



Byron Shire Council



Agenda

Ordinary Meeting

Thursday, 18 April 2013

held at Council Chambers, Station Street, Mullumbimby
commencing at 10.30am

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

A handwritten signature in black ink, likely belonging to Ken Gainger.

Ken Gainger
General Manager

CONFLICT OF INTERESTS

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

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

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

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

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

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

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

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

- (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descends or adopted child of the person or of the person's spouse;
- (b) the spouse or de facto partners of the person or of a person referred to in paragraph (a)

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

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

Disclosure and participation in meetings

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

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

Participation in Meetings Despite Pecuniary Interest (S 452 Act)

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

Non-pecuniary Interests - Must be disclosed in meetings.

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

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

RECORDING OF VOTING ON PLANNING MATTERS

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

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

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(1)

BUSINESS OF ORDINARY MEETING

1. APOLOGIES

2. REQUESTS FOR LEAVE OF ABSENCE

3. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

4. TABLING OF PECUNIARY INTEREST RETURNS (s450A Local Government Act 1993)

5. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

- 5.1. Ordinary Meeting held on 14 March 2013
- 5.2. Extraordinary Meeting held 21 March 2013
- 5.3. Byron Shire Reserve Trust Committee Meeting held 21 March 2013

6. RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS

7. MAYORAL MINUTE

8. NOTICES OF MOTION

- 8.1. Donation from Mayors Discretionary Allowance - Byron Shire Relay for Life 3
- 8.2. Submission to Draft SEPP (Mining, Petroleum Production and Extractive Industries) Amendment (CSG Exclusion Zones) 2013 5

9. PETITION

- 9.1. Upgrade the causeways of Upper Main Arm Road and Palmwoods 9

10. SUBMISSIONS AND GRANTS

11. DELEGATES' REPORTS

12. REPORTS BY DIVISION

General Manager

- 12.1. Draft Delivery Program 2013-2017 (including Operational Plan)..... 10

Community Infrastructure

- 12.2. Pacific Highway Upgrade Tintenbar to Ewingsdale - Business signage strategy and road names 17
- 12.3. Community Infrastructure Advisory Committee - Community Representative Nominations 25
- 12.4. January and February 2013 Natural Disasters 27

Corporate Management

- 12.5. Internal Auditor Tender 32
- 12.6. External Auditor Tender 35

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(2)

12.7. Investments – February 2013	38
12.8. Boards of Management and Section 355 Committee Member Appointments	43
12.9. Markets Policy Review Project Reference Group	47
12.10. Section 355 Management Committees - appointment of members and other matters	51
12.11. Affix the Seal to Lease	57
12.12. Draft 2013/2014 Statement of Revenue Policy, Budget Estimates and Fees and Charges	59

Environment and Planning

12.13. PLANNING - 10.2012.269.1 Temporary use of Site (North Byron) for cultural events at Bayshore Drive, Byron Bay	72
12.14. PLANNING - Draft Byron LEP 2012 - Submissions analysis and recommendations for Business and Industrial Zones	101
12.15. PLANNING - 10.2012.555.1 Demolition of existing dwelling and erection of 4 storey mixed use residential and commercial at 9 Station Street, Bangalow	108

Society and Culture

12.16. Youth Council Minutes November and December 2012	136
12.17. Schoolies - 2012 outcomes and recommendations for 2013	139
12.18. Establishment of Community Summer Safety and Cultural Activities Committee	146
12.19. Nominees for Public Art Assessment Panel	149

13. COMMITTEE REPORTS

General Manager

13.1. Report of the Finance Advisory Committee Meeting held on 7 March 2013	151
13.2. Report of the Internal Audit Advisory Committee Meeting held on 21 March 2013	154
13.3. Report of the Strategic Planning Committee Meeting held on 28 March 2013	157

Environment and Planning

13.4. Report of the Biodiversity and Sustainability Advisory Committee Meeting held on 15 March 2013	164
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14. CONFIDENTIAL REPORTS

Corporate Management

14.1.CONFIDENTIAL Byron Shire Council Holiday Parks Contract Management	166
---	-----

Water and Recycling

14.2. CONFIDENTIAL Roundhouse Subdivision	175
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Councillors are encouraged to ask questions regarding any item on the business paper to the appropriate Executive Manager prior to the meeting. Any suggested amendments to the recommendations should be provided to the Administration section prior to the meeting to allow the changes to be typed and presented on the overhead projector at the meeting.

NOTICES OF MOTION

Notice of Motion No. 8.1. Donation from Mayors Discretionary Allowance - Byron Shire Relay for Life

#E2013/15746

5 I move:

1. That Council note the donation of a 'Worm Farm' to the value of \$55 from the Mayor's Discretionary Allowance to the 'Byron Shire Relay for Life'.

10 2. That Council advertise the donation in accordance with Section 356 of the Local Government Act 1993.

Signed: Cr Simon Richardson

15 **Councillor's Background Notes:**

I have agreed to a request from the Byron Shire Relay for Life to donate a 'worm farm' to the value of \$55 from the Mayor's Discretionary Allowance. The Relay for Life takes place on a biannual basis within the Byron Shire and was held this year over the weekend 16/17 March 2013. The worm farm will be a prize in the silent auction.

Recommended priority relative to other Delivery Plan tasks:

N/A

Definition of the project/task:

Donation of worm farm

Source of Funds (if applicable):

Mayors Discretionary Allowance (2153.13)

Management Comments by Mark Arnold, Executive Manager Corporate Management
(Management Comments must not include formatted recommendations – resolution 11-979)

Clarification of project/task:

Endorse and advertise the making of a donation of a worm farm to the value of \$55.00 from the Mayor's Discretionary Allowance, to the Byron Shire Relay for Life to be held on Saturday 16 March 2013.

Executive Manager responsible for task implementation:

Corporate Management

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

This will have a minimal impact on other projects/tasks

Financial and Resource Implications:

The 2012/13 Budget adopted by Council included an allocation of \$2,000 for budget item – Mayor – Discretionary Allowance. Council at its Ordinary Meeting to be held on 30 August 2012 considered a report including a carryover amount of \$1,900 from the 2011/2012 Financial Year to

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(4)

the 2012/2013 Financial Year. Council approved the carryover amount and the total approved budget allocation for 2012/2013 is an amount of \$3,900.

- 5 Council at its Ordinary meeting held on 8 September 2011, via Resolution 11-728 allocated an amount of \$1,400.00 from the Mayor's Discretionary Allowance, which included donations to a number of Schools, Organisations and Community Events.

In Part 2 of Resolution 11-728, Council resolved:-

- 10 "2. That the above recipients receive the amounts specified as an annual standard donation to be identified in the yearly budget."
Donations for this year's budget are listed below:

Description	Resolution	Amount
Byron Bay Writers Festival certification and inspection fees	12-654	\$636
Ocean Shores Expo	12-654	\$250
Donation of a digital television to Mullumbimby Hospital	12-881	\$295
"Honour the Ocean Campaign"	13-98	\$500

- 15 The balance remaining in the unallocated amount of the Mayor's Discretionary Allowance is \$819.00. Sufficient Funds are available for the making of this donation of \$55.00.

Legal and Policy Implications:

- 20 In relation to the making of Section 356 Donations from the Mayor – Discretionary Allowance, Council at its Ordinary meeting held on 14 May 2009 resolved as follows:-

- 25 "**09-349 Resolved** that Council confirm that all s356 donations, to be made from the budget allocation "Mayor – Discretionary Allowance", must be the subject of a resolution of the Council at Ordinary or Extraordinary meeting."

This Notice of Motion is to confirm the making of the listed Section 356 Donation. The Section 356 Donation will be advertised and public notice of financial assistance.

Notice of Motion No. 8.2. Submission to Draft SEPP (Mining, Petroleum Production and Extractive Industries) Amendment (CSG Exclusion Zones) 2013

#E2013/18890

I move that Council make a late submission to this SEPP Amendment along the following lines:

1. Council supports the proposed prohibition and applauds the government for introducing it; and
2. Council asks that the prohibition be extended to cover further land types including all those that occur in Byron Shire, including but limited to:
 - a) the Shire's towns (Byron Bay, Mullumbimby, Ocean Shores and Suffolk Park) and villages (Brunswick Heads, Bangalow, Billinudgel, Federal, Goonengerry and Main Arm)
 - b) areas zoned environmental in the Draft LEP, including those zoned E2 or E3 before excision by the Minister for Planning
 - c) areas zoned R5 in the Draft LEP (these are currently 1c1 and 1c2 Rural Residential zones)
 - d) areas within 40m of a waterway
 - e) remaining rural, industrial and other areas of the Shire.

Signed: Cr Duncan Dey

Councillor's Background Notes:

On February 19, the NSW Premier announced a ban on coal seam gas activity within 2km of residential areas and within wine-producing and horse-breeding areas. He also announced that Chief Scientist and Engineer Mary O'Kane will review coal seam gas activity in NSW, including the effect on water catchments, and report on risks by July 2013.

The attached email informed the GM who informed Councillors by email of 25 March 2013 that the draft Mining SEPP amendment was on public exhibition, until 12 April 2013. Further information is at www.planning.nsw.gov.au/proposals.

Council has already expressed its desire for there to be no exploration or mining in the Shire. Our populations are almost unanimous in the same desire. As scientific evidence increases, we lean towards such caution in CSG activities.

Council should take even this small opportunity to notify the State that Byron Shire does not want CSG activities here.

Council Resources

This endeavour is not new and builds on previous recent Resolutions of Council being **11-409, 12-566, 12-826, 13-101**.

It requires no expenditure other than for drafting a further letter. The draft could be run past the Mayor for comment before sending as this may reduce staff time to draft.

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(6)

I hope that with the publication on 11 April of this Notice of Motion, staff would ask the Department of Planning ahead of the closing date to make way for this potential submission.

Recommended priority relative to other Delivery Plan tasks:

5

Management Comments by Ray Darney, Executive Manager Environment and Planning
(Management Comments must not include formatted recommendations – resolution 11-979)

Clarification of project/task:

10

I have requested an extension of time until 19 April to enable Council to lodge a submission. Unfortunately, the Department of Planning have indicated that a draft submission must be submitted by the due date being 12 April and I have therefore submitted a draft which can be confirmed or altered following the council meeting on 18 April 2013.

15

Executive Manager responsible for task implementation:

Environment and Planning

20

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

Minimal

Financial and Resource Implications:

25

Nil

Legal and Policy Implications:

30

Nil

Attachment:

35

A. Email from NSW Department of Planning and Infrastructure dated 22 March 2013

Attachment A

From: planning@planning.nsw.gov.au [mailto:planning@planning.nsw.gov.au]
Sent: Friday, 22 March 2013 10:19 AM
To: Department of Planning and Infrastructure
Subject: Draft State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013



To: All council general managers and planning directors in NSW
From: NSW Department of Planning & Infrastructure
Date: Friday 22 March 2013

Subject: Draft State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013

On 19 February 2013, the NSW Government announced several significant initiatives around the regulation of coal seam gas (CSG) activities in addition to the measures already announced as part of the Strategic Regional Land Use Policy.

These new initiatives include the prohibition of new coal seam gas exploration and production activity in the following areas:

- on or under land in and within 2km of a residential zone or future identified residential growth area; and
- on or under land in a Critical Industry Cluster (CIC). Currently, two CICs have been identified – the Upper Hunter equine and viticulture CICs.

The Department of Planning and Infrastructure is seeking feedback on a draft amendment to the State Environmental Planning Policy (Mining, Petroleum and Extractive Industries) (the Mining SEPP) to implement these prohibitions.

Under the draft amendment, the prohibitions will apply to the following zones (or their equivalent):

- R1 General Residential
- R2 Low Density Residential
- R3 Medium Density Residential
- R4 High Density Residential
- RU5 Village

The prohibition is also proposed to apply to areas zoned R5 Large Lot Residential that meet defined village criteria. To achieve this, councils are being invited – as part of their submission on the draft amendment – to nominate particular areas zoned R5 within their LGAs for listing in the Mining SEPP as an area to which the prohibitions apply. This could include an entire or part area zoned R5. Only that part of areas zoned R5 that meet these criteria will be listed in the SEPP as an exclusion zone.

Nominations for areas zoned R5 to be listed in the SEPP as an exclusion zone must address the criteria and information requirements outlined below:

Criteria:	Comment:	Information to be considered in evaluation:
The area must contain a mix of land uses	A mix of land uses (such as retail, business, industrial, educational or recreation) that service the local rural community is a key point of differentiation between a village and a rural residential subdivision.	Description of current land uses in the area and any information on projected changes to these land uses.
The zone must apply to a settlement that is long established and that has some historic association within the district, region and/or rural hinterland	Villages are generally long established population centres that historically served a particular economic function in a district or regional context. This is a key point of differentiation to rural residential subdivisions that are typically more recently established and, by the nature of their predominantly residential land use, do not provide a regional economic function.	Information on when the settlement was established and its historic association with the surrounding region.
The area must contain a mix of lot sizes, including an average lot size up to 4,000 m²	Villages are characterised by a range of residential lot sizes, including smaller lots than would typically comprise a rural residential subdivision.	Information on range of residential lot sizes, including number and proportion of lots up to 4,000 m ² in area.

Nominations should also clearly describe and map (including GIS data) the subject areas.

Nominated areas will be evaluated by the department, with recommendations made to the Minister for Planning and Infrastructure as part of the making of the Mining SEPP amendment. The department is currently consulting with Local Government NSW about involving local councils in the evaluation process.

The draft SEPP amendment also includes provision for councils to nominate areas where they wish to opt out of exclusion zones, following community consultation, to enable CSG development to occur, subject to relevant approvals. These areas will be identified in a Schedule to the SEPP.

The draft Mining SEPP amendment is on public exhibition until 12 April 2013. To find out more, go to www.planning.nsw.gov.au/proposals or telephone the department on 1300 305 695. Submissions can also be lodged online at this website.

Daniel Keary
Director Strategic Regional Policy

 This message is intended for the addressee named and may contain confidential/privileged information. If you are not the intended recipient, please delete it and notify the sender.

Views expressed in this message are those of the individual sender, and are not necessarily the views of the Department.

You should scan any attached files for viruses.

PETITION**Correspondence and Petitions No. 9.1. Upgrade the causeways of Upper Main Arm Road and Palmwoods**

#E2013/18894

At Council's Ordinary meeting on 14 March 2013 Cr Richardson tabled a petition containing 94 signatures which states:

"We, the students of Main Arm Upper Public School, along with the parents, school staff and concerned citizens of the Byron Shire, petition the Byron Shire council to upgrade the causeways of Upper Main Arm Road and Palmwoods.

When the road floods, there is a real risk to the lives of the people of our Shire. Residents can become stranded from their homes and at times, feel the need to abandon their vehicles.

Because Main Arm Upper Public School is near several of these causeways and the majority of students travel to school by bus, we are forced to miss school, often it can be several days. These lost days have had an impact on our learning.

We demand that the Byron Shire Council fully fund this upgrade and have a solution in place and begin the implementation of that solution no later than the end of 2013."

Executive Manager Community Infrastructure Comment:

Council has an adopted priority list for the upgrade of causeways across the Shire. This is annexed to the Council agenda (Annexure 19).

This priority list takes into account many criteria, each of which is given a score to develop the final ranking. However, this list is aspirational as there are no funds to undertake the upgrade of any of the listed causeways.

There are times when a causeway has been rebuilt ahead of its listing or undergone significant maintenance as a result of a natural disaster, or there are development issues to be considered, such as the first causeway at Main Arm. It is noted that four of the top six on the list are at Main Arm.

The list was last reviewed with updated information in 2012. If Council wishes any amendment to be made to the criteria to be assessed, this can be resolved and included for a further review of the list. However, at this time, there are no funds to program any upgrade of the Shire wide causeways.

RECOMMENDATION:

1. That the petition regarding upgrading the causeways of Upper Main Arm Road be noted.

2. That the petition be referred to the Executive Manager Community Infrastructure for information.

Attachments:

- Causeway Replacement Hierarchy #E2013/21463 [2 pages] **Annexure 19**

GENERAL MANAGER'S REPORT**Report No. 12.1. Draft Delivery Program 2013-2017 (including Operational Plan)****General Manager**

5 **Report Author:** Mark Arnold, Executive Manager Corporate Management
File No: #E2013/19947

Theme: Organisational Support

Summary: Council at its Ordinary Meeting held on 8 November 2012 confirmed its endorsement of the Byron Shire Council Community Strategic Plan 2022. Council has subsequently developed a draft Delivery Program 2013-2017 (including the 2013/14 Operational Plan).

In accordance with Local Government Act, the Draft Delivery Program 2013-2017 (including Operational Plan), must be exhibited for 28 days.

Council prior to the adoption of Draft Delivery Program 2013-2017 (including 2013/14 Operational Plan) must consider any submissions received during the exhibition period.

This report has been prepared to allow Council amend or alter the Council Actions contained in the 2013/14 Operational Plan, prior to the Plan being placed on public exhibition, and for Council to authorise the public exhibition of the Plan.

The Operational Plan must include a statement of the Council's Revenue Policy for the 2013/14 period. The Revenue Policy which includes the draft 2013/14 Budget and Fees and Charges is the subject of a separate Report to this meeting.

10 **RECOMMENDATION:**

That Council endorse the draft Delivery Program 2013-2017 (including Operational Plan) for public exhibition, with authorisation to amend the draft to ensure that it accords with Council's endorsed draft 2013/14 Budget as necessary.

15

Attachments:

- 20 • Draft Delivery Program 2013-2017 (including the Draft 2013-2014 Operational Plan)
 #E2013/21418 [126 pages] **Annexure 18**

Report

The Finance Committee at its meeting held on 7 March 2013 considered a Report on the draft Delivery Program 2013-2017 (including 2013/14 Operational Plan). The Finance Committee following consideration of the Report made the following recommendation:

“Committee Recommendation FAC 4.1.1:

That the Finance Advisory Committee note the 2013/14 Operational Plan and recommends.

1. That Councillors be invited to provide comments on the draft 2013/14 Operation Plan.

2. That Council note the potential to refine the content and format of future Operation Plans to better align the Operation Plan with financial components.”

This recommendation is the subject of a separate Report to this meeting on the Minutes of the Finance Committee Meeting.

In accordance with the above Committee Recommendation a copy of the draft Delivery Program 2013-2017 (including 2013/14 Operational Plan) was distributed to each Councillor under the cover of a Memorandum dated 18 March 2013. Comments on the document were invited to be received by 4.30pm on Thursday, 4 April 2013. To date no comments were received that inform this Report.

Background

This report has been prepared to allow Council to review and to make any amendments, additions and/or deletions to the Council actions in the draft 2013/14 Operational Plan, prior to the draft Delivery Program 2013-2017 (including 2013/14 Operational Plan) being placed on public exhibition .

Any amendment, addition and/ or deletion of a Council action/s in the draft 2013/14 Operational Plan is likely to have an impact on the draft 2013/14 Budget, and therefore, potentially on the financial position of Council.

The Council Actions included in the draft 2013/14 Operational Plan are shown in the draft 2013-2017 Delivery Program attached to this Report at Annexure 18.

Integrated Planning and Reporting Framework

The Delivery Program (including the Operational Plan) is part of the suite of Community Strategic Plan documents required under the integrated reporting framework. The Delivery Program (including the Operational Plan) must be exhibited for 28 days prior to adoption by Council.

As per the adopted Community Strategic Plan Communication Strategy, statutory requirements and prior resolutions of Council, once the 2013-2017 Delivery Program (including the 2013/14 Operational Plan and Revenue Policy) are finalised, these Plans will all be placed on public exhibition:

The Revenue Policy includes details of the proposed Rates and Charges for 2013/14, the draft 2013/14 Fees and Charges and draft 2013/14 Budget. These documents are the subject of a separate report to this meeting of Council.

It is proposed that all these documents will be placed on public exhibition in April to enable submissions to be received, and for these submissions to be considered and reported back to Council, prior to the 30 June 2012 deadline for the adoption of theses Plans by Council.

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(12)

The draft Delivery Program 2013-2017 (including Operational Plan):

- 1) Comprises the statutorily required 4 year Delivery Program ie the actions that Council proposes to progress over the next 4 years.
- 2) Includes the statutorily required Councils annual Operational Plan ie the actions that Council proposes to progress in the next year.
- 3) Is a combined document as this is permitted, it reduces the number of documents and it is also a format which has already been commonly used by many of the category 1 and 2 councils (and accepted by the DLG).
- 4) Has been prepared bringing forward items from the current Delivery Program, adopted Plans and Strategies and resolutions where they are consistent with the draft budget and available funding.
- 5) Identifies:
 - the 4 year Delivery Key Activity which is carried forward from the Community Strategic Plan;
 - the 2013/14 Actions intended to delivery the Key Activity;
 - the status of the Action – existing actions are either activities which are ongoing and operational in nature or actions which have been previously identified but not yet delivered and new actions include actions arising from Council resolutions or plans and strategies etc adopted since the last Management Plan;
 - whether actions are ongoing (usually operational in nature) or have a particular target date;
 - the Division responsible for the action;
 - how performance against the action will be measured; and
 - the funding source for the action (or in some cases the fact that the proposed action is unfunded).
- 6) Includes actions which, while requirements from adopted plans, strategies or resolutions, they are unfunded for the 2013/14 financial year. These actions should remain in the Operational Plan (unless Council resolve to not proceed with them at all) in case funding sources are able to be identified for the action. If no funding source is able to be identified they will be carried forward until, either a funding source is identified, Council changes its strategic approach (and adopts a new CSP/4 year Delivery Plan) and/or Council resolves not to proceed with the particular action.
- 7) Has been prepared based on the draft budget (and should changes be made to the draft budget in turn could affect the funding sources for Actions).

The Key Activities in the Delivery Program flow from the Community Strategic Plan and. in turn, the 2013/14 Operational Plan 'Actions' must flow from the Key Activities. Further, it is a requirement that the Key Activities and Actions must be able to be traced sideways through the Resourcing Strategy (ie Long Term Financial Plan, Asset Management Plan and Workforce Strategy) and the annual Budget. That is, all of the suite of documents are required to be and are integrally linked (as shown below) and changes to one, eg the budget, will most likely result in a need for changes to be made to the other.

Process for the development of the 2013/14 Integrated Planning Documents

Council at its Ordinary Meeting held on 8 November 2012 resolved (**12-859**) to confirm its endorsement of the Byron Shire Community Strategic Plan 2022.

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(13)

Council as a Group 3 Council endorsed the initial CSP under the integrated Planning and Reporting framework on 28 June 2012 via Resolution **12-542**.

- 5 Council at the same meeting also resolved to adopt the preliminary schedule for the development of the 2013-2017 draft Delivery Program (including the Operational Plan).

In accordance with the preliminary schedule Councillors at two Workshops held on 15 and 22 November 2012, reviewed the key activities in the in the 2012-2016 Delivery Program.

- 10 The summary of the amendments, additions and deletions to the key activities were reported to the Ordinary Meeting of Council held on 20 December 2012. Council at that meeting resolved as follows:

12-1010 Resolved

- 15 1. *"That Council endorse the amendments, additions and deletions to the key activities as listed in Annexure 21 (#E2012/19389) including the following amendments:*

a) *CM 1.5.2 on page 2 to read: Develop employees as per the Workforce Plan.*

- 20 b) *SC 2.3.1 on page 9 to read: Provide quality before and after school care, and parent support programs for families in the Shire.*

c) *EN 1.4.1 on page 12 to read: Implement the Brunswick River Estuary Management Plan.*

- 25 d) *EN 1.4.3 on page 12 to read: Develop the North Byron Coastal Creeks Flood Study.*

e) *CI 4.1.1. on page 22 to read: Develop a process for the prioritisation of new infrastructure that results from Community Outcome CI Planning for the future.*

- 30 f) *CI 1.1.3 on page 16: the words "Local" and "Public" to be changed to lower case.*

2. *include the endorsed amended key activities in the draft 2013-2017 Delivery Program; and*

- 35 1. *include a Councillor Workshop on Thursday , 21 February 2013 in the adopted Schedule for the development of the 2013-2017 Delivery Program and 2013/14 Operational Plan, for the purpose of reviewing the first draft of the Council Actions for the 2013/14 Operational Plan."*

- 40 The key activities in the Delivery Program were updated in accordance with Part 1 and 2 of Resolution 12-1010 and the templates for the draft 2013/14 Operational Plan distributed to staff for the inclusion of the draft Council Actions. This process was undertaken during January and the beginning of February and was completed at the same time that staff prepared the financial information for inclusion in the draft 2013/14 Revenue Policy including the Budget and Fees and
45 Charges.

- The Workshop scheduled for 21 February was subsequently cancelled due to conflicting commitments for a number of Councillors and the operational commitments for staff resulting from the weather related events over the Australia Day long weekend. The purpose of that Councillor
50 Workshop was to review the first draft of the Council Actions for the 2013/14 Operational Plan.

- A report was prepared and considered by the Finance Commitment at its meeting held on 7 March 2013, and as indicated above the Committee Recommendation from that meeting, is the subject of a separate Report from the Committee to this meeting. The Recommendation from the Committee
55 does not amend or alter the 2013-2017 draft Delivery Program (including the 2013/14 Operational Plan) attached at Annexure18.

Key highlights from 2013 – 2014 Operational Plan

The following projects are key highlights from the 2013 – 2014 Operational Plan.

Corporate Management

- Develop Council's Business Continuity Plan
- Convene Community Strategic Plan Citizens Panel to review the 2012/13 Key Performance Indicators and assist with the development of a new community engagement model

Economy

- Implement the Volunteer Tourism initiative
- Promote Visitor Trails Map to encourage visitors to discover all parts of the Shire
- Implement the Byron Shire identity "Don't spoil us, we'll spoil you"

Society and Culture

- Youth Week, Seniors Week and NAIDOC Week events
- Develop a regional 'Tradies Guide' to encourage access for all
- Initiate and support cultural and recreational activities for young people in the north of the Shire through the 'Small Change' grants program
- Increase late night transport options across targeted entertainment districts in Byron Bay town centre for the safe and speedy dispersal of patrons vacating premises on Friday and Saturday nights and during peak holiday periods
- Implement the Public Art Guidelines including formation of the Public Art Assessment Panel
- Continue to support a Council sponsored annual acquisitive art prize.

Environment

- Finalise the Koala Management Plan
- Conduct New Brighton Beach Scraping project
- Finalise development of a draft Coastal Zone Management Plan for the Byron Bay Embayment
- Continue to develop the draft Byron LEP 2012
- Inclusion of the Heritage list in LEP
- Develop the Byron Bay Town Centre Urban Design Strategy

Community Infrastructure

- Complete the design and planning for the Byron Bay Town Centre 'Bypass'
- Implement Traffic and Parking Management Plans for Brunswick Heads, Mullumbimby and Bangalow.
- Prepare town and Village Landscape Plans for Council adoption. (Two towns to be confirmed)
- Plan and deliver the proposed Myocum Quarry Landfill Project
- Complete the North Byron Coastal Creeks Flood Study which combines Brunswick River, Marshalls Creek and Simpsons Creek catchments into one flood study
- Complete the Belongil Creek Flood Risk Management Study and Plan
- Introduce an organic waste (food and green waste) collection service
- Public toilet upgrade at Railway Park, Byron Bay

Public Exhibition

In accordance with schedule adopted by Council for the development of the 2013-2017 Delivery Program and 2013/14 Operational Plan, the Draft Delivery Program 2013-2017 (including 2013/14 Operational Plan), will be placed on public exhibition from Monday, 29 April to Monday, 28 May 2013. Any submissions received by Council will be reported to the Ordinary Meeting to be held on

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(15)

27 June 2013, to allow Council to consider the submissions prior to the adoption of the Delivery Program 2013-2017 (including 2013/14 Operational Plan).

- 5 The draft Delivery Program 2013-2017 (including 2013/14 Operational Plan) will be supported by a Community Summary document that includes an overview of the actions, activities and services to be provided by Council in the 2013/14 period, and the estimated financial implications of these as detailed in the draft Revenue Policy.

- 10 Promotional tasks to raise awareness and encourage submissions on the public exhibition of the Draft Delivery Program 2013-2017 (including 2013/14 Operational Plan) will consist the following:

- | | |
|---|-------------------------------|
| 1. Public Notice advertising in the Byron Shire Echo on 30 April, 7 May and 14 May. | \$300 |
| 2. Small display advert in Byron Shire News on 2 and 16 May. | \$400 |
| 3. 30 x 30 second spots on radio Bay FM | \$550 |
| 4. Copies of draft Delivery Program 2013-2017 (including 2013/14 Operational Plan) and Community Summary available at Community Access Points | In house printing and postage |
| 5. Copies of draft Delivery Program 2013-2017 (including 2013/14 Operational Plan) and Community Summary to be sent to Chamber of Commerces and progress associations | In house printing and postage |
| 6. Byron Shire Council front of web to feature the public exhibition | No cost |
| 7. Media release on 25 April and 16 May | No cost |
| 8. Community E-news on 26 April and 17 May to feature the public exhibition | No cost |
| 9. Farmers Markets stands at New Brighton (Tues 14 May), Byron Bay (Thurs 16 May) and Mullumbimby (Fri 17 May) with staff representations and available Councillors. | \$150 |

Financial Implications

- 15 The draft Delivery Program 2013-2017 (including 2013/14 Operational Plan) has been developed in house within existing resources. There will be minor costs of about \$1,400 associated with exhibition of these Planning documents similar to the usual costs associated with exhibition of the annual budget, fees and charges and management plan.

Statutory and Policy Compliance Implications

The draft Delivery Program and Operational Plan have generally been prepared in accordance with the requirements of the Division of Local Government – Department of Premier and Cabinet's requirements for Integrated Planning and Reporting for Local Government in NSW.

The Delivery Program (including the Operational Plan) must be exhibited for 28 days prior to Council adopting the plans (refer s404 (4) and s405 (3) and (4)).

404 Delivery program

(1) A council must have a program (its **delivery program**) detailing the principal activities to be undertaken by the council to implement the strategies established by the community strategic plan within the resources available under the resourcing strategy.

(2) The delivery program must include a method of assessment to determine the effectiveness of each principal activity detailed in the delivery program in implementing the strategies and achieving the strategic objectives at which the principal activity is directed.

(3) The council must establish a new delivery program after each ordinary election of councillors to cover the principal activities of the council for the 4-year period commencing on 1 July following the election.

(4) A draft delivery program must be placed on public exhibition for a period of at least 28 days and submissions received by the council must be considered by the council before the delivery program is adopted by the council.

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

405 Operational plan

(1) A council must have a plan (its **operational plan**) that is adopted before the beginning of each year and details the activities to be engaged in by the council during the year as part of the delivery program covering that year.

(2) An operational plan must include a statement of the council's revenue policy for the year covered by the operational plan. The statement of revenue policy must include the statements and particulars required by the regulations.

(3) A council must prepare a draft operational plan and give public notice of the draft indicating that submissions may be made to the council at any time during the period (not less than 28 days) that the draft is to be on public exhibition. The council must publicly exhibit the draft operational plan in accordance with the notice.

(4) During the period of public exhibition, the council must have for inspection at its office (and at such other places as it may determine) a map that shows those parts of its area to which each category and sub-category of the ordinary rate and each special rate included in the draft operational plan applies.

(5) In deciding on the final operational plan to be adopted, a council must consider any submissions that have been made concerning the draft plan.

(6) The council must post a copy of its operational plan on the council's website within 28 days after the plan is adopted.

COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER’S REPORTS

Report No. 12.2. Pacific Highway Upgrade Tintenbar to Ewingsdale - Business signage strategy and road names

Executive Manager: Community Infrastructure

Report Author: Michael King, Manager Infrastructure Planning
Joanne McMurtry, Tourism Officer

File No: #E2012/15583

Theme: Community Infrastructure, Local Roads and Drainage

Summary: The purpose of this report is to provide information to Council on the Tintenbar to Ewingsdale Business Signage Focus Group and the resultant ‘Summary Report for Tintenbar to Ewingsdale Business Signposting Strategy’. The Strategy includes a number of options for Council to consider.

RECOMMENDATION:

1. That Council endorse the ‘Summary Report for Tintenbar to Ewingsdale Business Signposting Strategy’ including:

a) An update to the routes of existing TASAC approved tourist drives which are affected by the highway upgrade, as follows:

- i) tourist drive 24 to continue from Bangalow to the upgraded Ewingsdale interchange**
- ii) tourist drive 28 to continue from the Ballina Shire along the existing Pacific Highway to the intersection of Coolamon Scenic Drive; along Coolamon Scenic Drive through Mullumbimby to Gulgan Road where it rejoins the Pacific Highway at the Gulgan Road north interchange.**

b) The upgrade to the St Helena Lookout on Roads and Maritime Service land, renaming it ‘Cape Byron Lookout’.

2. That additional white on brown tourist drive signage required for the extension of Tourist Drive 28 along local roads be funded from Signs Maintenance within existing budgets.

3. That Council endorse the renaming of the existing Pacific Highway to ‘Hinterland Way’, noting the community consultation undertaken by the Roads and Maritime Services.

4. That Council endorse the naming of two new local roads as follows:

- a) Local Road D be named Wiley Road**
- b) Local Road E be named Lincoln Road**

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(18)

Attachments:

- 5 • Terms of Reference for Tintenbar to Ewingsdale Business Signage Focus Group
#E2013/17915 [5 pages] **Annexure 10(a)**
- Proposal for Tintenbar to Ewingsdale Business Signposting Strategy, Roads and
Maritime Services #E2013/17913 [11 pages] **Annexure 10(b)**
- Letter from Tourist Attraction Signposting Assessment Committee – advice about
Tourist Drives as per meeting 17 October 2012 #S2012/3492 [1 page]..... **Annexure 10(c)**
- 10 • Letter of support from Brunswick Heads Chamber of Commerce #S2012/3130 [1 page]... **Annexure 10(d)**
- Letter of support from Mullumbimby Chamber of Commerce #S2012/4181 [1 page] **Annexure 10(e)**
- Letter of support from Visitor Industry Association Byron (VIA Byron)
#E2013/14377 [1 page] **Annexure 10(f)**
- 15 • Letter of support from Crystal Castle #E2013/2162 [1 page]..... **Annexure 10(g)**

ReportBackground

A report to advise Council on progress of the Pacific Highway Upgrade – Tintenbar to Ewingsdale (T2E) was presented at the Ordinary Meeting held on 30 August 2012.

The Report (Item 13.5) and Minutes can be viewed in full at:

www.byron.nsw.gov.au/meetings/2012-08-30-ordinary

Council resolved (**12-663**) as follows:

1. *That the report regarding the Pacific Highway Upgrade - Tintenbar to Ewingsdale (T2E) be noted.*
2. *That a letter be sent to the Roads and Maritime Services expressing Council's preference for the old Highway alignment to remain a State Road under their control.*
(Staples/Cameron)

Substantial works have now commenced on the T2E project.

"Hinterland Way" Tourist Drive Background

Another report to reference the issues surrounding the T2E project was presented to Council at the Ordinary Meeting held on 12 May 2011, dealing with the proposal for the Hinterland Way Tourist Route.

The report (Item 11.5) can be viewed at: www.byron.nsw.gov.au/meetings/2011-05-12-ordinary

Council resolved (**11-393**) as follows:

1. *That Council note that the Hinterland Way Working Party has emailed Council requesting a letter of support for the proposed Hinterland Way Tourist Route.*
2. *That Council does not support the Hinterland Way Tourist Route and write to the Hinterland Way Working Party to advise this.*
3. *That Tourist Drive 30 remains unchanged.*
4. *That a second Tourist Drive via the Old Pacific Highway between Ewingsdale and Tintenbar not be supported.*
5. *That the offer by the Roads and Traffic Authority to undertake public consultation for the renaming of the Old Pacific Highway between Ewingsdale and Tintenbar at the appropriate time be accepted.*
6. *That Council endorse the erection of tourist directional signage on the upgraded Pacific Highway, funded by the RTA, for the Macadamia Castle on the proviso that no further funding will be required from Council for its maintenance. (Tucker/Woods)*

In terms of the above resolution (11-393), a number of issues have changed in the time since that report and Council are now being asked to consider a number of matters in relation to road names and Tourist Drives.

T2E Business Signage Strategy Focus Group

The Roads and Maritime Services (RMS) Project Team for T2E established this group and the 'Terms of Reference' for the group can be found at Annexure 10(a). The Group is now disbanded.

A significant element of the design of the T2E upgrade is signage. In this regard, there are two key elements of the directional sign design to consider:

1. Signage to inform the motorists to enable them to make a decision, and
2. Facilitate the business and tourism community of the region

There are three types of signs along a road relating to its primary function, they are:

1. Regulatory – eg speed signs, Keep Left Unless Overtaking
2. Warning – eg speed advisory, exit speeds from the motorway to off-ramps at interchanges, and
3. Advisory – eg tourist drives, information about town centres, service centres, directional signs.

Council will generally have little or no input into sign types 1 and 2 in regards the upgrade of the Motorway. There has been consultation between Council and the RMS for such matters on the local road network impacted by the works associated with this project.

This report, and the T2E Business Signage Focus Group, concentrated on type 3, Advisory signs.

The Group membership included:

1. Roads and Maritime Services
2. Local councils - Byron Shire Council and Ballina Shire Council
3. Local business community and interest groups

Byron Shire Council has been represented at these meetings by the Manager Infrastructure Planning and the Tourism Officer. The group met four times from August 2012 – February 2013 with the result that a *'Summary Report for Tintenbar to Ewingsdale Business Signposting Strategy'* has been developed and is attached at Annexure 10(b).

In the *'Summary Report for Tintenbar to Ewingsdale Business Signposting Strategy'*, Council may like to note the following key points:

1. An update to existing TASAC approved tourist drives which are affected by the highway upgrade (see discussion below)
2. A proposition to include the upgrade to the St Helena Lookout on RMS land, renaming it 'Cape Byron Lookout'
3. The renaming of the existing Pacific Highway which will be bypassed in the T2E upgrade

RMS undertook community consultation from September to December 2012 about the naming of the existing Pacific Highway and new local roads. The results of the naming of the existing Pacific Highway are provided in *'Summary Report for Tintenbar to Ewingsdale Business Signposting Strategy'*, the recommendation made is 'Hinterland Way'.

It should be noted that the proposal to upgrade the lookout at St Helena would be at no cost to Council.

TASAC

The Tourist Attraction Signposting Assessment Committee (TASAC) is a group formed by the NSW State Government to have overall responsibility for the planning and implementation of tourist signposting systems which:

1. safely and efficiently guide motorists to their destination
2. inform visitors of the range of major attractions and services available within a destination

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(21)

TASAC have endorsed, in principle, the extension to the two tourist drives in the 'Summary Report for Tintenbar to Ewingsdale Business Signposting Strategy' and detailed below. A letter from TASAC is provided at Annexure 10(c).

- 5 More information about TASAC can be viewed at:
http://archive.tourism.nsw.gov.au/About_TASAC_p849.aspx

Information about TASAC meetings can be viewed at: [Information on meeting dates and past meeting minutes here >](#)

- 10 Tourist Drives affected by T2E Project
Prior to addressing the specific issues of the tourist drive signage associated with the T2E project, it is important to note some background to current TASAC related issues.
- 15 TASAC has made contact with all Councils across the state in February 2011 seeking a review of the tourist drives (TD) within their respective LGA's. They have asked for a review of the signage because in the time since TD's were created, they note that many councils' have not maintained or complied with the requirements of an established TD. In this regard some elements of concern came to their attention in Byron Shire.

