



Byron Shire Council



Agenda

Ordinary Meeting

Thursday, 8 October 2015

held at Moller Pavilion, Bangalow Showground
commencing at 4.00pm

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 17 September 2015

7. RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS

8. MAYORAL MINUTE

9. NOTICES OF MOTION

9.1	Council Bundjalung Cultural Awareness and Induction Program	5
9.2	Environmentally and Socially Responsible Investments	7
9.3	Support on Ex-Hospital Land in Mullumbimby	12
9.4	Review of Homelessness Policy.....	15

10. PETITIONS

11. SUBMISSIONS AND GRANTS

12. DELEGATES' REPORTS

13. STAFF REPORTS

Sustainable Environment and Economy

13.1	PLANNING - Submissions Report - Planning Proposal to rezone part of Lot 7 DP626084, 204 Lismore Road, Bangalow, to IN1 General Industrial.....	18
13.2	Report of the Planning Review Committee Meeting held on 10 September, 2015	21
13.3	PLANNING - Submissions report - Amendments to Chapter D2 Development Control Plan 2014 for dual occupancies (detached) and secondary dwellings in RU1 and RU2 zones	23

Infrastructure Services

13.4	Implications and Potential Locations of a BMX Track	26
13.5	Biobanking for Byron Bay Bypass - Dedication of Land.....	30
13.6	Draft Terms of Reference Belongil Catchment Advisory Committee.....	35
13.7	Time limits for Pay Parking and Resident Permit Parking Areas Byron Bay Parking Study.....	37

BYRON SHIRE COUNCIL

ORDINARY MEETING

14. REPORTS OF COMMITTEES

Sustainable Environment and Economy

- 14.1 Report of the Sustainable Economy Committee Meeting held on 3 September 2015 ..43

Infrastructure Services

- 14.2 Report of the Transport Advisory Committee Meeting held on 1 September 2015.....46
14.3 Report of the Community Infrastructure Advisory Committee Meeting held on 10
September 2015.....53

15. QUESTIONS WITH NOTICE

- 15.1 Rising Sewer Main, Ewingsdale56

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

NOTICES OF MOTION

Notice of Motion No. 9.1 Council Bundjalung Cultural Awareness and Induction Program
File No: I2015/1189

I move that Council, in keeping with the Arakwal Memorandum of Understanding Implementation Plan:

- a) **Instigate a twice-yearly cultural awareness celebration and training session for staff and Councillors.**
- b) **Liaise with the Arakwal Corporation as to the content, style and length of the celebration and training.**

Councillor's Background Notes:

Council and the wider community is truly blessed to live alongside and journey next to a vibrant, strong and culturally thriving local indigenous community.

There is currently a program of cultural awareness training for all new staff members as part of a wider induction process; however, it seems to be rarely enacted and even when completed, it is not as rich as what is possible.

A celebration and awareness session could 2 hours in duration; and consist of a historical overview, a sharing of places and areas, completion of the on-line cultural awareness training program; <http://arakwal.com.au/culture/>, and a celebration of culture through music and dance.

By holding the sessions twice yearly and in a setting, costs can be kept to a minimum and the group nature could allow for further peer to peer discussions and learning.

Recommended priority relative to other Delivery Plan tasks:

The Motion seeks to further develop and implement the priority action, within the *Arakwal Memorandum of Understanding Implementation Plan*, specifically, within 4.0 Cultural Awareness Training:

Priority Action 4.1: Implement cultural awareness induction for all staff and Councillors through Arakwal's website, with specifically tailored training packages for relevant staff to include Native Title and other relevant land management issues (4.2.4 in the MoU),

Within 4.1, this action is further reinforced in Strategic Action 4.1.viii: Arakwal to advise on whether a Dolphin Dreaming (or similar) Cultural Awareness package can be delivered to Council staff and Councillors annually or bi-annually.

Definition of the project/task:

Establishment of cultural awareness celebration and training session for staff and Councillors, with liaison between Arakwal and staff to develop the content and dates of program.

Source of Funds (if applicable):

Exist 'Aboriginal Projects' budget 2331.058

Signed: Cr Simon Richardson

- 5 **Management Comments by Greg Ironfield, Manager Community Development:**
(Management Comments must not include formatted recommendations – resolution 11-979)

Clarification of project/task:

- 10 This notice is supported by the Arakwal Memorandum of Understanding and would be an extension to the induction process for new staff.

Director responsible for task implementation:

- 15 Mark Arnold

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

- 20 This motion is consistent with the Arakwal Memorandum of Understanding and would further enhance relationship development with staff, Councillors and the Arakwal people.

Financial and Resource Implications:

- 25 Costs for the development and implementation of a program can be covered from existing funds in the 'Aboriginal Projects' budget 2331.058

Legal and Policy Implications:

- 30 Arakwal Memorandum of Understanding

Notice of Motion No. 9.2 Environmentally and Socially Responsible Investments
File No: I2015/1191

I move:

1. That Council give preference to finance institutions that invest in or finance Environmentally and Socially Responsible Investments where:
 - i) The investment is compliant with legislation and investment policy objectives and parameters; and
 - ii) The rate of return is favourable relative to comparable investments on offer to Council at the time of investment.
2. That a new objective is inserted into Council's *Investment Policy* (12/009):

1.3 Environmentally and Socially Responsible Investments

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

i) The investment is compliant with legislation and investment policy objectives and parameters; and

ii) The rate of return is favourable relative to comparable investments on offer to Council at the time of investment

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

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

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

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

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

*Environmentally **productive** activities are considered to be:*

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

*Socially **productive** activities are considered to be:*

- *fair trade and provision of a living wage*
- *human health and aged care*

- equal opportunity employers, and those that support the values of communities, indigenous peoples and minorities
- provision of housing, especially affordable housing

Environmentally **harmful** activities are considered to be:

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

Socially **harmful** activities are considered to be:

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

3. That Council support Lismore City Council's request for Local Government NSW to maintain a list of authorised deposit taking institutions that are committed to Environmentally and Socially Responsible lending and investing.

5 Councillor's Background Notes:

Why Environmentally and Socially Responsible Investments?

10 Council has adopted a number of key positions regarding environmentally and socially responsible policies. These include:

1. Greenhouse gas emission reduction goal of a minimum 30% below 1990 levels by 2020
2. Prohibition of coal seam gas mining and exploration on Council land
3. Ethical catering policy

15 This motion seeks to ensure that Council's investments support the intent of such policies and do not actively work to undermine the environmental and social outcomes that such policies seek to achieve.

20 Importantly, the Responsible Investment Benchmark Report 2015 Australia states:

25 *"Those investors who are taking account of environmental, social and ethical issues in addition to financial issues are well positioned to capture this wave of growing demand. Pleasingly, this comes at a time when this report - along with a mounting body of global evidence - has again shown that a responsible investment approach is entirely consistent with good investment outcomes."*

30 A number of councils across NSW have supported having SRI goals in their investment policies. These include: Sydney, Lismore, Holroyd, Botany Bay and Newcastle City Council.

In October 2014 the Australian National University (ANU) decided to sell its investments in fossil fuel industries, including seven Australian resource companies in line with its Socially Responsible Investment Policy. ANU's divestment list represents 5% of the university's domestic equity, and the value of shares to be sold is around A\$16 million.

In August this year one of Australia's largest super funds, the \$32 billion health industry fund HESTA, informed the stock exchange that it was divesting some \$23 million worth of stock it held in Transfield, the major contractor running Australia's controversial offshore refugee detention centres.

On 3 September the National Australia Bank said it will not fund what would be the biggest coal mine in Australia, Adani's \$16 billion Carmichael coal project, and signalled that it wants to take a leading role in developing renewable energy.

All over the world, super funds and pension funds and other investment vehicles have begun offering fossil-fuel free options to clients. To some extent, this allows for conscience, but increasingly these things are demanded because people believe fossil fuels are a poor long-term investment.

If we as a community don't want to own bits of tobacco companies, or coal companies, or detention centre operators, or coal seam gas companies, or uranium mines, or nuclear weapons then we as a council should adopt an Environmentally and Socially Responsible Investment Policy.

Quick References:

Byron Shire Council renewable energy:
<http://www.byron.nsw.gov.au/renewable-energy>

Byron Shire Council Greenhouse Action Strategy
<http://www.byron.nsw.gov.au/publications/greenhouse-action-strategy>

Byron Shire Council resolution in regards to coal seam gas:
<http://www.byron.nsw.gov.au/coal-seam-gas-csg-mining>

Market Forces - investment banking organizations providing fossil fuel investments:
<http://www.marketforces.org.au/banks/compare>

Responsible Investment Benchmark Report 2015 Australia:
<https://www.evernote.com/l/ADnx1tHAAaFFI61qjsvmGqHEDYqDoaJNS60>

Byron Shire Council Ethical Catering:
<http://www.byron.nsw.gov.au/newsletters/2010/08/20/councils-new-ethical-catering-policy>

National Australia Bank and the Adani coal mine:
<http://www.smh.com.au/business/mining-and-resources/national-australia-bank-rules-out-funding-adanis-carmichael-coal-mine-20150902-gjdsfl.html>

Recommended priority relative to other Delivery Plan tasks:

CM1: Effective governance, business, project and financial management.

EN1: Protect and enhance the natural environment.

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 economic and social prosperity and resilience.

Definition of the project/task:

1. Give preference to finance institutions that invest in or finance Environmentally and Socially Responsible Investments where:

i) The investment is compliant with legislation and investment policy objectives and parameters; and

ii) The rate of return is favourable relative to comparable investments on offer to Council at the time of investment.

2. Insert a new objective into Council's *Investment Policy* (12/009): **1.3 Environmentally and Socially Responsible Investments**

3. Support Lismore City Council's request for Local Government NSW to maintain a list of authorised deposit taking institutions that are committed to Environmentally and Socially Responsible lending and investing.

Source of Funds (if applicable):

Not applicable.

Signed: Cr Paul Spooner

Management Comments by James Brickley, Manager Finance:

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

Prior to the Global Financial Crisis, Council's in NSW were able to invest in a wide variety of investment products. At that time Council's were offered investments such as Collatorised Debt Obligation (CDO) investments that were investments in companies that were conducting either socially or environmentally responsible activities ie companies excluded were those such as tobacco, arms manufacturers, gambling etc. Since the Global Financial Crisis and the subsequent Cole Inquiry into the investment practices of NSW Councils, the NSW Minister for Local Government re-issued the Ministerial Investment Order.

