



Byron Shire Council



Agenda

Ordinary Meeting

Thursday, 30 April 2015

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

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

Ken Gainger
General Manager

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)

RECORDING OF VOTING ON PLANNING MATTERS

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

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

BYRON SHIRE COUNCIL

ORDINARY MEETING

BUSINESS OF ORDINARY MEETING

1. PUBLIC ACCESS

2. APOLOGIES

3. REQUESTS FOR LEAVE OF ABSENCE

4. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

5. TABLING OF PECUNIARY INTEREST RETURNS (S450A LOCAL GOVERNMENT ACT 1993)

6. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

6.1 Ordinary Meeting held on 9 April 2015

7. RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS

8. MAYORAL MINUTE

9. NOTICES OF MOTION

9.1 Extended brief to the Byron Bay Master Plan Consultants 1

10. PETITIONS

11. SUBMISSIONS AND GRANTS

12. DELEGATES' REPORTS

13. STAFF REPORTS

Corporate and Community Services

- 13.1 Code of Meeting Practice Policy - proposed amendments 6
- 13.2 Council Investments - March 2015 12
- 13.3 Draft 2015/16 Operational Plan and Statement of Revenue Policy - Public Exhibition. 18
- 13.4 Section 94 Funds Allocation Request for the 'Intergenerational Playgroup Project' to Construct Pathways, Seating and Shelter in Jacaranda Park, Byron Bay.....28

Sustainable Environment and Economy

- 13.5 Submissions Report - Draft Short Term Holiday Accommodation Strategy.....30
- 13.6 Greenhouse Gas Emission Status Report 2012-13 and 2013-1437
- 13.7 PLANNING - Planning Proposals - For finalisation of reclassification of Lot 1 DP 952598 Vallances Road Mullumbimby and Lots 15 and 16 DP 1178892 Dingo Lane Myocum 45
- 13.8 PLANNING - 10.2014.238.1 - Use of existing awning and stage structures as part of existing restaurant, increase the maximum number of restaurant patrons to ninety-six (96) and erection of a new gazebo structure (ancillary to tourist facility) - 25 Childe Street, Byron Bay55
- 13.9 Report of the Planning Review Committee Meeting held on 7 April 201586
- 13.10 Sustainable Economy Committee Selection Process88

BYRON SHIRE COUNCIL

ORDINARY MEETING

Organisation Development

| | |
|---|----|
| 13.11 Webcasting Council meetings | 90 |
|---|----|

14. REPORTS OF COMMITTEES

Corporate and Community Services

| | |
|--|-----|
| 14.1 Report of the Arakwal Memorandum of Understanding Advisory Committee Meeting held on 25 February 2015 | 115 |
|--|-----|

Infrastructure Services

| | |
|---|-----|
| 14.2 Report of the Local Traffic Committee Meeting held on 1 April 2015 | 123 |
|---|-----|

15. QUESTIONS WITH NOTICE

| | |
|---|-----|
| 15.1 Coastal Zone Management Plan for the Byron Bay Embayment | 131 |
|---|-----|

16. CONFIDENTIAL REPORTS

Infrastructure Services

| | |
|--|-----|
| 16.1 CONFIDENTIAL - Tender Assessment - South Byron STP Stage 1 Works, Demolition of Above and Below Ground Infrastructure | 133 |
|--|-----|

Councillors are encouraged to ask questions regarding any item on the business paper to the appropriate Director or 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. 9.1 Extended brief to the Byron Bay Master Plan Consultants
File No: I2015/333

5

I move that Council make the following request to the consultants for the Byron Bay Master Plan:

- 1. That the consultants to be given an extra brief to prepare a feasibility study, provide preliminary designs and costings to build a multi-level car park in the position of the present Lawson Street North Car Park.**
- 2. That this design should include three levels for parking, two underground and one at ground level with two retail shop fronts to Lawson Street and two to Bay Lane with the whole top level being a Function room capable of catering to large functions from 200 to 500 participants incorporating a commercial kitchen and access to a roof top deck.**
- 3. Request the West Byron Developers to consider funding this preliminary study from promised voluntary contributions.**

Attachments:

- 10 1 Aerial view of carpark (sample only), E2015/23591 , page 5

Councillor's Background Notes:

15 It is clear that whilst providing a second lane into town will relieve some of the bottle neck and long hold ups on Shirley Street, one of the major hindrances to keeping traffic flowing are the pedestrians who cross Lawson Street at all points from the southern end of the Jonson North car park through the Lawson/Jonson St roundabout.

20 As per a traffic report data on pedestrians shows that 3,400 pedestrians an hour were crossing at or near the roundabout with an estimated 2,100 vehicles an hour moving through the same roundabout

25 The Bypass will reduce some 15% of traffic but the remaining vehicles will be making their way to the top end of town from whatever direction they enter town.

30 With or without "paid parking" unless extra parking is provided the inner parking congestion will just be spread to the outer streets or as is the case with many locals now they simply will not come into the town centre but will choose to shop, eat and surf elsewhere.

35 Providing close easily accessible parking for tourists and residents alike with the entrance via the southern end of the Jonson North Car Park will have a substantial impact on reducing stop start times of moving vehicles and markedly reduce pedestrian vehicle interaction at the Jonson/Lawson roundabout because all those travelling to town from the North will be able to enter this car park without having to go via the Lawson/Jonson roundabout. This will also be a great advantage to locals who just want to go to the beach or restaurants if they can get in and get out without the usual holdups at the roundabout. I call it "park-n-surf"

Adding some 360 extra parking spaces that will most likely turn over every few hours, some more often could mean council will be able to generate \$2M to \$3M per year with very little outgoings i.e. low maintenance and running costs with no traffic enforcement attendants required as with “paid parking”

- 5 It is a way to provide a service to the day tripper, tourist, resident whilst providing a substantial increase to council’s bottom line.

- 10 The top floor function room/rooms will be very successful owing to the popularity of Byron Bay as a venue for functions from the small business conference through to large functions catering for 300 to 500 participants. Weddings alone generate huge revenue for businesses in the Byron Shire. With the addition of roof top space I believe the top floor function room has the capacity to generate substantial income for council.

- 15 Adding more shop spaces on the Jonson St and Bay St ends of the building will also provide income that will assist council to meet future obligations with regard to becoming fit for the future.

- 20 I believe this land is very valuable and needs to be put to work to generate income for our shire that will be derived from the tourist and day tripper. The user pays. This is a way to fund important infrastructure renewal and repair without having to tax the rate payer.

- This proposition has been put forward by councillors and council staff on numerous occasions in the past but I believe it is time to provide a study that will note the advantages or otherwise of siting this multi-level car park/function rooms/shops in this position.

- 25 **Signed: Cr Rose Wanchap**

Management Comments by Phillip Holloway, Director, Infrastructure Services:

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

Clarification of project/task:

- 35 The NOM seeks that the consultants for the Byron Bay Master Plan conduct a feasibility study and provide preliminary designs and costings for the development of a multi-level car park on Lawson Street north car park, Byron Bay.

The NOM requests that this design include:

- 40 a. three levels for parking, two underground and one at ground level
b. two retail shop fronts to Lawson Street
c. two retail shop fronts to Bay Lane
d. the whole top level being a function room capable of catering to large functions from 200 to 500 participants
e. the function room incorporating a commercial kitchen
45 f. function room access to a roof top deck

- 50 The NOM also requests that the West Byron developers be asked to consider funding this preliminary study from promised voluntary contributions.

It should be noted consideration of developing a multi-level car park has been included in the brief to consultants previously.

Directors responsible for task implementation:

Director, Sustainable Environment and Economy
Director, Infrastructure Services

5

Relationship to, priority of, and impact on other projects/tasks:

10 As reported to Council on 22 May 2014, Council's current Byron Bay Parking Study has provided the following estimates for construction of multi-level parking on the subject site:

Effective area 2,750 sq.m. (the area effectively be covered by structure)

Area / Space 30 sq.m. (includes area of access ways etc.)

Spaces / Level 90 spaces / level

15 **Maximum desirable levels** 5 (acknowledged as maximum desirable in retailing environments)

Probable capacity 450 spaces

Probable cost rate \$17,500 / space (having regard to Byron location)

Overall cost \$8.0 million (without land cost / value)

20

The parking study has also concluded spare capacity is available within the existing parking supply if better utilised (e.g. better turnover) and improvements made at street level, both of which if brought under a single parking scheme that applies across the town centre would generate approximately \$1.2m per year at \$2 per hour per space and near \$950,000 per year in enforcement.

25

In other words, Council need not commit money to the design for building a multi-level car deck at this time.

30 Financial and Resource Implications:

The NOM proposes that the West Byron Developers fund the feasibility study. The existing voluntary planning agreement (VPA) for the West Byron development is an agreement between the landowners and the Minister for planning. The VPA requires the developer to pay an amount of \$7,000 per lot to the Minister. This payment is in addition to the section 94 charges levied by Council less that part of the Urban Roads charge used to fund the bypass. The purpose of the \$7,000 voluntary payment to the Minister is to fund the bypass.

35

Whilst it is difficult to demonstrate a nexus between the West Byron development and a feasibility study for the proposed works, this does not preclude it from being included in a VPA. A VPA does provide significant flexibility as to the matters that may be covered and the funding of a feasibility study could be incorporated into an amended VPA. Council has no power to amend or alter the VPA without the agreement of the developer and the Minister. Council may write to the West Byron developers to ask if they would contribute to the feasibility study for the works proposed in this notice of motion as part of an amended VPA. As a VPA is voluntary, Council cannot compel the developer or the Minister to alter the VPA. Any charge to fund the feasibility study would likely be in addition to the \$7,000 paid to the Minister.

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Council may ask the West Byron developers to enter into an additional VPA over and above the existing VPA with the Minister. Council cannot compel the West Byron developers to fund this feasibility study. On the assumption that the West Byron developers do not wish to provide a further voluntary payment, Council would have to find an alternative source of funding to produce a design and feasibility study.

45

50

A budget would be required to undertake a detailed design. The design and construction of such facility is a specialisation that Council would need to outsource to ensure confidence in the design and cost estimates it would provide.

- 5 To this end, a budget of \$250,000 would be required if a detailed design is sought, which would provide confidence in the cost estimate derived as it considers all the site specific constraints and would provide necessary pre-construction investigations. The cost of the study may be partly funded from the section 94 Byron Bay parking account, however, Council will need to meet that portion of the cost relating to commercial development. At this point there is no source of funding to pay for the commercial component.
- 10

A budget for anything less than \$250,000 will likely not provide a fully detailed and costed design.

Comments by the General Manager:

- 15 While the recent Parking Management Review undertaken by TTM for the Council has canvassed a multi level car park option and has proposed that such an initiative cannot be justified at this time, there is no doubt that such a facility is a legitimate option in the longer term. This will become an even higher imperative should, as is anticipated, the BBTCMP propose the removal of the foreshore car park from Main Beach. The Byron Bay Town Centre Master Plan process has identified a strong desire by our community to place more emphasis on people and less on motor vehicles in the future planning of the Byron Bay CBD. Accordingly McGregor Coxall are developing strategies aimed at bringing this vision to realisation and a significant part of this strategy is locating future car parking facilities on the fringe of the township e.g. Butler Street Reserve or the Cornell land in Kendall Street, rather than adding car parking spaces within the town centre. While the commercial advantages of locating a future multi-level car park within the Lawson Street North car park are recognised, many in the community see such a shrine to the motor vehicle being placed in such a visible location as a blight on our attractive foreshore precinct.
- 20
- 25
- 30 Asking McGregor Coxall to undertake *a feasibility study and provide preliminary designs and costings to build a multi-level car park in the position of the present Lawson Street North Car Park* may not be the most appropriate way of progressing this proposal as this would be asking them to undertake work that is contrary to the strategic direction that is being formulated as espoused by Mike Cowdy at Council briefings last week. Perhaps a better way forward is to await the Master Plan and then determine how a multi-level car park fits within that Plan and where it would be appropriately located.
- 35

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Legal and Policy Implications:

Not Applicable



STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.1 Code of Meeting Practice Policy - proposed amendments

Directorate: Corporate and Community Services
Report Author: Gayle McCallum, Governance Officer
File No: I2015/221
Theme: Corporate Management
 Administrative Services – Councillors

Summary:

Council on the

- 5 February 2015 considered a Notice of Motion seeking the reinstatement of Public Questions within the Code of Meeting Practice.
- 19 March 2014 considered a Notice of Motion regarding allowing a “courtesy call” for further speeches prior to the right of reply

These matters were considered at a workshop with Councillors on 26 March 2015.

The report has been prepared to present to Council a draft Code of Meeting Practice, incorporating changes proposed at the workshop on the Code of Meeting Practice Policy, to enable Council to consider the amended Code, and to resolve to exhibit the draft Code of Meeting Practice in accordance with the Local Government Act 1993.

RECOMMENDATION:

1. That the report be noted.
2. That the draft amended Schedule A, as shown at Attachment “A” (E2015/20747) to the Code of Meeting Practice Policy be placed on public exhibition for a minimum period of 28 days allowing a period of 42 days for public submissions.
 - a) That in the event that any submissions are received on the draft Schedule A to the Policy, it be reported back to Council prior to adoption.
 - b) That in the event that no submissions are received on the draft Schedule A to the Policy it be adopted and incorporated in Council’s Policy Register.

Attachments:

- 1 Draft Amended Schedule A to the Code of Meeting Practice Policy, E2015/20747 , page 10

Report

Council at its Ordinary Meeting held on 5 February 2015 resolved as follows:

5 15-015 Resolved that Council

- a) *Reinstate Public Questions within the Code of Meeting Practice within the Public Access Section; and*
- b) *Amend the Code of Meeting Practice to:*
 - i. *allow Public Questions to be asked within Council meetings; and*
 - ii. *allow Councillors to ask questions of the speaker*
 - iii. *responses to questions taken on notice will be tabled in the next agenda papers*

Council at its Ordinary Meeting held 19 March 2015 resolved:

15-100 Resolved that a review of Council meeting procedures be discussed at a workshop, including the following:

- 1. *Prior to calling for the "right of reply" at the end of a debate on the floor of Council that a "courtesy call" be given to any remaining councillors who may have wished to speak but had not had the opportunity to do so regardless of the content of their speech or final vote "for or against" on the issue.*
- 2. *The "courtesy call" would not be directed at an individual councillor but offered to all remaining speakers who have not yet spoken on the subject.*

Both these matters were considered at a workshop with Councillors held on 26 March 2015 where the amendments proposed in the resolutions were discussion and clarification provided on the proposed amendments .

It was agreed at the workshop with regard to resolution 15-015 that the following be included into the Code of Meeting Practice at Schedule A Order of Business, Public Access as follows:

- 1. Public Access on an item on the Agenda. Time allowed is 5 minutes for and 5 minutes against. If there is more than 1 speaker the time is to be shared.
- 2. Submissions from members of the Public. Time allowed is 2 minutes per submission. A person is only permitted 1 submission per meeting.
- 3. Questions from members of the Public to Councillors. Time allowed 1 minute per question. If a Question is directed at a specific Councillor/s, identified in the asking of the Question, then that Councillor or a Councillor nominated by the identified Councillors, is allowed 1 minute for right of reply. If there is a general question asked to all Councillors, the Mayor has the right of reply limited to 1 minute. A person is only permitted 1 question per meeting.
- 4. Representations by members of the public under Section 10A(4) of the Local Government Act, regarding a recommendation for the closure of a part of meeting for the consideration of a Confidential Item/s, will be included as a Public Access matter on the related item listed in the Agenda. Members of the Public may address the meeting on the closure. Time allowed is 5 minutes per item.
- 5. Public Access to commence at 9.00am and conclude at 10.00am. An extension of 15 minutes for Public Access may be permitted. If time allows consideration may be given to

persons who have registered to have a further submission or question to the one allowable above in 2. and 3.

6. A morning tea break to be scheduled at 10.15am.

A draft amended Schedule A "Public Access" in the Code of Meeting Practice has been drafted to include the above changes, see Attachment "A".

For Councillors information Council resolved of the 20 November 2014 with regard to the meeting schedule as follows:

14-593 Resolved:

1. That Council adopts the following schedule of Ordinary Meetings for 2015:

| Ordinary Meetings | |
|--------------------------|------------------------|
| February – June | July – December |
| 5 February 2015 | 16 July 2015 |
| 26 February 2015 | 27 August 2015 |
| 19 March 2015 | 17 September 2015 |
| 9 April 2015 | 8 October 2015 |
| 30 April 2015 | 29 October 2015 |
| 21 May 2015 | 19 November 2015 |
| 11 June 2015 | 10 December 2015 |

2. That the Ordinary Meetings commence at 9.00am and conclude no later than 6.00pm unless otherwise resolved by Council.
3. That Council hold all Ordinary Meetings in the Council Chambers, Mullumbimby.

With regard to resolution 15-100 this matter was considered at the workshop with Councillors on 26 March 2015, and it was agreed there would be no change to the Code with regard to this resolution.

Financial Implications

There are no financial implications

Statutory and Policy Compliance Implications

With regard to representations from the public regarding closure of part of a meeting the Local Government (General) Regulations stated:

252 Representations by members of the public--closure of part of meeting

- (1) A representation at a council meeting by a member of the public as to whether a part of the meeting should be closed to the public can only be made for a fixed period immediately after the motion to close the part of the meeting is moved and seconded.
- (2) That period is as fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix that period) as fixed by resolution of the council. Different periods can be fixed according to the different types of matters to be discussed or received and discussed at closed parts of meetings.

The statutory process for the adoption and or amendment of the Code of Meeting Practice is set out in Sections 361 – 363 of the Local Government Act1993

361 Preparation, public notice and exhibition of draft code

- 5 (1) *Before adopting a code of meeting practice, a council must prepare a draft code.*
- (2) *The council must give public notice of the draft code after it is prepared.*
- (3) *The period of public exhibition must not be less than 28 days.*
- 10 (4) *The public notice must also specify a period of not less than 42 days after the date on which the draft code is placed on public exhibition during which submissions may be made to the council.*
- (5) *The council must publicly exhibit the draft code in accordance with its notice.*

362 Adoption of draft code

- 15 (1) *After considering all submissions received by it concerning the draft code, the council may decide:*
 (a) *to amend those provisions of its draft code that supplement the regulations made for the purposes of section 360, or*
 (b) *to adopt the draft code as its code of meeting practice.*
- 20 (2) *If the council decides to amend its draft code, it may publicly exhibit the amended draft in accordance with this Division or, if the council is of the opinion that the amendments are not substantial, it may adopt the amended draft code without public exhibition as its code of meeting practice.*

363 Amendment of the code

- 25 *A council may amend a code adopted under this Part by means only of a code so adopted.*

SCHEDULE "A": ORDER OF BUSINESS

General Order of Business - Ordinary Meetings

- 5 The general order of business of the Ordinary meetings of Council shall be listed in the following order:
1. Public Access*
 2. Apologies
 - 10 3. Requests for Leave of Absence
 4. Declaration of Interests – Pecuniary and Non-Pecuniary
 5. Tabling of Pecuniary Interest Returns (s450A Local Government Act 1993)
 6. Adoption of Minutes from Previous Meetings
 7. Reservation of Items for Debate and Order of Business
 - 15 8. Mayoral Minute (if any)
 9. Notices of Motion
 10. Petitions
 11. Submissions and Grants
 12. Delegates' Reports
 - 20 13. Staff Reports
 14. Reports of Committees
 15. Councillor Questions with Notice (for answers in minutes)**
 16. Confidential Reports
- 25 *Note: In accordance with Council Res No. 14-593 the Ordinary Meetings will commence at 9.00am and conclude at 6.00pm unless otherwise resolved by Council. Morning tea break to be scheduled at 10.15am and lunch at 1.00pm, an afternoon tea break may be scheduled at any time depending on the length of the meeting.*
- 30 ***Public Access** relating to items on this Agenda, general Submissions or Questions to Councillors can be made between 9.00am and 10:00am on the day of the meeting, an extension of 15 minutes may be permitted if resolved by Council.
- 35 1. Public Access on an item on the Agenda: People wanting to speak to items on the Agenda will be listed for public access in the same order the items appear on the Agenda. People can request up to three speeches each with additional speeches by the same organisation/speaker being accommodated if time permits. Requests must make clear whether the speaker is speaking generally in favour of, or against the recommended action(s). Time allowed is 5 minutes for and 5 minutes against
 - 40 each item. If there is more than 1 speaker the time allocated is to be shared.
 2. Representations by members of the public under Section 10A(4) of the Local Government Act, regarding a recommendation for the closure of a part of meeting for the consideration of a Confidential Item/s, will be included as a Public Access matter on the related item listed in the Agenda. Members of the Public may address the meeting on the closure. Time allowed is 5 minutes per item.
 - 45 3. Submissions from members of the Public: Time allowed is 2 minutes per submission. A person is only permitted 1 submission per meeting.
 - 50 4. Questions from members of the Public to Councillors. Time allowed 1 minute per question. If a Question is directed at a specific Councillor/s, identified in the asking of the Question, then that Councillor or a Councillor nominated by the identified Councillors, is allowed 1 minute for right of reply. If there is a general question

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.1 - ATTACHMENT 1

asked to all Councillors, the Mayor has the right of reply limited to 1 minute. A person is only permitted 1 question per meeting.

- 5 Requests for public access on an item on the Agenda, a submission or a question should be made to the General Manager or the Mayor no later than 12.00 noon on the day before the Meeting on-line at <http://www.byron.nsw.gov.au/public-access-sessions-and-submissions..>

- 10 It is possible that not all requests for Public Access will always be able to be accommodated within the Public Access part of the meeting. Members of the public are encouraged to make their submissions/questions in writing before the Council meeting in case there is insufficient time on the day of the meeting to accommodate all requests for Public Access.

- 15 If time allows consideration may be given to persons who have registered to have a further submission or question to the one allowable above in 3. and 4.
****Councillor Questions with Notice: Relates to Councillor Questions notice of which is given in accordance with clause 7 of the Code of Meeting Practice.**

Report No. 13.2 **Council Investments - March 2015**
Directorate: Corporate and Community Services
Report Author: James Brickley, Manager Finance
File No: I2015/257
5 **Theme:** Corporate Management
 Financial Services

Summary:

10 This report includes a list of investments and identifies Council's overall cash position as at 31 March 2015 for Council's information.

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

RECOMMENDATION:

20 **That the report listing Council's investments and overall cash position as at 31 March 2015 be noted.**

Report

In relation to the investment portfolio for March 2015, Council has continued to maintain a diversified portfolio of investments. The average 90 day bank bill rate (BBSW) for the month of March was 2.28%. Council's performance for the month of March is a weighted average of 3.15%.

- 5 This performance is again higher than the assumed benchmark. This is largely due to the active ongoing management of the investment portfolio, maximising investment returns through secure term deposits. Council's investment portfolio should continue to out-perform the benchmark as the capital protected investment earning 0% interest nears maturity.

- 10 There is now only one capital protected investment held by Council which is fully allocated to an underlying zero coupon bond. This investment is the Emu Note which will mature in October 2015.

The table below identifies the investments held by Council as at 31 March 2015:

Schedule of Investments held as at 31 March 2015

| Purch Date | Principal (\$) | Description | CP* | Rating | Maturity Date | Type | Interest Rate Per Annum | Current Value |
|------------|----------------|-----------------------------|-----|--------|---------------|------|-------------------------|---------------|
| 26/09/05 | 1,500,000 | EMU NOTES | CP | AAA- | 25/10/15 | MFD | 0.00%* | 1,472,250.00 |
| 20/06/12 | 500,000 | HERITAGE BANK LTD BONDS | N | BBB+ | 20/06/17 | B | 7.25% | 530,000.00 |
| 12/01/15 | 1,000,000 | MACQUARIE BANK | P | A | 13/04/15 | TD | 3.35% | 1,000,000.00 |
| 09/03/15 | 2,000,000 | NEWCASTLE PERMANENT | N | NR | 09/06/15 | TD | 3.00% | 2,000,000.00 |
| 23/02/15 | 2,000,000 | ING BANK (AUSTRALIA) | N | A1 | 24/08/15 | TD | 3.11% | 2,000,000.00 |
| 09/12/14 | 2,200,000 | POLICE CREDIT UNION | P | NR | 08/04/15 | TD | 3.43% | 2,200,000.00 |
| 13/01/15 | 2,000,000 | ME BANK | N | BBB | 13/04/15 | TD | 3.35% | 2,000,000.00 |
| 11/02/15 | 2,000,000 | BANK OF QUEENSLAND | N | A2 | 12/05/15 | TD | 3.15% | 2,000,000.00 |
| 09/12/14 | 1,000,000 | ING BANK (AUSTRALIA) | N | A1 | 09/06/15 | TD | 3.55% | 1,000,000.00 |
| 05/01/15 | 1,000,000 | WIDE BAY AUSTRALIA LTD | N | NR | 07/04/15 | TD | 3.40% | 1,000,000.00 |
| 10/03/15 | 2,000,000 | NAB | N | AA- | 11/06/15 | TD | 3.12% | 2,000,000.00 |
| 10/11/14 | 2,000,000 | COMMINVEST | N | AA- | 10/05/15 | TD | 3.40% | 2,000,000.00 |
| 09/03/15 | 2,000,000 | NAB | N | AA- | 05/06/15 | TD | 3.13% | 2,000,000.00 |
| 03/03/15 | 2,000,000 | NAB | N | AA- | 03/09/15 | TD | 3.40% | 2,000,000.00 |
| 09/03/15 | 2,000,000 | BANKWEST | N | A1+ | 05/06/15 | TD | 3.45% | 2,000,000.00 |
| 08/01/15 | 1,000,000 | BANKWEST | N | A1+ | 08/04/15 | TD | 3.50% | 1,000,000.00 |
| 14/11/14 | 1,000,000 | ING BANK (AUSTRALIA) | N | A2 | 14/11/14 | TD | 3.52% | 1,000,000.00 |
| 12/02/15 | 1,000,000 | NEWCASTLE PERMANENT | N | NR | 13/05/15 | TD | 3.21% | 1,000,000.00 |
| 12/02/15 | 2,000,000 | NAB | N | AA- | 13/05/15 | TD | 3.21% | 2,000,000.00 |
| 23/02/15 | 2,000,000 | NAB | N | AA- | 25/05/15 | TD | 3.13% | 2,000,000.00 |
| 03/03/15 | 2,000,000 | PEOPLES CHOICE CREDIT UNION | N | BBB+ | 03/06/15 | TD | 2.90% | 2,000,000.00 |
| 01/12/14 | 2,000,000 | ING BANK (AUSTRALIA) | N | A2 | 03/06/15 | TD | 3.56% | 2,000,000.00 |
| 02/12/14 | 2,000,000 | CREDIT UNION AUSTRALIA | N | BBB+ | 31/08/15 | TD | 3.55% | 2,000,000.00 |
| 06/02/15 | 2,000,000 | BANKWEST | N | A1+ | 10/04/15 | TD | 3.10% | 2,000,000.00 |
| 09/12/14 | 2,000,000 | SUNCORP | P | A+ | 08/04/15 | TD | 3.45% | 2,000,000.00 |

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.2

| Purch Date | Principal (\$) | Description | CP* | Rating | Maturity Date | Type | Interest Rate Per Annum | Current Value |
|--------------|-------------------|-----------------------------|-----|--------|---------------|------------|-------------------------|----------------------|
| 06/03/15 | 2,000,000 | BANKWEST | N | A1+ | 04/06/15 | TD | 3.10% | 2,000,000.00 |
| 08/01/15 | 2,000,000 | WIDE BAY AUSTRALIA LTD | BBB | NR | 08/04/15 | TD | 3.40% | 2,000,000.00 |
| 28/01/15 | 2,000,000 | ME BANK | N | BBB | 28/04/15 | TD | 3.35% | 2,000,000.00 |
| 30/01/15 | 2,000,000 | BANK OF QUEENSLAND | N | A2 | 29/05/15 | TD | 3.35% | 2,000,000.00 |
| 03/02/15 | 1,000,000 | MACQUARIE BANK | P | A1 | 04/05/15 | TD | 3.30% | 1,000,000.00 |
| 05/02/15 | 2,000,000 | SUNCORP | N | A1 | 06/05/15 | TD | 3.15% | 2,000,000.00 |
| 11/02/15 | 2,000,000 | AMP BANK | N | A | 12/08/15 | TD | 3.30% | 2,000,000.00 |
| 13/02/15 | 2,000,000 | RABOBANK | N | A1+ | 14/05/15 | TD | 3.10% | 2,000,000.00 |
| 12/02/15 | 1,000,000 | RABOBANK | N | A1+ | 13/06/15 | TD | 3.10% | 1,000,000.00 |
| 03/03/15 | 2,000,000 | ME BANK | N | BBB | 05/04/15 | TD | 2.75% | 2,000,000.00 |
| 03/03/15 | 2,000,000 | NAB | N | AA- | 03/07/15 | TD | 3.13% | 2,000,000.00 |
| 03/03/15 | 2,000,000 | NAB | N | AA- | 04/08/15 | TD | 3.15% | 2,000,000.00 |
| 17/03/15 | 2,000,000 | PEOPLES CHOICE CREDIT UNION | N | BBB+ | 16/07/15 | TD | 3.00% | 2,000,000.00 |
| N/A | 3,006,753 | CBA BUSINESS ONLINE SAVER | N | A | N/A | CALL | 2.25% | 3,006,752.89 |
| Total | 69,206,753 | | | | | AVG | 3.15% | 69,209,002.89 |

It should be noted that at the time of writing this report, Council had not received a valuation for the EMU Note for March 2015. This investment is highlighted in bold in the table above with the valuation reflective from 28 February 2015, this being the most recent current valuation received by Council.

Note 1. CP = Capital protection on maturity
N = No Capital Protection
Y = Fully covered by Government Guarantee
P = Partial Government Guarantee of \$250,000 (Financial Claims Scheme)

Note 2.

| Type | Description | |
|------|--------------|---|
| MFD | Managed Fund | Principal varies based on fund unit. Price valuation, interest payable varies depending upon fund performance. |
| 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 at the cash rate +0.50% |

Note 3. Floating rate notes and Term Deposits can be traded on a day-to-day basis, and therefore Council is not obliged to hold the investments to the maturity dates. Managed funds operate in a similar manner to a normal bank account with amounts deposited or withdrawn on a daily basis. There is no maturity date for this type of investment.

***Note 4.** The coupon on these investments is zero due to the Capital Protection mechanism working. This occurs when the investment falls below a certain level. This coupon may be paid again in the future as the market recovers.

For the month of March 2015, as indicated in the table below, there is a dissection of the investment portfolio by investment type. It illustrates the current value of investments remains slightly more than February, demonstrating a cumulative unrealised gain of \$2,250.00.

Dissection of Council Investment Portfolio as at 31 March 2015

| Principal Value (\$) | Investment Linked to:- | Current Market Value (\$) | Cumulative Unrealised Gain/(Loss) (\$) |
|-----------------------------|----------------------------------|----------------------------------|---|
| 64,200,000.00 | Term Deposits | 64,200,000.00 | 0.00 |
| 3,006,752.89 | Business On-Line Saver (At Call) | 3,006,752.89 | 0.00 |
| 1,500,000.00 | Managed Funds | 1,472,250.00 | (27,750.00) |
| 500,000.00 | Bonds | 530,000.00 | 30,000.00 |
| 69,206,752.89 | | 69,209,002.89 | 2,250.00 |

The current value of an investment compared to the principal value (face value or original purchase price) provides an indication of the performance of the investment without reference to the coupon (interest) rate. The current value represents the value received if an investment was sold or traded in the current market, in addition to the interest received.

The table below provides a reconciliation of investment purchases and maturities for the period 28 February 2015 to 31 March 2015 on a current market value basis.

