



Request for Tender

Multi Use of Rail Corridor

Council's Tender No	T2017-XXX	
Deadline for the lodgement of Tenders	2:00 p.m. on TBC	
Method of Addressing Tenders	Tenders should be addressed: T2017-XXX Multi Use of Rail Corridor	
Submit tenders to	The Tender Box Byron Shire Council 70-90 Station Street Mullumbimby OR www.tenderlink.com/byron	
Council's Nominated Contact Person	Name	TBC
	Telephone No	TBC
	E-mail address	TBC
Tender Briefing/Site Visit	Date	TBC
	Location	TBC
	Mandatory?	TBC
	RSVP	By close of business TBC to Contact Person nominated above

Table of Contents

Part 1 - Section 1	3
General information and Conditions of Tendering	3
1 Summary of contract requirements	3
2 Tender documents	3
3 Definitions & interpretation	3
4 How to prepare your tender	4
5 Compliance	5
6 No offer	5
7 Nominated Contact	5
8 Company Status	5
9 Tender Briefing	5
10 Site Inspection	5
11 Selection Criteria	6
12 Risk assessment	7
13 Tenderer to inform itself	7
14 Variation of this Request for Tender or any Tender	8
15 Tender price	8
16 Method of execution of Offer Form	9
17 Alternative Proposals	10
18 Use of Subcontractors	10
19 Offer to Council	10
20 Lodgement requirements	10
21 Consequences of incorrect lodgement	11
22 Late Tenders	11
23 Tender Opening	11
24 Consideration and acceptance of Tenders	12
25 Confidentiality	13
26 Privacy notification	13
27 Ownership of Tenders	14
28 Costs of Tender	14
29 Standard of behaviour	14
30 Rights of unsuccessful Tenderers	15
31 Publicity	15
32 Tenderer Acknowledgement	16
Part 2 - Section 1	17
Statement of Requirements	17
Part 2 - Section 2	35
The Contract	35
Formal Instrument of Agreement - Annexure 1 Conditions of Contract	77
Formal Instrument of Agreement - Annexure 2 Request for Tender	78
Formal Instrument of Agreement - Annexure 3 Addendums (if any)	79
Formal Instrument of Agreement - Annexure 4 Tender	80
Part 3	81
Tender Response Schedules	81

Part 1 - Section 1

General information and Conditions of Tendering

1 Summary of contract requirements

Byron Shire Council is seeking tenders from suitably qualified and experienced parties for the research and investigation into the Multi Use of the Rail Corridors within Byron Shire.

A full description of the Requirements are set out in Part 2 of this Request for Tender.

2 Tender documents

2.1 Parts comprising this Request for Tender

This Request for Tender is comprised of the following parts:

- (1) Part 1 – which includes the details of the Request for Tender and the Conditions of the tender process (read and keep this Part).
- (2) Part 2 – which includes the Statement of Requirements and the Conditions of Contract (read and keep this Part).
- (3) Part 3 – which includes the forms and details of the information you are required to lodge with your Tender (complete and return this Part as part of your Tender).

2.2 Inconsistencies and Omissions

Tenderers must promptly advise Council in writing of any inconsistencies and omissions they discover in the RFT.

3 Definitions & interpretation

3.1 Definitions

Unless the context requires otherwise the following terms used in this Request for Tender have the meanings ascribed to them as set out below:

Attachments	means the documents you attach to the Offer Form as part of your Tender.
Compliance Criteria	means the Compliance Criteria (if any) set out in Clause 11.3 of Part 1 Section 1
Conditions	means the conditions set out in Section 1 of Part 1.
Conforming Tender	means a Tender that complies with the Conditions.
Contract	means the contract that will be formed between Council and the Successful Tenderer in accordance with the Conditions.
Deadline	means the deadline for lodgement of Tenders as set out on the Cover Page of this Request for Tender.
Nominated Contact	means Council's nominated contact person with respect to this Request for Tender, the details of which are set out on the Cover Page of this Request for Tender.

Non-Conforming Tender	means a Tender which: <ol style="list-style-type: none"> (1) does not comply with one (1) or more of the requirements specified in the Conditions; or (2) contains any qualifications, condition or other indication that the Tenderer is not willing to perform the Contract in strict accordance with the terms of the Contract.
Notice of Acceptance	means the notice of acceptance set out in Appendix D.
Offer Form	the Offer Form set out in Schedule 3 of Part 2.
Qualitative Criteria	means the Qualitative Criteria set out in Clause 11.4 of Part 1 of Section 1
Requirements	the goods and/or services required to be provided under the Contract and as set out in this Request for Tender.
Selection Criteria	the criteria used by Council in evaluating Tenders and includes the Compliance Criteria and the Qualitative Criteria.
Specification	means the statement of the Requirements set out in Section 1 of Part 2.
Successful Tenderer	means the Tenderer whose Tender is accepted by Council.
Tender	means a tender lodged in response to this Request for Tender.
Tenderer	means someone who has or intends to lodge a Tender with Council.

3.2 Interpretation

In this Request for Tender:

- (1) unless the context otherwise requires, the singular includes the plural and vice versa and words importing persons include partnerships and corporations and vice versa; and
- (2) a reference to an Act includes all regulations, proclamations, instruments, policies and codes made under that Act.

4 How to prepare your tender

You must prepare your Tender in accordance with the Conditions. In this regard you should:

- (1) carefully read all parts of this Request for Tender;
- (2) ensure you understand the Requirements;
- (3) complete and return the Offer Form in all respects and include all Attachments;
- (4) make sure you have signed the Offer Form and responded to all of the Selection Criteria; and
- (5) lodge your Tender before the Deadline.

5 Compliance

5.1 Failure to comply

Council may refuse to consider any Tender which does not comply with these Conditions.

5.2 Compliance with policies and codes

All Tenderers must comply with the following policies and codes with respect to the tender process:

- (1) Council's Business Ethics Policy <http://www.byron.nsw.gov.au/publications/business-ethics-policy>
- (2) Council's adopted Code of Conduct <http://www.byron.nsw.gov.au/publications/code-of-conduct>

6 No offer

Nothing in this Request for Tender:

- (1) is an offer by Council to enter into an agreement with any Tenderer; or
- (2) requires Council to accept any Tender.

7 Nominated Contact

7.1 Details

The details of the Nominated Contact are set out on the Cover Page of this Request for Tender.

7.2 Enquiries

All enquiries in relation to this Request for Tender or the Requirements must be directed to the Nominated Contact and no other person.

All questions should be submitted in writing using BSC's electronic tendering system.

Council may choose to convey responses to submitted questions and queries to all tenderers so that each is equally informed.

8 Company Status

It is mandatory that a Tenderer:

- (1) is a legal entity; and
- (2) has a registered Australian Business Number (ABN).

9 Tender Briefing

Details of any Tender Briefing are provided on the Cover Page.

A maximum of two representatives from each tendering company is permitted to attend the tender briefing.

Please confirm your attendance in accordance with the details provided on the Cover Page.

10 Site Inspection

There is no site inspection with respect to this Tender.

11 Selection Criteria

11.1 Assessment by Council

All Tenders considered by Council will be assessed having regard to the Compliance Criteria and the Qualitative Criteria, as well as any other matter Council determines to be relevant. Council will determine the weight given to each of the Qualitative Criteria in its absolute discretion and may also take other matters into consideration when assessing Tenders.

11.2 Basis of selection of Successful Tender

Subject to Council's right to decline to accept any of the Tenders, Council will accept the Tender which, having regard to all the circumstances, appears to be the most advantageous.

11.3 Compliance Criteria

Any Compliance Criteria will not be point scored and instead each Tender will be assessed on a Yes/No basis as to whether the Compliance Criteria is satisfactorily met.

An assessment of "No" against any one (1) or more of the Compliance Criteria may eliminate the Tender from consideration.

The Compliance Criteria are:

- Tenderer must have a valid Australian Business Number;
- All tender schedules must be completed;
- Offer substantially conforms to the Conditions of Contract;
- Offer substantially conforms to the Statement of Requirements;
- Financial capacity to undertake the contract
- Professional Indemnity Insurance of at least \$10 million;
- Workers compensation insurance for all employees.

11.4 Qualitative Criteria

It is essential that Tenderers address each Qualitative Criterion.

Failure to provide the information required in any Qualitative Criterion may eliminate the Tender from consideration.

The Qualitative Criteria are:

- Experience and capability of staff;
- Previous track record of providing the deliverables;
- Demonstrated ability to carry out the work and manage the contract;
- Financial capacity to undertake the contract; and
- Price.

These criteria are not in any particular order nor do they necessarily carry equal weighting.

Council may request additional information from tenderers to assist further evaluation of tenders.

12 Risk assessment

12.1 Council may access information

Council may have access to and give consideration to:

- (1) any risk assessment undertaken by Dun and Bradstreet; or any other credit rating agency; and
- (2) any information produced by the Bank, financial institution, or accountant of a Tenderer,

so as to assess the relevant Tender and may consider such materials as tools when assessing that Tender.

12.2 Tenderer's consent

In submitting a Tender, a Tenderer consents to Council accessing this risk assessment and information, including any personal information it contains.

13 Tenderer to inform itself

13.1 Council has taken all reasonable care

Council has taken all reasonable care to ensure that all information contained in the tender documents is accurate.

13.2 Obligation to review Tender documentation

Prior to submitting a Tender, Tenderers are required to familiarise themselves with:

- (1) the terms of this Request for Tender (including any attachment to it such as the Contract); and
- (2) any other documentation or information to which they will need to have regard when satisfying the Requirements if its Tender is successful,

13.3 Tenderer to make own assessment

Tenderers must make an independent assessment of the information contained in this Request for Tender and the Requirements, including obtaining any professional advice they deem necessary when making that assessment.

By lodging a Tender, Tenderers will be deemed to have:

- (1) examined this Request for Tender and any other information provided to the Tenderer during the tender process;
- (2) examined all information relevant to the risks, contingencies, and other circumstances having an effect on their Tender;
- (3) satisfied themselves as to the correctness and sufficiency of their Tenders; and
- (4) satisfied themselves they have a complete copy of this Request for Tender.

13.4 No representation or warranty

Council makes no representation or warranty as to the adequacy, accuracy, reasonableness or completeness of the information contained in this Request for Tender, or provided by Council during the tender process.

13.5 Council not liable

Council will not be liable for any loss or damage arising as a result of reliance on the information it provides in this Request for Tender or otherwise during the tender process.

14 Variation of this Request for Tender or any Tender

14.1 Request for Tender

Council may amend or supplement this Request for Tender at any time before the Deadline by issuing Addenda to all Tenderers who have registered their interest in the tender process with Council at that time.

Upon the issue of any Addenda, this Request for Tender will be varied in accordance with that Addenda and a reference to this Request for Tender is a reference to this Request for Tender as varied.

14.2 A Tender May be Varied

- (1) Tenders may be varied:
 - (a) for the purpose of:
 - (i) providing Council with further information by way of clarification or explanation; or
 - (ii) correcting a mistake or anomaly.
 - (b) either:
 - (i) at the request of the Council, or
 - (ii) with the consent of Council, at the request of the Tenderer, but only if in the circumstances it appears to Council reasonable to allow the Tenderer to provide the information or correct the mistake or anomaly.
- (2) If a Tender is varied, Council will provide all other Tenderers whose Tenders have the same or similar characteristics as the Tender that was varied with the opportunity to vary their Tenders in a similar way.
- (3) Council will not consider a variation sought to be made under this clause 14 if the variation would substantially alter the original Tender.

15 Tender price

15.1 Tendered price must cover all costs

The price included in a Tender must be the whole price (including GST) that Council will be required to pay pursuant to the Contract and must include all costs associated with the Contract including:

- (1) the cost of any consultants the Successful Tenderer will need to engage to satisfy the Requirements;
- (2) the cost of any labour or materials the Successful Tenderer will need to obtain to satisfy the Requirements; and
- (3) all applicable taxes and levies (such as long service leave).

16 Method of execution of Offer Form

16.1 Form of execution – Corporations with seal

If the Tenderer is a corporation and is required to execute documents under seal, the corporation must execute the Offer Form under seal in accordance with section 127(2) of the *Corporations Act 2001* (Cth) by:

- (1) affixing the Common Seal of the corporation; and
- (2) if the corporation has only one (1) officer, ensuring that officer signs the Offer Form; or
- (3) if the corporation has two (2) or more officers, ensuring that at least two (2) officers of the corporation duly authorised by the corporation to do so, sign the Offer Form.

