



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 25 February 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

A handwritten signature in black ink, appearing to read 'Paul Hickey', with a long horizontal line extending from the end of the signature.

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

An apology has been received from Cr Ben Smith.

4. Confirmation of Minutes

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 28 January 2016 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 28 January 2016.

5. Declarations of Interest and Reportable Political Donations

- **Paul Hickey, General Manager** – declared an interest in Item 11.2 – Megan Crescent Sports Fields – Request for Funding. (Nature of Interest: non significant, non pecuniary – he is a member of the Lennox Cricket Club).

6. Deputations

7. Mayoral Minutes

Nil Items

8. Development and Environmental Health Group Reports

8.1 DA 2015/138 - Coastal Protection, Skinner and Camden Streets

Applicant	Civiltech Consulting Engineers
Property	Lot 10 DP 1126929, Lot 1 DP 1119099, Lot 3 DP 1079380, No. 2 Skinner Street and No's. 3 & 5 Camden Lane, Ballina
Proposal	To undertake coastal protection works comprising a dry rock revetment wall and partial filling of land behind the revetment wall within the subject lands
Effect of Planning Instrument	The land is zoned R2 Low Density Residential and W1 Natural Waterways under the provisions of the Ballina LEP
Locality Plan	The subject lands are depicted on the locality plan attached

Introduction

At the Ordinary Council Meeting held on 17 December 2015, Council considered a report in relation to the application and resolved:

That Council defer consideration of this matter asking that the applicants consider the creation of an easement for public access and subject to that easement being provided that the matter be determined by the General Manager under delegated authority.

As resolved by the Council, the applicants were invited to re-consider the amendment of their application to include a proposal to establish a public access easement.

In the correspondence it was suggested to the applicants that any easement would need to be a minimum of three metres in width, located near the toe and seaward of the proposed revetment wall and extend across the full frontages of the three allotments party to the application.

Mr Carmont, representing the landowners, has subsequently advised Council that the application was not going to be amended. Consequently the application does not propose formal public access being provided across the private lands along the foreshore, via the creation of an easement. Mr Carmont has confirmed that his previous advice of 2 December 2015 stands.

As the application has not been amended, determination by the General Manager under delegated authority in accordance with Council's resolution of 17 December 2015 cannot proceed.

Mr Carmont, representing the landowners that are party to the application, has also submitted a complaint that the application assessment report made to the Council in December was biased, deficient and inaccurate and needed to be revised.

With regard to these aspects of the landowners' complaint, it is highlighted that the recommendation of the report to the Council (copy of original report attached) was for approval of the application, on the basis of Council being satisfied with the application not providing for improved public access along the foreshore.

In respect of the technical items raised in Mr Carmont's complaint there are primarily two matters to be addressed. These are:

1. The report does not outline the existence and relevance of the Ballina Floodplain Risk Management Report 2012 (BFRMR), its reference to coastal storm surges and the use of fill to protect from flooding (i.e. coastal storm surges) and;
2. The report does not outline the statutory process and the Common Law considerations known as the *Newbury Principles*. These were the legal principles relied upon by the NBN to have the indemnity condition of the Lynwood Tower removed. Mr Carmont identifies that the report suggests Councillors can impose a three metre wide right of way for public access. This condition is not, however, considered to be a legal option as a condition of development consent. Mr Carmont's concerns here arise from the draft conditions that were attached to the December report for the guidance of the Council.

Mr Carmont has also provided a letter outlining that he has recently obtained legal advice that discusses, among other matters, the *Newbury Principles* and how it would apply to the dedication of land for public access along the foreshore. A copy of this letter is attached.

A review of the complaints as they relate directly to the content of the report and the legal advice has been undertaken and as a whole the report as it was presented to Council's Ordinary Meeting of 17 December 2015 is considered to be reasonable and fair.

It is important to highlight that the report presented to Council (as with the majority of DA assessment reports) is a collaboration of assessment by a number of staff from various sections/groups within Council.

Whilst it is not the assessment of a single Council officer, in this case, following earlier representations made by Mr Carmont, the assessment of the application and preparation of the report was specifically directed by the Council's Development Services Manager and the Group Manager of Development and Environmental Health.

A further submission by Mrs Jenny Morgan dated 11 February 2016 opposing the application due to impeded public pedestrian access and potential environmental impact (inclusive of a further petition with over 120 signatures) has also been provided and is attached.

Also on 16 February 2016, Mr Peter Carmont of Somerville Laundry Lomax on behalf of the landowners, served Council notice of a Class 1 Appeal to the Land and Environment Court of NSW on the grounds of 'deemed refusal' and 'appeal against refusal'.

Subject to the decision from Council at this meeting, Council may need to defend this legal action.

In relation to the two primary report omission matters raised by Mr Carmont, the following advice is provided for further consideration of the Council.

Ballina Floodplain Risk Management Report 2012 (BFRMR)

Although the applicant's submitted Statement of Environmental Effects does not specifically reference the BFRMR or the Coastal Zone Management Plan for the Richmond River estuary August 2011 (CZMP), the CZMP was considered by Council's assessment staff as it determines whether Council is the consent authority (rather than the Coastal Panel) for the proposed works under the Coastal Protection Act 1979.

The CZMP references the BFRMR (which is noted as underway and due for completion in late 2011).

The current BFRMR and flood studies incorporated into DCP's were not considered to be particularly relevant to the works as, on face the purpose of the application is to provide coastal protection works aimed at mitigating erosion of privately owned land. There isn't any identified aim in the application for the work to afford flood protection in the sense of having the wall constructed to any specified level that would give flood relief from any particular flood return period.

Additionally, the application does not refer to any future buildings/works being proposed for the levelled lands which would need to comply with minimum fill and floor level requirements.

Newbury Principles

The assessment report submitted to Council highlighted the importance of maintaining and improving public access to and along the coastal foreshore in accordance with the provisions of various relevant legislation and policies, namely the Coastal Protection Act 1979, State Environmental Planning Policy No. 71 Coastal Protection and NSW Coastal Policy.

Mr Carmont contends that the imposition of a condition requiring a three metre wide right of carriageway for public access would be unlawful. There is no disagreement about this. Whilst the draft conditions attached to the report included two specific conditions that would seek to do this, their inclusion was presented should the Council proceed with Option No. 2 (i.e. the application being amended to include legally binding public access along the foreshore).

If, contrary to the report's recommendations, the Council considers the provision of public access along the foreshore to be a significant determining consideration, it remains open to Council to refuse the application based on there being no improved public access being provided along the foreshore on merit grounds.

Refusal of the application on access grounds is not considered to be legally sustainable and has not been recommended, as the works are of a minor nature, are located within the privately owned lands, and do not have any effect on existing public access provisions extending from Skinner and Camden Streets.

Conclusions

It is considered that the matters raised by Mr Carmont since consideration of the 17 December 2015 report require the following adjustments:

1. Deletion of two of the proposed draft conditions relating to the provision of public access, being:

An appropriate and legally binding easement (within a minimum width of 3 metres) is to be created to allow general public access across the properties within the foreshore area. The easement is to be located immediately seaward of the revetment wall (i.e. at the toe of the wall) to Council's satisfaction prior to release of the Construction Certificate

And:

The easement for public access along the foreshore is not to be restricted in any way at any time;

2. The deletion of Option 2 listed in the original report, as it has been exhausted and is no longer realistically available, and
3. The replacement of Option 2 with the following wording:

That Council refuses the development noting that suitable and legally binding public access along the foreshore has not been provided to satisfy the provisions of the Coastal Protection Act 1979, State Environmental Planning Policy No. 71 Coastal Protection and NSW Coastal Policy.

The 17 December 2015 report is now resubmitted for determination (with adjustments as outlined above) and is attached. Council should also have regard for the matters contained within this report.

The recommendation made to Council to grant conditional development consent to the application is reiterated.

RECOMMENDATION

That Development Application 2015/138 seeking consent to undertake coastal protection works comprising a dry rock revetment wall within the eastern boundaries of Lot 10 DP 1126929, Lot 1 DP 1119099, Lot 3 DP 1079380, No. 2 Skinner Street and No's. 3 & 5 Camden Lane, Ballina, be **APPROVED** subject to the draft conditions of consent attached to the report to the December 2015 Ordinary meeting of Council (excluding the two public access conditions).

Attachment(s)

1. Locality Plan
2. Previous report to Council's Ordinary Meeting 17 December 2015
3. Applicant's Legal Opinion
4. Further petition objecting to the rock wall

8.2 DA 2015/27 - 12 Shelly Beach Road - Compliance Status

8.2 DA 2015/27 - 12 Shelly Beach Road - Compliance Status

Delivery Program Development Services

Objective To provide an update on the progress of compliance with Development Consent 2015/27 (The Belle General).

Background

During Public Question Time at the Ordinary Council Meeting of 28 January 2016, Ms Julie Casey, on behalf of a number of residents of Shelly Beach Road, raised questions over where The Belle General was up to in relation to satisfying all conditions of consent DA 2015/27. The response from staff was for Councillors to receive an update.

A previous update was provided in the Councillor Bulletin dated 18 September 2015 and the report that follows includes the latest information on the status of DA 2015/27.

Council issued Development Consent to Development Application 2015/27 on 14 July 2015 relating to The Belle General at No. 12 Shelly Beach Road, East Ballina. The development comprised “a Change in Operational Use of Part of the Existing General Store/Takeaway/Café to Include Additional Café Area and to Modify the Hours of Operation”.

Development Consent 2015/27 is subject to numerous conditions relating to, amongst other things, restrictions on the hours of operation and seating capacity, the provision of an internally accessible disabled toilet facility, the construction of a garbage enclosure at the rear of the site, removal of impediments from the driveway and implementation of a car parking management plan.

Key Issues

- The Belle General has taken the benefit of Development Consent 2015/27 by operating at the approved increased seating capacity and trading hours, without satisfying all relevant conditions of the Consent.
- In particular, The Belle General has not provided an internally accessible disabled toilet facility (condition 16), constructed a garbage enclosure at the rear of the site (conditions 8 and 21), or paid the required Developer Contributions (condition 10 and 11);
- Since approval of the application, some seven months ago, Council staff have received numerous complaints about various aspects of the development, including outstanding conditions of consent.

Information

Council was aware that the business was operating at the increased capacity and extended trading hours prior to approval of the application. Following the issue of Development Consent 2015/27 on 14 July 2015, Council staff met with the proprietors of The Belle General at the premises on 29 July 2015 to discuss the matters that needed to be addressed as they 'transitioned' from the previous consent (DA 2010/490) to the most recent consent (DA 2015/27).

The Belle General has since complied with some of the conditions of DA 2015/27. Specifically, they have implemented the approved traffic management plan, and have obtained a separate approval for footpath dining.

A follow up letter was sent to the proprietors of The Belle General detailing the matters discussed at the meeting of 29 July 2015, outlining the outstanding issues, and providing information on possible enforcement action Council could take (if these matters were not addressed).

On 20 August 2015 the proprietors of The Belle General advised Council that plans for the installation of the disabled toilet, as required by Condition 16 of the Development Consent, were being prepared and that a Construction Certificate for this work was expected to be lodged with Council by the middle of October 2015. The proprietors also advised that they expected to undertake this work within four weeks of the issue of the Construction Certificate.

On 22 October 2015 the proprietors of The Belle General advised Council they were in negotiations with the property owner regarding the provision of an internally accessible disabled toilet facility and the construction of a garbage enclosure at the rear of the site.

A Construction Certificate has recently been approved by Council for DA 2015/475 ('Erection of a four space Garage, Waste storage area and associated driveway').

Council is yet to receive a Construction Certificate (or evidence that a Construction Certificate has been lodged with a Private Certifier) for the works associated with the construction of the disabled toilet.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Failure to provide suitable disabled toilet facilities has implications for customers of The Belle General (particular those with disabilities)
- **Economic**
Enforcement action may have economic impacts in terms of the operation of The Belle General Business.

Consultation

Consultation has been on-going with the operators. Council also continues to receive complaints in respect to this business.

Options

This report is a status report only.

In summary the Development Consent was issued for DA 2015/27 approximately seven months ago. The proprietors of The Belle General have continued to benefit from this consent in terms of increased seating capacity and trading hours, without satisfying all relevant conditions of the Consent.

In particular, they are yet to provide an internally accessible disabled toilet facility, construct a garbage enclosure at the rear of the site, or pay the required developer contributions.

Council staff are receiving ongoing complaints regarding these conditions from neighbouring residents.

Given the time that has now passed since consent was issued, a formal Notice and Order under Section 121B of the Environmental Planning and Assessment Act 1979 is to be served in an attempt to action the outstanding conditions of Development Consent 2015/27.

This is effectively the first step in a series of actions that Council will need to follow if the operators fail to comply with their conditions of consent.

RECOMMENDATION

That Council notes the contents of the report and the status of the ongoing enforcement action in respect to development application 2015/27 – 12 Shelly Beach Road.

Attachment(s)

1. Locality Plan

8.3 Ballina Uniting Church - Structural Inadequacy

8.3 Ballina Uniting Church - Structural Inadequacy

Delivery Program Building Services

Objective To determine what action Council wishes to take in respect to the current structural concerns for the Ballina Uniting Church.

Background

Council was advised in June 2015, by representatives of the local congregation, of concerns regarding the structural adequacy of the Ballina Uniting Church. Separate Engineering Reports by Consulting Structural Engineers determined that the outward movement of brickwork at the top of the external walls was past a critical stage and required immediate action. The outward movement of the walls appeared to be as a consequence of sagging roof trusses spreading and placing outward loading on the side walls. The trusses in the church do not feature a collar tie member at the level of the supports.

The subject building is listed as an item of environmental heritage on Ballina Shire Council's Local Environmental Plan (BLEP) 2012 Heritage Schedule.

Key Issues

- The building is located on the corner of Cherry Street and Webster Lane within the Ballina Island area. Even with construction fencing restricting access to the Church and part of the lane being in place since Council became aware of the matter, the close proximity of the church to the boundaries and to other buildings on the site that are still in use is a concern for public safety.
- Due to the environmental heritage listing, Council is required under Section 121S of the *Environmental Planning and Assessment Act 1979 (EPAAAct)* to consider the impact of an Order on the heritage significance of the item prior to giving the Order.
- A Statement of Heritage Impact (see attachments), commissioned by the Church, clearly identifies the building's heritage values and details the negative consequences of the loss of the church.
- The congregation has advised that the NSW Church Synod cannot provide any funding to repair the building which is believed to be in excess of \$180,000.
- The congregation has also advised that they do not have any funds for this purpose.
- If funding was available, specific structural advice about the repair the building has still not been undertaken.

Information

The representatives of the local congregation have closely liaised with Council staff to address the matter and have reluctantly advised that they are not in a position to fund the required repairs. Recent discussions with the Church Synod and Local Congregation representatives have disclosed they would be accepting of an Order requiring the demolition of the building.

The Statement of Heritage Impact detailed appropriate mitigation of the heritage impacts should the building be demolished. These include photographic archival recording, a care-plan for the re-housing and conservation of historic moveable heritage items and the undertaking of oral histories to document gaps in the building's history.

The issue of an Order would negate the need for the submission of a Development Application and subsequent Development Consent for demolition works under the *EPA Act*.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The Heritage consultant reports that Heritage buildings are valued by communities because they are tangible reminders of the past, as well as having contemporary meanings and contributions. They underpin personal/community identity and belonging by connecting people to their forebears and each other. They shape the physical character of a place making it a more pleasing environment in which to live, both aesthetically and emotionally.
- **Economic**
The consultant also advises that Heritage buildings contribute to a community economically, as they add character and uniqueness to a place that makes it a desirable place to live and visit.

Legal / Resource / Financial Implications

Legal – partial or total failure of the building could result in a liability action against Council.

Financial – Litigation against Council from personal or property injury/damage could have financial implications. There is currently no finance available to plan for, or conduct, the necessary repairs.

Consultation

Extensive consultation with a representative of the local Uniting Church congregation has been undertaken since June 2015. Recently Council has met with the Property Officer of the NSW Synod who confirmed that any repairs would not be funded by them.

Options

While the congregation has been proactive in addressing this matter, it has taken eight months to compile the structural investigation, statement of heritage impact, and conduct congregation and synod consultation, whilst the key building safety aspects have still not been advanced.

Funding and detailed specifications for the structural repairs have also still not been identified.

8.3 Ballina Uniting Church - Structural Inadequacy

Should funding become available, the required consultant structural advice, tendering of work, and carrying out of work would take months. The laneway would be required to remain closed until this work was completed. No funding is currently available.

The available are as follows.

Option 1 – Allow the Uniting Church congregation further time to investigate the possibility of retaining the building by pursuing funding. The utility of this option is difficult to see as the Church community has not been able to materially advance planning for the repair and/or restoration of the building over the past eight months.

Option 2 – Issue an Order to demolish the building and record and collect all salvageable heritage aspects of the building as recommended in the Heritage Report.

Option 2 is the recommended course of action as the church community has not been able to materially advance the project and no funding is available for the essential works.

RECOMMENDATION

That based on the public safety concerns and the Ballina Uniting Church community not being able to advance the repair and or restoration of the building, Council approves the issue of an Emergency Order to demolish the Ballina Uniting Church (52-54 Cherry Street, Ballina) and mitigate the heritage impacts of demolition in accordance with the Heritage Consultant's report, as attached to this report.

Attachment(s)

1. Locality Plan
2. Structural Report by Greg Alderson and Associates
3. Structural Report by Ardill Payne
4. Heritage Consultant's Report

8.4 Failure to Comply with Order - Wedding Function Venue

8.4 Failure to Comply with Order - Wedding Function Venue

Delivery Program Development Services

Objective To provide Council with an update on proceedings for this unauthorised land use and to seek Council endorsement for proposed legal action.

Background

Council officers undertook a site inspection at the subject premises on 3 November 2014.

During the inspection, Council officers confirmed that the landowners were operating a “*function centre*” within the subject premises. This inspection also confirmed the previously consented to operation of a retail nursery and café were no longer operating.

Further investigations revealed that the on-line advertising for the subject premises indicated that the business was operating solely as a “*function centre*”.

In 24 November 2014, Council wrote to the landowner, Mr Tony Kratz and Mrs Kim Kratz to advise that the subject premises has two separate zones that apply to the land, these being 7 (c) *Environmental Protection (Water Catchment) Zone* under the provisions of the *Ballina Local Environmental Plan 1987* and *RU1 – Primary Production Zone* under the provisions of the *Ballina Local Environmental Plan 2012*.

The “*function centre*” is located in the *RU1 Primary Production Zone* under the provisions of the *Ballina Local Environmental Plan 2012* (“BLEP 2012”). A “*function centre*” is defined within the dictionary of BLEP 2012 as:

“function centre means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility”.

A “*function centre*” is a prohibited use within the *RU1 Primary Production Zone*.

A review of Council records indicates that on 10 August 2001 Council received development application 2002/149 to “*convert existing dairy bails to a small café, that would serve a maximum of 50 patrons (comprising 20 internal patrons and up to 30 alfresco style dining patrons), erect a small toilet block and install an on-site sewage disposal system for sanitary waste and an on-site water recycling system for café trade waste, roof water and nursery effluent.*” On 28 November 2001, Council issued development consent 2002/149.

8.4 Failure to Comply with Order - Wedding Function Venue

Council records further indicate that on 20 May 2008, Council received a second development application, DA 2008/808 to “*undertake the removal of the existing pergola and the construction of a new larger pergola, to increase the number of patrons from 50 to 100 and to extend the hours of operation*” of the existing café and garden centre. On 19 December 2008, Council issued development consent 2008/808.

Condition 1.3 of development consent 2008/808 states that the consent was granted for a limited period of two years, unless the applicant/owner lodged a Section 96 application with Council, at least two months prior to the expiration of the approved period.

A subsequent amendment to the *Environmental Planning and Assessment Act 1979* (NSW) arising from the GFC extended this two year period to five years.

Based on an examination of the information contained within Council’s files, it was initially determined that development consent DA 2008/808 had lapsed as works to physically commence the consent had not been undertaken within the five year time period allowed under the *Environmental Planning and Assessment Act 1979* (NSW) to commence development.

Key Issues

- Operation of Wedding Function Centre without the prior consent of Council
- Receipt of ongoing complaints from local residents
- Failure to operate business in accordance with development consent conditions

Information

On 3 December 2014, Council received a letter from Mr and Mrs Kratz, in which the landowners indicated that they had approached a local planning consultant to prepare an application for the continued use of the subject premises as a “*function centre*”. Council provided an extension to Mr and Mrs Kratz and their consultant to prepare and to lodge the required development application to Council.

On 6 May 2015, Council staff met with Mr and Mrs Kratz to further discuss the lodging of a formal development application for the use of the subject premises as a “*function centre*”. At that meeting, it was agreed that Mr and Mrs Kratz would provide written advice to Council by no later than 29 May 2015 of the date that they would be lodging this application with Council.

On 13 May 2015, Council had a DA pre-lodgment meeting with Mr and Mrs Kratz and their planning consultant, with Minutes sent to Mr and Mrs Kratz by post on 9 July 2015.

On 15 May 2015, Council formally wrote to Mr and Mrs Kratz to remind them of the requirement to provide Council with written confirmation of the date by which a development application for the use of the subject premises as a “*function centre*” would be lodged.

8.4 Failure to Comply with Order - Wedding Function Venue

On 15 July 2015, Mr and Mrs Kratz and their planning consultant again met with Council officers in relation to this matter. At this meeting, Mr. and Mrs. Kratz outlined a number of options that they were investigating to continue their business in some form within the subject premises.

One of these options available to Mr and Mrs Kratz was to allow the restaurant approved under development consent DA 2008/808 to be booked from time to time for a wedding reception. Council has advised that there is no objection, nor any requirement, for the obtaining of an approval for this to occur, but that the issues Mr and Mrs Kratz needed to resolve were:

1. to demonstrate that DA 2008/808 had commenced for the purposes of the Act
2. to comply with the conditions of development consent DA 2008/808; and
3. for the venue to operate principally as a restaurant and not to operate solely as a *"function centre"*.

Mr and Mrs Kratz were again advised that they would need to provide Council with written confirmation of the actions that they proposed to undertake to bring the business into compliance with the relevant approvals. Mr. and Mrs. Kratz were also advised that a Notice of Proposed Order would be issued as part of this process.

On 29 July 2015, Council served a Notice of Proposed Order on Mr and Mrs Kratz requiring that they cease the operation of the function centre from the subject premises, as this was a use that required the formal consent of Ballina Shire Council and no consent had been sought or obtained.

On 13 August 2015, a submission was lodged with Council on behalf of Mr and Mrs Kratz outlining the reasons that Council should not proceed to serve the Order. These reasons included an assertion that the development consent DA 2008/808 had not lapsed and that works required had been undertaken in line with the development consent and that a building certificate had been lodged as required by a condition of development consent. No supporting documentation was provided at this time.

This submission was reviewed and it was determined that the reasons outlined were not sufficient to prevent serving the Order.

On 11 November 2015, Council served the formal Order on Mr and Mrs Kratz requiring that they:

1. cease operating a function centre from the subject premises.
2. provide a written response outlining the functions already booked to occur within the subject premises.

The formal Order provided a compliance date of Friday 11 December 2015.

On 12 November 2015, a local solicitor engaged by Mr and Mrs Kratz submitted information to Council to substantiate the physical commencement of development consent DA 2008/808 and on 16 November 2015, Mr and Mrs Kratz's planning consultant provided additional receipts to Council to identify the dates of the physical works being undertaken.

On 10 December 2015, a detailed review of all the supporting information supplied to Council was completed and Council issued correspondence acknowledging that development consent DA 2008/808 had been physically commenced. Whilst acknowledging “commencement”, Council did advise Mr and Mrs Kratz’s consultant that:

“You are also advised that there are a number of conditions of development consent DA 2008/808 which remain outstanding and your clients should not operate the café as outlined in development consent DA 2008/808 without complying with all conditions of that approval”.

Council also indicated to Mr and Mrs Kratz that the date for compliance with the Order as served had been extended to Friday 8 January 2016. This timeframe was extended due to the time taken for Council to consider the additional information supplied by Mr and Mrs Kratz’s solicitor and planning consultant.

A review of Council records was conducted and that review could not locate:

1. any application lodged for the operation of the subject premises as a “function centre” as required by point 1 of Council’s Order, and
2. any written details provided by Mr and Mrs Kratz of functions already booked for 2016 as a formal response to point 2 of Council’s Order.

Complaints continue to be received from local residents in relation to ongoing functions within the subject premises. Since 7 November 2015, Council received complaints about the noise generated by the hosting of wedding functions at the subject premises. The complaints also allege that these functions continued on after 9:00 pm, being the approved trading hours under development consent DA 2002/149.

Further, the complaints also allege that functions have continued on until 11.00 pm and later with large buses and maxi cabs attending the subject premises. On two occasions, 28 November 2015 and 19 December 2015, Council’s on-call Ranger was in attendance and has provided detailed information in relation to breaches on both these occasions.

Council has since issued three Penalty Infringement Notices to Mr and Mrs Kratz for the breach of the 9.00 pm approved closing time for the restaurant under development consent DA 2002/149.

Sustainability Considerations

- **Environment**

The major impact on the environment is by the emission of noise from the unauthorized wedding function venue.

- **Social**

The disturbance of local residents and the rural amenity.

- **Economic**

The commencement of any proceedings would likely have a significant economic impact on the landowners and the Council as legal proceedings are costly but the continued disturbance of another business in the locality would likely have economic impacts on its operation.

Legal / Resource / Financial Implications

Legal proceedings are generally costly and to minimise costs and to achieve an acceptable outcome, there are a number of options available.

Consultation

Council has sought legal advice from one of the solicitors engaged through Council's Legal Tender and Council is acting in accordance with this advice.

This report has been made in open Council as all the information within it is a matter of public record. If the Council needs to debate any matters having potential legal privilege, it will be necessary for Council to deal with these confidentially.

Options

Council has a number of options as to what form of action, if any, it wishes to take for this unauthorised operation of a wedding function venue within the subject premises. The available options are more fully outlined in the *Ballina Shire Council Enforcement Policy* (hereinafter referred to as the "Enforcement Policy").

In determining a suitable response to this matter the Council will need to give due consideration to the requirement for a general deterrent to other residents, both within the immediate vicinity and within the Ballina Shire as a whole, that the carrying out of unapproved works is not acceptable.

Should Council decide to take minimal action for the operation of an unauthorised wedding function venue within the subject premises, it could create an undesirable situation within the local area that may result in similar unauthorised venues beginning operations within the Shire.

Having given due regard to the considerations for legal action as outlined in Part 3 of the Enforcement Policy and the need for a clear deterrent to the general public, it is considered that further enforcement action is warranted against Mr and Mrs Kratz for the operation of an unauthorised wedding function venue within the subject premises.

Council currently has seven options that are available to it identified within the Enforcement Policy. Council's options are:

1. Take no further action in relation to the operation of a wedding function venue within the subject premises.
2. Issue Formal Warnings.
3. Issue Penalty Infringement Notices.

8.4 Failure to Comply with Order - Wedding Function Venue

4. Commence Local Court Criminal Prosecution Proceedings.
5. Commence Land and Environment Court Criminal Prosecution Proceedings.
6. Commence proceedings in the Land and Environment Court seeking to enforce the Council Order as served on the landowner.
7. Commence legal proceedings in the Land and Environment Court, seeking an injunction against the landowners hosting any future weddings or other functions without the required development consent of Ballina Shire Council.

Option One

It is open to Council to resolve that no further action is required in relation to the operation of a wedding function venue within the subject premises.

Council's Enforcement Policy provides that Council may resolve that the issuing of the three Penalty Infringement Notices to Mr and Mrs Kratz are considered to be a sufficient punishment for the failure to obtain the required development consents and the failure to comply with the issued development consent DA 2008/808 and not seek to take any further action for the ongoing non-compliances within the subject premises.

This Option, whilst available to Council, is not recommended as a viable Option, as to date, the use is continuing and is not operating in accordance with any development consent.

Option Two

Issue Formal Warnings - When viewed in isolation, the service of Formal Warnings is not considered to be a suitable and substantial deterrent for the operation of a wedding function venue within the subject premises without the prior consent of Council.

Council has already issued three Penalty Infringement Notices to Mr and Mrs Kratz and it appears that these have not been a sufficient deterrent as the venue continues to operate without consent.

Option Three

Issue Penalty Infringement Notices - The wedding function venue has already received three Penalty Infringement Notices with a total value of \$9,000 for the hosting of three weddings during the months of November and December 2015.

The issuing of these Penalty Infringement Notices has not addressed the ongoing non-compliances within the subject premises. Further, the payment of at least one of these Penalty Notices is not legally viewed as an admission of guilt, but rather a decision not to challenge the Penalty Notice in Court.

The issuing of further Penalty Infringement Notices may not be a sufficient deterrent to prevent the ongoing non-compliances within the subject premises.

8.4 Failure to Comply with Order - Wedding Function Venue

Options Four and Five

Options Four and Five recommend the commencement of criminal prosecution proceedings for:

- The operation of a wedding function venue without the requisite development consent from Ballina Shire Council;
- The ongoing breaches of Council's Order as served on Mr and Mrs Kratz; and
- The failure to comply with all conditions of development consent DA 2008/808 to *undertake the removal of the existing pergola and the construction of a new larger pergola, to increase the number of patrons from 50 to 100 and to extend the hours of operation*".

The major difference between these two options is the Court jurisdiction.

The NSW Land and Environment Court is a division of the NSW Supreme Court. In this jurisdiction, any criminal prosecution, if successful, would leave any party subject to a maximum penalty of \$3m.

On the other hand, the Local Court jurisdiction would be able to impose a maximum penalty of \$110,000.

Council would need to also consider the capacity of any party to pay any penalty that may be imposed by the relevant Court. As stated, monetary penalties issued by the Land and Environment Court can be substantial.

Either of these two options would adequately address the penalty requirements and, upon successful completion of the proceedings, would provide a deterrent to the general public for the operation of an unauthorised function centre or wedding venue.

In this case however, these Options may not adequately address the ongoing nature of the use of the subject premises itself, and, in isolation, may not adequately address all of the issues associated with the subject premises.

Options Six and Seven

Options Six and Seven provide Council with avenues to obtain Orders from the Land and Environment Court that require the landowners to cease the operation of a wedding function venue within the subject premises.

The difference between these Options is that Option Six seeks to enforce Council's Order as served and Option Seven seeks to obtain a declaration that the wedding function venue is operating without the requisite approvals from Ballina Shire Council.

Council's solicitors have not suggested a preference for either Option Six or Seven, however both Options are available to Council.

Any Order of the Court carries the legal weight of the Supreme Court of New South Wales and any non-compliance with that Court Order would not be favourably viewed in any future proceedings.

8.4 Failure to Comply with Order - Wedding Function Venue

Further, the obtaining of a Court Order is expected to be the most efficient avenue available to Council to seek the cessation of the unauthorised wedding function venue within the subject premises.

Options Six and Seven do come at a financial cost to Council and these costs are not inexpensive, however Council would seek to obtain costs in these proceedings, should either Option Six or Seven be endorsed.

Use of Multiple Options:

There is no legal impediment to Council utilising more than one of the above options to remedy the unauthorised use and the non-compliance with development consent conditions within the subject premises. As reported, multiple options have been utilised but, to date, they have been ineffective.

When referring to actions within the Land and Environment Court, it is common practice, should sufficient evidence exist, for both criminal and civil proceedings to be commenced for an unlawful activity. Further, Council could utilise three or four options should circumstances require.

The use of multiple options is also consistent with the Enforcement Policy.

In this particular instance, and having regard to Council's legal advice, it is considered that there is now a need to apply more substantial options to those applied thus far. As a next step, Council's solicitors have been instructed to write to the landowners advising of their engagement and that legal proceedings in the Land and Environment Court are to be commenced without further notice should they not provide a satisfactory response by the date of the February Council meeting.

The recommendation that follows outlines the preferred course of action which is considered to be a reasonable balance in respect to the available options and the responses of the landowners to date.

RECOMMENDATION

That Council endorse the utilisation of options six and seven, as detailed in this report, and as outlined below to instigate and pursue legal proceedings in the NSW Land and Environment Court against Mr and Mrs Kratz for the offences of operating a wedding function venue without the requisite development consent and for the failure to operate in accordance with either development consent DA 2002/149 or development consent DA 2008/808.

- Option Six - Commence proceedings in the Land and Environment Court seeking to enforce the Council Order as served on the landowner.
- Option Seven - Commence legal proceedings in the Land and Environment Court, seeking an injunction against the landowners hosting any future weddings or other functions without the required development consent of Ballina Shire Council.

Attachment(s)

1. Locality Map

8.5 Failure to Comply with Emergency Order - Trev's Garden Centre

8.5 Failure to Comply with Emergency Order - Trev's Garden Centre

Delivery Program Development Services

Objective To provide Council with an update on the Failure to Comply with an Emergency Order and to seek Council endorsement for proposed legal action.

Background

Council would be aware of the operation of a recycled plant nursery on River Street, West Ballina operated by Mr Trevor Murray. This business operated from those premises for approximately five years under development consent DA 2010/724 and Council was undertaking action through the provisions of the *Environmental Planning and Assessment Act 1979* (NSW) to have Mr Murray comply with all of the conditions of that development consent.

There were a number of non-compliances within the River Street, West Ballina premises which were of concern to Council including the failure to provide adequate off street parking, the provision of fire safety equipment and ongoing effluent run-off from the premises into the Council's stormwater drainage system. One such pollution incident occurred in early 2015, where a water sample taken by Council officers indicated a faecal coliform count of 9,000, when the equivalent reading for drinking water is less than 1.