The Ministerial Investment Order and its contents can be found via the following link:

<http://www.olg.nsw.gov.au/sites/default/files/Investment-Order-12-1-2011.pdf>

The Ministerial Investment Order stipulates and limits the scope of investing by Councils as outlined in parts (a) to (e) of the Order. Essentially, Council is limited to investing funds with the following:

1. Public funds or securities issued by the Commonwealth or State or Territory.
2. Any debentures issued by another Council.
3. Interest bearing deposits, debentures or bonds by an authorised deposit taking institution (as defined by the Banking Act 1959 (Cwlth)).
4. A deposit with NSW Treasury Corporation.

Unless any investment proposal received by Council meets the above criteria, Council is prohibited from considering the investment.

This Notice of Motion outlines what other Councils are doing in terms SRI and locally identifies Lismore City Council. Council has obtained copies of both the Lismore City Council Investment Policy and the most recent Investment Report submitted to Lismore City Council Meeting on 8 September 2015. Both of these documents do not disclose or mention that Lismore City Council has SRI investments as a goal or actually has SRI investments in its investment portfolio.

It is a matter for Council to consider by policy how to invest its funds within the confines of the Ministerial Investment Order and Council is powerless to direct a financial institution where to direct funds that Council has invested with it. If it is Council's desire to include the recommendation in this NoM in its investment policy, it can certainly do that but from a practical operational point of view it may be difficult to implement.

Clarification of project/task:

Amend Council's current investment policy to incorporate Environmentally and Socially Responsible Investments along with supporting Lismore City Council's request for Local Government NSW to maintain a list of authorised deposit taking institutions that are committed to Environmentally and Socially Responsible lending and investing.

Director responsible for task implementation:

Director Corporate and Community Services

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

Consideration if adopted at each investment opportunity to compare investments offered in the market opposed to those offered by financial institutions that may be deemed to invest in or finance Environmentally and Socially Responsible Investments.

Financial and Resource Implications:

If the proposed amendment to the existing Council investment policy is approved by Council, it is not expected to create any financial or resource implications other than that Finance staff would need to do an assessment to identify Authorised Deposit Institutions (ADI)'s deemed to be that invest in or finance Environmentally and Socially Responsible Investments. A list of those institutions would need to be researched and periodically reviewed to ensure they maintain an appropriate status as the investment policy amendment subject of this NoM suggests.

If the proposed amendment to the existing Council investment policy is approved, staff would assume that whatever financial institution as an approved ADI offered the best financial return for Council would be the overriding factor in determining where to place an investment given point (ii) of the proposed Section 1.3 outlined in this NoM.

Legal and Policy Implications:

Council Investment Policy 12/009

Ministerial Investment Order dated 12 January 2011 issued by the Office of Local Government via Circular 11-01 dated 17 February 2011.

Notice of Motion No. 9.3 Support on Ex-Hospital Land in Mullumbimby
File No: I2015/1192

I move:

1. That Council write immediately to NSW Premier Mike Baird, to Treasurer Gladys Berejiklian, to Minister for Health Jillian Skinner and to Minister for Family & Community Services and for Social Housing Brad Hazard, asking them all to support the following (which are based on resolutions of a public meeting held in Mullumbimby on 17th September 2015);
2. That the Mullumbimby Hospital land be transferred from the NSW Minister for Health to the NSW Minister for Family & Community Services and for Social Housing; and
3. That the Mullumbimby Hospital land be considered for uses such as aged care facilities & services and housing options (through public and community sector partnerships).

5

Councillor's Background Notes:

10

Changes in the landscape of hospital services in the Shire will include relocation of key services to a new facility, currently being built at Ewingsdale. The State chose its new self-approved greenfield site to provide a larger centralised facility but this also liberates existing properties for other uses, or for sale.

- 15 Fearing the latter, the **Mullumbimby Hospital Action Group** has researched the history of the site at Mullumbimby and has tracked NSW Health's thinking on the future of that land. MHAG's publications include a 5-page statement of 19 August 2015, which leads with:

20

The Mullumbimby Hospital Action Group (MHAG) is a united group of concerned and dedicated people who aim:

To work with the NSW Government and Byron Shire Council to develop the Mullumbimby Hospital site for community purposes as the land has been used for health purposes for 115 years.

25

The land was set aside for this purpose under the Mullumbimby Hospital Reserve Trust.

The community use and development of the land should include:

30

- ***a full range of aged care facilities and services***
- ***housing for people with a disability,***
- ***social housing that provides secure, sustainable, safe and affordable housing for vulnerable and disadvantaged people including housing for women headed households escaping domestic violence.***

35

These aspirations may not yet be encompassed within Council's forward planning strategies but they have merit and would likely sit well within them. The wording of the Motion is less prescriptive than the resolution of the 17 September meeting, so as not to commit Council to planning outcomes it has not yet fully considered. The meeting's resolutions were:

“The community of Mullumbimby demands that the Mullumbimby Hospital land be transferred from the NSW Minister for Health to the NSW Minister for Family and Community Services and Social Housing.

5 *The Mullumbimby Hospital land then be used to develop a range of aged care facilities and services and housing options through public and community sector partnerships. This would be a win-win for everyone.”*

10 In January 2015 Health Minister Jillian Skinner apparently stated “the site will be sold and the proceeds used to contribute to the cost of remediation.” This is despite the Northern NSW Local Health District Chief Executive stating “prior to any final decisions being made about the future use of the hospital campus consultation will take place with Byron Shire Council and the Community to seek their input of what use should be made.”

15 Fears of the community losing use of the land appear well founded. I support the wish to keep the land in public hands for public purposes. The purposes listed above by MHAG are well known by this community. The alternative of selling the site would likely produce a short-term windfall to the NSW Govt and more urban subdivision in a desirable north-facing location in Mullumbimby.

The hospital buildings may contain asbestos and remediation is likely required. In the long term however, the value of the asset far outstrips the challenge of dispensing with such dangers - they must be dealt with anyway. Remediation should not be used as an excuse to discard the asset.

20 Recommended priority relative to other Delivery Plan tasks:

This action is not time consuming but is urgent as decisions on the future and potentially the sale of the land are being taken now.

25 Definition of the project/task:

The Motion asks staff to prepare a letter, possibly for the Mayor and GM’s signatures

30 Source of Funds (if applicable):

No funding is required.

Signed: Cr Duncan Dey

35 **Management Comments by Shannon Burt, Director, Sustainable Environment and Economy:**

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

40 Clarification of project/task:

Staff to prepare a letter to the NSW Premier and nominated Ministers for the Mayor’s signature in relation to the future ownership and use of the Mullumbimby Hospital site.

45 Director responsible for task implementation:

Director Sustainable Environment and Economy

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

50 Not applicable.

Financial and Resource Implications:

Not applicable.

5 Legal and Policy Implications:

Not applicable.

Notice of Motion No. 9.4 Review of Homelessness Policy
File No: I2015/1193

I move:

1. That Council review the priorities it gives both to overcoming homelessness and to enforcement to protect sensitive dune areas.
2. That Council review its Policies relating to these matters, including our Homelessness Policy.

5

Councillor's Background Notes:

10 Councillors have been informed recently of the growing burden on groups such as the Green & Clean Awareness Team (GCAT) when their valuable voluntary work is undone by people camping in dune areas. Stakes supporting new plants are used for firewood after both the stake and the plant have been ripped up. Campsites often expand over time and produce large areas exposed by the lack of vegetation. There are also cases where the volunteers have been abused and
 15 threatened by campers, some of whom appear to have drug issues.

Staff attended an area recently in the dunes near Main Beach and identified three campsites. Two sites were unattended at the time. The third site was occupied by four young people around 18 years of age. The two males and two females were deemed genuinely homeless. Council made contact with support agencies to see if there were any options for alternate / available
 20 accommodation.

In carrying out such duties, Council staff observe Council's Homelessness Policy:
http://www.byron.nsw.gov.au/files/publications/homelessness_policy.pdf

The Policy dates from November 2008 and is consistent with the Ombudsman's Guidelines. It includes a Protocol endorsed by Council and the Police for dealing with homeless people.

25 One aspect of the Policy was revised in 2014 with the addition of a third strategy, namely: *support in principle the establishment and operation of a Resident Homeless Card.*

Were the campers not homeless, they could be moved from environmentally sensitive areas such as the dunes that form such a vital part of our beaches.

30 Section 2.2 of the Policy states: *Council recognizes that all people have a right to housing that meets their individual needs and that all people have a right to enjoy public open spaces for activities that do not create an adverse impact on the rights of other users in the community.*

I believe this could be expanded to include "adverse impacts on the environment".

35 Section 4.1 of the Protocol states: *If homeless person/s are in a public place but not causing trouble or committing any summary offences, then police and rangers are to use their discretion in asking them to move on. It is fair and just that everyone has an entitlement to the use of public spaces without fear of punitive action and this includes homeless or transient people.*

I believe the second sentence could be expanded to limit that entitlement to the "use but not abuse" of public spaces.

40 The changes above should be considered within a holistic review.

Protection of dune care volunteers may not be a matter for this Policy.

Recommended priority relative to other Delivery Plan tasks:

Reviewing Policy is a regular and important part of a Council's work. It is 7 years since the Policy above was created and 13 years since the Protocol within it was created.

Review now for these new concerns would be timely.

Definition of the project/task:

Consider the enforcement and Policy sides of both homelessness and dune protection.

Contact Police with a view to revising the Protocol.

Draft changes for consideration by Council and the community.

Source of Funds (if applicable):

The reviews should be undertaken within existing budgets.

Signed: Cr Duncan Dey

Management Comments by Wayne Bertram, Manager Sustainable Development:

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

A holistic review of Policy No. 14/007 – Homelessness, previously occurred in 2014 and was adopted after close of exhibition on the 27 August 2014 with no submissions being received.

A review of Policy No. 14/007 – Homelessness has not been programmed to occur as part of the 2015/16 Operational Plan however a review of this policy can occur as required and at any time.

The proposal to review Policy No. 14/007 – Homelessness appears to mainly relate to the amendment of Sections 2.2 and 4.1. The proposal to amend Section 2.2 appears to further define that adverse impact is to also include the environment. The proposal to amend Section 4.1 appears to clarify that there is to be no abuse of the public spaces.

As Council previously reviewed this policy last year, and the proposed amendments to this Policy could be considered as minor, Council could resolve to make the proposed changes without the need for community consultation and then subsequently notify the community of the changes.

Staff will continue to consider dune and environmental protection as part of the enforcement program whilst considering the social implication of homelessness when working with homeless or transient people.

The 2015 Compliance Program – Priorities already nominates as a very high priority, any developments, actions, works, activities or uses that places people's lives at immediate risk or that cause or are likely to cause a significant risk of environmental harm or pollution. This would include the environmental harm of the dunes.