- 20 There are currently three TD's within and beyond the Byron Shire, being:

- 25 TD 24 from the Pacific Highway at Woodburn, it travels to Lismore and then along the Lismore Road to Bangalow where it rejoins the highway at Bangalow.
- TD 30 the coast road from Ballina, starting at its link with the Pacific Highway in Ballina, along to Lennox Head, Broken Head, Suffolk Park, Byron Bay and along Ewingsdale Road back to the Pacific Highway at the Interchange.
- 30 TD 40 the Brunswick Valley Way (Old Highway) which is an extension of the Tweed Valley Way from the Yelgun Interchange through Ocean Shores, Brunswick Heads and back to the Pacific Highway at the Mullumbimby/Brunswick Heads interchange.

- 35 When Council staff reviewed the signage along these TD's, it was noted that with some minor work to upgrade the existing route signage, TD's 30 & 40 can be brought up to standard to satisfy the TASAC requirements. The work to achieve this has been completed within existing operational budgets.

- 40 Regarding TD 24, there are currently no signs installed within the Byron Shire as they were never installed when the tourist drives were implemented across the state. RMS have agreed to install the necessary TD24 signs at no cost to Council, though Council will be required to maintain them from that time onwards. As part of the 'Summary Report for Tintenbar to Ewingsdale Business Signposting Strategy' TD24 will be extended to the Ewingsdale interchange.

- 45 A new proposal resulting from the T2E Business Signage Focus Group is the extension to TD 28, which at this stage is not in Byron Shire. The drive currently commences on the Pacific Highway at Wardell and travels to Alstonville and then back to the Pacific Highway at Tintenbar. The proposal is to extend TD28 from Tintenbar along the old Pacific Highway to Coolamon Scenic Drive (St Helena) thence along Coolamon Scenic Drive to Mullumbimby and to the Pacific Highway at the northern Gulgarn Road Interchange. This proposed extension is supported by local business groups; VIA Byron, Mullumbimby Chamber of Commerce, Brunswick Heads Chamber of Commerce and Crystal Castle. (Letters of support attached at Annexures 10(d), (e), (f) and (g)).
- 50 In order for TASAC to formally approve this proposed extension of TD28, Council endorsement is required. If Council decides to accept the proposal, the following white on brown tourist drive signs
- 55 will need to be funded and installed by Council:

1. Reassurance sign 50m along Gulgan Road after the Brunswick Heads interchange listing the distances to five tourist attractions along the drive, for example, Uncle Tom's, Mullumbimby, Crystal Castle and Cape Byron Lookout. (Note the RMS will pay for the reassurance sign 50m after left turn into Coolamon Scenic Drive as part of the T2E project)
2. TD directional arrows at the intersection of Coolamon Scenic Drive and Coorabell Road.
3. TD directional arrows (for reassurance) at Coolamon Scenic Drive and Federal Drive (Crystal Castle turnoff) and at Myocum Road.
4. TD directional arrows at the intersection of Coolamon Scenic Drive and Burringbar Street in Mullumbimby.
5. TD directional arrows at intersection of Mullumbimby Road and Gulgan Road

If agreed, the proposed extensions for TD24 and TD28 will occur when the T2E upgrade is opened and the old Pacific Highway is handed over to the respective councils. However, it is noted that at this stage the current alignment of the Pacific Highway is still a state road and this Council is formerly asking that upon completion of the upgrade, that it stay that way. (Refer to point 2 of Resolution 12-663.)

Local Road Names

The RMS has consulted with the local residents who are affected by the development of two new local roads that provide them with access. These two new roads are currently labelled Access Road D and Access Road E on the map sections shown below.

Figure 1: Locality of Access Roads D & E



In regards to the consultation with the residents, the RMS advises as follows:

"For access road D:

2 of the 3 residents showed a preference for Wiley Road, a suggestion put forward by a resident. This is the surname of James Wiley who settled the first properties in this area.

Figure 2: Access Road D



5 For access road E:

The 2 residents have put forward the following suggestions:

- 10 Claire Valley Lane
- Arrow Head Lane (referencing the arrow head vine that grows in this area and is a rare species)
- Coolamon Lane
- Angus Lane
- Lincoln Road"

15

Figure 3: Access Road E



BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(24)

Road names across the shire are to be in accordance with Council Policy # 07/102 "Tourist, Street name, Community facility and Service signs" (www.byron.nsw.gov.au/policies).

- 5 A key point about road names is to avoid the same name, or a similarly sounding name, occurring within a local government area and/or town. Although there are such situations in Byron Shire (eg Brunswick Street, Short Street), adding to this problem is not recommended.

In regards to the proposed name of Wiley Road for Access Road D, this name is acceptable.

- 10 In regards to Access Road E, the following suggested names are not acceptable:

1. Coolamon Lane – there is Coolamon Avenue and Coolamon Scenic Drive
2. Angus Lane – there is Angus Place in Ewingsdale

- 15 Another element of road naming is the length of the name. This is not a mandatory issue but consideration should be given to the length of a name in regards to the length of the name blade required. In this regard, Claire Valley Lane and Arrow Head Lane are a bit long but not to the extent of recommending rejection.

- 20 There are no issues with the suggested Lincoln Road.

Council may accept the recommended name for Road D and one of the acceptable names for Road E, or select other names. Council may also choose to place the proposed names on public exhibition by advertising them in the local paper and seeking comment before making a decision.

- 25 Whilst the RMS undertook substantial broad public consultation for the naming of the soon to be bypassed portion of the Pacific Highway, they have only dealt with the immediately affected residents for the two local roads. As these are the key people affected by the new road names, this is considered acceptable and it is recommended that the suggested names be selected.

30 **Financial Implications**

The estimated cost for council to erect the signs for the proposed extension of TD28 would be approximately \$5,000 to be taken from the signs maintenance budget. There after, signs are replaced anywhere between 5 to 10 years, depending on which way they are facing.

35

Statutory and Policy Compliance Implications

Tourist Signposting Manual, Roads and Maritime Services, February 2012.

Byron Shire Tourism Management Plan 2008 – 2018.

- 40 Council Policy # 07/102 "Tourist, Street name, Community facility and Service signs"

Report No. 12.3. Community Infrastructure Advisory Committee - Community Representative Nominations

Executive Manager: Community Infrastructure
Report Author: Michael King, Manager Infrastructure Planning
File No: #E2013/15175

Theme: Community Infrastructure, Local Roads and Drainage

Summary: This report provides details of the seven nominations received for community membership on the Community Infrastructure Advisory Committee.

RECOMMENDATION:

1. That Council select three community representatives from the eight nominations for membership of the Community Infrastructure Advisory Committee.
2. That Council formally thank the unsuccessful applicants for their expressions of interest to membership of the Community Infrastructure Advisory Committee.

Attachments:

- **CONFIDENTIAL** Summary of Nominations Received for the Community Infrastructure Advisory Committee #E2013/15386 [2 pages] **Annexure 5(a)**
- **CONFIDENTIAL** Full copy of all nominations received #E2013/17125 [24 pages] **Annexure 5(b)**
- Draft Constitution of the Community Infrastructure Advisory Committee #E2013/17129 [7 pages] **Annexure 5(c)**

Report

At the Ordinary Meeting of 25 October 2012 Council resolved as follows:

5 **12-836 Resolved:**

1. *That Council note this report.*
- 10 2. *That Council adopt the draft Community Infrastructure Advisory Committee Constitution (Annexure 28 #E2012/11644).*
3. *That Council appoint Cr Dey, Cr Cameron and Cr Hunter as its representatives to the Community Infrastructure Advisory Committee.*
- 15 4. *That advertising for membership of the Community Infrastructure Advisory Committee take place to include three community representatives. (Woods/Richardson)*

Advertising for the three community representatives has closed and eight nominations have been received.

20 A table providing a summary of nominations is provided as Annexure 5(a). However, Councillors may refer to the full copies of all nominations (Annexure 5(b)), provided strictly on a confidential basis. The full copies of the nominations contain personal information such as names and addresses of the persons lodging nominations.

25 In accordance with the adopted "Draft Community Infrastructure Advisory Committee Constitution", it is recommended that Council choose three of the eight nominations received.

30 It is proposed to hold the first meeting of the Community Infrastructure Advisory Committee in May 2013.

Financial Implications

35 All community representatives on the Community Infrastructure Advisory Committees are volunteer positions.

40 Councillors appointed to the Community Infrastructure Advisory Committee can claim travel expenses to and from each meeting in accordance with Council's adopted Policy – Mayor and Councillors Payment of Expenses and Provision of Facilities – Clause 4 Travel Expenses.

Statutory and Policy Compliance Implications

Advisory Committees operate in accordance with their adopted Constitutions.

45 Further information on these advisory committees can be found on Council's Webpage at [//www.byron.nsw.gov.au/committees](http://www.byron.nsw.gov.au/committees).

Report No. 12.4. January and February 2013 Natural Disasters**Executive Manager:** Community Infrastructure**Report Author:** Tony Nash, Manager Works**File No:** #E2013/18904

5

Theme: Community Infrastructure, Roads, Drainage and General Construction**Summary:** The two natural disasters in our area in January and February 2013 have caused substantial damage to our assets and required a quick and effective response by Council to reopen roads and reinstate access for the community to self sustain in their normal residences.

External resources and subcontractors have been required to assist and supplement Council staff in the response to the disasters and in the restoration of the permanent repairs to our assets. These resources have been engaged by quotation and not tender due to the emergency nature of the works and the severity and extent of the damage.

This report seeks Council endorsement of the procurement by quotation and not tender for these emergency works.

RECOMMENDATION:

- 10 1. That Council note the extenuating circumstances associated with the two natural disasters in January and February 2013.
- 15 2. That Council confirm that pursuant to s55(3)(k) Council made contracts via quotations and not tenders due to the unsatisfactory conditions caused by the natural disasters, for emergency works for tree works, geotechnical services, road works, plant hire, material supply, borehole drilling, rock bolt anchor works and associated works.

Report

There were two severe weather events that occurred in our region between 26 and 28 January and 22 and 25 February 2013. These two severe weather events were subsequently declared Natural Disasters for our local government area.

Once a Natural Disaster event is declared by the NSW State Government, financial assistance becomes available to Council for both emergency and restoration works to our assets under the Natural Disaster Relief and Recovery Arrangements (NDRRA) Program..

The financial assistance is divided into Emergency Works and Restoration Works. Emergency Works are normally undertaken within the first twenty one (21) days of the event and include the immediate clean up type works such as debris removal, tree pruning, drain clearing and removal of vegetation from Council owned land only.

Restoration works are repairs to assets to restore them to the equivalent of its pre-disaster standard and level of service, subject to current planning and development controls and building standards. Damage must be of an abnormal nature and not generally encountered during normal maintenance operations.

The administration of this financial assistance is divided between the

1. Roads and Maritime Services (RMS) for roads, bridges and associated assets on local, regional and crown roads, and the

2. Department of Services, Technology and Administration (DSTA) for:

- public buildings
- drainage
- stormwater drainage
- retaining walls
- debris removal
- water supply and sewerage
- rock protection for flood mitigation works
- recreational facilities and play equipment
- damaged fencing

The damage to Council assets from the two 2013 Natural Disasters include:

Roads and associated infrastructure

- landslips
- gravel loss from unsealed roads and road shoulders
- table drains
- rural stormwater culverts
- causeways
- tree works

Parks, reserves and beach accesses

- Manfred St geobag wall
- Various beach accesses
- Tree works

Public Buildings

- Damage to Byron bay swimming pool (not addressed further in this report)

The most serious damage to our road assets is the eleven (11) downslope landslips on our public roads at:

1. Coopers Creek Rd
2. Wanganui Rd – northern
3. Wanganui Rd – middle
- 5 4. Wanganui Rd – southern
5. Huonbrook Rd
6. Upper Wilsons Creek Rd (near causeway #10)
7. Wilsons Creek Rd, Laverty's Gap
8. Possum Shoot Rd No 1
- 10 9. Possum Shoot Rd No 2
10. Federal Dr
11. Old Federal Dr walkway

Council's general initial response to a severe weather event and natural disaster is to:

- 15 • Inspect locations identified by staff, the public and that are known problem areas depending upon the event, eg, rain event and known flooding locations on roads.
- Remove fallen trees and debris from roads and parks / reserves to make the assets safe.
- Remove limbs of trees / damaged trees that have not fallen but are unsafe.
- Undertake any basic maintenance tasks required.
- 20 • Open the asset for use by the public.

Council's initial response to a landslip is:

- Staff inspects the site and takes any appropriate action to make the location safe.
- Arrange for a geotechnical engineer to inspect the site and provide expert advice.
- 25 • Complete any actions recommended by the geotechnical engineer to make the site safe.
- Undertake investigations into the cause of the landslip including any borehole drilling, site mapping, material testing, etc.
- Provide a management strategy for the use by the public of the road asset damaged by the landslip.

The restoration of road and parks assets damaged by a natural disaster involves assessing the cause of the damage, determining the solution for the permanent repair and preparing an estimate of cost for assessment by staff from RMS and DSTA. Once approved the permanent restoration can be completed.

Restoration of road assets damaged by a downslope landslip is generally expensive, more difficult to determine the cause and have a number of different options for permanent repair. The restoration generally follows the same procedure and sequence above except that there is an options study / report due to the large costs of the permanent restorations and there is substantially more interaction and discussions with geotechnical engineers and RMS staff.

Council has engaged a number of different subcontractors to assist or supplement our internal resources in response to the two natural disasters and for the permanent restoration of damaged assets. These have been in the areas of:

- 45 • Geotechnical engineering services
- Tree works for removal of dangerous tress, loping of limbs and removal of green waste
- Roadworks to open roads for access and to restore assets such as table drains, road shoulders, clear culverts, etc
- Material supply for gravel, drainage rock, geofabrics, concrete, etc
- 50 • Plant hire such as traffic signals, lighting, rollers, utilities, etc
- Borehole drilling for geotechnical investigations
- Rock bolting services

The subcontractors were engaged by quotation on either a lump sum or schedule of rates depending on the nature and type of works. Engagement by tender would be time restrictive, not

allowed Council to respond properly and effectively to the two natural disasters and had a detrimental and unacceptable effect on our community. Throughout all of the above actions, during the response to and recovery from a natural disaster event, including the restoration of damaged assets, there is initial and ongoing advice and discussions with staff from RMS and DSTA.

The ongoing permanent restoration of the road assets will be by Council staff except for the specialist nature of the landslip repairs, where tenders will be called for any portion of the works by specialist contractors that are above the tender price threshold of \$150,000. There will be future reports to Council on these works as required to gain approval by Council before proceeding to tender these works.

Financial Implications

During these two natural disasters, Council suffered substantial damage to our roads and other assets. Under the financial assistance guidelines from the NSW State Government, Council is required to fund the first \$29,000 of emergency and restoration works and the State will fund 100% of the balance, subject to the lodgement of claims and their assessment against the guidelines by RMS and DSTA officers.

Normal wear and tear and any damage to assets not attributable to the flood event are not claimable within the NDRRA guidelines and are costs to Council's annual maintenance budgets for these assets. Normal wear and tear is a regular process attributable to general deterioration of assets that Council faces every financial year.

Council claims for financial assistance are assessed by the RMS and DSTA officers. Based on assessments of past natural disaster claims we do not receive 100% of the claim due to some damage being attributable to normal wear and tear or outside the guidelines. If these unapproved works are urgent and they can be funded by Council operational budgets they are completed. If they cannot be funded by Council operational budgets or are not urgent they are not completed and ultimately add to the infrastructure gap for roads.

A natural disaster has a negative impact on Council as 100% of all damage from the event is not approved under the NDRRA guidelines. Costs for the two natural disasters as at 15 March 2013 are as follows:

Roads and associated infrastructure	\$1,106,661
Parks, reserves and beach accesses	\$739,160

The costs to date for the landslips are contained in the roads figures. The costs to date for parks do not include the recent work immediately before Easter at the Manfred St Geobag wall structure.

The total costs of the two natural disasters is unknown at this stage as the restoration estimates for the damage to assets is still being undertaken and the investigation into the cause of and permanent solutions for the landslips is also being undertaken by the geotechnical engineers.

Statutory and Policy Compliance Implications

Procurement of services and purchase of materials is required to be undertaken in accordance with our Purchasing and Tender Guide for our two main purchasing methods, being purchasing with Tenders or with Quotations. There are legislative requirements for purchasing with tenders that are contained in Section 55 of the Local Government Act 1993 and associated Local Government (General) Regulation 2005.

The works associated with the two natural disasters that have been completed are emergency works necessary to ensure the safety of the community and their ability to self sustain in their

normal residences during and after the two disasters. Section 55 of the Local Government Act 1993 requires Council to invite tenders for many types of contracts, unless one of the statutory exemption applies.

- 5 Section 55(3)(k) expressly excludes “*a contract made in a case of emergency*” from the tendering requirements. Other exemptions under s55(3) may also apply in natural disaster response situations. The Local Government Act, and specifically section 55, can be viewed in full from: www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182/s55.html.

CORPORATE MANAGEMENT – EXECUTIVE MANAGER'S REPORTS

Report No. 12.5. Internal Auditor Tender**Executive Manager:** Corporate Management**Report Author:** Mark Arnold, Executive Manager Corporate Management**File No:** #E2013/17942**Theme:** General Manager's Office, Corporate Management**Summary:** Council, at its Ordinary Meeting held on 30 June 2011 following consideration of report on the Internal Audit Function resolved as follows (in part):**11-558 Resolved:**

"...2. That Council determine that the future delivery of Council's internal Audit Function be undertaken by way of a tender for Internal Audit Services from appropriately qualified Auditing/Accounting Firms, with the term of the first contract to end on 30 June 2013 and thereafter the contracts to be for 4 year periods but in all cases the contracts to contain a termination without liability clause to accommodate potential future legislative changes.

3. That pursuant to Section 55 of the Local Government Act 1993 and Section 166(a) of the Local Government (General) Regulation 2005, Council:

- a) Authorise the calling of Tenders for the Internal Audit Services.
- b) Use the Open Tender method by which tenders are to be invited by public advertisement."

In accordance with this Resolution tenders were invited and Council, at its Ordinary Meeting held on 3 November 2011 awarded BDO (NSW-VIC) Pty Ltd (Grant Thornton) the contract for Internal Audit Services until 30 June 2013.

This report is prepared to have Council authorise the calling of tenders for Internal Audit Services for the four year period commencing on 1 July 2013 and terminating on 30 June 2017.

10 RECOMMENDATION:

That pursuant to Section 55 of the Local Government Act 1993 and Section 166(a) of the Local Government (General) Regulation 2005, Council:

- 15 a) Authorise the calling of Tenders for the Internal Audit Services.**
- b) Use the Open Tender method by which tenders are to be invited by public advertisement.**

Report

Council, at its Ordinary Meeting held on 30 June 2011 following consideration of report on the Internal Audit Function resolved as follows (in part):

11-558 Resolved:

"...2. That Council determine that the future delivery of Council's internal Audit Function be undertaken by way of a tender for Internal Audit Services from appropriately qualified Auditing/Accounting Firms, with the term of the first contract to end on 30 June 2013 and thereafter the contracts to be for 4 year periods but in all cases the contracts to contain a termination without liability clause to accommodate potential future legislative changes.

3. That pursuant to Section 55 of the Local Government Act 1993 and Section 166(a) of the Local Government (General) Regulation 2005, Council:

a) Authorise the calling of Tenders for the Internal Audit Services.

b) Use the Open Tender method by which tenders are to be invited by public advertisement."

In accordance with this Resolution tenders were invited and Council, at its Ordinary Meeting held on 3 November 2011 awarded BDO (NSW-VIC) Pty Ltd (Grant Thornton) the contract for Internal Audit Services until 30 June 2013.

This report is prepared to have Council authorise the calling of tenders for Internal Audit Services for the four year period commencing on 1 July 2013 and terminating on 30 June 2017.

Council, prior to contracting the internal audit function had recruited and employed a staff member to the position of Internal Auditor.

The internal audit function forms part of the Governance Framework designed to improve decision making and to ensure decisions are implemented efficiently and effectively. The key components of the framework include:

- Audit committees
- Internal and external audit
- Enterprise risk management

The audit committee was established by Council with Resolution **08-656**. This resolution also established the position of Internal Auditor.

The external audit function is a statutory function under the Local Government Act 1993 that is required to provide opinion on councils' annual financial reports.

The internal audit function is required to provide recommendations to the General Manager and management on internal controls and processes which contributes to the performance of external audit by providing the external auditors through internal audit review platforms of audit work on which their opinion regarding the internal controls of Council.

The Division of Local Government on 3 September 2010 released, under the cover of Circular 10-22, released the Internal Audit Guidelines. These Guides were for the purposes of section 23A of the Local Government Act 1993.

Financial Implications

The scope of work undertaken will be determined by the Budget allocations approved by Council. The draft Estimates of Income and Expenditure indicate an amount of \$238,000 over the four year period of the contract ie an average of \$59,500 per financial year.

The scope of the current eighteen month contract was based on an allocation of \$50,000 per financial year.

The works undertaken by the Internal Auditor would be in accordance with the Audit Strategy and Plan adopted by Council

Statutory and Policy Compliance Implications

The Division of Local Government has issued Internal Guidelines for the purpose of section 23A of the Local Government Act 1993.

“23A Director-General’s guidelines

- (1) *For the purposes of this Act, the Director-General may from time to time prepare, adopt or vary guidelines relating to the exercise by a council of any of its functions.*
- (2) *The Director-General may only prepare, adopt or vary guidelines relating to the exercise by a council of functions conferred or imposed on the council by or under any Act or law that is not administered by or the responsibility of the Department of Local Government if the Director-General has first obtained the concurrence of the Minister administering or responsible for the administration of the other Act or law.*
- (3) *A council must take any relevant guidelines issued under this section into consideration before exercising any of its functions.*
- (4) *The guidelines for the time being in force are to be made available to councils on request and, on payment of such fee (if any) as the Director-General may determine, to any interested person.”*

The current Council resolution requires Council to tender for the provision of its Internal Audit Services every four years.

It is recommended that Council use the Open Tender.

“166 Council to decide whether tenders are to be by open tendering or selective tendering

Whenever a council is required by section 55 of the Act to invite tenders before entering into a contract, the council must decide which of the following tendering methods is to be used:

- (a) *the open tendering method by which tenders for the proposed contract are invited by public advertisement,*
- (b) *the selective tendering method by which invitations to tender for a particular proposed contract are made following a public advertisement asking for expressions of interest,*
- (c) *the selective tendering method by which recognised contractors selected from a list prepared or adopted by the council are invited to tender for proposed contracts of a particular kind.”*

Report No. 12.6. External Auditor Tender**Executive Manager:** Corporate Management**Report Author:** James Brickley, Manager Finance**File No:** #E2013/20297

5

Theme: Corporate Management, Financial Services

Summary: Council at its Ordinary Meeting held on 22 November 2007 through resolution **07-671** appointed Thomas Noble and Russell as its External Auditor for a six year period from 1 July 2007 to 30 June 2013.

Council needs to conduct a tender process for the appointment of or reappointment of its External Auditor to comply with the requirements of Section 422(5) of the Local Government Act 1993.

The appointment of an External Auditor is for a term of six years as required by Section 424(1) of the Local Government Act 1993.

This report is prepared to have Council authorise the calling of tenders for External Auditor Services for the six year period commencing on 1 July 2013 and terminating on 30 June 2019.

RECOMMENDATION:

- 10 **That pursuant to Section 55 of the Local Government Act 1993 and Clause 166(a) of the Local Government (General) Regulation 2005, Council:**
- a) **Authorise the calling of Tenders for the External Auditor Services.**
 - 15 b) **Use the Open Tender method by which tenders are invited by public advertisement.**

Report

Council at its Ordinary Meeting held on 22 November 2007 following consideration of a report on the Provision of Auditing Services resolved as follows:

07-671 Resolved:

1. *That Council accept the tender of Thomas Noble and Russell Chartered Accountants for the provision of auditing services for the period 1 July 2007 to 30 June 2013.*
2. *That Council makes public this report and its decision including the name and amount of the successful tenderer in accordance with Clause 179(b) of the Local Government (General) Regulation 2005.*

Council needs to conduct a tender process for the appointment of or reappointment of its External Auditor to comply with the requirements of Section 422(5) of the Local Government Act 1993.

The appointment of an External Auditor is for a term of six years as required by Section 424(1) of the Local Government Act 1993 and Council must appoint someone as its Auditor as required by Section 422(1) of the Local Government Act 1993.

This report is prepared to have Council authorise the calling of tenders utilising the 'Open Tender' method for External Auditor Services as outlined by Clause 166(a) of the Local Government (General) Regulation 2005 for the six year period commencing on 1 July 2013 and terminating on 30 June 2019 given the current appointment of the External Auditor will end on 30 June 2013.

Financial Implications

The services provided by an External Auditor are different to the services provided by an Internal Auditor (subject to another report to this Ordinary Meeting). Specifically, the external audit services are centred on:

- Annual independent audit of Council's general purpose and special purpose financial reports.
- Annual independent audit of Council's pensioner rebate claim.
- Annual independent audit of Council's notional yield (rate income) and domestic waste management charge reasonable cost.
- Half yearly inspection of Council's financial records and financial controls with subsequent reporting to management.
- Independent audit of grant funding acquittals depending upon the grant conditions imposed by the funding body.
- Any other matter Council may refer to the external auditor.

For the provision of external audit services, Council annually provides a budget allocation for this purpose. Average expenditure over the last six years for external audit services has been approximately \$58,000 per annum. The amount Council will need to provide for the next appointment depend upon the tender outcome.

Statutory and Policy Compliance Implications

The appointment of and term of office of an auditor is outlined by Section 422 and 424 of the Local Government Act 1993.

422 Appointment of auditors

- (1) *A council must appoint a person as its auditor.*

(2) A council's auditor may be:

- (a) an individual who is a registered company auditor, or
- (b) a partnership whose members or employees include a registered company auditor, or
- (c) a corporation whose employees include a registered company auditor.

(3) If the council's auditor is a partnership, any member or employee of the partnership may act as the council's auditor as long as he or she is a registered company auditor.

(4) If the council's auditor is a corporation, any employee of the corporation may act as the council's auditor as long as he or she is a registered company auditor.

(5) An auditor may not be appointed or reappointed unless tenders for the appointment or reappointment have been called.

(6) In this section, **registered company auditor** has the same meaning as it has in the Corporations Act 2001 of the Commonwealth and includes the Auditor-General.

424 Auditor's term of office

(1) A council's auditor holds office for 6 years and, if otherwise qualified, is eligible for re-appointment subject to this section.

(2) The office of auditor becomes vacant if the auditor:

- (a) dies, or
- (b) completes a term of office and is not re-appointed, or
- (c) ceases to be qualified to hold office as auditor or becomes a disqualified person within the meaning of section 423, or
- (d) resigns office by notice in writing addressed to the council, or
- (e) becomes a mentally incapacitated person, or
- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
- (g) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
- (h) is removed by the council in accordance with this section.

(3) The council may remove an auditor from office only with the consent of the Minister.

In conducting a tender process, Council must determine which tendering method is to be used as outlined by Clause 166 of the Local Government (General) Regulation 2005:

166 Council to decide whether tenders are to be by open tendering or selective tendering

Whenever a council is required by section 55 of the Act to invite tenders before entering into a contract, the council must decide which of the following tendering methods is to be used:

- (a) the open tendering method by which tenders for the proposed contract are invited by public advertisement,
- (b) the selective tendering method by which invitations to tender for a particular proposed contract are made following a public advertisement asking for expressions of interest,
- (c) the selective tendering method by which recognised contractors selected from a list prepared or adopted by the council are invited to tender for proposed contracts of a particular kind.

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(38)

Report No. 12.7. Investments – February 2013

Executive Manager: Corporate Management

Report Author: James Brickley, Manager Finance

File No: #E2013/11061

5

Theme: Corporate Management, Financial Services

Summary: This report includes a list of investments as at February 2013.

RECOMMENDATION:

10 **That Council receive and note the record of investments for the month of February 2013.**

Attachments:

- 15
- Investment Valuations and Graphs February 2013 #E2013/11063 [2 pages] **Annexure 20(a)**
 - Denison Investment Report #E2013/15218 [10 pages] **Annexure 20(b)**

Report

In relation to the investment portfolio as at 28 February 2013, Council has continued to maintain a diversified portfolio of investments. The average 90 day bank bill rate for the month of February was 2.94%. Council's performance for the month of February is a weighted average of 3.94%. This performance is again higher than the benchmark. This is largely due to the active ongoing management of the investment portfolio, maximising investment returns through secure term deposits. Council's investment portfolio should continue to out-perform the benchmark as the capital protected investments earning 0% interest begin to mature or are able to be switched favourably. There are still a number of Council's capital protected investments being partially and fully allocated to an underlying zero coupon bond. This is part of the "Capital Protection Mechanism" and coupons will not be paid if any allocation is made to this bond.

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

For the month of February, the current value of investments has remained lower than the principal amount. The table below shows a decrease in the unrealised loss for Council from January 2013 to February 2013.

Movement in Principal and Current Market Valuations

Month	Principal	Current Value (at end of month)	Unrealised Gain/(Loss)
JANUARY	60,692,287.65	60,134,188.61	(558,099.04)
FEBRUARY	59,704,113.05	59,172,343.05	(531,770.00)

This unrealised loss is a consequence of the lingering effects of the Global Financial Crisis. Some of Council's investments are linked to the Credit and Equity Markets which have been adversely affected and are yet to recover. A breakdown of this can be seen in the table below. The figures are for February 2013.

Dissection of Council Investment Portfolio as at 28 February 2013

Principal (\$)	Investment Linked to:-	Current Value	Unrealised Gain/(Loss)
42,771,000.00	TERM DEPOSITS	42,771,000.00	0
3,933,113.05	BUSINESS ONLINE SAVER	3,933,113.05	0
3,500,000.00	MANAGED FUNDS	3,324,400.00	(175,600.00)
3,000,000.00	CREDIT	2,937,660.00	(62,340.00)
6,000,000.00	EQUITY	5,691,670.00	(308,330.00)
500,000.00	BONDS	514,500.00	14,500.00
59,704,113.05		59,172,343.05	(531,770.00)

Council uses a diversified mix of investments to achieve short, medium and long-term results. Council's historical strategy is to use credit/equity markets for exposure to long term growth. It should be noted that Council's exposure to credit/equity products is capital protected when held to maturity, which ensures no matter what the market value of the product is at maturity, Council is insured against any capital loss. The investment strategy associated with long term growth is now prohibited under the current Ministerial Investment Order utilising credit/equity markets to seek

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(40)

investment products. However, the 'grandfathering' provisions of the Ministerial Investment Order provides Council can retain investments now prohibited until they mature. Council is also looking continually at 'switch' opportunities for these investments in conjunction with its independent investment advisors. Any 'switch' opportunities undertaken are reported to Council in the investment report relating to the month the 'switch' occurred. Notwithstanding the current valuations of credit/equity investments, these products will trend toward their full principal value as they approach maturity.

Investments held as at 28 February 2013

Date	Principal (\$)	Description	CP*	Rating	M'ty	Type	Rate	Current Value
24/7/07	1,000,000	AVERON II	CP	AAA	07/14	CR	0.00%*	935,000.00
22/4/08	2,000,000	ANZ TRANSFERABLE DEPOSIT	N	AA-	04/13	CR	4.36%	2,002,660.00
26/9/05	1,500,000	EMU NOTES	CP	AAA-	10/15	MFD	0.00%*	1,381,200.00
29/6/06	2,000,000	ALL SEASONS NOTE	CP	AA+	08/14	MFD	0.00%*	1,943,200.00
22/6/06	1,000,000	HIGH INCOME NOTES	CP	A	06/13	E	0.00%*	978,670.00
30/3/07	1,000,000	INFRASTRUCTURE AND UTILITIES NOTE	CP	A	04/14	E	0.00%*	965,180.00
28/9/07	1,000,000	TRI-SECTOR LINKED NOTE	CP	A	09/14	E	0.00%*	950,320.00
28/11/07	3,000,000	CLIENT MANAGED NOTE	CP	A	11/14	E	0.00%*	2,797,500.00
20/6/12	500,000	HERITAGE BUILDING SOCIETY BONDS	N	BBB+	06/17	B	7.25%	514,500.00
24/1/13	2,000,000	HERITAGE BUILDING SOCIETY	N	BBB+	04/13	TD	4.35%	2,000,000.00
4/12/12	2,000,000	SUNCORP	P	A+	03/13	TD	4.65%	2,000,000.00
12/10/12	1,000,000	MACQUARIE BANK	P	A	04/13	TD	4.65%	1,000,000.00
29/9/08	2,000,000	WESTPAC BANK	P	AA	09/13	TD	8.00%	2,000,000.00
16/12/08	1,000,000	WESTPAC BANK	N	AA	12/13	TD	6.00%	1,000,000.00
28/9/09	785,000	INVESTEC BANK	P	BBB+	01/14	TD	8.02%	785,000.00
18/6/10	786,000	SUNCORP	N	A	06/14	TD	7.30%	786,000.00
24/1/13	1,000,000	BANK OF QUEENSLAND	P	A2	04/13	TD	4.30%	1,000,000.00
24/12/12	1,000,000	ME BANK	P	BBB	03/13	TD	5.05%	1,000,000.00
2/1/13	2,000,000	SOUTHERN CROSS CR UNION	P	NR	04/13	TD	4.45%	2,000,000.00
12/5/11	1,000,000	INVESTEC BANK	N	BBB+	05/14	TD	7.48%	1,000,000.00
19/2/13	2,000,000	ING BANK (AUSTRALIA)	P	A1	06/13	TD	4.29%	2,000,000.00
8/8/11	1,000,000	RABO BANK	N	AA	8/13	TD	6.50%	1,000,000.00
24/1/13	1,000,000	GREATER BUILDING SOCIETY	P	NR	04/13	TD	4.40%	1,000,000.00
5/12/12	2,000,000	WIDE BAY AUSTRALIA	N	NR	03/13	TD	4.45%	2,000,000.00
28/2/13	1,000,000	NATIONAL AUSTRALIA BANK	P	AA-	05/13	TD	4.57%	1,000,000.00
3/12/12	1,000,000	ME BANK	N	BBB	03/13	TD	4.66%	1,000,000.00
4/2/13	2,200,000	POLICE CREDIT UNION	P	NR	05/13	TD	4.23%	2,200,000.00
7/1/13	2,000,000	INVESTEC	N	BBB+	07/13	TD	4.33%	2,000,000.00
20/12/12	2,000,000	ME BANK	N	BBB	04/13	TD	4.65%	2,000,000.00
5/2/13	2,000,000	BANK OF QUEENSLAND	N	A2	05/13	TD	4.25%	2,000,000.00

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(41)

5/9/12	1,000,000	ELDERS RURAL BANK	N	BBB	03/13	TD	5.00%	1,000,000.00
6/9/12	2,000,000	RABOBANK	N	AA	09/13	TD	5.02%	2,000,000.00
12/10/12	1,000,000	INVESTEC	N	BBB+	10/13	TD	4.71%	1,000,000.00
5/2/13	2,000,000	SOUTHERN CROSS CR UNION	P	NR	05/13	TD	4.20%	2,000,000.00
28/11/12	2,000,000	POLICE CREDIT UNION	N	NR	03/13	TD	4.74%	2,000,000.00
5/12/12	1,000,000	SUNCORP	N	A	03/13	TD	4.65%	1,000,000.00
5/12/12	1,000,000	HERITAGE BUILDING SOCIETY	N	BBB+	03/13	TD	4.50%	1,000,000.00
21/12/12	2,000,000	BENDIGO & ADELAIDE BANK	N	NR	03/13	TD	4.45%	2,000,000.00
N/A	3,933,113	CBA BUSINESS ONLINE SAVER	N	A	N/A	CALL	3.00%	3,933,113.05
Total	59,704,113					AVG	3.94%	59,172,343.05

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

Note 2.

Type	Description	
CR	Credit	Principal varies based on valuation, interest payable via a floating interest rate that varies except for those capital protected investments that have transferred to their capital protection mechanism.
E	Equity	Principal varies based on valuation, interest payable via a floating interest rate that varies except for those capital protected investments that have transferred to their capital protection mechanism.
MFD	Managed Fund	Principal varies based on fund unit. Price valuation, interest payable varies depending upon fund performance.
TD	Term Deposit	Principal does not vary during investment term. Interest payable is fixed at the rate invested for the investment term.
CALL	Call Account	Principal varies due to cash flow demands from deposits/withdrawals, interest is payable on the daily balance at the cash rate +0.50%

5 **Note 3.** Floating rate notes and Term Deposits can be traded on a day-to-day basis, and therefore Council is not obliged to hold the investments to the maturity dates. Managed funds operate in a similar manner to a normal bank account with amounts deposited or withdrawn on a daily basis. There is no maturity date for this type of investment.

10 **Note 4.** The coupon on these investments is zero due to the Capital Protection mechanism working. This occurs when the investment falls below a certain level. This coupon may be paid again in the future as the market recovers.

Other Information – Financial Claims Scheme (FCS)

15 On 1 February 2012, the Financial Claims Scheme (FCS - or Government guarantee) coverage for any one investor in deposits will reduce to \$250,000 from \$1,000,000 per Approved Deposit Institution (ADI). The Financial Claims Scheme was introduced as a result of the Global Financial

Crisis (GFC), essentially to provide investors confidence when taking out deposits with all ADIs and to ensure that their primary business of lending money was not significantly hindered due to lack of funding. NSW Local Government Councils have under the Ministers Order always been able to invest with ADIs without a dollar limit on any one institution.

Under Australian Prudential Regulatory Authority (APRA) regulation Building Societies and Credit Unions must meet the same capital requirements as a Bank. Whilst the majority are much smaller in terms of balance sheet size to the Banks they are still considered to be strong business' and investing in their term deposits still low risk. Most of Councils' term deposits have now been amended to show a partial guarantee of this \$250,000 per deposit taking institution.

Financial Implications

The reduction of the current value of Council's portfolio is a result of the downturn in global markets stemming from the global financial crisis. It should be noted that Council's exposure to the credit/equity markets is supported by capital protection which ensures that the initial value of the investment is not reduced when held to maturity. In downward cycles, the capital is protected by allocating the investment to an underlying bond. If the investment is 100% allocated to this bond, no interest will be paid up to maturity. This will impact negatively on Council's interest earnings on investments.

Council's investment strategy is to invest for the long term while maintaining sufficient liquid investments to meet short term requirements. It is important that this strategy is maintained to ensure that principal attached to credit/equity investments is recovered over time as maturity occurs or 'switch' opportunities to alternative investments present themselves.

Statutory and Policy Compliance Implications

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

The Report must be presented at the next Ordinary Meeting of Council after the end of the month being reported. In this regard, the current Council Meeting cycle does not always allow this to occur, especially when the second meeting of a month is a Strategic Planning Meeting or when the meeting dates are brought forward. Under normal circumstances it is not possible to present the investment report to the first Ordinary Meeting in the month, as investment valuations required for the preparation of the report, are often received after the deadline for the submission of reports for the meeting.

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

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

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(43)

Report No. 12.8. Boards of Management and Section 355 Committee Member Appointments

Executive Manager: Corporate Management
Report Author: Gayle McCallum, Governance Officer
File No: #E2013/19891

Theme: Corporate, Governance, Coordination of Section 355 Committees and Boards of Management

Summary: At Council's Ordinary Meeting held 20 December 2012 it resolved to call for expressions of interest for Board Members for the Mullumbimby Civic Memorial Hall and Bangalow A&I Hall.

Appointment of members on both Boards are as detailed in the report.

Council received a resignation from a member on the committee on the Ocean Shores Community Centre Section 355 Management Committee. Further members were requested.

