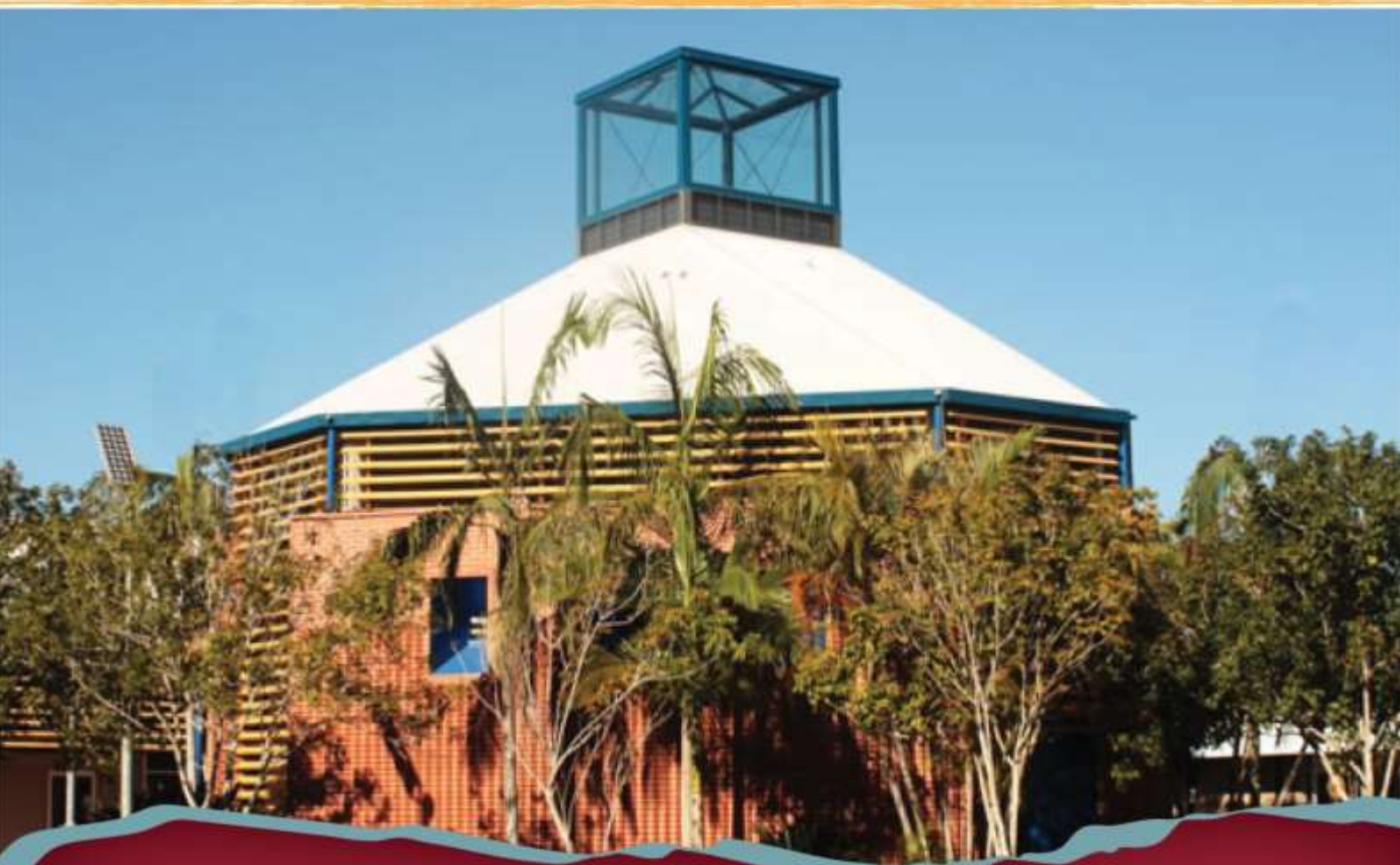




# Byron Shire Council



## Agenda

### Extraordinary Meeting

**Thursday, 2 November 2017**

held at Council Chambers, Station Street, Mullumbimby  
commencing at 2.30pm

Mark Arnold  
Acting 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

## EXTRAORDINARY MEETING

### **BUSINESS OF EXTRAORDINARY MEETING**

#### **1. APOLOGIES**

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

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- 3.2 Supporting community resilience in flood planning..... 6

#### **4. PETITIONS**

#### **5. SUBMISSIONS AND GRANTS**

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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.***

## NOTICES OF MOTION

**Notice of Motion No. 3.1 Affordable Housing**  
**File No: I2017/1491**

I move that Council:

1. **Tables an affordable housing addendum to its Supporting Partnerships Policy, focused on providing a clear framework to support partnerships based on providing affordable housing outcomes.**
2. **Identify the preferred coordinating entity, structure and delivery arrangements which can deliver on Councils intent in a coordinated way, harnessing a range of community, private and Government resources and ensuring that benefits are retained for the community and that the principles of public accountability, community partnership and sustainability are embedded in the arrangement.**

**Signed: Cr Sarah Ndiaye**

**Councillor's supporting information:**

The problem of housing affordability has grown and deepened in the Shire over recent times and the problem is having a negative impact on social and economic inclusion.

Council has acknowledged, that though it cannot solve the problem alone and much of the deliverance of affordable housing is beyond its control, it can play a constructive role in mitigating this problem and is working through its options to maximise positive community benefits.

There are a wide range of Government, Community and Private agencies that share an interest in addressing this problem.

Currently there are a number of affordable housing projects are being proposed to help address the problem, however a 'project by project' approach, without an overarching strategic plan, supported by effective policy, will not deliver maximum benefits to the community. A co-ordinated approach that can harness a wide range of external resources can provide the basis for maximising the outcomes for the community and leveraging Council assets and recourses.

For Council to move forward in this area we needs to ensure that the actions and interventions to improve housing affordability are strategic, policy driven, effectively targeted and sustainable, providing short, medium and long-term benefits for the Community.

**Staff comments by Christopher Soulsby, Developer Contributions Officer, Assets and Major Projects and Shannon Burt, Director Sustainable Environment and Economy:**  
 (Management Comments must not include formatted recommendations – resolution 11-979)

The Supporting Partnerships Policy is being presented to Council with a recommendation to adopt the policy in a separate report to this meeting – *Public Exhibition of Draft Policy –Supporting Partnerships Policy (#2017/1148)*. Part 2 of the recommendation in this report notes that further guidelines will need to be prepared.

A guideline on affordable housing partnerships would be used to prepare the requirements for expressions of interest (EOI) requests where Council solicits proposals and to provide the criteria

to assess unsolicited proposals. The guideline would provide an additional level of detail to compliment the policy. In addition to the items covered in Part 2 of the NOM, the guidelines may include:

- 5
- Options for value capture of the increase in land value resulting from land rezoning;
  - Use of voluntary planning agreements;
  - Recoupment of foregone developer contributions;
  - Specifications for the financial data to be presented to enable Council to model the proposal;
  - Types of affordable housing management model.

10

Upon completion of the guideline it will be presented to a Strategic Planning Workshop and then reported to Council for adoption.

### Financial/Resource/Legal Implications:

15

Preparation of the guideline will be undertaken within existing resources.

### Is the proposal consistent with any Delivery Program tasks?

20

Yes EN 2.1.2 Establish planning for and provision of inclusive and accessible housing that can meet the needs of our community.

**Notice of Motion No. 3.2     Supporting community resilience in flood planning**  
**File No:                             I2017/1498**

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**I move that Council:**

- 1.     Note Res 17-130**
- 2.     Invite the State Emergency Service (SES) to provide a briefing to Council on current efforts to establish 'Community Action Teams' (CATs) as part of forward planning and responsiveness to flood events in local communities.**
- 3.     Determine and provide support to potential CAT formation within the Byron Shire in conjunction with the SES and local communities.**
- 4.     Develop a response plan as to how Council will respond to flood events with particular focus on the coordination of information and resources required by the community during and in the immediate aftermath of a flood.**
- 5.     Implement a communications strategy to ensure widespread community understanding of Council's role during and in response to a flood event.**
- 6.     Consider funding and resources necessary to support these initiatives and provide a report to Council by the end of 2017.**

**Signed:   Cr Basil Cameron**

**Councillor's supporting information:**

I recently attended a series of community meetings conducted by the SES in Mullumbimby, Ocean Shores and Billinudgel. The purpose was to explore the preparedness of local communities to prepare for flood events by forming Community Action Teams (CATs) with the support of the SES. CATs have been established elsewhere in NSW successfully and the SES is now promoting their establishment following the March floods. In principle they are the same as the proposed 'mud army' referred to in Res 17-130.

The basic idea is that where there are willing volunteers, the SES will provide a local store (maybe a shipping container) of resources for the community to access during and immediately after a flood. CATs would then have the resources necessary to take responsibility for community safety during events. Volunteers determine the needs for their community - torches, first aid, hi viz wear, blankets, witches hats etc. CATs are also covered by the SES insurance.

This initiative from the SES is timely and provides Council with the opportunity to follow up on many of the actions referred to in Res 17-130. Most notably the possibility to dovetailing with the SES on the establishment of a 'mud army' as local first responders. One of the lessons of the March event was that Council is seen as an immediate responder as waters subside. While the SES have expertise and resources during the emergency phase, Council may be able to provide additional resources to CAT's for the immediate aftermath that would help local communities. For example road/flood signs, protocols and instructions for starting pumps etc.