Clarification of project/task:

To review Policy No. 14/007 – Homelessness.

Director responsible for task implementation:

Director Community and Corporate Services
Director Sustainable Environment and Economy

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

- 5 A review of Policy No. 14/007 – Homelessness previously occurred in 2014 and was adopted after close of exhibition with no submissions on the 27 August 2014. A review of Policy No. 14/007 – Homelessness has not been programmed to occur as part of the 2015/16 Operational Plan.

Financial and Resource Implications:

- 10 There are staff resource implications required to review of Policy No. 14/007 – Homelessness which have not be accounted for in the 2015/16 Operational Plan. There would also be financial implications in the public exhibition and community consultation of any draft amended plan.

Legal and Policy Implications:

- 15 The holistic review of review of Policy No. 14/007 – Homelessness would normally be subject to a 28 day exhibition process however minor amendments to Council Policies could occur without the need for exhibition.

20

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.1 PLANNING - Submissions Report - Planning Proposal to rezone part of Lot 7 DP626084, 204 Lismore Road, Bangalow, to IN1 General Industrial

Directorate: Sustainable Environment and Economy
Report Author: Julie Francombe, Strategic Planner
File No: I2015/993
Theme: Ecology
 Planning Policy and Natural Environment

Summary:

This report presents the public exhibition outcomes on a planning proposal to rezone part of Lot 7 DP 626084, 204 Lismore Road, Bangalow, to IN1 General Industrial. This will enable the expansion of the existing industrial area at this location.

The planning proposal (at Attachment 1) received a Gateway determination to proceed to public exhibition from the Department of Planning and Environment and was placed on public exhibition for a period of 28 days during June/July 2015. Two public submissions were received (different submissions from the same submitter), and consultation feedback was received from NSW Roads and Maritime Services.

This report recommends that Council proceed with the planning proposal without amendment.

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 proposal to amend Byron LEP 2014, as exhibited and included at Attachment 1 to this report, to the Department of Planning and Environment requesting that a draft LEP be prepared.

Attachments:

- 1 Planning Proposal - Bangalow Industrial Estate - public exhibition version, E2015/38942
- 2 Site Identification Map - rezoning of Lot 7 DP626084, Bangalow to IN1 , E2015/37215
- 3 Existing Zoning Map - Bangalow Industrial Estate, E2015/60878
- 4 Submission from Roads & Maritime Services, E2015/59092
- 5 Confidential - Submissions Planning Proposal Bangalow Industrial Estate, E2015/47863
- 6 Form of Special Disclosure of Pecuniary Interest, E2012/2815

Report

Council at its Ordinary Meeting of 8 August 2013 discussed the need to amend its new LEP to create more industrial land at Bangalow and resolved:

- 5 **“13-371 Resolved** that in relation to the draft Byron LEP 2012 Council adopt the following that was discussed during Committee:

23. Amend proposed zoning of the eastern part of Lot 7 DP 626084 (204 Lismore Road, Bangalow) from RU1 Primary Production to IN1 General Industrial as illustrated in Map 16 tabled at this meeting.”

- 10 This resolution resulted in Council submitting its draft LEP to the Department of Planning and Environment with the eastern part of Lot 7 DP 626084 zoned IN1 General Industrial, a Minimum Lot Size of 0.1 hectares and a Floor Space Ratio of 0.75:1.

15 The Department of Planning and Environment (DPE) advised that because the IN1 zoning of the subject land was not exhibited as part of the draft LEP it would not support it being part of the LEP to be gazetted. DPE amended the draft LEP by removing the IN1 zone from the subject land and replacing it with RU1 Primary Production zone as publicly exhibited. Council was advised that the rezoning of the subject land to IN1 should be pursued through a planning proposal after the gazettal of Byron LEP 2014.

20 DPE, however, did not amend the Minimum Lot Size of 0.1 hectares or the Floor Space Ratio of 0.75:1 that apply to the subject land under Byron LEP 2014. This appears to have been an oversight as these development controls are not consistent with a zoning of RU1.

25 The planning proposal received a Gateway determination to proceed to public exhibition from the DPE. The planning proposal was placed on public exhibition for a period of 28 days from 25 June 2015 until 23 July 2015. Two public submissions were received (different submissions from the same submitter) and consultation feedback was received from NSW Roads and Maritime Services. The issues raised are discussed below.

30 **Issues raised in public submissions**

What access will be available to the rezoned land? The only option seems to be to go through existing developments which are not available or economically viable.

35 *Investigate proposed access via Bugam Place as owners of land where access is suggested have no intention of selling or knocking down parts of their property to allow road access. What other options for road access would be possible?*

40 **Issues raised by NSW Roads and Maritime Services**

45 *Bangalow Road is a classified (state) road and Byron Shire Council is the ‘Roads Authority’ for this road. Under the Roads Act 1993, Roads and Maritimes’ concurrence is required prior to Councils’ approval of any works on this road. Roads and Maritime’s role with this planning proposal is to provide advice about road safety and traffic efficiency.*

50 *Roads and Maritime generally has no concerns with the expansion of the existing industrial area however road access may become an issue. It is noted the planning proposal does not include allocation of land for an internal connection from the proposed industrial area to the existing industrial precinct’s road network.*

The proximity of the proposed industrial land to the existing Bugam Place intersection with Bangalow Road would make it physically difficult to provide any new intersection to access the

planning proposal. Given the standard of the existing Bugam Place intersection it would make economic sense to make use of the existing infrastructure for access. Roads and Maritime recommends that the road connection from Bugam Place be formalised as part of the planning proposal.

Comment

Council in 2013 indicated its support for expanding the IN1 zone onto part Lot 7 DP 626084, Lismore Road, Bangalow. The planning proposal seeks to create a further 2.7 hectares of IN1 land that would match the area previously identified in the draft Shire wide LEP (refer to Site Identification Map at Attachment 2 and Existing Zoning Map at Attachment 3).

The subject land currently has its own access to a single dwelling from Lismore Road (which is a Main Road identified as B62). This part of the road has an 80km/hour speed limit. The existing industrial estate has dedicated turning lanes (into Dudgeons Lane) and relatively good sight lines.

The ideal scenario is that the extended IN1 land be accessed from inside the existing industrial area via Bugam Place therefore allowing all new traffic to use the existing Lismore Road/Dudgeons Lane intersection. Roads and Maritime Services (RMS) have signalled their preference for access to be provided via the Lismore Road/Dudgeons Lane intersection rather than creating a new intersection with Lismore Road. Although the RMS have specifically recommended that access be *“formalised as part of the planning proposal”* (refer to Attachment 4), this outcome cannot be achieved through the planning proposal process. Instead the access issue will need to be addressed at the subdivision DA stage.

In accordance with Byron Shire Development Control Plan 2014 any development application approval for the subdivision of the land will be reliant on access being available. The applicant has demonstrated that access to the subject land through the existing industrial estate is plausible. Two landowners in the Bugam Place cul de sac have agreed to consider allowing access across their land; see letters at Appendix C of planning proposal. As discussed above, the issue of access will be addressed when Council considers a DA for the subdivision of the subject land.

Recommendation

It is recommended that Council proceed with this planning proposal without amendment.

Financial Implications

As a Council initiated planning proposal the administration cost has been met by Council.

Statutory and Policy Compliance Implications

Council has followed the statutory process to amend Byron LEP 2014 through this planning proposal. Council should now consider the submissions received and issues raised, and decide whether to proceed to finalise the planning proposal (either with or without amendments).

Report No. 13.2 Report of the Planning Review Committee Meeting held on 10 September, 2015

Directorate: Sustainable Environment and Economy

Report Author: Wayne Bertram, Manager Sustainable Development

File No: I2015/1105

Theme: Ecology
Development and Approvals

Summary:

This report provides the outcome of the Planning Review Committee Meeting held on 10 September, 2015.

RECOMMENDATION:

That the report be noted.

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.2

Report:

Meeting commenced at 11.05am and concluded at 11.45am.

- 5 Present: Crs Hunter, Dey, Wanchap, Ibrahim, Woods, Cameron
Apologies: Cr Richardson

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

DA No.	Applicant	Property Address	Proposal	Exhibition Submissions	Reason/s Outcome
10.2015.396.1	Payne Property Partners	93 Station Street Mullumbimby	Amalgamation of 3 lots, subdivision into 2 lots, tree removal, demolition of ancillary structures, construction of a new dual occupancy and strata subdivision	Level 1 14/7/15 to 27/7/15 5 submission against	Delegated Authority
10.2015.429.1	Ardill Payne & Partners	6 Byron Street Mullumbimby	Strata subdivision, demolition of garage and carport and construction of two dwellings to create a multi dwelling housing development	Level 2 30/7/15 to 12/8/15 8 submissions against	Delegated Authority
10.2015.470.1	Techton Building Services	12 Ballina Rd Bangalow	Principal dwelling and secondary dwelling	Level 1 12/8/15 to 25/8/15 3 submissions against	Delegated Authority
10.2015.471.1	Techton Building Services	14 Ballina Rd Bangalow	Principal dwelling and secondary dwelling	Level 1 13/8/15 to 26/5/15 3 submissions against	Delegated Authority

- 10 As Council has determined the following original development application, the Section 96 application to modify the development consent has been referred to the Planning Review Committee to decide if the modification application can be determined under delegated authority.

DA No.	Applicant	Property Address	Proposal	Exhibition Submissions	Reason/s Outcome
10.1998.578.3	Bmack Project Management Services	115 The Manse Rd Myocum	S.96 to regularise minor works not shown within previous consent but carried out as well as further new works	Level 2 16/7/15 to 29/7/15 No submissions received	Delegated Authority

Report No. 13.3 **PLANNING - Submissions report - Amendments to Chapter D2 Development Control Plan 2014 for dual occupancies (detached) and secondary dwellings in RU1 and RU2 zones**

Directorate: Sustainable Environment and Economy
Report Author: Julie Francombe, Strategic Planner
File No: I2015/1106
Theme: Ecology
 Planning Policy and Natural Environment

Summary:

This report presents the public exhibition outcomes to the draft amendments to Byron DCP 2014 for dual occupancies (detached) and secondary dwellings in RU1 and RU2 zones. The draft amendments bring the DCP into line with recent changes to the Byron LEP 2014 that permit dual occupancies (detached) and secondary dwellings with consent in the RU1 and RU2 zones.

The draft amendments to Byron DCP 2014, Chapter D2 (Residential Accommodation and Ancillary Development in Rural Zones) were placed on public exhibition for a period of 6 weeks during July - August 2015. Two public submissions were received and are discussed in this report.