RECOMMENDATION:

1. That with regard to the Mullumbimby Civic Hall Board of Management:
 - a) The 2 Expressions of Interest shown at Confidential Annexure 21(a) (#E2013/20235) be appointed to the Board of Management being
 - i) Glenn Wright
 - ii) Andrea Danvers
 - b) That if the Board of Management requests further members to assist them with their role, Council arrange for recruitment of further members and report back to Council.
2. That with regard to the Bangalow A&I Hall Board of Management, Council determine its appointment of members.
3. That with regard to the Ocean Shores Community Centre Section 355 Management Committee:
 - a) Council officially thank Robert Gooch for his past membership on this committee.
 - b) The 3 Expressions of Interest shown at Confidential Annexure 21(c) (#2013/20209) be appointed to the Section 355 Committee being:
 - i) Betty Lloyd
 - ii) Donna Hammond
 - iii) Helen Graveson
4. That all appointments be made for a 4 year term in line with Council's term.

Attachments:

- **CONFIDENTIAL** Expressions of Interest for Board of Management Mullumbimby Civic Memorial Hall #E2013/20235 [4 pages] **Annexure 21(a)**
- **CONFIDENTIAL** Expressions of Interest for Board of Management Bangalow A&I Hall #E2013/20236 [13 pages] **Annexure 21(b)**
- **CONFIDENTIAL** Expressions of Interest for Ocean Shores Section 355 Committee #E2013/20209 [6 pages] **Annexure 21(c)**

ReportMullumbimby Civic Memorial Hall Board of Management

- 5 Council on 27 September appointed its Councillor representative to the Board of Management. Cr Simon Richardson was appointed to the Mullumbimby Civic Hall Board of Management.

The existing Board of Management (BoM) have been meeting until the appointment of the new Board.

- 10 Council in late January and February called for Expressions of Interest (Eols) from members of the community for membership to the Board of Management for a 4 year term in line with Council.

Two Eols were received from:

- 15
1. Glenn Wright (existing Board Member)
 2. Andrea Danvers

- 20 Both applicants demonstrated experience or attributes to enable the Board to carry out its duties. See Confidential Annexure 21(a)

It has been recommended that both applicants be appointed to the Mullumbimby Civic Memorial Hall Board of Management

- 25 Whilst having 3 Board Members satisfies the requirement of the Board of Management Guidelines see Section 3.2, the newly formed BoM will be asked if it requires more members to assist them in their role.

- 30 If the Board requires more members it has been recommended that Council readvertise to recruit further members.

Bangalow A&I Hall Board of Management

- 35 Council on 27 September appointed its Councillor representatives to the Board of Management. Crs Sol Ibrahim and Basil Cameron and an alternate Cr Chris Cubis, were appointed to the Bangalow A&I Hall Board of Management.

- 40 The existing BoM members, remaining in the area, together with past Councillors have been meeting until the appointment of the new Board.

Council in late January and February called for Expressions of Interest (Eols) from members of the community for membership to the Board of Management for a 4 year term in line with Council.

Six Eols were received from:

- 45
1. Don Osborne (existing Board Member)
 2. John Hudsman (existing Board Member)
 3. Ronald Dickson
 4. Peta Heeson
 - 50 5. Tony Heeson
 6. Richard Staples

All applicants demonstrate experience or attributes to enable the Board to carry out its duties. See Confidential Annexure 21(b).

55

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(45)

The appointment of the 6 Eols will bring the number of members on the Board to 8 (including Councillors) which is outside the Board of Management Guidelines.

Council could:

- 5
- a) Amend the Guidelines to enable 8 members on the Board of Management. A quorum of 5 members will be required to meet.

OR

- 10
- b) Reduce the number of Councillor representatives to 1 and 2 alternates. A quorum of 4 members will be required to meet

OR

- 15
- c) Select only 5 community members and the appointed 2 Councillor representatives. A quorum of 4 members will be required to meet.

Ocean Shores Community Centre Section 355 Management Committee

20

On 26 February Council received a resignation from Robert Gooch from the Committee.

Current committee membership is now as follows;

- 25
- Cr Diane Woods
Cr Chris Cubis *Alternate*
Pauline Kapral
Tina Petroff
Denise Stammers

30

The Committee requested Council advertise for further members to assist them with the management of the Centre.

Three Expressions of Interest were received from:

- 35
1. Betty Lloyd
 2. Donna Hammond
 3. Helen Graveson

40

All applicants demonstrate experience or attributes that would assist the existing committee to carry out its duties. See Confidential Annexure 21(c)

45

It has been recommended that all Eols be appointed to the Ocean Shores Community Centre Section 355 Committee. This will bring the Committee membership to 7 including the 1 Councillor appointment.

Financial Implications

50

Board of Management and Section 355 Management Committee members are volunteer positions.

Statutory and Policy Compliance Implications

The Board of management Guidelines:

55

Section 3.1 Appointment requires members to:

- Have established ties to the Byron Shire community, and
- Professional experience or extensive amateur experience working in either venue management, music promotion, theatre production, design, marketing, event management, conference organising, or related technical areas.

Section 3.2 Board Membership

The Board membership will number not less than three (3) and not more than seven (7) members as appointed by Council including office bearers unless otherwise decided by Council. Council reserves the right to appoint up to two (2) of its members to each Board of Management.

Section 4.1 A Quorum

This refers to the minimum number of members who must be in attendance to transact business. Council regulations state:

(a) A quorum will consist of one half of the total number of appointed members plus one,

Section 355 Committee Guidelines

3.2 Committee Membership

The Committee membership will number not less than four (4) and not more than twelve (12) members as appointed by Council including office bearers unless otherwise decided by Council. Council reserves the right to appoint a Councillor to each Committee.

Whilst no particular qualifications are necessary, a commitment to the activities of the Committee and a willingness to be actively involved in Committee issues is essential.

Report No. 12.9. Markets Policy Review Project Reference Group**Executive Manager:** Corporate Management**Report Author:** Trish Kirkland, Manager Property, Contracts and Information Systems**File No:** #E2013/14550**Theme:** Corporate Management - Property, Procurements and Contract Services**Summary:** This report recommends the establishment of a Market Policy Review Project Reference group to undertake another review of the Market Policy in accordance with part 3 of resolution [12-693], pursuant to section 355 of the Local Government Act 1993.

This report also addresses part 4 of resolution [12-693] providing a full and comprehensive report on the history of markets at Annexure 4(c).and a briefing document at Annexure 4(b).

RECOMMENDATION:

1. That Council note the Markets on Council owned and controlled land – Briefing document at Annexure 4(b) (#E2012/9700) and the Markets on Council owned and controlled land – History document at Confidential Annexure 4(c) (#E2013/14637).
2. That Council establish the Markets Policy Review Project Reference Group comprising three Councillors, three interested community representatives and staff nominees of the General Manager.
3. That Council authorise the Project Reference Group to undertake a review of the Market Policy in accordance with the constitution with a report due to Council in November 2013.
4. That Council authorise the Project Reference Group to consult with community expertise as required, to assist with the review and development of recommendations to Council.
5. That Council adopt the draft constitution at Annexure 4(a) (#E2012/9824) for the Project Reference Group.

Attachments:

- Draft Constitution #E2012/9824 [8 pages]Annexure 4(a)
- Markets on Council owned and controlled land - Briefing #E2012/9700 [19 pages] Annexure 4(b)
- **CONFIDENTIAL** Markets on Council owned and controlled land – History (with Confidential Annexures) #E2013/14637 [500 pages].....Annexure 4(c)
- Markets on Council owned and controlled land – History (without Confidential Annexures) #E2013/14665 [267 pages]..... Annexure 4(d)

Confidential Annexure 4(c): Due to the size of this document it has been provided on the Councillors' Agenda CD only; a hard copy is available for Councillors to view in the Councillor's room.

Annexure 4(d): Due to the size of this document, an electronic copy can be viewed on Council's website.

ReportBackground

- 5 The community markets have been running in Byron Shire since the mid-1980s. Initially the markets were run as private concerns, until the markets started to grow. In 1992 Council sought to move all markets operating on Crown Reserves into formal “community-based” operations through the development of the first Market Policy and the establishment of market licence agreements for each market manager.
- 10 Council, as part of this initiative, amended the 1988 LEP with “Temporary use of certain land” (refer Amd 38, 29/9/95), so that markets conducted on Zone No. 6(a) or 7(f1) for maximum period of 7 days on any one occasion up to a maximum of 60 days on council owned or managed land, no longer required development consent.
- 15 The intent, through Policy development, was to ensure that markets operating on public land were licensed not-for-profit operators who contributed their market profit to local community based charities, not-for-profit organisations and/or community associations of the licence holders choice.
- 20 The Market Policy was adopted in 1996, and market manager licences granted on application to the current community market managers in the same year. Since that time the Policy has been amended to include Farmers Markets and Artisan Markets. All Market Managers have retained their licences past their initial licence term, via extensions and/or renewal without a competitive process being undertaken.
- 25 The current market licence agreements have \$nil licence/rental fee, and therefore, generate no revenue for Council or the Reserve Trust for asset renewal and maintenance.
- 30 The initial operating model is still in place under the current adopted Policy. However, with changing legislative requirements with Crown Land Management, Trade Practices Act, ICAC Guidelines, and the new Shire Wide LEP process significant issues exist with the operations of Markets on public land under this model, being:
- Development consent under new LEP
 - Revenue for asset maintenance and renewal
 - Competitive process for market licences (same licence holders since 1996)
 - Current market policy is not legislatively compliant
- 40 Council has been working toward a new Market Policy since 2008, however, several draft Market Policies have encountered issues with:
- establishing market licences via a competitive process,
 - determining evaluation criteria and weightings for a competitive process to establish new market licence agreements,
 - 45 • generating revenue for asset renewal by charging a market licence fee,
 - meeting section 45 of the Competition and Consumer Act 2012 - restriction of dealings and competition,
 - meeting Crown Lands Business Directive 2004 objectives,
 - tying development consent to market licence terms.
- 50 The most recent draft Market Policy placed on public exhibition satisfied all legislative requirements and attempted to deal with the on-going issues of local content and resident preferencing via the setting of “public value” evaluation criteria and weightings within the call for expressions of interest documents.
- 55

To date, all Policy redevelopment initiatives, including the creation of “Public Value” evaluation criteria have been unsuccessful. Intractable areas of concern remain:

- 5 • competitive processes will result in loss of local market management/licence holders,
- loss of local content and resident preferencing,
- inability to restrict licence holders to non-profits or charities,
- inability to direct market profit to charities, not-for-profits, and/or community associations,
- 10 • establishing a market managers licence fees (council charging a licence fee to operate a Market, and/or establishing a licence fee via a competitive process - as criteria for assessment),
- costs for development consent to move, change, expand or establish market operations.

At its Ordinary Meeting of 30 August 2012, Council considered a report titled “13.20 Markets Policy Review and Expression of Interest for Market Licences”. The report contained the following comments:

20 The new draft Markets on Council Owned and Controlled Land Policy has been the subject of many Council reports since its review by the Markets and Creative Industries Committee in 2008. Since the Committee first recommended its adoption to Council, it has changed significantly in its substance and stated objectives – as summarised in this report. The new draft Market Policy has been on public exhibition twice. The most recent exhibition attracted significant number of submissions either against or objecting to the new draft Policy and/or expression of interest documentation.

25 The report recommended and Council resolved:

12-693

- 30 “1. That Council note the content of this report.
2. That Council write to the individuals and organisations that provided feedback during the exhibition period of the Policy and Expressions of Interest document and thank them for their contribution.
- 35 3. That Council consider the formation of a project reference group or Advisory committee to undertake another review of the Market Policy.
4. That Council, for the purpose of item 3 above, receive a full and comprehensive report on the history of Market Licenses, current Market Policy, new draft Market Policy, draft Market Policy public submissions, previous Market consultation processes, legal advice, advice and directives from Crown Lands, draft terms of reference, and briefing report.
- 40 5. That Council write to the Crown Lands Division seeking a further extension of all currently extended Market Licence Agreements to March 2014, and provide the following project timetable in support of the request.
- 45

Report to new Council	October 2012
Formation of new PRG or Advisory Committee	December 2012
Committee Policy review and draft completed	March 2013
Committee Recommendation to Council	April 2013
Committee Recommendation Adopted	April 2013
Place draft amended Market Policy and/or Expression of Interest document on public exhibition	May 2013
Public exhibition period (28 days) to close	June 2013
Review submissions and prepare report to Council (allow 4	

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(50)

<i>weeks)</i>	July 2013
<i>Report to Executive Manager for review</i>	Mid August 2013
<i>Report to Administration for Agenda Delivery</i>	Late August 2013
<i>Report to Council on submissions received, adopt draft amended Market Policy and endorse Expression of Interest/tender documentation</i>	September 2013
<i>Call for Expressions of Interest/tenders for Market Licences</i>	Open call early October 2013 Close call late October 2013
<i>Evaluation of all Expressions of Interest/tenders received and preparation of Evaluation Panel Recommendation Report (allow four weeks)</i>	November 2013

This report addresses resolution [12-693] item 3 and 4.

- 5 It is proposed that Council establish a Markets Policy Review Project Reference Group comprising three Councillors, three interested community representatives and the staff nominees of the General Manager.

- 10 In order to provide the Project Reference Group with the capacity to deal with relevant and important market policy matters, a draft constitution has been prepared (refer Annexure 4(a)). The draft constitution for the Project Reference Group fall within the Community Strategic Plan Objectives of CM1 Effective governance, business, project and financial management, and EC1 A diverse economic base and support for local business.

- 15 The proposed constitution allows the Project Reference Group to invite guests in an attempt to source relevant community expertise to assist in the development of policy and recommendations to Council.

- 20 To address resolution [12-693] item 4, a full and comprehensive report on the history of markets has been prepared for Council's information (refer Confidential Annexure 4(c)) and a briefing report (refer Annexure 4(b)) has been prepared to assist the Project Reference Group carry out its objectives.

- 25 It is proposed that the Project Reference Group will meet on a monthly basis over a period of six months with a final report due to Council in November 2013.

Financial Implications

- 30 There are no financial impacts associated with this report. The recommendation contained in the report will require resource allocation for administration and participation in the project reference group process. This action is not contained in the 2012/13 Operational Plan, and therefore the resource allocation will impact on adopted Operational Plan actions.

Statutory and Policy Compliance Implications

- 35 Council has adopted guidelines for the operation of its committees.

Report No. 12.10. Section 355 Management Committees - appointment of members and other matters

Executive Manager: Corporate Management
Report Author: Gayle McCallum, Governance Officer
File No: #E2013/13930

5

Theme: Corporate Management, Governance, Committee Coordination

Summary: Council has advertised for further members to the following Section 355 Management Committees:

- Heritage House Bangalow advertising closed 28 February 2013
- Byron Library Exhibition Space (Byron LEXS) advertising closed 8 March 2013

To enable these committees to operate effectively it has been recommended that these new appointments be made as soon as possible.

Further the newly formed Byron LEXS at its first general meeting made the following recommendations to Council :-

- To make amendments its Terms of Reference
- To make an amendment to the definition of "Local Community Artists" and the inclusion of cleaning costs within the Fees and Charges
- To officially name the Exhibition Space

The last of these recommendations was the subject of a Mayoral Minute to the Ordinary meeting of Council held on 14 March 2013.

Further information on these matters are detailed in the report.

RECOMMENDATION:

10 1. That with regard to the Bangalow Heritage House Section 355 Management Committee the following additional members be appointed to the committee as follows:

- 15
- Rita Cowled
 - Stephanie King
 - Patricia Bleakley
 - Wendy Grissell
 - Annette Welstead
 - John Sourry
 - Phil McLean

20

2. That with regard to the Byron Library Exhibition Space Section 355 Management Committee:

25

a) That Howard Sedgmen be appointed as a member on the committee for the term in line with Council general elections.

b) That the Terms of Reference for the Committee be as follows:

- *To make a vibrant and exciting art space*

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(52)

- *To raise money to keep the space viable and to promote optimum usage of the Community Exhibition Space at the Byron Library*
- *To make welcome artists and users and assist in presenting their exhibition*
- *To care for and maintain the facility, through responsible day to day management*
- *To ensure the safety of the patrons of the Community Exhibition Space, Byron Library*

- c) i) That the Definition in the Fees and Charges be amended as follows for 2013/14:

Community Exhibition Rate must meet the following guidelines:

- *Local community artists (residents of Byron Shire) (~~local is defined as being from any Northern Rivers local government area~~)*
- *Local libraries, schools and education providers*
- *Exhibitions/travelling exhibitions sourced for local community benefit by Council or on behalf of Council*
- *Supporting a local community group*

- ii) The fees and charges be amended to include cleaning costs to be charged to hirers at the discretion of the Committee.

- iii) That the amendment to the Fees and Charges be publicly exhibited for a period of 28 days, any submissions received by reported back to Council. In the event that no submissions are received the amendment to the definition be adopted.

Attachments:

- **CONFIDENTIAL** letter from Bangalow Historical Society #S2013/2210 [2 pages]**Annexure 6(a)**
- **CONFIDENTIAL** committee nomination from Howard Sedgmen #E2013/13955 [2 pages].. **Annexure 6(b)**

Bangalow Heritage House Section 355 Management Committee

Council on 6 December 2012 appointed the two nominations received to the Heritage House Bangalow Section 355 Management Committee. As part of the recommendation in the report Council was required to readvertise for further members and advise the Bangalow Historical Society, the major users of the facility, the vacancies on the Section 355 Management Committee.

A letter has been received from the Bangalow Historical Committee (see Confidential Annexure 1(a)) advising that they all unanimously agreed to nominate for membership on the Section 355 Management Committee on the understanding that there may be changes to membership annually, depending on their involvement with the Historical Society.

The two community members were appointed on 6 December 2012 are:

1. Margaret Brown
2. Don Osborne

The members nominated by the Bangalow Historical Committee are as follows:

1. Rita Cowled
2. Stephanie King
3. Patricia Bleakley
4. Wendy Grissell
5. Annette Welstead
6. John Sourry
7. Phil McLean
8. Elaine Moyle

The Councillor representative on this Committee is Cr Basil Cameron. Cr Sol Ibrahim is appointed as an alternate delegate.

It has been recommended that all members nominated by the Bangalow Historical Committee be appointed to the Heritage House Section 355 Management Committee.

Byron Library Exhibition Space (Byron LEXS) Section 355 Management Committee

1. Appointment of new Committee member.

At the first AGM of the Byron LEXS Section 355 Management Committee it appointed its Executive on the Committee. There was no nomination from existing members for the Treasurer's Position and the Committee asked if Council could readvertise for a further member to fill this role.

Council advertised in the Byron News and the Echo for nominations to fill this position closing 8 March 2013. One nomination was received see Confidential Annexure 1(b).

The five community members appointed on 6 December are:

1. Phoebe Havyatt
2. Elizabeth Levy
3. Jay Pearse (Chairperson)
4. Prue Regan
5. Helene Sheean

The Councillor representative on this Committee is Cr Simon Richardson (Secretary) and Cr Sol Ibrahim is appointed as alternate delegate.

It has been recommended that the nomination received from Howard Sedgmen be appointed to the Byron LEXS Section 355 Management Committee.

2. Amendments to their Terms of Reference

At the beginning of each term of office each Section 355 Committee is asked to review their Terms of Reference. At their first General Meeting held 4 March 2013 it recommended changes to the Terms of Reference as follows:

Existing Terms of Reference

- *To promote optimum usage of the Library Exhibition Space*
- *To care for and maintain the facility, through responsible day to day management.*
- *To ensure the safety of the patrons of the Library exhibition Space.*

The Section 355 Committee's recommended Terms of Reference:-

- *To make a vibrant and exciting art space.*
- *To raise money to keep the space viable*
- *To make welcome artists and users and assist in presenting their exhibition.*

Management suggests and has recommended that these new recommended Terms of Reference be included into the original Terms of Reference to read as follows:

- *To make a vibrant and exciting art space.*
- *To raise money to keep the space viable and to promote optimum usage of the Library Exhibition Space*
- *To make welcome artists and users and assist in presenting their exhibition.*
- *To care for and maintain the facility, through responsible day to day management.*
- *To ensure the safety of the patrons of the Library Exhibition Space.*

3. Amendments to the in the Fees and Charges:

- a) The Committee has recommended to Council to clarify the definition of local community artists for the exhibition rate in the Fees and charges. The rate be further defined as being "from Byron Shire".

It has been recommended:-

- i) That the Definition in the Fees and Charges be amended as follows:

Community Exhibition Rate must meet the following guidelines:

- *Local community artists (residents of Byron Shire) (~~local is defined as being from any Northern Rivers local government area~~)*
- *Local libraries, schools and education providers*
- *Exhibitions/travelling exhibitions sourced for local community benefit by Council or on behalf of Council*
- *Supporting a local community group*

- b) The fees and charges be amended to include cleaning costs to be charged to hirers at the discretion of the Committee.

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(55)

- c) That the amendment to the Fees and Charges be publicly exhibited for a period of 28 days, any submission received be reported back to Council. In the event that no submissions are received the amendment to the definition be adopted.

5 Management suggests that these changes be included as part of the budgetary preparations for 2013/2014.

4. Naming of the Exhibition Space

10 The Committee has recommended to Council that the space be renamed "Lone Goat Gallery" in recognition of the only surviving goat that is kept on the surrounding grounds at the Byron Bay Lighthouse.

In accordance with Council Policy Naming of Public Places and Community Facilities:

- 15
- The proposal will be assessed by Council staff against the Geographical Names Board (GNB) Guidelines to assess the suitability of the name. The GNB Guidelines state:

20 *eg "A name suggested for any place that owes its origin to the peculiarity of the topographic feature designated such as shape, vegetation, animal life etc. may be accepted...."*

Comment: The name is accepted under the GNB as it is in recognition of the lone goat that resides at the Byron Bay Lighthouse.

- 25
- The proposed name is required to be reported to a Council meeting for endorsement.
 - The proposal will be placed on Public Exhibition for a period of 28 days for public comment. In accordance with 2.3 Community Consultation – Local Aboriginal groups will be consulted about the proposed name change.
- 30
- Any submissions received to be reported back to Council for consideration by Council for adoption or otherwise of the name.

35 Comment: If Council has no objection and if no submissions are received on the proposed name it can be adopted after the close exhibition period.

- 40
- An application will be prepared for submission to the GNB for approval and registration of the name.
 - Council may call for suggestions from the community with regard to the naming of a public place should it so decide and in finalising the name, the guidelines outlined in the Policy would be followed.

45 In accordance with adopted Section 355 Committee Guidelines design of Logo's letterhead must be approved by Council prior to implementation.

50 This matter was the subject of a Mayoral Minute to the Ordinary meeting of Council held on 14 March 2013. Council following consideration of the Mayoral Minute, which incorporated Committee's recommendations, resolved as follows

"13-136 Resolved:

- 55 1. That the Byron Library Exhibition Space be proposed to be renamed "Lone Goat Gallery".

2. *That the name change be advertised for a period of 28 days and the Bundjalung of Byron Bay Aboriginal Corporation (Arakwal) be consulted about the name change.*
3. *That any submissions received be reported back to Council for consideration by Council for adoption or otherwise of the name. In the event that no submissions are received the name be adopted after the close of exhibition.*
4. *In the event the name is adopted, an application be prepared for submission to the Geographic Names Board for approval and registration of the name.*
5. *If adopted the Logo design of the name and placement of signs on the Library be reported to Council prior to implementation."*

Financial Implications

Committee members on a Section 355 Management Committee are volunteer positions.

Any costs associated to the name change of the Byron Library Exhibition Space eg. signage, logo, stationery etc. will be funded from the income generated from the hire of the exhibition space.

Statutory and Policy Compliance Implications

Section 355 Management Committees operate under adopted Guidelines, wherein with regard to Membership the following information is noted.

3.2 Committee Membership

The Committee membership will number not less than four (4) and not more than twelve (12) members as appointed by Council including office bearers unless otherwise decided by Council. Council reserves the right to appoint a Councillor to each Committee.

Whilst no particular qualifications are necessary, a commitment to the activities of the Committee and a willingness to be actively involved in Committee issues is essential.

In accordance with the adopted Guidelines the Section 355 Committee can make recommendations to Council for adoption.

With regard to name change the Guidelines state:

7.10 Letterhead

- a) *The use of separately designed letterhead is limited to those Council Committees and areas of activities which:-*
 - (i) *may have a benefit in being identified in a slightly different way to normal Council activities and where a separate image or presentation may be appropriate, and*
 - (ii) *may be strongly community based.*
- b) *The letterhead design must be approved by Council and indicate that the function is a Committee of Byron Shire Council.*

Reference

- Minutes of Byron LEXS meetings <http://www.byron.nsw.gov.au/committees/byron-library-exhibition-space-section-355-management-committee>
- Policy Naming of Public Places and Community Facilities Policy <http://www.byron.nsw.gov.au/policies>

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(57)

Report No. 12.11. Affix the Seal to Lease

Executive Manager: Corporate Management

Report Author: Leslie Beardmore, Leasing and Licensing Coordinator

File No: #E2013/21439

5

Theme: Corporate Management, Property, Procurement and Contract Services

Summary: Affix Council Seal to Lease document for Telstra Corporation Limited to lease part of Lighthouse Road Wategos Water Tower.

RECOMMENDATION:

- 10 **That Council's Seal be affixed to the four consecutive leases of Part Lot 346 DP 755695 with Telstra Corporation Limited in accordance with Regulation 400 of the Local Government (General) Regulations 2005.**

ReportLand Information

- 5 Description: Part Lot 346 DP 755695 known as Lighthouse Road "Wategos Water Reservoir"
Owner: Byron Shire Council
Classification: Operational land
LEP Zone: 7(b) Coastal Habitat zone
- 10 A lease has been agreed with Telstra Corporation Ltd and granted by Council under delegation for installation of telecommunications equipment at Lighthouse Road "Wategos Water Reservoir" in order to provide improved mobile network coverage in the Byron Bay area.

Financial Implications

- 15 Lease terms agreed are:

- | | |
|-----------------|------------------------------|
| Rent: | \$10,000.00 ex GST per annum |
| Rent increases: | 4% per annum |
| 20 Lease Term: | 5 years |
| Further Term: | 5 + 5 + 5 years |

Statutory and Policy Compliance Implications

- 25 There are no requirements in the Local Government Act 1993 for the leasing/licensing of operational land.

In accordance with the Real Property Act 1900, lease/licence terms in excess of three years require the lease/licence to be registered on the certificate of title.

- 30 **Local Government (General) Regulations 2005**

400 Council seal

- (4) The seal of a council must not be affixed to a document unless the document relates to the business of the council and the council has resolved (by resolution specifically referring to the document) that the seal be so affixed.
- 35

Report No. 12.12. Draft 2013/2014 Statement of Revenue Policy, Budget Estimates and Fees and Charges

Executive Manager: Corporate Management

Report Author: Mark Arnold, Executive Manager Corporate Management

File No: #E2013/19936

5

Theme: Corporate Management, Financial Services

Summary: The 2013/2014 financial year will be the second year of operation by Byron Shire Council under the Integrated Planning and Reporting requirements. Council implemented the Integrated Planning and Reporting requirements as a Group 3 from 1 July 2012.

Council at its Ordinary Meeting held on 8 November 2012 in regard to the Community Strategic Plan and other Integrated Planning Documents the resolved the following:

12-859 Resolved:

1. *"That Council endorse the Byron Shire Council Community Strategic Plan 2022.*

2. *That Council, to meet the legislative timeframe for the adoption of the Delivery Program, Operational Plan and the other Integrated Planning document, adopt the Schedule for the development of the 2013-2017 Delivery Program and 2013/14 Operational Plan, as detailed in the report, and undertake in the development of the related Integrated Planning Documents a review of the content and priorities of the adopted 2012-2016 Delivery Program and the endorsed Byron Shire Council Community Strategic Plan 2022."*

In accordance with the schedule identified in part 2 of resolution 12-859, Management have been developing the 2013/2014 Draft Statement of Revenue Policy which includes the Draft 2013/2014 Budget Estimates, Rates and Charges, Borrowings and Fees and Charges. These documents were presented to the Finance Advisory Committee on 7 March 2013 and the Strategic Planning Committee on 28 March 2013.

The Draft 2013/2014 Statement of Revenue Policy including the Draft 2013/2014 Budget Estimates and 2013/2014 Draft Fees and Charges documents are now presented for Council to consider and approve, subject to any amendment, for public exhibition.

RECOMMENDATION:

- | | |
|----|---|
| 10 | 1. That Council consider and review the Draft 2013/2014 Statement of Revenue Policy comprising the Draft 2013/2014 Budget Estimates, Rates and Charges, Borrowings and Fees and Charges. |
| 15 | 2. That the Draft 2013/2014 Statement of Revenue Policy comprising the Draft 2013/2014 Budget Estimates, Rates and Charges, Borrowings and Fees and Charges be placed on public exhibition, and that these Plans be amended to incorporate the recommendations for the budget estimates concerning superannuation and |
-

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(60)

Roundhouse Subdivision costs identified in this report along with any other proposed amendments identified by Council as a component of the Draft 2013/2014 Operational Plan.

- 5 3. **Council review and update its Long Term Financial Plan (LTFP) to incorporate the Draft 2013/2014 Budget Estimates adopted by Council for public exhibition and subsequent 10 year financial projections.**

Attachments:

- 10
- Draft Budget for 2013/2014 #E2013/21452 [171 pages]**Annexure 2(a)**
 - Draft 2013/2014 Fees and Charges #E2013/21791 [85 pages] **Annexure 2(b)**
 - Draft 2013/2014 Statement of Revenue Policy #E2013/21472 [28 pages]**Annexure 2(c)**
 - Table of Fees and Charges increasing greater than CPI #E2013/13503 [5 pages] **Annexure 2(d)**

Report

All Councils in NSW should have now transitioned to the Integrated Planning and Reporting Framework requirements legislated by the NSW State Government into the Local Government Act 1993 (Sections 402 to 406).

The requirements of the Integrated Planning and Reporting mandate that Council must develop:

- A ten year Community Strategic Plan
- A four year Delivery Program
- A one year Operational Plan
- Resourcing strategies to support the above Plans including a ten year Long Term Financial Plan, ten year Workforce Plan and ten year Asset Management Plan

An Operational Plan in accordance with Section 405(2) of the Local Government Act must include the Council's Statement of Revenue Policy for the financial period covered by the Operational Plan.

The Operational Plan is integrated into the 4 year Delivery Program for the period 2013/2014 to 2016/2017, and which is subject to another report to this Ordinary Meeting of Council.

The information that needs to be included in the Annual Statement of Revenue Policy is defined in Clause 201 of the Local Government (General) Regulation 2005.

Council at its Ordinary Meeting held on 8 November 2012 in regard to the Community Strategic Plan and other Integrated Planning Documents the following:

12-859 Resolved:

1. *"That Council endorse the Byron Shire Council Community Strategic Plan 2022.*
2. *That Council, to meet the legislative timeframe for the adoption of the Delivery Program, Operational Plan and the other Integrated Planning document, adopt the Schedule for the development of the 2013-2017 Delivery Program and 2013/14 Operational Plan, as detailed in the report, and undertake in the development of the related Integrated Planning Documents a review of the content and priorities of the adopted 2012-2016 Delivery Program and the endorsed Byron Shire Council Community Strategic Plan 2022."*

In accordance with the schedule identified in part 2 of resolution 12-859, Management have been developing the 2013/2014 Draft Statement of Revenue Policy which includes the Draft 2013/2014 Budget Estimates, Rates and Charges, Borrowings and Fees and Charges.

The Draft 2013/2014 Budget Estimates (outlined at Annexure 2(a)), Draft 2013/2014 Fees and Charges (outlined at Annexure 2(b)) and the Draft 2013/2014 Revenue Policy outlined at Annexure 2(c)), comprise the overall Draft 2013/2014 Revenue Policy, which is a component of the Draft 2013/2014 Operational Plan. These documents have been prepared at this stage on existing formats familiar to Council.

The documents have been reviewed by the Finance Advisory Committee on 7 March 2013 where they were noted by the Committee with no changes being recommended.

The documents were also reviewed by the Strategic Planning Committee on 28 March 2013. Recommendations from the Strategic Planning Committee relevant to the Draft 2013/2014 Revenue Policy are:

Committee Recommendation SPC 4.4.1

1. That the rating structure to apply for the 2013/2014 financial year remain as the existing rating structure including the rating categories/sub categories of:
 - Residential Ordinary
 - Residential Ordinary – Flood Prone Lands
 - Residential Ordinary – Conservation Agreements
 - Business Ordinary
 - Business Ordinary – Byron Bay Central Business District (CBD)
 - Farmland Ordinary
2. That the adopted rating structure be reviewed prior to the 2014/2015 financial year with the various options to be reported and considered at the next Strategic Planning Committee meeting scheduled for 23 May 2013, along with the community consultation process required to consult on any proposed changes determined by Council and that this review include:
 - a) any rating options associated with resolution 12-25
 - b) potential rating options around holiday letting (under current legislation/ regulations or requiring amendment to legislation/regulations).
 - c) any rating options relating to the application of farmland rating for smaller scale primary production or that incorporates environmental enhancement.

Committee Recommendation SPC 4.5.1

1. That the Strategic Planning Committee consider and review the Draft 2013/2014 Statement of Revenue Policy comprising 2013/2014 Budget Estimates, Rates and Charges, Borrowings and Fees and Charges.
2. That the Draft 2013/2014 Statement of Revenue Policy comprising the 2013/2014 Budget Estimates, Rates and Charges, Borrowings and Fees and Charges be placed on public exhibition, and that these Plans be amended to incorporate the changes identified in this report, being:
 - a) Removal of the proposed loan borrowings of \$91,400 representing residual funding of the Roundhouse Subdivision.
 - b) Revenue from ordinary rates is estimated inclusive of allowing for growth to be over estimated by \$64,300 and consequently the estimates have been reduced.
 - c) Revenue from interest on investments increased by \$155,700.
 - d) Addition of revenue funding for road reconstruction to be allocated commencing in the 2016/2017 financial year. Amounts included are:
 - 2016/2017 \$426,000
 - 2017/2018 \$557,100
 - 2018/2019 \$585,000
 - 2019/2020 \$614,300
 - 2020/2021 \$645,000
 - 2021/2022 \$677,300
 - 2022/2023 \$711,200

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(63)

- e) Ordinary rates have been increased by 3.4% in accordance with the IPART determination for 2013/2014 which forms the basis of the budget result presented.
- f) The inclusion in the Draft 2013/2014 Revenue Policy provision for a new fee relating to the application for or renewal of approval to operate an On-Site Sewerage Management Systems (OSMS).

As a general comment on all the documents presented they are still in draft form and may require further adjustment and/or amendments pending any other decisions of Council at this Ordinary Meeting, prior to these Plans being integrated into the final document for public exhibition.

It is expected the documents will be formally adopted by Council at its Ordinary Meeting held on 27 June 2013 following the Public Exhibition period of 28 days required by Section 405(3) of the Local Government Act 1993.

Annexures 2(a), 2(b) and 2(c) have been changed to incorporate the relevant recommendations of the Strategic Planning Committee held on 28 March 2013 (**SPC 4.4.1 and SPC 4.5.1**) and subsequent changes by Management identified in this report in Section 1 below.

In addition, Council at the 6 December 2012 Ordinary Council Meeting adopted Resolution **12-920** in which it resolved not to proceed with a special rate variation application to the Independent Pricing and Regulatory Tribunal (IPART) for the 2013/2014 Financial Year. The documents supporting the Draft 2013/2014 Operational Plan are also prepared on this basis.

1. Draft 2013/2014 Budget Estimates

The Draft Budget 2013/2014 is based on the 2012/2013 budget with various changes to reflect the increased price of service delivery across all programs based on input received from each Council Division. The draft budget has been included at Annexure 2(a).

The Draft 2013/2014 Budget Result on a Consolidated (All Funds) basis as presented to the Strategic Planning Committee on 28 March 2013 incorporating recommendation **SPC 4.5.1 part 2** forecast a surplus result with the details of that result being included below at Table 1:

Table 1 – Forecast Budget Result 2013/2014 Consolidated (All Funds) after Strategic Planning Committee Meeting held 28 March 2013

Item	\$
Operating Revenue	62,518,100
Less: Operating Expenditure	53,700,400
Less: Depreciation	16,537,800
Operating Result before Capital Amounts	(7,720,100)
Add: Non Cash Expenses – Depreciation	16,537,800
Add: Capital Grants and Contributions	2,185,500
Add: Loan Funds Used	0
Subtract: Capital Works	(10,743,300)
Subtract: Loan Principal Repayments	(2,691,500)
Cash Surplus/(Deficit)	(2,431,600)
Reserves – Increase/(Decrease)	(2,557,400)
Budget Result – Surplus/(Deficit)	125,800

Table 1 indicates a forecasted budget surplus of \$125,800 which relates to the General Fund only. The forecast General Fund Accumulated Surplus (Working Funds) position based on the draft budget at 30 June 2014 is shown in Table 2:

Table 2 - Forecast General Fund Accumulated Surplus (Working Funds) after Strategic Planning Committee Meeting held 28 March 2013

Item	\$
Forecast accumulated surplus to 30 June 2013 at 31 December 2012 Budget Review	313,300
Add: Estimated 2013/2014 budget result	125,800
Forecast accumulated surplus to 30 June 2014	439,100

Subsequent to the Strategic Planning Committee meeting held on 28 March 2013, there has been a further review of the Draft 2013/2014 Budget as follows:

- The Federal Government has announced that the compulsory employer contribution to superannuation will increase from 9.0% to 9.25% in from 1 July 2013. The impact of this change for Council flowing through the budget through alteration of the proposed oncost rates for salaries and wages will impact the General Fund with a net overall cost of \$20,000.
- Inclusion of development costs for the Roundhouse Subdivision as capital expenditure, and which is anticipated to be recovered from sales of developed allotments by 30 June 2014. This item is subject to a separate report to this Ordinary Meeting of Council.

It is recommended that Council includes these items in the Draft 2013/2014 Budget Estimates.

Based on this review, Management have prepared a revised Draft 2013/2014 Budget position for Council to consider as detailed in Table 3 below and Annexure 2(a):

Table 3 – Forecast Budget Result 2013/2014 Consolidated (All Funds) as per Annexure 2(a)

Item	\$
Operating Revenue	62,518,100
Less: Operating Expenditure	53,720,400
Less: Depreciation	16,537,800
Operating Result before Capital Amounts	(7,740,100)
Add: Non Cash Expenses – Depreciation	16,537,800
Add: Capital Grants and Contributions	2,185,500
Add: Loan Funds Used	0
Add; Asset Sales	1,273,400
Subtract: Capital Works	(12,016,700)
Subtract: Loan Principal Repayments	(2,691,500)
Cash Surplus/(Deficit)	(2,451,600)
Reserves – Increase/(Decrease)	(2,557,400)
Budget Result – Surplus/(Deficit)	105,800

Table 3 indicates that the forecasted budget surplus has reduced to \$105,800 from \$125,800 relating to the General due to the additional superannuation costs.