Mr Murray was provided with a number of extensions to enable him to bring about compliance with all conditions of development consent, or to lodge the appropriate applications to seek to modify the existing development consent. Mr Murray chose neither option.

This matter was being prepared for a report to Council recommending legal action be considered when the landowner sought to have vacant possession of the River Street, West Ballina premises.

This decision by the landowner was pursued and Mr Murray vacated the River Street, West Ballina premises without Council having to commence legal proceedings over the Christmas period.

On 11 January 2016, Council became aware that Mr Trevor Murray had relocated his business operations to an address at 264 Ross Lane, Tintenbar. Mr Murray's business consists of the operation of a recycled plant nursery from the subject premises.

Under the provisions of the *Ballina Local Environmental Plan 2012* ("BLEP 2012"), the subject premises are zoned *RU2 Rural Landscape Zone*.

8.5 Failure to Comply with Emergency Order - Trev's Garden Centre

A “plant nursery” is defined within the within the Dictionary of the BLEP 2012 as:

*“**plant nursery** means a building or place the principal purpose of which is the retail sale of plants that are grown or propagated on site or on an adjacent site. It may include the on-site sale of any such plants by wholesale and, if ancillary to the principal purpose for which the building or place is used, the sale of landscape and gardening supplies and equipment and the storage of these items.”*

A “plant nursery” business would likely fall within the parent definition of a “retail premises”, which is defined within the Dictionary as:

*“**retail premises** means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following:*

- (a) bulky goods premises;*
- (b) cellar door premises;*
- (c) food and drink premises;*
- (d) garden centres;*
- (e) hardware and building supplies;*
- (f) kiosks;*
- (g) landscaping material supplies;*
- (h) markets;*
- (i) plant nurseries;*
- (j) roadside stalls;*
- (k) rural supplies;*
- (l) shops;*
- (m) timber yards;*
- (n) vehicle sales or hire premises ;*

but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

A check of Council records cannot locate any approvals for the operation of a “plant nursery” or “retail premises” from the subject premises.

Council is advised that a “retail premises” and a “plant nursery” are both prohibited landuses within the *RU2 Rural Landscape Zone*.

Further, Council has received complaints indicating the unsafe nature of Ross Lane in the vicinity of the subject premises and the likelihood of a traffic accident involving significant damage to motor vehicles and potential injury to drivers and passengers travelling along Ross Lane in the vicinity of the subject premises.

Key Issues

- Operation of a “*retail premises*” and a “*plant nursery*” from the subject premises without consent
- Traffic safety concerns caused by the unauthorised business
- Potential for death or serious injury to persons and of major damage to motor vehicles resulting from the operation of an unauthorised business

Information

On 13 January 2016, Council wrote to Mr Murray advising him of the concerns with the business of Trev's Recycled Garden business operating from the subject premises without the prior consent of Council. In this correspondence, Mr Murray was informed of:

- (a) the landuse issues identified in this report
- (b) the subject premises being located on Acid Sulfate Soils
- (c) the subject premises being subject to flood inundation
- (d) the need for formal approvals for the proposed landuse
- (e) the need to address any potential pollution events that may occur from the subject premises and
- (f) the traffic impacts that his business may have on the surrounding road network.

Mr Murray was requested to respond in writing to Council's concerns.

Council also sought the advice of Council's Traffic Engineer to provide technical advice on Ross Lane and the impacts that Mr Murray's business would have on traffic movements and public safety. Council's Traffic Engineer has since advised that:

“In regard to traffic issues related to the business operating at Lot 1 DP 611477, Ross Lane, it is advised:

Accesss and Adjacent Road Conditions

The access to the business is on the south side of Ross Lane, 160m east of the Newrybar Swamp Road intersection. The access is an informal gravel formation extending from the property boundary to the shoulder of Ross Lane.

Ross Lane at this Location is a 2 lane, 2 way road with 8m wide sealed surface and narrow unsealed shoulders. Adjacent to the access, Ross Lane has double barrier centre line markings which are leading into and from the functional area of the nearby intersection with Newrybar Swamp Road.

Ross Lane is a key arterial road in the Ballina Shire network that links the Lennox Head Coastal urban area to the Pacific Highway interchange and further west to Alstonville, Lismore and beyond. The most recent traffic count on this section of Ross Lane was August 2013 which recorded an average daily traffic count of 4,946 v.p.d. (“vehicles per day”). Traffic is predicted to grow to 10,514 v.p.d. over the next 20 years due to the growth of Lennox Head and establishment of the Cumbalum B urban growth area.

The current speed limit is 80 kilometers per hour (kph). A speed survey in August 2013 indicated an 85 percentile speed of 92.9 kph which is considerably in excess of the posted speed limit.

In the latest 5 year accident record period, the NSW CrashLink database reveals there were 6 recorded traffic accidents in the 720 metre section of Ross Lane east of Newrybar Swamp Road.

The combination of high traffic volumes, high speeds, significant accident record and proximity to the functional area of the Newrybar Swamp Road intersection contribute to significant safety/risk issues for the placement of an access to a business in this location.

Analysis of Access to Business at Lot 1 DP 611477, Ross Lane

At this time details have not been provided of the type and area of business operation that is being conducted that would enable an estimation of traffic generation volumes. Nor is there any information on the internal configuration of the access, loading/unloading and customer parking areas. However, the following issues would be anticipated at this site:

Access onto Ross Lane

The deceleration of vehicles slowing down to enter the business from Ross Lane (either westbound left turning or eastbound right turning) will increase the risk of rear end and out of control accidents by following traffic. As the Ross Lane shoulders are narrow there is no room for following vehicles to pass vehicles turning into the access. This issue could warrant the provision of a westbound left turn exit lane and an eastbound protected right turn lane to service the access. Right turning traffic to and from the access will increase the risk of crashes with conflicting through traffic.

Given the proximity to the Newrybar Swamp Road intersection, and speed high environment it may be safer to provide a central median to enforce left in/left out only access.

There is no detail of internal layout to indicate if delivery and/or customer vehicles can turn around to ensure all entry/exit is in a forward direction. Any reversing to/from the site to Ross Lane would be extremely dangerous and should be prohibited.

Sight distance for vehicles departing from the access to Ross Lane is currently compromised to the west by the presence of large potted plants that have been placed on the road reserve west of the entrance. Such use of the road reserve for storage/exhibition of stock is dangerous and should be prohibited.

Parking

The business will create a demand for on-site parking and provision for on-site loading/unloading of delivery vehicles. If there is insufficient provision for these activities, vehicles may park on the narrow shoulders of Ross Lane and compromise the safety of through traffic and the sight distance of vehicles entering/exiting the site.

Conclusion

Due to the inherent traffic safety issues at this location, a business undertaking at Lot1 DP 611477, Ross Lane should not be permitted until a detailed analysis of traffic issues is undertaken and identified appropriate traffic infrastructure/controls/responses are in place.

8.5 Failure to Comply with Emergency Order - Trev's Garden Centre

Given the extent of the serious concerns raised by Council's Traffic Engineer, Council sought the advice of one of Council's solicitors on the endorsed Legal Tender Panel. Council has also sought advice from a reputable Traffic Consultancy firm to ensure that Council's traffic concerns will stand up to independent review.

Council's solicitor advised that the time limit provided in Council's initial correspondence should be amended to address the safety concerns raised. In this regard, on 20 January 2016, Council again wrote to Mr Murray and this correspondence was hand delivered to him personally providing him with a shortened time frame in which to provide a written response.

Mr Murray was required to respond in writing to Council by no later than Thursday 21 January 2016.

Mr Murray did not provide any response and on 22 January 2016, Mr Murray was served with an Emergency Order under the provisions of the *Environmental Planning and Assessment Act 1979* (NSW) requiring that he:

1. Cease conducting a plant nursery/resource recovery business from the subject premises, namely Lot 1, DP 611477, 264 Ross Lane, Tintenbar; and
2. Remove all advertising signage for "Trev's Recycled Garden" from the road reserve outside the subject premises, namely Lot 1, DP 611477, 264 Ross Lane, Tintenbar; and
3. Remove all plants stored on the road reserve outside the subject premises, namely Lot 1, DP 611477, 264 Ross Lane, Tintenbar.

Mr Murray was required to comply with this Emergency Order by no later than 4.00 pm, Monday 25 January 2016.

An inspection of the subject premises was carried out on Wednesday 27 January 2016 and it was observed that Mr Murray had not complied with any of the items of Council's Emergency Order dated 22 January 2016, although it is noted that one sign had been removed from the supporting posts and was placed against the front fence. This sign was still visible from the public road and the supporting posts had not been removed from the road reserve.

Mr Murray has written to Council but the matters raised in this correspondence do not adequately address Council's concerns. Mr Murray has indicated to Council that he:

- (a) does not recognise any legal agreement between himself and Council
- (b) believes that Council is in breach of the common law;
- (c) believes that Council does not abide by the requirements of the Magna Carta
- (d) believes that Council is in breach of UCCI-308 (a United States Contract Law Code)
- (e) expects that Council will pay significant fees direct to Mr Murray to answer telephone calls, permit attendance at his business to conduct inspections and to attend Court in any proceedings that Council may institute.

It is not known who is providing advice to Mr Murray however Council's solicitors have indicated that the advice contained in Mr Murray's correspondence are not matters that are binding on Council.

In line with Council's legal advice, this matter is now reported to Council for review and endorsement of proposed actions in relation to this matter.

Sustainability Considerations

- **Environment**

The expected main impact on the environment is the emission of waste, including waste waters from the unauthorized plant nursery if suitable waste management strategies are not put in place.

- **Social**

Substantial social impacts arise from the unapproved opening of the business in the absence of qualified traffic safety assessment and access design having regard for the increased risk of road traffic accidents and the decrease in safety of Ross Lane which is a key arterial road.

- **Economic**

While the relocation and opening of the business to this new site provides a positive opportunity for an economic return to Mr Murray, by virtue of the business being located in the wrong zone without seeking the consent of the Council means that it may have an unfair advantage over other businesses in the Shire that have established correctly. Additionally, in this case the road safety issues may add to the costs to the wider community of providing emergency and health services and to motorists who may be involved in any traffic accident.

Legal / Resource / Financial Implications

Legal proceedings are generally costly but, to afford the Council the flexibility to reasonably minimise costs and to achieve acceptable outcomes, there are a number of options available.

Consultation

Council has sought legal advice from one of its solicitors on the endorsed Legal Tender Panel and Council is acting in accordance with this advice. This report has been made in open Council as all the information within it is a matter of public record. If the Council needs to debate any matters having potential legal privilege, it may be necessary for Council to resolve to move into confidential session.

Options

Council has a number of options as to what form of action, if any, it wishes to take for this unauthorised operation of a plant nursery from the subject premises. The available options are more fully outlined in the *Ballina Shire Council Enforcement Policy*.

8.5 Failure to Comply with Emergency Order - Trev's Garden Centre

In determining a suitable response to this matter the Council will need to give due consideration to the requirement for a general deterrent to other business operators in the Shire that establishing businesses without development consent and the carrying out of unapproved works is not acceptable.

Should Council decide to take minimal action for the operation of an unauthorised plant nursery within the subject premises, it could create an undesirable situation that may result in other unauthorised venues beginning operations without consent in inappropriate zones of the Shire.

Having given due regard to the considerations for legal action as outlined in Part 3 of the Enforcement Policy, the road safety issues, and the need for a clear deterrent to the general public, it is considered that further enforcement action is warranted against Mr Murray for the operation of an unauthorised plant nursery within the subject premises.

Council currently has seven options available in relation to this unauthorised plant nursery identified within the Enforcement Policy. Council's options are:

1. Take no further action in relation to the operation of a plant nursery within the subject premises;
2. Issue Formal Warnings;
3. Issue Penalty Infringement Notices;
4. Commence Local Court Criminal Prosecution Proceedings;
5. Commence Land and Environment Court Criminal Prosecution Proceedings;
6. Commence proceedings in the Land and Environment Court seeking to enforce the Council Order as served on the landowner;
7. Commence legal proceedings in the Land and Environment Court, seeking an injunction against the tenant continuing to operate a plant nursery without the prior consent of Ballina Shire Council.

Option One

It is open to Council to resolve that no further action is required in relation to the operation of a plant nursery within the subject premises.

This option, whilst available to Council, is not recommended as a viable option as to date, there are ongoing non-compliances within the premises that have not been adequately addressed and that are of significant planning, environmental, and public safety concerns.

Option Two

Issue Formal Warnings - When viewed in isolation, the service of Formal Warnings is not considered to be a suitable and substantial deterrent for the operation of a plant nursery within the subject premises without the prior consent of Council.

As outlined in the body of this report, Council has already issued an Emergency Order to Mr Murray who has continued to ignore the traffic and public safety concerns within the vicinity of the unauthorised plant nursery.

8.5 Failure to Comply with Emergency Order - Trev's Garden Centre

Option Three

Issue Penalty Infringement Notices – Whilst Council has not issued any Penalty Infringement Notices to Mr Murray, correspondence provided by Mr Murray to both Council and Council's engaged solicitors indicates that he will not comply with any written request from Council.

Options Four and Five

Options Four and Five recommend the commencement of criminal prosecution proceedings for:

- The operation of a plant nursery without the requisite development consent from Ballina Shire Council; and
- The ongoing breaches of Council's Order as served on Mr Murray.

The major difference between these two options is the Court jurisdiction.

The NSW Land and Environment Court is a division of the NSW Supreme Court. In this jurisdiction, any criminal prosecution, if successful, would leave any party subject to a maximum penalty of \$3m.

On the other hand, the Local Court jurisdiction would be able to impose a maximum penalty of \$110,000.

Council would need to also consider the capacity of any party to pay any penalty that may be imposed by the relevant Court. As stated, monetary penalties issued by the Land and Environment Court can be substantial.

Either of these two options would adequately address the penalty requirements and, upon successful completion of the proceedings, would provide a general deterrent to the general public for the operation of an unauthorised retail premises.

In this case, however, neither of these Options adequately address ongoing nature of the use of the subject premises itself, and in isolation, may not adequately address all of the issues within the subject premises.

The major immediate concern for Council is that the current unauthorised use provides an unacceptable impact on traffic and public safety for people using Ross Lane. Any criminal proceedings for the unauthorised plant nursery would not require the cessation of the business and would not adequately address Council's traffic and public safety concerns.

Options Six and Seven

Options Six and Seven provide Council with avenues to obtain an Order from the Land and Environment Court that requires the landowners to cease the operation of a plant nursery within the subject premises.

The difference between these Options is that Option Six seeks to enforce Council's Order as served and Option Seven seeks to obtain a declaration that the plant nursery is operating without the requisite approvals from Ballina Shire Council.

8.5 Failure to Comply with Emergency Order - Trev's Garden Centre

To date Council's solicitors have not suggested a preference for either Option Six or Seven, however both Options are available to Council.

Any Order of the Court would carry the legal weight of the Supreme Court of New South Wales and any non-compliance with that Court Order would not be favourably viewed in any future proceedings. Further, the obtaining of a Court Order is expected to be the most efficient avenue available to Council to seek the cessation of the unauthorised plant nursery within the subject premises.

Options Six and Seven do come with a financial cost to Council and these costs are not inexpensive, however, Council would seek to obtain costs in these proceedings, should either Option Six or Seven be endorsed.

Use of Multiple Options

There is no legal impediment to Council utilising more than one of the above options to remedy the unauthorised plant nursery and the non-compliance with development consent conditions within the subject premises. When referring to actions within the Land and Environment Court, it is common practice, should sufficient evidence exist, for both criminal and civil proceedings to be commenced for an unlawful activity. Further, Council could utilise three or four options should circumstances require.

The use of multiple options is also consistent with the Enforcement Policy.

In this particular instance and having regard for Council's legal advice, it is considered that employing more than one option would be appropriate. In the first instance, Council's solicitors have now written to Mr Murray advising of their engagement and that legal proceedings may be commenced without further notice should compliance not be forthcoming by the date of this Council meeting.

The recommendation that follows outlines the preferred course of action which is considered to be a reasonable balance in respect to the options available.

RECOMMENDATION

That Council endorses options six and seven, as detailed in this report and as outlined below, to pursue legal proceedings in the Land and Environment Court against Mr Trevor Murray for the offence of operating a plant nursery without the requisite development consent and for the failure to comply with Council's Emergency Order as served; i.e.

- Option Six - Commence proceedings in the Land and Environment Court seeking to enforce the Council Order as served on the landowner
- Option Seven - Commence legal proceedings in the Land and Environment Court, seeking an injunction against the tenant continuing to operate a plant nursery without the prior consent of Ballina Shire Council.

Attachment(s)

1. Ross Lane - RTA Crash Site Map

8.6 Compliance - Seabreeze Holiday Park

8.6 Compliance - Seabreeze Holiday Park

Delivery Program Building Services

Objective To provide an update on the compliance actions being taken in respect to the Seabreeze Holiday Park.

Background

Councillors are aware of the ongoing compliance matters regarding the operation of Seabreeze Holiday Park at 344 South Ballina Beach Road South Ballina.

A report has been prepared for Council's consideration and direction relating to the operation of the Park, including the non-compliance with the issued "Approval To Operate" program of works.

Due to the sensitive nature of the matter, the report is contained within the confidential section of the meeting agenda. This is required under the provisions of S 10A(2)(g) of the Local Government Act on the grounds that confidential legal advice would be discussed and, on balance, discussion in open meeting would not be in the public interest due to potential litigation.

Key Issues

- Compliance with the Approval To Operate issued under the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005*

Information

The report contained within the confidential section of the meeting agenda relates to the non-compliance of the Park's operation with the issued "Approval To Operate" and Council's actions taken to date and into the future.

Sustainability Considerations

- **Environment**
The protection of the natural environment, the river and groundwater systems.
- **Social**
The provision of safe and healthy holiday and residential accommodation.
- **Economic**
The provision of a satisfactory standard of commercial holiday rental and permanent residential accommodation.

Legal / Resource / Financial Implications

Council has expended significant funds to date seeking compliance in this holiday park.

Consultation

There has been on-going consultation with the owner, solicitors and our insurance provider.

Options

This report is for noting only as the essential information has been classified as confidential in a later report in this agenda.

RECOMMENDATION

That Council notes the contents of this open Council report in respect to compliance at the Seabreeze Holiday Park.

Attachment(s)

Nil

8.7 Local Development Performance Data Release - Overview

Delivery Program Development Services

Objective To provide an update on the NSW Planning Local Development Performance report for 2014/15.

Background

NSW Planning has recently released the annual Local Development Performance Data for the State for 2014/15.

The Department provides public access to various data sets held by the Department on its e-Planning Data Reports website at www.datareporting.planning.nsw.gov.au. Among the data sets held by the Department are the annual Local Development Performance Monitoring Reports for the State.

As this information provides important data on Council's performance, along with the performance of other councils in respect to the management of planning applications, this report provides an overview of that latest data.

Key Issues

- Comparative performance of Council against State benchmarks, other similar councils and other councils in our region

Information

This year's publication by the Department and enhancement of its website has provided substantially improved information on local development across the State. In particular, the capacity of the website to provide a comprehensive range of reports, and the ease of their production, is impressive.

The general statutory timeframe for the determination of development applications is 40 days. This is technically a net time calculated by subtracting any 'stop-the-clock' days from the gross time an application has been with a council.

This year the Department's approach to publishing statistics about processing times is to provide calculated figures for the 'Average Gross Approval Time for the First 90% of Approvals'. These figures can be generated as coloured graphs and tables on the website at the levels of individual council data sets, regions, and the State.

Additionally, the Department collects from councils, data about the value and different types of development handled, other types of applications a council deals with such as Section 96 amendments of consents, complying development certificates issued by councils and the private sector, and about other certificates a council issues.

Across the State councils determined 48,118 residential and 17,091 non-residential development applications (Das) and complying development certificate (CDCs) applications.

The Gross Approval Times for 90% of DA and CDC applications for the State was 44 days for residential, 52 days for non-residential, and 46 days for the two categories combined. Within this time Ballina Shire Council determined 554 residential and 138 non-residential DA and CDC applications and our gross approval times were a comparatively good 23, 42, and 25 days. More broadly, the total value of development applications determined by the Council is reported monthly and this figure was \$140m for the year.

During this period, we and the private sector combined, processed 621 Construction Certificates, 496 Occupation Certificates and 43 subdivision certificates. By far the majority of these were dealt with by Council and not the private sector. We also determined 134 Section 96 applications to amend approved developments.

The Department collects and publishes information about the number of Equivalent Full-time Council Staff (EFT) that are employed dealing with development applications. During this period we reported 6.5 EFT.

These numbers are a bit of a dark art as the Departmental definitions still need clearer specification to ensure that councils calculate their staff numbers consistently, and we need to better identify the proportion of time our different staff spend on DAs. Our estimates and reports in this area have varied over time.

Essentially, we have a substantially larger number of staff employed in this area but they all have a wider range of responsibilities and, for the Department's reporting requirements, there is a need to estimate how much of each person's time is allocated to the assessment of DAs.

For technical staff this excludes other work such as assessing and issuing construction certificates, occupation certificates, subdivision certificates, and zoning certificates, handling enquiries and complaints, and inspecting buildings and developments during construction and for administration staff this excludes any work other than registration of applications and managing development application assessment correspondence.

Within this category, the Department has reported that the average number of DA's handled per EFT is 59.5. Twelve councils reported that EFT staff handled more than 100 applications; this included Ballina (102).

Following the global financial crisis (GFC) and the reduction in our technical staff, the bounce back, particularly in domestic construction in the past three years, has posed substantial challenges to the resources of the Council.

The Department's figures show clearly that the Council staff have applied themselves conscientiously to the task and is a testament to their commitment and hard work during this time. We have now been able to build the technical staff numbers back towards pre-GFC numbers and hopefully this will relieve some of the extra pressure that has been more recently experienced.

A sample of reports taken from the Department's website is attached. These include comparative tables for other councils.

Sustainability Considerations

- **Environment**

Environmental impacts are a key part of the assessment of any application.

- **Social**

The confidence that flows from having an active local development industry has direct and indirect benefits across the community.

- **Economic**

It is of substantial local economic importance that the Council deal with all aspects of the regulatory development process effectively and efficiently.

It is very important that business people are able to compete, grow and to operate having confidence that their development projects will be fairly and properly dealt with. The importance of this flows to the domestic construction industry that employs local trades, provides materials, and enables the local community to meet its housing needs as well as to all the indirect service providers that are needed in our communities.

Legal / Resource / Financial Implications

The legal, resource, and financial implications of the data are that it shows that the Council has been comparatively efficient and economical in its investment in the development areas of its operations. In particular, during the reported period, litigation was minimised. Only one development case was subject to litigation in 2014/15.

Consultation

This report is provided for public information.

Options

On balance Council has performed well in addressing all its responsibilities in the reported year. This conclusion has been drawn from a comparative assessment of the data relating to other councils and to the State norms. Additionally it extends to other areas of the Council's operations including the strategic planning that needed to be done in a timely way to establish a suitable mix of zoned areas for the Shire that allow for smooth growth and development and to the provision of the infrastructure that is needed to service development.

RECOMMENDATION

That Council notes the contents of this report on the overview of the Local Development Performance Data Release report for 2014/15.

Attachment(s)

1. NSW Planning Local Development Statistics and Ballina Shire Council Extracts

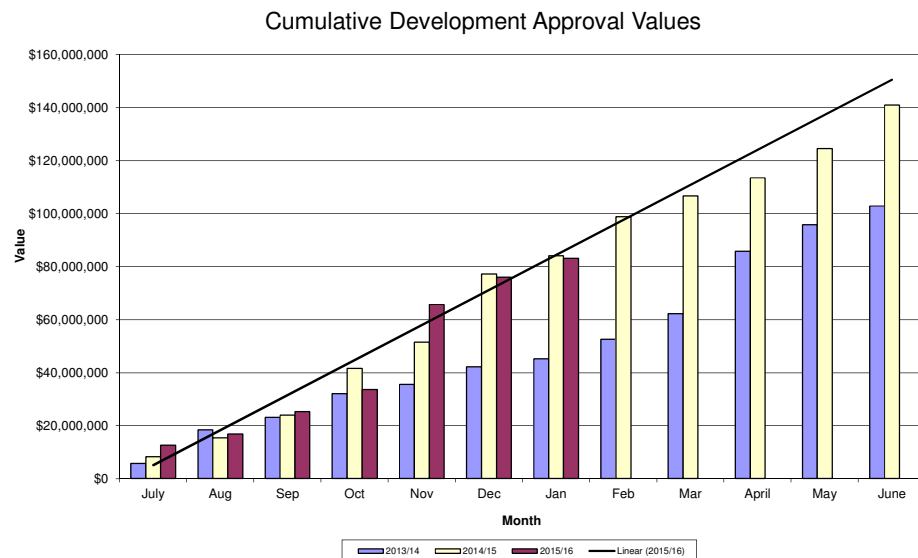
8.8 Development Consent and Infrastructure Approvals - January 2016

8.8 Development Consent and Infrastructure Approvals - January 2016

During the period of 1 January 2016 to 31 January 2016 the Development and Environmental Health Group issued Development Consents comprising of:

Number of Applications	Value of Work
17 Other Building Related	\$ 3,403,500
14 Dwelling/Duplexes/Residential Flat Buildings	\$ 3,776,000
1 General Developments	\$ 0
Total Value	\$ 7,179,500

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



During the period of 1 January 2016 to 31 January 2016 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 January 2016 to 31 January 2016.

Attachment(s)

Nil

8.9 Development Applications - Works in Progress - February 2016

8.9 Development Applications - Works in Progress - February 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
2015/302	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	Determination Pending
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	Determination Pending
2015/403	7/8/2015	Newton Denny Chapelle	Shopping Centre including Woolworths Supermarket and Specialty Shops, Ballina Heights – Ballina Heights Drive & Euroka Street, Cumbalum	Awaiting Additional Information
2015/461	31/8/2015	Newton Denny Chapelle	Boundary Adjustment subdivision to create one x 5.7ha and one x 60.86ha	Awaiting Additional Information

8.9 Development Applications - Works in Progress - February 2016

			allotments and associated works - 400 Houghlahans Rd & Majors Lane, Fernleigh	
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
2015/599	26/10/2015	CivilTech Consulting Engineers	Eight Lot Industrial Subdivision, Vegetation Clearing and Associated Works - 54 North Creek Road, Ballina	Awaiting Additional Information
2015/625	09/11/2015	Mac Aviation Services (Raemon McEwen)	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

8.9 Development Applications - Works in Progress - February 2016

2015/660	1/12/2015	CivilTech Consulting Engineers	Boundary Adjustment Subdivision - 314 Ellis Road, Rous	Being Assessed
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
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	Awaiting Additional Information
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	Being Assessed

8.9 Development Applications - Works in Progress - February 2016

			Lots and Associated Works Including Demolition - 17-19 Byron Street, Lennox Head	
2016/2	04/01/2016	21 st Century Builders Pty Ltd	To undertake the first stage of the urban subdivision of the new Cumbalum Urban Release Area – Precinct B comprising a total of 191 allotments and including road construction and intersection works at Ross Lane, extensive earthworks, stormwater management, infrastructure works, vegetation removal and other associated subdivision works - 246 Ross Lane, 47 Dufficys Lane & Ross Lane, Tintenbar	On Exhibition
2016/17	20/01/2016	Ardill Payne & Partners	Boundary adjustment between two lots – 181 & Rous Road, Rous	Being Assessed
2016/20	21/01/2016	Newton Denney Chapelle	Change of Use from dwelling to Office Premises with associated building, demolition and civil works – 51 Ballina Street, Lennox Head	On Exhibition

8.9 Development Applications - Works in Progress - February 2016

2016/25	25/01/2016	Retail Fuel Development s	Demolition of Existing Buildings and construction of Service Station and Ancillary Kiosk – 323 River Street, Ballina	On Exhibition
2016/36	02/02/2016	Ardill Payne & Partners	Place of Assembly – Wedding Ceremonies – 442 Hinterland Way, Knockrow	On Exhibition

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 February 2016.

Attachment(s)

Nil

9.1 LEP Amendments and Planning Proposals - Status

9. Strategic and Community Facilities Group Reports

9.1 LEP Amendments and Planning Proposals - Status

Delivery Program Strategic Planning

Objective To advise the Council of the status of the LEP amendment requests and planning proposals that are currently under consideration and outline the process for the completion of LEP amendments under delegation from the Minister for Planning.

Background

Council has an ongoing program of assessing and processing requests to amend the Ballina Local Environmental Plan (LEP) and associated planning proposals. This report provides an update of those matters for the information of Councillors and the community.

The report also outlines the approach for finalising LEP amendments where this process is delegated to the Council by the Minister for Planning based on the practical experience of staff in administering these amendments to the LEP.

Key Issues

- Status of rezoning and LEP amendment requests.

Information

LEP Amendment Requests and Planning Proposals Status

Table 1 provides an overview of the LEP amendment requests and planning proposals currently being considered and processed by Council. With respect to terminology used in this report, the term planning proposal refers to the documentation prepared to describe a request to amend the Ballina Local Environmental Plan. Requests are typically referred to as planning proposals once the Council has agreed to progress the LEP amendment request and has prepared the required planning proposal documentation for Gateway determination by the NSW Department of Planning and Environment.

Table 1: Status of LEP amendment requests and planning proposals

Item	Name and Status	Summary and Notes	Completion Due
13/005	Southern Cross Industrial Estate Expansion, Ballina. (Stage 4)	Proposal for the rezoning of land northward of the existing Southern Cross Industrial Estate to enable a mixture of business and industrial land uses. Third party technical assessment and review process commenced.	30/07/2016

9.1 LEP Amendments and Planning Proposals - Status

Item	Name and Status	Summary and Notes	Completion Due
14/001	Teven Road, West Ballina. (Stage 4)	Proposal to enable the establishment of freight transport facilities adjacent to Teven Road on the western side of the Ballina Bypass. Technical assessment of material submitted completed. This matter is the subject of a separate report elsewhere in this business agenda.	07/08/2016
14/002	Reservoir Hill Site, Lennox Head. (Stage 4)	Proposal for the rezoning of land to apply a residential zone to the land known as the Reservoir Hill site in Lennox Head. Third party assessment of the proposal has been undertaken on behalf of the Council. This matter is the subject of a separate report elsewhere in this business agenda.	21/04/2016
14/004	Tara Downs (No 16), Lennox Head. (Stage 4)	Proposal for the rezoning of land immediately east of the existing Tara Downs Estate for residential purposes. Technical assessment of material submitted by the proponent is underway.	13/05/2016
14/005	Blue Seas Parade (No 44-52), Lennox Head. (Stage 4)	Proposal for the rezoning of land at the eastern end of Blue Seas Parade for residential purposes. After previously resolving to discontinue consideration of this proposal at its July 2014 Ordinary Meeting, the Council resolved to recommence processing (January 2015) following the JRPP's review of the matter. Council has not received submission of technical information from the proponent. Extension to timeframe for completion of the LEP amendment process granted by the Department of Planning and Environment.	10/02/2017
14/008	Burns Point Ferry Road, West Ballina (Ballina Waterways). (Stage 4)	Proposal for the rezoning of land adjacent to Burns Point Ferry Road and River Street to enable a mixture of employment and residential land uses. The proposal includes implementation of a biobanking scheme over part of the land. Third party technical assessment and review process commenced.	02/04/2016
15/001	Reclassifications, Various Locations. (Stage 5a)	Proposal to reclassify several miscellaneous land parcels in Ballina, Lennox Head and Alstonville from community land to operational land under the Local Government Act to reflect current land use and/or intended outcomes. Public exhibition complete. Mandatory public hearing scheduled for March 2016.	28/06/2016

9.1 LEP Amendments and Planning Proposals - Status

Item	Name and Status	Summary and Notes	Completion Due
15/004	Greenwood Place, Lennox Head. (Stage 4)	Proposal to rezone land fronting Greenwood Place and The Coast Road for residential purposes. Technical assessment of material submitted by the proponent is underway.	21/04/2016
16/001	General Amendments (3) (Stage 3)	Proposal to undertake a number of amendments to the LEP maps to address cadastral changes, minor errors and policy consistency. Submitted for initial Gateway determination (Council awaiting response from Department of Planning and Environment).	#
#	Private Native Forestry. (Stage 3)	Proposal to amend the Ballina LEP 1987 to require development consent for private native forestry on rural land. The Department of Planning and Environment initially declined the issue of a Gateway determination to enable this matter to proceed. This decision was reviewed by the Northern JRPP at Council's request. The JRPP recommended that the amendment proceed through Gateway determination to public exhibition. The Department of Planning and Environment has not yet made a decision on the progress of the amendment. This matter has been with the Department since January 2015.	#
#	Stoneyhurst Drive, Lennox Head. (Stage 1)	Proposal to rezone land in Stoneyhurst Drive for residential purposes and enable subdivision of the land. Review of initial request and reporting being undertaken.	#
<p>LEP Amendment Request/Planning Proposal Processing Stages</p> <ol style="list-style-type: none"> 1. Initial Concept - Proponent submits initial amendment concept for review and reporting to the Council. 2. Planning Proposal - Preparation of a planning proposal for the Council's consideration (if the initial concept is supported by the Council). 3. Gateway Determination - DP&E determination as to whether the planning proposal may proceed (if the Council resolves to submit the planning proposal for determination). 4. Study Preparation - Relevant technical information to enable complete assessment compiled and considered. This step may also involve pre-exhibition public authority consultation. 5. Community Consultation - Planning proposal and associated technical assessment material exhibited for public comment. 5a. Public Hearing - Public Hearing held, where required. 6. Submissions Assessment and Council Decision - Reporting of community consultation outcomes and Council decision regarding finalisation of the planning proposal. 7. Finalisation - DP&I finalisation (or Council finalisation under delegation) of the LEP amendment based on the planning proposal. Note: the Minister for Planning and Environment may finalise, alter or terminate the amendment. <p># Denotes proposal number and due date subject to Gateway determination.</p> <p>The completion due date is a date for completion determined by the Department of Planning and Environment.</p>			

Sustainability Considerations

- **Environment**
Environmental, social and economic considerations form part of the Council's assessment of all planning proposals and LEP amendments.
- **Social**
As above
- **Economic**
As above

Legal / Resource / Financial Implications

The work program is being undertaken within existing resources, or on a fee for service basis for specific proposals.