It is recommended that Council adopt draft Chapter D2 as publicly exhibited. If Chapter D2 is approved as recommended, notice of the decision must be published in a local newspaper within 28 days of the decision being made. The amended Chapter D2 will become effective on the day that notice of the decision is published.

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 adopt draft Chapter D2 of Byron Development Control Plan 2014, as publicly exhibited and included at Attachment 1, and that notice of the decision be published in a local newspaper within 28 days of this decision being made.

Attachments:

- 1 Amended Chapter D2 as publicly exhibited, E2015/22176
- 2 Confidential - Submissions to DCP 2014 Chapter D2 , E2015/59280
- 3 Form of Special Disclosure of Pecuniary Interest, E2012/2815

Report

Council at its Ordinary Meeting of 11 June 2015 considered the need to amend Byron DCP 2014 Chapter D2 (Residential Accommodation and Ancillary Development in Rural Zones) and resolved:

“15-251 Resolved:

1. *That the proposed changes to Byron DCP 2014 Chapter D2 (Residential Accommodation and Ancillary Development in Rural Zones) in Attachment 1, be exhibited for a period of six weeks; and*
2. *That, if no submissions are received in response to the public exhibition of Byron DCP 2014 Chapter D2 (Residential Accommodation and Ancillary Development in Rural Zones), Council approve the amended Chapter of the DCP, and that notice of the decision be published in local newspaper within 28 days after the close of the public exhibition (deemed approval date).”*

The proposed amendments to the DCP reflect the location, siting and design issues raised by permitting detached dual occupancy dwellings and secondary dwellings in the RU1 and RU2 zones (refer to Attachment 1). The amended Chapter D2 was placed on public exhibition for a period of 6 weeks from 16 July 2015 until 27 August 2015. Two public submissions were received; the issues raised are discussed below. One other submission was received that addresses DCP provisions relating to rural workers dwellings. These provisions were not on public exhibition so the submission has not been discussed in this report. The above submissions are contained in Attachment 2.

Issues raised in public submissions

The submissions request Council to amend the draft DCP provisions to acknowledge situations where unapproved dwellings already exist and their location is fixed. It is requested that the requirements for a 100 metre separation distance between dwellings and a common access point not be applied to existing unapproved dwellings. One submission states:

“In circumstances where two buildings already exist on a property, any proposal for dual occupancy or secondary dwellings would include the buildings becoming approved dwellings. It should thus be acknowledged that in cases where buildings already exist, that separation distance and access location is fixed and may well be more than 100m.”

The second submission states that amending the DCP provisions to recognise circumstances where two buildings already exist *“will allow for numerous cases of compliance to be resolved and further assist with the provision of housing.”* The submission includes suggested changes to Chapter D2, clause D2.5.2 *Character and Siting of Dwellings* which includes limiting these development controls to new dwellings only (refer to submissions in Attachment 2).

Comment

Byron LEP 2014 Amendment No.3, which became effective on 17 July 2015, permits dual occupancies (detached) and secondary dwellings in the RU1 and RU2 zones with Council consent. The 100 metre separation distance between dwellings and a common driveway access are development controls under clause 4.2D (2) *Erection of dual occupancies and (detached) and secondary dwellings in zones RU1 and RU2* of LEP 2014. These LEP controls apply equally to existing and new dwellings and as such it is not possible to include provisions in the DCP that limit these development controls to new dwellings only.

The issue of varying the controls for existing unapproved dwellings was considered by Council at the time the LEP amendment submissions were reported. The following was noted in the submissions report to Council on 11 June 2015:

“The proposed controls are subject to Clause 4.6 of Byron LEP 2014 (Exceptions to Development Standards) which specifically allows for flexibility in numerical standards if its justified in the circumstances. So a merit case for any development standard (except the floor space of a secondary dwelling) can be submitted to Council, to achieve better development outcomes.

- 5 *Whether or not this can be justified for an unapproved dwelling will depend on the merits of the case. “*

Recommendation

No change.

10

Financial Implications

As a Council initiated DCP amendment the administration cost has been met by Council.

15 **Statutory and Policy Compliance Implications**

Council has followed the statutory process to amend Byron DCP 2014. Council should now consider the submissions received and issues raised, and decide whether to approve the amended DCP (either with or without amendments).

STAFF REPORTS - INFRASTRUCTURE SERVICES**Report No. 13.4****Implications and Potential Locations of a BMX Track****Directorate:** Infrastructure Services**Report Author:** Michael Matthews, Manager Open Space and Resource Recovery**File No:** I2015/803**Theme:** Community Infrastructure
Open Space and Recreation**Summary:**

Members of the Suffolk Park community have been calling upon Council to provide BMX infrastructure for the local community.

A review of local constraints relating to the establishment of BMX infrastructure within the Suffolk Park community has lead staff to look shire wide for a suitable alternative location.

The Cavanbah centre has been identified as a suitable site for a BMX pump track due to existing designated space, local site amenities and minimal constraints.

RECOMMENDATION:

That Council gives preference for a pump track to be built at the Cavanbah Centre:

- a) The pump track proponents are equipped with design components of the modular systems available in Australia to allow for the development of a preferred design that will fit within the designated area.**
- b) Costing of the project be prepared and funding sources identified by staff.**
- c) A further report is tabled for Council showing the resultant details for consideration.**

Report

- 5 At Council's Ordinary meeting 16 July 2015, Council resolved (Res 15-328) that Council receive a report on the implications of facilitating a BMX track or pump track within the Shire and to list possible locations.
- Members of the Suffolk Park community have been calling upon Council to provide a Pump Track or similar facility to allow for BMX sporting activities.
- 10 Without a dedicated area in the shire, residents have been building mounds in various drainage and riparian reserves. These informal BMX tracks are in unapproved and inappropriate locations that present risks to the local environment.
- 15 Originally it was requested to investigate space for a BMX facility at Suffolk Park, in particular the sports field and skate park area off Beach Drive, Suffolk Park.
- 20 This has been previously considered and rejected due to close proximity to residents, potential noise impacts and Department of Education current ownership of the land. Advice received from the department in 2013 advised that the land remains designated for a future school.
- Other Council owned/managed land in Suffolk Park includes Gaggin Park (informal passive open space) and the land surrounding the lake on Beech Drive (close proximity to residences).
- 25 Over 100 Council managed land reserves have been reviewed, with this list being further reduced to the 6 locations as possible locations for BMX infrastructure.
- 30 The Cavanbah Centre
Brunswick Heads Recreation Ground
Mullumbimby Recreation Ground Sportsfields
Waterlily Park
Butler street Market ground/park
Brunswick Heads Recreation Ground
- 35 Further review has identified the Cavanbah Centre as the most suitable as a designated location for formal BMX sporting activities. The attached map (Cavanbah Sports Centre) identifies a specific area (in red) that was designated for a skate park within the original DA; consequently it carries approval for BMX activity.



Pump tracks can either be formed from soil or as a transportable modular system. (Refer to the below visual examples)

5





5 Financial Implications

The funding required will be dependant on the detailed design of the infrastructure that may be presented in further reports.

10 Statutory and Policy Compliance Implications

The Cavanbah Centre has approval and designated space for infrastructure to support BMX activities.

Report No. 13.5 **Biobanking for Byron Bay Bypass - Dedication of Land**
Directorate: Infrastructure Services
Report Author: Simon Millichamp, Project Manager - Byron Bypass
File No: I2015/845
Theme: Community Infrastructure
 Local Roads and Drainage

Summary:

A BioBanking Statement Application has been lodged with NSW Office of Environment and Heritage (OEH) as part of the Byron Bay Bypass EIS process. A biobanking statement is an alternative to Part 5A (the assessment of significance) under the NSW *Environmental Planning and Assessment Act 1979* (EPA Act.). It is used as a method to address the loss of biodiversity and threatened species from a development, and relies on identifying adjacent suitable land parcels that are dedicated for perpetuity (and maintained) by Council.

The project team (with advice from GHD and Council staff) are using biobanking for the Byron Bay Bypass project and have identified two land parcels (Lot 2 on DP 706286 and Lot 66 on DP 863772), for establishment of a biobank. These parcels are partially dedicated to other functions. There are no suitable alternative sites that are owned by Council that are close enough to the Bypass development that could be used as a biobank.

Approximately 10-11ha of suitable land is required for use as a biobank site. This report recommends that Council confirm its commitment to BioBanking for the Bypass project and resolves to dedicate the balance of the two parcels of land for perpetuity as an offset to the impact of the construction of the Bypass. Any surplus land within these sites could be used for future offsets or the credits sold on the open market.

RECOMMENDATION:

That Council dedicates the balance of two parcels of land, Lot 2 in DP 706286 and Lot 66 in DP 863772, for the purposes of BioBanking, as an offset to the impact of the construction of the Byron Bay Bypass.

Attachments:

- 1 Byron Bay Bypass - Proposed Biobanking Sites., E2015/60248
- 2 Proposed Byron Bay STP Biobanking Site, E2015/60249
- 3 Proposed Byron Bay Lilli Pilli Biobanking Site, E2015/60250

Report

Land Information

Lot 2 on DP 706286 Bayshore Drive, Byron Bay (Byron Bay STP)

- 5 Total lot size: 1,036,183m²
 Available area: approx 396,000m² (39ha)
 Owner – Byron Shire Council (Sewer fund)
 Byron LEP 2014 Zone – DM Deferred Matter
 Byron LEP 1988 Zone – part zoned 7A Wetlands Zone and 5A Special Use Zone (STP)
 10 Only approximately 39ha in the north-west corner of this site may be available, as the
 balance of the site is used as part of the Byron STP site.

Lot 66 on DP 863772 Lilli Pilli Drive, Byron Bay

- 15 Total lot size: 76,010m²
 Available area: approx 76,010m²
 Owner – Byron Shire Council
 Byron LEP 2014 Zone – DM Deferred Matter
 Byron LEP 1988 Zone – 7A Wetlands Zone
 20 This land has been under management/ restoration since 2010 through previous NSW
 Environment Trust funded project – Bush Futures. This site would be subject to ‘additionality’
 – see details below.

- 25 Council is progressing the implementation of the Byron Bay Town Centre Bypass on the resolved
 Butler Street route. The southern portion of the bypass route (within the Butler Street road
 reserve) is within the Cumbebin Swamp, which is SEPP 14 wetland. Accordingly, an EIS for the
 project has been completed, a DA lodged to Council and concurrently, a BioBanking Statement
 Application has been lodged with NSW Office of Environment and Heritage (OEH).

