

# NOTICE OF MEETING



## COASTAL ESTUARY CATCHMENT PANEL MEETING

A Coastal Estuary Catchment Panel Meeting of Byron Shire Council will be held as follows:

Venue	<b>Cavanbah Centre Meeting Room 1</b>
Date	<b>Thursday, 29 November 2018</b>
Time	<b>2.00pm</b>

Phillip Holloway  
Director Infrastructure Services

I2018/2213  
Distributed 22/11/18

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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**  
**COASTAL ESTUARY CATCHMENT PANEL MEETING**

**BUSINESS OF MEETING**

- 1. APOLOGIES**
- 2. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY**
- 3. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS**
  - 3.1 Coastal Estuary Catchment Panel Meeting held on 27 September 2018.....4
- 4. STAFF REPORTS**
  - Sustainable Environment and Economy**
    - 4.1 Coastal Projects and Update.....5
  - Infrastructure Services**
    - 4.2 Items for the Panel Requested by Duncan Dey .....8

**ADOPTION OF MINUTES FROM PREVIOUS MEETING**

**Committee Recommendation:**

- 5 **That the minutes of the Coastal Estuary Catchment Panel Meeting held on 27 September 2018 be confirmed.**

10 The minutes of the meeting held on 27 September 2018 were noted, and the Panel Recommendations adopted by Council without changes, at the Ordinary Meeting held on 22 November 2018.

**STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY**

**Report No. 4.1**                    **Coastal Projects and Update**  
**Directorate:**                    Sustainable Environment and Economy  
5 **Report Author:**                Chloe Dowsett, Coastal and Biodiversity Coordinati  
**File No:**                         I2018/2002  
**Theme:**                         Sustainable Environment and Economy  
    Planning Policy and Natural Environment

10 **Summary:**

15 This report provides the Panel members with an update on the coastal projects that have recently commenced or will be commencing in the near future.

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**RECOMMENDATION:**

20 **That the Coastal and Estuary Catchment Panel note the Coastal Projects update.**

**Report****Coastal Management Program(s) (Scoping Study) for Cape Byron to South Golden Beach**

5 Planning for our coastline has started under the new coastal legislation. The planning will include the preparation of a new Coastal Management Program(s) or CMP.

A CMP is a plan of action for Council to:-

- address coastal hazard risks
- preserve habitats
- maintain or improve recreational amenity and resilience

10 During this process existing coastal management activities and previous Coastal Zone Management Plans will be reviewed and revised. The project will focus on coastal hazards and the two areas of concern where property and/or infrastructure are at risk, being Belongil Beach and New Brighton Beach. The first Stage of developing a CMP is the preparation of a scoping study.

15 Community Drop-In-Sessions held 15 and 19 November 2018 to inform the study regarding how the community use and enjoy the foreshore and beaches of the Byron Shire Coastline.

Community Survey on Council's website is now open until 30 November 2018.

Next steps include more targeted stakeholder workshop in the new year, development and review of the Scoping Report and endorsement by Council to go to public exhibition.

20 The finalised Scoping Study Report will be provided to the Coastal Council for endorsement of the subsequent stages of the CMP process (to be rolled out in 2019).

**CZMP for the Eastern Precincts of the Byron Bay Embayment**

25 Report to Council to the 22 November 2018 meeting outlining the development of the CZMP.

30 Following a lengthy deliberation of the CZMP (2018) by OEH, formal written advice from the Chief Executive, Anthony Lean was received 16 October 2018, as a follow up to a phone discussion with the General Manager on the 12 October 2018. Formal advice received outlined that:

- The decision to separate the previous CZMP BBE (2016) into two locations and develop a newly formed plan excluding the Belongil Spit has not satisfied key stakeholders within the local community - most notably the landholders of properties at Belongil Beach;
- There is considerable legal uncertainty as to whether the CZMP (2018) as re-submitted to the Minister is able to be considered and certified under the terms of the transitional provisions of the CP Act.

40 As such OEH did not consider it appropriate to recommend to the Minister that she certify the CZMP (2018), and instead returned it to Council advising Council to commence development of a CMP for the whole Byron Bay Embayment.

45 Council has commenced the planning for the coastline (Cape Byron to South Golden Beach) however, may request a meeting with the Minister to discuss the non-certification of the CZMP further.

**Upgrade/modification of the Jonson Street Protection Works (JSPW)**

- 5 The coastal protection works at Main Beach (JSPW) are degraded and not to contemporary engineering standards with Council committed to the re-design and modification of this structure. Previous advice of the NSW Coastal Panel considered Master Planning of the Jonson Street area (town centre of Byron Bay) a high priority for implementation. As such, the upgrade/modification of the JSPW is at the forefront of the CZMP (2018).
- 10 Council is committed to progressing this project and submitted a funding application to the Coastal and Estuary Grants Program on 4 July 2018 to commence the design and planning phase. Council has allocated 50% of the project costs in this year's budget.
- 15 The funding application for \$150,000 has been approved by OEH with a total project estimate of \$300,000. The first component of the project will commence prior to December 2018. An RFQ is being presently developed.

