



Byron Shire Council



Agenda

Ordinary Meeting

Thursday, 22 June 2017

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

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

Ken Gainger
General Manager

CONFLICT OF INTERESTS

What is a “Conflict of Interests” - A conflict of interests can be of two types:

Pecuniary - an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated.

Non-pecuniary – a private or personal interest that a Council official has that does not amount to a pecuniary interest as defined in the Local Government Act (eg. A friendship, membership of an association, society or trade union or involvement or interest in an activity and may include an interest of a financial nature).

Remoteness – a person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to a matter or if the interest is of a kind specified in Section 448 of the Local Government Act.

Who has a Pecuniary Interest? - a person has a pecuniary interest in a matter if the pecuniary interest is the interest of the person, or another person with whom the person is associated (see below).

Relatives, Partners - a person is taken to have a pecuniary interest in a matter if:

- The person’s spouse or de facto partner or a relative of the person has a pecuniary interest in the matter, or
- The person, or a nominee, partners or employer of the person, is a member of a company or other body that has a pecuniary interest in the matter.

N.B. “Relative”, in relation to a person means any of the following:

(a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descends or adopted child of the person or of the person’s spouse;

(b) the spouse or de facto partners of the person or of a person referred to in paragraph (a)

No Interest in the Matter - however, a person is not taken to have a pecuniary interest in a matter:

- If the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative or company or other body, or
- Just because the person is a member of, or is employed by, the Council.
- Just because the person is a member of, or a delegate of the Council to, a company or other body that has a pecuniary interest in the matter provided that the person has no beneficial interest in any shares of the company or body.

Disclosure and participation in meetings

- A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or Committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.
- The Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:
 - (a) at any time during which the matter is being considered or discussed by the Council or Committee, or
 - (b) at any time during which the Council or Committee is voting on any question in relation to the matter.

No Knowledge - a person does not breach this Clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

Participation in Meetings Despite Pecuniary Interest (S 452 Act)

A Councillor is not prevented from taking part in the consideration or discussion of, or from voting on, any of the matters/questions detailed in Section 452 of the Local Government Act.

Non-pecuniary Interests - Must be disclosed in meetings.

There are a broad range of options available for managing conflicts & the option chosen will depend on an assessment of the circumstances of the matter, the nature of the interest and the significance of the issue being dealt with. Non-pecuniary conflicts of interests must be dealt with in at least one of the following ways:

- It may be appropriate that no action be taken where the potential for conflict is minimal. However, Councillors should consider providing an explanation of why they consider a conflict does not exist.
- Limit involvement if practical (eg. Participate in discussion but not in decision making or vice-versa). Care needs to be taken when exercising this option.
- Remove the source of the conflict (eg. Relinquishing or divesting the personal interest that creates the conflict)
- Have no involvement by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in S451 of the Local Government Act apply (particularly if you have a significant non-pecuniary interest)

RECORDING OF VOTING ON PLANNING MATTERS

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

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

BYRON SHIRE COUNCIL

ORDINARY MEETING

BUSINESS OF ORDINARY MEETING

1. PUBLIC ACCESS
2. APOLOGIES
3. REQUESTS FOR LEAVE OF ABSENCE
4. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY
5. TABLING OF PECUNIARY INTEREST RETURNS (S450A LOCAL GOVERNMENT ACT 1993)
6. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS
 - 6.1 Byron Shire Reserve Trust Committee held on 25 May 2017
 - 6.2 Ordinary Meeting held on 25 May 2017
7. RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS
8. MAYORAL MINUTE
9. NOTICES OF MOTION
 - 9.1 National Housing Conference 20176
 - 9.2 Byron Bay Bypass8
10. PETITIONS
 - 10.1 Flood Mitigation and Response 13
11. SUBMISSIONS AND GRANTS
 - 11.1 Byron Shire Council Current Grants and Submissions as at 31 May 201720
12. DELEGATES' REPORTS
13. STAFF REPORTS
 - General Manager**
 - 13.1 Competitive Grant Funding23
 - 13.2 Mullumbimby Hospital Site Acquisition33
 - 13.3 Research Report - Towards smoke-free and litter-free beaches in the Byron Shire.....35
 - Corporate and Community Services**
 - 13.4 Council Resolutions Quarterly Review - 1 January 2017 to 31 March 2017.....37
 - 13.5 Adoption of the Community Strategic Plan 2027, Delivery Program 2017-2021 and Operational Plan 2017-2018 (including Statement of Revenue Policy, Budget, Fees and Charges) 41
 - 13.6 Sub-lease to Mullumbimby and District Neighbourhood Centre69
 - 13.7 Sub-lease to the Byron Youth Service 72
 - 13.8 Mayor and Councillor Fees 2017/2018 75
 - 13.9 Public Art Panel - minutes of meetings held in March and May 201778

BYRON SHIRE COUNCIL

ORDINARY MEETING

13.10	Council Investments May 2017	81
13.11	Review of Council Investment Policy	88
13.12	Making of the 2017/2018 Ordinary Rates and Charges	92
13.13	2017/2018 Special Rate Variation Outcome	99
13.14	Related Party Disclosures	105

Sustainable Environment and Economy

13.15	PLANNING - 10.2016.663.1 Dual Occupancy (detached) swimming pool, strata subdivision 2 lots and tree removal 9 Trees at Granuaille Crescent Bangalow	108
13.16	Byron Affordable Housing Summit Issues Action Plan.....	125
13.17	Short Term Rental Accommodation - Enforcement Options	130
13.18	Road Airspace Policy review	138
13.19	PLANNING - 26.2016.3.1 Reclassification of Council owned land - Manfred St, Belongil	141
13.20	PLANNING - Proposed Amendments to Development Control Plan 2014 - E5.5 Bayshore Village	146
13.21	Council Nominations for the Joint Regional Planning Panel	150
13.22	Peer Review of Draft West Byron DCP	153

Infrastructure Services

13.23	Bangalow Parking Strategy	160
13.24	Former South Byron STP - Options for Redevelopment.....	170
13.25	Out of Session Local Traffic Committee - Byron Bay to Ballina Coastal Charity Walk for Westpac Rescue Helicopter	177
13.26	A Further Report on Remediation of Dip Site at Lot 2 DP 747876 Bangalow.....	180
13.27	Proposed Smart Drum Lines - Byron Bay.....	182
13.28	Lot 16 Dingo Lane Myocum Sale	188
13.29	Draft Plan of Management - The Cavanbah Centre.....	192
13.30	Byron Bay Urban Recycled Water Connection Policy.....	195

Organisation Development

13.31	Supporting Partnerships Policy	197
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14. REPORTS OF COMMITTEES

Corporate and Community Services

14.1	Report of the Internal Audit Advisory Committee Meeting held on 18 May 2017.....	200
14.2	Report of the Finance Advisory Committee Meeting held on 18 May 2017.....	204

Infrastructure Services

14.3	Report of the Transport and Infrastructure Advisory Committee Meeting held on 18 May 2017	207
14.4	Report of the Water, Waste and Sewer Advisory Committee Meeting held on 1 June 2017.....	210

15. QUESTIONS WITH NOTICE

15.1	Flood Response in Byron Shire	213
15.2	Sewerage	215
15.3	NSW Crown Holiday Parks Trust	216

BYRON SHIRE COUNCIL
ORDINARY MEETING

16. CONFIDENTIAL REPORTS

General Manager

16.1 CONFIDENTIAL - Senior Staff Positions217

Corporate and Community Services

16.2 CONFIDENTIAL - Tender for Internal Audit, Risk and Improvement Services
Contract219

Infrastructure Services

16.3 CONFIDENTIAL - Tender 2016-0018 Architectural Design of Mixed-use Building -
10 Lawson Street Redevelopment.....221

Councillors are encouraged to ask questions regarding any item on the business paper to the appropriate Director prior to the meeting. Any suggested amendments to the recommendations should be provided to Councillor Support 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 National Housing Conference 2017

File No: I2017/787

5

I move:

That Cr. Paul Spooner attend the National Housing Conference 2017 as a Council representative to be held from 29 November to 1 December at the International Convention Centre, Sydney.

10

Signed: Cr Paul Spooner**Councillor's supporting information:**

15 Information on this conference states:

20 *"We invite you to join us in Sydney for the 10th National Housing Conference – the largest social and affordable housing event in Australasia. Whatever your interest in the housing industry and whatever your preferred style of conference participation, NHC 2017 in Sydney is an exceptional, multi-faceted forum for the housing industry.*

For 18 years, AHURI, in partnership with a host state government has convened the biennial conference providing a forum for the best minds, the most experienced practitioners and the leading policy makers from Australia and abroad to come together to further progress the biggest issues facing the sector.

25 *We call on everyone with an interest in the delivery of affordable housing to join us in Sydney – policy makers, housing practitioners, homelessness and housing providers, advocacy organisations, peak industry bodies, financiers, legal professionals, planners, builders, developers, researchers and other interested groups must be part of this important national conversation.*

30 *With Sydney as the destination and NSW leading the way in social housing policy reform, NHC 2017 will be our biggest conference ever. It will provide the opportunity to form meaningful connections and expand the network to help build for better lives."*

Full information regarding the conference is available at: <http://www.nhc.edu.au/>

35

Staff comments by Mark Arnold, Director Corporate and Community Services

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

40 The National Housing Conference 2017 will be held at the International Convention Centre, Sydney, NSW, from 29 November – 1 December 2017.

In accordance with Council's Policy 14/010 Mayor and Councillors Payment of Expenses and Provision of Facilities, clause 8.4.1 states: "A resolution of Council is required to authorise attendance of Councillors at (d) Any other discretionary conference, seminar or training."

45

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.1

Financial/Resource/Legal Implications:

5 Council has an allocation for conferences of \$19,400 within the 2017/18 budget (2145.004). At this stage there are no committed costs against this budget allocation.

Where: International Convention Centre, Sydney, NSW

10 Dates: Wednesday 29 November - Friday 1 December 2017

15	Costs:	Registration Fee (<i>early bird due 31 July</i>)	\$1,310.00
		Flights (<i>approx</i>)	\$300.00
		Conference Functions (<i>approx</i>)	\$150.00
		Accommodation (<i>approx</i>)	<u>\$800.00</u>
		Total	\$2,560.00

20 Is the proposal consistent with any Delivery Program tasks?

Yes.

25 EN2.1.2 - Establish planning for and provision of inclusive and accessible housing that can meet the needs of our community.

Land and Environment Court legal challenge instigated by the Butler Street Community Network (BSCN). In order for the full bypass project to proceed the shortfall in funding would have to be addressed and would have to be sourced from either the State or Federal governments.

5

With respect to part b. of the motion the following information is put forward:

- Transport for NSW (TfNSW) has consistently advised Council that a roadway within the rail corridor is not viable if the rail infrastructure is to be retained.

10

The previous member for Ballina, the Honourable Don Page, sought advice from the General Manager, Country Rail Contracts, TfNSW, Mr Terry Brady on 3 September 2014.

15

The advice from TfNSW was that the corridor was unlikely to be wide enough for the existing operational rail track, a two lane road with associated infrastructure and the proposed rail Trail.

20

Mr Brady confirmed his advice on 11 November 2014 regarding the feasibility of the rail corridor to accommodate the combined needs of the necessary buffer for any return of trains, a rail trail and the proposed bypass and associated infrastructure to Mr Brady advised that the option for the return of rail services was not closed and as such any proposal associated with the rail corridor needed to consider the buffer requirement of operational trains.

25

This advice was supported by the then NSW Minister for Transport, Gladys Berejiklian, who provided a letter to Council on 19 December 2014 that advised the rail corridor was not suitable for multimodal transport use. See attachment 1.

30

The letter quoted by Cr Spooner in his motion from TfNSW to the Honourable Tamara Smith reiterates this advice *"I am advised the Casino to Murwillumbah rail corridor is not wide enough to support multi-modal transport"*. See Attachment 2.

35

The request made by Ms Smith was to *"update a letter that you sent as Minister for Transport in 2014 or ask the current Minister for Transport to do so"*. The update confirmed what had previously been advised.

- To construct a roadway within the rail corridor would:
 - require an Act of Parliament to de-classify the land as a railway corridor. See section 99A of the Transport Administration Act 1988.

40

99A(1) A rail infrastructure owner must not, unless authorised by an Act of Parliament or an order under subsection (1A) (which refers to the Greater Metropolitan Region) close a railway line.

45

99A(2) For the purposes of this section, a railway line is closed if the land concerned is sold or otherwise disposed of or the railway tracks and other works concerned are removed.

50

Until a rail line is closed, and even if not operational, it is managed under relevant legislation pertaining to the rail network.

55

- create heritage impacts associated with works within the Railway Precinct Conservation Area. As to this, the Land and Environment Court in its 2 June 2017 judgement said:

5 “According to Mr Staas (Heritage Expert), locating the bypass road on the rail corridor instead of joining the existing Butler Street would be a worse outcome in terms of the impact on the heritage significance of the State listed Railway Station and yard group heritage item, as such a proposal would have a major impact on the setting of those heritage items... I accept Mr Staas’ evidence that the alternative route through the centre of the Byron Bay Railway Station and yard precinct would potentially have a significant impact on the setting of the State listed heritage item”.

- 10 ○ create impacts on the 6 residential properties on the eastern side of Butler Street which would be more difficult to manage than those impacts associated with the presently approved route.
- 15 ○ require clearing of an additional 0.8 ha of native vegetation which includes SEPP14 Wetland, comprising Coastal Swamp forest heavily dominated with Paperbark trees.

20 The JRPP Assessment Report included consideration of vegetation impacts in the context of the options available. It said :

25 “*(the Grab the Rail route) would also require clearing of additional native vegetation within the Railway Corridor within the Byron Bay Railway Yard precinct and east of the dwellings in Butler Street. Council mapping shows this to be predominantly Coastal Swamp Forest with a small area of Coastal Dune Dry Sclerophyll Forest near the Water Tower. It is estimated that the additional clearing would be more than half a hectare compared to using the existing formed Butler Street.*”

- 30 • It is anticipated that construction of the bypass within the rail corridor would cost substantially more than the bypass proposed on the Butler Street alignment for the following reasons:
- 35 ○ Council would not invest substantial community funds to construct a major piece of roads infrastructure on land that it does not own – therefore Council would have to factor in the purchase price of that section of the rail corridor. As the rail corridor land abuts the Byron Town Centre it is likely that the market value of the land would be substantial and run to millions of dollars.
- 40 ○ It is likely that the land comprising the rail corridor would be substantially contaminated after many years use as a railway and shunting yards. The cost of remediation of this land prior to construction of a roadway would likely be several million dollars.
- 45 ○ If the roadway was to be constructed within the rail corridor where the space was shared with a rail trail and light rail (as proposed by the BSCN) substantial costs would be incurred in constructing infrastructure to separate the competing uses to ensure public safety.
- 50 ○ Traffic noise amelioration requirements (and costs) would be exacerbated because the bypass would move closer to the densely populated Byron CBD area.
- Council would not be able to use the existing road formation on Butler St but would have to build up a new and costly road profile for a significant distance along the rail corridor
- Previous investigations of the comparative environmental impact of the two routes have indicated little difference between the two, however the additional necessary vegetation

clearing in the rail corridor must be accounted for in the BioBanking process and will require additional compensatory credits.

- In order for “full construction costs of a roadway within the rail corridor from Lawson Street to Browning Street” to be ascertained full construction drawings and bill of quantities would have to be prepared and costed. This would take at least 12 months and would cost of the order of \$1M to prepare (see outline below). In preparing these plans and associated costs details of costs associated with potential site acquisition, contamination remediation, safety separation, traffic noise amelioration etc would have to be accurately assessed.

Extensive further investigation and assessment is required including:

- Concept design preparation to direct investigation and assessment
- Flooding impact assessment to ensure the design does not result in adverse impacts.
- Noise assessment to facilitate the design and costing of remediation measures.
- Survey to facilitate the concept design, cross sections and bill of quantities.
- Land contamination assessment to inform remediation costs.
- Geotechnical to facilitate the road construction design.
- Heritage assessment to ensure any proposed alignment does not impact on the Water Tower and associated curtilage.
- Ecological assessment particularly as it pertains to the increased amount of tree removal.
- Biobanking assessment.
- Estimate of costs associated with a new EIS and approval pathway through the JRPP
- Given the complexity of negotiations and detailed design it is likely that Council would not be in a position to construct the bypass within the rail corridor for at least 5 years assuming that these matters could be successfully negotiated and TfNSW could be convinced as to the viability of such a project.
- To proceed with a roadway in the rail corridor would also mean:
 - Forfeiture of the \$10.5M in RMS funding which was provided exclusively for a bypass constructed on the Butler Street alignment;
 - Wasting the \$2.45M already spent in getting the current proposal to the construction stage;
 - A significant opportunity cost due to thousands of hours of Council staff time spent on the project to date having to be duplicated – this would have significant consequences for the capacity of staff to focus on other significant Council projects and service delivery.

Financial/Resource/Legal Implications:

As indicated in staff comments

Is the proposal consistent with any Delivery Program tasks?

5

a. and c. Yes

b. No

PETITIONS

Petition No. 10.1 **Flood Mitigation and Response**
Directorate: Sustainable Environment and Economy
Report Author: Chloe Dowsett, Coastal and Estuary Officer
File No: I2017/649
Theme: Ecology
 Planning Policy and Natural Environment

10 At Council’s Ordinary meeting held on 25 May 2017 Cr Simon Richardson tabled a petition containing 233 signatures which states:

15 “...We the undersigned request the following action from Byron Shire Council in the immediate affect;

- A Resident and Business Forum with the aim at re-evaluating our Flood Mitigation Plan and discussion about ongoing viability of the area should work not be undertaken.
- The Dredging of Marshal's Creek and Reading's Bay and possible outlets to the sea.
- Revision of SES capacity to handle flood response and evacuation practice.
- 20 • The maintenance of storm water drains to be undertaken and maintained regularly.
- Proper consultation with the community regarding systems that are put in place and transparent action plans to be undertaken during future events.
- Council to effectively lobby State Government as to the Shire's plight, so that we are on equal footing with our neighbours”

25 **Comments from Director Sustainable Environment and Economy and Director Infrastructure Services:**

30 Resident and Business Forum

The petition presented to the 25 May 2017 Ordinary Council meeting raised a number of issues regarding flood mitigation and response which were raised following the March/April flooding experienced in the Shire.

35 It is understood that flood response is a key issue for the community and Council has already taken a number of actions following the recent event. These are summarised below:

- A business forum was held on 26 April with flood affect business owners and operators. Some 30 businesses attended. Attachment 1 (E2017/28326) provides the unofficial minutes of this meeting. In response to this forum the following key actions have been undertaken:
 - A submission was made to the State Government in support of the NSW Government Application to the Commonwealth for the declaration of Category C Disaster Assistance for affected Businesses in Byron Shire Local Government Area. This application was successful with notification on 25 May that Flood Recovery grants of up to \$10,000 are now available for small businesses in Billinudgel and additional support also includes surrounding buffer zones: Mullumbimby, Ocean Shores and The Pocket. Businesses in these areas are in the process of being advised of the availability of this grant.
 - At the Business Roundtable on 17 March natural disaster resilience preparation was an agenda item. Attachment 2 (E2017/34451) provides a summary of matters arising from Discussion on Natural Disaster Resilience.
- A combined meeting with residents and business community was held on 1st June with approximately 100 people attending. Various issues were discussed, including flood mitigation,

flood planning processes, disaster management and differences between Council and SES responsibilities.

Dredging of Marshal's Creek and Reading's Bay and possible outlets to the sea

5

Flood mitigation options including dredging of Marshalls Creek and Readings Bay, and consideration of creating floodwater outlets north of Brunswick Heads were investigated in the Marshall Creek Floodplain Management Plan (adopted by Council November 1997).

10

The following text is an extract from the complete report document in relation to floodwater outlets:

10.4 Ocean Outlets

15

Three sites have been identified for assessment for the construction of flood outlets through the frontal dune to the Pacific Ocean. The sites are located at:

- *Holiday Village" between New Brighton at South Golden Beach;*
- *Ocean Shores North, north of the "Fern Beach" subdivision; and*
- *Wooyung, some 3.5 km north of South Golden Beach.*

20

The proposed outlets comprise the excavation of 75 m wide slots through the dune with variable bed levels. The outlets at "Holiday Village" and Ocean Shores North are to be some 1.7 m above high tide level, while the outlet at Wooyung is proposed to be tidal. The proposed combinations of flood outlets above was defined by the Floodplain Management Committee after the Value Management Workshop (Reference 13) was completed.

25

The coastal dynamic processes are discussed in detail in Chapter 4. The impact of these processes on the performance of the ocean outlets is outlined below.

30

As noted in Chapter 4, the ocean water levels can be seen as comprising of a series of components principally:

- *tidal variations;*
- *storm surge;*
- *coastal wind set-up;*
- *nearshore wave set-up; and*
- *possible addition to the above by "Greenhouse" changes to ocean static levels .*

35

The various components of the "Steady" ocean water levels are indicated on Figure 6.

40

It is estimated that wave setup on the open beaches at the identified outlet sites resulting from 5 m high offshore waves would effectively raise the ocean water level on the beach by 0.8 m. By comparison, these waves would pass through the Brunswick River entrance with minimal obstruction and dissipate as they travelled up the main river channel.

45

As a result, there would be a difference in water level of 0.8 m between the beach and the river. This means that any outlets must be located where the flood level in Marshalls Creek is at least 0.8 m higher than the ocean water level at the entrance to the Brunswick River in order that floodwaters can discharge to the ocean. If this condition is not satisfied, seawater from the ocean will flow through the opening and increase flooding along Marshalls Creek.

50

The identified outlet sites satisfy the water level differential constraint. However, the Wooyung outlet in the early stages of a flood event would tend to admit water from the ocean into the Marshalls Creek area. This would be the direct opposite of the proposed function of the outlet, ie to discharge floodwaters to the ocean.

55

The outlets at "Holiday Village" and Ocean Shores North would discharge floodwaters when the level of the floodwaters in Marshalls Creek exceeded the water level on the beach and exceeded the level

of any constructed weirs at the outlets. This would depend on the magnitude of the creek flood, tidal phase and ocean storm conditions.

5 The ocean outlets would need to be located at a level which prevented ocean storm waves from passing through the outlets and discharging seawater into the Marshalls Creek system.

This occurred in May 1975 when the ocean waves broke through the frontal dune at "Sheltering Palms", the southern end of New Brighton and north of New Brighton.

10 The dune north of New Brighton had been overtopped in October 1972 and had not built up to an adequate height. Earthmoving machinery was used to repair the break in the dune following the 1974 event. The coastal processes have continued the replenishment of the dune. The location of the break-through is still evident in recent aerial photography, some 20 years after the event.

15 The analysis of ocean storm water levels outlined in Chapter 4 recommends a minimum crest level for the outlets at RL 4.0 m AHD. This level is 1.2 m above the 1% AEP flood level in Marshalls Creek at the "Holiday Village" site.

20 There are conflicting requirements for the dune heights. Prevention of ocean break through into the Marshalls Creek floodplain requires the dunes to be kept high. However, allowance for (or dependence on) a flood breakout through the dunes to reduce flood levels requires the dunes to be kept low such that a natural break can occur.

25 It would be possible to adjust the dune height by earthmoving machinery by:

- maintaining the dune height to prevent ocean inundation;
- maintaining a stockpile of material at the break-out point;
- on receipt of flood warning, cutting the beach dune such that a natural erosion process can begin; and
- 30 • refilling the low level break from the stock pile after the flood recession to accelerate the natural re-building of the dune.

35 It is not considered prudent to undertake the alternative procedure of keeping the dune low and building during ocean storms because of the dangers of operation of machinery near a surf zone.

The short time scale of Marshalls Creek flooding, the limited warning and the occurrence of ocean storms would require earthmoving equipment to be on virtually permanent standby to lower the outlet in advance of the creek flood and to rebuild the outlet to withstand ocean storm conditions immediately following the creek flood.

40 Large volumes of sand would have to be excavated, stored and returned within a short period of time. This is clearly not practical.

45 The estimated reduction in 1% AEP flood levels which may be achieved with the ocean outlets is 0.08 to 0.1 m at New Brighton and Ocean Shores (Ref.16). There are 4 houses in New Brighton and 4 houses in Ocean Shores which are inundated in floodwaters less than 0.1 m deep in the 1% AEP flood. This option may prevent floodwaters entering some these houses.

50 Therefore, construction of the ocean outlets is considered to be relatively ineffectual, due to the small number of houses protected and impracticable due to the management and operational requirements.

Therefore at this stage the construction of outlets is not recommended.

55 The following text is an extract from the complete report document in relation to dredging of Marshalls Creek and/or lowering/removal of training walls:

60 Prior to the construction of the Brunswick River training walls in the early 1960's, the Marshalls Creek channel joined the Brunswick River channel at the eastern edge of Reading Bay. The initial river works retained this channel confluence.

Following the severe ocean storm which washed over the beach dune and destroyed part of the "Sheltering Palms" village in 1974, a new low level training wall was constructed in Reading Bay in order to prevent a break-through from Marshalls Creek to the ocean which could ultimately replace the Brunswick River entrance.

5 At this time, a section of the northern wall of the Brunswick River was removed at the western end and the confluence with Marshalls Creek diverted 500 m upstream.

10 The channel of Marshalls Creek between Capricornia Canal and the Orana Bridge has a meandering alignment with a number of residual meander loops immediately downstream of the canal. A number of options for dredging the channel of Marshalls Creek between the Capricornia Canal and Reading Bay have been investigated in previous studies.

15 Lowering the training walls was found to reduce the flood levels by 0.11 m at Orana Bridge and 0.06 m at Capricornia Canal.

This would reduce the number of houses inundated in the 1% AEP flood in New Brighton by three with no alteration in the number of houses flooded elsewhere.

20 The early dredging investigations assumed dredging to a bed level of RL -2.5 m AHD. The preliminary EIS investigations indicated dredging of this magnitude would yield some 330,000 cubic metres of material but that recognition of environmental issues would reduce this volume by two thirds (that is a dredge yield of less than 100,000 cubic metres). Thus, it is concluded that the full reductions in flood levels quoted by dredging to RL -2.5 m AHD are unlikely to be achieved.

25 As discussed in Chapter 3, rock outcrops have been observed at a number of locations along Marshalls Creek within the proposed dredging limits. Therefore, it is considered unlikely that a significant increase in channel capacity can be achieved by dredging.

30 Notwithstanding the potential environmental impacts associated with the dredging option, the estimated reduction in flood levels which could be achieved is 0.10 m in Ocean Shores and New Brighton.

35 Thus, dredging of Marshalls Creek and lowering the training walls in Reading Bay would possibly save 4 houses in Ocean Shores and 4 houses in New Brighton from being inundated in the 1% AEP flood.

40 The channel of Marshalls Creek is a dynamic area with sediment transport being a continuous process. Material eroded from the catchment is transported along the creek during floods and discharged into the Brunswick River and carried out to the ocean. Some of this material settles to the bed of Marshalls Creek and does not reach the ocean. It is also likely that some of the bed material in Marshalls Creek is a relic of past ocean breaks through the dune system transferring dune material from the beach to the creek channel.

45 The normal tidal cycle transports sand up and down the creek channel. The limit of this active tidal sediment transport is considered to be located near the Marshalls Creek/Brunswick River confluence.

50 Comparison of creek channel surveys in 1986 and 1991 indicates that there is a relatively slow build-up of sediment in Marshalls Creek, downstream of Capricornia Canal, under the current hydraulic regime.

It should be noted that the time interval between surveys was short, when compared to the time-scale of the sedimentary processes. The apparent net sediment accumulation rate may well be distorted by the occurrence of a major flood (the 1987 event) in the period between surveys.

55 The natural hydraulic processes determine the channel geometry and alignment. These natural processes tend to respond to man-made changes in such a manner as to return the channel to a "natural" condition. Thus, it can be reasonably expected that sediment will build up in the dredged section of the channel over a period of time until the channel returns to the quasi-stable configuration existing at the present time.

60

The time-scale for the filling of the dredged channel is dependent on a number of factors, principally related to rainfall and oceanic factors. However it is generally accepted that dredging of creek and river channels is not a permanently effective flood mitigation works option unless regular maintenance dredging is carried out to retain the improved hydraulic capacity of the channel.

5

The channel dredging and lowered training walls option is considered to be relatively ineffectual due to the small reduction in flood levels achievable and the small number of properties which would benefit from the works. The option also requires on-going commitment to the maintenance of the dredged channel in order that the benefits are not diminished as time goes by.

10

Therefore at this stage the dredging of Marshalls Creek and/or the lowering/removal of training walls is not recommended.

15

Should Council wish to further pursue the above mitigation options the most appropriate method is via a Floodplain Risk Management Study and Plan.

Such a plan will scientifically investigate the effects of such mitigation options on flood levels and complete a cost benefit analysis of such a mitigation option.

20

Council is currently awaiting a grant approval from the Office of Environment and Heritage for the purposes of preparing the North Byron Floodplain Risk Management Study and Plan. This is the next step following on from the North Byron Flood Study. A number of flood mitigation options will be investigated in this study, included a fresh review of the ocean outlet and dredging idea. The most cost effective options will be included in the Floodplain Management Plan for action.

25

Without an adopted plan state government are very unlikely to fund a flood mitigation scheme because it has not been investigated appropriately and its likely success has not been proven.

30

Council simply does not have the budget to complete a flood mitigation scheme without the support of state government; therefore, any flood mitigation schemes for North Byron Shire will need to await the adoption of the North Byron Floodplain Management Plan

Revision of SES capacity to handle flood management

35

The question of the capacity of the SES to handle flood response and their evacuation practice is an internal SES matter and not one for Council. SES are and will be having debrief meetings at local, regional and state level within their organisation. Council staff have made SES aware of these issues already. A local debrief meeting was held locally at the Ocean Shores Country Club on 28 May 2017

40

There have already been multi agency debrief meetings held at the regional level within our Region.

Stormwater Maintenance

45

On 29 May 2017 Council resolved the following. This resolution addresses the petitions concerns regarding stormwater maintenance.

17-189 Resolved:

50

1. *That Council use the North Byron Floodplain Risk Management Study and Plans to investigate potential methods for lowering flood levels in the Marshall's Creek floodplain through options such as floodwater outlets, dredging, rock wall alterations and flood levies.*

2. That Council considers doubling the funding for north urban drainage maintenance and rural drainage maintenance from all available resources to speed up the flood mitigation works in the Marshalls Creek Floodplain including:-

- 5 a. Gutter maintenance
- b. drain and channel cleaning
- c. increasing pipe sizes where necessary
- d. road culverts maintenance; and
- 10 e. causeways

3. That the maintenance program is reviewed annually.

4. That to support items 1 & 2 above, staff provide funding source options and wider financial implications to the 22 June 2017 Council meeting, to be considered as part of the adoption of the 2017/18 Operational Plan.

5. That Council establish a North Byron Floodplain PRG for a 12 month period to examine the implications of the recent flood event and review previous modelling and to invite community membership and notify past members.

6. That parts 1 to 5 inclusive here of are resolved without admissions and without prejudice.

(Hunter/Richardson)

25 In accordance with Part 4 of the Resolution, Parts 1 and 2 are to be considered separately at this meeting as part of the adoption of the 2017/2018 Operational Plan.

Consultation with the community regarding actions to be taken during future events

30 This has been noted as part of the questions Council has received from the community and during the community forum on 1st June at Ocean Shores.

35 Council have relied upon the SES's education programs in the past to direct the community on what to do during disaster events. Following this event Council will be considering the option to have its own annual disaster education program.

The option for an app such as the Sunshine Coasts SCC App will also be considered. See link for information on this app. <https://www.sunshinecoast.qld.gov.au/Site-Help/SCC-App>

40 This issue will also be considered as part of the North Byron Floodplain Risk Management Study and Plan project.

Council to effectively lobby State Government

45 Council has made two separate submissions through the State Government to the Federal Government for financial assistance for flood affected businesses and residents. The Federal Government Assistance sought is the same as was announced for the neighbouring Local Government areas of Tweed Shire and Lismore City.

50 Both submissions have been supported by lobbying from the Mayor and staff to both State and Federal Local Members and the responsible State and Federal Ministers, as well as lobbying by the State Local Members and Ministers of their Federal counterparts.

55 The submissions made by Council were for:-

- Eligibility for affected Byron Shire residents to receive the Australian Government Disaster Recovery Payment/Disaster Recovery Allowance
- Eligibility for Australian Government Category C Natural Disaster Relief and Recovery arrangements for affected businesses

As indicated in the comments under the Resident and Business Forum above, the latter submission and application was successful, with notification on 25 May that Flood Recovery grants of up to \$10,000 are now available for small businesses in Billinudgel and additional support also includes surrounding buffer zones: Mullumbimby, Ocean Shores and The Pocket. Businesses in these areas are in the process of being advised of the availability of this grant.

The first submission is yet to be determined by the Federal Minister, and Council staff have provided additional information to the Office Federal Minister for Justice in response to request from the Minister.

RECOMMENDATION:

1. That the petition regarding flood mitigation and response be noted.
2. That action taken to date with respect to the issues raised in the petition be noted
3. That the petition be referred to the Director Sustainable Environment and Economy and Director Infrastructure Services for appropriate action.

Attachments:

- 1 Flood Impact Business Meeting Minutes 26 April 24.2017.15.1, E2017/28326 
- 2 Byron Shire Business Roundtable May 2017 Summary of Ideas for Natural Disaster Resilience linked to presentation E2017/29189, E2017/34451 

SUBMISSIONS AND GRANTS

Report No. 11.1 **Byron Shire Council Current Grants and Submissions as at 31 May 2017**

5 **Directorate:** Corporate and Community Services
Report Author: Jodi Frawley, Grants Co-ordinator
File No: I2017/703
10 **Theme:** Corporate Management
 Governance Services

Summary:

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

RECOMMENDATION:

That Council note the report

20

Attachments:

1 Byron Shire Council Current Grant Applications as at 31 May 2017, E2017/49852 

25

Report

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

5

Funding Application Success

- Aboriginal School Based Traineeship (Elsa Dixon Aboriginal Employment Program, NSW Government) – \$10,000
- 10 • Arakwal reconciliation week events (National Reconciliation Week, Australian Government) - \$5,000

Funding opportunities identified for consideration by staff

- 15 • Blindmouth Creek Crossing replacement (Bridges Renewal Programme, Australian Government)
- Replacement of the Southern Shire Bridges (Bridges Renewal Programme, Australian Government)
- Byron App (Smart Cities and Suburbs, Australian Government)
- 20 • 3D Mapping Tool (Smart Cities and Suburbs, Australian Government)
- Safer Roads including Black Spot Funding (Roads and Maritime Services, NSW Government)
- Active Transport (Roads and Maritime Services, NSW Government)
- Regional Jobs and Investment Package for North Coast NSW (Australian Government)

Funding submissions awaiting notification

- CPTED lighting for Byron Bay (Crime Prevention Grants, NSW Government)
- CCTV stage two Byron Bay (Community Safety Fund, NSW Government)
- Bayshore Drive Roundabout (Building Better Regions Fund Infrastructure Stream, Australian Government)
- 30 • Fishing Platform Brunswick River (Recreational Fishing Trust, NSW Government)
- Upgrade to Bangalow Weir Parklands (Community Development Programme, Australian Government)
- Byron's Young Innovators (Churchill Fellowship, Winston Churchill Trust)
- 35 • Building capacity in Byron's Community Halls (Building Better Regions Fund Community Investments, Australian Government)
- In Good Company (Regional Growth Marketing and Promotion Fund, NSW Government)
- Tree Change (Regional Growth Marketing and Promotion Fund, NSW Government)

40 It should also be noted that staff are actively working to prepare major project submission for the following funding rounds as soon as they are announced:

- 'Poles and Wires' funding (NSW Government)
- Building Better Regions Fund, Round 2 (Australian Government)
- 45 • Regional Growth Fund (Australian Government)

Additional information on the grant submissions made and or pending is provided in Attachment 1 – Grants report as at 31 May 2017

50 Financial Implications

If Council is successful in obtaining the identified grants more than \$3 million would be achieved which would provide significant funding for Council projects. Some of the grants require a

BYRON SHIRE COUNCIL

SUBMISSIONS AND GRANTS

11.1

contribution from Council (either cash or in-kind) and others do not. Council's contribution is funded. The potential funding and allocation is noted below:

	Requested funds from funding bodies	\$3,434,922
5	Council cash contribution	\$2,763,254
	Council in-kind contribution	\$549,441
	Funding applications submitted and awaiting notification (total project value)	\$6,747,617

Statutory and Policy Compliance Implications

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

STAFF REPORTS - GENERAL MANAGER

Report No. 13.1 **Competitive Grant Funding**
Directorate: General Manager
5 **Report Author:** Ken Gainger, General Manager
File No: I2017/749
Theme: Corporate Management
 Organisation Development

Summary:

In accordance with Council's adoption and adherence to successive Financial Sustainability Plans since 2013, considerable effort has been placed into focusing on improved grant funding from various sources but in particular, State and Federal governments. Changes adopted by the Council in an effort to improve grant funding performance include the employment of a dedicated Grants Officer, adoption of a centre led organisational Grants team comprising grants "champions" across Directorates, subscribing to on-line grants information services, establishing active relationships with Northern Rivers RDA and other funding agencies/facilitators, developing networks of grants specialists and research capacity to learn from others and build grants success.

Apart from a handful of recurrent annual grants such as Financial Assistance Grants (FAGs) and Roads to Recovery which are automatically received without a competitive application process, most grant opportunities require councils to actively compete for funding pools where demand significantly exceeds available funds and where grant funding eligibility criteria is continually becoming more onerous and expectations are that applicants must demonstrate that they are "shovel ready" to deliver projects in a timely manner should funding applications be successful.

It is of growing concern that because of tightening state government operating/capital budgets grant funding eligibility is being increasingly broadened to include state agencies, i.e. local government is now often having to compete for the grant funding dollar with hitherto ineligible state government agencies in funding domains previously the exclusive province of local government and/or community based organisations. Thus state government agencies who would have previously placed budget bids for projects and programs are now being forced to scrounge for grant funding opportunities to fund those projects/programs effectively robbing already financially squeezed councils of limited grant funding prospects.

This report seeks to highlight this growing problem and encourage the Council to take the issue up with governments and peak local government organisations.

RECOMMENDATION:

That Council notes the report and:

- 1. Writes to the state Treasurer and Minister for Local Government and local members seeking a reversal of the practice of including federal and state government agencies among those eligible for grant funding opportunities/programs;**
- 2. Writes to adjoining councils, NOROC and LGNSW seeking their support.**

Report

5 In accordance with Council's adoption and adherence to successive Financial Sustainability Plans since 2013, considerable effort has been placed into focusing on improved grant funding from various sources but in particular, State and Federal governments. Changes adopted by the Council in an effort to improve grant funding performance include the employment of a dedicated Grants Officer, adoption of a centre led organisational Grants team comprising grants "champions" across Directorates, subscribing to on-line grants information services, establishing active relationships with Northern Rivers RDA and other funding agencies/facilitators, developing networks of grants specialists and research capacity to learn from others and build grants success.

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20 It is of growing concern that because of tightening state government operating/capital budgets grant funding eligibility is being increasingly broadened to include state government agencies, i.e. local government is now often having to compete for the grant funding dollar with hitherto ineligible state government agencies in funding domains previously the exclusive province of local government and/or community based organisations. Thus state government agencies who would have previously placed budget bids for projects and programs are now being forced to scrounge for grant funding opportunities to fund those projects/programs effectively robbing already financially squeezed councils of limited grant funding prospects.

30 This growing practice is akin to a Council calling for community applications for Section 356 grants then forcing staff to prepare competing applications for those funds in order to fund projects that have been excluded from the adopted Council budget. Council staff have become increasingly aware of state government agencies competing for grant funding pools with Council. A recent discussion with one state government department referenced applications for regional transport infrastructure grant funding that were being prepared by government officials which would be in direct competition with BBTCMP project applications.

35 The below table reviews a random selection of grant schemes and considers the eligibility criteria to ascertain competition. Results indicate that State government departments do indeed compete with Local Government Authorities and community groups for available funds. However, this is not uniform and depends upon the context in which the grant programme is being developed and offered.

40 The attached document reviews twelve grant schemes, with thirty nine sub-programs, to ascertain whether Council is competing with the NSW Government departments for grant funds. In thirteen cases, State government departments were eligible to apply for funding.

45 One such area is in black spot funding. Australian Black Spot funding is provided for both State and Local Government controlled roads. The main schemes are the Australian Black Spot Programme (Australian Government) and Safer Roads-State Black Spot (NSW RMS). At present, the Australian Government Black Spot Programme is only for Councils, but NSW RMS State Black Spot funding, assesses nominations for Local Government controlled roads and state roads.

55 In other areas, such as many of the programs that deliver funds for projects dealing with the environment, Local Government competes with State departments for funds. This is an effect of budget cuts, and state departments using grants to deliver projects that might have once been delivered through central funding.

BYRON SHIRE COUNCIL

An important consideration is that community groups are also provided opportunities to apply under many of these schemes.

- 5 For this reason, the table below outlines examples from thirteen schemes and shows eligibility for Local Government (LG); State Government (SG) and Community Groups (CG).

	GRANT SCHEME	ELIGIBILITY	LG	SG	CG	COMMENTS
1	Black spot funding	<p>Roads and Maritime Services administer (on behalf of the Australian Government) the Australian Government Black Spot Programme in NSW. This includes:</p> <p>Reviewing all NSW Black Spot nominations received against the eligibility criteria</p> <p>Undertaking an economic assessment of the proposed treatment</p> <p>Preparing a summary of the nominations received to present to the NSW Black Spot Consultative Panel for consideration</p> <p>Roads and Maritime advises other road authorities within NSW of project approval and the process for delivery and payment for works completed. This includes management of any variation requests.</p> <p>Nominations for the Australian Government Black Spot Programme will be automatically considered for the NSW Government's Safer Roads Program. Other road authorities do not need to re-submit their nomination again, but will need to indicate their willingness to contribute to the funding of their project.</p>	•			<p>Australian Government Black spot Programme is administered by NSW RMS.</p> <p>Council only has to apply with one nomination to be eligible for both state and federal schemes.</p> <p>This year's Federal Black Spot Programme will be wholly for Councils. This is likely to continue into the future.</p> <p>Last year the State/Council split was 2015/16 – 80%/20% 2014/2015 – 50%/50%</p> <p>One component of assessment is by BCR which must be very strong, but Feds provide 100% funding if successful – up to \$2M.</p>

BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

13.1

	GRANT SCHEME	ELIGIBILITY	LG	SG	CG	COMMENTS
2	Safer Roads	<p>The NSW Government's Safer Roads Program is a key initiative of the NSW Road Safety Strategy, which aims to make state roads safer and reduce crashes on the road network. This program provides treatments where there are clusters of casualty crashes on local and regional roads. This is achieved by implementing low cost engineering treatments and countermeasures. The program is split into several sub-programs, all targeting high severity crash types, locations and/or vulnerable road users.</p> <p>The sub-programs include:</p> <ul style="list-style-type: none"> State Black Spot High Risk Curves Fatigue Safe Systems Pedestrian Safety Vehicle Activated Signs (VAS) Local Government Road Safety Motorcycle Safety Intersection Safety Cycling Safety Fatal Crash Response Highway Route Review Aboriginal programs 	•	•		<p>Council and RMS compete for this pool of black spot funds.</p> <p>Councils must provide matching funding, with total project cost up to \$5M</p> <p>One component of assessment is by safety index.</p>
3	<p>NSW Liquor and Gaming</p> <p>Arts and Cultural Grants</p> <p>Sport and Recreation Grants</p> <p>Emergency Relief Grants</p>	<p>based in NSW</p> <p>incorporated, not-for-profit organisations, which are solvent (financially sound and not in debt)</p> <p>hold a current ABN</p> <p>NSW local councils</p>	•		•	

BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

13.1

	GRANT SCHEME	ELIGIBILITY	LG	SG	CG	COMMENTS
5	Building Better Regions Fund – Infrastructure and Community Investments	Your project must: <ul style="list-style-type: none"> • be located in regional Australia outside the major capital cities of Sydney, Melbourne, Brisbane, Perth, Adelaide, and Canberra 	•		•	State not specifically excluded, but projects that partner with State gov departments are encouraged.
5	Community War Memorials Fund	An application may be made by any organisation or individual, provided the Owner or Custodian of the Memorial, local RSL Sub-Branch and local council support the bid, where applicable.	•	•	•	
6	Elsa Dixon Aboriginal Employment Program	Organisations applying for funding must be: <ul style="list-style-type: none"> ▪ a NSW public service agency, ▪ a NSW local government authority operating under the <i>Local Government Act 1993</i>, ▪ an Aboriginal community organisation incorporated under the: <ul style="list-style-type: none"> - <i>Aboriginal Land Rights Act 1983</i>, - <i>Aboriginal Councils and Associations Act 1976</i>, - <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i>, or □□ and other Aboriginal incorporated organisation under the: <ul style="list-style-type: none"> - <i>Associations Incorporation Act 2009</i>, - <i>Corporations (NSW) Act 1990</i>, or - <i>Co-operatives Act 1992</i>. 	•	•		
7	Environment Trust	Eco schools		•		
		<i>Education (Government)</i> Government stream: <ul style="list-style-type: none"> • state government agencies and/or statutory committees • local councils • Local Land Services • regional organisations of councils other local government controlled organisations • universities 	•	•		
		<i>Lead Environmental Community Groups</i>				
		<i>Protecting Our Places</i>				

BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

13.1

	GRANT SCHEME	ELIGIBILITY	LG	SG	CG	COMMENTS
		<p><i>Research</i></p> <ul style="list-style-type: none"> • The following organisations are eligible to apply as the lead applicant: Universities • State government agencies and/or statutory committees • Community organisations or groups (see note below) • Incorporated associations/non- profit organisations • Non-commercial Cooperatives Councils • Local Land Services • Regional Organisations of Council • Other local government controlled organisations • Local Aboriginal Land Councils 	•	•	•	
		<p><i>Restoration and Rehabilitation</i></p> <p>The following organisations can apply for the government stream:</p> <ul style="list-style-type: none"> • State government agencies and/or statutory committees • Councils • Regional organisations of councils • Other local government controlled organisations • Universities (only eligible to apply for funding for projects on their own land) 	•	•	•	
		<p><i>Saving our Species Partnership Grants Program</i></p> <ul style="list-style-type: none"> • encourage partnerships between government, the community, non-government organisations and industry 	•	•	•	
		<p><i>Waste Less, Recycle More Initiative</i></p> <ul style="list-style-type: none"> • Community Recycling Centres • Recycling Innovation Fund • Landfill Consolidation • Organics Collection Systems • Major resource recovery infrastructure • Organics Infrastructure 	•			

BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

13.1

	GRANT SCHEME	ELIGIBILITY	LG	SG	CG	COMMENTS
8	Floodplain Management Program	<p>The following organisations are eligible to apply.</p> <ul style="list-style-type: none"> • local councils • county councils • other government bodies with equivalent floodplain risk management responsibilities to local councils (e.g. Lord Howe Island Board, Hunter Local Land Services (LLS)). • Local councils can also work together in a group, provided that: <ul style="list-style-type: none"> • one council is the lead agency in terms of signing of the funding agreement, managing monies and reporting on the project, or • a relevant Regional Organisation of Councils applies for and manages the funding. 	•			Local Land Services are state authority
9	Flying-foxes grant program	<p>Grants are open to NSW Local Government organisations including councils and ROCs. Collaboration with NSW agencies, Aboriginal Land Councils, business, research and community organisations is encouraged however each grant application must be lodged by a Local Government organisation that will be responsible for administering the grant.</p>	•			
10	NSW Heritage Grants	<p><i>Aboriginal Heritage</i></p> <p>To be eligible for assistance applicants must be: a) an Aboriginal organisation / community group, or b) an individual, consultant or organisation supported by an Aboriginal organisation /community, or c) a NSW Local Council or group of Councils or d) a State Government Agency where heritage is not:</p> <ul style="list-style-type: none"> • its core business or • part of its development obligations 	•	•	•	

BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

13.1

	GRANT SCHEME	ELIGIBILITY	LG	SG	CG	COMMENTS
		<p><i>Community Heritage – Peak Organisations</i></p> <p>5.1.1 an applicant must have an ABN and</p> <p>5.1.2 be assessed by OEH as a recognised peak community group, association or organisation including from the not for profit sector (excludes state or federal Government bodies)</p> <p>5.1.3 be assessed as having capacity and commitment to undertake and complete the project.</p>	•		•	
		<p><i>Community Heritage Projects</i></p>				No past guidelines available
		<p><i>Major Works</i></p> <p>5.1.1 an applicant must be the owner and manager of the State Heritage Register listed item involved in the project</p> <p>5.1.2 the applicant must agree to provide matching funding towards the project if successful and</p> <p>5.1.3 an applicant must be assessed as having capacity and commitment to undertake and complete the project.</p>	•	•	•	Must be a state heritage item – this means can be competing against departments like Public works, national parks and wildlife
		<p><i>Local Government Heritage Advisors</i></p>	•			
		<p><i>Local Heritage Places</i> the applicant must be:</p> <ul style="list-style-type: none"> • a NSW Local Council (local government entity/authority) • a group of NSW Local Councils or • an Agency acting upon behalf of an unincorporated area 	•			
		<p><i>Emergency Works</i></p> <p>a) be an individual, organisation, community group, trustee or a NSW Local Council which is the owner (or perpetual lessee) and manager of a State Heritage Register-listed item or item with a current Interim Heritage Order within NSW, or</p> <p>b) be a State government agencies involved as a project partner assisting one of the owners and managers noted at 5.1.1 a)</p>	•	•	•	
11	Heritage Near Me	<p><i>Activation Grants</i></p> <p>Applications will only be accepted from owners or managers of heritage items that are:</p>	•	•	•	

BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

13.1

	GRANT SCHEME	ELIGIBILITY	LG	SG	CG	COMMENTS
		<ul style="list-style-type: none"> • listed on LEPs, and • regularly accessible to the public. <p>Applicants must be holders of an Australian Business Number (ABN), and may be individuals, companies, not-for-profit organisations, or local government.</p> <p>State government owned assets may be eligible for activation projects that are demonstrably outside core activities</p>				
		<p><i>Local Heritage Strategic Projects</i></p> <p>EOIs are sought from a wide range of applicants, including owners and managers of heritage items, local government, and businesses and organisations seeking to develop projects that meet the program's priorities.</p>				
12	Recreational Fishing Trusts	Anyone can apply for funding from the Recreational Fishing Trusts, including fishing clubs and organisations, universities, councils, community groups, individuals and so on. Joint applications are also encouraged.	•	•	•	
13	NSW Community Safety Fund	<ul style="list-style-type: none"> • community groups; • non-government organisations; • not-for-profit organisations; • councils; • chambers of commerce; and • businesses seeking funding for projects that demonstrate community benefit. 	•		•	

BYRON SHIRE COUNCIL

STAFF REPORTS - GENERAL MANAGER

13.1

	GRANT SCHEME	ELIGIBILITY	LG	SG	CG	COMMENTS
14	Regional Growth – Environment and Tourism Fund	<p>Project applications are invited from:</p> <ul style="list-style-type: none"> • local and state government agencies; • Aboriginal Land Councils and other Aboriginal groups; • community groups registered as incorporated associations; and • non-government organisations. <p>The NSW Government encourages proponents to work together through their relevant Joint Organisation of Councils, Regional Organisation of Councils, Destination Networks and local tourism organisations to identify projects that involve more than one LGA and have been identified as regional priorities.</p> <p>Applicants are also encouraged to work with private operators and industry organisations to identify potential projects. Applications that involve</p>	•	•	•	

Financial Implications

- 5 Clearly increasing and unfair competition for limited grant funding pools has significant implications for local government in NSW which is already reeling under pressure to find additional recurrent funding to reduce infrastructure backlogs and maintain key services.