- 30 A biobanking statement is an alternative to Part 5A (the assessment of significance) under the
 NSW *Environmental Planning and Assessment Act 1979* (EPA Act.). It is used as a method to
 address the loss of biodiversity and threatened species from a development, and relies on
 identifying adjacent suitable land parcels that are dedicated for perpetuity (and maintained) by
 Council. The project team (with advice from GHD) are using biobanking for the Byron Bay Bypass
 project. It is less time consuming and costly to undertake than the traditional Part 5A assessment.

- 35 Both the DA and BioBanking Statement Application are currently being assessed (by Council and
 OEH respectively). Once Council planners have completed their assessment, it will be referred to
 the Joint Regional Planning Panel (JRPP) for determination. Subject to final project approval,
 construction of the road and related works is scheduled to commence in March 2016.

- 40 However, the DA assessment cannot be completed until the BioBanking Statement has been
 approved by OEH. Once the BioBanking Statement Application is approved, a BioBanking
 Agreement will be established between OEH and Council. To ensure this agreement can be
 established, Council must dedicate (for perpetuity) suitably sized land parcels of sufficient
 45 biodiversity value as an offset to the impacts of the Bypass construction in the Cumbebin Swamp.

- 50 Approximately 10-11ha of suitable land is required for use as a biobank site. Accordingly, the
 project team and GHD biobanking experts and Council staff have identified two parcels of land
 (detailed above) that are potentially suitable as biobank sites for the offsets required for this
 project. Refer to attachments E2015/60248, E2015/60249, E2015/60250 for maps of the land
 parcels. There are no suitable alternative sites that are owned by Council that are close enough to
 the Bypass development that could be used as a biobank.

- 55 Byron Bay STP – meets Plant Community Type (PCT 1934 + 1942 + 1937 + 1967 + 1011); good
 patches also of Swamp Mahogany dominated areas (primary Koala food tree), same soil type,

suitable habitat for Black Bittern and Bush Hen as there is a large drain acting as a waterway (connects with tea-tree lake in Tyagarah Nature Reserve, contains water most of year) as well as natural and artificial ponds and very dense ground-layer vegetation. Wallum Froglet, Wallum sedge frog, Koala and Grass Owl are bonus species recorded on the site which will generate additional species credits that could be sold or used for other projects potentially. It is Operational land zoned 5a so this site has development potential and will gain value through 'averted loss' score. Not suitable habitat for Mitchell's Rainforest Snail.

Lilli-Pilli Crescent – meets PCT (1928), same soil type as Bypass impact area, closest to impact site, and is perfect for Mitchells Rainforest Snail (rainforest understorey with Bangalow Palms) – in fact there are at least eight Mitchells records within 1km of the site, with the closest within 30m. Council staff have undertaken background research to try to see whether this parcel was required as an offset for the surrounding subdivision but have not found the parent parcel as yet. Council staff have advised that the Lilli Pilli parcel of land (Lot 66 on DP 863772) has been restored/ managed by our bush regeneration teams since 2010 through previous NSW Environment Trust funded project – Bush Futures. The Lilli Pilli site has been improved from its original condition and hence would not be as valuable under a biobanking agreement, but could form part of a larger biobank. The site would be subjected to 'additionality' (due to 3rd party funding and improvements that have already been made to the site), meaning we would not get as many credits per ha as other sites.

This report recommends that Council confirm its commitment to BioBanking for the Bypass project and resolves to dedicate the balance of the two parcels of land for perpetuity as an offset to the impact of the construction of the Bypass. Any surplus land within these sites could be used for future offsets or the credits sold on the open market.

If the DA for the Bypass is not approved, Council can utilise these land parcels as a biobanking site for future projects, or possibly sell the biobanking credits to a developer (whilst maintaining ownership of the land).

If the BioBanking Statement Application is refused by OEH, except in the case of compulsory development (as per Section 127ZM (7) of the TSC Amendment (Biodiversity BioBanking Act 2006, No 125)), Council will still be able to apply for development consent, and the normal threatened species assessment provisions will apply ((i.e. the Part 5A (the assessment of significance) under the NSW *Environmental Planning and Assessment Act 1979* (EPA Act.)).

Financial Implications

Council own the two proposed land parcels. There is no cost associated with land purchase. Council has already paid \$10,545 to OEH for the Statement application fee.

The fee associated with a BioBanking Agreement application is \$696.

A cost estimate of consultant's fees for assessment is dependent on the size of the offset but for budgeting purposes, Council should allow approximately \$20K for the biobanking assessment. Again, depending on the type and complexity of works required, an allowance of \$15K should be made for the detailed Management Actions Plan (MAP).

Once an Agreement is in place, there is an initial payment that Council makes to the trust fund. This is the Total Fund Deposit (TFD). Council makes this payment up front and it is held by the biobanking trust. An annual payment is returned to Council based on the TFD annual amounts. It is important to note that payments are in perpetuity as well. It is difficult to provide an estimate of this deposit, as items such as site condition (biodiversity value), fencing requirements, weed issues etc are not known. As an example GHD have completed a recent BioBank Agreement for a 40 ha site at Crescent Head (ID167) and that TFD was approx. \$220K (which includes all OEH project

management and reporting requirements, fencing and some weed control – the site was in fairly good condition).

5 The fund then provides annual payments to Council for the ongoing maintenance of the biobank. The value of these annual payments again depend on the site and the quantum of work required. As an example, the Crescent Head site mentioned above averaged \$10K for the first 20 years (ranging from \$25K in year 1 to approximately \$6K as the smallest) then approx. \$4K per annum in perpetuity.

10 There will be additional species credits generated for species not impacted such as Wallum Froglet and Koala. Both of these have a market emerging so there is a good opportunity to return funds to council over and above our needs (GHD already have a client needing Koala credits for a Tweed project for example).

15 More than one parcel can be placed under the same agreement so there will be no additional fees/paperwork etc for having both the STP and Lilli Pilli sites on the same agreement. However, Council may need to split Management Action Plans for each site and so clearly show on the Total Fund deposit which actions/costs are assigned to each parcel.

20 **Statutory and Policy Compliance Implications**

A biobanking statement for a development is an alternative to Part 5A (the assessment of significance) under the NSW Environmental Planning and Assessment Act 1979 (EPA Act.).

25 BioBanking is established under Part 7A of the NSW Threatened Species Conservation Act 1995 (TSC Act), which was enabled by the Threatened Species Conservation Amendment (Biodiversity Banking) Bill 2006. The Threatened Species Conservation (Biodiversity Banking) Regulation 2008 provides additional rules for specific aspects of the scheme that are important for its operation.

30 If a biobanking statement is refused, except in the case of compulsory development (as per Section 127ZM (7) of the TSC Amendment (Biodiversity BioBanking Act 2006, No 125)), developers will still be able to apply for development consent, and the normal threatened species assessment provisions will apply.

35 Council doesn't have any existing policy with regard to biobanking, but the Byron Biodiversity Conservation Strategy is the adopted Council strategy which deals with offsets.

Alternatives to BioBanking for offset of environmental impacts

40 If the project team were to have completed the Bypass impact assessment in accordance with traditional Part 5A assessment, an ecology assessment and 7-part test would have been required, which would have concluded likely significant impact and several threatened biota.

45 This would have 'triggered' the need for a Species Impact Statement (SIS). These assessments have proven to be costly (in excess of \$50K in his case) and time consuming (due to the survey requirements and timing for each of the threatened biota OEH included in the assessment).

50 The outcome from the SIS would have been that a suitable offset would be required. OEH now request that offsets put forward in SIS's be supported by the BioBanking Methodology (this creates rigour for OEH that the size and type of offsets being put forward is appropriate).

55 Once this has been determined the offset site then needs to be secured (this is the same situation we are in now). OEH's preferred method is to secure offsets via a biobanking agreement (which is also what we are doing) due to its secure covenant and inclusion of funds to rehabilitate and manage a site in perpetuity). There are other options available when completing a traditional SIS

but regardless OEH now insist on funds being made available upfront to ensure an offset site has the appropriate resources to be managed in accordance with what is proposed in the SIS. This is the same as the situation with using the Total Fund Deposit (TFD) attached to biobanking.

- 5 There may have been different pathways to get to securing a suitable offset site but the eventual costs would be similar, assessment costs can be higher, the time frame for the assessment longer and the negotiations with OEH more difficult and protracted.
- 10 One of the most important things to consider is that under a biobanking agreement the chosen site may have surplus credits (i.e. additional credits to that required by the Bypass project) and these could be sold on the open market to recover costs (eg: GHD already have a client in the Tweed looking for approx. 70 ecosystem credits). Alternatively, these could be used by Council to offset other projects.
- 15 Similarly, the offset site may produce additional species credits (brush-tailed phascogale, wallum froglet etc) that we do not need and these too could be sold on the open market to recover costs (or again, used by council to offset other projects). If Council secures the offset site by any other conservation mechanism these opportunities would not be available.

Report No. 13.6 **Draft Terms of Reference Belongil Catchment Advisory Committee**
Directorate: Infrastructure Services
Report Author: Peter Rees, Manager Utilities
File No: I2015/1187
5 **Theme:** Community Infrastructure
 Sewerage Services

Summary:

10 In accordance with resolution 15-236 Part 5 a draft constitution for the Belongil Catchment Advisory Committee is tabled for Council consideration.

RECOMMENDATION:

15 **That Council adopt the draft constitution for the Belongil Catchment Advisory Committee.**

Attachments:

1 Draft Constitution - Belongil Catchment Advisory Committee, E2015/61093

20 1.

Report

At the ordinary Council Meeting on 21 May 2015, Council resolved

5 Res 15-236 Part 6

That Council create a new Advisory Committee to advise on priorities and on integration of the various Plans and Strategies listed in today's Report 13.17 plus agreements that may be reached as above, and on other catchment issues within Belongil catchment.

10

Accordingly a draft constitution for the Belongil Catchment Advisory Committee is tabled for Council's consideration.

15

It is recommended the Community members be determined through an expression of interest process. As the Committee is intended to advise on the coordination and implementation of actions in existing plans and strategies for the Catchment, no additional agency representation on the Committee is required.

Financial Implications

20

The administrative functions associated with the Advisory Committee will be undertaken using existing staff resources in Infrastructure Services. Potential costs associated with the Advisory Committee may include advertising costs and expenses related to catering and meeting room hire. These costs are not anticipated to be large and will be met from the Sewer fund operational account 7205.004 Treatment Effluent Management.

25

Statutory and Policy Compliance Implications

30

It is anticipated the Advisory Committee focus will be on coordination and prioritisation of Catchment actions already identified in the various plans and strategies already developed for the Belongil Catchment. There are no Statutory or Policy implications.

