

# NOTICE OF MEETING



## ARAKWAL MEMORANDUM OF UNDERSTANDING ADVISORY COMMITTEE MEETING

An Arakwal Memorandum of Understanding Advisory Committee Meeting of Byron Shire Council will be held as follows:

Venue	<b>Arakwal Room, Byron Bay Library</b>
Date	<b>Thursday, 15 April 2021</b>
Time	<b>4.30pm</b>

Vanessa Adams  
Director Corporate and Community Services

*I2021/576  
Distributed 08/04/21*

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## CONFLICT OF INTERESTS

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

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

**Non-pecuniary** – a private or personal interest that a Council official has that does not amount to a pecuniary interest as defined in the Code of Conduct for Councillors (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 the Code of Conduct for Councillors.

**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.

**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 of the provisions in the Code of Conduct (particularly if you have a significant non-pecuniary interest)

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## RECORDING OF VOTING ON PLANNING MATTERS

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

- (1) In this section, **planning decision** means a decision made in the exercise of a function of a council under the Environmental Planning and Assessment Act 1979:
- (a) including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but
- (b) not including the making of an order under 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**  
**BUSINESS OF MEETING**

**1. APOLOGIES**

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

**3. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS**

- 3.1 Adoption of Minutes from 8 October 2020 Arakwal Memorandum of Understanding Advisory Committee Meeting..... 5

**4. STAFF REPORTS**

**Corporate and Community Services**

- 4.1 Arakwal MOU review ..... 11

**ADOPTION OF MINUTES FROM PREVIOUS MEETINGS**

**Report No. 3.1 Adoption of Minutes from 8 October 2020  
Arakwal Memorandum of Understanding  
Advisory Committee Meeting**

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**Directorate:** Corporate and Community Services

**Report Author:** Pamela Durkin, Social and Cultural Support Officer, CACS -  
Social & Cultural Planning

**File No:** I2021/553

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**RECOMMENDATION:**

15 **That the minutes of the Arakwal Memorandum of Understanding Advisory  
Committee Meeting held on 8 October 2020 be confirmed.**

<Section5>

**Attachments:**

20 1 Minutes 08/10/2020 Arakwal Memorandum of Understanding Advisory Committee,  
I2020/1479 , page 7 [↓](#)

## BYRON SHIRE COUNCIL

### ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

3.1

### **Report**

The attachment to this report provides the minutes of the Arakwal Memorandum of Understanding Advisory Committee Meeting of 8 October 2020 .

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### **Report to Council**

The minutes were reported to Council on 26 November 2020.

**MINUTES OF MEETING**



**ARAKWAL MEMORANDUM OF  
UNDERSTANDING ADVISORY COMMITTEE  
MEETING**

<b>Venue</b>	<b>Council Chambers</b>
<b>Date</b>	<b>Thursday, 8 October 2020</b>
<b>Time</b>	<b>10.00am</b>

**BYRON SHIRE COUNCIL**

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

3.1 - ATTACHMENT 1



# BYRON SHIRE COUNCIL

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

3.1 - ATTACHMENT 1

## BYRON SHIRE COUNCIL

ARAKWAL MEMORANDUM OF UNDERSTANDING ADVISORY COMMITTEE MEETING  
MINUTES 8 OCTOBER 2020

**Minutes of the Arakwal Memorandum of Understanding Advisory Committee Meeting held on Thursday, 8 October 2020**

**File No:** I2020/1479

PRESENT: Cr C Coorey, Cr S Ndiaye, Cr Richardson

Staff: Deb Stafford (Acting Manager Social and Cultural Planning)  
Rob Appo (Acting Community and Cultural Development Coordinator / Project Officer (Aboriginal))  
Pamela Durkin (Minute Taker)

Community: Sharon Sloane (General Manager, Arakwal Corporation)  
Leon Kelly  
Ashley Moran

*Cr Ndiaye (Chair) opened the meeting at 10:34am.*

*Leon Kelly offered a Welcome to Country and acknowledged Sarah Ford's contribution to the Arakwal MOU over the years.*

APOLOGIES:

There were no apologies.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

There were no declarations of interest.