16.2 Form of execution – Corporations without seal

If the Tenderer is a corporation and is not required to execute documents under seal, the corporation must execute the Offer Form in accordance with section 127(1) of the *Corporations Act 2001* (Cth) by:

- (1) if the corporation has only one (1) officer, ensuring that officer signs the Offer Form; or
- (2) if the corporation has two (2) or more officers, ensuring that at least two (2) officers of the corporation duly authorised by the corporation to do so, sign the Offer Form.

16.3 Form of execution – Individual

If the Tenderer is an individual, the Tenderer must sign the Offer Form in the presence of a witness who is over the age of eighteen (18) and who must also sign the Offer Form.

16.4 Form of Execution – Partnership

If the Tenderer is a partnership, a partner of the partnership who is authorised to bind the partnership in accordance with s5 of the *Partnership Act 1892* (NSW) must sign the Offer Form in the presence of a witness who is over the age of eighteen (18) and who must also sign the Offer Form.

16.5 Requirements for execution

Any person who signs the Offer Form must write:

- (1) their full name; and
- (2) the capacity in which they are executing the Offer Form,

in the appropriate space on the Offer Form.

17 Alternative Proposals

- 17.1** Tenderers may submit alternative tenders if they feel it may offer the Council additional benefits whilst still complying with the requirement. Council reserves the right to accept or reject any proposed alternative either wholly or in part.
- 17.2** Alternative Proposals must be clearly marked as such.

18 Use of Subcontractors

- 18.1** Where a Tenderer proposes to provide any part of the Deliverables using resources from other organisations other than the Tenderer itself, substantial information relating to the contractual arrangements for such resources must be detailed in the Tender, together with information on the relevant experience of other such organisation.
- 18.2** Subcontractors will be required to satisfy the terms and conditions of these Tender documents and will be required as a condition of their acceptance by Council to comply with the Conditions of Contract and Statement of Requirements.
- 18.3** Tenderers will be required to ensure that sub-contractors satisfy the terms and conditions of the tender documents and to include all relevant Conditions of Contract and Statement of Requirements in subcontracts.

19 Offer to Council

19.1 Offer

Tenders submitted in response to this RFT are to remain valid for a period of 120 days from the RFT closing date.

19.2 Withdrawal of Tender

Tenders may be withdrawn at any time prior to the RFT closing date and time by written notice to Council.

20 Lodgement requirements

Tenders must be submitted to the Council in one of the following manners:

20.1 Hardcopy Tenders

Hardcopy tenders are to be submitted in accordance with the following clauses:

- (a) The tender must be placed in the Tender Box located at Council's Administration Building located at 70-80 Station Street Mullumbimby NSW 2482.
- (b) Submitted in a sealed envelope in the manner set out as "Method of Addressing Tenders" on the cover page of this RFT.
- (c) One original (marked "ORIGINAL") and two copies (marked "COPY") of the tender document must be submitted. Tenders should not be bound.
- (d) Tenders must be in the format requested in this tender document.
- (e) If more than one package is submitted, each package should be identified with the Tenderer's name and numbered consecutively ie 1 of 2,, 2 of 2.

20.2 Electronic Tenders

For tenders submitted electronically, the following clauses apply;

- (a) Submissions must be submitted via Tenderlink at www.tenderlink.com/byron
- (b) Submissions must be received in full by Tenderlink prior to the closing date and time
- (c) Tenders lodged electronically will be treated in accordance with the NSW Electronic Transactions Act 2000 and given no lesser level of confidentiality, probity and attention that Tenders lodged by other means.
- (d) Tenderers, by electronically lodging a tender are taken to have accepted any conditions shown on the Tenderlink website.
- (e) Council may decline to consider for acceptance any tender responses that cannot be effectively evaluated because the files have become corrupt.
- (f) Three files only are to be submitted as follows:
 - (i) A .pdf file containing the duly completed tender schedules
 - (ii) An Excel file containing the price schedules in the format required by the tender
 - (iii) A .pdf file containing any attachments as required.

21 Consequences of incorrect lodgement

- 21.1** The responsibility for lodgement of the tender submission as detailed above lies solely with the tenderer.
- 21.2** Any tender delivered in a manner other than set out in clause 20 will not be considered by Council.

22 Late Tenders

- 22.1** Respondents are responsible for submitting their Tenders prior to the RFT closing date and time in accordance with the acceptable lodgement requirements described in Clause 20.
- 22.2** Any Tender received later than the Request for Tender closing date and time will not be accepted for evaluation except where required by the Local Government Regulation (2005).

23 Tender Opening

23.1 Timing

Tenders will be opened by Council at Council's Administration Building located at 70-90 Station Street, Mullumbimby NSW 2482, immediately after the tender closing date and time.

23.2 Rights of Tenderers

All Tenderers (or their representatives), as well as members of the public, may attend the opening of Tenders by Council. Any person attending the opening of Tenders is entitled, on request, to be informed as to whether Council has received a particular Tender and the number of Tenders received.

23.3 Council will display list

Following the opening of Tenders, Council will publicly display a list, in alphabetical order, on the public notice board located at Council's Customer Service Centre, of all Tenders received by it.

24 Consideration and acceptance of Tenders

24.1 Contract may be for the whole of the Requirements

Tenders must be for all of the Requirements to be accepted by Council.

24.2 Lowest Tender

Council is under no obligation to accept the lowest priced Tender or any tender.

24.3 Announcement of outcome of tender process

- (1) Council will accept a Tender by a Notice of Acceptance being:
 - (a) handed to the Tenderer;
 - (b) sent by prepaid post to, or left at, the address of the Tenderer included in the Tender;
 - (c) sent by facsimile to the facsimile number of the Tenderer included in the Tender; or
 - (d) sent by e-mail or some other similar electronic means to the address of the Tenderer included in the Tender.
- (2) No legal or other obligations will arise between a Tenderer and Council in relation to the conduct or outcome of the tender process unless and until the Council has accepted the relevant Tender in accordance with paragraph 24.3 (1).

24.4 Effect of Notification

Upon receipt by the Tenderer of notification under clause 24.3(1) the Contract becomes binding on Council and the Successful Tenderer.

24.5 Execution of the Contract

If required by Council, the Successful Tenderer must execute a copy of the Contract within fourteen (14) days of being requested to do so by Council. If the Successful Tenderer fails to comply with any such request from Council, then Council may rescind the Contract by notice in writing to the Successful Tenderer.

If Council rescinds the Contract in accordance with the above, the Successful Tenderer must pay any costs incurred, or damages suffered, by Council in connection with:

- (1) this Request for Tender and the tender process undertaken in accordance with it;
- (2) the preparation of the Contract; and
- (3) any other actions taken by Council in reliance on the formation of the Contract.

The failure of the Successful Tenderer to execute a copy of the Contract in accordance with this clause does not void or otherwise affect the obligations of the Successful Tenderer pursuant to the Contract.

24.6 Notification to unsuccessful Tenderers

Council will notify all unsuccessful Tenderers that their Tender was not successful, or that no Tender was accepted as soon as practicable after Council:

- (1) accepts the Tender of the Successful Tenderer; or
- (2) resolves to not accept any Tender.

25 Confidentiality

25.1 Information in this Request for Tender

Information provided in this Request for Tender or imparted to any Tenderer as part of the tender process must not be used by the Tenderer for a purpose other than to allow the Tenderer to prepare and lodge a Tender.

25.2 Information supplied by a Tenderer

Information supplied to Council by a Tenderer will not be treated as commercially confidential unless specifically requested by the Tenderer.

By submitting a Tender, each Tenderer acknowledges that:

- (1) Council is under statutory obligations concerning the management and public release of information held by it; and
- (2) the Tenderer will not object to the release of any information contained in a Tender in accordance with those statutory requirements, or claim damages from Council arising from the release of such information.

26 Privacy notification

26.1 Acknowledgement by a Tenderer

By submitting a Tender, the relevant Tenderer acknowledges that:

- (1) it will be providing Council with "personal information" within the meaning of the *Privacy and Personal Information Protection Act 1998* (NSW);
- (2) the purpose of Council collecting the personal information is to assist Council to identify, assess and evaluate the relevant Tender and to notify the Tenderer of any matters required under Part 7 of the *Local Government (General) Regulation 2005*;
- (3) upon the opening of Tenders, Council is required to display a list of the names of the Tenderers in alphabetical order;
- (4) if the personal information required to be provided as part of a Tender in accordance with this Request for Tender is not provided, Council may be unable to identify, consider or evaluate the Tender;
- (5) some of the personal information provided by the Successful Tenderer, such as their name and the successful tender price, may be disclosed to unsuccessful Tenderers, and/or to the public generally;
- (6) personal information contained in a Tender may also be included in business papers for Council meetings and unless the relevant part of the meeting is closed to the public, Council is required to make business papers available for inspection by the public; and
- (7) Council may make any personal information contained in a Tender available for public inspection in accordance with the *Local Government Act 1993* (NSW) or the *Government Information (Public Access) Act 2009* (NSW).

26.2 Tenderer's rights concerning personal information

You may:

- (1) apply for access or amendment to personal information held by Council; and/or

- (2) make a request that Council suppress your personal information from being made publicly available.

Council will consider any such application in accordance with its statutory obligations.

27 Ownership of Tenders

27.1 Council to own

All documents, materials, articles and information submitted by a Tenderer as part of or in support of their Tender:

- (1) becomes the absolute property of Council upon receipt of that material by Council; and
- (2) will not be returned to the Tenderer at the conclusion of the tender process.

27.2 Intellectual property

Notwithstanding clause 27.1, the Tenderer retains copyright and any other intellectual property rights contained in the material or information lodged with the Tender, unless otherwise provided by the Contract.

28 Costs of Tender

28.1 Council not liable

Council will not be liable for any costs incurred by a Tenderer in connection with their Tender whether before or after the Deadline, whether incurred directly by them or their advisors and regardless of whether such costs arise as a direct or indirect consequence of any amendments made to this Request for Tender by Council at any time.

28.2 Subsequent negotiations

For the avoidance of doubt, Council will have no liability whatsoever to any Tenderer for the costs incurred by that Tenderer in the course of any negotiations conducted after the Deadline if Council decides not to accept any Tenders.

29 Standard of behaviour

29.1 Tenderers not to Solicit

Any Tenderer who, to solicit support for their Tender or otherwise seek to influence the outcome of the tender process:

- (1) offers any inducement, fee or reward to any member or officer of Council or any person acting as an advisor for Council;
- (2) canvasses or attempts to intimidate any of the persons referred to in paragraph (1); or
- (3) contacts any member or officer of Council about this Request for Tender or the tender process, except as authorised by this Request for Tender including (but without limitation) for the purposes of discussing the possible transfer to the employment to the Tenderer of such member or officer,

will be disqualified from any further involvement in this tender process (without prejudice to any other civil remedies available to Council and without prejudice to any criminal liability which such conduct by a Tenderer may attract).

- (4) If a Tenderer is found to have offered any inducement or reward or is found to have committed corrupt conduct as defined in the Independent Commission Against Corruption Act 1988, the Tenderer shall be disqualified with any resulting contract terminated.

29.2 No Restrictive Trade Practices

Any Tenderer who:

- (1) fixes or adjusts the amount of its Tender by or in accordance with any agreement or arrangement with any other Tenderer;
- (2) enters into any agreement or arrangement with any other Tenderer that it will refrain from Tendering or as to the amount of any Tender to be submitted;
- (3) causes or induces any person to enter an agreement mentioned in either paragraph (1) or (2) above or to inform the Tenderer of the amount or approximate amount of any rival Tender;
- (4) canvasses any of the persons referred to in clause **29.1.** in connection with the Tender or the outcome of the tender process;
- (5) offers or agrees to pay or give or does pay or give any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other Tender or proposed Tender any act or omission; or
- (6) communicates to any person other than in its Tender the amount or approximate amount of its proposed Tender (except where such disclosure made in confidence in order to obtain quotations necessary for the preparation of the Tender, for insurance or contract guarantee bonds and/or performance bonds or professional advice required for the preparation of a Tender),

will be disqualified from any further involvement in this tender process (without prejudice to any other civil remedies available to Council and without prejudice to any criminal liability which such conduct by a Tenderer may attract).

