metre below the natural ground surface (Class 3). Conditions have been imposed previously requiring preparation of an Acid Sulfate Soils Management Plan prior to issue of the Construction Certificate and its implementation during construction.	Yes
<b>6.2 Earthworks</b>	The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural	The proposed development will involve minor earthworks in the western part of the development area to provide suitable crossfalls for roads. Levels in this area will remain consistent with existing. The eastern portion	Yes

<b>LEP Requirement</b>	<b>Summary of Requirement</b>	<b>Proposed</b>	<b>Complies</b>
	or heritage items or features of the surrounding land.	of the area will be filled to a nominal depth of 0.5-0.7m, with an estimated total volume of 22,000m <sup>3</sup> . Limited amounts of fill are available on site from previous project stages. The remaining fill will be sourced from local quarries or from overburden from other local projects. The earthworks anticipated by the development as modified are not likely to disrupt or result in detrimental impacts on drainage patterns or soil stability. The site is reasonably isolated from adjoining properties and will not impact on the amenity of adjoining properties. The proposed site works are not likely to result in adverse impacts on environmentally sensitive areas and management measures will be implemented during construction works in this regard.	
<b>6.3 Flood planning</b>	Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development is compatible with the flood hazard of the land.	A floor level of RL 3.2m AHD has been required for previous stages of the development. Updated flood information now indicates that a floor level of RL 3.5m AHD is applicable, and an appropriate condition is recommended. A flood assessment indicates that the proposed filling will result in a slight increase in flood levels downstream, but that this can be attenuated wholly within the subject land.	Yes
<b>6.6 Essential Services</b>	Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available.	The site is located in an existing urban area where all essential services are available.	Yes

**Byron Local Environmental Plan 1988**

5 BLEP 1988 applies to the areas mapped as Deferred Matters in BLEP 2014. As highlighted above, there are only 6 cabins proposed outside of the SP3 zoned part of the site, and another 6 cabins that straddle the boundary of the SP3 and DM areas. These cabins are all located within the area zoned 2(t) Tourist Area under BLEP 1988.

The following table summarises the applicable clauses of BLEP 1988:

LEP Requirement	Summary of Requirement	Proposed	Complies
Meets zone objectives	<p><u>2(t) Tourist Area</u></p> <p>The objectives of the zone are:</p> <p>a) <i>to identify land for tourist infrastructure and to encourage tourist accommodation and facilities,</i></p> <p>b) <i>to permit tourist development and uses associated with, ancillary to, or supportive of, tourist developments including retailing and service facilities where such facilities are an integral part of the tourist development and are of a scale relative to the needs of that development, and</i></p> <p>c) <i>to control by means of a development control plan the location, form, character and density of permissible development.</i></p>	<p>Only a small part of the modified development is located within this zone. Cabins are clearly consistent with these objectives.</p>	Yes
	<p><u>7(a) Wetlands</u></p> <p>The objectives of the zone are:</p> <p>a) <i>to identify all lands covered by State Environmental Planning Policy No 14—Coastal Wetlands,</i></p> <p>b) <i>to identify and preserve estuaries and wetlands and allow them to continue to function as feeding and breeding areas for wildlife, shellfish and fish,</i></p> <p>c) <i>to prohibit development within the zone that is</i></p>	<p>The 7(a) zone affects the south-eastern portion of existing Lot 1 DP 190757. None of the development is located in this zone.</p>	Yes



# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.5

LEP Requirement	Summary of Requirement	Proposed	Complies
	<p><i>likely to have a detrimental effect on the habitat or landscape qualities or the flood mitigation function of the wetlands,</i></p> <p>d) <i>to enable development of public works and environmental facilities where such development would not have a significant detrimental effect on the habitat or landscape qualities of the wetland and other significant coastal habitat areas, and</i></p> <p>e) <i>to enable the careful control of noxious plants and weeds by means not likely to be significantly detrimental to the native ecosystem.</i></p>		
	<p><b>7(f1) Coastal Lands</b></p> <p>The objectives of the zone are:</p> <p>a) <i>to identify and protect environmentally sensitive coastal land,</i></p> <p>b) <i>to enable development for certain purposes where such development does not have a detrimental effect on the habitat, landscape or scenic quality of the locality,</i></p> <p>c) <i>to prevent development which would adversely affect, or be adversely affected by, coastal processes, and</i></p> <p>d) <i>to enable the careful control of noxious plants and weeds by means not likely to be significantly detrimental to the native ecosystem.</i></p>	<p>The 7(f1) zone affects the eastern fringe of the land. As originally approved, a number of cabins were located in this zone. A number of these were relocated in the previous modification (5.1987.208.4) and a further 10 will be relocated as part of the current proposal. This will allow for ongoing protection of the littoral rainforest, consistent with the zone objectives.</p>	Yes
Permissible use	Tourist facilities are permissible in the 2(t) zone.		Yes
<b>24 Development of flood liable land</b>		See above (6.3 BLEP 2014)	Yes
<b>33 Development within Zone 7(f1)</b>	For development in this zone, Council must consider	See above (5.5 BLEP 2014)	Yes

<b>LEP Requirement</b>	<b>Summary of Requirement</b>	<b>Proposed</b>	<b>Complies</b>
<b>Coastal Lands Zone</b>	the likelihood of the proposed development adversely affecting, or being adversely affected by, coastal processes; the likelihood of the proposed development adversely affecting any dune or beach of the shoreline or foreshore; the likelihood of the proposed development adversely affecting the landscape, scenic or environmental quality of the locality of the land, and whether adequate safeguards and rehabilitation measures have been, or will be, made to protect the environment.		
<b>45 Provision of services</b>		As above (6.6 BLEP 2014).	Yes
<b>63 Development on land identified on the Acid Sulfate Soils Planning Map</b>		As above (6.1 BLEP 2014)	Yes

**Draft EPI that is or has been placed on public exhibition and details of which have been notified to the consent authority - Issues**

5 N/A

### **3.3 DEVELOPMENT CONTROL PLANS**

#### **Development Control Plan 2014**

10

#### **Chapter E5 Certain locations in Byron Bay and Ewingsdale**

##### ***E5.7 The North Byron Beach Resort Site***

##### ***E5.7.1 Where this Section Applies***

*This Section applies to land at the eastern end of Bayshore Drive identified as the North Byron Beach Resort Site on Map E5.4.*

20

*In the event of any inconsistency between Section E5.7 and other Chapters in this DCP, the provisions of Section E5.7 shall prevail.*

Map E5.4 identifies all of the land subject to this application.

##### ***E5.7.2 Objectives of this Section***

25

*The objectives of this Section are:*

- 1. To promote and implement the principles of ecologically sustainable development, as identified in the aims of Byron LEP 2014, in the planning, development and management of the site.*

2. To define controls on location, form, character and density of permissible development on the site.
3. To define those parts of the site that require protection from development because of their inherent habitat or biodiversity values, visual characteristics, hazard characteristics, community values or other environmental values or characteristics.
4. To maintain, protect and enhance wildlife corridors to facilitate the movement and dispersal of species between Tyagarah Nature Reserve and significant areas of native vegetation on and beyond the site.
5. To define the remediation, environmental repair and ongoing management measures that are required in order to ensure appropriate environmental restoration and improvement of specific areas and characteristics of the site.
6. To protect and enhance the visual and scenic quality of the site.
7. To ensure that the siting, scale and intensity of development protect and enhance Byron Bay's social and cultural qualities by:
  - a) protecting areas and features of cultural significance;
  - b) accounting for local and regional values, community needs and aspirations;
  - c) reflecting Byron Bay's character and scale;
  - d) ensuring that development of the site does not dominate or detract from the town centre; and
  - e) ensuring that site access does not compromise the amenity or safety of adjacent residential areas.

The original consent was approved prior to the introduction of the site specific planning controls contained in E5.7. Notwithstanding this, the proposed modifications are consistent with the objectives of this Section.

The proposal is consistent with principles of ecologically sustainable development and protects the biodiversity values of the site. In particular, the modifications proposed will result in less tree clearing than would have been the case with the originally approved development.

The siting, scale and intensity of the development reflects Byron Bay's character and scale and will not dominate or detract from the town centre.

#### **E5.7.3 Statement of Desired Future Character**

The site is characterised by a mix of native bushland, coastal dune systems, wetlands and low intensity, low-rise and low scale tourist accommodation and ancillary uses. The integrity of native vegetation, wildlife habitats and waterbodies will be enhanced through active management and strategic revegetation. Natural areas will be separated from development by vegetated buffers and fire protection areas that are designed to minimise impacts on the integrity and quality of ecologically sensitive areas. The buffers also define the boundary of the development footprint and provide a transition between the two.

The relocation of 10 cabins, as proposed in this Section 96 application, assists in this regard, as they are relocated out of vegetated areas (as approved) into cleared parts of the site. This assists to further reinforce the separation between 'developed area' and 'natural area'.