Statutory and Policy Compliance Implications

- 10 Not applicable.

Report No. 13.2 **Mullumbimby Hospital Site Acquisition**
Directorate: General Manager
Report Author: Ken Gainger, General Manager
File No: I2017/764
5 **Theme:** Corporate Management
 Organisation Development

Summary:

10 Following a community campaign over several years the Minister for Health, The Hon Brad Hazzard, wrote to the Council on 10th May 2017 supporting the acquisition of the former Mullumbimby Hospital site by the Council for \$1. The transfer of the site to the Council was conditional upon the following:

- 15 • Council entering into a contract for sale for \$1 and accepting the property “as is” including any contamination or hazardous substances on the site and on the basis that NSW Health is fully indemnified of any future liability for any claim to costs for demolition of buildings and remediation of the site; and
- 20 • Council arranging for demolition of all buildings and remediation of the site at Council’s cost given expert advice recommends this approach to ensure the health and safety of the community.

25 The Minister further advised that “for full transparency on hazardous materials on the site, NSW Health will make available further hazmat reports and documentation”. The Minister stated “Health Infrastructure has received a quotation for the safe demolition of the buildings and site remediation with a cost of several million dollars”.

30 This report discusses a potential way forward for converting this facility into a productive and affordable community space.

RECOMMENDATION:

1. **That the report be noted.**
2. **That Council engage independent consultants to peer review the hazmat reports prepared for NSW Health for the former Mullumbimby Hospital site.**
3. **That a budget of \$50K be approved by the Council to fund the independent peer review.**
4. **That a Project Reference Group (PRG) be established with a sunset period of 12 months, and comprising up to 15 representatives from critical Mullumbimby stakeholder groups, to propose and consider potential uses for the former Mullumbimby Hospital site.**
5. **That the Mayor and Deputy Mayor liaise with the MHAG in determining which community representatives comprise the PRG.**
6. **That the General Manager and staff support the PRG by developing a proposed community engagement strategy for the consideration of the PRG.**

Attachments:

- 35 1 Attachment to email from Hon B Hazzard MP Minister for Health regarding acquisition of former Mullumbimby and District War Memorial Hospital Site, E2017/60961 
- 40 2 ELetter to Hon Brad Hazzard MP Minister for Health requesting draft contract regarding proposed acquisition of former Mullumbimby and District War Memorial Hospital site, E2017/34235 

Report

5 At the date of writing this report the requested NSW Health hazmat reports and documentation relative to the former Mullumbimby Hospital site promised by the Minister have failed to materialise. NSW Health staff advise that these documents will be appended to the draft Contract of Sale when it has been prepared.

10 Clearly, before Council can entertain potential uses for this site it needs to first receive the hazmat/contamination reports so that they can be independently evaluated and assessed in terms of Council better understanding the nature and extent of contamination, the likely remediation works required and the cost of undertaking those works. It is proposed that the Council engage independent consultants to peer review the hazmat report/s provided to NSW Health. Past
15 experience with contaminated sites indicates that it may take 2-3 years before Council can develop a remediation plan for this site which is endorsed by the Environmental Protection Authority. Then there is the matter of the Council identifying a funding source for the “several million dollars” (Health Infrastructure estimate) required to complete these works.

20 Quite understandably, the Mullumbimby community is excited at the prospect of utilising this site for the delivery of much needed community services. Clearly, given the scenario painted above, there is an available time frame for the Council to undertake extensive community consultation about such uses while Council grapples with the contamination issues.

25 Meetings held between Council and the Mullumbimby Hospital Action Group (MHAG) have led to the suggestion that Council should establish a Project Reference Group comprising representatives of MHAG and other critical Mullumbimby stakeholder groups and that the PRG be charged with responsibility for proposing and considering potential uses for the former hospital site having regard to potential constraints arising from the site contamination and the various options
30 for remediating/removing that contamination. A PRG is a constructive and useful conduit for the Mullumbimby community to channel their future aspirations for the use of this site.

Should this approach be supported by the Council, it is suggested that the PRG have a sunset period of 12 months so as to establish an imperative for delivering outcomes.

35 **Financial Implications**

40 The primary financial implication is the cost of remediation and identifying an available and viable funding source for this. A secondary consideration is identifying appropriate usage models for the site that provide an opportunity to firstly reimburse Council for the sunk remediation costs for the site as well as providing a recurrent revenue stream that can fund the development, maintenance and upkeep of the site. This will mean the need for the development of detailed business cases for potential uses for the site.

45 **Statutory and Policy Compliance Implications**

The conditions of the transfer of the site to Council imposed by the Minister and included in the summary to this report signal and outline the most significant statutory and policy implications for the Council.

Report No. 13.3 **Research Report - Towards smoke-free and litter-free beaches in the Byron Shire**

Directorate: General Manager

Report Author: Allison Rogers, Research Officer

5 Michael Matthews, Manager Open Space and Resource Recovery

File No: I2017/784

Theme: Community Infrastructure
Waste and Recycling Services

10

Summary:

To investigate the possibility of declaring the foreshore area from Clarkes Beach to Belongil (and possibly further) a 'no-smoking' precinct with appropriate signage and enforcement.

15

Information/Background:

This draft Research Paper is the result of a research brief from the General Manager. The paper considers:

20

1. Council's current policy on 'Smoke-Free Outdoor Areas' and how council can choose to enact this.
2. Current Shire litter issues and evidence regarding the types of litter turning up on Byron's beaches and foreshore areas.
3. Issues posed by littering in a marine park environment and the impact this is having on marine life.

25

30

In reviewing the smoke-free beach legislation and education campaigns run by other councils and states, this paper sets out a number of ideas and a strong case for a smoke-free / litter-free campaign for Byron's beaches and how this could be funded.

RECOMMENDATION:

That Council consider the following propositions, namely:-

- **Enact Councils existing 'Smoke-free outdoor areas policy 11/010' and invest in signage and enforcement resourcing;**
- **Support the development of an overarching policy for litter reduction, which could include enforcement of the 'Smoke-free outdoor areas policy' as well as Council's Dumping Action Plan and a new education campaign to enforce the anti-litter messages; and**
- **Explore grant funding options to support relevant infrastructure and educational programs.**

35

Attachments:

- 1 E2017 18771 Research Paper Draft 1 - Towards smoke-free and litter free beaches and foreshore areas in the Byron Shire, E2017/29306 

Report

Refer to attachment 1 - #E2017/18771

5 Financial Implications

N/A

Statutory and Policy Compliance Implications

10

Refer to attachment 1 - #E2017/18771

Policy 11/010 - 'Smoke-free Outdoor Areas Policy
Byron Shire Council Dumping Action Plan (10-634) - DM977623

15

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.4 Council Resolutions Quarterly Review - 1 January 2017 to 31 March 2017

5 **Directorate:** Corporate and Community Services
Report Author: David Royston-Jennings, Corporate Governance and Strategic Planning Officer
File No: I2017/463
10 **Theme:** Corporate Management
Governance Services

Summary:

15 This report provides an update on the status of Council resolutions and any proposed actions for consideration by Council.

20 It should be noted that 52 resolutions have been completed during the period 1 January to 31 March 2017 and there are 73 outstanding resolutions. Resolutions could be outstanding due to budget constraints, staff resourcing, and extended negotiations with stakeholders. There are a number that require no further action and should be closed.

RECOMMENDATION:

1. That Council receive and note the information provided in this report on outstanding Council Resolutions in Attachment 1 (#E2017/53593).
2. That Council note the completed Resolutions in Attachment 2 (#E2017/26454).
3. That Council resolve that no further action be taken in respect of the following resolutions and that they be closed:

Resolution 15-589
Resolution 16-202
Resolution 16-469

Resolution 13-655
Resolution 15-157
Resolution 15-193
Resolution 15-196
Resolution 16-219
Resolution 16-432
Resolution 16-438
Resolution 16-643
Resolution 16-644
Resolution 16-472
Resolution 17-039

25

Attachments:

- 1 Outstanding Council Resolutions as at 31 March 17 , E2017/53593 
- 2 Completed Council Resolutions 1 January 2017 to 31 March 2017, E2017/26454 

30

Report

This report provides a quarterly update on the status of Council Resolutions to 31 March 2017:

- 52 resolutions were completed during period 1 January to 31 March 2017
- 73 resolutions remain outstanding as at 31 March 2017

The outstanding Council resolutions per Council terms are provided below:

- 36 Outstanding Council Resolutions from current Council (2016-2020)
- 34 Outstanding Council Resolutions from previous Council (2012-2016)
- 3 Outstanding Council Resolutions from prior Council (2008-2012)
- 73 Outstanding Resolutions as at 31 March 2017

Resolutions could be outstanding due to budget constraints, staff resourcing, and extended negotiations with stakeholders.

Details of completed resolutions for the period are provided at Attachment 2.

Resolutions completed during this time period include an application with IPART for a special rate variation (17-020), adoption of an updated Children’s Services Policy (17-034), amended Byron LEP to expand Tallwood Ridge Estate Mullumbimby (17-036), and award of tenders for sewerage pump station construction (17-016), award of Sunrise Boulevard and Ewingsdale Road roundabout construction (17-017), and North Ocean Shores fire main construction (17-041).

In 2014 Council (14-417) sought a review of outstanding resolutions to determine which ones currently fit within other resolutions, which ones cannot be resourced and which Council resolutions are able to be closed. The below tables outline these resolutions.

Table 1: Council Resolutions that are no longer relevant or that have been superseded by other Resolutions

Resolution No.	Meeting Date	Report Title	Staff Comments and Recommendation
15-589	19/11/2015	Webcam Ewingsdale Road	Close – Google maps is constantly updated by GPS from mobile devices while waiting in traffic. No further action warranted.
16-202	24/04/2016	Changes to parking restrictions, Gilmore Crescent, Byron Bay	Close – NSW Roads and Maritime Service does not endorse the parking changes.
16-469	25/08/2016	Consistent Speed Limits on the Shire's Road Network	Close – Transport for NSW controls all speed zones in the Byron Shire. The warrants and guidelines are posted on the Safer Roads NSW website.

Table 2: Council Resolutions that are not resourced

The below table notes the resolutions which are not resourced and should therefore be closed. Alternatively Council may consider the priority of the respective resolutions and whether further action is required.

5

Resolution No.	Meeting Date	Report Title	Staff Comments and Recommendation
13-655	12/12/2013	Request for Parking Restrictions, Old Bangalow Road, Byron Bay	Funding required for design and initial works- estimated cost \$10k
15-157	09/04/2015	Bus set down and pick up options at the Byron Bay Memorial Swimming Pool	Concept design and options should be incorporated into the Byron Bay Master Plan projects when appropriate.
15-193	30/04/2015	Cul-de-sac, St. Finbarr's Primary and Byron Bay High Schools	Part A completed. Part B requires a traffic count and a concept design. Estimated cost to investigate and report \$6k.
15-196	30/04/2015	Proposed No Stopping, Village Greens grocer, Brunswick Heads	Funding required to complete lines and signs. Estimated cost \$4k.
16-219	28/04/2016	Erect Signage on Ewingsdale Road	Funding required for consultant to complete action plan estimated cost \$25k . Timing of works to be co-ordinated with Bayshore Drive intersection RAB upgrade.
16-432	04/08/2016	Speed bump needed in blackwood Crescent, Bangalow	Funding required for traffic count, design and installation. Estimated cost \$12k
16-438	04/08/2016	Coorabell Public School Bus Route - Request for Upgrade and Maintenance at 3 Bus Stops at Federal, Ewingsdale, Mullumbimby	Funding required. Estimated cost \$90k - \$115k.
16-472	25/08/2016	Review of Outstanding Council Resolutions (median works in Station Street Mullumbimby at the entrance / exit to Woolworths)	Funding required. Estimated cost \$20k.
16-643	15/12/2016	Signage - Installation of No Stopping zones at Shearwater, The Mullumbimby Steiner School - Left Bank Road, Mullumbimby	Funding required. Estimated cost \$6k.
16-644	15/12/2016	Signage - Relocation of Bus Zone on Bayshore Drive, Byron Bay including Installation of No Stopping and 30-minute Parking zones	Funding required. Estimated cost \$3k.
17-039	23/02/2017	Traffic - Tennyson Street (North of Marvel St) - Time Limited 4P Parking Scheme	Funding required complete stage 2 works required. Estimated cost \$112k.

It is recommended that these resolutions be closed and that any requests for the provision of budgets be considered in the preparation and consideration of the 2018/19 IP&R documents.

- 5 It should be noted that officers are currently reviewing the way complete and outstanding resolutions are reported to Council.

Financial Implications

- 10 A number of resolutions note that resource constraints limit completion of action required. Council may consider the priority of the respective resolutions and whether further action is required. Should Council determine that the unfunded resolutions need to be actioned, an additional \$300,000 (approximate) would need to be allocated however alternative funding sources would need to be found.

15

Statutory and Policy Compliance Implications

- 20
- Council requires a quarterly report be prepared to allow it to consider the six monthly Operational Plan and Quarterly Budget reviews along with a review of Council Resolutions.
 - Implementation of Council Resolutions in accordance with the Local Government Act 1993.
 - This report has been prepared in accordance with Part 3c) of Resolution 14-417.

Report No. 13.5 **Adoption of the Community Strategic Plan 2027, Delivery Program 2017-2021 and Operational Plan 2017-2018 (including Statement of Revenue Policy, Budget, Fees and Charges)**

Directorate: Corporate and Community Services

5 **Report Author:** Mila Jones, Corporate Governance Coordinator
James Brickley, Manager Finance

File No: I2017/557

10 **Theme:** Corporate Management
Governance Services

Summary:

15 Council at its 20 April 2017 Ordinary meeting, endorsed the Community Strategic Plan 2027 (with minor amendments for Disability Inclusion Access Planning compliance), Delivery Program 2017-2021 and Operational Plan 2017-2018 (including the Statement of Revenue Policy, 2017-2018 Budget and 2017-2018 Fees and Charges) for public exhibition (Resolution **17-123** and Resolution **17-139**), noting that a major review of the Community Strategic Plan will occur during 2017-2018.

20 This report reports the submissions received during public exhibition for Council's consideration and recommends a number of proposed amendments. It also recommends that Council adopt the revised documents.

RECOMMENDATION:

1. **That Council consider the submissions received during the public exhibition period for the Integrated Planning and Reporting documents 2017, including the Community Strategic Plan 2027, Delivery Program 2017-2021 and Operational Plan 2017-2018 (including the Statement of Revenue Policy, 2017-2018 Budget and 2017-2018 Fees and Charges).**
2. **That Council adopt the following Integrated Planning and Reporting documents:**
 - a) **Community Strategic Plan 2027 as exhibited with the only amendment being the inclusion of the updated data from the 2011 census provided by the Australian Bureau of Statistics.**
 - b) **Delivery Program 2017-2021 and Operational Plan 2017-2018 as exhibited.**
 - c) **2017-2018 Statement of Revenue Policy incorporating the changes outlined in the Report under the heading 'Management Comments – 2017/2018 Revenue Policy' and the 2017/2018 Budget Estimates including:-**
 - i) **the amendments identified in the Financial Implications section and summarised at Table 6 of this Report, and**
 - ii) **an increase to the budget allocation for north urban and rural drainage maintenance of \$202,300, funded by a reduction of \$202,300 to the proposed budget for the Lighthouse Road project between Massinger Street and Tallows Beach Road.**
 - d) **2017-2018 Fees and Charges incorporating wording changes outlined in the Report under the heading 'Management Comments - 2017/2018 Fees and Charges' and with the following amendments:-**
 - i) **Addition of a new fee being the Information Technology Service Fee, to be**

levied against all new Development Applications received at 0.07% of the value of Development Applications.

- ii) Addition of a new fee relating to Temporary Food Businesses (ie Market Stalls) for inspections to be set at \$80 for high risk, \$60 for medium risk and \$40 for low risk.**

subject to the new fees in recommendation 2(d)(i) and 2(d)(ii) above, being exhibited for public comment for a period of 28 days, that the fees be incorporated into Council's adopted Fees and charges for 2017/2018 should no submissions be received during public exhibition,

Attachments:

- 1 Confidential - Integrated Planning and Reporting 2017-18 Submissions Complete, E2017/61124
- 5 2 Media Release dated 30 May 2017 from NSW Government deferring FESL, E2017/61517 [⇒](#) 

Report

5 Integrated Planning and Reporting provides a framework that sets out community's main priorities and aspirations for the future and outlines how these will be achieved. The framework is led by the Community Strategic Plan and supported by a series of plans and strategies.

10 The Community Strategic Plan sets out the 10-year vision and is developed in partnership between council, government agencies, community groups and individuals. The Delivery Program is a statement of commitment outlining the priorities for the next four years and how these will be achieved. The annual Operational Plan further details the Delivery Program and outlines what individual projects and activities will be undertaken.

15 Council is required to review its Integrated Planning and Reporting (IP&R) documentation within nine months of a council election (by 30 June 2017). Council is also required to undertake disability inclusion action planning by 1 July 2017 – this has been included in the IP&R framework rather than developing a stand-alone Disability Inclusion Action Plan.

20 At the Ordinary Meeting on 20 April 2017 Council resolved (**17-123**) and (**17-139**) to place the IP&R documents on public exhibition including the Community Strategic Plan 2017 (with minor amendments for Disability Inclusion Access Planning compliance), Delivery Program 2017-2021 and Operational Plan 2017-2018 (including the Statement of Revenue Policy, 2017-2018 Budget and 2017-2018 Fees and Charges), noting that a major review of the Community Strategic Plan will occur during 2017/18.

25 This report presents the submissions received and seeks Council's consideration of any proposed amendments from the submissions, Council resolutions adopted during the public exhibition period and the accompanying management comments. Following that consideration and the inclusion of any further amendments endorsed by Council, it is recommended Council adopt the revised Integrated Planning and Reporting documents as outlined in this report.

30

Resourcing Strategy – Long Term Financial Plan

35 Council reviews its Long Term Financial Plan (LTFP) on an annual basis and put it on public exhibition (resolution number February meeting **17-020**). The LTFP included the base case and three scenarios which formed part of the Special Rate Variation application to IPART in February 2017.

40 On 9 May 2017 the Independent Pricing and Regulatory Tribunal (IPART) approved Council's special rate variation of 7.5 per cent per year for four years. Future LTFPs will be updated to reflect this the IPART determination along with any revisions to the Strategic Asset Management Plan.

Consultation and public exhibition

45 All of the documents were placed on public exhibition from 21 April 2017 to 25 May 2017. Key engagement activities included:

- Community information stands which were attended by staff at:
 - Renew Fest Mullumbimby, 6 May 2017
 - New Brighton Farmers Market, 9 May 2017
 - Byron Bay Farmers Market, 11 May 2017
- Community Roundtable, 3 May 2017
- Business Roundtable, 17 May 2017
- Direct email, including documents to various community and sporting groups, schools, Byron Youth Service, people with lived experience of disability and chambers of commerce
- 55 • Weekly display advertisements in the Byron Echo and Byron Shire News

- Weekly advertisements in Council Notices in the Byron Shire News
- Daily 30 second announcements on BayFM
- Council's e-newsletter
- Media release
- 5 • Council's website www.byron.nsw.gov.au displayed a full copy of the documents, including an eight page Community Summary and a four page Business Rates Handout.

The Integrated Planning and Reporting documents endorsed by Council at the 20 April 2017 Ordinary Council Meeting for public exhibition can be viewed using the following link:

10

www.byron.nsw.gov.au/integrated-planning-and-reporting-documents

Submissions

15 Council is required to consider any submissions received during the exhibition period prior to the Council's endorsement and/or adoption of these documents. Full copies of the submissions are provided at Attachment 1 on a confidential basis. The full copies of the submissions contain personal information such as names and addresses of the person's lodging submissions which are relevant matters to be taken into consideration in determining this matter.

20

Community and Business Roundtable:

A presentation was made to the Community Roundtable on 3 May 2017 with questions raised and answered at the event. There were 20 people in attendance with no submissions received at the event.

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A presentation was made to the Business Roundtable on 17 May 2017. There were 21 people in attendance. Issues discussed at the Business Roundtable during the presentation included the impact on the properties categorised as Business under the rating structure proposed in the Statement of Revenue Policy.

30

Community Information Stands:

Issues raised at information stands included:

35

- Renew Fest 6 May 2017 – Approximately 15 people attended the information stand with no submissions made at the time however one matter was raised in discussion:
 - Enforcement of no cats and dogs in Lillypilly – concerned with Council's action to allow existing pets to remain in the neighbourhood
- 40 • New Brighton Farmers Market 9 May 2017 – 22 people attended the information stand with no submissions made at the time however one matter was raised in discussion:
 - Flood mitigation – Requesting Council do everything possible to mitigate flooding in the Shire
- 45 • Byron Bay Farmers Market 11 May 2017 – 18 people attended the information stand with three matters being raised:
 - Byron Bay Markets – raised pedestrian surface outside the nursing home needs to be cleaned as well as to be marked with a white line as it is a trip hazard and had caused someone to fall that morning
 - 50 – The state of the roads, where are rates going – no drainage, no kerb or channel, pot holes, beach side suburbs especially.

By email, mail or telephone:

Council received 18 submissions by email, 0 by mail and 0 by telephone.

55

Table 1 – Summary of submissions to the Draft Delivery Program 2017-2021 and Operational Plan 2017-2018

Doc No.	Regarding	Staff comment
E2017/29735 E2017/29737	<p><i>CI4.1.5 Implement Future Options for Tyagarah Airfield:</i> Tyagarah Aerodrome is not a community priority and should not be a delivery program priority without further community consultation.</p>	<p>Council has previously resolved (17-121) to undertake a range of studies and evaluations regarding Tyagarah Airfield.</p>
E2017/31478	<p><i>CM1.1.3 Ensure Council's information systems are efficient, effective, resilient and accessible:</i> Development application tracking interface</p>	<p>Searching by development application "type" will be included in new website to be implemented in 2017/18</p>
	<p><i>CI1.1.1 Ensure an integrated and accessible transport network:</i> Bike paths and bike lanes, road works at Mullumbimby Road and Gulgan Road interchange; safety precautions at top of the hill on Mullumbimby Road between Saddle Road and McAuleys Lane</p>	<p>Council has proposed funding in 2017/18 to undertake a review of its Bike Plan and prepare a Pedestrian and Mobility Plan (PAMP). The funding for both includes a grant application to RMS. If the grant application is not successful then Council will need to consider whether it funds this work by itself. It is expected that the Bike Plan will identify a prioritised list of bike projects for the future. The plan will cover the routes listed in this submission.</p> <p>No works are proposed for the intersection of Gulgan Rd and Mullumbimby Rd. It is recommended that this request be scoped and considered in budget discussions for 2018/19 for both short term and long term options and solutions.</p> <p>No works are proposed for a bus shelter and bus layby on the western side of Mullumbimby Rd near The Saddle Rd. It is recommended that this request be scoped and considered in budget discussions for 2018/19. The issue of signs for concealed driveways will be investigated by staff.</p>
	<p><i>CI1.2.1 Implement road and related projects:</i> Safety and amenity of Saddle Road</p>	<p>The traffic and stormwater issues will be investigated and scoped by staff and considered in budget discussions for 2018/19.</p> <p>The issue of illegal camping will be investigated by rangers and compliance</p>

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

Doc No.	Regarding	Staff comment
		staff.
	<i>SC2.4.3 Ensure the heritage of the Shire is protected, managed and utilised:</i> Heritage Near Me – Local Heritage Strategic Projects Grant program	<p>Staff are alerted to invitations for grant applications and will seek funding by submission of an application for any appropriate grants.</p> <p>For 2017/18 and 2018/19 Council has been successful in receiving grant funds from the NSW Heritage Office for the continuation of the Local Heritage Advisor program and Local Places Program. Both are listed in the Operational Plan. Other grants under the Heritage Near me fund will be reviewed and applied for as relevant. The suggestion that a Saddle Road/MacAulay's Lane Heritage Conservation Management Plan be prepared will be referred to the Council Heritage Advisor for consideration and possible grant funding opportunity.</p>
	<i>CI1.7.1 Identify future use options for former sewage treatment plant sites:</i> Consult with Brunswick Heads community about options for Brunswick Heads sewerage treatment station.	<p>Council is currently completing the demolition and remediation of the site. Future use options will then be considered by Council in consultation with the community.</p>
	<i>CI4.1.5 Implement future options for Tyagarah Airfield:</i> Consult community regarding future uses of the facility	<p>Options regarding the Tyagarah Airfield can initially be the subject of consultation through the community Transport & Infrastructure Advisory Committee. The studies associated with Resolution 17-121 will be relevant in this regard.</p>
	<i>CI1.4.1 Implement review of parking management:</i> Introduce paid parking in Brunswick Heads and Mullumbimby	<p>Parking strategies have been completed and community consultation is underway for Mullumbimby.</p> <p>The strategy for Brunswick Heads will be reported to Council in the near future before any community consultation is undertaken.</p>
	<i>EN1.3.1 Implement Coastal Zone Management Program and EN1.4.1 Implement Estuary Management Program:</i> Review the Coastal Zone Management Plan for the Brunswick Estuary	<p>This Estuary Management Plan for Brunswick Estuary is currently under review in consultation with Office of Environment and Heritage for resubmission to the Minister for certification as a Coastal Zone Management Plan.</p>
	<i>EN1.1.2 Restore degraded areas and habitats that have or provide significant or</i>	<p>Staff are alerted to invitations for grant applications and will seek funding by</p>

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

Doc No.	Regarding	Staff comment
	<p><i>high environmental and or community value and EN3.1.2 Support inclusive community environmental and sustainability projects:</i> Council has not identified any eligible projects for Environment Trust – Council Roadside Reserves Grant Program</p>	<p>submission of an application for any appropriate grants.</p>
	<p><i>EN1.1.1 Protect and enhance our natural environment and biodiversity:</i> Inclusion of Saddle Road area has not been included in the Byron Shire Draft Koala Plan of Management</p>	<p>The Byron coast koala planning area comprises approximately 13,790 hectares of land located along the coastal portion of the Byron Local Government Area (BLGA), extending from the BLGA's boundary with Tweed Shire in the north to its boundary with Ballina Shire in the south. The western boundary is an arbitrarily defined line earlier identified by Council, OEH and DP&E officers that served to delimit that area within which development pressure and other land uses with the potential to impact upon koalas were perceived to be greatest. The Pacific Highway bisects the koala planning area between Brunswick Heads – Billinudgel in the north to where the highway currently exits the planning area boundary in the vicinity of Bangalow to the southwest. Outside of this planning area, other State and Federal legislation applies with respect to the protection of koalas and their habitat.</p>
	<p><i>SC3.1.2 Ensure Aboriginal and broader cultural heritage management reflects legislative requirements as well as community expectations and values:</i> Saddle Ridge should be given special attention as part of the Byron Aboriginal Cultural Heritage Study</p>	<p>An Aboriginal Stakeholder Steering Committee is supporting and informing the Aboriginal Cultural Heritage Study Stage One including site identification through the Shire.</p>
E2017/32153	External safety audit as recommended by Local Traffic Committee February 2015	Budget proposed in 2017/18 to undertake audit and implement any approved works within the budget limits.
E2017/32238	1. Mullumbimby Swimming Pool and erosion	Staff have previously investigated and will continue to monitor.
	2. Cease supporting triathlons in Byron Shire	Comments noted.
	3. Consideration of hydroelectric scheme	The Wilsons Creek Power Station was listed

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

Doc No.	Regarding	Staff comment
	to power Council's operations and possibly Mullumbimby township	on the State Heritage Register June 2014. Approval from the Heritage Council is required for any act, work, development etc. Notwithstanding the above, a local community group - Community Owned Renewable Energy (CORE) has been investigating the option and feasibility for a Mullum Mini Hydro Project. No formal project has evolved for Council to consider to date.
	4. Solutions to improve the standard of roads	<p>The Independent Pricing and Regulatory Tribunal has approved a Special Rate Variation that will provide ongoing additional funds for infrastructure renewal including roads.</p> <p>Once a pot hole forms it breaks the wearing surface and allows water to enter the base and sub base. If the moisture can not escape through drainage then we could have greater issues with the subgrade.</p> <p>Pot hole repairs are just temporary treatments until that section of road can be excavated, the problem identified then rehabilitated back to the wear surface layer.</p> <p>Highlighting pot holes with coloured paint puts the individual painter and traffic at risk due to the lack of traffic control. This proposal is not supported.</p>
	5. Volume of traffic in townships	<p>Speed Zones are the sole responsibility of Transport for NSW. The best way to request a Speed Zone Review is to lodge a request at https://www.saferoadsnsw.com.au/haveyour say.aspx</p> <p>Each pedestrian crossing would have to be accessed individually to see if safety improvements could be made. This can be investigated by staff in the short term.</p> <p>The benefit with a pedestrian crossing on a street corner is there is a natural 10m No stopping zone to improve sight distance. Also pedestrians are likely to take the shortest route to their destination.</p>
	6. Providing water bubblers and amenities	The resident will be requested to advise

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

Doc No.	Regarding	Staff comment
	where they're needed	where these water bubblers are needed and then the request referred to the Water Team.
	7. Commissioning of public art	No action required.
E2017/33102	Proposed civil works in the South Beach Road – Brunswick Surf Life Saving Club Parking area	These requested works are for horse trailer parking and associated facilities. It is recommended that this request be scoped and considered in budget discussions for 2018/19.
E2017/34165	1. Food and healthy eating	Comments noted.
	2. Environmental Sustainability	Comments noted.
	3. Transport	The support for Council's plans is noted
	4. Inclusion	Accessible transport is considered relevant to all including those with needs associated with disability.
	5. Physical Activity	The support for Council's plans is noted
	6. Tobacco and Alcohol	Council's Safer Community Compact 2016-19 has been endorsed by NSW Attorney General. A number of community partnered initiatives to address alcohol related violence are identified and will be implemented over the life of the Safer Community Compact. Council welcomes the participation of NSW Health in projects relating to alcohol related violence as part of the Compact.
E2017/33889	1. Signage, Walking and Driving	<p>The request for additional signage for walking and driving around Wategos will be investigated by staff.</p> <p>The requests for additional construction works for footpaths, roundabouts, landscaping, BBQ areas, and a bike path will be scoped and considered in budget discussions for 2018/19.</p> <p>2 Brownell Drive, Byron Bay belongs to the Bunjalung of Byron Bay Aboriginal Corp (Arakwal). This private property has uncontrolled parking in Julian Place which is the responsibility of the property owner.</p>

BYRON SHIRE COUNCIL

Doc No.	Regarding	Staff comment
		Council will meet with Arakwal to investigate options to solve this issue.
	2. Surveillance Cameras	It is recommended that this request for installation of surveillance camera be scoped and included in budget discussions for 2018/19.
	3. Marine Pde Stage 4 has not commenced	It is recommended that this request be scoped and considered in budget discussions for 2018/19.
	4. Footpath Palm Valley Drive to Marine Parade (Rae's side)	 <p data-bbox="911 1444 1474 1590">The red dashed line is currently being investigated as an option to improve pedestrian access from Marine Parade to Lighthouse Road.</p> <p data-bbox="911 1612 1474 1731">It is recommended that this request be scoped and considered in budget discussions for 2018/19.</p>
E2017/34490	1. Pedestrian and cyclist access along Lighthouse Rd and Palm Valley Dr	Council has proposed funding in 2017/18 to undertake a review of its Bike Plan and prepare a Pedestrian and Mobility Plan (PAMP) in 2017/18. The funding for both includes a grant application to RMS. If the grant application is not successful then Council will need to consider whether it funds this work by itself. It is expected that the Bike Plan will identify a prioritised list of

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

Doc No.	Regarding	Staff comment
		bike projects for the future. The plan will cover the routes listed in this submission.
	2. Speed Zone Review Request	Speed Zones are the sole responsibility of Transport for NSW. The best way to request a Speed Zone Review is to lodge a request at https://www.saferoadsnsw.com.au/haveyour say.aspx
	3. Illegal U-turns on Marine Parade near the third speed table from Rae's.	The timber bollard size was selected as the best choice between strength, amenity and not allowing children to hide completely behind the bollard. Upgrading the timber bollards would require extensive capital works to be carried out and wouldn't stop people turning around. Construction of stage 4 would allow motorists to have a better ability to turn around in safer location.
	4. Relocate the Lighthouse/Wategos sign on the corner of Palm Valley drive & Lighthouse Rd.	The site has been inspected and due to the steep slope downwards onto NPWS land a custom sign and stand is be required. . It is recommended that this request be scoped and considered in budget discussions for 2018/19.
	5. Vegetation maintenance at junction of Marine Parade and Palm Valley Drive	This vegetation is out side of Councils jurisdiction and under the custody of a trust managed by North Coast Holiday Parks.
	6. Road vegetation maintenance on Lighthouse Road and Wategos Beach	Maintenance works have been carried out on roadside vegetation around the Wategos Beach area to improve visibility in traffic lanes. These works are now programmed to be undertaken annually.
	7. Annual Traffic Count request for Lighthouse Rd and Marine Pde.	A biannual Standard Traffic Count Program is conducted on Lighthouse Road near the Paterson St intersection. The traffic counts for Marine Parade will be included in this program
	8. Improved tourist signage	It is recommended that this request be scoped and considered in budget discussions for 2018/19.
	9. Council to seek funding for tourist	Staff are alerted to invitations for grant

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

Doc No.	Regarding	Staff comment
	signage.	applications and will seek funding by submission of an application for any appropriate grants.
	10. Improved cyclist access along Lighthouse Rd and Palm Valley Drive	Council has proposed funding in 2017/18 to undertake a review of its Bike Plan and prepare a Pedestrian and Mobility Plan (PAMP) in 2017/18. The funding for both includes a grant application to RMS. If the grant application is not successful then Council will need to consider whether it funds this work by itself. It is expected that the Bike Plan will identify a prioritised list of bike projects for the future. The plan will cover the routes listed in this submission.
	11. Road edge maintenance along Lighthouse Rd and Palm Valley Drive	The request will be investigated by staff.
	12. Ongoing enforcement of No Camping	The issue of illegal camping will be investigated by rangers and compliance staff.
	13. Road and Traffic	<p>It is recommended that the requests for new works of traffic calming, landscape entry treatments, K&G, second entry point into the area, etc be scoped and included in budget discussions for 2018/19.</p> <p>The design of the revised roundabout at Clifford St intersection, pedestrian refuge across Broken Head Rd and other short term traffic works will be investigated in 2017/18 with the existing funding provided.</p> <p>Council has proposed funding in 2017/18 to undertake a review of its Bike Plan and prepare a Pedestrian and Mobility Plan (PAMP) in 2017/18. The funding for both includes a grant application to RMS. If the grant application is not successful then Council will need to consider whether it funds this work by itself. It is expected that the Bike Plan will identify a prioritised list of bike projects for the future. The plan will cover the routes listed in this submission.</p> <p>The preparation of both plans will include consultation with the community.</p> <p>The preparation of the new plan will include</p>

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

Doc No.	Regarding	Staff comment
		bike paths from Suffolk Park into Byron Bay.
E2017/35805	1. Sports Field	Comments noted
	2. Lake Area	Comments noted
	3. Sports Activity	Comments noted
	4. New Suffolk Community Land	<p>Item 4 and 6 of Council resolution 16-587 with regard to the purchase of the Department of Education land at Suffolk Park states:</p> <p><i>“4 That upon completion of the purchase the General Manager does all acts and things necessary to classify the land as community land and amend the Byron Local Environmental Plan to rezone the land to RE1 Public Recreation in the next housekeeping amendment.”</i></p> <p><i>“6 That Council, upon the purchase of the land, begin discussions with the community of Suffolk Park to ascertain the preferred uses of the land in question.”</i></p> <p>As at the date of writing this response the sales process is proceeding but has not as yet been completed.</p> <p>It is recommended that Council allocate a budget of \$55,000 from the Suffolk Park Open Space Section 94 account to prepare a plan of management, rezone the land and design and consult on the proposed works.</p> <p>Upon completion of the design and consultation the works can be costed and a budget allocated for construction in a quarterly review.</p>
	5. Footpath	<p>This request for a footpath is currently being investigated by staff.</p> <p>The footpath extension is partially on Council and NPWS managed land so it will take time to negotiate a location for a footpath.</p>
	6. Vehicular movement eastern end Marine Parade	The requests for additional construction works for footpaths, roundabouts,

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

Doc No.	Regarding	Staff comment
		landscaping, etc will be scoped and considered in budget discussions for 2018/19.
E2017/39675	Parking – drainage Julian Place	<p>2 Brownell Drive, Byron Bay belongs to the Bunjalung of Byron Bay Aboriginal Corp (Arakwal). This private property has uncontrolled parking in Julian Place which is the responsibility of the property owner.</p> <p>Council will meet with Arakwal to investigate options to solve this issue.</p>
E2017/44374	1. Accessible Cycleways and Walkways	<p>Council has proposed funding in 2017/18 to undertake a review of its Bike Plan and prepare a Pedestrian and Mobility Plan (PAMP) in 2017/18. The funding for both includes a grant application to RMS. If the grant application is not successful then Council will need to consider whether it funds this work by itself. It is expected that the Bike Plan will identify a prioritised list of bike projects for the future. The plan will cover the routes listed in this submission.</p> <p>The preparation of both plans will include consultation with the community.</p>
	2. Traffic management at the intersection of Bangalow Rd and Old Bangalow Rd in Byron Bay	It is recommended that this request be scoped and considered in budget discussions for 2018/19.
E2017/47738	Community Infrastructure CI 1.5	The report is being progressed through the Coastal Catchment Management Panel and Council. Once a resolution is adopted by Council, works will be implemented.
	Community Infrastructure CI 2	Council is currently preparing a plan of management for the Valences Rd site that will include energy initiatives and possible cooperative projects with COREM/Enova. Solar farm schemes (new and expanded) are also being reviewed for the other STP sites.
E2017/47740	1. Condition of roads	<p>In the short term the potholes will be filled.</p> <p>In the long term, the Independent Pricing and Regulatory Tribunal has approved a Special Rate Variation that will provide ongoing additional funds for infrastructure</p>

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

Doc No.	Regarding	Staff comment
		renewal including roads.
		<p>McGettigan's Lane pot holes have been repaired between Parkway Drive North entrance and Ewingsdale Road on Thursday 25/05/2017.</p> <p>Parkway Drive intersection with Avocado Crescent has been raised by the resident as having a rough surface and a 2018/19 budget bid has been created for a 200m long pavement renewal project.</p>
E2017/48045	Community health and resilience	<p>Request for Council to support and to fund 3 projects:</p> <ul style="list-style-type: none"> • Centre for Ecoversity Teaching • Byron Water Protectors • Global Repair Summit <p>Council has an existing Sustainability and Environment program that can support initiatives and projects like these. Each request is considered on its merits and within annual budget allocations.</p>
E2017/40045	Carlyle Street	It is recommended that this request be scoped and considered in budget discussions for 2018/19

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Table 2 – 2017/2018 Budget

Doc No.	Regarding	Staff comment
E2017/35645	Heritage Listed interpretative signage – suggested item to include in 2017/18 budget	<p>Staff are alerted to invitations for grant applications and will seek funding by submission of an application for any appropriate grants.</p> <p>For 2017/18 and 2018/19 Council has been successful in receiving grant funds from the NSW Heritage Office for the continuation of the Local Heritage Advisor program and Local Places Program. Both are listed in the Operational Plan. The suggestion that a grant be applied for Interpretative Signage for the WW1 Memorial Pine Park will be referred to the Council Heritage Advisor for consideration and possible grant funding opportunity.</p>
E2017/44361	SC3.3 Encourage and support residents from cultural and linguistically diverse backgrounds to participate in all aspects of community	A budget includes a vote of \$1,000 to support Harmony Day activities. A range of support mechanisms including development of a CALD network and identification of priorities for CALD communities are identified activities in the 17/18 financial year.
E2017/48043	Australia Indonesia Hub Project	Council will be developing an international partnership strategy during 2017/18 and the Indonesian Hub proposal may fit within this. It is recommended that should Council include an additional \$3,000 allocation in the 2017/18 budget, that this amount be funded from the unallocated S356 donations budget of \$36,200 in the Community Development Program.

5 Table 3 – 2017/2018 Fees and Charges

Doc No.	Regarding	Staff comment
E2017/29735, E2017/29737	Tyagarah Airfield – suggested adjustment to fees and charges	Comments noted.

E2017/47736	Byron Bay Basketball Association Fees	<p>Current court hire fees are comparable, if not below, the fees charged by Regional Centres at Coffs Harbour, Port Macquarie, Grafton, Tamworth and Yamba. Ref E2017/48641</p> <p>MOU is underway in consultation with BBBA to address the possibility of volunteerism to reduce weekend and night costs.</p> <p>Council could consider offering Sunday off peak rates to regular users to increase utilization and alleviate training costs for the club.</p>
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Management Comments – Community Strategic Plan

5 The community and economic profile section of the Community Strategic Plan has been updated with 2011 census data from the Australian Bureau of Statistics. The previous version had 2006 figures.

Management Comments – Delivery/Operational Plan

10 The Mayor’s message and infographic on key capital projects will be updated following adoption by Council and final publication of the 2017-2021 Delivery Plan incorporating the 2017/2018 Operational Plan.

Management Comments – 2017/2018 Revenue Policy

15 Subject to another report to this Ordinary Meeting of Council concerning the making of Rates and Charges, the 2017/2018 Revenue Policy is proposed to be amended as follows:

- 20 • Removal of the Rating Structure option that provided for the increase in Council’s rate revenue to comply with the 1.5% rate peg for 2017/2018, which is a required disclosure, should the Council’s application for a Special Rate Variation had not been approved. The Rating Structure for 2017/2018 containing the Special Rate Variation approval and redistribution of the rating yield between Residential, Business and Farmland rating categories as publicly exhibited has been retained.
- 25 • The Office of Local Government has announced via Circular 17-09 dated 18 May 2017 the maximum interest rate on overdue rates and charges of 7.50% per annum for the 2017/2018 financial year representing as reduction of 1.0% from the interest rate of 8.50% per annum applicable in 2016/2017. Council traditionally applies the maximum interest rate and the 2017/2018 Revenue Policy will be updated to reflect this.
- 30 • There are proposed amendments to waste collection charges placed on public exhibition not in terms of cost of the service but to clarify disclosure around the type of service and frequency of collection as follows:
 - 35 ○ Council advertised the addition a new bundled weekly 3 bin collection service for urban domestic customers with a choice of either a 80, 140 or 240 litre mixed waste bin. The 80 litre service was removed as it is unavailable and the Draft 2017/2018 Revenue Policy placed on public exhibition incorrectly listed the recycling as being a fortnightly instead of weekly service frequency. These services are also subject to Council approval as they may not be available to some areas (dependent upon the contractor) and a notation to this effect has been added to the 2017/2018 Revenue Policy document that will be published.
 - 40

- The frequency of collection of the mixed waste bin for the existing 2 bin multi unit development bundled collection services was erroneously listed as fortnightly instead of weekly.

- 5
- Given all the publicity and work behind the scenes by all Councils in NSW to implement the Fire and Emergency Services Levy (FESL) on behalf of the NSW State Government to be collected on the Council rate notice, Council was by surprise so close to implementation that the Premier and Treasurer of the NSW Government announced on 30 May 2017 the FESL implementation will be deferred. This means this charge that is not Council revenue will not be listed on Council rate notices for the 2017/2018 financial year. It is also not clear if or when the NSW State Government proposes to revisit this proposed reform. A copy of the media release issued by the NSW Government is provided at Attachment 2.
- 10

Management Comments – 2017/2018 Fees and Charges

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Aside from the public submissions received regarding the proposed fees and charges outlined in Table 3 to this report, there are further proposed amendments to the fees and charges that should Council approve will require public exhibition for a period of 28 days in accordance with Section 610F of the Local Government Act 1993. These proposed amendments are:

- 20
- Addition of a new fee known as an Information Technology Service Fee levied against all Development Applications received to assist in the cost recovery of:
 - The implementation and ongoing costs of the State governments ePlanning reforms and other technology related initiatives;
 - The introduction of e-forms, which is a powerful tool that will allow for technical officers to carry out a range of off-site services such as inspections and to investigate an integrated assessment report for development and associated applications, with the ability to integrate with existing document management software.
 - Contribution towards and improvements in hardware and software licences relating to DAs online server hardware, firewall hardware, GMP connection, Civica's 'Authority' product and TRIM document tracking;
 - Records staff servicing DA requests
- 25
- 30

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It is proposed to set the Information and Technology Service Fee at 0.07% of the value of new Development Applications received.

- Addition of a new fees relating to Temporary Food Businesses (ie Market Stalls) for inspections to be set at \$80 for high risk (PHF processing, temperature control required, multi step processing), \$60 for medium risk (coffee and cakes, pastries without cream/custards, any taste testing even if low risk food eg pickles/sauce), \$40 for low risk (fruit and vegetables only, bottled jams/preserves/pickles, low risk packaged goods ie no refrigeration required, eggs)
 - The Office of Local Government have advised that the fee for 2017/2018 for Section 603 property certificates have been set at \$80 by Circular 17-09 on 18 May 2017. Given this fee is a statutory fee not set by Council, it is proposed not to advertise this particular fee but to update Council's adopted fees and charges accordingly.
 - Alter the wording associated with Environmental Health and Compliance Fees relating to the service of notices and orders to include 'S238 of Roads Act 1993' to allow Council to charge cost recovery fee for notices relating to Roads Act offences. As this amendment is
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- 50

not to the fee itself that was advertised but is to wording, it is proposed not to advertise this particular fee but to update Council's adopted fees and charges accordingly.

- 5 • Alter the wording associated with fees for Annual Food Business Administration – Small food business due to a change in legislation to include 'Per premises under Food Regulation 2015 Part 3 Clause 15. As this amendment is not to the fee itself that was advertised but is to wording, it is proposed not to advertise this particular fee but to update Council's adopted fees and charges accordingly.
- 10 • Deletion of Subdivision Application Fees currently included in the Draft 2017/2018 Fees and Charges that are duplicated with Development Application Subdivision Fees.
- 15 • Alter the wording associated with Construction Certificate fees for subdivisions by removing the wording 'per hour per lot' and replacing the wording with 'per lot'.

Management Comments – 2017/2018 Budget Estimates

Refer to Financial Implications Section below.

20 Financial Implications

25 The Draft 2017/2018 Statement of Revenue Policy placed on public exhibition in accordance with resolution **17-139** is based on the 2016/2017 budget reviewed at 31 December 2016 with various changes to reflect the increased price of service delivery across all programs developed from the input received from each Council Directorate.

The Draft 2017/2018 Budget Result placed on public exhibition on a Consolidated (All Funds) basis forecast a surplus result of \$50,000 with details of that result being included below at Table 4

30 Table 4 – Forecast Budget Result 2017/2018 Consolidated (All Funds)

Item	Amount \$
Operating Result	
Operating Revenue	75,503,500
Less: Operating Expenditure	74,873,600
Operating Result – Surplus/(Deficit)	629,900
Funding Result	
Operating Result – Surplus/ (Deficit)	629,900
Add: Non cash expenses – Depreciation	13,175,500
Add: Capital Grants and Contributions	24,867,700
Add: Loan Funds Used	2,160,000
Add: Asset Sales	0
Less: Capital Works	(44,685,100)
Less: Loan Principal Repayments	(2,639,800)
Funding Result – Surplus/(Deficit) (Cash Movement)	(6,491,800)
Reserves Movement – Increase/(Decrease)	(6,541,800)
Overall Budget Result – Surplus/(Deficit) (Operating + Funding)	50,000

35 Table 4 above assumed inclusion of the additional revenue that would be provided by the Special Rate Variation (SRV) for the 2017/2018 financial year if it was approved. As Council has now been provided advice from the Independent Pricing and Regulatory Tribunal (IPART), of that approval, the alternate budget option that was also reported to Council at its Ordinary Meeting held on 20

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

April 2017 without the SRV option has not been reproduced but the Budget result with or without the SRV option is still the same. Table 5 below provides the indicated unrestricted cash balance of Council estimated at 30 June 2018 based on the Draft 2017/2018 Budget Estimates placed on public exhibition.

