

NOTICE OF MEETING



AUDIT, RISK AND IMPROVEMENT COMMITTEE MEETING

An Audit, Risk and Improvement Committee Meeting of Byron Shire Council will be held as follows:

Venue	Conference Room, Station Street, Mullumbimby
Date	Thursday, 11 November 2021
Time	11.30am

Vanessa Adams
Director Corporate and Community Services

I2021/1787
Distributed 04/11/21

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)

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

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2. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

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ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

Report No. 3.1 Minutes from Extraordinary Audit, Risk and Improvement Committee of 21 October 2021

5 **Directorate:** Corporate and Community Services

Report Author: Alexandra Keen, Audit, Risk & Improvement Coordinator

File No: I2021/1693


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RECOMMENDATION:

That the minutes of the Audit, Risk and Improvement Committee (Extraordinary) Meeting held on 21 October 2021 be confirmed.

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Attachments:

1 Minutes 21/10/2021, Audit, Risk and Improvement Committee, I2021/1645 

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BYRON SHIRE COUNCIL

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

3.1

Report

The attachment to this report provides the minutes of the Audit, Risk and Improvement Committee (Extraordinary) Meeting of 21 October 2021.

5 **Report to Council**

The minutes will be reported to Council on 25 November 2021.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 4.1 Directorate Updates

Directorate: Corporate and Community Services

5 **Report Author:** Alexandra Keen, Audit, Risk & Improvement Coordinator

File No: I2021/1488

Summary:

To provide the Audit, Risk and Improvement Committee (ARIC) with an update of Council directorate priorities and projects in 2021-22.

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RECOMMENDATION:

15 **That the ARIC notes the key issues identified for each Directorate within Council for 2021-22.**

Report

5 At the request of ARIC at its meeting on 19 August 2021, Directors will provide a short update to ARIC on the key issues/risks for their directorates for 2021-2022 as well as to ensure that the ARIC is aware of major projects or programs expected to be prioritised for the year ahead.

Key issues

The key issues for each directorate are summarised below:

Corporate Services

Risk area	Commentary
Cyber security	<p>An increasing threat to IT systems which continually evolves.</p> <p>Current improvement work in this space is:</p> <ul style="list-style-type: none"> • Implement the federal government’s Essential 8 information security framework • Develop a standard method for external third-party access to Council’s data. This has been piecemeal to date and we’re looking to standardise to keep things simple and secure.
Major IT system failures due to weather events	<p>Power outages and flooding are typical scenarios.</p> <p>Current improvement work in this area is to:</p> <ul style="list-style-type: none"> • Expand the capacity of the Disaster Recovery function from supporting critical staff only to all staff for general systems access • Improving power resiliency at both the administration office and depot sites.
Council Election and associated Integrated Planning & Reporting activities	<p>The Council Election results in legislated requirements for integrated planning and reporting which must be delivered in a compressed timeframe.</p> <p>This includes:</p> <ul style="list-style-type: none"> • Refreshing the Community Strategic Plan

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	<ul style="list-style-type: none"> • Developing the Councillors' Delivery Plan • Developing an annual Operational Plan and Budget.
Corporate Services Projects	Many of the Corporate Services portfolio projects are identified in the existing risk registers for example: Contract Management Framework project, and delivery of the Customer Service Strategy and Action Plan.
Children's Services	<ul style="list-style-type: none"> • Vaccine mandate for Early Childhood staff – all educators required to have both doses of COVID-19 vaccine by 8 November 2021. The services (Sandhills and Outside School Hours Care) are likely to lose seven staff members due to personal preference not to be vaccinated. This will have implications for staffing levels, associated recruitment (reduced pool of potential staff) and potential decrease in revenue. • Increased competition – potential loss of children to other services (especially dedicated preschool programs which are currently free) and therefore reduced income. • Potential service closures due to staff contracting COVID-19.
Finance	<ul style="list-style-type: none"> • Maintaining control over the Council's budget and ensuring restoration of the \$1million unrestricted cash balance in the COVID-19 environment. • Cashflow management of Council with significant grant expenditures requiring Council expenditure prior to receiving reimbursement. For example, Natural Disaster works where currently \$2.8 million has been expended that Council is carrying. • Finalisation of Long-Term Financial Plan and briefing the new Council on the financial position of Council. • Managing revenue from interest on investments with historic low interest rates and NSW Treasury Corporation investment conditions.

Infrastructure Services

Works – COVID-19 impacts	<ul style="list-style-type: none"> • Access to labour and skilled contractors due to COVID-19 travel restrictions. • Increase in cost and reduced availability of key infrastructure products, as a result of supply chain
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	<p>and manufacturing delays overseas.</p> <ul style="list-style-type: none"> • Work Health and Safety impacts on staff as a result of the prolonged COVID-19 pandemic.
Financial risks	<ul style="list-style-type: none"> • Procurement risks. • Fraud and cash handling risks (<u>note</u>: Pay Parking internal audit has commenced).
Compliance risks	<ul style="list-style-type: none"> • The rapid pace of change of legislated requirements for environmental planning, waste/water treatment plants, landfill presents an ongoing challenge to ensure Council compliance.
Open Spaces	<ul style="list-style-type: none"> • Safety and liability risks due to the increasing number of visitors and increase in local population, as well as more outdoor-based activities occurring (due to COVID-19 restrictions). • Coastal zones and projects will be a priority for 2021-22.
Project risks	<ul style="list-style-type: none"> • Ensuring the continued quality and standard of project delivery, which if not delivered could result in reputational risks and the limited control over external influences (eg COVID-19, legislative changes). • Reliance on grant funding to deliver infrastructure works. • Community expectation of the role of Council to deliver projects.