Attendees at all the meetings were positive about the establishment of CATs and the SES is undertaking further work with those who registered an interest.

Part 4 and 5 of the motion are a response to other items referred to in Res 17-130, particularly the need for Council to have a clear response plan that includes contingencies for coordination of

information and resources sought by the community in the immediate aftermath. While in many cases the action will be referral to other agencies (eg housing), it is important that Council is prepared with a plan for the who and how these services can be delivered. Clearly communicating Council's role prior to an event will also assist the community.

5 Obtaining a briefing from the SES is the first step to identifying the steps necessary to implement the objectives of the motion.

10 No significant additional funding is anticipated at this stage and it is suggested that the tasks be undertaken as part of ongoing operations.

Recommended priority relative to other Delivery Plan tasks:

15 High.

Definition of the project/task:

20 Arrange meeting with SES. Determine and provide support to potential CAT's. Develop a coordination action plan for responses to floods. Implement a communications strategy.

Source of Funds (if applicable):

Existing operational

25 **Staff comments by Anna Vinfield, Manager Governance Services, Community Corporate Services and Tony Nash, Manager Works, Infrastructure Services:**

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

30 The State Emergency Service (SES) have been invited to present to Councillors at the 9 November Strategic Planning Workshop. This presentation will outline community preparedness for future natural disasters including the potential formation of 'Community Action Teams' as part of forward planning and responsiveness to flood events in local communities.

35 Staff are preparing a detailed report on proposed Natural Disaster Response following a Mayoral Minute (RES 17-130) for presentation to the 23 November 2017 Ordinary Council Meeting. The report will detail:

- Extreme weather and disaster communication protocols;
- Review of Council infrastructure performance during flood events; and
- Community support and protocols.

It will also outline the implementation of 'community action teams' and consider required funding and resources.

45 *Communication protocols*

A draft emergency management communications plan has been developed and endorsed by Council's communication committee. This plan is a guideline for Byron Shire Council in the event of an emergency and supports the Tweed Byron Local Emergency Management Plan.

50 Communications from the Tweed Byron Local Emergency Management Committee (TBLEMC) when it is operational can be done a number of ways, such as from the TBLEMC, the Regional Emergency Management Committee, at a State level or referred back to the local committee and done by local government, such as was the case for Upper Coopers Creek landslip in 2013. It depends upon the size, extent and severity of the event.

55

It should be noted that Byron Shire Council does not play a lead role other than when the emergency relates to infrastructure failure of water, sewerage, roads and other transport assets. During an emergency event, Council's media and communication priority focus will be to residents, visitors and staff; local media; and national media. The plan also articulates processes for the stages of preparation; response; and recovery.

### *Provision of resources to CAT's*

*The resources required by each CAT will vary, as will the storage options and who provides these resources and controls access. They will be developed in the formation of each individual CAT. Funding for Council to provide our share of the resources will become clearer as the discussions and formations of CATS in our area progresses.*

### *Community support*

A regional learning from the March flood event was the need for strong coordination of community volunteers in order to maximise the impact of community good will and avoid duplication to ensure residents affected by natural disaster receive clear messaging in relation to assistance. Council is working with key service providers to develop a community response protocol which will include the development of a mechanism to effectively harness community volunteers in relation to provision of support for disaster affected residents.

The 'community action teams' proposed by the SES could be the appropriate mechanism for this.

Council will continue to play a lead role in advocating for community payments and grants in the wake of natural disasters and will, where appropriate, submit grant funding applications, or support key organisations to do so.

### Financial/Resource/Legal Implications:

Implications will be determined in the report to be submitted to the November meeting.

### Is the proposal consistent with any Delivery Program tasks?

Yes

CI2.4.1 Provide and facilitate local emergency management - Enhance communication to community during Natural Disasters



**SUBMISSIONS AND GRANTS****Report No. 5.1      Byron Shire Council Submissions and Grants as at 27 September 2017**

5    **Directorate:**      Corporate and Community Services  
    **Report Author:**      Jodi Frawley, Grants Co-ordinator  
    **File No:**      I2017/1362  
10    **Theme:**      Corporate Management  
                        Governance Services

**Summary:**


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

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**RECOMMENDATION:**

**That Council note the report.**

**Attachments:**

1      Byron Shire Council Current Submissions and Grants as at 27 September 2017, E2017/97401 

### Report

This report provides an update on grant submissions including funding applications submitted, potential funding opportunities and those awaiting notification.

5

#### Funding Applications – Successful

- Building capacity in Byron's Community Halls, Building Better Regions Fund Community Investments, (Australian Government) - \$20,000
- 10 • Blindmouth Creek Crossing replacement Bridges Renewal Programme, (Australian Government) - \$570,275
- Bridges for the Bangalow Agricultural Area, Bridges Renewal Programme, (Australian Government) - \$2,588,908
- 15 • North Byron Coastline Management Plan, Coastal and Estuary Grants Program (NSW Government) - \$75,000

#### Funding Applications - Unsuccessful

- 20 • Fishing Platform Brunswick River, Recreational Fishing Trust, (NSW Government)

#### Funding opportunities identified for consideration by staff

- Byron Shire Bike Plan, Active Transport (Roads and Maritime Services, NSW Government)
- Cycle/walking paths, Broken Head road (Suffolk Park to Byron Bay), Active Transport (Roads and Maritime Services, NSW Government)
- 25 • Cycle/walking paths, Lismore Road, Active Transport (Roads and Maritime Services, NSW Government)
- Cycle/walking paths, Ewingsdale Road, Active Transport (Roads and Maritime Services, NSW Government)
- 30 • Cycle/walking paths, Balemo Road, Active Transport (Roads and Maritime Services, NSW Government)
- Shared Zones for Lateen and Bay Lanes, Byron Bay Active Transport (Roads and Maritime Services, NSW Government)
- Clarks Beach Amenities, Stronger Country Communities Fund (Regional Growth Fund, NSW Government)
- 35 • Ocean Shore Community Centre upgrade, Stronger Country Communities Fund (Regional Growth Fund, NSW Government)
- Active Recreation Waterlily Park, Ocean Shores, Stronger Country Communities Fund (Regional Growth Fund, NSW Government)
- 40 • Refurbishment of Sandhills Childcare Centre, Stronger Country Communities Fund (Regional Growth Fund, NSW Government)
- International Busking Festival, Festivals Australia (Australian Government)

#### Funding submissions submitted and awaiting notification

- 45 • 3D Mapping Tool, Smart Cities and Suburbs, (Australian Government)
- Byron Bay Bypass, Regional Jobs and Investment Package for North Coast NSW (Australian Government)
- Shark Smart Alert and Advice System, Shark Management Strategy Program (NSW Government)
- 50 • 622 Bangalow Road Safety Treatments, Safer Roads including Black Spot Funding (Roads and Maritime Services, NSW Government)
- Brunswick Harbour Boat Ramp, NSW Boating Now (RMS, NSW Government)

# BYRON SHIRE COUNCIL

## SUBMISSIONS AND GRANTS

5.1

- Bridges for the Bangalow Agricultural Area, Fixing Country Roads (NSW Government Restart NSW)
- Brunswick Library renovation and extension, Regional Cultural Fund (Regional Growth Fund, NSW Government)
- 5 • Byron Trails, Northern Rivers Business Recovery Program (Commonwealth-NSW National Disaster Relief and Recovery)
- Emergency Relief Information, Northern Rivers Business Recovery Program (Commonwealth-NSW National Disaster Relief and Recovery)
- 10 • Billi's Back, Northern Rivers Business Recovery Program (Commonwealth-NSW National Disaster Relief and Recovery)
- Northern Rivers Resilience Masterclasses, Northern Rivers Business Recovery Program (Commonwealth-NSW National Disaster Relief and Recovery)
- Byron Bay Town Centre Bypass, Growing Local Economies, (NSW Government)
- McGettigans Lane to Pacific Highway, Growing Local Economies, (NSW Government)
- 15 • Clifford Street Roundabout, Growing Local Economies, (NSW Government)
- Byron Bay Town Centre Bypass, Growing Local Economies, (NSW Government)
- The Cavanbah Extension, Regional Sports Infrastructure, (NSW Government)

20 Additional information on the grant submissions made and or pending is provided in Attachment 1 – Grants report as at 27 September 2017

### Financial Implications

25 If Council is successful in obtaining the identified grants more than \$12 million would be achieved which would provide significant funding for Council projects. Some of the grants require a contribution from Council (either cash or in-kind) and others do not. Council's contribution is funded. The potential funding and allocation is noted below:

30	Requested funds from funding bodies	\$12,620,784
	Council cash contribution	\$7,670,525
	Council in-kind contribution	\$151,470
	Other contributions	\$10,526,060
	Funding applications submitted and awaiting notification (total project value)	<b>\$30,968,839</b>

### 35 Statutory and Policy Compliance Implications

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

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

**Report No. 6.1**      **Appointment of new alternate Councillor representative to Richmond Tweed Regional Library Committee**

**Directorate:**      Corporate and Community Services  
**Report Author:**      David Royston-Jennings, Corporate Governance and Strategic Planning Officer

**File No:**      I2016/3

**Theme:**      Corporate Management  
Councillor Services

**Summary:**

Council's appointed representatives to the Richmond Tweed Regional Library ("RTRL") are Cr Coorey and Cr Ndiaye, with Cr Hackett as the current alternate representative. Council appointed its representatives at its Extraordinary Meeting held on 29 September 2016.

