



Notice of Ordinary Meeting

An Ordinary Meeting of Ballina Shire Council will be held in the Ballina Shire Council Chambers, 40 Cherry Street Ballina on **Thursday 28 January 2016 commencing at 9.00 am.**

Business

1. Australian National Anthem
2. Acknowledgement of Country
3. Apologies
4. Confirmation of Minutes
5. Declarations of Interest and Reportable Political Donations
6. Deputations
7. Mayoral Minutes
8. Development and Environmental Health Group Reports
9. Strategic and Community Facilities Group Reports
10. General Manager's Group Reports
11. Civil Services Group Reports
12. Public Question Time
13. Notices of Motion
14. Advisory Committee Minutes
15. Reports from Councillors on Attendance on Council's behalf
16. Questions Without Notice
17. Confidential Session

Paul Hickey
General Manager

A morning tea break is taken at 10.30 a.m. and a lunch break taken at 1.00 p.m.

Deputations to Council – Guidelines

Deputations by members of the public may be made at Council meetings on matters included in the business paper. Deputations are limited to one speaker in the affirmative and one speaker in opposition. Requests to speak must be lodged in writing or by phone with the General Manager by noon on the day preceding the meeting. Deputations are given five minutes to address Council.

Any documents tabled or given to Councillors during the meeting become Council documents and access may be given to members of the public in accordance with the requirements of the Government Information (Public Access) Act 2009.

The use of powerpoint presentations and overhead projectors is permitted as part of the deputation, provided that the speaker has made prior arrangements with the General Manager's Office at the time of booking their deputation. The setup time for equipment is to be included in the total time of five minutes allocated for the deputation.

Public Question Time – Guidelines

A public question time has been set aside during the Ordinary Meetings of the Council. Public Question Time is held at 12.45 pm but may be held earlier if the meeting does not extend to 12.45 pm.

The period for the public question time is set at a maximum of 15 minutes.

Questions are to be addressed to the Chairperson. The period is set aside for questions not statements.

Questions may be on any topic, not restricted to matters on the agenda for the subject meeting.

The Chairperson will manage the questions from the gallery to give each person with a question, a "turn". People with multiple questions will be able to ask just one before other persons with a question will be invited to ask and so on until single questions are all asked and, time permitting, the multiple questions can then be invited and considered.

Recording of the questions will not be verbatim.

The standard rules of behaviour in the Chamber will apply.

Questions may be asked from any position in the public gallery.

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1. Australian National Anthem
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1. Australian National Anthem

The National Anthem will be performed by Councillors and staff.

2. Acknowledgement of Country

In opening the meeting the Mayor provided an Acknowledgement of Country by reading the following statement on behalf of Council:

I would like to respectfully acknowledge past and present Bundjalung peoples who are the traditional custodians of the land on which this meeting takes place.

3. Apologies

4. Confirmation of Minutes

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 17 December 2015 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 17 December 2015.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 DA 2013/381 - Section 96 - Reside Living Development

8. Development and Environmental Health Group Reports

8.1 DA 2013/381 - Section 96 - Reside Living Development

Applicant	Planners North (on behalf of Reside@Ballina Pty Ltd)
Property	Lot 1 DP 499510 and Lot 10 DP 244352 No. 274 River Street, Ballina
Proposal	To seek modification to DA 2013/381 (Multi Level Mixed Commercial and Residential Building – Shop Top Housing) – Modification to ground floor commercial tenancy to create one additional tenancy and Modification to Condition 124 – Timing of Land Dedication
Effect of Planning Instrument	The land is zoned B3 Commercial Core under the provisions of the Ballina LEP 2012
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

Council is in receipt of an application to modify development consent 2013/381 (as lodged by the applicant on 8 October 2015) via Section 96 (1A) of the Environmental Planning and Assessment Act 1979 in the following manner:

- To create an additional commercial tenancy on the ground floor of the development (facing the Richmond River) with a resulting change to Condition 1 (to reflect the revised ground floor layout);
- To amend Condition 124 such that all investigations with respect to the 541m² area of land (along the southern perimeter on the approved plans) are completed prior to land dedication, with any remediation works, construction and landscape works to be completed prior to Strata Subdivision of the development.

The purpose of this report is to seek the determination of the Section 96 Application to Modify Development Consent 2013/381.

Background

On 24 April 2014, Council received a report to the April 2014 Ordinary Meeting in relation to the determination of DA 2013/381, proposed at No. 274 River Street, Ballina, which involved:

8.1 DA 2013/381 - Section 96 - Reside Living Development

- Demolition of the Existing Sundowner Motel and Restaurant
- Erection and Strata Title Subdivision of a Multi-Level Mixed Commercial and Residential Building (Shop Top Housing) with an Overall Height of 23.6m Australian Height Datum (AHD), comprising:
 - Six Commercial Tenancies (Business and Retail Premises) at Ground Level facing River Street and the Richmond River,
 - A Restaurant at Ground Level facing the Richmond River,
 - 34 Residential Apartments (Dwellings) located on Levels Two to Six,
 - Two Levels of Car Parking and Site Access from Kerr Street;
- The Dedication of Land for Foreshore Public Access, involving the Construction of a Public Walkway; and
- Vegetation Management Works involving the Removal of One Norfolk Island Pine Tree.

DA 2013/381 was determined at the meeting, by way of the grant of consent, subject to the non-standard conditions attached to the report and a number of standard building, planning, environmental and engineering conditions.

On 23 October 2014, Council received a report to the October 2014 Ordinary Meeting in relation to a Section 96 Application to Modify Development Consent 2013/381:

- To delete Conditions 27 (design for a retaining wall and revetment structure along the Richmond River frontage) and 98 (provision of a residential apartment for an on-site manager); and
- To amend Conditions 31 (provision of car parking spaces for the development – stacked parking for commercial tenancies and contributions for car parking spaces not provided on-site), 37 and 84 (filling of the allotment), 53 and 54 (payment of contributions – timing), and 125 (land dedication – first option for purchase).

Following the report to the Council, staff negotiated with the applicant as to the outcome for Conditions 27, 37, 53, 54, 84 and 98. The Section 96 Application to Modify Development Consent 2003/381 was approved on 2 February 2015, with the following changes made to the consent:

- Changes to Condition 1 (insertion of new plan for the Kerr Street Proposed Vehicle Parking and Civil Works)
- Changes to Condition 27 (reference to Condition 26 – geotechnical assessment and insertion of wording “low cost and low levels of maintenance”)
- Changes to Condition 31 (reduction in number of car parking spaces to be paid for as developer contributions to recognise the dual use of the on street loading zone for parking purposes and the conversion of the on-site loading area to a car parking space).
- Changes to Conditions 37 and 84 (amendments to filling requirements for development site – exclusion of public access way and reference that ground floor car park is to have a minimum floor height of RL 2.0m AHD).
- Changes to Conditions 53 and 54 (to enable staged payment of Section 94 and Section 64 Contributions)
- Changes to Condition 98 (provision of a management plan)

8.1 DA 2013/381 - Section 96 - Reside Living Development

- Changes to Condition 125 [requirement for land dedication to be for the purposes of a road (public access way)].
- Changes to Condition 130 (security measures for ground level car parking area)
- Changes to Schedule 1 – developer contributions (car parking spaces).

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Report

The following discussion (including the applicant's justification for the proposed changes and a response from Council staff) is provided in relation to the additional proposed modifications to DA 2013/381.

Additional Commercial Tenancy

The proposed modification involves the division of the south eastern commercial tenancy (facing the Richmond River) into two separate tenancies (as shown in Attachment No. 2).

The applicant has stated that the amended floor plan provides for two commercial suites of a size best suited to the marketplace (of 103m² and 124m² respectively) and that there is not proposed to be a change in overall floor area as a result of the proposed modification.

Council staff have not raised any objection to this proposed modification to the approved development. The proposed changes to the ground floor of the development will result in an amendment to Condition 1 (to refer to the new ground floor plan) and an amendment to the description of the development to accurately refer to the number of approved commercial tenancies within the development.

Modification to Condition 124

The current wording of Condition 124 is as follows:

- 1.24 All investigation (including any remediation works), construction and landscaping works required to be undertaken to the 541m² area of land to be dedicated to Council (as shown along the southern perimeter of the site on the approved plans) in accordance with the conditions of this consent are to be completed prior to the issue of the Subdivision Certificate for the dedication of that land.

8.1 DA 2013/381 - Section 96 - Reside Living Development

The proposed modified wording of Condition 124 is as follows:

- 1.24 All investigations (including any remediation works), construction and landscaping works required to be undertaken to the 541m² area of land to be dedicated to Council (as shown along the southern perimeter of the site on the approved plans) in accordance with the conditions of this consent are to be completed prior to the issue of the Subdivision Certificate for the dedication of that land. Any remediation works, construction and landscape works required are to be completed prior to the issue of a Strata Subdivision Certificate for the land.

As part of the Section 96 Application, the applicant provided the following points of justification in relation to the proposed changes to Condition 124:

- *As the condition is currently structured, the Road Dedication plan cannot be lodged until all works associated with the development have been completed as riverside works form part of the general construction contract for the development.*
- *The proponent has no issue with completion of the relevant works. However, the sequencing involved will have the effect of delaying the ability to lodge a Strata Subdivision by two months or perhaps more with the addressing of plan signing, mortgage release, land title office processing and general admin delays.*
- *The amended condition allows for the dedication of the land to occur immediately upon Council Engineers being satisfied with the investigation works undertaken; but any Strata Subdivision of the development land cannot occur until all of the remedial works, including construction landscape works, have been completed.*

Council's Civil Services Group have provided the following comments with respect to the proposed wording change of Consent Condition 124.

- The existing consent requires the developer to undertake a geotechnical report to determine the extent of works required to fill the site and undertake revetment/retaining wall works along the Richmond River frontage of the site. In addition, the developer is required to remove the existing jetty that adjoins the area of land proposed to be dedicated to Council. The applicant is therefore required to complete a contamination investigation in accordance with *Clause 3.4.1 of SEPP 55* and the *Office of Environment and Heritage Guidelines for Consultants Reporting on Contaminated Sites (2011)* to define the nature, extent and degree of contamination.
- There are significant works required on the land proposed to be dedicated to Council and on the adjoining land. The proposal within the Section 96 Application to Modify Consent Condition 124 is considered to present a number of disadvantages and/or risks to Council, some of which are as follows:
 - Should the land be dedicated prior to the required works being completed, Council will be liable for completing the works, if the applicant does not proceed with the development.

8.1 DA 2013/381 - Section 96 - Reside Living Development

- Council would be responsible for the public liability risks associated with the site during the construction works. These risks would not be placed on Council should the works be completed prior to the land dedication.
- The extent of works may increase as the development progresses due to unforeseen issues or circumstances. If the land is dedicated early, there could be confusion as to who is responsible for these works, the developer or Council.
- The construction works on the adjoining development site may result in damage to the retaining wall. Council would then be required to negotiate liability for this damage with the developer and/or site contractor.

In view of these issues, Council staff are not able to support the proposed amendments to Consent Condition 124.

Council staff wrote to the applicant, via letter dated 16 November 2015, informing them of the abovementioned issues regarding the proposed changes to Condition 124. This letter acknowledged that the developers have concerns as to the timing of processing the land dedication. In this regard, Council staff proposed an alternative to the submitted modification, being the submission of the linen plans (and subsequent issue of a Subdivision Certificate) for the dedication of the 541m² land, with all required works to that land having been carried out, along with evidence that an Interim Occupation Certificate has been issued by the PCA for the multi-level mixed commercial and residential building.

It is considered that there would be a low risk to Council of any “finishing” works impacting the dedicated land (and its structures) after the issue of the Interim Occupation Certificate. If this time-line is followed, it is considered that there would be sufficient time between the issue of the Subdivision Certificate for the land dedication and the issuing of the Final Occupation Certificate and subsequent lodgement of the Subdivision Certificate Application for the Strata Subdivision of the development, such that the stated delays should not occur.

In view of the above, Consent Condition 124 could be amended to read as follows:

124. All investigation (including any remediation works), construction and landscaping works required to be undertaken to the 541m² area of land to be dedicated to Council (as shown along the southern perimeter of the site on the approved plans) in accordance with the conditions of this consent are to be completed prior to the issue of the Subdivision Certificate for the dedication of that land. The Subdivision Certificate Application (and accompanying documentation and linen plans) may be lodged with Council after the issue of the Interim Occupation Certificate for the Erection and Strata Title Subdivision of a Multi-Level Mixed Commercial and Residential Building (Shop Top Housing) development.

The applicant has provided responses to Council in relation to Council's 16 November 2015 letter. Refer to Attachments 3 and 4.

The applicant has provided the following points in rebuttal to Council's offer:

8.1 DA 2013/381 - Section 96 - Reside Living Development

- Council's reticence to meaningfully change consent Condition 124 is of serious concern to our client. As you will be aware from our application, the delay inbuilt into the development consent by Condition 124 with respect to the registration of a Strata Plan is 2-3 months. This delay occurs at the peak of project debt.
- Our client is of the view that the reasons for not supporting an amendment to Condition 124 given by Council's Civil Services Group are very weak and has asked us to comment as follows.
 1. The developer does not resile from the need to undertake the necessary geotechnical work. The terms suggested in the proposed modification ensure that work is approved by Council (including the removal of the existing jetty and any contamination investigation work) before any dedication occurs. Council is in 100% control of the works approval and plan registration mechanisms.
 2. The assumption that in the event that the coastal foreshore strip was dedicated to Council before works were completed would somehow make Council liable for the completion of such works is fatuous in our clients' opinion. Our client would like to assure Council that there is absolutely no intention to dedicate very valuable waterfront land to Council, free of cost, if it is in any way likely that the project will not proceed. Even if it did not proceed for some extraordinary reason, such a situation simply cannot transfer any liability for Council to complete works the subject of a private Development Application approval.
 3. In the ordinary way, Council will be exempted from any public liability associated with foreshore site works during construction in the same way that it is exempted when proponents erect hoardings over public road spaces for construction works.
 4. The modification proposed by Planners North makes it absolutely clear as to when works must be completed. Put simply, our client is of the opinion that it is impossible for there to be any confusion as to who will be responsible for these works.
 5. The suggestion that construction works on the adjoining site may result in damage to the retaining wall should be of no consequence whatsoever to Council. Our client asks us to remind Council that pursuant to the modification to consent Condition 124 as proposed, the proponent will not be able to strata subdivide the development until such works have been completed to the full satisfaction of Council. Pursuant to these provisions, Council cannot, in any way, be required to somehow "negotiate liability for damage" or any other such factor.
- Our client regards the reasons for disadvantage to Council as spurious and is firmly of the opinion that there is minimal likelihood of Council being burdened with any additional risk. Given this our client respectfully requests that the matter of modification of Condition 124 be submitted to Council for its formal consideration.

In relation to managing project debt, the applicant has provided the following additional points (Refer to Attachment 4):

8.1 DA 2013/381 - Section 96 - Reside Living Development

- As Council will be aware, under the current condition, only when all work is completed (including all the Reside building works, the landscaping works, all foreshore works and all the development fee payments made) then two discrete plans of subdivision must be processed before any sales can settle. Firstly a conventional Torrens Title Subdivision is required to dedicate the foreshore land free of cost to Council and only after that plan is registered can a Strata Subdivision over the Reside development begin to be processed at the Land Title Office (LTO). Our estimate of the processing time of these plans is set out below. Please note that the timing utilised in the below sequence is “best case” assuming no difficulties in terms of any of the processing elements.

Subdivision Plan	
Council processing	4 weeks
Mortgagee processing	2 weeks
LTO processing	4 weeks
Titles issue	1 week
<i>Subtotal</i>	<i>11 weeks</i>

Strata Plan Processing	
Council processing	4 weeks
Mortgagee processing	2 weeks
LTO processing	4 weeks
Titles issue	1 week
<i>Subtotal</i>	<i>11 weeks</i>

- Thus, under the present requirement of Condition 124 it will be a minimum of 22 weeks after the finalisation of all the construction before the settlement of any sales relevant to the project can occur.
- Our modification to Condition 124 merely seeks to undertake the land subdivision early whilst general construction is occurring. Our requested re-drafting of the condition ensures that all work (i.e. the Reside building works, the landscaping works, all foreshore works and all the development fee payments), is completed to the full satisfaction of the Council, before the Strata Plan be registered. By completing foreshore dedication subdivision early, a Torrens Title lot is available for Strata Plan processing immediately upon the construction works being completed. The timing in those circumstances is:

Strata Plan Processing	
Strata plan processing	4 weeks
Mortgagee processing	2 weeks
LTO processing	4 weeks
Titles issue	1 week
<i>Total</i>	<i>11 weeks</i>

8.1 DA 2013/381 - Section 96 - Reside Living Development

- As illustrated above, changing the timetable for dedication of the waterfront land will save the project 11 weeks. We understand that Council's Engineers have proposed a situation where land dedication could occur at the time of the issue of the Interim Occupation Certificate. In our respectful submission this concession is of no value. A competent Certifier will process the Strata Plans at the stage of Interim Occupation Certificate. This concession has no regard to the 11 week hiatus required for the lodgement of the land dedication subdivision plan.
- We trust that Council will see that, with no additional risk, Council is in a position to afford the developer an 11 week reduction in the time required for plan registration. As Council will appreciate, an 11 week time penalty is a draconian situation for the proponent when the project is at peak debt.

Council's Civil Services Group has reviewed the applicant's responses and provided the following additional comments:

- There is an option for the two plans (Land Dedication Plan – Torrens Title Subdivision and Strata Plan – Strata Title Subdivision) being processed concurrently. This has been carried out previously by Council and should avoid the delays iterated by the applicant in their correspondence to Council, as the Torrens Title Subdivision would not be required to be registered by Land and Property Information prior to the issue of the Subdivision Certificate for the Strata Title Subdivision.
- A second option for the developers would be complete all works on the revetment wall and public walkway early during the construction process and then dedicate the walkway area. This could be completed prior to the works on the building being completed and therefore prevent the "speculated" delays.
- Either of these options could be used to avoid the delays indicated in the letters from applicant. Despite the applicant's contentions, it is still considered that the process could become complicated should the land be dedicated to Council prior to the works being completed (as has been proposed as part of this Section 96 Modification) as there could be unforeseen issues arise during construction.

The existing wording of Consent Condition 124 allows the developer to proceed in either of the pathways as discussed above. In this regard, Development Consent 2013/381 does not prevent the developers from satisfactorily addressing the Consent Conditions regarding the required investigation works prior to the issue of the Construction Certificate and then completing the required works (as per Consent Condition 124) prior to the land being dedicated to Council. All works can be done independent of the construction of the building, in a timeframe that is well in advance of the Strata Subdivision Certificate process (which, as outlined by the applicant, is the time of peak project debt).