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Table 5 – Forecast General Fund Unrestricted Cash Balance

Item	\$
Forecast unrestricted cash balance to 30 June 2017 at 31 December 2016 Budget Review	1,146,500
Add: Estimated initial draft 2017/2018 budget result	50,000
Forecast unrestricted cash balance at 30 June 2018	1,196,500

10 During the public exhibition period, the Draft 2017/2018 Statement of Revenue Policy incorporating the Draft 2017/2018 Budget Estimates has been further reviewed. The revised budget position is summarised in Table 6 below:

Table 6 – Forecast Budget Result 2017/2018 Consolidated (All Funds) revised during public exhibition period

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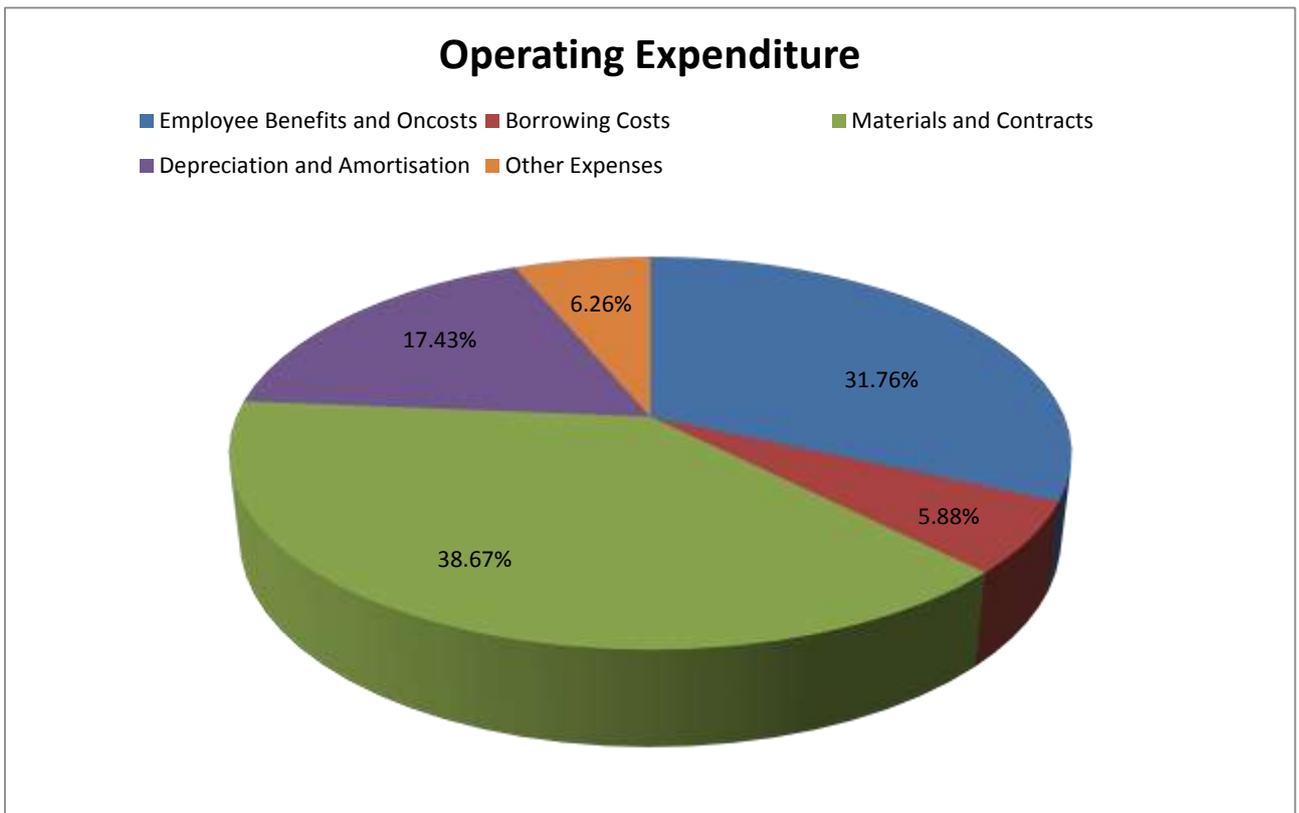
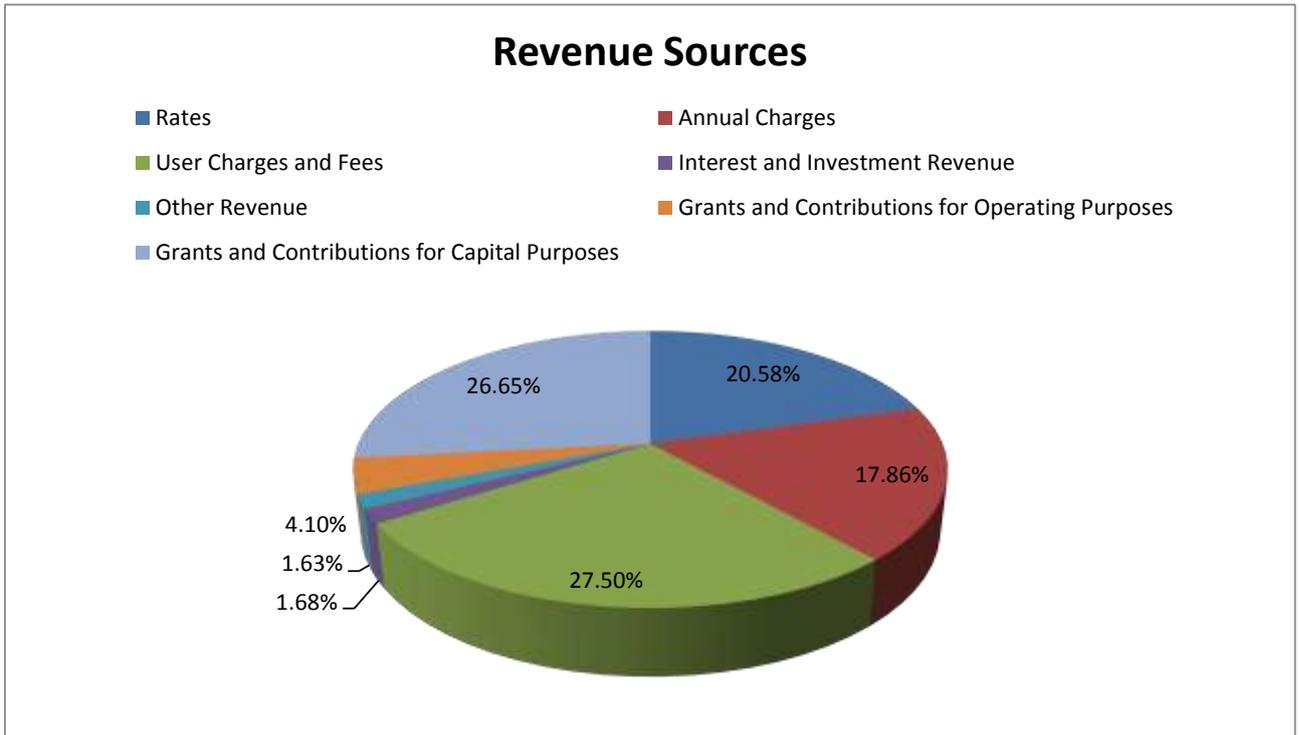
Item	Amount \$
Operating Result	
Operating Revenue	74,074,900
Less: Operating Expenditure	75,603,400
Operating Result – Surplus/(Deficit)	(1,528,500)
Funding Result	
Operating Result – Surplus/ (Deficit)	(1,528,500)
Add: Non cash expenses – Depreciation	13,175,500
Add: Capital Grants and Contributions	26,917,700
Add: Loan Funds Used	2,160,000
Add: Asset Sales	0
Less: Capital Works	(51,445,400)
Less: Loan Principal Repayments	(2,639,800)
Funding Result – Surplus/(Deficit) (Cash Movement)	(13,360,500)
Reserves Movement – Increase/(Decrease)	(13,367,800)
Overall Budget Result – Surplus/(Deficit) (Operating + Funding)	7,300

20 Table 6 indicates a forecasted surplus budget result and this relates to the General Fund. The forecast General Fund Unrestricted Cash Balance position based on the Draft Budget included at Table 6 is outlined in Table 7 below:

Table 7 – Forecast General Fund Unrestricted Cash Balance

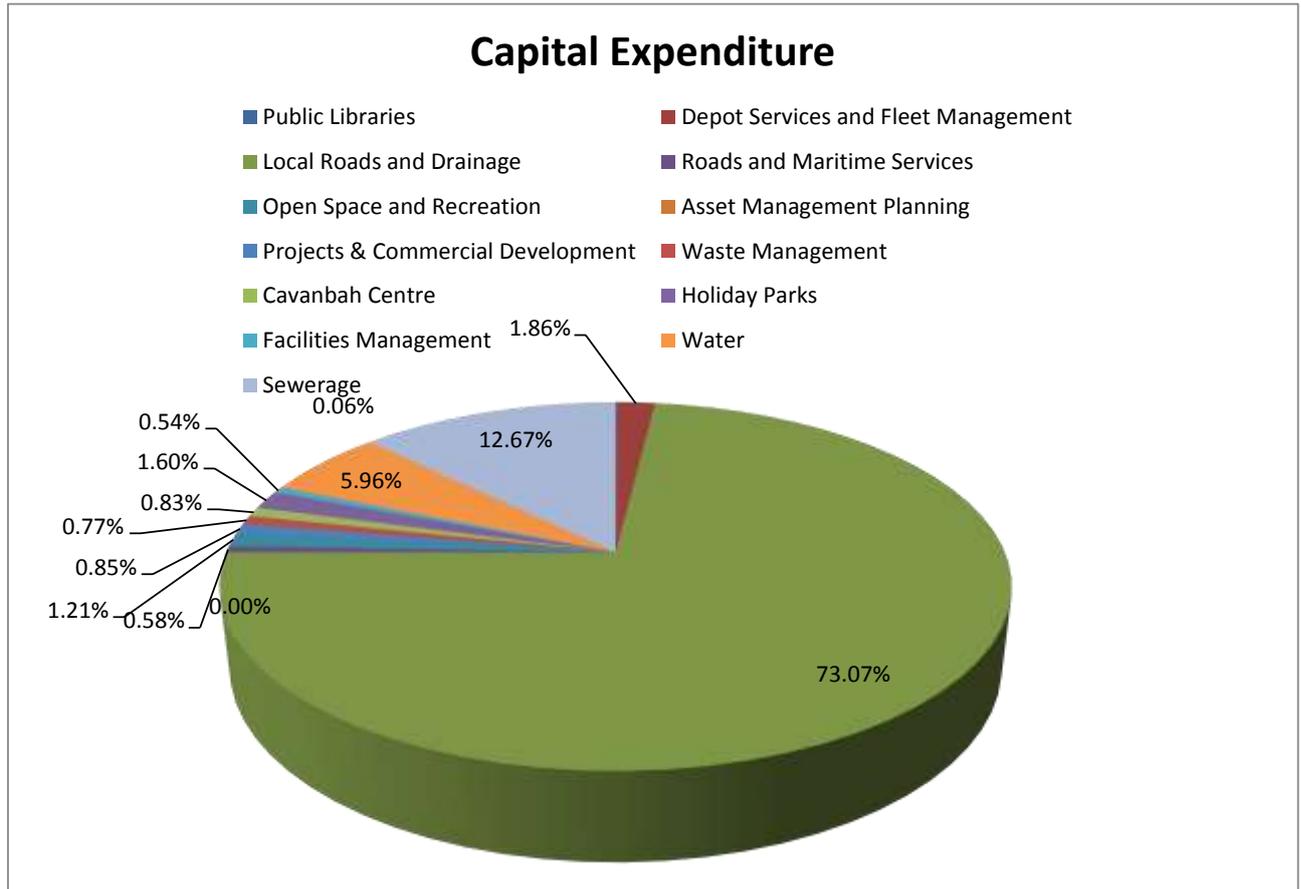
Item	\$
Forecast unrestricted cash balance to 30 June 2017 at 31 March 2017 Budget Review	1,145,200
Add: Estimated initial draft 2017/2018 budget result	7,300
Forecast unrestricted cash balance at 30 June 2018	1,152,500

25 The revised Draft 2017/2018 Budget Estimates are also suggesting that Council's overall revenue and operational expenses are expected to be derived from the following sources and allocated respectively as outlined in the graphs below:



5 In addition to the operational aspects of the Draft 2017/2018 Budget Estimates as revised during the public exhibition period, Council is now preparing a capital works program of \$51.45million. This amount includes \$41.86million in the General Fund, \$3.06 million in the Water Fund and \$6.52million in the Sewerage Fund. In terms of overall proposed capital works expenditure, the graph below indicates the proportionate allocation by Budget Program:

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The major changes to the proposed Draft 2017/2018 Budget Estimates have been realised by the following factors:

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Council Resolutions:

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- Council at its Ordinary Meeting held on 25 May 2017 resolved **17-201 part 4** “That Council allocate the proposal in the Capital Works program for 2017/18 for the Broken Head Road – Off Road Shared path with a budget of \$292,600 to an On Road cycleway along Bangalow Street, Byron Bay to Suffolk Park’. This amendment has been made to the Draft 2017/2018 Budget Estimates.

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- Council at its Ordinary Meeting held on 25 May 2017 considered Notice of Motion 9.4 Lowering Flood Levels in North Byron Floodplain. Council’s resolution **17-189 part 4** requires that to support resolution **17-189 part 1 and 2** that ‘staff provide funding source options and wider financial implications to the 22 June 2017 Council meeting, to be considered as part of the adoption of the 2017/18 Operational Plan’. The resolution asks Council to consider doubling the funding for north urban drainage maintenance and rural drainage maintenance to speed up works in Marshalls Creek Floodplain.

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Based on the funding provided in 2016/2017 for north urban drainage and rural drainage maintenance, this totalled \$242,600. If Council were to double this funding level it would need to provide total funding of \$485,200. Current provisions in the 2017/2018 Draft Budget Estimates is \$282,900 so Council would need to find \$202,300.

25

Should Council wish to consider providing a further \$202,300, following review of potential funding sources, Infrastructure Services have indicated Council could reduce the funding proposed to be allocated to the Lighthouse Road project between Massinger Street and Tallows Beach Road. There is \$350,000 proposed to be allocated to this project so if the

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\$202,300 was reallocated to north urban and rural drainage maintenance, this would leave \$147,700 to undertake some works and reconsider the remaining works for the 2018/2019 financial year. In providing this option for Council's consideration, in response to resolution **17-189 part 4**, it should be noted this option is for the 2017/2018 financial year only. This approach would be consistent with resolution **17-189 part 3** which recommends the drainage program be reviewed annually. The request of staff in respect of this resolution was to provide an option but this option is not currently included in the Draft 2017/2018 Budget Estimates outlined in Table 7. Should Council wish to proceed, it would need to adopt this option as well when adopting the overall 2017/2018 Budget Estimates.

Other Adjustments:

Aside from the resolutions of Council outlined above, there are proposed adjustments to the Draft 2017/2018 Budget Estimates that are reflected in the Budget result presented in Table 7 of this report. These adjustments include:

- As part of the 2017/2018 Federal Budget handed down on 9 May 2017, The Federal Government have determined to advance 50% of the Financial Assistance Grants for the 2017/2018 financial year prior to the end of the 2016/2017 financial year. This will require Council to reduce its Financial Assistance Grant revenue in 2017/2018 by an estimated \$1,460,500. This will have no impact on the overall budget result as the advance funding received in 2016/2017 will be restricted in reserve and carried forward to the 2017/2018 financial year.
- Council upon adopting the 31 March 2017 Quarterly Budget Review removed \$6.854million in works/projects within the Infrastructure Services Directorate that would not be completed in the 2016/2017 financial year. These works and their funding have been added to the proposed 2017/2018 Budget to be completed during the 2017/2018 financial year.
- A memo was provided to Councillors prior to the 20 April 2017 Ordinary Council Meeting following review of the Cavanbah Centre Budget Program by the Finance Advisory Committee. The memo suggested a number of revisions to Cavanbah Centre budgets that will improve the budget result of the Cavanbah Centre by \$90,000 and that of the General Fund. These budget adjustments were not adopted by Council prior to public exhibition of the Draft 2017/2018 Budget Estimates but are now included into the budget result outlined at Table 7 to this report.
- There is an additional \$56,500 required to fund revised staffing structure within the Sustainable Environment and Economy Directorate across Environmental Health, Compliance, Economic Development and Planning Policy and Natural Environment Budget Programs.
- Provide an additional \$64,000 to fund the net cost of the dedicated Grants Officer that was not included in the original Draft 2017/2018 Budget Estimates but should have been within the Governance Services Budget Program.
- With the NSW Government not proceeding with the implementation of the Fire and Emergency Services Levy, this will require a reduction of revenue from the Finance Budget Program of \$18,000 as estimated revenue payable by NSW Treasury for administration of the FESL will now not occur and needs to be removed from the Draft 2017/2018 Budget Estimates.
- Provide an additional \$12,600 to undertake the New Years Eve event for 2017/2018 with funding sourced from the Special Event and Mitigation Reserve and provide an additional

\$11,500 for traffic management related to the event funded from budgets in the Community Development Budget Program not required.

- 5 • Provide \$55,000 to undertake a Plan of Management for the Suffolk Park Sportsfields funded from Section 94 Open Space for Suffolk Park to be undertaken subsequent to the land purchase by Council being completed.
- 10 • Provide \$20,000 to undertake the survey, design and consultation for the Bay Lane footpath and shared zone with funding provided by Section 94A funds.

15 Council in the preparation of its Operational Plan is required to include a number of statements in relation to its Revenue Policy for 2017/2018. This includes a statement containing the estimate of Council's Income and Expenditure or Budget for this period. The other statements identified in Clause 201 of the Local Government (General) Regulation 2005 are in the main dependant upon the rate pegging limits approved by the Minister for Local Government (now the Independent Pricing and Regulatory Tribunal (IPART)), any application for a special rate variation and Council's decisions in relation to expenditure, income and the associated fees and charges.

20 The assumptions/parameters used in preparing the Draft 2017/2018 Budget Estimates as presented in this report for Council's consideration include the following:

- 25 • Special Rate Variation of 7.5% as approved by the Independent Pricing and Regulatory Tribunal (IPART) inclusive of the 1.5% rate peg increase determined previously by IPART for 2017/2018.
- Indexation of expenditure limited to 0.5% where possible to assist in deriving a 1% efficiency gain.
- Allowance of the 2.0% pay increase applicable in 2017/2018 under the Local Government (State) Award. The current Local Government (State) Award expires on 30 June 2017 and a new Award is still to be finalized at the time of preparing this report.
- 30 • New loan borrowings of \$6million between 2017/2018 to 2019/2020 devoted to bridge replacement programs.
- Interest on investments around 2.6% plus active management of the investment portfolio to keep it short around three month maturities to take opportunities of market offerings or longer term investments to follow Council's resolution regarding Environmental and Socially Responsible Investments..
- 35 • Reflective of the Actions contained in the Draft 2017/2018 Operational Plan.

40 The immediate financial forecast of the General Fund has been discussed in detail in this report, however it is suggested Council needs to look at its longer term financial position, especially in the area of infrastructure maintenance and renewal in comparison to other areas of service provided. This is especially so given the requirements stipulated by the NSW State Government as part of its 'Fit for the Future' reform, and the focus for Council of it approved Special Rate Variation (SRV) for 2017/2018 to 2020/2021 financial years.

45 The Water and Sewer budgets have been prepared with pricing to generate the required revenue to repay debt (Sewer), to address capital works and ongoing maintenance works in these Funds whilst providing no increase in service pricing for 2017/2018.

50 Whilst this report is concerned with the oncoming 2017/2018 financial year, Council also needs to consider its longer term financial projections. The budget projections realistically still demonstrate the difficulty Council has absorbing additional costs without corresponding revenue. It can only be emphasised that Council must consider carefully the long term implications on its finances, in any consideration to add a new asset/service.

Statutory and Policy Compliance Implications

In regard to Strategic Planning, Chapter 13, Part 2 of the Local Government Act 1993 states:

5 **402 Community strategic plan**

- (1) Each local government area must have a community strategic plan that has been developed and endorsed by the council. A community strategic plan is a plan that identifies the main priorities and aspirations for the future of the local government area covering a period of at least 10 years from when the plan is endorsed.
- 10 (2) A community strategic plan is to establish strategic objectives together with strategies for achieving those objectives.
- (3) The council must ensure that the community strategic plan:
 - (a) addresses civic leadership, social, environmental and economic issues in an integrated manner, and
 - 15 (b) is based on social justice principles of equity, access, participation and rights, and
 - (c) is adequately informed by relevant information relating to civic leadership, social, environmental and economic issues, and
 - (d) is developed having due regard to the State government's State Plan and other relevant State and regional plans of the State government.
- 20 (4) The council must establish and implement a strategy (its **community engagement strategy**), based on social justice principles, for engagement with the local community when developing the community strategic plan.
- (5) Following an ordinary election of councillors, the council must review the community strategic plan before 30 June following the election. The council may endorse the existing plan, endorse
25 amendments to the existing plan or develop and endorse a new community strategic plan, as appropriate to ensure that the area has a community strategic plan covering at least the next 10 years.
- (6) A draft community strategic plan or amendment of a community strategic plan must be placed on public exhibition for a period of at least 28 days and submissions received by the council
30 must be considered by the council before the plan or amendment is endorsed by the council.
- (7) Within 28 days after a community strategic plan is endorsed, the council must post a copy of the plan on the council's website and provide a copy to the Departmental Chief Executive. A copy of a community strategic plan may be provided to the Departmental Chief Executive by notifying the Minister of the appropriate URL link to access the plan on the council's website.

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403 Resourcing strategy

- (1) A council must have a long-term strategy (called its **resourcing strategy**) for the provision of the resources required to implement the strategies established by the community strategic plan that the council is responsible for.
- 40 (2) The resourcing strategy is to include long-term financial planning, workforce management planning and asset management planning.

404 Delivery program

- 45 (1) A council must have a program (its **delivery program**) detailing the principal activities to be undertaken by the council to implement the strategies established by the community strategic plan within the resources available under the resourcing strategy.
- (2) The delivery program must include a method of assessment to determine the effectiveness of each principal activity detailed in the delivery program in implementing the strategies and achieving the strategic objectives at which the principal activity is directed.
- 50 (3) The council must establish a new delivery program after each ordinary election of councillors to cover the principal activities of the council for the 4-year period commencing on 1 July following the election.
- (4) A draft delivery program must be placed on public exhibition for a period of at least 28 days and submissions received by the council must be considered by the council before the delivery
55 program is adopted by the council.

- (5) The general manager must ensure that regular progress reports are provided to the council reporting as to its progress with respect to the principal activities detailed in its delivery program. Progress reports must be provided at least every 6 months.

5 **405 Operational plan**

- (1) A council must have a plan (its **operational plan**) that is adopted before the beginning of each year and details the activities to be engaged in by the council during the year as part of the delivery program covering that year.
- 10 (2) An operational plan must include a statement of the council's revenue policy for the year covered by the operational plan. The statement of revenue policy must include the statements and particulars required by the regulations.
- 15 (3) A council must prepare a draft operational plan and give public notice of the draft indicating that submissions may be made to the council at any time during the period (not less than 28 days) that the draft is to be on public exhibition. The council must publicly exhibit the draft operational plan in accordance with the notice.
- (4) During the period of public exhibition, the council must have for inspection at its office (and at such other places as it may determine) a map that shows those parts of its area to which each category and sub-category of the ordinary rate and each special rate included in the draft operational plan applies.
- 20 (5) In deciding on the final operational plan to be adopted, a council must consider any submissions that have been made concerning the draft plan.
- (6) The council must post a copy of its operational plan on the council's website within 28 days after the plan is adopted.

25 **406 Integrated planning and reporting guidelines**

- (1) The Departmental Chief Executive is to establish integrated planning and reporting guidelines (referred to in this Chapter as **the guidelines**) for the purposes of this Chapter.
- (2) The guidelines can impose requirements in connection with the preparation, development and review of, and the contents of, the community strategic plan, resourcing strategy, delivery program, operational plan, community engagement strategy, annual report and state of the environment report of a council.
- 30 (3) In particular (but without limiting subsection (2)), the guidelines can impose requirements in relation to any of the following:
- 35 (a) the procedures to be followed in the preparation, development or review of plans, strategies, programs and reports,
- (b) the matters to be addressed or provided for by plans, strategies, programs and reports,
- (c) requirements for consultation in connection with the preparation, development or review of plans, strategies and programs,
- 40 (d) the matters to be taken into account or to which regard is to be had in connection with the preparation, development or review of plans, strategies, programs and reports.
- (4) A council must ensure that the requirements of the guidelines are complied with.
- (5) The guidelines can include other material for the guidance of councils in connection with the plans, strategies, programs and reports to which this section applies.
- (6) The Departmental Chief Executive may review and amend the guidelines from time to time.
- 45 (7) The guidelines and any amendment of the guidelines must be posted on the Department's website and notified in writing to each council by the Departmental Chief Executive.

Section 405(2) of the Local Government Act requires that the Statement of the Council's Revenue Policy that must be included on the Operational Plan. Clause 201 of the Local Government (General) Regulation 2005 details the statements and information that must be included in the Revenue Policy and has been reproduced below:

50

201 Annual statement of council's revenue policy

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

- (a) a statement containing a detailed estimate of the council's income and expenditure,
- (b) a statement with respect to each ordinary rate and each special rate proposed to be levied,

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

- (c) a statement with respect to each charge proposed to be levied,
- (d) a statement of the types of fees proposed to be charged by the council and, if the fee concerned is a fee to which Division 3 of Part 10 of Chapter 15 of the Act applies, the amount of each such fee,
- (e) a statement of the council's proposed pricing methodology for determining the prices of goods and the approved fees under Division 2 of Part 10 of Chapter 15 of the Act for services provided by it, being an avoidable costs pricing methodology determined by the council in accordance with guidelines issued by the Director-General,
- (f) a statement of the amounts of any proposed borrowings (other than internal borrowing), the sources from which they are proposed to be borrowed and the means by which they are proposed to be secured.

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

- (a) the ad valorem amount (the amount in the dollar) of the rate,
- (b) whether the rate is to have a base amount and, if so:
 - (i) the amount in dollars of the base amount, and
 - (ii) the percentage, in conformity with section 500 of the Act, of the total amount payable by the levying of the rate, or, in the case of the rate, the rate for the category or sub-category concerned of the ordinary rate, that the levying of the base amount will produce,
- (c) the estimated yield of the rate,
- (d) in the case of a special rate-the purpose for which the rate is to be levied,
- (e) the categories or sub-categories of land in respect of which the council proposes to levy the rate.

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

- (a) the amount or rate per unit of the charge,
- (b) the differing amounts for the charge, if relevant,
- (c) the minimum amount or amounts of the charge, if relevant,
- (d) the estimated yield of the charge,
- (e) in relation to an annual charge for the provision by the council of coastal protection services (if any)-a map or list (or both) of the parcels of rateable land that are to be subject to the charge.

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

In accordance with clause 406 of the Local Government (General) Regulation 2005 the following provision applies in relation to the authorisation of expenditure.

211 Authorisation of expenditure

- (1) A council, or a person purporting to act on behalf of a council, must not incur a liability for the expenditure of money unless the council at the annual meeting held in accordance with subclause (2) or at a later ordinary meeting:
 - (a) has approved the expenditure, and
 - (b) has voted the money necessary to meet the expenditure.
- (2) A council must each year hold a meeting for the purpose of approving expenditure and voting money.

- (3) All such approvals and votes lapse at the end of a council's financial year. However, this subclause does not apply to approvals and votes relating to:
- (a) work carried out or started, or contracted to be carried out, for the council, or
 - (b) any service provided, or contracted to be provided, for the council, or
 - 5 (c) goods or materials provided, or contracted to be provided, for the council, or
 - (d) facilities provided or started, or contracted to be provided, for the council, before the end of the year concerned, or to the payment of remuneration to members of the council's staff.
- 10 The following provision of the Local Government Act applies in relation to the public notice of fees determined by Council.
- 610F Public notice of fees**
- 15 (1) A council must not determine the amount of a fee until it has given public notice of the fee in accordance with this section and has considered any submissions duly made to it during the period of public notice.
- (2) Public notice of the amount of a proposed fee must be given (in accordance with section 405) in the draft operational plan for the year in which the fee is to be made.
- 20 (3) However, if, after the date on which the operational plan commences:
- (a) a new service is provided, or the nature or extent of an existing service is changed, or
 - (b) the regulations in accordance with which the fee is determined are amended,
- the council must give public notice (in accordance with section 705) for at least 28 days of the fee proposed for the new or changed service or the fee determined in accordance with the amended regulations.
- 25 (4) This section does not apply to a fee determined by a council for an application made in a filming proposal, if that fee is consistent with a scale or structure of fees set out in an applicable filming protocol.

Report No. 13.6 **Sub-lease to Mullumbimby and District Neighbourhood Centre**
Directorate: Corporate and Community Services
Report Author: Paula Telford, Leasing and Licensing Coordinator
File No: I2017/581
5 **Theme:** Corporate Management
 Governance Services

Summary:

10 Council holds a current Trust lease over 55 Dalley Street Mullumbimby NSW 2482, known as the 'Old Council Chambers'. The lease permits Council to sub-let the premises for business purposes.

15 The Department of Industry Lands and Forestry has consented to a sub-lease for the term of five (5) year with a five (5) year option to renew to the Mullumbimby and District Neighbourhood Centre Incorporated to commence on 1 August 2017.

20 This report recommends that Council grant a sub-lease to the Mullumbimby and District Neighbourhood Centre Incorporated for the provision of community welfare services and that a 50 per cent rent rebate is provided through a section 356 donation from Council.

RECOMMENDATION:

1. **That Council grant and execute a sub-lease to the Mullumbimby and District Neighbourhood Centre Incorporated, subject to Crown consent for Crown Reserve R540006, being Lot 8 Section 8 DP 758725, 55 Dally Street Mullumbimby NSW 2482, known as the 'Old Council Chambers', on the following terms:**
 - a) **Commencement date 1 August 2017;**
 - b) **Term five (5) years with five (5) year option to renew;**
 - c) **Terminate Date 31 July 2022 and 31 July 2027;**
 - d) **Initial Rent \$29,880 per annum; and**
 - e) **Rebate applied for Community Purpose (currently 50 per cent) in accordance with Crown Land Division's relevant Rebate Policy of the day.**

2. **That Council:**
 - a) **subsidise the Rent following the application of the Rebate for Community Purpose (50 per cent of the annual sub-lease rent) to the value of \$14,940, by way of a section 356 donation from Council to the Mullumbimby and District Neighbourhood Centre Inc., to be provided for in the 2017/2018 Budget, and the forward Long Term Financial Plan; and**
 - b) **advertise the section 356 donation proposed to be made; and**
 - c) **meet the costs of the Crown land application to transfer a Crown holding of \$151.00 and \$500.00 sub-lease preparation fee.**

Report

Land information

- 5 Crown Reserve R540006 Lot 8 Section 8 DP 758725, 55 Dally Street Mullumbimby NSW 2482, known as the 'Old Council Chambers'.
Reserve Trust – Mullumbimby Reserve Trust.
Trust Manager – Byron Shire Council.
Gazetted – 16 September 1925
- 10 Gazetted purpose – Site for Council Chambers.

Trust Lease

- 15 Byron Shire Council holds a Trust Lease RE453912, over Lot 8 Section 8 Deposited Plan 758725, known as the 'Old Council Chambers' that expires on 31 July 2032. In accordance with that Lease, Council is permitted to sub-lease the premises for business purposes.

- 20 In 2012 Council resolved (Resolution **12-600**) to sub-lease the premises for a term of five (5) years to the Mullumbimby and District Neighbourhood Centre ('MDNC'), which is due to expire on 31 July 2017.

Purpose of Sub-lease

- 25 MDNC requires the new sub-lease for the purpose of community welfare services. MDNC is a not-for-profit community organisation that is run as a business under the control of a Management Committee. MDNC receives financial grants from the Federal and State Governments and other individual donations. The business purpose of MDNC is the provision of community welfare services, is a compatible with the business purpose of Lease RE453912.

- 30 More specifically, the continuation of the current sub-lease would enable the provision of community welfare services that include:

- Emergency Relief and financial counselling for community members experiencing poverty and disadvantage,
- 35 • A range of prevention and intervention programs in response to Domestic and Family Violence,
- Women's support and resource services,
- Child safety programs and parenting support, including targeted support for the local Indigenous community,
- Support for older people, including computing skills and social inclusion activities,
- 40 • Support for disengaged local young people and
- Access to funded programs and services from mental health and disability support to tax help and Justice of the Peace functions.

Purposed Term of the sub-lease

- 45 The Department of Industry Lands and Forestry has consented to a new sub-lease for a term of five (5) years with an option of a five (5) year renew over the premise. MDNC, as the sole provider of many community welfare services to the Mullumbimby district, has requested a longer-term sub-lease to allow for long-term business planning as essential to meet the growing demand for
- 50 community welfare services to the area.

55

Market Rent

5 The market rent reasonably expected to be paid for the Premises during the term of the sub-lease has been calculated at \$29,880 per annum. This value has been derived by the agreed formula of 6 per cent of the Valuer General's Unimproved Capital Land Value published on 1 July 2015 which was \$498,000.

Subsidised rent

10 MDNC is a registered not-for-profit community service organisation with a Charity ABN 88625199635, and is eligible for a rebate. This is in accordance with clause 2.2(b)(ii) of the NSW Government Department of Primary Industries Catchment & Lands rent concessions and hardship relief for Crown Land tenure holders guideline. In accordance with clause 2.8 of the guidelines the maximum eligible rebate for a community organisation is 50 per cent. The Department of Industry
15 Lands and Forestry approved a 50 per cent rebate (\$14,940) to the initial rent of \$29,880 per annum.

20 MDNC has sought a Council section 356 donation for the remaining 50 per cent of rent (\$14,940) and requested that Council meet the costs of \$651 (inclusive of GST) for the Crown Land application fee (\$151) to transfer a Crown holding and a lease preparation fee of (\$500) as stated in Council's 2016/2017 fees and charges.

Financial Implications

25 The total rent payable by the MDNC under the sub-lease is \$29,880 per annum. In accordance with the NSW Government Department of Primary Industries Catchment & Lands rent concessions and hardship relief for Crown Land tenure holders' guideline, clause 2.8 provides a maximum rebate for a community organisation of 50 per cent being \$14,940 per annum.

30 MDNC requested a subsidy of \$651 (inclusive of GST) from Council by way of a section 356 of the *Local Government Act*. This is for the Crown Land application fee (\$151) to transfer a Crown holding and a lease preparation fee of (\$500) as stated in Council's 2016/2017 fees and charges.

Statutory and Policy Compliance Implications

40 The Local Government Act 1993 section 356 outlines how Council can provide financial assistance and Council's policy '3.13 donations to community organisations other groups and persons' further outlines the process.

As the parcel of plan is on a Crown Reserve section 34A of the Crown Lands Act 1989 which outlines requirements for granting a lease.

Report No. 13.7 **Sub-lease to the Byron Youth Service**
Directorate: Corporate and Community Services
Report Author: Paula Telford, Leasing and Licensing Coordinator
File No: I2017/582
5 **Theme:** Corporate Management
 Governance Services

Summary:

10 Council holds a current Trust lease over 34 Gordon Street Mullumbimby NSW 2482, known as the 'Old War Widows Cottage'. The lease permits Council to sub-let the premises for business purposes.

15 The Department of Industry Lands and Forestry has approved a five (5) year lease to the Byron Youth Service Inc to commence on 1 July 2017.

20 This report recommends that Council grant a sub-lease to the Byron Youth Service Incorporated and that a rent rebate is provided through a section 356 donation from Council.

RECOMMENDATION:

1. **That Council grant and execute a sub-lease to Byron Youth Service Incorporated subject to Crown consent for Crown Reserve R755692, Lot 4 Section 8 DP 758725, 34 Gordon Street Mullumbimby NSW 2482, known as the 'War Widows Cottage', on the following terms:**
 - a) **Commencement Date 1 July 2017;**
 - b) **Term five (5) years;**
 - c) **Terminate Date 30 June 2022;**
 - d) **Initial Rent \$9,900 per annum; and**
 - e) **Rebate for Community Purpose (currently 50 per cent) in accordance with Crown Land Division's relevant Rebate Policy of the day.**

2. **That Council:**
 - a) **subsidise the Rent following the application of the Rebate for Community Purpose (50 per cent of the annual sub-lease rent) to the value of \$4,950, by way of a section 356 donation from Council to Byron Youth Service Inc, to be provided for in the 2017/2018 Budget, and the forward Long Term Financial Plan; and**
 - b) **advertise the section 356 Donation proposed to be made; and**
 - c) **meet the costs of the Crown land application to transfer a Crown holding of \$151 and \$500 sub-lease preparation fee.**

25

Report

Land information

- 5 Crown Reserve R755692, Lot 4 Section 8 DP 758725, 34 Gordon Street Mullumbimby NSW 2482, known as the 'War Widows Cottage.
Reserve Trust – Mullumbimby Reserve Trust.
Trust Manager – Byron Shire Council.
Gazetted – 29 June 2007.
- 10 Gazetted purpose – Future Public Requirements.

Trust Lease

- 15 Byron Shire Council holds a Trust Lease RE461738 over Lot 4 Section 8 DP 758725 known as the 'War Widows Cottage' that expires on 30 June 2022. In accordance with that Lease, Council is permitted to sub-lease the premises for the purpose of business purposes.

- 20 In 2012 Council resolved (Resolution **12-601**) to sub-lease the premises for a term of five (5) years to the Byron Youth Service Incorporated ('the Youth Service'), to expire on 30 June 2017. The Youth Service requested a new sub-lease for a term of five (5) years over the premise. Council made an application for consent to transfer Crown land.

Purpose of Sub-lease

- 25 The Youth Service holds a current sub-lease over the Premise that expires on 30 June 2017 for the purpose of youth service facilities and administration. The Youth Service is a not-for-profit community organisation that is run as a business headed by Management Committee. The Youth Service is funded predominantly through Federal and State Governments grants and other individual donations. The business purpose of the Youth Service is the provision of services to
- 30 young people aged between 12 and 24, is a compatible purpose to the purpose of Trust Lease RE 461738.

- 35 More specifically, the new sub-lease would enable the Youth Service to continue the provision of youth services that target:

- Alcohol and drug issues
- Mental health issues
- Personal safety awareness
- Health and wellbeing

40

- Youth unemployment with help accessing alternative secondary education, vocational learning, pathways and training
- Access to cultural, sport and recreational activities
- Youth entertainment
- Affordable and accessible transport

45

- Affordable housing

Purposed Term of the sub-lease

- 50 The Department of Industry Lands and Forestry has approved a five (5) year lease to the Byron Youth Service Inc to commence on 1 July 2017. The Youth Service, as a sole provider of youth services to the Byron Shire requires the five (5) year sub-lease to allow for the implementation of long-term business strategies necessary to meet the growing demand for its services.

55

Market Rent

5 The market rent reasonably expected to be paid for the Premises during the term of the sub-lease has been calculated at \$9,900.00 per annum (excluding GST). This value has been derived by the agreed formula of 6 per cent of the Valuer General's Unimproved Capital Land Value published on 1 July 2015 being 6 per cent of \$165,000.

Subsidised rent

10 The Youth Service, is a registered not-for-profit community service organisation with a Charity ABN 76939913491, and is an eligible for a rebate. This is in accordance with clause 2.2(b)(ii) of the NSW Government Department of Primary Industries Catchment & Lands rent concessions and hardship relief for Crown Land tenure holders guideline. In accordance with clause 2.8 of the
15 guidelines the maximum eligible rebate for a community organisation is 50 per cent. Council sought approval to set the base rent at \$9,900 per annum (excluding GST) with community rebate of 50 per cent.

20 The Youth Service has sought a Council section 356 donation for the remaining 50 per cent rent (\$4,950) and that Council meet the costs of \$651 (inclusive of GST) for payment Crown Land application fee (\$151) to transfer a Crown holding and a lease preparation fee (\$500) as stated in Council's 2016/2017 fees and charges.

Financial Implications

25 The total rent payable by the Youth Service under the sub-lease is \$9,900 per annum. In accordance with the NSW Government Department of Primary Industries Catchment & Lands rent concessions and hardship relief for Crown Land tenure holders' guideline, clause 2.8 provides a maximum rebate for a community organisation is 50 per cent being \$4,950.00 per annum.

30 The Youth Service has requested a subsidy for the remaining 50 per cent being \$4,950 per annum (excluding GST), from Council by way of a section 356 of the *Local Government Act* donation.

Statutory and Policy Compliance Implications

35 The Local Government Act 1993 section 356 outlines how Council can provide financial assistance and Council's policy '3.13 donations to community organisations other groups and persons' further outlines the process.

40 As the parcel of plan is on a Crown Reserve section 34A of the Crown Lands Act 1989 which outlines requirements for granting a lease.

Report No. 13.8 **Mayor and Councillor Fees 2017/2018**
Directorate: Corporate and Community Services
Report Author: Mila Jones, Corporate Governance Coordinator
File No: I2017/597
5 **Theme:** Corporate Management
 Councillor Services

Summary:

10 The Local Government Remuneration Tribunal has handed down its report and determinations on fees for Councillors and Mayors for the 2017/2018 Financial Year. This report outlines the Tribunal's fee range and the proposed Mayor and Councillor fees for 2017/2018.

RECOMMENDATION:

1. **That Council fix the fee payable to each Councillor under Section 248 of the Local Government Act 1993 for the period 1 July 2017 to 30 June 2018 at \$19,310.**
2. **That Council fix the fee payable to the Mayor under section 249 of the Local Government Act 1993, for the period from 1 July 2017 to 30 June 2018 at \$42,120.**
3. **That Council in accordance with its current practice not determine a fee payable to the Deputy Mayor.**

Attachments:

- 1 LG Remuneration Tribunal Annual Report and Determination 2017, E2017/31153 

Report

Each year the Local Government Remuneration Tribunal must determine, in each of the categories determined under section 239, the maximum and minimum amounts of fees to be paid during the following year to councillors and mayors.

The Remuneration Tribunal has determined the maximum and minimum amounts of fees to be paid during the 2017/2018 financial year. Byron Shire Council is categorised as a Regional Rural council and the appropriate fee range is as follows:

10

Category	Councillor/Member Annual Fee		Mayor/Chairperson Additional Fee*	
	Minimum	Maximum	Minimum	Maximum
Regional Rural	8,750	19,310	18,630	42,120

* This fee must be paid in addition to the fee paid to the Mayor/Chairperson as a Councillor/member (s249(2)).

Currently the annual fees payable to Councillors and the Mayor for the 2016/2017 financial year are fixed at \$18,840 per annum for a Councillor with an additional fee of \$41,090 for the Mayor.

15

The Tribunal has reviewed the key economic indicators, including the Consumer Price Index and Wage Price Index, and had regard to budgetary limitations imposed by the Government's policy of rate pegging. It found that the full increase of 2.5 per cent is warranted. The Tribunal's determinations have been made with the assistance of two Assessors. The 2.5 per cent increase will apply to the minimum and maximum of the ranges for all existing categories.

20

A full copy of the Report and Determination of the Local Government Remuneration Tribunal is provided at Attachment 1 to this report and is also available at:

25

<http://www.remtribunals.nsw.gov.au/local-government/current-lg-rt-determinations>

Financial Implications

Councillors and Mayoral fees presently paid

30

\$18,840 each x 9	=	\$169,560
Plus Mayor additional fee	=	<u>\$ 41,090</u>

Total Paid		\$210,650
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Councillors and Mayoral fees 2017/2018 increased to maximum set by the Tribunal

\$19,310 each x 9	=	\$173,790
Plus Mayor additional fee	=	<u>\$ 42,120</u>

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Total Paid		\$215,910
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The draft 2017/18 Budget includes a total allocation of \$215,800 for Councillor Fees and the Mayoral Allowance.

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Allowance for Deputy Mayor

Section 249 (Clause 5) of the Local Government Act states that:

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“A council may pay the deputy Mayor (if there is one) a fee determined by the council for such time as the deputy Mayor acts in the office of the Mayor. The amount of the fee so paid must be deducted from the Mayor’s annual fee.”

5 As stated in the above clause, Council is not bound to set a fee, but if it so chooses must deduct that sum from the amount available under the Mayoral allowance.

10 Current practice is that an acting period for Deputy Mayor would apply only in instances where the Mayor has leave of absence endorsed by Council and any pro rata fees would be deducted from the Mayoral allowance where agreed on a case by case basis in accordance with Section 249 of the Local Government Act 1993.

Statutory and Policy Compliance Implications

15 Section 248 of the Local Government Act 1993 states:

1. *A council must pay each Councillor an annual fee.*
2. *A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.*
- 20 3. *The annual fee so fixed must be the same for each Councillor.*
4. *A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.*

25 Section 249 of the Local Government Act also states (in the case of the Mayor)

1. *A council must pay the Mayor an annual fee.*
2. *The annual fee must be paid in addition to the fee paid to the Mayor as a Councillor.*
3. *A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.*
- 30 4. *A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.*
5. *A council may pay the Deputy Mayor (if there is one) a fee determined by the council for such time as the deputy Mayor acts in the office of the Mayor. The amount of the fee so paid must be deducted from the Mayor’s annual fee.*

35 Section 250 of the Local Government Act states:

40 *Fees payable under this Division by a council are payable monthly in arrears for each month (or part of a month) for which the councillor holds office.*

Report No. 13.9 **Public Art Panel - minutes of meetings held in March and May 2017**
Directorate: Corporate and Community Services
Report Author: Joanne McMurtry, Community Project Officer
File No: I2017/616
5 **Theme:** Society and Culture
 Community Development

Summary:

10 The first Public Art Panel meeting was held on 16 March 2017 and a subsequent meeting held on
4 May 2017. This report provides the minutes of the meetings. The new Public Art Panel are
focused on improvements of the Public Art Policy, developing a Public Art Strategy and eventually,
15 improvements to the Public Art Guidelines and Criteria. In addition, a number of public art items
were discussed and the recommendations presented in this report are supported by staff.

RECOMMENDATION:

1. That Council note that the Public Art Panel noted the Public Art Panel Constitution, the Public Art Policy and the Public Art Guidelines and Criteria at the first Panel meeting held on 16 March 2017.
2. That Council note that Cr Sarah Ndiaye was elected as the Public Art Panel Chair.
3. That Council roll-over the unexpended funds from the Public Art budget for 2016/17 to the 2017/18 budget.
4. That Council that staff provided a report to the Public Art Panel meeting on 4 May 2017 about the Development Control Plan for Public Art and development contributions collected/ expected.
5. That regarding the public art proposal of 'Feather and The Goddess Pool', whilst the quality of the artwork is acknowledged, Council not purchase the artwork as proposed for the following reasons:
 - a) That Council does not have an appropriate location or conservation strategy for the artwork;
 - b) That Council is focusing on more strategic public art acquisition, rather than individual, unsolicited artwork purchases.
6. That Council conduct an Expressions of Interest process to engage an appropriately qualified contractor to develop a Public Art Strategy, with funds of up to \$6,000 from the public art budget approved for this purpose, and that the contractor attends the next scheduled Public Art Panel meeting in September 2017.
7. That Council provide in-principle support for the public art proposal 'A Christmas Installation' for the Argyle / Station St roundabout in Mullumbimby from mid-December through to end January 2018, but do not accept the artwork as a donation and do not provide funds towards the project.
8. That Council:
 - a) Approve the 'Revive' sculpture as part of the Mullumbimby Sculpture Walk based on the information submitted to the Public Art Panel.
 - b) Request Creative Mullumbimby to present to the Public Art Panel in the future about Expression of Interest processes and overall plans for the Mullumbimby Sculpture Walk.

Attachments:

- 1 Minutes 16/03/2017 Public Art Panel, I2017/343 
- 5 2 Minutes 04/05/2017 Public Art Panel, I2017/559 

Report

5 An inaugural Public Art Panel meeting was held on 16 March 2017. The Panel elected a chair and considered the development of a more strategic approach to public art than has been applied in the past. The Panel also considered a public art submission.

10 A subsequent Public Art Panel meeting was held on 4 May 2017 where the Panel further considered the development of a strategic approach to public art, and in addition, considered a number of public art proposals.

The Panel made several recommendations to Council as provided on the first page of this report, and these recommendations are supported by staff.

Financial Implications

15 The Public Art budget year-to-date balance for 2016/17 financial year is approximately \$21,000.

Statutory and Policy Compliance Implications

20 Public Art Policy
Public Art Guidelines and Criteria

Report No. 13.10 **Council Investments May 2017**
Directorate: Corporate and Community Services
Report Author: James Brickley, Manager Finance
File No: I2017/680
5 **Theme:** Corporate Management
 Financial Services

Summary:

10 This report includes a list of investments and identifies Council's overall cash position for the period 1 May to 30 May 2017 for Council's information.

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

RECOMMENDATION:

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

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.10

Report

In relation to the investment portfolio for the month of May 2017, Council has continued to maintain a diversified portfolio of investments. At the time of writing this report, the average 90 day bank bill rate (BBSW) for the month of May 2017 was not known, but is estimated to be around 1.75%. Council's performance to 30 May 2017 is 2.67%. Council's performance is again higher than the benchmark. This is largely due to the active ongoing management of the investment portfolio, maximising investment returns through secure term deposits and purchasing floating rate notes with attractive interest rates.

