



## **PART 6 Freedom of Information and Compliance**

## 6.1 Compliance and effect of Planning Agreement

### Environmental Planning and Assessment Act 1979 Section 93(g)(5)

In the reporting period 1 July 2010 to 30 June 2011, Byron Shire Council did not resolve to enter into any Planning Agreement as defined by the Environmental Planning and Assessment Act 1979 Section 93(g)(5).

Council has previously resolved to enter into a Planning Agreement however this agreement is yet to be signed by the parties. The Planning Agreement forms part of the deferred development consent for DA 10.2007.406.1. (Doc #783382) and relates to the provision of affordable housing in the form of boarding houses in Bangalow Road, Byron Bay.

There were no Planning Agreements in force during the reporting period 1 July 2010 to 30 June 2011.

## 6.2 Compliance with the Companion Animals Act 1998

### Local Government (General) Regulation 2005 – Reg 217(1)(f)

The following statement is on activities relating to enforcing and ensuring compliance with the Companion Animals Act and Regulation for the period 1 July 2010 to 30 June 2011.

Item	Actions Taken
Lodgement of pound data collection returns with the department.	Lodgement of pound data collection returns with the department is due 30 September 2011. Councils return occurred on 18 July 2011 well within timeframe.
Lodgement of data relating to dog attacks with the department.	Information and data relating to dog attacks now occurs as soon as the Customer Action Request is received. 46 attacks were reported to the Department in 2010/11.
Amount of funding spent relating to companion animal management and activities.	In 2010/11 Council employed another fulltime Ranger bringing total to 3 fulltime and 1 part time Ranger as well as 1 equivalent fulltime administration position. A Total of \$207,988.00 was spent on companion animal management and activities.
Companion animal community education programs carried out.	Byron Shire Council provides \$5,000.00 worth of funding for Companion animal community education program each year. Last year Council purchased books, rulers, pencils and developed a Responsible Pet Ownership Activity Book for children to be included in show bags. In conjunction with the RSPCA Education Mobile Unit Council Rangers visited approximately 600 children to speak about pet awareness in 2010/11.
Strategies Council has in place to promote and assist the desexing of dogs and cats.	Council provides information to promote and assist the desexing of animals. Council is part of the Regional Companion Animals Committee that runs a desexing program each year through the RSPCA which visits each Council in the Committee on a rotating basis.

Item	Actions Taken
Strategies in place to comply with the requirement under section 64 (Companion Animals Act) to seek alternatives to euthanasia for unclaimed animals.	Council is working with the Companion Animals Inc, a local animal welfare group and the Animal Welfare League, to rehouse unclaimed animals. In 2010/11 7 cats and dogs were found suitable for rehousing.
Off leash areas provided in council area.	There are 8 off-leash areas provided for companion animals within Byron Shire. These are Tallow Beach; Main Beach/Belongil Beach; Suffolk Park Reserve; Brunswick Heads Beach; South Golden Beach; Mullumbimby Foreshore Reserve; Bangalow Reserve and New Brighton. Council is considering a possible reduction of the New Brighton off leash area because of issues raised by National Parks in relation to the proximity of the dog exercise area adjoining Nature Reserve. In 2010/11 5 on lead areas were developed at Brunswick; 2 at Ocean Shores; Ewingsdale and Federal.
Detailed financial information on the use of Companion Animal Fund money for management and control of companion animals in the area.	<p>Council maintains a record of financial information on both income and expenditure of Companion Animals Fund money for management and control of companion animals in the area. In 2010/11 the following expenditure occurred for the management and control of companion animals:</p> <ul style="list-style-type: none"> <li>• Public education including RSPCA Education Mobile Unit; purchasing of books, pencils, rulers \$5,000</li> <li>• Impounding expenses \$8,146</li> <li>• Interest on loans for the construction of the animal shelter \$700</li> <li>• Veterinary fees \$893</li> <li>• Signage \$3,449</li> <li>• Contribution to Regional Companion \$1,500</li> <li>• Local Court prosecution costs (approx) \$6,000</li> <li>• Salaries and on-cost for 3 fulltime ranger positions, 1 part time ranger and 1 equivalent administration position \$167,500</li> <li>• Vehicle running expenses for 3 ranger vehicles \$14,800</li> </ul> <p><b>Total costs \$207,988</b></p>