BUSINESS ARISING FROM PREVIOUS MINUTES

There was no business arising from previous minutes.

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### STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

**Report No. 3.1**      **Arakwal Cemetery - guidelines and fee waivers**  
**File No:**            I2020/808

**Committee Recommendation:**

The Arakwal MoU Advisory Committee recommends that:

Council seeks further information on whether an application to NSW State Government may be supported to waive burial fees for Arakwal members in recognition of their Native Title Rights and, if appropriate, pursues the waiver.

Until such time that a permanent pathway is in place, that an application can be submitted by Arakwal Corporation on a case by case basis for fees to be waived for burial costs which can be approved by the General Manager.

(Moran/Ndiaye)

*The recommendation was put to the vote and declared carried*

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AMUAC Arakwal Memorandum of Understanding Advisory Committee Meeting      page 3

**BYRON SHIRE COUNCIL**

ARAKWAL MEMORANDUM OF UNDERSTANDING ADVISORY COMMITTEE MEETING  
MINUTES 8 OCTOBER 2020

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**OTHER BUSINESS**

**No. 3.2 Official Recognition of Sarah Ford's Contribution**

Sharon proposed that Sarah be formally acknowledged by the MOU Committee

**Committee Recommendation:**

The Arakwal MOU Advisory Committee send a card and letter to Sarah Ford thanking her for her empathy and understanding for Arakwal people and for her professionalism and integrity. Her work is greatly appreciated.

(Kelly/Ndiaye)

*The recommendation was put to the vote and declared carried.*

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*There being no further business the meeting concluded at 11:54am.*

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

**Report No. 4.1      Arakwal MOU review**

**Directorate:** Corporate and Community Services

5 **Report Author:** Robert Appo, Project Officer (Aboriginal), CCS - Social & Cultural Planning

**File No:** I2021/470

**Summary:**

10 The Arakwal MoU timeframe has now expired and a draft review is currently being undertaken with details provided in this report.

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**RECOMMENDATION:**

15 **That the Arakwal MoU Committee:**

1. **Notes the Arakwal MoU review attachment (#E2021/52551).**
2. **Provides feedback and discusses next steps and possible options.**

**Attachments:**

20 1 Arakwal MoU Implementation Plan 2019-21 - Draft Review, E2021/52551 , page 15 [↓](#)

## Report

### Background:

5 The first Arakwal Memorandum of Understanding (MoU) was formally adopted in 2013 and completed in 2018. The MOU follows from the 1998 Heads of Agreement between Byron Shire Council and the Arakwal People.

The purpose of this agreement is to establish a clear process and timetable for the delivery of priority projects identified in this MOU and to build on the existing relationship between Council and Arakwal People.

10 The intention of this MOU is to ensure a successful strategic partnership between the Byron Shire Council and the Bundjalung of Byron Bay Arakwal People.

Council formed the Arakwal MoU Advisory Committee to identify and implement the priority projects for each 12-month period.

15 The time frame for the MoU was 2 years and is now due for review. The shorter duration than the usual 5 years was in recognition of the rapidly changing environment, and the need to work together to jointly deliver outcomes, build trust and celebrate success.

The plan has been simplified and developed around areas under Council's influence and control and with a view to success and achievement of key goals.

The MoU is grouped into 5 key areas:

- Culture and Heritage
- 20 • Participation in governance
- Cultural and economic development
- Caring for Country
- Social justice and community development

### 25 Draft Review:

The draft review and evaluation of the MoU is being undertaken to determine whether the key objectives of the MoU have been achieved and to recommend the next steps forward.

That decision should be informed by a number of factors including, but not limited to, the following discussions:

- 30 • Have there been any concrete developments/benefits with the partner since the MoU was signed?
- Does the arrangement continue to fit with both organisations' strategic priorities?

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

4.1

- Does Arakwal still have the capacity to engage into the future?
- Does Council still have the capacity to engage with the partner institution?
- Have there been any changes in the political/cultural environment in the region?

### 5 **Key issues**

A number of key issues have been identified during the review of the MoU which have had an impact on some of the operational aspects of action items.