Councillors are appointed for a 4 year term in line with the Local Government Ordinary Elections unless otherwise resolved by Council.

The purpose of this report is to seek a replacement alternate representative for Cr Hackett, who has recently resigned as the alternate representative for this Committee.

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**RECOMMENDATION:**

**That Council appoint Cr \_\_\_\_\_ as the alternate representative to the Richmond Tweed Regional Library Committee.**

**Report**

The RTRL Committee has two Councillor Representatives appointed from each member local government area. The local government members of the RTRL are Ballina Shire, Byron Shire, Tweed Shire and Lismore City Councils. Each of the member Councils may also appoint an alternate delegate, if one of the appointed Councillor Representatives cannot attend.

Cr Hackett is currently the alternate member to the RTRL Committee, but has recently resigned due to conflicts which impact on her availability to attend RTRL meetings.

**Background**

The Richmond Tweed Regional Library was established in January 1971, when Lismore City Council and Ballina Shire Council signed an agreement to develop a joint free public library service. They were quickly joined by Byron Shire Council and Tweed Shire Council, and the Richmond Tweed Regional Library Service was created. Since then, with the strong support of these four councils, the library has grown and now offers a broad range of services including books, magazines, DVDs, community information talks and author visits. An extensive range of eResources can also be accessed online via this website. All service points offer a comprehensive free public library service, including the mobile library.

The RTRL Vision is:

*We will support our communities to achieve.*

The RTRL Mission is:

*To create an environment where people can discover, connect and escape with knowledge, skills, ideas and stories.*

The RTRL Values are:

*Show mutual respect, strive to do our best, love doing what we do, communicate connect, listen learn.*

Meetings are held quarterly at alternate Local Government locations. Meetings commence at 10.00am and run to approximately 1.00pm, depending on agenda items. Morning tea and lunch is provided.

Please see the Richmond Tweed Regional Library web site for past business papers of this committee <http://rtrl.nsw.gov.au>

**Financial Implications**

Councillors travel to and from Regional Committee meetings is reimbursed by Council and budgeted for in the Councillors Budget.

**Statutory and Policy Compliance Implications**

The RTRL requires the appointment of two Councillor representatives and an alternate representative.

**Report No. 6.2                      Council Investments September 2017**

**Directorate:** Corporate and Community Services

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

**File No:** I2017/1355

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 September 2017 for Council's information.

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

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**RECOMMENDATION:**

**That the report listing Council's investments and overall cash position as at 30 September 2017 be noted.**

20

**Report**

In relation to the investment portfolio for the month of September 2017, Council has continued to maintain a diversified portfolio of investments. At 30 September 2017, the average 90 day bank bill rate (BBSW) for the month was 1.72%. Council's performance to 30 September 2017 is 2.51%. Council's performance is again higher than the benchmark. This is largely due to the active ongoing management of the investment portfolio, maximising investment returns through secure term deposits and purchasing floating rate notes with attractive interest rates.

- 10 The table below identifies the investments held by Council as at 30 September 2017:

**Schedule of Investments held as at 30 September 2017**

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	Ethical ADI	Type	Interest Rate Per Annum	Current Value
24/03/17	1,000,000	NAB Social Bond (Gender Equality)	N	AA-	24/03/22	N	B	3.44%	1,011,100.17
28/10/16	650,000	Teachers Mutual Bank	P	BBB+	28/10/19	Y	FRN	3.17%	653,642.89
31/03/17	1,000,000	CBA Climate Bond	N	AA-	31/3/22	N	FRN	3.25%	1,000,000.00
23/08/17	2,000,000	NAB	P	AA-	23/11/17	N	TD	2.47%	2,000,000.00
08/08/17	2,000,000	NAB	N	AA-	06/11/17	N	TD	2.45%	2,000,000.00
03/07/17	1,000,000	NAB	N	AA-	09/10/17	N	TD	2.44%	1,000,000.00
30/08/17	2,000,000	NAB	N	AA-	30/11/17	N	TD	2.23%	2,000,000.00
08/08/17	2,000,000	Bank of Queensland	P	BBB+	05/02/18	Y	TD	2.60%	2,000,000.00
02/08/17	2,000,000	Police Credit Union	P	NR	02/11/17	U	TD	2.55%	2,000,000.00
15/08/17	2,000,000	ME Bank	N	BBB	15/11/17	Y	TD	2.45%	2,000,000.00
01/06/17	2,000,000	Beyond Bank	P	BBB	03/10/17	Y	TD	2.65%	2,000,000.00
07/07/17	2,000,000	ME Bank	P	BBB	07/10/17	Y	TD	2.55%	2,000,000.00
08/08/17	2,000,000	ME Bank	N	BBB	08/11/17	Y	TD	2.45%	2,000,000.00
04/07/17	1,000,000	Bananacoast Credit Union	P	NR	04/01/18	Y	TD	2.70%	1,000,000.00
18/09/17	2,000,000	AMP Bank	P	A	18/12/17	N	TD	2.40%	2,000,000.00
08/09/17	2,000,000	NAB	N	AA-	08/12/17	N	TD	2.52%	2,000,000.00
30/08/17	2,000,000	ME Bank	N	BBB	30/11/17	Y	TD	2.45%	2,000,000.00
27/09/17	1,000,000	Bank of Queensland	N	BBB+	27/03/18	Y	TD	2.50%	1,000,000.00
04/07/17	2,000,000	Beyond Bank	N	BBB	04/10/17	Y	TD	2.65%	2,000,000.00
13/06/17	1,000,000	Auswide Bank Ltd	N	BBB-	13/10/17	Y	TD	2.60%	1,000,000.00
05/07/17	1,000,000	Police Credit Union	N	NR	05/10/17	U	TD	2.60%	1,000,000.00
15/08/17	1,000,000	Bank of Queensland	N	BBB+	12/01/18	Y	TD	2.55%	1,000,000.00
06/09/17	1,000,000	Bananacoast Credit Union	N	NR	07/03/18	Y	TD	2.60%	1,000,000.00
23/08/17	1,000,000	The Capricornian Credit Union	P	NR	23/11/17	Y	TD	2.50%	1,000,000.00
19/07/17	2,000,000	Beyond Bank	N	BBB	30/10/17	Y	TD	2.65%	2,000,000.00
03/04/17	2,000,000	Police Credit Union	N	NR	04/10/17	U	TD	2.80%	2,000,000.00

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

6.2

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	Ethical ADI	Type	Interest Rate Per Annum	Current Value
03/05/17	1,500,000	Auswide Bank Ltd	P	BBB-	08/11/17	Y	TD	2.68%	1,500,000.00
10/05/17	1,000,000	Auswide Bank Ltd	N	BBB-	15/11/17	Y	TD	2.70%	1,000,000.00
02/06/17	1,500,000	ME Bank	N	BBB	04/12/17	Y	TD	2.67%	1,500,000.00
05/06/17	1,000,000	Intech Bank Ltd	P	NR	05/12/17	Y	TD	2.80%	1,000,000.00
08/06/17	2,000,000	ME Bank	N	BBB	08/12/17	Y	TD	2.65%	2,000,000.00
13/06/17	1,000,000	Bananacoast Credit Union	N	NR	13/10/17	Y	TD	2.60%	1,000,000.00
05/07/17	1,500,000	Hunter United Employees Credit Union	P	NR	06/11/17	U	TD	2.85%	1,500,000.00
05/07/17	1,000,000	Police Credit Union	N	NR	17/10/17	U	TD	2.60%	1,000,000.00
10/07/17	1,000,000	Hunter United Employees Credit Union	N	NR	10/10/17	U	TD	2.65%	1,000,000.00
17/07/17	1,000,000	Police Credit Union	N	NR	17/11/17	U	TD	2.65%	1,000,000.00
28/07/17	2,000,000	ME Bank	N	BBB	30/10/17	Y	TD	2.45%	2,000,000.00
03/08/17	1,000,000	Maitland Mutual Building Society	P	NR	03/11/17	Y	TD	2.50%	1,000,000.00
15/08/17	1,000,000	ME Bank	N	BBB	15/11/17	Y	TD	2.45%	1,000,000.00
17/08/17	1,000,000	AMP Bank	N	A	17/11/17	N	TD	2.45%	1,000,000.00
17/08/17	1,000,000	ME Bank	N	BBB	17/11/17	Y	TD	2.45%	1,000,000.00
17/08/17	1,000,000	Bank of Queensland	N	BBB+	19/02/18	Y	TD	2.55%	1,000,000.00
23/08/17	1,000,000	ME Bank	N	BBB	23/11/17	Y	TD	2.45%	1,000,000.00
24/08/17	1,000,000	ME Bank	N	BBB	24/11/17	Y	TD	2.45%	1,000,000.00
30/08/17	1,000,000	ME Bank	N	BBB	28/11/17	Y	TD	2.45%	1,000,000.00
31/08/17	2,000,000	NAB	N	AA-	12/12/17	N	TD	2.50%	2,000,000.00
31/08/17	2,000,000	NAB	N	AA-	18/12/17	N	TD	2.50%	2,000,000.00
01/09/17	1,000,000	NAB	N	AA-	02/01/18	N	TD	2.52%	1,000,000.00
05/09/17	1,000,000	Bananacoast Credit Union	N	NR	06/03/18	Y	TD	2.60%	1,000,000.00
15/09/17	1,000,000	Auswide Bank Ltd	N	BBB-	15/12/17	Y	TD	2.40%	1,000,000.00
15/09/17	1,000,000	Peoples Choice Credit Union	N	NR	15/03/18	Y	TD	2.55%	1,000,000.00
28/09/17	2,000,000	Rural Bank	N	BBB+	29/01/18	Y	TD	2.50%	2,000,000.00
28/09/17	1,000,000	NAB	N	AA-	29/12/17	N	TD	2.51%	1,000,000.00
N/A	2,065,297	CBA Business Online Saver	N	A	N/A	N	CALL	1.40%	2,065,296.85
<b>Total</b>	<b>76,215,297</b>						<b>AVG</b>	<b>2.51%</b>	<b>76,230,039.91</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. Ethical ADI**