The table below identifies the investments held by Council as at 30 May 2017:

Schedule of Investments held as at 30 May 2017

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	Ethical ADI	Type	Interest Rate Per Annum	Current Value
20/06/12	500,000	Heritage Bank Ltd Bonds	N	BBB+	20/06/17	Y	B	7.25%	520,000.00
24/03/17	1,000,000	NAB Social Bond (Gender Equality)	N	AA-	24/03/22	N	B	3.44%	1,000,000.00
28/10/16	650,000	Teachers Mutual Bank	N	BBB+	28/10/19	Y	FRN	3.17%	650,000.00
31/03/17	1,000,000	CBA Climate Bond	N	AA-	31/3/22	N	FRN	3.25%	1,000,000.00
18/04/17	2,000,000	NAB	P	AA-	23/08/17	N	TD	2.53%	2,000,000.00
22/02/17	2,000,000	NAB	N	AA-	12/07/17	N	TD	2.56%	2,000,000.00
07/04/17	2,000,000	NAB	N	AA-	08/08/17	N	TD	2.55%	2,000,000.00
04/04/17	1,000,000	NAB	N	AA-	03/07/17	N	TD	2.53%	1,000,000.00
06/03/17	2,000,000	NAB	N	AA-	30/08/17	N	TD	2.58%	2,000,000.00
22/02/17	2,000,000	NAB	N	AA-	12/07/17	N	TD	2.57%	2,000,000.00
06/04/17	2,000,000	Bank of Queensland	P	BBB+	08/08/17	Y	TD	2.50%	2,000,000.00
01/02/17	2,000,000	Police Credit Union	P	NR	02/08/17	U	TD	2.70%	2,000,000.00
05/04/17	2,000,000	ME Bank	N	BBB	15/08/17	Y	TD	2.50%	2,000,000.00
01/12/16	2,000,000	Beyond Bank	P	BBB	01/06/17	Y	TD	2.85%	2,000,000.00
10/05/17	2,000,000	Beyond Bank	N	BBB	13/09/17	Y	TD	2.65%	2,000,000.00
07/04/17	2,000,000	ME Bank	N	BBB	07/07/17	Y	TD	2.45%	2,000,000.00
08/03/17	2,000,000	ME Bank	N	BBB	08/08/17	Y	TD	2.55%	2,000,000.00
28/02/17	2,000,000	Beyond Bank	N	BBB	21/06/17	Y	TD	2.65%	2,000,000.00
04/01/17	3,000,000	Bank of Queensland	N	BBB+	04/07/17	Y	TD	2.75%	3,000,000.00
04/01/17	1,000,000	Bananacoast Credit Union	P	NR	04/07/17	Y	TD	2.75%	1,000,000.00
08/03/17	2,000,000	NAB	N	AA-	07/07/17	N	TD	2.56%	2,000,000.00
16/03/17	2,000,000	AMP Bank	N	A	18/09/17	N	TD	2.75%	2,000,000.00
10/03/17	2,000,000	NAB	N	AA-	09/06/17	N	TD	2.52%	2,000,000.00
27/04/17	2,000,000	ME Bank	N	BBB	30/08/17	Y	TD	2.55%	2,000,000.00
04/04/17	1,000,000	Bank of Queensland	N	BBB+	27/09/17	Y	TD	2.60%	1,000,000.00
04/01/17	2,000,000	Beyond Bank	N	BBB	04/07/17	Y	TD	2.75%	2,000,000.00

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.10

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	Ethical ADI	Type	Interest Rate Per Annum	Current Value
16/12/16	1,500,000	Auswide Bank Ltd	P	BBB-	28/06/17	Y	TD	2.80%	1,500,000.00
12/12/16	1,000,000	Auswide Bank Ltd	N	BBB-	13/06/17	Y	TD	2.80%	1,000,000.00
16/12/16	1,000,000	Police Credit Union	N	NR	05/07/17	U	TD	2.87%	1,000,000.00
20/01/17	1,000,000	AMP Bank	N	A	19/7/17	N	TD	2.80%	1,000,000.00
20/01/17	1,000,000	Bank of Queensland	N	BBB+	26/7/17	Y	TD	2.80%	1,000,000.00
03/02/17	1,000,000	Mystate Bank	N	BBB	09/08/17	Y	TD	2.75%	1,000,000.00
17/05/17	2,000,000	ME Bank	N	BBB	20/09/17	Y	TD	2.55%	2,000,000.00
16/02/17	1,000,000	Bank of Queensland	N	BBB+	15/08/17	Y	TD	2.70%	1,000,000.00
24/05/17	1,000,000	Beyond Bank	N	BBB	24/08/17	Y	TD	2.65%	1,000,000.00
01/03/17	1,000,000	Bananacoast Credit Union	N	NR	06/09/17	Y	TD	2.75%	1,000,000.00
03/03/17	1,000,000	Bananacoast Credit Union	N	NR	06/09/17	Y	TD	2.75%	1,000,000.00
03/03/17	2,000,000	Holiday Coast Credit Union	N	NR	13/06/17	Y	TD	2.70%	2,000,000.00
06/03/17	1,000,000	The Capricornian Credit Union	P	NR	23/08/17	Y	TD	2.70%	1,000,000.00
07/03/17	2,000,000	Beyond Bank	N	BBB	19/07/17	Y	TD	2.65%	2,000,000.00
07/03/17	1,000,000	Regional Australia Bank	P	NR	28/06/17	Y	TD	2.70%	1,000,000.00
23/03/17	1,000,000	Police Credit Union	N	NR	27/09/17	U	TD	2.80%	1,000,000.00
03/04/17	1,000,000	Beyond Bank	N	BBB	26/07/17	Y	TD	2.65%	1,000,000.00
03/04/17	2,000,000	Police Credit Union	N	NR	04/10/17	U	TD	2.80%	2,000,000.00
03/04/17	1,000,000	Beyond Bank	N	BBB	13/09/17	Y	TD	2.70%	1,000,000.00
02/05/17	1,500,000	Beyond Bank	N	BBB	16/08/17	Y	TD	2.65%	1,500,000.00
03/05/17	1,500,000	Auswide Bank Ltd	N	BBB-	08/11/17	Y	TD	2.68%	1,500,000.00
05/05/17	2,000,000	Beyond Bank	N	BBB	16/08/17	Y	TD	2.65%	2,000,000.00
10/05/17	1,000,000	Auswide Bank Ltd	N	BBB-	15/11/17	Y	TD	2.70%	1,000,000.00
17/05/17	1,000,000	Maitland Mutual Building Society	N	NR	27/09/17	Y	TD	2.60%	1,000,000.00
N/A	2,053,334	CBA Business Online Saver	N	A	N/A	N	CALL	1.40%	2,053,334.04
Total	77,703,334						AVG	2.67%	77,723,334.04

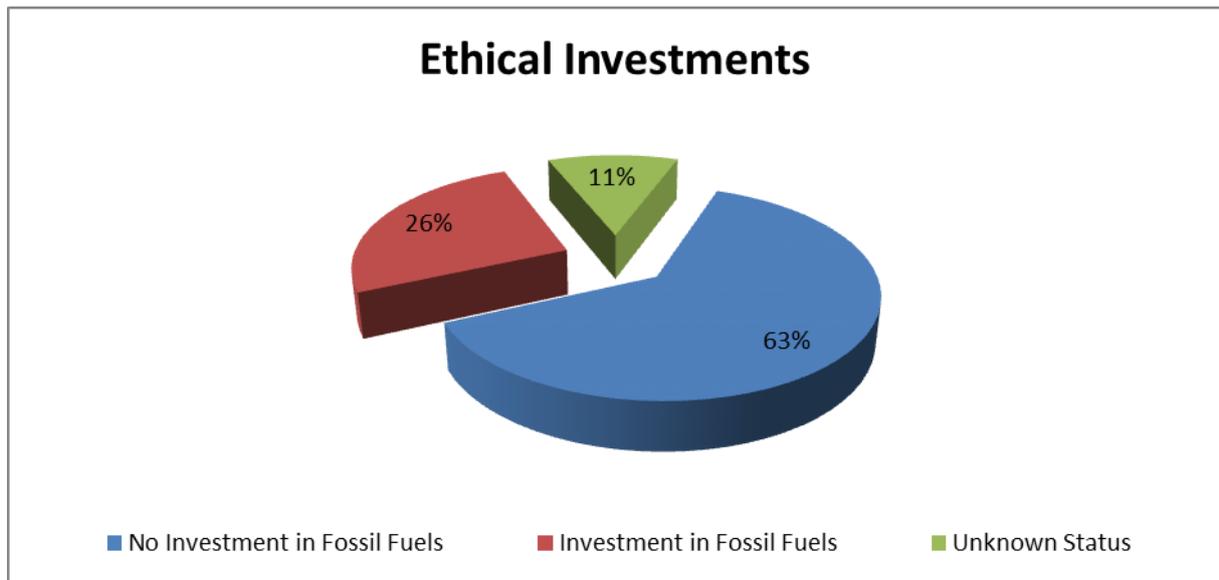
Note 1. CP = Capital protection on maturity
 N = No Capital Protection
 Y = Fully covered by Government Guarantee
 P = Partial Government Guarantee of \$250,000 (Financial Claims Scheme)

Note 2. Ethical ADI
 Y = No investment in Fossil Fuels
 N = Investment in Fossil Fuels
 U = Unknown Status

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

Environmental and Socially Responsible Investing

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



10

For the period 1 May to 30 May 2017, as indicated in the table below, there is a dissection of the investment portfolio by investment type:

Dissection of Council Investment Portfolio as at 30 May 2017

Principal Value (\$)	Investment Linked to:-	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
72,500,000.00	Term Deposits	72,500,000.00	0.00
1,650,000.00	Floating Rate Note	1,650,000.00	0.00
2,053,334.04	Business On-Line Saver (At Call)	2,053,334.04	0.00
1,500,000.00	Bonds	1,520,000.00	20,000.00
77,703,334.04		77,723,334.04	20,000.00

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

10 The table below provides a reconciliation of investment purchases and maturities for the period 1 May to 30 May 2017 on a current market value basis.

Movement in Investment Portfolio – 1 to 30 May 2017

Item	Current Market Value (at end of month) \$
Opening Balance at 30 April 2017	75,723,334.04
Add: New Investments Purchased	12,000,000.00
Add: Call Account Additions	0.00
Add: Interest from Call Account	0.00
Less: Investments Matured	10,000,000.00
Less: Investments Sold	0.00
Less: Call Account Redemption	0.00
Add: Fair Value Movement for period	0.00
Closing Balance at 30 May 2017	77,723,334.04

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

Principal Value (\$)	Description	Type	Maturity Date	Number of Days Invested	Interest Rate Per Annum	Interest Paid on Maturity \$
3,000,000.00	ME Bank	TD	04/05/17	120	2.75%	27,123.29
2,000,000.00	Beyond Bank Australia	TD	10/05/17	98	2.65%	14,230.14
2,000,000.00	ME Bank	TD	17/05/17	92	2.60%	13,106.85
1,000,000.00	Beyond Bank Australia	TD	24/05/17	92	2.65%	6,679.45
2,000,000.00	AMP Bank	TD	29/05/17	182	2.70%	26,926.03
10,000,000.00						88,065.76

The overall 'cash position' of Council is not only measured by what funds Council has invested but also by what funds Council has retained in its consolidated fund or bank account as well for operational purposes. In this regard, for the period 1 May to 30 May 2017 the table below identifies the overall cash position of Council as follows:

5

Dissection of Council Cash Position as at 30 May 2017

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Investments Portfolio			
Term Deposits	72,500,000.00	72,500,000.00	0.00
Floating Rate Note	1,650,000.00	1,650,000.00	0.00
Business On-Line Saver (At Call)	2,053,334.04	2,053,334.04	0.00
Bonds	1,500,000.00	1,520,000.00	20,000.00
Total Investment Portfolio	77,703,334.04	77,723,334.04	20,000.00
Cash at Bank			
Consolidated Fund	3,751,855.93	3,751,855.93	0.00
Total Cash at Bank	3,751,855.93	3,751,855.93	0.00
Total Cash Position	81,455,189.97	81,475,189.97	20,000.00

Financial Implications

10

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

Statutory and Policy Compliance Implications

15

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

20

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

25

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

30

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

Council at its Ordinary Meeting held 8 October 2015 resolved through resolution **15-515** to insert a new objective into its adopted Investment Policy, which gives a third tier consideration by Council to Environmental and Socially Responsible Investments, when making investment decisions.

5

Report No. 13.11 **Review of Council Investment Policy**
Directorate: Corporate and Community Services
Report Author: James Brickley, Manager Finance
File No: I2017/701
5 **Theme:** Corporate Management
 Financial Services

Summary:

10 This report is provided to Council to consider the adoption of the Draft Policy – Council Investments 2017 for the purposes of public exhibition. The Draft Policy has been developed following a presentation to the Strategic Planning Workshop on 9 March 2017 and consideration by the Finance Advisory Committee at Meetings held on 13 April 2017 and 18 May 2017.
15

RECOMMENDATION:

1. **That the Draft Policy - Council Investments 2017 be placed on public exhibition for a period of 28 days.**
2. **That in the event:**
 - a) **that any submissions are received on the Draft Policy - Council Investments 2017, that those submissions be reported back to Council prior to adoption of the policy; or**
 - b) **that no submissions are received on the Draft Policy - Council Investments 2017, that the policy be adopted and incorporated into Council’s Policy Register.**

Attachments:

- 20 1 Draft Council Investment Policy 2017 submitted to Council 22 June 2017, E2017/49772 

Report

Council at its Ordinary Meeting held on 23 February 2017, following consideration of Report 13.4 regarding Council Investments January 2017, resolved (in part) as follows:-

5

17-043 part 2:

'That a workshop on the financial investment strategy occurs at the next SPW on 9 March 2017'

10 A presentation was provided to the Strategic Planning Workshop (SPW) on 9 March 2017. Following from that presentation, a report was provided to the Finance Advisory Committee to consider an updated Draft Policy - Council Investments 2017 on 13 April 2017.

15 After consideration of the Report, the Finance Advisory Committee recommended to Council at its Ordinary Meeting to be held on 25 May 2017:-

"Committee Recommendation 4.1.1

20 *That the Finance Advisory Committee receive a further report on the review of the Council's Investment Policy at its next meeting scheduled for 18 May 2017, with the following amendments to the Draft Policy - Council Investments 2017 to be included:*

- a) *Definition for Social and Environmentally Responsible Investments*
- 25 b) *Decision making process for the investment of funds with an authorised deposit-taking institution."*

30 In accordance with Finance Advisory Committee Recommendation 4.1.1 above, a further report was provided to the 18 May 2017 Finance Advisory Committee, with the Draft Policy being amended in accordance with Committee Recommendation 4.1.1.

After consideration of the Report, the Finance Advisory Committee recommended to Council at its Ordinary Meeting held on 22 June 2017 as follows:

"Committee Recommendation:

35

That the Finance Advisory Committee recommend to Council:

- 1. *That the Draft Policy - Council Investments 2017 be placed on public exhibition for a period of 28 days.*
- 40 2. *That in the event:*
 - a) *that any submissions are received on the Draft Policy - Council Investments 2017, that those submissions be reported back to Council prior to adoption of the policy; or*
 - 45 b) *that no submissions are received on the Draft Policy - Council Investments 2017, that the policy be adopted and incorporated into Council's Policy Register."*

50

Given the latest recommendation from the Finance Advisory Committee to Council, this further report is provided subject to any further consideration or amendment, to recommend the adoption of a revised Draft Policy - Council Investments 2017 for the purposes of public exhibition.

- 5 The revised Draft Policy - Council Investments 2017, including the amendments requested by the Finance Advisory Committee has attached at Attachment 1. The document has been updated to comply with the new template for Council policies and sets out the following guidance in relation to Council's investments:
- 10
- Set the objectives of investing.
 - Outline the legislative requirements.
 - Ascertain authority for implementation and management of the Policy.
 - Establish the capital, liquidity and return expectations.
 - Determine the diversity of the investment portfolio.
- 15
- Environmentally and Socially Responsible Investing.
 - Define the risk profile.
 - Establish legal title.
 - Set benchmarks.
 - Establish monitoring and reporting requirements.
- 20
- Define duties and obligations of Delegated Officers.

Financial Implications

25 There are no financial implications directly associated with this report. However, the management of Council's investments is a significant responsibility. Poor investment decisions have the potential to negatively impact upon the financial position of Council through either revenue from investment interest or possible capital loss of principal invested.

Statutory and Policy Compliance Implications

30 Section 625 of the Local Government Act 1993 governs how Councils can invest. Specifically Section 625 states:

35 *(1) A council may invest money that is not, for the time being, required by the council for any other purpose.*

(2) Money may be invested only in a form of investment notified by order of the Minister published in the Gazette.

40 *(3) An order of the Minister notifying a form of investment for the purposes of this section must not be made without the approval of the Treasurer.*

45 *(4) The acquisition, in accordance with section 358, of a controlling interest in a corporation or an entity within the meaning of that section is not an investment for the purposes of this section.*

The forms of investment approved by the Minister for Local Government as identified in Section 625(2) of the Local Government Act 1993 refer to the Ministerial Investment Order. The most recent Investment Order was issued on 12 January 2011 and the contents of this Order are provided in Attachment 1 as part of the Draft Council Investments Policy 2017.

50 Clause 212 of the Local Government (General) Regulation 2005 also outlines requirements regarding Council's investments as follows:

55 *(1) The responsible accounting officer of a council:*

(a) must provide the council with a written report (setting out details of all money that the council has invested under section 625 of the Act) to be presented:

5 (i) if only one ordinary meeting of the council is held in a month, at that meeting, or

(ii) if more than one such meeting is held in a month, at whichever of those meetings the council by resolution determines, and

10 (b) must include in the report a certificate as to whether or not the investment has been made in accordance with the Act, the regulations and the council's investment policies.

(2) The report must be made up to the last day of the month immediately preceding the meeting.

15 In regard to Council investments, attention also needs to be directed towards Section 14 of the Trustees Amendment (Discretionary Investments) Act 1997 where a trustee must exercise the care, diligence, and skill that a prudent person would exercise in managing the affairs of another person. As Councils are acting as custodians when investing public assets, account of the requirements of Section 14 should also be considered. Specifically contained in Section 14(C)(1) are the following matters which should be considered:

20 (a) the purposes of the trust and the needs and circumstances of the beneficiaries,

(b) the desirability of diversifying trust investments,

(c) the nature of, and the risk associated with, existing trust investments and other trust property,

(d) the need to maintain the real value of the capital or income of the trust,

25 (e) the risk of capital or income loss or depreciation,

(f) the potential for capital appreciation,

(g) the likely income return and the timing of income return,

(h) the length of the term of the proposed investment,

(i) the probable duration of the trust,

30 (j) the liquidity and marketability of the proposed investment during, and on the determination of, the term of the proposed investment,

(k) the aggregate value of the trust estate,

(l) the effect of the proposed investment in relation to the tax liability of the trust,

(m) the likelihood of inflation affecting the value of the proposed investment or other trust property,

35 (n) the costs (including commissions, fees, charges and duties payable) of making the proposed investment,

(o) the results of a review of existing trust investments in accordance with section 14A (4).

Report No. 13.12 **Making of the 2017/2018 Ordinary Rates and Charges**
Directorate: Corporate and Community Services
Report Author: James Brickley, Manager Finance
File No: I2017/747
5 **Theme:** Corporate Management
 Financial Services

Summary:

10 Council at its Ordinary Meeting held on 20 April 2017, following consideration of *Report No.13.7 Public Exhibition – Draft 2017/2018 Statement of Revenue Policy*, adopted resolution **17-139**, which determined a proposed Rating Structure for the 2017/2018 Financial Year for the purposes of public exhibition, and placed the Draft 2017/2018 Statement of Revenue Policy comprising the
15 Budget Estimates, Rates and Charges, Borrowings and Fees and Charges on public exhibition for twenty eight days.

20 The Statement of Revenue Policy provides a detailed description of each of the rates, charges and fees that Council will levy on the 2017/2018 Rates and Charges Notice, and also describes the circumstances of a property to which a specific ordinary rate, charge, interest or fee will apply. It also lists relevant sections of legislation that allows for the levy of each rate, charge or fee to be made.

25 The public exhibition period seeking submissions on the draft documents closed on 25 May 2017, with the details of those submissions being the subject of another report to this Ordinary Council Meeting.

30 Each year Council is required to make the ordinary rates and charges pursuant to sections 533, 534 and 535 of the Local Government Act 1993 (LGA), with section 543 of the LGA requiring Council to make a short separate name for each rate and charge it makes. Council is also required to set the rate of interest charged on overdue rates and charges in accordance with section 566 (3) of the LGA.

35 This report satisfies these legislative requirements for the 2017/2018 financial year.

RECCOMENDATION:

That in accordance with Sections 533, 534, 535, 543 and 566 of the Local Government Act 1993 (LGA), Council makes the ordinary rates, makes the charges and sets the interest rate to be charged on overdue rates and charges for 2017/2018 listed in the following tables.

1. Ordinary Rates

Name of Ordinary Rate (Rate Notice short name)	*Rate in the Dollar or Ad-Valorem amount (\$)	Minimum Rate (\$)
Ordinary Rate Residential	0.2169	747.00
Ordinary Rate Residential Flood	0.2169	374.00
Ordinary Rate Business	0.3715	747.00
Ordinary Rate Business Byron CBD	0.4730	747.00
Ordinary Rate Mining	0.3715	747.00
Ordinary Rate Farmland	0.1935	747.00
Ordinary Rate Farmland Flood	0.1935	374.00

**Applied to 2016 base date land valuation*

2. Domestic Waste Management Charges

Name of Domestic Waste Collection Charge (Rate Notice short name)	Annual Charge (\$)
Domestic Waste 80L Collection 3 Bins	123.00
Domestic Waste 140L Collection 3 Bins	260.00
Domestic Waste 240L Collection 3 Bins	386.00
Domestic Waste 140L Collect/Wk 3 Bin	680.00
Domestic Waste 240L Collect/Wk 3 Bin	867.00
Domestic Waste Rural Collection 2 Bins	277.00
Domestic Waste Vacant Land Charge Urban	25.00
Domestic Waste Vacant Land Charge Rural	25.00
Domestic Recycling Additional Bin	86.00
Domestic Organics Additional Bin	100.00
Domestic Waste 80L 3Bin Multi Unit Serv	123.00
Domestic Waste 140L 3Bin Multi Unit Serv	260.00
Domestic Waste 240L 3Bin Multi Unit Serv	386.00
Domestic Waste 80L 2Bin Multi Unit Serv	123.00
Domestic Waste 140L 2Bin Multi Unit Serv	260.00
Domestic Waste 240L 2Bin Multi Unit Serv	386.00
Domestic Waste Strata 2Bin Share Service	207.00
Domestic Waste Strata 3Bin Share Service	207.00

3. Waste Management Charges (Non-Domestic)

Name of Waste Management Charge (Rate Notice short name)	Annual Charges (\$)
Commercial 140L Waste & Recycle Service	420.00
Commercial 240L Waste & Recycle Service	481.00
Commercial Waste 140L Bin Collection	420.00
Commercial Waste 240L Bin Collection	481.00
Commercial Rural Waste & Recycle Service	433.00
Commercial Recycling 240L Bin Collection	108.00
Commercial Organics 240L Bin Collection	100.00
Waste Operations Charge Residential	70.00
Waste Operations Charge Non-Residential	70.00

4. Mixed Waste Bin Changeover Fee

Fee	Charges (\$)
Mixed waste bin – size/capacity changeover fee (first changeover free of charge then all subsequent changes per property per annum per owner/s attracts fee)	55.00

5. Stormwater Management Service Charges

Name of Stormwater Management Service Charge (Rate Notice short name)	Annual Charges (\$)
Stormwater Charge Residential	25.00
Stormwater Charge Residential Strata	12.50
Stormwater Charge Business Strata	\$25.00 per 350m ² of the land area occupied by the strata scheme (or part thereof), proportioned by the unit entitlement of each lot in the strata scheme, minimum charge \$5.00
Stormwater Charge Bus/Mixed Strata Min	12.50
Stormwater Charge Business	\$25.00, plus an additional \$25.00 for each 350m ² or part thereof by which the area of the parcel of land exceeds 350m ²

6. Water Charges

Name of Water Charge (Rate Notice short name)	Annual Charges (\$)
Water Fixed Charge 20mm Residential	179.00
Water Fixed Charge 20mm Non-Residential	179.00
Water Fixed Charge 25mm Residential	280.00
Water Fixed Charge 25mm Non-Residential	280.00
Water Fixed Charge 32mm Residential	459.00
Water Fixed Charge 32mm Non-Residential	459.00
Water Fixed Charge 40mm Residential	716.00
Water Fixed Charge 40mm Non-Residential	716.00
Water Fixed Charge 50mm Residential	1,119.00
Water Fixed Charge 50mm Non-Residential	1,119.00
Water Fixed Charge 65mm Residential	1,891.00
Water Fixed Charge 65mm Non-Residential	1,891.00
Water Fixed Charge 80mm Residential	2,864.00
Water Fixed Charge 80mm Non-Residential	2,864.00
Water Fixed Charge 100mm Residential	4,475.00
Water Fixed Charge 100mm Non-Residential	4,475.00
Water Fixed Charge Vacant Residential	90.00
Water Fixed Charge Vacant Non-Residential	90.00
Water Fixed Charge Strata Residential	179.00
Water Fixed Charge Strata Non-Residential	179.00
Water Fixed Charge Fire Service Resident	238.00
Water Fixed Charge Fire Service Non-Res	238.00
	Usage Charges (\$)
Water Usage Charge Residential	2.47 per KL to 450 KL 3.70 per KL thereafter
Water Usage Charge Non-Residential	2.65 per KL
Water Usage Charge - Non-Compliance	5.30 per KL

7. Sewer Charges and On Site Sewage Management System Fee

Name of Sewer Charge (Rate Notice short name)	Annual Charges or Fee (\$)
Sewer Fixed Charge 20mm Residential	819.00
Sewer Fixed Charge 20mm Non-Residential	819.00
Sewer Fixed Charge 25mm Residential	1,280.00
Sewer Fixed Charge 25mm Non-Residential	1,280.00
Sewer Fixed Charge 32mm Residential	2,097.00
Sewer Fixed Charge 32mm Non-Residential	2,097.00
Sewer Fixed Charge 40mm Residential	3,276.00
Sewer Fixed Charge 40mm Non-Residential	3,276.00
Sewer Fixed Charge 50mm Residential	5,119.00
Sewer Fixed Charge 50mm Non-Residential	5,119.00
Sewer Fixed Charge 65mm Residential	8,651.00
Sewer Fixed Charge 65mm Non-Residential	8,651.00
Sewer Fixed Charge 80mm Residential	13,104.00
Sewer Fixed Charge 80mm Non-Residential	13,104.00
Sewer Fixed Charge 100mm Residential	20,475.00
Sewer Fixed Charge 100mm Non-Residential	20,475.00
Sewer Fixed Charge Vacant Residential	410.00
Sewer Fixed Charge Vacant Non-Res	410.00
Sewer Fixed Charge Rebated Residential (pods)	794.00
Sewer Fixed Charge Rebated Non-Resident (pods)	794.00
On-Site Sewage Management System (OSMS) Fee	44.00
	Usage Charges (\$)
Sewer Usage Charge Residential	1.85 per KL
Sewer Usage Charge Non-Residential	*SDF x 2.47 per KL

*SDF = Individual Property Sewer Discharge Factor (%)

8. Liquid Trade Waste Charges

Name of Liquid Trade Waste Charge (Rate Notice short name)	Annual Charges (\$)
Liquid Trade Waste Annual Charge Residen	31.00
Liquid Trade Waste Annual Charge Business	31.00
Liquid Trade Waste – Cat 1 Residential	153.00
Liquid Trade Waste – Cat 1 Business	153.00
Liquid Trade Waste – Category 2	255.00
Liquid Trade Waste – Category 2S	255.00
Liquid Trade Waste – Category 3	429.00
	Usage Charges (\$)
Liquid Trade Waste Usage Charge	**TWDF x 2.24 per KL
Liquid Trade Waste Usage Charge – Non-Compliance	**TWDF x 3.70 per KL

*TWDF = Individual Property Trade Waste Discharge Factor (%)

9. Interest Rate on Overdue Rates and Charges

Name of Interest Rate (Rate Notice short name)	Rate (%)
Interest	7.5%

Report

- Council at its Ordinary Meeting held on 20 April 2017, following consideration of *Report No. 13.7 Public Exhibition – Draft 2017/2018 Statement of Revenue Policy*, adopted resolution **17-139**, which determined a proposed Rating Structure for the 2017/2018 Financial Year for the purposes of public exhibition and placed the Draft 2017/2018 Statement of Revenue Policy comprising the Budget Estimates, Rates and Charges, Borrowings and Fees and Charges on public exhibition for twenty eight days.
- 5
- 10 The Statement of Revenue Policy provides a detailed description of each of the rates, charges and fees Council will levy on the Rates and Charges Notice and also describes the circumstances of a property to which a specific ordinary rate, charge, interest or fee will apply. It also lists relevant sections of legislation that allows for the levy of each rate, charge or fee to be made.
- 15 The public exhibition period seeking submissions on the draft documents closed on 25 May 2017, with the details of those submissions being the subject of another report to this Ordinary Council Meeting.
- 20 Each year Council is required to make the ordinary rates and charges pursuant to sections 533, 534 and 535 of the Local Government Act 1993 (LGA), with section 543 of the LGA requiring Council to make a short separate name for each rate and charge it makes. Council is also required to set the rate of interest charged on overdue rates and charges in accordance with section 566 (3) of the LGA.
- 25 This report satisfies these legislative requirements for the 2017/2018 financial year.

- Council in addition received Special Rate Variation (SRV) approval from the Independent Pricing and Regulatory Tribunal (IPART) on 9 May 2017 to increase its permissible general income by 7.5% per annum for each of the next four rating years from 2017/2018 (section 508A LGA). This SRV includes the rate pegging limit (which was announced as 1.5% for 2017/2018 and future rate peg announcements up to and including the 2020/2021 financial year).
- 30

- The amounts outlined in the first table in the recommendation to this report headed Ordinary Rates incorporates the 7.50% SRV as it applies for the 2017/2018 financial year. They also incorporate the distributional yield change in the rating structure, as publicly exhibited, to reduce rates paid by rateable properties categorized as residential, but to increase rates payable by business and farmland categories, whilst staying within the limit of Council's overall permissible income limit.
- 35

- The Office of Local Government advised via Circular 17-09 on 18 May 2017 that the maximum interest rate on overdue rates and charges is to be 7.5% for 2017/2018. This is a reduction of 0.5% compared to 2016/2017. Council has traditionally adopted the maximum permissible interest rate to apply for overdue rates and charges.
- 40

Financial Implications

- 45 The 2017/2018 budget including proposed works and services to be adopted by Council at this Ordinary Meeting is the subject of another report. The Draft 2017/2018 Budget Estimates has been based on the special rate variation increase of 7.5% as approved by the Independent Pricing and Regulatory Tribunal (IPART) for the general rate income. Charges proposed for water, sewer, stormwater and waste services have been based on the works and maintenance requirements of those areas and also in conjunction with the legislative requirements of the LGA to establish such charges.
- 50

Statutory and Policy Compliance Implications

5 Council is required to make the rates and charges and set the interest rate for 2017/2018 pursuant to sections 533, 534, 535,543 and 566 of the Local Government Act 1993 (LGA). The relevant sections or sub-sections of the LGA are summarised below:

533 Date by which a rate or charge must be made

10 *A rate or charge must be made before 1 August in the year for which the rate or charge is made or before such later date in that year as the Minister may, if the Minister is of the opinion that there are special circumstances, allow.*

534 Rate or charge to be made for a specified year

15 *Each rate or charge is to be made for a specified year, being the year in which the rate or charge is made or the next year.*

535 Rate or charge to be made by resolution

20 *A rate or charge is made by resolution of the council.*

543 Each form of a rate and each charge to have its own name

25 *Council must, when making an ordinary rate or charge, give a short separate name for each amount of the ordinary rate or charge.*

566 Accrual of interest on overdue rates and charges

30 *The rate of interest is that set by the council but must not exceed the rate specified for the time being by the Minister by notice published in the Gazette.*

Report No. 13.13 **2017/2018 Special Rate Variation Outcome**
Directorate: Corporate and Community Services
Report Author: James Brickley, Manager Finance
File No: I2017/755
5 **Theme:** Corporate Management
 Financial Services

Summary:

10 In accordance Council Resolution **17-020**, an application was submitted to the Independent Pricing and Regulatory Tribunal (IPART) for a proposed 7.50% per annum Special Rate Variation (SRV) for a period of four years commencing 1 July 2017. The application was lodged on 13 February 2017, by the due date, with IPART releasing their determination in respect of Council's application on 9 May 2017.

15 The intent of this report is to advise Council formally of the IPART's determination and to recommend to Council the adoption of a Policy Framework for the programming of works, expenditure of SRV funds and the reporting on the expenditure of the revenues generated by the SRV, along number of alternative actions to the actions proposed in Parts 9 and 11 of Resolution
20 17-020.

RECOMMENDATION:

1. That Council note the determination from IPART in relation to its 2017/2018 Special Rate Application including the following conditions imposed by IPART on Council for the:-
 - a) use of the additional income derived from the special variation for the purposes of reducing its infrastructure backlog and improving financial sustainability; and
 - b) reporting on this use against the forecasts included in the Council's application as part the Council's annual report for each year from 2017-18 to 2026-27.
2. That Council adopt as a Policy Framework the use and reporting conditions imposed by IPART in the SRV determination and further incorporate reporting on the Special Rate Variation into the development of the 2017/2018 Financial Sustainability Plan and the quarterly updates to Council through the Finance Advisory Committee on the implementation of the adopted Financial Sustainability Plan.
3. That Council establish as a policy framework that funding for infrastructure renewal and maintenance from general revenue sources is not ever lower then the general revenue baseline indicator established in the 2016/2017 Budget.
4. That Council establish as a policy framework that any funds generated by the SRV that remain unexpended at the end of each financial year are to be restricted and held in a internal reserve, to be carried forward to subsequent financial year, for expenditure in accordance with the uses imposed in the SRV approval.
5. That Council incorporate the research of potential non resident revenue sources (if any) as part of the Revenue Review chapter in the development of the 2017/2018 Financial Sustainability Plan, and provide quarterly updates to Council through the Finance Advisory Committee.
6. That Council not proceed with the implementation of part 9 and part 11 of resolution 17-020.

Attachments:

- 1 IPART determination of Byron Shire Council Special Rate Application 2017/2018, E2017/54521 [⇒](#) 

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Report

Council at its Ordinary Meeting held on 2 February 2017 considered *Report 13.2 – 2017/2018 Special Rate Variation Application*. Following Council's consideration of this report it resolved as follows (Resolution **17-020**):

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1. *Receive and note the submissions and feedback received from the community during 'Phase 4 – Public exhibition of the IP&R documents' during the Special Rate Variation Consultation & Engagement process, conducted over the period from 17 December 2016 to 18 January 2017.*
2. *Notes that an application for a Special Rate Variation is a key strategy from its "Fit for the Future" Council Improvement Plan (CIP) adopted in June 2015.*
3. *Adopts 'Option 1' – being a 7.5% compounding annual rate increase per year over a four year period commencing July 2017 to June 2021 as its preferred option for a Special Rate Variation.*
4. *Subject to determination and incorporation of an SRV option as recommended in part 3 of the recommendation, Council adopt the revised Integrated Planning and Reporting documents as presented to Council on 15 December 2016 (#E2016/103981), (#E2016/100839) and (#E2016/103686).*
5. *Lodge a Section 508A permanent Special Rate Variation application to the Independent Pricing and Regulatory Tribunal, for increases to the ordinary rate income (general revenue) of 7.5% (including rate peg) in 2017/18, 7.5% (including rate peg) in 2018/19, 7.5% (including rate peg) in 2019/2020 and 7.5% (including rate peg) in 2020/21*
6. *Continue to actively campaign for the state government to legislate to enable the Council to levy a bed tax and thus provide a source of revenue for infrastructure renewal funded by the growing number of tourists to the area.*
7. *Continue to lobby the Office of Local Government and the NSW Grants Commission for a revision of the Financial Assistance Grants (FAGs) funding distribution formula so that the impact of tourists upon Council and its ratepayers is adequately recognised and compensated for as a disability factor.*
8. *Continue to closely monitor the IPART review of NSW council rating systems and advocate for an expansion of rating categories that would facilitate Holiday Let establishments being rated as or similar to Business.*
9. *Establish a Byron Shire Revenue Exploration Working Party to work alongside staff to identify non resident revenue sources and to report the outcomes of research at each community roundtable.*
10. *Write to the local Member, Tamara Smith, Ben Franklin MLC and Minister of Tourism, seeking an urgent meeting to discuss State Government potential for more targeted tourism support in the Byron Shire.*
11. *Develop a SRV quarterly expenditure auditing and reporting profile linked to Council's CIP in conjunction with Council's auditors within 3 months of any SRV approval issued by the IPART.*

In accordance with Council's resolution above, (Resolution **17-020 part 5**) a formal application was lodged by Council to the Independent Pricing and Regulatory Tribunal (IPART) addressing the Special Rate Variation (SRV) criteria established by the Office of Local Government by the application due date of 13 February 2017.

5 IPART released the SRV determinations for the eight Councils in NSW that applied for SRVs for the 2017/2018 financial year on 9 May 2017. The detailed determination for Byron Shire Council is provided at Attachment 1 to this report. In summary, the determination for Byron Shire Council is:

- 10 1. Approval to increase general income between 2017/2018 and 2020/2021 by 7.50% each year inclusive of any rate peg announcement (1.50% for 2017/2018).
2. That Council complies with the conditions attached to the SRV approval.

15 The third page of the IPART determination stipulates the conditions of the SRV approval to which Council must comply with. In detail the conditions are:

IPART's approval of Byron Shire Council's application for a special variation over the period from 2017-18 to 2020-21 is subject to the following conditions:

- 20 • *The council uses the additional income from the special variation for the purposes of reducing its infrastructure backlog and improving financial sustainability as outlined in the council's application and listed in Appendix A*
- 25 • *The council reports in its annual report for each year from 2017-18 to 2026-27 on:*
- *the actual revenues, expenses and operating balance against the projected revenues, expenses and operating balance, as outlined in the Long Term Financial Plan provided in the council's application, and summarised in Appendix B*
- 30 ○ *any significant variations from its proposed expenditure as forecast in the current Long Term Financial Plan and any corrective action taken or to be taken to address any such variation*
- 35 ○ *expenditure consistent with the council's application and listed in Appendix A, and the reasons for any significant differences from the proposed expenditure, and*
- *the outcomes achieved as a result of the actual program of expenditure.*

40 Appendix A to the determination document indicates that the SRV will provide Council with \$43.1 million over the next ten years above assumed rate pegging and this will fund:

- 45 • An improvement to the operating balance (excluding capital grants and contributions) of \$39.3million to fund capital expenditure to reduce infrastructure backlog.
- \$3.8million of operating expenditure for asset maintenance to maintain current service levels.
- 50 • Council must disclose in the Annual Report how the actual expenditure compares with the proposed program of expenditure.

Tables A.1 and A.2 to Appendix A of the determination document, outline on an annual basis for the next ten financial years, the SRV funding allocations that Council must provide for different asset types consistent with the SRV application.

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It is recommended that on the basis that the level of reporting required by IPART, and included as a condition in the IPART determination is more onerous than that proposed by part 11 of Resolution **17-020**, that the reporting conditions required by the IPART replace the reporting framework to be developed under Part 11 of Resolution 17-020. The IPART conditions require Council to publish to the Community on an annual basis outcomes achieved, and extracted from Council's financial records that have been subject to external audit, against the forecasts included in the Council's application.

In addition it is proposed to embed this reporting in the 2017/2018 Financial Sustainability Plan and report progressively to Council through the Finance Advisory Committee on a quarterly basis. Furthermore, Council will need to create a reserve to restrict any funds generated from this SRV approval in any financial year, if any of the SRV funds generated remain unexpended. Such a reserve with any balance of funds will be publicly disclosed in Council's Financial Statements at Note 6 which is subject to external audit.

As an additional measure and to ensure the funds generated by the SRV are used in accordance with the IPART use condition for asset maintenance and renewal, it is recommended that Council adopt as a baseline indicator, that the general revenue funding allocated to asset maintenance and renewal identified in the Long Term Financial Plan submitted with Council's SRV application to IPART, excluding the additional SRV funding should be the base line. The baseline used in the SRV application was established in the adopted 2016/17 Budget.

This policy setting would mean that future budgets would need to include an allocation for infrastructure maintenance and renewal programs at least equal to a general revenue baseline indicator, and that Council could not adopt a budget that reduced the funding for infrastructure maintenance and renewal programs by funding other priorities/projects, below this adopted baseline indicator for infrastructure maintenance and renewal, before the application of the additional SRV funds raised for this purpose.

Resolution **17-020 part 9** requires that Council establish a Byron Shire Revenue Exploration Working Party to identify non resident revenue sources and report the outcomes of any research to each community roundtable. The issue for Council to be able to raise non resident revenue has been discussed for many years, but aside from the introduction of paid parking, Council has not been able to generate significant additional revenue from this source.

Council and the Community have identified potential non resident revenue sources but these revenue sources continue to be restricted by the Local Government Act 1993. Chapter 15 of the Local Government Act 1993 stipulates the basis of how Councils are financed with Council revenue being derived from rates, charges, fees, grants, borrowings and investments. Within these revenue types, the legislation provides further restrictions as to what Council can raise. It is for this reason why Council cannot do things such as:

1. Impose bed taxes
2. Impose business rates on residential properties used for holiday letting.

Due to such restrictions it is difficult to determine whether the establishment of a Byron Shire Revenue Exploration Working Party will be able to identify other non resident revenue sources for Council. It may come up with new ideas but it is a question as to whether Council can legally impose or enforce any new proposals. The reality for Council is that its revenue generation activities are confined by Chapter 15 of the Local Government Act 1993 and it is the rational applied for recommending to Council to not proceed with the implementation of Part 9 of Resolution **17-020**.

Should Council though wish to proceed with Part 9 of Resolution 17-020, it is recommended that a Project Reference Group be established with Terms of Reference and a Reporting period

established such as six (6) months. The report could be presented to a Community Roundtable, as well as Council, as envisioned by the Resolution.

Financial Implications

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There are no direct financial implications as a result of Council's consideration of this report itself. In respect of establishing the rates and charges proposed for the 2017/2018 financial year however, this will be a consideration by Council at this Ordinary Meeting where there are two further reports included in the Ordinary Meeting Agenda related to:

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1. Adoption of the Draft 2017/2018 Operational Plan including the Budget Estimates and Statement of Revenue Policy.
2. Adoption of the recommendations concerning a report on the Making of the Rate for 2017/2018 which is a statutory requirement for Council to do before 30 June each financial year.

15

Should Council adopt these reports, for the 2017/2018 financial year, the Special Rate Variation will generate an estimated \$1.185 million in additional revenue for Council growing to an estimated additional revenue of \$4.789million by the 2020/2021 financial year being the final year of the proposed SRV increase.

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Statutory and Policy Compliance Implications

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The Local Government Act 1993 provides Councils in NSW the ability to increase general land rates over and above the rate peg announcement announced annually. In respect of Council's SRV application, this was done under Section 508(A) of the Local Government Act 1993. Whilst the legislation refers to the Minister for Local Government to make the determination, the actual determinations are now undertaken by the Independent Pricing and Regulatory Tribunal (IPART).

30

Chapter 15 (Sections 491 to 625) outline and define the ability for Councils to raise finance.

Report No. 13.14 **Related Party Disclosures**
Directorate: Corporate and Community Services
Report Author: James Brickley, Manager Finance
File No: I2017/777
5 **Theme:** Corporate Management
 Financial Services

Summary:

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Council as a requirement of Section 413 of the Local Government Act 1993 must apply the Accounting Standards issued by the Australian Accounting Standards Board (AASB) in annual financial reporting periods when they become applicable.

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For the 2016/2017 financial year, Council will now be required to make disclosures in the annual Financial Statements for the first time, on transactions between Council and Related Parties as prescribed by Australian Accounting Standard AASB 124.

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This report is provided to advise Council of this requirement and to allow Council to consider and adopt a Council Policy for Related Party Disclosures.

RECOMMENDATION:

1. **That Council adopt the Related Party Disclosures Policy 2017 as shown at Attachment 1 (#E2017/61202) to this report.**
2. **That Council not advertise this Policy seeking submissions from the public given the Policy is to support a statutory requirement to which guidelines have already been established and to which Council must comply.**

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Attachments:

- 1 Draft Related Party Disclosures Policy 2017, E2017/61202 
- 2 Proposed forms to identify Related Party relationships and transactions, E2017/61189 

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Report

5 Council as a requirement of Section 413 of the Local Government Act 1993 must apply Accounting Standards issued by the Australian Accounting Standards Board (AASB) in annual financial reporting periods when they become applicable.

10 For the 2016/2017 financial year, Council will now required to make disclosures in the annual Financial Statements for the first time transactions between Council and Related Parties as prescribed by Australian Accounting Standard AASB 124.

This report is provided to advise Council of this requirement and to allow Council to consider and adopt a Council Policy for Related Party Disclosures.

15 Australian Accounting Standard AASB 124 Related Party Disclosures has been a financial reporting requirement as an accounting standard for many years in the private sector but did not apply to the Not-For-Profit Public Sector Entities including Local Government. From 1 July 2016, the reporting exemption previously provided to the Government Sector has been removed. As such reporting entities like Byron Shire Council must now disclose in its annual Financial Statements and transactions between itself and any Related Party.

20 Specific details concerning Related Party Disclosures and Related Party Transactions are outlined in the Policy indicated at Attachment 1. The intent of the Policy is to define the parameters for related party transactions, the level of disclosure and reporting required for Council to achieve compliance with AASB 124.

25 Some of the information that will be disclosed by way of Note to Council's Financial Statements classified as Related Party Transactions has for many years already been reported in Council's Annual Report such as remuneration of the Mayor, Councillors, General Manager and Senior Staff.

30 A key aspect of the Policy is also establishing who the Key Management Personnel of Council are. Based on the definition of Key Management Personnel contained in the Draft Policy, this would be the Mayor, Councillors, General Manager and Directors of Byron Shire Council.

35 Provided at Attachment 2 to this Report are examples of the proposed forms that will be distributed to Key Management Personnel to identify any Related Party relationships and transactions.

40 The intent of this Policy is to place a framework around how Council is to comply with Australian Accounting Standard AASB 124. Given this Policy is about compliance with an Accounting Standard, with established criteria that Council cannot change irrespective of any public submission, it is recommended that Council's practice of advertising a policy prior to formal adoption and inviting public submissions is not undertaken in this instance.

Financial Implications

45 There are no direct financial implications associated with this report. The reporting of related party disclosures in Council's annual Financial Statements are disclosures by way of note and do not have any impact or bearing on the reported financial results or financial performance of the Council.

50 Statutory and Policy Compliance Implications

Council is required to apply the requirements of Australian Accounting Standards as and when they become applicable. The annual Financial Statements of Council must as stipulated by Section 413 (3) of the Local Government Act 1993 as follows:

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The general purpose financial report must be prepared in accordance with this Act and the regulations and the requirements of:

- 5
- (a) The publications issued by the Australian Accounting Standards Board, as in force for the time being, subject to the regulations, and*
 - (b) Such other standards as may be prescribed by the regulations*

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.15 **PLANNING - 10.2016.663.1 Dual Occupancy (detached) swimming pool, strata subdivision 2 lots and tree removal 9 Trees at Granuaille Crescent Bangalow**

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Directorate: Sustainable Environment and Economy
Report Author: Clyde Treadwell, Planner
File No: I2017/293
Theme: Ecology
 Development and Approvals

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Proposal:

Proposal description: Dual Occupancy (Detached), Swimming Pool, Strata Subdivision (Two (2) Lots) and Tree Removal (Nine (9) Trees)

Property description: LOT: 105 DP: 1225545
 Granuaille Crescent BANGALOW

Parcel No/s: 268398

Applicant: Mr M Franck

Owner: Mr C D & Mrs R Proctor & Instant Steel Pty Ltd

Zoning: R2 Low Density Residential

Date received: 7 October 2016

Integrated Development: No

Public notification or exhibition: Level 1 advertising under DCP 2014 Part A14 – Public Notification and Exhibition of Development Applications

Exhibition period: 20 October 2016 to 2 November 2016

Submissions received: 13

Other approvals (S68/138): Not applicable

Planning Review Committee: 10 November 2016

Delegation to determination: Council

- Issues:**
- Vegetation removal
 - Koala Habitat impact
 - Adjoins heritage item
 - Drinking water catchment
 - Visual impacts
 - Building Height Plane Encroachment

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Summary:

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The application seeks development consent for the construction of a dual occupancy (detached), construction of a swimming pool, Strata Title subdivision (Two (2) Lots) and Tree Removal Nine (9) trees. The dual occupancy comprises one x two storey four bedroom dwelling and one x one storey two bedroom dwelling; each with modest living and dining areas and a lap pool is located to the east of proposed dwelling Unit A. Vegetation to be removed includes four (4) flooded gums, a silky oak, pink euodia and a blue quandong. The flooded gums in particular provide potential koala habitat and also a vegetated backdrop to the ridgeline.

Thirteen (13) submissions were received raising a number of issues including heritage, environmental and visual impacts. Whilst some issues could be addressed, it is considered the proposal will have an unacceptable impact on the visual and scenic amenity of the locality, ecologically, Council cannot be satisfied based on the information provided that koala habitat won't be adversely affected. The application is recommended for refusal.

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.

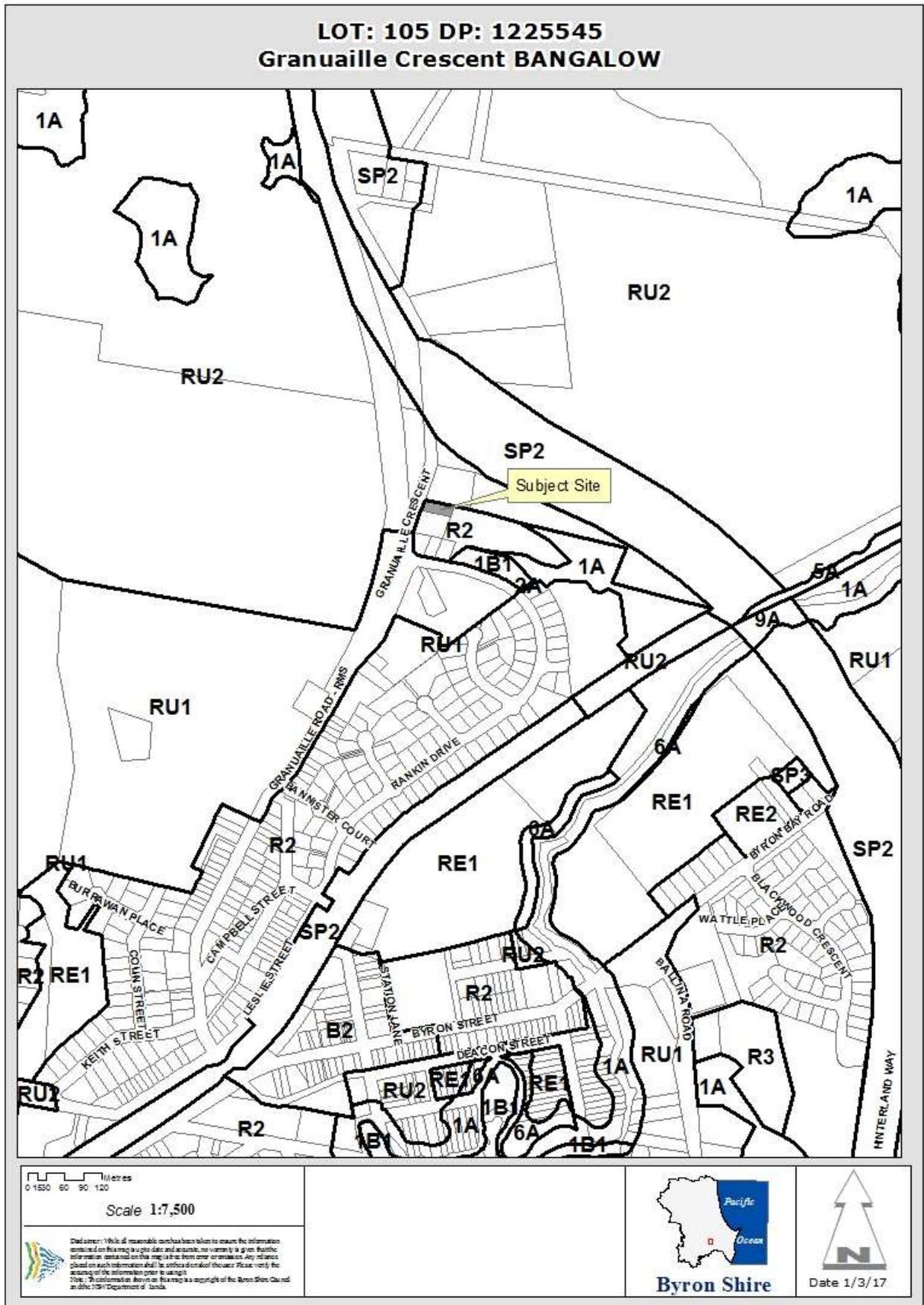
RECOMMENDATION:

That Pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2016.663.1 for Dual Occupancy (Detached), Swimming Pool, Strata Subdivision (Two (2) Lots) and Tree Removal (Nine (9) Trees), be refused for the following reasons.