- (7) Any evidence of restrictive trade practices will be referred to the Australian Competition and Consumer Commission and result in the Respondent being disqualified from the tender process with any resultant contract terminated.

29.3 Conflicts of Interest

Tenderers must inform BSC of any circumstances or relationships which will or may constitute an actual or potential conflict of interest if the Tenderer is awarded a contract.

30 Rights of unsuccessful Tenderers

Unsuccessful Tenderers are not entitled to:

- (1) request reasons for the choice of the Successful Tenderers; or
- (2) otherwise seek to challenge or question the validity of the determination made by Council.
- (3) However, unsuccessful Tenderers may seek feedback from Council on why their tender was unsuccessful.

31 Publicity

Tenderers must obtain the written approval of Council before any disclosures relating to the Tender or the Contract are made by the Tenderer to the press or in any other public domain.

Tenderers must not undertake any publicity activities with any part of the media in relation to the Tender or the Contract without the prior consent of Council, including consent on the form and content of any such publicity.

32 Tenderer Acknowledgement

By participating in this RFT, Tenderers are indicating their acceptance to be bound by the conditions set out in this Section.

Part 2 - Section 1

Statement of Requirements

1 Introduction

Following the tabling of a Mayoral Minute at the 15 December 2016 Ordinary Meeting, Byron Shire Council resolved 16-670 as copied at Appendix 1. Of that resolution, parts 1 and 3 are relevant with Part 1 being Council's resolve to support a multiple public transport and active transport use of the rail corridor within the shire, including public transport provision in conjunction with a walking and cycling path where feasible. Notably the resolution is silent on use of private transport, e.g. motor vehicles, within the corridor.

As for Part 3, it details specific investigations and considerations that may be included within the project brief (i.e. this document) which is compiled in efforts to gain quotations from those suitably qualified to deliver on two broad areas, being an:

1. Infrastructure assessment of existing and required assets to inform a "State and Use of Corridor Report"; and an
2. Economic and social impact assessment.

Accordingly the following pages provide details to assist with quotations from those suitably qualified to complete the studies as outlined at Tables 1 and 2 which are specifically in regard to the rail corridor within Byron shire only, yet in the case of the economic/social feasibility study to have consideration of its broader opportunities and potential in regard to patronage, tourism, etc.

2 Scope

Given the mixed history and claim and counter claim about the disused rail corridor, Byron Shire Council now seeks a definitive study such as sought by Res 16-670, i.e. Council seek to engage those suitably qualified to undertake two studies, being an:

- *State and Use of Corridor Report* (i.e. an engineering assessment of the rail corridor); and
- *Economic and Social Feasibility Study*.

The scope of works required to complete both are detailed as follows, and listed at Tables 1 and 2.

State and Use of Corridor Report

Quotes MUST be provided for undertaking the assessment as detailed at Table 1 for each of the following geographic links:

- Byron Bay station to Cemetery Rd/Old Bangalow Rd
- Cemetery Rd/Old Bangalow Rd to Bangalow
- Byron Bay to Bayshore Drive
- Bayshore Drive to Tyagarah (Pacific Highway)
- Tyagarah (Pacific Highway) to Blues Festival site (i.e. outside of the rail corridor)
- Tyagarah (Pacific Highway) to Mullumbimby
- Mullumbimby to Billinudgel
- Billinudgel to Crabbes Creek (in the Tweed Shire)
- Upon the Billinudgel/Crabbes Creek section a Yelgun stop or line spur and/or connection onto North Byron Parklands (i.e. outside of the rail corridor)

As Table 1 indicates the engineering study will consist of a desktop review on costs of rolling stock to provide 3 levels of service: a lowest cost option, a minimum acceptable standard and a full operational standard. This desktop review is also to include a definition of the scope of the study to be undertaken including a study framework and a clear methodology for onsite inspections and reporting.

In addition, a series of 'sectional' reports and inspections will be produced in regard to geographical lengths of the corridor. These sectional reports will commence with a thorough onsite inspection and engineering assessment of a specific length of the rail corridor and produce a report on the matters at Table 1 for *each* section. As mentioned above, quotes for the work must address each section identified. Council reserves the right to undertake none or more inspections subject to budget, costs and timeframes.

Also as Table 1 shows, separate reports will also need to be quoted and produced for

- accessibility and mobility;
- weights of transport options (e.g. rolling stock) and implications;
- speeds and required fencing and associated supporting infrastructure;
- residential impact-noise assessment; plus
- to conclude the study a final report is to be produced whereby the completed study is provided with a covering report detailing all key findings of each report produced through the project and (where/if necessary) provision of updates and amendments to previous reports including input of community, stakeholder and Council feedback gathered (by Council) during the study.

Economic and Social Feasibility Study

As per Res 16-670, Council seek to engage those suitably qualified to undertake an economic and social feasibility study of providing cycling and walking path upon the rail corridor and a passenger rail service. This feasibility study can be undertaken in parallel with the engineering study. Details for this part of the study are at Table 2.

However section 12.3 of *The Byron Line* is also instructive in regard to expectations of such a study and is reproduced at Appendix 4. An overarching first requirement of the study however is the production of a scoping document outlining criteria to be used for assessment of each of the subject matter listed at Table 2 and Appendix 4.

Key to this criteria will be agreement between Council and those undertaking this work the case studies to be used for examination and the level of detail required. However it can be expected case studies will be required to inform economic and social changes that occur due to rail corridor activation and any associated changes such as change to: land value, business type and opportunities/value, turnover, employment, demographics including of visitors and visitor spend, etc.

As such quotations are requested to table case studies that could be included in the study. While nominating such will not be used in selecting the successful party to undertake this work it will be used to help inform scope of some of the work tabled.

To conclude the study a final report is to be produced whereby the completed study is provided with a covering report detailing all key findings of each report produced through the project and (where/if necessary) provision of updates and amendments to previous reports including input of community, stakeholder and Council feedback gathered (by Council) during the study.

3 Background information

To assist with understanding the broader context, the following provides a summary of the state government role, including its various studies, a description of corridor alignment and the growing state of

disrepair (physically, e.g. infrastructure) and disunity (socially, e.g. differences of opinion) the rail corridor has and continues to cause.

However as with any contentious issue, previous studies or proposals have and do draw criticisms and are unable to please all parties. Notwithstanding such obstacles, the current 'state of play' offers and seeks positive ways forward as evident (respectively) in the soon to commence Byron Bay rail shuttle and *THE BYRON LINE* proposal seeking a comprehensive study into the social and economic feasibility of utilising the rail corridor¹.

State Government Asset and Management

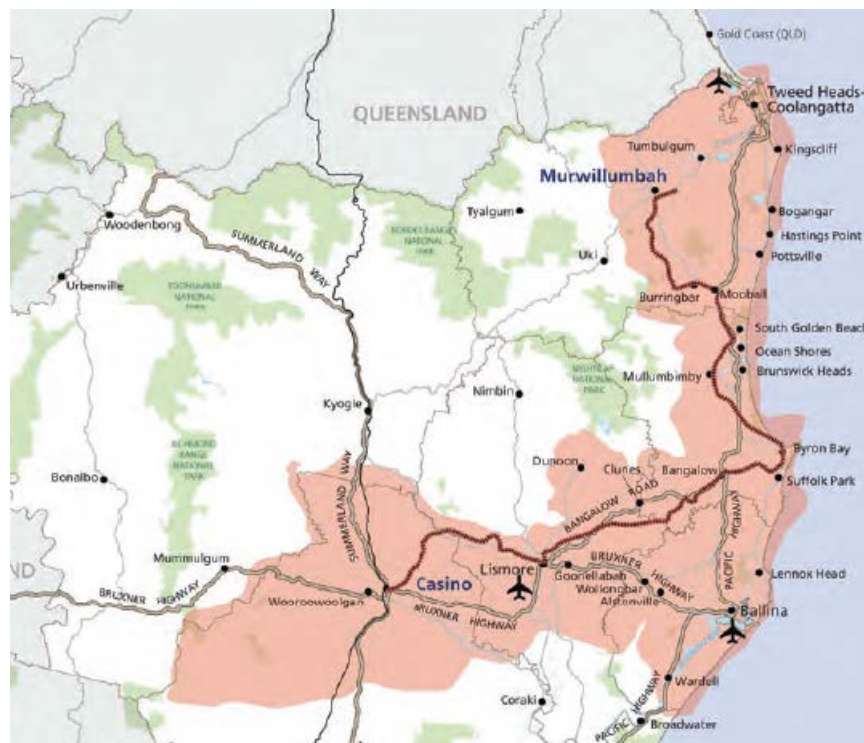
In NSW, a rail corridor and its related infrastructure are within the sole jurisdiction of the state government whose involvement and consideration of the subject site is well documented. For example refer to the Reference list within this document (Section 8) and (for example) Appendix 2 for the Wikipedia history of the rail line including its links to external sources.

Amongst these sources are investigations published or commissioned by Transport for NSW (TfNSW). As the state government's (i.e. asset and land owner) delegated authority, TfNSW, along with their managing agent John Holland Rail (JHR), are both key stakeholders in matters relating to the rail corridor and activities upon it or adjacent.

Alignment

As shown at Figure 1, adjacent to much of the 130km long north coast rail corridor are the populations centred around Casino – Lismore – Bangalow – Byron Bay – Mullumbimby – Burringbar – Murwillumbah, which reflects the original purpose of the line; i.e. to link residential settlements which in turn aid movement of people and goods. Supporting this further, the local advocacy group *Train on our Tracks* (TOOT) claim over 80% of residents within Lismore and Byron shires live within 5km of the rail line².

Figure 1: North coast branch line and existing Brisbane-Sydney link.



Source: Figure 2, April 2013 TfNSW Casino to Murwillumbah Transport Study³

Disused and in Disrepair

The last train service was in April 2004, and no rail services have since used this rail corridor which, as also shown at Figure 1, the Byron shire length (the subject of this brief) is an approx. 30km length in the middle of the larger North Coast branch line connection between Casino (where rail services still operate on the Sydney-Brisbane trunk line) and Murwillumbah (where no services operate).

As a result of its disuse, minimum to nil maintenance has been undertaken on sections of the rail track and related assets leading to their deterioration. The extent of their deterioration is documented in a 2012 'Condition Assessment' as completed for TfNSW by the consultancy ARUP⁴. The following year TfNSW (April 2013) published the *Casino to Murwillumbah Transport Study*³ which cited the ARUP audit. Amongst its recommendations namely in favour of improving bus services, the *Casino to Murwillumbah Transport Study*³ (p15) concluded that:

...rail services remain suspended. Reinstating rail services will not meet existing and future public transport needs for the region and patronage demand does not warrant the significant investment (in excess of \$900 million) needed for a safe operational rail corridor.

If such a recommendation was not enough to remove hopes of a return of train services, the study also included a recommendation that:

...a safety assessment be conducted on three bridges over public roads that have been identified as a potential safety hazard, to determine definitively whether they should be removed, maintained or replaced.

Following such assessment removal of two rail bridges west of Bangalow occurred circa 2014-2015 leaving a physical gap in the (until then) continuous branch line..

Criticisms

However, and not unexpectedly, the study itself had drawn criticism from some quarters, including claims the "design principles" used as criteria for benefit-cost assessment were more than required, for example assessment on the basis of providing 2 tracks within the mostly single track corridor and a design speed of 120kph with a class 2 standard track to provide passenger, XPT-like services only, meaning such analysis was limited due to freight and more regular shuttle-like services being excluded in the benefit-cost assessment.

Slower speed, but more regular and frequent shuttle-like local services, as with potential use of the corridor as a cycling and walking rail-trail, however was flagged in the study including at Section 7.6 (Key Findings) that:

- *The gradient and alignment of the corridor could support rail shuttle services, though the higher frequencies would need improvements to the corridor; ie works to reduce speed restrictions and constructing additional passing loops.*
- *The rail line has many of the core attributes that can make a rail trail successful including access to large population centres, heritage infrastructure, uniqueness of experience, a variety of trail lengths.*

Alternative Uses, Cost Estimates and an Unsuccessful Funding Bid

This reference to alternative uses of the rail corridor, such as a rail-trail, assisted momentum for that cause, for example in May 2013 the Northern Rivers Rail Trail Association Inc. (NRRT) was formed. The NRRT now cite having near 4,000 signatories and the four local Councils (Tweed, Byron, Lismore and Richmond Valley) as supporters of their cause as outlined in their original proposal⁵ (also May 2013) in which they urge:

...the NSW Government institutes a modest follow up project to the current Transport Study (utilizing much of the data which would have been analyzed) to consider the feasibility of a cycling and walking trail, being established using the path of the existing railway line.