Sustainable Environment and Economy (SEE)

COVID-19 Impacts – ongoing and long-term	<ul style="list-style-type: none"> • Labour and contractor shortages present an ongoing risk to delivery of SEE's key services, particularly due to COVID-19 travel restrictions and limited affordable housing in Byron Shire to attract staff. • Extended vacancies in positions has resulted in
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	<p>increased pressure and workload of skilled staff, as has the Public Health Order (vaccination requirements). There is a risk of staff fatigue and burnout, and reputational risk, if deliverables are not met.</p> <ul style="list-style-type: none"> • Public Health Order restrictions have also impacted fees/charges/revenue streams in the public health and compliance areas (for example, reduction in outdoor dining revenue due to lockdowns restricting footpath dining).
Sustainable Development	<ul style="list-style-type: none"> • Changes to legislative requirements for developments which impact service delivery. • Policy and planning changes by elected officials also has the potential to impact resourcing priorities within the planning division. • The increase in State Government initiatives and grants impact the workload of the planning team eg Alterations and Additions Grant resulted in a significant increase in Development Applications, and COVID-19 restrictions/affordable housing continue to impact ability to attract skilled staff to assist in processing the applications. • As a result of recent changes to the demographic profile and land ownership within the Byron Shire there is challenge in managing the discord between community expectations, landowner planning expectations, and Council's strategic plans and legislative constraints.
Priority Projects	<p>Priority projects for 2021-22 include:</p> <ul style="list-style-type: none"> • eZone • Mullumbimby Hospital site • Lot 22 • Implementation of town Masterplan projects • Coastal management • Affordable housing.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
Community Objective 5: We have community led decision making which is open and inclusive	5.6: Manage Council's resources sustainably	5.6.7: Develop and embed a proactive risk management culture	5.6.7.4	Coordinate the Audit Risk and Improvement program

Consultation and Engagement

- Director, Corporate and Community Services
- 5 • Director, Infrastructure Services
- Director, Sustainable Environment and Economy

**Report No. 4.2 Audit, Risk and Improvement Committee
Performance Assessment for 2021**

Directorate: Corporate and Community Services

5 **Report Author:** Alexandra Keen, Audit, Risk & Improvement Coordinator

File No: I2021/1589

Summary:

To provide a performance self-assessment of the Audit, Risk and Improvement Committee (ARIC) for 2021 in accordance with clause 10 of its constitution.

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RECOMMENDATION:

15 **That pursuant to Clause 10 of the Constitution of the Audit, Risk and Improvement Committee that the Audit, Risk and Improvement Committee notes the annual report of the Chair to Council.**

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Report

At the ARIC meeting of 19 August 2021, the Chair of ARIC asked members to reflect on the performance of ARIC over the past year, in order to fulfil the requirements of clause 10 of the ARIC constitution.

- 5 The report presented at the meeting on 19 August 2021 (I2021/1297) sought feedback from members on the following:
1. What is effective
 2. What is not working
 3. Where we would like to see more/less involvement of the ARIC
 - 10 4. What should be the standing items (if any)

The ARIC has responsibility for the following matters in accordance with its constitution:

1. Compliance
2. Risk Management
3. Fraud Control
- 15 4. Financial Management
5. Governance
6. Implementation of the Strategic Plan, Delivery Program and Strategies
7. Service Reviews
8. Collection of Performance Data by Council
- 20 9. Internal Audit
10. External Audit.

Key issues

Effectiveness of the ARIC

25 The ARIC been effective at demonstrating that it is a committee of improvement and not a place to find blame. From that point, the ARIC has been positive in its feedback.

ARIC's ability to question internal audit reports has been a positive – it demonstrates that the ARIC is simply not accepting the results of internal audit, but also ensuring that there is accountability.

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Having Councillors as members is extremely important as they can often elaborate on specific concerns they have or have heard from constituents. A fully independent ARIC would appear contrary to the governance procedures of most significant organisations which tend to have Boards of executive and non-executive members.

- 5 As far as skill mix goes, having someone with local government experience is beneficial as is having people with audit and risk backgrounds. The accounting standards are only going to get more complex. Having members with risk and audit backgrounds that can challenge disclosures, findings and reporting can only improve the external and internal audit process.
- 10 Quarterly meetings plus the extraordinary meeting to review the financial statements appears to be working. The meetings should preferably be face-to-face, however, over the last 18 months that has not been possible.

- 15 The oversight of the implementation of the Business Continuity Plan (Plan) has been a significant achievement. This Plan has now been tested and implemented over a series of rain and flood events and during Covid 19. It has been “tweaked” where necessary and will continue to be refined as changes occur within Council, however, its existence has shown the benefit that comes from such a plan when events occur.

Based on the above, ARIC concludes that the ARIC has been effective.

Opportunities for improvement of the ARIC

- 20 ARIC should consider whether it should have a high-level quarterly review of the financial statements versus the budget – not so much at the micro-level, but at the material balances level to monitor where Council is against budget.

- 25 It would be an improvement to have unaudited draft financial statements (GPFS) when drafts are issued to the Auditor-General. The benefit being to have sufficient chance to have some input into what is finally signed off by Council.

- 30 ARIC should consider whether it should be briefed in more detail on significant matters during the audit – rather than as part of the exit meeting. For instance, if it is known there will be contention around RFS assets – it is worthwhile considering earlier rather than later Council and ARIC’s position around whether these meet the definition of an asset under the standards.