Report No. 13.7 Time limits for Pay Parking and Resident Permit Parking Areas Byron Bay Parking Study

Directorate: Infrastructure Services
Report Author: Simon Bennett, Traffic and Transport Planner
File No: I2015/1188
Theme: Community Infrastructure
 Local Roads and Drainage

Summary:

The report on the 1 September 2015 meeting of the Transport Advisory Committee (TrAC) is to be considered by the Council 8 October 2015. At that TrAC meeting the committee convened in workshop format to review time limits site by site, street by street in regard to both the pay parking and resident parking permit areas.

Both schemes have evolved since being recommended by the Byron Bay Parking Study as originally tabled on the 22 May 2014 and have been the subject of subsequent staff-Councillor workshop presentations and discussion (24th September) except for the geographical coverage of both pay parking and the resident scheme being confirmed respectively on 21 May 2015 by Parts 2 and 3 of Resolution 15-235.

However, through the Committee and Councillor workshops held since, it became apparent that further clarification of the boundaries of each scheme, plus the time limits and the exemptions to apply within each location, were required.

Accordingly, this report seeks to provide such clarity in the detailed recommendations now made, noting that those same recommendations were presented to the Councillor strategic planning workshop as held 24 September 2015.

It should also be noted that the proposals outlined in this report will be considered at the Local Traffic Committee meeting to be held on 7 October 2015. Should any issues arise at that meeting they will be verbally conveyed to the Council meeting on 8 October.

RECOMMENDATION:

1. That Council proceed with pay parking as follows, which unless stated otherwise applies within current general permissive parking sites seven (7) days a week including public holidays between 9am and 6pm:
 - a) on Shirley Street, east of Milton Street, which remains as no time limit on the north side and four hour (4P) limit be introduced on the south side;
 - b) on Wordsworth Street, on the length from Shirley Street to its end, remain as existing, being a mix of two hour (2P) and four hour (4P) limit west side and no time limit on the east side;
 - c) on Butler Street Reserve and on Butler Street between:
 - i) Lawson Street and the culvert, which is currently no time limit be signed as four hour (4P);
 - ii) the culvert and Somerset Street, remain "No Parking" on the east side and no time limit on the west side;
 - iii) Somerset Street and Burns Street, not introduce pay parking and on the east

- side remain as no time limit at all times except when the existing overnight “No Parking” applies, and on the west side be part of the Butler Street precinct of the Resident Parking Permit Scheme;
- iv) Burns Street and the entry to Glen Villa Holiday Park Resort be part of the Butler Street precinct of the Resident Parking Permit Scheme.
- d) on Somerset Street, from Butler Street (to its western end), remain as no time limit on the north side and the south side be part of the Butler Street precinct Resident Parking Permit Scheme;
- e) on Burns Street, between Butler Street and Wordsworth Street, be part of the Butler Street precinct Resident Parking Permit Scheme;
- f) as on and within areas bounded by Jonson Street, Bay Street, Middleton Street and Byron Street, time limits remain unchanged except that:
- i) Bay Street, south side between Jonson Street and Fletcher Street be reduced from a four hour (4P) time limit to a two hour (2P) limit;
 - ii) Middleton Street, west side between Bay Street and Bay Lane be “No Stopping” subject to the opening of the new adjacent car park; and
 - iii) a Loading Zone on Middleton Street, east side, south of Lawson Street effective on Wednesday 1pm-6pm and Thursday 9am – 12noon.
- g) Lawson Street, from Middleton Street to Massinger Street remain as no time limit;
- h) as located south of Byron Street, and on and east of Jonson Street, west of Tennyson Street and north of Browning Street, time limits remain unchanged except:
- i) east side of Jonson Street, south of Byron Street and prior to the pedestrian crossing, provide four (4) spaces that apply a 30-minute time limit, for example near the frontage of the corner shop, newsagent and chemist;
 - ii) the school side of Middleton Street and Carlyle Street, as adjacent to the Byron Bay Public School, be a 30 minute time limit during which free parking applies and is effective between 8am-10am and 2-4pm (School Days only), and no time limit apply at other times;
 - iii) Carlyle Street, between Middleton Street and Jonson Street be a two hour (2P) time limit;
 - iv) Kingsley Street, between Middleton Street and Jonson Street on the south side remain no time limit and north side be changed to a two hour (2P) limit;
 - v) within the Schools precinct Resident Parking Permit Scheme which includes and bounded by Kingsley Street between Middleton Street and Tennyson Street, Browning Street, west of Tennyson Street and east of Jonson Street;
 - vi) Jonson Street, between Kingsley Street and Browning Street be changed from a one hour (1P) limit to “no time” limit.
- i) Council’s car parks including Lawson Street North, Lawson Street South, Main Beach, Clarks Beach and Middleton Street as located between Bay Street and Lawson Street, all of which remain four hour (4P) time limit except Byron Street car park, as located between Byron Street and Fletcher Lane, which is to be no

time limit on the western side and a four hour (4P) time limit on the eastern side.

2. That a Resident Parking Permit Scheme apply on-street as follows:

- a) the Butler Street Precinct, which includes and bounded by Butler Street between and including south side of Somerset Street to the Glen Villa Holiday Park entry, and Burns Street between Butler Street and Wordsworth Street and that residential tenants:**
 - i) within the precinct receive two (2) free permits per household that upon their correct display exempt them from the on-street time limit restrictions which apply in that precinct only; and**
 - ii) be consulted upon regarding the proposed time limits, being a two hour (2P) time limit applying seven days a week including public holidays between 9am and 6pm.**
- b) the Schools Precinct , which includes and bounded by Kingsley Street between Middleton Street and Tennyson Street, Browning Street, west of Tennyson Street and east of Jonson Street and that:**
 - i) residential tenants within the precinct receive two (2) free permits per household;**
 - ii) the Byron Bay Public School receive free permits, with the quantity provided and their use subject of agreement between the school and Council management;**
 - iii) upon correct display, the permit exempts a vehicle from the on-street time limit restrictions which apply in that precinct only;**
 - ii) the proposed permit holders be consulted with in regard to the proposed time limit of a two hour (2P) time limit applying seven days a week including public holidays between 9am and 6pm.**
- c) the areas bounded by east of Tennyson Street, north of Browning Street and west of and including Massinger Street, and that residential tenants:**
 - i) within the precinct receive two (2) free permits per household that upon their correct display exempt them from the on-street time limit restrictions which apply in their street block only; and**
 - ii) be consulted upon regarding the proposed time limits, being a four hour (4P) time limit applying seven days a week including public holidays between 9am and 6pm.**

Report

The report makes various parking time limit recommendations in regard to both the Pay Parking Area and the Resident Parking Permit Scheme. These recommendations are made after due consideration by Council's Transport Advisory Committee Meeting (TRaC) as held 1 September 2015 and Councillor Strategic Planning Workshop of 24 September 2015.

The following maps cross reference with the extensive details of the recommendations made.

Figure 1: relates to recommendation 1(a) – (1e) inclusive and 2(a)

NB: Solid line = time limit remains same as existing; Dashed line = time limit change proposed



Figure 2: relates to recommendation 1(f) – (1g) inclusive

NB: Solid line = time limit remains same as existing; Dashed line = time limit change proposed

5

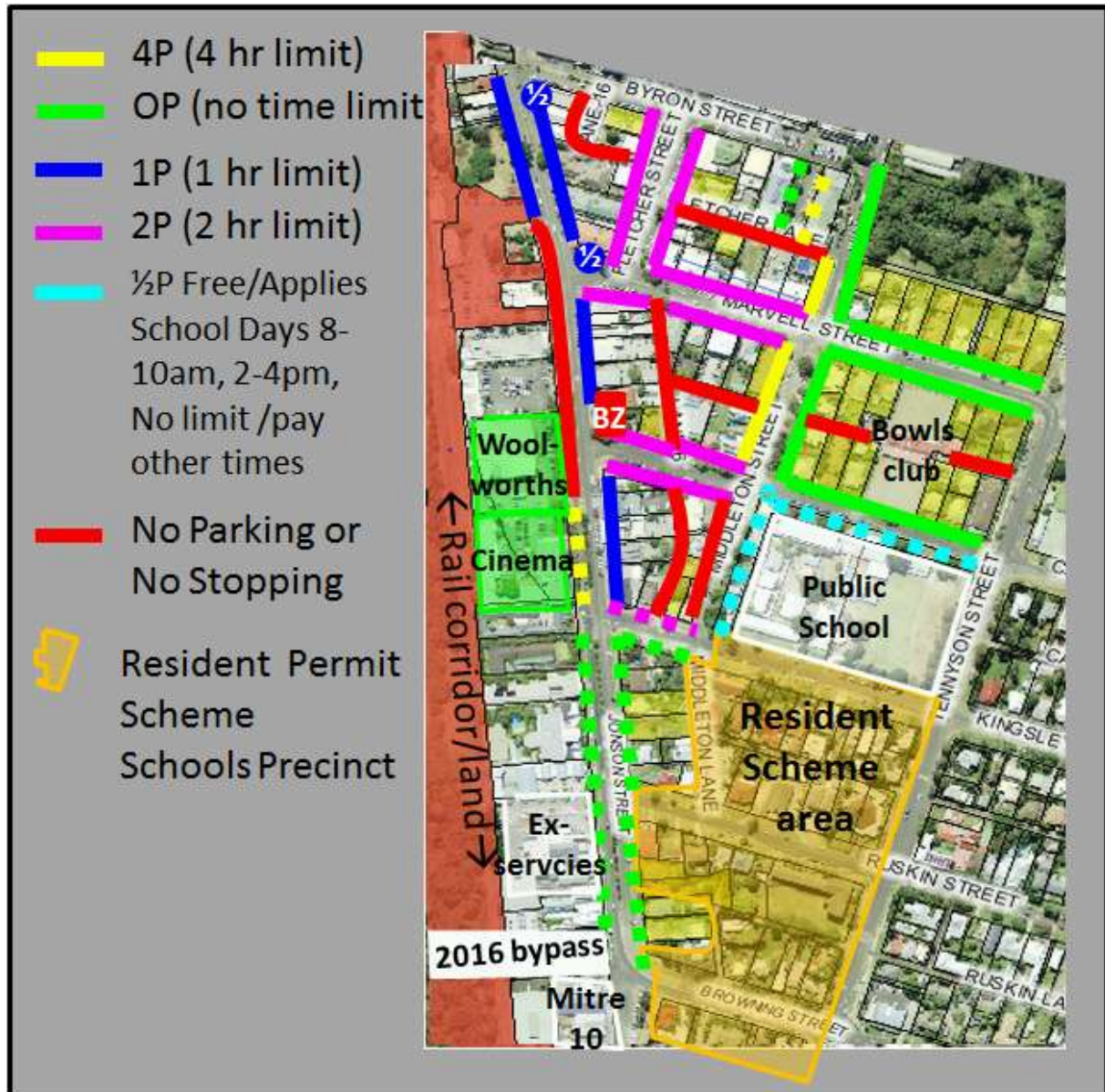


10

Figure 3: relates to recommendation 1(h) inclusive

NB: Solid line = time limit remains same as existing; Dashed line = time limit change proposed

5



Financial Implications

10 Nil at this time.

Statutory and Policy Compliance Implications

Local Traffic Committee (LTC) approval is required given the regulatory status of time limits.