Presumably this gained traction as within the year the Department of Premier and Cabinet released its study (May 2014) into the costs of such a proposal concluding that \$75.5m was required to construct the rail-trail and up to \$8,900 per km of trail would be needed for maintenance each year⁶.

The NSW government's own cost estimates however did not deter them to invite the Northern Rivers as only one of two regions to apply for an apparently new funding source offered via a *NSW Infrastructure*⁷ Expression of Interest (Eoi) process which stated:

A total of \$110 million has been allocated for the Regional Tourism Infrastructure Fund in the 2014-15 State Budget including up to \$50 million for the development of rail trail projects.

However by June 2015 it was announced only \$5m of the mooted \$50m funds were to be allocated, and that was for a second stage of developing a 21-kilometre stretch of former rail corridor between Tumbaramba to Rosewood in the state's south⁸. As if such outcome was not discouragement enough, the remaining \$45m for 'rail trails' was re-directed elsewhere, for example regional airports.

Disunity and Lack of Cohesion?

While cost appears a contributing factor in the unsuccessful Northern Rivers bid speculation arose it was also hamstrung by the lack of cohesion across the many stakeholders and an inability to garner strong enough community support. Even a year later such sentiment was clear with former state member Don Page in his new role as chair of *Regional Development Australia (RDA) Northern Rivers* stating that:

*If the region can't agree to support the Rail Trail, its inevitable sections of the corridor will be sold off. It's a case of use it or lose it.*⁹

This input however was pointed and directed during a local election (Sept. 2016) and specifically at the proposal drafted by the Byron Shire Mayor Simon Richardson (June 2016). Entitled *The Byron Line*, and garnering the support of another local Councillor (Basil Cameron) and his advocacy group *Train our on Tracks* (TOOT), the document brings a focus on the Byron Shire section of the rail corridor and states:

Much of this document has been informed by NRRT's Regional Tourism Infrastructure Fund EOI Business Case and Project Proposal. Though the funding component of the NRRT proposal is uncertain, there is certainly some great work in these documents: the economic, tourism and health and wellbeing aspects of the rail trail and activation of the corridor is thoroughly explored and key assumptions underpinning the value of this project are valid.

However despite drawing upon much of the work done by the NRRT, and attempting at a meeting in August 2016 to gain agreement between them and TOOT on a common way forward, NRRT have since declared that the Mayor's:

*...actions have given us no choice but to withdraw our co-operation with the Byron Line proposal. NRRT fear the Byron Line proposal will result in [the] sale of the corridor to private interests.*¹⁰

Presently

Meanwhile a private party, the Byron Bay Railroad Company, has been granted approval to run a shuttle service from 3km west of Byron Bay between the town and Bayshore Drive, expected to commence operating in 2017. Further details of it are contained within *The Byron Line* document¹.

Thus not to be deterred, the Mayoral Minute tabled 15 December 2016 sought and gained Byron Shire Council support to progress a two-pronged study into the rail corridor within Byron shire, which as Resolution 16-670 at Appendix 1 makes clear, includes an engineering assessment on infrastructure and costs for repair and a separate economic and social feasibility study which is to have broader terms of reference than the previous above cited government studies.

Accordingly, the following detail is provided to help understand the scope of such studies, as are the reference documents cited throughout (see Section 8), specifically *The Byron Line*¹ and its clear expectations for the feasibility study as outlined within it at Section 12.3 and as reproduced at Appendix 4 in this document.

Also outlining Council's long standing desire to see utilisation of the rail corridor is their submission Council's 2008 *Submission to Infrastructure Australia* in regard to Rail Corridor (BSC Ref. 799880).¹¹ Amongst its various statements, it is notable for its claim that a previous 2004 study by PricewaterhouseCoopers (PwC) determined return of rails services was feasible.¹²

4 Timeframe and Delivery

As shown in Tables 1 and 2 a series of stand-alone reports are expected over the course of the project, culminating in a final study with a covering summary report which provides opportunity for amendments, updates and community and stakeholder input which is collected (namely by Council) through the process.

In accepting the level of detail required to complete the studies, Council is allocating up to 12-months for the completion of both which can be undertaken in parallel. The exact timeframe for milestones will be subject of agreement with the successful party/parties.

The time allocated to the project also reflects the number of stakeholders and community interest Council anticipate in the study as it evolves.

5 Experience and Qualifications

Submissions in response to this brief must detail the personnel proposed to be involved, including their proposed role (e.g. their duties, responsibilities and expected output) plus detail their relevant experience and qualifications.

As a guide, Council expect:

- The engineering assessment including onsite inspections and subsequent reports to be undertaken by those with relevant tertiary qualifications and adequate professional experience in regard to infrastructure and asset management assessment and maintenance, preferably in regard to rail assets and cost estimates; and that
- The economic and social feasibility studies be undertaken by those with qualifications and adequate professional experience relevant to the specific topics as outlined at Table 2.

Given the variety of topics within the study and expectations upon the project, Council accept that third parties and/or collaborations or partnerships may be formed. This is acceptable subject to one principal party being nominated for the engagement of the contract including responsibility of meeting milestones and payment for services rendered.

6 Client and Stakeholders

Byron Council will lead and organise the involvement of stakeholders throughout the study. Involvement and input is expected from the parties in Table 3 in the very least.

Council will be responsible for arranging liaison with each as required and ensuring broader consultation and opportunity for comment by other external parties is offered and sought when and as deemed necessary.

The actual number of stakeholder meetings and/or workshops however will be limited and managed by Council in consultation with the successful party engaged to undertake the work described within this document. To this end, quotations should provide costs for time and attendance at onsite meetings and workshops including expected disbursements for travel, accommodation, etc.

Table 3: likely stakeholders and direct input

1. Stakeholder	2. Background
3. Councillors and respective Council	4. Council has long supported return of rail services and more recently a multi modal use of the rail corridor.

committees	Council committees provide an immediate and established conduit to broader public involvement and representation.
5. Local state MP, and potentially Federal member	6. NSW MP Tamara Smith is supportive of use the rail line.
7. Transport for NSW (TfNSW) or their delegate	8. As the state authority and delegated authority of the responsible minister, TfNSW is a key stakeholder in any review of the rail corridor, preferably via their nomination of representative that can be involved throughout the study to be undertaken
9. John Holland Rail Group (JHR)	10. As TfNSW contracted party for the management of land and infrastructure, JHR personnel offer expertise across a range of disciplines, from engineering, regulatory and legal, administrative and permissible uses, etc.
11. Regional Development Australia (RDA)	12. RDA provide guidance and knowledge in regard to funding availability and addressing criteria, plus a local knowledge network
13. TOOT	14. Trains on our Tracks are long established advocacy group and have provide their support for <i>The Byron Line</i> document seeking to utilise the rail corridor
15. NRRT	16. The Northern River Rails Trail Association Inc. has garnered much public attention and support for their preference the rail corridor be used for a rail trail and offer much knowledge and an established network
17. BBRC	18. Byron Bay Railroad Company has been granted approval to run a shuttle service on approx. 3km of rail line from between west of Byron Bay (at Bayshore Dve) and the town centre. Their experience with the approval process and requirements will be invaluable to the study, as will their knowledge in regard to engineering, infrastructure and costs
19. Tourism	20. Use of the corridor offers an untapped tourism opportunity and a potentially stronger funding success than a transport only focus. Thus tourism representation and input is viewed as key throughout the study process, especially for funding or grant opportunities that are already known or that may arise
21. Chamber of Commerce, local Progress and Resident Associations, etc	22. The shire's town stand to benefit from a rail trail, as such ensuring the CoC or any active PA involvement and understanding of the study will be required to assist garner community support
23. Festival and market organisers	24. As important contributors to the local economy, the larger festivals support, contribution or involvement in the study will assist with its progress including Falls, Splendour, Blues and Mullumbimby music festivals, Byron Bay triathlon, Byron Writers Festival, 'schoolies' and larger water based events, eg surf festival, bay swim, plus Markets including farmers markets in Byron Bay (Thursday), Bangalow (Saturday) and their

monthly Sunday markets.

25. Youth, mobility impaired, arts and cultural representation

26. More for input into the economic and social feasibility study, youth, arts and cultural representation and input will help understand the potential benefits and opportunities that such sectors of the community see when the rail corridor is 'activated', while the mobility impaired can specifically help with understanding matters to address in the relevant engineering report and overcome barriers to use

7 Reference and Source Documents

¹ Richardson, Simon (Mayor, Byron Shire, principal author), co-authors: Amy Phillips, Chris Harris, Editor Peter Gough, *The Byron Line*, June 2016, <https://siricho.files.wordpress.com/2016/08/the-byron-line.pdf>

² Trains On Our Tracks (TOOT), <http://toot.org.au/myth-busting-the-trail-without-rails-2/>. Accessed 28/3/17

³ Transport for NSW (TfNSW), April 2013, *Casino to Murwillumbah Transport Study v2.1*, <http://www.transport.nsw.gov.au/sites/default/files/b2b/projects/c2m-transport-study-final-low-res-version.pdf>

⁴ Arup, Sydney 2012, *Casino to Murwillumbah Rail Line Study: Stage 1 Condition Assessment*, view at:

Lismore to Byron Bay <https://www.yumpu.com/en/document/view/29281289/node-2-lismore-to-byron-bay-part-transport-for-nsw>

Byron Bay to Mooball <http://www.yumpu.com/en/document/view/30757882/a3-node-3-abron-bay-to-mooball-transport-for-nsw/1>

⁵ Northern Rivers Rail Trail (NRRT), May 2013, *Northern Rivers Rail Trail Proposal*

<http://www.northernriversrailtrail.org.au/wp-content/uploads/2014/11/Northern-Rivers-Rail-Trail-Proposal-SD-11-11-2013.pdf>

⁶ Department of Premier and Cabinet, May 2014, *Casino to Murwillumbah Rail*

Trail Study - Final Report

http://www.northernriversrailtrail.org.au/wp-content/uploads/2014/10/casino_to_murwillumbah_rail_trail_study_final_report.pdf

⁷ Infrastructure NSW (2014), *Regional Tourism Infrastructure Fund: Rail Trails, Expression of Interest Guidelines: Rail Trails 2014-2015 Funding Round*

https://www.industry.nsw.gov.au/_data/assets/pdf_file/0003/65757/EOI_Rail_Trails.pdf

⁸ ABC News, 22 June 2015, *Northern Rivers rail trail runs out of puff*

<http://www.abc.net.au/news/2015-06-20/no-north-coast-rail-trail/6560710>

⁹ Echo newspaper, September 8, 2016, *RDA chair, Don Page, enters Byron election debate*, <http://www.echo.net.au/2016/09/rda-chair-don-page-enters-byron-election-debate/>

¹⁰ Echo newspaper, September 14, 2016, *Rail trail group backflips on Byron Line proposal*, <http://www.echo.net.au/2016/09/rail-trail-group-backflips-byron-line-proposal/>

¹¹ Byron Shire Council, Oct 2008 - *Submission to Infrastructure Australia Casino to Gold Coast Rail Corridor - Refurbishment of the Casino to Murwillumbah Rail Corridor and its Extension to the Gold Coast Airport* (BSC Ref. 799880)

http://infrastructureaustralia.gov.au/policy-publications/submissions/published/files/188_byronshirecouncil_SUB2.pdf

¹² PricewaterhouseCoopers (PwC), 2004 - *Feasibility Study for Passenger and/or Commuter Services on the Murwillumbah to Casino Branch Line*

¹³ Regional Development Australia (RDA) Northern Rivers

<http://rdanorthernrivers.org.au/nsw-govt-determined-grow-north-coasts-tourism-industry/>

¹⁴ Wikipedia, https://en.wikipedia.org/wiki/Murwillumbah_railway_line

¹⁵ Transport for NSW (TfNSW), 23 April 2013, Media Release: *Casino to Murwillumbah Transport Study*

<http://www.transport.nsw.gov.au/newsroom/media-releases/casino-murwillumbah-transport-study-released>

¹⁶ Northern Rivers Rail Trail, <http://www.northernriversrailtrail.org.au>

8 Reference Document – Council Resolution 16-670

16-670 Resolved that Council with the intent to illustrate to the State Government a community wide support for multi use of the rail corridor within Byron Shire and to prepare for possible funding opportunities:

1. Supports a dual use within the rail corridor, comprising public transport provision in conjunction with a walking and cycling path where feasible.