The textures, colours and design of new development will complement the existing bushland and coastal landscapes, both within and adjoining the site. Buildings will be designed to optimize energy and water efficiency. A public car park and cycle racks will be provided within the Bayshore Drive road reserve for beach users not accommodated on the site.

Colour and material proposed for the modernised cabins are consistent with this requirement. The modifications proposed in this Section 96 application do not affect the existing public beach

access. Public parking and access provisions remain in place and are being upgraded in accordance with other approvals.

*The land has three distinct components, each with a particular desired future character:*

- 5      1.      *Ecologically sensitive wetlands, habitat and corridor areas, beaches and waterbodies that provide foraging and nursery areas for shorebirds and other conservation priority species. These areas also include an important habitat corridor adjoining the railway line, which is presently partly developed with holiday accommodation units but which provides a connective wildlife corridor between the Belongil Creek estuary and the Tyagarah Nature Reserve. Development (including re-development) in these areas will maximise the retention of native vegetation and habitats and provide opportunities for further revegetation over time to enhance the effectiveness of the wildlife corridor.*

15 While this modification moves a number of cabins closer to the vegetated railway corridor, all cabins remain in existing cleared parts of the site. Overall, the tree clearing required for the modified development is less than would have been undertaken for construction of the approved development. It is considered that the benefits gained from moving 10 cabins away from littoral rainforest areas and the lesser overall tree clearing outweighs any impacts associated with cabins closer to the corridor.

- 20     2.     *Dunes and adjacent lands that are susceptible to shoreline recession and coastal processes.*  
               *These lands are characterised by vegetated and grassed dunes, hind-dune littoral rainforests*  
               *and wetlands, grassed areas and waterbodies. Development in these areas will be limited to*  
               *low-impact environmental facilities, coastline access and environmental management*  
               *activities, and surf lifesaving facilities (note: such land is not subject to this DCP however the*  
 25         *provisions of DCP 2010 will apply to these areas).*

The cabins that are subject of the current application are located landward of the shoreline erosion zone.

- 30 3. *A development area central to the site containing low scale tourist accommodation and associated facilities and waterways in a landscaped setting of grassed areas and locally indigenous trees and vegetation. Within the development area:*
- 35 a) *the perimeter adjoining ecologically sensitive areas provides a transition between the natural environment and the central development area. It will be characterised by low building densities and open areas landscaped with grassed areas and local endemic species. The only buildings that will be located in this transition area are tourist accommodation units and environmental facilities; and*
- The proposal is consistent, with 10 cabins relocated from within vegetated areas to cleared 'perimeter' locations.
- 40 b) *the centre of the developable area will contain a range of tourist facilities including a function centre and may contain shops, restaurants or cafes and related facilities.*
- The central resort facilities are not part of the current proposal, and are subject to separate approvals.

#### 45 **E5.7.4 Planning Principles**

1. Transport, Access and Parking
- a) *There is no significant increase in stress on the Byron Bay community in terms of access to transport infrastructure, and in particular, transport time, parking availability, traffic congestion or access to local services.*
- 50 The proposal maintains the previously approved number of cabins and will therefore not generate additional demand on transport infrastructure.
- b) *Additional demand on existing transport infrastructure and networks is addressed.*

See above.

- c) *Pedestrian, bicycle and alternative transport systems (including bus and rail where feasible) connect the site to local community facilities, reducing dependence on car use.*

The local rail proposal is subject to separate approval, but will service the cabins subject to this application.

- d) *Access infrastructure avoids locations of ecological or conservation value.*

N/A

- e) *A public road is provided through the site and includes provision of a public car parking area.*

Bayshore Drive has been upgraded in accordance with approvals for the previous stages of Elements of Byron tourist development. This includes roadside parking. The proposed internal road system and parking areas are considered appropriate for the development proposed.

## 2. Land Use

- a) *A mix of tourist, commercial /retail, community, recreational, environmental /conservation and open space uses is provided.*

Consistent. The application provides tourist and recreational land uses.

- b) *Land uses recognise, protect and enhance conservation values and coastal processes.*

Consistent – in particular, relocation of 10 cabins from within littoral rainforest areas to cleared parts of the site.

- c) *New development reflects the unique character and scale of Byron Bay.*

Consistent.

- d) *The design and arrangement of buildings discourages permanent residential occupation.*

Consistent.

## 3. Tourist Development

- a) *The type and amount of permissible development reflects the environmental, social and economic capacity of the site and Byron Bay.*

The proposed modification maintains the number of cabins previously approved.

- b) *Areas of high conservation value or cultural significance are left largely undeveloped and protected for present and future generations.*

Consistent – in particular, relocation of 10 cabins from within littoral rainforest areas to cleared parts of the site.

- c) *Natural, landscape, archaeological and cultural features are protected and enhanced.*

Consistent – in particular, relocation of 10 cabins from within littoral rainforest areas to cleared parts of the site.

- d) *Low-rise accommodation units will be the basis of any tourist accommodation, with central resort facilities incorporating a function centre.*

Central resort facilities are subject to a separate approval. The cabins subject to this modification remain low-rise.

- e) *Public access is provided to the beach.*

The modifications proposed in this Section 96 application do not affect the existing public beach access. Public parking and access provisions remain in place and are being upgraded in accordance with other approvals.

5     4. Conservation and Habitat Protection

- a) *Sensitive areas are protected and enhanced.*
- b) *Only those areas with low ecological value are used for tourism purposes.*
- c) *The State and Regional significance of existing wildlife corridor values of the site are protected and enhanced.*
- 10     d) *The habitats of threatened or endangered terrestrial and aquatic species are protected and enhanced.*

Consistent – in particular, relocation of 10 cabins from within littoral rainforest areas to cleared parts of the site.

15     5. Coastal Processes and Environmental Hazards

- a) *Structures and facilities are designed and located to account for climate change including potential sea level rise, storm tide, flooding and other associated impacts.*

Floor levels have been set to account for sea level rise.

- 20     b) *Buildings and activities are located away from areas of active coastal processes.*

The area subject to the proposed modifications is landward of the active beach zone.

- c) *The natural topography and physical features of the coastal dune system are protected and managed.*

25     The area subject to the proposed modifications is not located on the dune system.

- d) *Emergency evacuation routes are provided for flood events, including those rarer than 1% AEP.*

Bayshore Drive is available for flood evacuations.

- 30     e) *Community services and facilities are located outside areas of coastal or other natural hazards.*

Not directly applicable.

35     **E5.7.6 Development Applications and Site Concept Plan**

The subject application proposes to modify an existing consent and is therefore not strictly subject to the requirements of this section.

- 40     Notwithstanding this, the proposed redesign and relocation of cabins is considered to be consistent with the objectives, planning principles and relevant provisions of this part of the DCP.

**E5.7.7 Conservation Areas and Corridors**

45     **E5.7.7.1 Western Wetland and Heath Precinct C**

This precinct is well away from the area subject to this application.

**E5.7.7.2 Southern Wildlife Corridor Precinct D**

- 50     Much of this precinct is outside of the subject area. Part of the southern development site is within this precinct, with cabins proposed to be located in cleared areas. The applicant notes that environmental repair remains ongoing in this location.

*E5.7.7.3 Eastern Wetland and Littoral Rainforest Precinct E*

The application includes relocation of 10 cabins from vegetated areas within this precinct. This will allow for protection and enhancement of littoral rainforest in the precinct.

**5 E5.7.8 Buffers and Hazards**

*E5.7.8.1 Bush Fire Asset Protection Zones*

See Bush Fire Assessment above.

10

*E5.7.8.2 Water Body Buffers*

A vegetated buffer is maintained adjoining the southern drainage line/ watercourse.

*E5.7.8.3 Mosquito Management*

15 Appropriate screening is incorporated into the design of cabins.

**E5.7.9 The Developable Area**

*E5.7.9.1 Built Form*

20

*Prescriptive Measures*

1. *Tourist accommodation development must comply with the requirements of Chapter D3 Tourist Accommodation.*

Consistent.

25

2. *All traffic, access and parking provision on the site must comply with the provisions of Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access.*

Consistent.

30

3. *Development on land below the Flood Planning Level must comply with the provisions of Chapter C2 Areas Affected by Flood.*

A floor level of RL 3.2m AHD has been required for previous stages of the development and is adopted for the modified cabin development. A flood assessment indicates that the proposed filling will result in a slight increase in flood levels downstream, but that this can be attenuated wholly within the subject land.

35

4. *Signage on the site must comply with the provisions of Chapter B10 Signage.*

No signage associated with this application.

40

5. *The placement and design of development must ensure that buildings, private open space and public spaces will have:*

- a) *access to daylight;*
- b) *access to natural ventilation;*
- c) *appropriate levels of visual and acoustic privacy; and*
- d) *a pleasant micro-climate.*

45

The redesigned cabins achieve these requirements.

**Development Control Plan 2014 - Issues**

50 N/A

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

#### Ecological Impacts

5 The proposal includes the relocation of 10 approved cabins from within sensitive rainforest areas. The new locations will require significantly less vegetation removal than the approved building sites. The modifications proposed will have a positive ecological outcome for the site.