The key issues are identified below:

- Vacancy in the Project Officer-Aboriginal role 2019-2020
- 10 • Covid-19 2020-2021

### **Next steps**

The next step involves discussing other possible options in formalising the relationship.

The options are:

- 15 1. to continue with the relationship and renew the MoU (up to a maximum of five years);
2. to continue with the relationship and renew the MoU with modifications (up to a maximum of five years);
3. to terminate the MoU and consider another form of agreement.

### 20 **Strategic Considerations**

#### **Community Strategic Plan and Operational Plan**

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
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# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

4.1

Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community	2.1	Support and encourage our vibrant culture and creativity	2.1.4	Support Aboriginal cultural vibrancy within the Shire	2.1.4.2	Implement Arakwal MOU in partnership with Arakwal
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### Legal/Statutory/Policy Considerations

NA

### Financial Considerations

NA

### 5 Consultation and Engagement

Consultation has been ongoing with Arakwal and internal staff for the duration of the MoU.

# DRAFT REVIEW (April 2021) of the Arakwal Memorandum of Understanding 2019-2021 Implementation Plan

The plan was developed between Bundjalung of  
Byron Bay Arakwal People and staff  
at Byron Shire Council



# BYRON SHIRE COUNCIL

## Arakwal Memorandum of Understanding 2019-2021 Implementation Plan – draft review

Culture and Heritage			
Project	Implementation actions	Progress	Timeframe
<b>Cultural Heritage Management</b>	1. Council to support a 12 month trial of a dedicated Arakwal Native Title Project Officer to work specifically on Council matters relating to Native Title <ul style="list-style-type: none"> <li>a) Council to agree to fund to value of \$15,000</li> <li>b) Draft SLA completed between Arakwal and Council</li> <li>c) Draft template completed</li> <li>d) Project Officer recruited.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Council funding \$15,000 secured</li> <li>✓ Draft template completed for consultation with Arakwal</li> <li>✓ \$8000 towards cultural heritage protocol workshops secured</li> <li>✓ Council agree to fund to value of \$15,000</li> <li>✓ Project Officer recruited.</li> </ul>	Dec 2019- March 2021
	2. Develop protocol framework for working on Cultural mapping <ul style="list-style-type: none"> <li>a) Cultural heritage scoping workshops                             <ul style="list-style-type: none"> <li>i) Council workshop</li> <li>ii) Arakwal workshop</li> <li>iii) Joint workshop</li> </ul> </li> <li>b) Develop cultural heritage practices protocol informed by workshops</li> <li>c) Use protocol to advocate with DPC for cultural heritage mapping funding.</li> </ul>	<ul style="list-style-type: none"> <li>✓ These actions to be implemented within scope of the Aboriginal Cultural Heritage Mapping and management plan.</li> </ul>	2021-2022
	3. Arakwal (AM) to kick start conversations with DPC in relation to fast tracking funding.	<ul style="list-style-type: none"> <li>✓ Funding application has been submitted to Heritage NSW. Outcome expected April 2021.</li> </ul>	2021
	4. BSC to undertake training of key personnel in relation to Aboriginal Cultural Heritage reform and legislation.	<ul style="list-style-type: none"> <li>✓ To be incorporated once the reform and legislation changes.</li> </ul>	
	5. BSC to update Native Title Boundaries in Geocortex mapping system and in the Cultural Heritage Toolkit.	<ul style="list-style-type: none"> <li>✓</li> </ul>	



**Arakwal Memorandum of Understanding 2019-2021 Implementation Plan – draft review**

Culture and Heritage			
	6. In acknowledgment of the significance of Ti Tree (Taylors) Lake to Arakwal people, Council will notify Arakwal of any matter relating to Ti Tree Lake including development in and around this sensitive area a) Council to work with NPWS to provide appropriate signage at site.	✓ 8k. Funding for Ti Tree lake signage secured. ✓ NPWS, Arakwal and Jali negotiating signage details and content.	
	7. In acknowledgment of the burial place on private property at “Rainforest Resort” Council will advise Arakwal of whether they can assist access to private property for the purposes of archaeological assessment and further provide advice when development is proposed at the private property.	✓ This site is AHIMS registered ✓ A flag or memo has been noted for the property as an area of Aboriginal heritage significance and any future DA’s to be referred to Arakwal. ✓ Council to assist Arakwal with approach to current owner.	
	8. Cultural Heritage protocol and induction training delivered by Arakwal a) Year 1 - ET/Managers b) Year 2 - Coordinator/Team Leaders.	✓ These actions to be implemented within scope of the Aboriginal Cultural Heritage Mapping and management plan.	