Conclusion

In relation to the proposed amendment to Development Consent 2013/381, as has been submitted as part of the Section 96 (1A) application:

8.1 DA 2013/381 - Section 96 - Reside Living Development

- The division of the south eastern commercial tenancy (facing the Richmond River) into two separate tenancies is supported. In this regard, amendments to Condition 1 (to refer to the new ground floor plan) and the description of the development to accurately refer to the number of approved commercial tenancies within the development can occur as follows:

New Description of Development

To Undertake the Following Development:

- Demolition of the Existing Sundowner Motel and Restaurant;
- Erection and Strata Title Subdivision of a Multi-Level Mixed Commercial and Residential Building (Shop Top Housing) with an Overall Height of 23.6m Australian Height Datum (AHD), comprising:
 - Seven Commercial Tenancies (Business and Retail Premises) at Ground Level facing River Street and the Richmond River,
 - A Restaurant at Ground Level facing the Richmond River,
 - 34 Residential Apartments (Dwellings) located on Levels Two to Six,
 - Two Levels of Car Parking and Site Access from Kerr Street;
- The Dedication of Land for Foreshore Public Access, involving the Construction of a Public Walkway; and
- Vegetation Management Works involving the Removal of One Norfolk Island Pine Tree.

Revised Condition 1

- Development being carried out generally in accordance with the plans and associated documentation lodged by, or on behalf of, the applicant, including plans prepared by Leith Architects, Job No. 2238, as listed in the following table:

Sheet No.	Issue	Date
DA 01	D	10/03/14
DA 03	B	11/02/14
DA 04	B	11/02/14
DA 05	B	11/02/14
DA 06	B	11/02/14
DA 07	B	11/02/14
DA 08	B	11/02/14
DA 09	B	11/02/14
DA 10	B	11/02/14
DA 11	B	11/02/14
DA 12	C	10/03/14
DA 13	B	11/02/14
DA 14	B	11/02/14
DA 15	C	10/03/14
DA 23	B	11/02/14
DA 24	B	11/02/14

and plan prepared by Newton Denny Chapelle, Ref 13/235, Drawing No. SK1, Rev C, Dated January 2015, except as modified by any condition in this consent.

8.1 DA 2013/381 - Section 96 - Reside Living Development

It is noted that the applicant has accepted these changes to the development description and Condition 1 of the consent.

- The proposed amendment to Condition 124, is not supported by Council staff, due to the disadvantages and risks to Council as outlined within this report (including liability issues, potential increase of the extent of works required and the potential for construction works on the development site to damage the retaining wall).

Under the provisions of the Environmental Planning and Assessment Act 1979 and Regulations 2000, Council is unable to modify a consent notice, other than in the manner which has been requested by the applicant. In this regard, there is no ability for Council to change/amend Condition 124, or impose additional conditions, unless it has been proposed (or agreed to) by the applicant.

There are three options available to Council with respect to the subject application:

Option One

That Council approve the submitted Section 96 (1A) Application, with Conditions 1 and 124 being amended as proposed by the applicant. This option is not recommended for the reasons outlined in the report.

Option Two

That Council refuse the submitted Section 96 (1A) Application, and that Conditions 1 and 124 remain as currently stated within Development Consent 2013/381, for the reasons outlined in this report.

Option Three

That Council defer the determination of this Section 96 (1A) Application to enable the applicant to modify the application to only relate to the proposed amendments to the description of the development and Consent Condition 1, with delegations granted to the General Manager to determine the application.

For the reasons outlined in this report and given there are no objections to the division of the south eastern commercial tenancy (facing the Richmond River) into two separate tenancies, Option Three is the recommended approach.

RECOMMENDATION

That Council defer the determination of the subject application (Amendment No. 1) to Development Consent 2013/381 under Section 96 (1A) of the Environmental Planning and Assessment Act 1979 to enable the applicant to modify the application to only relate to the proposed amendments to the description of the development and Consent Condition 1, with delegations granted to the General Manager to determine the application.

Attachment(s)

1. Locality Plan
2. New Ground Floor Plan - Additional Commercial Tenancy
3. Response to Council's 16 November 2015 letter - Letter 1
4. Further information from Applicant - 17 December 2015

8.2 DA 2015/458 - Subdivision / Boundary Adjustment - Russelton Estate

8.2 DA 2015/458 - Subdivision / Boundary Adjustment - Russelton Estate

Applicant	GeoLink
Property	Lots 1 & 2 in D.P. 707837, Lot 1 in D.P. 817406, & Lot 11 in D.P. 1059499, being Nos. 9, 11, & 12 Robb Street, Russelton
Proposal	The development application seeks development consent for subdivision by way of boundary adjustments and allotment consolidation of the subject lands and for the use of part of Lot 1 in D.P. 817406 for the storage of tanks.
Effect of Planning Instrument	No's 9 and 11 in Robb Street are zoned IN1 General Industrial under the provisions of the Ballina LEP 2012, Lot 1 in D.P. 817406 comprises the Russelton Industrial Estate Landscape Buffer and is zoned Public Recreation under Ballina L.E.P. 2012, and No. 12 Robb Street is zoned 7(i) Environmental Protection (Urban Buffer) under the provisions of the BLEP 1987. S.E.P.P No. 33 Hazardous and Offensive Development has relevance.
Locality Plan	The subject lands are depicted on the locality plans attached.

Background/Introduction

For an extended number of years the Council has been trying to address a long-term land-use conflict at the boundary of the Russelton Industrial Estate and an adjacent rural-agricultural landholding.

In essence, the conflict has involved the Duraplas business that operates on a 24-hour day basis and that emits noise and, at times, odour. There is a long-established dwelling on the adjacent land currently owned by Stoville Pty. Ltd. that is exposed to the noise, and at times, odours.

The conflict was initially somewhat resolved, on an interim basis, by Duraplas Pty. Ltd. leasing a part of the Stoville property including the dwelling in order to overcome the nuisance.

Following the establishment of the lease area, Duraplas moved a substantial tank storage component of its business onto the land. This was undertaken without seeking the development consent of the Council and is unapproved.

In seeking to deal with the issue on a more permanent basis, the Council of the day allowed Duraplas to retain its unapproved tank storage and associated operations on the site on the basis that future industrial land releases would provide land for the tank storage requirements of Duraplas.

8.2 DA 2015/458 - Subdivision / Boundary Adjustment - Russelton Estate

Unfortunately, the release of additional serviced industrial land for sale in the Russelton Estate was not able to be advanced as planned and the tank storage has not moved.

More recently the Council responded to requests from the two major landholders and initiated a re-zoning proposal to extend the industrially-zoned Russelton Estate to cover the leased area and to thus to allow an alternative, more permanent solution to the conflict to be put in place.

If successful, this approach would have allowed Stoville to establish a new dwelling site on their rural holding outside the area of nuisance and Duraplas to continue its locally significant, employment generating business by lawfully establishing its tank storage area and other compatible components of its business on the newly-zoned industrial area.

Again, unfortunately for the resolution of the land-use conflict, this initiative also did not proceed due to Council's refusal of the proposal. Key issues for the Council relating to the re-zoning included the integrity of the Alstonville/Wollongbar Urban Buffer and impact on State significant farmland.

Consequently, after more than 10 years, Duraplas, Stoville and the Council have not achieved a permanent solution to the land-use conflict that allows Duraplas to continue its established successful employment-generating business to continue where it is.

The only other identified opportunity to resolve the matter clearly is to utilize the provisions of SEPP 33 and to seek consent for a complicated boundary adjustment and consolidation subdivision and attendant land transfers, and approval for the future continued use of the land for tank storage.

This approach, by necessity, involves land owned by Duraplas, Stoville, and the Council.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The application was notified to adjoining landholders and two submissions have been received. These are addressed in the determination report.

Report

The Council has now received a development application prepared on behalf of the involved land owners seeking consent for such a reorganization of land boundaries. As the Council is intrinsically involved in the application as a land holder, an external planning consultant has been engaged to assess the application and to provide a determination report to the Council at arm's length from its commercial land ownership interests.

8.2 DA 2015/458 - Subdivision / Boundary Adjustment - Russelton Estate

The assessment and favourable determination of this development application would not, of itself, commit any of the landholders (including the Council) to having to proceed with the subdivision and consolidation.

A favourable determination would only allow each of the landowners to participate in the development if they agree to do so.

The external consultant's report accompanies this covering report and is submitted to the Council for its determination.

Critically, the submitted report assesses that the application comprises minor boundary adjustment subdivision as provided for in Cl. 11 of the BLEP 1987. The report identifies that the activation of Cl 11. requires the Council to be satisfied that granting consent to the minor boundary adjustment components of the application will not lead to:

- (i) The creation of any additional allotments or additional dwelling entitlements or both, and
- (ii) A substantial change to the land area contained in each allotment or a substantial change to the configuration of each allotment, and
- (iii) An increase in the size of an allotment that would provide in the future for the creation of additional allotments or additional dwelling entitlements, and
- (iv) An outcome contrary to the terms of any development consent granted in respect of any of the land concerned, and
- (v) An increase in the likelihood of potential for land use conflict.

The external consultant's report assesses these matters and considers that the proposal will not lead to any of the above scenarios and is also not a substantial change to the lot area contained in each of the allotments.

It considers that the Council is able to consent to the proposed boundary adjustment without the need to consider a SEPP 1 objection.

Based on this independent report the recommendation is for approval, consistent with the recommendations in that independent report.

RECOMMENDATIONS

That Development Application 2015/204 be **APPROVED** subject to standard conditions as well as the following:

- 1) The existing dwelling on Lot 1 DP 817406 is to be decommissioned prior to the issue of a subdivision certificate to the satisfaction of Council.
- 2) This consent permits the use of proposed Lot 1 as a storage facility ancillary to the adjacent industrial use. The approved storage facility must at all times be operated ancillary to this use unless further consent is obtained from Council.
- 3) Prior to the issue of a Subdivision Certificate, a Restriction-as-to-user, in accordance with Section 88B of the Conveyancing Act 1919, is to be placed on the title of the larger agricultural lot (being proposed Lot 3 of the stamped plans dated XX) stating that any proposed dwelling located on this lot, will be required to connect to Council's reticulated sewer system. If this connection is not reasonably able to be achieved a suitably qualified OSSMs consultant shall be engaged to design a suitable OSSM having consideration for the site constraints including the 250 metre radius exclusion zone to the Ellis Road town drinking water bore.
- 4) Prior to the issue of a Subdivision Certificate, the existing OSSMS on Lot 1 DP 817406 is to be decommissioned and connected to Council's reticulated sewerage system.

Attachment(s)

1. Locality Plan - Large
2. Locality Plan - Small
3. External Consultant's Report

8.3 DA 2014/373 - 15 Hill Street - Variation to LEP Standards

8.3 DA 2014/373 - 15 Hill Street - Variation to LEP Standards

Applicant	Chris Lonergan – Town Planner
Property	Lot 4 DP 38190 No.15 Hill Street East Ballina
Proposal	Construction of a new dwelling incorporating a secondary dwelling
Effect of Planning Instrument	The land is zoned R2 Low Density Residential under the provisions of the Ballina LEP
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

Council is in receipt of a Development Application to construct a multi-level dwelling, incorporating a secondary dwelling, on the subject land.

The proposed building will be in excess of the 8.5m height limit required by Clause 4.3 of the Ballina Local Environmental Plan 2012

This report seeks Council's determination of a requested variation to development standard Clause 4.3 in Ballina Local Environmental Plan 2012, as the application proposes a variation of more than 10% to the development standard. The variation being sought is 29% representing a maximum of 2.5 metres above the allowable 8.5m. It should be noted that the application relates to point encroachments for only two sections of the building.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The subject application was advertised in the local paper 13 August 2014 and neighbour notified 28 August 2014 with no objections being received

Report

The proposed development has been assessed under the heads of consideration in Section 79 (C) of the Environmental Planning and Assessment Act 1979 and although there are DCP variations to be determined under delegated authority, it can generally be supported. The only matter to be determined by the Council in relation to this report is the requested variation to development standard Clause 4.3 within the BLEP 2012.

Ballina Local Environmental Plan 2012

8.3 DA 2014/373 - 15 Hill Street - Variation to LEP Standards

Clause 4.3 of the BLEP specifies the maximum allowable building height of 8.5 metres as detailed by the Height of Buildings Map

The site has a steep slope falling away from Hill Street with substantial views over Shaws Bay, the Richmond River and the coast. It is one of two remaining adjacent vacant lots just north of Compton Drive. Dwellings along this part of Hill Street are commonly single storey with garaging on a nil Building Line facing Hill Street. As the land falls away the areas underneath dwellings have typically been filled in with habitable levels resulting in two and in some cases three storeys.

As stated above the applicant has requested a variation to the 8.5 metre maximum height of building by proposing a height that in two parts will be 11 metres above natural ground level.

Assessment – Clause 4.6 BLEP 2012

The mechanism that provides the ability to vary a development standard contained within the BLEP 2012 is an application via Clause 4.6 - Exceptions to development standards (for the BLEP 2012).

The following assessment has been carried out by Council staff with respect to Clause 4.6.

Questions	Comments (Y/N, complies)
Has the applicant submitted a written request to vary a development standard as part of the development application?	Yes/complies
Identify when the written request was lodged (as part of lodgement of DA or during assessment process). Provide details of circumstance if written request was not submitted as part of the lodgement of the development application (i.e. was a non-compliance identified after lodgement, was the proposal modified after lodgement resulting in a non-compliance?).	Request to vary the Development Standard was submitted at time of lodgement of the Development Application
Have all the required matters listed as part of Clause 4.6 and as outlined within Council's written request form been satisfactorily answered by the applicant?	No but the subject request was submitted as part of the Statement of Environmental Effects and is considered appropriate

Questions	Comments (Y/N, complies)
Assessment of requested variation	
<p>a) What is the development standard being varied? (provide details of clause in BLEP 2012, including objectives of the development standard, numeric value and percentage variation)</p>	<p>Clause 4.3 of BLEP being the allowable Height of Buildings. The objectives of this clause are as follows:</p> <ul style="list-style-type: none"> (a) To ensure that the height of the buildings is compatible with the bulk, scale and character of the locality; (b) To minimise adverse effects on existing or future amenity of adjoining properties and the scenic qualities of the locality; (c) To protect significant views from public places. <p>The variation is 29% more than the allowable height limit being 2.5 metres of point encroachment in two parts.</p>
<p>b) What is the underlying objective of this this development standard?</p>	<p>To promote aesthetically acceptable development compatible with the area.</p>
<p>c) In accordance with clause 4.6 of BLEP 2012:</p> <ul style="list-style-type: none"> • Has the applicant's written request adequately addressed the matters required to be demonstrated by subclause (3) of Clause 4.6 (i.e. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard)? • Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, 	<p>Yes</p>

Questions	Comments (Y/N, complies)
<p>d) Will the cumulative effect of similar approvals undermine the objective of the development standard or the objectives of the zone?</p>	<p>No – adjoining existing buildings, while being more modest reflecting the time of construction, are similar in design</p>
<p>e) The Five Part Test (Note: only one of these tests needs to be satisfied)</p> <ul style="list-style-type: none"> • Are the objectives of the standard achieved notwithstanding non-compliance with the development standard? • Is the underlying objective or purpose of the development standard not relevant to the development and therefore compliance is unnecessary? • Will the underlying object of the purpose be defeated or thwarted if compliance was required and therefore is compliance unreasonable? • Has the development standard been virtually abandoned or destroyed by Council's actions in granting consents departing from the development standard and therefore is compliance with the development standard unnecessary and unreasonable? • Is compliance with the development standard unreasonable or inappropriate due to the existing use of the land and current environmental character of the subject property (should this property have been included in the current zone)? 	<p>It is considered that all of objectives as detailed above are satisfied.</p>

Conclusions

The subject site is extremely problematic due to the steep terrain and lack of street parking. The proposal, when viewed from the street, will present as a single storey building, being the same as other dwellings along Hill Street. The locality attracts people wishing to construct dwellings that maximise the view. Development down the hill by filling in under the street level is substantially more desirable for the streetscape than proposals to construct two storey dwellings at street level.

It is also noted that the sites are delicate in regard to stability, and disturbance should be kept to a minimum, thereby reducing the potential to excavate. This results in buildings not being able to be hidden within the embankment.

While it is difficult to obtain exact heights of existing adjacent buildings they are commonly two and three storeys, and the subject proposal is not considered to be out of place with the adjoining buildings.

Options

Option 1 – Council may determine that the proposed variation to the height of building is considered excessive in the circumstances and that the request should be refused. This option is not the recommended course.

Option 2 – Council may determine the proposed variation to the height of building is considered appropriate in the circumstances of the case due to the steepness of the site and the general compatibility with other dwelling designs along Hill Street and approve the variation to the development standard being sought. This is the preferred option.

RECOMMENDATION

That the application to vary the Ballina Local Environmental Plan 2012 Development Standard Clause 4.3 – Height of Buildings for DA 2014/373 for the proposed building as depicted in plans prepared by design evolutions Plan No's P1 to P12 dated 20.10.2015 be **APPROVED**, for the reasons outlined in this report.

Attachment(s)

1. Locality Plan
2. Dwelling and Secondary Dwelling Plans

8.4 DA 2015/98 - 17 Hill Street - Variation to LEP Standards

8.4 DA 2015/98 - 17 Hill Street - Variation to LEP Standards

Applicant	Ardill Payne and Partners
Property	Lot 5 DP 38190 No.17 Hill Street East Ballina
Proposal	Construction of a new dwelling
Effect of Planning Instrument	The land is zoned R2 Low Density Residential under the provisions of the Ballina LEP
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

Council is in receipt of a Development Application to construct a multi-level dwelling on the subject land.

The proposed building will be in excess of the 8.5m height limit required by Clause 4.3, and the 0.5:1 floor space ratio required by Clause 4.4 of the Ballina Local Environmental Plan 2012

This report seeks Council's determination of requested variations to the following development standards in the Ballina Local Environmental Plan 2012:

Clause 4.3 Height of Buildings - the application proposes a variation of more than 10% to the development standard. The variation being sought is 52% representing a maximum of 4.48 metres above the allowable 8.5 metres. It should be noted that the application relates to point encroachments for only two sections of the building.

Clause 4.4 Floor Space Ratio - the site is 600.7 square metres with the proposed floor area being 347 square metres. This represents a ratio of 0.57:1 and is 15% above the allowable area.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The subject application was neighbour notified 11 March 2015 with an objection being received from No.19 Hill Street. Due to change of ownership of No.19 the application was re-notified 6 October 2015 with an objection being received from the new owners of No.19 Hill St East Ballina.

The submitted objection is very general and does not identify specific impacts from the proposal.

The submission opposes the proposal to build higher than the 8.5 metre height limit and states that the regulations are based on many years of community consultation and were devised in the public interest. The objectors state that developments like this negatively compromise aspect, sunlight, views, community and personal privacy. The only specific matters raised are the dangers to pedestrians, road closures during construction, and impact on the foundations of the building at No.19. These matters will be dealt with through the normal S79C assessment process.

Report

The proposed development has been assessed under the heads of consideration in Section 79C of the Environmental Planning and Assessment Act 1979 and although there are other DCP variations, these can be dealt with under delegated authority and are generally supported. The only matters to be determined by the Council in relation to this report are the requested variations to development standards Clause 4.3 regarding Heights of Buildings and Clause 4.4 regarding Floor Space Ratio in the BLEP 2012.