10 The Flora and Fauna Assessment suggest that thirteen (13) trees require removal in order to carry out the development. As the tree plan from the 1987 approval appears to be indicative rather than actually reflecting tree locations, it is difficult to determine what tree removal was approved with the original application. However, the current application has attempted to preserve vegetation wherever possible and the removal of up to thirteen trees is considered an acceptable impact recognising that a number of cabins have been proposed to be relocated in order to preserve significant trees.

15 It is also noted that numerous trees occur within 2 metres of proposed cabin locations and could be removed without development consent. This situation exists, however, irrespective of whether or not the proposed modification is approved, as the existing approval provides for their removal. It is understood through discussions with the applicant and the intent provided through the landscape concept plans that trees within 2 metres of dwellings will be retained where possible. Conditions will be required in any consent to ensure that retained trees are protected in accordance with Australian Standards.

#### 25 Social Impacts

The Section 96 Application was placed on public exhibition and attracted a large number of public submissions, both in support and in objection to the proposal. Those in objection raised concerns with respect to ecological impacts (discussed above) and social impacts. However, the proposal remains substantially the same development to that already approved. The proposed modifications will have no significant change to the social impacts of the approved development.

### 3.5 The suitability of the site for the development

35 In 1987 the site was assessed as being suitable for holiday cabin development. The proposed development remains substantially the same as that previously approved. The proposal includes a number of minor changes to the design and location of the approved cabins. These changes can be accommodated on the large site.

### 40 3.6 Submissions made in accordance with this Act or the regulations

The Section 96 Application was placed on public exhibition and attracted 45 submissions in support and 35 submissions in objection to the proposal. The issues raised in submissions is summarised below:

Issue	Comment
<b>Support:</b>	
Job creation	A number of submissions pointed out the large number of direct and indirect jobs created by the development.
Development constructed in previous stages is of a high standard	Submissions pointed out that the development of the Stage 1 cabins appears to be sympathetic with the existing environment of the site.
Low-scale nature of approval is consistent with 'Byron values'	Comments noted.
<b>Objection:</b>	



<b>Issue</b>	<b>Comment</b>
Proposal is substantially different to the 1987 approval and should therefore require a new DA.	See assessment above. It is considered that the development as modified will be substantially the same as that originally approved. This is the same approach adopted by Council for the previous stage of development, approved under S96 applications 5.1987.208.3 and 5.1987.208.4.
Impact on ecologically sensitive environment (flora & fauna impacts; koala habitat; threatened frog species; littoral rainforest)	The 1987 approval provides for the construction of cabins in this location. For the most part, the proposed relocation of cabins is minor and wholly within the footprint previously approved. 10 cabins are proposed to be relocated from within an area of littoral rainforest (as approved), and will now be constructed in a cleared part of the site. While tree clearing is required for the modified development, it is considered to be substantially less than that anticipated in the existing 1987 approval. The modification, therefore, provides a better environmental outcome to that originally approved.
Increase in traffic and noise	The application does not increase the numbers of cabins, over that which has previously been approved. It is unlikely therefore that it would lead to additional traffic and noise impacts.
Flooding/ filling	Flood modelling has been undertaken in support of the DA and shows that the filling will not result in any increase in flooding outside of the site. The modelling included consideration of filling 0.5m higher than proposed, to ensure confidence in the modelling outcomes.
Additional load on Byron STP	The additional load has been assessed and is within the capacity of the existing STP.

### **3.7 Public interest**

5 Development consent already exists to construct cabins within this part of the site. The modified proposal is assessed as being substantially the same development as that approved. It is also considered that the proposed modifications provide environmental benefits, particularly with the relocation of 10 cabins from approved locations within littoral rainforest vegetation. While tree clearing is required to construct the development, it is considered that this will be significantly less than would be the extent of clearing that would be associated with construction of the approved development.

When compared with the approved development, the modification proposal does not compromise the public interest.

## **4. DEVELOPER CONTRIBUTIONS**

### **4.1 Water & Sewer Levies**

#### Current Situation

20 *Using the current day ET Policy 13/005, the existing sewer, water and bulk water entitlements are as follows, based on an allotment area of 4192m<sup>2</sup>;*

Table 1 - Calculation of Existing Water & Sewer ETs

<b>Development use</b>	<b>Number/ Area(m<sup>2</sup>)</b>	<b>Water ET Rate</b>	<b>Sewer ET Rate</b>	<b>Water ET</b>	<b>Sewer ET</b>	<b>Comments</b>
Cabins DA 87/208	436 bedrooms			42.38	39.23	<b>Existing Credit as noted by 1991</b>

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.5

	(193 cabins)					<b>letter (A2014/15724)</b>
1 Bedroom cabin <i>Policy reference: 6.4</i>	2x1 bdrm	0.3/bdrm	0.45/bdrm	0.60	0.90	Paid for construct of three prototype cabins 5.1987.208.3
2 Bedroom cabin <i>Policy reference: 6.4</i>	1x2 bdrm	0.3/bdrm	0.45/bdrm	0.60	0.90	Paid for construct of three prototype cabins 5.1987.208.3
<b>Total Credit of ETs for DA 87/208</b>				<b>43.58</b>	<b>41.03 (46.27)</b>	

The developer paid Sewer ET's of 2.62 twice [once in April 2015, than again in January 2016] for 5.1987.208.4, thereby increasing credits on sewer ETs by 5.24 resulting in a total sewer credit of 46.27.

Therefore, the existing ET entitlement for this property is:

- **43.58 ET** for Water
- **43.58 ET** Bulk Water; and
- **46.27 ET** for Sewer.

### Proposed Development

The current s96 modification seeks consent to amend the remaining 96 of the approved 193 cabins, to provide:

- 28 studio cabins (1 bedroom); and
- 68 two-bedroom cabins.

The table below completes the Cabin Type summary above, with the addition of the cabin types proposed in the current S96 application:

<b>Cabin Type</b>	<b>5.1987.208.1</b>	<b>5.1987.208.3 (Stage 1A)</b>	<b>5.1987.208.4 (Stage 1B)</b>	<b>Current Application</b>	<b>Updated Total</b>
1 bedroom	32	19	2	28	<b>49</b>
2 bedrooms	161	56	20	68	<b>144</b>
<b>TOTAL</b>	193 (436 bdrms) <i>See previous assessment</i>	75 (131 bdrms)	22 (42 bdrms)	96 (164 bdrms)	<b>193 (337 bdrms)</b>

The water and sewerage load generated from the proposed s96 modification is:

Table 2 - Calculation of Proposed Development Water & Sewer ETs

<b>Development use</b>	<b>Number</b>	<b>Water ET Rate</b>	<b>Sewer ET Rate</b>	<b>Water ET</b>	<b>Sewer ET</b>
1 Bedroom cabin <i>Policy reference: 6.4</i>	49x1 bdrm	0.3/bdrm	0.45/bdrm	14.7	22.05
2 Bedroom cabin <i>Policy reference: 6.4</i>	144x2 bdrm	0.3/bdrm	0.45/bdrm	86.4	129.6
<b>Total</b>	337 bedrooms (193 cabins)	0.3/bdrm	0.45/bdrm	<b>101.1</b>	<b>156.65</b>

Table 3 - Calculation of Additional Water &amp; Sewer ET

Load

	Water	Bulk Water	Sewer
<b>Existing ET Entitlements (Table 1)</b>	43.58	43.58	46.27
<b>Proposed Development ET loading (Table 2)</b>	101.1	101.1	156.65
<b>Additional ET loading</b>	<b>57.52</b>	<b>57.52</b>	<b>110.38</b>

Therefore, this development generates an additional load onto Councils Water, Bulk Water and Sewer System

Council requires Payment of Developer Servicing Charges (prior to issue of a construction certificate) of:

- **57.52 ET** for Water &
- **57.52 ET** Bulk Water; and
- **110.38 ET** for Sewer.

#### 4.2 Section 94 Contributions

The proposed modifications do not generate the requirement for additional contributions

### 5. CONCLUSION

An application has been received to modify the development consent by altering the design and siting of 96 of the 193 approved holiday cabins, with associated amendments to the internal road and car parking layout, and associated earthworks and tree removal.

Previous modifications of the consent have altered the design and siting of the other 97 approved cabins (5.1987.208.3 – 75 cabins; 5.1987.208.4 – 22 cabins).

A comparison of the approved plans with the proposed plans indicates that the amendments comprise design changes to provide a more contemporary cabin design. The proposed modifications will not increase the approved number of holiday cabins within the development. The modifications will however result in an overall reduction in cabin bedrooms as compared with the original approved development.

It is also proposed to relocate 10 cabins from their approved location within forested areas to a new location in a cleared part of the property. This will result in a reduction in the amount of tree clearing when compared with the original approved development and therefore the relocation provides a better environmental outcome as compared with the original approved development.

It is recommended that the S96 application be approved by modifying development consent 5.1987.208.1.