# BYRON SHIRE COUNCIL

## Arakwal Memorandum of Understanding 2019-2021 Implementation Plan – draft review

Culture and Heritage			
<b>Council supports important cultural events</b>	1. Council to provide \$2000 per year towards NAIDOC Arakwal Family Day event.	<ul style="list-style-type: none"> <li>✓ Letter of Support provided to Arts Northern Rivers for Art on Bundjalung Country project proposal. Council has indicated:                             <ul style="list-style-type: none"> <li>- strong support for the project and acknowledged that Council has a long and productive relationship with Arts Northern Rivers</li> <li>- in-kind support for the project through staff resources / advice and promotion</li> <li>- Aligns well with Council's commitment to support Indigenous artists and communities throughout the Byron Shire.</li> </ul> </li> <li>✓ Supporting Arakwal for NAIDOC Week which was postponed due to Covid-19. Organising NAIDOC Week Flag Raising event hosted by Council (2020).</li> <li>✓ Funding of \$2000 provided to Arakwal 2019-2020.</li> <li>✓ Arakwal NAIDOC Week family fun day supported and annual funding provided by Council 13 November 2020.</li> </ul>	
	2. Investigate provision of parking for Family Day event.		
	3. Council to work with Arakwal in relation to NAIDOC Flag Raising Ceremony.	<ul style="list-style-type: none"> <li>✓ (2020) NAIDOC Week postponed due to Covid-19 restrictions and so the Flag Raising held differently with a small event with the elected Councillors, Executive team and a</li> </ul>	

# BYRON SHIRE COUNCIL

## Arakwal Memorandum of Understanding 2019-2021 Implementation Plan – draft review

Culture and Heritage			
		<p>small number of representatives from Arakwal and Tweed Byron LALC participating.</p> <p>Encouraged neighbouring Councils within Bundjalung country to join a symbolic gesture by hosting a similar flag raising ceremony with a representative of the local Aboriginal community, to recognise NAIDOC Week without the need to gather.</p>	

# BYRON SHIRE COUNCIL

## Arakwal Memorandum of Understanding 2019-2021 Implementation Plan – draft review

Participation in Governance			
Project	Implementation actions	Progress	Timeframe
<b>Arakwal participation in Committees of Council</b>	<ol style="list-style-type: none"> <li>1. Determine the priority areas for participation by Arakwal.</li> <li>2. Secure sitting fees for Arakwal participation on key priority committees of Council.</li> <li>3. Ensure that Arakwal are appropriately engaged in Council's Community Strategic Planning process.</li> <li>4. Identify key priority areas for engagement and consultation.</li> </ol>	✓  Sitting fees available for Arakwal MOU committee meetings.  ✓	
<b>BOBBAC governance</b>	<ol style="list-style-type: none"> <li>1. Investigate the possibility of waiving parking fees for BOBBAC Board members so that they can attend meetings on Country (currently pays \$1000 for standard <i>out of shire</i> parking 13 vehicles included).</li> </ol>	✓ Completed 2019-2020 ✓ Funding available for 2021	