Suggested areas for priority consideration of the ARIC for 2022

- 35 IT security and IT controls would be a priority. Additionally, backup and storage of data and business continuity where IT is interrupted should be considered. IT is becoming the weak point of many organisations. It might be worth investigating whether a program such as “meta compliance” is worth implementing. This program sends regular videos short questionnaires to keep staff alert to cyber issues around security. It also registers participation – whereas email updates will often be overlooked.

Other

ARIC would like to thank Council for the opportunity to serve as Committee Members during the period of the current Council.

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Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 5: We have community led decision making which is open and inclusive	5.6	Manage Council's resources sustainably	5.6.7	Develop and embed a proactive risk management culture	5.6.7.5	Coordinate the Audit Risk and Improvement program

Consultation and Engagement

- 10 The Chair of ARIC sought consultation and comment from Committee Members at the 19 August 2021 meeting. Following on from that the Chair has reflected on the comments and his observations during the period of Council.

Report No. 4.3 Update on delegations in place 2020-2021

Directorate: Corporate and Community Services

Report Author: Mila Jones, Governance Coordinator

File No: I2021/1665

5 Summary:


This report is presented to the Audit, Risk and Improvement Committee (ARIC) to assist the Committee in fulfilling its obligations under its Constitution and the Local Government Act 1993.

10 A review of Council's delegations register is conducted by the Governance Coordinator on an on-going basis and reported to the Executive Team every six months and to the ARIC meeting annually in accordance with the Annual Agenda Schedule.

15 RECOMMENDATION:

That the Audit, Risk and Improvement Committee notes this report.

Attachments:

20 1 Byron Shire Council Delegations By Category, E2021/129459 

Report

This report is submitted to assist the Audit, Risk and Improvement Committee in fulfilling its obligations under its Constitution and the Local Government Act 1993.

5 The Constitution provides at part 4 the Committee's duties and responsibilities which include:

4.5 Governance

a) *Review whether appropriate processes and systems are in place for the management and exercise of delegations.*

10 The full list of functions and authorities that have been delegated to Council staff and the Mayor is provided at Attachment 1. This register is reviewed and updated six monthly, and may be amended due to legislative changes, policy changes, resolution or otherwise. There is a total of 230 active functions and authorities in Council's Delegations Register, with the relevant delegations assigned to approximately 300 staff members and the Mayor.

15 The following reviews of Council's delegations were undertaken for the period 2020 to 2021.

Review to 31 December 2020

During this review period, the amended legislation listed below was noted to have had no effect on Council's register of delegations:

- 20 1. Biodiversity Conservation Act 2016
2. Biosecurity Act 2015
3. Children and Young Persons (Care and Protection) Act 1998
4. Companion Animals Act 1998
5. Contaminated Land Management Act 1997
- 25 6. Crown Land Management Act 2016
7. Environmental Planning and Assessment Act 1979
8. Government Information (Public Access) Act 2009
9. Heritage Act 1977
10. Impounding Act 1993
11. Land Acquisition (Just Terms Compensation) Act 1991
- 30 12. Land and Environment Court Act 1979
13. Liquor Act 2007
14. Local Government Act 1993
15. Ombudsman Act 1974
16. Protection of the Environment Operations Act 1997
- 35 17. Protection of the Environment Operations (Waste) Regulation 2014
18. Public Health Act 2010
19. Public Interest Disclosures Act 1994
20. Public Works and Procurement Act 1912
21. Roads Act 1993
- 40 22. Road Rules 2014

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- 23. Road Transport Act 2013
- 24. Rural Fires Act 1997
- 25. State Emergency and Rescue Management Act 1989
- 26. Strata Schemes Development Act 2015
- 5 27. Strata Schemes Management Act 2015
- 28. Swimming Pools Act 1992
- 29. Water Management Act 2000
- 30. Work Health and Safety Act 2011
- 31. Workers Compensation Act 1987
- 10 Repealed legislation

In addition to the above Acts which were amended in the last six months, the following legislation was repealed and replaced. This legislation became effective from 1 July 2020:

- 15 Building Professionals Act 2005: This was repealed and replaced by the Building and Development Certifiers Act 2018 and the Building and Development Certifiers Regulation 2020.

This change resulted in a new delegation (DEG128) being included in Council’s Delegation Register as noted in Table 1 below.

Delegations for consideration

- 20 During this period, the following delegations were considered and amended or added following endorsement by the Executive Team based on the recommendations provided:

Table 1

Delegation	Suggested update / information	Recommendation
<p>Currently applied:</p> <p>DEG005 To approve payment to contractors and creditors.</p>	<p>Include the red text:</p> <p>DEG005 To approve payment to contractors and creditors including the release of any retention money, bank guarantee or bond held by Council as security.</p> <p>The current delegation is held by Council’s Property Maintenance Coordinator and is applicable to the position’s contract purchasing. The position has in the past retained money, held a bank guarantee or a bond for security. In this case the addition would appear to be</p>	<p>Considering the Coordinator position has previously been required to perform the duty specified in red text, and that the text provides clarity, it is recommended that the Executive Team endorses the red text being added to this delegation.</p>