Ballina Local Environmental Plan 2012

Clause 4.3 of the BLEP specifies the maximum allowable building height of 8.5 metres as detailed by the Height of Buildings Map

The site has a steep slope falling away from Hill Street with substantial views over Shaws Bay, the Richmond River and the coast. It is one of two remaining adjacent vacant lots sited just north of Compton Drive. Dwellings along this part of Hill Street are commonly single storey with garaging on a nil Building Line facing Hill Street. As the land falls away the areas underneath dwellings have typically been filled in with habitable levels resulting in two and in some cases three storeys.

As stated above the applicant has requested a variation to the 8.5 metre height of building by proposing a maximum height that will in two parts be 12.98 metres above natural ground level.

Clause 4.4 of the BLEP specifies the maximum allowable floor space ratio of 0.5:1.

The applicant requests a variation of 47 square metres being 15% over the allowable 300 square metres.

Assessment - Clause 4.6 BLEP

The mechanism that provides the ability to vary a development standard contained within the BLEP 2012 is an application via Clause 4.6 - Exceptions to development standards (for the BLEP 2012).

The following assessment has been carried out by Council staff with respect to Clause 4.6.

Questions	Comments (Y/N, complies)
Has the applicant submitted a written request to vary a development standard as part of the development application?	Yes/complies
Identify when the written request was lodged (as part of lodgement of DA or during assessment process). Provide details of circumstance if written request was not submitted as part of the lodgement of the development application (i.e. was a non-compliance identified after lodgement, was the proposal modified after lodgement resulting in a non-compliance?).	Request to vary the Development Standard was submitted at time of lodgement of the Development Application
Have all the required matters listed as part of Clause 4.6 and as outlined within Council's written request form been satisfactorily answered by the applicant?	Yes. Subject request was submitted as part of the Statement of Environmental Effects and is considered appropriate
Assessment of requested variation	
a) What is the development standard being varied? (provide details of clause in BLEP 2012, including objectives of the development standard, numeric value and percentage variation)	<p>Clause 4.3 of BLEP Height of Buildings The objectives of this clause are as follows:</p> <ul style="list-style-type: none"> (a) To ensure that the height of the buildings is compatible with the bulk, scale and character of the locality; (b) To minimise adverse effects on existing or future amenity of adjoining properties and the scenic qualities of the locality; (c) To protect significant views from public places. <p>The variation is 52% more than the allowable height limit which represents 4.48 metres of point encroachment in two parts.</p> <p>Clause 4.4 of BLEP Floor Space Ratio Objectives of this clause are as follows:</p> <ul style="list-style-type: none"> (a) To ensure that buildings are compatible with the bulk, scale and character of the locality; (b) To minimise adverse impacts on existing or future

	<p>amenity of adjoining properties and the scenic or landscape quality of the locality.</p> <p>The variation is 47 square metres (14%) more than the allowable floor space of 300 square metres representing 0.57:1 instead of 0.5:1.</p>
b) What is the underlying objective of this development standard?	To promote aesthetically acceptable development compatible with the area
c) In accordance with clause 4.6 of BLEP 2012: <ul style="list-style-type: none"> Has the applicant's written request adequately addressed the matters required to be demonstrated by subclause (3) of Clause 4.6 (i.e. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard)? Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, 	Yes
d) Will the cumulative effect of similar approvals undermine the objective of the development standard or the objectives of the zone?	No – adjoining existing buildings while being more modest reflecting the time of construction, are similar in design
e) The Five Part Test (Note: only one of these tests needs to be satisfied) <ul style="list-style-type: none"> Are the objectives of the standard achieved notwithstanding non-compliance with the development standard? Is the underlying objective or purpose of the development standard not relevant to the development and therefore compliance is unnecessary? Will the underlying object of the purpose be defeated or thwarted if compliance was required and therefore is compliance unreasonable? 	It is considered that all of objectives as detailed above are satisfied

<ul style="list-style-type: none">• Has the development standard been virtually abandoned or destroyed by Council's actions in granting consents departing from the development standard and therefore is compliance with the development standard unnecessary and unreasonable?• Is compliance with the development standard unreasonable or inappropriate due to the existing use of the land and current environmental character of the subject property (should this property have been included in the current zone)?	
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Conclusions

The subject site is extremely problematic due to the steep terrain and lack of street parking. The proposal, when viewed from the street, will present as a single storey building, being the same as other dwellings along Hill Street. The locality attracts people wishing to construct dwellings that maximise the view. Development down the hill by filling in under the street level is substantially more compatible for the streetscape than proposals to construct two storey dwellings at street level.

The steep slope necessitates the height encroachment and provides an opportunity to construct habitable levels in the sub-floor area. In this application the lowest level is proposed to be the craft room and laundry with an area of 54 square metres, being 47 square metres or 14% over the allowable floor space ratio. This opportunity will, if approved, result in an encroachment over the allowable floor space ratio but provides extra activity space on a block with no level yard.

The sites are delicate in regard to stability, and disturbance should be kept to a minimum, thereby reducing the potential to excavate. This results in buildings not being able to be hidden within the embankment.

While it is difficult to obtain exact heights of existing adjacent buildings they are commonly two and three storeys, and the subject proposal is not considered to be out of place with the adjoining buildings.

Options

Option 1 – Council may determine that the proposed variations to the height of building and the floor space ratio are considered excessive in the circumstances and the requests should be refused. This option is not the recommended course for the reasons outlined in this report

8.4 DA 2015/98 - 17 Hill Street - Variation to LEP Standards

Option 2 – Council may determine that the proposed variations to both the height of building and floor space ratio are considered appropriate in the circumstances of the case due to the steepness of the site and the general compatibility with other dwelling designs along Hill Street and approve the variations to the development standards being sought. This is the preferred option.

RECOMMENDATION

That the application to vary the Ballina Local Environmental Plan 2012 Development Standards Clause 4.3 – Height of Buildings and Clause 4.4 – Floor Space Ratio for DA 2015/98 for the proposed building as depicted in plans prepared by Arthur Colledge - Sheet Numbers 1 to 4 Project RVT 3908 be **APPROVED**, for the reasons outlined in this report.

Attachment(s)

1. Locality Plan
2. Proposed Residence Plans
3. Letter of Objection

8.5 Dumping of Waste - St Vincent de Paul, Winton Lane

8.5 Dumping of Waste - St Vincent de Paul, Winton Lane

Delivery Program Environmental and Public Health

Objective To provide a brief history on waste dumping at the Ballina St Vincent de Paul charity bin site and the management actions being undertaken to minimise the impact.

Background

Council has recently received renewed complaints regarding the disposal of waste by the public at the St Vincent de Paul charity bins located adjacent to the main shop site in Winton Lane, Ballina.

Complaints have primarily been from one local landholder in the vicinity of the subject site. The complaints typically peak prior, during, and after the Christmas and New Year holiday periods and they have been on-going for at least three years.

Council staff, over the past three years have had meetings with representatives from St Vincent de Paul regarding the waste disposal at the site and the management strategies being implemented to reduce the incidents of illegally dumped waste. Council has also had several communications over the years with the complainant/s advising of the situation at the subject site.

Unfortunately much of the waste that is dumped at this site and other charity bin sites in the Shire is waste that is not suitable for recycling and reusing by the charity stores.

St Vincent de Paul has advised that often the waste that is dumped by the public at the site after hours is then sorted through by scavengers that spread the waste on their site and then often out on to the public laneway.

This site has had substantial issues previously with waste material littering the public roadway however the situation has somewhat improved through the relocation of the bins and improved signage, along with more proactive management of the bins.

The illegal dumping of waste is a substantial problem for all local government areas and hence Council recently developed illegal dumping strategies and programs with NE Waste.

The State Government also recognises that illegal dumping is a significant issue right across the State and hence provides a level of education, grants and regulatory assistance to local enforcement officers to combat illegal dumping.

Key Issues

- Concerns from complainant and lack of satisfaction with Council response
- Options available

Information

St Vincent de Paul has advised Council that over the past 12 months they have implemented a number of measures in a concerted attempt to minimise the impact of illegal dumping and scavenging in their immediate local neighbourhood.

The measures include;

- Installation of monitored CCTV in the lane where the donation bins are located. It is agreed by Council and St Vincent de Paul that the quality of the images recorded needs to be improved if investigations are to occur to seek prosecution of offenders and this is being considered at the end of January 2016 by St Vincent de Paul
- Installation of appropriate signage stating that CCTV is operating in this area
- Increasing the amount and visibility of the signage in the area clearly stating the types of donations that are unable to be accepted
- Increasing the number of donation bins from two to three
- Ensuring that adequate lighting is placed in the donation bin area and that it is operational
- Putting in place procedures to ensure that all donation bins are emptied seven days per week which includes being emptied twice on Saturdays and Sundays
- Putting in place procedures for the sweeping and tidying of the paths and roadway around the donation bins including to the fence line across the road. This is done on a daily basis.
- Implementing a continuous media campaign to try and highlight the issues of illegal dumping with the aim of educating the general public regarding the impact on St Vincent de Paul, the services provided, and the local amenity.

All of these initiatives indicate that St Vincent de Paul has taken its corporate and community responsibility seriously and have cost the Society a significant amount of money and volunteer manpower to maintain.

St Vincent de Paul is of the opinion that there is nothing more that can reasonably be implemented to improve the situation on their own and seek Council's support in acknowledging their efforts.

Council needs to be aware that charity bins have been recognised by the State Government as being an integral part of the community welfare support offered by organisations and that within guidelines they are able to be installed across the State without approval.

Outlined as follows is the Section from the State Environmental Planning Policy (SEPP) Code (Exempt and Complying Development) relating to charity bins.

Subdivision 10C Charity bins and Recycling bins;

2.20E Specified development

The construction or installation of a charity bin or recycling bin is development specified for this code.

2.20F Development standards

The standards specified for that development are that the development must:

- (a) be associated with commercial premises or a place of public worship, and*
- (b) if located on the same lot as the commercial premises or place of public worship—be wholly located within the lot and not located on a road or road reserve, and*
- (c) not result in more than 3 such bins on one lot, and*
- (d) be located behind the building line of any road frontage, and*
- (e) be operated by a person or organisation that is the holder of an authority under the Charitable Fundraising Act 1991, and*
- (f) not display any advertising other than details of the person or organisation that operates it, and*
- (g) not cause the contravention of any existing condition of the most recent development consent (other than a complying development certificate) that applies to the premises relating to car parking, loading, vehicular movement, waste management and landscaping.*

Charity bins can be placed in accordance with these provisions without any approvals from Council and Council cannot require them to be removed from the site.

Additional compliance action against St Vincent de Paul under the Protection of the Environment Operations Act for illegal dumping at the site is an option, however it is not considered suitable or appropriate at this time as it is considered that St Vincent de Paul is being proactive in managing the site.

Under the legislation the most suitable action would be the issuing of a Clean Up Notice and or a Prevention Notice. These notices have not been considered warranted given the actions taken by the Society, the strategies that have been put in place to deal with any waste on a daily basis, and the social value of the services provided by St Vincent de Paul.

Council does try to offer a level of assistance to charity stores and not-for-profit community groups in recognition that they often have limited financial resources whilst providing the community with significant support.

The Policy titled “Donations - Waste Disposal Fees for Not-for-Profit Groups” has been developed to provide fee relief from waste disposal charges for not-for-profit community groups that run disposal stores for the sale of second hand and reusable items.

Council also recognises that not-for-profit community groups involved in the operation of second hand shops and charity stores do help to divert valuable resources from being sent to landfill.

Sustainability Considerations

- **Environment**

8.5 Dumping of Waste - St Vincent de Paul, Winton Lane

Littering and illegal waste disposal impacts the environment.

- **Social**
Unacceptable social behavior and understanding of acceptable waste disposal are issues with this matter.
- **Economic**
Costs borne by St Vincent de Paul to manage inappropriately dumped waste including some waste that might otherwise be dumped at public sites elsewhere in the Shire.

Legal / Resource / Financial Implications

Commitments by technical staff to investigate complaints are time and resource consuming. St Vincent de Paul and other charities take, recycle, and redistribute a variety of household goods and clothing. This includes material that may otherwise end up as illegally dumped waste on public land and require removal and disposal by Council staff, incurring significant costs to Council.

Consultation

Consultation has been undertaken with St Vincent de Paul management staff and other sections within Council to establish robust strategies to manage a continuing operational problem for this charity.

There has also been extensive consultation with the complainant(s) which has not led to an outcome that is considered satisfactory to the complainant. This is why the matter is being reported to Council for direction as resources are applied continually to this issue.

The major complainant is also concerned that St Vincent de Paul is not regularly meeting its commitment of clearing the bins in the morning and at the end of the day, along with on weekends.

Options

There would appear to be only two practical options in dealing with this recurring problem:

1. That Council continue to work with St Vincent de Paul to reduce and manage inappropriate waste dumpings at the subject site, whilst recognising that dumping problems will occur at the site from time to time.
2. That Council request St Vincent de Paul to remove the charity bins from the subject site. This option is not recommended as donations are critical for charities in allowing them to assist needy people in our community and charity bins are a recognised method of receiving and managing donations.

RECOMMENDATIONS

1. That Council notes the contents of this report in respect to the dumping of waste at the St Vincent de Paul property, Winton Lane, Ballina.
2. That Council acknowledges the need to balance our available resources in managing complaints and that Council accepts that the current management strategies and allocation of resources that are being applied to this issue are reasonable.

That Council continue to promote, educate, and encourage responsible waste disposal of unwanted items in the Shire.

Attachment(s)

Nil

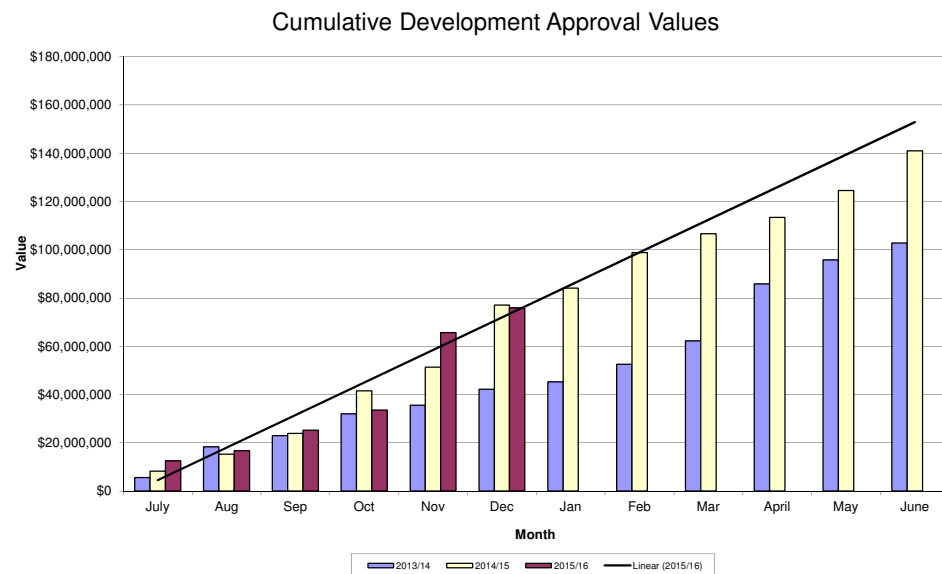
8.6 Development Consent and Infrastructure Approvals - December 2015

8.6 Development Consent and Infrastructure Approvals - December 2015

During the period of 1 December 2015 to 31 December 2015 the Development and Environmental Health Group issued Development Consents comprising of:

Number of Applications	Value of Work (\$)
22 Other Building Related	920,300
33 Dwelling/Duplexes/Residential Flat Buildings	9,291,000
3 General Developments	40,000
Total Value	10,251,300

The following chart details the cumulative consent figures for 2015/16 as compared to 2014/15 and 2013/14.



During the period of 1 December 2015 to 31 December 2015 there were no applications received for Public Infrastructure / Civil Construction Works.

RECOMMENDATION

That Council notes the contents of the report on development consent and public infrastructure approvals for 1 December 2015 to 31 December 2015.

Attachment(s)

Nil

8.7 Development Applications - Works in Progress - January 2016

8.7 Development Applications - Works in Progress - January 2016

The following schedule sets out current development applications that have not yet been dealt with for the reasons cited:

Please note that duplex and dual occupancy applications are not included in this report.

DA No.	Date Rec'd	Applicant	Proposal	Status
2015/34	30/01/2015	Northern Rivers Surveying Pty Ltd	Two Lot Subdivision to create 1 x 40.9 and 1 x 48.55 hectare allotments - 145 Brooklet Road, Newrybar	Determination Pending
2015/211	27/4/2015	Northern Rivers Surveying Pty Ltd	Subdivision of land to create four rural lots comprising two x 20ha, 1 x 18.8 ha and 1 x 41ha allotments - 94 Rishworths Lane Brooklet	Determination Pending
2015/302	15/06/2015	Newton Denny Chapelle	Three Lot Torrens Title Subdivision to Create 1 x 1,920sqm and 1 x 2,510sqm allotments and associated works – 19 Bullinah Crescent, East Ballina	Being Assessed
2015/351	15/7/2015	Newton Denny Chapelle	To undertake a residential subdivision comprising 22 residential lots and associated infrastructure works, earthworks and vegetation clearing - Plateau Drive & 93 Rifle Range Road, Wollongbar	Being Assessed
2015/403	7/8/2015	Newton	Shopping	Awaiting

8.7 Development Applications - Works in Progress - January 2016

		Denny Chapelle	Centre including Woolworths Supermarket and Specialty Shops, Ballina Heights – Ballina Heights Drive & Euroka Street, Cumbalum	Additional Information
2015/461	31/8/2015	Newton Denny Chapelle	Boundary Adjustment subdivision to create one x 5.7ha and one x 60.86ha allotments and associated works - 400 Houghlahans Rd & Majors Lane, Fernleigh	Awaiting Additional Information
2015/468	2/9/2015	Ardill Payne & Partners	Residential Subdivision to create 179 residential lots and two residue lots and associated infrastructure works – Lot 389 DP 1199596 & Lot 409 DP 1202454, Unara Parkway & Deadmans Creek Road, Cumbalum	Awaiting Additional Information
2015/567	12/10/2015	Peter Turner & Associates	Alterations and Additions to St. Andrews Village Nursing Home - 59 Bentinck Street, Ballina	Determination Pending
2015/599	26/10/2015	CivilTech Consulting Engineers	Eight Lot Industrial Subdivision, Vegetation Clearing and Associated Works - 54 North Creek Road, Ballina	Awaiting Additional Information

8.7 Development Applications - Works in Progress - January 2016

2015/625	09/11/2015	Mac Aviation Services (Raemon McEwen)	Air	Two storey extension and use as flight training facility - 210 Southern Cross Drive, Ballina	Awaiting Addition Information
2015/645	18/11/2015	Ballina Shire Council		Erection of Ballina Lighthouse and Lismore SLSC Storage Building and Associated Uses - Compton Drive, East Ballina	Awaiting Additional Information
2015/652	20/11/2015	Ballina Assembly of God		Business Identification Signage – 12 De-Havilland Crescent, Ballina	Awaiting Additional Information
2015/660	1/12/2015	Civiltech Consulting Engineers		Boundary Adjustment Subdivision - 314 Ellis Road, Rous	Referred to Government Departments
2015/675	9/12/2015	Northern Rivers Land Solutions		Two Lot Boundary Adjustment Subdivision to create 1 x 36ha and 1 x 4.3 ha allotments - Lot 1 & Lot 2 DP 1071768 Friday Hut Road, Brooklet	Referred to Government Departments
2015/676	9/12/2015	Northern Rivers Land Solutions		Boundary adjustment subdivision of three lots to create 2 x 2.8ha and 1 x 75 ha allotments – Lot 1 DP 1036645, Lot 2 DP 826930 & Lot 122 DP 706049	Referred to Government Departments
2015/694	15/12/2015	Ardill Payne & Partners		Extension to Existing Car Park - 105 Smith Drive, West Ballina	Being Assessed

8.7 Development Applications - Works in Progress - January 2016

2015/712	24/12/2015	Newton Denny Chapelle	Proposed Temporary Use Consisting of a Function Centre for the Purpose of Hosting Wedding Ceremonies - 1 Johnston Road, Newrybar	On Exhibition
2015/713	24/12/2015	CivilTech Consulting Engineers	Integrated Subdivision Creating Four Lots 1 x 420sqm, 1 x 434sqm, 1 x 438sqm and 1 x 452sqm and Erection of a Two Storey Dwelling House upon Three of the Proposed Lots and Associated Works Including Demolition - 17-19 Byron Street, Lennox Head	Request for Additional Information

8.7 Development Applications - Works in Progress - January 2016

Regional Development (Determined by Joint Regional Planning Panel)

DA No.	Date Rec'd	Applicant	Proposal	Status
2013/286	5/08/2013	Ballina Shire Council	Establishment and Operation of a Biochar and Waste-to-Energy Facility - 167 Southern Cross Drive, Ballina	Referred to Government Departments
2015/203	22/04/2015	Ardill Payne & Partners	To Undertake the Establishment of a Waste Management Facility comprising of a Waste Transfer Station capable of the temporary storage of up to 100,000 litres and Associated Works – 540 Pimlico Road, Pimlico	Referred to Government Departments

Major Development (Determined by Minister)

Major Project No./DA No.	Date Rec'd	Applicant	Proposal	Status
Nil				

RECOMMENDATION

That Council notes the contents of the report on the status of outstanding development applications for January 2016.