Y = No investment in Fossil Fuels

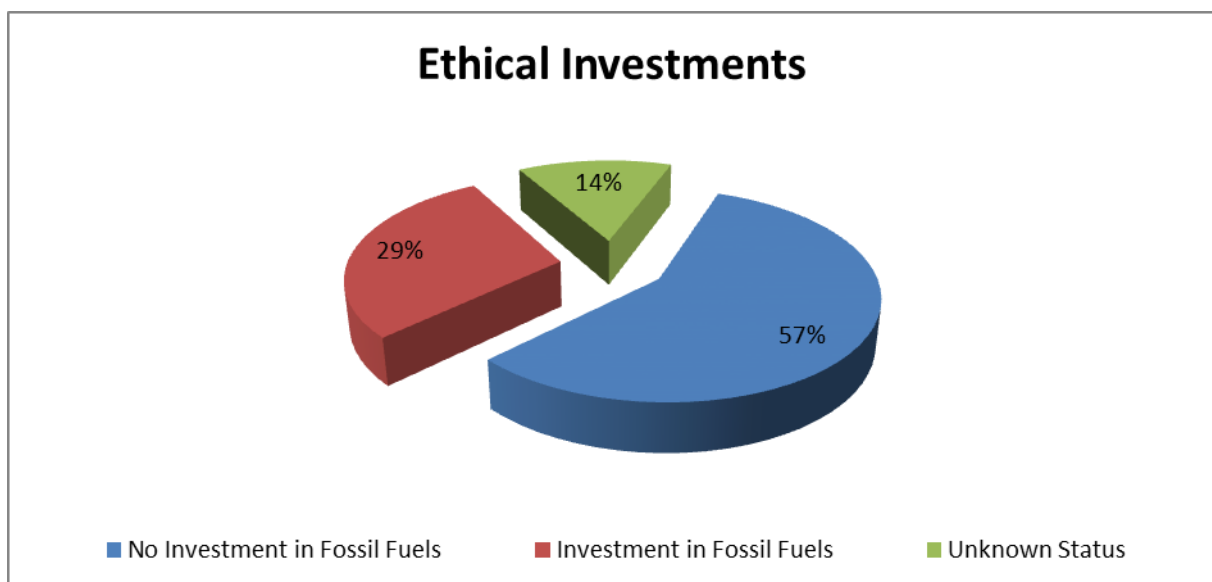
N = Investment in Fossil Fuels

U = Unknown Status

Note 3.	Type	Description	
	B	Bonds	Principal can vary based on valuation, interest payable via a fixed interest, payable usually each quarter.
	FRN	Floating Rate Note	Principal can vary based on valuation, interest payable via a floating interest rate that varies each quarter.
	TD	Term Deposit	Principal does not vary during investment term. Interest payable is fixed at the rate invested for the investment term.
	CALL	Call Account	Principal varies due to cash flow demands from deposits/withdrawals, interest is payable on the daily balance.

**5 Environmental and Socially Responsible Investing**

An additional column has been added to the schedule of Investments above, to identify if the financial institution holding the Council investment, has been assessed as an "Ethical" institution. This information has been sourced through [www.marketforces.org.au](http://www.marketforces.org.au) and identifies financial institutions that either invest in fossil fuel related industries or do not. The graph below highlights the percentage of each classification across Councils total investment portfolio.



**15** For the month of September 2017, as indicated in the table below, there is a dissection of the investment portfolio by investment type:

**Dissection of Council Investment Portfolio as at 30 September 2017**

<b>Principal Value (\$)</b>	<b>Investment Linked to:-</b>	<b>Current Market Value (\$)</b>	<b>Cumulative Unrealised Gain/(Loss) (\$)</b>
71,500,000.00	Term Deposits	71,500,000.00	0.00
1,650,000.00	Floating Rate Note	1,653,642.89	3,642.89
2,065,296.85	Business On-Line Saver (At Call)	2,065,296.85	0.00
1,000,000.00	Bonds	1,011,100.17	11,100.17
<b>76,215,296.85</b>		<b>76,230,039.91</b>	<b>14,743.06</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 month of September 2017 on a current market value basis.

**Movement in Investment Portfolio – 1 to 30 September 2017**

<b>Item</b>	<b>Current Market Value (at end of month) \$</b>
<b>Opening Balance at 31 August 2017</b>	<b>79,227,666.14</b>
Add: New Investments Purchased	13,000,000.00
Add: Call Account Additions	0.00
Add: Interest from Call Account	2,373.77
Less: Investments Matured	16,000,000.00
Less: Call Account Redemption	0.00
Less: Fair Value Movement for period	0.00
<b>Closing Balance at 30 September 2017</b>	<b>76,230,039.91</b>

15 **Investments Maturities and Returns – 1 to 30 September 2017**

<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>
1,000,000.00	Bananacoast Credit Union	TD	06/09/17	187	2.75%	14,089.04
1,000,000.00	Bank of Queensland	TD	27/09/17	176	2.60%	12,536.99
2,000,000.00	ME Bank	TD	20/09/17	126	2.55%	17,605.48
1,000,000.00	Bananacoast Credit Union	TD	06/09/17	189	2.75%	14,239.73
2,000,000.00	NAB	TD	08/09/17	91	2.50%	12,465.76
2,000,000.00	AMP Bank	TD	18/09/17	186	2.75%	28,027.40
2,000,000.00	Beyond Bank Australia	TD	13/09/17	126	2.65%	18,295.90
1,000,000.00	Police Credit Union	TD	27/09/17	188	2.80%	14,421.92
1,000,000.00	Beyond Bank Australia	TD	13/09/17	163	2.70%	12,057.53

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

6.2

Principal Value (\$)	Description	Type	Maturity Date	Number of Days Invested	Interest Rate Per Annum	Interest Paid on Maturity \$
1,000,000.00	Maitland Mutual Building Society	TD	27/09/17	133	2.60%	9,473.97
2,000,000.00	Community Alliance Credit Union	TD	29/09/17	92	2.65%	13,213.70
<b>16,000,000.00</b>						<b>166,427.42</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 September 2017 the table below identifies the overall cash position of Council as follows:

### Dissection of Council Cash Position as at 30 September 2017

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
<b>Investments Portfolio</b>			
Term Deposits	71,500,000.00	71,500,000.00	0.00
Floating Rate Note	1,650,000.00	1,653,642.89	3,642.89
Business On-Line Saver (At Call)	2,065,296.85	2,065,296.85	0.00
Bonds	1,000,000.00	1,011,100.17	11,100.17
<b>Total Investment Portfolio</b>	<b>76,215,296.85</b>	<b>76,230,039.91</b>	<b>14,743.06</b>
<b>Cash at Bank</b>			
Consolidated Fund	2,250,076.67	2,250,076.67	0.00
<b>Total Cash at Bank</b>	<b>2,250,076.67</b>	<b>2,250,076.67</b>	<b>0.00</b>
<b>Total Cash Position</b>	<b>78,465,373.52</b>	<b>78,480,116.58</b>	<b>14,743.06</b>

### 10 Financial Implications

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

### Statutory and Policy Compliance Implications

15

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.

20 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.

25

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.

5

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

10

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.

15

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 6.3 PLANNING - Review of further subdivision potential in the Ewingsdale and Mullumbimby 'R5 Large Lot Residential Zone'**

**Directorate:** Sustainable Environment and Economy  
**Report Author:** Alex Caras, Team Leader Land Use Strategy  
**File No:** I2017/1253  
**Theme:** Ecology  
 Planning Policy and Natural Environment

**Summary:**

Council at its 23 March 2017 Ordinary Meeting resolved that staff “*examine a change of lot size in the R5 zones at Ewingsdale and Left Bank Road to increase available residential land in the short term*”, as one of a number of actions to progress ahead of Council's adoption of the draft Rural Land Use Strategy. This report presents the results of a range of minimum lot size (MLS) scenarios considered within the above estates, as well as preliminary findings arising from the Ewingsdale Road / McGettigans Lane intersection review (currently underway). The report recommends that further investigations to determine re-subdivision potential of the R5 zone at Ewingsdale be deferred until Council has considered the findings of the Ewingsdale Road / McGettigans Lane intersection review in a future report. Consultation with affected residents would be the next step in the process of examining further subdivision potential in the R5 zone at Left Bank Road (Mullumbimby), should Council wish to proceed down this path.