The forecast General Fund Accumulated Surplus (Working Funds) position based on the draft budget at 30 June 2014 has also been changed as indicated in Table 4 below:

Table 4 - Forecast General Fund Accumulated Surplus (Working Funds) as per Annexure 2(a)

Item	\$
Forecast accumulated surplus to 30 June 2013 at 31 December 2012 Budget Review	313,300

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(65)

Add: Estimated 2013/2014 budget result	105,800
Forecast accumulated surplus to 30 June 2014	419,100

Table 5 below also projects the General Fund Accumulated Surplus (Working Funds) for the next ten years as follows:

Table 5 – General Fund Accumulated Surplus (Working Funds) 2013/2014-2022/2023

Financial Year	Opening Accumulated Surplus Result – Surplus/(Deficit) \$	Budget Result – Surplus/(Deficit) \$	Closing Accumulated Surplus Result – Surplus/(Deficit) \$
2013/2014	313,300	105,800	419,100
2014/2015	419,100	296,900	716,000
2015/2016	716,000	290,100	1,006,100
2016/2017	1,006,100	0	1,006,100
2017/2018	1,006,100	62,200	1,068,300
2018/2019	1,068,300	38,600	1,106,900
2019/2020	1,106,900	0	1,106,900
2020/2021	1,106,900	0	1,106,900
2021/2022	1,106,900	0	1,106,900
2022/2023	1,106,900	0	1,106,900

To arrive at the Draft Budget Results outlined in Table 5 in terms of the 10 year projection for the General Fund Accumulated Surplus (Working Funds), the following adjustment in addition to those included in Table 3 to the proposed budget estimates has been made:

- In accordance with the recommendation from the Strategic Planning Meeting held on 28 March 2013 (**SPC 4.5.1 part 2(d)**), addition of revenue funding for road reconstruction to be allocated commencing in the 2016/2017 financial year. This is a gradual restoration of funds removed from the 2010/2011 budget of \$557,100 from 2017/2018 onwards. Amounts included are:
 - 2016/2017 \$426,000
 - 2017/2018 \$557,100
 - 2018/2019 \$585,000
 - 2019/2020 \$614,300
 - 2020/2021 \$645,000
 - 2021/2022 \$677,300
 - 2022/2023 \$711,200
- The Community Infrastructure Division has requested the budgetary inclusion to replace Scarrabelottis Bridge in the 2016/2017 financial year at a cost of \$2,000,000. It is suggested to fund this work through a loan borrowing of \$2,000,000. From 2016/2017 onwards, the \$50,000 allocated for bridge capital works will be used to fund the loan repayments plus the additional amount of \$129,500 to fund the annual loan repayments of \$179,500 has been reduced from the additional revenue amounts for road construction identified above to ensure the budget position in those years does not go into deficit.

Subject to Council approving the Draft 2013/2014 Budget Estimates forming part of the Draft 2013/2014 Revenue Policy it will need to revisit and update the Long Term Financial Plan (LTFP) for the period 2013/2014 to 2022/2023 including the provision of scenarios. Once Council determines its Draft 2013/2014 Budget Estimates position, work on updating the Long Term Financial Plan (LTFP) will commence.

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(66)

For the 2013/2014 financial year, a major contributor to the current budget position is via a further reduction in the legal services budget of \$149,000. Such a proposed reduction is not without risk and warrants particular attention and comment as follows:

- 5 a) Council either need to conservatively budget each year for legal costs based on likely costs if large, numerous or complicated cases arise or, if a legal reserve can be established and maintained, budget on the basis of trends in costs over previous years.
- 10 b) Because Council cannot predict when a significant individual case or an increase in the number of cases might arise, if Council set its legal budget based on trends (as is currently proposed for the 2013/2014 budget) it must maintain capacity to address individual significant cases which may otherwise be beyond budget and the only way to do this is by establishing and maintaining a legal reserve.
- 15 c) Council needs to commit to maintenance of a legal reserve of at least \$500,000 on an ongoing basis
- 20 d) If in future the legal reserve is relied upon to meet any legal budget deficits, it will be imperative that it be replenished otherwise required legal budget increases will adversely impact the financial position of Council.

25 Council has an adopted target to maintain an accumulated surplus (working fund) in the General Fund of \$1,000,000. The revised budget projections indicated in Table 4 to this report suggest this target will be achieved by 2015/2016. However, the long term financial projections do not include the following:

- Adequate funding for the maintenance and renewal of infrastructure in the General Fund. Provision is based on current funding levels with an indexation of 5% each year except for the additional funding identified in the report above from the 2016/2017 financial year included in the Table 4 projections over 10 years.
 - A direct linkage to the funding gap yet to be clearly identified in Asset Management Plans which could require greater funding than the amount indicated in the previous point.
- 35 The budget projections realistically still demonstrate the difficulty Council has absorbing additional costs without corresponding revenue. It can only be emphasised that Council must consider carefully the long term implications on its finances any consideration to add a new asset/service as current budget projections suggest it may not have capacity to do so.

40 2. Draft 2013/2014 Revenue Policy including Fees and Charges

The Draft 2013/2014 Revenue Policy including fees and charges has been reviewed by respective program managers and have been included at Annexure 2(b). Where possible, fees have been altered/increased to reflect the following specific changes:

- 45
- Increases in the Consumer Price Index or Local Government Cost Index established by the Independent Pricing and Regulatory Tribunal (IPART) – 3.0% to 3.4%.
 - Ordinary rates have been increased by 3.4% in accordance with the IPART determination for 2013/2014 which forms the basis of the budget result presented. A further review of the ordinary rating structure incorporating new land valuation for 1 July 2013, excluding growth and retaining the existing ordinary rating structure is indicated as follows:
- 50

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(67)

Category and Sub-Categories	Number of Properties	Ad valorem Rate (\$)	Minimum Rate (\$)	Total Yield (\$)	Proportional Contribution of Yield (%)
Residential Ordinary	12,828	0.2766	652.50	13,547,787	74.54
Residential Ordinary (Flood Prone Lands)	30	0.2766	358.00	11,639	0.06
Residential Ordinary (Conservation Agreements)	3	0.2766	0.00	324	0.00
Business Ordinary	1,060	0.4149	652.50	2,061,610	11.34
Business Byron Bay CBD	285	0.5532	652.50	1,567,495	8.62
Farmland Ordinary	556	0.2039	652.50	984,008	5.43
Total	14,762			18,172,863	100.00

Note: The above ordinary rates structure table is now reflected in Annexure 2(b) and 2(c) and is consistent with recommendation SPC 4.4.1 part 1 from the Strategic Planning Committee Meeting held 28 March 2013.

- 5
 - Water fixed charges and consumption charges are increased by 3.4% and 5.2% respectively due to the revenue needs to carry out maintenance, capital works and repay debt balanced with a decline in water consumption.
- 10
 - Sewer fixed charges and consumption charges are increased by 3.0% and 4.2% respectively due to the revenue needs to carry out maintenance, capital works and repay debt balanced with a decline in water consumption.
- 15
 - Domestic Waste and Non Domestic Waste charges have increased between 11.00% and 14.50% to generate revenue required to address waste management costs and includes provision for implementation of additional services for recyclables and organics.
- 20
 - The fees associated with Council's two Holiday Parks include ongoing refinement of seasonal charging whilst also acknowledging the differences between the two Holiday Parks in terms of their facilities and markets. Fees at First Sun Holiday Park have generally increased between 2.5% to 3.5% to continue to generate revenue for park operations and improvements. The season arrangements established in 2011/2012 have been retained. For Suffolk Park Holiday Park, the seasons introduced in 2011/2012 has been revised to eliminate the high season and replace with an extension of the peak season. This is
- 25
 - proposed to continue for 2013/2014 to still increase revenue overall but also to improve occupancy. Fees have generally increased between 2.5% and 7.0% depending upon the accommodation type, although some fees are not proposed to increase at all. It also needs to be noted for Suffolk Park Holiday Park and permanent residents, there is no fees
- 30
 - disclosure in the fees and charges as the fee is considered private given it is covered by a lease increment and it is proposed to increase the fees payable for 2013/2014 by 3.0%. They were not increased at all in 2012/2013.
- 35
 - Restructure of applicable fees and charges for the Byron Regional Sport and Cultural Complex Multipurpose Building based on experience gained since the Centre was opened. Some fees have increased and decreased significantly along with some fees being deleted. The fees may eventually be deleted from the fees and charges all together if the facility is leased out.

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(68)

- New fees adopted by Council relating to the Public Health Act 2010 and Public Health Regulation 2012 adopted by Council and amended fees for busking in accordance with Council's Busking policy 13/002.
- 5 • Proposed reduction in fees related to development certification for Section 68 applications regarding on-site detention from \$650.00 to \$500.00.
- Change in methodology for charging for Section 138 applications relating to roadworks within public road reserve from \$260.00 plus \$3.10 per square metre of road to \$260.00 plus
10 \$140.00 per hour of assessment.
- New fees for the Community and Exhibition Space at the new Byron Bay Library for conducting of meetings and functions.
- 15 • New fees in the Water and Recycling area for application fees relating to applications for private pump stations \$140.00, after hours inspections by engineering services \$800.00 and a surcharge fee of 100% for liquid trade waste transported from outside the Council area.
- Further rationalisation of fees for the Myocum landfill including removal of distinction from
20 whether the waste originates from within or outside the Byron Shire Council local Government Area.
- The Finance Advisory Committee at its Meeting held on 7 March 2013 considered the fees applicable for approvals related to Market Stall Holders and asked they be reviewed with
25 options. This information was reported to the Strategic Planning Committee on 28 March 2013. Based on the comments provided it was not recommended to amend the fees from those proposed.
- The inclusion in the Draft 2013/2014 Revenue Policy provision for a new fee relating to the
30 application for or renewal of approval to operate an On-Site Sewerage Management Systems (OSMS). This matter was recently considered by Council through resolution **13-125**. The recommended fee to be included is \$42.50 per OSMS with this charge to be added to the rate notice for those properties with an OSMS(s). It is estimated this will yield Council an additional \$140,700 specifically for this purpose.
- 35 • The inclusion in the Draft 2012/2013 Revenue Policy fees and charges relating to legislative changes regarding swimming pool and the staged implementation for inspections as follows:
 - 40 ▪ the development and implementation of the Swimming Pools Register (to commence by no later than 29 April 2013)
 - registration by pool owners of pools (after the register commences and by no later than 29 October 2013)
 - Councils' inspection programs (to be developed in consultation with the community, adopted and commenced by no later than 29 October 2013)
 - 45 ▪ mandatory inspections by Council of tourist, visitor and multi-occupancy developments, and pools associated with property sale and lease (to commence by no later than 29 April 2014).

The fees and charges to apply are:

50

Domestic:	\$140 inspection and \$100 for the reinspection
Tourist Accommodation:	\$150 inspection and \$100 for reinspection

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(69)

- The Division of Local Government has advised through Circular 13-10 dated 21 March 2013 that the Statutory Fee for a Section 603 Certificate relating to a certificate detailing outstanding rates and charges for a property has been set at \$70.00.
- 5 • The Division of Local Government has advised through Circular 13-12 dated 28 March 2013 that the interest rate to apply to overdue outstanding rates and charges has been set at 9% for 2013/2014.
- 10 • The inclusion in the Draft 2013/2014 Revenue Policy fees and charges relating to legislative changes regarding inspection fees under the Boarding Houses Act 2012. Council considered these fees at Its Ordinary Meeting held 6 December 2012 and adopted fees for exhibition in accordance with Resolution **12-918** being \$140.00 per hour for premises inspection with a minimum charge of one hour and a reinspection fee of \$250.00 per hour with a minimum charge of \$125 for half an hour and a maximum charge of \$500.00 for two hours excluding time travelling.
- 15

In addition to the above and to incorporate Resolution **12-109** adopted by Council following consideration of Notice of Motion 8.3 – Fees and Charges Increases at its Ordinary Meeting held 1 March 2012, a table has been produced at Annexure 2(d) that lists all proposed fees and charges that have increased greater than the Consumer Price Index (CPI) with the identified fee and explanation for the reason why the recommended increase is greater than the Consumer Price Index (CPI). For the purposes of the Consumer Price Index as a benchmark, the rate of 3.0% has been applied.

25 Aside from the above items, in relation to the draft fees relating to the use of community halls and facilities, some of the fees shown still need to be amended to reflect the recommendations from the various Section 355 Committees/Boards of Management. The fees associated with Richmond Tweed Regional Library are yet to be received from Lismore City Council for inclusion. Annexures 2(b) and 2(c) have been updated to incorporate consideration to date by the Finance Advisory Committee, Strategic Planning Committee and items identified in Section 2 of this report.

3. Community Consultation

35 Once the Draft 2013/2017 Delivery Program, incorporating the 2013/2014 Operational Plan has been approved by Council, it will be placed on public exhibition for a period of no less than 28 days seeking submissions from the Community. This will be in addition to the other suite of documents Council has prepared under the Integrated Planning and Reporting Framework. It would be expected the public exhibition period will be during May 2013.

40 Financial Implications

45 Council in the preparation of its Operational Plan is required to include a number of statements in relation to its revenue policy for 2013/2014. This includes a statement containing the draft estimate of Council's Income and Expenditure or Budget for this period. The other statements identified in Clause 201 of the Local Government (General) Regulation 2005 are in the main dependant upon the rate pegging limits approved by the Minister for Local Government, any application for a special rate variation and Council's decisions in relation to expenditure, income and the associated fees and charges.

50 A summary of the parameters used in preparing the Draft 2013/2014 Budget including the estimated borrowings and forecast working capital movements for General, Water and Sewer Funds are detailed in the introduction of the Draft 2013/2014 Budget at Annexure 2(a) commencing at page 7 of 171.

55 The financial forecast of the General Fund has been discussed in detail earlier in this report, however it is suggested Council needs to look at its longer term financial position, especially in the

area of infrastructure maintenance and renewal in comparison to other areas of service provided as a priority.

The Water and Sewerage Fund Budget Estimates have been prepared with pricing to generate the required revenue to repay debt, to address capital works and ongoing maintenance within these Funds. The impact of price increases for Water and Sewerage are denoted in percentage terms under Section 2 above 'Draft 2013/2014 Revenue Policy including Fees and Charges'.

Statutory and Policy Compliance Implications

In respect of the Draft 2013/2014 Operational Plan, Council must comply with the provisions of Section 405 of the Local Government Act 1993 as described below concerning the adoption of an Operational Plan.

405 Operational plan

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

The specific statements required by Council to be disclosed as part of its Revenue Policy are determined by Clause 201 of the Local Government (General) Regulation 2005 as follows:

201 Annual statement of council's revenue policy

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

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

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

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(71)

- (c) a statement with respect to each charge proposed to be levied,
- 5 (d) a statement of the types of fees proposed to be charged by the council and, if the fee concerned is a fee to which Division 3 of Part 10 of Chapter 15 of [the Act](#) applies, the amount of each such fee,
- 10 (e) a statement of the council's proposed pricing methodology for determining the prices of goods and the approved fees under Division 2 of Part 10 of Chapter 15 of [the Act](#) for services provided by it, being an avoidable costs pricing methodology determined by the council in accordance with guidelines issued by the Director-General,
- 15 (f) a statement of the amounts of any proposed borrowings (other than internal borrowing), the sources from which they are proposed to be borrowed and the means by which they are proposed to be secured.
- (2) The statement with respect to an ordinary or special rate proposed to be levied must include the following particulars:
- 20 (a) the ad valorem amount (the amount in the dollar) of the rate,
- (b) whether the rate is to have a base amount and, if so:
- 25 (i) the amount in dollars of the base amount, and
- (ii) the percentage, in conformity with [section 500](#) of [the Act](#), of the total amount payable by the levying of the rate, or, in the case of the rate, the rate for the category or sub-category concerned of the ordinary rate, that the levying of the base amount will produce,
- 30 (c) the estimated yield of the rate,
- (d) in the case of a special rate-the purpose for which the rate is to be levied,
- 35 (e) the categories or sub-categories of land in respect of which the council proposes to levy the rate.
- (3) The statement with respect to each charge proposed to be levied must include the following particulars:
- 40 (a) the amount or rate per unit of the charge,
- (b) the differing amounts for the charge, if relevant,
- 45 (c) the minimum amount or amounts of the charge, if relevant,
- (d) the estimated yield of the charge,
- 50 (e) in relation to an annual charge for the provision by the council of coastal protection services (if any)-a map or list (or both) of the parcels of rateable land that are to be subject to the charge.
- (4) The statement of fees and the statement of the pricing methodology need not include information that could confer a commercial advantage on a competitor of the council. "

ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER’S REPORTS

Report No. 12.13. PLANNING – 10.2012.269.1 Temporary use of Site (North Byron) for cultural events at Bayshore Drive, Byron Bay

Executive Manager: Environment and Planning

Report Author: Joe Davidson, Team Leader Planning

File No: Parcel No 161600 #DM1244065

Theme: Development and Ecology

NOTE TO COUNCILLORS:

In accordance with the provisions of S375A of the Local Government Act 1993, a Division is to be called whenever a motion for a planning decision is put to the meeting, for the purpose of recording voting on planning matters. Pursuant to clause 2(a) under the heading Matters to be Included in Minutes of Council Meetings of Council's adopted Code of Meeting Practice (as amended) a Division will be deemed to have been called by the mover and seconder of all motions relating to this report.

RECOMMENDATION:

That pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2012.269.1 for temporary use of the site (North Byron) for small cultural events (with some event camping) be granted consent subject to the conditions listed in Annexure 15 #E2013/18617.

Attachments:

Locality Map

- Conditions of consent #E2013/18617 [21 pages] **Annexure 15**

NOTE: Confidential submissions #E2013/19246 have been provided on the Councillors' Agenda CD only

LOT: 1 DP: 780243, LOT: 447 DP: 812102, LOT: 449 DP: 812102, LOT: 450 DP: 812102,
LOT: 6 DP: 243218, LOT: 7 DP: 243218, LOT: 1 DP: 243218, LOT: 2 DP: 243218, LOT: 8 DP: 243218,
LOT: 9 DP: 243218, LOT: 10 DP: 243218, LOT: 11 DP: 243218, LOT: 12 DP: 243218, LOT: 13 DP: 243218
Bayshore Drive BYRON BAY



Legend

1A General Rural	1D Investigation	5A Special Uses	7F2 Urban Coastal Lands
1ACH General Rural Cross Hatched	1E Extractive Resources	5B High Hazard Flood Liable	7J Suburban
1AH General Rural Hatched	1F Foresty	6A Open Space	7H Habitat
1B1 Agricultural Protection	2A Residential	6B Private Open Space	7CH Habitat Cross Hatched
1B1CH Agricultural Protection Cross Hatched	2ACH Residential Cross Hatched	7A Wetlands	8A National Parks & Nature Reserves
1B2 Agricultural Protection	2T Tourist	7B Coastal Habitat	8AP Exposed Road
1C1 Small Holdings	2V Village	7C Water Catchment	Cadastre
1C2 Small Holdings	3A Business	7D Coastal Escarpment	Cadastre selection
1C2CH Small Holdings Cross Hatched	4A Industrial	7F1 Coastal Lands	



BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(74)

DA No:	10.2012.269.1
Proposal:	Temporary Use of the Site for Small Cultural Events (with some event camping)
Property description:	Lot 1 DP 780243, Lo: 447 DP 812102, Lot 449 DP 812102, Lot 450 DP 812102, Lot 6 DP 243218, Lot 7 DP 243218, Lot 1 DP 243218, Lot 2 DP 243218, Lot 8 DP 243218, Lot 9 DP 243218, Lot 10 DP 243218, Lot 11 DP 243218, Lot 12 DP 243218, Lot 13 DP 243218 Bayshore Drive Byron Bay
Parcel No/s:	161600, 179230, 179310, 179260, 93630, 134470, 109870, 109880, 134330, 134350, 134370, 134390, 134410, 134430
Applicant:	North Byron Beach Resort Pty Ltd
Owner:	Ganra Pty Ltd
Zoning:	Zone No. 2(t) - Tourist Zone / PART 7(a) - Wetlands Zone / PART 7(f1) - Coastal Lands Zone
Date received:	15 June 2012
Integrated Development:	Yes
Public notification or exhibition:	Level 2 advertising under DCP 17 – Public Notification and Exhibition of Development Applications Exhibition period: 26/06/12 to 9/07/12 Submissions: For 59 Against 9
Other approvals (S68/138):	Not applicable
Planning Review Committee:	15 August 2012
Delegation to determination:	Council
Issues:	<ul style="list-style-type: none"> • Public submissions • Ecology • Right of carriageway through development site
Summary:	<p>The Applicant is seeking approval to use the subject property as an event site for a two year trial period. It is proposed to hold a maximum of 6 events per year within the site, being 3 events at 3000 capacity, and 3 events at 1000 capacity. No more than 12 event days are proposed per year. In addition to the event use, it is proposed to establish a temporary primitive camping ground within the site to cater for a maximum 1500 patrons within up to 125 camp sites. Car parking is to be provided within 1400 car parking spaces adjacent to Bayshore Drive, with 997 wet weather car parking spaces dispersed within the site of the approved holiday cabin development.</p> <p>The original Development Application was placed on public exhibition and attracted over 60 public submissions. The key issues raised in objection to the proposal can be adequately managed by the operator and by conditions of consent. Many issues raised in support of the proposal indicate that the Development Application is not contrary to the public interest.</p> <p>The proposal does include non-compliances with some of Council's development controls. However, the temporary nature of the proposal is such that the permanent development of the site will not</p>

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(75)

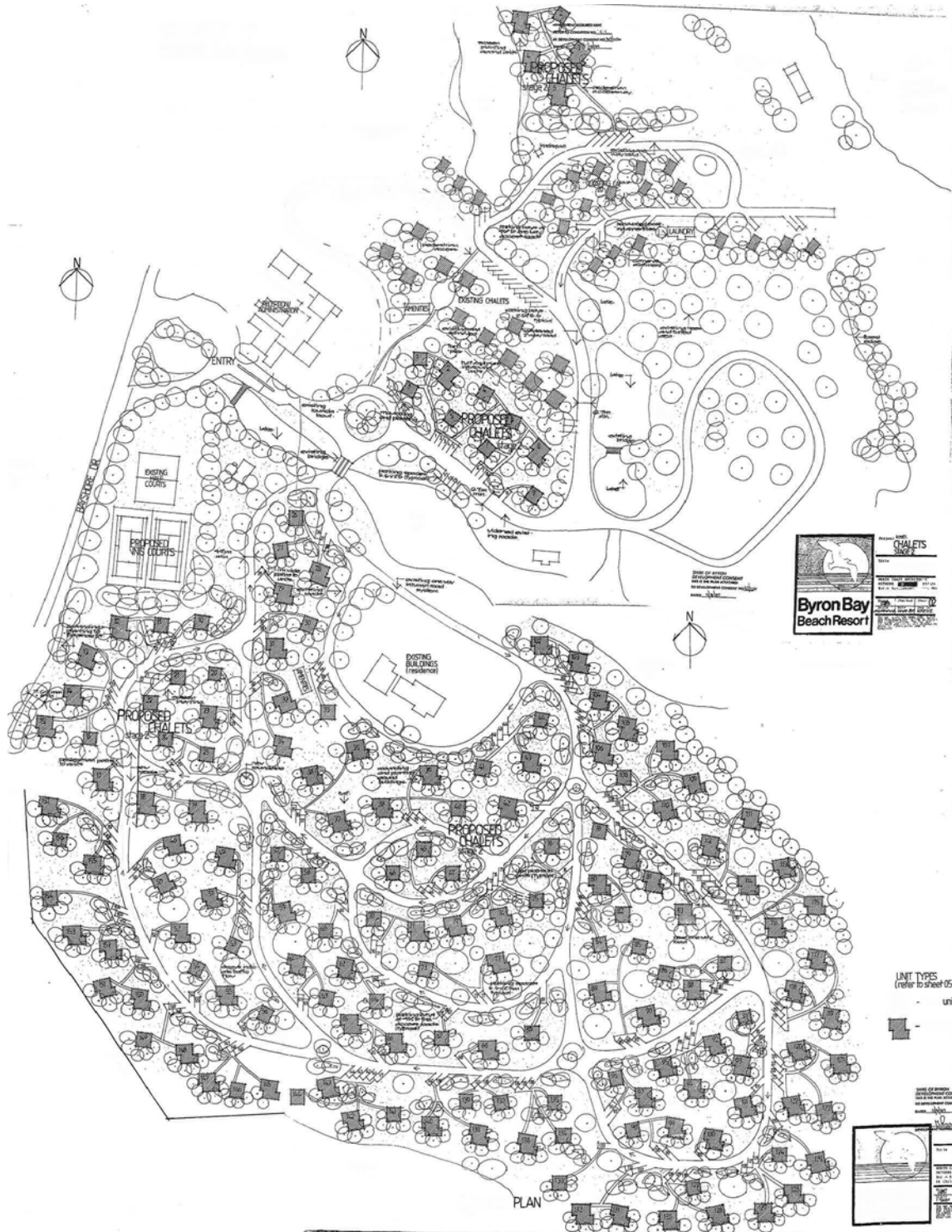
	<p>be compromised by the proposal. Potential environmental impacts will be short term and can be appropriately managed. The site has largely been cleared and is suitable for the proposed temporary use.</p> <p>It is recommended that the development application is granted approval subject to the conditions listed at the end of this report.</p>
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1. INTRODUCTION

1.1 History/Background

- 5 The subject property has a long and mixed history of development and proposed development. Applications of relevance are discussed below:

Development Application No. 87/208 was issued approval on 11 August 1987 for “the construction of 161 x 2 and 3 bedroom cabins and the 32 existing cabins for Lots 7-11, D.P. 243218, and Part Portion 118, Parish of Byron, Bayshore Drive, Byron Bay.” A consolidated version of the approved plan is provided below:



BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(77)

Despite approval of 193 holiday cabins on the site, less than half of these were constructed. With changes in ownership, the majority of cabins were removed from the property. An inspection of the site in late 2012 confirmed that only 3 holiday cabins remain.

- 5 Section 96 Application No. 5.1987.208.2 was approved in December 2012 to alter the design of one of the approved holiday cabins. The approval issued effectively confirms the validity and commencement of the development consent for 193 holiday cabins.

- 10 Development Application No. 10.2011.124.1 was granted approval on 13 July 2011 for the annual Byron Bay Writers Festival to take place at the site over three years from 2011 to 2013. This Festival operates over four days (Thursday to Sunday) within the hours of 9.00am to 5.30pm with 2200 patrons and 200 volunteers, staff, performers, guests (other than patrons) and associated personnel will be in attendance on the site at any one time.

Previous development approvals have been issued in 2005, 2006, 2007, 2008 and 2010 for the Byron Bay Writers Festival to be held at the site.

1.2 Description of the site

- 15 The Statement of Environmental Effects that was submitted with the Development Application describes the development site as comprising the following allotments:

Lot	Section	DP	Approximate Area
2 – 9	7	1623	8 x 505.8m ² = 4046m ²
10 – 11	7	1623	2 x 705.8m ² = 1411m ²
12 – 20	7	1623	9 x 505.8m ² = 4552m ²
21 – 22	7	1623	2 x 730.9m ² = 1461m ²
23 – 31	7	1623	9 x 505.8m ² = 4552m ²
32	7	1623	920.6m ²
33	7	1623	749.6m ²
34 – 35	7	1623	2 x 1011m ² = 2022m ²
44	7	1623	1106m ²
16 – 21	6	1623	6 x 1011m ² = 6066m ²
22	6	1623	1046m ²
23	6	1623	743.5m ²
1	~	243218	3.309ha
2	~	243218	2.283ha
6	~	243218	1.078ha
7	~	243218	1.357ha
8	~	243218	3098m ²
9	~	243218	4192m ²
10	~	243218	10.07ha
11	~	243218	3.599ha
12	~	243218	2.734ha
13	~	243218	3.955ha
447	~	812102	1.874ha
449	~	812102	32.08ha
450	~	812102	1.226ha
1	~	780243	8.916ha
2	~	620642	2.049ha
1	~	190757	10.07ha
TOTAL			88.68ha

The allotments above make up a property referred to by the Applicant as the “North Beach Byron” site. The site is located at the northern end of Bayshore Drive on the outskirts of the Byron Bay township. The site has beach frontage and is adjacent to the mouth of the Belongil Creek. The

majority of the site is located within the 2(t) Tourist Zone and the 7(f1) Coastal Lands Zone under Byron Local Environmental Plan 1988. Some land is also located within the 7(a) Wetland Zone and the 7(b) Coastal Habitat Zone.

5 Vehicle access is available to the site from Bayshore Drive. A number of buildings associated with tourist uses are located throughout the property. These include holiday cabins, a reception/administration building with adjoining restaurant and amenities buildings. Parts of the site are covered with native vegetation. State Environmental Planning Policy No. 14 Coastal Wetland is mapped within the south-eastern corner of the property.

10 Railway land containing the disused North Coast Railway line separates the site from the Sunrise Beach residential estate that is located to the south. Commercial and industrial uses are found further to the south with frontage to Bayshore Drive.

1.3 Description of the proposed development

15 The original Statement of Environmental Effects that was submitted with the Development Application describes the proposal as follows:

The application is for use of part of the Byron North Beach site for a limited number of small cultural events, including the Byron Writers Festival, over the next 10 years.

The parts of the site proposed for the small events consist of a small portion of the site as described within this application.

20 *The DA seeks approval for cultural events for arts, music, food or technology such as but not limited to :*

- *A food and wine tasting festival*
- *Music concerts*
- *A yoga or healing festival*

Some events may provide camping for patrons in defined areas specified in this application.

25 *This proposal is separate to the business run by North Byron Events, who occasionally hold (much smaller) functions on the property.*

The application is up to eight events annually, in the following format:

<i>Event size</i>	<i>Max # events per annum</i>	<i>Max # event days per annum in total</i>
<i>Up to 1000</i>	<i>5</i>	<i>8</i>
<i>1001-3000</i>	<i>3*</i>	<i>8</i>
<i>Total</i>	<i>8</i>	<i>16</i>

30 **The Byron Bay Writers Festival would take up one of the three events and three of the eight possible event days in the 1001 – 3000 patrons category.*

The Byron Bay Writers Festival would be one of the maximum of three annual events in the category of 1001 to 3000 patrons. To give context to the two proposed event size categories, the Writers festival is currently 2200 patrons.

35 *Each event would normally occur within one or two of the three nominated precincts of the large 88 ha site as detailed in this report. The three precincts correspond to the precinct where the Writers festival currently occurs, the lawn area on the east side of Bayshore Drive and also the precinct containing the Lakehouse. Carparking would occur in the area currently used for Writers festival carparking on the west side of Bayshore Drive.*

Some events will include amplified music and some may include camping for patrons. Management provisions and protocols are contained within the application where amplified music and/or camping of patrons is to occur...

- 5 *Some events will include the camping of event patrons as part of the event. Illustration A depicts the location of the two nominated camping precincts. Each precinct has a capacity of come 1500 camping patrons which equates to 125 camping sites....*

All event parking occurs in the nominated carpark on the western side of Bayshore Drive, as depicted within Illustration A, other than:

- *Disabled parking which is located adjacent to the event precinct being used*
- 10 • *Vehicles associated with any camping occurring in association with an event*
- *In the case of the Writers festival, VIP parking occurs on the east side of Bayshore Drive as well*

1.4 Amended Development Application

- 15 In correspondence dated 27 August 2012, the Applicant amended the Development Application as follows:

The application is amended in the following manner as depicted within the attached plan titled North Byron Cultural Events – Event and Camping Precincts dated 24 August 2012:

- *Reduce duration of the consent from 10yrs to 5yrs;*
- *Reduce camping for event patrons from 3000 to 1500 patrons;*
- 20 - *Delete Event Area A near the Lakehouse; and*
- *Delete south east camping area near the Lakehouse.*

This will result in a single event area and a single camping area in the most removed area of the site from Sunrise Beach estate.

1.5 Further Amended Development Application

Additional correspondence was received on 11 February 2013 to further amend the Development Application as follows:

- *Reduce duration of the consent to 2 years with consent to commence following 2013 Writers Festival;*
- 30 - *Limit number of events to 6 per year for these two years, being 3 events at 3000 capacity, and 3 events at 1000 capacity (for a possible total of 12 event days p.a.) and*
- *Commitment to maintain Bayshore Drive (north of the railway line, in a trafficable condition for the duration of the event.*

Additional Information

- 35 1. *Event camping information – the 1500 patron camping precinct for event patrons will consist of a maximum of 125 sites which is within the density permissible as a primitive camping ground, as the 88 ha site can accommodate up to 176 sites as a primitive camping ground. The attached plan depicts a layout of the camping precinct as requested together with the location of the RFS water tank. This layout and fire fighting response is consistent with that approved by Council for similar event related camping on the site in 2012.*
- 40 2. *Event carparking - Adequate carparking space, in a manner previously approved by Council, is available on the site as demonstrated by the lodgement of the 1400 car parking space already approved by Council.*

Council has requested that the site be able to completely cater for any carparking associated with an event, both in wet and dry weather conditions.

5 *As evidenced by the 18 years of the Byron Bay Writers Festival usage, the nominated carpark area has provided all-weather car parking for patrons, with the exception of one single day when the Friday of the event was cancelled due to extensive rainfall.*

10 *The southeast portion of the site previously proposed for camping, but now deleted, has a network of sealed roads which provide a suitable area for wet weather contingency parking. It is not Council's normal practice to require detailed plans for wet weather contingency carparking. However, the following provides sufficient information that adequate space is available to cater for a wet weather contingency. 2200 metres of sealed roads exist throughout the site, not counting the Bayshore Drive road reserve within the site.*

15 *This length of road provides some 1467 spaces with cars parking at 90 degree to the road. It is reasonable to conclude that adequate wet weather carparking space is available on the site for the two year trial period as the above analysis conservatively caters for the less regular largest event with no camping and does not include carparking within Bayshore Drive on the site or the "blue precinct" as depicted on the plan.*

20 *If Council has further concerns regarding the ability to completely contain all cars on the site for both dry and wet scenarios, a consent condition can be inserted requiring that each event traffic management plan provide this detail for the particular event and its circumstances.*

With respect to the request for gravel circulation roads to be provided in the carparking and camping areas, it should be noted that the application is for a two year trial period.

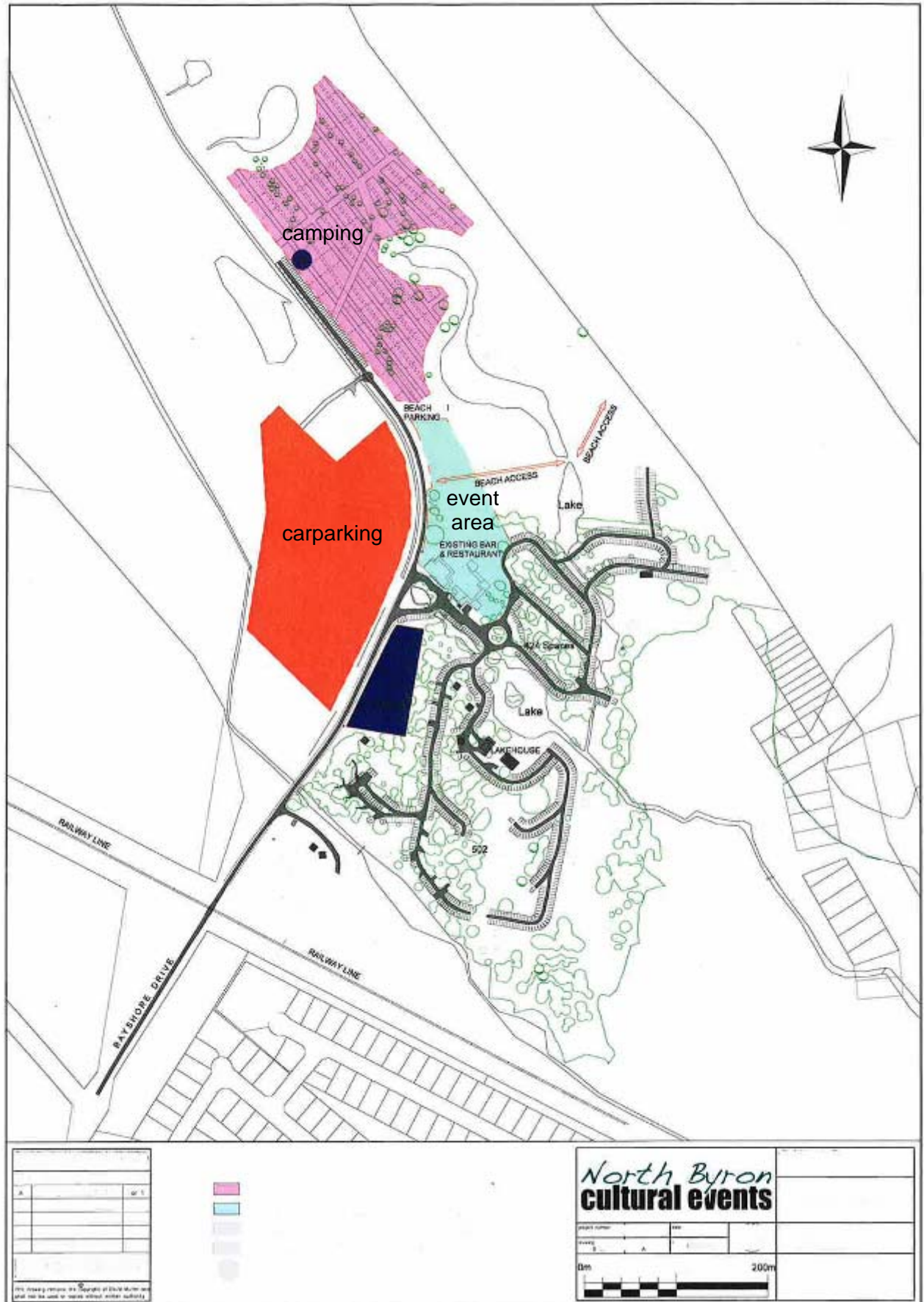
Half of the events proposed are less than 1000 patrons where only a small minority of the main western carpark would be required to be used.

25 *With camping, it is not known as yet if any events will incorporate camping and to what numbers of campers. However, camping patrons will park at their campsite.*

The 2 year trial period of this application will allow for the viability of the proposal to be assessed and also monitor traffic circulation in both the carparking and camping areas. If longer term approval is sought following this period, more permanent infrastructure such as gravel roads would be installed.