Attachment(s)

Nil

9.1 Wardell Strategic Plan - Exhibition and Project Completion

9. Strategic and Community Facilities Group Reports

9.1 Wardell Strategic Plan - Exhibition and Project Completion

Delivery Program Strategic Planning

Objective To report on the submissions received in response to the public exhibition of the Wardell Planning and Environmental Study and draft Wardell Strategic Plan and seek direction from the Council with respect to the adoption of the strategic plan.

Background

The Council's endorsed *2014/15 – 2017/18 Delivery Program and Operational Plan* contained an action relating to the research and implementation of appropriate strategies to assist with reducing the cost of residential land. The Council's *2015/16 – 2018/19 Delivery Program and Operational Plan* requires Council to address this action as well as review the strategic planning framework for Wardell and pursue options for the delivery of affordable housing in Wardell.

It is in the above context that the Wardell Planning and Environmental Study and draft Strategic Plan have been prepared. The Wardell Strategic Plan process also forms part of a rotating strategic planning program through the shire. In this regard, Council is presently in the final stages of the Ballina Major Regional Centre Strategy project and preparation of community based strategic plans for Alstonville and Wollongbar is scheduled to commence in 2016.

During the preparation phase for the Wardell Strategic Plan, considerable community engagement was undertaken including three public meetings and letters to all landowners within Wardell Village and adjoining rural areas. The initial engagement was based on a draft of the Wardell Planning and Environmental Study which provides background and underpinning rationale for the strategic plan.

The Council at its meeting held on 27 August 2015 endorsed the Wardell Planning and Environmental Study and the draft Wardell Strategic Plan for public exhibition for a minimum four week period [Minute No. 270815]. The draft Wardell Strategic Plan was subsequently reformatted and placed on public exhibition together with the Wardell Planning and Environmental Study during November and December 2015. This report considers the submissions received during the public exhibition of these documents.

Attachment One contains a copy of the Wardell Planning and Environmental Study. Attachment Two contains a copy of the draft Wardell Strategic Plan as exhibited. Attachment Three contains copies of the submissions received in response to the public exhibition of the study and plan.

Key Issues

- Locality based strategic planning.
- Community engagement and consultation.

Information

The process of preparing and exhibiting the Wardell Planning and Environmental Study and the draft Wardell Strategic Plan, and subsequent adoption and implementation consists of the following six key stages:

- Council endorsement of the scope of the WPES (November 2014);
- Community engagement (June 2015);
- Council endorsement of the Wardell Planning and Environmental Study (August 2015) and public exhibition of the draft Wardell Strategic Plan (November/ December 2015);
- Council consideration of submissions and adoption of the Wardell Strategic Plan with or without amendment (January 2016);
- Incorporation of projects arising from the investigation of WSP actions within Council's Delivery Program and Operational Plan; and
- Completion of projects in accordance with timeframes nominated within the Delivery Program.

This report addresses the exhibition, submissions assessment and adoption steps. Details regarding the exhibition and community engagement outcomes are contained in the 'consultation' section of this report.

Sustainability Considerations

- **Environment**

The implementation phase following the adoption of the strategic plan for Wardell is envisaged to have significant environmental benefits.

If suitable biodiversity offset areas can be designated it may assist in facilitating the development of SUGA areas. In addition, landscape and village beautification works will enhance the visual appearance of the village environment.

- **Social**

The implementation of strategies supported by the local community and aimed at stimulating economic activity, providing land for housing and improvements to village accessibility and landscaping are all considered to have net social benefits.

- **Economic**

The rationale behind many of the suggested strategies relate to the stimulation of economic activity within Wardell. Therefore what is proposed is considered to have net economic benefits.

Legal / Resource / Financial Implications

Following adoption of the Wardell Strategic Plan the next phase of this project will relate to the incorporation of relevant projects, arising from the further investigation of actions, within Council's Operational Plan and Delivery Program.

The draft Strategic Plan identifies 28 actions and assigns these actions with priority ratings. There are 8 high, 10 medium and 6 low priority actions which require various degrees of Council investigation and involvement. The remaining 4 actions are not within Council's direct area of responsibility.

A review of the 8 high priority actions indicates that these require additional investigation with subsequent reporting back to Council. The investigation phase can be undertaken within existing resources and does not raise any direct additional financial implications.

It may be the case that once actions have been investigated, and found to be feasible, this will then give rise to financial implications. Such implications will need to be considered by the Council prior to specific projects arising from actions being scheduled for implementation.

Consultation

The community engagement strategy for the exhibition of the Wardell Planning and Environmental Study and the draft Wardell Strategic Plan consisted of the following elements:

- Advertisement in the Ballina Shire Advocate,
- Information display on Council's web site, and at Council's Customer Service Centre, the Ballina Library and the Wardell Post Office,
- Written advice to relevant government authorities including Crown Lands, Roads and Maritime Services, NSW Land and Housing Corporation and Department of School Education,
- Written advice to Jali Local Aboriginal Land Council, Bunjum Aboriginal Co-Operative, Burabi Aboriginal Corporation, Lower Richmond River Cane Harvesting Co-Operative and Wardell and District Progress Association,
- Written advice to in excess of 280 property owners in the Wardell Village locality including East Wardell, and nearby rural areas, and
- An information report to Council's Aboriginal Community Committee.

In response to the above engagement initiatives a total of five submissions were received. The low number should not be seen as an indicator of lack of involvement or interest but more a reflection that issues previously raised by the community, as part of the document preparation phase of this project, have been appropriately addressed. Further information regarding earlier community engagement is contained in the report on the Wardell strategic planning process presented to the Council's August 2015 Ordinary Meeting

Attachment Three to this report contains copies of submissions received. A summary of matters raised in the submissions, together with comments from staff is contained in the table below.

9.1 Wardell Strategic Plan - Exhibition and Project Completion

Table 1 – Draft Wardell Strategic Plan Submissions Summary

Submitter	Submission Comments	Response
<i>Aboriginal Community Committee</i>	<p>Requested that consideration be given to incorporating a specific action within the Strategic Plan relating to the preparation of a master plan for Wardell Cemetery. Improvements such as a water supply, shelter, toilets and access for the elderly were suggested for consideration.</p>	<p>It is recommended that an action to prepare a master plan for the Wardell Cemetery be included in the Wardell Strategic Plan with a medium priority assigned to the task.</p> <p>This action is likely to require a substantial period of time and specific allocation of financial resources to enable completion.</p>
<i>Wardell and District Progress Association</i>	<p>Thank and commend Council on extensive research and planning for Wardell.</p> <p>Fully support the five locality objectives identified in the plan.</p> <p>Note that a high priority has been given to strategic Action 1 – investigation of allocation of resources for capital works in Wardell village.</p> <p>Request that timelines be given to the objectives specifically those that relate to capital works prior to the next budget.</p> <p>Seek clarification of how the vision for the Strategic Plan will operate in conjunction with the Comprehensive Koala Plan of Management (CKPoM).</p>	<p>Further investigation of the high priority actions identified in the WSP is proposed to be undertaken over the next 18 month period. As actions are investigated and reported to the Council consideration of financial implications will be required. Therefore it is not possible to incorporate timelines related to capital works prior to the next budget as requested.</p> <p>In relation to the CKPoM issue there is some overlap between the Strategic Urban Growth Areas nominated for rezoning investigation and core koala habitat areas nominated within the CKPoM.</p> <p>The CKPoM and the associated planning provisions seek to ensure that koala habitat is thoroughly investigated and considered in relation to future urban development proposals. This may mean that some areas within strategic urban growth areas are ultimately not suitable for urban development. Assessment of biodiversity values and implementation of associated zoning and planning provisions is undertaken by Council as a routine part of assessing rezoning proposals (this would be the case for Wardell with or without the CKPoM in place).</p>
<i>K W Hill</i>	<p>Astounded that flood prone areas of Wardell Village have been considered within the plan for development. Unsuitable because of building levels required and difficulty for old people to access businesses.</p> <p>Suggests that shops and doctors surgeries be allowed in flood free areas of Pine and Carlise Streets and Lindsay Crescent area.</p> <p>Town should be shifted due to flooding to flood free areas. Plan is a backward step.</p>	<p>The issue of non-intensification of land uses within the flood prone parts of Wardell Village, and the making of appropriate zoning provision for shops and other facilities on flood free land, was raised during at one community meeting, by one participant, and was not supported by others present.</p> <p>The issue here is that the flood prone parts of Wardell Village which adjoin the river have the greatest potential to stimulate economic activity due to their visual and historic values, as well as the location of key facilities such as the wharf and hotel. In the absence of specific demand making zoning provision for additional shops and commercial facilities closer to Lindsay Crescent within the 20 year life of the strategic plan is not supported.</p>

9.1 Wardell Strategic Plan - Exhibition and Project Completion

Submitter	Submission Comments	Response
<p><i>Allan Scroope</i></p>	<p>The Wardell Planning and Environmental Study is an excellent report.</p> <p>Draft Strategic Plan lacks explanation of how Council policy can affect planning objectives, particularly tourism. Unclear how the plan will be reviewed in the period 2015 to 2035.</p> <p>Indicates that the use of Strategic Urban Growth Areas (SUGAs) will not have sufficient effect to stimulate the village economy and attract new services. Understands that SUGA areas were defined before consulting Wardell landowners who have holdings within the village.</p> <p>Suggests that all land within the village boundary should be rezoned to residential housing why restrict growth to SUGA areas. People should be free to live where they choose.</p> <p>Dramatic change to housing policy required with little progress over the past 10 years. Supports Council initiated rezoning. SUGA's should be eliminated and Wardell and East Wardell viewed as a single entity.</p> <p>East Wardell has been removed as a solution to providing housing without reasons provided. All areas within the village zoned RU1 or RU2 should be included for consideration as potential residential growth areas.</p>	<p>The draft Strategic Plan considered by the Council at its meeting on 27 August 2015 included a review process. This consisted of bi-annual review of strategic actions and a more detailed review of the Strategic Plan at 5 yearly intervals to 2035. The reformatting process inadvertently resulted in the deletion of the review process and it is recommended that it be reinserted into the Strategic Plan.</p> <p>The SUGA areas consist of areas rezoned in 2004 for urban investigation purposes, areas already zoned as such in the 1987 LEP and areas designated as proposed future urban areas in the Far North Coast Regional Strategy. In total SUGA areas cover some 44ha and if fully developed provide 300 - 500 residential lots and housing for 800 – 1200 people.</p> <p>In the context of Wardell Village having a population of 648 persons in 2011 the opportunities provided for additional housing in designated SUGA areas is considered to be adequate for the 20 life of the plan.</p> <p>Areas not designated as SUGA's are either flood prone, as is the case with land at East Wardell, or have high environmental value. Based on available information the designated SUGA areas are considered to be the most appropriate locations for urban investigation having regard to land constraints applicable elsewhere and those impacting on SUGA sites.</p>

9.1 Wardell Strategic Plan - Exhibition and Project Completion

Submitter	Submission Comments	Response
<i>John Scroope</i>	<p>The draft Wardell Strategic Plan does not have regular review periods between 2015 and 2035.</p> <p>An explanation of why some SUGA's are outside of the Wardell Village boundary should be provided.</p> <p>All land within the existing village boundary should be rezoned to residential.</p> <p>Reconsider the SUGA concept as a driver of growth. Mix of affordable housing and other housing apartment at East Wardell could be expanded on land zoned RU2.</p> <p>An explanation as to why East Wardell does not appear in the draft Strategic Plan should be provided.</p> <p>Funding for the boardwalk parallel to Bridge Drive could be reallocated to avenues of trees along entry points to Wardell.</p> <p>In the past decade there has been a view that East Wardell is less suitable for residential development because of flooding concerns. Building techniques and levees have managed flooding constraints in other areas.</p>	<p>The draft WSP reported to Council had indicated a review process relating to reporting progress on specified actions and a general review of the WSP at 5 yearly intervals. The reformatting process inadvertently resulted in the deletion of the review process and it is recommended that it be reinserted into the Strategic Plan.</p> <p>All land within the Wardell Village boundaries is not suitable for residential land primarily due to flooding and ecological considerations.</p> <p>There are no plans to intensify housing opportunities at East Wardell. This is considered appropriate given its flood prone nature and surrounding agricultural (sugar cane) uses.</p> <p>The construction of the boardwalk has significant community support and there are no plans to reallocate funds to other projects.</p> <p>It is the case that building techniques have advanced to now provide for cost effective light weight construction options suitable for flood prone areas. This is however a separate issue to intentionally rezoning flood prone areas for residential development when more suitable land is available.</p>

Options

1. That the Council adopts the Wardell Planning and Environmental Study and draft Wardell Strategic Plan with appropriate amendments arising from the public exhibition process.

This is the recommended option. Amendments recommended for the Wardell Strategic Plan are the incorporation of a status reporting and review process, and a specific action relating to the preparation of a master plan for the Wardell Cemetery. It is suggested that the proposed master plan action be assigned a medium priority and be identified as Council responsibility. Medium priorities are envisaged to be completed within a 5 to 10 year time frame subject to funding becoming available.

2. That the Council defers further consideration of the Wardell Planning and Environmental Study and the draft Strategic Plan.

Should the Council require additional information on issues raised in the submissions or on the planning documents exhibited then this report could be deferred for a briefing or workshop.

There are no timing imperatives related to this project. It is, however, considered that this project has been well received by the Wardell community and issues raised in submissions are not of a nature that warrants the draft Wardell Strategic Plan being deferred.

9.1 Wardell Strategic Plan - Exhibition and Project Completion

3. That the Council ceases further consideration of the Wardell Planning and Environmental Study and the draft Strategic Plan.

Given the extent of community engagement undertaken, the nature of the responses received and the benefits in terms of planning guidance to aid decision making provided by a strategic plan of this type, this approach is not recommended.

RECOMMENDATIONS

That the Council adopts the Wardell Strategic Plan as exhibited subject to the following amendments:

- Incorporation of a status reporting and review process.
- Incorporation of an action relating to the preparation of a master plan for the Wardell Cemetery.

Attachment(s)

1. Wardell Planning and Environmental Study (Under separate cover)
2. Draft Wardell Strategic Plan
3. Copy of Submissions

9.2 Planning Proposal BSCPP 16/001 - General Mapping Amendments

9.2 Planning Proposal BSCPP 16/001 - General Mapping Amendments

Delivery Program Strategic Planning

Objective To seek direction with respect to the progress of a planning proposal to facilitate a number of mapping amendments to the Ballina Local Environmental Plan 2012.

Background

As part of ongoing monitoring and review of the operation of the Ballina Local Environmental Plan 2012, staff have identified a series of 12 mapping amendments (each affecting a number of LEP maps) that are proposed to better align the LEP maps with Council's policy position on certain matters, reflect changes to cadaster and address minor anomalies. The details of these amendments are further discussed in this report and are contained in the planning proposal included in Attachment One. As outlined below, these amendments are typically housekeeping in nature.

The purpose of this report is to seek direction from the Council on the progress of a planning proposal to undertake the identified changes to the LEP.

Key Issues

- Function and operation of the BLEP 2012.
- Minor adjustments to the content of the BLEP 2012.

Information

In addition to considering the overall operation of the BLEP 2012 since its introduction, review of the BLEP 2012 is routinely undertaken having particular regard for:

- Ensuring consistency of zoning and associated planning provisions with actual land and/or desired land uses,
- Aligning of zone boundaries with cadastre where appropriate,
- Assessment and review of identified minor discrepancies, and
- General housekeeping to maximise the function of the plan.

Having regard for the above, 12 items have been identified that are recommended for adjustment as detailed in the table below. Further details in relation to the amendments are contained in the planning proposal in Attachment One.

9.2 Planning Proposal BSCPP 16/001 - General Mapping Amendments

Table 1. Proposed LEP Amendments BSCPP 16/001

No.	Location	Details
1	Ballina Heights Estate, Cumbalum	Reflect changes requested by developer to align zoning with subdivision plans, relating to R2, R3 and RE1 zones. Adjust R2/R3 zone boundary to match cadastre at Foley Avenue.
2	Proximity of Ballina Lighthouse, East Ballina	Adjust RE1 boundaries to better match cadastre. Adjust land application map accordingly.
3	River Street, West Ballina	Apply R2 zone to reflect recent approval of 39 lot Community Title subdivision (DA2012/291) and apply RU2 zone to remainder of deferred area (DM). Apply 40 hectare minimum lot size standard to RU2 zoned land. Adjust land application map accordingly.
4	Bolwarra Circuit, Wollongbar	Apply RE1 zone to open space area. Remove minimum lot size standard. Adjust land application map accordingly.
5	Tamarind Drive, Cumbalum	Apply RU2 zone to land adjacent to Emigrant Creek currently zoned W1 to reflect improved survey information in the locality, arising from the construction of the Ballina Bypass project. Apply 40 hectare minimum lot size standard.
6	Blue Seas Parade, Lennox Head	Apply 1,200m minimum lot size standard (currently 600m) to 8 lots, to reflect and maintain the intent of original subdivision plan. Apply R2 zone to the road reserve of Blue Seas Parade. Adjust the land application map accordingly. This amendment gives effect to Council resolution 221015/4 made in relation to the refusal of DA2015/377.
7	Simpson Avenue, Wollongbar	Apply 600m minimum lot size standard (currently no standard applies) to Wollongbar Public School site (zoned R2) to be consistent with policy applied to school sites elsewhere in the Shire.
8	Morton Way, Skennars Head	Adjust R2/R3 zone boundaries to align with cadastre. Reflect adjustment in minimum lot size map.
9	Elkhorn Parade, North Ballina	Reinstate Strategic Urban Growth Area designation.
10	Cooper Close and Fig Tree Hill, Lennox Head	Apply Strategic Urban Growth Area designation to reflect Ballina Shire Growth Management Strategy and adjust buffer accordingly.
11	Broken Head Road, Newrybar	Adjust zone and minimum lot size maps for amendment to Local Government Area boundary. Adjust the land application map accordingly.
12	Tuckean Nature Reserve, Meerschaum Vale	Remove land that lies outside of the Ballina Local Government Area from the zone map.