**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 note the results of the preliminary subdivision analysis for the R5 zones at Ewingsdale and Left Bank Road, as contained in this report;
2. That further investigations to determine re-subdivision potential of the R5 zone at Ewingsdale be deferred until Council has considered the findings of the Ewingsdale Road / McGettigans Lane intersection review in a further report; and
3. That staff consult with affected residents in the R5 zone at Left Bank Road (Mullumbimby) to determine key issues associated with, and whether there is a sufficient level of support for, amending Byron LEP 2014 to allow smaller lot subdivision within this estate.

**Attachments:**

- 1 Template - Form of Special Disclosure of Pecuniary Interest , E2017/97406 

**Report**

Council resolved the following at its 23 March 2017 Ordinary Meeting:

**Res 17-094:**

- 5     1.     *That Council staff examine a change of lot size in the R5 zones at Ewingsdale and Left Bank Road to increase available residential land in the short term; and,*
2.     *That Council report the possible lot yield result in the two zones within 3 months.*
- 10    This resolution relates to Action 22 of the recently exhibited draft Rural Land Use Strategy (RLUS), being: *"Investigate capacity for re-subdivision within existing Large Lot Residential estates."*

This is one of a number of actions being progressed ahead of Council's adoption of the draft Rural Land Use Strategy.

**Preliminary Subdivision Analysis Results**

Current minimum lot size requirements for subdivision in the R5 Large Lot Residential Zone of these estates are:

- 20     • Ewingsdale: 8,000 m<sup>2</sup> (except 10,000m<sup>2</sup> for certain land fronting Citriadora Drive)
- Left Bank Road (Mullumbimby): 8,000 m<sup>2</sup>

The following site attributes were considered in examining their further subdivision potential:

- 25     • Slope
- Vegetation
- Flood / Riparian
- Bushfire
- 30     • Existing development

A range of minimum lot size (MLS) scenarios were explored in both estates, with the results of the preliminary analysis presented below:

LOCALITY	Additional Lot Yield Scenarios		
	4000m <sup>2</sup> MLS	6000m <sup>2</sup> MLS	8000m <sup>2</sup> MLS (additional yield if current potential realised)
Ewingsdale	91	52	34
Mullumbimby	39	17	11

- 35     It is noted that actual lot yields may vary from those shown above pending a more detailed land capability assessment, including capacity for onsite waste management.

40     The above scenarios, if realised, may not have any measureable influence on the overall supply and price of available residential land in the short term. This is because rural residential land in these estates generally has a higher purchase price than in the urban (non-coastal) residential areas of the Shire, mainly due to the perceived lifestyle attributes associated with larger lot sizes. Therefore additional lot releases within these estates are likely to exceed the price-point of most first-time home buyers and working families seeking housing in the Shire.

**Traffic Capacity at Ewingsdale Road / McGettigans Lane intersection**

The Ewingsdale Road / McGettigans Lane intersection has been identified in a number of recent studies along the Ewingsdale Road corridor to reach full capacity by 2019, notwithstanding any additional (new) development within this corridor. Preliminary review findings suggest that this intersection will most likely require upgrading prior to any additional development occurring in this locality. However Council is unlikely have sufficient S94 funds to upgrade this roundabout until 2023. On this basis, it is recommended that further investigations to determine re-subdivision potential of the R5 zone at Ewingsdale be deferred until Council has considered the findings of the Ewingsdale Road / McGettigans Lane intersection review (currently underway) in a further report expected before the end of the year.

**Next steps**

Draft RLUS section '4.3 - Process for enabling re-subdivision within existing Large Lot Residential estates' states: *"Council will need to undertake further investigations to determine re-subdivision potential of existing rural residential estates. Following those investigations, Council will consult with affected residents within the relevant estates to determine key issues and gauge whether there is sufficient level of support to amend Byron LEP 2014 for this purpose."*

Consultation with affected residents would be the next step in progressing RLUS Action 22 (ie. the process of examining further subdivision potential) in the R5 zone at Left Bank Road (Mullumbimby), should Council wish to proceed down this path. In this regard a number of the submissions to the recently exhibited draft Rural Land Use Strategy raised the need to also consult with surrounding rural landowners about the potential impacts of re-subdivision on their amenity and/or ability to continue or expand farming operations.

As recommended above, further investigations in the Ewingsdale R5 zone should be deferred until Council has considered the findings of the Ewingsdale Road / McGettigans Lane intersection review (currently underway) in a further report.

**Financial Implications**

The administration costs of progressing RLUS Action 22 for the above estates can be accommodated within existing Council budgets.

**Statutory and Policy Compliance Implications**

Progression of draft RLUS Action 22 (in part) is consistent with the relevant Delivery Program Actions 2017-2021 and Operational Plan Activities 2017-2018 for the 'Environment' category (EN1.2.1).

### Report No. 6.4      **Update on Resolution 17-263 Short Term Rental Accommodation Enforcement Options**

**Directorate:** Sustainable Environment and Economy

**Report Author:** Shannon Burt, Director Sustainable Environment and Economy

Ralph James, Legal Services Coordinator

**File No:** I2017/1445

**Theme:** Ecology

Development and Approvals

#### **Summary:**

Council considered Report No. 13.17 Short Term Rental Accommodation - Enforcement Options at the Ordinary Meeting 22 June 2017 and resolved as follows:

#### **17-263 Resolved** that Council:

1. *Note the report.*
2. *Authorise the General Manager, in cases where a reasonable suspicion of unauthorised short term rental accommodation and unauthorised tourist and visitor accommodation is taking place, to issue Notices to the following to provide information and answer questions about property use:*
  - *Real Estate agents*
  - *Letting Agents*
  - *Website Hosts*
  - *Tenants*
3. *That Council confirms that:*
  - a) *in order to preserve the availability of long-term letting in the shire for long-term residents that the moratorium on prosecutions has been lifted.*
  - b) *it now intends to prosecute in the most effective manner where merit exists any and all instances of unauthorised short term rental accommodation occurring in the shire.*
4. *That a media release be shared on this resolution.*
5. *Compile a confidential list of properties against which it may commence legal proceedings based on the establishment of a prima-facie case of unauthorised short term rental accommodation and unauthorised tourist and visitor accommodation, and that this list is compiled as soon as possible.*

This report provides an update on actions undertaken by staff following that resolution.

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#### **RECOMMENDATION:**

**That Council note the report.**



**Report**

Council considered Report No. 13.17 Short Term Rental Accommodation - Enforcement Options at the Ordinary Meeting 22 June 2017. This report presents an update on actions undertaken following that resolution, as discussed below:

**1. Note the report.**

Staff noted the report.

**2. Authorise the General Manager, in cases where a reasonable suspicion of unauthorised short term rental accommodation and unauthorised tourist and visitor accommodation is taking place, to issue Notices to the following to provide information and answer questions about property use:**

***Real Estate agents  
Letting Agents  
Website Hosts  
Tenants***

The minimum statutory trigger for the use of councils' coercive information-gathering powers for monitoring should be that the powers can be used only to gather information for the purposes of the relevant legislation. If a coercive information-gathering power is used in connection with a specific investigation, the minimum statutory trigger for using the power should be that the person exercising it has 'reasonable grounds' for the belief or suspicion that is required before the power can be exercised.

Council's resolution and Council's Enforcement Policy recognise the statutory trigger.

An accepted definition of "reasonably suspects" is "a person reasonably suspects something at a relevant time if he or she personally has grounds at the time for suspecting the thing and those grounds (even if they are subsequently found to be false or non-existent), when judged objectively, are reasonable".

There are two elements to be considered:

First is suspicion, the Macquarie Dictionary defines suspicion as "imagination of the existence of guilt, fault, falsity, defect or the like on slight evidence or without evidence"  
In *Hussein* (1970) the court described suspicion as being "a state of conjecture or surmise where proof is lacking,

"It must be remembered that whilst suspicion falls short of actual proof, there must still be some factual basis upon which the suspicion is grounded" *George v Rockett* (1990)

In *Dumbrell v Roberts* (1971) it was stated, "the... officer must satisfy himself that there are in fact, reasonable grounds to suspect guilt but this does not have to amount to evidence of a prima facie case".

A suspicion that something exists is more than a mere idle wondering whether it exists or not; it is a positive feeling of actual apprehension or mistrust, amounting to a "slight opinion", but without sufficient evidence...Consequently, a reason to suspect that a fact exists is more than a reason to consider or look into the possibility of its existence.' *Queensland Bacon Pty Ltd v Rees* (1966)

Second is what amounts to a suspicion being reasonable? "Reasonable" means not immoderate, not excessive, not unjust, tolerable".

There is no standard or fixed rule as to what are reasonable grounds for suspicion which can be laid down as applicable to all cases.

5       The test is "What would a reasonable person acting without passion or prejudice fairly suspect from the *circumstances*?"

*Hughes v Dempsey*, held that: "Reasonable suspicion means that there must be something more than imagination or conjecture.