Movement in Investment Portfolio – 28 February 2015 to 31 March 2015

| Item | Current Market Value (at end of month) |
|--|---|
| Opening Balance at 28 February 2015 | 65,192,716.46 |
| Add: New Investments Purchased | 22,000,000.00 |
| Add: Call Account Additions | 2,000,000.00 |
| Add: Interest from Call Account | 5,186.43 |
| Less: Investments Matured | 19,000,000.00 |
| Less: Call Account Redemption | 1,000,000.00 |
| Add: Fair Value Movement for period | 11,100.00 |
| Closing Balance at 28 February 2015 | 69,209,002.89 |

Investments Maturities and Returns – 28 February 2015 to 31 March 2015

| Principal Value (\$) | Description | Type | Maturity Date | Number of Days Invested | Interest Rate Per Annum | Interest Paid on Maturity |
|----------------------|-----------------------------|------|---------------|-------------------------|-------------------------|---------------------------|
| 2,000,000.00 | National Australia Bank | TD | 02/03/2015 | 181 | 3.55% | 35,208.22 |
| 2,000,000.00 | National Australia Bank | TD | 03/03/2015 | 92 | 3.40% | 17,139.73 |
| 2,000,000.00 | Peoples Choice Credit Union | TD | 03/03/2015 | 92 | 3.44% | 17,341.37 |
| 2,000,000.00 | Bankwest | TD | 06/03/2015 | 60 | 3.40% | 11,178.08 |
| 2,000,000.00 | Newcastle Permanent | TD | 09/03/2015 | 91 | 3.35% | 16,704.11 |
| 1,000,000.00 | Wide Bay Australia | TD | 09/03/2015 | 91 | 3.45% | 8,601.37 |
| 2,000,000.00 | Bankwest | TD | 09/03/2015 | 90 | 3.45% | 17,013.70 |
| 2,000,000.00 | National Australia Bank | TD | 09/03/2015 | 91 | 3.40% | 16,953.42 |
| 2,000,000.00 | National Australia Bank | TD | 10/03/2015 | 90 | 3.40% | 16,767.13 |
| 2,000,000.00 | ME Bank | TD | 16/03/2015 | 90 | 3.35% | 16,704.11 |
| 19,000,000.00 | | | | | | 173,611.24 |

5 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 March 2015 the table below identifies the overall cash position of Council as follows:

Dissection of Council Cash Position as at 31 March 2015

10

| Item | Principal Value (\$) | Current Market Value (\$) | Cumulative Unrealised Gain/(Loss) (\$) |
|-----------------------------------|----------------------|---------------------------|--|
| Investments Portfolio | | | |
| Term Deposits | 64,200,000.00 | 64,200,000.00 | 0.00 |
| Business On-Line Saver (At Call) | 3,006,752.89 | 3,006,752.89 | 0.00 |
| Managed Funds | 1,500,000.00 | 1,472,250.00 | (27,750.00) |
| Bonds | 500,000.00 | 530,000.00 | 30,000.00 |
| Total Investment Portfolio | 69,206,752.89 | 69,209,002.89 | 2,250.00 |
| | | | |
| Cash at Bank | | | |
| Consolidated Fund | 705,754.08 | 705,754.08 | 0.00 |
| Total Cash at Bank | 705,754.08 | 705,754.08 | 0.00 |
| | | | |
| Total Cash Position | 69,912,506.97 | 69,914,756.97 | 2,250.00 |

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Financial Implications

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

Council's historical strategy is to use credit/equity markets for exposure to long term growth. It should be noted that Council's exposure to credit/equity products is capital protected when held to maturity, which ensures no matter what the market value of the product is at maturity, Council is insured against any capital loss. The investment strategy associated with long term growth is now prohibited under the current Ministerial Investment Order utilising credit/equity markets to seek investment products. However, the 'grandfathering' provisions of the Ministerial Investment Order provides Council can retain investments now prohibited until they mature. It should be noted that Council currently holds only one of these investments, the EMU notes. This investment will trend towards it's full principal value as it approaches maturity.

Council's investment strategy is currently to invest for the short term (generally 90 days on new investments) to take advantage of investment opportunities often offered in the market over and above the 90day bank bill rate whilst ensuring sufficient liquidity to meet cash flow requirements. This provides the ability to take advantage of interest rate movements in the market as short term rates are currently not dissimilar to longer term rates (2 to 5 years).

Statutory and Policy Compliance Implications

In accordance with Regulation 212 of the Local Government (General) Regulation 2005, the Responsible Accounting Officer of Council must provide Council with a monthly report detailing all monies Council has invested under section 625 of the Local Government Act 1993.

The Report must be presented at the next Ordinary Meeting of Council after the end of the month being reported. In this regard, the current Council Meeting cycle does not always allow this to occur, especially when investment valuations required for the preparation of the report, are often received after the deadline for the submission of reports for the meeting. Endeavours will be made to ensure the required report will be provided to Council and this will for some months require reporting for one or more months.

Council's investments are carried out in accordance with section 625(2) of the Local Government Act 1993 and Council's Investment Policy. The Local Government Act 1993 allows Council to invest money as per the Ministers Order – Forms of Investment, last published in the Government Gazette on 11 February 2011.

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

Report No. 13.3 Draft 2015/16 Operational Plan and Statement of Revenue Policy - Public Exhibition

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance
Trish Kirkland, Manager Governance Services

File No: I2015/291

Theme: Corporate Management
Administrative Services

Summary:

The preparation of Council's annual Operational Plan and Statement of Revenue Policy (including budget estimates and fees and charges) is regulated under the Integrated Planning and Reporting Framework requirements legislated by the Local Government Act 1993 (Sections 402 to 406). Management, in consultation with the elected Council, have developed the 2015/2016 draft Statement of Revenue Policy (including the Budget Estimates, Rates and Charges, Borrowings and Fees and Charges), and the 2015/2016 draft Operational Plan.

This report recommends placing the documents, subject to any amendments, on public exhibition for not less than 28 days.

RECOMMENDATION:

1. **That Council consider and review the Draft 2015/2016 Operational Plan and Statement of Revenue Policy (comprising the draft Budget Estimates, Rates and Charges, Borrowings and Fees and Charges)**
2. **That the Draft 2015/2016 Operational Plan and Statement of Revenue Policy (comprising the Budget Estimates, Rates and Charges, Borrowings and Fees and Charges) be placed on public exhibition, subject to these Plans being amended to incorporate any other changes identified and proposed by Council.**

Attachments:

- 1 Draft 2015/16 Budget Estimates, E2015/24060 (provided under separate cover)
- 2 Draft 2015/16 Fees and Charges, E2015/24141 (provided under separate cover)
- 3 Draft 2015/16 Operational Plan, E2015/24395 (provided under separate cover)

Report

The preparation of Council's annual Operational Plan and Statement of Revenue Policy (including Budget Estimates and Fees and Charges) is regulated under the Integrated Planning and Reporting Framework requirements legislated by the NSW State Government into the Local Government Act 1993 (Sections 402 to 406).

The requirements of the Integrated Planning and Reporting mandate that Council must develop:

- A ten year Community Strategic Plan
- A four year Delivery Program
- A one year Operational Plan
- Resourcing strategies to support the above Plans including a ten year Long Term Financial Plan, four year Workforce Plan and ten year Asset Management Plan

An Operational Plan in accordance with Section 405 (2) of the Local Government Act must include the Council's Statement of Revenue Policy for the financial period covered by the Operational Plan. The information that needs to be included in the Statement of Revenue Policy is defined in Clause 201 of the Local Government (General) Regulation 2005.

Management, in consultation with the elected council, have developed the 2015/2016 draft Operational Plan and the draft Statement of Revenue Policy which includes the draft Budget Estimates, Rates and Charges, Borrowings and Fees and Charges. The documents have been prepared in the context of the Office of Local Government's Fit for the Future program and Council's Improvement Plan for 2016-17 onwards, and designed to reflect the new organisational structure.

It is proposed to publicly exhibit the documents for the required 28 days from 12 May 2015 to 9 June 2015; and to report any submissions received and the final drafts for consideration and adoption at an Extraordinary Meeting on 29 June 2015.

The Draft 2015/2016 Budget Estimates, is contained at Attachment 1 and will be incorporated into the Statement of Revenue Policy prior to public exhibition. The Draft 2015/2016 Statement of Revenue Policy including the Fees and Charges document is contained at Attachment 2, and the Draft 2015/2016 Operational Plan is contained at Attachment 3.

As a general comment on all the documents presented they are still in draft form and may require further adjustment and/or amendments pending any other decisions of Council at this Ordinary Meeting, prior to these Plans being integrated into the final document for public exhibition.

It is expected the documents will be formally adopted by Council at an Extraordinary Meeting to be held on 29 June 2015 following the Public Exhibition period of 28 days required by Section 405(3) of the Local Government Act 1993.

1. Draft Operational Plan

As part of council's commitment to incrementally improve the Integrated Planning and Reporting suite of documents, the Draft 2015/16 Operational Plan has been compiled by the directorates and prepared with an increase focus as indicated at Attachment 3 on:

- Less mundane or day-to-day actions
- More new initiatives, improvements, the Financial Sustainability Project Plan priorities, and appropriate alignment with the Fit for the Future objectives
- Better integration with the 4-year Delivery Program Principal Activities, the Budget Programs, and alignment with the new organisational structure

- Reduction in the volume and density of text
- Improved language for community use
- Improved measures for clarity and greater accountability in future progress reporting to the community

The structure of the draft 2015/16 Operational Plan follows that agreed in the 2014/15 review, following the revision of the 2013-2017 Delivery Program. However, its format and presentation has been improved this year for better community engagement and use. Highlights from the Operational Plan are set out below, by directorate:

Organisational Development

- 1.2 Improve the capacity of staff to delivery high quality customer service
- 1.6 Coordinate benchmarking of, and monitor, organisational performance improvements
- 1.9 Build capacity to deliver effective and focused community engagement

Corporate and Community Services

- 2.6 Develop 2023-2033 Community Strategic Plan review framework
- 2.9 Implement Strategic Procurement Roadmap
- 2.23 Develop new Safer Community Compact
- 2.30 Develop and implement Council Improvement Plan Reporting

Infrastructure Services

- 3.1 to 3.8 Asset Management Improvement Program
- 3.10 Maximise utilisation and sustainability of the Cavanbah Sports Centre
- 3.30 Improve income generation at Tyagarah Airfield
- 3.33 Deliver the Byron Bay Bypass Project
- 3.34 Develop a playing field on the Northern section of Lot 5 Shara Boulevard
- 3.35 to 3.48 Property Development Project Portfolio
- 3.60 Progress planning for a Regional Waste Management Facility
- 3.66 Participation in the Federal Governments Carbon Farming Initiative for Myocum landfill Gas Resource Recovery Project

Sustainable Environment and Economy

- 4.8 Develop the Byron Shire Economic Development Strategy
- 4.12 Prepare the Byron Bay Town Centre Masterplan
- 4.19 Review the Byron Shire Vegetation Mapping
- 4.21 Prepare the Rural Lands Strategy
- 4.22 Prepare the Residential Lands Strategy
- 4.26 Investigate potential Bio-banking opportunities
- 4.27 Finalise the Coastal Zone management Plan Byron Bay Embayment

2. Draft 2015/2016 Statement of Revenue Policy

Draft Budget Estimates

The Draft 2015/2016 Statement of Revenue Policy is based on the 2014/2015 budget reviewed at 31 December 2014 with various changes to reflect the increased price of service delivery across all programs developed from the input received from each Council Directorate. The budget document is also based on the revised Organisation Structure and has seen an overall reduction of budget programs, through the consolidated of a number of areas. Some budget programs have also been relocated to the respective Council Directorate now undertaking that function of Council.

The Draft of 2015/2016 Budget Result on a Consolidated (All Funds) basis forecast a balanced result with the details of that result being included below at Table 1.

Table 1 – Forecast Budget Result 2015/2016 Consolidated (All Funds)

| Item | Amount \$ |
|--|--------------------|
| Operating Result | |
| Operating Revenue | 68,114,100 |
| Less: Operating Expenditure (excluding Depreciation) | 57,636,500 |
| Operating Result prior to Depreciation – Surplus/(Deficit) | 10,477,600 |
| Less: Depreciation Expense | (14,586,500) |
| Operating Result – Surplus/(Deficit) | (4,108,900) |
| Funding Result | |
| Operating Result – Surplus/ (Deficit) | (4,108,900) |
| Add: Non cash expenses – Depreciation | 14,586,500 |
| Add: Capital Grants and Contributions | 8,961,000 |
| Add: Loan Funds Used | 0 |
| Add: Asset Sales | 4,100,000 |
| Less: Capital Works | (27,310,800) |
| Less: Loan Principal Repayments | (2,420,900) |
| Funding Result – Surplus/(Deficit) (Cash Movement) | (6,193,100) |
| Reserves Movement – Increase/(Decrease) | (6,193,100) |
| Overall Budget Result – Surplus/(Deficit) (Operating + Funding) | 0 |

5 Table 1 indicates a forecasted balanced budget result and this relates to the General Fund. The forecast General Fund Accumulated Surplus (Working Funds) position based on the draft budget included at Table 1 is outlined in Table 2 below:

Table 2 – Revised Forecast General Fund Accumulated Surplus (Working Funds)

| Item | \$ |
|--|------------------|
| Forecast accumulated surplus to 30 June 2015 at 31 December 2014 Budget Review | 1,956,450 |
| Add: Estimated initial draft 2015/2016 budget result | 0 |
| Forecast accumulated surplus to 30 June 2016 | 1,956,450 |

10 To arrive at the Draft Budget Results outlined in Table 1 and Table 2 for the 2015/2016 financial year, the following budget considerations/inclusions have been made as indicated below:

- 15 • A capital works program of \$27.3million relating to \$17.3million in the General Fund, \$5.3million in the Water Fund and \$4.05million in the Sewerage Fund. Significant capital works in the General Fund include
 - 20 ○ \$440,000 road reconstruction and planning funded through Roads to Recovery Grant.
 - \$312,100 on bridge capital works including \$215,000 Belongil Bridge pile repairs.
 - \$435,500 for kerb and gutter/footpath works including \$220,000 for Marine Parade at Wategoes.
 - \$223,000 for drainage works.
 - \$530,000 for road reseals
 - 25 ○ \$1,535,000 for the rural roads program including \$640,000 for Broken Head Road and \$500,000 for Main Arm Road.
 - \$7,520,000 for urban roads program including \$5,000,000 for the Byron Bay Bypass, \$700,000 for Lawson/Massinger St Roundabout, Works of \$730,000 in

Kolara Way Ocean Shores (contingent on the sale of the Roundhouse subdivision) and roundabout construction on Ewingsdale Road at Bayshore Drive \$500,000.

- \$1,674,000 in capital works for Open Space and Recreation including \$1,000,000 for the development of the Shara Blvd sports fields.

5

- The current 2015/2016 draft budget has been able to maintain the additional \$650,000 in revenue funding for road maintenance, road capital works, open space recreation maintenance and capital works established in the 2014/2015 financial year plus provide a further \$171,800 proposed for 2015/2016.

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- Purchase of steam weeding and graffiti removal equipment to be funded from the Sewerage Fund \$70,000.

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- Maintenance of the current organisation restructure including the ability for additional capacity building in the areas of economic development, strategic procurement, customer service co-ordination and process improvement at no cost to the budget by utilisation of savings identified to date.

20

- Funding of \$135,000 to implement actions from the Information Technology Strategic Plan to further improve Council use of Information Technology to enhance capacity and efficiency.

25

- Ongoing review of the methodology to distribute overheads or support costs across Council's budget programs. This review incorporated the quantum of support costs distributed and the basis on how they are distributed given the restructure of budget programs to follow the organisation restructure.

In development of the 2015/2016 budget, funding for the following major items was considered but was not able to be included:

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- Broken Head Road Rehabilitation north of Midgeon Flat Road requiring revenue funding of \$885,000.

Council has an adopted target to maintain an accumulated surplus (working funds) in the General Fund of \$1,000,000. The revised budget projections indicated in Table 1 and Table 2 to this report suggest this target will be well maintained at a projected result of \$1,956,450. However, the long term financial projections currently do not include the following:

35

- Direct linkage to any funding gap yet to be identified in Asset Management Service Plans which could require greater funding then current budget allocations.

40

- Review current budget projections over the next nine financial years beyond 2015/2016 in order to update the Long Term Financial Plan. Current expenditure predictions on a operational and capital basis are in excess of revenue sources identified.

45

The budget projections realistically still demonstrate the difficulty Council has absorbing additional costs without corresponding revenue. It can only be emphasised that Council must consider carefully the long term implications on its finances, in any consideration to add a new asset/service.

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Subject to Council approving the Draft 2015/2016 Budget Estimates forming part of the Draft 2015/2016 Revenue Policy it will need to revisit and update the Long Term Financial Plan (LTFP) for the period 2015/2016 to 2025/2026 including the provision of scenarios. Once Council determines a Draft 2015/2016 Budget Estimates position, work on updating the Long Term Financial Plan (LTFP) will commence which will also require a review of the projected budget results for the following nine financial years subsequent to 2015/2016. It is also expected to be

55

supplementary material and incorporate the five designated scenarios to be submitted with Council response to 'Fit for the Future' to the NSW State Government before 30 June 2015.

Draft 2015/2016 Revenue Policy including Fees and Charges

5 The Draft 2015/2016 Revenue Policy including fees and charges has been reviewed by respective program managers and have been included at Attachment 2. Where possible, fees have been altered/increased to reflect the following specific changes:

- 10 • Reorganisation of fees and charges to follow the organisation restructure which has resulted in fees and charges being transferred to a different Council Directorate to where that function now resides.
- 15 • Increases in the Consumer Price Index (CPI)/Indexation assumed at 2.4%.
- Review of fees and charges including benchmarking and where possible introduction of new fees to assist Council generate additional/enhanced revenue as themed by its Financial Sustainability Project Plan.
- 20 • Ordinary rates have been increased by 2.4% in accordance with the IPART determination for 2015/2016 which forms the basis of the budget result presented. The proposed rating structure for 2015/2016 is as follows at this stage:

| Category and Sub-Categories | Number of Properties | Ad valorem Rate (\$) | Minimum Rate (\$) | Total Yield (\$) | Proportional Contribution of Yield (%) |
|--|-----------------------------|-----------------------------|--------------------------|-------------------------|---|
| Residential Ordinary | 13,003 | 0.2897 | 683.50 | 14,330,914 | 74.49 |
| Residential Ordinary (Flood Prone Lands) | 30 | 0.2897 | 375.30 | 12,198 | 0.06 |
| Business Ordinary | 1,095 | 0.4344 | 683.50 | 2,232,131 | 11.60 |
| Business Byron Bay CBD | 351 | 0.5793 | 683.50 | 1,652,258 | 8.59 |
| Farmland Ordinary | 554 | 0.2135 | 683.50 | 1,011,914 | 5.26 |
| | | | | | |
| Total | 15,033 | | | 19,239,415 | 100.00 |

- 25 • Water fixed charges and consumption charges are increased by 12.90% and 4.30% respectively due to the revenue needs to carry out maintenance, capital works and to purchase bulk water from Rous Water.
- 30 • Sewer fixed charges and consumption charges are increased by 2.82% and 2.31% respectively due to the revenue needs to carry out maintenance, capital works and repay debt.
- 35 • Domestic Waste charges have been decreased by 7.59% for a standard service and a new charge for all ratepayers with a waste service called the Waste Operations charge of \$35.00 to provide additional funding to non-domestic waste activities are proposed to generate revenue required to address waste management costs and includes provision for the implementation of additional services ie organics. The annual charges for waste services for Domestic services have been developed to incorporate the new collection contract and organics collection service to be introduced during 2015/2016.
- 40 • Throughout the fees and charges schedule document, where fees have had a structural change or are a new fee, these changes are coloured in red.

- Removal of fees and charges for Council undertaking private works generally as it is a function not proposed to be undertaken by Council so to focus on its own works.

- 5 • New fees for seasonal users of Crown Beach Recreational Reserves.

- Removal of the 'community rate fees' for the use of the Cavanbah Sports Centre.

- 10 • Benchmarking of fees for Council's two swimming pools relative to fees charged by surrounding Councils.

- Fee increases for landing fees at Tyagarah airstrip of between \$1 and \$4 per landing and \$10 per day for parking per day for commercial operators and a new fee structure for non-commercial standard landing fees.

- 15 • Revised fees associated with use of Council owned or controlled land for temporary activities such as weddings.

- 20 • Increase in child care fees slightly higher than the Consumer Price Index (CPI) to recover the costs of providing childcare at Sandhills. The per day fee is proposed to be increased by \$5.

- Introduction of high season charges at Suffolk Beachfront Holiday Park and consolidation of fees/charges plus park rules for Council's two holiday parks given they are both now operated by one management contract

- 25 • The Office of Local Government are yet to determine the fee to apply for Section 603 Certificates or the Statutory Interest Rate to apply for overdue rates and charges. Once the determination has been advised, it is proposed Council apply the maximum amounts advised in respect of both items.

30

3. Community Consultation

The Annual suite of Integrated Planning and Reporting documents will be placed on public exhibition for a period of no less than 28 days seeking submissions from the community.

35

Financial Implications

Council in the preparation of its Operational Plan is required to include a number of statements in relation to its Revenue Policy for 2015/2016. This includes a statement containing the draft estimate of Council's Income and Expenditure or Budget for this period. The other statements identified in Clause 201 of the Local Government (General) Regulation 2005 are in the main dependant upon the rate pegging limits approved by the Minister for Local Government (now the Independent Pricing and Regulatory Tribunal (IPART)), any application for a special rate variation and Council's decisions in relation to expenditure, income and the associated fees and charges.

45

The assumptions/parameters used in preparing the Draft 2015/2016 Budget Estimates include the following:

- Rate peg increase of 2.40% as determined by IPART.
- Consumer Price Index (CPI)/Indexation 2.40%.
- Salary and Wages indexed by 2.7% in accordance with the 2014 Local Government State Award.
- No new loan borrowings anticipated for 2015/2016 financial year.
- Reflective of the Draft 2015/2016 Operational Plan.

50

The financial forecast of the General Fund has been discussed in detail earlier in this report, however it is suggested Council needs to look at its longer term financial position, especially in the area of infrastructure maintenance and renewal in comparison to other areas of service provided.

5 This is especially so given the requirements stipulated by the NSW State Government as part of its 'Fit for the Future' reform.

The Water and Sewer budgets have been prepared with pricing to generate the required revenue to repay debt (Sewer), to address capital works and ongoing maintenance works in these Funds.

10 The impact of price increases for Water and Sewerage are denoted in percentage terms under section 2 above 'Draft 2015/2016 Revenue Policy including Fees and Charges'.

Richmond Tweed Regional Library ("RTRL") Contribution

15 The draft 2015/16 Budget has been prepared based on the information known or advised at the time. During the period since the competition of the draft Budget shown at Attachment 1 ., Council has received advice, that the RTRL 2015/16 Draft Budget includes a contribution of \$1,235,700 for Byron Shire Council. This is an increase of 4.5% or \$53,800 over the 2014/15 Contribution amount. The draft Budget includes an amount of \$1,210,900 based on an indexation of 2.4% (equivalent to ratepegging limit) of the 2014/15 Contribution. The current difference or shortfall is \$24,800.

20

The 2015/16 RTRL Draft Budget and member Council 2015/16 Contributions was the subject of an Extraordinary meeting of the Richmond Tweed Regional Library Committee on Friday, 17 April 2015. The Committee endorsed the draft Budget on a "in principal" basis but also requested a

25 further report to the next meeting of the Committee scheduled for 15 May 2015 on a number of budget estimates, including Head Office operating and salary costs. The requested a review of the Budget and the proposed contributions is to be based on an indexation of the 2014/15 Contributions by 2.7%, being the Award Salary increases for the 2015/16 period. The difference or shortfall would be reduced to \$3,530.

30

At this stage the Budget has not been adjusted and feedback is being sought from the member Councils on the level of the 2015/16 Contribution. It should be noted that in the Budget discussion, that it was flagged that Byron Shire Council may need to again consider a reduction of the opening hours for the Byron Bay Branch on a Thursday evening. This would not result in any reduction to

35 the overall Budget but allow the rostering of existing staff over the core hours, to enable them to respond to the increasing number of patron requests.

Statutory and Policy Compliance Implications

40 In respect of the Draft 2014/2015 Operational Plan, Council must comply with the provisions of Section 405 of the Local Government Act 1993 as described below concerning the adoption of an Operational Plan.

405 Operational plan

45 "(1) A council must have a plan (its operational plan) that is adopted before the beginning of each year and details the activities to be engaged in by the council during the year as part of the delivery program covering that year.

(2) An operational plan must include a statement of the council's revenue policy for the year covered by the operational plan. The statement of revenue policy must include the statements

50 and particulars required by the regulations.

(3) A council must prepare a draft operational plan and give public notice of the draft indicating that submissions may be made to the council at any time during the period (not less than 28

days) that the draft is to be on public exhibition. The council must publicly exhibit the draft operational plan in accordance with the notice.

(4) During the period of public exhibition, the council must have for inspection at its office (and at such other places as it may determine) a map that shows those parts of its area to which each category and sub-category of the ordinary rate and each special rate included in the draft operational plan applies.

(5) In deciding on the final operational plan to be adopted, a council must consider any submissions that have been made concerning the draft plan.

(6) The council must post a copy of its operational plan on the council's website within 28 days after the plan is adopted."

The specific statements required by Council to be disclosed as part of its Revenue Policy are determined by Clause 201 of the Local Government (General) Regulation 2005 as follows:

201 Annual statement of council's revenue policy

"(1) The statement of a council's revenue policy for a year that is required to be included in an operational plan under [section 405 of the Act](#) must include the following statements:

(a) a statement containing a detailed estimate of the council's income and expenditure,

(b) a statement with respect to each ordinary rate and each special rate proposed to be levied,

Note: The annual statement of revenue policy may include a note that the estimated yield from ordinary rates is subject to the specification of a percentage variation by the Minister if that variation has not been published in the Gazette when public notice of the annual statement of revenue policy is given.

(c) a statement with respect to each charge proposed to be levied,

(d) a statement of the types of fees proposed to be charged by the council and, if the fee concerned is a fee to which Division 3 of Part 10 of Chapter 15 of [the Act](#) applies, the amount of each such fee,

(e) a statement of the council's proposed pricing methodology for determining the prices of goods and the approved fees under Division 2 of Part 10 of Chapter 15 of [the Act](#) for services provided by it, being an avoidable costs pricing methodology determined by the council in accordance with guidelines issued by the Director-General,

(f) a statement of the amounts of any proposed borrowings (other than internal borrowing), the sources from which they are proposed to be borrowed and the means by which they are proposed to be secured.

(2) The statement with respect to an ordinary or special rate proposed to be levied must include the following particulars:

(a) the ad valorem amount (the amount in the dollar) of the rate,

(b) whether the rate is to have a base amount and, if so:

(i) the amount in dollars of the base amount, and

(ii) the percentage, in conformity with [section 500](#) of [the Act](#), of the total amount payable by the levying of the rate, or, in the case of the rate, the rate for the category or sub-category concerned of the ordinary rate, that the levying of the base amount will produce,

5

(c) the estimated yield of the rate,

(d) in the case of a special rate-the purpose for which the rate is to be levied,

10

(e) the categories or sub-categories of land in respect of which the council proposes to levy the rate.

(3) The statement with respect to each charge proposed to be levied must include the following particulars:

15

(a) the amount or rate per unit of the charge,

(b) the differing amounts for the charge, if relevant,

20

(c) the minimum amount or amounts of the charge, if relevant,

(d) the estimated yield of the charge,

25

(e) in relation to an annual charge for the provision by the council of coastal protection services (if any)-a map or list (or both) of the parcels of rateable land that are to be subject to the charge.

(4) The statement of fees and the statement of the pricing methodology need not include information that could confer a commercial advantage on a competitor of the council. “

30

Report No. 13.4 Section 94 Funds Allocation Request for the 'Intergenerational Playgroup Project' to Construct Pathways, Seating and Shelter in Jacaranda Park, Byron Bay.

Directorate: Corporate and Community Services
Report Author: Greg Ironfield, Manager Community Development
File No: I2015/292
Theme: Society and Culture
 Community Services – Community Development

Summary:

The purpose of this report is to seek Council endorsement to transfer \$20,000 from the Byron Bay Open Space Section 94 account to match the funds for capital works received from the Creating Liveable Communities Competition for the 'Intergenerational Playgroup Pilot Project'.

The Creating Liveable Communities Competition, funded by Department of Family and Community Services (FACS) and administered by the Local Government NSW (LGNSW), invited NSW councils to enter their most creative and innovative ideas for projects that make their community more liveable for carers, people with a disability and older people.

The Intergenerational Playgroup Pilot Project involves facilitating an Intergenerational Playgroup in collaborative community partnerships with Byron Aged Care and Ballina/Byron Family Centre (BBFC), and upgrading Jacaranda Park in Byron Bay to facilitate the playgroup activities.

RECOMMENDATION:

- 1. That Council allocate a budget of \$20,000 for park upgrades, including pathways, shelters and seating, in Jacaranda Park Byron Bay out of the Byron Bay Open Space section 94 account.**
- 2. That Council note that these works will facilitate the Intergenerational Playgroup Pilot Project for which Council received \$20,000 funding from the 'Creating Liveable Communities Competition' from the Department of Family and Community Services (FACS).**

Report

In December 2014 the NSW Government announced the commencement of the Disability Inclusion Act 2014. As part of the Disability Inclusion Act 2014 the Government committed to working in partnership with the community to foster inclusion and enhance local communities to make them more inclusive for all residents.

The Creating Liveable Communities Competition, funded by Department of Family and Community Services (FACS) and administered by the Local Government NSW (LGNSW), invited NSW councils to enter their most creative and innovative ideas for projects that make their community more liveable for carers, people with a disability and older people. Creating more liveable communities has been identified as a priority in NSW 2021, the NSW Ageing Strategy, the National Disability Strategy and the NSW Carers Strategy.

Byron Shire was one of the seventeen local Councils to be awarded prize money for their application. Council has received \$20,000 for the *Intergenerational Playgroup Pilot Project*. This project involves facilitating an Intergenerational Playgroup in collaborative community partnerships with Byron Aged Care and Ballina/Byron Family Centre (BBFC), and upgrading Jacaranda Park in Byron Bay to facilitate the playgroup activities.

This project will install a new accessible park shelter, tables, benches and linking pathways to establish an area for intergenerational activities. These facilities will ensure that all participants are sheltered from the sun and weather, and allow safe and easy access for all to the site.

Financial Implications

The purpose of this report is to seek approval for the allocation of \$20,000 from the Byron Bay Open Space Section 94 account to match the \$20,000 received from the Creating Liveable Communities Competition, funded by Department of Family and Community Services (FACS) and administered by the Local Government NSW (LGNSW).

Statutory and Policy Compliance Implications

Council approval is required to allocate Section 94 funds to the specified project. The proposed project is consistent with the Section 94 Contribution Plan.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.5 Submissions Report - Draft Short Term Holiday Accommodation Strategy

Directorate: Sustainable Environment and Economy
Report Author: Sharyn French, Manager Land and Natural Environment
File No: I2014/101
Theme: Ecology
 Land and Natural Environment

Summary:

Holiday letting of dwellings in coastal communities like Byron Shire has grown in popularity over the years. The letting of homes in residential neighbourhoods to holiday makers, has at times been at the expense of the peace and enjoyment expected in a neighbourhood community. It is clear that better management is required for this type of accommodation, combined with appropriate planning mechanisms to legitimise the use.