2. Convenes a meeting with the community group, Friends of the Byron Line, MPs Tamara Smith and Ben Franklin and representatives of Regional Development Australia- Northern Rivers, to consider opportunities to develop a consultant's brief for completing a state and use of the rail corridor report and an economic and social feasibility report, in order to present a formal, costed and community supported project within the rail corridor to achieve local transport and tourism benefits within Byron Shire.

3. Notes the following that may need to be included in a brief:

State and Use of Corridor Report

1. Engineering study on re- instatement of railway:

- i) bridge conditions and costs for repair
- ii) track condition and cost for repair
- iii) other infrastructure

2. Engineering study on construction of a walking and cycling path within the rail corridor but clear of the rail line itself and possibly diverting out of the corridor where there are significant obstructions like narrow rock cuttings or tunnels

3. Identification of pinch spots

- i) consideration of facilitating signalled, shared uses or diverting trail
- ii) land identification and costs for outside corridor land access

4. Accessibility Issues

5. Weights of transport options and implications.

6. Speeds and required fencing

7. Residential impact-noise etc.

Economic and Social Feasibility

1. Park and Ride option including possible locations, estimate usage

2. Events and Festivals- estimate usage, including utilising Yelgun and Tyagarah stations

3. Markets- usage estimates

4. Analysis of local and regional

5. *Estimate local and regional patronage catchment*
 6. *Estimate community benefits and savings of decreasing car use-environmental and road network*
 7. *New business opportunities arising within corridor*
 8. *Above and below rail costs.*
 9. *Funding models-including cost sharing options-public and private*
 10. *Options if transport activity is disrupted, out of service*
 11. *Health and social benefits*
 12. *Risk management*
 13. *Peripheral and adjacent land uses and value add opportunities*
 14. *Degree of community revitalisations*
 15. *Tourism usage*
-
4. *That a report be provided to Council prior to Easter 2017 with the outcomes of the meeting referred to in 2 above.*
 5. *Reports back to Council a draft brief, with recommendations as to:*
 - a) *A preferred structure of the consultants brief; ie, the possibilities of creating two or three separate briefs to report on varied aspects within the overall brief.*
 - b) *Ways forward to seek expressions of interest*
 - c) *The work that can be completed within Council, with community assistance and by consultants*
 - d) *the possibilities of complimenting information required within this brief with other council investigations, in particular its Transport Study for Byron Bay*
 - e) *a funding source*
 6. *Writes to the MPs Tamara Smith, Ben Franklin and Walt Secord; informing them of this resolution with requests for their assistance in supporting Council's endeavours.*
 7. *Writes to Regional Development Australia- Northern Rivers, informing them of this resolution with requests for their assistance in supporting Council's endeavours.*
 8. *Writes to neighbouring councils, informing them of this resolution with an invitation for them to participate in investigating the feasibility of a multi-modal use of the rail corridor.*

9 Reference Document – Murwillumbah Railway Line

Source: Wikipedia, https://en.wikipedia.org/wiki/Murwillumbah_railway_line

Accessed: 27 March 2017

The **Murwillumbah railway line** is a disused line in far north-eastern [New South Wales](#), Australia. The line ran from [Casino](#) to [Lismore](#), [Byron Bay](#) and [Murwillumbah](#), and opened in 1894.^[1] It is one of only two branches off the [North Coast line](#), (the other being the [Dorrigo line](#)). Services on the line were suspended in April 2004.

History

The first section opened between Lismore and Murwillumbah, connecting the [Richmond](#) and [Tweed](#) rivers. Passengers and goods were transported to [Sydney](#) by coastal shipping from [Byron Bay](#). Nine years later, an extension from Lismore to Casino opened (and later south to [Grafton](#) - it was not until 1932 that the line was fully connected to Sydney). As early as 1889, feasibility talks took place into extending the line north

from Murwillumbah into Queensland, discussions that continue to the present day. The line became a branch line when in 1930, the [North Coast Line](#) was extended from [Kyogle](#) to [South Brisbane](#).

Services

The [North Coast Mail](#) was the premier train between Murwillumbah and Sydney after the North Coast line was completed in the 1930s.^[2]

Additional local trains plied the tracks between Casino and Murwillumbah, connecting with other services such as the *Brisbane Express* and [Brisbane Limited](#). The extension to Condong was for sugar mill traffic. [620/720 class railcars](#) also worked this line (set 638/738, which was specially modified, and also hauled a small van). From 1973, the [Gold Coast Motorail](#) provided passenger and car transport between [Sydney](#) and [Murwillumbah](#).^[3] In February 1990 the *Gold Coast Motorail* was replaced by an unnamed [CountryLink XPT](#) service.^[4]

In September 1997, [FreightCorp](#) contracted out of the operation of freight trains on the line to [Northern Rivers Railroad](#).^{[5][6]} These services ceased in 2002. Freight traffic primarily consisted of bananas and flyash from [Wyee](#).^[7]

In April 2004, services on the line were suspended.^[8]

Ballina Branch

In 1930, a branch opened between [Booyong](#) and the town of [Ballina](#). In 1948, flood damage and landslips saw services suspended on the line, and it was officially closed in 1953.^{[9][10]}

Proposed extension

When [Queensland's South Coast line](#) reached [Tweed Heads](#) in 1903, there were immediate calls from local Members of the [Parliament of New South Wales](#) to extend the Murwillumbah line another 18 mi (29 km) to Tweed Heads so the two railways could meet. The Parliamentary Standing Committee on Public Works Committee examined the proposal^[11] but narrowly voted against it in 1904.^[12] There were three other proposals to extend the railway to Tweed Heads before the idea was dropped in 1928.^[13]

In 2011, the NSW Department of Transport commissioned a feasibility study to reopen the Murwillumbah line, including to extend rail services in northern NSW to connect with the [Queensland Rail](#) system and [Coolangatta Airport](#). The feasibility report was released in April 2013 and that concluded it would take \$952 million to bring the line back to a required standard (over \$7 million per km).^{[14][15]}

Future Uses of Railway

A heritage rail shuttle will be operating in Byron Bay by April 2017. The 3.4 km section of track to the north of the town centre is being restored by private investment at a cost of only \$330,000 per km.^[4] Track work on the section commenced on 23 May 2016 and was completed in late November 2016. Construction is currently focused on the platforms and train shed located at the Bayshore Drive end. The service is set to commence public operations in April 2017, after testing can be undertaken. A two car self-propelled diesel rail car train (Number 661/720) is being refurbished by the Lithgow State Mine Railway Ltd. to provide a service between the town and the Elements of Byron resort for the benefit of resort guests and the general public. It was officially confirmed in early January the train would run on solar-hybrid operation, with parts for conversion set to arrive in March 2017.

On 25 August 2016, The Byron Line proposal was announced by Byron Shire Mayor Simon Richardson. The Byron Line is a proposal including the refurbishment of the rail line from Bangalow to Billinudgel for light rail or rail shuttle services to be used by the local community and tourists. It will also investigate construction of a rail trail beside the tracks, where practicable.

There is a proposal for the line to be converted to a rail trail from Casino to Murwillumbah, to boost tourism to the villages and towns along the line. On 19 June 2015, the Rail Trail proposal missed out on state funding.^[3] A 2.6 km pilot Rail Trail section from [Murwillumbah railway station](#) to the [Tweed River Art Gallery and Margaret Olley Art Centre](#) is no longer supported by the newly elected (2016) Tweed Shire Council.

There was a proposal for a 25km Tweed Rail Trail, stretching from Murwillumbah railway station to the Shire border at Crabbes Creek but again the Tweed Valley Rail Trail proposal missed out on state funding due to community division over the cost of construction compared to the return to the community.

References

1. ["Legislative Council Questions and Answers No. 25" \(PDF\)](#). *Parliament of New South Wales*. 2 August 2011.
2. [Casino to Murwillumbah Transport Study](#) Transport for NSW April 2013

3. *Elloise Farrow-Smith. "Northern Rivers rail trail runs out of puff - ABC News (Australian Broadcasting Corporation)".* [Abc.net.au](http://abc.net.au). Retrieved 2016-03-31.
4. *"Rail costings put govt study into doubt – Echonetdaily".* Echo.net.au. 2014-12-16. Retrieved 2016-03-31.
5. "Northern Rivers Railroad Beats Austrac as First Private Rail Freight Operator" *Railway Digest* October 1997 page 8
6. "Northern Rivers May Target Export Traffic to Brisbane" *Railway Digest* November 1997 page 7
7. "Flyash to Murwillumbah" *Railway Digest* April 1990 page 129
8. [Closure of the Casino to Murwillumbah rail service](#) NSW Parliament 24 November 2004
9. *The North Coast Line* "Railway Digest" August 1996 page 24
10. *Ballina to Booyong Railway (Cessation of Operation) Act, Act No. 13 of 1953 (in English)*. Retrieved on 07 Nov 2016.
11. *"Public Works Committee. Murwillumbah-Tweed Heads Railway."* *Sydney Morning Herald*. 29 May 1903.
12. *"Murwillumbah to Tweed Heads Railway. The Scheme Rejected."* *Sydney Morning Herald*. 10 March 1904.
13. *"Proposed Railway. Unfavourable Report. Murwillumbah-Tweed Heads."* *Sydney Morning Herald*. 20 September 1928.
14. *"Legislative Council Questions and Answers No. 25" (PDF)*. *Parliament of New South Wales*. 2 August 2011.
15. ☐ [[Casino to Murwillumbah Transport Study](#) Transport for NSW April 2013
<http://www.byronnews.com.au/news/council-wants-corridor-protected/383554/>

Further reading

- [The Byron Line](#), June 2016
- [Refurbishment of the Casino to Murwillumbah Rail Corridor and its Extension to the Gold Coast Airport](#) Byron Shire Council 14 October 2008
- [Closure of the Casino to Murwillumbah rail service](#) Parliament of New South Wales 24 November 2004
- [Feasibility study for passenger and/or commuter services on the Murwillumbah to Casino branch line](#) - September 2004

External links

- [Northern Rivers Rail Trail](#)
- [Trains On Our Tracks](#)
- [North Byron Beach Resort - Byron Bay Train](#)

10 Reference Document – Park and Ride

Park and Ride

Park and ride has not been a detailed subject of any previous study. As such Council (in a separate project proposal) is seeking a desktop review on the subject which is to outline the criteria for an investigation and assessment of providing such a service.

Such an investigation however does not cover the social and economic benefits or impacts of park and ride and instead is seeking recommendations on criteria for assessment of suitable sites, route/s, hours of operation, potential patronage and costs and revenue. This may be as directed by state requirements or guidelines, including AustRoads or Aust. Standards as they apply to:

- requirements of and assessment criteria for a site, e.g. parking, lighting, shelters, security, location, etc
- levels of service, e.g. frequency, span of hours, etc
- standard methods to calculate patronage, costs, revenue, etc

As for background the following is provided.

Council trialled a holiday park and ride service over the Christmas-New Year period first over 12 days in 2013/14 and then over 7 days in 2014/15.

Through this project, Council were the first in a non-metropolitan area of NSW to provide a dedicated bus lane and use of temporary special event parking restrictions. It was also the first time Council offered and managed a public transport service; enabled 'tow-away' powers; and offered a temporary resident parking permit.

The park and ride commenced 3km west of the town centre at the Cavanbah sports centre; a site offering over 300+ sealed and lit car spaces. In year 1, the service offered up to 3 services per hour from morning to afternoon, and an hourly evening service, to get to and from Byron Bay, while a fourth bus (a shuttle service) connected from the town up to the Cape Byron Lighthouse.