- 1. Pursuant to Section 5A of the Environmental Planning & Assessment Act 1979, the applicant has failed to demonstrate the development will not have an adverse impact on threatened species.**
- 2. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning & Assessment Act 1979, the proposed development is inadequate to permit sufficient compensation for tree removal in accordance with Byron DCP 2014 Chapter B2 Preservation of Trees and Other Vegetation.**
- 3. Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the proposal is an over-development of a constrained site, resulting in loss of significant trees and adversely impacting on the visual and scenic amenity of the ridgeline.**
- 4. Pursuant to Section 79C(1)(e) of the Environmental Planning & Assessment Act 1979, the proposal not in the public interest and fails to satisfy Clause 49 of the EPA Regulation 2000 in terms of owner's consent.**

Attachments:

- 1 Letter and proposed plans - 10.2016.663.1 Malcolm Scott Granuaille Crescent Bangalow , E2017/45344 
- 2 Confidential - submissions received 10.2016.663.1 Granuaille Crescent Bangalow , E2017/45470



Assessment:

1. INTRODUCTION

1.1. History/Background

The subject land was created by a subdivision of a larger parcel of land which extended from Hinterland Way (the former Pacific Highway) to Granuaille Road.

The subdivision created the subject allotment as a vacant parcel with a frontage to Granuaille Crescent, while the rest of the land the subject of that subdivision is accessed off Rankin Drive or Corlis Crescent.

1.2. Description of the proposed development

This application seeks approval for Dual Occupancy (Detached), Swimming Pool, Strata Subdivision (Two (2) Lots) and Tree Removal (Nine (9) Trees). The dual occupancy comprises one x two storey four bedroom dwelling and one x one storey two bedroom dwelling; each with modest living and dining areas and a lap pool is located to the east of proposed dwelling Unit A. Vegetation to be removed includes four (4) flooded gums, a silky oak, pink euodia and a blue quandong. The flooded gums in particular provide koala habitat and also a vegetated backdrop to the ridgeline.

1.3. Description of the site

Land is legally described as LOT: 105 DP: 1225545.
 Property address is Granuaille Crescent BANGALOW
 Land is Zoned: LEP 2014 - R2 Low Density Residential
 Land area is: 1034m²

- Property is constrained by:
- Adjoins heritage item
 - Drinking water catchment
 - Koalas

2. SUMMARY OF REFERRALS

Referral	Issue
Development Engineer	No objections subject to conditions. Refer to Docs #A2016/26348; #E2017/6544;
S64 / Systems Planning Officer	No objections subject to conditions. Refer to Doc #A2016/26356
S94 / Contributions Officer	No objections subject to conditions. Refer to Doc #A2016/26357
Ecologist	The proposal includes the removal of vegetation including 4 large flooded gum trees which are koala food trees. The application is not supported on ecological grounds. Refer to Doc #A2016/28969 and discussion below.

Ecology

Flooded Gums are regarded as Secondary Koala Food trees, regularly used in association with one or more primary browse species. Primary browse species within Byron Shire are known to be Tallowood, Forest Red Gum, Swamp Mahogany and Small-fruited Grey Gum. Secondary browse trees can be preferentially selected by Koalas, but use is usually dependent on the presence nearby of a Primary browse species. In the case of Flooded Gums on the subject property, a number of primary browse trees (Tallowoods) are present on the adjacent property, where Koala scats were found by Council's Ecologist during the site inspection undertaken. An additional two

Koala scats were found on the subject property near a large Flooded Gum at the eastern edge of the lot.

5 Photos supplied with submissions appear to show a Koala within the large Camphor Laurel occurring on the neighbouring boundary which overhangs the subject lot. This tree would require removal or significant pruning to facilitate the development and owner's consent has not been provided with the application.

10 Council has recently completed the five year follow-up Koala habitat survey for the Byron Coast and west to Pacific Highway. Records from koalas taken into care by Friends of the Koala (FoK) were used to inform the survey. An extract from the re-survey report (below) indicates that many Koala deaths and injury have occurred since the nearby section of highway past Bangalow was completed.

15 **Results**
Historical records

20 *The FoK database contained 782 records for the same time period, 248 of which related to koala mortalities. Excluding 41 of these records where the cause of death was unknown, factors contributing to koala mortalities across the Byron LGA were disease (136/207 = 65.7%), cars (53/207 = 25.6%) & dogs (11/207 = 5.3%). Black spots for koala road kill included the Pacific Highway (~ 50% of all known motor vehicle related mortalities), most notably in the vicinity of the (former) southbound Bangalow exit and the Lismore – Bangalow Road (23% of all known motor vehicle related mortalities), the remainder thereafter distributed on secondary roads the more important of which (in terms of numbers of koalas being killed) including the*
25 *Broken Head, Coorabell and Granuille Roads.*

Visual Amenity

- 30 • View impacts are likely from many areas of the town, including the showground, since the large trees are at the ridge line.



35 Photograph taken from the showgrounds demonstrate the visual prominence of the large Flooded Gums (centre of photo) proposed to be removed.

It was submitted in the arboricultural report that due to the zoning and the proposed development, it would be better to remove the requested trees than have them conflict with the development as submitted. Having regards to the size and scale of the development this is not agreed to. A single dwelling house would have a lessor impact on native vegetation on the property.

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Relevant Environmental Legislation

Table 1 (below) considers the proposed development against those parts of the legislation that relate to ecological matters.

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TABLE 1 RELEVANT LEGISLATIVE PROVISIONS		
Legislation	Section(s)/ Provisions	Assessment
Environmental Protection & Biodiversity Conservation Act (1999)	Cl 18, 18A & 19: Matters of NES – threatened species	Matters of National Environmental Significance (NES) on the site include the nationally threatened species Grey-headed Flying Fox and Koala. No assessment of impact has been undertaken.
Environmental Planning & Assessment Act (1979)	Section 5A: (significant effect on threatened species, populations or ecological communities, or their habitats)	One threatened fauna species have been recorded from the site. Loss of habitat in this area and since the highway completion caused apparent isolation/barrier effects is likely to be significant.
Threatened Species Conservation Act 1995	Section (94) & Schedules 1, 1A, 2 and 3:	Investigation into the presence of threatened species, populations and ecological communities (and key threatening processes) has not been undertaken. See above.
Native Vegetation Act 2003	Clause 12: Clearing requiring approval	Not applicable - The Act applies to rural land and generally requires dual consent where vegetation clearing is proposed. The land here is zoned R5 Large lot residential.
Fisheries Management Act 1994	Clause 201: Fisheries Permit	Not applicable – Fisheries permit not required.
Water Management Act 2000	Clause 91: Activity approvals	A controlled activity approval is not likely to be required for the proposal as no dewatering or stream bank work is proposed.
Rural Fires Act	S100B	The site is not mapped as bushfire-prone land.
SEPP 44	Clauses 7-11: Development control of Koala habitat	The subject site is now (since subdivision completed) less than 1 ha in size, however, no assessment under SEPP 44 was provided with the original application over the larger parcel >1ha. Recent Koala use of the site is demonstrated through scats and scratch marks.
SEPP 71 Coastal Protection	Clause 8: Matters for consideration	The site is outside the coastal zone; therefore this policy does not apply to the site.
Byron LEP 2014	Clause 1.2 Aims	These clauses provide for the protection of the environment, protection of biodiversity and for Ecologically Sustainable Development. Substantial reduction of proposed tree removal and site-specific compensation would enable the proposal to conform with ESD principles.
Byron LEP 2014	Clause 5.5 – Development within	The site lies outside the mapped coastal erosion zone, thus this clause is not applicable.

	the coastal zone	
Byron LEP 2014	Clause 5.9: Preservation of trees	Aims to preserve habitat and requires development consent for clearing of native vegetation, which is sought in this application.
Byron LEP 2014	Clause 63: Acid Sulfate Soils	The site is not mapped as containing Acid Sulfate Soils.
Byron LEP 2014	Part 2 - Zones	The site is zoned R2 low density residential. Whilst dual occupancies are permitted in the zone
Byron LEP 2014	Drinking Water Catchment	The site is located within a Drinking Water Catchment. Drinking water catchment (DWC) and accordingly consideration must be made to the potential impact of the proposed development on the DWC. The application does not directly address the type chemicals that will be used and stored on the site.
Byron LEP1998	Clause 2A(2) – Byron Biodiversity Conservation Strategy 2004 (BCS)	Habitat removal is proposed. “No net loss” provisions have not been adequately addressed and insufficient room exists on site to compensate for proposed tree loss.
Byron Biodiversity Conservation Strategy 2004 (BCS)	Clause 2A(2) –	The BCS includes a No Net Loss Vegetation Policy that provides for compensatory plantings to offset loss of vegetation. “No net loss” provisions have not been adequately addressed and insufficient room exists on site to compensate for proposed tree loss.
Byron DCP 2014	Chapter B2: Tree preservation	Aims to encourage the retention of trees and the planting of species endemic to the local area. No trees on the significant tree register are proposed for removal as part of the DA, however, secondary browse trees indicating use by Koalas are proposed to be removed and the habitat value cannot be replaced by proposed landscaping.
Byron DCP 2014	Chapter B9 – Landscaping	A Landscape Plan complying with this chapter could be submitted with the application for a construction certificate, however, the current proposal retains exotic and non-local species and removes significant local native species without adequate compensation.

Conclusion

It is considered that the development cannot be supported for the following ecological reasons:

- 5 1 The applicant has failed to adequately assess the ecological impacts of the proposed development in accordance with Section 5A of the Environmental Planning and Assessment Act. Considering presence of Koala records on and in the vicinity of the subject site, presence of Koala scats on site and on neighbouring land as well as the barrier effect created by the new highway meaning that movement to additional habitat areas is restricted or unsafe; potential exists for a significant effect on threatened species.
- 10 2 The development is considered to represent over-development of a constrained site, resulting in loss of all significant trees from the site and significantly altering the ridgeline visual impact.
- 15 3 The subdivided lot size is inadequate to permit sufficient compensation for significant tree loss in accordance with Byron Biodiversity Conservation Strategy and Byron DCP Chapter B2.
- 20 4 The development would require removal or significant pruning of a tree on the adjoining lot, for which owner’s consent has not been provided.

3. SECTION 79BA – BUSH FIRE PRONE LAND

Under section 79BA of the Act, Council must be satisfied prior to making a determination for development on bush fire prone land, that the development complies with the document ‘*Planning for Bush Fire Protection 2006*’. The site is not bush fire prone land.

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

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

4.1 State Environmental Planning Instruments

15

	Satisfactory	Unsatisfactory
State Environmental Planning Policy No 44—Koala Habitat Protection	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Consideration: While this SEPP does not get triggered by the application, the applicant has failed to assess the ecological impacts of the proposed development in accordance with Section 5A of the Environmental Planning and Assessment Act 1979. Considering presence of Koala records on and in the vicinity of the subject site, presence of Koala scats on site and on neighbouring land as well as the barrier effect created by the new highway meaning that movement to additional habitat areas is restricted or unsafe; potential exists for a significant effect on threatened species. The subject site is now (since subdivision completed) less than 1 ha in size, however, no assessment under SEPP 44 was provided with the original application over the larger parcel >1ha. Recent Koala use of the site is demonstrated through scats and scratch marks.		
State Environmental Planning Policy No 55—Remediation of Land	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: The subdivision that created Lot 105 considered SEPP 55.		
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: This SEPP applies to the proposal as it is residential in nature. The application is accompanied by an assessment and certification using the Australian Building Sustainability Association ABSA certification N°1010765756 dated 19/01/2017 and BASIX certificate N°757010M_03 for Multi Dwelling, dated 19 January 2017. These certificates indicate that the proposed works meet the requirements for sustainability.		

4.2A Byron Local Environmental Plan 2014 (LEP 2014)

LEP 2014 is an applicable matter for consideration in the assessment of the subject development application in accordance with subsection 79C(1) of the EP&A Act because it applies to the subject land and the proposed development. The LEP 2014 clauses that are checked below are of relevance to the proposed development:

Part 1	<input checked="" type="checkbox"/> 1.1 <input checked="" type="checkbox"/> 1.1AA <input checked="" type="checkbox"/> 1.2 <input checked="" type="checkbox"/> 1.3 <input checked="" type="checkbox"/> 1.4 <input checked="" type="checkbox"/> Dictionary <input checked="" type="checkbox"/> 1.5 <input checked="" type="checkbox"/> 1.6 <input checked="" type="checkbox"/> 1.7 <input checked="" type="checkbox"/> 1.8 <input checked="" type="checkbox"/> 1.8A <input checked="" type="checkbox"/> 1.9 <input checked="" type="checkbox"/> 1.9A
Part 2	<input checked="" type="checkbox"/> 2.1 <input checked="" type="checkbox"/> 2.2 <input checked="" type="checkbox"/> 2.3 <input checked="" type="checkbox"/> Land Use Table <input type="checkbox"/> 2.4 <input type="checkbox"/> 2.5 <input checked="" type="checkbox"/> 2.6 <input type="checkbox"/> 2.7 <input type="checkbox"/> 2.8
Part 3	<input type="checkbox"/> 3.1 <input type="checkbox"/> 3.2 <input type="checkbox"/> 3.3
Part 4	<input checked="" type="checkbox"/> 4.1 <input type="checkbox"/> 4.1A <input type="checkbox"/> 4.1AA <input type="checkbox"/> 4.1B <input type="checkbox"/> 4.1C <input type="checkbox"/> 4.1D <input checked="" type="checkbox"/> 4.1E <input type="checkbox"/> 4.2 <input type="checkbox"/> 4.2A <input type="checkbox"/> 4.2B <input type="checkbox"/> 4.2C <input type="checkbox"/> 4.2 <input checked="" type="checkbox"/> 4.3 <input checked="" type="checkbox"/> 4.4 <input checked="" type="checkbox"/> 4.5 <input type="checkbox"/> 4.6
Part 5	<input type="checkbox"/> 5.1 <input type="checkbox"/> 5.2 <input type="checkbox"/> 5.3 <input type="checkbox"/> 5.4 <input type="checkbox"/> 5.5 <input checked="" type="checkbox"/> 5.6 <input type="checkbox"/> 5.7 <input type="checkbox"/> 5.8 <input checked="" type="checkbox"/> 5.9 <input type="checkbox"/> 5.9AA <input checked="" type="checkbox"/> 5.10 <input type="checkbox"/> 5.11 <input type="checkbox"/>

	5.12 <input type="checkbox"/> 5.13
Part 6	<input type="checkbox"/> 6.1 <input checked="" type="checkbox"/> 6.2 <input type="checkbox"/> 6.3 <input type="checkbox"/> 6.4 <input checked="" type="checkbox"/> 6.5 <input checked="" type="checkbox"/> 6.6 <input type="checkbox"/> 6.7 <input type="checkbox"/> 6.8 <input type="checkbox"/> 6.9

In accordance with LEP 2014 clauses 1.4 and 2.1 – 2.3:

- (a) The proposed development is defined in the LEP 2014 Dictionary as Dual Occupancy;
- (b) The land is within the R2 Low Density Residential according to the Land Zoning Map;
- 5 (c) The proposed development is permitted with consent; and
- (d) Regard is had for the Zone Objectives as follows:

Zone Objective	Consideration
<i>To provide for the housing needs of the community within a low density residential environment.</i>	A dual occupancy (detached) development is consistent with the provision of a variety of housing choice and an increase in the delivery of housing stock to the community – ie providing for the housing needs of the community – in a low density environment.

10 The remaining underlined clauses have been taken into consideration in the assessment of the subject development application in accordance with subsection 79C(1) of the EP&A Act. The proposed development needs to be assessed against all relevant clauses of LEP 2014 (in some cases subject to the satisfaction of other technical assessing officers).

Land Use Table

15 ‘*Dual Occupancies*’ are permitted pursuant to consent within the R2 – Low Density Residential zone. The proposed development complies with the objectives of the R2 – Low Density Residential zone, providing housing that satisfies the housing needs of the community.

Clause 4.1E – Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings

20 Pursuant to clause 4.1E Dual occupancy (detached) within land zoned R2 Low Density Residential must be sited on allotments 800m² or greater. This site is above the minimum lot size required, being in excess of 1034m², thus a Dual occupancy (detached) is a permissible use on the subject site. The merits of the application need to be considered.

Clause 4.3 - Height of Buildings

30 The LEP ***Height of Buildings*** Map identifies the site as having a maximum height of 9 metres. The proposed double storey dwellings of the development have a height of 7.7 metres and thus comply with the clause.

Clause 4.4 – Floor Space Ratio & Clause 4.5 – Calculation of Floor Space Ratio and Site Area

35 The LEP ***Floor Space Ratio (FSR)*** Map identifies the site as having a maximum FSR of 0.5.

40 The site has an area of 1,034m². The proposed development has a total gross floor area of 422.3m², thus the development has an FSR of 0.408 which complies with the maximum FSR established in the LEP.

Clause 5.9 – Preservation of trees or vegetation

45 The proposed development will necessitate the removal of nine (9) trees.

The Byron Biodiversity Conservation Strategy and DCP 2014 Chapter B2 aim to achieve a “no net loss of native vegetation” outcome. Compensation for the flooded gums, regarded as “local indigenous trees with habitat value for local wildlife” should be undertaken at a ratio of ten trees planted for each tree lost. This is not achievable on the allotment. Consideration of the proposed landscaping shows that it consists of small species that do not replace the habitat lost, nor would they compensate for the “visual change” which will be permanent, not short-term.

Clause 5.10 - Heritage Conservation

The site adjoining (Lot 348 DP 755695) the subject land has a listed heritage item (IO26) in accordance with Schedule 5 - Map HER-003CBA of Byron LEP 2014. The application was not referred to Council’s Heritage Advisor as the item is:

- a separate (non heritage listed dwelling also exists on Lot 348) sits between proposed Unit B of this application and the heritage item. Refer Attachment 1 of this report – Plan AB02 – Site Plan - dated 15/2/17 showing adjoining house 348/755695;
- located some 15 metres from the site of the proposed development;
- Unit A is located approximately 17metres from the heritage item;
- The subject site is down slope from the heritage item. The item is on an elevated site with approximately 2 metres difference in elevation to the subject dual occupancy;
- The proposed development indicates a 1.8 metre high lattice screening fence along the northern boundary, screening the heritage item from the proposed development.

Whilst the proposal will change the character of the site, the proposal is not likely to create any significant adverse impacts on the assessed heritage values of Item IO26, however the application does not directly address this matter.

Clause 6.5 - Drinking water catchment

The site is identified in the Drinking water catchment (DWC) and accordingly consideration must be made to the potential impact of the proposed development on the DWC.

The following matters are considered:

- the proposal can potentially direct stormwater to Councils system. The application indicates that run off will be controlled during construction and operation phases of the dual occupancy. The application addresses the potential impacts on the quality and quantity of water entering the drinking water storage.
- The development is located some distance from a waterway that feeds into the drinking water storage.
- The application does not directly address the type chemicals that will be used and stored on the site. While it is unlikely that any disposal of chemicals will occur on the subject land, the use/storage /disposal of chemicals need to be better addressed in the application.
- With regard to the treatment, storage and disposal of waste water and solid waste generated or used by the development, the development should be designed, sited and managed to avoid any significant adverse impact on water quality and flows associated with the waste water generated or disposed.

4.2B Byron Local Environmental Plan 1988 (LEP 1988)

LEP 1988 is not an applicable matter for consideration in the assessment of the subject development application.

4.3 Any proposed Instrument that has been the subject of public consultation and has been notified to the consent authority

Draft SEPP (Coastal Management) 2016

The subject site is not mapped within the area that the draft SEPP applies. The subject site is not mapped within the 'coastal use area' and it does not fall within a 'coastal vulnerability area;' nor is it identified within the 'Coastal Erosion Hazard Area' on the Byron Bay Coastal Hazards Map (Byron DCP 2014), accordingly there is no need to consider or assess this draft SEPP any further.

4.4A Byron Shire Development Control Plan 2014 (DCP 2014)

DCP 2014 is an applicable matter for consideration in the assessment of the subject development application in accordance with subsection 79C(1) of the EP& A Act because it applies to the land to which LEP 2014 applies. The DCP 2014 Parts/Chapters that are checked below are of relevance to the proposed development:

Part A	In accordance with DCP 2014 Part A14 – Public Notification and Exhibition of Development Applications the application was advertised under Level 1. The exhibition period was from 20/10/16 to 2/11/16. There were 13 Submissions received.
Part B Chapters:	<input checked="" type="checkbox"/> B2 <input checked="" type="checkbox"/> B3 <input checked="" type="checkbox"/> B4 <input checked="" type="checkbox"/> B5 <input type="checkbox"/> B6 <input type="checkbox"/> B7 <input checked="" type="checkbox"/> B8 <input checked="" type="checkbox"/> B9 <input type="checkbox"/> B10 <input type="checkbox"/> B11 <input type="checkbox"/> B12 <input type="checkbox"/> B13 <input checked="" type="checkbox"/> B14
Part C Chapters:	<input type="checkbox"/> C1 <input type="checkbox"/> C2 <input type="checkbox"/> C3 <input checked="" type="checkbox"/> C4
Part D Chapters	<input checked="" type="checkbox"/> D1 <input type="checkbox"/> D2 <input type="checkbox"/> D3 <input type="checkbox"/> D4 <input type="checkbox"/> D5 <input type="checkbox"/> D6 <input type="checkbox"/> D7 <input type="checkbox"/> D8
Part E Chapters	<input type="checkbox"/> E1 <input checked="" type="checkbox"/> E2 <input type="checkbox"/> E3 <input type="checkbox"/> E4 <input type="checkbox"/> E5 <input type="checkbox"/> E6 <input type="checkbox"/> E7

These underlined Parts/Chapters have been taken into consideration in the assessment of the subject development application in accordance with subsection 79C(1) of the EP&A Act. The proposed development is demonstrated to meet the relevant Objectives of all relevant Parts/Chapters (in some cases subject to conditions and/or to the satisfaction of other assessing officers).

B4 – Traffic Planning, Vehicle Parking, Circulation and Access,

The proposal is to have two car spaces per dwelling, with at least one space per dwelling being covered. The proposed dual occupancy detached development has a double car carport (ie covered space) for Unit A, and a two bay car parking bay for Unit B with a nominated visitor park adjoining the carport to Unit A. The proposal complies.

B14 - Excavation and Fill

Earthworks are proposed which are considered satisfactory having regard to the slope of the land.

C4 - Development in Drinking Water Catchment

Refer to previous comments in section 4.2A of this report relating to DWC.

D1 – Residential Accommodation in Urban, Village and Special Purposes Zones

The proposed detached dual occupancy accords with the provisions of Clause D1.5 relating to the development of Dual Occupancy and Semi-Detached Dwellings. The proposed dual occupancy detached provides:

- suitable on site car parking spaces – ie 2 car spaces per dwelling in the dual occupancy and a visitor car park is provided;

- An appropriate design that is compatible with the character of the locality and the prevailing low density residential zone, provides adequate private open space per dwelling and is responsive to slope and drainage issues of the site;
- Consistent development with the character and amenity of existing (and likely future development given this is a new residential subdivision with a high percentage of vacant residential allotments);
- An appropriate landscape plan with suitable plants and retaining walls etc.

E2 - Bangalow

The proposed detached dual occupancy accords with the provisions of Clause E2 of DCP 2014. The provisions of which have primarily been addressed in previous sections of this assessment report. The proposed development is located in urban release Area 2 of the Structure Plan in E2.2. This area is a new urban release that extends the village of Bangalow to the north off Rankin Drive. Residential development is appropriate in this release area.

4.4B Byron Shire Development Control Plan 2010 (DCP 2010)

DCP 2010 is not an applicable matter for consideration in the assessment of the subject development application.

4.5 Any Planning Agreement or Draft Planning Agreement?

	Yes	No
Is there any applicable planning agreement or draft planning agreement?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Consideration: Not applicable.		

4.6 Environmental Planning & Assessment Regulation 2000 Considerations

Clause	This control is applicable to the proposal:	I have considered this control as it relates to the proposal:	If this control is applicable, does the proposal comply?
92	No	N/A	N/A
93	No	N/A	N/A
94	No	N/A	N/A
94A	No	N/A	N/A

- * Non-compliances and any other significant issues discussed below

4.7 Any coastal zone management plan?

	Satisfactory	Unsatisfactory	Not applicable
Is there any applicable coastal zone management plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Consideration: The subject site is not located in the coastal zone.			

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

Impact on:	Likely significant impact/s?
Natural environment	Yes. The proposal will have a significant adverse impact on the natural environment of the locality with the removal of some nine mature trees that form habitat for a variety of fauna and are of visual significance impacts to many public vantage points throughout and adjacent to

	Bangalow village.
Built environment	Yes. The proposal will have a significantly adverse impact on the built environment of the locality – through the removal of vegetation and the building of two dwellings on a site that was specifically earmarked for a single dwelling at the time of the assessment of the subdivision.
Social Environment	No. The proposal will not have a significant social impact on the locality.
Economic impact	No. The proposal will not have a significant economic impact on the locality.

Are there any Council Policies that are applicable to the proposed development?

5 There are no relevant Council Policies that apply to the proposal that have not been considered elsewhere in this S79c assessment.

4.9 The suitability of the site for the development

10 The site while serviced is relatively constrained by the amount of existing vegetation on the property and it is unsuitable for the proposed development.

4.10 Submissions made in accordance with this Act or the regulations

15 The development application was publicly exhibited. There were 13 submissions objecting to the development. The following matters were raised in the submissions received:

Objection to Removal of Trees

20 **Comment:** *the proposal indicates that it is necessary to remove nine (9) trees from the site. To enable consideration to the significant of these trees the application was referred to Council's Ecologist and consideration was given to heritage and visual perspective. The ecologist considers that the vegetation removal will have a significant adverse impact on local biodiversity conservation. The visual impact will also be significant in the visual catchment.*

25 Trees are habitat for native Fauna

Several submissions make the observation that the trees on the subject site are habitat for native Fauna including:

- 30
- Koalas;
 - Red Tailed Cockatoos;
 - Mountain Brush Tailed Possum;
 - Ring Tailed Possum;

35 **Comment:** *To enable consideration of the ecological significant of the nine (9) trees to be removed from the site the application was referred to Council's Ecologist and the ecologist considers that the vegetation removal will have a significant adverse impact on biodiversity conservation.*

40 Tree Removal will Change the Landscape and Streetscape

Comment: *The removal of the existing vegetation will modify the prevailing landscape and streetscape setting of the site and the locality.*

45 *The subject site, under Byron LEP 1988, was zoned 2 (a) Residential. In LEP 1988 prominent (scenic or escarpment) lands were zoned 7 (d) Scenic / Escarpment zone.*

Urban investigation areas were identified in the Bangalow Settlement Strategy 2003, the subject land was identified as “physically unconstrained” land. Subsequently the E2.2 Structure Plan in Chapter E2 of the Byron DCP 2014 identified the subject land as an urban release area (Area 2 of the Structure Plan). This area is a new urban release that extends the village of Bangalow to the north off Rankin Drive. The structure plan identifies land that is to form a landscape buffer; the subject land is not included in the identified buffer.

Dual Occupancy and Strata Development – Out of Character with Locality

Comment: The subject land is zoned R2 Low Density Residential zone under Byron LEP 2014 and prior to that it was formally, under Byron LEP 1988, zoned 2 (a) Residential. The area was identified in the Council’s strategic processes (discussed above) as an extension (urban release area) to the village of Bangalow.

Given 1) the identification as an urban area; 2) the residential zoning of the land and 3) the subsequent recognition in the E2.2 Structure Plan in Chapter E2 of the Byron DCP 2014 it is expected that the land will be used for residential development. Such development will need to be in accordance with legislation, planning instruments and Council’s policies. The proposal needs to better address the objectives of these requirements.

Two Storey Development equates to High Density (in Bangalow).

Comment: The subject land is zoned R2 Low Density Residential zone under Byron LEP 2014 and the proposal meets the objective of the being “To provide for the housing needs of the community within a low density residential environment”. The proposed dual occupancy (detached) development is consistent with the provision of a variety of housing choice and an increase in the delivery of housing stock to the community – i.e. providing for the housing needs of the community – in a low density environment. The density of the proposal equates to 1 dwelling per 517m². In the locality, along Rankin Drive the majority of the residential land is between 600m² and 700m² so the subject allotment size is only marginally smaller than that prevailing in the locality. The minimum lot size for Torrens title subdivision of the land is 600m², the allotments proposed by the development are 14% smaller than this provision applying to enable the creation of Torrens title lots. In general planning terms the proposal would not be considered high density; however it is out of character with the general development in the locality and with the prevailing streetscape of the locality.

Change to Visual attributes

Comment: The removal of the existing vegetation and the development will modify the prevailing visual setting of the site and the locality. The subject site is an iconic site in the locality from a visual perspective.

In response to requests made by Council based on issues raised in community feedback the application was amended in March 2017 to reduce the potential impacts from the proposal and the number of trees to be removed.

It is considered that the proposed removal of the nine trees in the amended plan is likely to have significant visual impacts on the locality.

Excessive Traffic Generation and Impact on Road Network and Safety.

Comment: Council’s engineers have determined the traffic rates using the RTA’s Guide to Traffic Generating Developments and consider that the traffic generated by a single dwelling would be 9 vehicle movements but with the proposed development the traffic generated would be 18 vehicle movements. They deem the increase in traffic is minimal and will not have any significant impact on the surrounding road network.

Size of development

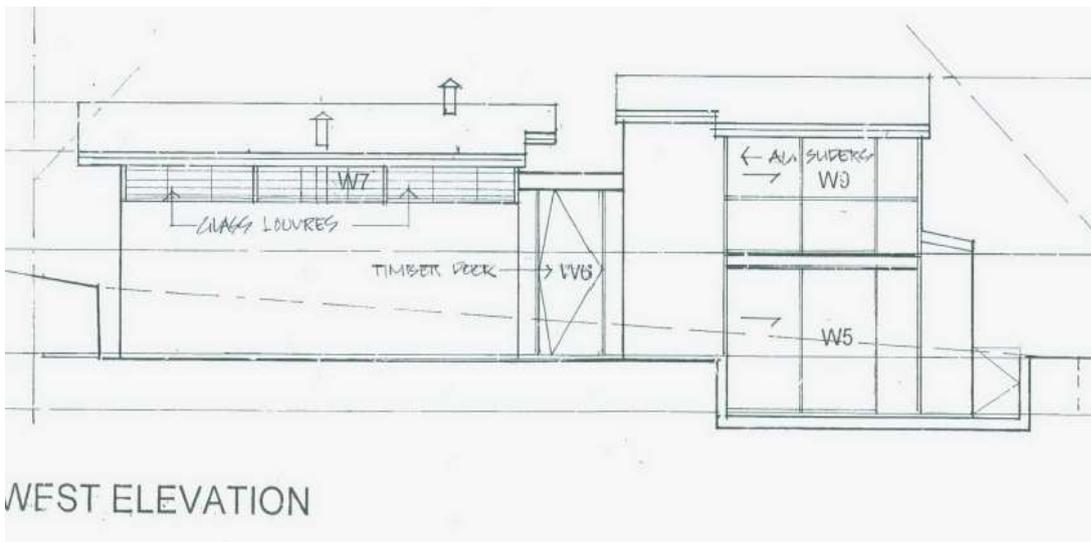
Comment: The site complies with the maximum Floor Space Ratio established in the LEP. The size and scale of the development is not dissimilar to the intensity of development on the adjoining properties. The land to the north with an area over 4300m² has two dwellings and a large garage/shed while the land to the south of the subject site has a dwelling and a large garage/shed (about 200m² in size).

Privacy and Shadowing
Building Height Plane

Comment: Unit A of the proposed dual occupancy will encroach on the Building Height Plane (BHP) on the adjacent northern boundary. Given the subject land is to the south of this, it will produce shadow predominantly within the subject site itself and not impact adjoining lands. This encroachment, which is about 450mm at the very apex of Unit A, can be permitted in accordance with the provisions of D1.2.2 2b) ii).

The Building height plane encroachment is shown on the following diagram:

Unit A



Privacy

Comment: While Unit B has kitchen and dining room windows facing the land to the north however this Unit will not be able to overview the rear yard or dwelling of No 3 Granuaille Crescent as the unit is

- setback 3 metres from the northern boundary and
- the prevailing slope of the land (No 3 Granuaille Crescent is on a higher elevation than the subject land) combined with;
- the Unit being recessed (cut) some 1.2 metres; and
- there is a proposed 1.8 metre high lattice screen fence on the property boundary; would assist in facilitating no overlooking or privacy impacts on the adjoining land to the north.

Unit A will not be able to overview No 3 Granuaille Crescent as the unit is

- is proposed to be about 3 metres lower than the floor level of No 3 Granuaille Crescent;
- setback 1.8 metres from the northern boundary;

- despite the Unit encroaching the BHP, which can be measured in millimetres, this encroachment can be permitted in accordance with the provisions of D1.2.2 2b) ii).
- the prevailing slope of the land (No 3 Granuaille Crescent is on a higher elevation than the subject land);
- 5 • the Unit being recessed (cut) some 2 metres below the natural ground level; and
- there is a proposed 1.8 metre high lattice screen fence on the property boundary;

No overlooking or privacy impacts on the adjoining land to the north.

10 The land to the south has a large metal shed close to the boundary and this existing shed effectively blocks any viewing opportunities from the subject lands. Furthermore a 1.6metre high lattice screen fence is proposed on the southern property boundary extending from the proposed carport to the eastern boundary.

15 Heritage

Comment: The site adjoining (Lot 348 DP 755695 - No 3 Granuaille Crescent) the subject land has a listed heritage item (IO26) in accordance with Schedule 5 - Map HER-003CBA of Byron LEP 2014. The application was not referred to Council's Heritage Advisor as the item is:

- 20 • located some 15 metres from the site of the proposed development;
- a separate (non heritage listed dwelling also exists on Lot 348) sits between proposed Unit B of this application and the heritage item;
- Unit A is located approximately 17metres from the heritage item;
- 25 • The subject site is down slope from the heritage item. The item is on an elevated site with approximately 2 metres difference in elevation to the subject dual occupancy;
- The proposed development indicates a 1.8 metre high lattice screening fence along the northern boundary, screening the heritage item from the proposed development.

30 Whilst the proposal will change the character of the site, the proposal is not likely to create any adverse impacts on the assessed heritage values of Item IO26.

Status of Allotment/ Subject Site

35 **Comment:** The subject site is now a registered separate title - Lot 105 DP 1225545 and is not part of the larger original parcel that had an area of over 7 hectares and extended to Rankin Drive.

Noise

40 **Comment:** There will be a potential increase in noise from the construction and use of the proposed units and pool area. The noise generated in residential areas can be controlled under the POEO Act and with appropriate conditions of consent. Given the proposal is for a residential use it is expected that noise generation will be of a domestic nature and not dissimilar to the adjoining existing development.

45 Stormwater Disposal

Comment: On site detention (OSD) engineering calculations have been submitted demonstrating on site detention can be provided for the development. The proposed OSD for proposed Unit A will not work as shown but a reasonable solution can be resolved at Construction Certificate stage.

4.11 Public interest

55 The proposed development is not in the public interest and fails to satisfy Clause 49 of the EPA Regulation 2000 in terms of owner's consent for removal lopping of a tree on an adjacent property.

4.12 Section 5A of the EP&A Act – Significant effect on threatened species

5 Having regard to sections 5A, 5C and 5D of the EP&A Act, there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats as a result of the proposed development because of the nine trees to be removed, four are regarded as highly significant in the landscape and provide Koala habitat. The tree removal is considered to represent over-development of a constrained site.

4.13 Section 5B of the EP&A Act – Have regard to register of critical habitat

10 The NSW Critical Habitat Register does not identify any critical habitat on or adjacent to the site.

5. DEVELOPER CONTRIBUTIONS

15 Developer Contributions under Section 94 and Water and Sewer Charges would apply.

6. CONCLUSION

20 The proposed development is assessed as an overdevelopment of the site having regards to the ecological constraints affecting it. The application is recommended for refusal.

7. RECOMMENDATION

25 It is recommended that pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2016.663.1 for Dual Occupancy (Detached), Swimming Pool, Strata Subdivision (Two (2) Lots) and Tree Removal (Nine (9) Trees), be refused for the following reasons:

- 30 1. Pursuant to Section 5A of the Environmental Planning & Assessment Act 1979, the applicant has failed to demonstrate the development will not have an adverse impact on threatened species.
- 2. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning & Assessment Act 1979, the proposed development is inadequate to permit sufficient compensation for tree removal in accordance with Byron DCP 2014 Chapter B2 Preservation of Trees and Other Vegetation.
- 35 3. Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the proposal is an over-development of a constrained site, resulting in loss of significant trees and adversely impacting on the visual and scenic amenity of the ridgeline.
- 4. Pursuant to Section 79C(1)(e) of the Environmental Planning & Assessment Act 1979, the proposal is not in the public interest and fails to satisfy Clause 49 of the EPA Regulation 2000 in terms of owner’s consent.

8. DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

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

45 Provide Disclosure Statement register details here: Not applicable

Report No. 13.16 **Byron Affordable Housing Summit Issues Action Plan**
Directorate: Sustainable Environment and Economy
Report Author: Shannon Burt, Director Sustainable Environment and Economy
File No: I2017/594
5 **Theme:** Ecology
 Planning Policy and Natural Environment

Summary:

10 The purpose of this report is to seek Council support for the Key Housing Issues Plan developed as a result of the Byron Affordable Housing Summit – Models, Methods and Money.

Information/Background:

15 Council resolved at the Ordinary Meeting 6 October 2016 inter alia to convene a Byron Shire Housing Summit prior to the adoption of the Byron Shire Residential Strategy. See link to Council Report 9.1: http://byron.infocouncil.biz/Open/2016/10/OC_06102016_AGN_533.PDF

20 The purpose of the Summit was to bring together stakeholders from government, housing providers, private industry and community to look at current policies, development practices and programs for housing and to look at what could be done differently to improve the availability and supply of housing in Byron in particular. The Summit was held 10 February 2017, subscribed by invitation and EOI only to manage numbers to between 80-100 attendees. Over 100 attended the
25 day.

The format for the Summit included thematic sessions to look at the following areas:

- Housing types and models
- 30 • Tenure types and security
- Planning enablers and barriers
- Finance and investment models

35 The Summit web page can be found here: <http://www.byron.nsw.gov.au/affordable-housing-summit>

A number of key note speakers presented on a range of topics within the above themes. A visual recording of the presentations can be found here:

40 http://www.byron.nsw.gov.au/files/pages/affordable-housing-summit/topic_overview_sketches.pdf

A facilitated workshop session was also run after the presentations, where ideas were exchanged between the participants on a select number of topics of interest to them.

45 This information has now been distilled by staff and forms the basis of a Key Housing Issues Plan for Byron.

A workshop with councillors was held on the same. The comments from the councillor workshop are provided below.

50 The Issues Plan if endorsed will then be used to inform part of the Residential Land Use Strategy recommendations currently under preparation.

55

RECOMMENDATION:

That Council:

1. **Note the Housing Issues Plan developed the result of the Byron Affordable Housing Summit and support its use to inform part of the Residential Land Use Strategy recommendations currently under preparation.**
2. **Support further discussions with landowners of land in Attachment 1, and progression of work necessary to establish the feasibility of the sites in Attachment 1 and Attachment 2 for affordable housing; where appropriate, invite lodgement of Planning Proposals to rezone the land for this purpose.**
3. **Review the mechanisms available to guide Council involvement in any public / private housing development with respect to probity and process.**
4. **Receive a further report on point 2 above.**

Attachments:

- | | |
|---|---|
| 1 | Confidential - Letter Balanced systems, E2017/39980 |
| 5 | 2 Confidential - Locality Maps , E2017/59420 |

Report:

5 Finding ways to deliver housing choice and affordable housing in an environment of high land costs, restrictive development options and an investment-driven housing supply market is all part of a bigger problem for many councils such as Byron as they try to address the unmet housing needs within their area.

10 Key economic policy drivers are generally established at the federal level and planning policy at the state level.

Notwithstanding the above, local government manages a range of functions, that can influence local housing outcomes. These roles include:

- 15 • Facilitating the provision of housing appropriate to local needs through land use planning;
- Regulating development including planning controls, infrastructure planning and charging, building codes;
- Local laws regulating amenity, health, safety, streets and parking, waste management;
- Initiating and supporting neighbourhood renewal projects;
- Property rating and levying;
- 20 • Collecting and analysing housing related information (e.g. Development and Building approvals and commencements, demographic projections);
- Community grant partnerships (e.g. To community services organisations, property owners); and,
- 25 • Providing support through funding and land for affordable housing.

Four key housing issues for Byron Shire were identified the result of the Summit and have been included in the table below with potential actions and partners identified (not exhaustive). These issues identified will be used to inform part of the Residential Land Use Strategy recommendations currently under preparation.

Issue	What is needed	How do we address the issue	Who are our potential partners
Homelessness	A balanced approach to addressing homelessness	Research and data collection Collaborative partnerships & impact investment i.e. 'Common Ground' model Advocacy Emergency relief and coordination	<ul style="list-style-type: none"> • Australian Common Ground Alliance; NSW Common Ground • NSW FaCS/Office of Impact Investment • Research partners eg. Universities for cost benefit studies • Mercy Foundation • Homelessness service interagency members (DIG) • Arakwal/NSW ALC • Community Housing Providers • Property developers • Impact Investors • Social enterprise (construction and training)
Key workers housing	Identify housing opportunities for workers to live in or	Research and data collection Sector engagement and needs analysis	<ul style="list-style-type: none"> • Superannuation: HESTA, LGS • Intermediaries: Social Ventures Australia, Social Outcomes • Community Housing Providers

	relocate to the area	<p>Collaborative partnerships</p> <p>Policy and advocacy for housing stock</p> <p>Advocacy for housing mix</p> <p>Fast track applications and incentives</p>	<ul style="list-style-type: none"> • Social enterprise (construction and training) • Department of Innovation • Owners of pilot sites/land • Property developers • Impact Investors
Land Availability	Assess existing supply of serviced residential land, identify new housing opportunities and opportunities for rezoning for residential uses/higher residential density	<p>Site suitability analysis & Infrastructure</p> <p>Affordable housing models Including 'Pilot sites'</p> <p>Alternate land tenure options Including a 'Housing Trust'</p> <p>Fast track applications and incentives</p>	<ul style="list-style-type: none"> • Land owners • Community Housing Providers • Property developers • Impact Investors
Housing types and design	Change Local Planning provisions to require a range of development types and densities to occur and include requirements for affordable and adaptable dwellings in standard residential zones	<p>Research and data collection</p> <p>Advocacy for Legislative change</p> <p>Diversity of housing mix</p> <p>Collaborative partnerships</p> <p>Fast track applications and incentives</p>	<ul style="list-style-type: none"> • NSW Dept. of Planning and Environment • NOROC • Developers • Superannuation: HESTA, LGS • Intermediaries: Social Ventures Australia, Social Outcomes • Community Housing Providers • Impact Investors

5 In response to the issue of 'land availability', at the Councillor workshop held 11 May 2016, support was expressed for the identification of and progression of potential pilot sites ahead of the Residential Land Strategy to rezone land that could be used to achieve affordable/diverse housing outcomes for the Shire.

Attached to the report (confidential) is suggested private and public land within and around the Mullumbimby Township that could be made available for this purpose. It is recommended that

Council support progression of the preliminary work necessary to establish the feasibility of these sites for this purpose including discussions with landowners. Progression of Planning Proposals to rezone the land for affordable / diverse housing could follow where appropriate.

- 5 Further, and in consideration of the above, Council needs to review and include mechanisms available to it to guide its involvement in any public / private housing development with respect to probity and process.

Financial Implications

- 10 N/A

Statutory and Policy Compliance Implications

- 15 N/A

Report No. 13.17 **Short Term Rental Accommodation - Enforcement Options**
Directorate: Sustainable Environment and Economy
Report Author: Andrew Hill, Community Enforcement Officer
File No: I2017/661
5 **Theme:** Ecology
 Planning Policy and Natural Environment

Summary:

10 The purpose of this report is to acquaint Council with the available enforcement options against Short Term Rental Accommodation (“STRA”).

Information/Background:

15 On 28 February 2013, Council resolved (13-114) that Council would defer authorisation of proceedings related to “holiday letting” pending the development of a strategy regarding options for regulation.

20 In February 2013, Council noted that action remained open against “holiday let” properties should the behaviour of tenants of such properties cause significant impact on neighbourhood amenity.

25 That approach has been reinforced in numerous contexts thereafter such that it has been made abundantly clear that whilst Council would not take action relating to the holiday letting of properties per se, it would take action in respect of fire safety and amenity issues on a case by case basis as and when they arise.

In relation to the regulation of STRA, on 23 March 2017 Council resolved:.

- 30 4. *That should in the meantime a state environmental planning policy not be produced by the department of planning and environment for the purposes of short term rental accommodation by 1 July 2017, Council lift its current moratorium on legal action against unauthorised tourist and visitor accommodation (illegal holiday letting).*
- 35 5. *That Council write to the department informing them of part 4.*
- 40 6. *That Council be provided a discussion paper / report to the May Council meeting on the available enforcement options against unauthorised tourist and visitor accommodation (illegal holiday letting) and to councillors as early as possible. (Richardson/Spooner)*

RECOMMENDATION:

That Council note this report.

Report

The following provides a context for and options available to Council to enforce unauthorised tourist and visitor accommodation.

5

BYRON SHIRE SHORT TERM RENTAL ACCOMMODATION (STRA) ACTION PLAN

Council adopted the STRA Action Plan at it's Ordinary meeting on 30 April 2015 with amendments as per resolution 15-186.

10

<http://www.byron.nsw.gov.au/publications/short-term-rental-accommodation-action-plan>

Action 3a of Council's STRA Action Plan requires the Sustainable Environment and Economy Directorate, in part, to implement the following compliance investigation and action:

15

3. Develop a register**What**

Investigate whether a nominal fee can be charged for registration and to cover the cost of establishing and maintaining the register in accordance with appropriate legislation.

20

A requirement for all exempt development and development approvals is that the dwelling be registered on Council's register prior to the initial period used.

Who/When/Cost

Council's Development Assessment and Compliance Section with IT.

25

Timeframe: May to September 2015.

Cost: development of the register may require additional funding. If required this will be reported to Council post the scoping analysis

Action 5a of Council's STRA Action Plan requires the Sustainable Environment and Economy Division to implement the following compliance action.

30

5. Compliance**What**

With adoption and implementation of Controls, Council will need to ensure compliance with planning provisions. Additional Council resources may be required during peak holiday periods to respond to after hour complaints and to collect evidence.

35

Who/When/Cost

Council's Development Assessment and Compliance Section within the Sustainable Environment and Economic Directorate

40

Timeframe: Ongoing

Cost: funds may be required to provide additional resources

45

ENFORCEMENT OPTIONS**The nature and state of the evidence required**

Part 4.14 of Council's Enforcement Policy deals with "Taking Enforcement Action". Part 4.15 deals with "The Nature and Seriousness of the Unauthorised Activity." Those Parts encapsulate the principle that the decision to take enforcement action must be based on sound grounds and must include consideration of whether the available evidence establishes an initial ('prima facie') case for action.

50

Sufficiency of evidence is crucial. Council should not proceed if there is no reasonable prospect of securing a successful result.

5 That determination involves considering whether or not the admissible evidence available is capable of establishing each element of the offence.

10 This requires an exercise of judgment which will depend in part upon an evaluation of the weight of the available evidence and the persuasive strength of Council's case (probative value). The probative value of the evidence must be considered and assessed. Probative value can be otherwise expressed as the extent to which the evidence could rationally affect the assessment of the probability of the existence of a fact in issue.

15 The key to the definition is the word "*rationality*". Probative value is about the weight that the tribunal of fact, if acting rationally, could give to the evidence.

An assessment of probative value however takes into account both the credibility of the source of an item of evidence and the inferential force that evidence would have if the source was found to be credible.

20 Internet advertising may not produce accurate or reliable evidence. Internet advertising is circumstantial evidence and is not, of itself, capable of rising to the standard of evidence necessary to institute enforcement proceedings.

25 In the holiday letting context guidance is gained from *Sutherland Shire Council v Foster* [2003] NSWLEC 2 as to the nature and level of the evidence required.