The process to develop planning mechanisms to guide this form of development commenced in 2013 with key stakeholder workshops that continued into 2014. From these workshops a Discussion Paper was prepared for key stakeholder's consideration. Comments on the Discussion Paper then led to the development of a Draft Short Term Holiday Accommodation Strategy that was publicly exhibited from 11 November to 22 December 2014. Over 150 submissions were received including two from state government agencies. As a result of state government and public feedback on the draft Strategy, changes have been made to the proposed planning controls and action plan. The Byron Shire Short Term Rental Accommodation Action Plan encapsulates these changes. It assigns responsibility for each action and a timeframe for their delivery; it also details the revised planning controls that will be the subject of a further public exhibition.

RECOMMENDATION:

That Council:

1. **Adopt the Byron Shire Short Term Holiday Accommodation Action Plan, Attachment 1 (E2015/14847)**
2. **Prepare a planning proposal to amend Byron LEP 2014 in accordance with the proposed planning controls in Attachment 1 (E2015/14847) and submit the planning proposal to the Department of Planning and Environment for a Gateway Determination.**
3. **Request the Department of Planning and Environment to delegate to Council the preparation and making of the LEP amendment.**
4. **Publicly exhibit the proposed amendments to DCP 2014 in Attachment 1 (E2015/14847) for a minimum of 28 days and concurrently with the planning proposal to amend the Byron LEP 2014.**

Attachments:

- 1 Byron Shire Short Term Holiday Accommodation Action Plan, E2015/14847 (provided under separate cover)
- 2 Submissions Analysis, E2014/84388 (provided under separate cover)
- 3 Form of Special Disclosure of Pecuniary Interest, E2012/2815 , page 35

Report:

Council resolved:

5

Resolution 13-530

1. That Council prepare a Holiday Letting Strategy with the following purposes in mind:

(i) examining issues raised in workshops during 2013;

(ii) examining Zoning/precinct options;

10 *(iii) facilitating the preparation of a future LEP amendment;*

(iv) supporting the amendment and hence justifying it to the DOP; and

(v) pursuing legislative changes to facilitate strategy options.

2. That staff pursue planning and legislative discussions with the Dept of Planning.

15 Concerns about the impacts that some holiday lets have on residential amenity has been a long standing issue in the Shire. Council has attempted to regulate holiday letting in the past commencing with a Holiday Letting Forum in 2005, a precinct based model in 2008, inclusion of precinct provisions in Council's draft Local Environmental Plan (LEP), and investigating options to regulate holiday letting by means other than the Environmental Planning and Assessment Act such as licensing and registration under S68 of the Local Government Act. The past attempt to include planning controls in the LEP were curtailed by the Department of Planning who then advised that it was 'not appropriate [for Council] to control holiday tenancies through the planning system'.

25 The Department of Planning subsequently advised in 2012 that they now:
'consider the issue of holiday letting to be a local issue and as such it is up to local Councils to manage holiday letting. In local government areas with a high incidence of holiday letting councils may choose to address amenity issues relating to holiday letting in their local plans'

30 In 2013 the NSW Land and Environment Court found that the use of a dwelling house in Gosford for short term holiday rental accommodation was prohibited as it was not sufficiently permanent to comprise a 'dwelling house' under Gosford Councils residential zone. The Court found Gosford Council's refusal to act on the neighbours complaints was an *'abrogation of council's fundamental duties and responsibilities'*. The Court also found that Gosford Council had a duty to amend the ambiguous terms and remedy any deficiencies in their planning instruments.

35 The Department's advice together with the court case findings, which creates precedence and an implied requirement for Councils to review their planning controls, has enabled Council to re-consider LEP controls for holiday letting.

40 The process taken to prepare planning controls commenced in 2013 with key stakeholder workshops that continued into 2014. From these workshops a Discussion Paper was prepared for key stakeholder's consideration. Comments on the Discussion Paper then led to the development of a Draft Short Term Holiday Accommodation Strategy. The draft Strategy was reported to Council at the 30 October 2014 Meeting at which Council resolved (14-547) to exhibit the draft Strategy.

45 The Strategy was publicly exhibited from 11 November to 22 December 2014. During this time two workshops were held with key stakeholders on 24 November and 5 December. Council officers were also in attendance, to discuss the draft Strategy, at the Mullumbimby and Bangalow Shows, and the Byron and New Brighton Farmers Markets.

50 Council received 153 submissions on the draft Strategy, including a submission from the Department of Planning and Environment and NSW Rural Fire Service. Copies of all submissions received have been provided to the Councillors on CD. Issues raised in all submissions received

were collated under common themes. Attachment 2 includes the submission issues raised and staff comments and recommendations.

5 The issues raised in the submissions and proposed changes to the planning controls and actions were discussed with Councillors over two workshops on the 12 and 26 March 2015.

10 As a result of the issues raised in the submissions, the proposed planning controls have been simplified and duplication with the Holiday Rental Code of Conduct has been removed but only so far as to ensure those elements that are important to maintaining neighbourhood amenity are clearly addressed. Key changes include:

- Renaming to 'Short Term Rental Accommodation' (STRA) consistent with other councils
 - Broadening definition of STRA from 'dwelling house' to 'dwelling'
 - Including a new exempt development clause to ensure development, if part of a community or strata scheme, has prior written approval of the owners' corporation of that scheme.
- 15 This is already a requirement for any development application. This clause is modelled on the Wyong Council's exempt provision.
- Removing occupant type i.e. adult to avoid discrimination and numbers simplified to '2 occupants per bedroom', with a maximum of 10 occupants for 5 or more bedrooms
 - Consolidating exempt and complying planning controls as exempt, and retaining development application:
- 20
1. Exempt: will permit property owners of dwellings with 3 bedrooms or less, who want to rent their property out for short periods any time throughout the year and live there for the remainder of the year, or make the dwelling available for short term renting on a permanent basis; caps number of occupants to 2 per bedroom.
- 25
2. Development Application: provides for dwellings greater than 3 bedrooms; caps number of occupants as 2 occupants per bedroom to a maximum of 10 occupants for 5 or more bedrooms; it is also for dwellings up to 3 bedrooms that cannot comply with the exempt provisions.

30 Moving forward, a 'Short Term Rental Accommodation Action Plan' (Attachment 1) has been developed that encapsulates these changes. It assigns responsibility for each action and a timeframe for their delivery. It also details the revised planning controls to amend Byron LEP 2014 and Byron Development Control Plan 2014; these will be subject to a further public exhibition.

35 Whilst the planning controls address key neighbourhood amenity issues such as noise and parking, it will require a whole of community approach if positive behaviour change is to be achieved in some holiday makers and the way in which some holiday lets are managed. The controls will place greater onus on property owners and managers to proactively manage their holiday lets. In particular, complaints relating to noise will need to be dealt with by the owner or manager in the first instance and if not effectively resolved then escalated to the Council if during business hours

40 or the police if after hours. Owners and managers will be required to comply with the Holiday Rental Code of Conduct which requires providing occupants with a set of 'House Rules' and information promoting good neighbourly behaviour. Other controls include that party houses will not be permitted. The contact details of the owner or manager must also be prominently displayed on the property to enable contact to be made at all times.

45 It is proposed that Council adopt the Action Plan; prepare a planning proposal to amend the LEP and submit to the Department of Planning for Gateway Determination; and exhibit the draft DCP controls. It is proposed that exhibition of both documents (LEP and DCP) run concurrently.

50

Financial Implications

The development of a register, on which all dwellings are to be recorded prior to their initial use as STRA, may require additional funding. If required, this will be reported to Council following the scoping analysis to determine the register design and what's feasible within Council's IT systems.

- 5 It is anticipated that the planning controls to enable STRA will be gazetted by the end of this year, from which a one year moratorium will apply to enable existing STRA to become compliant. Additional Council resources may be required during peak holiday periods to respond to complaints and to collect evidence. Council will need to consider resource implications of the new controls in the 2016/17 budget and the Compliance Teams work priorities.
- 10

Statutory and Policy Compliance Implications

- 15 The Byron Shire Short Term Holiday Accommodation Action Plan recommends amendments to both Byron DCP 2014 and Byron LEP 2014 in order for short term holiday accommodation to take effect.

Preparation and exhibition of LEPs and DCPs are prescribed under the *Environmental Planning and Assessment Act 1979 and Regulation 2000*.

Local Government (General) Regulation 2005

Schedule 3A Form of special disclosure of pecuniary interest

(Clause 195A)

5 Local Government Act 1993

Form of Special Disclosure of Pecuniary Interest

1 The particulars of this form are to be written in block letters or typed.

2 If any space is insufficient in this form for all the particulars required to complete it, an appendix is to be attached for that purpose which is properly identified and signed by you.

10 Important information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under sections 451 (4) and (5) of the *Local Government Act 1993*. You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints made about contraventions of these requirements may be referred by the Director-General to the Local Government Pecuniary Interest and Disciplinary Tribunal.

15

This form must be completed by you before the commencement of the council or council committee meeting in respect of which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

20 Special disclosure of pecuniary interests

by _____
[full name of councillor]

in the matter of _____
[insert name of environmental planning instrument]

25

which is to be considered at a meeting of the

30 _____
[name of council or council committee (as the case requires)]

to be held on the _____ day of _____ 201

| Pecuniary interest | |
|--|--|
| Address of land in which councillor or an associated person, company or body has a proprietary interest (<i>the identified land</i>) | |
| Relationship of identified land to councillor [Tick or cross one box.] | <input type="checkbox"/> Councillor has interest in the land (e.g. is owner or has other interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> Associated person of councillor has interest in the land. <input type="checkbox"/> Associated company or body of councillor has interest in the land. |

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.5 - ATTACHMENT 3

| Matter giving rise to pecuniary interest | |
|---|--|
| Nature of land that is subject to a change in zone/planning control by proposed LEP (<i>the subject land</i>) [Tick or cross one box] | <input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land. |
| Current zone/planning control [Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land] | |
| Proposed change of zone/planning control [Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land] | |
| Effect of proposed change of zone/planning control on councillor [Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"] | |

[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest.]

Councillor's signature

Date

[This form is to be retained by the Council's general manager and included in full in the minutes of the meeting]

Report No. 13.6 **Greenhouse Gas Emission Status Report 2012-13 and 2013-14**
Directorate: Sustainable Environment and Economy
Report Author: Sandi Middleton, Acting Sustainability Officer
File No: I2015/2
5 **Theme:** Ecology
 Land and Natural Environment

Summary:

- 10 This is the third greenhouse gas emission status report since Council set the 30% greenhouse gas emission reduction target based on 2003/04 levels by 2020. Whilst increases in emissions were experienced previously it is positive to see that efforts made to reduce greenhouse gas emissions have come to fruition over the 2012/13 and 2013/14 financial years to create a downward trend.
- 15 Council emitted 6,608 tonnes of greenhouse gas in 2013/14. An annual reduction target of 343 tonnes/year for the next six financial years is needed to achieve the 2020 goal of 4,552 tonnes. To place this in context the recent installation of 50kW of solar power at the West Byron Sewage Treatment Plant created an annual saving of 71.4 tonnes of CO₂^e.
- 20 Achieving the 30% reduction target, and/or making significant progress towards meeting it, is possible through the implementation of the recently adopted Byron Shire Low Carbon Strategy. Committing staff efforts to delivering known energy and fuel saving measures across Council will not only contribute towards reducing carbon emissions but will simultaneously reduce re-occurring costs. Planned and future actions can include implementing the recommendations of the recent
- 25 energy audits completed at the Administration Building and Works Depot, solar power and energy efficient lighting at the Cavanbah Sports Centre and regional renewable energy procurement projects. These measures will also help to achieve the objectives of Council's Financial Sustainability Plan.
- 30

RECOMMENDATION:

That Council note this report and continue its commitment to reducing greenhouse gas emissions through a whole of Council approach to implementing the Byron Shire Low Carbon Strategy.

35

Report

- 5 In February 2011 Byron Shire Council revised its greenhouse gas emissions reduction target and adopted (Resolution 11-11) a new target of a 30% reduction based on 2003/04 levels by 2020. At this time Council endorsed the creation of an annual greenhouse gas reporting process to effectively monitor and track Council's progress towards meeting the agreed target. Emission status reports were completed for the 2010/11 and 2011/12 financial years and reported to
- 10 Council. Due to resourcing constraints and complexities created from switching energy retailers the emissions status report was unable to be produced for the 2012/13 financial year. The 2012/13 financial year is now included here along with the status report for financial year 2013/14.
- 15 To achieve the 30% reduction target the principle guiding strategy has been the Byron Shire Greenhouse Action Strategy which was recently superseded by the Byron Shire Low Carbon Strategy. The Low Carbon Strategy outlines the actions completed and the action needed to achieve Council's 30% reduction target by 2020. Now more than ever the Byron Shire community looks to local government for leadership on climate change policy and action.
- 20 In addition to the emissions reduction target and the Low Carbon Strategy the Byron Shire Community in conjunction with Council set a 10 year vision for the Byron Shire. As part of the *Byron Shire Council Community Strategic Plan 2022*, Byron Shire Council has shown its commitment to creating a low carbon community, as shown in Community Outcome EN3 (Table 1).

Table 1: Excerpt from the Byron Shire Council Community Strategic Plan

| | | |
|---|--------------|--|
| EN3 A low carbon community that integrates: a) food security b) renewable energy c) climate change d) non-renewable resource constraints, including peak oil and e) economic and social prosperity and resilience. | EN3.1 | Implement initiatives that address climate change. |
| | EN3.2 | Promote water and waste minimisation – avoid, reduce and reuse waste. |
| | EN3.3 | Encourage low consumption lifestyles and environmentally aware practices. |
| | EN3.4 | Implement initiatives to prepare Council assets for climate change and peak oil impacts. |
| | EN3.5 | Promote reduced energy consumption, increased energy efficiency and the local provision of renewable energy. |
| | EN3.6 | Support initiatives that enhance socio-economic prosperity and resilience at the local level. |

- 25
- Scope**
- This greenhouse gas emission status report includes emissions from Council's operation of buildings, facilities, pumps, fleet and streetlights from the use of liquid fuel and electricity. The status report does not include the emissions of the Byron Shire community generally. This edition of the greenhouse status report covers two financial years 2012-13 and 2013-14. Figure 1 shows the proportion mix of the three emission sectors.
- 30

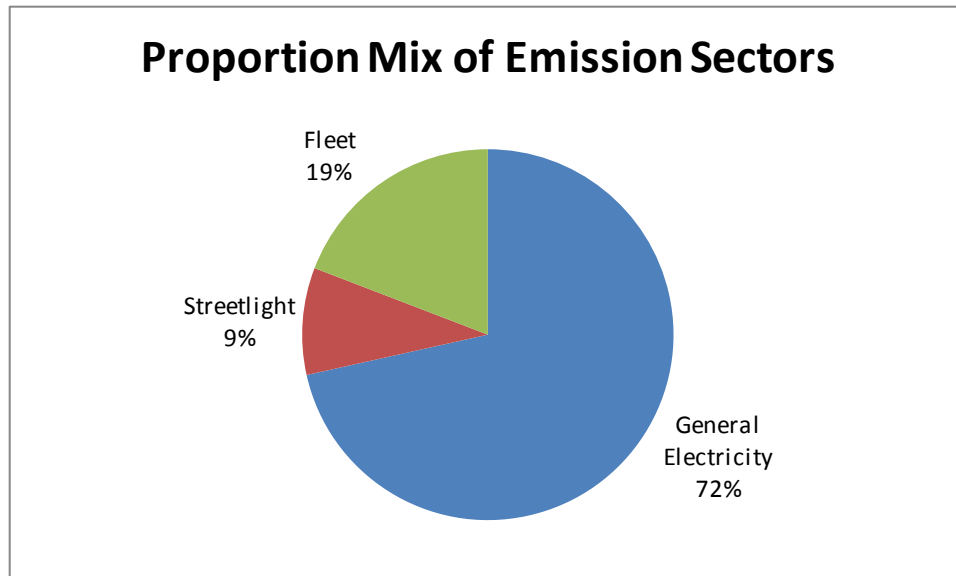


Figure 1: Proportion of Byron Shire Council Emissions

When setting the base line for emission reduction in 2003 it was not possible to accurately measure the emissions from the Myocum landfill. Since the baseline was set a landfill gas flare was installed and the emissions can now be monitored accurately. Whilst the landfill gas emissions do not form part of the 30% reduction target, a section has been included in this report to document the emissions savings associated from this venture as it is so closely related.

Methodology

The greenhouse gas emissions of Council's operations are monitored by creating inventories of all electricity and liquid fuel use across Council. This is made possible by the data management services provided by Council's subscription to "Planet Footprint". Planet Footprint collects energy data from Council's three energy retailers across 180 accounts to track, clean and collate the data into a usable format. Planet Footprint also provides a service to Council which collects and maintains information on completed actions and fuel use data to ensure the corporate knowledge and monitoring of abatement is maintained over successive staff changes. The National Greenhouse Account Factors were then applied to the consumption data to calculate the equivalent carbon emissions.

The three emissions sectors cover the following areas:

| General Electricity | Streetlight | Fleet |
|---|--|---|
| <ul style="list-style-type: none"> • Parks • Amenities • Waste Management • Rural Fire Service • Water Infrastructure • Works Depot • Caravan Parks • Recreation Facilities • Buildings • Sewage Infrastructure | <ul style="list-style-type: none"> • Streetlights | <ul style="list-style-type: none"> • Diesel • Lead Replacement Petrol • LPG • Premium Unleaded • Unleaded Petrol • Unleaded with 10% Ethanol • Biodiesel B20 |

Aside Note: The change in electricity retailers during 2012/13 created an enormous body of work for Council's finance, contracts and sustainability staff chasing phantom accounts, reconciling account anomalies and attempting to collate data. Council's energy contracts will expire Dec 2015 and consideration will be needed not only on price but the ability to make energy savings within the contract and work collaboratively with Planet Footprint to capture data efficiently.

Emission status by sector

General Electricity Sector: Council has started to curb its emissions across the general electricity sector and streetlight sector. This is due to energy efficiency improvements and improved accounting procedures to close off redundant assets with a 118 tonne reduction in the general electricity sector for the 2013-14 financial year.

Street Lighting: The street lighting sector has shown significant savings over the past three years falling 275 tonnes from 2011 to 2014. This saving is due to the lighting replacement program and has saved Council approximately \$206,000 between 2011 and 2014. It is positive to note that the streetlight sector is only 9 tonnes off meeting the 2020 target and six years ahead of schedule. Further savings that may be achieved in this sector through the installation of LED streetlights in the coming years will help to offset previous increases witnessed in the general electricity sector from the commissioning of new assets such as the sewage treatment plants and Cavanbah Sports Centre.

Fleet: The fleet emissions sector covers all Council vehicles and plant that use liquid fuel. Whilst preparing the fuel emissions data for this edition of the greenhouse gas status report some data collection gaps were identified in historic methodology. Staff worked across finance, information services and sustainability to automate a comprehensive data capture system for fuel use by fleet category going forward. Over the past two financial years, the fleet sector has experienced a slight decrease of 34 and 12 tonnes of CO₂^e respectively. This is attributed to less use of heavy and light fleet, both distance travelled and hours operated, and / or more efficient petrol and diesel engines. The changeover of motor vehicles and older plant associated with the Plant Replacement Program would be a factor in reducing emissions as the newer engines in these light and heavy fleet items are more fuel efficient than the existing fleet items.

Progress towards meeting target

Council emitted 6,608 tonnes of greenhouse gas in 2013/14. An annual reduction target of 343 tonnes/year for the next six financial years is needed to achieve the 2020 goal of 4,552 tonnes. As highlighted earlier, the recent installation of 50kW of solar power at the West Byron Sewage Treatment Plant created an annual saving of 71.4 tonnes of CO₂^e. The implementation of the recently adopted Byron Shire Low Carbon Strategy will continue to drive down emissions towards the 2020 target. Additionally emerging independent and community owned renewable energy retailers (such as Northern Rivers Energy) will offer zero carbon grid power at competitive rates within the next 24 months. If Council purchased this power, Council would in one action reduce our greenhouse gas emissions from electricity to zero and instantly meet the 2020 target. Figure 2 shows the total aggregated Council emission from 2003 to date along with the baseline and target emissions.

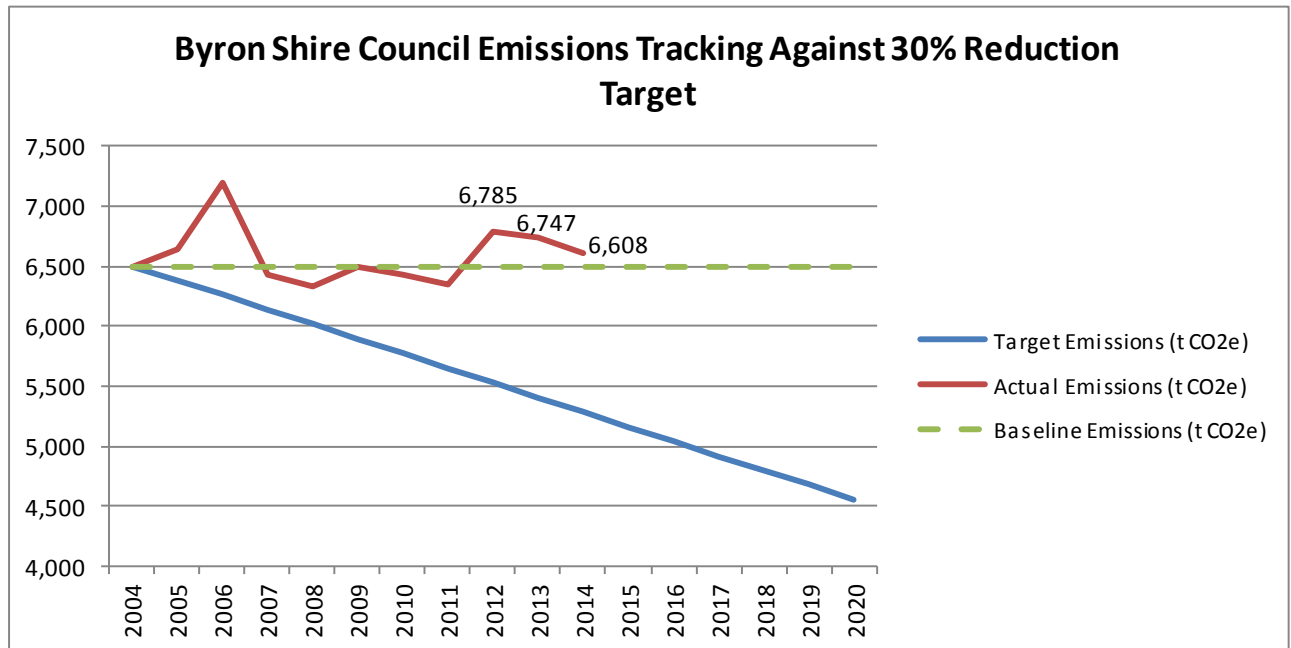


Figure 2: Byron Shire Emissions and Progress Towards Target

Figure 2 shows how action taken over the past two financial years to improve efficiency and reduce energy and fuel use have started to take effect on Council's overall emissions footprint.

The fuel use investigation identified avenues for improved data management and capture going forward. Simultaneously this created some ambiguity over historic fuel emissions. In the context of the total emissions, fleet emissions make up 19% compared to the remaining 81% attributed to electricity use (noting electricity has very robust data). The possible ambiguity over historic fleet emissions does not create cause for altering Council's overall emissions target. The target creates the drive for reducing Council's greenhouse gas emissions and the Low Carbon Strategy outlines the road map on how to create the reduction. As a result of the work completed for this emissions status report, Council has the most robust data capture and reporting methodology used to date and creates an excellent framework for monitoring progress over the remaining six financial years.

As outlined in previous greenhouse status reports, historic increases in greenhouse gas emissions have been partially attributed to the commissioning of new assets and improved services to the community. For example during the 2013-14 financial year the electricity consumption alone at the Cavanbah Sports Centre (previously BRSCC) created 120 tCO₂^e. This coupled with the additional fuel use of mowing and maintaining new sports fields, it is easy to see how the historic increases to Council's emission footprint has occurred.

Byron Shire Low Carbon Strategy

Figure 3 below has been included to show the number of actions planned to be implemented each year from the Byron Shire Low Carbon Strategy.

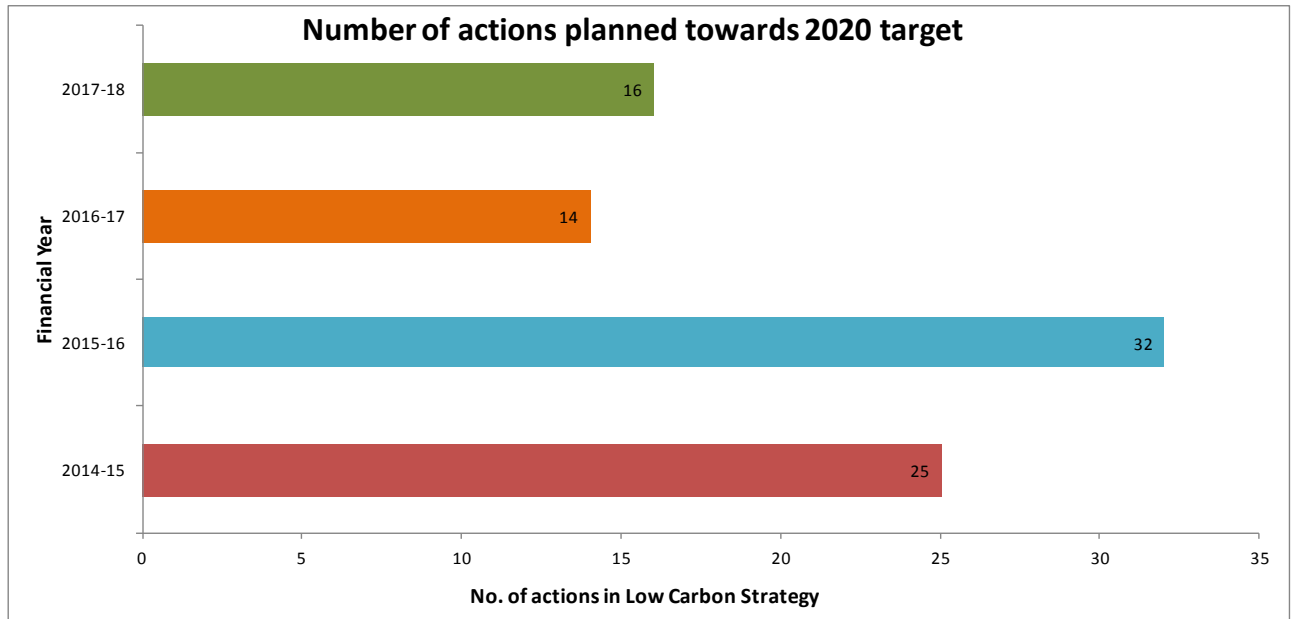


Figure 3: Number of projects identified in the Low Carbon Strategy

Cost of emission sectors

- 5 Figure 4 has been included here to demonstrate the scale of annual cost to Council across each emission sector.

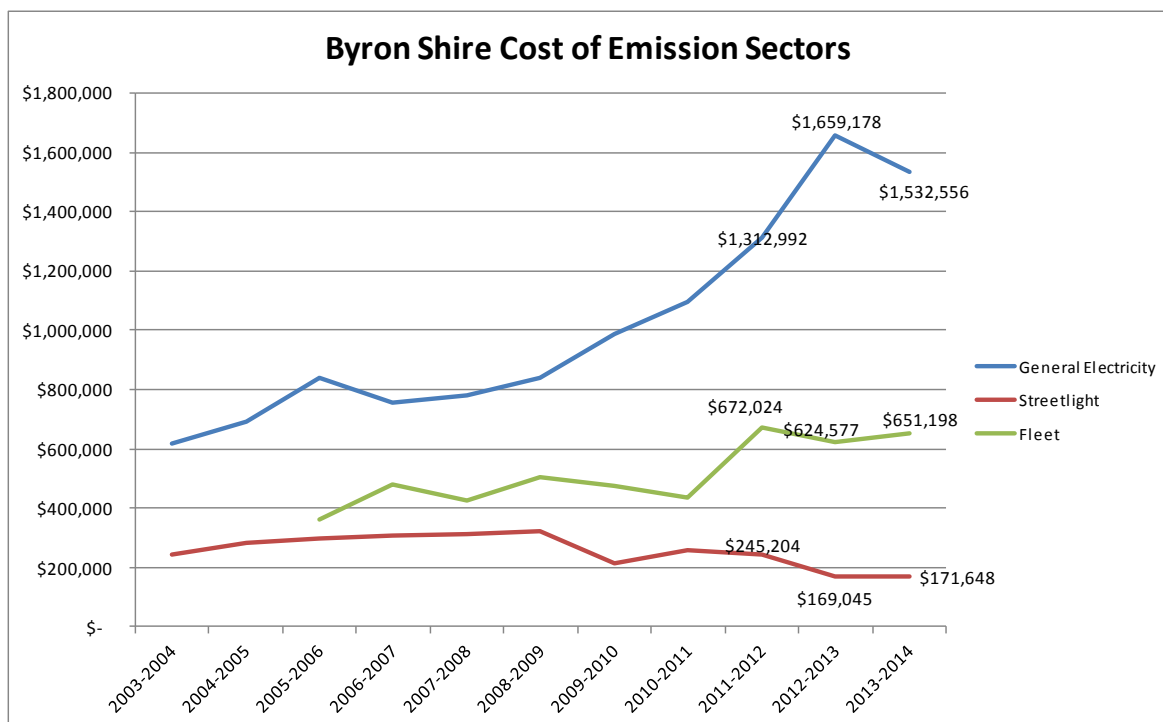


Figure 4: Scale of cost to Council across each emission sector.

10

Emissions from Myocum Landfill

- 15 Landfills create greenhouse gas emissions and in particular methane through the breaking down of organic matter in anaerobic conditions. The Myocum landfill was not included in the 2003 baseline inventory due to an inability at the time to accurately calculate the emissions generated from the landfill.

- 5 In 2011 a landfill gas capture and flare system was installed to combat odour issues and access financial opportunities presented by the Carbon Farming Legislation. The landfill gas flare burns the emitted gas and converts methane to carbon dioxide thus reducing the greenhouse warming potential of the emissions. Figures 5 and 6 show the equivalent carbon abatement volumes (monthly and cumulative) from the Myocum landfill gas extraction project since its conception. Since the extraction system and flare was installed the project has abated over 20,000tonnes of emissions and created \$217,600 in revenue.