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 14.1 Report of the Sustainable Economy Committee Meeting held on 3 September 2015

Directorate: Sustainable Environment and Economy
Report Author: Joylene McNamara, Senior Administration Officer
File No: I2015/1087
Theme: Economy
 Economic Development

Summary:

The newly formed Sustainable Economy Committee held its second meeting on Thursday 3 September. The Agenda and Minutes of this meeting are attached. The recommendations of the meeting are held within this report.

RECOMMENDATION:

1. That Council note the minutes of the Sustainable Economy Committee Meeting held on 3 September 2015.

2. That Council adopt the following Committee Recommendation(s):

Report No. 5.1 Economic Development Strategy - Enterprising Byron 2025
 File No: I2015/839

Committee Recommendation 5.1.1

1. That the Sustainable Economy Committee note the report and draft strategy overview to be presented and discussed during the session provided on Thursday 3 September 2015.
2. That the Sustainable Economy Committee schedule a workshop at a date to be determined in October 2015, to review, discuss and progress the Economic Development Strategy.
3. That the Sustainable Economy Committee review the draft Economic Development Strategy and support documentation and provide their feedback from the workshop by email by 17 September 2015.
4. That the Tourism Management Plan be emailed to all members of the Sustainable Economy Committee.

3. That Council adopt the following Committee Recommendation(s):

Report No. 5.2 Whale Trail and Foreshore Signage Project
 File No: I2015/840

Committee Recommendation 5.2.1

1. That the Sustainable Economy Committee receive and note the report as part of the tourism update.

2. That Cr Cameron and Meredith Wray, as members of the Sustainable Economy Committee, be involved in discussions with the Economic Development and Tourism team and project stakeholders.
 3. That the Sustainable Economy Committee emphasise the importance of consistency and alignment with the Byron identity.
 4. That consideration be given to visible information and changing consumer behaviours in relation to QR codes, mobile apps and other technologies to ensure appeal to a broad range of visitor audiences.
4. That Council adopt the following Committee Recommendation(s):

Report No. 5.3 Update on Council's progress with events

File No: I2015/846

Committee Recommendation 5.3.1

1. That the Sustainable Economy Committee receive and note the report and associated presentation.
2. That the Events Toolkit align with the Byron brand images, logos and information.
3. That feedback on the Events Toolkit be invited from the Sustainable Economy Committee members and Councillors.
4. The Sustainable Environment Committee acknowledges and thanks Claire McGarry for the work that has been undertaken to develop the toolkit to assist event organisers.

5 Attachments:

- 1 Minutes of Sustainable Economy Committee held on 3 September 2015, I2015/941

Report

5 The attachment to this report provides the minutes of the Sustainable Economy Committee Meeting of 3 September 2015 for determination by Council. The following link is the Agenda for that meeting http://byron.infocouncil.biz/Open/2015/09/SUS_03092015_AGN_443.PDF.

10 An invitation was provided to Councillors to attend the 3 September meeting specifically to get an update on the Economic Development Strategy (Enterprising Byron 2025). The SEC decided to hold an additional workshop on the Economic Development Strategy and assist in its further progression. The workshop is proposed for Thursday 22 October, 2015. Councillors are welcome to attend.

Financial Implications

15 As per the Reports listed within the Sustainable Economy Committee Meeting of 3 September 2015.

Statutory and Policy Compliance Implications

20 As per the Reports listed within the Sustainable Economy Committee Meeting of 3 September 2015.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.2 Report of the Transport Advisory Committee Meeting held on 1 September 2015

Directorate: Infrastructure Services
Report Author: Simon Bennett, Traffic and Transport Planner
File No: I2015/1109
Theme: Community Infrastructure
 Local Roads and Drainage

Summary:

Council has resolved to implement both pay parking and a resident parking permit scheme in Byron Bay. An outstanding matter is that of time limits.

To address such, and in lieu of a written report and the potential complexity or concern of such changes, the Transport Advisory Committee meeting of 1 September 2015 was convened in a workshop format.

By doing so, a site and street specific review was undertaken which has informed a presentation to be made to the Councillor strategic planning workshop on 24 September 2015, which in turn will be tabled to the Local Traffic Committee and Council during October.

As for the contents and recommendation of this report, the workshop format also raised specific matters in regard to Butler Street Reserve, the verification process of workers and volunteers for exemptions and the preference it be done via their respective organisation and preferably via them holding a single account and the ability they can add, remove and transfer exemptions from vehicles as they require.

On a separate matter, and prior to convening in workshop format, the Committee also heard representation from Sapoty Brooke, local resident and member of the Transport Working Group of the Byron Bay chapter of the national Beyond Zero Emissions (BZE); a not-for-profit research and education organisation. To strengthen ties between Council and the group Mr. Brooke was encouraged by the Committee to apply for membership, which he has since done and recommendation is made accordingly.

RECOMMENDATION:

1. That Council note the minutes of the Transport Advisory Committee Meeting held on 1 September 2015.
2. That Council appoints Sapoty Brook as a community representative for membership of the Transport Advisory Committee and that the Constitution of the Committee be amended if and where necessary to facilitate these changes in membership.
3. That Council notes that the Committee has reviewed time limits in regard to the Byron Bay parking study which will inform a forthcoming staff report on the subject and is the basis of the presentation at the 24 September 2015 Councillor strategic planning workshop.
4. That in noting the Committee concerns regarding Butler Street Reserve, including the potential it will at most times be under utilised and a site of last choice, Council

receive a report that considers but not limited to the matters to be raised in the staff cover report to Council (I2015/1109).

- 5. That the forthcoming staff report on exemptions and criteria, as called for by Part 2 of Resolution 15-378, also consider the following Committee recommendations:**
- a) that the volunteer and worker exemption be only made available to the individuals via their respective Council recognised volunteer organisation or place of employment on the basis that such organisations:**
 - i) have a physical premises within the pay parking area;**
 - ii) open and hold a single account, similar to an eTag account, whereby they as the account holder can verify those who are eligible or not for such an exemption;**
 - iii) as account holder, can remove, add and transfer exemptions as needed;**
 - iv) are responsible for the payment of the account; and**
 - v) accept that Council staff can, with notice, audit, cease or decline any account or request for such.**
 - b) that given the above, the same report also detail criteria:**
 - i) of a Council recognised volunteer organisation or place of employment; and**
 - ii) regarding the circumstances that staff would issue notice or undertake audit of an account held, or cease or decline any account or request for such.**

Report

The attachment to this report provides the minutes of the Transport Advisory Committee Meeting of 1 September 2015 for determination by Council. The following report provides details of the recommendations made.

Committee Recommendation #1

That Council note the minutes of the Transport Advisory Committee Meeting held on 1 September 2015.

Management Comments

Nil

Committee Recommendation #2

That Council appoints Sapoty Brook as a community representative for membership of the Transport Advisory Committee and that the Constitution of the Committee be amended if and where necessary to facilitate these changes in membership.

Management Comments

While supported, it is noted this appointment is made following the recently closed nomination period which Council resolved to accept three new members and thereby brings the Committee numbers to ten (10) in total being:

- Four councillors;
- One public transport provider;
- Five community members.

At this stage the next scheduled Committee meeting for 1 October will not proceed due to the extra ordinary meeting be held for the purpose of pay parking, which given its priority means that most likely an alternate date will not be found and therefore the new look committee will not convene until the scheduled 1 December meeting .

Committee Recommendation #3

That Council notes that the Committee has reviewed time limits in regard to the Byron Bay parking study which will inform a forthcoming staff report on the subject and is the basis of the presentation at the 24 September 2015 Councillor strategic planning workshop.

Management Comments

Through the process of a workshop format, the Committee considered implication of time limits in specific streets and sites. While that detail will inform and be subject of both a staff presentation to Councillors (as held 24 September) and separate forthcoming report (in October) to both Council and the Local Traffic Committee, the review did also highlight the following as per Recommendations made at number 4 and 5 .

Committee Recommendation #4

That in noting the Committee concerns regarding Butler Street Reserve, including the potential it will at most times be under utilised and a site of last choice, Council receive a report that considers but not limited to the matters to be raised in the staff cover report to Council (I2015/1109).

Management Comments

The Committee seek a report in regard to the use of Butler Street Reserve given the following was highlighted through the discussions held, namely concern that Resolution 15-370 as rescinded by 15-368 and was subsequently superseded by 15-378 which as copied further below has:

- a) in Part 2, provided an annual exemption to paying the meter to those who live outside the shire yet work or volunteer within the pay paying area, thereby allowing them to park anywhere within it and not just upon Butler Street Reserve as originally intended; and
- b) in Part 3, maintained the \$20 all day cap despite reducing the hourly rate from \$4 to \$3, and in doing so means the benefit of the cap is only derived in and from the seventh hour of parking and not the fifth hour as originally intended, thereby reducing incentive further to park at the site.

In considering the above, the view was formed that both have the potential to reduce the incentive to park upon the Reserve and therefore Committee discussion included the need to consider the 'target' market (i.e. who and why will they park there) and at what times demand for the site will occur (potentially peak times only).

Therefore the Committee have recommended a report to Council be brought forward that considers such issues. Given such an opportunity is likely, staff also offer the following considerations for such a report, that is:

- a) the site remain as all day parking as intended, 6am to 6pm but pay parking only apply as elsewhere within the scheme, that is between 9am and 6pm including public holidays for both consistency across the scheme and incentive for those that need to park earlier than 9am and thereby have those hours available free of charge;
- b) consider change to hourly or day rates to encourage greater uptake,
- c) determine the number of spaces and infrastructure or capital upgrade requirements and costs, including hard stand, fencing, paths and lighting, etc
- d) management of the site, be it meter or boom-gates and resourcing,
- e) the use of exemptions, or not given they can park elsewhere,
- f) potential of cost-existence with the weekly Farmers markets and/or Sunday markets given the potential for low or seasonal only demand
- g) impacts of the bypass construction
- h) consider sites that may offer priority and potentially preferred, such as formal parking/upgrades upon rail land at the Rails Hotel area and south of the Lawson Street south car park.