10       It must be the suspicion of a reasonable man warranted by facts from which inference can be drawn, but it is something which falls short of legal proof. "

15       The officer need not have a concluded belief nor must there be sufficient evidence to prove a prima facie case.

Section 119J of the *Environmental Planning and Assessment Act 1979* (EPA Act) gives council investigation officers powerful tools to obtain information and or records in respect of matters they are investigating.

20       Section 119J of the EPA Act provides that:

*'(1) An investigation officer may, by notice in writing given to a person, require the person to furnish to the officer such information or records (or both) as the notice requires in connection with an investigation purpose.'*

25       Section 119J Notices must be issued in '*connection with an investigation purpose*', which includes a council investigation officer exercising its functions under the EPA Act, such as:

- gathering information which may lead to the issuing of orders under Division 2A of Part 6 of the EPA Act; or
- 30       ▪ investigating potential breaches of the EPA Act which may lead to civil or criminal enforcement action being taken.

"investigation purpose" means a purpose for which a power may be exercised under Division 1C of the EPA Act.

35       Section 119J Notices can be given to any person, including individuals or corporations and can be given to any person who the officer suspects of committing a breach of the EPA Act, as well as an innocent third parties including contractors, suppliers or transporters who may hold relevant information or records.

40       A natural person must be warned that they can object to the provision of information on the basis that it will incriminate them. If the person objects, they are still required to provide the information but it is not admissible in evidence against them in criminal proceedings (s119S(3)). Any records provided are admissible in evidence.

45       Corporate entities do not have this same protection as they are not entitled to the privilege against self-incrimination (*Environment Protection Authority v Caltex Refining Co Pty Ltd* (1993) 118 ALR 392).

It is an offence for a person to fail to comply, without reasonable excuse, with a s119J Notice (s119M) and a notice must include that warning

To ensure that a s119J Notice is valid it must also sufficiently specify the ‘*investigation purpose*’ for which it is issued.

5 This matter arose in *D’Anastasi v the Environment Protection Authority and anor* 2011 which considered the validity of a notice issued by the EPA under s193J of the POEO Act.

10 This provision empowered the EPA to require a person to provide information and/or records in ‘*connection with any matter within the responsibilities and functions of the regulatory authority that appointed the officer*’.

15 The Court found that the EPA notice was invalid as it did not properly define the ‘*matter*’ for which it was issued. In making this finding it followed a long-applied standard for statutory notices that the notice must make it clear that the information or documents sought were information or documents “relating” to one or more “matters” of a kind described in the legislation about which the giver was entitled to serve the notice.

20 This principle will apply to a s119J Notice, and to ensure it is valid it must clearly state the ‘*investigation purpose*’ for which it is issued. This primarily should include a description of the acts or omissions that are being investigated, as well as the location and period in which the acts or omissions occurred.

25 The information and records that are sought must properly relate to the investigation purpose that is stated in the notice (*D’Anastasi*). Any fishing expeditions or general requests for information and records that do not relate to a function under the EPA Act may be challenged on the basis that the notice that is issued is beyond power.

A claim that a Notice to a "fishing" expedition is found in the analogous imagery of a fisherman who casts his fishing line into the wide-open sea in the hope of catching fish, ie. something that is relevant.

30 Fishing is the use of pre-trial investigation discovery in an unfocused attempt to uncover damaging evidence to be used against an adversary.

35 Council could not engage in a scattergun approach by forwarding Notices to all Real Estate agents, Letting Agents, Website Hosts or Tenants. A reasonable suspicion relating to a specific matter must exist.

To date no Notices have been sent to the entities named in the resolution.

40 **3. That Council confirms that:**

**a) in order to preserve the availability of long-term letting in the shire for long-term residents that the moratorium on prosecutions has been lifted.**

45 **b) it now intends to prosecute in the most effective manner where merit exists any and all instances of unauthorised short term rental accommodation occurring in the shire.**

**4. That a media release be shared on this resolution.**

In response to 3 and 4, a media release was issued by Council 31 July 2017.

50 ***Byron Shire Council responds to unauthorised holiday letting***

*Byron Shire Council estimates there are more than 1000 dwellings available for short-term holiday rental across tourist and visitor accommodation websites.*

55 *Byron Shire Council’s Director Sustainable Environment and Economy, Shannon Burt, said that while short term rental accommodation is an important part of Byron’s tourism industry, unauthorised holiday letting has a negative impact on many people living in residential areas.*

**5. Compile a confidential list of properties against which it may commence legal proceedings**

***based on the establishment of a prima-facie case of unauthorised short term rental accommodation and unauthorised tourist and visitor accommodation, and that this list is compiled as soon as possible.***

- 5 Council enforcement staff are presently collecting and collating evidence to support legal proceedings against unauthorised short term rental accommodation and unauthorised tourist and visitor accommodation in the Shire.

- 10 So as not to prejudice any proceedings, further information will be only be reported to Council once an investigation has established the existence of a prima facie case.

- 15 All such reports will be confidential pursuant to the provisions of Section 10A(2)(g) of the Local Government Act being advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

**Financial Implications**

As discussed in the report.

- 20 **Statutory and Policy Compliance Implications**

As discussed in the report.

**Report No. 6.5**  
**Directorate:** Sustainable Environment and Economy  
**Report Author:** Shannon Burt, Director Sustainable Environment and Economy  
 Tania Crosbie , Economy and Sustainability Coordinator  
**File No:** I2017/1486  
**Theme:** Economy  
 Economic Development

### Summary:

Council received a Notice of Motion Notice No. 9.2 Business Advisory Group at the Ordinary Meeting 3 August 2017, and resolved as follows:

**Resolved** that Council receive a report from staff within three months regarding the establishment of a Business Advisory Group comprising of distinguished local business leaders from various fields of endeavour, including commerce, agriculture, creative enterprises and others as appropriate, to work with Council in identifying business growth opportunities for the Byron region, including those potentially developed on Council owned properties. The staff report needs to also recommend the structure, cost and management support for the group.

In response to this resolution staff have prepared a report for Council's consideration on the establishment of a new 'Strategic Business Panel' having regard to the existing Business Roundtable and Sustainable Economy Panel memberships and structure.

### RECOMMENDATION:

1. That Council agree to retain the Business Roundtable in its current format.
2. That Council merge the Sustainable Economy Panel into a new Strategic Business Panel (name to be confirmed).
3. That Council agree to the overarching concept of a new Strategic Business Panel, so that the model and terms of reference and membership can be finalised with the existing nominated Councillors Richardson, Spooner, Hunter.
4. That the first meeting of the new Strategic Business Panel be scheduled for February 2018 if not able to meet beforehand.

**Report**

Byron Shire currently has two business engagement groups

- 5     1.     The Sustainable Economy Panel – currently all positions are vacant.
2.     Business Roundtable – comprised of Councillors, Business Chambers and Destination Byron.

10     The **Sustainable Economy Panel** (Panel) purpose is to work with Council and Economic Development & Tourism unit to generate and sustain employment and business investment in the Byron Shire that will strengthen the Byron Shire local economy in a sustainable manner. Four key areas are:

- 15     1.     Emerging industries
2.     Public Private Partnerships
3.     Enabling infrastructure
4.     Planning and Design.

20     This Panel has recently called for new members and these are yet to be appointed. The review of this Panel and its membership, is the result of a need to reinvigorate interest in this space to ensure strategic direction and input is received from key stakeholders in the business community.

25     The **Business Advisory Roundtable** (Roundtable) on the other hand provides a place for strategic discussion between Council and the Business Chambers and Destination Byron, around issues impacting on business. This Roundtable has just had in influx of new Chamber Presidents and has dealt with such issues as flood recovery, employment land use strategy and engagement. The roundtable presents as an organic quarterly meeting of benefit for updates and networking for those attending.

30     **Resolution 17-300** has requested the establishment of a new Business Advisory Group comprising of distinguished local business leaders from various fields of endeavour, including commerce, agriculture, tourism, creative enterprises and so on to work with Council in identifying business growth opportunities for the Byron region, including those potentially developed on Council owned properties.

35     The establishment of a new Business Advisory Group and how this group is differentiated or not from the existing Sustainable Economy Panel is provided below.

40     New Strategic Business Panel concept

To respond to the above, a meeting was held on the 31 August 2017 between key staff and the nominated Councillors to the Sustainable Economy Panel being Mayor Simon Richardson, Cr. Paul Spooner and Cr. Alan Hunter.

45     The purpose of this meeting was to discuss the opportunities of establishing a group that best meets the emerging, and future strategic needs of the business community and Council.

50     It was agreed that the current Sustainable Economy Panel is not being challenged with strategic issues and therefore has lost momentum and members interest. To address this, the opportunity to design a strategically focussed business group, set the terms of reference and select those who would add value to Council and business now exists. This new group could be a combination of the Sustainable Economy Panel and the proposed Business Advisory Group concept to minimise duplication of groups and to maximise leverage off any membership.