Consultation

This report is provided for the information of the community.

Options

The status of the LEP amendments outlined above is provided for noting only.

RECOMMENDATION

That Council notes the contents of this report concerning the status and approach regarding the current LEP amendment requests and planning proposals that are being processed.

Attachment(s)

Nil

9.2 Planning Proposal (BSCPP 14/001) - Logistics Precinct, Teven

9.2 Planning Proposal (BSCPP 14/001) - Logistics Precinct, Teven

Delivery Program Strategic Planning

Objective To outline the status of planning proposal BSCPP 14/001 and seek direction from the Council concerning the public exhibition of the proposal and an associated draft voluntary planning agreement.

Background

The Council initially considered a request from Newton Denny Chapelle to amend the Ballina Local Environmental Plan 2012 (BLEP 2012) to enable transport and logistics related uses on land along Teven Road in West Ballina at its Ordinary Meeting held on 27 February 2014. The request was made on behalf of five landowners with holdings located on the eastern side of Teven Road, immediately north of the Teven Pacific Highway interchange, and backing onto the Ballina Bypass at West Ballina.

The proposal is based on the use of the additional permitted uses schedule in the BLEP 2012 to enable the proposed uses within the RU2 Rural Landscape zone that is currently applicable to the land.

The diagram below illustrates by red outline the location of the land the subject of the planning proposal.

Diagram 1 – Proposed Teven Road Transport and Logistics Precinct



The NSW Department of Planning and Environment issued a Gateway determination on 30 April 2014. The Gateway determination related to the insertion of *freight transport facilities and warehouse or distribution centre* as additional uses permitted on the land, subject to development consent, within Schedule 1 of BLEP 2012.

The Gateway determination required, amongst other matters, the undertaking of flood investigations to address the proposal's inconsistency with Ministerial Section 117 Direction 4.3, which relates to Flood Prone Land.

The Council at its Ordinary Meeting held on 28 May 2015 considered detailed flood modelling associated with the planning proposal and the impact on flood prone land as required by the Gateway determination. Following consideration of these issues the Council resolved as follows [Minute No. 280515/7]:

1. *That Council advise the proponents that the 5 year ARI flood level for car parking and vehicle access areas may be used for the purpose of further documenting the merit approach to assessing the suitability of flood planning levels as outlined in the NSW Floodplain Development Manual, for the purpose of progressing the planning proposal.*
2. *That Council accept the increase in flood levels modelled as a consequence of Scenario 4 in the flood advice provided by BMT WBM.*
3. *That the proponents be required to advise Council how it is proposed to secure the Scenario 4 modelling parameters as detailed in this report. In the event that a voluntary planning agreement is proposed, such an agreement shall be prepared in draft form and be exhibited with the planning proposal.*
4. *That a further report be provided for the Council's consideration when the planning proposal has been fully documented and prior to it being publically exhibited.*

Following the Council's resolution, the proponent's representative Newton Denny Chapelle (NDC) advised that a voluntary planning agreement (VPA) was proposed to be negotiated to ensure that the required modelling parameters are achieved. The draft VPA was finalised in late January 2016 and forms Attachment One to this report.

Following the submission of requested technical reports by NDC, in September 2015, consultation with Transport for NSW Roads and Maritime Services, NSW Rural Fire Service, NSW Office of Environment and Heritage and JALI Local Aboriginal Land Council took place. A summary of issues raised in responses received, as well as comments made by relevant Council staff, is contained within the Information section of this report. Copies of submissions received are contained within the planning proposal document which forms Attachment Two to this report.

The timeframe for the completion of the LEP amendment was originally set by the Department at 9 months from the week following 30 April 2014. This time period has subsequently been extended by the Department of Planning and Environment on two occasions and now expires on 7 August 2016.

Key Issues

- Consideration of submissions relating to submitted technical reports,
- Suitability of planning proposal for public exhibition purposes, and
- Acceptability of draft VPA.

Information

The subject site has an approximate area of 17 hectares. Excluding land required for floodway and car parking purposes, the planning proposal will facilitate the development of buildings on approximately 8.5 hectares of land for road transport and logistics related uses.

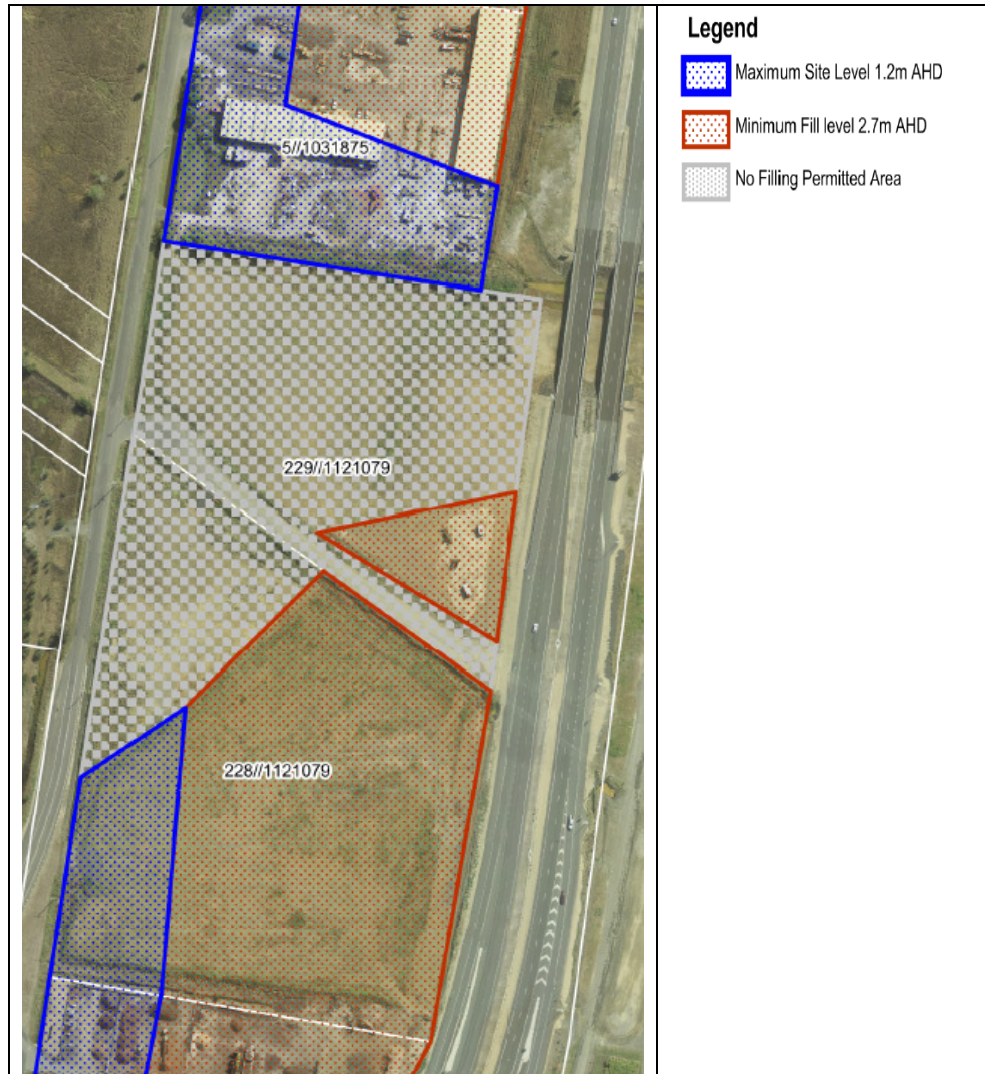
In order to limit increases to flood levels elsewhere within the floodplain to predetermined modelled maximum levels, the flood modelling made certain assumptions. The impacts associated with modelling Scenario 4 were accepted by the Council following consideration of independent advice provided by BMT WBM in April 2015. Scenario 4 relied upon the West Ballina Flood Relief Structure (WBFRS) under River Street being in place and only minor filling of parts of Lots 228 and 229 DP 1121079 to ensure that the Ballina Bypass flood relief bridge is not obstructed.

Scenario 4 also required that 40% of areas designated as suitable for development (excluding floodway area) be filled no higher than the 1 in 5 year ARI flood event level (RL 1.2m AHD) and the remaining 60% be filled to the 1 in 100 year ARI flood event level (RL 2.7m AHD). The 8.5ha development site estimate relates to that part of the site proposed to be filled to the 1 in 100 year ARI flood event level. This issue and associated flood modelling results were the subject of the report to the Council's Ordinary Meeting held on 28 May 2015.

The draft VPA provides the mechanism through which the future filling and land form modifications, upon which flood modelling (Scenario 4) is based, are to be achieved in a coordinated manner. It also provides for the protection of the floodway area through a Restriction as to User being registered on the title of impacted lots, under s88E of the Conveyancing Act 1919, within six months of the VPA becoming operative. Finally, the VPA provides that no development of the site shall occur, other than for defined *minor development*, until after the WBFRS has been constructed.

Diagram 2 is an extract from the map which forms a part of the draft VPA. It shows the extent of the area located within Lots 228 and 229 DP 1121079 which is proposed to be subject to a no filling restriction. It is this area that is also proposed to be protected for floodway purposes through a s88E Restriction as to User.

Diagram 2 – Extract from draft VPA Map



Minor development is defined in the draft VPA as:

Minor Development means development that is exempt development under the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, changes of use, demolition, interior or exterior building alterations, building extensions and rebuilding proposals which do not increase the gross floor area by more than 10% of the gross floor area of a building as it existed as at the date of this Deed, site filling approved by the Council which does not extend the filled area on any lot by more than 10% of the area filled on that lot as at the date of this Deed, and any other development approved by the Council which, in the Council's opinion, does not compromise flood levels within the flood plain.

The minor development definition has been negotiated on the basis that it will permit existing buildings to be utilised for road transport and logistics related purposes without triggering site filling and landform adjustment requirements and prior to the WBFRS being constructed.

Consideration of Consultation Submissions

The technical reports submitted by NDC in September 2015 (Ecological Assessment, Preliminary Contaminated Land Site Assessment, Acid Sulfate Soil Investigation, Engineering Services Report and Aboriginal Cultural Heritage Assessment) together with flood modelling advice provided by BMT WBM were the subject of consultation with Government authorities and Council staff during October and November 2015.

Attachment Three to this report contains a summary of key issues identified by NDC within their technical reports.

A brief summary of comments received is contained in the table below:

Organisation	Summary of Comments / Issues Raised	Planning Comments
NSW Rural Fire Service	Indicate that plans and documents have been reviewed and no concerns or issues are raised by the RFS.	Noted.
NSW Roads and Maritime Services	<p>Indicate that there is insufficient traffic information to support the proposal. Advise as follows:</p> <ul style="list-style-type: none">- Currently right turn from Teven Road into the Bruxner Highway is operating at capacity.- Spot rezoning permitting small scale transport activities in the Teven Road area may be accommodated by the existing road network.- Recommend that prior to finalising the planning proposal for the whole precinct more detailed traffic analysis be undertaken.- Consider that based on available information a roundabout will be required at the intersection of Teven Road and Bruxner Highway to manage proposed traffic.	<p>Council's Traffic Engineer has undertaken preliminary SIDRA modelling of the Teven Road / Bruxner Highway intersection.</p> <p>The modelling has found that right turn movements (from Teven Road into the Bruxner Highway) are already operating at an unsatisfactory level. Whilst left turn movements are currently satisfactory, these too will deteriorate to unsatisfactory levels with the full development of the precinct and annual predicted Highway traffic growth.</p> <p>Further discussion of this issue is contained within the Civil Services comments section elsewhere in this Table.</p> <p>The comments made by Council's Traffic Engineer have been incorporated within the planning proposal document. When considering this matter it is important to note that the RMS has recognised that small scale transport activities may be accommodated by the existing road network. Only small scale proposals, upon existing developed sites (Go Grow site), have been discussed to date. Should a large scale proposal be contemplated then it will be subject to the DA process. At that time appropriate traffic management facilities, which may include a roundabout, will need to be considered.</p>

9.2 Planning Proposal (BSCPP 14/001) - Logistics Precinct, Teven

Organisation	Summary of Comments / Issues Raised	Planning Comments
NSW Office of Environment and Heritage (OEH)	<p>OEH recommends / comments as follows:</p> <ul style="list-style-type: none"> - Provided that Jali LALC comments are consistent with the recommendations contained in the Aboriginal Cultural Heritage Assessment Report (ACHAR) OEH supports the four recommendations. - Prior to finalising the planning proposal floodways should be clearly delineated. - Appropriate evacuation / emergency management action plans should be developed prior to finalising the planning proposal. - A detailed ecological assessment is required prior to finalising the planning proposal. - The potential impacts of acid sulfate soils must be assessed in the planning proposal in accordance with relevant guidelines. - Mitigation and management options related to acid sulfate soils should be described in the planning proposal. 	<p>The proponent's consultants (Everick) consulted with the Jali LALC Sites Officer during the preparation of the ACHAR. A copy of the report was subsequently submitted to Jali LALC but no additional comments have been provided to Council. It is proposed that Council again invites comment from Jali LALC during the public exhibition of the planning proposal.</p> <p>Floodways have been delineated on the plan which forms a part of the draft VPA.</p> <p>Evacuation and emergency management action plans are more appropriately developed as part of the DA process. At that stage they can take into account the design, scale and intensity of proposed development.</p> <p>A preliminary Acid Sulfate Soil Assessment has been prepared by Greg Alderson & Associates and forms a part of the planning proposal. The report estimates that acid sulfate soils are most likely to occur within natural soils at a depth of 0.7m and 1m AHD. Further consideration of acid sulfate soil issues should most appropriately take place as part of the DA process. BLEP 2012 contains provisions which will require this to occur at that time.</p> <p>The OEH has acknowledged that a site inspection has not been undertaken when preparing advice in respect to ecological matters. The planning proposal is supported by an Ecological Assessment prepared by Blackwood Ecological Services which included site surveys. Council's Environmental Scientist has also inspected the site.</p> <p>No threatened or significant flora or fauna species were recorded during the site surveys or are considered likely to occur on the subject site according to the Blackwood report. Following OEH comments additional comments were sought from Blackwood which have been incorporated within the planning proposal. The additional advice indicates that a small patch of Swamp oak forest occurs within the western part of the site together with patches of Phragmites and Cumbungi reed land. These areas are recommended for retention together with suitable buffers. Retention of these areas and associated buffers is a matter for further consideration in the DA process.</p> <p>No further ecological assessment work is considered to be required as part of the planning proposal process. The DA process will require additional work to be undertaken depending on the scale and impact of specific DA proposals.</p>

9.2 Planning Proposal (BSCPP 14/001) - Logistics Precinct, Teven

Organisation	Summary of Comments / Issues Raised	Planning Comments
Ballina Shire Council – Civil Services	<p>Prior to rezoning the proponent should be required to identify how stormwater is to be conveyed from the site and whether the conveyance route to the point of discharge is lawful and of sufficient capacity.</p> <p>In terms of traffic, a SIDRA analysis has been undertaken which indicates that the Teven Road southbound leg of the intersection, left turn, will operate at an unsatisfactory Level of Service (LOS) D with full development traffic plus existing traffic volumes. Deterioration to LOS F will result within 10 years assuming traffic growth on the Bruxner Highway of 1.3% per annum. Right turn from Teven into Bruxner is already at a LOS F.</p> <p>A satisfactory intersection performance can be achieved with a two circulating lane roundabout.</p>	<p>NDC is investigating the lawful point of discharge issue. It is understood that lots will be filled and shaped so that stormwater runoff is conveyed to the Teven Road table drain west of the lots and then by a series of open channels and under road culverts to the Richmond River.</p> <p>At this stage this matter is still under investigation. In the circumstances this is not considered to be a matter that should prevent the planning proposal from proceeding to public exhibition. The Council will be in a position to further consider this issue and any additional information submitted by NDC following public exhibition of the planning proposal.</p> <p>The SIDRA modelling has confirmed that the Bruxner Hwy/ Teven Rd intersection is already operating at an unsatisfactory level for right turn movements from Teven Road into the Bruxner Highway. Left turn movements, whilst currently within satisfactory levels (LOS B) of service, will deteriorate with annual traffic growth and also as a consequence of further development in Teven Road.</p> <p>Given that there is no specific development proposal for the precinct, apart from some discussion regarding the potential use of an existing site, the determination of the nature of traffic management measures and when these measures should be implemented is a matter for the DA process.</p> <p>A significant apportionment argument also exists as to the degree to which new development should fund the resolution of a pre-existing problem. The consideration of this issue can only reasonably take place when the traffic implications of a specific development proposal are known. For this reason the rezoning process has not addressed further the traffic impact issue.</p>
Ballina Shire Council – Environmental Health Officer	<p>Indicates that the Preliminary Contaminated Land Assessment, and the Preliminary Acid Sulfate Soil Assessment, prepared by Greg Alderson & Associates have been considered. Both documents have adequately considered the relevant issues for this stage of the planning proposal. They also further identify that further detailed assessment of both issues will be required at development application stage to determine any remediation or management required to protect the environment and human health.</p>	<p>Noted.</p>

9.2 Planning Proposal (BSCPP 14/001) - Logistics Precinct, Teven

Organisation	Summary of Comments / Issues Raised	Planning Comments
Ballina Shire Council – Development Services Town Planner	<p>The proponent (NDC) appears to have outlined the key issues/documents we would raise at this point.</p> <p>The lots involved obviously need an enabling clause for the permissibility of the proposed uses in the RU2 zone.</p> <p>Further detailed assessment of merits would occur at DA stage once further details/assessments are known.</p>	Noted.
Ballina Shire Council – Environmental Scientist	<p>EEC's located on western side of Teven Road. Hydrology of these areas needs to remain unaffected by any development and/or filling of the land identified for transport hub.</p> <p>The existing stormwater drainage system to the east of Teven Road affected by the extensive growth of Common Reed. This reed growth is restricting conveyance of stormwater towards the Richmond River. Increased stormwater arising from this development is likely to exacerbate this issue. Any future development of this area should ensure this issue is adequately addressed.</p> <p>The sustainability of rezoning flood affected land is an important issue for careful consideration, as it appears that Ballina has only a limited amount of fill located within approved quarries.</p> <p>Considers that the wetland community located in the north eastern portion is representative of a Freshwater Wetland which is listed as an Endangered Ecological Community pursuant to the Threatened Species Conservation Act (1995). This area will require protection from future development works.</p>	<p>Blackwood Ecological Services have considered proposed increases in flood levels as modelled by BMT WBM. They have concluded that the increase in levels is considered to be within the range of hydrological variation already experienced by these communities and is minor in the context of other changes in the floodplain to which the vegetation is still in the process of responding.</p> <p>Suitable provision for site drainage and conveyance to the Richmond River will be required to be considered at the DA stage.</p> <p>NDC have estimated that 67,000m³ of additional fill may be required to achieve the 2.7m AHD site level. NDC maintain that this amount of material can readily be sourced from local quarries.</p> <p>The wetland community can be required to be retained without compromising future development options for the site. It appears that the majority of this community is not located within the site but forms a part of land owned by the RMS.</p>

Sustainability Considerations

- **Environment**

The future development of the proposed road transport precinct will result in the substantial removal of existing site vegetation as a consequence of site filling and reshaping requirements. An ecological assessment has been undertaken which has found that vegetation communities on the site are of low to moderate conservation significance and widespread in the wider study area.

Retention of some vegetation and the creation of suitable buffer areas has, however, been recommended by the proponent's ecological consultant in supplementary advice. Council's Environmental Scientist has also recommended that certain vegetation, which is considered to be representative of a Freshwater Wetland Endangered Ecological Community should be retained. The retention of this vegetation is considered to be feasible without compromising future development options for the site given its location adjoining site boundaries. This can be achieved at the development application stage.

The submitted ecological assessment indicates that no threatened or significant flora species were recorded during site surveys or are considered likely to occur on the subject site. In addition no threatened fauna species were recorded during the site assessment and the site provides limited value as fauna habitat.

Ecological factors relating to floodplain impacts must be considered under the provisions of the NSW Flood Prone Land Policy. The submitted ecological assessment has confirmed that the alterations to offsite hydrological conditions (increased flood levels and duration) are considered to be minor and within the range of hydrological variations already experienced by impacted vegetation communities.

- **Social**

The planning proposal is not considered to give rise to any immediate social factors of significance. In the longer term, and assuming that the proposed road transport precinct is developed, it is anticipated that net positive social impacts will result through employment opportunities and the diversion of associated heavy traffic outside of the Ballina township area.

Social factors are required to be considered under the NSW Flood Prone Land Policy. Social impact issues include the physical and mental impacts on residents whose households are flooded and impacts associated with social disruption. The modelled increase in flood levels are at the minor level and are considered unlikely to result in any social issues of significance.

- **Economic**

The planning proposal in the longer term is anticipated to generate net economic benefits related to the establishment within Ballina Shire of a road transport hub near the junction of the Bruxner and Pacific Highways.

Economic consequences are required to be considered under the NSW Flood Prone Land Policy. As indicated above, the development of this proposed road transport precinct is considered to generate net economic benefits for the Shire.

Legal / Resource / Financial Implications

There is no significant resourcing or financial implications associated with the proposed LEP amendment. The processing of the amendment has been accommodated within the work program of the Strategic and Community Facilities Group.

The processing of the amendment does not involve specific legal implications beyond compliance with the *Environmental Planning and Assessment Act*. It is noted here that as part of the Gateway determination, the then Deputy Director General of the Department of Planning and Environment, issued an authorisation for Council to exercise delegation to make the plan. The issue of the acceptance of the delegation of authority, to enable the planning proposal to be finalised, is proposed to be further considered in the report to the Council after public exhibition.

Consultation

Consultation has already been undertaken with the RMS and RFS as required by the Gateway determination. Additional consultation has been undertaken with the OEH and the Jali LALC. Responses received have been incorporated into the planning proposal document.

It is proposed as part of the public exhibition process that comments again be invited from the RMS, OEH and Jali LALC.

Options

When giving consideration to this matter options available to the Council include the following:

1. That the Council authorise the public exhibition of the planning proposal and draft VPA.
2. That the Council require additional technical reports or examination of issues prior to committing to exhibit the planning proposal and draft VPA.
3. That the Council defers or discontinues the planning proposal and draft VPA process.

Option 1 is the preferred option. Issues relevant to the planning proposal have been examined in the level of detail considered to be required for the planning proposal process. It is important to recognise that what is proposed is to permit a limited range of additional land uses, in addition to uses already permitted with development consent, within the applicable RU2 zone. Additional consideration of relevant issues such as ecological, traffic and acid sulfate soil implications are more appropriately undertaken as part of the DA assessment stage.

Option 2 is not recommended as it is considered that Council has sufficient information to support the planning proposal being placed on public exhibition. If the Council is of the view that an issue has not been sufficiently examined then the proponent may be requested to supply additional information. It is suggested that if this is the case then the proponent be requested to supply the information during the period of the public exhibition. This would then enable the Council to give consideration to the information when it considers submissions after public exhibition.

Option 3 is not recommended as there have been no issues identified which are considered to be of such significance as to warrant the deferral or discontinuation of the planning proposal.

RECOMMENDATIONS

1. That the planning proposal (BSCPP 14/001) and the associated draft voluntary planning agreement, as attached to this report, be placed on public exhibition for a minimum period of 28 days.
2. That the matter be reported for further consideration by Council following the mandatory public exhibition period.

Attachment(s)

1. Attachment One - Draft VPA
2. Attachment Two - Planning Proposal (Exhibition)
3. Attachment Three - Summary of Technical Reports

9.3 Planning Proposal (BSCPP 14/002) - Reservoir Hill, Lennox Head

9.3 Planning Proposal (BSCPP 14/002) - Reservoir Hill, Lennox Head

Delivery Program Strategic Planning

Objective To seek the Council's direction with respect to the further processing of a planning proposal relating to Lot 1 DP 517111 at Lennox Head.

Background

The Council, at its Ordinary Meeting held on 22 August 2013 considered a request to rezone Lot 1 DP 517111 from RU1 Primary Production under the provisions of the Ballina Local Environmental Plan 2012 (BLEP 2012) to enable residential development of the land to be further considered. The Council at that time resolved to prepare a planning proposal [Minute No. 220813/12] which was then considered further at the Council's Ordinary Meeting held on 27 March 2014. At that meeting the Council resolved as follows [Minute No. 270314/1]:

- 1. That, with respect to Lot 1 DP 517111, Council endorses the application of a mixed R2 Low Density Residential and R3 Medium Density Residential zone, and an open space and/or an environmental protection zone being applied to the land as the basis for a planning proposal (as contained in Attachment 3).*
- 2. That Council authorises the submission of the planning proposal relating to Lot 1 DP 517111 to NSW Planning and Infrastructure for review and Gateway determination.*
- 3. That upon an affirmative Gateway determination being received from Planning & Infrastructure, Council initiates a third party review and preparation of an environmental study for the land.*
- 4. That Council receive a further report on the outcomes of the third party review process prior to public exhibition of the planning proposal.*
- 5. That Council confirms that it does not support the current concept plan based on layout, high density, lack of open space and road network etc.*

The planning proposal considered by the Council, at its meeting held on 27 March 2014, proposed the application of a mixture of R2 Low Density Residential, R3 Medium Density Residential and RE1 Public Open Space zones over the site. The split between the R2 and R3 zones aligned with the then proposed location of the realignment of North Creek Road through the middle of the site. A minimum lot size standard of 600m² for the R2 and 450m² for the R3 zone was also proposed.

The site the subject of this report is illustrated by the red outline in Diagram 1 below. Diagram 2 is an extract from the proposed Land Zoning Plan (reflecting the initial planning proposal) which was the subject of a Gateway determination on 17 April 2014. Diagram 3 is an extract from the proposed Lot Size Plan which was also the subject of a Gateway determination on 17 April 2014.

Diagram 1 – Site Plan



Diagram 2 – Extract from Land Zoning Plan subject of Gateway Determination

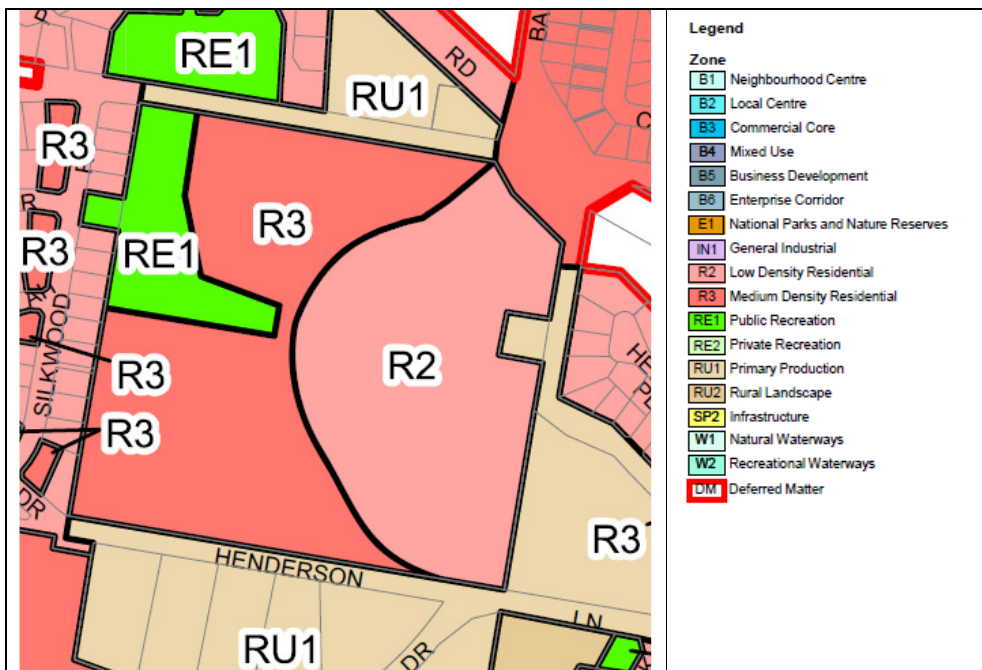
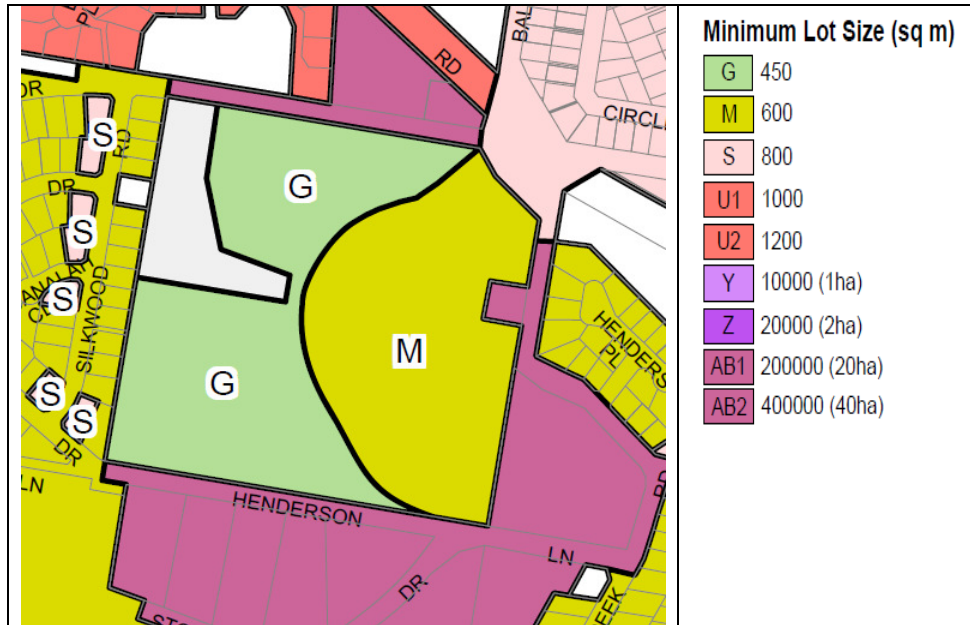


Diagram 3 – Extract from Lot Size Plan subject of Gateway Determination



The assessment of the planning proposal has highlighted several key issues that require further consideration. These issues include the suitability of the proposed open space area for dedication to the public, the presence of Hairy Joint Grass and site ecology, the location and mechanisms for stormwater management, road design and function, access/linkages to adjoining land, geotechnical conditions, scenic values and amenity, and road noise implications for residential buildings associated with the proposed redirection of North Creek Road. The third party review process was envisaged as being the mechanism through which these land suitability issues would be further examined.

Mike Sviki Planning was appointed by Council in June 2014 to undertake an independent review of the proponent's documentation and prepare an Environmental Planning Assessment Report (being the third party review process). As part of the process Mike Sviki Planning engaged Greg Alderson and Associates to review civil engineering issues, and Blackwood Ecological Services to review site ecology issues.

The proponent has reimbursed Council for all costs incurred as a consequence of the document review and planning assessment report process, as well as associated Council staff costs.

The finalised Reservoir Hill Environmental Assessment and Planning Report prepared by Mike Svikis Planning was received by Council in December 2015. It was subsequently the subject of a Councillor briefing held on 1 February 2016. The Mike Svikis Planning report forms Attachment 1 to this report.

This report provides an overview of the technical assessment of the planning proposal and seeks direction on progressing this matter to public exhibition.

Key Issues

- Processing of LEP amendment request.

9.3 Planning Proposal (BSCPP 14/002) - Reservoir Hill, Lennox Head

- Provision of land for residential development.
- Changes to Gateway determination.
- Public exhibition of the planning proposal.

Information

The subject site has an approximate area of 14.96 hectares. The proponent's most recent proposed site layout plan as shown in Diagram 4, and the subject of the Mike Svikis Planning Report, makes provision for 93 residential lots which range in size from 600m² to 1159m². Five medium density lots are also incorporated into this plan with densities proposed ranging from 250m² to 300m² per lot. Assuming development of medium density lots, in accordance with the proposed minimum lot sizes, then these lots could provide housing opportunities for an additional 82 dwelling units.

The gross neighbourhood residential density proposed on the Reservoir Hill site is approximately 12 dwellings per hectare. This is slightly below the 15 dwellings per hectare density target nominated within the Council-endorsed Ballina Shire Growth Management Strategy for new urban release areas. However, if ultimately achieved, it is suggested this housing density fairly reflects the characteristics of the site.

The proposed site layout plan also designates areas for drainage purposes, riparian zones adjoining water courses and a neighbourhood park. These areas occupy approximately 3.6ha or 24% of the available site area.

Diagram 4 – Proponent's Site Layout Plan (Issue K)



9.3 Planning Proposal (BSCPP 14/002) - Reservoir Hill, Lennox Head

Mike Svikis Planning Environmental Assessment and Planning Report

The report considers 11 main issues which are outlined in the table below, together with Council Officer comments.