## 6.3 Freedom of Information

### Government Information Public Access Act 2009 Section 125

- a) Byron Shire Council has conducted a review under Section 7 (3) of the GIPA Act and is satisfied that its routine practice of making information publicly available on the corporate website is satisfying the provisions of Section 7 with authorised proactive release of such information as Affordable Housing Studies, Aged and Disabilities Services Register, Alcohol Free Zones, Environmental and Estuary Studies, Biodiversity Reports, Guide to Operations, Bush Regeneration Action Plans, etc.
- b) Byron Shire Council received 8 applications during reporting year (including withdrawn applications but not including invalid applications).
- c) Byron Shire Council received NIL applications during the reporting year that were refused, either wholly or partly, because the application was for the disclosure of information referred to in Schedule 1 to the Act.
- d) Below is Statistical information relating to access applications made to Byron Shire Council during the reporting year in table format as set out in Schedule 2 of the GIPA Regulations 2009.

**Table A – Number of applications by type of applicant and outcome\***

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information held	Application withdrawn
Media								
Members of Parliament								
Private sector business								
Not for profit organisations or community groups	2							
Members of the public (application by legal representative)	2				1			
Members of the public (other)	1			1	1			

\* More than one decision can be made in respect of a particular access application. If so, a recording must be made in relation to each such decision. This also applies to Table B.

**Table B – Number of applications by type of applicant and outcome**

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information held	Application withdrawn
Personal information applications*								
Access applications (other than personal information applications)	5			1	2			
Access applications that are partly personal information								
<b>Total number of Access Applications received 2010/2011 (including withdrawn applications but not including invalid applications)</b>								<b>8</b>

\* A personal information application is an access application for personal information (as defined in clause 4 of the Act) about the applicant (the applicant being an individual).

**Table C – Invalid applications**

Reason for invalidity	No of applications
Application does not comply with formal requirements (section 41 of the Act)	1
Application is for excluded information of the agency (section 43 of the Act)	NIL
Application contravenes restraint order (section 110 of the Act)	NIL
<b>Total number of invalid applications received</b>	<b>1</b>
Invalid applications that subsequently became valid applications	1

**Table D – Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 of Act**

Number of times consideration used*	
Overriding secrecy laws	NIL
Cabinet information	NIL
Executive Council information	NIL
Contempt	NIL
Legal professional privilege	NIL
Excluded information	NIL
Documents affecting law enforcement and public safety	NIL
Transport safety	NIL
Adoption	NIL
Care and protection of children	NIL
Ministerial code of conduct	NIL
Aboriginal and environmental heritage	NIL
<b>Total number of Access Applications received that the agency refused either wholly or partly (because there was a conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 of Act)</b>	<b>NIL</b>

\* More than one public interest consideration may apply in relation to a particular access application and, if so, each such consideration is to be recorded (but only once per application). This also applies to Table E.

**Table E – Other public interest considerations against disclosure: matters listed in table to section 14 of Act**

Number of times when application not successful	
Responsible and effective government	NIL
Law enforcement and security	NIL
Individual rights, judicial processes and natural justice	NIL
Business interests of agencies and other persons	NIL
Environment, culture, economy and general matters	NIL
Secrecy provisions	NIL
Exempt documents under interstate Freedom of Information legislation	NIL

**Table F - Timeliness**

Number of applications	
Decided within the statutory timeframe (20 days plus any extensions)	7
Decided after 35 days (by agreement with applicant)	1
Not decided within time (deemed refusal)	0
<b>Total</b>	<b>8</b>

**Table G - Number of applications reviewed under Part 5 of the Act (by type of review and outcome)**

	Decision varied	Decision upheld
Internal review	NIL	NIL
Review by Information Commissioner*	NIL	NIL
Internal review following recommendation under section 93 of Act	NIL	NIL
Review by ADT	NIL	NIL

\* The Information Commissioner does not have the authority to vary decisions, but can make recommendations to the original decision-maker. The data in this case indicates that a recommendation to vary or uphold the original decision has been made by the Information Commissioner.