### 6. RECOMMENDATION

That pursuant to Section 96 of the Environmental Planning & Assessment Act 1979, that application 5.1987.208.5 for S96 to Modify the Design and Siting of 96 Tourist

**Accommodation Cabins, be approved by modifying development consent 5.1987.208.1 as listed in Attachment 2 #E2016/12828**

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

5

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

**Report No. 13.6**                      **PLANNING - Draft Rural Land Use Strategy**  
**Directorate:**                      Sustainable Environment and Economy  
**Report Author:**                      Sharyn French, Manager Environmental and Economic Planning  
    Alex Caras, Team Leader Land Use Strategy  
5    **File No:**                              I2016/31  
**Theme:**                                Ecology  
    Planning Policy and Natural Environment

**Summary:**

Council resolved to prepare a Rural Land Use Strategy (Strategy) to provide a strategic framework for the future management and use of our rural land. The Strategy is being prepared in five stages. This report presents the Draft Rural Land Use Strategy for Council's consideration for public exhibition.

This report also presents an updated map showing land with High Environmental Value Vegetation (previously High Conservation Value Vegetation) for Council's consideration and inclusion in the Site Suitability Criteria and Mapping Methodology and Policy Directions Paper prior to public exhibition.

**NOTE TO COUNCILLORS:**

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.

**RECOMMENDATION:**

1.    **That Council adopt the draft Rural Land Use Strategy, as contained in Attachment 1 (E2016/13409), for public exhibition for a period of 6 weeks.**
2.    **That Council update the Site Suitability Criteria and Mapping Methodology and Policy Directions Paper with the High Environmental Value Vegetation map in Attachment 2 (E2016/13044), prior to public exhibition.**
3.    **That Council, if available for the public exhibition, use the revised Bushfire Risk Map and if not available then remain with the current bushfire mapping.**

**Attachments:**

- 1      Draft Byron Rural Land Use Strategy, E2016/13409
- 2      Map of HEV Vegetation (to replace Map 2 in Site Suitability Criteria and Mapping Methodology), E2016/13044
- 3      Form of Special Disclosure of Pecuniary Interest, E2012/2815

## Background

Council resolved (Res 15-569) to prepare a new Rural Land Use Strategy (Strategy) for adoption by 31 July 2016. The Strategy was developed in five stages, Figure 1:

**Figure 1: Main Stages to develop the Rural Land Use Strategy**



As shown in Figure 1, Council adopted the following supporting documents to inform preparation of the draft Strategy:

- Policy Direction Paper – adopted 19 November 2015 (Res 15-596)
- Site Suitability Criteria and Mapping Methodology – adopted 10 December 2015 (Res 15-650) with updated versions of both the High Environmental Value Vegetation (previously High Conservation Value Vegetation) and Extreme Bushfire Risk maps being presented in conjunction with the draft Strategy.

This report presents the Draft Rural Land Use Strategy, Attachment 1 for Council's consideration for public exhibition.

### **High Environmental Value Vegetation and Bushfire Risk Mapping**

This report also presents a revised High Environmental Value Vegetation (HEV) map for Council's adoption (Attachment 2). The Site Suitability Criteria and Mapping Methodology and Policy Directions Paper will be updated with the HEV map prior to public exhibition.

The HEV map is based on the NSW Office of Environment and Heritage (OEH) methodology for identifying vegetation with high environmental value. The OEH methodology has been used by the Department of Planning and Environment (DPE) to inform the draft North Coast Regional Plan (Ministerial release expected on 2 March), which informs councils' local plans such as the Strategy. Preliminary advice from the DPE is that Council's draft Strategy's mapping methodology accords with their draft North Coast Regional Plan.

The HEV map in Attachment 2 shows a noticeable absence of mapped HEV vegetation in the northwest portion of the Shire around Huonbrook. The recently updated vegetation mapping, that informs the HEV vegetation methodology, was not able to map the plant community types in this part of the Shire due to the absence, at that time, of high resolution aerial imagery. The absence of this information should not affect the draft Strategy findings as these areas are constrained by the combination of surrounding national parks, slopes greater than 32% and poor road condition/access.

High resolution imagery taken in 2015 has now been supplied from NSW Land and Property Information and a budget bid has been included in the draft 2016/17 budget to revise the vegetation mapping in line with the 2015 aerial photos as previously resolved (Res 15-417) by Council.

It is important to note that mapping is an iterative process. As new data is provided from state government agencies or their mapping methodology's are updated, so too will Councils GIS mapping to reflect the latest information available. The maps that are placed on exhibition to inform the Strategy will include the latest available mapping at the time of exhibition.

The Extreme Bushfire Risk mapping is still under review and requires further consultation with the NSW Rural Fires Service, before finalisation. As such the revised map is not available for inclusion in the Strategy at this stage. If the map is available in time for the public exhibition then it will be included to inform the draft Strategy. If not, the current bushfire mapping will remain and the updated mapping will be included with the final Strategy in July.

It is intended that the draft Strategy and supporting documents will be exhibited for public comment in early April.

***Draft Byron Rural Land Use Strategy***

The Draft Byron Rural Land Use Strategy provides a 20 year strategic framework to guide future land zoning and use, protection and or development for the following four themes:

1. Our Rural Environment
2. Our Rural Economy
3. Our Rural Community
4. Our Rural Infrastructure

Importantly the draft Strategy aims to provide:

- **an enabling framework** to allow the community and Council to get on with delivering improved outcomes in our rural areas
- **a platform to acknowledge** the good work of rural landholders and community groups who are already sustainably managing our rural land
- **opportunities to reward** rural land owners who undertake significant environmental restoration works on their land by allowing sympathetic development to coincide with these works
- **flexibility to embrace** community driven sustainability initiatives in our rural areas
- **rural lifestyle living opportunities** that aim to achieve full cost-recovery in the delivery of essential road infrastructure

The Strategy identifies some 40 actions informed by the Discussion Paper and stakeholder workshop to deliver Council's adopted Policy Directions.

This Strategy will replace the 1998 Byron Rural Settlement Strategy once adopted by Council and endorsed by the State Government.

***Public Exhibition***

Prior to public exhibition the Site Suitability Criteria and mapping Methodology and Policy Directions Paper will be updated to include the High Environmental Value Mapping and if available the revised bushfire risk mapping.

The Strategy will also include a number of local stories from our rural landowners, advocates and entrepreneurs who are leading the way with low scale innovative responses to whole of land management, environmental restoration, produce growing, value adding products and services and promoting our rural asset.

5 Following Council's adoption of the draft Strategy for public exhibition, there may be subsequent refinements to the Strategy's language and format to improve legibility prior to being exhibited. Such changes would not affect the draft Strategy policy position or actions as adopted by Council.

10 Exhibition of the draft Strategy and supporting documents (Site Selection Criteria and Mapping Methodology and Policy Directions Paper) is proposed to commence in early April. A four week exhibition period will ensure a final Strategy is available for Council adoption by 31 July 2016. At the Councillor Workshop on 1 March 2016, Councillors expressed a desire to have a 6 week public exhibition period. Whilst this will mean that a 31 July adoption date will not be achieved, the  
15 recommendation included in this report is for a 6 week public exhibition period. The analysis of public submissions received during the exhibition period will be reported back to Council at the first available Council meeting. Prior to reporting the final Strategy to Council, a Strategic Planning Workshop will be held for Councillors on the issues raised in the public submissions and any changes proposed to the Strategy as a result.

20 Exhibition activities during this time will be undertaken in accordance with the Rural Land Use Strategy Community Consultation Plan as adopted by Council on 19 November 2015 (*Res 15-597*). This includes a Community Forum with presentations from invited guest speakers on the four Strategy themes followed by participants joining breakout groups to provide feedback on the  
25 draft Strategy.

### **Financial Implications**

Public exhibition costs will be met from within the existing 2015-16 budget.  
30

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

The Rural Land Use strategy has been informed by the relevant state, regional and/or local planning framework and best practice planning principles.



**Report No. 13.7      PLANNING - Expressions of Interest for additional membership of the Mullumbimby Masterplan Scoping Project Reference Group**

**Directorate:** Sustainable Environment and Economy

**Report Author:** Tara McGready, Senior Planner

**File No:** I2016/109

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

**Summary:**

Council resolved at 4 February 2016 meeting to confirm the appointment of five community representatives and to readvertise for Expressions of Interest for up to two additional community members for the Mullumbimby Masterplan Scoping Project Reference Group (PRG).

Additional Expressions of Interest (EOI) were invited from community members to be a part of the PRG and eleven (11) EOIs were received for Council's consideration.