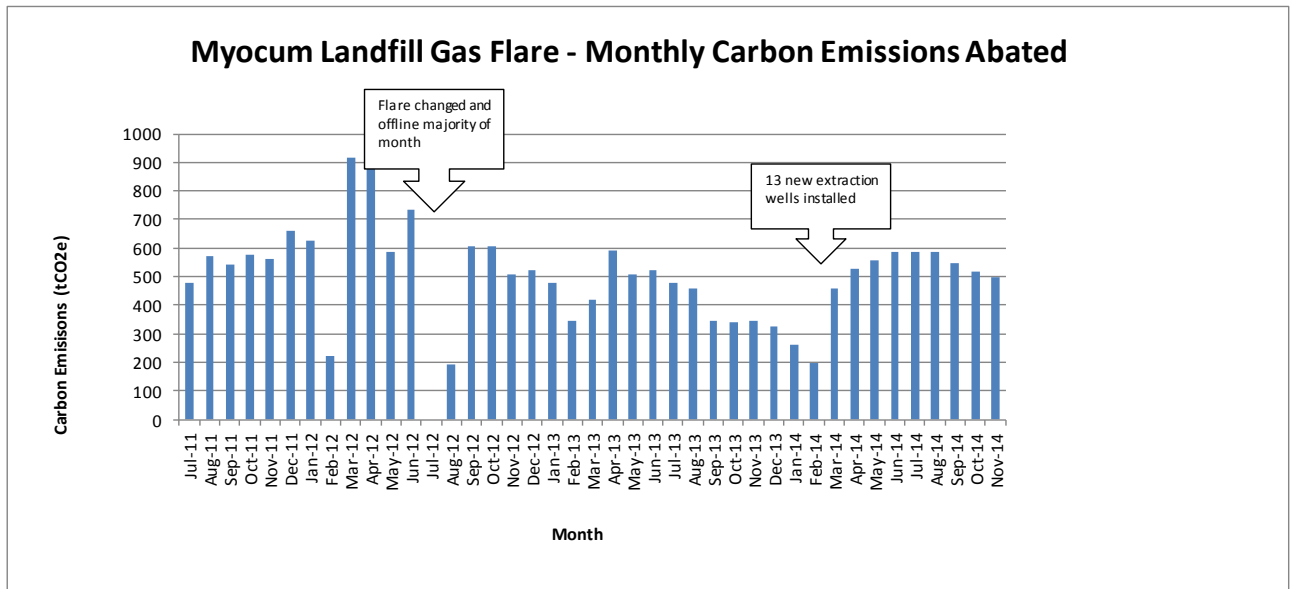


Figure 5: Monthly Carbon Emission Abatement from Myocum Landfill Gas Flare

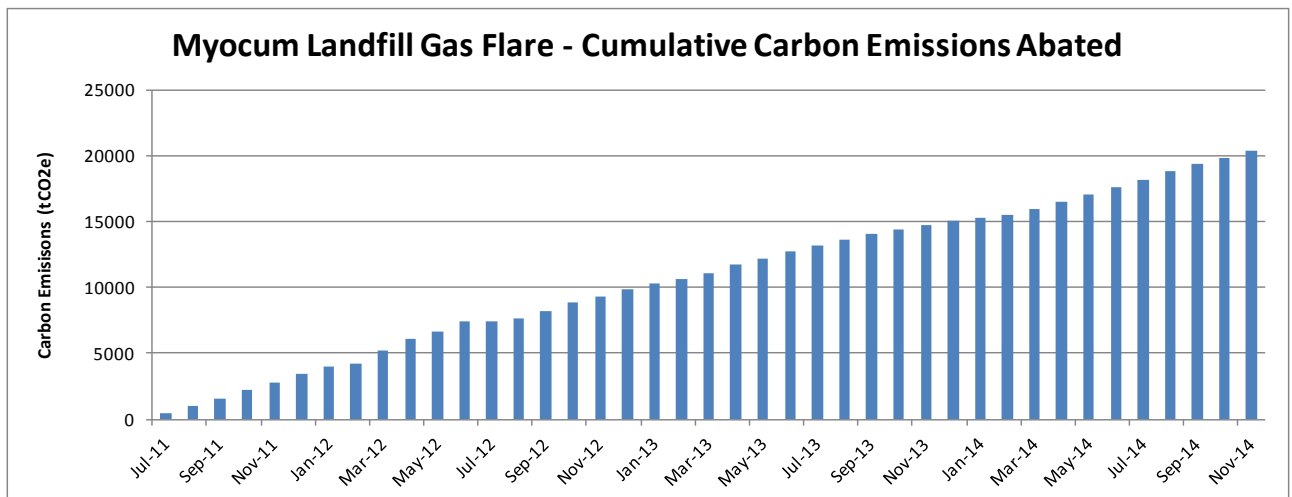


Figure 6: Cumulative Carbon Emission Abatement from Myocum Landfill Gas Flare

Emission reduction action taken

Some measures have been taken to help reduce Council's carbon footprint. The actions taken to date are outlined in Table 2. Whilst the actions taken in Table 2 are a move in the right direction more will be need to be done across all emission sectors to substantially reduce Council's total emissions.

Table 2: Measures taken to reduce energy use

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.6

| Measure | Property | Fiscal Year | Total Cost | Financial Saving (\$/yr) | Predicted CO2e Saving (t/year) | Resource Quantity Saving |
|--------------------------------------|---|-------------|------------|--------------------------|--------------------------------|--------------------------|
| Lighting efficiency retrofit | Council Administration Centre | 2010/11 | \$50,000 | \$14,000 | 57 t | 53 MWh |
| 5kw solar system installation | Brunswick Valley Community Centre | 2010/11 | \$23,000 | \$4,600 | 7.5 t | 7.7 MWh |
| 10kw solar system installation | Myocum Landfill | 2010/11 | \$60,000 | \$9,000 | 16 t | 15 MWh |
| Solar hot water retrofit (5 systems) | Ocean Shores, Brunswick Valley Community Centre, Suffolk Park Community Centre, Mullumbimby Neighbourhood Centre, Council Works Depot | 2011/12 | \$23,000 | \$2,900 | 15 t | 0.137 MWh |
| 50kW solar system installation | West Byron Sewage Treatment Plant | 2014/15 | \$82,000 | \$9,500 | 71.4 t | 83 MWh |

Conclusion

This edition of the greenhouse gas emission status report has documented the emissions from the general electricity, fleet and streetlight sectors for the 2012/13 and 2013/14 financial years. Council has created a downward trend in emissions over all three sectors over this time. Making significant progress towards meeting the 30% reduction target is possible if Council continues with its commitment to delivering known energy and fuel saving measures across its operations in accordance with the Byron Shire Low Carbon Strategy.

With only six financial years remaining to implement the Low Carbon Strategy and make significant progress toward reducing greenhouse gas emissions it is important to focus staff resources on delivering on ground projects. Moving forward Council now has robust and comprehensive data and will be able to accurately track emission reduction efforts over the next six years.

Financial Implications

The total cost of electricity and fuel for Council in the 2013/14 financial year was approximately \$2.37 million. This represents both a significant cost to Council and a significant opportunity for savings if resources are allocated to delivering projects to address increasing consumption and rising prices.

Statutory and Policy Compliance Implications

Nil

Report No. 13.7 PLANNING - Planning Proposals - For finalisation of reclassification of Lot 1 DP 952598 Vallances Road Mullumbimby and Lots 15 and 16 DP 1178892 Dingo Lane Myocum

Directorate: Sustainable Environment and Economy

Report Author: Greg Smith, Assessment Planner

File No: I2015/224

Theme: Ecology
Land and Natural Environment

Summary:

On 10 April 2014, Council resolved to reclassify Lot 1 Vallances Road and Lots 15 and 16 Dingo Lane from “community land” to “operational land – interests changed”. Council forwarded two Planning Proposals to the Department of Planning & Environment (DPE), which issued a Gateway Determination for each, subject to conditions. Council has complied with the conditions of the Gateway Determinations and community consultation is now complete.

This Report considers the submissions received in relation to the public exhibition of the Planning Proposals. 2 submissions were received in relation to Lot 1 Vallances Road and 2 submissions were received in relation to Lots 15 and 16 Dingo Lane. The person presiding over the public hearing provided a report as to the result of the public hearing.

This Report recommends that Council forward the planning proposals to DPE and request them to draft and finalise the respective LEP amendments.

NOTE TO COUNCILLORS:

In accordance with the provisions of S375A of the Local Government Act 1993, a Division is to be called whenever a motion for a planning decision is put to the meeting, for the purpose of recording voting on planning matters. Pursuant to clause 2(a) under the heading Matters to be Included in Minutes of Council Meetings of Council's adopted Code of Meeting Practice (as amended) a Division will be deemed to have been called by the mover and seconder of all motions relating to this report.

RECOMMENDATION:

That Council forward the Planning Proposals (and related legal documents) relating to Lot 1 DP 952598 (No. 125) Vallances Road Mullumbimby, and Lot 15 DP 1178892 (No. 1) and Lot 16 DP 1178892 Dingo Lane, Myocum to the NSW Department of Planning and Environment with a request to draft and finalise LEP amendments relating to Byron Local Environmental Plan 1988 and Byron Local Environmental Plan 2014 having the following effect:

1. That Lot 1 DP 952598, 125 Vallances Road, Mullumbimby:

- a) is classified as “operational land – interests changed” in accordance with Part 2 of Chapter 6 of the Local Government Act 1993; and**
- b) ceases to be a public reserve (if it is a public reserve); and**
- c) is discharged from any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except for:**
 - i) any reservations that except the land out of a Crown grant relating to the land,**
 - ii) reservations of minerals (within the meaning of the Crown Lands Act 1989), and**
 - iii) A234199 Right of Way affecting the part of the land shown so burdened in**

Vol 2738 Fol 198, and

2. That Lot 15 DP 1178892, 1 Dingo Lane and Lot 16 DP 1178892 Dingo Lane, Myocum:

- a) is classified as “operational land – interests changed” in accordance with Part 2 of Chapter 6 of the Local Government Act 1993; and**
- b) ceases to be a public reserve (if it is a public reserve); and**
- c) is discharged from any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except for:**
 - i) any reservations that except the land out of a Crown grant relating to the land,**
 - ii) reservations of minerals (within the meaning of the Crown Lands Act 1989),**
 - iii) Easement to Drain Water registered with DP 645883,**
 - iv) Easement to Drain Water registered with DP 645884,**
 - v) Easement to Drain Water registered with DP 1122726,**
 - vi) Right of Carriageway registered with DP 1178892 affecting Lot 15 DP 1178892,**
 - vii) Easement for Overhead Power Line(s) registered with DP 1178892 affecting Lot 16 DP 1178892,**
 - viii) Restriction(s) on the Use of Land referred to and numbered (3) in the applicable Section 88B Instrument registered with DP 1178892 affecting Lot 16 DP 1178892, and**
 - ix) Restriction(s) on the Use of Land referred to and numbered (4) in the applicable Section 88B Instrument registered with DP 1178892 affecting Lot 16 DP 1178892.**

Attachments:

- 1 Title Documents Lot 1 DP 952598 Vallances Road Mullumbimby and Lots 15 and 16 DP 1178892
- 5 Dingo Lane Myocum, E2015/17799 (provided under separate cover)
- 2 Responses to issues raised in public submissions, E2015/21387 , page 51
- 3 Public Hearing Report Lot 1 DP 952598 Vallances Road Mullumbimby and Lots 15 and 16 DP 1178892 Dingo Lane Myocum, E2015/17806 (provided under separate cover)
- 4 Planning Proposal Lot 1 DP 952598 Vallances Road Mullumbimby, E2014/47567 (provided under separate cover)
- 10 5 Planning Proposal Lot 15 and Lot 16 DP 1178892 Dingo Lane Myocum, E2014/47571 (provided under separate cover)

15

Report

1. Background

5 Lot 1 Vallances Road

10 Lot 1 is partly zoned RU1 – Primary Production, RU2 – Rural Landscape and partly identified as Deferred Matter under the provisions of LEP 2014. The provisions of LEP 1988 continue to apply to that part of Lot 1 identified under LEP 2014 as Deferred Matter. This part of Lot 1 is zoned part 1(a) (General Rural Zone) and part 7(b) (Coastal Habitat Zone) under LEP 1988. Lot 1 is classified “community” land.

15 Lot 1 was purchased by Byron Shire Council and more specifically, Council’s Sewer Fund, in 2008, and adjoins the Brunswick Valley Sewage Treatment Plant (STP) situated immediately to the east. The reasons indicated for the purchase of Lot 1 at the time were:

- (1) to facilitate improved access to the Brunswick Valley STP site; and
- (2) to increase Council’s landholding to 108 hectares to support future options for the management of the land surrounding the STP.

20 Council did not, within 3 months after it acquired Lot 1, resolve that Lot 1 be classified as either community land or operational land. Accordingly Lot 1 is taken to have been classified under a local environmental plan as community land in accordance with section 31 of the LG Act. Council is exploring options for a possible sale and / or development (depending on the outcome of the rural settlement strategy review) of Lot 1 under the Financial Sustainability Project Plan 2014-2015 (FSPP). Lot 1 needs to be reclassified from community land to operational land in order for the Land to be sold or developed in accordance with the FSPP.

30 Lots 15 and 16 Dingo Lane

35 Lot 15 is partly zoned RU1 – Primary Production, RU2 – Rural Landscape and partly identified as Deferred Matter under the provisions of LEP 2014. The provisions of LEP 1988 continue to apply to that part of Lot 15 identified under LEP 2014 as Deferred Matter. This part of Lot 15 is zoned part 1(a) (General Rural Zone) and part 1(d) (Investigation Zone) under LEP 1988. Lots 15 and 16 are classified “community” land.

40 Lot 16 is partly zoned RU1 – Primary Production, RU2 – Rural Landscape, R5 – Large Lot Residential and partly identified as Deferred Matter under the provisions of LEP 2014. The provisions of LEP 1988 continue to apply to that part of Lot 16 identified under LEP 2014 as Deferred Matter. This part of Lot 16 is zoned part 1(a) (General Rural Zone) and part 1(d) (Investigation Zone) under LEP 1988.

45 Lots 15 and 16 were purchased by Byron Shire Council and more specifically, Council’s Waste Reserves Fund, in 2012. Council did not, within 3 months after it acquired Lots 15 and 16, resolve that Lots 15 and 16 be classified as either community land or operational land. Accordingly Lots 15 and 16 are taken to have been classified under a local environmental plan as community land in accordance with section 31 of the LG Act. Council is exploring options for future use / sale of Lots 15 and 16 under the FSPP. Lots 15 and 16 need to be reclassified from community land to operational land in order for Lots 15 and 16 to be used and / or sold in accordance with the FSPP.

50 Council Resolution

At its meeting on 10 April 2014, Council resolved as follows:

55 **14-166 Resolved:**

1. ***That Council note that this report being a late report will not compromise the community's knowledge of or ability to participate in the decision-making on this matter because, if it proceeds, there will need to be extensive community consultation and many opportunities to make submissions to Council and at Council meetings.***
2. ***That a planning proposal be prepared and submitted to the NSW Minister for Planning & Infrastructure in accordance with Division 4 of Part 3 of the Environmental Planning and Assessment Act 1979 and Sections 27(1) and 30 of the Local Government Act 1993 for the making of a local environmental plan to classify or reclassify the said land as operational land and to make provision to the effect that, on commencement of the plan, the land, if it is a public reserve, ceases to be a public reserve, and that the land is by operation of the plan discharged from any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except for:***
 - (i) ***any reservations that except land out of a Crown grant relating to the land, and***
 - (ii) ***reservations of minerals (within the meaning of the Crown Lands Act 1989).***
2. ***That the same process as set out in 2. be pursued as required, in the same planning proposal or in concurrent planning proposal/s, for the following land:***
 - (a) ***Lot 1, DP952598, Vallances Road Mullumbimby***
 - (b) ***Lots 15 & 16, DP1178892 , Dingo Lane Myocum***
 - (c) ***Lot 10, DP850902, Station St, Mullumbimby (Administration Centre)***
 - (d) ***Lot 1, DP435267, Station St, Mullumbimby (Old Telstra site)***
 - (e) ***Lot 4, DP841856, Mill St, Mullumbimby***
 - (f) ***Lot 12, DP267109, Bayshore Drive, Byron Bay***
 - (g) ***Lot B, DP 372589, Corner Lawson & Fletcher Sts, Byron Bay***
3. ***That it be noted that as a result of delay to the Roundhouse project, infrastructure projects, including Ocean Shores infrastructure projects, that were proposed to be funded from the proceeds of sale of the Roundhouse land, will now be delayed, or may not be able to be delivered depending on the outcome of the LEP amendment process.***

Planning Proposal

A Planning Proposal was prepared in relation to Lot 1 Vallances Road, and a further Planning Proposal was prepared in relation to Lots 15 and 16 Dingo Lane with both explaining the objectives and intended outcomes of the proposed LEP amendments.

Amendments to both LEPs are required to reclassify the Lots.

Gateway Determination

Council forwarded the Planning Proposals to the Minister for Planning & Environment. The original Planning Proposals were forwarded to the Minister prior to the commencement of LEP 2014.

The Minister determined that each Planning Proposal should proceed subject to conditions in the respective Gateway Determinations. Both Gateway Determinations were issued on 16 June 2014.

The Planning Proposals were amended in accordance with condition 1 of the Gateway Determinations, relating to:

- 5 1(a) Identifying the need for both LEP 1988 and 2014 to be amended to reclassify each Lot (at the time of issue of the Gateway Determination the commencement of LEP 2014 was imminent and certain); and
- 1(b) Providing a plain English explanation of the Planning Proposal in the Explanation of Provisions section of each Planning Proposal.
- 10 The Department has requested a copy of the land title search for each allotment (see Attachment 1), and copies will be forwarded to DPE along with the planning proposals if adopted by Council.

Public Exhibition

- 15 The Planning Proposals were publicly exhibited in accordance with conditions 2 and 3 of each Gateway Determination. The Planning Proposals were made publicly available for a period of 28 days, from 29 July until 26 August 2014, both at Council's Administration Building and on Council's website. Newspaper advertisements and letters to nearby property owners informed the community of the public exhibitions. The NSW Rural Fire Service was provided with a copy of the
- 20 Planning Proposals and given more than 21 days to comment on the Planning Proposals. Three submissions were received in relation to each Planning Proposal, and comments are provided in response to each submission, in Attachment 2 to this Report.

Public Hearings

- 25 Council held public hearings into the Planning Proposals in accordance with section 29 of the Local Government Act 1993, on 18 December 2014. The two public hearings were held concurrently. An independent local town planning consultant with Planners North, presided over the public hearings. The submissions received in relation to the public exhibition were forwarded to the consultant for
- 30 consideration prior to the public hearings. A nearby property owner in relation to the Lot 1 Vallances Road Planning Proposal made a verbal submission to that public hearing, and an adjoining property owner in relation to Lots 15 and 16 Dingo Lane made verbal and written submissions to that public hearing.

Public Hearing Report

- 35 The consultant provided a Report on the public hearings. A copy of the public hearing report (see Attachment 3) was made available for inspection by the public at Council's Administration Building, was placed on Council's website and was distributed by email to the people/public authorities that
- 40 made submissions to the public exhibition on 2 March 2015. Interested parties were given until 19 March 2015 to make any further submission on the public hearing report, however Council received no further submissions.

- 45 The public hearing report recommends that Council proceed with the Planning Proposals.

2. Procedure

- 50 Should Council resolve to forward the Planning Proposals to the Department, the Department will need to obtain the approval of the NSW Governor because the local environmental plans reclassify the community land as operational land and will make provision to the effect that the land ceases to be a public reserve (if it is a public reserve) and that the land is by operation of the plan discharged from any trusts, including for example a trust for a public purpose.

- 55 The Planning Proposals (see Attachments 4 and 5) have been amended in accordance with conditions 1 and 5 of the Gateway Determinations.

Financial Implications

- 5 The financial implications relate to Council's ability to sell, develop and / or use each allotment in accordance with the Financial Sustainability Project Plan 2015/2016.

Statutory and Policy Compliance Implications

- 10 The legislation of relevance to this Report includes the Local Government Act 1993 particularly Chapter 6 Part 2 relating to classification and reclassification of public land, and the Environmental Planning and Assessment Act 1979 particularly Part 3 Division 4 relating to local environmental plans.
- 15

**Attachment 2 – Responses to Issues Raised in Public Submissions
Planning Proposals – Reclassification of Lot 1 Vallances Road Mullumbimby
and Lots 15 and 16 Dingo Lane, Myocum**

5 Three submissions were received in relation to each Planning Proposal, and comments are provided in response to each submission (as applicable), as follows:

- The NSW Rural Fire Service advised in relation to both Planning Proposals that it raises “no concerns or issues in relation to bush fire”.

10

- Lot 1 Vallances Road, Mullumbimby Planning Proposal

15

- (a) NSW Trade & Investment Crown Lands requested that any of the Crown roads that may need to be utilised for access/constructed due to any future proposal over Lot 1 DP 952598 and the adjoining Lot 1 DP 129374 (the Brunswick Valley Sewage Treatment Plant) be transferred to administration of Byron Shire Council. However no such access/construction is included under or required by this Planning Proposal.

20

- (b) A nearby property owner (who attended and made submissions to the public hearing) made a raised concerns in relation to the Planning Proposal for the following reasons:

25

It is mentioned that council may use the rezoned land as a depot or something similar.

30

Comment: A copy of the Department of Planning and Environment Practice Note PN 09-003 “Classification and reclassification of public land through a local environmental plan” was required to be included in the public exhibition material. This document discusses the applicability of the operational classification to uses such as depots etc. There is no mention in the actual Planning Proposal of any use of Lot 1 as a depot.

35

When council initially was in the process of planning the STP they assured us that the only traffic accessing the area would be an operator. In fact we were told that the road would only be upgraded to allow 200 traffic movements per day. Since that time we have been periodically inundated by 'dump' trucks carrying processed sewage, which brings large traffic movements and noise for up to a week at a time and a smell which fills my house and the road through escaped waste. This smell also fills Mullumbimby periodically given certain weather conditions.

40

45

Comment: The Planning Proposal does not propose any change to or proposed new use of the land. The Planning Proposal simply reclassifies the land to enable Council to use or sell it. Any future development of Lot 1 would be the subject of a separate development application and public exhibition process.

50

The traffic which moves along Vallances Road passes my house quite closely and in fact there are frequent near misses on the bend in front of my house. Any time 2 large vehicles have to pass each other on the road this is quite an awkward process in fact 2 cars passing usually means 1 has to leave the road in part. The cattle grate which is up the road from me is quite loud whenever cars pass over it much less a large vehicle.

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.7 - ATTACHMENT 2

Comment: The Planning Proposal does not propose any change to use or new development of the land. No change is proposed in relation to the existing cattle grid in Vallances Road due to this Planning Proposal.

5 *There has been an increase in the number of residences since the road was upgraded and an increase in traffic.*

Comment: The Planning Proposal does not propose a change in use or new development of the land. As such the existing traffic impact remains unchanged.

10

Despite resident concerns we now have an Optus tower on the road, council overriding any objections we had.

Comment: The Optus Tower is not relevant to this Planning Proposal.

15

Is 'operational' the only zoning available, or is it the only one fitting council's purpose? And how does this fit with the rural zoning of the land?

Comment: Under the Local Government Act the "operational" classification is the required classification of the land to enable Council to use or sell the land. The current community classification does not allow this to occur.

20

The available documentation frequently mentions sale of the land but no intention to do so. How is it the Minister's fault that the Council is seeking to rezone the land?

25

Comment: The intended use and / or sale of Lot 1 is discussed in the FSPP. Council is required to forward the Planning Proposal to the Minister for the Gateway Determination, and is required to forward the Planning Proposal back to the Minister again for the drafting and making of the amending LEPs.

30

- Lots 15 and 16 Dingo Lane, Myocum Planning Proposal

(a) A nearby property owner (who did not attend or make a submission to the public hearing) objected to the Planning Proposal for the following reasons:

35

From my reading of the proposal, the proposal includes, "... a proposed extension of the existing Myocum Tip, westwards in the direction of Lot 15 ..." (p3). Council's answer claiming the proposal fits "... into the rural character of this part of the locality ..." is incorrect. By broadening the footprint of the existing Myocum Tip, rural properties previously minimally or not affected by the presence of the Tip due to the use of Lot 15 as "part of the buffer surrounding the Tip" (p3) will lose that buffer. These properties, including my property, will have their rural character adversely affected.

40

45

Comment: The proposal does not include an extension of the existing Myocum Tip westwards in the direction of Lot 15. Development Application No. 10.2014.630.1 for a "New residual waste facility (landfill) adjacent to the existing waste management facility" relating to Lot 1 DP 591441 was submitted to Council on 21 October 2014 but is yet to be determined. That development application proposes the extension of the landfill westwards in the direction of Lot 15 and predominantly within other allotments, with only a small extension of the proposed quarry landfill boundary extending an estimated 10m into Lot 15 at the southern end of Lot 15 (in the opposite direction to the objector's property), not to the west nor north into Lot 15. Regardless, it is the development application

50

55

which proposes the landfill extension, not the Planning Proposal. The impact of the landfill extension on rural character and provision of buffers would be a consideration relating to the development application.

5 *"... the Land is predominantly flood liable land ..." (p8) How can extension of the Tip activities onto Lot 15 NOT require "... amelioration measures to address the flood liable hazard characteristics of the Land ..." (p8)?*

10 Comment: The development of Lots 15 and 16 is either established, has been approved, or would need to be the subject of appropriate applications and flood hazards would most likely form part of the assessment of any such application. The impact of the landfill extension and whether any ameliorative measures would be necessary may be a consideration of relevance to the assessment of Development Application No. 10.2014.630.1, not the Planning Proposal.

15 *"... no known significant likely environmental effects as a result of the Planning Proposal ..." (p11). If the Land is "predominantly flood liable" (p8) and the Proposal is that the Land is to be used to extended the existing Tip (p3) and no "amelioration measures" will be made to "address the flood liable hazard characteristics of the Land" (p8), how can there NOT be environmental impacts of the Planning Proposal? The Council's own statements indicate that the environment WILL HAVE TO BE AT RISK of groundwater and/or waterway contamination from the Tip.*

25 Comment: Flood liable land hazards, groundwater and waterway contamination considerations may be considerations of relevance to the assessment of Development Application No. 10.2014.630.1, not the Planning Proposal.

30 *"... the Planning Proposal is unlikely to cause any significant social or economic impacts." (p11) This is untrue since even the current presence of the Tip adversely affected the property values of the surrounding rural properties including my property. Having the Tip's operations extend "westward in the direction of Lot 15" would further adversely affect the value of property values in that direction, including mine with no clarity in the Proposal whether property owners adversely affected would be financially recompensed.*

35 Comment: The impact of the landfill extension on land values and general social and economic impacts may be an issue of relevance to the assessment of Development Application No. 10.2014.630.1, not the Planning Proposal.

40 (b) An adjoining property (who attended and made submissions to the public hearing) owner made comments in relation to the Planning Proposal as follows:

45 *My submission relates to future use of part of Lot 16 DP 1178892. I am not necessarily opposed to the reclassification of this lot but am asking for consideration of either a boundary adjustment or allocation of part of the lot for a wildlife corridor. The section in question is a strip of land, approximately 20 metres wide, which runs adjacent to the southern boundary of my land. The strip has access difficulties and I would love to see that strip planted out with native vegetation including koala feed trees, providing a valuable link between my property and neighbouring properties where regeneration works and koala feed tree plantings are also being undertaken. This could be achieved either by making a boundary adjustment so that the land on my side of the fence line was incorporated into my lot, in which case I would undertake to carry out the work.*

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.7 - ATTACHMENT 2

Alternately, the land could remain in council hands with that strip set aside as a wildlife corridor.

- 5 Comment: Lot 16 has two minimum lot sizes applying under LEP 1988 and LEP 2014, being 2.5 hectares for a small part of the north western corner and 40 hectares for the remainder. The area of Lot 16 is 40 hectares which complies with both applicable minimum lot sizes. Council is not proposing to adjust the boundary between Lot 16 and the neighbour's property, noting that such a boundary adjustment as suggested by the neighbour is likely to reduce the area of Lot 16 to below the minimum. The FSPP indicates that this land is identified to be sold. If Lot 16 is sold, the neighbour could discuss the various options with the future owner of Lot 16.
- 10

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.8

Report No. 13.8

PLANNING - 10.2014.238.1 - Use of existing awning and stage structures as part of existing restaurant, increase the maximum number of restaurant patrons to ninety-six (96) and erection of a new gazebo structure (ancillary to tourist facility) - 25 Childe Street, Byron Bay

Directorate:

Sustainable Environment and Economy

Report Author:

Paul Mills, Senior Assessment Officer - Planning

File No:

I2015/287

Theme:

Ecology

Development and Approvals

Proposal:

Property description:

LOT: 1 DP: 854069
25 Childe Street BYRON BAY

Parcel No/s:

208310

Applicant:

Belongil Group Pty Ltd

Owner:

Belongil Group Pty Ltd

Zoning:

7(f2) - Urban Coastal Lands Zone

Date received:

14 May 2014

Integrated Development:

No

Public notification or exhibition:

- Level 2 advertising under DCP 2010 Chapter 17 – Public Notification and Exhibition of Development Applications
- Exhibition period: 27 May 2014 to 9 June 2014
- Submissions: Two (2)
-

Delegation to determination:

Meeting of Full Council

Issues:

- Noise and disturbance for neighbouring residents
- Provision of on-site parking
- Site is located within the coastal erosion zone
- Flood liable land
- Permissibility of proposed gazebo structure for purposes ancillary to an existing tourist facility (existing use)

Summary:

The application seeks development consent for:

- the use of a presently unauthorised awning structure and performance stage as part of an existing restaurant;
- an increase in the maximum number of restaurant patrons from forty (40) to ninety-six (96), and
- the erection of a new freestanding gazebo for purposes ancillary to the existing tourist facility (including yoga classes by guests staying within the tourist accommodation on-site).

Council has issued various development consents over the subject site including consents for a tourist facility in 1983 and a public restaurant in 1990, both of these consents are relevant to this proposal.

The proposal to erect a new gazebo structure for ancillary activities (including yoga classes) by guests of the existing tourist accommodation facility is considered to have planning merit and be permissible with consent as an 'existing use'.

The proposed use of the existing awning structure and performance stage as part of the existing restaurant is also considered to satisfy the relevant provisions of Byron LEP 1988 and DCP 2010 subject to conditions.

Council's 1990 consent for a public restaurant limits the use to a maximum of forty (40) seats. The proposal to increase the number of restaurant patrons to a maximum of ninety-six (96) is not able to be supported in view of insufficient on-site parking. Notwithstanding the above, the assessment of the proposal has found that a maximum of seventy (70) patrons are able to be accommodated on-site for the restaurant, an assessment of this is provided in the report.

In response to the public notification process two (2) submissions were received. Matters raised in the submissions included noise and disturbance, hours of operation, and a need for additional on-site parking. Conditions have been recommended to address the matters raised in the submissions. These conditions include:

- the preparation and approval of a Noise Management Plan for the restaurant;
- limiting the hours of operation of the restaurant to only between 7:00am to 11:00pm daily,
- restrictions on amplified music after 10pm, and
- limiting the number of patrons of the restaurant to a maximum seventy (70).

The application is considered to have sufficient planning merit to warrant deferred commencement consent subject to conditions.

NOTE TO COUNCILLORS

- 5 In accordance with the provisions of S375A of the Local Government Act 1993, a Division is to be called whenever a motion for a planning decision is put to the meeting, for the purpose of recording voting on planning matters. Pursuant to clause 2(a) under the heading Matters to be Included in Minutes of Council Meetings of Council's adopted Code of Meeting Practice (as amended) a Division will be deemed to have been called by the mover and seconder of all motions relating to this report.

10

RECOMMENDATION:

1. **That pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2014.238.1 for Use of existing awning and stage structures as part of existing restaurant, increase the maximum number of restaurant**

patrons to seventy (70) and erection of a gazebo structure (ancillary to tourist facility) be granted deferred commencement consent subject to the conditions listed in Attachment 2.