In that matter it was clear that, in addition to the advertising of the premises as holiday accommodation, there was evidence being:

- 30 a) extensive evidence through affidavits that showed the attempts by the Respondent to let out the unit for short term accommodation. That evidence included advertising organized by the Respondent.
- 35 b) contact details for the Respondent related to premises other than at the subject premises.
- c) admissions from the Respondent and conversations with the Respondent's family that the unit was available for short term accommodation.
- d) a log kept by neighbour as to the movement of different people and different cars through the unit and in the carpark

40 In *Sutherland* the court found that there was overwhelming evidence that there were attempts made by the Respondent to use, and actual use of the premises for holiday and short-term accommodation and that the extent of the short-term use was considerable in terms of a large number of people using the premises for short-term accommodation.

45 Standard of Proof

In regards to any proposed enforcement action there are two standards of proof depending on whether Council takes civil action or criminal action (prosecution). In criminal proceedings the standard of proof is 'beyond reasonable doubt'. That standard is significantly more onerous than the standard of 'on the balance of probabilities' required in civil proceedings.

50 Civil Action

In order to succeed in a civil action it is only necessary for Council to prove the case 'on the balance of probabilities'. This means that Council has to prove that the likelihood of a breach

occurring is greater than the likelihood of that breach not occurring. This standard of proof is not as high as in a criminal trial.

5 When considering a civil matter the court has a wide discretion to consider ancillary issues. A successful civil action also provides a strong deterrent from further breaches.

10 A civil action is generally used to restrain or remedy a breach of the legislation. An example of taking civil action would be to commence Class 4 proceedings in the NSW Land and Environment Court seeking orders from the court for the person (which can include a company) to cease use of premises for an unlawful purpose. Civil actions are reasonably expensive.

Should a further breach take place after a civil action was successful it would then be necessary for Council to initiate contempt of court proceedings to enforce the court's ruling.

15 Criminal Action

20 In a criminal matter the prosecution must prove their case 'beyond reasonable doubt'. The onus is on the prosecution to prove a prima facie case before the defendant even has to respond to the allegations.

Some criminal actions can be heard at Local Court level. This means that the offence can be dealt with within the Shire, in an expeditious manner and with reduced costs. The costs associated with taking Class 5 Action (prosecution) to the NSW Land and Environment Court can be significantly more expensive than similar action in the local court.

25 Taking Enforcement Action

30 The Ombudsman New South Wales 'Enforcement Guidelines for Councils', provide that councils should aim to take the quickest and most informal option to deal with wrongdoers. Council staff must use discretion to determine the most appropriate response to confirmed cases of unlawful activity.

35 Any enforcement action taken by Council will depend on the full circumstances and facts of each case.

At all times, Council's key concerns are to prevent or minimise harm to health, welfare, safety, property or the environment and to influence behaviour change for the common good and on behalf of the community.

40 Regardless of any other enforcement action available to or contemplated by Council, there will be matters where consideration will need to be given to commencing proceedings against an individual. Court proceedings can be an important option, which aims to cease wrongdoers' continuing action as well as acting as a deterrent to the individual and the community at large.

45 However, not all offences should automatically result in court action. The decision whether to proceed or not requires careful consideration of a number of factors including, but not limited to:

- What is the harm or potential harm to the environment or the community caused by the activity?
- What is the nature, extent and severity of the activity?
- How prevalent is the alleged activity and is there a need for deterrence in the community?
- Are there any effective alternatives to court action?
- Is the applicable law obsolete or obscure?
- Is there sufficient evidence to establish a case (sufficient evidence to satisfy a court that an actual breach has occurred on the balance of probabilities)?

- Is there a reasonable prospects of success in court (availability, competency and credibility of witnesses, admissibility of evidence, possible defences and any other factors)?
 - How long and expensive would a trial be as opposed to informal action?
 - What options are available to the court if successful?
- 5 • Are there any mitigating or aggravating circumstances?

Environmental Planning and Assessment Act Notices and Orders

10 Council has at its disposal the option of giving an Environmental Planning and Assessment Act Order No. 1, which directs a person to cease using premises for a purpose that is either prohibited or the use/activity requires development consent and no such consent has been granted.

15 Section 121B provides that Council may give an Order to refrain from doing a thing specified in the following Table if the circumstances specified opposite it in Column 2 of the Table exist and the person comes within the description opposite it in Column 3 of the Table.

Column 1	Column 2	Column 3
To do what?	In what circumstances?	To whom?
1 To cease using premises for a purpose specified in the order	Premises are being used in contravention of the conditions of a development consent	Owner of premises, or person by whom premises are being used for the purpose specified in the order

20 Under Section 121D of the Environmental Planning and Assessment Act, prior to giving an order Council must apply the principles of procedural fairness by serving a notice on the owner of the premises or the person who is unlawfully using the premises or conducting the unauthorised activity.

25 In undertaking an investigation an authorised officer of Council may issue a notice to provide information and records under Section 119J of the Environmental Planning and Assessment Act. However, before such a notice is issued the officer must take into consideration the evidentiary value of the notice.

30 The person subject to the notice may object to providing information or answering questions on the grounds that providing such information may incriminate the person. If such an objection is made, and the information is provided, Council cannot lawfully use that information as evidence against the person. This self incrimination protection is provided by Section 119S of the Environmental Planning and Assessment Act.

35 If a person is protected from self incrimination under Section 119S of the Act, Council is not restricted from using the information against another person or using the information to pursue further avenues of investigation.

40 There is only limited value in Council issuing a notice to provide information and records to the alleged offender, because of the self incrimination protections. However there may be some value, in issuing such a notice upon the booking agent or a contactor that manages the premises. Evidence obtained in these circumstances may be used against the alleged offender.

45

Protection of the Environment Operations Act Notices and Directions

5 In addressing matters of noise and disturbance Council has at its discretion the capacity to issue a prevention notice or a noise abatement direction under the provisions of the Protection of the Environment Operations Act.

10 A noise abatement direction must be issued by no later than seven (7) days after Council receiving a complaint and the direction requires a person to cease causing offensive noise for 28 days. The maximum on the spot fine for failing to comply with a noise abatement direction is \$300 for an individual or \$600 for a corporation.

15 A Protection of the Environment Operations Act prevention notice may direct a person to do certain things including, but not limited to ceasing the carrying on or not commencing to carry on an activity. If Council has sufficient evidence of on going noise and disturbance it could issue a prevention notice requiring the alleged offender to do certain things to prevent the noise from continuing.

20 It is highly unlikely that circumstances would permit Council to issue a prevention notice to cease carrying out STRA. If challenged in court it is likely that such an attempt would be viewed as circumventing the Environmental Planning and Assessment Act.

Land and Environment Court Class 4 Proceedings

25 Council has the power to commence civil proceedings in the Land and Environment Court, also known as class 4 proceedings. Proceedings relating to STRA (Holiday Letting) have previously been brought before the Land and Environment Court under class 4 jurisdiction. The most recent case is the matter of *Dobrohotoff v Bennic* [2013] NSWLEC 61 (2 May 2013).

30 In *Dobrohotoff v Bennic*, neighbours in the city of Gosford were subject to ongoing noise, disturbance and antisocial behaviour on a significant scale. Evidence that the subject property was not being occupied in the same way that a family group in the ordinary way of life would occupy it was relevant, as was the fact that the identified occupancies created a significant, negative affect on the neighbours and the surrounding community.

35 Particularly, the following significant and ongoing negative behaviours were identified:

- Anti-social behaviour often continuing into the early hours of the morning, intruding upon the sleep of the neighbouring residents
- Shouting
- 40 • Screaming obscenities
- Loud music/parties into the early morning
- Flashing lights
- Drunken males
- Bucks and hens nights
- 45 • Use of strippers and/or escorts (who appeared topless in full view on the deck of the property)
- Shards of broken glass located on neighbouring properties

50 The case demonstrated something beyond the circumstances of a property-owner merely holiday letting their property on a short-term-basis.

55 It went further to identify ongoing significant anti-social and disturbing behaviour taking place as a result of the property being holiday let which negatively impacted on the surrounding properties. Neighbours reported their health and safety being compromised as a result of the behaviour at the subject property. A neighbour had even made arrangements to vacate their house during school holidays and weekends in order to avoid the ongoing behaviour.

5 The court further noted there may be instances where buildings will be considered 'dwelling houses' even though they are occupied infrequently. For example, a holiday-house used for a limited period of the year by a family (or even time shared between several families), or a house owned by a company that is rented out to executives and their families for short periods, in the absence of antisocial behaviour repeatedly disturbing the community.

10 Her Honour noted, "*a tenancy granted to persons who are residing in a group situation for periods of a week or less for the purpose of bucks nights and hens nights, parties or for the use of escorts or strippers, is, in my opinion, not consistent with the use or occupation by family or household group in the ordinary way of life...*".

15 It is noted in passing that the report to the then Council on 28 February 2013, which was the precursor to Council's resolution that day to develop a holiday letting strategy, recommended that Council take enforcement action against the owner of a property.

The property was located in a 2A Residential Zone and had been the subject of a number of complaints by neighbours to Council and to the police over a period of 12 months.

20 Complaints included allegations about holiday letting, noise, disturbance, loss of local amenity and intrusion on the privacy of neighbouring properties by the placement of flood lights and CCTV cameras.

25 Neighbour relationships and amenity were said to have diminished significantly.

This property was marketed and advertised on several internet booking sites under its the name and was described as 'Holiday House Byron Bay' or 'Luxury Holiday Letting in Byron Bay'.

30 Rates & Bookings were advertised on one web site as '*...seasonal dependant and range from approx. \$381 to \$1,197 per night (AUD\$ inc GST). For more information please contact (name provided) or fill in the enquiry form below*'.

35 Staff had prepared a full brief of evidence which included evidence going to each of a) to d) as was set out in *Sutherland Shire Council v Foster*.

Enforcement action (to cease the use as a tourist facility) by way of Land and Environment Court proceedings was proposed because:

- 40 a. Tourist facilities are prohibited in 2A Residential Zones.
- b. Relevant witnesses were prepared to provide sworn statements and to appear in court for Council;
- 45 c. The witnesses were considered to be credible;
- d. The issues surrounding the use of this property were current and contemporary and accorded with Council's adopted Compliance Priorities Program;
- 50 e. Council had already taken lesser enforcement action to attempt to engage the owner in addressing the issues but these actions did not appear to have resolved the situation.

The circumstances of that matter were markedly similar to those which existed in the later successful action in *Dobrohotoff v Bennic*.

55

Class 5 Proceedings or Local Court Prosecution (Criminal)

5 Council may commence prosecution proceedings in either the Local Court or the Land and Environment Court.

The maximum penalty that can be given in the Local Court is \$110,000. The maximum penalty that can be given by the Land and Environment Court for a Tier 2 offence is as follows.

10 *“A person who is guilty of an offence to which this section applies is liable to a tier 2 maximum penalty, being a penalty not exceeding:*

(a) *in the case of a corporation:*

15 (i) *\$2 million, and*
(ii) *for a continuing offence—a further \$20,000 for each day the offence continues, or*

(b) *in the case of an individual:*

20 (i) *\$500,000, and*
(ii) *for a continuing offence—a further \$5,000 for each day the offence continues.”*

Penalty Infringement Notices

25 Council may issue penalty infringement notices for unauthorised STRA. The current penalty amount set by the Environmental Planning and Assessment Regulation is \$3,000 for an individual and \$6,000 for a corporation.

30 In the case of issuing a penalty infringement notice the offence is likely to be either development without consent or prohibited development. Before issuing a penalty infringement notice Council must be satisfied that it could establish a prima-facie case, which means that all elements of the offence are present and are capable of proof ‘beyond reasonable doubt’. This is the same standard of evidence that is required to be satisfied in a prosecution.

35 Financial Implications

Commencing action/s against all unauthorised tourist and visitor accommodation operators within the Shire may have an affect upon tourism within the area.

40 In addition to the impact on tourism, the ongoing costs of investigating these matters, commencing civil or criminal action and the likely appeals that may be undertaken by operators is likely to result in a significant cost to Council.

Statutory and Policy Compliance Implications

45 A fair and consistent approach to all operators must be taken by Council. Responding to the significant number of operators within the Shire may have a substantial impact on resourcing within Council’s compliance area.

Report No. 13.18 **Road Airspace Policy review**
Directorate: Sustainable Environment and Economy
Report Author: Kylie Graine, Project Officer
File No: I2017/664
5 **Theme:** Ecology
 Development and Approvals

Summary:

10 Council resolved at the Ordinary meeting held on 15 December 2015 to progress amendments to the Road Airspace Policy to accord with a Roads Act approval process for road airspace used commercially.

15 Amendments to the Airspace Policy were placed on public exhibition between 18 May and 15 June 2017.

20 Draft Fees and Charges for 2017/18, which included new fees for Section 138 Road Airspace rental were on public exhibition between 20 April and 25 May 2017. The draft Fees and Charges are included elsewhere in this agenda for adoption.

At the time of finalising this report, no submissions have been received. Any submissions that are received will be provided under separate cover for consideration prior to the meeting.

25

RECOMMENDATION:

That the amended Road Airspace Policy be adopted and incorporated into Council’s Policy Register.

Attachments:

30 1 Draft Policy - Airspace (reviewed January 2017), E2017/3428 

Report

5 Council considered amendments to the current Airspace Policy in 2016. The policy as exhibited was amended to simplify the current methodology of processing and charging for public road airspace use from a lease to Roads Act approval.

10 The amendments were progressed following the inclusion of the Airspace Policy in the adopted Financial Sustainability Project Plan (FSPP) to advance revenue generation for those properties gaining a commercial benefit from the use of public road airspace.

Based upon the rental charges included in the draft 2017/18 Fees and Charges, using the approximate floor area for properties identified as having a commercial use, the potential revenue was estimated at approximately \$217,000.

15 The Report to the Ordinary meeting on 9 June 2016 – [13.6 Planning – Road Airspace – Audit of Roads Act Approvals](#), provided information on Council's current policy position, previous audits and findings regarding properties with structures occupying road airspace.

Council resolved:

20 *16-310*
That this report be deferred until further information be received on how this matter is dealt with by other Local Council's and that a workshop be held to further inform Councillors on the process for implementation.

25 In accordance with the resolution a Councillor workshop was held on 24 November 2016.

A further report was considered at the Ordinary meeting held on 15 December 2016 – [Planning – Road Airspace policy review – Audit of Road Act Approvals December update](#).

30 Council resolved (16-626):

- 35
1. *That amendments to the Airspace Policy and Fees and Charges be progressed to accord with the Road Act approval process for road airspace use for 'commercial use'.*
 2. *That initiatives, including consultation with stakeholders and the issuing of Orders, be progressed to regulate road airspace use and levy appropriate commercial rental for that purpose.*

40 In terms of Part 1 of the resolution, amendments to the existing Airspace Policy were made to accord with a Roads Act approval process for public road airspace that has a 'commercial use'.

45 As amended, this procedure will be almost identical to the process currently used by Council to collect rent for footpath dining and 'good and chattels' approvals.

The amendments were placed on exhibition for 28 days until 15 June 2017. At the time of finalising this report, no submissions have been received. Any submissions that are received will be provided under separate cover for consideration prior to the meeting.

50 To address Part 2 of the resolution, letters were sent to the property owners listed in the previous report prior to placing the amendments to the policy on public exhibition. The letters advised of the proposed amendments to the policy and invited the property owners to meet with Council to discuss the changes and Council's resolution.

Discussions with one of the property owners included in the previous reports revealed that at least one of the properties is not being used commercially. A more in-depth look at records and uses also revealed that another one or two properties are likely to be in same category. Inspections of the properties listed will determine their current use.

5 To ensure property owners were engaged, Council again wrote to them to advise the amended policy was on exhibition, highlighting that the Draft 2017/18 Fees and Charges were also on public exhibition to allow them to consider the impact on their business.

10 If Council resolves to amend the Road Airspace policy and 2017/18 Fees and Charges have been adopted, staff will then progress to requiring approval under Section 138 by issuing Orders under Section 109 of the Roads Act 1993.

15 Notwithstanding the above, it was raised during earlier consultation with property owners that rental fees levied by Council would be a major consideration and that they would need to be commercially viable for businesses.

20 Having regard to the above, Council could consider introducing a transition period where fees are reduced for a period of time (1-3 years) so that businesses can implement new processes. To receive the initial reduction, owners would need to ensure they have Roads Act approvals in place by the end of the year to act as an incentive. Full fees would then apply at the end of the transition period. If owners choose not to act to have Roads Act approvals in place they would not be eligible for the reduced fees.

25 Also for consideration, while the resolution specifically relates to properties with a 'commercial use', there are public safety benefits by requiring all properties with encroachments on to Council's road airspace to submit applications for Roads Act approvals, these include balconies, awnings, bollards, etc. These approvals would not be conditioned to require rental fees for commercial uses, but they may include conditions to ensure that existing structures:

- 30
- are safe and properly constructed
 - maintained and remain aesthetically pleasing
 - minimise Council's public liability risk by the provision of insurance
 - require periodic structural certification from a Consulting Structural Engineer

35 **Financial Implications**

Council's adopted Financial Sustainability Project Plan sought to explore revenue generation initiatives including if road airspace structures for commercial use are lawfully occupying road reserve airspace.

40 It was previously reported that revenue generated from rental of road airspace would be approximately \$217,000. Discussions with property owners have revealed that some structures identified are not being used commercially and therefore need to be deducted from that figure. The revised figure is more likely to be around \$200,000.

Statutory and Policy Compliance Implications

50 Council has the legislative power, under the [Roads Act 1993](#), to approve a road airspace structure, apply any conditions under section 139A, 126 and 127. This includes conditions to levy and collect rent, require the applicant to maintain the structure, or remove the structure in certain circumstances (and on expiry of the Roads Act approval).

Report No. 13.19 **PLANNING - 26.2016.3.1 Reclassification of Council owned land - Manfred St, Belongil**

Directorate: Sustainable Environment and Economy

Report Author: Steve Daniels, Planner

5 File No: I2017/692

Theme: Ecology
 Planning Policy and Natural Environment

10 **Summary:**

Council at its Ordinary meeting held on 21 May 2015 adopted Resolution **15-230** which read as follows:

15 **15-230 Resolved:**

20 *That Council authorise the General Manager to proceed with the next stage of the statutory process to consider the re-classification of the parcels of land identified below from Community to Operational Land, by preparing a Planning Proposal for the Minister of Planning's determination through the Gateway process, for the reasons identified for each parcel of land:*

25 a) *Lot B DP 371044, Lot 7 Section 3 DP 1623 and Lot 6 Section 3 DP 1623 for the purposes of regularising the existing building encroachment over Lot 6 Section 3 DP 1623.*

b) *Lot 2 Section 3 DP 1623 for the purposes of creating a public road.*

30 In accordance with Resolution **15-230**, a planning proposal was prepared and submitted to the Department of Planning and Environment for a Gateway determination on 7 November 2016. In their assessment of the planning proposal, the Department has recommended that Council consider pursuing a partial lot reclassification of only that portion of land necessary to regularise the existing building encroachment over Lot 6 Section 3 DP 1623 and to create a public road.

35 In addition to the Department's recommendations, Council staff identified that creation of a public road over Lot 2 Section 3 DP 1623 may introduce liability risks associated with the lot's proximity to Belongil Creek. As such it is also recommended that Lot 2 be reclassified to Operational Land to appropriately reflect the current function of the lot as an access easement for properties north of Manfred Street.

40 **NOTE TO COUNCILLORS:**

45 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 proceed with preparing an amended Planning Proposal to reclassify the land identified in (a) and (b) from Community Land to Operational Land and submit the Planning Proposal to the NSW Department of Planning and Environment requesting a Gateway Approval for the reasons identified for each parcel of land:

a) **Partial reclassification of Lot 6 Section 3 DP 1623 for the purpose of regularising the**

existing building encroachment over Lot 6 Section 3 DP 1623.

- b) Reclassification of Lot 2 Section 3 DP 1623 to appropriately reflect the current function of the lot as an access easement.**

Attachments:

- 1 26.2016.3.1 - Attachment 1 - Locality Plans, E2016/96922 
- 5 2 26.2016.3.1 Attachment 2 - Court Orders (Manfred St Building Encroachment Lot 6), E2016/108364 
- 3 3 26.2016.3.1 Attachment 3 - Court Orders - Lot 2 Easement, E2017/28508 
- 4 4 Template - Form of Special Disclosure of Pecuniary Interest - IF YOU EDIT THIS, THE TEMPLATE IN BSC TEMPLATES MUST ALSO BE UPDATED, E2012/2815 
- 10

Report

Council at its Ordinary meeting held on 21 May 2015 adopted Resolution **15-230** which read as follows:

5

15-230 Resolved:

That Council authorise the General Manager to proceed with the next stage of the statutory process to consider the re-classification of the parcels of land identified below from Community to Operational Land, by preparing a Planning Proposal for the Minister of Planning’s determination through the Gateway process, for the reasons identified for each parcel of land:

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c) Lot B DP 371044, Lot 7 Section 3 DP 1623 and Lot 6 Section 3 DP 1623 for the purposes of regularising the existing building encroachment over Lot 6 Section 3 DP 1623.

15

d) Lot 2 Section 3 DP 1623 for the purposes of creating a public road.

In accordance with Resolution **15-230**, a planning proposal was prepared and submitted to the Department of Planning for a Gateway determination on 7 November 2016. In their assessment of the planning proposal, the Department has recommended that Council consider pursuing a partial lot reclassification to that portion of land necessary to regularise the existing building encroachment and to create a public road.

20

Figure 1 below shows the subject lots to which this planning proposal applies, while detailed locality plans and a survey plan prepared following Resolution **15-230** are appended to this report as Attachment 1.

25



Figure 1 – Plan showing subject lots affected by Resolution 15-230

Partial Reclassification of Lot 6 Section 3 DP 1623

Following Court Orders impacting on Lot 6 Section 3 DP 1623, Council is precluded from asserting any claim pursuant to the *Encroachment of Buildings Act 1922* in relation to the existing building encroachment over Lot 6. Court Orders impacting on Lot 6 are appended to this report as Attachment 2. It is therefore proposed that a boundary adjustment between Lot 5 and Lot 6 Section 3 DP 1623 would provide an appropriate means for Council to regularise the building encroachment. The extent of the proposed boundary adjustment would accommodate only the building footprint and the minimum required setback.

The current Community land classification of Lot 6 Section 3 DP 1623 places restrictions on how the land can be used, including the ability to regularise the building encroachment by way of a boundary adjustment. Operational land, by contrast, has no special restrictions other than those that may apply to any piece of land. A partial lot reclassification, encompassing only the portion of land necessary to regularise the building encroachment, would allow for the proposed boundary adjustment to be made possible.

Resolution **15-230** sought the reclassification of Lot B DP 371044, Lot 7 Section 3 DP 1623 and Lot 6 Section 3 DP 1623 for the purposes of regularising the existing building encroachment over Lot 6 Section 3 DP 1623. The partial lot reclassification suggested by the Department of Planning and Environment would leave the remainder of the above land still classified as Community Land and provide certainty that another dwelling would not be built on this land. It should be noted that much of the above land is compromised by its proximity to the Belongil erosion escarpment, which runs through Lot B DP 371044.

The advice received from the Department of Planning and Environment is in anticipation of public feedback that Council and the Department may receive during the Planning Proposal process based on the previous attempt to reclassify this land, and to determine whether Council has considered all options to regularise the encroachment. Therefore, it is recommended that Council pursue a partial reclassification of Lot 6 Section 3 DP 1623 for the purpose of regularising the existing building encroachment over Lot 6 Section 3 DP 1623.

Reclassification of Lot 2 Section 3 DP 1623

Lot 2 Section 3 DP 1623 contains a sealed road which provides access to a number of properties to the north of Manfred Street. These properties lost their original access many years ago due to the loss of 'The Esplanade', a road that had frontage to the ocean. A right of carriageway over Lot 2 was granted in 1999 under Court Order, allowing an alternative access to properties situated north of Manfred Street. Court Orders impacting on Lot 2 are appended to this report as Attachment 3.

Following Resolution **15-230**, Council staff identified that creation of a public road over Lot 2 Section 3 DP 1623 may introduce liability risks associated with the lot's proximity to Belongil Creek. It is therefore recommended that Lot 2 Section 3 DP 1623 be reclassified to Operational Land to appropriately reflect the current function of the lot as an access easement for properties north of Manfred Street.

Financial Implications

As this is a Council initiated planning proposal, the processing costs will be borne by Council. It is anticipated that a survey plan will need to be prepared to identify the area of land to be reclassified. If Council chooses not to proceed then the matter does not incur any additional costs.

Statutory and Policy Compliance Implications

Reclassification of public land is required to comply with *Local Government Act 1993 No 30, Division 1 Classification and reclassification of public land*. The relevant policy considerations are addressed above.

5

Report No. 13.20 **PLANNING - Proposed Amendments to Development Control Plan 2014 - E5.5 Bayshore Village**

Directorate: Sustainable Environment and Economy

Report Author: Shannon Burt, Director Sustainable Environment and Economy

Alex Caras, Team Leader Land Use Strategy

File No: I2017/757

Theme: Ecology

Planning Policy and Natural Environment

Summary:

Council has received a request from the Planners North (the Applicant) to amend Chapter E5 of Byron Development Control Plan 2014 (DCP 2014), relating to a mixed use development known as 'Habitat' (previously 'Bayshore Village'). The development has been planned over a number of years in consultation with both Council and the community and during this time there have been several variations to the original Masterplan concept. The site is zoned 'B4 – Mixed Use' in Byron Local Environmental Plan 2014 and is supported by site-specific provisions in DCP 2014. The main prompts for this request are: (i) the current DCP 2014 provisions do not reflect the most recent DA approved 'Masterplan' for the site; and (ii) changes in planning practice that have occurred since 2008. If Council supports the proposed amendments to DCP 2014 and revised 'concept plan', it is intended that the Applicant will lodge a formal Development Application that can be exhibited at the same time as the proposed DCP amendments for this site.

NOTE TO COUNCILLORS:

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

RECOMMENDATION:

1. That Council support the request from the Applicant (Planners North) to amend Development Control Plan 2014 – Chapter E5.5, as it applies to the Habitat development at LOT 3 DP 1004514, Bayshore Drive BYRON BAY, to reflect the revised 'Masterplan' precincts and 'DCP Amendment Proposal Summary' contained in Attachment 2 to this report; and
2. That the applicant be requested to lodge a formal Development Application that can be exhibited at the same time as the proposed DCP amendments for this site.

Attachments:

- 1 Extract of Chapter E5 (E5.5) of DCP 2014 relating to subject site, E2017/54508 
- 2 Letter from Planners North (Applicant) along with revised 'Masterplan' precincts and 'DCP Amendment Proposal Summary' - Habitat, North Beach Byron Bay, E2017/54510 

Report

Council has received a request from the Planners North (the Applicant) to amend Chapter E5 (section 5.5) of Byron Development Control Plan 2014 (DCP 2014) relating to the 'Habitat' development (previously known as 'Bayshore Village'). Details of this request are presented below

Subject Site

The subject site is described as Lot 3 DP 1004514 and has an area of 4.921ha. It is located adjacent to and immediately northwest of the Byron Arts and Industry Estate, as illustrated in Figure 1 below.



Figure 1 – Subject site

Background

The site initially received development approval in 2008 (DA 10.2008.360) for a large-scale mixed use development comprising residential dwellings together with commercial, retail and creative industrial units. The development had been planned over several years in consultation with both Council and the community and was supported by a site-specific DCP to provide clear guidance on various aspects of the development.

This was replaced by new development approvals in 2012 (DA 10.2011.162.1) and 2015 (DA 10.2015.353.1) for a similar mixed use development concept comprising residential dwellings, commercial, retail, live/work and creative industry units, plus subdivision of the site under a Community Title Scheme.

At that time the 2008 & 2012 approvals were issued the land was zoned largely '2(v) – Village' and partly '4(a) – Industrial' under Byron Local Environmental Plan 1988. With the making of Byron Local Environmental Plan 2014 (BLEP14) the zoning of the entire site changed to 'Zone B4 –

Mixed Use' as this was the nearest equivalent zone available in the Standard Instrument LEP template. The B4 Zone has the following objectives:

- 5
- *To provide a mixture of compatible land uses.*
 - *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling"*

10 It should be noted that residential flat buildings and commercial premises (which include office premises and restaurants or cafes) are among the land uses permitted with consent in the B4 Zone.

15 With the change of zoning in BLEP14, Council also "transitioned" the former DCP 2010 provisions relating to the subject site into part of Chapter E5 (E5.5) of DCP 2014. An extract of these provisions is contained in Attachment 1.

20 The content of the various DCP iterations for this site has remained more or less the same since originally drafted in 2008, with current DCP 2014 provisions largely reflecting the land use precinct plan approved in 2012 for this site. The fact that the former village/industrial zoned parts of the land were replaced by a single 'B4 Mixed Use Zone' in BLEP14 was not reflected in DCP 2014 (E5.5). In addition, the current DCP 2014 provisions do not reflect the more recent 2015 DA approved 'Masterplan' for the site.

25 There also have been a number of changes in the direction planning practice have taken since 2008, including:

- 30
- higher community demand for housing affordability;
 - more focus on the pursuit of "work/life balance";
 - expansion of globalisation;
 - changing patterns of employment; and
 - contemporary changes in housing form, exploring small homes as an alternative to the "McMansion" style of the early 2000's in order to deliver greater housing diversity and/or affordability.
- 35

40 In response to these changes Planners North (the Applicant) has asked Council to consider a revised concept proposal for the subject site, as discussed below.

Revised Concept Proposal

At the Development Advisory Panel meeting on 17/1/2017 the Applicant presented a revised concept proposal for the subject site. The proposal is for a similar style mixed use development, but reconfigured to deliver increased residential and commercial yields across much of the site.

45 The revised Masterplan concept comprises:

- a series of two-and-a-half storey and two-storey buildings providing up to 116 residential living units (254 bedrooms);
- a separate Commercial Premises building accommodating 12 Office Premises and a Restaurant or Café;
- 50 ➤ Community Title Subdivision to create the community development lot to accommodate the proposed development and a residue community development lot; and

- Strata Title Subdivision of the community development lot accommodating the proposed development.

5 To facilitate this outcome the Applicant has requested that Council amend Development Control Plan 2014 – Chapter E5.5, as it applies to the ‘Habitat’ site (formerly ‘Bayshore Village’) at LOT 3 DP 1004514, Bayshore Drive BYRON BAY, to reflect the revised ‘Masterplan’ precincts and ‘DCP Amendment Proposal Summary’ contained in Attachment 2.

10 The Applicant met with the SEE Director and LUP Coordinator on 21/4/17 to discuss a pathway forward to gauge Council’s support for the proposed DCP amendments. At the meeting the Applicant was encouraged to:

- 15 1. Submit a formal request for proposed amendments to the DCP along with a revised Masterplan concept for the development — which can be reported to Council determine whether there is sufficient support for these amendments to proceed to exhibition.
2. Pending Council’s support of item ‘1’, lodge a DA that can be exhibited at the same time as the proposed DCP amendments.

20 This approach was suggested in order to minimise the likelihood of a DA (once lodged) sitting in the system for a long period of time without a clear indication as to whether or not Council supports the related variations to DCP 2014.

25 The Applicant has now submitted a formal request and supporting information for Council’s consideration (Attachment 2). Council needs to decide whether or not the proposed amendments to DCP 2014 and revised Masterplan concept for the development of this land should be supported.

30 It is staff recommendation that the change to the DCP be supported as it will introduce a housing mix to the current supply that increases choice available in the Shire appropriate in the Mixed Use B4 zone. This outcome is consistent with planning outcomes sought by regional and state plans.

Financial Implications

35 The proposed amendments to DCP 2014, if supported by Council, will be funded by the Applicant to ensure full cost-recovery.

Statutory and Policy Compliance Implications

40 Any amendments to DCP 2014 must be in accordance with the Environmental Planning & Assessment Act / Regulation.

45

Report No. 13.21 **Council Nominations for the Joint Regional Planning Panel**
Directorate: Sustainable Environment and Economy
Report Author: Shannon Burt, Director Sustainable Environment and Economy
File No: I2017/772
5 **Theme:** Ecology
 Development and Approvals

Summary:

10

Council previously nominated Ms Shannon Burt Director Sustainable Environment and Economy, Councillor Richardson and Councillor Coorey (alternate) to the Joint Regional Planning Panel (JRPP) in October 2016.

15

Council has existing and also recently registered development applications with the JRPP for determination. These development applications are regionally significant and high profile. In light of this and consideration of the JRPP Code of Conduct with regard to potential conflicts of interest, a reconsideration of the JRPP membership is considered timely.

20

The purpose of this report is for Council to consider and nominate new permanent and or alternate members to the JRPP, if Council anticipates that their current permanent members may declare a conflict of interest in any of the registered development applications which would preclude them from representing Council on the JRPP.

25

RECOMMENDATION:

That Council:

1. **Affirm the membership of Councillor Richardson and Councillor Coorey (as alternate) to the Joint Regional Planning Panel.**

OR

2. **Nominate Councillor <> to the Joint Regional Planning Panel with Councillor <> as their alternate.**
3. **Affirm the membership of the Director of Sustainable Environment and Economy to the Joint Regional Planning Panel and nominate the Manager Environmental and Economic Planning as their alternate.**

30

Report

5 Under the Environmental Planning and Assessment Act, 1979, a council is to nominate 2 persons as council nominees for the purposes of the regional panel, at least one of whom has expertise in planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering or tourism.

10 Council previously nominated Ms Shannon Burt Director Sustainable Environment and Economy, Councillor Richardson and Councillor Coorey (alternate) to the JRPP in October 2016.

The JRPP provides independent, decisions on regional development. The regional panels commenced operation on 1 July 2009. Regional development is development which is notified and assessed by planners from the local council and then determined by the relevant regional panel.

15 Each of the six regional panels is comprised of five members; three appointed by the Minister and two appointed by the relevant local council. Each regional panel also includes alternates to act in place of the permanent members if they are unavailable for any reason. All regional panel members are expected to follow the regional panel's operational procedures and to adhere to the regional panel's code of conduct. Both of these documents can be found at www.jrpp.nsw.gov.au

20 The current system for developments that will be determined by the JRPP is that a planning report is prepared independently by a council development planner and that planner (or the manager) would present the report to the JRPP and speak to it at the public hearing.

25 Council has existing and recently registered development applications with the JRPP for determination. These development applications are regionally significant and high profile.

[Byron DA list at JRPP](#)

30 In light of this and consideration of the JRPP Code of Conduct with regard to potential conflicts of interest, a reconsideration of the JRPP membership is considered timely.

35 The request to send/confirm new nominations (either for new or existing members) is to enable the Secretariat to be able to organise a meeting of the JRPP as required when the next assessment report for registered development application/s is received.

40 Council may wish to consider and choose to nominate additional alternates if Council anticipates that their desired permanent members may declare a conflict of interest in any of the registered development applications.

For Councillors, they may wish to affirm the current or consider new nominations for either of the permanent and alternate members at this time.

45 It is suggested that the staff nominee for the JRPP remain the Director Sustainable Environment and Economy, with Manager of Environmental and Economic Planning as an alternate, as this officer is not involved in development assessment. This satisfies the criteria for *membership 'for at least one member with expertise in planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering or tourism.'*

50 Financial Implications

The Department of Planning and Environment does not remunerate council nominated members, it is a matter for each council to determine, taking into consideration the previous guidelines from the Minister, being:

55

- Council Staff Members: No fees should be paid, as participation in the regional panel would form part of the employee's regular duties, consistent the Department Premier and Cabinet Guidelines for NSW Board and Committee Members: Appointment and Remuneration (the DPC Guidelines).

5

- Elected Councillors: As Councillors already receive an annual fee set by the Local Government Remuneration Tribunal each year for performing their councillor duties, an additional per meeting fee is reasonable, recognising that membership of the regional panel brings additional responsibilities.

10

- Community members: Each council may determine an appropriate level of remuneration for that person, by arrangement with that member, with your Council's current rates used as a guide when determining appropriate remuneration rates.

15 **Statutory and Policy Compliance Implications**

The Department of Planning and Environment does not remunerate council nominated members, it is a matter for each council to determine, taking into consideration the previous guidelines from the Minister, being:

20

- Council Staff Members: No fees should be paid, as participation in the regional panel would form part of the employee's regular duties, consistent the Department Premier and Cabinet *Guidelines for NSW Board and Committee Members: Appointment and Remuneration* (the DPC Guidelines).

25

- Elected Councillors: As Councillors already receive an annual fee set by the Local Government Remuneration Tribunal each year for performing their councillor duties, an additional per meeting fee is reasonable, recognising that membership of the regional panel brings additional responsibilities.

30

- Community members: Each council may determine an appropriate level of remuneration for that person, by arrangement with that member, with your Council's current rates used as a guide when determining appropriate remuneration rates.

Report No. 13.22 **Peer Review of Draft West Byron DCP**
Directorate: Sustainable Environment and Economy
Report Author: Chris Larkin, Major Projects Planner
File No: I2017/778
5 **Theme:** Ecology
 Planning Policy and Natural Environment

Summary:

- 10 The draft West Byron Development Control Plan was reported to Council for approval on the 17 November 2016. Council resolved:
- 15 *'that subject to peer reviews of frog, koala, traffic, and water and flood management reports, Council approve the Byron Shire Development Control Plan 2014 - Chapter E8 West Byron Urban Release Area and associated amendments to Part A and Part D of the Byron Shire Development Control Plan 2014 in Attachments 1 and 2 at the first Ordinary Meeting after Council's summer recess'. (Resolution 16-583)*
- 20 Resolution 17-045 also pertained to the scope of the Peer Reviews sought of the DCP by Council. Council have engaged GHD Consulting to carry out the peer review and have recommended minor changes to the planning controls within the DCP for frogs, koalas, traffic and flood management.
- 25 Further advice was provided to Council regarding correspondence from the Minister for Planning The Hon Anthony Roberts at the 20 April 2016 Ordinary Meeting about the finalisation of the West Byron Development Control Plan.
- 30 The purpose of this report is to advise Council of the recommendations contained within the Peer Review by GHD Consulting, and to enable the West Byron DCP to now be made subject to minor amendment.
-

RECOMMENDATION:**That Council:**

1. **Note the Peer Review prepared by GHD Consulting.**
2. **Approve the Byron Shire Development Control Plan 2014 – Chapter E8 West Byron Urban Release Area and associated amendments to Part A and Part D of the Byron Shire Development Control Plan 2014 in Attachments 1 and 2, and incorporating changes as detailed in this report for koalas, frogs, traffic management and water and flood and management.**
3. **Staff notify the decision in a local newspaper within 28 days of this decision being made.**
4. **Staff notify the Minister for Planning of the decision made in (1) and (2) above.**
5. **Staff liaise with the various Northern Rivers Councils that use Northern Rivers Local Government Development Design and Construction Manuals in relation to updating the manuals to reflect the Australian Rainfall and Runoff 2016 guidelines.**

Attachments:

- 1 Draft amendments to Part A and Part D of Byron Shire DCP 2014 to Ordinary 20 April 2017,
E2017/23011 [⇒](#) 
- 5 2 Draft Byron DCP 2014 Chapter E8 - West Byron Urban Release Area reported to Ordinary 20 April
2017, E2016/83304 [⇒](#) 
- 3 Letter from Minister for Planning dated 30 March 2017 reported to Ordinary 20 April, 2017,
E2017/22828 [⇒](#) 
- 10 4 Peer Review GHD dated June 2017, E2017/61610 [⇒](#) 

Report

5 Council has prepared and publically exhibited a draft West Byron Urban Release Area DCP. The purpose of the DCP was to provide guidance to the West Byron Urban Release Area, including staging plan: transport movement hierarchy; landscaping; stormwater and water quality management controls. Over 750 submissions were received.

10 Council considered a report on the submissions at the 17 November 2016 meeting and resolved *'that subject to peer reviews of frog, koala, traffic, and water and flood management reports, Council approve the Byron Shire Development Control Plan 2014 - Chapter E8 West Byron Urban Release Area and associated amendments to Part A and Part D of the Byron Shire Development Control Plan 2014 in Attachments 1 and 2 at the first Ordinary Meeting after Council's summer recess'*. (Resolution 16-583)

15 Resolution 17-045 adopted at the Ordinary Meeting on the 23 February 2017 also required staff to present a report on the findings of the peer review back to the Council with recommendations on how to take into account the findings in the finalisation of the Draft Byron Shire Development Control Plan 2014 – Chapter E8 – West Byron Urban Release Area.

20 Council subsequently engaged GHD Consulting to carry out the peer reviews as required. A copy of their report can be found at attachment 4. On review of the various background documents as requested by Council, GHD Consulting have recommended minor changes to elements of the DCP as follows:

Koalas and Frogs

25 The following changes are recommended in relation to the controls pertaining to koalas and wallum sedge frogs and wallum froglets.

Heading	Section number	Current DCP wording	Comment and suggested revision
E8.10.5.1 Biodiversity and Vegetation Management	Performance Criteria 3.	Protect core koala habitat areas from development that would compromise habitat quality and integrity and enhance koala habitat to provide connectivity links to facilitate the natural movement of koalas.	Many of the reports reviewed note that Core Koala Habitat is not present, as the site does not support breeding individuals. Rather the site contains potential Koala habitat and links. Revise this point to include potential and core Koala habitat.
	Prescriptive Measures 1 (h) (iii)	Core Koala Habitat on and surrounding the site. Rehabilitation of habitat in the E Zones to focus on Koala Habitat restoration to address any compensation requirement and to provide or embellish linkages between Core Koala habitat areas.	Revise this point to include potential and core Koala habitat.

Heading	Section number	Current DCP wording	Comment and suggested revision
E8.10.5	Introductory paragraph	The subject site provides important habitat for a range of species and ecological communities including koalas, Wallum Froglet, blossom bat and remnant coastal cypress pine communities.	Only the Wallum Froglet is mentioned in the introductory paragraph. Include mention of the Wallum Sedge Frog as this species is also known to occur at the site.
	Performance criteria 7.	To identify, protect and maintain wallum frog habitat areas where appropriate and to provide additional wallum frog habitat areas within the West Byron Site, so that there is no net loss in habitat.	There is no mention in this section of the Wallum Sedge Frog. This performance criteria should also include the protection and enhancement of Wallum Sedge Frog habitat.
E8.10.8.3 Groundwater	Objective 2	To maintain existing groundwater level in the vicinity of wallum frog habitats and wetlands.	Amend to say Wallum Froglet and Wallum Sedge Frog habitats to avoid confusion over which species the DCP is referring to.
	Performance Criteria 2	Groundwater quality is to be maintained and levels are not lowered in the vicinity of wallum frog habitats or wetlands.	As above.
	Prescriptive Measure 3	The pH and water levels of groundwater near and or adjacent to wallum frog habitat and wetlands not to be altered such that it impacts on the health of that habit for the frogs.	As above. Change 'habit' to 'habitat'.
E8.10.4 Stormwater Water Management	Performance Criteria 7	Stormwater is managed to maintain appropriate water quality and levels for wallum frog habitat	Change to Wallum Froglet and Wallum Sedge Frog
	Prescriptive measure 1(o)	Identification of all areas proposed for fill or other major earth works and an assessment of impacts on	As above

Heading	Section number	Current DCP wording	Comment and suggested revision
		stormwater runoff, ground water levels, acid sulphate soils and wallum frog habitat and identification of effective mitigation measures where impacts can't be avoided.	

Traffic Management

5 The draft DCP does not specify the detailed configuration of the two access intersections onto Ewingsdale Road, other than these being nominated as dual lane roundabouts. Due to the limitations of the strategic transport model used in the West Byron Transport Study (VLC 2011), it is recommended that a more detailed traffic study be undertaken to confirm the appropriate configuration of these intersections and their ongoing suitability for the future, as background traffic grows on Ewingsdale Road and the Urban Release Area is developed. Such a study should
 10 address the requirements of the Guide to Traffic Generating Developments (RTA 2002), and any additional traffic studies and design plans prepared by Council and submitted with the initial development applications that trigger the round about construction to inform the final design. The study should preferably be done to address the requirements of the whole site.

15 Design investigations should include the two proposed roundabouts, but also pedestrian and cyclist access along and across Ewingsdale Road. If Ewingsdale Road will not be widened prior to the other works, then a staging plan for future widening is required.

If a more detailed traffic study is undertaken to investigate access from the Urban Release Area on to Ewingsdale Road with the initial development applications, individual traffic impact assessments for future development may not be required.

20 Development of the Urban Release Area should be limited to a maximum of 856 dwellings in total, unless an increased yield is supported by further detailed assessment of the impacts on Ewingsdale Road and the wider road network. The following amendments to the DCP are recommended:

The prescriptive measure 2 under E8.10.1 Staging Plan to be amended to include the following:

25 *“A detailed traffic study be undertaken to confirm the appropriate configuration of the two round about intersections with Ewingsdale Rd. The study to address the requirements of the Guide to Traffic Generating Developments (RTA 2002), and any additional traffic studies and design plans prepared by Council to inform the final design of the roundabouts. The study should be completed to address the requirements of the whole site based on a maximum
 30 dwelling yield of 856 dwellings.”*

Prescriptive Measures under E8.10.3 be amended to include the following additional measure:

35 *“Should housing numbers exceed 856 dwellings a further traffic impact assessment is required on impacts on Ewingsdale Rd and the wider road network for traffic exceeding this number. Such a study to be prepared in accordance with the Guide to Traffic Generating Developments (RTA 2002)”*

Water and Flood Management

Chapter E8 of the draft DCP references Chapter C2 – Areas Affected by Flooding for flood risk management. Chapter C2 applies flood related controls using a flood planning matrix and references Council’s Climate Change Strategic Planning Policy. Chapter C2 however precedes the adoption of the Belongil Creek Floodplain Risk Management Study and Plan (adopted 9 April 2015). It is therefore recommended that Chapter E8 refers to both Chapter C2 and the adopted Belongil Creek Floodplain Risk Management Study and Plan, requiring consistency with the both documents as appropriate. In addition, the DCP should require that development to be in accordance with the NSW Flood Plain Development Manual, 2005.

Chapter E8 of the draft DCP references Chapter D6 - Subdivision and the Northern Rivers Development and Design Manual for stormwater management. The Northern Rivers Development and Design Manual is based on Australian Rainfall and Runoff 1987. However, Australian Rainfall and Runoff 2016 has been released as current best industry practice. Council should consider updating Chapter D6 to be consistent with Australian Rainfall and Runoff 2016.

Staff Comment: In relation to the above comments from GHD Consulting, it is recommended that Prescriptive Measures under heading E8.10.8.1 be amended to include the following:

“Development to comply with the adopted Belongil Creek Floodplain Risk Management Study and Plan, and the NSW Flood Plain Development Manual, 2005.”

In relation to the Northern Rivers Local Government Development Design and Construction Manuals this has been developed as a resource sharing initiative between Ballina, Byron Shire, Lismore City, Kyogle, Richmond and Clarence Valley Councils. The document has been derived from the Auspec Development Specification series and modified to suit the specific needs of our region. The manuals provide uniform development standards for the region via a clear and comprehensive set of requirements for development infrastructure design and construction. As such it is recommended that the matter be raised by Byron Shire Council with the other Councils that use the Design Manual and for the manual to reflect the Australian Rainfall and Runoff 2016 guidelines. This will ensure there is no conflict between Byron DCP 2014 and the design manual which would apply to all of the shire not just West Byron, whilst maintaining a uniform approach across the region.

Conclusion

The peer review by GHD Consulting has recommended minor changes to the West Byron Development Control Plan in relation to frogs, koalas, traffic management and water and flood management. The changes required are not significant and will provide increased clarity in terms of the assessment of development in West Byron. This will benefit not only Council staff but also applicants and the general public. It is also noted that Council has recently received a development application for West Byron for 290 residential lots. The adoption of a Development Control Plan will assist Council in its assessment of this application. In accordance with Resolution 17-045 it is recommended that these amendments are incorporated into the development control plan and the plan be made.

Financial Implications

The cost of the peer review was \$12,060 plus GST.

Statutory and Policy Compliance Implications

A Development Control Plan is made under the provisions of the Environmental Planning and Assessment Act 1979.

As advised in the Minister’s letter previously reported to Council (See attachment 3), a direction can be issued to Council under Section 74F of the Environmental Planning and Assessment Act to

make the DCP. It is recommended now that the peer review has been completed, that the West Byron DCP now be made subject to the amendments discussed above.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.23 **Bangalow Parking Strategy**
Directorate: Infrastructure Services
5 **Report Author:** Joshua Winter, Civil Engineer
File No: I2017/349
Theme: Community Infrastructure
 Local Roads and Drainage

Summary:

Council resolved on 23 February 2017 under Resolution 17-055 to undertake investigation and community consultation regarding the possible implementation of a revised parking management strategy and/or a pay parking scheme in the Bangalow Town Centre.

The initial investigation prepared by Traffic and Parking Systems Group (TPS) considered the current demand and potential alternative arrangements including alternative time restrictions and the potential implications of introducing a pay parking system.

Council staff performed community consultation in combination with the movement and parking review intended to inform the village plan. The following key points have been extracted from the online parking review survey (187 responses), which generally aligns with the discussions throughout the consultation:

- 56% of respondents currently have a Byron Shire E-Permit Exemption (Q9)
- 61.5% of respondents would support the 1 Hour zones identified in the TPS Report (Q10)
- 69.5% of respondents would support the 2 Hour zones identified in the TPS Report (Q11)
- 62% of respondents would *not* support a pay parking system in Bangalow (Q12) *however*;
- 61.5% of respondents would support pay parking if funds were spent in Bangalow (Q13)
- Respondents ranked pedestrian/cycle paths as the highest priority for funding (Q14)
- Respondents ranked roads as the second highest priority for funding (Q14)
- 46% of respondents stated that the proposed changes would not affect the way they access Bangalow, *however* 17% of respondents stated that the proposed changes would cause them to no longer visit Bangalow (Q15)

Based on the survey and consultation feedback, it is proposed that the majority of the Bangalow community would be supportive of the parking time limits changing in line with the TPS report, however the majority would *not* be supportive of paid parking, unless if the generated funds were earmarked for projects in the Bangalow locality.