**Financial Implications**

- 20 The funding application for \$150,000 has been approved by OEH with a total project estimate of \$300,000. The first component of the project will commence prior to December 2018. An RFQ is being presently developed.

**25 Statutory and Policy Compliance Implications**

NA

**STAFF REPORTS - INFRASTRUCTURE SERVICES**

**Report No. 4.2                    Items for the Panel Requested by Duncan Dey**

**Directorate:**                    Infrastructure Services

5 **Report Author:**                Dominika Tomanek, Executive Assistant Infrastructure Services

**File No:**                         I2018/1890

**Theme:**                         Infrastructure Services  
Emergency Services and Flood Management

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**Summary:**

This report has presented 2 topics for discussion as requested by committee member Duncan Dey.



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**RECOMMENDATION:**

1. That the Panel consider advantages of advisory committees of Council over panels, and consider seeking to be a Committee.
2. That the Panel note the discussion.

**Attachments:**

- 20 1     DRAFT Coastal Estuary Catchment Committee Constitution November 2018, E2018/107347 , page 10  



**Report**

It was requested by panel member Duncan Dey to table the following items at the next Coastal Estuary Catchment Panel meeting.

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1. *That the Panel consider advantages of advisory committees of Council over panels, and consider seeking to be a Committee.*
2. *That the language of sea level rise be switched from one based on years into the future and thus dependent on time estimates of rise to one based on the actual rise.*

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In relation to question 1, the functional differences between Advisory Committees and Panels are that:

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- a) the committee has the role of making recommendations to Council on specific matters following the consideration of a staff report at a meeting of the advisory committee. The recommendations of the advisory committee are made to Council through the minutes of the advisory committee meeting and considered at an ordinary meeting. The specific matters and areas of expertise for each advisory committee are determined by Council in the establishment of the advisory committee and in the adopted constitution for the advisory committee, whereas
- b) a panel does not have any executive power or authority to implement actions and all recommendations from these panels are reported to Council via a staff report for decision.

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The proposed constitution is attached for information.

For the second item, it is proposed this item be discussed at the meeting before formal report be prepared.

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The Background that Duncan Dey requested be printed with this item is:

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*'The nebulous nature of discussion on SLR is not assisted by the variations in the time predictions of the rises. They will continue to vary, as predictions must. Society would be better served by determining its actions and strategies on the basis of "when the ocean reaches 0.5m above its level in the year 2000" or "1.0m above" or "2.0m above" etc. It would then be a separate debate as to when that happens. It is also not important when that happens. Important is the fact that it will happen. Strategies and actions would then be triggered by sea levels and not by the clock. This is particularly applicable to Coastal Management Plans'*

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**Financial Implications**

NA

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**Statutory and Policy Compliance Implications**

NA



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**BYRON SHIRE COUNCIL**

**COASTAL ESTUARY CATCHMENT  
COMMITTEE**

**CONSTITUTION**

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**INFORMATION ABOUT THIS DOCUMENT**

(INTERNAL USE ONLY)

<b>Date Adopted by Council</b>	13 December 2018	<b>Resolution No.</b>	
<b>Responsibility</b>			
<b>Review Timeframe</b>			
<b>Last Review Date:</b>		<b>Next Scheduled Review Date</b>	

***Document History***

<b>Doc No.</b>	<b>Date Amended</b>	<b>Details Comments eg Resolution No.</b>

***Further Document Information and Relationships***

<b>Related Legislation</b>	Section 355, Local Government Act (1993)
<b>Related Policies</b>	Code of Conduct 2016 Work Health Safety Policy Code of Meeting Practice
<b>Related Procedures/ Protocols, Statements, documents</b>	

Constitution: Coastal Estuary Catchment Advisory Committee

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Constitution: Coastal Estuary Catchment Advisory Committee

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## 1. Preamble

The Coastal Estuary Catchment Committee is an advisory committee of the Council and does not have executive power or authority to implement actions.

The role of the committee is to report to Council and provide appropriate advice and recommendations on matters relevant to this Constitution.

## 2. Purpose

*(To be determined by Council)*

The purpose of the Coastal Estuary Catchment Committee is:

- a) To recommend Council on priorities and investigation of the various Plans and Strategies impacting on the Coastal Estuary Catchments
- b)
- c)

## 3. Timeframe for Committee

The lifespan of the Coastal Estuary Catchment Committee is for the term of Council 2019-2020.

*The Committee will generally be for the term of Council however, the committee may be issue based and therefore only exist for 1-2 years. NOTE: If this Advisory Committee is issued based please state lifespan in paragraph above (please delete this note in red text).*

## 4. Responsible Directorate

This committee is administered by the Infrastructure Services Directorate. The Director or their delegate will attend these meetings and minutes will be taken by a member of their staff.

## 5. Membership

Council must appoint all advisory committee members. Appointment must take place prior to a member being conferred the responsibilities and rights as set out in this document.

Council may release individual members from the advisory committee at any time by a resolution of council. Council may also appoint any new members to a committee at any time by a resolution of council.