- 2. Pursuant to Section 95(2) of the Environmental Planning & Assessment Act 1979, the development consent lapses 5 years after the date from which it operates unless commenced in accordance Section 95(4) or (5).**

Attachments:

- 5 1 Proposed Plans 10.2014.238.1, E2015/22473 , page 73
 2 Proposed conditions 10.2014.238.1 , E2015/22463 , page 78
 3 Confidential - submission DA 10.2014.238.1 - 25 Childe Street Byron Bay, E2015/22483

Assessment:

1. INTRODUCTION

1.1 History/Background

The following development application history over the subject site is noted:

| | | |
|---------------------|---|----------------------------|
| DA 83/410 | Split level Hotel Type Accommodation Lodge incorporating a kiosk/tea house | Approved 09/11/1983 |
| DA 85/295 | Conversion of locker room to kitchen | Approved 28/10/1985 |
| DA 86/378 | Subdivision | Approved 13/11/1988 |
| DA 89/321 | Conversion of shower area to float tank and healing room and extension to bedroom | Approved 10/10/1989 |
| DA 89/547 | Change of use to café to enable general use to public (Surrendered) | Approved 04/03/1990 |
| DA 90/85 | Pergola, barbecue shelter, new laundry/storage area and push bike shelter | Approved 10/05/1990 |
| DA 90/210 | Public Restaurant containing 40 seats | Approved 22/06/1990 |
| DA 90/224 | Additions to Belongil Beach House | Approved 31/08/1990 |
| DA 91/397 | Office, bathroom and laundry extensions | Approved 13/03/1992 |
| DA 94/175 | New building comprising 8 holiday units | Approved 02/02/1995 |
| DA 94/305 | Erection of four (4) holiday cabins | Approved 02/02/1995 |
| S102 (modification) | Lofts in four holiday cabins (DA 94/305) | Approved 27/10/1995 |
| 10.2000.548.1 | Alterations to office | Approved 19/10/2000 |
| 10.2000.687.1 | Tourist development 5 additional motel units | Approved 03/07/2001 |
| 5.1983.410.2 | Amend conditions of consent | Approved 28/05/2002 |
| 10.2009.11.1 | Alteration/Additions to existing tourist facility | Approved 06/07/2009 |
| 10.2009.498.1 | Construction of two additional cabins to existing tourist facility | Approved 07/05/2010 |
| 5.1983.410.3 | Section 96 application for reconstruction of fire damaged cafe | Approved 28/09/2012 |

Council has issued various development consents over the subject site as detailed above. Of particular relevance to this application (in bold above) are Development Consent No. 83/410 for a tourist facility and Development Consent No. 90/210 for a public restaurant.

1.2 Description of the site

The proposed development is to be carried out within Lot 1 in Deposited Plan 854069. This property has an area of 5745m² and is constrained by an easement to drain water (2 metres wide in the southern area of the allotment).

The property is located at 25 Childe Street, Belongil. The allotment is occupied by a tourist facility known as the 'Belongil Beachhouse'. This facility includes a restaurant and holiday accommodation in the form of 1 and 2 bedroom cottages, motel rooms, cabins (x4) and dormitory style accommodation.

Development within the southern most portion of the allotment at the time of inspection comprised four (4) existing cabins and a marquee. The southern boundary of the allotment adjoins the north coast railway line which is no longer in use. A tourist facility adjoins the site to the east and Giaour Street adjoins to the west. Vehicle access is available to the site from Childe Street to the north and west on Giaour Street.

1.3 Description of the proposed development

5 In summary, the application seeks development consent for the use of a presently unauthorised alterations and additions to an existing restaurant including use of an existing awning structure and performance stage. The proposal also seeks consent for the erection of a new freestanding gazebo structure for the use of yoga classes by guests staying within the tourist accommodation on-site.

10 It is noted that the area underneath the existing awning structure is being used as an outdoor dining area for the existing restaurant. The previously approved dining area within the restaurant building is now used as a "general waiting area associated with the bar".

15 The existing stage is used for musical performances on an intermittent basis. Acts performing at the restaurant are acoustic or use amplification.

20 In correspondence dated 14 January 2015 the applicant advised that seating is to be provided for a total of 96 patrons with 56 under cover and 40 outside without cover. The applicant has also provided an Acoustic Report (prepared by Acoustic Works dated 9 February 2015) which states that the hours of operation of the restaurant are 7:30am to 11:00pm seven days per week, with amplified music until 10:00pm.

25 The proposal involves use of an existing awning structure measuring 8.0 metres by 11.0 metres with a maximum height of 3.9 metres and associated deck area below. The proposal also seeks consent for the use of an existing performance stage structure measuring approximately 3.0 metres by 2.0 metres.

30 The application also seeks consent for the erection of a new multi-purpose gazebo structure measuring 11.0 metres by 11.0 metres with a height of approximately 5.10 metres. The applicant has advised that the use of gazebo structure is multi-purpose (including yoga classes) by visitors staying within the tourist accommodation on-site. The proposed freestanding gazebo structure has a pitched roof design.

35

2. SUMMARY OF GOVERNMENT/EXTERNAL REFERRALS

| | Summary of Issues |
|----------------------------------|--|
| Development Engineer | Parking, access, flood liable land and coastal erosion (Precinct 3). See Doc No.A2015/5624. |
| Consultant Environmental Officer | Noise and disturbance. See Doc No. A2014/28961. |
| ET Engineer | Water supply, bulk water and sewer services, no objection to proposal subject to conditions included in the recommendation of this report. See Doc No.A2014/11283. |
| Section 94 Officer | Council's Section 94 Officer on 2 April 2015 verbally confirmed that non-residential development with an estimated cost of development of less than \$100,000.00 do not incur payment of Council's Section 94A levy. |
| | No other referrals. |

40

2.1 Consideration of existing unauthorised structures

This application, in part, seeks consent for the use of an existing unauthorised awning structure and performance stage. It is noted that judgments of the NSW Land and Environment Court relating to existing unauthorised structures have found that assessment is a two stage process. Effectively, in these situations, those two stages are embodied by the two separate applications requiring determination. These being a Building Certificate application for the structures and a Development Application for the use of the structures.

The first stage is to determine whether or not the structures for which a certificate is sought are structurally sound for the purposes for which they are proposed to be used or whether it is possible to render them structurally sound if they are not already in such a state. Council is in receipt of a Building Certificate application for the existing awning which is yet to be determined.

The second stage is to determine if the use of the structures should be permitted and, if so, on what basis. This is the matter subject of this development application.

Council's Senior Building Surveyor has advised there are no matters of a technical nature that would preclude the approval of a Building Certificate application for each of the two structures, subject to conditions. However, at this juncture, as the Building Certificate application has not been determined this development application may only be granted Deferred Commencement Consent, with the consent not operating until such time as a Building Certificate is issued for the structures.

It is noted that this process is consistent with authorities provided by Council's Co-ordinator Legal Services.

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

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

3.1. STATE/REGIONAL PLANNING POLICIES AND INSTRUMENTS

| Policy Requirement summary | Proposed | Complies |
|--|--|----------|
| State Environmental Planning Policy No. 71 - Coastal Protection Council must have regard for the matters of consideration under Part 2 and 4 when assessing development. | Subject to conditions of consent the proposal should not compromise the provisions of Part 4 of SEPP 71 relating to public access, stormwater and effluent disposal. See assessment of Clause 8 matters for consideration immediately following this table. | Yes |
| North Coast Regional Environmental Plan 1988 Development proposals must be consistent with the provisions of the North Coast REP 1988. | The North Coast REP has recently been amended (21 July 2014) and is no longer applicable to Byron Shire. No savings provisions have been identified. | N/A |

| Policy Requirement summary | Proposed | Complies |
|---|--|---|
| State Environmental Planning Policy No. 55 - Remediation of Land Council must: (a) considered whether the land is contaminated, and (b) if the land is contaminated, if the land is suitable in its contaminated state or after remediation, and (c) be satisfied the land will be remediated before the land is used. | Council's Environmental Officer has raised no objection to the proposal with regard to site contamination and the requirements of SEPP No.55. | Yes |
| NSW Coastal Policy 1997 Compliance with <i>NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast</i> , as published by the Government. | The subject site is located within 1km landward of the open coast high water mark and is subject to the provisions of the NSW Coastal Policy. The proposed development is considered to be consistent with the Goals, Objectives and Strategic Actions of the NSW Coastal Policy 1997. | Yes |
| Building Code of Australia The proposal must be capable of compliance with the structural and safety requirements of the Building Code of Australia. | Detailed BCA assessment required prior to issue of a construction certificate for the construction of the gazebo. The use of the existing unauthorised structures including the awning and performance stage require a building certificate to be obtained to demonstrate that they are structurally sound. | Matter for detailed assessment as part of Construction Certificate and in obtaining a Building Certificate for existing structures. |
| Disability Access (DDA) Access for persons with disabilities and integration into surrounding streetscapes without creating barriers. (Council Res.10-1118) | No change to existing access arrangements. A change of use is not proposed. | Satisfactory |

State Environmental Planning Policy No 71 - Coastal Protection

5 Clause 8 of SEPP No.71 requires consideration of the following matters:

- 10
- 15
- (a) *the aims of this Policy set out in clause 2,*
 - (b) *existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,*
 - (c) *opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,*
 - (d) *the suitability of development given its type, location and design and its relationship with the surrounding area,*
 - (e) *any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,*
 - (f) *the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,*

- 5 (g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,
- (h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats
- 10 (i) existing wildlife corridors and the impact of development on these corridors,
- (j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,
- (k) measures to reduce the potential for conflict between land-based and water-based coastal activities,
- 15 (l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,
- (m) likely impacts of development on the water quality of coastal waterbodies,
- (n) the conservation and preservation of items of heritage, archaeological or historic significance,
- 20 (o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,
- (p) only in cases in which a development application in relation to proposed development is determined:
- (i) the cumulative impacts of the proposed development on the environment, and
- (ii) measures to ensure that water and energy usage by the proposed development is efficient.

25 **Assessment:** The proposed development is considered to be consistent with the aims of the Policy set out in Clause 2. The proposed development is considered to be consistent with above provisions of Clause 8 of SEPP No.71.

3.2. BYRON LOCAL ENVIRONMENTAL PLAN 1988

30 **Zone:** 7(f2) - Urban Coastal Lands Zone

Definition: Restaurant and use ancillary to existing tourist facility

| LEP 1988 - Summary of Requirements | Proposed | Complies |
|---|--|-----------------|
| Meets objectives of 7(f2) Urban Coastal Land Zone | The subject site is located within the 7(f2) Zone. | Yes |
| (a) to identify urban land likely to be influenced by coastal processes; | | |
| (b) to permit urban development within the zone subject to the council having due consideration to the intensity of that development and the likelihood of such development being adversely affected by, or adversely affecting, coastal processes; and | The proposal is assessed as satisfactory under Part J of DCP 2010. | Yes |
| (c) to permit urban development within the zone subject to the council having due consideration to: | The proposal is assessed as satisfactory under Part J of DCP 2010. | Yes |
| (i) the need to relocate buildings in the long term, | | |
| (ii) the need for development consent to be limited to a particular period, | | |
| (iii) the form, bulk, intensity and nature of the development, and | | |
| (iv) continued safe public access to the site, and | | |

| LEP 1988 - Summary of Requirements | Proposed | Complies |
|--|--|------------------------------|
| (d) to allow detailed provisions to be made, by means of a development control plan, to set aside specific areas within the zone for different land uses and intensities of development. | The proposal is assessed as satisfactory under Part J of DCP 2010. | Yes |
| <p>Permissibility</p> <p>restaurant means premises in which food or beverages (or both) are supplied for sale to the public for consumption on the premises.</p> <p>tourist facilities means an establishment providing holiday accommodation or recreation and may include a boat shed, boat landing facility, holiday cabin, hotel, house-boat, marina, motel, playground, primitive camping ground, restaurant, water sport facility or a club used in conjunction with any such facility.</p> | <p>The proposed gazebo structure is proposed to be a multi-purpose structure (including yoga sessions) for guests staying on-site. The gazebo is considered to be an ancillary use forming part of the approved tourist facility (DA 5.1983.410). It is noted that Clause 32 of Byron LEP 1988 <u>prohibits</u> 'tourist facilities' on the subject site. As per Byron LEP Amendment No.66. *See 'Existing use' assessment immediately following this table.</p> <p>The proposed 'use' of the existing awning and stage structures is associated with the approved 'restaurant' use. The proposed use of these two structures is permissible with consent. Restaurants are identified as permissible with consent with the 7(f2) Zone of Byron LEP 1988.</p> | No* (Existing use) |
| <p>Clause 24 – Flood liable land</p> <p>Council must be satisfied that:</p> <ul style="list-style-type: none"> – flow characteristics of flood waters are not restricted; – the level of flooding is not increased; – any building or work is capable of withstanding flooding; – the building is adequately flood proofed; and – adequate arrangements are made for access to the building or work during a flood | Council's Senior Development Engineer has raised no objection to the proposal with regard to flooding. The proposed development is considered able to satisfy Clause 24. | Yes |

| LEP 1988 - Summary of Requirements | Proposed | Complies |
|---|--|---|
| <p>Clause 32 – Development within Zone No. 7(f2) Urban Coastal Lands Zone</p> <p>The Council, in deciding whether to grant consent to development referred to in subclause (2), shall take into consideration:</p> <ul style="list-style-type: none"> (a) the likelihood of the proposed development adversely affecting, or being adversely affected by, coastal processes; (b) the need to relocate buildings in the long term; (c) the need for the development consent to be limited to a particular period; (d) the form, bulk, intensity and nature of the development; and (e) continued safe public access to the site. | <p>Refer to assessment under Part J of Byron DCP 2010 detailed in Section</p> | <p align="center">Yes</p> |
| <p>The council shall not consent to the carrying out of development on land shown edged heavy black and stippled on the map marked “Byron Local Environmental Plan 1988 (Amendment No. 66)” for the purpose of clubs, commercial premises, hostels, hotels, motels, residential flat buildings, shops or tourist facilities or for a purpose that would otherwise be permissible with consent under clause 17 (Dual occupancy).</p> | <p>The land is identified on the Amendment No. 66 Map. As such, ‘tourist facilities’ became a prohibited use on the site at the gazettal of that Amendment (9 March 2001). As the existing tourist facility development on the site was granted approval prior to that Amendment, the site is considered to have existing use rights. Refer to discussion within the Issues Section below.</p> | <p>Refer to discussion within the Issues Section below.</p> |
| <p>The Council must not consent to the subdivision of land within Zone No. 7(f2) other than:</p> <ul style="list-style-type: none"> (a) a subdivision under the <i>Strata Schemes (Freehold Development) Act 1973</i>, or (b) a subdivision to excise an allotment that is, or that the Council is satisfied is intended to be, used for a public purpose, or (c) a subdivision that, in the opinion of the Council, is only a boundary adjustment where no additional lots are created. | <p>No subdivision is proposed.</p> | <p align="center">Yes</p> |
| <p>Clause 40 – Height of buildings</p> <p>The height and scale of the development must be appropriate to its location, surrounding development and the environmental characteristics of the land. The maximum height .5 metres to the topmost floor level and 11.5 metres topmost part of the building above existing ground level.</p> | <p><u>Awning</u> Floor height: 0.5m Overall height: 3.9m</p> <p><u>Gazebo</u> Floor height: 0.45m Overall height: 5.01m</p> | <p align="center">Yes</p> |

| LEP 1988 - Summary of Requirements | Proposed | Complies |
|--|---|----------|
| Clause 45 – Provision of Services Prior adequate arrangements must be made for the provision of services to the allotment. | The allotment has access to Council's water and sewer services. Prior adequate arrangements have been made for the provision of these services to the allotment. Stormwater can be disposed of with on-site detention by way of a condition of consent. | Yes |

Byron Local Environmental Plan 1988- Issues

- 5 Tourist facilities, Hotels and Motels are effectively prohibited uses on the subject site under Clause 32 of Byron LEP 1988. However, an existing consent (reference 5.1983.410.3) predates LEP 1988 and allows for a “*Hotel Type Accommodation Lodge incorporating a Kiosk/Tea house*” on the subject site.
- 10 It is considered that the proposed gazebo structure is to be used for purposes ancillary to the existing consent 5.1983.410.3 and as such will fall within the definition of an ‘existing use’ as defined in Section 106 of the Environmental Planning and Assessment Act 1979 (the Act).

Section 108 of the Act specifies:

15 **108 Regulations respecting existing use**

- (1) *The regulations may make provision for or with respect to existing use and, in particular, for or with respect to:*
- (a) *the carrying out of alterations or extensions to or the rebuilding of a building or work being used for an existing use, and*
 - 20 (b) *the change of an existing use to another use, and*
 - (c) *the enlargement or expansion or intensification of an existing use.*
 - (d) *(Repealed)*

Clause 41 of the Environmental Planning and Assessment Regulations 2000 (the Regulations) specifies:

25 **41 Certain development allowed**

- (1) *An existing use may, subject to this Division:*
- (a) *be enlarged, expanded or intensified, or*
 - (b) *be altered or extended, or*
 - (c) *be rebuilt, or*
 - 30 (d) *be changed to another use, but only if that other use is a use that may be carried out with or without development consent under the Act, or*
 - (e) *if it is a commercial use—be changed to another commercial use (including a commercial use that would otherwise be prohibited under the Act), or*
 - 35 (f) *if it is a light industrial use—be changed to another light industrial use or a commercial use (including a light industrial use or commercial use that would otherwise be prohibited under the Act).*
- (2) *However, an existing use must not be changed under subclause (1) (e) or (f) unless that change:*
- (a) *involves only alterations or additions that are minor in nature, and*
 - 40 (b) *does not involve an increase of more than 10% in the floor space of the premises associated with the existing use, and*

- (c) does not involve the rebuilding of the premises associated with the existing use, and
(d) does not involve a significant intensification of that existing use.
(e) (Repealed)

(3) In this clause:

Commercial use means the use of a building, work or land for the purpose of office premises, business premises or retail premises (as those terms are defined in the standard instrument set out in the Standard Instrument (Local Environmental Plans) Order 2006).

light industrial use means the use of a building, work or land for the purpose of light industry (within the meaning of the standard instrument set out in the Standard Instrument (Local Environmental Plans) Order 2006).

The proposal to erect a new gazebo structure for purposes ancillary to the tourist accommodation facilities is considered to be allowed by Section 108 of the Act and Clause 41 of the Regulations.

Clause 42 of the Regulations specifies:

42 Development consent required for enlargement, expansion and intensification of existing uses

(1) Development consent is required for any enlargement, expansion or intensification of an existing use.

(2) The enlargement, expansion or intensification:

(a) must be for the existing use and for no other use, and

(b) must be carried out only on the land on which the existing use was carried out immediately before the relevant date.

This development application has been submitted, in part, to satisfy Clause 42. The intensification only relates to the existing use (tourist accommodation facility) and is on the same land.

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

No relevant draft Environmental Planning Instrument/s have been identified for the subject site.

3.3 DEVELOPMENT CONTROL PLAN

| Byron Shire Development Control Plan 2010 | | | | |
|--|----------------------|---------------|---------------|------------|
| Development Control Requirement | | Proposed | | Compliance |
| Part C2.5 – Building Height Plane | Giaour St (western) | Below the BHP | Below the BHP | Yes |
| | Side (southern) | Below the BHP | Above the BHP | Yes |
| | Side (eastern) | Below the BHP | Below the BHP | Yes |
| | Childe St (northern) | Below the BHP | Below the BHP | Yes |
| Part C2.6 – Setback from Street, Side and Rear Boundaries | Giaour St (western) | 6.5 m (min) | >6.5 m | Yes |
| | Side (southern) | As per BCA | >0.9 m | Yes |
| | Side (eastern) | As per BCA | >0.9 m | Yes |
| | Childe St (northern) | 6.5 m (min) | >6.5 m | Yes |

| Byron Shire Development Control Plan 2010 | | | |
|--|---|---|---------------------------------------|
| Development Control Requirement | | Proposed | Compliance |
| Part C8 & C9 – Tourism Development | Minimum site area 1200m ² | 5745m ² | Yes |
| | Minimum frontage 25m | 121.97m and 50.29m | Yes |
| Part C9.1 – Density Control | Motel, holiday cabin or hostel development must have a FSR of no greater than 1.2:1 | Site Area: 5745m ² Max Floor Area: 6894m ² Proposed Floor Area: Existing <6894m ² | Yes |
| Part C9.6 – Landscaped Area | 20m ² to 30m ² of landscaped area required per motel or holiday cabin depending on their size. | The proposed gazebo structure is not considered to reduce the available area for recreation on the subject site. | Yes |
| Part C9.7 – Garbage | Min 1 x 240L wheelie bin per 3 motel units; or 3 holiday cabins; or 5 hostel beds. OR: bulk bin of equivalent capacity | Area is available on site for bin storage. A preliminary waste management plan submitted as part of the proposal. | Yes |
| Part H – Landscaping | Landscape plan required in accordance with Part H | In view of the established landscaping and planting on the subject site additional landscape plan is not considered to be necessary in this instance. | Existing landscaping is satisfactory. |

Byron Shire DCP 2010 - Part G - Vehicle Circulation and Parking

- 5 Council's Senior Development Engineer has completed a merit assessment of the proposal with regard to Part G car parking and access requirements.

The assessment has concluded that using an estimated maximum floor area (of 105m²) for the existing restaurant, a maximum of seventy (70) seats is able to be supported for the restaurant under Part G using the RTA Guidelines. Any further increase in the number of patrons to be accommodated on-site would require additional car parking spaces. No additional parking spaces have been proposed in this application.

As such the proposed ninety-six (96) patrons is not able to be supported. A condition has been included to limit the restaurant use to a maximum of seventy (70) patrons.

The proposed gazebo structure and yoga classes are considered to be ancillary to the functions of the existing tourist resort. It is understood that the ancillary yoga activities have been operating for some time and this application is to construct a shade structure in the area that has been previously used for the yoga classes. There is no change proposed to the on-going yoga classes and the ancillary operations for the tourist resort. There is considered to be no measurable change to the demand for parking of the tourist facility.

Byron Shire DCP 2010 Part J - Coastal Erosion Lands

The subject site is located in Coastal Erosion Precinct 3 as identified in Part J of Byron DCP 2010. Council's Senior Development Engineer has raised no objection to the proposal with regard to Part J of Council's DCP 2010 requirements subject to conditions requiring the use to cease and removed if at any time the coastal erosion escarpment comes within 50 metres of the building subject of the consent. Further the landowner must suitably revegetate the land.

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

Built and natural environments

The proposed gazebo structure is to be located at the rear of the site and will only have limited visibility from Giaour Street.

The existing awning and stage structures are setback more than 5.0 metres from the Childe Street frontage and are considered to have an acceptable visual impact.

Noise, disturbance and hours of operation

The applicant has submitted an Acoustic Report prepared by Acoustic Works dated 9 February 2015 and supplementary information was submitted dated 5 March 2015. Council's Environmental Officer has advised that noise compliance is predicted for all dining activities associated with the outdoor area for the proposed operating hours without the need for any additional acoustic treatment.

Amplified music is predicted to comply based on predicted noise levels but exceeds the criteria by 1 dB(A) based on measured noise levels (at the boundary of the nearest affected residence) exceeding the daytime criteria by 1 dB(A). It is recommended by Acoustic Works that all music be reduced to a level of 72 dB(A) measured at a distance of 3m from the speakers.

Given the close proximity of residential development it is recommended that amplified music cease after 10pm. It is important that a Noise Management Plan is established to ensure adequate training of staff, use of noise monitoring equipment, implementation of the noise curfew, and the management of patrons to minimise noise impacts are successfully implemented.

A condition has been included to require the preparation and subsequent approval of a Noise Management Plan. Also to limit the noise impact of the restaurant a condition has been included to limit the overall hours of operation to 7:00am - 11:00pm daily.

5 Social and economic impacts in the locality

Subject to conditions relating to noise management and hours of operation the proposed development is considered to have acceptable social and economic impacts in the locality.

10 3.5 The suitability of the site for the development

The subject site is located within an area subject to coastal erosion and is also identified to be flood liable land. Appropriate conditions are included in the recommendation to address these issues.

15

3.6 Submissions made in accordance with this Act or the regulations

20 *"Below is a table providing a summary of submissions and staff responses. However, Councillors also need to refer to the full copies of all submissions which have been provided on disc, strictly on a confidential bases, to Councillors. The full copies of the submissions contain personal information such as names and addresses of the persons lodging submissions which are relevant matters to be taken into consideration in determining this matter"*

25 The application was publically notified in accordance with the DCP 2010 Chapter 17 Level 2 notification procedure. Two (2) submissions were received submissions made on the development application. Following is a summary of the issues raised.

| Issue | Comment |
|--|--|
| Giaour street is used as a garbage dump by the restaurant. | A condition has been included to require the submission of a Site Waste Minimisation and Management Plan prior to issue of a construction certificate. There is sufficient space on-site for suitable waste storage facilities to be provided. |
| Delivery trucks regularly block off Giaour Street a formal loading dock is needed for the restaurant. There is also a need for kerb and guttering in Giaour Street. | Council's Development Engineer has assessed the existing arrangements for delivery vehicles as adequate. Matters relating to the standards of road construction in Giaour Street are not a matter for assessment in this development application. |
| Need for 'residents only' signs in Giaour Street as restaurant patrons vehicles block driveways to the residents of Giaour Street. | This is a matter for consideration by Council Local Traffic Committee and not related to this development application. |
| Concerns regarding insufficient on-site parking for the proposed development. The proposal seeks to significantly increase the number of tables and chairs with need to provide additional parking or require the payment of Section 94 contributions. | See Section 3.3 of this report for an assessment of the proposal with regard to Council's on-site parking requirements. The estimated cost of works of this development application does not exceed \$100,000. The proposed development does require payment of the Section 94A levy. |

| Issue | Comment |
|--|---|
| A condition should be imposed to restrict loud music and bands to play only until 10pm each night. | <p>A condition to require the preparation and approval of a Noise Management Plan has been included in the recommendation.</p> <p>Given the close proximity of residential development it is recommended that amplified music cease after 10pm. Also to limit the noise impact of the restaurant a condition has been included to limit the overall hours of operation to 7:00am - 11:00pm daily.</p> |
| Concerns the application is misleading as it does not show the current use of the awning as an extension of the table serviced area of the restaurant. Also it is misleading that the application does not give the gross floor area of the restaurant. | Noted. The applicant has submitted further information clarifying that the area under the awning is to be used for seating associated with the restaurant. As detailed in this report, consideration has been given to a proposal to increase the number of restaurant patrons and a condition to limit the number of patrons to seventy (70) had been included. |
| Concerns the existing grease trap is inadequate to cope with the additional load to service the additional patrons. | A condition of consent has been included to require a Section 68 trade waste approval to be obtained prior to issue of a construction certificate. |
| Concerns the proposed gazebo is to be used as a yoga studio and the need for additional parking and restroom amenities. | The applicant has advised that the use of gazebo structure is for yoga activities by visitors staying within the tourist accommodation on-site. |
| Concerns yoga sessions are already operating from the subject site and have been doing so for several years. The yoga sessions are attended by members of the public who are not in-house guests. The yoga operator would continue to operate a commercial yoga classes which are open to the paying public. | The applicant has advised that the use of gazebo structure is for yoga activities by visitors staying within the tourist accommodation on-site. |

3.7 Public interest

5 The proposed development is considered to be consistent with the public interest subject to conditions included in the recommendation of this report.

4. DEVELOPER CONTRIBUTIONS

4.1 Water & Sewer Levies

10 Council ET Engineer has advised the proposed development will generate the following load on Council's water, bulk water and sewerage systems:

| Ref | CATEGORY | STANDARD UNIT | WATER ET | SEWER ET |
|-----|----------|---------------|----------|----------|
|-----|----------|---------------|----------|----------|

| | | | | |
|-------------|--|--------------------------|-------------|-------------|
| 9.1 | Restaurant / Café | Floor Area m2 | 0.01 | 0.01 |
| 11.1 | Gym / yoga / fitness centre** | Floor Area m2 | 0.01 | 0.01 |

The existing unapproved awning used for the restaurant has increased the floor area by 100m² and our site inspections confirm additional al fresco dining of 30m² generating a total load (174m² + 130m² = 304m²) = 3.04 WET & 3.04 SET.

The proposed 100m² yoga gazebo will add an additional load of 1 WET and 1 SET. Therefore, this development generates an additional load onto Councils Water & Bulk Water and Sewer System Council requires Payment of Developer Servicing Charges (prior to issue of a construction certificate) of:

- **2.3 ET** for Councils Water & Bulk Water; and
- **2.3 ET** for Councils Sewerage systems.

4.2 Section 94 Contributions

The estimated cost of works of this development application does not exceed \$100,000. The proposed development does require payment of the Section 94A levy, this has been discussed with Council Section 94 Officer.

5. CONCLUSION

Based on the assessment of the proposal against the relevant heads of consideration under Section 79C of the Environmental Planning and Assessment Act 1979, the application is considered to have sufficient planning merit to warrant deferred commencement approval subject to conditions.

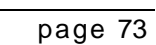
6. RECOMMENDATION

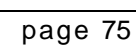
- 1. That Pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2014.238.1 for Use of existing awning and stage structures as part of existing restaurant, increase the maximum number of restaurant patrons to seventy (70) and erection of a gazebo structure (ancillary to tourist facility) be granted deferred commencement consent subject to conditions listed in Attachment 2.**
- 2. Pursuant to Section 95(2) the development consent lapse 5 years after the date from which it operates unless commenced pursuant to Section 95(4) or (5).**

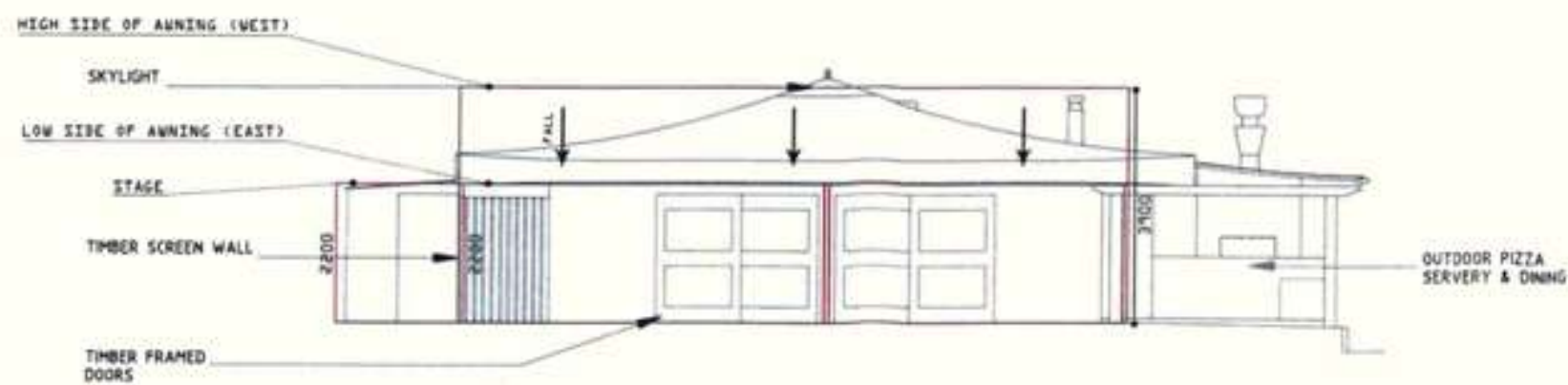
7. DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

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

Provide Disclosure Statement register details here: Nil.





[illegible]

DEFERRED COMMENCEMENT CONDITIONS OF CONSENT:

Part 1 - Conditions pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979 (as amended)

The following condition is a matter as to which the Council must be satisfied before the consent operates:

1) Deferred Commencement Consent

This consent does not operate until Council is satisfied that:

- a) A Building Certificate is to be obtained for the existing unauthorised building works. The following information may be required:

| | |
|---|---|
| – | A report by an appropriately qualified person (e.g. building surveyor or architect) advising how the building complies with the Building Code of Australia. |
| – | Works-as-executed building plans and specifications. Plans are to be professionally drawn at a scale of 1:100. |
| – | A certificate from a by a qualified practising structural engineer indicating that the works are structurally sound. The structural engineer is to be a corporate member of the Institution of Engineers Australia or is to be eligible to become a corporate member and have appropriate experience and competence in the related field. |
| – | A certificate from licensed pest controller indicating that the works have been treated against termites as per AS3660.1 |
| – | A certificate from a licensed glazier indicating that all glass in the building is in accordance with AS1288. |
| – | A certificate from a licensed plumber indicating that drainage from the works has been carried out in accordance with AS3500. |
| – | A licensed electrician's certificate certifying that the smoke alarm/s installed in the building is in accordance with AS3786 and that the electrical works comply with AS 3000 - 2000 "Wiring Rules" |
| – | A certificate from a licensed installer certifying that wet area waterproofing is in accordance with AS3740. |

Evidence of compliance with the above conditions, sufficient to satisfy the Council as to those matters, must be provided within 42 days of this notice. If satisfactory evidence is produced in accordance with this requirement, Council will give notice to the applicant of the date from which the consent operates.