**Table H - Applications for review under Part 5 of the Act (by type of applicant)**

Number of applications for review	
Applications by access applicants	NIL
Applications by persons to whom information the subject of access application relates (see section 54 of the Act)	NIL

## 6.4 Privacy and Personal Information Protection Act 1998 - Compliance

### Privacy and Personal Information Protection Act Section 33(3)

Council has in effect a Privacy Management Plan which was adopted on 20 March 2001. The Privacy Management Plan can be reviewed at Council's Administration Office or on Council's website at <http://www.byron.nsw.gov.au/files/Publications/>.

## 6.5 Summary of Affairs

### Government Information Public Access Act 2009 Section 125

#### Local Government Act 1993 Section 12(1)

In accordance with the Freedom of Information Act 1989 Section 14 the following information is provided for the period 1 July 2010 to 30 June 2011.

Policy Documents – The following adopted Policies are available on its web site at [www.byron.nsw.gov.au/policies](http://www.byron.nsw.gov.au/policies).

Policy Name	Date Adopted	Last Updated
Affordable Housing on Council Owned Land	22-Oct-2009	
Appropriate Dispute Resolution of Development Proposals	26-Aug-1997	12-Mar-2002
Asset Management Policy	13-Dec-2007	
Assistance for Festivals and Community Functions	29-Mar-1994	10-Jun-2003
Award Restructuring Policy	29-Mar-1994	
Beaches - Motor Vehicles on Beaches	29-Mar-1994	
Building - Access for the Disabled	29-Mar-1994	
Building - Separate Occupancy	29-Mar-1994	
Building Certificates	29-Mar-1994	23-Mar-2004
Building over Pipelines and Other Underground Structures	29-Mar-1994	08-Oct-2009
Burials on Private Property	29-Mar-1994	24-Sep-1996
Burning of Garden Waste Matter in Urban and Village Areas	29-Mar-1994	24-Sep-1996
Business and Commercial Activities	28-Jun-1994	
Business Ethics Policy	13-Dec-2007	
Busking	20-Nov-2001	11-Mar-2010
Cemeteries	18-Jul-1995	28-Jul-1998
Children's Services	29-Mar-2005	
Circuses which include the use or display of exotic, wild or native Australian animals within Byron Shire	25-Aug-1999	
Climate Change Strategic Planning Policy	12-Nov-2009	
Code of Conduct	29-Mar-1994	13-Aug-2009
Code of Meeting Practice	29-Mar-1994	12-Aug-2010
Commercial Activities on Coastal and Riparian Crown Reserves	16-Aug-2001	15-Aug-2006
Commercial and Other Activities on Public Land and Roads	29-Mar-1994	
Commercial Operations at Tyagarah Airfield	20-Dec-2005	09-Oct-2008
Community Consultation and Participation in Council's Decision Making	24-Nov-1998	
Community Gardens Policy	21-Oct-2010	
Community Halls and Sporting Facilities - Management by Community Groups	29-Mar-1994	