Committee Recommendation #5

That the forthcoming staff report on exemptions and criteria, as called for by Part 2 of Resolution 15-378, also consider the following Committee recommendations:

a) *that the volunteer and worker exemption be only made available to the individuals via their respective Council recognised volunteer organisation or place of employment on the basis that such organisations:*

- 5 i) *have a physical premises within the pay parking area;*
- ii) *open and hold a single account, similar to an eTag account, whereby they as the account holder can verify those who are eligible or not for such an exemption;*
- iii) *as account holder, can remove, add and transfer exemptions as needed;*
- iv) *are responsible for the payment of the account; and*
- 10 v) *accept that Council staff can, with notice, audit, cease or decline any account or request for such.*

b) *that given the above, the same report also detail criteria:*

- 15 i) *of a Council recognised volunteer organisation or place of employment; and*
- ii) *regarding the circumstances that staff would issue notice or undertake audit of an account held, or cease or decline any account or request for such.*

Management Comments

20 The Committee recommend further details be considered by the report as called for by Part 2 of Resolution 15-378, which as copied (in full) further below also provides an annual exemption to paying the meter to those who live outside the shire yet work or volunteer within the pay paying area.

25 Committee discussion revolved around criteria for such and the potential extra administrative load for Council and the burden of proof for both Council and the individual.

30 Therefore in efforts to address this and simplify the process for both the applicant and Council, benefit was perceived in that such exemptions be applied for and approved by the organisation responsible for the individuals engagement, subject to that organisation first applying to Council for and being approved for an account.

35 Akin to an eTag account, the concept is that once the account is established the workplace or the volunteer organisation can via an online process add, remove or transfer exemptions as their demands require it.

40 In doing so the organisation can pay for one exemption but allow it be used by many people, subject to the number of exemptions being accessed at any one time equates to the number purchased.

45 For example an organisation with a number of volunteers or employees establishes the single account for free, but will need to pay the annual amount for each exemption they wish to 'activate', and therefore leaving it to them to decide how many they need to purchase and if they will foot the bill or recoup the amount from the individual they verify.

50 Then once entered, the licence plate as associated with the account receives the exemption. If only one exemption has been purchased but numerous vehicles are attached to it, only one vehicle will be able to access the exemption at any one time. If two exemptions are purchased, then only two vehicles will be able to access the exemption at any one time, etc.

If such a process can be achieved (subject to supplier capabilities) this will place the onus back on the organisation not Council to manage, verify and pay for the exemptions required.

Also by making it transferable the one annual exemption can be allocated to another vehicle, for example an employee leaves their employment meaning the workplace is responsible for removing their details from the account and adding the details of the new employee to their account.

- 5 While there is potential for fraudulent use in such a system (e.g. charging a new employee for full amount for a new exemption despite an existing exemption still valid or loading friends or family vehicles into the account) the following safe guards will assist to deter and reduce the benefit of such behaviour, namely:
- 10 - that as described above, access to simultaneous use of exemptions on the account will be restricted to the number purchased, i.e. one exemption will not mean two or vehicles can benefit at the same time;
- 15 - that such restrictions will help with demand management; i.e. one exemption purchased when in use equates to one vehicle able to park at any one time, two exemptions equals two vehicles, etc and that any more than the purchased amount will need to pay the meter;
- 20 - the ability of staff (or potentially the third party provider) to issue notice and audit, cease or decline any account or request for such should fraudulent use be detected or account is in arrears.

As the functionality however of the account system will depend greatly upon the capabilities of the supplier, a report will on such matters will be forthcoming once the tender has been awarded. The same report will also detail exemptions and criteria, as called for by Part 2 of Resolution 15-378 which is reproduced (in full) as follows.

15-378 Resolved:

1. That Council confirm its intention to introduce a system of paid parking to the Byron Town Centre during the 2015/16 financial year as outlined in resolution 15-235 and that this system is based upon a pay by number plate approach.
2. That Council set a yearly Shire Resident or Ratepayer exemption fee of \$50 per annum for fee paying coupon recipients, a non Shire resident worker/volunteer exemption fee of \$100 per annum and receive a report on establishing the costs, benefits and other criteria of pay parking exemptions including that:
- a) for an annual fee an exemption is provided for two categories of end user, one being a shire resident/ratepayer and the second being for a business operator, or an employee of one, located within the pay parking area and appropriate form of proof of residence/employment status requirements.
- b) the exemption benefit is for 12-months from date of purchase, can be transferred to another vehicle if needed and not based on date or jurisdiction of registration;
- c) investigate implications of payment options for both residents and non Shire workers/volunteers, including an annual fee as a single fixed amount, or providing an option of periodic payments;
- d) no refunds be provided for or towards cost of exemptions except that those wishing to upgrade their fully paid exemption be provided credit of their unused amount, calculated at a daily pro-rate rate, toward such upgrade;
- e) considering businesses with multiple vehicles.

3. *That Butler Street Reserve:*

a) *Be made available as an all day car park, operating 6am to 6pm daily with an hourly rate of \$3.00 per hour, up to a maximum of \$20 all day, with the Shire Resident or Ratepayer and non Shire resident worker/volunteer exemption applying*

b) *Be considered for continued use as a markets site.*

4. *That, to provide incentive to park outside the town centre, Clarkes Beach carpark, Jonson Street (south of Kingsley Street) and on-street, east of Middleton, operate as all day carparks with an hourly rate of \$3.00 per hour, up to a maximum of \$20 all day, with the Shire Resident or Ratepayer and non Shire worker/volunteer exemption applying, and operating hours of 9am to 6pm.*

5. *That 4P areas have an hourly rate of \$3.00 per hour with a maximum of \$10 and 1P and 2P areas have an hourly rate at \$3.00.*

6. *That after 6 months an evaluation report be brought to Council including impacts on residents and businesses including Butler Street Markets.*

Financial Implications

Nil, being as per the Reports listed within the Transport Advisory Committee Meeting of 1 September 2015.

Statutory and Policy Compliance Implications

Nil, being as per the Reports listed within the Transport Advisory Committee Meeting of 1 September 2015.

Report No. 14.3 Report of the Community Infrastructure Advisory Committee Meeting held on 10 September 2015

Directorate: Infrastructure Services
Report Author: Tony Nash, Manager Works
File No: I2015/1120
Theme: Community Infrastructure
Local Roads and Drainage

Summary:

The attachment to this report provides the minutes of the Community Infrastructure Advisory Committee Meeting of 10 September 2015 for determination by Council.

RECOMMENDATION:

1. **That Council note the minutes of the Community Infrastructure Advisory Committee Meeting held on 10 September 2015.**

2. **That Council adopt the following Committee Recommendation(s):**

Report No. 5.1 Bridge Renewal Program Funding Applications for Blindmouth Creek, Scarrabelottis Bridge and O'Mearas Bridge
File No: I2015/813

Committee Recommendation CIAC 5.1.1:

1. **That Council note that applications for funding as part of the Federal Round 2 Bridge Replacement Program have been submitted and that the results of the applications should be known by the end of the year.**
2. **That progress be reported to Community Infrastructure Advisory Committee meetings quarterly.**
3. **That Council consider within future Bridge projects, a component for the maintenance of landscaping after the construction period.**

3. **That Council adopt the following Committee Recommendation(s):**

Report No. 5.2 Update Report on 2012 & 2013 Landslip Restorations
File No: I2015/833

Committee Recommendation CIAC 5.2.1

1. **That Council note that the 12 Landslips from 2012 and 2013 are complete except for Upper Wilsons Creek – end of road and that there will be no further repair for Wanganui Rd - North and that the site will be monitored.**
2. **That the Committee receive a report on the costs and benefits relating to the construction and maintenance of drainage assets in high rainfall areas where landslips have occurred in the hinterland areas.**

4. **That Council adopt the following Committee Recommendation(s):**

**Report No. 5.3 Update Report - Infrastructure Services Risk Management Procedures
Part 1 - Roads, Footpaths & Drainage**

File No: I2015/834

Committee Recommendation CIAC 5.3.1:

That Council note the information contained in this report about the Infrastructure Services Risk Management Procedures Part 1- Roads, Footpaths and Drainage and the implementation of the Reflect software.

5. That Council adopt the following Committee Recommendation(s):

Report No. 5.4 Status of Delivery of 2015/16 Local Roads Capital Works Program

File No: I2015/835

Committee Recommendation CIAC 5.4.1:

- 1. That the Community Infrastructure Advisory Committee note the actions taken to implement the 2015/16 Local Roads Capital Works Program.**
- 2. That Council receive an update on the Federal Drive Road Reconstruction Project with a view to bring it forward for completion by the end of 2015/16.**

5 Attachments:

- 1 Minutes of Community Infrastructure Advisory Committee 10/9/15, I2015/1090**

Report

The attachment to this report provides the minutes of the Community Infrastructure Advisory Committee Meeting of 10 September 2015 for determination by Council.

Committee Recommendation CIAC 5.1.1:

1. That Council note that applications for funding as part of the Federal Round 2 Bridge Replacement Program have been submitted and that the results of the applications should be known by the end of the year.
2. That progress be reported to Community Infrastructure Advisory Committee meetings quarterly.
3. That Council consider within future Bridge projects, a component for the maintenance of landscaping after the construction period.

Committee Recommendation CIAC 5.2.1

1. That Council note that the 12 Landslips from 2012 and 2013 are complete except for Upper Wilsons Creek – end of road and that there will be no further repair for Wanganui Rd - North and that the site will be monitored.
2. That the Committee receive a report on the costs and benefits relating to the construction and maintenance of drainage assets in high rainfall areas where landslips have occurred in the hinterland areas.

Committee Recommendation CIAC 5.3.1:

That Council note the information contained in this report about the Infrastructure Services Risk Management Procedures Part 1- Roads, Footpaths and Drainage and the implementation of the Reflect software.

Committee Recommendation CIAC 5.4.1:

1. That the Community Infrastructure Advisory Committee note the actions taken to implement the 2015/16 Local Roads Capital Works Program.
2. That Council receive an update on the Federal Drive Road Reconstruction Project with a view to bring it forward for completion by the end of 2015/16.

Financial Implications

As per the Reports listed within the Community Infrastructure Advisory Committee Meeting of 10 September 2015.

Statutory and Policy Compliance Implications

As per the Reports listed within the Community Infrastructure Advisory Committee Meeting of 10 September 2015.

area.