# BYRON SHIRE COUNCIL

## Arakwal Memorandum of Understanding 2019-2021 Implementation Plan – draft review

Cultural and Economic Development			
Project	Implementation actions	Progress	Timeframe
<b>Employment opportunities</b> Council will advocate for Arakwal employment opportunities internally and also with existing labour force suppliers	1. Explore opportunities to provide training to Arakwal people in: <ol style="list-style-type: none"> <li>How to apply for jobs with Council</li> <li>Resume writing</li> <li>What to expect at interview</li> <li>What to expect working for Council.</li> </ol> 2. Identify opportunities for expanded use of Arakwal bush regeneration teams within Byron Bay. 3. Notify Arakwal of upcoming Tenders that may be relevant.	Not yet achieved.	
<b>Cultural restoration and promotion</b> Council will provide ongoing support for the development of the Arakwal Cultural Centre	1. Representation by the General Manager (or delegate) on the Cultural Centre Project Reference Group.	Committee not yet convened.	
<b>Opportunities for Cultural expression</b> Council to work with Arakwal to identify opportunities for cultural expression	1. Council to ensure that developers of public infrastructure who are subject to the Public Art Development Control Plan are provided the contact details for Arakwal as the first point of contact in relation to Aboriginal art opportunities. 2. Utilise the Masterplan as a driver of opportunity for cultural expression. 3. Identify opportunities for naming of parks, sportsfields, roads or other infrastructure after Arakwal Elders, Arakwal meanings or in Arakwal language.	Opportunities to include the following sorts of things into the plans for the Sandhills skatepark area: <ul style="list-style-type: none"> <li>•Pathway/concrete art and etching</li> <li>•Incorporation of traditional stories into elements of the skate park and recreation precinct</li> <li>•Incorporation of cultural education (translations, explanations, bush tucker tree planting, etc)</li> <li>•Dual naming of the area, tracks and pathways</li> </ul>	

**Arakwal Memorandum of Understanding 2019-2021 Implementation Plan – draft review**

<b>Caring for Country</b>			
<b>Project</b>	<b>Implementation actions</b>	<b>Progress</b>	<b>Timeframe</b>
<b>Sandhills Precinct</b>	1. Arakwal and Council to work in partnership in relation to the Sandhills estate precinct, including: <ul style="list-style-type: none"> <li>a) Establish a protocol for works within the Sandhills precinct</li> <li>b) Regeneration and improvement of the wetlands</li> <li>c) Improved outcomes from drainage issues associated with the site</li> <li>d) Culturally based interpretive signage</li> <li>e) Pedestrian link to proposed cultural centre</li> <li>f) Improved civic and community outcomes.</li> </ul>	Assisting project team for Sandhills skate park and recreation development with consultation with Arakwal and Tweed Byron LALC and the wider Aboriginal community in the Shire. Opportunities for Indigenous inspired design elements, naming and bush regeneration have been identified for future engagement for Aboriginal community members.	

# BYRON SHIRE COUNCIL

## Arakwal Memorandum of Understanding 2019-2021 Implementation Plan – draft review

Social Justice and Community Development			
Project	Implementation actions	Progress	Timeframe
<b>Aboriginal Housing</b>	<ol style="list-style-type: none"> <li>1. Arakwal to provide input into residential strategy to identify the challenges, and priority to see Arakwal people achieving their goal to live on Country.</li> <li>2. Council to work with Arakwal to identify opportunities and levers to achieve additional housing on Country.</li> </ol>	<p>✓ Arakwal provided a submission to the Residential Strategy 8<sup>th</sup> October 2020. <b>More Staff feedback required.</b></p>	
<b>Arakwal Cemetery</b>	<ol style="list-style-type: none"> <li>1. Cemetery report completed.</li> <li>2. Initial beam that acts as a plinth for headstones installed.</li> <li>3. Protocol for burial to be developed by Arakwal.</li> <li>4. Process for Council to be informed by Protocol.</li> <li>5. Council to determine the fees that can be waived so that Arakwal people can afford to be buried on Country.</li> <li>6. Arakwal to undertake planting at the cemetery (grant funded).</li> <li>7. Arakwal to maintain the dedicated Arakwal cemetery.</li> </ol>	<p>✓ Arakwal Cemetery report tabled at the 8 October Arakwal MOU Committee. <b>RESOLUTION</b></p> <p>That the Arakwal MoU Advisory Committee recommends that:</p> <p>Council seeks further information on whether an application to NSW State Government may be supported to waive burial fees for Arakwal members in recognition of their Native Title Rights and, if appropriate, pursues the waiver.</p> <p>Until such time that a permanent pathway is in place, that an application can be submitted by Arakwal Corporation on a case by case basis for fees to be waived for burial costs which can be approved by the General Manager. Minutes adopted by Council meeting November 2020.</p>	2020-2021