In understanding that the park and ride service could not offer a quicker travel time than the private vehicle nor reduce congestion, and instead the main service benefit was (unlike the town itself) the offer of parking convenience and all-day availability, the promotional efforts were accordingly focused on making park and ride a fun, family option and part of the 'Byron experience' with on-board disco music, with dancing and singing ticket 'inspectors' who also encouraged patrons to dress-up.

This approach, as with gaining attention of potential patrons, was aided by engaging two, well-branded double-decker buses, with the 'London Bus' supporting the colourful, psychedelic-painted double decker disco 'Magic Bus' used as the centre-piece for promotion and visibility by ensuring it was seen hourly on route and via a loop of the CBD.

Results wise, over 6,000 individual passenger trips were made in the 12 days, with patronage increasing each day through to the peak (>1,300 passengers) being reached (as expected) on New Year's Eve.

Despite this, and the encouraging, growing local awareness and use of the service, plus the formal patron feedback including a service rating of 10/10 from over 70% of survey respondents, the second year of the trial (2014/15) was reduced from 12-days down to 7-days, with less frequency and span of hours (down from 12-hours to 10-hours per day). Such changes were aligned to results of the first year of the trial.

More on the park and ride can be viewed on the following web links:

Byron Shire Council media release, November 2013 - promoting the new service

<http://www.byron.nsw.gov.au/media-releases/2013/11/28/the-twelve-days-of-christmas-parking-park-and-ride-for-byron-bay>

Byron Shire Council media release, January 2014 - results

<http://www.byron.nsw.gov.au/media-releases/2014/01/15/park-and-ride-loved-by-the-passengers-0>

11 Reference Document – *The Byron Line Excerpt*

Reproduction of section 12.3 from *The Byron Line*¹

12.3 The Byron Line Feasibility Report and Business Plan

It is crucial this report and plan provides clear, acceptable and best practice information in order to maintain the social licence and to keep all stakeholders unified. It should:

- Develop a preferred concept
- Identify points that don't allow for multi modal use within the corridor and nominate options for sharing the corridor or preferred routes for alternative rail trail route options and engineering requirements
- Identify areas for dual tracks to allow two way track based uses
- Ascertain the condition of the track base, bridges etc.
- Provide approximate project costing for construction and maintenance
- Review and summarise of the literature concerning the economic and related benefits of existing rail trails and tourist shuttle services and other products

- Identify and explore potential business and organisation growth and job potential as a result of the establishment of the Byron Line, including the use of the existing infrastructure, and commercial activities within and around the corridor and resulting from the Byron Line's establishment
- Identify and outline potential commercial services and products within the corridor
- Ascertain level of potential local commuting usage

The feasibility report must fill in the gaps that currently exist, for example: the state of the rail infrastructure, the cost of repairs to allow for a light rail usage and how dual direction movement could occur. Presently, these questions cannot be answered.

The state of the rail infrastructure is not known. The ARUP condition assessment report only superficially inspected the actual tracks. This map shows the large

percentage of track within the Byron Shire that was not inspected. This lack of knowledge needs addressing.

Once the Byron Line is shown to be a viable use of the rail corridor, the State government, working alongside Byron Shire Council and the specifically established Byron Line Trust, will coordinate the overall development as an exemplar project illustrating best practice private-public engagement and partnership outcomes.



12 Resolution Expectations and Hold Points

Table 1: details for engineering assessment – expectations and hold points/milestones

Res 16-670	Further detail	Expectation	Hold point
1. Engineering study on re- instatement of railway:	Desktop review and use of unit/industry costs to determine cost of rolling stock to provide passenger services at three levels of service: a lowest cost option, a minimum acceptable standard and a full operational standard, plus study scope defined and process/framework including timetable set out .	Desktop review completed and scope of study defined	To be done in parallel: Desktop review and defined scope to be completed; and
ii) track condition and cost for repair	NSW govt. accreditation and permissions obtained for onsite inspections which are to include assessment of:		Inspections to be undertaken section by section (order of inspections TBA by Council)
i) bridge conditions and costs for repair	- track condition and cost for repair		
iii) other infrastructure	- bridge conditions and costs for repair		
2. Engineering study on construction of a walking and cycling path within the rail corridor but clear of the rail line itself and possibly diverting out of the corridor where there are significant obstructions like narrow rock cuttings or tunnels	- other infrastructure - corridor width and map length and locations where path and rail can and can not co-exist. - other impediments and obstructions and cost to remedy each, eg pinch points, trees, rocks, - offer proposal to counter each pinch point and impediments identified - land in and outside the rail corridor required to provide continuous path, including land ownership, classification, LEP zone, market value cost.		For example, it is likely one section (e.g. Byron-Old Bangalow Rd) will be used as a test case (including a completed report) before other sections proceed (or not).
3. Identification of pinch spots			
i) consideration of facilitating signalled, shared uses or diverting trail	Expectation: report produced on the above for each section inspected; report to includes proposal to counter each problem identified, plus provide cost estimate for each		
ii) land identification and costs for outside corridor land access			
4. Accessibility Issues	Determine costs and measures to provide both a DDA compliant path and access and a minimum standard shared path.	Separate report to be produced for each section and to be compiled only after completion of each	Completed section report on accessibility and mobility issues

Part 2**Read and keep this Part**

		section inspection.	
5. Weights of transport options and implications.	Assess safe weight of rolling stock and passenger numbers based on lowest cost, minimum and operational standard options and the infrastructure upgrades and required measures and costs to address each option	As above	As above
6. Speeds and required fencing	As above, assess safe operating speeds on basis of lowest cost, minimum and operational standard upgrades to infrastructure	As above	As above
7. Residential impact-noise etc.	Undertake noise and social impact assessment on the recommended service only	A combined report based on previous reports and recommendations that have resulted from prior work as detailed above	A completed report considering all sectional reports and findings produced to date
n/a	A completed study with covering report detailing all key findings of each report produced through the project and provision of updates and amendments to previous reports (where/if necessary) including input of community, stakeholder and Council feedback		A completed study encompassing all previous reports

Table 2: details for economic and social feasibility study – expectations and hold points/milestones

Res 16-670	Further detail	Expectation	Hold point
n/a – scoping stage	Scope document outlining criteria to be used for assessment of each item listed in table. See following tabled items and Appendix 4.	Scoping Report	Completed report
1. Park and Ride option including possible locations, estimate usage	See Appendix 3 for background, and scope of assessment remains subject to Council progressing a separate proposed road corridor study which includes park and ride	Assessment Report addressing criteria agreed to through scoping stage	Council to confirm if other study proceeding. If not, complete report required.
2. Events and Festivals- estimate usage, including utilising Yelgun and Tyagarah stations	Use existing reports/studies produced by the festivals and critically examine/determine their market share and likely patronage for rail service and shared path, include Falls, Splendour, Blues and Mullumbimby music festivals, Byron Bay triathlon, Byron Writers Festival, 'schoolies' and larger water based events, eg surf festival, bay swim	Assessment Report addressing criteria agreed to through scoping stage	Completed report
3. Markets- usage estimates	As above, using existing reference materials to determine market patrons likely use of rail service or shared path links in rail corridor. If data is lacking discussion on collection methods and costs will be required, eg onsite surveys, etc. Markets include farmers markets in Byron Bay (Thursday), Bangalow (Saturday) and their monthly Sunday markets	Assessment Report addressing criteria agreed to through scoping stage	Completed report
4. Analysis of local and regional	Council to confirm purpose of this analysis	TBC	TBC
5. Estimate local and regional patronage catchment	Catchment analysis based on population and movement. Preferable existing resource material and data is used, e.g. travel surveys, ABS data, etc	Catchment analysis and patronage estimates	Completed report. Incorporate point 11 below in same report
6. Estimate community benefits and savings of decreasing car use- environmental and road network	Using accepted RMS/TfNSW and industry benchmarks provide a report on environmental and financial savings and benefits. Consider number of vehicles removed and less vehicle kilometres travelled from/on network based on expected patronage and use of rail corridor . Incorporate point 11 below in same report		
7. New business opportunities arising within corridor	Use case studies of existing and established rail trails, eg Victoria, New Zealand and Brisbane to understand benefits to existing business and new opportunities/business that arose due to rail trail, Incorporate point 13 and 14 below in same report	Assessment of before and after trail opening, patron numbers, business types, changes affected, contribution to local economy & tourism etc	Completed report Incorporating points 7, 13 and 14
8. Above and below rail costs.	Investigation into costs to be expected outside of the provision of rail services, e.g. externalities, third-party costs, etc	Assessment report on expected items and costs	Completed report
9. Funding models-including cost sharing options-public and private	Use industry and govt. accepted standards, rates & modelling to determine levels of investment and expected returns on relevant business models	A stand-alone report to assist gain funding and investment	Completed report with recommended business model

Part 2

Read and keep this Part

10. Options if transport activity is disrupted, out of service	Include in Risk Management report detailed below at point 12.	See point 12 below	See point 12 below
11. Health and social benefits	Provide a report covering this & point 6 above in same report, Use industry & govt. accepted measures, standards and benchmarks to determine benefits.	Incorporate into same report with point 6 above	Completed report.
12. Risk management	Provide a report covering this & point 10 above detailing contingency and risk management		Completed report
13. Peripheral and adjacent land uses and value add opportunities	Determine existing and future use/value and opportunities. Compare land valuation changes (if any) due to rail corridor activation & changes to zones/classifications that typically occur. Refer to same case studies used previously.	Included in same report with points 7 and 13	Completed report Incorporating points 7, 13 and 14
14. Degree of community revitalisations	As above, use agreed case studies to highlight such changes (if any)	Included in same report with points 7 and 13	
15. Tourism usage	Report to draw on all above work and provide a stand alone document to assist with gaining tourism industry and govt. support, investment and funding. Report to outline the tourist benefits likely to occur at site/local, shire and region-wide levels plus identify tourism market demographic, spend, duration of stay and external (i.e. other) benefits where applicable.		Completed report
n/a	A completed study with covering report detailing all key findings of each report produced through the project and provision of updates and amendments to previous reports (where/if necessary) including input of community, stakeholder and Council feedback		A completed study encompassing all previous reports

Part 2 - Section 2

The Contract

Formal Instrument of Agreement T2017-XXX Multi Use of Rail Corridor

Byron Shire Council (ABN 14 472 131 473) (**Principal**)

[insert] (ABN [insert]) (**Contractor**)

Formal Instrument of Agreement

[insert name and number of contract]

Parties

Principal	Name	Byron Shire Council
	Address	70-90 Station Street Mullumbimby NSW 2482
	ABN	14 472 131 473
Contractor	Name	[insert]
	Address	[insert]
	ABN	[insert]

Background

- A** The Principal issued the Request for Tender in relation to the Requirements.
- B** The Contractor lodged the Tender with the Principal.
- C** The Principal has accepted the Tender.
- D** This document records the terms upon which the Requirements will be satisfied by the Contractor.

Operative provisions

1 Definitions and interpretation

1.1 Defined terms

In this document, words beginning with a capital letter that are defined in Part 1 of **Schedule 1** have the meaning ascribed to them in that schedule.

1.2 Interpretation

The interpretational rules contained in Part 2 of **Schedule 1** apply in the interpretation of this document.

2 Performance of the Requirements

The Contractor must satisfy the Requirements in accordance with:

- (1) this document;
- (2) the Conditions of Contract; and
- (3) the Tender Documentation.

3 Inconsistency

If there is any inconsistency between a term of this document, the Conditions of Contract and the Tender Documentation, the terms contained in the following documents will prevail in the order of preference set out below:

- (1) this document (including **Schedule 2**);
- (2) the Conditions of Contract;
- (3) the Tender;
- (4) the Addendum (if any); and
- (5) the Request for Tender.

4 Special Conditions

The parties acknowledge and agree that the terms of the Special Conditions set out in **Schedule 2** are included in the Conditions of Contract.

5 Administrative provisions

5.1 Waiver

The non-exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other or further exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the parties to be bound by the waiver.

5.2 Cooperation

Each party must sign, execute and deliver all deeds, documents, instruments and act reasonably and effectively to carry out and give full effect to this document and the rights and obligations of the parties under it.

5.3 Counterparts

This document may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument.

5.4 Amendment

This document may only be amended or supplemented in writing signed by the parties.