Sustainability Considerations

- **Environment**
The amendments proposed are not expected to result in any direct or substantial social or economic impacts, or impacts on the Shire's natural environment.
- **Social**
As above.
- **Economic**
As above.

Legal / Resource / Financial Implications

Having a functionally efficient and up to date local environmental plan is an important component of Council's role as a planning authority under the provisions of the *Environmental Planning and Assessment Act 1979*. The various changes proposed to the BLEP 2012 seek to ensure the plan serves efficiently as the primary local regulatory planning instrument for Ballina Shire.

Consultation

If the Council resolves to endorse the recommended amendments and associated planning proposal, the matter will be referred to the Department of Planning and Environment for Gateway determination. Following a favourable determination from the Department, the planning proposal will be publicly exhibited in accordance with the requirements of the Gateway determination. The matter will be reported to the Council, including details of any community feedback, prior to its finalisation.

Options

1. Proceed with the planning proposal

The Council has the option to proceed with the planning proposal, as drafted, to undertake the amendments to the BLEP 2012 as detailed in this report.

Under this approach, the Council would authorise the submission of the planning proposal contained in Attachment One (and associated LEP amendment maps) to the Department of Planning and Environment for Gateway determination. Subject to a favourable Gateway determination, the proposal would be publicly exhibited and reported to the Council prior to finalisation. It should be noted that the Council may resolve to decline to proceed with any of the proposed changes at any time during the amendment process.

This option is the recommended approach as it facilitates an update to the LEP in line with the matters raised in the table above.

9.2 Planning Proposal BSCPP 16/001 - General Mapping Amendments

Where Council proceeds to submit a planning proposal for Gateway determination, it has the option of requesting delegation of certain plan making functions from the Department. Under the delegation system, Council is able to perform some of the plan making functions that are otherwise completed by the Department. In the subject case and particularly given the housekeeping nature of the amendments, it is recommended that Council seeks application of this delegation.

2. Defer or amend the planning proposal

The Council may seek to defer consideration of the matter, seek additional information or adjust the planning proposal.

Such approaches are not recommended based on the following:

- As detailed in this report, a number of adjustments to improve the function and content of the Ballina LEP 2012 have been identified in the review process.
- The recommended amendments are intended to ensure the Ballina LEP 2012 contains provisions that are consistent with, and achieve, the Council's intended land use planning outcomes.

3. Cease further action

The Council has the option to cease further action in relation to this proposal. For the same reasons outlined in relation to option two, this approach is not recommended.

RECOMMENDATIONS

1. That Council endorses the proposed adjustments to the Ballina Local Environmental Plan 2012 arising from the ongoing review of the plan as outlined in the planning proposal contained in Attachment One.
2. That Council submit the planning proposal relating to the amendment of various provisions of the Ballina Local Environmental Plan 2012 (Attachment One) to the NSW Department of Planning & Environment for review and Gateway determination.
3. That the Department of Planning and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.
4. That upon an affirmative Gateway determination being received from the Department of Planning & Environment, Council staff will carry out the procedural steps associated with the progress of the planning proposal, including public exhibition.
5. That the matter be reported for further consideration by the Council following the mandatory public exhibition period.

Attachment(s)

1. Planning Proposal BSCPP 16/001 - General Mapping Amendments (3)

10.1 Use of Council Seal

10. General Manager's Group Reports

10.1 Use of Council Seal

RECOMMENDATION

That Council affix the Common Seal to the following documents.

US16/01	<p>Request for a new Certificate of Title to be issued for land dedicated to Council under the provisions of the Roads Act 1993 being Lot 1 DP 1090711.</p> <p>Explanation: The land, Lot 1 DP 1090711, is known as Winton Lane for 100m east from Tweed Street in Ballina. The land formed part of the original subdivision and although being designated as lane 6.135m wide on the plans, it remained part of the title of the adjoining private land. The process of transferring the land to Council commenced about 2005 with correspondence between the then owners and the Department of Lands. Council resolved the land ownership by dedicating Lot 1 DP 1090711 as public road under the provisions of the Roads Act 1993. The NSW Government Gazette notice is dated 14 November 2014.</p>
US16/02	<p>Ballina Shire Council Lease to S.M.A.K. Enterprises Pty Ltd for Part of Airport Shed, 210 Southern Cross Drive, Ballina for a period of five years.</p> <p>Explanation: S.M.A.K. Enterprises Pty Ltd currently operates from part of a shed at the Ballina Byron Gateway Airport for Toll Freight. This lease is to formalise the arrangement. The annual lease fee is \$6,000 based on similar leases on the airport.</p>

Attachment(s)

Nil

10.2 Investment Summary - December 2015

10.2 Investment Summary - December 2015

Delivery Program Governance and Finance

Objective To provide details of Council's cash and investments portfolio breakup and performance.

Background

In accordance with the Local Government Financial Regulations, the responsible accounting officer of a Council must provide a monthly report (setting out all money Council has invested), to be presented at the ordinary meeting of Council, immediately following the end of the respective month. This report has been prepared for the month of December 2015.

Key Issues

- Compliance with Investments Policy and the return on investments.

Information

Council's investments are all in accordance with the Local Government Act, the Regulations and Council's Investments Policy. The balance of investments as at 31 December was \$66,290,000. This represents a decrease of \$2,999,000 from November. Council's investments as at 31 December are at an average (weighted) rate of 3.03%, which is 0.68% above the 90 Day Bank Bill Index of 2.35%.

The balance of the cheque account at the Commonwealth Bank, Ballina as at 31 December 2015 was \$3,458,680.

In respect to the current state of the investment market the monthly commentary from the NSW Treasury (T-Corp) is included as an attachment to this report. The majority of Council's investment portfolio is restricted by legislation (external) and Council (internal) uses for the following purposes:

Reserve Name	Internal/External Restriction	% of Portfolio*
Water Fund (incl developer contributions)	External	15
Wastewater Fund (incl developer contributions)	External	22
Section 94 Developer Contributions	External	7
Bonds and Deposits	External	2
Other External Restrictions	External	13
Land Development	Internal	5
Employee Leave Entitlements	Internal	4
Carry Forward Works	Internal	13
Miscellaneous Internal Reserves	Internal	12
Unrestricted		7
Total		100%

* Based on reserves held as at 30 June 2015

10.2 Investment Summary - December 2015

A. Summary of Investments by Institution

Funds Invested With	Fossil Fuel Aligned	ADI Rating	Previous Month \$'000	Current Month \$'000	Quota %	% of Total	Total
Grandfathered Investments							
Goldman Sachs	N/A	A	1,000	1,000	0	1.5%	
National Australia Bank	Yes	BBB	1,788	1,788	0	2.7%	
National Wealth M'tment Holdings	Yes	A-	2,000	2,000	0	3.0%	7%
Rated Institutions							
AMP Bank	Yes	A+	6,000	6,000	20%	9.1%	
Bank of Queensland	No	A-	4,000	4,000	10%	6.0%	
Bank of Western Aust	Yes	AA-	10,000	7,000	20%	10.6%	
Bendigo & Adelaide Bank	No	A-	4,000	4,000	10%	6.0%	
Commonwealth Bank of Australia	Yes	AA-	7,501	7,502	20%	11.3%	
Defence Bank Ltd	No	BBB+	3,000	3,000	10%	4.5%	
Greater Building Society	No	BBB	2,000	2,000	10%	3.0%	
ING Bank Ltd	Yes	A-	1,000	1,000	10%	1.5%	
Members Equity Bank	No	BBB+	2,000	4,000	10%	6.0%	
National Australia Bank	Yes	AA-	8,000	7,000	20%	10.6%	
Newcastle Perm Bld Society	No	BBB+	1,000	1,000	10%	1.5%	
Suncorp-Metway Bank	No	A+	12,000	11,000	20%	16.6%	
Westpac Banking Corporation	Yes	AA-	3,000	3,000	20%	4.5%	
My State Bank Ltd	No	BBB	1,000	1,000	10%	1.5%	93%
Unrated ADI's					\$1m	0.0%	0%
Total			69,289	66,290		100%	

* Note the determination of fossil fuel alignment is based on advice from Market Forces as follows:

Yes: Noted by Market Forces as funding fossil fuels

No: Noted by Market Forces has having no record of fossil fuels and having provided position statement.

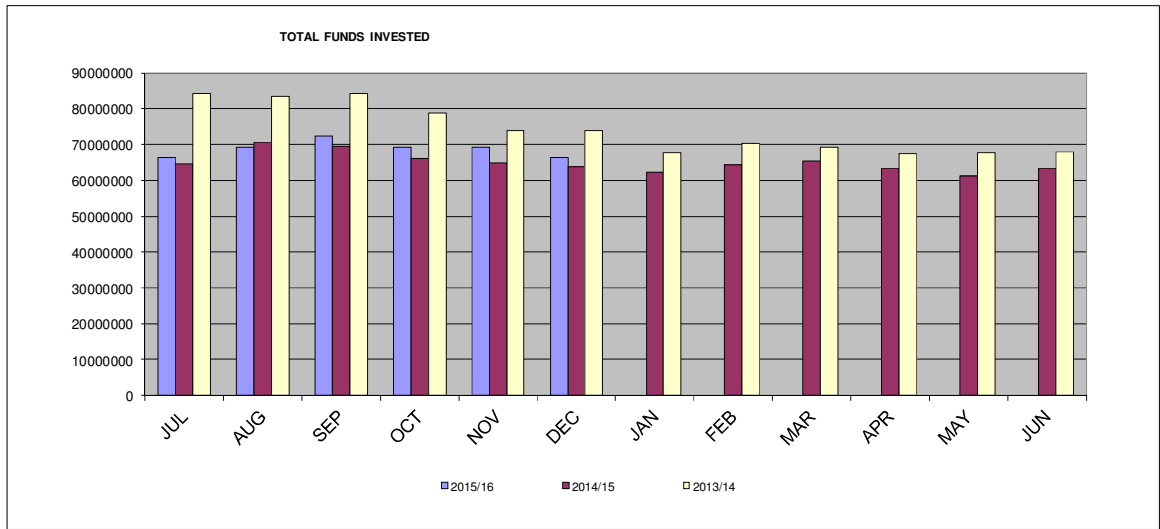
N/A: Not classified as information not available.

B. Summary of Investments Fossil Fuel Aligned

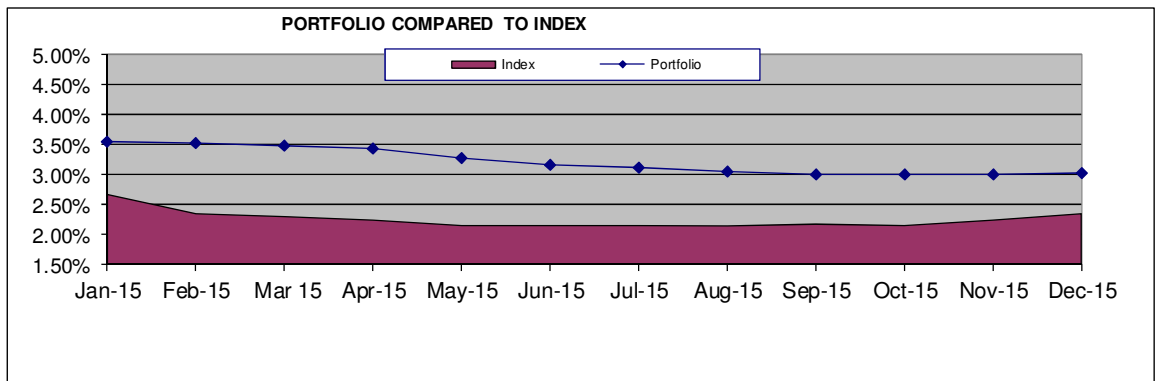
	Previous Month	Current Month
Fossil Fuel Aligned	39,289	35,290
	57%	53%
Non-Fossil Fuel Aligned	29,000	30,000
	42%	45%
Not Classified	1,000	1,000
	1%	2%
Total	69,289	66,290
	100%	100%

10.2 Investment Summary - December 2015

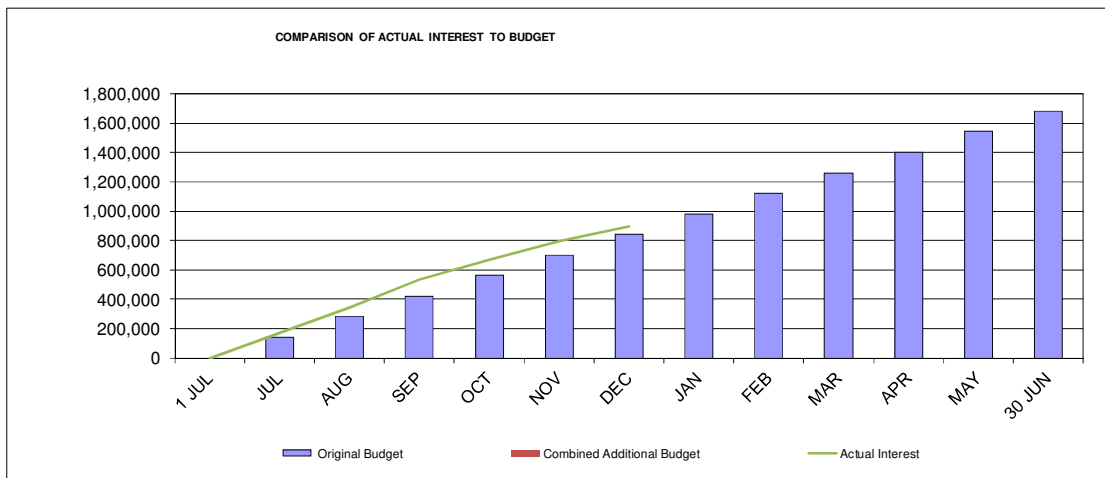
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



10.2 Investment Summary - December 2015

F. Investments held as at 31 December 2015

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	PURCH VALUE \$'000	FAIR VALUE \$'000
at call	Commonwealth Bank Of Australia	CDA	1.95%	at call	508	508
20/09/04	National Australia Bank (ASX List	FRN	3.49%	Perpetual	1,788	1,238
12/04/06	Goldman Sachs	FRN	2.70%	12/04/16	1,000	999
16/06/06	National Wealth Mment Holdings	FRN	2.98%	16/06/26	2,000	1,986
24/01/12	ING Bank Ltd	FRTD	4.10%	24/01/17	1,000	1,000
06/02/12	Westpac Bank	FRN	3.84%	06/02/17	1,000	1,013
25/01/13	Commonwealth Bank Of Australia	TD	4.25%	25/01/18	1,994	2,094
07/06/13	Greater Bld Society	FRN	3.76%	07/06/16	2,000	2,009
25/02/14	Westpac Bank	FRN	3.20%	25/02/16	2,000	2,010
26/05/15	National Australia Bank	TD	2.97%	22/02/16	1,000	1,000
02/06/15	Bank of Queensland	TD	3.00%	06/01/16	1,000	1,000
05/06/15	National Australia Bank	TD	2.97%	12/01/16	2,000	2,000
15/06/15	Defence Bank	TD	3.05%	15/02/16	1,000	1,000
16/06/15	Defence Bank	TD	3.05%	17/02/16	1,000	1,000
17/06/15	Defence Bank	TD	3.05%	22/02/16	1,000	1,000
22/06/15	Suncorp-Metway Bank	TD	3.00%	19/01/16	1,000	1,000
06/07/15	Suncorp-Metway Bank	TD	2.95%	05/01/16	2,000	2,000
13/07/15	Suncorp-Metway Bank	TD	2.90%	11/01/16	1,000	1,000
23/07/15	AMP Bank	TD	2.90%	25/01/16	2,000	2,000
27/07/15	AMP Bank	TD	2.90%	28/01/16	1,000	1,000
29/07/15	BankWest	TD	2.90%	01/02/16	1,000	1,000
29/07/15	National Australia Bank	TD	2.95%	04/02/16	1,000	1,000
30/07/15	Newcastle Permanent Bld Societ	TD	2.80%	27/01/16	1,000	1,000
30/07/15	BankWest	TD	2.90%	10/02/16	1,000	1,000
31/07/15	Bendigo & Adelaide Bank	TD	3.00%	01/08/16	2,000	2,000
04/08/15	AMP Bank	TD	2.90%	09/02/16	2,000	2,000
05/08/15	AMP Bank	TD	2.90%	11/02/16	1,000	1,000
17/08/15	Bendigo & Adelaide Bank	TD	2.95%	16/08/16	2,000	2,000
17/08/15	Members Equity Bank	TD	2.85%	19/02/16	2,000	2,000
18/08/15	Bank of Queensland	TD	2.90%	01/03/16	1,000	1,000
25/08/15	National Australia Bank	TD	2.90%	25/02/16	1,000	1,000
28/08/15	National Australia Bank	TD	2.90%	02/03/16	1,000	1,000
31/08/15	Suncorp-Metway Bank	TD	2.85%	03/03/16	2,000	2,000
31/08/15	Suncorp-Metway Bank	TD	2.85%	29/02/16	1,000	1,000
03/09/15	Commonwealth Bank Of Australia	TD	2.84%	07/01/16	1,000	1,000
04/09/15	Commonwealth Bank Of Australia	TD	2.84%	10/02/16	1,000	1,000
08/09/15	Commonwealth Bank Of Australia	TD	2.88%	09/02/16	1,000	1,000
23/09/15	Commonwealth Bank Of Australia	TD	2.90%	23/02/16	1,000	1,000
29/09/15	BankWest	TD	2.90%	28/01/16	2,000	2,000
06/10/15	BankWest	TD	2.85%	12/01/16	1,000	1,000
08/10/15	BankWest	TD	2.85%	15/01/16	2,000	2,000
13/10/15	Suncorp-Metway Bank	TD	2.90%	11/04/16	3,000	3,000
03/11/15	National Australia Bank	TD	2.85%	03/05/16	1,000	1,000
11/11/15	Bank of Queensland	TD	2.95%	12/05/16	1,000	1,000
24/05/15	Bank of Queensland	TD	3.00%	24/05/16	1,000	1,000
18/11/15	Commonwealth Bank Of Australia	TD	2.95%	16/03/16	1,000	1,000
26/11/15	My State Bank	TD	3.01%	31/05/16	1,000	1,000
01/12/15	Suncorp-Metway Bank	TD	3.05%	31/05/16	1,000	1,000
21/12/15	Members Equity Bank	TD	3.10%	17/08/16	2,000	2,000
Totals					66,290	65,857
CDA = Cash Deposit Account FRN = Floating Rate Note						
FRTD = Floating Rate Term Depx TD = Term Deposit						

RECOMMENDATION

That Council notes the record of banking and investments for December 2015.