RECOMMENDATION:

1. That Council endorse the implementation of the changes to the parking time limits in the Bangalow town centre, as depicted in the proposed parking times in Figure 1, being 1P throughout Byron Street and part of Station Street, with 2P in the remainder of Station Street.
2. That Council endorse the introduction of a Bangalow Town Centre Pay Parking Scheme, which is in line with the existing Byron Bay town centre parking scheme.
3. That the Bangalow Town Centre Pay Parking Scheme:-

- applies a unilateral parking charge of \$4 per hour; and
 - incorporates annual exemptions in accordance with Council's approved fees and charges.
4. That a pay parking area be endorsed as depicted in Figure 2, which covers:
- a) Byron Street, from the roundabout crossing Granuaille Road to Market Street; and
 - b) Station Street, excluding the all day car park to the south.
5. That Roads and Maritime Services (RMS) concurrence be sought prior to the implementation of the Bangalow Town Centre Pay Parking Scheme.
6. That Council approve a budget of \$75,000 to implement the paid parking scheme and revised parking time limits, from the Pay Parking Reserve.
7. That Council receive a report after twelve (12) months of the Bangalow Pay Parking Scheme being in operation, to review:-
- operational costs;
 - revenue;
 - effect on the Bangalow Village and locality; and
 - projects funded by the scheme.

Attachments:

- 5 1 Report 23/02/2017 Council Bangalow Parking Management Strategy, I2017/136 [⇒](#) 
- 2 Attachment 2 – Outcomes of Parking Survey Component of Bangalow Village Plan Movement and Parking Review, E2017/60982 [⇒](#) 

Report

Council Resolution 17-055 dated 28 February 2017 resolved as follows:-

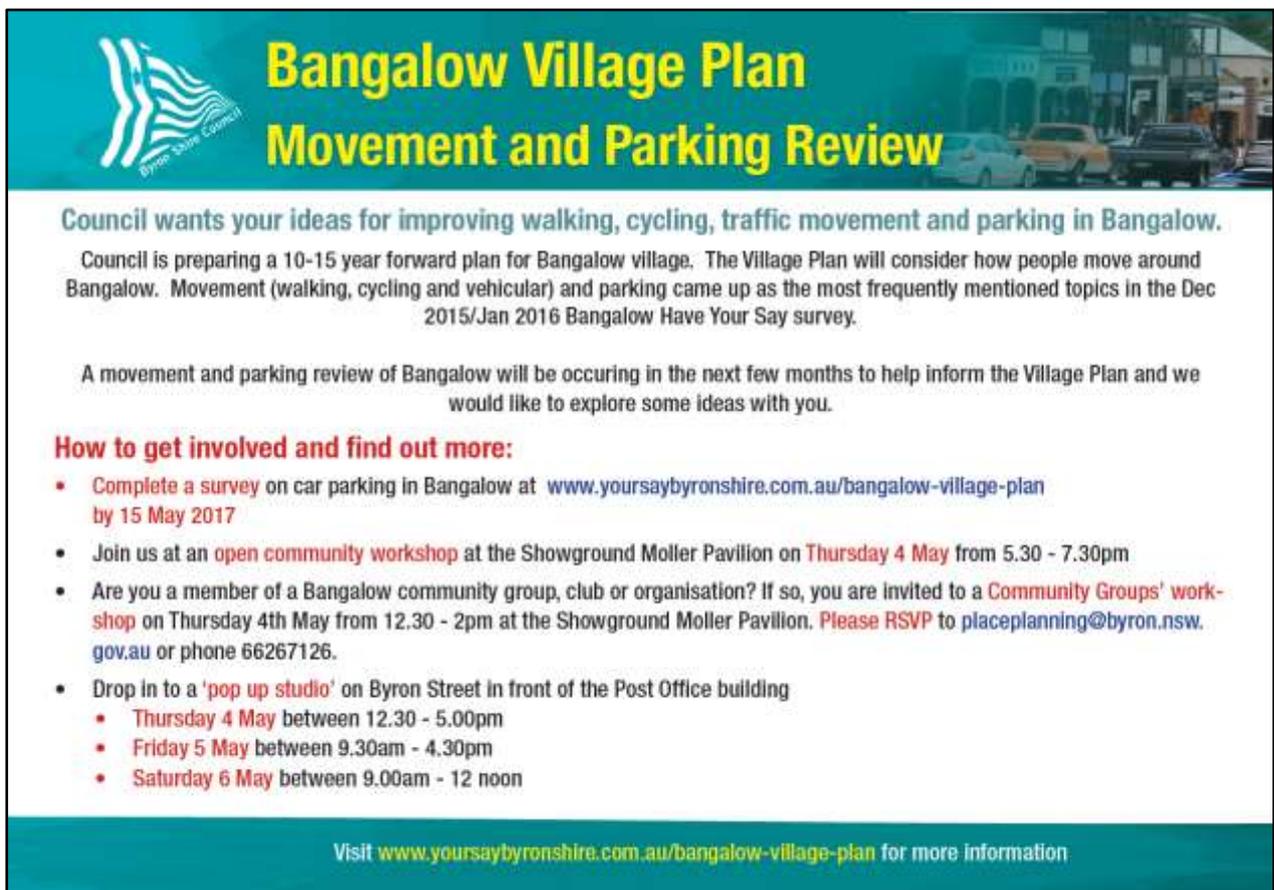
17-055 Resolved

1. That Council support the Bangalow Town Centre Parking Management Strategy (E2016/80882) prepared by Traffic and Parking Systems Group (TPS) as a basis for community engagement.
2. That Council endorse investigation and community consultation with the Bangalow community regarding the possible implementation of a revised parking layout and pay parking scheme in the town centre in conjunction with traffic and movement issues identified in the master plan process.
3. That a budget of \$15,000 is allocated from the Pay Parking Reserve to perform the investigation and community consultation with the Bangalow community regarding the possible implementation of a revised parking layout and pay parking scheme in the town centre.
4. That Council consider the results of the investigation and community consultation, along with the recommendation from the Local Traffic Committee at the 22 June 2017 meeting in determining its adoption of a possible revised parking management strategy/pay parking scheme.

5

As per resolution item number 1, the TPS Group report was used to develop a diagram detailing the proposed parking changes, which was then placed on a flyer that was sent to all residents of postcode 2479. This flyer directed the recipients to the community engagement activities as well as the online survey. A copy of this flyer is shown below;

10



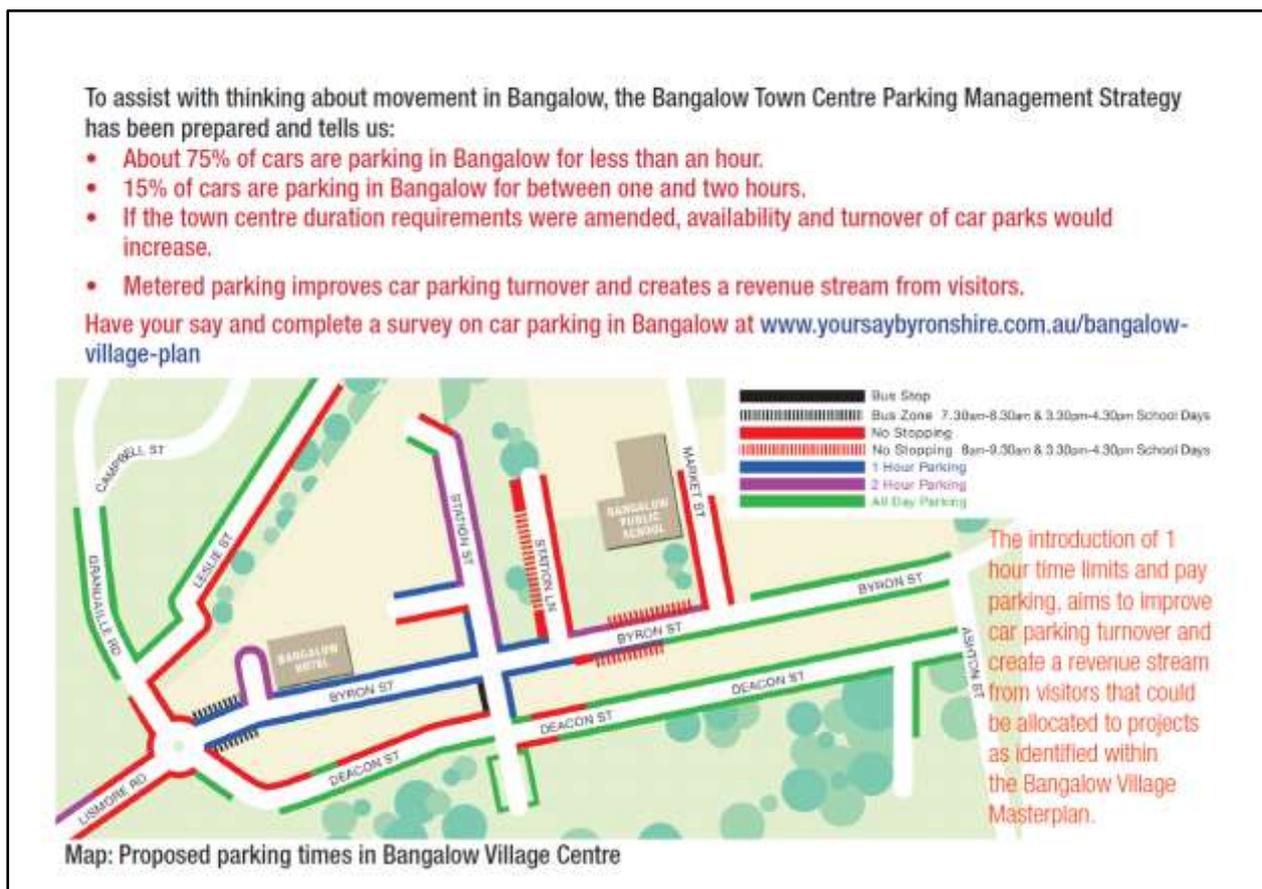


Figure 1 – Bangalow Township Consultation Flyer

As per resolution item numbers 2 and 3, Council staff performed community consultation in combination with the movement and parking review intended to inform the village plan. The following community consultations were held:

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- Community presentation & workshop at the Showground Moller Pavilion
 - Thursday 4 May 2017 from 5.30 - 7.30pm
- Trader's Breakfast at the Showground Moller Pavilion
 - Friday 5 May 2017 from 7.30 - 9.00am
- Bangalow CBD property owners' workshop at the Showground Moller Pavilion
 - Friday 5 May 2017 from 10.00am - 12.00pm
- Bangalow Community Groups' workshop at the Showground Moller Pavilion
 - Friday 5 May 2017 from 12.30 - 2.00pm
- A 'pop up studio' on Byron Street in front of the Post Office building
 - Thursday 4 May 2017 between 12.30 - 5.00pm
 - Friday 5 May 2017 between 9.30am - 4.30pm
 - Saturday 6 May 2017 between 9.00am - 12 noon
- Online Parking Review Survey
 - 25th April – 19th May 2017

Results of Consultation

5 As per resolution item number 4, staff have developed this report to inform Council of the results of the community engagement and online survey, in order to provide a recommendation to move forward.

(Summary of community engagement and online survey is provided below "Excerpt from MRCagney Issues and Needs Analysis for Bangalow and within Attachment 2 - Online Survey Results & Feedback".

10 Excerpt from MRCagney Issues and Needs Analysis for Bangalow

The following excerpt has been provided by MRCagney, who were engaged by Council to consult with the Bangalow community around Movement and Parking. MRCagney have provided their Issues and Needs Analysis Report for Bangalow in June 2017, excerpt of which is shown below.

15 "Car parking was not the dominant issue raised by the community during consultation, however some of the recent discussion surrounding paid parking that Council has been having with the community nonetheless spilled over into Immersion process, particularly at the parklet. This feedback is certainly welcome and informative, although the intent was always to unpack the community's deeper preferences and aspirations for the community.

20 The overarching message from the Immersion process in terms of parking was that there is generally not a parking supply issue, and it is usually possible to find reasonably convenient parking in town. The community's attitudes towards sacrificing some parking convenience in order to support better active travel outcomes, urban form and main street vibrancy are reasonably mature in comparison to our experience in some other similarly sized towns, and while there are some concerns amongst the community regarding parking on busy market days, the consensus seems to be that this is simply part of life in such a characterful, well visited small town. Any intrusive changes to cater for peak demand will not be supported by the community and will not be appropriate.

25 Priced parking was understandably an issue that caused some angst amongst some community members. Naturally, the most common responses were negative, however there was a not-insignificant contingent who supported paid parking as a means of raising some much-needed revenue to fund basic infrastructure improvement in town or to manage demand for parking from tourists.

30 Council's approach to managing parking in Bangalow should in the first instance ensure that their adopted policies support a vibrant, prosperous, and active town. Purely from this parking management perspective it is not clear that paid parking is warranted in town, particularly in the absence of recent parking occupancy data. Our observation is that parking occupancy on the main street and adjacent streets would be unlikely to exceed 85% for a sufficient proportion of a typical day to make priced parking necessary to support accessibility, however further parking surveys will of course be required to confirm this.

45 Notwithstanding this, it is understood that Council may well wish to pursue priced parking in order to capture some revenue from the significant numbers of tourists who visit Bangalow from outside the LGA, putting significant pressure on road and other infrastructure maintenance. Such revenue would certainly be welcome, and could contribute to a better public realm for the people of Bangalow.

50 However, the absolutely crucial prerequisite should Council choose to pursue priced parking is that some more genuine, honest and transparent conversation is entered into with the community. Council will need to be upfront with the community about why priced parking is being proposed for Bangalow, and genuinely engage with the community to reach a consensus on what initiatives priced parking revenue will be used for in town. The community already has some misgivings

about Council's management and contribution to their town (which is not to say it is deserved), and Council cannot risk undermining the community's trust and good will towards any further engagement in the future.

5 Council should also be wary of the elasticity of demand for parking where Council is proposing to charge for parking (which is understood to be simply the main street from Deacon Street to Station Street and some side streets). Other than on event and market days, it may very well be that even minimal rates will simply push demand for parking outside of priced streets. While encouraging peripheral parking is certainly a positive outcome, the impact on revenue projections should be
10 carefully considered.

Ultimately, some further data and community engagement is required before priced parking can be unequivocally supported. There are however some actions that will be beneficial in the interim. For example, wayfinding signage for off-street parking areas supported by improved footpaths would
15 support peripheral parking behaviour. Some improvements to the supply of quality, well located equal access parking spaces is also sorely needed."

Staff Recommendation

20 It is noted that the Local Traffic Committee (LTC) do not need to provide a recommendation regarding the implementation of a revised parking layout and/or pay parking scheme however the LTC will be notified of Council's resolution at their 18th July 2017 meeting if required.

Based on the recommendations from the TPS Report (Attachment 1) and Council Resolution 17-
25 055, staff performed community consultation in combination with the movement and parking review intended to inform the village plan. The following key points have been extracted from the online parking review survey (187 responses), which generally aligns with the discussions throughout the consultation:

- 30 • 56% of respondents currently have a Byron Shire E-Permit Exemption (Q9)
- 61.5% of respondents would support the 1 Hour zones identified in the TPS Report (Q10)
- 69.5% of respondents would support the 2 Hour zones identified in the TPS Report (Q11)
- 62% of respondents would *not* support a pay parking system in Bangalow (Q12) *however*;
- 61.5% of respondents would support pay parking if funds were spent in Bangalow (Q13)
- 35 • Respondents ranked pedestrian/cycle paths as the highest priority for funding (Q14)
- Respondents ranked roads as the second highest priority for funding (Q14)
- 46% of respondents stated that the proposed changes would not affect the way they access Bangalow, *however* 17% of respondents stated that the proposed changes would cause them to no longer visit Bangalow (Q15)

40 Based on the survey and consultation feedback, it is proposed that the majority of the Bangalow community would be supportive of the parking time limits changing in line with the TPS report, however the majority would *not* be supportive of paid parking, unless if the generated funds were earmarked for projects in the Bangalow locality.

45 On this basis the following is recommend:-

1. That Council endorse the implementation of the changes to the parking time limits as depicted in the proposed parking times Figure 1 being 1P throughout Byron Street and part
50 of Station Street, with 2P in the remainder of Station Street.
2. That Council endorse the introduction of a Bangalow Town Centre Pay Parking Scheme, which is in line with the existing Byron Bay town centre parking scheme.
- 55 3. That Pay Parking Scheme:-

- applies a unilateral parking charge of \$4 per hour; and
 - incorporates an annual exemptions in accordance with Council's approved fees and charges.
- 5
4. Incorporates a paid parking area as per Figure 1, which covers:
 - a) Byron Street, from the roundabout crossing Granuaille Road to Market Street; and
 - b) Station Street, excluding the all day car park to the south.
 5. That Roads and Maritime Services (RMS) concurrence be sought prior to the implementation of the Bangalow Town Centre Pay Parking Scheme.
 6. That Council approve a budget of \$75,000 to implement the paid parking scheme and revised parking time limits, from the Pay Parking Reserve.
 7. That Council receive a report after twelve (12) months of the Bangalow Pay Parking Scheme being in operation, to review:-
 - operational costs;
 - revenue;
 - effect on the Bangalow Village and locality; and
 - projects funded by the scheme.
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- 15
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Figure 2 – Bangalow Township Proposed Pay Parking Area

- 30 Subject to Council endorsement, the following actions will be required to move forward:
- If adopted, notify the Local Traffic Committee at meeting on 18th July 2017 regarding Council's resolution.
 - If adopted, seek concurrence from RMS to implement revised parking layout and pay parking scheme.
- 35

- Advise the Bangalow Chamber and Bangalow Village Plan Guidance Group of the outcome of this report.
- Implement revised time zones (as per Figure 1)
- Implement paid parking scheme (as per Figure 2)

5

Statutory and Policy Compliance Implications

As was reported in Council report 13.16 (attached); the following information details the requirements for Council to implement a pay parking scheme.

10

RMS guidelines contain details where Council must either comply or consider them, and specifies where RMS concurrence or approval is needed. Both guidelines are available online:

15

<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/payparkingv4.pdf>

<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/permit-parking.pdf>

The guidelines are assumed to be current despite having reference to the now repealed *Road Transport (Safety and Traffic Management) Regulation 1999* which has been replaced by the *Road Transport (General) Regulation 2013* which within Part 5 details parking schemes:

20

<http://www.legislation.nsw.gov.au/maintop/view/inforce/subordleg+367+2013+cd+0+N>

The RMS guidelines empowers a parking authority (i.e. Council) to establish and operate a parking scheme, be it a meter, ticket, phone or coupon system employed, noting the model discussed within this report is akin to a Meter Parking Area system based on ‘pay by plate’. This is possible as follows.

25

At s61 within “Subdivision 1 Metered Parking Schemes” the following is stated:

30

A parking authority may set aside the whole or any part of a road in its area of operations as a metered parking area.

35

Note. Rules 207–1 and 207–2 of the *Road Rules 2014* make provision for parking in metered parking areas. Clause 3 (1) defines a **metered parking area** and **metered parking space** to have the same meanings as in rule 207–1.

As for ‘pay by plate’ this appears confirmed at s62 Parking Meters which states:

40

(1) *The parking meter for a metered parking space must indicate:*

....

(d) in the case of a metered parking space for a registration metered parking area—that the registration number of the vehicle must be entered for use of the parking space.

45

Similarly, the guidelines and regulation allow Council to fix fees for parking in metered parking spaces by resolution of the Council and to charge different fees for different areas, days or times of day should they wish. Nevertheless Council need to adhere to the RMS guidelines where they are mandatory; and where they are not they are considered good practice and recommended.

50

To date Council have worked with the RMS through the LTC as per the guidelines to establish the pay parking scheme in the Byron Bay town centre and Marine Parade. This will need to continue if Council wish to proceed with the parking scheme described, including exemptions, noting that the Pay Parking guideline states Council as a parking authority:

55

...is not entitled to provide or to charge for parking in pay parking spaces if it fails to comply with the RMS guidelines.

RMS guidelines have to date been met and no objection received from the RMS. However no approval or concurrence will be forthcoming from RMS until Council conclude and refer a completed parking study to them. The recommendation made in this report seeks to provide staff such opportunity and avoid a continuous feedback loop between Council and RMS.

5 As for a Resident Parking Permit scheme, it is intended this be employed with the same arrangements as the previously employed schemes for Byron Bay in residential streets for those that reside in that street (and their guests) to be exempt through provision of a resident's scheme permit (preferably based on registration plate as well).

10 As for enforcing a Metered Parking Area (i.e. pay parking scheme) Rule 207 Road rules 2014 applies and reads as follows:

15 **(6) Driver must pay relevant parking fee for ordinary metered parking area**
A driver must not park in a metered parking space for an ordinary metered parking area without paying the relevant parking fee for the space for at least the minimum period of time for which parking in the space must be paid for.

20 **(8) Driver must enter registration number and pay relevant parking fee for registration metered parking area**
A driver must not park in a metered parking space for a registration metered parking area without:
(a) entering the registration number of the vehicle into the parking meter for the space, and
(b) paying the relevant parking fee for the space for at least the minimum period of time for which parking in the space must be paid for.

25 As Part (6) states, the driver must pay and while Part (8) requires the registration plate to be entered and pay the relevant fee. In Council's scenario of providing an exemption to "paying the relevant parking fee" a pre-registered registration plate entered at the meter would be akin to paying the fee. However, if the registration was not entered, no payment would be made and the offence of "Park without paying meter fee" would be committed.

30 As for enforcing a Resident Parking Permit area the offence is typically aligned with parking beyond the signed time limit, which of course does not apply to those exempt.

Financial Implications Moving Forward

35 It is estimated that a budget of \$20,000 will be required to implement the revised parking layout, consisting of new and revised signage to clearly identify revised parking time limits. This simply allows for modifying the existing signs designating the existing time zones.

40 Subject to a detailed investigation of the existing arrangement and to implement a paid parking scheme, it is estimated that an *additional* \$120,000 will be required. This allows for parking signage to satisfy the RMS standard for a paid parking scheme, installation of parking meters, line marking and new signs.

45 \$185,000 is estimated as the capital cost to implement the pay parking scheme if Council were to buy the meters. However, Council has entered into a contract for the lease of the parking meters and this contract allows for the number of pay parking meters to be increased if Council decides to introduce pay parking into other areas, such as Bangalow, and this spreads the cost of the meters over a 3-5 year period.

50 The operating costs of the system including operating and enforcement costs, is expected to be \$220,000 per year. The estimated revenue outlined in the TPS report (based on \$3/hr) from the meter system and enforcement is expected to be approximately \$930,000 per year. Therefore the estimated return on implementing the scheme will be approximately \$710,000/pa. This estimate does not include the revenue gained from the purchase of resident scheme annual permits or the
55 increase in paid parking rates from \$3/hour to \$4/hour as per resolution 17-023 (2 February 2017).

BYRON SHIRE COUNCIL

STAFF REPORTS - INFRASTRUCTURE SERVICES

13.23

Based on \$4/hour, the expected approximate return will be \$1,020,000 and it is expected the upfront capital costs will be recouped in the first full year the scheme operates.

Report No. 13.24 **Former South Byron STP - Options for Redevelopment**
Directorate: Infrastructure Services
Report Author: Nikki Bourke, Project Officer
File No: I2017/230
5 **Theme:** Community Infrastructure
 Projects and Commercial Opportunities

Summary:

10 The former South Byron Sewage Treatment Plant (STP) Decommissioning Project has been underway for a number of years, with the completion of infrastructure demolition being the most recent phase.

15 There has been significant community and commercial interest over many years in the future use of this property. The matter was considered at Council's Strategic Planning Workshop on 11 May 2017.

20 This report aims to provide Council with sufficient information regarding completion of the remediation and nominating the preferred course of action for options on the future ownership and use of this land.

RECOMMENDATION:

1. **That Council retain ownership of the former South Byron STP site and proceed with the proposed Preliminary Expression of Interest process for the possible redevelopment of the site.**
2. **That Council complete remediation of the site as proposed in the Draft 2017/18 Budget.**

Attachments:

- 25
- 1 Confidential - 24.2010.22.2 Sth Byron STP Decontamination - FINAL report Valuation of Lots 1, 2 & 7 Broken Head Rd Suffolk Park NSW 2481 (HTW, 2017). NNC105875 Report(2), E2017/15254
 - 30 2 24.2010.22.2 Sth Byron STP Decommissioning - Draft Preliminary EOI - Redevelopment, E2017/48287 

Report

Strategic Planning Workshop Presentation:

- 5 The content in this report was summarised in a presentation at the Strategic Planning Workshop (SPW) on 11 May 2017. It is understood that the outcomes from the SPW were as follows:
- There was unanimous support not to sell the site as is and acknowledgement of the value and unique nature of the site.
 - 10 • Consideration was given to the strategies in the Financial Strategic Plan and the fact that it is beneficial for Council to have a ongoing revenue source rather than just a one off sale return.
 - There was a desire to preserve the public beach access and the existing shared path.
 - Support was expressed for a parallel deployment of completing the remaining remediation of the site whilst progressing an EOI process for future use.
 - 15 • It was noted there was a draft funding provision in the 2017/18 budget for completion of the remediation.
 - Future use options for this site could involve a public private partnership (PPP).
 - Councillors sought a draft EOI to be presented in a Council report for the 22 June meeting.
 - 20 In accordance with the outcomes of the SPW, a Draft Preliminary EOI document is provided in Attachment 2 for Council’s consideration.

Background

South Byron STP Decommissioning Project

25 In 2005 the South Byron STP was decommissioned following the diversion of sewage to the newly constructed West Byron STP. A number of planning studies and environmental studies were completed to determine an appropriate end use for the site and the extent of contamination.

30 The most recent events and documents to note include:

Year	Event
2014	<ul style="list-style-type: none"> • Detailed Remediation Action Plan (DRAP) (GHD) • Site Audit Report (JBS&G – Contaminated Site Auditor)
	<ul style="list-style-type: none"> • Presentation to Strategic Planning Committee on DRAP and planned future use <ul style="list-style-type: none"> ○ Councillors requested financial assessment for Masterplan development options 1 and 4.
	<ul style="list-style-type: none"> • Feasibility Assessment Report (financial assessment of Masterplan options 1 and 4) (Herron Todd White)
2015	<ul style="list-style-type: none"> • Report to Council: I2015/88 South Byron Sewage Treatment Plant (STP) Decommissioning. Resolved 15-035: <ul style="list-style-type: none"> <i>1. That Council proceed with the demolition and remediation of the South Byron Sewage Treatment Plant ‘works infrastructure’ only; and</i> <i>2. That Council engage a tourism development consultant, within a cost limit of \$5500, to develop additional mixed tourism, eco-tourism and residential end use scenarios and undertake a financial analysis and viability assessment to supplement the existing South Byron Sewage Treatment Plant Master Plan (GHD 2010, E2014/78546).</i> <p align="right"><i>(Hunter/Cubis)</i></p>
	<ul style="list-style-type: none"> • Contract 2015-0002 South Byron STP Stage1 Works – Demolition of Above and Below Ground Infrastructure awarded to Liberty Industrial Pty Ltd
2016	<ul style="list-style-type: none"> • Demand Scoping Narrative (Nine Creative) – demand-side assessment on

	<p>possible development options for the site. Alternative study and approach to resolution 2 of 15-035 which had insufficient allocation for the original brief. The study consulted with the local commerce, tourism, indigenous and property sectors and proposed the following development opportunities (demand rating in <i>italics</i>):</p> <ul style="list-style-type: none"> ○ Option 1 - High-end residential (<i>strong</i>) ○ Option 2 - Eco-residential studios (medium density) and education (<i>strong</i>) ○ Option 3 - High-end tourism (resort style) and education (<i>mid-range</i>) ○ Option 4 - Low-key tourism (affordable camping) and education (<i>limited</i>) ○ Conferencing facility (<i>mid-range</i>) ○ Living + active community (affordable housing and childcare) (<i>mid-range</i>) ○ Aged care (<i>mid-range</i>) ○ Commercial innovation hub (<i>mid-range</i>) ○ Pre-post film production facility (<i>limited</i>) ○ Education precinct (<i>insufficient response</i>) ○ Civic spare + education quarter (<i>insufficient response</i>) <p>The report also ranked: community benefit; economic strategy; residential planning; and tourism development, for all of the above options.</p> <p>The majority of the site is zoned RU2 which offers the most flexible development opportunities. Undertaking a rezoning process is likely to take 9 to 12 months should RU2 not allow the preferred development option.</p> <p><u>Report recommendations:</u> <u>Part 1:</u> For the redevelopment of this land, Council should clearly define: a) The end aim; and b) The return on investment expectation. <u>Part 2:</u> a) Identify the development option that is a match for Part 1; b) Assess the option with regard to site suitability; c) Complete current day financial assessments; and d) Seek community input through consultation processes.</p>
2016	<ul style="list-style-type: none"> • Infrastructure demolition completed within the fenced compound. Stockpiles remain onsite for potential reuse. Some aesthetic wastes remain within the compound (e.g. crushed glass infill) and require removal during the remediation phase.
	<ul style="list-style-type: none"> • Draft Site Validation Report (Easterly Point Environmental)
	<ul style="list-style-type: none"> • 31 Aug Report to ET – South Byron STP Remediation. Presented Demand side study, Project Status Report (DPW) and preliminary options costing and recommended proceeding with least cost remediation of the whole site to the highest remediation level (NEHF A) to allow for all possible development opportunities. <p><u>ET Resolution 2.1:</u> <i>ET resolved to proceed with remediation subject to:</i> 1. receipt of revised cost estimate for least cost remediation; 2. no negative cash flow impacts; and 3. alignment with 10 year business plan for sewer fund</p>
	<ul style="list-style-type: none"> • Letters to the Mayor regarding an offer to purchase or the lease site for the

	<p>purposes of a green “Living School”.</p> <ul style="list-style-type: none"> • Meeting with Brandon Saul in July 2016 regarding opportunities for innovative tourism on the property.
2017	<ul style="list-style-type: none"> • Valuation Report – South Byron STP Site (Herron Todd White (HTW)) See Attachment 1

Council is now in a position to consider clear options for the future use of this site. These options include:

- 5 • Disposal of the property following completion of remediation activities;
 - Retention of the property, remediating, developing the property and leasing;
 - Retention of the property, remediating and developing and/or leasing through a joint public-private arrangement, and
 - Disposal of the property in its current contaminated state (not supported at the SPW)
- 10 Advice as to options for the site is provided under the ‘Financial Implications’ and ‘Statutory and Policy Compliance Implications’ sections below.

The Site

15 The South Byron STP site is 7.67 hectares in size and consists of 3 land parcels.

The site is described in detail in Attachment 3: Valuation Report – South Byron STP Site (HTW, 2017).

20 The site is considered to be Council’s largest, most southern, high profile and potentially high-value property due to it’s:

- size and proximity to Byron Bay;
 - close proximity to the coast; and
- 25 • public visibility due to the public access way located along its northern border.

Fair and Transparent Disposal of Council Property

30 Should the lease, public-private development or ultimate sale of the land be desired by Council at any point, an Expression of Interest process is recommended for probity reasons to:

- recognise the significant and diverse community and commercial interest in the property;
 - obtain best value for money;
 - demonstrate accountability and transparency and withstand future scrutiny;
- 35 • deal with any potential conflicts of interest; and
- provide a fair chance for all interested parties to participate.
- A Draft Preliminary EOI document has been prepared to assist Council in identifying what range of options would be considered for future use of this property (see Attachment 2).

40 On-selling and risks to Council

Presently, Council has a high degree of control over who they decide to sell the site to (if indeed that is the preferred option) and for what (development) purposes the site is utilised. However, once sold, a purchaser may decide to on-sell the site for a number of reasons including: the

45 development no longer being financially viable; the purchaser becoming insolvent; or on-selling for profit. The risk then is that Council will no longer have the same degree of control over what developments are planned for the site by future purchasers.

Options to manage the aforementioned risk and to protect the neighbourhood character and guide the long term development of the site include:

- 5 • Apply a restrictive covenant to the land titles. This requires the shortest duration of all options, however Council would need to determine the details of such a covenant which may take some resolving;
- 10 • Change the zoning of the land to Special Purposes (SP) or other zone under the Byron LEP 2014 with enabling clauses to allow only the specified development desired. This option will likely take 9 to 12 months and may ultimately be rejected by the NSW Department of Planning; or
- 15 • Only offer the site to proponents for long-term lease and potentially develop as a joint public-private arrangement. The latter includes public-private partnership (PPP) models. This option could be included as a separable portion to the EOI process, however it does come with extenuating issues including:
 - 20 - Council would be unlikely to be able to burden the lessee with the cost of the residual remediation of the land due to risk. Therefore the remediation cost would be incurred by Council and the recovery of this cost would be slow and over a long period of time;
 - Developments may have to be restricted to temporary buildings and/or infrastructure to be removed at the termination of the lease; and/or
 - Should permanent infrastructure and buildings be permitted, issues would likely arise with the disposal of such assets at the end of the lease (or alternatively if a PPP model with a Build Own Operate and Transfer (BOOT) ownership of built infrastructure transferred back to Council at the end of the lease period).

25 **Financial Implications**

A Valuation Report was completed on 30 February 2017 by Herron Todd White (See Confidential Attachment 1).

30 The report estimates the following market values for the site:

- Site 'As If Complete' (Fully Remediated/Clean Site)
- Site 'As Is' (Partially Remediated)

35 The "Site As Is" (partially remediated) market value was determined by subtracting the estimated cost of outstanding remediation as determined by the Department of Public Works. This estimate was based on a least cost (best case scenario) estimate to remediate to National Environmental Health Forum (Australia) Level A (NEHF A), i.e. the highest remediation level, and making the site suitable for the most sensitive receivers.

40 For the "Least Cost" remediation methodology, important qualifying considerations include:

- 45 • Estimate is based on currently known quantities of contaminated material (additional can be discovered during remediation).
- Estimate does not include clean fill for capping layer to effluent lagoon if enough clean fill can not be sourced from site.
- Estimate does not include removing sludge from lagoon if required.
- The methodology involves retaining as much fill on site by filling and capping the western effluent lagoon, reshaping the lagoons and retaining as environmental areas.
- 50 • The elevated areas of site will have a lowered profile.

The South Byron STP Decommissioning project and possible sale/utilisation of the land has been identified in the following strategic financial documents:

- BSC Financial Sustainability Plan 2016/17 –the “*Old South Byron STP site*” is noted as a “key land site” owned by the sewer fund and lists the “*sale post rezoning and DCP*” by 2020 as the assumed development option.
- 5 • BSC 2016-2017 Operational Plan – refers to the remediation project: “*Progress the future use of the South Byron Sewage Treatment Plant site and the integrated remediation.*” The plan lists the 2016/17 budget allocations for demolition and remediation.
- 10 • BSC Strategic Business Plan for Water Supply and Sewerage Services (October 2016) – Notes the site as an environmental and sustainable development project: “*South Byron STP has been decommissioned and the sites require rehabilitation in accordance with the Contaminated Land Management Act 1997 (CLM Act) and State Environmental Planning Policy (SEPP) No. 55 - Remediation of Land and the Managing Land Contamination.*”

In preparing its inaugural Financial Sustainability Plan in 2013/14 Council contemplated strategies that would retain ownership of valuable land with good development potential in order to enter development partnerships that would return a recurrent source of income to the Council rather than seek a windfall sale where once the proceeds are spent they are gone forever. The former South Byron STP site is ideally placed for a partnership model approach of this kind.

Statutory and Policy Compliance Implications

- 20 (a) Council’s Legal Services branch has provided staff with statutory advice on the following:
- Sale of land ‘as is’ (partially remediated) and in particular the transfer of decontamination responsibility;
 - Ensuring desirable development through planning controls and covenants; and
 - 25 • Retaining the public access way in perpetuity.
- (b) Private Partnerships

Council is currently developing a “Supporting Partnerships” Policy. The policy aims to assist internal and external project proponents in determining when Council will consider private sector partnerships with Council and will seek to ensure that Council is compliant with all relevant legislation and statutory requirements.

The Policy will address all forms of partnership with the private and non-government sector that includes but is not limited to Public-Private Partnerships (PPPs) as defined by The Act and captures all other types of partnerships including lease and sale agreements, tendered services, Build Own Operate Transfer arrangements, Council in-kind and land donation, Philanthropic / Volunteering and others.

There are two pieces of relevant legislation regarding Public Private Partnerships in NSW:
 1) *The Local Government Amendment (Public Private Partnerships) Act 2004* (The Act) and;
 2) *The Local Government (General) Regulation 2005* (the Regulation).

This framework is outlined in a Department of Local Government (DLG) document: *Office of Local Government’s Guidelines on the Procedures and Processes to be followed by Local Government in Public-Private Partnerships* (The Guidelines). These guidelines provide comprehensive and explicit information to assist Councils in meeting their legal requirements. The guidelines establish procedures to be followed for the various stages of a PPP project, including:

- the initial stage of establishing a need for the project in question;
- a preliminary assessment of the council's capacity to undertake the project;
- the establishment of a probity plan, a community relations plan, a preliminary risk assessment and a form of comparator similar to the Public Sector Comparator used in various State PPP guidelines;
- assessment to determine whether the project should proceed;

- approaching and evaluating potential private sector partners through an expressions of interest process;
- taking of detailed submissions from short-listed private sector proponents;
- selection of the preferred proponent;
- 5 • contract development;
- council approval;
- contract signing; and
- contract management and review of the project at key milestones.

10 As the type of project or development for this site is not yet defined, nor the form of private partnership, it is proposed that a Preliminary EOI process be undertaken in the first instance. This would allow Council to understand the market for various projects and the proposed partnership forms. Should the preferred Preliminary EOI submission propose a PPP as defined by The Act, the process outlined in The Guidelines can then commence.

15 A Draft Preliminary EOI document is provided in Attachment 2 for Council’s consideration and includes the request for quadruple bottom line (Environmental, Social, Cultural, Economic) information to ensure the proposals can be assessed to meet Council and community needs.

20 Should the above process proceed, it is proposed that the community and key stakeholders be informed as to the release of the Preliminary EOI and be given a contact point to register their comments. Such comments could then be used to inform the assessment of EOI submissions.

Conclusion

25 In conclusion, since the decommissioning of the South Byron STP in 2005, interest in the purchase or use of the property from various parties has remained strong and reflects the high value of the site. There are risks in the cost and duration of the residual remediation that is yet to be undertaken due to the possibility of undiscovered contamination and site constraints. While it is possible to offer the site for sale in its un-remediated state, there are good reasons and support for remediating and retaining the valuable site in accordance with Council’s strategic financial documents.

30 Retaining ownership of the site and partnering with the private sector for redevelopment (potentially via a PPP model) could enable a recurrent and substantial commercial revenue stream being paid to the Council that potentially includes a profit share arrangement. Should this be the desired redevelopment pathway, it is recommended that Council commence a Preliminary EOI process that requests quadruple bottom line information from proponents to ensure proposals can be assessed for sustainable community prosperity.

40

Report No. 13.25 **Out of Session Local Traffic Committee - Byron Bay to Ballina Coastal Charity Walk for Westpac Rescue Helicopter**

Directorate: Infrastructure Services

Report Author: Dominic Cavanough , Contract Engineer

5 **File No:** I2017/585

Theme: Community Infrastructure
 Roads and Maritime Services

10 **Summary:**

The Byron Bay to Ballina Coastal Charity Walk, in aid of the Westpac Rescue Helicopter, was held on Sunday, 21 May 2017.

15 An out of session meeting of the Local Traffic Committee was held in order to recommend the Traffic Management Plan for the event for Council's approval.

RECOMMENDATION:

That Council notes the LTC recommendation and that the Byron Bay to Ballina Coastal Charity Walk was held on Sunday 21 May 2017.

20

Report

The Byron Bay to Ballina Coastal Charity Walk, in aid of the Westpac Rescue Helicopter, was held Sunday, 21 May 2017.

5

An out of session meeting of the Local Traffic Committee was held in order to recommend the Traffic Management Plan for the event for Council's approval.

LTC RECOMMENDATION:

10

1. That Council adopt the Traffic Control Plan for the Westpac Life Saver Rescue Helicopter fundraiser, Byron Bay to Ballina Chopper Walk, to be held Sunday 21 May 2017.

15

2. That the approval provided in Part 1 is subject to:

20

a. separate approvals by NSW Police and RMS being obtained

25

b. implementation of the approved Traffic Management Plan and Traffic Control Plan, including the use of signed detours, as designed and implemented by those with appropriate accreditation.

c. that the impact of the event be advertised via a notice in the local weekly paper a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.

30

d. the event be notified on Council's webpage.

e. the event organiser:

35

i. undertake consultation with community and affected businesses including adequate response/action to any raised concerns.

ii. undertake consultation with emergency services and any identified issues addressed.

iii. holding \$20m public liability insurance cover which is valid for the event.

40

iv. paying Council's Road Event Application Fee prior to the event.

45

f. the use of marshals along Marine Parade who, for the purpose of aiding and forming participants into walking groups, are to undertake their duties in accordance with a pre-event risk assessment and management plan, a copy of which is to be provided to Council prior to the event

g. attainment (by the event proponent) of NPWS written acceptance of the event

50

3. That the approval in Part 1 is also subject to the following in regard to the use of Seven Mile Beach Road, that is:

a. signage, which specifies the date, hours and nature of the event, be positioned at the entrance and exit of Seven Mile Beach Road one week prior to the event;

- b. on the day of the event, at 500m intervals, and facing both directions of travel, signs advising of “ Special Event - Charity Walk Ahead” (or similar) are installed prior, and removed after, the event occurs; and
- 5 c. a safety induction for participants advising of hazards be provided.

Financial Implications

10 The event organisers have request the \$356.00 fee for the relevant Approval of Road Events pursuant to s144 of the Roads Act fee as per the Fees & Charges 2016/17 be waived.

Statutory and Policy Compliance Implications

No RMS controlled asset are affected by the traffic control.

**Report No. 13.26 A Further Report on Remediation of Dip Site at Lot 2 DP 747876
Bangalow**

Directorate: Infrastructure Services
Report Author: Andrew Erskine, Open Space Technical Services Officer
File No: I2017/695
Theme: Community Infrastructure
Open Space and Recreation

5

10 **Summary:**

In 2010 Council resolved (Res 10-457) in part the following:-

15

2. *That Council endorse*

- a) *The capping and construction of car park and sealed road; and*
- b) *The remediation of hot spots as shown inby the Environmental Earth Sciences NSW report DM916462.....*

20

4. *That Council receive a further report considering project costs and implementation based on the recommendation contained at item 2;*

25

5. *That Council carry forward the \$3,640.61 balance remaining in the 2009/10 budget for Investigation Works for the Bangalow Dip Site into the 2010/11 budget as a contribution towards future costs associated with the capping and remediation of the former Bangalow Cattle Dip Site.*

Internal estimates of the cost to remediate and seal the dip site and to finish as a sealed car park have been in the order of \$110,000.

30

Consequently staff have been seeking opportunities for external funding and are currently in pursuit of a grant from the Federal Governments Community Development Grants Program.

RECOMMENDATION:

35

1. **That Council note this report as a response to Res 10-457 (Point 4.)**

Attachments:

40

- 1 Bangalow Saleyard Dip Site Remediation report from Environmental Earth Sciences, DM916462 

Report

5 In April 2017 Council was contacted by the office of Fiona Nash (Minister Infrastructure & Regional Development) asking Council to submit a grant application to the Federal Governments Community Development Grants Program.

As a result an application was prepared and submitted for enhancement of the Bangalow Weir precinct which includes the remediation of the dip site and its utilisation as a sealed car park.

10 *“The project will build a new car park and access road, a shelter shed with two barbeques and a sink, a water tank, picnic tables, benches, an adventure playground and exercise area, lighting and landscaping.”*

15 A sum of \$414,000 is sought to complete the above works including the design and construction of the car park.

Staff are of the view that Council will be informed on the success (or not) of the application towards the end of this financial year.



The red zone depicts the dip site while the blue zone shows site for the potential landscape works

20 **Financial Implications**

Total cost estimate for construction of the car park is \$110,000.

25 **Statutory and Policy Compliance Implications**

A remediation action plan proposal has been sort to ensure compliance with management of contaminated land, NSW regulations.

Report No. 13.27 **Proposed Smart Drum Lines - Byron Bay**
Directorate: Infrastructure Services
Report Author: Michael Matthews, Manager Open Space and Resource Recovery
File No: I2017/699
5 **Theme:** Community Infrastructure
 Open Space and Recreation

Summary:

10

The primary objective of the NSW Shark Management Strategy is to increase protection for bathers from shark interactions, while minimising harm to sharks or other animals.

15

Since 2015, a range of trials have been deployed with varying success. The results of a six month Shark Net trial has led to its discontinuation, in contrary, results of Smart Drumlines has led to the proposed expansion of the Smart Drumline program.

20

The State is seeking support or otherwise from a number of Coastal Councils on the deployment of additional Smart Drumlines along its coastline.

Ten (10) Smart Drumlines is proposed for deployment along the Byron Coastline.

25

Given Council support, these could be deployed as early as July 2017.

RECOMMENDATION:

That Council

1. **Support the deployment of Smart Drumlines along the Byron Coastline outside designated Sanctuary Zones.**
2. **Support the deployment of Smart Drumlines within Sanctuary Zones where deployment is made lawful under the Marine Estate Management Regulations and any other applicable Acts and Regulations.**

Attachments:

30

- 1 Cape Byron Marine Park Zoning Map, E2017/53562 

Report

5 In response to an unprecedented number of shark incidents in NSW in 2015, the NSW State Government called for shark experts from across the world to meet at a NSW Shark Summit. The summits focus was to provide an independent review of potential shark deterrent technology that could be trialled in NSW waters.

10 In October 2015 the NSW Government announced the 'NSW Shark Management Strategy', a program designed to complement the existing 'Shark Meshing Bather Protection Program', a program that has been in existence since 1937. The Shark Meshing Bather Protection Program involves the netting of 51 NSW patrolled beaches between 1 September and 30 April each year.

15 The primary objective of the NSW Shark Management Strategy is to increase protection for bathers from shark interactions, while minimising harm to sharks or other animals.

NSW Shark Management Strategy

Elements of the strategy to date include:

- 20 • Ongoing aerial surveillance along the NSW coastline (Contracted Helicopter Services).
- Trial of eco-friendly shark barriers. These were unsuccessfully trialled at Lighthouse Beach, Ballina and Seven Mile Beach, Lennox Head and discontinued in August and September 2016.
- Deployment of 20 Satellite linked (VR4G) shark listening stations that provide real-time tracking data of tagged sharks.

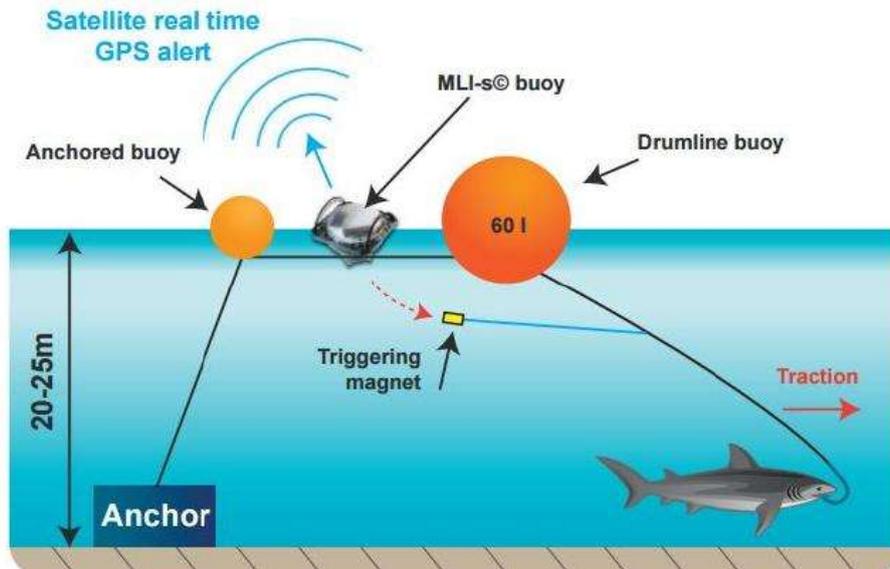


- 25 • Establishment of partnerships with Surf Life Saving NSW and professional lifeguard associations to refine shark observation and incident response procedures.
- Deployment of SMART Drumlines

30 A SMART drumline comprises of an anchor and rope, two buoys, and a satellite-linked communications unit which is attached to a trace and baited hook. When a shark is hooked, the

pressure on the line triggers the communications unit, which alerts DPI scientists or contractors via phone call, email and text message to the presence of an animal on the line. The team then responds immediately to the SMART drumline alert to manage the animal.

- 5 Dangerous Shark Species captured by these drumlines are tagged for future detection by the VR4G listening station.



- 10
- In-water surveillance trials of sonar technology. 'Clever Buoy'™ uses new sonar technology, coupled with tailored software to detect shark sized objects
 - Trials of unmanned aerial vehicles (UAVs or drones). These trials commenced in December 2015 and are continuing. Trials in Byron are scheduled for the July school holidays
 - Monitoring of emerging promising technology, including the development of electronic shark deterrents and assessment to their effectiveness and suitability
 - Establishment and development out the Shark Smart App

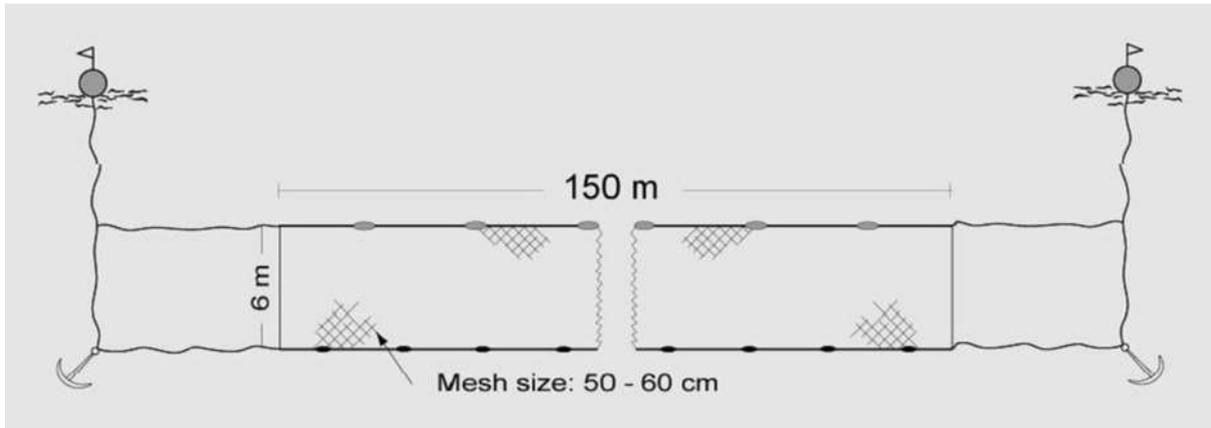


- 15
- This application provides instant alerts from identified dangerous shark sightings. The application provides real time alerts where a tagged shark is in proximity to a listening station (such as the listening station off Clarke's Beach). The application also provides timely alerts from all other

sightings and reports of dangerous sharks (e.g. helicopter patrols, Police reports, surf life saving reports, and other confirmed sightings).