5.5 Unenforceability

Any provision of this document which is invalid or unenforceable in any jurisdiction is to be read down for the purposes of that jurisdiction, if possible, so as to be valid or enforceable, and is otherwise capable of being severed to the extent of the invalidity or enforceability, without affecting the remaining provisions of this document or affecting the validity or enforceability of that provision in any other jurisdiction.

5.6 Governing law

The law in force in the State of New South Wales governs this document. The parties:

-
- (1) submit to the exclusive jurisdiction of the courts of New South Wales and any courts that may hear appeal from those courts in respect of any proceedings in connection with this document; and
 - (2) may not seek to have any proceedings removed from the jurisdiction of New South Wales on the grounds of *forum non conveniens*.
-

Execution page

Executed as an agreement

Dated:

Executed by **Byron Shire Council** by its duly authorised officer pursuant to delegation from Council and in the presence of:

Witness (Signature)

Authorised Officer (Signature)

Name of Witness (Print Name)

Name of Authorised Officer (Print Name)

Executed by **[insert name of Contractor]** by its duly authorised officer and in the presence of:

Witness (Signature)

Authorised Officer (Signature)

Name of Witness (Print Name)

Name of Authorised Officer (Print Name)

Formal Instrument of Agreement - Schedule 1

Defined terms and interpretation

Part 1 - Definitions

Addendums	means the addenda to the Request for Tender issued by Principal dated: (1) [insert]; (2) [insert], and attached as Annexure 4 .
Conditions of Contract	means the Conditions of Contract attached as Annexure 1 .
Request for Tender	means the request for tender [insert Request for Tender name and number] issued by the Principal in respect of the Requirements and attached as Annexure 2 .
Requirements	means all or any of the requirements required to be performed by the Contractor and as described in the Request for Tender.
Tender	means the tender lodged by the Contractor dated [insert] in response to the Request for Tender and annexed as Annexure 3 .
Tender Documentation	means the: (1) Request for Tender; (2) Tender; and (3) Addendums.

Part 2 – Interpretational rules

clauses, annexures and schedules	a clause, annexure or schedule is a reference to a clause in or annexure or schedule to this document.
variations or replacements	a document (including this document) includes any variation or replacement of it.
reference to statutes	a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.
singular includes plural	the singular includes the plural and vice versa.
person	the word “person” includes an individual, a firm, a body corporate, a partnership, joint venture, an unincorporated body or association or any government agency.
executors, administrators, successors	a particular person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns.

dollars	Australian dollars, dollars, \$ or A\$ is a reference to the lawful currency of Australia.
calculation of time	if a period of time dates from a given day or the day of an act or event, it is to be calculated exclusive of that day.
reference to a day	a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later.
accounting terms	an accounting term is a reference to that term as it is used in accounting standards under the <i>Corporations Act 2001</i> (Cth) or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia.
reference to a group of persons	a group of persons or things is a reference to any two or more of them jointly and to each of them individually.
meaning not limited	the words "include", "including", "for example" or "such as" are not used as, nor are they to be interpreted as, words of limitation, and, when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind.
next day	if an act under this contract to be done by a party on or by a given day is done after 4.30pm on that day, it is taken to be done on the next day.
next Business Day	if an event must occur on a stipulated day which is not a business day then the stipulated day will be taken to be the next business day.
time of day	time is a reference to Sydney time.
headings	headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this document.
agreement	a reference to any agreement, deed or instrument includes the same as varied, supplemented, novated or replaced from time to time.
gender	a reference to one gender extends and applies to the other and neuter gender.

Formal Instrument of Agreement - Schedule 2

Amendments to Conditions of Contract

Access to information

The following clause is inserted into the Conditions of Contract.

1 Government Information (Public Access) Act (GIPAA)

1.1 The Contractor must, within 7 days of receiving a written request by Council, provide the Council with immediate access to the following information contained in the records held by the Contract:

- (a) Information that relates directly to the performance of the services provided to the Council by the Contractor pursuant to the Contract;
- (b) Information collected by the Contractor from members of the public to whom it provides, or offers to provide, the services pursuant to the Contract;
- (c) Information received by the Contractor from Council to enable it to provide the services pursuant to the Contract.

1.2 For the purposes of sub-clause 1.1 information does not include:

- (a) Information that discloses or would tend to disclose the Contractor's financing arrangements, financial modelling, cost structure, or profit margin;
- (b) Information that the Contractor is prohibited from disclosing to Council by provision made by or under any Act, whether of any State or Territory, or of the Commonwealth; or
- (c) Information that, if disclosed to Council, could reasonably be expected to place the Contractor at a substantial commercial disadvantage in relation to the Council, whether at present or in the future.

The Contractor and the Principle acknowledge that they are required to comply with the provisions of the *Government Information (Public Access) Act 2009* (NSW) with respect to any Information.

1.3 The Contractor will provide copies of any of the information in sub-clause 1.1, as requested by Council, at the Contractor's own expense.

1.4 Any failure by the Contractor to comply with any request pursuant to sub-clause 1.1 or 1.3 will be considered a breach of an essential term and will allow Council to terminate the Contract by providing notice of its intention to do so with the termination to take effect 7 days after receipt of the notice. Once the Contractor receives the notice, if it fails to remedy the breach within the 7 day period to the satisfaction of Council, then the termination will take effect 7 days after the receipt of the notice.

1.5 Council will take reasonably practicable steps to consult with the Contractor before providing any person with access to information relating to the Contract, in response to an access application under the *Government Information (Public Access) Act 2009 (GIPA Act)*, if it appears that:

- (a) The information:
 - (i) Includes personal information about the Contractor or its employees;

-
- (ii) Concerns the Contractor's business, commercial, professional, or financial interests;
 - (iii) Concerns research that has been, is being, or is intended to be, carried out by or on behalf of the Contractor; or
 - (iv) Concerns the affairs of a government of the Commonwealth or another State (and the Contractor is that government);
 - (b) The Contractor may reasonably expected to have concerns about the disclosure of that information; and
 - (c) Those concerns may reasonably be expected to be relevant to the question of whether there is a public interest against disclosure of the information.
- 1.6 If, following consultation between Council and the Contractor, the Contractor objects to disclosure of some or all of the information, the Contractor must provide details of any such objection (including the information objected to and the reasons for any such objection) within five days of the conclusion of the consultation process.
- 1.7 If Council considers that information about a person consulted under this section is likely to be included in the Council's disclosure log in relation to the access application, Council must give a written notice to the person containing the following statements:
- (a) That information concerning the application will be included in the Council's disclosure log and that the person can object to this;
 - (b) That there is a right of review under Part 5 of a decision by the Council to include information in its disclosure log despite the person's objection.
- 1.8 In determining whether there is an overriding public interest against disclosure of government information, the Council will take into account any objection received by the Contractor.
- 1.9 If the Contractor objects to disclosure of some or all of the information but the Council nonetheless decides to release the information, the Council must not provide access until it has given the Contractor notice of the Council's decision and notice of the Contractor's right to have that decision reviewed.
- 1.10 Where the Council has given notice to the Contractor in accordance with sub-clause 1.9, the Council must not provide access to the information:
- (a) Before the period for applying for review of the decision under Part 5 of the GIPA Act has expired; or
 - (b) Where any review of the decision duly applied for is pending.
- 1.11 The reference in sub-clause 1.10(a) to the period for applying for review of the decision under Part 5 of the GIPA Act does not include the period that may be available by way of extension of time to apply for review.

Council's statutory powers and discretions

The following clause is inserted into the Conditions of Contract.

2 No Fetter

- (1) No part of this document is intended to operate to fetter, in any unlawful manner:
 - (a) the power of the Principal to make any Law; or

-
- (b) the exercise by the Principal of any statutory power or discretion,
(all referred to in this document as a **Discretion**).
- (2) No provision of this document is intended to, or does, constitute any unlawful fetter on any Discretion. If, contrary to the operation of this clause 2, any provision of this document is held by a court of competent jurisdiction to constitute an unlawful fetter on any Discretion, the parties agree:
- (a) they will take all practical steps, including the execution of any further documents, to ensure the objective of this clause 2 is substantially satisfied;
 - (b) in the event that paragraph (a) cannot be achieved without giving rise to an unlawful fetter on a Discretion, the relevant provision will be severed from this document and the remainder of this document has full force and effect; and
 - (c) to endeavour to satisfy the common objectives of the parties in relation to the provisions of this document which is held to be an unlawful fetter to the extent that is possible having regard to the relevant court judgement.
- (3) Where a Law permits the Principal to contract out of a provision of that Law, or gives the Principal power to exercise a Discretion, then if the Principal has in this document contracted out of a provision or exercised a Discretion under this document, then to that extent this document is not to be taken to be inconsistent with that Law.

[insert]

[insert]

Formal Instrument of Agreement - Annexure 1 Conditions of Contract

The General Conditions of Contract shall be AS4122:2010

Formal Instrument of Agreement - Annexure 2
Request for Tender

Formal Instrument of Agreement - Annexure 3
Addendums (if any)

**Formal Instrument of Agreement - Annexure 4
Tender**

Part 3

Tender Response Schedules

Schedule 1 – Tender Forms Checklist

The following Tender forms **must** be completed as part of this Request for Tender. Please acknowledge that each section has been completed and included in your tender submission by way of initialling each box.

Schedule 1	Tender Forms Checklist	Tenderer's initial
Schedule 2	Execution by Tenderer	
Schedule 3	Acknowledgement of Addenda and Notices	
Schedule 4	Statutory Declaration	
Schedule 5	Conflict of Interest Declaration	
Schedule 6	Statement of Conformance	
Schedule 7	Tenderer's Insurance and Financial Details	
Schedule 8	Work Health and Safety	
Schedule 9	Company Profile	
Schedule 10	Previous Relevant Experience and References	
Schedule 11	Service Delivery Methodology and Performance Standards	
Schedule 12	Implementation Plan	
Schedule 13	Sustainable Procurement	
Schedule 14	Schedule of Prices	

Schedule 2 – Execution by Tenderer**1 Effect of submitting this Offer Form**

By executing and submitting this form (together with any material attached to it), the party named in the **Schedule (Tenderer)** makes an irrevocable offer to the Council to enter into the Contract, subject to the terms of the Request for Tender.

2 Formation of Contract

The Tenderer agrees that, upon service of a Notice of Acceptance by Council on the Tenderer, the Contract is formed between the Tenderer and Council.

3 Execution of form of Contract

The Tenderer warrants to Council that it will execute the Contract:

- (1) if requested to do so by Council; and
- (2) in accordance with the requirements of the Request for Tender.

4 Definitions

Terms defined in the Request for Tender have the same meaning when used in this Offer Form.

Schedule

Tenderer's full name	
Tenderer's ABN	
Tenderer's Address	
Tenderer's Contact Phone No	
Tenderer's Contact Person	

Execution

Executed by the Tenderer.

Signature

Signature

Name of person signing

Name of person signing

Authority of person signing

Authority of person signing

Schedule 3 – Acknowledgement of Addenda and Notices
--

I/We, [insert name of tenderer], acknowledge receipt of the following

[Tenderers must fully describe all documents including addenda and any notices which were issued by Byron Shire Council during the course of the tender]

Schedule 4 – Statutory Declaration

I,, do solemnly and sincerely declare that

[name of declarant]

in respect of the Contract for [insert name of contract] that:

I hold the position of and am duly authorised by ("the Tenderer") to make this declaration on its behalf and do so to the best of my knowledge, information and belief as to the accuracy of the material contained herein and after due enquires in relation to such material.

- (a) Neither the Tenderer nor any of its servants or agents has entered into any contract, agreement or understanding to pay any money to any trade association in respect of the Contract; or
- (b) The Tenderer has entered into a contract, arrangement or understanding to pay the sum of \$..... in the event of the Tenderer being awarded the Contract referred to above.

(Delete whichever alternative is not relevant, and this note)

Neither the Tenderer nor any of its servants or agents had any knowledge of the price of any other tenderer prior to submitting its Tender nor did the Tenderer disclose to any rival Tenderer the Tenderer's Tender price prior to closing of the Tender.

Neither the Tenderer nor any of its servants or agents has entered into a contract, arrangement or understanding having the result that on being awarded it would pay to any unsuccessful Tenderer any moneys in respect of or in relation to the Tender or any contract resulting there from.