Issue	M Svikis Comments / Position	Officer Comments
Ecological Attributes	<p>The site contains a Freshwater Wetland EEC, and a population of Hairy Joint Grass which is a Vulnerable species listed under the NSW Threatened Species Conservation Act.</p> <p>The position has been taken, in the absence of a bio-banking agreement, or VPA, that land containing this vegetation should not be rezoned but retain its RU1 zoning. This approach will enable the proponent to pursue a rezoning of this area subject to bio-banking assessment at a future time.</p> <p>It is recommended that an additional area of 5400m² in total (above that nominated by the proponent for wetland reserve and drainage purposes) be retained in the existing RU1 zone.</p> <p>The small waterway and riparian area may be zoned residential.</p> <p>A single mature small leave fig tree is also contained on the site.</p>	<p>The approach proposed is supported. It would result in areas proposed to be utilised for drainage and having higher biodiversity values retaining the current RU1 zone.</p> <p>In terms of the land containing the small leave fig tree, this land may form a part of a future neighbourhood park. It is in an area designated as a proposed R2 zone. This allows precise park boundaries to be determined as part of a future subdivision application process.</p> <p>The zoning approach in response to ecological attributes is supported.</p>
Public Open Space	<p>An area of not less than 0.13 hectares in the vicinity of a mature small leaved fig tree has been identified as suitable for a local park. A residential zone may be applied to this land at this stage.</p>	<p>The amount of local open space required will be determined by lot yield at the subdivision stage. The retention of the fig tree in a neighbourhood park, as part of a future subdivision proposal, is supported as is the proposed R2 zone.</p>
Road Infrastructure	<p>The proponent's site layout plan incorporates a realignment of North Creek Road.</p> <p>Notes that the s94 contribution plan has been amended to incorporate the construction costs for the realigned North Creek Road. The reporting notes that preferred alignment has been agreed in principle, subject to valuations and land swap arrangements. Recommends that all likely roads be zoned R2.</p>	<p>Acquisition of the road corridor to facilitate the realignment of North Creek Road and its link with the extension of Hutley Drive is under negotiation and will be the subject of a separate report to the Council.</p> <p>The application of an R2 Low Density zone to proposed roads, including the realigned North Creek Road is supported.</p>

9.3 Planning Proposal (BSCPP 14/002) - Reservoir Hill, Lennox Head

Issue	M Svikis Comments / Position	Officer Comments
Noise Impacts	<p>Recommends that noise related issues, from the proposed realigned North Creek Road, should not limit the rezoning of the site for residential purposes at this stage.</p> <p>A revised noise assessment is indicated as being required for Council's consideration as part of the submissions consideration process following public exhibition.</p>	<p>It is considered that further work in relation to road noise issues is not required as part of the rezoning process. Consideration of road noise issues in this case is more appropriate for the land subdivision development process.</p> <p>Council will shortly be requested to give consideration to proposed new road noise standards which have been developed following concerns raised in respect to the noise wall approach in Cumbalum.</p> <p>There are various engineering approaches available to mitigate road noise which is considered to be most appropriately considered as part of the DA and not rezoning process in this case.</p>
Stormwater Management	<p>Review of documentation has concluded that the proponent's approach was basically sound. Information gaps were identified which should be addressed as part of a future DA process.</p> <p>Land recommended to be retained for stormwater management should retain the current RU1 zone until all stormwater related issues have been resolved.</p> <p>The existing southern watercourse should be retained to manage stormwater from upstream catchments. The watercourse can be zoned R2 or R3 but it should not be assumed that it can be filled and piped.</p> <p>Recommends that an additional 5400m² be retained in the RU1 zone for stormwater management purposes.</p>	<p>Conclusions reached in respect to stormwater management issues are supported.</p>
Obstacle Limitation Surface (OLS) and Aircraft Noise	<p>Consultation with Federal authorities has found that OLS is not an issue that should affect future rezoning and development. Consultation was based on an 8.5m height limit but it is not anticipated that a 9 metre height will create any concerns.</p> <p>The site is not affected by any noise contours (ANEF) associated with the Ballina Byron Gateway Airport.</p> <p>Recommends that OLS and aircraft noise should not limit the zoning of the site for residential purposes.</p>	<p>A change to a 9 metre building height (which is not recommended) would trigger further consultation with airport authorities.</p> <p>Other aspects associated with the OLS and aircraft noise are supported.</p>
Land Contamination	<p>The site has been cleared since at least 1947 and is still used for beef cattle grazing. A phase one site contamination study, including preliminary soil sampling has been undertaken. No areas of concern have been identified.</p>	<p>Noted.</p>

9.3 Planning Proposal (BSCPP 14/002) - Reservoir Hill, Lennox Head

Issue	M Svikis Comments / Position	Officer Comments
Aboriginal Archaeology and Non Aboriginal Heritage	A Cultural Heritage Report has been prepared and consultation with Jali LALC and the Office of Environment and Heritage undertaken. No areas have been identified as having heritage significance.	Noted.
Agricultural Land	The subject land has been identified as regionally significant agricultural land according to the Northern Rivers Farmland Project. The land is not contiguous to other agricultural areas and has not been identified in mapped biophysical strategic agricultural land. The best use of the land is no longer considered to be for agriculture and this issue should not affect the future zoning of the land.	Noted.
Coastal Protection	The land is within the coastal zone as identified in the Coastal Protection SEPP and is subject to the NSW Coastal Policy 1997. The matters required to be considered in clause 8 of the Coastal Protection SEPP have been considered and should not limit the zoning of the site for residential purposes.	Noted.
Scenic Values and Amenity	An assessment of this issue has concluded that the site does not include significant public viewing locations and is not a significant scenic landscape area or view corridor. Scenic values and impacts should not limit the zoning of this site for residential purposes at this stage.	Noted.

Having considered the above issues and relevant statutory matters such as the Minister's directions pursuant to Section 117 of the *Environmental Planning and Assessment Act 1979*, Mike Svikis Planning has made a series of recommendations for the Council's consideration. A summary of the recommendations which relate to proposed zones, minimum lot sizes, height of buildings, and floor space ratios is provided below.

Attachment 2 to this report contains copies of the Zoning, Minimum Lot Size and Height of Building Maps as recommended by Mike Svikis Planning.

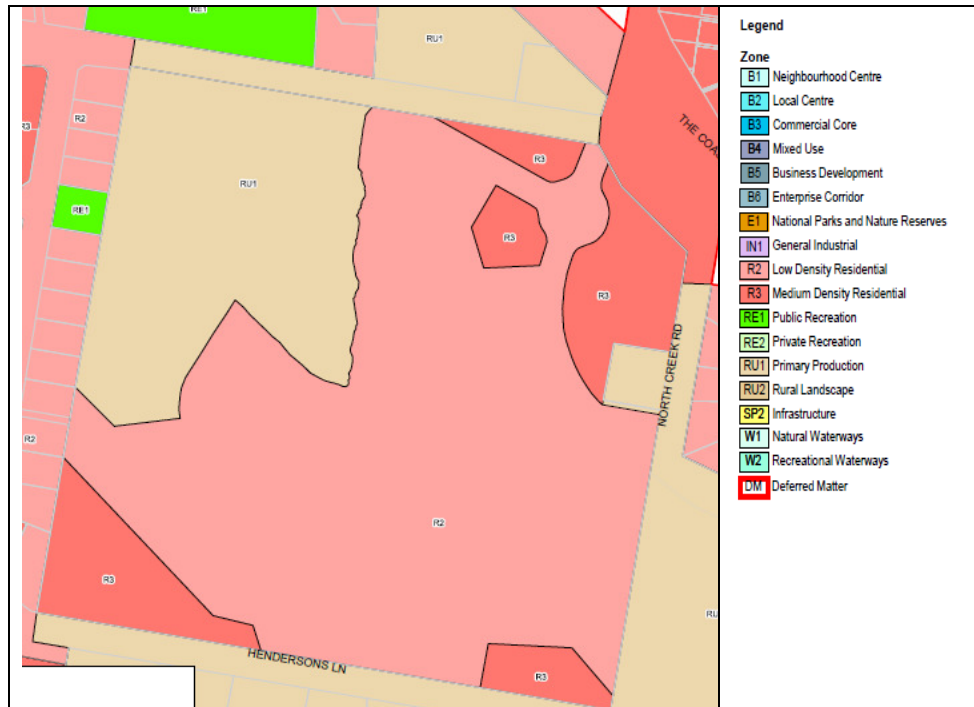
Zones

The RE1 Public Recreation zone is not recommended for use on this site because areas nominated by the proponent are required for either drainage and stormwater detention, or are ecologically important. These areas are proposed to be retained within the existing RU1 Primary Production zone.

With respect to future local park requirements in the vicinity of the Fig Tree, a residential zone is recommended to allow for boundaries to be determined as part of the subdivision process (Council's typical approach in this regard is to consider applying an open space zoning once land has been dedicated to Council).

A mixed R2 and R3 zoning approach has been recommended which would result in five locations, with a total area of 2.33 hectares, zoned for R3 Medium Density purposes. The location of the R3 zones reflects the locations nominated by the proponent. Diagram 5 shows the zonings recommended for the site by Mike Sviki Planning.

Diagram 5 – Mike Sviki Planning - Recommended Site Zoning Plan

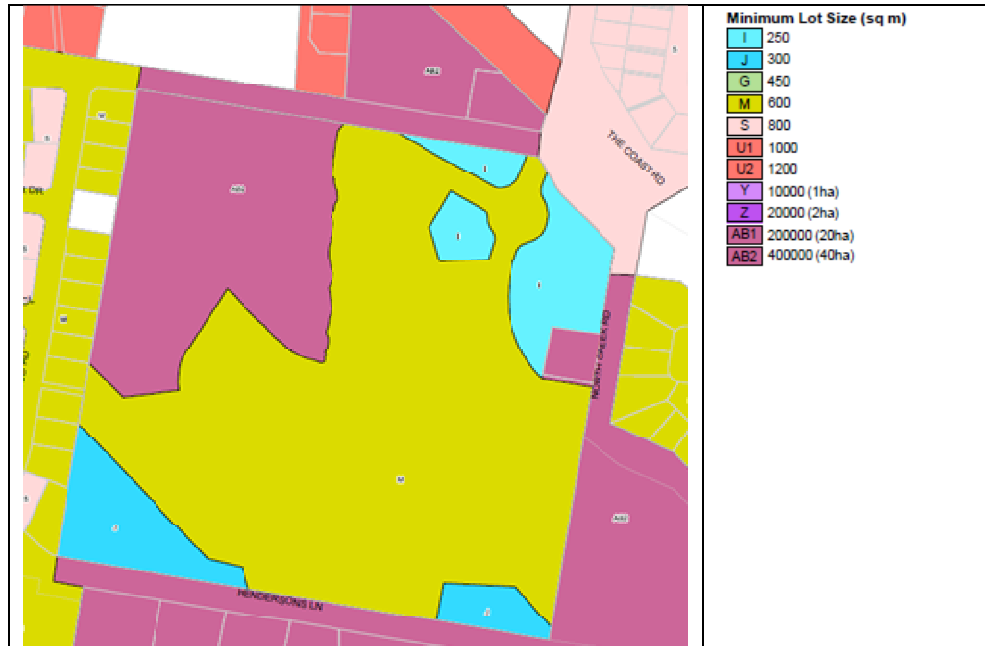


The proposed zones are supported. A change to the previously designated zoning regime for this site will require an altered Gateway determination to be obtained from the Department of Planning and Environment. That being the case, the opportunity could be taken to incorporate zoning changes for the Council's water reservoir site which is currently zoned RU1. This site could be designated R3 Medium Density Residential (simply because this would be consistent with the proposed zoning of the contiguous land). In addition, roads which adjoin the Reservoir Hill site could also be rezoned to reflect the proposed adjoining zones. Such a strategy is considered to provide greater flexibility at the land subdivision stage if minor boundary alterations are required.

Minimum Lots Sizes

The minimum lot sizes recommended by Mike Sviki Planning are 600m² for the R2 zone and a mixture of 250m² and 300m² for the proposed R3 zoned areas. Diagram 6 shows the recommended minimum lot sizes for the site as well as minimum lot sizes applicable in close proximity.

Diagram 6 – Mike Svikis Planning - Recommended Lot Size Plan



When considering this matter it is noted that the predominant minimum lot size for older established R3 zoned areas at Lennox Head (Lennox Village and Meadows Estate) to the north and west of the site is 800m². The newer Epiq Estate, to the west, includes an area of R3 zoned land with a minimum lot size of 450m² adjoining the commercial zone, and 600m² elsewhere within this estate.

When considering the minimum lot size issue it is noted that the minimum lot size requirements do not apply to strata subdivisions within the R3 zone under the provisions of Ballina LEP 2012. In addition, clause 4.1A of Ballina LEP 2012 provides additional flexibility in cases involving the creation of 4 or more lots and the associated erection of dwelling houses, attached dwellings or semi-detached dwellings. In such cases the minimum lot size for the erection of a dwelling house may be 400m² or, in the cases of attached dwellings or semi-detached dwellings, as low as 300m².

In the context of the flexibility already provided by Ballina LEP 2012, and to achieve consistency with minimum lot sizes applicable in close proximity to the site, a minimum lot size of 600m² for the R2 and R3 zoned areas is recommended. There do not appear to be compelling arguments in favour of 250m² or 300m² minimum lot sizes for proposed R3 zoned areas. It is noted that the proponent has requested such minimum lot sizes and Council has previously endorsed a 450m² minimum for the R3 zone.

Building Height

The maximum building height recommended by Mike Svikis Planning for the proposed R3 zoned areas is 9 metres and 8.5 metres for R2 zoned areas. Diagram 7 below shows the recommended maximum building heights as well as applicable maximum building heights in close proximity.

Diagram 7 – Mike Sviki Planning - Recommended Height of Building Plan



The maximum building height for R2 and R3 zoned areas under Ballina LEP 2012 is typically 8.5 metres. This is the height applicable to most of Lennox Head, except for the Lennox Head commercial centre, and the Epiq Estate commercial centre and immediately adjoining R3 zone, where a 9 metre maximum building height applies.

It is considered that no compelling reasons have been advanced to support an increase above the 8.5 metre building height that is generally applicable within Lennox Head residential areas. Site specific variations, if required due to topography issues, can be considered by the Council using clause 4.6 *Exceptions to development standards of Ballina LEP 2012*. It is recommended that the currently applicable 8.5 metres maximum building height be retained for this site.

Floor Space Ratio

Application of a floor space ratio aside from existing applicable provisions under the BLEP 2012 has not been recommended. This approach is supported and consistent with Council's general strategic planning approach for residential areas. This approach results in building design controls contained within Ballina DCP 2012 *Chapter 4 Residential and Tourist Development* providing the relevant controls. Controls such as those relating to building envelopes, landscaping, setbacks and car parking will be relevant.

Planning Conclusions

The main conclusion reached by Mike Sviki Planning is that the subject land is well located and serviced and has excellent potential for residential development. No constraints have been identified which are of such magnitude as to preclude the rezoning of a substantial portion of the site for residential purposes.

The above conclusions are supported.

Outstanding issues identified by Mike Svikis Planning are as follows:

1. The noise impact of the realigned North Creek Road requires assessment and this could occur during the planning exhibition period.
2. The proponent's suggestion to allow residential development on some areas containing Hairy Joint Grass and Freshwater Wetland, being the areas which are recommended to retain their current RU1 zoning. It is suggested that future residential development of this land could be considered in the context of a biobanking assessment, or alternatively Council could apply an E2 Environmental Conservation or an E3 Environmental Management zone to the land at some future time.
3. The need for an amended Gateway determination and extension of time to finalise the planning amendment.

In respect to the outstanding issues identified, it is suggested that the need for additional noise assessment work can be satisfactorily addressed at the land subdivision/development application stage in accordance with any new noise assessment standards that the Council may have adopted.

Outstanding issues 2 and 3 are reflected in the recommendations to this report. That is, certain areas subject to ecological considerations are recommended for retention in an RU1 Primary Production zone for the time being, and a request for an altered Gateway determination is proposed.

Sustainability Considerations

- **Environment**
The subject land contains various attributes which are considered to have environmental value. These matters have been assessed in detail in expert ecological reports. Such reports will form a part of the planning proposal when it is exhibited for public comment.
- **Social**
Social issues of relevance, such as the site's scenic and amenity values, have been considered in the Environmental Planning and Assessment Report.
- **Economic**
The proposal has the potential to result in a number of positive economic impacts associated with construction and infrastructure, including the realignment of North Creek Road and extension of Hutley Drive.

Legal / Resource / Financial Implications

There are no significant resourcing or financial implications associated with the proposed LEP amendment. The further processing of the amendment can be accommodated within the work program of the Strategic and Community Facilities Group. To date, the proponent has funded all work associated with the processing of this planning proposal. This arrangement will continue as provided for in Council's adopted Fees and Charges.

The processing of the amendment does not involve specific legal implications beyond compliance with the *Environmental Planning and Assessment Act*. It is noted here that as part of the Gateway determination, an authorisation for Council to exercise delegation to make the plan has been issued. The acceptance of the delegation of authority, to enable the planning proposal to be finalized, is proposed to be further considered in the report to the Council after public exhibition.

Consultation

Consultation has already been undertaken with the Office of Environment and Heritage, Ballina Byron Gateway Airport, Air Services Australia and CASA. Responses received have been considered by Mike Svikis but have not raised issues that would suggest that residential zones as proposed to be applied to the subject site are inappropriate. Responses received will be incorporated into the planning proposal documentation prior to exhibition.

A minimum public exhibition period of 28 days is recommended for this planning proposal.

Options

When giving consideration to this matter, options available to the Council include the following:

1. That the Council submits the planning proposal, as amended based on the recommendations arising from this report, to the NSW Department of Planning and Environment for an altered Gateway determination and then proceed to public exhibition.
2. That the Council requires additional technical reports or examination of issues prior to committing to seek an altered Gateway determination and or exhibiting the planning proposal.
3. That the Council defers or discontinues the planning proposal.

Option 1 is the preferred option. The planning proposal has been examined in detail by independent experts in planning, ecology and engineering as well as by Council staff. The conclusions reached are that the majority of the site is suitable for residential rezoning.

Prior to public exhibition the planning proposal should be amended to exclude the areas containing significant vegetation communities, alter the proposed site zoning regime and minimum applicable lot size, and incorporate the offsite areas which consist of the adjoining roads and the reservoir site within the planning proposal. These changes will require an altered Gateway determination to be obtained as well as an extension of time in which to complete the LEP amendment process.

If it is decided to proceed to public exhibition, it is recommended that the proposal be reported back to the Council at the conclusion of the exhibition for further consideration. This further consideration should include examination of the status and circumstances associated with the realignment of North Creek Road and extension of Hutley Drive before proceeding with further steps in the LEP amendment process.

Option 2 is not supported as there have been no additional technical reports identified as required prior to making a decision to seek an altered Gateway determination. Mike Svikis Planning has recommended that an updated noise assessment be obtained to take account of the alterations to the proposed relocation of North Creek Road. For reasons previously stated, no updated report is considered to be warranted at this stage of the process.

Option 3 is also not supported. The site is identified as a Strategic Urban Growth Area within Ballina LEP 2012, and prior to this was identified as a candidate release area within the 2004 Lennox Head Structure Plan prepared by Council. No issues have arisen during the independent assessment of this planning proposal that are of such significance that would warrant deferral or discontinuance.

RECOMMENDATIONS

1. That the planning proposal relating to land comprising Lot 1 DP 517111, North Creek Road, Lennox Head be amended to make provision for the altered zoning regime as shown in Diagram 5 within this report as well as the incorporation of the reservoir site (Lot 2, DP 517111) with an R3 zone, and public roads which adjoin the site to be assigned the nearest proposed zone and associated planning provisions.
2. The planning proposal be amended to provide for a minimum lot size of 600m² for all proposed R2 and R3 zoned areas.
3. The existing maximum building height of 8.5 metres applicable to the site be retained.
4. Following the amendment of the planning proposal, it be submitted to the NSW Department of Planning and Environment for an altered Gateway determination and an extension of time request.
5. Upon an altered Gateway determination being received, Council authorise the public exhibition of the planning proposal for a minimum period of 28 days.
6. That the matter be reported for further consideration by Council following the mandatory public exhibition period.
7. That issues relating to the negotiation process for the acquisition of the road corridors associated with the realignment of North Creek Road and the extension of Hutley Drive, as well as any associated land swap proposals, be reported to Council for consideration once the negotiation process has reached a stage where a firm proposal requires consideration.

Attachment(s)

1. Attachment One - Mike Svikis Planning Report
2. Attachment Two - Mike Svikis Planning Recommended Planning Control Maps

9.4 Developer Contributions Policy - Secondary Dwellings

9.4 Developer Contributions Policy - Secondary Dwellings

Delivery Program Strategic Planning

Objective To consider the Council's current policy position relating to the waiving of developer contributions for secondary dwellings

Background

The Council, at its Ordinary Meeting held on 27 February 2014 considered a report relating to the application of developer charges (s64 and s94) in relation to development applications involving the construction or establishment of secondary dwellings (granny flats) and resolved as follows [Minute No. 270214/1]:

1. *That Council waive developer contributions for secondary dwellings for an initial period of two years where:*
 - *The total floor area of the secondary dwelling (excluding any area used for car parking) is restricted to a maximum of 60m².*
 - *The floor space ratio of the principal and secondary dwelling does not to exceed 0.5:1.*
 - *A maximum of 2 bedrooms are contained within the secondary dwelling and 5 bedrooms 3 water closets and 2 laundries on the total site.*
 - *Compliance is achieved with all other requirements relating to secondary dwellings contained within the Affordable Rental Housing SEPP.*
2. *That the waiving of developer contributions and charges for secondary dwellings be in relation to contributions and charges contained within Ballina Shire Contributions Plan 2008, Roads Contribution Plan 2010, Water Supply Servicing Plan 2004 and Sewerage Infrastructure Development Servicing Plan 2004.*
3. *The assessment criteria agreed with Rous Water for the calculation of equivalent tenements applicable to secondary dwellings be implemented for charges applicable under the Rous Water Development Servicing Plan – Bulk Supply Services.*
4. *That this policy change be incorporated into Council's developer contribution plans and servicing plans when they are next revised.*
5. *That public notice be given of this policy change and an information sheet be prepared to explain the changes.*

The secondary dwelling contribution waiver policy was subsequently implemented and commenced on 31 March 2014 and will expire on 31 March 2016. The implementation of the policy required that secondary dwellings be commenced within this two year period to attract the benefits of the contributions waiver policy.

Key Issues

- Affordable housing / variety in housing stock
- Infrastructure delivery
- Developer contribution levies and charges

Information

Council's policy position relating to the waiving of developer contributions for certain secondary dwellings sought to achieve the following outcomes:

- Increasing the range of residential development types available to accommodate the changing (and aging) demographics of the shire - currently a high proportion of the shire's dwelling stock comprises detached houses comprising three or more bedrooms;
- Increasing the availability of 'affordable housing' suitable for single persons or couples without children;
- Providing additional income to households where the secondary dwelling is available for rental;
- Providing financial support for elderly residents to 'age in place' by renting out either the secondary dwelling or the primary residence;
- Potential for releasing 'under-occupied' dwellings by providing opportunities for residents to move into the secondary dwelling and rent out the primary dwelling to a larger household; and
- Providing opportunities for inter-generational care, in instances where family members are able to move into the primary dwelling and provide residential care to elderly relatives.

In the period prior to the adoption of the fee waiver policy there were very few secondary dwelling applications lodged with Council. The report to Council's Ordinary Meeting held on 27 February 2014 noted that only one secondary dwelling was approved in the period 1 July 2012 to 30 June 2013.

An examination of approvals issued for secondary dwellings in the period 1 April 2014 to 31 December 2015 indicates that 55 development consents have been issued for secondary dwellings which met the fee waiving criteria.

In 2014 it was estimated that developer contributions applicable to a one bedroom secondary dwelling, in Ballina, were approximately \$18,000. Of this amount approximately \$3,000 related to the Rous Water component.

A more recent review of some development consents granted indicates the following contribution amounts have been subject to the contribution waiver provisions:

Location	Consent Number	Amount subject to waiver provisions
Alstonville	DA2015/621	\$24,892.38
Ballina	DA2015/111	\$19,223.16
Lennox Head	DA2015/365	\$12,601.41
Wardell	DA2015/577	\$18,476.84
Skennars Head	DA2015/54	\$17,878.12

On one level it may be argued that Council has forgone significant revenue through its fee waiving policy. Such an argument should reasonably be balanced against the fact that in the period prior to this policy initiative there were virtually no secondary dwellings approved.

9.4 Developer Contributions Policy - Secondary Dwellings

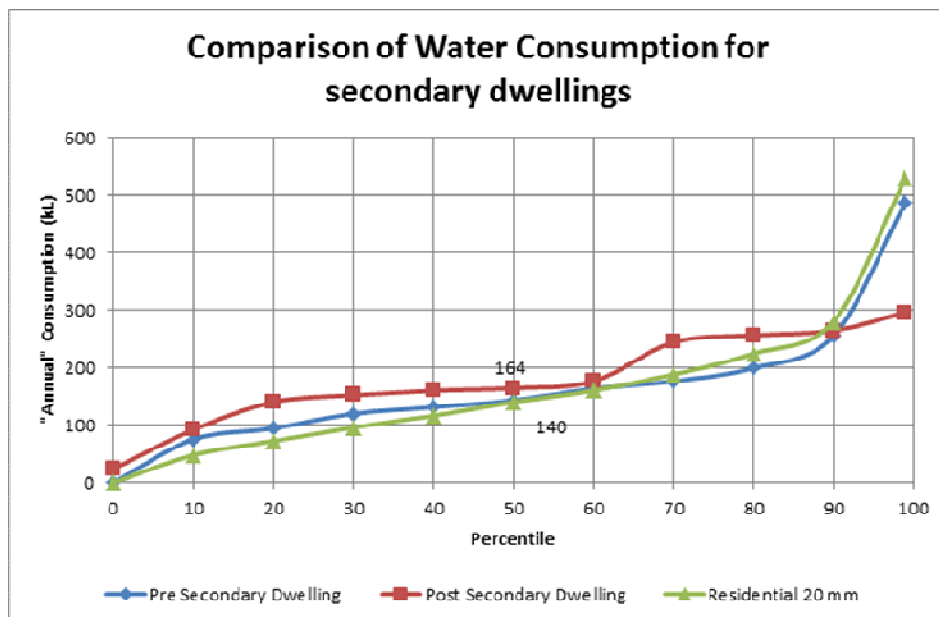
In the overall context of housing supply within Ballina Shire, an additional 55 small dwellings is considered to be a modest increase, but nevertheless, of considerable significance to those residents who may otherwise have no suitable accommodation.

Available Evidence - Water and Sewer Loads

Council's Water and Wastewater Section has examined water usage associated with 26 properties upon which secondary dwellings have been approved in the period 1 April 2014 to 30 June 2015. Meter history has been examined in respect to these properties, however, the ability to draw conclusions is limited by the available data. In summary, the available data indicates that:

- Prior to the construction of the secondary dwelling the water consumption of these properties was very similar to the normal residential consumption (20 mm pipe diameter).
- The data shows an increase in average demand by approximately 15 kL/annum. Water usage for such properties remains below Council's residential supply targets of <200 kL/pa and the applicable design standard of 240 kL/a.

The graph below provides a comparison between the properties containing secondary dwellings and other residential supply properties.



Council's Strategic Engineer Water and Wastewater recommends that as there is no immediate indication of an impact regarding water or sewer loads, the trial period be extended to allow for more data to be collected.

Rous Water Position

Prior to adopting its contribution waiver policy position in 2014, consultation took place with Rous Water concerning the criteria to be applied to secondary dwellings considered suitable for a contribution waiver.

In this respect Rous Water agreed that in cases where the primary and secondary dwelling did not result in a total of more than five bedrooms, three water closets and two laundries, then it would not trigger a requirement for contributions under the Rous Water Development Servicing Plan as no additional equivalent tenement (ET) burden is created.

Rous Water again confirmed the above position in a letter to constituent councils dated 13 October 2015 (refer Attachment One).

Summary Impact of Secondary Dwellings on Facilities and Services

The number of secondary dwellings approved and completed in the past two year period within Ballina Shire is at a level where it is not possible to draw firm conclusions as to their impact on facilities and services intended to be funded via developer contributions. An attempt has been made in respect to water and sewerage services, based on meter reading data, but the results obtained are inconclusive due to the small data sets involved.

Sustainability Considerations

- **Environment**

Adopting policy initiatives which facilitate people building secondary dwellings may have a range of positive environmental benefits. It uses fewer resources in the building of new homes and creates new smaller homes which use less energy. It also frees up larger dwellings for use by larger families, and assists in matching housing stock with occupancy. Alternatively, it supports the conversion of existing large dwellings into a house and secondary dwelling (flat) which again has overall positive environmental benefits.

- **Social**

The ability to live with family and friends in a self-contained living space has positive social benefits. It supports relatives staying connected and part of the family unit. In the case of affordable rental accommodation, secondary dwellings assist people to stay within an area they may otherwise be forced to leave or provides access to housing choice for existing residents.

- **Economic**

Continuation of a policy initiative which encourages secondary dwellings may also stimulate housing construction activities around this type of dwelling.

Legal / Resource / Financial Implications

In terms of demand for new infrastructure, such as water and sewerage, the available evidence does not indicate that a significant measurable increase in demand has resulted based on the limited data available.

It is also considered that many of the secondary dwellings that have been constructed would be unlikely to have been built in the absence of the contribution waiver policy. On this basis it is difficult to argue that Council has foregone substantial income, as such income in other circumstances, would not have been realised.

The approach recommended in this report is consistent with Council's legal responsibilities as a local planning authority. The matters arising from this report can be attended to within existing resources.

Consultation

During the preparation of this report consultation has been undertaken with Rous Water to confirm its position in respect to the imposition of contributions under the provisions of the Rous Water Development Servicing Plan – Bulk Supply Services. Advice received from Rous Water, in February 2016, indicates that it has no objection to a two year extension to the agreed methodology used to calculate Rous Water contributions. The agreed methodology may be summarised that no additional ET burden is created whilst ever the five bedroom, three water closets and two laundry criteria are complied with.

Should the Council determine to extend the period in which a waiver of developer contributions will be applied to certain secondary dwellings then this will be communicated through local media and information placed on Council's web site.

Options

1. Not extend the secondary dwelling contribution waiver period beyond 31 March 2016.

This option is not supported. The consequences arising from this option are that it will likely result in very few secondary dwellings being approved after 31 March 2016. If Council is of the view that the outcomes it sought to achieve in 2014 have been realised, or are not able to be realised by this policy position, then an extension of the contribution waiver period should not be approved. It is, however considered that the secondary dwellings that have been approved and built have had a mostly positive impact on housing choice and affordability within Ballina Shire.

2. Extend the contribution waiver period for an additional limited time period.

Option two is the recommended approach.

There is evidence emerging that secondary dwellings have increased in popularity during the initial two year contribution waiver period. It took some time for the community to become aware of the benefits associated with this housing product. For example, there were only 16 secondary dwellings approved in the first eight months of the policy's operation (April to December 2014), and 39 secondary dwellings approved in the subsequent 12 months to end December 2015.

The more significant objectives of Council's contribution waiver policy related to increasing affordable housing within Ballina Shire, maintaining site occupancy rates and making better use of infrastructure within established areas. It is considered that these objectives are now being realised by the policy and a case exists for the policy to be extended for an additional period.

9.4 Developer Contributions Policy - Secondary Dwellings

In terms of a suitable extension period, it is considered that an additional two years is reasonable, and sufficiently long to enable more data to be analysed relating to matters such as water and sewerage impacts.

This approach is also consistent with action 27 in the recently adopted Wardell Strategic Plan which relates to the maintenance of a waiver of developer contributions for secondary dwellings in Wardell for a two year period beyond April 2016.

3. Defer consideration of this issue for a briefing or for additional information.

If there are issues in respect to which the Council requires further information then a briefing can be arranged with the matter then being able to be scheduled for further consideration at the Council's Ordinary Meeting on 24 March 2016. From a staff perspective this workshop is not seen as being necessary.

RECOMMENDATIONS

1. That Council waive developer contributions for secondary dwellings for an additional two years until 31 March 2018 where:
 - The total floor area of the secondary dwelling (excluding any area used for car parking) is restricted to a maximum of 60m².
 - The floor space ratio of the principal and secondary dwelling does not exceed 0.5:1.
 - A maximum of two bedrooms are contained within the secondary dwelling and five bedrooms, three water closets and two laundries on the total site.
 - Compliance is achieved with all other requirements relating to secondary dwellings contained within the Affordable Rental Housing SEPP.
2. That the waiving of developer contributions and charges for secondary dwellings apply in relation to contributions and charges contained within applicable Ballina Shire Council contribution plans (s94) and development servicing plans (s64).
3. The assessment criteria agreed with Rous Water for the calculation of equivalent tenements applicable to secondary dwellings be implemented for charges applicable under the Rous Water Development Servicing Plan – Bulk Supply Services.
4. That public notice be given of this policy extension.

Attachment(s)

1. Attachment One - Letter from Rous Water

9.5 Missingham Markets - Market Manager - Registrations of Interest

9.5 Missingham Markets - Market Manager - Registrations of Interest

Delivery Program Strategic Planning

Objective To provide the Council with an update on the Missingham Farmers' Market registration of interest process and seek the Council's determination regarding the appointment of a market manager.

Background

The market located at the Missingham Park Car Park adjacent to Kingsford Smith Drive has been used to sell farm produce since the early 1980s when vendors, setting up roadside stalls around the shire, were directed to the site as a result of the Council's policy position on roadside stalls at the time.

This market is typically known and referred to as the Missingham Market and has been the subject of a number of management considerations by the Council in recent years.

Whilst considering management approaches, Council has limited the expansion of the market until land tenure and market management arrangements have been resolved.

As a result of the complexity of some of the issues associated with the market (e.g. land tenure, market extent, refurbishment of the site and historical circumstances), along with transfer of Council's market management functions internally, it has taken an extended period of time to determine adequate market arrangements. Previous reports to the Council concerning the Missingham Markets have canvassed these issues.