Attachment(s)

1. TCorp Local Government Economic Commentary - December 2015

10.3 Policy (Review) - Privacy Management Plan

10.3 Policy (Review) - Privacy Management Plan

Delivery Program Governance and Finance

Objective To review the Privacy Management Plan Policy.

Background

All of Council's existing policies are progressively being reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Privacy Management Plan Policy.

Councils were first required to consider Privacy Management Plans in the late 1990s when legislation such as the Privacy & Personal Information Protection Act 1998 (PPIPA) was enacted.

The Privacy Management Plan deals with the types of information collected by Council and what information can be released and in what circumstances. The Plan is based on principles outlined in legislation, such as PPIPA and the Government Information (Public Access) Act 2009 (GIPA).

Key Issues

- Whether the policy meets the requirements of Council and current legislation
- Whether the Privacy Management Plan should be adopted as a policy of Council

Information

Part 3, Section 33 of the PPIPA states that "*Each public sector agency must prepare and implement a privacy management plan*".

PPIPA then outlines the information required to be included in the Plan to ensure compliance.

Privacy Management Plans must be submitted to the Information and Privacy Commission whenever they are adopted or amended.

The Office of Local Government (OLG) has issued guidelines for the development of Privacy Management Plans to ensure councils are meeting their privacy protection obligations.

Based on the OLG recommendations Council Records staff have updated our existing Privacy Management Plan to reflect the OLG's model plan.

This has resulted in the new document totaling 33 pages in length, as compared to the current document which is 22 pages.

What this review has highlighted is that the Privacy Management Plan is not really a policy of Council as such, but more an operational document to deal with privacy management based on legislative responsibilities.

10.3 Policy (Review) - Privacy Management Plan

This being the case the preference is to delete the existing Privacy Management Plan from the list of Council policies, and leave it as an operational document that is dealt with by Council staff. This allows changes to the Plan to be implemented without formal reporting to Council and with Council having a responsibility to regularly report on the Privacy Management Plan to the Information and Privacy Commission, there are considered to be enough checks and balances in place.

Reference to the existing Privacy Management Plan is available on Council's website.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The Privacy Management Plan is designed to protect personal information collected by Council.
- **Economic**
The management of information places significant resource pressures on Council.

Legal / Resource / Financial Implications

Council is required to have a Privacy Management Plan.

Consultation

The Privacy Management Plan is available to the public and will continue to be available on the Council website, whether as a policy or as a corporate document.

Options

A copy of the revised Privacy Management Plan has not been provided with this agenda, primarily as it is 33 pages in length and deals largely with operational legislative matters. The preferred approach is to now treat the Privacy Management Plan as an operational document to streamline Council's processes. The other option is for Council to still adopt the Privacy Management Plan and under that option a further report will need to be submitted to Council with the updated Plan.

RECOMMENDATIONS

1. That Council delete the Privacy Management Plan from the list of Council policies, with the General Manager having responsibility for the day to day management and implementation of the Plan.
2. That Council continue to display the Privacy Management Plan on our website to ensure that it is readily accessible to the public.

Attachment(s)

Nil

10.4 Policy (Review) - Code of Conduct

10.4 Policy (Review) - Code of Conduct

Delivery Program Governance and Finance

Objective To adopt the Office of Local Government's new model Code of Conduct.

Background

Section 440 (7) of the Local Government Act states as follows:

Codes of conduct

A council must, within 12 months after each ordinary election, review its adopted code and make such adjustments as it considers appropriate and as are consistent with this section.

Council considered its last review of the Code at the January 2013 meeting when it adopted the then Division of Local Government's new model Code of Conduct.

The Office of Local Government (OLG) has now advised of the commencement on 13 November 2015 of the Local Government Amendment (Councillor Misconduct and Poor Performance Act) 2015 which means as follows:

- Councillors who have previously been suspended on two or more occasions will be automatically disqualified from holding office in a Council for 5 years if they are suspended on a further occasion. The Office has written directly to Councillors who have been suspended on two or more occasions to inform them of this change.
- The definition of "misconduct" has been expanded to include acts or omissions by Councillors that are intended to prevent the proper or effective functioning of a council or a committee of a Council (e.g. by disrupting decision making). Penalties for Councillor misconduct include suspension and disqualification from holding office.
- Councillors will no longer be permitted to participate in the consideration of the making, amendment, alteration or repeal of an environmental planning instrument applying to the whole or a significant part of their local government area they have pecuniary interests in unless:
 - the only interests affected by the changes are the interests they or their relatives have in their principal places of residence; and
 - they have made a special disclosure of the affected interests.
- This amendment is complemented by an amendment to clause 4.29 of the *Model Code of Conduct for Local Councils in NSW*. The amendment will mean that councillors with significant non-pecuniary conflicts of interests in the making, amendment, alteration or repeal of an environmental planning instrument applying to the whole or a significant part of their local government area will no longer be permitted to participate in consideration of those matters unless:

10.4 Policy (Review) - Code of Conduct

- the only interests affected by the changes relate to the interest a person (e.g. a close friend or affiliate of a Councillor) has in their principal place of residence; and
 - the Councillor has disclosed the affected interests.
- Notice is no longer required of a motion to censure a Councillor for misconduct under section 440G. Under the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW, Councils can only formally censure a Councillor for misconduct where this is recommended in a report by an independent investigator. This will be reported to the Council under cover of a staff report by a Council's complaints coordinator.

A copy of OLG Circular 15-41, the new Model Code of Conduct and a Summary, as published by the OLG, are attached to this report.

Key Issues

- Changes to the existing Code
- Obligations for Councillors and Council staff under the new Code
- Obligations for Complaints Co-ordinators under the new Code

Information

The OLG advises that the changes made to the Model Code are the result of extensive consultation with councils and key stakeholders.

Based on feedback, the OLG is giving councils greater flexibility to resolve less serious matters informally. It is also providing for stronger penalties to help deter ongoing disruptive behaviour and serious misconduct.

The new Code is designed to introduce greater fairness. The investigation of all complaints about councillors and general managers is now managed from start to finish by an independent conduct reviewer.

New standards have been included to address misuse of the code. Minor changes have also been made to standards previously covered by the Code.

Clearer procedures have been introduced to help make the Code easier to understand and use.

The OLG has more options to directly manage administration of the Code and address its misuse. Both the OLG and the Pecuniary Interest and Disciplinary Tribunal will be able to impose stronger penalties for repeated misconduct.

These changes will help councils get on with the core business of serving their communities.

Key features of the new framework include:

- ensure a faster but fair investigation process for Councillor misconduct
- remove impediments to effective action in response to serious corrupt conduct;

10.4 Policy (Review) - Code of Conduct

- maximise the effectiveness of Performance Improvement Orders issued by the Minister for Local Government to a Council; and
- more effectively address Council maladministration.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The Code of Conduct relates the standards of conduct for Council officials, which includes councillors, council staff, administrators, council committee members, conduct reviewers and delegates of council.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

The Local Government Act provides legislation that must be followed in respect to the Code of Conduct.

Consultation

This model code was based on extensive consultation.

Options

The only option is for Council to adopt the new Model Code of Conduct as produced by the Office of Local Government.

RECOMMENDATION

That Council adopts the new Model Code of Conduct, as produced by the Office of Local Government, and as attached to this report, as its Code of Conduct.

Attachment(s)

1. OLG Circular 15-41
2. OLG Model Code of Conduct
3. OLG Summary

10.5 Policy (Review) - Property Investment and Development

10.5 Policy (Review) - Property Investment and Development

Delivery Program Governance and Finance

Objective To review the Property Investment and Development Policy.

Background

All of Council's existing policies are progressively being reviewed to ensure they reflect contemporary practices and legislative requirements.

The purpose of this report is to review the Property Investment and Development Policy. Council first adopted this policy in 2007 to provide a broader framework around our commercial property development activities.

Key Issues

- Whether the policy meets the requirements of Council and current legislation

Information

The key part of the policy is the Risk Determination Matrix that provides benchmarks for the type of return Council should be pursuing based on the nature of the investment.

That matrix is as follows:

Level of Risk	Benchmark Above 90 Day BBSW
Low	< 2%
Medium	2% to 5%
High	5% to 10%
Speculative	> 10%

Even with extremely low interest rates the matrix is still considered relevant and no changes are recommended to this matrix.

Only minor changes are recommended to the policy and a copy of the amended policy is attached to this report, with changes highlighted in yellow.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Not Applicable

10.5 Policy (Review) - Property Investment and Development

- **Economic**
Non-standard revenues from commercial property activities represents a major source of income for Ballina Shire Council.

Legal / Resource / Financial Implications

Nil

Consultation

The document will be exhibited for public comment.

Options

Council may accept or amend the proposed changes to the policy. The changes included are largely housekeeping therefore it is recommended that the policy be placed on exhibition for public comment.

It is also recommended that if no submissions are received from the exhibition process, the policy be adopted with no further actions required.

RECOMMENDATIONS

1. That Council place the amended Property Investment and Development Policy, as attached to this report, on public exhibition.
2. If no responses are received to the public exhibition, the policy will be considered to be adopted by Council. Any responses received will be the subject of a further report to Council.

Attachment(s)

1. Policy (Review) - Property Investment and Development

10.6 Policy (Review) - Untaken Sick Leave

10.6 Policy (Review) - Untaken Sick Leave

Delivery Program Governance and Finance

Objective To review the Untaken Sick Leave Policy.

Background

All of Council's existing policies are progressively being reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Untaken Sick Leave Policy.

Council first adopted this policy in 1982. The policy was designed to reduce the level of sick leave taken by allowing staff with more than ten year's continuous Local Government Service to be paid 50% of their untaken sick leave entitlement on their resignation or retirement from Council.

In January 2002 Council resolved that the policy would no longer be applicable to employees engaged from 25 January 2002.

As there are still 74 employees who commenced prior to that date with Council the policy will remain in place until all of the pre 25 January 2002 employees depart Council.

Key Issues

- Whether the policy meets the requirements of Council and current legislation.

Information

This policy is more retrospective and does not apply to employees recruited since January 2002. The policy itself sets out the original agreement and no changes are recommended.

As part of this review sick leave figures were compiled for 2014 and 2015 to assess whether there were any significant differences in sick leave being taken between pre and after 2002 employees.

Those figures were as follows:

Per Employee	2014 Hours Per Week	2014 Days Per Annum	2015 Hours Per Week	2015 Days Per Annum
Pre 2002 average	0.89	6.31	1.06	7.52
After 2002 average	1.00	7.09	1.41	10.00
Organisation average	0.95	6.90	1.28	9.39

Sick leave figures for 2015 were higher than the typical average for Council and some of the justification for that relates to a number of employees on extended sick leave due to major illnesses (surgery and family ill health – one long term employee with close to 700 hours taken during the year).

10.6 Policy (Review) - Untaken Sick Leave

It's always interesting to see if there is a benefit to Council with this policy. In order to try and determine this you need to compare the actual sick leave taken between the two categories of employees and then recognise that the pre 2002 employees also get paid half their untaken sick leave on departure.

An indicative cost comparison is outlined as follows:

Per Employee	2014 Days Per Annum	2015 Days Per Annum
Pre 2002 employees		
Average days taken per annum	6.31	7.52
Plus 50% liability payable (1)	4.35	3.74
Total Sick Leave Cost Per Annum	10.66	11.26
After 2002 employees average days	7.09	10.00
Net Difference	3.57	1.26

(1) This figure is calculated by deducting the sick leave taken during the year from the 15 days accrued each year, with that net figure then divided by 50%.

These very basic figures show there is a higher net sick leave cost to Council for employees on the policy, although this analysis is very crude and fails to recognise other employee measures such as efficiency and morale.

One other pertinent point with this policy is that the employees who are paid 50% of untaken sick leave on departure are paid at their final hourly rate. Therefore even though the sick leave could have effectively been accrued 20 plus years ago, the hourly rate can be substantially higher due to promotions within the organisation over time.

It is also important to compare how Council is performing against other organisations and even though it is difficult to find information on average sick leave taken, a recent article on news.com.au (dated 3 December 2015) included the following quotation.

To put that in perspective, research by workplace management firm Direct Health Solutions shows the average Australian worker took 8.6 sick days in 2015. Private sector workers took 7.9 days, compared with 10.3 for public sector workers.

Based on these figures Council was above the overall average for 2015. However as mentioned 2015 was far higher than normal as per the following information which represents the figures included in the Council's Delivery Program results for year recent years.

Financial Year	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16
Average Days	7.78	5.96	7.73	6.24	6.55	4.9

The 2015/16 figure is for six months only as reported in the December 2015 Quarterly Review of the Delivery Program report later in this agenda.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Sick leave is essential in assisting employees in time of ill health.
- **Economic**
There is a cost to Council associated with this policy.

Legal / Resource / Financial Implications

Employee sick leave liabilities form a major component of the Council operating budget, with an estimate expense each year of around \$0.5 million.

The NSW Local Government Award provides for 15 days sick leave per annum, with untaken sick leave able to accumulate from year to year.

Consultation

Typically policies are recommended for exhibition, however as this relates entirely to industrial matters it is recommended that the policy be adopted, albeit with no changes.

Options

Council may adopt or amend the policy. No changes are included therefore the recommendation is to adopt the policy as presented. It is also understood that the Office of Local Government no longer supports policies of this nature that are well in excess of the Award requirements.

RECOMMENDATION

That Council notes the contents of this report in respect to the review of the Untaken Sick Leave Policy and adopts the Policy, as attached to this report, with no changes recommended due to the Industrial Nature of the Policy.

Attachment(s)

1. Policy (Review) - Untaken Sick Leave

10.7 Legal Matters - Update

10.7 Legal Matters - Update

Delivery Program Governance

Objective To provide an update on legal matters involving Council.

Background

As a public authority Council is regularly involved in legal matters. This report provides an update on matters that have been subject to court action or may result in court action and represents the first report for the 2015/16 financial year.

Key Issues

- Type and cost of litigation

Information

This report provides an opportunity to examine legal matters in which the Council is, or has been, involved, with reference being to the current or previous financial year. The report has been provided in open Council to ensure the information is available to the public. Details of the current case(s) are as follows:

Solicitor for Council	Parties	Case Description	Original Cost Estimate	Costs Paid to Date
C. H. Law	Complex Field Pty Ltd v Ballina Council	Land & Environment Court – Challenge to refusal of development consent – Class One Appeal	\$35,000 - \$50,000	\$0
Comment The applicant is challenging the Council's refusal of DA 2015/377, seeking subdivision of 51 – 53 Blue Seas Parade, Lennox Head. Directions were made by the Land and Environment Court on 18 January 2016 listing a preliminary conference about the appeal to be held in Ballina on 18 February 2016. The applicant's statements of facts and contentions need to be served by 1 February. Following the preliminary conference we will be in a position to provide further advice to the Council.				

Legal / Resource / Financial Implications

This section provides an update on the legal costs for 2015/16.

Description	2015/16
Advice – Seabreeze Caravan Park	34,300
Miscellaneous Advice and Insurance Matters	5,000
Total Expenses to Date	39,300
Total Budgets Available	225,000
Unexpended Legal Budgets	185,700

10.7 Legal Matters - Update

As per these figures the resolution of the onsite septic systems and other licensing matters for the Seabreeze Caravan Park remains a complex regulatory issue for Council with a number of issues still to be resolved and all sections of the Development and Environment Health Group (i.e. planning, building and environmental health) are involved in progressing this matter.

Consultation

This report is provided in open Council to ensure the community is informed on legal matters involving Council.

Options

This report is provided for information purposes.

RECOMMENDATION

That Council notes the contents of this legal matters update.

Attachment(s)

Nil

10.8 Delivery Program and Operational Plan Review - 31 December 2015

10.8 Delivery Program and Operational Plan Review - 31 December 2015

Delivery Program Governance and Finance

Objective To review how Council is performing compared to the actions and targets included in the 2015/16 Delivery Program and Operational Plan for the first six months of the 2015/16 financial year.

Under the Integrated Planning and Reporting requirements Section 404 (5) of the Local Government Act states as follows:

Delivery Program

"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".

Even though Council is only required to receive six monthly progress reports the preferred practice has been to receive more timely quarterly reports. This report represents the second of the 2015/16 - 2018/19 Delivery Program and the 2015/16 Operational Plan, with the information contained in the report based on work undertaken up to 31 December 2015 (first six months).

The review information is included as a separate attachment to this report and the attachment provides an overview of all the programs included in the Delivery Program and Operational Plan, with comments provided by the relevant group and section manager.

For reference purposes copies of the current Delivery Program and Operational Plan are available on Council's web site and also accessible by Councillors on their iPads.

Key Issues

- Compare actual results against the adopted goals and priorities

Information

The Delivery Program and Operational Plan are the two key corporate documents that establish Council's goals and priorities for the term of the Council and the current financial year. The attachment to this report provides a comprehensive overview of the actions being progressed, with the information also being linked to Council's Community Strategic Plan (CSP) Objectives. The attachment has two main sections being:

- Program Actions - This section provides a comment on the status of all the major actions in the Operational Plan
- Service Delivery Targets - This section provides details on the key indicators within the Operational Plan.

All items are marked with a green (on track) amber (behind schedule or below target) or red (not progressing or well off track) traffic light.

10.8 Delivery Program and Operational Plan Review - 31 December 2015

In respect to the Operational Plan there are a total of 99 major actions listed in the Plan and the following two tables provide an overview of the status of those actions on a number and percentage basis.

Program Actions Overview - By Number of Tasks

Group / Status	GM	DEH	Civil	SCF	Total
Green	24	8	34	28	94
Amber	1	0	2	0	3
Red	2	0	0	0	2
Total	27	8	36	28	99

Program Actions Overview - By Percentage

Group / Status	GM	DEH	Civil	SCF	Total
Green	89	100	94	100	95
Amber	4	0	6	0	3
Red	7	0	0	0	2
Total	100	100	100	100	100

The items showing as amber or red are:

- Participate in Roads and Maritime Services Location Marker Program for Ballina (page 6) – This is an RMS project and Council has no control over the timing of the implementation of the works. The RMS now appear to be installing their first round of markers at locations such as Kew, and hopefully once those trials are completed, Ballina will be provided with some entry treatments off the highway.
- Introduce online certification application process (page 7) – This is marked as red as it is not likely to proceed and we are reliant on the software provider improving the software.
- Pursue access to latest technologies for the business community (ie NBN) (page 10) – Again Council is dependent largely on providers such as NBN and there are limited opportunities to advance technology improvements to private properties.
- Implement the use of barcodes within the store for accurate stock issue to responsible officers (page 18) – Due to difficulties in applying the corporate software system to this proposal, different technologies are being trialled. It is highly unlikely this will be operational by the end of 2015/16.
- Implement online requisitions and optimise use (page 18) – Similar to the previous item, technology issues are making the implementation of this project difficult.