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Delegation	Suggested update / information	Recommendation
	relevant, although rarely used.	
<p>Currently applied:</p> <p>DEG113 In accordance with Council's Tree Preservation Order to approve or refuse applications from residents to prune, top, lop or remove trees either on the applicant's property or Council's property subject to the payment of any required fee.</p>	<p>Amend the delegation to read:</p> <p>DEG113 To approve or refuse an application for a Vegetation Removal Permit under the State environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, or an application under any other applicable Environmental Planning Instrument, to prune, top, lop or remove trees or vegetation either on the applicant's property or Council's property, subject to the payment of any required fee.</p> <p>The current delegation is held by Council's Team Leader Planning Services. Upon consulting with the Team Leader, he believes that the change is warranted.</p>	<p>It is recommended that the Executive Team endorses the change to this delegation.</p>
<p>Currently applied:</p> <p>DEG114 To issue Parking Infringement Notices on behalf of the Council for offences listed in the Fixed Penalty handbook under the Self Enforcing Infringement Notice Scheme and in conjunction and as agreed with the Police Service.</p>	<p>Remove the text shown as red strikethrough:</p> <p>DEG114 To issue Parking Infringement Notices on behalf of the Council for offences listed in the Fixed Penalty handbook under the Self Enforcing Infringement Notice Scheme and in conjunction and as agreed with the Police Service.</p> <p>The current delegation is held by all enforcement staff. Upon consulting with the Manager Public and Environmental Services, the Manager advises that the change is warranted as Council's infringement notices are not issued in conjunction and as agreed with the Police</p>	<p>It is recommended that the Executive Team endorses the change to this delegation.</p>

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Delegation	Suggested update / information	Recommendation
	Service.	
<p>Not currently applied:</p> <p>DEG128 To act as registered certifier in accordance with the Building and Development Certifiers Act 2018</p>	<p>This delegation has not previously been taken up by us. It was brought to the attention of the Governance Coordinator while updating the repealed Act to the new Building and Development Certifiers Act 2018.</p> <p>It may be worth considering the inclusion of this delegation in our Register since:</p> <ul style="list-style-type: none"> - By assigning this delegation to registered certifiers, Council is explicitly authorising those registered to perform certifier duties for Council. - Some regional councils have staff that act as a registered certifier for other local government areas where certifiers are hard to come by. In these areas the councils have tended to want a delegation confirming the further role the employee can undertake, eg certify work not specifically related to their council. - A council may only require some of its employed certifiers to perform this duty, and not others, therefore having to designate this with a delegation. 	<p>Considering the information provided, if solely for the first point, it is recommended that the Executive Team endorse the inclusion of DEG128 and apply it to Council's registered certifiers.</p>
<p>Currently applied:</p> <p>DEG180 Sign Building Information Certificates and Related Correspondence - Environmental Planning</p>	<p>Remove as it is duplicated by DEG182 which is more explanatory than DEG180.</p> <p>DEG182 To approve, refuse and sign all building information certificates and certificates of classifications and</p>	<p>It is recommended that DEG180 be replaced by DEG182.</p>

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Delegation	Suggested update / information	Recommendation
and Assessment Act 1979	<p>certificates of occupancies required under the Local Government Act 1993 the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000 and/or the Building Code of Australia.</p> <p>DEG180 is currently assigned to our Building Services Coordinator and Building Certifiers.</p>	
<p>New Delegation:</p> <p>DEG263 To administer the provisions and functions of the Children’s Guardian Act 2019 and associated Regulation.</p>	<p>This new delegation has been provided on account of the introduction of the Children’s Guardian Act 2019.</p> <p>As this is a new delegation it has not yet been assigned to any children’s services staff.</p> <p>The paramount consideration of this Act is stated as “The safety, welfare and wellbeing of children, including protecting children from child abuse, is the paramount consideration in decision-making under this Act and the regulations and in the operation of this Act and the regulations generally.”</p>	<p>At least until our children’s services function is moved to the co-operative model, it is recommended that the Executive Team delegates this function to the Children Services Manager.</p>

Review to 30 June 2021

During this review period, the amended legislation listed below was noted to have had minimal effect on Council’s register of delegations. Most of the amendments to this legislation arose as a result of the renaming of the Roads and Maritime Service to Transport for NSW. Those pieces of legislation marked below with an * denote changes that were made as a result of the COVID-19 pandemic, and did not have a direct impact on delegations:

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1. Aviation Transport Security Act 2004 (Cth);
2. Biodiversity Conservation Act 2016;*
3. Biosecurity Act 2015;
4. Community Land Management Act 1989;

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5. Crown Land Management Act 2016; *
6. Environmental Planning and Assessment Act 1979; *
7. Fire and Rescue NSW Act 1989;
8. Government Information (Public Access) Act 2009;
- 5 9. Graffiti Control Act 2008;
10. Heavy Vehicle National Law (NSW) 2013;
11. Impounding Act 1993;
12. Liquor Act 2007;
13. Local Government Act 1993;
- 10 14. Protection of the Environment Operations Act 1997; *
15. Protection of the Environment Operations (Clean Air) Regulation 2010;
16. Public Health Act 2010;
17. Public Works and Procurement Act 1912;
18. Radiocommunications Act 1992 (Cth);
- 15 19. Real Property Act 1900;
20. Recreation Vehicles Act 1983;
21. Roads Act 1993;
22. Road Rules 2014;
23. Road Transport Act 2013;
- 20 24. Rural Fires Act 1997;
25. Strata Schemes Management Act 2015;
26. Waste Avoidance and Resource Recovery Act 2001; *
27. Water Management Act 2000; *
28. Workers Compensation Act 1987;
- 25 29. Workplace Injury Management and Workers Compensation Act 1998.