30 *Given the existing three year approval to use the same carpark for the Writers Festival which is equivalent to a larger event in this application, this request is considered reasonable. This is especially considered reasonable in the context of the commitment in the application to undertake an annual review of performance of event usage on the site.*

A revised plan of the proposed development footprint is provided below:



2. SUMMARY OF REFERRALS

	Issue
Development Engineer	Traffic, access, parking, developer contributions
Environmental Officer	SEPP 55, Noise, Land use conflicts, acid sulphate soils, Food handling and preparation. Adequacy of toilet facilities.
Water & Waste Services	Clause 45 of Byron LEP 1988, ETs
Building Surveyor	BCA, access, egress, disabled facilities, temporary structures, camping regulations
NSW Rural Fire Service	Bush fire safety authority
Local Traffic Committee	Traffic
NSW Roads & Maritime Services	Traffic (referral under SEPP Infrastructure)

2.1 Comments from NSW Rural Fire Service

- 5 As the subject property is prone to bush fire hazards it was referred to the NSW Rural Fire Service for comment. In correspondence dated 21 September 2012, the NSW Rural Fire Service supported that application as follows:

This response is to be deemed a bush fire safety authority as required under section 100B of the Rural Fires Act 1997 and is issued subject to the following numbered conditions:

- 10 1 *The development proposal is to comply with the site layout indicated on the drawing titled 'Event & Camping Precincts' Drawing No. B 01 Rev. A. dated 16/08/12 as supplied via email from Byron Shire Council to the Rural Fire Service on 21 August 2012.*

Asset Protection Zones

- 15 *The intent of measures is to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke and embers, while supporting or evacuating occupants. To achieve this, the following conditions shall apply:*

- 2 *A minimum 10m defendable space shall be provided around the perimeter of the camping and event precinct/s.*

- 20 *Access: As the defendable space will also provide a fire fighting access for the site, it must be kept clear of all obstructions (tents, vehicles etc) and be suitably maintained so as to allow access for fire fighters and egress for occupants in the case of a bushfire emergency.*

Any other access roads throughout the site must:

- *Link back to the defendable space / perimeter access road; or*
 - *Be not more than 100m in length; incorporate a turning circle with a minimum 12m outer radius; and be clearly sign posted as a dead end road*
- 25

Water and Utilities

- 30 *The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:*

- 3 *Any changes to gas or electricity supplies to the site as a result of the development shall comply with section 4.2.7 of Planning for Bush fire Protection, 2006.*

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:

4 *The fire fighting water supply (RFS Water Tank) shown on the drawing titled 'Event & Camping Precincts' Drawing No. B 01 Rev. A. dated 16/06/12 shall meet the following requirements:*

a) *The tanks must be a minimum of 10,000 litres in capacity.*

5 b) *A 65mm metal Storz outlet with a gate or ball valve, shall be fitted to any fire fighting water supply tank(s) and be accessible for a fire fighting truck. The Storz outlet fitting shall not be located facing the hazard.*

c) *The gate or ball valve, pipes and tank penetration are adequate for full 50mm inner diameter water flow through the Storz fitting and are constructed of a metal material.*

10 d) *All water supplies for fire fighting purposes shall be clearly signposted as a fire fighting water supply.*

Should permanent tanks be installed at the site, they shall meet the following requirements:

15 e) *A hardened ground surface for fire fighting truck access is to be constructed up to and within 4 metres of the fire fighting water supply.*

f) *Any fire fighting water supply tank(s) located below ground shall be clearly delineated to prevent vehicles being driven over the tank.*

20 g) *Below ground fire fighting water supply tank(s) shall have an access hole measuring a minimum 200mm x 200mm to allow fire fighting trucks to access water direct from the tank*

h) *Fire fighting water supply tank(s) and associated fillings, located within 60 metres of a bushfire hazard, shall be provided with radiant heat shielding to protect the tank from bush fire impacts and maintain safe access to the water supply for fire fighters.*

i) *All associated fittings to the fire fighting water supply tank(s) shall be non-combustible.*

25 j) *Above ground fire fighting water supply tank(s) are to be manufactured using non combustible material (concrete, metal, etc).*

k) *Non combustible materials (concrete, metal, etc) will only be used to elevate or raise fire fighting water supply tank(s) above the natural ground level.*

30 l) *Any below ground fire fighting water supply tank(s) constructed of combustible (polycarbonate, plastic, fiberglass, etc) materials shall be shielded from the impact of radiant heat and direct flame contact.*

Note: Below ground dedicated fire fighting water supply tank(s) is defined as that no part of the tanks(s) is to be located above natural ground level.

35 5 *A Static Water Supply (SWS) sign should be obtained from the local NSW Rural Fire Service (RFS) and positioned for ease of identification by RFS personnel and other users of the SWS. In this regard:*

i. *Markers must be fixed in a suitable location so as to be highly visible; and*

ii *Markers should be positioned adjacent to the most appropriate access for the water supply.*

40 **Evacuation and Emergency Management**

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

45 6 *An emergency and evacuation plan addressing Section 4.2.7 of 'Planning for Bush Fire Protection 2006' shall be prepared for the use of the site for small cultural events. The plan shall be reviewed for each festival. The review shall consider the arrangements (temporary*

facilities, campgrounds etc) that are unique to each festival and the plan amended accordingly. A copy of the plan shall be provided to the consent authority and local RFS staff prior to festival commencement.

2.2 Comments from NSW Roads and Maritime Services

- 5 In correspondence dated 20 December 2012, the NSW Roads and Maritime Services made the following comments:

10 *As you are aware development applications (Das) that require advice under the provisions of Clause 104 of the Infrastructure SEPP must be formally referred to Roads and Maritime Services (RMS). However RMS prefers to provide this advice as part of Council's Local Development Committee (LDC) meeting which is run in conjunction with the Local Traffic Committee meeting. This forum allows for a coordinated response from Council, NSW Police and RMS regarding traffic impacts of developments such as this.*

Please be advised that the RMS supports the advice provided by the Local Development Committee at the November 2012 meeting.

2.3 Comments from Local Traffic Committee

The proposal was referred to the Local Traffic Committee (comprising Council's Manager Infrastructure Planning, Traffic & Transport Planner, an Elected Councillor, an RTA Officer and a NSW Police Officer). At their meeting dated 28 November 2012, the committee made the following comments:

- 20 *Byron Events have submitted a development application for a series of events to be held at the festival site at the end of Bayshore Drive, where the Writers Festival is held. Events will include the following, one being the Writers Festival:*
- a) *8 days per annum in total for providing up to 3 events with a maximum of 3,000 patrons per event*
 - 25 b) *5 single day events per annum with a maximum of 1,000 patrons each event*
 - c) *car parking for 1,400 vehicles*
 - d) *on-site camping facilities*
 - e) *mix of day trippers and campers*

The site of the festival car parking and camping is shown below.



Committee Comments

- a) *Noted that the RMS Special Events Guidelines classify this activity as class 2, which impacts local roads and requires consideration by the Local Traffic Committee.*
- 5 b) *The Committee noted that traffic volumes from these events over a 12 month period may trigger the need for a roundabout at the Bayshore Drive/Ewingsdale Road intersection, especially considering a number of other developments along Bayshore Drive have been approved which may also impact existing traffic volumes.*
- c) *RMS suggested the following changes to the developer's traffic plan:*
- *formalise access to the car park*
 - 10 – *the pedestrian refuge requires signage and improvements to the pedestrian fencing along the road way are required*
 - *coach parking should be separated from disabled parking*
 - *issues with bus pick-up and set-down near the disabled access*

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

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

3.1. STATE/REGIONAL PLANNING POLICIES AND INSTRUMENTS

Requirement	Requirement	Proposed	Complies
State Environmental Planning Policy (Temporary Structures) 2007	Refer to comments within Issues Section.	Refer to comments within Issues Section.	See below.
State Environmental Planning Policy (Infrastructure) 2007	Schedule 3 of this SEPP lists development that is defined as 'Traffic Generating Development' that is required to be referred to the RTA.	The proposal was referred to the RTA as per Section 2.2 of this report.	Yes
State Environmental Planning Policy No. 71 – Coastal Protection	Suitability of the development given its type, location and design, and its relationship with the surrounding area	The temporary uses proposed are not likely to have significant long term impacts on the coastal environment. The proposed temporary uses are appropriate within the site.	Yes
	Any detrimental impact that the development may have on the amenity of the coastal foreshore, including any significant overshadowing of the foreshore and any significant loss of views from a public place to the coastal foreshore.	The erection of temporary structures and the use of existing approved structures will not cause any significant loss of coastal amenity.	Yes

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(86)

Requirement	Requirement	Proposed	Complies
	Any impact on the scenic qualities of the New South Wales coast, and the means to protect and improve these qualities	The proposed temporary uses will not impact negatively on the scenic qualities of the NSW coast	Yes
	Likely impacts on the water quality of coastal water bodies.	The temporary uses will not have any significant impact on the coastal water quality.	Yes
North Coast Regional Environmental Plan	Enhance the visual quality of the coastal environment	The proposed development is of a temporary nature and will not affect the visual quality of the coastal environment.	Yes
	Provide appropriate recreational use of beaches	The proposed temporary event site and camping is an appropriate use of the beach side environment.	Yes
	Protect the water quality of the coastal environment	The proposed development includes suitable arrangements to prevent degradation of coastal water quality	Yes
	Minimise changes to coastal processes resulting from the development.	The temporary structures associated with the development will not impact on coastal processes.	Yes
NSW Coastal Policy 1997	Manage the environment in the public interest.	The temporary development can be managed such that it will not negatively affect the environment.	Yes
	Facilitate use of sustainable resources.	The development seeks to use the infrastructure of an existing site on a temporary basis.	Yes
	Public access to be increased when environmentally sustainable.	Existing public access to the coastline shall be maintained via a condition of consent.	Yes
Building Code of Australia	The proposal must be capable of compliance with the structural and safety requirements of the BCA.	Conditions are included to ensure compliance with the requirements of the BCA.	Yes
Disability Access (DDA)	Access for persons with disabilities and integration into surrounding streetscapes without creating barriers. (Council Res.10-1118)	Note are included to ensure compliance with the requirements of the Disability Discrimination Act.	Yes

* Non-complying issues discussed below

State/Regional Planning Policies and instruments - Issues**State Environmental Planning Policy (Temporary Structures) 2007**Temporary Structure

- 5 State Environmental Planning Policy (Temporary Structures) 2007 provides that development consent is required to erect a temporary structure, other than those listed as exempt or complying development within Schedules 2 and 3 of the SEPP respectively. A 'temporary structure' is defined within the EP&A Act 1979 as follows:

- 10 ***temporary structure** includes a booth, tent or other temporary enclosure (whether or not part of the booth, tent or enclosure is permanent), and also includes a mobile structure.*

- The Development Application submitted indicates that the proposal will involve a number of temporary structures for each event, without providing details of such. In lieu of providing this information, it is recommended that a condition be included within the development consent requiring all temporary structures to meet the exempt development requirements of State
15 Environmental Planning Policy (Temporary Structures) 2007, unless separate approval is obtained.

State Environmental Planning Policy No. 14 – Coastal Wetland

SEPP 14 occurs in the eastern portion of the site and the northwest of the site in proximity to the proposed camping precinct. However, no activities are proposed for this area of the site that would trigger further consideration of the policy.

State Environmental Planning Policy No. 44 – Koala Habitat Protection

- The Flora and Fauna Assessment prepared by Peter Parker suggests that SEPP 44 does not apply as there is no 'potential koala habitat' as defined by the policy as feed trees listed in Schedule 2 of the policy comprise less than 15% of trees on the site. It is noted that both SEPP 44 and the B35 circular (or guidelines) issued by the Department of Planning (dated 22 March 1995)
25 refer to 'areas of potential habitat' meaning areas where the tree component consists of greater than 15% feed trees as listed in Schedule 2. The area in the south east of the existing resort area constitutes potential koala habitat for the purpose of the policy. The vegetation occurring along the drainage line in this area is dominated by swamp mahogany, a listed feed tree under Schedule 2 of the policy.

- 30 In determining whether the site contains 'core koala habitat' the policy requires there to be evidence of a resident population in the form of breeding females with young and recent sightings of and historical records of koalas. Although no koalas have been reported recently (including as part of the current Flora and Fauna Assessment which did not however target the species), there are historical records of the species utilising the site and evidence (in the form of scats discovered
35 by council's ecologist under numerous swamp mahogany in the southern portion of the site) of recent activity.

- The Assessment also argues that the policy does not apply because the guidelines state that it is the intention of the policy that investigations into potential and core koala habitat be limited to areas in which it is proposed to 'disturb habitat'. Clause 10 of the policy requires that a council
40 must take the guidelines into consideration in determining an application for consent to carry out development on land to which this Part applies.

- It is noted that the existing consent for almost 200 tourist cabins in the southern portion of the site is likely to encroach on preferred koala habitat in the southern part of the site and significantly impact on koala movement and foraging activities in the locality. There is likely to be a loss of
45 swamp mahogany and other vegetation currently used by koalas to accommodate dwellings and establish asset protection zones in association with that consent which dates back to the late 1990s.

Council's ecologist is of the opinion that a resident population is highly likely to utilise the southern edge of the site (even if not entirely limited to the sites boundaries) and surrounding lands but acknowledging the failings of SEPP 44 and the guidelines (regarding application of the policy only when it is proposed to 'disturb' habitat), that 'core habitat' within the meaning of SEPP 44 has not been identified on the site in the current or in previous assessments, and that impacts can likely be managed via conditions (rather than a Koala Plan of Management) then the policy does not need to be applied.

State Environmental Planning Policy No. 55 – Remediation of Lands

The SEE does not address the requirements of SEPP55. However, previous DAs for similar events on these same parcel numbers have approved the suitability of the land for the intended use. See DA Nos. 10.2008.193.1 (refer to environmental assessment doc # 760290); 10.2007.725.1; 10.2007.141.1 (refer to environmental assessment doc # 665954); 10.2005.91.1 (refer to environmental assessment doc # 526318); etc

State Environmental Planning Policy No. 71 – Coastal Protection

SEPP 71 is applicable to this development application. The matters for consideration set out in Clause 8 are to be taken into account by a consent authority when it determines a development application to carry out development on land to which SEPP 71 applies. Clause 8(g) requires: "that measures to conserve animals (within the meaning of the *Threatened Species Conservation Act 1995*) and plants (within the meaning of that Act), and their habitats" are considered. The applicant has not proposed any specific measures but recommendations are made here regarding appropriate conditions to ensure the conservation of threatened plants and animals on the site.

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Part 3 Division 3 Subdivision 9 provides the following provisions for primitive camping grounds:

132 Primitive camping grounds

- (1) If an approval to operate a primitive camping ground designates one or more camp sites within that ground, then the maximum number of designated camp sites is not to exceed a mean average of 2 for each hectare of the camping ground (where that figure is the average calculated over the total area of the primitive camping ground).
- (2) The following conditions apply to a primitive camping ground:
 - (a) if the approval to operate the primitive camping ground designates one or more camp sites within that ground—camping is not permitted within the primitive camping ground other than on those designated camp sites,
 - (b) if the approval to operate the primitive camping ground does not designate one or more camp sites within that ground—the maximum number of caravans, campervans and tents permitted to use the camping ground at any one time is not to exceed a mean average of 2 for each hectare of the camping ground (where that figure is the average calculated over the total area of the primitive camping ground),
 - (c) a caravan, annexe or campervan must not be allowed to be installed closer than 6 metres to any other caravan, annexe, campervan or tent,
 - (d) a tent must not be allowed to be installed closer than 6 metres to any caravan, annexe or campervan or closer than 3 metres to any other tent,
 - (e) the camping ground must be provided with a water supply, toilet and refuse disposal facilities as specified in the approval for the camping ground,
 - (f) unoccupied caravans, campervans and tents are not to be allowed to remain in the camping ground for more than 24 hours,

- (g) if a fee is charged for camping, a register must be kept that contains entries concerning the same matters as are specified in clause 122 and, in addition, that specifies the size of the group (if any) with whom the person listed in the register camped,
- (h) such fire fighting facilities as may be specified in the approval are to be provided at the primitive camping ground.
- (3) If the approval to operate a primitive camping site does not designate camp sites, a council may impose as a condition of the approval that the installation of tents, caravans, campervans and annexes is not permitted on a particular area or areas of land within the primitive camping ground, for reasons of health or safety or to ensure consistency with the principles of ecologically sustainable development or for any other purpose.
- (4) The provisions of Subdivisions 1–8 do not apply to a primitive camping ground.
- (5) For the purposes of subclause (2) (b), in the calculation of the number of tents using a camping ground, 2 or more tents occupied by not more than 12 persons camping together as a group are to be counted as only one tent.
- Compliance with the requirements above will be dealt with upon application for a Section 68 approval which can be added as a condition of consent.

3.2. BYRON LOCAL ENVIRONMENTAL PLAN 1988

Zone: 2(t) Tourist Area Zone and 7(f1) Coastal Land Zone

Definition: Temporary Place of Assembly

LEP Requirement	Summary of Requirement	Proposed	Complies
Meets the objectives of the 2(t) Tourist Zone	(a) to identify land for tourist infrastructure and to encourage tourist accommodation and facilities;	The use of the 'North Byron Events' site for temporary events and camping is an appropriate use of the existing facilities.	Yes
	(b) to permit tourist development and uses associated with, ancillary to, or supportive of, tourist developments including retailing and service facilities where such facilities are an integral part of the tourist development and are of a scale relative to the needs of that development; and	The proposed uses are supportive of tourist development within the site.	Yes
	(c) to control by means of a development control plan the location, form, character and density of permissible development.	Specific provisions of Development Control Plan 2010 apply to the development site. Refer to DCP 2010 assessment below.	See below.
Meets the objectives of the 7(f1) Coastal Land Zone	(a) to identify and protect environmentally sensitive coastal land;	That part of the property within the 7(f1) zone that is to be used for primitive camping is the site of a former golf course.	Yes
	(b) to enable development for certain purposes	The temporary use is not likely to have a detrimental impact on	Yes

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(90)

LEP Requirement	Summary of Requirement	Proposed	Complies
	where such development does not have a detrimental effect on the habitat, landscape or scenic quality of the locality;	habitat, landscape or scenic qualities of the locality.	
	(c) to prevent development which would adversely affect, or be adversely affected by, coastal processes; and	The temporary use will not be adversely affect or be affected by coastal processes.	Yes
	(d) to enable the careful control of noxious plants and weeds by means not likely to be significantly detrimental to the native ecosystem.	The property has a regular maintenance regime.	Yes
Permissible use within 2(t) Tourist Zone	Place of assembly means a public hall, theatre, cinema, music hall, concert hall, dance hall, open-air theatre, music bowl or any other building of a like character used as such and whether used for the purposes of gain or not, but does not include a place of worship, an institution or an educational establishment.	The proposed event use falls within the definition of a <i>temporary place of assembly</i> . This use is permissible with the consent of Council within the 2(t) Tourist Zone. Refer also to comments within Issues Section below.	Yes
Permissible use within 7(f1) Coastal Land Zone	Primitive camping ground means land used for the placement of tents and camper vans on a temporary basis in accordance with the Local Government (Caravan Parks, Camping Grounds and Movable Dwellings) Regulation 19950	The proposed camping use falls within the definition of a primitive camping ground. This use is permissible within the 7(f1) Coastal Land Zone. Refer also to comments within Issues Section below.	Yes
Clause 24 – Development of Flood Liable Land	Development will not restrict the flow characteristics of flood waters; Development will not increase the level of flooding on other land in the vicinity; The structural characteristics of the development can withstand flooding; and Satisfactory arrangements	The Flood Planning Level for small scale development is RL 3.2m. AHD. This will be noted in the conditions to advise that works, in particular electrical works, below this level should be flood compatible.	Yes

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(91)

LEP Requirement	Summary of Requirement	Proposed	Complies
	are made for access during a flood.		
Clause 33 – Development within Zone No. 7(f1) Coastal Land Zone	<p>A person shall not carry out development for any purpose on land to which this clause applies except with the consent of the council. In deciding whether to grant consent, Council shall take into consideration -</p> <ul style="list-style-type: none"> (a) the likelihood of the proposed development adversely affecting, or being adversely affected by, coastal processes; (b) the likelihood of the proposed development adversely affecting any dune or beach of the shoreline or foreshore; (c) the likelihood of the proposed development adversely affecting the landscape, scenic or environmental quality of the locality of the land; and (d) whether adequate safeguards and rehabilitation measures have been, or will be, made to protect the environment. 	The temporary use of the site will not adversely affect these requirements.	Yes
Clause 45 – Provision of Services	Prior adequate arrangements must be made for provision of sewerage, drainage and water services to the land.	<p>The SEE states <i>'all events will provide an appropriate level of toilet facilities to satisfy the requirements of the patrons, performers and staff as addressed within Appendix D. Management of the additional toilets will be carried out by authorised contractors'</i>.</p> <p>Appendix D consists of a report titled <i>'Temporary Structures Fire Safety and Other Considerations Assessment. Proposed North Byron Cultural Events. Bayshore Drive, Byron Bay. Mark Norris and Associates. 1 May 2012'</i>. Pages 11-12 show the number of closet pans, urinals and washbasins for each of male participants, female participants,</p>	Refer to Issues Section below.

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(92)

LEP Requirement	Summary of Requirement	Proposed	Complies
		<p>male spectators or patrons, female spectators or patrons and unisex accessible facilities for both 'single auditorium' and 'multiple auditoria' venues as per Table F2.3 of the Building Code of Australia.</p> <p>Conditions will be attached requiring the installation and operation of the appropriate number of toilets, urinals and washbasins for the number of patrons and staff, as per the requirements of the Building Code of Australia. Conditions will also be attached regarding the appropriate disposal of sullage waste.</p> <p>This is consistent with Council's requirements for other similar events at this location - see 10.2010.224.1 Byron Bay Writers Festival 2011 (doc # 967052), 10.2011.123.1 Food Festival and 10.2011.124.1 Byron Bay Writers Festival 2012 (doc # 1083667).</p>	
Clause 63 – Development of land identified on the Acid Sulfate Soils Planning Map	Development consent must not be granted for certain works within mapped potential acid sulfate soils unless a preliminary assessment has been undertaken in accordance with the Acid Sulfate Assessment Guidelines.	GIS shows that most of the property is identified as Acid Sulfate Soils (ASS) Class 3. The south-eastern area is Class 5. As such, there are requirements for any works beyond 1m below the natural ground surface or likely to lower the watertable by 1m (Class 3); and works within 500m of adjacent Class 1, 2, 3 or 4 land below 5m AHD likely to lower the watertable below 1m AHD on adjacent Class 1, 2, 3 or 4 land (Class 5). The proposed development will not involve any excavations. Conditions attached specifying no excavation beyond 1m below the natural ground surface.	Yes

* Issues discussed below

Byron Local Environmental Plan 1988 - Issues

Clause 9 – Zone objectives and development control table

- 5 The proposed development is to be carried out within the buildings and grounds of the property now known as the "North Byron Events" site. Development is proposed partly within the 2(t) Tourist Zone, and partly within the 7(f1) Coastal Land Zone. While a 'place of assembly' is a land use that is permissible with the consent of Council within the 2(t) Tourist Zone (via Schedule 4 of Byron

Local Environmental Plan 1988), such are prohibited within the 7(f1) Coastal Land Zone. Conversely, a 'primitive camping ground' is permissible with the consent of Council within the 7(f1) Coastal Land Zone, but such are prohibited within the 2(t) Tourist Zone.

- 5 The property has previously relied on 'existing use' rights to enable the Writer's Festival to occur on the site. However, the multiple festival proposal seeks to contain the place of assembly use to the 2(t) Tourist Zone, and to contain the primitive camping area to the 7(f1) Coastal Lands Zone. This is permissible with the consent of Council and can be enforced with a condition of consent.

Draft EPI that is or has been placed on public exhibition and details of which have been notified to the consent authority - Issues

- 10 Draft Byron Local Environmental Plan 2012 commenced public exhibition on 24 September 2012 and became a matter for consideration for a development application pursuant to Section 79C(1)(a)(ii) of the Act. The Draft LEP identifies the subject site to be partly within the SP3 – Tourist Zone, partly within the E2 – Environmental Conservation Zone. That part of the site that is currently within the 7(f1) Coastal Lands Zone is a deferred matter. It is noted that *camping grounds* and *entertainment facilities* are permissible with the consent of Council within the SP3 zone. As the Draft LEP is in its early stages and is yet to complete a review of public submissions, it is not considered to be certain or imminent. Little weight is attributed to the provisions of the Draft plan at this time.

20 **3.3 DEVELOPMENT CONTROL PLANS**

Development Control Plan 2010

Chapter 18 – Becton Site and Adjoining Lands

- 25 Chapter 18 of DCP 2010 relates specifically to the land the subject of this development application and adjoining lands also referred to as the 'Becton site'. The DCP aims to achieve the Desired Future Character of the site by defining precincts, specifying the types of development that will be permitted in these precincts and to specify environmental management and environmental repair measures that must apply as a consequence of development on the site. The statement of desired future character includes a strong focus on maintaining and enhancing the sites biodiversity values. The DCP Precinct Map (Map 2) clearly identifies areas for tourist development, wildlife corridors, shorebird habitat protection, as well as buffers and revegetation areas.

- 30 Section 2.3 – 'Development Applications and site concept plan' states that a consent authority will grant consent to development on the site only if it is satisfied that the proposed development will be consistent with the objectives, principles, relevant elements etc defined by this chapter and will not jeopardise achievement of these objectives, principles etc.

- 35 The current proposal does not achieve the DCP objectives specifically:

- 1.4.5 'To maintain, protect and enhance wildlife corridors to facilitate the movement and dispersal of species between Tyagarah Nature Reserve and significant areas of native vegetation on and beyond the site'.

The proposal does not achieve the following principles under 2.2 of DCP Chapter 18:

- 40 • Ecologically sensitive habitat areas will be enhanced in conjunction with development on the site (refer 2.2.1 & 2.2.2). There is no proposal to enhance habitat and areas designated for such a purpose are proposed to be occupied by a primitive camping ground.
- 45 • Development for purposes of the 2(t) must only be carried out in areas defined as Precinct 1 or 2. It is noted that the 'event area' extends into Precinct B compromising the ability to protect and enhance the wildlife corridor values.

Camping is proposed in Precinct A – Coastal Habitat Precinct and Precinct B – Coastal Processes Precinct including within areas designated as buffers and revegetation areas. The proposed camping area extends well into Precinct A and prevents the element objectives of environmental

repair and protection being met in these areas. Furthermore an approved Dune Management Plan has not been prepared for this area.

5 Section 2.3 of DCP Chapter 18 requires that the SEE address the objectives defined in Section 1.4, Desired Future Character in Section 2.1, the Principles defined in Section 2.2 and all relevant Elements defined in Sections 3, 4, 5 and 6. The SEE has not addressed these Elements.

Section 2.3 of DCP Chapter 18 also states that development applications proposing development of all or a significant part of the site must contain supporting management plans addressing vegetation management, coastal dune management, feral animal management, environmental education strategy among other things. No such plans have been provided.

10 Given the assessment above, the proposal would not normally be supported in its current form due to non-compliance with DCP 2010 Chapter 18 and inadequate fauna assessment, including SEPP 44 assessment. The proposed development is not consistent with Chapter 18 of DCP 2012, having given no regard to the Performance Criteria and Prescriptive Measures for development in the various site precincts.

15 However, recognising that the existing proposal is of a relatively low scale and is proposed to be held over a two year trial period, it is probable that the impacts of the development can be monitored and appropriately managed such that it is unlikely the development would result in unacceptable impacts on the natural environment (including significant effects on threatened species within the meaning of Section 5A of the EP&A Act). The lack of adequate assessment may
20 be overcome with appropriate monitoring before and during the trial period and management decisions made accordingly. A number of conditions are recommended in this regard.

Chapter 1 Part G - Vehicle Circulation and Parking

External Access

25 Bayshore Drive – The site is accessed by Bayshore Drive. The pavement and formation south of the railway line is satisfactory. The pavement and formation north of the railway line is NOT satisfactory and is in a poor condition. The seal width facilitates one lane of traffic only.

Ideally, the section of pavement between the railway line and the restaurant/reception/office buildings should be reconstructed and widened to provide a sound sealed pavement facilitating two way traffic flows.

30 The Applicant now seeks an approval for 2 years only with 6 events per year, 3 being up to 3000 patrons (similar to the Writers' Festival) and 3 up to 1000 patrons. The Applicant also proposes a..."commitment to maintain Bayshore Drive, north of the railway line, in a trafficable condition for the duration of the consent".

35 The standard to which the road would be maintained under this commitment is quite subjective. A minimum standard and level of service to which Bayshore Drive should be maintained for the duration of this 2 year (temporary) consent MUST be clearly stipulated in the consent conditions.

The minimum standard of road pavement should facilitate the following:

- (a) Repair all potholes.
- (b) A single coat spray seal over the existing sealed pavement
- 40 (c) Gravel re-sheet shoulders to a nominal width of 1.5m.
- (d) Provide and maintain a nominal 6m. wide trafficable pavement
- (e) Drainage management/improvements

Notwithstanding the above requirements for a temporary 2 year consent, any future development would require;

- Bayshore Drive, north of the railway line, be fully constructed to facilitate a 6m. (minimum) wide AC bitumen seal pavement, gravel shoulders and drainage. The design and construction must be compliant with Council's "Design & Construction Manuals and Standard Drawings."

5 Car Parking

Adequate provision for these temporary events is now proved through dry weather and wet weather parking.

Chapter 1 Part J - Coastal Erosion

- 10 The event site is partially within Precinct #3. The proposal is for short term events with temporary structures for up to 16 days per year and is therefore satisfactory.

Other Development Control Plan/s

No other Development Control Plans apply to the site.

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

- 15 Cumulative Impacts:

The site contains an approval for 193 holiday cabins. These cabins are located within the area designated for wet weather car parking. It is apparent that the two uses cannot co-exist due to conflicts with car parking. If approval is granted, it shall be on the proviso that the development consent shall cease should any additional holiday cabins be constructed.

- 20 Social and Economic Impacts:

As part of the Development Application, the Applicant submitted details to address the requirements of Development Control Plan No. 21 – Social Impact Assessment. The use of the site positively promotes the creative image of the Byron Shire, encouraging cultural and artistic development. Regular use of this expansive site is likely to result in positive social and economic impacts.

The objections made in relation to the development raised issues such as traffic, noise, impacts on the amenity of the neighbourhood etc. that can be managed by the operator and via conditions of consent.

Noise Impacts:

- 30 Page 8 of the Statement of Environmental Effects states 'some events will include amplified music and some may include camping for patrons. Management provisions and protocols are contained within the application where amplified music and / or camping of patrons is to occur. The specialist noise assessment concluded that noise impacts from event usage on the site are not significant at local receptors and any traffic noise can be managed'.

- 35 Appendix B consists of a report titled 'Noise Impact Assessment for noise issues associated with North Byron Cultural Events. North Beach Bayshore Drive Byron Bay. Greg Alderson and Associates Pty Ltd. June 2012'. This report states:

- some events will include amplified music. Expected noise sources include amplified music during concerts and functions; increased road traffic noise at night as patrons leave; and noise generated by camping patrons. Noise from camping patrons was not considered as part of this assessment 'as the current use of the subject site is as an approved tourist facility' (page 3);
- POEO Act, POEO (Noise Control) Regulations, NSW Industrial Noise Policy (INP) and Road Noise Policy (DECCW 2011) apply. Intrusive noise criterion, Rating Background Level and Amenity Criteria were identified (p 3-4);

- background noise monitoring was done from 20.4.12 to 2.5.12. Monitoring location was not as per the requirements of the INP due to interference from vegetation and buildings. Instead, monitoring equipment was placed in an open area of the subject site *'deemed representable for the Belongil Crescent receptors. This would also result in conservative background levels with respect to the Childe Street receptors since the latter are closer to the surf and would therefore have higher background levels'* (p 5);
 - Project Specific Noise Levels (PSNLs) were determined and are close to the measured ambient L_{eq} 's at the monitoring location. Thus it can be concluded that if the events operates within the PSNLs the noise levels at the nearest receptors are not likely to exceed the existing ambient L_{eq} (p 7);
 - noise modelling was undertaken based on an event with two stages: one at the Restaurant precinct and one at the Lakehouse precinct. A number of recommendations including one stage with amplified music only, all stages to face north-east, types and orientation of speakers, noise level restrictions at various distances from stage and at residential receptors and preparation of a noise management protocol (p 9-10);
 - road noise generated by the proposed development was assessed. *'Although noise levels will exceed 55 dB(A) for a number of hours, the average over 9 hours is 29 dB(A) and thus will not exceed the assessment criteria of the RNP [Road Noise Policy]. We can therefore conclude that provided no event traffic travels through Sunrise Boulevard, traffic generated by the proposed development is not likely to exceed the assessment criteria..'* (p 10);
 - other recommendations include noise monitoring at receptors and at nominated locations to ensure compliance with the Noise Protocol, a staffed hotline phone system to collect and respond to complaints, specified advertising of this hotline number, maintenance of a complaints register, etc (p 14).
- This DA differs to a previous Development Application for the site (DA 10.2012.138.1 for 'Temporary Camping Ground - 26-30 July 2012 for patrons of Splendour in the Grass music and arts festival) in terms of the number of patrons.
- A site visit on 25 June 2012 identified the two camping areas and each of the four 'event precincts' (restaurant, lakehouse, carparking etc) as shown on the site map as well as the nearby residential area of Belongil Crescent. GIS shows the northern boundaries of properties along northern side of Belongil Cres are about 150m from the southern-most area of the 'camping precinct – tourist zone' as shown in yellow on the site plan.
- Conditions attached specifying:
- no amplified music in the camping precincts at anytime; and
 - implementation of the recommendations in the report titled *'Noise Impact Assessment for noise issues associated with North Byron Cultural Events. North Beach Bayshore Drive Byron Bay. Greg Alderson and Associates Pty Ltd. June 2012'*.

Natural and Built Environment:

- The biodiversity values of the site have been well documented as a result of studies for previous development applications including by the Australian Museum Business Services in 1996 and a Species Impact Statement prepared by Peter Parker in 2006. The site adjoins Tyagarah Nature Reserve to the west, Belongil Creek to the east and coastal dune habitat to the north. The central portion of the site is dominated by managed grassland (being formerly a 9-hole golf course) but contains waterbodies and sedgelands/wet heath and forested areas (including swamp mahogany dominated forest and littoral rainforest) providing suitable habitat for a diversity of native fauna including threatened species. The site is in close proximity to the Belongil estuary mouth and provides easy access to the northern end of the estuary. A range of threatened and migratory shorebird species roost, nest and forage in the vicinity of the Belongil estuary.

General:

Subject to compliance with conditions of consent, it is likely that the temporary proposal can be managed such that it does not result in significant adverse impacts on the natural or built environments.

5 3.5 The suitability of the site for the development*General:*

The site is removed from residential areas. It is generally clear of vegetation and has adequate area to accommodate the proposal. The property has a long history of tourist use. It has approval for 193 holiday cabins as well as regular approvals for a the Byron Bay Writers festival. The site is suitable for the temporary development proposed.

Waste Management:

Conditions will be attached requiring the provision of waste bins. This is consistent with Council's requirements for other similar events.

3.6 Submissions made in accordance with this Act or the regulations

15 The proposal was placed on public exhibition from 26 June to 9 July 2012. A total of 68 submissions were received during this period.

20 *"Below is a table providing a summary of submissions and staff responses. However, Councillors also need to refer to the full copies of all submissions which have been provided on disc, strictly on a confidential basis, to Councillors. The full copies of the submissions contain personal information such as names and addresses of the persons lodging submissions which are relevant matters to be taken into consideration in determining this matter."*

Issues raised in support of the application

Byron Bay is recognised for cultural events and they add to the amenity of Byron Bay

Concerns that cultural events are leaving Byron Bay

The proposed development will ensure a set number of cultural events will remain in Byron Bay

The proposed development will bolster to the economy of the area supporting local businesses.

The proposed development will promote the Byron Shire to the greater community.

The proposed development will add to the local economy.

The proposed development will provide an appropriate venue to host community events.

The proposed development will boost the local economy.

The proposed development will provide an opportunity for local youth to actively engage within the community.

The proposed development may facilitate the growth of other cultural events in the area, exhibiting local talent.

The proposed development will provide security and stability for existing cultural events held on the site.

The proposed development will facilitate and support emerging cultural events.

The proposed development will increase the vitality of the shire.

The proposed development will benefit the area economically, socially and culturally.

The proposed development will stream line the process for other events to be approved for the site.

The proposed development will enhance the success rate of other events that maybe held at the site.

The size of the proposed site will enable the protection of flora and fauna while still being a viable events site.

The size of the proposed site allows for an adequate buffer zone between the local residents and events.

The proposed development provides a venue for local community members to exhibit skills and may facilitate future opportunities for them.

The proposed development will lead to economic growth for the shire.

The proposed development proved opportunities for local residents to access cultural events.

The proposed development encourages positive tourism.

The proposed development protects the environment.

The proposed development has not “gone overboard” as some events may be small in scale.

Visitors camping at the proposed site can be serviced from facilities in the immediate vicinity limiting their need to commute to the centre of Byron Bay for goods and services.

The proposed development will lead to the further development of the Byron Bay Industrial Estate, facilitating economic growth in the estate.

The proposal will increase tourism and economic activity in the area.

The proposed development will generate interest and opportunities for the shire.

The proposed development will strengthen the creative arts community.

The proposed development will inspire and provide opportunities for local youth.

The proposed development will facilitate the retention of small events in Byron Bay.

The proposal will support event organisers in holding new events.

The locality of the proposed development is a “great spot” for events.

The proposal allows for camping.

The locality of the proposal (close to town) allows local businesses to benefit.

The proposed development facilitates local residents attending cultural events.

The proposed trial period provides support and security for existing events.

16% of the site will be used for events allowing for the effective protection of native flora and fauna.

The proposed trial period provides support and security for existing events.

The proposed development will promote the Byron Shire to the greater community.

The proposed development will generate job opportunities.

The proposed development will promote the Byron Shire to domestic and international community.

The proposed development will boost the local economy.

The proposed development will generate employment opportunities.

The proposed development will increase the vitality of the shire.

The proposal is reasonable.

The proposed development will benefit the area economically, socially and culturally.

The size of the proposed site will enable the protection of flora and fauna while still being a viable events site.

Issues raised in opposition to the application

The proposal is falsely described as being a “small” festival when it is considered that greater than 1000 people is not small.

The proposal will impact on the culture of the Sunrise Estate (that is young working families).

An acoustic wall would be required to manage noise associated with this proposal given the flat topography.

Noise impacts on wildlife.

A ten year trial period is excessive and a 2 year period is more appropriate.

The proposal warrants significant road upgrade works including a round about at the Bayshore Drive / Ewingsdale Road intersection.

Cumulative impacts from events held on site.

Noise impacts from proposed amplified music events on the site would unfairly impact on local residents.

The increased volume of rubbish in the area as a result of proposed events.

Increased criminal activities/anti-social behaviour as a result of proposed events (drug use, assault and vandalism).

Proposed events on the site could lead to negative connotations of Byron Bay to the greater community (the image of the town).

Local residents have not been adequately informed regarding the scale of events to be held at the site, duration of events (number of days), event commencement and concluding times (am/pm) and the potential noise impacts.

Proximity of event site to local residents (noise impacts) the lack of buffer zone between event site and Sunrise Estate

Increased criminal activity associated with large numbers of event goers (security concerns)

Traffic

- Safety concerns with increased traffic in residential area
- Congestion along Ewingsdale rd
- road degradation resulting from increased traffic volume

The potential impacts of the proposed development on the native flora and fauna

Local residents have not been adequately informed regarding the proposed scope of the cultural events to be held on the site.

Noise impacts on the locality as a result of proposed cultural events ("large music festivals")

The proposed development will result in increase pollution (litter) in the locality.

The proposed development will result in anti-social behaviour from event goers.

The proposal will impact on the culture of the Sunrise Estate (that is young working families)

The proposed development will increase traffic congestion and access issues to local shops.

Noise impacts on the locality as a result of proposed cultural events ("large music festivals")

The proposed development will negatively and detrimentally impact on the unique coastal habitat located on the site.

The proponent of the development is attempting to transform the proposed site into an entertainment venue.

Opposed to "five-year blanket approval for up to 40 festivals".

Environmental impacts

- the potential impact of the proposed development on the koala link area between Tyagarah and West Byron (*Byron Coast Koala Habitat Study*)
- Potential impacts on migratory and threatened bird species habitat adjacent to the proposed site.

The proposed development has the potential to expand beyond its existing scale, scop and

duration.

Cumulative impacts from events held on site.

The negative impacts arising from anti-social behaviour resulting from intoxicated event goers.

3.7 Public interest

- 5 The submissions discussed above raised a number of key issues with respect to the development. Many identify positive outcomes for the use of the site for events. Others highlight potential negative impacts. It is noted that the submissions received relate to the original development proposal that was for a 10 year trial. This has since been reduced to a two year trial. The proposed development is not considered to be contrary to the public interest in this 2 year trial context.

4. Developer Contributions

- 10 The temporary use does not attract any Section 94 Developer Contributions. However, water and sewer levies may be payable for the development. Conditions can be included within the development consent accordingly.

5. CONCLUSION

- 15 The proposal is now for a maximum of 6 events per year, for a trial period of two years. On the basis that a new application will be required on the expiration of that period, it is recommended that the development application is granted approval subject to the conditions listed at the end of this report.