**RECOMMENDATION:**

**That Council confirm the appointment of two additional community members to the Mullumbimby Masterplan Scoping Project Reference Group (PRG) selected from Confidential Attachment 1 (E2016/12306).**

**Attachments:**

- 1 Confidential - Mullumbimby Masterplan Scoping Project Reference Group PRG Expressions of Interest - second round, E2016/12306

**Report**

At its Ordinary meeting of 4 February 2016, Council resolved as follows:

**5 16-127 Resolved:**

1. *That Council confirm the appointment of the five community members listed in Section 4.2 Community Members of the draft Mullumbimby Masterplan Scoping Project Reference Group (PRG) Constitution at Attachment 3 (E2016/1325) to the PRG.*
- 10 2. *That Council adopt the draft constitution at Attachment 3 (E2016/1325) with the following changes:*
  - *in s5 Chairperson: replace the draft wording with "If the appointed Chair is absent, that role is performed by another Councillor acting after being elected by the meeting".*
  - 15 - *in s6 Quorum replace draft wording with "A quorum of the Committee will be 50% plus one of the appointed members, which must include at least one Councillor. If a quorum is not reached within half an hour of the appointed starting time, the meeting will be adjourned".*
  - 20 - *delete s15: Publicity.*
  - 3. *That Council run a new round of advertising (in the next available Council Notices and on our website) for up to two more community positions on the PRG and aim to appoint them before the first PRG meeting, with appropriate adjustment to the PRG's Constitution.*
  - 25

A call for EOIs was readvertised on 11 February 2016 seeking an additional two community representatives interested in being on the Mullumbimby Masterplan Scoping PRG, with a deadline of 25 February 2016 for responses.

Eleven (11) EOIs were received for Council's selection at Confidential Attachment 1.

The PRG's first meeting is scheduled for 31 March 2016 from 11.00am to 1.00pm. At this meeting, the group needs to decide on the frequency of meetings, within the group's 6 month term, and confirm its acceptance of the PRG's Constitution.

**Financial Implications**

Nil.

**Statutory and Policy Compliance Implications**

Nil.

**Report No. 13.8      Progress Report Coastal Zone Management Plan Byron Bay  
Embayment Project Reference Group**

**Directorate:** Sustainable Environment and Economy

**Report Author:** Catherine Knight, Coastal Officer

**File No:** I2016/116

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

**Summary:**

The Constitution of the Coastal Zone Management Plan Byron Bay Embayment Project Reference Group (CZMP PRG) calls for quarterly progress reports to be provided to Council on the group's objectives. This report is a progress report of the CZMP PRG since the first meeting in October 2015.

**RECOMMENDATION:**

**That Council note the report.**

**Report**

The CZMP PRG was established in October 2015. The constitution of the CZMP PRG, as well as other information, can be accessed at the following web page:

<http://www.byron.nsw.gov.au/committees/coastal-zone-management-plan-byron-bay-embayment-project-reference-group-czmp-bbe-prg>

Under section 16 – ‘Records of Meetings (Agenda and reports)’ of the CZMP PRG constitution, clause 16.3 states:

*16.3 If the time frame allocated to complete the objective(s) is 6 months or more the Group is to provide a progress report quarterly to Council on its progress.*

There have been 3 PRG meetings convened since its inception, on 15 October 2015, 17 December 2015 and 11 February 2016. The minutes of these meetings can be accessed from the CZMP PRG we page (provided above).

The objectives of the CZMP PRG are provided in the Table below, including commentary on the progress of each objective to date.

**Table CZMP PRG objectives and progress to date**

Objective	Comment on Progress
a) Review draft CZMP BBE and provide feedback to staff prior to the tabling of the draft CZMP BBE at a Council meeting, and prior to the draft CZMP BBE being ‘adopted for public exhibition’.	Several chapters of the draft CZMP BBE have been distributed to members and feedback has been obtained. Staff are assessing and considering this feedback as part of preparing the draft CZMP BBE.  Chapters of the draft CZMP dependent on a Council endorsed coastal hazard risk management strategy, are yet to be distributed.
b) Provide feedback, input and support to draft CZMP BBE exhibition consultation and communication activities.	Outstanding.
c) Overview submissions provided on the adopted draft CZMP BBE, review and provide feedback to staff on draft CZMP BBE ‘exhibition submissions report’ prior to tabling at Council meeting, and prior to amended draft CZMP BBE being adopted for ‘submission to the Minister’.	Outstanding.

It is recommended that Council note this report.

**Financial Implications**

Nil.

**Statutory and Policy Compliance Implications**

Nil.

**Report No. 13.9      Report of the Planning Review Committee Meeting held on 18 February, 2016**

**Directorate:** Sustainable Environment and Economy

**Report Author:** Wayne Bertram, Manager Sustainable Development

**File No:** I2016/143

**Theme:** Ecology  
Development and Approvals

**Summary:**

This report provides the outcome of the Planning Review Committee Meeting held on 18 February 2016.

**RECOMMENDATION:**

**That the report be noted.**

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.9

### Report:

The meeting commenced at 1.15pm and concluded at 2.00pm.

Present: Crs Wood, Wanchap, Dey, Hunter, Cameron

5 Apologies: Nil

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

DA No.	Applicant	Property Address	Proposal	Exhibition Submissions	Reason/s Outcome
10.2015.761.1	Rob Aungle & Associates	3 Burra Burra Close Ocean Shores	New Dwelling House to Create a Detached Dual Occupancy	Level 1 22/12/15- 11/1/16 1 submission	Delegated Authority

- 10 As Council determined the original development applications, the Section 96 applications to modify the following development consents were referred to the Planning Review Committee to decide if the modification applications could be determined under delegated authority.

The following Section 96 applications were reviewed with the outcome shown in the final column.

15

DA No.	Applicant	Property Address	Proposal	Exhibition Submissions	Reason/s Outcome
10.2011.474.3	Geolink Consulting	1B Ballina Rd Bangalow	S96 to modify staging conditions of consent and subdivision layout	Level 2 21/1/16-3/2/16 1 submission	Delegated Authority
10.2011.191.3	Mr T Freedman	6/137 Broken Head Reserve Road Broken Head	S96 Increase number of wedding events from 14 to 20 per year	Level 2 21/1/16-3/2/16 6 submission	The number of public submissions  The validity of the matters raised in the public submissions  The extend of variation to Council policies proposed  Council
10.2009.217.2	Mr L Huxley	136 Lighthouse Rd Byron Bay	S96 to Modify Building Design	Level 2 3/12/15-6/12/15 No submissions	Delegated Authority

**BYRON SHIRE COUNCIL****STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY****13.9**

<b>DA No.</b>	<b>Applicant</b>	<b>Property Address</b>	<b>Proposal</b>	<b>Exhibition Submissions</b>	<b>Reason/s Outcome</b>
10.2011.306.5	Planners North Pty Ltd	139 Broken Head Reserve Rd Byron Bay	S96 To modify Subdivision layout	Level 2 21/1/16-3/2/16 7 submission	Delegated Authority
10.2001.438.4	Geolink Consulting Pty Ltd	23B Sunrise Lane Ewingsdale	S96 to Modify Conditions of Consent	Level 2 7/1/16-20/1/16 No submissions	Delegated Authority
10.2011.413.6	Geolink Consulting Pty Ltd	59 Lismore Road Bangalow	S96 Amend Condition 1 of Consent	Level 0	Delegated Authority

**Report No. 13.10      PLANNING - Rural Land Use Strategy - Site Specific Property Investigation Outcomes**

**Directorate:** Sustainable Environment and Economy  
**Report Author:** Alex Caras, Team Leader Land Use Strategy  
**File No:** I2016/159  
**Theme:** Ecology  
 Planning Policy and Natural Environment

**Summary:**

Council resolved to prepare a Rural Land Use Strategy (Strategy) to provide a strategic framework for the future management and use of our rural land. To partly inform preparation of the Strategy, a number of properties were investigated to determine their suitability for inclusion in the draft Strategy. The properties considered come from past council resolutions, past consultant/landowner submissions and/or Council's Financial Sustainability Plan 2015/16. All properties were assessed against the Strategy's Site Suitability Criteria and Mapping Methodology (adopted at the 10 December 2015 Council meeting) and Decision Framework, along with other relevant planning considerations. The Decision Framework is contained in the draft Strategy, which was discussed at the 1 March 2016 Councillor Strategic Planning Workshop and is the subject of a separate report to this meeting.

This report presents the site specific property assessment outcomes for Council's consideration.

**NOTE TO COUNCILLORS:**

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.