Deployment of Shark Nets

5 In November 2016 the NSW State Government announced a six month trial of the use of nets in response to further serious shark incidents.



10 Typical Shark net arrangement placed typically in 10m of Water.

As an outcome of a condensed community consultation program, five sites were chosen for the trial deployment of nets. No nets were deployed along the Byron Coastline.

15 On Tuesday the 9th May 2017, Niall Blair, Minister for Primary Industries, Minister for Regional Water, Minister for Trade and Industry announced the discontinuation of the trial.

20 The following results of Nets and Smart Drumlines (both considered as fishing devices) have been released.

North Coast Net Trial Results– Five Month Total Figures

- Six target sharks caught (two White, one Bull, three Tiger sharks); three deceased, three alive.
- A total of 244 non-target animals were caught in the nets; 117 were released alive (48%) and 127 (52%) were found deceased in the nets.

SMART Drumline Results - Five month total figures

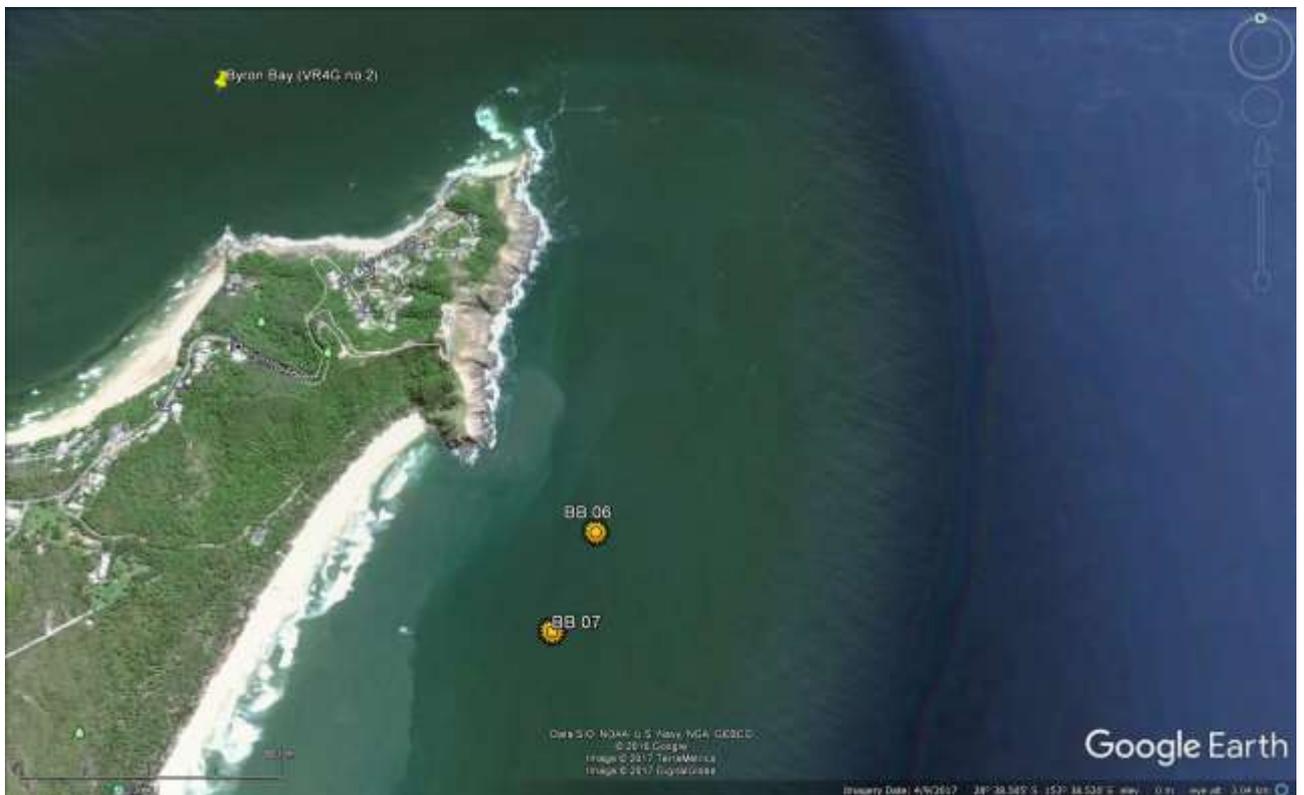
- 29 target sharks (24 White, 3 Tiger and 2 Bull sharks); 28 were released alive and one (White shark) was deceased (entangled)
- Two non-target animals (both Grey nurse sharks) were caught and both were released alive

As a direct result of the above comparative figures, the NSW Government has advised of its intention to deploy additional SMART drumlines along the NSW coastline including Byron Shire.

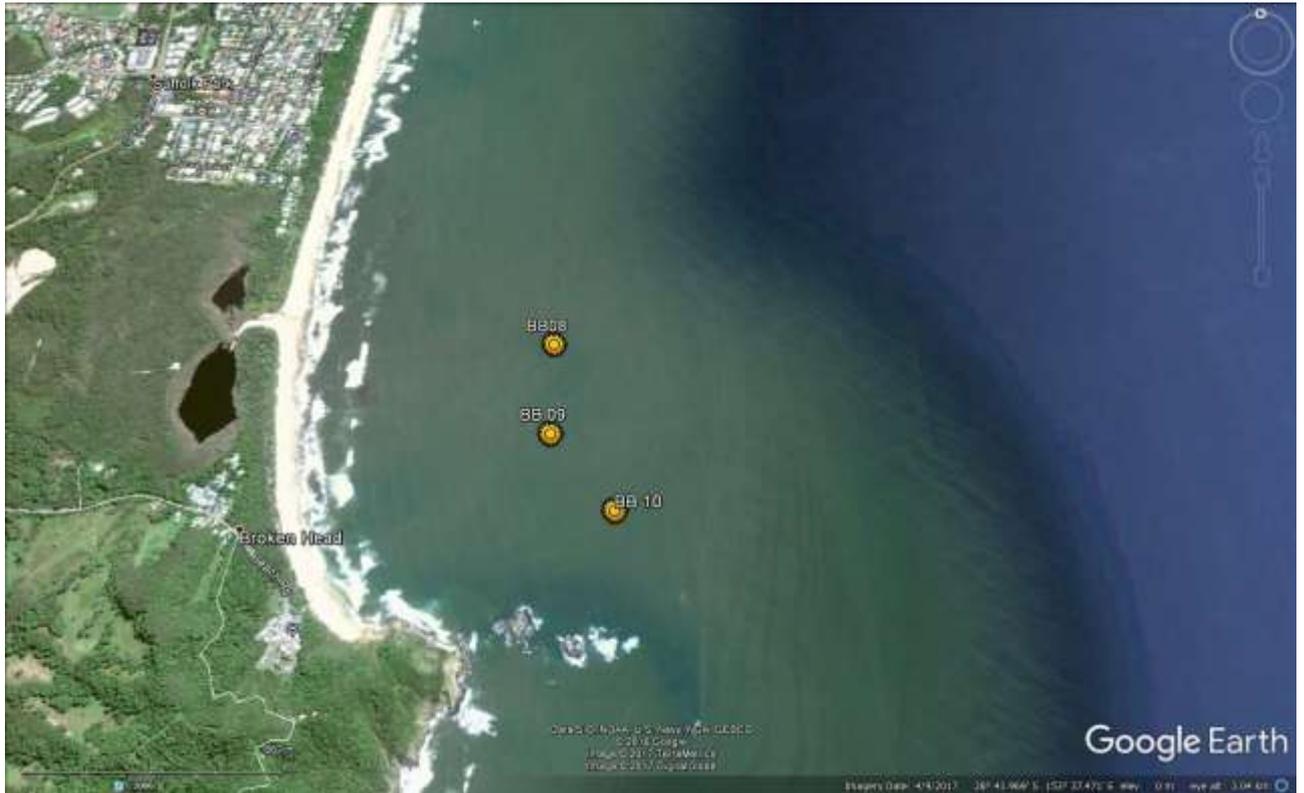
35 Council staff has been approached on whether Council would be receptive to the deployment of SMART Drumlines along this coastline.

40

The below maps indicate the approximate location of the proposed Smart drumlines.



5



It should be noted that all currently proposed locations are outside Sanctuary Zones (Refer to attachment CBMP – Zones)

5

Existing consent provisions under *the Marine Estate Management Regulation 2009* effectively prohibit the use of SMART drumlines in sanctuary zones.

10

It is likely that proposed amendments to *The Marine Estate Management Act 2014* and its regulations would provide for future deployment of Smart Drumlines within Sanctuary zones by a State Authority.

Such amendments would permit deployment along the Byron coastline in arrangement perceived to have a greater chance of intercepting dangerous Sharks species.

15

Financial Implications

N/A

20

Statutory and Policy Compliance Implications

The Marine Estate Management Act 2014

Report No. 13.28 **Lot 16 Dingo Lane Myocum Sale**
Directorate: Infrastructure Services
Report Author: Phil Warner, Manager Assets and Major Projects
File No: I2017/702
5 **Theme:** Community Infrastructure
 Projects and Commercial Opportunities

Summary:

10 **The purpose of this report is to seek approval for the sale of Lot 16 Dingo Lane Myocum which is no longer needed as a buffer area for an expanded landfill operation.**

15

RECOMMENDATION:

That Council approve the sale of Lot 16 Dingo Lane, Myocum and delegate to the General Manager completion of the sale in accordance with the attached confidential valuation.

Attachments:

20 1 Confidential - Confidential - Lot 16 Dingo Lane Myocum Valuation, E2017/57771

Report

In August 2012, two 40 hectare lots adjacent to the Myocum Landfill and Quarry were purchased by Council.

5 Council was progressing the then adopted Waste Disposal Strategy and had advanced the EIS for the proposed expansion of the landfill operations into the quarry area. The Strategy and associated action reflected the urgency of the situation at the time with landfill capacity almost exhausted, limited regional opportunities and uncertainty regarding the introduction of a Queensland waste
10 levy.

The land was purchased to create a buffer area around the proposed quarry landfill area and to facilitate any further long term expansion of landfill operations into the next quarry area leased to Leela Plantations by Council.

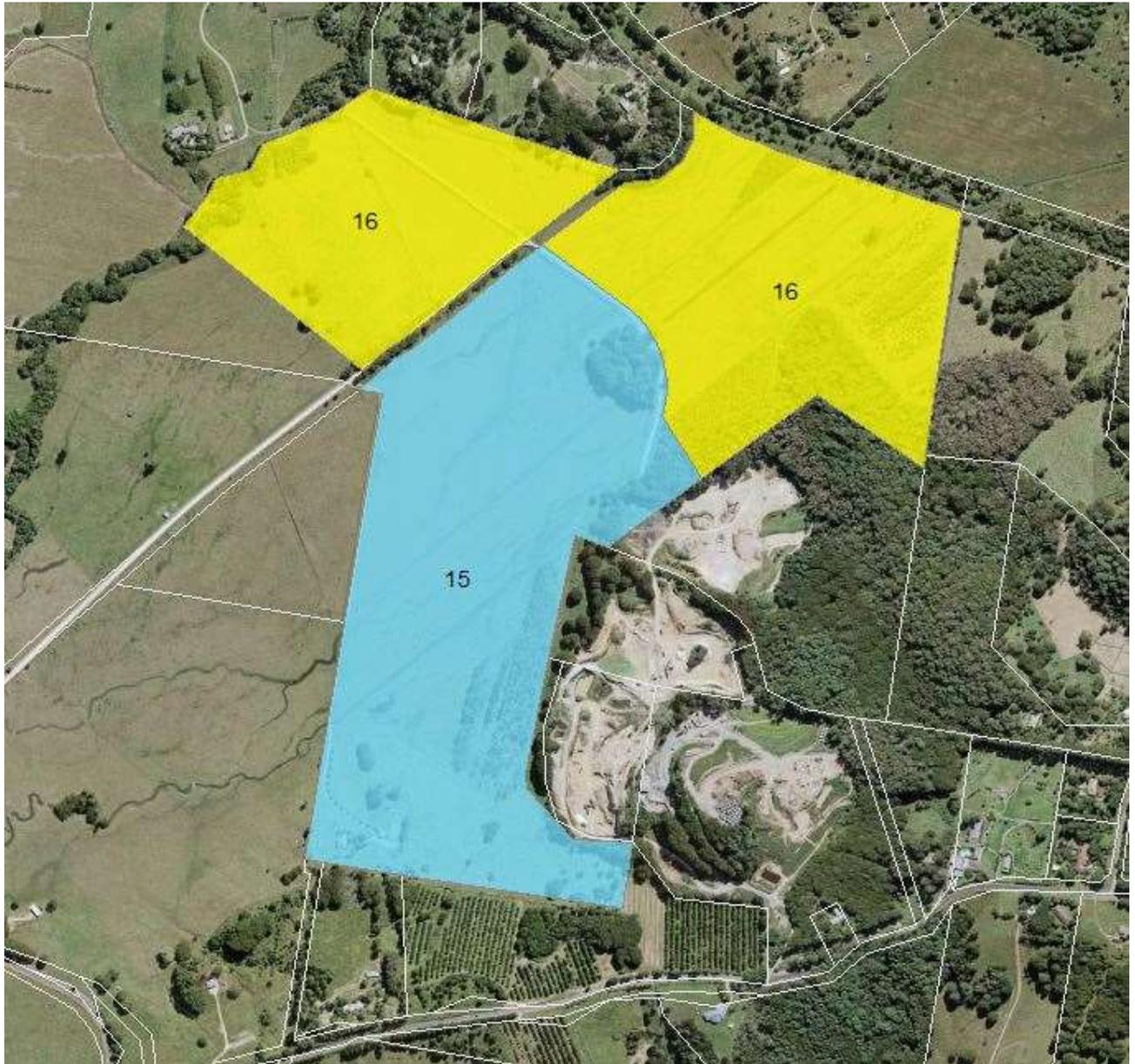
15 Council has since altered its strategic direction for waste disposal due to the continued success of the Veolia transport and disposal contract to Queensland, existing and potential regional initiatives (kerbside green waste and recyclables are processed at Lismore), and the increasing requirements and costs for establishing a new landfill area. Landfill operations are no longer carried out at the
20 Byron Resource Recovery Centre (BRRC) located at Manse Road Myocum. The BRRC now has a multi functional role including providing a waste receiving centre for rural residents without a kerbside service, processing of construction and demolition waste, and salvaging/ selling items at the facility shop.

25 At the time of purchase it was considered Lot 15 was more important as a buffer area than Lot 16 because Lot 15 is immediately adjacent to the quarries and more relevant as a buffer area. However, the owner of the two properties would only agree to the sale of both lots.

30 Lot 15 continues to be strategically relevant because of the proximity to the quarry areas (see below) and should therefore be retained by Council in the short to medium term while options for expanded resource recovery operations continue to be investigated and potentially implemented. These options include the initiatives for bio mass and bio energy.

35 A range of options have been considered for the potential use of Lot 16, including a new Council works depot, but topographical characteristics of the land are best suited to the continuation of agricultural activities on the lower portions while the elevated knoll offers an attractive residential building area. Lot 16 is operational land and its sale allows Council to pay off part of the loan used for the original purchase of the two lots. Reducing the annual loan repayments is beneficial for the
40 ongoing operations of waste services.

This report recommends that Council approve the sale of Lot 16 and delegate to the General Manager completion of the sale in accordance with the attached confidential valuation.



Financial Implications

- 5 The sale of Lot 16 has been included in Council's adopted Financial Sustainability Plan. The sale proceeds will allow Council to pay off part of the loan used for the original purchase of the two lots. Reducing the annual loan repayments is beneficial for the ongoing operations of waste services.

Statutory and Policy Compliance Implications

Local Government Act 1993

5 377 General power of the council to delegate

1) A council may, by resolution, delegate to the general manager or any other person or body (not including another employee of the council) any of the functions of the council under this or any other Act, other than the following:

10 (h) the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment),

15

Report No. 13.29 **Draft Plan of Management - The Cavanbah Centre**
Directorate: Infrastructure Services
Report Author: Darren McAllister, Acting Open Space and Facilities Coordinator
File No: I2017/751
5 **Theme:** Community Infrastructure
 Cavanbah Sports Centre

Summary:

10 The purpose of this report is to gain Council adoption of the draft Plan of Management (PoM) for the Cavanbah Centre.

15 The Statutory process is complete, as the draft has been on public exhibition and a public hearing has been held.

There were no verbal or written submissions made to the Public Hearing.

20 Three (3) submissions were received in relation to the exhibition, two (2) during the exhibition period and one (1) after the closing date.

The submissions made in relation to the exhibition of the proposed amendment to the Plan of Management related to improvements to facilities and additional facilities, rather than the provisions of the amended Plan of Management.

25 Details of the submissions can be found in the Cavanbah Centre Draft PoM Public Hearing Report, attached.

30

RECOMMENDATION:

That Council proceed with the adoption of the amended Plan of Management for the Cavanbah Centre as exhibited.

Attachments:

- 35 1 DRAFT Plan of Management PoM for Cavanbah Centre January 2017, E2017/2056 
2 Cavanbah Centre Draft Plan of Management Public Hearing Report, Planners North report , E2017/54574 

Report

A draft Plan of Management has been prepared for The Cavanbah Centre.

- 5 If adopted, this plan would supersede the Plan of Management Byron Regional Sport and Cultural Complex, adopted 31/10/2013. (<http://www.byron.nsw.gov.au/cavanbah>)

The purpose of this report is to gain Council adoption of the draft Plan of Management for The Cavanbah Centre.

10

Financial Implications

There are no financial implications from the development and adoption of The Cavanbah Centre Plan of Management.

15

Proposed actions consistent with an adopted plan of management may generate income and expenditure opportunities that Council will have to consider when they are presented.

Statutory and Policy Compliance Implications

20

Local Government Act 1993*38 Public notice of draft plans of management*

(1) *A council must give public notice of a draft plan of management.*

(2) *The period of public exhibition of the draft plan must be not less than 28 days.*

- 25 (3) *The public notice must also specify a period of not less than 42 days after the date on which the draft plan is placed on public exhibition during which submissions may be made to the council.*

(4) *The council must, in accordance with its notice, publicly exhibit the draft plan together with any other matter which it considers appropriate or necessary to better enable the draft plan and its implications to be understood*

- 30 40 *Adoption of plans of management*

(1) *After considering all submissions received by it concerning the draft plan of management, the council may decide to amend the draft plan or to adopt it without amendment as the plan of management for the community land concerned.*

(2) *If the council decides to amend the draft plan it must either:*

- 35 (a) *publicly exhibit the amended draft plan in accordance with the provisions of this Division relating to the public exhibition of draft plans, or*

(b) *if it is of the opinion that the amendments are not substantial, adopt the amended draft plan without public exhibition as the plan of management for the community land concerned.*

- 40 (2A) *If a council adopts an amended plan without public exhibition of the amended draft plan, it must give public notice of that adoption, and of the terms of the amended plan of management, as soon as practicable after the adoption.*

(3) *The council may not, however, proceed to adopt the plan until any public hearing required under section 40A has been held in accordance with section 40A.*

- 45 40A *Public hearing in relation to proposed plans of management*

(1) *The council must hold a public hearing in respect of a proposed plan of management (including a plan of management that amends another plan of management) if the proposed plan would have the effect of categorising, or altering the categorisation of, community land under section 36 (4).*

- 50 (2) *However, a public hearing is not required if the proposed plan would merely have the effect of altering the categorisation of the land under section 36 (5).*

(3) *A council must hold a further public hearing in respect of the proposed plan of management if:*

- 5 (a) the council decides to amend the proposed plan after a public hearing has been held in accordance with this section, and
(b) the amendment of the plan would have the effect of altering the categorisation of community land under section 36 (4) from the categorisation of that land in the proposed plan that was considered at the previous public hearing.

41 *Amendment of plans of management*

10 A council may amend a plan of management adopted under this Division by means only of a plan of management so adopted.

42 *Revocation and cessation of plans of management*

(1) A plan of management for community land may be revoked by a plan of management adopted under this Division by the council.

(2) A plan of management ceases to apply to land if:

- 15 (a) the land is reclassified as operational land, or
(b) in the case of land that is not owned by the council—the land ceases to be controlled by the council.

Report No. 13.30 **Byron Bay Urban Recycled Water Connection Policy**
Directorate: Infrastructure Services
Report Author: Peter Rees, Manager Utilities
File No: I2017/789
5 **Theme:** Community Infrastructure
 Water Supplies

Summary:

10 This policy has been developed in response to representation from the Byron Bay business community and is as discussed at the March Councillor Strategic Planning workshop. It will facilitate the connection of businesses, community groups and holiday parks to the Byron Bay Urban Recycled water scheme.

RECOMMENDATION:

1. **That the Draft Urban Recycled Water Connections Policy be placed on public exhibition for a period of 28 days.**
2. **That if no submissions are received, the Policy be adopted.**
3. **That any submissions received be reported back to Council.**

Attachments:

- 20 1 Draft Policy Urban Recycled Water Connections, E2017/60557 

Report

The recent expansion of the Byron Bay Urban Recycled Water Scheme has broadened the availability of recycled water particularly to the central business district of Byron bay.

5 Various representations have been made to Council concerning the up front costs of connection to the system in some cases being prohibitive.

10 It is an aspiration of the community, encapsulated in the Byron bay Effluent Management Strategy, to maximise the use of recycled water.

15 Accordingly Council has prepared the attached draft policy that will allow Council to pay the costs of the initial connection and recover the money over time through the levying of drinking water changes for the supply of recycled water.

This proposal has been discussed at the Council Strategic Planning workshop in March 2017.

Financial Implications

20 Any outlay by Council will be recovered over time. The outlay of cash will not have any negative impact on Council's sewer fund.

25 The increased use of recycled water will minimise the amount of bulk water purchased from Rous Water which will financially benefit Council.

Statutory and Policy Compliance Implications

30 This policy will facilitate the use of recycled water in accordance with the Byron Bay Effluent Management Strategy (2006).

NSW Local Government Act, 1993, s68

STAFF REPORTS - ORGANISATION DEVELOPMENT

Report No. 13.31 **Supporting Partnerships Policy**
Directorate: Organisation Development
5 **Report Author:** Allison Rogers, Research Officer
 Shannon McKelvey, Executive Manager, Organisation Development
File No: I2017/792
Theme: Corporate Management
10 Organisation Development

Summary:

15 This report is provided so Council can consider adoption of the Supporting Partnerships Policy, subject to any submissions received during public exhibition. The Draft Policy has been developed in accordance with Council's Financial Sustainability Plan and following a presentation to the Strategic Planning Workshop on 8 June 2017.

RECOMMENDATION:

1. That the Draft Supporting Partnerships Policy be placed on public exhibition for a period of 28 days.
2. That in the event:
 - a) that any submissions are received on the Supporting Partnerships Policy, they be reported back to Council prior to adoption of the policy; or
 - b) that no submissions are received on the Supporting Partnerships Policy, the policy be adopted and incorporated into Council's Policy Register.

Attachments:

- 1 Draft Supporting Partnerships Policy, E2017/62241 

Report

5 Council's Financial Sustainability Plan has a chapter focused on fostering positive partnerships. There has been significant evolution in the partnership, community-led social outcomes and impact investment spaces.

10 It is important to note from the start that the draft Supporting Partnerships Policy is only a first, but important, step and it will be reviewed and refined as work in this space progresses and Council continues to build capacity. Council has always enjoyed benefits from traditional partnership arrangements and the purpose of the draft Policy is to take that to the next level, confirming Council's commitment to enter into innovative partnerships but still with quadruple bottom line sustainability principles and governance and public interest protections in place.

15 Our local community is overflowing with significant community resources, energy and expertise and Byron Shire Council is in a unique position to be able to develop and enter innovative partnerships to achieve positive social, environmental and economic outcomes for community while still achieving positive financial and governance outcomes for Council.

20 A draft Supporting Partnerships Policy has been created to help Council achieve this by setting a strategic framework that will provide guidance about:

- 25 1. Council's role in the development of partnerships of all types, including but in no way limited to Public Private Partnerships;
- 30 2. Requirements that partnerships demonstrate transparency, probity, accountability and consistency and also achieve quadruple bottom line outcomes (economic, social, environmental, governance) while enhancing the financial sustainability of Council.
- 35 3. Council's Financial Sustainability Plan objectives of retaining valuable community land in community ownership and using innovative partnerships as a way to deliver (or deliver earlier) key services and strategic project outcomes for the community.

35 The draft Policy has also been prepared so that processes meet statutory requirements for competitiveness and market processes ensure that:

- 40 (a) best value for money is delivered for community;
- (b) no individual gains an unfair advantage through direct negotiations with Council; and
- (c) statutory requirements and requirements of the Independent Commission Against Corruption are satisfied.

40 It is important to note that the Policy has been deliberately drafted to be as broad and enabling as possible.

45 It is considered important that the Policy be free from prescription and that exceptions not be written into the policy. This is because the areas of community-led initiatives, partnership and funding opportunities are evolving at such a rapid rate, that writing limitations into the policy may inadvertently deny Council and the community benefit from future opportunities that have not even been contemplated yet.

50 It is also because the Policy itself, does not endorse or authorise individual projects. Any project will always have to be subject to individual assessment by Council. All the Policy does is set the broad strategic direction and clearly articulates the minimum objectives and principles that Council will consider when assessing partnerships as a means to deliver positive outcomes for community and Council.

Finally, we note:

5 (a) Council's Delivery Program contains an action to develop a Partnership Strategy and more workshops and reports will be provided, and the Policy will be reviewed, as this work progresses. In the meantime, the Policy importantly sets the Council's initial policy direction to 'get the ball rolling' and it is recommended for exhibition for community feedback.

10 (b) The Policy will also be supported by a variety of supporting material (eg FAQ's, procedure, checklists etc) that will also be developed to provide guidance for proponents of partnership proposals, Councillors and Council staff. These are currently in development.

15 It is proposed that the draft policy be placed on public exhibition for 28 days and be notified in Council's block advertising and broader distribution for example, through social media promotion and distribution to Responsible Investment Association Australasia.

Financial Implications

20 None from adoption of the Policy. The Policy requires that each partnership Council enters should return positive dividends for community and Council.

Statutory and Policy Compliance Implications

25 The draft Supporting Partnership Policy has been prepared having regard to the statutory requirements of the Local Government Act and Regulations, as well as the Independent Commission Against Corruption Guidelines on Direct Negotiations.

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

Report No. 14.1 Report of the Internal Audit Advisory Committee Meeting held on 18 May 2017

5 **Directorate:** Corporate and Community Services
Report Author: Jessica Orr, Corporate Governance and Risk Management Officer
File No: I2017/694
Theme: Corporate Management
 Governance Services

10 **Summary:**
 A meeting of the Internal Audit Advisory Committee was held on Thursday, 18 May 2017.

15 The attachment to this report provides the minutes of the Internal Audit Advisory Committee Meeting of 18 May 2017 for determination by Council.

RECOMMENDATION:

1. That Council note the minutes of the Internal Audit Advisory Committee Meeting held on 18 May 2017.

20 **2. Report No. 5.1 Internal Audit Progress Report May 2017**
 File No: I2017/481

That Council adopt the following Committee Recommendation:

Committee Recommendation 5.1.1

That Council receive and note the Internal Audit Report – Audit Committee (May 2017) (#E2017/30559 and #E2017/30561) prepared by the Internal Auditor, Grant Thornton.

3. Report No. 5.2 Cash Handling (Head Office) Review
 File No: I2017/482

That Council adopt the following Committee Recommendation:

Committee Recommendation 5.2.1

1. That the Internal Audit Report – Cash Handling (Head Office) Review – October 2016 (#2017/25774) be noted by Council along with responses and actions detailed by Management.
2. That Management implement the recommendations made in the report identified as Attachment 1 (#E2017/25774).

4. Report No. 5.3 Asset Management - Key Asset Infrastructure Review Report
 File No: I2017/483

That Council adopt the following Committee Recommendation:

Committee Recommendation 5.3.1

1. That the Internal Audit Asset Management – Key Infrastructure Review Report - March 2017 (#2017/16611) be noted by the Committee along with responses and actions detailed by Management.
2. That Management implement the recommendations made in the report identified as Attachment 1 (#E2017/16611).

5. Report No. 5.4 New Constitution of Internal Audit, Risk & Improvement Committee
File No: I2017/484

That Council adopt the following Committee Recommendation:

Committee Recommendation 5.4.1

1. That the amendments made to the Constitution as per the legislative requirements under the Local Government Amendment (Governance and Planning) Act 2016 NSW be noted.
2. That subject to the Committee being renamed the Audit, Risk and Improvement Committee, Council adopt the revised Constitution including this amendment.

6. Report No. 5.5 Business Continuity Review report
File No: I2017/500

That Council adopt the following Committee Recommendation:

Committee Recommendation 5.5.1

1. That the Internal Audit Business Continuity Plan Review Report - April 2017 (#2017/30343) be noted by the Council.
2. That Management implement the recommendations made in the report identified as Attachment 1 (#2017/30343).

7. Report No. 5.6 Initial local government performance audits
File No: I2017/603

That Council adopt the following Committee Recommendation:

Committee Recommendation 5.6.1

That the information contained in the letter from the Auditor-General of NSW dated 27 April 2017 (#E2017/30966) be noted.

8. Report No. 5.7 2016/2017 External Audit Client Service Plan
File No: I2017/491

That Council adopt the following Committee Recommendation:

Committee Recommendation 5.7.1

1. That Council note the External Audit Client Service Plan prepared by the Audit Office

of New South Wales for the year ended 30 June 2017 as outlined in Attachment 1 (#E2017/27622) to Report No. 5.7 in the Agenda for the Internal Audit Committee meeting held on 18 May 2017..

2. That the report and Attachment 1 of the closed part of the meeting remain confidential.

9. Report No. 5.8 Management of Conflicts of Interest in Development Matters Procedure

File No: I2017/501

That Council adopt the following Committee Recommendation:

Committee Recommendation 5.8.1

That the Council note the contents of this report and the action taken to date by Management.

5 Attachments:

- 1 Minutes 18/05/2017 Internal Audit Advisory Committee, I2017/623 

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Report

5 The attachment to this report provides the minutes of the Internal Audit Advisory Committee Meeting of 18 May 2017 for determination by Council. The agenda for this meeting can be located on Council's website at:

http://byron.infocouncil.biz/Open/2017/05/IAAC_18052017_AGN_622_WEB.htm

10 The Committee recommendations are supported by management and are provided in the attachment to this report. The Committee recommendations where required have been amended to read as recommendations from the Committee for determination by Council.

Financial Implications

15 As per the Reports listed within the Internal Audit Advisory Committee Meeting of 18 May 2017.

Statutory and Policy Compliance Implications

20 As per the Reports listed within the Internal Audit Advisory Committee Meeting of 18 May 2017.

Report No. 14.2 Report of the Finance Advisory Committee Meeting held on 18 May 2017

Directorate: Corporate and Community Services
Report Author: Mark Arnold, Director Corporate and Community Services
File No: I2017/776
Theme: Corporate Management
Governance Services

Summary:

This report provides the minutes and recommendations of the Finance Advisory Committee Meeting held on 18 May 2017 for determination by Council.

RECOMMENDATION:

1. That Council note the minutes of the Finance Advisory Committee Meeting held on 18 May 2017.

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

Report No. 4.1 Review of Council Investment Policy
File No: I2017/593

Committee Recommendation 4.1.1

That Council:

1. That the Draft Policy - Council Investments 2017 be placed on public exhibition for a period of 28 days.

2. That in the event:

a) that any submissions are received on the Draft Policy - Council Investments 2017, that those submissions be reported back to Council prior to adoption of the policy; or

b) that no submissions are received on the Draft Policy - Council Investments 2017, that the policy be adopted and incorporated into Council's Policy Register.

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

Report No. 4.2 Budget Review 1 January - 31 March 2017
File No: I2017/598

Committee Recommendation 4.2.1

1. That Council note that it authorised the itemised budget variations as shown in Attachment 2 (#E2017/31291) which includes the following results in the 31 March 2017 Quarterly Review of the 2016/2017 Budget:

- a) **General Fund – \$3,300 increase in the Estimated Unrestricted Cash Result**
- b) **General Fund - \$1,628,300 increase in reserves**
- c) **Water Fund - \$870,600 increase in reserves**
- d) **Sewerage Fund - \$2,810,300 increase in reserves**

at its Ordinary meeting held on 25 May 2017.

2. That Council note that it adopted the revised General Fund Estimated Unrestricted Cash Result of \$1,145,200 for the 2016/2017 financial year as at 31 March 2017 at its Ordinary meeting held on 25 May 2017.

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

Report No. 5.1 2016/17 Financial Sustainability Plan - Update on the Action Implementation Plan as at 31 March 2017

File No: I2017/439

Committee Recommendation 5.1.1

That the updated report to 31 March 2017 on the 2016/2017 Financial Sustainability Plan Action Implementation Plan (E2017/9113) be received and noted

5 **Attachments:**

- 1 Minutes 18/05/2017 Finance Advisory Committee, I2017/639 

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Report

5 The attachment to this report provides the minutes of the Finance Advisory Committee Meeting of 18 May 2017 for determination by Council. The agenda for this meeting can be located on Council's website at:

http://byron.infocouncil.biz/Open/2017/05/FAC_18052017_AGN_618_AT_SUP.PDF

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

Committee Recommendation 4.2.1 has been amended to acknowledge the adoption of this recommendation at its meeting held on 25 May 2017.

15 **Financial Implications**

As per the Reports listed within the Finance Advisory Committee Meeting of 18 May 2017.

20 **Statutory and Policy Compliance Implications**

As per the Reports listed within the Finance Advisory Committee Meeting of 18 May 2017.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.3 Report of the Transport and Infrastructure Advisory Committee Meeting held on 18 May 2017

5 **Directorate:** Infrastructure Services
Report Author: Helen Waldron, EA Infrastructure Services
File No: I2017/660
Theme: Community Infrastructure
10 Local Roads and Drainage

Summary:

15 The attachment to this report provides the minutes of the Transport and Infrastructure Advisory Committee Meeting of 18 May 2017 for determination by Council.

RECOMMENDATION:

1. **That Council note the minutes of the Transport and Infrastructure Advisory Committee Meeting held on 18 May 2017.**

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

Report No. 4.1 Draft 2017/18 Capital Works Program for Local and Regional Roads
File No: I2017/224

Committee Recommendation 4.1.1

1. **That the information in the report to the Transport and Infrastructure Advisory Committee about the Draft 2017/18 Capital Works Program for local and regional roads be noted.**
2. **That the Committee recommends engaging an external consultant to update the Bikeways Plan.**

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

Report No. 4.2 Asset Risk Management
File No: I2017/471

Committee Recommendation 4.2.1

1. **That Council notes the report presented to the Transport and Infrastructure Advisory Committee regarding Asset Risk Management (#I2017/471).**
2. **That the Committee receives a report on different general fund asset classes, which includes a comparison of risk and backlog.**
3. **That the report is to illustrate a case for an increased budget from the SRV, or other funding sources, for culverts and causeways.**

20

4. That Council adopt the following Committee Recommendation:

Report No. 4.3 2016/17 Local Roads Capital Works Program Progress

File No: I2017/588

Committee Recommendation 4.3.1

That Council notes the actions taken to implement the 2016/17 Local Roads Capital Works Program and that an updated report will be provided to the next meeting of the Transport and Infrastructure Advisory Committee.

Attachments:

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1 Minutes Transport and Infrastructure Advisory Committee Meeting 18/05/17, I2017/652  

Report

5 The attachment to this report provides the minutes of the Transport and Infrastructure Advisory Committee Meeting of 18 May 2017 for determination by Council. The agenda for this meeting can be located on Council's website at:

http://byron.infocouncil.biz/Open/2017/05/TIA_18052017_AGN_627_AT.PDF

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

Financial Implications

15 As per the Reports listed within the Transport and Infrastructure Advisory Committee Meeting of 18 May 2017.

Statutory and Policy Compliance Implications

20 As per the Reports listed within the Transport and Infrastructure Advisory Committee Meeting of 18 May 2017.

Report No. 14.4 **Report of the Water, Waste and Sewer Advisory Committee Meeting held on 1 June 2017**

Directorate: Infrastructure Services
Report Author: Helen Waldron, EA Infrastructure Services
File No: I2017/780
Theme: Community Infrastructure
 Sewerage Services

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Summary:

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The attachment to this report provides the minutes of the Water, Waste and Sewer Advisory Committee Meeting of 1 June 2017 for determination by Council.

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RECOMMENDATION:

1. **That Council note the minutes of the Water, Waste and Sewer Advisory Committee Meeting held on 1 June 2017.**

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

Report No. 4.1 **Update on the Container Deposit Legislation**
File No: I2017/613

Committee Recommendation 4.1.1

1. **That Council notes the Water, Waste and Sewer Advisory Committee was provided with an update on the Container Deposit Legislation.**
2. **That Council includes in this LGA's roll out of the Container Deposit Legislation at least two other collection points, for example, one at Byron Bay and another at Ocean Shores (shopping centre).**
3. **That Council investigate other possibilities for collection points.**

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

Report No. 4.2 **Response to Questions Asked by Committee Member**
File No: I2017/650

Committee Recommendation 4.2.1

That Council notes the information provided to the Water, Waste and Sewer Committee regarding Ocean Shores and Brunswick Valley STPs and that the quantum of reduction of nitrogen and phosphorous in response to question 1 (page 24 line 25 of the agenda) may be overstated.

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

Report No. 4.3 **Extension of Second Hand Shop Opening Hours**
File No: I2017/658

Committee Recommendation 4.3.1

1. That Council extend the opening hours of the 2nd Hand Shop to align with the opening hours of the Byron Resource Recovery Centre transfer station, including opening Mondays.
 2. That a budget be allocated for advertising the alignment of hours, including a sign at the BRRC.
 3. That this arrangement be reviewed by the Water, Waste and Sewer Committee after 12 months operation.
5. That Council adopt the following Committee Recommendations:

Report No. 4.4 Ocean Shores to Brunswick Valley STP Transfer Feasibility Study
File No: I2017/678

Committee Recommendation 4.4.1

1. That Council notes the report about the Ocean Shores to Brunswick Valley STP Transfer Feasibility Study, including risks associated with Option 4 in Section 13 recommendations.
2. That Council investigate operational risks cited in the Study and report back to Council via the Committee on the Transfer option, taking into account Council resolution 17-177.

5 **Attachments:**

- 1 Minutes Water, Waste and Sewer Advisory Committee Meeting 01/06/17, I2017/762 [↔](#) 

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Report

The attachment to this report provides the minutes of the Water, Waste and Sewer Advisory Committee Meeting of 1 June 2017 for determination by Council. The agenda for this meeting can be located on Council's website at:

http://byron.infocouncil.biz/Open/2017/06/WWSAC_01062017_AGN_631_AT.PDF

Committee Recommendation 4.4.1

1. **That Council notes the report about the Ocean Shores to Brunswick Valley STP Transfer Feasibility Study, including risks associated with Option 4 in Section 13 recommendations.**
2. **That Council investigate operational risks cited in the Study and report back to Council via the Committee on the Transfer option, taking into account Council resolution 17-177.**

Management Comments

The above recommendation cites resolution 17-177, which is provided below for Councillors' information:

1. *That Council note that the Water, Waste and Sewer Advisory Committee was provided with daily inflow and rainfall figures for March 2017 for the Brunswick Valley STP.*
2. *That the Committee be provided with a report on the need to replace the original sewer network in 'old' Mullumbimby (as it was in the 1960s, when the sewer network was built) and to consider including allocations in its future business plans for sewer management.*
3. *That the report, in part 2 of the recommendation above, consider options and how well they protect or enhance the environment.*

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

Financial Implications

As per the Reports listed within the Water, Waste and Sewer Advisory Committee Meeting of 1 June 2017.

Statutory and Policy Compliance Implications

As per the Reports listed within the Water, Waste and Sewer Advisory Committee Meeting of 1 June 2017.

QUESTIONS WITH NOTICE

Question with Notice No. 15.1 Flood Response in Byron Shire
File No: I2017/705

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At Council's Ordinary Meeting held on 25 May 2017, Angela Dunlop asked the following question which was taken on notice:

I represent SGBCA and residents living in the north of the Shire who experienced the flood event of March.

As a demonstration of Council's duty of care why, after two months, have you not provided the opportunity for flood affected residents of South Golden Beach, New Brighton and Ocean Shores to provide feedback to Council of their experiences so that Council could collate and review flood data in order to improve on their strategies before, during and after a flood event? Surely those who experienced the flood first hand were in a position to provide constructive recommendations that should have been welcomed by Council, yet this opportunity has not been granted.

Additionally, we wish to know what, if any, risk management strategies or emergency evacuation procedures Council has in place, when they were drafted and when they are due for review?

Response Manager Works (LEMO) and Flood and Drainage Engineer:

Tweed Shire Council and Byron Shire Council have formed a single Local Emergency Management Committee (LEMC) for both local government areas in compliance with the State Emergency and Rescue Management Act 1989.

In accordance with the required legislation, the Tweed and Byron local Emergency Management Plan (EMPLAN) was prepared and approved by the Local Emergency Management Committee on 30 August 2016 and by the North Coast Regional Emergency Management Committee on 21 September 2016.

A copy of the EMPLAN can be found on Council's website at the following address:

www.byron.nsw.gov.au/.../emplan_tweed_byron_2016_external.pdf

A meeting with residents, Councillors and staff was held on 1 June 2017 at the Ocean Shores Country Club.

Council also issued the following media release requesting flood information on 18th April 2017.

"Byron Shire Council is encouraging residents to submit snapshots of the recent flood event, to help determine information including where the flood waters peaked, and how high they reached across the shire.

The information collected will form part of Council's flood mark survey, which aims to investigate in more detail the impact and scope of the recent event.

"On March 31 this year, we experienced a significant flood event.

"Now it is crucial we collect evidence from this day, to help factor this into future flood assessments for the shire," Byron Shire Council Flood Engineer James Flockton said.

"This will also enable us to compare flood heights with our existing modelling and assist with the assessment of development applications in the future.

"The more accurate the data we gather now is, the better we can calibrate our future flood models. We will then be in a more informed position to predict flood levels we may experience in the future," Mr Flockton said.

In coming weeks, surveyors will be out canvassing flood impacted areas for indicators of flood marks.

To assist Council with the collection of flood data, locals are encouraged to do the following: If you know or can see somewhere that the flood peaked, please mark it with a marker (for example a pen, nail or paint).

Next, take a photo of the mark and email it to floodsurvey@byron.nsw.gov.au, with the following details:

- The address of the mark, and or any specific details you can provide on the location*
- The accuracy of the mark (in your opinion).*
- The approximate time of the flood peak at that location (if you have this information).*
- Your contact details (Please advise if you do not wish to be contacted by Council.)*
- Please also advise whether the mark is in a public space or private property, as this will help our surveyors when verifying the data provided.*

Peak flood marks from the 31st of March are the only levels required for this study. If you provide permission for our surveyors to contact you, they will be in touch soon to arrange a date and time for inspection.

For more information on the Flood Survey email floodsurvey@byron.nsw.gov.au"

The inbox for this email address will be closed shortly.

After this closure, all the data and responses will be collated and assessed and used for future flood planning and preparedness.

Question with Notice No. 15.2 Sewerage
File No: I2017/706

At Council's Ordinary Meeting held on 25 May 2017, Tom Tabart asked the following question which was taken on notice:

Has the information that the Councillors down graded the Ocean Shores sewage works to 1.1 prominently over time been communicated to the EPA or issued you a licence?

Response Director Infrastructure Services:

Council has not advised the EPA that the information on Council's web site relating to ADWF has been reduced from 1.6Ml/d to 1.1Ml/d.

The EPA licence for the site does not reference either directly or indirectly average dry weather flow (ADWF). There is no mechanism under the licence to advise any assessment of average dry weather flow capacity of a treatment plant. Council has however, had dialogue with the EPA regarding possible plans to upgrade the OSSTP and have advised them of the recent studies undertaken regarding the treatment options for the plant.

Under Section 60 of the Local Government Act 1993, local water utilities are required to obtain ministerial approval for the construction or modification of water or sewage treatment works. The Section 60 approval provides an independent assessment of the proposed works to ensure they are fit for purpose and provide robust, safe, cost-effective and soundly based solutions that meet public health and environmental requirements.

Each proposed water or sewage treatment works project requires an options study, concept design report and detailed design. These need to be prepared by suitably qualified and experienced practitioners and submitted to the NSW Office of Water for review. The information provided must clearly define the proposed activity and detail how the environment will be protected.

Council has not as yet contacted the DPI Water but will do so if / when Council approves the project. Council has, however, arranged a meeting with the DPI Water area representative for the 8 June 2017 to have preliminary discussions about this project.

CONFIDENTIAL REPORTS - GENERAL MANAGER

Report No. 16.1 CONFIDENTIAL - Senior Staff Positions**Directorate:** General Manager5 **Report Author:** Ken Gainger, General Manager**File No:** I2017748**Theme:** Corporate Management

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Organisation Development

Summary:

15 In 2013 the Council determined its Organisation Structure which comprised five designated senior staff positions. In accordance with Section 223(1)(j) of the Local Government Act 1993, Council determined that the following positions within the Organisation Structure were to be classified as "senior staff positions" as defined by the Act, namely:

- General Manager
- Director – Infrastructure Services
- 20 • Director Corporate and Community Services
- Director – Sustainable Environment and Economy
- Executive Manager – Organisation Development

25 The designated "senior staff position" of Executive Manager – Organisation Development has recently been reviewed and the role changed. The changed role no longer meets the designated statutory criteria for classification as a senior staff position because it no longer satisfies the following provisions of Section 322(2) of the Local Government Act 1993:

30 *"(a) the responsibilities, skills and accountabilities of the position are generally equivalent to those applicable to the Executive Band of the Local Government (State) Award, and*

35 *(b) the total remuneration package payable with respect to the position is equal to or greater than the minimum remuneration package (within the meaning of Part 3B of the Statutory and Other Offices Remuneration Act 1975) payable with respect to senior executives whose positions are graded Band 1 under the Government Sector Employment Act 2013."*

40 Following the recent review, it is now intended that the position title will change (on expiry of the current employment contract on 24th November 2017) from Executive Manager – Organisation Development to Manager – Organisation Development, and it will change from a contracted position to an Award-based position at a remuneration level below the threshold required by Section 322(2)(b) of the Act. Hence the position can no longer be designated as a "senior staff position" from 25th November 2017.

45 This report seeks Council's approval to reduce the number of designated senior staff positions.

RECOMMENDATION:

- 50 1. That pursuant to Section 10A(2)(a) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Senior Staff Positions.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
 - a) personnel matters concerning particular individuals (other than councillors)

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3. **That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:**

Report concerns an individual staff position.

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CONFIDENTIAL REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 16.2 **CONFIDENTIAL - Tender for Internal Audit, Risk and Improvement Services Contract**

5 **Directorate:** Corporate and Community Services
Report Author: Jessica Orr, Corporate Governance and Risk Management Officer
File No: I2017/686
Theme: Corporate Management
10 Governance Services

Summary:

15 Council issued a call for tender for its Internal Audit, Risk and Improvement Services Contract and this report seeks Council to appoint the preferred tenderer.

20 The General Manager, under delegation, provided approval on 21 March 2017 for Council to go to tender using the open request for tender process as per Section 55 of the Local Government Act. Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulation 2005.

25 Nine submissions were received and tenders were assessed for their conformity, then qualitative criteria and price. The preferred tenderer showed extensive experience in the local government sector, high-quality staff and thorough delivery plan. They offered the best value for money for Council.

RECOMMENDATION:

- 30 1. That pursuant to Section 10A(2)(c) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Tender for Internal Audit, Risk and Improvement Services Contract .
- 35 2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
a) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business
- 40 3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:

information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

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

RECOMMENDATION:

- 50 1. That pursuant to Section 11(3) of the Local Government Act, 1993, resolve that the Annexures to the report, Tender for Internal Audit, Risk and Improvement Services Contract are to be treated as confidential as they relate to matters specified in s10A(2)(c) of the Local Government Act 1993.
2. That Council adopt the recommendation set out on the final page of the Report.

Attachments:

- 5 1 Confidential - Evaluation Assessment Panel Report - Tender for Internal Audit Services (final),
E2017/60481

CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES

Report No. 16.3 **CONFIDENTIAL - Tender 2016-0018 Architectural Design of Mixed-use Building - 10 Lawson Street Redevelopment**

5 **Directorate:** Infrastructure Services
Report Author: Colin Sims, Project Officer
File No: I2017/643
Theme: Community Infrastructure
10 Projects and Commercial Opportunities

Summary:

15 At the Executive Team meeting 26 October 2016, ET determined that under the delegation of the General Manager to prepare and advertise a selective tender for Architectural Design of Mixed-use Building - 10 Lawson Street Redevelopment

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

RECOMMENDATION:

- 25 1. That pursuant to Section 10A(2)(c) and (d)i of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Tender 2016-0018 Architectural Design of Mixed-use Building - 10 Lawson Street Redevelopment.
- 30 2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
- a) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business
- b) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
- 35 3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:
- (a) disclosure could prejudice the Council's position in litigation; and (b) disclosure could adversely impact Council's position in the upcoming negotiations.

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

RECOMMENDATION:

- 45 1. That pursuant to Section 11(3) of the Local Government Act, 1993, resolve that the Annexures to the report, Tender 2016-0018 Architectural Design of Mixed-use Building - 10 Lawson Street Redevelopment are to be treated as confidential as they relate to matters specified in s10A(2)(c) and s10A(2)(d)i of the Local Government Act 1993.
- 50 2. That Council adopt the recommendation set out on the final page of the Report.

Attachments:

- 5 1 Confidential - 10 Lawson Street redevelopment - RFT 2016-0018 for Architectural Design. SIGNED
RFT assessment panel recommendation report, E2017/47861