Delegations for consideration

During this period, the following delegations were considered and amended or added following endorsement by the Executive Team based on the recommendations provided:

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Table 2

Delegation	Suggested update / information	Recommendation
<p>New delegation:</p> <p>DEG264 To administer the provisions and functions of the Surveying and Spatial Information Act 2002</p>	<p>The Surveying and Spatial Information Act 2002 makes provision with respect to the functions of the Surveyor-General, the registration of surveyors, the control of surveys and the constitution and functions of the Board of Surveyors and Spatial Information; and for other purposes.</p> <p>The Act includes local government as a public authority. The objects of the Act are shown here.</p> <p>One of this Act's provisions is for entry to land for survey purposes.</p> <p>Note: Holders of this delegation are required to carry a certificate of authority.</p>	<p>Following communication with various managers, the Acting Manager Works has recommended:</p> <p>That the Executive Team endorses the inclusion of delegation DEG264 and applies it to the positions of Engineering Surveyor, Technical Officer Survey and Design, Infrastructure Planning Coordinator (and by default the Manager Works and Director Infrastructure Services).</p>
<p>Currently applied:</p> <p>DEG060 Negotiate and Enter into Leases, Licences, and other Legal Transactions</p>	<p>Include the red text:</p> <p>DEG060 <i>Negotiate and Enter into Leases, Licences, Memorandum of Understanding and other Legal Transactions</i></p> <p><i>Authority to negotiate and enter into any form of Lease, Licence, Memorandum of Understanding or other transaction for use of land or assets, subject to compliance with the Local Government Act 1993, and subject to the General Manager and/or CEO making reasonable enquiries into the appropriate payments to be made to</i></p>	<p>It is recommended that the Executive Team endorses the red text being added to this delegation.</p>

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

4.3

	<p><i>Council and consulting with Council's solicitor to determine the appropriate format of the legal agreement.</i></p> <p>The current delegation is held by Council's Legal Counsel and the Leasing Coordinator.</p>	
<p>Currently applied:</p> <p>DEG083 Issue Notices of Intention to Issue Orders and Orders under the Local Government Act 1993</p>	<p>Remove text shown as red strikethrough:</p> <p><i>Issue Notices of Intention to Issue Orders under section 124 and section 132 the Local Government Act 1993 for failing to manage excessive vegetation</i></p> <p>Section 124 is broader than vegetation.</p> <p>This delegation is held by various Sustainable Environment officers and Public and Environmental Services officers</p>	<p>It is recommended that the Executive Team endorses the red text being removed from this delegation as indicated.</p>

Key issues

5 The delegations assigned to the Mayor and staff are based on the position they hold in Council and the tasks they are required to perform in that position. Staff are at risk of undertaking their roles illegally or not in accordance with Council's resolutions or policies, when acting outside their delegations or by having incorrect delegations assigned to them.

To increase understanding and acceptance of delegations, the Mayor and staff are required to acknowledge each function and authority either electronically within the Delegations Register or in writing. This is done upon commencement of their role or when delegations change.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 5: We have community led decision making which is open and inclusive	5.2	Create a culture of trust with the community by being open, genuine and transparent	5.2.3	Provide access to publicly available corporate registers	5.2.3.1	Maintain, publish and report on relevant registers including delegations, Councillors and designated staff disclosures of interests, Councillor and staff gifts and benefits, and staff secondary employment

Strategic Risk Register

5 Delegations are listed as a control measure in Council’s Strategic Risk Register with regard to corporate compliance risk:

Risk Title	Risk Description	Causes	Existing Controls
Corporate Compliance	Council does not implement adequate processes and controls to ensure corporate compliance across the organisation and prevent fraud and corruption leading to significant illegal, fraudulent or corrupt activity and/or breach of legislative or regulatory, requirements resulting in penalties/sanctions, legal disputes or litigation and financial loss	Inadequate process and controls, Lack of staff awareness and training, Inadequate auditing/monitoring of assets, Unauthorised/in appropriate release of confidential information, Poor compliance culture, Fraudulent intent	Legislative Compliance Framework, Code of Conduct, Fraud and Corruption Control Policy, Internal Reporting Policy, Delegations, Disability Inclusion Action planning, IT Standards, Internal/external audit, Security systems (eg CCTV) and monitoring systems, Staff induction program and refresher training, In house legal team, Crime and cyber protection insurance

Recent Resolutions

Not applicable

Legal/Statutory/Policy Considerations

As identified in the tables within this report.

5 Financial Considerations

There are no financial considerations.

Consultation and Engagement

Consultation is held with relevant managers and the Executive Team prior to making any amendments to Council's Delegations Register.

10

Report No. 4.4 Status of Council Policies 2020-2021

Directorate: Corporate and Community Services

Report Author: Mila Jones, Governance Coordinator

File No: I2021/1666

5 **Summary:**

This report is submitted to the Audit, Risk and Improvement Committee to assist the Committee in fulfilling its obligations under its Constitution and the Local Government Act 1993.

10 An important component of public sector governance is establishing key policies and ensuring they are available, regularly updated and monitored for compliance.


An annual review of Council's policies is conducted by the Governance Coordinator and coordinated with relevant document development officers. This report is submitted to the ARIC annually in accordance with the Annual Agenda Schedule.

15

RECOMMENDATION:

That the Audit, Risk and Improvement Committee notes the status of Council's policies as provided in this report.

20 **Attachments:**

1 Status of Policies as at 30 June 2021, E2021/128503 

Report

This report is submitted to assist the Audit, Risk and Improvement Committee in fulfilling its obligations under its Constitution and the Local Government Act 1993.

5 The Constitution provides at part 4 the Committee’s duties and responsibilities which include:

4.1 Compliance

a) *Review whether management has in place relevant policies and procedures, and these are periodically reviewed and updated.*

10 In response to a previous internal audit recommendation (2017 Internal Audit of Corporate Compliance and Policy Management), Council has improved its commitment to and resourcing of, the coordination, review and maintenance of Council’s policies, to support ongoing improvement.