**RECOMMENDATION:**

**That Council note the site specific property assessment outcomes contained in Attachment 3 of this report.**

**Attachments:**

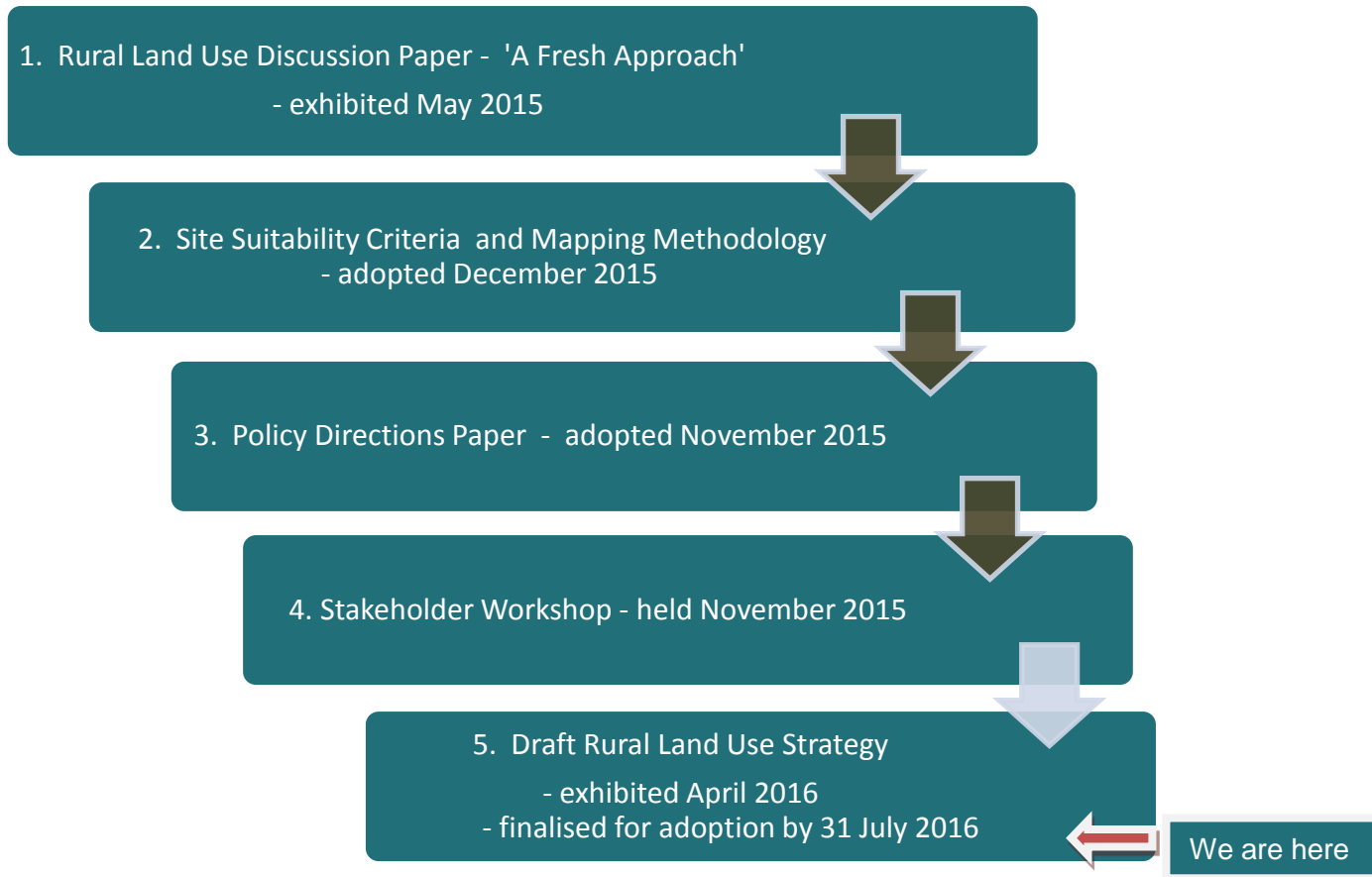
- 1 Map A1 - Location of site specific property investigations: Northern half of Shire, E2016/12461
- 2 Map A2 - Location of site specific property investigations: Southern half of Shire, E2016/12462
- 3 Table A1 - Site Specific Property Investigations, E2016/13406
- 4 Form of Special Disclosure of Pecuniary Interest, E2012/2815



**Background**

Preparation of a new Rural Land Use Strategy (Strategy) is being undertaken in the following stages:

5



A draft Strategy has been prepared and is the subject of a separate report to this Council meeting.

- 10 Over the years a number of properties have been identified for investigation of potential growth opportunities in future land use strategies. The properties identified have come about by way of past council resolutions, past consultant/ landowner submissions and Council's Financial Sustainability Plan 2015/16. This includes nine properties considered by Council at its 11 June 2015 Ordinary Meeting for an "Early Implementation Program to supplement Council's Rural Land Use Strategy Initiative", where it resolved:
- 15

15-285

- 20 *That Council not support the "Early Implementation Program to supplement Council's Rural Land Use Strategy Initiative" and instead consider these properties in the Byron Rural Land Use Strategy now under preparation.*

The purpose of this report is to present the outcome of the property specific assessments which in turn have partly informed the draft Strategy.

**25 Report**

Ninety (90) properties were assessed for the purpose of determining their suitability for inclusion in the draft Rural Land Use Strategy. Maps showing the location of these properties are contained in Attachments 1 and 2. All properties were assessed against the following planning information:

- Site Suitability Criteria and Mapping Methodology (adopted at the 10 December 2015 Council meeting),
- Decision Framework contained in Figure 4 of the draft Strategy (discussed at the 1 March 2016 Councillor Strategic Planning Workshop and presented in a separate report to this meeting); and
- Other relevant considerations, where applicable (eg development approvals; court appeals).

The assessment of these properties was undertaken by an independent consultant to ensure the process was as impartial as possible. The assessment outcomes are contained in Attachment 3.

The assessment resulted in the following properties being included in Table 9: Potential localities for future rural lifestyle living opportunities of the draft Strategy:

Map reference number (Attachments 1 and 2)	Property address	Opportunity supported
33	4 Picadilly Hill Road, Coopers Shoot	Expansion of R5 zone over subject land for a maximum of 5 lots (as per current approval)
53	53 McAuleys Lane, Myocum	Expansion of adjoining R5 zone
57	41 Bilin Road, Myocum	Expansion of adjoining R5 zone over residential part of property
72	951 Broken Head Road, Broken Head	Community Title subdivision of approved accommodation units

The assessment also identified a number of properties to be considered in Council's Residential Strategy (in preparation) to determine what, if any, opportunities exist for future 'urban' settlement. These properties are included in Table 10: Potential Village/Urban Land of the draft Strategy (namely: Coolamon Scenic Drive, North Mullumbimby; The Saddle Road, Mullumbimby; and land southwest of Ewingsdale rural residential estate).

#### Conclusion

The site-specific property assessment outcomes, as contained in Attachments 1, 2 and 3, have been used to partly inform preparation of the draft Strategy. This information contained in this report is for noting as the draft Strategy will be considered by Council in a separate report to this meeting.

#### **Financial Implications**

This is a component of a Council initiated strategy and therefore the administration cost has been met by Council.

**Statutory and Policy Compliance Implications**

The site-specific property assessments are consistent with the relevant planning framework and best practice planning principles.

**STAFF REPORTS - INFRASTRUCTURE SERVICES**

**Report No. 13.11**      **Tweed Street, Brunswick Heads Master Plan**  
**Directorate:**      Infrastructure Services  
**Report Author:**      Christopher Soulsby, Development Contributions Officer  
**File No:**      I2016/152  
**Theme:**      Community Infrastructure  
                          Local Roads and Drainage

**Summary:**

The Tweed Street Masterplan provides a strategic vision for the redevelopment of Tweed Street, Brunswick Heads. Council has, at the budget quarterly review, allocated funds to progress the detailed design of the project. Some Councillors and staff have recently become aware of a section of the community that do not support masterplan. The purpose of this report is to make all Councillors aware of the concerns of the supporters of the Masterplan and those that support an alternative and to seek direction from Council on how to proceed with the implementation of the Masterplan.

**RECOMMENDATION:**

1.    That staff consult with the community on the Tweed Street Masterplan.
2.    That prior to the commencement of the consultation, staff prepare a consultation plan with options on:
  - a)    proceeding with the existing Masterplan, including funding risks and opportunities;
  - b)    not proceeding with the Masterplan and amending the Section 94 Plan to collect funds for alternative amenity improvement works in Brunswick Heads as a priority.
3.    That staff present the consultation plan to a Councillor workshop for input prior to commencing the community consultation.
4.    That staff proceed with the geotechnical report, identification of public utility service locations and cost estimations within the existing approved budget and use this as a basis for the consultation as set out in item 2 a).

## Report

The purpose of this report is to seek direction from Council to staff on the implementation of the Tweed Street Masterplan. On 23 February 2016 a meeting was held with Councillors, staff and representatives of the Tweed Street Taskforce to discuss the implementation of the Tweed Street Masterplan. At this meeting concerns were expressed about the level of community support for the project and the Director of Infrastructure Services gave an undertaking to report the matter to Council.

## Background

The Masterplan has previously undergone extensive community consultation during its preparation in 2009 and exhibition and adoption in 2010. The Masterplan is an adopted strategic document that has informed the works schedules of Council's Section 94 Plan and will provide guidance to Council's capital works planning in Brunswick Heads.