Most recently, the Council, at its Ordinary Meeting held on 27 February 2015, resolved as follows [Minute No.260215/14]:

That Council call for expressions of interest for the management of the Missingham Market based on the principles for operation of the market expressed in this report.

Previous invitations for registrations of interest (ROI) advertised in 2007 and 2008 to manage this market failed to attract respondents from a not-for-profit group, as required by the Council's Market Policy. As a result, this most recent ROI package for a manager of the Missingham Farmers' Market also encouraged commercial parties to respond (as well as not for profit groups).

The purpose of this report is to update the Council in relation to the Missingham Farmers' Market ROI process and to seek direction on the appointment of a market manager.

Key Issues

- Economic development opportunities
- Framework for market operation
- Use of public land

Information

The Missingham Market operates on each Sunday morning between 5am and 12.30pm on the Missingham Park Car Park (see Figure 1). The number of stalls at this site has varied over the years but Council has limited the number to the current five stallholders until market management arrangements have been resolved.

The Missingham Market is traditionally made up of individual traders with no overall manager to oversee day-to-day administration of the market. Currently, the stallholders pay \$315 per stall per quarter directly to Council (equating to an annual income of approximately \$6,300). Council staff presently performs overarching management functions for each stallholder which is considered to be inefficient and is inconsistent with approaches for other markets.

The market site is located on Crown Land which is managed by Council in its capacity as the Ballina Kingsford Smith Reserve Trust. The land is reserved for the purpose of Public Recreation. The Council, as Reserve Trust Manager for the site, may authorise the occupation of the land by way of a lease, licence or temporary licence. As markets are an intermittent and low impact use of the site not requiring exclusive occupation, the Crown Lands Regulation allows a temporary licence to be issued by the Reserve Trust. This licence can be issued for a Crown rental for a period up to 12 months with an option to renew.



Figure 1 – Location of Missingham Farmers' Market, Missingham Park Car Park

An ROI for the management of the Missingham Farmers' Market was prepared in line with the Council's most recent resolution regarding the market.

This package provided the general requirements for a market manager based on feedback from Councillors, the existing stallholders and Council's market policy requirements.

This ROI was offered on the basis of the ability of the proponent to address the following principles:

- Operation of a farmers' market on the site
- Growth of the market to increase the number of stallholders commensurate with the size of the market site
- Expansion of the type and range of products sold at the market to include fresh and prepared food (including food prepared on site), as well as high quality artisan products
- Suitable insurance held by the proponents
- Provision of a reasonable income to Council from the market
- Special consideration for existing stallholders.

The ROI listed the selection criteria for the management role as:

- Insurance (mandatory)
- Knowledge and experience in operating a market in accordance with Council's Market Policy, Events Policy and the applicable licence (30%)
- Return to Council including the extent of public benefit (20%)
- Growth of the market in accordance with the requirement for an emphasis on local and regional produce, and the ongoing sustainability of the market in to the future (20%)
- Special consideration for existing stallholders (10%)
- Experience in, and/or commitment to, environmentally responsible operations and initiatives (10%)
- Knowledge and understanding of the principles and practices of risk management and work health and safety, and ability to apply them to market management (10%)
- Conflict of interest - declaration

This ROI was advertised during July and August 2015 and although some enquiries were received, no registrations were lodged. Following the close of this ROI, a meeting was held with stallholders to determine whether the ROI should be re-advertised, and if so, additional ways the ROI could be promoted more widely.

A fresh ROI was then advertised during October and November 2015.

Three ROIs were received from this round, these being:

- Paradise FM;
- Mr Neville Pollard; and
- Mr Mike Burless and Mr Tom Bridge.

The ROI submitted by each of the parties has been reviewed in relation to the application criteria. The matters requiring further consideration by the Council are outlined below.

Registration of Interest Assessment

Staff have completed an assessment of the ROIs received. Although each of the registrations is considered to have merit, it was determined that Messrs. Burless and Bridge provided the most suitable response overall.

Key matters for consideration in relation to the identification of a preferred operator for the market are outlined below.

Knowledge and experience in operating a market in accordance with Council's Market Policy, Events Policy and the applicable licence.

Farming partners Mr Burless and Mr Bridge, demonstrate extensive experience in relation to markets, as local farmers selling produce at local farmers markets and through Mr Burless' membership and involvement on the management committee and various subcommittees of the Byron and Bangalow Farmer's Market over the last eight years.

Mr Pollard and Paradise FM have had no direct experience in managing markets. Mr Pollard has been the operator of amusement devices at markets for eight years.

Paradise FM has experience predominately in staging public events rather than operating markets specifically.

Return to Council including the extent of public benefit.

Council's policy is predicated on allowing the use of Council-owned and managed land, for not-for-profit groups to manage markets for the benefit of the broader community, including through the re-distribution of site/stallholder fees to community-based causes. However, due to the limited responses from not-for-profit groups previously, the most recent ROI process did encourage responses from commercial interests to increase the pool of potential registrations.

Of the three ROIs received, only Paradise FM is a not-for profit organisation.

Paradise FM did not offer a financial return to Council for the use of the market site, noting that profits made from the market would be returned to the community by supporting the shire's only community radio station.

Paradise FM is however willing to negotiate paying a basic fee for services such as waste collection. This party also offered to provide in-kind benefits to Council in the form of broadcasting services.

Both of the other parties offered Council a financial return for the use of the site. Mr Pollard offered Council \$190 per week, or approximately \$9,000 annually, based on a 48 week year and 24 stallholders attending the market.

It is unclear what Mr Pollard would be willing to provide Council based on a lesser number of stalls. Under this proposal, other public benefits would include two free spaces for charity stalls each week, with free entry to the market.

9.5 **Missingham Markets - Market Manager - Registrations of Interest**

Messrs. Burless and Bridge have offered Council \$6,000 annually (as a “flat rate”), plus an additional \$5 per stall per week. This arrangement would allow an increase in income to Council commensurate with the growth of the market. In order to compare this offer to Mr Pollard’s, staff calculated that based on a 48 week year and a maximum of 24 stalls this would equate to \$11,760. This income could be greater if Mr Burless and Mr Bridge obtain their proposed maximum of 45 stalls on the site for this market (although a market of this size should not be assumed as likely on the site at this time).

Additional public benefits under this proposal include a free stall space for schools and charities for fundraising or to Council as an interface with the community. An additional space would be dedicated to local food or farm based enterprises to promote their enterprises.

Mr Burless and Mr Bridge are however a commercial entity and as such the appointment of them as market managers will be inconsistent with the Council’s adopted Market Policy, which lists a not-for-profit group as one of the criteria for a market manager. The broadening of the market policy to reflect a greater diversity of market management options is currently being considered by staff and will be presented to the elected Council for consideration in due course.

In the meantime, Council will need to consider if, on this occasion, it prefers to deviate from its adopted market policy.

As outlined, the ROI for the Missingham Farmers Market did encourage responses from private entities, as no responses had been received from community-based groups, and requested proponents to nominate a financial return to Council as a way of redirecting funds back into the community.

Council is reminded that it has previously stepped away from its market policy in the appointment of a market manager for the Alstonville Farmers Market and the Ballina Twilight Market.

Given that the proposal from Mr Burless and Mr Bridge does provide a reasonable payment to the community, through Council, for the commercial use of Council-managed land, it is suggested that a deviation from the requirements of Council’s Market Policy is considered reasonable in this case.

Special consideration for existing stallholders

Respondents were also asked to consider how they would accommodate the existing stallholders.

Paradise FM has indicated that one or two of the existing stallholders would be invited to join a subcommittee to oversee the management of the market. In addition, the existing stallholders would not be required to pay fees for the first 12 months of operation.

Mr Pollard has offered existing stallholders support in marketing, advertising and labelling their products.

Mr Burless and Mr Bridge have offered existing stallholders incentives to stay at the market including secure tenure (subject to the common rules applying to stallholders) and the choice of stall sites within the market plan.

Site improvements

Mr Burless and Mr Bridge have indicated that they feel the market's profitability is limited due to the size of the site and the lack of water and power access. In light of the site rental they are willing to pay Council they have requested that Council provide access to water and power to the market site.

These applicants are of the view that these services are crucial for the expansion of the market to accommodate the variety of stalls that Council envisages, especially those providing prepared food.

Food stalls are required under the Food Standards Code to have access to fresh water for hand cleaning, equipment washing and food preparation.

Access to power on site would eliminate the need for generators which could interfere with the general ambience of the market. Without these services, the size of the market may be limited to stallholders that have self-contained facilities to provide their water and power requirements i.e. water storage and electricity generators.

As extending these services from the Missingham Park site temporarily by way of hoses or extension cords is not considered desirable from a safety perspective, preliminary cost estimates have been sought in order to determine the budget required to provide these services to the site.

Providing water at three evenly spaced hose cocks with removable handles, across the site in line with the existing bollards near the car park is estimated to cost around \$12,000. Although a cost estimate has been requested for the connection of power to the site from contractors, this information is still forthcoming. Operational staff have indicated that these costs could be anywhere from \$20,000 - \$50,000 as it may require an additional connection point to Essential Energy's grid network.

Although these costs are substantial, providing these services to the site would add to the potential of the site for additional public uses. In determining a funding option for financing these improvements, one option is for revenue secured from this site to be applied to service improvements at the site and the adjoining reserve areas, until such time as the incurred costs have been paid.

Market revenue could be allocated to site improvements that include the provision of utilities as well as the landscaping works planned for the second phase of the master plan for this site. The provision of power and water would also facilitate the addition of electric BBQ's, public showers or the increased use of the site for other public events.

This type of approach is consistent with the outcomes envisaged for foreshore areas (embellishment and use) under the draft Ballina Major Regional Centre Strategy.

Council is asked to consider whether the cost for providing these services at the site is reasonable given the importance of water and power access to the ongoing expansion and success of the market.

It is suggested, prior to the signing of a market licence, that negotiations occur with the proponents regarding their request for water and power services.

There may be other options that could be satisfactory. Given the substantial cost of providing power, one such option may be connecting water to the site and stallholders being required to meet their own power needs.

These arrangements could be reviewed following the first year of the market's operation.

Conflict of interest

No conflict of interest concern has been identified in the assessment of the ROIs. It is declared in the submissions that as managers, Mr Pollard and Messrs. Burless and Bridge would also be stallholders at the market.

Additional criteria

Each of the proposals was also assessed in relation to the additional criteria outlined below.

- Insurance
- Growth of the market in accordance with the requirement for an emphasis on local and regional produce, and the ongoing sustainability of the market in to the future
- Experience in, and/or commitment to, environmentally responsible operations and initiatives
- Knowledge and understanding of the principles and practices of risk management and work health and safety, and ability to apply them to market management

Assessment Outcome

Having regard for the applicable assessment criteria, the overall weighted scores applied to each ROI are shown in the table below.

Proposal	Weighted Score (/100)
Paradise FM	54
Mr Pollard	56
Mr Burless and Mr Bridge	74

The recommendation is to appoint Mr Burless and Mr Bridge as the market manager for an initial period of twelve months under a temporary Crown Licence. This period will allow the market manager to determine if the market is viable and Council to ascertain if the market is managed adequately.

Following this period, a review of the market would be undertaken by the market manager and Council staff to determine if the management arrangement is satisfactory for the respective parties.

Should the market not meet the expectations of the Council or the market manager, further negotiations to review arrangements may be required.

Sustainability Considerations

- **Environment**

Local markets can have positive environmental outcomes, particularly with respect to reducing 'food miles' associated with the transportation of produce.

- **Social**

Local markets can support the availability of fresh produce to the local community and provide opportunities for social interaction. Markets also present opportunities for community learning about regional food production.

- **Economic**

Local markets support the local economy by retaining income within the region. Markets located in proximity to existing commercial areas can also contribute to the business activity within these areas.

Legal / Resource / Financial Implications

The continued operation of the market, under the terms of the options presented in this report, will require the preparation of a licence and staff time. This work can be accommodated within existing resources. There is potential for Council to receive additional revenue from the market over and above what it is currently receiving.

There is also a potential for savings in staff time applied to market administration through the appointment of a manager to address the routine operational affairs of the market. There is also a benefit in relation to risk management through the opportunity for a more centralised approach to insurances through the market manager.

Consultation

The first ROI for the operation and management of the market was advertised in the Ballina Advocate and the Northern Star newspapers and was open for a period of 28 days. The ROI was re-advertised in the Byron Echo, Ballina Advocate and Lismore Echo as well as through the Australian Farmers Market Association website. Posters were also displayed on the stalls at the Missingham Farmers Market.

The existing stallholders at the Missingham Market have been consulted several times over the course of the ROI process.

Options

1. Continue the market under current arrangements.

This option is not recommended due to the current lack of formal land tenure and management arrangements for the Missingham Market, as outlined in this report.

Fundamentally, there is presently an opportunity to streamline and formalise the market operation that has been difficult to achieve in the past. It is recommended below that Council pursue this opportunity by appointing Mr Burless and Mr Bridge as market manager on a temporary basis, for a period of twelve months.

2. Formalise market management and the land tenure arrangement for the Missingham Market.

This option involves the appointment of a market manager to facilitate ongoing operation of the market on the Missingham Park Car Park site and the issue of a licence agreement.

To formalise the management of the market, it is recommended that the Council take the following steps, for the reasons outlined in this report:

- Negotiate with Mr Burless and Mr Bridge arrangements regarding the operation and management of the market. This would include the provision of access to water and power to the site and negotiating a satisfactory arrangement.
- That if the negotiations conducted are satisfactory for the parties involved, that Council (in its capacity as Reserve Trust Manager) appoint Mr Burless and Mr Bridge as the market manager under a temporary licence agreement for 12 months with the option for renewal subject to confirmation of the operator being able to meet to the Council's satisfaction the requirements of a market manager, as outlined in the market agreement.
- Apply a fee payment structure based on the proponent's ROI. This fee would replace the current quarterly fees being received by Council from stallholders directly.
- Review the operation of the market prior to the conclusion of the 12 month temporary licence.

This approach provides for the terms of the operation of the market to be reviewed and evaluated after a one year period of operation.

In proceeding under this option, it is important to note that the appointment of a private market operator is inconsistent with Council's current market policy. However, in the subject circumstances, there are particular reasons to support such a variation. Formalisation of the operation of the market and the appointment of Mr Burless and Mr Bridge as manager is the recommended approach.

3. Seek further information prior to determining the preferred approach.

It is open to the Council to seek further information prior to determining the future operation of the market through a briefing or other means.

Due to the consultation that has been undertaken to date, this approach is not recommended.

9.5 Missingham Markets - Market Manager - Registrations of Interest

In the event that the key matters identified in this report cannot be resolved with the current market operator, staff will provide a further report to the Council or convene a Councillor briefing to seek direction.

RECOMMENDATIONS

1. That Council authorises the General Manager to negotiate with Mr Burless and Mr Bridge regarding the management of the market, consistent with the sentiments expressed in this report.
2. That if the negotiations conducted under point one are satisfactory for the parties involved, that Council (in its capacity as Reserve Trust Manager) appoints Mr Burless and Mr Bridge as the market manager for a period of 12 months under a reserve trust temporary licence.

Attachment(s)

Nil

9.6 Pimlico Hall - Management

9.6 Pimlico Hall - Management

Delivery Program Community Facilities and Services

Objective To invite the Council's consideration of lease and management options in relation to Pimlico Hall

Background

Council is the owner of the Pimlico Hall, having acquired the property from a private owner in 2006. The land on which the hall is erected is classified as operational land for the purposes of the Local Government Act 1993. The occupant at the time, the Pimlico Ladies Charitable Organisation (PLCO) has remained the primary user of the hall since Council's acquisition of the property. The PLCO has occupied the hall since 1974 under an understanding that the hall was publicly owned.

At the time Council purchased the hall, a registered 99 year lease was recorded on the Certificate of Title, which was entered into between the land owner at the time, Mr Christopher Leeson and five lessees, being Pimlico residents at the time. The lease was signed and registered in 1937 and is due to expire in 2036. The PLCO has remained in occupation of the hall as lessees under historic arrangements following Council's acquisition.

The PLCO has now advised that they are no longer able to remain as lessees of the hall due to the aging nature of their members, which impacts on their ability to raise funds and attend to the day to day maintenance associated with their obligations as lessee of the hall.

The purpose of this report is to seek direction from the Council in relation to the termination of the existing lease arrangement.

Key Issues

- Removal of the 99 year lease
- Future use of Pimlico Hall

Information

Following receipt of the notification from the PLCO that it did not wish to renew its lease for the hall, staff commenced preliminary investigations into future options for the use of the hall. However, due to the registration of the 99 year lease on the Certificate of Title, this has prevented the option of offering a lease over 5 years to other potential future user groups, as this would require the lease to be registered, and it is not possible to have two registered leases to different parties, operating concurrently, over the same property.

In consultation with the PLCO members and following historical research, staff sought confirmation from the NSW Registrar General that the 99 year lease could be removed from the Certificate of Title. A copy of the letter from the Registrar General advising that removal of the lease is possible is attached to this report.

Once the lease is removed, staff will then be able to engage in a process of expressions of interest for occupation of the hall, or investigate other management options following consultation with the community.

Sustainability Considerations

- **Environment**

There are no environmental impacts associated with the removal of the 99 year lease or any subsequent leases entered into for the hall.

- **Social**

The Pimlico Hall was established in 1937, originally being managed by a hall committee until 1974 when the PLCO took over the management. The hall has been a social hub for the Pimlico community since it was built, being used for weddings, parties, meetings, elections, dances, garden and flower shows and the monthly “hoi” run by the PLCO as a community fundraiser for various charities.

The PLCO report a declining use by the community and a declining attendance at the monthly hoi days. Staff propose to engage with the local community and review options for the management of the hall including seeking a new lessee or a review of whether this property could or should be managed by Council staff and promoted as a Council facility for hire.

- **Economic**

The current lease is for a peppercorn rental and therefore there is currently no income being derived.

Legal / Resource / Financial Implications

The removal of the 99 year lease will allow consideration to be given to a longer term lease should a suitable occupant or manager be found. As the land is held by Council as operational land, should a commercial arrangement be proposed for use of the site, this is able to be considered.

If no suitable occupant is able to be found, Council will incur the financial liability for the maintenance, public liability insurance and other day to day costs associated with the hall.

Consultation

Consultation has occurred between the staff and the PLCO. A copy of the letter from the PLCO is attached. It is proposed to engage in community consultation with the Pimlico residents as well as the broader community to determine the need/desire for the facility to remain as a community facility and review any alternate uses which may be suitable for the hall.

Options

1. Authorise the removal of the 99 year registered lease and receive a further report regarding the identified options for future uses of the hall.

This is the preferred option. The removal of the 99 year lease will allow Council to explore more options for use of the property, including entering into a long term lease, or commercial opportunity. As the property has only been owned by Council for 10 years, and the same community group has been in occupation of the hall for that duration, it is appropriate to review the community need for the facility and explore a variety of options for the property's future use.

2. Do not authorise the removal of the 99 year lease.

This is not the preferred option as it will restrict the options able to be considered for the future use of the property.

RECOMMENDATIONS

1. That Council authorises the removal of the 99 year registered lease over the property which comprises the Pimlico Hall. Further, that the General Manager is authorised to affix the Council Seal to any documentation required to achieve this outcome.
2. That the Council receives a further report regarding the options for future use and management of the property comprising the Pimlico Hall following community consultation.

Attachment(s)

1. Correspondence from NSW Land & Property Information - Removal of Lease
2. Correspondence from The Pimlico Ladies Charitable Organisation - Removal of 99 Year Lease

10.1 Investment Summary - January 2016

10. General Manager's Group Reports

10.1 Investment Summary - January 2016

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 January 2016.

Key Issues

- Compliance with Investment 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 January was \$64,293,000. This represents a decrease of \$1,997,000 from December. Council's investments as at 31 January are at an average (weighted) rate of 3.06%, which is 0.76% above the 90 Day Bank Bill Index of 2.30%.

The balance of the cheque account at the Commonwealth Bank, Ballina as at 31 January 2016 was \$2,400,919.

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

10.1 Investment Summary - January 2016

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	1.6%	
National Australia Bank	Yes	BBB	1,788	1,788	0	2.8%	
National Wealth M'tment Holdings	Yes	A-	2,000	2,000	0	3.1%	7%
Rated Institutions							
AMP Bank	Yes	A+	6,000	3,000	20%	4.7%	
Bank of Queensland	No	A-	4,000	6,000	10%	9.3%	
Bank of Western Aust	Yes	AA-	7,000	4,000	20%	6.2%	
Bendigo & Adelaide Bank	No	A-	4,000	4,000	10%	6.2%	
Commonwealth Bank of Australia	Yes	AA-	7,502	6,505	20%	10.1%	
Defence Bank Ltd	No	BBB+	3,000	3,000	10%	4.7%	
Greater Building Society	No	BBB	2,000	2,000	10%	3.1%	
ING Bank Ltd	Yes	A-	1,000	1,000	10%	1.6%	
Members Equity Bank	No	BBB+	4,000	6,000	10%	9.3%	
National Australia Bank	Yes	AA-	7,000	7,000	20%	10.9%	
Newcastle Perm Bld Society	No	BBB+	1,000	1,000	10%	1.6%	
Suncorp-Metway Bank	No	A+	11,000	10,000	20%	15.6%	
Westpac Banking Corporation	Yes	AA-	3,000	3,000	20%	4.7%	
My State Bank Ltd	No	BBB	1,000	3,000	10%	4.7%	93%
Unrated ADI's					\$1m	0.0%	0%
Total			66,290	64,293		100%	

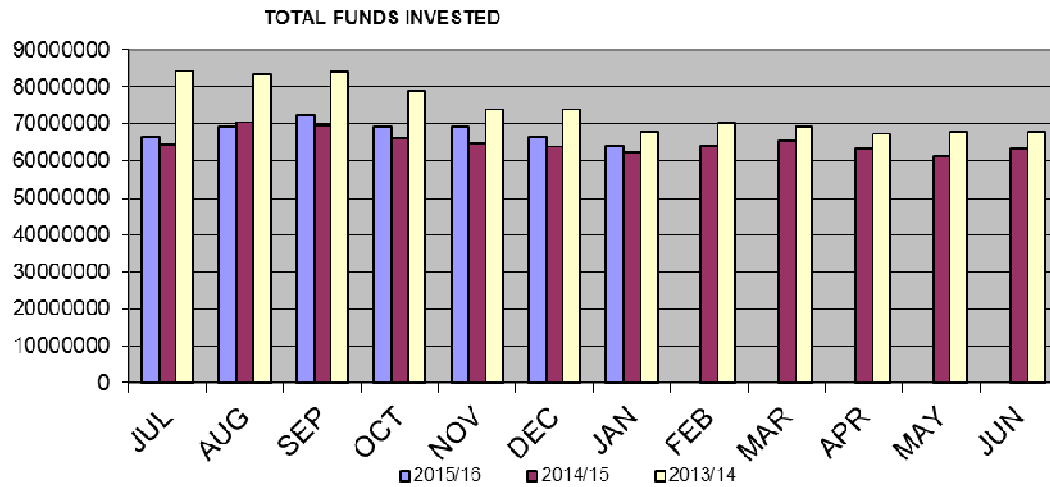
B. Summary of Investments Fossil Fuel Aligned

	Previous Month	Current Month
Fossil Fuel Aligned	35,290	28,293
	53%	44%
Non-Fossil Fuel Aligned	30,000	35,000
	45%	54%
Not Classified	1,000	1,000
	2%	2%
Total	66,290	64,293
	100%	100%

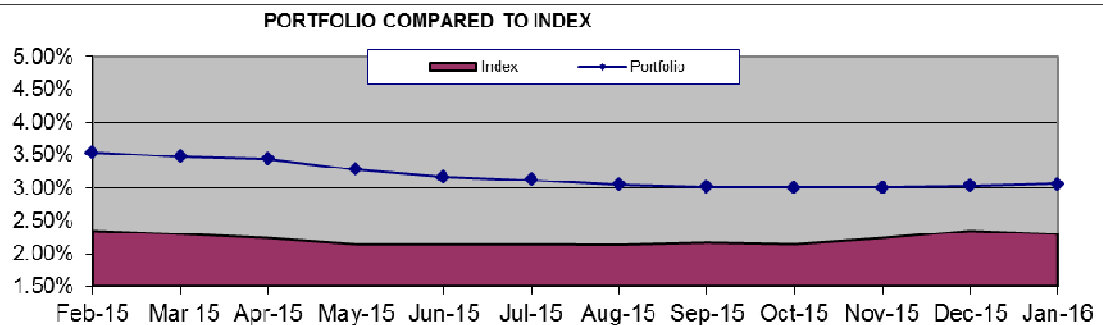
The determination of fossil fuel alignment is based on advice from Market Forces as follows:

- Yes: Noted by Market Forces as funding fossil fuels
- No: Noted by Market Forces has having no record of fossil fuels and having provided a position statement.
- N/A: Not classified as information not available.

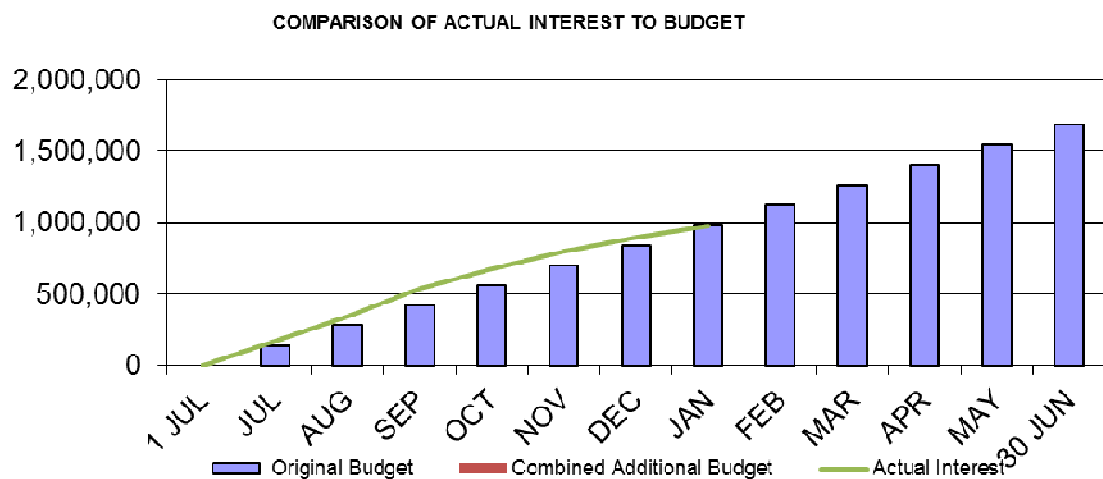
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



10.1 Investment Summary - January 2016

F. Investments held as at 31 January 2016

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURIT Y DATE	PURCH VALUE \$'000	FAIR VALUE \$'000
at call	Commonwealth Bank Of Australia	CDA	1.95%	at call	509	509
20/09/04	National Australia Bank (ASX Listed)	FRN	3.49%	Perpetual	1,788	1,204
12/04/06	Goldman Sachs	FRN	2.83%	12/04/16	1,000	1,000
16/06/06	National Wealth Mment Holdings	FRN	2.98%	16/06/26	2,000	1,994
24/01/12	ING Bank Ltd	FRTD	4.22%	24/01/17	1,000	1,000
06/02/12	Westpac Bank	FRN	3.84%	06/02/17	1,000	1,012
25/01/13	Commonwealth Bank Of Australia	TD	4.25%	25/01/18	1,996	2,060
07/06/13	Greater Bld Society	FRN	3.76%	07/06/16	2,000	2,019
25/02/14	Westpac Bank	FRN	3.20%	25/02/16	2,000	2,005
26/05/15	National Australia Bank	TD	2.97%	22/02/16	1,000	1,000
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
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	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
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
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
18/05/15	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
05/01/16	Suncorp-Metway Bank	TD	3.02%	04/07/16	2,000	2,000
06/01/16	Bank of Queensland	TD	3.10%	06/07/16	1,000	1,000
07/01/16	Bank of Queensland	TD	3.10%	11/07/16	1,000	1,000
11/01/16	Suncorp-Metway Bank	TD	3.00%	12/07/16	1,000	1,000
12/01/16	Bank of Queensland	TD	3.10%	13/07/16	1,000	1,000
12/01/16	National Australia Bank	TD	3.10%	11/05/16	2,000	2,000
15/01/16	BankWest	TD	3.00%	16/05/16	2,000	2,000
25/01/16	Members Equity Bank	TD	3.10%	26/07/16	2,000	2,000
27/01/16	Newcastle Permanent Bld Society	TD	3.00%	27/04/16	1,000	1,000
28/01/16	My State Bank	TD	3.05%	20/07/16	2,000	2,000
Totals					64,293	63,803
CDA = Cash Deposit Account		FRN = Floating Rate Note				
FRTD = Floating Rate Term Deposit		TD = Term Deposit				

RECOMMENDATION

That Council notes the record of banking and investments for January 2016.

Attachment(s)

1. Tcorp Local Government Economic Commentary - January 2016

10.2 Australia Day - Review

10.2 Australia Day - Review

Delivery Program Governance and Finance

Objective To review the program of events and coordination of Australia Day.

Background

Council coordinates an Australia Day event each year, that includes a citizenship ceremony, an awards ceremony and a special guest address. This is a free public event where the community is encouraged to attend by a promotional campaign. The event concludes with a morning tea with the guest speaker, new citizens and award winners.

The purpose of this report is to review the current program of events and Australia Day Awards.

Key Issues

- Review the Australia Day Awards and program of event
- Transparent process for awarding of the Citizen of the Year
- Australia Day Committee

Information

The Australia Day Awards were reviewed by Council in February 2015 by resolution [260215/1] which confirmed the categories for the 2016 Ballina Shire Australia Day Awards Program were as follows, with the Citizen of the Year to be selected by Council from one of these categories:

- Young Citizen of the Year (30 years or under)
- Senior Citizen of the Year (60 years or over)
- Sports Award
- Arts/Cultural Award
- Volunteer of the Year
- Community Event of the Year

There were 24 nominations for the Australia Day Awards in 2016.

One of the key changes implemented this year was that the recipient of the 2016 Ballina Shire Citizen of the Year Award was selected from the nominations for all the other awards. Council had previously resolved to remove the Citizen of the Year category, as we were having limited nominations, as compared to some of the other categories such as Senior Citizen and Volunteer of the Year.

Also, on occasions, the nominees for these other two categories had delivered a far higher level of community benefit than the nominations for the Citizen of the Year.

10.2 Australia Day - Review

As Citizen of the Year is perceived as the highest or most prestigious award, Council deleted this category and resolved to select the Citizen of the Year from the other nominees, or from the broader community.

If Council does decide to continue this practice then we need to ensure that we write to that person confirming their nomination (or determination by Council). This then ensures they are aware of the nomination prior to the Australia Day ceremony and all other nomination forms will be noted to confirm that any nominee can be selected for Citizen of the Year.

Based on community feedback and general anecdotal evidence, the program of events for the 2016 Australia Day event was well received by the community. It was a full program with a record number of 45 new citizens, and 24 Australia Day Award nominations.

The Ambassador, Mr. Max Walker, was also received positively. Max has a passion for Australia Day and all it stands for; he was generous with his time and a very obliging Ambassador.

For a number of years Council has been selecting our Ambassador from outside the Australia Day Ambassador Program. The high profile Ambassadors selected has assisted with increased attendance numbers and media promotion.

There was upwards of 600 people attending this year's ceremony, which is a huge crowd, particularly when compared to other attendance numbers for similar ceremonies in the region.

The courtesy bus was again provided for over 20 residents this year. The bus included pick up and drop off locations in Alstonville, West Ballina, Ballina and East Ballina. The bus is provided free of charge to encourage elderly community members without transport, to attend the ceremony.

The Council's Australia Day Committee was re-established on 22 December 2014 by resolution [221214/2]. The Council provided delegated authority to an Australia Day Committee, consisting of all Councillors **present**, to determine the award recipients for Australia Day.

The purpose and role of the Committee was to review and determine the recipients in each category annually.

This terms of reference is important as it does not rely on a normal quorum.

The existing resolution makes it clear that the Committee will consist of the Councillors **present**, therefore if only four, for example, attend, they will have authority to determine the award winners.

The process for allocation of the Australia Day Awards and the Australia Day Committee worked well for the delivery of the 2016 Australia Day Awards, therefore no changes are suggested.

Sustainability Considerations

- **Environment**

Our residents and visitors highly value the special environmental attributes of Ballina Shire. The Australia Day Awards provides an opportunity to showcase the efforts of those who work to protect and conserve our environment.

- **Social**

The Awards and associated activities are an excellent way of bringing the shire together and promoting social cohesion. It is also a means of recognising the wonderful contribution so many of our residents make toward the betterment of our shire and its citizens.

- **Economic**

The Australia Day budget is approximately \$19,000.

Legal / Resource / Financial Implications

The Australia Day Awards and associated activities are coordinated, promoted and delivered within the resources provided by the Council.

Consultation

The Australia Day Awards, the program of events or Committee has not been subject to community consultation. However this matter was previously reported to the Council in February 2013, February 2014 and February 2015 which could be considered a form of community consultation.

Options

On balance the formula Council has implemented for Australia Day is working well with high levels of attendance and satisfaction from the community.

In looking at options they revolve mainly around the awards categories.

For example, one option is to leave the award categories unchanged.

The 2017 Australia Day Award categories would then be as follows:

- Young Citizen of the Year (30 years or under)
- Senior Citizen of the Year (60 years or over)
- Arts/Cultural Award
- Sports Award
- Volunteer of the Year
- Community Event of the Year

The Citizen of the Year is then selected from the nominees.