Membership is to include:

- 3 Councillors
- 6 relevantly qualified community representative
- General Manager (or staff member delegate)

Constitution: Coastal Estuary Catchment Advisory Committee

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*Note: Staff members participating on the committee do not have any voting entitlements.*

All clauses beyond this point are not to be edited. All Advisory Committees follow the same standard Constitution and only Clauses 1 to 5 are variable for each Committee.

Please remove this wording prior to publication/distribution of this Constitution.

## 6. Induction

All members will be required to participate in an induction process at the establishment of a new committee, and at any time a replacement voting member joins a committee. The induction will be scheduled prior to the first meeting of the committee and will cover topics such as this Constitution, the Code of Meeting Practice, Conflicts of Interest and Code of Conduct.

Replacement voting members will be inducted by experienced committee members at, or prior to, their first meeting.

## 7. Quorum

A quorum is to constitute at least half the number of members, two of which are to be Councillors. The General Manager or delegate, who must be a member of staff, is to attend the Advisory Committee meeting and is not counted in the quorum for the meeting.

## 8. Confidentiality

Members of the committee will, in those circumstances where confidential matters are subject to deliberation, maintain confidentiality.

## 9. Election of Chairperson

The position of Chairperson is to be elected from Councillors comprising the committee but only in circumstances where the Mayor elects not to assume the position of Chairperson.

## 10. Voting

- a) Each member of the committee (with the exception of staff members) is to have one vote, with the Chairperson to have a casting vote in addition to a deliberative vote.
- b) Members of the committee who are not Councillors may abstain from voting in any circumstances without such abstention being recorded in the negative.

## 11. Majority Decision

A majority decision of the committee requires a majority of elected members to be present and voting on any item subject to the requirements of a quorum being met at the meeting.

## 12. Convening Meetings

Meetings will be held as required, generally every quarter. An annual timetable of meetings will be prepared in advance, and adopted by Council every October/November for the following 12 months.

A meeting of the committee may be convened in response to either the direction of the Mayor (or in the Mayor's absence the Deputy Mayor) in written form to the General Manager; or two Councillors in written form to the General Manager, or by resolution of the Council.

## 13. Agenda Preparation

It is the responsibility of the chairperson to prepare the agenda in consultation with the relevant Director, setting out the terms of business to be considered.

The agenda is an organised list of the business, in order, that will be transacted at the meeting. An agenda for each meeting, containing a brief report on each item, is to be provided to committee members and available on Council's website at least 7 days prior to the meeting being held.

Each item of business to discuss at the meeting is required to be listed on the agenda and in written form. Verbal reports at the meeting are not an acceptable practice.

For some matters, it will be necessary to attach other relevant information to the agenda to inform and direct discussion. Such information is to be circulated with the agenda.

Committee members may request items for inclusion in future agendas, through the Chair.

## 14. Conduct of Business

Each item of business is discussed in the order in which it appears on the agenda. No new matters will be introduced at the meeting. New items of business may be included in a future agenda as noted in clause 13 above.

## 15. Records of meetings

- a) The minutes of meetings are to be circulated to members of the group within 7 days of the meeting so that members can provide feedback through the Chair on the draft unconfirmed minutes.
- b) Minutes of committee meetings will be kept and presented to Council at its next meeting via a report of the committee meeting.

## 16. Absence from Committee Meetings

All committee members are required to advise the chair when they are unable to attend committee meetings. The absence of committee members from the meeting is to be recorded in the minutes. A committee member (other than the Mayor) ceases to be a member of a committee if the member:

- a) Has been absent from three consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absence, or

Constitution: Coastal Estuary Catchment Advisory Committee

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- b) Has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.

### 17. Project Reference Groups

Project Reference Groups may be established by Council at the recommendation of the committee to address issues clearly identified by the committee.

Project Reference Groups operate in accordance with Council's adopted Constitution template for Project Reference Groups.

### 18. Section 377 Delegation

The committee does not have any delegated functions pursuant to section 377 of the Local Government Act (1993) and does not have the power to direct staff.

### 19. Meeting Practice

Meetings are to be conducted in accordance with this Constitution and, where required, reference to Council's Code of Meeting Practice.

### 20. Miscellaneous

- a) **Insurance:** All group members are covered by the public liability policy of Council. This insurance does not preclude the Advisory Committee from due diligence and all Council policies must be adhered to.
- b) **Code of Conduct:** All group members to abide by Council's adopted Code of Conduct at all times.
- c) **Pecuniary Interest:** Pecuniary Interest may be defined as an interest that a person has in a matter, as a group member or employee of a company or other body, 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. Such other person includes the spouse or de-facto partner or relative of the group member.

Section 446 of the Local Government Act states that "a member of a council committee, other than a committee that is wholly advisory, must disclose pecuniary interests..."

Even though the Local Government Act provides an exemption to disclose pecuniary interests Council's preference is for all members to declare pecuniary interests where applicable.

- d) **Work Health Safety:** All group members are required to comply with the "Worker Responsibilities" as prescribed in the Work Health Safety Policy.