In 2010 Council resolved as follows :

### **10-629 Resolved:**

1. That the Draft Master Plan be adopted by Council as the preferred strategic direction and vision for the future development of Tweed Street, Brunswick Heads.
2. That the adopted Master Plan be part of Council's future budget considerations, commencing with its referral to the development of Council's 2011/12 budget.
3. That to assist with Part 2, a report be provided to Council that details the potential delivery of the adopted Master Plan including the possible staging, funding and costing of the proposed works and the identification of any constraints to its delivery. (Tucker/Staples)

The Masterplan may be viewed at <http://www.byron.nsw.gov.au/publications/tweed-street-master-plan-storyboard>

The completion of items 2 and 3 has been delayed due to a lack of a source of funds. A budget was allocated to progress the design in 2013/14. This was not expended and was carried forward into 2014/15. An amount of \$18,920 was expended to progress the Masterplan to a design concept plan, from which a bill of quantities has been prepared. The bill of quantities is to be used for the preparation of a budget estimate for the project.

At the Ordinary Meeting of 25 February 2016, as part of the quarterly budget review, Council allocated a budget of \$120,000 for 'Tweed Street Master Plan (Design Only)'. These funds would take the concept plans to detailed design plans suitable for construction.

Prior to expenditure of these funds staff are seeking direction from Council on how to proceed, given that there are two significant issues with this project. The first issue relates to the level of support for the project in the community and the second issue pertains to the financial implications.

## Community Issues

Whilst there was extensive consultation in the preparation and adoption of the Masterplan, this consultation was undertaken over five years ago. Reporting in the Echo on 2 February 2016 and 16 November 2015 indicate that the entire community does not fully support the Masterplan. On 2 February 2016 Council received a letter (E2016/6416) from the Brunswick Heads Progress Association that further indicates that there is a segment of the community that does not support the Masterplan.

Staff have been working with the Tweed Street Taskforce and the Brunswick Heads Chamber of Commerce to progress the Masterplan. The Tweed Street Taskforce and the Brunswick Heads Chamber of Commerce represent a segment of the community that is very committed to the Masterplan.

The extent of the support for or against the Masterplan is unknown and staff cannot advise Council on this issue based on the information to hand. The community hasn't been consulted on alternatives to the Masterplan, such as asset renewal ie fixing existing roads, as opposed to rebuilding an existing asset.

Council has three (3) options with regards to the apparent divisions within the community:

1. proceed with the Masterplan as per the previous resolutions and community consultation
2. not proceed with the Masterplan
3. further consult with the community on the costs of the Masterplan, funding sources and alternatives to the Masterplan to determine the level of support of the Masterplan or the alternatives

Given the amount of time since the original consultation and the indications of objection to the Masterplan within the community, it is recommended that staff further consult with the community and report the results of the consultation back to Council.

### Financial Implications

The outcomes of the Masterplan formed the basis of the work schedules in the Brunswick Heads catchment for the 2012 Section 94 Plan. The S94 Plan estimated the cost of works at \$3,196,000 (indexed to January 2016). Of this amount, 1,334,000 is to be funded by developer contributions and 1,862,000 from the general fund or grants.

The following table sets out the developer contributions currently held in the Brunswick Heads Catchment at 30 June 2015.

Brunswick Heads Contributions 2014/15					
	Opening Balance	Contributions Received - Cash	Interest Earned During Year	Expended During Year	Held As Restricted Assets
Open Space	54,969.63	11,187.13	2,123.63	-	68,280.39
Community Facilities	1,997.76	913.85	93.46	-	3,005.07
Cycleways	1,825.61	2,480.50	138.23	-	4,444.33
Car parking	232,484.48	-	7,453.20	297.68	239,640.00
Urban Roads	92,765.46	11,917.24	3,360.31	-	108,043.01
Civic and Urban Improvements	12,154.01		390.14	-	12,544.15
<b>Total</b>	<b>396,196.95</b>	<b>26,498.72</b>	<b>13,558.97</b>	<b>297.68</b>	<b>435,956.95</b>

The Year to Date Section 94 income into the Brunswick Heads catchment as at 29 February 2016 is nil.

The bill of quantities cost estimation prepared by WGM Consulting on the concept plan, excluding a 30% contingency and excluding GST is \$3,667,000.

At this point in time the project cannot be funded from the Section 94 funds held. Council holds approximately 33% of the required developer contributions and has not budgeted for any of Council's share of the apportionment (\$1,862,000). The income into the catchment is very low and future income is dependant on developments at Bayside proceeding. If the subdivisions at Bayside do not proceed, then based upon current income streams it will take 35-40 years to collect the required Section 94 contributions.

Proceeding with the detailed design as budgeted for would allow the project to be in a state to apply for grant funding. However, Council does not have the matching funds either in developer contributions or from the general fund if the grant requires matching funding.

A detailed design has a limited shelf life and after 12 months would require validation of the service locations. Additional amendments or reworking of the design may be required due to changing traffic conditions, or changing engineering standards over time. In this regard, the cost of the detailed design may be sunk if construction is not commenced within a much shorter time frame than the projected timeframe for the collection of developer contributions.

Staff can proceed with the detailed design within the currently allocation budget of \$120,000.

Preliminary estimates indicate that staff can also complete the detailed design and additional community consultation within the existing budget if Council resolves to undertake additional consultation.

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

There are no statutory implications from proceeding with the already budgeted for detailed design. If the detailed design requires amendment of the Section 94 Plan this can be achieved by following to the processes set out in the Environmental Planning and Assessment Act and Regulation.

The Tweed Street Masterplan is a strategic document of Council used to inform design and budgeting processes. Proceeding with the currently budgeted for detailed design work would be consistent with the strategic direction of the adopted Masterplan.

**REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES****Report No. 14.1      Report of the Finance Advisory Committee Meeting held on 18 February 2016**

**Directorate:** Corporate and Community Services  
**Report Author:** Mark Arnold, Director Corporate and Community Services  
**File No:** I2016/156  
**Theme:** Corporate Management  
Financial Services

**Summary:**

The report provides the minutes and recommendations of the Finance Advisory Committee Meeting held on 18 February 2016 for determination by Council.

**RECOMMENDATION:**

1. That Council note the minutes of the Finance Advisory Committee Meeting held on 18 February 2016.

2. That Council adopt the following Committee Recommendation:

**Report No. 5.1    2015/16 Financial Sustainability Project Plan - Update on the Action Implementation Plan as at 31 December 2015**

File No: I2016/33

**Committee Recommendation 5.1.1**

1. That the update report to 31 December 2015 on the 2015/2016 Financial Sustainability Project Plan Action Implementation Plan (E2015/84711) be received and noted.
2. That an Extraordinary meeting of the Finance Advisory Committee be scheduled to review the draft 2016/17 Budget.

3. That Council adopt the following Committee Recommendation:

**Report No. 5.2    Budget Review - 1 October 2015 to 31 December 2015**

File No: I2016/111

**Committee Recommendation 5.2.1**

1. That Council note that it authorised the itemised budget variations as shown in Attachment 2 (#E2016/8631) which includes the following results in the 31 December 2015 Quarterly Review of the 2015/2016 Budget:
  - a) General Fund - \$0 adjustment in the accumulated surplus/working funds
  - b) General Fund - \$2,238,300 increase in reserves
  - c) Water Fund - \$1,210,900 increase in reserves
  - d) Sewerage Fund - \$1,573,700 increase in reservesat its Ordinary meeting held on 25 February 2016.
2. That Council note that it authorised the revised General Fund Accumulated Surplus/(Working Funds) of \$919,100 for the 2015/2016 financial year as at 31 December 2015 at its Ordinary meeting held on 25 February 2016.



**Attachments:**

- 1 Minutes of the Finance Advisory Committee Meeting held on 18 February 2016, I2016/114

**Report**

The attachment to this report provides the minutes of the Finance Advisory Committee Meeting of 18 February 2016 for determination by Council. The agenda for the meeting is at the attached link:

5 [http://byron.infocouncil.biz/Open/2016/02/FAC\\_18022016\\_AGN\\_517\\_AT.PDF](http://byron.infocouncil.biz/Open/2016/02/FAC_18022016_AGN_517_AT.PDF) .

The committee recommendations are supported by management and are provided in the attachment to this report.

10 Councillors were advised in Memorandum (#E2016/10613) dated 19 February 2016 of the Committee's Recommendation in relation to Report 5.2 – Budget Review – 1 October 2015 to 31 December 2015 to the Finance Advisory Committee. The Budget Review for the period from 1 October 2015 to 31 December 2015 was also the subject of Report 13.1 to the Ordinary meeting held on 25 February 2016.

15 Council at its Ordinary meeting adopted the staff recommendation for *Report 13.1 – Budget Review – 1 October 2015 to 31 December 2015*, in accordance with the Recommendation from the Finance Advisory Committee.

20 Accordingly Committee Recommendation 5.2.1 has been amended to allow Council note its authorisation of the budget adjustments detailed in part 1 of Committee Recommendation 5.2.1, and the adoption of the revised estimated General Fund Accumulated Surplus/(Working Funds) surplus detailed in part 2 of Committee Recommendation 5.2.1 at its Ordinary meeting held on 25 February 2016.

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**Financial Implications**

As per the Reports listed within the Finance Advisory Committee Meeting of 18 February 2016.