Another option could be to amend the categories, and even re-instate the Citizen of the Year category.

In having only removed the Citizen of the Year category for one year no change is currently recommended as this option worked well this year and is worthwhile continuing for 2017.

10.2 Australia Day - Review

A further option is to reduce the number of categories in the 2017 awards program to include (for example):

- Senior Citizen of the Year (60 years or over)
- Young Citizen of the Year (30 years or under)
- Volunteer of the Year
- Community Event of the Year

Under this option the Arts/Cultural Award and Sports Award are deleted as these categories have only been receiving two to three nominations each year.

Ultimately the right mix of categories is a matter for Council to determine.

The recommendation that follows supports the current process as the manner in which Council is managing Australia Day is working extremely well.

RECOMMENDATIONS

1. That Council confirms that the categories for the 2017 Ballina Shire Australia Day Awards are to remain unchanged; i.e.
 - Young Citizen of the Year (30 years or under)
 - Senior Citizen of the Year (60 years or over)
 - Sports Award
 - Arts/Cultural Award
 - Volunteer of the Year
 - Community Event of the Year
2. That Council confirms that the Citizen of the Year is to be selected from the nominations for all the Award categories, with all nomination forms and associated correspondence to clarify this selection process.
3. That Council open the nominations for the 2017 Australia Day Awards in April 2016.

Attachment(s)

Nil

10.3 Financial Review - 31 December 2015

Delivery Program Governance and Finance

Objective To provide a review of the 2015/16 financial year budget based on the known results to 31 December 2015.

Background

In accordance with the Local Government Act the responsible accounting officer of a council must, not later than two months after the end of each quarter, prepare and submit to the council a budget review statement that shows a revised estimate of the income and expenditure for that year. The report that follows provides this review for the second quarter of 2015/16.

Key Issues

- Variations to the budget and financial performance of Council

Information

The purpose of this report is to provide information on known budget variances as at 31 December 2015. The format of the report complies with the Quarterly Budget Review Statement Guidelines set down by the Office of Local Government (OLG).

To comply with these guidelines an Operating Statement, Capital Budget, Cash and Investment Statement, Key Performance Indicators, Contractors, Consultants, Legal Information and Certification by the Responsible Accounting Officer are required. Commentary on the variations recommended is then provided after the tables. A brief overview of the information provided in the report is as follows:

Section One - Operating Income and Expense - These tables provide the operating income and expenses for the Funds (General, Water and Wastewater).

Section Two - Capital Budget - These tables outline the capital expenditure budgets.

Section Three - Cash and Investment Statement - These tables provide details on the projected movements in reserve balances.

Section Four - Key Performance Indicators - The ratios provide an indication of the financial health of the organisation.

Section Five - Contractors/Consultants/Legal Expenses - This information provides details of specific expenses incurred and contracts entered.

Section Six - Certification - This is a Statement by the Responsible Accounting Officer as to whether the current year's estimated financial performance is or is not satisfactory.

Other - Sustainability Considerations, Legal/Resource/Financial Implications, Consultation and Options.

Section 1 – Operating Income and Expense

General Fund – Operating Revenues and Expenses

This section deals with Council's General Fund operations. Tables for income and expense follow, including recommended variations to budget. Following the tables are comments in respect to proposed budget variations that are considered to be material.

10.3 Financial Review - 31 December 2015

Operating Income	Original Budget 000's	September Budget 000's	Approved Changes 000's	Revised Budget 000's	Changes for Approval 000's	December Budget 000's	Actual to December 000's
Strategic and Community Facilities Group							
Strategic Planning	146	184	0	184	49	233	90
Community Centres and Halls	382	405	0	405	25	430	233
Cultural and Community Services	114	114	0	114	6	120	51
Library Services	117	117	0	117	(5)	112	0
Swimming Pools	346	346	0	346	0	346	207
Tourism and Communications	34	34	0	34	98	132	42
Sub Total	1,139	1,200	0	1,200	173	1,373	623
Development and Environmental Health Group							
Development Services	381	461	0	461	22	483	232
Building Services	1,010	1,100	0	1,100	140	1,240	747
Environment and Public Health	266	266	0	266	3	269	244
Admin and Public Order	229	235	0	235	19	254	121
Sub Total	1,886	2,062	0	2,062	184	2,246	1,344
Civil Services Group							
Engineering Management	367	367	0	367	(52)	315	140
Procurement and Building Mgmt	0	0	0	0	0	0	0
Stormwater and Env Prot	342	368	0	368	0	368	372
Roads and Bridges	62	62	0	62	214	276	16
Ancillary Transport Services	797	870	0	870	3	873	304
Roads and Maritime Services	885	885	0	885	0	885	438
Open Space and Reserves	735	786	0	786	104	890	503
Fleet Mgmt and Workshop	252	252	0	252	0	252	113
Rural Fire Service	221	221	0	221	(31)	190	131
Quarries and Sandpit	281	281	0	281	0	281	158
Landfill and Resource Management	4,028	3,959	0	3,959	0	3,959	2,736
Domestic Waste Management	5,978	6,026	0	6,026	28	6,054	6,017
Sub Total	13,948	14,077	0	14,077	266	14,343	10,928
General Manager's Group							
Governance	0	5	0	5	0	5	4
Administrative Services	28	43	0	43	0	43	34
Financial Services	23,362	23,403	0	23,403	(12)	23,391	22,103
Financial Services-General Revenues	182	192	0	192	27	219	98
Information Services	11	11	0	11	0	11	2
Human Resources and Risk Mgmt	125	125	0	125	32	157	140
Property Management	3,186	3,110	0	3,110	(118)	2,992	1,329
Ballina Byron Airport	5,155	5,115	0	5,115	30	5,145	2,193
Sub Total	32,049	32,004	0	32,004	(41)	31,963	25,903
Total Operating Income	49,022	49,343	0	49,343	582	49,925	38,798

General Fund – Operating Income and Expenses (cont'd)

Operating Expenses (excluding depreciation)	Original Budget	September Budget	Approved Changes	Revised Budget	Changes for Approval	December Budget	Actual to December
Strategic and Community Facilities Group							
Strategic Planning	1,052	1,350	0	1,350	79	1,429	599
Community Centres and Halls	790	790	0	790	18	808	397
Cultural and Community Services	897	907	0	907	9	916	440
Library Services	1,439	1,494	0	1,494	0	1,494	702
Swimming Pools	995	995	0	995	(280)	715	329
Tourism and Communications	835	752	0	752	70	822	314
Sub Total	6,008	6,288	0	6,288	(104)	6,184	2,781
Development and Environmental Health Group							
Development Services	1,247	1,247	0	1,247	(20)	1,227	484
Building Services	822	842	0	842	(20)	822	392
Environment and Public Health	794	866	0	866	(20)	846	378
Admin and Public Order	1,225	1,229	0	1,229	0	1,229	578
Sub Total	4,088	4,184	0	4,184	(60)	4,124	1,832
Civil Services Group							
Engineering Management	2,462	2,470	0	2,470	8	2,478	1,228
Procurement and Building Mgmt	1,990	2,002	0	2,002	55	2,057	1,022
Stormwater and Env Prot	764	1,069	0	1,069	0	1,069	353
Roads and Bridges	3,338	3,338	0	3,338	108	3,446	1,750
Ancillary Transport Services	1,725	1,874	0	1,874	3	1,877	959
Roads and Maritime Services	885	1,024	0	1,024	9	1,033	475
Open Space and Reserves	3,385	3,756	0	3,756	134	3,890	1,659
Fleet Mgmt and Workshop	(883)	(883)	0	(883)	0	(883)	(364)
Rural Fire Service	436	467	0	467	(81)	386	173
Quarries and Sandpit	71	394	0	394	0	394	78
Landfill and Resource Management	1,903	1,744	80	1,824	(73)	1,751	748
Domestic Waste Management	5,652	5,652	0	5,652	(79)	5,573	2,407
Sub Total	21,728	22,907	80	22,987	84	23,071	10,488
General Manager's Group							
Governance	1,065	1,228	0	1,228	(6)	1,222	614
Administrative Services	582	589	0	589	3	592	293
Financial Services	0	0	0	0	0	0	0
Financial Services-General Purpose F	(4,085)	(4,075)	0	(4,075)	19	(4,056)	(2,000)
Information Services	1,726	1,726	0	1,726	19	1,745	1,214
Human Resources and Risk Mgmt	1,071	1,171	0	1,171	191	1,362	690
Property Management	3,096	3,144	0	3,144	107	3,251	1,595
Ballina Byron Airport	3,860	3,775	0	3,775	30	3,805	1,821
Sub Total	7,315	7,558	0	7,558	363	7,921	4,227
Total Operating Expenses	39,139	40,937	80	41,017	283	41,300	19,328
Net Operating Result Before Depreciation	9,883	8,406	(80)	8,326	299	8,625	19,470
Depreciation Expense	13,109	13,109	0	13,109	0	13,109	6,555
Net Operating Result Continuing Operations	(3,226)	(4,703)	(80)	(4,783)	299	(4,484)	12,916

General Fund Working Capital Forecast

Item	Original Budget	September Budget	Approved Changes	Revised Budget	Changes for Approval	December Budget	Actual to December
Working Capital	(98)	(45)	(40)	(85)	38	(47)	

Comments - General Fund

The **forecast operating result** is a loss of \$4.5 million, which is an improvement of \$0.3m from the forecast of \$4.7 million as at 30 September 2015.

The estimated movement in **unrestricted working capital** has improved from a deficit of \$85,000 to an anticipated deficit of \$47,000. Increased outgoings of \$40,000 were approved by Council during the quarter (for Alstonville Preschool and the Disc Golf) offset by net improvements of \$78,000, which is presented in this report for approval.

The larger adjustments to income include increases to Development and Building Services income of \$160,000 and a decrease to Development Engineer Inspection fee income of \$50,000.

In respect to operating expenditure the largest adjustment relates to staff leave entitlements where it is recommended that an additional \$150,000 be added to the budget. There are proposed reductions to forecast salaries in various sections of the organisation which largely offset the leave increase.

Details of the larger budget variations are contained in the report.

The adjustments shown in the tables are inclusive of all amendments and the comments do not account for minor budget changes.

General Fund - Operating Revenues***Strategic and Community Facilities Group******Strategic Planning***

Rezoning Fees: The increase to forecast income relates to new Rezoning projects of \$49,000. An offsetting expense budget has also been raised.

Community Centres and Halls

Ballina Surf Club and Kentwell Community Services Centre: Income from room hire is exceeding budget and \$30,000 has been added to the budget.

Lennox Head Cultural and Community Centre: Income from room hire is below initial expectations and \$10,000 has been deducted from the budget.

The increase in overall income for Community Centres has been largely offset by increases in expenditures.

Tourism and Communications

Event and Marketing Revenue: A budget of \$80,000 has been added for anticipated advertising income associated with the Visitor Information Guide. An offsetting expense budget has also been raised.

Reservation and Sales Revenue: Overall this area is trending well and \$11,000 has been added to the budget, with the largest increase associated with Souvenir Sales. An offsetting expense budget has been raised in this regard also.

Development and Environmental Health Group

Development Services

Development Fees: Income received to the end of the second quarter is trending above forecast and the budget has been increased by \$22,000.

Building Services

Building Fees: Forecast income has conservatively been increased by \$140,000 to a revised forecast of \$1,158,500, compared to 2014/15 actual of \$1,091,500. The larger areas for adjustment are Development Application Fees and Package Certificates/Inspections, which have been adjusted by \$50,000 each. Plumbing and Drainage Fee income and DA Compliance Fees have also been adjusted by \$20,000 each. Based on current trend, total Building Services income could possibly require a further adjustment of approximately \$100,000 later in the year.

Admin and Public Order

Parking Fines and Dog Fines: Income has been increased by \$10,000 each, based on current trends.

Civil Services Group

Engineering Management

Development Engineer Inspection Fee: Whilst the revenue from this source can be variable over the year, it is predicted that the current budget will not be met, which has required a decrease of \$50,000.

Roads and Bridges

Operating income of \$214,000 has been raised, relating to the Natural Disaster funding (April 2015 event), which has now been approved.

Total funding of \$414,000 has been approved, of which \$214,000 relates to operating expenses and the balance of \$200,000 relates to capital expenditure.

Of the \$214,000 operating income, additional expense budgets of \$205,000 have been raised for local roads and \$9,000 for regional (RMS funded) roads.

Open Space and Reserves

Vegetation Management: Grant income of \$52,000 has been raised for the Northlakes project, which is 50% grant funded. Council's share (\$52,000) of total project costs (\$104,000) has been sourced from Stormwater capital projects.

Additionally, grant income of \$24,000 has been raised for the Lennox Point Compensatory project, with an equivalent offsetting expense.

Sporting Fields: Income of \$18,000 has been raised for Ferngrove Establishment, with an offsetting expense. These works are to be completed by Council on behalf of the developer.

Rural Fire Service

A \$38,000 reduction in the reimbursement to be received from Rural Fire Service was offset partially by a \$7,000 increase in the Bush Fire Prevention grant received.

Landfill and Resource Management (LRM)

There is no overall net movement in forecast income for LRM, however it is worthy to note a number of amendments to forecasts.

Waste Disposal Fees: The September 2015 quarterly review noted that LRM's largest external customer had changed landfills such that the tonnage being deposited at Ballina has reduced considerably in comparison to previous years.

A staged approach was adopted, with a \$300,000 reduction in September, with an expectation that further reductions would be required as the year progressed. Based on trend for the first two quarters, a further \$100,000 reduction has been made in this report.

This decrease has been offset in part by a \$50,000 increase to Council (internal) disposal fee income, which has been trending well. Forecast expenditure has also been reduced due to the reduced tonnage coming in the gate.

Recycling Revenues: A decrease of \$50,000 to Council (internal) recyclables income, and a decrease of \$30,000 to Recyclable Metal Sales based on current trends.

Grants and Contributions: A contribution of \$130,000 has been received which is associated with a State Government carbon refund.

Domestic Waste Management

Annual Charge: New charges raised associated with new subdivisions and fine tuning of original estimates have resulted in income being increased by \$28,000.

General Manager's Group

Financial Services

Interest on Rates and Charges: The budget has been decreased by \$10,000 based on trend, indicating that ordinary rates collection is better than originally anticipated.

Financial Services – General Purpose Revenue

Fees and Charges: Sales of Section 603 Certificates are trending well and the budget has been increased by \$12,000.

Legal Costs Recovered represents the raising of income payable by property owners where legal action has been instigated. The budget has been increased by \$15,000. The increase to income is matched by an increase to expense that reflects continuing efforts to keep overdue rates to a minimum.

Human Resource Management

Grants and Contributions: The largest adjustment to budgeted income was an increase of \$20,000 to the Statecover Workers Compensation Refund, for which actual receipts to date exceeded the original budget by this amount. Other small increases were also made for Statewide Bonus Refund and Long Service Leave Contributions received in excess of original budget.

Property Management

Lease Income Investment Properties: Forecast lease income for the ARC Building has been reduced by \$93,000. This decrease follows ongoing negotiation between Council and the lessee. Further, lease income for Norfolk Homes is reduced by \$10,000.

Lease Income Residential Properties: Forecast lease income for residential properties (Gallans Rd and Commercial Rd house) has been reduced by \$15,000. This represents a correction to the original estimate.

Ballina Byron Airport

Car Parking Fees: Increase of \$20,000 based on trending.

Airport Lessee Reimbursement: Increase of \$10,000 based on trending.

General Fund - Operating Expenses

Strategic and Community Facilities

Strategic Planning

Rezoning: New budgets of \$49,000 have been raised to offset the forecast income for new rezoning projects.

Budget Relocation: Employee costs of \$30,000 have been relocated to Strategic from Tourism. The adjustment follows the relocation of one staff member.

Community Centres and Halls

Minor amendments have been made to a number of expenses, with the net change of \$18,000 substantially offsetting increases in forecast operating income.

Swimming Pools

Due to the deferring of the pools capital expenditure (and corresponding loan), loan interest expense of \$280,000 has been removed from 2015/16 expenses, with a corresponding transfer to a Pools Reserve.

Tourism and Communications

Budgets have been raised in relation to the Visitor Information Guide and Souvenir purchases, being \$80,000 and \$9,000 respectively.

Budget Relocation: Employee costs of \$30,000 have been relocated to Strategic from Tourism. The adjustment follows the relocation of one staff member.

Development and Environmental Health Services

Development Services

Employee Costs: The budget has been reduced by \$20,000.

Legal Costs: The budget has not been adjusted in this review. Expenses are trending low at this stage and there is the possibility of savings to be recognised later in the year.

Building Services

Employee Costs: The budget has been reduced by \$20,000.

Environment and Public Health Services

Employee Costs: The budget has been reduced by \$20,000.

Civil Services

Procurement and Building Management

Building Maintenance expenses to date have exceeded the original budget of \$55,000 and based on current trend and confirmed by relevant staff, the budget has been increased by \$64,000.

This is mainly due to major roofing issues at the building adjoining the Administration Centre (Human Resources and Commercial Services), along with that building's air conditioning also failing.

Depot improvements capital works have been reduced by \$45,000 and savings of \$9,000 have been identified in other operating expenses to offset the increase in operating expenses.

Roads and Bridges

As noted previously, additional operating expense budgets of \$205,000 have been raised for roads, funded by the Natural Disaster grant.

Budget of \$97,000 has been transferred from the roads maintenance operating budget to capital. The budget moved to capital is for reseals and heavy patching work. These works have been determined to be capital by nature, hence the transfer out of operating costs.

Open Space and Reserves

Open Space: Savings of \$26,000 were made within the Open Space General Operations budget to offset \$10,000 additional expense for Shark Management and \$16,000 overspend on Killen Falls capital works.

Vegetation Management: As previously noted, expense of \$104,000 has been raised for the Northlakes project and \$24,000 has been raised for the Lennox Point Compensatory project.

Rural Fire Service

There has been a reduction of \$74,000 in the required contribution to the Bush Fire Fighting Fund. The original budget was based on previous years expenditures and it exceeded requirements.

Landfill and Resource Management (LRM)

The largest movement in forecast operating expenses is for a reduction of \$100,000 in transport of mixed waste costs. This reduction is the follow on from reduced waste tonnage entering the site.

A number of other operational expenses were adjusted, with overall additional costs of \$27,000 identified, resulting in a net decrease in operating expenses of \$73,000.

Domestic Waste Management

Collection Costs: Recycling Weighbridge fees expense has been reduced by \$50,000 and Rural Kerbside Collection costs are also trending low, with a \$30,000 reduction made. These two reductions are offset partially by an increase of \$60,000 in Domestic Urban and Rural Recycling collection costs.

Fuel Costs: Savings of \$40,000 have been realised on fuel costs, due to a fall in the unit price for fuel.

General Manager's Group

Financial Services – General Purpose Revenue

Audit Costs: Audit expenses have been increased by \$44,000. This cost has been distributed in small amounts throughout the ledger. The additional expense relates to external audit (extra costs associated with audit of assets) and internal audit (new contract includes fraud in addition to risk).

Information Services

The largest increase to budgeted expenditure was for Software Support, with the budget increased by \$13,000.

Human Resources

Employee Entitlements: A further \$150,000 has been added to the leave budgets, bringing the total forecast to \$2,639,000. Based on current trend, the budget requires an adjustment in the range of \$150,000 to \$200,000 to provide for leave to be paid out in the remainder of the year.

This means a further adjustment may be required as the year progresses. This type of increase is often offset by reduced employee salary expenses.

Employee Costs: The budget for the HR section has been increased by \$26,000 to enable project works to be undertaken.

Injured Workers Rehabilitation: The budget has been increased by \$15,000 following ongoing payments relating to two workplace injuries.

Workers Compensation Costs: The budget has not been adjusted in this review and the forecast is currently \$601,000. Subject to the outcome of a matter currently in hand with the insurers, the annual premium for 2015/16 may come in considerably lower than this forecast amount.

Property Management

Southern Cross Masterplan expenses have been increased by \$100,000 to total forecast expenditure of \$200,000 to reflect actual works being done on the rezoning process.

Ballina Byron Airport

Certified Air Ground Operator (CAGRO): A budget of \$50,000 has been added. These costs had not previously been budgeted for and they relate to the on ground communications for aircraft landing.

A number of minor decreases were made to other expense budgets resulting in a net reduction to expense of \$20,000.

Water Operations

This next section of the report deals with Council's Water operations.

There has been a minor adjustment to the forecast operating result but generally the outlook remains similar to that considered in the September 2015 review.

Water - Statement of Operating Income and Expenses (\$'000)

Item	Original Budget	September Budget	Approved Changes	Revised Budget	Changes for Approval	December Budget	Actual to December
Operating Income	10,996	11,062	0	11,062	79	11,141	4,961
Operating Exps (excl. dep)	9,491	9,491	0	9,491	85	9,576	4,555
Net Operating Result Before Depreciation	1,505	1,571	0	1,571	(6)	1,565	406
Depreciation Expense	1,400	1,400	0	1,400	0	1,400	700
Net Operating Result from Continuing Operations	105	171	0	171	(6)	165	(294)

The **forecast operating position** (exclusive of depreciation) has declined by \$6,000 since the September 2015 review, from a surplus of \$1,571,000 to \$1,565,000. Forecast operating revenues have been increased by \$79,000. The largest change in operating revenue was for connection fees, which has been increased by \$70,000. This is another example of elevated revenue due to the continuing building development boom.

Forecast operating expenses have been increased by \$85,000. The largest change in operating expenses was an increase of \$70,000 for Service Connections (the expense offsetting the increase in connection fees income). Treatment plant operation expenses were also increased \$50,000, offset by a decrease in Mains maintenance expenses of \$50,000.

Wastewater Operations

This next section of the report deals with Council's Wastewater operations.

Wastewater- Statement of Operating Income and Expenses (\$'000)

Item	Original Budget	September Budget	Approved Changes	Revised Budget	Changes for Approval	December Budget	Actual to December
Operating Income	16,281	16,393	0	16,393	100	16,493	13,586
Operating Exps (excl. dep)	13,740	13,595	0	13,595	170	13,765	6,246
Net Operating Result Before Depreciation	2,541	2,798	0	2,798	(70)	2,728	7,340
Depreciation/loan unwind Expense	2,900	2,900	0	2,900	0	2,900	1,450
Net Operating Result from Continuing Operations	(359)	(102)	0	(102)	(70)	(172)	5,890

The **forecast operating position** (exclusive of depreciation) has declined by \$70,000 since the September 2015 review, from a surplus of \$2,798,000 to \$2,728,000.

Forecast operating revenues have been increased by \$100,000. Wastewater access charges have been increased by \$60,000 for residential and \$20,000 for non-residential. An increase of \$20,000 has also been made to revenue from house drainage plans. These adjustments are based on trend, with pro-rated actuals to date exceeding that originally budgeted.

Forecast operating expenses have been increased by \$170,000 as part of this review. The larger adjustments include:

- Increase of \$350,000 to treatment operation costs. This is further to an increase of \$200,000 made as part of the September 2015 review.
- Increase of \$30,000 to pumping stations operation costs.
- Reduction of \$100,000 to anticipated energy costs. This is further to a reduction of \$200,000 made as part of the September 2015 review.
- Reduction of \$50,000 to camera and jetting mains maintenance.
- Reduction of \$40,000 to pumping stations maintenance.

The wastewater cost centres were adjusted at the start of the year. This has meant that the original forecasts did not have the benefit of previous years to improve accuracy of the forecasts. The adjustments reflect current expenditure patterns.

It is also the case that the original operating budget was decreased when compared to the previous year. Revised total estimated operating expenditure is now \$9.4 million (excludes loan interest) which compares to \$9.2 actual expense in 2014/15.

Section Two – Capital Budget

This next section of the report looks at capital expenditure and examines proposed changes to the program.

General Fund - Capital Budget - Source and Application of Funds (\$'000)

General Fund Capital	Original Budget \$'000	September Budget \$'000	Approved Changes \$'000	Revised Budget \$'000	Changes Approval \$'000	December Budget \$'000	Actual to December \$'000
General Fund Capital Funding							
General Revenues	4,781	5,174	40	5,214	15	5,229	
Reserves	11,437	17,889	589	18,478	(920)	17,558	
Loans	4,000	4,000	0	4,000	(4,000)	0	
Section 94 Contributions	49	425	135	560	55	615	
Grants and Other Contributions	4,173	6,434	0	6,434	445	6,879	
Total Funding	24,440	33,922	764	34,686	(4,405)	30,281	7,117
General Fund Capital Expenditure							
<i>Strategic and Community Facilities Group</i>							
Cultural and Community Services	271	566	30	596	55	651	306
Swimming Pools	4,000	4,166	0	4,166	(4,000)	166	26
Libraries	0	33	0	33	0	33	24
<i>General Manager's Group</i>							
Administration / Information Services	25	65	0	65	0	65	15
Property Management	4,100	2,926	0	2,926	(1,140)	1,786	345
Camping Ground	10	10	0	10	0	10	0
Ballina Airport	90	90	0	90	0	90	126
<i>Development and Environ Health Group</i>	45	49	0	49	0	49	4
<i>Civil Services Group</i>							
Procurement and Buildings	3,922	3,878	0	3,878	180	4,058	559
Stormwater	421	547	0	547	(52)	495	183
Roads and Bridges	4,804	9,197	0	9,197	468	9,665	3,584
Ancillary Transport Services	3,323	3,192	724	3,916	(30)	3,886	739
Water Transport and Wharves	675	733	0	733	0	733	0
Open Spaces - Parks and Reserves	544	777	10	787	(283)	504	137
Open Spaces - Sporting Fields	156	5,293	0	5,293	0	5,293	1,080
Cemeteries	0	0	0	0	0	0	0
Fleet and Plant	1,954	1,954	0	1,954	0	1,954	99
Waste Management	100	446	0	446	397	843	246
Total Capital Expenditure	24,440	33,922	764	34,686	(4,405)	30,281	7,117

General Fund
Strategic and Community Facilities Group
Cultural and Community Services

The community centres budget has been increased by \$26,000, with funding of \$20,000 provided by a grant still to be received from the Department of Trade and Investment. The balance of \$6,000 is funded from the Community Centre Reserve.

An amount of \$29,000 has been allocated for various halls upgrade work, funded from the Community Centre Reserve.

Swimming Pools

Due to the deferring of the pools capital expenditure, \$4,000,000 has been removed from 2015/16 capital works budget, with a corresponding reduction to capital income.

General Manager's Group

Property Management

Budget of \$1,650,000 for the Wollongbar Urban Expansion has been deferred to 2016/17. A budget of \$130,000 has been added to the Southern Cross Estate for development application fees associated with Stage 12.

Wigmore Arcade Roofing budget has been increased by \$380,000, bringing the total capital budget for this work to \$630,000.

Ballina Airport

As per the Capital Expenditure Review submitted to the January 2016 Ordinary meeting, Council has been successful in obtaining a \$2.2 million grant from the Regional Tourism Infrastructure Fund for Part 1 (apron overlay) of the proposed project. Conditionally, Council will be required to contribute \$500,000 of Council funds towards Part 1.

Furthermore, Council is currently in process of trying to secure funding for Part 2 (terminal expansion and landslide), which will also be conditional on additional Council contribution. Consideration to the funding sources for the proposed Council contribution was reported to the February 2016 Commercial Services Committee as per the minutes of that meeting elsewhere in this agenda. As such, no adjustments are included in this review.

Civil Services Group

Procurement and Building Management

Funding sources for the Ballina Marine Rescue Centre have been adjusted and there is an increase of \$224,500 to the capital budget, taking the total value of the project to \$2.1 million for 2015/16 (excluding previous year's expenditure). Due to the external funding to be received, the contribution from Council's Property Reserve has been reduced by \$625,500.

These surplus funds have been transferred to a Marine Rescue Tower Contingency Reserve.

The Depot Improvements budget has been reduced by \$45,000, to offset increases in operating expenses in buildings maintenance.

Stormwater

Budget of \$52,000 has been relocated to Open Spaces and Reserves in respect to the Northlakes project.

10.3 Financial Review - 31 December 2015

Roads and Bridges

Forecast capital expenditure budgets have increased by a total of \$468,000. This includes Natural Disaster Funding, over expenditures and other adjustments as follows.

Natural Disaster funded projects of \$200,000 are as follows:

Description of Works	Amount (\$)
Teven Road Landslip	76,000
Marom Creek	15,000
Howards Road	17,000
Friday Hut Road	35,000
Mitchell Place	16,000
Albert Sheather Place	30,000
Lindendale Road	11,000
Total	200,000

Amounts of \$108,000 have been transferred from the roads reserve to fund overspends on various works, being;

Description of Works	Amount (\$)
Midgen Flat Road	51,000
River/Moon St R/bout	30,000
Marom Creek Road	15,000
Pimlico Road	3,000
Ballina Bypass	9,000
Total	108,000

A budget of \$110,000 has been added to capital works reseals and heavy patching, with \$97,000 of this transferred from the roads maintenance operating budget and the remaining \$13,000 funded from reserves. A budget of \$50,000 has been added to the Airport Boulevard approvals process, funded from Property Reserves.

Ancillary Transport Services

The budget for the Main Street Alstonville footpath of \$30,000 has been deleted from the budget.

Open Space – Parks and Reserves

The Wollongbar Skate Park project is to be deferred to 2016/17, with corresponding budget of \$340,000 transferred back to reserve, whilst \$10,000 remains in the current year to meet preliminary expenses.

Budget of \$16,000 has been increased to meet actual expenditure for the Killen Falls works.

A new budget of \$42,000 has been raised for the Bolwarra Court playground, funded from Section 94 reserves, with this work completed by the developers of this Estate.

10.3 Financial Review - 31 December 2015

Waste Management

New budgets have been raised for \$376,000 and \$21,000, respectively, to meet actual expenditure for a new DWM Vehicle and Water Refill Stations positioned throughout the Shire.

Water - Capital Budget - Source and Application of Funds (\$'000)

Water Supply Capital	Original Budget \$'000	September Budget \$'000	Approved Changes \$'000	Revised Budget \$'000	Changes Approval \$'000	December Budget \$'000	Actual to December \$'000
Water Capital Funding							
Reserves	1,622	1,967	0	1,967	0	1,967	
Section 64 Contributions	2,262	2,494	0	2,494	(1,792)	702	
Grants and contributions	0	0	0	0	0	0	
Total Funding	3,884	4,461	0	4,461	(1,792)	2,669	1,177
Water Capital Expenditure							
Main Renewals	1,006	1,266	0	1,266	0	1,266	632
Reservoirs	535	725	0	725	(500)	225	6
Pressure Management Zones	0	84	0	84	0	84	69
Water Pumping Stations	462	605	0	605	(192)	413	208
Trunk Mains	1,300	1,200	0	1,200	(1,100)	100	0
Treatment Plants	271	271	0	271	0	271	7
Plant and Main Connections	305	305	0	305	0	305	255
Other	5	5	0	5	0	5	0
Total Capital Expenditure	3,884	4,461	0	4,461	(1,792)	2,669	1,177

The Manager Water & Wastewater has decreased capital works by \$1,792,000 which relates to the deferral of the following:

Description of Works	Amount (\$)
Ross Lane Land Acquisition	500,000
Pumping Station East Ballina	192,000
Pumping Station East Ballina Booster	800,000
Trunk Main East Ballina	300,000
Total	1,792,000

Wastewater - Capital Budget - Source and Application of Funds (\$'000)

Wastewater Capital	Original Budget \$'000	September Budget \$'000	Approved Changes \$'000	Revised Budget \$'000	Changes Approval \$'000	December Budget \$'000	Actual to December \$'000
Wastewater Capital Funding							
Reserves	5,222	4,584	0	4,584	(940)	3,644	
Section 64 Contributions	524	524	0	524	(248)	276	
Total Funding	5,746	5,108	0	5,108	(1,188)	3,920	978
Wastewater Capital Expenditure							
Pumping Stations	2,690	2,691	0	2,691	(1,500)	1,191	391
Treatment Plants	516	971	0	971	180	1,151	357
Trunk Mains	210	395	0	395	(48)	347	90
Mains Renewals	473	390	0	390	150	540	5
Plant and Other	1,702	188	0	188	30	218	30
Reuse Program	155	473	0	473	0	473	105
Total Capital Expenditure	5,746	5,108	0	5,108	(1,188)	3,920	978

The capital program is proposed to be decreased by \$1,188,000.

Capital works to the value of \$1,680,000 have been deferred to 2016/17 or removed from the capital works program.

Description of Works		Amount (\$)
Pump Station Byron Street, Lennox Head	Deferred	1,500,000
Rising Main Swift Street, Ballina	Deferred	60,000
Gravity Trunk Main, Wollongbar	Deferred	100,000
Ballina Solar Power	Removed	20,000
Total		1,680,000

New works to the value of \$492,000 have been added to the capital works program.

Description of Works	Amount (\$)
Membrane Replacement Ballina WWTP	200,000
Low Pressure Sewer Cooper Close Lennox	150,000
Trunk Mains WUEA Contingency	60,000
Relocate Servers Pine Avenue	30,000
Rising Main Lennox	52,000
Total	492,000

Section Three – Cash and Investment Statement

The next table shows details of the projected cash and investments.