It was also discussed that the group could meet quarterly and discuss various themes or strategic topics relevant the business community in the Byron Shire Council. Examples of themes discussed included:

- 5
  - Ensuring the Future of Agriculture in BSC
  - Pitching your Start Up – Byron Incubator ‘Shark Tank’ (refer paper on Business Incubator program in Byron Bay)
  - Connectivity, IT and Tech Hub in Byron
  - Publishing Leaders in the Hinterland – support, growth and expansion
- 10
  - Attracting the next breed of entrepreneur to Byron Bay
  - Tourism - Ensuring the long-term viability of tourism in Byron Shire
  - Sports Tourism – Does the Business Case Stack Up?
  - Education– Attraction and Niche Opportunities
  - Turning our Arts Culture into Global Brands
- 15
  - Investment Opportunities – Pitchfest to Funding Angels
  - Business Opportunities on BSC Land – aims, options and ROI
  - Health and Well- Being Industry – Be the Leader
  - Mentoring and Coaching – Transferring the Knowledge and Sharing in the Success.
- 20 To do this, different formats could be used such as field days, workshops with guest speakers, industry leaders, experts from outside of Byron for perspective or comment, pitching competitions and so on.

25 It was proposed that a small core group of Councillors and Council staff set the theme and invite the leading business people, relevant speakers, experts and attendees. This Group would be supported by the Economy and Sustainability Coordinator.

30 To move this new Panel proposal forward, staff recommend that Council agree to the overarching concept of a new Strategic Business Panel (being a combination of the Sustainable Economy Panel and the proposed Business Advisory Group concept), so that the model and terms of reference and membership can be finalised with the existing nominated Councillors Richardson, Spooner, Hunter by years end.

### 35 **Financial Implications**

Costs associated with the new Panel would need to be met within the existing operational budget and staff resources.

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

Delivery Program - EC1.1.1 Support innovative pathways to social enterprise and sustainable business development





**consultation with the local business community.**

- 3. That Council agree that as part of their work the Strategic Business Panel (or equivalent) further:**
  - i. scope the ‘types’ of businesses that would fit this model and research their needs**
  - ii. Develop the financial business case for the models.**
  - iii. Develop project plan and budget to deliver the BIIP.**
- 4. That staff present a further report to Council on 2 & 3 above early 2018.**

**Attachments:**

- 1 Renew Australia , E2017/95887 **

## Report

### Background

5 This report provides a number of options to Council to establish a Byron Innovative Incubation Program (BIIP) in response to item 1 of Resolution 17-283. In particular:

1. Best-practice models
2. Pop up logistics and options
- 10 3. Program design
4. Engagement

Once a program model is adopted by Council, the program specifics including objectives can be finalised around funding, locations and business selection preferences. Otherwise the scope and options are limitless for reporting purposes.

It is proposed that BIIP proposal be shaped and guided by the new Strategic Business Panel (or equivalent) discussed in a separate report to this meeting – *Proposed Strategic Business Panel (#2017/1486)*. This will ensure Council and business stakeholder buy in and support.

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For the purposes of this report the following terms as used:

- **Business incubators** are organisations that provide support to start-up and early stage businesses through the provision of facilities, mentoring and coaching, training, networking and seed capital financing.
- **Start-up accelerators** focus on moving technology-based firms rapidly from establishment to early stage venture funding and growth. They are an education and mentoring centric model with start-up teams working through as a cohort over several months against a structured training program. The program typically takes an equity stake in the venture and uses experienced entrepreneurs as mentors and coaches.
- **Co-working facilities** offer physical space where nascent and novice entrepreneurs or individual freelancers can operate in a supportive environment and where they may potentially expand their networks.
- **A maker space or hacker space** offers a similar environment but is focused on specific technologies such as software or online digital.

### 1. Best Practice Incubator Programs

Much has been written about incubator programs and 'best-practice' examples are highlighted all over the world.

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The Council as the incubator owner is common in large metro Councils such as Darebin in Victoria, with its creative, general business and creative co-working space. This program has a General Manager, and staff to manage and run the business support model.

45 <http://www.businessincubatormelbourne.com/>

These are the services they offer under the program:



Most successful incubators run industry specific programs i.e.: IT and creative arts, where the owners of the program are imparting their knowledge on the newer businesses such as York Butter Factory in Melbourne <http://yorkbutterfactory.com/>.

Key to their success is the link between focusing on IT start ups, links into big business (partners include banks, EY, Qantas etc.), links into Silicon Valley, co-working space and full-time hands on support. However most incubators have a services focus rather than a retail focus – this will require clear guidelines to be established.

Other examples include:

- <https://www.nviflinders.com.au/>
- <http://www.slingshotters.com/>
- <http://www.thestudio.org.au/>

There is government funding for incubator programs and the guidelines have been re-written to be more sensitive to regional needs <https://www.business.gov.au/assistance/incubator-support> . Funding opportunities present at different times of the year.

### So what is the best formula for an innovation incubator?

Based on research, for the best chance of success an incubator will contain:

1. A concise program with clear policies and procedures
2. On-site learning and leveraging of resources
3. Access to financing and capitalisation
4. Tie/links to a university
5. Transparent selection process for tenants
6. Perception of success – ie: robust publicity campaign
7. Entrepreneurial Education
8. In-kind professional support from staff, other small businesses and professionals
9. Community support and buy-in
10. Entrepreneurial networks within the region, Australia and internationally.

Of interest, poor performing incubators had the following in common:

1. Low-motivating environmental that does not stimulate the start up
2. Government funded
3. Based on providing space with very little other support
4. Lacked a 'rapid to commercialisation' process

5. Not protected from commercial forces
6. Did not have strong network of mentors and university embedded
7. Avoid the 'real estate' model if a virtual incubator can be just as effective
8. Did not have public support

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As such the above 10 points of success should be included for consideration where relevant as criteria for the BIIP.

## 2. Pop up logistics and options

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There are a number of ways in which business incubators can be physically accommodated.

### a. Containers – locally sourced

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- i. The container build group in Lismore is the national supply for most pop up container retailers. <https://www.containerbuildgroup.com.au/>. This provider is doing the Commonwealth Games, Airport, BCC and also sent some to Christchurch.
- ii. 20ft conversion approx. \$25,000 (high-end) includes toilet and basin
- iii. Solar off-grid system approx. \$15,000
- iv. To have initial drawings developed the cost is \$5,500

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Above: Christchurch pop up mall examples

**b. Timber pre-fab pop ups – bought in space**

- i. **Arkit** develop and build tiny timber homes and are used to doing installations in public spaces – refer the Nano house built in Circular Quay in 2015  
<https://vimeo.com/134168000>
- 5 ii. They just built a tiny house and it cost \$39,600 plus trailer plus PV. This price included the fit-out of the kitchenette and small bathroom, and would be cheaper without it.
- iii. They have not built pop up shops but are keen to look at this as an option.



10 Example of a pre-fab style of pop up house - portable and sustainable.

**c. Recycled Plastic Pop Ups – locally sourced**

**Encounter Byron** is developing a recycled plastic tiny house and is interested in developing a pop-up design that may be suitable as part of the incubator program.

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**d. Include tiny pop ups shops as part of the sustainable house day competition in 2018. (Locally designed and constructed)**

- i. This would allow for local designers to develop a location specific design.
- 20 ii. The winning design could then be built and be part of the pop up incubator program.

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**e. Use of local space (unused shop-fronts in and around Byron Shire)** so that start up business can be supported across all Shire locations. There are a number of options in Byron Bay and Mullumbimby. This allows for example local creative producers to try a business idea to help develop it to take on a commercial lease, helps landlords find permanent tenants, and brings vibrancy back to our towns.

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It is recommended that Council trial both options – use of vacant business premises and pop ups on Council land. Costing estimates of both options follow.

### 3 Incubator Management Options

#### 1. Basic – innovation start-up accommodation

- Council provided container office on Council approved land
- Establish an incubator selection committee, establish guidelines and consult with relevant groups like Byron Bay Town Centre Leadership Team
- Call for 'EOI' and select tenants
- Council acts as landlord
- Mentoring from business association such as Chamber of Commerce – at the expense of the Chamber
- Potential costs to Council:
  - Pop up retail space
  - Fit out
  - Subsidising rents
  - Establishing selection committee
  - Engaging with community
  - Coordination of selection criteria and advertising for tenants
  - Managing the tenancy and any conflict resolutions
  - Publicising program.

Pros	Cons
Able to control the program and select the right type of tenant	Based on 'real estate' model
Able to manage any issues as they arise with the program or tenant	Lack of Council expertise to establish and run the incubator
Be 'seen' by community as supporting new businesses and innovation	Backlash from existing local incubator operators and those paying commercial rates
Great relationship with new businesses	Core business for the Council
Enthusiasm for the project	Cost
Innovative business community	Financial and reputational risks
Capable business chambers and successful businesses	Need to establish from the ground up
Access to education – Community College, SAE and SCU	Isolated model with limited benefits for those to collaborate
Green field sites and model design	Is there experience to mentor the tenants
Opportunity to develop a self-funding model	
Collaborative model	

Costs – approximately:

- \$25,000 - \$30,000 per pop up – depending on whether it needs a bathroom, off-grid, air conditioning etc.
- 5      • Land
- Energy
- Toilet facilities
- Cost of employing staff to run the program or to re-direct staff
- Leasing
- 10     • Publicising program.

## 2. Partnering with existing incubator programs

There are a number of options available to Council here including Renew Australia (Attachment 1).

- 15      Renew Australia works with local communities by leveraging underutilised spaces and transforming them into creative hubs. They provide support, project management and have a suite of tools to do this.