The Tenderer is not aware of any fact, matter or thing that would materially affect the decision of Byron Shire Council in accepting the Tender, except as disclosed in the Tender.

The contents of the Tender are true and correct.

and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

Declared at: on
[place] *[date]*

.....
[signature of declarant]

in the presence of an authorised witness, who states:

I, , a
[name of authorised witness] *[qualification of authorised witness]*

certify the following matters concerning the making of this statutory declaration by the person who made it: [** please cross out any text that does not apply*]

1. *I saw the face of the person OR *I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and
2. *I have known the person for at least 12 months OR *I have confirmed the person's identity using an identification document and the document I relied on was

[describe identification document relied on]

.....
[signature of authorised witness, solicitor or JP] *[date]*

Schedule 5 – Conflict of Interest Declaration

I, _____

[your name]

And the company I represent, _____

[company name]

and the company's directors, shareholders, officer and employees:

1. Have not offered or given, and will not offer or give, any financial reward or other inducement of any kind to any Byron Shire Council officer and/or Councillors, with respect to any of my dealings in relation to this Tender.
2. Am not in any way connected with and do not have any actual or potential conflict of interest with any Byron Shire Council staff member or Councillor (whether employed on a permanent, casual or contractual basis).
3. I have read and understood the concept of conflict of interest as set out on the following page of this form.
4. I understand and accept that the Council reserves the right to terminate any contract, transaction or agreement that Council may enter into with me or the abovementioned company as a result of this Tender, should it subsequently be shown that I have failed to disclose herein any matter or contravene any statement relevant to this declaration. I also accept Byron Shire Council's right to reject any future Tender from the above-mentioned company, or me if I am shown to have made any false declaration herein or otherwise.

(name of person making declaration)

(name of witness)

(signature)

(signature of witness)

(date)

(date)

Conflict of Interest

Conflicts of interest occur when a council officer or staff member (employed on a permanent, casual or contractual basis) could be seen to be influenced by a personal interest in carrying out their public duty. This can be divided into two parts:

1. Non-Pecuniary Interest

A non-pecuniary interest is any private or personal interest with a council officer or staff member, delegate or councillor which does not relate to financial gain (eg kinship, friendship, membership of an association, society etc), or any involvement or interest in an activity.

2. Pecuniary Interest

A pecuniary interest is a financial interest that a person has in a matter because of a likelihood or expectation of financial gain or loss. This may apply to a person or persons in the Council with whom Tenderers are associated, such as relatives, partners or associates.

Some related interests that may give rise to a conflict of interest include:

- A Tenderer's financial interest (other than that relating to a tender submission) in a matter that a council officer/staff deal with or the Tenderer having friends or relatives with such an interest.
- A Tenderer's co-ownership or co-interest in any asset, business transaction etc with any participating council officer/staff, delegate or councillor.
- Personal relationship with any participating council officers/staff, delegate or councillor that go beyond the level of a professional relationship.

Dealing with Conflicts of Interest

A Tenderer may often be the only person aware of the potential for the conflict of interest. It is the Tenderer's responsibility to avoid any financial or other interest with any council officer/staff, delegate or councillor. It is also their responsibility to disclose any potential or actual conflicts of interest when making tender submissions.

Where a tenderer has any doubts as to whether a conflict of interest exists, the tenderer should err on the side of caution by disclosing potential conflict.

A tenderer's disclosure of any potential conflict of interest will be evaluated by the Tender Evaluation Panel to determine the impact on the overall probity of the tenderer's submission. Disclosure of a potential conflict of interest will not necessarily result in the disqualification or non-consideration of the tenderer's submission.

Schedule 6 – Statement of Conformance
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Compliance with this Request for Tender refers to all clauses in all Sections and means that, where applicable:

- (i) The Tenderer has noted and understood the clause;
- (ii) The tendered offer complies fully with the clause;
- (iii) The Tenderer has provided all information requested in the Clause.

(a) Does the Tender conform in all respects to the Statement of Requirements?

Yes

No

If the tender does not conform to all of the requirements in the Statement of Requirements, list in the table below the areas of non-conformance and the reason(s) for the non-conformance.

Area of non-conformity	Reason for non-conformity

(b) Does the Tender conform to all of the Conditions of Contract as set out in Part 2 Section 2 of this Request for Tender?

Yes

No

If the tender does not conform to all of the Conditions of Contract, list in the table below the areas of non-conformance and the reason(s) for the non-conformance.

Area of non-conformity	Reason for non-conformity

(c) Are there any other areas of non-conformance with the tender documents not mentioned in (a) or (b) above?

Yes

No

If yes, please list the areas with which your Tender does not conform and the reasons for the non-conformity.

Area of non-conformity	Reason for non-conformity

Schedule 7 - Tenderer's Insurance and Financial Details
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- (a) Are you acting as a trustee of a trust?

Yes

No

If yes, please provide the name of the trust and attach a copy of the trust deed and any related documents.

If there is no trust deed, provide the names and addresses of the beneficiaries of the trust in this space.

- (b) Provide details of insurances currently held by you and any proposed sub-contractor that would be applicable to the provision of services under the contract.

Insurance Type	Policy No.	Extent of Cover		Expiry Date	Name of Insurer
		Per Incident	Aggregate		
Workers compensation/accident insurance					
Public Liability Insurance - \$20M					
Professional Indemnity - \$10M					
Other					

- ☐ Please attach certificates of currency or copies of all insurance policies listed above.

- (c) The Tenderer shall attach the following financial information to their tender response:
- (i) Balance Sheet and Profit and Loss Accounts for the last two financial years ended prior to closing date of tenders'
 - (ii) Statement of Assets and Liabilities for the same period
 - (iii) The names of any associated companies and their financial results as for (i) and (ii) above.
- (d) Has the tendering organisation ever been subject to bankruptcy, legal action or winding up etc. If yes, please provide details below:

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- ☐ Failure to submit the information requested above may result in your tender not proceeding to evaluation.

Schedule 8 - Work Health and Safety

Byron Shire Council is interested in engaging only contractors who have a commitment to the safety of their staff and of the public who are affected by the contractor's operations.

Company WH&S Record	Tenderer's Response
Please provide the name and position of the person who is responsible for work health and safety within your organisation.	
What has been the company's accident record for the past three years?	
Has the company had any workers compensation claims in the past three years?	
Has the company had any incidents or near misses that were required to be reported to WorkCover in the past three years?	
Has the company received any fine, prosecution or improvement notice under the WHS Act or related legislation within the last 5 years?	
Work Health and Safety System	
Does your organisation have a Work Health and Safety Policy? If yes, please attach.	
Does your organisation have a documented Work Health and Safety Management System? If yes, please attach a table of contents of the system.	
Does the WHS Management System comply with AS/NZS 4801:2001?	
Is the WHS Management System audited or reviewed on a regular basis? Provide details.	
Is there a company WHS organisation chart?	
Are Work Health and Safety responsibilities documented for all levels of staff?	
Are line managers held accountable for health and safety performances?	
Does your company have safe work procedures relevant to its operations? Please provide a list of safe work procedures.	
How do you record which of your employees are issued with safe work procedures or SWMS?	
Does your organisation have any permit to work systems?	

Which company personnel are responsible for investigating incidents?	
Do incident reports contain prevention recommendations?	
Who is responsible for implementing recommended remedial measures?	
What are your procedures for maintaining, inspecting and assessing the hazards of plant operated/owned by the company?	
What are your procedures for storing and handling hazardous substances?	
What are your procedures for assessing and controlling risks associated with manual handling?	
Will the company provide required work equipment and personal protective equipment suitable for the work being performed? Please attach a list of personal protective equipment provided to employees.	
How do you keep a record of employees that hold authorisations, permits, competency certificates and licenses required to perform their work?	
Work Health and Safety Training	
Describe how safety and health training is conducted in your organisation.	
Provide a summary or examples of safety and health training courses provided for, or undertaken by employees during the past twelve months.	
Is a record maintained of all training and induction programs undertaken by employees/subcontractors in your organisation?	
Safety and Health Workplace Inspection	
Are regular health and safety inspections at work sites undertaken?	
Who normally completes workplace safety and health inspections?	
How are workplace safety and health inspection reports dealt with?	
Is there a procedure by which employees can report hazards at workplaces?	
Safety and Health Consultation	
Is there a workplace safety committee?	

Are there guidelines on procedures governing the safety committee operation?	
Is there a company safety officer?	
WHS Performance Monitoring	
Is there a system for recording and analysing safety performance statistics?	
Is safety performance on the agenda of management meetings?	
Is senior management involved in analysis of safety performance statistics?	

Please indicate which of the following supporting documents you have attached to your Tender:

- ☐ Work Health and Safety Management System table of contents
- ☐ List of your company's safe work procedures
- ☐ List of personal protective equipment available for staff
- ☐ Site induction course summary
- ☐ Tenderer's safety record

Schedule 9 – Company Profile

- (a) Please provide the following information in the space below:
- Details of the size of your organisation
 - A copy of your organisational chart
 - Brief history of your organisation including:
 - How long your organisation has been in business under its present business name
 - Nature of the business
 - Other types of business in which the Tenderer has a financial interest.

Provide answer here

- (b) Provide details of the personnel who will have prime responsibility and accountability for the performance of the contract

Name:	Position:
Reporting to:	Years of relevant experience:
Responsibilities	

Name:	Position:
Reporting to:	Years of relevant experience:
Responsibilities	

Name:	Position:
Reporting to:	Years of relevant experience:
Responsibilities	

- Attach a resume for each of the people nominated above.

- (c) Provide a list of all staff available to be used in the provision of the Deliverables:

Staff member name	Qualifications	Years Experience	Responsibilities under the contract

- Attach a resume for each of the people nominated above.

- (d) Estimate the total percentage of work under this Agreement that will be undertaken by subcontractors:

_____ %

- (e) Provide the following information for all subcontractors that you intend to use to service all or part of this Agreement (replicate table as necessary to provide information for all subcontractors to be used):

Subcontractor Name	
ABN	
Address	
Telephone	
Contact Name	
Type of work	
% of this type of work to be undertaken by this subcontractor	
WH&S Documentation	
Insurance held	

- (f) Do you have any formal contractual arrangements in place with any of the above-named subcontractors? Please describe.

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- (g) Describe the procedures you have in place to ensure any subcontractors obtain and maintain the required insurances.

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Schedule 10 – Previous Relevant Experience and References

- (a) Provide details of recent contracts that demonstrate expertise applicable to the goods/services to be provided under this contract.

Company Name	Contact Name and Number	Description of Services Provided	Difficulties and how overcome	Contract Value	Contract Period

- (b) Tenderers must provide names, phone numbers and addresses of at least three client references:

Company Name	Company Address	Contact Name	Contact Phone	Contact Email

Schedule 11 – Service Delivery Methodology and Performance Standards

- (a) [Guide Note: include questions on Proposed Service Methodology as required]
- (b) [Guide Note: ask questions so tenderer can demonstrate who they will achieve the required Service Delivery Performance Standards]

Schedule 12 – Implementation Plan

- (a) Provide a detailed plan outlining how you intend to set up the service provision for Byron Shire Council specifically addressing the following items:
- Setting up the service, including tasks that will need to be completed and the time it will take before the service is fully operational.
 - Adherence to service delivery standards
 - Provision of reports to Council.
 - Periodic performance reviews.

[illegible]

Schedule 13 – Quality Assurance
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(a) Indicate which of the following applies to your organisation (attach supporting documentation)

- ☐ Complete third party accredited quality system in place
- ☐ Complete government accredited quality system in place
- ☐ Substantial progress in the development of a quality system
- ☐ Quality policy statement only
- ☐ No quality system

Schedule 14 – Schedule of Prices

(a) Tenderers are required to submit prices in the Schedule below.

[Guide Note: insert a table for schedule of prices or provide a reference to an excel spreadsheet.]

(b) A settlement discount of% applies for payments made withdays.

(c) Provide details of any other discounts that apply under this contract.

(d) Are there any other charges forming part of the Tender. If yes, please specify.

(e) Indicate which of the following price mechanisms apply to this Tender.

- ☐ Prices firm for the term of the contract
- ☐ Prices firm for the first 12 months and then varied in accordance with the CPI (Sydney All Groups index) according to the formula:

New price = current price + (current price * CPI)

END OF RETURNABLE SCHEDULES