10.3 Financial Review - 31 December 2015

	Original Budget \$'000	September Budget \$'000	Approved Changes \$'000	Revised Budget \$'000	Changes Approval \$'000	Revised Budget \$'000
Unrestricted	3,780	3,780	0	3,780	0	3,780
Externally Restricted						
- Section 94	6,048	6,480	0	6,480	(905)	5,575
- Domestic Waste Management	1,414	1,798	0	1,798	(270)	1,528
- Section 64 Water	4,753	4,621	0	4,621	1,792	6,413
- Water Reserve	2,796	3,357	0	3,357	(6)	3,351
- Section 64 Wastewater	4,427	4,653	0	4,653	248	4,901
- Wastewater Reserves	4,898	6,179	0	6,179	869	7,048
Total Externally Restricted	24,336	27,088	0	27,088	1,728	28,816
Internally Restricted						
- Strategic and Community Services	274	431	0	431	403	834
- Employee Leave Entitlements	1,809	2,509	0	2,509	6	2,515
- Plant Replacement	(578)	146	0	146	0	146
- Quarries	948	950	0	950	0	950
- Property	1,295	488	0	488	2,082	2,570
- Open Spaces and Reserves	341	372	0	372	7	379
- Landfill Management	3,384	4,127	(80)	4,047	52	4,099
- Civil Works	2,766	4,730	(724)	4,006	(70)	3,936
- Procurement and Buildings	0	0	0	0	626	626
- Other	903	1,927	0	1,927	(1)	1,926
Total Internally Restricted	11,142	15,680	(804)	14,876	3,105	17,981
Total Restricted	35,478	42,768	(804)	41,964	4,833	46,797
Total Cash and Investments	39,258	46,548	(804)	45,744	4,833	50,577

The unrestricted cash figure is not inclusive of transactions that would normally be included when calculating working capital; i.e. it is exclusive of movements in items such as debtors and creditors. The available cash figure is taken from note six of the financial statements as at 30 June 2015. Council does not track movements in available cash on a quarterly basis.

Statements

1. Council's investments are all in accordance with the Local Government Act, the regulations and Council's investment policy.
2. As per the investments summary for December 2015, funds invested amounted to \$66,290,000. All restricted monies are included in these investments.
3. Cash has been reconciled to the bank statement as at 31 December 2015 to the amount of \$3,458,681.
4. Actual year to date cash and investments amounted to \$69,748,681 as at 31 December 2015. This amount includes cash at bank of \$3,458,681 and funds invested of \$66,290,000, which has been reconciled to bank statements and investment reports.

Comment on Cash and Investment Position

The forecast reserves position has increased from \$42.8 million to \$46.8 million.

Details of the major changes for approval are summarised below.

Section 94 Reserves

There is a net decrease of \$850,000 to forecast Section 94 capital contributions which suggests a slowdown in subdivision approvals. A further \$55,000 has been transferred from the reserve for capital works (Bolwarra play equipment and additional road works).

Domestic Waste Management (DWM)

There is a net decrease to the reserve forecast of \$270,000 with \$376,000 utilised to fund a new truck, offset by a \$106,000 improvement in the forecast operating result.

Water Reserves

Net reserves are predicted to increase by \$1,786,000, which is the result of adjustments of \$1,792,000 to the capital program, and a slight deterioration in the forecast operating result of \$6,000.

Wastewater Reserves

Net reserves are predicted to increase by \$1,117,000, which is a combination of adjustments of \$1,187,000 to the capital program, offset by \$70,000 deterioration in the forecast operating result.

Strategic and Community Facilities

An amount of \$439,000 has been transferred back to reserve with regard to the deferral of the pools capital works. This represents the originally forecast interest expense of \$280,000 and a principal repayment of \$159,000. These savings can help to offset the actual capital cost of the project or reduce the loan required.

An amount of \$35,000 has been transferred from the reserve for the upgrade of various halls.

Property Reserves

There is a net increase of \$2,082,000 to the forecast reserves.

Deferral of the Wollongbar Urban Expansion and Wollongbar Skate Park capital projects to 2016/17 has resulted in a transfer back to reserve of \$1,650,000 and \$340,000, respectively.

Other large contributors to an increase in reserves were the recent sale of the Bagotville Quarry, for \$450,000 and the sale of 7 North Creek Road, for \$150,000 and an increase of \$315,000 in forecast Southern Cross sales (increased to forecast of \$750,000).

Offsetting the above increases is additional expenditure for the Wigmore Arcade roofing of \$380,000, Southern Cross Estate DA fees of \$130,000, Airport Boulevard \$50,000, and \$100,000 for Southern Cross Masterplan, and a reduction of \$40,000 in forecast WUEA sales (reduced to forecast of \$590,000) and \$123,000 reduction in forecast lease incomes.

Landfill Resource Management

Forecast decrease of \$28,000 to the reserve is a combination of adjustments to the budgeted operating result (decrease of \$7,000) and additional capital expenditure of \$21,000.

Civil Works

The forecast reserve has decreased by \$80,000. Amounts of \$110,000 have been utilised to fund over expenditure on roads, offset by a transfer back to reserve of \$30,000 for the Main St Alstonville footpath, which has been removed from the capital works program.

Procurement and Buildings

Due to the external funding now secured for the Ballina Marine Rescue Tower, an amount of \$625,500 has been transferred to a Marine Rescue Tower Contingency reserve.

Section Four - Key Performance Indicators

The next section of the report takes selected financial benchmarks and compares the 30 June 2014 and 2015 ratios with the forecast at December to 30 June 2016.

The performance indicators that have been selected have a short term focus, which suits the quarterly review which also focuses on the short term.

Key Performance Indicators - Description

1. **Unrestricted Current Ratio** - Unrestricted current assets divided by unrestricted current liabilities.

Measured: as a ratio

Purpose: this ratio is used to measure Council's ability to meet short term liabilities with available short term assets.

Indicator type: Financial Position

Benchmark: >1.5:1 (NSW code of accounting practice)

2. **Operating Performance Ratio** – Total continuing operating revenue (excluding capital grants/contributions and fair value adjustments) less operating revenue (excluding capital items and profit or loss on sale) as a percentage of continuing operating revenue (less capital items and fair value adjustments).

Measured: as a ratio

Purpose: this percentage measures whether the Council is sustainable in terms of its operating result. Council should not be recording recurring operating deficits or funding operating results from capital revenue.

Indicator type: Financial Performance

Benchmark: = greater than 0: 1 (NSW code of accounting practice)

3. **Debt Service Cover Ratio** – Operating result (excluding fair value adjustments, capital grants/contributions, depreciation/amortisation, interest expense and profit or loss on sale) as a percentage of loan interest and capital payments

Measured: as a ratio

Purpose: The purpose of this percentage is a measure of whether Council has excessive debt servicing costs relative to the adjusted operating result.

Indicator type: Financial Position

Benchmark: >2:1 (NSW code of accounting practice)

Benchmark Indicators – General Fund

1. Unrestricted Current Ratio – General Fund

Benchmark: >1.5:1

2013/14	2014/15	2015/16 December
Actual	Actual	Estimate
1.97:1	3.26:1	1.85:1
Pass	Pass	Pass

Comment

The ratio is predicted to fall in 2015/16 as the current forecast is for reserves to decrease (actual 2014/15 reserve balance compared to current 2015/16 forecast to June) and liabilities will increase.

However there are significant variables that will affect the forecast including the fact that invariably the total works program will not be completed so the reserve balance is likely to be higher than current predictions.

The forecast has been updated since that provided in the September 2015 review as loans for the pools upgrade have been deferred.

Whilst the forecast remains a pass in comparison to the benchmark the trend is negative. This serves as a warning that any new borrowings need to have a ready funding source and to keep a close eye on cash reserves.

2. Operating Performance Ratio – General Fund

Benchmark: >0

2013/14	2014/15	2015/16 December
Actual	Actual	Estimate
-19.1%	-5.3%	-9.2%
Fail	Fail	Fail

Comment

The current forecast for the ratio to June 2016 has improved slightly from the forecast as at September 2015 but does remain well below benchmark.

The ratio is affected by many variables. A strategy to improve this ratio is to continue to closely monitor, maintain and even reduce operating expenses and increase income.

The current forecast for future years continues to indicate that this ratio will reach a breakeven point in 2016/17 and will have a positive 3 year average in the 2018/19 year. The 3 year average is an important ratio used as part of the Fit for the Future assessments.

The next table provides the forecast results for the next few years for the General Fund.

Item	2015/16	2016/17	2017/18	2018/19	2019/20
Operating Balance(\$'000)	(4,374)	44	189	1,571	2,433
Ratio	-9.2%	0.4%	0.3%	2.9	4.2%

3. Debt Service Cover Ratio – General Fund

Benchmark: > 2

2013/14	2014/15	2015/16 December
Actual	Actual	Estimate
1.82	2.94	1.90
Fail	Pass	Fail

Comment

This ratio is sourced, in part, from the operating result.

With Council having operating deficits to date, Council has struggled to meet the benchmark.

The forecast ratio has improved slightly from the forecast as at September 2015 as the swimming pool loans have been removed from 2015/16.

The strategy to meet the benchmark is to limit further borrowings, unless matched by offsetting revenues, and strengthen the operating result by a combination of increasing income and decreasing expense.

10.3 Financial Review - 31 December 2015

The trend moving forward is positive and will improve as waste loans are finalised, as per the following table, with Council needing to be careful to ensure that any new borrowings are fully funded.

Item	2015/16	2016/17	2017/18	2018/19	2019/20
Ratio	1.90%	2.62%	3.21%	3.78%	3.85%

Benchmark Indicators - Water

1. Unrestricted current ratio - Water

Benchmark: >1.5:1

2013/14	2014/15	2015/16 December
Actual	Actual	Estimate
42.34:1	38.31:1	23.78:1
Pass	Pass	Pass

Comments

The ratio meets the benchmark comfortably as the Fund has reasonable reserves and no debt.

2. Operating Performance Ratio - Water

Benchmark: > 0

2013/14	2014/15	2015/16 December
Actual	Actual	Estimate
-2.0%	1.2%	1.5%
Fail	Pass	Pass

Comments

The Water Fund has achieved a positive operating performance ratio and this trend is expected to continue for future years, as per the following table.

Item	2015/16	2016/17	2017/18	2018/19	2019/20
Ratio	-1.5%	4.1%	4.6%	5.1%	8.6%

3. Debt Service Cover Ratio - Water

Benchmark: >2

2013/14	2014/15	2015/16 December
Actual	Actual	Estimate
0.0	0.0	0.0
N/A	N/A	N/A

Comments

The Fund has no external borrowings and none are anticipated this financial year.

Benchmark Indicators - Wastewater**1. Unrestricted current ratio - Wastewater**

Benchmark: >1.5:1

2013/14	2014/15	2015/16 December
Actual	Actual	Estimate
5.44:1	3.09:1	1.30:1
Pass	Pass	Fail

Comments

The ratio is forecast to fall in comparison to 2014/15. The reason for the decline is due to the use of cash reserves to fund the capital works program and to finance loan repayments.

2. Operating Performance Ratio - Wastewater

Benchmark: >0

2013/14	2014/15	2015/16 December
Actual	Actual	Estimate
-18.0%	-7.7%	-1.1%
Fail	Fail	Fail

Comments

Going forward the strategy is to continue to increase annual charges by amounts in excess of CPI and carefully manage expenses. A positive result is expected within the next few years, as per the following table, due to proposed increases in wastewater charges.

Item	2015/16	2016/17	2017/18	2018/19	2019/20
Ratio	-1.1%	6.3%	11.6%	18.4%	23.2%

3. Debt Service Cover Ratio - Wastewater

Benchmark: > 2

2013/14	2014/15	2015/16 December
Actual	Actual	Estimate
0.69	0.85	0.95
Fail	Fail	Fail

Comments

This ratio will fail the benchmark for many years although the forecast is that the ratio will gradually improve year on year.

Section Five – Contractors/Consultants/Legal Expenses

New contracts entered into during the quarter that meet the definition or possibly meet the definition. The contracts in respect to Internal Audit Services and Sanitary Hygiene Services are based on schedules of rates and the total value of expenditure will exceed \$50,000.

Contractor Name	Purpose	Amount (\$'000)	Start Date	Duration of Contract	Incl in Budget Y/N
Grant Thornton Australia Ltd	Internal Audit Services	Variable	01/11/16	36 months	Y
B&S Landscaping & Earthworks	Coastal Recreational Path	\$381,000	01/02/16	4 months	Y
JG & LJ Hilyard	Sanitary Hygiene Services	Variable	01/12/15	36 months	Y
Woollam Constructions	Search & Rescue Co-ordination Centre	\$1,561,000	01/02/16	9 months	Y

Consultants

There were no consultant expenses identified that meet the definition.

Item	Expenditure YTD	Included in Budget Y/N?
Consultancies	\$56,800	Y

Legal Expenses

The next table summarises the expense incurred to the end of December on legal fees.

For the purposes of the report legal fees have been included where there is a dispute situation. This includes for example recovery of rates not paid but excludes processing of infringement notices (no dispute at this point) and amounts paid to legal firms that may be related to the creation of a lease or sale of land.

Item	Expenditure YTD	Included in Budget Y/N?
Legal Fees	\$67,665	Y

Certification

The following statement is made in accordance with clause 203(2) of the Local Government (General) Regulations 2005.

It is my opinion that the Quarterly Budget Review Statement for Ballina Shire Council for the quarter ended 31 December 2015 indicates that Council's projected financial position at 30 June 2016 will be satisfactory at year end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

The satisfactory position is based on the short term (twelve month) outlook.



Signed Peter Morgan, Responsible Accounting Officer

Sustainability Considerations

- **Environment**

This report encompasses the entire Council budget and as such has implications for environmental, social and economic outcomes. Council needs to bear in mind the implications of allocating or not allocating resources to particular works and services.

- **Social**

As above

- **Economic**

As above

Legal / Resource / Financial Implications

This report informs Council of actual financial results to date in comparison to budget. Where legal ramifications are envisaged they are detailed within the information section of this report.

Consultation

This report has been prepared to inform the community of budget variations. Relevant staff have been consulted in the preparation of this report.

Options

Council may approve the budget amendments proposed, make changes or not approve any changes. It is considered that the proposed changes reflect either Council policy or necessary adjustments that reflect the trending of actual incomes and expenses.

RECOMMENDATION

That Council notes the contents of the December 2015 Quarterly Budget Review and approves the changes identified within this report.

Attachment(s)

Nil

11.1 Plateau Drive Wollongbar - Skatepark and Masterplan

11. Civil Services Group Reports

11.1 Plateau Drive Wollongbar - Skatepark and Masterplan

Delivery Program Open Spaces and Reserves

Objective To provide Council with the outcomes of the public exhibition of the Plateau Drive Wollongbar Open Space Concept Plan.

Background

A draft Masterplan, which included the provision of a skatepark, was prepared by landscape architect Design Team Ink for the reconfigured RE1 zone on the corner of Plateau Drive and Rifle Range Road, Wollongbar.

At the July 2015 Ordinary meeting Council passed resolution 230715/5

- 1. That Council endorses the draft Masterplan, attached to this report, for the purpose of seeking community feedback for the provision of a skate park facility at Wollongbar.*
- 2. The draft Masterplan be exhibited for a minimum period of 40 days and a further report be prepared for Council following the exhibition period.*
- 3. That as part of the exhibition period Council hold a community consultation day at the site and at the Wollongbar shopping centre.*

The purpose of this report is to present the findings and feedback achieved through the consultation process. A copy of the draft Masterplan is attached.

Key Issues

- Community feedback
- Design options
- Provision of community infrastructure

Information

The information from the previous report to Council regarding the development of the Masterplan is reproduced below.

The draft Masterplan was prepared for the site to highlight a proposed level of embellishment with consideration to the provision of open space for informal recreation, supporting park infrastructure and an indication of a footprint highlighting a skate facility.

11.1 Plateau Drive Wollongbar - Skatepark and Masterplan

The footprint for the skatepark was based on preliminary community feedback undertaken with an interested stakeholder group, the Wollongbar Alstonville Skate Park Group. The footprint consists of approximately 750 sqm, and is of similar size to the skate facility located at Bangalow, which is the design type preferred by the Skate Group. Comparative skate parks constructed within Ballina Shire include Lennox Head (370sqm) and Ballina (1,500sqm).

The key feature of the draft footprint is to highlight the balance achieved between open space and a skate facility up to 750 sqm on the site. Other design elements taken into consideration include visual surveillance, provision of shade, access links and landscaping.

Preliminary investigations into the cost for the design and construction for a 750 sqm facility range from \$300,000 to \$600,000. Council currently has \$350,000 allocated in the 2015/16 Delivery Program for the construction of a skate park facility and associated facilities.

The Wollongbar Skate group have asked Council to be made aware that it is their preference for the Skate park to be a minimum of 1,000 sqm as it is their opinion that this is the area "required to cater for the different sports and age groups using the park as anything less will pose a risk".

The recommendation is that the draft Masterplan be taken to the community to assess support for the location and provision of a skate park facility in this location, and the balance achieved with the provision of passive open space based on a maximum 750 sqm facility.

The result of the community consultation and feedback on the draft Masterplan will be reported back to Council for consideration. Once the masterplan is adopted, the procurement for the skate park can commence. Typically it is preferred to manage the procurement through a design and construct contract as this method provides the opportunity to incorporate specialist design and construction knowledge. While the tender would appoint a contractor for design and construction, the specification can provide for appropriate levels of community consultation in the design phase.

The consultation period for exhibiting the draft Masterplan commenced on the 30 September and concluded on 8 November 2015.

Community consultation sessions were also held on 10 October at the Wollongbar Shopping Centre and the proposed site (corner Plateau Drive and Rifle Range Road).

Feedback forms were developed to assist gather comment from the consultation sessions and were also available online through Council's website. In addition to this, an online survey was also created to further gain community input.

The outcomes from this process are reported in the consultation section of this report.

Sustainability Considerations

- **Environment**

The embellishment of the site will provide environmental benefit.

11.1 Plateau Drive Wollongbar - Skatepark and Masterplan

- **Social**

The embellishment of open space and provision of a skate park facility for the Alstonville/Wollongbar community would provide valuable social benefit, especially to the youth.

- **Economic**

Not Applicable.

Legal / Resource / Financial Implications

Council has an allocated budget of \$350,000 from the 2015/16 Delivery Plan for the provision of a skate park facility at Wollongbar.

Consultation

A total of 396 submissions were received as part of the consultation period. A breakdown of the type of submissions includes;

- 200 submissions were received during the on-site consultation days (attachment 1)
- 162 people completed the online survey
- 34 other submissions were received from letters or e-mails to Council (attachment 2)
- An additional 71 submissions were also received as part of a standard form letter sent to Council prior to the commencement of consultation (attachment 3)

On site consultation

Council received a total of 200 submissions from the consultation sessions, with a large number of people attending both locations.

Key points from the results include:

- 57% of submissions identified as extremely supportive of the skate park design
- 22% of submissions identified as not supportive of the skate park
- 89% of respondents identified as being from Wollongbar/Alstonville

Respondents that favoured a skate park were generally supportive of the other proposed park features, with a majority of comments calling for additional facilities such as BBQ's, toilets, play equipment and a general higher level of embellishment to be included within the park design.

Submissions received that were not supportive of the skate park felt the site was inappropriate, or held a higher value as open space and parkland, with a focus on playground equipment, fitness equipment and BBQ's.

A number of submissions felt the proximity to houses would cause issues and preferred that other sites be considered.

11.1 Plateau Drive Wollongbar - Skatepark and Masterplan

Online survey

Council received a total of 162 submissions from online survey. Key points from the results include:

- 70% of submissions identified as extremely supportive of the skate park design
- 15% of submissions identified as not supportive of the skate park
- 53% of respondents identified as being from Wollongbar/Alstonville, 27% from within Ballina Shire and 20% from outside the Shire.

Respondents that supported a skate park were generally supportive of the other proposed park features, with a majority of comments calling for additional supporting facilities such as BBQ's, toilets and additional shade in the park.

A large number of submissions indicated a preference for a street plaza style facility.

Submissions received, that were not supportive of the skate park, felt the site was more suitable for a playground and passive open space.

Other submissions

Council received a total of 34 written or emailed submissions. Key points from the results include:

- 26% of submissions identified in their comments of being supportive of the design and/or a skatepark
- 58% of submissions identified in their comments of not supporting the design or a skate park in the proposed location

Respondents that indicated support for the skate park offered general support for the progression of the skate facility.

Submissions received that were not supportive of the skate highlighted issues of concern regarding:

- Proximity to houses
- Anti-social behavior
- Safety of the location and concerns regarding traffic
- Preference for other recreational activities
- Preference for alternate locations for a skate park
- Residents purchasing nearby unaware of skatepark plans

Form letter

Prior to the commencement of consultation, Council received a total of 71 pre-prepared submissions on behalf of riders, parents, community members and business owners. All submissions received indicated a level of support for the provision of a skatepark.

11.1 Plateau Drive Wollongbar - Skatepark and Masterplan

Summary

The draft Masterplan exhibited received a very high level of community interest, with arguments made by supporters and opponents of the plan. There continues to be a divergence of views within the community regarding the suitability of the site for a skatepark.

Whilst the focus of the submissions is largely in respect of site suitability, this issue has previously been considered by Council during the site options analysis work that resulted in this site being identified as the preferred location in Wollongbar for this facility.

In respect of the Masterplan itself, there is some feedback relating to the design elements, which indicate a general desire for a higher level of embellishment and an increase in the size of the footprint for the skatepark.

Options

The options relate to the adoption /amendment or rejection of the Masterplan.

In regards to the feedback suggesting a higher level of embellishment, having regard to the available budget in the Open Spaces Program, should Council proceed with the implementation of the Masterplan, the preference would be that further embellishment only be considered for implementation after a period of operation has been experienced by the community and those using the park. This will allow Council to gain a better understanding of the embellishment needed.

The detail design process can also take into account the potential for further embellishment.

In summary there is broad support in the community for the embellishment of public spaces and for the provision of skateparks. However it is often difficult for Council to identify sites for new skateparks that enjoy universal support in the community.

In this case there is strong support for park embellishment, and also for the skatepark, however there are strong objections against the skatepark.

Councillors now have the difficult task of making a decision in respect to the best interests of the entire community.

The three main options available are:

1. adopt the Masterplan as exhibited
2. adopt the Masterplan subject to amendments
3. not adopt the Masterplan and proceed no further in regards to the provision of a skatepark at this location.

This type of consultation process is not an exact science and it is not just a matter of making a decision based on the highest number of submissions for and against. The consultation process provides Councillors with an indication of the feelings of certain sections of the community, particularly the people with a strong enough interest in the proposal to make a submission.

11.1 Plateau Drive Wollongbar - Skatepark and Masterplan

In respect to the recommendation, as Council has previously resolved to support the exhibition of the Masterplan, the recommendation is to adopt the Masterplan.

The recommendation also acknowledges that many submissions were seeking a higher level of embellishment of the open space and that work can be undertaken as the plan is implemented through the detail design phase.

RECOMMENDATIONS

1. That Council acknowledges the large number of submissions both in support and against the draft Concept Masterplan for the Plateau Drive Wollongbar Open Space.
2. That Council adopts the Concept Masterplan as exhibited, whilst also acknowledging that a higher level of embellishment may be preferred for the site, subject to detail design and funds being available for that embellishment.
3. The detail design process for the Concept Masterplan is to consider a higher level of embellishment for the open space.
4. That Council authorises the General Manager to commence the detailed design phase required for the implementation of the Masterplan, with the Wollongbar Skatepark to be constructed as the first priority, as funding was already allocated for this project in the 2015/16 Operational Plan.

Attachment(s)

1. Exhibited Masterplan
2. Submissions from Open Day (Under separate cover)
3. Email & Letter Submissions (Under separate cover)
4. Surveys Submissions Received Other Than on Open Day (Under separate cover)
5. Four Blank Versions of Form Letter (Under separate cover)

11.2 Megan Crescent Sports Fields - Request for Funding

11.2 Megan Crescent Sports Fields - Request for Funding

Delivery Program Open Spaces and Reserves

Objective To report to Council a request for funding of an upgrade to the amenities at Megan Crescent Sports Field.

Background

At the November 2015 Ordinary meeting it was resolved as follows:

1. *At the February 2016 Council meeting, Council reconsider the request from the Lennox Head Cricket Club for funding assistance towards the Megan Crescent Sporting Fields Amenities Upgrade.*
2. *Further to point one above, the General Manager is requested to submit a report to the February 2016 Council meeting reviewing the financial position of the Open Spaces and Reserves operating expense budget*

Lennox Head Cricket Club (LHCC) is seeking assistance with their proposed project to upgrade the amenities building at the Megan Crescent Sporting Field. The project comprises of the following;

- Renovation and additions to the toilet facility and the provision of change rooms
- Construction of a storage shed to replace an existing shipping container
- Reconstruction of the roof
- Addition of a shade awning

LHCC advise that the budget for the project is currently estimated at \$90,000. A grant from the NSW Office of Sport for \$25,000 has been made available to the LHCC; however this grant is conditional on a completion date of September 2016. LHCC are proposing to contribute \$20,000 with a capital request to Council of \$45,000.

Key Issues

- Funding
- Priorities

Information

The purpose of this report is to further review the funding request for \$45,000. Currently no funds have been allocated in the current Operational Plan for this project. Savings from within the Open Spaces and Reserves operating budget were identified in the November 2015 Council report as a potential source of funding that Council may choose to allocate towards this project. As at 31 October this amount was forecast at \$26,000.

11.2 Megan Crescent Sports Fields - Request for Funding

Current budget forecasts dated 12 February, 2016 indicate that the Open Spaces and Reserves savings trend has remained consistent, with an updated total of \$28,000 in savings currently predicted.

A section 96 application is currently lodged with Council and awaiting further information from the LHCC prior to approval, due to the presence of a sewer main located within the updated design. At this stage LHCC has not advised Council whether this issue will have an impact on current cost estimates.

Sustainability Considerations

- **Environment**
The project will be subject to environmental planning assessment.
- **Social**
The project will support the needs of a local cricket club.
- **Economic**
Local sport activities are a source of economic development as they encourage visitors to Ballina.

Legal / Resource / Financial Implications

Whilst the current budget forecast has remained on trend from October to February, the projected budget savings don't take into consideration unseen budget requirements within the Open Spaces and Reserves operational budget that may occur between now and the end of financial year. Council has also not identified these works as a specific priority amongst the many other project requests for improvements to our sports fields and open spaces.

Consultation

Council has not undertaken any public consultation in regards to the merits of this project and the future use of this reserve.

Options

The options that remain available to Council are;

1. Decline the request.

Council could decline the request on the basis that no funds have been identified within the current budget, nor has the Council identified these works as a specific priority amongst the many other project requests for improvements to our sports fields and open spaces.

2. Defer the request to the draft Delivery Program 2016/17 process.

This would enable the request to be considered at a time when the project can be assessed for priority. The disadvantage of this option, from the perspective of LHCC, is it may result in difficulties managing the available grant.

While project management and coordination is a matter for the LHCC, it is noted that three months (July to September) is a period where substantial works for a project of this scale could be achieved if preconstruction activities are completed prior to the end of June.

11.2 Megan Crescent Sports Fields - Request for Funding

Similarly if the draft budget, which is exhibited in May, includes the funding, this provides a clear indication that Council will support the project.

3. Approve the request now.

The Council may consider the benefits of this project and the grant opportunity sufficient justification to support the proposal of awarding \$45,000 at this point in time, noting the projected savings from the Open Spaces operational budget of \$28,000 to the project. This would then leave a \$17,000 deficit to be funded from working capital.

Option one is recommended as sufficient savings have not been identified in the Open Spaces and Reserves budget as a source of funds for the project.

Option two is not recommended due to the uncertainty over the approval and timing for the project.

Option three is not recommended due to the funding shortfall and also the concerns over the approvals and overall priorities.

If Council supports the recommendation, while staff would not take any further actions in response to this report, LHCC can still make a further submission to the upcoming draft Delivery Program 2016/17 process and the matter can be reconsidered by Council at that time.

RECOMMENDATIONS

1. In response to the request from the Lennox Head Cricket Club for funding assistance towards improvements at Megan Crescent Sports Fields, Council decline the request on the basis that the current budget is fully allocated and these works have not been identified as a specific priority amongst the many other project requests for improvements to our sporting fields and open spaces.
2. The Council notes that should the Lennox Head Cricket Club receive regulatory approval for this project, it is open to the Club to make a further submission during the process for the Council to prepare the draft Delivery Program for 2016/17.

Attachment(s)

1. Lennox Head Cricket Club letter

11.3 Bicycle Track Project - Lennox Head

11.3 Bicycle Track Project - Lennox Head

Delivery Program Open Spaces and Reserves

Objective To report on the consultation with adjoining landowners with regards to the proposal to construct a bicycle track on the Ocean Breeze Public Reserve.

Background

At the November 2015 meeting of Council the following resolution was made.

- 1. That Council seek feedback from adjoining landowners in regards to the proposal to construct a children's BMX track on the Ocean Breeze Public Reserve.*
- 2. If no objections are raised from adjoining landowners, the Ocean Breeze Public Reserve site is confirmed as the preferred site. If objections are received, a further report is to be presented to Council for assessment of the feedback.*
- 3. If the Ocean Breeze Public Reserve site is confirmed as the preferred site following point two above, the General Manager is authorised to facilitate the construction of the BMX track, subject to the establishment of suitable design and construction arrangements by community volunteers and any required approvals from an environmental planning and open space management perspective are achieved.*

Staff invited feedback from adjoining landowners through hand delivering letters to 37 properties on 3 December 2015. A copy of the letter sent to residents is attached.

In response Council has received 19 submissions, all opposed to the proposal. The following report assesses the feedback.

Key Issues

- Site suitability
- Community Feedback

Information

A copy of 19 submissions received is attached to this report. The points raised in the submissions have been summarised in the following table.

Issue	Concern	Comment
Consultation	Inappropriate process compared to Councils consultation requirements for residential development, badly timed before Christmas, not forthcoming as BMX track, track designs not shown.	The time for making a submission was extended.

11.3 Bicycle Track Project - Lennox Head

Issue	Concern	Comment
Planning	Creates duplication of cycling facilities with plenty of existing and recently built shared pathways, should place in new release subdivisions where young families with small children exist more often	The proposed facility has different objectives to other cycling infrastructure and was identified by local students and Lennox Head Residents Association as an opportunity to provide an additional recreational opportunity for children.
Budget	No funds allocated for additional services that will most likely be needed. Rates already paying for shared pathway and don't need rates for another bike track.	The current proposal is to develop the facility through volunteer contributions. The ongoing maintenance costs are not expected to be significant within overall context of the budget available to maintain the reserves and public space in this area.
Facilities	No toilet planned so kids will use the reserve, additional facilities will be needed next increasing usage: tables, chairs, fountains, bins, toilets and shade shelters.	The use and interest of the facility is intended to be relatively informal and short term. The scale of this project means it is not proposed to attract a number of visitors to create the demand for these type of facilities.
Family/Tourist use	Better suited to related activities at town/tourist location as whole families/tourists can enjoy together.	It is the case that other sites may also be appropriate. The site initially preferred was at Williams Reserve however the cost of mitigating environmental impacts is considered prohibitive at this point in time. This site was selected due to its proximity to a subdivision that currently is recognised as an estate populated with young children.
Proximity to existing and related infrastructure	Better suited near existing skate park, toilets, schools, shops, car parking, sports fields etc.	As per above, the scale and purpose of the proposal means these types of facilities are not essential for the project to meet its objectives.
Hydrology	Low lying reserve pools with water when it rains, facility will increase pooling, low adjacent drains don't release water very fast adding to flooding of reserve.	It is agreed that ponding occurs in low areas on the reserve, however this is an issue that can adequately be dealt with through design.
Age use	Age can't be controlled and older ages will come and use it, no supporting demographic data, wrong age group – few primary school students in estate	As per above, the scale and purpose of the proposal means its design and construction will manage the level of interest for appropriate age groups.

11.3 Bicycle Track Project - Lennox Head

Issue	Concern	Comment
Traffic and Parking	Underage children will need to be driven generating parking infrastructure needs whilst none exist, increased traffic and parking pressure in adjacent residential streets.	There are small amounts of parking off Hutley Drive and pedestrian access is available from the north. It is possible an increase in the parking on adjacent residential streets may result from this proposal.
Access	Unsuitable and overgrown access off Ocean Breeze Drive, isolated and single access only, trespass and abuse of private driveway off Ocean Breeze Drive to 4 houses that also leads onto reserve, disconnected pedestrian network to reserve.	Access is available from Hutley Drive Two other access points are available off Ocean Breeze Drive and Bombora Place following pruning to vegetation. The reserve is centrally located between the village area and Pacific Pines estate with connected pedestrian access.
Safety	Small children biking safety to and from the site, increased no of speeding cars to site, BMX injuries/ first aid/ carers and phone calls expected of nearby house residents, pedestrian crossing needed on Hutley Drive once expanded as will be arterial route.	Appropriate parental supervision of children will be required on the adjacent infrastructure and NSW road rules apply. Again, the scale of the proposal would suggest that the track will not unreasonably increase the safety risks of the location.
Residential amenity	Lose open green space for existing recreational activities, bike track would increase in size, age group and capacity over time.	The size of the reserve means there is sufficient space to provide a bike track and retain significant areas of otherwise open space.
Security	Additional lighting would increase night usage, no parental supervision, limited visibility hidden from houses with expected antisocial behavior – drugs, alcohol, assaults, neighbourhood theft, kids coming closer to houses for shade under trees	Refer to earlier comments regarding the scale and projected interest of this facility.
Use of drugs and alcohol	Expected use of and sales among teenagers similar to skate park and bypass underpass, related antisocial behavior and increased graffiti.	Law enforcement is a responsibility of the NSW Police. The expected user group for this track is younger children.
Visual amenity	Houses looking directly over green fields of reserve impacted, rubbish left onsite.	There are opportunities to provide screening plantings where required.
Noise	Increased day and night use of park will keep residents awake (talking and shouting kids) and impact on shift workers whom sleep during the day. Live in area believing quiet neighborhood.	No lights are planned and therefore night usage will not create an issue. The purpose of the reserve is for passive recreation and therefore activities at this site could be expected to generate some noise.