Policy Name	Date Adopted	Last Updated
Community Economic Development	10-Jun-2010	
Companion Animal Exercise Areas	22-Sep-1992	12-Aug-2010
Complaints Management	29-Mar-1994	12-Feb-2009
Construction of Garages and Outbuildings on Vacant Land	29-Mar-1994	
Contribution to the cost of Sealing of Unsealed Roads adjacent to Properties at Request of Owners	28-Nov-1995	
Control of Amusement Parlours/Centres	29-Mar-1994	
Councillors' Access to Information	03-Jul-2001	
Cultural Policy	26-Nov-2002	24-Apr-2008
Debt Recovery	24-Jun-1997	12-Feb-2002
Development	29-Mar-1994	
Donations to Community Organisations, Other Groups and Persons	29-Mar-1994	24-Oct-2006
Enforcement Policy	10-Jun-2011	
Engagement of Consultants	29-Mar-1994	08-Dec-1998
Engagement of Contractors other than Hired Plant and Haulage	29-Mar-1994	28-Nov-1995
Ethical Catering Policy	10-Jun-2010	
Events on Public and Private Land Policy	07-Oct-2010	
Excess of Power and Procedural Fairness	12-Dec-1996	
Filling of Water Tankers from Council Water Mains - Fees and Conditions of Use	27-Feb-1996	
Filming on Council Owned and Controlled Land	19-Nov-2002	18-Dec-2009
Footpath Dining	09-Oct-2001	
Freedom of Information	29-Mar-1994	25-Jun-1996
Fund Raising - Community Organisations	29-Mar-1994	
Homelessness Policy	27-Nov-2008	
Inspection, Evaluation and Maintenance of Public Infrastructure	26-Aug-2003	
Interactions between Councillors and Council Staff	22-Oct-2002	
Interactive Management and Supervisory Training	29-Mar-1994	
Interim Policy on Genetically Modified Agriculture in Byron Shire	09-Oct-2001	
Investment Policy	09-Oct-2001	08-Oct-09
Itinerant Food Vendors	08-Dec-1992	29-Mar-1994
Lavertys Gap Weir Catchment Management Policy	30-Aug-2007	
Leave for Reserve Military Service	28-Jun-1994	
Legal Costs - Assistance to Committee Members, Officers and Council Employees	13-Jun-1995	28-Nov-2008
Light Motor Vehicle Fleet	24-Jun-2010	
Liquid Trade Waste Approvals	24-Jun-1997	24-Oct-2006
Liquor Licensing and Approval Policy	12-May-11	
Loan Borrowings	08-Oct-2009	
Local Orders for the Keeping of Animals	29-Mar-1994	09-Jul-2002
Maintenance and Improvement of Council Owned Community Buildings	29-Mar-1994	
Maintenance of Parks by Private Individuals and Community Groups	29-Mar-1994	
Management of Contaminated Lands Policy	13-Nov-2008	
Markets within Byron Shire	12-Nov-1996	18-Dec-2008
Mayor and Councillors' - Payment of Expenses and Provision of Facilities	29-Mar-1994	10-Feb-2011
Naming of Public Places and Community Facilities	28-Apr-2011	
Occupational Health and Safety	29-Mar-1994	
On-site Sewage Management Systems in Urban Areas	22-May-2003	

Policy Name	Date Adopted	Last Updated
Outdoor Staff Corporate Attire	29-Mar-1994	
Oversight of Legal Matters	20-April-2004	
Planning Agreements Policy	26-Mar-2009	
Planting and Landscaping on Footpaths and Nature Strips within Road Reserves and Drainage Easements	26-Aug-1997	
Positive Ageing Policy	10-Jun-2010	
Procedures for Cases of Financial Hardship to undertake repair works to prevent adverse Environmental or Public Health Impacts	04-Apr-2002	
Procurement and Purchasing Policy	20-Apr-2004	16-Dec-2010
Protected Disclosures	10-Dec-1996	
Provision of Driveways	29-Mar-1994	
Public Art Policy	21-Oct-2010	
Public - Sun Protection	29-Mar-1994	
Public Consultation – Proposed Works	29-Mar-1994	
Public Gates and Cattle Grids on Council Roads	23-Jun-1992	28-Feb-2008
Rainwater Tanks in Urban Areas	22-Aug-1995	23-May-2006
Rates and Charges - Financial Hardship	14-Aug-2009	01-Jun-2009
Rates and Charges - Pensioner Concessions	14-Aug-2009	01-Jun-2009
Rates and Charges - Writing-Off	29-Mar-1994	
Register of Roads Maintained by Council	29-Mar-1994	
Release or Sale of Dogs	29-Mar-1994	
Resiting of Dwellings	08-Dec-1992	29-Mar-1994
Review of the Stormwater Management Service Charge	30-Aug-2007	
Role and Protocol of the Dispute Resolution Committee	12-Dec-1996	20-Apr-2004
Section 355 Management Committees/Boards - Receipt of Donations Policy	08-Apr-2010	
Section 356 Donations to Charitable and Community Organisations	21-Nov-2000	
Section 356 Donations to Public Halls and Community Centres - Rates and Charges	21-Nov-2000	
Sewerage Charges - Charitable Nursing/Aged Care Homes	27-Feb-1996	
Sewerage Fixed Charges Applicable to Combination Water/Fire Service Meter Connections	27-Aug-2009	
Signs as Remote Supervision	27-Sep-2005	
Smoke Free Environment	29-Mar-1994	
Social Impact Assessment Policy	22-Oct-2009	
Sponsorship Policy	29-Mar-1994	24-Sep-1996
Sporting Grounds	29-Mar-1994	
Strategic Transport Statement (Transport Policy)	28-May-2009	
Telecommunications Facilities on Council Owned Land	17-Feb-2011	
Temporary Use of Land	07-Feb-1995	
Tourist, Street Name, Community Facility and Service Signs	29-Mar-1994	30-Aug-2007
Traffic Control at Worksites	24-Nov-1998	
Tree/Vegetation Vandalism	11-Nov-2010	
Unauthorised Development and Activities	30-Sep-2003	
Unemployment Schemes	29-Mar-1994	
Unwanted Dogs and Cats	29-Mar-1994	
Use and Occupation of Caravans	29-Mar-1994	
Waiving of Fees for Building and Development Applications	29-Mar-1994	29-Sep-1996