Policy status as at 30 June 2021

15 As at 30 June 2021 Council had 105 adopted Council policies which are published on Council’s website.

The status of the 105 policies was:

Status as at 30/06/21	Number	Percentage
Current	77	80%
Submitted to Council	5	5%
Review Initiated	11	11%
Overdue for Review	4	4%

It was also determined in 2020/21, that a further 8 policies (not included in the table above) were redundant and these were endorsed for repeal by Council.

20 These figures show a considerable increase in the currency of Council’s policies compared to previous years. At 30 October 2020 for example, 50% of policies were current and 29.8% overdue. On 30 June 2019 only 27.4% of policies were current. These figures indicate a continuing positive trend.

Next steps – Review 2021-2022

The policy review for 2021 -2022 has commenced. Staff continue to review Council policies, with the Governance team providing the processes and framework to support currency across the organisation.

- 5 A rolling four year policy review timetable has been developed to assist the review process. It has been included in this report at Attachment 1. This timetable is subject to change where updates to legislation may require certain policies to be reviewed sooner than anticipated.

Strategic Considerations

10 **Community Strategic Plan and Operational Plan**

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 5: We have community led decision making which is open and inclusive	5.2	Create a culture of trust with the community by being open, genuine and transparent	5.2.3	Provide access to publicly available corporate registers	5.2.3.2	Review, update and publish Council policies online and report on the status of Council's policy register
Community Objective 5: We have community led decision making which is open and inclusive	5.2	Create a culture of trust with the community by being open, genuine and transparent	5.2.1	Provide timely, accessible and accurate information to the community	5.2.1.6	Review and update Council business templates for consistency and accessibility

Legal/Statutory/Policy Considerations

Councils have a number of statutory policies that it must adopt, the others are optional. These optional policies are useful to:

- 15
- reflect a council's key issues and responsibilities
 - guide staff and ensure consistency
 - clearly inform the public of a council's commitments

Not keeping abreast of the most recent developments in legislative requirements, and the community's and Council's position on certain matters, undermines confidence in Council's

decision making process. This in turn, may have an adverse impact on Council's reputation.

Additionally, the risk of maintaining outdated policy positions is that persons may form the incorrect view that certain activities are still acceptable or legal.

5 Financial Considerations

There are no financial implications.

Consultation and Engagement

Manager Corporate Services

Governance Coordinator

10 Managers

Document Development Officers

Executive Team

Council

Public via exhibition periods

15 *Note: All Council Policies are available on Council's website at [Policies - Byron Shire Council \(nsw.gov.au\)](https://www.byrongov.nsw.gov.au/policies)*

Report No. 4.5 Proposed Submission to the Office of Local Government: Draft Risk Management and Internal Audit for Local Councils in NSW Guidelines

5 **Directorate:** Corporate and Community Services

Report Author: Alexandra Keen, Audit, Risk & Improvement Coordinator

File No: I2021/1763


Summary:

10 To provide the Audit, Risk and Improvement Committee (ARIC) with a draft submission from Byron Shire Council to the Office of Local Government on the draft Risk Management and Internal Audit for Local Councils in NSW Guidelines (Guidelines).

15 **RECOMMENDATION:**

That the ARIC endorses the submission at Attachment 1 (E2021/131297) for consideration and approval by Byron Shire Council at its meeting on 25 November 2021.

Attachments:

20 1 Submission to the OLG: Draft Risk Management and Internal Audit Guidelines 2021, E2021/131297 

Report

5 The ARIC supported the development of a submission from Byron Shire Council to the Office of Local Government NSW on its draft Guidelines at its extraordinary meeting on 21 October 2021. The Audit, Risk and Improvement Coordinator has prepared a draft submission (Attachment 1) based on the discussion at the ARIC meeting, the proposed issues for inclusion which were circulated to ARIC members ahead of that meeting, and subsequent feedback from ARIC members.

Councils have until close of business, 26 November 2021, to provide feedback on the draft Guidelines.

10 **Next steps**

Endorsement of the draft submission is sought from the ARIC, so that the draft submission can be progressed for approval by Byron Shire Council at the Council meeting on 25 November 2021.

Strategic Considerations

15 **Community Strategic Plan and Operational Plan**

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
Community Objective 5: We have community led decision making which is open and inclusive	5.6: Manage Council's resources sustainably	5.6.7: Develop and embed a proactive risk management culture	5.6.7.4	Coordinate the Audit Risk and Improvement program
Community Objective 5: We have community led decision making which is open and inclusive	5.6: Manage Council's resources sustainably	5.6.7: Develop and embed a proactive risk management culture	5.6.7.1	Evaluate and improve risk management framework

Financial Considerations

20 The Guidelines in their current form have the potential to impose a significant increase in financial costs to Council associated with member fees, resourcing of the ARIC (including the requirement for a budget or process to obtain external expertise when required), and to meet increased reporting requirements.

Consultation and Engagement

ARIC members, General Manager, Director, Corporate and Community Services, Manager Corporate Services.

**Report No. 4.6 2021/22 Operational Plan Report - Q1 -
September 2021**

Directorate: Corporate and Community Services

5 **Report Author:** Heather Sills, Corporate Planning and Improvement
Coordinator

File No: I2021/1764

Summary:

Summary:

10 Council's Operational Plan outlines its projects and activities to achieve the commitments
in its four-year Delivery Program. In accordance with the *Local Government Act 1993*
progress reports must be provided at least every six months.