6. RECOMMENDATION

- 20 That pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2012.269.1 for temporary use of the site (North Byron) for small cultural events (with some event camping), be granted consent subject to the conditions listed in Annexure 15 #E2013/18617.

7. DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

- Has a Disclosure Statement been received in relation to this application No
- Have staff received a 'gift' from anyone involved in this application that needs to be disclosed. Where the answer is yes, the application is to be determined by the Director or Manager of the Planning, Development and Environment Division. No
- 25 Provide Disclosure Statement register details here: Nil

Report No. 12.14. PLANNING - Draft Byron LEP 2012 - Submissions analysis and recommendations for Business and Industrial Zones

Executive Manager: Environment and Planning
Report Author: Alex Caras, Team Leader Strategic Planning
File No: #E2013/19700

Theme: Environment, Land and Natural Environment

Summary: The purpose of this report is to provide Council with details of submissions received in response to the public exhibition of the Draft Byron Local Environmental Plan 2012. In particular, this report addresses those submissions made concerning land zoning, the permissibility of land uses and the principal development standards for Business and Industrial zones.

This report provides an analysis of the issues raised in the submissions and provides recommendations for the consideration of Council.

NOTE TO COUNCILLORS:

In accordance with the provisions of S375A of the Local Government Act 1993, a Division is to be called whenever a motion for a planning decision is put to the meeting, for the purpose of recording voting on planning matters. Pursuant to clause 2(a) under the heading Matters to be Included in Minutes of Council Meetings of Council's adopted Code of Meeting Practice (as amended) a Division will be deemed to have been called by the mover and seconder of all motions relating to this report.

RECOMMENDATION:

That in relation to the draft Byron LEP 2013 Council resolves to:

1. Insert under the land use table for the B4 Mixed Use zone '*Places of public worship*' and '*Bed and breakfast accommodation*' as permitted with consent.
2. Apply the 'RE1 Public Recreation' zone to the northwest portion of Sandhills Estate (Byron Bay) as proposed on the map at Appendix 3 of Annexure 17(a), subject to the agreement of the Department of Trade and Investment – Crown Lands.
3. Apply the 'R3 Medium Density Residential' zone to Lot 1 DP758207 (section 67) and Lot 2 DP 758207 (section 67), 30 -32 Lawson Street, Byron Bay, as proposed on the Map at Appendix 3 of Annexure 17(a).
4. Amend 'Schedule 1 Additional Permitted Uses' to include the use of Lot 1 DP758207 (section 67) and Lot 2 DP 758207 (section 67), 30 - 32 Lawson Street, Byron Bay, for purposes of '*hotel or motel accommodation*' and '*restaurant*'.
5. Undertake consultation with the Department of Trade and Investment – Crown Lands prior to determining the zoning of Crown owned land identified as 'Deferred Matter' at the Sandhills Estate.
6. Amend the floor space ratio for the B2 Local Centre zone in Byron Bay from 1:1 to 1.5:1 on the Floor Space Ratio Map.
7. Investigate LEP and DCP controls that limit 'below ground car parking' to 1 floor only and/or require upper storeys to be stepped back to achieve better streetscape and urban design outcomes.
8. Apply the 'R2 Low Density Residential' zone to Lot 12 DP 601851 (42 Massinger Street) consistent with adjacent land to the south.

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(102)

9. Apply the 'B2 Local Centre' zone to 58 and 60 Stuart Street and all of 77 Station Street as proposed on the map at Appendix 4 of Annexure 17(a).
10. Amend the Floor Space Ratio Map to identify 0.75:1 for all of 77 Station Street.
11. Amend the Minimum Lot Size Map to identify 200m² for all of 77 Station Street.
- 5 12. Insert the following objective into Zone B2 Local Centre of draft Byron LEP 2012:
"To encourage vibrant centres by allowing residential and tourist and visitor accommodation above retail, business and offices."
13. Amend the Floor Space Ratio Map for the Bangalow B2 Local Centre zone from 0.75:1 to 1:1.

10

Attachments:

- Discussion Paper #E2013/16470, E2013/20456, E2013/20473, E2013/20475 [29 pages] .**Annexure 17(a)**
- 15 • Form of Special Disclosure of Pecuniary Interest #E2012/2815 [2 pages]..... **Annexure 17(b)**

Report**Introduction and Submission Statistics for Business and Industrial Zones**

- 5 This report follows on from the 14 March Ordinary Meeting where Council considered a range of zones, zone objectives and other planning controls for the Byron Arts & Industry Estate. The focus of this report is on remaining business and industrial zone matters raised in public submissions.

Submissions Overview and Key Issues

- 10 Of the total number of separate comments recorded from submissions received on the draft LEP approximately 56 comments were related to business and industrial zone issues (excluding the Byron Arts & Industry Estate). All of these comments were submitted to Council on individual submissions.

The range of submission issues can be grouped into the following key categories:

- 15
1. Request to change or modify proposed zone(s)
 2. Additional zone objectives
 3. Permissibility of land uses
 4. Height and/or Floor Space Ratio controls

- 20 The *Key Issues* and *Discussion/Rationale* sections of the discussion paper (Annexure 17(a)) present a more detailed breakdown and analysis of the issues raised.

Statutory Requirements

- 25 There are a number of legislative requirements applicable to consideration and finalisation of the draft LEP. Discussion of these statutory considerations is provided in Annexure 17(a).

Below is a summary of the recommendations and relevant planning comments arising from the discussion paper contained in Annexure 17(a).

30

Recommendations for consideration

1. That '*Places of public worship*' and '*Bed and breakfast accommodation*' be inserted as permitted with consent under the land use table for the B4 Mixed Use zone.

Planning Comment

- 35 There are no planning reasons why *places of public worship* and *bed and breakfast accommodation* should not be included as permissible with consent in the zone. They are currently permissible with consent in the 2(a) zone of this area and are compatible with the land uses permitted in the proposed B4 Mixed Use zone.

- 40 2. That Council apply the '*RE1 Public Recreation*' zone to the northwest portion of Sandhills Estate (Byron Bay) as proposed on the map at Appendix 3, subject to the agreement of the Department of Trade and Investment – Crown Lands.

Planning Comment

- 45 The Sandhills Estate is a 14ha Crown land site located between Middleton and Massinger Streets and south of Lawson Street in Byron Bay. The site is largely undeveloped except for the Sandhills Early Childhood Centre, the Youth Activity Centre, outdoor amphitheatre, skateboard ramp and the new Byron Bay Library (all on land leased from the Department of Lands).

- 50 Under the draft LEP the subject land is zoned partly B4 Mixed Use, partly E2 Environmental Conservation, partly E3 Environmental Management and partly R3 Medium Density Residential. The northeast corner of the estate is also identified as Deferred Matter.

A Strategic Planning Study for the area was undertaken in 2007 and includes a Recommended Structure Plan that Council resolved (07-399) to support. (See Recommended Structure Plan at Appendix 2) The Byron Shire Local Environmental Study recommends that the site be zoned in accordance with the Recommended Structure Plan and that the areas identified as 'Community Purposes' and 'Private Development' be zoned B4 Mixed Use. The draft LEP is generally consistent with the LES recommendations.

Submitters have objected to the proposed B4 zoning as it will negatively impact the Byron Youth Activity Centre as some existing land uses are prohibited in the B4 zone and because the range of possible land uses will negatively affect the community's use of the area.

The B4 zone has the objective of providing a mixture of compatible business, office, residential and retail land uses. Most of the current land uses within the 'Community Purposes' area (as identified on the Recommended Structure Plan) are permitted with consent in the B4 zone. However, the existing skateboard ramp comes within the definition of *recreation facility (outdoor)* is prohibited in the B4 zone and therefore would need to rely on existing use rights. It is noted that the Court house is located in the B2 zone and is permissible with consent.

Notwithstanding the LES recommendations for Sandhills Estate land, it could be argued that the RE1 Public Recreation zone is a more appropriate zone for the identified 'Community Purposes' area given the RE1 objective "To enable land to be used for public open space or recreational purposes." In the RE1 zone all of the existing (and proposed) 'community purpose' uses are permitted with consent. As such the RE1 zone would be more in keeping with the use of this area for 'Community Purposes' as identified in the Strategic Planning Study as well as providing increased opportunities for community use of the area. (See map incorporating RE1 zone at Appendix 3).

In respect to the remaining area proposed to be zoned B4, this area is identified in the Strategic Planning Study as 'Development Area' for "Mixed use development with a strong community focus". The B4 Mixed Use zone is considered the closest equivalent zone in the Standard Instrument LEP that would satisfy this description.

As the Sandhills Estate is Crown land that is the subject of a separate Council report (Report 4.2 to 10 April 2013 Arakwal Memorandum of Understanding Advisory Committee Meeting and thereafter proposed to be reported to Council's 9 May meeting), and in accordance with S117 Direction 6.2 Reserving Land for Public Purposes, it is recommended that further consultation with the Department of Trade and Investment be undertaken prior to finalising the proposed change of zoning to RE1 in the western part of the site.

3. That Council apply the 'R3 Medium Density Residential' zone to Lot 1 DP758207 (section 67) and Lot 2 DP 758207 (section 67), 30 – 32 Lawson Street, Byron Bay, as proposed on the Map at Appendix 3.
4. That Council amend 'Schedule 1 Additional Permitted Uses' to include the use of Lot 1 DP758207 (section 67) and Lot 2 DP 758207 (section 67) 30 – 32 Lawson Street, Byron Bay, for purposes of 'hotel or motel accommodation' and 'restaurant'.

Planning Comment for Recommendations 3 & 4

In connection with the zoning change from B4 to RE1 for the area discussed above, the zoning of two other sites (Lots 1 & 2 DP 758207 section 67) also requires consideration. The two sites front onto Lawson Street, are adjacent to the Sandhills Estate and have established motel and restaurant land uses. These lots are currently zoned partly 1(d) Investigation and partly 7(f2) Urban Coastal Land, the draft LEP proposes a zoning of B4 Mixed Use. In the LES the following comment is made. "For consistency with the adjacent proposed zone and in order to reflect its current use it should be zoned B4 to allow a mix of commercial, tourism and residential uses."

To avoid an isolated spot zoning of B4 on these sites it is suggested that they be zoned R3 Medium Density in keeping with the zoning of adjoining land to the west. The use of the two lots for motel and restaurant purposes can be provided by including the development in *Schedule 1 Additional permitted uses* of the draft LEP. This will avoid the need for these land uses to operate under existing use rights.

- 5. That Council undertake consultation with the Department of Trade and Investment – Crown Lands prior to determining the zoning of Crown owned land identified as ‘Deferred Matter’ at the Sandhills Estate.**

Planning Comment

There is a portion of the Sandhills Estate identified on the Land Zoning Map as “Deferred Matter” (as directed by Department of Planning & Infrastructure prior to public exhibition). It is noted that this land would have been zoned E2 in accordance with the Strategic Planning Study as approved by the Crown. As requested in Issue 17 above, it is recommended that Council consult with the Department of Trade and Investment – Crown Lands prior to determining the final zoning of this land.

- 6. That the floor space ratio for the B2 Local Centre zone in Byron Bay be amended from 1:1 to 1.5:1 on the Floor Space Ratio Map.**
- 7. That Council investigate LEP and DCP controls that limit ‘below ground car parking’ to 1 floor only and/or require upper storeys to be stepped back to achieve better streetscape and urban design outcomes.**

Planning Comment for Recommendations 6 & 7

The draft LEP proposed a Floor Space Ratio (FSR) of 1:1 for the Byron Bay CBD. This FSR was based on discouraging large underground car parks in the commercial centre. Following a review of larger development approvals in this precinct, a FSR of 1.5:1 is considered to be compatible with the 3 storey height limit proposed for Byron Bay town centre and would be consistent with existing FSR and urban design outcomes achieved. However, Council may also consider including LEP and DCP controls that limit ‘below ground car parking’ to 1 floor only and/or requiring 3rd storey to be stepped back a minimum of 3 metres (to promote better streetscape design outcomes).

- 8. That Council apply the ‘R2 Low Density Residential’ zone to Lot 12 DP 601851 (42 Massinger Street) consistent with adjacent land to the south.**

Planning Comment

The subject land, which has an area of 570 sq metres, is immediately adjacent to existing residences and is currently serviced by water and sewer services. The site is identified as being bushfire prone, however it has no other identified environmental attributes/constraints and the loss of this small amount of 7(b) land will be more than compensated by the additional E2 zones on adjoining lands in this precinct (that are in the care and control of the State Government).

- 9. That Council apply the ‘B2 Local Centre’ zone to 58 and 60 Stuart Street as proposed on the map at Appendix 4.**

Planning Comment

A site inspection of this area found that only 58 & 60 Stuart Street should be included in the B2 Local Centre Zone at this time, as these lots incorporate the existing medical centre, skin clinic and pathology unit. (See map showing recommended change to zoning at Appendix 4.)

54 & 56 Stuart Street appear to be used as health consulting rooms which are already permitted with consent in the R2 Low Density Residential Zone. Given the predominantly residential nature of these and the remaining sites, they should be appropriately investigated as part of a future strategy for the Mullumbimby commercial/retail zone.

10. That Council apply the 'B2 Local Centre' zone for all of 77 Station Street as proposed on the map at Appendix 4.
11. That the floor space ratio for all of 77 Station Street be amended to 0.75:1 on the Floor Space Ratio Map.
- 5 12. That the minimum lot size for all of 77 Station Street be amended to 200m² on the Minimum Lot Size Map.

Planning Comment for Recommendations 10, 11 & 12

10 The subject land consists of two (2) parcels that currently have a business zoning over the northern parcel and a residential zoning over the southern parcel. Given the existing commercial use occupying both parcels of the subject property (*bulky goods premises*), it is considered logical to include all of 77 Station Street in the B2 Local Centre Zone and apply the corresponding 200m² minimum lot size and .75:1 FSR. (See map showing recommended change to zoning at Appendix 4.)

- 15 13. That the following objective be inserted into Zone B2 Local Centre of draft Byron LEP 2012:

"To encourage vibrant centres by allowing residential and tourist and visitor accommodation above retail, business and offices."

20 Planning Comment

The submitter has suggested additional zone objectives as follows:

- (i) Zones B1 and B2 – *"To allow residential and tourist and visitor accommodation above retail, business and offices to bring a higher level of vibrancy to centres."*
- 25 (ii) Zone B1 – *"To strengthen the local community and support the role of the local centres."*
- (iii) Zone B2 – *"To support the role of the central business district and business areas of surrounding villages."*
- (vi) Zone B7 – *"To foster boutique, art, crafts, displays and related studios and workshops."*

30 Planning Comment

Item (i) – It is appropriate for the following objective to be added to the objectives for the B2 Local Centre zone, but not the B1 Neighbourhood Centre. However it is recommended that the wording be amended to read: *"To encourage vibrant centres by allowing residential and tourist and visitor accommodation above retail, business and offices."*

35 Items (ii) & (iii) – The suggested objectives should not be added to the B1 and B2 zone objectives. These are broader strategic outcomes that are already covered under the 'Aims' of the draft LEP (see cl 1.2).

40 Item (iv) – The suggested objective should not be added to the B7 Business Park zone. The suggested objective focuses on land uses that will be primarily accommodated within the IN2 Light Industrial Zone, which already includes the following additional zone objective: *"To provide for creative industrial uses such as artisan and cultural industries."*

- 45 14. That the floor space ratio for the Bangalow B2 Local Centre zone be amended from 0.75:1 to 1:1 on the Floor Space Ratio Map.

Planning Comment

50 The height reduction from 11.5m to 9m was meant to maintain a 2-storey general height limit for buildings in the Bangalow heritage precinct; 3-storey buildings would be incompatible with the existing heritage character. Following a subsequent review of two recent redevelopment sites in Bangalow (both mixed use) that were approved at 1.4:1 and 1.03:1 FSRs and at 2 storeys, it is considered that a 1:1 FSR would be acceptable in Bangalow.

Financial Implications

- 5 As detailed in the 14 February 2013 report to Council, the main financial implications relate to the LEP Acceleration Funding Agreement with the State government and corresponding deadline for completion of the draft LEP. The amount of grant funding that can be claimed by Council will depend on its ability to maximise project delivery within the Acceleration Funding Agreement timeline.

10 **Statutory and Policy Compliance Implications**

Refer to discussion of statutory requirements above.

Report No. 12.15. PLANNING - 10.2012.555.1 Demolition of existing dwelling and erection of 4 storey mixed use residential and commercial at 9 Station Street, Bangalow

Executive Manager: Environment and Planning

Report Author: Paul Mills, Development Planner

File No: Parcel Nos 85390x178620x193400 #A2012/10725

NOTE TO COUNCILLORS:

In accordance with the provisions of S375A of the Local Government Act 1993, a Division is to be called whenever a motion for a planning decision is put to the meeting, for the purpose of recording voting on planning matters. Pursuant to clause 2(a) under the heading Matters to be Included in Minutes of Council Meetings of Council's adopted Code of Meeting Practice (as amended) a Division will be deemed to have been called by the mover and seconder of all motions relating to this report.

RECOMMENDATION:

That pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2012.555.1 for demolition of existing dwelling house and garage and to erect a 4 storey mixed residential and commercial building including 8 dwellings (residential flat buildings), 3 shops and basement car parking for 18 vehicles, be refused for the following reasons:

1. Pursuant to Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979* the proposed bulk and scale of the building is likely to have a negative impact on the built environment of the locality.
2. Pursuant to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* the proposed development is likely to detract from the character and appearance of the Bangalow Heritage Precinct (item of the environmental heritage) identified within Schedule 2 of Byron Local Environmental Plan 1988.
3. Pursuant to Section 79C(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposal is inconsistent with the provisions of Byron Development Control Plan 2010, Chapter 12, Section 4 Heritage.
4. Pursuant to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the design quality principles identified within Part 2 of State Environmental Planning Policy No.65 (Design Quality of Residential Flat Development) and the Residential Flat Design Code.
5. Pursuant to Section 79C(1)(c) of the *Environmental Planning and Assessment Act 1979* the subject site is not considered to be suitable for the proposed development.
6. Pursuant to the provisions of Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, the built form and environmental impacts of the proposed development are considered to be contrary to the public interest.

Attachments:

Locality Map

- Heritage Assessment Donald Osborne & Assoc #E2013/11840 [3 pages] **Annexure 22**
- NOTE: Confidential submissions have been provided on the Councillors' Agenda CD only.

Lot 1 DP 123326, Lot B DP 327228 & Lot 334 DP 755695 9 Station Street BANGALOW



Legend

1A General Rural	1D Investigation	5A Special Uses	7F2 Urban Coastal Lands
1ACH General Rural Cross Hatched	1E Extractive Resources	5B High Hazard Flood Liable	7J Solar Farm
1AH General Rural Hatched	1F Forestry	6A Open Space	7K Habitat
1B1 Agricultural Protection	2A Residential	6B Private Open Space	7KCH Habitat Cross Hatched
1B1CH Agricultural Protection Cross Hatched	2ACH Residential Cross Hatched	7A Wetlands	8A National Parks & Nature Reserves
1B2 Agricultural Protection	2T Tourist	7B Coastal Habitat	9A Proposed Road
1C1 Small Holdings	2V Village	7C Water Catchment	Cadastre
1C2 Small Holdings	3A Business	7D Solar Escapement	Subject Site
1C2CH Small Holdings Cross Hatched	4A Industrial	7F1 Coastal Lands	



BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(110)

DA No:	10.2012.555.1
Proposal:	Demolition of existing dwelling and garage. Erection of a four (4) storey mixed use residential and commercial building including eight (8) dwellings (Residential flat building), three (3) Shops and basement car parking for eighteen (18) vehicles.
Property description:	LOT: 1 DP: 123326 9 Station Street BANGALOW
Parcel No/s:	85390
Applicant:	Gordon Highlands Pty Ltd
Owner:	Gordon Highlands Pty Ltd
Zoning:	No. 3(a) - Business Zone
Date received:	22 November 2012
Integrated Development:	No
Public notification or exhibition:	Level 2 advertising under DCP 2010 Chapter 17 - Public Notification and Exhibition of Development Applications Exhibition period: 11/12/12 to 24/12/12 Submissions: Ninety-six (96)
Other applications (S68/138):	Roads Act (51); Stormwater (55); Water & Sewer (60)
Planning Review Committee:	Not applicable
Delegation to determination:	Meeting of full Council
Issues:	<ul style="list-style-type: none"> • Heritage conservation (site is identified by Byron LEP 1988 as an Item of Environmental Heritage - within Bangalow Heritage precinct); • Bulk and scale of proposed building; • Impact on streetscape; • Non-compliance with DCP 2010 parking requirements (Applicant's proposal to enter into a Voluntary Planning Agreement for payment of Section 94 Contributions); • Non-compliance with Draft LEP 2012 maximum height control and floor space ratio controls; • The proposed building is considered to be inconsistent with design quality principles of SEPP 65 (Design Quality of Residential Flat Development); • Standard of rear lane access / concerns regarding increased traffic on narrow rear lane which is used by children attending Bangalow Primary School / accessibility by service vehicles for waste collection; • Depth of excavation required for basement parking, and • Overshadowing of No.11 Station Street adjoining building to the south.
Summary:	In summary the application seeks development consent for the demolition of existing dwelling and garage, erection of a four (4) storey mixed-use residential and commercial building including eight (8) dwellings (Residential flat building), three (3) Shops and basement car parking for eighteen (18) vehicles.

	<p>Schedule 2 of LEP 1988 specifies for Bangalow that “Buildings within Heritage Precinct on map” are ‘Items of Environmental Heritage’. The subject site falls within the boundaries of the Bangalow Heritage Precinct. Comments were sought from an external heritage consultant to assess the heritage impact of the proposal. In summary the heritage consultant has recommended a significant reduction in the scale of the development noting the development will detract from the heritage setting and streetscape. The proposal is considered to inconsistent with Council’s DCP 2010 Chapter 12 (Bangalow) Section 4 Heritage provisions.</p> <p>In principle the subject site is considered to be suitable for an appropriately designed mixed commercial/residential development which is more sympathetic with the character of the Bangalow town centre. However the built form of the proposed structure is considered to be excessively bulky in appearance with the uppermost storey being a particularly incongruous feature in the local built environment.</p> <p>The proposed development is considered to be inconsistent with the design quality principles identified within Part 2 of State Environmental Planning Policy No.65 (Design Quality of Residential Flat Development) and the Residential Flat Design Code.</p> <p>The proposed development is significantly exceeds Draft Byron Local Environmental Plan 2012 Clause 4.4 Floor space ratio and Clause 4.3 Height of buildings.</p> <p>Council resolved to undertake an extended exhibition period for the application from 11 December 2012 to 7 January 2013. A total of ninety-six (96) submissions were received (of which 1 submission was received after the completion of the exhibition period) the matter raised in the submissions have been discussed in the body of this report.</p> <p>Following balanced consideration the proposed development is considered to have insufficient planning merit and is unable to be supported.</p>
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1. INTRODUCTION

1.1 History/Background

- 5 The following past development applications have been identified for the subject site:
- | | | |
|----|----------------------|---|
| 10 | 10.2010.435.1 | Development application seeking the removal of one (1) tree from the subject site consent granted 3 September 2010. |
| 10 | 10.2011.176.1 | Development Application for a change of use of the existing dwelling on the subject site to a shop, consent granted on 7 July 2011. |
| 15 | 10.2011.176.2 | Section 96 application to modify development consent 10.2011.176.1 to remove a condition requiring consolidation of the allotments, approved 27 October 2011. |

1.2 Description of the site and surrounds

5 The subject site is comprised of three adjoining allotments Lot 1 DP 123326, Lot B DP 327228 and lot 334 DP 755695 known as 9 Station Street, Bangalow. The subject site is rectangular in shape and located on the eastern side of Station Street adjoining the western entry to the Bangalow Showgrounds.

10 Existing on the site is a single-storey dwelling of timber construction with weatherboard cladding and iron roofing, also existing on-site is a freestanding four (4) car garage. The total area of the site is 1123m². The site has a length of 40.55m with a frontage of 27.93m to Station Street. To the rear the site also has a frontage of approximately 15m to an unformed portion of Station Lane.

15 The level of the site generally falls from its north-western corner on the Station Street frontage (RL 50.17 highest point) to the south and east (RL 47.63 lowest point).

20 The site is located at the northern end of Station Street within the Bangalow Heritage precinct. The Bangalow Showgrounds adjoin the property to the north and north-west, with an entry gate (and associated building) for the Showgrounds and Scout Hall located immediately to the north. The A & I Hall is located to the north-east of the site at the end of Station Street. To the rear of the site on the opposite side of Station Lane is the Bangalow Public School, the western side of the School grounds nearest the subject site are the location of a School Hall and a staff parking area. To the south the site is adjoining by an existing residential property containing a single storey dwelling of timber construction with iron roofing.

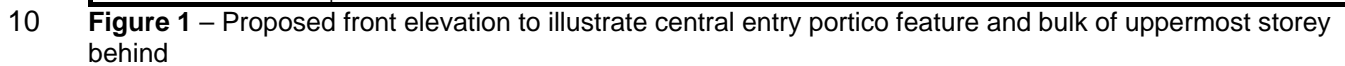
1.3 Description of the proposed development

30 In summary the application seeks development consent for the demolition of existing dwelling and garage, erection of a four (4) storey mixed-use residential and commercial building including eight (8) dwellings (Residential flat building), three (3) Shops and basement car parking for eighteen (18) vehicles.

The application specifically involves:

- 35 • Demolition of existing single-storey dwelling and freestanding garage;
- Erection of a four (4) storey mixed-use residential and commercial building including:
 - 40 - eight (8) dwellings (Residential flat building) comprising 2 x 1 bedroom dwellings, 4 x 1 bedroom (plus study) dwellings, 1 x 3 bedroom dwelling, 1 x 3 bedroom (plus study) dwelling (a ground floor foyer is proposed for the residential component);
 - 45 - three (3) ground floor Shops comprising Shop 1 (floor area 82m²), Shop 2 (floor area 62m²) and Shop 3 (floor area 73m²), commercial facilities include a tea room, individual male, female and disabled toilets, a private court and a garden terrace;
 - basement car parking for eighteen (18) vehicles, individual storage rooms, lift and two internal stair wells, rear external loading/car wash bay and disabled parking space.
- 50 • The proposal is predominantly of rendered masonry construction with metal roof sheeting. The uppermost storey also includes some colorbond metal wall cladding.

- 5



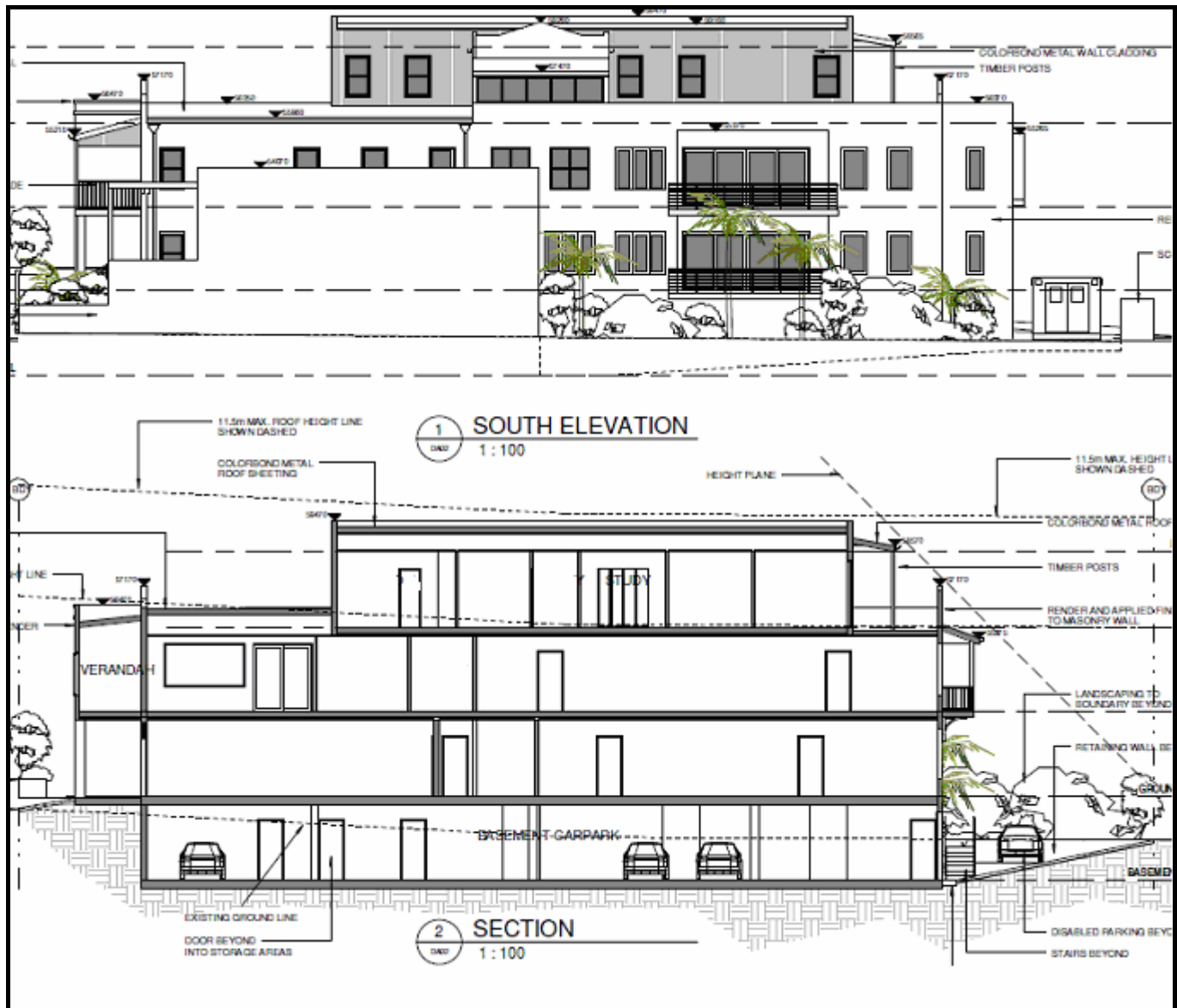


Figure 2 – Southern elevation and sectional drawing

2. SUMMARY OF GOVERNMENT/EXTERNAL REFERRALS

	Summary of Issues
Senior Development Engineer	Car parking, internal access, external access from Station Lane.
Senior Environmental Officer	Land contamination SEPP No.55, noise impacts and construction impacts on neighbouring buildings.
Water & Waste Services	Section 68 approval required for water and sewer connections.
Senior Building Surveyor	Non-compliance with BCA Part D3 and non-compliance with <i>Disability (Access to Premises-Buildings) Standards 2010</i> .
Section 94 Contributions Officer	Voluntary Planning Agreement as an alternative to provision of parking spaces.
ET Engineer	Water, Bulk Water and Sewer charges apply.
	No other referrals.

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

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

3.1. STATE/REGIONAL PLANNING POLICIES AND INSTRUMENTS

Requirement	Requirement	Proposed	Complies
State Environmental Planning Policy No.55 (Remediation of Land)	Council must: (a) considered whether the land is contaminated, and (b) if the land is contaminated, if the land is suitable in its contaminated state or after remediation, and (c) be satisfied the land will be remediated before the land is used.	Council's Environmental Health Officer has raised no objection to the proposal with regard to site contamination and SEPP No.55 obligations. It is noted that the applicant has provided a statutory declaration to confirm the continuous land use history for the site. Residents of the proposed development would be accommodated at ground, first and second floor level and will have minimal or no access to soils.	Yes
North Coast Regional Environmental Plan (Deemed SEPP)	Relevant Aims: <ul style="list-style-type: none"> protects the natural environment; encourages an efficient and attractive built environment and guides development into a productive yet environmentally sound future. 	Clause 36 specifies matters for consideration in relation to a Heritage Items. See assessment following this table.	No
Building Code of Australia	Able to satisfy the requirements of the Building Code of Australia	The proposal is not considered to be able to satisfy the requirements of the Building Code of Australia (BCA). Full construction details and BCA assessment would be completed by an appointed Principal Certifying Authority	Unsatisfactory
Demolition	Australian Standard AS 2601-1991: <i>The Demolition of Structures</i> , published by Standards Australia, and as in force at 1 July 1993	Demolition of existing dwelling proposed.	Yes (Condition)
Accessibility (Disability Discrimination Act)	Access for persons with disabilities and integration into surrounding streetscapes without creating barriers. (Council Res.10-1118)	Council's Senior Building Surveyor has assessed the proposed plans and advised that disabled access does not satisfy <i>Disability (Access to Premises-Buildings)</i>	No

Requirement	Requirement	Proposed	Complies
		<i>Standards 2010</i> (made under subsection 31(1) of the <i>Disability Discrimination Act 1992</i>). The proposed access arrangements do not comply with Part D3 of BCA 2012.	

* Non-complying issues discussed below

State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development

5 Clause 30 Determination of development applications

- 10 (1) *After receipt of a development application for consent to carry out residential flat development (other than State significant development) and before it determines the application, the consent authority is to obtain the advice of the relevant design review panel (if any) concerning the design quality of the residential flat development.*

Assessment comment: At the time of writing this report there was no known design review panel operating for Byron Shire.

- 15 It is noted the *Environmental Planning and Assessment Regulation 2000* contains the following provision in clause 50 (How must a development application be made?):

- 20 “(1A) A development application that relates to residential flat development, and that is made on or after 1 December 2003, must be accompanied by a design verification from a qualified designer, being a statement in which the qualified designer verifies:
- (a) that he or she designed, or directed the design, of the residential flat development, and
- (b) that the design quality principles set out in Part 2 of State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development are achieved for the residential flat development.

- 25 Clause 3 of the *Environmental Planning and Assessment Regulation 2000* contains the following definition:

‘qualified designer’ means a person registered as an architect in accordance with the Architects Act 2003.”

- 30 **Assessment:** The original design of the development was completed by Ron Johnson who is not a registered architect. The applicant has submitted a Design Verification statement prepared by John Gray (Registered Architect) to verify that he has reviewed the design and directed modifications to the design.

35 Design Quality Principles

The proposed development involves the erection of a Residential Flat Building and pursuant to Clause 20 of SEPP 65 following is an assessment of the proposal against the ‘design quality principles’.

Design Quality Principles	Assessment
Principle 1: Context Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.	The proposed design is considered to be an inappropriate design response

<p>Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.</p>	<p>to the local topography and existing development within the immediate area.</p> <p>Any reference to the proportions of the A&I Hall by the proposed development are considered an inappropriate response to a development which is clearly not part of the predominant character of the area and is not what is sought by the desired future character of the area.</p>
<p>Principle 2: Scale</p> <p>Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.</p> <p>Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.</p>	<p>Concerns are raised regarding the scale of the proposed development particularly when viewed in comparison to neighbouring commercial buildings. The increased visibility of the site when viewed from various vantage points increases the visual impact of the development.</p>
<p>Principle 3: Built form</p> <p>Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p>The built form of the proposed structure is considered inappropriate with the uppermost storey being an incongruous feature in the local built environment. The proposed flat roof design (or low pitched roof) is also a design feature which is considered to be out of character with existing buildings within the immediate area.</p>
<p>Principle 4: Density</p> <p>Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).</p> <p>Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.</p>	<p>The proposal does not comply with Council's DCP 2010 density provisions which limit the number of dwellings on the site to one per 150m² of site area.</p>
<p>Principle 5: Resource, energy and water efficiency</p> <p>Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.</p> <p>Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.</p>	<p>The applicant has submitted a BASIX Certificate in accordance with SEPP (Building and Sustainability Index: BASIX) 2004. The proposed design does not incorporate north facing balconies or living areas for dwelling Units 7 & 3 to accord with solar design principles.</p>
<p>Principle 6: Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.</p>	<p>As the site is located within the 3(a) Business Zone only limited strips of landscaped area are proposed adjacent to the Station Street frontage</p>

<p>Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.</p> <p>Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.</p>	<p>and adjacent to the northern and southern boundaries.</p>
<p>Principle 7: Amenity Good design provides amenity through the physical, spatial and environmental quality of a development.</p> <p>Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.</p>	<p>The proposed design is considered to provide a moderate standard of amenity for the residents when considering room sizes, orientation, solar access, and an efficient layout. The proposal is able to provide disabled access to each of the proposed commercial and residential units with a disabled parking space and lift access proposed.</p>
<p>Principle 8: Safety and security Good design optimises safety and security, both internal to the development and for the public domain.</p> <p>This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.</p>	<p>The proposed design provides a secured basement parking area which is not visible from the public domain. However the proposal does provide safe pedestrian access to Station Street and definition between private and public spaces.</p>
<p>Principle 9: Social dimensions and housing affordability Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.</p> <p>New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.</p> <p>New developments should address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.</p>	<p>The proposal seeks to provide a total of eight (8) residential units which is below the Council's DCP 2010 minimum threshold for the provision of adaptable housing. Four of the proposed dwelling are smaller single bedroom units which are likely to be affordable housing.</p>
<p>Principle 10: Aesthetics Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.</p>	<p>The Consultant Heritage Assessment has raised concerns regarding the proposed introduction of stone to the Station Street façade being inconsistent with the range of finishes used in Bangalow and is not be in keeping with the heritage characteristics of Bangalow. The proposed flat roof design and</p>

	extensive use of rendered masonry are not considered satisfactory building materials/finishes in the context of this site.
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Residential Flat Design Code

5 The proposed development has been assessed against the provisions of the residential flat design code and the key aspects of local context, site design and building design.

Local context: The proposed design incorporates increased bulk and scale to most neighbouring buildings it is not considered to adequately relate to the form of existing buildings or desired future character for the heritage precinct.

Site design: The proposed development has similarities to slab (block) and row apartment designs with the residential flat building characterised by a stepped block built form which does not step down in relation to natural ground slope. It is considered this design is not an appropriate response to the characteristics of site including topography.

Building Design: The building design results in an excessively bulky multi-storey building particularly when viewed from the south, north, north-west, west. The proposed building and of larger scale than neighbouring commercial development in Station Street.

20 North Coast Regional Environmental Plan

Clause 36(2) Development control - heritage items, generally' specifies:

"(2) The council shall not grant a consent required by subclause (1) unless it has made an assessment of:

- (a) the heritage significance of the item,
- (b) the extent to which the carrying out of the development in accordance with the consent would affect the heritage significance of the item and its site,
- (c) whether the setting of the item and, in particular, whether any stylistic, horticultural or archaeological features of the setting, should be retained,
- (d) whether the item constitutes a danger to the users or occupiers of that item or to the public, and
- (e) measures to be taken to conserve heritage items, including any conservation plan prepared by the applicant.

Note. The website of the Heritage Branch of the Department of Planning has publications that provide guidance on assessing the impact of proposed development on the heritage significance of items (for example, Statements of Heritage Impact)."

Assessment: The application was referred to an external consultant (Don Osborne and Associates) for heritage impact assessment. See Section 3.2 of this report for comments from the heritage consultant.