Part 2 – Conditions of Consent

Parameters of this Consent

1) Development is to be in accordance with approved plans

The development is to be in accordance with plans listed below:

| Plan No. | Description | Prepared by | Dated: |
|-----------------|----------------------------|------------------------|---------|
| SP_001 | Site Plan | BL - Planit Consulting | 09/2014 |
| FPE_001 | Floor Plan and Elevation | BL - Planit Consulting | 09/2014 |
| CHILDEST_DAPLAN | Gazebo plan and elevations | ZP - Planit | 04/2014 |

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.8 - ATTACHMENT 2

| | | | |
|-----------|--|------------|--|
| (REV: 01) | | Consulting | |
|-----------|--|------------|--|

The development is also to be in accordance with any changes shown in red ink on the approved plans or conditions of consent.

- 5 The approved plans and related documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2) Maximum number of patrons for restaurant

- 10 The number of patrons at the restaurant is restricted to a maximum of seventy (70) at all times.

3) Hours of operation

The restaurant is only permitted to operate from 7:00am and 11:00pm on any day.

4) Modification of Development Consent No. DA 90/210

- 15 Pursuant to Section 80A(1)(b) of the *Environmental Planning and Assessment Act 1979*, this Development Consent modifies Development Consent No. DA 90/210 so as to allow a maximum of seventy (70) restaurant patrons at one time and that the restaurant is to operate in accordance with the conditions of this Development Consent
- 20 10.2014.238.1.

5) No Interference with the amenity of neighbourhood

- 25 The restaurant shall not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise. In particular:

- a) Only clean and unpolluted water is permitted to be discharged to Councils' stormwater drainage system or any waters.
- b) The noise level emanating from the use of the premises must comply with the New South Wales Industrial Noise Policy.
- 30 c) All wastes shall be contained within appropriate containers fitted with a tight-fitting vermin-proof lid.
- d) All trade waste pre-treatment devices and other waste storage facilities shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.
- 35 e) Goods deliveries, fuel deliveries and waste collection shall be restricted to daytime operating hours.

6) Amplified sound

- 40 a) The public address system and any other amplified sound equipment shall be installed, operated and maintained so as to prevent "offensive noise" (as defined under the Protection of Environment Operations Act 1997) being detected in the nearest private residence.
- b) The noise level emanating from the development must not exceed the background level by more than 5 dB(A) when measured at the property
- 45 boundary of any affected residence.
- c) All amplified music and public address systems must operated so that they are not audible outside of the boundary of the property between 10:00pm on any day, and 10.00am on the following day.
- 50 d) The applicant/owner must erect a sign in a prominent position within the garden dinning area displaying the following words, or words to that effect:
- "NOISE LEVELS - please RESPECT our NEIGHBOURS"

7) Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.8 - ATTACHMENT 2

- (1) For the purposes of section 80A (11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:
- (a) that the work must be carried out in accordance with the requirements of the Building Code of Australia ,
- (b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (2) This clause does not apply:
- (a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
- (b) to the erection of a temporary building.
- (3) In this clause, a reference to the Building Code of Australia is a reference to that Code as in force on the date the application for the relevant construction certificate is made.

8) Erection of signs

- (1) For the purposes of section 80A (11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- (2) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited.
- (3) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (4) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- (5) This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the Act, to comply with the technical provisions of the State's building laws.
- (6) This clause applies to a development consent granted before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

Note: Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of \$1,100).

9) Coastal Erosion

The development must cease if at any time the coastal erosion escarpment comes within 50 metres of any building associated with this development. The buildings and works used in connection with the development must be removed immediately to an approved location by the owner of the land. The owner must return the landform of the subject land to the predevelopment state and suitably revegetate the land.

In this condition coastal erosion escarpment means the landward limit of erosion in the dune system caused by storm waves.

Note: at the end of a storm the escarpment may be nearly vertical; as it dries out, the escarpment slumps to a typical slope of 1 vertical to 1.5 horizontal.

The following conditions are to be complied with prior to issue of a Construction Certificate for the gazebo structure

10) Surrender of Development Consent

In accordance with Clause 97 of the *Environmental Planning and Assessment Regulation 2000*, Development Consent reference 10.2009.498.1 is required to be surrendered prior to issue of Construction Certificate.

11) Notice of Modification of Development Consent to be submitted

A Notice of Modification of a Development Consent, prepared in accordance with Clause 97(1) of the *Environmental Planning and Assessment Regulation 2000*, must be submitted with respect to Development Consent No. DA 90/210, the notice is to specify that Development Consent No. DA 90/210 is amended to allow for a maximum of seventy (70) restaurant patrons at one time and that the operation of the restaurant is comply with the conditions of this Development Consent 10.2014.238.1 .

12) Noise Management Plan

A Noise Management Plan in accordance with the *Acoustic Report*, Treehouse on Belongil, 25 Childe Street, Byron Bay (Acoustic Works 2015005 R03, 4 March 2015) and the *Acoustic Response* (Acoustic Works 2015005 L01, 5 March 2015) must be submitted to Council for approval prior to the issue of a construction certificate for the development. The Noise Management Plan must be prepared by a suitably qualified acoustic practitioner and detail the methods that will be implemented for all the operations associated with the restaurant/café to minimise noise impacts on the nearest affected dwellings. Information should include:

- a) identification of nearby residences and other sensitive land uses;
- b) assessment of expected noise impacts;
- c) detailed examination of all feasible and reasonable management practices that will be implemented to minimise noise impacts (including management of patrons leaving the premises at any time);
- d) strategies to promptly deal with and address noise complaints. This should include any records that should be kept in receiving and responding to any noise complaints;
- e) details of performance evaluating procedures (for example, sound checks on amplified music or public address system);
- f) reference to all relevant consent conditions including hours of operation and number of guests;
- g) operational details about the use of any noise monitoring equipment to record sound pressure levels around the property;
- h) Measures to ensure speakers are faced away from neighbouring dwellings.
- i) name and qualifications of person who prepared the report.

13) Site Waste Minimisation and Management Plan

Chapter 1: Part F of Byron Shire Development Control Plan 2010 (DCP 2010) aims to facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development.

Prior to the issue of a Occupation Certificate, a Site Waste Minimisation and Management Plan (SWMMP) must be submitted outlining measures to minimise and manage waste generated during the ongoing operation and use of the development. The SWMMP must specify the proposed method of recycling or disposal and the waste management service provider (if necessary).

A template is provided on Council's website to assist in providing this information
www.byron.nsw.gov.au/files/publications/swmmp_-_pro-forma-.doc

14) Trade Waste - Section 68 approval required

An approval under Section 68 of the Local Government Act 1993 to discharge trade waste into Council's sewer must be obtained.

15) Certificate of Compliance – Water Management Act 2000

A Certificate of Compliance will be issued on completion of construction of water management works to serve the development and/or on payment of developer charges for water and sewer as calculated in accordance with Byron Shire Council and Rous Water Development Servicing Plans.

***Note:** Copies of the application forms for Certificates of Compliance are available on Council's website*

http://www.byron.nsw.gov.au/files/Forms/Section_305_Certificate.pdf or from Council's Administration Office. Copies of Byron Shire Council's Development Servicing Plans are available at Council's Administration Office.

Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment. A check must be made with Council to ascertain the current rates by contacting Council's Principal Engineer Systems Planning, Water on 02 6626 7081. Applicable charges can be found on Council's website: <http://www.byron.nsw.gov.au/development-contributions-plans-section-94-and-64>

16) Flood Planning Level for new building structures/works

The flood planning level for this development is **R.L. 3.2m A.H.D.**

The plans and specifications to accompany the construction certificate application are to indicate the use of flood compatible materials, fixtures and power outlets where used in the building below the flood planning level. The flood compatible materials, fixtures and power outlets should be those components listed as "suitable" in *Table 10 - Flood Proofing Code* of Part K – Flood Liable Lands of Development Control Plan 2010.

17) Bond required to guarantee against damage to public land

A bond of **\$1000** is to be paid to Council as guarantee against damage to surrounding public land and infrastructure during construction of the proposed development.

Evidence is to be provided to Council indicating the pre development condition of the surrounding public land and infrastructure. Such evidence must include photographs.

The proponent will be held responsible for the repair of any damage to roads, kerb and gutters, footpaths, driveway crossovers or other assets.

Such bond will be held until Council is satisfied that the infrastructure is maintained/repaired to pre development conditions and that no further work is to be carried out that may result in damage to Council's roads, footpaths etc.

5 18) S.88E Restriction to be placed on title – Coastal erosion

Documentary evidence is to be provided to the Principal Certifying Authority that a restriction-as-to-user, pursuant to the provisions of S.88E of the Conveyancing Act, 1919, has been placed on the title to the land, the subject of this consent, stating:-

10 *The development granted via development consent number **10.2014.238.1** must cease if at any time the coastal erosion escarpment comes within 50 metres of the building subject of the consent. The development the subject of this consent must be demolished and removed immediately. Further the landowner must suitably revegetate the land.*

15 *In this restriction coastal erosion escarpment means the landward limit of erosion in the dune system caused by storm waves.*

20 **Please note:** Documents requiring the endorsement of Council associated with the creation or cancellation of easements, restrictions, covenants are subject to fees listed within Council's Fees & Charges.

The following conditions are to be complied with prior to commencement of building works

25 **19) Erosion and Sediment measures**

Erosion and sedimentation controls are to be in place in accordance with the *Guidelines for Erosion & Sediment Control on Building Sites*. A copy may be downloaded from Council's web site at http://www.byron.nsw.gov.au/pdfs/stormwater/sediment_erosion.pdf. Particular attention is to be given to the provision of the following sediment and erosion control measures:

- 35 a) Temporary downpipes immediately installed after the roof has been erected;
b) Silt fence or sediment barrier.

Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

40 **Note:** Council may impose on-the-spot fines for non-compliance with this condition. Any such measures that are deemed to be necessary because of the local conditions must be maintained at all times until the site is made stable (i.e. by permanent vegetation cover or hard surface).

45 **The following conditions are to be complied with during construction**

20) Construction times

50 Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible from adjoining residential premises, can only occur:

- a) Monday to Friday, from 7 am to 6 pm.
b) Saturday, from 8 am to 1 pm.

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.8 - ATTACHMENT 2

No construction work to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.

Note: Council may impose on-the-spot fines for non-compliance with this condition.

21) Construction Noise

Construction noise is to be limited as follows:

a) For construction periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).

b) For construction periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A)

Note: Council may impose on-the-spot fines for non-compliance with this condition.

22) Builders rubbish to be contained on site

All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

23) Maintenance of sediment and erosion control measures

Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

24) Prevention of water pollution

Only clean and unpolluted water is to be discharged to Council's stormwater drainage system or any watercourse to ensure compliance with the Protection of Environment Operations Act.

Note: Council may impose on-the-spot fines for non-compliance with this condition.

25) Electrical and Mechanical Equipment

For buildings/structures constructed on flood liable land, the electrical and mechanical materials, equipment and installation must conform to the requirement of Park K of Development Control Plan 2010.

The following conditions are to be complied with prior to issue of a Final Occupation Certificate

26) Works to be completed prior to issue of a Final Occupation Certificate

All of the works indicated on the plans and approved by this consent, including any other consents that are necessary for the completion of this development, is to be completed and approved by the relevant consent authority/s prior to the issue of a Final Occupation Certificate.

Any Security bond paid for this application will be held until Council is satisfied that no further works are to be carried out that may result in damage to Councils road/footpath reserve.

27) Stormwater disposal

Stormwater must be collected and disposed of in a controlled manner such that stormwater flows are:

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.8 - ATTACHMENT 2

- a) Clear of buildings and infrastructure,
- b) Not concentrated so as to cause soil erosion,
- c) Not onto adjoining land.

5 **Reasons for conditions**

- 1 To comply with the provisions of Byron Local Environmental Plan 1988 and the Environmental Planning and Assessment Act 1979.
- 2 To preserve the environment and amenity of the area.
- 10 3 To ensure adequacy of services to the development.
- 4 In the interests public health and safety.
- 5 To ensure the development is completed in accordance with conditions of consent and approved plans.

15 **Notes**

Construction Certificate required:

This development consent is issued under the Environmental Planning and Assessment Act 1979 and does not relate to structural aspects or specifications of the building under the Building Code of Australia. All buildings and alterations require the issue of a Construction Certificate prior to works commencing. Application forms are available from the customer services counter or Council's website www.byron.nsw.gov.au.

Principal Certifying Authority:

Work must not commence until the applicant has:-

- 1) appointed a Principal Certifying Authority (if the Council is not the PCA); and
- 2) given the Council at least two days notice of the their intention to commence the erection of the building. Notice must be given by using the prescribed 'Form 7'.
- 30 3) notified the Principal Certifying Authority of the Compliance with Part 6 of the Home Building Act 1989.

Occupation Certificate required:

The building must not be occupied until the Principal Certifying Authority has issued an Occupation Certificate.

Protection of the Environment Operations Act 1997:

It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ("on-the-spot fine") or prosecution.

Water payments under the Water Management Act 2000

Charges will be calculated based on the additional water and sewerage load that the proposed development generates, shown in Equivalent Tenements (ET) by the following table:

ADDITIONAL WATER & SEWER LOAD OF DEVELOPMENT

[ET Policy No:13/005]

| | |
|-------------------|--------|
| Water | 2.3 ET |
| Bulk Water (Rous) | 2.3 ET |
| Sewer | 2.3 ET |

PAYMENT BY PERSONAL CHEQUE NOT ACCEPTED

Report No. 13.9 Report of the Planning Review Committee Meeting held on 7 April 2015

Directorate: Sustainable Environment and Economy

Report Author: Shannon Burt, Director Sustainable Environment and Economy

File No: I2015/289

Theme: Ecology
Development and Approvals

Summary:

This report provides the outcome of the Planning Review Committee Meeting held on 7 April, 2015.

RECOMMENDATION:

That the report be noted.

Report

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

5

| DA No. | Applicant | Property Address | Proposal | Reason/s | Outcome |
|--------------|-------------------|----------------------------------|---|----------|------------|
| 10.2015.89.1 | Laurelway Pty Ltd | 36 Left Bank Road Mullumbimby | Early learning and childcare centre for 64 children with associated parking and stormwater treatment facilities | | Delegation |

Report No. 13.10 **Sustainable Economy Committee Selection Process**
Directorate: Sustainable Environment and Economy
Report Author: Jane Lavery, Economic Development and Tourism Coordinator
File No: I2015/341
5 **Theme:** Economy
 Economic Development

Summary:

10 The purpose of this report is to request Council to agree to a selection process for the Sustainable
Economy Committee and provide delegation to the General Manager to endorse recommendations
for the Committee. The recommendations would be made by an assessment panel comprising the
previously determined Councillor Representatives thereby allowing for efficient and timely
15 appointments of members for the 4 June Sustainable Economy Meeting date.

RECOMMENDATION:**That Council:**

1. Agree the EOI's for the Sustainable Economy Committee be provided to an assessment panel made up of Cr Cameron, Cr Ibrahim and Cr Richardson supported by the Economic Development & Tourism Coordinator and Tourism Officer for review and recommendation for appointment to the Committee.
2. Provide delegation to the General Manager to authorise the recommended Sustainable Economy Committee appointments and issue letters of offer including a meetings schedule, confidentiality and conflict of interest agreements.
3. Receive a report at the Thursday 21 May 2015 Council meeting detailing the appointed Sustainable Economy Committee members.

20

Report

In March 2015, Council resolved to establish the Sustainable Economy Committee.

Res 15-108 Resolved that Council:

- 5 1. *Establish a Sustainable Economy Committee (SEC) and call for nominations for the industry, community and environment members.*
2. *Adopt the draft Terms of Reference for the SEC as attached (E2015/11805).*
 - a) *the objectives/purpose of the Committee*
 - 10 b) *Committee membership, and*
 - c) *that meetings be held quarterly or as required.*
3. *Write to the Bundjalung of Byron Bay Aboriginal Corporation (Arakwal) extending an invitation to provide one representative if desired to the Committee.*
4. *Nominate three Councillors to the SEC, being Crs Cameron, Richardson and Ibrahim.*
- 15 5. *Note that the following meeting dates have been tentatively set aside for proposed SEC meetings:*
 - *Thursday 2 April*
 - *Thursday 4 June*
 - *Thursday 3 September*
 - *Thursday 5 November*
- 20 6. *Write to the current Tourism Advisory Committee members thanking them for their service to Council and the community and encouraging them to nominate for a position on the new SEC.*

Selection process proposal

25 EOI's for the Sustainable Economy Committee (SEC) closed on 17 April 2015 with 20 submissions received in total across the nominated areas of tourism, agriculture/food processing, education, creative industries, business services, environment and community.

The schedule of meetings for the SEC in 2015 is 4 June, 3 September and 5 November.

30 To address the lag time between close of EOI's and the 4 June scheduled meeting, and to provide an opportunity for an introductory session with committee members, staff would like to propose the following selection process:

- An assessment panel made up of the Councillor representatives of the Committee, Cr Cameron, Cr Ibrahim and Cr Richardson, supported by the Economic Development & Tourism Coordinator and Tourism Officer review all EOI's and make recommendations for appointments to the Committee by Thursday 7 May.
- 35 ▪ The General Manager, under delegation from Council, authorise the recommendations and issue letters of offer including a meeting schedule, confidentiality and conflict of interest agreements to the recommended committee members.
- SEC members also be invited to an introductory meeting to finalise agreements, make introductions and cover any questions, so as to increase productivity of the first official meeting of the SEC on 4 June.
- 40 ▪ A report is provided to Council on Thursday 21 May detailing the appointed Sustainable Economy Committee members.

Financial Implications

None

45

Statutory and Policy Compliance Implications

None

STAFF REPORTS - ORGANISATION DEVELOPMENT

Report No. 13.11 Webcasting Council meetings

Directorate: Organisation Development

Report Author: Donna Johnston, Media Communications Officer

File No: I2015/87

Theme: Corporate Management
 Organisational Development

Summary:

As Council meetings are currently held from 9am onwards, it can be difficult for a significant number of interested community members to attend due to work and personal commitments. The geographical nature of the Shire, and the limited public transport options, may also contribute to a person not being able to attend Council meetings.

The implementation of webcasting, would allow interested residents and ratepayers to view/listen to Council meetings live, regardless of their location and/or time of day. This would enable people to have a better understanding of how decisions are made and the issues involved in reaching a decision. Webcasting could potentially enable greater community consultation, engagement and transparency.

The following report considers seven delivery modes of webcasting.

RECOMMENDATION:

1. **That audio broadcasting, post Council meetings, is the preferred delivery method for webcasting;**
2. **That prior to webcasting commencing, legal advice is obtained on the potential legal risks associated with the delayed uploading audio recordings of Council meetings and reported to Council;**
3. **That funding for the legal report be allocated from the 2014/15 Legal Services budget;**
4. **That audio broadcasts are made available and stored for a period of 3 months;**
5. **That audio broadcasting is undertaken as a trial for 12 months and the listener uptake reported back to the Communications Committee at the end of this period.**

Report

In June 2009, the Communications Committee considered webcasting and recommended the following:

09-544 Resolved:

1. *That the Committee selects not to pursue live webcasting of Council meetings due to cost benefit ratio and the current uptake and access of broadband connection by Shire residents.*
2. *That the Committee notes the report and seeks further advice on legal implications and risks associated with live recording and distribution and the post uploading of Council meetings.*
3. *That the Committee recommends that a précis of Council Meetings is included in the e-news.*

Legal advice was not sought at the time due to no allocated budget and webcasting not being supported by Council. As technology, software and third party providers have improved over the past five years, it is considered relevant to review the options available to achieve the following:

Webcasting objective To improve transparency, accountability and communicate the outcomes of council meetings with reasonable cost and resourcing.

As Council meetings are currently held from 9am onwards, it can be difficult for a significant number of interested community members to attend due to work and personal commitments. The geographical nature of the Shire, and the limited public transport options, may also contribute to a person not being able to attend Council meetings.

The implementation of webcasting, would allow interested people to view/listen to Council meetings live, regardless of their location. This would enable people to have a better understanding of how decisions are made and the issues involved in reaching a decision. Webcasting could potentially enable greater community consultation, engagement and transparency.

The following seven delivery modes are explored within this report.

- a. Minutes on web post meeting
- b. Audio streaming live
- c. Audio file available post meeting
- d. Audio streaming live + audio file available post meeting
- e. Video broadcast live
- f. Video available post meeting
- g. Video broadcast live + video available post meeting

If Council chose one of the above delivery modes, staff would need to further research:

- a. the costs involved in installing camera and/or audio equipment, plus the associated software, to permit the live or post-meeting broadcasting of meeting proceedings via its internet web site.

- b. the use of appropriate technical methods of streaming the data so as to be fully accessible across all computer platforms, including mobiles. (For example audio only, audio and low resolution video and audio and high resolution (broadcast quality) video (e.g. ABC's iView).
- 5 c. the costs of archiving recorded meetings on the Council website or other platforms. If live broadcasting is the preference, the availability of a ten second delay to broadcast feed, to be able to safety cut transmission before broadcast and who should have control to activate this - i.e. protection against possible defamation, breach of confidentiality, personal information accidentally disclosed, swearing etc.
- 10 d. risk analysis and risk management options, supported with legal advice.

If Council does not support investigating webcasting further, then time will not be spent on confirming the additional research.

- 15 To assist, a webcasting matrix has been prepared on the seven options including the current mode of delivery (minutes uploaded to the web post meeting), video and audio. The matrix includes the two outcomes of *Governance* (transparency and timeliness) and *Resourcing* (Cost (exc staff), Hardware, Software, Service and Staffing).

20 As can be seen in Table 1 below, the option that supports Governance with a relatively low Resource requirement, is Option C Council Meeting audio files being made available post meeting. This option meets the above objective for the following reasons:

- 1. Council meetings are already recorded for the purpose of minute keeping, in a file format that is suitable for editing, uploading and making available to the community.
- 25 2. Staff currently have existing skills to provide audio editing for the purpose of uploading files.
- 3. Audio editing and formatting can be achieved via free software.
- 4. Audio files can be uploaded and stored via a third party provider (such as Sound Cloud) for a relatively low cost (yearly subscription fee of approximately \$250 per year). Budget could be allocated from the Communications Sundry budget item.
- 30 5. Staff time required at 2 to 3 hours (dependent on length of Council meeting and resulting editing/uploading requirements) post Council meeting.

Option C would be the most cost effective and least resource intensive option, which would allow Council to 'dip its toe in the water' and review the uptake before making the investment required for video broadcasting.

35 **Web casting matrix**

| Option | Delivery Mode | Cost | Governance |
|--------|--|---|--|
| | | <i>Lower the better (out of 25)</i> | <i>Higher the better (out of 10)</i> |
| a | Minutes on web post meeting | 5 | 3 |
| b | Audio streaming live | 18 | 8 |
| c | Audio file available post meeting | 7 | 6 |
| d | Audio streaming live + audio file available post meeting | 13 | 9 |
| e | Video broadcast live | 18 | 8 |
| f | Video available post meeting | 13 | 8 |
| g | Video broadcast live + video available post meeting | 19 | 10 |

Table 1: Web casting matrix



Matrix scoring

| Aim | Governance | To improve transparency, accountability and communicate the outcomes of council meetings | |
|--------|------------|--|---|
| Rating | 5 | = | easily achieves aim |
| | 4 | = | somewhat achieves aim |
| | 3 | = | can be achieved |
| | 2 | = | will be somewhat difficult to achieve aim |
| | 1 | = | hard to achieve aim |

Criteria

- Transparency
- Timeliness

Higher the score, the better

| Aim | Cost | To improve transparency, accountability and communicate the outcomes of council meeting <u>with reasonable cost and resourcing.</u> | |
|-----|------|---|--|
|-----|------|---|--|

| | | | |
|--------|---|---|---|
| Rating | 1 | = | easily achieves aim |
| | 2 | = | somewhat achieves aim |
| | 3 | = | can be achieved |
| | 4 | = | will be somewhat difficult to achieve aim |
| | 5 | = | hard to achieve aim |

Criteria

- Cost (exc staff)
- Hardware
- Software
- Service
- Staffing

Lower the score, the better

| Delivery mode | Comments and scoring | |
|--------------------------------|----------------------|--|
| a. Minutes on web post meeting | Score | Cost |
| | 1 | Cost – as per current arrangements |
| | 1 | Hardware – as per current arrangements |
| | 1 | Software – as per current arrangements |
| | 1 | Service - as per current arrangements, hosted on Council server |
| | 1 | Staffing – as per current arrangements |
| | Score | Governance |
| | 1 | Transparency – does not provide context of the resolution/s as the debate is not available |
| | 2 | Timeliness – available the following day. Can not be released until the end of the meeting and currently not provided on the same day due length of meetings and staff resourcing. |
| | Score | |

Score

Resourcing = 5

Governance = 3

| | | |
|---|-------------------|---|
| b. Audio streaming live | Resourcing | |
| | 3 | Setup Cost – Free to \$2,200 for setup |
| | 1 | Hardware – none required (part of setup fee) |
| | 1 | Software – part of service provider agreement |
| | 4 | Service - from \$25 to \$275 per month via third party server |
| | 4 | Staffing – 1 additional staff required on the day – in time, may be able to be done with existing staff. Cost – up to \$400 (cost dependent on staff level) |
| | Governance | |
| | 3 | Transparency – provides audio context of council resolutions but no body language. Nor does it allow listeners to go back and listen after the debate/meeting and therefore limits audience. Could still be recorded via a third party device eg iphone. |
| | 5 | Timeliness – live to air |
| Score | | Resourcing = 13 Governance = 8 |
| c. Audio file available post meeting | Resourcing | |
| | 0 | Setup Cost – Free |
| | 1 | Hardware – none required |
| | 1 | Software – none required |
| | 2 | Service - \$250 per year (via Soundcloud) – no more than 6 hours per upload. |
| | 3 | Staffing – 2 to 3 staff hours post meeting (depending on number of audio files and upload speed). Cost \$100 to \$400 in staff time per council meeting (cost dependent on staff level) |
| | Governance | |
| | 3 | Transparency - provides audio context of council resolutions via the debate and meeting, but no body language. |
| | 3 | Timeliness – available post meeting at anytime |
| Score | | Resourcing = 7 Governance = 6 |
| d. Audio streaming live + audio file available post meeting | Resourcing | |
| | 3 | Setup Cost – Free to \$2,200 for setup |
| | 2 | Hardware – none required (part of setup fee) |
| | 1 | Software – part of service provider agreement |
| | 3 | Service - from \$25 to \$275 per month via third party server |
| | 5 | Staffing – 1 additional staff required on the day – in time, may be able to be done with existing staff. Plus 2 to 3 staff hours post meeting (depending on number of audio files and upload speed). Cost \$400 to \$800 in staff time per council meeting (cost dependent on staff level) |
| | Governance | |
| | 4 | Transparency - provides audio context of council resolutions via the debate and meeting, but no body language. |
| | 5 | Timeliness – live to air plus available post meeting at anytime |
| Score | | Resourcing = 14 Governance = 9 |
| e. Video broadcast live | Cost | |
| | 5 | Setup Cost – \$12,000 to \$30,000 depending on number of cameras |
| | 4 | Hardware – 2 or more cameras required |
| | 1 | Software – included as part of streaming provider |
| | 4 | Service - \$100 to \$1,800 per month via third party server |
| | 4 | Staffing – 1 additional staff member required on the day. Up to \$400 |
| | Governance | |
| | 3 | Transparency – Does not allow listeners to go back and view after the debate/meeting and therefore limits audience. Could still be recorded via a third party device eg iphone. |
| | 5 | Timeliness – Live to air |
| Score | | Resourcing = 18 Governance = 8 |

| | | |
|---------------------------------|--|---|
| f. Video available post meeting | Cost | |
| | 5 | Setup Cost – \$12,000 to \$30,000 depending on number of cameras |
| | 4 | Hardware – 2 or more cameras required |
| | 1 | Software – included as part of host server provider |
| | 4 | Service - \$100 to \$200 per month via third party server |
| | 3 | Staffing – Plus 2 to 3 staff hours post meeting (depending on number of files and upload speed). Cost \$100 to \$400 in staff time per council meeting (cost dependent on staff level) |
| | Governance | |
| Score | 5 | Transparency - full audio and footage transparency |
| | 3 | Timeliness - available post meeting at anytime |
| | <i>Resourcing = 13 Governance = 8</i> | |

| | | |
|--|---|---|
| g. Video broadcast live + video available post meeting | Cost | |
| | 5 | Setup Cost – \$12,000 to \$30,000 depending on number of cameras |
| | 4 | Hardware – 2 or more cameras required |
| | 1 | Software – included as part of streaming provider |
| | 4 | Service - \$100 to \$1,800 per month via third party server |
| | 5 | Staffing – 1 additional staff required on the day – in time, may be able to be done with existing staff. Plus 2 to 3 staff hours post meeting (depending on number of audio files and upload speed). Cost \$400 to \$800 in staff time per council meeting (cost dependent on staff level) |
| | Governance | |
| Score | 5 | Transparency - full audio and footage transparency |
| | 5 | Timeliness – live plus available post meeting at anytime |
| | <i>Resourcing = 19 Governance = 10</i> | |

5 The above scoring does not take into account the legal implications of the Delivery Mode scenarios, other than the uploading of Council minutes via Council's website; this is currently the existing delivery option being utilised.

10 IP&R Links

Community Strategic Plan 2022.

Community Outcome CM1: Effective governance, business, project and financial management

Community Strategies

CM1.1 Improve the transparency, effectiveness and accountability of Council.

Community Outcome CM2: Informed and engaged community

Community Strategies

CM2.1 Use a range of effective communication tools to engage the community to support transparent and accountable Council decision making.

15 There are no current four year Delivery Program projects and therefore no Operational Plan activities involving webcasting.

Internet Usage

20 The inequitable broadband service throughout the Shire needs to be noted; this includes known black spots and dialup only connection for some parts of Ocean Shores, Federal and Booyong.

Similarly, some parts of Byron Shire only have access to one service provider due to the sparse population density and the cost of infrastructure provision. With the roll out of NBN services, this may change as new options to connect to the internet open and the speed improves.

- 5 According to ABS 2011 Census data Internet access is relatively high in Byron Shire with 79.3% having a connection of some description – up 13% in the past 5 years.

Private household internet connection

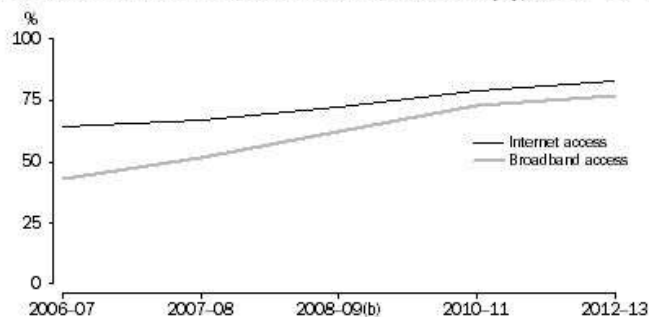
| | 2006 | | 2011 | |
|------------------------|--------|-------|--------|--------|
| | # | % | # | % |
| No Internet connection | 3,178 | 29.7% | 1,914 | 17.09% |
| Type of connection | | | | |
| Broadband | 4,245 | 39.7% | 8,035 | 71.76% |
| Dial Up | 2,832 | 26.4% | 391 | 3.49% |
| Other | 41 | 0.4% | 453 | 4.05% |
| Total | 7,115 | 66.4% | 8,879 | 79.30% |
| Connection not stated | 415 | 3.9% | 404 | 3.61% |
| Total | 10,711 | 100% | 11,197 | 100% |

Data based on Australian Bureau of Statistics 2006 & 2011, 'Byron (Local Government Area), 'Community Profile'

HOUSEHOLD INTERNET ACCESS

The number of households with access to the internet at home continues to increase, reaching 7.3 million households in 2012–13 and representing 83% of all households (up from 79% in 2010–11). More than three quarters (77%) of all households had access to the internet via a broadband connection.