30 **Statutory and Policy Compliance Implications**

As per the Reports listed within the Finance Advisory Committee Meeting of 18 February 2016.

**Report No. 14.2      Report of the Internal Audit Advisory Committee Meeting held on 18 February 2016**

**Directorate:** Corporate and Community Services  
**Report Author:** Mark Arnold, Director Corporate and Community Services  
**File No:** I2016/157  
**Theme:** Corporate Management  
Financial Services

**Summary:**

The report provides the minutes and recommendations of the Internal Audit Advisory Committee Meeting held on 18 February 2016 for determination by Council.

**RECOMMENDATION:**

1. **That Council note the minutes of the Internal Audit Advisory Committee Meeting held on 18 February 2016.**

2. **That Council adopt the following Committee Recommendation:**

**Report No. 5.1 Internal Audit Report February 2016**  
File No: I2016/103

**Committee Recommendation 5.1.1**

**That Council receive and note the Internal Audit Report – Audit Committee (February 2016) (#E2016/9342) prepared by the Internal Auditor, Grant Thornton.**

3. **That Council adopt the following Committee Recommendation:**

**Report No. 5.2 Internal Audit Report - Governance and Complaints Handling November 2015**  
File No: I2016/104

**Committee Recommendation 5.2.1**

**That the Internal Audit Report – Governance and Complaints Handling November 2015 (E2016/8802) be noted by Council along with responses and actions detailed by Management.**

4. **That Council adopt the following Committee Recommendation:**

**Report No. 5.3 2014/2015 Financial Statements Audit Management Letter**  
File No: I2016/105

**Committee Recommendation 5.3.1**

**That the comments provided by Management in response to matters raised in the 2014/2015 Financial Statements Audit Management Letter be noted by Council.**

**Attachments:**

- 1 Minutes of the Internal Audit Advisory Committee Meeting held on 18 February 2016, I2016/122

**Report**

5 The attachment to this report provides the minutes of the Internal Audit Advisory Committee Meeting of 18 February 2016 for determination by Council. The agenda for the meeting is at the attached link: [http://byron.infocouncil.biz/Open/2016/02/IAAC\\_18022016\\_AGN\\_513.PDF](http://byron.infocouncil.biz/Open/2016/02/IAAC_18022016_AGN_513.PDF) .

The committee recommendations are supported by management and are provided in the attachment to this report.

10 **Financial Implications**

As per the Reports listed within the Internal Audit Advisory Committee Meeting of 18 February 2016.

15 **Statutory and Policy Compliance Implications**

As per the Reports listed within the Internal Audit Advisory Committee Meeting of 18 February 2016.

**REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY**

**Report No. 14.3      Report of the Biodiversity and Sustainability Advisory Committee  
Meeting held on 18 February 2016**

**Directorate:** Sustainable Environment and Economy  
**Report Author:** Sharyn French, Manager Environmental and Economic Planning  
**File No:** I2016/142  
**Theme:** Ecology  
Planning Policy and Natural Environment

**Summary:**

This report provides the minutes and recommendations of the Biodiversity and Sustainability Advisory Committee Meeting of 18 February 2016 for determination by Council.

**RECOMMENDATION:**

- 1. That Council note the minutes of the Biodiversity and Sustainability Advisory Committee Meeting held on 18 February 2016.**
- 2. That Council does not adopt Committee Recommendation 5.1 as shown in the attachment to this report, but instead adopts the Management Recommendation as follows:**

**Management Recommendation**

**That Council consider the Biodiversity and Sustainability Committee Recommendation 5.1, outlined in this report, as part of the 2016/17 budget process.**

**Attachments:**

- 1      Minutes 18/02/2016 Biodiversity and Sustainability Advisory Committee, I2016/137**

**Report**

The attachment to this report provides the minutes of the Biodiversity and Sustainability Advisory Committee Meeting of 18 February 2016 for determination by Council.

The agenda for the meeting can be found via the following link:

[http://byron.infocouncil.biz/RedirectToDoc.aspx?URL=Open/2016/02/BSAC\\_18022016\\_AGN\\_508\\_AT.PDF](http://byron.infocouncil.biz/RedirectToDoc.aspx?URL=Open/2016/02/BSAC_18022016_AGN_508_AT.PDF)

In relation to Report No. 5.1- Environmental Levy Budget, the Committee recommended:

**Committee Recommendation 5.1 – Environmental Levy Budget**

1. That the Biodiversity and Sustainability Advisory Committee recommend that funds allocated in the 2016/17 draft Budget to revise the Vegetation Mapping with the 2015 high resolution aerial imagery be split equally at \$22,000 each between the three Directorates, given that more accurate vegetation mapping will benefit each Directorate's delivery of their projects and services.
2. That the Biodiversity and Sustainability Advisory Committee recommend that funds allocated in the 2016/17 draft Budget to the Low Carbon Strategy be increased by \$10,000 to \$23,000.
3. That the Biodiversity and Sustainability Advisory Committee recommend that funds allocated in the 2016/17 draft Budget to enact possible actions from the Integrated Weed Management Strategy upon its adoption and the Roadside Vegetation Management Plan be increased by \$10,000 to \$19,200.

**Sustainable Environment and Economy Management Comments**

In accordance with the Committee Recommendation 5.1, Management provide the following additional information:

The intent of Item 1, of the Committee's recommendation, was that the Environmental Levy would fund \$22,000 towards the total cost of the vegetation mapping project and that the remainder of the costs would be funded equally (\$22,000 each) from Infrastructure Services and Corporate and Community Services directorates. This would then provide additional funds in the Environmental Levy to be allocated in part as per Items 2 and 3 of the Committee's recommendation above.

**Corporate and Community Services Management Comments**

In accordance with the Committee Recommendation 5.1, Management provide the following additional information and for the reasons given below alternatively recommend:

**That Council consider the Biodiversity and Sustainability Committee Recommendation 5.1 outlined in this report as part of the 2016/17 budget process.**

The initial report submitted to the Biodiversity and Sustainability Advisory Committee on 18 February 2016 suggested an amount of \$61,400 be allocated to the vegetation mapping project funded from the Environmental Levy. It is understood the intent of recommendation 1 under Committee Recommendation 5.1 is to reduce this to \$22,000 with the remaining amount to be funded otherwise from other Council Directorates. If this occurs this would make \$39,400 available from Environmental Levy funds. Then considering the budgetary increases of \$10,000 each for recommendations 2 and 3, this then leaves \$19,400 Environmental Levy funds unallocated. It would also mean potentially Council would need to find funding of \$39,400 from other sources if the vegetation mapping project is to proceed as envisaged.

Given Council is yet to consider any aspect of the overall 2016/2017 Budget, it is alternatively recommended that Council consider the advice provided by the Biodiversity and Sustainability Committee through Recommendation 5.1 in this report as part of the 2016/2017 Budget process.

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The remainder of the Committee recommendations are supported by management and are provided in the attachment to this report.

**Financial Implications**

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As per the Reports listed within the Biodiversity and Sustainability Advisory Committee Meeting of 18 February 2016.

**Statutory and Policy Compliance Implications**

15

As per the Reports listed within the Biodiversity and Sustainability Advisory Committee Meeting of 18 February 2016.

**CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES**

**Report No. 16.1**      **CONFIDENTIAL - Contract 2015-0031 Argyle Street Water Main Replacement**

**Directorate:** Infrastructure Services  
**Report Author:** Dean Baulch, Principal Engineer, Systems Planning  
 Robert Harris, Systems Planning

**File No:** I2016/139  
**Theme:** Community Infrastructure  
 Water Supplies

**Summary:**

As part of Councils' commitment to providing a quality water supply the replacement of water mains in Argyle Street, Mullumbimby have been included in the 2015/16 capital works programme.

This section of trunk water main is the final stage of the trunk water main linking through Mullumbimby to the Rous Supply. It is also intended to replace water mains and property service connections in this area that are reaching the end of their service life.

The purpose of this report is to present to Council the outcome of a public tender for approximately 780 metres of new 225DN trunk water main to link existing water trunk mains and replace an existing 100mm water main installed in 1976.

Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulation 2005.

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**RECOMMENDATION:**

1. That pursuant to Section 10A(2)(c), (d)i, (d)ii and (d)iii of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report **CONFIDENTIAL - Contract 2015-0031 Argyle Street Water Main Replacement**.
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
  - c) information that would, if disclosed, confer a commercial advantage on a competitor of the council
  - d) 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:
  - a) disclosure could prejudice the Council's position in litigation; and (b) disclosure could adversely impact Council's position in the upcoming negotiations.

**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, **CONFIDENTIAL - Contract 2015-0031 Argyle Street Water**



**Main Replacement are to be treated as confidential as they relate to matters specified in s10A(2)(c), s10A(2)(d)i, s10A(2)(d)ii and s10A(2)(d)iii of the Local Government Act 1993.**

- 5    2.    That Council adopt the recommendation set out on the final page of the Report.

**Attachments:**

- 10    1    Confidential - assessment panel report and tender evaluation plan, E2016/10243