3.2. BYRON LOCAL ENVIRONMENTAL PLAN 1988

Zone: No. 3(a) - Business Zone

Definition: Residential flat building and shops

LEP Requirement	Summary of Requirement	Proposed	Complies
Meets zone objectives	(a) to encourage the development and expansion of business activities which will contribute to economic growth and employment	The proposed residential flat building and shops are considered to be inconsistent with the Objectives of the 3(a) Business Zone.	No

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(120)

LEP Requirement	Summary of Requirement	Proposed	Complies
	<p>opportunities within the Shire of Byron,</p> <p>(b) to facilitate the establishment of retail, commercial, tourist and professional services to meet the needs of the community and which are compatible within the surrounding urban environment,</p> <p>(c) to permit non-commercial development within the zone where such development is compatible with the commercial character of the locality,</p> <p>(d) to allow detailed provisions to be made, by means of a development control plan, to set aside specific areas within the zone for particular intensities of commercial, retail and other uses,</p> <p>(e) to ensure there is adequate provision for car parking facilities within the vicinity of the zone, and</p> <p>(f) to minimise conflicts between pedestrians and vehicular movement systems within the vicinity of the zone.</p>		
Permissible use	<p>shop means a building or place used for the purpose of selling, exposing or offering for sale by retail, goods, merchandise or materials, but (in the table to clause 9) does not include a building or place elsewhere specifically defined in this Dictionary, or a building or place used for a purpose elsewhere specifically defined in this Dictionary.</p> <p>residential flat building means a building which contains 3 or more dwellings. residential flat buildings which physically attached to or used in conjunction with purposes</p>	<p>The proposed ground floor 'shops' and physically attached 'residential flat building' are permissible within the 3(a) Business Zone.</p>	Yes

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(121)

LEP Requirement	Summary of Requirement	Proposed	Complies
	permissible with development consent are permissible.		
Clause 2A – implementation of aim, objectives and guiding principles	<p>(2) Before determining a development application, the council shall have regard to the information, guidelines and recommendations in the following strategies, policies and studies adopted by the council:</p> <ul style="list-style-type: none"> (a) State of the Environment Report, (b) Byron Flora and Fauna Study, (c) Byron Biodiversity Conservation Strategy, (d) Byron Rural Settlement Strategy, (e) Small Towns and Villages Settlement Strategies, (f) Coastline Management Plan. 	The Bangalow Settlement Strategy 2003 is a matter for consideration pursuant to Clause 2A of Byron LEP 1988. See assessment following this table.	See assessment following this table.
Division 2 Environmental Heritage Clause 19 - Items of Environmental Heritage	Schedule 2 of LEP 1988 identifies 'Items of Environmental Heritage'. Schedule 2 of LEP 1988 specifies for Bangalow "Buildings within Heritage Precinct on map" are 'Items of Environmental Heritage'. The subject falls within the boundaries on the aforementioned map.	See Clause 19 assessment following this table.	No* (*see Clause 19 assessment following this table)
Clause 40 - Height of buildings	Within 3(a) Business Zone - maximum height 7.5 metres to the topmost floor level and 11.5 metres topmost part of the building above existing ground level	<p>The proposed first floor does not exceed 7.49m above ground level (RL55.67 - RL48.18).</p> <p>The topmost part of the building does not exceed 11.29m above ground level (RL59.47 - RL48.18).</p>	Yes
Clause 45 - Provision of Services	Prior adequate arrangements must be made for the provision of services to the allotment.	<p>Sewage & Water: The development is able to connect to Council services subject to payment of contributions.</p> <p>Stormwater: Conceptual stormwater management plan.</p>	Yes

Clause 19 Development relating to certain heritage items

Clause 19 states:

- 5 “(1) *This clause applies to those buildings, works, relics and places which are items of the environmental heritage.*
- (2) *The council shall not grant consent to a development application in respect of any item of the environmental heritage to which this clause applies unless it has made an assessment of:*
- 10 (i) *the significance of the item as an item of the environmental heritage of the Shire of Byron,*
- (b) *the extent to which the carrying out of the development in accordance with the consent would affect the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the item and its site,*
- 15 (c) *whether any stylistic, horticultural or archaeological features of the item or its setting should be retained,*
- (d) *whether the item constitutes a danger to the users or occupiers of that item or to the public, and*
- (e) *where the item is a building:*
- 20 (i) *the colour, texture, style, size and type of finish of any materials to be used on the exterior of the building and the effect which the use of those materials will have on the appearance of the exterior of the building and any other building in the neighbourhood,*
- (ii) *the style, size, proportion and position of openings for any windows and doors which will result from, or be affected by, the carrying out of the development, and*
- 25 (iii) *the pitch and form of the roof of the building.”*

Assessment: The application was referred to an external consultant (Don Osborne and Associates) for heritage impact assessment. A copy of the heritage assessment received from Don Osborne and Associates is contained within Annexure 22. The heritage consultant has found that

30 the Statement of Heritage Impact submitted has not addressed Clause 19(2)(a), 19(2)(b) and 19(2)(c) requirements by failing to assess of the heritage significance of the existing building on the site which is proposed to be demolished and the heritage significance of its removal. It has been advised the existing property exhibits local heritage significance.

35 The heritage consultant has recommended a significant reduction in the scale of the development noting the development will detract from the heritage setting and streetscape.

Bangalow Settlement Strategy 2003

40 *“The Bangalow Settlement Strategy provides a plan to conserve the identity and heritage of Bangalow. The Strategy outlines the constraints to development of the village. It proposes strategies to manage the village’s growth over the next ten to twenty years so as to maintain the character, image, built form, heritage values, and to maximise the use of available land, infrastructure and natural resources to achieve the community’s vision.”*

45 Section 6 of the Strategy specifies how the Strategy is to be implemented. Section 6.1 specifies:

“6.1 New Planning Controls

50 *The Bangalow Settlement Strategy will be implemented through new planning controls. Council has resolved to prepare a new shire-wide place-based instrument that will address the outcomes of a number of Settlement Strategies and other matters. It will contain a specific section for the village of Bangalow.*

55 *The outcomes envisioned in this Strategy require immediate implementation through amendments to planning controls such as the Local Environmental Plan and Development Control Plans.”*

Assessment: As detailed in Section 6.1 of the Strategy it is to be implemented through amendments to planning controls such as the Local Environmental Plan and Development Control Plan.

5 Draft EPI that is or has been placed on public exhibition and details of which have been notified to the consent authority

10 Draft Byron Local Environmental Plan 2012 was publicly exhibited from 24 September 2012 and 24 December 2012 and is a matter for consideration for a development application pursuant to Section 79C(1)(a)(ii) of the Act.

B2 Local Centre Zone

15 It is considered that lesser weight should be afforded to the provisions of the Draft LEP at this time as the provisions are not certain or imminent. Notwithstanding the above, the Draft LEP identifies the subject site to be within the B2 Local Centre Zone in which 'mixed use development' remains a permissible form of development.

Bangalow Conservation Area

20 Draft LEP 2012 also identifies in Schedule 5 (Part 2) that the site is within the Bangalow Conservation Area (Conservation Area No.C001) which is of local significance. The proposed development is considered to be bulky and of an unsympathetic scale with the desired future character for the Bangalow Conservation Area.

Maximum height limit

25 The Draft LEP identifies a maximum height of 9.0m for the subject site and for all the Bangalow town centre. The proposed development exceeds the maximum height limit for the subject site by 2.29m.

Maximum floor space ratio (FSR)

30 Draft LEP 2012 specifies a maximum floor space ratio of 0.75:1 for the subject site and for all land within the Bangalow B2 Local Centre Zone. The proposed development substantially exceeds the maximum floor space for the subject site with a FSR exceeding 1.1:1.

3.3 DEVELOPMENT CONTROL PLANS

Development Control Plan 2010

D3 - Mixed Commercial /Residential Development within 3(a) - Business Zone

DCP Control	Summary of requirement	Proposed	Compliance
General/Density	Density not greater then one dwelling per 150m ² of site area	One (1) dwelling site area approx 140m ² .	No
	Minimum of 25% of development floor space dedicated for commercial/retail purposes (not including carparking)	Approximately 22.3%	No
	All ground floor space fronting the street must be devoted to commercial/retail development	Front of building contains three (3) shop tenancies.	Yes

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(124)

DCP Control	Summary of requirement	Proposed	Compliance
	Each dwelling must have direct access from the main street frontage of the premises	Dwellings have direct access from the main street frontage.	Yes
Private Open Space	Every dwelling unit is to be provided with private open space for the sole use by the occupants of that dwelling	Private open space balconies provided for sole use of dwelling occupants.	Yes
	Private open space is to have a minimum area of 15m ² and a minimum width of 2.5m.	Private open space balconies for each dwelling have an area of 15m ² or greater with a minimum dimension of 2.5m.	Yes
	The private space must have solar access to 50% of its area for at least 3 hours per day.	Solar access to south facing residential balconies does not achieve 50% of area for at least 3 hours per day during winter months.	No
	The private space area is to be located so to maximise privacy for residents.	Private open space located on side elevations of building likely to be satisfactory.	Yes
	The private open space is to be located to ensure that residents are provided with an outlook to public areas rather than over-looking directly onto adjoining buildings.	Concerns are raised regarding the outlook from Units 3 & 7.in relation to the residential property at No.11. Outlook of private open space not directly into adjoining buildings.	Yes
Amenity of residents	Noise tolerable areas must be located towards the noise source and noise sensitive areas located further from the noise source.	Proposed layout maintains dwelling to rear away from street noise.	Yes

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(125)

DCP Control	Summary of requirement	Proposed	Compliance
	Wall or ceiling of attached dwellings are to have a sound transmission class (STC) of not less than that required by Part F (5) of the Building Code of Australia.	Proposed development would be required to comply with the provisions of the BCA.	Yes
	Minimise noise between dwellings by not locating living areas or garages adjacent to bedrooms of other dwellings.	Location of parking and individual living areas acceptable in this regard.	Yes
	Adequate lighting is to be provided for all pedestrian paths, parking areas and building entries.	Able to be resolved condition if assessed favourably.	Yes
Site facilities	Site facility structures (garbage bin enclosures, mail boxes and external storage facilities) are to be provided and constructed out of waterproof and rot-resistant materials.	External waste storage area provided.	Satisfactory
	Central garbage bin enclosure area must be conveniently located for residents and for collection by garbage trucks.	Garbage bin enclosure proposed adjacent to rear lane. Insufficient area available and not conveniently located for collection vehicles.	No
	All mailboxes are to be clearly identified with a unit number, with the street number also identified, and located to enable convenient access for residents and Australia Post.	Post boxes proposed adjacent to Station Street frontage.	Yes
	All dwellings must be wholly independent of the commercial portion of the building in respect of such amenities and facilities as toilets, laundries, kitchens etc.	Separate facilities provided for shops and dwellings.	Yes
	Dwellings without private open space at ground level must provide internal laundry facilities in each unit and provide a clothes drying area on-site or a space for a clothes dryer in each unit.	Private open space not provided at ground level. Each dwelling has space for a clothes dryer.	Yes

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(126)

DCP Control	Summary of requirement	Proposed	Compliance
	Where clothes drying facilities are provided, the area is to be screened from view from the street and is to have access to sunlight.	External clothes drying area available within private court.	Yes
	A lockable storage area of 8m³ for each dwelling is to be provided.	Lockable storage room proposed within basement.	Yes
	A car washing area is to be provided having dimensions of 7.6m x 3m. The area must have water and electricity available and is to be drained by on site disposal.	Suitable car washing area available at rear of building.	Yes
	A separate water meter must be provided for each dwelling.	Section 68 application submitted.	Subject to separate approval.
Element C2.7 - Extent of earthworks	Maximum cut 1.0m Maximum fill 1.0m	Maximum depth of excavation for basement parking level is approximately 2.33m (RL 49.1 - RL 46.67)	No* (*consistent with Part G parking standards see below)

DCP 2010 Chapter 12 – Bangalow

Specific objectives for Bangalow within Chapter 12 include:

- 5 (a) *To maintain and enhance the unique character and amenity of Bangalow as a rural township and encourage new development to complement that special character to strengthen the tourist potential and living amenity of the town.*
- 10 (f) *To establish specific guidelines for the conservation of buildings identified as historically significant with realistic criteria for extensions, alterations and infill development sympathetic to the important buildings in terms of design, scale, detailing, materials, colours, etc.*

15 The application was referred to an external consultant for an assessment with regard to the relevant provisions Chapter 12 – Bangalow. The following is the heritage assessment of the proposal with regard to Chapter 12:

With regard to Chapter 12 of the Byron Shire DCP 2010, we comment as follows;

- 20 “Clause 4.3.2 (B) Infill
This development cannot be regarded as an infill type development as it will replace an existing heritage item and occupy most of the available land area of the site property. Consequently, we believe the size (bulk) and scale of this development is outside the parameters outlined in this chapter.

*Clause 4.3.2 (C Form)**The roof slope of this development does not comply with this clause.*5 *Clause 4.3.2 (D Scale)**All of the existing buildings within the Bangalow Heritage and Conservation areas are of 1 or 2 storey height. Consequently, we believe any new development should retain that parameter. ie. maximum 2 stories.*10 *If this development were to adopt the higher ceiling heights and roof slope required in this planning document, it would virtually restrict it to 2 stories in height."***Part G - Vehicle Circulation and Parking**15 Car parking

On the plans submitted, the number of car spaces required is calculated as follows:

20 Residential Units, 2 visitor spaces = 15 Car Spaces
 Retail Shops, inclusive of Toilets/Tea Room (239m2 approx) = 12 Car Spaces
 Total required = 27 Car Spaces
 Total Provided = 19 Car Spaces
 Shortfall = 8 Car Spaces

25 This Application lodged with Council 22 November 2012, is subject to the then current Section 94 Plan. There is a shortfall of 8 car spaces in the retail component of this development. The applicant proposes payment by way of a "Voluntary Planning Agreement" (VPA). All applications received up to the end of 2012 are consistently assessed in accordance with the then Section 94 Plan.

30 External Access

Should the application have been considered favourable conditions would have been included to resolve the following matters. Station Lane at the rear of the site is required to be upgraded to a full width sealed pavement construction with kerb & gutter and controlled drainage for the full width of the site and south of the site through to Byron Street intersection.

40 Station Street at the front of the site is required to have the "naturestrip" area redeveloped inclusive of a concrete footpath and continuous vertical face kerb and gutter (ie replace any existing vehicle laybacks and damaged kerb) for the full frontage of the site. The footpath is to extend south and north to join/match up with the existing concrete footpaths.

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

45 **Built Environment**

The built form of the proposed structure is considered inappropriate with the uppermost storey being a particularly incongruous feature in the local built environment. The proposed flat roof design (or low pitched roof) is also a design feature which is considered to out of character with existing buildings within the immediate area. In this instance the increased height of the uppermost storey does not allow room for a higher pitched roof to provide a more harmonious design.

55 The proposed design is considered to be an inappropriate design response to the local topography. The proposed building incorporates a stepped block built form. The proposed stepped design does not step down in any relationship with the natural fall of the land. Concerns are raised

regarding the scale of the proposed development particularly when viewed in comparison to neighbouring two-storey commercial buildings in the town centre. The elevated position of the site increases its visual prominence and the visual impact. The proposed development will receive little screening to the south from the small single storey cottage at No.11.

5



Figure 3 – Photomontage of proposed development when from the front of the A & I Hall (prepared by applicant)



10

Figure 4 – Photomontage of proposed development when from Station Lane (prepared by applicant)

The proposed design has incorporated a two-storey element adjacent to Station Street which incorporates partial timber cladding and timber balustrade to sympathise with the character of the precinct. The two-storey element of the design is considered in general to have merit, however the inclusion of a central entry portico feature with 'stone accents in render' is not considered to be a feature consistent with character of the area.

15



Figure 5 – Photomontage of proposed development when from Station Street (prepared by applicant)

Any reference to the proportions of the A&I Hall by the proposed development are considered an inappropriate response to a development which is clearly not part of the predominant character of the area and is not what is sought by the desired future character of the area.

Concerns are raised regarding the scale of the proposed development particularly when viewed in comparison to existing buildings in the immediate area.

The proposed development has not demonstrated the proposed development is able satisfy relevant Australian accessibility standards (disabled access).

Site Waste Minimisation and Management

Proposed on-site waste storage area adjacent to Station Lane is not considered to have an adequate area for the storage of all garbage bins for the residential units and the retail tenancies. The location of the garbage storage area adjacent to Station Lane is not considered to allow suitable access arrangements for a waste collection vehicle.

Natural environment, social and economic impacts in locality

The proposed development does not involve the removal of any significant trees or vegetation and is considered unlikely to have unacceptable impacts on the natural environment. The proposed development is unlikely to result in unacceptable social or economic in the locality.

3.5 The suitability of the site for the development

The site is not considered to be suitable for the proposed development in its current form. As detailed in Section 3.4 of this report concerns are raised regarding the scale of the proposed development when viewed in comparison to neighbouring commercial buildings. The proposed development is considered to be excessive in terms of size and bulk when viewed in the context of Bangalow Heritage precinct.

3.6 Submissions made in accordance with this Act or the regulations

The application was notified pursuant to the Level 2 provisions of Council's DCP 2010 Chapter 17 Public Exhibition and Notification of Development Applications. Council resolved to undertake an extended exhibition period for the application from 11 December 2012 to 7 January 2013. A total of ninety-six (96) submissions were received (of which 1 submission was received after the completion of the exhibition period), following is a summary of the matters raised in the submissions and an officer comment:

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(130)

“Below is a table providing a summary of submissions and staff responses. However, Councillors also need to refer to the full copies of all submissions which have been provided on disc, strictly on a confidential basis, to Councillors. The full copies of the submissions contain personal information such as names and addresses of the persons lodging submissions which are relevant matters to be taken into consideration in determining this matter.”

5

Issue	Comment
The proposed development is excessive in terms of bulk and scale and incompatible with the existing streetscape. The proposal represents an overdevelopment of the site.	Concerns regarding the bulk and scale of the development and its impact on the streetscape are acknowledged and discussed in Section 3.4 of this report.
The street parapet should not conceal a flat (or low pitch) roof behind simply to obtain more floor space within the height limit. Bangalow is characterised by steep pitched roofs.	Concerns regarding the proposed roof form are acknowledged and discussed in Section 3.4 of this report.
Concerns regarding the proposed building being inconsistent with the character Bangalow heritage conservation precinct.	Council's external heritage consultant has recommended a significant reduction in the scale of the development noting the development will detract from the heritage setting and streetscape.
Building should not exceed two (2) storeys in height.	Noted.
The proposed building height exceeds the 9.0m identified within Draft LEP 2012 for Bangalow. The proposed building is excessive in height.	It is acknowledged the proposed maximum building height exceeds that specified within Draft LEP 2012 height by 2.29m.
Concerns the residents of the building will complain about the noise from concerts and functions being held at the A & I Hall. Similar concerns regarding noise from the Showground including Moller Pavillion, Bangalow Primary School Hall, Scout Hall, and RSL Hall being source of complaints for future residents. Likely to cause restrictions for these community facilities and functions held at night.	The subject site is located within the Bangalow commercial centre and within the 3(a) Business Zone. Residential Flat Buildings physically attached to shops are permissible within the zone. It is not considered appropriate to limit the development potential of the subject site in view of existing community halls/facilities.
Development is dominated by residential dwellings. The subject site is located with the 3(a) Business Zone. The site identified within the B2 Local Centre Zone within Draft LEP 2012 and the proposed development is inconsistent with the Draft zone objectives.	<p>Council's DCP 2010 specifies a minimum of 25% of the floor space is to be for commercial/retail purposes. The proposed development makes provision for approximately 22.3% retail floor space which is considered to be a minor and acceptable non-compliance with the DCP.</p> <p>Overall the proposal is considered to be contrary to the 3(a) Business Zone objective in this instance as noted in Section 3.2 of this report.</p> <p>The Draft LEP identifies the subject site to be within the B2 Local Centre Zone in which 'mixed use development' remain a permissible form of development.</p>

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(131)

Issue	Comment
Concerns the development will generate excessive traffic. Station Street is not a through road.	Council's Senior Development Engineer has raised no objection to the proposed traffic generated by the development in terms of the capacity of the local road network. Station Lane would be required to be upgraded to facilitate the development.
Rear lane is too narrow to accommodate traffic from the proposed development. No space for a footpath for students accessing the adjacent Primary School. Provides access to the adjacent Primary School including staff car park. Safety concerns for School students who use the laneway. Approximately half the students from the school use Station Lane for access to/from the School.	Council's Senior Development Engineer has raised no objection to the proposed method vehicular access from Station Lane subject to requirements the laneway is upgraded. Whilst the concerns regarding student safety are noted Station Street is a public laneway.
The intersection of Byron and Station Streets is dangerous and the increased traffic generated by this development will exacerbate problems.	The proposed additional traffic generated by the proposed development is not considered to exceed the capacity of the local road network. No specific concerns regarding the intersection of Byron and Station Streets have been raised by Council's Senior Development Engineer.
The proposal is considered to be contrary to the Bangalow Settlement Strategy 2003.	See assessment of Bangalow Settlement Strategy 2003 in Section 3.2 of this report.
The proposal does not provide sufficient on-site parking and will cause a greater strain parking in the town centre. Developer Contributions not an acceptable solution in Bangalow.	There is a shortfall of 8 car spaces in the retail component of this development. The applicant proposes payment by way of a "Voluntary Planning Agreement" (VPA). All applications received up to the end of 2012 are consistently assessed in accordance with the then Section 94 Plan.
Vehicle access via the rear laneway is considered unacceptable in view of the poor condition of the narrow laneway. The laneway will need to be upgraded to facilitate the development.	Council's Senior Development Engineer has raised no objection to the proposed method vehicular access from Station Lane subject to requirements the laneway is upgraded to a full width sealed pavement construction with kerb & gutter and controlled drainage for the full width of the site and south of the site through to Byron Street intersection.
The top storey of the building is not in keeping with existing buildings. Three storeys would be more appropriate.	Concerns regarding the bulk and scale of the proposed development are acknowledged.
The proposed residential units will be environmentally unfriendly requiring air conditioning in summer etc.	The proposed development is able to satisfy NSW State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. This SEPP sets minimum environmental standards for residential buildings.
Development has potential to overshadow neighbouring buildings and the Primary School playground.	The proposed development will result in significant overshadowing of the adjoining residential property to the south particularly as a result of the excessive bulky and scale of the

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(132)

Issue	Comment
	building. However it is noted the dwelling at No.11 is located within a commercial zone in which a lower level of solar access may be anticipated.
Concerns regarding the proposed limited area for waste storage and difficulties for waste disposal. Garbage trucks not able to access the rear laneway and bulk commercial collection from the Station Street frontage is unsatisfactory.	Concerns regarding the limited area proposed for waste storage and difficulties for access by garbage collection vehicles are acknowledged.
Concerns regarding stormwater management for the subject site.	Should the application been considered favourably appropriate conditions regarding stormwater management would have been imposed.
The proposal exceeds the 0.75 FSR contained within the Draft LEP 2012. The proposed development has an FSR of 1.15.	Draft LEP 2012 specifies a maximum floor space ratio of 0.75:1 for the subject site and for all land within the Bangalow B2 Local Centre Zone. The development substantially exceeds the maximum floor space for the subject site with a proposed FSR exceeding 1.1:1.
Concerns regarding the impact of the proposal on ground water and local flooding. Particularly in relation to the basement parking level.	No objection to the proposed depth of excavation has been raised by Council's Senior Environmental Officer in this instance.
Concerns the proposed development seeks to demolish the existing heritage cottage on the subject site. The cottage is approximately 100 years old.	See Section 3.2 of this report. These concerns are noted, the applicant has not adequately assessed the heritage significance of the existing dwelling.
The proposed building design does not incorporate a heritage façade on its northern elevation when viewed from in front the A & I Hall.	Noted.
The proposed style of accommodation is not appropriate in Bangalow.	Residential flat buildings attached to shops are a permissible form of development. In principle there is planning merit in provided appropriately designed dwelling units within commercial centres such a Bangalow.
Concerns regarding the appearance of a three-storey rendered masonry wall being clearly visible from the showgrounds which are frequented by thousands of visitors to the markets.	Noted.
The proposed side balconies are an inadequate form of residential open space. The rear Level 1 balcony is superficial and not accessible. The central tower element of the front façade serves no function and should be deleted.	In principle Council's DCP 2010 allows for the provision of private open space in the form of balconies.
The ground floor level is two metres above natural ground level at the south-eastern corner which adds another storey adds to the bulky appearance.	Noted.
The development will enhance and encourage business activity in this	Noted.

Issue	Comment
commercially zone precinct.	
Aesthetically the building is in keeping with the A & I Hall and the surrounding Bangalow Heritage Precinct.	The proposed development is considered to be of an incompatible scale with existing commercial development within the 3(a) Zone and is considered likely to detract from the Bangalow Heritage Precinct.
The proposal will increase the supply of commercial floor space in Bangalow and combat excessive commercial rental prices in the town.	Noted.
Residential units will provide an alternative and more affordable type of accommodation for those who cannot afford to rent or buy a detached house in Bangalow.	Noted.
The proposed building is three (3) storeys plus an underground basement, not four (4) storeys.	<p>In accordance with State Environmental Planning Policy No.65 a residential flat building means a building that comprises or includes:</p> <p>(a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and</p> <p>(b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops),</p> <p>As the proposed basement car park reaches 1.69m above ground level it is a storey.</p>

Submission from NSW Police

A written submission has been received by NSW Police on behalf of the representatives of the Bangalow Primary School and residents. The submission raises matters for the consideration of Council in assessing the application. The matters raised include the potential for the occupants of the building to overlook the playground of the adjacent Primary School, the width of the rear laneway and its use by the students and staff of the School. These matters are noted for the consideration of Council.

3.7 Public interest

The proposed development is considered to be contrary to the public interest.

4. DEVELOPER CONTRIBUTIONS

4.1 Water & Sewer Levies

As there is an increase in the load on these services contributions will be required for water and sewer services.

Charges would be calculated based on the additional water and sewerage load that the proposed development generates, shown in Equivalent Tenements (ET) by the following table:

ADDITIONAL WATER & SEWER LOAD OF DEVELOPMENT
 [ET Policy No:12/001]
 Water (S64W Other) 4.45 ET

Bulk Water (BW-BB) 4.45 ET
Sewer (S64S Other) 5.65 ET

4.2 Section 94 Contributions

The applicant has offered to enter into a planning agreement with Council as part of the development application and has also provided further information on the form of the planning agreement. If the application is approved then a deferred commencement condition could be imposed upon the consent to require a planning agreement to be entered into. The condition would have to be consistent with the applicants offer to enter into an agreement to pay for 7.95 spaces.

The cost per space is an important consideration as part of the agreement. The applicant has not propose how much the developer is willing to pay per space. The rate per space that was adopted in the 2005 section is \$27,281.70 (indexed to December 2012). This amount has been bought forward from the 2001 and 1993 contributions plans.

Calculation of section 94 contributions

The development is proposed over three allotments. A review of the subdivision history of these allotments shows that one of the lots was created by way of a departmental subdivision without Council approval. Credit should be given for two of the existing lots but not the third. Section 94 contributions should be calculated in accordance with the following calculations:

Section 94 Contributions

<i>Plan</i>	=	<i>B.S.C. Development Contributions Plan 2005 dated June 2005</i>
<i>Catchment</i>	=	<i>Bangalow.</i>
<i>Credit</i>	=	<i>2 Lots @ 2 SDU</i>
<i>Use/Type</i>	=	<i>Residential @ 5.7SDU</i>
		<i>Retail @ 239m² @ 2.3 SDU</i>
<i>Contribution</i>	=	<i>3.7 SDU Residential</i>
		<i>2.3 SDU Retail</i>

Traffic Generation:

Residential	9 trips per SDU	9 x 3.7	= 33.30 trips
Retail	121 trips per 100m ² GFA	121 x (239 / 100)	= 289.19 trips

5. CONCLUSION

Schedule 2 of LEP 1988 specifies for Bangalow that "Buildings within Heritage Precinct on map" are 'Items of Environmental Heritage'. The subject site falls within the boundaries of the Bangalow Heritage Precinct. Comments were sought from an external heritage consultant to assess the heritage impact of the proposal. In summary the heritage consultant has recommended a significant reduction in the scale of the development noting the development will detract from the heritage setting and streetscape. The proposal is considered to inconsistent with Council's DCP 2010 Chapter 12 (Bangalow) Section 4 Heritage provisions.

In principle the subject site is considered to be suitable for an appropriately designed mixed commercial/residential development which is more sympathetic with the character of the Bangalow town centre. However the built form of the proposed structure is considered to be excessively bulky in appearance with the uppermost storey being a particularly incongruous feature in the local built environment.

The proposed development is considered to be inconsistent with the design quality principles identified within Part 2 of State Environmental Planning Policy No.65 (Design Quality of Residential Flat Development) and the Residential Flat Design Code.

The proposed development is significantly exceeds Draft Byron Local Environmental Plan 2012 Clause 4.4 Floor space ratio and Clause 4.3 Height of buildings.

- 5 Council resolved to undertake an extended exhibition period for the application from 11 December 2012 to 7 January 2013. A total of ninety-six (96) submissions were received (of which 1 submission was received after the completion of the exhibition period) the matter raised in the submissions have been discussed in the body of this report.
- 10 Following balanced consideration the proposed development is considered to have insufficient planning merit and is unable to be supported.

6. RECOMMENDATION

- 15 It is recommended that pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2012.555.1 for demolition of existing dwelling house and garage. Erection of a 4 storey mixed residential and commercial building including 8 dwellings (Residential flat building), 3 shops and basement car parking for 18 vehicles, be refused for the following reasons:

Reasons for refusal:

- 25 1. Pursuant to Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979* the proposed bulk and scale of the building is likely to have a negative impact on the built environment of the locality.
- 30 2. Pursuant to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* the proposed development is likely to detract from the character and appearance of the Bangalow Heritage Precinct (item of the environmental heritage) identified within Schedule 2 of Byron Local Environmental Plan 1988.
- 35 3. Pursuant to Section 79C(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposal is inconsistent with the provisions of Byron Development Control Plan 2010, Chapter 12, Section 4 Heritage.
- 40 4. Pursuant to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the design quality principles identified within Part 2 of State Environmental Planning Policy No.65 (Design Quality of Residential Flat Development) and the Residential Flat Design Code.
- 45 5. Pursuant to Section 79C(1)(c) of the *Environmental Planning and Assessment Act 1979* the subject site is not considered to be suitable for the proposed development.
6. Pursuant to the provisions of Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, the built form and environmental impacts of the proposed development are considered to be contrary to the public interest.

SOCIETY AND CULTURE - EXECUTIVE MANAGER'S REPORTS
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Report No. 12.16. Youth Council Minutes November and December 2012**Executive Manager:** Society and Culture5 **Report Author:** Belle Arnold, Youth Activities Coordinator**File No:** #E2013/17367**Theme:** Community Services, Society and Culture

Summary: Youth Council met on 7 November and 5 December 2012. The 5 December meeting did not reach quorum due to school commitments although the group held a planning discussion on priority projects. The minutes of the November meeting and notes from the December meeting are presented to Council.

10 **RECOMMENDATION:**

1. That Council notes the minutes and meeting notes from the November and December 2012 Youth Council meetings.

15 2. That Council notes the discussions on Youth Transport issues.

3. That Council considers the Youth Council recommendation to review the Bike Strategy and Action Plan to create more accessible transport corridors in the Byron Shire.

20 4. That the Youth Council recommendation to review the Bike Strategy and Action Plan to create more accessible transport corridors be referred to the Transport and Traffic Planner.

25 **Attachments:**

- Youth Council Minutes November 2012 #E2012/17489 [3 pages] **Annexure 11(a)**
- Youth Council Minutes December 2012 #E2012/24404 [3 pages] **Annexure 11(b)**

Report

Youth Council met on 7 November and 5 December 2012. The 5 December meeting did not reach quorum due to school commitments although the group held a planning discussion on priority projects. The minutes of both meetings are presented to Council.

IssuesTransport

Council's Transport and Traffic Planner, Simon Bennett attended Youth Council to discuss transport issues for young people in the Byron Shire. Youth Council members were very interested in discussing the bike paths in the Byron Shire.

Youth Council suggested that the railway lands would be great tracks for bike ways as they are already existing and link up the towns and villages. It was noted that the land belongs to the State Government's asset so Council would need to buy the land. Council do not have the funding for the establishment of the rail corridor. Simon discussed Council's Bike Strategy and Action Plan. Simon identified that the position from the community is that they want the trains back on the tracks, and a cycle way on the rail way line will prohibit the trains being on the track.

Youth Council made a recommendation to Council:

That Council review the Bike Strategy and Action Plan to include the use of the railway land to create a bike path to connect local towns and villages with priority to the creation of a Mullumbimby to Byron Bay connection.

Music Library

Youth Council and Council staff have been liaising with Jo Carmody at the Richmond Tweed Regional Library about housing the instruments for the Music Library.

Cringe the Binge

Youth Council discussed their support of the Cringe the Binge weekend of Action 9, 10 and 11 November 2012 run by Byron Youth Service. Youth Council members committed to attending the 10am launch 10 November and undertook a variety of roles for the 'Rise a Movement' Cringe the Binge music event.

Annual Report

The Youth Council Annual Report July 2011- June 2012 was finalised for reporting to Council in December.

End of Year Event/ Awards

Youth Council members each nominated a community member to receive a Youth Council Award in recognition of an individual, program or organisations' work with local young people.

Youth Council members each nominated themselves a role to fulfil at the event such as present a speech, act as MC, perform, present Welcome to Country or generally contribute to the event.

Self Harm in the Byron Shire

Youth Council members identified that Self Harming has become a widespread issue amongst local young people and were concerned that there was a lack of expertise in dealing with this issue.

Youth Council members supported the delivery of free training for local youth workers and educators on self harm prevention and the development of training for young people who found themselves' supporting one or more friends who were self harming.

Role of Young people in the planning of Australia Day

- 5 Youth Council members present did not see it as a priority to be involved in Council's Australia Day program. Many were already involved in events in their local community. Youth Council members who attended the Australia Day Committee reported that the event was already established and that young people's contribution would be tokenistic. Youth Council members would prefer to organise a Youth Event for Australia Day if funding was available.

Financial Implications

- 10 Nil from this report.

Statutory and Policy Compliance Implications

- 15 Local Government Act 1993
Youth Strategy and Action Plan 2011- 2015

Report No. 12.17. Schoolies - 2012 outcomes and recommendations for 2013

Executive Manager: Society and Culture

Report Author: Joanne McMurtry, Community Policy Officer

File No: #E2013/17043

Theme: Community Services and Community Infrastructure, Open Space and Recreation

Summary: The purpose of this report is to provide the outcome of Schoolies 2012 Safety Response and propose recommendations for Schoolies 2013 Safety Response.

5

RECOMMENDATION:

- 10 1. That Council waive the associated fees for the lodgement of the Application for the Temporary Licence for use of Council owned or controlled land (Apex Park) by the Schoolies Safety Response Working Group for Schoolies 2013, and record as a s356 donation to the value of approximately \$1,970.
- 15 2. That the Schoolies Safety Response Working Group lodge a Development Application for Schoolies 2013, and that Council waive the associated DA fees and record as a s356 donation to the value of approximately \$575.
- 20 3. That in relation to 'Schoolies 2013', Council provide the following as part of the Schoolies Safety Response Working Group from the allocated 2013/14 Budget (Job No. 3235.22):
 - 25 a) Fund the relevant insurances (eg public liability and volunteers - approximately \$1,670);
 - 30 b) The supply of a marquee, lights, electrical services and astro turf to be used as a safety hub for the duration of Schoolies;
 - c) Increased cleaning services for public amenities (to three times per day) at Apex Park, Fishheads and Railway Park for the duration of Schoolies;
 - 35 d) Increased cleaning services for Apex Park and Byron Bay town centre for the duration of Schoolies;
 - e) Increased waste removal services, including extra bins provided at Apex Park for the duration of Schoolies;
 - 40 f) Additional lighting in Apex Park including four spotlights at the Byron Bay Surf Club and two spotlights at the Byron Bay pool;
 - g) Free parking permits for volunteers;
 - h) Extra signage displaying alcohol free zones;
 - 45 i) Provision of surf lifesaving services from Monday to Friday from Monday 18 November 2013. (The summer season patrols start on Monday 2 December 2013. Note that the volunteers from the Byron Bay SLSC do the weekends before, during and after the schoolies period.)

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(140)

4. That the newly formed Community Summer Safety and Cultural Activities Committee consider the issues and implications of Schoolies 2013 in line with the Committees objectives, and make a recommendation to Council.

5

Attachments:

- Draft Schoolies Hub-Coordination Report 2012 #E2013/17976 [7 pages] **Annexure 13**

Report

The Schoolies Safety Response Working Group is a group of representatives from various community organisations, whose aim is to provide a safe and secure environment in Byron Bay during the end of year school leaver celebrations ('Schoolies').

Participants in the Schoolies Safety Response Working Group include: Byron Youth Service, NSW Police (Byron Bay), Byron Liquor Accord, North Coast Area Health Service, INTRA/The Buttery, Byron Underage Drinking Drug Initiative (BUDDI), Byron United, Holiday Letting Organisation Byron Inc. (HLO), Byron Visitor Centre, Byron Shire Council, Red Frogs and Youth With a Mission (YWAM).

Outcomes of Schoolies 2012

For schoolies 2012, Council resolved (**12-695**) the following:

1. *That Council on behalf of the Schoolies Safety Response Working Group, lodge the application for the Temporary Licence for use of Council owned or controlled land (Apex Park) for Schoolies 2012 and provide relevant insurances.*
2. *That in relation to 'Schoolies 2012', Council provide the following as part of the Schoolies Safety Response Working Group from the allocated 2012/13 Budget (\$29,000 Job No. 3235.22):*
 - a) *A donation of \$3,000 (from the existing Schoolies budget Job No. 3235.22) recorded as a s356 Donation to be used towards first aid training of Schoolies HUB volunteers and towards purchasing volunteer t-shirts;*
 - b) *The supply of a marquee, lights and electrical leads to be used as a safety hub for the duration of Schoolies;*
 - c) *Astro turf for the duration of Schoolies to be used as flooring for the safety hub;*
 - d) *The lodgement of an "Application for a Temporary Licence for use of Council owned or controlled land" by the Schoolies Safety Response Working Group*
 - e) *Increased cleaning services for public amenities (to three times per day) at Apex Park, Fishheads and Railway Park for the duration of Schoolies;*
 - f) *Increased cleaning services for Apex Park and Byron Bay town centre for the duration of Schoolies;*
 - g) *Increased waste removal services, including extra bins provided at Apex Park for the duration of Schoolies;*
 - h) *Additional lighting in Apex Park including four spotlights at the Byron Bay Surf Club and two spotlights at the Byron Bay pool;*
 - i) *Free parking permits for volunteers;*
 - j) *Extra signage displaying alcohol free zones;*
 - k) *Provision of surf lifesaving services from Monday to Friday from Monday 19 November 2012. (The summer season patrols start on Monday 3 December 2012. Note that the volunteers from the Byron Bay SLSC do the weekends before, during and after the schoolies period.)*

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(142)

3. *That Council assists the Schoolies Safety Response Working Group (SSWG) with appropriate Work Health and Safety (WHS) training for all Schoolies volunteers.*

- 5 4. *That any funding or grant opportunities outlined within the Community Safety Compact be utilised as an additional source of funding.*

10 In 2012, Council determined that Schoolies was exempt development under the State Environmental Planning Policy (Infrastructure) 2007 Division 12 "Parks and other public reserves", and therefore no development application was required.