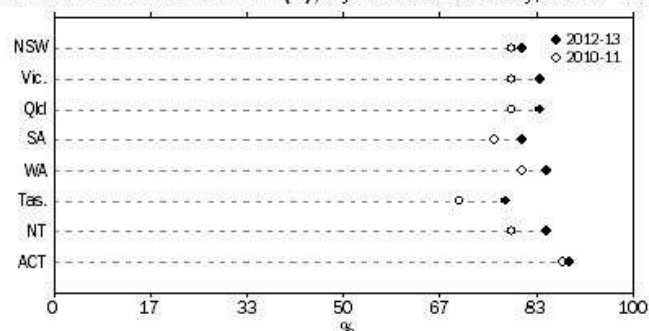
Households with internet and broadband access(a), 2006–07 to 2012–13



(a) As a proportion of total households.
(b) HUIT data were collected biennially from 2008–09.

Amongst states and territories, household proportions of internet access at home ranged from 89% in the Australian Capital Territory to 78% in Tasmania.

Households with internet access(a), by state or territory, 2010–11 to 2012–13



(a) As a proportion of total households.

Source ABS - Household Use of Information Technology, Australia, 2012-13
<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/8146.0Chapter12012-13>

- 5 For the successful implementation of live and/or archived streaming, the quality recording of meetings is essential. The ability of the current audio recording system within the Chamber to capture all people speaking would need to be assessed to ensure it is of a high enough standard to use for streaming purposes. This is currently unknown. It is however currently suitable to upload post Council meeting.
- 10 The user's ability to listen to the live (or archived) stream is also dependent on their internet connection, which Council has no control over.

Demand

- 15 Council does not have any information on community demand for webcasting. However, with the increasing uptake of the social media and easy access to digital online technologies it may be assumed that the communities' demand for these types of services is increasing.

Access

- 20 Another consideration is the ability to provide vision that is easily accessible for the hearing impaired. This can be achieved (for a cost) via such web platforms as YouTube and Vimeo with the uploading of a transcript; this service is available locally. It is unknown whether transcripts could be provided for live streaming services.
- 25 It should also be noted that the ability for a normal sighted person to view online streaming or film, depends on the onsite camera quality, location, and the person's at home computer setup.

Record keeping

- 30 The requirements for record retention (and video and audio are types of 'records') under the *State Records Act 1998 (NSW)* have not been researched yet. Currently, Council is not required to retain audio recordings of Council meetings if they are taken only for the purpose of preparation of minutes; Council's Code also details that Council can destroy audio recordings once minutes have been confirmed.
- 35

- 40 Audio recordings made for the purposes of broadcast may be different and research will be needed to identify what the record retention requirements could be. Given the potential size of these files, this will have an impact on Council's electronic content management and/or storage plus potentially have a financial impact.

- 45 If Council is required to retain audio or video broadcast records, then they will need to prepared and stored in a format that allows members of the public to access the archived recordings under the *Government Information (Public Access) Act 2009 (NSW)*, *subpoena or notice to produce etc.*

Legal implications

- 50 There are a number of legal risks with webcasting. Any person speaking at the meeting would need to ensure that they do not breach privacy legislation, confidentiality requirements, the Code of Conductor say anything that is potentially defamatory.

- 55 Council (not the individual/s speaking) would be the 'broadcaster' of the information and exposed to liability if anything is said by anyone at the meeting that is subsequently found to have been unlawful, defamatory or negligent etc.

It is important to note that Councillors do not receive any “privilege” in respect of comments made at a Council meeting, unlike State and Federal parliamentarians who have what is referred to as “parliamentary privilege”. It may also be the case that Councillors could be in a different situation to staff in terms of potential personal liability if a Councillor says or does something on camera in breach of their obligations.

A detailed risk analysis will need to be undertaken and, where necessary, legal advice sought on risk management options. A review of Council’s insurances would also be required to ensure that the broadcasting was adequately covered and policy requirements being complied with etc.

If implemented, the *Code of Meeting Practice* would need to be revised to include provisions for webcasting should Council choose to go proceed. In addition, new HR policies would need to be developed if staff comment were to be included in the broadcast and industrial processes would need to be followed prior to its introduction.

Privacy Considerations

Privacy and Personal Information Protection Act 1998 (the PPIP Act) impacts on the way Council collects, stores, uses and discloses personal information. Personal information is defined by the PPIP Act as information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion. By definition, the vision and audio recordings of Council Meetings contain personal information of Councillors, the public who address and any staff who may speak at the meeting. As a result, Council is bound by the Information Protection Principles of the PPIP Act in relation to the collection, storage, use and disclosure of video and audio recordings.

Council can collect, store, use and disclose personal information but only if the person has been appropriately notified and given an opportunity to ‘opt out,’ which they have turned down. In relation to personal information that may be collected as a result of the recording of Council and Committee Meetings, at a minimum notification by way of appropriate signage in the Council Chambers, notification on the website and a verbal notification by the Chairperson at the commencement of the meeting is required; once again research would be required to identify if additional notification is needed for webcasting.

Case Studies

Please note that the following information on the case studies is:

- verbatim as supplied by officers at the different councils and it has not been verified; or
- where cost information has been extracted from reports on the different websites, they were estimates and may not be indicative of the final costs.

Case study 1 - Gold Coast City Council

| | |
|-------------------------|--|
| Website | http://council-live.goldcoast.qld.gov.au/index.php |
| Commenced | February 2012 |
| Live | Yes |
| Available after meeting | Yes – can take up to 2 days to be available |
| Cost | Setup about \$30,000 \$1,800 per month to host http://www.goldcoast.qld.gov.au/council-meetings-to-go-live-on-the-web-7045.html |
| Cameras | three fixed (considering going to 4) |

Live streaming



Welcome to City of Gold Coast's live streaming website

Visit this site to watch and listen to Council meetings and City announcements online.

Live streaming allows you to view announcements and Council proceedings via the Internet without the need to attend in person. This gives the community greater access to Council decisions and debate, and eliminates geographic barriers preventing the public from attending meetings.

From this site you can access webcasts of live announcements and Council meetings, view archived announcements and meetings and follow links to meeting schedules, agendas and minutes, and other major City projects and events.

Recent live streaming

| Meeting / announcement | Date | Type |
|--|-------------------|--------------|
| View Council Meeting 686 | 16 September 2014 | Full Council |
| View Council Meeting 685 | 2 September 2014 | Full Council |

Other:

- Hosted via Gold Coast based company Interstream who provide all support, stream and store archive material.
- 5 • Has the capacity to switch to a static slide (with no volume) during confidential items.
- One dedicated staff member is required in the Council meeting to manage and operate the system for the entire meeting (which is between 1 and 7 hours).
- 10 • The service is getting about 700 viewers from around the world and is a good resource for media, Councillors and staff to clarify meeting outcomes and to garner further information (context) on how to implement resolutions.
- Gold Coast City Council has a dedicated Customer Service team and their IT team provides technical support for people who have problems getting onto the live streaming.

Platforms and browsers that are supported:

- Chrome
- 15 • Firefox
- Internet Explorer
- Opera
- Safari

- Android 2.2 (mobile) or greater

The following platforms are supported:

- Microsoft® Windows XP and more recent versions of Windows
- Mac OS X v10.6 or greater
- Linux®: openSUSE® 11.3 or greater
- Red Hat® Enterprise Linux (RHEL) 5.6 or greater
- Ubuntu 10.04 or greater

5

Case study 2 – Lane Cove Council

| | |
|-------------------------|---|
| Website | http://www.lanecove.nsw.gov.au/YourCouncil/CouncilMeetingsandReports/Pages/MeetingWebcast.aspx |
| Commenced | 2010 |
| Live | Yes |
| Available after meeting | Yes |
| Cost | Setup \$4,500 setup Ustream license of \$99 per month year for first 100 hours with additional hours at fee http://www.ustream.tv/ |
| Cameras | Two fixed |



Council and IHAP Meeting Webcast

Council Meetings are now Webcast live during the meeting to provide the opportunity for the community to view proceedings without the need to attend the meeting. Council meetings commence at 6.30pm. If members of the public are not interested in any business recommended to be considered in Closed Session or there is no such business, Council will ordinarily commence consideration of all other business, including the public addresses at 7pm.

Notice of Copyright and Disclaimer

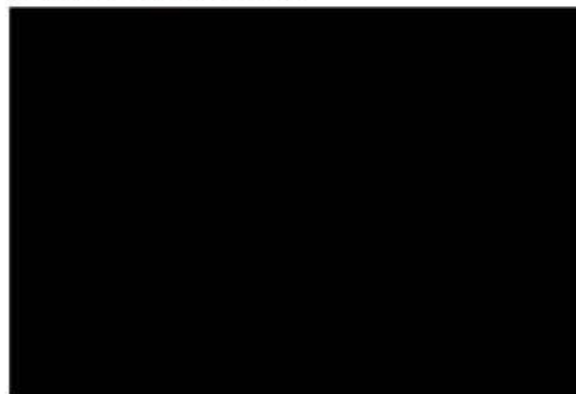
This electronic transmission is protected by copyright owned by Lane Cove Council and no part thereof may be copied or recorded or made available to others without the prior written consent of Lane Cove Council. Opinions expressed or statements made by individual persons during the course of this transmission are the opinions or statements of those individual persons and are not opinions or statements of Lane Cove Council. This transmission is not, and shall not, be taken to be an official record of Lane Cove Council or of any meeting or discussion depicted therein.

Using this Service

The quality of the webcast will depend on your PC's memory and internet connection bandwidth. As the webcast involves video and audio, the data usage is high, at the approximate rate of 40mb per 10 minutes. You will need to have the **Adobe Flash Player** installed on your computer to view the webcast. Apple mobile device users (iPhone, iPad) can use the official Ustream app to view the webcast. Ustream can be downloaded free from the iTunes App Store for both **iPhone and iPad**. Please be patient when loading a video as depending on your internet connection it can take time to start playing. Images displayed below have been selected from entrants in Lane Cove's annual **Captured Photography** competition.

Next IHAP Meeting: 7 October 2014

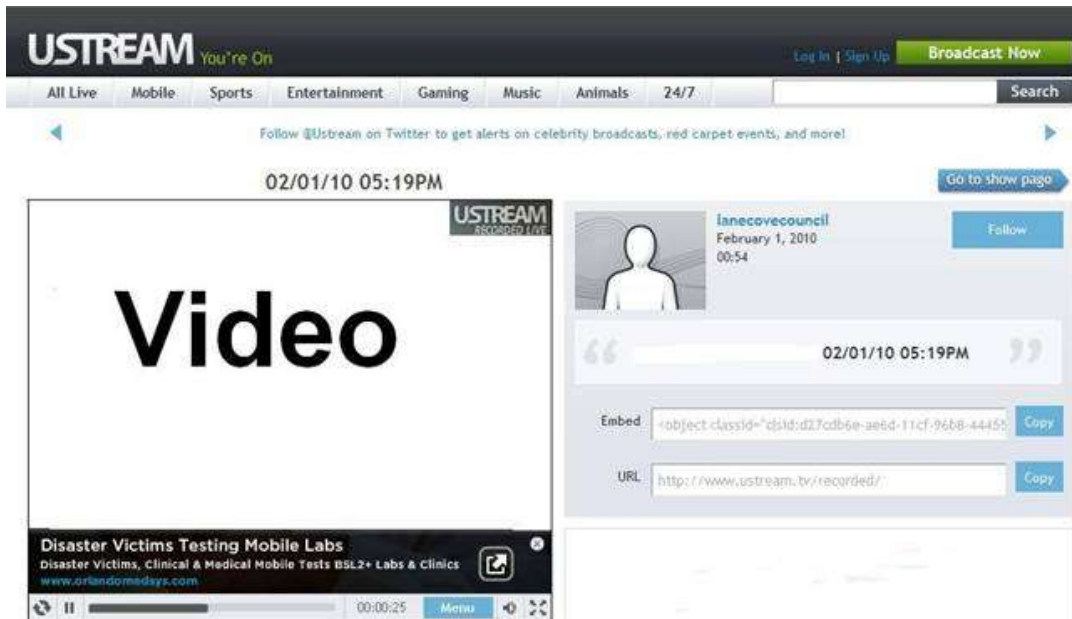
Next Council Meeting: 20 October 2014



Archive of past meetings
Council Meeting 15 September 2014

Other:

- The web page indicates that the quality of the service is dependent on people's PC memory and internet connection bandwidth. The report to Council indicate that they considered the following options for video broadcasting:
 - 5 ○ Adopted option (in red below) - 2 fixed 180 degree cameras one covering all Councillors and one covering all staff at a then estimated cost of \$4,000 – adopted. The report did not include staffing costs of the system. The report noted that this option would not allow a close-up of the person speaking, but rather than audio only, it would allow the viewer to recognise the person speaking. The report noted
 - 10 that at the low entry price it provided the opportunity for that Council to have a low cost introduction into this new concept to determine its popularity.
 - 4 fixed video cameras, two covering Councillors (Left and Right) and Staff (Left and Right) to capture vision of the entire chamber, with one staff member to operate a panel to select the most appropriate camera for live streaming at any one time.
 - 15 Reported noted Warringah used a similar configuration. Estimated cost \$20,000 + a staff members time during the meeting
 - A Bosch automatic tracking camera. This utilises the P.A. system to identify who is speaking and rotates a central camera to the person speaking. The estimated cost of the system was \$65,000
 - 20 • The report to Lane Cove Council considered the following options for hosting:
 - Users would visit Council's website and click through to a Council themed (eg logos etc) window to watch the stream. There was at that time one supplier who hosted live and catalogued video streaming for Port Macquarie Hastings Council, Warringah Council, Wellington Shire Council (VIC) and City of Greater Dandenong Council (VIC) and they were doing so at an estimated cost of \$8,495/year.
 - 25 ○ Users would visit Council's website and click through to a commercial host window to watch the stream. The suggested host for that Council was Ustream, which is similar to Utube, only that it is specifically designed for live streaming rather than uploaded videos. As it commercial, yet free but it does contain advertising. There is an option of paying a fee per year (estimated at the time of the report to that Council of \$650/year) to have no advertising. Below is the image of a Ustream Page that was part of the report to that Council, the actual video would normally watched in full screen mode which retains the banner advertising at the bottom of the video.
 - 30



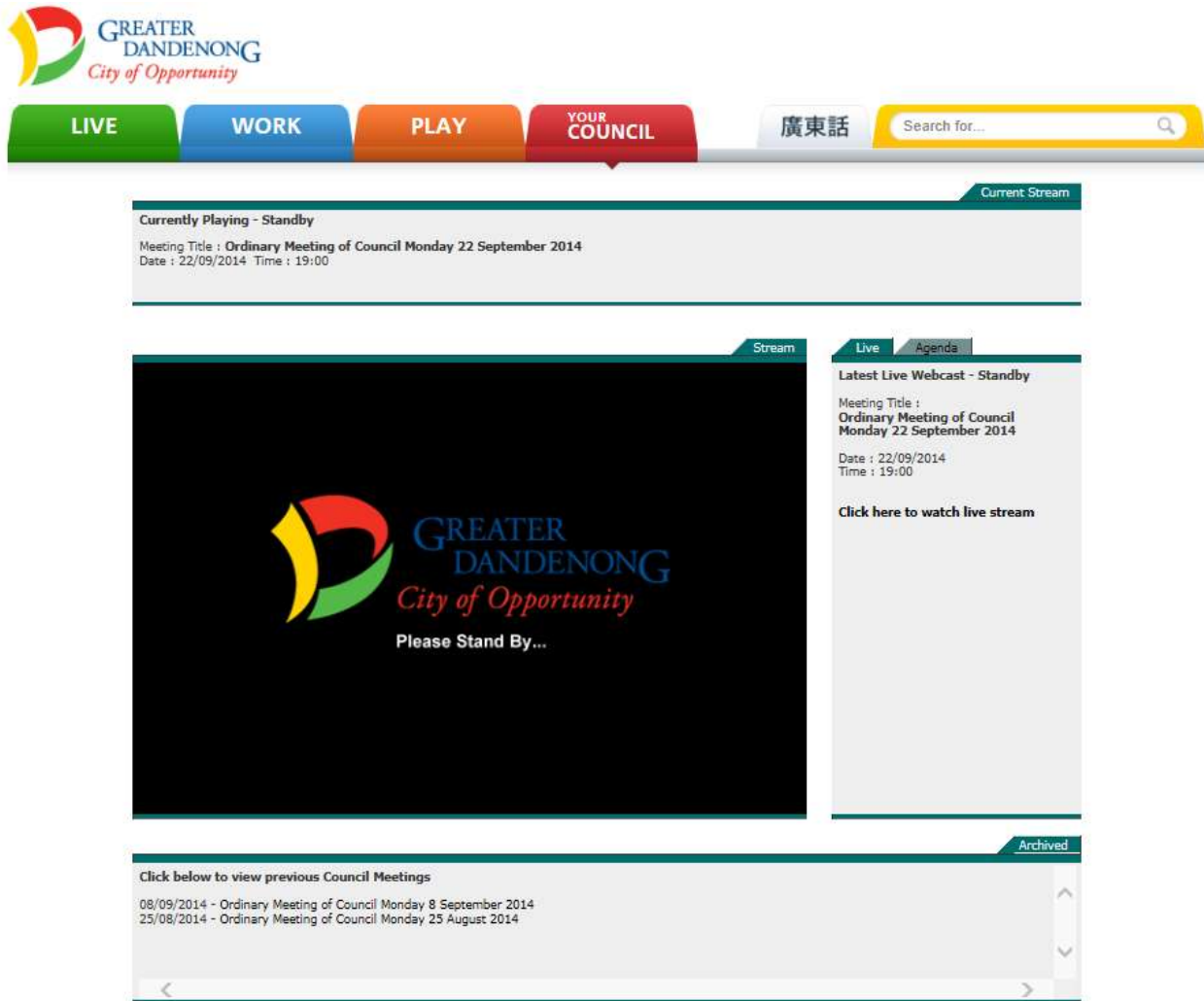
It is recommended to proceed with Option 2 as it is the most cost effective. At this stage it is not recommended to remove the advertising. The site will be monitored to determine if the advertising interferes excessively with the broadcast. Ustream is a reputable organisation and inappropriate advertising is not anticipated. Council can elect to take up the advertisement free option at any time. The site also provides basic information on how many viewers there are of a program etc to allow the effectiveness of the project to be assessed.

Option 2

Using two fixed 180 degree cameras one covering all Councillors and covering all staff. The two images would be streamed simultaneously utilising a picture in picture format. **Cost \$4,000**

Case study 3 – Greater Dandenong

| | |
|-------------------------|---|
| Website | http://www.greaterdandenong.com/section/25839/council-meetings-live |
| Commenced | February 2012 |
| Live | Yes |
| Available after meeting | Yes |
| Cost | Setup \$8,000 |
| | Run via apStream http://www.apstream.net/Index.asp |
| Cameras | Three fixed |



Extract from their website:

<http://www.smh.com.au/articles/2003/11/24/1069522526626.html>

5 At Greater Dandenong, the average number of online viewers for each meeting has been about 120 - that's not bad considering the public gallery usually seats about 50. Some meetings have attracted up to 1000 web users.

10 At Greater Dandenong, the initial \$8000 implementation involved the installation of two cameras, which, because of Greater Dandenong's use of two council chambers in Dandenong and Springvale, are portable.

Case study 4 – Shell Harbour City Council

Website <http://www.shellharbour.nsw.gov.au/default.aspx?WebPage=106>

Commenced 2010

Live Yes

Available after meeting Yes – day after

Cost Setup - unknown

Ustream license of \$99 per month year for first 100 hours add free

<http://www.ustream.tv/>

Cameras Two



15 Extract from Website:

20 Council now Webcasts its meetings held at Lamerton House every third Tuesday. Webcasting allows you to view proceedings from a PC without the need to attend the meeting. This gives the Shellharbour community greater access and participation in Council meetings and effectively eliminates geographic and other barriers that can prevent members of the public from attending Council meetings.

Please note that Shellharbour City Council accepts no liability for any defamatory or offensive remarks made during the course of its meetings. The quality of the webcast will depend on your PC's memory and internet connection bandwidth.

When do the live broadcasts start?

- 5 Webcasts will begin 15 minutes before the meeting is called to order at 6:30 p.m.

How do I play the broadcast?

Internet viewers should have broadband or DSL service for best results. Viewers will also need to have Windows Media Player 11 or greater with the VC-1(SMPTE 421M) video codec, or software capable of reading WMV files, installed.

10 **When is the video available after the meeting?**

The recording will be generally available about 4 p.m. the day after the meeting by clicking on the video link in the Downloadable Resources section below. The recordings will remain in the archive there for 3 months.

How can I watch the video offline?

- 15 Anyone who is interested in purchasing a DVD/CD of a Council meeting can do so by completing a [Council Meeting - Request for Electronic Recording](#).

Archived Videos

Council commenced publishing video recordings of Council Meetings from 15 September 2009.

- 20 *Videos not listed in the Downloadable Resources section below have been archived. Anyone interested in purchasing an archived DVD/CD of a Council meeting can do so by completing a [Council Meeting - Request for Electronic Recording](#).*

Case study 5 - Warringah

| | |
|-------------------------|--|
| Website | <u>http://www.warringah.nsw.gov.au/your-council/meetings/council-meetings</u> |
| Commenced | 2005 |
| Live | Yes |
| Available after meeting | Yes |
| Cost | Setup cost unknown |
| | Run via apStream <u>http://www.apstream.net/Index.asp</u> |
| | \$400 per month to stream plus about \$1,100 for archiving 29 meetings |
| Cameras | 3 |

Information supplied by Council officer:

- 25
- About 40 to 60 live viewers on average but can spike to 100 plus depending on topic;
 - Council meetings last about 2 hours.

[Council](#) / [Your Council](#) / [Meetings](#) / Council Meetings

Council Meetings



Come and see democracy at work at our Council Meetings. You can get involved too - and speak to the Council about an issue on the agenda. Our Council meetings are [webcast](#), so you can stay informed, even from your own home.

When:

- Fourth Tuesday of each month except January, February and December
- 6pm-10pm

Start date

1997-01-01

E.g., 2014-09-22

End date

2014-10-22

E.g., 2014-09-22

Apply

Reset

Case study 6 - Newcastle City Council

| | |
|-------------------------|---|
| Website | http://www.newcastle.nsw.gov.au/council/council_meetings/web_casting_of_council_meetings |
| Commenced | 2012 |
| Live | Yes |
| Available after meeting | Yes |
| Cost | Setup \$15,000 to \$20,000 \$8,500 to \$17,000 per year to run – using apStream |
| Cameras | 2 fixed |

Webcasting of council meetings

Watch democracy in action with our live webcast of Council and Committee meetings held in the Council Chambers.

Ordinary Council Meetings and Committee Meetings (Public Voice Committee, Briefing Committee and Development Applications Committee) will be broadcast. Council meetings normally take place on a Tuesday from 5.30pm. Please check the **meeting information webpage** for upcoming Council meeting dates and agendas.

Confidential sessions of Council meetings will not be broadcast. If the webcast stream goes black during a meeting, this will likely indicate the Council has entered into a confidential session.

Council will monitor webcasts and make improvements as required to enhance the service.

Council meetings will be available online for a period of four months and then will be removed.

View previous Council meetings

The City of Newcastle accepts no liability for any defamatory remarks that are made during the course of a meeting. The quality of the webcast will depend on your PC's memory and internet connection bandwidth.

Compatibility requirements

- An internet connection with an ADSL1 or greater bandwidth speeds
- PC computers running Windows XP (or later) and using the latest web browser version of Firefox, Chrome or Internet Explorer
- Apple Macintosh computers running OSX 10.5 (or later) and using the latest web browser version of Safari, Firefox or Chrome.
- The latest version of Adobe Flash Player installed - the software can be found [here](#)

Other information:

- Included as part of Code of Meeting Practice is the following:

- 5 **41 Webcasting**
- 41.1 **Webcast**, for the purpose of this section, refers to the live web transmission of Meetings over the internet.
- 10 41.2 The General Manager, or a Council Officer designated by the General Manager, may Webcast a Meeting. Webcasts will only be used for Webcasting and as required by law.
- 15 41.3 At the start of each Meeting that will be Webcast, the Chairperson must advise the Meeting room that the Meeting will be Webcast.
- 41.4 The General Manager must ensure:
- 20 41.4.1 persons in the Meeting room are advised that the Meeting may be Webcast by providing notification on signs in the Meeting room and such other notices as required; and
- 25 41.4.2 Webcasting is terminated if:
 (a) the Meeting is closed as provided in section in Part G; or
 (b) the General Manager or the Meeting are of the opinion that continued Webcasting may prejudice the Meeting or infringe the rights or safety of an individual.

Case study 7 – Clarence Valley Council

- 30 Website http://www.clarence.nsw.gov.au/cp_themes/metro/page.asp?p=DOC-OHV-44-37-10
- Commenced 6 May 2014
- Live Yes (audio only)
- Available after meeting No
- Cost Free for first year <http://mixlr.com/> . Pro version is \$20 per month
- Audio No cameras – audio only
- the Clarence Valley Council commenced a 12 month trial of live audio streaming on 6 May.
- 35 • 20 people ‘tuned in’ (and out) during the session. The broadcast is not available online post meeting. The Mixlr software used captures the existing microphone/pa system and feeds via an app. The minute taker/records officer is required to hit the start/stop button.
- 40 • There is also a comments section within the Mixlr app whereby people listening in can post comments on screen; this is moderated by the Council’s media officer, who is required to be present during the meetings, but it cannot be turned off. With Mixlr app if saved, the audio recordings can be exported to a Sound Cloud account
 (<https://soundcloud.com/>)

Extract for Clarence Valley Council Mixlr site:

5

It is an offence to record meetings of the Clarence Valley Council. This service is provided in the interests of open government and to keep people informed of council activities. While comment is permitted, those commenting are reminded defamation and related laws apply to online comment. Council will monitor and defamatory or offensive comments will be removed. Council, however, will take no responsibility for claims arising from such comments that remain online for whatever reason before being removed by Council.

Council meetings

[Council and Committee meetings](#)

[Agendas and minutes](#)

[Attachments](#)

[Live streaming of Council and Committee meetings](#)


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 Submit your feedback

Live streaming of Council and Committee meetings

Council is trialling audio streaming of the Committee and Council meetings. Live streaming is available over the internet using a web browser, or via the Mixlr app on Iphone/Ipad. Simply install the "Mixlr" app then search for the "clarence valley council" stream.

Terms and conditions

It is an offence to record meetings of the Clarence Valley Council. This service is provided in the interests of open government and to keep people informed of council activities. While comment is permitted, those commenting are reminded defamation and related laws apply to online comment. Council will monitor and defamatory or offensive comments will be removed. Council, however, will take no responsibility for claims arising from such comments that remain online for whatever reason before being removed by Council.



Select this link only if you agree with and understand the conditions above
Commence audio streaming

COUNCIL RESOLUTION - 14.025/14

(Crs Williamson/Challacombe)

That

1. Council implement as a trial for a period of 12 months, the Mixlr Live streaming application to live audio stream to Committee and Council meetings

Others:

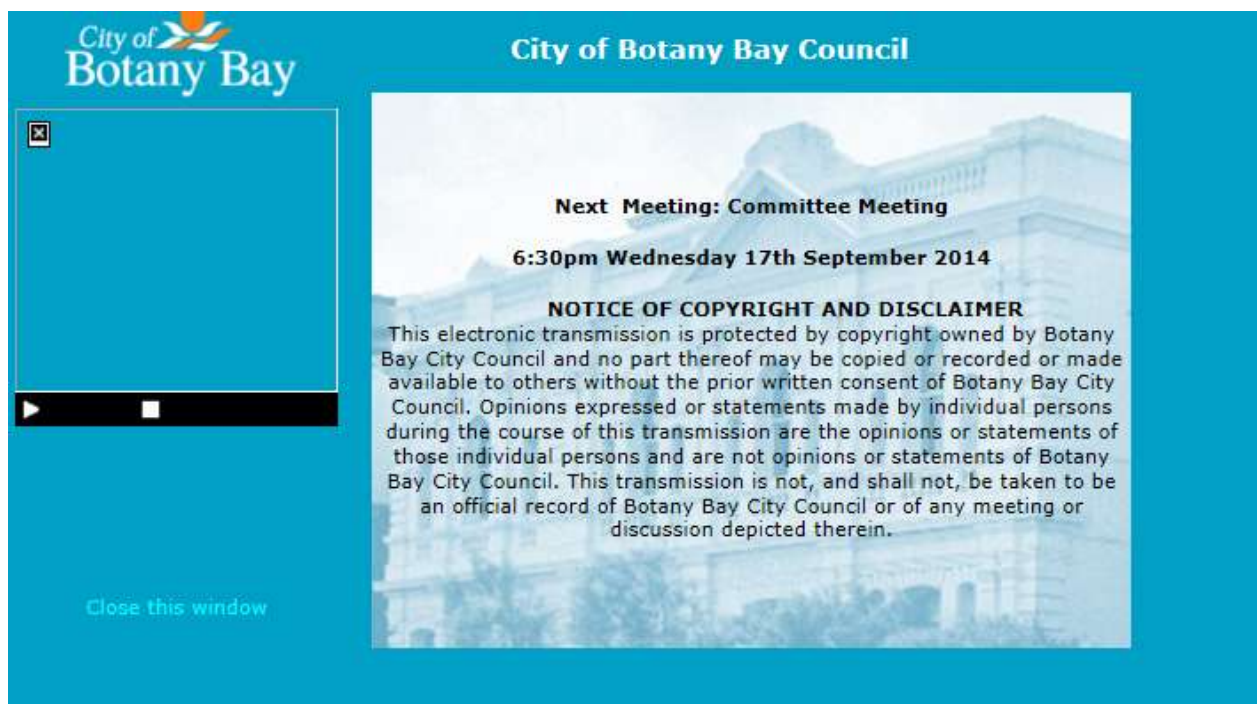
Port Macquarie - Hastings Council

- 5 In 2008, the Administrator of Port Macquarie-Hastings Council advised he would like Council meetings to be accessible to all residents of the Port Macquarie-Hastings area and introduced webcasting. The webcasting was discontinued in 2012.



- 10 City of Botany Bay

<http://www.botanybay.nsw.gov.au/webcast/popup.html>



- 15

Darebin City Council

<http://www.darebin.vic.gov.au/en/Your-Council/How-council-works/Meeting-Agendas-and-Minutes>

- 5 Commenced September 2013 – have one camera but has the capacity to move (includes a vision switch).

The screenshot shows the Darebin City Council website. The header features the council's logo and a navigation menu with links like 'About Darebin', 'Festivals and Events', 'Arts, Leisure & Facilities', 'Council Services', 'Documents, Permits & Forms', 'News & Projects', 'Contact Us', and 'Jobs and Tenders'. A sidebar on the left lists various services such as 'Payments Online', 'Business & Local Laws', 'Disability & Multicultural Services', 'Environment', 'Family, Child & Aged Care', 'Food, Health & Safety', 'Parking, Roads & Transport', 'Pets', 'Planning & Building', and 'Rubbish & Recycling'. The main content area is titled 'Watch Council and Planning Committee Meetings' and includes a video player. The video player shows a 'Current Meeting' with the title 'General event' and a date of '26/08/2013'. The video player is currently in a 'Standby' state. The page also features a 'Languages' section with links to various languages, a 'Frequently Asked Questions' section, and a 'Darebin Map' section.