- 20      Renew Australia has offered to work with Byron Shire for a membership fee of around \$3,000 to kick start a Renew model with local framework for creative space activities in Byron Shire.



Above: Renew Australia in Melbourne

- 25      The program could provide:
- Council provided container office on Council approved land
  - Competitive EOI process through the incubator partner that links to clear program guidelines and links program to period of time in the incubator space
  - Experienced incubator management and in-kind support
  - 30      • Existing entrepreneurship education
  - Experienced mentors in existing programs
  - Access to finance and 'investment angels'
  - Entrepreneurial networks
  - Recognition from local industry on 'graduation' from program
  - 35      • Connection with Business Chamber, national and international incubator organisation and alumni
  - Potential costs to Council:
    - Pop up space
    - Fit out

- Coordination of MOU and tenancy arrangements
- Partner management and overseeing the program – renew Australia \$30K to \$60K annually
- Publicising program

Pros	Cons
More reflective of successful models nationally	Loss of control
Less day-to-day running of program	Do those running current programs require more space – that we want to provide
Supportive of current incubators from within the region or use existing start up professionals	Space led solution rather than needs based
Plugs into existing models	
Existing relationships with mentors and business	
Existing relationships with education providers	

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### **Locations**

Options exist for incubators on either Council land and or vacant business premises (Renew Model).

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Some possible Council locations that have been identified for 'pop ups' follow:

- Wategos Beach (one road reserve location);
- Denning Park road reserve (two locations);
- Brunswick Heads road reserve (three locations);
- 15 -Various car-parks, Byron Bay;
- The current location of Sunrise Cycles (Lot 7 Jonson Street, Byron Bay);
- The Byron Bay Library (where a previous coffee cart operated from);
- Suffolk Park community land (Suffolk Park sporting fields);
- The Myocum tip;
- 20 -The Bangalow Weir park;
- The park in Federal;
- The Byron Bay rail corridor (once Council takes over management of the area).

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An expression of interest process for use of the Council locations for incubators needs to occur next. It can include specific criteria relating to sustainability, scale, innovation, employment potential and length of tenancy. Details of this to be scoped out as part of the BIIP.

### **Engagement**

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It is proposed that the BIIP proposal be shaped and guided by the new Strategic Business Panel (or equivalent) discussed in separate report.

### **Financial Implications**

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As discussed in the report

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

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Local Government Act  
Environmental Planning and Assessment Act  
Related legislation



## STAFF REPORTS - INFRASTRUCTURE SERVICES

**Report No. 6.7 Settlement Road Proposed Actions****Directorate:** Infrastructure Services**Report Author:** Joshua Winter, Civil Engineer**File No:** I2017/1316**Theme:** Community Infrastructure  
Local Roads and Drainage**Summary:**




Staff presented to the Councillors at the Strategic Planning Workshop on 7 September 2017 regarding Settlement Road and the actions undertaken to date and yet to be undertaken (presentation attached). The presentation addressed the location of Settlement Road, background to date including history on the Settlement Road Action Group, project constraints, design standard for consideration and the implications of the design standard adopted.

Councillors requested that further information be provided at the next Council meeting including traffic count data, number of properties and an estimate of costs if the RFS standard was utilised along the full length of Settlement Road.

**RECOMMENDATION:**

1. That the Rural Fire Service standard be adopted for the design of Settlement Road.
2. That the remainder of the 2017/18 budget for Settlement Road (approximately \$9,000) be used to complete the design works.
3. That a report be prepared for the first appropriate 2018 Council meeting with more accurate costing information after the design work is completed.

**Attachments:**

- 1 24.2016.38.1 - Settlement Road SPW Presentation, E2017/94174 
- 2 24.2016.38.1 - Settlement Road - Traffic Counts, E2017/94164 
- 3 24.2016.38.1 - Settlement Road Property Export, E2017/94175 

**Summary**

Staff presented to the Councillors at the Strategic Planning Workshop on 7 September 2017 regarding Settlement Road and the actions undertaken to date and yet to be undertaken (presentation attached). The presentation addressed the location of Settlement Road, background to date including history on the Settlement Road Action Group, project constraints, design standard for consideration and the implications of the design standard adopted.

Councillors requested that further information be provided at the next Council meeting including traffic count data, number of properties and an estimate of costs if the RFS standard was utilised along the full length of Settlement Road.

**Traffic Count**

A traffic counter was installed 70 metres from the intersection of Main Arm Road, to collect data from Thursday 14<sup>th</sup> September 2017 to 1:30PM Wednesday 20<sup>th</sup> September 2017. This report is attached and found the following traffic counts, shown as total traffic movements each day (including both directions);

• Thursday 14 <sup>th</sup> September –	111
• Friday 15 <sup>th</sup> September –	156
• Saturday 16 <sup>th</sup> September –	142
• Sunday 17 <sup>th</sup> September –	124
• Monday 18 <sup>th</sup> September –	139
• Tuesday 19 <sup>th</sup> September –	151
• Wednesday 20 <sup>th</sup> September –	172
Average	142

**Number of Properties**

There are 21 land parcels located on Settlement Road, however, this does not account for the multiple occupancies located on this length of road. The number of visible buildings from an aerial image desktop inspection totalled approximately 50 properties.

**Preliminary Estimate**

Design staff used the Rural Fire Service (RFS) design standard as presented in the SPW workshop to estimate the amount of work to be done to bring the full length of Settlement Road up to RFS standard. This preliminary estimate has indicated that it would be in the order of \$1.2M. It is noted that this estimate is based purely on preliminary quantities and may change as the design progresses.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

**Report No. 7.1**      **Report of the Local Traffic Committee Meeting held on 19 September 2017**

**Directorate:**      Infrastructure Services  
**Report Author:**      Stephanie Tucker, Traffic and Transport Assistant  
**File No:**      I2017/1434  
**Theme:**      Community Infrastructure  
                 Local Roads and Drainage

**Summary:**

This report contains a recommendation of the Local Traffic Committee from the meeting as held on 19 September 2017.

All other recommendations of the Local Traffic Committee from the meeting held on 19 September 2017 were adopted by Council at its Ordinary Meeting held 26 October 2017.

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

**Report No. 7.1 Shared Zone - Seven Mile Beach Road, Broken Head**  
File No: I2017/1079

**Committee Recommendation 7.1.1**

1. That the concerns of the local residents and their request for a shared zone within Seven Mile Beach Road, Broken Head be noted.
2. That Council does not support any further consideration or review into the request for a shared zone within Seven Mile Beach Road, Broken Head.

**Report**

The agenda for this meeting can be located on Council's website at:

[http://byron.infocouncil.biz/RedirectToDoc.aspx?URL=Open/2017/09/LTC\\_19092017\\_AGN\\_712\\_AT\\_SUP.PDF](http://byron.infocouncil.biz/RedirectToDoc.aspx?URL=Open/2017/09/LTC_19092017_AGN_712_AT_SUP.PDF)

**Committee Recommendation**

That Council note the Committee comments regarding the timelines for submission of applications for on-road events, and provides advice (including on Council's website) to event organisers that submissions of applications with less than four months notice cannot guarantee approval.

**Management Comments**

Management supports the committee recommendation.

**Financial Implications**

As per the Reports listed within the Local Traffic Committee Meeting of 19 September 2017.

**Statutory and Policy Compliance Implications**

As per the Reports listed within the Local Traffic Committee Meeting of 19 September 2017.

**CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES**

**Report No. 8.1                      CONFIDENTIAL - Council Tender for the Multi Use of Byron Shire Rail Corridor**

**Directorate:**                      Infrastructure Services  
**Report Author:**                Joshua Winter, Civil Engineer  
**File No:**                            I2017/1264  
**Theme:**                            Community Infrastructure  
    Local Roads and Drainage

**Summary:**

At the Ordinary meeting on 20 April 2017, Council resolved **17-142** to endorse proceeding to tender and to allocate a budget to complete the works identified in the Request for Tender document presented at the meeting. The Request for Tender document was later refined as per the resolution, in consultation with the Mayor and Deputy Mayor. An extract from the RFT document containing the final consultant requirements is attached to this report (E2017/95905). The memo approving proceeding to invite Tenders is E2017/85995.

Tenders have since been assessed in accordance with the provisions of the Local Government (General) Regulation 2005 and this report seeks Council acceptance to award the Contract to the recommended tenderer.

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**RECOMMENDATION:**

1. That pursuant to Section 10A(2)(c) and (d)i of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Council Tender for the Multi Use of Byron Shire Rail Corridor.
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
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:
 

Disclosure would reveal commercial information supplied by potential Consultants which could prejudice Council entering into a Contract.

**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, Council Tender for the Multi Use of Byron Shire Rail Corridor are to be treated as confidential as they relate to matters specified in s10A(2)(c) and s10A(2)(d)i of the Local Government Act 1993.
2. That Council adopt the recommendation set out on the final page of the Report.

**Attachments:**

- 5      1      Confidential - 2017-0037 - RFT Request for Tender - Multi Use Byron Shire Rail - Panel  
Recommendation Report SIGNED, E2017/95814
- 2      2017-0037 - Multi Use Byron Shire Rail Corridor – RFT – Extract Part A4, E2017/95905