In 2012, the following actions were taken:

- 15 • The Schoolies Safety Response Working Group lodged the application for the Temporary Licence for use of Council owned or controlled land (Apex Park) for Schoolies 2012, with the application fee of \$1,870 costed to Council's Schoolies budget. Public Liability and Volunteer's Insurance was sourced by Council staff and the cost of this insurance (\$1,670) was costed to Council's Schoolies budget.
- 20 • A donation of \$3,000 (from the existing Schoolies budget Job No. 3235.22) was provided to be used towards first aid training of Schoolies HUB volunteers and towards purchasing volunteer t-shirts;
- 25 • Supply of a marquee, lights and electrical leads to be used as a safety hub for the duration of Schoolies;
- Supply of astro turf for the duration of Schoolies to be used as flooring for the safety hub;
- 30 • Increased cleaning services for public amenities (to three times per day) at Apex Park, Fishheads and Railway Park for the duration of Schoolies were provided;
- Increased cleaning services for Apex Park and Byron Bay town centre for the duration of Schoolies was provided;
- 35 • Increased waste removal services, including extra bins provided at Apex Park for the duration of Schoolies was provided;
- Additional lighting in Apex Park including four spotlights at the Byron Bay Surf Club and two spotlights at the Byron Bay pool were lit;
- 40 • Free parking permits for volunteers were provided;
- Extra signage displaying alcohol free zones were provided;
- 45 • Provision of surf lifesaving services from Monday to Friday from Monday 19 November 2012. (The summer season patrols start on Monday 3 December 2012. Note that the volunteers from the Byron Bay SLSC do the weekends before, during and after the schoolies period.)

50 In 2012, the following action was not undertaken:

- 50 • Council assistance with Work Health and Safety (WHS) Training for Volunteers for the following reason:

55 Volunteers for Schoolies are currently recruited and managed by the Schoolies Hub Co-ordinator who is not an employee of Council, therefore, the volunteers are not volunteers of

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(143)

Council. With the introduction of new WHS legislation in 2012, volunteers are the responsibility of the PCBU (Person Conducting a Business or Undertaking). As this is not Council, volunteers are not covered by Council's insurances.

- 5 A breakdown of the costs is included below.

Council expenditure 2012

	\$3,000	s356 donation
10	\$2,412	Marquee
	\$18,853	Clean up, signage, flooring, electrical fit-out, lights, cleaning, insurance, waste removal, additional life saving services

\$24,265 Total

- 15 A 'Schoolies Hub Co-ordinator' was appointed and funded by donations from Byron United, the Holiday Letting Organisation and the Byron Liquor Accord (who each contributed \$3000 towards the coordinators position for a period of 18 weeks).

20 Feedback

The Schoolies Safety Response in 2012 was very successful.

- 25 The Draft Schoolies Hub Co-ordinators Report – 2012 was received from the Schoolies Hub Co-ordinator on 20 March 2013 and is attached as Annexure 13.

Police reported:

- There were 283 extra shifts during the two weeks of schoolies
 - 90 public order riot squad
 - 54 operational support group
 - 12 mounted police
 - 24 transport police
 - 10 dog squad
 - 93 local area command extra shifts
- There were 600 'events' recorded during operations:
 - 82 person searches
 - 76 move on directives
 - 36 drug detection
 - 11 licensing breaches (eg fake IDs, secondary supply, underage drinkers)
 - 115 street offences
 - 130 inspections of licensed premises (which resulted in the 11 licensing breaches)
 - 13 arrests
- Charges:
 - 1 assault
 - 2 assault occasioning bodily harm
 - 4 possession of prohibitive drugs
 - 2 resist officers
 - 1 obstruct
 - 1 intimidation
 - 2 drink driving
 - 2 sexual assault
- Police noted that the busiest times appeared to be the 'middle' weekend 22 – 24 November followed by the last weekend 29 November to 1 December.

- 55 This is a low number of charges considering the estimate of numbers in Byron Bay during Schoolies was in excess of 10,000.

Comments from other stakeholders included:

- Week 1 of schoolies was quieter than week 3 and anecdotally, prices for accommodation were less expensive during week 3. This may have implications for 2013.
- 5 • Security at the hub continues to be an issue with volunteers rostered around the clock to ensure security of the hub. However, volunteers are not rostered around the clock for other temporary structures in Apex Park such as the Red Frogs DJs tent. One solution is to look at hiring a shipping container or some more solid structure for 2013.
- 10 • It was noted by police and other stakeholders that the police presence during 2012 requires review for better spread of police throughout the weeks of schoolies in 2013.
- Commercial operators, such as Red Bull, were observed setting up in different spots around town and handing out free drinks. Red Bull applied to set up on Council land prior to schoolies but were refused.
- 15 • It was noted that the 'Cringe the Binge' educational materials were well received by Schoolies and that Schoolies 2013 could use these resources further.

Proposed Recommendations for Schoolies 2013

20 During 2013, it is anticipated that the majority of school leavers will visit Byron Bay between 16 November and 2 December. The Schoolies Safety Response Working Group for 2013 has met and has requested similar support from Council as that provided by Council in 2012 during this period.

25 Council's Community Summer Safety & Cultural Activities Committee being formed as a result of resolution 13-111 from the 28 February 2012 ordinary meeting, could be directly involved in considering the issues and implications of Schoolies 2013 in line with the Committees objectives, and make recommendations to Council about Schoolies in line with Council's adopted Safer Communities Compact.

30 The following issues regarding the requested Council support for Schoolies 2013 have been recognised:

1. Lodgement of Application for a Temporary Licence for use of Council owned or controlled land.

35 In previous years Council has been the applicant for the 'Application for a Temporary Licence for use of Council owned or controlled land'. If Council is the applicant, Council is recognised as the event organiser and assumes the responsibility for all public liability insurance. Advice from Council's insurers is that this event would only be covered if it is a Council event organised by Council staff. Council would therefore require a designated co-ordinator present at Schoolies to oversee the event and the use of Council controlled land as per the licence agreement. This is not possible within the current adopted budget for 2013/14 or Council's staffing resources.

45 The Schoolies Safety Response Working Group (SSWG) is the event organiser and operator, and the coordinator of Schoolies is appointed and funded by the Schoolies Safety Response Working Group (SSWG). Council's role, as outlined above, has always been as a resource provider to enable the event to occur safely and to look after the amenity of the town. As the organisers, the SSWG should be the applicant for the licence, and therefore be responsible for meeting licence conditions, such as ensuring amplified music is concluded at certain times at night and which includes proof of adequate public liability insurance. The fee for lodgement of this application is \$170 plus \$100 per day for the use of the land (a total of approximately \$1,970).

55 On this basis management recommends that the Schoolies Safety Response Working Group lodge the application for the Temporary Licence for use of Council owned or controlled land and provide relevant insurances. Council could resolve to record the fees (as per adopted fees

and charges for a not for profit organisation) as a s356 donation for the Schoolies Safety Response Working Group as further support.

2. Development Application

To date, Schoolies Safety Responses have not been required to submit a development application. However, with the clarification in 2012 from Council's insurers that it is not a Council event, a development application is now required. The reason for a development application is that the event does not meet the following exemption requirement:

"the times for the event should not exceed 7.30am to 11pm Monday to Thursday, 7.30am to midnight Friday and Saturday, 8am to 8pm Sundays & the event or set up should not exceed 14 days."

Advice has been received that a development application for 'use' will be required. The cost of submitting the DA will be \$285 lodgement fee plus \$295 advertising fees. These fees are required to be paid up front, and may be waived by the General Manager. Council could resolve to record the fees as a s356 donation for the Schoolies Safety Response Working Group as further support.

Financial Implications

Schoolies has a draft budget of \$30,800 in 2013/14, which is funded as follows:

- Crown Reserve \$10,000.
- Special Rate \$6,000.
- Revenue \$14,800.

Based on historical expenditure for Schoolies, it is anticipated that this funding will be sufficient, as per the draft budget below:

\$ 2,000	Insurance
\$ 2,000	Temporary licence
\$ 600	DA
\$ 2,500	Marquee
\$ 21,000	Operations
<u>\$ 2,700</u>	Contingency
<u>\$ 30,800</u>	

Statutory and Policy Compliance Implications

Byron Shire Safer Community Compact

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(146)

Report No. 12.18. Establishment of Community Summer Safety and Cultural Activities Committee

Executive Manager: Society and Culture

Report Author: Joanne McMurtry, Community Policy Officer

File No: #E2013/17482

Theme: Society and Culture, Community Services

Summary: Resolution 13-111 in part states:

2. *That Council establish a 'Community Summer Safety & Cultural Activities Committee' similar to the successful Schoolies Safety Response Working Group, including key stakeholders and community representatives.*
3. *That this Committee is to facilitate the formulation of a safety focused New Year's Eve strategy and summer holiday period based on community inclusive cultural activities and events in the Byron Shire.*

This report makes recommendations for the establishment of this committee, including a draft Terms of Reference.

RECOMMENDATION:

1. That Council adopt the draft Terms of Reference provided in Annexure 12 (#E2013/17481) including:
 - a) the objectives/purpose of the Committee
 - b) Committee membership
 - c) the term of the Committee be 12 months, and reviewed at that time, and
 - d) that meetings be held bi-monthly or as required.
2. That Council call for nominees for two community representatives to participate in the Committee.
3. That Council write to the following key stakeholders inviting them to nominate a delegate to the Committee:
 - a) Police
 - b) Byron Bay Hospital
 - c) Ambulance Service
 - d) Rural Fire Service
 - e) Byron Bay Liquor Accord
 - f) Byron Youth Service
 - g) Byron Bay Taxi's
 - h) VIA Byron/ Byron Visitor Centre
 - i) Byron Bay Community Association
 - j) North Coast Area Health Service
 - k) Backpackers group/ Holiday Let Organisation
 - l) Byron United
4. That Council nominate one Councillor to the Community Summer Safety and Cultural Activities Committee.

Attachments:

- Draft Terms of Reference for the Community Summer Safety and Cultural Activities Committee #E2013/17481 [8 pages]..... **Annexure 12**

Report

At Council's Ordinary meeting on 28 February, Council resolved (13-111):

- 5 1. *That Council note the feedback from staff, the community and other stakeholders, including Police and St John's Ambulance, regarding New Year's Eve 2012.*
2. *That Council establish a 'Community Summer Safety & Cultural Activities Committee' similar to the successful Schoolies Safety Response Working Group, including key*
10 *stakeholders and community representatives.*
3. *That this Committee is to facilitate the formulation of a safety focused New Year's Eve strategy and summer holiday period based on community inclusive cultural activities and*
15 *events in the Byron Shire.*

A Draft Terms of Reference for the Committee has been provided at Annexure 12. In establishing this Committee, the following is recommended:

Draft Objectives

20 The purpose of the Community Summer Safety and Cultural Activities Committee is to facilitate the formulation of a safety focused New Year's Eve strategy and summer holiday period based on community inclusive cultural activities and events in the Byron Shire, and in line with Council's recently adopted Safer Communities Compact.

25 The Committee will initially focus on Byron Bay as this is where the large majority of alcohol related incidents and events occur in the Shire.

Committee Membership

30 The following key stakeholders could be invited to participate:

- 12 invited members from:
 - 35 ○ Police
 - Byron Bay Hospital
 - Ambulance Service
 - Rural Fire Service
 - Byron Bay Liquor Accord
 - 40 ○ Byron Youth Service
 - Byron Bay Taxi's
 - VIA Byron/ Byron Visitor Centre
 - Byron Bay Community Association
 - North Coast Area Health Service
 - 45 ○ Backpackers group/ Holiday Let Organisation
 - Byron United
- The Committee should also include two interested community representatives.
- 50 • Due to the size of this committee, it is recommended that only one Councillor be appointed, possibly with an alternate delegate in case of inability to attend a meeting.
- The Committee should also include relevant staff member(s), for example, Community Policy Officer/ Manager Sustainable Communities; Manager Works; or other staff member/s as
55 required.

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(148)

Membership would include up to 15 members.

It is recommended that the term of the committee be 12 months, and meetings be held bi-monthly or as required. It is envisaged monthly meetings will be held initially to establish strategies ready for implementation in the peak season 2013.

Financial Implications

The Draft 2013/14 Budget includes the following allocation for New Years Eve:

\$19,700	New Year's Eve event (includes portaloos, electrical expenses, entertainment, equipment hire, works costs, advertising expenses and miscellaneous expenses)
\$ 3,200	New Years Event Coordination
<u>\$ 9,900</u>	Clean up + tip fees
\$32,800	TOTAL

There is a separate budget for Schoolies 2013. The draft 2013/14 budget includes the following allocation for Schoolies:

\$ 2,000	Insurance
\$ 2,000	Temporary licence
\$ 600	DA
\$ 2,500	Marquee
\$21,000	Operations
<u>\$ 2,700</u>	Contingency
\$30,800	TOTAL

Statutory and Policy Compliance Implications

Byron Shire Safer Community Compact
Community Strategic Plan – Delivery Plan 2012/13 S2.2.1

Report No. 12.19. Nominees for Public Art Assessment Panel**Executive Manager:** Society and Culture**Report Author:** Joanne McMurtry, Community Policy Officer**File No:** #E2013/ 19235

5

Theme: Community Services

Summary: As per the adopted Public Art Guidelines and Criteria, Council resolved to establish a Public Art Assessment Panel (PAAP). Letters of invitation have been sent to stakeholders identified in the adopted PAAP Terms of Reference and a call for nominations has been advertised. This report provides the results of this consultation to Council and Council are requested to appoint the members of the Public Art Assessment Panel.

RECOMMENDATION:

- 10 1. **That Council nominate two Councillors to participate in the Public Art Assessment Panel:**
- a) **Councillor** _____
- b) **Councillor** _____
- 15
2. **That Council select two community artists and one community representative from the nominee applications received, as follows:**
- 20 a) _____ **Community Artist representative**
- b) _____ **Community Artist representative**
- c) _____ **Community Representative**
- 25 **Attachments:**
- **CONFIDENTIAL** Nominees for Public Art Assessment Panel #E2013/19893 [34 pages] **Annexure 14**

Report

In considering the final report of the Public Art Policy Implementation Project Reference Group at the ordinary meeting on 25 October 2012, Council resolved to adopt the:

1. Public Art Guidelines and Criteria (resolution 12-799)
2. Public Art Assessment Panel Terms of Reference (resolution 12-800), and
3. Updated Public Art Register (a working document) (resolution 12-801).

Council have since received several enquiries from members of the public about the donation or loan of public art, and it is considered time to establish the Public Art Assessment Panel.

The Terms of Reference for the Public Art Assessment Panel states that the PAAP will include the following members:

Membership is to include 8 members:

- 2 Councillors
 - 6 members invited from:
 - Bundjalung of Byron Bay Aboriginal Corporation (Arakwal)
 - Arts Northern Rivers
 - Practising Artists Network
 - 2 community artists
 - 1 community representative
 - Applicable Council staff*, including Community Policy Officer
- * Staff members participating on the working group do not have any voting entitlements.*

Each member of the Public Art Assessment Panel will have a corresponding alternate.

Letters of invitation were sent to the three organisations and they have provided the following delegates:

- Yvonne Stewart or delegate, Bundjalung of Byron Bay Aboriginal Corporation (Arakwal)
- Peter Wood, Arts Northern Rivers
- Rick Malloy, Practising Arts Network.

A 'call for nominations' advertisement was included in Council Notices on 12, 19 and 26 March 2013 for the two community artist and one community representatives. Ten nominations were received and are included in Confidential Annexure 14.

Financial Implications

There is a budget allocation of \$5,000 in the 2012/13 budget.

Statutory and Policy Compliance Implications

Byron Shire Cultural Policy (3.42)
 Byron Shire Cultural Plan 2008 – 2013
 Byron Shire Public Art Policy (10/011)
 Byron Shire Public Art Guidelines and Criteria

GENERAL MANAGER - COMMITTEE REPORTS
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Report No. 13.1. Report of the Finance Advisory Committee Meeting held on 7 March 2013

General Manager

5 **Report Author:** Mark Arnold, Executive Manager Corporate Management
File No: #E2013/16283

Theme: Corporate Management, Finance Services

Summary: The report provides the minutes and recommendations of the Finance Advisory Committee Meeting held on 7 March 2013 for determination by Council.

10 **RECOMMENDATION:**

1. That Council note the minutes of the Finance Audit Advisory Committee Meeting held on 7 March 2013.

15 2. That in relation to Report No. 4.1 – Draft Delivery Program and Operational Plan (Corporate Management #E2013/10888), Council adopts:

Committee Recommendation FAC 4.1.1:

20 That the Finance Advisory Committee note the 2013/14 Operational Plan and recommends.

1. That Councillors be invited to provide comments on the draft 2013/14 Operation Plan.

25 2. That Council note the potential to refine the content and format of future Operation Plans to better align the Operation Plan with financial components.

30 3. That in relation to Report No. 4.2 – Draft 2013/2014 Budget, Statement of Revenue Policy and Fees and Charges (Corporate Management #E2013/10931), Council adopts:

Committee Recommendation FAC 4.2.1

35 That the Finance Advisory Committee note the Draft 2013/2014 Statement of Revenue Policy comprising 2013/2014 Budget Estimates, Rates and Charges, Borrowings and Fees and Charges and recommend:

1. That Council on 28 March 2013 consider opportunities to improve Council's financial position over the long term.

40 2. That Council considers all opportunities to improve Council's financial position by:

a) better utilisation to of Council's assets,

45 b) an expenditure review,

c) increased revenues,

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(152)

d) new commercial opportunities,

e) enhanced coordination with regional councils, other agencies and other organisations.

3. That Council supports staff initiatives to return the working fund surplus to a minimum of \$1,000,000.

4. That the Market Stall Holders approval charge be reviewed and options presented eg 25%.

Attachments:

- Minutes of the Finance Audit Advisory Committee Meeting held 7 March 2013
#E2013/14382 [3 pages] **Annexure 7(a)**
- Agenda and Annexure of the Finance Audit Advisory Committee 7 March 2013
#E2013/16394 [446 pages] **Annexure 7(b)**

Annexure 7(b) has been provided on the Councillors' Agenda CD only. An electronic copy can also be viewed on Council's website.

Note: The Document and Report references in the above Recommendations refer to the Reports and Annexures contained in Annexure 7(b) being the Agenda and Annexure of the Finance Advisory Committee 7 March 2013.

Report

This report provides the recommendations of the Finance Advisory Committee Meeting held on 7 March 2013 for determination by Council.

5 The Committee recommendations are supported by management, and are as detailed in the Minutes of the Finance Advisory Committee meeting held on 7 March 2013, attached to this report at Annexure 7(a) and included as the recommendations for this report.

10 A copy of Finance Advisory Committee Agenda for this meeting is provided at Annexure 7(b).

Financial Implications

15 As per the Reports listed within the Finance Advisory Committee Meeting Agenda of 7 March 2013 (refer Annexure 7(b)).

Statutory and Policy Compliance Implications

20 As per the Reports listed within the Finance Advisory Committee Meeting Agenda of 7 March 2013 (refer Annexure 7(b)).

Report No. 13.2. Report of the Internal Audit Advisory Committee Meeting held on 21 March 2013

General Manager

Report Author: Mark Arnold, Executive Manager Corporate Management

File No: #E2013/17993

Theme: Corporate Management, Internal Audit

Summary: The report provides the minutes and recommendations of the Internal Audit Advisory Committee Meeting held on 21 March 2013 for determination by Council.

RECOMMENDATION:

1. That Council note the minutes of the Internal Audit Advisory Committee Meeting held on 21 March 2013.

2. That in relation to Report No. 4.1 – Internal Audit Report – Audit Committee (General Manager #E2013/17141), Council adopts:

Committee Recommendation IA 4.1.1

That Council receive and note the Internal Audit Report – Audit Committee (21 March 2013) (Annexure 3 #E2013/17142) prepared by the Internal Auditor, Grant Thornton.

3. That in relation to Report No. 4.2 – Internal Audit Report – Plant and Fleet Review (Community Infrastructure #E2013/14464), Council adopts:

Committee Recommendation IA 4.2.

1. That the Internal Audit Report – Plant and Fleet Review December 2012 - be noted by Council along with the responses and actions detailed by Management.

2. That Management implement the recommendations suggested in the report identified at Annexure 1 (#E2013/14487).

3. That the Internal Audit Committee receive a report on the implementation of the recommendations for the distribution of diesel at the Myocum Landfill.

4. That in relation to Report No. 4.3 – Year End Audit Management Letter 2012 (Corporate Management #E2013/16109), Council adopts:

Committee Recommendation IA 4.3.

That the comments provided by Management in response to matters raised in the Year End Audit Management Letter 2012 be noted by Council.

5. That in relation to Report No. 4.4 – Implementation of Recommendations from ICAC Operational Jarek (Organisational Support #E2013/16937), Council adopts:

Committee Recommendation IA 4.4.1.

That Council notes the response from Management to the recommendations made by the Independent Commission Against Corruption in its Jarek investigation.

Committee Recommendation IA 4.4.2.

That Council notes that the recommendations made in Operation Jarek will be addressed in the applicable to audits, when conducted in accordance with the Internal Audit Program.

Attachments:

- Minutes of the Internal Audit Advisory Committee Meeting held 21 March 2013
#E2013/17022 [3 pages] **Annexure 9(a)**
- Agenda and Annexure of the Internal Audit Advisory Committee 13 December 2012
#E2013/17015 [16 pages] **Annexure 9(b)**

Annexure 9(b) has been provided on the Councillors' Agenda CD only. An electronic copy can also be viewed on Council's website.

Note: The Document and Report references in the above Recommendations refer to the Reports and Annexures contained in Annexure 9(b) being the Agenda and Annexure of the Internal Audit Advisory Committee 21 March 2013.

Report

This report provides the recommendations of the Internal Audit Advisory Committee Meeting held on 21 March 2013 for determination by Council.

5

The Committee recommendations are supported by management, and are as detailed in the Minutes of the Internal Audit Committee meeting held on 21 March 2013, attached to this report at Annexure 9(a) and included as the recommendations for this report.

10 A copy of Internal Audit Advisory Committee Agenda for this meeting is provided at Annexure 9(b).

Financial Implications

15 As per the Reports listed within the Internal Audit Advisory Committee Meeting Agenda of 21 March 2013 (refer Annexure 9(b)).

Statutory and Policy Compliance Implications

20 As per the Reports listed within the Internal Audit Advisory Committee Meeting Agenda of 21 March 2013 (refer Annexure 9(b)).

Report No. 13.3. **Report of the Strategic Planning Committee Meeting held on 28 March 2013**

General Manager

Report Author: Ken Gainger, General Manager

File No: #E2013/19789

Theme: Corporate Management, Effective Governance

Summary: This report provides the recommendations of the Strategic Planning Committee meeting of 28 March 2013 for adoption by Council.

RECOMMENDATION:

1. That Council note the minutes of the Strategic Planning Committee Meeting held on 28 March 2013 (#E2013/18001).
2. That in relation to Report No. 4.2 – Bike Plan Review and Suffolk Park Notice of Motion (Community Infrastructure #E2013/17050), Council adopt:

Committee Recommendation SPC 4.2.1

That Council examine options for a two-way, mostly on-street bike route on the eastern side of Broken Head Road from Suffolk Park to Byron Bay town centre and include:

1. Options to commence with works where projects 72 and 73 (#E2013/17341) were planned;
2. Marking options such as green painted surfaces;
3. Crossing points as indicated on figure 2 on page 9 of the report (#E2013/17050);
4. Funding options.

Committee Recommendation SPC 4.2.2

That prior to March 2014, Council reconsider the criteria for prioritisation in the Bike Plan in accordance with the idea that more on-street bikeways be forthcoming and as a result, consider Section 94 Plan implications.

3. That in relation to Report No. 4.3 – Byron Shire Council's Financial Position 2012/2013 (Corporate Management #E2013/16620), Council adopt:

Committee Recommendation SPC 4.3

1. That Council receive and note this report.
2. That Council not pass any resolutions authorising new expenditure of money unless an available funding source is identified and quarantined for that purpose.
3. That management with budget programs in the General Fund continue to consider the current financial position in terms of the remainder of the financial

year and that any existing expenditure items funded from general revenue (that is items not funded by reserves, water, sewer or waste revenues or specific purpose grants and contributions) currently not spent, be reviewed and where budgets have not been committed and do not need to be expedited, that these budgets be identified as expenditure savings in the 31 March 2012 Quarterly Budget Review.

4. That Council notes that expenditure over the remainder of the 2012/2013 financial year on recovery from the recent declared natural disasters funded from new grant revenue will mean that Council may not be able to complete its own maintenance/asset renewal works program with existing staff resources. It is acknowledged this option is considered a short term benefit but does not assist the already evident infrastructure backlog the Council has nor potential risks of not at least maintaining existing service levels.

5. That Council determines that any general revenue funded allocated expenditure, not expended in a current financial year NOT be automatically carried over to the next financial year before it is reviewed and priorities established.

4. That in relation to Report No. 4.4 – 2013/2014 Rating Structure (Corporate Management #E2013/16801), Council adopt:

Committee Recommendation SPC 4.4.1

1. That the rating structure to apply for the 2013/2014 financial year remain as the existing rating structure including the rating categories/sub categories of:

- Residential Ordinary
- Residential Ordinary – Flood Prone Lands
- Residential Ordinary – Conservation Agreements
- Business Ordinary
- Business Ordinary – Byron Bay Central Business District (CBD)
- Farmland Ordinary

2. That the adopted rating structure be reviewed prior to the 2014/2015 financial year with the various options to be reported and considered at the next Strategic Planning Committee meeting scheduled for 23 May 2013, along with the community consultation process required to consult on any proposed changes determined by Council and that this review include:

- a) any rating options associated with resolution 12-25
- b) potential rating options around holiday letting (under current legislation/ regulations or requiring amendment to legislation/regulations).
- c) any rating options relating to the application of farmland rating for smaller scale primary production or that incorporates environmental enhancement.

5. That in relation to Report No. 4.5 – Draft 2013/2014 Budget, Statement of Revenue Policy and Fees and Charges (Corporate Management #E2013/17381), Council adopt:

Committee Recommendation SPC 4.5.1

1. That Council consider and review the Draft 2013/2014 Statement of Revenue Policy comprising 2013/2014 Budget Estimates, Rates and Charges, Borrowings and Fees and Charges.

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(159)

2. That the Draft 2013/2014 Statement of Revenue Policy comprising the 2013/2014 Budget Estimates, Rates and Charges, Borrowings and Fees and Charges be placed on public exhibition, and that these Plans be amended to incorporate the changes identified in this report, being:

a) Removal of the proposed loan borrowings of \$91,400 representing residual funding of the Roundhouse Subdivision.

b) Revenue from ordinary rates be reduced by \$64,300 due to revenues being over estimated

(Note: Estimated revenues are inclusive of growth factor allowance).

c) Revenue from interest on investments be increased by \$155,700.

d) Addition of revenue funding allocations for road reconstruction commencing in the 2016/2017 financial year with the amounts to included being:

- 2016/2017 \$426,000
- 2017/2018 \$557,100
- 2018/2019 \$585,000
- 2019/2020 \$614,300
- 2020/2021 \$645,000
- 2021/2022 \$677,300
- 2022/2023 \$711,200

e) Ordinary rates to be increased by 3.4% in accordance with the IPART determination for 2013/2014

(Note: Draft Budget has been prepared on this basis and additional revenues included in the result presented).

f) The inclusion in the Draft 2013/2014 Revenue Policy of the recommended new fee of \$42.50 per On-Site Sewerage Management System (OSMS) relating to the application for or renewal of approval to operate an OSMS.

Attachments:

- Strategic Planning Committee Meeting Minutes 28/03/13 #E2013/18001 [6 pages]..... **Annexure 16**

Report

This report provides the recommendations of the Strategic Planning Committee meeting of 28 March 2013 for adoption by Council.

Report No. 4.2 – Bike Plan Review and Suffolk Park Notice of Motion (Community Infrastructure #E2013/17050)

Committee Recommendation SPC 4.2.1

That Council examine options for a two-way, mostly on-street bike route on the eastern side of Broken Head Road from Suffolk Park to Byron Bay town centre and include:

1. Options to commence with works where projects 72 and 73 (#E2013/17341) were planned;
2. Marking options such as green painted surfaces;
3. Crossing points as indicated on figure 2 on page 9 of the report (#E2013/17050);
4. Funding options.

Committee Recommendation SPC 4.2.2

That prior to March 2014, Council reconsider the criteria for prioritisation in the Bike Plan in accordance with the idea that more on-street bikeways be forthcoming and as a result, consider Section 94 Plan implications.

Management Comments

Management supports the Committee Recommendations.

Report No. 4.3 – Byron Shire Council's Financial Position 2012/2013 (Corporate Management #E2013/16620)

Committee Recommendation SPC 4.3

1. That Council receive and note this report.
2. That Council not pass any resolutions authorising new expenditure of money unless an available funding source is identified and quarantined for that purpose.
3. That management with budget programs in the General Fund continue to consider the current financial position in terms of the remainder of the financial year and that any existing expenditure items funded from general revenue (that is items not funded by reserves, water, sewer or waste revenues or specific purpose grants and contributions) currently not spent, be reviewed and where budgets have not been committed and do not need to be expedited, that these budgets be identified as expenditure savings in the 31 March 2012 Quarterly Budget Review.
4. That Council notes that expenditure over the remainder of the 2012/2013 financial year on recovery from the recent declared natural disasters funded from new grant revenue will mean that Council may not be able to complete its own maintenance/asset renewal works program with existing staff resources. It is acknowledged this option is considered a short term benefit but does not assist the already evident infrastructure backlog the Council has nor potential risks of not at least maintaining existing service levels.

5. That Council determines that any general revenue funded allocated expenditure, not expended in a current financial year NOT be automatically carried over to the next financial year before it is reviewed and priorities established.

5 Management Comments

Management supports this Committee Recommendation.

Report No. 4.4 – 2013/2014 Rating Structure (Corporate Management #E2013/16801)

Committee Recommendation SPC 4.4.1

1. That the rating structure to apply for the 2013/2014 financial year remain as the existing rating structure including the rating categories/sub categories of:
 - Residential Ordinary
 - Residential Ordinary – Flood Prone Lands
 - Residential Ordinary – Conservation Agreements
 - Business Ordinary
 - Business Ordinary – Byron Bay Central Business District (CBD)
 - Farmland Ordinary
2. That the adopted rating structure be reviewed prior to the 2014/2015 financial year with the various options to be reported and considered at the next Strategic Planning Committee meeting scheduled for 23 May 2013, along with the community consultation process required to consult on any proposed changes determined by Council and that this review include:
 - a) any rating options associated with resolution 12-25
 - b) potential rating options around holiday letting (under current legislation/ regulations or requiring amendment to legislation/regulations).
 - c) any rating options relating to the application of farmland rating for smaller scale primary production or that incorporates environmental enhancement.

Management Comments

Management supports this Committee Recommendation.

Report No. 4.5 – Draft 2013/2014 Budget, Statement of Revenue Policy and Fees and Charges (Corporate Management #E2013/17381)

Committee Recommendation SPC 4.5.1

1. That the Strategic Planning Committee consider and review the Draft 2013/2014 Statement of Revenue Policy comprising 2013/2014 Budget Estimates, Rates and Charges, Borrowings and Fees and Charges.
2. That the Draft 2013/2014 Statement of Revenue Policy comprising the 2013/2014 Budget Estimates, Rates and Charges, Borrowings and Fees and Charges be placed on public exhibition, and that these Plans be amended to incorporate the changes identified in this report, being:
 - a) Removal of the proposed loan borrowings of \$91,400 representing residual funding of the Roundhouse Subdivision.

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(162)

- b) Revenue from ordinary rates is estimated inclusive of allowing for growth to be over estimated by \$64,300 and consequently the estimates have been reduced.
- c) Revenue from interest on investments increased by \$155,700.
- d) Addition of revenue funding for road reconstruction to be allocated commencing in the 2016/2017 financial year. Amounts included are:
- o 2016/2017 \$426,000
 - o 2017/2018 \$557,100
 - o 2018/2019 \$585,000
 - o 2019/2020 \$614,300
 - o 2020/2021 \$645,000
 - o 2021/2022 \$677,300
 - o 2022/2023 \$711,200
- e) Ordinary rates have been increased by 3.4% in accordance with the IPART determination for 2013/2014 which forms the basis of the budget result presented.
- f) The inclusion in the Draft 2013/2014 Revenue Policy provision for a new fee relating to the application for or renewal of approval to operate an On-Site Sewerage Management Systems (OSMS).

Management Comments

It is recommended in part 1 of the Committee Recommendation that "Strategic Planning Committee" be amended to read "Council". This change is included in the Recommendation to this Report.

It is recommended in part 2 of the Committee Recommendation that the wording be amended as follows:

2. *That the Draft 2013/2014 Statement of Revenue Policy comprising the 2013/2014 Budget Estimates, Rates and Charges, Borrowings and Fees and Charges be placed on public exhibition, and that these Plans be amended to incorporate the changes identified in this report, being:*

- a) *Removal of the proposed loan borrowings of \$91,400 representing residual funding of the Roundhouse Subdivision.*
- b) *Revenue from ordinary rates be reduced by \$64,300 due to revenues being over estimated*

(Note: Estimated revenues are inclusive of growth factor allowance).

- c) *Revenue from interest on investments be increased by \$155,700.*
- d) *Addition of revenue funding allocations for road reconstruction commencing in the 2016/2017 financial year with the amounts to included being:*

- o 2016/2017 \$426,000
- o 2017/2018 \$557,100
- o 2018/2019 \$585,000
- o 2019/2020 \$614,300
- o 2020/2021 \$645,000
- o 2021/2022 \$677,300

BYRON SHIRE COUNCIL

ORDINARY MEETING

18 APRIL 2013

(163)

- 2022/2023 \$711,200

- e) *Ordinary rates to be increased by 3.4% in accordance with the IPART determination for 2013/2014*

(Note: Draft Budget has been prepared on this basis and additional revenues included in the result presented).

- f) *The inclusion in the Draft 2013/2014 Revenue Policy of the recommended new fee of \$42.50 per On-Site Sewerage Management System (OSMS) relating to the application for or renewal of approval to operate an OSMS.*

The intent of the Committee Recommendation is unchanged but the amended wording provides clarity to the changes recommended by the Committee as contained within the Report

This change is included in the Recommendation to this Report.

Note, Report No. 4.1 - Byron Shire Council Financial Sustainability was determined by resolution of the Committee under delegated authority and therefore does not require further resolution by Council (refer Resolution 13-148).

Financial Implications

As per the Reports listed within Strategic Planning Committee Meeting Agenda 28 March 2013.

Statutory and Policy Compliance Implications

As per the Reports listed within Strategic Planning Committee Meeting Agenda 28 March 2013.

ENVIRONMENT AND PLANNING - COMMITTEE REPORT
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Report No. 13.4. Report of the Biodiversity and Sustainability Advisory Committee Meeting held on 15 March 2013

Executive Manager: Environment and Planning

Report Author: Sharyn French, Manager Land and Natural Environment

File No: #E2013/17600

Theme: Environment, Land and Natural Environment

Summary: To present the minutes and recommendations of the Biodiversity and Sustainability Committee Meeting of 15 March 2013.

RECOMMENDATION:

1. That Council note the minutes of the Biodiversity and Sustainability Advisory Committee meeting held on 15 March 2013.

2. That in relation to Report No 4.1 – Meeting Schedule for 2013, Council adopt:

Committee Recommendation 4.1.1

That the Biodiversity and Sustainability Committee meets at 10.00am, where possible, on the following dates during 2013:

- 17 May 2013
- 28 June 2013
- 30 August 2013
- 25 October 2013
- 13 December 2013
- Or as required

3. That in relation to Business Arising, Heather Harford's resignation, Council adopt:

Committee Recommendation 5.1.1

That Council acknowledge Heather Harford's resignation and write a letter of appreciation and gratitude for all of Heather's valuable work and input to the Committee.

Committee Recommendation 5.1.2

That Council, through an advertised Expression of Interest (EOI) process, expand the number of community representatives to six on the Biodiversity and Sustainability Advisory Committee to increase the level of community input to the Committee, and amend the Constitution accordingly.

Attachments:

- Biodiversity and Sustainability Committee meeting minutes 15 March 2013
#E2013/16571 [2 pages] **Annexure 8(a)**
- Biodiversity and Sustainability Committee meeting agenda 15 March 2013
#E2013/14990 [14 pages] **Annexure 8(b)**

Annexure 8(b) has been provided on the Councillors' Agenda CD only. An electronic copy can also be viewed on Council's website.

Report

The report provides the recommendations of the Biodiversity and Sustainability Advisory Committee meeting 15 March 2013 for determination by Council.

Committee Recommendation 4.1.1

That the Biodiversity and Sustainability Committee meets at 10.00am, where possible, on the following dates during 2013:

- 17 May 2013
- 28 June 2013
- 30 August 2013
- 25 October 2013
- 13 December 2013
- Or as required

Committee Recommendation 4.2.1

That the Biodiversity and Sustainability Advisory Committee note this report.
(Richardson/Wanchap)

Management Comment

Report was for information, no resolution required.

Committee Recommendation 5.1.1

That Council acknowledge Heather Harford's resignation and write a letter of appreciation and gratitude for all of Heather's valuable work and input to the Committee.
(Richardson/Wanchap)

Committee Recommendation 5.1.2

That Council, through an advertised EOI process, expand the number of community representatives to six on the Biodiversity and Sustainability Advisory Committee to increase the community input to the Committee, and amend the Constitution accordingly.
(Richardson/Wanchap)

Financial Implications

Nil

Statutory and Policy Compliance Implications

Nil

CORPORATE MANAGEMENT - CONFIDENTIAL REPORT

Report No. 14.1. CONFIDENTIAL Byron Shire Council Holiday Parks Contract Management

Executive Manager: Corporate Management

Report Author: James Brickley, Manager Finance

File No: #E2013/20686

Theme: Corporate Management, Financial Services

Summary: Council at its Ordinary Meeting held on 17 May 2012 considered a report on the contract management of its Holiday Parks. Council subsequently resolved:

12-393 (part 3) Resolved:

- 3. That Council by 30 June 2013, undertake a tender process for the operation of the Suffolk Park Holiday Park and First Sun Holiday Park on a combined basis, under a generic single management contract, and that this process be undertaken in accordance with the procurement process required by Section 55 of the Local Government Act 1993.*

The intent of this report was to seek further approval from Council in regard to the form of the next contract for the management of both Holiday Parks and to advise Council on the business related issues associated with the Holiday Parks.

RECOMMENDATION:

1. That pursuant to Section 10A(2)(c) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the following report, namely Byron Shire Council Holiday Park Contract Management.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential information could compromise the commercial position of the existing Holiday Park Managers, could adversely affect Council's ability to contract with the Holiday Park Managers or could affect Council's ability to attract competitive tenders in the event a future tender is invited.

WATER AND RECYCLING - CONFIDENTIAL REPORT**Report No. 14.2. CONFIDENTIAL Roundhouse Subdivision****Executive Manager:** Water and Recycling5 **Report Author:** Phil Warner, Executive Manager Water and Recycling**File No:** #E2013/15604**Theme:** Community Infrastructure, Corporate Management**Summary:** In April 2012 Council considered a report on the proposed Ocean Shores Roundhouse Subdivision which advised that the Ocean Shores Country Club (OSCC) would not be proceeding with the joint 13 lot Roundhouse Site Development, as previously advised.

Council resolved to finalise a new agreement with the OSCC for easements associated with Council progressing its own 11 lot Roundhouse subdivision.

The purpose of this report is to advise Council that a new agreement has been finalised and to report the matter to Council prior to seeking tenders for the works associated with construction of the subdivision.

10 **RECOMMENDATION:**

1. That pursuant to Section 10A(2)(c) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the following report, namely Roundhouse Subdivision.

15 2. That the reasons for closing the meeting to the public to consider this item be that:

The matters and information that can be listed as confidential are the following:

20 c) information that would, if disclosed confer a commercial advantage on a person with who the council is conducting (or proposes to conduct) business.

25 3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential information could confer a commercial advantage on a person with who the council is conducting (or proposes to conduct) business.

Attachments:

- 30
- CONFIDENTIAL Council Report Roundhouse Subdivision #DM1212293 [6 pages] **Annexure 1**