On the positive side there are many interesting and challenging projects in the program action list (i.e. North Creek dredging, Ballina Major Regional Centre Strategy, Coastal Shared Path etc) and all of these projects are progressing.

Some projects may not be completed this financial year but importantly nearly all key projects, as identified and endorsed by Council in the Operational Plan, are being actioned across the organisation.

10.8 Delivery Program and Operational Plan Review - 31 December 2015

In respect to the Service Delivery Targets there are a total of 95 targets, or preferred targets, identified in the Operational Plan and the following two tables provide an overview of how Council is performing against those targets, again on a number and percentage basis.

Service Delivery Targets Overview - By Number of Activities

Group / Status	GM	DEH	Civil	SCF	Total
Green	17	19	19	17	72
Amber	5	4	8	3	20
Red	0	0	3	0	3
Total Tasks	22	23	30	20	95

Service Delivery Targets Overview - By Percentage

Group / Status	GM	DEH	Civil	SCF	Total
Green	77	83	63	85	76
Amber	23	17	27	15	21
Red	0	0	10	0	3
Percentage Total	100	100	100	100	100

In respect to these services the variances of note include the following items:

- Asset Management – Percentage of DA referrals completed within 21 days – 66% (target > 70%) (page 21) – Even though this did not reach the benchmark the results are continuing to improve as compared to previous years.
- Commercial Services (Airport) – Increase in operating revenue and operating surplus is greater than 25% of revenue (page 22) – Pleasingly, airport revenue is tracking on budget this year.
- Number of on site effluent disposal systems inspected per annum (page 26) – This is now showing as amber (previously red) as the vacant OSSM position has been filled and work is now progressing well.
- Water and Wastewater Services (Various – pages 31 and 32) – There are a number of amber and red indicators with the agreed benchmarks more reflecting preferred outcomes, rather than a realistic target. Nevertheless the indicators provide useful information in respect to the performance of this section.

Sustainability Considerations

- **Environment**
There is a range of environmental, social and economic outcomes identified in the Delivery Program and Operational Plan.
- **Social**
As above.
- **Economic**
As above.

Legal / Resource / Financial Implications

The Delivery Program and Operational Plan identify the allocation of Council's resources and finances.

In respect to resources in early 2014 the Water and Wastewater (WWW) Unit identified the need for adequate succession planning and additional treatment plant resources at its treatment plants. This was in response to issues such as succession planning, new technology plants, and the stringent requirements of producing recycled water and fluoridating drinking water supplies.

Two trainee positions were engaged to produce Wastewater Treatment Plant Operators over a period of two years. These traineeships are now nearing completion.

Trainees and apprentices, which are not classified as permanent positions, and which are not paid directly by Council but rather through the training organisation (Novaskill Pty. Ltd – paid as contractors, not employees), are not reported to Council as they are not permanent positions. These positions are engaged through our traineeship and apprenticeship employment program. Under this program trainees and apprentices are engaged where funds are available within the operating budgets for the relevant sections.

Council currently has 24 trainees / apprentices and this has been a program that has supported young people in Ballina Shire for many years.

In recent staff satisfaction surveys one concern highlighted has been the inability of Council to often continue to employ trainees once they have finished their traineeship.

There are a variety of reasons for this, with the most pertinent being that if we employed every trainee at the completion of their traineeship we would be unable to then fund new trainees.

Ideally we create an environment where a trainee can then find suitable employment when a job vacancy occurs, and this can be within or outside of Council.

In respect to the two trainee Wastewater Treatment Plant Operators, there is considered to be strong merit in converting these existing traineeship positions into permanent positions, due to the future retirement of existing operators and accreditation requirements.

The WWW Unit now proposes to create two new operational assistant positions to fulfil the ongoing operational needs which are currently being covered by the traineeships.

The traineeships are currently funded from existing budgets, and the small incremental increase to transfer these positions to Council's salary structure is insignificant and can easily be funded from the current budget.

Consultation

The purpose of this report is to provide the community with information on how Council is performing or performed in respect to the Delivery Program and Operational Plan.

10.8 Delivery Program and Operational Plan Review - 31 December 2015

Options

The report is for noting purposes, however support for the creation of the two new Water and Wastewater Treatment positions, is also sought.

RECOMMENDATIONS

1. That Council notes the contents of the 31 December 2015 review of the Delivery Program and Operational Plan.
2. That Council authorises the creation of two new Water and Wastewater Treatment positions to be funded from within existing budgets.

Attachment(s)

1. Delivery Program December 2015 Results (Under separate cover)

10.9 Capital Expenditure Review - 31 December 2015

10.9 Capital Expenditure Review - 31 December 2015

Delivery Program Governance and Finance

Objective To provide a status report on the implementation of Council's capital works expenditure program for 2015/16 as at 31 December 2015

Background

Council has a significant capital expenditure program included in the annual Operational Plan. Due to the scale and magnitude of the program it is important that updates are provided on a regular basis.

The current practice is to provide a comprehensive quarterly status report on all the major capital works included in the Operational Plan. This status report provides details on key milestone dates, along with a comparison between budget and actual expenditure.

This report is for the six month period to 31 December 2015 for the 2015/16 financial year.

Key Issues

- Status of works

Information

To assist in understanding the delivery timeframes for the capital works the attachments to this report provide information on the following items:

- Original Budget - represents the budget as per Council's adopted Operational Plan
- Carry Forwards - represents budgets carried forward from the previous financial year that were approved by Council at the August 2015 Ordinary meeting
- Approved Variations - Variations previously approved by Council, either through a Quarterly Budget Review, or a separate report on a particular project.
- Likely Variations – Represents further changes that are likely to occur to the existing budgets based on the latest available information for the project. Confirmed changes will be included in the December 2015 Quarterly Financial Review, which will be submitted to the February 2016 Ordinary meeting.
- Latest Estimate - Sum of the original budget plus the budget changes, including the "Likely Variations".
- Expended to Date - Expenditure to 31 December 2015
- % Expended - Percentage of budget expended to 31 December 2015
- Milestone Dates - Represents target dates for the major milestones.
- Status - Allows additional comments to be provided.

The attachments are split into the main functional sections within Council undertaking the works: i.e. Open Spaces, Waste, Operations Support, Commercial Services, Water and Wastewater and Engineering Works.

Points of interest in respect to the attachments are as follows.

Open Spaces (attachment one)

The major works to be completed this year relate to:

- Play Equipment – Improvement Program – all the playground equipment has been ordered and is planned for installation during March / April 2016.
- Play Equipment – Bolwarra Circuit – This represents work completed by developers as part of the Wollongbar Urban Expansion Area. As the installed playground provides benefits to a catchment larger than their specific development, the developer was entitled to recoup a portion of the costs from section 94 contributions collected by Council.
- Disc Golf – Bicentennial Park – Council resolved to support this project at the November 2015 Ordinary meeting and the equipment has now been ordered. This is likely to be up and operational by the end of February 2016.
- Wollongbar Skate Park – The community consultation process for this project has been completed with feedback both supporting and opposing the Plateau Drive location.

A report on the consultation outcomes is scheduled to be submitted to the February 2016 Ordinary meeting. Council will need to make a final decision on the preferred location and obtain planning consent before tenders can be called for the construction of the project.

This means it is unlikely to be constructed this financial year, with the aim being to ensure it is completed during the 2016 calendar year. Therefore the table includes a likely deferral of \$340,000 of the \$350,000 budget to 2016/17.

- Ballina Netball Lights – A grant of \$25,000 is available for these lights, however with an estimated total cost of \$100,000 additional funds are being sought from the Club and other sources.
- Wollongbar Sports Fields – Construction works are well advanced and it is planned to have an inspection of the site in the not too distant future.

Waste Management (attachment one)

Domestic Waste Vehicle – This vehicle was planned for purchase in 2014/15, however for various reasons the purchase did not proceed. It is now expected to arrive in the first quarter of 2016.

The domestic waste vehicle fleet has had a number of breakdowns during the Christmas / New Year period and further replacement vehicles will need to be ordered during 2016.

Operations Support (attachment two)

10.9 Capital Expenditure Review - 31 December 2015

Administration Centre – Air-conditioning – The preparation of the detailed specifications for this project has highlighted that additional works are needed resulting in a significant budget variation. A further report will be submitted to Council as part of the 2016/17 Finance Committee meetings to confirm the project options, as we may well have to combine budgets from two financial years to allow the project to proceed.

Ballina Surf Club – The construction of Building B is progressing with a planning application lodged to amend the original consent. Subject to planning approval and the calling of tenders, the works are scheduled to be undertaken mid 2016, with expenditure likely to be incurred in 2015/16 and 2016/17.

Lennox Head Surf Club Building – Agreement appears to have been reached on a preferred design for the replacement building, with the next step being the lodgement of a development application.

Ballina Marine Rescue Centre – Council has accepted a tender for the construction of the building with works scheduled to commence the first week of February 2016. The likely variation figure ensures that the Council budget reflects the various funding sources now available for this project.

Ballina Sports / Leisure Centre – Following discussions with the NSW Department of Education, a report will be presented to a February 2016 Facilities Committee meeting, to consider a joint venture option for this facility with the NSW State Government.

Ballina and Alstonville Swimming Pools – As verbally advised to Councillors, the tight time frame for this project means it is unlikely the Ballina swimming pool redevelopment will be undertaken during the 2015/16 swimming off season (Ballina was scheduled for 2015/16 and Alstonville for 2016/17). A further report on the latest timeline will be reported to Council in the near future.

Commercial Services (attachment three)

Terminal Expansion and Apron Overlay – Council has been successful in obtaining a \$2.2m grant (Regional Tourism Infrastructure Fund – RTIF) for the \$2.7m apron overlay project. This works involves construction of an asphalt strengthening overlay to the existing RPT apron for A320 and B737 aircraft for use by Jetstar and Virgin Australia, along with widening and an asphalt strengthening overlay to the existing RPT taxiway.

However in order to accept this grant Council also needs to find \$500,000 in matching funding which is currently not in the budget.

As the Airport Reserve is well overdrawn, and the airport is highly geared, Council needs to be careful how it manages this contribution.

10.9 Capital Expenditure Review - 31 December 2015

The Airport Manager has been liaising with the airlines and there is in principle agreement to the idea of another loan being raised for this work, with the airlines then fully funding that loan. As this work is related directly to the apron and taxiway, there is support for this approach from the airlines. This proposal will be subject to a further report to Council.

Council also applied for approximately \$5.4m for expansion of the existing departures lounge and public seating areas, along with construction of new and additional public toilet facilities, including upgraded disabled toilets and parents room, of external covered passenger walkway, relocated parking areas for the shuttle buses and taxis areas, new café, sports bar and additional retail areas, relocation of the passenger pickup/set-down area and new entry and exit roads for the bus stop and taxi rank.

Our application to the RTIF was based on the total cost of the apron overlay and terminal expansion (approximately \$8.11m) being partially funded by a Council contribution of \$500,000. Unfortunately the response from the RTIF is that the \$500,000 is needed to partially offset the apron overlay and they are looking for a similar percentage contribution to the terminal expansion project.

What this means is that if Council wishes to try and secure a grant of approximately \$4.5m for the terminal etc, we will need to contribute approximately \$900,000. This magnitude of contribution appears to be consistent with other grants provided through this round of the RTIF.

This is very problematic due to the negative airport reserve and staff are examining what options are available prior to reporting this matter to Council.

Council has also had to spend significant monies to submit the RTIF applications as various economic models are needed to support the application. A large part of the funds expended to date (\$62,800) relate to consultant reports and detailed designs and costings for these projects.

This expenditure is worthwhile in that we have secured \$2.2m to date, along with still being a reasonable chance of securing another \$4.5m, however our required contribution creates a dilemma to advance the projects.

As mentioned earlier a further report will be submitted to Council providing options to finance Council's contribution to these projects. The deadline for Council in respect to providing further advice on the terminal project is mid March. That report is likely to be submitted to the Commercial Services Committee meeting, which has been scheduled for 16 February 2016.

Wigmore Arcade – Roof and Awning – Council considered a report at the November 2015 Ordinary meeting where no responses were received from a public tender process for this work. Council then authorised direct negotiations with one interested supplier. Unfortunately that quotation has come in well excess of budget and negotiations are continuing to examine options to reduce the current forecast price.

This matter will also be the subject of a further report to Council, most likely at the 16 February 2016 Commercial Services Committee meeting.

10.9 Capital Expenditure Review - 31 December 2015

Subdivision – 54 North Creek Road – Development consent is still being sought for this work, but pleasingly there has been strong interest in the purchase of the land. It may well be that all the proposed lots will be sold, subject to development consent and construction, prior to the works even commencing.

Wollongbar Urban Expansion Area – With the consent still to be obtained for this work and tenders still to be called, it is likely that the majority of the expenditure will be incurred in the 2016/17 financial year.

Water and Wastewater (attachments four and five)

Water – The major likely changes refer to the deferral of certain works either due to improved management of the system (Pine Avenue Trunk Main), uncertainty due to the involvement of other parties (Ross Lane Land Acquisition and RMS) or specifications still to be finalised (East Ballina Pumping Station and Trunk Main)

Wastewater – The major change here is the likely deferral of the Byron Street Pumping Station, with the design of that project proving problematic. This is a major pumping station for that locality.

Engineering Works (attachment six)

Stormwater

Council is continually responding to stormwater failures resulting in various changes to the works program during the year.

Urban Roads

Airport Boulevard – Council allowed \$50,000 to obtain approvals for this road, with that work likely to now cost around \$70,000. Monies have also been expended in attempting to secure National Stronger Regions Funding, albeit that Council's application was successful.

A number of other urban road projects have been completed or are underway.

Rural Roads

Works are largely progressing with the attachment also including \$110,000 for Section 94 funded reseal works. That funding is currently in the operating budget and will need to be transferred to capital.

Ancillary Transport Services - Shared Paths and Footpaths

Council has accepted a tender for the Coastal Recreational Path, with that work to commence at the start of February.

Water Transport

It is intended to package up all the Water Transport Projects into one contract to provide maximum cost efficiencies to Council, with that tender to be advertised during January 2016.

Sustainability Considerations

- **Environment**
Many of the works listed provide positive environmental outcomes
- **Social**
Certain items provide significant social benefits
- **Economic**
Improved infrastructure can benefit the local economy.

Legal / Resource / Financial Implications

The report provides financial information on the capital works program.

Consultation

This report is presented for public information. Consultation has been undertaken with staff managing the various projects.

Options

As per the following table there is once again an extremely high level of capital expenditure forecast for 2015/16.

Capital Works Summary – 31 December 2015 (\$'000)

Section	Budget (%)	Expended (%)	Percentage
Open Spaces	5,795,600	1,215,600	21
Waste	821,000	253,100	31
Operations Support	6,725,600	1,233,100	18
Commercial Services	4,606,000	471,400	10
Water	2,684,000	1,177,700	44
Wastewater	3,905,000	979,000	25
Engineering Works	14,525,400	4,533,200	31
Total	39,062,600	9,863,100	25

As construction contracts have either commenced or been let for major projects such as the Wollongbar Sports Fields (\$4.1m still to be expended), the Coastal Recreational Path (\$1.9m project) and the Ballina Marine Rescue Centre (\$2m), this should result in significant expenditures being incurred during the first quarter of 2016.

In respect to the column titled “Likely Variations”, with a number of staff on leave during January, these are indicative changes only. The December 2015 Quarterly Financial Review, to be reported to the February 2016 Ordinary meeting, will confirm whether the changes listed are needed, or there may be separate reports presented on the more complex projects.

This report is primarily for noting purposes and the recommendations reflect that. Recommendation two is not endorsing any budget adjustments. Rather it is flagging likely changes that will be subject to further reports.

RECOMMENDATIONS

1. That Council notes the contents of this status report on the 2015/16 capital expenditure program.
2. That Council notes that the following budget amendments are likely to be included in the December 2015 Quarterly Financial Review, which will be presented to the February 2016 Ordinary meeting, or through individual reports to Council:

Description	Current 2015/16	Likely Revision	Net Variation	Comment
Open Spaces and Reserves				
Killen Falls	66,400	80,400	16,000	Actual expenditure
Play Equipment – Bolwarra	0	41,500	41,500	Sec 94 funded
Disc Golf – Bicentennial Park	0	10,000	10,000	New works
Wollongbar Skate Park	350,000	10,000	(340,000)	Transfer to 2016/17
Sub Total	416,400	141,900	(274,500)	
Waste Management				
Domestic Waste Vehicle	0	375,000	375,000	Replacement
Water Refill Stations	0	21,000	21,000	Actual expenditure
Resource Recovery	235,000	214,000	(21,000)	
Sub Total	235,000	610,000	375,000	
Operations Support				
Ballina Marine Rescue Centre	1,876,300	1,993,000	116,700	Funds available
Ballina Swimming Pool Refurb	4,166,400	166,400	(4,000,000)	Defer to 2016/17
Sub Total	6,042,700	2,015,940	(3,883,300)	
Commercial Services				
Apron Overlay	0	2,700,000	2,700,000	RTIF grant works
Wigmore Arcade - Roofing	250,000	500,000	250,000	Likely adjustment
Wollongbar Urban Expansion	1,750,000	250,000	(1,500,000)	Defer to 2016/17
Sub Total	22,000	22,000	1,450,000	
Water				
Reservoir - Ross Lane Land Acquisition	500,000	0	(500,000)	Defer for one year
Pumping Station - East Ballina	292,000	100,000	(192,000)	Defer to 2016/17
Trunk Main - East Ballina – Booster	900,000	100,000	(800,000)	Defer to 2016/17
Trunk Main – East Ballina	300,000	0	(300,000)	Defer to 2016/17
Relocate Servers to Pine Ave	0	15,000	15,000	Essential works
Sub Total	1,992,000	215,000	(1,777,000)	
Wastewater				
Pump Upgrade - Byron Street	1,591,000	91,000	(1,500,000)	Defer to 2016/17
Ballina Solar Power	20,000	0	(20,000)	Not required
Rising Main - Swift Street	60,000	0	(60,000)	Defer to 2016/17
Gravity Trunk Main - Wollongbar	150,000	50,000	(100,000)	Defer to 2016/17
Relocate Servers to Pine Ave	0	15,000	15,000	Essential works
Sub Total	1,821,000	156,000	(1,665,000)	
Engineering Works				
Urban Stormwater				
Coogee Street, Ballina	15,000	30,000	15,000	Actual expenditure
Jack Place, Lennox Head	15,000	33,000	18,000	Actual expenditure
Pearces Creek Road	5,500	10,500	5,000	Actual expenditure
Martin Street, Ballina	80,000	42,000	(38,000)	Offset above
Roads				
Airport Boulevard	50,000	100,000	50,000	To be funded from reserves
Pimlico Road	0	2,700	2,700	Minor expenditure
Section 94 Road Reseals	0	110,000	110,000	Transfer from operating expense
Footpaths				
Main Street, Alstonville	33,000	3,000	(30,000)	Resolution
Martin Street, Ballina	0	23,000	23,000	Revised budget
Sub Total	198,500	354,200	155,700	

Attachment(s)

1. Capital Expenditure - Open Spaces and Waste
2. Capital Expenditure - Operations Support
3. Capital Expenditure - Commercial Services
4. Capital Expenditure - Water Operations
5. Capital Expenditure - Wastewater Operations
6. Capital Expenditure - Engineering Works

11.1 Underground Electricity Supply Easement - Public Reserve

11. Civil Services Group Reports

11.1 Underground Electricity Supply Easement - Public Reserve

Delivery Program Open Spaces and Reserves

Objective To approve the creation of an easement over Council land for the purpose of maintenance and access of electricity infrastructure

Background

Trunk electricity for the Pacific Pines development and proposed sportsfields west of Hutley Drive, Lennox Head is designed to be sourced from a substation on the Public Reserve at Beryl Place. An easement for underground electricity is required along the western boundary of the Reserve.