11.3 Bicycle Track Project - Lennox Head

Issue	Concern	Comment
Flora and Fauna	Reserve acts as wildlife area with ducks, brush turkeys, cattle egrets, plovers etc. that will have to move on.	While some disturbance to the activities of these common species may result from the construction of the track, significant portions of the reserve will remain available.
Real Estate	Devaluation of adjacent homes impacting resale values from use of 24hr facility.	Other factors will prevail in regards to the overall market value of property in this area.

Lennox Community Garden

Further to the submissions, the Lennox Head Community Gardens Inc, whom have 60 members, have identified that they have also been considering the Ocean Breeze Public Reserve as a site for their future expansion and to address some issues at their current site. Their interest in the site is strong as it remains one of the only relatively flat, unvegetated and available open space areas in Lennox Head for such a purpose.

At this point in time this group has not yet commenced the process to submit a community garden application.

The extent of land available in the reserve means a community garden and cycle track could be co-located on the site if that was preferred by Council. It is even arguable that a community garden would provide a level of supervision in response to the issues raised above and allow interest in the site from a whole of family perspective. A community garden application would also require a community consultation.

Sustainability Considerations

- **Environment**
The site has been selected because a track can be developed without environmental impacts.
- **Social**
The objective of the proposal is to support social opportunities for your children, including exercise and health benefits. Feedback however has raised concerns regarding impacts on the amenity of the adjoining properties.
- **Economic**
Not applicable.

Legal / Resource / Financial Implications

No legal, resource or financial implications have been identified in the feedback. No budget has been allocated to this project which is currently expected to be constructed by volunteers.

Consultation

This report comments on the consultation process for this project.

Options

This project was developed in response to a Notice of Motion supported by Council and a resolution following further reporting on site options.

From the technical perspective of staff, the site is capable of appropriately supporting the proposed facility. However, the task for Council is to determine whether or not the social benefits for the broader community are justified having regard to the concerns of the adjoining residents in relation to the impacts on their amenity.

Therefore the options for Council are as follows;

1. Proceed with the proposal and commence design.
2. Take no further action with the proposal at this site.

If option one is supported, further consultation with the adjoining residents can be undertaken in regards to the design details.

If option two is supported, the Council should also determine whether or not it wishes to allocate further staff time to reviewing, reporting and consulting on alternative sites.

As this decision is one of competing community interests both options are presented to Council for determination.

RECOMMENDATIONS

Option One

That Council confirms Ocean Breeze Reserve as the selected site for the proposed Lennox Head cycle track and proceed to invite volunteers to complete the detail design.

OR

Option Two

That Council determines the Ocean Breeze Reserve is not a suitable site for the proposed Lennox Head cycle track due to potentially unreasonable impacts on the amenity of the adjoining residential properties.

Attachment(s)

1. Ocean Breeze Public Reserve proposed cycle track adjoining landowner consultation mail drop letter
2. Ocean Breeze Public Reserve proposed cycle track adjoining resident submissions

11.4 Road Closing Proposal - Unnamed Road off Freeborn Place

11.4 Road Closing Proposal - Unnamed Road off Freeborn Place

Delivery Program Asset Management

Objective To invite the Council's consideration of a proposal to close a public road in Alstonville.

Background

This report is presented to Council to consider the closing of a public road adjacent to the Alstonville Pool. The road is presently unnamed and unformed. Access to Crawford Park and the Alstonville Preschool is obtained via informal access across adjacent Council owned land.

The reason for this request is the requirement for the use of the subject area to facilitate the Alstonville Pool redevelopment.

Key Issues

- Closure of unformed road
- Alstonville Pool redevelopment

Information

The existing Alstonville Pool complex has historically encroached into Crawford Park. Following Council's decision on 22 May 2014 to grant a lease to Alstonville Preschool in Crawford Park, the pool fence needed to be relocated onto the correct boundary. The result of this has been a slightly reduced amount of land available for the pool redevelopment project.

In consultation with Council's project management team for the pool redevelopment, consideration has been given to expanding the footprint of the pool facility to the east by utilising an extra parcel of Council owned operational land (Lot 25 in DP 246774) in the redevelopment.

As shown on the map in attachment one, a small parcel of unformed, unnamed road reserve sits between the existing pool complex (Lot 27 in DP 246774) and the additional operational land (Lot 25). This road reserve has never incorporated a formed road. Access into Crawford Park has been obtained via an informal access over Lot 25. An easement for access has been registered over Lot 25 as part of the Alstonville Preschool project.

A review of the circumstances concludes that a closure and use of the adjoining unformed road will enable a more efficient assessment and determination of the application to redevelop the pool complex.

The area of road reserve proposed to be closed has not yet been surveyed but is approximately 315m² (subject to final design plans) as shown in attachment one. Upon closure, that portion of road is proposed to be declared as operational land and consolidated with Lot 27 (the pool).

11.4 Road Closing Proposal - Unnamed Road off Freeborn Place

Council staff have assessed the potential uses of this site if retained as public road. There is no infrastructure in the road reserve, with the exception of a gas tank, which currently services the pool complex, and which will be relocated as part of the redevelopment. As the road reserve is significantly sloped it has never been used for vehicle access into the reserve.

On balance, there is no benefit in retaining the road reserve as a public road. Its closure and consolidation will facilitate the redevelopment of the pool in accordance with the concept endorsed by Council. The final decision to close the public road rests with the Minister for Land and Water.

Council is the roads authority and the owner of this public road. Any request to close a section of Council public road must first be endorsed by the owner before initiating the formal road closing process. A road closing application requires the proponent to provide all the necessary information and to meet all costs through this process.

Sustainability Considerations

- **Environment**

There are no adverse environmental impacts arising from the proposed road closure.

- **Social**

The road closure will facilitate the renewal of important community infrastructure.

- **Economic**

As Council is the owner of the public road, and will retain ownership of the land following closure, there are no adverse economic outcomes. All costs of the road closure process will be met from existing budgets.

Legal / Resource / Financial Implications

The closure of the road will result in an application for the pool redevelopment being able to be assessed and determined under Part V of the *Environmental Planning and Assessment Act*. If the road remains as a public road, this will require a development application to be lodged. This may result in additional costs and time delays to advance the redevelopment project.

Further, if the road remains open, the pool design will need to be condensed to fit on the existing lot, which then will require a compromise on the facilities able to be included on the site. The endorsed concept design showing the pool layout is included as attachment two.

Consultation

The road closure process will require public exhibition and notification.

The Alstonville community has been extensively involved in the pool redevelopment options.

Options

1. Council supports the request for a road closing application to proceed.

The advantage of this option is that it facilitates the pool redevelopment in a timely manner. This appears to be the most efficient and best use of the road and a preferred outcome for the community. As an easement for access is already registered over adjoining Council owned land, the closure of this unformed road will not result in any loss of access to Crawford Park.

2. Council opposes the request for a road closing application to proceed.

There appears to be no overriding public benefits associated with retaining the small area of road reserve and on balance, the consolidation of the unformed road reserve with the adjoining operational land is preferred.

Should the Council support the recommendation below, further resolutions will be required later in respect of the road closing process. This will provide Council opportunities to review its position, if required.

RECOMMENDATIONS

1. That Council endorses the proposal to close the unused Council public road adjacent to Lot 25 and 27 in DP 246774 at Alstonville, as per the contents of this report, to facilitate the redevelopment of the Alstonville Swimming Pool Complex.
2. That Council authorises the Council seal to be attached to the road closing application and any associated documents for the consolidation of the closed road into the adjoining land parcels.
3. That upon the closure, the land currently comprising the road be classified as operational land for the purpose of the *Local Government Act 1993*.

Attachment(s)

1. Alstonville Pool Redevelopment - road closure map
2. Proposed pool redevelopment area utilising road reserve - diagram for Council report

11.5 Policy (Review) - Naming of Roads, Bridges and Public Places

11.5 Policy (Review) - Naming of Roads, Bridges and Public Places

Delivery Program Asset Management

Objective To review the Naming of Roads, Bridges and Public Places 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 Naming of Roads, Bridges and Public Places policy.

Council first adopted the Naming of Public Places policy in October 2007 and the Naming of Roads and Bridges in November 2009. The two policies were consolidated in a review completed in September 2011. The objective of the policy is to clarify the conditions for attaching names to public infrastructure.

Key Issues

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

Information

This review of this policy identified only minor changes were required. The main changes are in response to the change of template for Council policies that occurred since this policy was adopted and the new template includes information on definitions, policy history etc.

The changes have been marked in yellow.

Otherwise the policy is still considered to be contemporary and reflects current legislation therefore no further changes are recommended. A copy of the amended policy is attached to the report.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The provision of guidelines and practices for the naming of public roads and places enable the commemoration and recognition of individuals, cultural heritage and environmental heritage.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

11.5 Policy (Review) - Naming of Roads, Bridges and Public Places

The policy ensures that the appropriate processes are in place when naming public places and roads and these processes meet State Government requirements.

Consultation

A public exhibition process is recommended.

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 action required.

RECOMMENDATIONS

1. That Council place the amended Naming of Roads, Bridges and Public Places 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) - Naming of Roads, Bridges and Public Places

11.6 Policy (Review) - Road Closing Applications for Public Roads

11.6 Policy (Review) - Road Closing Applications for Public Roads

Delivery Program Asset Management

Objective To review the Road Closing Applications for Public Roads 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 Road Closing Applications for Public Roads policy.

Council first adopted this policy in June 2008 and a review was completed in November 2011.

Key Issues

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

Information

This review of this policy identified only minor changes were required. The main changes are in response to the change of template for Council policies that occurred since this policy was adopted and the new template includes information on definitions, policy history etc.

The changes have been marked in yellow.

Otherwise the policy is still considered to be contemporary and reflects current legislation therefore no further changes are recommended. A copy of the amended policy is attached to the report.

Sustainability Considerations

- **Environment**
Ensure that road reserves are managed so that community access and use of these roads is preserved.
- **Social**
Not Applicable
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

Not applicable

11.6 Policy (Review) - Road Closing Applications for Public Roads

Consultation

A public exhibition process is recommended.

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 Road Closing Applications for Public Roads 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) - Road Closing Applications for Pubic Roads

11.7 Policy (Review) - Pressure Sewer Policy

11.7 Policy (Review) - Pressure Sewer Policy

Delivery Program Water and Wastewater

Objective To review the Pressure Sewer 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 Pressure Sewer policy.

Council first adopted this policy in January 2008. It was developed to provide a framework for the provision of pressure sewer systems, where the use of such systems is justified. For example, pressure sewer is technology that can enable affordable sewer solutions where traditional gravity systems are unable to be feasibly installed.

In particular this policy details the responsibilities of Council, developers and individual property owners with respect to the construction, maintenance and operation of associated infrastructure and provides a basic guide to Council's expectations from such systems.

Key Issues

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

Information

This review of this policy identified only minor changes were required. The main changes are in response to the change of template for Council policies that occurred since this policy was adopted and the new template includes information on definitions, policy history etc.

The changes have been marked in yellow.

Otherwise the policy is still considered to be contemporary and reflects current legislation therefore no further changes are recommended. A copy of the amended policy is attached to the report.

Sustainability Considerations

- **Environment**

This policy is designed to provide solutions that meet environmental standards but also assist with development.

11.7 Policy (Review) - Pressure Sewer Policy

- **Social**

Pressure sewer systems provided an opportunity for certain residences and businesses to improve their level of management for wastewater.

- **Economic**

Improved sewer services are an opportunity for economic development, whilst reducing the costs involved compared with traditional gravity sewer solutions

Legal / Resource / Financial Implications

There are no further legal, resource or financial implications with the review & housekeeping update of this policy.

Consultation

A public exhibition process is recommended.

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 Pressure Sewer 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) - Pressure Sewer Policy

12. Public Question Time

13.1 Rescission Motion - Koala Fencing

13. Notices of Motion

13.1 Rescission Motion - Koala Fencing

Councillor Cr Worth
 Cr Meehan
 Cr Hordern

We move

That part three of Resolution 280116/24, as follows, be rescinded from the resolution:

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

Council is not in position to fund and maintain a network of fences if matching funding is provided by the State or Federal Governments.

This work would be expensive and no funding for this work is included in our Long Term Financial Plan.

Point three of the current resolution is also open ended and as such is irresponsible from a financial management perspective.

We are happy to encourage the State and Federal Governments to provide this fencing but as a Council we should focus on our existing infrastructure and services as recommended in the NSW State Government's Fit for the Future Program.

Staff Comment

The following information has been provided to clarify some of the costs / quantities etc following questions from Councillors.

How many kms would we need to fence and cost?

The main road of interest that we manage is Wardell Road. Wardell Road is approximately 7km long between Wardell and the top of the Alstonville Plateau escarpment. A fence along the entire route would be 14km.

13.1 Rescission Motion - Koala Fencing

The estimate we have for wildlife exclusion fencing, as typically used by RMS costs \$120 per metre. This equates to a cost in excess of \$1.6 million to fully fence Wardell Road, or approximately \$120,000 per km.

This cost estimate does not consider ongoing maintenance.

A further point to consider with the exclusion fencing is driveway access points along our local roads. These cannot be subject to exclusion fencing and as such neither exclusion, or safe egress, for koalas or other fauna can be guaranteed.

Fencing off entire areas can also interfere with continuity of habitat and fauna movement.

Therefore, fencing should also be considered in relation to safe crossing points in the form of underpasses and overpasses. No costings have been obtained for such structures and the required frequency of crossing points to support suitable levels of koala movement across Wardell Road is unknown.

Where did the six deaths mentioned originally occur?

The six koala deaths referred to are those known and reported to or by Friends of the Koala in a Letter to the Editor from FoK/Lorraine Vass in the Northern Star on 14 January 2016, and refer to an increase in expected koalas deaths from the previous two years.

The main areas for recorded road strike fatalities are the Bruxner Highway and its feeder roads, the Pacific Highway around Wardell and Coolgardie and Wardell Road between Wardell and Alstonville.

COUNCILLOR RECOMMENDATION

That part three of Resolution 280116/24, as follows, be rescinded from the resolution:

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.*

Attachment(s)

Nil

13.2 Notice of Motion - Shade Structures - Children's Playgrounds

13.2 Notice of Motion - Shade Structures - Children's Playgrounds

Councillor Cr Johnson
 Cr Wright
 Cr Johnston

We 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 2016/17 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.

Staff Comment

This motion was lost at the January 2016 Ordinary meeting. In accordance with the provisions of the Local Government Act the motion can be re-considered, once within a three month period from the original decision, subject to the notice of the motion being signed by three Councillors. The three signatories to this motion are as listed.

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 2016/17 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.

Attachment(s)

Nil

13.3 Notice of Motion - Killen Falls

13.3 Notice of Motion - Killen Falls

Councillor

Cr Jeff Johnson

I move

That Council receive a report, as part of the 2016/17 budget deliberations, on the possibility of funding toilet facilities (eg possibly a compost toilet) and the associated costs at Killen Falls. This report is to consider whether Rous Water will assist with this funding.

Councillor Comment

Killen Falls continues to become an increasingly popular sport for locals and visitors to our shire. On most days of the week quite a number of cars and tourist buses arrive. The falls are promoted through the media and accommodation providers, Facebook etc. Also, photographs of the falls regularly appear in the Northern Star.

The works Council has completed to improve the walking track and to provide a viewing platform have assisted in reducing the risks to the public in attending the site.

However the popularity of the site means that it is impacting on the local amenity through increased traffic and the lack of toilet facilities. Especially concerning is the lack of toilets as visitors are defecating etc in the local bushland, under the falls, and even in the swimming hole.

Council has a responsibility to manage this impact and the provision of toilets, preferably compost, could be a cost effective solution to the amenity concerns. A report as part of our budget deliberations will help to clarify this for Council. Also as Rous owns the adjoining land and would also benefit from the provision of toilets it is reasonable to see if they would contribute to the works.

COUNCILLOR RECOMMENDATION

That Council receive a report, as part of the 2016/17 budget deliberations, on the possibility of funding toilet facilities (eg possibly a compost toilet) and the associated costs at Killen Falls. This report is to consider whether Rous Water will assist with this funding.

Attachment(s)

Nil

13.4 Notice of Motion - Gibbon Street - Traffic Management

13.4 Notice of Motion - Gibbon Street - Traffic Management

Councillor

Cr Cadwallader

I move

That Council's Finance Committee receive a report advising of a concept design and cost estimate to improve traffic management in Gibbon Street, Lennox Head and that this information is considered by Council in regards to the option of including these improvements in the roads program.

Councillor Comment

During 2015 and more recently B Ward Councillors have received a number of communications from concerned residents in Gibbon Street in regards to the volume and speed of vehicles using this street.

As well as providing access to important and popular parts of Lennox Head, Gibbon Street is the access to the subdivision known locally as the Barrett Estate. There are concerns that the increasing tourist, recreational and commercial interests in Lennox Head will only further increase the traffic issues reported in Gibbon Street and reduce the amenity of the street for residents.

Gibbon Street is relatively long with a wide streetscape and this environment can encourage drivers to increase their speed. A traffic management scheme, including landscape treatments, can be implemented to reduce the perception of length in the street and thereby improve the street safety and amenity.

The purpose of this motion is to assess the cost and priority for these works.

Staff Comment

It is agreed that the geometry of Gibbon Street could be improved by the introduction of a traffic management scheme.

Recent traffic counts identify that the volume of traffic is within the carrying capacity for a two lane road. The traffic counts also show the 85th percentile for vehicle speeds to be approximately 55 km/hr, meaning there is an opportunity to improve compliance through infrastructure changes, enforcement actions or education. However the accident data shows no recorded accidents in the last ten years and accident data is considered important in determining the priority for the allocation of Council funds.

The Council's road priorities are typically developed around the following program structure;

- Asset maintenance and renewal to ensure we retain the same standard of service in the road network in the future.

13.4 Notice of Motion - Gibbon Street - Traffic Management

- Safety improvements through the leverage of grant assistance programs such black spot funding.
- Pedestrian safety works under the Pedestrian Access and Mobility Plan.
- Section 94 works to mitigate the impact of population growth.

These program areas have long term plans to guide the Council and the community in respect of priorities, however clearly it is open to the Council to amend these expenditure priorities when that is preferred.

COUNCILLOR RECOMMENDATION

That Council's Finance Committee receive a report advising of a concept design and cost estimate to improve traffic management in Gibbon Street, Lennox Head and that this information is considered by Council in regards to the option of including these improvements in the roads program.

Attachment(s)

Nil

13.5 Notice of Motion - Footpath - Links Avenue

13.5 Notice of Motion - Footpath - Links Avenue

Councillor

Cr Hordern

I move

That, as part of the 2016/17 budget deliberations, Council receive a report on amending its existing footpath construction program to allow a footpath to be installed between Chickiba Avenue and the northern side of Links Avenue to connect the existing Chickiba Avenue footpath to the pedestrian crossing at Southern Cross School.

Councillor Comment

In discussions with local residents, including one person in a wheelchair, it was highlighted to me that to cross Links Avenue at peak times of the day, whether it be a wheelchaired pedestrian, a Gofer driver, a child on a bike or a Mum wheeling a pram, darting across is a dangerous option. Often they choose to stay on the school side of the road till they get to the pedestrian crossing which is not a great option either as often there are cars parked on the side of the road obstructing access and vision. This is a relatively small section of work that will help to significantly improve our footpath network for what is a high usage area.

Staff Comment

The Pedestrian Access and Mobility Plan (PAMP) also identified that this location as a priority issue to be addressed. The PAMP however incorporates a different solution in that it proposes an upgrade of the pedestrian facilities at the Links Avenue/Chickiba Avenue intersection. The reason this solution is preferred is that a crossing supports pedestrian and cycle movements towards Angels Beach Drive and John Sharpe Street as well as to the shopping centre, and it is the most direct route to the child care centre and service station adjacent to the shopping centre. Staff have been examining the option of including this work within the forthcoming projects to extend the rehabilitation of Links Avenue and the construction of the Angels Beach Drive Roundabout. If the Councillor recommendation is supported, staff would recommend the pedestrian refuge proposal is retained as the footpath and refuge are complimentary to improving the overall safety outcomes at this site.

COUNCILLOR RECOMMENDATION

That, as part of the 2016/17 budget deliberations, Council receive a report on amending its existing footpath construction program to allow a footpath to be installed between Chickiba Avenue and the northern side of Links Avenue to connect the existing Chickiba Avenue footpath to the pedestrian crossing at Southern Cross School.

Attachment(s)

Nil

13.6 Notice of Motion - Container Deposit Scheme

13.6 Notice of Motion - Container Deposit Scheme

Councillor

Cr Williams

I move

That Council make a submission to the Independent Review for a NSW Container Deposit Scheme, supporting the Refund CDS model proposed by the review.

Councillor Comment

The State Government is currently conducting an Independent Review of Container Deposit Schemes, to recommend a scheme for adoption in NSW.

The review notes that drink containers are the largest component of litter in NSW, comprising 44% of total volume collected. This figure is consistent with litter collection surveys conducted in Ballina Shire.

The review has proposed a choice between 2 schemes, a Refund CDS or an alternative Industry proposal "Thirst for Good". The refund CDS is based on the South Australian model and refunds 10c per container when returned for recycling. The industry model relies on education & improvements to recycling infrastructure, but involves no incentive payment.

Council should support the scheme that provides the greatest potential reduction in litter. This is clearly the refund CDS model, which provides the incentive to recycle.

Background to the review here.

<http://www.epa.nsw.gov.au/resources/waste/container/150286-CDS-discussion-paper.pdf>

<http://m.smh.com.au/environment/nsw-container-deposit-scheme-open-for-public-comment-20151218-glqyy2.html>

The review concludes on 26/2/16, so a letter indicating Council's preference would be sufficient.

COUNCILLOR RECOMMENDATION

That Council make a submission to the Independent Review for a NSW Container Deposit Scheme, supporting the Refund CDS model proposed by the review.

Attachment(s)

1. Photo of litter collected from North Wall (15/2/16).

14.1 Facilities Committee Minutes -15 February 2016

14. Advisory Committee Minutes

14.1 Facilities Committee Minutes -15 February 2016

Attendance

Cr David Wright (Mayor - in the Chair), Jeff Johnson, Sharon Cadwallader, Keith Williams, Keith Johnson, Susan Meehan, Ken Johnston, Paul Worth and Robyn Hordern.

Paul Hickey (General Manager), John Truman (Civil Services Group Manager – arrived at 4.18 pm), Steve Barnier (Strategic and Community Facilities Group Manager), Matthew Wood (Manager Strategic Planning), Jordan Robinson (Manager Community Facilities and Customer Service) and Sandra Bailey (Secretary) were in attendance.

There was one person in the gallery at this time.

1. Apologies

An apology was received from Cr Ben Smith.

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Keith Williams)

That such apology be accepted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Ben Smith

2. Declarations of Interest

Nil

3. Deputations

Nil

4. Committee Reports

4.1 Ballina Indoor Sporting and Recreation Facility - Update

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Keith Williams)

1. That Council authorises the General Manager to commence planning and negotiations with the Department of Education and Communities with respect to the provision of an indoor sporting facility on the Ballina High School site under a joint venture arrangement. These negotiations are to ensure that adequate community access to the facility is provided at all times and there is adequate tenure protection for Council and the Ballina Shire community.
2. That Council's negotiations be based on the provision of a four court indoor sporting facility, with the equivalent of two courts to be funded by Council.
3. That the General Manager seek the support of the Member for Ballina and the Minister for Education in relation to the provision of support for the project based on both the Department of Education and Communities and Council providing two courts each.
4. That the General Manager seek grant funding to assist with Council's component of this project.
5. That Council receive a further report on funding options for the capital and operating cost of this facility.
6. That as part of the current negotiations, the General Manager also seek to have a new agreement formalised for the use of the Southern Cross School court that provides adequate community access based on the fact that Council funded a significant component of this facility.

FOR VOTE - Cr David Wright, Cr Jeff Johnson, Cr Sharon Cadwallader, Cr Keith Williams, Cr Keith Johnson, Cr Susan Meehan, Cr Ken Johnston and Cr Robyn Hordern

AGAINST VOTE - Cr Paul Worth

ABSENT. DID NOT VOTE - Cr Ben Smith

4.2 Ballina Fire Station (Former) Property - Future

RECOMMENDATION

(Cr Susan Meehan/Cr Robyn Hordern)

1. That Council notes the contents of this report which discusses future options for the adaptive reuse of the former Ballina Fire Station.
2. That Council confirms its preference for the future use of the property is principally a cultural and/or artistic space aligned with the Northern Rivers Community Gallery. Further, that the principal building on the site, being the former fire station, is not compromised in terms of its general appearance and fabric under adaptive reuse proposals.
3. That Council consider an allocation of funds in its 2016/17 Draft Operational Plan for the engagement of professional services to investigate options for the adaptive reuse of the property as per point two above.
4. That Council seeks commercial tenancies of a complementary nature for the occupation of the Ballina Fire Station for an indicative maximum period of five years. At the end, or close to the end of this five year period, Council re-assess the long term options for this building.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Ben Smith

4.3 Alstonville and Ballina Swimming Pools Redevelopment - Update

RECOMMENDATION

(Cr Paul Worth/Cr Sharon Cadwallader)

1. That Council confirms that based on the planning approval process that the redevelopment of the Alstonville and Ballina swimming pools will occur concurrently during the 2017 off season.
2. That the General Manager ensure that this change to the originally envisaged redevelopment timeframe (i.e. Ballina during the 2016 off season) is communicated to the key stakeholders and the broader community through direct correspondence and Council publications such as Community Connect.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Ben Smith

MEETING CLOSURE

4.51 pm

RECOMMENDATIONS

That Council confirms the minutes of the Facilities Committee meeting held 15 February 2016 and that the recommendations contained within the minutes be adopted.

Attachment(s)

Nil

14.2 Commercial Services Committee Minutes - 16 February 2016

Attendance

Crs David Wright (Mayor - in the chair), Sharon Cadwallader, Keith Williams, Keith Johnson, Susan Meehan, Ken Johnston, Paul Worth, and Robyn Hordern.

Paul Hickey (General Manager), John Truman (Civil Services Group Manager), Steve Barnier (Strategic and Community Facilities Group Manager), Jordan Robinson (Manager Community Facilities and Customer Service), Peter Morgan (Manager Finance and Governance), Paul Tsikleas (Manager Commercial Services), Leanne Harding (Property Officer Commercial) and Sandra Bailey (Secretary) were in attendance.

There were no people in the gallery at this time.

1. Apologies

Apologies were received from Cr Jeff Johnson and Cr Ben Smith.

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Keith Williams)

That such apologies be accepted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Ben Smith

2. Declarations of Interest

Nil

3. Deputations

Nil

4. Committee Reports

4.1 Airport - Regional Tourism Infrastructure Funding (RTIF)

RECOMMENDATION

(Cr Paul Worth/Cr Sharon Cadwallader)

1. That Council notes the contents of this report in respect to the revised Long Term Financial Plan for the Ballina – Byron Gateway Airport and the status of the two Regional Tourism Infrastructure Fund (RTIF) grants.
2. That Council notes the key assumptions in the financial plan, specifically the airline contributions to the proposed RTIF loans, the CAGRO operations, the additional staffing proposed and the forecast growth in other revenues and expenses.
3. That Council supports the inclusion of this revised Long Term Financial Plan in the draft 2016/17 Operational Plan.
4. That Council authorises the General Manager to commit to loans of \$500,000 and \$900,000 for the respective RTIF grants, with the Council seal authorised to be attached to that loan documentation.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Ben Smith

4.2 Southern Cross Industrial Estate Land Holdings - Update

RECOMMENDATION

(Cr Paul Worth/Cr Sharon Cadwallader)

1. That Council resolves to pursue rezoning of Lots 2 and 3 Boeing Avenue from Business B5 to Industrial IN1, with the inclusion of an enabling clause (or use of another suitable mechanism) to permit bulky goods development as an additional permitted use on the land.
2. That Council hold a briefing on options for increased flexibility for the existing bulky goods precinct.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Ben Smith

RECOMMENDATION

(Cr Keith Johnson/Cr Keith Williams)

That Council initiates a review of the strategic potential of the Southern Cross Industrial Estate from this point forward with a view to developing a master plan for developing and sale.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Ben Smith

RECOMMENDATION

(Cr Keith Williams/Cr Sharon Cadwallader)

That Council approves an application for the Ballina and Alstonville Swimming Pools upgrade to Round Three of the National Stronger Regions Fund.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Ben Smith

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Robyn Hordern)

That Council moves into Committee of the Whole.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Ben Smith

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Keith Williams)

That Council move out of Committee of the Whole.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Ben Smith

RECOMMENDATION

(Cr Paul Worth/Cr Sharon Cadwallader)

That Council approves an application for the Airport Boulevard Road to Round Three of the National Stronger Regions Fund.

FOR VOTE - Cr David Wright, Cr Sharon Cadwallader, Cr Keith Johnson, Cr Susan Meehan, Cr Ken Johnston, Cr Paul Worth and Cr Robyn Hordern

AGAINST VOTE - Cr Keith Williams

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Ben Smith

4.3 Land Acquisition - North Creek Road Ballina

RECOMMENDATION

(Cr Paul Worth/Cr Robyn Hordern)

1. That Council notes the contents of this report in respect to the possible acquisition of part of 11 North Creek Road, Ballina for road widening.
2. That the General Manager continue to pursue this acquisition as the opportunity arises.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Ben Smith

4.4 Wigmore Arcade - Roof Replacement

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Susan Meehan)

1. That Council accepts the revised quotation from Goldsmith Building Services and Sidney and Richardson Plumbing (Quote No. 16025) for a cost plus 10.00% contract with a maximum amount of \$629,674 + GST, to undertake works to replace the roofs pertaining to the Wigmore Arcade Complex, River Street awning and associated works.
2. That Council authorises the General Manager to finalise negotiations with Goldsmith Building Services and Sidney and Richardson Plumbing and execute the relevant contract documentation.
3. That Council authorises the Council seal to be attached to any contract documentation.
4. That Council authorises the latest forecasts for the Property Development Reserve and Community Infrastructure Reserve to be incorporated into our Long Term Financial Plan.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Ben Smith

MEETING CLOSURE

5.17 pm

RECOMMENDATIONS

That Council confirms the minutes of the Commercial Services Committee meeting held 16 February 2016 and that the recommendations contained within the minutes be adopted.

Attachment(s)

Nil

15.1 **Mayoral Meetings**

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

15.1 **Mayoral Meetings**

Councillor David Wright

Activities since the January 2016 Ordinary meeting:

<u>Date</u>	<u>Function</u>
1/2/16	Briefing Reservoir Hill Rezoning
1/2/16	Meeting John Larsson
2/2/16	Alstonville/Wollongbar Chamber of Commerce
3/2/16	Meeting – Dr Geoff Allan and DPI – Ramada
4/2/16	Meeting re Eco Barrier Lennox Head
4/2/16	Meeting with DPI – Shark Management Strategy
4/2/16	Meeting – Wollongbar Landcare
5/2/16	Funeral of Don Apps
5/2/16	NOROC
5/2/16	Ballina Hospital Art Display - Preschools
8/2/16	Northern Rivers Regional Activation Plan
9/2/15	Meeting Tamara Smith
9/2/16	Opening Tadashi's Memorial
9/2/16	Briefing Shaws Bay Coastal Zone Management Plan
9/2/16	Briefing Resource Recovery Options
10/2/16	Meeting Tourism Conference, Local Traffic Committee
10/2/16	Wollongbar Progress Association
11/2/16	Briefing – Recycled water
11/2/16	Aboriginal Community Meeting
12/2/16	CSPC Meeting - Lismore
14/2/16	Alstonville Markets, Lennox Head Markets
14/2/16	Wollongbar Land Care
15/2/16	Opening Institute of Public Works Engineering Australasia Limited
15/2/16	Facilities Meeting
15/2/16	Briefing on Lake Ainsworth Landscaping
16/2/16	Opening Crowley Care Services Masterplan
16/2/16	Briefing – Management Missingham Markets, Commercial Services
17/2/16	Alstonville High SRC
17/2/16	Wardell Progress Association
18/2/16	North East Waste Welcome, Gallery Opening
20/2/16	Opening Alstonville Community Preschool
22/2/16	Meeting with 'Sprung'
22/2/16	Richmond River County Council Meeting
23/2/16	Lions Club of Ballina – Youth of the Year Final
24/2/16	Inspection Wollongbar
25/2/16	Council Meeting, Reserve Trust Meeting
27/2/16	NSW Rural Fire Brigade – Presentations Ocean Shores
27/2/16	B Space Opening, Alstonville Apex Celebration Dinner Bowling Club
29/2/16	Surf Riders from Peruvian Cultural Surfing Tour

RECOMMENDATION

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

Attachment(s)

Nil

16. Questions Without Notice

17. Confidential Session

In accordance with Section 9 (2A) of the Local Government Act 1993, the General Manager is of the opinion that the matters included in the Confidential Business Paper, and detailed below are likely to be considered when the meeting is closed to the public.

Section 10A(4) of the Local Government Act, 1993 provides that members of the public are allowed to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

A brief summary of each of the reports recommended for consideration in confidential session follows:

17.1 Compliance - Seabreeze Holiday Park

Refer to Item 8.6 of this agenda.

RECOMMENDATION

That Council moves into committee of the whole with the meeting closed to the public, to consider the following items in accordance with Section 10A (2) of the Local Government Act 1993.

17.1 Compliance - Seabreeze Holiday Park

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(g) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as it relates to potential litigation..