15 The proposed amendments to the Local Government Act suggest increased involvement
of ARIC in the oversight of Council's Integrated Planning and Reporting practices. In
preparation for this requirement and as good practice, ARIC requested a regular quarterly
report be provided for information, summarising Council's progress towards achieving the
annual activities contained in the 2021/22 Operational Plan.



This report is the first quarterly progress report for the period 1 July to 30 September 2021.

20

RECOMMENDATION:

1. **That ARIC notes the 2021/22 Operational Plan Quarter 1 Report (#E2021/132378) and the proposed amendments (#E2021/120213) being reported to Council at the 25 November Ordinary Meeting.**

25 **Attachments:**

- 1 Operational Plan 2021/22 - Quarterly Report - Q1 - 1 July to 30 September 2021, E2021/132378 
 - 2 Quarter 1 Report - Proposed Amendments to Operational Plan 2021/22, E2021/120213 
- 30

Report

5 The Delivery Program and Operational Plan are two key corporate documents that establish Council's goals and priorities for the term of the Council and the current financial year. The Delivery Program is supported by the annual Operational Plan, which identifies the individual projects and activities that will be undertaken for the year to achieve the commitments made in the Delivery Program.

The General Manager is required to provide six monthly progress reports to the Council on the progress toward the delivery program, in accordance with the *Local Government Act 1993* s404 which states:

10 *"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**"*

15 While the requirement is six monthly reporting, the Council is provided with a Quarterly Report on the activities in the Operational Plan, to promote effective and efficient reporting and decision making.

Strategic Objectives

The report (#E2021/4352) is structured by the five 'Our Byron, Our Future' Community Strategic Plan 2028 objectives:

- 20
- Community Objective 1: We have infrastructure, transport and services which meet our expectations
 - Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community
 - Community Objective 3: We protect and enhance our natural environment
 - 25 • Community Objective 4: We manage growth and change responsibly
 - Community Objective 5: We have community led decision making which is open and inclusive

Report Details

30 The report details Council's progress towards achieving the activities in the 2020/21 Operational Plan. It includes a status update on progress and notes any highlights or exceptions where actions may be delayed or reprioritised.

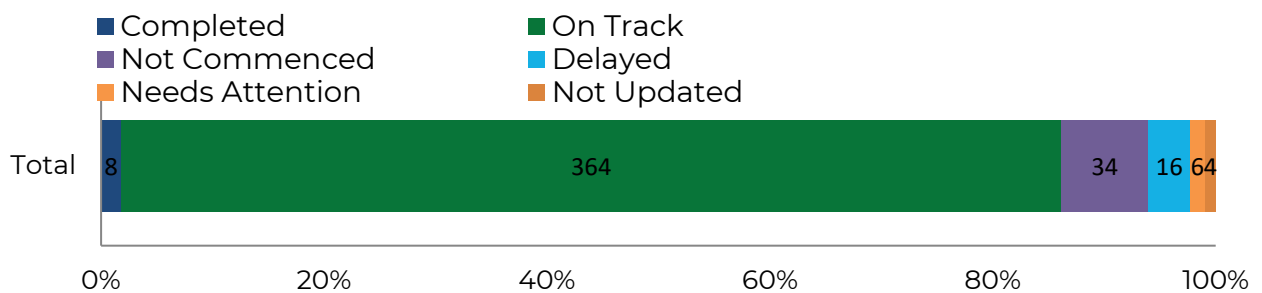
Each section notes the progress against the activities including:

- 35
- Activity
 - Responsible directorate
 - Measure
 - Timeframe
 - Comments
 - Status

- On track – indicates that an activity is currently on track, taking into account the timeframe, measures, and budget
- Delayed – indicates that an activity is progressing, but not currently on track with the timeframe, measures, or budget
- 5 ○ Needs attention – indicates that the scope of the activity may need to be reviewed in line with constraints such as timeframe/budget
- Not commenced – the activity is not due to have commenced or has not commenced
- 10 ○ Completed – the activity has been completed in accordance with the prescribed measures

Summary of Activities

The chart below provides a summary of the status of the Operational Plan activities as at 30 September 2021.



15 Proposed Amendments

This is the first quarterly report of the 2021/22 Operational Plan. A number of required amendments have been identified and nine new activities proposed. These are provided in attachment 2 (E2021/120213) for Council’s endorsement.

Strategic Considerations

20 Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
Community Objective 5: We have community led decision making which is open and inclusive	5.2: Create a culture of trust with the community by being open, genuine and transparent	5.2.1: Provide timely, accessible and accurate information to the community	5.2.1.1	Review Operational Plan annually

Legal/Statutory/Policy Considerations

5 The General Manager is required under Section 404 (5) of the *Local Government Act 1993* to provide regular progress reports as to the Council's progress with respect to the principal activities detailed in the Delivery Program/Operational Plan. Progress reports must be provided at least every six months.

Financial Considerations

Council's financial performance for the reporting period is addressed in the Quarterly Budget Review, which is subject to a separate report included in this business paper.

10 Consultation and Engagement

The development of the Delivery Program was informed by extensive engagement around the Community Strategic Plan and specifically a Community Solutions Panel on infrastructure priorities.

15 The progress reports on the Operational Plan and Delivery Program are published on Council's website as a way of ensuring transparency around how Council is progressing activities and actions.