Prior to Essential Energy approving the design of the electrical supply, they require an undertaking from Council that an easement will be granted to them to locate the electrical infrastructure within the Public Reserve. The purpose of this report is for Council to authorise the grant of the easement.

Key Issues

- Provision of electrical infrastructure for future urban areas.

Information

Trunk electricity for the Pacific Pines development and proposed sportsfields west of Hutley Drive, Lennox Head is designed to be sourced from a substation on the Public Reserve at Beryl Place, being Lot 107 DP 1017581. Departing from the substation, the underground mains will traverse southwards down the western boundary of the Reserve, eastwards along Henderson Lane and then southwards along the southern extension of Hutley Drive to the Pacific Pines development and sports fields.

Prior to Essential Energy approving the design of the electrical supply, they require an undertaking from Council that an easement will be granted to them to locate the electrical infrastructure within the public reserve. The electricity mains will be underground and not impact on the amenity or usage of the public reserve.

At this time, Essential Energy requires Council to agree to the creation of the easement. The easement would not be formally created until the subdivision certificate for Stage 1B of Pacific Pines is approved by Council and registered with the Land and Property Information office.

Sustainability Considerations

- **Environment**
Not Applicable

11.1 Underground Electricity Supply Easement - Public Reserve

- **Social**

The proposed sports fields are a major item of community structure that is well overdue for delivery to the community.

- **Economic**

An easement is required to enable the approved development in Pacific Pines and the associated sports fields to proceed.

Legal / Resource / Financial Implications

Section 46(1)(a) of the Local Government Act, 1993 permits Council to grant a "lease, licence or other estate in respect of community land" for "the provision of public utilities and works associated with or ancillary to public utilities".

Section 46 also does not require specific references to these types of easements in the plans of management for community land.

Compensation to Council is to be determined through a valuation assessment process, however the key issue is to enable infrastructure servicing for this important development area.

Consultation

No consultation is considered necessary for this matter.

Options

Option one - Agree to the creation of an easement

Option two - Do not agree to the creation of an easement.

Option one is preferred, being a necessary process for the provision of electricity to Pacific Pines and the associated Sports Fields.

RECOMMENDATIONS

1. That Council, in accordance with Section 46 of the Local Government Act, agrees to the creation of an easement over Lot 107 DP 1017581 in favour of Essential Energy for the provision of electricity infrastructure.
2. That compensation is to be determined through a valuation assessment process.
3. Where required, the common seal of Council is to be affixed to any documentation in this matter.

Attachment(s)

1. Proposed Underground Electricity Easement - Beryl Place Reserve

12. Public Question Time

12. Public Question Time

13.1 Notice of Motion - Lake Ainsworth South Eastern Precinct

13. Notices of Motion

13.1 Notice of Motion - Lake Ainsworth South Eastern Precinct

Councillor Cr Smith

I move

That Council incorporate a concrete shared path on the eastern side of the lake, as well as revegetation and a swale for water sensitive draining initiatives in the Lake Ainsworth South Eastern Precinct Upgrade project.

This path is to be suitable for vehicular access to improve accessibility to the lake for the elderly, people with wheelchairs and other users who require accessibility.

Councillor Comment

It's been recently demonstrated that over 90% of the Lennox Head community wish to see accessibility of the eastern side of Lake Ainsworth still possible, post upgrade.

The proposed motion is a balanced option that provides significant benefits for both accessibility, revegetation and the environment.

Key Benefits include:

- The proposed motion will mill out the existing bitumen, meaning the tired, existing road surface will no longer remain and any perceived issues relating to it will be fully addressed.
- Additionally, costs to Council to upgrade and maintain Camp Drewe Road are avoided or deferred.
- Concerns regarding increased traffic on the adjacent local streets are avoided.
- The proposed motion is also up to \$200,000 cheaper than the currently agreed project specifications, meaning, funding can be redirected to bring forward other improvement opportunities for the lake precinct.
- The motion provides for significant drainage initiatives and environmental benefits that wouldn't otherwise be realised under the current project specifications.

COUNCILLOR RECOMMENDATION

That Council incorporate a concrete shared path on the eastern side of the lake, as well as revegetation and a swale for water sensitive draining initiatives in the Lake Ainsworth South Eastern Precinct Upgrade project.

This path is to be suitable for vehicular access to improve accessibility to the lake for the elderly, people with wheelchairs and other users who require accessibility.

Attachment(s)

Nil

13.2 Notice of Motion - Notification of Development Applications

13.2 Notice of Motion - Notification of Development Applications

Councillor

Cr Hordern

I move

1. That Council change its notification process so that Development Applications involving the construction of 'group homes' comprising up to ten bedrooms within one or more group homes on a site are notified in a similar manner to dwelling-houses.
2. This change is to be implemented as follows as per the advice from Council staff:

That Council amend Chapter 1 of the Ballina Shire Development Control Plan 2012 to:

- a) *Stipulate that group homes comprising up to 10 bedrooms being within one or more group homes on a site do not require any notification where they generally comply with development controls.*
- b) *Apply Level 1 – Targeted Notification to group home proposals when such group homes comprise up to 10 bedrooms being within one or more group homes on a site and where it is determined that there may be an issue such as impacts on privacy, overshadowing, or view loss beyond that which could have reasonably been expected given the planning controls applying in the locality.*

Councillor Comment

In the past, development applications for group homes in residential areas have generally been the subject of objections from local residents. This has resulted in delays in the assessment of applications and, in some cases, has also led to occupants of the development feeling unwelcome in the area.

This motion seeks to ensure development applications for group homes are notified in a similar manner to dwelling houses.

Staff Comment

A 'group home' is a form of dwelling that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and that is used to provide:

- a) permanent household accommodation for people with a disability or people who are socially disadvantaged (***permanent group home***); or

13.2 Notice of Motion - Notification of Development Applications

- b) temporary accommodation for the relief or rehabilitation of people with a disability or for drug or alcohol rehabilitation purposes, or that is used to provide half-way accommodation for persons formerly living in institutions or temporary accommodation comprising refuges for men, women or young people (**transitional group home**).

The notification process for most development applications, including group homes, is specified in Chapter 1 of the Ballina DCP 2012. This chapter provides three levels of notification for development application. The level of notification generally depends on the type of development and the nature and extent of its potential impacts. The various levels of notification are as follows:

Level 1 - Targeted Notification: This involves a letter being sent to owners and occupiers of those properties which, in the opinion of Council's Assessment Officer, are likely to be unreasonably impacted by the proposed development. Level 1 typically applies to relatively small scale development.

Level 2 – Three Step Notification: This involves notification by way of letters to adjoining owners and occupiers, site signage and an advertisement in the local newspaper. The exhibition and submission period is usually 14 days but may be longer for more substantial developments. Developments which would normally be treated this way are those which, in the opinion of Council:

- Have the potential to have an unreasonable impact on the amenity of adjoining or nearby land uses and/or residents; and/or
- Are of a scale or intensity beyond that which could reasonably have been envisaged given the planning controls applying in the locality.

Level 3 – Legislative: This applies to development applications required to be publicly exhibited by the Environmental Planning and Assessment Act 1979 and/or an environmental planning instrument.

Council generally notifies development applications for group homes by way of letters to adjoining owners and occupiers, site signage and advertisement in the local newspaper in accordance with the Level 2 notification requirements of the Chapter 1.

In some circumstances development for the purpose of a group home (up to ten bedrooms being within one or more group homes on the site) may be undertaken as complying development under SEPP (Affordable Rental Housing) 2009 and therefore would not require Council consent (or notification in accordance with Chapter 1 of the Ballina DCP 2012).

In addition, development for the purpose of a group home (up to ten bedrooms within one or more group homes on the site) may also be undertaken by or on behalf a public authority without the consent of Council. In most cases, public authorities will notify surrounding owners and occupiers of a proposal. They do not, however, generally display a site sign or advertise the proposal in the local newspaper.

Having regard for the above, staff suggest the following action where the Council wishes to adjust its notification procedure in line with Councillor Hordern's motion:

13.2 Notice of Motion - Notification of Development Applications

That the Council amends Chapter 1 of the Ballina Shire Development Control Plan 2012 to:

- Stipulate that group homes comprising up to 10 bedrooms being within one or more group homes on the site do not require any notification where they generally comply with development controls
- Apply Level 1 – Targeted Notification to group home proposals when such group homes comprise up to 10 bedrooms being within one or more group homes on the site and where it is determined that there may be an issue such as impacts on privacy, overshadowing or view loss beyond that which could have reasonably been expected given the planning controls applying in the locality.

Council's consideration of this approach should have regard for the intended balance between supporting facilities that provide services for disadvantaged groups or people having special needs in the shire and the expectation of residents in residential areas, in terms of development outcomes and access to information.

It is also important to recognise that the language used in describing group homes is significant in that, whilst it can be a trigger for concern amongst residents in areas where they are sought to be established, it also offers service providers certain beneficial outcomes, such as those relating to funding and planning controls.

Having regard for the above, the suggested response from staff is to treat group homes that are otherwise compliant with residential development standards more like dwellings in terms of the application of Council's notification procedures.

COUNCILLOR RECOMMENDATIONS

1. That Council change its notification process so that Development Applications involving the construction of 'group homes' comprising up to ten bedrooms within one or more group homes on a site are notified in a similar manner to dwelling-houses.
2. This change is to be implemented as follows as per the advice from Council staff:

That Council amend Chapter 1 of the Ballina Shire Development Control Plan 2012 to:

- a) Stipulate that group homes comprising up to 10 bedrooms being within one or more group homes on a site do not require any notification where they generally comply with development controls.*
- b) Apply Level 1 – Targeted Notification to group home proposals when such group homes comprise up to 10 bedrooms being within one or more group homes on a site and where it is determined that there may be an issue such as impacts on privacy, overshadowing, or view loss beyond that which could have reasonably been expected given the planning controls applying in the locality.*

13.2 Notice of Motion - Notification of Development Applications

Attachment(s)

1. Council's Advertising Policy

13.3 Notice of Motion - Rating Structure

13.3 Notice of Motion - Rating Structure

Councillor Cr Hordern

I move

That Council write to the NSW Premier, IPART and our State Member, requesting that the current review of the NSW rating system, being undertaken by IPART, specifically address the financial impacts that the following rating inequities are having on the long term financial viability of councils; i.e.

- a) Mobile home parks (gated communities etc) where there can be hundreds of residential homes on a property, however the property is only rated based on one land value (i.e. rather than having separate minimum rates or base charges for each residential home)
- b) The higher level of charitable and religious exemptions, along with the rapid growth of charitable exemptions in recent years.

Councillor Comment

The NSW Premier has asked IPART to undertake a review of the NSW rating system as per the attached terms of reference. Pleasingly the terms make specific reference to apartments and multi-unit dwellings which we know have the benefit of receiving comparably lower rates than other residential properties, yet the residents receive the same levels of service.

I would like to also ensure that the review makes specific reference to mobile home parks (i.e. gated communities, over 55 adult villages etc) which currently have the benefit of being rated as one property.

Also the inequities or inconsistencies for charitable institutions need to be addressed as more and more organisations are receiving approval to be recognised as charities. LGNSW commissioned a report from Deloitte Access Economics in 2013 that identified the negative cumulative impact that these exemptions are having on the long term financial viability of councils. A copy of that report is available at the following link:

<http://www.lgnsw.org.au/key-initiatives/review-rate-exemptions>

Even though IPART is yet to commence this rating review it is important that Council initiates discussion on these issues to ensure that they are addressed as part of the review.

COUNCILLOR RECOMMENDATIONS

That Council write to the NSW Premier, IPART and our State Member, requesting that the current review of the NSW rating system, being undertaken by IPART, specifically address the financial impacts that the following rating inequities are having on the long term financial viability of councils; i.e.

- a) Mobile home parks (gated communities etc) where there can be hundreds of residential homes on a property, however the property is only rated based on one land value (i.e. rather than having separate minimum rates or base charges for each residential home)
- b) The higher level of charitable and religious exemptions, along with the rapid growth of charitable exemptions in recent years.

Attachment(s)

1. Premier's Terms of Reference to IPART

13.4 Notice of Motion - Bitou Bush Control - Scenic Areas

13.4 Notice of Motion - Bitou Bush Control - Scenic Areas

Councillor

Cr Hordern

I move

That as part of the 2016/17 budget deliberations that Council receives a report on the options to increase the overall rate of bitou bush control for key scenic areas such as the Lennox Headland, Skennars Headland, Boulders Headland and Black Head cliff faces

Councillor Comment

Having recently completed a **tandem hang glide** (!!) at Lennox Point, I was amazed by the amount of bitou bush that still needed to be cleared in some of our high profile scenic locations.

Following discussions with staff I am aware that there is a limited on-going program for bitou bush removal, however I would like a better understanding of what options there are to improve the overall eradication rate.

Staff have a good appreciation of what is needed and this report can provide important information for Councillors and a better understanding of what options are available.

COUNCILLOR RECOMMENDATION

That as part of the 2016/17 budget deliberations that Council receives a report on the options to increase the overall rate of bitou bush control for key scenic areas such as the Lennox Headland, Skennars Headland, Boulders Headland and Black Head cliff faces

Attachment(s)

Nil

13.5 Notice of Motion - Shade Structures for Children's Playgrounds

13.5 Notice of Motion - Shade Structures for Children's Playgrounds

Councillor

Cr Jeff Johnson

I move

That Council

1. provide in principle support for the provision of shade structures for all children's playgrounds (equipment) within the Ballina Shire.
2. receive a report as part of its 2016 – 2017 budget deliberations providing a cost estimate for installing shade structures for the 12 playgrounds that currently don't have them.
3. amend its Playground policy to require all new playground installations to include a shade structure.
4. receive a report with a cost estimate for providing shade at the Lennox and Ballina Skate parks.

Councillor Comment

The Ballina Shire currently has 47 children's playgrounds (equipment) of which 35 of them have a shade structure. That means only 12 playgrounds don't have a shade structure.

Providing a shade structure over a children's playground not only protects small children from the sun, but it also reduces the temperature of the equipment reducing the likelihood of burns.

As a parent of a young child I have personally seen children being burnt from touching playground equipment that is exposed to the sun. It is not often possible to take children to these facilities in the early morning and as a consequence it is important for Council to ensure that all of our playgrounds have a shade structure.

Council staff have provided an estimate of \$20,000 for each shade structure. I believe that the actual cost could be significantly less, depending on the purchasing arrangements and materials used.

In the circumstance that major developments and/or new subdivisions are required to provide a children's playground, Council should impose conditions that ensure these new playgrounds are installed with shade structures.

While it may be difficult to retrofit a shade structure over the Ballina Skate park, the motion also recognizes that consideration needs to be given for these facilities as well (Ballina and Lennox Skate park).

COUNCILLOR RECOMMENDATIONS

That Council

1. provide in principle support for the provision of shade structures for all children's playgrounds (equipment) within the Ballina Shire.
2. receive a report as part of its 2016 – 2017 budget deliberations providing a cost estimate for installing shade structures for the 12 playgrounds that currently don't have them.
3. amend its Playground policy to require all new playground installations to include a shade structure.
4. receive a report with a cost estimate for providing shade at the Lennox and Ballina Skate parks.

Attachment(s)

Nil

13.6 Notice of Motion - Funding for Koala Fences

13.6 Notice of Motion - Funding for Koala Fences

Councillor

Cr Jeff Johnson

I move

That Council

1. urgently seek funding from the RMS or other NSW or Federal Government Department to install Koala fences on local roads in and around the identified nationally important Koala population.
2. liaise with the Friends of the Koala to identify the priority roll out of these fences.
3. investigates the costs involved with installing effective Koala fences and provides matching funding if necessary.

Councillor Comment

Reported Koala road fatalities have increased alarmingly in and around the "Important Koala Population" area identified in the Biolink - Ballina Koala Study.

Numbers of reported fatal road kills was 2 in 2013, 3 in 2014 and 6 in 2015. The actual numbers are likely to be several times higher than these numbers, as many injured animals will crawl into the bush and not be detected, particularly in these rural areas with few human residences.

There is concern that koala road hits have been under reported in the past, and that high levels of road hits may have been the norm in this area for many years. This will have had an impact on the koala population and may be the reason for the low numbers of males compared to females in this area.

Ballina's Koala Management Study identified Koala fencing as a key measure and now is the time to implement this important action.

COUNCILLOR RECOMMENDATIONS

That Council

1. urgently seek funding from the RMS or other NSW or Federal Government Department to install Koala fences on local roads in and around the identified nationally important Koala population.
2. liaise with the Friends of the Koala to identify the priority roll out of these fences.
3. investigates the costs involved with installing effective Koala fences and provides matching funding if necessary.

14. Advisory Committee Minutes

14. Advisory Committee Minutes

Nil Items

15.1 Mayoral Meetings

15. Reports from Councillors on Attendance on Council's behalf

15.1 Mayoral Meetings

Councillor David Wright

Activities since the December 2015 Ordinary meeting:

<u>Date</u>	<u>Function</u>
18/12/15 to 27/1/16	Lennox Head to Ballina Beach and Businesses daily or twice daily runs
31/12/15	New Year's Eve Alstonville
2-5/1/16	Ballina Tennis Championships
9/1/16	Lennox Head Cultural Centre Function
9/1/16	Kaos Event Opening at Alstonville Showground
10/1/16	Lennox Head Markets
10/1/16	Alstonville Markets
12/1/16	Meeting Carole Cadwalladar - Guardian
13/1/16	Meeting Kevin Hogan – Marine Rescue
14/1/15	Meeting with Japanese Media Team
14/1/16	Art at the Airport Launch
15/1/16	Funeral – Woodlawn
21/1/16	Art Advisory Committee
21/1/16	Gallery Opening
22/1/16	Meeting – Eco Shark Barrier
22/1/16	Meeting – Jim Willis
26/1/16	Australia Day Celebrations
26/1/16	Citizenship for Joanne King and Professor Graham King
27/1/16	Meeting Trev's Recycled Plants
28/1/16	Council Meeting

RECOMMENDATION

That Council notes the contents of the report on Mayoral meetings.

Attachment(s)

Nil

16. Questions Without Notice

16. Questions Without Notice

17. Confidential Session

17. Confidential Session

Nil Items