Policy Name	Date Adopted	Last Updated
Water and Sewer Charges – Religious Properties	29-Mar-1994	
Water and Sewer Equivalent Tenement Policy	24-May-2007	30-Aug-2007
Water Conservation	29-Mar-2004	
Water Meters and Charges on Strata Units	29-Mar-1994	
Writing Off Water and Sewer Usage Charges	14-Aug-2009	01-Jun-2009
Youth Policy	7-Oct-2010	

Most General Publications are available on Council's Web Site at <http://www.byron.nsw.gov.au/publications> which includes the following documents:

Document	Website Address
Annual Report	<a href="http://www.byron.nsw.gov.au/annual-reports">www.byron.nsw.gov.au/annual-reports</a>
Auditor's Report	Available in each year's Annual Report <a href="http://www.byron.nsw.gov.au/annual-reports">www.byron.nsw.gov.au/annual-reports</a>
Business papers for council and committee meetings	<a href="http://www.byron.nsw.gov.au/meetings">www.byron.nsw.gov.au/meetings</a> <a href="http://www.byron.nsw.gov.au/committees">www.byron.nsw.gov.au/committees</a>
Development Control Plan	<a href="http://www.byron.nsw.gov.au/development-control-plans">www.byron.nsw.gov.au/development-control-plans</a>
Financial Plan (see Management plan)	<a href="http://www.byron.nsw.gov.au/management-plan">www.byron.nsw.gov.au/management-plan</a>
Local Environmental Plans	<a href="http://www.byron.nsw.gov.au/local-environmental-plan">www.byron.nsw.gov.au/local-environmental-plan</a>
Management Plan 2010-2013	<a href="http://www.byron.nsw.gov.au/management-plan">www.byron.nsw.gov.au/management-plan</a>
Minutes of council and Committee meetings as per LG Act section 10E	<a href="http://www.byron.nsw.gov.au/meetings">www.byron.nsw.gov.au/meetings</a> <a href="http://www.byron.nsw.gov.au/committees">www.byron.nsw.gov.au/committees</a>
Privacy Management Plan	Privacy Management Plan pdf 255KB
Publication Guide	<a href="http://www.byron.nsw.gov.au/open-access-information">www.byron.nsw.gov.au/open-access-information</a>
Register of consents for various applications for property development	<a href="http://www.byron.nsw.gov.au/development-applications/notices-of-determination">www.byron.nsw.gov.au/development-applications/notices-of-determination</a>
Records Plans of management for Community land	<a href="http://www.byron.nsw.gov.au/publications/plans-of-management/">www.byron.nsw.gov.au/publications/plans-of-management/</a>

If not indicated in the above document summary and in accordance with the Local Government Act 1993 Section 12(1) everyone is entitled to inspect the current version of the documents free of charge as listed under that Part of the Act. For further information on what documents are publicly available or you wish to inspect a document please contact Council's Information Officer on (02) 6626 7000.