Report No. 5.1 CONFIDENTIAL - Quarter 1 - 2021-22 Internal Audit Report

5 **Directorate:** Corporate and Community Services
Report Author: Alexandra Keen, Audit, Risk & Improvement Coordinator
File No: I2021/1677

Summary:

10 This report presents the Internal Audit Status Report for Quarter 1 2021-22. No new internal audits were completed during Quarter 1 2021-22 due to the internal audit planning process for the next three years.

15 The new internal auditor, Grant Thornton, will provide its first internal audit report on Pay Parking at the first meeting of the Audit, Risk and Improvement Committee (ARIC) meeting in 2022. Grant Thornton will also provide a review of internal audit action status tracking at the first meeting next year.

Since the August 2021 ARIC meeting four internal audit recommendations have been completed and/or endorsed by the Executive Team for closure.

RECOMMENDATION:

- 20 1. **That pursuant to Section 10A(2)(d)i and (f) of the Local Government Act, 1993, Council resolve to move into Confidential Session to discuss the report Quarter 1 - 2021-22 Internal Audit Report.**
2. **That the reasons for closing the meeting to the public to consider this item be that the report contains:**
- 25 a) **commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it**
 b) **details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property**
- 30 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:**

nature and content of internal audit report is for operational purposes only.

Attachments:

BYRON SHIRE COUNCIL

CONFIDENTIAL REPORTS - CORPORATE AND COMMUNITY SERVICES

5.1

1 Internal Audit Status Report - Quarter 1 2021-22, E2021/123033

Report No. 5.2 CONFIDENTIAL - Quarter 1 - 2021-22 Risk Report

Directorate: Corporate and Community Services

Report Author: Alexandra Keen, Audit, Risk & Improvement Coordinator

File No: I2021/1676

5 Summary:

This report presents an update on Council's risk registers for the quarter ending 30 September 2021.

RECOMMENDATION:

- 10 1. **That pursuant to Section 10A(2)(f) of the Local Government Act, 1993, Council resolve to move into Confidential Session to discuss the report Quarter 1 - 2021-22 Risk Report.**
2. **That the reasons for closing the meeting to the public to consider this item be that the report contains:**
- 15 a) **details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property**
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:**

Risk management

20 **Attachments:**

- 1 Strategic and Operational Risk Report Q1 2021-22, E2021/123009

Report No. 5.3 CONFIDENTIAL - Cyber Security and IT System Outages Quarterly Update

Directorate: Corporate and Community Services

Report Author: Colin Baker, Manager Business Systems and Technology

5 **File No:** I2021/1761

Summary:

This report provides a summary of cyber security incidents and IT service outages during the period from 1 July 2021 to 30 September 2021.

10 One IT system outage was recorded during the reporting period; Council's online mapping web portal was taken offline for a day to address a cyber security vulnerability.

A number of cyber security events occurred, none resulting in data loss or compromise of data integrity.

15 **RECOMMENDATION:**

1. **That pursuant to Section 10A(2)(f) of the Local Government Act, 1993, Council resolve to move into Confidential Session to discuss the report Cyber Security and IT System Outages Quarterly Update.**
- 20 2. **That the reasons for closing the meeting to the public to consider this item be that the report contains:**
 - a) **details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property**
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:**
- 25 **Exposes security risk and vulnerabilities that could assist unauthorised threats to Council's information and systems**

**Report No. 5.4 CONFIDENTIAL - 2021 Year End Audit
Management Letter**

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

5 **File No:** I2021/1774

Summary:

10 Council has received the 2021 Year End Audit Management Letter from the External Auditor, the Audit Office of NSW, relating to the 2020/2021 financial year audit. The Year End Audit Management Letter details three items for management to consider and provides recommendations to improve internal controls and financial reporting processes.

Each of the audit matters raised in the 2021 Year End Audit Management Letter has been identified in this report for consideration by Council and the Audit, Risk and Improvement Advisory Committee.

15 **RECOMMENDATION:**

1. **That pursuant to Section 10A(2)(f) of the Local Government Act, 1993, Council resolve to move into Confidential Session to discuss the report 2021 Year End Audit Management Letter.**
- 20 2. **That the reasons for closing the meeting to the public to consider this item be that the report contains:**
 - a) **details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property**
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:**

25 **Nature and content of audit reports is for operational purposes and report details information about Council systems, controls and processes.**

Attachments:

- 30 1 Confidential - 2021 Year End Audit Management Letter received from the Audit Office of NSW including Management comments, E2021/134818

**Report No. 5.5 CONFIDENTIAL - External Audit Actions Quarter
1 2021-2022 Update**

Directorate: Corporate and Community Services

Report Author: James Brickley, Manager Finance

5 **File No:** I2021/1775

Summary:

10 This report provides and update on the audit matters raised in the 2020 External Audit Year End Management Letter, the 2020 External Audit Interim Management Letter and the 2019 External Audit Year End Management Letter for the quarter ending 30 September 2021.

Council was not issued with a 2021 External Audit Interim Management Letter and the 2021 Year End Audit Management Letter recently received is subject to another report to this Meeting of the Audit, Risk and Improvement Committee.

15 **RECOMMENDATION:**

1. **That pursuant to Section 10A(2)(f) of the Local Government Act, 1993, Council resolve to move into Confidential Session to discuss the report External Audit Actions Quarter 1 2021-2022 Update.**
- 20 2. **That the reasons for closing the meeting to the public to consider this item be that the report contains:**
 - a) **details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property**
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:**

25 **Nature and content of audit reports is for operational purposes and report details information about Council systems, controls and processes.**

Attachments:

- 30 1 Confidential - External Audit Activity Report Quarter 1 2021-2022 reported to ARIC 11 November 2021, E2021/134994