Mid Western Regional Council

<http://webcast.midwestern.nsw.gov.au/>



Mid-Western Regional Council
A prosperous community we're proud to call home

COUNCIL MEETINGS LIVE WEBCAST

Next Meeting

- [Ordinary Meeting](#)
- Time: 5:30pm
- Date: 1 October 2014

For any assistance viewing the video, please read our [Frequently Asked Questions](#).

Council Meetings

From June 2014, Mid Western Regional Council is [streaming live video and audio of our Council Meetings](#) and Special Council Meetings. Recently recorded meetings can be accessed below; earlier meetings can be accessed via the [archive page](#).

Previous Meetings

| Meeting Number | Date | Meeting Type |
|--------------------------------------|-------------------|------------------|
| View Council Meeting | 17 September 2014 | Ordinary Meeting |
| View Council Meeting | 3 September 2014 | Ordinary Meeting |

Welcome to Mid Western Regional Council's Live webcast website of Council Meetings

Mid Western Regional Council offers on-demand video and audio of Council meetings.

Financial implications

There are currently no funds allocated in the budget for video or audio streaming of Council meetings. A decision to proceed would need to be considered in the context of the 2015/2016 budget allocations and could mean that other programs would need to be delayed.

From a review of current Councils utilising webcasting, and recognising that costs vary due to systems installed (and at the time they are installed), they following can be estimated at:

Video streaming

Setup: \$8,000 to \$30,000+

Ongoing: \$100 per month to \$1,800

Audio streaming

Setup: \$0 to \$2,200 per year

Ongoing: from \$25 to \$275 per month for live audio streaming

5 Audio delayed

\$250 per year for Sound Cloud account to host post meeting

10 The above estimates do not take into consideration Council staff time to enable live webcasting and or post meeting upload. Live webcasting would require an additional staff member present to operate the hardware and software. Live or post meeting webcasting will be an additional administrative function need to be staffed. Details of estimated hours can be found with the webcasting matrix scoring component of this report.

15 In addition, the quality of Council's current public address system would need to be assessed prior to any decision to proceed to determine if the recording is of a high enough standard to use as a base for live streaming.

20 Based on the above cost estimates, the most cost effective avenue would be to upload audio recordings post (audio delayed) Council meetings at an initial estimated cost of:

- \$250 per year Sound Cloud subscription (assuming the size of the data can be managed within that cost framework);
- plus the staff time of at least 3 hours per meeting (but potentially double that for meetings with many confidential sessions or longer meetings) to edit and upload to web.
- plus the costs of legal advice or review of other key Council documents, for example HR Policies and Code of Meeting Practice etc.

30 **Statutory and Policy Compliance Implications**

35 Depending on the delivery mode chosen, Council's *Code of Meeting Practice*, and possibly internal Human Resources policies, would need to be amended to incorporate webcasting.

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES**Report No. 14.1 Report of the Arakwal Memorandum of Understanding Advisory Committee Meeting held on 25 February 2015**

Directorate: Corporate and Community Services
Report Author: Belle Arnold, Aboriginal Projects Officer
File No: I2015/285
Theme: Society and Culture
Community Services – Community Development

Summary:

The purpose of this report is to present the minutes of the Arakwal Memorandum of Understanding Advisory Committee of 25 February 2015.

RECOMMENDATION:

1. That Council note the minutes of the Arakwal Memorandum of Understanding Advisory Committee Meeting held on 25 February 2015.

2. That Council note the following Committee Recommendation:

Report No. 5.1 Aboriginal Education Kit
File No: I2015/59

Committee Recommendation 5.1.1

That the Aboriginal Education Kit be renamed the Local Aboriginal Resource Kit.

3. That Council note the following Committee Recommendation:

Report No. 5.2 Aboriginal Cultural Heritage Planning Study Application
File No: I2015/65

Committee Recommendation 5.2.1

That the Arakwal MoU Advisory Committee note the application for funding to the NSW Department of Environment and Heritage for a Shire Wide Aboriginal Cultural Heritage Planning Study and the notification timeframes.

4. That Council adopt the following Committee Recommendation:

Report No. 5.3 Reconciliation Action Plan
File No: I2015/66

Committee Recommendation 5.3.1

1. That Council establish a Reconciliation Roundtable to develop a Byron Shire Reconciliation Action Plan (RAP).

2. That a draft RAP be reviewed by the Aboriginal (MoU) Advisory Committee prior to being presented to Council.

5. That Council note the following Committee Recommendation:

Report No. 5.4 Arakwal MoU Implementation Plan 2013/14 Review

File No: I2015/67

Committee Recommendation 5.4.1

1. That the Arakwal MoU Advisory Committee note the progress on implementing the priority projects from the Arakwal MoU in 2013/14.
2. That the Arakwal MoU Advisory Committee recommend the priority projects for inclusion in the Arakwal MoU Implementation Plan 2015/16.
 - a) Consultation processes for development applications and other matters in regards to land management of public lands (2.2.2 from the Memorandum of Understanding)
 - b) Indigenous Employment Strategies (3.2.1 from the Memorandum of Understanding)
 - c) Cultural Awareness Training (4.2.4 from the Memorandum of Understanding)
 - d) Native Title (1.2.4 from the Memorandum of Understanding)
 - e) Tourism (1.2.6 from the Memorandum of Understanding)
 - f) Arakwal Cultural Centre (3.3.2 from the Memorandum of Understanding)
 - g) Protecting Wetlands (4.2.2 from the Memorandum of Understanding)

5 Attachments:

- 1 Minutes Arakwal MoU 25/2/15 Meeting, I2015/90 , page 118

Report

The attachment to this report provides the minutes of the Arakwal Memorandum of Understanding Advisory Committee Meeting of 25 February 2015 for determination by Council.

- 5 The Agenda for the meeting can be found via the following link
http://byron.infocouncil.biz/RedirectToDoc.aspx?URL=Open/2015/02/AMUAC_25022015_AGN_42_5_AT.PDF

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

Financial Implications

- 15 As per the Reports listed within the Arakwal Memorandum of Understanding Advisory Committee Meeting of 25 February 2015.

Statutory and Policy Compliance Implications

- 20 As per the Reports listed within the Arakwal Memorandum of Understanding Advisory Committee Meeting of 25 February 2015.

MINUTES OF MEETING

5



10

ARAKWAL MEMORANDUM OF UNDERSTANDING ADVISORY COMMITTEE MEETING

15

| | |
|-------|---------------------------------|
| Venue | Arakwal Room, Byron Bay Library |
| Date | Wednesday, 25 February 2015 |
| Time | 2.30pm |

20

Minutes of the Arakwal (Memorandum of Understanding) Advisory Committee Meeting held on Wednesday, 25 February 2015

File No: Error! Unknown document property name.

PRESENT: Cr S Richardson (Mayor), Cr P Spooner

Staff: Greg Ironfield (Manager Community Development)
Belle Arnold (Indigenous Projects Officer)
Donna Johnston (Media Communications Officer)
Chris Larkin (Senior Strategic Planner)
Lisa Brennan (Minute Taker)

Community: Gavin Brown, Delta Kay

Cr Spooner (Chair) opened the meeting at 2.23pm and acknowledged that the meeting was being held on Bundjalung Country.

APOLOGIES:

There were no apologies.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

There were no declarations of interest.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

Committee Recommendation:

That the minutes of the Arakwal Memorandum of Understanding Advisory Committee Meeting held on 6 November 2014 be confirmed. (Brown/Spooner)

The recommendation was put to the vote and declared carried.

BUSINESS ARISING FROM PREVIOUS MINUTES

Byron Bay Masterplan

Gavin advised that setting a date to discuss the Masterplan was proving difficult. There is a meeting with the consultants and others at Byron@Byron on 6 March which Gavin will attend on behalf of the Arakwal Corporation, but it was suggested that either the consultant or Council staff could address the Arakwal Corporation Board. The next available Board meeting is Friday 17 April. The Mayor suggested that at this meeting Sarah Aldridge, local liaison planner, could be invited to address the Board (meeting starts at 11.00am).

Ti Tree Lake

Delta advised that she had done a radio and newspaper interview following on from a story in the Northern Star about a couple wanting to give birth in the lake. There is concern that other people may also want to do this. Delta advised that last time she was at the lake there a woman walking three dogs, two motorbikes were going very fast along the road, and two men were swimming in the lake.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

BYRON SHIRE COUNCIL

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

14.1 - ATTACHMENT 1

Report No. 5.1 **Aboriginal Education Kit**
File No: I2015/59

Committee Recommendation:

That the Aboriginal Education Kit be renamed the Local Aboriginal Resource Kit.

(Richardson/Brown)

The recommendation was put to the vote and declared carried.

OTHER BUSINESS

5 6.3 West Byron Development Update

10 Chris Larkin attended the meeting and provided a verbal update on the West Byron development and provided maps and some printed information. He advised that the Department of Planning are due to visit the area in early March to discuss the proposal. Chris stated that he could attend future meetings of the Committee to keep them informed of the process and that Council's Development Application notification process now includes a step to advise the Arakwal Corporation.

Report No. 5.2 **Aboriginal Cultural Heritage Planning Study Application**
File No: I2015/65

Committee Recommendation:

That the Arakwal MoU Advisory Committee note the application for funding to the NSW Department of Environment and Heritage for a Shire Wide Aboriginal Cultural Heritage Planning Study and the notification timeframes.

(Spooner/Brown)

The recommendation was put to the vote and declared carried.

15

Report No. 5.3 **Reconciliation Action Plan**
File No: I2015/66

Committee Recommendation:

1. That Council establish a Reconciliation Roundtable to develop a Byron Shire Reconciliation Action Plan (RAP).

2. That a draft RAP be reviewed by the Aboriginal (MoU) Advisory Committee prior to being presented to Council.

(Richardson/Spooner)

The recommendation was put to the vote and declared carried.

Report No. 5.4**Arakwal MoU Implementation Plan 2013/14 Review****File No:**

I2015/67

Committee Recommendation:

1. That the Arakwal MoU Advisory Committee note the progress on implementing the priority projects from the Arakwal MoU in 2013/14.
 2. That the Arakwal MoU Advisory Committee recommend the priority projects for inclusion in the Arakwal MoU Implementation Plan 2015/16.
 - a) Consultation processes for development applications and other matters in regards to land management of public lands (2.2.2 from the Memorandum of Understanding)
 - b) Indigenous Employment Strategies (3.2.1 from the Memorandum of Understanding)
 - c) Cultural Awareness Training (4.2.4 from the Memorandum of Understanding)
 - d) Native Title (1.2.4 from the Memorandum of Understanding)
 - e) Tourism (1.2.6 from the Memorandum of Understanding)
 - f) Arakwal Cultural Centre (3.3.2 from the Memorandum of Understanding)
 - g) Protecting Wetlands (4.2.2 from the Memorandum of Understanding)
- (Richardson/Brown)

The recommendation was put to the vote and declared carried.

OTHER BUSINESS

- 5
- 6.1 Feedback on Poster
- Belle tabled the Caring for Country poster which will be circulated to Council's community spaces such as the libraries and visitors centres.
- 10
- 6.2 New Welcome to Byron Bay sign
- Belle produced a graphic showing what a new sign would look like as the current sign is broken and needs to be replaced. Discussions followed on location, graphics to be used, style and size, whether the Jingi Walla message would be included, and changing the image a number of times per year. It was agreed that the Jingi Walla sign be kept where it is.
- 15
- 6.3 West Byron Development Update
- 20 See above.
- 6.4 New Director Sustainable Environment and Economy
- 25 The Committee agreed that Shannon Burt, Director Sustainable Environment and Economy, be invited to the next meeting of this Committee on 14 May 2014.

There being no further business the meeting concluded at 4.57pm.

30

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.2 Report of the Local Traffic Committee Meeting held on 1 April 2015

Directorate: Infrastructure Services

Report Author: Helen Waldron, EA Infrastructure Services
Simon Bennett, Traffic and Transport Planner

File No: I2015/329

Theme: Community Infrastructure
Local Roads and Drainage

Summary:

This report contains the recommendations of the Local Traffic Committee (LTC) meeting as held on the 1 April 2015. As noted, management recommendations are also made where further clarification is needed, or if the LTC recommendation is not supported. Where this occurs an explanation is provided in both this report and the attached minutes.

RECOMMENDATION:

1. **That Council note the minutes of the Local Traffic Committee Meeting held on 1 April 2015.**

2. **That Council not adopt the Committee Recommendation in regard to Report No. 6.1 - No Right-turn, Woolworths egress, Station Street, Mullumbimby and instead adopt the management recommendation as follows:**

That Council note the request for a physical centre median be installed on Station Street, Mullumbimby at the Woolworths driveway immediately south of Tincogan Street and that the request be referred to future budgets for consideration.

3. **That Council adopt the following Committee Recommendation in regard to Report No. 6.2 - Proposed No Stopping, Sunrise Boulevard, Byron Bay:**

That the two northbound traffic lanes as marked on Sunrise Boulevard, Byron Bay at and adjacent to the entry of the Byron Bay Tourist Village be removed and if required line marking be undertaken to reconfigure and provide one northbound travel lane only, with implementation to include passing space subject to standards being met.

4. **That Council adopt the following Committee Recommendation in regard to Report No. 6.3 - Entry-exit treatments, Mullumbimbi Lane, Brunswick Heads:**

1. **That where Lane 6 (aka Mullumbimbi Lane), Brunswick Heads intersects with Park Street the following be implemented:**

a) **the Give Way hold line be extended west to align with existing edge lines on Park Street;**

b) **white edge line marking be installed through the intersection; and**

- c) a physical kerb blister be installed on the north-west corner.
2. That where Lane 6 (aka Mullumbimbi Lane) Brunswick Heads intersects with The Terrace the following be implemented:
- a) at least one physical road hump, and no more than two, be installed in the laneway, which is west of the building line and at least one vehicle length from the intersection, and appropriate advisory signage be provided; and
 - b) a physical kerb blister be installed on the north-east corner be installed and includes a Give Way sign.
5. That Council adopt the following Committee Recommendation in regard to Report No.6.4 - Cul-de-sac, St. Finbarr's Primary and Byron Bay High Schools, that:
- a) the bus zones except one at the frontage of both Schools be signed as operational school days only 8am – 9.30am and 2.30pm – 4pm; and
 - b) Council note the onsite meeting as held 24 March 2014 with the Schools and the options to be explored further with consultation to occur with stakeholders and a report to be provided back to Council.
6. That Council not adopt the Committee Recommendation in regard to Report No.6.5 - School bus route approval, Mullumbimby-Wilson's Creek-Huonbrook and instead adopt the Management recommendation as follows:
- a) That Council recognises the need for, and holds no objections to, the school bus routes as detailed within Transport for NSW Contract N1060 and N2903 as held with Mullumbimby Bus Service and the principal operator Gary Hughes; and
 - b) That Transport for NSW and the NSW Department of Education be advised of the Local Traffic Committee:
 - i) preference that a smaller vehicle be required and form part of the aforementioned or future contracts to undertake services that travel Wilson's Creek Road and more specifically those that service Wilson's Creek Public School; and
 - ii) concerns for safety and risks relating to the current school bus arrangements at the Wilson's Creek Public School and request for the named parties to be involved including approvals, concurrence and funding, to resolve the matters raised.
7. That Council adopt the Committee Recommendation in regard to Report No. 6.6 - Proposed No Parking, 310 Skinners Shoot Road, Byron Bay:

That the request for No Parking signs to be installed on the east side of the widened sealed area south of the driveway at 310 Skinners Shoot Road, Skinners Shoot be further clarified and brought back to the June 2015 meeting of the Local Traffic Committee.

8. That Council adopt the Committee Recommendation in regard to Report No. 6.7 - Proposed No Stopping, Village Greens grocer, Brunswick Heads:

That staff liaise with the business owner of Village Greens Grocer, Brunswick Heads about better definition of entry and exit arrangements and about methods of preventing vehicles parking too close to the carriageway.

9. That Council not adopt the Committee Recommendation in regard to Report No. 6.8 - Bus Zone options and design plan, Wilson's Creek Public School and instead adopt the Management recommendation as follows, namely that:

- a) as per the Local Traffic Recommendation, the request for a contra-flow movement at Wilson's Creek Public School, as requested by the bus operator, not be supported or incorporated into any redesign of the bus bay;
- b) a bus turn around be provided, preferably at or on the School site, or within closest proximity east and west of the School subject to bus operator acceptance of the site and safety; and
- c) the information be forwarded to the Department of Education and Transport NSW, with a view to them being involved in seeking a resolution to the issues raised including use of a smaller vehicle to provide student transport and therefore a reduced turning circle.

10. That Council adopt the Committee Recommendation in regard to Report No. 6.9 - No Parking - Authorised Vehicles Excepted, 52-54 Jonson Street, Byron Bay:

- a. That RMS standard signs for No Parking (R5-40) with supplementary plates (R9-229), which are to state 'Byron Shire Council Authorised Vehicles Excepted', be installed on the west side of Jonson Street, Byron Bay between 7m south of the Byron Street laneway entry to Lawson Street south car park and the angle car parking to its south.
- b. That Council note vehicles exempt from the No Parking are those clearly marked as either Police or Byron Shire Council and are undertaking active, operational duties at the time of use.

11. That Council adopt the Committee Recommendation in regard to Report No. 6.10 - Request for No Parking, Grevillea Street, Byron Bay Arts & Industry Estate:

- a. That No Stopping be line marked as described and depicted in report no. 6.10 (I2015/276) between numbers 2 and 15 Grevillea Street, Byron Bay Arts and Industry Estate.
- b. That No Stopping also be line marked 3 metres either side of the driveway at number 6 Grevillea Street, subject to concurrence of the land owner.

12. That Council adopt the Committee Recommendation in regard to Report No. 6.11 -

Request for No Stopping, Bayshore Drive, Byron Bay

- a. That on the west side of Bayshore Drive, Byron Bay commencing immediately north of Grevillea Street, No Stopping applies for a 10m length, after which a dedicated area for bus pick up and set down is provided.
- b. That Council consider the continuity of parking time limits on Bayshore Drive between Grevillea Street and Julian Rocks Drive, Byron Bay.

13. That Council adopt the Committee Recommendation in regard to Report No. 6.12 - Proposed No Stopping, Council Depot, Bayshore Drive, Byron Bay:

That on the street frontage of the Council work depot, located east side of Bayshore Drive (Lots 101 and 102), Byron Bay, 'No Stopping' be signed from 3m south to 3m north of each driveway.

14. That Council adopt the Committee Recommendation in regard to Report No. 7.1 - Request for physical demarcation, Mullumbimby Road at Gulgan Road intersection:
1. That Council note the Police request for a median island at the Mullumbimby Road and Gulgan Road intersection.
 2. That along with the Local Traffic Committee comments, a traffic count be undertaken to inform a re-design of plan number 2148, which is to be reported back to the Committee.
15. That Council adopt the following Committee Recommendation in regard to Report No. 8.1 - Splendour in the Grass 2014 traffic management plan:

That the temporary traffic management and regulatory changes within the series of Traffic Control Plans related to the Splendour in the Grass Music Festival to be held Friday 24th to Sunday 26th July 2015 inclusive be endorsed subject to:

- a) their design and implementation being undertaken on dates, times and locations as specified on the plans (or any approved amendments) and by those with appropriate RMS accreditation and the holding of current and appropriate levels of insurance and liability cover
- b) meeting of the advertising requirements of the Roads Act 1993
- c) event being notified on Council's website
- d) consideration of any submissions received
- e) a communications protocol being developed in conjunction with RMS, Police and any other identified stakeholder and explained to those involved in the implementation of traffic management
- f) the holding of an event debrief within the month following the festival which includes but not limited to Council, RMS and Police
- g) written approval of both the RMS and Police separate to Local Traffic Committee

- h) **‘No Parking’ be signed and implemented on Jones Road, Yelgun Road and Billinudgel Road**

Attachments:

5

- 1 Minutes Local Traffic Committee Meeting 01/04/15, I2015/295 (provided under separate cover)

Report

The attachment to this report provides the minutes of the Local Traffic Committee Meeting as held 1 April 2015 for determination by Council.

The following only documents any variations between the Committee Recommendations as per the minutes attached and Management recommendations, in which case there **were two items both related to Wilson's Creek Public School.**

Committee Recommendation 6.5

That Council recognises the need for the service under Transport for NSW Contract N10160, however notes that there are a number of safety concerns at Wilsons Creek Public School currently being examined and that because of the site limitations a smaller vehicle is required.

Management Comments 6.5

The Committee recommendation is not supported on three primary grounds.

First, the bus operator has since advised they are unable (at this time at least) to meet such requirement (being a smaller vehicle) and would need to obtain such a vehicle. Therefore such restriction, if applied immediately to the existing contract, would likely result in no services being provided to the School, which it is believed was not the intention of the LTC.

Secondly, it is also noted the Committee concern for 'safe operations at the Wilsons Creek Public School' is a matter that can be captured in item 6.8 as attached and considered unrelated to the contract.

Thirdly, the bus operator is seeking Council acceptance of the routes as detailed in two contracts, being N1060 and N2903 (and not just the first as tabled to the LTC).

Thus on these grounds the management recommendation is made as below (plus corrects the contract number which is misquoted on the attached LTC minutes).

And for completeness, the routes subject to contract N2903 are as follows, while those for N1060 are detailed on the attached minutes:

AM Route [i]

Depart depot along Smith Street , turn left into Manse Road , right into Argyle Street , right onto Burringbar Street , left into Dalley Street onto Jubilee Avenue onto Coolamon Scenic Drive , right into Wilson's Creek Road continue along until Fire Station for **First pick-up**, turnaround back along Wilsons Creek Road , left onto Coolamon Scenic Road onto Jubilee Avenue until **Mullumbimby High School** , turnaround Jubilee Avenue , right into Azalea Street left onto Left Bank Road travel until **Shearwater Steiner School** , turn right onto Left Bank Road right into Azalea Street left onto Jubilee Avenue onto Dalley Street , turn right into Burringbar Street , right onto Argyle Street , left into Prince Street , right into Poinciana Street , right into Morrison Avenue to **Mullumbimby Public School** .

AM Route [ii]

Right into Argyle Street , right onto Burringbar Street , left onto Dalley Street , right into Whian Street , right into River Terrace until Bus Zone , Depart Bus Zone turn right into Burringbar Street , right into Dalley Street onto Jubilee Avenue onto Coolamon Scenic Drive , right into Wilson's Creek Road continue until Bush Fire Brigade Shed turn-around continue back along Wilson's Creek Road until **Wilson's Creek Public School** , express back to Depot along Wilson's Creek Road , left into Coolamon Scenic Drive , onto Jubilee Avenue , right into Burringbar Street onto Argyle Street , left into Manse Road , right into Smith Street until Depot.

PM Route [i]

- 5 Depart depot along Smith Street , turn left into Manse Road , right into Argyle Street , right into Prince Street , right into Poinciana Street , right into Morrison Avenue to **Mullumbimby Public School** , right into Argyle Street , right onto Burringbar Street , left onto Dalley Street , onto Coolamon Scenic Road onto Jubilee Avenue until **Mullumbimby High School** , turnaround Jubilee Avenue , right into Azalea Street left onto Left Bank Road travel until **Shearwater Steiner School** , turn right onto Left Bank Road right into Azalea Street right into Coolamon Scenic Drive , right into Wilson’s Creek Road continue until Bush Fire Brigade Shed .
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PM Route [ii]

- 15 Turn-around continue back along Wilson’s Creek Road until **Wilson’s Creek Public School** , Depart School travel back along Wilson’s Creek Road , left into Coolamon Scenic Drive , onto Jubilee Avenue , turn left into Whian Street , right into River Terrace until Bus Zone , Depart Bus Zone turn right into Burringbar Street , onto Argyle Street , left into Manse Road , right into Smith Street until right into Burringbar Street onto Argyle Street , left into Manse Road , right into Smith Street until Depot.
- 20

Management Recommendation 6.5

- 25 a) *That Council recognises the need for, and holds no objections to, the school bus routes as detailed within Transport for NSW Contract N1060 and N2903 as held with Mullumbimby Bus Service and the principal operator Gary Hughes; and*
- b) *That Transport for NSW and the NSW Department of Education be advised of the Local Traffic Committee:*
- 30 i) *preference that a smaller vehicle be required and form part of the aforementioned or future contracts to undertake services that travel Wilson’s Creek Road and more specifically those that service Wilson’s Creek Public School; and*
- 35 ii) *concerns for safety and risks relating to the current school bus arrangements at the Wilson’s Creek Public School and request for the named parties to be involved including approvals, concurrence and funding, to resolve the matters raised.*

Committee Recommendation 6.8

- 40 1. *That the request for a contra-flow movement at Wilsons Creek Public School, requested by the bus operator, not be supported.*
- 45 2. *That the vehicle used for carrying students be small enough so that it can turn around safely at the Fire Station (west of the School), plus somewhere east of the School (eg Koonyum Range Road intersection) and will set down and pick up only on the northern side of Wilsons Creek Road.*
- 50 3. *That turn around provisions be provided both east and west of the School.*
4. *That the information be forwarded to the Department of Education and Transport NSW, with a view to them being involved in seeking a resolution to the issues raised.*

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Management Comments 6.8

Part 1 and 4 of the Committee recommendation is supported, albeit with additional wording as below. An alternative Management recommendation however is tabled in regard to Part 3, as well as Part 2 on the same grounds as cited in related item above (no. 6.5).

Management Recommendation 6.8

That:

- a) *as per the Local Traffic Recommendation, the request for a contra-flow movement at Wilson's Creek Public School, as requested by the bus operator, not be supported or incorporated into any redesign of the bus bay;*
- b) *a bus turn around be provided, preferably at or on the school site, or within closest proximity east and west of the School subject to bus operator acceptance of the site and safety; and*
- c) *the information be forwarded to the Department of Education and Transport NSW, with a view to them being involved in seeking a resolution to the issues raised including use of a smaller vehicle to provide student transport and therefore a reduced turning circle.*

Financial Implications

As per the Reports listed within the Local Traffic Committee Meeting of 1 April 2015.

Statutory and Policy Compliance Implications

As per the Reports listed within the Local Traffic Committee Meeting of 1 April 2015.

QUESTIONS WITH NOTICE

Question with Notice No. 15.1 Coastal Zone Management Plan for the Byron Bay Embayment5 **File No:** I2015/332

Cr Duncan Dey asks the following questions:

1. Do we have a time-frame for the Coastal Zone Management Plan (CZMP) for the Byron Bay Embayment (BBE) ready and do the dates anticipated satisfy the Minister's Direction (extended to 30 June 2015)?
2. If not, when would it be appropriate to seek a further extension?
3. Considering that the CZMP for the BBE is still at Phase 2 "identify and evaluate management options" of Table 1 on Page 8 of OEH's Guidelines for Preparing CZMPs (of July 2013), have the authors commenced the drafting of Phase 3 "propose management actions in implementation schedule"?

Response Director Sustainable Environment and Economy:

1. We do not have a time frame for preparing, exhibiting and then submitting the Coastal Zone Management Plan Byron Bay Embayment (draft CZMP) to the Minister for the Environment. This is because the preparation of the draft CZMP is dependent on completing the Coastal Hazard Management Study Byron Bay Embayment (management study). The completion date for the management study will be determined by how long it takes to complete the additional work as per resolution 15-139, Parts 1 and 2, as follows:

15-139 Resolved that Council (relevant parts only):

- 1. Instructs WRL to finalise the management study as per variation quotation at attachment 5, taking into consideration recently received constructive comments from OEH's Chief Economist on the CBA component of the Coastal Hazard Management Study.*
- 2. Extend the scope of the WRL variation at attachment 5 to include an economic analysis for alternative models of retreat to that used in the CBA (as per OEH recommendation), to be included in an appendix to the revised CBA, or as otherwise deemed appropriate by WRL.*

Staff have submitted a quotation request to the consultant as per resolution 15-139 (parts 1 and 2). A response is not anticipated until after 20 April 2015.

Working backwards from the 30 June 2015 date, it is clear that the Minister's timeframe can not be met. This is primarily, but not solely, because of statutory requirements for preparing a CZMP. The *Coastal Protection Act 1979* (CP Act) prescribes that the draft CZMP be exhibited for a minimum 21 day period and that submissions be considered by Council. To meet the Minister's timeframe, the draft CZMP should have been adopted by Council in April for exhibition over April/May.

2. It may be appropriate to seek an extension from the Minister after the timeframe for completing the management study is clarified by the consultant and key milestone dates for preparing, exhibiting and then submitting the draft CZMP have been determined by staff. Given the difficulties encountered to date concerning the management study phase of the CZMP, it is important that any

extension requested reflect conservative estimates for completing key milestones.

In recent correspondence, it has been indicated that the date of 30 June 2015 is relatively fixed, for example in a letter to the Mayor Councillor Simon Richardson, dated 2 February 2015, the (former) Minister for the Environment, Rob Stokes MP, advised as follows:

In the immediate term, it is my priority to ensure that all councils required by a Ministerial direction to prepare coastal zone management plans (CZMPs) complete their plans and submit them to me for certification as soon as possible, and no later than 30 June 2015.

It is acknowledged that there is a new Minister for the Environment, Mark Speakman MP. In this context, it may be appropriate to convey to the Minister the challenges facing Council to meet the 30 June 2015 deadline.

3. The drafting of management actions for the CZMP implementation schedule has commenced for the theme areas 'Community Uses of the Coastal Zone' and 'Coastal Ecosystem Health'. In addition, a number of hypothetical / draft actions for 'Coastal Hazard Risk Management' were prepared and presented for feedback at the January 2015 'directly affected' workshop. These draft actions were prepared in the hypothetical context of the consultant's draft management recommendation as per Version 4 of the management study report.

As there is a significant body of additional work being undertaken on the management study phase of the CZMP, it is considered that the drafting of 'coastal hazard risk management' actions may not be an efficient use of staff resources at this time. As such staff will continue to work on the various parts of the CZMP that are less dependent on the outcome of the management study process.

CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES

Report No. 16.1 CONFIDENTIAL - Tender Assessment - South Byron STP Stage 1 Works, Demolition of Above and Below Ground Infrastructure

Directorate: Infrastructure Services
Report Author: Nikki Bourke, Capital Projects Officer
File No: I2015/296
Theme: Community Infrastructure
 Sewerage Services – Management

Summary:

At the Ordinary meeting 5 February 2015, Council resolved 15-035 to proceed with the demolition and remediation of the South Byron Sewage Treatment Plant 'works infrastructure' only.

The memorandum recommending preparation and advertisement of tenders for South Byron STP Stage 1 Works - Demolition of Above and Below Ground Infrastructure was also approved by the General Manager (E2015/8535).

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

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 CONFIDENTIAL Tender Assessment - South Byron STP Stage 1 Works - Demolition of Above and Below Ground Infrastructure.
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:

Commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.
4. That in accordance with Sections 10A(4) of the *Local Government Act 1993*, that the Chairperson allow members of the public to make representations as to whether this part of the meeting should be closed.

OR, ALTERNATIVELY WHERE THE MEETING IS NOT PROPOSED TO BE CLOSED:

RECOMMENDATION:

1. That pursuant to Section 11(3) of the Local Government Act, 1993, resolve that the Annexures to the report, CONFIDENTIAL Tender Assessment - South Byron STP Stage 1 Works - Demolition of Above and Below Ground Infrastructure 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.**

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